

Section II
Proposed Rules

DEPARTMENT OF LEGAL AFFAIRS

Division of Victim Services and Criminal Justice Programs

RULE TITLE: Adjustments to Reflect Consumer Price Index

RULE NO.: 2A-8.005

PURPOSE AND EFFECT: The proposed rule amendments are intended to reflect changes to the Consumer Price Index for payment of benefits.

SUMMARY: The proposed rule amendments address changes to the Consumer Price Index for payment of benefits.

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: 112.19 FS.
LAW IMPLEMENTED: 112.19 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: Rick Nuss, Chief, Bureau of Criminal Justice Programs, Department of Legal Affairs, PL-01, The Capitol, Tallahassee, Florida 32399-1050

THE FULL TEXT OF THE PROPOSED RULE IS:

2A-8.005 Adjustments to Reflect Consumer Price Index.

(1) Section 112.19(2)(j), Florida Statutes, requires the Bureau to adjust the statutory amount on July 1 of each year based on the Consumer Price Index for all urban consumers published by the United States Department of Labor, using the most recent figures available. The Bureau will utilize the previous March Consumer Price Index published by the United States Department of Labor and the benefits shall be adjusted from the benefit amount of the year before.

(2) The Consumer Price Index amount in March 2005 2004 was 3.1 +.7 percent. Therefore, the statutory amount for the period July 1, 2005 2004 through June 30, 2006 2005, is:

(a) For those benefits paid or to be paid under paragraph (a) of subsection (2); \$53,999.14 \$52,375.50.

(b) For those benefits paid or to be paid under paragraph (b) of subsection (2); \$53,999.14 \$52,375.50.

(c) For those benefits paid or to be paid under paragraph (c) of subsection (2); \$161,997.42 \$157,126.50.

Specific Authority 112.19 FS. Law Implemented 112.19 FS. History--New 12-10-03, Amended 8-17-04, _____.

NAME OF PERSON ORIGINATING PROPOSED RULE: Rick Nuss, Bureau Chief

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Rodney Doss, Division Director

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: April 20, 2005

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: May 6, 2005

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 TITLES: Staff Development - Definitions 33-209.101
Minimum Training Requirements 33-209.102
Firearms Training and Other

Certification Requirements 33-209.103
Training Requests and Assignments 33-209.104
Training Attendance, Performance and Conduct 33-209.105
Contracting for Training Services 33-209.106

PURPOSE AND EFFECT: The purpose and effect of the proposed rule repeal is to eliminate language that is duplicative of statute and unnecessary for implementation of any department program.

SUMMARY: The proposed rule eliminates text that is not required to operate the staff training program.

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, 110.109, 943.10, 943.13, 943.135, 943.17, 943.175, 943.22, 944.09, 944.105 FS.

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

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

THE FULL TEXT OF THE PROPOSED RULES IS:

33-209.101 Staff Development – Definitions.

Specific Authority 20.315, 944.09 FS. Law Implemented 20.315, 110.109, 943.10, 943.13, 943.135, 943.17, 943.175, 943.22, 944.09 FS. History–New 8-26-87, Formerly 33-25.001, Repealed.

33-209.102 Minimum Training Requirements.

Specific Authority 20.315, 944.09 FS. Law Implemented 20.315, 110.109, 943.10, 943.13, 943.135, 943.17, 943.175, 943.22, 944.09, 944.105 FS. History–New 8-26-87, Amended 7-4-88, Formerly 33-25.002, Repealed.

33-209.103 Firearms Training and Other Certification Requirements.

Specific Authority 20.315, 944.09 FS. Law Implemented 20.315, 110.109, 943.10, 943.13, 943.135, 943.17, 943.175, 943.22, 944.09 FS. History–New 8-26-87, Amended 11-1-90, Formerly 33-25.003, Repealed.

33-209.104 Training Requests and Assignments.

Specific Authority 20.315, 944.09 FS. Law Implemented 20.315, 110.109, 943.10, 943.13, 943.135, 943.17, 943.175, 943.22, 944.09 FS. History–New 8-26-87, Formerly 33-25.004, Repealed.

33-209.105 Training Attendance, Performance and Conduct.

Specific Authority 20.315, 944.09 FS. Law Implemented 20.315, 110.109, 943.10, 943.13, 943.135, 943.17, 943.175, 943.22, 944.09 FS. History–New 8-26-87, Formerly 33-25.005, Repealed.

33-209.106 Contracting for Training Services.

Specific Authority 20.315, 944.09 FS. Law Implemented 20.315, 110.109, 943.10, 943.13, 943.135, 943.17, 943.175, 943.22, 944.09 FS. History–New 8-26-87, Formerly 33-25.006, Repealed.

NAME OF PERSON ORIGINATING PROPOSED RULE: Raul Banasco, Bureau Chief, Bureau of Staff Development

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Tina Hayes, Assistant Secretary of Research, Planning and Support Services

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: May 18, 2005

DEPARTMENT OF CORRECTIONS

RULE TITLE: Academic Education Program Services RULE NO.: 33-501.101

PURPOSE AND EFFECT: The purpose and effect of the proposed rule repeal is to eliminate language that is duplicative of statute and unnecessary for implementation of any department program.

SUMMARY: The proposed rule eliminates text that is not required to operate the mandatory literacy program.

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, 944.801 FS.

LAW IMPLEMENTED: 944.09, 944.801 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:

33-501.101 Academic Education Program Services.

Specific Authority 944.09, 944.801 FS. Law Implemented 944.09, 944.801 FS. History–New 10-31-01, Repealed.

NAME OF PERSON ORIGINATING PROPOSED RULE: Franchatta Barber, Deputy Assistant Secretary of Programs

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: George Sapp, Assistant Secretary of Institutions

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: May 19, 2005

DEPARTMENT OF CORRECTIONS

RULE TITLE: Admissible Reading Material RULE NO.: 33-501.401

PURPOSE AND EFFECT: The purpose and effect of the proposed rule is to: amend the definition of “sexual conduct” in the rule and in Form DC5-101, Notice of Rejection or Impoundment of Publications, for consistency with amendments to Section 847.001, F.S.; clarify that publications will not be rejected based upon inclusion of specific advertising that is incidental to, rather than the focus of, the publication; provide for a date-stamped copy of the DC5-101 and attachments to be provided to the literature review committee; allow for denial of a publication to a specific inmate when determined by health services or mental health services to be detrimental to the inmate; revise the composition of the literature review committee; and provide for written notification of the literature review committee’s decision to be sent to the publisher or sender.

SUMMARY: The proposed rule amends definitions for consistency with amendments Florida Statutes; clarifies parameters for rejection of publications based upon content of advertisements contained therein; provides for provision of date-stamped documents to the literature review committee; allows for denial of a publication to a specific inmate based upon recommendations of health services or mental health services; eliminates one member of the literature review committee; and provides for written notification of the literature review committee’s decision to be sent to the publisher or sender.

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, 944.11 FS.

LAW IMPLEMENTED: 944.11 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:

33-501.401 Admissible Reading Material.

(1) through (2) No change.

(3) Inmates shall be permitted to receive and possess publications per terms and conditions established in this rule unless the publication is found to be detrimental to the security, order or disciplinary or rehabilitative interests of any institution of the department, or any privately operated institution under contract with the department, or when it is determined that the publication might facilitate criminal activity. Publications shall be rejected when one of the following criteria is met:

(a) through (h) No change.

(i) It depicts sexual conduct as follows:

1. Actual or simulated sexual intercourse;

2. Deviate sexual intercourse;

3.2. Sexual bestiality;

4.3. Masturbation;

5.4. Sadomasochistic abuse;

6. Actual lewd exhibition of the genitals;

7.5. Actual physical contact with a person's unclothed genitals, pubic area, buttocks, or, if such person is a female, breast with the intent to arouse or gratify the sexual desire of either party;

8.6. Any act or conduct which constitutes sexual battery or simulates that sexual battery is being or will be committed.

(j) It depicts nudity ~~or a lewd exhibition of the genitals~~ in such a way as to create the appearance that sexual conduct is imminent, i.e., display of contact or intended contact with a person's unclothed genitals, pubic area, buttocks or female breasts orally, digitally or by foreign object, or display of sexual organs in an aroused state.

(k) No change.

~~(l) Contains or appears to contain unknown or unidentifiable substances; or~~

~~(1)(m)~~ No change.

(4) Advertising. A publication will not be rejected based upon inclusion of an advertisement promoting any of the following if the publication is otherwise admissible and the advertisement is merely incidental to, rather than being the focus of, the publication.

(a) Three-way calling services;

(b) Pen pal services;

(c) The purchase of products or services with postage stamps; or

(d) Conducting a business while incarcerated.

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

~~(8)(7)~~ Incoming publications previously rejected by the literature review committee. An incoming publication that has previously been rejected by the department's literature review committee due to inclusion of subject matter held to be inadmissible per the criteria established in subsection (3) shall not be reviewed again unless the publisher presents proof to the literature review committee that it has been revised and in the revision process the material resulting in the original rejection has been removed. When a rejected publication is received at an institution, it shall be impounded and shall not be issued to inmates. The warden or designee shall notify the inmate in writing on Form DC5-101, Notice of Rejection or Impoundment of Publications, within 15 calendar days of receipt that the publication has been rejected by the department's literature review committee and cannot be received. Form DC5-101 is hereby incorporated by reference. Copies of this form are available from the Forms Control Administrator, Office of Research, Planning and Support Services, 2601 Blair Stone Road, Tallahassee, Florida 32399-2500. The effective date of this form is 12-30-04. For purposes of this subsection, the warden's "designee" may include the mailroom supervisor. A Notice of Rejection or Impoundment of Publications, Form DC5-101, shall address only one publication. If a single mailing notice includes more than one rejected publication, a Notice of Rejection or Impoundment of Publications, Form DC5-101 shall be prepared for each.

(8) through (9) renumbered (9) through (10) No change.

