

Section I
Notices of Development of Proposed Rules
and Negotiated Rulemaking

DEPARTMENT OF STATE

Division of Elections

RULE TITLE: Placement of Races on Primary Ballots
 RULE NO.: 1S-2.002

PURPOSE AND EFFECT: To establish standards for the order and appearance of races of ballots in elections held by all governing bodies, political subdivisions and municipalities of the State of Florida. The first rule development workshop was held on May 31, 2000 at the Division of Elections, Room 1801, The Capitol, Tallahassee, Florida.

SUBJECT AREA TO BE ADDRESSED: Proposed rule 1S-2.002 will provide standards for the placement of races on ballots in a manner consistent with the requirements of Article VI, section 5(b), Florida Constitution, and section 101.181, Florida Statutes, relating to form of the primary ballot.

SPECIFIC AUTHORITY: 101.015, 101.5609 FS.

LAW IMPLEMENTED: 101.181, 101.5609 FS.

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

TIME AND DATE: 11:00 a.m., June 22, 2000

PLACE: Florida State Association of Supervisors of Elections Conference, Key West Hilton Resort & Marina, 245 Front Street, Key West, Florida, (305)294-4000

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT IS: Paul Craft, Division of Elections, (850)921-4110

THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS NOT AVAILABLE AT THIS TIME, BUT WILL BE DISTRIBUTED AT THE WORKSHOP.

DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES

Division of Aquaculture

RULE CHAPTER TITLE: Aquaculture Best Management Practices
 RULE CHAPTER NO.: 5L-3

RULE TITLES: Purpose
 RULE NOS.: 5L-3.001

Definitions
 5L-3.002

Requirement for an Aquaculture Certificate
 of Registration
 5L-3.003

Aquaculture Best Management Practices
 5L-3.004

Aquaculture Certificate of Registration
 5L-3.005

Minimal Impact Aquaculture Facilities
 5L-3.006

Failure to Comply With the Best
 Management Practices
 5L-3.007

Repeal of Aquaculture Interim Measures
 5L-3.008

PURPOSE AND EFFECT: The purpose and effect of the proposed rule is to establish and implement aquaculture best management practices in accordance with Chapter 597, Florida Statutes.

SUBJECT AREA TO BE ADDRESSED: The proposed rule establishes the procedures to follow and best management practices to implement by aquaculture producers in order to obtain an aquaculture certificate of registration from the Florida Department of Agriculture and Consumer Services.

SPECIFIC AUTHORITY: 570.07(23), 597.004(2)(b) FS.

LAW IMPLEMENTED: 597.002, 597.003, 597.004 FS.

IF REQUESTED IN WRITING AND NOT DEEMED UNNECESSARY BY THE AGENCY HEAD, A RULE DEVELOPMENT WORKSHOP WILL BE NOTICED IN THE NEXT AVAILABLE FLORIDA ADMINISTRATIVE WEEKLY.

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT AND A COPY OF THE PRELIMINARY DRAFT, IF AVAILABLE, IS: Sherman Wilhelm, Division of Aquaculture, 1203 Governor's Square Boulevard, 5th Floor, Tallahassee, Florida 32301, Phone: (850)488-4033

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

DEPARTMENT OF REVENUE

Sales and Use Tax

RULE TITLE: Advertising Agencies
 RULE NO.: 12A-1.072

PURPOSE AND EFFECT: The purpose of the substantial rewording of Rule 12A-1.072, FAC., is to implement the provisions of s. 1, Chapter 99-269, L.O.F., which created s. 212.08(7)(ccc), F.S., to provide an exemption for the sale of advertising services by an advertising agency to its client, an exemption for certain tangible personal property used in providing those services, and a definition for the term "advertising agency." Section 212.08(7)(ccc), F.S., also provides that promotional goods produced or reproduced for distribution remain subject to sales tax.

The proposed substantial rewording of Rule 12A-1.072, FAC., defines the following terms used to implement the provisions of s. 212.08(7)(ccc), F.S.: "advertising," "advertising agency," "advertising materials," "advertising services," "firm," "acting as agent for its clients pursuant to contract," "primarily engaged in the business of providing advertising materials and services," "promotional goods," and "raw materials." The proposed rule text provides that the sale of advertising services and the charge for advertising materials by an advertising agency to its clients are exempt from sales tax. Examples of sales of advertising materials are provided.

The proposed substantial rewording of Rule 12A-1.072, FAC., provides that an advertising agency may purchase advertising materials exempt from tax by extending an exemption

certificate to its vendor. Guidelines for when the exemption certificate may be executed by the advertising agency, the penalties that may be imposed for the fraudulent issuance of the certificate, and the requirements to maintain an executed certificate are provided. A suggested format for the exemption certificate that contains a listing of items that may be purchased tax exempt is also provided.

This proposed substantial rewording of Rule 12A-1.072, FAC., provides that the creation of advertising materials by the advertising agency for its clients is exempt from sales and use tax. The purchase by an advertising agency of raw materials used to create advertising materials for its clients is subject to tax. The charge by an advertising agency for the development of promotional goods is exempt; however, the charge for producing or reproducing the promotional goods is subject to sales tax. Examples of sales transactions are provided in the proposed substantial rewording. Sales of tangible personal property by advertising agencies to persons other than its clients are subject to tax. The proposed substantial rewording also refers the reader to s. 212.05(1)(h)2., F.S., for the exemption provided for newspaper inserts, and to s. 212.08(7)(w), F.S., for publications that are exempt from sales tax.

SUBJECT AREA TO BE ADDRESSED: The subject of this workshop is the implementation of the provisions of s. 212.08(7)(ccc), F.S., as created by s. 1, Chapter 99-269, L.O.F. The guidelines for implementing s. 212.08(7)(ccc), F.S., provided in the proposed substantial rewording of Rule 12A-1.072, FAC., for advertising agencies will be presented for discussion and the receipt of public comments.

SPECIFIC AUTHORITY: 212.08(7)(ccc), 212.17(6), 212.18(2), 213.06(1) FS.

LAW IMPLEMENTED: 212.02(16), 212.05(1),(2), 212.06(1), 212.08(7)(v),(ccc) FS.

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

TIME AND DATE: 10:00 a.m., June 29, 2000

PLACE: Room 116, Larson Building, 200 E. Gaines Street, Tallahassee, Florida

Copies of the agenda for the rule development workshop may be obtained by contacting the person listed below. Any person requiring special accommodations to participate in any proceeding before the Technical Assistance and Dispute Resolution Office is asked to advise the Department at least five (5) calendar days before such proceeding by contacting Jamie Phillips at (850)488-0717. If you are hearing or speech-impaired, please contact the Department by calling 1(800)DOR-TDD1 (1(800)367-8331).

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT WORKSHOP IS: Sara Faulkenberry, Tax Law Specialist, Technical Assistance and Dispute Resolution, Department of Revenue, P. O. Box 7443, Tallahassee, Florida 32314-7443, telephone (850)414-9838

THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS:

(Substantial Rewording of Rule 12A-1.072 follows. See Florida Administrative Code for present text.)

12A-1.072 Advertising Agencies.

(1) Definitions. The following terms and phrases when used in this rule shall have the meaning ascribed to them in this subsection, except where the context clearly indicates a different meaning.

(a) "Advertising" is the expression of an idea created and produced for reproduction and distribution through means such as television, radio, internet, newspapers, newsletters, periodicals, trade journals, publications, books, magazines, standardized outdoor billboards, direct mail, point-of-sale displays, leaflets, brochures, fliers, or package design, and which is designed to promote sales of a particular product or service or to enhance the image of the advertiser. Advertising includes public service messages that are designed to affect the behavior of the public and messages that are political in nature.

(b)1. "Advertising agency" means any firm that is primarily engaged in the business of providing advertising materials and services to clients.

2. Examples.

a. Firms that are primarily engaged in consulting with their clients about marketing and advertising products or services, formulating a marketing plan intended to improve their image, or increase their market share, and executing those plans, are considered to be advertising agencies.

b. Firms that are primarily engaged in the business of printing, imprinting, or reproducing tangible personal property and firms that are primarily engaged in the business of photography or broadcasting are not advertising agencies.

c. Firms that primarily specialize in providing pre-press service(s), such as graphic art, color separations, or velox providers, are not advertising agencies.

d. Firms that primarily provide audio/visual production or recording services are not advertising agencies.

(c) "Firm" means corporation, sole proprietorship, partnership, or limited liability company.

(d) "Primarily engaged in the business of providing advertising materials and services" means more than 50 percent of its gross receipts in the firm's previous tax year were, or in the first tax year are budgeted to be, from receipts for the sale of advertising materials and services to clients. For purposes of determining whether the firm qualifies under this definition, there shall be deducted from gross receipts amounts passed through the agency from its client to a third party for printing, imprinting, reproduction, publishing of tangible personal property or photography, or broadcasting advertisements before applying the 50 percent test.

(e) “Advertising materials” means tangible personal property created during the course of providing advertising services. Examples of advertising materials include: photographs, videos containing images, films containing images, veloxes, galleys, mechanicals, artwork, illustrations, digital audio tapes, analog tapes, compact discs, sketches, layouts, engravings, mats, models, mockups, and digital equipment. “Advertising materials” does not include “raw materials.”

(f) “Raw materials” means materials or media used to create advertising materials. “Raw materials” includes items such as: blank film; blank videotapes; art supplies, such as poster board, paper products, inks, letters, and paints; stock art; stock photography; prerecorded music and sound; props; costumes; and backdrops.

(g) “Advertising services” means services rendered by an advertising agency when designing and/or implementing an advertising campaign to promote a product, service, idea, concept, issue, or the image of a person. This includes services rendered to design and produce advertising materials such as: research; design, layout, preliminary and final art preparation; placing or arranging for advertising; creative consultation, coordination, direction, and supervision; script and copywriting; editing; and account management services. However, if an advertising campaign is planned and prepared, but the client elects not to proceed with the production or placement of the advertising, or the client elects to do its own placement of the advertising with the media, the agency will still be considered to have provided advertising services.

(h) “Promotional goods” means tangible personal property used for promotional purposes. Examples of promotional goods include displays, display containers, exhibits, newspaper inserts, brochures, catalogues, direct mail letters or flats, shirts, hats, pens, pencils, key chains, audio tapes, videotapes, compact discs, business cards, or other printed goods or materials.

(i)1. “Acting as agent for its clients pursuant to a contract.” In order to purchase advertising materials exempt from tax, the advertising agency must document that it is acting as an agent pursuant to a contract. This may be evidenced by:

a. A written contract clearly stating that the advertising agency will act on behalf of a client as agent;

b. Documents, such as invoices and purchase orders by which the agency discloses to its suppliers that it is acting on behalf of a client; or

c. Proof of a course of dealing that would establish an agency relationship, such as being on a retainer paid by the client.

2. When the advertising agency is acting as agent for its clients pursuant to a contract, it may purchase advertising materials tax exempt. When tangible personal property purchased by the advertising agency is depreciated or capitalized for accounting or income tax purposes by the

agency, or the advertising agency makes use of the property for its own account, the tangible personal property is subject to tax.

(2) Sales of Services. The sale of advertising services by an advertising agency is exempt from tax. The professional service fee charged by an advertising agency for services is exempt from tax. An advertising agency’s professional fee includes agency time or hourly charges, retainer fees, agency mark-up on exempt advertising materials, and media commissions.

(3) Sales of Advertising Materials.

