

rehabilitation of affordable rental units under the State Apartment Incentive Loan (SAIL) Program authorized by Section 420.5087, Florida Statutes (F.S.), and the HOME Investment Partnerships (HOME) Program authorized by Section 420.5089, Florida Statutes; and (2) administer the Application process, determine Housing Credit (HC) amounts and implement the provisions of the Housing Credit Program authorized by Section 42 of the Code and Section 420.5099, Florida Statutes.

SUBJECT AREA TO BE ADDRESSED: The Rule Development workshop will be held to receive comments and suggestions from interested persons relative to (1) the development of the 2009 application and program requirements for the SAIL, HOME, HC Programs, as specified in Rule Chapter 67-48, Florida Administrative Code (F.A.C.) and (2) amendments to the Florida Housing Finance Corporation's 2008 Qualified Allocation Plan (QAP).

SPECIFIC AUTHORITY: 420.507 FS.

LAW IMPLEMENTED: 420.5087, 420.5089, 420.5099 FS.

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

DATE AND TIME: October 30, 2008, 1:00 p.m. – 4:00 p.m.

PLACE: SpringHill Suites, 5828 Hazeltine National Drive, Orlando, FL 32822. The workshop will be accessible via phone at 1(888)808-6959, Conference Code #1374197.

Pursuant to the provisions of the Americans with Disabilities Act, any person requiring special accommodations to participate in this workshop/meeting is asked to advise the agency at least 5 days before the workshop/meeting by contacting: Blake Carson-Poston at (850)488-4197. 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 RULE DEVELOPMENT AND A COPY OF THE PRELIMINARY DRAFT, IF AVAILABLE, IS: Deborah Dozier Blinderman, Deputy Development Officer

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

FINANCIAL SERVICES COMMISSION

OIR – Insurance Regulation

| | |
|-------------------|---|
| RULE NOS.: | RULE TITLES: |
| 69O-125.005 | Use of Credit Reports and Credit Scores by Insurers |
| 69O-125.006 | Unfair Discrimination in Use of Credit Reports or Credit Scores by Insurers |

PURPOSE AND EFFECT: The proposed rule will implement the provisions of Section 626.9741, F.S., which addresses compliance; statistical detail and standards necessary to ensure that rates or premiums associated with credit reports or scores

are not unfairly discriminatory; and standards for review of models, methods, programs, or other processes that produce credit scores to determine that they are not unfairly discriminatory. The rule will establish standards and requirements for the use of credit reports or scores by insurers. **SUBJECT AREA TO BE ADDRESSED:** Adopting standards for the review and approval of credit scoring models and methodologies.

SPECIFIC AUTHORITY: 624.308(1), 626.9741(8) FS.

LAW IMPLEMENTED: 624.307(1), 626.9741 FS.

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: October 27, 2008, 9:30 a.m.

PLACE: 116 Larson Building, 200 East Gaines Street, Tallahassee, Florida

Pursuant to the provisions of the Americans with Disabilities Act, any person requiring special accommodations to participate in this workshop/meeting is asked to advise the agency at least 5 days before the workshop/meeting by contacting: Michael Milnes, Senior Management Analyst/Supervisor, Property and Casualty Product Review, Office of Insurance Regulation, 200 East Gaines Street, Tallahassee, Florida 32399-0330, E-mail michael.milnes@fldfs.com. 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 RULE DEVELOPMENT AND A COPY OF THE PRELIMINARY DRAFT, IF AVAILABLE, IS: Michael Milnes, Senior Management Analyst/Supervisor, Property and Casualty Product Review, Office of Insurance Regulation, 200 East Gaines Street, Tallahassee, Florida 32399-0330, E-mail michael.milnes@fldfs.com

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

**Section II
Proposed Rules**

DEPARTMENT OF REVENUE

| | |
|------------------|--------------------|
| RULE NO.: | RULE TITLE: |
| 12-6.0015 | Public Use Forms |

PURPOSE AND EFFECT: The purpose of the proposed amendments to Rule 12-6.0015, F.A.C. (Public Use Forms), is to adopt, by reference, changes to Form DR-835, Power of Attorney and Declaration of Representative, used by taxpayers to grant a representative authority to perform certain acts on behalf of the taxpayer and to receive and inspect confidential information from the Department.

SUMMARY: The proposed amendments to Rule 12-6.0015, F.A.C. (Public Use Forms): (1) adopt, by reference, changes to the form used by taxpayers to grant a representative authority to perform certain acts on behalf of the taxpayer and to receive and inspect confidential information from the Department; and (2) update information on how to obtain the form from the Department.

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), 213.21(1) FS.

LAW IMPLEMENTED: 72.011, 120.54(5), 120.569, 120.57, 213.21 FS.

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

DATE AND TIME: November 5, 2008, 10:00 a.m.

PLACE: Room 118, Carlton Building, 501 South 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 RULE IS: Kim Hancock, Operations Analyst, Technical Assistance and Dispute Resolution, Department of Revenue, P. O. Box 7443, Tallahassee, Florida 32314-7443, telephone (850)922-4726

THE FULL TEXT OF THE PROPOSED RULE IS:

12-6.0015 Public Use Forms.

The following ~~form is~~ forms are employed by the Department in its dealings with the public. ~~This form is~~ These forms are hereby incorporated by reference in this rule. Copies of ~~this form~~ these forms are available, without cost, by using one or more of the following methods: 1) downloading the form from the Department's Internet site at www.myflorida.com/dor/forms; or, 2) ~~faxing a forms request to the Distribution Center at (850)922-2208;~~ or, 3) calling the Department at (800)352-3671, Monday through Friday, 8:00 a.m. to 7:00 p.m., Eastern Time; or, 3) visiting any local Department of Revenue Service Center ~~Distribution Center at (850)488-8422;~~ or, 4) writing the Florida Department of Revenue, Distribution Center, 168A Blountstown Highway, Tallahassee, Florida 32304; or, 5) ~~visiting any local Department of Revenue Service~~

~~Center to personally obtain a copy.~~ Persons with hearing or speech impairments may call the Department's TDD at (800)367-8331 or (850)922-1115.

| Form Number | Title | Effective Date |
|-------------|---|----------------|
| DR-835 | Power of Attorney and Declaration of Representative (R. 06/08 07/06) | ___ 04/07 |

Specific Authority 213.06(1), 213.21(1) FS. Law Implemented 72.011, 120.54(5), 120.569, 120.57, 213.21 FS. History--New 3-6-03, Amended 4-5-07,_____.

NAME OF PERSON ORIGINATING PROPOSED RULE: Kim Hancock, Operations Analyst, Technical Assistance and Dispute Resolution, Department of Revenue, P. O. Box 7443, Tallahassee, Florida 32314-7443, telephone (850)922-4726

NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: Governor Charlie Crist and members of the Florida Cabinet, Attorney General Bill McCollum, Chief Financial Officer Alex Sink, and Agriculture Commissioner Charles H. Bronson, as agency head of the Department of Revenue

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: September 30, 2008

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: July 18, 2008 (Vol. 34, No. 29, pp. 3663-3664)

DEPARTMENT OF REVENUE

Sales and Use Tax

RULE NO.: 12A-1.097
 RULE TITLE: Public Use Forms

PURPOSE AND EFFECT: The purpose of the proposed amendments to Rule 12A-1.097, F.A.C. (Public Use Forms), is to adopt, by reference, changes to forms used by the Department in the administration of sales and use tax.

SUMMARY: The proposed amendments to Rule 12A-1.097, F.A.C. (Public Use Forms): (1) adopt, by reference, changes to forms used by the Department in the administration of sales and use tax; and (2) update information on how to obtain the forms from the Department.

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: 201.11, 202.17(3)(a), 202.22(6), 202.26(3), 212.0515(7), 212.07(1)(b), 212.08(5)(b)4., (7), 212.11(5)(b), 212.12(1)(b)2., 212.17(6), 212.18(2), (3), 213.06(1), 376.70(6)(b), 376.75(9)(b), 403.718(3)(b), 403.7185(3)(b), 443.171(2), (7) FS.

LAW IMPLEMENTED: 92.525(1)(b), (3), 95.091, 125.0104, 125.0108, 201.01, 201.08(1)(a), 201.133, 201.17(1)-(5), 202.11(2), (3), (6), (16), (24), 202.17, 202.22(3)-(6), 202.28(1), 203.01, 212.02, 212.03, 212.0305, 212.031, 212.04, 212.05, 212.0501, 212.0515, 212.054, 212.055, 212.06, 212.0606, 212.07(1), (8), (9), 212.08, 212.084(3), 212.085, 212.09, 212.096, 212.11(1), (4), (5), 212.12(1), (2), (9), (13), 212.13, 212.14(5), 212.17, 212.18(2), (3), 213.235, 213.29, 213.37, 219.07, 288.1258, 376.70, 376.75, 403.717, 403.718, 403.7185, 443.036, 443.121(1), (3), 443.131, 443.1315, 443.1316, 443.171(2), (7) FS.

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

DATE AND TIME: November 5, 2008, 10:00 a.m.

PLACE: Room 118, Carlton Building, 501 South 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 RULE IS: Kim Hancock, Operations Analyst, Technical Assistance and Dispute Resolution, Department of Revenue, P. O. Box 7443, Tallahassee, Florida 32314-7443, telephone (850)922-4726

THE FULL TEXT OF THE PROPOSED RULE IS:

12A-1.097 Public Use Forms.

(1) The following public use forms and instructions are employed by the Department in its dealings with the public related to the administration of Chapter 212, F.S. These forms are hereby incorporated by reference in this rule.

(a) Copies of these forms, except those denoted by an asterisk (*), are available, without cost, by one or more of the following methods: 1) downloading the form from the Department's Internet site at www.myflorida.com/dor/forms; or, 2) ~~faxing a forms request to the Distribution Center at (850)922-2208; or, 3) calling the Department at (800)352-3671, Monday through Friday, 8:00 a.m. to 7:00 p.m., Eastern Time; or, 3) visiting any local Department of Revenue Service Center Distribution Center at (850)488-8422; or, 4) writing the Florida Department of Revenue, Distribution Center, 168A Blountstown Highway, Tallahassee, Florida 32304; or, 5) visiting any local Department of Revenue Service Center to personally obtain a copy.~~ Persons with hearing or speech impairments may call the Department's TDD at (800)367-8331 or (850)922-1115.

(b) No change.

| Form Number | Title | Effective Date |
|-----------------------------|--|------------------|
| (2) through (4) No change. | | |
| (5)(a) DR-7 | Consolidated Sales and Use Tax Return (R. 01/09 <u>01/08</u>) | ___ <u>01/08</u> |
| (b) DR-7N | Instructions for Consolidated Sales and Use Tax Return (R. 01/09 <u>01/08</u>) | ___ <u>01/08</u> |
| (c) DR-15CON | Consolidated Summary – Sales and Use Tax Return (R. 01/09 <u>01/08</u>) | ___ <u>01/08</u> |
| (6)(a) DR-15 | Sales and Use Tax Return (R. 01/09 <u>01/08</u>) | ___ <u>01/08</u> |
| (b) DR-15CS | Sales and Use Tax Return (R. 01/09 <u>01/08</u>) | ___ <u>01/08</u> |
| (c) DR-15CSN | DR-15 Sales and Use Tax – Instructions (R. 01/09 <u>01/08</u>) | ___ <u>01/08</u> |
| (d) DR-15EZ | Sales and Use Tax Return (R. 01/09 <u>01/08</u>) | ___ <u>01/08</u> |
| (e) DR-15EZCSN | DR-15EZ Sales and Use Tax Return – Instructions (R. 01/09 <u>01/08</u>) | ___ <u>01/08</u> |
| (f) DR-15EZN | Instructions for 2009 <u>2008</u> DR-15EZ Sales and Use Tax Returns (R. 01/09 <u>01/08</u>) | ___ <u>01/08</u> |
| (g) through (h) No change. | | |
| (i) DR-15N | Instructions for 2009 <u>2008</u> DR-15 Sales and Use Tax Returns (R. 01/09 <u>01/08</u>) | ___ <u>01/08</u> |
| (j) through (m) No change. | | |
| (7) through (23) No change. | | |

Specific Authority 201.11, 202.17(3)(a), 202.22(6), 202.26(3), 212.0515(7), 212.07(1)(b), 212.08(5)(b)4., (7), 212.11(5)(b), 212.12(1)(b)2., 212.17(6), 212.18(2), (3), 213.06(1), 376.70(6)(b), 376.75(9)(b), 403.718(3)(b), 403.7185(3)(b), 443.171(2), (7) FS. Law Implemented 92.525(1)(b), (3), 95.091, 125.0104, 125.0108, 201.01, 201.08(1)(a), 201.133, 201.17(1)-(5), 202.11(2), (3), (6), (16), (24), 202.17, 202.22(3)-(6), 202.28(1), 203.01, 212.02, 212.03, 212.0305, 212.031, 212.04, 212.05, 212.0501, 212.0515, 212.054, 212.055, 212.06, 212.0606, 212.07(1), (8), (9), 212.08, 212.084(3), 212.085, 212.09, 212.096, 212.11(1), (4), (5), 212.12(1), (2), (9), (13), 212.13, 212.14(4), (5), 212.17, 212.18(2), (3), 213.235, 213.29, 213.37, 219.07, 288.1258, 376.70, 376.75, 403.717, 403.718, 403.7185, 443.036, 443.121(1), (3), 443.131, 443.1315, 443.1316, 443.171(2), (7) FS. History–New 4-12-84, Formerly 12A-1.97, Amended 8-10-92, 11-30-97, 7-1-99, 4-2-00, 6-28-00, 6-19-01, 10-2-01, 10-21-01, 8-1-02, 4-17-03, 5-4-03, 6-12-03, 10-1-03, 9-28-04, 6-28-05, 5-1-06, 4-5-07, 1-1-08, 4-1-08, 6-4-08,_____.

NAME OF PERSON ORIGINATING PROPOSED RULE: Kim Hancock, Operations Analyst, Technical Assistance and Dispute Resolution, Department of Revenue, P. O. Box 7443, Tallahassee, Florida 32314-7443, telephone (850)922-4726

NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: Governor Charlie Crist and members of the Florida Cabinet, Attorney General Bill McCollum, Chief

Financial Officer Alex Sink, and Agriculture Commissioner Charles H. Bronson, as agency head of the Department of Revenue

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: September 30, 2008

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: July 18, 2008 (Vol. 34, No. 29, p. 3664)

DEPARTMENT OF REVENUE

Sales and Use Tax

RULE NO.: 12A-16.008
 RULE TITLE: Public Use Forms

PURPOSE AND EFFECT: The purpose of the proposed amendments to Rule 12A-16.008, F.A.C. (Public Use Forms), is to adopt, by reference, changes to forms used by the Department in the administration of the solid waste fees and the rental car surcharge.

SUMMARY: The proposed amendments to Rule 12A-16.008, F.A.C. (Public Use Forms): (1) adopt, by reference, changes to forms used by the Department in the administration of solid waste fees and the rental car surcharge; and (2) update information on how to obtain the forms from the Department.

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: 212.0606, 212.12(2), 213.235, 376.70, 403.717, 403.718, 403.7185 FS.

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

DATE AND TIME: November 5, 2008, 10:00 a.m.

PLACE: Room 118, Carlton Building, 501 South 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 RULE IS: Kim Hancock, Operations Analyst, Technical Assistance and Dispute Resolution, Department of Revenue, P. O. Box 7443, Tallahassee, Florida 32314-7443, telephone (850)922-4726

THE FULL TEXT OF THE PROPOSED RULE IS:

12A-16.008 Public Use Forms.

(1)(a) The following public use forms and instructions are employed by the Department of Revenue in its dealings with the public in administering the rental car surcharge, as provided in this rule chapter, and the solid waste fees, as provided in Rule Chapter 12A-12, F.A.C. These forms are hereby incorporated by reference in this rule.

(b) Copies of these forms are available, without cost, by one or more of the following methods: 1) downloading the form from the Department's Internet site at www.myflorida.com/dor/forms; or, 2) ~~faxing a forms request to the Distribution Center at (850)922-2208; or, 3) calling the Department at (800)352-3671, Monday through Friday, 8:00 a.m. to 7:00 p.m., Eastern Time; or, 3) visiting any local Department of Revenue Service Center Distribution Center at (850)488-8422; or, 4) writing the Florida Department of Revenue, Distribution Center, 168A Blountstown Highway, Tallahassee, Florida 32304; or, 5) visiting any local Department of Revenue Service Center to personally obtain a copy.~~ Persons with hearing or speech impairments may call the Department's TDD at (800)367-8331 or (850)922-1115.

| Form Number | Title | Effective Date |
|--------------|--|----------------|
| (2) DR-15SW | Solid Waste and Surcharge Return (R. 01/09 01/08) | ___ 01/08 |
| (3) DR-15SWN | Instructions for DR-15SW Solid Waste and Surcharge Returns (R. 01/09 01/08) | ___ 01/08 |

(4) No change.

Specific Authority 212.17(6), 212.18(2), 213.06(1) FS. Law Implemented 212.0606, 212.12(2), 213.235, 376.70, 403.717, 403.718, 403.7185 FS. History—New 11-14-89, Amended 7-7-91, 8-10-92, 3-21-95, 6-19-01, 4-17-03, 9-28-04, 6-28-05, 7-25-06, 4-5-07, 1-1-08, _____.

NAME OF PERSON ORIGINATING PROPOSED RULE: Kim Hancock, Operations Analyst, Technical Assistance and Dispute Resolution, Department of Revenue, P. O. Box 7443, Tallahassee, Florida 32314-7443, telephone (850)922-4726

NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: Governor Charlie Crist and members of the Florida Cabinet, Attorney General Bill McCollum, Chief Financial Officer Alex Sink, and Agriculture Commissioner Charles H. Bronson, as agency head of the Department of Revenue

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: September 30, 2008

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: July 18, 2008 (Vol. 34, No. 29, pp. 3664-3665)

DEPARTMENT OF REVENUE

Sales and Use Tax

RULE NO.: 12A-19.100
 RULE TITLE: Public Use Forms

PURPOSE AND EFFECT: The purpose of the proposed amendments to Rule 12A-19.100, F.A.C. (Public Use Forms), is to adopt, by reference, changes to Forms DR-700012, DR-700016, and DR-700020, used by the Department in the administration of communications services tax.

SUMMARY: The proposed amendments to Rule 12A-19.100, F.A.C. (Public Use Forms); (1) adopt, by reference, revisions to Form DR-700012 (Application for Certification of Communications Services Database), Form DR-700016 (Florida Communications Services Tax Return), and Form DR-700020 (Notification of Method Employed to Determine Taxing Jurisdiction); (2) provide which version of Form DR-700016 should be used to report communications services tax on services billed during the calendar year 2008; and (3) update the information on how to obtain copies of forms from the Department.

Specifically, the revisions to Form DR-700012 (Application for Certification of Communications Services Database), used by providers of communications services and vendors offering service address databases to apply to the Department for certification of a service address database:

- update, reorganize, and simplify the instructions for submitting a service address jurisdiction database for certification by the Department;
- advise applicants of the new information regarding errors found in the database provided by the Department after completing the testing of the applicant’s database; and
- advise applicants of the requirement to submit a new application for certification of a database when there has been a material change.

Revisions to Form DR-700016 (Florida Communications Services Tax Return), provide changes in the communications services tax rates for local jurisdictions.

Revisions to Form DR-700020 (Notification of Method Employed to Determine Taxing Jurisdiction), clarify which communications services providers are not required to file the form with the Department or to notify the Department of the methods to be used for determining the local taxing jurisdiction in which service addresses are located.

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: 175.1015(5), 185.085(5), 202.151, 202.16(2), 202.26(3)(a), (c), (d), (e), (j), 202.27(7) FS.

LAW IMPLEMENTED: 175.1015, 185.085, 202.11(3), (10), (11), 202.12(1), (3), 202.13(2), 202.151, 202.16(2), (4), 202.17(6), 202.19(1), (7), 202.22(6), 202.27, 202.28(1), (2), 202.30(3), 202.33, 202.34(3), (4)(c), 202.35(1), (2) FS.

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

DATE AND TIME: November 5, 2008, 10:00 a.m.

PLACE: Room 118, Carlton Building, 501 South 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 RULE IS: Janet 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 RULE IS:

12A-19.100 Public Use Forms.

(1)(a) The Department employs the following public-use forms and instructions in the administration of Chapter 202, F.S., Communications Services Tax, and in the administration of the Department’s electronic Address/Jurisdiction Database created pursuant to Sections 175.1015 and 185.085, F.S. These forms are hereby incorporated by reference in this rule.

(b) Copies of these forms are available, without cost, by one or more of the following methods: 1) downloading the form from the Department’s Internet site at www.myflorida.com/dor/forms; or, 2) ~~faxing a forms request to the Distribution Center at (850)922-2208; or, 3) calling the Department at (800)352-3671, Monday through Friday, 8:00 a.m. to 7:00 p.m., Eastern Time; or, 3) visiting any local Department of Revenue Service Center Distribution Center at (850)488-8422; or, 4) writing the Florida Department of Revenue, Distribution Center, 168A Blountstown Highway, Tallahassee, Florida 32304; or, 5) visiting any local Department of Revenue Service Center to personally obtain a copy.~~ Persons with hearing or speech impairments may call the Department’s TDD at (800)367-8331 or (850)922-1115.

(2) The following versions of Form DR-700016, Florida Communications Services Tax Return, are applicable to the reporting periods and service billing dates indicated:

| REVISION DATE | REPORTING PERIODS | SERVICE BILLING DATES |
|---------------|--------------------------------|---------------------------------------|
| 01/09 | January 2009 – | January 1, 2009 – |
| 09/08 | September 2008 – December 2008 | September 1, 2008 – December 31, 2008 |
| 06/08 | June 2008 – August 2008 | June 1, 2008 – December 31, 2008 |
| 05/08 | May 2008 | May 1, 2008 – May 31, 2008 |
| 01/08 | January 2008 – April 2008 | January 1, 2008 – April 30, 2008 |
| 09/07 | September 2007 – December 2007 | September 1, 2007 – December 31, 2007 |
| 06/07 | June 2007– August 2007 | June 1, 2007– August 31, 2007 |
| 02/07 | February 2007 – May 2007 | February 1, 2007 – May 31, 2007 |
| 01/07 | January 2007 | January 1, 2007 – January 31, 2007 |
| 06/06 | June 2006 – December 2006 | June 1, 2006 – December 31, 2006 |
| 01/06 | January 2006 – May 2006 | January 1, 2006 – May 31, 2006 |
| 11/05 | November 2005 – December 2005 | November 1, 2005 – December 31, 2005 |
| 06/05 | June 2005 – October 2005 | June 1, 2005 – October 31, 2005 |
| 01/05 | January 2005 – May 2005 | January 1, 2005 – May 31, 2005 |
| 11/04 | November 2004 – December 2004 | November 1, 2004 – December 31, 2004 |
| 10/04 | October 2004 | October 1, 2004 – October 31, 2004 |
| 06/04 | June 2004 – September 2004 | June 1, 2004 – September 30, 2004 |
| 01/04 | January 2004 – May 2004 | January 1, 2004 – May 31, 2004 |
| 12/03 | December 2003 | December 1, 2003 – December 31, 2003 |
| 11/03 | November 2003 | November 1, 2003 – November 30, 2003 |
| 10/03 | October 2003 | October 1, 2003 – October 31, 2003 |
| 06/03 | June 2003 – September 2003 | June 1, 2003 – September 30, 2003 |
| 03/03 | March 2003 – May 2003 | March 1, 2003 – May 31, 2003 |
| 01/03 | January 2003 – February 2003 | January 1, 2003 – February 28, 2003 |
| 12/02 | December 2002 | December 1, 2002 – December 31, 2002 |
| 11/02 | November 2002 | November 1, 2002 – November 30, 2002 |
| 10/02 | October 2002 | October 1, 2002 – October 31, 2002 |
| 01/02 | January 2002 – September 2002 | January 1, 2002 – September 30, 2002 |
| 12/01 | October 2001 – December 2001 | October 1, 2001 – December 31, 2001 |
| 01/09 | January 2009 – | January 1, 2009 – |

| Form Number | Title | Effective Date | NAME OF PERSON ORIGINATING PROPOSED RULE: |
|------------------|---|------------------------|--|
| (3) DR-700012 | Application for Certification of Communications Services Database (R. 01/08 07/02) | _____ 04/03 | Janet Young, Tax Law Specialist, Technical Assistance and Dispute Resolution, Department of Revenue, P. O. Box 7443, Tallahassee, Florida 32314-7443, telephone (850)922-9407 |
| (4)(a) DR-700016 | Florida Communications Services Tax Return (R. 01/09) | _____ | NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: Governor Charlie Crist and members of the Florida Cabinet, Attorney General Bill McCollum, Chief Financial Officer Alex Sink, and Agriculture Commissioner Charles H. Bronson, as agency head of the Department of Revenue |
| (b) DR-700016 | Florida Communications Services Tax Return (R. 09/08) | _____ | DATE PROPOSED RULE APPROVED BY AGENCY HEAD: September 30, 2008 |
| (c) DR-700016 | Florida Communications Services Tax Return (R. 06/08) | _____ | DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: July 18, 2008 (Vol. 34, No. 29, pp. 3665-3666) |
| (d) DR-700016 | Florida Communications Services Tax Return (R. 05/08) | _____ | |
| | (a) through (y) renumbered (e) through (cc) No change. | | |
| | (5) No change. | | |
| (6) DR-700020 | Notification of Method Employed to Determine Taxing Jurisdiction (Communications Services Tax) (R. 01/09 05/02) | _____ 04/03 | DEPARTMENT OF REVENUE Miscellaneous Tax RULE NOS.: 12B-5.130 Refunds 12B-5.150 Public Use Forms |
| | (7) through (12) No change. | | PURPOSE AND EFFECT: Section 206.8745(6), F.S., grants a refund for undyed tax-paid diesel fuel that is consumed by a power take-off unit or engine exhaust for the purpose of unloading bulk cargo by pumping. Subparagraph (2)(a)2. of |
| | Specific Authority 175.1015(5), 185.085(5), 202.151, 202.16(2), 202.26(3)(a), (c), (d), (e), (j), 202.27(7) FS. Law Implemented 175.1015, 185.085, 202.11(3), (10), (11), 202.12(1), (3), 202.13(2), 202.151, 202.16(2), (4), 202.17(6), 202.19(1), (7), 202.22(6), 202.27, 202.28(1), (2), 202.30(3), 202.33, 202.34(3), (4)(c), 202.35(1), (2) FS. History–New 4-17-03, Amended 7-31-03, 10-1-03, 9-28-04, 6-28-05, 11-14-05, 7-16-06, 4-5-07, 11-6-07, 12-20-07, 1-28-08, _____. | | |

Rule 12B-5.130, F.A.C. (Refunds), implements this statute and provides for refunds of the fuel tax paid on 10 gallons per full load pump-off of diesel fuel consumed by a power take-off unit or engine exhaust for the purpose of unloading bulk cargo from a pneumatic tank by pumping. Taxpayers are required to complete Form DR-309639 (Application for Refund of Tax Paid on Undyed Diesel Used for Off-road or Other Exempt Purposes) to apply for such refunds of fuel tax paid.