~~(11)(10)~~ Single issues of periodicals and newspapers, any book, and any other printed material addressed to a specific inmate or found in the property of an inmate shall be impounded when circumstances detailed in an individual inmate's criminal conviction, detailed in departmental disciplinary reports, or detailed in prior criminal convictions, indicates it would be a threat to the security, order or rehabilitative objectives of the correctional system or the safety of any person to allow the inmate access to subject matter in that publication.

(a) When a warden or assistant warden believes that an individual should be denied a publication because receipt of same would be contrary to treatment or rehabilitative

objectives or might encourage or contribute to the conduct or commission of acts that violate department rules, he or she shall forward the publication to institutional health or mental health services professionals for review and evaluation. If health or mental health services professionals concur that the inmate should be denied access to the publication, the warden or assistant warden shall impound the publication. The warden or assistant warden shall provide the literature review committee with a copy of the opinion prepared by the health or mental health services professional and any other information that justifies denying the inmate the publication.

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

~~(e)(4)~~ Publications that are impounded pursuant to this subsection shall be handled as provided in subsections ~~(9)(8)~~ and ~~(10)(9)~~ of this rule.

~~(f)(e)~~ Inmates may appeal impoundment decisions undertaken pursuant to this subsection through use of the inmate grievance procedure as provided in subsections ~~(14)(13)~~ and ~~(15)(14)(c)~~ of this rule and Chapter 33-103, F.A.C.

1. through 2. No change.

~~(g)(f)~~ Impoundment decisions that are approved pursuant to this subsection are individualized in nature and do not have affect on any other inmate. If institution staff believe that a publication is inadmissible per the criteria established in subsection (3) of this rule, and should be denied to all inmates, they shall follow the procedures established in subsections ~~(9)(8)~~ and ~~(10)(9)~~ of this rule.

~~(h)(g)~~ No change.

~~(12)(11)(a)~~ Rejected and impounded publications shall be held at the institution for 30 days. Upon receipt of a Form DC5-101, Notice of Rejection or Impoundment of Publications, an inmate shall have 30 days from date of receipt of the form to make arrangements to have the publication picked up by an approved visitor or sent to a relative or friend or the sender at the inmate's expense. If the publication is not picked up or mailed out within 30 days, the institution shall destroy it. The 30 day limit shall not include any time that a grievance appeal is pending provided that the inmate has provided the warden with the written notice required in paragraph ~~(14)(13)(b)~~ of this rule. However, if the inmate fails to provide the warden with written notice of his or her appeal within 15 days of the impoundment or rejection, the institution shall not be required to store the publication beyond 30 days.

(b) No change.

~~(13)(12)~~ No change.

~~(14)(13)~~ Inmates may appeal the impoundment or rejection of reading material through use of the inmate grievance procedure, Chapter 33-103, F.A.C.

(a) No change.

(b) When publications are impounded or rejected pursuant to the criteria established in subsections (3) and ~~(11)(10)~~ this rule, inmates shall bypass the informal and formal institutional

level of review, and file grievances direct to the office of the secretary. A copy of the Form DC5-101, Notice of Rejection or Impoundment of Publications, which documents the impoundment or rejection, must be attached to the grievance. The complaint must be filed within 15 days from the date of impoundment or rejection. The grievance appeal shall be addressed to the office of the secretary and not to the literature review committee or to the library services administrator.

(c) through (f) No change.

~~(15)(14)~~ Literature Review Committee.

(a) There shall be a literature review committee to act as the final reviewing authority for appeals regarding reading material impounded or rejected pursuant to criteria established in this rule. The committee shall be composed of:

1. Chief of bureau of security operations or designee;
2. Chief of bureau of inmate grievance appeals or designee;
3. Library services administrator or designee;
4. ~~Chief of bureau of classification or designee.~~

(b) through (e) No change.

~~(16)(15)(a)~~ No change.

(b) The library services administrator shall forward this information to the literature review committee for review. The library services administrator shall provide ~~If the appeal is approved,~~ the publisher, mail order distributor, bookstore or sender written notification of the literature review committee's ~~shall be notified of the decision.~~ The decision shall also be communicated to all correctional facilities institutions of the department, ~~and all privately operated institutions under contract with the department.~~

~~(17)(16)(a)~~ through (d) No change.

(e) Inmates may only receive and possess print media publications. Incoming publications published on non-print media or print media publications that include non-print media that are an integral part of the publication will be rejected and returned to the sender along with an explanation as to why the material is being rejected. However, unsolicited promotional computer diskettes and CD-ROMs that are mailed with a periodical issue, e.g, the CD-ROMs promoting America Online's Internet service, will be handled as provided in subsection ~~(25)(24)~~ of this rule.

(f) through (g) No change.

(17) through (24) renumbered (18) through (25) No change.

Specific Authority 944.09, 944.11 FS. Law Implemented 944.11 FS. History-- New 10-8-76, Amended 3-3-81, 9-24-81, Formerly 33-3.12, Amended 6-9-87, 3-11-91, 12-17-91, 3-30-94, 11-2-94, 5-10-98, 10-20-98, Formerly 33-3.012, Amended 3-21-00, 8-10-00, 10-13-02, 7-2-03, 12-30-04, _____.

NAME OF PERSON ORIGINATING PROPOSED RULE:
Allen Overstreet, Library Services Administrator
NAME OF SUPERVISOR OR PERSON WHO APPROVED
THE PROPOSED RULE: George Sapp, Assistant Secretary of
Institutions

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: April 27, 2005
 DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: May 13, 2005

WATER MANAGEMENT DISTRICTS

Suwannee River Water Management District

RULE CHAPTER TITLE:	RULE CHAPTER NO.:
Minimum Flows and Levels	40B-8
RULE TITLES:	RULE NOS.:
Policy and Purpose	40B-8.011
Definitions	40B-8.021
Minimum Surfacewater Levels and Flows	40B-8.031

PURPOSE AND EFFECT: The purpose of the proposed rule is to codify a minimum flow for Madison Blue Spring within Chapter 40B-8, F.A.C. The effect of the proposed rule will be to provide protection for Madison Blue Spring from significant harm resulting from uses of water from the Floridan aquifer.

SUMMARY: This proposed rule will establish a minimum flow for Madison Blue Spring, in Madison County, in accordance with Rule 62-40.473, F.A.C., and Sections 373.042, 373.0421, Florida Statutes.

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

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

SPECIFIC AUTHORITY: 373.044, 373.113 FS.

LAW IMPLEMENTED: 373.042, 373.0421, 373.103 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: Linda Welch, Administrative Assistant, Suwannee River Water Management District, 9225 C.R. 49, Live Oak, Florida 32060, (386)362-1001, 1(800)226-1066 (FL only)

THE FULL TEXT OF THE PROPOSED RULES IS:

40B-8.011 Policy and Purpose.

(1) This chapter establishes minimum flows and levels for surface waters and minimum levels for groundwater at specific locations within the Suwannee River Water Management District.

(2) Where appropriate, minimum flows and levels may reflect seasonal and long-term variations and may include a schedule of variations and other measures appropriate for the protection of non-consumptive uses of a water resource.

(3) In establishing minimum flows and levels, the Governing Board shall use the best information available to establish limits which prevent significant harm to the water resources or ecology. The Governing Board will also consider and, at its discretion, provide for the protection of non-consumptive uses, including navigation, recreation, fish and wildlife habitat, and other natural resources.

(4) Minimum flows and levels prescribed in this chapter are used as a basis for imposing limitations on withdrawals of groundwater and surface water, for reviewing proposed surfacewater management and storage systems and stormwater management systems, and for imposing water shortage restrictions. The limitations and review criteria which relate to these minimum flows and levels are prescribed in other rule chapters of the District.

Specific Authority 373.044, 373.113 FS. Law Implemented 373.042, 373.415 FS. History–New _____.

40B-8.021 Definitions.

Unless the context indicates otherwise, the following terms shall have the following meanings:

(1) “Flow Duration Curve” means a statistical representation of flows, actual or synthetic, and their recurrence probabilities over a determined period of record.

(2) “Historic period” means from 1982 to the present date.

(3) “Madison Blue Spring” means the single vent spring system located within Madison County, adjacent to the Withlacoochee River at 30° 28' 48" north latitude and 83° 14' 40" west longitude.

(4) “Minimum surfacewater flow” means a flow, expressed in cubic feet per second combined with a temporal element. The temporal element may be specifically expressed as a duration and return interval.

(5) “Minimum surfacewater level” means an elevation in feet NGVD combined with a temporal element. The temporal element, for purposes of this chapter, may be specifically expressed as a duration and return interval.

(6) “NGVD” means National Geodetic Vertical Datum of 1929.

(7) “Pinetta gauge” means stream flow measuring gauge number 02319000 operated by the United States Geological Survey located on the Withlacoochee River approximately 10 miles upstream from Madison Blue Spring at 30° 35' 43" north latitude and 83° 15' 35" west longitude.

(8) “Withlacoochee River” means the riverine waterbody which originates in south-central Georgia and flows southeast and south into Florida discharging into the Suwannee River at Ellaville.

Specific Authority 373.044, 373.113 FS. Law Implemented 373.042, 373.415 FS. History–New _____.

40B-8.031 Minimum Surfacewater Levels and Flows.

The Governing Board hereby establishes the following minimum surfacewater flows and levels. The Governing Board finds that the following minimum surfacewater flows and levels are the limit at which further withdrawals would be significantly harmful to the water resources or ecology.

(1) The minimum surfacewater flow for Madison Blue Spring is 70 cubic feet per second (cfs) for a flow duration frequency of 90 percent when the stage of the Withlacoochee River measured at the Pinetta gauge is 55.0 feet (NGVD) or less.

(2) If the surfacewater flows from Madison Blue Spring are reduced below the levels established in paragraph (1) above, withdrawals will be significantly harmful to the water resources or ecology.

(3) In determining the estimated impact of existing and proposed future withdrawals on the surfacewater flow of Madison Blue Spring, as expressed in paragraphs (1) and (2) above, the following factors shall be considered:

(a) A stage of 55.0 feet (NGVD) at the Pinetta gauge will serve as a modeling boundary condition.