(a)1. The charge by an advertising agency to clients for advertising materials is exempt from sales tax. The exemption applies regardless of the advertising agency’s method of billing, whether the contract reflects a lump sum or separately states the costs of exempt advertising materials and other services and professional fees.

2. When an advertising agency sells promotional goods along with exempt items or services, the taxable items must be separately stated in order for the exempt items to receive the exemption.

(b) Example: The advertising agency prepares and prints a brochure for its client. The preparation of the brochure includes the concept development, design and layout, preparation of advertising materials, including photographs, artwork, and mechanicals, and the printing of the copies of the brochure. The advertising agency pays sales tax on all raw materials used in creating advertising materials. The following are examples of the proper tax treatment for each method of contracting with the charges to the client:

1. The advertising agency contract separately itemizes the components of the brochure as: design, advertising materials, and printing. Sales tax is due only on the charge for printing, including any mark-up. The sales tax must be separately stated.

2. The advertising agency contract combines the charges for the design services and advertising materials into a single charge, but separately states the printing charge, including the mark-up. Sales tax is due only on the charge for printing, including the mark-up. The sales tax must be separately stated.

3. The advertising agency contract combines the charges for the design services, advertising materials, and printing in a single charge. Sales tax is due on the lump sum charge to the client. The sales tax must be separately stated.

(4) Purchases of Advertising Materials by the Advertising Agency.

(a) If an advertising agency is under contract to act on behalf of its clients, the advertising agency may purchase advertising materials or advertising services exempt from tax by extending an exemption certificate to the vendor. The exemption certificate does not entitle the advertising agency to purchase raw materials exempt from tax, even when those raw

materials are used to produce advertising materials in-house. A suggested format of the exemption certificate to be issued to the vendor is provided in subsection (10).

(b) Any vendor providing advertising materials to an advertising agency pursuant to this exemption is relieved of the responsibility of collecting tax on the sale of any advertising materials if:

1. the advertising agency presents an exemption certificate certifying the agency's entitlement to the exemption to the vendor; and

2. the vendor retains a copy of a purchaser's exemption certificate from the advertising agency in its records until tax imposed under Chapter 212, F.S., may no longer be determined and assessed under s. 95.091(3), F.S.

(c) If it is determined that the advertising agency was not entitled to the exemption, the department shall look only to the advertising agency for any sales tax due on the purchase of advertising materials.

(5) Creation of Advertising Materials by the Advertising Agency. If an advertising agency produces, fabricates, manufactures, or otherwise creates advertising materials in-house for its clients, the sale of such advertising materials to its clients is exempt from sales tax. Further, the advertising agency does not pay use tax on the production, fabrication, or manufacture of such advertising materials used in the performance of advertising services for its clients.

(6) Raw Materials Used in Advertising.

(a) The purchase of raw materials, whether purchased by an advertising agency or by a person who creates advertising materials for sale to an advertising agency, is taxable.

(b) Example: When a photographer purchases film, the film is taxable when purchased by the photographer. However, when the photographer alters the film to create an image and sells the image to an advertising agency, the photographer does not collect tax if the advertising agency issues an exemption certificate to the photographer.

(7) Promotional Goods.

(a) When promotional goods are created by an advertising agency, the charge for development of sample promotional goods is exempt from sales tax, whether produced in-house or purchased from a vendor.

(b)1. When promotional goods are produced or reproduced for distribution, the charge for production or reproduction of the promotional goods is subject to sales tax whether or not the client takes physical possession of the promotional goods produced or reproduced for distribution. The advertising agency must register with the Department of Revenue, and collect and remit tax on the transaction. See Rule 12A-1.060, F.A.C.

2. Example: If an advertising agency uses a printer to produce or reproduce a promotional good, such as a brochure, the advertising agency would extend an exemption certificate to the printer, who would not charge sales tax on the invoice to

the advertising agency. However, the advertising agency would be required to charge sales tax to a client for the production or reproduction costs of the promotional good, including the advertising agency's mark-up for printing. The advertising agency would remit the tax to the Department of Revenue.

(c) Newspaper inserts that are distributed as a component part of a newspaper or magazine may qualify for exemption under s. 212.05(1)(h)2., F.S. Publications that meet the requirements in s. 212.08(7)(w), F.S., are exempt. For guidelines on these specific exemptions, see Rule 12A-1.008, F.A.C.

(8) Billboards. The advertising materials and services used in the creation of billboard concepts and mock-ups by an advertising agency are exempt under these provisions. However, the charge for the production of displays is taxable. See s. 212.031, F.S., for the taxability of the lease or license to use billboards.

(9) Sales of tangible personal property by an advertising agency to persons other than its clients are taxable, unless specifically exempted by other sections of Chapter 212, F.S.

(10) The following is the suggested format of the exemption certificate to be issued to the vendor by the advertising agency when purchasing exempt advertising materials:

SUGGESTED PURCHASER'S EXEMPTION
CERTIFICATE ITEMS SOLD TO ADVERTISING
AGENCIES

_____ (Purchaser's Name)
certifies that the advertising materials, meaning materials created for the purpose of providing advertising services including, but not limited to, photographs, videos containing images, films containing images, veloxes, galleys, mechanicals, artwork, illustrations, digital audio tapes, analog tapes, compact discs, sketches, layouts, engravings, mats, models, mockups, and digital equipment services, purchased on or after _____ (date) are purchased by the advertising agency pursuant to a contract to act as an agent for a client, and that the items are created to provide advertising services.

Purchaser further certifies that the items are not raw materials, and the items are not being purchased to produce advertising materials in-house by the advertising agency. "Raw materials" means materials or media used to create advertising materials. "Raw materials" includes items such as: blank film; blank videotapes; art supplies, such as poster board, paper products, inks, letters, and paints; stock art; stock photography; prerecorded music and sound; props; costumes; and backdrops. The undersigned understands that if such items do not qualify for exemption, the undersigned will be subject to sales and use tax, interest, and penalties. The undersigned further understands that when any person fraudulently, for the purpose of evading tax, issues to a vendor or to any agent of the state a certificate or statement in writing in which he or she claims

exemption from the sales tax, such person, in addition to being liable for payment of the tax plus a mandatory penalty of 200% of the tax, shall be liable for fine and punishment provided by law for conviction of a felony of the third degree, as provided in s. 775.082, s. 775.083, or s. 775.084.

_____ (Purchaser's Name – Print or Type)	_____ Florida Sales Tax Number (if applicable)
_____ Signature and Title	_____ Date
_____ Federal Employer Identification Number (F.E.I.) or Social Security Number	_____ Telephone Number

(Form to be retained in vendor's records)

Specific Authority ~~212.08(7)(ccc)~~, 212.17(6), 212.18(2), 213.06(1) FS. Law Implemented ~~212.02(4)(16)~~, 212.05(1),(2), 212.06(1), 212.08(7)(v),(ccc), ~~212.18(2)~~ FS. History—Revised 10-7-68, 1-7-70, 6-16-72, Amended 7-20-82, Formerly 12A-1.72, Amended _____.

BOARD OF TRUSTEES OF THE INTERNAL IMPROVEMENT TRUST FUND

DOCKET NO.: 00-12R

RULE CHAPTER TITLE: RULE CHAPTER NO.:

Sovereignty Submerged Lands 18-21
Management

RULE TITLES: RULE NOS.:
Definitions 18-21.003

Applications for Disclaimers, Quitclaim
Deeds or Certificates to Clear Title to
Filled Formerly Sovereignty Lands and for
Disclaimers for Lands Lost Due to Avulsion
or to Reclaim Lands Lost Due to Artificial
Erosion or Artificial Erosion and Avulsion 18-21.019

PURPOSE AND EFFECT: This rule is being amended to: change the rule title to clarify what subjects the rule contains; conform it to case law regarding Butler Act disclaimers by adding bulkheading and permanent improvements as improvements under which lands could be conveyed by the Butler Act; define and interpret what “permanent improvements” means under the Butler Act; add and incorporate by reference all forms of documents to be given by the Board of Trustees to applicants who qualify under this rule; provide standards and criteria for approval or denial of Butler Act applications, Quitclaim Deed applications, and other applications made under this rule; and to change the formula for calculating the consideration for sale of reclaimed lands that were lost due to avulsion or artificial erosion and avulsion as directed by the Board of Trustees at its November 9, 1999 meeting.

SUBJECT AREA TO BE ADDRESSED: The proposed rule will set forth, clarify, and define standards and criteria for eligibility for Board of Trustees Disclaimers, Quitclaim Deeds, Certificates to Clear Title To Filled Formerly Sovereignty Lands, and Disclaimers for lands lost due to avulsion or to reclaim lands lost due to artificial erosion or artificial erosion and avulsion and will provide specific forms of documents for Board of Trustees Disclaimers, Quitclaim Deeds, Certificates to Clear Title To Filled Formerly Sovereignty Lands, and Disclaimers for lands lost due to avulsion or to reclaim lands lost due to artificial erosion or artificial erosion and avulsion.

SPECIFIC AUTHORITY: 253.03 FS.

LAW IMPLEMENTED: 253.03, 253.12, 253.129 FS., Ch. 8531 (1921), Ch. 26776 (1951), Ch. 57-362, Ch. 72-261, Ch. 93-206, Laws of Florida.

IF REQUESTED IN WRITING AND NOT DEEMED UNNECESSARY BY THE AGENCY HEAD, A RULE DEVELOPMENT WORKSHOP WILL BE NOTICED IN THE NEXT AVAILABLE FLORIDA ADMINISTRATIVE WEEKLY.

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT IS: Scott Woolam, 3900 Commonwealth Blvd., Mail Station 108, Tallahassee, FL 32399-3000, (850)488-8123

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

DEPARTMENT OF CORRECTIONS

RULE TITLES:	RULE NOS.:
Inmate Grievances – General Policy	33-103.001
Inmate Grievances – Terminology and Definitions	33-103.002
Inmate Grievances – Training Requirements	33-103.003
Inmate Grievances – Staff and Inmate Participation	33-103.004
Formal Grievance – Institution or Facility Level	33-103.006
Inmate Grievances – Miscellaneous Provisions	33-103.015
Inmate Grievances – Reprisal	33-103.017

PURPOSE AND EFFECT: The purpose of the proposed rule is to provide definitions of applicable terms and clarify the procedures pertaining to inmate grievances. The effect is to: add definitions of terms, establish forms for implementation of procedures, correct titles, and clarify procedures for amendment of grievances and for the filing of grievances by inmates in special housing units.

SUBJECT AREA TO BE ADDRESSED: Inmate Grievances.

SPECIFIC AUTHORITY: 20.315, 944.09 FS.

LAW IMPLEMENTED: 944.09 FS.

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

TIME AND DATE: 9:00 a.m., June 27, 2000

PLACE: Law Library Conference Room, Room B-404, 2601 Blair Stone Road, Tallahassee, Florida

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT AND A COPY OF THE PRELIMINARY DRAFT, IF AVAILABLE, IS: Giselle Lylen Rivera, Blair Stone Road, Tallahassee, Florida 32399-2500

THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS:

33-103.001 Inmate Grievances – General Policy.

(1) The purpose of the grievance procedure is to provide an inmate with a channel for the administrative settlement of a grievance. In addition to providing the inmate with the opportunity of having a grievance heard and considered, this procedure will assist the department by providing additional means for internal resolution of problems and improving lines of communication. This procedure will also provide a written record in the event of subsequent judicial or administrative review. The inmate grievance procedure was fully certified by the United States Department of Justice in March, 1992, pursuant to the requirements of Sections 944.09 and 944.331, Florida Statutes.

