

## Section II Proposed Rules

### DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES

#### Division of Animal Industry

RULE CHAPTER TITLE: RULE CHAPTER NO.:

Dangerous Transmissible Diseases 5C-20

RULE TITLES: RULE NOS.:

Declaration; Requirement to Report 5C-20.002

Requirement to Report Suspicious

Disease Incidents 5C-20.004

**PURPOSE AND EFFECT:** The purpose and effect of the rule change is to include prevalent, emerging and increasingly re-emerging animal affecting diseases to the list of diseases reportable to the State Veterinarian in order to prevent, control and eradicate certain infectious or communicable diseases of livestock and other domestic animals, ensuring the health, safety and welfare of the public, livestock and food production animals from illness and subsequent economic disaster.

**SUMMARY:** This rule modifies the list of diseases reportable to the State Veterinarian.

**SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS:** 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 within 21 days of this notice.

**SPECIFIC AUTHORITY:** 585.002(3), 585.15 FS.

**LAW IMPLEMENTED:** 585.15 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:** 4:00 p.m., July 8, 2005

**PLACE:** Department of Agriculture and Consumer Services, Division of Animal Industry, Conference Rm. 316, 407 S. Calhoun St., Tallahassee, FL 32399-0800

**THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULES IS:** Dr. Thomas J. Holt, State Veterinarian, Director, Division of Animal Industry, Rm. 330, 407 S. Calhoun St., Tallahassee, FL 32399-0800, (850)410-0900, Fax (850)410-0915

**THE FULL TEXT OF THE PROPOSED RULES IS:**

(Substantial rewording of Rule 5C-21.002 follows. See Florida Administrative Code for present text.)

5C-20.002 Declaration; Requirement to Report.

Each of the following pests or diseases is declared to be a dangerous, transmissible pest or disease of animals and to constitute an animal and/or public health risk. Any person who

has knowledge of, or suspects, the existence of any of the following diseases or pests in the state shall immediately report suspicions or findings to the State Veterinarian (office hours: (850)410-0900; fax: (850)410-0915; after hours: 1(800)342-5869; email: rad@doacs.state.fl.us).

1. African Horse Sickness

2. African Swine Fever

3. Anthrax

4. Avian Influenza

5. Bont Tick infestation (Amblyomma)

6. Bovine Piroplasmiasis (Cattle Tick Fever)

7. Bovine Spongiform Encephalopathy

8. Brucellosis

9. Southern Cattle Tick infestation (Boophilus)

10. Chlamydiosis (Psittacosis, Ornithosis)

11. Classical Swine Fever

12. Chronic Wasting Disease

13. Contagious Bovine or Caprine Pleuropneumonia

14. Contagious Equine Metritis

15. Dourine

16. Equine Encephalitis (Eastern, Western, Venezuelan, or West Nile Virus)

17. Equine Infectious Anemia

18. Equine Piroplasmiasis (Horse Tick Fever)

19. Equine Viral Arteritis

20. Exotic Newcastle Disease

21. Foot and Mouth Disease

22. Glanders

23. Heartwater

24. Infectious Bronchitis

25. Laryngotracheitis

26. Lumpy skin Disease

27. Mycoplasmosis (poultry)

28. Peste des Petits Ruminants

29. Pseudorabies (Aujeszky's Disease)

30. Pullorum Disease

31. Rabies

32. Rift Valley Fever

33. Rinderpest

34. Salmonella enteritidis

35. Scabies (sheep or cattle)

36. Scrapie (sheep or goats)

37. Screwworm infestation

38. Sheep and Goat Pox

39. Strangles

40. Spring Viremia of Carp

41. Swine Vesicular Disease

42. Tropical Horse Tick Infestation (Demacentor nitens)

43. Tuberculosis

44. Vesicular Exanthema

45. Vesicular Stomatitis

Specific Authority 585.002(3), 585.15 FS. Law Implemented 585.15 FS. History—New 10-15-84, Formerly 5C-20.02, Amended 6-1-92, 5-15-95.

**5C-20.004 Requirement to Report Suspicious Disease Incidents.**

Any person who has knowledge of, or suspects, the existence of any other serious animal disease or pest in the state which may be a foreign or a newly-emerging disease that might result in serious animal loss, economic damage, or is suspected of causing human disease, should immediately report suspicions or findings to the State Veterinarian (office hours: (850)410-0900; fax: (850)410-0915; after hours: 1(800)342-5869; email: rad@doacs.state.fl.us).

Specific Authority 585.002(3), 585.15 FS. Law Implemented 585.15 FS. History—New \_\_\_\_\_.

NAME OF PERSON ORIGINATING PROPOSED RULE: Dr. Thomas J. Holt, State Veterinarian, Director, Department of Agriculture and Consumer Services, Division of Animal Industry, Rm. 330, 407 S. Calhoun St., Tallahassee, FL 32399-0800, (850)410-0900, Fax (850)410-0915

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Dr. Thomas J. Holt, State Veterinarian, Director, Department of Agriculture and Consumer Services, Division of Animal Industry, Rm. 330, 407 S. Calhoun St., Tallahassee, FL 32399-0800, (850)410-0900, Fax (850)410-0915

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: April 27, 2005

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: May 20, 2005

**DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES**

**Division of Aquaculture**

RULE CHAPTER TITLE: Comprehensive Shellfish

RULE CHAPTER NO.:

Control Code

5L-1

RULE TITLE:

RULE NO.:

Shellfish Harvesting Area Standards

5L-1.003

PURPOSE AND EFFECT: This amendment proposes to change the seasons for the summer and winter shellfish harvesting areas of Apalachicola Bay, Franklin County, and amend the Indian Lagoon shellfish harvesting area, Gulf County. This amendment further proposes to reclassify shellfish harvesting area #1632 of Apalachicola Bay also known as Big Bayou.

SUMMARY: The current management of the Indian Lagoon Conditionally Approved shellfish harvesting areas is seasonal and is based on local rainfall and/or river discharge. The proposed amendment would not affect the management plan of the Indian Lagoon Conditionally Approved shellfish harvesting areas. The proposed amendment would change only the name of the summer harvesting area to Indian Lagoon

Conditionally Approved Summer. The current management of the Apalachicola Bay System shellfish harvesting areas is seasonal and is based on local rainfall and/or river discharge. The current season for the Apalachicola Bay System approved Winter, Apalachicola Bay System conditionally approved West 1 Zone Winter, Apalachicola Bay System conditionally approved West 2 Zone Winter, Apalachicola Bay System conditionally approved West 3 Zone Winter, Apalachicola Bay System conditionally approved East Zone Winter, Apalachicola Bay System conditionally restricted Winter, and Apalachicola Bay System prohibited Winter is from October 1 – June 30. The proposed amendment would change the season to September 1 – May 31. The current management of the Apalachicola Bay System Conditionally Approved West 3 Zone Winter is based on local rainfall and river discharge. The proposed amendment would create a management based on local rainfall only. The current season for the Apalachicola Bay System approved Summer, Apalachicola Bay System approved East Hole Summer, Apalachicola Bay System conditionally approved North Summer, Apalachicola Bay System conditionally approved South Summer, Apalachicola Bay System conditionally restricted Summer, Apalachicola Bay System prohibited Summer, and Shellfish lease numbers 525, 551, 551B, 580, 582, 609, 672, and 981 is from July 1 – September 30. The proposed amendment would change the season to June 1 – August 31.

These amendments place descriptions, references to shellfish harvesting area map numbers and operating criteria for the Apalachicola Bay shellfish harvesting area (#16) and Indian Lagoon shellfish harvesting area (#15) in the document Shellfish Harvesting Area Classification Boundaries and Management Plans. This document is hereby incorporated in subsection 5L-1.003(1), F.A.C.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COST: There is no anticipated regulatory cost.

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. Proposed effective date is September 1, 2005.

SPECIFIC AUTHORITY: 597.020 FS.

LAW IMPLEMENTED: 597.020 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:

TIME AND DATE: 10:00 a.m., Monday, July 11, 2005

PLACE: 1203 Governors Square Boulevard, 5th Floor, Tallahassee, Florida

If accommodation for a disability is needed to participate in this activity, please notify Chris Brooks, Division of Aquaculture, (850)488-4033, at least seven days before the meeting.

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Chris Brooks, Division of Aquaculture, 1203 Governor's Square Boulevard, 5th Floor, Tallahassee, Florida 32301, (850)488-4033

THE FULL TEXT OF THE PROPOSED RULE IS:

5L-1.003 Shellfish Harvesting Area Standards.

(1) The Department shall describe and/or illustrate harvesting areas and provide harvesting area classifications as approved, conditionally approved, restricted, conditionally restricted, prohibited, or unclassified as defined herein, including criteria for opening and closing shellfish harvesting areas in accordance with Chapters II and IV of the National Shellfish Sanitation Program Model Ordinance. Copies of the document Shellfish Harvesting Area Classification Maps, revised ~~September 28, 2004~~, and the document Shellfish Harvesting Area Classification Boundaries and Management Plans, revised ~~September 28, 2004~~, containing shellfish harvesting area descriptions, references to shellfish harvesting area map numbers, and operating criteria herein incorporated by reference may be obtained by writing to the Department at 1203 Governor's Square Boulevard, 5th Floor, Tallahassee, Florida 32301.

(2) through (10) No change.

Specific Authority 597.020 FS. Law Implemented 597.020 FS. History--New 1-4-87, Amended 8-10-88, 7-9-89, 12-23-91, Formerly 16R-7.004, Amended 7-3-95, 6-18-97, 7-1-97, 7-22-97, 10-12-97, 12-16-97, 12-28-97, 2-12-98, 2-25-98, 7-1-98, 7-20-98, 11-13-98, 12-28-98, 3-18-99, 7-1-99, Formerly 62R-7.004, Amended 6-19-00, 8-9-00, 10-14-01(1), 10-14-01(1), 8-17-04, 9-28-04, \_\_\_\_\_.

NAME OF PERSON ORIGINATING PROPOSED RULE: Chris Brooks

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Sherman Wilhelm, Director, Division of Aquaculture

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

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

AREA

NUMBER HARVEST AREA NAME

0212 Pensacola Bay Conditionally Approved Escambia Bay Shellfish Aquaculture Lease Areas managed during the Summer months of Jul-Sep

0222 Pensacola Bay Conditionally Approved Escambia Bay

0232 Pensacola Bay Conditionally Approved East Bay

0216 Pensacola Bay Conditionally Restricted Escambia Bay

0226 Pensacola Bay Conditionally Restricted East Bay

0622 Choctawhatchee Bay Conditionally Approved Central

0632 Choctawhatchee Bay Conditionally Approved Eastern

0806 West Bay Conditionally Restricted Spring/Fall Apr-Jun, Oct-Nov

0812 West Bay Conditionally Approved Winter Dec-Mar

0822 West Bay Conditionally Approved Spring/Fall Apr-Jun, Oct-Nov

1012 North Bay Conditionally Approved Western

1022 North Bay Conditionally Approved Eastern

1006 North Bay Conditionally Restricted Eastern

1206 East Bay Conditionally Restricted

1212 East Bay Conditionally Approved Section 1

1222 East Bay Conditionally Approved Section 2

1401 St. Joe Bay Approved

1506 Indian Lagoon Conditionally Restricted

1512 Indian Lagoon Conditionally Approved Spring/Fall Mar-Jun, Oct

1542 Indian Lagoon Conditionally Approved Zone A Winter Nov-Feb

1552 Indian Lagoon Conditionally Approved Zone B Winter Nov-Feb

1572 Indian Lagoon Conditionally Approved ~~Summer Shellfish Aquaculture Lease Areas 547 and 901 managed during the months of Jul-Sep~~

1611 Apalachicola Bay Approved Winter Jan-~~May Jun, Sept Oct-Dec~~

1621 Apalachicola Bay Approved Summer ~~Jul June-Aug Sep~~

1631 Apalachicola Bay Approved, Shellfish lease numbers 525, 551, 551B, 580, 582, 609, 672, and 981 Summer ~~June Jul-Aug Sep~~

1612 Apalachicola Bay Conditionally Approved West 1 Winter Jan-~~May Jun, Sept Oct-Dec~~

1622 Apalachicola Bay Conditionally Approved West 2 Winter Jan- ~~May Jun, Sept Oct-Dec~~

1632 Apalachicola Bay Conditionally Approved West 3 Winter Jan-~~May Jun, Sept Oct-Dec~~

1642 Apalachicola Bay Conditionally Approved East Winter Jan-~~May Jun, Sept Oct-Dec~~ or Apalachicola Bay Approved East Hole Summer ~~June Jul-Aug Sep~~

1652 Apalachicola Bay Conditionally Approved North Summer ~~June Jul-Aug Sep~~

1662 Apalachicola Bay Conditionally Approved South Summer ~~June Jul-Aug Sep~~

1606 Apalachicola Bay Conditionally Restricted

1802 Alligator Harbor Conditionally Approved

2002 Ochlockonee Bay Conditionally Approved

2006 Ochlockonee Bay Conditionally Restricted

2206 Wakulla County Conditionally Restricted

2212	Wakulla County Conditionally Approved Zone 1 Winter	6222	Pine Island Sound Conditionally Approved Eastern Section
2222	Wakulla County Conditionally Approved Zone 2 Winter	6602	Ten Thousand Islands Conditionally Approved
2232	Wakulla County Conditionally Approved Zone 1 Spring	7001	Indian River/St. Lucie Approved
2242	Wakulla County Conditionally Approved Zone 2 Spring	7006	Indian River/St. Lucie Restricted
2501	Horseshoe Beach Approved Summer Apr-Sep	7202	North Indian River Conditionally Approved
2502	Horseshoe Beach Conditionally Approved Winter Oct-Mar	7206	North Indian River Conditionally Restricted
2506	Horseshoe Beach Conditionally Restricted Winter Oct-Mar	7412	Body F Conditionally Approved
2802	Suwannee Sound Conditionally Approved	7416	Body F Conditionally Restricted
2806	Suwannee Sound Conditionally Restricted	7506	Body E Conditionally Restricted
3012	Cedar Key Conditionally Approved Zone A	7602	Body D Conditionally Approved
3022	Cedar Key Conditionally Approved Zone B	7606	Body D Conditionally Restricted
3006	Cedar Key Conditionally Restricted	7712	Body C Conditionally Approved Zone 1 Spring/Summer/Fall Mar-Nov
3202	Waccasassa Bay Conditionally Approved	7722	Body C Conditionally Approved Zone 2 Spring/Summer/Fall Mar-Nov
3206	Waccasassa Bay Conditionally Restricted	7732	Body C Conditionally Approved Winter Dec-Feb
3402	Withlacoochee Bay Conditionally Approved	7716	Body C Conditionally Restricted Winter Dec-Feb
3406	Withlacoochee Bay Conditionally Restricted	7726	Body C Conditionally Restricted Spring/Summer/Fall Mar-Nov
3702	Citrus County Conditionally Approved	7802	Body B Conditionally Approved
3706	Citrus County Conditionally Restricted	7902	South Banana River Conditionally Approved
4202	Boca Ciega Bay Conditionally Approved	7906	South Banana River Conditionally Restricted
4802	Lower Tampa Bay Conditionally Approved	8001	Body A Approved
5402	Sarasota Bay Conditionally Approved	8005	Body A Restricted
5602	Lemon Bay Conditionally Approved	8201	South Volusia Approved
5802	Gasparilla Sound Conditionally Approved	8212	South Volusia Conditionally Approved Zone 1
6002	Myakka River Conditionally Approved	8222	South Volusia Conditionally Approved Zone 2
6006	Myakka River Conditionally Restricted	8206	South Volusia Conditionally Restricted
6212	Pine Island Sound Conditionally Approved Western Section	8802	St. Johns South Conditionally Approved
		8806	St. Johns South Conditionally Restricted
		9202	St. Johns North Conditionally Approved
		9206	St. Johns North Conditionally Restricted

INDEX OF SHELLFISH HARVESTING AREA  
CLASSIFICATION MAPS, BOUNDARIES AND MANAGEMENT PLANS  
Revised \_\_\_\_\_ September 28, 2004

Shellfish Harvesting Area			
Name	Area Number	Map Number(s)	Effective date
Apalachicola Bay System	16	16A, 16B	<del>August 17, 2004</del> August 17, 2004
Alligator Harbor	18	18	October 14, 2001
Boca Ciega Bay	42	42	June 18, 1997
Body A	80	80	December 28, 1997
Body B	78	78	February 7, 1996
Body C	77	77A, 77B	January 1, 1994
Body D	76	76	August 1, 1996
Body E	75	75	January 1, 1994
Body F	74	74	April 5, 2000
Cedar Key	30	30	November 5, 1992
Choctawhatchee Bay	06	06	October 14, 2001
Citrus County	37	37	May 6, 1996
Duval County	96	96	January 31, 1996
East Bay	12	12	January 1, 1995
Gasparilla Sound	58	58	January 25, 1996
Horseshoe Beach	25	25A, 25B	March 18, 1999
Indian Lagoon	15	15A, 15B, <del>15C</del>	<del>August 17, 2004</del> August 17, 2004
Indian River/St. Lucie Counties	70	70	June 18, 1997
Lemon Bay	56	56	July 20, 1998
Lower Tampa Bay	48	48	June 18, 1997
Myakka River	60	60	October 28, 1998
North Bay	10	10	August 17, 2004
North Indian River	72	72	June 18, 1997
North St. Johns	92	92	January 1, 1995
Ochlockonee Bay	20	20	August 17, 2004
Pensacola Bay System	02	02	August 17, 2004
Pine Island Sound	62	62	December 28, 1998
Sarasota Bay	54	54	May 6, 1993
South Banana River	79	79	July 22, 1997
South St. Johns	88	88	December 16, 1997
South Volusia	82	82A, 82B	August 9, 2000
St. Joseph Bay	14	14	November 1986
Suwannee Sound	28	28	February 25, 1998
Ten Thousand Islands	66	66	June 18, 1997
Waccasassa Bay	32	32	November 5, 1992
Wakulla County	22	22A, 22B	August 17, 2004
West Bay	08	08A, 08B	December 28, 1998
Withlacoochee Bay	34	34	November 5, 1992



~~Distribution Center at (850)488-8422; or, 4) writing the Florida Department of Revenue, Distribution Center, 168 Blountstown Highway, Tallahassee, Florida 32304; or, 5) 2) faxing the Distribution Center at (850)922-2208; or, 3) using a fax machine telephone handset to call the Department's automated Fax on Demand system at (850)922-3676; or, 4) visiting any local Department of Revenue Service Center to personally obtain a copy; or, 5) calling the Forms Request Line during regular office hours at (800)352-3671 (in Florida only) or (850)488-6800; or, 6) downloading the appropriate Sales Tax Bracket Cards from the Department's Internet site at the address shown inside the parentheses (www.myflorida.com/dor/taxes).~~ Persons with hearing or speech impairments may call the Department's TDD at (800)367-8331.

~~(b) For information regarding sales tax bracket effective for transactions in counties imposing discretionary sales surtaxes, see Rule 12A-15.002, F.A.C.~~

Specific Authority 212.12(11), 212.17(6), 212.18(2), 213.06(1) FS. Law Implemented 212.03(1)(3),(6), 212.031(1)(c),(d), 212.04(1), 212.05(1), 212.08(3), 212.12(9),(11) FS. History—Revised 10-7-68, 6-16-72, Amended 9-24-81, 7-20-82, Formerly 12A-1.04, Amended 12-13-88, 8-10-92, 3-17-93, 12-13-94, 3-20-96, 6-19-01, \_\_\_\_\_.

#### 12A-1.044 Vending Machines.

(1) No change.

(2) All sales made through vending machines of food, beverages, or other items are taxed in the manner provided in Section and at the rates established in s. 212.0515(2), F.S., except as provided in paragraphs (a)-(c). See subsection (2) of Rule 12A-15.011, F.A.C., for the effective tax rates for sales made through vending machines in counties imposing a discretionary sales surtax.

(a) through (c) No change.

(3) through (8) No change.

Specific Authority 212.0515, 212.17(6), 212.18(2), 213.06(1) FS. Law Implemented 212.02(10)(g),(14),(15),(16),(19),(24), 212.031, 212.05(1)(h), 212.0515, 212.054(1),(2),(3)(l), 212.055, 212.07(1),(2), 212.08(1),(7),(8), 212.11(1), 212.12(2),(3),(4),(9), 212.18(2),(3) FS. History—Revised 10-7-68, 6-16-72, 1-10-78, Amended 7-20-82, Formerly 12A-1.44, Amended 12-13-88, 5-11-92, 3-17-93, 9-14-93, 12-13-94, 3-20-96, 7-1-99, 6-19-01, \_\_\_\_\_.

NAME OF PERSON ORIGINATING PROPOSED RULE: Janet L. Young, Tax Law Tax Specialist, Technical Assistance and Dispute Resolution, Department of Revenue, P. O. Box 7443, Tallahassee, Florida 32314-7443, (850)922-9407, e-mail: youngj@dor.state.fl.us

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Charles Strausser, Revenue Program Administrator II, Technical Assistance and Dispute Resolution, Department of Revenue, P. O. Box 7443, Tallahassee, Florida 32314-7443, (850)922-4746

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

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: The proposed amendments to Rule Chapter 12A-1, F.A.C. (Sales and Use Tax), were noticed for a rule development workshop in the Florida Administrative Weekly on February 25, 2005 (Vol. 31, No. 8, pp. 734-736). A rule development workshop was held on March 15, 2005. No one appeared to provide comment regarding these proposed rule changes. No written comments have been received by the Department.

## DEPARTMENT OF REVENUE

### Sales and Use Tax

RULE TITLES:	RULE NOS.:
Scope of Rules	12A-15.001
Surtax Sales Brackets	12A-15.002
The Sale of Food, Drink, and Tangible Personal Property at Concession Stands	12A-15.010
Coin-Operated Amusement and Vending Machines, and Other Devices	12A-15.011
Alcoholic and Malt Beverages	12A-15.012

PURPOSE AND EFFECT: The purpose of the proposed amendments to Rule 12A-15.001, F.A.C. (Scope of Rules), is to update the information on how to obtain a list of counties levying a discretionary sales surtax from the Department.

The purpose of the proposed amendments to Rule 12A-15.002, F.A.C. (Surtax Sales Brackets), is to remove the sales tax bracket amounts that are provided on the Department's Internet site pursuant to the provisions of Section 212.12(11), F.S., and to update the information on how to obtain sales tax rate schedules and cards from the Department.

The purpose of the proposed amendments to Rule 12A-15.010, F.A.C. (The Sale of Food, Drink, and Tangible Personal Property at Concession Stands), is to provide the applicable divisor rates for counties imposing discretionary sales surtax at the rates of 1/4 percent and 1 1/4 percent for purposes of computing sales tax, plus surtax, due on sales by concessionaires at arenas, auditoriums, carnivals, fairs, stadiums, theaters, and similar places of business.

The purpose of the proposed amendments to Rule 12A-15.011, F.A.C. (Coin-Operated Amusement and Vending Machines, and Other Devices), is to provide the divisors for counties that impose no surtax and counties that impose a discretionary sales surtax for purposes of computing the amount of sales tax, plus surtax, due on sales of food, beverages, and other items of tangible personal property made through vending machines and on charges for the use of amusement machines.

The purpose of the proposed amendments to Rule 12A-15.012, F.A.C. (Alcoholic and Malt Beverages), is to provide the applicable divisor rates for counties imposing discretionary sales surtax at the rates of 1/4 percent and 1 1/4 percent to be used for purposes of computing sales tax, plus surtax, due on sales of alcoholic beverages.

**SUMMARY:** The proposed amendments to Rule 12A-15.001, F.A.C. (Scope of Rules), provide current information on how to obtain a list of counties levying a discretionary sales surtax from the Department.

The proposed amendments to Rule 12A-15.002, F.A.C. (Surtax Sales Brackets), remove the sales tax bracket amounts that are provided on the Department's Internet site pursuant to the provisions of Section 212.12(11), F.S., and update the information on how to obtain sales tax rate schedules and cards from the Department.

The proposed amendments to Rule 12A-15.010, F.A.C. (The Sale of Food, Drink, and Tangible Personal Property at Concession Stands), provide the applicable divisor rates for counties imposing discretionary sales surtax at the rates of 1/4 percent and 1 1/4 percent for purposes of computing sales tax, plus surtax, due on sales by concessionaires at arenas, auditoriums, carnivals, fairs, stadiums, theaters, and similar places of business.

The proposed amendments to Rule 12A-15.011, F.A.C. (Coin-Operated Amusement and Vending Machines, and Other Devices), provide the divisors for counties that impose no surtax and counties that impose a discretionary sales surtax for purposes of computing the amount of sales tax, plus surtax, due on sales of food, beverages, and other items of tangible personal property made through vending machines and on charges for the use of amusement machines.

The proposed amendments to Rule 12A-15.012, F.A.C. (Alcoholic and Malt Beverages), provide the applicable divisor rates for counties imposing discretionary sales surtax at the rates of 1/4 percent and 1 1/4 percent to be used for purposes of computing sales tax, plus surtax, due on sales of alcoholic beverages.

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

Any person who wishes to provide information regarding 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:** 212.05(1)(h), 212.0515, 212.07(2), 212.12(11), 212.17(6), 212.18(2), 213.06(1) FS.