(b) The surfacewater flow for Madison Blue Spring shall not be caused to be reduced to a predicted flow of 70 cfs or less for a flow duration frequency of less than 90 percent as determined by the Flow Duration Curve for the Madison Blue Spring discharge over the historic period.

Specific Authority 373.044, 373.113 FS. Law Implemented 373.042, 373.0421, 373.103, 373.415 FS. History--New

NAME OF PERSON ORIGINATING PROPOSED RULE:
Jon Dinges, Director, Resource Management, Suwannee River Water Management District, 9225 County Road 49, Live Oak, Florida 32060, (386)362-1001

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

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: May 12, 2005

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: September 17, 2004

DEPARTMENT OF MANAGEMENT SERVICES

Division of Facilities Management

RULE CHAPTER TITLE:	RULE CHAPTER NO.:
Leases for Real Property	60H-1
RULE TITLES:	RULE NOS.:
Definitions	60H-1.001
Division Approval; When Required	60H-1.002
Standard Lease Agreement Form	60H-1.003
Filing of Leases	60H-1.004
Escalation Clauses	60H-1.006
Right-to-Terminate Clause Required	60H-1.007
Notice of Renewal	60H-1.009

Fire Code Compliance in Leased Space	60H-1.013
Leases of 5,000 Square Feet or More	60H-1.015
Turnkey (Lease) Construction Program	60H-1.017
Prior Approval of Space Need	60H-1.022
Disclosure Statement – Private Entities	60H-1.025
Disclosure Statement – Public Officials	60H-1.026
Legal Review	60H-1.027
Information and Forms	60H-1.028
Rental Rate Guidelines for Privately Owned Space	60H-1.030

PURPOSE AND EFFECT: The rule chapter is being amended to incorporate proposed staff objections by JAPC and to revise or delete outdated and/or superfluous language.

SUMMARY: The proposed amendment to subparagraph 60H-1.003(3)(a)1., F.A.C., deletes language that would allow tacit approval of requests by the agency. The proposed amendments to Rules 60H-1.006 and 60H-1.007, F.A.C., provide specific criteria upon which the Division Director may rely in making exceptions to certain leasing requirements. The remaining proposed amendments delete or revise language deemed superfluous or outdated.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COST: No statement of estimated regulatory costs 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: 120.53(1)(a), 255.249(2)(a),(e),(4)(f),(5), 255.25(2), 255.503(11) FS.

LAW IMPLEMENTED: 255.21, 255.25(1),(2)(a),(b),(3), (4),(5),(7), 255.249(1),(2)(b),(e),(h),(i),(j),(k),(3),(4), 255.254, 255.503 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 THIS PROPOSED RULES IS: Ron Goldstein, General Services Manager, Department of Management Services, Division of Facilities Management and Building Construction, 4050 Esplanade Way, Suite 315F, Tallahassee, FL 32399, (850)488-3759, e-mail: goldstr@dms.state.fl.us

THE FULL TEXT OF THE PROPOSED RULES IS:

60H-1.001 Definitions.

For the purposes of this chapter, each of these words shall have the following meaning:

(1) through (2) No change.

(3) Agency Lease – As the context of any written agreement requires, an agreement to lease a building or any part thereof other than a Florida Facilities Pool property as identified in Section 255.505, F.S. pool facility.

(4) Division – Division of Facilities Management and Building Construction, Department of Management Services.

(5) ~~Department – Department of Management Services. Bureau – The Division’s Bureau of Property Management.~~

(6) Secretary – The Secretary of the Department of Management Services or his/her designee by written order.

(7) Division Director – The Director of the Division or his/her designee by a written order.

(8) through (9) No change.

~~(10) Pool Facility – A Facility which is a part of the Florida Facilities Pool.~~

~~(10)(11) Warehouse – A structure or room used for files or storing materials as designated by the Division.~~

~~(11)(12) Response – Any responsive reply to a competitive solicitation.~~

~~(12)(13) Competitive Solicitation – Means an invitation to bid, a request for proposals, or an invitation to negotiate.~~

(13) Standard Lease Agreement – The Department’s lease agreement document incorporated by reference in this rule as form FM4054 (05/04).

(14) Agency’s Designated Representative – The individual or entity with the authority to act on behalf of an agency in negotiating lease agreements.

(15) Trailer, Mobile Unit or Hangar Space – Any leased mobile or temporarily stationary unit used to house state sponsored operations/storage or structure to house state-owned aviation vehicles and equipment.

Specific Authority 255.249, 255.25, 255.503(11) FS. Law Implemented 255.25(2), 255.503 FS. History–New 8-11-75, Amended 8-27-75, 4-25-79, Formerly 13D-7.01, Amended 3-18-86, Formerly 13M-1.001, Amended 4-27-04, _____.

60H-1.002 Division Approval; When Required.

(1) No change.

(2) Exceptions:

(a) The Division’s approval need not be obtained for a lease of less than 5,000 square feet of space within a privately owned building or renewal of such a lease, provided the agency head has filed with the Division Bureau a certificate of compliance in accordance with Rule 60H-1.003, F.A.C., provided further that such a lease which is for a term extending beyond the end of a fiscal year shall be subject to the provisions of Section 216.311, Florida Statutes.

(b) through (c) No change.

Specific Authority 255.249, 255.25, 255.503(11) FS. Law Implemented 255.249(2)(j),(k),(3), 255.25(2)(b),(7), 255.503 FS. History–New 8-11-75, Amended 4-25-79, Formerly 13D-7.02, Amended 3-18-86, Formerly 13M-1.002, Amended 2-21-96, 5-13-03, _____.

60H-1.003 Standard Lease Agreement Form.

(1) All agency leases shall be on the Department’s ~~of Management Services~~ ² Standard Lease Agreement Form (FM Form 4054, effective August 11, 1975, as revised May, 2001 or May, 2004, incorporated by reference in this rule).

(2) No provision of the Standard Lease Agreement may be changed or additional covenants or conditions added thereto without the prior written approval of the Division’s ~~D~~irector except for articles relating to lessor furnishing janitorial services, replacing light bulbs, and paying utility charges. Any agency request for changes or additions to the Standard Lease Agreement shall be submitted to the Division Bureau in writing and state with reasonable particularity why the change or addition is necessary and in the best interest of the State as defined in subsection 60H-1.003(3), F.A.C. Unless the Division ~~D~~irector’s approval has been obtained in accordance with this rule, any such change or addition shall be null and void.

(3) Certificate of Compliance. Within 30 days after executing a lease of less than 5,000 square feet of space within a privately or publicly owned building, the agency head shall file with the Division Bureau on a form provided by the Division Bureau (FM 4113, effective May 1996, as revised January, 2003 and January, 2004, incorporated by reference in this rule) a certificate stating that the lease is in compliance with all leasing criteria provided by Chapter 255, Florida Statutes. The certificate shall further state that the agency has determined that the lease is in the best interest of the State. As used in this section the phrase “the best interest of the state” shall mean:

(a) No change.

1. The Division has approved the Request ~~or has not responded to the agency’s request within 10 working days of receipt of the request;~~ or

2. If state-owned space is available in the same geographic region, the agency has enunciated reasons why such space would not enable the agency to fulfill its statutory duties;

(b) The rental rate for the space in the privately owned building is within the rental rate guidelines established by the Division Bureau;

(c) No change.

(4) Exceptions. This rule shall not apply to:

(a) No change.

(b) Any agency lease for nominal or no consideration. As used herein, “nominal consideration” means consideration for \$1.00 or less. Nominal or no consideration leases shall be filed with the Division Bureau on a form provided by the Bureau (FM Form No. 4108, effective July 1995, as revised January, 2003, incorporated by reference in this rule).

(5) Change of Ownership. If ownership of a leased facility changes during the term of the lease, the Division Bureau of Property Management must be furnished certain pertinent information; i.e., a copy of the deed or other legal document effecting transfer of facility and disclosure form (FM Form No. 4114, effective June 1995, as revised January, 2003, incorporated by reference in this rule) completed by the new owner.

(6) Trailer, Mobile Unit or Hangar Space. A lease of any square footage for any purpose in a “trailer” or mobile unit must have prior approval of the ~~Division of Motor Pool, Department’s of Management Services~~ Division of Fleet Management, Federal Property Assistance and Correctional Privatization. Prior to leasing privately owned hangar space, an agency must provide a request to and receive a ~~the Bureau with~~ statement from the Division of Fleet Management, Federal Property Assistance and Correctional Privatization ~~Motor Pool~~ that no state owned hangar space is available.

Specific Authority 255.249(5), 255.25(2) FS. Law Implemented 255.249(2)(j),(k),(3), 255.25(2)(a),(b) FS. History–New 8-11-75, Amended 4-25-79, Formerly 13D-7.03, Amended 3-18-86, Formerly 13M-1.003, Amended 9-30-96, 5-13-03, 4-27-04,_____.

60H-1.004 Filing of Leases.

A copy of each agency lease shall be filed with the Division Bureau in its office in Tallahassee.

Specific Authority 255.25 FS. Law Implemented 255.25(2) FS. History–New 8-11-75, Amended 4-25-79, Formerly 13D-7.04, 13M-1.004, Amended _____.

60H-1.006 Escalation Clauses.

No agency’s lease shall contain an open rate, including Consumer Price Index or rental escalation clause, except upon written approval of the Division Director whom will consider an escalation clause based upon written justification from the User Agency and the Agency’s Designated Representative and in the best interests of the state as defined in subsection 60H-1.003(3), F.A.C. User Agency justification may include, but is not limited to, factors such as the market rate for like properties, reduced costs for Lessor’s provided services, separate utility metering, proximity to client citizens served or programmatic requirements that limit available lease options.

Specific Authority 255.25 FS. Law Implemented 255.25(2) FS. History–New 8-11-75, Amended 4-25-79, Formerly 13D-7.06, 13M-1.006, Amended 4-27-04,_____.

60H-1.007 Right-to-Terminate Clause Required.

