

Section III Notices of Changes, Corrections and Withdrawals

DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES

Division of Marketing and Development

RULE NOS.:	RULE TITLES:
5H-26.001	Purpose
5H-26.002	Definitions
5H-26.003	General Requirements Relating to the Sale or Purchase of Horses
5H-26.004	Bill of Sale

NOTICE OF CHANGE

Notice is hereby given that the following changes have been made to the proposed rule in accordance with subparagraph 120.54(3)(d)1., F.S., published in Vol. 34, No. 4, January 25, 2008 issue of the Florida Administrative Weekly.

5H-26.001 Purpose.

The purpose of this rule chapter is to address unfair and deceptive trade practices surrounding the sale and purchase of horses in Florida. This rule enhances consumer protection by implementation of minimum requirements relating to the sale and purchase of horses in Florida.

Specific Authority 535.16 FS. Law Implemented 535.16, 570.07(36) FS. History--New ____.

5H-26.002 Definitions.

As used in this rule chapter, the following definitions shall apply:

(1) "Dual Agent" means a person who knowingly agrees with the Owner and the Purchaser of a horse, either individually or jointly, to act in a fiduciary capacity on behalf of both the Owner and the Purchaser in exchange for the promise of compensation. Auction companies or persons licensed to conduct public sales of thoroughbred horses under Chapter 535, F.S., shall not be deemed to be dual agents under this rule chapter.

(2) "Horse" means an equine as defined in Section 773.01(2), F.S.

(3) "Trainer" means a person who trains horses for contests, shows, or performances.

Specific Authority 535.16 FS. Law Implemented 535.16, 570.07(36) FS. History--New _____.

5H-26.003 General Requirements Relating To the Sale or Purchase of Horses.

(1) Any sale or purchase of a horse or any interest therein in Florida shall be accompanied by a written bill of sale described in Rule 5H-26.004, F.A.C., except as provided in subsection (8).

(2) A person shall not act as a dual agent in a transaction involving the sale or purchase of an interest in a horse without:

(a) The prior knowledge of both the Purchaser and the Owner; and

(b) Written consent of both the Purchaser and the Owner.

(3) No person acting as an agent for a Purchaser or an Owner, or acting as a dual agent, in a transaction involving the sale or purchase of a horse or any interest therein, may receive consideration, compensation, fees, a gratuity, or any other item of value in excess of five hundred dollars (\$500), related directly or indirectly to such transaction, from an individual or entity, including any consignor involved in the transaction, other than the agent's principal, unless:

(a) The agent receiving, and the person or entity making, the payment disclose in writing the payment to both the Purchaser and Owner; and

(b) Each principal for whom the agent is acting consents in writing to the payment.

(4) Any person acting as an agent for a Purchaser or an Owner or acting as a dual agent in a transaction involving the sale or purchase of a horse or any interest therein shall, upon request by his or her principal or principals, furnish copies of all financial records and financial documents in the possession or control of the agent pertaining to the transaction to the principal or principals. For purposes of this section, financial records shall not include the agent's or Owner's work product used to internally evaluate the horse.

(5) An agent or trainer shall not purchase on behalf of its principal, nor recommend that its principal purchase or have purchased, any horse in which the agent or trainer has a legal or equitable ownership interest, either directly or through an entity in which the agent or trainer exercises any ownership or control, without the prior knowledge of the principal and the principal's written consent, if practicable.

(6) Except as provided in subsection (4), nothing in this rule chapter shall require disclosure of compensation arrangements between a principal and an agent where no dual agency exists, where the agent is acting solely for the benefit of his or her principal, and where the agent is being compensated solely by his or her principal. Further, for any sale or purchase of a horse or any interest therein in Florida through a public auction or a public sale of thoroughbred horses licensed under Chapter 535, F.S., nothing in this rule chapter shall require disclosure of the reserves, the identity of the Owner or Purchaser, or the auctioneer's commissions.

(7) No contract or agreement for payment of a commission, fee, gratuity, or any other form of compensation to a dual agent in connection with any sale or purchase of a horse or any interest therein shall be enforceable by way of an action or defense unless the contract or agreement is in writing and is signed by the party against whom enforcement is sought.

(8) For any sale or purchase of a horse or any interest therein in Florida through either a public auction or a public sale of thoroughbred horses licensed under Chapter 535, F.S., any bill of sale requirement contained in Chapter 5H-26, F.A.C., may be satisfied by the issuance of an auction receipt or acknowledgement of purchase, generated by the auction company or licensee, stating the name of the horse or the hip number used to identify it for purposes of the public auction or public sale, the date of purchase, and the purchase price, signed by the Purchaser or the Purchaser's agent. The auction receipt or acknowledgement of purchase shall expressly state or incorporate by reference all conditions of the sale, including the terms of any warranties.

(9) During the conduct of any sale of a horse or any interest therein in Florida through a public auction of horses or a public sale of thoroughbred horses licensed under Chapter 535, F.S., the auction company or licensee shall provide a medical information center on the sales grounds for placement of any medical records on a horse that the Owner or its agent may choose to provide for review by Purchasers and their agents. The auction company or licensee may require in its conditions of sale that an Owner or agent include specific types of medical records in any documentation placed in the center.

(10)(a) An Owner or its agent that has subjected a horse to one or more of the following treatments within 7 days prior to the private sale of the horse or any interest therein shall disclose this fact to the Purchaser prior to the sale:

1. Extra-corporal shockwave therapy or radio pulse-wave therapy.

2. Acupuncture, electro-stimulation, or both, with the intent or effect of altering laryngeal function of the horse.

3. Internal blister or other injections behind the knee, which are intended to or which have the effect of concealing the true conformation of the horse.

4. The use of any electrical or mechanical device designed or used to shock or prod a horse for the purpose of increasing the horse's speed when it is being exhibited prior to sale, except for the use of a whip, spurs, or items otherwise permitted by the rules of the governing breed association, federation, or other regulatory body.

(b) In any sale of a horse or any interest therein in Florida through a public auction of horses or a public sale of thoroughbred horses licensed under Chapter 535, F.S., the auction company or licensee shall include in its conditions of sale a prohibition on the treatments specified in subparagraphs (a)1-4. while the horse is on the sales grounds and shall provide specific procedures and means for redress in the event of violations.

(11) With regard to any sale of a horse or any interest therein in Florida through a public auction of horses or a public sale of thoroughbred horses licensed under Chapter 535, F.S., an auction company or licensee that publicly disseminates initial sales results from that auction or public sale shall

disclose, within 90 days of the end of the auction or public sale, any such sales that were ultimately determined by the auction company or licensee, based upon the information it receives in the ordinary course of business, as "reserve not attained" or "not sold." The auction company or licensee shall make this disclosure in the same manner it used to publicly disseminate the initial sales results, as well as in response to any written inquiry to the auction company or licensee.

(12) When an Owner or its agent provides any medical information in response to an inquiry from a Purchaser or its agent about the medical history of a horse, the Owner or its agent shall accurately disclose all information within its knowledge that is responsive to the inquiry.

(13) A violation of any provision of Chapter 5H-26, F.A.C., resulting in actual damages to a person, shall be considered an unfair and deceptive trade practice pursuant to Chapter 501, Part II, F.S.

Specific Authority 535.16 FS. Law Implemented 535.16, 570.07(36) FS. History--New_____.

5H-26.004 Bill of Sale.

Except as provided in subsection 5H-26.003(8), F.A.C., the sale or purchase of a horse or any interest therein in Florida must be accompanied by a written bill of sale that must include at a minimum the following:

(1) The name, address, and signature of the Purchaser, the Owner, or their duly authorized agents. In a transaction solely relating to a stallion season, breeding right, or fractional interest in a horse, the syndicate manager or horse manager may serve as an acceptable agent in response to this requirement.

(2) The name of the horse, and its sire and dam if known.

(3) The breed and registry status of the horse, if applicable and if known.

(4) The age of the horse, if known.

(5) The date of the sale.

(6) The purchase price of the horse.

(7) The following statement: "As the person signing below on behalf of the Owner, I hereby confirm that I am the lawful Owner of this horse or the Owner's duly authorized agent, and I am authorized to convey legal title to the horse pursuant to this bill of sale."

(8) The following statement: "As the person signing below on behalf of the Purchaser, I understand that any warranties or representations from the Owner or the Owner's agent that I am relying upon in acquiring this horse, including warranties or representations with respect to the horse's age, medical condition, prior medical treatments, and the existence of any liens or encumbrances, should be stated in writing as part of this bill of sale."

Specific Authority 535.16 FS. Law Implemented 535.16, 570.07(36) FS. History--New_____.

DEPARTMENT OF EDUCATION

State Board of Education

RULE NO.: 6A-1.09981
 RULE TITLE: Implementation of Florida’s System of School Improvement and Accountability

NOTICE OF CHANGE

Notice is hereby given that the following changes have been made to the proposed rule in accordance with subparagraph 120.54(3)(d)1., F.S., published in Vol. 34, No. 11, March 14, 2008 issue of the Florida Administrative Weekly.

The notice of change issued in the May 2, 2008, edition of the Florida Administrative Weekly was in error. The change should be noticed as follows:

Subparagraph (1)(a)3., and paragraph (8)(b) are amended to read:

(1)(a)3. Schools designated as Performance Grade “C” or above shall be required to demonstrate that adequate progress in reading, defined as annual learning gains in paragraph (5)(b) of this rule, has been made by the lowest twenty-five (25) percent of students in the school who scored at or below FCAT Achievement Level 3, based on their previous year’s FCAT score. The minimum requirement for adequate progress is deemed to be met when at least fifty (50) percent of such students make learning gains as defined in paragraph (5)(b) of this rule. If the percent of such students making learning gains is below fifty (50) percent in the current year, adequate progress can be met if:

a. Schools demonstrate a one (1) percentage point improvement in the percent of such students making learning gains over the prior year, if the percent of such students making learning gains is at least forty (40) percent in the current year; or

b. Schools demonstrate a five (5) percentage point improvement in the percent of such students making learning gains over the prior year, if the percent of such students making learning gains is below forty (40) percent in the current year.

If the minimum requirement for adequate progress in reading among the lowest twenty-five (25) percent of students in the school is not met, the School Advisory Council shall amend its School Improvement Plan to include a component for improving learning gains of the lowest performing students. If a school otherwise designated as Performance Grade “B” or “C” does not make adequate progress, as defined above, in at least one (1) of two (2) consecutive years, the final Performance Grade designation shall be reduced by one (1) letter grade. No school shall be designated as Performance Grade “A” unless the adequate progress criterion in reading, ~~learning gains for at least half of the lowest performing students~~, is met each year.

(8)(b) Math lowest twenty-five (25) percent will be added as an additional category of performance beginning in 2006-07. For this category of achievement, schools will earn one (1) point for each

percent of students in the lowest twenty-five (25) percent in mathematics in the school who make learning gains as defined in paragraph (5)(b) of this rule. Improvement of the lowest twenty-five (25) percent of students in mathematics in each grade, as defined in paragraph (5)(b) of this rule, shall be aggregated for each school, unless the students so designated are performing above proficiency, defined as FCAT Achievement Levels 4 and 5.

1. Schools designated as Performance Grade “C” or above shall be required to demonstrate that adequate progress in mathematics, defined as annual learning gains in paragraph (5)(b) of this rule, has been made by the lowest twenty-five (25) percent of students in the school who scored at or below FCAT Achievement Level 3, based on their previous year’s FCAT score. The minimum requirement for adequate progress is deemed to be met when at least fifty (50) percent of such students make learning gains as defined in paragraph (5)(b) of this rule. If the percent of such students making learning gains is below fifty (50) percent in the current year, adequate progress can be met if:

a. Schools demonstrate a one (1) percentage point improvement in the percent of such students making learning gains over the prior year, if the percent of such students making learning gains is at least forty (40) percent in the current year; or

b. Schools demonstrate a five (5) percentage point improvement in the percent of such students making learning gains over the prior year, if the percent of such students making learning gains is below forty (40) percent in the current year.

If the minimum requirement for adequate progress in mathematics among the lowest twenty-five (25) percent of students in the school is not met, the School Advisory Council shall amend its School Improvement Plan to include a component for improving learning gains of the lowest performing students. If a school otherwise designated as Performance Grade “B” or “C” does not make adequate progress, as defined above, in at least one (1) of two (2) consecutive years, the final Performance Grade designation shall be reduced by one (1) letter grade. No school shall be designated as Performance Grade “A” unless the adequate progress criterion in mathematics, ~~learning gains for at least half of the lowest performing students~~, is met each year.

DEPARTMENT OF LAW ENFORCEMENT

Division of Local Law Enforcement Assistance

RULE NOS.:	RULE TITLES:
11D-8.002	Definitions
11D-8.003	Approval of Breath Test Methods and Instruments
11D-8.0035	Approval of Alcohol Reference Solution and Sources
11D-8.004	Department Inspection and Registration of Breath Test Instruments

11D-8.006	Agency Inspection of Breath Test Instruments
11D-8.007	Approved Breath Test Instruments – Access, Facility Requirements, Observation Period, and Operational Procedures
11D-8.0075	Agency Retention of Records
11D-8.008	Breath Test Operator and Agency Inspector
11D-8.011	Approval of Blood Alcohol Test Methods
11D-8.012	Blood Samples – Labeling and Collection
11D-8.013	Blood Alcohol Permit – Analyst
11D-8.014	Blood Alcohol Permit – Analyst: Renewal
11D-8.015	Denial, Revocation, and Suspension of Permits
11D-8.017	Forms

NOTICE OF WITHDRAWAL

Notice is hereby given that the above rule, as noticed in Vol. 34, No. 10, March 7, 2008 issue of the Florida Administrative Weekly has been withdrawn.

BOARD OF TRUSTEES OF THE INTERNAL IMPROVEMENT TRUST FUND

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

**EXECUTIVE OFFICE OF THE GOVERNOR
Office of Tourism, Trade and Economic Development**

RULE NOS.:	RULE TITLES:
27M-2.002	Application Procedures for Certification of a Facility For a Professional Sports Franchise
27M-2.003	Certification as a Facility for a New Professional Sports Franchise
27M-2.004	Certification as a Facility for Retained Professional Sports Franchise

NOTICE OF WITHDRAWAL

Notice is hereby given that the above rule, as noticed in Vol. 34, No. 7, February 15, 2008 issue of the Florida Administrative Weekly has been withdrawn.

**LAND AND WATER ADJUDICATORY COMMISSION
Capital Region Community Development District**

RULE NO.:	RULE TITLE:
42CC-1.002	Boundary

NOTICE OF WITHDRAWAL

Notice is hereby given that the above rule, as noticed in Vol. 34, No. 9, February 29, 2008 issue of the Florida Administrative Weekly has been withdrawn.

**LAND AND WATER ADJUDICATORY COMMISSION
Southeastern Community Development District**

RULE NOS.:	RULE TITLES:
42III-1.001	Establishment
42III-1.002	Boundary
42III-1.003	Supervisors

NOTICE OF WITHDRAWAL

Notice is hereby given that the above rule, as noticed in Vol. 34, No. 9, February 29, 2008 issue of the Florida Administrative Weekly has been withdrawn.

**DEPARTMENT OF ELDER AFFAIRS
Federal Aging Programs**

RULE NOS.:	RULE TITLES:
58A-5.0191	Staff Training Requirements and Competency Test
58A-5.035	Waivers

NOTICE OF CHANGE

Notice is hereby given that the following changes have been made to the proposed rule in accordance with subparagraph 120.54(3)(d)1., F.S., published in Vol. 34, No. 13, March 28, 2008 issue of the Florida Administrative Weekly.

58A-5.0191 Staff Training Requirements and Competency Test.

(1) through (11) No change.

Specific Authority ~~429.07~~, 429.178, 429.41, 429.52 FS. Law Implemented 429.07, 429.075, 429.178, 429.41, 429.52 FS. History–New 9-30-92, Formerly 10A-5.0191, Amended 10-30-95, 6-2-96, 4-20-98, 11-2-98, 10-17-99, 7-5-05, 7-30-06, 10-9-06,_____.

(Substantial rewording of Rule 58A-5.035 follows. See Florida Administrative Code for the present text.)

58A-5.035 Waivers.

The agency, in consultation with the department, may waive rules promulgated pursuant to Part I, Chapter 429, F.S., if the waiver request meets the conditions set forth in Section 429.41(4), F.S., and demonstrates and evaluates innovative or cost-effective congregate care alternative which will enable individuals to age in place.

(1) Application Process.

(a) No change.

(b) The written request must address the elements required in Section 429.41(4), F.S. In addition, the following information must be included in order to demonstrate how a waiver of the stated rule will permit development of a concept that will achieve the purpose of the underlying statute:-

1. through 6. No change.

(c) through (d) No change.

(2) In accordance with Section 120.542(6), F.S., the agency shall post notice of the request within fifteen (15) days of receipt of the request. The agency shall make any requests for additional information within 30 days of receipt of the request. If additional information is provided, the agency may request clarification of only that information no later than 30 days following receipt of the information. The agency must process the waiver request pursuant to the time frame referenced in Section 120.542(8), F.S. shall have no more than 90 days from the receipt of the request to enter a response to the request for waiver unless by mutual agreement of the agency and requestor.

(3) through (4) No change.

(5) Report of Findings. A facility that has been granted a waiver must submit an annual report within 12 months of the order granting the waiver as specified in Section 429.41(4)(3)(b), F.S. If the report is not submitted as required, the agency may revoke the waiver.

(a) The agency will review the report of findings to determine whether the waiver shall be renewed or revoked. The agency shall make the determination based on whether the facility has met the requirements outline in paragraph (1)(b) of this rule. The agency shall enter an order providing the general basis for making its decision and notify the licensee of its opportunity to seek review of a revocation in accordance with Sections 120.569 and 120.57, F.S. and Rule 28-106.111, F.A.C.

(b) through (d) No change.

Specific Authority 429.41 FS. Law Implemented 120.542, 429.41 FS. History—New 9-30-92, Formerly 10A-5.035, Amended 10-30-95,_____.

AGENCY FOR HEALTH CARE ADMINISTRATION

Health Facility and Agency Licensing

RULE NO.: 59A-3.2085
 RULE TITLE: Department and Services

NOTICE OF CHANGE

Notice is hereby given that the following changes have been made in accordance with subparagraph 120.54(3)(d)1., F.S., to the proposed rule published in Vol. 33, No. 39, September 28, 2007 issue of the Florida Administrative Weekly and subsequently amended by notices of change published in the November 16, 2007 Florida Administrative Weekly, Vol. 33, No. 46, and the March 28, 2008 Florida Administrative Weekly, Vol. 34, No. 13.

59A-3.2085 Department and Services.

(1) through (12) No change.