**LAW IMPLEMENTED:** 212.02(16),(24), 212.05(1)(h), 212.0515, 212.054, 212.055, 212.07(2),(4), 212.08(4), 212.12(9),(10),(11), 212.15(1),(4), 212.18(3) FS.

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

**TIME AND DATE:** 9:00 a.m., July 13, 2005

**PLACE:** Room 118, Carlton Building, 501 S. Calhoun Street, Tallahassee, Florida

**NOTICE UNDER THE AMERICANS WITH DISABILITIES ACT:** Any person requiring special accommodations to participate in any rulemaking proceeding before Technical Assistance and Dispute Resolution is asked to advise the

Department at least 48 hours before such proceeding by contacting Larry Green at (850)922-4830. Persons with hearing or speech impairments may contact the Department by using the Florida Relay Service, 1(800)955-8770 (Voice) and 1(800)955-8771 (TDD).

**THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULES IS:** Janet L. Young, Tax Law Specialist, Technical Assistance and Dispute Resolution, Department of Revenue, P. O. Box 7443, Tallahassee, Florida 32314-7443, (850)922-9407, e-mail: youngj@dor.state.fl.us

**THE FULL TEXT OF THE PROPOSED RULES IS:**

12A-15.001 Scope of Rules.

(1) No change.

(2) The list of counties levying the surtax is subject to frequent revision. An up-to-date listing of counties levying the surtax is available, without cost, by one or more of the following methods: 1) downloading the appropriate Sales Tax Bracket Cards from the Department's Internet site at [www.myflorida.com/dor/taxes](http://www.myflorida.com/dor/taxes); or, 2) faxing a forms request to the Distribution Center at (850)922-2208; 3) calling the Distribution Center at (850)488-8422; or, 4) writing the Florida Department of Revenue, Distribution Center, 168A Blountstown Highway, Tallahassee, Florida 32304; or, 5) ~~faxing the Distribution Center at (850)922-2208; or, 3) using a fax machine telephone handset to call the Department's automated Fax On Demand system at (850)922-3676; or, 4) visiting any local Department of Revenue Service Center to personally obtain a copy; or, 5) calling the Forms Request Line during regular office hours at (800)352-3671 (in Florida only) or (850)488-6800; or, 6) downloading selected forms from the Department's Internet site at the address shown inside the parentheses ([www.myflorida.com/dor](http://www.myflorida.com/dor)).~~ Persons with hearing or speech impairments may call the Department's TDD at (800)367-8331.

Specific Authority 212.17(6), 212.18(2), 213.06(1) FS. Law Implemented 212.054(2),(4) FS. History--New 12-11-89, Amended 11-16-93,\_\_\_\_\_.

12A-15.002 Surtax Sales Brackets.

~~(1) SALES GREATER THAN \$5,000. On taxable transactions in which the sales price for any item of tangible personal property exceeds \$5,000, the first \$5,000 of sales price is subject to the appropriate bracket charges as provided in this rule section. The amount of sales price in excess of \$5,000 for any item of tangible personal property is taxed at 6%.~~

~~(2) 1/2% DISCRETIONARY SALES SURTAX:~~

~~(a) When the rate of the surtax is 1/2%, the following effective tax brackets are applicable to all taxable transactions occurring in a taxing county that otherwise would have been taxable at the rate of 6%. For taxable sales in the amounts of more than \$2.09, 13 cents is to be charged on each \$2 of price, plus the tax amount due on any fractional part of \$2.~~



Amount of Sale	Tax	Amount of Sale	Tax
<del>.10—.15</del>	<del>.01</del>	<del>1.08—1.23</del>	<del>.08</del>
<del>.16—.30</del>	<del>.02</del>	<del>1.24—1.38</del>	<del>.09</del>
<del>.31—.46</del>	<del>.03</del>	<del>1.39—1.53</del>	<del>.10</del>
<del>.47—.61</del>	<del>.04</del>	<del>1.54—1.69</del>	<del>.11</del>
<del>.62—.76</del>	<del>.05</del>	<del>1.70—1.84</del>	<del>.12</del>
<del>.77—.92</del>	<del>.06</del>	<del>1.85—2.09</del>	<del>.13</del>
<del>.93—1.07</del>	<del>.07</del>		

(b) When the rate of the surtax is 1/2%, the following effective tax brackets are applicable to all taxable transactions occurring in a taxing county that otherwise would have been taxable at the rate of 7%. For taxable sales in the amounts of more than \$2.09, 15 cents is to be charged on each \$2 of price, plus the tax amount due on any fractional part of \$2.

Amount of Sale	Tax	Amount of Sale	Tax
<del>.10—.13</del>	<del>.01</del>	<del>1.07—1.20</del>	<del>.09</del>
<del>.14—.26</del>	<del>.02</del>	<del>1.21—1.33</del>	<del>.10</del>
<del>.27—.40</del>	<del>.03</del>	<del>1.34—1.46</del>	<del>.11</del>
<del>.41—.53</del>	<del>.04</del>	<del>1.47—1.60</del>	<del>.12</del>
<del>.54—.66</del>	<del>.05</del>	<del>1.61—1.73</del>	<del>.13</del>
<del>.67—.80</del>	<del>.06</del>	<del>1.74—1.86</del>	<del>.14</del>
<del>.81—.93</del>	<del>.07</del>	<del>1.87—2.09</del>	<del>.15</del>
<del>.94—1.06</del>	<del>.08</del>		

(c) When the rate of the surtax is 1/2%, the following effective tax brackets are applicable to all taxable transactions occurring in a taxing county that otherwise would have been taxable at the rate of 2.5%. For taxable sales in the amounts of more than \$1, 3 cents is to be charged on each \$1 of price, plus the tax amount due on any fractional part of \$1.

Amount of Sale	Tax
<del>.10—.35</del>	<del>.01</del>
<del>.36—.65</del>	<del>.02</del>
<del>.66—1.00</del>	<del>.03</del>

### (3) 3/4% DISCRETIONARY SALES SURTAX.

(a) When the rate of the surtax is 3/4%, the following effective tax brackets are applicable to all taxable transactions occurring in a taxing county that otherwise would have been taxable at the rate of 6%. For taxable sales in the amounts of more than \$1.03, 7 cents is to be charged on each \$1 of price, plus the tax amount due on any fractional part of \$1.

Amount of Sale	Tax	Amount of Sale	Tax
<del>.10—.14</del>	<del>.01</del>	<del>.60—.74</del>	<del>.05</del>
<del>.15—.29</del>	<del>.02</del>	<del>.75—.88</del>	<del>.06</del>
<del>.30—.44</del>	<del>.03</del>	<del>.89—1.03</del>	<del>.07</del>
<del>.45—.59</del>	<del>.04</del>		

(b) When the rate of the surtax is 3/4%, the following effective tax brackets are applicable to all taxable transactions occurring in a taxing county that otherwise would have been

taxable at the rate of 7%. For taxable sales in the amounts of more than \$1.03, 8 cents is to be charged on each \$1 of price, plus the tax amount due on any fractional part of \$1.

Amount of Sale	Tax	Amount of Sale	Tax
<del>.10—.12</del>	<del>.01</del>	<del>.52—.64</del>	<del>.05</del>
<del>.13—.25</del>	<del>.02</del>	<del>.65—.77</del>	<del>.06</del>
<del>.26—.38</del>	<del>.03</del>	<del>.78—.90</del>	<del>.07</del>
<del>.39—.51</del>	<del>.04</del>	<del>.91—1.03</del>	<del>.08</del>

(c) When the rate of the surtax is 3/4%, the following effective tax brackets are applicable to all taxable transactions occurring in a taxing county that otherwise would have been taxable at the rate of 2 1/2%. For taxable sales in the amounts of more than \$4.09, 13 cents is to be charged on each \$4 of price, plus the tax amount due on any fractional part of \$4.

Amount of Sale	Tax	Amount of Sale	Tax
<del>.10—.30</del>	<del>.01</del>	<del>2.16—2.46</del>	<del>.08</del>
<del>.31—.61</del>	<del>.02</del>	<del>2.47—2.76</del>	<del>.09</del>
<del>.62—.92</del>	<del>.03</del>	<del>2.77—3.07</del>	<del>.10</del>
<del>.93—1.23</del>	<del>.04</del>	<del>3.08—3.38</del>	<del>.11</del>
<del>1.24—1.53</del>	<del>.05</del>	<del>3.39—3.69</del>	<del>.12</del>
<del>1.54—1.84</del>	<del>.06</del>	<del>3.70—4.09</del>	<del>.13</del>
<del>1.85—2.15</del>	<del>.07</del>		

### (4) 1% DISCRETIONARY SALES SURTAX.

(a) When the rate of the surtax is 1%, the following effective tax brackets are applicable to all taxable transactions occurring in a taxing county that otherwise would have been taxable at the rate of 6%. For taxable sales in the amounts of more than \$1.09, 7 cents is to be charged on each \$1 of price, plus the tax amount due on any fractional part of \$1.

Amount of Sale	Tax	Amount of Sale	Tax
<del>.10—.14</del>	<del>.01</del>	<del>.58—.71</del>	<del>.05</del>
<del>.15—.28</del>	<del>.02</del>	<del>.72—.85</del>	<del>.06</del>
<del>.29—.42</del>	<del>.03</del>	<del>.86—1.09</del>	<del>.07</del>
<del>.43—.57</del>	<del>.04</del>		

(b) When the rate of the surtax is 1%, the following effective tax brackets are applicable to all taxable transactions occurring in a taxing county that otherwise would have been taxable at the rate of 7%. For taxable sales in the amounts of more than \$1.09, 8 cents is to be charged on each \$1 of price, plus the tax amount due on any fractional part of \$1.

Amount of Sale	Tax	Amount of Sale	Tax
<del>.10—.12</del>	<del>.01</del>	<del>.51—.62</del>	<del>.05</del>
<del>.13—.25</del>	<del>.02</del>	<del>.63—.75</del>	<del>.06</del>
<del>.26—.37</del>	<del>.03</del>	<del>.76—.87</del>	<del>.07</del>
<del>.38—.50</del>	<del>.04</del>	<del>.88—1.09</del>	<del>.08</del>

(c) When the rate of the surtax is 1%, the following effective tax brackets are applicable to all taxable transactions occurring in a taxing county that otherwise would have been

taxable at the rate of 2 1/2%. For taxable sales in the amounts of more than \$2.09, 7 cents is to be charged on each \$2 of price, plus the tax amount due on any fractional part of \$2.

Amount of Sale	Tax	Amount of Sale	Tax
<del>.10—.28</del>	<del>.01</del>	<del>1.15—1.42</del>	<del>.05</del>
<del>.29—.57</del>	<del>.02</del>	<del>1.43—1.71</del>	<del>.06</del>
<del>.58—.85</del>	<del>.03</del>	<del>1.72—2.09</del>	<del>.07</del>
<del>.86—1.14</del>	<del>.04</del>		

~~(5) 1 1/2% DISCRETIONARY SALES SURTAX.~~

~~(a) When the rate of the surtax is 1 1/2%, the following effective tax brackets are applicable to all taxable transactions occurring in a taxing county that otherwise would have been taxable at the rate of 6%. For taxable sales in the amounts of more than \$2.09, 15 cents is to be charged on each \$2 of price, plus the tax amount due on any fractional part of \$2.~~

Amount of Sale	Tax	Amount of Sale	Tax
<del>.10—.13</del>	<del>.01</del>	<del>1.07—1.20</del>	<del>.09</del>
<del>.14—.26</del>	<del>.02</del>	<del>1.21—1.33</del>	<del>.10</del>
<del>.27—.40</del>	<del>.03</del>	<del>1.34—1.46</del>	<del>.11</del>
<del>.41—.53</del>	<del>.04</del>	<del>1.47—1.60</del>	<del>.12</del>
<del>.54—.66</del>	<del>.05</del>	<del>1.61—1.73</del>	<del>.13</del>
<del>.67—.80</del>	<del>.06</del>	<del>1.74—1.86</del>	<del>.14</del>
<del>.81—.93</del>	<del>.07</del>	<del>1.87—2.09</del>	<del>.15</del>
<del>.94—1.06</del>	<del>.08</del>		

~~(b) When the rate of the surtax is 1 1/2%, the following effective tax brackets are applicable to all taxable transactions occurring in a taxing county that otherwise would have been taxable at the rate of 7%. For taxable sales in the amounts of more than \$2.09, 17 cents is to be charged on each \$2 of price, plus the tax amount due on any fractional part of \$2.~~

Amount of Sale	Tax	Amount of Sale	Tax
<del>.10—.11</del>	<del>.01</del>	<del>1.10—1.17</del>	<del>.10</del>
<del>.12—.23</del>	<del>.02</del>	<del>1.18—1.29</del>	<del>.11</del>
<del>.24—.35</del>	<del>.03</del>	<del>1.30—1.41</del>	<del>.12</del>
<del>.36—.47</del>	<del>.04</del>	<del>1.42—1.52</del>	<del>.13</del>
<del>.48—.58</del>	<del>.05</del>	<del>1.53—1.64</del>	<del>.14</del>
<del>.59—.70</del>	<del>.06</del>	<del>1.65—1.76</del>	<del>.15</del>
<del>.71—.82</del>	<del>.07</del>	<del>1.77—1.88</del>	<del>.16</del>
<del>.83—.94</del>	<del>.08</del>	<del>1.89—2.09</del>	<del>.17</del>
<del>.95—1.09</del>	<del>.09</del>		

~~(c) When the rate of the surtax is 1 1/2%, the following effective tax brackets are applicable to all taxable transactions occurring in a taxing county that otherwise would have been taxable at the rate of 2.5%. For taxable sales in the amounts of more than \$1, 4 cents is to be charged on each \$1 of price, plus the tax amount due on any fractional part of \$1.~~

Amount of Sale	Tax
<del>.10—.25</del>	<del>.01</del>
<del>.26—.50</del>	<del>.02</del>
<del>.51—.75</del>	<del>.03</del>
<del>.76—1.09</del>	<del>.04</del>

(6) The Department has prepared, for public use, schedules and rate cards to provide the sales tax effective brackets for counties imposing a discretionary sales surtax. Copies are available, without cost, by one or more of the following methods: 1) downloading the appropriate Sales Tax Bracket Cards from the Department's Internet site at [www.myflorida.com/dor/taxes](http://www.myflorida.com/dor/taxes); or, 2) faxing a forms request to the Distribution Center at (850)922-2208; 3) calling the Distribution Center at (850)488-8422; or, 4) writing the Florida Department of Revenue, Distribution Center, 168A Blountstown Highway, Tallahassee, Florida 32304; or, 5) 2) ~~faxing the Distribution Center at (850)922-2208; or, 3) using a fax machine telephone handset to call the Department's automated Fax on Demand system at (850)922-3676; or, 4) visiting any local Department of Revenue Service Center to personally obtain a copy; or, 5) calling the Forms Request Line during regular office hours at (800)352-3671 (in Florida only) or (850)488-6800; or, 6) downloading the appropriate Sales Tax Bracket Cards from the Department's Internet site at the address show inside the parentheses ([www.myflorida.com/dor/taxes](http://www.myflorida.com/dor/taxes)).~~ Persons with hearing or speech impairments may call the Department's TDD at (800)367-8331.

Specific Authority 212.12(11), 212.17(6), 212.18(2), 213.06(1) FS. Law Implemented 212.054, 212.055, 212.12(9),(10),(11) FS. History—New 12-11-89, Amended 8-10-92, 3-17-93, 12-13-94, 3-20-96, 6-19-01,\_\_\_\_\_.

12A-15.010 The Sale of Food, Drink, and Tangible Personal Property at Concession Stands.

(1)(a) Concessionaires at arenas, auditoriums, carnivals, fairs, stadiums, theaters, and similar places of business where it is impracticable to separately state Florida sales tax on any charge ticket, sales slip, invoice, or other tangible evidence of sale, may calculate tax due for counties imposing a surtax as follows:

1. Divide the total gross receipts by the divisors provided in paragraph (b) to compute taxable sales;

2. Subtract taxable sales from the total gross receipts to compute the amount of sales tax, plus surtax, due.

(b) Divisors for counties imposing surtax at the following rates are:

<u>Surtax Rate</u>	<u>Divisor</u>
No Surtax	1.0659
<u>1/4%</u>	<u>1.0678</u>
1/2%	1.0697
3/4%	1.0724
1%	1.0751
<u>1 1/4%</u>	<u>1.0773</u>
1 1/2%	1.0795

(2) No change.

Specific Authority 212.07(2), 212.17(6), 212.18(2), 213.06(1) FS. Law Implemented 212.054, 212.055, 212.15(1),(4) FS. History—New 12-11-89, Amended 3-20-96, 6-19-01,\_\_\_\_\_.

12A-15.011 Coin-Operated Amusement and Vending Machines, and Other Devices.

(1) Amusement machine sales; effective tax rates.

(a) Charges for the use of amusement machines, as defined in s. 212.02(24), F.S., are subject to the surtax at the rate imposed by the county where the machine is located. To calculate the tax due in an applicable reporting period for amusement machines located in counties imposing a surtax:

1. Divide the total gross receipts from charges for the use of amusement machines by the divisors provided in paragraph (b) to compute taxable sales;

2. Subtract taxable sales from the total gross receipts to compute the amount of sales tax, plus surtax, due.

(b) Divisors for counties imposing surtax at the following rates are:

Surtax Rate	Divisor
No Surtax	1.040
<u>1/4%</u>	<u>1.0425</u>
1/2%	1.045
3/4%	1.0475
1%	1.050
<u>1 1/4%</u>	<u>1.0525</u>
1 1/2%	1.055

(c) No change.

(2)(a) Vending machine sales; effective tax rates. The amount of tax to be paid on food, beverages, and other items of tangible personal property that are sold in vending machines is subject to the surtax at the rate imposed by the county where the machine is located. To calculate the tax due in an applicable reporting period for vending machines located in counties imposing a surtax: Section 212.0515, F.S., provides the amount of tax to be paid on food, beverages, or other items of tangible personal property that are sold through vending machines.

1. Divide the total gross receipts from sales made through the vending machines by the divisors provided in paragraph (b) to compute gross taxable sales;

2. Subtract gross taxable sales from the total gross receipts to compute the amount of tax, plus surtax, due.

(b) Divisors for counties imposing surtax at the following rates are:

Surtax Rate	Divisor for Food and Beverages	Divisor for Other Items of Tangible Personal Property
No Surtax	<u>1.0645</u>	<u>1.0659</u>
<u>1/4%</u>	<u>1.0425</u>	<u>1.0683</u>
<u>1/2%</u>	<u>1.0686</u>	<u>1.0707</u>
<u>3/4%</u>	<u>1.0706</u>	<u>1.0727</u>
<u>1%</u>	<u>1.0726</u>	<u>1.0749</u>
<u>1 1/4%</u>	<u>1.07465</u>	<u>1.0770</u>
<u>1 1/2%</u>	<u>1.0767</u>	<u>1.0791</u>

(c) When an operator cannot account for each type of item sold through a vending machine, the highest divisor rate must be used to calculate the amount of sales tax, plus surtax, due for all products sold through that machine.

(3) No change.

Specific Authority 212.05(1)(h)(+), 212.0515, 212.17(6), 212.18(2), 213.06(1) FS. Law Implemented 212.02(24), 212.05(1)(h)(+), 212.0515, 212.054, 212.055, 212.07(2), 212.12(11), 212.18(3) FS. History--New 12-11-89, Amended 1-30-91, 5-12-92, 9-14-93, 11-16-93, 12-13-94, 3-20-96, 6-19-01,

12A-15.012 Alcoholic and Malt Beverages.

(1) No change.

(2) DEALERS WHO DO NOT SELL MIXED DRINKS.

(a)1. When a dealer, located in a county imposing a surtax, who sells package goods but does not sell mixed drinks, does not put the public on notice that tax is included in the total charge, the dealer is required to remit tax at the following rates. The dealer should multiply the total gross receipts derived from the sale of package goods by the following effective tax rates to compute the amount of sales tax, plus surtax, due.

County Surtax Rate	Effective Tax Rate
No Surtax	.0635
<u>1/4%</u>	<u>.0656</u>
1/2%	.0677
3/4%	.07035
1%	.0730
<u>1 1/4%</u>	<u>.07395</u>
1 1/2%	.0776

2. No change.

(b)1. When a dealer, located in a county imposing a surtax, who sells package goods but does not sell mixed drinks, puts the public on notice through the posting of price lists or signs prominently throughout the business establishment that tax is included in the total charge, the dealer is required to remit tax in the following manner:

a. Divide the total gross receipts by the following divisors to compute taxable sales:

County Surtax Rate	Divisor
No Surtax	1.0635
<u>1/4%</u>	<u>1.0656</u>
1/2%	1.0677
3/4%	1.07035
1%	1.0730
<u>1 1/4%</u>	<u>1.0753</u>
1 1/2%	1.0776

b. Subtract taxable sales from the total gross receipts to compute the amount of sales tax, plus surtax, due.

2. No change.

(3) DEALERS WHO SELL MIXED DRINKS.

(a)1. When a dealer, located in a county imposing a surtax, sells mixed drinks or both mixed drinks and package goods and does NOT put the public on notice that tax is included in the total charge, the dealer is required to remit tax at the following rates. The dealer should multiply the total gross receipts derived from the sale of mixed drinks and package goods by the following effective tax rates to compute the amount of sales tax, plus surtax, due.

<u>County Surtax Rate</u>	<u>Effective Tax Rate</u>
No Surtax	.0659
<u>1/4%</u>	<u>.0678</u>
1/2%	.0697
3/4%	.0724
1%	.0751
<u>1 1/4%</u>	<u>.0773</u>
1 1/2%	.0795

2. No change.

(b)1. When a dealer, located in a county imposing a surtax, sells mixed drinks or both mixed drinks and package goods and puts the public on notice through the posting of price lists or signs prominently throughout the business establishment that tax is included in the total charge, the dealer is required to remit tax in the following manner:

a. Divide total gross receipts by the following divisors to compute taxable sales:

<u>County Surtax Rate</u>	<u>Divisor</u>
No Surtax	1.0659
<u>1/4%</u>	<u>1.0678</u>
1/2%	1.0697
3/4%	1.0724
1%	1.0751
<u>1 1/4%</u>	<u>1.0773</u>
1 1/2%	1.0795

b. Subtract taxable sales from the total gross receipts to compute the amount of sales tax, plus surtax, due.

2. No change.

Specific Authority 212.07(2), 212.17(6), 212.18(2), 213.06(1) FS. Law Implemented 212.02(16), 212.054, 212.055, 212.07(2),(4), 212.08(4), 212.12(11), 212.15(1),(4) FS. History—New 12-11-89, Amended 3-20-96, 6-19-01\_\_\_\_\_.

NAME OF PERSON ORIGINATING PROPOSED RULE:  
Janet L. Young, Tax Law Tax Specialist, Technical Assistance  
and Dispute Resolution, Department of Revenue, P. O. Box  
7443, Tallahassee, Florida 32314-7443, (850)922-9407,  
e-mail: youngj@dor.state.fl.us

NAME OF SUPERVISOR OR PERSON WHO APPROVED  
THE PROPOSED RULE: Charles Strausser, Revenue Program  
Administrator II, Technical Assistance and Dispute Resolution,  
Department of Revenue, P. O. Box 7443, Tallahassee, Florida  
32314-7443, (850)922-4746

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

DATE NOTICE OF PROPOSED RULE DEVELOPMENT  
PUBLISHED IN FAW: The proposed amendments to Rule  
Chapter 12A-15, F.A.C. (Discretionary Sales Surtax), were  
noticed for a rule development workshop in the Florida  
Administrative Weekly on February 25, 2005 (Vol. 31, No. 8,  
pp. 736-740). A rule development workshop was held on  
March 15, 2005. No one appeared to provide comment  
regarding these proposed rule changes. No written comments  
have been received by the Department.

## DEPARTMENT OF TRANSPORTATION

RULE CHAPTER TITLE: Assessment of Penalties for Violations

Found During Compliance Reviews  
and Payment of Penalties 14-87

RULE TITLES:	RULE NOS.:
Scope	14-87.001

Scope and Definitions	14-87.0011
Assessment of Penalties for Violations	

Found During Compliance Reviews	14-87.0012
Payment of Penalties: Detaining and	

Impounding Commercial Motor Vehicles 14-87.002  
PURPOSE AND EFFECT: This rule chapter amendment is to

**PURPOSE AND EFFECT:** This rule chapter amendment is to expand the scope of the current rule chapter by including a new rule containing parts of Rule Chapter 14-108, F.A.C. When this rule chapter is amended, Rule Chapter 14-108, F.A.C., will be repealed.

**SUMMARY:** Rule Chapter 14-87, F.A.C., is being amended to include provisions of rules currently in Rule Chapter 14-108. When this rule chapter is amended, Rule Chapter 14-108, F.A.C., will be repealed by separate notice of rulemaking.

SPECIFIC AUTHORITY: 316.302, 316.535, 334.044(2) FS.

LAW IMPLEMENTED: 316.302, 316.3025, 316.3026,  
316.516, 316.535, 316.545, 316.550, 316.70 FS.

**SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COST:** No Statement of Estimated Regulatory Cost has been prepared.

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

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: 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:

ASSESSMENT OF PENALTIES FOR VIOLATIONS  
FOUND DURING COMPLIANCE REVIEWS AND  
PAYMENT OF COMMERCIAL VEHICLE PENALTIES  
AND FEES

14-87.001 Scope.

Specific Authority 316.3025, 316.515, 316.535, 316.545, 316.550, 316.70, 334.044(2) FS. Law Implemented 316.302, 316.3025, 316.515, 316.535, 316.545, 316.550, 316.70 FS. History—New 1-8-86, Amended 2-25-87, 7-15-91, Repealed \_\_\_\_\_.

14-87.0011 Scope and Definitions.

(1) This rule chapter applies to motor carriers of commercial motor vehicles and nonpublic sector buses, and shippers of hazardous materials; establishes procedures for the payment of penalties in accordance with Chapter 316, Florida Statutes; and establishes the amount of penalties for violations found during a compliance review under Sections 316.302, 316.70, 627.7415, and 627.742, Florida Statutes, and 49 C.F.R Part 107, Subpart G, and Parts 171, 172, 173, 177, 178, 180, 382, 390, 391, 392, 395, 396, and 397, incorporated herein by reference.

(2) The following words and phrases, when used in these rules, shall have the meanings respectively ascribed to them in this section, except where the context otherwise requires:

(a)(1) “Citation” means a written statement issued by the Department to a motor carrier, or shipper of hazardous materials, for:

- 1.(a) A violation of weight or vehicle registration laws; or
- 2.(b) A violation of safety laws or regulations, or permit violations; or
- 3.(c) A violation of the fuel use tax requirements contained in Chapter 207, Florida Statutes.

(b)(2) “Commercial Motor Vehicle” means as defined in Section 316.003(66), Florida Statutes.

(c) “Compliance Review” means an onsite review of documents at a motor carrier’s or shipper of hazardous materials’ terminal or office, including: property carrier, passenger carrier, or shipper of hazardous materials records such as driver’s hours of service, maintenance and inspection, driver qualification, commercial driver’s license requirements,

financial responsibility, and accident and other safety and business records which will enable the investigators to establish compliance with safety laws and regulations.

(d)(3) “Department” means the Florida Department of Transportation.

(4) “Director” means the Director of the Motor Carrier Compliance Office, Florida Department of Transportation.

(5) “Fee” means a charge for a permit.

(e)(6) “Motor Carrier” means any person, corporation, or entity of any kind owning, controlling, operating, managing, contracting with the owner or operator of, or dispatching any commercial motor vehicle or nonpublic sector buses.

(f) “Nonpublic Sector Bus” means as defined in Section 316.003, Florida Statutes.

(7) “Motor Carrier Compliance Office” means that office within the Department which is responsible for enforcing Commercial Motor Vehicle regulations.

(g)(8) “Penalty” means a monetary amount prescribed by statute or Department rule as an administrative assessment for a violation of a safety commercial motor vehicle law or regulation rule pursuant to the issuance of a citation or a notice of violation.

(h) “Shipper of Hazardous Materials” means any person or entity of any kind that offers hazardous materials, as defined in Section 316.003, Florida Statutes, for transportation in commerce.

(9) “Penalty Collections Unit” means those employees of the Motor Carrier Compliance Office assigned by the Director to ensure that penalties are collected in a manner consistent with applicable rules and laws.

(10) “Permit” means:

(a) An International Registration Plan Trip Permit issued to a motor carrier authorizing temporary operation on the public roads of this State in lieu of permanent registration; or

(b) A Temporary Fuel Use Permit issued to a motor carrier authorizing temporary operation on the public roads of this State in lieu of permanent registration.

(c) A Special Permit issued by the Department which authorizes the operation of an oversize or overweight commercial motor vehicle and load over the State Highway System.

Specific Authority 316.302, 316.535, 334.044(2) FS. Law Implemented 316.302, 316.3025, 316.3026, 316.515, 316.535, 316.545, 316.550, 316.70 FS. History—New 7-15-91, Amended 9-12-96, 8-7-03, \_\_\_\_\_.

14-87.0012 Assessment of Penalties for Violations Found During Compliance Reviews.

(1) The following penalties shall apply to violations found during compliance reviews of motor carriers and shippers of hazardous materials. The aggregate of penalties assessed during a compliance review shall not exceed the amounts prescribed in Section 316.3025 or 316.70, Florida Statutes.

Violation	Penalty
For each violation of 49 C.F.R. Parts 391, 396, or 397:	\$100
For each violation of 49 C.F.R. Part 171, 172, 173, 177, or 180:	\$100
For each violation of 49 C.F.R. Part 107, Subpart G:	\$250
For failing to file a motor carrier identification report, as required by 49 C.F.R. 390.19:	\$500
For violation of operating authority under 49 C.F.R. 392.9a:	\$500
For any other violation of 49 C.F.R. Part 392:	\$100
For failing to maintain time records required by 49 C.F.R. 395.8 or Section 316.302(2)(d), Florida Statutes:	\$500
For any other violation of 49 C.F.R. Part 395:	\$100
For no Controlled Substances and Alcohol Use and Testing Program, as required by 49 C.F.R., Part 382:	\$1,000
For any other violation of 49 C.F.R. Part 382:	\$250
For failing to maintain any insurance required by Section 627.7415 or Section 627.742, Florida Statutes:	\$2,500
For failing to maintain minimum levels of insurance required by Section 627.7415 or Section 627.742, Florida Statutes:	\$1,000
For refusal to submit to a compliance review:	\$5,000

(2) Except for violations specified below, the penalties prescribed above will be waived if, as a result of the first compliance review conducted on a motor carrier or shipper of hazardous materials, the described violations are corrected within 20 days after the receipt of a citation:

- (a) Violations of 49 C.F.R. Part 382.
- (b) Violations of 49 C.F.R. Part 395 or Section 316.302(2)(b), (c), or (d), Florida Statutes.
- (c) Violations of hazardous materials requirements.
- (d) Utilizing any driver without a valid driver's license, such as having a revoked, suspended, canceled, or expired license, or a license with improper classification, not properly endorsed, or in violation of restrictions.

Specific Authority 316.302, 334.044(2) FS. Law Implemented 316.302, 316.3025, 316.70, 627.7415, 627.742 FS. History—New

14-87.002 Payment of Penalties and Fees Due; Detaining and Impounding Commercial Motor Vehicles.

(1) Penalties and fees imposed upon a the operations of commercial motor carrier or shipper of hazardous materials vehicles are due and payable upon the issuance of a citation or a permit. Law enforcement officers, and weight inspectors employed by the Motor Carrier Compliance Office, and other

authorized agents of the Department, upon issuance of a citation, shall allow motor carriers or shippers of hazardous materials in good standing to make payment of penalties within 20 calendar days from the issuance of the citation. Payment must be received by the Office of Motor Carrier Compliance Office Penalty Collections Unit in Tallahassee, Florida, within 20 calendar days from the date of the citation.

(2) In the event that payment of penalties for a citation is not received within the 20 calendar day period, the commercial motor vehicle(s) shall be impounded in accordance with Sections 316.545, 316.3025, 316.516, and 316.550, Florida Statutes. Motor carriers who fail to pay any and all penalties owed to the Department will be referred to the Department of Highway Safety and Motor Vehicles, where the vehicle's registrations and fuel permits shall be revoked or suspended in accordance with Section 320.18, Florida Statutes.

(3) Payment methods for citations include cash, money orders, certified funds from a financial institution approved (electronic or manual), credit cards, and company checks. A receipt shall be provided to the motor carrier upon payment of penalties collected. All penalties collected in accordance with these rules will be made payable to the State Treasurer, who will credit the funds to the State Transportation Trust Fund and any other accounts specified by state law.

(4) A motor carrier or a shipper of hazardous material that who owes penalties to the Department, state or has have not paid penalties in a timely fashion on one or more previous occasion, shall be deemed to be not in good standing. A Commercial motor vehicle(s) owned by a motor carrier or shipper of hazardous materials deemed not in good standing operated by such motor carriers will be detained or impounded immediately and held until all penalties are paid to the Department. A list of such motor carriers and shippers of hazardous materials will be provided statewide by the Penalty Collections Unit to the Office of Motor Carrier Compliance Office law enforcement officers and weight inspectors by the Penalty Collections Unit.

(5) Except for as set forth in Rule Chapter 14-108, F.A.C., involving penalties assessed during compliance reviews, the fact that a motor carrier or shipper of hazardous material has requested an appeal a hearing before the Commercial Motor Vehicle Review Board does not relieve responsibility to make payment of the assessed penalty for a citation within the 20 day period.

(6) Commercial motor vehicles impounded in accordance with this rule will be released upon payment of all penalties owed to the Department, upon Motor Carrier Compliance Office Penalty Collections Unit in Tallahassee, Florida, the posting of a bond pursuant to Section 316.545, Florida Statutes, upon a determination by the Commercial Motor Carrier Review Board to cancel or revoke the penalty, or upon issuance of a Department order pursuant to Section 120.57,

Florida Statutes. Commercial motor vehicles released as a result of the posting of a bond under Section 316.545, Florida Statutes, remain subject to the lien imposed by that statute.

(7) Any costs associated with the detention, impoundment, and storage of commercial motor vehicles in accordance with Sections 316.545, Florida Statutes, shall be the responsibility of the motor carrier or shipper of hazardous material, and proof of payment of such costs shall be provided to the Department prior to the vehicle being released.

Specific Authority 316.302, 316.535, 334.044(2) FS. Law Implemented 316.302, 316.3025, 316.3026, 316.516, 545, 316.535, 316.545, 316.550, 316.70 FS. History—New 1-8-86, Amended 2-25-87, 7-15-91, 9-12-96, 8-7-03, \_\_\_\_\_.

NAME OF PERSON ORIGINATING PROPOSED RULE:  
Colonel Graham Fountain, Director, Office of Motor Carrier Compliance

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: José Abreu, P.E., Secretary

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: June 7, 2005

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: March 18, 2005

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

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

### **DEPARTMENT OF CORRECTIONS**

RULE TITLE: Inmate Grievances – Miscellaneous Provisions  
PURPOSE AND EFFECT: The purpose and effect of the proposed rule is to allow the acting warden, in the absence of the warden, to respond to grievances filed directly with the warden.

SUMMARY: The proposed rule authorizes the acting warden, in the absence of the warden, to respond to grievances filed directly with the warden.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COST: None.

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

SPECIFIC AUTHORITY: 20.315, 944.09 FS.

LAW IMPLEMENTED: 944.09 FS.

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

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

THE FULL TEXT OF THE PROPOSED RULE IS:

33-103.015 Inmate Grievances – Miscellaneous Provisions.

(1) through (2) No change.

(3) The warden, assistant warden or deputy warden (deputy warden applicable to private facilities only) is authorized to designate other staff to receive, review, and investigate any grievance of an institutional nature. The warden is authorized to designate the assistant warden or deputy warden (deputy warden applicable to private facilities only) to grant and implement relief as approved by the warden, except as to grievances involving discipline, grievances alleging violation of the Americans with Disabilities Act, grievances challenging placement in close management and subsequent reviews, grievances of an emergency nature, grievances of reprisal or grievances of a sensitive nature that are filed directly with the warden. For grievances filed directly with the warden, the decision to approve, return, or deny the grievance shall be made by the warden; the assistant warden or deputy warden shall only be authorized to sign as acting warden in the warden's absence, and must indicate "Acting Warden" beside his or her signature.

(4) through (11) No change.

Specific Authority 20.315, 944.09 FS. Law Implemented 944.09 FS. History—New 10-12-89, Amended 1-15-92, 1-29-92, 9-3-92, 12-22-92, 7-11-93, 5-3-94, 4-10-95, 9-23-96, 8-10-97, 12-7-97, 5-10-98, 2-17-99, Formerly 33-29.015, Amended 8-1-00, 10-11-00, 2-7-01, 5-27-02, 1-2-03, 2-9-05, \_\_\_\_\_.

NAME OF PERSON ORIGINATING PROPOSED RULE:  
Celeste Kemp, Chief, Bureau of Inmate Grievance

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

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

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: May 27, 2005

### **AGENCY FOR HEALTH CARE ADMINISTRATION**

#### **Medicaid**

RULE TITLE: Ambulatory Surgical Center Services  
RULE NO.: 59G-4.020

PURPOSE AND EFFECT: The purpose of the proposed rule amendment is to incorporate by reference update January 2005 to the Florida Medicaid Ambulatory Surgical Center Services Coverage and Limitations Handbook. The handbook update contains the 2005 procedure codes and payment groups. The

effect will be to incorporate in the rule update January 2005 to the Florida Medicaid Ambulatory Surgical Center Services Coverage and Limitations Handbook.

SUMMARY: The proposed rule incorporates by reference update January 2005 to the Florida Medicaid Ambulatory Surgical Center Services Coverage and Limitations Handbook.

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

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

SPECIFIC AUTHORITY: 409.919 FS.

LAW IMPLEMENTED: 409.906, 409.908 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: 9:30 a.m., Monday, July 11, 2005

PLACE: Agency for Health Care Administration, 2728 Fort Knox Boulevard, Building 3, Conference Room B, Tallahassee, Florida 32308

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Melissa Vergeson, Medical Health Care Program Analyst, Bureau of Medicaid Services, 2728 Fort Knox Boulevard, Building 3, Tallahassee, Florida 32308, (850)922-7724

THE FULL TEXT OF THE PROPOSED RULE IS:

59G-4.020 Ambulatory Surgical Center Services.

(1) No change.

(2) All ambulatory surgical center providers enrolled in the Medicaid program must be in compliance with the Florida Medicaid Ambulatory Surgical Center Services Coverage and Limitations Handbook, January 2004, updated January 2005, incorporated by reference, and the Florida Medicaid Provider Reimbursement Handbook, CMS-1500, which is incorporated in Rule 59G-4.001, F.A.C. Both handbooks are available from the Medicaid fiscal agent.

Specific Authority 409.919 FS. Law Implemented 409.906, 409.908 FS. History—New 10-25-84, Formerly 10C-7.531, Amended 5-13-92, 7-12-92, 7-27-93, Formerly 10C-7.0531, Amended 9-8-94, 7-3-95, 11-18-97, 10-27-98, 1-1-01, 7-26-01, 2-25-03, 2-17-04, 1-10-05, \_\_\_\_\_.

NAME OF PERSON ORIGINATING PROPOSED RULE: Melissa Vergeson

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

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

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

## AGENCY FOR HEALTH CARE ADMINISTRATION

### Medicaid

RULE TITLE: Hospice Services

RULE NO.: 59G-4.140

PURPOSE AND EFFECT: The purpose of this rule is to incorporate by reference update January 2005 to the Florida Medicaid Hospice Services Coverage and Limitations Handbook. The handbook update includes a reference to the nursing facility bed hold policy and the January 2005 fee schedule for direct care services provided by physicians. The effect will be to incorporate by reference update January 2005 to the Florida Medicaid Hospice Services Coverage and Limitations Handbook.

SUMMARY: The purpose of this rule is to incorporate by reference update January 2005 to the Florida Medicaid Hospice Services Coverage and Limitations Handbook.

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

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

SPECIFIC AUTHORITY: 409.919 FS.

LAW IMPLEMENTED: 409.906, 409.908 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: 9:30 a.m., Monday, July 11, 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: Claudia Treadwell, Medicaid Services, 2727 Mahan Drive, Building 3, Mail Stop 20, Tallahassee, Florida 32308-5407, (850)410-1677

THE FULL TEXT OF THE PROPOSED RULE IS:

59G-4.140 Hospice Services.

(1) No change.

(2) All hospice services providers enrolled in the Medicaid program must comply with the Florida Medicaid Hospice Services Coverage and Limitations Handbook, October 2003, updated January 2005, incorporated by reference, and the Florida Medicaid Provider Reimbursement Handbook, UB-92, incorporated by reference in Rule 59G-4.160, F.A.C. Both handbooks are available from the Medicaid fiscal agent.

(3) No change.

Specific Authority 409.919 FS. Law Implemented 409.906, 409.908 FS. History—New 1-1-87, Amended 10-9-90, 5-13-92, 10-8-92, Formerly 10C-7.0533, Amended 2-14-95, 12-27-95, 9-21-99, 8-4-04, \_\_\_\_\_.



NAME OF PERSON ORIGINATING PROPOSED RULE:  
Claudia Treadwell  
NAME OF SUPERVISOR OR PERSON WHO APPROVED  
THE PROPOSED RULE: Alan Levine  
DATE PROPOSED RULE APPROVED BY AGENCY  
HEAD: May 25, 2005  
DATE NOTICE OF PROPOSED RULE DEVELOPMENT  
PUBLISHED IN FAW: April 8, 2005

#### AGENCY FOR HEALTH CARE ADMINISTRATION

##### Medicaid

RULE TITLE: Physician Services  
RULE NO.: 59G-4.230

PURPOSE AND EFFECT: The purpose of this rule amendment is to incorporate by reference update January 2005-2, to the Florida Medicaid Physician Services Coverage and Limitation Handbook. The handbook update contains the requirement that a physician must submit proof of post graduate training in a specialty field in order to obtain a physician specialty code designation on the physician provider file. The update also revises critical care policies so that the policies are more consistent with the Physician's Current Procedure Terminology (CPT) book description. The effect will be to incorporate by reference update January 2005-2, to the Florida Medicaid Physician Services Coverage and Limitation Handbook.

SUMMARY: The purpose of this rule amendment is to incorporate by reference in the rule update January 2005-2, to the Florida Medicaid Physician Services Coverage and Limitation Handbook.

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

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

SPECIFIC AUTHORITY: 409.919 FS.

LAW IMPLEMENTED: 409.905, 409.907, 409.908, 409.9081 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., Monday, July 11, 2005

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

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Eleanor Cofer, Bureau of Medicaid Services, 2727 Mahan Drive, Mail Stop 20, Tallahassee, Florida 32308, (850)922-7331

THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS:

59G-4.230 Physician Services.

(1) No change.

(2) All physician services providers enrolled in the Medicaid program must be in compliance with the Florida Medicaid Physician Services Coverage and Limitations Handbook, January 2004, updated January 2005-1, and January 2005-2, which is incorporated by reference, and the Florida Medicaid Provider Reimbursement Handbook, CMS-1500, which is incorporated by reference in Rule 59G-4.001, F.A.C. Both handbooks are available from the Medicaid fiscal agent.

(3) To obtain a physician specialty code designation on the physician provider file with the Medicaid fiscal agent, the physician must submit a "Validation of Physician Specialty Training" form, which is included in the Medicaid Provider Enrollment Application, AHCA Form 2200-0003 (December 2004), incorporated by reference in Rule 59G-5.010, F.A.C. The Medicaid Provider Enrollment Application is available from the Medicaid fiscal agent.

Specific Authority 409.919 FS. Law Implemented 409.905, 409.907, 409.908, 409.9081 FS. History--New 1-1-77, Revised 2-1-78, 4-1-78, 1-2-79, 1-1-80, Amended 2-8-82, 3-11-84, Formerly 10C-7.38, Amended 1-10-91, 11-5-92, 1-7-93, Formerly 10C-7.038, Amended 6-29-93, 9-6-93, Formerly 10P-4.230, Amended 6-13-94, 2-9-95, 3-10-96, 5-28-96, 3-18-98, 9-22-98, 8-25-99, 4-23-00, 8-5-01, 2-20-03, 8-5-03, 6-27-04, 8-3-04, \_\_\_\_\_.

NAME OF PERSON ORIGINATING PROPOSED RULE:  
Eleanor Cofer

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

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

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

#### DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION

##### Barbers' Board

RULE TITLE: Citations  
RULE NO.: 61G3-21.009

PURPOSE AND EFFECT: The Board proposes to amend this rule to add the penalty for attempting to renew a license when not in compliance with continuing education requirements.

SUMMARY: The proposed rule amendment adds the penalty of a fine of \$100.00 for attempting to renew a license when not in compliance with continuing education requirement.

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

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

SPECIFIC AUTHORITY: 455.224, 476.064(4), 476.204(2) FS.

LAW IMPLEMENTED: 455.224 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, Barbers' Board, 1940 North Monroe Street, Tallahassee, Florida 32399-0750

THE FULL TEXT OF THE PROPOSED RULE IS:

61G3-21.009 Citations.

(1) through (2) No change.

(3)(a) through (l) No change.

(m) Attempting to renew a license when not in compliance with continuing education requirements, in violation of Rule 61G3-21.009, F.A.C., shall result in a fine of \$100.00.

(4) through (7) No change.

Specific Authority 455.224, 476.064(4), 476.204(2) FS. Law Implemented 455.224 FS. History—New 1-19-92, Amended 3-22-92, 2-18-93, Formerly 21C-21.009, Amended 6-16-94, 9-22-94, 8-21-95, 2-14-96, 11-6-97, 5-13-01, \_\_\_\_\_.

NAME OF PERSON ORIGINATING PROPOSED RULE:  
Barbers' Board

NAME OF SUPERVISOR OR PERSON WHO APPROVED  
THE PROPOSED RULE: Barbers' Board

DATE PROPOSED RULE APPROVED BY AGENCY  
HEAD: May 16, 2005

DATE NOTICE OF PROPOSED RULE DEVELOPMENT  
PUBLISHED IN FAW: May 27, 2005

## DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION

### Board of Professional Engineers

RULE TITLE: RULE NO.:

Board Approval of Continuing  
Education Providers 61G15-22.011

PURPOSE AND EFFECT: To include a prohibition of conflict of interest as an added requirement for Board approval of continuing education providers.

SUMMARY: To include a prohibition of conflict of interest as an added requirement for Board approval of continuing education providers.

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: 455.213(6), 455.2178, 455.2179, 471.008, 471.017(3), 471.019 FS.

LAW IMPLEMENTED: 455.213(6), 455.2177, 455.2178, 455.2179, 471.008, 471.017(3), 471.019 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: Paul Martin, Executive Director, Board of Professional Engineers, 2507 Callaway Road, Suite 200, Tallahassee, Florida 32301

THE FULL TEXT OF THE PROPOSED RULE IS:

61G15-22.011 Board Approval of Continuing Education Providers.

(1) No change.

(2) To demonstrate the education and/or the experience necessary to instruct professional engineers in the conduct of their practice for continuing education credit, an applicant for continuing education provider status must be a regionally accredited educational institution, a commercial educator, a governmental agency, a state or national professional association whose primary purpose is to promote the profession of engineering, an engineer with a Florida license to practice engineering who is not under disciplinary restrictions pursuant to any order of the Board, or an engineering firm that possesses an active certificate of authorization issued by the Board pursuant to Section 471.023, F.S. The continuing education provider shall not have any financial or commercial interest, direct or indirect, in any technology that is the subject of the instruction.

(3) through (9) No change.

Specific Authority 455.213(6), 455.2178, 455.2179, 471.008, 471.017(3), 471.019 FS. Law Implemented 455.213(6), 455.2177, 455.2178, 455.2179, 471.008, 471.017(3), 471.019 FS. History—New 9-16-01, Amended 9-4-02, 12-21-03, \_\_\_\_\_.

NAME OF PERSON ORIGINATING PROPOSED RULE:  
Board of Professional Engineers

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

DATE PROPOSED RULE APPROVED BY AGENCY  
HEAD: February 22, 2005

DATE NOTICE OF PROPOSED RULE DEVELOPMENT  
PUBLISHED IN FAW: March 18, 2005

**DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION****Board of Professional Engineers**

RULE TITLE: RULE NO.:

Seals Acceptable to the Board 61G15-23.001

PURPOSE AND EFFECT: To clarify what form of seals are acceptable and the deadline for use of the new seal format.

SUMMARY: Clarifies what form of seals are acceptable and the deadline for use of the new seal format.

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: 471.025 FS.

LAW IMPLEMENTED: 471.025 FS.

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

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Paul Martin, Executive Director, Board of Professional Engineers, 2507 Callaway Road, Suite 200, Tallahassee, Florida 32301

THE FULL TEXT OF THE PROPOSED RULE IS:

61G15-23.001 Seals Acceptable to the Board.

(1) Pursuant to Section 471.025, F.S., the Board hereby establishes as indicated below the forms of embossing impression seals which are acceptable to the Board. Said seal shall be a minimum of 1 7/8 inch in diameter. All engineers must be utilizing a the new seal as illustrated in this rule no later than prior to January 1, 2006.

(2) No change.

Specific Authority 471.025 FS. Law Implemented 471.025 FS. History—New 1-8-80, Amended 6-23-80, Formerly 21H-23.01, 21H-23.001, Amended 4-1-97, 2-5-04, \_\_\_\_\_.

NAME OF PERSON ORIGINATING PROPOSED RULE: Board of Professional Engineers

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

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: April 26, 2005

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: May 20, 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 Dentistry**

RULE TITLE: RULE NO.:

Required Training 64B5-16.002

PURPOSE AND EFFECT: The purpose of the proposed rule is to simplify the training requirements for dental hygienists and dental assistants to obtain training for the performance of certain remediable tasks, while reducing administrative costs in implementing the program.

