

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

DATE AND TIME: June 26, 2008, 9:00 a.m.

PLACE: Prather Building, Bureau of HIV/AIDS, 2585 Merchants Row Boulevard, Tallahassee, Florida 32399

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT AND A COPY OF THE PRELIMINARY DRAFT, IF AVAILABLE, IS: Suzanne Stevens, Bureau of HIV/AIDS, 4052 Bald Cypress Way, BIN A09, Tallahassee, Florida 32399-1715, (850)245-4335

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

Section II Proposed Rules

DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES

Division of Agricultural Environmental Services

RULE NO.: RULE TITLE:

5E-14.123 Examinations

PURPOSE AND EFFECT: The purpose and effect of the proposed rule amendment is to increase state certified operator exam fees to the cap of \$300.00 per pest control category.

SUMMARY: This rule will increase the state certified operator exam fees to the statutory cap of \$300.00 per pest control category.

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

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

SPECIFIC AUTHORITY: 482.051 FS.

LAW IMPLEMENTED: 482.141(2), 482.151(4), FS.

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

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Mr. Michael J. Page, Chief of Entomology and Pest Control, 1203 Governors Square Boulevard, Suite 300, Tallahassee, Florida 32301-2961, (850)921-4177

THE FULL TEXT OF THE PROPOSED RULE IS:

5E-14.123 Examinations.

(1) through (3) No change.

(4) An examination fee of ~~\$300~~ ~~\$225~~ for each category of pest control in which the applicant desires to be examined must be paid by each applicant at the time he submits his application. Checks or money orders shall be made payable to the Department. Applications received without the required fees will be considered incomplete and will not be processed. Checks returned by the bank will invalidate the application for non-payment of fees.

(5) through (12) No change.

Specific Authority 482.051 FS. Law Implemented 482.141(2), 482.151(4) FS. History—New 1-1-77, Formerly 10D-55.123, Amended 8-11-93, 7-5-95, 5-28-98, 4-29-02, 4-17-03,_____.

NAME OF PERSON ORIGINATING PROPOSED RULE: Mr. Michael J. Page

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Mr. Anderson H. “Andy” Rackley

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: May 27, 2008

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: March 21, 2008

DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES

Division of Agricultural Environmental Services

RULE NO.: RULE TITLE:

5E-14.149 Enforcement and Penalties

PURPOSE AND EFFECT: The purpose and effect of the proposed rule is to repeal a section of the subsection 5E-14.149(10), F.A.C., that provides for a mechanism of payment of investigative costs for certain violations due to duplication as investigative costs are already a factor in the calculation of a monetary fine as provided in subsection 5E-14.149(15), F.A.C.

SUMMARY: The proposed rule is to repeal a section of the subsection 5E-14.149(10), F.A.C., that provides for a mechanism of payment of investigative costs for certain violations due to duplication as investigative costs are already a factor in the calculation of a monetary fine as provided in subsection 5E-14.149(15), F.A.C.

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

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

SPECIFIC AUTHORITY: 482.051 FS.

LAW IMPLEMENTED: 482.161 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: Mr. Michael J. Page, Chief of Entomology and Pest Control, 1203 Governors Square Boulevard, Suite 300, Tallahassee, Florida 32301-2961, (850)921-4177

THE FULL TEXT OF THE PROPOSED RULE IS:

5E-14.149 Enforcement and Penalties.

(1) through (9) No change.

~~(10) Investigative Costs. The Department will charge for investigative costs when investigations that document major violations require more than one inspection, more than one inspector, or the use of Department staff outside of the Division of Agricultural Environmental Services. Investigative costs are comprised of the following: Inspectors time, Bureau personnel time, travel expenses, and other incidental expenditures related to the case.~~

~~(10)(11) Quarterly List. All disciplinary actions taken by the Department pursuant to Chapter 482, F.S., or the rules adopted pursuant to it, shall be published in the next available quarterly list published as required in Section 482.161(9), F.S., and on the Department’s website and shall include the identity of each individual or entity against which disciplinary action was taken, and a brief description of the offense and the disciplinary action, whether it was a warning letter, fine, probation, suspension or revocation. If the violator operated an unlicensed pest control business the name of the unlicensed business will also be listed.~~

~~(11)(12) Resolution of Violations, Settlement, and Additional Enforcement Remedies. The Department and the violator may agree to resolve violations prior to administrative action, or to enter into settlement pursuant to Section 120.57(4), F.S. The willingness of a violator to resolve violations prior to initiation of administrative action, or to settle will be considered in determining the appropriate penalty because early resolution of violations furthers compliance and results in savings of time, costs, and expenses for the Department. The Department will enforce a failure to comply with an agreement to resolve violations or a settlement agreement with the penalties and remedies provided in the agreement as authorized by law. These enforcement guidelines shall not be construed to limit the authority of the Department to resolve violations prior to or after initiation of any administrative action or to settle with any party. The Department may utilize all available remedies to ensure voluntary compliance including administrative action, civil actions, referrals for criminal prosecution, and deceptive and unfair trade practices actions pursuant to Chapter 501, F.S.~~

~~(12)(13) Follow-Up Compliance Inspections. If the violator agrees to corrective actions and subsequent inspection reveals that corrective actions have not been taken or that good~~

faith efforts to undertake these corrective actions have not been made, then the Department will enforce the penalties and remedies provided in the agreement and as authorized by law.

~~(13)(14) Notification of Licensees, Certificate Holders, and Identification Card Holders of Complaint. When the Department receives a written complaint from a consumer regarding a licensee, certificate holder, permit holder or applicator, the Department will send a notice to the responsible person and to the licensee, stating the complaint, identifying the complainant and requesting a written response within 10 working days.~~

~~(14)(15) Fine Guide. FINE GUIDE = A(B+C+D+E+F)G. This guide shall apply for each violation for which a fine is imposed. The maximum fine is \$5,000 per violation. The terms and values used in the fine guide calculation shall be:~~

- A = Degree & Extent of Harm – Human, animal and environmental hazards occur as a result of pesticide misuse or mismanagement of another pest control method:
 - 1 Human, animal or environmental harm not identified
 - 5 Death of animals or injury to humans or animals requiring hospitalization, or serious harm to an ecological system, or contamination of water or soil requiring corrective action or monitoring to protect human health or the environment
 - 7 Human death
- B = Toxicity of the pesticide for which a pesticide misuse or violation, of label directions which could result in human or animal hazards:
 - 0 No pesticide involved in complaint
 - 1 Category III or IV – Signal Word “Caution”
 - 2 Category II – Signal Word “Warning”
 - 3 Category I – Signal Word “Danger”
- C = Estimated cost of rectifying the damage to consumer minus any mitigation provided by the violator
 - 1 Unknown or under \$1,000
 - 2 Over \$1,000 and under \$5,000
 - 3 Over \$5,000 and under \$10,000
 - 4 Over \$10,000
- D = Whether the violation was committed deliberately
 - 1 No evidence violation was committed deliberately
 - 5 Evidence violation was committed deliberately
- E = Compliance record of the violator
 - 0 No prior violations
 - 1 One prior violation for a dissimilar violation
 - 2 Two or more prior violations dissimilar to current violation
 - 3 One prior violation for a similar violation
 - 4 Two or more prior violations for similar violations
- F = Investigative Costs

- 0 Routine investigation or Payment of all investigative costs
- 2 Violation documented as a result of more than one inspection or requiring investigation by multiple inspectors, or by department personnel outside of the division of Agricultural Environmental Services
- G = Entity Category
- 500 Business licensee responsible for violation, or person operating a pest control business without a valid business license
- 250 Certified Operator or Special Identification Cardholder responsible for violation
- 100 All others

Compliance record. The compliance record is established by prior disciplined violations, within the three (3) years preceding the date of the current violation, of Chapter 482, F.S., or of Chapter 5E-14, F.A.C., or of federal or other Florida law addressing pest control or pesticide use or disposal. Violations will be considered final on acceptance of the applicable penalty, or the date of final agency action or the conclusion of any appeals thereof.

Specific Authority 482.051, 570.07(23) FS. Law Implemented 482.161, 482.163 FS. History—New 7-13-06, Amended 7-11-07;

NAME OF PERSON ORIGINATING PROPOSED RULE:

Mr. Michael J. Page

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Mr. Anderson H. "Andy" Rackley

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: May 28, 2008

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: March 28, 2008

DEPARTMENT OF REVENUE

Sales and Use Tax

<p>RULE NOS.:</p> <p>12A-1.056</p> <p>12A-1.105</p>	<p>RULE TITLES:</p> <p>Tax Due at Time of Sale; Tax Returns and Regulations</p> <p>Service Warranties</p>
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PURPOSE AND EFFECT: The purpose of the proposed amendments to Rule 12A-1.056, F.A.C. (Tax Due at Time of Sale; Tax Returns and Regulations), is to: (1) clarify instructions to dealers who cannot reasonably compile the information required for an accurate sales and use tax return on a calendar month basis on how to request to file and pay returns on an alternative-period basis; and (2) require dealers who have obtained authorization from the Department to file returns and pay tax on an alternative-period basis to provide the Department with a calendar of alternate-reporting periods each calendar year.

The purpose of the proposed amendments to Rule 12A-1.105, F.A.C. (Service Warranties), is to implement the provisions of Section 21, Chapter 2007-106, Laws of Florida, and clarify that service warranties to repair, maintain, or replace tangible personal property are not subject to tax if the parts and labor to repair the property are exempt from sales and use tax.

SUMMARY: The proposed amendments to Rule 12A-1.056, F.A.C. (Tax Due at Time of Sale; Tax Returns and Regulations): (1) clarify that dealers who cannot reasonably compile the information required for an accurate sales and use tax return on a calendar month basis may make a written request to the Department to file and pay returns on an alternative-period basis; (2) clarify that the alternative-period returns and payments are due on the first day after the end of the alternative-reporting period and become delinquent on the twenty-first day after the end of the alternative-reporting period; and (3) require dealers who have obtained authorization from the Department to file returns and pay tax on an alternative-period basis to provide the Department with a calendar of alternate-reporting periods each calendar year.

The proposed amendments to Rule 12A-1.105, F.A.C. (Service Warranties), clarify that service warranties to repair, maintain, or replace tangible personal property are not subject to tax if the parts and labor to repair the property are exempt from sales and use tax.

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

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

SPECIFIC AUTHORITY: 212.17(6), 212.18(2), 213.06(1) FS. **LAW IMPLEMENTED:** 125.0104(3)(g), 125.0108(2)(a), 212.02(4), (14)(a), (16), 212.03(2), 212.0305(3)(c), 212.031(3), 212.04(3), (4), 212.0506, 212.055, 212.06, 212.0606, 212.08(7)(v), 212.11, 212.12(1), (2), (3), (4), (5), 212.14(2), 212.15(1), 212.18(3), 213.235, 213.755, 370.07(3), 373.41492, 376.70, 376.75, 403.718, 403.7185, 634.011, 634.131, 634.401, 634.415, 681.117 FS.

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

DATE AND TIME: July 1, 2008, 11:00 a.m.

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

Pursuant to the provisions of the Americans with Disabilities Act, any person requiring special accommodations to participate in this workshop/meeting is asked to advise the agency at least 48 days before the workshop/meeting by contacting: Larry Green at (850)922-4830. If you are hearing or speech impaired, please contact the agency using the Florida Relay Service, 1(800)955-8771 (TDD) or 1(800)955-8770 (Voice).

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, telephone (850)922-9407

THE FULL TEXT OF THE PROPOSED RULES IS:

12A-1.056 Tax Due at Time of Sale; Tax Returns and Regulations.

(1) DUE DATES FOR PAYMENTS AND TAX RETURNS.

(a) The total amount of tax on cash sales, credit sales, installment sales, or sales made on any kind of deferred payment plan shall be due at the moment of the transaction. Except as provided in Rule Chapter 12-24, F.A.C., Rules 12A-1.005, and 12A-1.070, F.A.C., and this rule, all taxes required under Chapter 212, F.S., to be collected or paid in any month, are due to the Department on the first day of the month following the date of sale or transaction. The payment and return must be delivered to the Department or be postmarked on or before the 20th day of the month following the date of sale or transaction for a dealer to be entitled to the collection allowance and to avoid penalty and interest for late filing. If the 20th day falls on a Saturday, Sunday, or legal holiday, payments accompanied by returns will be accepted as timely if postmarked or delivered to the Department on the next succeeding day which is not a Saturday, Sunday, or legal holiday. For purposes of this rule, a legal holiday means a holiday that is observed by federal or state agencies as a legal holiday as this term is defined in Chapter 683, F.S., and s. 7503 of the Internal Revenue Code of 1986, as amended. A "legal holiday" pursuant to s. 7503 of the Internal Revenue Code of 1986, as amended, means a legal holiday in the District of Columbia or a statewide legal holiday at a location outside the District of Columbia but within an internal revenue district.

(b) through (c) No change.

(d)1. ~~If a A dealer cannot reasonably compile the information required for an accurate return on a calendar month basis, the dealer may who maintains records on a period other than a monthly basis can request to file returns and pay tax on an alternative-period basis a variation from monthly filing and remittance of the tax. The dealer's request must be in writing and must be submitted by submitting a written request to the Florida Department of Revenue, Return Reconciliation, Building F-3, 5050 West Tennessee Street, Building F-3, Tallahassee, Florida 32399-0100. The request must contain:~~

a. The name of the business;

b. The business mailing address;

c. The business partner number;

~~d.e.~~ The dealer's certificate of registration number;

~~e.d.~~ A detailed explanation why the dealer cannot reasonably file returns on a calendar month basis of the problems associated with filing on a monthly basis; and

~~f.e.~~ The beginning and ending month ~~and~~ day, ~~and~~ year of each requested ~~alternative-reporting period for the current calendar year.~~

2. When the ~~Department Executive Director or the Executive Director's designee~~ determines that the dealer cannot reasonably compile the information required for the making of an accurate return cannot reasonably be compiled by a taxpayer on a calendar month basis, the Department the Executive Director or the Executive Director's designee will notify the dealer in writing that the dealer may report as an alternative-period filer deviation from monthly filing of returns and remitting of tax is authorized. Alternative-period returns and payments Such payments and returns are due on the first day after ~~succeeding~~ the end of the ~~designated~~ alternative-reporting period and become delinquent on the twenty-first day after succeeding the end of the ~~alternative-reporting period.~~

3. Each year, dealers who have been authorized to file on an alternative-reporting basis must provide a calendar of alternative-reporting dates for the upcoming year. The dealer must provide the calendar by December 15, and the calendar must include all alternative-reporting periods for the following calendar year. The annual calendars may be submitted to the Department by any one of the following means:

a. E-mailing the calendar to consut@dor.state.fl.us;

b. Faxing the calendar to Returns Reconciliation/Sales Tax Unit at (850)922-9672;

c. Mailing the calendar to General Tax Administration, Returns Reconciliation/Sales and Use Tax Unit, 5050 West Tennessee Street, Building F-3, Tallahassee, Florida 32399-0100.

