

Specific Authority Art. IV, Sec. 9, Fla. Const., Chapter 83-134, Laws of Fla., as amended by Chapter 84-121, Laws of Fla. Law Implemented Art. IV, Sec. 9, Fla. Const., Chapter 83-134, Laws of Fla., as amended by Chapter 84-121, Laws of Fla. History--New 1-1-91, Formerly 46-38.003, Amended

Section II
Proposed Rules

DEPARTMENT OF INSURANCE

RULE TITLE:

RULE NO.:

Reporting Requirements for Licensees
Concerning Unlicensed Insurance
Activity by Multiple Employer Welfare
Arrangements, Labor Leasing Organizations,
and Purportedly Collectively Bargained Plans 4-230.033

PURPOSE AND EFFECT: The purpose of this rule section is to require licensed insurers, managed care entities, agents, brokers, third-party administrators, adjusters, and other licensees of the Department to submit to the Department information of which they become aware concerning unlicensed insurance activity in this State. Such information will assist the Department in identifying unlicensed insurance activity in advance of its occurrence and will therefore aid in protecting the public from such activity.

SUMMARY: This rule requires licensed insurers, managed care entities, agents, brokers, third-party administrators, adjusters, and other licensees of the Florida Department of Insurance to submit to the Department information of which they become aware concerning unlicensed insurance activity in this State.

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

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

SPECIFIC AUTHORITY: 624.308(1), 624.33(2), 624.4431 FS.

LAW IMPLEMENTED: 624.09, 624.44, 624.307, 624.317, 624.437, 624.442, 624.446, 626.901, 626.910, 626.9571, 626.9581, 626.9591, 626.9601 FS.

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

TIME AND DATE: 9:00 a.m., June 12, 2001

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

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Phil Fountain, Bureau Chief, Agent and Agency Services, Department of Insurance, 200 East Gaines Street, Tallahassee, FL 32399-0333, phone number (850)413-5600

Pursuant to the provisions of the Americans with Disabilities Act, any person requiring special accommodations to participate in this program, please advise the Department at least 5 calendar days before the program by contacting Phil Fountain, (850)413-5600.

THE FULL TEXT OF THE PROPOSED RULE IS:

4-230.033 Reporting Requirements for Licensees Concerning Unlicensed Insurance Activity by Licenses Seeking to Do Business With Unlicensed Insurers Including Certain Multiple Employer Welfare Arrangements, Labor Leasing Organizations, and Purportedly Lessor, and Collectively Bargained Plans.

(1) Purpose. The purpose of this rule section is to require licensed insurers, managed care entities, agents, brokers, third-party administrators, adjusters, and other licensees of the Department to submit to the Department information of which they become aware concerning unlicensed insurance activity in this State. Such information will assist the Department in identifying unlicensed insurance activity in advance of its occurrence and will therefore aid in protecting the public from such activity agents, brokers, third party administrators and insurers to submit information to the Department prior to assisting in any way in the marketing of insurance coverage by unlicensed insurers including certain types of multiple employer arrangements identified in this rule, for the purpose of assisting the Department in identifying unauthorized insurance arrangements before the transactions occur. The reports also will help licensees identify unauthorized insurance arrangements so that they can protect themselves from potential liability for assisting in the transaction of unauthorized insurance. This rule is not intended to affect the determination of any issue arising under Public Law 93-406, the Employee Retirement Security Act, as amended from time to time.

(2) Definitions. For purposes of this rule, the following definitions shall apply.

(a) "Agent" means and includes any person holding any type and class of licensure, whether limited or unlimited, issued by the Department under Chapter 626, Florida Statutes. The term also includes any person licensed or registered by the Department as an agent, sales representative, sales agent, salesperson, runner, or bail bondsman, under any of the following statutes: 626.634 (fraternal benefit agents); 634.031 (warranty association sales person); 635.051 (mortgage guaranty insurance agent); 637.141 (optometric service plan sales representative); 637.301 (pharmaceutical service plan sales representative); 638.181 (ambulance service association

or insurer sales representative); 639.185 (pre-need funeral merchandise or services contract sales agent); 641.386 (health maintenance organization sales agent); 642.036 (legal expense insurance sales representative); or 648.30 (bail bondsman or bail runner). The term includes such persons whether residents of Florida or not.

(b) "Arrangement" means a fund, trust, plan, instrument, program, association, union, or other entity or mechanism, any portion of which does, or purports to, provide for the transfer of the risk of loss, damage, or expense resulting from a fortuitous event, from the person or entity having incurred the loss, damage, or expense, to another ~~program, association, union, or other entity or mechanism any portion of which calls for a person to provide, or attempt to provide, insurance benefits to individuals.~~

~~(c) "Beneficiary" means a person designated by a participant, or by the terms of an employee benefit plan, who is or may become entitled to a benefit thereunder.~~

~~(c)(d) "Collectively bargained arrangement" means an arrangement (as defined in sub-section (b) hereof), that exists pursuant to one or more bona fide labor agreements, including arrangements that are sponsored by a union or a union local. For purposes of the reporting requirements of this rule, the term also includes arrangements in which both union members and non-members do or may participate which provides or represents that it is providing insurance benefits or coverage under or pursuant to one or more collective bargaining agreements. The term includes, but is not limited to, such arrangements sponsored by a union and/or a union local. For purposes of the reporting requirements of this rule, the term also includes associate membership programs under which insurance coverage is provided to individuals who are not members of a union as well as to union members. However, this inclusive definition shall have no bearing upon the issue of whether a given program is in fact collectively bargained for purposes of determining state jurisdiction under 29 USC 1144(b)(6). This term includes such arrangements regardless of whether the U.S. Department of Labor had found one or more of the agreements to be bona fide collective bargaining agreements. For purposes of this rule, a collectively bargained arrangement does not include an arrangement which is fully insured by a licensed insurer for so long as the arrangement stays fully insured.~~

~~(d)(e) "Department" means the Florida Department of Insurance.~~

~~(e)(f) "Employee" means any individual employed by an employer.~~

~~(f)(g) "Employee leasing" means a relationship whereby an employee leasing company assigns its employees to a client and allocates the direction of and control over the leased employees between the leasing company and the client. The definition includes, and is subject to the conditions, exclusions and limitations of Chapter 468, Part XI, Florida Statutes and~~

rules promulgated in accordance therewith. Notwithstanding, for as long as an employee leasing company makes available insurance benefits only through licensed insurers, such employee leasing company shall not be a subject of the reporting requirements of this rule. ~~arrangement" means an arrangement, under contract or otherwise, whereby one business or other entity leases a significant portion of its labor force from another business or entity. The phrase includes employee leasing companies as defined in section 468.520, Florida Statutes, and any resulting rules thereto. For purposes of this rule, an employee leasing arrangement does not include an arrangement which is fully insured by a licensed insurer for so long as the arrangement stays fully insured.~~

~~(g)(h) "Employee Welfare benefit plan" means any plan, fund or program maintained by an employer or by an employee organization, or by both, to the extent that such plan, fund or program was established or is maintained in whole or in part for the purpose of providing for its participants or their beneficiaries, through the purchase of insurance or otherwise, medical, surgical or hospital care or benefits, or benefits in the event of sickness, accident, disability, death or unemployment.~~

~~(h)(i) "Employee organization" means any labor union or any organization of any kind, or any agency or employee representation committee, association, group, or plan, in which employees participate and which exists for the purpose, in whole or in part, of dealing with employers concerning an employee benefit plan, or other matters incidental to employment relationships; or any employees' beneficiary association organized for the purpose in whole or in part, of establishing such a plan.~~

~~(i)(j) "Employer" means any person acting directly as an employer, or indirectly in the interest of an employer, in relation to an employee benefit plan; and includes a group or association of employers acting for an employer in such capacity.~~

~~(k) "Filer" means the person, agent, third party administrator, or insurer making a filing as required by this rule.~~

~~(l) "Fully insured by a licensed insurer" means that for all of the insurance coverage provided or offered by or through an arrangement:~~

~~1. A licensed insurer is directly obligated by contract to provide all of the coverage to or under the arrangement;~~

~~2. Such licensed insurer assumes all of the risk for payment of all covered services or benefits; and~~

~~3. The liability of such licensed insurer for payment of the covered services or benefits is directly to the individual employee, member, or dependent, participant, or beneficiary receiving the insurance services.~~

~~(m) "Licensed insurer" means an insurer, as defined in Section 624.03, Florida Statutes, having a certificate of authority to transact insurance in this state issued by the department.~~

~~(n)~~ “Participant” means any employee or former employee of an employer, or any member or former member of an employee organization, who is or may become eligible to receive a benefit of any type from an employee benefit plan which covers employees of such employer or members of such organization, or whose beneficiaries may be eligible to receive any such benefit.

~~(o)~~ “Person” means and includes but is not limited to, except as expressly noted: any natural person; corporation, whether for profit or not for profit; partnership, whether limited or general; trust; sole proprietorship, union or other collective bargaining entity; estate; association; society; syndicate; and every other legal entity.

~~(j)(p)~~ “Reportable MEWA,” for purposes of this rule, means a person that provides or offers insurance benefits or coverage to the employees of two or more employers, whether alone or with other benefits. “Reportable MEWA” does not include:

1. A licensed insurer;
2. An arrangement which is fully insured by a licensed insurer for so long as the arrangement stays fully insured;
3. An employee welfare benefit plan established or maintained by a rural electric cooperative or a rural telephone cooperative;
4. A MEWA licensed by the Department.

~~(q)~~ “Rural Electric Cooperative” means:

~~1. Any organization which is exempt from tax under Section 501(a) of Title 26 of the United States Code and which is engaged primarily in providing electric service on a mutual or cooperative basis; or~~

~~2. Any organization described in paragraph (4) or (6) of Section 501(e) of Title 26 of the United States Code which is exempt from tax under Section 501(a) of Title 26 and at least 80% of the members of which are organizations which are engaged primarily in providing electric service on a mutual or cooperative basis.~~

~~(r)~~ “Rural Telephone Cooperative” means an organization described in paragraph (4) or (6) of Section 501(e) of Title 26 of the United States Code which is exempt from tax under Section 501(a) of such Title 26 and at least 80% of the members of which are organizations engaged primarily in providing telephone service to rural areas of the United States on a mutual cooperative or other basis.

~~(k)(s)~~ “Third party administrator” or “TPA” means “administrator” under section 626.88, Florida Statutes, and includes, but is not limited to, all persons licensed by the department as administrators.

~~(l)(t)~~ “Unlicensed insurer” is any insurer as defined in section 624.03, Florida Statutes, including self-insurers, which has not been licensed to transact insurance by the Department under the provisions of the Florida Insurance Code; except that any person or group authorized to self-insure for workers' compensation coverage pursuant to sections 440.38(1), 440.57,

and 440.575, Florida Statutes, and the rules of the Florida Department of Labor and Employment Security, Division of Workers' Compensation, is not an “unlicensed insurer” for purposes of this rule. The term includes any plan required to be licensed under the provisions of Chapter 632 or Chapters 634-651, Florida Statutes.

~~(3) Information Required to Be Reported. Agents Prohibited from Assisting Reportable MEWAs or Unlicensed Insurers.~~

~~(a) Any agent, third party administrator or insurer with knowledge of an unlicensed insurer doing business in the State of Florida, shall report the activities of the insurer to the Department and, if known, shall provide the following information: No agent may solicit, advertise, or market in this state the services, insurance benefits, or coverage of an employee leasing arrangement or a person or arrangement which represents itself as an employee leasing arrangement unless the agent first files the information required by subsection (7), below.~~

~~1. Organizational information concerning the reportable MEWA, employee leasing arrangement, welfare benefit plan, employee organization, collectively bargained arrangement, or other unlicensed insurer;~~

~~2. Information on any insurance or reinsurance contracts, benefits or coverage offered by the reportable MEWA, employee leasing arrangement, welfare benefit plan, employee organization, collectively bargained arrangement, or other unlicensed insurer;~~

~~3. The names, addresses, and phone numbers of any officers or agents of the reportable MEWA, employee leasing arrangement, welfare benefit plan, employee organization, collectively bargained arrangement, or other unlicensed insurer;~~

~~4. The names, addresses, and phone numbers of any employers, employees, or individuals who may be enrolled by, or who will be receiving services from the reportable MEWA, employee leasing arrangement, welfare benefit plan, employee organization, collectively bargained arrangement, or other unlicensed insurer;~~

~~(b) No agent may solicit another agent to enter into an agreement to solicit, advertise or market the insurance benefits, coverage or services of an employee leasing arrangement unless the first agent first files the information required by subsection (7), below.~~

~~(4) The report shall be made with the Department at the following address: Attn: Unlicensed Entity Coordinator, Florida Department of Insurance, Division of Insurance Fraud. The report can be made by phone, (850)413-4000, or by mail to 2020 Capital Circle, S. E., Alexander Building, Tallahassee, FL 32301. Agents Prohibited from Assisting Employee Leasing Arrangements Prior to Filing.~~

~~(a) No agent may solicit, advertise, or market in this state the services, insurance benefits, or coverage of an employee leasing arrangement or a person or arrangement which represents itself as an employee leasing arrangement unless the agent first files the information required by subsection (7), below.~~

~~(b) No agent may solicit another agent to enter into an agreement to solicit, advertise, or market services, insurance benefits or coverage of a reportable MEWA or other unlicensed insurer unless the first agent first files the information required by rule subsection (7), below.~~

~~(5) Agents Prohibited from Assisting Collectively Bargained Arrangements Prior to Filing.~~

~~(a) No agent may solicit, advertise, or market in this state membership in, or insurance benefits or coverage from, or accept an application for membership in or coverage from, or place coverage for a person who resides in this state with, a collectively bargained arrangement or an arrangement which represents itself as a collectively bargained arrangement unless the agent first files the information required by subsection (7), below.~~

~~(b) No agent may solicit another agent to enter into an agreement to solicit, advertise or market the insurance benefits or coverage of a collectively bargained arrangement unless the first agent first files the information required by subsection (7), below.~~

~~(6) Third Party Administrators and Licensed Insurers Prohibited from Assisting Reportable MEWAs, Employee Leasing Arrangements, Collectively Bargained Arrangements, or Other Unlicensed Insurers Prior to Filing.~~

~~(a) No third party administrator may solicit or effect coverage of, underwrite for, collect charges or premiums for, or adjust or settle claims of a resident of this state for, or enter into any agreement to perform any of those functions for, a reportable MEWA, an employee leasing arrangement, a collectively bargained arrangement, or any other unlicensed insurer unless the third party administrator first files the information required by subsection (7), below.~~

~~(b) No licensed insurer may solicit or effect coverage of, underwrite for, collect charges or premiums for, adjust or settle claims of a resident of this state for, or enter into any agreement to perform any of those functions for, a reportable MEWA, an employee leasing agreement, a collectively bargained arrangement, or any other unlicensed insurer unless the insurer first files the information required by subsection (7), below.~~

~~(c) No third party administrator or insurer may, using offices or personnel located in this state, conduct such activities with respect to persons or property located in another state without first filing the information required by subsection (7) below.~~

~~(d) A licensed insurer which issues or has issued any insurance coverage to a reportable MEWA, employee leasing arrangement, or collectively bargained arrangement which~~

~~covers residents of this state, including, but not limited to, specific or aggregate stop loss coverage, shall file the information required by subsection (7), below, within 30 days after the coverage is issued or within 30 days after the date the reportable MEWA, employee leasing arrangement, or collectively bargained arrangement first provides coverage to a resident of this state, whichever is later.~~

~~(7) Information Required to Be Filed and Kept Current.~~

~~(a) Any person, agent, third party administrator or insurer representing an unlicensed insurer shall file with the department all of the following information and documents, in the manner and format as set forth in subsection (8) of this rule:~~

~~1. A copy of the organizational documents of the reportable MEWA, employee leasing firm, collectively bargained arrangement, or other unlicensed insurer, including the articles of incorporation and bylaws, partnership agreement or trust instrument;~~

~~2. A copy of each insurance or reinsurance contract which concerns all or any portion of benefits or coverage offered by the reportable MEWA, employee leasing firm, collectively bargained arrangement, or other unlicensed insurer;~~

~~3. A clear and complete statement describing the extent to which the benefits provided or offered by the reportable MEWA, employee leasing firm, collectively bargained arrangement, or other unlicensed insurer are insured or reinsured;~~

~~4. The names and addresses of any person performing or expected to perform the functions of a third party administrator, general agent, or managing general agent for the reportable MEWA, employee leasing firm, collectively bargained arrangement or other unlicensed insurer;~~

~~5. A copy of the most recently audited financial statement or the most recent financial statement of the reportable MEWA, employee leasing firm, collectively bargained arrangement, or other unlicensed insurer, or a statement that there is no such statement available; and~~

~~6. The names, addresses, and phone numbers of the president, secretary, and controller, or equivalent positions by whatever title called, of the reportable MEWA, collectively bargained anticipated arrangement, employee leasing firm, or other unlicensed insurer.~~

~~7. An indication of the anticipated number of individuals to be enrolled by, or who will be receiving services from, the reporting person in connection with coverage provided by the unlicensed insurer, and the anticipated annualized premium to be paid by such individuals.~~

~~(b) Any person required to make a pre-marketing filing in accordance with these rules shall promptly amend the filing to reflect any changes in the information initially supplied, including the filing of most recent financial statements and insurance or reinsurance contracts. In addition, a filer must on a quarterly basis report the actual number of individuals enrolled by or receiving services from the reporting person and the annualized premium paid by such participants.~~

(8) Instructions for Making the Filing. The instructions for making filings of material pursuant to subsection (7) are as follows:

(a) The filing must be accompanied by a cover letter which refers to this rule by name and number and which is dated and signed by the agent making the filing in the case of agents, and by the president or a vice president or equivalent officer in the case of third party administrators and insurers making the filing. The cover letter must indicate the filer's full name, address, business phone number, license identification number or federal employer identification number, if any.