SUMMARY: The rule modifies the sources available for providing remediable task training to dental hygienists and assistants, including expanded duties training; simplifies the training requirements and reduces the administrative costs necessary to implement the program.

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: 466.004, 466.024 FS.

LAW IMPLEMENTED: 466.023, 466.024 FS.

IF REQUESTED WITHIN 21 DAYS OF THE DATE OF THIS NOTICE, A HEARING WILL BE SCHEDULED AND ANNOUNCED IN THE NEXT AVAILABLE FLORIDA ADMINISTRATIVE WEEKLY.

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

THE FULL TEXT OF THE PROPOSED RULE IS:

64B5-16.002 Required Training.

(1) A dental hygienist or dental assistant may perform certain remediable tasks upon the Formal training which is required for the performance of certain remediable tasks consists of a dental hygienist's or dental assistant's successful completion of an expanded duty course or program which meets one of the following requirements:

(a) The course or program is administered or was developed as a part of the regular curriculum at a school of dentistry, dental hygiene or dental assisting accredited by the

American Dental Association's Commission on Dental Accreditation, its successor agency or any other nationally recognized accrediting agency;<sup>2</sup> or

~~(b) The course or program has been approved by the Board for the purpose of providing expanded duties training for dental hygienists and dental assistants.~~

~~(2) For the purpose of positioning and exposing radiographs by dental assistants, formal training may consist of having received certification as a dental radiographer pursuant to Rule 64B5-9.011, F.A.C.~~

~~(3) The Board shall approve a course or program specified in paragraph 64B5-16.002(1)(b), F.A.C., in expanded duties only upon the application of the entity seeking to offer the course or program which establishes compliance with the following requirements. Failure to adhere to these requirements shall subject the course or program to revocation of Board approval.~~

~~(a) The course or program curriculum reflects appropriate didactic and clinical training in each remediable task which requires completion of Board approved formal training;~~

~~(b) Documentation of the training and experience of faculty members which establishes their qualifications to teach specified subject areas;~~

~~(c) Submission of a detailed syllabus of the course or program which specifies the educational objectives for participants, the manner of achieving these specified objectives, including subject matter, hours of instruction and choice of instructional method (clinical or didactic) and the method of assessing a participant's performance; and~~

~~(d) The course or program requires participants to pass clinical or written examinations which adequately test competency in each subject area. Participants must obtain a score of at least 75% out of a possible score of 100%. The choice of a clinical or written examination shall be based on the specified objectives for each subject area; and~~

~~(e) Each participant who successfully completes the course or program is issued a certificate which contains the following information: name of course or program sponsor; title of course; date course offered; number of hours of instruction; participant's name; signature authorized by the sponsor which attests to the certificate's validity; and a list of all remediable tasks in which the participant has received formal training.~~

~~(2)(4) On-the-job training required for the performance of certain remediable tasks consists of training in those tasks by a licensed dentist who assumes full responsibility for assuring that the dental hygienist or dental assistant so trained is competent to perform the tasks.~~

Specific Authority 466.004, 466.024 FS. Law Implemented 466.023, 466.024 FS. History—New 4-30-80, Amended 8-20-80, 1-28-81, 3-4-81, 4-20-81, Formerly 21G-16.02, Amended 6-30-86, 12-31-86, 7-5-87, 2-21-88, 7-12-88, 1-18-89, 11-16-89, Formerly 21G-16.002, 61F5-16.002, Amended 6-12-97, Formerly 59Q-16.002, Amended \_\_\_\_\_.

NAME OF PERSON ORIGINATING PROPOSED RULE:  
Board of Dentistry

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

DATE PROPOSED RULE APPROVED BY AGENCY  
HEAD: May 6, 2005

DATE NOTICE OF PROPOSED RULE DEVELOPMENT  
PUBLISHED IN FAW: February 18, 2005

## DEPARTMENT OF HEALTH

### Board of Optometry

RULE TITLE: RULE NO.:

Fees 64B13-6.001

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

SUMMARY: The language on the fee for obtaining a duplicate wall certificate is updated.

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

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

SPECIFIC AUTHORITY: 456.013(2), 456.025(7), 456.036, 463.005, 463.0057, 463.006, 463.007, 463.008 FS.

LAW IMPLEMENTED: 456.013(2), 456.025, 456.036, 463.0057, 463.006, 463.007, 463.008 FS.

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

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Joe Baker, Jr., Executive Director, Board of Chiropractic Medicine, 4052 Bald Cypress Way, Bin #C07, Tallahassee, Florida 32399-3259

THE FULL TEXT OF THE PROPOSED RULE IS:

64B13-6.001 Fees.

The following fees are prescribed by the Board:

(1) through (8) No change.

(9) The fee for obtaining a duplicate wall certificate/license shall be \$25.00.

(10) through (16) No change.

Specific Authority 456.013(2), 456.025(7), 456.036, 463.005, 463.0057, 463.006, 463.007, 463.008 FS. Law Implemented 456.013(2), 456.025, 456.036, 463.0057, 463.006, 463.007, 463.008 FS. History—New 12-13-79, Amended 2-14-82, 8-18-82, 12-2-82, 5-6-84, 7-29-85, Formerly 21Q-6.01, Amended 11-20-86, 7-21-88, 2-5-90, 5-29-90, 7-10-91, 4-14-92, 7-1-93, Formerly 21Q-6.001, Amended 1-24-94, Formerly 61F8-6.001, Amended 12-22-94, 2-13-95, 4-5-95, 5-29-95, 12-31-95, Formerly 59V-6.001, Amended 12-24-97, 3-21-00, 11-18-01, 5-9-02, 9-10-02, 7-3-03, 10-30-03, 8-29-04, \_\_\_\_\_.

NAME OF PERSON ORIGINATING PROPOSED RULE:  
Board of Chiropractic Medicine  
NAME OF SUPERVISOR OR PERSON WHO APPROVED  
THE PROPOSED RULE: Board of Chiropractic Medicine  
DATE PROPOSED RULE APPROVED BY AGENCY  
HEAD: April 6, 2005  
DATE NOTICE OF PROPOSED RULE DEVELOPMENT  
PUBLISHED IN FAW: May 20, 2005

## DEPARTMENT OF HEALTH

### Board of Respiratory Care

RULE TITLE: RULE NO.:  
Unprofessional Conduct; Definition 64B32-5.003

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

SUMMARY: The proposed rule amendment updates the existing language in 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 regulatory cost alternative must do so in writing within 21 days of this notice.

SPECIFIC AUTHORITY: 468.353(1), 468.365(1)(f) FS.

LAW IMPLEMENTED: 468.365(1)(f) FS.

IF REQUESTED WITHIN 21 DAYS OF THE DATE OF THIS NOTICE, A HEARING WILL BE SCHEDULED AND ANNOUNCED IN THE NEXT AVAILABLE FLORIDA ADMINISTRATIVE WEEKLY.

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Kaye Howerton, Executive Director, Board of Respiratory Care, 4052 Bald Cypress Way, Bin #C05, Tallahassee, Florida 32399-3259

THE FULL TEXT OF THE PROPOSED RULE IS:

64B32-5.003 Unprofessional Conduct; Definition.

Unprofessional conduct shall be defined to include, but not be limited to, A licensee is guilty of unprofessional conduct when he commits any of the following:

- (1) through (2) No change.
- (3) Leaves a respiratory therapy assignment before properly advising appropriate supervisory personnel.
- (4) through (6) No change.

Specific Authority 468.353(1), 468.365(1)(f) FS. Law Implemented 468.365(1)(f) FS. History--New 4-29-85, Formerly 21M-37.02, 21M-37.002, 61F6-37.002, 59R-74.002, 64B8-74.002, Amended 1-6-02,\_\_\_\_\_.

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

DATE PROPOSED RULE APPROVED BY AGENCY  
HEAD: April 22, 2005  
DATE NOTICE OF PROPOSED RULE DEVELOPMENT  
PUBLISHED IN FAW: May 20, 2005

## DEPARTMENT OF HEALTH

### Division of Environmental Health

RULE CHAPTER TITLE: RULE CHAPTER NO.:  
Emergency Medical Services 64E-2

RULE TITLES: RULE NOS.:  
Definitions 64E-2.001

Medical Direction 64E-2.004

Emergency Medical Technician 64E-2.008

Paramedic 64E-2.009

Voluntary Inactive Certification 64E-2.0094

Involuntary Inactive Certification 64E-2.0095

Examinations 64E-2.010

Records and Reports 64E-2.013

PURPOSE AND EFFECT: Definitions: Provides a definition for "conviction" and "certification examination" to help clarify their meaning when used in rule. Realigns definitions that are out of alphabetical order.

Medical Direction: Moves language currently listed under Rule 64E-2.008, F.A.C., Emergency Medical Technician, regarding an EMT's authority to start a non-medicated IV to Rule 64E-2.004, F.A.C., Medical Direction.

Emergency Medical Technician and Paramedic: Specifies qualifications and procedures for certification of out of state or military trained individuals. The amendment adds a requirement for applicants to possess a high school diploma or GED. The amendment updates NSC references to "National Standard Curriculum" and, when applicable, updates the reference to reflect the current curriculum. Clarification of testing application deadlines has been revised. Removes the December 2, 2002, requirement for recertifying paramedics to comply with 30 hours of refresher training conducted in accordance with the 2001 U.S. DOT EMT Paramedic Refresher NSC.

Examinations: States that the department shall notify candidates of exam results. Removes the option for requesting exam regrades. Removes the option for the candidate to challenge any questions or subject matter in the review process. The amendment clarifies the examination review process and provides minimum eligibility requirements for candidates who have failed the exam. The amendment removes the current unused reference to the minimum scores required to pass the state developed EMT exam, the NREMT paramedic (Assessment Examination), and the NREMT paramedic (Certification Examination). New forms specifically for requesting a reexamination have been incorporated. The form for initial certification has been revised to allow for two

separate forms – one for EMTs and the other for paramedics. The amendment simplifies the process to accommodate exam candidates with documented learning disabilities.

Records: The amendment allows a licensee to meet the personnel record's requirement of maintaining affirmative evidence of current certification status to include forms of documentation other than just a copy of the actual certificate. This amendment permits the use of documentation of certification status from the department's own web certificate lookup system.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS: None.

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

SPECIFIC AUTHORITY: 401.27, 401.30, 401.35 FS.

LAW IMPLEMENTED: 401.27, 401.30, 401.33, 401.35 FS.

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

TIME AND DATE: 1:00 p.m. (EDT), July 14, 2005

PLACE: Department of Health, Bureau of Emergency Medical Services, 4025 Esplanade Way, Room 301, Tallahassee, Florida

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULES IS: Victoria Parsons, Program Specialist, Bureau of Emergency Medical Services, Department of Health, 4052 Bald Cypress Way, Bin #C18, Tallahassee, Florida 32399-1738, (850)245-4440, Ext. 2768, e-mail: victoria\_parsons@doh.state.fl.us, Fax (850)488-9408

THE FULL TEXT OF THE PROPOSED RULES IS:

64E-2.001 Definitions.

(1) through (3) No change.

(4) Certification Examination – means an examination developed and/or adopted by the department to be used for the purpose of testing the ability to practice as a Florida licensed emergency medical technician and/or paramedic. ~~Controlled Substances~~ – means those drugs listed in Chapter 893, F.S.

(5) Chief – means the chief of the department's Bureau of EMS. ~~Department~~ – means the Florida Department of Health (DH), Bureau of Emergency Medical Services, 4052 Bald Cypress Way, Bin C18, Tallahassee, Florida 32399-1738.

(6) Controlled Substances – means those drugs listed in Chapter 893, F.S. ~~Chief~~ – means the chief of the department of the department's Bureau of EMS.

(7) Conviction – means a determination of guilt of a felony in any court of competent jurisdiction which is the result of trial of the entry of a plea of guilty or a plea of nolo contendere, regardless of whether adjudication is withheld. ~~Emergency Medical Services Provider~~ – means any entity licensed in the State of Florida to provide air, or ground

~~ambulance, whether basic life support (BLS) or advanced life support (ALS), and whether a non-transportation or a transportation service.~~

(8) Department – means the Florida Department of Health (DH), Bureau of Emergency Medical Services, 4052 Bald Cypress Way, Bin C18, Tallahassee, Florida 32399-1738.

(9) Emergency Medical Services Provider – means any entity licensed in the state of Florida to provide air, or ground ambulance, whether basic life support (BLS) or advanced life support (ALS), and whether a non-transportation or a transportation service.

(8) through (23) renumbered (10) through (25) No change.

Specific Authority 381.0011(13), 395.401, 395.4025(13), 395.405, 401.121, 401.35 FS. Law Implemented 381.0011, 395.401, 395.4015, 395.402, 395.4025, 395.403, 395.404, 395.4045, 395.405, 401.121, 401.211, 401.23, 401.25, 401.35, 401.435 FS. History–New 11-29-82, Amended 4-26-84, 3-11-85, 11-2-86, 4-12-88, 8-3-88, 8-7-89, 6-6-90, Formerly 10D-66.485, Amended 12-10-92, 11-30-93, 10-2-94, 1-26-97. Formerly 10D-66.0485. Amended 8-4-98, 7-14-99, 2-20-00, 11-3-02, \_\_\_\_\_.

64E-2.004 Medical Direction.

(1) through (4)(g) No change.

(h) An EMT employed by a licensed ALS provider is authorized to start a non-medicated IV under the following conditions:

1. A non-medicated IV is initiated only in accordance with department approved protocols of the licensed ALS provider's medical director. These protocols must include a requirement that the non-medicated IV be initiated in the presence of a Florida certified paramedic (of the same licensed provider) who directs the EMT to initiate the IV.

2. If the licensed ALS provider elects to utilize EMTs in this capacity, the licensed EMS provider shall ensure that the medical director provides training at least equivalent to that required by the 1999 (Contract #DTNH22-95-C-05108, U.S. D.O.T. EMT-Intermediate National Standard Curriculum relating to IV therapy which is incorporated by reference and available from the Superintendent of Documents, Post Office Box 371954, Pittsburgh, PA 15250-7954. The licensed EMS provider shall document successful completion of such training in each EMTs training file and make documentation available to the department upon request.

(h) through (k) renumbered (i) through (l) No change.

(5) No change.

Specific Authority 381.0011, 395.405, 401.265, 401.272, 401.35, 499.05 FS. Law Implemented 401.23, 401.24, 401.25, 401.26, 401.265, 401.27, 401.281, 401.2915, 401.30, 401.34, 401.35 FS. History–New 4-26-84, Amended 3-11-85, Formerly 10D-66.485, Amended 11-2-86, 4-12-88, 8-3-88, 8-7-89, 6-6-90, 12-10-92, 11-30-93, 10-2-94, 3-19-95, 1-26-97, Formerly 10D-66.0505, Amended 8-4-98, 7-19-99, 2-20-00, 11-3-02, 6-9-95, \_\_\_\_\_.

64E-2.008 Emergency Medical Technician.

(1) Qualifications and Procedures for Certification pursuant in addition to those contained in Section 401.27, F.S. To be qualified for EMT certification, an individual must:

(a) ~~1.~~ Successfully complete an initial EMT training program ~~that was~~ conducted in accordance with the 1994 U.S. DOT EMT-Basic National Standard Curriculum, NSC, which is incorporated by reference and is available for purchase from the Government Printing Office by telephoning 202-512-1800, or

~~2.(b) If out of state or military trained in accordance with the 1994 U.S. DOT EMT-Basic National Standard Curriculum, currently hold a valid EMT certification from the National Registry of Emergency Medical Technicians or be currently certified in another U.S. state or U.S. territory which has and have the certifying authority to submit to the department DH Form 1164, April 05 January 00, Statement of Good Standing which is incorporated by reference and available from the department, and~~

~~(b)(e) Apply for and pass Florida EMT certification examination on DH Form 1583, April 05, Emergency Medical Technicians Initial Certification Application April 02, Emergency Medical Technicians and Paramedics Certification Application/Examination Scheduling~~ which is incorporated by reference and available from the department, ~~and:~~

~~(c) Possess a high school diploma or a General Education Development (GED) diploma.~~

(2) Renewal Certification Recertification – To be eligible for renewal certification ~~recertification~~ as an EMT an individual shall submit DH Form 622, April 05, April 02, EMT/Paramedic Renewal Certification Recertification Application, which is incorporated by reference and available from the department; and within 2 years prior to the expiration date of his or her EMT certification complete one of the following:

(a) Complete 30 hours of EMT refresher training based on the ~~1996 1994~~ U.S. DOT EMT-Basic National Standard Refresher Curriculum, NSC; an additional 2 hours of HIV AIDS refresher training, in accordance with Section 381.0034, F.S.; and maintain a current CPR card as provided in Section 401.27(4)(e)2., F.S., and Rule 64E-2.038, F.A.C. CPR shall be included in the 30 hours of refresher training, provided that the CPR training is taken with a continuing education provider recognized by the department pursuant to Section 401.2715, F.S. The ~~1996 1994~~ U.S. DOT EMT-Basic National Standard Refresher Curriculum NSC shall be the criteria for department approval of refresher training courses. The department shall accept either the affirmation of a licensed EMS provider's medical director; or a certificate of completion of refresher training from a department approved Florida training program or a department approved continuing education provider as proof of compliance with the above requirements. ~~Effective December 2, 2002, the 30 hours of EMT refresher training shall be conducted in accordance with~~ The 1996 U.S. DOT EMT-Basic National Standard Refresher Curriculum NSC

~~which~~ is incorporated by reference and available for purchase from the Government Printing Office by telephoning (202)512-1800.

(b) Successfully pass the EMT certification examination during the current certification cycle; and complete 2 hours of HIV AIDS refresher training, in accordance with Section 381.0034, F.S.; and maintain a current CPR BLS card for the professional rescuer. Prior to taking the examination, a candidate shall submit DH Form 1583, April 05, Emergency Medical Technicians Initial Certification Application April 02, Emergency Medical Technicians and Paramedics Certification Application/Examination Scheduling to the department so as to be received by the department in accordance with the published examination application deadlines located on the department's website, no later than 30 calendar days prior to the date of the certification examination for which the applicant desires to be scheduled; and pay the required fees.

(c) Satisfactorily complete the first semester of the paramedic training course at a department approved Florida training center pursuant to Section 401.2701, F.S. within the current immediately preceding 2-year certification cycle. Complete 2 hours of HIV AIDS refresher training in accordance with Section 381.0034, F.S., and also maintain a current CPR card for the professional rescuer.

(d) through (3) No change.

~~(4) An EMT employed by a licensed ALS provider is authorized to start a non-medicated IV under the following conditions:~~

~~(a) A non-medicated IV is initiated only in accordance with department approved protocols of the licensed ALS provider's medical director. These protocols must include a requirement that the non-medicated IV be initiated in the presence of a Florida-certified paramedic (of the same licensed provider) who directs the EMT to initiate the IV.~~

~~(b) If the licensed ALS provider elects to utilize EMTs in this capacity, the licensed EMS provider shall ensure that the medical director provides training at least equivalent to that required by the 1999 (Contract #DTNH22-95-C-05108, U.S. D.O.T. EMT-Intermediate National Standard Curriculum relating to IV therapy which is incorporated by reference and available from the Superintendent of Documents, Post Office Box 371954, Pittsburgh, PA 15250-7954. The licensed EMS provider shall document successful completion of such training in each EMT's training file and make documentation available to the department upon request.~~

Specific Authority 381.0011, 381.0034, 381.0035, 401.23, 401.27, 401.35 FS. Law Implemented 381.001, 381.0034, 401.23, 401.27, 401.34, 401.41, 401.35, 401.411, 401.414 FS. History—New 11-29-82, Amended 4-26-84, 3-11-85, Formerly 10D-66.56, Amended 11-2-86, 4-12-88, 8-3-88, 12-10-92, 11-30-93, 12-10-95, 1-26-97, Formerly 10D-66.056, Amended 8-4-98, 1-3-99, 9-3-00, 4-15-01, 6-3-02, 11-3-02, \_\_\_\_\_.

64E-2.009 Paramedic.

(1) Qualifications and Procedures for Certification pursuant in addition to those contained in Section 401.27, F.S. – To be qualified for paramedic certification, an individual must:

(a) ~~1.~~ Successfully complete an initial paramedic training program that was conducted in accordance with the 1998 U.S. DOT EMT-Paramedic (EMT-P) National Standard Curriculum, (NSC), which is incorporated by reference and is available for purchase from the Government Printing Office by telephoning (202)512-1800, or

~~2.(b)~~ If out of state or military trained in accordance with the 1998 U.S. DOT EMT-Paramedic (EMT-P) NSC, currently hold a valid paramedic certification from the National Registry of Emergency Medical Technicians or be currently certified in another U.S. state or U.S. territory which has and have the certifying authority to submit to the department DH Form 1164, April 05, January 00, Statement of Good Standing, which is incorporated by reference in Rule 64E-2.008, F.A.C.; and

~~(b)(e)~~ Apply for and pass Florida paramedic certification examination in accordance with the published examination application deadlines located on the department's website on DH Form 1977, April 05, Paramedics Initial Certification Application 1583, April 02, Emergency Medical Technicians and Paramedics Certification Application/Examination Scheduling which is incorporated by reference in Rule 64E-2.008, F.A.C.; and

(d) Possess a high school diploma or a General Education Development (GED) diploma.

(2) Renewal Certification ~~Recertification~~ – To be eligible for renewal certification ~~recertification~~ as a paramedic an individual shall submit DH Form 622, April 05, April 02, EMT/Paramedic Renewal Certification ~~Recertification~~ Application which is incorporated by reference in subsection 64E-2.008(2), F.A.C., and within 2 years prior to the expiration date of his or her paramedic certification complete one of the following:

(a) Complete 30 hours of paramedic refresher training based on the 1998 U.S. D.O.T. EMT-Paramedic NSC, an additional 2 hours of HIV AIDS refresher training in accordance with Section 381.0034, F.S., and also maintain a current Advanced Cardiac Life Support (ACLS) card as provided in Section 401.27(4)(e)2, F.S., and Rule 64E-2.038, F.A.C. ACLS shall be included in the 30 hours of refresher training, provided that the ACLS training includes the ~~is taken with a continuing education criteria provider~~ recognized by the department pursuant to Section 401.2715, F.S. The department shall accept either the affirmation of a licensed EMS provider's medical director; or a certificate of completion of refresher training from a department approved Florida training program, or a department approved continuing education provider as proof of compliance with the above requirements. ~~Effective~~

~~December 2, 2002, the 30 hours of paramedic refresher training shall be conducted in accordance with the 2001 U.S. DOT EMT-Paramedic Refresher NSC which is incorporated by reference and available for purchase from the Government Printing Office by telephoning 202-512-1800.~~

(b) Successfully pass the paramedic certification examination during the current certification cycle; complete 2 hours of HIV AIDS refresher training in accordance with Section 381.0034, F.S.; and also maintain a current ACLS card. Prior to taking the examination, a candidate shall submit DH Form 1977, April 05, Paramedics Initial Certification Application 1583, April 02, Emergency Medical Technicians and Paramedics Certification Application/Examination Scheduling to the department so as to be received by the department in accordance with the published examination application deadlines located on the department's website, ~~no later than 30 calendar days prior to the date of the certification examination for which the applicant desires to be scheduled,~~ and pay the required fees.

(3) through (4) No change.

Specific Authority 381.0011, 381.0034, 381.0035, 401.27, 401.35 FS. Law Implemented 381.001, 381.0034, 401.23, 401.27, 401.34, 401.35, 401.41, 401.411, 401.414 FS. History—New 11-29-82, Amended 4-26-84, 3-11-85, Formerly 10D-66.57, Amended 4-12-88, 8-3-88, 12-10-92, 11-30-93, 12-10-95, 1-26-97, Formerly 10D-66.057, Amended 8-4-98, 1-3-99, 9-3-00, 4-15-01, 6-3-02, 11-3-02, \_\_\_\_\_.

64E-2.0094 Voluntary Inactive Certification.

An EMT or paramedic who is currently certified can place their certificate on inactive status by sending a written request to the department and paying a fee of \$50. Any EMT or paramedic whose certificate has been placed on inactive status shall not function as an EMT or paramedic until such time as he or she has completed the following requirements for reactivating the certificate:

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

(2) An EMT whose certificate has been on inactive status for more than 1 year can activate his or her certificate by completing the following:

(a) 30 hours of EMT refresher training which shall be based on the ~~1996 1994~~ U.S. DOT EMT-Basic National Standard Refresher Curriculum NSC and 2 hours of human immunodeficiency virus and acquired immune deficiency syndrome (HIV AIDS) training. ~~Effective December 2, 2002, the 30 hours of EMT refresher training shall be conducted in accordance with~~ the 1996 U.S. DOT EMT-Basic National Standard Refresher Curriculum NSC which is incorporated by reference in Rule 64E-2.008, F.A.C. The training:

1. through (d) No change.

(e) After completion of the above requirements, submit to the department:

1. DH Form 622, April 05, April 02, EMT/Paramedic Renewal Certification ~~Recertification~~ Application which is incorporated in subsection 64E-2.008(2), F.A.C.



2. DH Form 1583, April 05, Emergency Medical Technicians Initial Certification Application, April 02, Emergency Medical Technicians and Paramedics Certification Application/Examination Scheduling, which is incorporated by reference in Rule 64E-2.008, F.A.C.