The Standard Lease Agreement’s right-to-terminate clause, allowing the agency to terminate the lease with notice if public space becomes available, shall be a part of any lease for a term exceeding one year and may not be omitted from an agency’s lease, except upon written approval of the Division Director whom will consider a variation in the Right-to-Terminate clause based upon written justification from the User Agency and the Agency’s Designated Representative. User Agency justification may include, but is not limited to, factors such as a negotiated lower lease rate in a county where no state-owned office facilities exist, proximity to client citizens served with minimal available space options or special programmatic needs not serviceable within local state-owned space.

Specific Authority 255.25 FS. Law Implemented 255.25(2) FS. History–New 8-11-75, Amended 4-25-79, Formerly 13D-7.07, 13M-1.007, Amended 5-13-03, 8-5-03, 4-27-04,_____.

60H-1.009 Notice of Renewal.

(1) If an agency elects to renew an agency lease, a copy of the notice of renewal, with the date the notice was received by certified or registered mail by the lessor clearly marked thereon, shall be furnished to the Division Bureau.

(2) No change.

(3) The agency shall obtain the Division’s Bureau’s approval prior to exercising its option to renew in the manner in which it obtains approval to procure a new lease.

Specific Authority 255.249(2), 255.25 FS. Law Implemented 255.25(2) FS. History–New 8-11-75, Amended 4-25-79, Formerly 13D-7.09, Amended 3-18-86, Formerly 13M-1.009, Amended 2-21-96, 5-13-03,_____.

60H-1.013 Fire Code Compliance in Leased Space.

(1) through (4) No change.

(5) The cost of all modification or renovations made for the purpose of bringing leased property, other than a Department-managed pool facility, into compliance with uniform fire safety standards shall be borne by the lessor.

(6) No change.

Specific Authority 255.249, 255.25 FS. Law Implemented 255.25(5) FS. History–New 4-25-79, Formerly 13D-7.091, Amended 3-18-86, Formerly 13M-1.013, Amended _____.

60H-1.015 Leases of 5,000 Square Feet or More.

(1)(a) No change.

(b) No change.

1. through 3. No change.

4. This rule shall not apply to buildings or facilities of any size leased for the purpose of providing care and living space for persons, provided the agency has filed with the Division Bureau a certificate of exemption demonstrating that the lease is exempt from competitive solicitation under Section 255.249 or 255.25, Florida Statutes.

5. The Division may approve extensions of an existing lease of 5,000 square feet or more space if such extensions are determined to fit the needs of the agency, but in no case shall the total of such extensions exceed 11 months. If at the end of the period granted by the extension(s), the time of such extension(s) equal(s) 11 months, and the agency still needs space, the agency shall solicit competitive responses in accordance with this chapter. All agency requests for an extension under this clause shall be submitted in writing to the Division Bureau within sixty (60) days a reasonable period of time before a lease is to end. The agency shall furnish a statement of justification for the extension. The Division Director shall review the request and issue a written decision.

6. No change.

7. Notwithstanding subparagraph 5. above, an agency may enter into a replacement lease or may renegotiate the terms and conditions of an existing lease for more than 5,000 square feet upon approval by the Division Director, if the replacement lease or modification is in the best interests of the state as

defined in subsection 60H-1.003(3), F.A.C., and complies with the requirements established in Section 255.25(3)(b), Florida Statutes.

(2) Solicitation.

(a) A public solicitation for responses will be widely publicized using newspapers (a minimum of twice, with a week between notices), through ~~and~~ personal contact with owners, developers or licensed real estate brokers in the city or area in which space is desired and may be published in on a centralized website.

(b) Solicitation shall set forth the following:

1. through 4. No change.

(3) Specifications.

(a) through (b) No change.

1. through 5. No change.

6. Services required which shall ~~to~~ include parking, dining and transportation requirements.

7. Acceptable Energy Performance Index as defined in Section 255.253, Florida Statutes.

(c) No change.

1. through 12. No change.

(d) Specifications shall provide a date and time in which responses are to be submitted to a designated individual. An announcement of award shall be posted following negotiations with respondents.

(e) Suggested formats and guidelines for specifications may be obtained from the Division Bureau of Property Management, Department of Management Services.

(4) Responses.

(a) No change.

(b) Each response shall be signed by the owner(s), or corporate officers, or legal representative(s). The corporate, trade, or partnership name must be either stamped, written or typewritten, beside the actual signature(s). If the response is signed by the owner(s), or corporate officers, or legal representative(s)' ~~an~~ agent, written evidence of his authority must accompany the response. If a corporation foreign to the State of Florida is the owner, written evidence of authority to conduct business in Florida must accompany the response. Lessor must include proof of the lessor's authority to offer the facility, i.e., copy of lessor's option to purchase (if the lessor is not the owner or owner's representative). This option must be valid through the time period stated in the solicitation for which responses may not be withdrawn.

(5) Evaluation.

(a) through (e) No change.

(e) 1. through 4. No change.

(f) Selection shall be publicly announced by the user agency, in conjunction with its designated representative at the time and manner designated in the solicitation.

(6) Lease preparation and approval.

(a) After the selection has been announced, a lease shall be properly executed by the lessor and the user agency and submitted to the Division Bureau for approval.

(b) No change.

1. No change.

2. A synopsis of the user agency's findings made in conjunction with its Agency's D~~e~~designated R~~e~~presentative for all responses received.

3. No change.

Specific Authority 255.249(4) FS. Law Implemented 255.21, 255.249(2)(b),(4), 255.25(3),(5), 255.254 FS. History--New 4-25-79, Amended 4-19-83, Formerly 13D-7.092, Amended 3-18-86, Formerly 13M-1.015, Amended 2-21-96, 5-13-03, 4-27-04, _____.

60H-1.017 Turnkey (Lease) Construction Program.

(1) Concept. The turnkey system is a concept whereby the builder is usually a commercial developer and the procedure should provide for design of the building by the developer's architect on the basis of performance specifications, concurrent design review, use of a developer-owned site and private financing.

The turnkey system may include several features which can be expected to motivate effective performance. Under ~~this system, the entire design and construction effort is usually carried out by a developer. A major motivation is the requirement that he finance the project until the building is accepted. This provides an incentive to expedite construction in order to minimize the cost of financing. A further motivation is the fact that T~~the State will not accept ~~a~~ the building if it does not meet the requirements of the performance specifications. It is recommended that the turnkey (lease) construction system be used whenever and wherever State User Agency need arises and a determination has been made that existing space is not available. To implement use of this system, the Department ~~of Management Services~~ requires the User Agency or the Agency's D~~e~~designated R~~e~~presentative to set forth its program construction requirements in a competitive solicitation, which will then be used by the User Agency or the its Agency's D~~e~~designated R~~e~~presentative in the solicitation of responses from Developers' responses shall ~~will~~ be made by the User Agency or its designated representative. This solicitation will be widely publicized using newspapers, trade papers, and personal contact with leading Developers in the project city or area. In carrying out the public solicitation, all parties should be clearly informed that the User Agency, in conjunction with its designated representative, may conduct extensive negotiations with each Developer submitting a response within a competitive range, prior to the selection of an a~~A~~pproved Developer.

(2) Criteria. The State User Agency in conjunction with ~~the its Agency's D~~esignated ~~R~~epresentative will perform the program in accordance with the Department's ~~of Management Services~~² guidelines, as presented herein.

User Agency Responsibilities:

(a)1. No change.

2. No change.

a. The Division has approved the request ~~or has not responded to the agency's request within 10 working days of receipt of the request~~; or

b. No change.

3. Agency notifies the Department ~~of Management Services~~, in a letter of transmittal, of their intent to seek lease-build proposal(s), based on subparagraphs 1. and 2. above.

(b) through (c) No change.

(d) Agency will advise Developers that responses submitted should be based on private financing and that no State payments for use of space being developed will be made to the Developer prior to final acceptance and approval of the completed building and its site, in accordance with the terms and conditions set forth in the Department's ~~of Management Services~~² Standard Lease Agreement form.

(e) No change.

(f) The User Agency will set the response period depending upon the complexity of the needed facility. The Developer's requirements as requested by the User Agency and the Department ~~of Management Services~~:

1. Agreement to enter into a lease-build contract on the Department's ~~of Management Services~~² Standard Lease Agreement form setting forth the terms and conditions therein.

2. No change.

3.a. through d. No change.

4. No change.

5. Developers shall indicate the period of time that a response will remain open; such period shall be a minimum of ~~sixty (60)~~ days.

6. No change.

a. through g. No change.

7. Building information which will enable the Division ~~of Facilities Management~~ to review both the functional and aesthetic aspects of the building including:

a. through b. No change.

8. A response submitted by a Developer shall be signed by the Developer or his duly authorized representative. Corporate, trade, or partnership titles may be stamped, written or type-written, but the actual signature of the authorized representative must appear on the response. If the response is signed by ~~Developer's an~~ agent, evidence of authority of the agent to sign must accompany the response. Evaluation of responses will be made by the User Agency in conjunction with ~~the its Agency's D~~esignated ~~R~~epresentative on the basis

of price, design, characteristics of construction, completion date, location (including environment or characteristics of surrounding neighborhood), public transportation availability, availability of parking facilities, and availability of satisfactory dining facilities, and conformance to the User Agency program, performance specifications, and floor layout plan, and any other subjective criteria. The User Agency or ~~the its Agency's D~~esignated ~~R~~epresentative then presents the entire "project review package" to the Division of Facilities Management. The project review package shall contain:

a. No change.

(i) No change.

(ii) No change.

b. through d. No change.

9. No change.

10. User Agency's recommendation with justification. The Division ~~of Facilities Management~~ will review the project. If it concurs with the User Agency's recommendation, it will give approval and return to the User Agency for execution. The User Agency and the Department ~~of Management Services~~ must be in joint agreement on the response before approval is granted. A physical inspection of completed buildings and sites will be made by the various User Agencies who will, in turn, supply the Division ~~of Facilities Management~~ with a Certificate of Acceptance, and a certificate citing the date of occupancy.

Specific Authority 255.249, 255.25 FS. Law Implemented 255.25(1),(2)(a) FS. History--New 8-11-75, Formerly 13D-7.10, Amended 3-18-86, Formerly 13M-1.017, Amended 2-21-96, 4-27-04, _____.

