

Section I Notices of Development of Proposed Rules and Negotiated Rulemaking

DEPARTMENT OF STATE

Division of Historical Resources

RULE TITLES:	RULE NOS.:
Definitions	1A-35.002
Grant Funding	1A-35.005
Application Requirements	1A-35.007

PURPOSE AND EFFECT: The purpose and effect of the proposed changes are to revise and update the rule to be in conformance with Chapter 267, F.S., and current administrative procedure.

SUBJECT AREA TO BE ADDRESSED: The Bureau of Historic Preservation proposes to amend the rule to clarify procedures relating to the Historic Preservation Grants-in-Aid program application and administration.

SPECIFIC AUTHORITY: 267.031(1) FS.

LAW IMPLEMENTED: 267.0617(2) FS.

IF REQUESTED IN WRITING AND NOT DEEMED UNNECESSARY BY THE AGENCY HEAD, A RULE DEVELOPMENT WORKSHOP WILL BE HELD AT THE TIME, DATE AND PLACE SHOWN BELOW:

TIME AND DATE: 9:00 a.m., March 18, 2005

PLACE: Third Floor Conference Room, R. A. Gray Building, 500 South Bronough Street, Tallahassee, Florida

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT IS: Robert C. Taylor, Division of Historical Resources, 500 South Bronough Street, Tallahassee, Florida 32399-0250, (850)245-6333

THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS:

1A-35.002 Definitions.

The following words and terms shall have the following meanings:

(1) through (2) No change.

(3) “Division” means the Division of Historical Resources of the Department of State.

(4)(3) “Florida Master Site File” means the list or catalog, maintained by the Division, of all recorded historical and archaeological sites and properties in the State of Florida.

(5) “Historic Preservation Grant” means a legislative or federally funded grant awarded to carry out specific historic preservation projects for a specified period of time.

(6)(4) “Historic district” means a geographically definable area, urban or rural, possessing a significant concentration, linkage, or continuity of sites, buildings, structures, or objects

united by past events or aesthetically by plan or physical development. A district may also comprise individual elements separated geographically but linked by association or history.

(7) “Historic markers” means Official Florida Historic Markers as defined by subsection 1A-48.002(3), Florida Administrative Code.

(8)(5) “National Register of Historic Places” means the list of districts, sites, buildings, structures, and objects significant in American history, architecture, archaeology, engineering and culture, authorized by the National Historic Preservation Act of 1966, as Amended through 2000, and administered by the U.S. Department of the Interior, National Park Service. The National Historic Preservation Act of 1966 is incorporated by reference and a copy is available in the Division.

(9)(6) “Protection” means the act or process of applying measures designed to affect the physical condition of a site or property by defending or guarding it from deterioration, loss, or attack. In the case of buildings and structures, such treatment is generally of a temporary nature and anticipates future treatment; in the case of archaeological sites, the protective treatment may be temporary or permanent.

(10)(7) “Rehabilitation” means the act or process of returning a site or property to a state of utility through repair or alteration which makes possible an efficient contemporary use while preserving those portions or features of the property which are significant to its historical, architectural, and cultural values.

(11)(8) “Restoration” means the act or process of accurately recovering the form and details of a site or property and its setting as it appeared at a particular period of time by means of the removal of later work or by replacement of missing earlier work.

(12)(9) “Special Category Grant” means a type of Historic Preservation Grant legislative grant for a major project with grant needs in excess of \$50,000 and including may include Florida history museums.

(13)(10) “Stabilization” means the act or process of applying measures designed to reestablish a weather-resistant enclosure and the structural stability of an unsafe or deteriorated property while maintaining the existing form.

(14)(11) “Survey” means the act or process of determining the location and identification of historical and archaeological sites and properties. An aspect of identification is evaluation, meaning determination of the historical significance or values represented by historical and archaeological sites and properties which have been located and otherwise described.

Specific Authority 267.031(1) FS. Law Implemented 267.0617(2) FS. History—New 10-18-83, Formerly 1A-35.02, Amended 11-24-87, 9-4-96,

1A-35.005 Grant Funding.

(1) Source of Grant Funds.

(a) No change.

(b) Federal funds for historic preservation grants-in-aid are apportioned to the State of Florida by the U.S. Department of the Interior, pursuant to the National Historic Preservation Act, and are deposited in the Historical Resources Operating Historic Preservation Trust Fund pursuant to Section 267.0617, Florida Statutes. No Acquisition and Development projects for religious properties may be funded with these federal funds.

(c) The use of federal funds provided by the U.S. Department of the Interior for historic preservation grants-in-aid is subject to the policies, procedures, and guidelines set forth by that agency in the October, 1997 1995 edition of the Historic Preservation Fund Grants Manual, National Register Programs Guideline, NPS 49, incorporated by reference. A copy of the manual guideline may be obtained by writing or calling the Division ~~Bureau of Historic Preservation~~ and paying the cost of copying.

(d) State funds consist of funds ~~in the Historic Preservation Trust Fund~~ which have been appropriated by the Florida Legislature, made available from dedicated sources, donated pursuant to Section 550.0351(2), Florida Statutes, or contributed from any other public or private source, except those federal funds for grants-in-aid received from the U.S. Department of the Interior, pursuant to the National Historic Preservation Act.

(e) Should an entity receive legislative funds outside the review of the Grant Review Panel, Florida Historical Commission, or Secretary of State, the entity shall not be eligible to receive historic preservation grant assistance from the Division for the same project within the same fiscal year in which the legislative funding is made available.

(2) Funding Categories.

(a) No change.

1. through 2. No change.

(b) Federal grant monies apportioned to the State by the U.S. Department of the Interior, pursuant to the National Historic Preservation Act, are authorized for up to ~~60%~~ 50% of the cost of all eligible Acquisition, Development, Survey and Planning projects. ~~Acquisition and Development projects and up to 70% of the cost of all eligible Survey and Planning projects.~~

1. No change.

2. In addition, to be eligible for federal Acquisition and Development, or Survey and Planning assistance, projects must conform to the policies, procedures, and guidelines contained in the October, 1997 1995 edition of the Historic Preservation Fund Grants Manual National Register Programs Guideline, NPS 49 and to any special conditions required by the U.S. Department of the Interior in apportioning monies to the State of Florida from which such projects will be funded. Examples of special conditions include ending dates by which

all costs charged against a federal grant must be incurred and any prohibitions against the use of federal grant funds for lobbying activities.

(c) No change.

(d) At least 80% of each donation to the Historical Resources Operating Historic Preservation Trust Fund pursuant to Section 550.0351(2), Florida Statutes, shall be available for allocation to eligible projects within a 50-mile radius of the racetrack or fronton which held the Charity Day from which the donation is derived. The remaining 20% of each donation may be used for eligible projects in other areas of the state.

(e) The Division will waive the financial matching requirements on state funds awarded for Historic Preservation Grant assistance, except for Special Category Grants, Acquisition of Historic properties and the purchase of historic markers, for an applicant that has been designated as REDI qualified in accordance with Sections 288.0656 and 288.06561, Florida Statutes. A request for waiver of matching requirements must be submitted with each grant application.

Specific Authority 267.031(1) FS. Law Implemented 267.0617(2) FS. History—New 10-18-83, Formerly 1A-35.05, Amended 9-4-96, _____.

1A-35.007 Application Requirements.

(1) Application Procedures.

(a) Applications for historic preservation grants-in-aid ~~from the Historic Preservation Trust Fund~~ shall be signed by the person or persons with legal authority to obligate the applicant and shall be made on a Historical Resources Grants-in-Aid Application Form HR3E0410705 HR3E210695, effective July, 2005 July 1996, which is incorporated by reference, and a copy of which is available ~~may be obtained~~ from the Division ~~Bureau of Historic Preservation~~.