3. ~~Late renewal fee of \$100 and the examination fee required by Section 401.34, F.S.~~

(3) A paramedic whose certificate has been on inactive status for more than 1 year can activate his or her certificate by completing the following:

(a) 30 hours of paramedic refresher training which shall be based on the 1998 U.S. DOT EMT-Paramedic NSC, which is incorporated by reference in Rule 64E-2.009, F.A.C., and 2 hours of human immunodeficiency virus and acquired immune deficiency syndrome (HIV AIDS) training. ~~Effective December 2, 2002, the 30 hours of EMT-Paramedic refresher training shall be conducted in accordance with the 2001 U.S. DOT EMT-Paramedic refresher NSC which is incorporated by reference in Rule 64E-2.009, F.A.C.~~ The training:

1. through (d) No change.

(e) After completion of the above requirements, submit to the department:

1. DH Form 622, April 05, April 02, EMT/Paramedic Renewal Certification Recertification Application which is incorporated by reference in subsection 64E-2.008(2), F.A.C.

2. DH Form 1977, April 05, Paramedic Initial Certification Application 1583, April 02, Emergency Medical Technicians and Paramedics Certification Application/Examination Scheduling which is incorporated by reference in Rule 64E-2.008, F.A.C.

3. ~~Late renewal fee of \$100 and the examination fee as required by Section 401.34, F.S.~~

Specific Authority 401.27, 401.35 FS. Law Implemented 381.0034, 401.27, 401.34, 401.35 FS. History—New 8-4-98, Amended 1-3-99, 9-3-00, 4-21-02, 6-3-02, 11-3-02, \_\_\_\_\_.

64E-2.0095 Involuntary Inactive Certification.

(1) No change.

(2) Such certificates may be reactivated if the applicant submits the renewal certification ~~recertification~~ fee required by Section 401.34, F.S., and a late renewal fee of \$25 and the following items to the department:

(a) DH Form 622, April 05, Jan. 00, EMT/Paramedic Renewal Certification Recertification Application, which is incorporated by reference in subsection 64E-2.008(2), F.A.C.

(b) through (3) No change.

Specific Authority 401.27, 401.35 FS. Law Implemented 401.27, 401.34, 401.35 FS. History—New 8-4-98, Amended 1-3-99, 9-3-00, 4-15-01, \_\_\_\_\_.

64E-2.010 Examinations.

(1) Grade Notification – The department shall notify each candidate of the examination results. If a candidate fails the ~~state~~ certification examination developed or required by the

department, he or she ~~shall~~ will be notified by the department of ~~the requirements for regrade, examination~~ review, and appeal rights and procedures.

(2) ~~Examination Regrades~~ — If the candidate ~~desires a regrading of his or her state examination, he or she must submit a written request to the department for a rescore within 30 days of the date indicated on the failure notice.~~

(2)(3) Examination Review.

(a) ~~A~~ The candidate who failed the examination shall notify the department, in writing, that he or she desires an examination review within 21 ~~30~~ days of the date indicated on the failure notice and include the required review fee of \$50 ~~\$30~~ payable by cashier's check or money order to the department. Upon receipt of payment, the department shall notify the candidate of a review appointment. ~~Upon payment of the fee, an examination review by candidate can be scheduled.~~

(b) Each candidate, who has taken and failed the examination, shall have the right to review the examination booklet and a copy of his or her answer sheet.

(c) The candidate's attorney can be present at the review.

(d) Examination reviews shall be conducted in the presence of a representative of the department and scheduled at a location designated by the department. The review shall be conducted between 8:00 a.m. and 5:00 p.m., Monday through Friday, excluding official state holidays. A candidate shall attend only one review per examination administration. If the candidate is scheduled for an examination review date and fails to appear, the review fee shall be forfeited.

(e) The candidate shall be allowed one-half the time, ~~not to extend beyond the time~~ allowed for the original administration of the examination; to review the examination materials provided. Neither the candidate nor the attorney shall be allowed to bring any material for documenting or recording any test material into the review session.

(f) through (g) No change.

(h) The department representative shall provide the candidate with a writing utensil and paper to document his or her review questions. The candidate shall not copy questions from the examination booklet. The candidate shall write any objection or question concerning the examination. Any candidate who fails the examination and attends an examination review, pursuant to this section, shall not be eligible for reexamination for at least 30 days after the examination review.

(i) ~~The candidate shall leave the written objections and questions with a representative of the department when he or she leaves the review.~~

(j) ~~The candidate's objections shall then be analyzed by a representative of the department. If the representative finds that the original grade awarded was consistent with the grading criteria, then the candidate shall be notified in writing.~~

~~(k) If the department representative finds that the candidate's objection requires further review, the representative, in conjunction with the Chief, shall review each objection and grade the items in accordance with the standards established to govern the examination.~~

~~(l) If the department finds that the original grade was not rendered in accordance with the grading criteria, the representative shall re-grade the examination. At the conclusion of the reevaluation of the examination, the candidate shall be notified in writing of the decision and the candidate's review fee shall be refunded.~~

(4) Examination Requirements:

(a) No change.

(b) The following grades are the minimum scores required to pass the below-listed examinations:

~~1. State developed EMT Examination, 70 percent or higher.~~

~~1.2. Florida Paramedic Certification Examination, 80 percent or higher.~~

~~3. NREMT paramedic (Assessment Examination), 70 percent or higher.~~

~~4. NREMT paramedic (Certification Examination), 70 percent or higher, and a passing score on each subpart.~~

~~2.5. NREMT EMT-Basic Examination, 70 percent or higher.~~

(5) To be scheduled for a reexamination ~~rescheduled for the state certification examination~~, the requestor shall submit DH Form 1975, April 05, Emergency Medical Technicians Re-exam, or Form 1978, Paramedics Re-exam, 4583, April 02, Emergency Medical Technicians and Paramedics Certification Application/Examination Scheduling which is incorporated by reference and available from the department in Rule 64E-2.008, F.A.C. The request shall be submitted so as to be received by the department in accordance with the published deadlines for examinations located on the department's website no later than 30 calendar days prior to the date of the scheduled examination.

(6) An EMT candidate must document successful completion of 24 hours of department-approved refresher training based on the 1994 U.S. DOT EMT-Basic National Standard Curriculum prior to being scheduled for another attempt at the examination after three failures. An EMT applicant who has failed the examination six times is disqualified from certification and must successfully complete a full EMT training program, pursuant to paragraph 64E-2.008(1)(a), F.A.C., prior to being considered for subsequent examination and certification.

(7) A paramedic candidate must document successful completion of 48 hours of department-approved refresher training based on the 1998 U.S. DOT EMT-Paramedic National Standard Curriculum prior to being scheduled for another attempt at the certification examination after three

failures. A paramedic applicant who has failed the examination six times is disqualified from certification and must successfully complete a full paramedic education program, pursuant to paragraph 64E-2.009(1)(a), F.A.C., prior to being considered for subsequent examination and certification.

~~(8)(6)~~ Persons with documented learning disabilities in the areas of reading decoding or reading comprehension or some form of documented disability or cognitive processing deficit specifically in the reading area which would negatively impact on the candidate's performance on the written examination may be eligible for special accommodations with the written certification examination. The person requesting the accommodation must provide documentation of the diagnosis before any decision shall be made by the department for accommodation in the administration of the paramedic examination and by the National Registry of Emergency Medical Technicians for accommodation in the administration of the EMT examination regarding the request for special accommodation.

(a) Documentation of a specific learning disability shall include one of the following:

~~1. Diagnosis of a learning disability in the area of reading decoding or reading comprehension based upon the results of standardized psycho-educational assessment including an appropriate standardized measure of intelligence and an appropriate standardized measure of achievement in reading decoding or reading comprehension. Two recognized instruments acceptable to the department which provide the disability diagnosis and which are standardized for adults are:~~

~~a. Wechsler Adult Intelligence Scale Revised.~~

~~b. Woodcock-Johnson Psycho-Educational Battery Revised: Tests of Achievement.~~

~~2. School or work records which demonstrate that special education services or accommodations were provided due to a learning disability in the area of reading decoding or reading comprehension. Documentation of the learning disability shall be required.~~

~~(a)(b)~~ Individuals who qualify for special accommodation on the written examination due to a documented learning disability as described above shall be required ~~permitted~~ to take the standard format of the examination, but shall receive an additional time hour ~~in which to complete the examination based on the department's assessment of the severity of the learning disability.~~

~~(b)(e)~~ Other types of accommodations to meet the needs of applicant's ~~documented~~ disabilities shall ~~may~~ be granted with appropriate documentation of disability as determined by the department.

Specific Authority 381.0011, 401.27, 401.35 FS. Law Implemented 381.001, 401.27, 401.35 FS. History—New 4-26-84, Amended 3-11-85, Formerly 10D-66.575, Amended 4-12-88, 12-10-92, 12-10-95, 1-26-97, Formerly 10D-66.0575, Amended 8-4-98, 6-3-02, 11-3-02, \_\_\_\_\_.

64E-2.013 Records and Reports.

(1) through (a) No change.

(b) Personnel records for each employee, to include date of employment, training records, employee application, documentation ~~copy~~ of current certification, ~~card~~, and confirmation that each driver is in compliance with Section 401.281, F.S.

(c) through (13) No change.

Specific Authority 381.0011, 395.405, 401.30, 401.35 FS. Law Implemented 381.001, 381.0205, 395.401-395.405, 401.23, 401.25, 401.27, 401.30, 401.35, 401.411 FS. History—New 11-29-82, Amended 4-26-84, 3-11-85, Formerly 10D-66.60, Amended 11-2-86, 4-12-88, 8-3-88, 12-10-92, 11-30-93, 12-10-95, 1-26-97, Formerly 10D-66.060, Amended 7-14-99, 2-20-00, 4-15-01, 11-3-02,

NAME OF PERSON ORIGINATING PROPOSED RULE:  
Victoria Parsons, Program Specialist

NAME OF SUPERVISOR OR PERSON WHO APPROVED  
THE PROPOSED RULE: Rhonda R. White, M.B.A., Acting  
Division Director

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

DATE NOTICE OF PROPOSED RULE DEVELOPMENT  
PUBLISHED IN FAW: February 18, 2005  
P.O. DO29262

## DEPARTMENT OF FINANCIAL SERVICES

### Division of Consumer Services

RULE CHAPTER TITLE: Multiple Hurricane Deductible  
Reimbursement Program

RULE CHAPTER NO.:

RULE TITLES: Purpose and Scope

69J-1

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RULE NOS.:

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PURPOSE AND EFFECT: This proposed permanent rule provides procedures and standards for the multiple hurricane deductible reimbursement program pursuant to Chapter 2004-480, L.O.F.

SUMMARY: Rules 69J-1.001, 69J-1.002, 69J-1.003, 69J-1.004, 69J-1.005, 69J-1.006, 69J-1.007, 69J-1.008(1), 69J-1.009, 69J-1.030, F.A.C., largely just perpetuate the provisions of the emergency rule that established the program. Other sections address specific issues as follows:

Subsection 69J-1.008(2), F.A.C., provides that deductibles must have been applied to claims from more than one hurricane in order to be a basis for eligibility.

Rule 69J-1.010, F.A.C., provides that the burden to justify a reimbursement is on the policyholder applying for reimbursement.

Rule 69J-1.012, F.A.C., provides that the validity of a claim will be based of coverage as stated in the applicable insurance policy, but if the policy form is not known the standard HO-3 will be used.

Rule 69J-1.013, F.A.C., provides standards for valuation of loss, including a system by which evidence of value will be weighted in the justification of the claim. It provides that if the valuation of the claim received by the Department from the insurer is less than the amount for which the policyholder applies, or no valuation information is provided from the insurer, then other documentation will be necessary to justify the additional amount for which application has been made. That documentation will be weighted as follows:

Supporting documentation that is produced by a person without a direct interest in the prospective reimbursement, who has expertise in valuation of the type of loss sustained, and who has inspected the property will be given high weight. Supporting documentation that is provided by the policyholder with a direct interest in the prospective reimbursement, or by a witness without expertise in insurance adjusting or construction will be given low weight. For reimbursement applications totaling \$1,000 or less, the application file must contain at least one piece of low weight documentation. For reimbursements over \$1,000, but no more than \$2500, the application file must contain at least one piece of high weight documentation or two pieces of low weight documentation. For all reimbursements over \$1,000, but no more than \$2500 which do not contain any pieces of high evidence, an affidavit form as incorporated in Rule 69J-1.003, F.A.C., will be sent to the consumer for signature and notarization. That form must be returned signed and notarized for the request to be processed. For reimbursements over \$2,500 the application file must contain at least two pieces of high weight documentation or one piece of high and two pieces of low weight documentation.

Rule 69J-1.020, F.A.C., addresses issues specific to condominium association claims. The rule interprets the applicability of the reimbursement limits applying to condominium associations.

Rule 69J-1.025, F.A.C., clarifies the impact of variations among deductibles.

Rule 69J-1.031, F.A.C., addresses the situation in which a policyholder is deceased.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS: None.

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

SPECIFIC AUTHORITY: Chapter 2004-480, L.O.F.

LAW IMPLEMENTED: Chapter 2004-480, L.O.F.

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

TIME AND DATE: 9:30 a.m., July 19, 2005

PLACE: Room 143, Larson Building, 200 East Gaines Street, Tallahassee, Florida

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

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULES IS: Tom Terfinko, Assistant Director, Division of Consumer Services, Department of Financial Services, 200 East Gaines Street, Tallahassee, FL 32399-0320, (850)413-5800

THE FULL TEXT OF THE PROPOSED RULES IS:

### MULTIPLE HURRICANE DEDUCTIBLE REIMBURSEMENT PROGRAM

#### 69J-1.001 Purpose and Scope.

The purpose of this rule is to establish procedures and adopt forms for the implementation of the program for reimbursement of multiple hurricane deductibles on residential property claims as mandated by Chapter Law 2004-480, (HB 9A).

Specific Authority Chapter 2004-480, L.O.F. Law Implemented Chapter 2004-480, L.O.F. History--New \_\_\_\_\_.

#### 69J-1.002 Definitions.

(1) Application File: The term, "application file" as used in this rule shall mean all documentation timely received by the Department, from the policyholder or insurer pursuant to this rule and any additional information acquired by the Department relating to the application.

(2) Condominium: The term, "condominium" as used in this rule and Chapter Law 2004-480, (HB 9A) has the meaning as defined in Section 718.103(11), Florida Statutes.

(3) Department: The term, "Department" as used in this rule shall mean the Florida Department of Financial Services.

(4) Eligible: The term, "eligible" as used in this rule shall mean meeting the requirements for reimbursement established in Chapter Law 2004-480, (HB 9A).

(5) Insurer: The term "insurer" as used in this rule includes surplus lines insurance carriers as well as authorized insurance carriers. Actions mandated by this rule to be performed by insurers may at the insurers' discretion, be performed by representatives acting on the insurers' behalf.

(6) Hurricane Deductible: The term "hurricane deductible" as used in this rule and Chapter Law 2004-480 shall mean any deductible applied to a loss proximately caused by a hurricane.

(7) Properly Completed: The phrase "properly completed" as used in this rule means, as to an application, that the Department has received all information necessary to determine whether an application is eligible, including whether the underlying claim is valid and reasonable.

(8) Reasonable: The term, "reasonable" as used in this rule shall mean that the amount of a claim approximates the monetary compensation to which policyholders would have been entitled under their insurance policy, but for the application of a second or subsequent hurricane deductible.

(9) Valid: The term, "valid" as used in this rule shall mean that a policyholder would have been entitled to payment under their insurance policy, but for the application of a second or subsequent hurricane deductible.

Specific Authority Chapter 2004-480, L.O.F. Law Implemented Chapter 2004-480, L.O.F. History--New \_\_\_\_\_.

#### 69J-1.003 Forms Adopted.

The Department of Financial Services hereby adopts and incorporates by reference the following forms:

(1) Multiple Hurricane Deductible Reimbursement Application – Residential, Form DFS-11-1612, (rev. 1/05).

(2) Multiple Hurricane Deductible Reimbursement Application – Condominium Association, DFS-11-1614, (rev. 1/05).

(3) Notice of Multiple Hurricane Deductible Reimbursement Program – Residential, Form DFS-11-1611, (rev. 1/05), and

(4) Notice of Multiple Hurricane Deductible Reimbursement Program – Condominium Association, Form DFS-11-1613, (rev. 1/05).

(5) Multiple Hurricane Deductible Reimbursement Program Affidavit Form, DFS-10-1645 (rev. (2/05).

Specific Authority Chapter 2004-480, L.O.F. Law Implemented Chapter 2004-480, L.O.F. History--New \_\_\_\_\_.

#### 69J-1.004 Acquiring Forms.

(1) The Department shall provide the forms listed in Rule 69J-1.003, F.A.C., above to the Department of Financial Services, Division of Consumer Services disaster contact for each insurer. The forms will also be available to insurers at FLDFS.com/deductible.

(2) The forms listed in subsection (3) above shall be acquired by policyholders from their insurer.

(3) If a policyholder does not receive an application form from their insurer, policyholders may acquire an application form from the Department from [fldfs.com](http://fldfs.com).

Specific Authority Chapter 2004-480, L.O.F. Law Implemented Chapter 2004-480, L.O.F. History--New \_\_\_\_\_.

#### 69J-1.005 Notice Process.

(1) Insurers, which applied multiple hurricane deductibles, shall mail both the notice and application forms incorporated in subsection (3) above to all residential property insurance policyholders who filed claims with the insurer for two or more of the 2004 hurricanes and to whom the insurer applied more than one hurricane deductible, whether there was a claim payment or not. Forms DFS-11-1611 and DFS-11-1612 are to be sent to residential policyholders. Forms DFS-11-1613 and DFS-11-1614 are to be sent to policyholders who are condominium associations.

(2) The insurer shall include, as part of its mailing of the notice and application forms, either on the application or a separate document, data which shall serve as documentation from the insurer that an insurance claim was not paid in full or in part, due to application of a deductible. That data shall consist of the following items:

- (a) Policyholder name(s);
- (b) Policy number;
- (c) Address of covered property;
- (d) Claim numbers of policy holder's hurricane claims;
- (e) Florida Company Code;
- (f) Amount of hurricane deductible applied under the policy to the claims, if the insurer has that information;
- (g) Amount of the payment made, as of the date of the notice, for each hurricane claim;
- (h) Any additional information and documentation that the insurer is reasonably able to provide, without manual review of its claim information, which would show that an insurance claim was not paid in full or in part, due to application of a deductible.

(3) If an insurer receives, and denies a claim for an amount which falls below the amount of a second or subsequent hurricane deductible established by the policy, the insurer shall provide documentation to the policyholder that the claim is denied based on application of the deductible, and shall mail the notice and application forms referenced in subsection (3) above to the policyholder within 10 business days of its determination that a second hurricane deductible is applicable. Forms DFS-11-1611 and DFS-11-1612 are to be sent to residential policyholders. Forms DFS-11-1613 and DFS-11-1614 are to be sent to policyholders who are condominium associations.

(4) If an insurer is contacted by a policyholder relative to a loss in an amount which, based on the policyholder's representation, falls below the amount of a deductible established by the policy, the insurer is not required to open a

claim or verify the value of the loss. In such cases the documentation provided pursuant to paragraph (c) above may, at the election of the insurer, indicate that no loss or claim was paid based on the policyholder's valuation of the loss and that the insurer has not verified such valuation.

(5) This subsection is not applicable to insurers that did not apply more than one deductible to claims resulting from the 2004 hurricanes.

Specific Authority Chapter 2004-480, L.O.F. Law Implemented Chapter 2004-480, L.O.F. History--New \_\_\_\_\_.

#### 69J-1.006 Collection of Data by the Office of Insurance Regulation.

(1) Pursuant to Chapter Law 2004-480, (HB 9A), the Office of Insurance Regulation shall collect data from residential property insurers regarding claims that were filed by policyholders for two or more hurricanes for the 2004 hurricane season.

(2) Within five calendar days of sending the notice and applications pursuant to Rule 69J-1.005, F.A.C., above, all insurers making such mailings shall submit the following information, if in the insurer's records, to the Office of Insurance Regulation:

- (a) Insured's full name as it appears on policy;
- (b) Address of insured property;
- (c) Policyholder's mailing address;
- (d) Florida Company Code;
- (e) Company Name;
- (f) Policy Number;
- (g) Number of residential units insured under policy as to which the claim was filed;
- (h) Number of insured locations under policy;
- (i) Claim number;
- (j) Date of Loss;
- (k) Name of hurricane;
- (l) Amount of claim paid, if any, up to the date the information is provided;
- (m) Deductible amount per insured location;
- (n) Amount of the claim to which the deductible was applied;

(3) Insurers must contact the Florida Department of Financial Services, Division of Information Systems' Help Desk at (850)410-9340 to obtain instructions for making the required filings.

(4) Within five calendar days of receiving a request from the Department and, verification from the Department of the policyholder's claim and authorization to release information, the insurer shall submit any information in the insurer's files that would assist the Department in determining the validity and reasonableness of a claim, to the Department of Financial Services as requested.

Specific Authority Chapter 2004-480, L.O.F. Law Implemented Chapter 2004-480, L.O.F. History--New \_\_\_\_\_.

69J-1.007 Claim Submission Process.

(1) Those policyholders who meet the eligibility requirements of Chapter Law 2004-480, (HB 9A) shall complete the application form as indicated on that form. Form DFS-11-1612 is to be submitted by policyholders with residential property claims. Form DFS-11-1614 is to be submitted by policyholders who are condominium associations.

(2) The eligible policyholders shall mail the application form to Florida Department of Financial Services, 200 E. Gaines St., Rm. 529, Tallahassee, FL 32399-4213. The mailing must be postmarked or actually received by March 1, 2005 to maintain eligible status. However, if an application is mailed to the insurer, and is postmarked by March 1, 2005, and then forwarded by the insurer and received by the by the Department by March 21, 2005 it will be considered timely.

(3) Policyholders whose property was damaged by two or more hurricanes in 2004, who would have been entitled to compensation under their policy, but for the existence of a multiple deductible, and who did not file a claim because of the existence of a hurricane deductible, shall contact their insurer and shall acquire an application as specified in subsection (4), paragraph (b) above and complete and submit the application as described in paragraph (b) above, along with documentation from the insurer that the insurer did not pay the loss or claim in full or in part, due to application of the deductible.

(4) Application in an incorrect form will not result in a denial of an application, provided that all information needed to process the request is timely received by the Department.

Specific Authority Chapter 2004-480, L.O.F. Law Implemented Chapter 2004-480, L.O.F. History-New \_\_\_\_\_.

69J-1.008 Aggregation of Deductibles.

(1) If the property was covered by an insurer during one hurricane and as a result of nonrenewal, cancellation or otherwise was covered by another insurer during a subsequent hurricane, the deductibles applied by the separate insurers shall be aggregated to achieve eligibility for the reimbursement program. Under no other circumstances will deductibles under multiple policies be aggregated to achieve eligibility.

(2) Multiple deductibles applied to only one hurricane will not be sufficient to achieve eligibility. Deductibles must have been applied to claims from more than one hurricane in order to be a basis for eligibility.

Specific Authority Chapter 2004-480, L.O.F. Law Implemented Chapter 2004-480, L.O.F. History-New \_\_\_\_\_.

69J-1.009 Processing of Claims.

(1) For the purposes of processing, claims will be divided into two categories: Priority One and Priority Two. Priority One Claims are those of policyholders who received claims payments from their insurer for two or more hurricanes for which at least two payments were reduced by the full amount of the deductible. The entire reimbursement request will be

considered as a Priority One Claim even if in addition the two deductibles a partial deductible was also applied. Priority Two claims are all claims other than Priority One claims of policyholders who meet the eligibility criteria in Chapter Law 2004-480, (HB 9A).

(2) All valid and reasonable Priority One claims shall be paid before Priority Two claims.

(3) Valid and reasonable Priority One claims shall be paid in the order that properly completed applications are received. If a timely filed application is not properly completed until additional information is received by the Department, its placement in the order of processing among Priority One claims will be based on the date and time the additional information is received by the Department.

(4) After all properly completed, valid and reasonable Priority One claims have been paid, the Department shall calculate the reimbursement amounts for all valid and reasonable Priority Two Claims. If the total of those amounts does not exceed what is left of the appropriated funds, all properly completed, valid and reasonable Priority Two Claims shall be reimbursed in full. If the total of the reimbursement amount for Priority Two Claims exceeds the remainder of appropriated funds, reimbursement shall be made on a *pro rata* basis so that each policyholder with a Priority Two claim receives an equal percentage of the amount of the reimbursement claim approved.

(5) Determination of eligibility and the amount of reimbursement shall be made in accordance with the provisions and methods set forth in Chapter Law 2004-480, (HB 9A), this rule and the forms incorporated in Rule 69J-1.003, F.A.C.

(6) For an application to be eligible for reimbursement the applicant must have submitted documentation from the insurer that the insurance claim was not paid, in full or in part, due to application of the deductible.

(7) Subsequent to the filing of an application, upon request by the Department, a policyholder will be allowed 10 calendar days from the date of the Department's request, to provide additional information necessary for the application to be properly completed.