(e) through (i) No change.

(2) through (4) No change.

Specific Authority 212.17(6), 212.18(2), 213.06(1) FS. Law Implemented 125.0104(3)(g), 125.0108(2)(a), 212.03(2), 212.0305(3)(c), 212.031(3), 212.04(3), (4), 212.0506(4), (11), 212.055, 212.06(1)(a), 212.0606, 212.11, 212.12(1), (2), (3), (4), (5), 212.14(2), 212.15(1), 213.235, 213.755, 370.07(3), 373.41492, 376.70, 376.75, 403.718, 403.7185, 681.117 FS. History—Revised 10-7-68, 6-16-72, Amended 10-21-75, 6-9-76, 11-8-76, 2-21-77, 4-2-78, 10-18-78, 12-23-80, 8-26-81, 9-24-81, 11-23-83, 5-28-85, Formerly 12A-1.56, Amended 3-12-86, 1-2-89, 12-19-89, 12-7-92, 10-20-93, 10-17-94, 3-20-96, 4-2-00, 6-19-01, 8-1-02, 4-17-03, 9-28-04, 11-6-07, _____.

12A-1.105 Service Warranties.

(1)(a) Every person who solicits, offers, provides, enters into, issues, or delivers any service warranty, or who receives, on behalf of another person, any consideration from a service warranty holder is exercising a taxable privilege and shall register as a dealer with the Department of Revenue before such person may engage in or conduct business in this state. See Rule 12A-1.060, F.A.C.

(b)1. The term “service warranty” means any contract or agreement which indemnifies the holder of the contract or agreement for the cost of maintaining, repairing, or replacing tangible personal property, whether or not the contract provides for the furnishing of parts. The term “service warranty” includes motor vehicle warranties issued under Part I of Chapter 634, F.S., and service warranties issued under Part III of Chapter 634, F.S.

a. through e. No change.

2. The term “service warranty” does not include contracts or agreements to repair, maintain, or replace tangible personal property if such property when sold at retail in this state would not be subject to sales tax or if the parts and labor to repair tangible personal property qualify for an exemption under Chapter 212, F.S.

a. through b. No change.

c. Example: A maintenance contract covering the cost of parts and labor that are exempt when used to repair industrial machinery and equipment, as provided in Section 212.08(7)(xx), F.S., is not considered a service warranty contract.

3. No change.

(c) through (d) No change.

(2) through (5) No change.

Specific Authority 212.17(6), 212.18(2), 213.06(1) FS. Law Implemented 212.02(4), (14)(a), (16), 212.0506, 212.06, 212.08(7)(v), 212.18(3), 634.011, 634.131, 634.401, 634.415 FS. History—New 1-2-89, Amended 12-11-89, 8-10-92, 1-4-94, 3-20-96, 4-2-00, 6-19-01, 5-1-06,_____.

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

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Buzz McKown, Revenue Program Administrator II, Technical Assistance and Dispute Resolution, P. O. Box 7443, Tallahassee, Florida 32314-7443; telephone number (850)922-4721

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: May 22, 2008

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: January 25, 2008 (Vol. 34, No. 4, pp. 462-464)

DEPARTMENT OF REVENUE

Sales and Use Tax

RULE NOS.:	RULE TITLES:
12A-17.003	Registration
12A-17.005	Public Use Forms

PURPOSE AND EFFECT: The purpose of the proposed amendments to Rule 12A-17.003, F.A.C. (Registration), is to: (1) provide the requirements for obtaining a certificate of registration as a secondhand dealer or as a secondary metals

recycler from the Department; (2) clarify the process for renewing an annual certificate of registration; and (3) clarify what confidential information the Department has been authorized to release to law enforcement officials or by an order of a judge or by a subpoena.

The purpose of the proposed amendments to Rule 12A-17.005, F.A.C. (Public Use Forms), is to provide the requirements and forms that will be used by the Department to register secondhand dealers and secondary metals recyclers.

SUMMARY: The proposed amendments to Rule 12A-17.003, F.A.C. (Registration): (1) provide that, to obtain a certificate of registration as a secondhand dealer or as a secondary metals recycler, the Department requires a completed application package; (2) provide the documents that are required to be included in an application package submitted for registration as a secondhand dealer or as a secondary metals recycler; (3) provide how and when to submit a completed application package to the Department for processing; (4) provide that a Federal Bureau of Investigation fingerprint card must be received as part of a registration application, so that the Florida Department of Law Enforcement can complete the background check required for all applicants; (5) provide information about the fees imposed by the Department of Law Enforcement and the Federal Bureau of Investigation to perform a background check; (6) provide the requirements for registration when there is a change in legal entity of a registered business or when there is a change in ownership of a registered business; (7) clarify the process for renewing an annual certificate of registration; and (8) clarify what confidential information the Department has been authorized to release to law enforcement officials or by an order of a judge or by a subpoena.

The proposed amendments to Rule 12A-17.005, F.A.C. (Public Use Forms): (1) adopt, by reference, forms to be used by the Department to register secondhand dealers and secondary metals recyclers beginning July 2008; (2) update information on how to obtain forms from the Department; and (3) clarify that renewal applications are issued annually by the Department to current registrants.

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

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

SPECIFIC AUTHORITY: 213.06(1), 538.11 FS.

LAW IMPLEMENTED: 213.053(9), (11), 538.09, 538.11, 538.25, 538.26, 539.002 FS.

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

DATE AND TIME: July 1, 2008, 11:00 a.m.

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

Pursuant to the provisions of the Americans with Disabilities Act, any person requiring special accommodations to participate in this workshop/meeting is asked to advise the agency at least 48 hours before the workshop/meeting by contacting: Larry Green at (850)922-4830. If you are hearing or speech impaired, please contact the agency using the Florida Relay Service, 1(800)955-8771 (TDD) or 1(800)955-8770 (Voice).

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULES IS: Ron Gay, Tax Law Specialist, Technical Assistance and Dispute Resolution, Department of Revenue, P. O. Box 7443, Tallahassee, Florida 32314-7443, telephone (850)922-4732

THE FULL TEXT OF THE PROPOSED RULES IS:

12A-17.003 Registration.

(1)(a) Any person, corporation, or other business entity ~~must shall~~ file a completed application package for registration as an Application for Secondhand Dealer or Secondary Metals Recycler Registration (form DR-1S, incorporated by reference in Rule 12A-17.005, F.A.C.) and be issued a secondhand dealer or secondary metals recycler and obtain a certificate of registration before engaging in business as a secondhand dealer or secondary metals recycler. One application package Application for Secondhand Dealer or Secondary Metals Recycler Registration is required for each dealer. If a dealer is engaged in business as a secondhand dealer and a secondary metals recycler, a separate application package Application for Secondhand Dealer or Secondary Metals Recycler Registration must be filed for each type of business. If a secondhand dealer or secondary metals recycler is the owner of more than one business location, the application package must list each location owned by the same legal entity. The Department will issue a certificate of registration to the business duplicate Certificate of Registration for each location.

(b) To apply for registration as a secondhand dealer or secondary metals recycler, a business entity is required to provide a completed registration package to:

Account Management-Secondhand Dealer Unit
Florida Department of Revenue
P. O. Box 6480
Tallahassee, Florida 32314-6480.

(c) A completed registration package contains the following:

1. A completed Application for Secondhand Dealer or Secondary Metals Recycler Registration (Form DR-1S, incorporated by reference in Rule 12A-17.005, F.A.C.) for each business location.

2. A Federal Bureau of Investigation (United States Department of Justice) fingerprint card completed by a local law enforcement official for each corporate officer, owner, general partner, stockholder and/or director with a controlling

interest. The completed fingerprint card is necessary for a state and federal criminal history record check (background check) to be performed by the Florida Department of Law Enforcement. Form GT-200403 (incorporated by reference in Rule 12A-17.005, F.A.C.) provides instructions for completing the fingerprint card.

3. A full-face photograph for each corporate officer, owner, general partner, stockholder and/or director with a controlling interest.

4. A check, payable to the Florida Department of Revenue, which includes payment for:

a. The \$6 application fee required for each business location; and

b. The fee imposed by the Florida Department of Law Enforcement for processing each completed fingerprint card for a state and federal criminal history record check (background check). The amount of this fee is provided at <http://www.fdle.state.fl.us/criminalhistory/index.html>.

(d) A registration package containing the forms required by the Federal Bureau of Investigation, the Florida Department of Law Enforcement, and the Florida Department of Revenue may be obtained, without cost, by: 1) ordering the registration package at www.myflorida.com/dor/forms to be mailed to you; or, 2) calling the Florida Department of Revenue at (800)352-3671, Monday through Friday, 8 a.m. to 7 p.m., Eastern Time; or, 3) writing the Florida Department of Revenue, Distribution Center, 168A Blountstown Highway, Tallahassee, Florida 32304. Persons with hearing or speech impairments may call the Department's TDD at (800)367-8331 or (850)922-1115.

(2)(a)(b) The certificate of registration issued by the Department is Certificate of Registration shall not be assignable; and is only shall be valid only for the person, firm, co-partnership, or corporation listed on the certificate to which issued.

(b)(e) Engaging in business as a secondhand dealer or secondary metals recycler without first obtaining a certificate of registration Certificate of Registration or after a certificate is such Certificate of Registration has been revoked or suspended by the Department is prohibited.

(3)(2) The effective date of the certificate of registration issued by the Department is Certificate of Registration shall be the postmark date of the completed application package for registration Application for Secondhand Dealer or Secondary Metals Recycler Registration, if mailed, or the date the completed application package is received by the Department, if it is delivered by means other than mail.

(4)(a) For businesses that hold a valid certificate of registration, a new completed application package must be submitted and a new certificate of registration must be obtained when there is a change in the form of ownership in the business. For example, a sole proprietor that incorporates or a

corporation that converts to a limited liability company is required to submit a new completed registration package to the Department and obtain a new certificate of registration.

(b) When there is a change in a general partner of a partnership, in the members of an association, joint venture, limited liability company, or other noncorporate entity, or in the corporate officers/directors who hold a controlling interest in a corporation, the new partner, new member, or new corporate officer/director must submit:

1. A Federal Bureau of Investigation fingerprint card completed by a local law enforcement official;
2. A full-face photograph; and
3. A check, payable to the Florida Department of Revenue, for the fee imposed by the Florida Department of Law Enforcement for processing the state and federal criminal history record check (background check).

(5)(3) Each person who holds a certificate of registration is required to Certificate of Registration shall annually file an Application for Renewal of Secondhand Dealer or Secondary Metals Recycler Registration (Form form DR-1SR, incorporated by reference in Rule 12A-17.005, F.A.C.) and pay an annual renewal fee of \$6 per location. Renewal applications are provided annually to each business that holds a certificate of registration as a secondhand dealer or as a secondary metals recycler. Completed Each renewal applications and annual renewal fees are due by fee is payable on October 1 of each year.

(6)(a) After verifying the official's identify, as provided in Rule 12-22.005, F.A.C., the Department will release the following information to a law enforcement official who requests verification of a secondhand dealer's certificate of registration:

1. Whether a specified person holds a valid certificate of registration;
2. Whether a specified certificate number is valid, has been canceled, or is inactive or otherwise invalid and the name of the holder of that certificate number; and
3. The name and address of any secondhand dealer registered to do business within the official's jurisdiction.

(b) After verifying the official's identify, as provided in Rule 12-22.005, F.A.C., the Department will release the following information to a law enforcement official who requests verification of a secondary metals recycler's certificate of registration:

1. Whether a specified person holds a valid certificate of registration as a secondary metals recycler; and
2. Whether a specified certificate number is valid, has been canceled, or is inactive or otherwise invalid and the name of the holder of that certificate number.

(c) Pursuant to Section 213.053(9), F.S., the Department will provide information required by an order of a judge or a subpoena.

Specific Authority ~~212.17(6), 212.18(2), 213.06(1), 538.11 FS. Law Implemented 213.053(9), (11), 212.17(4), 538.09, 538.11, 538.25, 538.26 FS. History—New 3-15-90, Amended 11-14-91, 4-18-93, 10-18-93, 10-17-94, 3-20-96, 8-1-02, _____.~~

12A-17.005 Public Use Forms.

(1) The following public-use forms and instructions are employed by the Department in its dealings with the public in administering Chapter 538, F.S., and are incorporated by reference in this rule.

(a) Copies of these forms, except those denoted by an asterisk (*), are available, without cost, by ~~one (1) or more of the following methods:~~ 1) downloading the form from the Department's Internet site at www.myflorida.com/dor/forms; or, 2) calling the Department at (800)352-3671, Monday through Friday, 8 a.m. to 7 p.m., Eastern Time; or, 3) visiting any local Department of Revenue Service Center; or, 4) writing the Florida Department of Revenue, Forms Distribution Center, 168A Blountstown Highway, Tallahassee, Florida 32304; or, 2) faxing the Forms Distribution Center at (850)922-2208; or, 3) visiting any local Department of Revenue Service Center to personally obtain a copy; or, 4) calling the Forms Request Line during regular office hours at (800)352-3671 or (850)488-6800; or, 5) downloading selected forms from the Department's Internet site at the address shown inside the parentheses (www.myflorida.com/dor). Persons with hearing or speech impairments may call the Department's TDD at (800)367-8331 or (850)922-1115.

(b) Renewal applications specifically denoted by an asterisk (*) are issued by the Department to holders of current certificates of registration as a secondhand dealer or a secondary metals recycler. A copy of a renewal application may be obtained by written request directed to:

Florida Department of Revenue
Taxpayer Services
1379 Blountstown Highway
Tallahassee, Florida 32304-2716.

Form Number	Title	Effective Date
(2)(4) DR-1S	Application for Secondhand Dealer or Secondary Metals Recycler Registration (R. 07/08 08/04)	___09/04
(3)(2) *DR-1SR	Renewal Application for Secondhand Dealer or Secondary Metals Recycler (R. 07/08 07/04)	___06/05
(4) GT-200403	Secondhand Dealer/Secondary Metals Recycler Fingerprint Card Instructions (R. 07/08)	_____

Specific Authority ~~212.17(6), 212.18(2), 213.06(1), 538.11 FS. Law Implemented 212.17(6), 212.18(2), 213.06(1), 538.09, 538.11, 538.25, 539.002 FS. History—New 3-15-90, Amended 11-14-91, 4-18-93, 10-17-94, 8-1-02, 9-28-04, 6-28-05, _____.~~

NAME OF PERSON ORIGINATING PROPOSED RULE:
 Ron Gay, Tax Law Specialist, Technical Assistance and
 Dispute Resolution, Department of Revenue, P. O. Box 7443,
 Tallahassee, Florida 32314-7443, telephone (850)922-4732

NAME OF SUPERVISOR OR PERSON WHO APPROVED
 THE PROPOSED RULE: Buzz McKown, Revenue Program
 Administrator II, Technical Assistance and Dispute Resolution,
 P. O. Box 7443, Tallahassee, Florida 32314-7443; telephone
 number (850)922-4721

DATE PROPOSED RULE APPROVED BY AGENCY
 HEAD: May 22, 2008

DATE NOTICE OF PROPOSED RULE DEVELOPMENT
 PUBLISHED IN FAW: March 7, 2008 (Vol. 34, No. 10, pp.
 1257-1259)

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

Notices for the Board of Trustees of the Internal Improvement
 Trust Fund between December 28, 2001 and June 30, 2006, go
 to <http://www.dep.state.fl.us/> under the link or button titled
 "Official Notices."