In *Pritchett Trucking, Inc. v. Department of Revenue* (Case No. 04-3093 CA, 2nd Circuit, July 3, 2008), the judge held that Section 206.8745, F.S., and subparagraph 12B-5.130(2)(a)2., F.S., requires only pumping is essential to the unloading of bulk cargo, and not whether the means of pumping is by pneumatics, hydraulics, or any other method. The purpose of this rulemaking is to remove the provisions of subparagraph (2)(a)2. of Rule 12B-5.130, F.A.C. (Refunds), and to adopt, by reference, changes to Form DR-309639 which reflect the court's decision. The changes to this rule and form will remove the requirement that a pneumatic pump is necessary to qualify for such refund.

SUMMARY: The proposed amendments to Rule 12B-5.130, F.A.C. (Refunds), removes subparagraph (2)(a)2., which provides for refunds of the fuel tax paid on 10 gallons per full load pump-off of diesel fuel consumed by a power take-off unit or engine exhaust for the purpose of unloading bulk cargo from a pneumatic tank by pumping authorized by Section 206.8745, F.S. The proposed amendments to Rule 12B-5.150, F.A.C. (Public Use Forms), adopt, by reference, changes to Form DR-309639 (Application for Refund of Tax Paid on Undyed Diesel Used for Off-road or Other Exempt Purposes) regarding the refund of fuel tax paid authorized by Section 206.8745, F.S.

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: 206.14(1), 206.59(1), 206.8745(6), 213.06(1) FS.

LAW IMPLEMENTED: 206.02, 206.021, 206.022, 206.025, 206.026, 206.027, 206.028, 206.05, 206.055, 206.095, 206.404, 206.41(4), (5), 206.43, 206.64, 206.86, 206.8745, 206.877, 206.90, 206.91, 206.92, 206.9931, 206.994, 206.97 FS.

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

DATE AND TIME: November 5, 2008, 10:00 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:

12B-5.130 Refunds.

(1) No change.

(2) **UNDYED DIESEL FUEL USED FOR OFF-ROAD PURPOSES OR OTHER EXEMPT PURPOSES.**

(a) When undyed diesel fuel is consumed by a power take-off unit or engine exhaust for the purpose of turning a concrete mixer drum, for compacting solid waste, or for unloading bulk cargo by pumping, and such power take-off unit or engine exhaust is mounted on a motor vehicle that has no separate fuel tank, tax paid on the diesel fuel will be subject to a refund, ~~refunded as follows:~~

~~±~~ A refund of tax paid on undyed diesel fuel will be granted on thirty-five percent of the gallons consumed by vehicles that use fuel to turn a concrete mixer drum or for compacting solid waste. Sales tax imposed under Section 212.0501, F.S., plus any applicable discretionary sales surtax, is due on the average cost per gallon that is eligible for a refund of fuel tax paid. The Department will reduce the amount of refund due on fuel tax paid by the amount of sales tax, plus any applicable discretionary sales surtax, due. The net amount of the refund will be granted to the qualified applicant.

~~2.a. A refund of the tax paid on undyed diesel fuel will be granted on 10 gallons per full load pump-off of diesel fuel consumed by a power take-off or engine exhaust for the purpose of unloading bulk cargo from a pneumatic tank by pumping. Sales tax imposed under Section 212.0501, F.S., plus any applicable discretionary sales surtax, is due on the average cost per gallon that is eligible for a refund. The Department will reduce the amount of refund due on fuel tax paid by the amount of sales tax, plus any applicable discretionary sales surtax, due. The net amount of the refund will be granted to the qualified applicant.~~

b. For purposes of this section, a full load pump-off means the unloading of at least 54,000 pounds of dry bulk cargo or its equivalent in gallons using a power take-off or engine exhaust. ~~Persons subject to refund under this sub-subparagraph will use Schedule D1 (Full Load Pump-off Product List), of Form DR 309639, Application for Refund of Tax Paid on Undyed Diesel Used for Off Road or Other Exempt Purposes (incorporated by reference in Rule 12B-5.130, F.A.C.) to determine the number of gallons that would be considered a full load for a given product. Initial refunds for products that~~

are not incorporated into Schedule D1 will require documentation to verify the number of gallons that make up a full load to be submitted to the Department with Form DR-309639.

e. The number of pump offs will be determined by using the following formula:

~~Gallons or Pounds Unloaded ÷ Full Load Pump Off (as defined above) = Number of Pump Offs.~~

~~d. Vehicles using gasoline do not qualify for this refund.~~

(b) through (e) No change.

(3) through (5) No change.

Cross Reference – Rules 12A-1.059 and 12A-1.0641, F.A.C.

Specific Authority 206.14(1), 206.59(1), ~~206.8745(6)~~, 213.06(1) FS. Law Implemented 206.41(4), (5), 206.43(5), (6), 206.64, 206.8745, 206.97 FS. History–New 7-1-96, Amended 11-21-96, 10-27-98, 5-1-06, _____.

12B-5.150 Public Use Forms.

(1)(a) The following public use forms and instructions are utilized by the Department and are hereby incorporated by reference in this rule.

(b) No change.

| Form Number | Title | Effective Date |
|------------------|---|------------------|
| (2) through (35) | No change. | |
| (36) DR-309639 | Application for Refund of Tax Paid on Undyed Diesel Used for Off-Road or Other Exempt Purposes (R. 01/08) | 01/08 |

(37) through (39) No change.

Specific Authority 206.14(1), 206.59(1), 213.06(1) FS. Law Implemented 206.02, 206.021, 206.022, 206.025, 206.026, 206.027, 206.028, 206.05, 206.055, 206.095, 206.404, 206.43, 206.86, 206.877, 206.90, 206.91, 206.92, 206.9931, 206.9943 FS. History–New 11-21-96, Amended 10-27-98, 5-1-06, 4-16-07, 1-1-08, _____.

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 AGENCY HEAD WHO APPROVED THE PROPOSED RULE: Governor Charlie Crist and members of the Florida Cabinet, Attorney General Bill McCollum, Chief Financial Officer Alex Sink, and Agriculture Commissioner Charles H. Bronson, as agency head of the Department of Revenue

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: September 30, 2008

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: September 12, 2008 (Vol. 34, No. 37, pp. 4708-4709)

DEPARTMENT OF REVENUE

Miscellaneous Tax

| RULE NOS.: | RULE TITLES: |
|------------|------------------|
| 12B-7.008 | Public Use Forms |
| 12B-7.026 | Public Use Forms |
| 12B-7.031 | Public Use Forms |

PURPOSE AND EFFECT: Effective July 1, 2008, Section 2, Chapter 2008-150, Laws of Florida, imposes a surcharge of \$1.38 per ton on the production of phosphate rock in Florida. The tax returns for remitting the taxes imposed on the severance of solid minerals, phosphate rock, or heavy minerals (Forms DR-142 and DR-142ES) will be revised to provide for the reporting of the new surcharge.

The purpose of the proposed amendments to Rules 12B-7.008, 12B-7.026, and 12B-7.031, F.A.C. (Public Use Forms), is to: (1) adopt the changes to the Department’s tax returns that are necessary to report the new surcharge on the production of phosphate rock imposed by Section 2, Chapter 2008-150, Laws of Florida (Forms DR-142 and DR-142ES); (2) remove the allowance of a sales tax credit against the amount of severance tax due that was rendered obsolete by Section 3, Chapter 2006-56, Laws of Florida (Form DR-142); (2) clarify, simplify, and update tax returns and instructions used to report the taxes imposed on the production of oil, gas, and sulfur in Florida (Forms DR-144, DR-144ES, DR-145, and DR-145X); and (3) update the information on how to obtain copies of tax returns used to report the severance taxes, surcharges, and fees from the Department.

SUMMARY: The proposed amendments to Rule Chapter 12B-7, F.A.C. (Severance Taxes and Fees): (1) adopt changes to the Department’s tax returns that are used to report the surcharge on phosphate rock production imposed by Section 2, Chapter 2008-150, Laws of Florida (Forms DR-142 and DR-142ES); (2) remove the allowance of a sales tax credit against the amount of severance tax due that was rendered obsolete by Section 3, Ch. 2006-56, Laws of Florida (Form DR-142); (3) clarify, simplify, and update tax returns and instructions used to report the taxes imposed on the production of oil, gas, and sulfur in Florida (Forms DR-144, DR-144ES, DR-145, and DR-145X); and (4) update the information on how to obtain copies of tax returns used to report the severance taxes, surcharges, and fees from the Department.

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

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

SPECIFIC AUTHORITY: 211.075(2), 211.125(1), 211.33(6), 213.06(1), 373.41492(4)(b) FS.

LAW IMPLEMENTED: 92.525(1)(b), (2), (3), (4), 211.026, 211.075, 211.076, 212.11(1)(b), 211.125, 211.30, 211.31, 211.3103, 211.3106, 211.33, 212.11(1)(b), 212.12(2), 212.17(1)(c), 213.235(2), 213.37, 213.755(1), 373.41492 FS.

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

DATE AND TIME: November 5, 2008, 10:00 a.m.

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

NOTICE UNDER THE AMERICANS WITH DISABILITIES ACT: Any person requiring special accommodations to participate in any proceeding before the Technical Assistance and Dispute Resolution Office is asked to advise the Department at least 48 hours before such proceeding by contacting: Larry Green at (850)922-4830. Persons with hearing or speech impairments may contact the Department by using the Florida Relay Service, which can be reached at (800)955-8770 (Voice) and (800)955-8771 (TDD).

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULES IS: Joe Parramore, Revenue Program Administrator I, Technical Assistance and Dispute Resolution, Department of Revenue, P. O. Box 7443, Tallahassee, Florida 32314-7443, telephone (850)922-4709

THE FULL TEXT OF THE PROPOSED RULES IS:

12B-7.008 Public Use Forms.

(1)(a) The following forms and instructions are used by the Department in its administration of the taxes imposed on the production of oil, gas, and sulfur. These forms are hereby incorporated by reference in this rule.

(b) Copies of these forms are available, without cost, by one or more of the following methods: 1) downloading the form from the Department's Internet site at www.myflorida.com/dor/forms; or, 2) ~~faxing a forms request to the distribution Center at (850)922-2208; or, 3) calling the Department at (800)352-3671, Monday through Friday, 8:00 a.m. to 7:00 p.m., Eastern Time; or, 3) visiting any local Department of Revenue Service Center Distribution Center at (850)488-8422; or, 4) writing the Florida Department of Revenue, Distribution Center, 168A Blountstown Highway, Tallahassee, Florida 32304; or, 5) visiting any local Department of Revenue Service Center to personally obtain a copy.~~ Persons with hearing or speech impairments may call the Department's TDD at (800)367-8331 or (850)922-1115.

| Form Number | Title | Effective Date |
|--------------|---|----------------|
| (2) DR-144 | Gas and Sulfur Production Quarterly Tax Return (R. <u>08/08 04/03</u>) | ___ 10/03 |
| (3) DR-144ES | Declaration of Estimated Gas and Sulfur Production Tax (R. <u>08/08 04/03</u>) | ___ 10/03 |

| | | |
|-------------|--|-----------|
| (4) DR-145 | Oil Production Monthly Tax Return (R. <u>08/08 04/03</u>) | ___ 10/03 |
| (5) DR-145X | Oil Production Monthly Amended Tax Return (R. <u>08/08 04/03</u>) | ___ 10/03 |

Specific Authority 211.075(2), 211.125(1), 213.06(1) FS. Law Implemented 92.525(1)(b), (2), (3), (4), 211.026, 211.075, 211.076, 211.125, 213.755(1) FS. History--New 12-28-78, Formerly 12B-7.08, Amended 12-18-94, 5-4-03, 10-1-03, 11-6-07, _____.

PART II – SEVERANCE TAX ON SOLID MINERALS

12B-7.026 Public Use Forms.

(1)(a) The following forms and instructions are used by the Department in its administration of the taxes and surcharge imposed on the severance of solid minerals, phosphate rock, or heavy minerals from the soils and waters of this state. These forms are hereby incorporated by reference in this rule.

(b) Copies of these forms are available, without cost, by one or more of the following methods: 1) downloading the form from the Department's Internet site at www.myflorida.com/dor/forms; or, 2) ~~faxing a forms request to the distribution Center at (850)922-2208; or, 3) calling the Department at (800)352-3671, Monday through Friday, 8:00 a.m. to 7:00 p.m., Eastern Time; or, 3) visiting any local Department of Revenue Service Center Distribution Center at (850)488-8422; or, 4) writing the Florida Department of Revenue, Distribution Center, 168A Blountstown Highway, Tallahassee, Florida 32304; or, 5) visiting any local Department of Revenue Service Center to personally obtain a copy.~~ Persons with hearing or speech impairments may call the Department's TDD at (800)367-8331 or (850)922-1115.

| Form Number | Title | Effective Date |
|--------------|---|----------------|
| (2) DR-142 | Solid Mineral Severance Tax Return (R. <u>01/09 01/06</u>) | ___ 11/07 |
| (3) DR-142ES | Declaration/Installment Payment of Estimated Solid Mineral Severance Tax (R. <u>01/09 01/06</u>) | ___ 11/07 |

Specific Authority 211.33(6), 213.06(1) FS. Law Implemented 92.525(2), 211.30, 211.31, 211.3103, 211.3106, 211.33, 213.755(1) FS. History--New 12-18-94, Amended 10-4-01, 5-4-03, 10-1-03, 11-6-07, _____.

PART III MITIGATION FEES ON MINING

12B-7.031 Public Use Forms.

(1)(a) The following form and instructions are used by the Department in its dealings with the public in the administration of the Miami-Dade County Lake Belt mitigation fee and water treatment plant upgrade fee. This form and instructions are hereby incorporated by reference in this rule.

(b) Copies of this form and instructions are available, without cost, by one or more of the following methods: 1) downloading the form from the Department's Internet site at www.myflorida.com/dor/forms; or, 2) ~~faxing a forms request~~

~~to the Distribution Center at (850)922-2208; or, 3) calling the Department at (800)352-3671, Monday through Friday, 8:00 a.m. to 7:00 p.m., Eastern Time; or, 3) visiting any local Department of Revenue Service Center Distribution Center at (850)488-8422; or, 4) writing the Florida Department of Revenue, Distribution Center, 168A Blountstown Highway, Tallahassee, Florida 32304; or, 5) visiting any local Department of Revenue Service Center to personally obtain a copy.~~ Persons with hearing or speech impairments may call the Department's TDD at (800)367-8331 or (850)922-1115.

(2) No change.

Specific Authority 213.06(1), 373.41492(4)(b) FS. Law Implemented 92.525(1)(b), (2), (3), (4), 212.11(1)(b), 212.12(2), 212.17(1)(c), 213.235(2), 213.37, 213.755(1), 373.41492 FS. History—New 10-1-03, Amended 9-28-04, 6-28-05, 5-1-06, 11-6-07, _____.

NAME OF PERSON ORIGINATING PROPOSED RULE: Joe Parramore, Revenue Program Administrator I, Technical Assistance and Dispute Resolution, Department of Revenue, P. O. Box 7443, Tallahassee, Florida 32314-7443, telephone (850)922-4709

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Governor Charlie Crist and members of the Florida Cabinet, Attorney General Bill McCollum, Chief Financial Officer Alex Sink, and Agriculture Commissioner Charles H. Bronson, as agency head of the Department of Revenue

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: September 30, 2008

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: A Notice of Proposed Rule Development was published in the Florida Administrative Weekly on July 18, 2008 (Vol. 34, No. 29, pp. 3666). No comments were received by the Department

DEPARTMENT OF REVENUE

Miscellaneous Tax

RULE NO.: 12B-8.003
 RULE TITLE: Tax Statement; Overpayments

PURPOSE AND EFFECT: The purpose of the proposed amendments to Rule 12B-8.003, F.A.C. (Tax Statement; Overpayments) is to adopt, by reference, changes to the forms used by the Department in the administration of the insurance premium tax.

SUMMARY: The proposed amendments to Rule 12B-8.003, F.A.C. (Tax Statement; Overpayments): (1) adopt, by reference, changes to forms used by the Department in the administration of the insurance premium tax; and (2) update the information on how to obtain copies of forms from the Department.

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) FS.

LAW IMPLEMENTED: 175.041, 175.101, 175.1015, 175.111, 175.121, 175.141, 175.151, 185.02, 185.03, 185.08, 185.085, 185.09, 185.10, 185.12, 185.13, 213.05, 213.053, 213.235, 213.37, 220.183, 220.19, 220.191, 252.372, 288.99, 440.51, 443.1216, 624.11, 624.402, 624.4072, 624.4094, 624.402, 624.4621, 624.4625, 624.475, 624.501, 624.509, 624.5091, 624.5092, 624.50921, 624.510, 624.5105, 624.5107, 624.511, 624.515, 624.516, 624.518, 624.519, 624.520, 624.521, 624.601, 624.610, 626.7451(11), 627.311, 627.351, 627.3512, 627.357(9), 627.7711, 627.943, 628.6015, 629.401, 629.5011, 631.72, 632.626, 634.131, 634.313(2), 634.415(2), 636.066, 642.0301, 642.032 FS., Ch. 93-128, s. 29, 2005-280, L.O.F.

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

DATE AND TIME: November 5, 2008, 10:00 a.m.

PLACE: Room 118, Carlton Building, 501 South 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 RULE IS: Kim Hancock, Operations Analyst, Technical Assistance and Dispute Resolution, Department of Revenue, P. O. Box 7443, Tallahassee, Florida 32314-7443, telephone (850)922-4726

THE FULL TEXT OF THE PROPOSED RULE IS:

12B-8.003 Tax Statement; Overpayments.

(1) Tax returns and reports shall be made by insurers on forms prescribed by the Department. These forms are hereby incorporated by reference in this rule.

(2) Copies of these forms are available, without cost, by one or more of the following methods: 1) downloading the form from the Department's Internet site at www.myflorida.com/dor/forms; or, 2) ~~faxing a forms request to the Distribution Center at (850)922-2208; or, 3) calling the Department at (800)352-3671, Monday through Friday, 8:00 a.m. to 7:00 p.m., Eastern Time; or, 3) visiting any local~~

~~Department of Revenue Service Center Distribution Center at (850)488-8422; or, 4) writing the Florida Department of Revenue, Distribution Center, 168A Blountstown Highway, Tallahassee, Florida 32304; or, 5) visiting any local Department of Revenue Service Center to personally obtain a copy.~~ Persons with hearing or speech impairments may call the Department's TDD at (800)367-8331 or (850)922-1115.

(3) through (4) No change.

| Form Number | Title | Effective Date |
|---------------|--|----------------------|
| (5)(a) DR-907 | Florida Insurance Premium Installment Payment (R. 01/09 01/08) | ___ 01/08 |
| (b) DR-907N | Information for Filing Insurance Premium Installment Payment (Form DR-907) (R. 01/09 01/08) | ___ 01/08 |
| (6)(a) DR-908 | Insurance Premium Taxes and Fees Return for Calendar Year 2008 2007 (R. 01/09 01/08) | ___ 01/08 |
| (b) DR-908N | Instructions for Preparing Form DR-908 Florida Insurance Premium Taxes and Fees Return (R. 01/09 01/08) | ___ 01/08 |
| (7) DR-350900 | 2008 2007 Insurance Premium Tax Information for Schedules XII and XIII, DR-908 (R. 01/09 01/08) | ___ 01/08 |

Specific Authority 213.06(1) FS. Law Implemented 175.041, 175.101, 175.1015, 175.111, 175.121, 175.141, 175.151, 185.02, 185.03, 185.08, 185.085, 185.09, 185.10, 185.12, 185.13, 213.05, 213.053, 213.235, 213.37, 220.183, 220.19, 220.191, 252.372, 288.99, 440.51, 443.1216, 624.11, 624.402, 624.4072, 624.4094, 624.402, 624.4621, 624.4625, 624.475, 624.501, 624.509, 624.5091, 624.5092, 624.50921, 624.510, 624.5105, 624.5107, 624.511, 624.515, 624.516, 624.518, 624.519, 624.520, 624.521, 624.601, 624.610, 626.7451(11), 627.311, 627.351, 627.3512, 627.357(9), 627.7711, 627.943, 628.6015, 629.401, 629.5011, 631.72, 632.626, 634.131, 634.313(2), 634.415(2), 636.066, 642.0301, 642.032 FS., Ch. 93-128, s. 29, 2005-280, L.O.F. History—New 2-3-80, Formerly 12B-8.03, Amended 3-25-90, 3-10-91, 2-18-93, 6-16-94, 12-9-97, 3-23-98, 7-1-99, 10-15-01, 8-1-02, 5-4-03, 9-28-04, 6-28-05, 6-20-06, 4-5-07, 1-1-08,_____.

NAME OF PERSON ORIGINATING PROPOSED RULE: Kim Hancock, Operations Analyst, Technical Assistance and Dispute Resolution, Department of Revenue, P. O. Box 7443, Tallahassee, Florida 32314-7443, telephone (850)922-4726

NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: Governor Charlie Crist and members of the Florida Cabinet, Attorney General Bill McCollum, Chief Financial Officer Alex Sink, and Agriculture Commissioner Charles H. Bronson, as agency head of the Department of Revenue

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: September 30, 2008

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: July 18, 2008 (Vol. 34, No. 29, pp. 3666-3667)

DEPARTMENT OF REVENUE

Corporate, Estate and Intangible Tax

RULE NO.: 12C-1.051
 RULE TITLE: Forms

PURPOSE AND EFFECT: The purpose of the proposed amendments to Rule 12C-1.051, F.A.C. (Forms), is to adopt, by reference, changes to the forms used by the Department in the administration of the corporate income tax, and to remove a form that will no longer be used by the Department.

SUMMARY: The proposed amendments to Rule 12C-1.051, F.A.C. (Forms): (1) adopt, by reference, changes to forms used by the Department in the administration of the corporate income tax; (2) update the information on how to obtain copies of forms from the Department; and (3) repeal forms F-1159 (Application for Child Care Tax Credits) and F-1159N (Instructions for Filing F-1159). The Child Care Tax Credit Program expired on June 30, 2008.

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), 220.51 FS.

LAW IMPLEMENTED: 220.11, 220.12, 220.13(1), (2), 220.14, 220.15, 220.16, 220.181, 220.182, 220.183, 220.184, 220.1845, 220.185, 220.186, 220.187, 220.1895, 220.19, 220.191, 220.21, 220.211, 220.22, 220.221, 220.222, 220.23, 220.24, 220.241, 220.31, 220.32, 220.33, 220.34, 220.41, 220.42, 220.43, 220.44, 220.51, 220.721, 220.723, 220.725, 220.737, 220.801, 220.803, 220.805, 220.807, 220.809, 221.04 FS.

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

DATE AND TIME: November 5, 2008, 10:00 a.m.

PLACE: Room 118, Carlton Building, 501 South 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 RULE IS: Kim Hancock, Operations Analyst, Technical Assistance and Dispute Resolution, Department of Revenue, P. O. Box 7443, Tallahassee, Florida 32314-7443, telephone (850)922-4726

THE FULL TEXT OF THE PROPOSED RULE IS:

12C-1.051 Forms.

(1)(a) The following forms and instructions are used by the Department in its administration of the corporate income tax and franchise tax. These forms are hereby incorporated by reference in this rule.

(b) Copies of these forms are available, without cost, by one or more of the following methods: 1) downloading the form from the Department's Internet site at www.myflorida.com/dor/forms; or, 2) ~~faxing a forms request to the Distribution Center at (850)922-2208; or, 3) calling the Department at (800)352-3671, Monday through Friday, 8:00 a.m. to 7:00 p.m., Eastern Time; or, 3) visiting any local Department of Revenue Service Center Distribution Center at (850)488-8422; or, 4) writing the Florida Department of Revenue, Distribution Center, 168A Blountstown Highway, Tallahassee, Florida 32304; or, 5) visiting any local Department of Revenue Service Center to personally obtain a copy.~~ Persons with hearing or speech impairments may call the Department's TDD at (800)367-8331 or (850)922-1115.

Form

| Number | Title | Effective Date |
|--------|-------|----------------|
|--------|-------|----------------|

(2) No change.

| | | |
|---------------|---|----------------------|
| (3) F-851 | Corporate Income/Franchise and Emergency Excise Tax Affiliations Schedule (R. 01/09 01/08) | ___ 01/08 |
| (4)(a) F-1065 | Florida Partnership Information Return (R. 01/09 01/08) | ___ 01/08 |
| (b) F-1065N | Instructions for Preparing Form F-1065 Florida Partnership Information Return (R. 01/09 01/08) | ___ 01/08 |
| (5) F-1120A | Florida Corporate Short Form Income Tax Return (R. 01/09 01/08) | ___ 01/08 |
| (6)(a) F-1120 | Florida Corporate Income/ Franchise and Emergency Excise Tax Return (R. 01/09 01/08) | ___ 01/08 |
| (b) F-1120N | F-1120 Instructions – Corporate Income/Franchise and Emergency Excise Tax Return for taxable years beginning on or after January 1, 2008 2007 (R. 01/09 01/08) | ___ 01/08 |
| (7) F-1120ES | Declaration/Installment of Florida Estimated Income/Franchise and Emergency Excise Tax For | |

| | | |
|-------------------------------|---|----------------------|
| | Taxable Year Beginning on or after January 1, 2009 2008 (R. 01/09 01/08) | ___ 01/08 |
| (8)(a) F-1120X | Amended Florida Corporate Income/Franchise and Emergency Excise Tax Return (R. 01/09 01/08) | ___ 01/08 |
| (b) F-1120XN | Instructions for Preparing Form F-1120X Amended Florida Corporate Income/Franchise and Emergency Excise Tax Return (R. 01/09 01/08) | ___ 01/08 |
| (9) F-1122 | Authorization and Consent of Subsidiary Corporation to be Included in a Consolidated Income and Emergency Excise Tax Return (R. 01/09 01/04) | ___ 08/02 |
| (10)(a) F-1156Z | Florida Enterprise Zone Jobs Credit Certificate of Eligibility for Corporate Income Tax (R. 01/09 07/06) | ___ 04/07 |
| (b) F-1156ZN | Instructions for Completing Form F-1156Z Florida Enterprise Zone Jobs Credit Certificate of Eligibility for Corporate Income Tax (R. 01/09 07/06) | ___ 04/07 |
| (11)(a) F-1158Z | Enterprise Zone Property Tax Credit (R. 01/09 01/08) | ___ 04/07 |
| (b) F-1158ZN | Instructions for Form F-1158Z Enterprise Zone Property Tax Credit (R. 01/09 01/08) | ___ 04/07 |
| (12)(a) F-1159 | Application for Child Care Tax Credits (R. 01/03) | 06/03 |
| (b) F-1159N | Instructions for Filing F-1159 (R.01/03) | 06/03 |
| (12)(43)(a) F-1160 | Application for Corporate Income Tax Credit for Contributions to Nonprofit Scholarship Funding Organizations (SFOs) (R. 07/08 10/06) | ___ 04/07 |
| (b) F-1161 | Application for Rescindment of Corporate Income Tax Credit for Contributions to Nonprofit Scholarship Funding Organization (SFO) (R. 07/08 07/06) | ___ 04/07 |
| (13)(44) F-2220 | Underpayment of Estimated Tax on Florida Corporate Income/Franchise and Emergency Excise Tax (R. 01/09 07/06) | ___ 06/05 |
| (14)(45) F-7004 | Florida Tentative Income/Franchise and Emergency Excise Tax Return and Application for Extension of Time to File Return (R. 01/09 01/08) | ___ 01/08 |

Specific Authority 213.06(1), 220.51 FS. Law Implemented 220.11, 220.12, 220.13(1), (2), 220.14, 220.15, 220.16, 220.181, 220.182, 220.183, 220.184, 220.1845, 220.185, 220.186, 220.187, 220.1895, 220.19, 220.191, 220.21, 220.211, 220.22, 220.221, 220.222, 220.23, 220.24, 220.241, 220.31, 220.32, 220.33, 220.34, 220.41, 220.42, 220.43, 220.44, 220.51, 220.721, 220.723, 220.725, 220.737,

220.801, 220.803, 220.805, 220.807, 220.809, 221.04 FS. History–New 9-26-77, Amended 12-18-83, Formerly 12C-1.51, Amended 12-21-88, 12-31-89, 1-31-91, 4-8-92, 12-7-92, 1-3-96, 3-18-96, 3-13-00, 6-19-01, 8-1-02, 6-19-03, 3-15-04, 9-24-04, 6-28-05, 5-1-06, 4-5-07, 1-1-08,_____.