(b) Where to File. The filing shall be filed with the department at the following address: Attn: Unlicensed Entity Coordinator, Florida Department of Insurance, Fletcher Building, Room 649, Tallahassee, FL 32399-0300.

(c) Required Records. The filer making the filing shall keep a copy of the complete filing in their permanent business records for not less than three years from the date of the filing.

(d) Format of Filing. The filing shall consist of the items specified in subsection (7), above, attached to a cover page listing the following described items, for either persons and agents or third party administrators and insurers:

1. Persons and Agents. When the filer is a person or an agent the cover page shall be in the following format, with the captions specified, and the filer's pertinent answers adjacent to each caption:

TO: Unlicensed Entity Coordinator
Fletcher Building, Room 649

This filing is submitted in accordance with Rule 4-230.033 of the Florida Department of Insurance.

Filer's Full Name as shown on Florida agent's license:

Filer's license identification number:

Filer's mail address with zip:

Filer's office street address:

Filer's home address:

Filer's daytime business phone number with area code:

Filer's home phone with area code:

State all types of licenses held by Filer issued by the Florida Department of Insurance:

Full and exact legal name of the reportable MEWA, collectively bargained arrangement, employee leasing arrangement or other unlicensed insurer which filer desires to market for or otherwise associate with (hereafter referred to as "this entity"):

State all trade names or other "doing business as" names used by this entity:

Date filer was first contacted by this entity:

Name, address, and phone number of all persons filer has met or talked to, representing this entity:

Anticipated number of individuals or risks to be insured:

Anticipated annualized premium:

Signature of Filer:

Date signed: _____

2. TPAs and Insurers. When the filer is a third party administrator or an insurer, the cover page shall be in the following format, with the captions specified, and the filer's pertinent answers adjacent to each caption:

TO: Unlicensed Entity Coordinator
Fletcher Building, Room 649

This filing is submitted in accordance with Rule 4-230.033 of the Florida Department of Insurance.

Filer's exact legal name:

Name and title of contact person on Filer's staff to be contacted by the Department regarding this filing:

Contact person's area code, phone number, and extension:

Filer is a (check one): _____ TPA _____ Insurer
_____ Other

Filer's federal tax ID number:

Filer's mail address with zip:

Filer's office street address:

State all types of licenses held by Filer issued by the Florida Department of Insurance:

Full and exact legal name of the reportable MEWA, collectively bargained arrangement, employee leasing arrangement, or other unlicensed insurer which Filer desires to market for or otherwise associate with (hereafter referred to as "this entity"):

State all trade names or other "doing business as" names used by this entity:

Anticipated number of individuals or risks to be insured:

Anticipated annualized premium:

Signature and title of the individual authorized to make the filing on behalf of the Filer:

Date signed: _____

(9) Legal Effect of Filing: Incomplete Filings:

(a) Lack of knowledge or intent with respect to the status, organization, or filings of a reportable MEWA, employee leasing firm, collectively bargained arrangement, or other unlicensed insurer is not a defense to a violation of this rule.

(b) A filing under this rule is solely for the purpose of providing research information to the department. This rule and a filing under this rule do not authorize or license a reportable MEWA, employee leasing firm, collectively bargained arrangement or any other arrangement, or other unlicensed insurer to engage in business in this state if otherwise prohibited by law. No filer shall construe the failure of the department to object to or advise against the activity projected in the filing as approval of or acquiescence by the department concerning the activity. The department will not be estopped at any subsequent time from taking action against filers or others found to be in violation of law in connection with activities described in the filing.

(c) A filing under this rule is ineffective and is not in compliance with this rule if:

1. It is incomplete or inaccurate; or

2. A change occurs which makes the information filed inaccurate, unless an amended filing is made within 60 days after the date the change occurs and the amended filing accurately reflects the change.

(d) Filers not having all the required information may file what they have and accompany the filing with a written request to the department for a waiver of the remaining information; no such filing shall be considered accomplished unless the filer is notified in writing by the department that the waiver is granted.

(10) Liability of Person Violating This Rule. In the event that any unlicensed insurer fails to pay a claim or loss in this state within the provisions of its contract, then as to any person who violated this rule regarding that unlicensed insurer, it shall be evidence that said person knew or reasonably should have known of the unlicensed and improper status of the entity, and said person shall therefore be personally liable to the claimant for the said claim or loss as specified in section 626.901(2), Florida Statutes. A person making the filing required by this rule shall not be deemed to know or reasonably to have known of the unlicensed status, but such knowledge may be established notwithstanding the fact that this rule's provisions have been met.

(11) Effect of Federal Preemption. The reporting requirements of this rule shall be complied with notwithstanding that the entity as to which the reporting is required is, or asserts it is, exempt from state regulation, or regulation by the department, by reason of federal or state law or otherwise.

Specific Authority 624.308(1), 624.33(2), 624.4431 FS. Law Implemented 624.09, 624.307, 624.317, 624.437, 624.442, 624.446, 626.901, 626.910, 626.9571, 626.9581, 626.9591, 626.9601 FS. History--New 6-15-92, Amended 9-7-93,_____.

NAME OF PERSON ORIGINATING PROPOSED RULE: Phil Fountain, Bureau Chief, Agent and Agency, Department of Insurance, 200 East Gaines Street, Tallahassee, FL 32399-0333, phone number (850)413-5600

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: John Hale, Division Director, Agent and Agency Services

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: April 2, 2001

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: April 13, 2001

DEPARTMENT OF INSURANCE

Contract Bidding

RULE TITLES:	RULE NOS.:
Purpose	4F-1.001
Scope	4F-1.002
Notice of Intent to Award a Contract	4F-1.003
Procedure to Initiate a Protest	4F-1.004
Suspension of Bidding Process	4F-1.005
Resolution of Protests	4F-1.006

PURPOSE, EFFECT AND SUMMARY: The rules are being repealed because the Department no longer has rulemaking authority in this area. Department of Management Services rules apply.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS: None.

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

SPECIFIC AUTHORITY: 120.53(5) FS.

LAW IMPLEMENTED: 120.53(5), 120.53(5)(d), 287.042(2)(c) FS.

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

TIME AND DATE: 9:30 a.m., June 12, 2001

PLACE: Room 645C, Larson Building, 200 East Gaines Street, Tallahassee, Florida

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULES IS: Tom Valentine, Senior Attorney, Division of Legal Services, Department of Insurance, 200 East Gaines Street, Tallahassee, Florida 32399-0333, phone (850)413-4140

Pursuant to the provisions of the Americans with Disabilities Act, any person requiring special accommodations to participate in this program, please advise the Department at least 5 calendar days before the program by contacting Yvonne White, (850)413-4214.

THE FULL TEXT OF THE PROPOSED RULES IS:

4F-1.001 Purpose.

Specific Authority 120.53(5) FS. Law Implemented 120.53(5) FS. History--New 3-22-84, Formerly 4F-1.01, Repealed.

4F-1.002 Scope.

Specific Authority 120.53(5) FS. Law Implemented 120.53(5) FS. History--New 3-22-84, Formerly 4F-1.02, Repealed.

4F-1.003 Notice of Intent to Award a Contract.

Specific Authority 120.53(5) FS. Law Implemented 120.53(5) FS. History--New 3-22-84, Formerly 4F-1.03, Repealed.

4F-1.004 Procedure to Initiate a Protest.

Specific Authority 120.53(5) FS. Law Implemented 120.53, 287.042(2)(c) FS. History--New 3-22-84, Formerly 4F-1.04, Amended 4-3-86, 1-31-90, Repealed.

4F-1.005 Suspension of Bidding Process.

Specific Authority 120.53(5) FS. Law Implemented 120.53(5) FS. History--New 3-22-84, Formerly 4F-1.05, Repealed.

4F-1.006 Resolution of Protests.

Specific Authority 120.53(5) FS. Law Implemented 120.53(5)(d) FS. History--New 3-22-84, Formerly 4F-1.06, Amended 4-3-86, Repealed.

NAME OF PERSON ORIGINATING PROPOSED RULE: Tom Valentine, Senior Attorney, Division of Legal Services, Department of Insurance
NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Ken Nipper, Director, Division of Administration, Department of Insurance
DATE PROPOSED RULE APPROVED BY AGENCY HEAD: April 23, 2001

DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES

Division of Standards

RULE TITLE: Minimum Storage as Relates to Liquefied Petroleum Gas

RULE NO.: 5F-11.013

PURPOSE AND EFFECT: The purpose of this rule revision is to amend this section to be consist with statutory changes made during the 2000 Florida Legislative Session.

SUMMARY: The proposed rule raises the minimum storage amounts referenced in the rule from 12,000 gallons water capacity to 18,000 gallons water capacity.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COST: None.

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

SPECIFIC AUTHORITY: 527.11 FS.

LAWS IMPLEMENTED: 527.11, 527.06 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: Vicki O'Neil, Bureau Chief, Bureau of Liquefied Petroleum Gas Inspection, 3125 Conner Blvd., Suite N, Tallahassee, Florida 32399-1650, (850)921-8001

THE FULL TEXT OF THE PROPOSED RULE IS:

5F-11.013 Minimum Storage as Relates to Liquefied Petroleum Gas.

The following is explanatory of each of the two methods which may be used to comply with Section 527.11, Florida Statutes (either of the two methods may be used):

(1) (See 527.11(1)): Erect a bulk storage filling plant of not less than 12,000 ~~18,000~~ gallons (water capacity) within the state. Plans, in triplicate, and in detail showing proposed location of the bulk storage container or containers, container charging area, loading and unloading facilities, vaporizers, pumps and compressors and other pertinent facilities shall be submitted to the Bureau of Liquefied Petroleum Gas Inspection

for approval prior to erection. The plans shall bear the following statement, and such shall be attested to by signature of a responsible official of the licensee or qualified consumer.

"To be constructed and maintained in accordance with the provisions of NFPA No. 58, and other appropriate regulations."

Signature

(2) (See 527.11(2)): All dealers licensed as of August 31, 2000, and who have entered into a written agreement with a wholesaler (supplier) that the wholesaler (supplier) will provide liquefied petroleum gas to said dealer for a period of twelve continuous months in order to comply with the Minimum Storage Law, specifically Section 527.11(2), Florida Statutes, shall certify such agreement in writing on forms provided by the Bureau of Liquefied Petroleum Gas Inspection providing detailed information to include, but not limited to, total bulk plant storage of wholesaler (supplier) and length of supply agreement. Such certification must be signed by responsible officials of the wholesaler (supplier). The wholesaler (supplier) shall give the Bureau of Liquefied Petroleum Gas Inspection thirty (30) days written notice of cancellation of such supply agreement.

Specific Authority 527.06 FS. Law Implemented 527.11 FS. History--New 8-7-80, Formerly 4A-1.13, Amended 7-18-85, Formerly 4B-1.10, Amended 10-8-86, 2-6-90, Formerly 4B-1.010, Amended 7-20-95,_____.

NAME OF PERSON ORIGINATING PROPOSED RULE: Vicki O'Neil, Bureau Chief, Bureau of Liquified Petroleum Gas Inspection, 3125 Connor Blvd., Suite N, Tallahassee, Florida 32399-1650, (850)921-8001

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Ben Faulk, Division of Standards, Department of Agriculture and Consumer Services

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: May 7, 2001

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: November 3, 2000

DEPARTMENT OF LABOR AND EMPLOYMENT SECURITY

Unemployment Appeals Commission

RULE TITLES: Form of Appeal Filing an Appeal
RULE NOS.: 38E-2.002 38E-2.003

PURPOSE AND EFFECT: As a result of a government reorganization, the unemployment compensation claim functions of the Department of Labor and Employment Security have been reassigned to the Agency for Workforce Innovation (A.W.I.). Former claims offices (one-stop career centers) are not under the direct control of A.W.I. as a result, A.W.I. has centralized claim processing and adjudication because the one-stop career centers do not perform these functions or accept appeals. Additionally, since the centralized

A.W.I. adjudication offices will not be readily accessible to the public, they will not be available to accept hand delivered documents. In light of this restructuring, the proposed rule amendment recognizes the fact that one-stop career centers will no longer accept appeals and clarifies the appropriate locations and manner to file appeals of appeals referee decisions to the Unemployment Appeals Commission. The proposed rule amendment also expands the authorized locations to file appeals by facsimile transmission to the Commission, clarifies filing, corrects agency and office names to their current designations, updates the optional appeal form available to parties and deletes unnecessary language.

SUMMARY: The rule amendments recognize that one-stop career centers will no longer accept appeals; expands the acceptable locations to file appeals by facsimile transmission; and establishes the appropriate locations and manner to file appeals of referee decisions to the Commission.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COST: None.

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

SPECIFIC AUTHORITY: 120.54(1), 443.012(3),(11), 443.151(4)(d) FS.

LAW IMPLEMENTED: 120.52(12), 443.151(4)(b),(c),(d) FS.

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

TIME AND DATE: 10:00 a.m., June 12, 2001

PLACE: Law Library Conference Room, Unemployment Appeals Commission, Suite 300, Webster Building, 2671 Executive Center Circle, West, Tallahassee, Florida

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULES IS: John W. Kunberger, Clerk-Unemployment Appeals Commission, Suite 300, Webster Building, 2671 Executive Center Circle, West, Tallahassee, Florida

THE FULL TEXT OF THE PROPOSED RULES IS:

38E-2.002 Form of Appeal.

(1) An appeal of an appeals referee's decision ~~may shall~~ be filed ~~either in person or by mail~~ at any of the following locations:

(a) The Unemployment Appeals Commission;

(b) The central ~~or offices of the Department of Labor and Employment Security located at Tallahassee, Florida;~~

~~(c) Any of the district appeals referee offices maintained by the Office of Appeals appeals referees;~~

~~(c)(d) Any of the unemployment claim adjudication local unemployment claims offices operated by the Agency for Workforce Innovation Florida Department of Labor and Employment Security; and~~

~~(d)(e)~~ Any unemployment compensation claims office located outside the State of Florida.

(2) No change.

(3) The following shall constitute acceptable methods of appeal:

(a) Any legible written notice filed in accordance with these rules which expresses disagreement with or otherwise indicates a desire to appeal;

(b) Any person entitled to file an appeal may obtain a printed appeal form (AWI – A100, Notice of Appeal), Rev. 4/01, incorporated herein by reference, (~~LES Form UAC-1~~) at any of the locations listed in Rule Sections 38E-5.004(1), (2), and (3), and at any location providing unemployment claim information. Use of the form is not mandatory; however, if a letter or other instrument is used, it should include the following information:

1. The name and social security account number of each claimant, if any, involved;

2. The name ~~and unemployment tax account number, if known,~~ of each employer, if any, involved;

3. The date, subject matter, and docket number of the decision; and

4. A brief statement of the reasons for disagreement with the decision determination.

(c) Failure to include all of the information listed in paragraph (b) will not constitute cause for rejection of the appeal, but may result in a delay in processing the appeal.

(4) No change.

Specific Authority 120.54(1), 443.012(3),(11), 443.151(4)(d) FS. Law Implemented 443.151(4)(c),(d) FS. History–New 5-22-80, Formerly 38E-2.02, Amended 8-20-86,_____.

38E-2.003 Filing an Appeal.

(1) No change.

(2) The appeal ~~shall may~~ be filed by mail ~~or hand delivery~~ to any appeal location designated in Rule 38E-2.002(1); by facsimile transmission of the appeal document to any appeal location designated in Rule Sections 38E-2.002(1)(a),(b), and (c); or by hand delivery of the appeal document to any appeal location designated in Rule Sections 38E-2.002(1)(a), (b), and (d).

(3) Appeals filed by mail shall be considered to have been filed when postmarked by the United States Postal Service. Appeals filed by hand delivery or facsimile shall be considered to have been filed when date stamped received at the authorized location by the Commission.

(4) Upon receipt of an appeal delivered in person or by facsimile transmission, the Clerk of the Commission, Agency for Workforce Innovation, or Office of Appeals Division employee shall record the date of receipt on the appeal document.

Specific Authority 120.54(1), 443.012(3),(11), 443.151(4)(d) FS. Law Implemented 120.52(12), 443.151(4)(b)-(d) FS. History–New 5-22-80, Formerly 38E-2.03, Amended 8-20-86, 1-5-93,_____.

NAME OF PERSON ORIGINATING PROPOSED RULE:
John W. Kunberger, Clerk-Unemployment Appeals Commission

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Geri Atkinson-Hazelton, General Counsel-Unemployment Appeals Commission

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: May 8, 2001

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: April 20, 2001

DEPARTMENT OF LABOR AND EMPLOYMENT SECURITY

Unemployment Appeals Commission

RULE TITLE: Orders of the Commission

RULE NO.: 38E-3.007

PURPOSE AND EFFECT: As a result of a government reorganization, the unemployment compensation claim functions of the Department of Labor and Employment Security have been reassigned to the Agency for Workforce Innovation (A.W.I.). Former claims offices (one-stop career centers) are not under the direct control of A.W.I. as a result, A.W.I. has centralized claim processing and adjudication because the one-stop career centers do not perform these functions or process decision results. In light of this restructuring, the proposed rule amendment recognizes that one-stop career centers are not responsible for inputting Commission orders on the A.W.I. computer system; therefore, it is not necessary to send them copies of the orders. The proposed rule amendment also corrects agency and office names to their current designations.

SUMMARY: Deletes requirement to send Commission orders to local claims offices.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COST: None.

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

SPECIFIC AUTHORITY: 120.54(1), 443.012(3),(11), 443.151(4)(d) FS.