**DEPARTMENT OF BUSINESS AND PROFESSIONAL
 REGULATION**

Board of Professional Surveyors and Mappers

RULE NOS.:	RULE TITLES:
61G17-6.003	General Survey, Map, and Report Content Requirement
61G17-6.004	Specific Survey, Map, and Report Requirements

PURPOSE AND EFFECT: The Board proposes the rule
 amendment to review regulatory objectives and clarify
 minimum technical standards.

SUMMARY: The rule amendment will update regulatory
 objectives and clarify minimum technical standards.

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

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

SPECIFIC AUTHORITY: 472.008, 472.015, 472.027,
 472.033(1)(h) FS.

LAW IMPLEMENTED: 472.015, 472.025, 472.027,
 472.033(1)(h) FS.

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

THE PERSON TO BE CONTACTED REGARDING THE
 PROPOSED RULES IS: Rick Morrison, Executive Director,
 Board of Professional Surveyors and Mappers, 1940 North
 Monroe Street, Tallahassee, Florida 32399-0750

THE FULL TEXT OF THE PROPOSED RULES IS:

61G17-6.003 General Survey, Map, and Report Content
 Requirement.

~~(1)(2)(b)~~ Nothing in these rules shall preclude a surveyor
 and mapper from entering into a contract with a client which
 requires more stringent surveying standards than those set forth
 in this rule.

(2) Survey Data.

~~(a)(1)~~ REGULATORY OBJECTIVE: The public must be
 able to rely on the accuracy of measurements and maps
 produced by a surveyor and mapper. ~~In meeting this objective,~~

~~(b)~~ Surveyors and mappers must achieve the following
 minimum standards of accuracy, completeness, and quality:

~~1.(a)~~ The accuracy of the survey measurements shall be
 premised upon the type of survey and the expected use of the
 survey and map. All measurements must be in accordance with
 the United States standard, using either feet or meters.

~~2.(b)~~ Records of these measurements shall be maintained
 for each survey by either the individual surveyor and mapper
 or the surveying and mapping business entity.

~~3.(e)~~ Measurement and computation records must be dated
 and must contain sufficient data to substantiate the survey map
 and insure that the accuracy portion of these standards has been
 met.

~~(2) Other More Stringent Requirements:~~

~~(a) The Board is authorized to enforce through the
 disciplinary process survey standards that are more stringent
 than those set forth in this chapter that are required by federal,
 state, or local governmental agencies.~~

~~(3) Other Standards and/or Requirements that Apply to All
 Surveys, Maps, and/or Survey Products Content:~~

~~(a) REGULATORY OBJECTIVE: In order to avoid
 misuse of a survey and map, the surveyor and mapper must
 adequately communicate the survey results to the public
 through a map, report, or report with an attached map. Any
 survey map or report must identify the responsible surveyor
 and mapper and contain standard content. ~~In meeting this
 objective,~~~~

~~(b) Surveyors and mappers must meet the following
 minimum standards of accuracy, completeness, and quality:~~

~~1.(b) Each survey map and report shall state the type of
 survey it depicts consistent with the types of surveys defined in
 paragraphs 61G17-6.002(10)(a)-(k), F.A.C. The purpose of a
 survey, as set out in paragraphs 61G17-6.002(10)(a)-(k),
 F.A.C., dictates the type of survey to be performed and
 depicted, and a licensee may not avoid the minimum standards
 required by rule of a particular survey type merely by changing
 the name of the survey type to conform with what standards or
 lack of them the licensee chooses to follow.~~

~~2.(e) All survey maps and reports must bear the name,
 certificate of authorization number, and street and mailing
 address of the business entity issuing the map and report, along~~

with the name and license number of the surveyor and mapper in responsible charge. The name, license number, and street and mailing address of a surveyor and mapper practicing independent of any business entity must be shown on each survey map and report.

3.(d) All survey maps must reflect a survey date, which is the date of data acquisition. When the graphics of a map are revised, but the survey date stays the same, the map must list dates for all revisions.

4.(e) The survey map and report and the copies of the survey map and report, except those with electronic signature and electronic seal, must contain a statement indicating that the survey map and report or the copies thereof are not valid without the signature and the original raised seal of a Florida licensed surveyor and mapper.

5.(f) If either the business entity or the individual licensee does not possess professional liability insurance, then the map, report, and/or survey must contain the following printed statement in letters at least 1/4" high: The survey depicted here is not covered by professional liability insurance.

6.(g) Additions or deletions to survey maps or reports by other than the signing party or parties is prohibited without written consent of the signing party or parties.

7.(h) All computed data or plotted features shown on survey maps must be supported by accurate survey measurements unless clearly stated otherwise.

8.(i) Bearings, distances, coordinates, and elevations shown on a survey map shall be substantiated by survey measurements unless clearly stated otherwise.

9.(j) A reference to all bearings shown on a survey map or report must be clearly stated, i.e., whether to "True North"; "Grid North as established by the NOS"; "Assumed North based on a bearing for a well defined line, such as the center line of a road or right of way, etc."; "a Deed Call for a particular line"; or "the bearing of a particular line shown upon a plat." References to Magnetic North should be avoided except in the cases where a comparison is necessitated by a Deed Call. In all cases, the bearings used shall be referenced to some well-established and monumented line.

10.(k) A designated "north arrow" and either a stated scale or graphic scale of the map shall be prominently shown upon the survey map.

11.(l) Abbreviations generally used by the public or in proper names that do not relate to matters of survey are excluded from the legend requirement.

a.1- Acceptable abbreviations on the face of survey maps are:

- N = North
- S = South
- E = East
- W = West
- or any combination such as NE, SW, etc.

° = Degrees

' = Minutes when used in a bearing

" = Seconds when used in a bearing

' = Feet when used in a distance

" = Inches when used in a distance

AC = Acres

+/- = More or less (or Plus or Minus)

Metric notation

b.2. Any other abbreviations relating to survey matters must be clearly shown within a legend or notes appearing on the face of the map or report.

12.(m) When special conditions exist that effectively prevent the survey from meeting these minimum standards, the special conditions and any necessary deviation from the standards shall be noted upon the map or report.

13.(n) The responsibility for all mapped features must be clearly stated on any map or report signed by a Florida licensed surveyor and mapper. When mapped features surveyed by the signing surveyor and mapper have been integrated with mapped features surveyed by others, then the map or report shall clearly state the individual primarily responsible for the map or report.

14.(o) Report Items:

a.1- Report items are information, as required by other parts of this rule, such as: abbreviations, legends, accuracy statements, feature lists, datums used, and things done or not done as part of the survey and mapping process. In addition, the map or report shall contain other items necessary for an adequate communication of survey methods and results as judged by the surveyor and mapper such as: data sources, measurement methods, history and lineage of data, and limitations pertaining to the information presented.

b.2. Text Report items shall be displayed either through notes on the map, report, or in a text report delivered with the map. When the report is produced as a text document and a map is attached, the report shall be signed and sealed. When the map is delivered in digital form only, then a report is required. An attached map must clearly reference the report by title, date and subject; and the report must likewise clearly refer to the map by title, date, and subject. Statements must be made on the map and in the report that neither is full and complete without the other.

15.(p) Map Accuracy.

a.1- Vertical Feature Accuracy: Vertical Control: Field-measured control for elevation information shown upon survey maps or reports shall be based on a level loop or closure to a second benchmark. Closure in feet must be accurate to a standard of plus or minus .05 ft. times the square root of the distance in miles. All surveys and maps or reports with elevation data shall indicate the datum and a description of the benchmark(s) upon which the survey is based. Minor elevation

data may be obtained on an assumed datum provided the base elevation of the datum is obviously different than the established datum.

~~b.2.~~ Horizontal Feature Accuracy:

~~i.a.~~ Horizontal Control: All surveys and maps or reports expressing or displaying features in a publicly published coordinate system shall indicate the coordinate datum and a description of the control points upon which the survey is based. Minor coordinate data may be obtained and used on an assumed datum provided the numerical basis of the datum is obviously different than a publicly published datum.

~~ii.b.~~ The accuracy of control survey data shall be verified by redundant measurements or traverse closures. All control measurements shall achieve the following closures:

- Commercial/High Risk Linear: 1 foot in 10,000 feet;
- Suburban: Linear: 1 foot in 7,500 feet;
- Rural: Linear: 1 foot in 5,000 feet;

~~iii.e.~~ When statistical procedures are used to calculate survey accuracies, the maximum acceptable positional tolerance, based on the 95% confidence level, should meet the same equivalent relative distance standards as set forth in sub-subparagraphs 61G17-6.003(3)(p)2.c., F.A.C.

~~iv.d.~~ Intended Display Scale: All maps or reports of surveys produced and delivered with digital coordinate files must contain a statement to the effect of: "This map is intended to be displayed at a scale of 1/___ or smaller".

Specific Authority 472.008, 472.015, 472.027, 472.033(1)(h) FS. Law Implemented 472.015, 472.025, 472.027 FS. History—New 9-1-81, Amended 7-29-85, Formerly 21HH-6.03, Amended 12-18-88, 11-27-89, 5-26-91, Formerly 21HH-6.003, Amended 12-25-95, 5-13-96, 11-3-97, 5-25-99, 4-4-06, 8-31-06, _____.

61G17-6.004 Specific Survey, Map, and Report Requirements.

- (1) No change.
- (2) Boundary Survey, Map, and Report:
 - (a) Boundaries of Real Property:

~~1. REGULATORY OBJECTIVE: The public must have confidence that boundaries of real property are located on the ground in an adequate and defensible manner. In meeting this objective, surveyors and mappers must meet the following minimum standards of accuracy, completeness, and quality:~~

~~1.2. The surveyor and mapper shall make a determination of the position of the boundary of real property in complete accord with the real property description shown on or attached to the survey map or report.~~

3. through 9. renumbered 2. through 8. No change.

(b) Boundary Monuments:

~~1. REGULATORY OBJECTIVE: In order to prevent boundary conflicts, the public must have assurance that the corners of accurately located real property boundaries as found by a survey are durably marked with survey monuments that may be identified on the ground with the aid of the survey map.~~

~~In meeting this objective, surveyors and mappers must meet the following minimum standards of accuracy, completeness, and quality:~~

~~1.2. The surveyor and mapper shall set monuments as defined herein, unless monuments already exist or cannot be set due to physical obstructions at such corners or unless a water boundary has been located in approximate position. The survey map shall clearly label all approximate water boundaries with notes and these shall be mapped in a distinctly different graphic fashion from water boundaries located to full survey accuracy.~~

3. through 8. renumbered 2. through 7. No change.

(c) Boundary Inconsistencies:

~~1. REGULATORY OBJECTIVE: In order to protect and enhance stability of property location and title, the public must have assurance that potential boundary inconsistencies are adequately researched and disclosed. A survey map should present the factual basis of potential boundary inconsistencies in a clear fashion. In meeting this objective, surveyors and mappers must meet the following minimum standards of accuracy, completeness, and quality:~~

~~1.2. Potential boundary inconsistencies that the survey process did not attempt to detect shall be clearly indicated and explained on the survey map or in the report. Where evidence of inconsistency is found, the nature of the inconsistency shall be shown upon the survey map, such as:~~

- a. Overlapping descriptions or hiatuses;
- b. Excess or deficiency;
- c. Conflicting boundary lines or monuments; or
- d. Doubt as to the location on the ground of survey lines or property rights.

3. through 5. renumbered 2. through 4. No change.

(d) Rights-of-Way, Easements, and Other Real Property Concerns:

~~1. REGULATORY OBJECTIVE: In order to provide assurance of the status of access and other real property rights, the public must be informed of the existence and location of rights-of-way and easements associated with property being surveyed. In meeting this objective, surveyors and mappers must meet the following minimum standards of accuracy, completeness, and quality:~~

~~1.2. All recorded public and private rights-of-way shown on applicable recorded plats adjoining or across the land being surveyed shall be located and shown upon the map.~~

3. through 6. renumbered 2. through 5. No change.

(e) Real Property Improvements:

~~1. REGULATORY OBJECTIVE: The public must be informed of the existence and location of pertinent real property improvements and their relation to the boundary of real property. In meeting this objective, surveyors and mappers must meet the following minimum standards of accuracy, completeness, and quality:~~

~~1.2.~~ Location of fixed improvements pertinent to the survey shall be graphically shown upon the map and their positions shall be dimensioned in reference to the boundaries, either directly or by offset lines.

3. through 5. renumbered 2. through 4. No change.

(3) through (8) No change.

(9) Raster Imagery:

~~(a) REGULATORY OBJECTIVE: The public must be able to rely on surveys and maps presented in image form, digital or graphical, where coordinate positions of mapped features on a recognized coordinate system may be extracted from the image.~~

~~(a)(b)~~ The survey and report must contain a list of control points employed in geo-referencing the image along with the source of control positions used. The survey and report must contain a statement clearly stating that “This is not an ortho-image or ortho-photo.”

~~(b)(e)~~ Feature accuracies shall be stated.

(10) through (11) No change.

(12) Topographic Survey:

(a) Topographic surveying and mapping by field methods shall meet general provisions applicable to all surveys and maps as set out in Rule 61G17-6.003, F.A.C. A minimum of two site benchmarks on or near the survey shall be indicated upon the survey map.

(b) Topographic Features.

~~1. REGULATORY OBJECTIVE: The public must be able to rely on topographic information contained on a survey map and must be able to correctly interpret the intended map coverage.~~

~~1.2.~~ Intended Features. The surveyor and mapper shall devise a method of reporting which topographic features were intended to be surveyed and mapped, the style of cartographic representation employed for each, and the degree of intended completeness in the surveying and mapping of each feature. As with abbreviations, any symbols, line types, etc. shown on the survey map shall be explained and/or defined in a legend.

3. through 5. renumbered 2. through 4. No change.

Specific Authority 472.008, 472.027, 472.033(1)(h) FS. Law Implemented 472.027, 472.033(1)(h) FS. History—New 9-1-81, Formerly 21HH-6.04, Amended 12-18-88, Formerly 21HH-6.004, Amended 12-25-95, 5-13-96, 5-25-99, 4-4-06, 8-31-06, _____.

