

~~(4) PUR 7027 (R. 1-9-95), shall mean DOH Form 1049, (4/95), State of Florida Invitation to Bid/State Term Contract Bidder Acknowledgment, which is hereby incorporated by reference.~~

~~(3)(5) "Pharmaceutical" shall mean a drug or legend device as defined by Section 499.003(11), F.S., and subsection 64F-12.031(2), F.A.C.~~

~~Specific Authority 381.0011(4),(13) FS. Law Implemented 287, 381.0011(4),(13) FS. History--New 4-24-94, Amended 5-30-96, Formerly 10D-128.001, Amended _____.~~

64F-15.002 Agency Contact.

Forms, protests or other contact concerning the procurement of statewide pharmaceuticals are to be directed to: The DOH Bureau of Statewide Pharmaceutical Pharmacy Services, Statewide Pharmaceutical Purchasing and Quality Improvement, 2818 Mahan Drive, Tallahassee, Florida 32308.

~~Specific Authority 381.0011(4),(13) FS. Law Implemented 287, 381.0011(4),(13) FS. History--New 4-24-94, Amended 5-30-96, Formerly 10D-128.003, Amended _____.~~

DEPARTMENT OF HEALTH

Biomedical Research Advisory Council

RULE TITLE: Biomedical Research Grant Applications

RULE NO.: 64H-1.001

PURPOSE AND EFFECT: Amendment to this rule is necessary to provide the availability of the Call for Grant Applications and the Grant Application Form required to apply for research grants under the Florida Biomedical Research Program, pursuant to the provisions of Section 215.5602, F.S.

SUBJECT AREA TO BE ADDRESSED: Availability of the Call for Grant Applications and the Grant Application Form.

SPECIFIC AUTHORITY: 215.5602(9) FS.

LAW IMPLEMENTED: 215.5602(5) 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. – 3:00 p.m. (EST), Wednesday, June 1, 2005

PLACE: Department of Health, 4052 Bald Cypress Way, Tallahassee, FL

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT IS: Marcia Reed, Office of Statewide Research, Department of Health, 4052 Bald Cypress Way, Mail Bin A24, Tallahassee, FL 32399-1749, (850)245-4444, Ext. 3581

THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS:

64H-1.001 Biomedical Research Grant Applications.

~~Grant applications shall be conducted in accordance with the Call for Grant Applications and submitted on the Biomedical Research Program Grant Application Form DH 2117 that are available at the Biomedical Research Program website, <http://www.floridabiomed.com> or <http://www.doh.state.fl.us/execstaff/biomed/index.html> or by contacting the Department of Health at: Biomedical Research Program, 4052 Bald Cypress Way, Mail Bin A-24, Tallahassee, Florida 32399, (850)245-4444. Grant applications shall be conducted in accordance with the Call for Grant Applications dated September 9, 2002, incorporated by reference herein. Application must be submitted on the Biomedical Research Program Grant Application Form DH 2117, 7/02, incorporated by reference herein.~~

~~Specific Authority 215.5602(9) FS. Law Implemented 215.5602(5) FS. History--New 3-11-02, Amended 4-6-03, _____.~~

**Section II
Proposed Rules**

DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES

Division of Plant Industry

RULE CHAPTER TITLE: Pest of Honeybees and Unwanted

RULE CHAPTER NO.: 5B-54

Races of Honeybees 5B-54.003

Regulated Honeybee Pests 5B-54.003

Issuance of Compliance Agreements and Certificates 5B-54.014

Destruction of Treatment of Infested or Infected Hives 5B-54.017

PURPOSE AND EFFECT: The purpose of the rule amendment is to remove specific reference to the Varroa mite, Varroa spp., as a regulated honeybee pest since the Varroa mite has now become widely distributed throughout the state, and to remove the requirement that as a condition of movement all hives must meet a post treatment tolerance level of no more than two Varroa mites in an ether roll of 200 honeybees.

SUMMARY: The list of regulated honeybee pests in Florida requiring quarantine action is being amended to remove the Varroa mite, Varroa spp., since this mite has now become widely distributed throughout the state, and to remove the requirement to issue inspection certificates based on treatments achieving a tolerance level of no more than two Varroa mites in an ether role of 200 honeybees.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COST: None.

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

SPECIFIC AUTHORITY: 586.10 FS.

LAW IMPLEMENTED: 586.10, 586.11, 586.13 FS.

IF REQUESTED IN WRITING 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: Ms. Connie Riherd, Assistant Director, Department of Agriculture and Consumer Services, Division of Plant Industry, Room A116, 1911 S. W. 34th Street, Gainesville, Florida 32608, (352)372-3505

THE FULL TEXT OF THE PROPOSED RULES IS:

5B-54.003 Regulated Honeybee Pests.

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

(1) American foulbrood. The disease organism known as *Paenibacillus larvae*.

(2) The mite *Tropolaelaps clareae*.

~~(3) Varroa mite, *Varroa spp.*~~

~~(3)(4)~~ Any other honeybee pest determined by the department to be a threat to the state.

Specific Authority 586.10(2) FS. Law Implemented 586.10(5) FS. History—New 11-22-88, Amended 11-4-92, 7-9-95, 3-11-04, _____.

5B-54.014 Issuance of Compliance Agreements and Certificates.

(1) Compliance Agreements. The department may issue a compliance agreement for the movement of regulated articles, as listed under Rule 5B-54.005, F.A.C., from another state for entrance into Florida under any of the following conditions:

(a) When movement of non-certified regulated articles to specified destinations for limited handling, utilization, or processing is requested.

(b) Each compliance agreement will prescribe the conditions under which the regulated articles are allowed to move. Form Compliance Agreement, DACS-08031, Revised 5/99, is hereby incorporated in this rule by reference. A copy of DACS-08031 may be obtained from the Division of Plant Industry, Bureau of Plant and Apiary Inspection, Post Office Box 147100, Gainesville, Florida 32614-7100.

(2) Certificates of Inspection.

(a) A certificate is required on each sale or movement of honeybees and other regulated articles within the state unless such regulated articles are identified as specified in Rule 5B-54.013, F.A.C. Forms DACS-08061, revised 8/99

Certificate of Inspection for Out of State Shipments and Re-entry Into Florida, and incorporated herein by reference, or a Queen Certificate, DACS-08057, revised 10/99, and incorporated herein by reference, may be used for this purpose. A copy of forms DACS-08061 and DACS-08057 or a Varroa Mite Certification, DACS-08165, revised 10/99, and incorporated herein by reference, may be used for this purpose. ~~A copy of Forms DACS-08061, DACS-08057 and DACS-080165 may be obtained from the Division of Plant Industry, Bureau of Plant and Apiary Inspection, Post Office Box 147100, Gainesville, Florida 32614-7100.~~

(b) A certificate, DACS-08061 or DACS-08057, is required on shipments of honeybees or other regulated articles going from the state showing that certification requirements have been met.

Specific Authority 586.10(2) FS. Law Implemented 586.10(7), 586.11 FS. History—New 11-22-88, Amended 11-4-92, 7-9-95, 6-20-00, _____.

5B-54.017 Destruction or Treatment of Infested or Infested Hives.

(1) American foulbrood. All hives found infected or infested with American foulbrood shall be destroyed by burning or shall be decontaminated by other methods prescribed or approved by the department. This action must be accomplished within 30 days of diagnosis and honeybee colonies and related equipment must be stored or maintained in such a manner that exposure to other honeybees is prevented. All colonies found in the same apiary where American foulbrood is detected shall be quarantined for a minimum of 30 days by issuing a Notice of Quarantine For American Foulbrood to determine apparent freedom from American foulbrood disease. Notice of Quarantine for American Foulbrood, DACS-08063, Revised 12/99, is hereby incorporated in this rule by reference. A copy of DACS-08063 may be obtained from the Division of Plant Industry, Bureau of Plant and Apiary Inspection, Post Office Box 147100, Gainesville, Florida 32614-7100.

(2) Other honeybee pests and unwanted races of honeybees. Discovery of other honeybee pests or unwanted races of honeybees in the state shall initiate the quarantine of all colonies located within a distance prescribed by the department of the infested apiary. All honeybees within the quarantine area shall be inspected. A recommended eradication or control method shall be determined and prescribed by the department.

~~(3) Varroa mite. All hives found infested with Varroa mite shall be treated prior to movement with an acaricide approved by the Department and will have more than two (2) Varroa mites in an ether roll of 200 bees in the post treatment survey. A Varroa Mite Certificate, DACS-08165, Revised 10/99, is to be issued following an acceptable survey. A copy of DACS-08165 may be obtained from the Division of Plant Industry, Bureau of Plant and Apiary Inspection, Post Office Box 147100, Gainesville, Florida 32614-7100.~~

Specific Authority 586.10(2) FS. Law Implemented 586.10(4), 586.13 FS. History—New 11-22-88, Amended 11-4-92, 7-9-95, 6-20-00,_____.

NAME OF PERSON ORIGINATING PROPOSED RULE:
 Connie Riherd, Assistant Director, Director’s Office
 NAME OF SUPERVISOR OR PERSON WHO APPROVED
 THE PROPOSED RULE: Craig Meyer, Deputy
 Commissioner, Office of Commissioner
 DATE PROPOSED RULE APPROVED BY AGENCY
 HEAD: April 26, 2005
 DATE NOTICE OF PROPOSED RULE DEVELOPMENT
 PUBLISHED IN FAW: February 11, 2004

DEPARTMENT OF EDUCATION

Commission for Independent Education

RULE TITLE: Actions Against a Licensee; Penalties
 RULE NO.: 6E-2.0061
 PURPOSE AND EFFECT: The Commission proposes the amendment to the rule to clarify who may serve on the panel and review reconsideration of probable cause.
 SUMMARY: The proposed rule amendment clarifies who may serve on the panel and review reconsideration of probable cause.
 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: 1005.37(1)(e), 246.071 FS.
 LAW IMPLEMENTED: 1005.32(7), 1005.34(3), 1005.38 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: Samuel L. Ferguson, Executive Director, Commission for Independent Education, 2650 Apalachee Parkway, Suite A, Tallahassee, Florida 32301

THE FULL TEXT OF THE PROPOSED RULE IS:

6E-2.0061 Actions Against a Licensee; Penalties.

(1) through (6) No change.

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

(c) Reconsideration of probable cause in any given case shall be performed by the members of the panel who initially found probable cause in that case. Whenever an original panel member is not available, current member(s) shall hear the reconsideration. If a Commission member has reviewed a case as a member of the probable cause panel, that member, if available, shall be on the panel for reconsideration of that case if reconsideration is necessary.

(8) through (10) No change.

Specific Authority 1005.37(1)(e), 246.071 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, 1-27-88, 11-29-89, 12-10-91, 10-19-93, 1-7-03, 5-4-04, 5-26-04, 7-20-04, 3-11-05,_____.

NAME OF PERSON ORIGINATING PROPOSED RULE:
 Commission for Independent Education
 NAME OF SUPERVISOR OR PERSON WHO APPROVED
 THE PROPOSED RULE: Commission for Independent
 Education
 DATE PROPOSED RULE APPROVED BY AGENCY
 HEAD: March 11, 2005
 DATE NOTICE OF PROPOSED RULE DEVELOPMENT
 PUBLISHED IN FAW: April 11, 2005

DEPARTMENT OF TRANSPORTATION

RULE CHAPTER TITLE:	RULE CHAPTER NO.:
Equipment and Operational Safety	
Standards for Bus Transit Systems	14-90
RULE TITLES:	RULE NOS.:
Scope	14-90.001
Definitions	14-90.002
Department Responsibilities and Authority	14-90.003
Bus Transit System Operational Standards	14-90.004
Medical Examinations for Bus Transit	
System Drivers	14-90.0041
Transit Bus Accidents	14-90.005
Operational and Driving Requirements	14-90.006
Vehicle Equipment Standards and	
Procurement Criteria	14-90.007
Standards for Accessible Buses	14-90.008
Bus Safety Inspections	14-90.009
Certification	14-90.010
Inspection of Buses by Law Enforcement Officers	14-90.011
Safety and Security Inspections and Reviews	14-90.012

PURPOSE AND EFFECT: Rule Chapter 14-90, F.A.C., is being amended, including the repeal of five rules. The medical examination report for public-sector bus drivers is revised.

SUMMARY: Rule Chapter 14-90, F.A.C., is being amended.
 SPECIFIC AUTHORITY: 334.044(2), 341.061(2)(a) FS.
 LAW IMPLEMENTED: 119.071, 334.044(12),(28), 341.041(3), 341.061(2) FS.

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.

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

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULES IS: James C. Myers, Clerk of Agency Proceedings, Florida Department of Transportation, Office of the General Counsel, 605 Suwannee Street, Mail Station 58, Tallahassee, Florida 32399-0458

THE FULL TEXT OF THE PROPOSED RULES IS:

EQUIPMENT AND OPERATIONAL SAFETY
STANDARDS FOR GOVERNING PUBLIC SECTOR
BUS TRANSIT SYSTEMS

14-90.001 Scope.

Specific Authority 334.044(2), 341.061(2)(a) FS. Law Implemented 334.044(12), (21), 341.041(3), 341.061(2) FS. History—New 9-7-87, Amended 11-10-92, 8-2-94, Repealed _____.

14-90.002 Definitions.

~~(1) “Accessible Bus” means any vehicle readily accessible to and usable by individuals with disabilities and meeting the requirements of Title 49, Code of Federal Regulations, Part 38, Subpart B—Buses, Vans, and Systems.~~

~~(1)(2) “Bus” means any motor vehicle as defined in Subsection 316.003(21) Florida Statutes, other than a taxicab, designed, constructed, and used for the public transport transportation of persons for compensation. For purposes of this Rule Chapter, a bus means a public-sector bus which is owned, operated, leased, or controlled by a bus transit system. Buses are designated in two categories:—~~

~~(a) Type I ±. Over 22 feet in length, including bumpers.~~

~~(b) Type II ±. 22 feet or less in length, including bumpers. This category shall include all such paratransit type vehicles, such as i.e., minibuses, standard vans, modified vans, station wagons, and sedans etc., when used for the transportation of persons for compensation.~~

~~(3) “Bus Driver” means any person who drives and is in actual physical control of a bus on a street or highway which is being used for the transportation of persons for compensation.~~

~~(2)(4) “Bus Transit Systems” means a community transportation coordinator; a public transit provider; a private contract transit provider which owns, operates, leases, or controls buses or taxicabs where such transportation consists of continuous or recurring transportation under the same contract; or a privately owned or operated transit provider that receives operational or capital funding from the Department and owns, operates, leases, or controls buses, other than nonpublic sector buses defined in Section 316.003, Florida Statutes, that provide transportation services available for use by the general riding public those systems defined in subsections 14-90.002(5), (10) and (13).~~

~~(3)(5) “Community Transportation Coordinator” “Bus Transit System Created Pursuant to Chapter 427” means a provider of any public or private transportation entity designated as a Community Transportation Coordinator pursuant to Chapter 427, Florida Statutes, which provides~~

~~coordinated transportation services or an entity that ensures such services are provided by another a transportation operator or private contract bus transit system.~~

~~(4)(6) “Department” means the State of Florida Department of Transportation.~~

~~(5)(7) “Drive” or “Operate” are terms which include all time spent at the driving controls of a bus in operation.~~

~~(6) “Driver” means any person trained and designated to drive a bus on a street or highway which is being used for the public transport of persons for compensation.~~

~~(7)(8) “FMVSS” means Federal Motor Vehicle Safety Standards in effect at the time the bus or component is manufactured.~~

~~(8)(9) “For Compensation” means for a return in money, property, or of anything of value for service in transporting persons or property by buses over public highways, whether paid, received, or realized, directly or indirectly, and shall specifically be deemed to include any profit in money, goods, or things realized from such transportation.~~

~~(10) “Governmentally Owned Bus Transit System” means any governmentally owned entity or agency, financed wholly or partly by state funds, that owns, operates, leases, or controls buses.~~

~~(9)(11) “Manufacturer” of the Chassis” means the original producer manufacturer of the chassis, or the producer manufacturer of any integral type of bus, or the producer of equipment installed on any bus for the purpose of transporting individuals with disabilities.~~

~~(10)(12) “On Duty” means the status of the driver from the time he or she begins work, or is required to be in readiness to work, until the time the driver is relieved from work and all responsibility for performing work. “On Duty” includes all time spent by the driver as follows:~~

~~(a) Waiting to be dispatched at bus transit system terminals, facilities, or other private or public property, unless the driver has been completely relieved from duty by the bus transit system.~~

~~(b) Inspecting, servicing, or conditioning any vehicle.~~

~~(c) Driving.~~

~~(d) Remaining in readiness to operate a vehicle (Stand-by).~~

~~(e) Repairing, obtaining assistance, or remaining in attendance in or about a disabled vehicle.~~

~~(11) “Passenger” means a person who is on board, boarding, or alighting from a bus for the purposes of public transport.~~

~~(13) “Privately Owned or Operated Bus Transit System That is Financed Wholly or Partly by State Funds” means any private entity or agency that receives operational or capital funding from the state and owns, operates, leases, or controls buses that provide transportation services available for use by the general riding public.~~

~~(14) “Privately Owned or Operated Bus Transit System Under Contract” means an private entity or agency which owns, operates, leases, or controls buses or taxicabs and provides transportation services under contract for a bus transit system for compensation where such transportation consists of continuous or recurring transportation under the same contract. This term shall hereinafter be referred to as “private contract bus transit system”.~~

~~(15) “Public sector Bus” means a bus which is owned, operated, leased, or controlled by a bus transit system.~~

~~(12)(16) “Safe Condition” means a condition where hazards are reduced to the lowest level feasible through the most effective use of available resources and where substantial compliance exists with all safety rules, regulations, and requirements.~~

~~(17) “Safety Certification” means a formal statement or documentation declaring, verifying or attesting that safety requirements are incorporated in designs, construction, procurement activities, training and operation of a transit system.~~

~~(13)(18) “Safety Review” means an on-site assessment to determine if a bus transit system has adequate safety management controls in place and functioning that meet safety standards provided and incorporated by reference in this Rule Chapter.~~

~~(14) “Security” means freedom from harm resulting from intentional acts against passengers, employees, equipment, and facilities.~~

~~(15) “Security Program Plan (SPP)” means a document developed and adopted by the bus transit system detailing its policies, objectives, responsibilities, and procedures for the protection and defense of the system and persons from intentional acts of harm.~~

~~(16) “Security Review” means an on-site assessment to determine if a bus transit system has security management controls in place and functioning that meet security requirements provided in this Rule Chapter.~~

~~(19) “Seven Consecutive Days” means the period of seven consecutive twenty-four hour days beginning on any day at a time designated by the bus transit system for a 24 hour period.~~

~~(17)(20) “System Safety Program Plan (SSPP)” means a documented developed and adopted by the bus transit system detailing its policies, objectives, responsibilities, and procedures against injuries or damage organized approach and guide to accomplishing a system safety program.~~

~~(18)(21) “Taxicab” means any motor vehicle of a nine passenger capacity or less, including the driver, engaged in the general transportation of persons for compensation on occasional trips, not on a regular schedule or between fixed termini or over regular routes, where and such vehicle does not provide transportation services as a result of a contractual agreement with a bus transit system.~~

~~(19)(22) “Trailer Bus” means a trailing or towed vehicle trailer or semitrailer designed or used for the transportation of more than 10 persons, e.g., tram buses.~~

~~(23) “Twenty four Hour Period” means any 24 consecutive hour period beginning at a time, designated by the bus transit system, from the terminal or location from which the driver is normally dispatched.~~

~~(20)(24) “Unsafe Condition” means any thing or circumstance condition which endangers human life or property.~~

~~(25) “Work Period” means the duration between the time a driver first reports for duty and the time a driver is completely relieved of all duties and is permitted to go off duty for a minimum of eight consecutive hours. The terms “work period” and “on duty” have the same meaning or intent in this rule chapter.~~

Specific Authority 334.044(2), 341.061(2)(a) FS. Law Implemented 341.041(3), 341.061(2) FS. History–New 9-7-87, Amended 11-10-92, _____.

