

## Section I Notices of Development of Proposed Rules and Negotiated Rulemaking

**DEPARTMENT OF REVENUE**

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**PURPOSE AND EFFECT:** The proposed creation of Part II of Rule Chapter 12-25, F.A.C., consisting of Rules 12-25.0305, 12-25.031, 12-25.033, 12-25.035, 12-25.037, 12-25.038, 12-25.039, 12-25.041, 12-25.042, 12-25.045, 12-25.047, 12-25.048, 12-25.049, and 12-25.050, F.A.C., is necessary to implement the provisions of Chapter 98-95, Laws of Florida, which were enacted by the 1998 Legislature. Chapter 98-95, L.O.F., which created s. 213.285, F.S., 1998 Supplement, established a new tax compliance activity known as the certified audits program. This program allows a taxpayer to voluntarily employ a CPA firm, at the taxpayer's expense, to examine and report on the taxpayer's compliance with Florida's tax laws.

The effect of creating Part II of Rule Chapter 12-25, F.A.C., is to provide potential program participants with information about how the program will operate.

**SUBJECT AREA TO BE ADDRESSED:** The subject of this workshop is to discuss the development of these proposed new rules, and to consider suggested revisions offered by the general public or other interested persons.

**SPECIFIC AUTHORITY:** 213.06(1) FS.

**LAW IMPLEMENTED:** Ch. 98-95, L.O.F., 213.285 FS.

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

**TIME AND DATE:** 10:00 a.m., April 26, 1999

**PLACE:** Room 435 Conference Room, Carlton Building, 501 S. Calhoun Street, Tallahassee, Florida

Copies of the agenda for the rule development workshop may be obtained by contacting the person listed below.

Pursuant to the provisions of the Americans with Disabilities Act, any person requiring special accommodations to participate in this program is asked to advise the Department at least five (5) calendar days before the program by contacting the person listed below. If you are hearing or speech-impaired, please contact the Department's TDD by calling 1(800)DOR-TDD1 (1(800)367-8331).

**THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT WORKSHOP IS:** Larry Green, Tax Law Specialist, Technical Assistance and Dispute Resolution, Department of Revenue, P. O. Box 6668, Tallahassee, Florida 32314-6668, telephone (850)922-4830

**THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS:**

Part II: CERTIFIED AUDIT PROGRAM

12-25.0305 Scope of Rules.

The rules set forth in this part are applicable to all taxes:

(1) Imposed by Sections 125.0104 and 125.0108, F.S., unless the tax is self-administered by a county.

(2) Imposed by Chapter 212, F.S.

Specific Authority 213.06(1) FS. Law Implemented Ch. 98-95, L.O.F., 213.285 FS. History--New.

12-25.031 Definitions.

The following definitions shall apply to this Part:

(1) "Board" means the State of Florida Board of Accountancy, as provided in Chapter 473, F.S.

(2) "Certified Public Accountant" shall have the same meaning as the term is defined in Chapter 473, F.S.

(3) "Department" means the Florida Department of Revenue.

(4) "Qualified practitioner" means a certified public accountant who is licensed to practice in Florida who has completed the certification program. The phrase "completed the certification program" means the participant has met all the requirements for the certified audit course and achieved the required score approved by the Department.

(5) "Qualified audit firm" means the audit firm which employs a qualified practitioner, and which is licensed by the Board as a licensed audit firm as required by s. 473.3101, F.S.

(6) "Audit plan" means a detailed, comprehensive list of agreed-upon procedures developed by the qualified practitioner and approved by the Department. The Audit Plan will be customized for the subject taxpayer.

(7) "Practitioner(s)" means the individual(s) that are on the certified audit engagement team that are not qualified practitioners.

(8) "FICPA" means the Florida Institute of Certified Public Accountants.

(9) "Scheduling" means copying all the information from a set of documents to a summary schedule. If the activity involves making decisions on what information will be excerpted from the documents and included on the summary schedule, then it is not, by definition, "scheduling."

(10) "Reconciling" means verifying that all sales invoices and purchase orders for a certain period of time are accounted for and included in any samples being used in the certified audit. "Reconciling" also means identifying differences and explaining or resolving identified differences between numbers within the taxpayer's books and records.

Specific Authority 213.06(1) FS. Law Implemented Ch. 98-95, L.O.F., 213.285 FS. History—New

#### 12-25.033 Eligibility and Qualifications.

(1)(a) Any employee or owner of a qualified audit firm responsible for planning, directing, conducting, reviewing, or reporting on a participating taxpayer's tax compliance in a certified audit must be a qualified practitioner.