(2) Each inmate shall be entitled to invoke the grievance procedure regardless of any disciplinary, classification or other administrative action or legislative decision to which the inmate may be subject. Each ~~The~~ institution shall ensure that the grievance mechanism is accessible to impaired and disabled inmates. This may be accomplished by providing assistance through the institution library if requested.

(3) Inmates can file complaints regarding the following matters:

(a) The substance, interpretation, and application of ~~policies, rules, and procedures of the facility and department that affect them personally;~~

(b) through (d) No change.

(e) ~~Any matter relating to~~ Conditions of care or supervision within the authority of the Florida Department of Corrections, except as noted herein.

(4) No change.

Specific Authority 20.315, 944.09 FS. Law Implemented 944.09 FS. History—New 10-12-89, Amended 1-15-92, 12-22-92, 4-10-95, 12-7-97, Formerly 33-29.001, Amended.

33-103.002 Inmate Grievances – Terminology and Definitions.

The following terms, as defined, shall be standard usage throughout the department:

(1) Amendment: where used herein, refers to an addition or change to a previously filed grievance.

~~(2)(4)~~ Bureau of Inmate Grievance Appeals: The bureau authorized by the secretary to receive, review, investigate, evaluate, and respond to grievance appeals as defined in paragraph ~~(8)(7)~~. The Bureau of Inmate Grievance Appeals is located in the Office of the General Counsel and is managed by the Chief of Inmate Grievance Appeals.

(2) through (3) renumbered (3) through (4) No change.

~~(5)(4)~~ Formal Grievance: This is a statement of complaint filed at the institutional or facility level with the warden, assistant warden or deputy warden, through the use of the Request for Administrative Remedy or Appeal, Form DC1-303. Form DC1-303 is incorporated by reference in rule 33-103.019. Formal grievances are addressed in rule 33-103.006, Florida Administrative Code.

~~(6)(5)~~ General Procedure Policy and Practice: Subject matter of a grievance which has a substantial impact on the general inmate population.

~~(7)(6)~~ Grievance: A written complaint or petition, either informal or formal, by an inmate concerning an incident, procedure policy, or condition within an institution, facility or the Department which affects the inmate complainant personally.

~~(8)(7)~~ Grievance Appeal or Central Office Review: This is a statement of complaint filed with the Secretary of the Department of Corrections through the use of the Request for Administrative Remedy or Appeal, Form DC1-303. Appeals are addressed in rule 33-103.007, Florida Administrative Code.

(9) Grievance of Reprisal: refers to a grievance submitted by an inmate alleging that staff have or are threatening to take retaliatory action against the inmate for good faith participation in the inmate grievance procedure or for a particular incident.

~~(10)(8)~~ Informal Grievance: This is an initial statement of complaint filed on an Inmate Request, DC6-236, with the staff member who is responsible in the particular area of the problem, ~~the classification team, the appropriate section head, or other institutional staff.~~ Form DC6-236 is incorporated by reference in rule 33-103.019.

(11) Literature Review Committee: The final reviewing authority for appeals regarding rejected reading material. The committee is composed of the Bureau Chief of Security Operations or his or her representative, the Bureau Chief of Inmate Grievance Appeals or his or her representative, and the Library Services Administrator or his or her representative.

(12) Recipient: A person or office receiving an inmate grievance for processing.

~~(13)(9)~~ Reviewing Authority: Staff who are authorized to sign grievances as the final authority for review, e.g., warden, assistant warden, or the Secretary's representative.

(a) through (b) No change.

~~(e) Community correctional centers or contract community facilities – the select exempt services staff person who has oversight responsibility of the community correctional center or contract community facility;~~

~~(c)(d) Road prisons, vocational centers, and work camps, community correctional centers, and contract community facilities~~ – warden or assistant warden of the supervising institution.

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

~~(14)(10)~~ No change.

Specific Authority 20.315, 944.09 FS. Law Implemented 944.09 FS. History– New 10-12-89, Amended 1-15-92, 12-22-92. 4-10-95, 12-7-97, Formerly 33-29.002, Amended.

33-103.003 Inmate Grievances – Training Requirements.

(1) No change.

(2) Inmate Orientation. Through the use of a standardized lesson plan, inmates will receive training in the use of the inmate grievance procedure by institution or facility staff. Inmates shall sign a statement acknowledging receipt of training on the inmate grievance procedure. A copy of this statement shall be placed in the inmate file.

(a) through (b) No change.

(c) The orientation program shall include the following:

1. No change.

2. The written procedure shall be available in any language spoken by a significant proportion of the institution's population, and appropriate provisions shall be made for those speaking other ~~those~~ languages, as well as for the impaired and disabled;

3. through 4. No change.

Specific Authority 20.315, 944.09 FS. Law Implemented 944.09 FS. History– New 10-12-89, Amended 1-15-92, 4-10-95, 12-7-97, Formerly 33-29.003, Amended.

33-103.004 Inmate Grievances – Staff and Inmate Participation.

(1) Inmate and employee participation in the grievance process will take the form of solicitation of written comments by inmates and employees on selected formal inmate grievances that staff determine will significantly impact the inmate population and which challenge general procedures ~~policy~~ and practices prior to the initial adjudication of the grievance. Each institution shall within 5 calendar days of receipt, post copies of this type of formal grievance on inmate and employee bulletin boards, circulate among all inmates in all disciplinary, administrative, and close management areas, including all inmates under sentence of death. These grievances shall be posted and circulated without identification of individual names of identifying facts. Written comments must be received in the office of the reviewing authority as defined in 33-103.002(9)(a) through (d) within 5 calendar days from the date of posting in order to receive consideration. With the exception of submitting written comments, no inmate or

employee who appears to be involved in the matter shall participate in any capacity in the final resolution of a grievance.

(2) Inmates and employees have the opportunity to review the effectiveness and credibility of the department's grievance procedure through the submission of written comments to the reviewing authority as defined in 33-103.002(9)(a) through (d). The reviewing authority as defined in 33-103.002(9)(a) through (d) shall review and respond to written comments received and institute procedural changes as appropriate. Comments received relating to this rule that are outside the decision making authority of the reviewing authority as defined in 33-103.002(9)(a) through (d) shall be forwarded to the Office of the General Counsel ~~Bureau of Legal Services~~ for review and appropriate action. If the comments or complaint focuses on the implementation of the rule at a particular institution, the reviewing authority as defined in 33-103.002(9)(a) through (d) has the authority to make necessary changes in this implementation consistent with the rule. If the comments or complaint deal with the content of the rule itself and the only way a change could be effected would be to change the rule, then it needs to be forwarded to the Office of the General Counsel ~~Bureau of Legal Services~~. The Office of the General Counsel ~~Bureau of Legal Services~~ shall review the complaint to see if there appears to be a problem with the rule itself. If changes are necessary, the Office of the General Counsel ~~Bureau of Legal Services~~ coordinates the rule promulgation process. The warden shall receive a response and in turn advise the employee or inmate.

(3) through (4) No change.

Specific Authority 20.315, 944.09 FS. Law Implemented 944.09 FS. History– New 10-12-89, Amended 1-15-92, 4-10-95, 12-7-97, Formerly 33-29.004, Amended.

33-103.006 Formal Grievance – Institution or Facility Level.

(1) When an inmate decides to file a formal grievance, he shall do so by completing Form DC1-303, Request for Administrative Remedy or Appeal and filing within the time limits set forth in 33-103.011.

(a) No change.

~~(b) In community correctional centers and contract facilities, the form shall be sent to the select exempt services staff person who has oversight responsibility of the community correctional center or contract facility as defined in 33-103.002(9)(e).~~

~~(b)(e)~~ In road prisons, vocational centers, and work camps, community correctional centers and contract facilities the form shall be sent to the warden or assistant warden of the supervising institution.

(2) Procedural Requirements.

(a) through (i) No change.

(j) If the inmate is filing an amendment to a previously filed grievance or appeal, the inmate shall clearly state this at the beginning of PART A of the Request for Administrative Remedy or Appeal grievance Form (DC1-303). Amendments are to be filed only regarding issues unknown or unavailable to the inmate at the time of filing the original grievance and must be submitted within a reasonable time frame of knowledge of the new information.

(3) through (8) No change.

(9) If an inmate is in a special housing unit and wants to file a grievance he shall submit the grievance to designated staff who shall be responsible for distribution of the grievance. The designated staff person shall complete Part "C" of the DC1-303 form by entering the inmate's committed name, DC number, institution, date of receipt, and sign as the recipient. If the staff person is not the institutional grievance coordinator he shall not read or classify the grievance.

~~(10)(9)~~ No change.

Specific Authority 20.351, 944.09 FS. Law Implemented 944.09 FS. History--New 10-12-89, Amended 1-15-92, 12-22-92, 4-10-95, 8-10-97, 12-7-97, 5-10-98, 2-17-99, Formerly 33-29.006, Amended.

33-103.015 Inmate Grievances – Miscellaneous Provisions.

(1) No change.

(2) Form ~~DC6-236 DC3-005~~, Inmate Request, shall be available as a minimum from the institutional library, classification department, classification staff, and the housing officer of any living unit. Form DC1-303, Request For Administrative Remedy or Appeal, shall be available as a minimum from the institutional library, classification department, classification staff, and the housing officer of any housing location confinement unit.

(3) The warden, assistant warden or deputy warden ~~or circuit administrator~~ is authorized to designate other staff to receive, review, and investigate any grievance of an institutional nature. The warden ~~or circuit administrator~~ is authorized to designate the assistant warden or deputy warden ~~or deputy circuit administrator~~ to grant and implement relief as approved by the warden ~~or warden or circuit administrator~~, except as to grievances involving discipline, medical grievances, grievances alleging violation of the Americans with Disabilities Act, grievances challenging placement in close management, grievances of an emergency nature, grievances of reprisal or grievances of a sensitive nature that are filed directly with the warden ~~or circuit administrator~~. For grievances filed directly with the warden ~~or circuit administrator~~, the decision to approve, return, or deny the grievance shall be made by the warden ~~or reviewing authority~~.

(4) No change.

(5) The response to an informal grievance and a formal grievance shall include the following statement, or one similar in content and intent if the grievance is denied: You may obtain further administrative review of your complaint by obtaining

form DC1-303, Request for Administrative Remedy or Appeal, completing the form, providing attachments as required, and forwarding your complaint to the warden, assistant warden, deputy warden or the Bureau of Inmate Grievance Appeals.

(6) No change.

(7) Writing paper and writing utensils shall be provided to those inmates who have insufficient ~~no~~ funds in their accounts if such are needed to prepare the grievance or grievance appeal. These supplies shall be available from the areas where the grievance forms are available as set forth in 33-103.015(2).

(8) through (11) No change.

Specific Authority 20.315, 944.09 FS. Law Implemented 944.09 FS. History--New 10-12-89, Amended 1-15-92, 1-29-92, 9-3-92, 12-22-92, 7-11-93, 5-3-94, 4-10-95, 9-23-96, 8-10-97, 12-7-97, 5-10-98, 2-17-99, Formerly 33-29.015, Amended.

33-103.017 Inmate Grievances – Reprisal.

(1) No action shall be taken against an inmate as the result of the submission of a grievance or appeal. Good faith use of or good faith participation in the grievance process shall not result in ~~formal or informal~~ reprisal against the inmate.

(2) No change.