14-90.003 Department Responsibilities and Authority.

Specific Authority 334.044(2), 341.061(2)(a) FS. Law Implemented 341.041(3), 341.061(2) FS. History–New 9-7-87, Amended 11-10-92, Repealed _____.

14-90.004 Bus Transit System Operational Standards.

(1) Each bus transit system shall develop and adopt an SSPP that complies, at a minimum, with established safety standards set forth in this Rule Chapter:-

(a) ~~Develop a SSPP that complies, at a minimum, with established safety standards set forth in this rule chapter. The SSPP plan shall address consist of safety considerations and standards for the following safety elements and requirements:~~

1. Safety policies and responsibilities. ~~Management~~
2. Vehicles and equipment standards and procurement criteria.
3. Operational standards and procedures. ~~functions~~
4. Bus driver and employee selection.
- 5.4. Driving requirements.
6. Bus driver and employee training.
- 7.5. Vehicle mMaintenance.
8. Investigations of events described under subsection 14-90.004(5), F.A.C.
9. Hazard identification and resolution.
- 10.6. Equipment for transporting wheelchairs.
11. Safety data acquisition and analysis.
7. Training
8. Federal, State, and Local regulations, ordinances, or laws-

12.9. Safety standards for pPrivate contract bus transit system(s) that provide(s) continuous or recurring transportation services for compensation as a result of a contractual agreement with the bus transit system.

(b) Each bus transit system shall implement and comply with the SSPP during the operation of the system.

(c) Each bus transit system shall require that all operable transit buses be inspected at least annually in accordance with established standards.

~~(d) Assure that safety inspections are performed by personnel qualified by the bus transit system, as specified in 14-90.009(2).~~

~~(d)(e) Each bus transit system shall annually submit a safety certification to the Department verifying the following: the adoption of a SSPP in accordance, at a minimum, with established standards set forth in this rule chapter.~~

1. Adoption of an SSPP in accordance, at a minimum, with established standards set forth in this Rule Chapter.

2. Compliance with its adopted SSPP and that safety inspections have been performed at least annually on all buses operated by the bus transit system, by persons meeting the requirements of Rule 14-90.009, F.A.C.

~~(f) Annually submit a safety certification to the Department verifying compliance with its adopted SSPP and that safety inspections have been performed by a qualified entity at least annually on all buses operated by the system.~~

~~(e)(g) Bus transit systems shall immediately suspend Require immediate suspension of affected system service operations; if, at any time, continued operation of the system or a portion thereof, is unsafe believed not safe for passenger service or poses a potential danger to public safety.~~

(2) Each bus transit system shall develop and adopt an SPP that complies, at a minimum, with security requirements set forth in this Rule Chapter. The SPP shall be adopted separately from the SSPP. Bus transit systems that engage in a contract with a private contract bus transit system(s) pursuant to 14-90.004(1)(a)9. shall:

(a) The SPP shall address the following security requirements:

1. Security policies, goals, and objectives.

2. Organization, roles, and responsibilities.

3. Emergency management processes and procedures for mitigation, preparedness, response, and recovery.

4. Procedures for investigation of events described under subsection 14-90.004(5), F.A.C.

5. Procedures for the establishment of interfaces with emergency response organizations.

6. Procedures for interagency coordination with local law enforcement jurisdictions.

7. Employee security and threat awareness training programs.

8. Security data acquisition and analysis.

9. Conduct and participate in emergency preparedness drills and exercises.

10. Security requirements for private contract transit provider(s) that provide(s) continuous or recurring transportation services for compensation as a result of a contractual agreement with the bus transit system.

11. Procedures for SPP maintenance and distribution.

(b) Each bus transit system shall implement and comply with the SPP during the operation of the system.

(c) Bus transit systems that engage in a contract with a private contract transit provider(s) shall:

1. Establish minimum security requirements which apply to private contract transit provider(s).

2. Monitor and assure each private contract transit provider complies with established security requirements during the term of the contract.

(d) Disclosure. Bus transit systems are prohibited from publicly disclosing the SPP or the security portion of the SSPP, as applicable under any circumstance.

~~(a) Establish minimum safety standards pursuant to 14-90.004(1)(a) which apply to private contract bus transit system(s), as defined in 14-90.002(14).~~

~~(b) Monitor and assure the private contract bus transit system(s) comply(s) with established safety standards while engaged in a contract pursuant to 14-90.004(2).~~

(3) Bus transit systems shall establish criteria and procedures for selection, qualification, and training of all drivers. The criteria shall include the following:

(a) Driver qualifications and background checks with minimum hiring standards. Require that all buses be operated at all times in compliance with applicable traffic regulations, ordinances, and laws of the jurisdiction in which they are being operated.

(b) Driving and criminal background checks for all new drivers.

(c)(b) Verification and documentation. Require proof of valid driver licenses for all employees who drive buses in accordance with Chapter 322, Florida Statutes, and maintain a current legible photostatic record of each driver's license.

~~(d)(e) Training. Establish driver training and testing to demonstrate and ensure adequate skills and an employee's capabilities to safely operate each different type of bus or bus combination before driving on a street or highway unsupervised, i.e., buses requiring different skills for drivers to safely and properly drive. At a minimum, dDrivers shall be given explicit instructional and procedural training and testing in the following areas shall include:~~

1. Bus transit system safety and operational policies and procedures.

2. Operational bus and equipment inspections.

3. Bus equipment familiarization.

4. Basic operations and maneuvering.

5. Boarding and alighting passengers.

6. Operation of wheelchair lift and other special equipment and driving conditions.

7. Defensive driving.

8. Passenger assistance and securement.

9. Handling of emergencies and security threats.

10. Security and threat awareness.

~~1. Explicit instructional and procedural training regarding operational and driving requirements, defensive driving, equipment inspection and handling of emergencies.~~

~~2. A road test of sufficient duration to enable the person who gives it to evaluate the skill of the person who takes it at handling the bus, and associated equipment, that the bus transit system intends for the person to operate.~~

~~3. The road test shall be given by the bus transit system or a person designated by it.~~

~~4. The road test shall be given by a person who is competent to evaluate and determine whether the person who takes the test has demonstrated the capability of operating the vehicle, and associated equipment, that the bus transit system intends for the person to drive.~~

~~(d) Establish driver training for operation of special equipment on buses, such as wheelchair lifts, ramps and wheelchair securement devices, as applicable.~~

~~(e) Bus transit systems shall provide written operational and safety procedures to all bus drivers before driving on a street or highway unsupervised. These procedures and instructions shall address, at a minimum, the following:~~

~~1. Communication and handling of unsafe conditions, security threats, and emergencies.~~

~~2. Familiarization and operation of safety and emergency equipment, wheelchair lift equipment, and restraining devices.~~

~~3. Application and compliance with applicable federal and state rules and regulations.~~

~~(f) The provisions in paragraphs (d) and (e) above shall not apply to personnel licensed and authorized by the bus transit system to drive, move, or road test a bus to perform repairs or maintenance services where it has been determined that such temporary operation does not create an unsafe operating condition or create a hazard to public safety. Maintain a current record of the different types of buses and bus special equipment each driver is capable of driving and operating.~~

~~(g) Bus transit systems shall maintain the following records for at least four years:~~

~~1. Records of bus driver background checks and qualifications.~~

~~2. Detailed descriptions of training administered and completed by each bus driver.~~

~~3. A Maintain a record of each bus driver's duty status work period which shall include documentation of the following: 1. Total days worked, 2. On-duty hours, 3. Driving hours, and 4. Time of reporting on and off duty each day.~~

~~(h) Notwithstanding the provisions of Section 316.193, 316.1931, 316.1932, 316.1933, 316.1934, Florida Statutes, pursuant to driving under the influence, Each bus transit system shall establish a drug-free workplace policy statement in accordance with Title 49, C.F.R. Code of Federal Regulations, Part 29, "Government-wide Requirements for Drug-Free Workplace (Grants)" and a substance abuse management and testing program in accordance with 49 C.F.R. Parts 40 and 655, hereby incorporated by reference, Drug Free Workplace Act.~~

~~(i) Assure that the SSPP provides for the prevention of an employee to drive, move or cause to be driven or moved, on any street or highway, any bus:~~

~~1. Which is in such unsafe condition as to endanger any person or property.~~

~~2. Which does not contain those safety parts or is not at all times equipped with safety equipment and devices in proper condition and adjustment as required by Chapter 316, Florida Statutes, and this rule chapter.~~

~~3. Which is equipped in any manner in violation of Chapter 316, Florida Statutes, and this rule chapter.~~

~~4. The provisions of this subsection shall not apply to personnel authorized by the bus transit system to temporarily drive, move, or road test a bus to perform repairs or maintenance services and it has been determined that such temporary operation does not create an unsafe operating condition or create a hazard to public safety.~~

~~(i)(j) Bus transit systems shall require that drivers write and submit a daily bus inspection report pursuant to Rule subsections 14-90.006(7) and (8), F.A.C.~~

~~(4) Bus Maintenance. Bus transit systems shall establish a maintenance plan and procedures for preventative and routine maintenance for all buses operated. All buses operated shall be properly maintained and equipped with all required parts necessary to ensure such buses are in safe and proper operating condition at all times. The maintenance plan and procedures Bus transit systems shall assure:~~

~~(a) That all buses operated, and all parts and accessories on such buses, including those specified in Rules 14-90.007 and 14-90-008, F.A.C., and any additional parts and accessories which may affect safety of operation, including frame and frame assemblies, suspension systems, axles and attaching parts, wheels and rims, and steering systems, are regularly and systematically inspected, maintained, and lubricated at a minimum in accordance with the standards developed and established, at a minimum, according to the bus manufacturer's recommendations and requirements in the SSPP to ensure they are in safe and proper operating condition.~~

~~(b) That a recording and tracking system is established for A method of indicating the types of inspections, maintenance, and lubrication intervals, including to be performed on each~~

~~bus and~~ the date or mileage when these services are due. Required maintenance inspections required shall be more comprehensive than daily inspections performed by the driver.

(c) That proper preventive maintenance is performed when a bus is assigned away from the system's regular maintenance facility, or when maintenance services are performed under contract.

(d) ~~That The maintenance of records are maintained and provide providing~~ written documentation of preventive maintenance, regular maintenance, inspections, lubrication, and repairs performed for each bus under their control. Such records shall be maintained by the bus transit system for at least four years and include at a minimum the following information:

1. Identification of the bus, including make, model, and license number or other means of positive identification and ownership.

2. Date, mileage, and type of inspection, maintenance, lubrication, or repair performed.

3. Date, mileage, and description of each inspection, maintenance, and ~~or~~ lubrication intervals performed.

4. If not owned by the bus transit system, the name of any person or lessor furnishing any bus.

5. The name and address of any entity or contractor performing an inspection, maintenance, lubrication, or repair.

(5) Each bus transit system shall investigate, or cause to be investigated, any event involving a bus or taking place on bus transit system controlled property resulting in a fatality, injury, or property damage as follows:

(a) A fatality, where an individual is confirmed dead within 30 days of a bus transit system related event, excluding suicides and deaths from illnesses.

(b) Injuries requiring immediate medical attention away from the scene for two or more individuals.

(c) Property damage to bus transit system bus(es), non-bus transit system vehicles, other bus system property or facilities, or any other property, except the bus transit system shall have the discretion to investigate events resulting in property damage less than \$1,000.

(d) Evacuation of a bus due to a life safety event where there is imminent danger to passengers on the bus, excluding evacuations due to operational issues.

(6) Each investigation shall be documented in a final report that includes a description of investigation activities, identified causal factors, and any identified corrective action plan.

(a) Each corrective action plan shall identify the action to be taken by the bus transit system and the schedule for its implementation.

(b) The bus transit system must monitor and track the implementation of each corrective action plan.

(7) Investigation reports, corrective action plans, and related supporting documentation shall be maintained by the bus transit system a minimum of four years from the date of completion of the investigation.

(8) On or before July 1, 2006, every bus transit system shall comply with the 2005 amendments to this Rule.

Specific Authority 334.044(2), 341.061(2)(a) FS. Law Implemented 119.071, 341.041(3), 341.061(2) FS. History—New 9-7-87, Amended 11-10-92,

14-90.0041 Medical Physical Examinations for Bus Transit System Drivers.

(1) Bus transit systems shall establish medical physical examination requirements for all applicants for driver positions new and for existing drivers current employees who drive (will drive) buses as defined in Rule subsections 14-90.002(2) and ~~(3).~~ The medical examination requirements shall include a pre-employment examination for applicants, an examination As part of the physical examination requirements, all employees who are bus drivers must receive an initial physical examination and one at least once every two years for existing drivers, and a return to duty examination for any driver prior to returning to duty after having been off duty for 30 or more days due to an illness, medical condition, or injury.

(a) Physical examinations shall be performed by the examining physician according to the instructions, and recorded by the physician on Department of Transportation Form Number 775-030-01, "Physical Examination for Public Sector Bus Driver", 07/92, which is hereby incorporated by reference. Copies of Form Number 775-030-01 are available from the Florida Department of Transportation, Public Transit Office, 605 Suwannee Street, Mail Station 26, Tallahassee, Florida 32399-0450.

(2)(b) Medical Physical examinations may be performed and recorded according to qualification standards in a form adopted by the bus transit system, provided the medical physical examination qualification standards requirements and the form adopted by the bus transit system meet or exceed those that provided in by Department Form Number 775-030-11, 04 Medical Examination Report for Bus Transit System Driver, Rev. 02/05, hereby incorporated by reference. Copies of Form Number 775-030-11 are available from the Florida Department of Transportation, Public Transit Office, 605 Suwannee Street, Mail Station 26, Tallahassee, Florida 32399-0450 or on-line at www.dot.state.fl.us/transit. The physical examination shall be performed and recorded by a physician meeting the requirements of Rule 14-90.0041(1)(b).

(3)- Medical Physical examinations shall be performed by a Doctor of Medicine or Osteopathy, Physician Assistant, or Advanced Registered Nurse Practitioner licensed or certified by the State of Florida. If medical examinations are performed by a Physician Assistant or Advanced Registered Nurse Practitioner, they must be performed under the supervision or review of a Doctor of Medicine or Osteopathy.

~~(a)2-~~ An ophthalmologist or optometrist licensed by the State of Florida may perform ~~as so~~ much of the examination as pertains to visual acuity, field of vision, and color recognition.

~~(b)~~ Upon completion of the examination, the medical examiner shall complete, sign, and date the medical examination report.

~~(4)(e)~~ Bus transit systems shall have on file proof of ~~medical physical~~ examination, i.e., a completed and signed ~~medical examination report~~ for each bus driver, dated within the past 24 months. ~~(2)~~ Medical examination reports ~~Records and results of physical examinations~~ of employee bus drivers shall be maintained by the bus transit system for a minimum of four years from the date of the examination.

(5) On or before July 1, 2006, every bus transit system shall comply with the 2005 amendments to this Rule.

Specific Authority 334.044(2), 341.061(2)(a) FS. Law Implemented 334.044(12), 341.041(3), 341.061(2) FS. History-New 11-10-92, Amended _____.

14-90.005 Transit Bus Accidents.

Specific Authority 334.044(2), 341.061(2)(a) FS. Law Implemented 341.041(3), 341.061(2) FS. History-New 9-7-87, Amended 11-10-92, Repealed _____.

14-90.006 Operational and Driving Requirements.

(1) Bus transit systems shall not permit a driver to drive a bus when such driver's license has been suspended, cancelled, or revoked. Bus transit systems shall require a driver who receives a notice that his or her license to operate a motor vehicle has been suspended, cancelled, or revoked to notify his or her employer of the contents of the notice immediately, ~~or~~ no later than the end of the business day following the day he or she received the notice ~~it~~.

(2) ~~Public sector B~~ buses shall be operated at all times in compliance with applicable traffic regulations, ordinances, and laws of the jurisdiction in which they are being operated.

(3) ~~A~~ The driver of a bus shall not be permitted or required to drive more than 12 hours in any one 24-hour period, or drive after having been on duty for 16 hours in any one 24-hour period, or drive more than 70 hours in any period of seven consecutive calendar days. A driver shall not be permitted to drive until the requirement of a minimum eight consecutive hours off-duty has been fulfilled. A driver's work period shall begin from the time he or she first reports for duty to his or her employer. A driver is permitted to exceed his or her regulated hours in order to reach a regularly established relief or dispatch point, provided the additional driving time does not exceed one hour.

(4) A driver shall not be permitted or required to be on duty more than 72 hours in any period of seven consecutive days; however, 24 consecutive hours off duty shall constitute the end of any such period of seven consecutive days.

~~(a)~~ A driver who has reached the maximum 72 ~~12~~ driving hours of or 16 hours on duty time during the seven consecutive days shall be required to have a minimum of 24 ~~eight~~ consecutive hours off duty prior to returning to on duty status within any one 24-hour period.

~~(b)~~ A driver's work period shall begin from the time a driver first reports for duty for his or her employer.

~~(5)(4)~~ A driver is ~~may be~~ permitted to drive for more than the regulated hours for safety and protection of the public due to if the hours are necessitated by adverse conditions such as adverse resulting from weather, disaster, security threat, a road or traffic condition, medical emergency, or emergencies resulting from an accident, medical reasons, or disaster.

~~(5)~~ The driver of a bus may be permitted to exceed his or her regulated hours in order to reach a regularly established relief point, ~~provided the additional driving time does not exceed one hour.~~

~~(6)~~ Bus transit systems shall not permit or require any driver to ~~No driver shall~~ drive a bus when his or her ability is ~~so~~ impaired, or ~~so~~ likely to be impaired, by fatigue, illness, or other causes, as to make it unsafe for the driver to begin or continue driving. ~~Bus transit systems shall not permit or require any driver to drive a bus when his or her ability is so impaired by such condition as to make it unsafe for the driver to begin or continue driving.~~

(7) Bus transit systems shall require pre-operational or daily inspection and reporting of each driver to submit a daily written report indicating the condition of the bus and listing all defects and deficiencies likely to affect safe operation or cause mechanical malfunctions.

~~(a)~~ An ~~Prior to operation of a bus, or no less than daily if the bus is so operated,~~ an inspection or test shall be made of the following parts and devices to ascertain that they are in safe condition and in good working order:

1. Service brakes,
2. Parking brakes,
3. Tires and wheels,
4. Steering,
5. Horn,
6. Lighting ~~d~~Devices,
7. Windshield wWipers,
8. Rear vision mirrors,
9. Passenger doors,
10. Exhaust sSystem,
11. Equipment for transporting wheelchairs,
12. Safety, security, and ~~e~~Emergency equipment.

(b) Bus transit systems shall review daily inspection reports and document corrective actions taken as a result of any deficiencies identified by daily inspections.

~~(c)(b)~~ Bus transit systems shall retain records of daily bus inspections and any corrective action documentation a minimum of two weeks.

(8) A bus with passenger doors in the open position shall not be operated with passengers aboard. The doors shall not be opened until the bus is stopped. A bus with inoperable passenger doors shall not be operated with passengers aboard, except to move a bus to a safe location.

(9) During darkness, interior lighting and lighting in stepwells on buses shall be sufficient for passengers to enter and exit safely.

(10) Passenger(s) shall not be permitted in the stepwell(s) of any bus while the bus is in motion, or to occupy an area forward of the standee line as required in subsection 14-90.007(14).

(11) ~~Standee P~~passenger(s) shall not be permitted to stand on buses not designed and constructed for that purpose.

(12) Buses shall not be refueled in a closed building. The fueling of buses when passengers are being carried shall be reduced to the minimum number of times necessary during such transportation.

(13) ~~With passenger(s) aboard, T~~the bus transit system shall require the driver to be properly secured to the driver's seat with a restraining belt at all times while the bus is in motion.

(14) Buses shall not be left unattended with passenger(s) aboard for longer than 15 minutes. The parking or holding brake device must be properly set at any time the bus is left unattended.