(b) Also, any practitioner employed by the qualified audit firm who performs audit analysis, makes auditing decisions on source documents, taxpayer data or sales transactions, or who performs agreed-upon procedures, except for the gathering of information for the planning work discussed in rule 12-25.047(1)(b)1., 2., 4., 5., 6., and 7., scheduling, or reconciling, must successfully complete a training course approved by the Department prior to their initial performance of the subject activities, unless the Department grants a written waiver of the requirement for a specific certified audit. The training course will, at a minimum, teach the basics of Florida Sales and Use tax law, and will include a required examination. The Department will be the final authority on the content of the training course and the nature, number, and type of questions on the examination. "Successfully complete" means the participant has met all the requirements for the course and achieved a score approved by the Department. Further, any practitioner performing the subject activities shall be supervised by a qualified practitioner. The subject qualified practitioner will be physically on-site where the activities are performed.

(c) To continue to be qualified to perform the subject activities, the practitioner must complete a continuing education program developed by the FICPA and approved by the Department. The continuing education program requirement will not exceed eight hours every two years.

(d) All qualified practitioners and practitioners who work on the certified audit must be currently employed by a qualified audit firm.

(e) Only qualified audit firms are permitted to issue reports.

(f) In addition, the qualified audit firm must have received a timely on-site peer review dated prior to the date of the Request to Participate and must have received an "Unqualified Opinion" on such on-site peer review. Compliance with these requirements is based on the most recent on-site peer review received prior to the Request To Participate. If the qualified audit firm at the date of the Request To Participate has not received an on-site peer review with an unqualified opinion, dated prior to the date of the Request To Participate, then the qualified audit firm is ineligible to participate in the certified audit program. The qualified audit firm can submit a new Request To Participate once the applicable requirements are met.

(2) To be eligible to provide a certified audit service to a taxpayer, the qualified audit firm must be independent with respect to that taxpayer, pursuant to the guidelines established by Florida Board of Accountancy Advisory Opinions issued on certified audit independence questions. The Department will determine if the circumstances and facts of the particular situation are materially the same as situations for which guidelines were previously issued. If the facts and circumstances are unique or if the qualified audit firm believes there are differences between their situation(s) and the situation(s) previously addressed by the Board that were the basis for the Department to deny participation, then the qualified audit firm can request an Advisory Opinion from the Board on the particular situation. The Department shall be guided by the Board's response to that request.

Specific Authority 213.06(1) FS. Law Implemented Ch. 98-95, L.O.F., 213.285 FS. History—New

#### 12-25.035 Responsibility for Program Training, Certification Procedures, and Program Availability.

(1) Subject to the Department's supervision and approval, the Florida Institute of Certified Public Accounts (FICPA) shall:

(a) Develop the instructional curriculum and materials for the certified audit program;

(b) Deliver this curriculum in a training context;

(c) Test qualified practitioners and practitioners who have participated in such training; and

(d) Administer the training and testing process.

(2) The FICPA will submit to the Department, within thirty calendar days of the date the final certification test is administered to training participants, a list containing the name and business address of all participants who successfully complete the training and examination program.

(3)(a) The Department is responsible for issuing a certification to each eligible training participant within twenty-one calendar days of receiving the list of participants who have successfully completed the training and examination program. The initial certification will be valid for 24

consecutive months beginning with the date of issuance. Any subsequent recertification will be valid for 24 consecutive months.

(b) The Department shall issue temporary recertification if a previously certified qualified practitioner fails to timely apply for and receive a recertification. These temporary recertifications shall expire 90 consecutive calendar days after the date of issuance. No more than two consecutive temporary recertifications shall be issued to a qualified practitioner.

(4) Only those qualified practitioners who hold an active and valid certificate issued by the Department are eligible to state or imply that they are certified in Florida Sales and Use Tax (CFST) or use the CFST designation.

(5) To be recertified, a qualified practitioner must complete a continuing education program developed by the FICPA and approved by the Department. The continuing education program requirement will not exceed sixteen hours every two years.

(6) Revocation of a Certification or Recertification by the Department. A qualified practitioner's certification or recertification will be revoked by the Department if:

(a) The State of Florida Board of Accountancy revokes the license to practice of the qualified audit firm; or,

(b) The qualified practitioner or qualified audit firm fails to comply with the provisions of rule 12-25.049.

(7) Procedures For Protesting Denials of Certification, Recertification, and Revocations:

(a) A qualified practitioner may protest the Department's decision to not issue a certification or recertification to such practitioner, or to revoke a previously-issued certification or recertification to such practitioner by following the procedures outlined in this rule.

(b) Within 30 days of receiving written notification from the Department of its decision to not issue a certification, recertification, or to revoke a previously-issued certification or recertification, the qualified practitioner must submit to the administrator of the certified audit program a request for reconsideration.