Specific Authority 20.315, 944.09 FS. Law Implemented 944.09 FS. History--New 10-12-89, Amended 12-22-92, 4-10-95, Formerly 33-29.016, Amended.

DEPARTMENT OF CORRECTIONS

RULE TITLES:	RULE NOS.:
Youthful Offender – Definitions	33-506.100
Youthful Offender Program Participation	33-506.106

PURPOSE AND EFFECT: The purpose of the proposed rule is to provide definitions of applicable terms and clarify the conditions of and procedures relating to participation in youthful offender programs. The effect is to: define applicable terms, correct titles, clarify conditions entitling a youthful offender to consideration for modification of sentence, establishing criteria rendering a youthful offender ineligible for consideration, and clarifying procedures for screening of youthful offenders for sentence modification.

SUBJECT AREA TO BE ADDRESSED: Youthful Offenders.

SPECIFIC AUTHORITY: 944.09, 958.11 FS.

LAW IMPLEMENTED: 944.09, 958.11, 958.12 FS.

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

TIME AND DATE: 9:00 a.m., June 28, 2000

PLACE: Law Library Conference Room, Room B-404, 2601 Blair Stone Road, Tallahassee, Florida

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT AND A COPY OF THE PRELIMINARY DRAFT, IF AVAILABLE, IS: Giselle Lysten Rivera, 2601 Blair Stone Road, Tallahassee, Florida 32399-2500

THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS:

33-506.100 Youthful Offenders – Definitions.

(1) Central Office Screening Team – refers to the team located in the central office, chaired by the Chief of Classification and Central Records and consisting of one additional representative from the Bureau of Classification and Central Records, an individual designated by the Assistant Secretary for the Office of Programs Services, and a representative from the Office of Community Corrections. The purpose of this team is to review recommendations for sentence modification and to submit their findings to the Deputy Director of Institutions for final approval or disapproval.

(2) Classification Committee – refers to a team consisting of the inmate’s classification specialist and a representative from security and programs. The team members develop the offender management plan, monitor the inmate’s progress, determine the inmate’s eligibility for sentence modification and make recommendations as necessary in accordance with the rules.

(3) Extended Day Program – refers to a 16 hour daytime program at youthful offender institutions that is designed to provide at least 12 hours of activities. The program is structured to include work assignments, educational (vocational and academic) programs, counseling, behavior modification, systematic discipline and other programmatic opportunities that will reduce inmate idleness and enhance the young offender’s chance at becoming a law abiding citizen upon re-entry into the community.

(4) Inmate Management Plan – refers to the individualized plan developed on each inmate based upon information collected from various risk and needs assessments and team decisions. The plan is used to make priority program or work placement recommendations, develop objectives and set timelines for accomplishments.

(5) Release Management Plan – refers to a report prepared by probation and parole office staff outlining information relative to the inmate’s proposed employment, residence, family ties or support system, financial resources and other resources available to the inmate upon release.

(6) Sentence Modification – refers to an alteration or amendment by the court of the original sentence. The modification reduces the time to be served and imposes a term of probation, community control or other community sanctions, which, when added to the term of incarceration, will not exceed the length of the sentence originally imposed by the court.

(7) Institutional Classification Team (ICT) – refers to the team consisting of the warden or assistant warden classification supervisor and chief of security that is

responsible for making work, program, housing and inmate status decisions at a facility and for making other recommendations to the State Classification Office (SCO).

(8) State Classification Office (SCO) – refers to a staff member at the central office level who is responsible for the review of inmate classification decisions. Duties include approving or rejecting Institutional Classification Team (ICT) recommendations.

Specific Authority 944.09, 958.11 FS. Law Implemented 944.09, 958.11 FS. History–New _____.

33-506.106 Youthful Offender Program Participation.

(1) Each youthful offender institution shall provide a programmatically diversified extended day of 12 hours of required inmate participation six days a week, contingent upon available resources.

(2) The schedule of events shall be developed by each warden and approved by the regional director and the ~~Office Chief of the Bureau~~ of Classification and Central Records Program Services.

(3) Successful participation in all phases of the youthful offender extended day program and successful completion of the inmate management plan and reclassification as minimum custody by a youthful offender inmate will result in an evaluation by the institutional classification team to determine the inmate’s eligibility for a recommendation to the court for a modification of sentence at any time prior to the scheduled expiration of sentence as provided in s. 958.04(2)(d), F.S.

(a) Youthful offenders with one or more of the following shall be ineligible for consideration of a sentence modification recommendation to the court:

1. Conviction for murder, attempted murder, or any offense resulting in death;

2. Conviction for sexual battery pursuant to s. 794.011, F.S.;

3. Conviction for kidnapping pursuant to s. 787.01, F.S.;

4. Conviction for car-jacking pursuant to s. 812.133, F.S.;

5. Conviction for domestic violence pursuant to s. 741.28, F.S.;

6. Conviction for home invasion robbery pursuant to s. 812.135, F.S.;

7. Sentenced as a habitual offender pursuant to s. 775.084, F.S.; or

8. Currently serving the mandatory portion of a sentence pursuant to s. 775.082, F.S.

(b)(~~a~~) After the youthful offender has successfully participated in the youthful offender program, a complete evaluation of the case shall be initiated. The evaluations shall include the following areas:

1. Disciplinary record;

2. Gain time earned, forfeited or withheld and reasons for the action taken;

3. Academic and vocational accomplishments;

- 4. Work assignments which would assist the youthful offender in obtaining future employment;
- 5. Counseling programs;
- 6. Substance abuse programs;
- 7. Other programs specifically recommended for the youthful offender; and
- 8. ~~Verified Release placement plan verified by probation and parole office staff which will should include proposed residence, and employment, family ties or support systems, financial resources, other resources available to the inmate and any recommendation for continued treatment.~~
- 9. Nature of offense and length of sentence.

~~(c)(b)~~ The evaluation of the youthful offender's eligibility for a modification of sentence shall be coordinated by the institutional classification staff and incorporated into a complete progress report. The completed progress report shall be reviewed and signed by the institutional classification team and a representative of the state classification office warden who shall indicate his approval or disapproval of the recommendation based upon the evaluation prepared by the classification staff.

~~(d)(e)~~ Upon the approval of the ICT and SCO warden, the recommendation for sentence modification shall be forwarded to the Chief of the Bureau of Classification and Central Records Program Services for review by the central office screening team who shall review the recommendation. If approved by the central office screening team the recommendation will be forwarded to the Deputy Director of the Office of Institutions (classification) for review. If he concurs with the decision for sentence modification. If the Chief of the Bureau of Classification Program Services approves the recommendation, he shall transmit forward a recommendation to the sentencing court for consideration. If the Deputy Director does not concur with the decision for sentence modification, the Chief of Classification will notify the institutional classification team at the facility where the inmate is housed. The ICT will notify the inmate of the decision.

Specific Authority 958.11(1) FS. Law Implemented 958.11, 958.12 FS. History—New 10-11-95, Amended 9-11-97, Formerly 33-33.013, Amended _____.

WATER MANAGEMENT DISTRICTS
South Florida Water Management District

RULE TITLE: RULE NO.:
 Noticed General Permit for Temporary
 Agricultural Activities 40E-400.470
 PURPOSE AND EFFECT: To create a streamlined noticed general environmental resource permit for single-season agricultural projects. The rule proposes to limit agricultural activities to horticultural, seasonal crops that are harvested in one growing season. The rule also proposes that the noticed general permit is valid only for the defined agricultural

activities that are located in existing improved or semi-improved pastures or fields that have been cultivated within the last five years.

SUBJECT AREA TO BE ADDRESSED: The proposed rule will develop specific permitting criteria for the construction and operation of a surface water management system serving seasonal, horticultural crops.

SPECIFIC AUTHORITY: 120.536(1), 120.54, 373.044, 373.113, 373.118 FS.

LAW IMPLEMENTED: 120.60, 373.118, 373.119, 373.413, 373.416, 373.418, 373.423 FS.

PREVIOUS RULE DEVELOPMENT WORKSHOPS were held on May 15, 18, and 22, 2000 in Homestead, Okeechobee, and Clewiston, respectively in order to receive public comments. Notice of Rule Development for the May 15, 18, and 22, 2000 workshops was published in Vol. 26, No. 17 of the April 28, 2000 issue of this publication. The proposed rule was amended in response to comments received. A list of best management practices is added. The amended proposed rule text is set forth below.

ADDITIONAL RULE DEVELOPMENT WORKSHOPS WILL NOT BE HELD UNLESS REQUESTED WITHIN 14 DAYS OF PUBLICATION OF THIS NOTICE. IF AN ADDITIONAL RULE DEVELOPMENT WORKSHOP IS REQUESTED AND NOT DEEMED UNNECESSARY BY THE DISTRICT, THE TIME, DATE AND PLACE OF THE WORKSHOP WILL BE NOTICED IN THIS PUBLICATION.

THE PERSON TO BE CONTACTED REQUESTING AN ADDITIONAL WORKSHOP IS: Penelope Bell, South Florida Water Management District, 3301 Gun Club Road, MS 1410, West Palm Beach, FL 33416-4680, telephone 1(800)432-2045, Extension 6320 or (561)682-6320 or via email at pbell@sfwmd.gov.

THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS:

40E-400.470 Noticed General Permit for Temporary Agricultural Activities.

(1) A noticed general permit is hereby granted to any property owner for temporary agricultural activities, provided all the following criteria are met:

(a) The permittee must satisfy and comply with the general and specific conditions set forth in Rule 40E-400.215, F.A.C.:

(b) Agricultural activities shall be horticultural and limited to seasonal crops. Seasonal crops are harvested in one growing season, which shall not exceed one year:

(c) This permit is valid only for activities in existing improved or semi-improved pastures or fields that have been cultivated within the last five years. For purposes of this section, improved or semi-improved pastures are lands that have been cleared of native plants by mechanical means;

(d) For purposes of this section, the project area and scope is defined as both farmed and detention areas. In order to qualify for a permit under this section, the project area shall not exceed 320 contiguous acres;

(e) The project outfall structure must be located more than one mile from Outstanding Florida Waters;

(f) No works or farming activities shall occur within 50 feet of a wetland as defined in Section 373.019(22), Florida Statutes. If wetlands are located within the project area, a minimum fifty-foot undisturbed buffer must be maintained around the wetland;

(g) Pump rates shall not exceed a volume of two inches per day at a rate of 37.7 gallons per minute per acre of farmed area. Pump on/off elevations shall be within 2.5 feet of natural ground within the farmed area. All surface water discharges shall be into detention areas;

(h) Water levels in the detention areas shall not exceed a depth of 1.5 feet above natural ground within the detention area;

(i) Water quality and attenuation requirements shall be met by establishing detention areas at a minimum of fifteen percent of the farmed area;

(j) If wetlands are located within a detention area, then the control elevation of the detention area shall be set at the wetland edge elevation. If no wetlands are located within a detention area, then the control elevation shall be set at natural ground elevation;

(k) Control structures and setbacks shall be sized according to the following list depending on the project size:

<u>Project Size</u>	<u>Minimum Setback between Project Edge and Property Boundary Line Control Structure</u>	
<u>0-25 acres</u>	<u>100 feet</u>	<u>6" riser and 12" pipe equivalent</u>
<u>26-65 acres</u>	<u>100 feet</u>	<u>12" riser and 12" pipe equivalent</u>
<u>66-105 acres</u>	<u>150 feet</u>	<u>18" riser and 18" pipe equivalent</u>
<u>106-145 acres</u>	<u>150 feet</u>	<u>24" riser and 24" pipe equivalent</u>
<u>146-185 acres</u>	<u>150 feet</u>	<u>30" riser and 30" pipe equivalent</u>
<u>186-225 acres</u>	<u>200 feet</u>	<u>36" riser and 36" pipe equivalent</u>
<u>226-265 acres</u>	<u>200 feet</u>	<u>42" riser and 42" pipe equivalent</u>
<u>266-305 acres</u>	<u>300 feet</u>	<u>48" riser and 48" pipe equivalent</u>
<u>306-320 acres</u>	<u>300 feet</u>	<u>54" riser and 54" pipe equivalent;</u>

(l) Discharges shall be to the existing pre-project surface water conveyance pathway. Existing sheetflow, if any, shall be maintained through the use of a spreader swale;

(m) Detention area dikes shall be constructed with a top elevation of 3.5 feet above the control elevation with a minimum five-foot top width and 2:1 side slopes;

(n) Internal farm ditches shall be no deeper than three feet below natural ground elevation (excluding sump areas for pump placement which shall not be deeper than six feet below natural ground elevation);

(o) External perimeter berms of the farmed areas shall not exceed two feet in height;

(p) Farming areas must be laid out in a manner that will not block or impede off-site flows;

(q) Access to the fields shall be accomplished by existing roads. Roads into or on the project are not part of this authorization.