(15) Buses shall not be left unattended in an unsafe condition with passenger(s) aboard at any time.

(16) On or before July 1, 2006, every bus transit system shall comply with the 2005 amendments to this Rule. The provisions of subsections 14-90.006(8), (9), (10), (11), (12) shall not apply to persons testing or training a driver, maintenance personnel or a sales or manufacturer's representative.

(17) ~~Buses carrying passengers shall stop at all railroad grade crossings in compliance with Section 316.159, Florida Statutes.~~

(18) ~~Whenever a bus 80 or more inches in width or 30 feet or more in length is stopped (except when lawfully stopped to pick up or discharge passengers) or disabled upon a roadway or adjacent shoulder, warning lights and devices shall be displayed as required by Section 316.301, Florida Statutes.~~

Specific Authority 334.044(2), 341.061(2)(a) FS. Law Implemented 341.041(3), 341.061(2) FS. History--New 9-7-87, Amended 5-31-89, 11-10-92,

14-90.007 Vehicle Equipment Standards and Procurement Criteria Devices Required.

~~At the time of manufacture, every public-sector bus operated on or over the streets and highways of this State shall be equipped in compliance with applicable Federal Motor Vehicle Safety Standards (Title 49 C. F. R. Part 571); and the State of Florida Uniform Traffic Control Laws (Chapter 316, Florida Statutes); (available from the Florida Department of~~

~~Transportation, Public Transit Office, 605 Suwannee Street, Mail Station 26, Tallahassee, Florida 32399-0450), which regulations are hereby incorporated by reference and made a part of these rules. With the exception of certain date of manufacture exemptions, as specified herein, every public-sector bus operated on or over the streets and highways of this State shall be equipped as follows:~~

(1) Every bus transit system shall ensure that buses procured and operated meet the following, at a minimum, as applicable: Horn. The horn must be capable of emitting sound audible under normal conditions from a distance of not less than 200 feet and having an activating device which is easily accessible to the driver.

(a) The capability and strength to carry the maximum allowed load and not exceed the manufacturer's gross vehicle weight rating (GVWR), gross axle weighting, or tire rating.

(b) Structural integrity that mitigates or minimizes the adverse effects of collisions.

(c) Federal Motor Vehicle Safety Standards (FMVSS), 49 C.F.R. Part 571, Sections 102, 103, 104, 105, 108, 207, 209, 210, 217, 220, 221, 225, 302, 403, and 404, hereby incorporated by reference.

(2) Proof of strength and structural integrity tests on new buses procured shall be submitted by manufacturers or bus transit systems to the Department. Windshield Wipers. There must be the same number of windshield wipers as originally equipped at time of manufacture, or equipped with adequate number of wipers to properly clean the windshield(s). The wipers shall be activated by a device(s) easily accessible to the driver.

(3) In addition to the above, every bus operated in this state shall be equipped as follows:

(a)(3) Mirrors. There must be two exterior rear vision mirrors, one at each side. The mirrors shall be firmly attached to the outside of the bus and so located as to reflect to the driver a view of the highway to the rear along both sides of the vehicle. Each exterior rear vision mirror, on Type I buses, manufactured on or after February 7, 1988, shall have a minimum reflective surface of 50 square inches and the right (curbside) mirror shall be located on the bus so that the lowest most part of the mirror and its mounting is at a minimum of 80 inches above the ground. All Type I buses shall, in addition to the above requirement, be equipped with an inside rear vision ~~view~~ mirror capable of giving the driver a clear view of seated or standing passengers, and B buses having a passenger exit door that is located inconveniently for the driver's visual control shall be equipped with additional an interior mirror(s), or a combination of mirrors, enabling the driver to view the passenger exit door during egress of passenger(s). The exterior right (curbside) rear vision mirror and its mounting on Type I buses may be located lower than 80 inches from the ground, provided such buses are used exclusively for paratransit services operations, as defined in Section 341.031, Florida

Statutes. In lieu of interior mirrors, trailer buses and articulated buses may be equipped with closed circuit video systems or adult monitors in voice control with the driver.

~~(b)(4)~~ Wiring and Battery. Electrical wiring shall be maintained so as not to come in contact with moving parts, or heated surfaces, or be subject to chafing or abrasion which may cause insulation to become worn. Every Type I bus manufactured on or after February 7, 1988, shall be equipped with a storage battery(ies) electrical power main disconnect switch. The disconnect switch shall be practicably located in an accessible location adjacent to or near to the battery(ies) and be legibly and permanently marked for identification. Every storage battery on each public-sector bus shall be mounted with proper retainment retainers or securement devices in a compartment which provides adequate ventilation and drainage.

~~(5)~~ Service Brakes, Parking Brakes. Braking systems shall comply with Subsections 316.261(1), (2), (3), (8), (9), (10), or Section 316.262, Florida Statutes, as applicable, and shall be maintained in good working order in compliance with Section 316.263, Florida Statutes.

~~(c)(a)~~ Brake Interlock Systems. All Type I buses having a rear passenger exit door shall be equipped with a rear exit door/brake interlock that automatically applies the brake(s) on the bus upon driver activation of the rear passenger exit door to the open position. Interlock brake application shall remain activated until deactivation by the driver and the rear exit door returns to the closed position. The rear exit door interlock on such buses shall be equipped with an identified override switch enabling emergency release of the interlock function, which and shall not be located within reach of the seated driver.

~~(b)~~ Air pressure application to the brake(s) during interlock operation, on buses equipped with rear exit door/brake interlock, shall be regulated at the original equipment manufacturer's specifications.

~~(6)~~ Warning Devices. Every bus using compressed air, vacuum or a combination thereof, shall be equipped with gauges and warning signal devices as required by subsection 316.261, Florida Statutes. These required warning devices shall not have override switches.

~~(7)~~ Directional Signals. Every bus shall be equipped with electrical turn signal devices which shall meet the requirements of subsection 316.234(2), Florida Statutes.

~~(a)~~ Lamps shall be located and mounted as widely spaced laterally as practical.

~~(b)~~ Lenses on lamps may be single faced, double faced or incorporated into the parking lamp assembly. Lenses shall indicate white or amber to the front and red or amber to the rear.

~~(8)~~ Hazard Warning Signals. Every bus manufactured on or after January 1, 1964, shall be equipped with a vehicular hazard warning signal operating unit.

~~(a)~~ Signals shall operate independently of the ignition, master or equivalent switch.

~~(b)~~ The operating unit shall cause to flash simultaneously sufficient turn signal lamps as required by FMVSS 108, "Lamps, Reflective Devices and Associated Equipment", (Title 49 C. F. R. Part 571, Section 108, effective October 2, 1986).

~~(c)~~ Buses manufactured on or after February 7, 1988, that are equipped with engine or other access door(s) that obscure hazard warning signals with the door(s) raised or in the open position, shall be equipped with rear auxiliary hazard warning signals, which when lighted, shall be visible from a distance of 500 feet to the rear of the bus. Auxiliary hazard warning signals may be activated and operated independently of the main hazard warning signals on the bus.

~~(9)~~ Stop Lamp. There must be at least two lamps on the rear of the bus which shall display red or amber light upon application of the service (foot) brakes or air activated parking brakes, or activation of the passenger exit door control to open position and application of the brake(s) as required in subsection 14-90.007(5)(a). The lamps shall be visible from a distance of no less than 300 feet to the rear of the bus and shall be securely mounted.

~~(10)~~ Tail Lamps. There must be at least two tail lamps which are in compliance with Section 316.221, Florida Statutes.

~~(11)~~ Head Lamps. There must be at least two head lamps mounted in equal number on each side. The head lamps shall be in proper adjustment in compliance with Sections 316.220 and 316.237, Florida Statutes.

~~(12)~~ Clearance Lamps, Identification Lamps, Marker Lamps, Backup Lamps, and Reflectors. Such lamps and reflectors in the kind, size and number and shall be mounted to comply with the requirements for Sections 316.2225, 316.224, 316.225, 316.226, Florida Statutes.

~~(13)~~ Deceleration Lights. Buses may be equipped with a deceleration lighting system in accordance with Subsection 316.235(5), Florida Statutes, which cautions following vehicles that the bus is slowing, preparing to stop, or stopped.

~~(4)(14)~~ Standee Line and Warning. Every bus designed and constructed to allow standees, shall be plainly marked with a line of contrasting color at least two inches wide or be equipped with some other means to indicate that any passenger is prohibited from occupying a space forward of a perpendicular plane drawn through the rear of the driver's seat and perpendicular to the longitudinal axis of the bus. A sign shall be posted at or near the front of the bus stating that it is a violation for a bus to be operated with passengers occupying an area forward of the line.

~~(5)(15)~~ Handrails and Stanchions. Every bus designed and constructed to allow standees shall be equipped with overhead grab rails for standee passengers. Overhead grab rails shall be continuous, except for a gap at the rear exit doorway, and terminate into vertical stanchions or turn up into a ceiling

fastener. Every Type I and Type II bus designed for carrying more than 16 passengers shall be equipped with grab handles, stanchions, or bars at least 10 inches long and installed to permit safe on-board circulation, seating and standing assistance, and boarding and unboarding by elderly and handicapped persons. Type I buses shall be equipped with a safety bar and panel directly behind each entry and exit stepwell.

~~(6)(16)~~ Flooring, Steps, and Thresholds. Flooring, steps, and thresholds on all buses shall have slip resistant surfaces without protruding or sharp edges, lips, or ~~and~~ overhangs, to prevent tripping hazards. All step edges and thresholds shall have a band of color(s) running the full width of the step or edge which contrasts with ~~from~~ the step tread and riser, either light-on-dark or dark-on-light.

~~(7)(17)~~ Doors. Power activated doors on all buses shall be equipped with a manual device designed to release door closing pressure.

~~(8)(18)~~ Emergency Exits. All buses shall have an emergency exit door, or in lieu thereof, shall be provided with emergency escape push-out windows. Each emergency escape window shall be in a form of a parallelogram with dimensions of not less than 18" by 24", and each shall contain an area of not less than 432 square inches. There shall be a sufficient number of such push-out or kick-out windows in each vehicle to provide a total escape area equivalent to 67 square inches per seat, including the driver's seat. No less than 40% of the total escape area shall be on one side of the vehicle. Emergency escape kick-out or push-out windows and emergency exit doors shall be conspicuously marked by a sign or light and shall always be kept in good working order so that they may be readily opened in an emergency. All such windows and doors shall not be obstructed by bars or other such means located either inside or outside so as to hinder escape. Buses equipped with an auxiliary door for emergency exit shall be equipped with an audible alarm and light indicating to the driver when a door is ajar or opened while the engine is running. Supplemental security locks operable by a key are prohibited on emergency exit doors unless these security locks are equipped and connected with an ignition interlock system or an audio visual alarm located in the driver's compartment. Any supplemental security lock system used on emergency exits shall be kept unlocked whenever a bus is in operation. Every Type I bus shall be equipped with emergency door(s) or exits, or side windows or roof hatches as required by FMVSS No. 217 "Bus Window Retention and Release" (Title 49 C.F.R. Part 571, Section 217, effective August 26, 1982). Every Type I bus equipped with an auxiliary door for emergency exit shall be equipped with an audible alarm or light indicating to the driver, should the door become ajar or opened while the engine is running. Every Type II bus shall be equipped with at least one emergency door or push-out escape window either at the rear of the bus or on each side, to the rear of the driver's seat. All

~~emergency exits shall function properly, shall be periodically tested to ensure proper performance and shall be marked by a visible sign indicating "Emergency Exit" or "Emergency Door". Supplemental security locks operable by a key are prohibited on emergency exit doors unless these security locks are equipped and connected with an ignition interlock system or an audio visual alarm located in the driver's compartment. Any supplemental security lock system used on emergency exits shall be kept unlocked whenever a bus is in operation.~~

~~(9)(19)~~ Tires and Wheels. Tires shall be properly inflated in accordance with manufacturer's recommendations.

(a) No bus shall be operated with a tread groove pattern depth:

1. Less than 4/32 (1/8) of an inch, measured at any point on a major tread groove for tires on the steering axle of all buses. The measurements shall not be made where tie bars, humps, or fillets are located.

2. Less than 2/32 (1/16) of an inch, measured at any point on a major tread groove for all other tires of all buses. The measurements shall not be made where tie bars, humps, or fillets are located.

(b) No bus shall be operated with recapped, regrooved, or retreaded tires on the steering axle.

(c) Wheels shall be visibly free from cracks and; distortion and shall not have missing, cracked, or broken mounting lugs.

~~(10)(20)~~ Suspension. The suspension system of all buses, including springs, air bags, and all other suspension parts as applicable, shall be free from cracks, leaks, or any other defect which would or may cause its impairment or failure to function properly.

~~(21) Exhaust System. The exhaust system of all buses shall be maintained in compliance with Section 316.272, Florida Statutes.~~

~~(11)(22)~~ Steering and Front Axle. The steering system of all buses shall have no indication of leaks which would or may cause its impairment to function properly, and shall be free from cracks and excessive wear of components that would or may cause excessive free play or loose motion in the steering system or ~~and~~ above normal effort in steering control.

~~(12)(23)~~ Seat Belts. Every bus shall be equipped with an adjustable driver's restraining belt in compliance with the requirements of FMVSS 209, "Seat Belt Assemblies" (Title 49 C.F.R. Part 571.209, Section 209, effective September 5, 1986) and FMVSS 210, "Seat Belt Assembly Anchorages" (Title 49 C.F.R. Part 571.210, Section 210, effective August 19, 1986).

~~(13)(24)~~ Safety Equipment. Every bus shall be equipped with one fully charged dry chemical or carbon dioxide fire extinguisher, having at least a 1A:BC rating and bearing the label of Underwriter's Laboratory, Inc.

(a) Each fire extinguisher shall be securely mounted on the bus in a conspicuous place or a clearly marked compartment and be readily accessible.

(b) Each fire extinguisher shall be maintained in efficient operating condition and equipped with some means of determining if it is fully charged.

(c) Every Type I bus shall be equipped with portable red reflector warning devices in compliance with Section 316.300, Florida Statutes.

(14) Buses used for the purpose of transporting individuals with disabilities shall meet the requirements set forth in 49 C.F.R. Part 38, hereby incorporated by reference, and the following:

(a) Installation of a wheelchair lift or ramp shall not cause the manufacturer's GVWR, gross axle weight rating, or tire rating to be exceeded.

(b) Except in locations within 3 1/2 inches of the bus floor, all readily accessible exposed edges or other hazardous protrusions of parts of wheelchair lift assemblies or ramps that are located in the passenger compartment shall be padded with energy absorbing material to mitigate injury in normal use and in case of a collision. This requirement shall also apply to parts of the bus associated with the operation of the lift or ramp.

(c) The controls for operating the lift shall be at a location where the bus driver or lift attendant has a full view, unobstructed by passengers, of the lift platform, its entrance and exit, and the wheelchair passenger, either directly or with partial assistance of mirrors. Lifts located entirely to the rear of the driver's seat shall not be operable from the driver's seat, but shall have an override control at the driver's position that can be activated to prevent the lift from being operated by the other controls (except for emergency manual operation upon power failure).

(d) The installation of the wheelchair lift or ramp and its controls and the method of attachment in the bus body or chassis shall not diminish the structural integrity of the bus nor cause a hazardous imbalance of the bus. No part of the assembly, when installed and stowed, shall extend laterally beyond the normal side contour of the bus nor vertically beyond the lowest part of the rim of the wheel closest to the lift.

(e) Each wheelchair lift or ramp assembly shall be legibly and permanently marked by the manufacturer or installer with the following minimum information:

1. The manufacturer's name and address.
2. The month and year of manufacture.
3. A certificate that the wheelchair lift or ramp securement devices, and their installation, conform to State of Florida requirements applicable to accessible buses.

(15) Wheelchair lifts, ramps, securement devices, and restraints shall be inspected and maintained as required in this Rule Chapter. Instructions for normal and emergency operation of the lift or ramp shall be carried or displayed in every bus.

(16) On or before July 1, 2006, every bus transit system and manufacturer shall comply with the 2005 amendments to this Rule.

Specific Authority 334.044(2), 341.061(2)(a) FS. Law Implemented 341.041(3), 341.061(2) FS. History--New 9-7-87, Amended 11-10-92, 8-2-94.

14-90.008 Standards for Accessible Buses.

Specific Authority 334.044(2), 341.061(2)(a) FS. Law Implemented 341.041(3), 341.061(2) FS. History--New 9-7-87, Amended 11-10-92, Repealed.

14-90.009 ~~Public sector~~ Bus Safety Inspections Procedures.

(1) Each bus transit system shall require that all buses operated by such bus transit system, and all buses operated by a private operating under contract with the transit provider system, be inspected at least annually in accordance with bus inspection procedures set forth in this Rule section.

(2) It shall be the bus transit system's responsibility to ensure that each individual performing a bus safety inspection under Rule Section 14-90.009(4) is qualified as follows:

(a) Understands the requirements set forth in this Rule Chapter rules 14-90.007, 14-90.008, 14-90.009, and can identify defective components.

(b) Is knowledgeable of and has mastered the methods, procedures, tools, and equipment used when performing an inspection.

(c) Has at least one year of training and/or experience as a mechanic or inspector in a vehicle maintenance program and has sufficient general knowledge of buses owned and operated by the bus transit system to recognize deficiencies or mechanical defects.

(3) Each ~~public sector~~ bus receiving a safety inspection shall be checked for compliance with the safety devices and equipment requirements as referenced or specified herein. Specific operable equipment and devices as required by this Rule Chapter include the following (as applicable to Type I and ~~or~~ II bus(es)):

- (a) Horn₂
- (b) Windshield wWipers₂
- (c) Mirrors₂
- (d) Wiring and bBattery(ies)₂
- (e) Service and pParking bBrakes₂
- (f) Warning dDevices₂
- (g) Directional sSignals₂
- (h) Hazard wWarning sSignals₂
- (i) Lighting sSystems and sSignaling dDevices₂
- (j) Handrails and sStanchions₂
- (k) Standee line and wWarning₂
- (l) Doors and interlock dDevices₂
- (m) Stepwells and flooring₂
- (n) Emergency eExits₂
- (o) Tires and wheels₂
- (p) Suspension sSystem₂
- (q) Steering sSystem₂
- (r) Exhaust sSystem₂

- (s) Seat ~~b~~Belts.
- (t) Safety ~~e~~Equipment.
- (u) Equipment for ~~t~~ransporting ~~w~~heelchairs.

(4) A safety inspection report shall be prepared by the individual(s) performing the inspection which shall include the following:

- (a) Identification of the individual(s) performing the inspection.
- (b) Identification of the bus transit system operating the bus.
- (c) The date of the inspection.
- (d) Identification of the bus inspected.
- (e) Identification of the equipment and devices inspected including the identification of equipment and devices found deficient or defective, and describe the results of the inspection.

(f) Identification of corrective action(s) for deficient or defective items and date(s) of completion of corrective action(s).

(5) Records of annual safety inspections and documentation of any required corrective actions shall be retained a minimum of four years by the bus transit system for future compliance review.

Specific Authority 334.044(2), 341.061(2)(a) FS. Law Implemented 341.041(3), 341.061(2) FS. History–New 9-7-87, Amended 11-10-92,_____.

14-90.010 ~~Safety~~ Certification.

(1) Each bus transit system shall annually submit ~~to the Department~~ a safety and security certification to the Department. The certification shall be submitted no later than February 15, annually for the prior calendar year period. The certification shall attest to which verifies the following:

- (a) The adoption of an SSPP and an SPP in accordance, at a minimum, with established standards set forth in this the Rule Chapter.
- (b) Compliance with its adopted SSPP and SPP.
- (c) Performance of safety inspections on all buses operated by the system in accordance with this Rule Chapter 14-90.009.
- (d) Reviews of the SSPP and SPP have been conducted to ensure they are up to date.

(2) The ~~safety~~ certification shall include:

- (a) The name and address of the bus transit system, and the name and address of the entity(ies) which has (have) performed bus safety inspections and security assessments, if different from that of the bus transit system.
- (b) A statement signed by an officer or person directly responsible for management of the bus transit system attesting to compliance with this Rule Chapter 14-90.010(1)(a), (b), (c).