(c) A request for reconsideration must include additional material facts which the qualified practitioner believes the Department should review during the agency's reconsideration of its original decision.

(8) The FICPA shall provide the Department with a description of each fee for which it requests approval as payment for a service provided to any qualified practitioner prior to charging said fee, together with the information necessary for the Department to determine that the fee is consistent with the certification program's availability to an otherwise qualified practitioner or practitioner.

(a) The Department shall make a determination regarding the fee request in relation to the program's availability by considering the following:

1. The contribution made by the FICPA in establishing, developing, administering, and updating the certification program, including associated costs;

2. The price per credit hour charged, compared to the price charged for similar professional programs;

3. The revenue required to maintain the program;

4. The revenue required to improve or update the training provided, and the testing conducted within the program.

(b) The amount of any fee so determined shall be rendered in an order and specified by amendment to a contract entered into between the FICPA and the Department.

Specific Authority 213.06(1) FS. Law Implemented Ch. 98-95, L.O.F., 213.285 FS. History—New

#### 12-25.037 Applying for Participation in the Program.

(1) When a qualified practitioner has a client who agrees to participate in the program, the qualified practitioner must complete a Request To Participate in the Certified Audit program (form DR-342000) which includes a Power of Attorney (form DR-835), and submit the Request to Participate, including any required supporting information to the Department.

(2)(a) The audit period must be a minimum of two consecutive years unless a specific exception is provided in this rule. An exception to the 2-year minimum will be granted to any requesting taxpayer who has been subject to Florida Sales and Use Tax for less than 2 years.

(b) Also, if it is within the statute of limitations, the audit period must begin in the month immediately subsequent to the ending month of any previous audit, or the earliest month within the lawful limitation.

(3) As a condition of acceptance in the Certified Audit program, a taxpayer will have to sign a statement declaring that he or she agrees to pay the audit assessment within 60 days of:

(a) The date the audit has been agreed to, or

(b) The date the taxpayer's protest and appeal rights have expired.

However, if the Certified Audit results in the taxpayer entering into a stipulated payment agreement, interest would accrue from the date to which the stipulated payment agreement is mutually agreed. If payment has not been received with the 60 days stipulated, and a stipulated payment agreement has not been entered into, interest will accrue back to the date of the Notice of Proposed Assessment, and continue to accrue through the date of payment in full.

(4)(a) If the Request To Participate in the Certified Audit program received by the Department is incomplete or requires clarification, it will be returned to the qualified practitioner. When the Department returns an incomplete Request and/or supporting documentation to a qualified practitioner, it will issue a letter explaining how the Request and/or documentation must be revised, expanded, or clarified.

(b) The qualified practitioner will be given 30 calendar days from the date the letter is issued by the Department to resubmit the revised Request To Participate and/or supporting documentation.

(c) If the qualified practitioner does not resubmit the revised Request To Participate and/or supporting documentation to the Department within 30 calendar days, the Request To Participate will be denied. Both the qualified practitioner and the taxpayer will be notified in writing of the denial.

(5) A qualified practitioner may submit a written request to the Department for a 15-day extension of the 30-day time period discussed in subsection (4) of this rule. The Department will not accept more than two consecutive written requests for a 15-day extension for the same Request To Participate.

(6) The Request To Participate is not, by definition, "proper and complete" if the Department requests clarification of submitted information or requests additional information. The Department will, within ten working days of receiving a proper and complete Request To Participate in the Certified Audit program and application, issue written notification to the qualified practitioner:

(a) stating that the Request To Participate has been accepted, accompanied by an explanation of the steps the qualified practitioner must take to develop and submit the Audit Plan for conducting the certified audit; or,

(b) denying the Request To Participate, unless the provisions of subsection (4) apply.

(7) Grounds for departmental denial of a Request To Participate include:

(a) The taxpayer has been issued a written notice of intent to audit by the Department which is postmarked before the date the Request To Participate is postmarked;

(b) The taxpayer is currently under investigation by the Department or the Department learns that the taxpayer is currently under investigation for financial impropriety by a local, state or federal government entity. The request will also be denied if an investigation by Department or a local, state or federal government entity resulted in criminal conviction for financial impropriety against the taxpayer prior to the Request To Participate.

(c) The taxpayer has failed to:

1. Register for any of the applicable state taxes listed in subparagraph 3., or

2. File the returns for any applicable state taxes listed in subparagraph 3.

3. Corporation Income Tax, Intangible Personal Property Tax, Fuel Taxes, Documentary Stamp Tax, Insurance Premium Tax, or Gross Receipts Tax. The local Option Surtaxes and Fees specific to the type of industry or location of the participating taxpayer will be included with the Sales and Use Tax in the certified audit.

(d) The taxpayer has filed for bankruptcy.