(2) As a minimum requirement, the applicant must submit a best management plan that addresses sediment control, soil erosion, nutrients, pesticides, herbicides, suspended solids at points of discharge and other agricultural practices appropriate to crop and site conditions. At a minimum, the applicant must choose a total of 8 of the following best management practices, 4 of which must be chosen from letters (a) through (j).

(a) An Integrated Nutrient and Pest Management program;

(b) Application equipment shall be properly calibrated and in good repair;

(c) Pesticides and fertilizers shall be stored in a secure, contained location, protected from rainfall. Fertilizers and pesticides shall not be stored together;

(d) All mixing and loading operations shall be conducted away from wells, ditches and wetlands;

(e) Pesticide containers shall be rinsed as soon as they are empty. Containers shall be disposed of in accordance with directions on the label;

(f) Equipment shall be utilized that directs chemicals only to a designated target area. Overspray or application into ditches and wetland buffer areas shall be avoided;

(g) Spills shall be cleaned up as soon as possible;

(h) Equipment shall be cleaned and rinsed away from ditches and wetland buffers;

(i) Slow release fertilizer shall be utilized;

(j) A soil or leaf analysis shall be utilized to determine fertilizer application requirements;

(k) Seed and mulch or use other methods to stabilize the disturbed areas outside of the planted area within 7 days from the completion of planting;

(l) Provide stilling/settling basin at the pump discharge point;

(m) Install silt fences around wetland buffer areas prior to construction;

(n) Install silt fences, hay bales or equivalent downstream of outfall structure;

(o) Provide containment for all fuel tanks located on site;

(p) Provide containment for all permanently placed engines located on site.

(3) The duration of this permit shall not exceed two years. No more than one year of the permit duration shall be dedicated to the planting and harvesting of crops. The remainder of the duration of the permit must be dedicated to fallow time. At the end of the growing season specified in the permit, all works shall be removed from the site and the site

returned to the condition that existed prior to permit issuance. The site shall remain fallow the following year. Within 30 days of the permit expiration, the permittee shall provide written notification to the District that the project has been restored to conditions that existed prior to permit issuance.

(4) The District reserves the right to inspect the site for consistency with the plans and requirements during the growing season and after the site has been restored to conditions that existed prior to permit issuance.

(5) This permit does not provide authorization to use water or constitute a permit under Part II of Chapter 373, F.S., Rules 40E-2 or 40E-20, F.A.C.

(6) It is recommended that the permittee consult the USDA Farm Service Agency regarding the applicability of the National Food Security Act, USCA, Title 16 § 3821, to the temporary agricultural activities.

Specific Authority 120.536(1), 120.54, 373.044, 373.113, 373.118 FS, Law Implemented 120.60, 373.118, 373.119, 373.413, 373.416, 373.418, 373.423 FS, History-New

AGENCY FOR HEALTH CARE ADMINISTRATION

Division of Managed Care and Health Quality

RULE CHAPTER TITLE: Medical Directors
RULE CHAPTER NO.: 59A-4

PURPOSE AND EFFECT: The Agency proposes to establish a rule consistent with the provisions of s. 400.141(2), Florida Statutes, that became effective July 1, 1999. The legislation provides for specific criteria for the appointment of a medical director.

SUBJECT AREA TO BE ADDRESSED: Specific criteria for the appointment of a medical director.

SPECIFIC AUTHORITY: 400.141 FS.

LAW IMPLEMENTED: 400.141(2) FS.

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

TIME AND DATE: 10:00 a.m., June 28, 2000

PLACE: Agency for Health Care Administration, 2727 Mahan Drive, Building #3, Conference Room E, Tallahassee, FL 32303

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT IS: Richard Kelly, Agency for Health Care Administration, Long-Term Care Unit, 2727 Mahan Drive, Suite 228, Tallahassee, Florida or call (850)488-5861

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

DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION

RULE TITLE: Licensing Procedure for Manager’s License
RULE NO.: 61-20.001

PURPOSE AND EFFECT: The Regulatory Council proposes to discuss this rule to determine if changes are necessary to implement precicensure education requirements.

SUBJECT AREA TO BE ADDRESSED: Licensing procedure for manager’s license.

SPECIFIC AUTHORITY: 468.433 FS.

LAW IMPLEMENTED: 120.60, 468.432, 468.433, 468.435 FS.

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

TIME AND DATE: 10:30 a.m., July 14, 2000

PLACE: Department of Business and Professional Regulation, Board Conference Room, Northwood Centre, 1940 North Monroe Street, Tallahassee, Florida 32399

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT IS: Julie Baker, Executive Director, Regulatory Council of Community Association Managers, Northwood Centre, 1940 N. Monroe Street, Tallahassee, Florida 32399-0750

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

DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION

RULE TITLES: Continuing Education Renewal Requirements
RULE NOS.: 61-20.508

Continuing Education Provider Approval 61-20.5081

Continuing Education Course Approval 61-20.5082

PURPOSE AND EFFECT: The Regulatory Council proposes to discuss these rules to determine if changes are necessary to conform with the Department’s continuing education rules.

SUBJECT AREA TO BE ADDRESSED: Continuing education for renewal requirements, provider approval and course approval.

SPECIFIC AUTHORITY: 468.4315(2), 468.433, 468.4336, 468.4337 FS.

LAW IMPLEMENTED: 468.433, 468.4336, 468.4337 FS.

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

TIME AND DATE: 10:30 a.m., July 14, 2000

PLACE: Department of Business and Professional Regulation, Board Conference Room, Northwood Centre, 1940 North Monroe Street, Tallahassee, Florida 32399

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT IS: Julie Baker, Executive Director, Regulatory Council of Community Association Managers, Northwood Centre, 1940 N. Monroe Street, Tallahassee, Florida 32399-0750
 THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS NOT AVAILABLE.

DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION

Construction Industry Licensing Board

RULE TITLE: Examination and Reexamination
 RULE NO.: 61G4-16.009
 PURPOSE AND EFFECT: The Board proposes the development of rule amendments to address examination and reexamination criteria.
 SUBJECT AREA TO BE ADDRESSED: Examination and reexamination.
 SPECIFIC AUTHORITY: 455.217(2), 455.219(1), 489.108, 489.129(2) FS.
 LAW IMPLEMENTED: 455.217, 489.109, 489.111 FS.
 IF REQUESTED IN WRITING AND NOT DEEMED UNNECESSARY BY THE AGENCY HEAD, A RULE DEVELOPMENT WORKSHOP WILL BE SCHEDULED AND ANNOUNCED IN THE FAW.

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT AND A COPY OF THE PRELIMINARY DRAFT, IF AVAILABLE, IS: Rodney Hurst, Executive Director, Construction Industry Licensing Board, 7960 Arlington Expressway, Suite 300, Jacksonville, Florida 32211-7467

THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS:

- 61G4-16.009 Examination and Reexamination.
- (1)(a) No change.
- (b) Reexamination.

1. A candidate ~~An applicant~~ who fails any of the tests referenced to ~~in paragraph (1)(a) or~~ in Rule 61G4-16.001, FAC., above shall be required to pay the reexamination fee as set forth in paragraph (3)(c) below. A candidate who does not appear for a scheduled test shall be considered to have failed that test.

2. A candidate ~~An applicant~~ shall be required to retake only the tests on which he or she failed to achieve a passing score. However, a candidate ~~an applicant~~ must pass all tests within three attempts of said tests; after which time all past test scores of the candidate ~~applicant~~ shall be considered invalid and he or she shall be required to make an original application and pay all appropriate fees. All three attempts must be completed within a three hundred sixty-five (365) day period. A candidate ~~An applicant~~ may avail himself or herself of a

maximum of three (3) examination attempts within a three hundred sixty-five (365) day period. ~~This section shall have no effect upon the application requirements set forth in Rule 61G4-12.009 and 16.002, Florida Administrative Code.~~

3. A candidate ~~An applicant~~ who fails the examination in whole or in part on his or her first or second attempt may submit an application to retake the certification examination to the Department's Bureau of Testing no less than forty-five (45) days prior to the administration of the examination the candidate ~~applicant~~ wishes to take provided he or she pays all appropriate fees as set forth in paragraph (3) below.

(2) Manner of Application for Examination and Scheduling. An original application for examination must be received by the Department Board office at least ninety (90) calendar days prior to the administration of the examination the applicant wishes to take. The current and complete examination application submitted must be accompanied by the submission of two recent photographs of the applicant (said photos to be no older than twelve (12) months and 1 1/2 x 1 1/2 inches in size).

(a) In order to schedule an examination date, candidates shall be required to contact the Department's Bureau of Testing within thirty (30) days of the date in their "original date of confirmation letter."

(b) Failure of any candidate to contact the Department's Bureau of Testing within thirty (30) days of the date in his/her "original date of confirmation letter" shall result in forfeiture of all fees and shall count as one of the three attempts candidates are allowed per year. The candidate shall be required to file a new application and pay all necessary fees.

(c) Candidates shall have six (6) months from the date in their "original date of confirmation letter" during which they must sit for the examination.

(d) Failure of any candidate to sit for the examination within six (6) months from the date in his/her "original date of confirmation letter" shall result in forfeiture of all fees and the candidate shall be required to make an original application and pay all necessary fees.

- (3) through (4) No change.

Specific Authority 455.217(2), 455.219(1), 489.108, 489.129(2) FS. Law Implemented 455.217, 489.109, 489.111 FS. History--New 2-25-93, Formerly 21E-16.009, Amended 10-17-93, 7-20-94, 11-25-97, 9-15-99, 4-26-00, _____.

DEPARTMENT OF ENVIRONMENTAL PROTECTION

DOCKET NUMBER: 00-15R

RULE CHAPTER TITLE: State Revolving Fund Loan Program
 RULE CHAPTER NO.: 62-503

PURPOSE AND EFFECT: The rule revision to be developed would enable the funding of additional wastewater management systems under the State Revolving Fund Loan Program for wastewater facilities and clarify program requirements and forms. The Program provides financial assistance in the form of low-interest loans to local

governments for planning, design, construction, and technical services associated with construction and start-up of wastewater management systems. The additional projects would be funded by loans from future repayments of existing wastewater state revolving fund loans. The program is authorized by Section 403.1835, Florida Statutes.