NAME OF PERSON ORIGINATING PROPOSED RULE:
Board of Professional Surveyors and Mappers

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Board of Professional Surveyors and Mappers

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: April 9, 2008

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: October 26, 2007

DEPARTMENT OF ENVIRONMENTAL PROTECTION

Notices for the Department of Environmental Protection between December 28, 2001 and June 30, 2006, go to <http://www.dep.state.fl.us/> under the link or button titled “Official Notices.”

DEPARTMENT OF CHILDREN AND FAMILY SERVICES

Family Safety and Preservation Program

RULE NOS.:	RULE TITLES:
65C-16.001	Definitions
65C-16.002	Adoptive Family Selection
65C-16.003	Case Reviews
65C-16.004	Recruitment, Screening and Application Process/Adoptive Applicants
65C-16.005	Evaluation of Applicants
65C-16.007	Abuse Hotline and Registry and Criminal Records Checks
65C-16.008	Dispute Resolutions and Appeals
65C-16.009	Adoption Placement
65C-16.010	Adoption Placement – Post-Placement Services
65C-16.011	Confidentiality – Human Immunodeficiency Virus (HIV) Infected Clients
65C-16.012	Types of Adoption Assistance
65C-16.013	Determination of Maintenance Subsidy Payments
65C-16.014	Post Adoption Services
65C-16.015	Non-Recurring Adoption Expenses
65C-16.016	Access to Closed Adoption Records
65C-16.017	Florida Adoption Reunion Registry
65C-16.018	Adoption Benefits for Qualifying Employees of State Agencies

PURPOSE AND EFFECT: To update Florida Administrative Rules relating to the adoption of children with recent statutory and policy changes.

SUMMARY: Adoption of Children.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS: No Statement of Estimated Regulatory Cost was prepared. Any person who wishes to provide information regarding a statement of estimated regulatory costs, or provide a proposal for a lower cost regulatory alternative must do so in writing within 21 days of this notice.

SPECIFIC AUTHORITY: 110.1055, 110.15201, 110.201(1), 110.2035(1), 110.403(1)(c), 110.605(1) FS.

LAW IMPLEMENTED: 63.233, 409.166(7), 409.167(6) FS.

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

Pursuant to the provisions of the Americans with Disabilities Act, any person requiring special accommodations to participate in this workshop/meeting is asked to advise the agency at least 7 days before the workshop/meeting by contacting: Kathy Waters, (850)922-5055, 1317 Winewood Boulevard, Building 6, Tallahassee, Florida 32399. If you are hearing or speech impaired, please contact the agency using the Florida Relay Service, 1(800)955-8771 (TDD) or 1(800)955-8770 (Voice).

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULES IS: Kathy Waters, 1317 Winewood Boulevard, Building 6, Tallahassee, Florida 32399, (850)922-5055

THE FULL TEXT OF THE PROPOSED RULES IS:

65C-16.001 Definitions.

(1) "Abuse Hotline" means the department's single statewide toll-free telephone number established for the purpose of receiving reports of child abuse, abandonment or neglect.

(2) "Adoption" means "adoption" as defined in Section 63.032(2), F.S.

(3) "Adoption Assistance" as defined in Section 409.166(2)(b), F.S. means payments and services provided to a special needs child and his or her adoptive family, as specified in the adoption assistance agreement. Such assistance may include maintenance subsidy, medical subsidy, Medicaid and reimbursement of non recurring expenses associated with the legal adoption. College tuition exemption is also available. State employees may be eligible for an employee adoption benefit.

(4) "Adoption Entity" means "adoption entity" as defined in Section 63.032(3), F.S.

(5) "Adoption Exchange" means a mechanism for linking adoptive family resources with children needing adoption placement. The Exchange serves all the appropriate department ~~adoption~~ and community based care foster care staff, and the staff of licensed child placing agencies in Florida.

(6) "Adoption Home Study" means a written evaluation of the adoptive parents' capacity for adoptive parenthood. The study assesses the applicants' home and living environment, their marriage, family and social activities and relationships.

(7) "Adoption Reunion Registry" means a voluntary computer data base which acts as a repository for current names, addresses and telephone numbers of parties to any Florida adoption.

(8) "Agency" means "agency" as defined in Section 63.032(5), F.S.

(9) "At-Risk Adoptive Placement" means a placement of a minor in the home of an approved adoptive parent prior to the termination of the minors' parents' parental rights.

(10) "Children's Case Manager" means a person who is responsible for participating in the development and implementation of a service plan, linking the behavioral health service providers to a child or adolescent and his or her family, monitoring the delivery of behavioral health services, providing advocacy services, and collecting information to determine the effect of the behavioral health services and treatment.

(11) "Community Based Provider" means a private agency which has entered into a contract with the department to provide supervision of and services to children who remained at home with one or both parents and in out-of-home placements.

(12) "Court" means "court" as defined in Section 63.032(7), F.S.

(13) "Custodian" means a person or entity in whom the legal right to custody of a child is vested.

(14) "Department" means the Department of Children and Family Services.

(15) "Disruption" means the termination of an adoption placement prior to legal finalization.

(16) "Dissolution" means a termination of an adoption following legal finalization.

(17) "Circuit ~~District~~/Region" means a geographic area through which the department and community based care lead agencies plans and administers its programs.

(18) "Intermediary" means "intermediary" as defined in Section 63.032(9), F.S.

(19) "Interstate Compact" means an agreement among states, enacted into law in all 50 states, the District of Columbia and the Virgin Islands, which governs the interstate movement of children. It establishes orderly procedures for the interstate adoptive or out of home placement of children, including post-placement supervision.

(20) "Lead Agency" means "eligible lead community-based provider" as defined in Section 409.1671(1)(e)(e), F.S.

(21) "Licensed Child-Placing Agency" means "licensed child-placing agency" as defined in Section 39.01, F.S.

~~(22)(24)~~ "Mental health multidisciplinary team" means the group of people brought together by the child's mental health case manager to plan and coordinate mental health and related services to meet the child's needs in the most appropriate, least restrictive setting. Members of the team should include the child, unless contraindicated, the child's parent or legal guardian, caregiver, targeted case manager, psychiatrist, therapist or behavioral specialists, ~~family safety counselor~~ and any other agency representative who is providing mental health or related services to the child.

~~(23)~~~~(22)~~ “Non-Recurring Adoption Expenses” means reasonable and necessary adoption fees, court costs, attorney fees, and other expenses that are directly related to the legal adoption of a special needs child, that were incurred prior to adoption finalization.

~~(24)~~~~(23)~~ “Placement” means the act of physically moving a minor into the physical custody of the prospective adoptive parent, or in the case of adoption by a foster parent, relative, or other current caretaker, the date the placement agreement is signed.

~~(25)~~~~(24)~~ “Primary Residence and Place of Employment in Florida” means “Primary Residence and Place of Employment” as defined in Section 63.032(17), F.S.

~~(26)~~ “Qualifying Adoptive Employee” means a full-time, part-time or retired employee receiving retirement benefits of a state agency who is paid from regular salary or retirement appropriations or who otherwise meets the employer’s definition of a regular rather than temporary employee and who adopts a child pursuant to chapter 63. For purposes of this definition, the term includes instructional personnel, as defined in Section 1012.01, F.S., employed by the Florida School for the Deaf and the Blind.

~~(27)~~~~(25)~~ “Relative” means “relative” as defined in Section 39.01~~(63)~~~~(60)~~, F.S.

~~(28)~~~~(26)~~ “Significant Emotional Tie” means the relationship between a child and his or her caretaker family when a child is bound to that family in such a vital and ardent manner that removal of the child from that family would have detrimental consequences for the child. This term is also used in evaluating a child’s eligibility for adoption subsidy when the question of eligibility rests solely on his adoption by the current caretaker.

~~(29)~~~~(27)~~ “Sibling” means one of two or more individuals having one or both parents in common.

~~(30)~~~~(28)~~ “Single Point of Access” means the designated ~~district/region~~ staff person or Alcohol, Drug Abuse and Mental Health or the authorized agent designated by the department within a geographical area who is identified as the point of contact to assist the case management or adoption family services counselor in accessing mental health assessments and other mental health services for children adopted from foster care or in the care and custody of the department or the appropriate entity within the community based care agency.

~~(31)~~~~(29)~~ “Special Needs Child” means “special needs child” as defined in Section 409.166(2), F.S.

~~(32)~~ “State Agency” means a branch, department, or agency of state government for which the Chief Financial Officer processes payroll requisitions, a state university or community college as defined in Section 1001.21, F.S., a school district unit as defined in Section 1001.30, F.S., or a water management district as defined in Section 373.019, F.S.

~~(33)~~~~(31)~~ “Suitability of Intended Placement” means the fitness of the intended placement with primary consideration given to the welfare of the child and the fitness and capabilities of the adoptive parents for a particular child.

~~(34)~~~~(31)~~ “To Place” means the process whereby a parent or legal guardian surrenders a child for adoption or a child’s parents’ parental rights are terminated by a court of giving up a child for adoption and the prospective parents’ receiving and adopting the child including all actions by any person or agency participating in the process.

Specific Authority 63.233, 409.166(7), 409.167(6) FS. Law Implemented 39.001, 39.701, 63.032, 63.092, 63.122, 63.165, 63.192, 63.212, 409.166, 409.167, 409.401 FS. History–New 4-28-92, Amended 4-19-94, Formerly 10M-8.0013, Amended 12-4-97, 8-19-03, _____.

65C-16.002 Adoptive Family Selection.

(1) The Department facilitates the adoption of children with special needs. Persons seeking to adopt non-special needs children will be referred to private agencies. Birth parents seeking adoption planning for their non-special needs children will be referred to private adoption agencies. Any non-special needs children in the care of the department for whom adoption is the goal, will be referred to private adoption agencies for placement planning, unless there is a plan for adoption by the current custodian.

(2) General Policy. A person or government involved in adoption may not deny to any individual the opportunity to become an adoptive parent on the basis of race, color or national origin of the individual or the child. A person or government may not delay or deny the placement of a child for adoption on the basis of race, color or national origin of the adoptive parent or the child.

(3) It is the policy of the state and of the department that adoption placements must be made consistent with the best interest of the child. The role of good judgment in assessing the best interest of the child cannot be replaced by rote policy decrees. The exercise of that judgment must be shaped by the following considerations:

(a) Grandparent priority. Grandparents with whom a child has lived for at least six months must be notified that their grandchild is being considered for adoption as specified in Section 63.0425, F.S. Such grandparents must be afforded the opportunity to have a home study completed and to petition for adoption, and the court is required to give first priority to that petition.

(b) Other relative priority. Other relatives may wish to be considered as an adoption placement for the child. If such a relative is identified and requests consideration for adoption placement, the application of the relative must be evaluated to determine suitability through an adoptive home study.

(c) Current custodian priority. The current custodian of the child may wish to adopt. If the custodian applies to adopt the child, the application must be evaluated to determine

suitability through an adoptive home study. The home study must assess the length of time the child has lived in a stable, satisfactory environment and the depth of the relationship existing between the child and the custodian. ~~It should be recognized that individuals who might not be considered the placement of choice for children not known to them, can be the placement of choice for children with whom they have an existing stable relationship.~~ There are some situations in which adoption by the current custodian may not be in the best interest of the child. Examples of these situations include:

1. The current custodians want to adopt a child but not his or her siblings and it is in the best interest of the sibling group to be placed together.

2. The current custodian has returned other adopted children to the department, or has arranged for some other out-of-home informal long-term placement for a previously adopted child.

(d) Non-custodian with whom child has a relationship. Persons known to the child, but who do not have custody of the child, may wish to be considered for adoption. If such persons apply to adopt the child, the application must be evaluated to determine suitability through an adoptive home study. In addition, the depth of the relationship existing between the child and the non-custodial applicant must be examined.

(e) Family new to the child. Many families who pursue adoption do not have a specific child in mind when they apply. These families must be provided information about the children available for adoption through the department, and must be helped, through training, preparation, and the home study process, to determine if special needs adoption is appropriate for their family.

(4) Siblings.

(a) When considering adoption placement of a sibling group, consideration must include the department must consider the fact that a sibling relationship is the longest lasting relationship for a child and placing siblings together, whenever possible, preserves the family unit.

(b) In situations where consideration is being given to separating siblings, the adoption unit must staff the case as a team. The team must consider the emotional ties existing between and among the siblings and the degree of harm which each child is likely to experience as a result of separation. The positives and negatives of keeping the children together must be thoroughly explored, and at least one member of the team must be assigned the role of defending the position of placing the children together. In particularly difficult cases, professionals who have expertise in this area can be consulted.

(c) The decision to separate siblings must be approved in writing and documented in the statewide automated system by ~~the district/region Family Safety Program Office or the appropriate~~ community based care or sub-contractor provider staff charged with this responsibility. The appropriate community based care or sub-contractor ~~Adoption~~ staff will

prepare a memorandum directed to a designated ~~the district/region Family Safety Program Office or the appropriate~~ community based care or sub-contractor provider staff describing efforts made to keep the siblings together and an assessment of the short term and long range effects of separation on the children. The memorandum must also include a description of the plan for future contact between the children if separation is approved. The plan must be one to which each adoptive parent and caretaker can commit.

(d) If after placement as a sibling group, one child does not adjust to the family, a decision must be made regarding what is best for all of the children. The adoption staff must review this situation as a team, and choose the plan that will be least detrimental to the children. The decision must be documented in the children's records, including the statewide automated system files. This documentation must also include the plan for future contact if the decision is to pursue separate placements.

(e) Sometimes the department may take into custody a child who is a sibling to previously adopted children. The department or community based care or sub-contractor staff shall advise the adoptive parents of this occurrence. If this child becomes available for adoption, the adoptive parents of the previously placed sibling shall be given an opportunity to apply to adopt this child. The application of these adoptive parents will be given the same consideration as an application for adoption by a relative, as described above.

(5) Occasionally a child whose parent's parental rights have been terminated, for whom there is a plan for foster parent adoption, has relatives who indicate an interest in adopting after the termination process is completed. The following factors must be considered in making a decision that represents the best interest of the child in this situation.

(a) Attachment. Consideration must be given to the quality and length of the attachment to the foster parent. The age of the child at placement and the current age must be considered in assessing attachment. The ease with which the child attached to the current family and any indications of attachment difficulty in the child's history must be evaluated. The number of moves the child has experienced will be an important factor in determining the likelihood that the child will form a healthy attachment to the relative.

(b) Kinship. Children who have a shared history with extended family and cultural values and traditions are more likely to be passed on to the child when there is opportunity to grow up in the care of family members. Consideration must be given to the quality of the relationship with the relative. Some children will already know and trust the relative seeking to adopt. If not, the willingness of the relative to participate in pre-placement activities to promote the development of a relationship must be considered.

(c) Permanence. The capacity of the relative and the foster parent to meet the child's need for permanence must be evaluated. The ability of the prospective parent to understand

the needs of adoptive children in different developmental stages and their awareness of the inherent challenges of parenting an adopted child must be carefully considered.