Specific Authority Chapter 2004-480, L.O.F. Law Implemented Chapter 2004-480, L.O.F. History-New \_\_\_\_\_.

69J-1.010 Burden to Justify Reimbursement is on the Policyholder.

The burden to justify a reimbursement is on the policyholder applying for reimbursement.

Specific Authority Chapter 2004-480, L.O.F. Law Implemented Chapter 2004-480, L.O.F. History-New \_\_\_\_\_.

69J-1.012 Determination of Claim Validity.

(1) If the documentation in the file of the applicant includes a copy the insurance policy or information from the insurer as to the extent of the coverage upon which application

is based, the department will look to the terms of that policy or the information from the insurer to determine if a loss is subject to coverage under the policy.

(2) If the documentation in the file of the applicant does not include a copy the insurance policy or information from the insurer as to the extent of the coverage upon which application is based, the department will look to Homeowners 3 – Special Form HO 00 03 10 00, published in 1999 by Insurance Services Office, Inc. Newport World Business Center, 545 Washington Boulevard, Jersey City, NJ 07310-1686 from which such form may be obtained, which is hereby incorporated by reference, as a basis to determine claim validity.

Specific Authority Chapter 2004-480, L.O.F. Law Implemented Chapter 2004-480, L.O.F. History–New \_\_\_\_\_.

#### 69J-1.013 Valuation of Loss.

(1) The valuation of the loss upon which the deductible reimbursement is calculated will be based on documentation that was received by the Department pursuant to Emergency Rule 69JER05-1, filed January 6, 2005, which is hereby incorporated by reference. A copy of that emergency rule can be obtained from fldfs.com.

(2) If the valuation of the claim included with the policyholder's application and the valuation of the information received by the Department from the insurer are equal, then no additional documentation is required to verify that amount.

(3) If the valuation of the claim received by the Department from the insurer is less than the amount for which the policyholder applies, or no valuation information is provided from the insurer, then other documentation will be necessary to justify the additional amount for which application has been made. That documentation will be weighted as follows:

(a) High Weight Documentation. Supporting documentation that is produced by a person without a direct interest in the prospective reimbursement, who has expertise in valuation of the type of loss sustained, and who has inspected the property is considered the strongest type of documentation to evidence the valuation of a loss. This documentation will be given high weight. Examples of this type are:

1. A damage report from a governmental agency such as FEMA, or a county building department.

2. Engineering or other licensed expert's damage assessment report.

3. Licensed building contractor estimate or invoice.

4. Public adjuster's damage loss report.

(b) Low Level Documentation. Supporting documentation that is provided by the policyholder with a direct interest in the prospective reimbursement, or by a witness without expertise in insurance adjusting or construction will be given low weight. Examples of this type are:

a. Photographs of damage.

b. Receipts for materials purchased for repairs.

c. Written statement from a disinterested witness without expertise in insurance adjusting or construction.

(4) The level of justification required for a claim will vary with the projected reimbursement amount as follows:

(a) For reimbursement applications totaling \$1,000 or less, the application file must contain at least one piece of low weight documentation.

(b) For reimbursements over \$1,000, but no more than \$2500, the application file must contain at least one piece of high weight documentation or two pieces of low weight documentation. For all reimbursements over \$1,000, but no more than \$2500 which do not contain any pieces of high evidence, an affidavit form DFS-10-1645, as incorporated in Rule 69J-1.003, F.A.C., will be sent to the consumer for signature and notarization. That form must be returned signed and notarized for the request to be processed.

(c) For reimbursements over \$2,500 the application file must contain at least two pieces of high weight documentation or one piece of high and two pieces of low weight documentation.

(4) Multiple photographs, receipts, or other kinds on documentation will be aggregated by kind to constitute a "piece" for purposes of this rule. For example six photographs and eight receipts are two pieces of evidence.

(5) Upon receipt by the policyholder of a warrant disbursing funds under the Multiple Hurricane Deductible Reimbursement Program or a letter denying an application, the Department upon request of the policyholder, shall allow 30 days from such receipt for submission of additional information to the Department to justify a change in the disbursement amount or a reversal of the denial.

Specific Authority Chapter 2004-480, L.O.F. Law Implemented Chapter 2004-480, L.O.F. History–New \_\_\_\_\_.

#### 69J-1.020 Special Rule for Condominium Association Claims.

(1) Chapter Law 2004-480 treats condominium associations differently than other policyholders. Apartment building owners, and homeowner associations, will not be treated as condominium associations for purposes of the reimbursement program.

(2) Interpretation of the \$3,000 Per Unit Limit.

(a) Condominium associations are limited by Section 2., (4)(b) of Chapter Law 2004-480, to reimbursements of the greater of:

1. \$3,000 per residential condominium unit covered under a policy.

2. \$10,000 if a deductible was applied for two hurricanes.

3. \$20,000 if a deductible was applied for three or more hurricanes, or

4. \$10,000 per structure damaged.

(b) Commercial units such as stores, business offices, and restaurants shall not be counted as units to be multiplied by \$3000 for the limit calculation.

(c) The number of residential condominium units used for the limit calculation is limited, by the number of residential units in the condominium, and the number of residential units in structures covered by the policy from which the deductibles were applied. The number of structures damaged, and the number of structures in the condominium do not impact the calculation, of the limit. Residential units of undamaged buildings will be counted in the limit calculation if they are in the same condominium as the damaged property, and covered under the same insurance policy as the damaged property.

Specific Authority Chapter 2004-480, L.O.F. Law Implemented Chapter 2004-480, L.O.F. History-New \_\_\_\_\_.

#### 69J-1.025 Impact of Variations Among Deductibles.

(1) If deductible amounts vary among claims, the first deductible applied will be used as the standard to determine if the eligibility requirement that one full deductible be paid has been met.

(2) In the reimbursement calculation, the deductibles applied to claims based on hurricanes subsequent to the hurricane to which the first deductible applied, will be totaled to determine the reimbursable amount subject to deductions and limitations imposed by Chapter Law 2004-480.

(3) For a subsequent deductible to be eligible for reimbursement, it must be a deductible of the same type as that applied to a claim from a prior hurricane. Also such a deductible will not count toward the requirement of meeting a full deductible for reimbursement of a subsequent deductible of a different type. For example, if a separate deductible is applied for food spoilage, or for association assessments, the application of that deductible to a claim from the prior hurricane will not serve as a basis for reimbursement of a subsequent deductible for property damage.

(4) If there is one policy covering multiple structures, and the policy provides for deductibles to be applied on a per structure basis, then reimbursement will only be paid for deductibles applied on structures damaged by more than one hurricane, and only for deductibles applied to the second or subsequent hurricanes. In such a situation the requirement that a policyholder be subjected to deductibles in an amount equal to one full deductible will be applied on a per structure basis.

Specific Authority Chapter 2004-480, L.O.F. Law Implemented Chapter 2004-480, L.O.F. History-New \_\_\_\_\_.

#### 69J-1.030 Assignment of Rights Under the Program.

(1) The program created by Chapter Law 2004-480 is for the benefit of policyholders only. Therefore, no assignment of rights to reimbursement under the program is permitted.

(2) Notwithstanding subsection (1) above a right to reimbursement may be passed through an estate by devise or inheritance, or may be acquired by a lender pursuant to terms of a mortgage agreement secured by the real property to which the application for reimbursement relates.

Specific Authority Chapter 2004-480, L.O.F. Law Implemented Chapter 2004-480, L.O.F. History-New \_\_\_\_\_.

#### 69J-1.031 Death of Policyholder.

If a named policyholder dies a successor in interest may apply as the policyholder subject to documentation that the applicant is the legal successor in interest to the proceeds of the insurance policy upon which the application is made.

Specific Authority Chapter 2004-480, L.O.F. Law Implemented Chapter 2004-480, L.O.F. History-New \_\_\_\_\_.

NAME OF PERSON ORIGINATING PROPOSED RULE:  
Tom Terfinko, Assistant Director, Division of Consumer Services

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Marta Arrington, Director, Division of Consumer Services

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

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

### **DEPARTMENT OF FINANCIAL SERVICES**

#### **Division of Workers' Compensation**

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

Florida Workers' Compensation

Medical Services Billing,

Filing and Reporting Rule

69L-7.602

PURPOSE AND EFFECT: The amendments clarify rule language and data reporting requirements, amend an administrative penalty dollar amount to a decreased value for untimely medical bill reporting to the division, amend the form DFS-F5-DWC-25, and its completion instructions, update form completion instructions for forms DFS-F5-DWC-09, DFS-F5-DWC-10, DFS-F5-DWC-11, and to incorporate the recommendations of Florida's Worker's Compensation Three-Member Panel that affect medical health care provider billing procedures.

SUMMARY: The rule provides for reimbursement of healthcare providers that provide medical services for workers' compensation claimants.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS: None.

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



SPECIFIC AUTHORITY: 440.13(4), 440.15(3)(b),(d), 440.185(5), 440.525(2), 440.591, 440.593(5) FS.

LAW IMPLEMENTED: 440.09, 440.13(2)(a),(3),(4),(6),(11), (12),(14),(16), 440.15(3)(b),(d), 440.20(6), 440.185(5),(9), 440.593 FS.

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

TIME AND DATE: 9:00 a.m., July 11, 2005

PLACE: Room 104J, Hartman Building, 2012 Capital Circle, Southeast, Tallahassee, Florida

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

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Don Davis, Division of Workers' Compensation, Office of Data Quality and Collection, Department of Financial Services, 200 East Gaines Street, Tallahassee, Florida 32399-4226, (850)413-1711

THE FULL TEXT OF THE PROPOSED RULE IS:

69L-7.602 Florida Workers' Compensation Medical Services Billing, Filing and Reporting Rule.

(1) Definitions. As used in this rule:

(a) "Accurately Complete" or "Accurately Completed" means the form submitted contains the information necessary to meet the requirements of Chapter 440, F.S., and this rule.

(b) "Agency" means the Agency for Health Care Administration as defined in Section 440.02(3), F.S.

(c) "Ambulatory Surgical Center" is defined in Section 395.002(3), F.S.

(d)(e) "Billing" means the process by which a health care provider submits a claim to an insurer, service company/third party administrator (TPA) or any entity acting on behalf of the insurer, to receive reimbursement for medical services provided to an injured employee.

(e)(f) "Catastrophic Event" means the occurrence of an event outside the control of an insurer, ~~or~~ submitter, service company/third party administrator (TPA) or any entity acting on behalf of the insurer, such as a natural disaster, an act of terrorism (including but not limited to cyber terrorism) or a telecommunications failure, in which recovery time will prevent an insurer, ~~or~~ submitter, service company/TPA or any entity acting on behalf of the insurer from meeting the filing and reporting requirements of Chapter 440, F.S., and this rule.

(f)(e) "Charges" means the dollar amount billed.

(g)(f) "Charge Master" means a comprehensive coded list developed by a hospital or an ambulatory surgical center representing the its usual charges for specific services and/or supplies.

(h)(g) "Claims-Handling Entity File Number" means the number assigned to the claim file by the insurer or, service company/TPA ~~or third party administrator~~ for purposes of internal tracking.

(i)(h) "Current Dental Terminology (~~CDT-4~~)" (CDT) means the American Dental Association's reference document containing descriptive terms to identify codes for billing and reporting dental procedures.

(j)(i) "Date Insurer Paid" means the date the insurer, service company/TPA, ~~third party administrator~~ or submitter or any entity acting on behalf of the insurer mails, transfers or electronically transmits payment to the health care provider.

(k)(j) "Date Insurer Received" means the date that a Form DFS-F5-DWC-9, DFS-F5-DWC-10 (or insurer pre-approved alternate form), DFS-F5-DWC-11, DFS-F5-DWC-90 or the electronic form equivalent is delivered to, and manually or electronically date stamped by; the insurer, service company/TPA, ~~third party administrator~~ or submitter or any entity acting on behalf of the insurer from a provider.

(l)(k) "Deny" means to determine that no payment is to be made for a specific procedure code or other service reported by a health care provider to an insurer, service company/TPA or any entity acting on behalf of the insurer on a bill.

(m)(l) "Division" means the Division of Workers' Compensation (DWC) as defined in Section 440.02(14), F.S.

(n)(m) "Disallow" means to determine that no payment is to be made for a specific procedure code or other service reported by a health care provider to an insurer, service company/TPA or any entity acting on behalf of the insurer for reimbursement, based on identification of a billing error, inappropriate utilization or over utilization, use of an incorrect billing form, only one line-item billed and the bill has an invalid code, or required information is inaccurate, incorrect, missing or illegible.

(o)(n) "Electronic Filing" means the computer exchange of medical data from a submitter to the division in the standardized format defined in the Florida Workers' Compensation Medical EDI Implementation Guide (MEIG), 2005 ~~2004~~.

(p)(o) "Electronic Form Equivalent" means the format, provided in the Florida Workers' Compensation Medical EDI Implementation Guide (MEIG), 2005 ~~2004~~, to be used when a submitter electronically transmits required data to the division. Electronic form equivalents do not include transmission by facsimile, data file(s) attached to electronic mail, or computer-generated paper-forms.

(q)(p) "Electronically Filed with the Division" means the date an electronic filing has been received by the division and has successfully passed structural and data-quality edits.

(r) “Entity” means any party, involved in the provision of or the payment for medical services, care or treatment rendered to the injured employee, excluding the insurer, service company/TPA or health care provider as identified in this section.

(s)(q) “Explanation of Bill Review” (EOBR) means the codes and written explanation of an insurer’s reimbursement decision sent to the health care provider as notice of payment, denial, disallowance or adjustment.

(t)(r) “Florida Workers’ Compensation Medical EDI Implementation Guide (MEIG), 2005 2004” is the Florida Division of Workers’ Compensation’s reference document containing the specific electronic formats and data elements required for insurer reporting of medical data to the division.

(u)(s) “Healthcare Common Procedure Coding System National Level II Codes (HCPCS)” (HCPCS) means the Centers for Medicare and Medicaid Services’ (CMS) reference document listing descriptive codes for billing and reporting professional services, procedures, and supplies provided by health care providers.

(v)(t) “Health Care Provider” is defined in Section 440.13(1)(h), F.S.

(w)(u) “Hospital” ~~is defined in Section means any health care institution licensed under Chapter 395.002(13), F.S.~~

(x)(v) “ICD-9-CM International Classification of Diseases” (ICD-9) is the U.S. Department of Health and Human Services’ reference document listing the official diagnosis and inpatient-procedure code sets.

(y)(w) “Insurer” is defined in Section 440.02(38), F.S.

(z)(x) “Insurer Code Number” means the number the division assigns to each individual insurer, self-insured employer or self-insured fund.

(aa)(y) “Itemized Statement” means a detailed listing of ~~hospital provided services and supplies provided to an injured employee,~~ including the quantity and charges for each service or supply.

(z) “Medical Summary Report” ~~means an Excel spreadsheet format that denotes an insurer, service company or third party administrator payment, adjustment and payment, disallowance or denial information.~~

(bb)(aa) “Medically Necessary” or “Medical Necessity” is defined in Section 440.13(1)(l), F.S.

(cc)(bb) “NDC number” means the National Drug Code (NDC) number, assigned under Section 510 of the Federal Food, Drug, and Cosmetic Act, which ~~that~~ identifies the drug product labeler/vendor, product, and trade package size.

(ee) “Paper Form Filed with the Division” ~~means the date a paper document is accurately completed, postmarked and mailed pre paid to the Department of Financial Services as a required filing under this rule.~~

(dd) “Physician” is defined in Section 440.13(1)(q), F.S.

(ee) “Physician’s Current Procedural Terminology (CPT®)” (CPT) means the American Medical Association’s reference document (HCPCS Level I) containing descriptive terms to identify codes for billing and reporting medical procedures and services.

(ff) “Principal Physician” means the treating physician responsible for the oversight of medical care, treatment and attendance rendered to an injured employee, to include recommendation for appropriate consultations or referrals.

(gg) “Report” means any form related to medical services rendered, in relation to a workers’ compensation injury, which ~~that~~ is required to be filed with the division under this rule.

(hh) “Service Company/Third Party Administrator (TPA)” means ~~an party that entity which~~ has contracted with an insurer for the purpose of providing ~~all~~ services necessary to adjust workers’ compensation claims on the insurer’s behalf.

(ii) “Service Company/Third Party Administrator (TPA) Code Number” means the number the division assigns to each third party administrator, claims administrator or servicing company.

(jj) “Submitter” means an insurer, service company/~~or third party administrator (TPA),~~ entity or any other party entity acting as an agent or vendor on behalf of an insurer, service company/TPA ~~or third party administrator,~~ or entity to fulfill any insurer responsibility to electronically transmit required medical data to the division.

(kk) “UB-92, National Uniform Billing Data Element Specifications as Adopted by the Florida State Uniform Billing Committee, April 2005 ~~May 2004~~” (UB-92 manual) is the reference document providing billing and reporting completion instructions for the Form DFS-F5-DWC-90 (UB-92 HCFA-1450, Uniform Bill, Rev.1992/UB-92).

(2) Forms for Medical Billing, Filing and Reporting.

(a) Form DFS-F5-DWC-9 (CMS-1500 Health Insurance Claim Form, Rev. 12/90); Form DFS-F5-DWC-9-A, Rev. May 26 2005; Form DFS-F5-DWC-10 (Statement of Charges for Drugs and Medical Supplies Form), Rev. 5/26/2005; ~~3/2004;~~ Form DFS-F5-DWC-11 (American Dental Association Dental Claim Form, Rev. 2002); Form DFS-F5-DWC-11-A, Rev. May 26, 2005; Form DFS-F5-DWC-25 (Florida Workers’ Compensation Uniform Medical Treatment/Status Reporting Form), Rev. 05/26/2005 ~~03/2004~~; Form DFS-F5-DWC-25 completion instructions, Rev. May 26, 2005; and Form DFS-F5-DWC-90 (UB-92 HCFA-1450, Hospital Uniform Bill, Rev./UB-92, Effective 1992) ~~and completion instructions for these forms~~ are hereby incorporated by reference into this rule.

1. A copy of the Form DFS-F5-DWC-9 can be obtained from the CMS web site: <http://www.cms.hhs.gov/forms/>. Completion instructions can be obtained from the DFS/DWC web site: <http://www.fldfs.com/WC/forms.html#7>.

2. A copy of the Form DFS-F5-DWC-10 and completion instructions can be obtained from the DFS/DWC web site: <http://www.fldfs.com/WC/forms.html#7>.

3. A copy of the Form DFS-F5-DWC-11 can be obtained by contacting the American Dental Association. Completion instructions can be obtained from the DFS/DWC web site: <http://www.fldfs.com/WC/forms.html#7>.

4. A copy of the Form DFS-F5-DWC-25 and completion instructions can be obtained from the DFS/DWC web site: <http://www.fldfs.com/WC/forms.html#7>.

5. A copy of the Form DFS-F5-DWC-90 can be obtained from the CMS web site: <http://www.cms.hhs.gov/forms/>. Completion instructions can be obtained from the UB-92, National Uniform Billing Data Element Specifications as Adopted by the Florida State Uniform Billing Committee (Rev. April 2005) and sub-subparagraph (4)(e)5. of this rule DFS/DWC web site: <http://www.fldfs.com/WC/forms.html#7>.

(b) In lieu of submitting a Form DFS-F5-DWC-10, when billing for drugs or medical supplies, alternate billing forms are acceptable if:

1. An insurer has approved the alternate billing form(s) prior to submission by a health care provider, and

2. The form provides all information required on the Form DFS-F5-DWC-10. Forms DFS-F5-DWC-9, DFS-F5-DWC-11 or DFS-F5-DWC-90 shall not be submitted as an alternate form.

(3) Materials Adopted for Reference. The following publications are incorporated by reference herein:

(a) UB-92, National Uniform Billing Data Element Specifications as Adopted by the Florida State Uniform Billing Committee (Rev. April 2005 ~~May 2004~~). A copy of this manual can be obtained from the Florida Hospital Association.

(b) The Florida Workers' Compensation Medical EDI Implementation Guide (MEIG), 2005 ~~2004~~. Florida Workers' Compensation Medical EDI Implementation Guide (MEIG), 2005 ~~2004~~ can be obtained from the DFS/DWC web site: [http://fldfs.com/WC/edi\\_med.html](http://fldfs.com/WC/edi_med.html).

(c) The American Medical Association "Healthcare Common Procedure Coding System, Medicare's National Level II Codes (HCPCS), as adopted in Rule 69L-7.020, F.A.C. Centers for Medicare and Medicaid Services, Copyright 2003, American Medical Association.

(d) The Physicians' Current Procedural Terminology (CPT®), as adopted in Rule 69L-7.020, F.A.C. Copyright 2003, American Medical Association.

(e) The Current Dental Terminology (CDT-4), as adopted in Rule 69L-7.020, F.A.C., Fourth Edition Copyright 2003, American Dental Association.

(f) The 2005 ICD-9-CM Professional for Hospitals, Volumes 1, 2, & 3, International Classification of Diseases, 9th Revision, Clinical Modification, Sixth Edition, Copyright 2004 2003, Ingenix American Medical Association.

(g) The Physician ICD-9-CM 2005, Volumes 1 & 2, International Classification of Diseases, 9th Revision, Clinical Modification, Copyright 2004, American Medical Association.

~~(h)(g)~~ The American Medical Association's Guide to the Evaluation of Permanent Impairment, 3rd Edition, (AMA Guide) (Copyright 1988 by the American Medical Association), as adopted ~~incorporated~~ in Rule ~~Chapter~~ 69L-7.604, F.A.C.

~~(i)(h)~~ The Minnesota Department of Labor and Industry Disability Schedule, as adopted ~~incorporated~~ in Rule ~~Chapter~~ 69L-7.604, F.A.C.

~~(j)(i)~~ The Florida Impairment Rating Guide, as adopted ~~incorporated~~ in Rule ~~Chapter~~ 69L-7.604, F.A.C.

~~(k)(j)~~ The 1996 Florida Uniform Permanent Impairment Rating Schedule, as adopted ~~incorporated~~ in Rule ~~Chapter~~ 69L-7.604, F.A.C.

(4) Health Care Provider Responsibilities.

(a) All providers are responsible for meeting their obligations, under this rule, regardless of any business arrangement with any entity under which claims are prepared, processed or submitted to the insurer.

(b) Each health care provider is responsible for submitting any additional form completion information and supporting documentation requested by the insurer at the time of authorization, or at the time a reimbursement request is received.

~~(c)(a)~~ Insurers and providers shall utilize only the Form DFS-F5-DWC-25 for physician reporting of the injured employee's medical treatment/status. Any other reporting forms may not be used in lieu of or supplemental to the Form DFS-F5-DWC-25.

1. The Form DFS-F5-DWC-25 does not replace physician notes, medical records or division-required medical billing reports.

2. All information submitted on physician notes, medical records or division-required medical billing reports must be consistent with information documented on the Form DFS-F5-DWC-25.

~~(d)(b)~~ Special Billing Requirements.

1. When anesthesia services are billed on a Form DFS-F5-DWC-9, completion of the form must include the CPT code and the "P" code (physical status modifier), which correspond with the procedure performed, in Field 24D. Anesthesia health care providers shall enter the date of service and the 5-digit qualifying circumstance code, which correspond with the procedure performed, in Field 24D on the next line, if applicable.

2. When an Advanced Registered Nurse Practitioner (ARNP) provides services as a Certified Registered Nurse Anesthetist, he/she shall bill on a Form DFS-F5-DWC-9 for the services rendered and enter his/her Florida Department of Health license number in Field 33, regardless of the employment arrangement under which the services were rendered, or the party submitting the bill.

3. Regardless of the employment arrangement under which the services are rendered or the party submitting the bill, the following health care providers, who render direct billable services for which reimbursement is sought from an insurer, shall enter his/her Florida Department of Health license number in Field 33 on the Form DFS-F5-DWC-9:

a. Any ~~When a~~ licensed physician; or

b. Any non-physician health care provider, including a physician assistant or an ARNP (not providing an anesthesia-related service); ~~or renders direct billable services for which reimbursement is sought from an insurer, he/she shall enter his/her Florida Department of Health license number in Field 33 on the Form DFS-F5-DWC-9, regardless of the employment arrangement under which the services were rendered or the party submitting the bill.~~

c. Any licensed non-physician health care providers whose licensure permits independent billing.

4. For hospital billing, the following special requirements apply:

a. Inpatient billing – Hospitals shall:-

I. In addition to filing a Form DFS-F5-DWC-90, attach an itemized statement with charges based on the facility's Charge Master, and-

II. Enter the ZIP Code applicable to the hospital's physical location in Form Locator 84 – 'Remarks', on the DFS-F5-DWC-90. The ZIP Code must be the first entry within the 'Remarks' area when multiple entries are made in Form Locator 84; and

b. Outpatient billing – Hospitals shall:-

I. In addition to filing a Form DFS-F5-DWC-90, Hospitals shall enter the CPT, HCPCS, or unique workers' compensation code (provided in the Florida Workers' Compensation Health Care Provider Reimbursement Manual adopted in Rule 69L-7.020, F.A.C., 2004 Edition) in Form Locator 44 on the Form DFS-F5-DWC-90, to bill outpatient radiology, clinical laboratory and/or physical, occupational or speech therapy charges, and treatments.