SUBJECT AREA TO BE ADDRESSED: State Revolving Loan Fund Program Rules for loans for wastewater facilities.

IF REQUESTED AND NOT DEEMED UNNECESSARY BY THE AGENCY HEAD, A RULE DEVELOPMENT WORKSHOP WILL BE HELD AT A TIME, DATE AND PLACE TO BE ANNOUNCED IN THE FUTURE.

SPECIFIC AUTHORITY: 403.1835 FS.

LAW IMPLEMENTED: 403.1835 FS.

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT IS: Don Berryhill, Bureau of Water Facilities Funding, MS #3505, Department of Environmental Protection, 2600 Blair Stone Road, Tallahassee, Florida 32399-2400

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

DEPARTMENT OF HEALTH

Board of Chiropractic Medicine

RULE TITLE: Acupuncture Certification Examination

RULE NO.: 64B2-11.013

PURPOSE AND EFFECT: The Board proposes to amend this rule to add the word "chiropractic" to subsection (4) to identify the licensure examination.

SUBJECT AREA TO BE ADDRESSED: Licensure examination.

SPECIFIC AUTHORITY: 455.574(1)(b),(5), 460.405 FS.

LAW IMPLEMENTED: 455.574(1)(b),(5), 460.406(3) FS.

IF REQUESTED IN WRITING AND NOT DEEMED UNNECESSARY BY THE AGENCY HEAD, A RULE DEVELOPMENT WORKSHOP WILL BE NOTICED IN THE NEXT AVAILABLE FLORIDA ADMINISTRATIVE WEEKLY.

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT AND A COPY OF THE PRELIMINARY DRAFT, IF AVAILABLE, IS: Joe Baker, Jr., Executive Director, Board of Chiropractic Medicine/MQA, 4052 Bald Cypress Way, Bin #C07, Tallahassee, Florida 32399-3257

THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS:

64B2-11.013 Acupuncture Certification Examination.

(1) through (3) No change.

(4) Passage of the acupuncture certification examination shall not grant any applicant the right to practice chiropractic or acupuncture without passing the chiropractic licensure examination.

(5) No change.

Specific Authority 455.574(1)(b),(5), 460.405 FS. Law Implemented 455.574(1)(b),(5), 460.406(3) FS. History--New 10-6-86, Amended 1-28-87, 5-10-87, 8-7-88, 7-8-90, 7-15-91, 4-26-93, 7-14-93, Formerly 21D-11.013, 61F2-11.013, 59N-11.013, Amended 2-15-98,_____.

DEPARTMENT OF HEALTH

Board of Clinical Laboratory Personnel

RULE TITLE: Clinical Laboratory Personnel

RULE NO.: 64B3-2.002

PURPOSE AND EFFECT: The Board proposes to update the existing rule text.

SUBJECT AREA TO BE ADDRESSED: Clinical Laboratory Personnel.

SPECIFIC AUTHORITY:483.805(4), 483.811(4) FS.

LAW IMPLEMENTED: 483.803, 483.811(3),(4) FS.

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

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT IS: Joe R. Baker, Jr., Executive Director, Board of Clinical Laboratory Personnel/MQA, 2020 Capital Circle, S. E., Bin #C07, Tallahassee, Florida 32399-3259

THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS:

64B3-2.002 Clinical Laboratory Personnel.

(1) through (3) No change.

(4) Technician means a person qualified as a technician pursuant to the Board's rules who practices the profession and may perform tests classified as highly complex pursuant to 42 CFR 493.17 (September 7, 1999), incorporated by reference herein, only when under direct supervision of a licensed technologist, supervisor, or director unless the technician meets the minimum qualifications contained in 42 CFR 493.1489 (September 7, 1999), incorporated by reference herein and the requirements contained in Rule 64B3-5.004(5) under direct supervision and fulfills the responsibilities specified in Rule 64B3-5.004(7).

(5) through (7) No change.

Specific Authority 483.805(4), 483.811(4) FS. Law Implemented 483.035(1), 483.803, 483.811(3),(4) FS. History--New 11-4-93, Formerly 61F3-2.002, Amended 11-21-94, 7-12-95, 5-15-96, Formerly 59O-2.002, Amended 3-19-98, 12-13-98,_____.

DEPARTMENT OF HEALTH

Board of Clinical Laboratory Personnel

RULE TITLE: Technologist
 RULE NO.: 64B3-5.003

PURPOSE AND EFFECT: The Board proposes the development of a rule amendment to address additional educational requirements to be qualified as a technologist.

SUBJECT AREA TO BE ADDRESSED: Technologist.

SPECIFIC AUTHORITY: 483.805(4), 483.811(2), 483.823 FS.

LAW IMPLEMENTED: 381.0034, 483.800, 483.809, 483.11(2), 483.815, 483.823 FS.

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

TIME AND DATE: 9:00 a.m., July 27, 2000

PLACE: Marriott North, 6650 N. Andrews Ave., Ft. Lauderdale, Florida 33309

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT AND A COPY OF THE PRELIMINARY DRAFT, IF AVAILABLE, IS: Joe R. Baker, Jr., Executive Director, Board of Clinical Laboratory Personnel/MQA, 2020 Capital Circle, S. E., Bin #C07, Tallahassee, Florida 32399-3259

THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS:

64B3-5.003 Technologist.

(1) Technologist Qualifications. Degrees or semester hours of academic credit required in this section shall be obtained at a regionally accredited college or university or, if foreign education, equated pursuant to Rule 64B3-6.002(6). All associate degrees used to qualify shall include, at a minimum, 60 semester hours of academic credit including eight (8) semester hours each of academic biological and chemical science. Applicants for technologist licensure in the categories of microbiology, serology/immunology, chemistry, hematology, immunohematology, radioassay, histocompatibility, blood banking and blood gas analysis shall have four (4) hours of Board approved HIV/AIDS continuing education and at a minimum have one of the following:

(a) through (j) No change.

(k) Individuals with a baccalaureate degree in a chemical or biological science, Florida licensure as a technician and proof of completion of an accredited and/or Board approved clinical laboratory training program at the technician level, may qualify for a technologist license.

(2) through (6) No change.

Specific Authority 483.805(4), 483.811(2), 483.823 FS. Law Implemented 381.0034, 483.800, 483.809, 483.11(2), 483.815, 483.823 FS. History—New 12-6-94, Amended 7-12-95, 9-10-95, 12-4-95, Formerly 590-5.003, Amended 5-26-98, 1-11-99, _____.

DEPARTMENT OF HEALTH

Board of Clinical Laboratory Personnel

RULE TITLE: Technician
 RULE NO.: 64B3-5.004

PURPOSE AND EFFECT: The Board proposes to update the existing rule text.

SUBJECT AREA TO BE ADDRESSED: Clinical Laboratory Personnel.

SPECIFIC AUTHORITY: 483.805(4), 483.811(2), 483.823 FS.

LAW IMPLEMENTED: 381.0034, 483.800, 483.809, 483.811(2), 483.815, 483.823 FS.

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

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT IS: Joe R. Baker, Jr., Executive Director, Board of Clinical Laboratory Personnel/MQA, 2020 Capital Circle, S. E., Bin #C07, Tallahassee, Florida 32399-3259

THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS:

64B3-5.004 Technician.

(1) through (5) No change.

(6) Responsibilities of Technicians. The technician shall:

(a) Perform tests classified as highly complex pursuant to 42 CFR 493.17 (September 7, 1999), incorporated by reference herein, only when under direct supervision of a licensed technologist, supervisor, or director unless the technician meets the minimum qualifications contained in 42 CFR 493.1489 (September 7, 1999), incorporated by reference herein and the requirements contained in Rule 64B3-5.004(5) perform procedures under direct supervision.

(b) through (f) No change.

Specific Authority 483.805(4), 483.811(2), 483.823 FS. Law Implemented 381.0034, 483.800, 483.809, 483.811(2), 483.815, 483.823 FS. History—New 12-6-94, Amended 7-12-95, 12-4-95, Formerly 590-5.004, Amended 5-26-98, 9-20-98, 9-20-98, 1-11-99, 8-31-99, _____.

DEPARTMENT OF HEALTH

Board of Clinical Laboratory Personnel

RULE TITLES: Licensure Examinations
 RULE NOS.: 64B3-7.001
 Examination Failure 64B3-7.004

PURPOSE AND EFFECT: The Board proposes to update the existing rule texts.

SUBJECT AREA TO BE ADDRESSED: Licensure Examinations; Examination Failure.

SPECIFIC AUTHORITY: 455.574, 483.809(2) FS.

LAW IMPLEMENTED: 455.574, 483.809(2) FS.

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

TIME AND DATE: 9:00 a.m., July 27, 2000

PLACE: Mariott North, 6650 N. Andrews Ave., Ft. Lauderdale, Florida 33309

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT AND A COPY OF THE PRELIMINARY DRAFT, IF AVAILABLE, IS: Joe R. Baker, Jr., Executive Director, Board of Clinical Laboratory Personnel/MQA, 2020 Capital Circle, S. E., Bin #C07, Tallahassee, Florida 32399-3259

THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS:

64B3-7.001 Licensure Examinations.

The Board specifies that the licensure examinations, beginning with the Fall of 2000 ~~Fall of 1999~~, shall consist of the following:

(1) For licensure as a director qualifying pursuant to Rule 64B3-5.007, a supervision and administration ~~an administrative and supervision~~ examination covering the subject matter of 64B3-3.003(7) ~~the Clinical Laboratory Director examination administered by the National Certification Agency for Clinical Laboratory Personnel (NCA)~~ and pursuant to Section 455.574(1)(c), F.S., one of the following:

- (a) No change.
 - (b) In the specialty of serology/immunology, the examination in clinical immunology prepared by the American Board of Medical Laboratory Immunology.
 - (c) through (g) No change.
- (2) through (4) No change.

(5) For licensure as a Supervisor qualifying pursuant to 64B3-5.002:

(a) When the applicant is licensed in a specialty as a technologist by examination, administration and supervision examinations covering the subject matter in Rule 64B3-3.003(7). The applicant will be licensed as a supervisor in the speciality (ies) on their technologist licenses upon passing the administration and supervision examination. The Supervision and Administration examination shall be administered in house by the Department and/or the following Board approved national examinations:

1. The Diplomat in Laboratory Management examination on general supervision administered by the American Society of Clinical Pathologists.
2. The Specialist in Blood Banking administered by the American Society of Clinical Pathologists for Blood Banking and Immunochemistry.

3. The Specialist in Cytotechnology administered by the American Society of Clinical Pathologists for licensure by endorsement as a supervisor in Cytology.

4. The Specialist in Chemistry administered by the American Society of Clinical Pathologists for licensure by endorsement for supervisors in Clinical Chemistry.

5. The Specialist in Hematology administered by the American Society of Clinical Pathologists for licensure by endorsement for supervisors in Hematology.

6. The Clinical Laboratory Supervisor administered by the National Certification Agency for Clinical Laboratory Personnel (NCA).