(e) The taxpayer has outstanding liens, warrants, or "Notices of Tax Action" filed against it by the Department. If the Department determines that unsatisfied liens, warrants, or "Notices of Tax Action" exist, then the Request To Participate will be denied. The taxpayer can remedy the reason for denial by satisfying the lien, warrant, or "Notice of Tax Action."

(f) The qualified audit firm has any currently delinquent Florida state tax liabilities.

(8)(a) The Department will include controls to ensure taxpayers are filing all appropriate tax returns for other taxes. As an attachment to the Request To Participate, the taxpayer must provide either the registration number for other taxes, or answer specific questions and provide requested information about each tax.

(b) If a taxpayer is unregistered or has not filed the appropriate returns for the subject taxes, he or she must answer a series of questions. The questions will be posed in such a manner that the answer "yes" to any will identify the taxpayer as potentially subject to the tax. Also, a "yes" will indicate the Department does not yet have all the information required to determine if the taxpayer is eligible for participation. Accordingly, the application would not qualify as "proper and complete" until the Department performed the necessary additional research.

(c) If the Department determines that the taxpayer is not properly registered or filing the appropriate returns, the Request To Participate will be denied.

(d) The taxpayer can remedy the reason for the denial and become eligible to participate by correctly registering and/or filing all appropriate tax returns.

(9) If a Request To Participate in the Certified Audit program is denied, the Department's written notification to the qualified practitioner shall explain the specific reasons for such denial, unless:

(a) An ongoing investigation would be jeopardized; or,

(b) The confidentiality provisions of s. 213.053, F.S., prohibit such explanation.

Specific Authority 213.06(1) FS. Law Implemented Ch. 98-95, L.O.F., 213.285 FS. History--New

12-25.038 Voluntary Disclosure of Liabilities for Other Taxes.

(1) Section 213.21(7)(a), F.S., authorizes the Department to compromise or settle the tax and interest due on unpaid tax liabilities which are voluntarily self-disclosed to the Department, when the agency determines it is in the best interest of the state. Further, the Department's Rule 12-13.007(9), F.A.C., provides that "reasonable cause" to compromise penalty is generally presumed to exist whenever a taxpayer voluntarily discloses a tax liability.

(2) A taxpayer who elects to voluntarily self-disclose an unpaid tax liability for the taxes identified in Rule 12-25.037(7)(c), F.A.C., shall receive a waiver of all resulting

penalties, pursuant to Rule 12-13.007(9), F.A.C., except for penalties associated with the failure to remit taxes collected by the taxpayer, and is authorized to receive an abatement of interest as provided by s. 213.21(7), F.S. However, this abatement of interest is conditioned upon the Department's final approval of the certified audit report for such taxpayer.

Specific Authority 213.06(1) FS. Law Implemented Ch. 98-95, L.O.F., 213.285 FS. History--New

12-25.039 Protest Procedure; Denial of a Request To Participate in the Certified Audit Program.

(1) A qualified practitioner may protest the Department's decision to deny a Request To Participate in the Certified Audit program by following the procedures outlined in this rule.

(2) If a qualified audit firm elects to submit to the administrator of the Certified Audit program a request for reconsideration, then the request must be postmarked within 15 calendar days of receiving written notification from the Department denying a Request To Participate.

(3) A request for reconsideration must include additional material facts which the qualified practitioner believes the Department should review during the agency's reconsideration of the original denial.

Specific Authority 213.06(1) FS. Law Implemented Ch. 98-95, L.O.F., 213.285 FS. History--New

12-25.041 Suspension of a Certified Audit In Progress.

(1) Approval to participate will be suspended or revoked by the Department for good cause. Cause would include:

(a) The taxpayer files for bankruptcy subsequent to approval of participation but prior to Department approval of the subject certified audit report.

(b) The Department initiates an investigation or is notified by another local, state or federal agency of an investigation for financial impropriety subsequent to approval of participation but prior to Department approval of the subject certified audit report. Should the result of the investigation be unfavorable to the taxpayer, participation approval will be withdrawn.

(c) The Florida Board of Accountancy revokes or suspends the firm license of the qualified audit firm.

(2) This suspension shall last for no more than 60 calendar days. At the end of such 60 calendar day period the Department must either:

(a) Lift such suspension, and authorize the qualified practitioner to continue to perform any and all certified audits;

(b) Extend the suspension an additional 30 calendar days; or,

(c) Provide written notification to the taxpayer(s) and the qualified audit firm that the qualified audit firm has had its firm license revoked by the Board and accordingly, the Department is prohibiting the qualified audit firm from performing certified audits. In that circumstance, the taxpayer(s) has 60 calendar

days to retain another qualified audit firm. Failure to retain a qualified audit firm within 60 calendar days will result in the application of the provisions of Rule 12-25.045.