(13) Adult ~~Inpatient~~ Diagnostic Cardiac Catheterization Program. All licensed hospitals that establish adult diagnostic cardiac catheterization laboratory services under Section 408.0361, F.S., shall operate in compliance with the guidelines of the American College of Cardiology/American Heart Association regarding the operation of diagnostic cardiac catheterization laboratories. Hospitals are considered to be in

compliance with American College of Cardiology/American Heart Association guidelines when they adhere to standards regarding staffing, physician training and experience, operating procedures, equipment, physical plant, and patient selection criteria to ensure patient quality and safety. The applicable guideline, herein incorporated by reference, is the American College of Cardiology/Society for Cardiac Angiography and Interventions Clinical Expert Consensus Document on Cardiac Catheterization Laboratory Standards: Bashore et al, ACC/SCA&I Clinical Expert Consensus Document on Catheterization Laboratory Standards, JACC Vol. 37, No. 8, June 2001: 2170-214. Aspects of the guideline related to pediatric services or outpatient cardiac catheterization in freestanding non-hospital settings are not applicable to this rule. All licensed hospitals that establish an Adult Inpatient Diagnostic Cardiac Catheterization Program after July 1, 1997 pursuant to an exemption granted under Section 408.036(3)(n), F.S., shall comply with the provisions of the ACC/AHA Guidelines for Cardiac Catheterization and Cardiac Catheterization Laboratories JACC Volume 18, Number 5 of November 1, 1991, which establish the standards for Cardiac Catheterization and Cardiac Catheterization Laboratories, and which is hereby incorporated by reference, except as modified herein.

All such ~~exempted~~ licensed hospitals shall have a department, service or other similarly titled unit which shall be organized, directed and staffed, and integrated with other units and departments of the hospitals in a manner designed to assure the provision of quality patient care.

(a) Definitions. The following definitions shall apply specifically to all adult ~~inpatient~~ diagnostic cardiac catheterization programs, as described in this subsection 59A-3.2085(13), F.A.C.:

~~1.3.~~ “Diagnostic Cardiac Catheterization” means a procedure requiring the passage of a catheter into one or more cardiac chambers of the left and right heart, with or without coronary arteriograms, for the purpose of diagnosing congenital or acquired cardiovascular diseases, or for determining measurement of blood pressure flow; and also includes the selective catheterization of the coronary ostia with injection of contrast medium into the coronary arteries.

~~1.~~ “ACC/AHA” means the American College of Cardiology/American Heart Association.

~~2.~~ “JACC” means the Journal of the American College of Cardiology.

~~2.4.~~ “Adult Inpatient” means a person fifteen years of age or older who has been admitted for bed occupancy for the purposes of receiving inpatient hospital services.

~~5.~~ “Annual Program Volume” means the total number of inpatient and outpatient admissions to the adult cardiac catheterization program, for the purpose of diagnostic cardiac catheterization, for a 12 month period. A single admission is equivalent to one patient visit to the cardiac catheterization

program. Each patient visit shall be counted in determining the actual program volume regardless of whether the patient is an inpatient or outpatient at the hospital performing the procedure, or has been admitted as an inpatient or outpatient at another facility.

~~3.(b)~~ Therapeutic Procedures. An adult diagnostic cardiac catheterization program established pursuant to ~~an exemption granted under Section 408.0361, 408.036(3)(n), F.S.,~~ shall not provide therapeutic services, such as ~~balloon angioplasty percutaneous coronary intervention or stent insertion,~~ intended to treat an identified condition or the administering of intra-coronary drugs, such as thrombolytic agents.

4.(e) Diagnostic Procedures. Procedures performed in the adult diagnostic cardiac catheterization laboratory shall include, for example, the following:

- ~~a.1.~~ Left heart catheterization with coronary angiography and left ventriculography
- ~~b.2.~~ Right heart catheterization
- ~~c.3.~~ Hemodynamic monitoring line insertion
- ~~d.4.~~ Aortogram
- ~~e.5.~~ Emergency temporary pacemaker insertion
- ~~6.~~ Transesophageal electric pacing
- ~~f.7.~~ Myocardial biopsy
- ~~g.8.~~ Diagnostic trans-septal procedures
- ~~h.9.~~ Intra-coronary ultrasound (ICUS)
- ~~i.10.~~ Fluoroscopy
- ~~j.11.~~ Hemodynamic stress testing

~~(d) Annual Program Volume. The minimum program volume for an adult diagnostic cardiac catheterization service shall be either 300 admissions during the 12-month period commencing 18 months after a program becomes operational, or 150 admissions by at least one physician who performed diagnostic cardiac catheterizations during that period, with a second physician with at least 100 admissions for adult diagnostic cardiac catheterization during the same period. The program volume standard shall be met during each subsequent 12-month period. An annual report of compliance with this requirement shall be forwarded to the Agency's Certificate of Need Office.~~

~~(b)(e)~~ Support Equipment. A crash cart containing the necessary medication and equipment for ventilatory support shall be located in each cardiac catheterization procedure room. A listing of all crash cart contents shall be readily available. At the beginning of each shift, the crash cart shall be checked for intact lock; the defibrillator and corresponding equipment shall be checked for function and operational capacity. A log shall be maintained indicating review.

(c) Radiographic Cardiac Imaging Systems. A quality improvement program for radiographic imaging systems shall include measures of image quality, dynamic range and

modulation transfer function. Documentation indicating the manner in which this requirement will be met shall be available for the Agency's review.

~~(d)(f)~~ Physical Plant Requirements. Section 419.2.1.2, Florida Building Code, subsection 59A 3.081(53), F.A.C., contains the physical plant requirements for the adult diagnostic ~~inpatient~~ cardiac catheterization program.

~~(e)(g)~~ Personnel Requirements. There shall be an adequate number of trained personnel available. At a minimum, a team involved in cardiac catheterization shall consist of a physician, one registered nurse, and one technician.

(f) Quality Improvement Program. A quality improvement program for the adult diagnostic cardiac catheterization program laboratory shall include an assessment of proficiency in diagnostic coronary procedures, as described in the American College of Cardiology/Society for Cardiac Angiography and Interventions Clinical Expert Consensus Document on Cardiac Catheterization Laboratory Standards: Bashore et al, ACC/SCA&I Clinical Expert Consensus Document on Catheterization Laboratory Standards, JACC Vol. 37, No. 8, June 2001: 2170-214 guidelines. Essential data elements for the quality improvement program include the individual physician procedural volume and major complication rate; the institutional procedural complication rate; relevant clinical and demographic information about patients; verification of data accuracy; and procedures for patient, physician and staff confidentiality. Documentation indicating the manner in which this requirement will be met shall be available for the Agency's review.

~~(g)(h)~~ Emergency Services. Cardiac catheterization programs in a hospital not performing open heart surgery shall have a written protocol for the transfer of emergency patients to a hospital providing open heart surgery, which is within thirty minutes travel time by emergency vehicle under average travel conditions.

1. All providers of adult diagnostic cardiac catheterization program services in a hospital not licensed as a Level II adult cardiovascular services provider shall have written transfer agreements developed specifically for diagnostic cardiac catheterization patients with one or more hospitals that operate a Level II adult cardiovascular services program. Written agreements must be in place to ensure safe and efficient emergency transfer of a patient within 60 minutes. Transfer time is defined as the number of minutes between the recognition of an emergency as noted in the hospital's internal log and the patient's arrival at the receiving hospital. Transfer and transport agreements must be reviewed and tested at least every 3 months, with appropriate documentation maintained, including the hospital's internal log or emergency medical services data. Each program shall be capable of providing immediate endocardial catheter pacemaking in case of cardiac arrest and pressure recording for monitoring and evaluating

valvular disease, or heart failure. Documentation indicating the manner in which this requirement will be met shall be available for the Agency's review.

2. Patients at high risk for diagnostic catheterization complications shall be referred for diagnostic catheterization services to hospitals licensed as a Level II adult cardiovascular services provider. For example, patients actively infarcting should be defined as high risk and be immediately transported to a hospital where on-site open heart surgery is available. Hospitals not licensed as a Level II adult cardiovascular services provider must have documented patient selection and exclusion criteria and provision for identification of emergency situations requiring transfer to a hospital with a Level II adult cardiovascular services program. Documentation indicating the manner in which this requirement will be met shall be available for the Agency's review.

3. Each adult diagnostic cardiac catheterization program shall have the capability to rapid mobilization of its team 23 hours a day, 7 days a week. Documentation indicating the manner in which this requirement will be met shall be available for the Agency's review.

(h) Policy and Procedure Manual for Medicaid and Charity Care.

1. Each provider of adult diagnostic cardiac catheterization services shall maintain a policy and procedure manual, available for review by the Agency, which documents a plan to provide services to Medicaid and charity care patients.

2. At a minimum, the policy and procedure manual shall document specific outreach programs directed at Medicaid and charity care patients for adult diagnostic cardiac catheterization services.

(i) Enforcement. Enforcement of these rules shall follow procedures established in Rule 59A-3.253, F.A.C. Each diagnostic catheterization program shall provide a minimum of 2 percent of its admissions to charity and Medicaid patients each year. An annual report of compliance with this requirement shall be forwarded to the Agency's Certificate of Need Office.

(j) In case of conflict between the provisions of this rule and the *American College of Cardiology/Society for Cardiac Angiography and Interventions Clinical Expert Consensus Document on Cardiac Catheterization Laboratory Standards: Bashore et al, ACC/SCA&I Clinical Expert Consensus Document on Catheterization Laboratory Standards, JACC Vol. 37, No. 8, June 2001: 2170-214* guidelines, the provisions of this part shall prevail.

(14) through (15) No change.

(16) Level I Adult Cardiovascular Services.

(a) Licensure.

1. A hospital seeking a license for a Level I adult cardiovascular services program shall submit an application on a form provided by the Agency (See Form 1: Level I Adult

Cardiovascular Services License Application Attestation; AHCA Form, Section 18(a) of this rule), signed by the chief executive officer of the hospital, attesting that, for the most recent 12-month period, the hospital has provided a minimum of 300 adult inpatient and outpatient diagnostic cardiac catheterizations or, for the most recent 12-month period, has discharged or transferred at least 300 inpatients with the principal diagnosis of ischemic heart disease (defined by ICD-9-CM codes 410.0 through 414.9).

a. Reportable cardiac catheterization procedures are defined as single sessions with a patient in the hospital's cardiac catheterization procedure room(s), irrespective of the number of specific procedures performed during the session.

b. Reportable cardiac catheterization procedures shall be limited to those provided and billed for by the Level I licensure applicant and shall not include procedures performed at the hospital by physicians who have entered into block leases or joint venture agreements with the applicant.

2. The request shall attest to the hospital's intent and ability to comply with the *American College of Cardiology/Society for Cardiac Angiography and Interventions Clinical Expert Consensus Document on Cardiac Catheterization Laboratory Standards: Bashore et al, ACC/SCA&I Clinical Expert Consensus Document on Catheterization Laboratory Standards, JACC Vol. 37, No. 8, June 2001: 2170-214*; and the *ACC/AHA/SCAI 2005 Guideline Update for Percutaneous Coronary Intervention A Report of the American College of Cardiology/American Heart Association Task Force on Practice Guidelines (ACC/AHA/SCAI Writing Committee to Update the 2001 Guidelines for Percutaneous Coronary Intervention)*; including guidelines for staffing, physician training and experience, operating procedures, equipment, physical plant, and patient selection criteria to ensure patient quality and safety.

3. The request shall attest to the hospital's intent and ability to comply with physical plant requirements regarding cardiac catheterization laboratories and operating rooms found Section 419.2.1.2, Florida Building Code.

4. The request shall also include copies of one or more written transfer agreements with hospitals that operate a Level II adult cardiovascular services program, including written transport protocols to ensure safe and efficient transfer of an emergency patient within 60 minutes. Transfer time is defined as the number of minutes between the recognition of an emergency as noted in the hospital's internal log and the patient's arrival at the receiving hospital.

5. All providers of Level I adult cardiovascular services programs shall operate in compliance with subsection 59A-3.2085(13), F.A.C., the *American College of Cardiology/Society for Cardiac Angiography and Interventions Clinical Expert Consensus Document on Cardiac Catheterization Laboratory Standards: Bashore et al,*

ACC/SCA&I Clinical Expert Consensus Document on Catheterization Laboratory Standards, JACC Vol. 37, No. 8, June 2001: 2170-214 and the ACC/AHA/SCAI 2005 Guideline Update for Percutaneous Coronary Intervention A Report of the American College of Cardiology/American Heart Association Task Force on Practice Guidelines (ACC/AHA/SCAI Writing Committee to Update the 2001 Guidelines for Percutaneous Coronary Intervention) guidelines regarding the operation of adult diagnostic cardiac catheterization laboratories and the provision of percutaneous coronary intervention.

6. The applicable guidelines, herein incorporated by reference, are the American College of Cardiology/Society for Cardiac Angiography and Interventions Clinical Expert Consensus Document on Cardiac Catheterization Laboratory Standards: Bashore et al, ACC/SCA&I Clinical Expert Consensus Document on Catheterization Laboratory Standards, JACC Vol. 37, No. 8, June 2001: 2170-214; and the ACC/AHA/SCAI 2005 Guideline Update for Percutaneous Coronary Intervention A Report of the American College of Cardiology/American Heart Association Task Force on Practice Guidelines (ACC/AHA/SCAI Writing Committee to Update the 2001 Guidelines for Percutaneous Coronary Intervention). Aspects of the guideline related to pediatric services or outpatient cardiac catheterization in freestanding non-hospital settings are not applicable to this rule. Aspects of the guideline related to the provision of elective percutaneous coronary intervention only in hospitals authorized to provide open heart surgery are not applicable to this rule.

7. Hospitals are considered to be in compliance with the American College of Cardiology/Society for Cardiac Angiography and Interventions Clinical Expert Consensus Document on Cardiac Catheterization Laboratory Standards: Bashore et al, ACC/SCA&I Clinical Expert Consensus Document on Catheterization Laboratory Standards, JACC Vol. 37, No. 8, June 2001: 2170-214 and the ACC/AHA/SCAI 2005 Guideline Update for Percutaneous Coronary Intervention A Report of the American College of Cardiology/American Heart Association Task Force on Practice Guidelines (ACC/AHA/SCAI Writing Committee to Update the 2001 Guidelines for Percutaneous Coronary Intervention) guidelines when they adhere to standards regarding staffing, physician training and experience, operating procedures, equipment, physical plant, and patient selection criteria to ensure patient quality and safety. Hospitals must also document an ongoing quality improvement plan to ensure that the cardiac catheterization program and the percutaneous coronary intervention program meet or exceed national quality and outcome benchmarks reported by the American College of Cardiology-National Cardiovascular Data Registry.

8. Level I adult cardiovascular service providers shall report to the American College of Cardiology-National Cardiovascular Data Registry in accordance with the timetables and procedures established by the Registry. All data shall be reported using the specific data elements, definitions and transmission format as set forth by the American College of Cardiology-National Cardiovascular Data Registry.

a. Each hospital licensed to provide Level I adult cardiovascular services shall execute the required agreements with the American College of Cardiology-National Cardiovascular Data Registry to participate in the data registry.

b. Each hospital licensed to provide Level I adult cardiovascular services shall stay current with the payment of all fees necessary to continue participation in the American College of Cardiology-National Cardiovascular Data Registry.

c. Each hospital licensed to provide Level I adult cardiovascular services shall release the data reported by the American College of Cardiology-National Cardiovascular Data Registry to the Agency for Health Care Administration.

d. Each hospital licensed to provide Level I adult cardiovascular services shall use the American College of Cardiology-National Cardiovascular Data Registry data sets and use software approved by the American College of Cardiology for data reporting.

e. Each hospital licensed to provide Level I adult cardiovascular services shall ensure that software formats are established and maintained in a manner that meets American College of Cardiology-National Cardiovascular Data Registry transmission specifications and encryption requirements. If necessary, each hospital shall contract with a vendor approved by the American College of Cardiology-National Cardiovascular Data Registry for software and hardware required for data collection and reporting.

f. Each hospital licensed to provide Level I adult cardiovascular services shall ensure that all appropriate data is submitted on every patient that receives medical care and is eligible for inclusion in the American College of Cardiology-National Cardiovascular Data Registry. To the extent required by the American College of Cardiology-National Cardiovascular Data Registry, each hospital licensed to provide Level I adult cardiovascular services shall implement procedures to transmit data via a secure website or other means necessary to protect patient privacy.

g. Each hospital licensed to provide Level I adult cardiovascular services shall maintain an updated and current institutional profile with the American College of Cardiology-National Cardiovascular Data Registry.

h. Each hospital licensed to provide Level I adult cardiovascular services shall ensure that data collection and reporting will only be performed by trained, competent staff and that such staff shall adhere to the American College of Cardiology-National Cardiovascular Data Registry standards.

j. Each hospital licensed to provide Level I adult cardiovascular services shall submit corrections to any data submitted to the American College of Cardiology-National Cardiovascular Data Registry as discovered by the hospital or by the American College of Cardiology-National Cardiovascular Data Registry. Such corrections shall be submitted within thirty days of discovery of the need for a correction or within such other time frame as set forth by the American College of Cardiology-National Cardiovascular Data Registry. Data submitted must be at a level that the American College of Cardiology-National Cardiovascular Data Registry will include the data in national benchmark reporting.

k. Each hospital licensed to provide Level I adult cardiovascular services shall designate an American College of Cardiology-National Cardiovascular Data Registry site manager that will serve as a primary contact between the hospital, the American College of Cardiology-National Cardiovascular Data Registry and the Agency with regard to data reporting. The identity of each site manager shall be provided to the Hospital and Outpatient Services Unit at the Agency for Health Care Administration in Tallahassee.

l. By submitting data to the American College of Cardiology-National Cardiovascular Data Registry in the manner set forth herein, each hospital shall be deemed to have certified that the data submitted for each time period is accurate, complete and verifiable.

9. Notwithstanding guidelines to the contrary in the American College of Cardiology/Society for Cardiac Angiography and Interventions Clinical Expert Consensus Document on Cardiac Catheterization Laboratory Standards: Bashore et al, ACC/SCA&I Clinical Expert Consensus Document on Catheterization Laboratory Standards, JACC Vol. 37, No. 8, June 2001: 2170-214 and the ACC/AHA/SCAI 2005 Guideline Update for Percutaneous Coronary Intervention A Report of the American College of Cardiology/American Heart Association Task Force on Practice Guidelines (ACC/AHA/SCAI Writing Committee to Update the 2001 Guidelines for Percutaneous Coronary Intervention), all providers of Level I adult cardiovascular services programs may provide emergency and elective percutaneous coronary intervention procedures. Aspects of the guidelines related to pediatric services or outpatient cardiac catheterization in freestanding non-hospital settings are not applicable to this rule.

10. Hospitals with Level I adult cardiovascular services programs are prohibited from providing the following procedures:

a. Any therapeutic procedure requiring transseptal puncture, or

b. Any lead extraction for a pacemaker, biventricular pacer or implanted cardioverter defibrillator.

11. Hospitals with Level I adult cardiovascular services programs must renew their licenses at the time of the hospital licensure renewal, providing the information in two through five above. Failure to renew the hospital's license or failure to update the information in two through five above shall cause the license to expire.

(b) Staffing.