(b) Eligible applicants for historic preservation grants-in-aid assistance shall be in accordance with Section 267.0617(2), Florida Statutes. ~~from the Historic Preservation Trust Fund include:~~

- ~~1. Departments or agencies of the state;~~
- ~~2. Unit of county, municipal or other local government;~~
- ~~3. Any corporation, partnership, or other organization, public or private and whether or not for profit; or~~
- ~~4. Any individual.~~

~~(c) Funds appropriated from general revenue for the historic preservation grants program, however, shall not be used to provide grant assistance to projects owned by individuals or for-profit corporations.~~

~~(c)(d)~~ Applicants may submit more than one application for grant assistance ~~from the Historic Preservation Trust Fund~~. An application for a Special Category grant project must be limited to a single site, or group of sites in which all the properties have the same owner(s).

(d)(e) The Division reserves the right to request additional information or clarification on any application that is submitted. Such request shall be made to the applicant by letter, facsimile, e-mail, or by telephone and shall indicate the date by which the information or clarification is needed.

(e)(f) Applications shall be submitted to the Division to the attention of the Bureau of Historic Preservation and shall include the original and the number of copies as specified in the grant application ~~thirteen complete copies~~.

(f)(g) Deadlines. There are two ~~three~~ funding cycles annually; one for Special Category grant funds, and one ~~two~~ for state and federal matching grant funds. Applicants must submit separate applications for each cycle.

1. through 4. No change.

(2) Application Review.

(a) No change.

(b) The Division shall send copies of the applications to each member of the Grant Review Panel or the Florida Historical Commission ~~Historic Preservation Advisory Council~~ in sufficient time for members to review all applications prior to the Panel or Commission ~~Council~~ convening in a public meeting for the purpose of considering the applications for funding.

(c) The Division shall also provide the following information to the Grant Review Panel or the Florida Historical Commission ~~Council~~:

1. through 2. No change.

(d) The Grant Review Panel and the Florida Historical Commission ~~Advisory Council~~ shall each convene in a public meeting to review and evaluate all applications for historic preservation grants-in-aid. The Grant Review Panel and the Florida Historical Commission ~~Council~~ shall annually hold separate meetings to consider applications for federal, state and Special Category grant assistance. Applications for Historic Preservation Grants shall be reviewed by a Grant Review Panel appointed by the Secretary of State. Applications for Special Category grants assistance shall be reviewed by the members of the Florida Historical Commission.

1. The Grant Review Panel and the Florida Historical Commission ~~Council~~ shall each meet to consider applications for grant assistance within 150 days of the relevant application deadline.

2. The Division shall publish a notification of the time and place of the meeting and where a copy of the agenda may be obtained in the Florida Administrative Weekly at least 30 days prior to the Grant Review Panel or the Florida Historical Commission ~~Council~~ meeting.

3. No change.

(e) The Grant Review Panel and the Florida Historical Commission ~~Council~~ shall evaluate each application based on the criteria relating to the site involved, the prospective grantee, and the anticipated public benefit, as follows:

1. through 3. No change.

(f) The Grant Review Panel and the Florida Historical Commission ~~Council~~ shall each develop a priority listing of all project applications by ranking each project relative to the others and shall recommend funding levels and any appropriate special conditions for each individual project. An example of a special condition is a requirement that the grantee must execute restrictive covenants prior to receiving grant funds. The Grant Review Panels ~~Council~~ shall establish sub-categories of the Acquisition and Development and the Survey and Planning categories of grant assistance for the purpose of establishing priority listings and recommending funding levels. The Grant Review Panels ~~Council~~ shall further recommend that overall sub-categories be funded to specific levels and then rank individual projects within each sub-category, also recommending funding levels for each individual project.

(g) The recommendations of the Grant Review Panel and the Florida Historical Commission ~~Council~~ shall be submitted by the Division to the Secretary of State (Secretary) for review and approval. At a minimum, the written recommendations shall include a ranking of all proposed projects, however categorized, and the recommended funding level for each proposed project.

(h) through (i) No change.

(j) If additional grant funds become available during the grant year for either federal or state grants-in-aid, the Director shall increase the grant award or award a new grant for applications reviewed by the Grant Review Panel or the Florida Historical Commission ~~Council~~ during the normal review process or establish a special process for awarding such additional funds.

(3) Grant Award Agreement.

(a) through (c) No change.

(d) Funds remaining in any grant allocation as a result of early termination or from completion of the project at less than anticipated cost shall revert to the funding source from which the grant funds were appropriated ~~Historic Preservation Trust Fund~~ or be distributed in accordance with the procedures set forth in paragraph 1A-35.007(2)(j), F.A.C.

Specific Authority 267.031(1) FS. Law Implemented 267.0617(2) FS. History—New 10-18-83. Amended 10-3-84, Formerly 1A-35.07, Amended 7-21-86, 11-24-87, 12-26-91, 8-11-93, 9-4-96, _____.

DEPARTMENT OF EDUCATION

Commission for Independent Education

RULE TITLE: RULE NO.:

Definition of Terms 6E-1.003

PURPOSE AND EFFECT: The purpose of the amendment is to add the term scholarship to the terms defined for use within the rules.

SUBJECT AREA TO BE ADDRESSED: Definitions.

SPECIFIC AUTHORITY: 1005.22(1)(e) FS.

LAW IMPLEMENTED: 1005.22, 1005.31 FS.

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

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT AND A COPY OF THE PRELIMINARY DRAFT IS: Samuel L. Ferguson, Executive Director, Commission for Independent Education, 2650 Apalachee Parkway, Suite A, Tallahassee, Florida 32399

THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS:

6E-1.003 Definition of Terms.

Terms used in these rules are defined in Section 1005.02, F.S. In addition, as used in the rules of the Commission, unless the context clearly indicates otherwise:

(1) through (28) No change.

(29) through (46) renumbered (30) through (47) No change.

(48) Scholarship – “a grant-in aid to a student.” The offer of a grant-in-aid to an enrolled student to offset partial or complete costs of a course, program, certificate or degree.

(47) through (49) renumbered (49) through (51) No change.

Specific Authority 1005.22(1)(e) FS. Law Implemented 1005.22, 1005.31 FS. History—Repromulgated 12-5-74, Amended 7-28-75, Formerly 6E-4.01(8), Readopted 11-11-75, Amended 3-7-77, 10-13-83, Formerly 6E-4.03, Amended 2-22-89, 11-29-89, 10-19-93, 4-11-00, 1-07-03, 12-23-03, 7-20-04.

DEPARTMENT OF EDUCATION

Commission for Independent Education

RULE TITLE: Fair Consumer Practices

RULE NO.: 6E-1.0032

PURPOSE AND EFFECT: This rule is being amended to clarify nonrefundable application fees, admission standards, add guidance for licensees regarding special requirements or limitations of students and define a binding contract between the institution and the student.

SUBJECT AREA TO BE ADDRESSED: Fair Consumer Practices.

SPECIFIC AUTHORITY: 1005.22(1)(e)1., 1005.34 FS.

LAW IMPLEMENTED: 1005.04, 1005.32(5), 1005.34 FS.

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

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT AND A COPY OF THE PRELIMINARY DRAFT IS: Samuel L. Ferguson, Executive Director, Commission for Independent Education, 2650 Apalachee Parkway, Suite A, Tallahassee, Florida 32399

THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS:

6E-1.0032 Fair Consumer Practices.

(1) through (5) No change.

(6) Each prospective student shall be provided a written copy, or shall have access to an electronic copy, of the institution’s catalog prior to enrollment or the collection of any tuition, fees or other charges. The catalog shall contain the following required disclosures, and catalogs of licensed institutions must also contain the information required in subsections 6E-2.004(11) and (12), F.A.C.:

(a) through (f) No change.

(g) Admissions: The institution shall disclose its method of assessing a student’s ability to ~~complete~~ complete successfully the course of study he or she has applied. The requirements for admission (~~such as high school diploma, general equivalency diploma, or its equivalent~~) and for graduation shall be disclosed. If the practice of a career has special requirements or limitations such as certain physical or language capabilities or lack of criminal record, such requirements or limitations shall be disclosed to prospective students interested in training for that career.

(h) through (i)5. No change.

6. Nonrefundable ~~application~~ application fees regarding admission and registration of ~~for~~ Florida students shall not exceed \$150 ~~\$50~~. The requirements regarding refund policies as stated herein do not apply to dormitory or meal fees. Refund policies for those fees, if charged, shall be set by the institution and also disclosed in conjunction with the refund policy.