Specific Authority 213.06(1) FS. Law Implemented Ch. 98-95, L.O.F., 213.285 FS. History--New

12-25.042 Withdrawal from the Certified Audit Program.

(1) If the taxpayer withdraws from the Certified Audit program subsequent to Department approval of participation, but prior to Department approval of the Agreed Upon Procedures, then the taxpayer will again be eligible for selection through the normal case selection process and will be subject to the standard audit selection criteria and procedures.

(2) If the taxpayer withdraws from the Certified Audit program subsequent to the Department approval of the Agreed Upon Procedures or if a Certified Audit report is not provided to the Department within 90 calendar days upon approval, and the Department denies an extension of time, then the Department will conduct an audit of the taxpayer for the same audit period and taxes addressed by the Agreed Upon Procedures.

(3) If the Department completes the audit, the taxpayer will not benefit from the automatic abatement of penalty and interest granted by the Certified Audit program.

Specific Authority 213.06(1) FS. Law Implemented Ch. 98-95, L.O.F., 213.285 FS. History--New

12-25.045 A Certified Audit is Initiated by the Taxpayer but Not Completed.

If, for whatever reason, the taxpayer's designated qualified audit firm fails to submit a completed certified audit report that meets the requirements of rule 12-25.048 after there has been approval of the "Agreed Upon Procedures" a Department auditor will complete the audit. If a Department auditor completes the audit, the taxpayer will not benefit from the automatic abatement of penalty and interest granted by the Certified Audit program.

Specific Authority 213.06(1) FS. Law Implemented Ch. 98-95, L.O.F., 213.285 FS. History--New

12-25.047 Development of Agreed Upon Procedures.

(1)(a) Certified Audits conducted pursuant to the authority of s. 213.285, F.S., are attestation engagements that are conducted under Statements on Standards for Attestation Engagements #4. – Agreed Upon Procedures.

(b) Subsequent to the Department's approval of the Request To Participate, and prior to the qualified practitioner submitting the Audit Plan, the qualified practitioner will perform required planning work. The planning work performed will include:

1. A written reconciliation of the Florida sales reported on the taxpayer's federal income tax returns to Florida sales reported on the taxpayer's Florida sales and use tax returns;

2. Identification and documentation of all revenue sources;

3. A comprehensive written narrative of the taxpayer's operations;

4. A current chart of accounts and the year-to-date general ledger activity for the last year in the audit period;

5. Copies of the Federal income tax returns for the audit period;

6. The DR-15 download print-out from the Department's audit software;

7. Performance of and reporting on steps AP.001 through AP.300 of the Standard Audit Program.

8. Required planning work will also include identification and disclosure to the Department of any known tax issues where the tax returns subject to the certified audit reflect an interpretation of applicable Florida Statutes and rules that is different from an interpretation presented in a previously published:

- a. Technical Assistance Advisement;
- b. Attorney General Opinion;
- c. Declaratory Statement;
- d. Tax Information Publication;
- e. Training Update Bulletin;
- f. Internal Technical Advisement; or,
- g. General Tax Administration Bulletin.

9. Any information the Department determines is necessary to clarify items 1 through 8.

(2) The starting point for development of the Agreed Upon Procedures includes information resulting from required planning work performed by the qualified practitioner, taxpayer profile information, the Certified Audit Standard Audit Program and the Certified Audit Standard Industry Guides. The qualified practitioner will use the described starting point information and materials to develop a document termed the "Audit Plan".

(3) The Audit Plan will be provided to the Department for review and approval. The review and approval of the Audit Plan will be a cooperative effort between the Department and the qualified practitioner. However, the Department, specifically the administrator of the Certified Audit program, will be the final authority on the nature, extent and type of audit procedures.

(4) Once the Department approves the final Audit Plan, it will become the Agreed Upon Procedures for the subject certified audit. Each set of Agreed Upon Procedures will be customized, as necessary, for the subject taxpayer.

(5) After the Department approves the Agreed Upon Procedures, the qualified practitioner must submit a written request to the Department and receive written approval from the Department prior to making any additions, deletions, or revisions to the approved Agreed Upon Procedures.

Specific Authority 213.06(1) FS. Law Implemented Ch. 98-95, L.O.F., 213.285 FS. History—New

#### 12-25.048 Submission of the Certified Audit Report.

The qualified practitioner will submit the certified audit report and required attachments to the Department for review and approval.

(1) The certified audit report must meet all the requirements established by Statements on Standards for Attestation Engagements #4.