60H-1.022 Prior Approval of Space Need.

The Division shall not authorize any agency to enter into a lease agreement in a privately owned building when suitable space is available in a state owned or other publicly owned building located in the same geographic region, unless the agency files with the ~~Division Bureau~~ a statement explaining why the public space does not fit the needs of the agency. If the Division ~~D~~irector approves the request, ~~or does not respond to the agency's request within 10 working days of receipt of the request~~, the agency may then proceed to:

(1) through (4) No change.

Specific Authority 255.249, 255.25 FS. Law Implemented 255.25(2)(b),(3),(4) FS. History--New 3-18-86, Formerly 13M-1.022, Amended 2-21-96, 5-13-03, 4-27-04, _____.

60H-1.025 Disclosure Statement – Private Entities.

(1) A statement by the owner providing for full disclosure of the names and the extent of interest of the owners holding 4% or more interest in any privately owned property leased to the state or in the entity holding title to the property, shall accompany all new leases, renewal leases, modifications to approved leases and the notification or renewal under an existing lease option, when submitted for approval to the

Department of Management Services. This statement shall be submitted on a prescribed format as provided by the Division Bureau of Property Management.

(2) No change.

(3) It is not necessary to make disclosure under section (1) and (2) of any beneficial interest which is represented by stock in any corporation registered with the Securities and Exchange Commission or registered pursuant to Chapter 517, F.S., which stock is for sale to the general public. A statement certifying the registration shall be provided the Division Bureau of Property Management.

(4) No change.

Specific Authority 255.249(2) FS. Law Implemented 255.249(2)(h) FS. History–New 4-5-76, Amended 4-25-79, Formerly 13D-7.15, 13M-1.025, Amended _____.

60H-1.026 Disclosure Statement – Public Officials.

(1) A statement by the owner providing for full disclosure of the names of all public officials, agents, or employees holding any interest in any privately owned property leased to the state, or in the entity holding title to the property, and the nature and extent of their interest, shall accompany all new leases, renewal leases, modifications to approved leases and notifications of renewal under a lease option when submitted for approval to the Department of ~~Management Services~~. The statement shall be submitted on a prescribed format as provided by the Division Bureau of Property Management.

(2) No change.

(3) It is not necessary to make disclosure under sections (1) and (2) of any beneficial interest which is represented by stock in any corporation registered with the Securities and Exchange Commission or registered pursuant to Chapter 517, F.S., which stock is for sale to the general public. A statement certifying the registration shall be provided the Division Bureau of Property Management.

(4) No change.

Specific Authority 255.249(2) FS. Law Implemented 255.249(2)(i) FS. History–New 4-5-76, Amended 4-25-79, Formerly 13D-7.16, 13M-1.026, Amended _____.

60H-1.027 Legal Review.

(1) No change.

(2) A lease of 5,000 square feet or greater of space in a privately owned building shall be approved by the Department of Management Services Office of General Counsel and approval thereof indicated on the lease.

(3) No change.

Specific Authority 255.249(2)(a),(e) FS. Law Implemented 255.249(1),(3), 255.25(2) FS. History–New 4-25-79, Formerly 13D-7.17, 13M-1.027, Amended 2-21-96, 5-13-03, _____.

60H-1.028 Information and Forms.

Information and copies of all forms named in this Chapter may be obtained from:

Department of Management Services
 Division of Facilities Management
~~Bureau of Property Management~~
 4050 Esplanade Way, Suite 315
~~Building 4030, Suite 380~~
 Tallahassee, Florida 32399-0950

Specific Authority 120.53(1)(a), 255.249(2)(a) FS. Law Implemented 255.21, 255.249, 255.25, 255.254 FS. History–New 4-25-79, Formerly 13D-7.18, 13M-1.028, Amended 2-21-96, _____.

60H-1.030 Rental Rate Guidelines for Privately Owned Space.

(1) The maximum rental rates are established by the Division Bureau for space in privately owned ~~and in publicly owned~~ buildings according to the local market rates for space having acceptable qualities and amenities and to the category of services furnished. These rates are provided to each Agency immediately upon development and are available to other interested parties upon request.

(2) If the rental rate for any proposed lease of 5,000 square feet or greater or any proposed lease of less than 5,000 square feet is more than 10% above the maximum local market rental rate and category of services furnished, then that lease shall be presented by the user agency for approval by the Department of ~~Management Services~~.

Specific Authority 255.249(4)(f) FS. Law Implemented 255.249(2)(e), 255.25(2) FS. History–New 4-1-85, Formerly 13D-7.20, Amended 3-18-86, Formerly 13M-1.030, Amended 2-21-96, 9-30-96, 5-13-03, 4-27-04, _____.

NAME OF PERSON ORIGINATING PROPOSED RULE:
 Randall Baker, Real Property Administrator, Department of Management Services, Division of Facilities Management and Building Construction, 4050 Esplanade Way, Suite 315, Tallahassee, FL 32399, (850)488-6519

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Cindi Marsiglio, Deputy Secretary, Department of Management Services, 4040 Esplanade Way, Suite 135, Tallahassee, FL 32399, (850)488-6285

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: May 25, 2005

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: April 29, 2005

DEPARTMENT OF MANAGEMENT SERVICES

Division of Facilities Management

RULE CHAPTER TITLE: **Space Allocations In State-Owned Buildings and Privately-Owned Buildings** RULE CHAPTER NO.: **60H-2**

RULE TITLES: **Definitions** RULE NOS.: **60H-2.001**
Space Allocation **60H-2.002**
Space Allocation and Configuration Standards **60H-2.0021**
Space Measurement **60H-2.003**
Rental Rates **60H-2.005**

PURPOSE AND EFFECT: The Department proposes the rule amendments to delete or revise superfluous and/or outdated language.

SUMMARY: The proposed amendments to Chapter 60H-2, F.A.C., which addresses space allocation in state and privately-owned buildings, revise and/or delete superfluous or outdated language in the rules.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COST: No statement of estimated regulatory costs 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: 255.249(4)(d), 255.25, 255.503(11), 272.04, 288.18 FS.

LAW IMPLEMENTED: 255.249(1),(2)(c),(g),(4)(d), 255.25(2), 255.503(2), 272.04, 288.18(2),(3) FS.

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

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULES IS: Ron Goldstein, General Services Manager, Department of Management Services, Division of Facilities Management and Building Construction, 4050 Esplanade Way, Suite 315F, Tallahassee, FL 32399, (850)488-3759, e-mail: goldstr@dms.state.fl.us

THE FULL TEXT OF THE PROPOSED RULES IS:

60H-2.001 Definitions.

For the purpose of this chapter, each of these words shall have the following meanings:

- (1) through (3) No change.
- (4) Division – Division of Facilities Management and Building Construction.
- (5) No change.
- (6) Secretary – the Secretary of the Department of Management Services or his/her designee by written order.
- (7) Division Director – the Director of the Division or his/her designee by written order.

(8) No change.

Specific Authority 255.249, 255.503(11) FS. Law Implemented 255.249(1),(2), 255.503, 272.04, 288.18(2) FS. History–New 8-11-75, Amended 4-25-79, Formerly 13D-8.01, Amended 3-18-86, Formerly 13M-2.001, Amended 2-21-96, 4-27-04, _____.

60H-2.002 Space Allocation.

(1) General. The Department shall be the agency responsible for administering office space allocation in all state-owned buildings and private sector space leased to an agency.

(2) Specific. The Division shall act as the centralized point of contact with specific responsibility to allocate and re-allocate office space in all state-owned buildings and private sector space leased to an agency.

(3) Request. Requests for office space allocation or re-allocation and information should be directed to:

Department of Management Services
 Division of Facilities Management
 Bureau of Property Management
 40530 Esplanade Way, Suite 31580
 Tallahassee, Florida 32399-0950

Specific Authority 255.249, 255.503(11) FS. Law Implemented 255.249(1),(2),(4)(d), 255.503, 272.04, 288.18(2) FS. History–New 8-11-75, Amended 4-25-79, Formerly 13D-8.02, Amended 3-18-86, Formerly 13M-2.002, Amended 2-21-96, 4-27-04, _____.

60H-2.0021 Space Allocation and Configuration Standards.

The Department of Management Services’ Space Allocation and Configuration Standards shall be used by agencies for all office space and in preparing Space Allocation Plans.

- (1) through (3) No change.
- (4) No change.
- (a) To the extent possible without sacrificing critical public or client services, agencies are directed to obtain an average allocation of space, not to exceed, 180 usable square feet per full-time employee measured as usable square feet in Rule 60H-2.003, F.A.C., Space Measurement.
- (b) through (c) No change.

Specific Authority 255.249(4)(d), 255.503(11), 272.04 FS. Law Implemented 255.249(1),(4)(d), 255.503(2) FS. History–New 4-27-04, Amended _____.

60H-2.003 Space Measurement.

The Department’s Standard Method of Space Measurement shall be used by agencies in measuring building space, state-owned or private sector leased.

- (1) User agencies shall pay rent as lessees of Department-managed ~~pool~~ buildings or privately owned buildings only on usable space as defined below.
- (2) through (4) No change.

Specific Authority 255.249, 255.25, 272.04, 288.18 FS. Law Implemented 255.249(2)(c), 255.25(2), 272.04, 288.18(2) FS. History–New 8-11-75, Amended 4-25-79, Formerly 13D-8.03, 13M-2.003, Amended 2-21-96, 4-27-04, _____.

60H-2.005 Rental Rates.

Rates to be assessed agencies occupying space in Department-managed pool facilities shall be determined by the Division in accordance with Rule 60H-7.007, F.A.C., and shall be made known to the agencies for assistance in their planning and budgeting for such occupancy.

Specific Authority 255.249, 255.503(11) FS. Law Implemented 255.249(2)(g), 255.503, 288.18(3) FS. History—New 8-11-75, Amended 4-25-79, Formerly 13D-8.05, Amended 3-18-86, Formerly 13M-2.005, Amended.