(j) through (k) No change.

(7) No change.

(8) A licensed institution which is not accredited by a USDOE recognized institutional accrediting agency shall use an enrollment agreement or application for admission which, in addition to the catalog, shall be the binding contract between the institution and the student. The binding document shall include, but not be limited to, the following:

(a) Title. The binding document shall be identified by title as a “Contract”, “Agreement”, “Application” or similar title and clearly indicate that it will constitute a binding agreement upon acceptance by the institution and the student;

(b) Name of the institution. Name, phone number, and physical address of the institution;

(c) Title of Program. Program title as licensed and identified in the catalog.

(d) Time Required. Number of clock hours or credit units, including the number of weeks or months, or credit hours required for completion;

(e) Credential for Satisfactory Completion;

(f) Costs. All costs shall be clearly stated;

1. Tuition. The total tuition for the program must be listed by the total length of the program, the tuition cost per credit hour, clock hour, term or academic year.

2. Fees. All refundable and nonrefundable fees payable by the student.

3. Books and supplies. The cost for books and supplies may be estimated if necessary. This item may be omitted if the binding document state that the costs for books and supplies are included in the tuition charges as stated in the document.

4. Any other costs. Any other costs required to be paid by student, whether or not purchased from the school. These costs may be stated as a listing of goods or services not included in the tuition.

(g) Terms of payment. The method of payment of all costs shall be clearly stated in the binding document and shall comply with federal and state laws.

(h) Class Start.

(i) Anticipated Program Completion Date (for Institutions that are not Colleges or Universities).

(j) Class Schedule. The day, evening or other schedule of class attendance must be clearly stated (if known at the time of signature by student).

(k) Termination or Cancellation by the Institution or Student. Grounds or procedures for cancellation of a binding document by an institution or student shall be clearly stated.

(l) Refund Policy. Institutions shall comply with refund policy as provided in subsection 6E-1.0032(6), F.A.C.

(m) Employment Guarantee Disclaimer. Institutions shall publish the disclaimer as provided in paragraph 6E-1.0032(6)(j), F.A.C.

(n) Statement that all signers have received and read a copy of the binding document and catalog.

(o) Signatures and Acceptance. The binding document shall contain the date and signature of the applicant and parent or guardian, if the applicant is under eighteen (18) years of age and the acceptance date and signature of the appropriate official at the institution.

(p) Format. If the binding document is not completed on one (1) side of a single sheet of paper, each side must clearly and conspicuously refer to the conditions on the other side as being part of the document. If more than one (1) page is used, each page must be numbered page 1 of ___ pages, page 2 of ___ pages, etc.

(8) through (10) renumber (9) through (11) No change.

Specific Authority 1005.22(1)(e)1., 1005.34 FS. Law Implemented 1005.04, 1005.32(5), 1005.34 FS. History—New 10-19-93, Amended 4-2-96, 11-5-00, 1-7-03, 1-20-04, 3-29-04,_____.

DEPARTMENT OF EDUCATION

Commission for Independent Education

RULE TITLE: Actions Against A Licensee: Penalties
 RULE NO.: 6E-2.0061

PURPOSE AND EFFECT: This rule is being amended to clarify cease and desist orders in conjunction with a notice of denial of licensure.

SUBJECT AREA TO BE ADDRESSED: Actions Against A Licensee: Penalties.

SPECIFIC AUTHORITY: 1005.32(7), 1005.38 FS.

LAW IMPLEMENTED: 1005.32(7), 1005.34(3), 1005.38 FS.

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

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT AND A COPY OF THE PRELIMINARY DRAFT IS: Samuel L. Ferguson, Executive Director, Commission for Independent Education, 2650 Apalachee Parkway, Suite A, Tallahassee, Florida 32399

THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS:

6E-2.0061 Actions Against A Licensee; Penalties.

(1) through (7) No change.

(8) Cease and Desist orders. Cease and desist orders shall be issued by the Commission upon finding probable cause or in conjunction with a notice of denial of licensure, and shall comply with Section 1005.38, F.S., and other applicable laws.

(9) through (10) No change.

Specific Authority 1005.32(7), 1005.38 FS. Law Implemented 1005.32(7), 1005.34(3), 1005.38 FS. History—New 10-13-83, Formerly 6E-2.061, Amended 5-20-87, 11-27-88, 11-29-88, 12-10-90, 10-19-93, 1-7-03, 5-4-04, 5-26-04, 7-20-04,_____.

BOARD OF TRUSTEES OF THE INTERNAL IMPROVEMENT TRUST FUND

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

AGENCY FOR HEALTH CARE ADMINISTRATION

Certificate of Need

RULE TITLE: RULE NO.:

Certificate of Need Exemption 59C-1.005
 Application Procedure

PURPOSE AND EFFECT: The agency is proposing to amend the rule currently used to request an exemption from batched and expedited Certificate of Need (CON) review process due to recent statutory amendments. The amended rule will rename the rule and redefine projects subject to exemption from batched or expedited Certificate of Need review pursuant to Sections 408.036(3) and 408.036(4), F.S. A preliminary draft of the rule amendments is included in this notice.

SUBJECT AREA TO BE ADDRESSED: Revisions in the current rule used in the request for exemption to batched and expedited Certificate of Need review.

SPECIFIC AUTHORITY: 408.034(6), 408.15(8) FS.

LAW IMPLEMENTED: 408.036(3), 408.036(4) FS.

IF REQUESTED IN WRITING AND NOT DEEMED UNNECESSARY BY THE AGENCY HEAD, A RULE DEVELOPMENT WORKSHOP WILL BE HELD AT THE TIME, DATE AND PLACE SHOWN BELOW:

TIME AND DATE: 2:00 p.m. (EST), March 22, 2005

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

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT IS: Rommel Bain, Certificate of Need, 2727 Mahan Drive, Building 1, Tallahassee, Florida

THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS:

59C-1.005 Certificate of Need Exemptions Application Procedure.

(1) Request for Exemption. Certain projects are subject to exemption from batched or expedited Certificate of Need review pursuant to subsections 408.036(3) and 408.036(4), F.S., provided the conditions specified in this rule are met. To receive an exemption, the applicant shall file a Certificate of Need application request for exemption with the agency and provide documentation to justify the request. A request for exemption may be submitted at any time, and must be submitted to:

Agency for Health Care Administration
 Certificate of Need
 2727 Mahan Drive, Building 1
 Tallahassee, Florida 32308

(2) General Requirements. In the case of any applicant filing a Certificate of Need Exemption request applying for an exemption from certificate of need review, the request shall include:

(a) through (b) No change.

(c) The location and service area of the project.

(d) through (h) No change.

(3) through (4) No change.

(5) Limitation on Validity. An exemption, when granted, is valid only for the project for which it was issued and for the health care facility or hospice on whose behalf the exemption was granted and, for projects subject to the monitoring requirements of Section 408.040, F.S., only for the time frame stated in the Agency's decision letter approving the exemption project.

(6) Project Specific Exemption Requests. In addition to meeting the requirements of subsections (1) and (2) of this rule, requests for exemption of certain projects must meet the additional requirements specified below:

~~(a) Termination of an inpatient health care service. A request for exemption of a proposed termination of an inpatient health care service is required only for the types of services whose establishment would be subject to certificate of need review under Section 408.036(1) or (2), F.S. Temporary cessation of an inpatient service, lasting 6 months or less, is not a termination of that service and does not require an exemption.~~

~~1. A request for termination of a service must acknowledge that a service continuously inactive for more than 12 months cannot be reestablished at the facility unless authorized by a new certificate of need.~~

~~2. A request for termination may be combined with a hospital bed increase exemption requested under paragraph (6)(e), provided the termination will occur at the same facility.~~

~~(b) Delicensure of beds. A request for exemption of a proposed delicensure of beds must comply with the following:~~

~~1. The request must identify the facility where the delicensure will occur, the current licensed capacity of each category of beds licensed at the facility, the category of beds where delicensure will occur, and the exact number of beds being delicensed.~~

~~2. The request must acknowledge that the delicensed beds cannot be reactivated in any licensed bed category at the facility without a certificate of need or, if applicable, an exemption letter.~~

~~3. A request for delicensure of beds may be combined with a hospital bed increase exemption requested under paragraph (6)(e), provided the delicensed beds will occur at the same facility.~~

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

~~(c)(e) Addition of comprehensive medical rehabilitation beds, licensed under Chapter 395, F.S., and located within a unit of an acute care hospital or within a freestanding rehabilitation hospital beds in a number not exceeding 10 beds or 10 percent of the licensed capacity of the bed category being expanded, whichever is greater, except for the tertiary services beds and long term care hospital beds excluded under Section~~

408.036(3)(n), F.S. A request for exemption of a proposed addition of comprehensive medical rehabilitation hospital beds shall specify:

1. The current number of licensed comprehensive medical rehabilitation beds ~~in the category of beds proposed to be expanded.~~

2. through 3. No change.