Specific Authority 334.044(2), 341.061(2)(a) FS. Law Implemented 334.044(28), 341.041(3), 341.061(2) FS. History–New 9-7-87, Amended_____.

14-90.011 Inspection of Buses by Law Enforcement Officers.

Specific Authority 334.044(2), 341.061(2)(a) FS. Law Implemented 341.041(3), 341.061(2), 316.610 FS. History–New 9-7-87, Repealed_____.

14-90.012 Safety and Security Inspections and Reviews Suspension of Operation.

(1) The Department, or its designee, is authorized to conduct inspections of bus transit systems to ascertain compliance with the provisions of this Rule Chapter.

(2) The Department, or its designee, is authorized to conduct a safety and security review of any bus transit system which the Department believes to be in noncompliance with its SSPP or SPP and providing passenger service operations in an unsafe manner, or there is evidence of an immediate danger to public safety. The Department shall prepare and submit a report of the review to the affected bus transit system. The report shall be submitted to the bus transit system within three business days of completion of the review and contain the following:

- (a) Identification of the findings, including a detailed description of the deficiency(ies).
- (b) Required corrective action(s) and schedule for implementation of corrective action(s).
- (c) Any requirements for suspension of bus transit system service should the Department determine the continued operation of the service, or a portion thereof, poses an immediate danger to public safety.

(3) The Department shall initiate the following actions to suspend the affected bus transit system service if a specific deficiency(ies) or unsafe condition(s) exists to the extent determines that a bus transit system is not in compliance with the provisions of this rule chapter and the continued operation of the system, or a portion thereof, is not safe for passenger service or is posing a potential danger or threat to public safety the Department shall initiate the following actions to suspend the affected system service.

(a)(1) Immediately notify the affected bus transit system of the unsafe condition(s), followed by a certified letter describing the mail, of specific deficiency(ies) non-compliance items or unsafe conditions. The notification shall include establish the following:

1.(a) Required corrective actions A specific timetable for specific deficiency(ies) correction of non-compliance items or unsafe condition(s).

2.(b) Requirements for A requirement that the bus transit system to certify in writing to the Department of completion and implementation of required corrective action(s) in accordance with an established implementation schedule the timetable.

(b)(2) Conduct an on-site review of if the bus transit system to verify does not certify correction of specific deficiency(ies) non-compliance items in accordance with this

Rule Sections ~~14-90.012(1)(a) and (b)~~ and the established implementation schedule a resolution and timetable for correction of safety items.

~~(c)(3) Initiate legal action to Ssuspend affected passenger service operations if the bus transit system fails to correct specific deficiency(ies) in accordance with this Rule and the established implementation schedule eomply with the resolution and timetable established during the on-site review.~~

~~(4) The affected passenger service operations shall be suspended until the Department has substantiated compliance by the bus transit system.~~

Specific Authority 334.044(2), 341.061(2)(a) FS. Law Implemented ~~334.044(28), 341.041(3), 341.061(2), 316.610 FS. History-New 11-10-92, Amended _____.~~

NAME OF PERSON ORIGINATING PROPOSED RULE: Mike Johnson, Administrator, Transit Operations
NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: José Abreu, P.E., Secretary
DATE PROPOSED RULE APPROVED BY AGENCY HEAD: April 25, 2005
DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: February 25, 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.”

AGENCY FOR HEALTH CARE ADMINISTRATION

Division of Health Quality Assurance

RULE CHAPTER TITLE:	RULE CHAPTER NO.:
Disputed Reimbursement Rule	59A-31
RULE TITLES:	RULE NOS.:
Disputed Reimbursement Avoidance	59A-31.001
Disputed Reimbursement Resolution	59A-31.002
Utilization and Reimbursement Dispute Resolution Definitions	59A-31.003
Requirements for Filing a Petition	59A- 31.004
Petition Determination	59A-31.005
Penalties	59A-31.006

PURPOSE: To promulgate a rule consistent with the 2003 Legislative Reforms to Chapter 440, Florida Statute, and subsequently, the Agency’s authority to resolve utilization and reimbursement disputes.

SUMMARY: The proposed rules substantially reword Chapter Rule 59A-31, F.A.C., to clarify the requirements for petitioning the Agency to resolve utilization and reimbursement disputes between health care providers and workers’ compensation carriers.

SPECIFIC AUTHORITY: 440.13(7) FS.

LAW IMPLEMENTED: 440.13(7) FS.

IF REQUESTED IN WRITING AND NOT DEEMED UNNECESSARY BY THE AGENCY HEAD, A RULE DEVELOPMENT WORKSHOP WILL BE SCHEDULED AND ANNOUNCED IN THE FAW.

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULES IS: Beverly Williams, Medical Health Care Program Analyst, AHCA, Workers’ Compensation Unit, 2727 Mahan Drive, Mail Station 27, Tallahassee, Florida 32301

THE FULL TEXT OF THE PROPOSED RULES IS:

UTILIZATION AND REIMBURSEMENT DISPUTE RULE ~~DISPUTED REIMBURSEMENT~~

59A-31.001 Disputed Reimbursement Avoidance.

Specific Authority 440.13(7) FS. Law Implemented 440.13(2)(a),(i) FS. History-New 5-15-1991, Formerly 38F-7.517, 4L-7.517, Repealed _____.

59A-31.002 Disputed Reimbursement Resolution.

Specific Authority 440.13(7) FS. Law Implemented 440.13(2)(a),(i) FS. History-New 5-15-1991, Formerly 38F-7.517, 4L-7.517, Repealed _____.

59A-31.003 Utilization and Reimbursement Dispute Resolution Definitions.

(1) “Reduced” or “Reduction” means that the payment amount is less than the amount billed based on an agreed-upon contract price or the maximum reimbursement allowance for each discrete procedure code billed by a health care provider for reimbursement by the carrier.

(2) “Agency” means the Agency for Health Care Administration.

(3) “Billing error” means inaccurate submission of procedure codes and procedure code modifiers or diagnosis codes, by health care providers pursuant to reporting requirements of Chapter 440, (F.S.) or the submission of a billing form not promulgated pursuant to Chapter 440, (F.S.)

(4) “Consolidated petition,” means a request for resolution of a utilization or reimbursement dispute for multiple dates of service for which the carrier has disallowed or reduced the payment amount.

(5) “Disallowance” or “Disallowed” means that no payment is made for a specific procedure code or other service reported by a helath care provider to an insurer for reimbursement based on the identification of a billing error or inappropriate utilization as defined in this rule.

(6) “Explanation of bill review” (EOBR) means the codes and written explanation of an insurer’s reimbursement decision sent to the health care provider.

(7) “Inappropriate utilization” means the inappropriate treatment or care based on medically accepted standards relating to both the level and the quality of health care and health care services provided to a patient.

(8) “Instance of overutilization” is defined in Section 440.13(l)(k), F.S.

(9) “Medical bill review” means the review of a health care provider’s bill by the carrier, pursuant to Chapter 440, F.S., and all applicable rules, to ensure proper billing and reporting of services by the health care provider; to identify billing errors and inappropriate utilization, which must be disallowed or reduced; and to determine an accurate and timely reimbursement for services reported to the carrier.

(10) “Medical record” means a medical file which contains information that identifies the patient, supports the diagnosis, justifies the treatment, and documents the care provided.

(11) “Pattern or practice of arbitrary or unreasonable disallowance or reduction of payments” means repetition of improperly reduced or disallowed reimbursement.

(12) “Petition” means request for the resolution of a utilization or reimbursement dispute arising from the carrier’s disallowance or reduction of payment for services rendered pursuant to Chapter 440, F.S.

(13) “Reimbursement dispute” is defined in Section 440.13(1)(r), F.S.

(14) “Utilization dispute” means any disagreement arising between a provider and the carrier when the payment for services is reduced or disallowed, as the result of the carrier’s finding of overutilization mandated under Section 440.13(6), F.S.

(15) “Valid petition” means the determination by the Agency that all requirements for filing have been met pursuant to Section 440.13 (7), F.S. and these rules.

Specific Authority 440.13(7) FS. Law Implemented 440.13 FS. History—New

59A- 31.004 Requirements for Filing a Petition.

(1) Petitioners may file a petition or a consolidated petition with the Agency for a determination pursuant to Section 440.13(7), F.S., to resolve a utilization or reimbursement dispute arising from a reduction or disallowance for a service or services rendered.

(2) All petitions must be filed with the Agency pursuant to the requirements in Section 440.13(7)(a), F.S., and these rules to be considered valid.

(3) All petitions filed with the Agency must include, at a minimum:

(a) A copy of the original and resubmitted bills, and corresponding attachments, if applicable;

(b) A copy of relevant portions of the medical record substantiating services relating to the contested reimbursement;

(c) A copy of the EOBR(s) and other correspondence received from the carrier or, if no EOBR(s) or other correspondence has been provided, a copy of notations documenting dates of communications between the petitioner and the carrier to resolve the dispute; and

(d) A copy of the provider’s record of initial authorization and subsequent authorization relating to the contested reimbursement, including renewed authorizations or modified authorizations received from the carrier; and

(e) A copy of the certified mail receipt for each entity to which a copy of the petition is served pursuant to Section 440.13(7)(a), F.S.

Specific Authority 440.13(7) FS. Law Implemented 440.13 FS. History—New

59A-31.005 Petition Determination.

(1) The scope of the petition determination shall be limited to disputes arising from reimbursement decisions made on medical care and treatment rendered for conditions accepted by the carrier as work related.

(2) A determination shall be issued pursuant to the requirements of Section 440.13(7)(c), F.S., and may include recommendations for further administrative action pursuant to this rule and other provisions of Chapter 440, F.S.

Specific Authority 440.13(7) FS. Law Implemented 440.13 FS. History—New

59A-31.006 Penalties.

(1) Penalties for Carrier Violations.

(a) A carrier found by the Agency to have engaged in a pattern or practice of improperly reducing or disallowing payments to a health care provider shall be subject to the penalties pursuant to Section 440.13(7)(f), F.S., and the following fine(s):

1. \$500 per instance of improper reduction or disallowance in direct conflict with the schedule of maximum reimbursement allowances or the agreed upon contract price in effect at the time the service was rendered.

2. \$2,500 per instance of improper reduction or disallowance in conflict with the carrier’s established utilization review program criterion in effect at the time the reimbursement determination was made, including practice parameters and protocols or standards of care mandated under Chapter 440, F.S.

(b) If the Agency determines that the carrier has engaged in a pattern or practice of arbitrarily or unreasonably disallowing or reducing payments within two (2) years of the date the Agency assesses a carrier penalty under subsection (a) of this rule, the carrier shall be fined \$200 per instance and fines thereafter shall be increased by increments of \$500 per case. A two (2) year period shall begin on the date of the Agency’s determination that a pattern or practice exists and shall run continuously for two (2) consecutive years or portions thereof.

(2) Penalties for Health Care Provider Violations.

(a) Health care provider medical claims data and complaint files may be reviewed, and medical bill review audits may be conducted pursuant to Section 440.13(11)(a), F.S., as the result of petitions filed in accordance with this rule and Section 440.13(7), F.S., to determine if a provider has engaged or engages in, as a general business practice, overutilization, improper billing or any violation of Chapter 440, F.S.

(b) Penalties and fines may be imposed pursuant to Section 440.13(8), F.S., or this rule for Agency findings of patterns and practices of overutilization, improper billing, or non-compliance with established medical treatment protocols and practice parameters.

(c) The fine amount shall be according to the following schedule and shall be based on the severity of the instances relating to the health, safety, or security of the injured employee:

1. \$500 per occurrence when the instance creates no actual harm or evidence of potential harm to the injured employee's ability to return to suitable gainful employment, his or her medical stability or appropriate progress in recovery.

2. \$1,000 per occurrence when the instance creates an indirect or potential harm to the injured employee's ability to return to suitable gainful employment, his or her medical stability or appropriate progress in recovery.

3. \$2,500 per occurrence, de-authorization of care under review, denial of payment of care rendered in the future and notification of and review by the appropriate licensing authority pursuant to Section 440.106(3), F.S., when the instance creates a direct or immediate harm to the injured employee's ability to return to suitable gainful employment, his or her medical stability or appropriate progress in recovery.

4. \$5,000 per occurrence, decertification as an Expert Medical Advisor, an order from the Agency barring the provider from payment under this chapter, when the instance creates imminent danger or the substantial probability that death or serious physical harm would result to the injured employee.

(d) A health care provider shall be assessed a \$200 penalty per instance for failure to refund an overpayment made by the carrier as the result of the health care provider's improper billing, overutilization, or provision of care in excess of established practice parameters or protocols, if such refund is not made within 30 days of notification by the Agency or carrier.

(e) Expert Medical Advisors shall be utilized and consulted with, pursuant to Section 440.13(9), F.S., in the Agency's determination of:

1. Provider violations specific to inappropriate utilization, improper billing and non-compliance with established medical treatment protocols and practice parameters; and,

2. Appropriate penalties and fines to be assessed pursuant to this subsection and Chapter 440, F.S.

Specific Authority 440.13(7),(11) FS. Law Implemented 440.13 FS. History--New _____.

NAME OF PERSON ORIGINATING PROPOSED RULE: Beverly J. Williams, Medical Health Care Program Analyst
 NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Samuel Willis, Workers Compensation Unit Manager
 DATE PROPOSED RULE APPROVED BY AGENCY HEAD: April 25, 2005
 DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: May 14, 2004

AGENCY FOR HEALTH CARE ADMINISTRATION

Certificate of Need

RULE TITLE: Certificate of Need Exemption Procedure
 RULE NO.: 59C-1.005

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 subsections 408.036(3) and 408.036(4), F.S. A preliminary draft of the rule amendments is included in this notice.

SUMMARY: Revisions in the current rule used in the request for exemption to batched and expedited Certificate of Need review.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COST: None 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: 408.034(6), 408.15(8) FS.

LAW IMPLEMENTED: 400.071, 408.036(3), 408.036(4) FS.

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

TIME AND DATE: 2:00 p.m. (EST), June 7, 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 IS: Rommel Bain, Certificate of Need, 2727 Mahan Drive, Building 1, Tallahassee, Florida 32308

THE FULL TEXT OF THE PROPOSED RULE IS:

59C-1.005 Certificate of Need Exemptions 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 exemption 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) No change.

(b) The name of the health care facility ~~or hospice~~ involved, and the name of the licensee. A request for exemption affecting an existing licensed health care facility ~~or hospice~~ must be submitted by the current licensee.

(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 Section 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 Section 408.040(2)(a)-(c), F.S., and subsections 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 Rule 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 Section 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 paragraphs 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 Section 408.040(2)(a) (e), F.S., and subsections 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 Certificate of Need exemption request 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 Section 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 Certificate of Need exemption request 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 Section 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 Section 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 request 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. Certificate of Need exemption requests under this provision shall require verification that providers operate the nursing facilities in question under a common ownership or control. Verification may include copies of nursing home licenses showing common ownership or appropriate documentation that establishes the subject nursing homes are affiliates through a shared common ownership or controlling interest as defined in Section 400.021(5), Florida Statutes. If agency records indicate information inconsistent with that presented by the requesting parties, 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 400.071, 408.036(3), 408.036(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.

NAME OF PERSON ORIGINATING PROPOSED RULE:
 Rommel Bain, Health Services and Facilities Consultant
 NAME OF SUPERVISOR OR PERSON WHO APPROVED
 THE PROPOSED RULE: Karen Rivera, Consultant
 Supervisor
 DATE PROPOSED RULE APPROVED BY AGENCY
 HEAD: April 25, 2005
 DATE NOTICE OF PROPOSED RULE DEVELOPMENT
 PUBLISHED IN FAW: March 4, 2005

AGENCY FOR HEALTH CARE ADMINISTRATION

Certificate of Need

RULE TITLE: Project Specific Certificate of Need
 Application Procedures

RULE NO.: 59C-1.0085

PURPOSE AND EFFECT: The agency is proposing to amend the rule currently used to describe certain types of applications including transfer, shared service, and mental health conversions. The amended rule removes requirement for hospitals to submit transfer applications, for expedited shared service applications, clarifies conversion requires for mental health services located at the same facility and amends the minimum fee required for application submission. A preliminary draft of the rule is included in this Notice.

SUMMARY: The proposed rule specifies when an application to transfer of a certificate of need is subject to expedited review. The amended rule increases the application fee for transfer of certificate of need. The proposed rule defines mental health beds. Conversion of mental health beds shall require notification rather than expedited review. The proposed rule specifies when an application for a shared service arrangement is subject to comparative reviews. The amended rule removes some projects from certificate of need review.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COST: None 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: 408.034(6), 408.15(8) FS.

LAW IMPLEMENTED: 408.033, 408.034, 408.035, 408.036, 408.037(2), 408.038, 408.039, 408.042 FS.

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

TIME AND DATE: 2:00 p.m. (EST), June 1, 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, MS 28, Tallahassee, Florida 32308

THE FULL TEXT OF THE PROPOSED RULE IS:

59C-1.0085 Project Specific Certificate of Need Application Procedures.

In addition to the requirements set forth in Rule 59C-1.008, F.A.C., the following requirements apply to the projects described below:

(1) No change.

(a) An application to transfer a certificate of need is subject to an expedited review, as specified in Section 408.036(2)(a)(e), F.S., except that when an existing hospital is acquired by a purchaser, all certificates of need issued to the hospital which are not yet operational shall be acquired by the purchaser, without need for a transfer.

(b) No change.

(c) The application fee for transfer of a certificate of need is \$10,000 ~~5,000~~ provided there is no increase in the project cost approved for the certificate of need that is being transferred. The filing fee for a transfer involving an increase in the project cost shall be calculated based on the amount of increase in accordance with Section 408.038, F.S., and paragraph 59C-1.008(3)(a), F.A.C.

(d) A transfer application is required if the intended licensee or operator for approved nursing home beds in a combined certificate of need, as authorized by an exemption under Section 408.036(3)(g)(4), F.S., will be an entity other than the holder of any of the uncombined certificates of need.

(e) A transfer application is required if the intended licensee or operator for the approved nursing home beds included in a component or components of a divided certificate of need, as authorized by an exemption under Section 408.036(3)(h)(m), F.S., will be an entity other than the holder of the undivided certificate of need.

(f) through (h) No change.

(2) Conversion of licensed mental health ~~hospital~~ beds. As provided in Section 408.036(5)(c)(2)(f), F.S., notification to the agency an expedited review is applicable for hospital projects proposing to increase ~~the licensed capacity of acute care beds or~~ the licensed capacity of a category of mental health services beds through conversion of other mental health specified beds at the same hospital.

(a) Mental health beds include adult and child/adolescent psychiatric beds and adult and child/adolescent substance abuse beds. Conversion under this subsection may not establish a new licensed bed category at the hospital.

(b) ~~Licensed acute care bed capacity may be increased under this subsection through:~~

1. Conversion of beds in one or more of the categories of licensed mental health services beds; or

2. Conversion of distinct part skilled nursing unit (SNU) beds.

(e) Licensed bed capacity in a category of mental health services beds may be increased under this subsection through:

1. Conversion of beds in one or more of the other categories of licensed mental health services beds; or

2. Conversion of acute care beds.

(b)(4) Conversions under this subsection shall not increase the total licensed bed capacity of the hospital.

(e) Beds added by conversion under this subsection must be licensed and operational for at least 12 months before the hospital may apply for additional conversion affecting beds of the same type.

(3) Shared service arrangement. Any application for a project involving a shared service arrangement is subject to a comparative review when the health service being proposed requires a Certificate of Need to implement and is not currently provided by any of the applicants, or an expedited review when the health service being proposed is currently provided by one of the applicants. Proposals for a shared service arrangement must be limited to hospitals located in the same service planning area, as defined by the agency and applicable for the service being proposed.

(a) The following factors are considered when reviewing applications for shared services where none of the applicants are currently authorized to provide the service:

(a)1- Each applicant jointly applying for a new health service must be a party to a formal written legal agreement.