NAME OF PERSON ORIGINATING PROPOSED RULE: Kim Hancock, Operations Analyst, Technical Assistance and Dispute Resolution, Department of Revenue, P. O. Box 7443, Tallahassee, Florida 32314-7443, telephone (850)922-4726

NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: Governor Charlie Crist and members of the Florida Cabinet, Attorney General Bill McCollum, Chief Financial Officer Alex Sink, and Agriculture Commissioner Charles H. Bronson, as agency head of the Department of Revenue

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: September 30, 2008

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: July 18, 2008 (Vol. 34, No. 29, p. 3667)

DEPARTMENT OF REVENUE

Corporate, Estate and Intangible Tax

RULE NO.: RULE TITLE:

12C-2.0115 Public Use Forms

PURPOSE AND EFFECT: The purpose of the proposed amendments to Rule 12C-2.0115, F.A.C. (Public Use Forms), is to adopt, by reference, changes to the forms used by the Department in the administration of the tax on government leasehold estates.

SUMMARY: The proposed amendments to Rule 12C-2.0115, F.A.C. (Public Use Forms), adopt, by reference, updates to the tax rates for 2009 on the forms used by the Department in the administration of the tax on government leasehold estates.

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: 199.202(2), 213.06(1) FS.

LAW IMPLEMENTED: 196.199(2), 199.135, 199.232, 199.292 FS.

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

DATE AND TIME: November 5, 2008, 10:00 a.m.

PLACE: Room 118, Carlton Building, 501 South 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 RULE IS: Kim Hancock, Operations Analyst, Technical Assistance and Dispute Resolution, Department of Revenue, P. O. Box 7443, Tallahassee, Florida 32314-7443, telephone (850)922-4726

THE FULL TEXT OF THE PROPOSED RULE IS:

12C-2.0115 Public Use Forms.

(1)(a) The following public use forms and instructions are employed by the Department in its dealings with the public related to administration of the intangible tax. These forms are hereby incorporated and made a part of this rule by reference.

(b) No change.

| Form Number | Title | Effective Date |
|-------------|--|----------------|
| (2) DR-601G | Government Leasehold Intangible Personal Property Tax Return for 2009 <u>2008</u> Tax Year (R. 01/09 <u>01/08</u>) | <u>01/08</u> |
| (3) DR-602G | Governmental Leasehold Intangible Personal Property Tax Application for Extension of Time to File Return (R. 01/09 <u>01/07</u>) | <u>01/08</u> |

(4) through (5) No change.

Specific Authority 199.202(2), 213.06(1) FS. Law Implemented 196.199(2), 199.135, 199.232, 199.292 FS. History–New 11-21-91, Amended 1-5-94, 10-9-01, 5-4-03, 9-28-04, 6-28-05, 10-30-06, 1-28-08,_____.

NAME OF PERSON ORIGINATING PROPOSED RULE: Kim Hancock, Operations Analyst, Technical Assistance and Dispute Resolution, Department of Revenue, P. O. Box 7443, Tallahassee, Florida 32314-7443, telephone (850)922-4726

NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: Governor Charlie Crist and members of the Florida Cabinet, Attorney General Bill McCollum, Chief Financial Officer Alex Sink, and Agriculture Commissioner Charles H. Bronson, as agency head of the Department of Revenue

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: September 30, 2008

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: July 18, 2008 (Vol. 34, No. 29, pp. 3667-3668)

DEPARTMENT OF HIGHWAY SAFETY AND MOTOR VEHICLES

Division of Driver Licenses

| RULE NOS.: | RULE TITLES: |
|------------|---|
| 15A-7.001 | Definitions |
| 15A-7.002 | Purpose |
| 15A-7.0025 | Application |
| 15A-7.003 | CDL Endorsements |
| 15A-7.004 | CDL Restrictions |
| 15A-7.005 | Temporary CDL Instruction Permit |
| 15A-7.006 | Application; Operation in Interstate or Foreign Commerce; Certification Required; Medical Required; Exceptions |
| 15A-7.007 | Application; Intrastate Operation; Certification; Exceptions |
| 15A-7.008 | Combination Vehicle Testing and Licensing |
| 15A-7.009 | Issuance of Commercial Driver’s License; Department; Duties |
| 15A-7.010 | Issuance of License; Department Notify Commercial Driver’s License Information System |
| 15A-7.011 | Administration of Commercial Driver’s License Knowledge Tests |
| 15A-7.012 | Commercial Driver’s License Skills Tests |
| 15A-7.013 | Appropriate Motor Vehicle |
| 15A-7.014 | Commercial Driver’s License Document; Requirements; Class; Security Features |
| 15A-7.015 | Commercial Driver’s License for Hardship Purposes Only |
| 15A-7.016 | Persons Exempt from Requirements of Commercial Driver’s License Program; Noncommercial Driver’s License Endorsement |
| 15A-7.017 | Hazmat Endorsement Threat Assessment Program |
| 15A-7.018 | Military Qualifications for Waiver of Commercial Driver License Skills Test |
| 15A-7.019 | Third Party Testing Program |

PURPOSE AND EFFECT: Is to amend the current rule to create and/or clarify certain definitions, and to reflect the previous revisions to Florida Statutes 316, 320 and 322 and related Federal rules. Revisions include the definition of a commercial driver license skills test, truck tractor, and semitrailer. The definition of a tank vehicle has been modified in addition to adding a new endorsement for school buses. Information on how to remove the airbrake restriction has been added and the Bus Only (CMV) and CMV < 26,000 lbs GVWR have been deleted. New restrictions have been added: Restriction 6, No Class A passenger vehicles, Restriction 7, No

Class B passenger vehicles, Restriction 8, Automatic transmission-CMV. The requirements for a CDL temporary permit have been revised to ensure clarity. The CDL skills test definition has been expanded to include all 3-parts. The issuance procedures for CDLs have been updated plus the number of CDL tests an applicant may attempt, per day, has been noted. Information on the appropriate class of motor vehicle, to test for a CDL, has been expanded, and all references to a Class D license have been removed. Information on the Hazardous Materials Threat Assessment Program, Military Commercial Driver License qualifications and regulations regarding the Third Party Tester Program have been added.

SUMMARY: Amend the current rule to create and/or clarify certain definitions, and to reflect the previous revisions to Florida Statutes 316, 320 and 322 and related Federal rules. Deletes languages/policies that are no longer applicable to the CDL & Third Party Testing Program.

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: 322.02(6), 322.53(5) FS.

LAW IMPLEMENTED: 316.302(2)(i), 316.003(71), 322.01(17), (18), (32), (24), 322.05(4), (5), (6), (8), 322.07(3), 322.08(4), 322.12(4), 322.14(1)(b), 322.16, 322.18(2)(e), 322.21(1)(e), (f), 322.51-322.66, 322.53(2), (4), 322.54(2)(c), 322.56, 322.57(2), 322.59, 322.65, 322.121(7), (8), 322.271 FS.

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

DATE AND TIME: November 3, 2008, 2:00 p.m.

PLACE: Department of Highway Safety and Motor Vehicles, 2900 Apalachee Parkway, Room Number A436, Tallahassee, Florida 32399

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULES IS: Skip Hood, Coordinator, CDL and Third Party Testing, Division of Driver Licenses, Department of Highway Safety and Motor Vehicles, 2900 Apalachee Parkway, Room C410, Tallahassee, Florida 32399-0500, (850)617-2770

THE FULL TEXT OF THE PROPOSED RULES IS:

15A-7.001 Definitions.

For the purpose of this chapter, the following words, acronyms, and phrases shall have the meanings indicated:

(1) "Alternative Test" means a knowledge test that is given orally by an individual or in which a computer-assisted or taped recorded oral test is presented to the applicant.

(2) "CDL" means commercial driver's license.

(3) "Commercial Driver's License" means a license issued to an individual in accordance with the requirement of Chapter 322, F.S., or by another state, pursuant to the Federal Commercial Motor Vehicle Safety Act of 1986 which authorizes that individual to drive a class of commercial motor vehicles if the holder also has any necessary endorsements to the license.

(4) "Department" means the Department of Highway Safety and Motor Vehicles, Division of Driver Licenses, Tallahassee, Florida 32399-0560.

(5) "GCWR" means gross combination weight rating.

(6) "GVWR" means gross vehicle weight rating.

(7) "Placard" means a sign that is required on the front, rear and both sides of a vehicle that is transporting hazardous materials. The placards show the hazard class of the cargo being transported.

(8) "Skills Test" means the 3-part driving test consisting of the pretrip inspection, basic control and road test as described in the American Association of Motor Vehicle Administrators (AAMVA) 2005 CDL Testing Model, which is hereby adopted by reference a driving test given to assess an applicant's ability to drive all motor vehicles of a specified class.

(9) "Tow Truck Configuration" means a tow truck with another vehicle in tow, where the gross combined weight rating of the combination is 26,000 pounds or more and the vehicle in tow exceeds 10,000 pounds gross vehicle weight rating.

(10) "Truck Tractor" means a motor vehicle which has four or more wheels and is designed and equipped with a fifth wheel for the primary purpose of drawing a semitrailer that is attached or coupled thereto by means of such fifth wheel and which has no provisions for carrying loads independently any motor vehicle designed and used primarily for pulling other vehicles.

(11) "Semitrailer" means any vehicle without motive power designed to be coupled to or drawn by a motor vehicle and constructed so that some part of its weight and that of its load rests upon or is carried by another vehicle.

Specific Authority 322.02(6)(3) FS. Law Implemented 322.01, 322.51-322.66 FS. History-New 4-7-91, Amended _____.

15A-7.002 Purpose.

The purpose of these rules is to establish uniform procedures for the orderly administration of commercial driver's license skills and knowledge tests.

Specific Authority 322.02(6)(3) FS. Law Implemented 322.51-322.66 FS. History-New 4-7-91, Repromulgated _____.

15A-7.0025 Application.

These rules are applicable to all applicants for a Florida commercial driver's license.

Specific Authority 322.02(6)(3) FS. Law Implemented 322.08, 322.51-322.66 322.53, 322.54 FS. History-New 4-7-91, Repromulgated _____.

15A-7.003 CDL Endorsements.

(1) The endorsements to a commercial driver's license shall be as follows:

(a) T – Double/Triple trailers. Any combination of a truck tractor, semitrailer, and trailer coupled together so as to operate a complete unit, except, triple trailers are not permitted in Florida;

(b) P – Passengers. Passenger vehicle means a motor vehicle designed to transport more than 15 persons, including the driver, or a school bus designed to transport more than 15 persons, including the driver. For vehicles designed to transport more than 15 persons, including the driver, or a school bus designed to transport more than 11 persons, including the driver;

(c) N – Tank Vehicle. Means a commercial motor vehicle with a permanent or temporary attached tank designed to transport liquid or gaseous materials and with a rated capacity of one thousand gallons or more. Tank vehicles, permanently or temporarily attached to the vehicle, shall not include a vehicle with a tank having a rated capacity under 1,000 gallons or tank vehicles that transport materials other than liquid or gaseous material;

(d) H – Hazardous materials. Hazardous material that is required to be placarded in accordance with Title 49 Code of Federal Regulations Part 172, Subpart F;

(e) X – Combination tank vehicles and placarded hazardous materials;

(f) S – School Bus. Means a motor vehicle that is designed to transport more than 15 persons, including the driver, and that is used to transport students to and from a public or private school or in connection with school activities, but does not include a bus operated by a common carrier in the urban transportation of school children. The term "school" includes all preelementary, elementary, secondary, and postsecondary schools. To obtain a school bus endorsement the applicant must pass the school bus endorsement knowledge exam, in addition to other CDL knowledge exams applicable to passenger vehicles, and complete the 3-part skills test in a school bus equivalent to the classification of license that will be issued.

(2) If a driver's towing operations are restricted to emergency "first moves" from the site of a malfunction or traffic crash to the nearest appropriate repair facility, then no CDL endorsement of any kind is required.

(3) If a driver's towing operations include any "subsequent moves" from one repair or disposal facility to another, then endorsements requisite to the vehicles being towed are required. Exception: Tow truck operators need not obtain a passenger endorsement.

(4) No person shall operate upon the highways of this state any commercial motor vehicle which requires a specific endorsement unless such person possesses a valid commercial driver's license with such endorsement.

Specific Authority 322.02(6)(3) FS. Law Implemented ~~234.091, 316.003(71), 316.1936(5)(a),(b), 322.01(17), 322.14(1)(b), 322.121(7)(8)(6), 322.21(1)(e), 322.54(2)(a), (b), (c), (d), (e), 322.55(4), 322.57(1)(e), (f), 322.57(2), 322.57(3)(a) FS., 49 CFR, 383.93153(a)(9) History-New 4-7-91, Amended _____.~~

15A-7.004 CDL Restrictions.

(1) Special restrictions imposed on a commercial driver's license shall be as follows:

(a) "Vehicles Without Air Brakes", means no operation of a commercial motor vehicle, which is equipped with air brakes. To remove an airbrake restriction the driver must, at a minimum, successfully complete the airbrake knowledge test, successfully complete the pretrip inspection portion of the standard CDL skills test in an airbrake equipped commercial motor vehicle and demonstrate the ability to safely and effectively operate the vehicle's air brakes by stopping the vehicle so that the front bumper is within two feet of a designated point on the skills testing area.

(b) "CDL Intrastate Only", means a commercial motor vehicle can be operated only in the State of Florida;

(c) "~~Bus Only (CMV)", means the operation of a commercial motor vehicle bus only.~~"

(d) "~~CMV < 26,000 lbs GVWR", means no operation of a commercial motor vehicle with a gross vehicle weight rating, declared weight or actual weight of 26,000 pounds or more;~~"

(e) "No Tractor/Trailers", means no operation of a commercial motor vehicle which is a tractor/semitrailer combination as defined in Sections 320.01(5) and 320.01(11), F.S. To remove the "no tractor/trailers" restriction from a Class A CDL the driver must, at a minimum, pass the pretrip inspection, basic control and road test in a tractor/semitrailer combination.

(f) "No Class A passenger vehicle", means no operation of a commercial motor vehicle classified as a Class A passenger vehicle.

(g) "No Class B passenger vehicle", means no operation of a commercial motor vehicle classified as a Class A or B passenger vehicle.

(h) "Automatic transmission-CMV" means no operation of a commercial motor vehicle that is not equipped with an automatic transmission.

(2) No person possessing a restricted commercial driver's license shall operate upon the highways of this state any commercial motor vehicle to which such restriction is applicable.

Specific Authority 322.02(6)(3) FS. Law Implemented ~~322.16(1)(a), (b), 322.54(2)(c), 322.57(2) FS. History-New 4-7-91, Amended _____.~~

15A-7.005 Temporary CDL Instructional Permit.

(1) If otherwise qualified an individual 18 years of age or older who holds a valid driver's license may be issued a commercial driver's instruction permit. Instructional permits are valid for six months. One six-month extension is permitted. The commercial driver's instruction permit may not be issued for a period to exceed six months and is nonrenewable.

(2) An individual who holds a commercial driver instruction permit may, unless otherwise disqualified, drive a commercial motor vehicle only while accompanied by a driver 21 years of age or older who is holding a CDL valid for the type of vehicle being driven and who is occupying the closest seat to the right of the driver, the holder of a commercial driver's license valid for the type of vehicle driven who is actually occupying the closest seat to the right of the individual for the purpose of giving instructions in driving the commercial motor vehicle.

Specific Authority 322.02(6)(3) FS. Law Implemented 322.01(32), 322.05(4), 322.07(3)(2), ~~322.17 FS., 49 CFR 383.23. History-New 4-7-91, Amended _____.~~

15A-7.006 Application; Operation in Interstate or Foreign Commerce; Certification Required; Medical Required; Exceptions.

(1) Upon making application for a CDL, any applicant who operates or expects to operate a commercial motor vehicle in interstate or foreign commerce or any applicant otherwise subject to 49 Code of Federal Regulations Part 391 of the Federal Motor Carrier Safety Regulations, pursuant to Sections 322.08(4) and 322.59, F.S., shall certify that he or she meets the qualification requirements of Part 391.

(2) Upon application for a driver's license, applicants who are subject to 49 Code of Federal Regulations Part 391 of the Federal Motor Carrier Safety Regulations, will present to the department a valid medical examiner's certificate ~~required by Title 49 C.F.R. Part 391~~ issued not more than 2 years immediately preceding licensure.

Specific Authority 322.02(6)(3) FS. Law Implemented 322.01(24), 322.07(3)(a), 322.08(4), 322.59 FS., 49 CFR 391. History-New 4-7-91, Amended _____.

15A-7.007 Application; Intrastate Operation; Certification; Exceptions.

(1) Upon making application for a CDL, any applicant ~~who operates or expects to operate a commercial motor vehicle solely within this state shall certify on a form provided by the~~

department that he or she is not subject to Title 49 Code Federal Regulation Part 391, pursuant to Sections 322.08(4) and 322.59, F.S. shall certify such exemption to the Department. Any applicant making a certification pursuant to this section is not required to present to the department a medical examiners certificate prior to licensure.

(2) Drivers of commercial motor vehicles driving interstate or intrastate, transporting hazardous materials that are required to be placarded in accordance with Title 49 Code of Federal Regulations Part 172, Subpart F must present to the department a valid medical examiner's certificate required by Title 49 C.F.R. Part 391, issued not more than two (2) years immediately preceding licensure.

(3) Commercial driver license applicants who operate or expect to operate a commercial motor vehicle solely in intrastate commerce must meet the minimum visual standards in Rule 15A-1.013, F.A.C., and comply with the provisions of Section 316.302(2)(~~4~~), F.S., before licensing and will have an intrastate restriction applied to the license.

(4) Driver applicants who are deaf will not be issued a commercial driver's license.

Specific Authority 322.02(~~6~~)(~~3~~) FS. Law Implemented 316.302(2)(~~1~~)(~~4~~), 322.05(5), (6), (8), 322.08(4), 322.12(~~3~~), (4), 322.16, 322.59 FS., 49 CFR 391. History–New 4-7-91, Amended _____.

15A-7.008 Combination Vehicle ~~Tow Truck~~ Testing and Licensing.

(1) For an unrestricted Class "A" license, the driver must pass applicant will take the combination vehicle knowledge exam, in addition to other applicable CDL knowledge exams, and the pretrip inspection, basic control and road test and skills tests in a truck- tractor/semitrailer combination commercial vehicle as defined by Rule 15A-7.001, F.A.C.

(2) For a ~~restricted~~ Class "A" license restricted to "No Tractor-Trailers" with tow truck privileges, the driver must pass applicant will take the combination knowledge exam, in addition to other applicable CDL knowledge exams, and the pretrip, basic control and road test and skills tests in a vehicle that is not a truck-tractor/semitrailer combination as defined by Rule 15A-7.001, F.A.C., but otherwise represents vehicles requiring a class A CDL, including tow truck configurations as defined in subsection 15A-7.001(9), F.A.C., ~~tow truck configuration.~~ License will be restricted to "No Tractor-Trailers". ~~The applicant will pretrip the tow truck and explain how the hitch is checked for safety rather than check those portions of the pretrip which pertains to tractor trailers (i.e., air hoses, fifth wheel landing gear). To remove the "No Tractor-Trailer" restriction, the driver will take a pretrip inspection and a skills test in a tractor-trailer vehicle. See chart below for diverse combinations.~~

| Combination | Vehicle in-Tow | GCWR | Class LIC. REQ | Restrictions (If needed) |
|-------------|------------------|-----------------|----------------|--------------------------|
| Tow Truck | GVWR | | 04-01-91 | |
| GVWR | GVWR | | | |
| a. <26,000# | 10,000 # or less | <26,000# | "D"*** | |
| b. <26,000# | >10,000# | <26,000# | "D"*** | |
| c. <26,000# | 10,000 # or less | 26,000# or more | "C" | |
| d. <26,000# | >10,000# | 26,000# or more | "A" | No Tr. Tr's** |
| e. >26,000# | <10,000# | 26,000# or more | "B" | |
| f. >26,000# | >10,000# | 26,000# or more | "A" | No Tr. Tr's** |

***Noncommercial Licenses
**No Tractor-Trailers

Specific Authority 322.02(~~6~~)(~~3~~) FS. Law Implemented 322.12(4), 322.57 FS. History–New 4-7-91, Amended _____.

15A-7.009 Issuance of Commercial Driver's License; Department; Duties.

(1) Check the driving record of the applicant as maintained by the department; and

(2) Electronically check ~~Contact~~ the Commercial Driver License Information System (CDLIS) to determine whether the applicant possesses a valid commercial driver's license issued by any other state, and whether such license or the applicant's privilege to operate commercial motor vehicle has been disqualified.

(3) Electronically check ~~Contact~~ the National Driver Register (NDR) to determine if the applicant has any open driver license suspensions, revocations or cancellations.

Specific Authority 322.02(~~6~~)(~~3~~) FS. Law Implemented 322.17, 322.65 FS. History–New 4-7-91, Amended _____.

15A-7.010 Issuance of License; Department Notify Commercial Driver's License Information System.

Prior to the issuance of an original or renewal commercial driver's license or the reissuance of a commercial driver's license with a change of any classification, endorsement, restriction, or name change, the department shall electronically check notify the Commercial Driver License Information System (CDLIS) ~~of the issuance and shall provide the applicant's name, social security number and any other required information to the operator of the system.~~

Specific Authority 322.02(~~6~~)(~~3~~) FS. Law Implemented 322.17, 322.65 FS. History–New 4-7-91, Amended _____.

15A-7.011 Administration of Commercial Driver's License Knowledge Tests.

(1) The department may offer knowledge tests in written, computer-assisted, or alternative formats.

(2) ~~The department may offer the commercial driver's license general knowledge bus test to applicants who operate commercial buses or school buses only. Applicants choosing to take the general knowledge bus test, as opposed to the regular general knowledge test, shall have their commercial driver's license restricted to buses only for the class of license for which the applicant is applying.~~

(3) Applicants must obtain a minimum score of 80 percent to pass a commercial driver's license knowledge test.

(4) ~~A time limit may not be applied to;~~

(a) ~~Alternative testing methods;~~

(b) ~~Commercial driver's license general knowledge tests, except, any testing started shall be stopped at the station's regularly scheduled closing time.~~

(5) Applicants who fail to pass the commercial driver's license knowledge test will be permitted to review the questions they missed.

(6) Applicants are limited to two attempts per day on each type of knowledge exam. There is no limit on the number of times a knowledge test may be taken by an applicant.

Specific Authority 322.02(6)(3) FS. Law Implemented 322.12(4), 322.57 FS., 49 CFR 383.121, 49 CFR 391.11(b)(2). History–New 4-7-91, Amended.

15A-7.012 Commercial Driver's License Skills Tests.

(1) The commercial driver's license skills test is a three-part test established by the department to certify the driving skills necessary for operation of a commercial motor vehicle. The test consists of:

- (a) Pretrip inspection; and
 - (b) Basic vehicle control skills test; and
 - (c) Road test ~~Safe driving skills test.~~
- (2) No change.

(3) A driver applicant is required to take the pretrip inspection, before any other part of the test is taken. An applicant must pass the basic control test before the road test. The following are exempt from this requirement: pass the commercial driver's license skills test in the order specified in subsection (1), except:

(a) ~~An applicant who qualifies for a waiver of skills tests as defined in Section 322.55, F.S.; or~~

(a)(b) An applicant for a class "C" commercial driver's license that will not be endorsed for school bus operation and that will be restricted to vehicles not equipped with air brakes will not be required to pass the pretrip inspection or the basic control skills test.

(b) An applicant for a class "C" commercial driver's license that will not have an air brake restriction must pass, at a minimum, the tests specified in subsection 15A-7.004(1), F.A.C., for removing CDL air brake restrictions in addition to the CDL road test specified in paragraph 15A-7.012(1)(c), F.A.C.

(4) A skills test applicant shall provide an appropriate vehicle for the skills test.

(a) The vehicle used for the skills test must be unloaded, except tow trucks may have a vehicle in tow and the towed vehicle must be unloaded.

(b) The vehicle used for the skills test must have a valid registration and proof of insurance, unless exempt from providing proof under current law.

(c) The vehicle cannot be laden with placarded hazardous materials.

(d) Motor vehicles provided must have a stationary seat to the right of the driver for use by the examiner who administers the test.

(5) An appointment is required for the CDL skills test.

(6) To achieve a passing score on the skills test, the driver applicant must demonstrate that he/she can successfully perform all of the skills listed in Title 49 Code of Federal Regulations 383.113.

(7) If the driver applicant does not obey traffic laws, commits a dangerous act, or causes a traffic crash during the test, he or she shall automatically fail the test. ~~Once any part of the test is failed, scoring of the test will end immediately.~~

(8) The required tests in this rule shall be conducted in on-street conditions or under a combination of on-street and off-street conditions.

Specific Authority 322.02(6)(3) FS. Law Implemented 322.12(4), 322.57 FS., 49 CFR 383.113. History–New 4-7-91, Amended.

15A-7.013 Appropriate Motor Vehicle.

(1) Each applicant for a commercial driver's license shall provide a motor vehicle of a type appropriate to test the applicant's ability to drive motor vehicles that may be driven under the type and class of license for which the applicant will be skills tested.

(2) Class A Commercial Driver's License Skills Test.

(a) For the a Class A commercial driver's license three-part skills test, the applicant shall provide a tractor-trailer combination of vehicles with a GCWR of 26,001 ~~26000~~ or more pounds, provided the GVWR of the trailer being towed is in excess of 10,000 pounds GVWR.

(b) If the applicant provides a combination of vehicles other than tractor-trailer combinations the department shall restrict the applicant to combinations of vehicles other than tractor-trailers.

(c) If the motor vehicle is not a passenger transport combination vehicle (bus) designed to transport 16 or more passengers, including the driver, ~~or a school bus designed to transport 11 or more passengers, including the driver,~~ the department may not endorse the applicant's license for a passenger transport vehicle in that class of vehicle.

(3) Class B Commercial Driver's License Skills Test.

(a) The applicant shall provide any single motor vehicle with GVWR of 26,001 ~~26000~~ or more pounds, or any such vehicle towing a vehicle not in excess of 10,000 pounds GVWR.

(b) If the motor vehicle is not a passenger transport single unit vehicle (bus) designed to transport 16 or more passengers, including the driver ~~or a school bus designed to transport 11 or more passengers, including the driver,~~ the department may not endorse the applicant's license for a passenger endorsement vehicle in that class of vehicle. Note: Federal regulations

require all drivers operating a school bus be licensed with a Commercial Driver License having both the passenger endorsement and school bus endorsement.