(2) Required attachments to the certified audit report include a schedule listing any adjustments made to the subject tax accounts. The schedule will reflect the detail for any adjustments made, including:

(a) The amount of each individual adjustment;

(b) Any credits made against the adjustment;

(c) The tax years involved; and,

(d) The Florida Statute(s) and rule(s) support for each adjustment.

(3) The schedule will also include any other information determined by the Department to be necessary to review, approve, and process the certified audit report.

(4) Required attachments will also include the completed Agreed Upon Procedures, with each audit step signed and dated by the qualified practitioner and/or practitioner who performed the step.

(5) The Department is authorized to share any of the information discussed in this rule with any county which self-administers the tax imposed by Sections 125.0104 or 125.0108, F.S.

Specific Authority 213.06(1) FS. Law Implemented Ch. 98-95, L.O.F., 213.285 FS. History—New

#### 12-25.049 Review of Certified Audit Reports.

(1) The Department will select certain approved certified audit reports for a post-approval comprehensive review of the supporting work papers and associated documentation.

(2) To facilitate the review process, the qualified audit firm is required to use the Department's audit software in performing the certified audit. The qualified audit firm is also required to retain comprehensive, detailed documentation of the certified audit work performed, and to make that documentation available to the Department upon request. The Department shall have unrestricted access to all information and documentation necessary for a comprehensive review.

(3) The criteria for selecting an approved certified audit report for review is:

(a) The taxpayer replaced the original qualified audit firm subsequent to the Department's approval of the Agreed Upon Procedures for such certified audit, but prior to submission of the certified audit report to the Department.

(b) The certified audit is the initial engagement performed by the qualified audit firm.

(c) The certified audit is the second of two consecutive audits submitted by a qualified audit firm which resulted in a "no change" or in a refund request.

(d) The certified audit is within a sample of five percent of completed certified audits performed within a 12-month period, which sample was randomly selected from the entire population of completed certified audits for such period.

(4) When a qualified practitioner completes a certified audit and the Department approves the certified audit report, the qualified audit firm must request that the certified audit engagement be included as a part of their next on-site peer review.

Specific Authority 213.06(1) FS. Law Implemented Ch. 98-95, L.O.F., 213.285 FS. History—New

12-25.050 Protests.

A taxpayer participating in the Certified Audit program has all the protest rights available to any taxpayer who is audited by the Department. If the taxpayer decides to file a protest, the taxpayer may elect to retain the qualified audit firm who performed the certified audit to represent them in the informal protest procedures governed by s. 213.21, F.S. In that circumstance, the qualified practitioner continues in the role as the auditor and remains responsible for providing the Department any additional information or performing any additional audit work the Department judges necessary to address the protested tax issues.

Specific Authority 213.06(1) FS. Law Implemented Ch. 98-95, L.O.F., 213.285 FS. History—New

**BOARD OF TRUSTEES OF THE INTERNAL IMPROVEMENT TRUST FUND**

DOCKET NO.: 98-08R

RULE CHAPTER TITLE: Sovereignty Submerged Lands Management  
 RULE CHAPTER NO.: 18-21

PURPOSE AND EFFECT: The purpose of this rulemaking is to clarify the interest in uplands needed to make application for a Board of Trustees' authorization to conduct activities on sovereign submerged lands.

SUBJECT AREA TO BE ADDRESSED: Clarification of sufficient title interest as stated above. During the rule development process, the Department may decide to amend any or all of the rule sections contained in Chapter 18-21 of the Florida Administrative Code.

SPECIFIC AUTHORITY: 161.055, 253.002, 253.03, 253.03(7), 253.0345, 253.12, 253.73, 253.77, 258.43, 370.021, 370.021(1), 373.026, 373.043, 373.044, 373.418, 373.427 FS, Art. X, Sec. 14, Fla. Const.

LAW IMPLEMENTED: 120.60, 161.041, 161.055, 253.002, 253.02, 253.03, 253.034, 253.0345, 253.04, 253.041, 253.077, 253.115, 253.12, 253.1221, 253.129, 253.141, 253.43, 253.431, 253.47, 253.51, 253.512, 253.52-.54, 253.61, 253.67-.75, 253.77, 258.42, 258.43, 370.16, 373.026, 373.413, 373.414(11)-(16), 373.416, 373.427, 373.4275 FS.

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

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT AND A COPY OF THE PRELIMINARY DRAFT, IF AVAILABLE IS: Alice Heathcock, Department of Environmental Protection, MS 2500, 2600 Blair Stone Road, Tallahassee, Florida 32399-2400, Telephone (850)921-9899

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

**GAME AND FRESH WATER FISH COMMISSION**

RULE TITLES: Procedures for Listing, Delisting and  
 RECLASSIFYING Endangered, Threatened  
 and Species of Special Concern  
 KILLING Endangered Species

RULE NOS.: 39-27.001  
 39-27.0011

PURPOSE AND EFFECT: The purposes and effects of the proposed rule development is to (1) revise procedures for the listing or delisting of fish and wildlife that are endangered, threatened, and species of special concern, (2) to consider proposals to list as endangered, threatened, and species of special concern or delist species from those categories, and (3) to revise or modify regulatory requirements of listed species.