II. Enter a surgical CPT code in Form Locator 44 when billing outpatient surgery or surgical services; and

III. ~~H. Hospitals shall~~ Enter the date of service on Form DFS-F5-DWC-90, in Form Locator 45, for outpatient billing; and-

IV. ~~III. Hospitals shall bill supplies by filing a Form DFS-F5-DWC-90 and~~ Attaching an itemized statement with charges based on the a facility's Charge Master if there is no line item detail shown on the Form DFS-F5-DWC-90; and-

V. Enter the ZIP Code applicable to the hospital's physical location in Form Locator 84 – 'Remarks' on the DFS-F5-DWC-90. The ZIP Code must be the first entry within the 'Remarks' area when multiple entries are made in Form Locator 84.

5. Certified, Licensed physician assistants, anesthesia assistants and registered certified first nurse first assistants who provide surgical assistance on procedures with codes permitting an assistant surgeon-physician shall bill on a Form DFS-F5-DWC-9 entering the CPT code(s) plus modifier(s), which represent the service(s) rendered, in Field 24D, and must enter his/her their Florida Department of Health license number in Field 33.

6. Ambulatory Surgical Centers (ASCs) shall bill on a Form DFS-F5-DWC-9.

7. Federal Facilities shall bill on their usual form.

8. Dental Services.

a. Dentists shall bill for services on a Form DFS-F5-DWC-11.

b. Oral surgeons shall bill for oral and maxillofacial surgical services on a Form DFS-F5-DWC-9. Non-surgical dental services shall be billed on a Form DFS-F5-DWC-11.

9. Pharmaceutical and Medical Supplies.

a. Pharmacists and medical suppliers shall bill on a Form DFS-F5-DWC-10 or on an insurer pre-approved alternate form. Forms DFS-F5-DWC-9, DFS-F5-DWC-11 or DFS-F5-DWC-90 shall not be submitted as an alternate form.

b. Pharmacists shall complete Field 9, on a Form DFS-F5-DWC-10, by entering the unique workers' compensation code 96371 ~~word "COMPOUND"~~ when medicinal drugs are compounded and the formulation prescribed is not commercially available.

c. Dispensing physicians, physician assistants or ARNPs shall bill on a Form DFS-F5-DWC-9, when supplying commercially available medicinal drugs (commonly known as legend or prescription drugs) and shall enter the NDC number in Field 24D. Optionally, the unique workers' compensation code 96370 may be entered in addition to the NDC code, in Field 24D.

d. When administering or supplying injectable drugs, the physician, physician assistant or ARNP shall bill on a Form DFS-F5-DWC-9 and enter the appropriate HCPCS "J" code in Field 24D.

e. ~~Dispensing physicians shall complete Field 24D, on a Form DFS-F5-DWC-9, by entering the unique workers' compensation code 96371 when medicinal drugs are compounded and the formulation prescribed is not commercially available.~~

f. ~~Dispensing physicians, physician assistants or ARNPs shall bill by entering code 99070 in Field 24D, on a Form DFS-F5-DWC-9, when supplying over-the-counter drugs and shall submit an invoice indicating the name, dosage, package size and cost of the drug(s).~~

g. ~~Physicians and other licensed health care providers providing medical supplies shall bill on a Form DFS-F5-DWC-9 and attach documentation an invoice~~

indicating the actual cost of the supply, including applicable manufacturer's shipping and handling and taxes, when applicable.

10. Physicians billing for a failed appointment for a scheduled independent medical examination (when the injured employee does not report to the physician office as scheduled) shall bill on their invoice or letterhead. The invoice shall not be a Form DFS-F5-DWC-9.

11. Health care providers receiving reimbursement under any payment plan (pre-payment, prospective pay, capitation, etc.) must accurately complete the Form DFS-F5-DWC-9 on the date of service. A Form DFS-F5-DWC-9 must be submitted to the insurer within 30 calendar days following the date of each service.

~~12.40. Health care providers and other insurer authorized providers rendering health care services reimbursable~~ reimbursable under workers' compensation, whose billing requirements are not otherwise specified in this rule (e.g. home health agencies, independent ambulance services, transportation services, etc.), shall bill on their invoice or business letterhead. These providers shall not submit the Forms DFS-F5-DWC-9, DFS-F5-DWC-11 or DFS-F5-DWC-90 as an invoice.

~~(e)(e)~~ Bill Completion.

1. Bills shall be legibly and accurately completed by all health care providers, regardless of location or reimbursement methodology, as set forth in this paragraph.

2. Billing elements required by the division to be completed by a health care provider are identified in specific Form DFS-F5-DWC-9-A (completion instructions), available at the following websites as follows:

a. <http://www.fldfs.com/wc/pdf/DWC-9instrHCP.pdf> when submitted by Licensed Health Care Providers;

b. <http://www.fldfs.com/wc/pdf/DWC-9instrASC.pdf> when submitted by Ambulatory Surgical Centers;

c. <http://www.fldfs.com/wc/pdf/DWC-9instrWHPM.pdf> when submitted by Work Hardening and Pain Management Programs.

~~Physician and Non-Physician/Certified Provider Billing—Form DFS F5 DWC 9.~~

~~(I) Field 1a Injured employee's Social Security Number or division assigned number (obtained from the Insurer).~~

~~(II) Field 2 Injured employee's name: Last, First, Middle initial, if applicable.~~

~~(III) Field 14 Date of current accident, illness or injury.~~

~~(IV) Field 16 Dates injured employee is unable to work, as applicable.~~

~~(V) Field 21(1) Diagnosis of primary injury or illness (Include decimal in ICD-9 code, as applicable).~~

~~(VI) Field 21 (2-4) Additional diagnoses (Include decimal in ICD-9 code, as applicable).~~

~~(VII) Field 24A Date(s) of service: 'From' and 'To' date. Multiple dates of service are billable on a single line only if the dates are consecutive. If there is a single date of service, enter the same date in both 'From' and 'To' fields.~~

~~(VIII) Field 24B Place of service (as listed in the CPT manual).~~

~~(IX) Field 24D Procedure, service or supply code (CPT, CDT-4, HCPCS, NDC or unique workers' compensation code plus modifier, as required for reimbursement).~~

~~(X) Field 24E Diagnosis code reference numbers: '1', '2', '3', '4' refer to corresponding diagnoses listed in Field 21 (1, 2, 3, 4).~~

~~(XI) Field 24F Total dollar charges for units billed per line.~~

~~(XII) Field 24G Number of days, hours, units, or quantity of drug or supply must be entered in whole numbers. Total length of anesthesia service time must be entered in minutes.~~

~~(XIII) Field 25 Federal tax identification number.~~

~~(XIV) Field 32 ZIP code where services were rendered.~~

~~(XV) Field 33 (PIN#) License number of the health care provider rendering direct billable service(s): Providers shall enter their Florida Department of Health provider license, out of state license, or other facility number as assigned by the professional regulatory board, licensing authority or state regulatory agency.~~

~~(A) Work Hardening/Pain Programs enter "WC" for required alpha characters (i.e. WC#####).~~

~~(B) Ambulatory Surgical Centers enter "ASC" for required alpha characters (i.e. ASC### or ASC#####).~~

~~(C) Independent Laboratories enter "IL" for required alpha characters (i.e. IL8000#####, IL80000##### or IL800000#####).~~

~~(D) Advanced Registered Nurse Practitioners enter "ARNP" for required alpha characters (i.e. ARNP##### or ARNP#####).~~

~~(E) Radiology or Other Facilities (providing only the technical component) enter "XX" for required alpha characters and 9999999999 for required numeric characters (i.e. XX9999999999).~~

3. Billing elements required by the division to be completed for Pharmaceutical or Medical Supplier Billing are identified in specific Form DFS-F5-DWC-10 (completion instructions) available at website: <http://www.fldfs.com/wc/pdf/DWC-10.pdf>.

b. Pharmaceutical/Medical Supplier Billing—Form DFS-F5-DWC-10.

(I) Form DFS F5 DWC 10 Section 1—Fields required to be completed by Pharmacy and Medical Supply providers:

(A) Field 1 Injured employee's name: Last, First, Middle Initial, if applicable.

(B) Field 2 Injured employee's Social Security Number or division assigned number (obtained from the insurer).

(C) Field 3 Date of current accident, injury or illness in MM/DD/CCYY format.

(H) Form DFS F5-DWC-10 Section 2 — Fields required to be completed by pharmacy providers only:

(A) Field 6 Medication/drug name and strength.

(B) Field 7 Number of tablets, capsules, suppositories, milliliters of liquid, grams of ointment or units of injectable medication.

(C) Field 8 Estimated number of days that medication will last according to prescription dosage and administration instructions.

(D) Field 9 National Drug Code number: manufacturer number, item number, package number; enter “COMPOUND” if a compounded drug is dispensed.

(E) Field 10 Pharmacy’s internal number assigned to the prescription.

(F) Field 15 Pharmacy’s usual charges for the drug. When field 13 is coded, enter the usual charges for the generic equivalent.

(III) Form DFS F5-DWC-10 Section 3 — Fields required to be completed by Medical Supplier or Pharmacy providing medical supplies:

(A) Field 16 Description or name of item supplied: quantity and size, when applicable.

(B) Field 17 Prescriber’s license number assigned by the professional regulatory board or licensing authority.

(C) Field 18 Purchase date in MM/DD/CCYY format.

(D) Field 19 Medical supplier’s usual charge for item(s) supplied.

(IV) Form DFS F5-DWC-10 Section 4 — Fields required to be completed by Pharmacy and Medical Supply providers:

(A) Field 20 Total dollar charges appearing on this statement.

(B) Field 22 Date pharmacy or medical supplier submits statement to insurer for payment in MM/DD/CCYY format.

(C) Field 23 Pharmacist’s license number assigned by professional regulatory board or licensing authority.

(D) Field 24 Pharmacy’s or medical supplier’s federal employer identification number.

4. Billing elements required by the division to be completed for Dental Billing are identified in specific Form DFS-F5-DWC-11-A (completion instructions), available at website: <http://www.fldfs.com/WC/forms.html#7>.

e. Dental Billing — Form DFS F5-DWC-11.

(I) Field 20 Injured employee’s name: Last, First, Middle initial, if applicable.

(H) Field 8 Injured employee’s Social Security Number or Division assigned number (obtained from the insurer).

(III) Field 51 Federal tax identification number.

(IV) Field 55 Dentist’s Florida Department of Health license number (i.e. DN##### or DN#####).

(V) Field 38 Place of treatment (check appropriate box):

(A) Office.

(B) Hospital.

(C) Extended Care Facility.

(D) Other.

(VI) Field 56 Address where services were rendered, including ZIP code.

(VII) Field 46 Date of current accident, injury or illness.

(VIII) Field 24 Date treatment/service performed.

(IX) Field 29 ‘Procedure Code’ Procedure, service or supply code (CPT, CDT 4 or HCPCS ‘D’ code).

(X) Field 31 Total dollar charges per line item.

5. Billing elements required by the division to be completed for Hospital Billing are identified in the UB-92 Manual and as follows:

a. Form Locator 84 ‘Remarks’ – Enter the five-digit ZIP Code of the physical location where services were rendered. The ZIP Code must be the first entry within the ‘Remarks’ area when multiple entries are made in Form Locator 84.

(I) Locator 1 Hospital’s location ZIP code.

(II) Locator 4 Type of bill.

(III) Locator 5 Federal tax identification number.

(IV) Locator 6 Date statement covers period from/through.

(V) Locator 12 Injured employee’s name: Last, First, Middle initial, if applicable.

(VI) Locator 17 Admission date.

(VII) Locator 18 Admission hour.

(VIII) Locator 19 Type of Admission/Visit.

(IX) Locator 21 Discharge hour, if applicable.

(X) Locator 32 Date of accident, injury or illness.

(XI) Insurer name, address and location ZIP code.

(XII) Locator 42 Revenue code.

(XIII) ~~Locator 44 CPT, HCPCS, or unique workers’ compensation code and modifier(s), as required for reimbursement.~~

(XIV) Locator 45 Date of Service, required for outpatient billing.

(XV) Locator 46 Number of service units.

(XVI) Locator 47 Total dollar charges billed by revenue code.

(XVII) Locator 60A Injured employee’s Social Security Number or Division assigned number (obtained from the insurer).

(XVIII) ~~Locator 67 Principal diagnosis code (ICD-9 code).~~

(XIX) ~~Locators 68-75 Other diagnosis codes (ICD-9 codes), as applicable.~~

(XX) Locator 80 Principal procedure code, as applicable.

(XXI) Locator 81 (A, B, C, D, E) Other procedure codes, as applicable.

(XXII) Locator 82 Attending physician’s Florida Department of Health license number.

~~6.3.~~ An insurer can require a health care provider to complete additional data elements that are not required by the division on Forms DFS-F5-DWC-9 or DFS-F5-DWC-11.

~~(f)(4)~~ Provider Bill Submission/Filing and Reporting Requirements.

1. All medical claim form(s) or bill(s) related to services rendered for a compensable injury shall be submitted by a health care provider to the insurer, service company/TPA or any entity acting on behalf of the insurer, as a requirement for billing.

2. Medical claim form(s) or bill(s) may be electronically filed or submitted via facsimile by a health care provider to the insurer, service company/TPA or any entity acting on behalf of the insurer, provided the insurer agrees.

3. Medical claim form(s) or bill(s) shall be filed with an insurer, service company/TPA or any entity acting on behalf of the insurer, according to the following requirements:

a. Health Care Providers (excluding hospitals):

Within 30 calendar days of initial or additional service or treatment and accompanied by required documentation that supports medical necessity. This requirement includes Pharmacies, Medical Suppliers, and Ambulatory Surgical Centers.

b. Hospitals:

(I) Within 30 calendar days following emergency room or initial outpatient treatment.

(II) Within 30 calendar days of an injured employee's discharge from an in-patient hospital stay or follow-up outpatient treatment.

(5) Insurer Responsibilities.

(a) An insurer is responsible for meeting its obligations under this rule regardless of any business arrangements with any service company/TPA, submitter or any entity acting on behalf of an insurer under which claims are adjusted, processed or submitted to the division.

(b) At the time of authorization for medical service(s) or at the time a reimbursement request is received, an insurer shall notify each a health care provider of additional form completion requirements or supporting documentation that are necessary for reimbursement determinations in excess of the requirements set forth in this rule.

(c) At the time of authorization for medical service(s), an insurer shall inform an out-of-state health care provider of the specific reporting, billing and submission requirements of this rule.

(d) Insurers and providers shall utilize only the Form DFS-F5-DWC-25 for physician reporting of an injured employee's medical treatment /status, and Any other reporting forms may not be used in lieu of or supplemental to the Form DFS-F5-DWC-25.

(e) Required data elements on Forms DFS-F5-DWC-9, DFS-F5-DWC-10, DFS-F5-DWC-11, and DFS-F5-DWC-90, for both medical only and lost-time cases, shall be filed with the division within 45 calendar days of insurer, service company/TPA or any entity acting on behalf of the insurer, payment, adjustment and payment, disallowance or denial. This 45-calendar day requirement includes initial submission and correction and re-submission of all errors identified in the "Medical Claim Processing Report", as defined in the Florida Workers' Compensation Medical EDI Implementation Guide (MEIG), 2005 ~~2004~~.

(f) An insurer shall be responsible for accurately completing required data filed with the division, as of the effective date of this rule, pursuant to the Florida Workers' Compensation Medical EDI Implementation Guide (MEIG), 2005 ~~2004~~ and subparagraphs (4)(e)(e)2.-5. of this rule.

(g) When an injured employee does not have a Social Security Number or division-assigned number, the insurer must contact the division via information provided on the following website: <http://www.fldfs.com/WC/organization/odqc.html> (under Records Management) to obtain a division-assigned number prior to submitting the report to the division.

(h) An insurer or service company/TPA ~~shall attach an accurately completed cover sheet, as required in subparagraph (6)(f)4. of this rule, to each paper form batch submitted to the division.~~

~~(i) An insurer~~ must report to the division the procedure, diagnosis or modifier code(s) or amount(s) charged, as billed by the health care provider.

~~(i)(i)~~ An insurer, service company/TPA or any entity acting on behalf of the insurer shall manually or electronically date stamp Forms DFS-F5-DWC-9, DFS-F5-DWC-10 (or insurer pre-approved alternate form), DFS-F5-DWC-11, DFS-F5-DWC-90 or a submitter shall date stamp the electronic form equivalent with the date insurer received.

~~(j)(k)~~ An insurer, service company/TPA or any entity acting on behalf of the insurer shall return any bills to the provider, with a written explanation, when:

1. Services are billed on an incorrect billing form; or
  2. An invalid code is used and is the only line-item billed;
- or
3. Required information is illegible, inaccurate, incorrect, or omitted not provided.

~~(k)(4)~~ An insurer shall pay, adjust and pay, disallow or deny billed charges within 45 calendar days from the date insurer received, pursuant to Section 440.20(2)(b), F.S.

~~(l)(m)~~ An insurer, service company/TPA or any entity acting on behalf of the insurer, when reporting paid medical claims data to the division, shall report the actual dollar amount paid by the insurer to the health care provider or

reimbursed to the employee for healthcare service(s) or supply(ies). When reporting On disallowed or denied charges, the dollar amount paid shall should be reported as \$0.00.

(m) An insurer shall not report as medical payment data, those payments made for failed appointments for scheduled independent medical examinations.

(n) ~~An submitter insurer~~, filing electronically, shall submit to the division the Explanation of Bill Review (EOBR) code(s), relating to the adjudication of each line item billed and:

1. Maintain the EOBR in a format that can be legibly reproduced, and
2. Use the EOBR codes and descriptors as follows:
  - a. 01 Services not authorized, as required.
  - b. 02 Services denied as not related to the compensable work injury.
  - c. 03 Services related to a denied work injury: Form DFS-F2-DWC-12 on file with the division.
  - d. 04 Services billed are listed as not covered or non-covered ("NC") in the applicable reimbursement manual.
  - e. 05 Documentation does not support the level, intensity or duration of service(s) billed. (Insurer must specify to the provider.)
  - f. 06 Location of service(s) is not consistent with the level of service(s) billed.
  - g. 07 Reimbursement equals the amount billed.
  - h. 08 Reimbursement is based on the applicable reimbursement fee schedule.
  - i. 09 Reimbursement is based on any ~~the~~ contracted amount.
  - j. 10 Reimbursement is based on charges exceeding the stop-loss point.
  - k. 11 Reimbursement is based on insurer re-coding. (Insurer must specify to the provider.)
  - l. 12 Charge(s) are included in the per diem reimbursement.
  - m. 13 Reimbursement is included in the allowance of another service. (Insurer must specify procedure to the provider.)
  - n. 14 Hospital itemized statement not submitted with billing form.
  - o. 15 Invalid procedure code. (Use when other valid procedure codes are present.)
  - p. 16 Documentation does not support that services rendered were medically necessary.
  - q. 17 Required supplemental documentation not filed with the bill. (Insurer must specify required documentation to the provider.)
  - r. 18 Duplicate Billing: Service previously paid, adjusted and paid, disallowed or denied on prior claim form or multiple billing of service(s) billed on same date of service.

s. 19 Required Form DFS-F5-DWC-25 ~~form~~ not submitted within three business days of the first treatment pursuant to Section 440.13(4)(a), F.S.

t. 20 Other: Unique EOBR code description. Use of EOBR code "20" is restricted to circumstances when an above-listed EOBR code does not explain the reason for adjustment, disallowance or denial of payment. When using EOBR code "20", an insurer must reflect code "20" and include the specific explanation of the code on the EOBR sent to the provider. The insurer must and maintain a standardized EOBR code description list.

(o) An insurer, service company/TPA, submitter or any entity acting on behalf of the insurer shall make available to the division and to the Agency, upon request and without charge, a legibly reproduced copy of the electronic form equivalents or Forms DFS-F5-DWC-9, DFS-F5-DWC-10 (or insurer pre-approved alternate form), DFS-F5-DWC-11, DFS-F5-DWC-25, DFS-F5-DWC-90, supplemental documentation, proof of payment, EOBR and/or standardized EOBR code "20" description list.

(p) An insurer, service company/TPA or any entity acting on behalf of the insurer to pay, adjust and pay, disallow or deny a filed bill shall submit to the health care provider an Explanation of Bill Review, utilizing the EOBR codes and descriptions, as listed in sub-paragraph (n) of this section above, and shall include including the insurer name and specific insurer contact information.

(q) Copies of hospital medical records shall be subject to charges allowed pursuant to Section 395.3025, F.S.

(6) Insurer Electronic Medical Report (Electronic Format, Paper format, or Excel spreadsheet format) Filing ~~to~~ the Division.

(a) Effective March 16, 2005, all required medical reports shall be electronically filed with the division by all insurers, ~~in meeting this requirement an insurer shall comply with the following implementation schedule, as applicable:~~

1. Additionally, an insurer shall be responsible for accurately completing the electronic record layout programming requirements for the reporting of the Form DFS-F5-DWC-9 Claim Detail Record Layout – Revision "C" and the Form DFS-F5-DWC-10 Claim Detail Record Layout – Revision "C", Form DFS-F5-DWC-11 Claim Detail Record Layout – Revision "C" and Form DFS-F5-DWC-90 Claim Detail Record Layout – Revision "C" in accordance with the Florida Workers' Compensation Medical Implementation Guide (MEIG), 2005, to the division in accordance with the phase-in schedule as denoted below in sub-paragraphs a., b., and c. of this section. The electronic record layout for Form DFS-F5-DWC-9 in the MEIG, 2005, adds the new field 30A for submission of the pre-payment/employee payment indicator and the new field 31A for submission of the duplicate override indicator and adds the new field 18B for submission of the National Drug Code (NDC) number. The electronic



record layout for Form DFS-F5-DWC-10 in the MEIG, 2005, adds the new field 24A for submission of the pre-payment/employee payment indicator and the new field 25A for the submission of the duplicate override indicator and adds a claim detail record layout, which includes form fields 7, 8, 9, 10, 11, 12, 13, 14 and 15 for Section 2 – Prescription Drugs. The electronic record layout for Form DFS-F5-DWC-11 in the MEIG, 2005, adds the new field 27A for submission of the pre-payment/employee payment indicator and the new field 28A for submission of the duplicate override indicator. The electronic record layout for Form DFS-F5-DWC-90 in the MEIG, 2005, adds the new field 40A for submission of the pre-payment/employee payment indicator and the new field 41A for submission of the duplicate override indicator. The conversion implementation schedule is as follows:

a. Submitters who have been approved for reporting production data with the Medical Data System (Record Layout – Revision “B”), between August 2, 2004 and November 9, 2004 shall begin testing on November 1, 2005 and shall be in production with the new record layouts no later than December 9, 2005.

b. Submitters who have been approved for reporting production data with the Medical Data System (Record Layout – Revision “B”), between November 10, 2004 and February 28, 2005 shall begin testing on December 12, 2005 and shall be in production with the new record layouts no later than January 20, 2006.

c. Submitters who have been approved for reporting production data with the Medical Data System (Record Layout – Revision “B”), between March 1, 2005 and the effective date of this rule shall begin testing on January 23, 2006 and shall be in production with the new record layouts no later than March 3, 2006.

1. Submitters who are electronically filing any medical reports with the division, as of the effective date of this rule, must complete a test transmission and be approved by the division for production transmission that meets the requirements set forth in the Florida Workers’ Compensation Medical EDI Implementation Guide, 2004 according to the following schedule:

a. August 2 through September 15, 2004, implementation of the test transmission to production transmission processes for all electronic form equivalents will include submitters with names beginning with the letters A through E and that are submitting for multiple insurers, service companies or third party administrators.

b. September 16 through October 29, 2004, implementation of the test transmission to production transmission processes for all electronic form equivalents will include submitters with names beginning with the letters F through Z and that are submitting for multiple insurers, service companies or third party administrators.

2. Submitters who are not electronically filing any medical reports with the division, as of November 1, 2004, must complete a test transmission and be approved by the division for production transmission that meets the requirements set forth in the Florida Workers’ Compensation Medical EDI Implementation Guide, 2004 according to the following schedule:

a. November 1 through December 15, 2004, implementation of the test transmission to production transmission processes for all electronic form equivalents will include submitters with names beginning with A through H and that are submitting for multiple insurers, service companies or third party administrators.

b. December 16, 2004 through January 31, 2005, implementation of the test transmission to production transmission processes for all electronic form equivalents will include submitters with names beginning with I through Q and that are submitting for multiple insurers, service companies or third party administrators.

e. February 1 through March 15, 2005, implementation of the test transmission to production transmission processes for all electronic form equivalents will include submitters with names beginning with R through Z and that are submitting for multiple insurers, service companies or third party administrators.

(b) Special Conversion to Electronic Reporting.

1. Submitters who have implemented electronic filing of any medical reports with the division within 120 calendar days prior to the effective date of this rule, shall be scheduled for the test transmission to production transmission processes, for all electronic form equivalents, to comply with requirements set forth in the Florida Workers’ Compensation Medical EDI Implementation Guide, 2004, beginning February 1 through March 15, 2005.