(4) Class C Commercial Driver's License Skills Test. The department may permit an appropriate noncommercial motor vehicle to be used in the skills testing of an applicant for a commercial driver's license in this class.

(5) Vehicles used for skills testing to obtain a school bus endorsement must be identified as a School Bus on the federal certification plate and be equipped, at a minimum, with a stop arm, emergency exit, front and rear red flashing loading lights, front corner mounted student mirror, right and left exterior rear view mirrors, interior student mirror, and emergency flares or triangle reflectors.

(6) If the vehicle used for testing is equipped with an automatic transmission, the applicant will have an automatic transmission restriction applied to the license.

Specific Authority 322.02(6)(3) FS. Law Implemented 322.12(4); 322.57 FS. History—New 4-7-91, Amended _____.

15A-7.014 Commercial Driver's License Document; Requirements; Class; Security Features.

A commercial driver's license issued by the department shall comply with all of the following:

(1) Requirements set forth in Sections 322.14 and 322.08, F.S.

(2) Upon request of the person to whom the license is issued, a license shall indicate the fact that the person is an anatomical donor.

(3) A commercial driver's license shall indicate the class of license issued, and the acronym "CDL" shall appear on the face of the license.

(4) The department shall use such security procedures, processes and materials in the preparation, manufacture and issuance of any commercial driver's license that prohibits as nearly as possible anyone's ability to alter, counterfeit, duplicate or modify the license without ready detection. The security features used in the production of the licenses shall provide for the rapid authentication of a genuine document.

Specific Authority 322.02(6)(3) FS. Law Implemented 322.08, 322.14 FS. History—New 4-7-91, Repromulgated _____.

15A-7.015 Commercial Driver's License for Hardship Purposes Only.

The department will not issue a hardship commercial driver's license authorizing a person to drive a commercial motor vehicle if the person's commercial driver's license is disqualified, suspended, revoked, or canceled.

Specific Authority 322.02(6)(3) FS. Law Implemented 322.271 FS. History—New 4-7-91, Amended _____.

15A-7.016 Persons Exempt from Requirements of Commercial Driver's License Program; Noncommercial Driver's License Endorsement.

(1) The following persons are exempt from the requirement to obtain a commercial driver's license:

(a) Legitimate farm to market operations by farmers and to those operators of a farm vehicle which is:

1. Controlled and operated by a farmer;

2. Used to transport either agricultural, horticultural or forestry products, farm machinery, farm supplies or both to or from farm or harvest place to the first place of processing or storage or from farm or harvest place directly to market;

3. Not used in the operations of a common or contract motor carrier; and

4. Used within 150 miles of the person's farm.

(b) Military personnel driving military vehicles. This exemption applies to any active duty military personnel, and members of the reserves and national guard on active duty including personnel on full time national guard duty, personnel on part-time training and national guard military technicians (civilians who are required to wear military uniforms and are subject to the code of military justice);

(c) Drivers of authorized emergency vehicles as defined in Section 322.01(4), F.S. This exemption applies to drivers who operate emergency or fire equipment which is necessary for the preservation of life or property or the execution of emergency governmental functions performed under emergency conditions and are not subject to normal traffic regulations. These vehicles are equipped with audible and visual signals and are operated by a person in the employ of a volunteer or paid fire organization. Emergency equipment such as a fire truck, hook and ladder truck, foam or water transporter or other vehicles used only in response to emergencies are included;

(d) Drivers of recreational vehicles, as defined in Section 320.01, Florida Statutes. This exemption applies to drivers of recreational vehicles operated solely as a family/personal conveyance for recreational purposes;

(e) Drivers of straight trucks that are exclusively transporting their own tangible personal property which is not for sale.

(2) "Operated by a farmer" in subsection (1) above can include employees or family members of the farmer, as long as the vehicle is controlled by the farmer and conditions 2. through 4. are met, but not employees whose primary purpose of employment is the operation of motor vehicles.

~~(3) A person operating a farm commercial motor vehicle is required to have a valid class D driver's license which contains the endorsement "F = Farm Commercial Motor Vehicle." The "F" endorsement is to be issued without additional charge.~~

~~(4) A person operating an authorized emergency commercial motor vehicle is required to have a valid class D driver's license which contains the endorsement "E" = Emergency Commercial Motor Vehicle." The "E" endorsement is to be issued without additional charge.~~

~~Specific Authority 322.02(6)(3), 322.53(5) FS. Law Implemented 322.01(18), 322.53(2), (4) FS. History--New 4-7-91, Amended _____.~~

15A-7.017 Hazmat Endorsement Threat Assessment Program.

(1) All applicants for a CDL hazardous materials (Hazmat) endorsements are required to undergo fingerprint-based background checks in accordance with the USA Patriot Act and federal regulations of the Transportation Security Administration, 49 CFR, Part 1572. Department policy and procedures for processing Hazmat applicants procedures conform to 49 CFR Part 1572 in all respects.

(2) Hazmat endorsements and the associated background check results obtained in other states are not transferable to Florida CDLs. All Hazmat applicants including applicants reciprocating an out of state Hazmat-endorsed CDL are required to pass a new Hazmat knowledge exam and a new background check. Applicants presenting Hazmat endorsed CDLs from other states in conjunction with application for a Florida CDL will receive a 90-day temporary Hazmat endorsement pending completion of this process. Florida CDLs issued to these applicants will display "Hazmat until (date of issuance + 90 days)".

(3) Hazardous materials knowledge test results older than 60 days prior to the date of application may not be used to meet the testing requirement for issuance of a Hazmat endorsement.

(4) In accordance with Section 322.18(2)(e), Florida Statutes, hazmat-endorsed CDLs are valid for a period of 4 years. Hazmat-endorsed CDLs may be renewed up to 12 months in advance of their expiration dates.

(5) In accordance with Section 322.21(1)(f), Florida Statutes, the application fee for a Hazmat endorsement is initially set at \$91. The Hazmat application fee may be adjusted within the statutory maximum of \$100 as may be needed to accommodate changes in fees charged to the Department for this process by the Florida Department of Law Enforcement, the Federal Bureau of Investigation and the Transportation Security Administration. This fee applies in addition to other applicable issuance and endorsement fees established by Section 322.21, Florida Statutes.

~~Specific Authority 322.02(6) FS. Law Implemented 322.18(2)(e), 322.21(1)(f) FS., 49 CFR Part 1572. History--New _____.~~

15A-7.018 Military Qualifications for Waiver of Commercial Driver License Skills Test.

In accordance with Federal Motor Carrier Safety Administration Regulation 49 CFR, Section 383.77, applicants seeking waiver of CDL skills testing due to military experience must:

(1) Pass all required written knowledge exams for the CDL class and endorsements they will be issued.

(2) Apply for the CDL qualification waiver while on active duty status or within 90 days of separation of service. The applicant must provide a military active duty identification card or DD-214 (military discharge papers). The skills test waiver process must be completed, and the CDL issued, within 120 days of separation from service.

(3) Certify that for at least 2 years immediately preceding the application, he or she operated a motor vehicle representative of the CDL class and endorsements for which he or she is applying.

(4) To waive the CDL skills test the applicant must present the Certification for Waiver of Skill Test for Military Personnel form, filled out in its entirety, and signed by his or her commanding officer or designee.

~~Specific Authority 322.02(6) FS. Law Implemented 322.12 FS., 49 CFR Part 383.77. History--New _____.~~

15A-7.019 Third Party Testing Program.

(1) Commercial Driver License Third Party Administrators and Third Party Testers may be authorized by the Department to conduct driver license tests in accordance with Section 322.56, Florida Statutes.

(2) Commercial Driver License Third Party Administrators and Third Party Testers shall comply with all rules established in this chapter except those that by their nature cannot apply.

(3) Commercial Driver License Third Party Administrators and Third Party Testers shall comply with contractual agreements, instructional manuals, approved testing locations and routes, and similar written documents establishing policies, procedures, and recordkeeping requirements to maintain the integrity of the testing program.

(4) Electronic and written records created by Commercial Driver License Third Party Administrators and Third Party Testers are public records of the State of Florida, and are subject to applicable laws and penalties regarding falsification of such records. Acts that constitute falsification of third party testing records include, but are not limited to:

(a) Entry of information on CDL test score sheets (form HSMV 7183) that falsifies the parts of a test performed, the type of vehicle used, the test applicant's (driver's) performance, the time of a test or any of its parts, the identity of the applicant, or the identity of the person conducting the test;

(b) Entry of information in the Department’s electronic test records that falsifies the parts of a test performed, the type of vehicle used, the test applicant’s (driver’s) performance, the time of a test or any of its parts, the identity of the applicant, or the identity of the person conducting the test. Use of the tester’s login name and password to create an electronic test record is deemed an electronic signature affirming that the test was personally conducted and the results were entered by that tester.

(c) Withholding or destruction of information that falsifies the true record of test activity, such as not recording a test given but failed by the applicant.

Specific Authority 322.02(6) FS. Law Implemented 322.56 FS., 49 CFR Part 383.75. History–New _____.

NAME OF PERSON ORIGINATING PROPOSED RULE:
Skip Hood, Coordinator, CDL and Third Party Testing,
Division of Driver Licenses, Department of Highway Safety
and Motor Vehicles

NAME OF AGENCY HEAD WHO APPROVED THE
PROPOSED RULE: Governor and Cabinet

DATE PROPOSED RULE APPROVED BY AGENCY
HEAD: September 30, 2008

DATE NOTICE OF PROPOSED RULE DEVELOPMENT
PUBLISHED IN FAW: August 15, 2008

**DEPARTMENT OF HIGHWAY SAFETY AND MOTOR
VEHICLES**

Division of Florida Highway Patrol

RULE NO.: RULE TITLE:

15B-2.013 Approved Speed Measuring Devices

PURPOSE AND EFFECT: An amendment to paragraphs 15B-2.013(5)(b), (d), Florida Administrative Code, is needed to add those laser devices approved since the last revision. Furthermore, since the last revision of the Chapter 15B-2, Florida Administrative Code, additional radar speed measuring devices have been approved for use in the State of Florida. Rule 15B-2.013, Florida Administrative Code, “Approved Speed Measuring Devices” will be amended to add those devices approved since the last revision. In addition, Rule 15B-2.013, Florida Administrative Code, “Approved Speed Measuring Devices” will be amended by changing the reference number or letter to each currently listed speed measuring device for ease of reference. Also, paragraph 15B-2.013(1)(g), Florida Administrative Code, will be amended to reflect CMI/MPH Industries, Inc., to be included as a corporate name for M.P.H. Industries Inc., or CMI/MPH. Lastly, paragraph 15B-2.013(5)(d), Florida Administrative Code, will be amended to reflect Laser Atlanta, LLC, to be included as a corporate name for Laser Atlanta Optics, Inc.

SUMMARY: An amendment to paragraphs 15B-2.013(5)(b), (d), Florida Administrative Code, is needed to add those laser devices approved since the last revision. Furthermore, Rule

15B-2.013, Florida Administrative Code, “Approved Speed Measuring Devices” will be amended to reflect those radar speed measuring devices approved since the last revision. In addition, Rule 15B-2.013, Florida Administrative Code, “Approved Speed Measuring Devices” will be amended by changing the reference number or letter to each currently listed speed measuring device for ease of reference. Also, paragraph 15B-2.013(1)(g), Florida Administrative Code, will be amended to reflect CMI/MPH Industries, Inc., to be included as a corporate name for M.P.H. Industries Inc., or CMI/MPH. Lastly, paragraph 15B-2.013(5)(d), Florida Administrative Code, will be amended to reflect Laser Atlanta, LLC, to be included as a corporate name for Laser Atlanta Optics, Inc.

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: 316.1905 FS.

LAW IMPLEMENTED: 316.1905, 316.1906 FS.

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

DATE AND TIME: November 3, 2008, 9:00 a.m.

PLACE: Department of Highway Safety and Motor Vehicles, 2900 Apalachee Parkway, Room A4.36, Tallahassee, Florida 32399

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Lieutenant Ronald W. Castleberry, Equipment, Compliance and Testing – Florida Highway Patrol, Department of Highway Safety and Motor Vehicles, 2900 Apalachee Parkway, Room #A315, Tallahassee, Florida 32399, (850)617-2939

THE FULL TEXT OF THE PROPOSED RULE IS:

15B-2.013 Approved Speed Measuring Devices.

The following speed measuring devices have been approved for use in this State by the Department pursuant to this rule Chapter.

(1) Radar units acquired for use in this State after August 1, 1982, are listed below. Additional radar units will be approved by the Department based on conformance to these rules. Evidence of approval of additional units shall be by a Certificate of Approval Form HSMV 60013 (Rev. 7/03), which is available by contacting the Florida Highway Patrol, Neil Kirkman Building, Tallahassee, Florida 32399-0500, or by disseminating the listing of additional units on the Florida Crime Information Center (FCIC) computer system, or by listing on the Division of Florida Highway Patrol website.

(a) Applied Concepts, Inc., formerly known as Applied Concepts Marketing –

1. Model STALKER;

~~2.(b) Applied Concepts, Inc., formerly known as Applied Concepts Marketing – Model STALKER DUAL;~~

~~3.(c) Applied Concepts, Inc., formerly known as Applied Concepts Marketing – Model STALKER DUAL SL;~~

~~4.(d) Applied Concepts, Inc., formerly known as Applied Concepts Marketing – Model STALKER DUAL DSR;~~

~~5.(e) Applied Concepts, Inc., formerly known as Applied Concepts Marketing – Model STALKER BASIC – stationary and moving;~~

6. Model DSR2X;

7. Model Stalker II MDR;

8. Model Stalker II SDR.

~~(b)(f) Broderick Enforcement Electronic – Model BEE-36;~~

~~(g) CMI/MPH Industries, Inc., – Model Python;~~

~~(c)(h) Decatur Electronics, Inc., –~~

1. Model MVF 724;

~~2.(i) Decatur Electronics, Inc., – Model KF-1;~~

~~3.(j) Decatur Electronics, Inc., – Model Genesis-I;~~

~~4.(k) Decatur Electronics, Inc., – Model Genesis - II;~~

~~5.(l) Decatur Electronics, Inc., – Genesis Handheld;~~

~~6.(m) Decatur Electronics, Inc., – Model Genesis VP;~~

~~7.(n) Decatur Electronics, Inc., – Model Genesis VP – Directional;~~

8. Genesis GHD (Handheld Directional);

9. Genesis II – Select;

10. Genesis II – Directional.

~~(d)(o) Kustom Electronics, Inc., or Kustom Signals, Inc., –~~

1. Model KR-10SP-F, Model KR-10SP;

~~2.(p) Kustom Electronics, Inc., or Kustom Signals, Inc., – Model FALCON-F, Model FALCON;~~

~~3.(q) Kustom Electronics, Inc., or Kustom Signals, Inc., – Model TROOPER-F, Model TROOPER;~~

~~4.(r) Kustom Electronics, Inc., or Kustom Signals, Inc., – Model HAWK;~~

~~5.(s) Kustom Electronics, Inc., or Kustom Signals, Inc., – Model PRO-1000, Model PRO-1000DS;~~

~~6.(t) Kustom Electronics, Inc., or Kustom Signals, Inc., – Model Eagle K-Band;~~

~~7.(u) Kustom Electronics, Inc., or Kustom Signals, Inc., – Model Eagle KA-Band;~~

~~8.(v) Kustom Electronics, Inc., or Kustom Signals, Inc., – Model Eagle Plus K-Band;~~

~~9.(w) Kustom Electronics, Inc., or Kustom Signals, Inc., – Model Eagle Plus KA-Band;~~

~~10.(x) Kustom Electronics, Inc., or Kustom Signals, Inc., – Model Silver Eagle K-Band;~~

~~11.(y) Kustom Electronics, Inc., or Kustom Signals, Inc., – Model Silver Eagle KA-Band;~~

~~12.(z) Kustom Electronics, Inc., or Kustom Signals, Inc., – Model Golden Eagle K-Band;~~

~~13.(aa) Kustom Electronics, Inc., or Kustom Signals, Inc., – Model Golden Eagle KA-Band;~~

~~14.(bb) Kustom Electronics, Inc., or Kustom Signals, Inc., – Model Golden Eagle Plus KA-Band;~~

~~15.(cc) Kustom Electronics, Inc., or Kustom Signals, Inc., – Model HR-12;~~

~~16.(dd) Kustom Electronics, Inc., or Kustom Signals, Inc., – Model Talon;~~

~~17.(ee) Kustom Electronics, Inc., or Kustom Signals, Inc., – Directional Golden Eagle KA-Band;~~

18. Golden Eagle Plus;

19. Eagle II Plus – DCM Antenna;

20. Eagle II – DCM Antenna;

21. Golden Eagle II – DCM Antenna;

22. Directional Golden Eagle II – DCM Antenna;

23. Talon II;

24. Eagle II Plus Ka;

25. Eagle II Ka;

26. Golden Eagle II Ka;

27. Pro – Lite Plus;

28. Falcon – HR – Stationary;

29. Falcon – HR – Moving;

30. Talon – Directional.

~~(e)(ff) McCoy's LAWLINe Speed Trak Elite K, Ka and Elite KD (directional);~~

~~(f)(gg) M.P.H. Industries, Inc., or CMI/MPH or CMI/MPH Industries, Inc., –~~

~~1. Model K-15K “1986 Model,” Model K-15, Model K-15 II;~~

~~2.(hh) M.P.H. Industries, Inc., or CMI/MPH – Model MPH Speedgun (K-BAND);~~

~~3.(ii) M.P.H. Industries, Inc., or CMI/MPH – Model K-55K; Model BEE-36;~~

~~4.(jj) M.P.H. Industries, Inc., or CMI/MPH – Model Bee III;~~

~~5.(kk) M.P.H. Industries, Inc., or CMI/MPH – Model Enforcer;~~

6. Model Python;

7. Model Z-15;

8. Model Z-25;

9. Model Z-35;

10. Model Python III – Standard;

11. Model Python III – Fastest Speed, Same Direction.

~~(g)(H) Tribar Industries, Inc., –~~

1. Model MDR-2;

~~2.(mm) Tribar Industries, Inc., – Model K-GP.~~

~~(2) Average Speed Calculators (ASC):~~

~~(a) Federal Sign and Signal Corp., – VASCAR II;~~

(b) Kustom Electronics, Inc., or Kustom Signals, Inc., – Model Tracker;

(c) Traffic Safety Systems, Inc., – VASCAR-Plus.

(3) Speedometers – All mechanical or electronic motor vehicle speedometers having certified calibration pursuant to these rules.

(4) Stopwatches – All stopwatches certified pursuant to subsection 15B-2.008(4) and Rule 15B-2.012, F.A.C. The following stopwatches are approved for use in this State when they have been tested according to this rule chapter. The absence on this list of other stopwatches used by other law enforcement agencies or the Florida Highway Patrol does not preclude their use when they have been properly tested.

| Brand Name | Model Number |
|---|----------------------|
| (a) Casio | HS-10W |
| (b) Timex Quartz Timer | None |
| (c) Heuer | 1000 |
| (d) Heuer | 1010 |
| (e) Seiko | S022-5009 |
| (f) Accusplit | 620-CT |
| (g) Minerva Manual Timer | None |
| (h) Seiko | 87-0019G |
| (i) Aristo | Apollo |
| (j) Lorus | W903 |
| (k) Marshall Browning International Corp. | Robic Acutrak SC-800 |

(5) Laser speed measuring devices (LSMD) – Evidence of approved LSMD shall be by a certificate or listing on the FCIC computer, or by a listing on the Division of Florida Highway Patrol website, as set forth in subsection (1) of this rule. In addition, the following LSMDs are approved for use in this State:

(a) Kustom Electronics, Inc., or Kustom Signals, Inc., – Model Prolaser II; Model Prolaser III;

(b) Laser Technology, Inc., – Model Marksman/LTI 20-20, Model Ultralyte LTI 20/20 Lidar, Model Ultralyte 100LR and 200LR, Model Ultralyte LR B; Model LTI 20/20 TruSpeed;

(c) Applied Concepts, Inc., – Model Stalker Lidar;

(d) Laser Atlanta Optics, Inc., or Laser Atlanta, LLC – Model Speed Laser, Model Speed Laser B.

Specific Authority 316.1905 FS. Law Implemented 316.1905, 316.1906 FS. History–New 1-1-90, Amended 11-16-92, 10-18-94, 10-2-95, 5-23-04,_____.

NAME OF PERSON ORIGINATING PROPOSED RULE: Lieutenant Ronald W. Castleberry, Equipment, Compliance and Testing – Florida Highway Patrol, Department of Highway Safety and Motor Vehicles

NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: Governor and Cabinet

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: September 30, 2008

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: August 8, 2008

DEPARTMENT OF HIGHWAY SAFETY AND MOTOR VEHICLES

Division of Florida Highway Patrol

RULE NO.: 15B-2.016
 RULE TITLE: Tests to Determine Accuracy of Laser Speed Measuring Devices

PURPOSE AND EFFECT: The purpose of the proposed rule action is to amend the current rule to reflect the revision of form DHSMV 61071 – Laser Speed Measuring Device Certification – to include the testing of intermittent laser pulses. Since the form and revision date are specifically referenced in paragraph 15B-2.016(2)(d), Florida Administrative Code, a revision to the form will also require a revision to this section of the Florida Administrative Code.

SUMMARY: The proposed rule action revises the current rule changing form DHSMV 61071 – Laser Speed Measuring Device Certification – to include the testing of intermittent laser pulses. Since the form and revision date are specifically referenced in paragraph 15B-2.016(2)(d), Florida Administrative Code, a revision to the form will also require a revision to this section of the Florida Administrative Code.

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: 316.1905 FS.

LAW IMPLEMENTED: 316.1905, 316.1906 FS.

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

DATE AND TIME: November 3, 2008, 9:00 a.m.

PLACE: Department of Highway Safety and Motor Vehicles, 2900 Apalachee Parkway, Room A436, Tallahassee, Florida 32399

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Lieutenant Ronald W. Castleberry, Equipment, Compliance and Testing – Florida Highway Patrol, Department of Highway Safety and Motor Vehicles, 2900 Apalachee Parkway, Room #A315, Tallahassee, Florida 32399, (850)617-2939

THE FULL TEXT OF THE PROPOSED RULE IS:

15B-2.016 Tests to Determine Accuracy of Laser Speed Measuring Devices.

(1) All LSMD used in this state shall be subject to periodic tests at intervals not to exceed six (6) months, to be conducted by a Florida registered professional engineer or by an electronic Technician who has a Federal Communication Commission, General Radiotelephone Operator License, or a certification issued by one of the following:

(a) Association of Public-Safety Communications Officials-International (APCO);

(b) Personal Communications Industries Association (PCIA), formerly known as National Association of Business and Education Radio (NABER); or

(c) National Association of Radio and Telecommunications Engineers (NARTE).

(2) Only the most recent six (6) month test certificate is required in order to establish the presumption available under Section 316.1905(3)(b), F.S. Tests will include:

(a) Bench Tests – Wavelength verification, optical power output, pulse repetition rate, pulse width, and verify that the pulse train is free of any double laser pulses or intermittent laser pulses. The results of these tests shall conform with the safety report from the U.S. Department of Health and Human Services, Center for Devices and Radiological Health (CDRH), Food and Drug Administration (21 C.F.R. part 1040), which is incorporated by reference, and the manufacturer’s specifications, both of which will be supplied by the manufacturer.

(b) Distance/Velocity – A complete verification test as described in paragraphs 15B-2.015(1)(a) through (c), F.A.C., and a Velocity Verification test certifying that the Laser Speed Output was compared to Actual Speed as verified by a certified radar device. The results of these tests will not be greater than plus or minus one (1) foot for the distance tests, and plus or minus one (1) mph for the speed test.

(c) Sight Alignment/Beam Pattern Test. The sighting device will be checked for accuracy to determine that it remains within the laser beam at all distances from 500-3000 feet. This may be determined from calculation based on an initial beam pattern/sight alignment analysis. The beam will be analyzed to determine that it is within the pattern/size tolerances specified by the manufacturer.

(d) Each test shall be recorded on form HSMV 61071() (~~3/04~~) which is incorporated by reference. Blank forms are available by contacting the Department at the address described in subsection 15B-2.0082(1), F.A.C.

(e) When an Average Speed Calculator (ASC) is installed and used as a separate feature of an LSMD, the ASC feature must be certified separately and in addition to the LSMD under paragraph 15B-2.008(2)(d), F.A.C.

Specific Authority 316.1905 FS. Law Implemented 316.1905, 316.1906 FS. History–New 10-18-94, Amended 5-23-04,_____.

NAME OF PERSON ORIGINATING PROPOSED RULE: Lieutenant Ronald W. Castleberry, Equipment, Compliance and Testing – Florida Highway Patrol, Department of Highway Safety and Motor Vehicles

NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: Governor and Cabinet

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: September 30, 2008

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: August 8, 2008

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.”

STATE BOARD OF ADMINISTRATION

Florida Prepaid Postsecondary Education Expense Board

RULE NO.: RULE TITLE:

19B-4.001 Application

PURPOSE AND EFFECT: This rule is amended to reflect the updated form for the Florida Prepaid College Plan and Florida College Investment Plan New Account Application Form and the updated form for the Florida Prepaid College Plan Master Covenant.

SUMMARY: Deletes limitation that Rules 19B-4.001 through Chapter 19B-15, F.A.C., apply to purchasers. These rules apply to all aspects of the Prepaid Plan. Conforms this rule to changes to Rule 19B-5.004, 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: 1009.971(1), (4), (6) FS.

LAW IMPLEMENTED: 1009.98 FS.

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

DATE AND TIME: October 31, 2008, 2:00 p.m.

PLACE: Suite 210, Hermitage Building, 1801 Hermitage Boulevard, Tallahassee, Florida

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Thomas J. Wallace, Executive Director, 1801 Hermitage Boulevard, Suite 210, Tallahassee, Florida 32308, telephone (850)488-8514

THE FULL TEXT OF THE PROPOSED RULE IS:

19B-4.001 Application.

(1) Rule Chapters 19B-4 through 19B-13 and 19B-15, F.A.C., apply to purchasers of advance payment contracts for the prepayment of postsecondary registration, local fees, tuition differential fees and/or dormitory residency fees under the Stanley G. Tate Florida Prepaid College Program, the "Program." The application period shall commence and terminate on dates set annually by the Board and published in the Florida Administrative Weekly. Applications for advance payment contracts purchased through the Board's direct support organization, The Florida Prepaid College Foundation, Inc., for purchasers participating in employer participation programs or by purchasers pursuant to a court order will be accepted by the Board at any time. Other applications for advance payment contracts submitted to the Board outside the annual application period will be processed for data collection and administrative purposes, but will not be accepted by the Board until the beginning of the next succeeding annual application period. The contract prices associated with applications submitted to the Board outside the annual application period, except for those purchased through the Board's direct support organization, The Florida Prepaid College Foundation, Inc., for purchasers participating in employer participation programs or by purchasers pursuant to a court order, shall be the contract prices applicable to advance payment contracts for the next succeeding annual application period. After acceptance by the Board of the purchaser's application, a participation and payment schedule shall be mailed to the purchaser. The advance payment contract shall be comprised of the application, master covenant, and participation and payment schedule.

(2) No change.

Specific Authority 1009.971(1), (4), (6) FS. Law Implemented 1009.98 FS. History--New 3-29-89, Amended 2-6-90, 3-19-92, Formerly 4G-4.001, Amended 12-5-93, 5-31-95, 6-20-96, 10-20-96, 12-16-97, 2-18-99, 6-6-99, 2-8-00, 5-21-00, 1-3-01, 10-9-01, 11-27-02, 10-1-03, 1-29-04, 12-28-04, 6-2-05, 12-20-05, 1-1-07, 11-27-07, 12-17-07, _____.