(6) In any adoptive placement of a Native American child, the federal "Indian Child Welfare Act" governs the order of placement preference. While the Indian Child Welfare Act gives a placement preference, it allows each tribe to establish a different order of preference by resolution, and that order must be followed. The Act lists the placement preference for adoption of an Indian child in the following order:

- (a) A member of the child's extended family;
- (b) Other members of the Indian child's tribe; or
- (c) Other Indian families.

(7) Study of the Child. Completing the study of the child is an important part of the preparation needed to find an adoptive family. Before preparing the study of the child, the appropriate case manager or adoption counselor must be thoroughly familiar with the content of the child's entire foster care record. The child study must include current and projected or future needs of the child based on record—must include all available information regarding the child and the birth family's medical and social history. The child study is also critical documentation of the child's special needs for subsidy purposes. Rather than repeat information from an evaluation or Comprehensive Behavioral Health Assessment in a child study, these documents may be attached and referenced in the child study. All available social and medical history information must be provided to the adoptive parents prior to or at the time of the adoption placement. The study of the child, with identifying information removed, will be a part of the written background information provided to the adopting family. A study of the child will include:

(a) Developmental History. A developmental history must be obtained from the birth parents whenever possible. When the child has been in care for a period of time, developmental history obtained from birth parents must be supplemented by direct study and observation by the case manager or adoption counselor, foster parents, pediatrician, and if indicated, psychologist, teacher and other consultants. The developmental history must include:

1. Birth and health history;
2. Early development;
3. Child's characteristic way of responding to people;
4. Deviations from the normal range of development; and
5. Child's prior experiences, including continuity of care, separations, and information regarding other known significant relationships the child has had prior to and since entering foster care.

(b) Medical History. A medical examination must be completed by a qualified physician, preferably a pediatrician, to determine the child's state of health and significant health factors which may interfere with normal development. The medical history must take into consideration the following:

1. Circumstances of birth and possible birth trauma;
2. Congenital conditions which may have been corrected or need additional correction or treatment;
3. Physical handicaps that may interfere with normal activity and achievement;
4. Significant illnesses and health of the child, parents and other family members; and
5. Immunization record of the child.

(c) Family History. Family history will be obtained from birth parents when possible and will include any significant information about both parents and any siblings. Material about the child's birth family, which will be shared with the adoptive family and later with the child, must be carefully and accurately recorded. This information should include:

1. Age of both parents;
2. Race, national origin or ethnicity;
3. Religion;
4. Physical characteristics;
5. Educational achievements and occupations;
6. Health, medical history and possible hereditary problems;
7. Personality traits, special interests and abilities; ~~and~~
8. Child's past and present relationship with family members and the significance of these relationships; and
9. Actual or potential impact of past abuse, neglect or abandonment.

(d) Psychological and Psychiatric Evaluations. Psychological or psychiatric evaluations of children known or suspected of having mental health problems must be obtained prior to the adoption placement. Any child who will be placed for adoption with medical subsidy for treatment of a psychological or psychiatric condition must have had such an evaluation within the 12 month period preceding the adoption placement.

(e) Heredity. There are no hereditary factors that rule out adoptive planning for a child. Genetic and medical professionals will assist in deciding which hereditary conditions entail significant risk because they limit life expectancy or adversely affect normal development. With the recognition that there are adoptive parents who are willing to accept children with special needs, such conditions must be carefully evaluated. An unfavorable diagnosis does not rule out adoption for the child when there are families willing to assume the risks.

(f) Pre-placement Physical Examination. Prior to placement every child must be given a complete physical examination. This will be completed when a specific family is being considered for a child and they express interest in proceeding after having received specific information about the child. Should placement with an identified family not occur after the physical has been completed, another examination will not be necessary if the child is placed with a subsequent family within six months of the date of the physical. No child

will be placed without a physical which has been conducted within six months of placement. ~~If The department will arrange to have the examination completed or~~ if the adoptive family prefers, the examination may be completed by the family's pediatrician at their expense, and a copy provided for the child's case record to the department. It is important that this examination be thorough and provide the potential adoptive family and the case manager and adoption counselor with a clear understanding of the child's physical condition.

(8) The information discussed in paragraphs (a) through (f) must be shared in writing with the adoptive parents. The identity of the birth family must be protected when providing this written material to the family.

Specific Authority 39.001, 39.012, 39.0121, 63.233, 409.165 FS. Law Implemented 39.621, 63.0425, 63.052, 63.062(3), 409.145 FS. History—New 2-14-84, Formerly 10M-8.02, Amended 5-20-91, 4-28-92, 4-19-94, 8-17-94, 1-8-95, Formerly 10M-8.002, Amended 12-4-97, 12-23-97, 8-19-03,_____.

65C-16.003 Case Reviews.

(1) The purpose of case reviews is to ensure that appropriate permanent plans are developed and executed for every child at the earliest possible time.

(2) The case review requirements for children in adoption planning consist of three types of reviews:

(a) Judicial Review. All children for whom adoption is the plan served by the department's adoption units, including those for whom a termination of parental rights has not been completed and those for whom termination of parental rights has been completed are subject to periodic court review. Children in adoption placements that have not yet finalized are subject to court review until legal finalization of the adoption. Judicial Review reports for children in adoption planning must include information about reasonable efforts to recruit an adoptive family, place the child for adoption and finalize the adoption.

(b) Quarterly Case Staffings. ~~Local case management Staff~~ responsible for planning for children in need of adoption will meet together as a team to staff and assess the needs of waiting children and available families. The teams will meet as often as necessary to assure that permanency needs are met. Each waiting child is to be staffed at least quarterly.

(c) Supervisory Consultation. Supervisory consultation is an on-going function of direct service supervision. Consultation must be directed at ensuring thorough case assessment, case planning and service delivery. Supervisory consultation must be provided to every direct service staff member regardless of prior training and experience, and must include individual supervisory case conferences, at least monthly.

Specific Authority 39.601, 39.701 FS. Law Implemented 39.001, 39.451, 39.453, 39.701, 39.703, 409.145, 409.175, 409.1755 FS. History—New 4-28-92, Amended 4-19-94, Formerly 10M-8.0023, Amended 12-4-97, 8-19-03,_____.

65C-16.004 Recruitment, Screening and Application Process/Adoptive Applicants.

(1) ~~The department or~~ community based care or sub-contractor staff provider will ensure that an assessment of adoptive parent resource needs is completed ~~done in each district~~ at the beginning of each calendar year, and that recruitment activities are planned for the year based on the results of the assessment. ~~The districts'~~ annual recruitment plan will be submitted to the headquarters Family Safety Program Office by February 15 of each year. The headquarters Family Safety Program Office staff will assist in development of ~~develop~~ a statewide recruitment plan, based on the needs ~~of individual districts,~~ as reflected in the ~~district~~ plans.

(2) The recruitment activities must be designed to meet the needs of all children in foster care who need adoptive homes and must include informational meetings for potential adoptive applicants to be held at least every 90 days.

(3) The recruitment activities ~~department and its designees~~ shall ~~recruit adoptive families that~~ reflect the ethnic and racial diversity of children needing adoptive placement.

(4) The prospective adoptive parents' initial inquiry to the Department of Children and Family Services ~~local office,~~ or to the community based care or sub-contractor staff provider, whether written or verbal, will receive a written response or a telephone call within seven (7) working days. Prospective adoptive parents who indicate an interest in adopting special needs children must successfully complete the ~~be offered the opportunity to participate in the department's~~ approved adoptive parent training program. If space is limited in scheduled classes, slots in the classes will be assigned in the following priority order:

(a) Persons with an existing relationship with a specifically identified child who is waiting for adoption placement, or that child's sibling.

(b) Persons who have expressed an interest in adopting a specifically identified child waiting for adoption, or that child's sibling.

(c) Persons who have explicitly stated their willingness to adopt children available for placement through the department or its designee; and

(d) Persons expressing a general willingness to adopt special needs children.

(5) An application to adopt must be made on form CF-FSP 5071, PDF 04/2008 ~~09/2000~~, Adoptive Home Application, which includes necessary identifying information and information required by statute. If a community based care provider chooses to use its own form, that form must contain all of the elements of CF-FSP 5071, PDF 04/2008 ~~09/2000~~, which is incorporated by reference. A copy of the form is available upon request by contacting the Office of Family Safety, at 1317 Winewood Blvd., ~~Bldg. 7,~~ Tallahassee, FL.

Specific Authority 39.012, 63.233 FS. Law Implemented 63.022(2)(c), 63.122, 409.145, 409.401 FS. History--New 7-18-95, Formerly 10M-8.0042, Amended 8-19-03,_____.

65C-16.005 Evaluation of Applicants.

(1) No person shall be denied the opportunity to become an adoptive parent on the basis of race, color or national origin. The placement of a child with a particular family must not be denied or delayed on the basis of race, color or national origin of the family or the child.

(2) A social study which involves careful observation, screening and evaluation shall be made of the child and adoptive applicants prior to the placement of the child. The aim of this evaluation is to select families who will be able to meet the physical, emotional, social, educational and financial needs of a child, while safeguarding the child from further loss and separation from primary caretakers.

(3) In determining which applications for adoption should be approved, all of the following criteria, not listed in any order of priority, must be considered:

(a) The child's choice, if the child is developmentally able to participate in the decision. The child's consent to the adoption is required if the child is age 12 or older;

(b) The ability and willingness of the adoptive family to adopt some or all of a sibling group, although no individual child shall be impeded or disadvantaged in receiving a loving and nurturing home due to the inability of the adoptive family to adopt all siblings. The needs of each individual child must be promoted;

(c) The commitment of the applicant to value, respect, appreciate, and educate the child regarding his or her racial and ethnic heritage and to permit the child the opportunity to know and appreciate that ethnic and racial heritage;

(d) The family's child rearing experience. Applicants with previous child-rearing experience who exhibit the energy, physical stamina, and life expectancy which would allow them to raise the child to adulthood and who have a demonstrated history of having provided consistent financial support to other minor children, either birth or adopted, will be considered. Applicants who do not have previous child rearing experience but who demonstrate the capacity to parent a special needs child will also be considered. Applicants who have experienced an adoption disruption or dissolution in the past must be carefully evaluated. When evaluating the previous disruption or dissolution experience, staff must assess the reasons for the disruption or dissolution, the family's openness in dealing with the problems that led to the disruption, their willingness to accept help with the problems, and their willingness to help the child move to the next placement;

(e) Marital Status. ~~The department and its designees will accept~~ Applications to adopt will be accepted from married couples and from single adults. Couples married less than two years must be given particularly careful evaluation;

(f) Residence. Florida families must be prepared to remain in Florida long enough to have the adoption study completed, the child placed, and the adoption finalized. Families from other states wishing to adopt Florida children may apply and be studied by an agency authorized or licensed to practice adoption in their state of residence. Out of state placements will be facilitated through established regional or national adoption exchanges or directly with out of state agencies, and will comply with the requirements of the Interstate Compact for the Placement of Children;

(g) Income. The family must have income and resources to assure financial stability and security to meet expenses incurred in adequate care of the family. While a family's income must meet the needs of its current members, a family interested in a special needs child must not be precluded from consideration if the availability of an adoption subsidy would enable them to adopt a special needs child. Management of current income and the ability to plan for future changes in income so that the child's social, physical and financial needs will be met are as important as the amount of income;

(h) Housing and neighborhood. Housing and neighborhoods must provide adequate space and the living conditions necessary to promote the health and safety of the family;

(i) Health. Applicants will be required to fully disclose health history, current health status, including any condition that is progressive and debilitating in its course, and any past and current treatment and services received for such condition, regarding themselves and each member of the household. The physical, mental and emotional health of the prospective adoptive household members must not jeopardize the safety and permanency of the child's placement and will be considered in determining the best interest of the child;

(j) Other Children in the Family. When families have children by birth or adoption, the anticipated impact of a new child on the family must be considered;

(k) Working Parents. The willingness and ability of prospective adoptive parents who are employed outside the home to make arrangements to be with the child during the transition period must be considered. It is desirable that one parent be free to devote full time to the care of the child for a period of time after placement. The exact length of time is determined by the needs and the age of the child, and the needs of the child must be given priority over the employment situation of the parent;

(l) Department or Community Based Care Employees. Employees of the department and the community based care, including sub-contractor staff, provider will be considered as adoptive applicants. In situations where the employee has a close working relationship with the foster care or adoption staff in his or her local area district or provider agency, or had such a relationship in the recent past, the applicant's study shall be conducted by another district or a licensed adoption agency outside the local area. ~~The district Family Safety Program~~

~~Office or the~~ appropriate entity in the community based care provider agency must be notified immediately when an application to adopt is received from a departmental or community based care provider agency employee. ~~The office or the~~ provider entity will make a decision regarding whether the adoption study for the employee will be completed by the ~~district or~~ provider agency, or if the services of another ~~district or~~ agency will be sought. If the decision is to have the employee's adoption study and subsequent placement handled by another ~~district or~~ agency, the community based care ~~district~~ Family Safety Program Office or the provider entity will make the necessary arrangements with the Family Safety program office in the other circuit ~~district~~ or the chosen agency. When an adoptive applicant is a member of a board or group which has actual or perceived authority over the department, its community based provider, its staff or operations, such applicant will be referred to another circuit ~~district~~ or a local licensed child placing agency for handling;

(m) Affidavit of Good Moral Character. All adoptive parent applicants must complete an affidavit of good moral character attesting to their own good moral character. Foster parents who are adopting a foster child in their home and who have completed this affidavit as a part of their licensing requirements need not complete it again;

(n) All adoptive applicants must complete the requirements for background screening as outlined in Rule 65C-16.007, F.A.C.; and

(o) Use of References. A minimum of five written references will be required. At least two of the references will be non-relatives. References must be obtained from persons who have had the opportunity to observe the applicants in situations that may give some indication for their capacity for parenthood or who would have documented knowledge of deviant behavior or immoral character. References should be obtained from employers of applicants and from schools or day care providers who have had an opportunity to know the family.

(4) Family Preparation and Study Process.

(a) Adoption staff must explain to applicants what to expect during the preparation and study process. The process must also help to establish a relationship with adoptive applicants which will make it possible for them to ask for and use help during the presentation, pre-placement, placement and the post-placement adjustment period.

(b) ~~The department's~~ approved adoptive parent training must be provided to and successfully completed by all prospective adoptive parents except licensed foster parents and relative caregivers who have previously attended the approved training or have been determined to understand the challenges and parenting skills needed to successfully parent the children available for adoption from foster care program provides a format through which prospective foster, shelter and adoptive parents can be selected and prepared to work with the department as team members in permanency planning.