4. The request shall certify that:

a. The average occupancy rate for the 12-month period ending 1 month prior to the exemption request, ~~in the category of licensed beds being expanded at the facility,~~ meets or exceeds 80 percent; ~~or, for a distinct part skilled nursing unit, the 12-month average occupancy rate meets or exceeds 96 percent.~~ For the purpose of calculating average occupancy under this sub-subparagraph, the 12-month total of patient days shall be divided by 365 to determine an average daily census, and the average daily census shall then be divided by the total of licensed and approved beds located at the premises of the facility within the category of beds being expanded as of the end of the 12-month period. Approved beds are beds authorized for the facility consistent with the provisions of paragraph 59C-1.008(2)(b), F.A.C.

b. No change.

5. through 6. No change

~~(f)1. Temporary addition of acute care hospital beds in a number not exceeding 10 beds or 10 percent of the licensed acute care bed capacity, whichever is greater. An exemption may be granted to a hospital which has previously experienced high seasonal occupancy or to a hospital that must respond to emergency circumstances. For purposes of this paragraph, "high seasonal occupancy" means that the average occupancy of acute care beds for a period of at least 3 consecutive months during the 12-month period ending one month prior to the exemption request, was at least 85 percent for the entire period of high occupancy considered as a whole. An exemption may be requested based upon the hospital's expectation that it will experience a comparable period of high seasonal occupancy during the 12 months following the exemption request.~~

~~2. A request for exemption of a proposed temporary addition of acute care beds shall:~~

~~a. Indicate the exact number of acute care beds to be added, the reason for the temporary addition, and the proposed beginning and ending dates of the temporary addition.~~

~~b. Certify that the applicant will comply with the provisions of s. 395.003(4), F.S., which requires approval from the hospital licensure unit within the agency's Bureau of Health Facility Regulation before operation of a number of beds that is greater than the number indicated on the hospital license.~~

~~(d)(g)~~ Addition of nursing home beds in a number not exceeding 10 beds or 10 percent of the licensed capacity of the nursing home being expanded, whichever is greater. A request for exemption of a proposed addition of nursing home beds shall specify:

1. through 4. No change.

5. The request shall certify that:

a. The facility has not had any class I or class II deficiencies within the 30 months preceding the request for an addition. ~~Effective beginning July 1, 2001, the facility must be designated as a Gold Seal nursing home.~~

b. through c. No change.

6. through 7. No change.

(e) Addition of nursing home beds to a facility that has been designated as a Gold Seal nursing home under Section 400.235, F.S., in a number not exceeding 20 beds or 10 percent of the licensed capacity of the nursing home being expanded, whichever is greater. A request for exemption of a proposed addition of nursing home beds shall specify:

1. The licensed bed capacity of the nursing home proposed to be expanded.

2. The current number of sheltered beds, if any, included within the licensed bed capacity.

3. The exact number of beds proposed to be added.

4. The number of sheltered beds, if any, proposed to be included within the total to be added.

5. The request shall certify that:

a. The facility has not had any class I or class II deficiencies within the 30 months preceding the request for an addition.

b. The average occupancy rate for the nursing home beds at the facility, for the 12-month period ending 1 month prior to the exemption request, meets or exceeds 96 percent. For the purpose of calculating average occupancy under this sub-subparagraph, the 12-month total of patient days shall be divided by 365 to determine an average daily census, and the average daily census shall then be divided by the total of licensed and approved beds as of the end of the 12-month period. Approved beds are beds authorized for the facility consistent with the provisions of paragraph 59C-1.008(2)(b), F.A.C.

c. Any beds previously authorized for the facility by an exemption under this paragraph have been licensed and operational for at least 12 months.

6. An exemption granted under this paragraph is subject to the project monitoring requirements of Sections 408.040(2)(a)-(c), F.S., and subsection 59C-1.013(2) and (3), F.A.C., including project progress reports, an 18-month validity period for the exemption, and the circumstances for extension of the validity period.

7. Beds authorized under this paragraph shall be inventoried as approved beds until the beds are licensed.

(h) Provision of adult inpatient diagnostic cardiac catheterization services.

1. A request for exemption of a proposed adult inpatient diagnostic cardiac catheterization program shall include certifications by the applicant that:

a. The applicant will not provide therapeutic cardiac catheterization pursuant to the grant of the exemption;

b. The applicant will meet and continuously maintain the minimum licensure requirements specified in subsection 59A 3.2085(13), F.A.C.; and,

e. At least 2 percent of the applicant's annual adult diagnostic cardiac catheterization admissions will be charity and Medicaid patients.

2. An exemption granted for provision of adult inpatient diagnostic catheterization services remains in effect while the requirements specified in s. 408.036(3)(i), F.S., and Rule 59A 3.2085(13), F.A.C., are met.

3. Annual reports of compliance with standards for minimum program volume and minimum services to charity and Medicaid patients, as specified in Rule 59A 3.2085(13)(d) and (i), F.A.C., shall be forwarded to the agency's Certificate of Need Office. The total volume reported shall include both inpatient and outpatient admissions to the adult diagnostic cardiac catheterization program. A single admission is equal to one patient visit to the cardiac catheterization program. The first annual report for the exempted program shall be forwarded within 30 days of the end of the first 12-month period completed subsequent to the 18th month of operation. Annual reports thereafter shall be forwarded within 30 days after the anniversary of the first annual report. The reports should be submitted to the address shown in subsection (1) of this rule.

4. The agency shall provide written notification to the exempted hospital of a determination of non-compliance with the annual compliance requirements of subparagraph (h)3. of this rule. Action upon a finding of non-compliance shall be consistent with the provisions of Section 408.036(3)(i)3.b., F.S.

(i)1. Conversion of skilled nursing beds to acute care beds. A request for exemption of a proposed conversion of hospital-based distinct part skilled nursing unit (SNU) beds to acute care beds shall certify that:

a. The conversion will utilize or modify physical space that exists at the time of the exemption request, without construction of new facilities.

b. The acute care beds will be located at the same premises as the SNU beds.

e. The conversion will not increase the total licensed bed capacity of the hospital.

2. An exemption granted under this paragraph is subject to the project monitoring requirements of s. 408.040(2)(a) (e), F.S., and Rule 59C-1.013(2) and (3), F.A.C., including project progress reports, an 18-month validity period for the exemption, and the circumstances for extension of the validity period.

3. Beds authorized under this paragraph shall be inventoried as approved beds until the beds are licensed.

(f) Establishment of a Level II neonatal intensive care unit (NICU) within a licensed acute care facility if the facility can document that it has had a minimum of 1,500 births during the 12 months preceding the month the exemption application was submitted and agrees to establish at least 10 Level II NICU beds.

1. The total licensed bed capacity of the hospital.

2. The total licensed bed capacity if the Certificate of Need Exemption request is granted.

3. Applicants for exemption under this paragraph must certify that the NICU unit will provide a level of charity care or Medicaid patient days equal to or greater than the district average. The district average will be determined by averaging all Medicaid, Medicaid HMO, and charity care reported to the State Center for Health Statistics for the most recent 12-month period in which data has been cleared by the State Center for Health Statistics.

a. Applicants seeking exemption under this paragraph will verify the district average with the State Center for Health Statistics and certify to provide a certain percentage of patient days to either Medicaid, including Medicaid HMO, or charity care patients or a combination of Medicaid, including Medicaid HMO, and charity care patients.

b. Applicants granted exemption under this paragraph shall report annually, pursuant to s. 408.040, F.S. and Rule 59C-1.013, F.A.C.