NAME OF PERSON ORIGINATING PROPOSED RULE: Randall Baker, Real Property Administrator, Department of Management Services, Division of Facilities Management and Building Construction, 4050 Esplanade Way, Suite 315, Tallahassee, FL 32399, (850)488-6519

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Cindi Marsiglio, Deputy Secretary, Department of Management Services, 4040 Esplanade Way, Suite 135, Tallahassee, FL 32399, (850)488-6285

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: May 25, 2005

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: April 29, 2005

DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION

Board of Cosmetology

RULE TITLE: Initial Licensure or Registration Requirement for Instruction on Human Immunodeficiency Virus and Acquired Immune Deficiency Syndrome; Course Content and Approval Requirements

RULE NO.: 61G5-18.011

PURPOSE AND EFFECT: The amendment requires that educational courses taught to fulfill the initial licensure or registration requirement are 4 hours in length.

SUMMARY: The amendment specifies the number of hours required for educational courses taught to fulfill the initial licensure or registration requirement.

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

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

SPECIFIC AUTHORITY: 455.2228(5), 477.016 FS.

LAW IMPLEMENTED: 455.2228 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: Robyn Barineau, Executive Director, Board of Cosmetology, 1940 North Monroe Street, Tallahassee, Florida 32399-0783

THE FULL TEXT OF THE PROPOSED RULE IS:

61G5-18.011 Initial Licensure or Registration Requirement for Instruction on Human Immunodeficiency Virus and Acquired Immune Deficiency Syndrome; Course Content and Approval Requirements.

(1) through (2) No change.

(3) All educational courses on HIV and AIDS which are taught to fulfill the requirements for initial licensure or registration under Chapter 477, F.S., shall be approved by the Board. To be considered for the Board's approval, courses on HIV and AIDS shall consist of 4 hours combined education of:

(a) Education on the modes of transmission, infection control procedures, clinical management, and prevention of HIV and AIDS;

(b) Discussion of attitudes towards HIV and AIDS as well as appropriate behavior in dealing with persons who may have the virus or syndrome.

(4) through (7) No change.

Specific Authority 455.2228(5), 477.016 FS. Law Implemented 455.2228 FS. History—New 9-2-90, Amended 4-9-91, 10-27-91, 6-14-93, Formerly 21F-18.011, Amended 2-1-95, 12-21-97, 1-31-99, 3-8-00, 5-10-01, _____.

NAME OF PERSON ORIGINATING PROPOSED RULE: Board of Cosmetology

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

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: April 10, 2005

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: May 6, 2005

DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION

Board of Cosmetology

RULE TITLE: Salon Requirements

RULE NO.: 61G5-20.002

PURPOSE AND EFFECT: The amendment adds a requirement for compliance with local building and fire codes.

SUMMARY: The amendment specifies the requirement prior to opening a salon.

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: 477.016, 477.025(2) FS.
 LAW IMPLEMENTED: 477.025 FS.
 IF REQUESTED WITHIN 21 DAYS OF THE DATE OF THIS NOTICE, A HEARING WILL BE SCHEDULED AND ANNOUNCED IN THE FAW.
 THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Robyn Barineau, Executive Director, Board of Cosmetology, 1940 North Monroe Street, Tallahassee, Florida 32399-0783

THE FULL TEXT OF THE PROPOSED RULE IS:

- 61G5-20.002 Salon Requirements.
 - (1) Prior to opening a salon, the owner shall:
 - (a) through (c) No change.
 - (d) Submit proof of compliance with all local building and fire codes.
 - (2) through (6) No change.

Specific Authority 477.016, 477.025(2) FS. Law Implemented 477.025 FS. History—New 4-22-81, Amended 9-11-81, 1-17-83, 8-10-83, 6-28-84, 10-6-85, Formerly 21F-20.02, Amended 6-18-86, 10-18-87, 8-20-90, 5-19-91, 1-30-92, 5-11-92, 4-15-93, 5-31-93, Formerly 21F-20.002, Amended 1-19-95, 4-5-95, 8-8-95, 2-28-96, 6-16-97, 8-27-98, 4-13-99. _____

NAME OF PERSON ORIGINATING PROPOSED RULE: Board of Cosmetology
 NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Board of Cosmetology
 DATE PROPOSED RULE APPROVED BY AGENCY HEAD: April 10, 2005
 DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: May 6, 2005

DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION

Board of Veterinary Medicine

RULE TITLE: Examination and Licensure
 RULE NO.: 61G18-11.002
 PURPOSE AND EFFECT: The Board proposes the amendments to update the rule with the correct number of examinations for licensure, and the requirements of these examinations.

SUMMARY: The proposed rule amendments set forth the required examinations for licensure.

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

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

SPECIFIC AUTHORITY: 474.206, 474.2065, 474.207, 455.217 FS.
 LAW IMPLEMENTED: 455.217, 474.2065, 474.207 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: Juanita Chastain, Executive Director, Board of Veterinary Medicine, 1940 North Monroe Street, Tallahassee, Florida 32399-0750

THE FULL TEXT OF THE PROPOSED RULE IS:

61G18-11.002 Examination and Licensure.

(1) An applicant for any of the required examinations must apply to the Department and pay the appropriate examination fee ~~at least 60 days prior to the examination date.~~ An applicant will have completed Section 474.207(2)(b), Florida Statutes, or be enrolled in the last year of the veterinary medical curriculum of a college of veterinary medicine accredited by the American Veterinary Medical Association’s Council on Education. This application will remain valid for twelve (12) months.

(2) No change.

(3) ~~Effective on November 1, 2000, there shall be two examinations. The first examination will be the North American Veterinary Licensing Examination (NAVLE) developed by the National Board of Veterinary Medical Examiners. There are three examinations. Two examinations have been developed by the National Board Examination Committee: The first, a written examination; the second, a clinical competency test. The second third examination concerns laws and rules related to the practice of veterinary medicine. The context of the second third test shall include the following subjects: The Veterinary Medical Practice Act, Chapter 474, F.S.; Chapter 455, F.S., relating to the Department of Business and Professional Regulation; Chapter 61G18, F.A.C., the rules promulgated by the Board of Veterinary Medicine; Chapters 465, 499, 585, 828 and 893, F.S.; and the most recent revision of the “Physician’s Manual,” an informational outline of the Controlled Substances Act of 1970, published by the Drug Enforcement Administration of the United States Department of Justice.~~

(4) ~~Effective on November 1, 2000, there shall be two examinations. The first examination will be the North American Veterinary Licensure Examination (NAVLE) developed by the National Board Examination Committee. The second examination concerns the laws and rules related to the practice of veterinary medicine.~~ In order to obtain licensure, the candidate must receive a passing score on each portion of the examination based on the laws and rules in effect at the time the application is being acted upon. A candidate who fails to achieve a passing score on any part of the examination will only be required to retake the parts failed so long as those scores remain valid.

(5) A passing score on the National Board Examination of Veterinary Medicine is equivalent to or higher than 1.0 standard deviation below the mean score. The mean score and standard deviation are statistically arrived at on the basis of the performance of the criterion population taking the examination on the common testing date. The criterion population is defined as candidates from American Veterinary Medical Association accredited schools or colleges of veterinary medicine in the United States and Canada who are taking the National Board Examination for the first time. For applicants taking the National Board Examination (NBE) after December 1, 1992, a passing score on the NBE shall be a scaled score of four hundred twenty five (425) on a scale ranging from two hundred (200) to eight hundred (800). To be valid, a passing score on the written portion of the National Board Examination must have been achieved on an examination taken within the five year period prior to the date of the administration of the first examination offered in Florida subsequent to the filing of the application for licensure.

(6) A passing score on the Clinical Competency Test portion is equivalent to or higher than the mean score minus 1.0 deviation below the mean score or converted score which is four hundred (400) statistically arrived at on the basis of the performance of the national candidate population taking the Clinical Competency Test on that testing date, the common testing date. The candidate population is defined as candidates, who are graduates of American Veterinary Medical Association accredited schools or colleges of veterinary medicine who graduated in the year in which they are taking the Clinical Competency Test and are taking it for the first time. For applicants taking the Clinical Competency Test (CCT) after December 1, 1992, a passing score on the CCT shall be a scaled score of four hundred twenty five (425) on a scale ranging from two hundred (200) to eight hundred (800). To be valid, a passing score on the written portion of the Clinical Competency Test must have been achieved on an examination taken within the five year period prior to the date of the administration of the first examination offered in Florida subsequent to the filing of the application for licensure.

(5)(7) No change.

(6)(8) The North American Veterinary Licensing Examination (NAVLE) National Board examination and the Clinical Competency Test may be taken in another state or Canada and the scores may, upon submission of an application for licensure and the application fee, be transferred to Florida for purposes of satisfying the North American Veterinary Licensing Examination's (NAVLE's) National Board portion or the Clinical Competency Test portion of the examination for licensure. The concerned North American Veterinary Licensing Examination's (NAVLE) Such National Board examination and Clinical Competency Test must have been taken and successfully completed as outlined above within five

years prior to the date of the administration of the first examination offered in Florida subsequent to the filing of the application for licensure.

Specific Authority 474.206, 474.2065, 474.207, 455.217 FS. Law Implemented 455.217, 474.2065, 474.207 FS. History--New 11-14-79, Amended 5-11-80, 7-9-80, 5-4-81, 12-10-81, 12-5-82, 5-15-83, 11-5-84, 5-7-85, 11-5-85, Formerly 21X-11.02, Amended 3-1-88, 11-24-88, 4-3-89, 4-13-92, 3-30-93, 7-13-93, Formerly 21X-11.002, Amended 7-4-94, 3-20-95, 3-29-95, 5-1-95, 5-27-99, _____.

NAME OF PERSON ORIGINATING PROPOSED RULE:
Board of Veterinary Medicine

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

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: March 1, 2005

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: April 1, 2005

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

DEPARTMENT OF HEALTH

Board of Acupuncture

RULE TITLE: Probable Cause Determination

RULE NO.: 64B1-9.004

PURPOSE AND EFFECT: The Board proposes to remove some unnecessary provisions, specify the membership of the probable cause panel and specify who is empowered to convene a probable cause panel meeting.