1. Each cardiologist shall be an experienced physician who has performed a minimum of 75 interventional cardiology procedures, exclusive of fellowship training and within the previous 12 months from the date of the Level I adult cardiovascular licensure application or renewal application.

2. Physicians with less than 12 months experience shall fulfill applicable training requirements in the ACC/AHA/SCAI 2005 Guideline Update for Percutaneous Coronary Intervention A Report of the American College of Cardiology/American Heart Association Task Force on Practice Guidelines (ACC/AHA/SCAI Writing Committee to Update the 2001 Guidelines for Percutaneous Coronary Intervention) prior to being allowed to perform emergency percutaneous coronary interventions in a hospital that is not licensed for a Level II adult cardiovascular services program.

3. The nursing and technical catheterization laboratory staff shall be experienced in handling acutely ill patients requiring intervention or balloon pump. Each member of the nursing and technical catheterization laboratory staff shall have at least 500 hours of previous experience in dedicated cardiac interventional laboratories at a hospital with a Level II adult cardiovascular services program. They shall be skilled in all aspects of interventional cardiology equipment, and must participate in a 24-hour-per-day, 365 day-per-year call schedule.

4. The hospital shall ensure that a member of the cardiac care nursing staff who is adept in hemodynamic monitoring and Intra-aortic Balloon Pump (IABP) management shall be in the hospital at all times.

(c) Emergency Services.

A hospital provider of Level I adult cardiovascular services program must ensure it has systems in place for the emergent transfer of patients with intra-aortic balloon pump support to one or more hospitals licensed to operate a Level II adult cardiovascular services program. Formalized written transfer agreements developed specifically for emergency PCI patients must be developed with a hospital that operates a Level II adult cardiovascular services program. Written transport protocols must be in place to ensure safe and efficient transfer of a patient within 60 minutes. Transfer time is defined as the number of minutes between the recognition of an emergency as noted in the hospital's internal log and the patient's arrival at the receiving hospital. Transfer and transport agreements must be reviewed and tested at least every 3 months, with appropriate documentation maintained.

(d) Policy and Procedure Manual for Medicaid and Charity Care.

1. Each provider of Level I adult cardiovascular services shall maintain a policy and procedure manual, available for review by the Agency, which documents a plan to provide services to Medicaid and charity care patients.

2. At a minimum, the policy and procedure manual shall document specific outreach programs directed at Medicaid and charity care patients for Level I adult cardiovascular services.

(e) Physical Plant Requirements.

Section 419.2.1.2, Florida Building Code, contains the physical plant requirements for adult cardiac catheterization laboratories operated by a licensed hospital.

(f) Enforcement.

1. Enforcement of these rules shall follow procedures established in Rule 59A-3.253, F.A.C.

2. Unless in the view of the Agency there is a threat to the health, safety or welfare of patients, Level I adult cardiovascular services programs that fail to meet provisions of this rule shall be given 15 days to develop a plan of correction that must be accepted by the Agency.

3. Failure of the hospital with a Level I adult cardiovascular services program to make improvements specified in the plan of correction shall result in the revocation of the program license. The hospital may offer evidence of mitigation and such evidence could result in a lesser sanction.

(g) In case of conflict between the provisions of this rule and the guidelines in the *American College of Cardiology/Society for Cardiac Angiography and Interventions Clinical Expert Consensus Document on Cardiac Catheterization Laboratory Standards: Bashore et al, ACC/SCA&I Clinical Expert Consensus Document on Catheterization Laboratory Standards, JACC Vol. 37, No. 8, June 2001: 2170-214* and the *ACC/AHA/SCAI 2005 Guideline Update for Percutaneous Coronary Intervention A Report of the American College of Cardiology/American Heart Association Task Force on Practice Guidelines (ACC/AHA/SCAI Writing Committee to Update the 2001 Guidelines for Percutaneous Coronary Intervention)*, the provisions of this part shall prevail.

(17) Level II Adult Cardiovascular Services.

(a) Licensure.

1. A hospital seeking a license for a Level II adult cardiovascular services program shall submit an application on a form provided by the Agency (See Form 2: Level II Adult Cardiovascular Services License Application Attestation; AHCA Form _____, Section 18(b) of this rule _____) to the Agency, signed by the chief executive officer of the hospital, attesting that, for the most recent 12-month period, the hospital has provided a minimum of a minimum of 1,100 adult inpatient and outpatient cardiac catheterizations, of which at least 400 must be therapeutic cardiac catheterizations, or, for

the most recent 12-month period, has discharged at least 800 patients with the principal diagnosis of ischemic heart disease (defined by ICD-9-CM codes 410.0 through 414.9).

a. Reportable cardiac catheterization procedures shall be limited to those provided and billed for by the Level II licensure applicant and shall not include procedures performed at the hospital by physicians who have entered into block leases or joint venture agreements with the applicant.

2. The request shall attest to the hospital's intent and ability to comply with applicable guidelines in the *American College of Cardiology/Society for Cardiac Angiography and Interventions Clinical Expert Consensus Document on Cardiac Catheterization Laboratory Standards: Bashore et al, ACC/SCA&I Clinical Expert Consensus Document on Catheterization Laboratory Standards, JACC Vol. 37, No. 8, June 2001: 2170-2*; in the *ACC/AHA/SCAI 2005 Guideline Update for Percutaneous Coronary Intervention A Report of the American College of Cardiology/American Heart Association Task Force on Practice Guidelines (ACC/AHA/SCAI Writing Committee to Update the 2001 Guidelines for Percutaneous Coronary Intervention)*; and in the *ACC/AHA 2004 Guideline Update for Coronary Artery Bypass Graft Surgery: A Report of the American College of Cardiology/American Heart Association Task Force on Practice Guidelines (Committee to Update the 1999 Guidelines for Coronary Artery Bypass Graft Surgery) Developed in Collaboration With the American Association for Thoracic Surgery and the Society of Thoracic Surgeons*, including guidelines for staffing, physician training and experience, operating procedures, equipment, physical plant, and patient selection criteria to ensure patient quality and safety.

3. The request shall attest to the hospital's intent and ability to comply with physical plant requirements regarding cardiac catheterization laboratories and operating rooms found Section 419.2.1.2, Florida Building Code.

4. All providers of Level II adult cardiovascular services programs shall operate in compliance with subsections 59A-3.2085(13) and 59A-3.2085(16), F.A.C. and the applicable guidelines of the American College of Cardiology/American Heart Association regarding the operation of diagnostic cardiac catheterization laboratories, the provision of percutaneous coronary intervention and the provision of coronary artery bypass graft surgery.

a. The applicable guidelines, herein incorporated by reference, are the *American College of Cardiology/Society for Cardiac Angiography and Interventions Clinical Expert Consensus Document on Cardiac Catheterization Laboratory Standards: Bashore et al, ACC/SCA&I Clinical Expert Consensus Document on Catheterization Laboratory Standards, JACC Vol. 37, No. 8, June 2001: 2170-214*; and

b. ACC/AHA/SCAI 2005 Guideline Update for Percutaneous Coronary Intervention A Report of the American College of Cardiology/American Heart Association Task Force on Practice Guidelines (ACC/AHA/SCAI Writing Committee to Update the 2001 Guidelines for Percutaneous Coronary Intervention); and

c. ACC/AHA 2004 Guideline Update for Coronary Artery Bypass Graft Surgery: A Report of the American College of Cardiology/American Heart Association Task Force on Practice Guidelines (Committee to Update the 1999 Guidelines for Coronary Artery Bypass Graft Surgery) Developed in Collaboration With the American Association for Thoracic Surgery and the Society of Thoracic Surgeons.

d. Aspects of the guidelines related to pediatric services or outpatient cardiac catheterization in freestanding non-hospital settings are not applicable to this rule.

5. Hospitals are considered to be in compliance with the guidelines in the American College of Cardiology/Society for Cardiac Angiography and Interventions Clinical Expert Consensus Document on Cardiac Catheterization Laboratory Standards: Bashore et al, ACC/SCA&I Clinical Expert Consensus Document on Catheterization Laboratory Standards, JACC Vol. 37, No. 8, June 2001: 2170-214; in the ACC/AHA/SCAI 2005 Guideline Update for Percutaneous Coronary Intervention A Report of the American College of Cardiology/American Heart Association Task Force on Practice Guidelines (ACC/AHA/SCAI Writing Committee to Update the 2001 Guidelines for Percutaneous Coronary Intervention); and in the ACC/AHA 2004 Guideline Update for Coronary Artery Bypass Graft Surgery: A Report of the American College of Cardiology/American Heart Association Task Force on Practice Guidelines (Committee to Update the 1999 Guidelines for Coronary Artery Bypass Graft Surgery) Developed in Collaboration With the American Association for Thoracic Surgery and the Society of Thoracic Surgeons when they adhere to standards regarding staffing, physician training and experience, operating procedures, equipment, physical plant, and patient selection criteria to ensure patient quality and safety. Hospitals must also document an ongoing quality improvement plan to ensure that the cardiac catheterization program, the percutaneous coronary intervention program and the cardiac surgical program meet or exceed national quality and outcome benchmarks reported by the American College of Cardiology-National Cardiovascular Data Registry and the Society of Thoracic Surgeons.

6. In addition to the requirements set forth in subparagraph (16)(a)7. of this rule, each hospital licensed to provide Level II adult cardiovascular services programs shall participate in the Society of Thoracic Surgeons National Database.

a. Each hospital licensed to provide Level II adult cardiovascular services shall report to the Society of Thoracic Surgeons National Database in accordance with the timetables and procedures established by the Database. All data shall be

reported using the specific data elements, definitions and transmission format as set forth by the Society of Thoracic Surgeons.

b. Each hospital licensed to provide Level II adult cardiovascular services shall stay current with the payment of all fees necessary to continue participation in the Society of Thoracic Surgeons data registry.

c. Each hospital licensed to provide Level II adult cardiovascular services shall release the data reported by the Society of Thoracic Surgeons National Database to the Agency.

d. Each hospital licensed to provide Level II adult cardiovascular services shall use the most current version of the Society of Thoracic Surgeons National Database and use software approved by the Society of Thoracic Surgeons for data reporting.

e. Each hospital licensed to provide Level II adult cardiovascular services shall ensure that software formats are established and maintained in a manner that meets Society of Thoracic Surgeons transmission specifications and encryption requirements. If necessary, each hospital shall contract with a vendor approved by the Society of Thoracic Surgeons National Database for software and hardware required for data collection and reporting.

f. To the extent required by the Society of Thoracic Surgeons National Database, each hospital licensed to provide Level II adult cardiovascular services shall implement procedures to transmit data via a secure website or other means necessary to protect patient privacy.

g. Each hospital licensed to provide Level II adult cardiovascular services shall ensure that all appropriate data is submitted on every patient who receives medical care and is eligible for inclusion in the Society of Thoracic Surgeons National Database.

h. Each hospital licensed to provide Level II adult cardiovascular services shall maintain an updated and current institutional profile with the Society of Thoracic Surgeons National Database.

i. Each hospital licensed to provide Level II adult cardiovascular services shall ensure that data collection and reporting will only be performed by trained, competent staff and that such staff shall adhere to Society of Thoracic Surgeons National Database standards.

j. Each hospital licensed to provide Level II adult cardiovascular services shall submit corrections to any data submitted to the Society of Thoracic Surgeons National Database as discovered by the hospital or by the Society of Thoracic Surgeons National Database. Such corrections shall be submitted within thirty days of discovery of the need for a correction or within such other time frame as set forth by the Society of Thoracic Surgeons National Database. Data

submitted must be at a level that the Society of Thoracic Surgeons National Database will include the data in national benchmark reporting.

k. Each hospital licensed to provide Level II adult cardiovascular services shall designate a Society of Thoracic Surgeons National Database site manager that will serve as a primary contact between the hospital, the Society of Thoracic Surgeons National Database and the Agency with regard to data reporting. The identity of each site manager shall be provided to the Hospital and Outpatient Services Unit at the Agency for Health Care Administration in Tallahassee.

l. By submitting data to the Society of Thoracic Surgeons National Database and the American College of Cardiology-National Cardiovascular Data Registry in the manner set forth herein, each hospital shall be deemed to have certified that the data submitted for each time period is accurate, complete and verifiable.

7. Hospitals with Level II adult cardiovascular services programs must renew their licenses at the time of the hospital licensure renewal, providing the information in two through four above. Failure to renew the hospital's license or failure to update the information in two through four above shall cause the license to expire.

(b) Staffing.

1. Each cardiac surgeon shall be Board certified.

a. New surgeons shall be Board certified within 4 years after completion of their fellowship.

b. Experienced surgeons with greater than 10 years experience shall document that their training and experience preceded the availability of Board certification.

2. Each cardiologist shall be an experienced physician who has performed a minimum of 75 interventional cardiology procedures, exclusive of fellowship training and within the previous 12 months from the date of the Level II adult cardiovascular licensure application or renewal application.

3. The nursing and technical catheterization laboratory staff shall be experienced in handling acutely ill patients requiring intervention or balloon pump. Each member of the nursing and technical catheterization laboratory staff shall have at least 500 hours of previous experience in dedicated cardiac interventional laboratories at a hospital with a Level II adult cardiovascular services program. They shall be skilled in all aspects of interventional cardiology equipment, and must participate in a 24-hour-per-day, 365 day-per-year call schedule.

4. The hospital shall ensure that a member of the cardiac care nursing staff who is adept in hemodynamic monitoring and Intra-aortic Balloon Pump (IABP) management shall be in the hospital at all times.

(c) Policy and Procedure Manual for Medicaid and Charity Care.

1. Each provider of adult Level II adult cardiovascular services shall maintain a policy and procedure manual, available for review by the Agency, which documents a plan to provide services to Medicaid and charity care patients.

2. At a minimum, the policy and procedure manual shall document specific outreach programs directed at Medicaid and charity care patients for Level II adult cardiovascular services.

(d) Physical Plant Requirements.

Section 419.2.1.2, Florida Building Code, contains the physical plant requirements for adult cardiac catheterization laboratories and operating rooms for cardiac surgery operated by a licensed hospital.

(e) Enforcement.

1. Enforcement of these rules shall follow procedures established in Rule 59A-3.253, F.A.C.

2. Unless in the view of the Agency there is a threat to the health, safety or welfare of patients, Level II adult cardiovascular services programs that fail to meet provisions of this rule shall be given 15 days to develop a plan of correction that must be accepted by the Agency.

3. Failure of the hospital with a Level II adult cardiovascular services program to make improvements specified in the plan of correction shall result in the revocation of the program license. The hospital may offer evidence of mitigation and such evidence could result in a lesser sanction.

(f) In case of conflict between the provisions of this rule and the guidelines in the American College of Cardiology/Society for Cardiac Angiography and Interventions Clinical Expert Consensus Document on Cardiac Catheterization Laboratory Standards: Bashore et al, ACC/SCA&I Clinical Expert Consensus Document on Catheterization Laboratory Standards, JACC Vol. 37, No. 8, June 2001: 2170-214; the ACC/AHA/SCAI 2005 Guideline Update for Percutaneous Coronary Intervention A Report of the American College of Cardiology/American Heart Association Task Force on Practice Guidelines (ACC/AHA/SCAI Writing Committee to Update the 2001 Guidelines for Percutaneous Coronary Intervention; and the ACC/AHA 2004 Guideline Update for Coronary Artery Bypass Graft Surgery: A Report of the American College of Cardiology/American Heart Association Task Force on Practice Guidelines (Committee to Update the 1999 Guidelines for Coronary Artery Bypass Graft Surgery) Developed in Collaboration With the American Association for Thoracic Surgery and the Society of Thoracic Surgeons, the provisions of this part shall prevail.

(18) Forms.

(a) Form 1: Level I Adult Cardiovascular Services License Application. AHCA Form _____.

Attestation

AHCA Facility Number:

Facility Name:

Facility/Premise Address:

12-month Reporting Period:
Volume:
Total number of adult cardiac catheterization patients/
sessions:

Inpatient Sessions:
Outpatient Sessions:
Or

Total number of inpatient discharges or transfers with
principal diagnosis of ischemic heart disease (ICD-9-CM
codes 410.0 through 414.9)

Inpatient Discharges:
Inpatient Transfers:

I, the undersigned, upon oath and affirmation of belief and
personal knowledge, attest that the above named hospital
volume are true, accurate, and complete.

I, the undersigned, upon oath and affirmation of belief and
personal knowledge, attest that the above named hospital will
fully comply, where applicable, with the guidelines in the
American College of Cardiology/Society for Cardiac
Angiography and Interventions Clinical Expert Consensus
Document on Cardiac Catheterization Laboratory Standards:
Bashore et al, ACC/SCA&I Clinical Expert Consensus
Document on Catheterization Laboratory Standards, JACC
Vol. 37, No. 8, June 2001: 2170-214, and the ACC/AHA/SCAI
2005 Guideline Update for Percutaneous Coronary
Intervention A Report of the American College of
Cardiology/American Heart Association Task Force on
Practice Guidelines (ACC/AHA/SCAI Writing Committee to
Update the 2001 Guidelines for Percutaneous Coronary
Intervention) for staffing, physician training and experience,
operating procedures, equipment, physical plant, and patient
selection criteria to ensure quality patient care and safety,
except where they are in conflict with Florida law.

I, the undersigned, upon oath and affirmation of belief and
personal knowledge, attest that the above named hospital will
fully comply with the physical plant requirements regarding
cardiac catheterization laboratories and operating rooms found
in Section 419.2.1.2, Florida Building Code as applicable.

I, the undersigned, upon oath and affirmation of belief and
personal knowledge, attest that the above named hospital has a
formalized, written transfer agreement with a hospital that has
a Level II adult cardiovascular program, including a written
transport agreement(s) to ensure safe and efficient transfer of a
patient within 60 minutes.

I, the undersigned, upon oath and affirmation of belief and
personal knowledge, attest that the above named hospital will
participate in the American College of Cardiology National
Cardiovascular Data Registry.

I, the undersigned, upon oath and affirmation of belief and
personal knowledge, attest that the above named hospital has a
formalized plan to provide services to Medicaid and charity
care patients in need of Level I adult cardiovascular services.

I, _____, hereby swear or affirm that the statements in
this attestation are true and correct.

Signature of Chief Executive Officer Date

STATE OF FLORIDA
COUNTY OF _____

Sworn to and subscribed before me this _____,
by _____.

This individual is personally known to me or produced the
following identification: _____

Notary Public
NOTARY SEAL:

(b) Form 2: Level II Adult Cardiovascular Services
License Application. AHCA Form _____.

Attestation

AHCA Facility Number:

Facility Name:

Facility/Premise Address:

12-month Reporting Period:

Volume:

Total number of adult cardiac catheterization patients/
sessions:

Inpatient Sessions:

Outpatient Sessions:

Or

Total number of inpatient discharges or transfers with
principal diagnosis of ischemic heart disease (ICD-9-CM
codes 410.0 through 414.9)

Inpatient Discharges:

Inpatient Transfers:

I, the undersigned, upon oath and affirmation of belief and
personal knowledge, attest that the above named hospital
volume are true, accurate, and complete.