4. Applicants for exemption under this paragraph shall demonstrate that it meets the requirements for quality of care, nurse staffing, physician staffing, physical plant, equipment, emergency transportation, and data reporting found in Rule 59C-1.042, F.A.C.

a. Documentation of staffing patterns shall be submitted in a clearly organized format and certified to be correct by the applicant or its authorized representative.

b. Physical plant requirements shall be presented in a clearly organized format and certified to be correct by the applicant or its authorized representative and must indicate the establishment of at least a 10-bed unit.

c. A listing of equipment and equipment specifications should be presented and the applicant or its authorized representative must certify that listed equipment will be purchased.

d. Documentation from authorized emergency transportation providers must be presented attesting to the availability of such transportation to the applicant and certifying that it will provide emergency transportation to the applicant's NICU patients.

(g) Establishment of a Level III neonatal intensive care unit (NICU) within a licensed acute care facility if the facility has at least a 10-bed Level II NICU and can document that it has had a minimum of 3,500 births during the 12 months preceding the month the exemption application was submitted and agrees to establish at least 15 Level II NICU beds.

1. The total licensed bed capacity of the hospital.

2. The total licensed bed capacity if the Certificate of Need Exemption request is granted.

3. Applicants for exemption under this paragraph must certify that the NICU unit will provide a level of charity care or Medicaid patient days equal to or greater than the district average. The district average will be determined by averaging all Medicaid, Medicaid HMO, and charity care reported to the State Center for Health Statistics for the most recent 12-month period in which data has been cleared by the State Center for Health Statistics.

a. Applicants seeking exemption under this paragraph will verify the district average with the State Center for Health Statistics and certify to provide a certain percentage of patient days to either Medicaid, including Medicaid HMO, or charity care patients or a combination of Medicaid, including Medicaid HMO, and charity care patients.

b. Applicants granted exemption under this paragraph shall report annually, pursuant to s. 408.040, F.S. and Rule 59C-1.013, F.A.C.

4. Applicants for exemption under this paragraph shall demonstrate that it meets the requirements for qualify of care, nurse staffing, physician staffing, physical plant, equipment, emergency transportation, and data reporting found in Rule 59C-1.042, F.A.C.

a. Documentation of staffing patterns shall be submitted in a clearly organized format and certified to be correct by the applicant or its authorized representative.

b. Physical plant requirements shall be presented in a clearly organized format and certified to be correct by the applicant or its authorized representative and must indicate the establishment of at least a 15-bed unit.

c. A listing of equipment and equipment specifications should be presented and the applicant or its authorized representative must certify that listed equipment will be purchased.

d. Documentation from authorized emergency transportation providers must be presented attesting to the availability of such transportation to the applicant and certifying that it will provide emergency transportation to the applicant's NICU patients.

(h) The addition of mental health services or beds, as defined in Rule 59C-1.002, F.A.C., to licensed acute care or mental health facilities if the applicant commits to providing services to Medicaid or charity care patients at a level equal to or greater than the district average. A request for exemption of a proposed addition of mental health beds or services shall specify:

1. The licensed bed capacity of the mental health facility or unit to be expanded.

2. The current number of mental health beds by bed category as defined in Rule 59C-1.002, F.A.C.

3. The exact number of beds proposed to be added.

4. The total number of mental health beds, by category, should this exemption be granted.

5. The request shall certify that the level of charity care or Medicaid patient days will be no less than the district average. The district average will be determined by averaging all Medicaid, Medicaid HMO, and charity care reported to the State Center for Health Statistics for the most recent 12-month period in which data has been cleared by the State Center for Health Statistics.

6. Mitigating evidence of compliance under this paragraph may include care provided to and state sponsored patients at a reduced rate and Baker Acted patients. Documentation to demonstrate this care shall be produced annually with the condition compliance report pursuant to s. 408.040, F.S. and Rule 59C-1.013, F.A.C.

7. Beds authorized under this paragraph shall be inventoried as approved beds until the beds are licensed.

8. Notification to the CON office of the conversion of beds from one type of mental health bed to another as defined in Rule 59C-1.002, F.A.C., does not require a Certificate of Need Exemption application and satisfies the requirements of Section 408.036(5)(c), F.S.

(i) The consolidation or combination of licensed nursing homes or transfer of beds between licensed nursing homes within the same planning subdistrict, by providers that operate multiple nursing homes within that same planning subdistrict, if there is no increase in the planning subdistrict total number of nursing home beds and the site of the relocation is not more than 30 miles from the original location. A request for exemption under this paragraph shall specify:

1. For transfer requests:

a. The name and licensed bed capacity of nursing home from which beds will be transferred.

b. The name and licensed beds capacity of the nursing home to which beds will be transferred.

c. The exact number of beds proposed to be added.

d. The total number of licensed beds at each facility should this exemption be granted.

e. The subdistrict location of each facility as defined in Rule 59C-2.200, F.A.C.

- f. The physical location of each facility.
- 2. For consolidation or combination requests:
 - a. The name and licensed bed capacity of each nursing home to be consolidated.
 - b. The name of the resulting consolidated nursing home.
 - c. The total number of licensed beds at the consolidated facility should this exemption be granted.
- 3. Verification that the providers operate the nursing homes from which beds will either be transferred, consolidated, or combined. Verification may include a copy of the nursing home license showing common ownership. It is the responsibility of the person issued a license to keep licensure information current. If agency records indicate information different from that presented by the applicant, then agency records create a rebuttable presumption as to the correctness of those records and the request for exemption will be denied.

Specific Authority 408.034(6)(5), 408.15(8) FS. Law Implemented 408.036(3),(4) FS. History--New 1-1-77, Amended 6-5-79, 2-1-81, Formerly 10-5.05, Amended 11-17-87, 3-23-88, 1-31-91, Formerly 10-5.005, Amended 7-13-98, 4-2-01, 11-12-01, _____.

Note: – Cardiac catheterization services shall be reviewable pursuant to Section 408.0361(2), F.S.

AGENCY FOR HEALTH CARE ADMINISTRATION

Medicaid

RULE TITLE: Nursing Facility Services
 RULE NO.: 59G-4.200
 PURPOSE AND EFFECT: The purpose of this rule amendment is to incorporate by reference update July 2004 to the Florida Medicaid Nursing Facility Services Coverage and Limitations Handbook, October 2003. The handbook update includes revisions to the physician staffing requirements, allowing medical deductions in determining patient responsibility, policy on days reserved for hospital stays and therapeutic leave, the methods for calculating a nursing facility's occupancy for the prior quarter of the year, and an update to the requirements for a notice for transfer or discharge. The effect will be to incorporate by reference in the rule the July 2004 update to the Florida Medicaid Nursing Facility Services Coverage and Limitations Handbook.
 SUMMARY: The purpose of this rule amendment is to incorporate by reference update July 2004 to the Florida Medicaid Nursing Facility Services Coverage and Limitations Handbook, October 2003.
 SUBJECT AREA TO BE ADDRESSED: Nursing Facility Services.
 SPECIFIC AUTHORITY: 409.919 FS.
 LAW IMPLEMENTED: 400 Part II, 409.902, 409.905, 409.908 FS.

IF REQUESTED IN WRITING WITHIN 14 DAYS AND NOT DEEMED UNNECESSARY BY THE AGENCY HEAD, A RULE DEVELOPMENT WORKSHOP WILL BE HELD AT THE TIME, DATE AND PLACE SHOWN BELOW:

DATE AND TIME: Wednesday, March 23, 2005, 2:00 p.m.
 PLACE: Agency for Health Care Administration, 2727 Mahan Drive, Building 3, Conference Room D, Tallahassee, Florida
 THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Sam Chaaban, Medicaid Services, 2727 Mahan Drive, Building 3, Mail Stop 20, Tallahassee, Florida 32308-5407, (850)487-3028

THE FULL TEXT OF THE PROPOSED RULE IS:

59G-4.200 Nursing Facility Services.