(b)2- Certificate of Need approval for the shared service will authorize the applicants to provide the new health service as specified in the original application.

(c)3- Certificate of Need approval for the shared service shall not be construed as entitling each applicant to independently offer the new health service. Authority for any party to offer the service exists only as long as the parties participate in the provision of the shared service.

(d)4- Any of the parties providing a shared service may seek to dissolve the arrangement upon notice to the agency consistent with Section 408.036(5)(3)(4), F.S. If termination of the agreement occurs, all parties to the original shared service give up their rights to provide the service.

(e)5- Parties seeking to provide the service independently in the future must submit applications in the next applicable review cycle and compete for the service with all other applicants.

(f)6- All applicable statutory and rule criteria are met.

(b) The following factors are considered when reviewing applications for shared services when one of the applicants has the service:

1. A shared services contract occurs when two or more providers enter into a contractual arrangement to jointly offer an existing or approved health care service. A shared services contract must be written and legal in nature. These include legal partnerships, contractual agreements, recognition of the provision of a shared service by a governmental payor, or a similar documented arrangement.

a. Each of the parties to the shared services contract must contribute something to the agreement including but not limited to facilities, equipment, patients, management or funding.

b. For the duration of a shared services contract, none of the entities involved has the right or authority to offer the service in the absence of the contractual arrangement except the entity which originally was authorized to provide the service.

e. A shared services contract is not transferrable. New parties to the original agreement constitute a new contract and require a new Certificate of Need.

d. A shared services contract may encompass any existing or approved health care service. The following items will be evaluated in reviewing shared services contracts:

(I) The demonstrated savings in capital equipment and related expenditures;

(II) The health system impact of sharing services, including effects on access and availability, continuity and quality of care; and;

(III) Other applicable statutory review criteria.

e. A shared services arrangement may be terminated upon notice to the agency consistent with Section 408.036(3)(1), F.S. If termination of the agreement occurs, the entity(ies) authorized to provide the service prior to the contract retains the right to continue the service. All other parties to the contract who seek to provide the service in their own right must request the service as a new health service and are subject to full Certificate of Need review as a new health service.

(4) No change.

(5) Reestablishment of an inpatient health service regulated under this Chapter. Reestablishment of a health service which was not offered continuously at a health care facility for the 12-month period prior to the proposed reestablishment is a substantial change in health services, and requires a certificate of need.

Specific Authority 408.034(6), 408.15(8) FS. Law Implemented 408.033, 408.034(2), 408.036(2), 408.037(2), 408.038, 408.039, 408.042 FS. History--New 1-31-91, Formerly 10-5.0085, Amended 10-18-95, 10-8-97, 12-12-00, _____.

NAME OF PERSON ORIGINATING PROPOSED RULE: Rommel Bain, Health Services and Facilities Consultant
NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Karen Rivera, Consultant Supervisor

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: April 15, 2005
 DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: October 8, 2004

AGENCY FOR HEALTH CARE ADMINISTRATION

Certificate of Need

RULE TITLE: Hospital-Based Skilled Nursing Units
 RULE NO.: 59C-1.0365

PURPOSE AND EFFECT: The agency is repealing Rule 59C-1.0365, F.A.C., which sets forth Certificate of Need review criteria for hospital-based skilled nursing units. Section 6 of Chapter 2004-383, Laws of Florida, revised Chapter 408, F.S., necessitating repeal of the rule.

SUMMARY: Rule 59C-1.0365, F.A.C., is being repealed.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COST: None 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: 408.15(8), 408.034(5) FS.

LAW IMPLEMENTED: 408.036(1)(g) FS.

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

TIME AND DATE: 2:00 p.m. (EST), June 2, 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, MS 28, Tallahassee, Florida 32308

THE FULL TEXT OF THE PROPOSED RULE IS:

59C-1.0365 Hospital-Based Skilled Nursing Units.

Specific Authority 408.15(8), 408.034(5) FS. Law Implemented 408.036(1)(g) FS. History—New 4-7-02, Repealed _____.

NAME OF PERSON ORIGINATING PROPOSED RULE: Rommel Bain, Health Services and Facilities Consultant

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Karen Rivera, Consultant Supervisor

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

DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION

Construction Industry Licensing Board

RULE TITLES: Certification of Swimming Pool Structural Specialty Contractors
 RULE NOS.: 61G4-15.032

Certification of Swimming Pool Trim, Deck and Piping Specialty Contractors
 61G4-15.033

Certification of Swimming Pool Finishes Specialty Contractors
 61G4-15.034

PURPOSE AND EFFECT: The proposed new rules are intended to address criteria for swimming pool specialty contractors.

SUMMARY: The proposed rules set forth the criteria for certification as swimming pool structural specialty contractors; as pool trim, deck, and piping specialty contractors; and as pool finishes specialty contractors.

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: 455.217, 489.108, 489.115(4), 489.113(6) FS.

LAW IMPLEMENTED: 455.217, 489.108, 489.115(4), 489.113(6) FS.

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

TIME AND DATE: 8:00 a.m. or as soon thereafter as can be heard, June 10, 2005

PLACE: Sawgrass Marriott Resort & Spa, 100 PGA Tour Boulevard, Ponte Vedra Beach, Florida 32082

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULES IS: Tim Vaccaro, Executive Director, Construction Industry Licensing Board, 1940 North Monroe Street, Tallahassee, Florida 32399-0750

THE FULL TEXT OF THE PROPOSED RULES IS:

61G4-15.032 Certification of Swimming Pool Structural Specialty Contractors.

(1) Scope of Rule. The purpose of this rule is to provide for the voluntary certification of swimming pool structural specialty contractors for any residential and commercial swimming pool, spa or hot tub.

(2) Definition.

(a) A “Swimming Pool Structural Specialty Contractor” is a contractor whose services are limited to the execution of contracts requiring the experience, knowledge and skill necessary for the layout, excavation, construction, installation and backfill of pool, spa or hot tub shells.

(b) The scope of work shall include and be limited to the layout, clearing of land of surface debris and vegetation; general leveling and grading of the site; the excavation and removal of excavated materials; the shaping and contouring of the excavation; construction and erection of concrete forms; the fabrication, placing and tying of steel reinforcing bars of any profile, perimeter, or cross-section which is used, intended or designed to be used to reinforce concrete, gunite, shotcrete or similar material in a pool or spa; shaping and shooting of gunite, shotcrete, concrete or similar product mix over the structural steel cage of the pool or spa; installation of prefabricated pool, spa or hot tub shells; operating of construction pumps for dewatering purposes. Nothing in this rule shall be deemed to restrict or limit in any manner the scope of work authorized by law of other contractor classifications.

(3) Certificate Procedures.

(a) Qualifications.

1. Any person who desires to become a swimming pool structural specialty contractor shall apply to the Construction Industry Licensing Board of the Department of Business and Professional Regulation in writing and on a form provided by the Department.

2. A person shall be certified as a swimming pool structural specialty contractor if said person:

- a. Is eighteen (18) years of age;
- b. Is of good moral character;

c. Meets eligibility requirements according to one of the criteria established in Section 489.111(2)(c), F.S.; and

d. Takes and successfully completes the examination for certification as a swimming pool structural specialty contractor.

(b) Other Certification Procedures and Fees. Other certification procedures and fees for certified swimming pool structural specialty contractors shall be the same as those provided for the certification of other contractors as set forth in Sections 489.109, 489.111(3), 489.113, F.S., and Rules 61G4-12.009 and 61G4-15.005, F.A.C. Applicants must also submit evidence of having met the requirements of paragraphs 61G4-15.003(2)(i) and 61G4-15.005(3)(a), F.A.C., for this specialty.

Specific Authority 455.217, 489.108, 489.115(4), 489.113(6) FS. Law Implemented 455.217, 489.108, 489.115(4), 489.113(6) FS. History—New

61G4-15.033 Certification of Swimming Pool Trim, Deck and Piping Specialty Contractors.

(1) Scope of Rule. The purpose of this rule is to provide for the voluntary certification of swimming pool trim, deck and piping specialty contractors for any residential and commercial swimming pool, spa or hot tub.

(2) Definition.

(a) A “Swimming Pool Trim, Deck and Piping Specialty Contractor” is a contractor whose services are limited to the execution of contracts requiring the experience, knowledge and skill necessary for the piping, placing of the deck and trim work for a pool, spa or hot tub.

(b) The scope of work shall include the design, layout and installation of ceramic tile and similar materials, and coping and other headpiece treatments used on pools, spas and hot tubs. This work includes decking, patios, aprons, walks, and ramps abutting or near pools, spas and hot tubs, including walls, fences and retaining walls. This work also includes the layout and installation of all perimeter, circulation and filter piping, and associated equipment, filters, chemical feeders, heaters and cleaners including controllers and valving. The scope of work does not include direct connections to a sanitary sewer system, potable water lines, electrical supply. Nothing in this rule shall be deemed to restrict or limit in any manner the scope of work authorized by law of other contractor classifications.

(3) Certificate Procedures.

(a) Qualifications.

1. Any person who desires to become a swimming pool trim, deck and piping specialty contractor shall apply to the Construction Industry Licensing Board of the Department of Business and Professional Regulation in writing and on a form provided by the Department.

2. A person shall be certified as a swimming pool trim, deck and piping specialty contractor if said person:

- a. Is eighteen (18) years of age;
- b. Is of good moral character;

c. Meets eligibility requirements according to one of the criteria established in Section 489.111(2)(c), F.S.; and

d. Takes and successfully completes the examination for certification as a swimming pool trim, deck and piping specialty contractor.

(b) Other Certification Procedures and Fees. Other certification procedures and fees for certified swimming pool trim, deck and piping specialty contractors shall be the same as those provided for the certification of other contractors as set forth in Sections 489.109, 489.111(3), 489.113, F.S., and Rules 61G4-12.009 and 61G4-15.005, F.A.C. Applicants must also submit evidence of having met the requirements of paragraphs 61G4-15.003(2)(i) and 61G4-15.005(3)(a), F.A.C., for this specialty.

Specific Authority 455.217, 489.108, 489.115(4), 489.113(6) FS. Law Implemented 455.217, 489.108, 489.115(4), 489.113(6) FS. History—New

61G4-15.034 Certification of Swimming Pool Finishes Specialty Contractors.

(1) Scope of Rule. The purpose of this rule is to provide for the voluntary certification of swimming pool finishes specialty contractors for any residential and commercial swimming pool, spa or hot tub.

(2) Definition.

(a) A “Swimming Pool Finishes Specialty Contractor” is a contractor whose services are limited to the execution of contracts requiring the experience, knowledge and skill necessary for the coating or plastering of a pool, spa or hot tub interior surfaces.

(b) The scope of work shall include and be limited to the coating or plastering of the interior surfaces of a pool, spa or hot tub with materials such as marcite, water type plaster, fiberglass or other similar use products designed to create a permanent surface coating. Nothing in this rule shall be deemed to restrict or limit in any manner the scope of work authorized by law of other contractor classifications.

(3) Certificate Procedures.

(a) Qualifications.

1. Any person who desires to become a swimming pool finishes specialty contractor shall apply to the Construction Industry Licensing Board of the Department of Business and Professional Regulation in writing and on a form provided by the Department.

2. A person shall be certified as a swimming pool finishes specialty contractor if said person:

a. Is eighteen (18) years of age;

b. Is of good moral character;

c. Meets eligibility requirements according to one of the criteria established in Section 489.111(2)(c), F.S.; and

d. Takes and successfully completes the examination for certification as a swimming pool finishes specialty contractor.

(b) Other Certification Procedures and Fees. Other certification procedures and fees for certified swimming pool finishes specialty contractors shall be the same as those provided for the certification of other contractors as set forth in Sections 489.109, 489.111(3), 489.113, F.S., and Rules 61G4-12.009 and 61G4-15.005, F.A.C. Applicants must also submit evidence of having met the requirements of paragraphs 61G4-15.003(2)(i) and 61G4-15.005(3)(a), F.A.C., for this specialty.

Specific Authority 455.217, 489.108, 489.115(4), 489.113(6) FS. Law Implemented 455.217, 489.108, 489.115(4), 489.113(6) FS. History—New

NAME OF PERSON ORIGINATING PROPOSED RULE: Rules Committee

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Construction Industry Licensing Board

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

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

DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION

Board of Employee Leasing

RULE TITLE: Annual Assessment on Gross Florida Payroll

RULE NO.: 61G7-5.002

PURPOSE AND EFFECT: The Board has proposed to amend this rule to delete subsection (2).

SUMMARY: Subsection (2) will be deleted from this rule. SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COST: No Statement of Estimated Regulatory Cost was prepared.

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

SPECIFIC AUTHORITY: 468.522 FS.

LAW IMPLEMENTED: 468.526 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: John Knap, Executive Director, Board of Employee Leasing, 1940 North Monroe Street, Tallahassee, Florida 32399-0783

THE FULL TEXT OF THE PROPOSED RULE IS:

61G7-5.002 Annual Assessment on Gross Florida Payroll.

(1) No change.

~~(2) In order to ensure compliance with the requirements of subsection (1), each employee leasing company or employee leasing company group shall annually submit a statement of total gross Florida payroll along with copies of all Florida Unemployment Compensation Tax returns (UCT-6) for the preceding calendar year and payment of the assessment levied under subsection (1). Every employee leasing company shall submit the statement of total gross Florida payroll and copies of all Florida Unemployment Compensation Tax returns (UCT-6) on or before April 1 of every year. Total gross Florida payroll shall be subject to independent verification by the Board with the Agency for Workforce Innovation, Division of Unemployment and shall also be subject to audit by the Board.~~

(3) through (4) renumbered (2) through (3) No change.

Specific Authority 468.522 FS. Law Implemented 468.526 FS. History—New 7-15-92, Formerly 21EE-5.002, Amended 4-25-94, 6-10-96, 6-22-98, 7-11-00, 9-5-04, 3-27-05,_____.

NAME OF PERSON ORIGINATING PROPOSED RULE:
Board of Employee Leasing

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

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

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

DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION

Board of Pilot Commissioners

RULE TITLE: Deputy Pilots’ and State Pilots’ Physical and Mental Capabilities

RULE NO.: 61G14-20.001

PURPOSE AND EFFECT: The Board proposed to amend the rule in order to outline the documentation required for drug testing.

SUMMARY: The rule amendment will outline the documentation required for drug testing.

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

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

SPECIFIC AUTHORITY: 310.185(1) FS.

LAW IMPLEMENTED: 310.071, 310.073 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 Pilot Commissioners, 1940 North Monroe Street, Tallahassee, Florida 32399-0783

THE FULL TEXT OF THE PROPOSED RULE IS:

61G14-20.001 Deputy Pilots’ and State Pilots’ Physical and Mental Capabilities.

(1) through (2) No change.

1. through 2. No change.

3. Documentation that the applicant or pilot, within six months prior to the date the document is submitted, has met one of the Coast Guard drug testing requirements for transactions regarding licensing as follows: been found to be

drug free by a test approved by the United States Coast Guard. “Submitted” shall mean received at the Board office at 1940 North Monroe Street, Tallahassee, Florida 32399-0773.

a. Submitted documentation that the applicant or the pilot has passed a USCG drug test conducted within the past six months by a laboratory accredited by the Substance Abuse and Mental Health Services Administration, Department of Health and Human Services;

b. Submitted documentation that the applicant or pilot has been subject to a random testing program meeting the criteria of Title 46, CFR 16.230, for at least 60 days during the past six months and has not failed nor refused to participate in a chemical test for any controlled substances regulated under Chapter 893, Florida Statutes; or

c. Submitted documentation demonstrating that the applicant or pilot has passed a pre-employment chemical test for any controlled substances regulated under Chapter 893, Florida Statutes, within the past six months.

The term “submitted” as used in this subsection shall mean provided to and received at the Board office at 1940 North Monroe Street, Tallahassee, Florida 32399-0773.

(3) through (6) No change.

Specific Authority 310.185(1) FS. Law Implemented: 310.071, 310.073 FS. History—New 2-22-95, Amended 1-4-00, 6-24-03,_____.

NAME OF PERSON ORIGINATING PROPOSED RULE:
Board of Pilot Commissioners

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

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: April 8, 2005

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: March 18, 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 Medicine

RULE TITLE: List of Approved Forms; Incorporation

RULE NO.: 64B8-1.007

PURPOSE AND EFFECT: The proposed rule amendment is intended to incorporate the revised Physician Assistant Licensure Application into the rule.

SUMMARY: The proposed rule amendment incorporates the revised Physician Assistant Licensure Application into the forms rule.

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: 120.55(1)(a),(4), 456.013, 456.036(5), 456.048(1), 458.309, 458.311, 458.3124(6), 458.313(4), 458.3145, 458.315(2), 458.320(8), 458.321(2), 458.347(13), 458.3475, 458.351(6) FS.

LAW IMPLEMENTED: 456.013, 456.035, 456.036, 456.048, 456.073, 458.309, 458.311, 458.3124, 458.313, 458.3145, 458.315, 458.316, 458.317, 458.319, 458.320, 458.321, 458.345, 458.347, 458.3475, 458.348, 458.351, 465.0276 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: Larry McPherson, Executive Director, Board of Medicine/MQA, 4052 Bald Cypress Way, Bin #C03, Tallahassee, Florida 32399-3253

THE FULL TEXT OF THE PROPOSED RULE IS:

64B8-1.007 List of Approved Forms; Incorporation.

The following forms used by the Board in its dealings with the public are listed as follows and are hereby adopted and incorporated by reference, and can be obtained from the Board office by writing to the Board of Medicine, 4052 Bald Cypress Way, Bin #C03, Tallahassee, Florida 32399-1753, or by telephoning (850)245-4131:

(1) through (27) No change.

(28) DH-MQA 2000, entitled "Application for Licensure as a Physician Assistant," ~~(3/02)~~ (3/05).

(29) through (31) No change.

Specific Authority 120.55(1)(a),(4), 456.013, 456.036(5), 456.048(1), 458.309, 458.311, 458.3124(6), 458.313(4), 458.3145, 458.315(2), 458.320(8), 458.321(2), 458.347(13), 458.3475, 458.351(6) FS. Law Implemented 456.013, 456.035, 456.036, 456.048, 456.073, 458.309, 458.311, 458.3124, 458.313, 458.3145, 458.315, 458.316, 458.317, 458.319, 458.320, 458.321, 458.345, 458.347, 458.3475, 458.348, 458.351, 465.0276 FS. History—New 4-17-01, Amended 11-20-01, 8-13-02, 11-10-02, 3-19-03, 6-4-03, 11-17-03, 4-19-04, 1-31-05, _____.

NAME OF PERSON ORIGINATING PROPOSED RULE: Council on Physician Assistants

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

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: April 2, 2005

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

DEPARTMENT OF HEALTH

Division of Family Health Services

RULE CHAPTER TITLE: Volunteer Health Care Provider Program
 RULE CHAPTER NO.: 64F-11

RULE TITLES: Definitions
 RULE NOS.: 64F-11.001

Client Eligibility 64F-11.002

Patient Selection and Referral 64F-11.003

Volunteer Provider Eligibility 64F-11.004

Contract Requirements 64F-11.005

Covered Services 64F-11.006

Annual Report 64F-11.009

PURPOSE AND EFFECT: To implement amended statutory provisions of Section 766.1115, Florida Statutes.

SUMMARY: Deleted duplication, clarified definitions, modified sovereign immunity contract, and defined who may be authorized to perform the eligibility and referral process for the department.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS: None 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: 766.1115 FS.

LAW IMPLEMENTED: 766.1115 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: Mark Lundberg, Director, Volunteer Health Services Program, 4052 Bald Cypress Way, Bin #C23, Tallahassee, Florida 32399-1743, (850)245-4151

THE FULL TEXT OF THE PROPOSED RULES IS:

64F-11.001 Definitions.