NAME OF PERSON ORIGINATING PROPOSED RULE: Florida Prepaid College Board
NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: Florida Prepaid College Board
DATE PROPOSED RULE APPROVED BY AGENCY HEAD: June 4, 2008
DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: September 12, 2008

STATE BOARD OF ADMINISTRATION
Florida Prepaid Postsecondary Education Expense Board
RULE NO.: 19B-5.003
RULE TITLE: Contract Requirements

PURPOSE AND EFFECT: This rule is amended to reflect The Florida Prepaid College Plan's advance payment contract requirements

SUMMARY: Provides that each submitted application form must specify the beneficiary of a Prepaid Plan account rather than requiring that the purchaser must specify the beneficiary in an application submitted to the Board. Clarifies requirements for the notice that must be provided prior to the expiration of Prepaid Plan account benefits and escheatment of them to the Trust Fund. Conforms this rule to changes to Rule 19B-5.004, 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: 1009.971(1), (4), (6) FS.

LAW IMPLEMENTED: 1009.98 FS.

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

DATE AND TIME: October 31, 2008, 2:00 p.m.

PLACE: Suite 210, Hermitage Building, 1801 Hermitage Boulevard, Tallahassee, Florida

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Thomas J. Wallace, Executive Director, 1801 Hermitage Boulevard, Suite 210, Tallahassee, Florida 32308, telephone (850)488-8514

THE FULL TEXT OF THE PROPOSED RULE IS:

19B-5.003 Contract Requirements.

(1) Each application submitted to the Board Purchasers must specify name the qualified beneficiary ~~in the application~~, provided however, that the board's direct support organization and organizations operating scholarship programs pursuant to Rule 19B-5.007, F.A.C., shall be permitted to leave the qualified beneficiary's name blank until April 1 of the anticipated enrollment year.

(2) through (4) No change.

(5)(a) The benefits of an advance payment contract may be received for up to a ten (10) year period after the matriculation date. This ten (10) year limitation will be extended upon application to the Board. Any time spent by the qualified beneficiary in the military service tolls the time for receiving contract benefits under all plans. The matriculation date is the projected college enrollment year of the qualified beneficiary, based on the information about the qualified beneficiary's age or grade contained in the purchaser's application, or similar information received subsequently by the Board from the

purchaser. The right to use the benefits of an advance payment contract shall expire on December 31, ten (10) years after the matriculation date, or any extension thereof.

(b) When the benefits of an advance payment contract have not been used on December 31, nine (9) years after the matriculation date or one (1) year prior to the expiration of any extension of the expiration date for the use of the advance payment contract benefits, the Board shall mail a written notice to the purchaser which indicates:

1. The ~~procedure to purchaser must request in writing that the Board~~ extend the time period for the use of advance payment contract benefits or to obtain a refund for the contract;
2. That the right to use the advance payment contract benefits will expire on December 31, ten (10) years after the matriculation date or any extension thereof; and
3. That such benefits and refund will escheat to the Florida Prepaid College Trust Fund on that date.

Such notice shall be mailed not later than 180 days prior to the expiration of the advance payment contract benefits. An alphabetical list of the names of purchasers of such advance payment contracts shall be posted on the Board's website on the Internet.

(c) The benefits from and any refund associated with an advance payment contract for which the benefits have not been used by December 31, ten (10) years after the matriculation date, or any extension thereof, shall escheat to the Florida Prepaid College Trust Fund.

(6) Advance payment contracts that are composed of tuition, local fee and tuition differential fee plans will only be paid if the tuition plan, local fee plans and tuition differential fee plan are in good standing. Local fee payments and tuition differential fee payments shall not be remitted to pay tuition for any beneficiary attending a Florida public university or community college. Local fee payments and tuition differential fee payments may be remitted to pay tuition at private and out-of-state colleges for any qualified beneficiary.

Specific Authority 1009.971(1), (4), (6) FS. Law Implemented 1009.98(4) FS. History—New 3-29-89, Amended 2-6-90, 3-19-92, Formerly 4G-5.003, Amended 5-31-95, 6-20-96, 2-18-99, 6-6-99, 11-6-01, 8-27-02, 12-17-07,_____.

NAME OF PERSON ORIGINATING PROPOSED RULE:
 Florida Prepaid College Board
 NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: Florida Prepaid College Board
 DATE PROPOSED RULE APPROVED BY AGENCY HEAD: June 4, 2008
 DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: September 12, 2008

STATE BOARD OF ADMINISTRATION

Florida Prepaid Postsecondary Education Expense Board

RULE NO.: 19B-5.004
 RULE TITLE: Contract Purchasers

PURPOSE AND EFFECT: This rule revises and updates the rights and responsibilities of the Florida Prepaid College Plan's advance payment contract's purchaser and co-purchaser.

SUMMARY: Requires that a co-purchaser satisfy the same requirements that a purchaser must meet.

Revises requirements for Tuition Plans purchased on or after February 1, 2009, to: a) Require the co-purchaser's approval for changes of the purchaser, co-purchaser and beneficiary for an account; b) Provide that the purchaser and co-purchaser each enjoy a survivorship right; c) Require the co-purchaser's authorization for requests to terminate a Prepaid Plan and refund requests associated with the termination of Prepaid Plans. Allows purchasers and co-purchasers to revise the requirements for Prepaid Plans purchased prior to February 1, 2009, to include those requirements.

The changes are made applicable to Tuition Plans purchased on or after February 1, 2009, because the 2008-2009 Open Enrollment Period ends January 31, 2009; the Board has been receiving applications under the existing rules for the 2008-2009 Open Enrollment since February 1, 2008. Annually, the Board begins receiving new applications for the next succeeding open enrollment period on the day following the conclusion of prior Open Enrollment Period. February 1, 2009, is the first day the Board will begin receiving applications for the 2009-2010 Open Enrollment. By making the change effective on February 1, 2009, the Board can apply the requirements to all Prepaid Tuition Plan applications received for the 2009-2010 Open Enrollment Period.

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: 1009.971(1), (4), (6) FS.

LAW IMPLEMENTED: 1009.98 FS.

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

DATE AND TIME: October 31, 2008, 2:00 p.m.

PLACE: Suite 210, Hermitage Building, 1801 Hermitage Boulevard, Tallahassee, Florida

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Thomas J. Wallace, Executive Director, 1801 Hermitage Boulevard, Suite 210, Tallahassee, Florida 32308, telephone (850)488-8514

THE FULL TEXT OF THE PROPOSED RULE IS:

19B-5.004 Contract Purchasers.

(1) Any person, corporation, or organization may purchase an advance payment contract for a qualified beneficiary. Any natural person named as the purchaser or the co-purchaser must be 18 years of age or older and each must be either a United States citizen or a resident alien.

(2) For advance payment contracts for tuition plans purchased prior to February 1, 2009:

(a) Co-purchasers are permitted, and will enjoy only a right of survivorship. However, the purchaser may, without the consent or authorization of the co-purchaser, execute all contract changes, conversions, cancellations, and refund requests.

(b) Any requests to change the purchaser designated on the advance payment contract must be signed by the purchaser and notarized by a notary. Refunds shall be made payable to the purchaser only.

(c) If a purchaser terminates a contract pursuant to Rule 19B-10.002, F.A.C., the co-purchaser must be notified in writing. ~~Any natural person named as the purchaser and co-purchaser must be 18 years of age or older and must be either a United States citizen or a resident alien.~~

(d) Purchasers may elect to change the rights of a co-purchaser to be the same as those for advance payment contracts purchased on or after February 1, 2009, by submitting a written request to the Board. The request must be signed by the purchaser and the co-purchaser and both signatures must be notarized by a notary. If a purchaser changes the rights enjoyed by the co-purchaser to those for advance payment contracts purchased on or after February 1, 2009, the change in the co-purchaser's rights is irrevocable, the provisions of paragraphs 19B-5.004(2)(a), (b) and (c), F.A.C., shall not apply to the advance payment contract and the provisions of subsection 19B-5.004(3), F.A.C., shall apply to the advance payment contract.

(3) For advance payment contracts for tuition plans purchased on or after February 1, 2009:

(a) Co-purchasers are permitted, but are not required. When a co-purchaser is designated on an advance payment contract, the purchaser and co-purchaser each will enjoy a right of survivorship.

(b) Changes to the purchaser, co-purchaser or beneficiary designated on the advance payment contract, requests for voluntary termination of the advance payment contract, and refund requests associated with the termination of an advance payment contract must be in writing and contain the notarized signature of the purchaser and co-purchaser. All other changes to the advance payment contract must be in writing and approved by the purchaser.

(4) The provisions of subsection 19B-5.004(2), F.A.C., also apply to advance payment contracts for dormitory, local fee and tuition differential fee plans, regardless of the date of their purchase, that are associated with tuition plans that were purchased prior to February 1, 2009. The provisions of subsection 19B-5.004(3), F.A.C., apply to advance payment contracts for dormitory, local fee and tuition differential fee plans associated with tuition plans that are purchased on or after February 1, 2009.

Specific Authority 1009.971(1), (4), (6) FS. Law Implemented 1009.98 FS. History—New 3-29-89, Amended 3-19-92, Formerly 4G-5.004, Amended 12-5-93, 6-20-96, 7-28-98, 11-27-02.

NAME OF PERSON ORIGINATING PROPOSED RULE: Florida Prepaid College Board

NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: Florida Prepaid College Board

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: June 4, 2008

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: September 12, 2008

**STATE BOARD OF ADMINISTRATION
Florida Prepaid Postsecondary Education Expense Board**

RULE NO.: 19B-8.001
RULE TITLE: Qualified Individuals

PURPOSE AND EFFECT: This rule revises and updates requirements to change the beneficiary of an advance payment contract.

SUMMARY: Revises the requirements for changing the beneficiary of a Prepaid Plan to include authorization by the co-purchaser in addition by the authorization of the purchaser. Conforms this rule to changes to Rule 19B-5.004, 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: 1009.971(1), (4), (6) FS.

LAW IMPLEMENTED: 1009.98 FS.

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

DATE AND TIME: October 31, 2008, 2:00 p.m.

PLACE: Suite 210, Hermitage Building, 1801 Hermitage Boulevard, Tallahassee, Florida

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Thomas J. Wallace, Executive Director, 1801 Hermitage Boulevard, Suite 210, Tallahassee, Florida 32308, telephone (850)488-8514

THE FULL TEXT OF THE PROPOSED RULE IS:

19B-8.001 Qualified Individuals.

Except when an advance payment contract is established by a ~~person purchaser~~ functioning in a custodial capacity, a ~~purchaser may change~~ the qualified beneficiary ~~may be changed~~ to any member of the family of the then-current qualified beneficiary, at any time, by submitting a written, notarized request signed by the person or persons required by Rule 19B-5.004, F.A.C., purchaser directing the Board to change the qualified beneficiary for the contract. "Member of the family" means the same as that term is defined in s. 529 of the Internal Revenue Code. The substitute beneficiary must meet the residency requirement of a qualified beneficiary at the time of substitution. ~~The contract purchaser will be required to sign and notarize any request to substitute beneficiaries on an advance payment contract.~~

Specific Authority 1009.971(1), (4), (6) FS. Law Implemented 1009.98(4) FS. History—New 3-29-89, Formerly 4G-8.001, Amended 12-5-93, 6-20-96, 8-18-97, 12-16-97, 3-24-99, 2-8-00, 10-9-01, 12-28-03, 3-15-06, _____.

NAME OF PERSON ORIGINATING PROPOSED RULE:
Florida Prepaid College Board

NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: Florida Prepaid College Board

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: June 4, 2008

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: September 12, 2008

STATE BOARD OF ADMINISTRATION

Florida Prepaid Postsecondary Education Expense Board

RULE NO.: 19B-9.004
RULE TITLE: Dormitory Transfer to Community Colleges and State University-Held Residences Other than Dormitories

PURPOSE AND EFFECT: This rule revises and updates requirements to transfer dormitory benefits from State Universities to Community Colleges and other State University-held residences.

SUMMARY: Conforms this Rule to the changes to Rule 19B-5.004, F.A.C. The deleted issues are dealt with by Rules 19B-10.002 and 19B-11.002, 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: 1009.971(1), (4), (6) FS.

LAW IMPLEMENTED: 1009.98 FS.

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

DATE AND TIME: October 31, 2008, 2:00 p.m.

PLACE: Suite 210, Hermitage Building, 1801 Hermitage Boulevard, Tallahassee, Florida

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Thomas J. Wallace, Executive Director, 1801 Hermitage Boulevard, Suite 210, Tallahassee, Florida 32308, telephone (850)488-8514

THE FULL TEXT OF THE PROPOSED RULE IS:

19B-9.004 Dormitory Transfers to Community Colleges and State University-Held Residences Other than Dormitories.

(1) A dormitory plan may be transferred to a community college or community college direct-support organization that operates a residence facility for students attending the community college. Funds transferred to the community college or community college direct-support organization shall not exceed the lesser of the actual fees charged by the community college or the community college direct-support organization for dormitories or residency opportunities or the average fees charged for state university dormitories designated for inclusion in the Program. ~~If the actual dormitory fees charged by the community college or community college direct support organization are less than the original purchase price of the dormitory plan, the purchaser may cancel the dormitory plan and receive a refund of the original purchase price or may seek a refund for a two semester proportionate share of the original purchase price without canceling the balance of the benefits purchased.~~

(2) No change.

Specific Authority 1009.971(1), (4), (6) FS. Law Implemented 1009.98(3) FS. History—New 10-20-96, Amended _____.

NAME OF PERSON ORIGINATING PROPOSED RULE:
Florida Prepaid College Board

NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: Florida Prepaid College Board

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: June 4, 2008

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: September 12, 2008

STATE BOARD OF ADMINISTRATION

Florida Prepaid Postsecondary Education Expense Board

RULE NO.: 19B-10.002
RULE TITLE: Voluntary Termination

PURPOSE AND EFFECT: This rule revises and updates requirements to authorize voluntary termination of a Prepaid Plan.

SUMMARY: Revises the requirements for signature needed to authorize voluntary termination of a Prepaid Plan. Conforms this Rule to the changes to Rule 19B-5.004, 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: 1009.971(1), (4), (6) FS.

LAW IMPLEMENTED: 1009.98 FS.

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

DATE AND TIME: October 31, 2008, 2:00 p.m.

PLACE: Suite 210, Hermitage Building, 1801 Hermitage Boulevard, Tallahassee, Florida

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Thomas J. Wallace, Executive Director, 1801 Hermitage Boulevard, Suite 210, Tallahassee, Florida 32308, telephone (850)488-8514

THE FULL TEXT OF THE PROPOSED RULE IS:

19B-10.002 Voluntary Termination.

Voluntary termination shall occur within thirty days of receiving a written request for cancellation of an advanced payment contract. A request for the cancellation of an advance payment contract must contain the notarized signature of the person or persons required pursuant to Rule 19B-5.004, F.A.C. be signed by the purchaser designated on the advance payment contract and notarized by a notary.

Specific Authority 1009.971(1), (4), (6) Law Implemented 1009.971, 1009.98(4) FS. History—New 3-29-89, Formerly 4G-10.002, Amended 6-20-96, 7-28-98,_____.

NAME OF PERSON ORIGINATING PROPOSED RULE: Florida Prepaid College Board

NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: Florida Prepaid College Board

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: June 4, 2008

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: September 12, 2008

STATE BOARD OF ADMINISTRATION

Florida Prepaid Postsecondary Education Expense Board

RULE NO.: RULE TITLE:

19B-11.001 General

PURPOSE AND EFFECT: This rule revises and updates the signature requirements for refunds of terminated Prepaid Plans.

SUMMARY: Provides that refunds for terminated Prepaid Plans will be provided upon submission of a notarized written request signed by the purchaser; and, if the Plan was purchased after February 1, 2009, by the co-purchaser. Conforms this rule to the changes to Rule 19B-5.004, 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: 1009.971(1), (4), (6) FS.

LAW IMPLEMENTED: 1009.98 FS.

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

DATE AND TIME: October 31, 2008, 2:00 p.m.

PLACE: Suite 210, Hermitage Building, 1801 Hermitage Boulevard, Tallahassee, Florida

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Thomas J. Wallace, Executive Director, 1801 Hermitage Boulevard, Suite 210, Tallahassee, Florida 32308, telephone (850)488-8514

THE FULL TEXT OF THE PROPOSED RULE IS:

19B-11.001 General.

Except as provided herein, refunds shall not exceed the amount paid for any plan included in the advance payment contract bought by the purchaser, except for conversions pursuant to Rule 19B-11.002, F.A.C., and dormitory plan refunds due to insufficient housing pursuant to Rule 19B-11.004, F.A.C. ~~Involuntary and voluntary termination pursuant to Rules 19B-10.001 and 19B-10.002, F.A.C., respectively, shall result in a refund to the purchaser after assessment of appropriate fees.~~ Termination of student status after the official drop/add period eliminates the refund option for that semester. The Board will process a refund associated with an account that was terminated pursuant to Rule 19B-10.001 or 19B-10.002, F.A.C., upon the receipt of a notarized, written request that is signed by the person or persons required pursuant to Rule 19B-5.004, F.A.C. The refund will be paid only to the purchaser of the terminated account.

(1) No change.

(2) Refunds may exceed the amount paid for a plan in the following circumstances:

(a) If a beneficiary is awarded a scholarship, the terms of which cover the benefits included in the advance payment contracts, moneys paid for the purchase of the advance payment contracts shall be returned to the purchaser in semester installments coinciding with the matriculation by the

beneficiary in an amount not to exceed the redemption value of the advance payment contract. Proof of scholarship shall be given to the Board as required by the Master Covenant.

(b) In the event of death or total disability of the beneficiary, the advance payment contract may be terminated pursuant to Rule 19B-10.002, F.A.C., and the moneys paid for the purchase of an advance payment contract shall be refunded returned to the purchaser in lump sum in an amount not to exceed the redemption value of the advance payment contract. Proof of death or disability shall be in such form as required by the Board.

(c) If a beneficiary with a tuition differential fee contract attends a state educational institution that does not charge a tuition differential fee, moneys paid for purchase of the tuition differential fee contract shall be returned to the purchaser in an amount not to exceed the redemption value of the tuition differential fee plan.

(3) For purposes of refunds pursuant to paragraph 19B-11.001(2)(a) or (b), F.A.C., for tuition and local fee plans, the redemption value shall be the average amount of tuition and local fees, respectively, charged by the state universities or community colleges at the time of the refund request. For purposes of refunds pursuant to paragraph 19B-11.001(2)(a) or (b), F.A.C., for the dormitory plan, the redemption value shall be the average of the state university dormitory fees charged at the time of the refund request, for the number of semesters reflected in each purchaser's advance payment contract. For purposes of refunds pursuant to paragraph 19B-11.001(2)(c) F.A.C., for tuition differential fee plans, the redemption value shall be the average amount of tuition differential fees charged by the state educational institution at the time of the refund.

Specific Authority 1009.971(1), (4), (6) FS. Law Implemented 1009.971, 1009.98(5) FS. History—New 3-29-89, Amended 2-6-90, 3-19-92, Formerly 4G-11.001, Amended 8-18-97, 11-6-01, 12-17-07,_____.

NAME OF PERSON ORIGINATING PROPOSED RULE:
Florida Prepaid College Board

NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: Florida Prepaid College Board

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: June 4, 2008

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: September 12, 2008

STATE BOARD OF ADMINISTRATION

Florida Prepaid Postsecondary Education Expense Board

RULE NO.: RULE TITLE:
19B-11.005 Other Refunds

PURPOSE AND EFFECT: This rule revises and updates the refund requirements of terminated Prepaid Plans.

SUMMARY: Revises the requirements for obtaining a refund for Prepaid Plans that have been partially used. Conforms this rule to the changes to Rules 19B-5.004 and 19B-11.001, 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: 1009.971(1), (4), (6) FS.

LAW IMPLEMENTED: 1009.98 FS.

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

DATE AND TIME: October 31, 2008, 2:00 p.m.

PLACE: Suite 210, Hermitage Building, 1801 Hermitage Boulevard, Tallahassee, Florida

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Thomas J. Wallace, Executive Director, 1801 Hermitage Boulevard, Suite 210, Tallahassee, Florida 32308, telephone (850)488-8514

THE FULL TEXT OF THE PROPOSED RULE IS:

19B-11.005 Other Refunds.

If a beneficiary does not complete a Community College Plan, University Plan, or a Community College/University Plan for reasons other than those specified in Rules 19B-11.001 through 19B-11.004, F.A.C., the account may be terminated pursuant to Rule 19B-10.002, F.A.C., and the purchaser will have available a pro-rata refund of the amount paid into the fund is available. A refund under this rule will not include funds for any school year partially attended but not completed. A school year partially attended but not completed shall mean any one semester of a two semester school year whereby the student is enrolled at the conclusion of the official drop/add period, but withdraws before the end of such semester.

Specific Authority 1009.971(1), (4), (6) FS. Law Implemented 1009.971, 1009.98(5) FS. History—New 3-29-89, Amended 2-6-90, 3-19-92, Formerly 4G-11.005, Amended _____.

NAME OF PERSON ORIGINATING PROPOSED RULE:
Florida Prepaid College Board

NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: Florida Prepaid College Board

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: June 4, 2008

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: September 12, 2008

STATE BOARD OF ADMINISTRATION

Florida Prepaid Postsecondary Education Expense Board

RULE NO.: 19B-11.007
 RULE TITLE: Unclaimed Refunds

PURPOSE AND EFFECT: This rule revises and updates the written notice requirements of terminated Prepaid Plan accounts prior to the escheatment of the refund to the Trust Fund.

SUMMARY: Revises the requirements for written notice to purchasers due a refund for a terminated Prepaid Plan account prior to the escheatment of the refund to the Trust Fund. Conforms this rule to the changes to Rules 19B-5.004 and 19B-11.001, 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: 1009.971(1), (4), (6) FS.

LAW IMPLEMENTED: 1009.98 FS.

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

DATE AND TIME: October 31, 2008, 2:00 p.m.

PLACE: Suite 210, Hermitage Building, 1801 Hermitage Boulevard, Tallahassee, Florida

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Thomas J. Wallace, Executive Director, 1801 Hermitage Boulevard, Suite 210, Tallahassee, Florida 32308, telephone (850)488-8514

THE FULL TEXT OF THE PROPOSED RULE IS:

19B-11.007 Unclaimed Refunds.

(1) The Board will mail written notice to the purchaser of a terminated advance payment contract when a refund for the account has been available for six (6) years ~~send a refund to any purchaser whose contract is terminated after July 1, 1996, pursuant to Rule 19B-10.001 or 19B-10.002, F.A.C.~~ Such refund will consist of any monies paid into the program minus any applicable fees due against the account. ~~The Board will mail written notice to purchasers when the refund check for a contract terminated after July 1, 1996, has not been negotiated for six years and when a refund is available for a contract that was terminated prior to July 1, 1996.~~ The notice will indicate the procedure which ~~the purchaser~~ must be followed to obtain a refund of the monies held by the Board and that if a refund claim is not timely made that the funds will escheat to the Florida Prepaid College Trust Fund. An alphabetical list of the names and city of residence of such purchasers will be posted

on the Board's website on the Internet (www.florida529plans.com). Any refund which remains unclaimed seven (7) years after an account is terminated ~~or on December 31, 2004, whichever is later,~~ will escheat to the Florida Prepaid College Trust Fund.

(2) through (4) No change.

Specific Authority 1009.971(1), (4), (6) FS. Law Implemented 1009.971, 1009.972(5), 1009.98(5) FS. History–New 6-20-96, Amended 12-29-98, 4-15-04, _____.

NAME OF PERSON ORIGINATING PROPOSED RULE: Florida Prepaid College Board

NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: Florida Prepaid College Board

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: June 4, 2008

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: September 12, 2008

STATE BOARD OF ADMINISTRATION

Florida Prepaid Postsecondary Education Expense Board

RULE NO.: 19B-16.002
 RULE TITLE: Application for Participation in the Program

PURPOSE AND EFFECT: This rule revises and updates the rights and requirements of the Florida College Investment Plan's contingent benefactors.

SUMMARY: Requires a contingent benefactor for an Investment Plan account to satisfy the same requirements as a benefactor. Provides that only one contingent benefactor may be named on an application for an account.

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: 1009.971(1), (4), (6) FS.

LAW IMPLEMENTED: 1009.98 FS.

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

DATE AND TIME: October 31, 2008, 2:00 p.m.

PLACE: Suite 210, Hermitage Building, 1801 Hermitage Boulevard, Tallahassee, Florida

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Thomas J. Wallace, Executive Director, 1801 Hermitage Boulevard, Suite 210, Tallahassee, Florida 32308, telephone (850)488-8514

THE FULL TEXT OF THE PROPOSED RULE IS:

19B-16.002 Application for Participation in the Program.

(1) Any person may apply for participation in the Program by submitting a completed Florida Prepaid College Plan and Florida College Investment Plan New Account Application, along with an initial contribution to the Program that meets the requirements of Rule 19B-16.004, F.A.C. Benefactors and designated beneficiaries do not have to be residents of the State of Florida. Any natural person named as the benefactor or contingent benefactor in a completed application must have reached the age of majority and must be a citizen or resident alien of the United States with a valid social security number. Any person named as the beneficiary in a completed application must be a citizen or resident alien of the United States with a valid social security number.

(2) No change.

(3) Only one (1) benefactor, one (1) co-benefactor and one (1) designated beneficiary can be named on an application, except that scholarship accounts may be established for the benefit of one (1) or more beneficiaries identified in the future. A benefactor may submit applications for more than one (1) designated beneficiary. More than one (1) benefactor may submit an application for the same designated beneficiary.

Specific Authority 1009.971(1), (4), (6) FS. Law Implemented 1009.981 FS. History—New 11-27-02, Amended 1-29-04, 12-28-04, 6-2-05, 12-20-05, 1-1-07, 11-27-07, _____.

NAME OF PERSON ORIGINATING PROPOSED RULE:
Florida Prepaid College Board
NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: Florida Prepaid College Board
DATE PROPOSED RULE APPROVED BY AGENCY HEAD: June 4, 2008
DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: September 12, 2008

STATE BOARD OF ADMINISTRATION

Florida Prepaid Postsecondary Education Expense Board

RULE NO.: 19B-16.004
RULE TITLE: Payment and Minimum Contributions

PURPOSE AND EFFECT: This rule revises the rights and role of the contingent benefactor related to investments in the Florida College Investment Plan.

SUMMARY: Provides that a contingent benefactor may not direct the investments of any contributions to the Investment Plan. The same prohibition applies to benefactors and designated beneficiaries. Conforms this rule to the changes to Rule 19B-16.008, 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: 1009.971(1), (4), (6) FS.

LAW IMPLEMENTED: 1009.98 FS.

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

DATE AND TIME: October 31, 2008, 2:00 p.m.

PLACE: Suite 210, Hermitage Building, 1801 Hermitage Boulevard, Tallahassee, Florida

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Thomas J. Wallace, Executive Director, 1801 Hermitage Boulevard, Suite 210, Tallahassee, Florida 32308, telephone (850)488-8514

THE FULL TEXT OF THE PROPOSED RULE IS:

19B-16.004 Payment and Minimum Contributions.