LAW IMPLEMENTED: 120.569(1), 443.151(4)(c),(d) FS.

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

TIME AND DATE: 10:00 a.m., June 12, 2001

PLACE: Law Library Conference Room, Unemployment Appeals Commission, Suite 300, Webster Building, 2671 Executive Center Circle, West, Tallahassee, Florida

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: John W. Kunberger, Clerk-Unemployment Appeals Commission, Suite 300, Webster Building, 2671 Executive Center Circle, West, Tallahassee, Florida

THE FULL TEXT OF THE PROPOSED RULE IS:

38E-3.007 Orders of the Commission.

(1) The Commission shall consider the record before it and enter a written order.

(2) A copy of the order shall be mailed to the last known address of each of the parties or their representatives. A copy ~~Copies~~ shall also be furnished to the workforce program support unemployment compensation benefits payments section of the Agency for Workforce Innovation ~~and to the local claims office~~. The copies mailed to the parties shall include a transmittal form advising them of their right to review of the order by the district courts of appeal.

(3) No change.

Specific Authority 120.54(1), 443.012(3),(11), 443.151(4)(d) FS. Law Implemented 120.569(1), 443.151(4)(c),(d) FS. History--New 5-22-80, Formerly 38E-3.07, Amended 8-20-86,_____.

NAME OF PERSON ORIGINATING PROPOSED RULE:
John W. Kunberger, Clerk-Unemployment Appeals Commission

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Geri Atkinson-Hazelton, General Counsel-Unemployment Appeals Commission

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: May 8, 2001

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: April 20, 2001

DEPARTMENT OF LABOR AND EMPLOYMENT SECURITY

Unemployment Appeals Commission

RULE TITLES: Form of Appeal

RULE NOS.: 38E-5.003

Place for Filing Appeal 38E-5.004

Time for Filing Appeal 38E-5.005

PURPOSE AND EFFECT: As a result of a government reorganization, the unemployment compensation claim functions of the Department of Labor and Employment Security have been reassigned to the Agency for Workforce Innovation (A.W.I.). Former claims offices (one-stop career centers) are not under the direct control of A.W.I. As a result, A.W.I. has centralized claim processing and adjudication because the one-stop career centers do not perform these functions or accept appeals. Additionally, since the centralized A.W.I. adjudication offices will not be readily accessible to the public, they will not be available to accept hand delivered documents. In light of this restructuring, the proposed rule

amendment recognizes the fact that one-stop career centers will no longer accept appeals and clarifies the appropriate locations and manner to file appeals of unemployment examiner determinations to appeals referees. The proposed rule amendment also clarifies that appeals can be filed directly with the Office of Appeals; clarifies filing; requires that the receipt date of appeals filed by hand delivery or facsimile transmission be recorded on the document; corrects agency and office names to their current designations; updates the optional appeal form available to the parties; and deletes unnecessary language.

SUMMARY: The rule amendments recognize that on-stop career centers will no longer accept appeals; establishes the appropriate locations and manner to file appeals of examiner determinations to appeals referees; and requires the receipt date be stamped on appeals filed by hand delivery or facsimile transmission.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COST: None.

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

SPECIFIC AUTHORITY: 120.80(10)(a)1., 443.012(3),(11), 443.151(4)(d) FS.

LAW IMPLEMENTED: 443.151(3)(a),(4)(b),(d) FS.

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

TIME AND DATE: 10:00 a.m., June 12, 2001

PLACE: Law Library Conference Room, Unemployment Appeals Commission, Suite 300, Webster Building, 2671 Executive Center Circle, West, Tallahassee, Florida

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULES IS: John W. Kunberger, Clerk-Unemployment Appeals Commission, Suite 300, Webster Building, 2671 Executive Center Circle, West, Tallahassee, Florida

THE FULL TEXT OF THE PROPOSED RULES IS:

38E-5.003 Form of Appeal.

(1) No change.

(2) Any person entitled to file an appeal may obtain a printed appeal form (AWI-A100, Notice of Appeal), Rev. 4/01, incorporated herein by reference, (LES Form UCA 4) at any of the locations listed in Rule Sections 38E-5.004(1), (2), and (3), and at any location providing unemployment claim information. Use of the form is not mandatory; however, whatever instrument is used, it shall include the following information:

(a) The name and social security account number of each claimant, if any, involved;

(b) The name ~~and unemployment tax account number, if known,~~ of each employer, if any, involved;

(c) The date and subject matter of the determination; and

(d) A brief statement of the reasons for disagreement with the determination.

(3) No change.

Specific Authority 120.80(10)(a)1., 443.012(3),(11), 443.151(4)(d) FS. Law Implemented 443.151(4)(b),(d) FS. History—New 5-22-80, Formerly 38E-5.03, Amended 8-20-86,_____.

38E-5.004 Place for Filing Appeal.

Appeals ~~may shall~~ be filed ~~by mail or in person~~ at one of the following locations:

(1) Any of the unemployment claim adjudication offices operated by the Agency for Workforce Innovation Florida Department of Labor and Employment Security ~~except field tax offices;~~

(2) The central or district appeals referee offices maintained by the Office of Appeals;

~~(3)(2)~~ The Unemployment Appeals Commission; and

~~(4)(3)~~ Any unemployment compensation office located outside the State of Florida.

Specific Authority 120.80(10)(a)1., 443.012(3),(11), 443.151(4)(d) FS. Law Implemented 443.151(4)(b)1.,(d) FS. History—New 5-22-80, Formerly 38E-5.04, Amended 8-20-86,_____.

38E-5.005 Time for Filing Appeal.

(1) No change.

(2) The appeal ~~shall may~~ be filed by mailing or by hand delivery of the appeal document instrument to any of the locations designated set forth in Rule Section 38E-5.004; by facsimile transmission of the appeal document to any location designated in Rule Sections 38E-5.004(1), (2), and (3); or by hand delivery of the appeal document to any location designated in Rule Sections 38E-5.004(2), (3), and (4).

(3) Appeals filed by mail shall be considered to have been filed when postmarked by the United States Postal Service. Appeals filed by hand delivery or facsimile shall be considered to have been filed when date stamped received at the authorized location ~~any of the locations set forth in Section 38E-5.004.~~

(4) Upon receipt of an appeal delivered in person or by facsimile transmission, the Commission, Agency for Workforce Innovation, or Office of Appeals employee shall record the date of receipt on the appeal document.

Specific Authority 120.80(10)(a)1., 443.012(3),(11), 443.151(4)(d) FS. Law Implemented 443.151(3)(a),(4)(b)1.,(d) FS. History—New 5-22-80, Formerly 38E-5.05, Amended 8-20-86, 3-1-98,_____.

NAME OF PERSON ORIGINATING PROPOSED RULE:
John W. Kunberger, Clerk-Unemployment Appeals Commission

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Geri Atkinson-Hazelton, General Counsel-Unemployment Appeals Commission
DATE PROPOSED RULE APPROVED BY AGENCY HEAD: May 8, 2001
DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: April 20, 2001

DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION

Board of Professional Engineers

Table with 2 columns: RULE TITLES and RULE NOS.:
Continuing Education Requirement 61G15-22.001
Definitions 61G15-22.002
Qualifying Activities for Area of Practice Requirement 61G15-22.003
Conversion of Education Units to PDH 61G15-22.004
Non-Qualifying Activities 61G15-22.005
Demonstrating Compliance 61G15-22.006
Non-compliance 61G15-22.007
Recordkeeping 61G15-22.008
Exemptions 61G15-22.009
Continuing Education Courses in Laws and Rules 61G15-22.010
Board Approval of Continuing Education Providers 61G15-22.011
Obligations of Continuing Education Providers 61G15-22.012
Evaluation of Providers 61G15-22.013
Duration of Provider Status 61G15-22.014

PURPOSE AND EFFECT: The Board proposes to promulgate new rules regarding continuing education in compliance with new statutory requirements in Chapter 455 and 471, F.S.

SUMMARY: Pursuant to Chapters 455 and 471, F.S., Rule 61G15-22.001 is being substantially reworded and sets forth the continuing education requirements to maintain an active license and to reactivate an inactive license. The remainder of the rule chapter sets out relevant definitions; qualifying activities for area of practice requirements; conversion of other units of education to professional development hours (PDH); sets forth non-qualifying activities that are not PDH units; explains how licensees demonstrate compliance with the rules; explains how noncompliance with the continuing education requirements affects the licensee; requirements for record keeping; sets forth the requirements for exemption; the continuing education course requirements in laws and rules; requirements for approval as continuing education provider status, the obligations of the provider to maintain that status, evaluation procedures for continuing education courses or seminars offered to engineers, and the duration of the term of provider status.

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

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

SPECIFIC AUTHORITY: 455.213(6), 455.2177, 455.2178, 455.2179, 471.008, 471.017(3), 471.019 FS.

LAW IMPLEMENTED: 455.213(6), 455.2177, 455.2178, 455.2179(4), 471.008, 471.017(3), 471.019 FS.

IF REQUESTED IN WRITING A NOTICE OF HEARING WILL BE SCHEDULED AND ANNOUNCED IN THE NEXT AVAILABLE ISSUE OF THE FLORIDA ADMINISTRATIVE WEEKLY.

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULES IS: Natalie Lowe, Administrator, Florida Board of Professional Engineers, 1208 Hays Street, Tallahassee, Florida 32301

THE FULL TEXT OF THE PROPOSED RULES IS:

(Substantial rewording of Rule 61G15-22.001 follows. See Florida Administrative Code for present text.)

61G15-22.001 Continuing Education Requirements.

(1) Each licensee shall complete eight professional development hours during each license renewal biennium as a condition of license renewal. Four hours shall relate to the licensee's area(s) of practice and four hours shall relate to Chapter 471, F.S. and the rules of the Board, Chapter 61G15, F.A.C.

(2) There shall be no carryover of hours permitted from one licensure renewal biennium to the next.

(3) A license that has been inactive for more than one year may be reactivated upon application to FEMC and demonstration to the Board by the licensee of having completed twelve hours of engineering related education per inactive year, or portion thereof, in excess of one year. The education shall be related to the licensee's area of practice. In addition, the licensee shall have completed four hours of education that shall involve the law and rules governing the practice of engineering in a course approved by the Board. Licensees who can demonstrate that they have continued the active practice of engineering during the inactive period, either through an active license to practice in another state or through practice in an exempt setting during that period, shall only be required to comply with the laws and rules requirement.

Specific Authority 455.213(6), 455.2177, 455.2178, 455.2179, 471.008, 471.017(3), 471.019 FS. Law Implemented 415.213(6), 455.2177, 455.2178, 455.2179(4), 471.008, 471.017(3), 471.019 FS. History--New 8-19-80, Formerly 22H-22.01, Amended 5-14-86, Formerly 21H-22.001, Amended 6-122-99, 6-13-00, 2-22-01.

61G15-22.002 Definitions.

(1) Area of Practice: An engineering discipline for which a Principles and Practice of Engineering examination is offered pursuant to Rule 61G15-21, Florida Administrative Code.

(2) Professional Development Hour (PDH): A contact hour requires a minimum of 50 minutes instruction or presentation. The PDH is the common denominator for other units of credit.

(3) Continuing Education Unit (CEU): Unit of credit customarily used for continuing education courses. One continuing education unit equals 10 hours of class in an approved continuing education course.

(4) College/Unit Semester/Quarter Hour: Credit for course in ABET-approved programs or other related engineering college course.

(5) Course/Activity: Any qualifying course or activity with a clear purpose and objective which will maintain, improve, or expand the skills and knowledge relevant to the licensee's area of practice.

Specific Authority 455.213(6), 455.2177, 455.2178, 455.2179, 471.017(3), 471.019 FS. Law Implemented 455.213(6), 455.2177, 455.2178, 455.2179(4), 471.008 FS. History-New _____.

61G15-22.003 Qualifying Activities for Area of Practice Requirement.

(1) Successful completion of college courses.

(2) Successful completion of continuing education courses, successful completion of correspondence, televised, Internet, videotaped, and other short courses/tutorials or attending seminars, workshops, or professional and technical presentations at meetings, conventions or conferences presented/sponsored by a provider approved under Rule 61G15-22.011, FAC.

(3) Teaching or instructing in (a) or (b) above. However, teaching credit is valid for teaching a course or seminar for the first time only. Teaching credit does not apply to full-time faculty.

(4) Authoring published papers, articles, books, or accepted licensee examination items for NCEES.

(5) Patents.

(6) Active participation in professional or technical societies. Civic or trade organizations do not qualify under this provision. Credit for this activity requires that the licensee serve as an officer of the organization. PDH credits are not earned until the end of each year of completed service.

(7) Courses taken to satisfy continuing education requirements for P.E. licensure in other states may be used to satisfy the PDH area of practice requirements, if the courses are otherwise in compliance with these rules.

Specific Authority 455.213(6), 455.2177, 455.2178, 455.2179, 471.017(3), 471.019 FS. Law Implemented 455.213(6), 455.2177, 455.2178, 455.2179(4), 471.008, 471.017(3), 471.019 FS. History-New _____.

61G15-22.004 Conversion of Education Units to PDH.

(1) One (1) college or unit semester hour credit is equal to 15 PDH.

(2) One (1) college or unit quarter hour credit is equal to 10 PDH.

(3) One (1) continuing education unit is equal to 10 PDH.

(4) One (1) contact hour of professional development in course work, seminars, or professional or technical presentations made at meetings, conventions, or conferences is equal to 1 PDH or, if teaching, 2 PDH.

(5) Each published paper, article, or book is equal to 10 PDH.

(6) Authoring accepted licensee examination items for NCEES is equal to 2 PDH.

(7) Each patent is equal to 10 PDH.

(8) Active participation in professional and technical societies as described in Rule 61G15-22.003(6). The maximum credit to be allowed is 2 PDH for each organization.

Specific Authority 455.213(6), 455.2178, 455.2179, 471.017(3), 471.019 FS. Law Implemented 455.213(6), 455.2177, 455.2178, 455.2179(4), 471.008, 471.017(3), 471.019 FS. History-New _____.

61G15-22.005 Non-Qualifying Activities.

Activities that do not qualify as Professional Development Hours include but are not limited to the following:

(1) Self-generated courses.

(2) Personal self-improvement courses.

(3) Equipment demonstrations or trade show displays.

(4) Enrollment without attendance.

(5) Repetitive attendance or teaching of the same course.

(6) Tours of buildings, structures, schools, museums and such unless there is a clear objective to maintain and strengthen competency in a technical field.

(7) Regular employment.

(8) Personal, estate or financial planning.

Specific Authority 455.213(6), 455.2178, 455.2179, 471.017(3), 471.019 FS. Law Implemented 455.213(6), 455.2177, 455.2178, 455.2179(4), 471.008, 471.017(3), 471.019 FS. History-New _____.

61G15-22.006 Demonstrating Compliance.

In order to demonstrate compliance, licensees must execute a signed statement accompanying their renewal form and return it to the Board office with their renewal. For each qualifying activity listed, the following information must be included on the statement:

(1) Title of activity and a description.

(2) The date, location and provider of the activity.

(3) The area of practice to which the activity applies.

(4) The number of PDH credits claimed for each activity.

Specific Authority 455.213(6), 455.2178, 455.2179, 471.017(3), 471.019 FS. Law Implemented 455.213(6), 455.2177, 455.2178, 455.2179(4), 471.008, 471.017(3), 471.019 FS. History-New _____.

61G15-22.007 Non-compliance.

In accordance with Section 471.017, Florida Statutes, completion of the required professional development hours is a condition of licensure renewal. No license will be renewed or issued until the requirement is satisfied. If, after renewal, it is found that the licensee did not comply with these requirements, disciplinary proceedings will be initiated.

Specific Authority 455.213(6), 455.2178, 455.2179, 471.017(3), 471.019 FS. Law Implemented 455.213(6), 455.2177, 455.2178, 455.2179(4), 471.008, 417.017, 471.019 FS. History—New

61G15-22.008 Recordkeeping.

It is the licensee's responsibility to maintain sufficient records to demonstrate completion of qualifying professional development hours for at least two licensure cycles (four years).

Specific Authority 455.213(6), 455.2178, 455.2179, 471.008, 471.017(3), 471.019 FS. Law Implemented 455.213(6), 455.2177, 455.2178, 455.2179(4), 471.008, 471.017(3), 471.019 FS. History—New

61G15-22.009 Exemptions.

(1) New licensees by way of examination shall be exempt for their first renewal period.

(2) Any licensee whose license is placed in retired status shall be exempt thereafter.

(3) Any licensee whose license is placed in inactive status.

Specific Authority 455.213(6), 455.2178, 455.2179, 471.017(3), 471.019 FS. Law Implemented 455.213(6), 455.2177, 455.2178, 455.2179(4), 471.008, 471.017(3), 471.019 FS. History—New

61G15-22.010 Continuing Education Courses in Laws and Rules.

(1) In order to meet the criteria contained in Section 471.017(3), F.S., a course of continuing education for laws and rules of the Board must consist of a minimum of four (4) hours of instruction in Chapter 471, F.S. and Chapter 61G15, Florida Administrative Code.

(2) Four PDH's in laws and rules of the Board may be obtained by attending one full day, regardless of actual length, or eight (8) hours of a board meeting at which disciplinary hearings are conducted by the Board of Professional Engineers and complying with the following:

(a) The licensee must sign in with staff of the Board before the meeting day begins.

(b) The licensee must remain in continuous attendance.

(c) The licensee must sign out with staff of the Board at the end of the meeting day or at such other earlier time as affirmatively authorized by the Board. A licensee may receive PDH credit in laws and rules for attending the board meeting only if he or she is attending on that date solely for that purpose. He or she may not receive such credit if appearing at the Board meeting for another purpose.