(c) At the beginning of each year ~~districts and~~ community based care organizations responsible for adoption services must establish a 12 month training calendar so that inquiring families can be aware of when they can expect to begin the preparation process. ~~Districts and~~ Providers must also maintain the ability to conduct extra training groups when there is a need. This will be particularly important when there are significantly higher numbers of families waiting for group than can be accommodated in the regularly scheduled sessions. ~~Districts and~~ Providers who assure that all appropriate adoption licensing and foster care staff are trained and certified in the delivery of the adoption training will be prepared to deal with such emergency situations.

(5) Family Preparation Through Use of the Individual Study Process.

(a) Although the most preferred method of preparing applicants for adoptive parenthood is the approved adoptive parent training group process, there will be exceptional cases in which an individual study approach must be used. Some examples of factors which might lead to a decision to prepare an applicant family via an individual study are as follows:

1. Extreme distance which would cause hardship for the family;
2. Small numbers of inquiring families at irregular times;
3. Families who are adopting subsequent children and have already been trained; and
4. Cases in which the child has been living in the home for an extended period and there is evidence of well functioning relationships.

(b) Each decision to use the individual study approach must be approved in writing by ~~the district Family Safety Program Office,~~ or the appropriate entity in the community based care or sub-contractor agency, and the family's record must include justification for use of this method.

(c) The focus of the individual study, as in group preparation, must be on education and preparation of the family.

(6) Families Who Adopt Again. Prior approval of a family to adopt does not automatically deem the family appropriate to adopt again. Families previously approved in other states or circuits in Florida ~~districts/regions~~ should be carefully evaluated. Consideration of any family for placement of a subsequent child requires an updating of the previous study. Such an update will include an assessment of the following:

(a) Issues Related to the Previously Adopted Child. This should include a brief description of the child, his or her incorporation into the family, and the skills the parents have demonstrated in providing for this child;

(b) Motivation of the family in seeking to adopt another child at this time;

(c) School adjustment of the previously adopted child;

(d) Health Needs. Any significant medical problems and any impact they have had on the previous adoption or might be expected to have on subsequent placements must be discussed;

(e) Housing needs and the capacity of the home to comfortably accommodate another child;

(f) Income. Any major changes in the family income must be discussed. A determination should be made as to whether or not the addition of another child, even with adoption subsidy, will tax the family's ability to manage within their current income;

(g) Marriage. The effect of the previous adoption on the marriage must be discussed;

(h) Extended Family and Neighbors. How the previous adoption has been perceived, received or rejected by family and neighbors;

(i) Updated References. References should be asked to address how the family seems to have managed with the previously adopted child and how they believe the family will cope with additional children;

(j) Abuse Hotline/Criminal Records Check. Abuse Hotline and criminal records checks must be conducted as part of each subsequent application to adopt; and

(k) Other Major Changes. Address any additional family members not considered in the initial study. Also address any other major changes such as job changes, deaths, and serious illness or medical conditions which may have had an effect on the family or which may compromise the applicant's ability to meet the needs of another child.

(7) The Written Adoption Study. Whether or not the parent preparation is conducted in a group process or in an individual study, a written report, generally referred to as the adoption home study, must be prepared for each studied family. The written home study must address the issues discussed in subsections (1) through (6) above.

(8) At the conclusion of the preparation and study process, the counselor and supervisor will make a decision about the family's appropriateness to adopt. That decision will be reflected in the final recommendation included in the written study. If the recommendation is for approval, the study and written recommendation will be submitted to ~~the Family Safety Program Administrator or designee~~ or the appropriate entity in the community based care or sub-contractor agency for approval. If the counselor and supervisor do not recommend approval the case will be reviewed by Adoption Review Committee according to the directions provided in subsection 65C-16.00564(9), F.A.C.

(9) Adoption Review Committee. Each ~~district and~~ community based care provider responsible for providing adoption services for children in the department's custody must establish an Adoption Review Committee. The committee will consist of at least three (3) person, ~~and may include the district~~

~~adoption specialist.~~ When the request for committee review is a possible denial of a home study or a department staff person has knowledge of national criminal results, State sealed or expunged criminal results or child abuse and neglect history results that are unknown to the community based care provider, one member of the committee shall be a department staff person, preferably with adoption expertise. ~~The district or~~ community based care agency will select a committee member to serve as the committee chair.

(a) The committee will provide consultation and assistance to the adoption counselor on any adoptive home study in which the counselor and supervisor are recommending denial rejection, or adoption case situations which present challenging issues. Requests for committee review may be made by the adoption counselor, an appropriate entity within the Department the adoption specialist, the family safety program administrator or the appropriate entities with the community based care provider. Requests for committee review will be made in writing and forwarded to ~~the adoption specialist or~~ the appropriate entity in the community based care agency. While the committee is available to review any challenging case, cases with the following issues must be referred to the committee.

1. Health. Cases in which it is determined that the adoptive applicant is experiencing a serious or chronic medical condition and such condition predictably compromises or could compromise the applicant's ability to provide the physical, emotional, social and economic support necessary for the child to thrive.

2. Abuse History. Cases in which the Abuse Hotline clearance reveals verified findings of abuse, neglect, or abandonment which did not result in a disqualifying felony conviction, and cases in which there were some indicators of abuse or neglect.

3. Criminal History. In cases in which the required criminal history checks pursuant to the applicable Florida Statutes Section 435.045(1), F.S., reveal that the applicant(s) have been convicted of crimes specified in Section 39.0138(2) 435.045(1)(a)1, F.S., their application must be denied rejected. A referral to the adoptive applicant review committee will not be required. The applicant must be advised that he or she cannot be approved. If the criminal history check reveals that the applicant was convicted of a law violation listed in the applicable Florida Statutes Section 435.045(1)(a)2., F.S., within the last five years, the applicant cannot be considered for approval, until five years after the violation was committed. These applicants must be referred to the committee.

4. Cases in which the applicant is a current or former foster parent and the review of the foster parent file reveals that there have been care and supervision concerns or a violation of licensing standards.

5. With the exception of those applicants convicted of a crime specified in the applicable Florida Statutes Section 39.0138(1) 435.045(1)(a), F.S., counselors must seek the assistance of the committee prior to a decision to ~~deny~~ ~~reject~~ an applicant.

(b) The adoptive applicant review committee chairperson will convene the committee and issue a written recommendation to the circuit district legal counsel and ~~or~~ the appropriate entity within the community based care agency within 30 days of receipt of the request. Following input from the circuit district legal counsel and ~~or~~ the community based care entity, the chairperson will prepare a written report summarizing consensus of the committee and the recommendation from circuit district legal counsel and ~~or~~ the community based care agency entity. The This recommendation to approve the applicant will be submitted to the appropriate entity within district administrator or the chief executive officer of the community based care agency or a designee. The recommendation to deny the applicant will be submitted to the circuit administrator or designated department staff person and the appropriate entity within the community based care agency or a designee.

(c) The appropriate entity within the community based care agency or a designee will provide the applicant with written notification of the decision to approve within 10 working days of the decision. The circuit administrator or designated department staff person shall ~~district administrator or chief executive officer will~~ provide the applicant with written notification of the decision to ~~deny~~ ~~approve~~ ~~or~~ ~~reject~~ the application, within 10 working days of the decision. The written notice must include the reason for the ~~denial~~ ~~rejection~~, and must advise the applicant of his/her judicial option for review of the denial as described in the Administrative Procedures Act, Chapter 120, F.S.

Specific Authority 39.012, 63.233 FS. Law Implemented 63.022(2)(c), 63.122, 409.145, 409.401, 435.045 FS. History—New 2-14-84, Formerly 10M-8.05, Amended 4-28-92, 4-19-94, 8-17-94, 1-8-95, 7-18-95, Formerly 10M-8.005, Amended 12-23-97, 8-19-03, _____.

65C-16.007 Abuse Hotline and Registry and Criminal Records Checks.

(1) Abuse Hotline checks must be conducted on all adoptive applicants. The applicants must be informed of this part of the investigation early in the home study process and must provide written consent for the check to be completed. For applicants who have previously been foster parents or have adopted in other states, Abuse Hotline checks must be completed in the previous state. Abuse Hotline checks must be current within 30 days of placement of an adoptive child in the home.

(a) The counselor completing the home study must submit to the ~~district~~ background screening coordinator, sufficient information to conduct a search of the Florida Abuse Hotline

Information System. Abuse Hotline record checks must also be conducted on all other household members who are 12 years of age or older. When the adoptive applicant or other adult household member lived in another State within five years of the request for a home study, a child abuse and neglect registry check of the other State must be completed. If the other State has been approved by the Administration for Children and Families for a delayed effective date or the State does not maintain a registry, the counselor must determine whether to approve the applicant in the absence of the information.

(b) Any request for information from the Abuse Hotline must be in writing and must include a statement of statutory authorization to receive the information.

(c) All Department of Children and Families personnel and other agencies and professionals using information from the Abuse Hotline, or any child abuse case record should be informed that misuse of such information may cause them to be held personally liable, and any person injured or aggrieved by such disclosure may be entitled to damages. Unauthorized release of abuse reports may result in criminal prosecution. The offense is a misdemeanor in the third degree.

(2) Criminal background checks through local, state and federal law enforcement agencies will be conducted on all persons age 18 or older residing in the prospective adoptive home. For applicants who have been foster parents or who have adopted in other states, local and state checks must be completed in the state of previous residence. Should the background checks reveal that the applicant has been convicted of a crime specified in the applicable Florida Statutes Section 435.045(1)(a)1., F.S., the application must be ~~denied~~ ~~rejected~~. Juvenile delinquency checks through the Florida Department of Law Enforcement must be conducted on all household members twelve through seventeen years of age as a public record search. If this check reveals a Juvenile Justice record, this information must be addressed in the home study and a determination must be made regarding possible impact on the adopted child.

(3) For foster parents and relative caregivers who are adopting a department child, federal background checks must be current within 5 years at the time of adoption placement. For potential adoptive parents who are not foster parents or relative caregivers, federal background checks must be current within one year at the time of adoption placement. All potential adoptive parents must have state and local background checks that are current within 90 days of the date of adoption placement.

(4) Applicants who have been convicted of any crime specified in the applicable Florida Statutes under Section 435.045(1)(a)2., F.S., within the last five years cannot be considered for approval until five years after the violation was committed. At that time these applicants must also be referred to the adoption review committee. Applicants who have been found guilty or entered a plea of guilty or nolo contendere for

crimes not listed in the applicable Florida Statutes Section 435.045(1)(a), F.S., shall be carefully evaluated as to the extent of their rehabilitation. Factors to be considered will include the severity of the action resulting in the record, how much time has elapsed since the offense, circumstances surrounding the incident, and whether records indicate single or repeated offenses. Referral of these applicants to the adoption review committee is not required but they must be submitted to ~~the district Family Safety Program Administrator or the appropriate entity in the community based care agency or designee~~ for approval.

(5) Abuse Complaints Against Adoptive Parents.

(a) When the department receives reports of abuse or neglect by adoptive parents whose adoptions have been finalized, they will be handled as any other family on whom a report has been received.

(b) In cases where such reports are received on families whose adoptions are not finalized, the protective investigator will consult with the adoption counselor or supervisor who knows the family and children.

(c) Should an allegation of abuse, neglect or abandonment be made directly to the case manager or adoption counselor, the Florida Abuse Hotline must be notified immediately. The report will be transmitted to the local district Protective Investigation unit. Complaints which do not contain allegations of abuse, neglect or abandonment and are made directly to the case manager or adoption counselor must be investigated by the case manager or adoption counselor.

(d) If an investigation of an abuse, neglect or abandonment report by protective investigations reveals that the subject of the report is an adoptive parent whose adoption has not been finalized, the case manager or adoption counselor must be notified immediately and must assume responsibilities in the investigation as outlined above. The child should be removed from the adoptive home if he or she meets the criteria for removal pursuant to the applicable Florida Statute Section 39.401, F.S.

(e) If abuse or neglect is established but does not warrant immediate or permanent removal of the children, careful consideration should be given to providing post adoption services to the family for a specified period of time. ~~A Services unit and a referral to the mental health multidisciplinary team may be appropriate. Prior to the expiration of the specified period of time, input from the district adoption specialist or the appropriate entity in the community based care or sub-contractor agency must be sought to assess progress being made and the likelihood that the consent to the adoption may safely be issued. The district adoption specialist or the appropriate entity in the community based care or sub-contractor agency shall convene a meeting to include the protective services counselor and supervisor and the adoption counselor and supervisor. These individuals must decide if the~~

placement will be terminated and the child returned to foster care or if a recommendation to issue consent for finalization of the adoption is appropriate will be made to the ~~district administrator for the adoption to finalize. The district administrator must provide written approval of the plan to issue consent.~~

(f) Whether the recommendation is ~~department recommends~~ finalization of the adoption or removal of the children, information about the complaint, services provided to the family, and reasons for the ~~department's~~ final decision must be documented and provided to the court.

Specific Authority 39.012, 63.233, 409.145 FS. Law Implemented 63.022, 63.092(2)(b), 409.145, 435.045 FS. History—New 5-20-91, Formerly 10M-8.00513, Amended 4-28-92, 4-19-94, 8-17-94, 1-8-95, Formerly 10M-8.0053, Amended 12-23-97, 8-19-03,_____.

65C-16.008 Dispute Resolutions and Appeals.

(1) When an adoptive applicant or parent is denied a service or an adoptive home study adversely affected by a decision or action taken by the department, or by a community based agency acting for the department, efforts should be made to settle the dispute at the counselor/supervisor level. If this attempt is unsuccessful, the Adoption Review Committee could ~~will~~ be convened as outlined in subsection 65C-16.005(9), F.A.C. If this review results in a decision ~~by the district administrator~~ that supports the ~~department's/agency's~~ original decision, the applicant or parent must be told of that decision in writing by the circuit administrator or designated department staff person and advised of their judicial option for review of the denial as described in the Administrative Procedures Act, Section 120.68, F.S., and of their right to a hearing pursuant to Section 120.57, F.S. A copy of the written notification of the results of the hearing must be provided to the appropriate department and community based care staff.

Specific Authority 120.57, 120.68, 409.026(8), 409.145 FS. Law Implemented 120.68, 409.145 FS. History—New 5-20-91, Formerly 10M-8.00514, Amended 4-19-94, 7-18-95, Formerly 10M-8.0054, Amended 8-19-03,_____.

65C-16.009 Adoption Placement.

(1) The adoption placement process incorporates the following:

- (a) Selection of the family;
- (b) Presentation of the information to the family regarding the child and to the child regarding the family;
- (c) First meeting;
- (d) Get acquainted period and pre-placement visits; and
- (e) Day of placement.

(2) The decision on final placement is based on the child's readiness and the cues given by the child to the counselor that he is ready to move into his new home.

(3) The mechanics of final placement include:

(a) An assessment of the child and family's adjustment during the transition activities, and their readiness for placement;

(b) A decision regarding the appropriate geographical location for placement. Depending on the child's developmental age, the placement may occur in the foster home, the adoptive home, or another location determined suitable by the parties. The child's case manager or adoption counselor will be present regardless of the selected location; and

(c) An opportunity for the child to say good-bye to each member of the foster family.