I, the undersigned, upon oath and affirmation of belief and
personal knowledge, attest that the above named hospital will
fully comply with the physical plant requirements regarding
cardiac catheterization laboratories and operating rooms found
in Section 419.2.1.2, Florida Building Code as applicable. I,
the undersigned, upon oath and affirmation of belief and
personal knowledge, attest that the above named hospital will
fully comply with the guidelines in the American College of
Cardiology/Society for Cardiac Angiography and
Interventions Clinical Expert Consensus Document on Cardiac
Catheterization Laboratory Standards: Bashore et al,
ACC/SCA&I Clinical Expert Consensus Document on
Catheterization Laboratory Standards, JACC Vol. 37, No. 8,
June 2001: 2170-21; in the ACC/AHA/SCAI 2005 Guideline
Update for Percutaneous Coronary Intervention A Report of
the American College of Cardiology/American Heart
Association Task Force on Practice Guidelines
(ACC/AHA/SCAI Writing Committee to Update the 2001
Guidelines for Percutaneous Coronary Intervention); and in

the ACC/AHA 2004 Guideline Update for Coronary Artery Bypass Graft Surgery: A Report of the American College of Cardiology/American Heart Association Task Force on Practice Guidelines (Committee to Update the 1999 Guidelines for Coronary Artery Bypass Graft Surgery) Developed in Collaboration With the American Association for Thoracic Surgery and the Society of Thoracic Surgeons for staffing, physician training and experience, operating procedures, equipment, physical plant, and patient selection criteria to ensure patient quality and safety.

I, the undersigned, upon oath and affirmation of belief and personal knowledge, attest that the above name hospital will participate in the American College of Cardiology National Cardiovascular Data Registry and the Society of Thoracic Surgeons National Database.

I, the undersigned, upon oath and affirmation of belief and personal knowledge, attest that the above name hospital/facility has a formalized plan to provide services to Medicaid and charity care patients in need of Level II adult cardiovascular services.

I, _____, hereby swear or affirm that the statements in this attestation are true and correct.

Signature of Chief Executive Officer

Date

STATE OF FLORIDA

COUNTY OF _____

Sworn to and subscribed before me this _____,
by _____.

This individual is personally known to me or produced the following identification: _____

Notary Public

NOTARY SEAL:

Specific Authority 395.1055, 395.3038, 395.401, 408.036, 408.0361(1) FS. Law Implemented 395.001, 395.1055, 395.1065, 395.3038, 395.401, 408.036, 408.0361, 957.05 FS. History—New 4-17-97, Amended 3-29-98, 8-23-99, 3-23-06, _____.

DEPARTMENT OF MANAGEMENT SERVICES

Communications and Information Technology Services

RULE NOS.:	RULE TITLES:
60FF-1.001	General
60FF-1.002	Definitions
60FF-1.003	Establishing and Maintaining Eligibility for Non-Required SUNCOM Customers
60FF-1.004	Standards for Submitting Requests, Notices and Declarations to the Department
60FF-1.005	Customer Notice of Security Concern Regarding a Network Solution

60FF-1.006	Required Users: Replacement Declarations and Terminations for Existing Network Solutions That are Not Provided Through SUNCOM
60FF-1.007	Required Users: Criteria for Obligation to Submit Exemption Requests for Custom Network Solutions
60FF-1.008	Required Users: Part I Exemption Requests for Existing and Future Custom Network Solutions
60FF-1.009	Required Users: Exemption Request Part IIA Providing a Business Case for Future Custom Network Solutions
60FF-1.010	Required Users: Exemption Request Part IIB Business Case for Existing Custom Network Solutions
60FF-1.011	The Department’s Criteria for Evaluating Exemption Requests
60FF-1.012	The Department’s Responses to Exemption Requests
60FF-1.013	State Intranet Users: Clearance Requests Related to Interoperability and Security
60FF-1.014	Department Response to Clearance Requests

NOTICE OF CHANGE

Notice is hereby given that the following changes have been made to the proposed rule in accordance with subparagraph 120.54(3)(d)1., F.S., published in Vol. 34, No. 18, May 2, 2008 issue of the Florida Administrative Weekly.

These changes respond to comments by the Joint Administrative Procedures Committee and to suggestions filed through written comments and/or made during public hearings held January 28, February 7 and February 20, 2008. The following changes represent a substantial rewording of the proposed rules published in Vol. 33, No. 52, December 28, 2007 issue of the Florida Administrative Weekly.

60FF-1.001 General.

No change.

Specific Authority 282.102(9) FS. Law Implemented 282.102(2), (8), (12), 282.103, 282.104, 282.105, 282.106, 282.107 FS. History—New _____.

60FF-1.002 Definitions.

(1) The following terms as defined below; are applicable to Chapters 60FF-1, 60FF-2 and 60FF-3, F.A.C.:

(a) No change.

(b) Backdoor – Any connection to a network outside of the State Intranet that directly or indirectly circumvents the State firewalls. Any Unauthorized Connection linking an part of the State Intranet to an outside network or the Internet.

(c) Billing Data – Data, in standardized formats established by the Department, used by the Department to charge Customers for the relative portions of SUNCOM Services they use.

(d) No change.

(e) Clearance Request – A request from a Customer, that is not a Required User, to implement a Network Solution that uses Internet technology and is not provided through SUNCOM.

(f)(e) Communications Device – Any device or software that ~~which~~ renders audio, video and/or data into Electronic Communications.

(g) Communications Purchase or Lease Authorization – The means that was used by Required Users to seek and obtain approval from the Department to purchase or lease communications equipment prior to establishment of Chapter 60FF, F.A.C.

(f) through (k) renumbered (h) through (m) No change.

(n) Custom Network Solution – A Network Solution that is designed for a Customer using communications and network resources not provided by SUNCOM.

(l) through (n) renumbered (o) through (q) No change.

(r) Exemption Request – A request from Required Users seeking Department approval to use Network Solutions that are not provided through SUNCOM.

(s) Maintenance – Activity to ensure the ongoing availability of a Network Solution through replacement of parts, software patches and associated services without expanding the scope, functionality, volume by more than 10% over the volume that was approved by the Department, or changes the architecture of the Network Solution.

(t)(e) Network Equipment – Any device or circuit that ~~which~~ establishes Physical or Virtual Connections from within the Customer's Physical Network to networks or devices outside of the Customer's Physical Network to facilitate communications on behalf of Communications Devices or other Network Equipment. A Communications Device, regardless of its primary use, shall be classified as Network Equipment if it also performs this Network Equipment function.

(u)(p) No change.

(v)(q) Network Security – The protection of network topologies and associated services from unauthorized modification, destruction, or disclosure and the reassurance that the network performs its critical function without harmful side effects and retains its integrity, availability and predictability.

(w)(r) Network Software – Any software that ~~which~~ establishes Physical or Virtual Connections from within the Customer's Physical Network to networks or devices outside of the Customer's Physical Network to facilitate communications on behalf of Communications Devices or Network Equipment.

(x)(s) No change.

(y) Network Solution Replacement Declaration – A commitment from a Customer to replace a Custom Network Solution with a SUNCOM solution by a specific date.

(z) Notice of Security Concern – A statement warning the Department that a condition exists that may violate the Department Security Standards.

(aa)(t) No change.

(bb)(u) Portfolio of Services – The electronic publication located on the official Web site of the Department defining SUNCOM contemporary Services and providing the latest associated technical standards, as mandated in Section 281.102(1), F.S. based upon current SUNCOM contracts, modern industry standards, new software and hardware releases, recent security threats, and/or technological improvements. The Portfolio shall also provide sample templates for requests and notices to the Department as they become available. The Web site address is: http://dms.myflorida.com/cits/portfolio_of_services.

(cc)(v) Required User – All state agencies and state universities mandated to use SUNCOM in Section 282.103 281.103, F.S.

(dd) Sanctioned Filtering – A configuration of a Network Solution designed to protect a network from Unauthorized Activity that has been evaluated in accordance with the process under subsection 60FF-3.004(3), F.A.C., and approved by the Department in accordance with the standards under Rule 60FF-3.004, F.A.C.

(ee)(w) No change.

(ff) Security Exposure – Any condition that is in violation of Rule 60FF-3.004, F.A.C., Network Protection Standards for State Network, or may lead to a Security Breach.

(gg)(x) State Intranet – That portion of the SUNCOM network protected from other networks or the Internet via the State Firewall maintained or sanctioned by the Department.

(hh)(y) No change.

(ii)(z) Sub-network – Networks established by customers within, or attached to, the broader State Network that is maintained by the Department.

(jj)(aa) No change.

(kk)(bb) SUNCOM Services – Network Equipment, Network Services, Network Software, Communications Devices or the configuration or management of any of these, obtained, secured or provided by the Department and rendered into services that are made available to Customers Eligible Users by the Department or SUNCOM Providers under agreements with the Department.

(ee) through (jj) renumbered (ll) through (ss) No change.

(tt) User – Person authorized, through an user identification and password, to enter and/or see data in any Department of Management Services electronic system for establishing, maintaining, monitoring, auditing or accounting for SUNCOM services.

~~(uu)(kk)~~ No change.

(2) No change.

Specific Authority 282.102(9) FS. Law Implemented 282.102(2), (8), (12), 282.103, 282.104, 282.105, 282.106, 282.107 FS. History–New_____.

60FF-1.003 Establishing and Maintaining Eligibility for Non-Required SUNCOM Customers.

(1) Eligible Users ~~that which~~ are not Required Users must submit an electronic mail request to customerservice@dms.myflorida.com, provide the associated information necessary to prove eligibility and agree to the provisions of these rules and SUNCOM policies and procedures prior to becoming a Customer.

(2) Once designated by the Department as eligible, Eligible Users have the obligation to maintain knowledge understanding of statutory eligibility requirements, verify their ongoing eligibility and notify the Department upon loss of eligibility.

(3) If At any time the Department discovers may declare an Eligible User ineligible if the Department finds that an Eligible User the Customer no longer qualifies in accordance with Sections 282.103-.107, F.S., the Department shall declare an Eligible User ineligible.

(4) through (6)(c) No change.

(7) Declining these terms will result in a statement akin to the following: Acceptance is required for the use of SUNCOM Service. Please contact your local SUNCOM Representative with questions or concerns at: 866-MY-DMS-IT 888 4SUNCOM.

Specific Authority 282.102(9) FS. Law Implemented 282.102(2), (8), (12), 282.103, 282.104, 282.105, 282.106, 282.107 FS. History–New_____.

The following changes represent a substantial rewording of proposed Rule 60FF-1.004 published in Vol. 33, No. 52, December 28, 2007 issue of the Florida Administrative Weekly:

60FF-1.004 Standards for Submitting Requests, Notices and Declarations to the Department Required Users Filing SUNCOM Exemption Requests for Use of Network Resources Not Provided through SUNCOM.

(1) All of the following formal submittals to the Department shall comply with the standards of Rule 60FF-1.004, F.A.C.:

(a) Notices of Security Concern;

(b) Parts I and II of Exemption Requests;

(c) Clearance Requests;

(d) Network Solution Replacement Declarations.

(2) Customers shall use one of the following means of making submittals:

(a) Through the provisions of the CSAB System; or

(b) Via electronic mail with attachments to SUNCOMRequests@dms.myflorida.com with the title of the submittal and the name of the Customer in the Subject line. Note that if the request contains sensitive information, use of electronic mail may pose security risks.

(c) Or via U. S. Postal Service address to:

Department of Management Services

SUNCOM

Attention: Submittal Processing

4030 Esplanade Way

Tallahassee, Florida 32399-0950.

(3) The Customer shall provide the following standard information with all submittal packages.

(a) SUNCOM account number;

(b) The Customer account number;

(c) Customer organization name, address, city, state, zip code;

(d) The submittal author’s name and contact information;

(e) The name and contact information of the person who is an employee of the Customer holding a full-time position who shall speak on behalf of the Customer and shall be available to answer related questions.

(f) Category of service the submittal pertains to (e.g., Voice, Data, Conferencing, Wireless).

(4) Submittals shall use common practices of readability including tables of contents where appropriate, headings, executive summaries or cover letters, proper grammar and spelling. Recommended examples shall be provided through the Portfolio of Services as they become available.

(5) Single submittals that describe the same conditions in multiple locations or describe conditions that are repeated in multiple events over time shall be accepted by the Department in lieu of multiple submittals if all of the locations, events and timing of the events are named in the submittal.

(6) The Department will protect any information contained in these submittals in accordance with exemptions to Chapter 119, F.S.

Specific Authority 282.102(9) FS. Law Implemented 282.102(2), (8), (12), 282.103, 282.104, 282.105, 282.106, 282.107 FS. History–New_____.

The following changes represent a substantial rewording of proposed Rule 60FF-1.005 published in Vol. 33, No. 52, December 28, 2007 issue of the Florida Administrative Weekly:

60FF-1.005 Customer Notice of Security Concern Regarding a Network Solution.

(1) All Customers shall submit a Notice of Security Concern Regarding any Network Solution that is in use, or the Customer intends to use, and not in compliance with Rule

60FF-3.004, F.A.C. This requirement to submit a notice is not obviated by the submittal of a corresponding notice by a vendor.

(2) All vendors selling or implementing Network Solutions that are not provided as a part of SUNCOM services for use by SUNCOM Customers shall submit a Notice of Security Concern to the Department and the purchasing Customer prior to entering into associated agreements or contracts, or accepting associated purchase orders if prior to impending engagement or during engagement, the vendor is aware that Network Solution is not, or is not expected to be in compliance with Rule 60FF-3.004, F.A.C. This requirement to submit a notice is not obviated by the submittal of a corresponding notice by a Customer.

(3) The Notice of Security Concern Regarding a Network Solution shall:

(a) Follow the submittal standards established under Rule 60FF-1.004, F.A.C.;

(b) Contain a description of the Network Solution;

(c) Contain descriptions of all the circumstances where the Network Solution does not comply with Rule 60FF-3.004, F.A.C.; and

1. The security measures currently in place to address the Security Exposures; and

2. The security guidelines that have been made available from the Network Solution provider to Customer, and measures that are and expected to be in place to address the Security Exposures; and

3. Highlighted liability provisions that are applicable to these security conditions in complete copies of the related contracts, agreements and purchase orders.

(d) Contain a statement specifying how long the Customer intends to use the Network Solution.

(4) Customers and vendors using or implementing Network Solutions that are in violation of Rule 60FF-3.004, F.A.C., shall provide the Department the following:

1. All related information requested by the Department.

2. Upon request from the Department, all the cooperation, access and authorities described in Rule 60FF-3.006, F.A.C.

Specific Authority 282.102(9) FS. Law Implemented 282.102(2), (8), (12), 282.103, 282.104, 282.105, 282.106, 282.107 FS. History–New _____.

The following changes represent a substantial rewording of proposed Rule 60FF-1.006 published in Vol. 33, No. 52, December 28, 2007 issue of the Florida Administrative Weekly:

60FF-1.006 Required Users: Replacement Declarations and Terminations for Existing Network Solutions that are Not Provided through SUNCOM.

(1) All Required Users must submit a Network Solution Replacement Declaration for, or cease usage of, all Network Solutions under the following conditions:

(a) The Network Solution is not provided through SUNCOM and;

(b) The Network Solution would otherwise be in use after March 31, 2009, and;

(c) No applicable Exemption Request or Communication Purchase or Lease Authorization has been approved by the Department in accordance with the requirements under Rules 60FF-1.007 through 60FF-1.012, F.A.C.

(2) A Network Solution Replacement Declaration shall follow the submittal standards established under Rule 60FF-1.004, F.A.C., and shall consist of the following:

(a) A description of the Custom Network Solution to be replaced by a SUNCOM alternative.

(b) The date, known as the “replacement date,” on which the Custom Network Solution will have been completely replaced by a SUNCOM alternative. The replacement date shall be no later than March 31, 2009.

(c) An irrevocable order for services from SUNCOM that will replace the Custom Network Solution by the replacement date. Irrevocable orders may be modified in consultation with a representative of the Department to accommodate changing conditions and implementation plans as long as the ordered SUNCOM services fully replace the Custom Network Solution by the replacement date.

(d) The following written statement from an authorized representative of the Required User: “The entire Network Solution described in this Replacement Declaration shall be replaced with SUNCOM services as of the replacement date and shall not be in use after the replacement date.”

Specific Authority 282.102(9) FS. Law Implemented 282.102(2), (8), (12), 282.103, 282.104, 282.105, 282.106, 282.107 FS. History–New _____.

The following changes represent a substantial rewording of proposed Rule 60FF-1.007 published in Vol. 33, No. 52, December 28, 2007 issue of the Florida Administrative Weekly:

60FF-1.007 Required Users: Criteria for Obligation to Submit Exemption Requests for Custom Network Solutions.

(1) All Required Users must obtain Exemptions from the Department to use Custom Network Solutions when the Custom Network Solution is not provided through SUNCOM under the following conditions:

(a) The Required User seeks to implement the new Custom Network Solution or;

(b) The Required User seeks to continue use of an existing Custom Network Solution later than December 31, 2008, under the following conditions:

1. A previous Exemption had not been granted by the Department through a Communication Purchase or Lease Authorization (CPLA) or Exemption Request for the Network Solution. Required Users shall submit these Exemption Requests on or before September 30, 2008.

2. A previous Exemption had been granted by the Department through a Communication Purchase or Lease Authorization (CPLA) or Exemption Request for the Network Solution and the current contract terms will expire later than July 1, 2008, and the Customer intends to continue services, use software or obtain hardware related to the Network Solution for any purpose other than Maintenance. Use of any associated Network Solution requires an Exemption before establishing a new contract, contract renewal, contract extension, contract amendment, major upgrade or replacement purchase, for any purpose other than Maintenance.

(2) Upon identifying a Business Objective requiring a new or continuation of a Custom Network Solution and before seeking exemptions in accordance with Rule 60FF-1.008, F.A.C., Required Users shall discuss the Required User's need with the Department to find out if SUNCOM's existing or impending services, or a collaborative effort between the Department and the Required User, can accommodate the Business Objective.

(3) Exemption Requests shall be submitted prior to the procurement planning stage of any Custom Network Solution if the Network Solution was not established by contract prior to July 1, 2008.

(4) With exceptions for maintenance described in subparagraph 60FF-1.007(1)(b)2., F.A.C., exemptions are granted for periods no longer than the terms of the contract for the associated Network Solution.

Specific Authority 282.102(9) FS. Law Implemented 282.102(2), (8), (12), 282.103, 282.104, 282.105, 282.106, 282.107 FS. History—New _____.

60FF-1.008 Required Users: Part I Exemption Requests for Existing and Future Custom Network Solutions.

Exemption Requests shall comply with submittal standards established under Rule 60FF-1.004, F.A.C., and shall include the following:

(1) A description of the Required User's findings from the initial inquiry to the Department regarding the Required User's needs in accordance with subsection 60FF-1.008(2), F.A.C.