Specific Authority 455.2178, 455.2179, 471.008, 471.017(3), 471.019 FS. Law Implemented 455.213(6), 455.2177, 455.2178, 455.2179(4), 471.008, 471.017(3), 471.019 FS. History—New

61G15-22.011 Board Approval of Continuing Education Providers.

(1) Applicants for continuing education provider status must meet the requirements of subsections (2) and (3) of this rule to demonstrate the education and/or the experience necessary to instruct professional engineers in the conduct of their practice.

(2) To demonstrate the education and/or the experience necessary to instruct professional engineers in the conduct of their practice for continuing education credit, an applicant for continuing education provider status must be a regionally accredited educational institution, a commercial educator, a governmental agency, a state or national professional association whose primary purpose is to promote the profession of engineering, or an engineer with a Florida license to practice engineering who is not under disciplinary restrictions pursuant to any order of the Board.

(3) To allow the Board to evaluate an application for continuing education provider status, the applicant must submit the following:

(a) The name, address and telephone number of the prospective provider;

(b) A description of the type of courses or seminars the provider expects to conduct for credit;

(c) A description of the staffing capability of the applicant;

(d) A sample of intended course materials;

(e) A list of anticipated locations to conduct the courses;

(f) A complete course curriculum for each course the applicant intends to offer;

(g) A description of the means the applicant will use to update the course in response to rule or law changes;

(h) A description of the means the applicant will use to evaluate the licensee's performance in the course;

(i) An application fee of \$250;

(j) A licensure fee of \$200, which, upon request, will be refundable if the applicant is denied provider status.

(4) No engineer may conduct continuing education courses or seminars for credit upon the engineer's receipt of any disciplinary order from any professional regulatory board in any jurisdiction. Rather, the engineer must notify the Board office within ten (10) days of the engineer's receipt of any such order.

(5) No provider may conduct a continuing education course or seminar for credit upon written notice that the Board, through its Executive Director or its Administrator, objects to the course or seminar. Rather, upon receipt of the objection, the provider may request to appear before the continuing education committee of the Board to resolve the objection.

(6) No provider may allow an engineer to conduct any course or seminar offered by the provider if that engineer has been disciplined and has not been released from the terms of the final order in the disciplinary case. Upon receipt of notice

that an instructor is under discipline, the provider shall, within seven (7) days, write to the Board office and confirm that the engineer is no longer conducting any course or seminar offered by the provider. For the purpose of this subsection, a letter of guidance or a reprimand shall not constitute "under discipline."

(7) The Board retains the right and authority to audit and/or monitor programs and review records and course materials given by any provider approved pursuant to this rule. The Board shall rescind the provider status or reject individual programs given by a provider if the provider disseminated any false or misleading information in connection with the continuing education programs, or if the provider fails to conform to and abide by the rules of the Board. Licensees will not lose credit for attending courses offered by approved providers that are later rejected or stopped by the Board.

(8) Members of the Board of Professional Engineers or the Florida Engineers Management Corporation Board of Directors are prohibited from being a continuing education provider.

(9) The following providers shall be exempt from any requirement for Board approval as providers and the Board shall accept their courses for continuing education credit:

(a) Educational Institutions teaching college level courses;

(b) State and National Engineering Professional Associations approved by the Board, and

(c) Core Curriculum Providers accepted by the Florida Building Commission under Section 553.841, F.S.

Specific Authority 455.213(6), 455.2178, 455.2179, 471.008, 471.017(3), 471.019 FS, Law Implemented 455.213(6), 455.2177, 455.2178, 455.2179(4), 471.008, 471.017(3), 471.019 FS, History—New _____.

61G15-22.012 Obligations of Continuing Education Providers.

To maintain status as a continuing education provider, the provider must:

(1) Provide courses or seminars designed to enhance the education of engineers in the practice of engineering;

(2) Require each licensee to complete the entire course or seminar in order to receive a certificate of completion;

(3) Furnish each participant with an individual certificate of attendance. An attendance record shall be maintained by the provider for four years and shall be available for inspection by the Board and the Florida Engineers Management Corporation. Providers must electronically provide to the Florida Engineers Management Corporation a list of attendees taking a course within five (5) business days of the completion of the course. The list shall include the provider's name, the name and license number of the attendee, the date the course was completed, the course number and the total number of professional development hours successfully completed. All information or documentation, including electronic course rosters, submitted to the Board or to FEMC shall be submitted in a format acceptable to the Board and to FEMC. Failure to comply with time and form requirements will result in

disciplinary action taken against the provider. If the instructor is receiving credit as set forth in Rule 61G15-22.003(3), F.A.C., the instructor shall be listed with the same information required above. Providers shall maintain security of attendance records and certificates. For correspondence study courses, the provider must electronically supply the list of those individuals successfully completing the course by the fifth of the month following the calendar month in which the provider received documentation and was able to determine the successful completion of the course by the individual.

(4) Ensure that all promotional material for courses or seminars offered to professional engineers for credit contain the provider number.

(5) Allow only one PDH for each hour of classroom, audio or video instruction, an "hour of classroom, audio or video instruction" being a minimum of 50 minutes instruction or presentation.

(6) Allow only one PDH for each "hour of correspondence study." The "hour of correspondence study" must be based on the average completion time of each course as established by the provider.

(7) Provide a written examination to each participating licensee in correspondence study courses. In order to complete the course, the licensee must sign and date the examination and receive a minimum grade of seventy percent (70%). If a licensee fails the examination, they will be permitted to take the examination again in order to achieve a passing grade.

(8) Notify the Board within fourteen (14) days of any change in the address or telephone number of the provider.

(9) Allow FEMC's and the Board's designee to have access to information concerning courses or seminars conducted by the provider for continuing education credit.

(10) Discontinue any course or seminar objected to under subsection 61G15-22.014(5), F.A.C.

(11) No provider may reapply for continuing education provider status until at least two (2) years have elapsed since the entry of any final order against the provider.

Specific Authority 455.213(6), 455.2178, 455.2179, 471.008, 471.017(3), 471.019 FS, Law Implemented 455.213(6), 455.2177, 455.2178, 455.2179(4), 471.008, 471.017(3), 471.019 FS, History—New _____.

61G15-22.013 Evaluations of Providers.

(1) The Board, or its designee, reserves the right to evaluate continuing education courses or seminars offered to engineers for credit by the following methods:

(a) Observing such courses or seminars; and

(b) Reviewing the files of the provider to gain information about any course or seminar offered to professional engineers for credit.

(2) The Board shall not revoke the continuing education credit given to any professional engineer for completion of any continuing education course or seminar about which the professional engineer registers a complaint with the Board.

Specific Authority 455.213(6), 455.2178, 455.2179, 471.008, 471.017(3), 471.019 FS. Law Implemented 455.213(6), 455.2177, 455.2178, 455.2179(4), 471.008, 471.017(3), 471.019 FS. History--New

61G15-22.014 Duration of Provider Status.

(1) Continuing education providers are approved only for the biennium during which they applied and must reapply for provider status at the beginning of each biennium. The biennium for continuing education providers ends on May 31st of each odd-numbered year.

(2) A provider must reapply for approval ninety (90) days prior to the date of expiration of provider status in order to prevent a lapse in provider status.

Specific Authority 455.213(6), 455.2178, 455.2179, 471.008, 471.017(3), 471.019 FS. Law Implemented 455.213(6), 455.2177, 455.2178, 455.2179(4), 471.008, 471.017(3), 471.019 FS. History--New

NAME OF PERSON ORIGINATING PROPOSED RULE: Board of Professional Engineers
NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Board of Professional Engineers
DATE PROPOSED RULE APPROVED BY AGENCY HEAD: May 1, 2001
DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: December 22, 2000

DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION

Board of Professional Surveyors and Mappers

RULE TITLE: Re-examination RULE NO.: 61G17-4.007

PURPOSE AND EFFECT: The Board has determined to repeal this rule as it is not mandated by law.

SUMMARY: This rule is being repealed as it is unnecessary.

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

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

SPECIFIC AUTHORITY: 455.217(2), 472.013 FS.

LAW IMPLEMENTED: 455.217(2), 472.013 FS.

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

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Sherry Landrum, Executive Director, Board of Professional Surveyors and Mappers, Northwood Centre, 1940 N. Monroe Street, Tallahassee, Florida 32399-0750

THE FULL TEXT OF THE PROPOSED RULE IS:

61G17-4.007 Re-examination.

Specific Authority 455.217(2), 472.013 FS. Law Implemented 455.217(2), 472.013 FS. History--New 1-3-80, Formerly 21HH-4.07, 21HH-4.007, Amended 5-30-95, Repealed

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

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

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: March 15, 2001

DEPARTMENT OF ENVIRONMENTAL PROTECTION

Division of Beaches and Shores

DOCKET NO.: 00-49R

RULE CHAPTER TITLE: RULE CHAPTER NO.:

Rules and Procedures for Application for Coastal Construction Permits 62B-41

RULE TITLES: RULE NOS.:

Definitions 62B-41.002

General Prohibitions 62B-41.003

Exemptions from Permit Requirements 62B-41.004

Policy and Eligibility Criteria for Coastal Construction Permits 62B-41.005

Protection of Marine Turtles 62B-41.0055

Design, Siting and Other Requirements 62B-41.007

Experimental Coastal Construction 62B-41.0075

Permit Application Requirements and Procedures 62B-41.008

Permit Processing and Administration Fees 62B-41.0085

Revisions or Modifications of Approved Permits 62B-41.013

Coastal Construction Permit Conditions 62B-41.015

PURPOSE AND EFFECT: To update the rule accounting for the Departmental reorganization, amend definitions, clarify policy regarding sand specifications, along with other minor updates.

SUMMARY: Chapter 62B-41, F.A.C., provides the rules and procedures for application for coastal construction permits.

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

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

SPECIFIC AUTHORITY: 161.041, 161.051, 161.0535, 161.061, 161.121, 370.12, 370.021 FS.

LAW IMPLEMENTED: Section 27, Chapter 89-175, Laws of Florida, 161.011, 161.021, 161.031, 161.041, 161.042, 161.051, 161.0535, 161.054, 161.061, 161.071, 161.081, 161.088, 161.091, 161.101, 161.111, 161.141, 161.142, 161.161, 161.163, 161.181, 161.191, 161.201, 161.211, 161.212, 370.02(5)(b)2., 370.021(1), 370.12, 327.40 FS.

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

TIME AND DATE: 9:00 a.m., June 12, 2001

PLACE: Conference Room A, 3900 Commonwealth Boulevard, Tallahassee, Florida 32399-3000

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULES AND A COPY OF THE AGENDA IS: Rosaline Beckham, Florida Department of Environmental Protection, Office of Beaches and Coastal Systems, Mail Station #300, Tallahassee, Florida 32399-3000, (850)487-1262, Extension 186

THE FULL TEXT OF THE PROPOSED RULES IS:

62B-41.002 Definitions.

(1) "Accretion" is the buildup of land or accumulation of unconsolidated material within the coastal system caused by wind and wave action, storm surge, or tidal or littoral currents. Accretion includes:

(a) Waterward horizontal movement of the mean high-water line or beach profile.

(b) ~~Vertical buildup or Volumetric gain of sediment to the coastal system beach and dune or the offshore profile.~~

(2) "Act" is ~~Parts I and II of Chapter 161, Florida Statutes, the "Beach and Shore Preservation Act."~~

(2)(3) "Agent" is any person with the written power or authority to act on behalf of the applicant for purposes of an application submitted under chapter 161, F.S. the act.

(3)(4) "Applicant" is any person, firm, corporation, county, municipality, township, special district, ~~or~~ any public agency, or their agent, having authority pursuant to ~~§~~Section 161.041, F.S., to request a permit to conduct any coastal construction activities upon sovereignty lands of Florida, below the mean high-water line of any tidal water of the State.

(4)(5) "Armoring" is ~~a the placement of manmade structures designed to either prevent erosion of the upland property or protect eligible structures from the effects of coastal wave and current action or devices in or near the coastal system for the purpose of preventing erosion of the upland property or to protect upland structures from the effects of coastal wave and current activity.~~ Armoring ~~does not~~ includes certain rigid coastal structures such as geotextile bags

or tubes, seawalls, revetments, bulkheads, retaining walls, or similar structures but does not include jetties, groins or other construction whose purpose is to add sand to the coastal system, alter the natural coastal currents or stabilize the mouths of inlets structures such as jetties or groins or activities whose purpose is to add sand to the beach or dune, or structures whose purpose is to alter the natural coastal currents, or to stabilize the mouths of inlets, or minor upland structures whose purpose is to retain upland fill and which are designed to be frangible under high frequency coastal hydrodynamic forces.

(5)(6) "Beach" is the zone of unconsolidated material that extends landward from the mean low-water line to the place where there is marked change in material or physiographic form, or to the line of ~~permanent~~ vegetation.

(7) ~~"Beach Nourishment" is the maintenance of a restored beach which has been permitted by the Department.~~

(8) ~~"Beach Restoration" is the placement of sand on an eroded beach for the purposes of restoring it as a recreational beach, providing storm protection for upland properties and reestablishing habitat.~~

(9) ~~"Board of Trustees" is the Board of Trustees of the Internal Improvement Trust Fund.~~

(6)(10) "Breakwater" is a structure which has the effect of protecting shoreline areas, harbors, inlets or basins from the forces of currents and wave action.

(7)(11) No change.

(8)(12) "Office" ~~"Bureau"~~ is the Office Bureau of Beaches and Coastal Systems Coastal Engineering and Regulation of the Division of Beaches and Shores and Department of Environmental Protection. The head of the Office is the Director.

(13) ~~"Change of Existing Structure" is the alteration of the physical characteristics of an existing structure and may be classified as either:~~

(a) ~~A major change, which is one that has the potential for adverse impacts:~~

(b) ~~A minor change, which is one that does not have the potential for adverse impact.~~

(9)(14) "Coastal Construction" ~~includes~~ is any work or activity on or encroaching upon sovereignty lands of Florida, below the mean high-water line of any tidal water of the state, which is likely to have a material physical effect on the coastal system existing coastal conditions or natural shore and inlet processes.

(10)(15) No change.

(11)(16) "Critical Habitat" is an area used by a threatened or endangered species, which has been designated by the U.S. Department of the Interior, as defined in Paragraph 5, ~~§~~Section 1532, title 16 Code-, of the ~~f~~Federal Endangered Species Act (The Act), as follows:

(a) The specific areas within the geographical area occupied by the species, at the time it is listed in accordance with the provisions of ~~§~~Section 4 of the Act, (~~§~~Section 1533,

title 16, U.S. Code), on which are found those physical or biological features essential to the conservation of the species and which may require special management considerations or protection.

(b) Specific areas outside the geographical area occupied by the species at the time it is listed in accordance with the provisions of §Section 4 of the Act, (sSection 1533, title 16, U.S. Code), upon a determination by the Secretary of the Department of the Interior that such areas are essential for the conservation of the species.

(12)(47) “Department” is the Florida Department of Environmental Protection. The head of the Department is the Secretary Governor and Cabinet.

(13)(18) “Eligible Structures” are public infrastructure and private structures qualified for armoring as follows: is a nonconforming major habitable structure, public road or safety facility, bridge, water or wastewater treatment facility, hospital or structure of state or national significance. Any such structure built in violation of Chapter 161, Florida Statutes, shall not be considered an eligible structure.

(a) Public infrastructure includes those roads designated as public evacuation routes, public emergency facilities, bridges, power facilities, water or wastewater facilities, other utilities, hospitals, or structures of local governmental, state, or national significance.

(b) Private structures include:

1. Non-conforming habitable structures,
2. Major non-habitable structures, which are not expendable,
3. Expendable major structures which are amenities necessary for occupation of the major structure, and
4. Expendable major structures whose failure would cause an adjacent upland non-conforming habitable structure or major non-habitable structure, which is not expendable, to become vulnerable.

(c) Eligible structures do not include minor structures.

(14)(49) “Environmentally Sensitive Area” is a part of the coastal system which the Department of Environmental Protection or the Florida Fish and Wildlife Conservation Commission Division of Marine Resources of the Department has determined to be of such significance that application of a proposed new technology poses an unacceptable risk to the ecology.

(15)(20) No change.

(16)(24) “Erosion Control Line” is the any line determined in accordance with the provisions of sSections 161.141-161.211, F.S. Florida Statutes, and recorded pursuant to sSection 161.181, F.S. Florida Statutes, in connection with beach restoration projects. Where established, an erosion control line represents the landward extent of the claims of the state in its capacity as sovereign title holder of the submerged

bottoms and shores of the Atlantic Ocean, the Gulf of Mexico, the Straits of Florida, and the bays, lagoons, and other tidal reaches thereof.

(17)(22) No change.

(23) “Executive Director” is the Executive Director of the Department of Environmental Protection and includes anyone duly designated to act on his or her behalf.

(18)(24) No change.

(19)(25) “Groin” is a structure built (usually perpendicular to the shoreline) to trap or alter alongshore movement of sediment or to retard erosion of the coastal system beach.

(26) “Hydrodynamic Loads” are those horizontal and vertical (including uplift) forces resulting from a mass of water in motion, such as the water flow accompanying a storm surge. Hydrodynamic loads include the effects of turbulence resulting from the interaction of the flowing water mass with a rigid structure.

(27) “Hydrostatic Loads” are those horizontal and vertical (including uplift) forces resulting from a standing mass of water.

(28)(a) renumbered (20)(a) No change.

(b) “Cumulative Impacts” are impacts resulting from past, present, and future individual coastal construction which, if permitted would result in a violation of standards as set forth in section 62B-41.007, or unacceptable significant adverse impacts to the coastal system as a general practice on other coastal properties in the same general area, or if added to the adverse impacts from existing coastal construction are expected to result in an adverse impact.