(1) No change.

(2) A Neither a benefactor, a contingent benefactor and nor a designated beneficiary shall not direct the investment of any contributions or amounts held in the Program.

(3) through (5) No change.

Specific Authority 1009.971(1), (4), (6) FS. Law Implemented 1009.981 FS. History—New 5-30-02, Amended 11-27-02, 12-28-03, 4-21-05, _____.

NAME OF PERSON ORIGINATING PROPOSED RULE:
Florida Prepaid College Board
NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: Florida Prepaid College Board
DATE PROPOSED RULE APPROVED BY AGENCY HEAD: June 4, 2008
DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: September 12, 2008

STATE BOARD OF ADMINISTRATION

Florida Prepaid Postsecondary Education Expense Board

RULE NO.: 19B-16.006
RULE TITLE: Change of Benefactor

PURPOSE AND EFFECT: This rule revises the requirements to change the benefactor of a Florida College Investment Plan.

SUMMARY: Provides that if an account is established after February 1, 2009, that changes of the benefactor will require the notarized authorization of the benefactor and the contingent benefactor. Provides that the benefactor for an account may be changed by the personal representative of the estate of the deceased benefactor only if no contingent benefactor has been designated for the account. Conforms this rule to the changes to Rule 19B-16.008, 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: 1009.971(1), (4), (6) FS.

LAW IMPLEMENTED: 1009.98 FS.

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

DATE AND TIME: October 31, 2008, 2:00 p.m.

PLACE: Suite 210, Hermitage Building, 1801 Hermitage Boulevard, Tallahassee, Florida

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Thomas J. Wallace, Executive Director, 1801 Hermitage Boulevard, Suite 210, Tallahassee, Florida 32308, telephone (850)488-8514

THE FULL TEXT OF THE PROPOSED RULE IS:

19B-16.006 Change of Benefactor.

(1) ~~The A-benefactor may transfer~~ ownership of a participation agreement may be transferred to another person at any time, subject to any applicable limitations associated with the benefactor functioning in a custodial capacity. To complete a change of ownership, the benefactor must submit to the Board a notarized, written request to transfer the ownership of the participation agreement to a person who has achieved the age of majority together with an application executed by the person to whom the participation agreement is to be transferred. If the account was established on or after February 1, 2009, such request also must include the notarized signature of the contingent benefactor.

(2) No change.

(3) A change in the benefactor of an account may also be effected by a court order or if no contingent benefactor has been designated by the notarized, written request from the personal representative of the benefactor's estate accompanied by a certified copy of the death certificate of the benefactor and letters of administration issued to the personal representative. In either case, the successor benefactor must submit to the Board a completed application signed by the successor benefactor.

Specific Authority 1009.971(1), (4), (6) FS. Law Implemented 1009.981 FS. History--New 5-30-02, Amended.

NAME OF PERSON ORIGINATING PROPOSED RULE: Florida Prepaid College Board

NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: Florida Prepaid College Board

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: June 4, 2008

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: September 12, 2008

STATE BOARD OF ADMINISTRATION

Florida Prepaid Postsecondary Education Expense Board

RULE NO.: RULE TITLE:

19B-16.007 Change of Designated Beneficiary

PURPOSE AND EFFECT: This rule revises the requirements to change the designated beneficiary of a Florida College Investment Plan.

SUMMARY: Provides that the contingent benefactor also must authorize changes of the designated beneficiary for Investment Plan accounts established on or after February 1, 2009. Conforms this rule to the changes to Rule 19B-16.008, 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: 1009.971(1), (4), (6) FS.

LAW IMPLEMENTED: 1009.98 FS.

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

DATE AND TIME: October 31, 2008, 2:00 p.m.

PLACE: Suite 210, Hermitage Building, 1801 Hermitage Boulevard, Tallahassee, Florida

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Thomas J. Wallace, Executive Director, 1801 Hermitage Boulevard, Suite 210, Tallahassee, Florida 32308, telephone (850)488-8514

THE FULL TEXT OF THE PROPOSED RULE IS:

19B-16.007 Change of Designated Beneficiary.

Except when a participation agreement is established by a benefactor functioning in a custodial capacity, ~~a-benefactor may change~~ the designated beneficiary may be changed to any member of the family of the then-current designated beneficiary, at any time, by submitting a written, notarized request signed by the benefactor directing the Board to change the designated beneficiary for the account. If the account was established on or after February 1, 2009, such request also must include the notarized signature of the contingent benefactor.

Specific Authority 1009.971(1), (4), (6) FS. Law Implemented 1009.981 FS. History--New 5-30-02, Amended.

NAME OF PERSON ORIGINATING PROPOSED RULE:
Florida Prepaid College Board
NAME OF AGENCY HEAD WHO APPROVED THE
PROPOSED RULE: Florida Prepaid College Board
DATE PROPOSED RULE APPROVED BY AGENCY
HEAD: June 4, 2008
DATE NOTICE OF PROPOSED RULE DEVELOPMENT
PUBLISHED IN FAW: September 12, 2008

STATE BOARD OF ADMINISTRATION

Florida Prepaid Postsecondary Education Expense Board

RULE NO.: 19B-16.008
RULE TITLE: Contingent Benefactor

PURPOSE AND EFFECT: This rule revises the requirements, rights and responsibilities of a contingent benefactor of a Florida College Investment Plan.

SUMMARY: Revises requirements for Investment Plan accounts established on or after February 1, 2009, to: a) provide that the benefactor and contingent benefactor each enjoy a survivorship right; and b) require the benefactor's and the contingent benefactor's authorization for requests to change the benefactor, contingent benefactor and designated beneficiary, to voluntarily terminate an Investment Plan account and to obtain refunds associated with the termination of an Investment Plan account. Allows benefactors and contingent benefactors to revise the requirements for Investment Plan accounts established prior to February 1, 2009, to include those requirements.

The changes made by this rule for the Investment Plan will apply to Investment Plans established on or after February 1, 2009, because that is the date similar rule changes for the Prepaid Plan will become effective. The changes being made for the Prepaid Plan will apply to applications for the Prepaid Plan received on or after February 1, 2009, the first day the Board will begin receiving Prepaid Plan applications for the 2009-2010 Open Enrollment. That is the earliest practical date the changes for the Prepaid Plan can be made effective. Making the changes to both plans effective on the same day will simplify administration and avoid customer confusion.

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: 1009.971(1), (4), (6) FS.

LAW IMPLEMENTED: 1009.981 FS.

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

DATE AND TIME: October 31, 2008, 2:00 p.m.

PLACE: Suite 210, Hermitage Building, 1801 Hermitage Boulevard, Tallahassee, Florida

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Thomas J. Wallace, Executive Director, 1801 Hermitage Boulevard, Suite 210, Tallahassee, Florida 32308, telephone (850)488-8514

THE FULL TEXT OF THE PROPOSED RULE IS:

19B-16.008 Contingent Benefactor.

(1) For accounts established prior to February 1, 2009:

(a) The benefactor may designate a contingent benefactor on the application who will enjoy a right of survivorship in the event of the death of the benefactor and who will become the owner of the account automatically upon the death of the benefactor, subject to any applicable limitations associated with the benefactor functioning in a custodial capacity.

(b) Upon the death of the benefactor, the contingent benefactor shall become the benefactor if the Board receives a certified copy of the death certificate of the deceased benefactor and a completed application signed by the contingent benefactor.

(c) Subject to any applicable limitations associated with the benefactor functioning in a custodial capacity, the benefactor may change the contingent benefactor at any time without the consent of the contingent benefactor by submitting a written request signed by the benefactor to the Board.

(d) The benefactor may elect to change the rights of a contingent benefactor to be the same as those for accounts established on or after February 1, 2009, by submitting a written request to the Board. The request must contain the notarized signatures of the benefactor and the contingent benefactor. If the benefactor changes the rights enjoyed by the contingent benefactor to those for accounts established on or after February 1, 2009, the change in the contingent benefactor's rights is irrevocable, the provisions of paragraphs 19B-16.008(1)(a), (b) and (c), F.A.C., shall not apply to the account, the provisions of subsection 19B-16.008(2), F.A.C., shall apply to the account, and the account shall be deemed to have been established on or after February 1, 2009.

(2) For accounts established on or after February 1, 2009:

(a) The benefactor may designate a contingent benefactor on the application. When a contingent benefactor is designated, the benefactor and the co-benefactor each will enjoy a right of survivorship in the event of the death of the other and, if the Board receives a certified copy of the death certificate of the deceased benefactor or contingent benefactor, the survivor of them will become the sole owner of the account automatically, subject to any applicable limitations associated with the benefactor functioning in a custodial capacity.

(b) Changes to the benefactor, contingent benefactor and designated beneficiary for a participation agreement, requests for the voluntary termination for a participation agreement and

requests for refunds associated with the termination of a participation agreement must be in writing and contain the notarized signatures of the benefactor and the contingent benefactor.

Specific Authority 1009.971(1), (4), (6) FS. Law Implemented 1009.981 FS. History--New 5-30-02, Amended 11-27-02,_____.

NAME OF PERSON ORIGINATING PROPOSED RULE:
Florida Prepaid College Board
NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: Florida Prepaid College Board
DATE PROPOSED RULE APPROVED BY AGENCY HEAD: June 4, 2008
DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: September 12, 2008

STATE BOARD OF ADMINISTRATION

Florida Prepaid Postsecondary Education Expense Board

RULE NO.: 19B-16.009
RULE TITLE: Rollover Distributions

PURPOSE AND EFFECT: This rule revises the requirements and the rights of a contingent benefactor's authorization to request rollover distributions of a Florida College Investment Plan.

SUMMARY: Requires that contingent benefactors also authorize requests for rollover distributions from Investment Plan accounts that are established on or after February 1, 2009. Conforms this rule to the changes to Rule 19B-16.008, 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: 1009.971(1), (4), (6) FS.

LAW IMPLEMENTED: 1009.98 FS.

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

DATE AND TIME: October 31, 2008, 2:00 p.m.
PLACE: Suite 210, Hermitage Building, 1801 Hermitage Boulevard, Tallahassee, Florida
THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Thomas J. Wallace, Executive Director, 1801 Hermitage Boulevard, Suite 210, Tallahassee, Florida 32308, telephone (850)488-8514

THE FULL TEXT OF THE PROPOSED RULE IS:

19B-16.009 Rollover Distributions.

Except when functioning in a custodial capacity, a benefactor may make a transfer of funds into an account in the Program or from an account in the Program to the extent permitted by s. 529 of the Internal Revenue Code by submitting a notarized, written request to the Board. For accounts established on or after February 1, 2009, such transfers from an account also must include the notarized signature of the contingent benefactor.

Specific Authority 1009.971(1), (4), (6) FS. Law Implemented 1009.981(3) FS. History--New 5-30-02, Amended_____.

NAME OF PERSON ORIGINATING PROPOSED RULE:
Florida Prepaid College Board
NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: Florida Prepaid College Board
DATE PROPOSED RULE APPROVED BY AGENCY HEAD: June 4, 2008
DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: September 12, 2008

STATE BOARD OF ADMINISTRATION

Florida Prepaid Postsecondary Education Expense Board

RULE NO.: 19B-16.010
RULE TITLE: Termination and Withdrawal; Distributions

PURPOSE AND EFFECT: This rule revises the requirements for the authorization of the contingent benefactor of a Florida College Investment Plan to be terminated and a refund received.

SUMMARY: Provides that the contingent benefactor also must authorize requests to voluntarily terminate an Investment Plan account established on or after February 1, 2009, and receive a refund, and must authorize requests to receive a refund of the account balance of an involuntarily terminated Investment Plan account established on or after February 1, 2009. Conforms this rule to the changes to Rule 19B-16.008, 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: 1009.971(1), (4), (6) FS.

LAW IMPLEMENTED: 1009.98 FS.

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

DATE AND TIME: October 31, 2008, 2:00 p.m.
PLACE: Suite 210, Hermitage Building, 1801 Hermitage Boulevard, Tallahassee, Florida

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Thomas J. Wallace, Executive Director, 1801 Hermitage Boulevard, Suite 210, Tallahassee, Florida 32308, telephone (850)488-8514

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: June 4, 2008
 DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: September 12, 2008

THE FULL TEXT OF THE PROPOSED RULE IS:

STATE BOARD OF ADMINISTRATION

Florida Prepaid Postsecondary Education Expense Board

RULE NO.: 19B-16.011
 RULE TITLE: Unclaimed Refunds

PURPOSE AND EFFECT: This rule revises the requirements for written notice of a terminated Investment Plan prior to the escheatment of its refund to the Trust Fund.

SUMMARY: Revises the requirements for written notice to benefactors that are due a refund for a terminated Investment Plan account prior to the escheatment of the refund to the Trust Fund. Conforms this rule to the changes to Rules 19B-16.008 and 19B-16.010, 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: 1009.971(1), (4), (6) FS.

LAW IMPLEMENTED: 1009.98 FS.

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

DATE AND TIME: October 31, 2008, 2:00 p.m.

PLACE: Suite 210, Hermitage Building, 1801 Hermitage Boulevard, Tallahassee, Florida

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Thomas J. Wallace, Executive Director, 1801 Hermitage Boulevard, Suite 210, Tallahassee, Florida 32308, telephone (850)488-8514

THE FULL TEXT OF THE PROPOSED RULE IS:

19B-16.011 Unclaimed Refunds.

(1) The Board ~~will shall~~ mail written notice to ~~the any~~ benefactor of ~~a an account~~ terminated participation agreement when a refund for the account has been available for pursuant to Rule 19B-16.010, F.A.C., when the benefactor has not negotiated the refund check for such account after a period of six (6) years. The notice shall indicate the procedure which ~~the benefactor~~ must be followed to obtain a refund of the monies held by the Board for said accounts and that if a claim for a refund is not made within seven (7) years of the termination of the account that the funds shall be subject to disposition as provided under Section 1009.981(2)(b)10., F.S. An alphabetical list of the names of the account owners of such

19B-16.010 Termination and Withdrawal; Distributions.

(1)(a) A benefactor may voluntarily terminate a participation agreement at any time by submitting a written, notarized request to terminate the participation agreement to the Board and receive a refund. For accounts established on or after February 1, 2009, such requests also must include the notarized signature of the contingent benefactor. Any written request for voluntary termination of a participation agreement shall be processed within thirty (30) days following receipt of the request by the Board. The amount of the refund ~~to the benefactor~~ will be the account balance. The refund shall be paid only to the benefactor.

(b) A benefactor may voluntarily terminate a participation agreement at any time by submitting a written, notarized request for a rollover distribution of the entire Account Balance. For accounts established on or after February 1, 2009, such requests also must include the notarized signature of the contingent benefactor. Any written request for a rollover distribution of the entire Account Balance must indicate the qualified tuition program to which said rollover distribution is to be made and will be processed within thirty (30) days following receipt of the request by the Board.

(c) A participation agreement shall be deemed to have been voluntarily cancelled when the benefactor requests a distribution of all funds in the account so that the account balance is zero. However, the benefactor of an account that has been voluntarily cancelled may reactivate the account and the participation agreement at any time by making a contribution to the account.

(2) through (4) No change.

(5) Upon involuntary termination of a participation agreement, the benefactor may obtain ~~will be entitled to~~ a refund of the account balance by submitting a written notarized request signed by the benefactor to the Board. For accounts established on or after February 1, 2009, such requests also must include the notarized signature of the contingent benefactor. Such refund shall be paid to the benefactor.

(6) No change.

Specific Authority 1009.971(1), (4), (6) FS. Law Implemented 1009.981(3) FS. History—New 5-30-02, Amended 11-27-02, 4-21-05,_____.

NAME OF PERSON ORIGINATING PROPOSED RULE: Florida Prepaid College Board

NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: Florida Prepaid College Board

accounts shall be posted on the Board’s website on the Internet. Any such refund for any account terminated pursuant to Rule 19B-16.010, F.A.C., which remains unclaimed after seven (7) years shall be subject to disposition pursuant to Section 1009.981(2)(b)10., F.S.

(2) No change.

Specific Authority 1009.971(1), (4), (6) FS. Law Implemented 1009.981(4) FS. History–New 5-30-02, Amended 1-1-07,_____.

NAME OF PERSON ORIGINATING PROPOSED RULE: Florida Prepaid College Board

NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: Florida Prepaid College Board

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: June 4, 2008

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: September 12, 2008

DEPARTMENT OF CORRECTIONS

RULE NO.: 33-208.403 RULE TITLE: Random Drug Testing of Employees

PURPOSE AND EFFECT: The purpose and effect of the proposed rule is to provide clarity as to the process following a positive drug test by noncertified staff versus certified staff and employees in trainee status.

SUMMARY: The proposed rule amends Rule 33-208.403, F.A.C., to insert “for staff not certified under Section 943.13, F.S.” in paragraph (13)(a); staff who are certified under Section 943.13, F.S., who receive a positive confirmed drug test, will be placed on leave status removed from the class and offer, if available, a non-certified position. The certified employee is given a referral to the employee assistance program and the Criminal Justice Standards and Training Commission is contacted and provided a report on the issue. These employees shall be required to complete treatment as recommended by the employee assistance program, or be dismissed, and submit to follow-up testing. The proposed rule also provides for the immediate dismissal of any employee in probationary or trainee status following a confirmed positive drug screening.

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: 944.09, 944.474 FS.

LAW IMPLEMENTED: 112.0455, 944.09, 944.474 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: David Arthmann, Office of the General Counsel, Department of Corrections, 2601 Blair Stone Road, Tallahassee, Florida 32399-2500

THE FULL TEXT OF THE PROPOSED RULE IS:

33-208.403 Random Drug Testing of Employees.

(1) through (12) No change.

(13) In the case of positive test results for which the employee did not or could not provide valid documentation of lawful intake of the identified controlled substance, the employee shall be notified in writing of the positive test results and the consequences of the results, in accordance with the following:

(a) First time positive test result for staff not certified under Section 943.13, F.S.

1. through 8. No change.

(b) First time positive result for staff certified under Section 943.13, F.S.

1. All employees receiving a positive confirmed drug test will immediately be placed on leave status. If the employee refuses to be placed on leave status, the Department will initiate official proceedings to remove the employee from his position.

2. All employees receiving a positive confirmed drug test will be removed from the class. The Department will offer alternate non-certified position placement in accordance with the employee’s qualifications, if such is available. If no alternative position placement is available or the employee is unwilling to accept available placement options, the employee will be dismissed in accordance with department procedure.

3. All employees will be given a mandatory referral to the employee assistance program in accordance with department procedure.

4. The Criminal Justice Standards and Training Commission will be contacted and provided with a report in accordance with established reporting procedures.

5. All employees placed in an alternate position will be required to complete the course of treatment recommended by the employee assistance program treatment provider.

6. If an employee refuses to comply with all requirements for subparagraph (13)(b)5. above, he will be dismissed in accordance with department procedure.

7. Follow-Up Testing: All employees who remain employed following a first time positive confirmed drug test will be subject to follow-up urinalysis drug testing on a quarterly, semiannual, or annual basis for up to two years thereafter, pursuant to Section 112.0455, F.S.

(c)(b) No change.

(d) Employees in trainee or probationary status.

1. Any employee in trainee or probationary status receiving a positive confirmed drug test will be dismissed.

2. Any other governing licensure or certification board or body (relevant to the employee's position requirements) will be contacted and provided with a report in accordance with established reporting procedures.

(14) through (19) No change.

Specific Authority 944.09, 944.474 FS. Law Implemented 112.0455, 944.09, 944.474 FS. History--New 9-11-05, Amended.

NAME OF PERSON ORIGINATING PROPOSED RULE: Ralph Kiessig, Director of Human Resource Management

NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: Walter A. McNeil, Secretary

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: August 23, 2008

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: September 5, 2008

DEPARTMENT OF CORRECTIONS

RULE NO.: 33-602.201 RULE TITLE: Inmate Property

PURPOSE AND EFFECT: The purpose and effect of the proposed rule is to amend Rule 33-602.201, F.A.C., to allow wardens to establish local clothing procedures based upon confinement or other high security status when possession of multiple items presents a security risk, clarify the items which inmates may take when they are transferred to outside community hospital for treatment or to a court appearance, and for consistency regarding the items that inmates may possess as religious property, where restricted religious property shall be stored, how religious symbols shall be worn, and how religious property items will be approved for placement on inmates' property lists.

SUMMARY: The proposed amendment to Rule 33-602.201, F.A.C., requires that where wardens establish local clothing procedures the procedures shall comply with the following: clothing shall be exchanged on a one-for-one basis; inmates must have the opportunity for at least three exchanges per week or the same opportunity for exchange as provided to other inmates at the institution, whichever is greater; and local clothing storage procedures must be consistently applied for all inmates of a particular security or housing status. Additional restrictions or removal of clothing items for individual inmates for safety or security reasons shall be handled and documented in accordance with rules applicable to the particular confinement status.

The items inmates transferring to court or outside community hospital for treatment may take with them is amended to include personal hygiene items and prescription medication issued by health services. Religious property is amended to reflect those items which inmates may possess as part of their inmate property, those religious items which pose a security

risk when allowed in an inmate's cell and must be stored in the chapel, those items which may not be stored in the chapel, and those which may be worn at all times.

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: 944.09 FS.

LAW IMPLEMENTED: 944.09 FS.

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

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

THE FULL TEXT OF THE PROPOSED RULE IS:

33-602.201 Inmate Property.

(1) The reception center Chief of Security shall ensure that property files are established for all new inmates. The inmate property file shall become part of the inmate's institutional file. All forms and correspondence pertaining to inmate property shall be placed in this file in chronological order. The Chief of Security or his designee shall be responsible for the maintenance of the inmate property file. An addendum will be made to the Form DC6-224, Inmate Personal Property List, Form DC6-224, any time the status of inmate personal property changes. Examples of changes include when an inmate receives additional property through an approved source or when the inmate chooses to dispose of a broken or worn out item. Form DC6-224 is incorporated by reference in subsection (17) of this rule.

(2) through (3) No change.

(4) Authorized Property.

(a) No change.

(b) Wardens are authorized to establish local clothing storage procedures based upon confinement or other high security status when possession of multiple items presents a security risk for inmates in that status. Local clothing storage procedures shall comply with the following:

1. Clothing shall be exchanged on a one-for-one basis;

2. Inmates must have the opportunity for at least three exchanges per week or the same opportunity for exchange as provided to other inmates at the institution, whichever is greater;

3. Local clothing storage procedures must be consistently applied for all inmates of a particular security or housing status. Additional restrictions or removal of clothing items for

individual inmates for safety or security reasons shall be handled and documented in accordance with rules applicable to the particular confinement status.

~~(c)(b)~~ No change.

~~(d)(e)~~ No change.

~~(e)(d)~~ Inmates shall be required to maintain receipts for items purchased from the canteen for as long as they possess the items. In instances where items purchased from the canteen are added to the Form DC6-224, Inmate Personal Property List, Form DC6-224, by the property officer, the inmate will not be required to maintain the original canteen receipt.

~~(f)(e)~~ No change.

(5) No change.

(6) Storage of Excess Legal Materials.

(a) through (b) No change.

(c) Storage of Excess Active Legal Material.

1. No change.

2. When it is determined by the assistant warden or chief of security that an inmate has legal material that cannot be contained in the inmate's assigned locker, the inmate shall be given a written order from an employee of the department providing:

a. No change.

b. If, after organizing and inventorying his or her legal material the inmate will not be able to fit his active legal material in his assigned inmate locker, the inmate shall complete Form DC6-2006, a Request for Storage of Excess Active Legal Material, Form DC6-2006, and Form DC6-2008, an Excess Active Legal Material Inventory List, Form DC6-2008, to be submitted to the warden for review. Forms DC6-2006 and DC6-2008 are incorporated by reference in subsection (17) of this rule.

3. through 7. No change.

8. If the inmate fails to file written notice with the warden within 15 calendar days, fails to provide Form DC6-2007, Excess Inactive Legal Material Disposition Determination, as an attachment to his or her appeal, addresses more than one issue or in any other way violates the grievance procedure as described in Chapter 33-103, F.A.C., his or her appeal shall be returned without response to the issue raised.

9. through 10. No change.

11. Prior to being stored in excess storage, excess active legal material shall be placed in storage box(es) with interlocking flap, shall be numbered in sequential order and shall have the inmate's name and department of corrections number clearly written on the top and side of each box. Prior to being sealed, the box(es) shall be inspected by staff, in the presence of the inmate, for contraband. Each box shall be sealed in the presence of the inmate prior to being placed into excess storage. Form DC6-2008, An Excess Active Legal

Material Inventory List, Form DC6-2008, shall be completed or updated by the inmate before the box(es) are sent or returned to excess storage.

12. through 13. No change.

(d) No change.

(e) Inmate Access to Excess Active Legal Material.

1. through 4. No change.

5. Form DC6-2008, An Excess Active Legal Material Inventory List, Form DC6-2008, shall be used and updated each time legal material is stored in or exchanged with legal material from excess storage.

(f) No change.

(7) Impounded Property.

(a) No change.

(b) When personal property of an inmate is taken, it will be inventoried according to the following procedure on Form DC6-220, Inmate Impounded Personal Property List, and, whenever practical, in the presence of the inmate. Exceptions may be made when the inmate's presence during this process jeopardizes institutional security or in times of an emergency such as a general disturbance creating security concerns. New inmates being processed into the department at one of the reception centers will have their property recorded on Form DC6-220 with a copy being given to the inmate. Unauthorized property will be stored pending final disposition as provided in this rule. At the time of receipt into the department each inmate will also sign Form DC6-226, an Authorization for Disposition of Mail and Property, Form DC6-226, which authorizes the department to dispose of the property should the inmate abandon it. Form DC6-226 is incorporated by reference in subsection (17) of this rule.

1. through 5. No change.

(c) through (i) No change.

(8) Any inmate transferring to an outside community hospital for treatment or to a court appearance shall take only items of personal clothing and hygiene items and prescription medication issued by health services, except in those cases in which the inmate is expected to be absent for a period of more than 30 days. If the inmate is to return within 30 days, Rremaining personal property shall be inventoried utilizing Form DC6-220, Inmate Impounded Personal Property List, and stored in a secure location. When the inmate returns, only those items that he possessed before transfer will be allowed.

(9) through (13) No change.

(14) Missing Inmate Property.

(a) When an inmate's property is being returned after being stored for any reason and items documented on the Form DC6-224, Inmate Pproperty Llist, Form DC6-224, cannot be located this fact shall be documented on the form. Any request for compensation or replacement of missing items shall be initiated via the inmate grievance process by the inmate whose property is missing.

(b) through (e) No change.

(15) No change.

(16) ~~Approved~~ Religious Property.

(a) Inmates shall be permitted to possess the following religious items or material:

~~1.(a) Religious publications as defined in Rule 33-503.001, F.A.C.. Scriptural or devotional books for personal use that are in compliance with admissibility requirements of Rule 33-501.401, F.A.C.~~

2. Items adhering to the tenets of a particular religion for wearing at all times or use during individual worship. Items may include:

a. Jewish – yarmulke;

b. Catholic – rosary;

c. Muslim – prayer rug, koofi;

d. Native American – medicine bag, headband, and;

e Asatru or Odinism – runes and accompanying cloth bag.

3. Religious symbols such as a cross, Star of David, talisman, or other religious medallion. Religious symbols shall not be more than 2 inches in length or diameter. Religious symbols and items worn about the neck shall be worn under the shirt.