SUBJECT AREA TO BE ADDRESSED: The process and procedure for designating fish and wildlife as endangered, threatened, and species of special concern and the regulatory requirements pertaining to such wildlife.

SPECIFIC AUTHORITY: Article IV, Section 9, Fla. Const.

LAW IMPLEMENTED: Article IV, Section 9, Fla. Const.

WORKSHOPS ON THE PROPOSED RULES WILL BE HELD IN CONJUNCTION WITH THE COMMISSION'S WORKSHOPS AND PUBLIC MEETINGS AT THE TIMES, DATES AND PLACES SHOWN BELOW:

TIMES AND DATES: 1:30 p.m., on the following dates: May 14, 1999, July 16, 1999, September 17, 1999 and November 19, 1999

PLACE: Specific location to be announced

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT IS: Mr. Tim Breault  
 THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT WILL BE AVAILABLE AND CAN BE OBTAINED FROM JAMES V. ANTISTA, GENERAL COUNSEL, GAME AND FRESH WATER FISH COMMISSION, 620 SOUTH MERIDIAN STREET, TALLAHASSEE, FLORIDA, 32399-1600, (850)487-1764.

Pursuant to the provisions of the Americans with Disabilities Act, any person requiring special accommodations to participate in this workshop/meeting is asked to advise the agency at least 5 calendar days before the workshop/meeting

by contacting Andrena Knicely at (850)487-1406. If you are hearing or speech impaired, please contact the agency by calling (850)488-9542.

**DEPARTMENT OF MANAGEMENT SERVICES**

**Career Service System**

RULE CHAPTER TITLE: Recruitment, Eligibility Determination and Selection  
 RULE CHAPTER NO.: 60K-3

RULE TITLES: PURPOSE AND EFFECT: The Department will review the rules on recruitment and selection activities to determine if any revisions are necessary. Specifically, the purpose of the review is to ensure compliance with state and federal guidelines and to maintain consistency and flexibility among agencies in managing their human resource program.  
 SUBJECT AREA TO BE ADDRESSED: Recruitment and selection activities for Career Service positions.  
 SPECIFIC AUTHORITY: 110.201, 110.211(6), 110.213(4), 110.217(5) FS.  
 LAW IMPLEMENTED: 110.211, 110.213, 110.217 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., April 27, 1999  
 PLACE: Room 301, 4040 Esplanade Way, Tallahassee, FL 32399-0950  
 THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT IS: Phil Spooner, Personnel Consultant, 4040 Esplanade Way, Tallahassee, Florida 32399-0950  
 THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS NOT AVAILABLE AT THIS TIME.

**DEPARTMENT OF MANAGEMENT SERVICES**

**Career Service System**

RULE CHAPTER TITLE: Appointments, Status, Transfers, and Separations  
 RULE CHAPTER NO.: 60K-4

RULE TITLES: PURPOSE AND EFFECT: The rule amendments change the provisions for original and promotional appointment from model rules to uniform rules; streamlines the types of status that are awarded to employees upon appointment by renaming substitute status to overlap status incorporating the provisions of 60L-7, F.A.C., merging the provisions of emergency and temporary status into one; creates the provisions for reinstatement appointments and references the Drug Free Workplace Act rather than the 1973 Department of Administration memorandum for handling dismissals for drug and alcohol abuse. The rule amendments repeal language regarding separations due to unauthorized holding or seeking of public office which is covered in 60K-13, F.A.C.  
 SUBJECT AREA TO BE ADDRESSED: Provisions dealing with the types of appointments into the Career Service and the types of status provided the Career Service employee.  
 SPECIFIC AUTHORITY: 110.213, 110.217(5), 110.201(1) FS.  
 LAW IMPLEMENTED: 110.213, 110.217, 110.227, 110.201 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., April 27, 1999  
 PLACE: Room 301, 4040 Esplanade Way, Tallahassee, FL. 32399-0950



THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT IS: Phil Spooner, Personnel Consultant, 4040 Esplanade Way, Tallahassee, Florida 32399-0950

THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS:

60K-4.001 Scope and Purpose.