(2) A description of the Business Objectives (to be) satisfied by the Custom Network Solution for which the Required User is seeking an Exemption. The description shall contain the same essential information the Required User used (shall use) to formulate the Required User's proposed Custom Network Solution.

(3) A general description of the Custom Network Solution and technical means to achieve the Business Objectives for which the Required User is seeking an Exemption in sufficient detail for the Department to evaluate whether the Department can currently, or shall soon be able to, provide a comparable solution.

(4) The purpose of the Exemption Request indicating which of the conditions listed in paragraph 60FF-1.007(1)(c), F.A.C., is applicable.

(5) A statement explaining how long the Customer intends to use the Custom Network Solution. That statement must comport with the associated contract terms for the Network Solution.

(6) Descriptions of all the circumstances where the Custom Network Solution does not comply with Rule 60FF-3.004, F.A.C.

(a) If conditions exist where the Custom Network Solution does not comply with Rule 60FF-3.004, F.A.C., the Customer must submit a Notice of Security Concern in accordance with Rule 60FF-1.005, F.A.C.

(b) If the customer asserts that the Custom Network Solution is in compliance with Rule 60FF-3.004, F.A.C., the Customer must include the following statement: "The Network Solution described in this Exemption Request complies with Rule 60FF-3.004, F.A.C."

(7) An explanation of the reasons the Required User is seeking the Exemption. The explanation should focus on how the Custom Network Solution and underlying technology satisfies the associated Business Objective in a manner that is superior to the most appropriate SUNCOM alternative.

(8) Verification that Part I of the Exemption Request has been authorized by the Chief Information Officer or the equivalent (if a CIO does not exist) for the Required User.

Specific Authority 282.102(9) FS. Law Implemented 282.102(2), (8), (12), 282.103, 282.104, 282.105, 282.106, 282.107 FS. History—New _____.

The following changes represent a substantial rewording of proposed Rule 60FF-1.009 published in Vol. 33, No. 52, December 28, 2007 issue of the Florida Administrative Weekly:

60FF-1.009 Required Users: Exemption Request Part IIA Providing a Business Case for Future Custom Network Solutions.

Part IIA Exemption Requests must be submitted only by Required Users seeking to implement a new or expand a current Custom Network Solution that is not provided by SUNCOM and has been denied an Exemption based upon a Part I submittal. A Part IIA Exemption Request shall follow the submittal standards established in Rule 60FF-1.004, F.A.C., and consist of the following:

(1) Standard Part I content described in Rule 60FF-1.008, F.A.C., with any elaboration or corrections the Required User chooses to include.

(2) An explanation of any deficiencies in the Part I submittal that may have led to the denial and/or errors in the Department's denial finding.

(3) The general expected timing of the milestones for implementing the solution.

(4) General descriptions of the Network Equipment, Software or Services comprising the proposed Custom Network Solution categorized using the following three categories:

(a) "Internal Resources" – Required User full or part-time staff, Required User owned Equipment and Software developed by the Required User.

(b) "Vendor(s) Resources" – Vendor provided Equipment, Software and Services.

(c) "SUNCOM Resources" – SUNCOM provided Equipment, Software and Services.

(5) The procurement method expected to be used to obtain the Custom Network Solution such as: State Contract Number, Single Source, Invitation to Bid, or Request for Proposal.

(6) All of the projected one-time and recurring costs of the Custom Network Solution. This includes all of the costs of Network Services, Network Software and Network Equipment, project management, planning, consulting, procurement process, maintenance, required and expected upgrades, and miscellaneous costs associated with the entire project and ongoing usage of the Custom Network Solution.

(a) If cost savings are considered to be among the benefits claimed in the Exemption Request, then Return on Investment (ROI) calculations must be included. The ROI calculations must include estimated net cost savings from the proposed solution using all of the estimated short and long-term costs of the solution. The calculation methods and assumptions must be in sufficient detail to allow for replication and shall consider the most appropriate SUNCOM option for mathematical comparison.

(7) Any subsequent supplementary documentation requested by the Department that will clarify or elaborate and is needed to properly evaluate the Required User's Exemption Request.

(8) Verification that Part IIA of the Exemption Request has been authorized by the Chief Information Officer or the equivalent (if a CIO does not exist) for the Required User.

Specific Authority 282.102(9) FS, Law Implemented 282.102(2), (8), (12), 282.103, 282.104, 282.105, 282.106, 282.107 FS. History–New _____.

The following changes represent a substantial rewording of proposed rule 60FF-1.010 published in Vol. 33, No. 52, December 28, 2007 issue of the Florida Administrative Weekly:

60FF-1.010 Required Users: Exemption Requests Part IIB Business Case for Existing Custom Network Solutions.

Part IIB Exemption Requests must be submitted only by Required Users seeking to continue or renew use of a Custom Network Solution that is not provided by SUNCOM and has been denied an Exemption based upon a Part I submittal. A

Part IIB Exemption Request shall follow the submittal standards established in Rule 60FF-1.004, F.A.C., and consist of the following:

(1) Standard Part I content described in Rule 60FF-1.008, F.A.C., with any elaboration or corrections the Required User chooses to include.

(2) An explanation of any deficiencies in the Part I submittal that may have led to the denial and/or flaws in the Department's denial finding.

(3) A description, documentation and results of any previous requests to the Department seeking approval for the Customer to implement the Custom Network Solution.

(4) Descriptions of the Network Equipment, Software or Services comprising the Custom Network Solution categorized using the following three categories:

(a) "Internal Resources" – Required User full or part-time staff, Required User owned Equipment and Software developed by the Required User.

(b) "Vendor(s) Resources" – Vendor provided Equipment, Software and Services.

(c) "SUNCOM Resources" – SUNCOM provided Equipment, Software and Services.

(5) All of the costs associated with using the Custom Network Solution. This includes all of the costs of Network Services, Network Software and Network Equipment, ongoing project management, planning, consulting, procurement process, maintenance, required and expected upgrades, and miscellaneous costs associated with the entire project and ongoing usage of the Custom Network Solution.

(6) The name and contact information for the entity that is providing the solution.

(7) All of the contracts and agreements associated with the Custom Network Solution.

(8) A description of the operational, financial and contractual consequences if the Custom Network Solution is to be replaced with the most appropriate SUNCOM alternative.

(a) Descriptions of the operational consequences shall describe how the Business Objectives are affected.

(b) Descriptions of the financial consequences shall include comprehensive cost data associated with the Custom Network Solution, supporting documentation and a demonstration of the calculation methods and assumptions for determining the consequences in sufficient detail to allow for replication.

(c) Descriptions of the contractual consequences shall include complete copies of the contracts with the relevant contract language highlighted and an explanation of how the language is relevant to the impact if the Custom Network Solution were replaced with a SUNCOM service.

(9) Verification that Part IIB of the Exemption Request has been authorized by the Chief Information Officer or the equivalent (if a CIO does not exist) for the Required User.

Specific Authority 282.102(9) FS. Law Implemented 282.102(2), (8), (12), 282.103, 282.104, 282.105, 282.106, 282.107 FS. History—New

The following changes represent a substantial rewording of proposed Rule 60FF-1.010 (renumbered 60FF-1.011) published in Vol. 33, No. 52, December 28, 2007 issue of the Florida Administrative Weekly:

60FF-1.011 The Department's Criteria for Evaluating Exemption Requests.

The Department shall use the following combination of criteria in evaluating an Exemption Request:

(1) Availability of SUNCOM alternatives: The Department shall consider the current availability and expected ability of the Department to provide a viable, timely and cost effective alternative to the Custom Network Solution.

(2) Suitability of a SUNCOM solution: The Department will compare SUNCOM's potential solution to the Custom Network Solution to determine if it can satisfy the Business Objective as well or better than the Custom Network Solution.

(3) Additional benefits from the SUNCOM solution: The Department shall consider any additional features or value provided by the SUNCOM solution that may go beyond the Business Objectives.

(4) Enterprise economies of scale: The Department will consider the additional bulk purchasing leverage and financial impact on the Department's ability to achieve better prices for all of SUNCOM services resulting from implementing a SUNCOM solution.

(5) Ongoing costs to the Customer: The Department will consider the recurring cost difference between the Custom Network Solution and the SUNCOM alternative.

(6) The consequences of transition: The Department shall consider the operational, financial and contractual consequences if the Custom Network Solution is to be replaced with the most appropriate SUNCOM alternative.

(7) Compatibility of the Custom Network Solution with the State Network: The Department shall determine if the Custom Network Solution creates incompatibility with the State Network such that State communications or economies of scale shall be impaired. The complexity and cost of maintaining conditions where compatibility is sustained for a Custom Network Solution will be a factor in this determination.

(8) Security Impact on the State Network: The Department shall determine if the Custom Network Solution will comport with the Network Protection Standards for State Network established in Rule 60FF-3.004, F.A.C. The complexity and cost of maintaining conditions where security is sustained for a Custom Network Solution will be a factor in this determination.

(9) Congruity considerations:

(a) Congruity between the Required User's Business Objectives and the associated Custom Network Solution: This criterion shall determine if the intended benefits of the Custom Network Solution satisfy the Required User's Business Objectives.

(b) Congruity between the Required User's estimated costs and the realistic resources required, market conditions and scope that drive costs: This criterion shall determine if the costs estimates are accurate.

(c) Congruity between the Required User's estimated timing and the work effort required: This criterion shall determine if the milestones in Part IIA are realistic given the description of the Custom Network Solution.

(d) Congruity between the Required User's expectations of the Custom Network Solution and the likelihood those expectations shall be or have been met: This criterion shall determine if the proposed technology described in Part IIA has been used before to satisfy equivalent Business Objectives and what is the likelihood of success based upon the scope, technological maturity and track-record of similar projects.

(10) Longevity of the Custom Network Solution: The Department will consider the life cycle of the solution and the length of time the Required User expects to use the Custom Network Solution.

Specific Authority 282.102(9) FS. Law Implemented 282.102(2), (8), (12), 282.103, 282.104, 282.105, 282.106, 282.107 FS. History—New

60FF-1.012 The Department's Responses to Exemption Requests.

(1) The Department shall respond in writing within 30 days after Part I or within 45 days after Part II of an Exemption Request has been submitted. The Department shall render one of the following findings:

(a) The Exemption Request is approved.

(b) The Exemption Request is approved contingent upon certain conditions. Those conditions shall include the following where applicable:

1. Specified changes to the Custom Network Solution to address the Department's security or compatibility concerns.

2. Unfettered monitoring of implementation of the Custom Network Solution by the Department to address the Department's security or compatibility concerns.

3. Ongoing Department monitoring of use of the Custom Network Solution to address the Department's security or compatibility concerns.

4. A commitment from the Required User to maintain certain compatibility and security related configurations and upgrades.

5. Specified changes to the Custom Network Solution to include a portion of SUNCOM services.

6. A commitment from the Required User to replace the Custom Network Solution with a SUNCOM alternative when a viable SUNCOM alternative becomes available. The Required User may submit another Exemption Request for consideration when the SUNCOM alternative becomes available.

(c) The Exemption Request is denied. The Department shall provide the following with this finding:

1. An explanation of the Department’s reasoning behind the finding.

2. A general proposal and plan describing the SUNCOM service that will replace the Network Solution. The Department shall subsequently work with the Required User to develop a more detailed consensus plan and proposal for collaboratively implementing the SUNCOM alternative.

(d) The Department requires more information to render a conclusive finding. The Department will specify the information required and render a finding within 45 days from its submittal.

(2) If the Required User seeks reconsideration of a denial or a contingent approval of a Part I Exemption Request, the Required User may refine its submittal and submit Part II of the Exemption Request.

Specific Authority 282.102(9) FS. Law Implemented 282.102(2), (5) (8), (12), 282.103, 282.104, 282.105, 282.106, 282.107 FS. History–New _____.

The following changes represent a substantial rewording of proposed Rule 60FF-1.011 (renumbered 60FF-1.013) published in Vol. 33, No. 52, December 28, 2007 issue of the Florida Administrative Weekly:

60FF-1.013 State Intranet Users: Clearance Requests Related to Interoperability and Security.

(1) Clearance Requests must be submitted by SUNCOM Customers that are:

- (a) Using the State Intranet; and
- (b) Are not Required Users; and

(c) Are intending to initiate Network Solutions that result in the purchase or lease of Network Services, Network Software or Network Equipment and these network resources:

- 1. Make use of the Internet Protocol; and
- 2. Are not provided through SUNCOM.

(2) These Customers must follow the submittal standards established in Rule 60FF-1.004, F.A.C., to provide the following as a part of the Clearance Request:

- (a) Address, city, state, zip code where the primary part of the Network Solution shall take place;
- (b) Date that the Network Solution is to be implemented;
- (c) Any pending SUNCOM orders affected;
- (d) Brief summary of Business Objectives;
- (e) General descriptions of the Network Equipment, Software or Services comprising the Network Solution;

(f) If known at the time of submittal of the Clearance Request, the entity that is expected to provide the solution with contact information including: entity name, city, state, representative name, telephone number and electronic mail address:-

(g) A “Customer Notice of Security Concern Regarding a Network Solution” in accordance with Rule 60FF-1.005, F.A.C., if the Network Solution creates any Security Exposures in violation of Rule 60FF-3.004, F.A.C.

(3) A statement must be included that the Customer shall commit to Rule 60FF-3.005, F.A.C., and be prepared to demonstrate this commitment by also making purchasing documents available to the Department.

(4) The Customer must provide any subsequent supplementary documentation requested by the Department that shall clarify or elaborate on the Network Solution and is needed to properly evaluate its potential impact on the State Intranet and its other Customers.

Specific Authority 282.102(9) FS. Law Implemented 282.102(2), (8), (12), 282.103, 282.104, 282.105, 282.106, 282.107 FS. History–New _____.

60FF-1.014 ~~60FF-1.012~~ Department Response to Clearance Requests.

(1) The Department shall evaluate the Customer’s Clearance Request for the following conditions:

- (a) No change.
- (b) Security Impact on the State Network – If the Department determines that the Network Solution shall not comport with the Network Protection Standards for State Network established in Rule 60FF-3.004, F.A.C., the Department shall request that the Customer modify its Network Solution accordingly. If the Network Solution cannot be modified to comport with Rule 60FF-3.004, F.A.C., the Department shall deny the Clearance Request.

- (2) No change
 - (a) No change
 - (b) No change
 - (c) No change

Specific Authority 282.102(9) FS. Law Implemented 282.102(2), (5) (8), (12), 282.103, 282.104, 282.105, 282.106, 282.107 FS. History–New _____.

DEPARTMENT OF MANAGEMENT SERVICES

Communications and Information Technology Services

RULE NOS.:	RULE TITLES:
60FF-2.001	Order Process
60FF-2.002	Customer Responsibilities in Order Process
60FF-2.003	Communications Service Provider Responsibilities in Order Process

- 60FF-2.004 The Department’s Responsibilities in Order Process
- 60FF-2.005 SUNCOM Charges to Customers
- 60FF-2.006 SUNCOM Provider Billing to Department
- 60FF-2.007 SUNCOM Provider Billing Directly to Customers
- 60FF-2.008 Security Standards for Usage of State Communications Systems
- 60FF-2.009 Security and Reliability Provisions Required for SUNCOM Approved Use of Third Party Services, Software and Equipment
- 60FF-2.010 SUNCOM Response to System Failures and Security Breaches
- 60FF-2.011 SUNCOM Cost Recovery for System Failures and Security Breaches Caused by Third Parties

NOTICE OF CHANGE

Notice is hereby given that the following changes have been made to the proposed rule in accordance with subparagraph 120.54(3)(d)1., F.S., published in Vol. 33, No. 52, December 28, 2007 issue of the Florida Administrative Weekly.

These changes respond to comments by the Joint Administrative Procedures Committee and to suggestions filed through written comments and/or made during public hearings held January 28, February 7 and February 20, 2008.

60FF-2.001 Order Process.

The ~~Communications Customer~~ Service Authorization Process shall be as follows:

- (1) through (6) No change.

Specific Authority 282.102(9) FS. Law Implemented 282.102(2), (8), (12), 282.103, 282.104, 282.105, 282.106, 282.107 FS. History–New_____.

60FF-2.002 Customer Responsibilities in Order Process.

The Customer’s responsibilities in the order process shall be as follows:

(1) Register to Become a Customer – Eligible Users which are not SUNCOM Customers or Required Users must submit a request, provide the associated information and agree to the terms and conditions as described in Rule 60FF-1.003, F.A.C.

(2) Appoint and Maintain Authorizing Officials – The Customer shall appoint Authorizing Official(s) on behalf of the ~~Customer Eligible User~~ and all of its subordinate entities (for which the Customer makes organizational and/or accounting distinctions). Multiple roles within the CSAB system(s) may be held by single or several individuals, as long as all of the roles available to Customers in the CSAB system(s), including the authority to appoint other Authorizing Officials, are performed by appointees of the Customer.

- (a) No change.

(b) All Authorizing Officials are obliged to achieve and maintain understanding of their role(s) and associated authorities and functionality of the CSAB ~~S~~system(s) and SUNCOM processes to satisfy Customer requests and to invoice for services.

- (3) through (8) No change.

Specific Authority 282.102(9) FS. Law Implemented 282.102(2), (8), (12), 282.103, 282.104, 282.105, 282.106, 282.107 FS. History–New_____.

60FF-2.003 Communications Service Provider Responsibilities in Order Process.

The Communications Service Provider’s and SUNCOM Service Provider’s responsibilities in the order process shall be as follows:

(1) Accept the CSAB System(s) as the Means for Processing Service Requests – In all instances where agreements between the Department and SUNCOM Providers do not specifically exclude the CSA process, SUNCOM Providers shall accept CSA data from the CSAB Systems(s) as the basis for processing requests from the Department and SUNCOM Customers, and shall recognize the CSA data as the State’s acknowledgement of its payment obligations.

- (a) through (c) No change.

(d) SUNCOM Providers shall not accommodate or satisfy requests for SUNCOM Services from Eligible Users outside the CSA process unless an exception is explicitly granted by the Department or specified through an agreement between the Department and the Provider.

1. If a SUNCOM Provider has been granted an exception to allow selling SUNCOM Services outside of the CSA process, the SUNCOM Provider will supply substantiating detail of said sales using the same standards as outlined in paragraph 60FF-2.007(2)(b), F.A.C.

- (e) No change.

1. through 2. No change.

(2) No change.

(3)~~(a)~~ Acknowledge the Primacy of CSA Data – Because the CSAB System(s) is the foundation of the SUNCOM inventory of services obtained from SUNCOM Providers and services consumed by SUNCOM Customers (when agreements with SUNCOM Providers do not specifically exclude the CSA process) and the basis for invoicing SUNCOM Customers, SUNCOM Providers must make good faith efforts to ensure that the data contained in the system is accurate and presuppose its validity.

~~(a)(b)~~ Absent clear evidence to the contrary, disputes regarding whether or not a compensable service has been rendered shall be determined by the existence of data in the CSAB System(s). This data shall verify that a CSA request had been issued and a compensable service had been rendered for

the period corresponding to a SUNCOM Provider's claim in order for the SUNCOM Provider to receive the associated payment.