For the purpose of this rule chapter, the following definitions will apply:

(1) "Adverse incident": as defined in subsection 395.0197(5), F.S., or its successor statute. ~~59A-10.002(4), F.A.C.~~

~~(2) "Contract" means an agreement executed between a health care provider and a governmental contractor for the purpose of providing health care to individuals who qualify under the Volunteer Health Care Provider program.~~

~~(2)(3) "Corporate medical group" means a corporation for profit established under the provisions of Chapter 607, F.S., or a corporation not for profit established under the provisions of Chapter 617, F.S., for the purpose of providing health care as specified in paragraph (10) below.~~

~~(4) "Department" means the Department of Health.~~

~~(3)(5)~~ “Emergency medical condition”: as defined in Section 395.002(9), or its successor statute, 395.0142(2)(e), F.S.

~~(4)(6)~~ “Family” means one or more persons living in one dwelling place who are related by blood, marriage, law, or conception. A pregnant woman and her unborn child or children are considered to be two or more family members. If the dwelling place includes more than one family or more than one unrelated individual, the poverty guidelines are applied separately to each family or unrelated individual and not to the dwelling place as a whole. A single adult, over 18, living with relatives is considered to be a separate family for income determination purposes. ~~However, A~~ a student, age 18-21, living at the dwelling place, shall be considered a family member if it is in the best interest of the family.

~~(5)(7)~~ “Federal poverty level or poverty level” means the family poverty income levels published and updated annually by the federal Office of Management and Budget (OMB). For the purposes of this rule the poverty levels will be effective ~~April~~ July 1 of each year following publication in the Federal Register.

~~(8)~~ “~~Governmental contractor or contractor~~” means the department, county health departments (CHD), a special taxing district with health care responsibilities, or a hospital owned and operated by the federal or state government, state agencies, and subdivisions as defined in Section 768.28(2), F.S.

~~(6)(9)~~ “Gross family income” means the sum of income available to a family at the time of application. Gross family income shall be based on all income ~~to be earned or received in the last four (4) weeks or anticipated to be earned or received in the current month.~~ Income shall not include Supplemental Security Income (SSI), income from trusts fully funded by SSI payments, and Temporary Assistance to Needy Families (TANF). ~~Aid to Families with Dependent Children (AFDC).~~ ~~Individuals receiving assistance payments under these programs are already eligible under the provisions of paragraph 64F 11.002(1)(a), F.A.C.~~ Income shall include but not be limited to the following:

- (a) Wages and salary.
- (b) Child support.
- (c) Alimony.
- (d) Unemployment compensation.
- (e) Worker’s compensation.
- (f) Veteran’s pension.
- (g) Social security.
- (h) Pensions and annuities.
- (i) Dividends and interest on savings, stocks, and bonds.
- (j) Income from estates and trusts.
- (k) Net rental income or royalties.
- (l) Net income from self employment.
- (m) Contributions.

(7) “Net family income” means gross family income minus the standard work related, child care, and child support deductions as used in determining Medicaid presumptive eligibility for pregnant women.

(8) “Verification” means to confirm the accuracy of information through sources other than the self declaratory statement of the individual originally supplying the information. Verification may be by telephone, in written form, or by face-to-face contact. Verification does not require written documentation to confirm an applicant’s statement. Examples of verification include:

- (a) A statement from a state or federal agency which attests to the applicant’s financial status.
- (b) A statement from the applicant’s or family member’s employer.
- (c) Pay stubs for four consecutive weeks.
- (d) A statement from a source providing unearned income to the applicant or family unit.

(9) “Self-declaration” means a statement of income, expenses, and family size made by the individual applying for the program. Self-declaration does not include any documentation other than the signature of the person making the statement. The self-declaration statement shall include a signed acknowledgement that the statement is true at the time it is made and that the person making the statement understands that the contractor shall have the option of verifying the statement.

(10) “Health care provider or provider” ~~includes:~~ ~~means:~~ (a) a full-time student enrolled in an accredited program that prepares the student to be a health care provider licensed under Chapter 458, 459, 460, 461, 464, 466, or 467, F.S. The student must perform duties under the supervision and license of a health care provider who is contracted under the Volunteer Health Care Provider Program and is practicing in the student’s area of study.

- ~~(a) A birth center licensed under Chapter 383, F.S.~~
- ~~(b) An ambulatory surgical center licensed under Chapter 395, F.S.~~
- ~~(c) A hospital licensed under Chapter 395, F.S.~~
- ~~(d) A physician licensed, or physician assistant certified, under Chapter 458, F.S.~~
- ~~(e) An osteopathic physician licensed, or osteopathic physician assistant certified, under Chapter 459, F.S.~~
- ~~(f) A chiropractic physician licensed under Chapter 460, F.S.~~
- ~~(g) A podiatrist licensed under Chapter 461, F.S.~~
- ~~(h) A registered nurse, nurse midwife, licensed practical nurse, or advanced registered nurse practitioner licensed or registered under Chapter 464, F.S., or any facility that employs nurses licensed or registered under Chapter 464, F.S., to supply all or part of the care delivered under this section.~~
- ~~(i) A midwife licensed under Chapter 467, F.S.~~

(j) A health maintenance organization certified under Part I of Chapter 641, F.S.

(k) A full time student enrolled in an accredited program that prepares the student to be a health care provider licensed under Chapter 458, 459, 460, 461, 464, or 467, F.S. The student must perform duties under the supervision and license of a health care provider who participates in the Voluntary Health Care Provider program and is practicing in the student's area of study.

(l) A health care professional association and its employees or a corporate medical group and its employees.

(m) Any other medical facility the primary purpose of which is to deliver human medical diagnostic services or that delivers nonsurgical human medical treatment, and that includes an office maintained by a provider.

(n) Any nonprofit corporation qualified as exempt from federal income taxation under Section 501(c) of the Internal Revenue Code that delivers health care services provided by licensed professionals listed in this paragraph, any federally funded community health center, and any volunteer corporation or volunteer health care provider that delivers health care services.

(11) "Health care professional association" means an organization as defined in Section 621.03, F.S., and includes the licensed health care providers specified in paragraph (10) above.

(12) "Injury": as defined in subsection 59A-10.002(5), F.A.C.

(13) "Net family income" means gross family income minus the standard work related, alimony, child care, and child support deductions as used in determining Medicaid presumptive eligibility for pregnant women.

(14) "Verification" means to confirm the accuracy of information through sources other than the self-declaratory statement of the individual originally supplying the information. Verification may be by telephone, in written form, or by face-to-face contact. Verification does not require written documentation to confirm an applicant's statement. Examples of verification include:

(a) A statement from a state or federal agency which attests to the individual's financial status.

(b) A statement from the employer.

(c) Pay stubs for four weeks if available.

(d) A statement from a source providing unearned income to the applicant or family unit.

(15) "Volunteer corporation" means a not for profit corporation, consisting of its employees and volunteers, established under the provisions of Chapter 617, F.S., for the purpose of providing volunteer health care as specified in paragraph (10) above, under contract with a governmental contractor, and thereby qualifying its employees and volunteers for sovereign immunity pursuant to Section 766.1115, F.S.

(16) "Volunteer provider or volunteer health care provider" means a health care provider under contract with a governmental contractor for the provision of health care services pursuant to Section 766.1115, F.S.

(17) "Self declaration" means a statement of income, expenses, and family size made by the individual applying for the program. Self declaration does not include any documentation other than the signature of the person making the statement. The self declaration statement shall include a signed acknowledgement that the statement is true at the time it is made and that the person making the statement understands that the contractor shall have the option of verifying the statement.

Specific Authority 766.1115(10) FS. Law Implemented 766.1115 FS. History—New 1-20-93, Formerly 10D-122.002, Amended _____.

64F-11.002 Client Eligibility.

(1) The governmental contractor has the option to include one or more of the following eligibility groups:

(a) Individuals eligible for services under the Florida Medicaid Program when a provider is not available and who meet the program income eligibility requirements.

(b) Individuals whose family income does not exceed 150 percent of the federal poverty level.

(c) Individuals who are clients of the department, and volunteer to participate in the a program, offered or approved by the department and who meet the program income eligibility requirements guidelines of that program.

(2) In order to be eligible, an individual individuals shall not have medical or dental care coverage for health insurance or shall not have health insurance that covers the illness, injury, or condition for which medical or dental health care is sought.

(3) The governmental contractor has the option to establish an eligibility limit at a level lower than 150 percent of the poverty level, but not lower than 100 percent of the poverty level.

(4) The governmental contractor is responsible for determining if applicants meet the eligibility criteria for participation in the Volunteer Voluntary Health Care Provider Program program and shall establish the written procedures necessary to determine eligibility.

(5) Applicants shall furnish to the governmental contractor information regarding the gross family income for the family unit, work related expenses, child care expenses, and child support payments. The applicant's self declaration of income and expenses is acceptable for eligibility determination, but the governmental contractor may verify income and expenses. Verification of income and expenses shall be required only if the self declaration does not reasonably represent income and expenses and shall be requested for the four week period prior to the date of application. Additional verification for the preceding 12 month period may be requested if the income for

the four week period is not representative of the family income and the additional information is in the best interest of the applicant.

(6) The governmental contractor shall use net family income to determine eligibility.

Specific Authority 766.1115(10) FS. Law Implemented 766.1115 FS. History—New 1-20-93, Formerly 10D-122.003, Amended _____.

64F-11.003 Patient Selection and Referral.

(1) The governmental contractor is responsible for determining an applicant's eligibility and referral selection and initial referral of individuals to contracted health care providers receive health care services under this chapter.

(2) The volunteer provider shall accept all individual referrals up to the numerical limit, if any, that is specified in the contract.

(3) The governmental contractor shall not refer an applicant individual to a health care volunteer provider until after the governmental contractor determines the individual to be eligible.

(4) The governmental contractor may convey to any provider the responsibility for determining eligibility and the referral of clients for the department. The provider may perform the eligibility and referral process in accordance with a contract with the governmental contractor.

~~(4) Once a governmental contractor refers an individual and the provider treats the individual, sovereign immunity granted under this chapter shall not be removed even if the individual who received treatment may later be found to be ineligible.~~

~~(5) If an emergency medical condition exists, a volunteer provider may accept for treatment, prior to receiving a referral from the governmental contractor, an individual previously determined eligible for the program. In this event, the volunteer provider must notify the governmental contractor of the need for a referral for an individual in the program within 48 hours after treatment commenced or within 48 hours after the patient has the mental capability to consent to treatment, whichever occurs later.~~

Specific Authority 766.1115(10) FS. Law Implemented 766.1115 FS. History—New 1-20-93, Formerly 10D-122.004, Amended _____.

64F-11.004 Volunteer Provider Eligibility.

~~(1) The governmental contractor has sole responsibility to determine the type of services that are needed in a service area and to recruit volunteer providers that can meet those needs. The governmental contractor shall consider in that determination the following:~~

- ~~(a) The population that the contractor serves.~~
- ~~(b) The benefit of that service to the population being served.~~
- ~~(c) The current availability of the service to the population being served.~~

~~(d) The expected improvement in access to care that would result from contracting with the volunteer provider.~~

~~(2) The governmental contractor may contract with one or more volunteer providers in a given specialty or type of service but does not have to contract with each volunteer provider that may volunteer to provide care.~~

~~(1)(3) In order to participate in this program, a health care provider shall comply with the following:~~

~~(a) Have a current valid Florida health professional license or authorization to practice under Florida Statutes or Florida Administrative Code.~~

~~(b) Sign a contract with the governmental contractor.~~

~~(c) Not be under obligations investigation, probation, or restrictions with the suspension by Department of Health Professional Regulation or sanctioned by Health Care Financing Administration for Medicaid or Medicare violations. If obligations are assigned after the provider has participated in the program, then the governmental contractor will determine contract status of the provider.~~

~~(d) Submit to a credential verification process to determine acceptability of participation.~~

~~(e) Participate in a the governmental contractor's quality assurance program as delineated by the governmental contractor in a manner commensurate with the level of participation in the Voluntary Health Care Provider program.~~

~~(2)(4) The health care provider shall not subcontract for the provision of services under this chapter.~~

Specific Authority 766.1115(10) FS. Law Implemented 766.1115 FS. History—New 1-20-93, Formerly 10D-122.005, Amended _____.

64F-11.005 Contract Requirements.

~~(1) The contract shall allow the health care provider to deliver health care services as an agent of the governmental contractor to individuals determined eligible in accordance with Rule 64F 11.002, F.A.C. The contract must be for volunteer, uncompensated services.~~

~~(2) The governmental contractor shall use the model contracts, DH DOH Form 1029 and 1031, developed by the department specifically for this program. Provisions of the model contract shall include the requirements specified in Section 766.1115(4), F.S.~~

Specific Authority 766.1115(10) FS. Law Implemented 766.1115 FS. History—New 1-20-93, Formerly 10D-122.006, Amended _____.

64F-11.006 Covered Services.

~~(1) The governmental contractor shall specify the services that will be available under the local Voluntary Health Care Provider program and what limitations and restrictions, if any, may apply.~~

~~(1)(2) Experimental procedures and clinically unproven procedures are not covered under this program. The governmental contractor shall determine whether or not a procedure is covered. For the department, the State Health Officer shall make that determination.~~

~~(2)(3)~~ The governmental contractor reserves the right to approve through written protocols all referrals for specialty care and hospitalization, ~~except emergency care as specified in Rule 64F-11.007, F.A.C.~~

Specific Authority 766.1115(10) FS. Law Implemented 766.1115 FS. History--New 1-20-93, Formerly 10D-122.007, Amended _____.

64F-11.009 Annual Report.

(1) Each governmental contractor, by August ~~31~~ ~~30~~ of each year, shall submit to the Director of the Volunteer Health Services Program ~~State Health Office~~ information required to prepare the annual report to the Legislature as specified in Section 766.1115(8), F.S.

(2) The report period shall be July 1 to June 30.

(3) The governmental contractor shall include in the report participating clinics and organizations, a list of the types of services that are needed for the service area, a list of available referral services the number of providers, and the number of patient encounters, and the value of services and donations rendered individuals served.

Specific Authority 766.1115(10) FS. Law Implemented 766.1115 FS. History--New 1-20-93, Formerly 10D-122.012, Amended _____.

NAME OF PERSON ORIGINATING PROPOSED RULE:
Mark Lundberg

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Phil E. Williams

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: April 21, 2005

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: March 15, 2005

FISH AND WILDLIFE CONSERVATION COMMISSION

Freshwater Fish and Wildlife

RULE TITLE: RULE NO.:

Hunting Dogs; Molesting Game in Closed Season; Training; Field Trials; Prohibited for Certain Hunting 68A-12.007

PURPOSE AND EFFECT: The purpose of the proposed rule changes is to establish registration requirements for use of dogs to take deer on private lands statewide. Registration requirements were implemented during the 2004-2005 hunting season on a pilot basis in the Commission's Northwest Region. The effect of the proposed rule would be to require registration statewide for the 2005-2006 hunting season and thereby promote hunter responsibility.

SUMMARY: Proposed rule changes would require a no-cost registration for any person using dogs to take deer on private lands statewide. The statewide registration program would replace the Northwest Region pilot registration program. Registration would be required during the deer-dog training season and during any open deer hunting season when taking of deer with dogs is permitted on private lands. Registration

would be required in addition to all existing rules regarding the use of dogs for hunting including the hunter responsibility and road hunting rules. Registration would be issued to the landowner or any other individual who has rights to hunt the property as designated by the landowner in a hunting lease or through written permission. Registration would require completion of an application that will require information about the private property including a boundary map, description of the property, a copy of a hunting lease or written permission from the landowner for hunting the property. The landowner(s) would not be required to sign the application. Contact information for the landowner(s) would be required on the application. Applicants would be able to register multiple properties with different landowners under one registration number if requested on the application. Once a registration has been issued the following would be required: the registration number must be on or attached to the collar of any dog used for taking deer on registered property; a copy of the registration must be in possession, while using dogs to take deer on registered property; person(s) using dogs to take deer must keep their dogs on the registered property; failure to abide by the above requirements would be a violation of the rule and could result in a citation.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COST: It is estimated that the proposed action will cost the agency approximately \$450 for administrative preparation and \$214 for legal advertising.

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: Art. IV, Sec. 9, Fla. Const.

LAW IMPLEMENTED: Art. IV, Sec. 9, Fla. Const.

A HEARING ON THE PROPOSED RULE WILL BE HELD DURING THE COMMISSION'S MEETING AT THE TIME, DATES AND PLACE SHOWN BELOW:

TIME AND DATES: 8:30 a.m. – 5:00 p.m. each day, June 15-17, 2005

PLACE: Hilton Daytona Beach/Ocean Walk Village, 100 N. Atlantic Ave., Daytona Beach, Florida

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: James Antista, General Counsel, Florida Fish and Wildlife Conservation Commission, 620 South Meridian Street, Tallahassee, Florida 32399-1600

THE FULL TEXT OF THE PROPOSED RULE IS:

68A-12.007 Hunting Dogs; Molesting Game in Closed Season; Training; Field Trials; Prohibited for Certain Hunting.

(1) through (2) No change.

(3)(a) The purpose and intent of this subsection is to implement registration requirements for use of dogs to take deer on private lands. ~~It is the intent of the Commission to~~

~~implement this subsection as a pilot project to be in effect in for the Commission's Northwest Region. The Commission shall review this subsection on or before March 30, 2005 to determine if continuation, modification or expansion is warranted.~~

(b) Registration.

1. No person shall use dogs to take, attempt to take, trail, pursue or molest deer on any privately-owned property ~~in the Northwest Region~~ unless such property has been registered with the Commission as set forth under this subsection. Privately-owned property shall be registered by the landowner(s), lessee, or other person designated by the landowner(s) via written permission as required under subsection (2) of this section. Individuals may register an aggregate of private lands including different ownerships under one registration. No more than one registration shall be in effect for each parcel of land at any given time. Registration shall not be required for use of dogs on leashes for trailing wounded game.

2. Applications for registering private lands for taking deer with dogs shall be on such form as prescribed by the Commission and shall include: a written description of the property boundaries and map showing property boundaries; total acreage of the property; name, street or physical address, and telephone numbers for the applicant and the landowner; a copy of a lease for hunting rights or written permission as required under subsection (2) of this section where the landowner is not the applicant, and other information pertaining to the proposed activity necessary for registration issuance and enforcement of this rule.

(c) Requirements.

1. Each registration issued pursuant to this subsection shall include a registration number. In addition to requirements under subsection (1) of this section, no person shall use any dog for taking, attempted taking, trailing, pursuing or molesting deer ~~in the Northwest Region~~ unless such dog is wearing a collar or attachment to the collar legibly displaying the entire registration number specific to the registered property where said use of the dog is occurring.

2. No person using any dog for taking or attempting to take, trailing, pursuing, or molesting deer ~~in the Northwest Region~~ shall allow a dog off the registered property, whether intentionally or negligently.

3. No person shall participate in taking, attempted taking, trailing, pursuing or molesting deer on any privately-owned property ~~in the Northwest Region~~ unless such person is in possession of a copy of the registration for said privately-owned property.

(4) through (10) No change.

Specific Authority Art. IV, Sec. 9, Fla. Const. Law Implemented Art. IV, Sec. 9, Fla. Const. History--New 8-1-79, Amended 6-22-80, 6-21-82, 7-27-83, 7-5-84, 7-1-85, Formerly 39-12.07, Amended 4-11-90, 3-1-94, 7-1-94, 9-7-97, Formerly 39-12.007, Amended 12-9-99, 8-22-04, _____.

NAME OF PERSON ORIGINATING PROPOSED RULE:
Mr. Nick Wiley

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Mr. Kenneth D. Haddad, Executive Director

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: April 14, 2005

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: December 10, 2004

BE ADVISED THAT THESE PROPOSED RULES MAY BE FILED FOR ADOPTION AS SOON AS POSSIBLE FOLLOWING THE COMMISSION MEETING AT WHICH THEY ARE CONSIDERED IF THE RULES ARE NOT CHANGED. IF CHANGED, THE RULES MAY BE FILED AS SOON AS POSSIBLE AFTER PUBLICATION OF A NOTICE OF CHANGE IN THE FAW.