(b) When the applicant is not licensed as a technologist, an administration and supervision examination covering the subject matter in Rule 64B3-3.003(7) and an examination in one or more of the specialties specified in Rule 64B3-7.001(6). The applicant shall be licensed as a supervisor in the appropriate specialty upon passing the examination in administration and supervision and one or more of the specialties. The Supervision and Administration examination shall be administered in house by the Department and/or the following Board approved national examinations:

1. The Diplomat in Laboratory Management examination on general supervision administered by the American Society of Clinical Pathologists.
2. The Specialist in Blood Banking administered by the American Society of Clinical Pathologists for Blood Banking and Immunochemistry.
3. The Specialist in Cytology administered by the American Society of Clinical Pathologists for Cytology supervisors.
4. The Specialist in Chemistry administered by the American Society of Clinical Pathologists for licensure by endorsement for supervisors in Clinical Chemistry.
5. The Specialist in Hematology administered by the American Society of Clinical Pathologists for licensure by endorsement for supervisors in Hematology.
6. The Clinical Laboratory Supervisor administered by the National Certification Agency for Clinical Laboratory Personnel (NCA).

(c) A licensed supervisor may add a specialty by passing one of the specialty examinations specified in Subsection (6) below.

(6) For licensure as a Technologist:

(a) A state ~~An~~ examination in one or more of the following specialties: microbiology, serology/immunology, clinical chemistry, hematology, immunochemistry, blood banking/immunochemistry, ~~and~~ histology, or examinations prepared by the American Medical Society of Clinical Pathologists, the American Medical Technologists (AMT), or the National Certification Agency for Clinical Laboratory Personnel (NCA).[‡]

(b) through (g) No change.

~~(h) A candidate may choose to take one of the generalist medical technologist examinations administered by the American Society of Clinical Pathologists (ASCP), the National Certification Agency for Medical Laboratory Personnel (NCA), or American Medical Technologists (AMT). Upon passage the applicant shall be licensed as a technologist in microbiology, serology/immunology, clinical chemistry, hematology and immunohematology.~~

(7) through (8)(c) No change.

~~(d) There shall be no examination for cytology technicians. The applicant shall be licensed as a Technician in cytology based upon education and training only.~~

~~(d)(e) There is no not technician level radioassay, blood banking, blood gas analysis, cytology, histocompatibility or cytogenetics examination.~~

Specific Authority 455.574, 483.809(2) FS. Law Implemented 455.574, 483.809(2) FS. History--New 5-12-93, Formerly 21KK-7.001, 61F3-7.001, Amended 12-5-95, Formerly 59O-7.001, Amended 3-19-98, 6-23-98, 7-1-99, _____.

64B3-7.004 Examination Failure.

A candidate for licensure who, upon sitting for the licensure examinations, fails to pass one of the examinations shall be only required to retake and pass the examination or examinations failed upon meeting the following requirements:

(1) through (3) No change.

(4) If a candidate fails to pass the examination after the candidate's third attempt to do so, the applicant shall not reapply to take the examination until the applicant has satisfactorily completed laboratory theory and clinical retraining or 25 additional hours of continuing education.

Specific Authority 455.574, 483.809(2) FS. Law Implemented 455.574, 483.809(2) FS. History--New 12-5-95, Formerly 59O-7.004, Amended 3-19-98, _____.

DEPARTMENT OF HEALTH

Board of Clinical Laboratory Personnel

RULE TITLE: _____ RULE NO.:

Renewal of Clinical Laboratory Personnel Continuing Education Provider License 64B3-8.004

PURPOSE AND EFFECT: The Board proposes to update the existing rule text.

SUBJECT AREA TO BE ADDRESSED: Renewal of Clinical Laboratory Personnel Continuing Education Provider License.

SPECIFIC AUTHORITY: 455.564, 483.807(1), 483.821 FS. LAW IMPLEMENTED: 455.564, 483.807, 483.821 FS.

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

TIME AND DATE: 9:00 a.m., July 27, 2000

PLACE: Marriott North, 6650 N. Andrews Ave., Ft. Lauderdale, Florida 33309

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT AND A COPY OF THE PRELIMINARY DRAFT, IF AVAILABLE, IS: Joe R. Baker, Jr., Executive Director, Board of Clinical Laboratory Personnel/MQA, 2020 Capital Circle, S. E., Bin #C07, Tallahassee, Florida 32399-3259

THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS:

64B3-8.004 Renewal of Clinical Laboratory Personnel Continuing Education Provider License.

(1) through (3) No change.

~~(4) Providers of multiple continuing education courses shall be authorized by the Board to submit only sample course offerings identified by the Board.~~

Specific Authority 455.564, 483.807(1), 483.821 FS. Law Implemented 455.564, 483.807, 483.821 FS. History--New 2-22-94, Formerly 61F3-8.004, Amended 12-3-96, Formerly 59O-8.004, Amended 12-21-99, _____.

DEPARTMENT OF HEALTH

Board of Clinical Laboratory Personnel

RULE TITLE: _____ RULE NO.:

Scope of Practice Relative to Specialty of Licensure 64B3-10.005

PURPOSE AND EFFECT: The Board proposes to update the existing rule text.

SUBJECT AREA TO BE ADDRESSED: Scope of Practice Relative to Specialty of Licensure.

SPECIFIC AUTHORITY: 483.805(4) FS.

LAW IMPLEMENTED: 483.813, 483.823, 483.825 FS.

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

TIME AND DATE: 9:00 a.m., July 27, 2000

PLACE: Marriott North, 6650 N. Andrews Ave., Ft. Lauderdale, Florida 33309

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT AND A COPY OF THE PRELIMINARY DRAFT, IF AVAILABLE, IS: Joe R. Baker, Jr., Executive Director, Board of Clinical Laboratory Personnel/MQA, 2020 Capital Circle, S. E., Bin #C07, Tallahassee, Florida 32399-3259

THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS:

64B3-10.005 Scope of Practice Relative to Specialty of Licensure.

The following rules are not intended to prevent collection and storage of specimens or the performance of manual pretesting procedures by persons who are exempt by statute or statutorily authorized within their scope of practice. Clinical laboratory personnel qualified as a physician director, a licensed director,

supervisor, technologist or technician in the specialty or specialties indicated can perform testing identified as being within the specialty. For the purpose of defining the specialties, Health Care Financing Administration's Common Procedure Coding System (HCFA PCS) shall be used as a supplemental guide for assigning tests to specific specialties. Tests which are not yet classified shall be assigned by the Board upon review.

(1) through (3) No change.

(4) The purpose of the specialty of serology/immunology is to detect and quantitate antibodies to infectious agents as well as microbial and non-microbial antigens. The specialty encompasses all the serological techniques (except those specific to immunohematology) used to detect the interaction of antigens with antibodies for evaluation of the consequences of the immune response.

(a) Individuals licensed in serology/immunology as the basis for practice in histocompatibility before January 26, 1999 may retain their licenses in serology/immunology, but must apply for licenses in histocompatibility on or before December 31, 2001. These individuals will be issued licenses in histocompatibility based upon experience meeting CLIA educational requirements in place at the time of licensure and previous successful completion of the Board approved examination in serology/immunology without being required to successfully complete the Board approved examination in histocompatibility. If these individuals fail to apply for licenses in histocompatibility by the December 31, 2001 deadline, they will be required to apply for licenses in histocompatibility and successfully pass the Board approved examination in histocompatibility and meet all of the current education, training, and work experience requirements for licensure in histocompatibility.

(b) Individuals licensed in serology/immunology as the basis for practice in histocompatibility on or after January 26, 1999, must apply for a license in histocompatibility and successfully pass the Board approved examination in histocompatibility on or before June 30, 2002.

(c) After June 30, 2002, individuals wishing to practice in the specialty of histocompatibility must apply for a license in histocompatibility and successfully pass the Board approved examination in histocompatibility.

(d) Trainees for histocompatibility must be currently licensed as technologists or technicians in either serology/immunology or immunohematology and will be registered to train for one year. Once the trainees complete their Board approved one year training program, they must apply for licensure by endorsement and will receive temporary licenses, if eligible.

(5) through (12) No change.

(13) The purpose of the specialty of cytogenetics is to determine the presence or absence of quantitative (numerical) and qualitative (structural) chromosome abnormalities relating to constitutional and acquired disorders. Individuals licensed in

the specialty of cytogenetics are authorized to perform tests for peripheral blood, amniocytes, chorionic villi, fibroblasts, bone marrow, solid tumors, pleural effusions, lymphoblastoid cell lines, mosaicism, identification of marker chromosomes and de novo additional materials, chromosome breakages, SCE, fragile X and other fragile sites, FISH, chromosome specific painting probes, aliphoid probes, disease and region specific cosmid probes, probe preparation and labeling, G-banding, high resolution G-banding, Q-banding, C-banding, NOR-staining, R-banding, distamycin/DAPI staining, replication studies for X-inactivation, and replication timing analysis for autosomal regions. Laboratory personnel providing counseling associated with the results of cytogenetics testing shall be licensed in cytogenetics at the director level.

(14) The purpose of the specialty of molecular genetics is to detect inheritable disease-related genotypes, mutations, or phenotypes for clinical purposes using procedures for the analysis of mutations and alleles for: alpha antitrypsin deficiency, Angelman/Prader-Willi Syndrome, Bone Marrow Graft testing, Canavan Disease, Cancer, Charcot-Marie-Tooth Disease, Congenital Adrenal Hyperplasia, Cystic Fibrosis, Duchenne/Becker, Muscular Dystrophy, Familial Hypercholesterolemia, Fetal sex, Fragile X Syndrome, Galactosemia, Gaucher disease, HLA, Hemophilia A & B, Huntington disease, Marfan syndrome, MCAD deficiency, MEA I/II, Mitochondrial DNA, Myotonic dystrophy, Neurofibromatosis Type I, Ornithine Transcarbamylase deficiency, Paternity testing, Phenylketonuria, Polycystic kidney disease, Sickle Cell disease, Spinal muscular atrophy, Tay-Sachs disease, alpha and beta Thalassemia, and unipaternal disomy DNA, RNA and protein. ~~Molecular genetics also encompasses predicting risk of disease; identifying carriers; prenatal, newborn and carrier screening; and establishing prenatal and clinical diagnosis or prognosis.~~

(15) The purpose of the specialty of histocompatibility is to insure the best possible results of the determination of tissue compatibility, prevent transmitted infections, and to investigate and evaluate post-transplant problems. The specialty encompasses blood typing, HLA typing, HLA antibody screening, disease marker. Cluster Designation specific to tissue compatibility, flow cytometry, crossmatching, HLA antibody identification, lymphocyte immunophenotyping, immunosuppressive drug assays, allogenic, isogenic and autologous bone marrow processing and storage, mixed lymphocyte culture, and stem cell culture.

(a) Individuals licensed in serology/immunology as the basis for practice in histocompatibility before January 26, 1999 may retain their licenses in serology/immunology, but must apply for licenses in histocompatibility on or before December 31, 2001. These individuals will be issued licenses in histocompatibility based upon experience meeting CLIA educational requirements in place at the time of licensure and

previous successful completion of the Board approved examination in serology/immunology without being required to successfully complete the Board approved examination in histocompatibility. If these individuals fail to apply for licenses in histocompatibility by the December 31, 2001 deadline, they will be required to apply for licenses in histocompatibility and successfully pass the Board approved examination in histocompatibility and meet the current education, training, and work experience requirements.

(b) Individuals licensed in serology/immunology as the basis for practice in histocompatibility on or after January 26, 1999, must apply for a license in histocompatibility and successfully pass the Board approved examination in histocompatibility on or before June 30, 2002.

(c) After June 30, 2002, individuals wishing to practice in the specialty of histocompatibility must apply for a license in histocompatibility and successfully pass the Board approved examination in histocompatibility.