(4) When it is necessary for the child to travel to the home of the adoptive parent for placement, the child should be accompanied by the case manager or adoption counselor and the person with whom he or she has the most meaningful relationship. If this person is a member of the foster family the department will provide financial reimbursement for any costs incurred.

(5) Occasionally it may be in the child's best interest to be placed in a prospective adoptive applicant's home prior to completion of legal termination of parental rights. Examples of situations where at-risk placement may be appropriate include:

(a) The child's termination of parental rights is on appeal;

(b) The child has been voluntarily surrendered and termination of parental rights by the court is anticipated;

(c) A petition for termination of parental rights has been filed, as it appears unlikely that the child can be returned to the biological parents within a reasonable period of time; and

(d) The child must be moved from his or her current foster home placement, and the placement in a pre-adoptive home will result in one less move for the child.

(6) Consideration of a placement under one of the above situations presumes that relatives as placement resources have been considered and found not available or inappropriate. Such placements must only occur with approved adoptive families. These placements must be carefully planned and must have written approval of ~~the district Family Safety Program Office~~ or the appropriate entity with the community based care provider, prior to discussion with the family. The prospective adoptive family must clearly understand the risks involved in such a placement. This is particularly critical if the termination of parental rights is being appealed or if it can be anticipated that the biological family will seek to prevent the severance from occurring. The pre-adoptive family must be given the opportunity to consider the risks and allowed to decide if they are willing to proceed. Families entering into an at-risk placement must indicate in writing that they understand and accept the risks involved.

Specific Authority 39.012, 63.233 FS. Law Implemented 63.022, 63.042, 409.145 FS. History—New 4-28-92, Formerly 10M-8.0058, Amended 8-19-03, _____.

65C-16.010 Adoption Placement – Post-Placement Services.

(1) The department has a legal responsibility to provide services until the finalization of an adoption. This period shall be is no less than 90 days from the date the child was placed in the physical custody of the adoptive parent. The first home visit must be made within one week after placement. There shall be a minimum of three supervisory visits in placements which are non-problematic. For placements which do not proceed smoothly, additional and more frequent contacts are necessary. The adoptive child or children must be contacted a minimum of once every calendar month until adoption finalization. The entire family must be seen together at least once during the post-placement supervision period.

(2) Some placements are, by nature, complex and will require additional services during the post-placement period. Examples of these placements include:

(a) Sibling placements. Incorporating a large sibling group into an adoptive family is complex due to the number of new relationships this entails. Another difficult situation occurs when one child in a sibling group experiences difficulty in establishing a relationship with the adoptive family and the other child or children appear to be adjusting well. The case manager or adoption counselor must decide whether to separate the siblings. Before making a decision to separate siblings, the adoption unit must staff the case as a team. The positives and negatives of keeping the children together must be thoroughly explored and the team must decide what is in the best interest of the children. If it is determined that the removal of only one child is best, arrangements must be made for continuing contact among the children. Refer to Rule 65C-16.002, F.A.C., for criteria to assist in decision making for sibling placements. The decision and the reasons for the decision must be documented in the case file. The file must also include documentation of a plan to assure the two or more families will maintain on-going contact among separated siblings.

(b) Children with severe emotional and behavioral difficulties. Children who required specialized services to maintain stability in their foster home often need the same services in the adoptive home.

(c) Adolescents. Adoption placement of adolescents can be difficult because the developmental task for this age group is to become free of close family ties and establish independence. This can make the task of attaching to an adoptive family challenging and additional services for the family and the adopted youth may be required.

(d) Children placed transracially. Families adopting children of a different race will face challenges specific to this situation. It is important for adoption staff to assist the family in understanding the importance of race and ethnic heritage and to assist the family in accessing resources to help meet the specific needs of the child who is adopted transracially.

(3) Mental Health Multidisciplinary Team. During the post-placement supervision period, adoptive families may access the services of the Mental Health Multidisciplinary Team. When the services of the team are needed, the case manager or adoption counselor should initiate contact with the identified single point of access in the district Alcohol, Drug Abuse and Mental Health Program Office.

(4) Although emotional ties through the parent/child relationship are being established through living together, the legal finalization procedure gives the relationship sanction and protection. Legalization of the adoption assures the child who is adopted the rights and responsibilities of membership in a permanent family.

(a) At the end of the supervisory period, the case manager or department adoption supervisor and the counselor, or the appropriate community based provider entity, must make a final assessment of the placement. Before the final adoption hearing, or within 90 days after the adoption petition is filed with the court by the adoptive family, whichever occurs first, a final home evaluation must be completed as directed in Section 63.125, F.S., and a written report on the findings, including a recommendation on the granting of the adoption petition, must be filed with the court. In addition to the requirements of Section 63.125, F.S., the following must be addressed in the written report to the court:

1. A summary of issues discussed in Rule 65C-16.005, F.A.C., Evaluation of Applicants and Rule 65C-16.007, F.A.C., Abuse Hotline and Registry and Criminal Checks.

2. Full discussion and disclosure regarding any unusual circumstances in the adoptive family including health records and findings, and financial problems.

(b) After the post-placement period has been completed, the ~~department supervisor~~ or appropriate community based provider or sub-contractor staff entity, signs the consent to adoption and forwards it to the adoptive parents' attorney. Attached to the consent must be the family and medical history containing such information concerning the medical history of the child and birth parents as is available or readily obtainable. This information must be made available to the adopting parents. With the consent and medical history, the attorney can proceed with the filing of the petition for adoption in court. If not previously provided, the adoptive parents must be provided with a copy of the study of the child at this time. If the study contains identifying information about the biological family, that information must be deleted prior to presenting it to the family.

(c) The ~~counselor or~~ community based provider or sub-contractor case manager or adoption counselor completes the original and two copies of Section A and B of the Certified Statement of Final Decree of Adoption to be used by the Clerk of the Court to obtain the new birth certificate. As soon as the petition is filed, and a copy is routed to the adoption unit, that

unit will forward the Certified Statement to the Clerk of the Court for completion and certification and will notify the attorney that the form has been forwarded.

(d) When a placement disrupts, the ~~counselor or~~ community based provider or sub-contractor case manager or adoption counselor must record a disruption summary, which provides an evaluation and assessment of the reasons for the disruption. In addition to assessing and summarizing the reasons for the disruption, the summary must also assess the impact the failed placement had on the child and issues which must be resolved before another placement can be considered. Any specific attributes which will be necessary in the next adoptive parents must also be included. This summary must be recorded within 10 days after the disruption occurs.

Specific Authority 39.012, 63.233 FS. Law Implemented 63.022, 63.122, 63.152, 63.162, 382.015, 382.025, 409.145 FS. History—New 2-14-84, Formerly 10M-8.06, Amended 4-28-92, 4-14-94, 1-8-95, Formerly 10M-8.006, Amended 12-4-97, 8-19-03,_____.

65C-16.011 Confidentiality – Human Immunodeficiency Virus (HIV) Infected Clients.

(1) The ~~department or the~~ community based provider or sub-contractor agency shall disclose to adopting parents the name of a child who has been tested for HIV and the results of that test when the decision to adopt the child has been confirmed by the adopting parents ~~and the department~~. Prior to the confirmation of the decision, the adoptive parents shall be told that the child being considered by them has tested positive for HIV but cannot be told the child's identifying information, including last name, until after the decision to place has been made.

(2) The adopting parents who have accepted an HIV infected child into their home must be given a written statement which includes the following language: "This information has been disclosed to you from records whose confidentiality is protected by state law. State law prohibits you from making any further disclosure of such information without the specific written consent of the person to whom such information pertains, or as otherwise permitted by state law. A general authorization for the release of medical or other information is NOT sufficient for this purpose."

(3) The adoption record must contain documentation that the written statement was given to the adoptive family.

Specific Authority 381.004(3)(f)11. FS. Law Implemented 381.004(3)(f)11. FS. History—New 5-20-91, Amended 4-19-94, Formerly 10M-8.0061, Amended 8-19-03,_____.

65C-16.012 Types of Adoption Assistance.

(1) The intent of adoption assistance is to promote the adoption of special needs children who are in the department's foster care program or in the care of a licensed private child placing agency. It is the responsibility of ~~the department or the~~

community based care or sub-contractor agency adoption staff to inform prospective adoptive parents of the availability of all of the benefits listed below.

(2) Maintenance Subsidy. A monthly payment may be made for support and maintenance of a special needs child until the child's 18th birthday. Unless approved by the Secretary of the Department pursuant to subsection 65C-16.013(8)(9), F.A.C., the amount of the payment may not exceed the statewide standard foster care board rate for which the child would have been eligible had the adoption placement not taken place. ~~Annual reevaluations of the continued need for subsidy are required.~~

(3) Post Adoption Services. Medical Subsidy. In addition to temporary case management and information and referral requests, post adoption services include assistance to cover the cost of medical, surgical, hospital and related services needed as a result of a physical or mental condition of the child which existed or was known as a potential risk factor prior to the adoption may be subsidized. The need or potential need for ~~medical~~ services for a condition recognized prior to adoption must be established ~~and authorized~~ prior to the placement for adoption, although the service might not be delivered until some time after finalization of the adoption. ~~The need for medical subsidy must be supported by documentation of that need from the appropriate professional, such as a licensed physician or dentist, or qualified mental health professional, and must be reassessed annually.~~

(4) Other Medical Services. Other medical services available may include on-going Medicaid coverage and continuing eligibility with Children's Medical Services for children who were receiving such services prior to adoption.

(5) Reimbursement for Non-recurring Adoption Expenses. Nonrecurring adoption expenses are those reasonable and necessary adoption fees, court costs, attorney's fees, and other expenses that are directly related to the legal adoption of a special needs child.

(6) Adoption Benefit for State Employees. State employees as defined in Section 409.1663, F.S. who adopt a ~~dependent~~ child may be eligible for a lump sum payment as defined in Section 409.1663, F.S. ~~in are entitled to financial assistance.~~

(7) Tuition Waiver. Children who were in the custody of the department and who were adopted after May 5, 1997 are eligible for an exemption of undergraduate college tuition fees at Florida universities or community colleges as stated in Section 1009.25, F.S.

(8) Adoption assistance for eligible children will be paid irrespective of the child's state of residence. Adoptive parents receiving adoption assistance are obligated to notify the department of any change of address.

(9) The provision of all adoption assistance is contingent upon the availability of state and federal funds.

Specific Authority 409.166 F.S. Law Implemented 409.166 FS. History--New 2-14-84, Formerly 10M-8.18, 10M-8.018, Amended 8-19-03,_____.

65C-16.013 Determination of Maintenance Subsidy Payments.

(1) The purpose of adoption subsidy is to make available to prospective adoptive parents financial aid which could enable them to adopt a special needs child. Every adoptive family must be advised of the availability of adoption subsidy and the purpose for which it is intended. Placement without subsidy must be the placement of choice unless it can be shown that such placement is not in the best interest of the child.

(2) The child's and the family's need for subsidy must be determined prior to placement. When this need is not determined prior to placement, and the adoptive parents feel they have been wrongly denied subsidy benefits on behalf of an adopted child, they have the right to request a fair hearing pursuant to Chapter 120, F.S. If, through the fair hearing process, subsidy is approved, the effective date of the subsidy will be the date the family officially requested subsidy. Retroactive payment dating back to the date of placement will not be approved.

~~(3) Children with income of less than 200% of the Federal Poverty Level and who reside in Florida may have their subsidies funded with Temporary Assistance for Needy Families (TANF), pursuant to Section 414.045, F.S., and the Title IV-A State Plan. A TANF funded subsidy must be changed to another funding source if the child moves out of Florida. Families receiving TANF funded subsidy must keep the department informed of all changes to the child's income.~~

~~(3)(4)~~ Medical or mental health evaluations may be required to document the need for maintenance subsidy. When this is the case, these evaluations must be no more than 12 months old at the time of initial subsidy determination.

~~(4)(5)~~ Efforts to place the child in a non-subsidized placement must be documented in the child's record. Documentation of this exploration shall be one of the following:

- (a) List of other families considered;
- (b) Letters to agencies specifically seeking a home for the child; and
- (c) Registration of the child on the adoption exchange.

It is not the intent of this requirement that a child remain unnecessarily in foster care while the department searches for a non-subsidized placement, if a family who can meet the special needs of the child is available, but requires a subsidy.

~~(5)(6)~~ The one exception to the requirement to explore placement without subsidy is when it has been determined that the child's adoption by his current caretaker, with whom he/she has established significant emotional ties, is the placement of choice. However, the current caretaker must be asked if he/she will adopt the child without subsidy. This exploration must be

documented in the child's record. The caretaker must understand that being an adoptive parent includes different parental rights and responsibilities. Some of these responsibilities are financial, and adoption subsidy, unlike foster care board rate payments, is not intended to cover the complete cost of the child's care. The maintenance subsidy payment is intended to assist the adoptive parent in supporting the extra costs associated with adopting a child with special needs.

~~(6)(7)~~ Initial Basic Maintenance Subsidy. The initial determination of the monthly basic maintenance subsidy payment will be based on the needs of the child at the time of the negotiation and the projected future needs of the child based on the family and medical history of the child and birth family or, for adoptions finalized on or after July 1, 2007, as stated in Section 409.166, F.S., department's published standard foster care board rates. This initial basic subsidy will be 80% of the standard foster care board rate at the time the payment determination is being made, or, if the child is in medical foster care, 80% of the medical foster care board rate at the time the determination is made. It is important to remember that basic subsidy determination is based on the standard board rates, not actual board rates that may have been paid for a particular child.

~~(7)(8)~~ Supplemental Maintenance Payment. An additional supplemental amount may be added to the child's basic subsidy when When a child has a specific and diagnosed physical, mental, emotional, or behavioral problem which requires care, supervision, and structure beyond that ordinarily provided in a family setting, a maintenance subsidy may be negotiated up to 100% of the statewide standard foster care board rate. No subsidy ~~The total of the basic subsidy amount and the supplemental amount may not exceed the standard foster care board rate for which the child was eligible as a foster child, unless an exception is granted by the Secretary as discussed in subsection (8)(9) below. Maintenance subsidy~~ This payment is not intended to cover services which may be obtained through family insurance, Medicaid, Children's Medical Services, medical subsidy, or through special education plans provided by the public school district.

~~(9)~~ ~~The proposed amount of subsidy, including the supplemental amount must be submitted to the district Family Safety Program Administrator or designee, or the appropriate entity with the community based care provider for approval. Documentation supporting the request for a supplemental payment must be included.~~

~~(8)(10)~~ When the Secretary of the Department determines that it is appropriate, an exception may be granted to the policy limiting subsidy to 100% of the statewide standard foster care board rate. No maintenance adoption subsidy may exceed the actual amount of the foster care board paid for the child. Any

request for an this policy exception to exceed the statewide standard foster care board rate must come in writing to the Secretary from the circuit district or region administrator.