(4) No change.

Specific Authority 282.102(9) FS. Law Implemented 282.102(2), (8), (12), 282.103, 282.104, 282.105, 282.106, 282.107 FS. History—New_____.

60FF-2.004 The Department's Responsibilities in Order Process.

No change.

Specific Authority 282.102(9) FS. Law Implemented 282.102(2), (8), (12), 282.103, 282.104, 282.105, 282.106, 282.107 FS. History—New_____.

60FF-2.005 SUNCOM Charges to Customers.

(1) through (2) No change.

(a) through (c) No change.

(d) Customers properly satisfying the invoice via any other means shall send one copy of the summary element with the payment to:

Department of Management Services

Bureau of Financial Management

Post Office Box 5438

Tallahassee, Florida 32399-5438.

(3) The entire amount of the bill is due within 30 days from the date of the invoice was date printed on the invoice.

(a) Non-payment of the bill within 31 days from the date the invoice was printed shall result in a notice of nonpayment describing potential consequences of failure to make a timely payment in accordance with the provisions in subsection 60FF-2.005(4) and criteria in subsection 60FF-2.005(5), F.A.C.

(b) Non-payment of the bill within 60 days from the date the invoice was printed shall result in a second notice of nonpayment warning the Customer that the recurring service associated with the charge shall be terminated if payment is not processed within 90 days from the date the invoice was issued of the potential consequences of failure to make a timely payment in accordance with the provisions in subsection 60FF-2.005(4) and criteria in subsection 60FF-2.005(5), F.A.C.

(c) Non-payment of the bill within 90 days from the date the invoice was printed shall result in a third notice of nonpayment warning the Customer that the recurring service associated with the charge may be terminated immediately of the potential consequences of failure to make a timely payment in accordance with the provisions in subsection 60FF-2.005(4) and criteria in subsection 60FF-2.005(5), F.A.C.

(d) Non-payment of the bill within 120 days from the date the invoice was printed shall result in a fourth notice of nonpayment warning the Customer of the potential consequences of failure to make a timely payment in accordance with the provisions in subsection 60FF-2.005(4)

and criteria in subsection 60FF-2.005(5), F.A.C. that all of the recurring services provided to the Customer by SUNCOM may be terminated immediately.

(4) The remedies and consequences for failure to make timely payment may include:

(a) Prohibition on obtaining new SUNCOM services;

(b) Suspension of services;

(c) Use of debt collection processes to obtain payment and;

(d) Suspension of the services related to the unpaid invoices;

(e) Suspension of all SUNCOM services to the Customer that has failed to make timely payment.

(5) The Department shall consider the following criteria in determining remedies for non-payment:

(a) The length of time the invoice has not been paid and;

(b) The existence of related legitimate and timely charge disputes from the Customer in accordance with subsection 60FF-2.005(6), F.A.C. and;

(c) The risk that the Customer will exist in the future as an ongoing operation and thus will be able to satisfy the debt in the future and;

(d) The size of the debt and;

(e) The Customer's good faith commitments and efforts to satisfy the debt and;

(f) The public service ramifications from suspension.

(6)(4) Disputing Charges – If the Customer disputes any of the charges on a SUNCOM invoice, the Customer shall submit a “charge dispute” via electronic mail to the following address: SUNCOMInv@dms.myflorida.com.

(a) No change.

1. through 3. No change.

(b) In spite of the Customer's dispute of (a portion of the) charges, the Customer shall pay the entire invoice, including the disputed charges, and await resolution of the dispute and a subsequent credit from the Department.

1. However, if the Customer makes a good faith determination that the disputed charge constitutes an onerous obligation for the Customer and the Customer has a good faith belief that the charge is unwarranted, the Customer may withhold payment for the corresponding portion of the charge that is in dispute. If the Customer chooses to exercise this option, the Customer shall include a statement akin to the following in their charge dispute: “Because this disputed charge constitutes an onerous cost and the Customer is confident that the disputed charge is unwarranted, the Customer is withholding payment for the portion of the invoice related to the disputed charge.”

2. No change.

(c) No change.

1. through 2. No change.

Specific Authority 282.102(9) FS. Law Implemented 282.102(2), (8), (12), 282.103, 282.104, 282.105, 282.106, 282.107 FS. History–New_____.

60FF-2.006 SUNCOM Provider Billing to the Department.

Barring the exceptions for contract terms described below, all of the following conditions apply to invoicing from SUNCOM Providers.

(1) through (2) No change.

(3) The Department shall pay SUNCOM Providers lump sums on behalf of all SUNCOM Customers for the entire amount of legitimate charges regardless of the payment status of SUNCOM Customers.

(a) The Department shall solely determine when services shall be suspended ~~terminated~~ to SUNCOM Customers for nonpayment in accordance with subsection 60FF-2.005(3), F.A.C.

(4) through (6)(b) No change.

(c) The substantiating detail must be provided by using an Electronic Data Interchange format established by the Department and by sending to the following electronic mail address: ftpool.dms.state.fl.us ~~sent to the Department address established for that purpose.~~

(d) Any electronic billing substantiation or detail data supplied by SUNCOM Providers that is not authorized by the Department as the means of accepting electronic substantiating detail data shall be considered supplemental aids to auditing or querying invoicing data and shall ~~do~~ not comprise official payment obligations or substantiating detail.

(7) No change.

(8) Conflicting or mutually exclusive methods of billing to and collections from SUNCOM Customers are ~~is~~ prohibited.

(9) SUNCOM Providers may invoice after the normal billing cycle for charges that were not adequately invoiced during the normal billing cycle.

(a) The portion of the subsequent invoice that SUNCOM shall pay and seek from SUNCOM Customers shall be determined by the terms of the contract for the service.

(b) If terms addressing subsequent billing do not exist in the contract for the service, the Department and the Customer shall pay only the amounts owed for the current fiscal year.

(10) Overcharges from SUNCOM Providers, including charges for services that should have been terminated in accordance with a Communications Service Authorization (CSA) or services that were not provided during the billing period that was billed, shall be refunded to the Department.

(a) The portion of the overcharge that the SUNCOM Provider shall refund shall be determined by the terms of the contract for the service.

(b) If relevant terms addressing overcharges do not exist in the contract for the service, the SUNCOM Provider shall credit an amount for the entire period the service was billed while the

service was not available or for the period that it was billed after it should have been suspended in accordance with a Communications Service Authorization (CSA), whichever is greater.

Specific Authority 282.102(9) FS. Law Implemented 282.102(2), (8), (12), 282.103, 282.104, 282.105, 282.106, 282.107 FS. History–New_____.

60FF-2.007 SUNCOM Provider Billing Directly to Customers.

(1) No change.

(2) When the SUNCOM Provider invoices SUNCOM Customers directly:

(a) No change.

(b) The SUNCOM Provider shall electronically supply to the Department complete and accurate detail substantiating all of the charges to SUNCOM Customers.

1. No change.

2. Absent contract provisions with the Department that establish formats and exchange methods for the electronic substantiating detail file, the file must be provided using an Electronic Data Interchange format established by the Department and sent to the following electronic mail address: ftpool.dms.state.fl.us ~~Department address established for that purpose.~~

3. No change.

(3) The Department has no obligation to assume payable commitments on behalf of SUNCOM or SUNCOM Customers in instances where a vendor or SUNCOM Provider submitted an invoice directly to a SUNCOM Customer. If the Department chooses to assume such commitments, it shall only pay ~~do so if and after the SUNCOM provider when the Customer makes an associated payment to the Department~~ Customer has made the associated payment to the Department.

(4) SUNCOM Providers may invoice after the normal billing cycle for charges that were not adequately invoiced during the normal billing cycle.

(a) The portion of the subsequent invoice that the Customer shall pay shall be determined by the terms of the contract for the service.

(b) If terms addressing subsequent billing do not exist in the contract for the service, the Customer shall pay only the amounts owed for the current fiscal year.

(5) Overcharges from SUNCOM Providers, including charges for services that should have been suspended in accordance with a Communications Service Authorization (CSA) or services that were not provided during the billing period that was billed, shall be refunded to the Customer.

(a) The portion of the overcharge that the SUNCOM Provider shall refund shall be determined by the terms of the contract for the service.

(b) If relevant terms addressing overcharges do not exist in the contract for the service, the SUNCOM Provider shall credit an amount for the entire period the service was billed while the service was not available or for the period that it was billed after it should have been suspended in accordance with a Communications Service Authorization (CSA), whichever is greater.

Specific Authority 282.102(9) FS. Law Implemented 282.102(2), (8), (12), 282.103, 282.104, 282.105, 282.106, 282.107 FS. History–New_____.

DEPARTMENT OF MANAGEMENT SERVICES

Communications and Information Technology Services

RULE CHAPTER NO.: RULE CHAPTER TITLE:

60FF-3	State Network Usage and Security Policies
RULE NOS.:	RULE TITLES:
60FF-3.001	Customer Access to State Long Distance Communications System
60FF-3.002	Modifications, Additions, Reductions or Terminations to Existing SUNCOM Service Initiated by a Customer
60FF-3.003	Additions or Modifications, Reductions or Terminations to Existing SUNCOM Service Initiated by the Department
60FF-3.004	Protection Standards for State Network
60FF-3.005	Security Breach Protection Provisions Required for Department Approved Use of Third Party Equipment, Services and Software
60FF-3.006	Department Response to System Failures and Security Breaches
60FF-3.007	SUNCOM Cost Recovery for System Failures and Security Breaches Caused by Third Parties
60FF-3.008	Management and Distribution of State Numbers and Addresses
60FF-3.009	Exemption for the Department of Education
60FF-3.010	Florida State Government Listings

NOTICE OF CHANGE

Notice is hereby given that the following changes have been made to the proposed rule in accordance with subparagraph 120.54(3)(d)1., F.S., published in Vol. 33, No. 52, December 28, 2007 issue of the Florida Administrative Weekly.

These changes respond to comments by the Joint Administrative Procedures Committee and to suggestions filed through written comments and/or made during public hearings held January 28, February 7 and February 20, 2008.

60FF-3.001 Customer Access to State Long Distance Communications System.

No change.

Specific Authority 282.102(9) FS. Law Implemented 282.102(2), (8), (12), 282.103, 282.104, 282.105, 282.106, 282.107 FS. History–New_____.

60FF-3.002 Modifications, Additions, Reductions or Terminations to Existing SUNCOM Service Initiated by a Customer.

The Customer of a SUNCOM Service is required to adhere to the appropriate technical specifications and procedures associated with the applicable service, as outlined in the Portfolio of Services. To obtain approval for any modifications, additions, reductions, or terminations of SUNCOM Services, the Customer shall follow the Customer Service Authorization (CSA) process, as described in Chapter 60FF-2, F.A.C., at least 45 days in advance of the requested effective date. Failure to provide notification for the termination or modification of a service in the Communications Service Authorization and Billing System (CSAB System) within the required time frame shall result in continued charges for the existing service.

Specific Authority 282.102(9) FS. Law Implemented 282.102(2), (8), (12), 282.103, 282.104, 282.105, 282.106, 282.107 FS. History–New_____.

60FF-3.003 Additions or Modifications, Reductions or Terminations to Existing SUNCOM Service Initiated by the Department.

(1) The Department shall initiate changes or suspend ~~terminate~~ a Customer’s SUNCOM service based on any of the following reasons:

(a) through (d) No change.

(e) A change to the service is required because the service offering has changed.

(f) No change.

(g) Violation of a security standard, as specified in Rules 60FF-3.004-.006, F.A.C.

(h) The Customer is no longer eligible for SUNCOM Services in accordance with Sections 282.103-.107, F.S.

(i) The Customer fails to pay for SUNCOM Services as described in subsection 60FF-2.005(3) ~~60FF-2.003(4)~~, F.A.C.

(2) When a change to a Customer’s service is required, the Department shall notify the Customer of required changes to the Customer’s service. If ~~If~~ the Customer disputes the basis for the change or wishes to request an extension, the Customer shall respond within 30 days from such notice, with a written request to justify why the Department should not make the proposed change to the Customer’s service.

(a) No change.

(b) No change.

(3) The terms of the applicable contract for the SUNCOM service shall be the basis for the Department’s notice obligation to vendors when requesting a change to a service. If the applicable contract fails to address these notice obligations:

(a) Discontinuance of services shall be implemented within one day from the date a request from the Department is issued.

(b) Modifications requiring no physical actions other than electronic changes implemented through remote devices or databases shall be implemented within one day from the date a request from the Department is issued.

(c) Modifications requiring physical actions shall be implemented within a period that is customary for the vendor in serving large business customers.

Specific Authority 282.102(9) FS. Law Implemented 282.102(2), (8), (12), 282.103, 282.104, 282.105, 282.106, 282.107 FS. History—New_____.

60FF-3.004 ~~Network~~ Protection Standards for State Network.

To protect the integrity, predictability and availability of state communications services, Customers shall adhere to the following security specifications and directives:

- (1) No change.
- (2) Absent approval from the Department, the following are prohibited: The Department prohibits configurations which directly or indirectly circumvent the State firewall creating

(a) Any Backdoor cConnections without SUNCOM managed or sanctioned filtering;-

(b)(3) Any The Department prohibits configurations creating non-SUNCOM managed Virtual Connections to or from the State Intranet;- tunnels (encrypted and

(c) Any configuration creating non-SUNCOM managed tunnels to or from the State Intranet;

(d) Any configuration creating non-SUNCOM managed non-encrypted) or remote access Connections to or from the State Intranet directly or indirectly circumventing the State firewall.

(4) Any inbound or outbound connectivity to the State Intranet via Virtual Connections, tunnels (encrypted and non-encrypted) or remote access shall be registered by the Customer with the Department. To register, Customers shall adhere to Rule 60FF-1.004 or 60FF-1.0011, F.A.C., (depending upon its required usage status) by submitting an Exemption Request (for Required Users) or Clearance Request (for other Intranet users). A 12-month utilization log shall be maintained by the Customer and made available to the Department upon request.

(3) To obtain approval for any of the conditions described in subsection 60FF-3.004(2), F.A.C. Customers shall submit a Notice of Security Concern Regarding a Network Solution in accordance with Rule 60FF-1.005, F.A.C. Additionally, if the Department does not keep a log for the Customer, the

Customer shall maintain current 15-day log(s) for all of the Customer firewalls that connect any Customer Sub-network to any SUNCOM services outside of the Sub-network. The logs shall contain records for every transaction processed by the firewall with each record containing the following at a minimum:

(a) Source and destination ports contained in the transaction;

(b) Source and destination addresses contained in the transaction;

(c) The date and time for the transaction.

(4) The Department shall take several findings into consideration in determining whether or not to approve any of the conditions described in subsection 60FF-3.004(2), F.A.C. Those findings shall determine whether or not the Customer has in place:

(a) The appropriate and generally accepted processes for protecting the State Intranet and;

(b) A modern firewall using contemporary tools and functionality for protecting the State Intranet and;

(c) Trained staff available to inform and work with the Department and;

(d) Monitoring activities and modern tools that are adequate for protecting the State Intranet and;

(e) Ongoing transparent access available to the Department to the information necessary to verify these things and perform associated diagnostics.

(5) No scanning tools, Traffic generating stress testing of applications or communications, or network topology discovery tools that automatically generate repeated contact with other nodes outside the Customer’s Sub-network are allowed to be used on or across the SUNCOM network, are allowed to be used without written authorization from the Department. Authorizations can be obtained via an electronic mail request and reply with the SUNCOM Network Operations Center. Said authorization may include provisions for repetitive activities if the request for authorization comprehensively defines the repetitive activity. Authorizations shall be granted based upon the Department verifying that:

(a) through (c) No change.

(6) The Information Security Manager, as established by Section 282.318(2)(a)-(1), F.S., or the highest level information security official for the Customer, shall work with the Department to ensure that the Customer adheres to the Department’s security rules and any SUNCOM service requirement based on the appropriate technical specifications and procedures associated with the applicable service, as outlined in the Portfolio of Services. The Customer’s security designees and network administrator are responsible for keeping any Unauthorized Traffic or Connection from traversing the SUNCOM network.

(7) ~~Additional Network Solutions obtained Services~~ outside the official SUNCOM offering are subject to the Security Breach Protection provisions stated in Rules ~~60FF-3.004 60FF-3.005~~ through ~~60FF-3.007 60FF-3.006~~, F.A.C., and shall be documented by the Customer, as required in ~~subsection 60FF-1.008(6) Rule 60FF-1.009~~, F.A.C., for Required Users or in ~~Rule 60FF-1.013 subsection 60FF-1.011(4)~~, F.A.C., for Non-Required Users. ~~This documentation shall be made available to the Department for review upon request.~~

(8) SUNCOM communication Traffic shall be monitored by the Department for Unauthorized Activity. Violations shall be reported to the Customer having appeared to have facilitated the Unauthorized Activity and/or the appropriate authority with jurisdiction over associated prevention and enforcement. ~~After the Department has notified the Customer, access to the SUNCOM network may be terminated by the Department until any Unauthorized Traffic has been eliminated if the Department believes it could threaten the State Network or its Customers, which shall include that Agency for Enterprise Information Technology, and be remedied through the provisions of Rule 60FF-3.006, F.A.C.~~

(9) The Customer shall provide documentation of network topology and configuration information to the Department during any related Network Security audits or during resolution or investigation of security incidents.

(10) Customers shall be responsible for resolving all security breaches and exposures ~~problems and vulnerabilities~~ defined in these rules for conditions within the Customer's purview and shall cooperate with the Department on SUNCOM resolution efforts through the provisions of Rule 60FF-3.006, F.A.C. for conditions jointly within the purview of the Department and the Customer.

Specific Authority 282.102(9) FS. Law Implemented 282.102(2), (8), (12), 282.103, 282.104, 282.105, 282.106, 282.107 FS. History—New_____.

60FF-3.005 Security Breach Protection Provisions Required for Department Approved Use of Third Party Network Equipment, Services and Software.

All Required Users and Users of the State Intranet shall adhere to these requirements for any purchase or lease of Network Services, Network Software or Network Equipment through means other than SUNCOM Services.

(1) Any procurement solicitation, contract, purchase order or agreement for Network Services, Network Software, or Network Equipment through means other than SUNCOM Services must include the following:

(a) This phrase, "The vendor agrees to use of reasonable efforts to provide equipment, software and services in accordance with and adherence to Chapters 60FF-1 through 60FF-3, Florida Administrative Code."