SUMMARY: The rule clarifies the membership of the probable cause panel, removes unnecessary language, clarifies who appoints the panel chair and who is authorized to convene a panel meeting.

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

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

SPECIFIC AUTHORITY: 456.073(4) FS.

LAW IMPLEMENTED: 456.073(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: Pamela E. King, Executive Director, Board of Acupuncture, 4052 Bald Cypress Way, Bin #C06, Tallahassee, Florida 32399

THE FULL TEXT OF THE PROPOSED RULE IS:

64B1-9.004 Probable Cause Determination.

(1) The determination as to whether probable cause exists to believe that a violation of the provisions of Chapter 456 or 457, F.S., or of the rules promulgated thereunder has occurred, shall be made by a majority vote of a probable cause panel of the Board.

(2) The probable cause panel shall be composed of membership authorized under Section 456.073, F.S., and may include one former board member whose term of service shall not exceed one year, unless reappointed by the Board Chairperson, two (2) members of the Board. One (1) member of the panel shall be a licensed Acupuncturist, and the other member shall not be. A former Board member may serve on the probable cause panel.

(3) The probable cause panel shall be selected by the Chairperson of the Board.

(4) The probable cause panel shall meet at such times as called by the Board Chairperson or the Board Executive Director presiding officer of the panel.

(5) The presiding officer of the panel shall be selected by the Board Chairperson panel.

Specific Authority 456.073(4) FS. Law Implemented 456.073(4) FS. History--New 10-15-97, Amended _____.

NAME OF PERSON ORIGINATING PROPOSED RULE: Board of Acupuncture

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

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: March 11, 2005

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: April 8, 2005

DEPARTMENT OF HEALTH

Board of Chiropractic Medicine

RULE TITLE: Solicitation RULE NO.: 64B2-15.002

PURPOSE AND EFFECT: The Board proposes to update the existing language in this rule and add new guidelines.

SUMMARY: The proposed rule amendment amends and further clarifies the definition of what is impermissible solicitation.

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: 460.413(1)(I), 460.405 FS.

LAW IMPLEMENTED: 460.413(1)(I) 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 Chiropractic Medicine, 4052 Bald Cypress Way, Bin #C07, Tallahassee, Florida 32399-3259

THE FULL TEXT OF THE PROPOSED RULE IS:

64B2-15.002 Solicitation.

(1) No change.

(2) A chiropractor, or an employee or agent of a chiropractor, shall not conduct impermissible solicitation of solicit, in person or otherwise, a prospective patient with whom a chiropractor has no family or prior professional relationship, when a significant motive for such solicitation is the chiropractor's pecuniary gain. A chiropractor shall not permit employees or agents of the chiropractor to solicit in the chiropractor's behalf. A chiropractor shall not enter into an agreement, charge, or collect a fee for professional services obtained in violation of this rule. The term "solicit" includes contact in person or by telephone.

(a) Solicitation of a prospective patient involved in an accident or disaster within 30 days of the accident or disaster constitutes impermissible solicitation.

(b)(a) A written communication to a prospective patient constitutes impermissible solicitation soliciting if:

1. through 3. No change.

(c)(b) No change.

(d) A telephone communication or telemarketing campaign constitutes impermissible solicitation if it includes:

1. Fraud, or the use of threats, intimidation, undue influence, or profane or obscene language in telephone communication;

2. Repeated calls that annoy, harass, or abuse the person at the called number. For puposes of this rule, return call(s) to a called number wherein the previous call(s) were routed to an answering machine or voice mail are not considered repeated calls;

3. Calling a person who has previously stated that he or she does not wish to receive a telephone call made by or on behalf of the seller whose chiropractic goods or services are being offered. Every seller of chiropractic goods or services must maintain a "do not call" phone number list in compliance with 16 C.F.R. §310.4(b)(iii)(B) and 47 C.F.R. §64.1200(c)(2);

4. Calling a prospective patient at any time other than between 8:00 a.m. and 8:00 p.m. local time Monday through Saturday of the prospective patient;

5. Requirements for an immediate response from the prospective patient to any offer made during the solicitation;

6. A failure to first disclose at the beginning of the phone call the solicitor’s identity and the chiropractor, the chiropractor’s license number, and practice on whose behalf the solicitation is being made, the purpose of the call, a statement of the chiropractic goods or services being sold; and that no purchase or payment is necessary to participate in a promotion if a promotion is offered;

7. A failure to recite the disclaimer required by Section 456.062, Florida Statutes, when offering a free, discounted fee or reduced fee service, examination, or treatment;

8. Representations that the solicitation is approved or endorsed by the Board of Chiropractic Medicine;

9. Communications with prospective patients in a way that invade the privacy of the prospective patient, or interfere with an existing doctor/patient relationship; or

10. Communications with prospective patients otherwise prohibited by Chapters 456 and 460, Florida Statutes, or otherwise prohibited by rule or law.

(e) A record of the telephone numbers called and the script(s) used by a solicitor shall be maintained by the chiropractor for two years from the date of last use.

(f) Nothing contained in this rule is intended to authorize any chiropractor to conduct telephone solicitation in violation of Section 817.234(8)(a), (b) or (c), Florida Statutes, or Section 456.072(1)(x), Florida Statutes.

(3) No change.

Specific Authority 460.413(1)(l), 460.405 FS. Law Implemented 460.413(1)(l) FS. History—New 1-10-80, Formerly 21D-15.02, Amended 6-24-93, Formerly 21D-15.002, 61F2-15.001, Amended 7-18-95, Formerly 59N-15.002, Amended 7-12-99,_____.

NAME OF PERSON ORIGINATING PROPOSED RULE: Board of Chiropractic Medicine

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

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: May 13, 2005

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: November 24, 2004

DEPARTMENT OF HEALTH

Board of Athletic Training

RULE TITLE: Fees
RULE NO.: 64B33-3.001

PURPOSE AND EFFECT: The proposed amendments are intended to clarify the fee for change of status and to implement a fee for a duplicate wall certificate.

SUMMARY: The proposed rule amendments require a change of status fee in the amount of \$25 to be paid any time (other than at licensure renewal) a licensee wants to change his or her licensure status. The proposed rule amendment also requires a \$25 fee for a duplicate wall certificate.

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

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

SPECIFIC AUTHORITY: 456.025, 468.705, 468.709 FS.

LAW IMPLEMENTED: 456.025, 456.036, 468.709 FS.

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

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Sue Foster, Executive Director, Board of Athletic Training/MQA, 4052 Bald Cypress Way, Bin #C08, Tallahassee, Florida 32399-3258

THE FULL TEXT OF THE PROPOSED RULE IS:

64B33-3.001 Fees.

The following fees are prescribed for athletic trainers:

(1) through (6) No change.

(7) At any time other than renewal, the ~~The~~ change of status fee shall be \$25.

(8) No change.

(9) The fee for a duplicate wall certificate shall be \$25.

Specific Authority 456.025, 468.705, 468.709 FS. Law Implemented 456.025, 456.036, 468.709 FS. History—New 7-12-95, Amended 5-29-96, Formerly 61-25.001, 64B30-25.001, Amended 8-22-00,_____.

NAME OF PERSON ORIGINATING PROPOSED RULE: Board of Athletic Training

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

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: April 15, 2005

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: May 6, 2005

DEPARTMENT OF HEALTH

Board of Athletic Training

RULE TITLES: Citations
Mediation
RULE NOS.: 64B33-5.003
64B33-5.005

PURPOSE AND EFFECT: The proposed amendments to Rule 64B33-5.003, F.A.C., are intended to address additional violations appropriate for issuance of citations. The proposed new Rule 64B33-5.005, F.A.C., is intended to address mediation as an acceptable process for resolution of a legally sufficient complaint for a specified offense.

SUMMARY: The proposed amendments to Rule 64B33-5.003, F.A.C., set forth additional violations which are appropriate for the issuance of citations. The proposed new Rule 64B33-5.005, F.A.C., defines “mediation” and specifies that violation of

Section 468.719(1), F.S., which is the failure to include the athletic trainer’s name and license number in any advertising, constitutes an offense which is appropriate for mediation.

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

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

SPECIFIC AUTHORITY: 456.077, 456.078, 468.705, 468.719 FS.

LAW IMPLEMENTED: 456.077, 456.078, 468.705, 468.719 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: Sue Foster, Executive Director, Board of Athletic Training/MQA, 4052 Bald Cypress Way, Bin #C08, Tallahassee, Florida 32399-3258

THE FULL TEXT OF THE PROPOSED RULES IS:

64B33-5.003 Citations.

(1) through (2) No change.

~~(3) Citations shall be issued for first offense violations only.~~

~~(3)(4)~~ The Board hereby designates the following as citation violations, which shall result in the indicated penalty:

(a) Failing to complete the continuing education requirements prescribed in Section 468.711(2), F.S., and the rules promulgated thereto; ~~\$25.00 fine~~ \$25.00 fine per continuing education hour plus proof of completing the continuing education within three months;

(b) Failing to include the athletic trainer’s name and license number in any advertising, including, but not limited to, business cards and letterhead, related to the practice of athletic training pursuant to Section 468.719(1)(b), F.S.; ~~\$50.00 fine, plus proof of compliance within 30 days, and costs;~~ \$50.00 fine, plus proof of compliance within 30 days, and costs;

(c) Failure to notify the Department of a change in the licensee’s current mailing address as required by Section 456.035, F.S.; ~~\$50.00 fine, plus proof of compliance within 30 days, and costs;~~ \$50.00 fine, plus proof of compliance within 30 days, and costs;

(d) Practice on an inactive license for less than four months; ~~\$100.00 fine~~ \$100.00 fine for each month or fraction thereof, plus proof of compliance within 30 days, and costs;

~~(e) Failure to timely pay required fees and fines: \$100.00 fine, plus proof of compliance within 30 days, and costs;~~

~~(f) First time issuance of a bad check to the Department for the payment of a fee or fine if not satisfied within 45 days: \$100.00 fine, plus proof of compliance, and costs;~~

~~(g) First time failure to respond to a continuing education audit within 30 days: \$50.00 fine, plus proof of compliance, and costs;~~

~~(h) First time failure to notify the Board in writing within 60 days of action taken against one’s license in another jurisdiction or of a criminal felony conviction within 30 days: \$250.00 fine, plus proof of compliance, and costs;~~

~~(i) First time falsely certifying completion of required continuing education: \$100.00 fine, plus proof of completing the continuing education within three months, and costs;~~

~~(j) Failure to sign, file or render any report required by statute as part of a licensee’s responsibility: \$50.00 fine, plus proof of compliance, and costs;~~

~~(k) Failure to report to the Department any person whom the licensee knows is in violation of the laws and rules of the Department: \$50.00 fine, and costs; and~~

~~(l) Improper use of practice title or credentials: \$50.00 fine, plus proof of compliance, and costs.~~

~~(4)(5)~~ If the subject does not dispute the matter in the citation in writing within 30 days after the citation is served by personal service or within 30 days after receipt by certified mail, the citation shall become a public final order of the Board of Athletic Training and does not constitute discipline for a first offense, but does constitute discipline for a second subsequent offense. The subject has 30 days from the date the citation becomes a final order to pay the fine and costs. All fines and costs are to be made payable to “Board of Athletic Training – Citation.”