~~(9)(11)~~ The adoption assistance agreement must be signed and dated by all parties prior to the finalization of the adoption. The effective date of the agreement is the date of placement in the adoptive home, or in the case of adoption by the current caregiver, on the date the memorandum of agreement to adopt is signed. Each authorization for subsidy will be for a period of twelve months, effective on the date of placement, or in the case of adoption by the current caregiver, on the date the placement agreement is signed. There must always be a current adoption assistance agreement signed by the parent and the department's representative. Payments may not be made for any months in which there is no current adoption assistance agreement in place.

~~(10)(12)~~ The family must be advised that it is their responsibility to notify the department immediately of any change in circumstances, including moving out of state, changes in the child's need for services covered by the supplemental payment.

~~(11)~~ The adoption subsidy agreement remains in effect until:

(a) The child dies,

(b) The child reaches 18 years of age or is determined to be emancipated,

(c) The parents are no longer legally responsible for the support of the child, including the death of a parent when the adoption is by a single parent or both parents when the adoption is by a married couple or

(d) The parents are no longer providing any support to the child.

~~(13)~~ ~~Maintenance subsidy payment will be terminated when the child reaches 18 years of age or if the parents cease having responsibility for the child or the child is no longer receiving support from the parents.~~

~~(12)(14)~~ Adoptive parents may request an increase in the maintenance subsidy after the initial subsidy agreement was approved due to increased needs of the child or the circumstances of the family have changed in order to meet the increased needs of the child. The negotiation of this increase must be based on the foster care board rate if the child was in a family foster, therapeutic foster or medical foster home at the time of the request. Requests for increases must be provided in writing by the adoptive parents and approval will be on based on the merit of each case and available funding. If the increase request is denied, the designated department staff must send a denial letter with notification of the adoptive parents' right to request a fair hearing pursuant to Administrative Procedures Act, Chapter 120, F.S. If, through the fair hearing process, the increase request is approved, the effective date of the new subsidy will be the date the increase request was received. A new subsidy agreement must be signed by all appropriate

~~parties with the new approved amount documented. Subsidy redeterminations. At redetermination the basic monthly maintenance subsidy amount will remain the same as the amount initially determined. If the child is receiving a supplemental payment, the continued need for the supplemental payment will also be determined at this time. A new or updated prognosis will be required to document the continued need for service and support. If the service is no longer required, the supplemental payment must be discontinued. The total adoption assistance agreement must be re-negotiated with the adoptive parent at each scheduled or unscheduled change to the subsidy payment.~~

~~(13)(15) No child will have his or her subsidy payment reduced based on application of this rule.~~

~~(14)(16) Any child who has been determined eligible for adoption subsidy whose adoption has been dissolved by termination of parental rights or by the death of the adoptive parents will retain his or her original subsidy eligibility if subsequently placed for adoption.~~

~~(15) No change shall be made to a maintenance subsidy without concurrence of the adoptive parents except as provided by federal regulation or state law. The subsidy agreement is not transferable to another caregiver.~~

Specific Authority 409.026(8), 409.031, 409.166(7) FS. Law Implemented 409.031, 409.166 FS. History—New 2-14-84, Formerly 10M-8.20, Amended 5-20-91, 4-19-94, Formerly 10M-8.020, Amended 12-23-97, 8-19-03,_____.

65C-16.014 Post Adoption Services Determination of Medical Subsidy.

~~(1) After finalization, the adoptive family may require temporary case management support, information and referral assistance. The department may pay the adopting parents a subsidy for medical, surgical, hospital and related services, needed as a result of a physical or mental condition of the child which existed prior to the adoption. The need for medical assistance by subsidy must be established and authorized prior to the adoption placement, although the service might not actually be needed until a later date. When this need is not established prior to the placement and the adoptive parents feel they have been wrongly denied services subsidy benefits on behalf of an adopted child, they have the right to request a fair hearing. If, through the fair hearing process, a service subsidy is approved, the effective date of the service subsidy will be the date the family officially requested the service subsidy. Retroactive payment dating back to the date of placement will not be approved.~~

(2) A service ~~Medical~~ subsidy must be terminated when the condition for which it was granted no longer exists or on the child's 18th birthday, whichever occurs first. Children needing residential mental health services will be referred to the district's Alcohol, Drug Abuse and Mental Health Program Office, children's program for services.

(3) ~~The cost for a service will not be paid when medical subsidy is not to include those costs which can be or are covered by the adopting family's medical insurance, Children's Medical Services, Children's Mental Health Services, Medicaid, Agency for Persons with Disabilities or local school districts.~~

(4) ~~The adoptive parents must obtain the approval of the department or the community based care provider or sub-contractor agency prior to planning for the use of a service medical subsidy funds. The adoptive parents must submit a copy of the bill for the service to the department or to the community based care provider or sub-contractor agency to initiate reimbursement. The bill must be clearly legible and must specify the name of the child, the service rendered and the date of the service, in addition to the charge for the service.~~

Specific Authority 409.166 FS. Law Implemented 409.166 FS. History—New 2-14-84, Formerly 10M-8.21, 10M-8.021, Amended 12-23-97, 8-19-03,_____.

65C-16.015 Non-Recurring Adoption Expenses.

(1) Under any adoption assistance agreement with adoptive parents of a special needs child, the state is required to make payments to the adoptive parents for non-recurring, one time, expenses the adoptive parents have incurred in connection with adoption of the special needs child. Nonrecurring adoption expenses are those reasonable and necessary adoption fees, court costs, attorney fees, and other expenses which are directly related to the legal adoption of the special needs child. Such costs may include expenditures for physical and psychological examinations of the adoptive parents if required as a part of the adoption process as well as transportation, lodging and food for the child or adoptive parents when necessary to complete the placement or adoption process.

(2) Agency adoption fees must be waived for families adopting children who are in custody of the department for whom subsidies will be paid. Such fees need not be waived for families adopting children who are in the custody of licensed child-placing agencies. If these children are otherwise eligible, agency fees shall be counted as an allowable expense under non-recurring adoption expenses. It is not necessary that the family be receiving a money payment to be eligible for this program.

(3) The maximum payment allowable under this program is \$1,000 per adoption placement. In cases where siblings are placed and adopted either separately or as a unit, each child is treated as an individual with separate reimbursement for nonrecurring expenses up to the maximum amount of \$1,000 per child.

(4) There can be no income eligibility requirements for adoptive parents in determining whether payments for non-recurring expenses of adoption will be made.

(5) Parents cannot be reimbursed for out-of-pocket expenses for which they have been otherwise reimbursed.

(6) Except where it would be contrary to the best interest of the child, a reasonable but unsuccessful effort must be made to place the child without adoption assistance prior to reimbursement for non-recurring adoption expenses.

(7) The following procedures will initiate payments for reimbursement of nonrecurring adoption expenses:

(a) All adoptive parents of special needs children will be advised of the availability of nonrecurring expense reimbursement.

(b) Reimbursement for eligible costs may be made to the adoptive parent or directly to a vendor. All parents will be advised to keep copies of receipts of expenditures related to the adoption. Copies of such receipts must be available in the subsidy record. Eligible expenses include court costs, attorney fees, birth certificates, costs of required physicals and psychological examinations, costs of transportation, lodging and food for the child and/or adoptive parents when necessary to complete the adoption process, and the cost of the home study if the child is in the custody of a private agency.

(c) When a placement decision has been made, the adoption assistance agreement will be negotiated with the family and will include a statement of the projected cost to be reimbursed for nonrecurring adoption expenses, as well as proposed maintenance and medical subsidy amounts if appropriate.

(d) Payments for nonrecurring expenses can be made up to two years following the finalization of the adoption. However, every effort should be made to complete these transactions within three months following adoption finalization.

Specific Authority 409.166, 409.301 FS. Law Implemented 409.166, 409.301 FS. History—New 5-20-91, Amended 4-19-94, Formerly 10M-8.0221, Amended 8-19-03,_____.

65C-16.016 Access to Closed Adoption Records.

(1) The confidentiality of adoption records, original birth records, and court files is protected by sealing them upon adoption finalization. Persons seeking information from those records will be referred to the headquarters Office of Family Safety for assistance. Florida law requires non-identifying information to be released to adoptive parents and adult adoptees but does not allow access to the record by other parties.

(2) Requests for information from closed adoption records must be written, and no information will be released by telephone. Because records must be indexed by names of the adoptive parents, that information must be included in the letter requesting release of information as well as some form of identification such as a photocopy of the client's driver's license or birth certificate.

(3) In order to respond to written requests from adoptive parents or adult adoptees for non-identifying information, the department or the community based care provider agency must be able to access the adoption records and other records which

concern the adoptee. The department or community based care provider agency shall retain as confidential all records relating to each child who became adopted through the department's adoption program. These confidential records shall be referred to as department closed adoption records and shall be retained in the ~~district~~ circuit region or in the community based care provider agency until called for by the headquarters Office of Family Safety for permanent storage.

(4) The department will assume responsibilities for the closed adoption records of private licensed child placing agencies in Florida who cease to operate.

Specific Authority 63.162, 63.233 FS. Law Implemented 63.162, 63.233 FS. History—New 5-20-91, Amended 4-28-92, 4-19-94, Formerly 10M-8.024, Amended 8-19-03,_____.

65C-16.017 Florida Adoption Reunion Registry.

(1) The state registry of adoption information created in Section 63.165, F.S., is also known as the Florida Adoption Reunion Registry. The purpose of the registry is to reunite adult adopted persons with members of their family without either party having to take court action to accomplish this goal. The department shall retain and maintain the registry records on a permanent basis. The registry shall be open with respect to all adoptions in the state, regardless of when they took place. The registry shall be available for those persons choosing to enter information, but no one shall be required to do so.

(2) The department operates the state-wide registry for persons who have come forward to voluntarily register information about themselves for release to specified other parties to that adoption. The registry is the mechanism whereby individuals from families separated by adoption may be reunited should each party seek that reunion. All birth and adoptive parents who are parties to an adoption shall be advised of registry services prior to adoption finalization.

(3) Procedures for Registration.

(a) Any person may register by completing and submitting the application for registry services, indicating to whom they consent to release identifying information about themselves.

(b) Persons to whom identifying information may be released are limited by Section 63.165, F.S., to the following:

1. Adoptee;
2. Birth father;
3. Birth mother;
4. Adoptive mother;
5. Adoptive father;
6. Birth siblings;
7. Maternal birth grandparents of the adoptee; and
8. Paternal birth grandparents of the adoptee.

(4) Adoptee birth data will be verified by registry staff, with the assistance of the Vital Records section of the Office of Vital Statistics in the Department of Health. In cases where birth information cannot be verified and registration is not possible, applicants will be notified of data used as a basis for

search and given opportunity to correct or change that data for resubmission. Should verification of the birth information still not be possible, no further attempts will be made to process that application. If the applicant desires to submit new or different information, a new application and accompanying fee must be submitted.

(5) Original applications, signed by registrants, will be placed on file permanently.

(6) Updating of Registry Information.

(a) Any registrant may change the name, address or telephone number associated with their registration, may limit or restrict their consent to release information, or may completely withdraw from the registry at any time.

(b) Responsibility for update rests with registrants and only the most current information on file will be disclosed to designated recipients upon their completion of registration procedures.

(7) All registry documents containing identifying information shall be handled and stored in accordance with procedures for the handling of confidential information.

(8) The department will offer counseling services to registrants at the time of registration. Counseling, as specified in Section 63.165(2), F.S., consists of professional advice provided by the department, by counselors employed by the department, by agencies licensed by the State of Florida to provide adoption services, or by other persons who have adoption training or experience.

(9) Fee for Service.

(a) The registry fee for initial filing of identifying information with the registry shall be \$35.00. This fee shall be submitted in the form of a money order, bank draft, or personal check by the registrant and shall be deposited in a trust account specified by the department. These fees shall be used to defray the direct and indirect costs of operating the registry.

(b) The registry fee for updating information previously filed or for changing, limiting or withdrawing consent to release identifying information shall be \$10.00 for each occurrence. These fees shall be deposited in a trust fund specified by the department. These fees shall be used to defray the direct and indirect costs of operating the registry.

(c) Receipts will be mailed to registrants to acknowledge the processing of fees. Accompanying letters of acknowledgement will state the status of the applicant's registration.

(d) Fees are collected to offset costs of researching birth information, processing applications, and providing staff to service client information and other requests. When an application has been accepted by the registry for processing, fees will be deposited and will not be returned to the applicants, even if registration proves to be impossible.

(e) Fees for counseling services shall be set and collected by the department, licensed agency, or other professional who provides the service.

(f) The department shall waive fees in cases where need and hardship can be documented. Acceptable documentation of hardship includes verification that applicant is receiving unemployment benefits, public assistance, social security income or food stamps.

(10) CF1490, PDF 09/2000 Applications for Registry Services, and CF1491, PDF 09/2000 Application to Update Information on File with Adoption Registry, which are incorporated by reference, are available upon request from the Department's Office of Family Safety, Interstate Compact Office at 1317 Winewood Blvd., Tallahassee, FL.

Specific Authority Law Implemented 63.162, 63.233, 382.003(10) FS. Law Implemented 63.162, 63.165, 63.233 FS. History--New 8-19-03, Amended _____.

65C-16.018 Adoption Benefits for Qualifying Employees of State Agencies.

Adoption benefits are available to employees of the state as outlined below:

(1) Payment of benefits is contingent on funding.

(2) Benefits are available only for adoptions that become final after September 30, 2000.

(3) Benefits are available only for a child who is under the age of eighteen at the time of adoptive placement or the final order of adoption.

(4) Benefits are available only to qualifying adoptive employees as defined in Section 409.1663(1)(c), F.S., and who adopt a special needs child as specified in Section 409.166, F.S. or a non-special needs child whose permanent custody was awarded to the department or a licensed child-placing agency.

(5) Benefits paid to a part-time qualifying employee shall be prorated based on the employee's full-time equivalency status at the time of application for the benefits.

(6) A qualifying adoptive employee who adopts more than one child is eligible for benefits for each child.

(7) Benefits are limited to one award per child regardless of the number of adoptive parents or employee's change of employer.

(8) The benefit is a non-qualified plan under Section 125 of the Internal Revenue Code, subject to withholding taxes.

(9) The Department shall hold an annual open enrollment period for submission of applications between the first business day of August and the last business day of October. To apply for this benefit, the applicant shall fully complete and submit the State of Florida Application for Adoption Benefit Form which is available online at: <http://www.dcf.state.fl.us/adoption/adoptbenefitsprogram.shtml>.

(a) To complete Part II of the application, the applicant shall apply to his or her agency head, who, upon completion, shall return the original application to the applicant. The applicant is responsible for obtaining all certifications and supporting documentation necessary to complete the application. The applicant shall submit the original application