(b) Inmates shall not be permitted to possess the following religious items or materials which adhere to the tenets of a particular religion for individual worship or group worship which pose a security risk when allowed in an inmate's cell or dorm. Inmates shall be permitted to use the following religious items or materials only under the supervision of the chaplain and items shall be stored in the chapel. Items required by the tenets of a particular religion, including:

1. Jewish – prayer shawl yarmulke, tefillin;

2. Wiccan – tarot cards; and Catholic – rosary;

3. Buddhist – meditation cushion or Zafu; Muslim – prayer rug, koofi; and

4. Native American – medicine bag, headband.

(c) Inmates shall not be permitted to possess religious items or materials intended for use in group worship. These group worship items shall not be stored at the institution, but may be brought in by volunteers for the religious observance. Group worship items include: Religious symbols such as a cross, Star of David, talisman, or other religious medallion. Religious symbols shall not be more than 2 inches in length or diameter.

1. Alcoholic beverages or wine;

2. Wiccan – stones or crystals.

(d) ~~Approved~~ Religious property and other religious items shall be acquired through an authorized vendor, canteen purchase, or bona fide religious organization.

(e) No change.

(f) Inmate requests for ~~other types of~~ religious property shall be reviewed by the chaplain to determine whether the item is required by the inmate's particular religion and security

~~personnel to determine whether the item presents a threat to security and order. When items such as the tefillin or tarot cards are requested, a case-by-case evaluation shall be conducted by the chaplain and security personnel to determine whether the item presents a threat to security and order. In making the decision whether to allow the inmate to have the item in his possession, to allow the item to be stored in the chapel and used under supervision of the chaplain, or to deny the request for the item, staff shall consider the following factors:~~

~~1. The nature of the item requested and the particular dangers to security and order that the item presents;~~

~~2. The characteristics of the institution and of the general inmate population at the institution;~~

~~3. The custody level and record of the inmate requesting the item; and~~

~~4. Any other factors particular to the situation which impact on interests of security and order at that institution.~~

~~(g) All security issues related to approved religious property shall be addressed and resolved by security staff.~~

(17) Forms. The following forms referenced in this rule are hereby incorporated by reference. Copies of any of these forms are available from the Forms Control Administrator, Office of Research, Planning and Support Services, 2601 Blair Stone Road, Tallahassee, Florida 32399-2500.

(a) Form DC6-224, Inmate Personal Property List, effective date 11-21-00.

(b) Form DC6-220, Inmate Impounded Personal Property List, effective date 10-23-06.

(c) Form DC6-226, Authorization for Disposition of Mail and Property, effective date 11-21-00.

(d) Form DC6-225, Inmate Partial Property Return Receipt, effective date 11-21-00.

(e) Form DC6-227, Receipt for Personal Property, effective date 11-21-00.

(f) Form DC6-238, Report of Risk Management Claim for Inmate Property, effective date 7-8-03.

(g) Form DC6-2006, Request for Storage of Excess Legal Material, effective date 7-8-03.

(h) Form DC6-2008, Excess Active Legal Material Inventory List, effective date 7-8-03.

(i) Form DC6-2007, Excess Inactive Legal Material Disposition Determination, effective date 7-8-03.

Specific Authority 944.09 FS. Law Implemented 944.09 FS. History– New 6-4-81, Formerly 33-3.025, Amended 11-3-87, 11-13-95, 5-20-96, 1-8-97, 6-1-97, 7-6-97, 10-15-97, 2-15-98, 3-16-98, 8-4-98, 12-7-98, Formerly 33-3.0025, Amended 11-21-00, 9-12-01, 5-16-02, 7-8-03, 8-18-04, 1-25-05, 10-23-06, 2-27-08, _____.

APPENDIX ONE

PROPERTY LIST

No change.

NAME OF PERSON ORIGINATING PROPOSED RULE:
 Celeste Kemp, Chief, Inmate Grievances
 NAME OF AGENCY HEAD WHO APPROVED THE
 PROPOSED RULE: Walter A. McNeil, Secretary
 DATE PROPOSED RULE APPROVED BY AGENCY
 HEAD: August 19, 2008
 DATE NOTICE OF PROPOSED RULE DEVELOPMENT
 PUBLISHED IN FAW: August 29, 2008

DEPARTMENT OF CORRECTIONS

RULE NO.: 33-602.210
 RULE TITLE: Use of Force

PURPOSE AND EFFECT: The purpose and effect of the proposed rule is to require designated officers to carry chemical agent dispensers designed for controlling incidents involving numerous inmates in large areas and to require all certified officers to carry a chemical agent dispenser designed for controlling incidents indoors and involving fewer inmates.

SUMMARY: The proposed amendment to Rule 33-602.210, F.A.C., requires designated officers to carry chemical agent dispensers designed for controlling incidents involving numerous inmates in large areas and requires all certified officers to carry a chemical agent dispenser designed for controlling incidents indoors and involving fewer inmates, and authorizes designated and certified officers to utilize chemical agents in certain circumstances. Form DC4-529, Staff Request/Referral, and Form DC4-711A, Refusal of Health Care Services are amended for clarity and DC4-711A is amended to include the following language "I acknowledge that I have been informed of the diagnosis, if known, nature and purposes of the proposed treatment or procedure, risks and benefits of the proposed treatment or procedure, alternative treatments and their risks and benefits and the consequences danger to my health and possibly to my life that may result from my refusal of this procedure/treatment." Form references throughout have been amended for clarity.

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: 944.09 FS.

LAW IMPLEMENTED: 776.07, 944.09, 944.35 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: Jamie Jordan-Nunes, Office of the General Counsel, Department of Corrections, 2601 Blair Stone Road, Tallahassee, Florida 32399-2500

THE FULL TEXT OF THE PROPOSED RULE IS:

33-602.210 Use of Force.

(1) though (6) No change.

(7) The warden or, in his absence, the duty warden will be consulted and give her or his permission prior to use of physical force. In spontaneous use of force incidents when circumstances do not permit prior approval, the warden or, in his absence, the duty warden will be notified immediately following any use of force incident. Whenever force is authorized, the employee who was responsible for making the decision to use force pursuant to subsection (1) shall prepare, date and sign ~~the Authorization for Use of Force Report, Form DC6-232, Authorization for Use of Force Report,~~ either during, or immediately after, the tour of duty when force was used. If the authorization for force is given after normal working hours, the person authorizing the force shall complete and sign Form DC6-232 within one working day (Monday through Friday) following the incident. Form DC6-232 is incorporated by reference in subsection (22) of this rule.

(8) Whenever force is used the employee initially using force shall complete Form DC6-230, Institutions Report of Force Used, the completed form shall include a detailed written report of force used shall be prepared, dated and signed by the initial employee using force. Form DC6-230, Institutions Report of Force Used, shall be used for this purpose. If more than one employee was involved in the initial use of force, the highest ranking official involved or the most senior employee shall complete the report. Each additional employee involved in the use of force who agrees with the facts and circumstances as reported on Form DC6-230 Section I shall prepare Form DC6-231, an Institutions Report of Force Used Staff Supplement, Form DC6-231. The report shall describe in detail the type and amount of force used by him or her. Each employee shall individually write his or her own report, then submit the completed report to the clerical personnel designated by the warden to type all the reports onto one form to be signed by each employee. Any additional employee who does not agree with the facts and circumstances as reported in Form DC6-230 Section I shall prepare a separate Form DC6-230, Institutions Report of Force Used. Forms DC6-230 and DC6-231 are incorporated by reference in subsection (22) of this rule.

(9) No change.

(10) The warden or acting warden shall immediately conduct a preliminary review of the video tape(s) and all associated reports for signs of excessive force or procedural deviation. If signs of excessive force or procedural deviation are noted by the warden or assigned inspector, she or he will notify the Office of the Inspector General directly, so that there is no undue delay in initiating an investigation. The warden shall then appoint a staff member of equal or higher rank than those involved in the use of force to collect all pertinent information and required documentation. This information will

include the reports of all involved staff and the statements of staff witnesses, inmate witnesses, the inmate subject, and the completed Form DC1-813, Use of Force File Checklist, ~~Form DC1-813~~. All inmate statements (subject and witnesses) shall be made in writing using Form DC6-112C, the Witness Statement, ~~Form DC6-112C~~. Form DC6-112C is incorporated by reference in Rule 33-601.313, F.A.C. All employees who witness but do not participate in the use of force shall complete ~~an Incident Report, Form DC6-210, Incident Report~~. Form DC6-210 is incorporated by reference in subsection (22) of this rule. This process will be completed within 5 working days (Monday through Friday). The warden shall review the information and note any inappropriate actions. The warden shall review ~~the Use of Force File Checklist, Form DC1-813, Use of Force File Checklist~~ and shall forward the videotape(s) and associated reports on the use of force and the warden's review to the institutional inspector within five working days. ~~Form DC1-813 is incorporated by reference in subsection (22) of this rule~~. The institutional inspector will ensure that all documentation is complete and will forward all materials to the Use of Force Unit within the Office of the Inspector General (OIG) within 5 working days. The Use of Force Unit within the OIG, following its review, will either approve the use of force action or disapprove it. If the Use of Force Unit finds that the use of force was appropriate, the OIG's written determination of the appropriateness of the force used and the reasons therefor, shall be forwarded to the circuit administrator or warden upon completion of the review. If the Use of Force Unit finds that the use of force was inappropriate, the OIG shall conduct a complete investigation into the incident and forward the findings of fact to the appropriate regional director. The OIG shall also advise the warden in writing of the reason for the disapproval so that the warden can take any needed corrective action. If employee disciplinary action appears warranted, the warden shall prepare Form DC6-296, Disapproved Use of Force/Disposition Report, and forward the materials to the service center employee relations supervisor. ~~Form DC6-296, Disapproved Use of Force/Disposition Report, shall be used for this purpose~~. Form DC6-296 is incorporated by reference in subsection (22) of this rule. The warden shall document all corrective action taken. Copies of the employee's report, the warden's summary and the inspector general's review and determination shall be kept in the inmate's file. A Form DC2-802, Use of Force Log, ~~Form DC2-802~~, shall be placed in every employee's personnel file. This form will be maintained by the servicing personnel office and shall contain a record of every report of use of force and staff supplement completed by the employee. The warden or his ~~or her~~ designee shall be responsible for submitting accurate information to the personnel office in order to maintain Form DC2-802. Any use of force reports completed prior to April 15, 1998 shall ~~also~~ remain in the file. Form DC2-802, ~~Use of Force Log~~, is incorporated by reference in subsection (22) of this rule.

(11) Any employee who witnesses, or has reasonable cause to suspect, that an inmate has been unlawfully abused shall immediately prepare, date and sign ~~an Incident Report, Form DC6-210, Incident Report~~, pursuant to Section 944.35(3)(d), F.S., specifically describing the nature of the force used, the location and time of the incident and the persons involved. The report shall be delivered to the inspector general of the department with a copy delivered to the warden of the institution. The inspector general shall conduct an appropriate investigation and, if probable cause exists that a crime has been committed, notify the state attorney in the circuit in which the institution is located. ~~Form DC6-210, Incident Report, is incorporated by reference in subsection (22) of this rule~~.

(12) Force or restraint may be used to administer medical treatment when ordered by a physician or clinical associate, and only when treatment is necessary to protect the health of other persons, as in the case of contagious and venereal diseases, or when treatment is offered in satisfaction of a duty to protect the inmate against self-inflicted injury or death. The physician or clinical associate shall prepare Form DC6-232, Authorization for Use of Force Report, ~~a report~~ documenting the reasons that force or restraint was authorized. ~~Form DC6-232, Authorization for Use of Force Report, shall be used for this purpose~~. The physician's or clinical associate's report shall be attached to Form DC6-230, the Institutions Report of Force Used, when actual force is used, or Form DC6-210, the Incident Report, ~~Form DC6-210~~, in cases when restraints are applied without the use of force as described above. In each instance a DC4-701C, Emergency Room Record, shall be completed in its entirety with applicable data, or the letters N/A used to indicate not applicable. Form DC4-708, Diagram of Injury, shall also be completed in its entirety with applicable data, or the letters N/A used to indicate not applicable. In each case, the examination shall be complete and result in a clear statement by the medical provider that there is or is not an injury, and the record shall provide sufficient documentation to support that conclusion. In all cases where physical force is used to manage an inmate, the inmate and any employee who is involved will be required to receive a medical examination or will sign Form DC4-711A, a Refusal of Health Care Services, ~~Form DC4-711A~~, declining the examination. In those cases where an injury is claimed but not substantiated by medical examination, the statement by the medical provider shall indicate this, and the documentation shall be sufficient to support that no injury was found upon examination. Forms DC4-711A, DC4-701C and DC4-708 are incorporated by reference in subsection (22) of this rule. When the use of four-point or five-point psychiatric restraints is authorized and the inmate does not offer resistance to the application of the restraints, the completion of ~~an Institutions Report of Force Used, Form DC6-230, Institutions Report of Force Used, or an Institutions Report of Force Used Staff Supplement, Form DC6-231, Institutions Report of Force Used Staff Supplement~~,

will not be required. In these situations, where there is no resistance to the application of psychiatric restraints, the application of the restraints will be videotaped and ~~an Incident Report~~, Form DC6-210, Incident Report, will be completed. The videotape, the completed Incident Report, and the completed ~~Authorization for Use of Force Report~~, Form DC6-232, Authorization for Use of Force Report, will be forwarded to the warden or acting warden for review within one working day. The warden will forward the videotape and associated reports to the institutional inspector within five working days. The institutional inspector will ensure that all documentation is complete and will forward all materials to the Office of the Inspector General, as outlined in subsection (10) above, for review. If at any time prior to or during the application of the psychiatric restraints the inmate offers resistance to the application, the steps outlined in subsection (8) above will be followed.

(13) through (14) No change.

(15) Use of electronic immobilization devices.

(a) through (g) No change.

(h) In any case where electronic immobilization devices are used, ~~an Institutions Report of Force Used~~, Form DC6-230, Institutions Report of Force Used, shall be prepared ~~written~~ and shall include:

1. through 2. No change.

(i) through (l) No change.

(16) Use of Chemical Agents.

(a) The following chemical agents are authorized for use by the department:

1. No change.

2. CS – Orthochlorbenzal Malononitrile or Orthochlorobenzylidene Malononitrile – An irritant agent that causes eyes to burn and tear, nasal discharge, and skin and upper respiratory irritation.

a. No change.

b. When documentation is available, e.g., ~~previous Institutional Report of Force Used~~, Form DC6-230, Institutions Report of Force Used, to substantiate that the use of OC has in the past proven ineffective in controlling a specific inmate, the warden or duty warden has the option to authorize the use of CS as the initial/primary chemical agent.

c. through f. No change.

3. No change.

(b) No change.

(c) In controlled situations when time constraints are not an issue, chemical agents can only be used if authorized by the warden or, in his or her absence, the duty warden. Additionally, in accordance with paragraph (k) below, certified correctional staff will be ~~designated by the warden to carry chemical agents~~ and will be pre-authorized to administer chemical agents in instances where chemical agents must be used for intervention in self-defense, i.e., when the officer believes that he or she is

in imminent threat of bodily harm or that the use of chemical agents will prevent injury to other staff, visitors, volunteers or inmates.

(d) through (f) No change.

(g) No inmate shall be handcuffed solely for the purpose of administering chemical agents. If chemical agents are administered to a handcuffed inmate, an explanation as to why the removal of the handcuffs was not feasible shall be included in Section I of Form DC6-230, ~~the Institutions Report of Force Used~~, ~~Form DC6-230~~.

(h) through (j) No change.

(k) Chemical agents shall be stored in the main arsenal. A small amount of chemical agents may be stored in secure locations such as the control room mini-arsenal or the officer's station in confinement and close management units until its use is authorized. Each stored chemical agent dispenser will be numbered. ~~The Chemical Agent Accountability Log~~, Form DC6-216, Chemical Agent Accountability Log, will be kept in all areas in which chemical agents are stored and will be utilized to record the weight of each numbered chemical agent dispenser prior to issue and again when it is returned to the secure inventory storage area. The weighing process will be conducted and a verifying entry will be made in the log, including the signature of the shift supervisor authorizing the use of the chemical agent. The chief of security shall monitor the canister weights following each use of chemical agents to ensure the amounts used are consistent with that expected by reviewing and initialing ~~the Chemical Agent Accountability Log~~, Form DC6-216. Form DC6-216 is incorporated by reference in subsection (22) of this rule.

(l) Issuance of chemical agents.

1. Certified officers assigned to major institutions and work camps are Staff designated by the Secretary of the Department as required to carry chemical agents and shall be issued one three or four ounce dispenser of OC pepper spray; with marking dye, after being properly trained in chemical agent utilization. These officers are authorized to administer chemical agents in spontaneous circumstances without additional authorization for intervention in self-defense, i.e., when the officer believes that he is in imminent threat of bodily harm or that the use of chemical agents will prevent injury to other staff, visitors, volunteers, or inmates. Certified security officers assigned to armed perimeter posts may be exempted from this requirement by the warden.

2. Certified officers assigned to major institutions and posted to internal security, recreation field, shift supervisor posts, or designated as "A" team response members are authorized by the Secretary to be issued one twelve to thirteen ounce MK-9, or equivalent, fogger type dispenser of OC in addition to the dispenser issued in accordance with subparagraph (16)(l)1. These officers are authorized to administer the chemical agents listed in this subparagraph in spontaneous disturbance situations involving multiple inmates

in locations where large numbers of inmates are present, such as recreation fields, canteen, and meal lines. This option shall only be utilized in disturbance situations rising to the level of inmate involvement where this enhanced option is deemed necessary and shall not be used indoors.

3. The chemical agent dispenser shall be securely encased and attached to the officer's belt. Each ~~MK-4~~ chemical agent dispenser will be secured within a pouch or to a holstering device by a numbered, breakable seal. Form DC6-213, Individual Chemical Agent Dispenser Accountability Log, will be utilized to document the name of the officer to whom each dispenser is assigned as well as the seal number on the dispenser she or he received. Form DC6-213 is incorporated by reference into subsection (22) of this rule. Upon receiving the dispenser and pouch, the officer will examine the safety seal to ensure that it is intact. If the seal is broken, the Shift Supervisor will be notified immediately and Form DC6-210, an Incident Report, Form DC6-210, will be written. ~~Forms DC6-210 and DC6-213 are incorporated by reference in subsection (22) of this rule.~~ The arsenal sergeant shall maintain a mastery inventory of all individual chemical agent dispensers complete with the weight of the dispenser at the time the original seal is attached. Whenever a dispenser is returned with a broken seal, the arsenal sergeant shall document the weight of the dispenser on ~~the~~ Form DC6-216, Chemical Agent Accountability Log, and attach a new seal.

~~(m)(4)~~ In any case where chemical agents are used, an accurate record shall be maintained as to what type of agent was used, how much was used, method of administration, person authorized to draw chemical agent when issued from a secure location, person administering the chemical agent, location administered, and reason for use. This information shall be included in Section I of Form DC6-230, the Institutions Report of Force Used, ~~Form DC6-230.~~

~~(n)(m)~~ No change.

~~(o)(a)~~ Medical Requirements. Once the inmate is compliant, he shall be showered as soon as possible but not later than 20 minutes after final application of chemical agents. The inmate shall be examined by medical staff immediately after showering. In each instance ~~a~~ Form DC4-701C, Emergency Room Record, shall be completed in its entirety with applicable data, or the letters N/A used to indicate not applicable. If an injury is claimed or found to exist, Form DC4-708, Diagram of Injury, shall also be completed in its entirety with applicable data, or the letters N/A used to indicate not applicable. In each case, the examination shall be complete and result in a clear statement by the medical provider that there is or is not an injury, and the record shall provide sufficient documentation to support that conclusion. In those cases where an injury is claimed but not substantiated by medical examination, the statement shall indicate that, and the documentation shall be sufficient to support that no injury was found upon examination. Medical staff shall, upon completing

the medical examination, make a mental health referral for each inmate who is classified S-2 or S-3 on the health profile. The referral shall be made by completing Form DC4-529, Staff Request/Referral, and sending it to mental health staff. ~~Form DC4-529 is incorporated by reference in subsection (22) of this rule.~~ Mental health staff shall evaluate the inmate not later than the next working day, to determine whether a higher level of mental health care (isolation management, transitional or crisis stabilization) is indicated.

~~(p)(6)~~ No change.

~~(q)(a)~~ Inmates exposed to chemical agents shall be ordered by the shift supervisor to shower and change both inner and outer wear within 20 minutes after exposure for decontamination purposes.

1. If an inmate refuses to shower or change, the refusal shall result in a disciplinary report and be documented:

a. On Form DC6-210, Incident Report, by the shift supervisor; or

b. On Form DC6-229, Daily Record of Segregation, by the confinement lieutenant or shift supervisor, if the inmate is in confinement or close management. Form DC6-229 is incorporated by reference in Rule 33-602.220, F.A.C., ~~or~~

~~e. On Form DC6-229A, by the close management lieutenant or shift supervisor, if the inmate is in close management. Form DC6-229A is incorporated by reference in Rule 33-601.800, F.A.C.~~

2. through 5. No change.

(17) Specialty Impact Munitions. Specialty impact munitions shall be used primarily by the department's rapid response teams and correctional emergency response teams during riots and disturbances. They are intended as a less lethal alternative to the use of deadly force. Specialty impact munitions shall only be employed by officers trained in their use and effects.

(a) through (g) No change.

(h) In any case where specialty impact munitions are deployed, ~~an Institutions Report of Force Used,~~ Form DC6-230, Institutions Report of Force Used, shall be filed in accordance with use of force procedures set forth in this rule.

(18) through (21) No change.

(22) The following forms are hereby incorporated by reference. Copies of these forms are available from the Forms Control Administrator, ~~Office of Research, Planning and Support Services,~~ 2601 Blair Stone Road, Tallahassee, Florida 32399-2500.

(a) through (b) No change.

(c) DC4-529, Staff Request/Referral, effective _____ ~~August 25, 2003.~~

(d) through (e) No change.

(f) DC4-711A, Refusal of Health Care Services, effective _____ October 4, 2007.

(g) through (n) No change.

Specific Authority 944.09 FS. Law Implemented 776.07, 944.09, 944.35 FS. History—New 4-8-81, Amended 10-10-83, 9-28-85, Formerly 33-3.066, Amended 3-26-86, 11-21-86, 4-21-93, 7-26-93, 11-2-94, 2-12-97, 11-8-98, Formerly 33-3.0066, Amended 10-6-99, 2-7-00, 7-25-02, 8-25-03, 2-25-04, 11-7-04, 4-17-05, 8-1-05, 3-2-06, 9-18-06, 10-4-07, 3-3-08, 8-4-08,_____.

NAME OF PERSON ORIGINATING PROPOSED RULE: George Sapp, Assistant Secretary of Institutions
 NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: Walter A McNeil, Secretary
 DATE PROPOSED RULE APPROVED BY AGENCY HEAD: August 29, 2008
 DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: September 12, 2008

AGENCY FOR HEALTH CARE ADMINISTRATION

Medicaid

RULE NO.: 59G-4.251
 RULE TITLE: Florida Medicaid Prescribed Drugs Reimbursement Methodology

PURPOSE AND EFFECT: The purpose of this rule is to state the reimbursement methodology for prescribed drug claims in the Florida Medicaid program.

SUMMARY: The purpose of this rule is to state the reimbursement methodology for prescribed drug claims in the Florida Medicaid program.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS: Approximately 3,300 retail pharmacy providers of Medicaid prescription services are affected by this rule, and no individual Medicaid recipients are affected. Implementation of this rule will reduce the total ingredient cost reimbursement to all retail providers of Florida Medicaid prescription services approximately \$9.7 million annually, or about 0.74 percent of estimated total reimbursement annually. No transactional costs will be incurred pertaining to requirements of this rule. Some of these retail pharmacies may qualify as small businesses as defined by Section 288.703, F.S., however the number is not known. The percentage of ingredient cost reimbursement change is the same for all Medicaid retail pharmacy providers.

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: 409.919 FS.

LAW IMPLEMENTED: 409.906(20), 409.908, 409.912(39)(a) FS.

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

DATE AND TIME: November 4, 2008, 10:00 a.m. – 11:00 a.m.

PLACE: Agency for Health Care Administration Headquarters, 2727 Mahan Drive, Building 3, Conference Room D, Tallahassee, FL

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Marie Donnelly, Bureau of Medicaid Prescribed Drug Services, 2727 Mahan Drive, Mail Stop 38, Tallahassee, Florida 32308-5407, (850)487-4441

THE FULL TEXT OF THE PROPOSED RULE IS:

59G-4.251 Florida Medicaid Prescribed Drugs Reimbursement Methodology.

(1) Reimbursement for prescribed drug claims is made in accordance with the provisions of Title 42, Code of Federal Regulations Sections 447.331-334. Reimbursement for covered drugs dispensed by a licensed pharmacy, approved as a Medicaid provider, or an enrolled dispensing physician filling his own prescriptions, shall not exceed the lower of:

(a) The estimated acquisition cost, defined as the lower of:
1. Average Wholesale Price (AWP) minus 16.4%, or Wholesaler Acquisition Cost (WAC) plus 4.75%, plus a dispensing fee of \$4.23;

2. The Federal Upper Limit (FUL) established by the Centers for Medicare and Medicaid Services, plus a dispensing fee of \$4.23; or

(b) The State Maximum Allowable Cost (SMAC), plus a dispensing fee of \$4.23; or

(c) The provider’s Usual and Customary (U&C) charge, inclusive of dispensing fee.

(2) For drugs purchased by qualified entities under Section 340B of the Public Health Service Act:

Covered entities and Federally Qualified Health Centers or their contracted agents that fill Medicaid patient prescriptions with drugs purchased at prices authorized under Section 340B of the Public Health Service Act must bill Medicaid for reimbursement at the actual acquisition cost plus a dispensing fee of \$7.50 for these drugs.

Specific Authority 409.919 FS. Law Implemented 409.906(20), 409.908, 409.912 (39)(a) FS. History—New _____.

NAME OF PERSON ORIGINATING PROPOSED RULE: Marie Donnelly, Florida Medicaid Prescribed Drug Services

NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: Holly Benson, Secretary, Agency for Health Care Administration

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: September 24, 2008

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: August 8, 2008

AGENCY FOR HEALTH CARE ADMINISTRATION

Medicaid

RULE NO.: 59G-5.020
 RULE TITLE: Provider Requirements

PURPOSE AND EFFECT: The purpose of this rule amendment is to incorporate by reference the revised Florida Medicaid Provider General Handbook, July 2008. The handbook revisions include the new Medicaid fiscal agent’s contact information, updated Medicaid provider enrollment and change of ownership policies as mandated by CS/HB 7083, and updated Medicare-Medicaid crossover policies. The effect of the rule amendment to Rule 59G-5.020, F.A.C., will be to incorporate by reference in rule the Florida Medicaid Provider General Handbook, July 2008.

SUMMARY: The purpose of this rule amendment is to incorporate by reference the revised Florida Medicaid Provider General Handbook, July 2008. The effect of the rule amendment to Rule 59G-5.020, F.A.C., will be to incorporate by reference in rule the Florida Medicaid Provider General Handbook, July 2008.

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: 409.919 FS.

LAW IMPLEMENTED: 409.902, 409.905, 409.906, 409.907, 409.908, 409.912, 409.913 FS.

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

DATE AND TIME: Monday, November 3, 2008, 2:00 p.m.

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

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Karen Girard, Agency for Health Care Administration, Bureau of Medicaid Services, 2727 Mahan Drive, MS 20, Tallahassee, Florida 32308, (850)488-9711, girardk@ahca.myflorida.com

THE FULL TEXT OF THE PROPOSED RULE IS:

59G-5.020 Provider Requirements.

(1) All Medicaid providers enrolled in the Medicaid program and billing agents who submit claims to Medicaid on behalf of an enrolled Medicaid provider must comply with the provisions of the Florida Medicaid Provider General Handbook, July 2008 ~~January 2007~~, which is incorporated by reference and available from the fiscal agent’s Web Portal website at <http://mymedicaid-florida.com> ~~floridamedicaid-~~

~~aes-inc.com~~. Click on Public Information for Providers, then on Provider Support, and then on Provider Handbooks. A Paper copy of the handbook may be obtained by calling the Provider Contact Center Enrollment at (800)289-7799 ~~377-8216~~ and selecting Option 7.

(2) The following form is incorporated by reference: AHCA Form 2200-0004, July 2008 ~~January 2007~~, Medicaid Provider Change of Address Form Declaration of Service Address, one page. The form is available from the Medicaid fiscal agent’s Web Portal website at <http://mymedicaid-florida.com> ~~floridamedicaid.aes-inc.com~~. Click on Secure Information for Providers Provider Support, and then ~~on Enrollment~~. The form may also be obtained from the Medicaid fiscal agent by calling the Provider Contact Center Enrollment at (800)289-7799 ~~377-8216~~ and selecting Option 7.

(3) The following forms that are included in the Florida Medicaid Provider General Handbook are incorporated by reference. In Chapter 3, Temporary Emergency Medicaid Identification Card, July 2008 ~~January 2007~~; one page; CF-ES 2681, Feb 2003, Notice and Proof of Presumptive Eligibility for Medicaid for Pregnant Women, one page; CF-ES Form 2014, Feb 2003, Authorization for Medicaid/Medikids Eligibility, one page; AHCA Form 5240-006, Unborn Activation Form, January 2007, one page; CF-ES 2039, Sep 2002, Medical Assistance Referral, two pages; In Chapter 4, and the AHCA-Med Serv 038 CTEC-07, July 2008 Revised March 2003, Crossover with TPL Claim and/or Adjustment Form, one page. The CF-ES forms are available from the Department of Children and Family Services. The other forms are available from the Medicaid fiscal agent’s Web Portal website at <http://mymedicaid-florida.com> ~~floridamedicaid.aes-inc.com~~. Click on Public Information for Providers, then on Provider Support, and then on Provider Handbooks. Paper copies of the forms may be obtained by calling the Provider Contact Center Enrollment at (800)289-7799 ~~377-8216~~ and selecting Option 7.

Specific Authority 409.919 FS. Law Implemented 409.902, 409.905, 409.906, 409.907, 409.908, 409.912, 409.913 FS. History—New 9-22-93, Formerly 10P-5.020, Amended 7-8-97, 1-9-00, 4-24-01, 8-6-01, 10-8-03, 1-19-05, 5-24-07,_____.

NAME OF PERSON ORIGINATING PROPOSED RULE: Karen Girard

NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: Holly Benson, Secretary

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: September 20, 2008

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: April 11, 2008

AGENCY FOR HEALTH CARE ADMINISTRATION

Medicaid

| | |
|-------------------|--|
| RULE NOS.: | RULE TITLES: |
| 59G-7.003 | Medicaid Third Party Liability Responsibility and Notices |
| 59G-7.004 | Forms |
| 59G-7.0211 | Exchange of Medicaid Data with Health Insurers |
| 59G-7.023 | Probable Existence of Third-Party Liability Established |
| 59G-7.032 | Recovery of Reimbursement – General |
| 59G-7.0322 | Conflicting Claims by Medicare and Medicaid |
| 59G-7.0331 | Small Claim Exception under Paragraph (11)(f) of the MTPLA |
| 59G-7.0332 | All Medical Assistance; Medicaid Program Repaid First |
| 59G-7.034 | Settlement Agreements |
| 59G-7.035 | Fees of Recipient’s Attorney |
| 59G-7.051 | Required to Seek Reimbursement |
| 59G-7.053 | Hospital Third-Party Liability Plan |
| 59G-7.054 | Prompt Repayment |
| 59G-7.056 | Benefits under Certain Plans |
| 59G-7.057 | Provider Third-Party Liability Audits |
| 59G-7.058 | Billing Statement and Medical Records |
| 59G-7.0581 | Statements as Notice |
| 59G-7.060 | Cooperation Required |
| 59G-7.0601 | Non-cooperation |
| 59G-7.061 | Duty to Inform |
| 59G-7.062 | Notice of Proceedings or Claim |
| 59G-7.063 | Settlement and Notice |
| 59G-7.064 | Appearance to Provide Information |
| 59G-7.073 | Proceeds of Tort Recovery Required to Be Held in Trust |

PURPOSE AND EFFECT: To repeal rules which are either repetitive or are obsolete.

SUMMARY: The proposed repeal eliminates certain repetitive or obsolete rules. The rules are either repetitive as their language is in the Medicaid Third-Party Liability Act, Section 409.910, F.S. or reflect obsolete programs.

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: 20.05, 120.53,(1)(b), (c), 409.026(1), (6), (8), 409.285, 409.910(21), (22), (23), 409.919 FS.

LAW IMPLEMENTED: 120.52(16), 120.53(1)(b), (c), 120.57, 120.58, 120.68, 409.257, 409.901 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: Lee Peacock, Third Party Liability, 2727 Mahan Drive, Mail Stop 19, Tallahassee, Florida 32308-5407, (850)487-2622

THE FULL TEXT OF THE PROPOSED RULES IS:

59G-7.003 Medicaid Third Party Liability Responsibility and Notices.

Specific Authority 409.026(8), 409.910(23), 409.919 FS. Law Implemented 409.910 FS. History–New 11-13-91, Formerly 10C-35.003, Amended 10-3-96, Repealed.

59G-7.004 Forms.

Specific Authority 120.53(1)(b), (c), 409.026(1), (6), (8), 409.910(23), 409.919 FS. Law Implemented 120.52(16), 120.53(1), 409.910 FS. History–New 11-13-91, Formerly 10C-35.004, Amended 10-3-96, Repealed.

59G-7.0211 Exchange of Medicaid Data with Health Insurers.

Specific Authority 409.026(8), 409.910(22), (23), 409.919 FS. Law Implemented 409.910(20), 624.424(9), 641.261, 641.411 FS. History–New 11-14-89, Formerly 10C-7.0302, Amended 11-13-91, Formerly 10C-35.0211, Amended 10-3-96, Repealed.

59G-7.023 Probable Existence of Third-Party Liability Established.

Specific Authority 409.026(8), 409.910(23), 409.919 FS. Law Implemented 409.910(1), (3) FS. History–New 11-13-91, Formerly 10C-35.023, Amended 10-3-96, Repealed.

59G-7.032 Recovery of Reimbursement – General.

Specific Authority 409.026(8), 409.910(23), 409.919 FS. Law Implemented 409.910 FS. History–New 11-13-91, Formerly 10C-35.032, Amended 10-3-96, Repealed.

59G-7.0322 Conflicting Claims by Medicare and Medicaid.

Specific Authority 120.53(1)(b), (c), 409.026(8), 409.910(23), 409.919 FS. Law Implemented 120.53(1)(b), (c), 409.910 FS. History–New 11-13-91, Formerly 10C-35.0322, Amended 10-3-96, Repealed.

59G-7.331 Small Claim Exception under Paragraph (11)(f) of the MTPLA.

Specific Authority 120.53(1), 409.026(8), 409.910(23), 409.919 FS. Law Implemented 120.53(1), 409.910 FS. History–New 11-13-91, Formerly 10C-35.0331, Amended 10-3-96, Repealed.

59G-7.0332 All Medical Assistance; Medicaid Program Repaid First.

Specific Authority 409.026(8), 409.910(23), 409.919 FS. Law Implemented 409.910 FS. History–New 11-13-91, Formerly 10C-35.0332, Amended 10-3-96, Repealed.

59G-7.034 Settlement Agreements.

Specific Authority 20.05, 120.53(1)(b), (c), 409.026(8), 409.285, 409.910(23), 409.919 FS. Law Implemented 120.53(1)(b), (c), 120.57, 120.58, 409.285, 409.902, 409.910 FS. History–New 11-13-91, Formerly 10C-35.034, Amended 10-3-96, Repealed.

59G-7.035 Fees of Recipient's Attorney.

Specific Authority 409.026(8), 409.910(23), 409.919 FS. Law Implemented 409.910 FS. History–New 11-13-91, Formerly 10C-35.035, Amended 10-3-96, Repealed.

59G-7.051 Required to Seek Reimbursement.

Specific Authority 409.026(8), 409.910(23), 409.919 FS. Law Implemented 409.902, 409.907, 409.908, 409.910, 409.912, 409.913, 409.920 FS. History–New 11-13-91, Formerly 10C-35.051, Amended 10-3-96, Repealed.

59G-7.053 Hospital Third-Party Liability Plan.

Specific Authority 409.026(8), 409.910(23), 409.919 FS. Law Implemented 409.902, 409.907, 409.908, 409.910, 409.912, 409.913, 409.920 FS. History–New 11-13-91, Formerly 10C-35.053, Amended 10-3-96, Repealed.

59G-7.054 Prompt Repayment.

Specific Authority 409.026(8), 409.910(23), 409.919 FS. Law Implemented 409.902, 409.907, 409.908, 409.910, 409.912, 409.913, 409.920 FS. History–New 11-13-91, Formerly 10C-35.054, Amended 10-3-96, Repealed.

59G-7.056 Benefits under Certain Plans.

Specific Authority 409.026(8), 409.910(21), 409.919 FS. Law Implemented 409.902, 409.907, 409.908, 409.910, 409.912, 409.913, 409.920 FS.; 42 U.S.C. ss. 1396a(a)(25), (a)(27), (a)(45), 1396k (Social Security Act ss. 1902(a)(25), (a)(27), (a)(45), 1912); 42 C.F.R. ss. 433.135-433.140, 447.15, 447.20, 447.21. History–New 11-13-91, Formerly 10C-35.056, Repealed.

59G-7.057 Provider Third-Party Liability Audits.

Specific Authority 409.026(8), 409.910(23), 409.919 FS. Law Implemented 409.902, 409.907, 409.908, 409.910, 409.912, 409.913, 409.920 FS. History–New 11-13-91, Formerly 10C-35.057, Amended 10-3-96, Repealed.

59G-7.058 Billing Statement and Medical Records.

Specific Authority 409.026(8), 409.910(23), 409.919 FS. Law Implemented 409.902, 409.907, 409.908, 409.910, 409.912, 409.913, 409.920 FS. History–New 11-13-91, Formerly 10C-35.058, Amended 10-3-96, Repealed.

59G-7.0581 Statements as Notice.

Specific Authority 409.026(8), 409.910(23), 409.919 FS. Law Implemented 409.902, 409.907, 409.908, 409.910, 409.912, 409.913, 409.920 FS. History–New 11-13-91, Formerly 10C-35.0581, Amended 10-3-96, Repealed.

59G-7.060 Cooperation Required.

Specific Authority 120.53, 409.026(8), 409.910(23), 409.919 FS. Law Implemented 120.57, 120.58, 120.68, 409.901, 409.902, 409.910, 409.920(2)(a), (c) FS. History–New 11-13-91, Formerly 10C-35.060, Amended 10-3-96, Repealed.

59G-7.0601 Non-cooperation.

Specific Authority 120.53, 409.026(8), 409.910(23), 409.919 FS. Law Implemented 120.57, 120.58, 120.68, 409.901, 409.902, 409.910, 409.920(2)(a), (c) FS. History–New 11-13-91, Formerly 10C-35.0601, Amended 10-3-96, Repealed.

59G-7.061 Duty to Inform.

Specific Authority 409.026(8), 409.910(23), 409.919 FS. Law Implemented 409.901, 409.902, 409.910, 409.920(2)(a), (c) FS. History–New 11-13-91, Formerly 10C-35.061, Amended 10-3-96, Repealed.

59G-7.062 Notice of Proceedings or Claim.

Specific Authority 409.026(8), 409.910(23), 409.919 FS. Law Implemented 409.901, 409.902, 409.910, 409.920(2)(a), (c) FS. History–New 11-13-91, Formerly 10C-35.062, Amended 10-3-96, Repealed.

59G-7.063 Settlement and Notice.

Specific Authority 409.026(8), 409.910(23), 409.919 FS. Law Implemented 409.901, 409.902, 409.910, 409.920(2)(a), (c) FS. History–New 11-13-91, Formerly 10C-35.063, Amended 10-3-96, Repealed.

59G-7.064 Appearance to Provide Information.

Specific Authority 409.026(8), 409.910(23), 409.919 FS. Law Implemented 120.58, 409.257, 409.901, 409.902, 409.910, 409.920(2)(a), (c) FS. History–New 11-13-91, Formerly 10C-35.064, Amended 10-3-96, Repealed.

59G-7.073 Proceeds of Tort Recovery Required to Be Held in Trust.

Specific Authority 409.026(8), 409.910(23), 409.919 FS. Law Implemented 409.910 FS. History–New 11-13-91, Formerly 10C-35.073, Amended 10-3-96, Repealed.

NAME OF PERSON ORIGINATING PROPOSED RULE:
Lee Peacock

NAME OF AGENCY HEAD WHO APPROVED THE
PROPOSED RULE: Holly Benson

DATE PROPOSED RULE APPROVED BY AGENCY
HEAD: September 29, 2008

AGENCY FOR HEALTH CARE ADMINISTRATION

Medicaid

RULE NO.: 59G-8.500
 RULE TITLE: Cause of Disenrollment from Health Plans

PURPOSE AND EFFECT: The purpose of this proposed rule is to incorporate in administrative rule the reasons for which a recipient may disenroll from a managed care plan. The effect of the rule will be to incorporate the reasons in administrative rule for which a recipient may disenroll from a managed care plan.

SUMMARY: The purpose of this proposed rule is to incorporate in administrative rule the reasons for which a recipient may disenroll from a managed care plan.

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: 409.91211, 409.9122, 409.919 FS.

LAW IMPLEMENTED: 409.912, 409.91211, 409.9122 FS.

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

DATE AND TIME: Tuesday, November 4, 2008, 2:00 p.m.

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

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Jill Harvey, Program Administrator, 2562 Executive Circle East, Suite 100, Tallahassee, Florida 32301, (850)414-8108, harveyj@ahca.myflorida.com

THE FULL TEXT OF THE PROPOSED RULE IS:

59G-8.500 Cause for Disenrollment from Health Plans.

(1) Recipients subject to the 12-month enrollment period may request disenrollment from the health plan for cause at any time during their no-change period. Recipients making such requests must submit the request to the call center representative for a determination.

(2) For Cause Reasons. The following reasons constitute cause for disenrollment from the health plan:

(a) The recipient moves out of the county, or the recipient's address is incorrect and the recipient does not live in the county.

(b) The health care provider is no longer with the health plan.

(c) The recipient is excluded from enrollment.

(d) A substantiated marketing violation occurred with the individual recipient.

(e) The recipient is prevented from participating in the development of his treatment plan.

(f) The recipient has an active relationship with a health care provider who is not on the health plan's network, but is in the network of another health plan.

(g) The recipient is ineligible for enrollment in the health plan.

(h) The health plan no longer participates in the county in which the recipient resides.

(i) The recipient needs related services to be performed concurrently, but not all related services are available within the health plan network; or the recipient's primary care provider (PCP) has determined that receiving the services separately would subject the recipient to unnecessary risk.

(j) The health plan does not, because of moral or religious objections, cover the service the recipient seeks.

(k) Other reasons per 42 CFR 438.56(d)(2), including poor quality of care; lack of access to services covered under the contract; inordinate or inappropriate changes of PCPs; an unreasonable delay or denial of service, service access impairments due to significant changes in the geographic location of services; lack of access to providers experienced in dealing with the recipient's health care needs; or fraudulent enrollment.

(l) Recipients otherwise locked in who request enrollment in a specialty plan and meet the eligibility requirements for the specialty plan.

(m) Recipient received a notice from their plan of the reduction in required benefits at the end of the plan's annual contract year (for the next year).

(3) Changes without Cause. The following are reasons a recipient may change without cause at any time:

(a) The recipient missed his 60-day Open Enrollment period due to a temporary loss of eligibility, defined as sixty (60) days or less; or

(b) The State has imposed intermediate sanctions upon the health plan, as specified in 42 CFR 438.702(a)(3) for violations consistent with 42 CFR 438.700.

(4) Recipients whose request to disenroll from plans outside of their open enrollment period are denied will be mailed a Disenrollment Denial Letter, AHCA-MCM Form 100, July 2008, incorporated by reference.

Specific Authority 409.91211, 409.9122, 409.919 FS. Law Implemented, 409.912, 409.91211, 409.912 FS. History—New _____.

NAME OF PERSON ORIGINATING PROPOSED RULE: Jill Harvey

NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: Holly Benson, Secretary

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: October 1, 2008

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: February 15, 2008

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 HEALTH

Division of Medical Quality Assurance

RULE NO.: 64B-4.004
 RULE TITLE: Certification Fees For Foreign Dental Educational Institutions

PURPOSE AND EFFECT: To create a rule setting certification fees for foreign educational institutions.

SUMMARY: This rule sets the registration fee, the certification application fee, and the renewal fee for foreign dental educational institutions.

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: 466.008 FS.

LAW IMPLEMENTED: 456.025, 466.008 FS.

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

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

THE FULL TEXT OF THE PROPOSED RULE IS:

64B-4.004 Certification Fees For Foreign Dental Educational Institutions.

(1) The applicant for certification shall pay an initial nonrefundable registration fee of \$1,000.

(2) The fee for review of the certification application is \$40,000. At the end of the certification process, if any portion of this fee exceeds the documented reasonable costs and expenses actually used in reviewing and evaluating the application, the excess amount shall be refunded to the applicant.

(3) The fee for renewing a certification seven years after it was provisionally or fully granted by the department is \$500.

Specific Authority 466.008 FS. Law Implemented 456.025, 466.008 FS. History-New _____.

NAME OF PERSON ORIGINATING PROPOSED RULE:
 Sue Foster

NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: Ana M. Viamonte Ros, M.D. M.P.H.

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: September 30, 2008

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: September 12, 2008

DEPARTMENT OF HEALTH

Board of Osteopathic Medicine

RULE NO.: 64B15-13.001
 RULE TITLE: Continuing Education for Biennial Renewal

PURPOSE AND EFFECT: The Board proposes the rule amendment in order to clarify the requirements for continuing education for biennial renewal.

SUMMARY: The requirements for continuing education for biennial renewal will be clarified.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS: No Statement of Estimated Regulatory Cost was prepared. The Board determined the proposed rule will not have an impact on small business.

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: 459.005, 459.008(4) FS.

LAW IMPLEMENTED: 456.013(5), (6), (7), 459.008, 459.008(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: Christy Robinson, Acting Executive Director, Board of Osteopathic Medicine, 4052 Bald Cypress Way, Bin #C06, Tallahassee, Florida 32399-3253

THE FULL TEXT OF THE PROPOSED RULE IS:

64B15-13.001 Continuing Education for Biennial Renewal.

(1)(a) Every person licensed pursuant to Chapter 459, F.S., except those licensed as physician assistants pursuant to Section 459.022, F.S., shall be required to complete forty (40) hours of continuing medical education courses approved by the Board in the twenty-four (24) months preceding each biennial renewal period as established by the Department. Five of the continuing medical education hours for renewal shall include a one hour Risk Management Course, one hour Florida Laws and Rules, one hour on the laws regarding the use and abuses of controlled substances, and two hours Prevention of Medical Errors Course. Beginning in the 2009-2011 licensure biennium, five of the continuing medical education hours for renewal shall include one hour of professional and medical ethics education, one hour Florida Laws and Rules, one hour

on the laws regarding the laws and rules related to prescribing controlled substances, and a two hour Prevention of Medical Errors Course.

(b) A licensee shall not be required to complete continuing medical education if the initial license is issued subsequent to July 1 of the second year of the biennium, except as found in paragraph 64B15-13.001(1)(a), F.A.C.

(c) A licensee shall complete a two (2) hour Domestic Violence Course as part of every third biennial renewal of licensure.

(d) A licensee shall complete a one (1) hour HIV/AIDS course no later than upon first biennial renewal of licensure.

(2) No change.

(3)(a) For purposes of this rule, risk management means the identification, investigation, analysis, and evaluation of risks and the selection of the most advantageous method of correcting, reducing, or eliminating identifiable risks and domestic violence as defined in Section 741.30, F.S.

(b) The continuing medical education found in paragraph 64B15-13.001(1)(a), F.A.C., with regard to professional and medical ethics ~~Risk Management~~, Florida Laws and Rules, controlled substances and the prevention of medical errors shall be obtained by the completion of live, participatory attendance courses. However, the continuing medical education found in paragraphs 64B15-13.001(1)(c) and (d), F.A.C., with regard to HIV/AIDS and domestic violence, may be obtained by the completion of non-live/participatory attendance.

(c) For purposes of this rule, Florida laws and rules means Chapters 456 and 459, F.S., and Rule Chapter 64B15, F.A.C.

(d) The one hour of general continuing education ~~Risk Management~~ may be fulfilled by attending at least three (3) hours of disciplinary matters at a regular meeting of the Board of Osteopathic Medicine in compliance with the following:

1. The licensee must sign in with the Executive Director of the Board, or designee, before the meeting day begins.

2. The licensee must remain in continuous attendance.

3. The licensee must sign out with the Executive Director of the Board, or designee, at the end of the meeting day or at such other earlier time as affirmatively authorized by the Board. The licensee may receive CME credit in general continuing ~~risk management~~ education for attending the disciplinary portion of a Board meeting only if the licensee is attending on that day solely for that purpose; the licensee may not receive such credit if appearing at the Board meeting for another purpose. Members of the Board of Osteopathic Medicine may receive one (1) continuing education ~~risk management~~ credit for such attendance at one full day of disciplinary hearings at a regular meeting of the Board.

4. ~~A licensee may use no more than five (5) hours of continuing education in the area of risk management for the purpose of completing the continuing education requirements for each biennial renewal.~~

(e) For purposes of this rule, a two hour Prevention of Medical Errors course shall include a study of root cause analysis, error reduction and prevention, and patient safety. The course shall address medication errors, surgical errors, diagnostic inaccuracies, and system failures, and shall provide recommendations for creating safety systems in health care organizations. The course must include information relating to the five most mis-diagnosed conditions during the previous biennium, as determined by the Board. The following areas have been determined as the five most mis-diagnosed conditions: wrong-site/patient surgery; cancer; cardiac; timely diagnosis of surgical complications and failing to diagnose pre-existing conditions prior to prescribing contraindicated medications.

(4) No change.

(5) Home study hours up to a maximum of eight (8) hours per biennium may be utilized toward continuing education requirements for renewal. In order to be acceptable, said home study hours must be approved by the AOA, the AMA, the Board, or approved for credit as a college or university extension course with approved grading and evaluation standards. Any licensee who is a member of the Armed Forces of the United States on active duty and for a period of six (6) months after discharge from active duty may obtain all forty (40) hours of continuing education through home study.

(6) No change.

Specific Authority 459.005, 459.008(4) FS. Law Implemented 456.013(5), (6), (7), 459.008, 459.008(4) FS. History—New 10-23-79, Amended 1-29-86, Formerly 21R-13.01, Amended 12-5-89, 4-8-91, 2-16-92, Formerly 21R-13.001, Amended 1-10-94, Formerly 61F9-13.001, Amended 10-25-95, Formerly 59W-13.001, Amended 1-19-98, 6-3-98, 4-14-99, 5-26-02, 5-10-04, 7-27-04, 2-9-05, 2-14-06, 1-29-07,_____.

NAME OF PERSON ORIGINATING PROPOSED RULE:
Board of Osteopathic Medicine

NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: Board of Osteopathic Medicine

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

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

DEPARTMENT OF HEALTH

Division of Environmental Health

RULE NO.: RULE TITLE:

64E-16.012 Fees

PURPOSE AND EFFECT: The purpose is to increase biomedical waste program fees within the statutory limits. The effect will be to reduce the program's operating deficit.

SUMMARY: This rule is being revised to increase the biomedical waste program fees in order to reduce the program's operating deficit. Fees have not been increased since the implementation of the biomedical waste program, which was in 1992.

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: 381.006, 381.0098 FS.

LAW IMPLEMENTED: 381.0098(4) FS.

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

DATE AND TIME: November 14, 2008, 9:00 a.m.

PLACE: 4042 Bald Cypress Way, Room 301, Tallahassee, FL 32399

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: Gina Vallone-Hood, (850)245-4277 or Gina_Vallone@doh.state.fl.us. 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 RULE IS: Gina Vallone-Hood via mail at HSEC, 4052 Bald Cypress Way, Bin A08, Tallahassee, FL 321399-1710, or by phone number (850)245-4277

THE FULL TEXT OF THE PROPOSED RULE IS:

64E-16.012 Fees.

(1) ~~When the facility will be in operation six (6) months or less before the annual renewal date, the annual fee shall be prorated on a quarterly basis.~~ State-owned and operated biomedical waste facilities are exempt from the permit fee.

(2) Fee schedule.

Generator Permit:

(application received by October 1) \$85.00 ~~\$55.00~~

(application received after October 1) \$105.00 ~~\$75.00~~

Treatment Permit:

(application received by October 1) \$85.00 ~~\$55.00~~

(application received after October 1) \$105.00 ~~\$75.00~~

Storage Permit:

(application received by October 1) \$85.00 ~~\$55.00~~

(application received after October 1) \$105.00 ~~\$75.00~~

Transporter Registration (one vehicle):

(application received by October 1) \$85.00 ~~\$55.00~~

(application received after October 1) \$105.00 ~~\$75.00~~

Additional Vehicle \$10.00

No fee or combination of fees shall exceed the maximum amount established by the statute.

(3) All fees collected pursuant to this section shall be placed in a specially designated account within the individual county health department trust fund to be used to meet the cost of administering the biomedical waste program described in this chapter.

Specific Authority 381.006, 381.0098(4) FS. Law Implemented 381.006, 381.0098 FS. History--New 12-14-92, Amended 1-23-94, 6-3-97, Formerly 10D-104.0078, Amended _____.

NAME OF PERSON ORIGINATING PROPOSED RULE: Gina Vallone-Hood

NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: Edith Coulter

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: September 11, 2008

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: June 27, 2008

Section III Notices of Changes, Corrections and Withdrawals

DEPARTMENT OF EDUCATION

State Board of Education

RULE NO.:

RULE TITLE:

6A-1.09981

Implementation of Florida's System of School Improvement and Accountability

NOTICE OF CHANGE

Notice is hereby given that the following changes have been made to the proposed rule in accordance with subparagraph 120.54(3)(d)1., F.S., published in Vol. 34, No. 38, September 19, 2008 issue of the Florida Administrative Weekly.

Subsection (11)(a) is amended to read:

6A-1.09981 Implementation of Florida's System of School Improvement and Accountability.

(1) through (10) No change.

(11) Assistance and Intervention for Schools Designated School Performance Grade F or School Performance Grade D. Assistance and intervention plans shall be provided for each school designated School Performance Grade F and School Performance Grade D.

(a) Assistance for Schools Designated School Performance Grade F or School Performance Grade D. Each school designated School Performance Grade F or School