2. The Division will, resources permitting, allow submitters that volunteer to complete the test transmission to production transmission processes earlier than the schedule denoted above. Each voluntary submitter shall have six weeks to complete test transmission to production transmission processes, for all electronic form equivalents, that comply with requirements set forth in Florida Workers’ Compensation Medical EDI Implementation Guide (MEIG), 2005 2004.

(b) Any insurer, or any other entity acting on behalf of the insurer, who enters into new EDI programming arrangements on or after March 16, 2005, shall not be relieved of the responsibility to comply with the EDI filing mandate pursuant to subparagraph (6)(a) of this rule. Any insurer’s non-compliance with the EDI filing mandate shall be subject to administrative penalties and administrative fines pursuant to paragraph (7) of this rule or Section 440.525, F.S.

(c) Required data elements shall be submitted in compliance with the instructions and formats as set forth in the Florida Workers' Compensation Medical EDI Implementation Guide (MEIG), 2005 2004.

(d) The division will notify the insurer on the "Medical Claim Processing Report" of the corrections necessary for rejected medical reports to be electronically re-filed with the division. An insurer shall correct and re-file all rejected medical claim reports to meet the filing requirements of paragraph (5)(e) of this rule.

(e) Submitters who experience a catastrophic event resulting in the insurer's failure to meet the reporting requirements in paragraph (5)(e) of this rule, shall submit a written request within 3 business days of the catastrophic failure to the division for approval to submit in an alternative reporting method and an alternative filing timeline paper forms in order to meet division reporting requirements. The submission of paper forms due to a catastrophic failure shall not exceed 30 calendar days. Approval must be obtained from the Division's Office of Data Quality and Collection, 200 E. Gaines Street, Tallahassee, Florida 32399-4226. Approval to submit in an alternative reporting method and an alternative filing timeline paper forms shall be granted if a catastrophic event beyond the control of the submitter prevents electronic submission.

~~(f) Until March 16, 2005 required medical reports may be paper form filed with the division by an insurer, service company or third party administrator as follows:~~

~~1. The insurer code number and service company/third party administrator code number (if applicable) accurately and legibly entered in the upper right corner on the form.~~

~~2. The date insurer paid legibly stamped on the front of the form. Payments of \$0.00 are valid amounts on disallowed or denied charges.~~

~~3. The required data elements as set forth in record layout sections of the Florida Workers' Compensation Medical EDI Implementation Guide, 2004. An insurer shall submit to the division the listed information, legibly entered on the paper form, as follows:~~

~~a. Form DFS F5-DWC-9.~~

~~I. "Procedure, Service or Supply Code" (as paid by the insurer, if different from billed code) entered in Field 24D1 without obscuring the billed code;~~

~~II. "Procedure, Service or Supply Code Modifier" (as paid by the insurer, if different from billed modifier) entered in Field 24D2 without obscuring the billed modifier;~~

~~III. "Insurer Payment per Line" entered in Field 24K.~~

~~IV. Additional data elements required pursuant to the Florida Workers' Compensation Medical EDI Implementation Guide, 2004 may be entered on the form, location to be determined by the insurer.~~

~~b. Form DFS F5-DWC-10.~~

~~I. "Insurer Payment per Line" written above the 'Usual Charge' in Field 15 or 19, respectively;~~

~~II. Additional data elements required pursuant to the Florida Workers' Compensation Medical EDI Implementation Guide, 2004 may be entered on the form, location to be determined by the insurer.~~

~~e. Form DFS F5-DWC-11.~~

~~I. "Insurer Payment per Line" entered in Field 30 following description;~~

~~II. Additional data elements required pursuant to the Florida Workers' Compensation Medical EDI Implementation Guide, 2004 may be entered on the form, location to be determined by the insurer.~~

~~d. Form DFS F5-DWC-90.~~

~~I. "HCPCS/RATES" code (as paid by the insurer, if different from billed code). Enter the reimbursed code above the billed code;~~

~~II. "HCPCS/RATES" code modifier (as paid by the insurer if different from billed modifier). Enter the reimbursed modifier above the billed modifier;~~

~~III. "Insurer Payment per Line" entered in Locator 49;~~

~~IV. Additional data elements required pursuant to the Florida Workers' Compensation Medical EDI Implementation Guide, 2004 may be entered on the form, location to be determined by the insurer.~~

~~4. In order to facilitate the division's responsibility to determine the timeliness of health care provider reimbursement and submission of medical reports to the division, reports submitted in paper form must be submitted in batches and each batch must be accompanied with a cover sheet and the following requirements:~~

~~a. Forms DFS F5-DWC-9, DFS F5-DWC-10 (or insurer pre-approved alternate form), DFS F5-DWC-11 or DFS F5-DWC-90 forms shall be separated by form type into 100-count batches prior to submitting to the division. Insurers, processing less than 100 forms in 30 calendar days shall separate by form type category and submit batches of less than 100.~~

~~b. Within each submitted paper form batch, the insurer shall separate and band into groups, medical reports as being untimely paid to a provider or untimely reported to the division pursuant to Section 440.20(6)(b), F.S., and paragraph (5)(e) of this rule, respectively.~~

~~c. Every submitted paper form batch shall be accompanied by a cover sheet providing the following information:~~

~~I. The title shall read "Medical Paper Form Submission Cover Sheet".~~

~~II. The date the batch was submitted to the division shall be specified.~~

III. The insurer name, address including ZIP code of the medical claim office submitting the batch, insurer code number and service company third party administrator code number shall be specified.

IV. The insurer contact name, telephone number and email address shall be specified.

V. ~~The form type (Forms DFS F5-DWC-9, DFS F5-DWC-10, DFS F5-DWC-11 or DFS F5-DWC-90) shall be specified.~~

VI. ~~The total number of medical reports in each batch submitted to the division shall be specified.~~

VII. ~~The total number of medical reports filed with the division more than 45 calendar days after insurer payment, adjustment and payment, disallowance or denial shall be specified.~~

VIII. ~~The total number of medical reports reflecting medical bills that were paid to the provider more than 45 calendar days from the date insurer received.~~

a. Every paper batch which is not accompanied by an accurately completed cover sheet or is not in compliance with sub-subparagraph (6)(f)4.a. of this rule, will be returned to the insurer, service company or third party administrator, and considered not in compliance with paragraph (5)(e) of this rule, until re-filed with an accurately completed cover sheet or correctly batched.

5. All required medical reports (Forms DFS F5-DWC-9, DFS F5-DWC-10, DFS F5-DWC-11 or DFS F5-DWC-90) shall be submitted to the division at:

Department of Financial Services

Division of Workers' Compensation

Office of Data Quality and Collection, Medical Data Management Section

200 East Gaines Street

Tallahassee, FL 32399-4226.

(g) As an alternative to submitting paper form batches, as described in paragraph (6)(f) of this rule, medical data that would otherwise be provided on paper, between the effective date of this rule and each submitter's deadline for electronic submission according to the schedule in paragraph (6)(a) of this rule, may be filed in electronic format to the division in a Medical Summary Report to meet the requirements of this rule. A request to submit medical data in this format shall be sent to [ssmedrequest@dfs.state.fl.us](mailto:ssmedrequest@dfs.state.fl.us). Upon receiving written approval from the division via e-mail, each electronic Medical Summary Report shall be filed by a submitter as follows:

1. No later than 15 calendar days following the end of each calendar month, an insurer, service company or third party administrator shall submit four division-approved electronic Excel spreadsheets; one Excel spreadsheet for each of the four medical ~~form types (Forms DFS F5-DWC-9, DFS F5-DWC-10, DFS F5-DWC-11 and DFS F5-DWC-90).~~

2. Each Excel spreadsheet must contain the following data elements:

a. Form Type (Forms DFS F5-DWC-9, DFS F5-DWC-10, DFS F5-DWC-11 or DFS F5-DWC-90).

b. Calendar Month/Year of medical data processed by the insurer submitted to the division, (i.e. 01/01/2004 through 01/31/2004).

c. ~~Name of Insurer, Service Company, or Third Party Administrator submitting the monthly division-approved electronic Excel spreadsheet.~~

d. ~~Insurer code number, Service Company/Third Party Administrator code number submitting the monthly division-approved electronic Excel spreadsheet.~~

e. ~~Contact Name, address, including ZIP code, telephone number and e-mail address of the Insurer, Service Company or Third Party Administrator.~~

f. Total number of bills that were paid, adjusted and paid, disallowed or denied for the calendar month reported.

g. Total number of bills reported in sub-subparagraph f. above, that were paid, adjusted and paid, disallowed or denied more than 45 calendar days after the date insurer received the bill from the provider.

h. For each of the bills that were paid, adjusted and paid, disallowed or denied more than 45 calendar days after the date insurer received the bill from provider, the following additional data elements shall be provided on the division-approved electronic Excel spreadsheet:

(I) Injured Employee Last Name;

(II) Injured Employee First Name;

(III) Injured Employee SSN;

(IV) Claims Handling Entity File Number;

(V) Date of Accident;

(VI) Date Insurer Received Bill from Provider;

(VII) Date Insurer Paid, Adjusted and Paid, Disallowed, or Denied the Bill;

(VIII) Total Dollar Amount Paid by Insurer. If disallowed or denied, \$0.00 is to be reported; and

(IX) ~~Provider License, Pharmacist or Other Facility number as assigned by the professional regulatory board, licensing authority or state regulatory agency, whichever is applicable depending on form type that is submitted.~~

(i) Each Insurer, Service Company, or Third Party Administrator approved to submit the electronic Medical Summary Report, shall submit the division-approved electronic Excel spreadsheets within the required time frame under ~~subparagraph (6)(g)1. of this rule to [ssmedformat@dfs.state.fl.us](mailto:ssmedformat@dfs.state.fl.us).~~

(7) Insurer Administrative Penalties and Administrative Fines.

(a) Insurer administrative penalties for untimely provider-payment or disposition of medical bills. The department shall impose insurer administrative penalties for

failure to comply with the payment, adjustment and payment, disallowance or denial requirements pursuant to Section 440.20(6)(b), F.S. Timely performance standards for timely payments, adjustments and payments, disallowances or denials, reported on Forms DFS-F5-DWC-9, DFS-F5-DWC-10, DFS-F5-DWC-11 and DFS-F5-DWC-90, shall be calculated and applied on a monthly basis for each separate Form category that was received within a specific calendar month.

(b) Insurer administrative fines for failure to submit, untimely submission, filing and reporting of medical data requirements. Pursuant to Section 440.185(9), F.S., the department shall impose insurer administrative fines for failure to comply with the submission, filing or reporting requirements of this rule. Insurer administrative fines shall be:

1. Calculated on a monthly basis for each separate Form category (Forms DFS-F5-DWC-9, DFS-F5-DWC-10, DFS-F5-DWC-11, DFS-F5-DWC-90) received and accepted by the division within a specific calendar month; and

2. Imposed for each ~~failure to file, untimely filed or filed~~ rejected and not re-submitted, or rejected and re-submitted untimely medical data report according to the following schedule:

- a. 1 – 15 calendar days late \$10.00;
- b. 16 – 30 calendar days late \$20.00;
- c. 31 – 45 calendar days late \$30.00;
- d. 46 – 60 calendar days late \$40.00;
- e. 61 – 75 calendar days late \$50.00;
- f. 76 – 90 calendar days late \$100.00; and
- g. 91 calendar days or greater \$2500.00.

~~(c) An Insurer that fails to submit, or who untimely submits, any division approved Medical Summary Report electronic Excel spreadsheet required in subparagraph (6)(g)1. of this rule, shall be assessed a penalty for improper filing of \$25.00 per day, not to exceed a total penalty of \$1,000.00 per improperly filed Excel spreadsheet, in addition to any administrative penalty pursuant to Section 440.20(6)(b), F.S.~~

Specific Authority 440.13(4), 440.15(3)(b),(d), 440.185(5), 440.525(2), 440.591, 440.593(5) FS. Law Implemented 440.09, 440.13(2)(a),(3),(4),(6), (11),(12),(14),(16), 440.15(3)(b),(d), 440.20(6), 440.185(5),(9), 440.593 FS. History—New 1-23-95, Formerly 38F-7.602, 4L-7.602, Amended 7-4-04,

NAME OF PERSON ORIGINATING PROPOSED RULE:  
Dan Sumner, Deputy Director of Workers' Compensation,  
Division of Workers' Compensation, Department of Financial  
Services

NAME OF SUPERVISOR OR PERSON WHO APPROVED  
THE PROPOSED RULE: Tanner Holloman, Director of  
Workers' Compensation, Division of Workers' Compensation,  
Department of Financial Services

DATE PROPOSED RULE APPROVED BY AGENCY  
HEAD: April 4, 2005

DATE NOTICE OF PROPOSED RULE DEVELOPMENT  
PUBLISHED IN FAW: April 22, 2005

## FINANCIAL SERVICES COMMISSION

### Office of Insurance Regulation

RULE TITLE: Annual Audited Financial Reports

RULE NO.: 69O-137.002

PURPOSE, EFFECT AND SUMMARY: This rule addresses exemptions from the requirement for an annual audited financial statement. The rule as it now stands sets out the remedies for a company whose request for such an exemption is denied by the Office of Insurance Regulation. This language addressing the remedies was objected to by the Joint Administrative Procedures Committee, as the rules of the Secretary of State set forth the applicable remedies. The rule also changes the number of the form to be used to file for this exemption, changes the names of the entities from which the form may be procured, and states it is available from the DFS web page.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS: None.

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

SPECIFIC AUTHORITY: 624.308(1), 624.424(8)(e) FS.

LAW IMPLEMENTED: 624.307(1), 624.324, 624.424(8) FS.

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

TIME AND DATE: 9:30 a.m., July 14, 2005

PLACE: Room 142, Larson Building, 200 East Gaines Street, Tallahassee, Florida

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

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Paul Johns, Life and Health Financial Oversight, Office of Insurance Regulation, e-mail: paul.johns@fldfs.com

THE FULL TEXT OF THE PROPOSED RULE IS:

69O-137.002 Annual Audited Financial Reports.

(1) through (13) No change.

(14) Exemptions and Effective Dates.

(a) Upon written application of any insurer, the Office shall grant an exemption from compliance with the filing of an annual audited financial report received by the Office by March 1 of the year following the calendar year to which the

application applies if the Office finds, upon review of the application, that the insurer is under an order of receivership, conservatorship, rehabilitation, or is in another delinquency proceeding by the public insurance supervising official of any state, and the insurer has been granted an exemption from filing an annual audited financial report by its state of domicile. An exemption shall be granted for one year only. Exemptions for future years require additional applications. ~~Within ten (10) days from a denial of an insurer's written request for an exemption from this rule, the insurer may request in writing a hearing on its application for an exemption. The hearing shall be held in accordance with Section 120.57, Florida Statutes, and the Office's rules on administrative practice.~~

(b) No change.

(c) Form OIR-~~DOA~~-1431, (Rev. ~~10/04~~ ~~7/01~~), "Audited Financial Statements Exemption Affidavit", is hereby incorporated by reference to be the form specified in Section 624.424(8)(b), Florida Statutes, for exemptions from compliance with the filing of an annual audited financial statement. This form is available from Life & Health Financial Oversight or Property & Casualty Financial Oversight at the Office of Insurance Regulation, Bureau of P & C Insurer Solvency, 200 East Gaines Street, Tallahassee, Florida 32399-0329, (850)413-5200. The form is also available from the Office of Insurance Regulation's website located at the following address: [www.fldfs.com/companies/](http://www.fldfs.com/companies/).

(15) No change.

Specific Authority 624.308(1), 624.424(8)(e) FS. Law Implemented 624.307(1), 624.324, 624.424(8) FS. History—New 3-31-92, Amended 3-14-94, 8-17-98, 4-4-01, 8-14-02, Formerly 4-137.002, Amended \_\_\_\_\_.

NAME OF PERSON ORIGINATING PROPOSED RULE:  
Paul Johns, Life and Health Financial Oversight, Office of Insurance Regulation

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

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: May 17, 2005

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: April 22, 2005

## FINANCIAL SERVICES COMMISSION

### Office of Insurance Regulation

RULE TITLES: RULE NOS.:  
Disclosures 690-144.003  
Credit for Reinsurance 690-144.005  
PURPOSE, EFFECT AND SUMMARY: Requires property and casualty insurance companies to disclose any of their finite reinsurance agreements and requires compliance with the disclosure requirement for credit for reinsurance. Changes form number from OIR-D0-1 to OIR-D0-1464.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS: None.

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

SPECIFIC AUTHORITY: 624.308, 624.610(14) FS.

LAW IMPLEMENTED: 624.307(1), 624.610 FS.

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

TIME AND DATE: 9:30 a.m., July 12, 2005

PLACE: Larson Building, 200 East Gaines Street, Tallahassee, Florida

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

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULES IS: Claude Mueller, Property and Casualty Financial Oversight, Office of Insurance Regulation, e-mail: [claudem.mueller@fldfs.com](mailto:claudem.mueller@fldfs.com)

THE FULL TEXT OF THE PROPOSED RULES IS:

#### 690-144.003 Disclosures.

On or before March 1, the President, Chief Executive Officer, or Chief Financial Officer of every domestic or commercially domiciled property and casualty insurer shall annually file an attestation on Form OIR-DO-XXXX, under penalty of perjury, that with respect to cessions made under any reinsurance contract that is, or at any time in the last twelve months has been, in force, that:

(1) There are no separate written or oral agreements that would under any circumstances, reduce, limit, mitigate or otherwise affect any actual or potential loss to the parties under the reinsurance contract;

(2) For each such reinsurance contract, the insurer has an underwriting file that is available to inspection by the Office and, at a minimum, contains:

(a) A summary of the reinsurance contract terms;

(b) A brief discussion of management's principle objectives in entering the transaction;

(c) A risk transfer analysis of the reinsurance contract pursuant to SSAP No. 62, of the NAIC's Accounting Practices and Procedures Manual.

(3)(a) Identifies any reinsurance contract, or multiple contracts with the same reinsurer or its affiliates, where it has ceded any risk for which it recorded a positive or negative underwriting result greater than 3% of surplus as regards policy holders, or for which the premium or losses are greater

than 3% of surplus as regards policy holders, and accounted for that contract as reinsurance and not as a deposit on either the Statutory or GAAP financial statements, that contain one or more of the following features or other features that would have similar results:

1. A contract term longer than two years when the contract is noncancellable by the reporting entity during the contract term;

2. A limited or conditional cancellation provision under which cancellation triggers an obligation by the reporting entity, or an affiliate of the reporting entity, to enter into a new reinsurance contract with the reinsurer, or an affiliate of the reinsurer;

3. Retroactive reinsurance coverage (e.g., a loss portfolio transfer);

4. Aggregate stop loss contract reinsurance coverage;

5. An unconditional or unilateral right by either party to commute the reinsurance contract;

6. The management of the reporting entity believes that there is greater than a fifty percent (>50%) probability the reporting entity will commute the treaty;

7. A provision permitting reporting of losses, or payment of losses, less frequently than on a quarterly basis (unless there is no activity during the period); or

8. Payment schedule, accumulating retentions from multiple years or any features inherently designed to delay timing of the reimbursement to the ceding entity.

(b) Identifies any reinsurance contract where it has ceded any risk where:

1. The business or risk originated by the reporting entity or its affiliates represents greater than 50% of the entire amount of business underwritten by the assuming reinsurer;

2. Twenty-five percent (25%) or more of the risks ceded in the contract have been retroceded back to the ceding reporting entity or its affiliates. This provision excludes approved pooling arrangements;

3. Contracts are accounted for differently between generally accepted accounting principles (GAAP) and statutory accounting principles (SAP).

(4) For each contract identified in section (3), the underwriting file required by section (2) must contain a financial statement presentation of the ceding insurer's balance sheet and statement of income, on the form for financial statements approved by the National Association of Insurance Commissioners, before the effects of the reinsurance contract.

(5) Form OIR-DO-XXXX is hereby adopted and incorporated by reference. The Form may be obtained from, and shall be submitted to the following: for life and health insurers, Life and Health Financial Oversight, 200 East Gaines Street, Tallahassee, Florida 32399-0327; for property and casualty insurers, Property and Casualty Financial Oversight, 200 East Gaines Street, Tallahassee, Florida 32399-0329.

Specific Authority 624.308, 624.610(14) FS. Law Implemented 624.307(1), 624.610 FS. History—New \_\_\_\_\_.

69O-144.005 Credit for Reinsurance.

(1) No change.

(2) Credit for reinsurance by a domestic insurer shall be allowed when the reinsurance is ceded to an assuming insurer which is accredited as a reinsurer in this state pursuant to Section 624.610(3)(b), Florida Statutes and Rule 69O-144.002, F.A.C., as of any date on which statutory financial statement credit for reinsurance is claimed. An accredited reinsurer pursuant to Section 624.610(3)(b), Florida Statutes:

(a)1. Files with the Office a properly executed Form OIR-DO-1464 ~~OIR-DO-1~~, which is hereby adopted and incorporated by reference, as evidence of its submission to this state's jurisdiction and to this state's authority to examine its books and records.

2. Form OIR-DO-1464 ~~OIR-DO-1~~ is available from, and shall be submitted to the following: for life and health insurers, ~~Bureau of Life and Health Financial Oversight Insurer Solvency and Market Conduct~~, 200 East Gaines Street, Tallahassee, Florida 32399-0327; for property and casualty insurers, ~~Bureau of Property and Casualty Financial Oversight Insurer Solvency and Market Conduct~~, 200 East Gaines Street, Tallahassee, Florida 32399-0329;

(b) through (c) No change.

(3)(a) No credit for reinsurance shall be allowed a domestic ceding insurer:

1. through 2. No change.

3. If the domestic ceding insurer has not complied with the requirements of Rule 69O-144.003, F.A.C. – Disclosures.

(b) No change.

(4) through (7) No change.

Specific Authority 624.308, 624.610(14) FS. Law Implemented 624.307(1), 624.610 FS. History—New 1-30-91, Formerly 4-108.005, Amended 12-25-97, 10-13-02, Formerly 4-144-005, Amended \_\_\_\_\_.

NAME OF PERSON ORIGINATING PROPOSED RULE:  
Claude Mueller, Director, Property and Casualty Financial Oversight, Office of Insurance Regulation

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

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: May 17, 2005

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: April 22, 2005

## FINANCIAL SERVICES COMMISSION

### Office of Insurance Regulation

RULE TITLE:

Premium Schedule Applicable to "Truth in Lending" and Other Endorsements

RULE NO.:

69O-186.005

PURPOSE, EFFECT AND SUMMARY: The purpose is to clarify the reference to a master list of approved endorsements may only be issued in conjunction with a mortgage title insurance policy.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS: None.

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

SPECIFIC AUTHORITY: 624.308, 627.777, 627.782 FS.

LAW IMPLEMENTED: 624.307(1), 627.777, 627.782, 697.04(1) FS.

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

TIME AND DATE: 9:30 a.m., July 13, 2005

PLACE: Room 116, Larson Building, 200 East Gaines Street, Tallahassee, Florida

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

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Peter Rice, Property and Casualty Product Review, Office of Insurance Regulation, e-mail: peter.rice@fldfs.com

THE FULL TEXT OF THE PROPOSED RULE IS:

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

(1) through (7)(d) No change.

(e) Specific endorsements may be issued by reference to a master list of approved endorsements and have the same validity as if issued individually on each transaction so long as the language in the endorsement specifically conforms without any additions or deletions to the endorsement language as set forth in this section. Any such master list of approved endorsements shall only be issued in conjunction with a mortgage title insurance policy.

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

(g) Contiguity Endorsement – The Contiguity Endorsement (Florida) shall conform to the following endorsement language:

"1. The Company insures the Insured herein against loss or damage by virtue of any inaccuracy in the following statement, to wit: Parcel \_\_\_\_ of the legal description and Parcel \_\_\_\_ of the legal description are contiguous to each other along the \_\_\_\_ line of Parcel \_\_\_\_ 4 and \_\_\_\_ line of Parcel \_\_\_\_ 2, and, taken as a tract, constitute one Parcel of land.

2. No change.

(h) through (l) No change.

(9) through (16) No change.

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

NAME OF PERSON ORIGINATING PROPOSED RULE: Peter Rice, Property and Casualty Product Review, Office of Insurance Regulation

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Richard Koon, Property and Casualty Product Review, Office of Insurance Regulation

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: May 17, 2005

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

#### AGENCY FOR HEALTH CARE ADMINISTRATION

##### Health Facilities and Agency Licensing

RULE NOS.:

59A-8.0086

59A-8.0245

RULE TITLES:

Denial, Suspension, Revocation of  
License and Imposition of Fines

Advance Directives

##### NOTICE OF CHANGE

Notice is hereby given that the following changes have been made to the proposed rules in accordance with subparagraph 120.54(3)(d)1., F.S., published in Vol. 31, No. 6, of the February 11, 2005, issue of the Florida Administrative Weekly. The changes are made because the Agency's Acting General Counsel determined that the Agency does not have legal authority to enforce the proposed rule provisions below.

The changes are as follows:

59A-8.0086

~~(5) A fine of \$2,500 shall be assessed against providers determined by AHCA to be operating without a valid license that fail to cease operating until licensed by AHCA as required in section 400.474, F.S.~~

59A-8.0245