(b) ~~A description of the relative amount of liability for System Failures and Security Breaches that shall be assumed by the purchasing entity, the vendor and the Department when the cause of System Failures or Security Breaches are within the shared control of these parties.~~

~~(b)(e) This phrase, "The vendor shall assume one hundred percent (100%) liability for System Failures and/or Security Breaches that which result from the violations of subsections 60FF-3.004(1) and (2), F.A.C., that are caused by the vendor provided network solution if the vendor has failed to inform, in accordance with Rule 60FF-1.005, F.A.C., the Florida Department of Management Services, the purchaser and parties who are vendor's failure to properly implement or coordinate implementation (which includes providing due diligent communications with other parties having roles in implementing or accommodating implementation) of the services, equipment or software described in this contract/purchase order/agreement or result from the inherent flaws or limitations of the services, equipment or software described in this contract/purchase order/agreement."~~

(c) This phrase, "The relative amount of liability for System Failures and Security Breaches shall be apportioned between the purchasing entity, the vendor and the Department when the cause of System Failures or Security Breaches are within the shared control of these parties in accordance with their respective fault."

Specific Authority 282.102(9) FS. Law Implemented 282.102(2), (8), (12), 282.103, 282.104, 282.105, 282.106, 282.107 FS. History—New_____.

60FF-3.006 Department Response to System Failures, ~~and Security Breaches and Security Exposures.~~

(1) If there is a Security Breach, Security Exposure or System Failure resulting from implementation of Network Services, Network Software or Network Equipment purchased or leased from sources other than SUNCOM by Required Users and Users of the State Intranet, the Department in consultation with the Agency for Enterprise Information Technology shall take whatever action the Department deems necessary to protect the integrity, predictability and availability of the State Network and SUNCOM Customers, following the escalation steps defined below:

(a) Customers shall remedy any Security Breach or Security Exposure while in communications with the Department and the Agency for Enterprise Information Technology.

(b) In the event that the customer cannot remedy the Security Breach or Security Exposure, the Department shall be granted access to and/or control of any resources the Department declares to be related to the failure, breach or exposure.

(c) Based on This can include the Department's determination that steps (a) and (b) above have failed to resolve the Security Breach or Exposure in a manner that will protect the integrity, predictability and availability of the State Network and SUNCOM Customers, the Department shall be granted assumption of exclusive access and control, through the Department's staff or its vendors, of any and all said Network Services, Network Software, or Network Equipment, or may temporarily suspend (b) And/or this can result in temporary termination of SUNCOM Services to the SUNCOM Customer responsible for said Network Services, Network Software, or Network Equipment.

1. In making its determination that steps (a) and (b) have failed, the Department shall consider the severity of System Failure, Security Breach or Security Exposure, the extent, timeliness and effectiveness of the Customer's resolution efforts and the findings described in subsection 60FF-3.004(4), F.A.C.

(d) The Department shall provide notice to the Customer prior to taking the actions described in paragraph 60FF-3.006(1)(b) and (c), F.A.C.

(2) Government entities and associated vendors that are responsible for any and all said Network Services, Network Software, or Network Equipment shall grant the Department exclusive access to and control of any resources that the Department declares to be related to the failure or breach or exposure, remedy thereto and ongoing prevention of recurrence.

(a) If the Department assumes exclusive control of these Network Resources, the Department shall grant staff authorized by the Customer unlimited opportunity to see information regarding the configuration, conditions and activities on the Network Resource.

(b) If the Department assumes exclusive control of these Network Resources, the Department shall do so in consultation with the Agency for Enterprise Information Technology.

(3) If the Customer requests allowance for continuation of the primary conditions that led to the Security Breach or Security Exposure beyond the short term mitigation efforts, the Department may implement ongoing State Network protection requirements that may include implementing access controls to shared resources, isolation of the Customer's Sub-network and/or special monitoring of the Customer's network traffic and configurations.

Specific Authority 282.102(9) FS. Law Implemented 282.102(2), (8), (12), 282.103, 282.104, 282.105, 282.106, 282.107 FS. History--New_____.

60FF-3.007 SUNCOM Cost Recovery for System Failures and Security Breaches Caused by Third Parties.

If there is a Security Breach or System Failure that affects SUNCOM or any SUNCOM Customer resulting from a breach as described in Rule 60FF-3.005, F.A.C., the providing vendor shall pay the Department liquidated damages in proportion to

the vendor's liability share. The amount of the liquidated damages shall be equal to the Department's costs to resolve the breach, repair consequential damages and establish protections to prevent recurrence. The Department's costs shall consist of SUNCOM staff time, any equipment, expenses or vendor charges related to the effort.

(1) through (2) No change.

Specific Authority 282.102(9) FS. Law Implemented 282.102(2), (8), (12), 282.103, 282.104, 282.105, 282.106, 282.107 FS. History--New_____.

60FF-3.008 Management and Distribution of State Numbers and Addresses.

~~(4)~~ The Department, as the provider of the State Network, shall own, manage and establish standards for the communications addressing, directory services, and the state numbering plans for State computing and telephony state communications and the State Network. This applies to the following:

(1) For all Internet Protocol Versions later than Internet Protocol Version Four, the Department shall distribute and/or authorize (a) This includes distributing and/or authorizing all numbers and addresses to Customers of the network, and/or delegate delegating management of subsidiary groups of numbers and addresses to Customers of the network. No Required User shall seek ownership or usage of any Internet Protocol addresses through any source other than the Department.

(2) For all phone numbers regardless of when they were distributed, the Department shall distribute and/or authorize numbers to Customers of the network, and/or delegate management of subsidiary groups of numbers to Customers of the network.

(3) All private Internet Protocol Version Four addresses used on the State Intranet that are intended to be used outside the Customer's Sub-network shall be registered with and approved by the Department of Management Services. Duplicate registrations will be found in favor of the first registrant.

(4) Upon request from the Department, Customers shall provide the Department with a full listing and usage status classification of all of the non-private numbers, addresses or series of numbers or addresses that are held, reserved, used by or scheduled for usage by the Customer.

~~(5)(2)~~ Telephone numbers and electronic addresses provided by the Department as part of the SUNCOM Service offering belong to the Department and cannot be given to another entity should SUNCOM service be suspended terminated without the Department's expressed written consent.

~~(6)(3)~~ Required Users shall cooperate with the Department's efforts to carry out these responsibilities, and other Customers shall cooperate with such efforts as they relate to the SUNCOM Services purchased by the Customers.

Specific Authority 282.102(9) FS. Law Implemented 282.102(2), (8), (12), 282.103, 282.104, 282.105, 282.106, 282.107 FS. History–New_____.

60FF-3.009 Exemption for Delegation to the Department of Education.

The Department of Management Services exempts the Department of Education from the requirement to file Exemption Requests, as described in Chapter 60FF-1, F.A.C., for the purpose of acquiring, leasing, and utilizing broadcast communications equipment, facilities, and services that are used to carry out the responsibilities of the Department of Education under Section 1001.26, F.S. The authority to acquire, lease, and utilize broadcast communications equipment, facilities, and services is hereby delegated to the Department of Education in the procurement of broadcast equipment, facilities, and services for use by the public and educational broadcast entities licensed by the Federal Communications Commission. The Department of Education shall brief the Department on these delegated activities and shall permit the Department to audit activities delegated herein when the Federal Communications Commission initiates an action related to these delegations or the Department of Education engages in a related procurement process.

Specific Authority 282.102(9) FS. Law Implemented 282.102(2), (5), (8), (12), 282.103 FS. History–New_____.

60FF-3.010 Exemption for Computerized Traffic Systems and Control Devices.

The authority of the Department of Transportation to acquire, lease, maintain and utilize communications equipment, facilities, circuits and services that facilitate traffic systems and control devices solely for the purpose of motor vehicle traffic control and surveillance, is hereby exempted from the requirement to use SUNCOM and the provisions of Rules 60FF-1.007 through 60FF-1.010, F.A.C.

(1) This exemption does not apply in any instance where the Department of Transportation’s communications equipment, facilities, circuits or services are put to use as tools in other operations of the Department of Transportation or do not comply with uniform system of traffic control devices adopted pursuant to Section 316.0745, F.S., even if these communications resources also carry traffic systems and control data.

(2) The Department of Transportation shall permit the Department upon request to audit activities exempted herein and provide the Department the associated information it needs to verify that the Department of Transportation’s communications resources to which this exemption applies are solely used for the purpose of motor vehicle traffic control and surveillance.

Specific Authority 282.102(9) FS. Law Implemented 282.102(2), (5), (8), (12), 282.103 FS. History–New_____.

~~60FF-3.011~~60FF-3.010 Florida State Government Listings.

(1) The Department shall provide the State of Florida government listing information for all local commercial directories and coordinate the maintenance maintainance of government and personnel listing information on the state government Web site www.411.myflorida.com. The Department shall have final authority regarding State of Florida government listing publishing, format, distribution and standardization for all local commercial directories and on the state government Web site www.411.myflorida.com.

(2) Each Eligible User shall be responsible for submitting updated listing information through means provided by the Department on the state government Web site at www.411.myflorida.com, or by email to help@dms.myflorida.com, or by writing to:

Department of Management Services
SUNCOM
Attention: Directory Records Listings Information
4030 Esplanade Way
Tallahassee, Florida 32399-0950.

(3) through (6) No change.

Specific Authority 282.102(9) FS. Law Implemented 282.103, 282.104, 282.105, 282.106, 282.107 FS. History–New_____.

DEPARTMENT OF MANAGEMENT SERVICES

Personnel Management System

RULE NOS.:	RULE TITLES:
60L-35.001	Scope and Purpose
60L-35.002	Definitions
60L-35.003	Minimum Requirements
60L-35.004	Career Service
60L-35.005	Selected Exempt Service
60L-35.006	Senior Management Service
60L-35.0067	Transitional Provision

NOTICE OF CHANGE

Notice is hereby given that the following changes have been made to the proposed rule in accordance with subparagraph 120.54(3)(d)1., F.S., published in Vol. 33, No. 27, July 6, 2007 issue of the Florida Administrative Weekly.

60L-35.001 Scope and Purpose.

This chapter sets forth the rules governing a uniform the Performance Evaluation System, ~~which is the method~~ for reviewing and evaluating the job performance of employees in the state’s Career Service; and employees in the Selected Exempt Service covered by collective bargaining agreements; and Senior Management Service. The Performance Evaluation System enables employees to receive feedback concerning performance of assigned duties and responsibilities. It informs them of their strengths and areas of needed improvement in job performance, identifies current and future training needs, and provides documentation for awarding discretionary merit

increases, and lump sum bonuses in accordance with Section 110.1245(2), Florida Statutes. Nothing in this rule shall limit the ability of an agency to take disciplinary action in accordance with Chapter 60L-36, Florida Administrative Code.

Specific Authority 110.1055, 110.224(3), ~~110.403~~, 110.605 FS. Law Implemented 110.1245(2)(b)5., 110.224, ~~110.403(1)(b)~~, 110.605(1)(b) FS. History--New _____.

60L-35.002 Definitions.

For the purpose of administering this chapter, the following definitions shall apply:

(1) Agency Designated Evaluation Date – The date selected by an agency which begins the 60-day period within which ~~all~~ annual evaluations shall be completed ~~conducted~~. An agency may select up to four (4) designated evaluation dates per calendar year in order to accommodate operational needs.

(2) Evaluation Period – The annual period of time covered by the performance plan, ~~not to exceed one year~~.

(3) Overall Rating – The employee’s level of performance for the evaluation period, which is derived as follows:

(a) Calculate the average of all of the individually-rated performance expectations. In calculating this average, all digits three or more places to the right of the decimal shall be dropped. No rounding shall be used in this calculation.

(b) Locate the numeric range in which the calculated average falls on the below chart and assign the corresponding overall rating.

OVERALL RATING SCALE

NUMERIC RANGE	OVERALL RATING
4.50 – 5.00 <u>4.75 and above</u>	Outstanding
3.50 – 4.49 <u>4.00 – 4.74</u>	Commendable
3.00 – 3.49 <u>3.99</u>	Satisfactory
2.50 <u>2.75 – 2.99</u>	Needs Improvement
2.49 <u>2.74 and below</u>	Unsatisfactory

(4) Performance Evaluation – ~~An oral and~~ written assessment of an employee’s performance of assigned duties and responsibilities as reflected in the employee’s performance expectations and documented on a performance evaluation form.

(5) Performance Expectation – A statement that describes satisfactory performance of an essential duty or responsibility as listed in the position description or satisfactory demonstration of an attribute or value that the agency deems necessary for the accomplishment of its core missions. For purposes of this rule, ~~an essential~~ duty or responsibility is essential if it must be a duty or responsibility the successfully performed in order performance of which is critical to fulfilling the requirements of the position.

(6) Performance Plan – ~~An oral and~~ written notification prepared by the rater ~~in conjunction with the employee~~ that identifies the performance expectations by which the employee will be evaluated during at the end of the designated evaluation period.

(7) Rater – The employee’s current immediate supervisor or a designated managerial employee who has knowledge of the employee’s duties, responsibilities and job performance.

Specific Authority 110.1055, 110.224(3), ~~110.403~~, 110.605 FS. Law Implemented 110.1245(2)(b)5, 110.224, ~~110.403(1)(b)~~, 110.605(1)(b) FS. History--New _____.

60L-35.003 Minimum Requirements.

(1) The rater shall conduct a performance planning session with the employee to identify the performance expectations by which an employee shall be evaluated and to review the performance expectations and rating scale. The rater shall also provide an opportunity for employee feedback regarding what is expected of the employee in the position. A performance plan shall be signed by the rater and the employee, indicating that the performance expectations have been discussed. A copy of the signed performance plan shall be made available to the employee. In the event an employee refuses to sign the performance plan, the rater shall make a signed and dated notation on the plan that the employee refused to sign.

(2) The rater shall manage performance by:

(a) Conducting an oral performance planning session with each employee at the beginning of every evaluation period and providing to the employee a copy of the corresponding performance plan.

~~(b)(a)~~ Conducting written and oral performance evaluations of his/her employees at least annually. Such evaluations must be completed within sixty (60) calendar days following the agency designated evaluation date.

~~(c)(b)~~ Providing employees with coaching and meaningful feedback regarding job performance throughout the evaluation period.

~~(d)(e)~~ Timely informing the employee ~~orally and~~ in writing ~~throughout the evaluation period~~, of performance expectation deficiencies that could result in a “Below Expectation” or “Unacceptable” rating and the necessary corrective action to be taken; prior to the end of the evaluation period. in order to facilitate the employee’s progress toward meeting performance expectations.

~~(e)(d)~~ Meeting in person with the employee, when practicable, for performance planning and performance evaluation.

(3) At a minimum, a written performance evaluation shall include:

(a) A rating of the employee’s job performance during the evaluation period for each performance expectation identified in the performance plan. Each performance expectations shall be measured using the following scale.

RATING	NUMERIC SCALE	INDIVIDUAL PERFORMANCE EXPECTATIONS RATING SCALE
		DEFINITION AND EXAMPLES
Exceptional	5	Employee consistently exceeds the performance expectation of the position. <u>Examples include, but are not limited to</u> For example : The employee requires little or no supervision from management in accomplishing his/her tasks and seeks opportunities to enhance the organization. The employee possesses highly advanced job knowledge. The employee is relied upon to solve complex problems and applies creativity and innovative approaches in formulating solutions.
Above Expectations	4	Employee consistently meets and often exceeds the performance expectation of the position. <u>Examples include, but are not limited to</u> For example : The employee requires minimal supervision from management in accomplishing his/her tasks. The employee possesses a thorough knowledge of the job, and often solves or assists in solving complex problems.
Meets Expectations	3	Employee consistently meets and may occasionally exceed the performance expectation of the position. <u>Examples include, but are not limited to</u> For example : The employee requires moderate supervision from management in accomplishing his/her tasks. The employee possesses sufficient knowledge and/or initiative to execute his/her duties and responsibilities.
Below Expectations	2	Employee exhibits inconsistent job performance, but has the capacity to improve to meet the performance expectation of the position. <u>Examples include, but are not limited to</u> For example : At times the employee requires close supervision where he/she should be operating on his/her own. The employee sometimes lacks the initiative, and/or job knowledge to execute his/her duties and responsibilities.
Unacceptable	1	Employee consistently fails to meet the designated performance expectation. <u>Examples include, but are not limited to</u> For example : The employee requires close supervision and his/her work requires continual correction. The employee's job knowledge is insufficient to meet daily requirements.
N	None given	No longer applicable or unable to determine.

(b) Comments relating to the employee's job performance for each performance expectation ratings of "Exceptional" and "Above Expectations".

(c) Comments relating to the employee's job performance for each performance expectation rating of "Below Expectations" and "Unacceptable", as well as prescribed developmental activities and corrective action(s) for areas where improvement is required.

(d) The overall rating of the employee's job performance during the evaluation period, which shall not be adjusted or affected by the ratings of any other employees being rated.

(e) At the agency's discretion, performance plans and evaluations may be reviewed by a higher level authority and comments may be provided. However, completed performance plans and evaluations shall not be changed by a higher level authority.

(4) Employees with an overall rating of either "Needs Improvement" or "Unsatisfactory" shall be considered to have not met their performance expectations for the position during that evaluation period.

(5) Other than probationary employees addressed in paragraph 60L-35.004(3), F.A.C., employees who do not receive a performance evaluation within sixty (60) calendar

days following the agency designated evaluation date shall be considered to have met their performance expectations as documented on their performance plan, and will receive a rating of "Meets Expectations" for each performance expectation and an overall rating of "Satisfactory".

(6) A description of training and educational opportunities for the employee may be included as part of the performance planning/evaluation process. Training opportunities may include those available under Sections 110.1099 and 110.235, FS.

(7) The performance evaluation shall be signed by the rater and the employee. The signature of the employee shall indicate only that the employee's job performance has been discussed with the employee and does not imply that the employee agrees or disagrees with the rater's assessment of his/her performance. The employee may attach written comments to the performance evaluation form in response to the evaluation. In the event an employee refuses to sign the performance evaluation, the rater shall make a signed and dated notation on the evaluation that the employee refused to sign.

(8) A performance evaluation is considered to be complete when it has been discussed with the employee and the employee has signed or refused to sign the evaluation. The evaluation shall then be included in the employee's personnel file, and a copy shall be made available to the employee.

(9) Agencies may develop additional internal performance evaluation policies and procedures that comply with this performance evaluation rule. ~~These policies may include:~~

~~(a) Provisions for conducting performance evaluations more frequently than designated in the rule.~~

~~(b) Instructions regarding when supervisors should take documented corrective action needed to improve an employee's performance level, and when to take further action in accordance with Rule 60L-36.005, F.A.C.~~

(10) An agency may use forms developed by the Department of Management Services or forms developed by their agency to evaluate and document their employee's performance.

Specific Authority 110.1055, 110.224(3), ~~110.403~~, 110.605 FS. Law Implemented 110.1245(2)(b), 110.224, ~~110.403(1)(b)~~, 110.605(1)(b) FS. History-New _____

60L-35.004 Career Service.

(1) Agencies shall comply with this performance evaluation rule when reviewing and evaluating the performance of Career Service employees.

(2) Upon original appointment, promotion, demotion, or reassignment to a position with significantly different job duties or responsibilities, ~~and at the beginning of each evaluation period~~, the rater shall timely conduct a performance planning session with the employee.