FISH AND WILDLIFE CONSERVATION COMMISSION

Marine Fisheries

RULE CHAPTER TITLE: Reef Fish

RULE TITLE: Regulation and Prohibition of Certain RULE NO.:

Harvesting Gear: Allowable Gear, 68B-14.005
Incidental Bycatch, Violation

PURPOSE AND EFFECT: The purpose of this rule is to specify buoy and trap marking for black sea bass traps. The effect will be to allow the prosecution of the black sea bass trap fishery while clearly identifying those traps being used in it.

SUMMARY: A new sub-paragraph 4. is added to paragraph (2)(b) of Rule 68B-14.005, F.A.C., to establish marking requirements for traps used in the directed harvest of black sea bass.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COST: A statement of estimated regulatory cost has not been prepared regarding these proposed rules.

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

SPECIFIC AUTHORITY: Article IV, Section 9, Florida Constitution.

LAW IMPLEMENTED: Article IV, Section 9, Florida Constitution.

THE FISH AND WILDLIFE CONSERVATION COMMISSION WILL CONDUCT A PUBLIC RULEMAKING HEARING ON THE PROPOSED RULES DURING THE REGULAR MEETING OF THE COMMISSION TO BE HELD AT THE TIME, DATES AND PLACE SHOWN BELOW:

TIME AND DATES: 8:30 a.m. – 5:00 p.m. each day, June 15-17, 2005

PLACE: Hilton Daytona Beach/Ocean Walk Village, 100 North Atlantic Avenue, Daytona Beach, Florida

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 IS: James V. Antista, Fish and Wildlife Conservation Commission, 620 Meridian Street, Tallahassee, Florida 32399-1600

THE FULL TEXT OF THE PROPOSED RULE IS:

68B-14.005 Regulation and Prohibition of Certain Harvesting Gear: Allowable Gear, Incidental Bycatch, Violation.

(1) Allowable gear. Except as provided in subsection (2), the following shall be the only gear types and methods allowed for the harvest in or from state waters of any of the species specified in subsection 68B-14.001(2), F.A.C.:

(a) No change.

(b) A black sea bass trap, which shall only be used north of Latitude 27 North. Each such trap shall comply with the following specifications:

1. The outer dimensions do not exceed 2 feet in height, 2 feet in width, and 2 feet in depth, and the throat or entrance does not exceed 5 inches in height and 2 inches in width at its narrowest point.

2. A biodegradable panel shall be part of each trap used to take black sea bass. A black sea bass trap shall be considered to have a "biodegradable panel" or a "degradable panel" if one of the following methods is used in construction of the trap:

a. The trap lid tie-down strap is secured to the trap at one end by a single loop of untreated jute twine. The trap lid must be secured so that when the jute degrades, the lid will no longer be securely closed.

b. The trap lid tie-down strap is secured to the trap at one end with a corrodible loop composed of non-coated steel wire measuring 24 gauge or thinner. The trap lid must be secured so that when the loop degrades, the lid will no longer be securely closed.

c. The trap lid tie-down strap is secured to the trap at one end by an untreated pine dowel no larger than 2 inches in length by 3/8 inch in diameter. The trap lid must be secured so that when the dowel degrades, the lid will no longer be securely closed.

d. The trap contains at least one sidewall with a vertical rectangular opening no smaller in either dimension than 6 inches in height by 3 inches in width. This opening must be laced, sewn, or otherwise obstructed by a single length of

untreated jute twine knotted only at each end and not tied or looped more than once around a single mesh bar. When the jute degrades, the opening in the sidewall of the trap will no longer be obstructed.

e. The trap contains at least one sidewall with a vertical rectangular opening no smaller in either dimension than 6 inches in height by 3 inches in width. This opening must be obstructed with an untreated pine slat or slats no thicker than 3/8 inch. When the slat degrades, the opening in the sidewall of the trap will no longer be obstructed. "Untreated pine" means raw pine wood that has not been treated with any preservative or pine wood that has been pressure treated with no more than 0.40 pounds of chromated copper arsenate (CCA) compounds per cubic foot of wood.

f. The trap contains at least one sidewall with a vertical rectangular opening no smaller in either dimension than 6 inches in height by 3 inches in width. The opening may either be laced, sewn, or otherwise obstructed by non-coated steel wire measuring 24 gauge or thinner or be obstructed with a panel of ferrous single-dipped galvanized wire mesh made of 24 gauge or thinner wire. When the wire or wire mesh degrades, the opening in the sidewall of the trap will no longer be obstructed.

g. The trap contains at least one sidewall with a vertical rectangular opening no smaller in either dimension than 6 inches in height by 3 inches in width. The opening may be obstructed with a rectangular panel made of any material, fastened to the trap at each of the four corners of the rectangle by rings made of non-coated 24 gauge or thinner wire or single strands of untreated jute twine. When the corner fasteners degrade, the panel will fall away and the opening in the sidewall of the trap will no longer be obstructed.

3. Escape vents. All black sea bass traps shall have an unobstructed escape vent opening on at least two opposite vertical sides, excluding top and bottom, that complies with one of the following minimum sizes:

a. A rectangular vent, 1.125 inches (2.9 cm) by 5.75 inches (14.6 cm).

b. A circular vent, 2 inches (5.1 cm) in diameter.

c. A square vent with sides of 1.75 inches (4.4 cm) measured inside the square.

4. Trap marking requirements.

a. Each black sea bass trap used for harvesting black sea bass shall have the trap owner's saltwater products license number permanently attached. Each buoy attached to such trap shall have the letter "B" and the owner's saltwater products license number affixed to it in legible figures at least 1.5 inches high.

b. A buoy or time-release buoy shall be attached to each black sea bass trap or at each end of a weighted trap trotline. The buoy shall be constructed of styrofoam, cork, molded polyvinyl chloride, or molded polystyrene, be of sufficient strength and buoyancy to float, and be either white in color or

the same color as the owner's blue crab or stone crab buoy colors. Buoys shall be either spherical in shape with a diameter no smaller than 6 inches or some other shape so long as it is no shorter than 10 inches in the longest dimension and the width at some point exceeds 5 inches. No more than 5 feet of any buoy line attached to a buoy used to mark a black sea bass trap or attached to a trotline shall float on the surface of the water.

- (c) No change.
- (2) through (3) No change.

Specific Authority Art. IV, Sec. 9, Fla. Const. Law Implemented Art. IV, Sec. 9, Fla. Const. History--New 12-11-86, Amended 2-1-90, 3-1-94, 10-4-95, 7-15-96, 1-1-98, 12-31-98, 6-1-99, Formerly 46-14.005, Amended 1-1-03, 3-1-05, _____.

NAME OF PERSON ORIGINATING PROPOSED RULE:
Mr. Mark Robson

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Mr. Kenneth D. Haddad, Executive Director

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

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

BE ADVISED THAT THESE PROPOSED RULES MAY BE FILED FOR ADOPTION AS SOON AS POSSIBLE FOLLOWING THE COMMISSION MEETING AT WHICH THEY ARE CONSIDERED IF THE RULES ARE NOT CHANGED. IF CHANGED, THE RULES MAY BE FILED AS SOON AS POSSIBLE AFTER PUBLICATION OF A NOTICE OF CHANGE IN THE FAW.

DEPARTMENT OF FINANCIAL SERVICES

Division of State Fire Marshal

RULE CHAPTER TITLE:	RULE CHAPTER NO.:
Uniform Firesafety Standards For Educational Facilities	69A-58
RULE TITLES:	RULE NOS.:
Administration and General Requirements	69A-58.001
Scope	69A-58.002
Definitions	69A-58.003
Firesafety Inspections	69A-58.004
Serious Life Safety Hazards	69A-58.005
Inspections In General	69A-58.006
Counties, Municipalities, and Special Districts	
Having Firesafety Responsibilities,	
Without Firesafety Inspectors	69A-58.007
Standards and Requirements for Buildings;	
Exceptions to Rule Chapter 69A-60,	
the Florida Fire Prevention Code	69A-58.008
Florida Firesafety School Evaluation System	69A-58.009
Other Applicable Codes and Standards	69A-58.010

PURPOSE AND EFFECT: Update the firesafety codes and standards for educational facilities after experience in administering the rules currently in existence and after

extensive and continued consultation with the Department of Education and representatives from various school boards. In addition, these rulemaking proceedings include a substantial re-write of Rule 69A-58.008, F.A.C., to provide better organization and more clarity to the rule subjects. The effect of the rule development proceedings will be to adopt changes which will result in the administration of Sections 633.01(7), 633.022 and 1013.12, Florida Statutes, relating to educational facilities, in a more efficient and economic manner.

SUMMARY: These rule provide updated codes and standards for firesafety in educational facilities.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS: No Statement of Regulatory Costs was prepared.

Any person who wishes to provide information regarding the statement of 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: 633.01(7), 633.022, 1013.12 FS.

LAW IMPLEMENTED: 633.01(7), 633.022, 1013.12 FS.

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

TIME AND DATE: 8:00 a.m., June 1, 2005

PLACE: North Park Center, 6800 Dale Mabry Hwy., Conference Room 220, Tampa, FL 33614

TIME AND DATE: 8:00 a.m., June 2, 2005

PLACE: Room 116, Larson Building, 200 E Gaines Street, Tallahassee, FL

Pursuant to the provisions of the Americans with Disabilities Act and Section 286.26, F.S., any person requiring special accommodations to participate in this program please advise the department at least 5 calendar days before the program by contacting: Millicent King, (850)413-3619, Fax (850)922-2553.

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULES IS: Jim Goodloe, Chief, Bureau of Fire Prevention, 200 East Gaines Street, Tallahassee, FL 32399-0342, (850)413-3171, Fax (850)922-2553, e-mail: goodloej@dfs.state.fl.us

THE FULL TEXT OF THE PROPOSED RULES IS:

69A-58.001 Administration and General Requirements.

The division in consultation with the Department of Education hereby adopts firesafety rules for the use by boards and local fire officials when conducting firesafety inspections of new and existing buildings located in educational facilities, educational plants, ancillary plants, and auxiliary facilities to ensure the safety of occupants.

Specific Authority 1013.12 FS. Law Implemented 1013.12 FS. History--New 2-18-03, Formerly 4A-58.001, Amended _____.

69A-58.002 Scope: New and Existing Facilities.

(1) This rule chapter establishes uniform requirements to provide a reasonable degree of safety from fire in existing buildings located in educational facilities, educational plants, ancillary plants, and auxiliary facilities under a school board or a community college board of trustees' jurisdiction.

~~(2) Nothing in this rule chapter is intended to be more restrictive than a similar requirement for new construction.~~

~~(2)(3)~~ This rule chapter includes procedures for withdrawal of sites and facilities from use until unsafe conditions are corrected.

~~(3)(4)~~ These rules apply to charter schools built on school district property and to charter schools electing to be constructed to State Requirements for Educational Facilities, or Florida Building Code, Section 423 Standards, as provided in Sections 1002.33(16)(a)5. and 1002.33(18)(b), Florida Statutes. Charter schools that are not located on school district property and elect not to be constructed under State Requirements for Educational Facilities, or Florida Building Code, Section 423 Standards, shall meet the firesafety standards set forth in NFPA 1 and NFPA 101, the editions as adopted in Rules 69A-60.003 and 69A-60.004 Rule 69A-3-012, F.A.C.

~~(4)(5)~~ Existing educational and ancillary facilities shall comply with the applicable provisions in NFPA 101, the edition adopted in Rule 69A-60.004 69A-3-012, F.A.C., in the Florida Fire Prevention Code, except as modified by Chapter 1013, F.S., and this rule chapter.

EXCEPTION: NFPA 101, horizontal exits, which are referred to in subdivision 15-2.2.5, "and exit passageways, which are referred to in subdivision 15-2.2.7," are not permitted.

~~(5)(6)~~ New construction and new buildings are subject to and controlled by the Florida Edition of NFPA 1, 2003 edition, relating to "Educational occupancies" and the Florida Edition of NFPA 101, 2003 edition, Chapter 14, "New educational occupancies," except where specifically otherwise provided in this rule chapter Section 1013.38, F.S.; Notwithstanding any rule or adopted code or standard in conflict herewith, the following procedures apply with respect to new construction and new buildings:

1. Prior to commencement of any new construction or renovation, the authority having jurisdiction as defined in subsection 69A-58.003(2) shall approve the plans, drawings, designs, proposals, blueprints, and other construction or renovation documents and evaluate the same for complete compliance with the Florida Fire Prevention Code.

2.a. At least one time during construction as well as immediately prior to the issuance of a certificate of occupancy by the entity authorized to issue the certificate of occupancy for any new construction or renovation, the authority having jurisdiction as defined in subsection 69A-58.003(2), F.A.C., shall inspect or cause to be inspected the structure for complete compliance with the Florida Fire Prevention Code.

b. The authority having jurisdiction is permitted to perform an inspection of new construction or renovation as many times as he or she deems necessary to insure compliance with the Florida Fire Prevention Code.

c. A certificate of occupancy shall not be issued until the authority having jurisdiction has determined that the building or structure complies with the Florida Fire Prevention Code.

3. If any dispute arises between the authority having jurisdiction as defined in this rule chapter and the school district, such dispute shall be resolved in accordance with Rule 69A-60.007, F.A.C.

(6) Any time NFPA 101 refers to any other NFPA standard, the referenced standard shall be the edition adopted in Rule Chapter 69A-60 Rule 69A-3-012, F.A.C., the Florida Fire Prevention Code.

(7) These rules do not apply to any state-owned building.

Specific Authority 1013.12 FS. Law Implemented 1013.12 FS. History--New 2-18-03, Formerly 4A-58.002, Amended _____.

69A-58.003 Definitions.

As used in this rule chapter, the following definitions apply:

(1) "Ancillary plant" is comprised of the building, site, and site improvements necessary to provide such facilities as vehicle maintenance, warehouses, maintenance, or administrative buildings necessary to provide support services to an educational program.

(2) "Authority having jurisdiction" means the county, municipality, or special district having firesafety responsibility or, where the context requires, the State Fire Marshal, as referred to in Section 1013.12(2)(b), F.S.

(3) "Auxiliary facility" means the spaces located at educational plants which are not designed for student occupant stations.

(4) "Building" or "board building" means any building or structure located on, upon, or in any educational facility, educational plant, ancillary plant, or auxiliary facility owned, rented, leased, or under lease-purchase agreement or lease-purchase option with a board. "Building" includes any permanent, fixed, relocatable, and manufactured building or structure.

(5) "Division" means the Division of State Fire Marshal.

(6) "Educational facilities" means the buildings and equipment, structures, and special educational use areas that are built, installed, or established to serve primarily the educational purposes and secondarily the social and recreational purposes of the community and which may lawfully be used as authorized by the Florida Statutes and approved by the boards. As used in these rules and unless otherwise clearly indicated by the context, "educational facilities" includes each educational facility, educational plant, ancillary plant, and auxiliary facility and all buildings and structures contained therein.

(7) "Educational plant" comprises the educational facilities, site and site improvements necessary to accommodate students, faculty, administrators, staff, and the activities of the education program of each plant.

(8) "Existing" ~~facility~~ means a facility or building that has been issued a certificate of occupancy prior to the effective date of this edition of this rule chapter ~~occupied for one year or longer~~.

(9) "Florida Building Code" means the Florida Building Code as adopted in Rule 9B-3.047, F.A.C., adopted pursuant to Section 552.73, F.S.

(10) "Florida Fire Prevention Code" means the Florida Fire Prevention Code as adopted in Rule Chapter 69A-60 ~~69A-3.012~~, F.A.C.

(11) "Local fire official" or "fire official" means a firesafety inspector certified under Section 633.081(2), F.S., and employed by or under contract with a county, municipality, or special district having firesafety responsibilities, ~~and includes the chiefs of county, municipal, and special district fire departments~~. The term does not include a special state firesafety inspector employed by the board certified to conduct inspections of buildings as defined herein under Section 633.081(3), F.S.

(12) "New" facility means a facility that has not been occupied or issued a certificate of occupancy prior to the effective date of this edition of this rule chapter ~~for more than one year~~.

(13) "NFPA 101" means National Fire Protection Association Code 101, the Life Safety Code, the edition as adopted in Rule 69A-60.004 ~~69A-3.012~~, F.A.C.

(14) "Special district that has firesafety enforcement responsibilities" means a special fire control district or a special district which was created for the purposes of fire prevention, fire suppression, or fire protection.

(15) The definitions in Section 1013.01, F.S., of words and terms found in Section 1013.12, F.S., or of words or terms found in this rule chapter apply to this rule chapter.

Specific Authority 1013.12 FS. Law Implemented 1013.12 FS. History--New 2-18-03, Formerly 4A-58.003, Amended.

69A-58.004 Firesafety Inspections.

(1) There shall be two annual inspections of educational facilities, ancillary plants, and auxiliary facilities, as follows:

(a) Pursuant to Section 1013.12(1)(b), F.S., firesafety inspections of each building of each educational plant and each ancillary plant shall be made annually by a person certified by the division to conduct firesafety inspections of educational and ancillary plants pursuant to Section 633.081(3), F.S., which is permitted to ~~may~~ be an employee of the board.

(b) Pursuant to Section 1013.12(2)(b), F.S., each county, municipality, or special district having firesafety responsibilities shall, by and through a local firesafety inspector certified pursuant to Section 633.081(2), F.S.,

conduct at least one firesafety inspection of each building of each educational plant and each ancillary plant, whether owned or leased, each calendar year to determine compliance with this rule chapter.

(2) The inspections in subsection (1):

(a) Are applicable to all buildings owned, leased, or being lease-purchased by the board, including all permanent and relocatable buildings;

(b) Shall begin not sooner than one year after a new building has been occupied; and

(c) Shall be performed in accordance with any applicable code or standard, such as NFPA 101, the edition as adopted in Rule 69A-60.004 ~~69A-3.012~~, F.A.C., or any other applicable code or standard which has been adopted in this rule chapter; ~~and~~

~~(d) Are not applicable to new construction or new buildings. New construction and new buildings are subject to and controlled by Section 1013.38, F.S.~~

(3) Reports of the inspections in subsection (1) shall be filed with the local school board and the local site administrator.

(4) A plan and schedule for correction of any deficiency in the inspection report shall be developed by any firesafety inspector finding a deficiency in conjunction with the board and shall be adopted and complied with by the board.

(5) Each inspection report and plan of correction shall contain, at a minimum, the following information:

(a) The name of the school district or community college;

(b) The name of the local authority having jurisdiction (i.e., municipality, county, or special district);

(c) The name of the facility inspected;

(d) The type of facility inspected (i.e., K-5, 6-9, 10-12, CC, other);

(e) The facility address;

(f) The number of the facility as listed in the Florida Inventory of School Houses (FISH #);

(g) The name, address, and phone number of each inspector, and the designation of whether such inspector is a special firesafety inspector or a municipal firesafety inspector;

(h) The date of the inspection;

(i) Each violation or deficiency noted during the inspection, each violation or deficiency report shall contain:

1. The building name or number and, if applicable, the room number of the building in which the violation was noted;

2. A description of the violation or deficiency;

3. The specific code reference for the violation or deficiency;

~~4.3-~~The number of times this violation or deficiency has been cited, if applicable;

~~5.4-~~The estimated correction date;

~~6.5-~~The total number of violations or deficiencies cited not involving serious life safety hazards;

~~7.6.~~ The total number of violations or deficiencies cited involving serious life safety hazards;

~~8.7.~~ The date of the scheduled reinspection;

~~9.8.~~ A statement that the district has or has not complied with Section 1013.12(1)(c), F.S.;

~~10.9.~~ A statement that the local authority having jurisdiction has or has not complied with Section 1013.12(2)(c), F.S.;

~~11.10.~~ Verification that the required fire drills have been completed; and

~~12.11.~~ The signature of the district inspector if the inspection was made by the special inspector, or the signature of the local fire official if the inspection was made by the local fire official. If the inspection was made by both the special firesafety inspector and the local fire official, each one must sign.