(1) No change.

(2) All participating nursing facility providers must comply with the provisions of the Florida Medicaid Nursing Facility Services Coverage and Limitations Handbook, October 2003, updated July 2004, and the corresponding Florida Medicaid Provider Reimbursement Handbook, Institutional 021, October 2003, which are incorporated by reference. Both handbooks are available from the Medicaid fiscal agent.

(3) No change.

Specific Authority 409.919 FS. Law Implemented Chapter 400 Part II, 409.902, 409.905, 409.908 FS. History--New 1-1-77, Amended 6-13-77, 10-1-77, 1-1-78, 2-1-78, 12-28-78, 2-14-80, 4-5-83, 1-1-84, 8-29-84, 9-1-84, 9-5-84, 7-1-85, Formerly 10C-7.48, Amended 8-19-86, 6-1-89, 7-2-90, 6-4-92, 8-5-92, 11-2-92, 7-20-93, Formerly 10C-7.048, Amended 11-28-95, 5-9-99, 10-15-00, 10-4-01, 2-10-04, 9-28-04, _____.

DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION

Division of Alcoholic Beverages and Tobacco

RULE CHAPTER TITLE: Definitions
 RULE CHAPTER NO.: 61A-1
 RULE TITLES: License Classification
 RULE NOS.: 61A-1.013
 Moral Character
 61A-1.017
 PURPOSE AND EFFECT: The purpose and effect of the proposed rule is to implement statutory provisions and define terms relating to the regulation of alcoholic beverage sales.
 SUBJECT AREA TO BE ADDRESSED: The subject area to be addressed is the implementation of statutory provisions and terms defining the sales of alcoholic beverages.
 SPECIFIC AUTHORITY: 561.11 FS.
 LAW IMPLEMENTED: 561.14, 561.15, 561.29, 561.43, 559.791, 563.02, 564.02, 565.02, 565.03 FS.

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

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT AND A COPY OF THE PRELIMINARY DRAFT, IF AVAILABLE, IS: Renee Alsobrook, Chief Attorney, Department of Business and Professional Regulation, Division of Alcoholic Beverages and Tobacco, Office of the General Counsel, 1940 North Monroe Street, Suite 42, Tallahassee, Florida 32399, (850)487-9677
THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS NOT AVAILABLE.

DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION

Division of Alcoholic Beverages and Tobacco

RULE CHAPTER TITLE:	RULE CHAPTER NO.:
Vendors and Licensees	61A-3
RULE TITLES:	RULE NOS.:
Special Restaurant Licenses	61A-3.0141
Club Licenses	61A-3.019
Licenses, Change of Series	61A-3.020
Pool Buying Procedures	61A-3.0305
Exceptions in Employment of Minors and Others	61A-3.039
Bottle Club Licenses	61A-3.049
Hardship for Extension to Activate Quota License	61A-3.053

PURPOSE AND EFFECT: The purpose and effect of the proposed rule is to implement statutory provisions relating to the regulation of alcoholic beverage sales.

SUBJECT AREA TO BE ADDRESSED: The subject area to be addressed is the implementation of statutory provisions relating to the sales of alcoholic beverages.

SPECIFIC AUTHORITY: 561.11, 561.14 FS.

LAW IMPLEMENTED: 561.08, 561.14, 561.17, 561.18, 561.19, 561.20, 561.29, 561.42, 562.13, 562.121, 563.02, 564.02, 565.02, 565.03, 565.05, 565.06 FS.

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

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT AND A COPY OF THE PRELIMINARY DRAFT, IF AVAILABLE, IS: Renee Alsobrook, Chief Attorney, Department of Business and Professional Regulation, Division of Alcoholic Beverages and Tobacco, Office of the General Counsel, 1940 North Monroe Street, Suite 42, Tallahassee, Florida 32399, (850)487-9677

THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS NOT AVAILABLE.

DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION

Division of Alcoholic Beverages and Tobacco

RULE CHAPTER TITLE:	RULE CHAPTER NO.:
Manufacturers and Distributors	61A-4
RULE TITLES:	RULE NOS.:
Delinquent Accounts, Reporting	61A-4.003
Brand Registration	61A-4.005
Storage Permits	61A-4.020
Deliveries to Vendors	61A-4.030

PURPOSE AND EFFECT: The purpose and effect of the proposed rule is to implement statutory provisions relating to the regulation of alcoholic beverage sales.

SUBJECT AREA TO BE ADDRESSED: The subject area to be addressed is the implementation of statutory provisions relating to the sales of alcoholic beverages.

SPECIFIC AUTHORITY: 561.11 FS.

LAW IMPLEMENTED: 561.01, 561.07, 561.14, 561.42, 561.56, 561.57, 562.03, 565.03, 565.08, 565.09 FS.

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

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT AND A COPY OF THE PRELIMINARY DRAFT, IF AVAILABLE, IS: Renee Alsobrook, Chief Attorney, Department of Business and Professional Regulation, Division of Alcoholic Beverages and Tobacco, Office of the General Counsel, 1940 North Monroe Street, Suite 42, Tallahassee, Florida 32399, (850)487-9677

THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS NOT AVAILABLE.

DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION

Division of Alcoholic Beverages and Tobacco

RULE CHAPTER TITLE:	RULE CHAPTER NO.:
Applications, Forms and Requirements	61A-5
RULE TITLES:	RULE NOS.:
Obtaining of Forms	61A-5.001
Completed Application	61A-5.010
Beverage Licenses, New Quota Issue	61A-5.0105
Completed Application for the Grant of a New Quota Liquor License	61A-5.011
Application for Retail Tobacco Products Dealer Permit	61A-5.056
Application for Alcoholic Beverage License	61A-5.700
License Cancellation Request	61A-5.708
Personal Questionnaire	61A-5.710
Quota License Entry Form	61A-5.747
List of License Application Requirements	61A-5.761

PURPOSE AND EFFECT: The purpose and effect of the proposed rule is to implement statutory provisions relating to the regulation of alcoholic beverage sales.

SUBJECT AREA TO BE ADDRESSED: The subject area to be addressed is the implementation of statutory provisions relating to the sales of alcoholic beverages.

SPECIFIC AUTHORITY: 561.08, 561.11 FS.

LAW IMPLEMENTED: 120.57, 561.01, 561.08, 561.11, 561.14, 561.15, 561.17, 561.18, 561.181, 561.19, 561.20, 561.22, 561.24, 561.25, 561.32, 561.33, 561.331, 561.37, 561.371, 561.42, 565.02 FS.

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

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT AND A COPY OF THE PRELIMINARY DRAFT, IF AVAILABLE, IS: Renee Alsobrook, Chief Attorney, Department of Business and Professional Regulation, Division of Alcoholic Beverages and Tobacco, Office of the General Counsel, 1940 North Monroe Street, Suite 42, Tallahassee, Florida 32399, (850)487-9677

THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS NOT AVAILABLE.

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

Division of Family Health Services

RULE TITLES:
 General Regulations; Definitions 64F-12.001
 Licensing, Application, Permitting 64F-12.015

PURPOSE AND EFFECT: The proposed rule adds three prescription drugs, Viagra, Celebrex, and Bextra, to the specified list of prescription drugs for which a pedigree paper back to the manufacturer is required for the wholesale distribution of any of these prescription drugs to a wholesale distributor pursuant to Section 499.0121(6)(e), F.S. In addition, revisions will be made to the permit application attachment specifically related to medical oxygen retailers to clarify the application and streamline the application process.

SUBJECT AREA TO BE ADDRESSED: The proposed rule will amend the definition of a specified drug by adding the prescription drugs Viagra, Celebrex, and Bextra, in all strengths and sizes, to the list of prescription drugs qualifying

as a specified drug. The Prescription Drug Advisory Council recommended to the Secretary of the Department of Health, each by unanimous vote on February 17, 2005, to place Viagra, Celebrex, and Bextra on the list of specified drugs in accordance with the procedures established in Section 499.0121(6)(e), F.S., in order to protect the public health. The proposed rule will update the medical oxygen retailer application form.

SPECIFIC AUTHORITY: 499.01, 499.0121(6)(e), 499.05 FS.

LAW IMPLEMENTED: 499.0121, 499.0122 FS.

A RULE DEVELOPMENT WORKSHOP WILL NOT BE HELD. THE AGENCY HEAD HAS DETERMINED THAT A RULE DEVELOPMENT WORKSHOP IS UNNECESSARY DUE TO THE INPUT THE DEPARTMENT RECEIVED ON THE SUBJECT AS PART OF THE DRUG WHOLESALER ADVISORY COUNCIL MEETING ON FEBRUARY 17, 2005, TO WHICH THE PUBLIC WAS NOTICED. IN ADDITION, THIS AMENDMENT ADDRESSES AN URGENT NEED TO HELP DETECT AND DETER COUNTERFEIT AND DIVERTED PRESCRIPTION DRUGS IN THE FLORIDA MARKETPLACE THAT POSE A SIGNIFICANT HEALTH RISK TO PERSONS IN FLORIDA. WITH RESPECT TO THE REVISIONS TO THE MEDICAL OXYGEN RETAILER APPLICATION, THE ADDITIONAL INFORMATION REQUESTED WILL ASSIST APPLICANTS IN BEING PREPARED FOR THE INITIAL APPLICATION INSPECTION.

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Sandra Stovall, Compliance Officer, 2818-A Mahan Drive, Tallahassee, Florida 32308, (850)487-1257, Ext. 210, e-mail: sandra_stovall@doh.state.fl.us

THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS:

- 64F-12.001 General Regulations; Definitions.
 - (1) No change.
 - (2) In addition to definitions contained in Sections 499.003, 499.012(1), 499.0122(1), 499.028(1), and 499.61, F.S., the following definitions apply to Rule Chapter 64F-12, F.A.C.:
 - (a) through (u) No change.
 - (v) “Specified drug” means all dosage forms, strengths and container sizes of the following prescription drugs:
 1. Bextra (valdecoxib)
 2. Celebrex (celecoxib)
 1. through 22. renumbered 3. through 24. No change.
 25. Viagra (sildenafil citrate)
 23. through 31. renumbered 25. through 34. No change.
 - (w) through (x) No change.

Specific Authority 499.05, 499.61, 499.701 FS. Law Implemented 499.003, 499.004, 499.005, 499.0054, 499.0057, 499.006, 499.007, 499.008, 499.009, 499.01, 499.012, 499.0121, 499.0122, 499.013, 499.014, 499.015, 499.023, 499.024, 499.025, 499.028, 499.03, 499.033, 499.035, 499.039, 499.041, 499.05, 499.051, 499.052, 499.06, 499.066, 499.067, 499.069, 499.61, 499.62, 499.63, 499.64, 499.65, 499.66, 499.67, 499.71, 499.75 FS. History—New 1-1-77, Amended 12-12-82, 1-30-85, Formerly 10D-45.31, Amended 11-26-86, 2-4-93, 7-1-96, Formerly 10D-45.031, Amended 1-26-99, 4-17-01, 7-1-03, 10-7-03, 1-4-04, 1-29-04,_____.

64F-12.015 Licensing, Application, Permitting.

This section addresses the application and permitting requirements of persons regulated under Part I of Chapter 499, F.S.

(1) through (7) No change.

(8) OTHER DISTRIBUTORS. Persons conducting certain distributions of prescription drugs which are not considered wholesale distributions in the state of Florida must obtain a permit from the department prior to initiating that activity. These permits include Complimentary Drug Distributors, all of the designated Restricted Rx Drug Distributor permits as further discussed in Rule 64F-12.023, F.A.C., Medical Oxygen Retailers, and Veterinary Legend Drug Retailers.

(a) through (g) No change.

(h) Application requirements for a Medical Oxygen Retailer include:

1. Contact the department’s Bureau of Statewide Pharmaceutical Services to request an application or download the application from the bureau’s web site.

2. File with the department a completed application for a permit using an original Form DH 1033, “Application for Permit Under Chapter 499, F.S.,” effective January 2004, including the attachment for Medical Gases, effective April 05.

3. Pay the appropriate fee(s) as required by Rule 64F-12.018, F.A.C.

4. Comply with all the requirements for permitting provided in Chapter 499, F.S., and these rules.

5. Have an FDA establishment registration number if the establishment will be transfilling medical oxygen.

(9) through (11) No change.

Specific Authority 499.01, 499.012, 499.0122, 499.013, 499.014, 499.028, 499.04, 499.041, 499.05, 499.62, 499.63, 499.64, 499.66, 499.67, 499.701 FS. Law Implemented 499.01, 499.012, 499.0121, 499.0122, 499.013, 499.028, 499.04, 499.041, 499.05, 499.06, 499.062, 499.063, 499.064, 499.066, 499.067 FS. History—New 12-12-82, Amended 7-8-84, 1-30-85, Formerly 10D-45.54, Amended 11-26-86, 2-4-93, 7-1-96, Formerly 10D-45.054, Amended 1-26-99, 4-17-01, 10-29-02, 7-6-03, 1-1-04,_____.

FLORIDA HOUSING FINANCE CORPORATION

RULE TITLES:	RULE NOS.:
Purpose and Intent	67-50.001
Definitions	67-50.005
Fees	67-50.010
Notice of Funding Availability (NOFA)	67-50.020
General Program Eligible Activities	67-50.030
General Program Restrictions	67-50.040
HAP Program Restrictions	67-50.050

HOME Program Restrictions	67-50.060
Application and Selection Procedures	67-50.070
Credit Underwriting Procedures	67-50.080
Disbursement of Funds, Draw Requests, and Loan Servicing	67-50.090
Reallocation for Disaster Areas	67-50.105

PURPOSE AND EFFECT: The purpose of this Rule Chapter is to establish the procedures by which the Corporation shall:

The purpose of this rule chapter is to establish the Homeownership Loan Program procedures by which the Corporation shall:

(1) Administer the Application process, determine loan amounts, and service loans to Developers for the construction of affordable housing under the Florida Homeownership Assistance Program (HAP)/Construction Loan Program and provide purchase assistance to Eligible Homebuyers under the HAP Permanent Loan Program as authorized by Sections 420.507 and 420.5088, Florida Statutes (F.S.); and

(2) Administer the Application process, determine loan amounts, and service loans to Developers for the construction of affordable housing and provide purchase assistance to Eligible Homebuyers under the HOME Investment Partnerships (HOME) Homeownership Program as authorized by Section 420.5089, F.S. and HUD regulations, 24 CFR § 92, which is adopted and incorporated into this rule chapter by reference.

The adoption of these revisions will increase the efficiency and effectiveness of program service and will provide greater clarification of the Program.

SUBJECT AREA TO BE ADDRESSED: The Rule Development Workshop will be held to receive comments and suggestions from interested persons relative to program requirements as specified in Rule Chapter 67-50, Florida Administrative Code.

SPECIFIC AUTHORITY: 420.507, 420.5088, 420.5089 FS. LAW IMPLEMENTED: 420.507(23), 420.5088, 420.5089(2) FS.

THE RULE DEVELOPMENT WORKSHOP WILL BE HELD AT THE TIME, DATE AND PLACE SHOWN BELOW:

TIME AND DATE: 10:00 a.m. – 12:00 Noon, Tuesday, March 22, 2005

PLACE: Florida Housing Finance Corporation, Seltzer Conference Room, 227 North Bronough Street, Tallahassee, FL 32301; TELECONFERENCE: 1(888)461-8118 (toll free) and (850)414-5775

Any person requiring special accommodation at this hearing because of a disability or physical impairment should contact Elizabeth Loggins at the above address. If you are hearing or speech impaired, please use the Florida Dual Party Relay System, 1(800)955-8770 (Voice) or 1(800)955-9771 (TDD).

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT AND A COPY OF THE PRELIMINARY TEXT, IF AVAILABLE, IS: Elizabeth

Loggins, Homeownership Loan Program Administrator, Florida Housing Finance Corporation, 227 North Bronough Street, Tallahassee, Florida 32301, (850)488-4197 (The preliminary text of the proposed rule development shall be posted on Florida Housing Finance Corporation's web site: www.floridahousing.org, when available.)

THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS NOT AVAILABLE.

FISH AND WILDLIFE CONSERVATION COMMISSION

Marine Fisheries

RULE CHAPTER TITLE: Oysters

RULE TITLES:

Apalachicola Bay Oyster

Harvesting Restrictions

Seasons

RULE NOS.:

68B-27.017

68B-27.019

PURPOSE AND EFFECT: The purpose of this rule development effort is to modify the oyster harvesting seasons in Apalachicola Bay. The effect should be to have open seasons for the Bay that better correspond with product availability.

SUBJECT AREA TO BE ADDRESSED: Oyster harvesting seasons in Apalachicola Bay.

SPECIFIC AUTHORITY: Art. IV, Sec. 9, Florida Constitution.

LAW IMPLEMENTED: Art. IV, Sec. 9, Florida Constitution.

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

Pursuant to the provisions of the Americans with Disabilities Act, any person requiring special accommodations to participate in this workshop/meeting is asked to advise the agency at least 5 calendar days before the workshop/meeting by contacting: ADA Coordinator, (850)488-6411. If you are hearing or speech impaired, please contact the agency by calling (850)488-9542.

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT IS: James V. Antista, General Counsel, Fish and Wildlife Conservation Commission, 620 South Meridian Street, Tallahassee, Florida 32399-1600, (850)487-1764

THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS:

68B-27.017 Apalachicola Bay Oyster Harvesting Restrictions.

In addition to all other provisions of this chapter, the following provisions shall apply to Apalachicola Bay:

(1) No person shall harvest or take oysters for commercial purposes from the waters of Apalachicola Bay:

(a) On any Friday or Saturday from ~~June July~~ 1 through ~~August 31 September 30~~ of each year.

(b) On any Saturday or Sunday from ~~September October~~ 1 through November 15 of each year.

(2) through (3) No change.

Specific Authority Art. IV, Sec. 9, Fla. Const. Law Implemented Art. IV, Sec. 9, Fla. Const. History--New 3-10-91, Amended 11-29-93, Formerly 46-27.017, Amended 6-1-99, _____.

68B-27.019 Seasons.

(1) In all areas of the state, no person shall harvest oysters on the public reefs of this state, or have such oysters in possession, from July 1 through September 30 of each year, except in the following areas or circumstances:

(a) In Apalachicola Bay;

1. The harvest or possession of oysters on the public reefs is allowed from ~~June July~~ 1 through ~~August 31 September 30~~ of each year only in the areas specified in subsection 5L-1.003(1), F.A.C., for the Apalachicola Bay System ~~paragraph 68D-7.005(6)(c), F.A.C.~~

2. The harvest or possession of oysters on the public reefs is allowed from ~~September 1 through May 31~~ of each year only in the areas specified in subsection 5L-1.003(1), F.A.C., for the Apalachicola Bay System.

(b) As otherwise provided in this chapter or in Section 370.16, Florida Statutes.

(c) In Wakulla, Dixie, and Levy Counties, no person shall harvest or possess oysters on public reefs from June 1 through August 31 each year.

(2) The possession of oysters during the closed seasons specified in this chapter constitutes a violation of this rule.

Specific Authority Art. IV, Sec. 9, Fla. Const. Law Implemented Art. IV, Sec. 9, Fla. Const. History--New 3-10-91, Amended 10-3-94, 7-15-96, Formerly 46-27.019, Amended _____.

FISH AND WILDLIFE CONSERVATION COMMISSION

Marine Fisheries

RULE CHAPTER TITLE: Blue Crab

RULE TITLES:

Definitions

Blue Crab Limited Entry Endorsement Program

RULE NOS.:

68B-45.002

68B-45.007

PURPOSE AND EFFECT: The purpose of this rule development effort is to create a limited entry endorsement program that would limit fishing effort in the commercial blue crab fishery by limiting the number of fishers. The effect should be to maintain a economically viable commercial trap fishery for blue crabs while protecting the species' long-term health and abundance.

SUBJECT AREA TO BE ADDRESSED: A limited entry endorsement program for commercial blue crab fishery.

SPECIFIC AUTHORITY: Art. IV, Sec. 9, Florida Constitution.

LAW IMPLEMENTED: Art. IV, Sec. 9, Florida Constitution.

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

Pursuant to the provisions of the Americans with Disabilities Act, any person requiring special accommodations to participate in this workshop/meeting is asked to advise the agency at least 5 calendar days before the workshop/meeting by contacting: ADA Coordinator, (850)488-6411. If you are hearing or speech impaired, please contact the agency by calling (850)488-9542.

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT AND A COPY OF THE PRELIMINARY DRAFT, IF AVAILABLE, IS: James V. Antista, General Counsel, Fish and Wildlife Conservation Commission, 620 South Meridian Street, Tallahassee, Florida 32399-1600, (850)487-1764

THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS NOT AVAILABLE.

DEPARTMENT OF FINANCIAL SERVICES

OIR Insurance Regulation

RULE TITLE: Reports of Information by Health Insurers Required

RULE NO.: 690-137.004

PURPOSE AND EFFECT: The purpose of the rule is to update forms required to be filed by Health Carriers annually concerning annual premiums and enrollment based on recent legislation changes to Section 627.9175, F.S.

SUBJECT AREA TO BE ADDRESSED: Health Carriers Reporting Forms.

SPECIFIC AUTHORITY: 624.308(1), 627.9175(1),(3),(4)(b) FS.

LAW IMPLEMENTED: 624.307(1), 627.9175 FS.

IF REQUESTED IN WRITING AND NOT DEEMED UNNECESSARY BY THE AGENCY HEAD, A RULE DEVELOPMENT WORKSHOP WILL BE HELD AT THE TIME, DATE AND PLACE SHOWN BELOW:

TIME AND DATE: 9:30 a.m., March 25, 2005

PLACE: Room 116, 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 below.

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT AND A COPY OF THE PRELIMINARY DRAFT IS: Frank Dino, Life and Health Product Review, Office of Insurance Regulation, e-mail: frank.dino@fldfs.com

THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS AVAILABLE AT NO CHARGE FROM THE CONTACT PERSON LISTED ABOVE.

DEPARTMENT OF FINANCIAL SERVICES

OIR Insurance Regulation

RULE TITLES:	RULE NOS.:
Employee Health Care Access Act Annual and Quarterly Statement Reporting Requirement	690-149.038
Forms	690-149.044

PURPOSE AND EFFECT: The rule is being updated to comply with Section 627.9175, F.S., regarding small group carrier reports and to clarify the annual actuarial certification.

SUBJECT AREA TO BE ADDRESSED: Small Employer Carrier Reporting.

SPECIFIC AUTHORITY: 624.308(1), 626.9641, 627.6699(5)(i)3.a.,4.a.,(16), 627.9175 FS.

LAW IMPLEMENTED: 624.424(6), 626.9541, 627.401, 627.410, 627.411, 627.6699, 627.9175 FS.

IF REQUESTED IN WRITING AND NOT DEEMED UNNECESSARY BY THE AGENCY HEAD, A RULE DEVELOPMENT WORKSHOP WILL BE HELD AT THE TIME, DATE AND PLACE SHOWN BELOW:

TIME AND DATE: 9:30 a.m., March 25, 2005

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THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT AND A COPY OF THE PRELIMINARY DRAFT IS: Frank Dino, Life and Health Product Review, Office of Insurance Regulation, e-mail: frank.dino@fldfs.com

THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS AVAILABLE AT NO CHARGE FROM THE CONTACT PERSON LISTED ABOVE.

DEPARTMENT OF FINANCIAL SERVICES

OIR Insurance Regulation

RULE TITLE:	RULE NO.:
Guaranteed Availability of Individual Health Coverage to Eligible Individuals	690-154.112

PURPOSE AND EFFECT: To change the reporting date in the rule from March to April.

SUBJECT AREA TO BE ADDRESSED: Reporting periods for Health Carriers in the individual market.

SPECIFIC AUTHORITY: 624.308, 624.424(1)(c), 627.6487(4)(b) FS.

LAW IMPLEMENTED: 624.307(1), 627.6487 FS.