(d) Trainees for histocompatibility must be currently licensed as technologists or technicians in either serology/immunology or immunohematology and will be registered to train for one year. Once the trainees complete their Board approved one year training program, they must apply for licensure by endorsement and will receive temporary licenses if eligible.

(16) In the specialties of clinical chemistry, hematology, immunohematology, microbiology and serology/immunology, clinical laboratory personnel licensed at the technician level may perform testing identified within the scope of each specialty in Rule 64B3-10.005(3)-(5), F.A.C., in any specialty for which they hold licensure if the tests are classified as highly complex pursuant to 42 CFR 493.17 (September 7, 1999), incorporated by reference herein, only when under the direct supervision of a licensed technologist, supervisor, or director unless the technician meets the minimum qualifications contained in 42 CFR 493.1489 (September 7, 1999), incorporated by reference herein and the requirements contained in Rule 64B3-5.004(5) provided such testing is performed under direct supervision. Individuals performing highly complex testing as defined in 42 CFR 493.10 and 493.17, regardless of specialty, shall meet the qualifications and/or exemptions provided in 42 CFR 493.1489.

(17) through (18) No change.

Specific Authority 483.805(4) FS. Law Implemented 483.813, 483.823, 483.825 FS. History—New 2-7-95, Amended 3-28-95, 7-12-95, 12-4-95, Formerly 59O-10.005, Amended 3-19-98, 1-28-99, 11-24-99,_____.

DEPARTMENT OF HEALTH

Board of Clinical Laboratory Personnel

RULE TITLE: Continuing Education
 PURPOSE AND EFFECT: The purpose of the development is to provide procedures relating to continuing education.

RULE NO.: 64B3-11.001

SUBJECT AREA TO BE ADDRESSED: Scope of Practice Relative to Specialty of Licensure.

SPECIFIC AUTHORITY: 455.564, 483.821 FS.

LAW IMPLEMENTED: 455.564, 483.821 FS.

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

TIME AND DATE: 9:00 a.m., July 27, 2000

PLACE: Marriott North, 6650 N. Andrews Ave., Ft. Lauderdale, Florida 33309

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT AND A COPY OF THE PRELIMINARY DRAFT, IF AVAILABLE, IS: Joe R. Baker, Jr., Executive Director, Board of Clinical Laboratory Personnel/MQA, 2020 Capital Circle, S. E., Bin #C07, Tallahassee, Florida 32399-3259

THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS:

64B3-11.001 Continuing Education.

(1) In order to renew a clinical laboratory personnel license, a minimum of 24 contact hours of continuing education shall be earned during each biennium including a minimum of one (1) contact hour for each of the categories in which the individual is licensed and one (1) contact hour of continuing education on HIV/AIDS. Directors and supervisors are required to obtain one (1) contact hour of continuing education in administration and supervision. As part of the minimum of 24 contact hours of continuing education, each licensee shall be required to take a one (1) hour course on Florida laws and rules governing clinical laboratory personnel or attend a public meeting of the full Board at which disciplinary actions are addressed. A telephone conference call meeting of the Board will not satisfy this requirement.

(2) through (8) No change.

Specific Authority 455.564, 483.821 FS. Law Implemented 455.564, 483.821 FS. History—New 2-22-94, Amended 7-13-94, Formerly 61F3-11.001, Amended 12-11-94, 3-28-95, 12-4-95, 7-1-97, Formerly 59O-11.001, Amended 3-19-98, 12-13-99,_____.

DEPARTMENT OF HEALTH

Board of Clinical Laboratory Personnel

RULE TITLE: Provider Approval Procedures
 PURPOSE AND EFFECT: The purpose for the rule development is to provide procedures within.
 SUBJECT AREA TO BE ADDRESSED: Provider Approval Procedures.
 SPECIFIC AUTHORITY: 455.564, 483.821 FS.
 LAW IMPLEMENTED: 455.564, 483.821 FS.

RULE NO.: 64B3-11.004

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

TIME AND DATE: 9:00 a.m., July 27, 2000

PLACE: Marriott North, 6650 N. Andrews Ave., Ft. Lauderdale, Florida 33309

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT AND A COPY OF THE PRELIMINARY DRAFT, IF AVAILABLE, IS: Joe R. Baker, Jr., Executive Director, Board of Clinical Laboratory Personnel/MQA, 2020 Capital Circle, S. E., Bin #C07, Tallahassee, Florida 32399-3259

THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS:

64B3-11.004 Provider Approval Procedures.

The provider seeking approval:

- (1) through (5) No change.
- (6) Shall be granted authority to give continuing education programs without prior Board approval and without submitting courses for Board approval once they are granted provider approval status. by meeting one of the following requirements:
 - ~~(a) Be a national organization and a Board approved provider.~~
 - ~~(b) Be a regionally accredited college or university as provided in Rule 64B3-11.011(6), F.A.C.~~
 - ~~(c) Be a laboratory instrument corporation or vendor and a board approved provider.~~
- (7) No change.

Specific Authority 455.564, 483.807(1), 483.821 FS. Law Implemented 455.564, 483.807, 483.821 FS. History—New 2-22-94, Formerly 61F3-11.004, Amended 12-4-95, Formerly 59O-11.004, Amended 4-9-00, _____.

DEPARTMENT OF HEALTH

Board of Clinical Laboratory Personnel

RULE TITLE: Responsibilities of Technicians
 RULE NO.: 64B3-13.004
 PURPOSE AND EFFECT: The Board proposes to update the existing rule text.
 SUBJECT AREA TO BE ADDRESSED: Responsibilities of Technicians.
 SPECIFIC AUTHORITY: 483.805(4) FS.
 LAW IMPLEMENTED: 483.800, 483.813, 483.823, 483.825 FS.

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

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT IS: Joe R. Baker, Jr., Executive Director, Board of Clinical Laboratory Personnel/MQA, 2020 Capital Circle, S. E., Bin #C07, Tallahassee, Florida 32399-3259

THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS:

64B3-13.004 Responsibilities of Technicians.

- (1) The technician shall:
 - ~~(a) Perform tests classified as highly complex pursuant to 42 CFR 493.17 (September 7, 1999), incorporated by reference herein, only when under the direct supervision of a licensed technologist, supervisor, or director unless the technician meets the minimum qualifications set forth in 42 CFR 493.1489 (September 7, 1999), incorporated by reference herein and the requirement contained in Rule 64B3-5.004(5). Perform testing only when under direct supervision of a licensed technologist, supervisor or director except when provided otherwise by rule of the Board.~~
 - (b) No change.
 - ~~(c) Not perform any test designated as highly complex as defined in 42 CFR 493.10 and 493.17 incorporated by reference unless directly supervised by a licensed technologist, licensed supervisor or director.~~
 - ~~(c)(d)~~ Perform only those tests authorized by the director.
 - ~~(d)(e)~~ Follow the clinical laboratory's procedures for specimen handling and processing, test analyses, reporting and maintaining records of patient test results.
 - ~~(e)(f)~~ Notify a licensed technologist or supervisor whenever test systems are not within the clinical laboratory's defined acceptable levels of performance.
 - ~~(f)(g)~~ Participate in proficiency testing samples and ensure that these samples are tested in the same manner as patient specimens.
 - ~~(g)(h)~~ Adhere to the clinical laboratory's quality control policies and document quality control activities, instrument and procedural calibrations and maintenance performed.
 - ~~(h)(i)~~ Be capable of identifying problems that may adversely affect test performance or reporting of test results and immediately notify a licensed technologist or supervisor.
 - ~~(i)(j)~~ Document all corrective actions taken when test systems deviate from the clinical laboratory's established performance specifications.
 - ~~(j)(k)~~ Follow the directives of directors, supervisors or technologists while exercising their duties and responsibilities.
 - ~~(k) Shall not perform clinical laboratory testing classified as highly complex pursuant to 42 CFR 493.17 (September 7, 1999), incorporated by reference, unless the technician meets the minimum qualifications contained in 42 CFR 493.1489 (September 7, 1999), incorporated by reference.~~

~~(m) In the specialty of Cytology, in addition to the above responsibilities, the technician shall:~~

- ~~1. Perform only preparatory work and shall not screen any cytological smears.~~
- ~~2. Perform preparatory work only under direct supervision.~~

Specific Authority 483.805(4) FS. Law Implemented 483.800, 483.813, 483.823, 483.825 FS. History—New 12-6-94, Amended 3-28-95, 7-12-95, Formerly 59O-13.004, Amended 1-27-00, _____.

Section II Proposed Rules

DEPARTMENT OF INSURANCE

Division of Insurance Fraud

RULE TITLES:	RULE NOS.:
Purpose and Scope	4K-1.001
Application Process	4K-1.002
Review Process and Reward Criteria	4K-1.003
Reward Disbursement	4K-1.004

PURPOSE AND EFFECT: The proposed rule establishes the Anti-Fraud Program including an application, approval, and disbursement process.

SUMMARY: The Anti-Fraud Reward Program is established to pay rewards of up to \$25,000 to persons responsible for providing information leading to the arrest and conviction of persons committing complex and organized crime investigated by the Division of Insurance Fraud.

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

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

SPECIFIC AUTHORITY: 626.9892(1) FS.

LAW IMPLEMENTED: 626.9892 FS.

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

TIME AND DATE: 3:00 p.m., July 7, 2000

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

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULES IS: L. Dave Dempsey, Division of Insurance Fraud, Department of Insurance

Pursuant to the provisions of the Americans with Disabilities Act, any person requiring special accommodations to participate in this program, please advise the Department at least 5 calendar days before the program by contacting Yvonne White, (850)922-3100, Ext. 4214.

THE FULL TEXT OF THE PROPOSED RULES IS:

4K-1.001 Purpose and Scope.

The purpose of this rule chapter is to implement the provisions of Section 626.9892, F.S., to establish an Anti-Fraud Reward Program.

Specific Authority 624.308, 626.9892 FS. Law Implemented 624.307, 626.9892 FS. History—New _____.

4K-1.002 Application Process.

(1) Intake Documentation. The “Anti-Fraud Reward Applicant” is a person who calls or writes the Division of Insurance Fraud with information related to an alleged crime involving insurance fraud. Department of Insurance employees, licensed insurance companies, insurance agents and other entities licensed under the Florida Insurance Code and their employees are not eligible to participate in the Anti-Fraud Reward Program.

(a) A Division of Insurance Fraud hotline operator answering calls from the Anti-Fraud Reward Applicant will fill out a “Hotline Anti-Fraud Reward Sheet” which details the information provided by the Anti-Fraud Reward Applicant. The hotline operator will allow the Anti-Fraud Reward Applicant to give their information anonymously if requested. The written information will be processed in the same manner as information received by a telephone call.

(b) The Division of Insurance Fraud intake operator will assign a “Control Number” which is automatically generated by the entry of the data into a special Fraud Busters database. A control number will be assigned to every reward program call.

(c) If the Anti-Fraud Reward Applicant has not disclosed his or her name or other identifying information and has requested to remain anonymous, the Hotline supervisor or designee will give the Anti-Fraud Reward Applicant instructions and a control number or code regarding a “Call back schedule”, which simply tells the Anti-Fraud Reward Applicant what date, in monthly increments to call the supervisor back. This procedure will ensure that the anonymous caller can be notified when the case has reached a disposition.

(d) Information received in any Division of Fraud office located in the State can be nominated for the reward program, by notifying the hotline supervisor to generate the control number.