(3) Career Service employees in probationary status shall have a performance evaluation completed on or before the end of the probationary period provided that, if the probationary period is extended pursuant to agency policy, the extension shall be noted on the evaluation form and the employee shall have another performance evaluation completed on or before the end of the extended probationary period. Failure to evaluate the probationary employee on or before the end of the probationary period will result in the employee successfully completing their probationary period.

(4) If an employee successfully completes the probationary period within 60 calendar days of the agency designated evaluation date, the probationary period overall rating shall become the employee's overall rating for the annual evaluation period that corresponds with that agency designated evaluation date.

Specific Authority 110.1055, 110.224(3) FS. Law Implemented 110.1245(2)(b), 110.224 FS. History-New _____

60L-35.005 Selected Exempt Service.

(1) Agencies shall comply with this performance evaluation rule when reviewing and evaluating the performance of Selected Exempt Service employees covered by collective bargaining agreements.

~~(a) Upon original appointment to a position with significantly different job duties or responsibilities, and at the beginning of each evaluation period~~, the rater shall timely conduct a performance planning session with the employee.

(b) Agencies may also incorporate any elements that the agency head deems appropriate for evaluating performance in relationship to the requirements of the position filled by the employee, so long as such elements do not conflict with this rule.

(2) In accordance with Section 110.605(1)(b), Florida Statutes, agencies shall develop their own respective performance evaluation system for reviewing and evaluating the performance of all other Selected Exempt Service employees.

Specific Authority 110.1055, 110.605(1) FS. Law Implemented 110.1245(2)(b), 110.605(1)(b) FS. History-New _____

~~60L-35.006 Senior Management Service.~~

~~(1) Agencies shall comply with this performance evaluation rule when reviewing and evaluating the performance of Senior Management Service employees.~~

~~(a) Upon original appointment and at the beginning of each evaluation period, the rater shall conduct a performance planning session with the employee.~~

~~(b) The performance plan of Senior Management Service employees shall incorporate performance expectations that, at a minimum, address the following:~~

~~1. The efficiency, productivity and effectiveness of the individual employee; and~~

~~2. The efficiency, productivity and effectiveness of the organizational unit(s) under the employee's direction.~~

~~(c) Agencies may also incorporate any elements that the agency head deems appropriate for evaluating performance in relationship to the requirements of the position filled by the employee, so long as such elements do not conflict with this rule.~~

~~(2) An agency head may propose for Department approval an alternative performance evaluation system for Senior Management Service employees. Such agency systems shall incorporate, at a minimum, performance expectations that address the following:~~

~~(a) The efficiency, productivity and effectiveness of the individual employee; and~~

~~(b) The efficiency, productivity and effectiveness of the organizational unit(s) under the employee's direction.~~

~~Specific Authority 110.1055, 110.403 FS. Law Implemented 110.1245(2)(b)5., 110.403(1)(b) FS. History New _____.~~

60L-35.0067 Transitional Provision.

To allow adequate time for agencies to adapt their operational procedures for carrying out the provisions of this rule chapter, agencies have until December 31 ~~July 1~~, 2008 to implement this rule.

Specific Authority 110.1055, 110.201, 110.224(3), ~~110.403~~, 110.605 FS. Law Implemented 110.1245(2)(b)5., 110.224, 110.227, ~~110.403(1)(b)~~, 110.605(1)(b) FS. History–New _____.

DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION

Construction Industry Licensing Board

RULE NO.: 61G4-15.032
 RULE TITLE: Certification of Swimming Pool Specialty Contractors

NOTICE OF CHANGE

Notice is hereby given that the following correction has been made to the proposed rule in accordance with subparagraph 120.54(3)(d)1., F.S., published in Vol. 34, No. 14, of the April 4, 2008, issue of the Florida Administrative Weekly. The change is in response to comments submitted by the Joint Administrative Procedures Committee in a letter dated April 23, 2008. The change is as follows:

The rule shall read as:

61G4-15.032 Certification of Swimming Pool Specialty Contractors.

- (1) through (2) No change
- (3) Certification Procedures.
 - (a)1. Through (a)2.b. No change.

c. Submits affidavit(s) signed by a Florida licensed registered or certified commercial or residential pool/spa contractor, in good standing, that demonstrates four years of experience in the swimming pool specialty contractor category for which the person applied; and

d.I. Takes and successfully completes a written examination for certification in the category of swimming pool specialty contractor applied for; or and successfully passes a practical examination for certification in the category of swimming pool specialty contractor; and

II. Until January 1, 2012, an applicant who completes.

e. Completes three (3) hours of board-approved continuing education, consisting of one hour of workplace safety, one hour of business practices, and one hour of workers' compensation, may qualify, if the applicant successfully passes a practical examination for certification in the category of swimming pool specialty contractor applied for in lieu of a written examination for licensure.

- (b) No change.

Specific Authority 455.217, 489.113(6), 489.108, 489.115(4) FS. Law Implemented 455.217, 489.113(6), ~~489.108~~, 489.115(4) FS. History–New 1-4-06, Amended _____.

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: G. W. Harrell, Executive Director, Construction Licensing Board, 1940 North Monroe Street, Tallahassee, Florida 32399

DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION

Construction Industry Licensing Board

RULE NO.: 61G4-21.005
 RULE TITLE: Payment of Claims

NOTICE OF CHANGE

Notice is hereby given that the following change has been made to the proposed rule in accordance with subparagraph 120.54(3)(d)1, FS, published in Vol. 34, No. 7, of the February 15, 2008, issue of the Florida Administrative Weekly. The change is in response to comments submitted by the Joint Administrative Procedures Committee in a letter dated February 21, 2008. The change is as follows:

The rule shall read as:

61G4-21.005 Payment of Claims.

(1) If the Board authorizes payment of any claim in full or in part, then it shall forward the final agency action with respect to the claim to the Secretary of the Department for payment.

(2) Procedures for disbursements of funds shall not commence until ~~35~~ 45 days after the filing of the Final Order of the Board approving payment of any claim from the recovery fund.

(3) No claimant eligible for, or currently receiving, restitution under a civil or criminal restitution order or other repayment plan shall be eligible to recover from the Fund until two or more payments have been missed. Prior to receiving any payments, such a claimant shall provide the Board with a written affirmation stating any ~~of~~ amount received to date under such an order or plan, the date and amount of the last payment, and how much is still due and owing under such an order or plan.

Specific Authority 489.108 FS. Law Implemented 489.141, 489.143 FS. History–New 7-11-95, Amended 4-27-99, 6-19-03, 7-7-05, _____.

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: G. W. Harrell, Executive Director, Construction Licensing Board, 1940 North Monroe Street, Tallahassee, Florida 32399

DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION

Building Code Administrators and Inspectors Board

RULE NO.: 61G19-9.001
 RULE TITLE: Continuing Education for Biennial Renewal

NOTICE OF CHANGE

Notice is hereby given that the following changes have been made to the proposed rule in accordance with subparagraph 120.54(3)(d)1., F.S., published in Vol. 34, No. 11, March 14, 2008 issue of the Florida Administrative Weekly.

The changes are as follows:

(4) "Laws and Rules" as used in subsection (1) above means the study and examination of the related subject matter as is exemplified and contained within Chapters 112, 320, 468, 553, 471, 481, 489 (as it relates to licensure and scope of practice), and 713 (as it relates to permitting), F.S., and their associated rules in the Florida Administrative Code (F.A.C.) as listed in the Board's Candidate Information Bulletin (CIB) online. "Ethics" as used in subsection (1) above means the study and examination of the subject matter contained within Chapter 112, Part III, F.S., and other ethical principles enumerated in Chapter 468, Part XII, F.S., specifically relevant to the role of licensees of this board.

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED CHANGE IS: Robyn Barineau, Executive Director, Building Code Administrators and Inspectors Board, 1940 North Monroe Street, Tallahassee, Florida 32399-0750

DEPARTMENT OF ENVIRONMENTAL PROTECTION

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

DEPARTMENT OF HEALTH

Board of Massage Therapy

RULE No.: 64B7-25.001 : RULE TITLE: Examination Requirements
NOTICE OF CHANGE

Notice is hereby given that the following change has been made to the proposed rule in accordance with subparagraph 120.54(3)(d)1, F.S., published in Vol. 33, No. 48, of the November 30, 2007, issue of the Florida Administrative Weekly. The change is in response to the hearing held on April 25, 2008. The change is as follows:

The rule shall read as:

64B7-25.001 Examination Requirements.

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

(2) The Board approves the National Certification Board for Therapeutic Massage and Bodywork Examination until May 1, 2009. The Board approves the Massage and Bodywork Licensing Examination administered by the Federation of State

Massage Therapy Boards as of August 1, 2008. Only those examination results obtained during periods of Board approval will be accepted for licensure by examination.

Specific Authority 456.013(7), 456.017(1)(c), 456.034, 480.035(7), 480.041(2), 480.042(1) FS. Law Implemented 456.013(7), 456.017(1)(c), 456.034, 480.041, 480.042 FS. History--New 11-27-79, Amended 9-2-80, 10-9-85, Formerly 21L-25.01, Amended 12-22-92, 3-24-93, 5-20-93, Formerly 21L-25.001, Amended 8-12-93, 6-28-94, 8-18-96, Formerly 61G11-25.001, Amended 5-20-98, 7-30-02, _____.

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Pamela King, Executive Director, Board of Massage Therapy/MQA, 4052 Bald Cypress Way, Bin #C06, Tallahassee, Florida 32399-3256

DEPARTMENT OF HEALTH

Division of Health Access and Tobacco

RULE NOS.: 64I-6.001 : RULE TITLES: Title
64I-6.002 Program Components

NOTICE OF CHANGE

Notice is hereby given that the following changes have been made to the proposed rule in accordance with subparagraph 120.54(3)(d)1., F.S., published in Vol. 34, No. 10, March 7, 2008 issue of the Florida Administrative Weekly.

64I-6.001 Title.

Specific Authority 381.84(9) FS. Law Implemented 381.84(3) FS.

64I-6.002 Program Components.

(1) The Comprehensive Statewide Tobacco Education and Use Prevention Program shall be implemented as required by subsection 381.84(3), F.S., and shall, at a minimum, include the program components described in Section A of ~~in accordance with~~ the United States Centers for Disease Control (CDC) Best Practices for Comprehensive Tobacco Control Programs-October 2007, ~~as amended~~. The (CDC) program components to be implemented are as follows:

- (a) State and Community Interventions;
- (b) Health Communication Interventions;
- (c) Cessation Interventions;
- (d) Surveillance and Evaluation; and
- (e) Administration and Management.

(2) The (CDC) Best Practices for Comprehensive Tobacco Control Programs-October 2007, ~~as amended~~, is incorporated herein by reference.

Specific Authority 381.84(9)(3)FS. Law Implemented 381.84(3) FS.

FISH AND WILDLIFE CONSERVATION COMMISSION

RULE NO.: 68-1.003
 RULE TITLE: Florida Fish and Wildlife Conservation Commission Grants Program

NOTICE OF CHANGE

Notice is hereby given that the following changes have been made to the proposed rule in accordance with subparagraph 120.54(3)(d)1., F.S., published in Vol. 34, No. 8, February 22, 2008 issue of the Florida Administrative Weekly.

Subsection (8) of the proposed rule has been amended to read:

(8) Florida Boating Safety and Education Grant Program grants shall meet all additional program requirements of Rules 62D-5.031-039, F.A.C. set forth in the Boating Safety and Education Grant Program Guidelines (dated Jan. 2008), which are hereby incorporated by reference. The following form is hereby adopted and incorporated by reference: FWC/FBSEG, Florida Boating Safety and Education Grant Application, 07/08. The guidelines and form are available from the Commission at 620 S. Meridian Street, 1M, Tallahassee, Florida 32399-1600 or www.myfwc.com/boating/grants/.

Subsection (9) of the proposed rule has been amended to read:

(9) Florida Boating Improvement Program grants shall meet all additional program requirements set forth in the Florida Boating Improvement Program Guidelines (dated Jan. 2008), which are hereby incorporated by reference. The following forms are hereby adopted and incorporated by reference: FWC/FBIP-A, Florida Boating Improvement Program Grant Application for Recreational Channel Markers and Other Uniform Waterway Markers, 07/08; FWC/FBIP-B, Florida Boating Improvement Program Grant Application for Boating Access Facilities, 07/08; FWC/FBIP-C, Florida Boating Improvement Program Grant Application for Derelict Vessel Removal, 07/08; FWC/FBIP-D, Florida Boating Improvement Program Boater Education Grant Application, 07/08; FWC/FBIP-E, Florida Boating Improvement Program Grant Application for Economic Initiatives and Other Local Boating Related Projects, 07/08. The guidelines and forms are available from the Commission at 620 S. Meridian Street, 1M, Tallahassee, Florida 32399-1600 or www.myfwc.com/boating/grants/fbip.htm. be similar to eligible projects determined under the program administered by the Department of Environmental Protection and established in Rules 62D-5.031-036, F.A.C.

Subsection (12) of the proposed rule has been amended to read:

(12) Boating Infrastructure Grant Program grants shall meet all additional requirements set forth in the Boating Infrastructure Grant Program Guidelines (dated Jan. 2008), which are hereby incorporated by reference. The following form is hereby adopted and incorporated by reference: FWC/BIGP-APP, Boating Infrastructure Grant Program Grant Application, 07/08. The guidelines and form are available from

the Commission at 620 S. Meridian St., 1M, Tallahassee, Florida 32399-1600 or www.myfwc.com/boating/grants/bigp.htm.

The forms adopted by reference in subsections (8), (9) and (12) have been revised to remove the requirement that the application form be sworn to and notarized. That requirement is replaced with a warning that Section 837.06, Florida Statutes, prohibits and provides criminal penalties for making a false statement in writing with the intent to mislead a public servant in the performance of his or her official duty.

FISH AND WILDLIFE CONSERVATION COMMISSION

Vessel Registration and Boating Safety
 RULE NO.: 68D-16.029
 RULE TITLE: Derelict Vessel Removal Grant Program

NOTICE OF CHANGE

Notice is hereby given that the following changes have been made to the proposed rule in accordance with subparagraph 120.54(3)(d)1., F.S., published in Vol. 34, No. 8, February 22, 2008 issue of the Florida Administrative Weekly.

as revised by the Notice of Change published in Vol. 34, No. 15, April 11, 2008 issue of the Florida Administrative Weekly. These changes are being made in response to comments received from the Joint Administrative procedures Committee in accordance with subparagraph 120.54(3)(d)1., F.S.

Subsection (2) of the proposed rule has been amended to change the date of the application form from October 2005 to June 2008. The requirement that the application form be sworn to and notarized has been removed and replaced by a warning that Section 837.06, Florida Statutes, prohibits and provides criminal penalties for making a false statement in writing with the intent to mislead a public servant in the performance of his or her official duty.

Subsection (5) will be revised to replace each occurrence of the word "may" with "shall."

DEPARTMENT OF FINANCIAL SERVICES

Division of Insurance Agents and Agency Services

RULE NO.: 69B-240.001
 RULE TITLE: Military Sales Practices

NOTICE OF CHANGE

Notice is hereby given that the following changes have been made to the proposed rule in accordance with subparagraph 120.54(3)(d)1., F.S., published in Vol. 33, No. 39, September 28, 2007 issue of the Florida Administrative Weekly.

These changes are being made to address concerns expressed by the Joint Administrative Procedures Committee.

69B-240.001 Military Sales Practices.

(1) through (4) No change.

(5) The following acts or practices when committed on a military installation by an insurance producer with respect to the in-person, face-to-face solicitation of life insurance are declared to be unfair or deceptive acts or practices by Section 626.9541(1)(a)9., and (d), F.S.:

(a) through (j) No change.

(6) The following acts or practices by an insurance producer constitute corrupt practices, improper influences or inducements and are declared to be unfair or deceptive acts or practices prohibited by Section 626.9541(1)(a)1., 6., and 9., F.S. or 626.9551(1)(a), F.S., regardless of the location where committed:

(a) No change.

(b) Receiving funds from a service member for the payment of premium from a depository institution with which the service member has no formal banking relationship. For purposes of this section, a formal banking relationship is established when the depository institution:

1. provides the service member a deposit agreement and periodic statements and makes the disclosures required by the Truth in Savings Act, 12 U.S.C. § 4304, which are hereby incorporated by reference; and the regulations promulgated thereunder, which are hereby incorporated by reference; and

2. No change.

(c) through (r) No change.

(s) Failing to make, at the time of sale or offer to an individual known to be a service member, the written disclosures required by the "Military Personnel Financial Services Protection Act," Pub. L. No. 109-290, which are hereby incorporated by reference.

(t) through (y) No change.

(7) No change.

The remainder of the rule reads as previously published.

Section IV Emergency Rules

BOARD OF TRUSTEES OF THE INTERNAL IMPROVEMENT TRUST FUND

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

DEPARTMENT OF ENVIRONMENTAL PROTECTION

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

Section V Petitions and Dispositions Regarding Rule Variance or Waiver

DEPARTMENT OF LAW ENFORCEMENT

NOTICE IS HEREBY GIVEN THAT on April 29, 2008, the Criminal Justice Standards and Training Commission, received a petition for waiver of subsection 11B-30.007(6), F.A.C., by David Imparato. Petitioner wishes to obtain a refund for the cost of sitting for the State Officer Certification Examination.

A copy of the Petition for Variance or Waiver may be obtained by contacting: Grace A. Jaye, Assistant General Counsel, Florida Department of Law Enforcement, P. O. Box 1489, Tallahassee, FL 32302-1489, (850)410-7676. Comments on the petition may be directed to the above.

BOARD OF TRUSTEES OF THE INTERNAL IMPROVEMENT TRUST FUND

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

WATER MANAGEMENT DISTRICTS

NOTICE IS HEREBY GIVEN THAT on April 24, 2008, the South Florida Water Management District, received a petition for waiver from Michael and Janie Meives, Application No. 08-0219-5, for utilization of Works or Lands of the District known as the C-17 Canal, Palm Beach County, for an existing dock and landscaping and the proposed installation of two new boat lifts located on the north right of way of the C-17 Canal; Section 16, Township 42 South, Range 43 East. The petition seeks relief from subsections 40E-6.011(4) and (6), and paragraph 40E-6.221(2)(j), Florida Administrative Code, which govern the placement of permanent and/or semi-permanent above-ground encroachments within 40 feet of the top of bank within Works or Lands of the District.

A copy of the Petition for Variance or Waiver may be obtained by contacting: Kathie Ruff at (561)682-6320 or e-mail at kruff@sfwmd.gov. The District will accept comments concerning the petition for 14 days from the date of publication of this notice. To be considered, comments must be received by the end of business on the 14th day at the South Florida Water Management District, 3301 Gun Club Road, MSC 1410, West Palm Beach, FL 33406, Attn.: Kathie Ruff, Office of Counsel.

NOTICE IS HEREBY GIVEN THAT on April 29, 2008, the South Florida Water Management District (District), received a petition for waiver from Adam Smith, Application No. 07-0110-2, for utilization of Works or Lands of the District known as the C-100A Canal, Miami-Dade County, for existing