~~(6) Prior to issuance of the citation, the investigator must confirm that the violation has been corrected or is in the process of being corrected. If the violation is a substantial threat to the public health, safety and welfare, such potential for harm must be removed prior to issuance of the citation.~~

~~(5)(7)~~ No change.

Specific Authority 456.077, 468.705, 468.719 FS. Law Implemented 456.077, 468.705, 468.719 FS. History–New 5-9-02, Amended _____.

64B33-5.005 Mediation.

~~(1) “Mediation” means a process whereby a mediator appointed by the Department acts to encourage and facilitate resolution of a legally sufficient complaint. It is an informal and non-adversarial process with the objective of assisting the parties to reach a mutually acceptable agreement.~~

~~(2) For the purpose of Section 456.078, F.S., the Board designates as being appropriate for mediation first time violations of the following provision of subsection 468.719(1), F.S.: failing to include the athletic trainer’s name and license number in any advertising, including, but not limited to, business cards and letterhead, related to the business of athletic training.~~

~~(3) Such violations are appropriate for mediation only if:~~

~~(a) The economic harm caused by an act or omission is not due to intentional misconduct;~~

(b) There is no allegation of physical harm or injury to a patient related to such violation:

(c) The violation does not result in an adverse incident as defined in Section 456.078(2), F.S.

Specific Authority 456.078 FS. Law Implemented 456.078 FS. History—New

NAME OF PERSON ORIGINATING PROPOSED RULE:
Board of Athletic Training
NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Board of Athletic Training
DATE PROPOSED RULE APPROVED BY AGENCY HEAD: April 15, 2005
DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: May 6, 2005

FINANCIAL SERVICES COMMISSION

Office of Insurance Regulation

RULE TITLES:	RULE NOS.:
Title Insurance Rates	69O-186.003
Premium Schedule Applicable to “Truth In Lending” and Other Endorsements	69O-186.005

PURPOSE, EFFECT AND SUMMARY: To set appropriate rates for junior loan title insurance. Junior loan title insurance is directed to equity lines of credit and second mortgages.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS: 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: 624.308, 626.9611, 627.777, 627.782, 627.793 FS.

LAW IMPLEMENTED: 624.307(1), 626.9541(1)(h)3.a., 627.777, 627.782, 627.783, 627.7831, 627.7841, 627.7845, 697.04(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: 9:30 a.m., July 13, 2005
PLACE: Larson Building, 200 East Gaines Street, Tallahassee, Florida

Pursuant to the provisions of the Americans with Disabilities Act, any person requiring special accommodations to participate in this program, please advise the Office at least 5 calendar days before the program by contacting the person listed above.

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULES IS: Steve Alexander, Actuary, Property and Casualty Product Review, Office of Insurance Regulation, e-mail: steve.alexander@fldfs.com

THE FULL TEXT OF THE PROPOSED RULES IS:

69O-186.003 Title Insurance Rates.

The following are risk rate premiums to be charged by title insurers in this state for the respective types of title insurance contracts. To compute any insurance premium on a fractional thousand of insurance (except as to minimum premiums), multiply such fractional thousand by the rate per thousand applicable, considering any fraction of \$100.00 as a full \$100.00.

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

(c) For junior loan title insurance:

1. The premium for junior loan title insurance shall be:

a. \$0.86 per \$1,000.00 of liability written;

b. The minimum premium shall be \$50.00;

c. The minimum insurer retention shall be 30%.

2. This rate is approved for use with the following junior loan title insurance policy forms, copies of which are available on the Office’s website www.fldfs.com:

a. ALTA Residential Limited Coverage Junior Loan Policy (10/19/96) (with Florida Modifications) and ALTA Endorsement JR 1 (10/19/96);

b. ALTA Short Form Residential Limited Coverage Junior Loan Policy (10/19/96) (with Florida Modifications), and ALTA Endorsement JR 1 (10/19/96); and

c. Any substantially similar product that insures the same type risk.

3. This rate does not include the \$25.00 premium that shall be charged when issuing the optional ALTA Endorsement JR 2 (Revolving Credit/Variable Rate) (10/19/96) on a junior loan title insurance policy, as provided for in Florida Administrative Code Rule 69O-186.005(6)(c).

4. Eligibility for the junior loan policy shall be restricted to the following:

a. The insured title is for land having 1-4 residential units;

b. The junior loan must be a second or subsequent mortgage loan and must meet the definitional requirements of a “federally related mortgage loan”, as defined in the Real Estate Settlement Procedures Act of 1974, 12 U.S.C. s. 2601 et seq., which is incorporated by reference and a copy is available from the Office;

c. The junior mortgage loan amount is less than or equal to \$500,000;

d. No junior loan policy may be issued for an amount less than the full junior loan principal debt.

(2) through (12) No change.

Specific Authority 624.308(1), 626.9611, 627.782, 627.793, 627.7825 FS. Law Implemented 624.307(1), 626.9541(1)(h)3.a., 627.777, 627.782, 627.7825, 627.783, 627.7831, 627.7841, 627.7845 FS. History—New 9-17-71, Amended 12-28-73, Repromulgated 12-24-74, Amended 4-12-82, 12-23-82, Formerly 4-21.03, Amended 6-25-86, 2-26-90, 7-26-90, 2-27-91, Formerly 4-21.003, Amended 2-13-95, 1-27-02, Formerly 4-186.003, Amended _____.

69O-186.005 Premium Schedule Applicable to “Truth in Lending” and Other Endorsements.

(1) through (5) No change.

(6)(a) through (b) No change.

(c) In recognition of the increased risk in issuing optional ALTA Endorsement JR 2 (Revolving Credit/Variable Rate) (10/19/96) on a junior loan title insurance policy as provided for in paragraph 69O-186.003(1)(c), F.A.C., the premium shall be \$25.00 for issuing ALTA Endorsement JR 2 (Revolving Credit/Variable Rate) (10/19/96) on any such junior loan title insurance policy issued. ALTA Endorsement JR 2 (Revolving Credit/Variable Rate) (10/19/96) is the only optional endorsement available for issue with any such junior loan title insurance policy and this endorsement shall be itemized on the closing statement furnished to the insured. Irrespective of whether the ALTA Endorsement JR 2 (Revolving Credit/Variable Rate) (10/19/96) is issued, no additional premium shall apply to the ALTA Endorsement JR 1 (10/19/96), which must accompany any junior loan title insurance policy issued. Copies of these forms are available on the Office’s website at www.fldfs.com.

(7)(a) Both endorsements and affirmative type coverages and their applicable risk rate premium must be approved by the Office Department prior to their issuance in this state. Accordingly, endorsements and affirmative type coverages are categorized as follows:

1. through 2. No change.

3. Endorsements and/or affirmative type coverages with no specific Office Department approval required when there is no increased risk resulting to the insurer.

(b)1. No change.

2. If there is a change in a current adopted endorsement and the change results in a further limitation of coverage, the endorsement may be submitted to the Office Department for approval without an amendment to these rules.

(c) through (e) No change.

(8) through (15) No change.

(16) The following endorsements can be issued or affirmative language is permitted with no specific approval required from the Office:

(a) through (h) No change.

(i) Endorsements modifying the standard owner’s and mortgagee policy to convert to a leasehold policy previously approved by the Office department.

(j) No change.

Specific Authority 624.308, 627.777, 627.782, 627.793 FS. Law Implemented 624.307(1), 627.777, 627.782, 697.04(1) FS. History—New 9-17-71, Repromulgated 12-24-74, Formerly 4-21.05, Amended 6-25-86, 2-26-90, 2-27-91, Formerly 4-21.005, Amended 2-13-95, Formerly 4-186.005, Amended _____.

NAME OF PERSON ORIGINATING PROPOSED RULE: Steve Alexander, Actuary, Property and Casualty Product Review, Office of Insurance Regulation

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Tom Streukens, Deputy Commissioner, Office of Insurance Regulation

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: May 25, 2005

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

Section III Notices of Changes, Corrections and Withdrawals

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 BUSINESS AND PROFESSIONAL REGULATION

Board of Accountancy

RULE NOS.:

61H1-33.003

61H1-33.00342

RULE TITLES:

Obligations of CPA Ethics Course Continuing Education Providers

CPA Ethics Courses – Standards for Approval of Classes

NOTICE OF CORRECTION

The above-proposed rules were published in the May 13, 2005 issue of the Florida Administrative Weekly, Vol. 31, No. 19, on page(s) 1765-66. The Notice of Proposed Rulemaking incorrectly stated that the Notice of Proposed Rule Development had published on April 22, 2005 but should have said April 8, 2005. The History note should have reflected amendment dates of 3-21-05, and 5-10-05.

The foregoing changes do not affect the substance of the proposed rules.

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

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.”