(c) “De Minimus Impacts” are impacts that have been determined by the Department to be insignificant and not of a substantial nature either individually or cumulatively.

(d)(e) “Significant Adverse Impacts” are adverse impacts of such magnitude that they are expected to alter the coastal system that which result in either:

1. An increase in the rate of erosion; or
2. Rendering the coastal system unstable or vulnerable to the effects of coastal storms or interfere with its ability to recover from the effects of a coastal storm; or
3. A take, as defined in sSubsection 62+6B-41.002(48)(57), F.A.C., unless, as provided for by the provisions of pParagraph 370.12(1)(f), F.S. Florida Statutes; or
4. An inconsistency with the provisions of pParagraph 370.12(1)(c)1., F.S. Florida Statutes.

(d) through (e) re-lettered (e) through (f) No change.

(21)(29) No change.

(a) “Altered Inlets” also referred to as modified or improved inlets, are those where stabilizing rigid coastal structures have been constructed; or, unstabilized inlets, where inlet related structures have been constructed and maintained and the channel depth or width is greater than the inlet system would support in a natural condition.

(b) through (d) No change.

~~(30) “Jetty” is a structure extending into a body of water which is designed to prevent shoaling of a channel by littoral materials and to direct and confine the stream or tidal flow. Jetties are built at the mouths of rivers and tidal inlets to help deepen and stabilize a navigation channel.~~

(31) through (37) renumbered (22) through (28) No change.

~~(29)(38) “N.A.V.D.” is the North American Vertical Datum of 1988, established by the National Ocean Survey.~~

(39) through (41) renumbered (30) through (32) No change.

~~(33)(42) “Nonconforming Structure” is any major habitable structure which was not constructed pursuant to a permit issued by the Department, in accordance with section 161.052 or 161.053, F.S., on or after March 17, 1985 or which cannot be demonstrated to meet current structural requirements for coastal construction.~~

~~(34)(43) “Notice to Proceed” is the formal notification from the Office Bureau authorizing permitted coastal construction to commence.~~

~~(35)(44) “Permit” is the authorization issued by the Department to conduct allow certain specified construction, excavation or alteration activities at a specified location on state sovereignty land seaward of the mean high-water line of any tidal water.~~

(45) through (46) renumbered (36) through (37) No change.

~~(38)(47) “Riparian or Littoral Owner” is an owner of land along, bordering upon, bounded by, fronting upon, abutting or adjacent and contiguous to and in contact with the waters of the State of Florida.~~

(48) through (51) renumbered (39) through (42) No change.

~~(43)(52) “Shoreline” is the intersection of a specified plane of water with the shore or beach. For example, the mean high water (MHW) shoreline is the intersection of the plane of mean high water with the beach.~~

~~(53) “Solid or Highly Impermeable Structures” are structures of such size, shape and construction material as to alter or impede the natural flow of water and sand transport.~~

~~(44)(54) “Staff” is the staff of the Office Bureau of Beaches and Coastal Systems Coastal Engineering and Regulation of the Division of Beaches and Shores.~~

~~(45)(55) No change.~~

~~(46) “Strategic Beach Management Plan” is the adopted plan for management of the sandy beach and the related coastal system pursuant to section 161.161, F.S.~~

(56)(a) through (b) renumbered (47)(a) through (b) No change.

(c) “Inlet-Related Structures” ~~which~~ are structures typically constructed within an inlet, such as inlet bypassing systems, dredged channels, and sand traps.

(d) “Minor Coastal Structures” ~~which~~ are structures designed to be expendable and to minimize resistance to water forces associated with high frequency coastal storms, and to break away when subjected to such forces and are of such size or design that they have a minor impact on the coastal system.

(e) “Major Coastal Structures” ~~which~~ are structures whose design, location or size have the potential to cause an adverse impact to the coastal system. Major structures include:

(e)1. through (f) No change.

~~(48)(57) “Take” is an act that actually kills or injures marine turtles, and includes significant habitat modification or degradation that kills or injures marine turtles by significantly impairing essential behavior patterns, such as breeding, feeding, or sheltering, as defined in pParagraph 370.12(1)(c), F.S Florida Statutes.~~

~~(49)(58) No change.~~

Specific Authority 161.041, 370.021 FS. Law Implemented 161.011, 161.021, 161.041, 161.042, 161.051, 161.0535, 161.054, 161.061, 161.071, 161.081, 161.088, 161.091, 161.101, 161.111, 161.141, 161.142, 161.161, 161.163, 161.181, 161.191, 161.201, 161.211, 161.212, 370.12 FS. History–New 8-23-92, Formerly 16B-41.002, Amended.

62B-41.003 General Prohibitions.

(1) No coastal construction shall be conducted without a permit issued by the Department under this ~~c~~Chapter unless it is determined that the coastal construction does not fall within the requirements of ~~s~~Section 161.041, F.S. Florida Statutes, or unless the interior tidal water body is exempted by the Department pursuant to ~~sub~~Section 161.041(1), F.S. Florida Statutes.

~~(2) No construction of a coastal construction inlet jetty or the excavation or maintenance of such inlet shall be allowed permitted if it will result in have a significant adverse impact unless accompanied by an approved mitigation program.~~

(3) No coastal construction shall interfere, except during construction, with the use by the public of any area of a beach seaward of the mean high-water line (or an established erosion control line) unless the Department determines such interference is unavoidable for purposes of protecting the beach or any endangered upland structure determined to be eligible pursuant to the criteria listed in ~~subsection~~ Rule 62B-41.005(6), F.A.C.

~~(4) No coastal construction shall violate the provisions of Section 370.12(1), Florida Statutes.~~

Specific Authority 161.041, 370.021, 161.051, 161.061, 161.121 FS. Law Implemented 161.041, 161.042, 161.141, 161.142, 370.021(1), 370.12(1) FS. History–New 8-23-92, Formerly 16B-41.003, Amended.

62B-41.004 Exemptions from Permit Requirements.

(1) The deepwater ports identified in ~~paragraph~~ Section 403.021(9)(b), F.S. Florida Statutes, are exempt from the requirements contained in ~~sub~~Sections 161.142(1) and (2), F.S. Florida Statutes.

(2) through (2)(a) No change.

(b) Structures which do not fall within the definition of coastal construction as defined in ~~sub~~Section 62B-41.002(14), F.A.C 161.021(6), Florida Statutes.

(c) Structures having de minimus impacts as defined in paragraph 62B-41.002(21)(c), F.A.C.

Specific Authority 161.041, 370.021 FS. Law Implemented 161.041, 161.042, 161.142 FS. History—New 8-23-92, Formerly 16B-41.004, Amended

62B-41.005 Policy and Eligibility Criteria for Coastal Construction Permits.

(1) through (5) No change.

(6) The Department shall not issue permits, pursuant to ~~s~~Section 161.041, F.S. Florida Statutes, for coastal armoring except as a last resort to provide protection to eligible structures. ~~Rigid coastal structures do not protect the beach. In most cases, they may be expected to have a long term adverse effect on the beach in the immediate vicinity.~~ Construction of coastal armoring will only be considered in accordance with the following:

(6)(a) through (7)(d) No change.

(e) Consistency with ~~the a beach~~ statewide strategic beach management plan or ~~an~~ inlet management plan adopted approved by the Department.

(8) No change.

~~(9) If a coastal construction permit cannot be approved for an eligible structure, based on the application criteria, then the Department shall recommend that funding for purchase of the affected property be sought under Section 1362 of the National Flood Insurance Act, if applicable.~~

~~(9)(10)~~ An existing rigid structure whose alignment has been determined by the Department to interfere with onshore/offshore or longshore movement of sand, resulting in a significant adverse impact to the coastal system or adjacent properties, is subject to redesign or relocation landward if in need of reconstruction, or may be ordered removed if it is determined to be dangerous or to in any way endanger human life, health or welfare, or to be undesirable, serve no public purpose, or become unnecessary, in accordance with ~~s~~Section 161.061, F.S. Florida Statutes.

~~(10)(11)~~ No change.

(12)(a) through (c)4. renumbered (11)(a) through (c)4. No change.

5. Being consistent with ~~an~~ the adopted inlet management plan and the statewide strategic beach management plan, where applicable; or

(d) No change.

(13)(b) renumbered (12)(b) No change.

(c) Restore water quality in disturbed coastal ecosystems to acceptable Department of Environmental Protection Regulation Water Quality Standards;

(d) No change.

(e) Provide public benefits as described in ~~paragraph~~ Rule 62B-41.005(12)(c), F.A.C.

~~(13)(14)~~ No change.

~~(14)(15)~~ All sandy sediment ~~to be~~ excavated from ~~the within or immediately adjacent to any~~ coastal system ~~shall inlet or its associated ebb and flood tide shoals or navigation channels located on sovereignty lands, in conjunction with an authorized construction or maintenance dredging or intracoastal waterway maintenance dredging project, which is determined by the Department to be suitable for beach fill shall, after receipt of written authorization from the Department of Environmental Regulation,~~ be deposited on ~~the an~~ adjacent beach, in a location designated in the ~~adopted approved~~ inlet management plan, ~~the and~~ adopted statewide strategic beach management plan where applicable, or in a nearshore littoral zone location approved by the Department.

~~(15)(16)~~ Any permit application for construction, excavation or maintenance of a coastal inlet and related shoals shall be consistent with the statewide strategic beach management ~~current~~ plan for long term management of the inlet pursuant to ~~s~~Sections 161.142 and 161.161, F.S. Where such a plan is not available the applicant shall provide the information required in ~~paragraph~~ Rule 62B-41.008(1)(m), F.A.C., and shall, as a condition of the permit, be required to provide a complete inlet management plan within a period of not less than two years from the date of issuance of the permit. The plan shall provide for continued bypassing of the sand in sufficient quantity to insure that net long term erosion or accretion rates on both sides of the inlet remain equal except in cases where unequal erosion and accretion rates can be shown to be a result of natural processes and not caused by human activities. In all cases, mitigation shall be provided for any erosion effects to the adjacent coastal system attributable to alteration of the inlet. The mitigation shall include the placement of supplemental beach compatible material as needed.

~~(16)(17)~~ Monitoring programs shall be required for any coastal construction permitted under this ~~c~~Chapter which is determined to have an adverse impact. Such programs shall include preconstruction, construction phase and post construction topographic, hydrographic, biological and other data collection as deemed necessary and appropriate by the Department to monitor the performance of the coastal construction and determine its impacts to the coastal system and marine turtles. ~~The Department shall require that~~ Such data shall be analyzed by a qualified professional engineer or coastal geologist registered in the State of Florida and a report provided to the Department on the performance of the project

and its impacts on the coastal system. ~~The Department shall require that biological data be analyzed by a qualified Department biologist to determine the effects on marine turtles.~~ Monitoring programs shall include sufficient pre-project data to establish an adequate baseline for project construction and post construction comparison.

~~(17)(18) If~~ When the Department determines that the proposed coastal construction has the potential for adverse impacts to the coastal system, then exists the Department shall ~~is authorized to~~ require the applicant to revise the project design to avoid or minimize those impacts. After all practicable revisions have been made to minimize impacts; any remaining adverse impacts or other impacts shall be offset by the applicant as a condition to the granting of a permit, under this Chapter, mitigation, financial, or other assurances acceptable to the Department as may be necessary to assure performance of conditions of the permit or enter into contractual agreements to best assure compliance with any permit conditions. The Department may also require notice of any such permit conditions or required and the contractual agreements entered into pursuant to the provisions of this rule to be filed in the public records of the county in which the permitted activity is located.

~~(18)(19)~~ Projects which may have an impact on marine turtles, nests or their habitat shall also be subject to the provisions of section 370.12, F.S., and to section 6(c), of the federal Endangered Species Act Rule 62B-41.0055.

Specific Authority 161.041, 370.021 FS. Law Implemented 161.041, 161.042, 161.051, 161.061, 161.088, 161.142 FS. History-New 8-23-92, Formerly 16B-41.005, Amended _____.

62B-41.0055 Protection of Marine Turtles.

~~(1) In keeping with the Department's authority to protect marine turtles pursuant to Section 370.12, Florida Statutes,~~ Any application for a permit under this Chapter for coastal construction that affects marine turtles shall be subject to conditions and requirements for marine turtle protection as part of the permitting process, pursuant to section 370.12, F.S.

~~(2) Coastal construction which is in compliance with other provisions of this rule may be permitted if it is determined that the proposed coastal construction would be consistent with the federal Endangered Species Act, its implementing regulations, and the cooperative agreement pursuant to Section 6(c) of the federal Endangered Species Act, would be consistent with the provisions of subparagraph 370.12(1)(c)1., F.S. Florida Statutes, and would not result in a take pursuant to paragraph 370.12(1)(f), F.S. Florida Statutes. In its determination, The Department will evaluate the following when making a determination:~~

(a) through (7) No change.

Specific Authority 370.12 FS. Law Implemented 161.041, 370.12(1) FS. History-New 8-23-92, Formerly 16B-41.0055, Amended _____.

62B-41.007 Design, Siting and Other Requirements.

(1) No change.

(2) Coastal construction shall be designed in accordance with established engineering practice, ~~Department Division of Beaches and Shores~~ recognized design guidelines, and the following special guidelines:

(a) through (c) No change.

(d) Armor stone used in revetments and as toe scour protection shall have a minimum dry unit weight of 140 pounds per cubic foot, except under circumstances where a potential adverse impact on marine turtles may exist. In such cases armor stone shall have a minimum dry unit weight of 150 pounds per cubic square foot. Armor stone units shall not be of greater size or weight than appropriate for the design wave conditions.

(e) through (i) No change.

(j) To protect the environmental functions of Florida's beaches, all fill material placed shall be sand which is similar to that which naturally already exists on the site in quartz to carbonate ratio both coloration, median gradation and grain size and sorting. Standard terminology and sieve sizes from the Unified Soil Classification System and U.S. standard sieves shall be used. All such fill material shall: be free of construction debris, rocks, clay, or other foreign matter, shall be obtained from a source landward of the coastal construction control line or from a source authorized pursuant to Section 161.041, Florida Statutes and shall, in general, not contain greater than 5 percent fines (passing the #200 sieve) or gravel exclusive of shell material (retained by the #4 sieve) and be free of coarse gravel or cobbles:

1. Not contain greater than 10 percent, by weight, silt passing the #200 sieve;

2. Not contain greater than 5 percent, by weight, fine gravel retained on the #4 sieve, exclusive of shell material and coral fragments;

3. Not contain coarse gravel, cobbles or material retained on the 3/4 inch sieve in a percentage or size greater than found on the native beach;

4. Not result in cementation of the beach; and

5. Not contain construction debris, clay, toxic materials or other foreign matter;

These standards shall not be exceeded in any 1000 square foot section, extending through the depth of the filled beach. If the natural beach exceeds any of the limiting parameters listed above, then the fill material shall not exceed the naturally occurring level for that parameter.

(k) through (l) No change.

(m) For safety, all coastal structures shall be marked in accordance with Section 327.40, F.S. Florida Statutes.

~~(3) The Department reserves the right to approve deviations from the special guidelines outlined in Paragraph (2) above if those deviations would not increase the potential~~

~~for adverse impacts to the coastal system or marine turtles. When requesting such deviations, the applicant shall be fully justified and approved by the Department with evidence provided by the applicant fully documented evidence that would justify the deviations do not increase the potential for adverse impacts to the coastal system or marine turtles.~~

(4) No change.

Specific Authority 161.041, 370.021(1) FS. Law Implemented 161.041, 370.021(1), 370.12(1), 327.40 FS. History--New 8-23-92, Formerly 16B-41.007, Amended.

62B-41.0075 Experimental Coastal Construction.

(1) through (6) No change.

(7) If the experiment is determined to be ineffective in addressing a coastal erosion problem, or is expected to cause a significant adverse impact, all structures shall be removed. Removal or modification may also be ordered pursuant to paragraph Section 62B-41.015(1)(l), F.A.C.

(8) Any time the Department determines that the project must be removed under the provisions of this cChapter, the permittee shall also be responsible for restoring the area of installation and any adversely affected areas to pre-project conditions. By Acceptance of the permit, the permittee commits the permittee to the removal of any structure, object or installation relating to the project, in addition to the as well as restoration of all affected areas, should it be the Department determined that removal is necessary, as provided for in Subsection (7) above. All cCosts of removal and restoration shall be borne by the permittee.

(9) All new technologies shall be designed to be stable and durable in the coastal environment. Should the experimental project become dislocated or in disrepair ~~at any time~~, during or after the initial three year period, it shall be the responsibility of the permittee to have the structures repaired or removed. If the permittee fails to repair or relocate the project within 90 days from receipt of notification of the need for such from the Department, the permittee shall be ordered to remove the project.

Specific Authority 161.041, 370.021, FS. Law Implemented sSection 27, cChapter 89-175, Laws of Florida, 161.031, 161.041, 161.042, 161.051, 161.061, 161.161, 370.02(5)(b)2. FS. History--New 8-23-92, Formerly 16B-41.0075, Amended.

62B-41.008 Permit Application Requirements and Procedures.

(1) A Joint Coastal Permit is required in order to conduct any coastal construction activities in Florida. A Any person required desiring to obtain a joint coastal construction permit from the Department shall submit an application to the Department of Environmental Protection, Division of Beaches and Shores, Office Bureau of Beaches and Coastal Systems Coastal Engineering and Regulation, 3900 Commonwealth Boulevard, Mail Station 3040, Tallahassee, Florida 32399. The permit application form, entitled "Joint Application for Joint Coastal Permit, Authorization to Use Sovereign Submerged

lands, Federal Dredge and Fill Permit" Application for a Permit for Coastal Construction (DEP Form 73-500208 effective 6-95 8-23-92), is hereby incorporated by reference. Copies of the form may be obtained on the Department internet site, by writing to the Department of Environmental Protection, at the above address Division of Beaches and Shores, Bureau of Coastal Engineering and Regulation, 3900 Commonwealth Boulevard, Mail Station 310, Tallahassee, Florida 32399; or by telephoning the Department at (850904)487-4475. All information in conjunction with an application shall only be submitted by the applicant or the duly authorized agent. The application shall contain the following specific information:

(a) through (h)1. No change.

2. All elevations, referenced to N₂G₂V₂D₂ and, when available, N₂A₂V₂D.

3. through 11. No change.

12. The signature and seal of the professional surveyor, duly registered pursuant to cChapter 472, F.S. Florida Statutes, who performed the survey, accompanied by a certification that the submitted drawing accurately reflects a field survey which complies with the requirements of this sSection.

13. through 14. No change.

(i) For rigid coastal structures, flexible coastal structures and inlet-related structures, the information required under Paragraphs 62B-41.008(1)(h), (j) and (k), F.A.C., shall be provided on 8 1/2-inch by 14-inch paper.

(j) through (k) No change.

1. A plan view of the proposed coastal construction with the mean high-water line, and the erosion control line, if established pursuant to sSections 161.141-161.211, F.S. Florida Statutes, extending at least 100 feet on each side of the proposed coastal construction, and a plan view of any area of proposed excavation with inlet shorelines indicated.

2. through 3. No change.

4. Permit applications for inlet excavation, ~~inlet bypassing, or beach restoration, or nourishment shall include: both a sediment grain size analysis sufficient to determine the nature of all material to be dredged and its compatibility with the existing beach sand, and a designation of potential nourishment areas along adjacent shorelines.~~

a. Sediment analysis of the native sediment and the sediment at the proposed borrow site(s). The analysis shall demonstrate the nature of the material, quantities available, and its compatibility with the naturally occurring beach sediment pursuant to paragraph 62B-41.007(2)(j), F.A.C. The sediment analysis and volume calculations shall be performed using established industry standards and be certified by a Professional Engineer or a Professional Geologist registered in the State of Florida. Certification shall verify that a quantity of material sufficient to construct the project is available at the borrow site(s) which meets the standard in paragraph 62B-41.007(2)(j), F.A.C., and

b. Quality control/assurance plan that will ensure that the sediment from the borrow sites to be used in the project will meet the standard in paragraph 62B-41.007(2)(j), F.A.C.

(l) No change.

(m) Demonstration of consistency with the adopted statewide strategic beach management plan, an inlet management plan, or a proposed draft inlet management plan in accordance with subsection Rule 62B-41.005(16), F.A.C. If not included in the inlet management plan the applicant will provide the following:

(m)1. through (o) No change.

(p) A written statement providing the need necessity and justification for the potential impacts to the coastal system which may be caused by the proposed coastal construction.

(q) No change.

(2) ~~The Department will waive~~ Any of the requirements contained in ~~p~~Paragraphs 62B-41.008(1)(f),(h),(i),(j),(k),(l) or (m), F.A.C., will be waived if, ~~in the opinion of the Department determines that the,~~ such information is found to be unnecessary for a proper evaluation of the proposed work.

(3) Applications for permits, permit modifications or long-term maintenance renewals shall be accompanied by a fee, as set forth in section Rule 62B-41.0085, F.A.C.

~~(4) If the applicant fails to provide all information required to complete the application within six (6) months after a notice of incompleteness has been sent, the staff will close the permit application file after written notice to the applicant, except that a request for an extension of time for a period agreeable to the Department, but not to exceed one year, shall be granted upon demonstration by the applicant that the delay in completion of the application has been caused by matters beyond the control of the applicant. Application files closed under these procedures shall be closed without prejudice and a new application, accompanied by the appropriate fee, shall be required to renew the application.~~

~~(4)(5)~~ If the processing of the application is prolonged, or if a storm event is known to have altered the shoreline such that the staff determines that the topographic and bathymetric survey data is no longer adequate to complete its analysis, then an updated survey shall be required as specified in Paragraph (1)(h) above. In the event that an updated survey is required, the application shall be treated as an amended application pursuant to s~~Subsection 62B-41.0085(3)012(9), F.A.C.~~

~~(5)(6)~~ Prior to completing the application, the applicant must obtain any easements or other authorizations necessary to conduct the coastal construction from the Department of Environmental Protection, Division of State Lands; however, for permits which must be approved by the Board of Trustees of the Internal Improvement Trust Fund, the application will be considered complete when all required information has been provided and the Division of State Lands' proposed staff recommendation to the Trustees has been provided to the ~~Office Bureau~~.

~~(7) The applicant may waive the ninety (90) day time limit for processing the permit specified under Subsection 120.60(2), Florida Statutes, at any time. Upon request, the Department will provide the applicant with its Application for Waiver of the Ninety (90) Day Time Limit under Subsection 120.60(2), Florida Statutes (DEP Form 73-123, effective 8-23-92), hereby incorporated by reference. Copies of the form may be obtained by writing to the Department of Environmental Protection, Division of Beaches and Shores, Bureau of Coastal Engineering and Regulation, 3900 Commonwealth Boulevard, Mail Station 310, Tallahassee, Florida 32399; or by telephoning (904)487-4475. However, the applicant may waive this time limit by other written means when time is not sufficient to obtain the form. Any application which remains in a waived status for a period of twelve (12) months or more after receipt of such waiver by the Department will be considered to have been withdrawn, and the Department shall administratively close the file without prejudice, unless the application is reactivated by the Department. The applicant shall submit a new application, with fee, prior to any further consideration of the proposed coastal construction by the Department.~~

~~(8) Requests for after the fact permits shall be processed under, and shall be subject to, the requirements of Rule 62B-41.0125.~~

Specific Authority 161.041, 370.021 FS. Law Implemented 161.041, 161.054(5) FS. History-New 8-23-92, Formerly 16B-41.008, Amended

62B-41.0085 Permit Processing and Administration Fees.

(1) Each application for a permit to be considered by the Department pursuant to sSection 161.041, F.S. Florida Statutes, except those applications filed by agencies of government of the executive branch of the State of Florida, ~~and those filed pursuant to Rule 62B-41.014~~, shall be accompanied by a fee. Monies from fees assessed pursuant to this chapter Rule shall be deposited into the Beach Management Trust Fund. Fees assessed pursuant to this chapter Rule are generally not refundable. However, if a fee for an activity which is exempt from the provisions of this chapter Rule has been received, then such fee shall be refunded to the applicant pursuant to the provisions of sSection 120.60, F.S. Florida Statutes. Any fee payment in excess of the amount required by this chapter Rule shall also be refunded to the applicant. All such refunds shall be requested by the applicant on the Department's Refund Claim Form (DEP Form 14-081, effective 8-23-92), hereby incorporated by reference. Copies of the form may be obtained by writing to the Department of Environmental Protection, ~~Division of Beaches and Shores, Office Bureau of Beaches and Coastal Systems Coastal Engineering and Regulation~~, 3900 Commonwealth Boulevard, Mail Station 30+0, Tallahassee, Florida 32399; ~~or by telephoning (904)487-4475.~~

(2) through (3)(d) No change.

(e) Minor structures and activities, minor reconstruction of existing structures, amended applications, ~~major modifications to existing permits~~ and administrative approval of each subsequent nourishment or maintenance dredging operation shall be assessed a fee of \$500.

(f) through (6) No change.

(7) Experimental projects permitted under section Rule 62B-41.0075, F.A.C., shall be assessed ~~the larger of~~ a fee of \$5,000, or the permit fee specified in the appropriate fee schedule above, which ever is larger, except the maximum fee shall not to exceed \$20,000.

(8) No change.

Specific Authority 161.041, 161.0535, 161.161(8), 370.021 FS. Law Implemented 161.041, 161.101, 161.0535, 161.161 FS. History-New 8-23-92, Formerly 16B-41.0085, Amended.

62B-41.013 Revisions or Modifications of Approved Permits.

(1) Applications for revisions or modifications to existing permits shall be processed in the same manner as a new permit except that items required by section Rule 62B-41.008, F.A.C., which have already been furnished to the Department shall be waived unless the staff determines the data to be out-of-date or inadequate to complete the assessment.

(2) through (6) No change.

Specific Authority 161.041, 370.021, 370.12(1) FS. Law Implemented 161.041, 161.042, 161.051, 161.061 FS. History-New 8-23-92, Formerly 16B-41.013, Amended.

62B-41.015 Coastal Construction Permit Conditions.

Specific Authority 161.041, 370.021 FS. Law Implemented 161.041, 161.042, 161.051, 161.054, 161.061, 370.021(1) FS. History-New 8-23-92, Formerly 16B-41.015, Repealed.

NAME OF PERSON ORIGINATING PROPOSED RULE: Alfred B. Devereaux

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: David B. Struhs, Secretary, Department of Environmental Protection

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: April 10, 2001

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: March 16, 2001

DEPARTMENT OF HEALTH

Board of Medicine

RULE TITLE: Definitions RULE NO.: 64B8-2.001

PURPOSE AND EFFECT: The Board proposes a rule amendment to address the definition of "community service."

SUMMARY: The proposed rule amendment defines the term "community service."

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

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

SPECIFIC AUTHORITY: 458.309, 458.315(1), 458.317(1)(c), 458.319(1), 766.314(4) FS.

LAW IMPLEMENTED: 458.303, 458.311, 458.313, 458.315(1), 458.317(1)(c), 458.331(1)(u), 458.3485, 766.314(4) FS.

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

TIME AND DATE: 10:00 a.m., June 12, 2001

PLACE: Room 324, Collins Building, 107 W. Gaines Street, Tallahassee, FL

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Tanya Williams, Executive Director, Board of Medicine/MQA, 4052 Bald Cypress Way, Bin #C03, Tallahassee, Florida 32399-3253

THE FULL TEXT OF THE PROPOSED RULE IS:

64B8-2.001 Definitions.

(1) through (11) No change.

(12) "Community service" shall be defined as the delivery of medical services directly to patients, or the delivery of other volunteer services to an entity which is exempt from federal taxation under 26 U.S.C. s. 501(c)(3), without fee or cost to the patient or the entity, for the good of the people of the State of Florida. Community service shall be performed outside the physician's regular practice setting.

Specific Authority 458.309, 458.315(1), 458.317(1)(c), 458.319(1), 766.314(4) FS. Law Implemented 458.303, 458.311, 458.313, 458.315(1), 458.317(1)(c), 458.331(1)(u), 458.3485, 766.314(4) FS. History-New 11-10-82, Amended 12-4-85, Formerly 21M-29.01, Amended 12-4-86, 11-15-88, 3-13-89, 1-1-92, 9-24-92, 2-21-93, Formerly 21M-29.001, Amended 4-14-94, Formerly 61F6-29.001, 59R-2.001, Amended 4-7-99, _____.

NAME OF PERSON ORIGINATING PROPOSED RULE: Rules Committee, Board of Medicine

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

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: March 31, 2001

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: April 20, 2001

DEPARTMENT OF HEALTH

Board of Medicine

RULE TITLES: Approved Residency or Fellowship; RULE NOS.: 64B8-4.004

Definitions 64B8-4.009

Applications 64B8-4.010

Diplomas 64B8-4.010

PURPOSE AND EFFECT: The proposed rule amendment to Rule 64B8-4.004 is intended to conform the rule with the current body that accredits graduate medical education programs. The amendment to Rule 64B8-4.009 is intended to delete the notarization requirement and add an alternative documentation of medical education when the transcript has been lost or destroyed and to require verification of education directly from the medical school as a confirmation of matriculation. The amendment to Rule 64B8-4.010 is intended to delete the notarization requirement and clarify the requirement for translation of diplomas.

SUMMARY: The proposed amendment to Rule 64B8-4.004 clarifies language with regard to accrediting bodies for medical education programs. The proposed amendment to Rule 64B8-4.009 deletes the notarization requirement and adds an alternative method of documentation of medical education when the transcript has been lost or destroyed and requires verification of education directly from the medical school as a confirmation of matriculation. The amendment to Rule 64B8-4.010 deletes the notarization requirement and clarifies the requirement for translation of diplomas.

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

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

SPECIFIC AUTHORITY: 120.53, 458.309, 458.311, 458.313 FS.

LAW IMPLEMENTED: 120.53, 458.311, 458.3124, 458.313, 458.3145, 458.315, 458.316, 458.3165, 458.317 FS.

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

TIME AND DATE: 10:00 a.m., June 12, 2001

PLACE: Room 324, Collins Building, 107 W. Gaines Street, Tallahassee, FL

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULES IS: Tanya Williams, Executive Director, Board of Medicine/MQA, 4052 Bald Cypress Way, Bin #C03, Tallahassee, Florida 32399-3253

THE FULL TEXT OF THE PROPOSED RULES IS:

64B8-4.004 Approved Residency or Fellowship; Definitions.

(1) An approved residency of at least one year constitutes a course of study and training in a single program for a period of not less than twelve calendar months by a person holding a degree as a medical doctor. The hospital and the program in which the medical doctor is participating must be accredited

~~approved~~ for the training and teaching of physicians by the Accreditation Council ~~for~~ ~~on~~ Graduate Medical Education (ACGME) and the medical doctor must be assigned to one of the allocated positions or slots approved by the ACGME. Fellowship training or residency training in a non-slotted position shall be considered approved residency training only in the instance when the fellowship or residency training has been recognized and accepted for that applicant toward completion of requirements for specialty board certification by a specialty board listed by the American Board of Medical Specialties.

(2) An approved residency or approved fellowship of at least two years in one specialty area constitutes two progressive years in a course of study and training as long as each year is accepted by the American Board of Medical Specialties in that specialty for a period of not less than twenty-four months by a person holding a degree as a medical doctor. The hospital and the program in which the medical doctor is participating must be accredited ~~approved~~ for the training and teaching of physicians by the Accreditation Council ~~for~~ ~~on~~ Graduate Medical Education (ACGME) and the medical doctor must be assigned to one of the allocated positions or slots approved by the ACGME. Fellowship training or residence training in a non-slotted position shall be considered approved residency training only in the instance when the fellowship or residency training has been recognized and accepted for that applicant toward completion of requirements for specialty board certification by a specialty board listed by the American Board of Medical Specialties.

Specific Authority 458.309, 458.311(1)(f) FS. Law Implemented 458.311(1) FS. History--New 3-31-80, Amended 11-10-82, Formerly 21M-22.04, Amended 9-7-88, 11-30-92, Formerly 21M-22.004, 61F6-22.004, Amended 11-15-94, Formerly 59R-4.004, Amended 6-15-98, 10-1-98,_____.

64B8-4.009 Applications.

(1) through (3) No change.

(4) The applicant must submit ~~original-notarized~~ copies of transcripts for all medical education and a certified translation for each transcript which is not in English. In the event that such transcript has been lost or destroyed, then, in lieu thereof, the applicant for licensure shall submit a statement under the signature and seal of the dean of the medical school or medical college from which he graduated, which statement shall demonstrate that the applicant has satisfactorily completed the prescribed course of study, the actual degree conferred and the date thereof. Additionally, in the latter instance, the applicant shall submit a written and signed statement fully and clearly stating the circumstances under which his transcript was lost or destroyed.

(5) An official verification of the applicant's medical education from the medical school which comes directly from the medical school to the Board office.

~~(6)(5)~~ The applicant must submit a copy ~~an original or a notarized copy~~ of all certificates of training or a letter directly from the training program which specifies the beginning and ending dates of training and the specialty area of training.

(6) through (8) renumbered (7) through (9) No change.

Specific Authority 120.53, 458.309, 458.311 FS. Law Implemented 120.53, 458.311, 458.3124, 458.313, 458.3145, 458.315, 458.316, 458.3165, 458.317 FS. History--New 3-31-80, Amended 11-10-82, Formerly 21M-22.04, Amended 9-7-88, 11-30-92, Formerly 21M-22.004, 61F6-22.004, Amended 11-15-94, Formerly 59R-4.004, Amended 6-15-98, 10-1-98, _____.

64B8-4.010 Diplomas.

Each applicant for licensure must submit a copy of the ~~his original~~ medical school or medical college diploma in support of his application. If the diploma is from a school outside of the United States and is in a language other than English, a certified translation must accompany the diploma. In lieu of the original diploma, as a convenience to the applicant, the Board will accept from each applicant for licensure a photocopy of the applicant's original medical school or medical college diploma which is certified by a notary to be a true and correct copy of the original. In the event that such diploma has been lost or destroyed, then, in lieu thereof, the applicant for licensure shall submit a statement under the signature and seal of the dean of the medical school or medical college from which he graduated, which statement shall demonstrate that the applicant has satisfactorily completed the prescribed course of study, the actual degree conferred and the date thereof. Additionally, in the latter instance, the applicant shall submit a written and signed statement fully and clearly stating the circumstances under which his diploma was lost or destroyed.

Specific Authority 458.309, 458.313 FS. Law Implemented 458.311, 458.313 FS. History--New 3-31-80, Amended 12-4-85, Formerly 21M-22.10, Amended 2-16-86, Formerly 21M-22.010, 61F6-22.010, 59R-4.010 History--New 3-31-80, Amended 12-4-85, Formerly 21M-22.09, Amended 9-7-88, 3-13-89, 1-1-92, 2-21-93, Formerly 21M-22.009, Amended 11-4-93, Formerly 61F6-22.009, Amended 11-15-94, 2-15-96, Formerly 59R-4.009, Amended _____.

NAME OF PERSON ORIGINATING PROPOSED RULE:
Rules Committee, Board of Medicine
NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Board of Medicine
DATE PROPOSED RULE APPROVED BY AGENCY HEAD: March 31, 2001
DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: April 20, 2001

DEPARTMENT OF HEALTH

Board of Medicine

RULE TITLES:	RULE NOS.:
Disciplinary Guidelines	64B8-8.001
Time for Payment of Civil Penalties or Administrative Fines; Time Frames for Completion of Requirements	64B8-8.002
Reinstatement of Licensure	64B8-8.003

PURPOSE AND EFFECT: The proposed amendment to Rule 64B8-8.001 is intended to address wrong-site surgery and the penalties related to wrong-site surgery. The amendment to Rule 64B8-8.002 is intended to address time frames for completion of requirements in the Board's Orders. The amendment to Rule 64B8-8.003 is intended to provide clarification with regard to the requirements for reinstatement of licensure.

SUMMARY: The amendment to Rule 64B8-8.001 addresses penalties for wrong site surgery. The amendment to Rule 64B8-8.002 addresses the time frames for completion of requirements of Board Orders; and the amendment to Rule 64B8-8.003 addresses the requirements for reinstatement of licensure.

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

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

SPECIFIC AUTHORITY: 458.331, 458.309, 456.072(2), 456.079 FS.

LAW IMPLEMENTED: 458.331, 456.072, 456.079 FS.

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

TIME AND DATE: 10:00 a.m., June 12, 2001

PLACE: Room 324, Collins Building, 107 W. Gaines Street, Tallahassee, FL

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULES IS: Tanya Williams, Executive Director, Board of Medicine/MQA, 4052 Bald Cypress Way, Bin #C03, Tallahassee, Florida 32399-3253

THE FULL TEXT OF THE PROPOSED RULES IS:

64B8-8.001 Disciplinary Guidelines.

(1) No change.

(2) Violations and Range of Penalties. In imposing discipline upon applicants and licensees, in proceedings pursuant to Section 120.57(1) and 120.57(2), Florida Statutes, the Board shall act in accordance with the following disciplinary guidelines and shall impose a penalty within the range corresponding to the violations set forth below. The verbal identification of offenses are descriptive only; the full language of each statutory provision cited must be consulted in order to determine the conduct included.

RECOMMENDED RANGE OF PENALTY

VIOLATION	FIRST OFFENSE	SECOND OFFENSE
<p>(a) through (s) No change.</p> <p>(t) Gross or repeated malpractice or the failure to practice medicine with that level of care, skill, and treatment which is recognized by a reasonably prudent similar physician as being acceptable under similar conditions and circumstances.</p> <p>(458.331(1)(t), F.S.)</p>	<p>(t) From two (2) years probation to revocation or denial, and an administrative fine from \$1,000.00 to \$10,000.00.</p>	<p>(t) From suspension to revocation or denial, and an administrative fine from \$5,000.00 to \$10,000.00.</p>
<p>1. through 3. No change.</p> <p><u>4. Performing surgery or a medical procedure on the wrong patient; at the wrong site or location on the patient; or performing the wrong surgery or procedure on a patient.</u></p>	<p><u>4. From a \$10,000.00 fine, a letter of concern, a minimum of five (5) hours of risk management education, a minimum of 50 hours of community service, and a one hour lecture on wrong-site surgery presented to a medical community in the State of Florida to revocation.</u></p>	<p><u>4. From a \$10,000 fine, a reprimand and probation or denial to revocation.</u></p>

(u) through (oo) No change.
 (3) through (7) No change.

Specific Authority 458.331(5), 458.309, 456.079 FS. Law Implemented 458.331(5), 456.072, 456.079 FS. History--New 12-5-79, Formerly 21M-20.01, Amended 1-11-87, 6-20-90, Formerly 21M-20.001, Amended 11-4-93, Formerly 61F6-20.001, Amended 6-24-96, 12-22-96, Formerly 59R-8.001, Amended 5-14-98, 12-28-99, 1-31-01,_____.

64B8-8.002 Time for Payment of Civil Penalties or Administrative Fines; Time Frames for Completion of Requirements.

(1) In cases where the Board of ~~Medicine~~ Medical Examiners imposes a civil penalty or an administrative fine for violation of Chapter 456 or 458, Florida Statutes, or the rules promulgated pursuant thereunder, the penalty shall be paid within thirty (30) days of its imposition by Order of the Board unless a different time frame is set forth in the Order.

(2) Unless otherwise specified in the Board's Order, the time frames for completion of the requirements are as follows:

(a) FMA sponsored medical records course is to be completed within one year from the date the Order is filed;

(b) USF sponsored prescribing course is to be completed within one year from the date the Order is filed;

(c) Continuing medical education is to be completed within one year from the date the Order is filed;

(d) Community service is to be completed within one year from the date the Order is filed.

(e) Reports to the Board's Probationer's Committee shall be made quarterly.

Specific Authority 456.072(2), 458.309 FS. Law Implemented 456.072(2) FS. History--New 10-23-80, Formerly 21M-20.02, Amended 9-7-92, Formerly 21M-20.002, 61F6-20.002, 59R-8.002, Amended_____.

64B8-8.003 Reinstatement of License.

(1) No change.

(2) When disciplinary action is taken against a licensee which results in the licensee's being unable to use the license for a period of time for reasons including, but not limited to, suspension, inactivation, or other restriction, but not including revocation subsequent to June 5, 1983, the licensee may petition for reinstatement of the license as follows:

(a) When the suspension, inactivation, or restriction is for a definite period of time and is not based upon the physician's ability to safely engage in the practice of medicine pursuant to Section 458.331(3), F.S., the license shall be ~~automatically~~ reinstated upon expiration of the period of suspension if full compliance with the final order has been shown and the licensee has submitted documentation of completion of the continuing medical education requirements imposed on an active status licensee for all biennial licensure periods in which the licensee was suspended, inactive or under other restriction;

(b) When the suspension, inactivation, or other restriction is for a definite period of time, is based upon the physician's ability to safely engage in the practice of medicine, or both, the licensee shall demonstrate to the Board at the expiration of the period of suspension, or immediately prior thereto, compliance with the terms and conditions of the final order, completion of the continuing medical education requirements imposed on an active status licensee for all biennial licensure periods in which

the licensee was suspended, inactive or under other restriction, and, where applicable, the ability to safely engage in the practice of medicine in order to obtain reinstatement. The Board shall consider reinstatement at either the Board meeting immediately preceding expiration or at any Board meeting subsequent thereto. If the licensee is able to demonstrate compliance with the terms of the final order and, where applicable, the ability to safely engage in the practice of medicine, the Board shall reinstate the license.

(c) When the suspension, inactivation, or other restriction is for a definite period of time or for an indefinite period of time, the licensee may petition the Board to consider reinstatement of a license acted against for an indefinite period of time or early reinstatement of a license acted against for a definite period of time. When such a petition is filed, it must include all documentation of the petitioner's compliance with the final order, completion of the continuing medical education requirements imposed on an active status licensee for all biennial licensure periods in which the licensee was suspended, inactive or under other restriction, petitioner's ability to safely engage in practice, petitioner's plan for the return to practice, and any other information which the petitioner would want the Board to consider if it grants the petition for consideration. If the plan for return to practice includes a period of supervised practice, the documentation should include the name of the proposed supervising physician and a written statement from the proposed supervising physician of his or her willingness to serve in that capacity. No oral testimony or personal appearance will be permitted at the time the Board hears a petition to consider reinstatement or early reinstatement. Upon the granting by the Board of the petition to consider such reinstatement or early reinstatement, the licensee shall, at a subsequent meeting, have an opportunity to demonstrate his or her ability to safely engage in the practice of medicine and compliance with the terms of the final order. The Board shall reinstate the license upon a proper demonstration of competency and of compliance with the final order by the licensee.

(3) No change.

Specific Authority 458.309, 458.331 FS. Law Implemented 458.331 FS. History--New 1-3-85, Formerly 21M-20.03, Amended 7-4-88, Formerly 21M-20.003, Amended 11-4-93, Formerly 61F6-20.003, 59R-8.003, Amended

NAME OF PERSON ORIGINATING PROPOSED RULE:
Rules Committee, Surgical Care Committee, Board of Medicine

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

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: March 31, 2001

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: April 20, 2001

DEPARTMENT OF HEALTH

Board of Optometry

RULE TITLE: Examination Requirements
RULE NO.: 64B13-4.001

PURPOSE AND EFFECT: The proposed rule amendment is intended to increase the passing score for the clinical examination from 75 points to 80 percent.

SUMMARY: The proposed rule amendment clarifies the passing score for the clinical examination to be 80 percent.

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

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

SPECIFIC AUTHORITY: 456.017(2), 463.006(2), 463.05 FS.
LAW IMPLEMENTED: 456.017(2), 463.006(2) FS.

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

TIME AND DATE: 10:00 a.m., June 13, 2001
PLACE: Room 324, Collins Building, 107 W. Gaines Street, Tallahassee, FL

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Joe Baker, Jr., Executive Director, Board of Optometry/MQA, 4052 Bald Cypress Way, Bin #C07, Tallahassee, Florida 32399-3257

THE FULL TEXT OF THE PROPOSED RULE IS:

64B13-4.001 Examination Requirements.

The examination for licensure shall consist of the National Board of Examiners in Optometry examination (hereafter NBEO examination), the certification examination, and Parts I and II of the state examination for licensure.

- (1) No change.
- (2) State Examination
- (a) through (c) No change.
- (d) Part II of the state examination shall consist of a clinical portion and a pharmacology/ocular disease portion.
 - 1. through 3. No change.
 - 4. An applicant must attain a score of 80 percent ~~75 points~~ or better in order to secure a passing grade on the clinical portion of the practical examination.
 - 5. through 6. No change.
- (3) No change.

Specific Authority 456.017(2), 463.006(2), 463.05 FS. Law Implemented 456.017(2), 463.006(2) FS. History--New 11-13-79, Amended 5-28-80, 7-10-80, 8-20-81, 2-14-82, 6-6-82, 10-3-82, 4-10-84, 5-29-85, Formerly 21Q-4.01, Amended 7-21-86, 11-20-86, 7-27-87, 7-11-88, 7-18-91, 4-14-92, Formerly 21Q-4.001, Amended 2-14-94, Formerly 61F8-4.001, Amended 8-8-94, 11-21-94, 4-21-96, Formerly 59V-4.001, Amended 7-27-99, _____.

NAME OF PERSON ORIGINATING PROPOSED RULE:
Board of Optometry
NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Board of Optometry
DATE PROPOSED RULE APPROVED BY AGENCY HEAD: March 30, 2001
DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: April 27, 2001

DEPARTMENT OF HEALTH

Board of Psychology

RULE TITLES:	RULE NOS.:
Examination	64B19-11.001
Supervised Experience Requirements	64B19-11.005
Rule Governing Time Limits and Conditions for the Maintenance of an Active Application File	64B19-11.007

PURPOSE AND EFFECT: The Board proposes to update the above rules.

SUMMARY: The Board is updating language in the above rules.

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

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

SPECIFIC AUTHORITY: 456.017(1)(b),(c), 490.004(4), 120.60 FS.

LAW IMPLEMENTED: 456.017(1)(b),(c),(d), 490.005(1) FS. IF REQUESTED WITHIN 21 DAYS OF THE DATE OF THIS NOTICE, A HEARING WILL BE SCHEDULED AND ANNOUNCED IN THE NEXT AVAILABLE ISSUE OF THE FLORIDA ADMINISTRATIVE WEEKLY.

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULES IS: Kaye Howerton, Executive Director, Board of Psychology, Department of Health, 4052 Bald Cypress Way, Tallahassee, Florida 32399-3257

THE FULL TEXT OF THE PROPOSED RULES IS:

- 64B19-11.001 Examination.
- (1) through (2) No change.

(3) The Board will certify as exempt from the ~~EPPP first part of the examination~~ those applicants who have taken the Association of State and Provincial Psychology Boards' examination in another state and obtained a score equal to or greater than the score required in subsection (1)(b) ~~or (c)~~.

(4)(a) No change.

(b) A passing score on the Florida laws and rules second part of the examination shall cease to be valid eighteen (18) months after the Board's letter to the applicant advising that the applicant has passed the Florida laws and rules second part of the examination.

(c) The Board shall close the application file of any applicant who fails to pass ~~both parts the first part~~ of the examination within twenty-four (24) months of the Board's letter advising that the applicant has been approved for the examination. The Board shall close the application file of any applicant ~~or~~ who fails to submit evidence of completion of the post-doctoral supervised experience within twenty-four (24) eighteen (18) months of the Board's letter advising that the applicant has been approved ~~passed the second part of the examination~~.

Specific Authority 456.017(1)(b),(c), 490.004(4) FS. Law Implemented 456.017(1)(b), (c), (d), 490.005 FS. History--New 4-4-82, Amended 7-11-84, Formerly 21U-11.03, Amended 2-19-86, 12-30-86, 3-10-87, 11-21-88, 3-5-90, 1-16-92, Formerly 21U-11.003, Amended 6-14-94, Formerly 61F13-11.003, Amended 1-7-96, 6-26-97, Formerly 59AA-11.001, Amended 2-21-99, 5-1-2000, 1-10-01, _____.

~~64B19-11.005 Licensure by Examination:~~ Supervised Experience Requirements.

The law requires 4,000 hours of supervised experience for licensure. The Board recognizes that the applicant's internship satisfies 2,000 of those hours. This rule concerns the remaining 2,000 hours.

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

(a) No change.

(b) ~~A "cohesive training experience": one which meets the following criteria:~~

- ~~1. It averages at least twenty (20) hours a week over no more than one hundred four (104) weeks. Alternatively, it averages no more than forty (40) hours a week over no more than fifty two (52) weeks;~~
- ~~2. It requires at least 900 hours in service related activities;~~
- ~~3. It includes an average of at least two (2) hours of clinical supervision each week, at least one (1) hour of which is individual face to face supervision.~~

(b)(e) "Psychological Resident or Applicant." A psychological resident is a person who has met Florida's educational requirements for licensure and intends from the outset of the supervised experience to meet that part of the supervised experience requirement for licensure which is not part of the person's internship.

(c)(d) "Supervisor." A supervisor is either a licensed Florida psychologist in good standing with the Board, or a doctoral-level psychologist licensed in good standing in another state providing supervision for licensure in that state.

(2) Requirements and Prohibitions. All applicants for licensure must complete at least 2,000 hours of post doctoral experience under a supervisor whose supervision comports with subsection (3) of this rule.

(a) through (b) No change.

(c) The post-doctoral training must be a cohesive and integrated training experience which meets the following criteria:

1. It averages at least twenty (20) hours a week over no more than one hundred and four (104) weeks. Alternatively, it averages no more than forty (40) hours a week over no more than fifty-two (52) weeks;

2. It requires at least 900 hours in activities related to direct client contact;

3. It includes an average of at least two (2) hours of clinical supervision each week, at least one (1) hour of which is individual face-to-face supervision.

(3) No change.

(4) Until licensure, an individual who completes post doctoral training residency may continue to practice under supervision so long as the individual does so in the manner prescribed by this rule and so long as the individual has applied for licensure and no final order of denial has been entered in the application case before the Board.

Specific Authority 490.004(4) FS. Law Implemented 490.005(1) FS. History--New 11-18-92, Amended 7-14-93, Formerly 21U-11.007, Amended 6-14-94, Formerly 61F13-11.007, Amended 1-7-96, Formerly 59AA-11.005, Amended 12-4-97, _____.

64B19-11.007 Rule Governing Time Limits and Conditions for the Maintenance of an Active Application File.

~~(1) The Board will close the application file of any applicant who has not passed the examination within four (4) administrations immediately following the date on which the Board has approved the application.~~

(1)(2) The Board will close the file of any applicant for licensure by examination who has not submitted evidence of the applicant's completion of the supervised experience within twenty-four (24) ~~eighteen (18)~~ months of the Board's letter advising that the applicant has been approved for notifying the applicant of the passing score on either part of the examination.

(2)(3) The application of one who fails to take either the examination for which the applicant is initially scheduled or the next subsequent one, shall be closed.

Specific Authority 120.60 FS. Law Implemented 490.005 FS. History--New 1-16-92, Formerly 21U-11.009, Amended 6-14-94, Formerly 61F13-11.009, Amended 1-7-96, Formerly 59AA-11.007, Amended _____.

NAME OF PERSON ORIGINATING PROPOSED RULE:
Board of Psychology

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Board of Psychology
DATE PROPOSED RULE APPROVED BY AGENCY HEAD: March 3, 2001
DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: April 13, 2001

DEPARTMENT OF HEALTH

Board of Psychology

RULE TITLES:	RULE NOS.:
Application and Examination Fee for Licensure by Examination; Review Fee	64B19-12.002
Reexamination Fee	64B19-12.003
Initial Fee for Licensure and Wall Certificate	64B19-12.0041
Biennial Active Renewal Fee	64B19-12.005
Biennial Inactive Renewal Fee	64B19-12.007
Delinquency Fee	64B19-12.0085
Continuing Education Provider Fees	64B19-12.009

PURPOSE AND EFFECT: The Board proposes to update the above rules.

SUMMARY: The Board is updating language in the above rules.

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

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

SPECIFIC AUTHORITY: 456.013(2), 490.004(4), 490.005(1)(a), 456.017(2), 456.015(1),(4), 456.025(1), 490.007(1), 456.036(3), 456.036(7), 456.025(3),(4), 490.0085(4) FS.

LAW IMPLEMENTED: 456.013(2), 490.005(1)(a), 456.017(2), 490.006, 456.015, 456.025(1), 490.007(1), 456.036(3), 456.036(7), 456.025(3),(4), 490.0085 FS.

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

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULES IS: Kaye Howerton, Executive Director, Board of Psychology, Department of Health, 4052 Bald Cypress Way, Tallahassee, Florida 32399-3257

THE FULL TEXT OF THE PROPOSED RULES IS:

64B19-12.002 Application and Examination Fee for Licensure by Examination; Review Fee.

(1) No change.

(2) In addition to the application fee specified above, each applicant for certification for examination shall ~~simultaneously~~ submit the examination fees. The examination fee for both

parts of the examination is \$500.00. An applicant who is certified as exempt from the ~~EPPP first part of the examination~~ shall be required to pay an examination fee of \$120.00, and the remainder of the full fee submitted will be returned to the applicant.

(3) No change.

(4) An applicant who wishes to review ~~the second part of the applicant's own Florida laws and rules~~ examination shall remit a fee of \$30.00.

Specific Authority 456.013(2), 490.004(4), 490.005(1)(a) FS. Law Implemented 456.013(2), 490.005(1)(a) FS. History--New 2-22-82, Amended 7-2-84, Formerly 21U-12.02, Amended 11-21-88, 8-12-90, 1-16-92, Formerly 21U-12.002, Amended 10-12-93, 6-14-94, Formerly 61F13-12.002, Amended 1-7-96, 6-26-97, Formerly 59AA-12.002, Amended 12-3-98, 6-28-00, _____.

64B19-12.003 Reexamination Fee.

(1) The reexamination fee for taking both parts of the licensure examination ~~at one time~~ is ~~\$500.00~~ \$465.00.

(2) The reexamination fee for only the ~~EPPP first part of the examination~~ is ~~\$500.00~~ \$380.00.

(3) The reexamination fee for only the Florida laws and rules ~~second part of the examination~~ is \$120.00.

Specific Authority 456.017(2), 490.004(4) FS. Law Implemented 456.017(2) FS. History--New 2-22-82, Amended 7-11-84, Formerly 21U-12.03, Amended 7-18-88, 8-12-90, 1-16-92, Formerly 21U-12.003, Amended 10-12-93, Formerly 61F13-12.003, Amended 1-7-96, Formerly 59AA-12.003, Amended 12-3-98, 1-10-01, _____.

64B19-12.0041 ~~Wall Certificate and~~ Initial Fee for Licensure and Wall Certificate.

(1) ~~The initial fee for licensure is \$400.00.~~

(2)(+) Licensees licensed prior to July 1, 1998 may obtain wall certificates by submitting a written request to the Board along with a \$25.00 fee.

(3)(+) Licensees may obtain a duplicate wall certificate by submitting a written request to the Board along with a \$25.00 fee.

(4)(+) Licensees may obtain duplicate licenses for replacement of a lost or destroyed license by submitting a written request to the Board along with a \$25.00 fee.

(4) ~~The initial fee for licensure is \$250.00.~~

Specific Authority 490.004(4) FS. Law Implemented 456.013(2), 490.005(1)(a), 490.006(1) FS. History--New 7-7-86, Amended 6-1-89, 1-16-92, Formerly 21U-12.0041, 61F13-12.0041, Amended 1-7-96, Formerly 59AA-12.0041, Amended 1-25-00, _____.

64B19-12.005 Biennial Active Renewal Fee.

The fee for renewal of an active license is ~~\$400.00~~ \$300.00. The fee for renewal of a limited license is \$25.00, unless the applicant submits a notarized statement from the applicant's employer stating that the applicant will not receive monetary compensation for any service involving the practice of psychology, in which case there will be no fee.

Specific Authority 456.015(1), (4), 456.025(1), 490.004(4), 490.007(1) FS. Law Implemented 456.015, 456.025(1), (4), 490.007(1) FS. History--New 2-22-82, Formerly 21U-12.05, Amended 6-1-89, Formerly 21U-12.005, Amended 6-14-94, Formerly 61F13-12.005, Amended 1-7-96, Formerly 59AA-12.005, Amended 12-3-98, _____.

64B19-12.007 Biennial Inactive Renewal Fee.

The fee for renewal of an inactive license is ~~\$400.00~~ \$50.00.

Specific Authority 456.036(3) FS. Law Implemented 456.036(3) FS. History--New 1-19-84, Formerly 21U-12.07, Amended 1-4-88, 6-1-89, 8-12-90, Formerly 21U-12.007, 61F13-12.007, Amended 1-7-96, Formerly 59AA-12.007, Amended _____.

64B19-12.0085 Delinquency Fee.

If licensure is not renewed on time, the licensee shall pay a delinquency fee of ~~\$400.00~~ \$300.

Specific Authority 456.036(7) FS. Law Implemented 456.036(7) FS. History--New 1-7-96, Formerly 59AA-12.0085, Amended _____.

64B19-12.009 Continuing Education Provider Fees.

(1) No change.

(2) The application or renewal fee shall be paid to the Department of Health by February 28 of every even numbered year.

Specific Authority 456.025(3),(4), 490.0085(4) FS. Law Implemented 456.025(3),(4), 490.0085 FS. History--New 10-14-87, Amended 6-23-91, 10-28-92, Formerly 21U-12.001, Amended 61F13-12.011, Amended 1-7-96, Formerly 59AA-12.009, Amended 9-20-98, _____.

NAME OF PERSON ORIGINATING PROPOSED RULE:

Board of Psychology

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

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: March 3, 2001

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: April 13, 2001

DEPARTMENT OF HEALTH

Board of Psychology

RULE TITLES:	RULE NOS.:
Renewal of Active Licenses	64B19-13.001
Renewal of Inactive Licenses	64B19-13.002
Continuing Psychological Education Credit	64B19-13.003
Obligations of continuing Psychological Education Providers	64B19-13.005

PURPOSE AND EFFECT: The Board proposes to update the above rules.

SUMMARY: The Board is updating language in the above rules.

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

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

SPECIFIC AUTHORITY: 456.013(7), 490.004(4), 490.007(2), 456.036, 490.0085(4) FS.

LAW IMPLEMENTED: 490.007(2), 456.036, 490.0085(1),(3) FS.

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

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULES IS: Kaye Howerton, Executive Director, Board of Psychology, Department of Health, 4052 Bald Cypress Way, Tallahassee, Florida 32399-3257

THE FULL TEXT OF THE PROPOSED RULES IS:

64B19-13.001 Renewal of Active Licenses.

To renew an active license, the licensee must remit to the Department the biennial renewal licensure fee for active licenses, and sign a statement certifying that the licensee has completed the forty (40) hours of approved continuing education which were required during the last biennium.

Specific Authority 456.013(7), 490.004(4), 490.007(2) FS. Law Implemented 490.007(2) FS. History--New 2-22-82, Amended 5-2-84, Formerly 21U-13.01, Amended 7-18-88, 1-28-93, Formerly 21U-13.001, 61F13-13.001, Amended 1-7-96, 6-26-97, Formerly 59AA-13.001, Amended _____.

64B19-13.002 Renewal of Inactive Licenses.

To maintain an inactive license on inactive status, the licensee must remit the biennial renewal fee for inactive status and sign a statement certifying that the licensee has neither practiced psychology nor violated any of the provisions of Section 490.012, Florida Statutes, since the date on which the license was first placed on inactive status.

Specific Authority 456.036 FS. Law Implemented 456.036 FS. History--New 1-19-84, Formerly 21U-13.016, Amended 1-4-88, 4-26-93, Formerly 21U-13.0016, 61F13-13.0016, Amended 1-7-96, Formerly 59AA-13.002, Amended _____.

64B19-13.003 Continuing Psychological Education Credit.

(1) Continuing psychological education credit will be granted for:

- (a) through (e) No change.
- (f) attainment of diplomate status in a specialty area from the American Board of Professional Psychology, ~~the American Board of Forensic Psychology, or the American Board of Psychological Hypnosis, except that only for which thirty-nine (39) twenty (20)~~ continuing psychological education credits, not including the one-hour continuing education course on domestic violence required by Section 456.031, Fla. Stat., will be allowed only during the biennium during which the diplomate is first awarded;
- (g) through (h) No change.
- (2) through (4) No change.

Specific Authority 490.004(4), 490.0085(4) FS. Law Implemented 490.007(2), 490.0085(1),(3) FS. History--New 1-28-93, Amended 7-14-93, Formerly 21U-13.0042, Amended 6-14-94, Formerly 61F13-13.0042, Amended 2-8-96, 11-18-96, Formerly 59AA-13.003, Amended 1-10-01, _____.

64B19-13.005 Obligations of Continuing Psychological Education Providers.

(1) To maintain status as a continuing psychological education provider, the provider must:

- (a) No change.
- (b) provide each program attendee with an evaluation form which contains the following words: The Board of Psychology ~~Psychological Examiners~~ will not revoke the continuing psychological education credit given to any psychologist for the completion of any continuing psychological education program sponsored by a provider whose status is later revoked by the Board as a result of any complaint registered against the program by a psychologist;
- (c) through (h) No change.
- (i) maintain active status as a continuing psychological education provider by conducting at least one (1) program a year for psychologists, renewing provider status each biennium, and paying the biennial renewal fee of \$500 so that it is postmarked no later than received by the Board by 5:00 p.m. of the last date of the biennial renewal period;
- (j) through (k) No change.

- (2) No change.

Specific Authority 490.004(4), 490.0085(4) FS. Law Implemented 490.007(2), 490.0085(1),(3) FS. History--New 1-28-93, Formerly 21U-13.006, Amended 6-14-94, Formerly 61F13-13.006, Amended 1-7-96, Formerly 59AA-13.005, Amended _____.

NAME OF PERSON ORIGINATING PROPOSED RULE: Board of Psychology

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

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: March 3, 2001

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: April 13, 2001

DEPARTMENT OF HEALTH

Board of Psychology

RULE TITLES:	RULE NOS.:
Request for Inactive Status	64B19-15.001
Reactivation of Inactive Licenses	64B19-15.003

PURPOSE AND EFFECT: The Board proposes to update the above rules.

SUMMARY: The Board is updating language in the above rules.

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

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

SPECIFIC AUTHORITY: 490.004(5), 456.036 FS.

LAW IMPLEMENTED: 456.036, 490.004(4),(5) FS.

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

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULES IS: Kaye Howerton, Executive Director, Board of Psychology, Department of Health, 4052 Bald Cypress Way, Tallahassee, Florida 32399-3257

THE FULL TEXT OF THE PROPOSED RULES IS:

64B19-15.001 ~~Request Application~~ for Inactive Status.

A licensee with an active license may request apply to the Department for inactive licensure status by submitting a written request ~~completed application form provided by the Agency~~ and remitting ~~an application fee and any other applicable and required fees, such as a delinquency fee or a fee to change status at any time other than the time allowed by the Agency for licensure renewal.~~

Specific Authority 490.004(5), 456.036 FS. Law Implemented 456.036, 490.004(4),(5) FS. History—New 2-10-87, Amended 1-4-88, Formerly 21U-19.001, 61F13-19.001, Amended 1-7-96, Formerly 59AA-15.001, Amended

64B19-15.003 Reactivation of Inactive Licenses.

A licensee may reactivate his or her own inactive license and thereby place the license on active status by making application on a form DOH/MQA/PY-REACT APP/REV. 2-00, which is adopted and incorporated by reference herein available from the Department, paying the application fee set out in Rule 64B19-12.006, paying the fee for biennial renewal of an active license set out in Rule 64B19-12.005, paying any owed delinquency fees and paying any owed fees for changing status at any time other than the time established for the biennial renewal of licenses. In addition, the licensee must submit proof certify that the licensee has obtained forty (40) hours of continuing education for each biennium or part thereof of inactive licensure status. Finally, the licensee must either report any disciplinary action that has been taken against the licensee by any regulatory agency or must state that no such disciplinary action has been taken against the licensee. If the licensee has any outstanding administrative fines, the license may not be restored to active status until the administrative fines are paid.

Specific Authority 490.004(5), 456.036 FS. Law Implemented 456.036 FS. History—New 1-19-84, Formerly 21U-13.015, 21U-13.0015, 21U-19.003, 61F13-19.003, Amended 1-7-96, Formerly 59AA-15.003, Amended

NAME OF PERSON ORIGINATING PROPOSED RULE: Board of Psychology

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

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: March 3, 2001

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: April 13, 2001

DEPARTMENT OF CHILDREN AND FAMILY SERVICES

Economic Self-Sufficiency Program

RULE TITLE: RULE NO.:

Work Requirements Under Medical Incapacity, SSI/SSD, and Mental Health/Substance Abuse Treatment 65A-4.206

PURPOSE AND EFFECT: The 2000 Legislature amended ss. 414.065(4)(d),(e),(f) and 414.105(11), F.S., related to exceptions to participation in temporary cash assistance (TCA) work activities to include individuals with a pending application or appeal for Social Security Disability Income (SSDI) benefits and to allow up to five hours per week participation in substance abuse or mental health counseling or treatment. Additionally, the amendments clarify that time limit extensions granted to await final determination for Supplemental Security Income (SSI) or SSDI will be applied to the 48-month lifetime limit if benefits are ultimately denied.

SUMMARY: The rule amendment provides for the shift of responsibility from local WAGES coalitions (LWC) to regional workforce boards (RWB) to determine appropriate TCA work or alternative requirement plan activities for non-exempt applicants and recipients of TCA with a medical incapacity and for individuals with a pending SSDI application or appeal to be granted an exemption to TCA work requirements. It also provides for individuals to be exempt from TCA work requirements for up to five hours per week, not to exceed 100 hours per year, to participate in outpatient mental health or substance abuse counseling or treatment. Additionally, it clarifies that extensions granted for SSI or SSDI determinations that are ultimately denied would result in the time period for which the individual received TCA to be applied to the 48-month lifetime limit and it incorporates form revisions to reflect statutory changes.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COST: None.

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

SPECIFIC AUTHORITY: 414.45 FS.

LAW IMPLEMENTED: 414.065(4)(d),(e),(f), 414.105(11) FS.

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

TIME AND DATE: 9:00 a.m., June 11, 2001

PLACE: 1317 Winewood Boulevard, Building 3, Room 455, Tallahassee, Florida 32399-0700

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Audrey Mitchell, Program Administrator, Economic Self-Sufficiency, Program Support Unit, 1317 Winewood Boulevard, Bldg. 3, Room 421, Tallahassee, Florida 32399-0700, Telephone (850)488-3090

THE FULL TEXT OF THE PROPOSED RULE IS:

65A-4.206 Work Requirements Under for Medical Incapacity, and SSI/SSDI, and Mental Health/Substance Abuse Treatment Applicants.

(1) The provisions for receipt of temporary cash assistance (TCA) include the requirement of individuals who do not meet exemptions to participate in work activities or alternative requirement plans which allow an individual to meet program requirements based on the individual's medical ability to comply. Individuals who claim a medical incapacity or who have an application or an appeal pending for Supplemental Security Income (SSI) or Social Security Disability Income (SSDI) are required to meet TCA program requirements in accordance with ss. 414.065(4)(d) and (f). The department will refer all applicants who do not meet an exemption under s. 414.065(4)(d) and (f), F.S., to the regional workforce board (RWB) designee. The RWB designee local WAGES coalitions will determine the individual's work or alternative requirement plan activities participation status of individuals who claim a medical incapacity or who have applied for Supplemental Security Income (SSI) due to disability.

(2) Non-exempt individuals who are given an exception exempt from participation in certain work activities due to medical incapacity, and those individuals who have applied for SSI due to disability, shall be required to comply with the course of medical treatment necessary for the individual to resume participation in work activities.

(3) Individuals claiming a medical incapacity either preventing them from participating in work activities or limiting their participation in work activities shall provide a statement from a physician licensed under s. 458 or 459, F.S., specifying the nature of the disability or incapacity, the duration of disability or incapacity, the number of hours per week that the individual can participate in activities, the percentage of the individual's disability and any other limitations on participation in work activities. The individual will provide this information on CF-ES 2288, Request for Medical Verification, Oct 99, incorporated by reference.

(4) The individual basing exemption from temporary cash assistance work activities on an application or an appeal for SSI or SSDI disability benefits must provide a copy of the disability receipt file, notices, letters, or other reasonable verification from the Social Security Administration to verify a pending SSI or SSDI disability decision.

(5)(4) No change.

(6)(5) The individual basing their exemption from temporary cash assistance work activities on an application or appeal for SSI or SSDI disability benefits shall be sign an Agreement of Understanding, CF-ES 2287, Oct 99, incorporated by reference, which informs the individual that if denied all extensions to time limits count toward their cash assistance life time limit of 48 months.

(7) Outpatient Mental Health or Substance Abuse Treatment. An individual may be excepted from TCA work requirements for up to five hours per week to participate in outpatient mental health or substance abuse counseling or treatment. The total number of hours cannot exceed 100 per year. The RWB designee will be responsible for verifying the need for treatment, attendance, and compliance with treatment requirements of the mental health or substance abuse professional using the CF-ES 2299, Substance Abuse and Mental Health (SAMH) Treatment Verification, Jan 01, incorporated by reference.

(8)(6) The RWB designee local WAGES coalition career manager will review the case at least monthly to determine the status of the SSI or SSDI application or appeal. The Agreement of Understanding will be re-signed every six months.

(9)(7) Copies of forms CF-ES 2299 CF-ES 2287, and CF-ES 2288 may be obtained from the Department of Children and Family Services, Economic Self-Sufficiency Program Office, 1317 Winewood Boulevard, Building 3, Room 421, Tallahassee, Florida 32399-0700.

Specific Authority 414.45 FS. Law Implemented 414.065(4)(d),(e),(f), 414.105(11) FS. History--New 4-16-00, Amended _____.

NAME OF PERSON ORIGINATING PROPOSED RULE: Lonna Cichon, Operations and Management Consultant II

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Audrey Mitchell, Program Administrator, Economic Self-Sufficiency Policy, Program Support Unit

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: April 19, 2001

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: September 29, 2000