(6) When the violation or deficiency has been corrected, the board sending the report required by paragraph (i) shall notify the division of such correction.

(7) The inspection reports in subsection (1) together with the plan and schedule for correction of any deficiency shall be submitted to the division by June 30, of each year.

(8) Nothing contained in these rules prohibits an authority having jurisdiction and a school board from entering into an agreement or an understanding which governs inspections, reviews, and approvals of new construction in the subject jurisdiction.

(9) Auxiliary Spaces. Auxiliary spaces within an educational plant, such as administrative suites, libraries, and food service areas, shall be considered as a mixed occupancy and shall be included in the annual fire inspections of existing facilities.

(10) Grandstands and Bleachers.

(a) Biennial inspections shall be performed in accordance with NFPA 102, Grandstands and Bleachers, the edition as adopted in Rule 69A-60.005, F.A.C.

(b) A Certificate of Inspection provided to the district by a structural engineer of all concrete, structural members, stadiums and bleachers, masonry, masonry veneers, metals, structural steel, and parking structures shall be on file in the district office, and shall be made available to the fire official upon request.

Specific Authority 1013.12 FS. Law Implemented 1013.12 FS. History--New 2-18-03, Formerly 4A-58.004, Amended _____.

69A-58.005 Serious Life Safety Hazards.

(1) Serious life safety hazards as set forth in Section 1013.12, F.S., and in paragraph (b), below, require prompt corrective action by the board or withdrawal of the educational or ancillary plants from use until corrected.

(2)(a) Serious life safety hazards include:

1. Non-functional fire alarm systems;
2. Non-functional fire sprinkler system;

3. Doors with padlocks or other locks or devices which preclude egress at any time;

4. Inadequate exits;

5. Hazardous electrical system conditions;

6. Potential structural failure;

7. Storage conditions that create a fire hazard.

(b) Other conditions may be identified to the division by the authority having jurisdiction for designation as a serious life safety hazard, including:

1. Placement of functional smoke and heat detectors in a manner not consistent with NFPA 72, the edition as adopted in Rule ~~69A-60.005~~ ~~69A-3-012~~, F.A.C.;

2. Inaccessible or expired fire extinguishers; and

3. Fire doors with doorstops or wedges holding them open.

(c) The criteria to be used by the division to determine whether such other condition shall be designated as a serious life safety hazard shall be either:

1. Those conditions located in Section 6.2, NFPA 101, the edition as adopted in Rule ~~69A-60.004~~ ~~69A-3-012~~, F.A.C., to wit:

a. The relative danger to the start and spread of fire,

b. The danger of smoke or gases generated, and

c. The danger of explosion or other occurrence potentially endangering the lives and safety of the occupants of the building or structure. Hazard of contents shall be determined by the authority having jurisdiction on the basis of the character of the contents and the processes or operations conducted in the building or structure. For the purposes of these rules, where different degrees or hazard of contents exist in different parts of a building or structure, the most hazardous shall govern the classification unless hazardous areas are separated or protected as specified in Section 8.4 and the applicable sections of Chapters 11 through 42 of NFPA 101, the edition as adopted in Rule ~~69A-60.004~~ ~~69A-3-012~~, F.A.C.; or

2. The criteria located in NFPA 1, ~~the Fire Prevention Code~~, Section 2-28.1, the edition as adopted in Rule ~~69A-60.003~~ ~~69A-3-012~~, F.A.C., for hazardous occupancies, to wit, the total amount of Class A combustibles and Class B flammables present, in storage, production, use, finished product, or combination thereof, is over and above those expected in occupancies classed as ordinary (moderate) hazard. Those occupancies could consist of woodworking, vehicle repair, cooking areas, product displays, and storage and manufacturing processes such as painting and coating, including flammable liquid handling. Also included is warehousing of or in-process storage of other than Class I and Class II commodities as defined by NFPA 13, *Standard for the Installation of Sprinkler Systems*, Section 10:1-5.3, the edition as adopted in Rule ~~69A-60.005~~ ~~69A-3-012~~, F.A.C.

Specific Authority 1013.12 FS. Law Implemented 1013.12 FS. History--New 2-18-03, Formerly 4A-58.005, Amended _____.

69A-58.006 Inspections in General.

(1) Each building inspected shall be accounted for on the inspection report.

(2) The board shall forward one copy of the completed inspection report to the division and retain one copy for its files.

(3) The board shall maintain with each yearly inspection report a list of corrected deficiencies from the prior fiscal year report.

(4) Remodeling and Renovation shall be performed in accordance with the requirements of the Florida Building Code Section 423.

~~(5) Returning Buildings to Use. Any existing building which has been removed from instructional use for more than 180 days shall be inspected for deficiencies, and remodeled, renovated, or have its deficiencies corrected in accordance with the new construction requirements of the Florida Building Code before returning it to instructional purposes.~~

~~(6) Abandoned Buildings. Board buildings no longer in use and abandoned shall be free of combustible waste and secured in such a manner as to prevent safety hazards, unlawful entry, and undue vandalism from occurring.~~

Specific Authority 1013.12 FS. Law Implemented 1013.12 FS. History—New 2-18-03, Formerly 4A-58.006, Amended _____.

69A-58.007 Counties, Municipalities, and Special Districts Having Firesafety Responsibilities, Without Firesafety Inspectors.

(1) Any county, municipality, or special district having firesafety responsibilities which does not yet employ or has not yet contracted with a firesafety inspector certified as required by ~~under~~ Section 633.081(1), F.S., to enforce the Florida Fire Prevention Code as required by Section 633.025(2), F.S., at the time of the adoption of this rule chapter is permitted to ~~may~~ contact the division and request that the division perform the inspections required by Section 1013.12, F.S., and this rule chapter and performed under Section 633.081(1), F.S.

(2) Upon receiving such request, the division shall perform the inspections required by this rule chapter during the period of time the county, municipality, or special district is not in compliance with Section 633.081(1), F.S., and does not employ or is not under contract with a firesafety inspector certified under Section 633.081(2)(4), F.S., not, however, to exceed one annual inspection per facility.

(3) Each such county, municipality, or special district having firesafety enforcement responsibilities shall, ~~if practicable,~~ employ or contract with a firesafety inspector certified under Section 633.081(2)(4), F.S., pursuant to the requirement of Section 633.081(1), F.S., within one year after the county, municipality, or special district first contacted the division requesting the division to perform the inspection to fulfill the obligation imposed by Section 633.025(2), F.S.

(4) No county, municipality, or special district having firesafety enforcement responsibilities which employs or contracts with a firesafety inspector as of the effective date of Section 1013.12, F.S., is authorized to request that the State Fire Marshal perform the inspections referred to in this section, and the State Fire Marshal shall not perform any inspection for such county, municipality, or special district having firesafety responsibilities.

(5) As provided in Section 633.081(1), F.S., each county, municipality, and special district that has firesafety enforcement responsibilities is permitted to provide a schedule of fees to pay for the costs of inspections conducted under that subsection and related administrative expenses.

Specific Authority 1013.12 FS. Law Implemented 1013.12 FS. History—New 2-18-03, Formerly 4A-58.007, Amended _____.

(Substantial rewording of Rule 69A-58.008 follows. See Florida Administrative Code for present text.)

69A-58.008 Standards and Requirements for Buildings; Exceptions to Rule Chapter 69A-60, the Florida Fire Prevention Code.

(1) Except as set forth in this rule chapter, educational facilities are subject to Rule Chapter 69A-60, Florida Administrative Code, the Florida Fire Prevention Code.

(2) The following standards and requirements pertain to educational facilities and are exceptions to Rule Chapter 69A-60, Florida Administrative Code. In the event of a conflict between this rule and Rule Chapter 69A-60, Florida Administrative Code, relating to educational facilities, the provisions of this rule chapter control standards and requirements for educational facilities.

(3) Darkroom Doors.

(a) In darkrooms with a capacity of 10 or more persons, a revolving darkroom door, if used, shall:

1. Have a pop-out safety feature; and

2. Be equipped with a remotely located side-hinged door for secondary egress.

(b) In darkrooms with a capacity of fewer than 10 people, a revolving darkroom door with a pop-out safety feature is permitted to be used as the primary means of egress.

(c) Revolving darkroom doors with a pop-out safety feature shall be conspicuously labeled.

(d) In buildings designed on or after October 18, 1994, the requirements of this section apply to darkrooms with an occupancy of 6 or more.

(4) Kilns.

(a) Kiln rooms and areas shall be provided with adequate exhaust to dispel emitted heat to the exterior.

(b) Kilns shall be located away from paths of egress or exits.

(c) Kilns shall be located in separate rooms when serving students through grade three.

(d) Kiln rooms shall be provided with automatic heat or smoke detection devices appropriate for the environment.

(5) Boilers shall comply with Chapter 554, Florida Statutes, and Rule Chapter 69A-51, F.A.C. A valid boiler inspection certificate of compliance issued by the State Fire Marshal shall be displayed and clearly visible.

(6) Relocatable buildings shall be separated as required by the Florida Building Code.

(a) Relocatable buildings shall be located to allow access by emergency vehicles to at least one elevation of each building as approved by the local fire fighting authority that services the site.

(b) EXCEPTION: Emergency vehicle access is permitted to be achieved for a cluster of relocatable buildings designed in accordance with the following. Vehicle access provided to within 200 feet of the entrance of the most remote relocatable unit and an independent fire alarm system with a manual pull station within 100' of each egress door provided the following conditions are met:

1. Maximum conditioned gross area of the units in a cluster is 12,000 square feet.

2. Minimum separation between individual units is 20 feet.

3. Nearest permanent building or cluster is 60 feet.

4. Maximum of 20% unprotected opening between adjacent wall spaces.

5. Minimum overhead open space within the perimeter of the cluster is 50 percent, and

6. Minimum setback for Type IV (non-combustible) relocatable buildings shall be as required by local zoning.

(7) Rule 69A-58.0086, F.A.C., Seclusion Time Out Rooms.

(a) Secured seclusion time-out rooms, when provided, shall be equipped with doors which allow egress at all times in the event of an emergency.

(b) Locking devices on secured seclusion time-out rooms are prohibited; provided that the division is permitted to approve the use of locking devices on secured seclusion time-out rooms if such locking devices meet the following criteria:

1. The use of a secured seclusion time-out room must be explicitly stated in the student's exceptional student educational (ESE) records and shall include parental consent for the use of a secured seclusion time-out room. The use of secured seclusion time-out rooms by the district must be expressly permitted by the action of the school board. Compliance with this section shall be certified by the school administrator or his or her designee.

2. Locking Device. An electro-magnetic locking device is the only approved device to secure a secured seclusion time-out room. The lock shall remain engaged only when the

human hand continuously depresses a push button mounted outside the secured seclusion time-out room within 12 inches of the doorframe.

a. Upon release of pressure, the door shall unlock. The locking device shall be designed so that it cannot be engaged by leverage of an inanimate object or in any manner except by constant human contact.

b. The push button shall be recessed from the face of the unit housing, or in some other way designed to prevent taping or wedging the button in the engaged mode.

c. The device shall have an interface with the fire alarm system and shall automatically release and disengage upon activation of the fire alarm. The locking device shall automatically release and disengage in the event of power failure.

d. A timer shall not be used on the locking device.

(c) Door Requirements. The door shall have only a push panel exposed on the interior of the room. A vision panel shall be provided in the door, and it shall be no larger than 12" x 12" (144) square inches. The view panel shall consist of clear one-quarter (1/4) inch thick unbreakable plastic panel, flush with the face of the door on the inside. The view panel shall be positioned in the door so that a staff member continuously keeps the student under observation. The view panel shall not be covered with any material.

(d) Finishes and materials. The ceiling, floor, and walls must be free of any loose, torn or potentially hazardous materials. All surfaces must be kept smooth and free of any hooks, outlets, switches or similar items. Construction materials shall meet all applicable provisions of the Florida Fire Prevention Code and the Florida Building Code. Each secured seclusion time-out room must be identified with a permanently mounted room number.

(e) All secured seclusion time-out rooms must have natural or mechanical ventilation.

(f) Students in a secured seclusion time-out room must be observed continuously by a teacher or trained staff member.

(g) Written records must be kept of each occasion when a secured seclusion time-out room is used and shall include date, time of occurrence, description of event, duration, and who placed and who observed the student while in the secured seclusion time-out room. Such records must be readily available for review and inspection.

(h) The division and the local fire official are permitted to conduct unannounced inspections of all secured seclusion time-out rooms to ensure compliance with this rule chapter. A written record of each inspection must be made and a copy must be provided to the school administrator or designee.

(i) During each unannounced inspection, the fire official is permitted to review logs, observe secured seclusion time-out rooms for compliance, interview teachers, review staff development activities, and conduct other activities as deemed appropriate to ensure compliance with this rule chapter.

(j) Permit Required.

(I) Any secured seclusion time-out room which is constructed following the effective date of this rule shall be allowed to become operational only after the issuance of a permit.

(II) Any secured seclusion time-out room which is in operation upon the effective date of this rule shall be allowed to continue in use provided a secured seclusion time-out room operational permit has been issued by the division or the local fire official.

(III) Each district or school wishing to use a secured seclusion time-out room shall apply to the local fire official for a permit to operate a secured seclusion time-out room.

(IV) All secured seclusion time-out rooms must be constructed and operated in accordance with this rule chapter.

(V) A permit shall be issued only after an inspection by the local fire official has determined that such secured seclusion time-out room has been designed and constructed in accordance with this rule chapter.

(VI) Application for a permit need not be on any specific form and is permitted to be in the form of a letter, a memorandum, or a similar document; however, the application must be signed by the school administrator or his or her designee and must include the district's name, the school's name, the school's address, and contact information which must designate the name and phone number of the contact person at the school who is permitted to be the school administrator or anyone designated by the school administrator. For the school's convenience, a form for an application for the operation of a secured seclusion time-out room which is permitted, but is not required, to be used can be obtained electronically from the web site www.fldfs.com/SFM/ or by contacting the local fire official.

(VII) If during any fire safety inspection, a secured seclusion time-out room is found in violation of this rule chapter, the local fire official shall immediately report the deficiency to the division in accordance with subsection 1013.12(5), Florida Statutes, and such violation shall be considered an immediate life threatening deficiency, and the secured seclusion time-out room shall be immediately withdrawn from use.

(VIII) Each permit shall be valid for a period of one year from the date of issue.

(IX) There shall be no fee for the issuance of the permit.

Specific Authority 1013.12 FS. Law Implemented 1013.12 FS. History--New 2-18-03, Formerly 4A-58.008, Amended _____.

69A-58.009 Florida Firesafety School Evaluation System.

(1) Any Florida school building which was initially occupied prior to January 1, 1985, is permitted to use the Florida Firesafety School Evaluation System originally dated September 19, 2000, and Amended June 28, 2001, which is located in Form DI4-1546, (Rev 10-02) and which is hereby adopted and incorporated by reference, in lieu of or as an alternative to the requirements of Rule 69A-58.008, F.A.C.

(2) The Florida Firesafety School Evaluation System, Form DI4-1546, may be obtained by writing to the Division of State Fire Marshal, Bureau of Fire Prevention, 200 East Gaines Street, Tallahassee, Florida 32399-0342.

(3) The Florida Firesafety School Evaluation System must be authorized by the local fire official prior to the implementation of any of its alternative code provisions; however, a local fire official is not permitted to prohibit the use of the Florida Firesafety School Evaluation System for any building which was initially occupied prior to January 1, 1985.

Specific Authority 1013.12 FS. Law Implemented 1013.12 FS. History--New 2-18-03, Formerly 4A-58.009, Repromulgated _____.

69A-58.010 Other Applicable Codes and Standards.

~~Except as otherwise provided in this rule chapter, the codes and standards adopted in Rules 69A-60.003, 69A-60.004 and 69A-60.005, F.A.C., which are not in conflict with any provision of this rule chapter are applicable to all buildings and structures to which this rule chapter is applicable.~~

Specific Authority 1013.12 FS. Law Implemented 1013.12 FS. History--New 2-18-03, Formerly 4A-58.010, Repealed _____.

NAME OF PERSON ORIGINATING PROPOSED RULE:
Jim Goodloe, Chief, Bureau of Fire Prevention, Division of State Fire Marshal, 200 East Gaines Street, Tallahassee, Florida 32399-0340

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Randall A. Napoli, Director, Division of State Fire Marshal, Department of Insurance

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

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

DEPARTMENT OF FINANCIAL SERVICES

Division of State Fire Marshal

RULE CHAPTER TITLE: Firefighter Death Benefits
RULE CHAPTER NO.: 69A-64

RULE TITLE: Adjustments to Reflect Consumer Price Index
RULE NO.: 69A-64.005

PURPOSE AND EFFECT: To adopt price level changes relating to firefighter death benefits in Section 112.191, Florida Statutes, for the year 2005-2006.

SUMMARY: This rule adopts new benefits for the one year period from July 1, 2005, through June 30, 2006, based on the Consumer Price Index, as required by Section 112.191, Florida Statutes.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS: No Statement of Regulatory Costs was prepared.

Any person who wishes to provide information regarding the statement of 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: 112.191 FS.

LAW IMPLEMENTED: 112.191 FS.

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

TIME AND DATE: 9:00 a.m., May 31, 2005

PLACE: Room 116, Larson Building, 200 East Gaines, Street, Tallahassee, Florida

In accordance with the Americans with Disabilities Act and Section 286.26, Florida Statutes, persons needing a special accommodation to participate in this meeting or workshop should contact Kimberly Riordan, (850)413-3607, no later than 48 hours prior to the meeting or workshop.

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Harriett Abrams, Assistant Director, Division of State Fire Marshal, 200 East Gaines Street, Tallahassee, Florida 32399-0340, (850)413-3170, Fax (850)922-1235

THE FULL TEXT OF THE PROPOSED RULE IS:

69A-64.005 Adjustments to Reflect Consumer Price Index.

(1) Section 112.191, F.S., requires that the Division adjust the statutory amount payable based on the Consumer Price Index for all urban consumers published by the United States Department of Labor. The adjustment is to be effective on July 1 of each year using the most recent month for which data is available as of the time of the adjustment.

(2) The amounts payable for the period from July 1, ~~2004~~ 2005 through June 30, ~~2006~~ 2005, using the Consumer Price Index for all urban consumers published by the United States Department of Labor for March, ~~2005~~ 2004, which is the most recent month for which data is available as of the time of the adjustment, are:

(a) For those benefits paid or to be paid under paragraph (a) of subsection (2) of Section 112.191, F.S.: ~~\$53,999.14~~ \$52,375.50.

(b) For those benefits paid or to be paid under paragraph (b) of subsection (2) of Section 112.191, F.S.: ~~\$53,999.14~~ \$52,375.50.

(c) For those benefits paid or to be paid under paragraph (c) of subsection (2) of Section 112.191, F.S.: ~~\$161,997.42~~ \$157,126.50.

~~(2) On or before July 1, 2003, and each year thereafter, the Division shall adopt by rule the Consumer Price Index adjustment for the next annual period, in accordance with the most recent Consumer Price Index available at the time of such adoption.~~

Specific Authority 112.191 FS. Law Implemented 112.191 FS. History—New 3-13-03, Amended 7-10-03, Formerly 4A-64.005, Amended 7-13-04,

NAME OF PERSON ORIGINATING PROPOSED RULE: Harriett Abrams, Assistant Director, Division of State Fire Marshal, 200 East Gaines Street, Tallahassee, Florida 32399-0340

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Randall A. Napoli, Director, Division of State Fire Marshal, Department of Insurance

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

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

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."

WATER MANAGEMENT DISTRICTS

Southwest Florida Water Management District

RULE NO.: 40D-4.021
RULE TITLE: Definitions

NOTICE OF CHANGE

Notice is hereby given in accordance with subparagraph 120.54(3)(d)1., F.S., that the following changes have been made to the proposed rule subsection 40D-4.021(11), F.A.C., published in Vol. 31, No. 9, March 4, 2005, issue of the Florida Administrative Weekly: