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: Laura Parsons, Office of Insurance Regulation, E-mail Laura.parsons @floir.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: Laura Parsons, Office of Insurance Regulation, E-mail Laura.parsons @floir.com

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

FINANCIAL SERVICES COMMISSION

OIR – Insurance Regulation

RULE NO.: RULE TITLE:
69O-170.0155 Forms

PURPOSE AND EFFECT: This rule is being amended to adopt revised versions of Office of Insurance Regulation forms OIR-B1-1655, "Notice of Premium Discounts for Hurricane Loss Mitigation", and OIR-B1-1802, "Uniform Mitigation Verification Inspection Form". The forms are being revised based on changes to the My Safe Florida Home program and the experience of the Office of Insurance Regulation, insurers and policyholders with the forms since their last revisions in July 2007.

SUBJECT AREA TO BE ADDRESSED: Section 627.711, Florida Statutes, required the Office to develop two forms. The first, OIR-B1-1655, is used by insurers to provide policyholders information about available windstorm mitigation discounts. The second, OIR-B1-1802, is used by home inspectors to verify the presence of windstorm-mitigation features on policyholder's property so the insurer can calculate appropriate discounts. Because the free inspections and the grants offered by the My Safe Florida Home program are no longer available, Form OIR-B1-1655 is being revised to remove references to these programs. Form OIR-B1-1802 is being revised to use terminology commonly used in the construction industry in describing the construction features to be inspected and to require the inspector and homeowner to verify the inspector actually conducted the inspection.

RULEMAKING AUTHORITY: 624.308, 627.711 FS.

LAW IMPLEMENTED: 215.5586, 627.711 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: August 18, 2009, 9:30 a.m.

PLACE: 142 Larson Building, 200 East Gaines Street, Tallahassee, Florida

Pursuant to the provisions of the Americans with Disabilities Act, any person requiring special accommodations to participate in this workshop/meeting is asked to advise the agency at least 5 days before the workshop/meeting by contacting: Michael Milnes, Bureau of Property and Casualty, Office of Insurance Regulation, E-mail michael.milnes@ floir.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, Bureau of Property and Casualty, Office of Insurance Regulation, E-mail michael.milnes@floir.com

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

Section II
Proposed Rules

BOARD OF TRUSTEES OF THE INTERNAL IMPROVEMENT TRUST FUND

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

DEPARTMENT OF CORRECTIONS

RULE NO.: RULE TITLE:
33-601.303 Reporting Disciplinary Infractions

PURPOSE AND EFFECT: The purpose and effect of the proposed rule is to state that acts directly associated with an inmate's intentional self injurious behavior shall not be reported for disciplinary action.

SUMMARY: The proposed rule is amended to state that acts directly associated with an inmate's intentional self injurious behavior shall not be reported for disciplinary action.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS: The agency has determined that this rule will not have an impact on small business. A SERC has not been prepared by the agency.

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

RULEMAKING AUTHORITY: 944.09 FS.

LAW IMPLEMENTED: 20.315, 944.09, 945.04 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: Kendra Lee Jowers, 2601 Blair Stone Road, Tallahassee, Florida 32399-2500

THE FULL TEXT OF THE PROPOSED RULE IS:

33-601.303 Reporting Disciplinary Infractions.

(1) through (3) No change.

(4) The commission of acts that should normally result in consideration for formal disciplinary action shall not be subject to such action when these acts are directly associated with an inmate's intentional self injurious behavior.

Rulemaking ~~Specific~~ Authority 944.09 FS. Law Implemented 20.315, 944.09, 945.04 FS. History–New 3-12-84, Formerly 33-22.04, Amended 12-30-86, 10-1-95, Formerly 33-22.004, Amended 5-21-00, 2-11-01, _____.

NAME OF PERSON ORIGINATING PROPOSED RULE: George Sapp, Deputy Secretary of Institutions

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

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: June 10, 2009

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: June 26, 2009

WATER MANAGEMENT DISTRICTS

South Florida Water Management District

RULE NOS.:	RULE TITLES:
40E-4.021	Definitions
40E-4.091	Publications, Rules and Interagency Agreements Incorporated by Reference

PURPOSE AND EFFECT: The purpose and effect of the proposed rule amendments is to: (1) reflect that the Bald Eagle is no longer classified by the Florida Fish and Wildlife Conservation Commission (FWC) as a threatened species under its imperiled species regulations; (2) continue to provide to the Bald Eagle (which is still protected under a federal statute known as the Bald and Golden Eagle Protection Act) protections afforded by the District's rules to wildlife species as classified by FWC as endangered, threatened, or species of special concern; and (3) update rule references to listed wildlife and plants in the definitions of "listed species", "endangered species" and "threatened species." The District proposes to amend Table 4.2.7-1 of the "Basis of Review for Environmental Resource Permit Applications within the South Florida Water Management District" (Basis of Review) to remove the Bald Eagle from the category of threatened species and to amend section 4.2.7 to refer to the Bald Eagle so that its existing nesting habitat in uplands would continue to be protected under the District's rules. The amendments also provide that secondary cumulative impacts to the functions of wetlands or uplands for nesting of Bald Eagles will not be considered adverse if a valid permit under Rule 68A-16.002, F.A.C., has been issued to a permit applicant by the FWC for the same activities the applicant is proposing under Part IV of Chapter 373, F.S., or if the applicant demonstrates compliance with the FWC Eagle Management Guidelines that were adopted by the FWC and became effective May 15, 2008.

SUMMARY: The proposed rules address the change in classification of the Bald Eagle in the FWC's imperiled species regulations. The proposed rules amend Sections 2.0, 4.2.7, and 4.3.1.5 of the Basis of Review, and Rule 40E-4.091, F.A.C., which incorporates these sections by reference. In addition, the proposed rules update the definitions of listed species, endangered species and threatened species by amending subsection 40E-4.021(2), F.A.C., and subsections 2.10, 2.18 and 2.37 of the Basis of Review.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS: The District is proposing continued protection of the Bald Eagle under the secondary impacts provision of the Basis of Review. In addition, the District is proposing to revise and add an option to the actions that can be taken to avoid adverse secondary impacts related to Bald Eagles and their habitat. Previously, an applicant whose proposed activities could cause secondary impacts could either propose mitigation to the District in accordance with section 4.3.1.5 of the Basis of Review (unchanged) or follow the U.S. Fish and Wildlife Habitat Management Guidelines for the Bald Eagle in the Southeast Region (Third Revision, January 1987). The proposed revisions continue to allow the proposal of mitigation for adverse secondary impacts. The second option is to follow the guidelines in the FWC Bald Eagle Management Plan (April 9, 2008). The third, additional option is to obtain a Bald Eagle permit from the FWC if either mitigation is not proposed to the District or the FWC Bald Eagle Management Plan guidelines are not followed.

The proposed revisions should pose no significant negative impacts to permit applicants as the mitigation provisions remain unchanged, previous authorizations for proposed activities are recognized, the FWC Bald Eagle Management Plan guidelines are significantly less restrictive than the previous U.S. Fish and Wildlife habitat management guidelines (based on the findings of years of monitoring of development activities on Bald Eagles), and the permit applicant may obtain an FWC permit when it is more advantageous than the other two options.

Both Environmental Resource Permit (ERP) holders and applicants may be affected by the proposed rule. Applicants will be affected if they seek to obtain an ERP to develop a parcel hosting a Bald Eagle nest. Existing permittees will be affected if they seek to revise their ERP in order to develop or redevelop a parcel hosting a Bald Eagle nest.

There has not been a significant amount of ERP permitting activity on sites hosting Bald Eagle nests. Annually, since 2003, the District has issued around 12.5 permits with Bald Eagle nests (less than 1% of total). No significant increases are expected.

The proposed revisions are not expected to pose any additional implementation, monitoring or enforcement costs to the District or any other state or local governments.

Transactional costs associated with the District mitigation activities to protect Bald Eagles and their habitat from adverse impacts could include costs associated with:

1) loss of revenue associated with reduction of developable or seasonally usable area due to required buffer zones, setbacks or conservation easements (and the costs of establishing such easements);

2) the loss of revenue due to changes in the type or optimal arrangement of development and associated activities;

3) loss of revenue and/or increases in financing or development costs due to delays caused by restrictions on certain development or ongoing activities during nesting season;

4) monitoring and reporting, or

5) monetary or in-kind contributions to wildlife mitigation parks.

These provisions are not changed. To some extent, the above costs may be offset by the additional value conveyed to land adjacent to preserved natural areas.

Transactional costs (and benefits to adjacent land) of complying with the guidelines in the FWC Bald Eagle Management Plan are similar to those listed above.

Transactional costs of adopting the FWC Bald Eagle Management Plan are likely to be significantly less than the previous federal management plan option.

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.

RULEMAKING AUTHORITY: 373.044, 373.103(8), 373.113, 373.171, 373.413, 373.414, 373.418, 373.441, 668.003, 668.004, 668.50, 704.06 FS.

LAW IMPLEMENTED: 373.019, 373.403-373.443, 403.031, 668.003, 668.004, 668.50, 704.06 FS.

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

DATE AND TIME: September 10, 2009, 9:00 a.m.

PLACE: South Florida Water Management District, 3301 Gun Club Road, B-1 Auditorium, West Palm Beach, FL 33406

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: South Florida Water Management District Clerk, (800)432-2045, ext. 2087 or (561)682-2087. 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: Anita R. Bain, Division Director, Environmental Resource Permitting, Environmental Resource Regulation Department, P. O. Box 24680, West Palm Beach, FL 33416-4680, (800)432-2045, ext. 6866 or (561)682-6866, email: abain@sfwmd.gov or Susan Martin, Senior Specialist Attorney, South Florida Water Management District, P. O. Box 24680, West Palm Beach, FL 33416-4680, (800)432-2045, ext. 6251 or (561)682-6251, email: smartin@sfwmd.gov. For procedural questions, contact Jan Sluth, Senior Paralegal, South Florida Water Management District, P. O. Box 24680, West Palm Beach, FL 33416-4680, (800)432-2045, ext. 6299 or (561)682-6299, email: jsluth@sfwmd.gov

THE FULL TEXT OF THE PROPOSED RULES IS:

40E-4.021 Definitions.

When used in this chapter, Chapters 40E-40, 40E-41, and 40E-400, F.A.C.,

(1) through (28) No change.

(29) "Listed species" means those animal species which are endangered, threatened or of special concern and are listed in Rules 68A-27.003 (as amended December 16, 2003), 68A-27.004 (as amended May 15, 2008), and 68A-27.005 (as amended November 8, 2007), F.A.C., and those plant species listed in 50 Code of Federal Regulation 17.12 (as amended April 8, 2004), when such plants are found to be located in a wetland or other surface water.

(30) through (46) No change.

Rulemaking ~~Specific~~ Authority 373.044, 373.113, 668.003, 668.004, 668.50 FS. Law Implemented 373.019, 373.403-.443, 403.031, 668.003, 668.004, 668.50, 704.06 FS. History–New 9-3-81, Amended 1-31-82, 12-1-82, Formerly 16K-1.05(1), Amended 7-1-86, 4-20-94, 10-3-95, 4-1-96, 10-1-06, _____.

40E-4.091 Publications, Rules and Interagency Agreements Incorporated by Reference.

(1) The following publications, rules and interagency agreements are incorporated by reference into this chapter, Chapters 40E-40, 40E-41 and 40E-400, F.A.C.:

(a) "Basis of Review for Environmental Resource Permit Applications within the South Florida Water Management District – _____~~7-22-07~~".

(b) through (k) No change.

(2) No change.

Rulemaking ~~Specific~~ Authority 373.044, 373.103(8), 373.113, 373.171, 373.413, 373.441, 668.003, 668.004, 668.50, 704.06 FS. Law Implemented 373.413, 373.4135, 373.4137, 373.414, 373.4142, 373.416, 373.418, 373.421, 373.426, 373.441, 668.003, 668.004, 668.50, 704.06 FS. History–New 9-3-81 Amended 1-31-82, 12-1-82,

Formerly 16K-4.035(1), Amended 5-1-86, 7-1-86, 3-24-87, 4-14-87, 4-21-88, 11-21-89, 11-15-92, 1-23-94, 4-20-94, 10-3-95, 1-7-97, 12-3-98, 5-28-00, 8-16-00, 1-17-01, 7-19-01, 6-26-02, 6-26-02, 4-6-03, 4-14-03, 9-16-03, 12-7-04, 2-12-06, 10-1-06, 11-20-06, 1-23-07, 7-1-07, 7-22-07, _____.

NAME OF PERSON ORIGINATING PROPOSED RULE: Anita R. Bain, Division Director, Environmental Resource Permitting, Environmental Resource Regulation

NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: South Florida Water Management District Governing Board

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: July 9, 2009

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: July 3, 2008

BASIS OF REVIEW FOR ENVIRONMENTAL RESOURCES PERMIT APPLICATIONS WITHIN SOUTH FLORIDA WATER MANAGEMENT DISTRICT

2.0 Definitions

2.1 through 2.9 No change.

2.10 "Endangered Species" – Those animal species which are listed in Rule 68A-27.003 (as amended December 16, 2003), ~~39-27.003~~, F.A.C., and those plant species which are listed as endangered in 50 Code of Federal Regulations 17.12 (as amended April 8, 2004), when such plants are found to be located in a wetland or other surface water.

2.11 through 2.17 No change.

2.18 "Listed species" – Those animal~~s~~ species which are endangered, threatened or of special concern and are listed in Rule~~s~~ 68A-27.003 (as amended December 16, 2003), 68A-27.004 (as amended May 15, 2008), and 68A-27.005 (as amended November 8, 2007) ~~39-27.003, 39-27.004 and 39-27.005~~, F.A.C., and those plant species listed in 50 Code of Federal Regulation 17.12 (as amended April 8, 2004), when such plants are found to be located in a wetland or other surface water.

2.19 through 2.36 No change.

2.37 "Threatened Species" – Those animal species listed in Rule 68A-27.004 (as amended May 15, 2008), ~~39-27.004~~, F.A.C., and those plant species which are listed as threatened in 50 Code of Federal Regulations 17.12 (as amended April 8, 2004), when such plants are found to be located in a wetland or other surface water.

2.38 through 2.39 No change.

4.2.7 Secondary Impacts

Pursuant to paragraph 4.1.1(f), an applicant must provide reasonable assurances that a regulated activity will not cause adverse secondary impacts to the water resource, as described in paragraphs (a) through (d) below. Aquatic or wetland dependent fish and wildlife are an integral part of the water resources which the District is authorized to protect under Part IV, Chapter 373, F.S. Those aquatic or wetland dependent species which are listed as threatened, endangered or of special concern and the Bald Eagle (*Haliaeetus leucocephalus*), which is protected under the Bald and Golden Eagle Protection Act (16 U.S.C. 668-668d), are particularly in need of protection.

A proposed system shall be reviewed under this criterion by evaluating the impacts to: wetland and surface water functions identified in subsection 4.2.2~~,~~; water quality~~,~~; upland habitat for Bald Eagle (*Haliaeetus leucocephalus*), aquatic or wetland dependent listed species~~,~~; and historical and archaeological resources. De_minimis or remotely related secondary impacts will not be considered. Applicants may propose measures such as preservation to prevent secondary impacts. Such preservation shall comply with the land preservation provisions of subsection 4.3.8. If such secondary impacts can not be prevented, the applicant may propose mitigation measures as provided for in subsections 4.3 – 4.3.9. This secondary impact criterion consists of the following four parts:

(a) An applicant shall provide reasonable assurance that the secondary impacts from construction, alteration, and intended or reasonably expected uses of a proposed system will not cause violations of water quality standards or adverse impacts to the functions of wetlands or other surface waters, as described in subsection 4.2.2 Impacts such as boat traffic generated by a proposed dock, boat ramp or dry dock facility, which causes an increased threat of collision with manatees; impacts to wildlife from vehicles using proposed roads in wetlands or surface waters; impacts to water quality associated with the use of septic tanks or propeller dredging by boats and wakes from boats; and impacts associated with docking facilities as described in paragraphs 4.2.4.3(f) and (h), will be considered relative to the specific activities proposed and the potential for such impacts. Impacts of groundwater withdrawals upon wetlands and other surface waters that result from the use of wells permitted pursuant to Chapters 40E-2 and 40E-3, F.A.C., shall not be considered under rules adopted pursuant to Part IV, Chapter 373, F.S., since these impacts are considered in the consumptive use permit application process.

Secondary impacts to the habitat functions of wetlands associated with adjacent upland activities will not be considered adverse if buffers, with a minimum width of 15' and an average width of 25',

are provided abutting those wetlands that will remain under the permitted design, unless additional measures are needed for protection of wetlands used by Bald Eagle (*Haliaeetus leucocephalus*) for nesting or listed species for nesting, denning, or critically important feeding habitat. The mere fact that a species is listed does not imply that all of its feeding habitat is critically important. Buffers shall remain in an undisturbed condition, except for drainage features such as spreader swales and discharge structures, provided the construction or use of these features does not adversely impact wetlands. Where an applicant elects not to utilize buffers of the above described dimensions, buffers of different dimensions, measures other than buffers or information may be proposed to provide the required reasonable assurance.

De_minimis or remotely related secondary impacts such as changes in air quality due to increased vehicular traffic associated with road construction will not be considered unacceptable.

(b) An applicant shall provide reasonable assurance that the construction, alteration, and intended or reasonably expected uses of a proposed system will not adversely impact the ecological value of uplands to Bald Eagle (*Haliaeetus leucocephalus*) and aquatic or wetland dependent listed animal species for enabling existing nesting or denning by these species, but not including:

1. areas needed for foraging; or

2. wildlife corridors, except for those limited areas of uplands necessary for ingress and egress to the nest or den site from the wetland or other surface water.

Table 4.2.7-1 identifies those aquatic or wetland dependent listed species that use upland habitats for nesting and denning.

For those aquatic or wetland dependent listed animal species for which habitat management guidelines have been developed by the U.S. Fish and Wildlife Service (USFWS) or the Florida Fish and Wildlife Conservation Commission (FWC) ~~Florida Game and Fresh Water Fish Commission (FGFWFC)~~, compliance with these guidelines will provide reasonable assurance that the proposed system will not adversely impact upland habitat functions described in paragraph (b). For those aquatic or wetland dependent listed animal species for which habitat management guidelines have not been developed or in cases where an applicant does not propose to use USFWS or FWC ~~FGFWFC~~ habitat management guidelines, the applicant may propose measures to mitigate adverse impacts to upland habitat functions described in paragraph (b) provided to aquatic or wetland dependent listed animal species. Secondary impacts to the functions of wetlands or uplands for nesting of Bald Eagles *(Haliaeetus leucocephalus)* will not be considered adverse if the applicant holds a valid permit pursuant to paragraph 68A-16.002(1)(a), F.A.C. (May 15, 2008) or a valid authorization as described in paragraph 68A-16.002(1)(c), F.A.C. (May 15, 2008) for the same activities proposed by the applicant under Part IV of Chapter 373, F.S., or if the applicant demonstrates compliance with the FWC Eagle Management Guidelines incorporated by reference in Rule 68A-16.002, F.A.C. (May 15, 2008).

(c) through (d) No change.

TABLE 4.2.7-1

Listed Wildlife Species That Are Aquatic or Wetland Dependent

And That Use Upland Habitats For Nesting or Denning

Fishes

Species of Special Concern

No change.

Reptiles

Endangered

No change.

Threatened

No change.

Species of Special Concern

No change.

Birds

Endangered

No change.

Threatened

Charadrius alexandrinus tenuirostris (southeastern snowy plover)

Charadrius melodus (piping plover)

Columba leucocephalus (white-crowned pigeon)

Grus canadensis pratensis (Florida sandhill crane)

~~Haliaeetus leucocephala (bald eagle)~~

Picoides borealis (red-cockaded woodpecker) THIS SPECIES ONLY WETLAND DEPENDENT ONLY IN LEE, COLLIER, AND CHARLOTTE COUNTIES

Polyborus plancus audubonii (Audubon's crested caracara)

Sterna antillarum (least tern)

Sterna dougallii (roseate tern)

Species of Special Concern

No change.

Mammals

Endangered

No change.

Threatened

No change.

Species of Special Concern

No change.

4.3.1.5 To offset adverse secondary impacts from regulated activities to habitat functions that uplands provide to Bald Eagles (*Haliaeetus leucocephalus*) for nesting and to listed species evaluated as provided in paragraph 4.2.7(b), mitigation can include the implementation of management plans, participation in a wildlife mitigation park establish by the FWC ~~FGFWFC~~, or other measures. Measures to offset adverse secondary impacts on wetlands and other surface waters resulting from use of a system can include the incorporation of culverts or bridged crossings designed to facilitate wildlife movement, fencing to limit access, reduced speed zones, or other measures designed to offset the secondary impact.

DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION

Division of Alcoholic Beverages and Tobacco

RULE NO.: RULE TITLE:

61A-10.0021 Stamping Agent – Requirements

PURPOSE AND EFFECT: The purpose and effect of the proposed rule amendment is to clarify how the estimated monthly tax liability is determined as it relates to calculating the amount of surety bond required for cigarette stamping agents.

SUMMARY: The subject area to be addressed in this rule is the monthly tax liability upon which the required surety bond is calculated.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS: The agency has determined that this rule will ___ or will not _X_ have an impact on small business. A SERC has ___ or has not _X_ been prepared by the agency.

OTHER RULES INCORPORATING THIS RULE: None.

AFFECT ON THOSE OTHER RULES: None.

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.

RULEMAKING AUTHORITY: 210.10, 210.05 FS.

LAW IMPLEMENTED: 210.01, 210.05, 210.08 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: Ben Pridgeon, Revenue Program Administrator, Department of Business and Professional Regulation, 1940 North Monroe Street, Tallahassee, Florida 32399, (850)414-6172

THE FULL TEXT OF THE PROPOSED RULE IS:

61A-10.0021 Stamping Agent – Requirements.

The Division shall authorize a wholesale dealer as a stamping agent to affix stamps to packages of cigarettes provided the dealer furnishes the Division with;

(1) An irrevocable letter of credit, certificate of deposit, unconditional guarantee contract, or a surety bond, issued by a solvent surety company registered to do business in this state, equal to 110% of the estimated monthly tax liability, but not less than $2,000, as required in Sections 210.05 and 210.08, F.S. The Division shall determine the estimated monthly tax liability based on the packs of unstamped cigarettes purchased for resale within the State of Florida, for which the stamps have been purchased on credit in lieu of cash payment.

(a) through (b) No change.

(c) Each month, an agent that has met the surety amount for credit liability may purchase additional stamps for cash on delivery, provided that the division receives the cash equivalent payment prior to sale of additional stamps.

(d) Payment for stamps must be made by certified check or the bank equivalent, or by electronic funds transfer, but not by cash currency.

(e)~~(c)~~ Stamping agents will provide the Division with a continuation certificate of the surety when the stamping agents pay their surety premium.

(f)~~(d)~~ If a surety instrument is cancelled, the stamping agent must cease operation.

(g)~~(e)~~ Applicants shall properly execute and submit form DBPR ABT-6032, Division of Alcoholic Beverages and Tobacco Surety Bond Form, which may be obtained as specified in Rule 61A-5.001, F.A.C., and is incorporated herein by reference and effective (2/08). Instructions for filling out form DBPR ABT-6032 are provided in form DBPR ABT-6032i, Instructions for Completing DBPR ABT-6032, Division of Alcoholic Beverages and Tobacco Surety Bond Form, which may be obtained as specified in Rule 61A-5.001, F.A.C., and is incorporated herein by reference and effective (2/08).

(2) A letter from manufacturers and importers stating that they will ship to the applicant direct.

(3) A letter from the wholesale dealer requesting to be a stamping agent.

(4) If licensed as a stamping agent by another state, authorization from that state to purchase and affix that state's tax indicia within the State of Florida.

Rulemaking ~~Specific~~ Authority 210.10 FS. Law Implemented 210.01, 210.021, 210.05, 210.08, 210.15~~, 210.40~~ FS. History–New 9-2-08, Amended _____.

NAME OF PERSON ORIGINATING PROPOSED RULE: Ben Pridgeon, Revenue Program Administrator, Department of Business and Professional Regulation, 1940 North Monroe Street, Tallahassee, Florida 32399, (850)414-6172

NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: Charles W. Drago, Secretary, Department of Business and Professional Regulation

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: July 15, 2009

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: June 3, 2009

DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION

Board of Professional Engineers

RULE NO.:	RULE TITLE:
61G15-20.0015	Application for Licensure by Endorsement

PURPOSE AND EFFECT: To update requirements for licensure by endorsement.

SUMMARY: The Board proposes to update requirements for licensure by endorsement.

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.

RULEMAKING AUTHORITY: 471.008, 471.013, 471.015 FS.

LAW IMPLEMENTED: 471.013, 471.015 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: Carrie Flynn, Executive Director, Board of Professional Engineers, 2507 Callaway Road, Suite 200, Tallahassee, Florida 32301

THE FULL TEXT OF THE PROPOSED RULE IS:

61G15-20.0015 Application for Licensure by Endorsement.

(1) through (4) No change.

(5) The Board shall deem that an applicant for licensure by endorsement who has an engineering degree that is not EAC/ABET accredited ~~from a foreign institution~~ has demonstrated substantial equivalency to an EAC/ABET accredited engineering program, as required by Rule 61G15-20.007, F.A.C., when such applicant has held a valid professional engineer's license in another state for 15 years and has had 20 years of continuous professional-level engineering experience.

(6) No change.

Rulemaking ~~Specific~~ Authority 471.008, 471.013, 471.015 FS. Law Implemented 471.013, 471.015 FS. History–New 9-27-01, Amended 4-9-07, _____.

NAME OF PERSON ORIGINATING PROPOSED RULE: Board of Professional Engineers

NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: Board of Professional Engineers

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: March 27, 2009

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: August 1, 2008

DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION

Board of Accountancy

RULE NO.:	RULE TITLE:
61H1-27.0041	One Year of Work Experience

PURPOSE AND EFFECT: The Board proposes the rule amendment in order to incorporate a revised work experience documentation form and address changes necessitated by SB 1640 in 2009 legislative session.

SUMMARY: A revised work experience documentation form will be incorporated into the rule.

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.

RULEMAKING AUTHORITY: 455.271, 473.304 FS.

LAW IMPLEMENTED: 455.271 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: Veloria Kelly, Division Director, Board of Accountancy, 240 N.W. 76th Dr., Suite A, Gainesville, Florida 32607

THE FULL TEXT OF THE PROPOSED RULE IS:

61H1-27.0041 One Year of Work Experience.

With the exception of an applicant who completes the requirements of Section 473.308(3), F.S., on or before December 31, 2008, and who passes the licensure examination

on or before June 30, 2010, an ~~If application for licensure is made after December 31, 2008, and the applicant has not applied for and been approved to take the licensure examination by January 1, 2009, the~~ applicant must document one year of work experience as follows:

(1) Definitions. Within the context of this rule, the following definitions apply:

(a) "Applicant." An applicant is a person who has met Florida's educational requirements for licensure and intends from the outset of the supervised experience to meet the supervised experience requirement for licensure.

(b) "Supervised" and "supervision:" the subjection of the applicant, during employment, to oversight, guidance and evaluation by a supervisor who had the right to control and direct the applicant as to the result to be accomplished by the work and also as to the means by which the result was to be accomplished.

(c) "Supervisor." A supervisor is either a licensed certified public accountant in good standing with any regulating body or a chartered accountant recognized by the International Qualifications Appraisal Board (IQAB).

(2) One year of work experience shall be held and understood to mean the rendition of services such as are customarily performed by full-time, regularly employed staff employees of a certified public accountant during the normal workweek as required by the employing certified public accountant, commencing after the completion of the educational requirements set forth in subsection 61H1-27.002(3), F.A.C. The experience must either average at least twenty (20) hours a week over no more than one hundred and four (104) weeks or average no more than forty (40) hours a week over no more than fifty-two (52) weeks. Reasonable vacation time and sick leave or other required absences may be permitted. The supervisor, in her or his report to the Department, shall certify that the applicant rendered such services as are customarily performed by full-time, regularly employed staff employees for a minimum of 2,000 hours gained over a period of not less than fifty-two (52) or more than one hundred and four (104) weeks. The sequence of the experience is considered immaterial, that is, whether the experience was secured before or after taking the examination, or partly before the examination and partly after the examination, provided the two periods combined equal at least one year.

(3) The one year of work experience may be achieved by teaching accounting full-time for one year at an accredited college or university, as defined in subsection 61H1-27.001(1), F.A.C., under the following conditions:

(a) Full-time teaching as described by the rules of the educational institution where the applicant taught will be accepted by the Board to be full-time teaching. However, in no case will less than twelve (12) semester hours, or the equivalent, be accepted by the Board as full-time teaching.

(b) If the applicant has not taught accounting full-time for one year, credit will be allowed by the Board for teaching accounting less than full-time on a pro rata basis based upon the number of semester or quarter hours required for full-time teaching at the educational institution where the applicant taught. However, in no case will an applicant receive credit for a full-time teaching year for teaching done in less than one academic year or more credit than one full-time teaching year for teaching done within one calendar year.

(c) Courses outside the fields of accounting and general business will not be counted toward full-time teaching.

(4) Documentation of the one year of work experience shall be made using the Certification of Work Experience form (DBPR Form CPA 32/Revised 9/08), which is hereby incorporated by reference, a copy of which may be obtained from the Board office located at 240 N. W. 76th Drive, Suite A, Gainesville, FL 32607-6655.

Rulemaking ~~Specific~~ Authority 455.271, 473.304~~(1), 473.308(4)~~ FS. Law Implemented 455.271 ~~473.308(4)~~ FS. History–New 3-3-09, Amended _____.

NAME OF PERSON ORIGINATING PROPOSED RULE: Board of Accountancy

NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: Board of Accountancy

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: July 17, 2009

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: May 22, 2009

DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION

Florida Real Estate Commission

RULE NO.:	RULE TITLE:
61J2-3.015	Notices of Satisfactory Course Completion

PURPOSE AND EFFECT: To clarify existing language and delete the provision that up to 25% of licensees and instructors will be randomly audited for compliance.

SUMMARY: This rule clarifies existing language and deletes the provision that up to 25% of licensees and instructors will be randomly audited for compliance.

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.

RULEMAKING AUTHORITY: 455.2123, 475.05 FS.

LAW IMPLEMENTED: 455.2123, 475.04, 475.17, 475.182, 475.183, 475.451 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: Lori Crawford, Deputy Clerk, Division of Real Estate, 400 West Robinson Street, Hurston Building, North Tower, Suite N802, Orlando, Florida 32801

THE FULL TEXT OF THE PROPOSED RULE IS:

61J2-3.015 Notices of Satisfactory Course Completion.

(1) Applicants for initial licensure as a broker or sales~~person~~ associate must provide the course completion report with the application or at the individuals scheduled examination as proof that they have satisfactorily completed the applicable Commission prescribed course.

(2) An application for renewal or reactivation of an existing status as a broker, broker-sales~~person~~ associate, sales~~person~~ associate or instructor shall contain an affirmation by the individual of having satisfactorily completed the applicable Commission prescribed, conducted or approved course(s). ~~The BPR shall perform random audits of up to 25% of the licensees and instructor permitholders to verify compliance with continuing education or post-license education requirements.~~ Each licensee and instructor permitholder shall retain the course completion report as proof of successful completion of continuing education or post-license education requirements for at least 2 years following the end of the renewal period for which the education is claimed. Failing to provide evidence of compliance with continuing education or post-license education requirements or the furnishing of false or misleading information regarding compliance with said requirements shall be grounds for disciplinary action against the licensee or instructor.

(3) Commission approved equivalent courses offered by accredited Florida universities, colleges, community colleges and area technical centers shall provide students with the applicable course completion report (notice) described below. The course completion report for these equivalent courses must contain the college equivalent course identifying number.

(4) All requests for equivalency for credit courses taken at universities, colleges and community colleges outside of Florida must be accompanied by an official transcript. An official transcript contains the seal of the institution and the signature of the registrar.

(5) The course completion report must be typed or printed in ink and must be completely filled out by the institution, school or sponsor certifying successful course completion.

(6) The course completion reports shall contain the following information for the type of course being completed.

(a) Pre-licensing Course for Sales~~person~~ Associate.
Name of School
Address of School
Course Title: Course I
Start Date
Finish Date
Exam Date
Social Security Number
Student Name
Student Address
Authorized Signature for the School

(b) Pre-licensing Course for Broker.
Name of School
Address of School
Course Title: Course II
Start Date
Finish Date
Exam Date
Sales~~person~~ Associate License Number
Social Security Number
Student Name
Student Address
Authorized Signature for the School

(c) Broker and Sales~~person~~ Associate Continuing Education and Reactivation Education.
Name of School
Address of School
Course Title
Course Hours
Start Date
Finish Date
License Number
Student Name
Student Address
Authorized Signature for the School

(d) Post-licensing Education for Broker and Sales~~person~~ Associate.
Name of School
Address of School
Course Title
Course Hours
Start Date
Finish Date
License Number
Student Name
Student Address
Authorized Signature for the School

(e) Instructor Continuing Education.
Name of School
Address of School
Course Title
Course Hours
Start Date
Finish Date
Permit Number
Student Name
Student Address
Authorized Signature for the School

(f) Each course completion report shall contain the following information:

The student named in this report has completed the referenced course in accordance with the requirements of the Florida Real Estate Commission. The original course completion report is to be given to the student and a copy retained by the school.

Rulemaking ~~Specific~~ Authority 455.2123, 475.05 FS. Law Implemented 455.2123, 475.04, 475.17, 475.182, 475.183, 475.451 FS. History–New 1-1-80, Amended 8-24-80, 9-16-84, Formerly 21V-3.15, Amended 10-13-88, 12-29-91, 6-7-92, 6-28-93, Formerly 21V-3.015, Amended 9-11-94, 12-30-97, 1-18-00, 10-15-00, _____.

NAME OF PERSON ORIGINATING PROPOSED RULE: Florida Real Estate Commission

NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: Florida Real Estate Commission

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: January 16, 2008

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: July 2, 2009

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 ENVIRONMENTAL PROTECTION

RULE NOS.:	RULE TITLES:
62-704.400	Procedure for the Preliminary Examination of Resource Recovery Equipment
62-704.410	Procedure for the Final Examination and Certification of Resource Recovery Equipment
62-704.420	Criteria for Preliminary Examination and Certification of Resource Recovery Equipment
62-704.600	Recycling Equipment List

PURPOSE AND EFFECT: In 1979, the Legislature established a sales tax exemption on the purchase of resource recovery equipment that is owned by or operated on behalf of a unit of local government. Resource recovery equipment is equipment that is integrally and exclusively used in the actual process of recovering material or energy resources from solid waste and specifically includes recycling equipment.

For the purpose of implementing the sales tax exemption provided by Section 212.08(7)(q), Florida Statutes (F.S.), Section 403.715, F.S., specifically authorizes the Department of Environmental Protection ("the Department") to establish a system for the examination and certification of resource recovery and recycling equipment. The Department's rules governing this process are found in Chapter 62-704, Florida Administrative Code (F.A.C.), while subsection 12A-1.001(5), F.A.C., governs the process in Department of Revenue.

In 2008, the Department of Revenue amended its rule to incorporate several substantive and procedural changes that clarified requirements that resource recovery equipment must be owned or operated exclusively on behalf of a unit of local government, requirements of certification to dealers and certifications for refund. These changes required conforming changes to Chapter 62-704, F.A.C., by the Department.

Rules 62-704.400 and .410, F.A.C., require that an applicant for the sales tax exemption certify that the equipment is installed and operational, submit documentation from a Professional Engineer that the equipment is integral to the recycling process and is owned and operated by or on behalf of a local government, and allow the Department to inspect the equipment. However, if the equipment is on the list in Rule 62-704.600, F.A.C., the requirements for documentation from a Professional Engineer are waived, and the Department is not required to inspect the equipment.

Rule 62-704.600, F.A.C., is being amended to include certain materials handling equipment. This will have the effect of reducing the burden and the costs to both the applicant and the Department and make it easier to qualify for the sales tax exemption.

SUMMARY: Rule 62-704.400, F.A.C., is being amended to properly incorporate a form by reference. It is also being amended to conform to the Department of Revenue's subsection 12A-1.001(5), F.A.C., by requiring that equipment be owned and operated by or exclusively on behalf of a local government. Rule 62-704.410, F.A.C., is being amended to clarify that equipment must be installed and operational to qualify for the sales tax exemption. Rule 62-704.600, F.A.C., is being amended to add to the list of approved equipment materials handling equipment that is used exclusively to transfer or transport recyclable materials from the point of generation to the recycling facility, specifically including trucks, carts and bins. There are also several clerical changes and updated cross-references throughout the chapter.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS: The agency has determined that this rule will have an impact on small business. A SERC has been prepared by the agency. The SERC concludes that the primary impacts of this rule will be to reduce costs to applicants for the sales tax exemption.

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.

RULEMAKING AUTHORITY: 403.704 FS.

LAW IMPLEMENTED: 403.715, 212.08(7)(q) 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: August 25, 2009, 10:00 a.m.

PLACE: Room 609, 2600 Blair Stone Road, 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: Jan Rae Clark at (850)245-8744. 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: Jan Rae Clark, 2600 Blair Stone Road, MS 4565, Tallahassee, Florida, 32399-2400, telephone (850)245-8744, email: jan.rae.clark@dep.state.fl.us

THE FULL TEXT OF THE PROPOSED RULES IS:

62-704.400 Procedure for the Preliminary Examination of Resource Recovery Equipment.

When tax may become or has become due pursuant to Chapter 212, F.S., on equipment that ~~which~~ may be resource recovery equipment and such equipment is not available for inspection by the Department, the prospective purchaser or purchaser of such equipment may apply to the department for a preliminary examination report based on a review of plans, specifications, equipment lists, and other descriptions in the application. The preliminary examination report of proposed resource recovery equipment may be considered by the Department of Revenue as a prerequisite for delay of tax due on such equipment as indicated in rules promulgated by the Department of Revenue. The Department shall use the following procedure when preliminarily examining resource recovery equipment:

(1) Application for preliminary examination of resource recovery equipment shall be submitted to the Department on a Form 62-701.900(9)~~(6)~~, Application for Preliminary Examination and Final Examination and Certification of Resource Recovery Equipment, effective date [eff. date], hereby adopted and incorporated by reference. Copies of this form are available from a local District Office or by writing to the Department of Environmental Protection, Solid Waste Section, MS 4565, 2600 Blair Stone Road, Tallahassee, Florida 32399-2400. All supporting documentation shall be submitted with the application. The application shall include the following information:

(a) No change;

(b) Identity of county or municipality that will eventually own or exclusively benefit from the resource recovery equipment;

(c) A list and brief description of resource recovery equipment and the estimated cost thereof that ~~which~~ the applicant declares is subject to this exemption.

(d) through (e) No change.

(2) An application for preliminary examination of resource recovery equipment that ~~which~~ includes only recycling equipment may include equipment appearing on the list in Rule 62-704.600, F.A.C.

(a) No change.

(b) For equipment not appearing on the list in 62-704.600, F.A.C., or for listed equipment that ~~which~~ has auxiliary equipment also being certified as recycling equipment, certification by a Professional Engineer that the equipment meets the requirements in Rule 62-704.420, F.A.C., shall be included in the application.

(3) To provide the certification required in this subsection for preliminary examination of resource recovery equipment that is recycling equipment, a Professional Engineer shall examine the plans, drawings, and descriptions of the facility and process, and the attached equipment list. The Professional Engineer shall certify that the equipment is:

(a) No change.

(b) Owned and operated by or exclusively on behalf of a unit of local government.

(4) through (5) No change.

Rulemaking ~~Specific~~ Authority 403.704 ~~403.703~~ FS. Law Implemented 212.08(7)(q)~~(p)~~, 403.715 FS. History–New 5-24-79; Formerly 17-7.42, 17-7.420, Amended 8-14-90, Formerly 17-704.400, Amended 12-17-96, _____.

62-704.410 Procedure for the Final Examination and Certification of Resource Recovery Equipment.

Final examination and certification of resource recovery equipment shall be a requirement for sales tax exemptions as indicated in Section 212.08(7)(q) ~~212.08(7)(p)~~, F.S. The Department shall use the following procedure in granting or denying certification of resource recovery equipment:

(1) After the equipment is installed, an application for final examination and certification of resource recovery equipment shall be submitted to the Department on Form 62-701.900(9) ~~62-701.900(6)~~. The application shall include the

information required for preliminary examination in subsection 62-704.400(1), F.A.C., and the Department shall request additional information if required for proper completion of the application. If the applicant has previously submitted the required information on a preliminary examination application form, then an updated copy of that preliminary examination application form shall satisfy this requirement.

(2) An application for final examination and certification of resource recovery equipment that ~~which~~ includes only recycling equipment may or may not include equipment appearing on the list in Rule 62-704.600, F.A.C.

(a) For equipment appearing on the list in Rule 62-704.600, F.A.C., the purchaser shall include with the application a certification that:

1. The equipment meets the criteria in Rule 62-704.420, F.A.C., and

2. The listed equipment is installed and operational.

(b) For equipment not appearing on the list in Rule 62-704.600, F.A.C., or for listed equipment that ~~which~~ has auxiliary equipment also being certified as recycling equipment, the application shall include a certification by a Professional Engineer that:

1. The equipment meets the criteria in Rule 62-704.420, F.A.C., and

2. The equipment is installed and operational.

(c) If the applicant has previously submitted the required information on a preliminary examination application form, then an updated copy of that preliminary examination application form shall satisfy this requirement.

(3) To provide the certification required in this subsection for final examination and certification of resource recovery equipment, that is recycling equipment, a Professional Engineer shall examine the plans, drawings, and descriptions of the facility and process and the attached equipment list. The Professional Engineer shall inspect the installed equipment. The Professional Engineer shall certify that the equipment is:

(a) Integral to the recycling process;

(b) Owned and operated by or on behalf of a unit of local government; and

(c) Installed and operational.

(4) When the proposed resource recovery equipment is installed, a representative of the Department shall inspect the equipment within thirty (30) days of receipt of a properly completed application. However, the Department shall accept certification of equipment and installation specified in subsection (2) of this section ~~above~~ in lieu of inspecting such recycling equipment when the Department finds that such certification is sufficient to determine that the recycling equipment meets the criteria of this rule.

(5) Within thirty (30) days of such inspection or receipt of a complete and sufficient certification of equipment and installation as specified in subsection (2) of this section ~~above~~, the Department shall issue a written decision granting or denying certification. A copy of the certification shall be sent to the Department of Revenue and the Applicant.

Rulemaking ~~Specific~~ Authority 403.704 ~~403.703~~ FS. Law Implemented ~~212.08(5)(e),~~ 212.08(7)(q)~~(p)~~, 403.715 FS. History–New 5-24-79, Formerly 17-7.43, 17-7.430, Amended 8-14-90, Formerly 17-704.410, Amended 12-17-96, _____.

62-704.420 Criteria for Preliminary Examination and Certification of Resource Recovery Equipment.

The Department shall use the following criteria when determining whether equipment shall be certified as resource recovery equipment.

(1) Resource recovery equipment includes all equipment or machinery exclusively and integrally used in the actual process of recovering material or energy resources from solid waste. Resource recovery equipment does not include:

(a) No change.

(b) Land or buildings. A building includes the walls, roof, ceiling, floor, and all other necessary supporting structures to enclose an area. However, extraordinary foundations and structural members used exclusively for the support of resource recovery equipment shall be considered resource recovery equipment. Buildings or structures that ~~which~~ are integral to the process shall be considered resource recovery equipment if they:

1. through 2. No change.

(c) No change.

(2) Resource recovery equipment shall be a unit that ~~which~~ by itself provides a significant function in the resource recovery process. Examples of such equipment include~~, but are not limited to,~~ conveyors, pumps, and fans. The Department shall not certify spare parts or maintenance items of resource recovery or recycling equipment such as nuts, bolts, and drive belts.

(3) Resource recovery equipment may include fixed pieces of equipment exclusively and integrally used in the actual process of recovering material or energy resources from solid waste. Examples of such equipment include~~, but are not limited to,~~ bridge cranes and fixed storage bins.

(4) No change.

Rulemaking ~~Specific~~ Authority 403.704 FS. Law Implemented ~~212.08(5)(e),~~ 212.08(7)(q)~~(p)~~, 403.715 FS. History–New 5-24-79, Formerly 17-7.44, 17-7.440, Amended 8-14-90, Formerly 17-704.420, Amended _____.

62-704.600 Recycling Equipment List.

Recycling equipment that ~~which~~ appears on the list below is considered ~~presumed~~ to be recycling equipment and shall be certified by the Department as recycling equipment if other requirements for equipment eligibility, pursuant to Rule~~s~~ 62-704.420 ~~and 62-704.510~~, F.A.C., are certified.

(1) No change.

(2) Separation equipment or machinery that ~~which~~ is used for removing contaminants from recyclable materials:

(a) through (e) No change.

(3) Materials handling equipment that ~~which~~ is exclusively used to move recyclable materials to or from other recycling equipment within the recycling facility or plant site:

(a) through (d) No change.

(4) Materials handling equipment that is used exclusively to transfer or transport recyclable materials from the point of generation to the recycling facility:

(a) Trucks delivered with specially designed recycling bodies;

(b) Carts specially designed to store recyclables prior to transfer to a recyclable collection vehicle;

(c) Bins specially designed to store recyclables prior to transfer to a recyclable collection vehicle;

Rulemaking ~~Specific~~ Authority 403.704 FS. Laws Implemented 212.08(7)(q), 403.715, ~~212.08(5)(e)~~ FS. History–New 8-14-90, Formerly 17-704.600, Amended _____.

NAME OF PERSON ORIGINATING PROPOSED RULE: Jan Rae Clark

NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: Michael Sole, Secretary

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: July 13, 2009

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: April 10, 2009

DEPARTMENT OF HEALTH

Division of Emergency Medical Operations

RULE NOS.:	RULE TITLES:
64J-3.002	Public Safety Telecommunication Course Equivalency
64J-3.003	Renewal of 911 Emergency Dispatcher Certification

PURPOSE AND EFFECT: To identify training and education equivalency criteria for 911 emergency dispatchers and to identify the requirements for renewal of the 911 emergency dispatchers certification. Please note the 64J-3.002 rule title will change to: 64J-3.002 Public Safety Telecommunication Course Equivalency.

SUMMARY: The proposed rules are in accordance to the "Denise Amber Lee Act" by Section 401.465, F.S. The statute gives the department the authority to establish by rule the educational and training criteria for the certification and recertification of 911 emergency dispatchers. These are new rules being adopted to meet the legislative directive outlined in Section 401.465, F.S. Rule 64J-3.002, F.A.C., will incorporate DH Form 5067, 911 Emergency Dispatcher Training Course Equivalency Application. Rule 64J-3.003, F.A.C., will incorporate DH Form 5068, Renewal/Change of Status 911 Emergency Dispatcher Certification Form. These forms can be found on the "Legislation and Rules" page on the Bureau of EMS website at http://www.fl-ems.com.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS: The agency has determined that this rule will not have an impact on small business. A SERC has not been prepared by the agency.

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.

RULEMAKING AUTHORITY: 401.35, 401.465 FS.

LAW IMPLEMENTED: 401.65 FS.

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

DATE AND TIME: August 28, 2009, 2:30 p.m. – 4:00 p.m.

PLACE: Florida Department of Health, 4052 Bald Cypress Way, 3rd Floor, Room 301, Tallahassee, FL 32399

Interested parties may submit written comments for the consideration of the department before the initiation of rule adoption proceedings. Comments are due no later than August 21, 2009, in order to be considered by the department and made part of the record of the rulemaking proceeding, pursuant to subsection 120.54(3)(c)1., F.S. Pursuant to subsection 120.54(3)(d)1., F.S., changes to the proposed language in this notice, other than a technical change, that does not affect the substance of the rule, must be supported by the record of the public hearing on the rule, must be in response to written material received on or before the date of the final public hearing (within 21 days of the Notice of Proposed Rule/Notice of Rulemaking), or must be in response to a proposed objection by the Joint Administrative Procedures Committee. Send comments to either Alexander Macy or Lisa Walker at 4052 Bald Cypress Way, Bin C-18, Tallahassee, FL 32399. Visit the Bureau of EMS website, http://www.fl-ems.com, to subscribe to the electronic mailing list.

A conference line will be available for those unable to attend in person. We request that parties from the same agency utilize one line if possible to allow other participants to dial in.

Toll free conference number: 1(888)808-6959; Conference code: 1454440

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 2 days before the workshop/meeting by contacting: Alexander Macy, phone: (850)245-4440, ext. *2735 or by email at: Alexander_Macy@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 RULES IS: Steve McCoy, EMS Systems Analyst, Phone: (850)245-4440, ext. *2727 or by email: Steve_McCoy@doh.state.fl.us

THE FULL TEXT OF THE PROPOSED RULE IS:

64J-3.002 Public Safety Telecommunication Course Equivalency.

An agency seeking to determine equivalency of their training program shall submit to the Department of Health a copy of their training curriculum and DH Form 5067, 06/09, 911 Emergency Dispatcher Training Course Equivalency Application, which is incorporated by reference and available from the department, as defined by subsection 64J-1.001(9), F.A.C., or is found on the internet forms page at: http//:www.fl-ems.com. The training program shall consist of no less than 208 hours. The department shall identify from DH Form 5067, 06/09, 911 Emergency Dispatcher Training Course Equivalency Application, the instructional objectives within their training program that meet each of the student performance standards as outlined in the Department of Education's Public Safety Telecommunication Curriculum Framework, Program Number P090101, Occupational Completion Point – Data Code A, Dispatcher: Police Fire and Ambulance, available for reference on the Department of Education website at: http://www.fldoe.org. Entities subject to the jurisdiction of the Department of Education are not eligible for this determination.

Rulemaking Authority 401.35, 401.465 FS. Law Implemented 401.465 FS. History–New _____.

64J-3.003 Renewal of 911 Emergency Dispatcher Certification.

(1) To be eligible for renewal certification as a 911 emergency dispatcher, the applicant shall submit DH Form 5068, 06/09, Renewal/Change of Status 911 Emergency Dispatcher Certification Form, which is incorporated by reference and available from the department, as defined by subsection 64J-1.001(9), F.A.C., or is found on the internet forms page at http://www.fl-ems.com, prior to February 1 of each odd year and complete the following:

(a) Complete 24 hours of 911 emergency dispatcher renewal training based on the Department of Education Public Safety Telecommunication Curriculum Framework, Program Number P090101, available for reference on the Department of Education website at: http://www.fldoe.org. The department shall accept either the affirmation from a public safety agency as defined in Section 365.171(3)(c), F.S., or a certificate of completion of 24 hours of renewal training from a department-approved Florida 911 emergency dispatcher training program equivalent to the most recently approved emergency dispatcher course of the Department of Education.

(b) Applicants applying for recertification must obtain 24 hours of renewal training, as defined in paragraph 64J-3.002(1)(a), F.A.C., which may be earned through various delivery methods outlined in Table I.

911 Emergency Dispatcher Renewal Requirement
Table I

Delivery Method	Maximum Credit Hours Allowed
Journal Review	12 Hours
Workshop/Seminar/Classroom	16 Hours
Multi-media	12 Hours
QA/QI Review	12 Hours
Planning and Management Meetings	12 Hours
Teaching	12 Hours
Protocol Review	12 Hours

(2) An individual who has received an initial certification as a 911 emergency dispatcher of no more than 180 days prior to February 1 of each odd year shall be exempt from the first renewal period. If an initial certification is obtained prior to August 1st of the preceding renewal year, that certificate holder must apply for renewal certification.

(3) In the event a certified 911 emergency dispatcher changes the mailing address, name, or place of supervised full-time employment he or she has provided to the department, the applicant shall notify the department upon renewal.

Rulemaking Authority 401.35, 401.465 FS. Law Implemented 401.465 FS. History–New _____.

NAME OF PERSON ORIGINATING PROPOSED RULE: John Bixler, Chief, Bureau of EMS, Florida Department of Health, 4052 Bald Cypress Way, Bin C-18, Tallahassee, FL 32399

NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: Dr. Ana Viamonte Ros, Florida State Surgeon General, 4052 Bald Cypress Way, Bin C-18, Tallahassee, FL 32399

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: July 21, 2009

DATE NOTICES OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: October 24, 2008 Vol. No. 34/43 and March 13, 2009 Vol. No. 35/10

DEPARTMENT OF CHILDREN AND FAMILY SERVICES

Economic Self-Sufficiency Program

RULE NO.: RULE TITLE:
65A-1.712 SSI-Related Medicaid Resource Eligibility Criteria

PURPOSE AND EFFECT: The proposed rule amends SSI-Related Medicaid resource policy.

SUMMARY: The proposed rule amends language to clarify the look back period for Deficit Reduction Act provisions, and allows a resource disregard for the Long Term Care Insurance Partnership Policy for the Home and Community Based Waiver Services Program, the Program of All Inclusive Care for the Elderly (PACE), and hospice benefits.

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.

RULEMAKING AUTHORITY: 409.919 FS.

LAW IMPLEMENTED: 409.902, 409.903, 409.904, 409.906, 409.919 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: September 14, 2009, 1:30 p.m.

PLACE: 1317 Winewood Boulevard, Building 3, Room 455, Tallahassee, FL 32399

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Pat Whitford, Economic Self-Sufficiency Services, telephone (850)410-3479

THE FULL TEXT OF THE PROPOSED RULE IS:

65A-1.712 SSI-Related Medicaid Resource Eligibility Criteria.

(1) Resource Limits. If an individual's total resources are equal to or below the prescribed resource limits at any time during the month the individual is eligible on the factor of resources for that month. The resource limit is the SSI limit specified in Rule 65A-1.716, F.A.C., with the following exceptions:

(a) For MEDS-AD Demonstration Waiver, an individual whose income is equal to or below 88 percent of the federal poverty level must not have resources exceeding the current Medically Needy resource limit specified in Rule 65A-1.716, F.A.C.

(b) through (e) No change.

(f) For the ~~a~~ Home and Community Based Waiver Services (HCBS) Program, an individual cannot have countable resources that exceed $2,000. If the individual's income falls within the MEDS-AD Demonstration Waiver limit, the individual can have resources up to $5,000.

(2) Exclusions. The D~~d~~epartment follows SSI policy prescribed in 20 C.F.R. § 416.1210 (2009) and 20 C.F.R. § 416.1218 (2009), incorporated by reference, ~~Part 416~~ in determining what is counted as a resource with the following exceptions, as mandated by federal Medicaid policies, or additional exclusions, as adopted by the D~~d~~epartment under section 42 U.S.C. § 1396a(r)(2) (2006), incorporated by reference. SSI policy requires resources in a blocked account to be countable resources. This applies regardless of whether the individual or their representative is required to petition the court to withdraw funds for the individual's care. A blocked account is one in which state law protects an individual's funds by specifically requiring that the funds be made available for the care and maintenance of the individual.

(a) through (f) No change.

(g) An individual who is a beneficiary under a qualified state Long-Term Care Insurance Partnership Policy ~~issued after November 1, 2007~~ is given a resource disregard equal to the amount of the insurance benefit payments made to or on behalf of the individual for long term care services when determining if the individual's countable resources are within the program limits to qualify for Medicaid nursing home care~~.~~, Home and Community Based Waiver Services Program, the Program of All Inclusive Care for the Elderly (PACE), or hospice benefits.

(3) Transfer of Resources and Income. According to 42 U.S.C. § 1396p(c) (2006), incorporated by reference, if an individual, the spouse, or their legal representative, disposes of resources or income for less than fair market value on or after the look back date, the D~~d~~epartment must presume that the disposal of resources or income was to become Medicaid eligible and impose a period of ineligibility for nursing facility care services, institutional hospice or HCBS waiver services. The D~~d~~epartment will mail a notice to individuals who report a transfer for less than fair market value (Form CF-ES 2264, 02/2007 ~~Feb 2007~~, Notice of Determination of Assets (Or Income) Transfer, incorporated herein by reference), advising of the opportunity to rebut the presumption and of the opportunity to request and support a claim of undue hardship per subparagraph (c)5. below. If the D~~d~~epartment determines the individual is eligible for Medicaid on all other factors of eligibility except the transfer, the individual will be approved for general Medicaid services (not long-term care services) and advised of their penalty period (Form 2358, 02/2007 ~~Feb 2007~~, Medicaid Transfer Disposition Notice, incorporated herein by reference.) The look back period is 36 months prior to the date of application, except in the case of a trust treated as a transfer in which case the look back period is 60 months prior to the date of application. All applications for nursing home and

waiver based Medicaid programs (except in the case of a trust treated as a transfer) are subject to an asset transfer look back period as provided for below.

If the application is received:	The look back period is:
Prior to November 1, 2010	36 months prior to the month of application
November 2010	37 months prior to the month of application
December 2010	38 months prior to the month of application
January 2011	39 months prior to the month of application
February 2011	40 months prior to the month of application
March 2011	41 months prior to the month of application
April 2011	42 months prior to the month of application
May 2011	43 months prior to the month of application
June 2011	44 months prior to the month of application
July 2011	45 months prior to the month of application
August 2011	46 months prior to the month of application
September 2011	47 months prior to the month of application
October 2011	48 months prior to the month of application
November 2011	49 months prior to the month of application
December 2011	50 months prior to the month of application
January 2012	51 months prior to the month of application
February 2012	52 months prior to the month of application
March 2012	53 months prior to the month of application
April 2012	54 months prior to the month of application
May 2012	55 months prior to the month of application
June 2012	56 months prior to the month of application
July 2012	57 months prior to the month of application
August 2012	58 months prior to the month of application
September 2012	59 months prior to the month of application
On or after October 1, 2012	60 months prior to the month of application

(a) The Ddepartment follows the policy for transfer of assets mandated by 42 U.S.C. §§ 1396p (2006) and 1396r-5 (2006), incorporated by reference. Transfer policies apply to the transfer of income and resources.

(b) When funds are transferred to a retirement fund, including annuities, with the transfer look back period the Ddepartment must determine if the individual will receive fair market compensation in their lifetime from the fund. If fair compensation will be received in their lifetime there has been no transfer without fair compensation. If not, the child or their representative disposes of the remainder for less than fair market value. establishment of the fund must be regarded as a transfer without fair compensation. Fair compensation shall be calculated based on life expectancy tables published by the Office of the Actuary of the Social Security Administration. See Rule 65A-1.716, F.A.C.

1. Individuals and their spouses must disclose their ownership interest in any annuity, including annuities that are not subject to the transfer of assets provision, and if purchased after November 1, 2007 must name the state as a remainder beneficiary (for applicants at the time of approval or for recipients at time of annual review) in the first position for no more than the total amount of medical assistance paid on behalf of the institutionalized individual ~~annuitant~~ or in the second position after the community spouse and/or minor or disabled child unless the spouse,

2. No change.

3. Individual Retirement Accounts (IRAs) or annuities (as described in Section 408 of the Internal Revenue Code (2008), incorporated by reference) established by an employee or employer are not considered under the transfer of assets provision and are not required to name the state as the primary remainder beneficiary in accordance with subparagraph (b)1. above.

(c) No penalty or period of ineligibility shall be imposed against an individual for transfers described in 42 U.S.C. § 1396p(c)(2) (2006), incorporated by reference.

1. through 4. No change.

5. A transfer penalty shall not be imposed if the Ddepartment determines that the denial of eligibility due to transferred resources or income would work an undue hardship on the individual. Undue hardship exists when imposing a period of ineligibility would deprive an individual of medical care such that their life or health would be endangered. Undue hardship also exists when imposing a period of ineligibility would deprive the individual of food, clothing, shelter or other necessities of life. All efforts to access the resources or income must be exhausted before this exception applies. The facility in which the institutionalized individual is residing may request an undue hardship waiver on behalf of the individual with the consent of the individual or their designated representative.

(d) Except for allowable transfers described in 42 U.S.C. § 1396p(c)(2), in all other instances the Ddepartment must presume the transfer occurred to become Medicaid eligible unless the individual can prove otherwise.

1. through 3. No change.

4. A life estate interest purchased in another individual's home after November 1, 2007 is considered a transfer of assets for less than fair market value. If the individual has not lived in the home for at least one year, the full amount of the purchase price paid for the life estate will be considered an uncompensated transfer without considering the value of the life estate. If the individual has resided in the home for at least one continuous year, the value of the life estate will be considered compensation and will be calculated by multiplying the current market value of the property at the time of the purchase by the life estate factor that corresponds to the individual's age at the time of the purchase. The life estate tables are incorporated by reference from the Social Security Administration's online Program Operations Manual System (SI 01140.120) (04/99), incorporated by reference, as found in Appendix A-17 of the Department's online manual located at www.dcf.state.fl.us/ess/ (June 2009). Brief absences from the life estate property such as stays in a rehabilitation facility or vacations may not disrupt the client's residency in the home. The facts of each absence will be evaluated to determine if the home continued to be the individual's principal place of residence such as whether the person's mail was delivered and received there or whether they paid the property taxes.

(e) through (f) No change.

(g) For transfers prior to November 1, 2007, periods of ineligibility are calculated beginning with the month in which the transfer occurred and shall be equal to the actual computed period of ineligibility, rounded down to the nearest whole number. For transfers made on or after November 1, 2007, periods of ineligibility begin with the later of the following dates: (1) the day the individual is eligible for medical assistance under the state plan and would otherwise be receiving institutional level care based on an approved application for such care but for the application of the penalty period; or (2) the first day of the month in which the individual transfers the asset; or (3) the first day following the end of an existing penalty period. The Ddepartment shall not round down, or otherwise disregard, any fractional period of ineligibility of the penalty period but will calculate the period down to the day. There is no limit on the period of ineligibility. Once the penalty period is imposed, it will continue although the individual may no longer meet all factors of eligibility and may no longer qualify for Medicaid long-term care benefits.

1. Monthly periods of ineligibility due to transferred resources or income are determined by dividing the total cumulative uncompensated value of all transferred resources or income computed in accordance with paragraph 65A-1.712(3)(f), F.A.C., by the average monthly private pay nursing facility rate at the time of application as determined by the Ddepartment (refer to paragraph 65A-1.716(5)(d), F.A.C.).

a. through c. No change.

2. If an institutionalized individual is ineligible for medical assistance due to a transfer of resources or income by the community spouse, and the community spouse becomes potentially eligible for ICP, HCBS, or institutional hospice services, any remaining penalty period must be apportioned beween the spouses. The Ddepartment shall apportion penalty periods by dividing any new or remaining penalty periods by 2 and attribute the quotient to each spouse. Any excess months may be attributed to the spouse that caused the penalty or according to the wishes of the couple or their representative.

3. No change.

(4) Spousal Impoverishment. The Ddepartment follows 42 U.S.C. § 1396r-5 for resource allocation and income attribution and protection when an institutionalized individual, including a hospice recipient residing in a nursing facility, has a community spouse. Spousal impoverishment policies are not applied to individuals applying for, or receiving, HCBS waiver services, except for individuals in the Long-Term Care Community Diversion Program, the Assisted Living Facility waiver or the Cystic Fibrosis waiver.

(a) through (c) No change.

(d) After the institutionalized spouse is determined eligible, the Ddepartment allows deductions from the eligible spouse's income for the community spouse and other family members according to 42 U.S.C. § 1396r-5 and paragraph 65A-1.716(4)(c), F.A.C.

(e) If either spouse can verify that the community spouse resource allowance provides income that does not raise the community spouse's income to the State's minimum monthly maintenance income allowance (MMMIA), the resource allowance may be revised through the fair hearing process to an amount adequate to provide such additional income as determined by the hearing officer. Effective November 1, 2007 the hearing officers must consider all of the community spouse's income and all of the institutionalized spouse's income that could be made available to a community spouse. The hearing officers will base the revised community spouse resource allowance on the amount necessary to purchase a single premium lifetime annuity that would generate a monthly payment that would bring the spouse's income up to the MMMIA (adjusted to include any excess shelter costs). The community spouse does not have to actually purchase the annuity. The community spouse will have the opportunity to present convincing evidence to the hearing officer that a single premium lifetime annuity is not a viable method of protecting the necessary resources for the community spouse's income to be raised to the State's MMMIA. If the community spouse requests that the revised allowance not be based on the earnings of a single premium lifetime annuity, the community spouse must offer an alternative method for the hearing officer's consideration that will provide for protecting the minimum amount of assets required to raise the community spouse's income to the State's MMMIA during their lifetime.

(f) through (g) No change.

1. No change.

2. The institutional spouse assigns to the State any rights to support from the community spouse by submitting the Assignment of Rights to Support, Form CF-ES 2504, PDF 10/2005 (incorporated by reference), ~~Support Rights form referenced in Rule 65A-1.400, F.A.C.,~~ signed by the institutionalized spouse or their representative; and

3. through 4. No change.

(5) Other Resource Policies.

(a) No change.

1. No change.

2. Paragraph (5)(a) does not apply if the individual's spouse, individual's child under age 21 or the individual's blind or disabled child (based on the federal definitions of "blindness" in 20 C.F.R. § 416.981-416.986 (2009), incorporated by reference, and "disability" in 20 C.F.R. § 416.905-416.906 (2009), incorporated by reference ~~20 CFR 416~~) of any age are residing in the institutionalized individual's home.

3. No change.

4. The Ddepartment will mail a notice to individuals whose home equity interest exceeds $500,000 (Form CF-ES 2354, 02/2007 ~~Feb 2007~~, Notice of Excess Home Equity Interest, incorporated herein by reference), advising of the opportunity to have the home equity interest policy waived.

(b) An individual's entrance fee in a continuing care retirement community or life care community shall be considered a resource, as set forth in 1917(g) of the Social Security Act (2007), which is incorporated herein by reference.

(6) Copies of the forms and materials incorporated by reference in this rule are available from the ACCESS Florida Headquarters Office at 1317 Winewood Boulevard, Tallahassee, Florida 32399-0700 or on the Department's web site at http://www.dcf.state.fl.us/DCFForms/Search/DCFFormSearch.aspx.

Rulemaking ~~Specific~~ Authority 409.919 FS. Law Implemented 409.902, 409.903, 409.904, 409.906, 409.919 FS. History–New 10-8-97, Amended 1-27-99, 4-1-03, 9-28-04, 8-10-06(1)(a), (f), 8-10-06(1)(f), 8-10-06(3)(g)1., 11-1-07, _____.

NAME OF PERSON ORIGINATING PROPOSED RULE: Nathan Lewis

NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: George H. Sheldon

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: July 15, 2009

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: October 3, 2008

FINANCIAL SERVICES COMMISSION

OIR – Insurance Regulation

RULE NO.:	RULE TITLE:
69O-156.020	Prohibition Against Use of Genetic Information and Requests for Genetic Testing

PURPOSE AND EFFECT: To update this rule part, to allow for a new product generation by adopting further revisions to the NAIC Model Regulation.

SUMMARY: On September 24, 2008, the National Association of Insurance Commissioners (NAIC) adopted revisions to the NAIC Model Regulation to Implement the NAIC Medicare Supplement Insurance Minimum Standards Model Act. The revised NAIC model regulation includes major changes to Medicare Supplement plans and benefits first approved by the NAIC in March 2007, and authorized by the Medicare Improvements for Patients and Providers Act of 2008 (MIPPA). This rule revision adopts the model revisions contain changes required by the Genetic Information Nondiscrimination Act of 2008 (GINA).

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.

RULEMAKING AUTHORITY: 627.674 FS.

LAW IMPLEMENTED: 627.6741 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: August 25, 2009, 9:30 a.m.

PLACE: 142 Larson Building, 200 East Gaines Street, Tallahassee, Florida

Pursuant to the provisions of the Americans with Disabilities Act, any person requiring special accommodations to participate in this workshop/meeting is asked to advise the agency at least 5 days before the workshop/meeting by contacting: Gerry Smith, Office of Insurance Regulation, E-mail Gerry.Smith@floir.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 IS: Gerry Smith, Office of Insurance Regulation, E-mail Gerry.Smith@floir.com

THE FULL TEXT OF THE PROPOSED RULE IS:

69O-156.020 Prohibition Against Use of Genetic Information and Requests for Genetic Testing.

This rule applies to all policies and certificates with policy years beginning on or after May 21, 2009.

(1) An issuer of a Medicare supplement policy or certificate;

(a) Shall not deny or condition the issuance or effectiveness of the policy or certificate (including the imposition of any exclusion of benefits under the policy based on a preexisting condition) on the basis of the genetic information with respect to such individual; and

(b) Shall not discriminate in the pricing of the policy or certificate (including the adjustment of premium rates) of an individual on the basis of the genetic information with respect to such individual.

(2) Nothing in subsection 69O-156.020(1), F.A.C., shall be construed to limit the ability of an issuer, to the extent otherwise permitted by law, from:

(a) Denying or conditioning the issuance or effectiveness of the policy or certificate or increasing the premium for a group based on the manifestation of a disease or disorder of an insured or applicant; or

(b) Increasing the premium for any policy issued to an individual based on the manifestation of a disease or disorder of an individual who is covered under the policy (in such case,

the manifestation of a disease or disorder in one individual cannot also be used as genetic information about other group members and to further increase the premium for the group).

(3) An issuer of a Medicare supplement policy or certificate shall not request or require an individual or a family member of such individual to undergo a genetic test.

(4) Subsection 69O-156.020(3), F.A.C., shall not be construed to preclude an issuer of a Medicare supplement policy or certificate from obtaining and using the results of a genetic test in making a determination regarding payment (as defined for the purposes of applying the regulations promulgated under part C of title XI and section 264 of the Health Insurance Portability and Accountability Act of 1996, as may be revised from time to time) and consistent with subsection 69O-156.020(1), F.A.C.

(5) For purposes of carrying out subsection 69O-156.020(4), F.A.C., an issuer of a Medicare supplement policy or certificate may request only the minimum amount of information necessary to accomplish the intended purpose.

(6) Notwithstanding subsection 69O-156.020(3), F.A.C., an issuer of a Medicare supplement policy may request, but not require, that an individual or a family member of such individual undergo a genetic test if each of the following conditions is met:

(a) The request is made pursuant to research that complies with part 46 of title 45, Code of Federal Regulations, or equivalent Federal regulations, and any applicable State or local law or regulations for the protection of human subjects in research.

(b) The issuer clearly indicates to each individual, or in the case of a minor child, to the legal guardian of such child, to whom the request is made that:

1. Compliance with the request is voluntary; and

2. Non-compliance will have no effect on enrollment status or premium or contribution amounts.

(c) No genetic information collected or acquired under this Subsection shall be used for underwriting, determination of eligibility to enroll or maintain enrollment status, premium rates, or the issuance, renewal, or replacement of a policy or certificate.

(d) The issuer notifies the Secretary in writing that the issuer is conducting activities pursuant to the exception provided for under this Subsection, including a description of the activities conducted.

(e) The issuer complies with such other conditions as the Secretary may by regulation require for activities conducted under this Subsection.

(7) An issuer of a Medicare supplement policy or certificate shall not request, require, or purchase genetic information for underwriting purposes.

(8) An issuer of a Medicare supplement policy or certificate shall not request, require, or purchase genetic information with respect to any individual prior to such individual's enrollment under the policy in connection with such enrollment.

(9) If an issuer of a Medicare supplement policy or certificate obtains genetic information incidental to the requesting, requiring, or purchasing of other information concerning any individual, such request, requirement, or purchase shall not be considered a violation of subsection 69O-156.020(8), F.A.C., if such request, requirement, or purchase is not in violation of subsection 69O-156.020(7), F.A.C.

(10) For the purposes of this Section only:

(a) "Issuer of a Medicare supplement policy or certificate" includes third-party administrator, or other person acting for or on behalf of such issuer.

(b) "Family member" means, with respect to an individual, any other individual who is a first-degree, second-degree, third-degree, or fourth-degree relative of such individual.

(c) "Genetic information" means, with respect to any individual, information about such individual's genetic tests, the genetic tests of family members of such individual, and the manifestation of a disease or disorder in family members of such individual. Such term includes, with respect to any individual, any request for, or receipt of, genetic services, or participation in clinical research which includes genetic services, by such individual or any family member of such individual. Any reference to genetic information concerning an individual or family member of an individual who is a pregnant woman, includes genetic information of any fetus carried by such pregnant woman, or with respect to an individual or family member utilizing reproductive technology, includes genetic information of any embryo legally held by an individual or family member. The term "genetic information" does not include information about the sex or age of any individual.

(d) "Genetic services" means a genetic test, genetic counseling (including obtaining, interpreting, or assessing genetic information), or genetic education.

(e) "Genetic test" means an analysis of human DNA, RNA, chromosomes, proteins, or metabolites, that detect genotypes, mutations, or chromosomal changes. The term "genetic test" does not mean an analysis of proteins or metabolites that does not detect genotypes, mutations, or chromosomal changes; or an analysis of proteins or metabolites that is directly related to a manifested disease, disorder, or pathological condition that could reasonably be detected by a health care professional with appropriate training and expertise in the field of medicine involved.

(f) "Underwriting purposes" means:

1. Rules for, or determination of, eligibility (including enrollment and continued eligibility) for benefits under the policy;

2. The computation of premium or contribution amounts under the policy;

3. The application of any preexisting condition exclusion under the policy; and

4. Other activities related to the creation, renewal, or replacement of a contract of health insurance or health benefits.

Rulemaking Authority 627.674 FS. Law Implemented 627.6741 FS. History–New _____.

NAME OF PERSON ORIGINATING PROPOSED RULE: Gerry Smith, Office of Insurance Regulation, E-mail Gerry.Smith@floir.com

NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: Financial Services Commission

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: June 9, 2009

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: May 1, 2009

Section III
Notices of Changes, Corrections and Withdrawals

DEPARTMENT OF REVENUE

Sales and Use Tax

RULE NO.:	RULE TITLE
12A-1.0115	Sales of Food Products Served, Prepared, or Sold in or by Restaurants, Lunch Counters, Cafeterias, Caterers, Hotels, Taverns, or Other Like Places of Business and by Transportation Companies

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. 33, No. 41, October 12, 2007 issue of the Florida Administrative Weekly.

Subsection (3) of Rule 12A-1.0115, F.A.C., has been withdrawn for further consideration. Proposed subsections (4) through (14) have been renumbered (3) through (13). Prior to withdrawal, subsection (3) of Rule 12A-1.0115, F.A.C., read as follows:

(3) FOOD PRODUCTS CONSUMED IN PLACES WHERE AN ADMISSION IS CHARGED.

(a) Food products are subject to tax when furnished, served, prepared, or sold on the premises of a place where admission is charged for entrance. The term "premises" will be construed broadly to include: the lobby, aisle, or auditorium of a theater; the seating, aisle, or parking area of an arena, rink, or stadium; the parking area of a drive-in or outdoor theater; or similar places.

(b) When food products are furnished to patrons who have paid an admission charge for entrance as a part of that admission charge and there is no separately itemized charge to the patron for the food products, tax is due on the cost of the food products furnished. When the food products are purchased from a caterer, restaurant, or similar establishment, tax is due on the total charge made by the caterer, restaurant, or similar establishment.

(c) When the charges for food products are separately itemized and priced from the admission charge to the patron, tax is required to be collected on the sales price of the food products. (See Rule 12A-1.005, F.A.C., for admission charges.) Food products that are separately itemized and sold to the patron may be purchased for resale, as provided in Rule 12A-1.039, F.A.C.

BOARD OF TRUSTEES OF THE INTERNAL IMPROVEMENT TRUST FUND

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

DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION

Division of Alcoholic Beverages and Tobacco

RULE NOS.:	RULE TITLES:
61A-1.0101	Product Displays Exception
61A-1.01010	Expendable Retailer Advertising Specialties Exception
61A-1.01011	Durable Retailer Advertising Specialties Exception
61A-1.01012	Consumer Advertising Specialties Exception
61A-1.01013	Inside Signs Advertising Brands Exception
61A-1.01014	Brand Images
61A-1.01015	Advertising Vendor Locations Where Brand Sold Exception
61A-1.01018	Trade Shows and Conventions Exception
61A-1.0102	Private Labels
61A-1.01021	Split or Mixed Cases Exception
61A-1.01022	Combination Packages
61A-1.01024	Alcoholic Beverage Samples Exception
61A-1.0103	Premium Offers Exception
61A-1.0104	Sweepstakes, Drawings, or Contests Exception