This chapter ~~establishes uniform policies and sets forth the rules for appointments, status separations and transfers within from positions in the Career Service and separations from the model rule for appointments in the Career Service.~~

Specific Authority ~~110.213(6), 110.217(5)(7), 110.201(1) FS. Law Implemented 110.213, 110.217, 110.201, 295.08, 295.085 FS. History—New 7-1-68, Revised 6-10-70, 7-1-73, Amended 7-1-80, Formerly 22A-7.01, 22A-7.001, Amended 10-24-94.~~

60K-4.002 Statements of Policy.

(1) Appointments shall be made only to positions that have been established in accordance with the provisions of Chapter 60K-1 of these rules. ~~An agency shall first consider any Career Service employee who has been laid off pursuant to Rule 60K-17.004, F.A.C., before an original appointment can be made to that class.~~

(2) An agency shall first consider any Career Service employee who has been laid off pursuant to Rule 60K-17.004, F.A.C., before an original appointment can be made to that class. ~~Appointments shall be made only to positions that have been established in accordance with the provisions of Chapter 60K-1 of these rules.~~

(3) An established position shall be filled with one of the following types of appointments and the employee paid in accordance with the provisions of Chapter 60K-2 of these rules:

- (a) Original
- (b) Promotion
- (c) Demotion
- (d) Reassignment
- (e) Reinstatement

(4) Upon appointment to an established position, an employee shall be given one of the following types of status:

- (a) Probationary
- (b) Overlap Substitute
- (c) Temporary
- ~~(d) Emergency~~
- (d)(e) Trainee
- ~~(e)(f) Permanent~~

(5) through (6) No change.

~~(7) Applicants with qualifying disabilities as defined by the Americans with Disabilities Act (ADA) shall not be denied employment solely because of the existence of a qualifying~~

~~disability, unless the disability is of the nature that would prohibit the applicant from performing the essential functions of the position with reasonable accommodation.~~

~~(7)(8)~~ No person shall be appointed to, or separated from, a position because of age, race, color, sex, religion, creed, national origin, disability, or political affiliation except when such a requirement constitutes a bona fide occupational qualification necessary to perform the tasks associated with the position.

~~(8)(9)~~ Any person appointed to a position in the Career Service must meet the minimum qualifications established for the class and any required entry-level knowledge, skills, and abilities for the position to which appointed, unless:

(a) The employee is given an appointment with temporary emergency status in accordance with Rule 60K-4.003(2)(3)(c)(d), F.A.C.; ~~or~~

(b) The applicant's qualifications are determined to be equivalent to the required minimum qualifications. Such determination shall be in accordance with Rule 60K-3.009(2)(9), F.A.C.

(9) Employees given reinstatement appointments are treated, for the purposes of status, pay and benefits, as if they have been continuously employed.

(10) Employees on military leave are considered to be on an authorized leave of absence and are treated for purposes of ~~seniority~~, status, pay, and other benefits as if they had been continuously employed.

(11) No change.

(12) For the purpose of this Chapter, promotion, demotion and reassignment appointments shall include inter-agency actions within the Career Service system.

Specific Authority 110.213(4), 110.217(5)(7), 110.201(1) FS. Law Implemented 110.2135, 110.213, 110.217, 110.201 FS. History—New 7-1-68, Revised 6-10-70, 7-1-73, Amended 7-1-80, 1-1-86, Formerly 22A-7.02, Amended 3-30-88, 11-9-88, Formerly 22A-7.002, Amended 10-24-94.

60K-4.0021 Definitions.

These definitions are defined only for the purpose of this chapter. For the purpose of administering these rules, the following definitions shall apply:

(3) Department – The Department of Management Services.

~~(4)(3)~~ Higher Class – A class having a greater degree of responsibility than the class in which the employee is serving. For purposes of this rule, higher class shall also be determined by pay range assignment ~~and~~ or the essential functions of the positions or both.

~~(5)(4)~~ Lower Class – A class having a lesser degree of responsibility than the class in which the employee is serving. For purposes of this rule, lower class shall also be determined by pay range assignment ~~and~~ or the essential functions of the position or both.

~~(5) Permanent Status—The status attained by an employee upon successful completion of the probationary period designated for the class.~~

~~(6) Promotion—The changing of the classification of an employee to a class having a higher maximum salary; or the changing of the classification of an employee to a class having the same or lower maximum salary but a higher level of responsibility as determined by the Department of Management Services.~~

~~(7) Demotion—The changing of the classification of an employee to a class having a lower maximum salary; or the changing of the classification of an employee to a class having the same or a higher maximum salary but a lower level of responsibility as determined by the Department of Management Services.~~

~~(8) Reassignment—Moving an employee from a position in one class to a different position in the same class or a different class having the same degree of responsibility. For purposes of this rule, the same degree of responsibility shall be determined by pay range assignment and/or the essential functions of the position.~~

~~(9) Dismissal—Disciplinary action taken by an agency against an employee resulting in termination of employment for a violation of agency standards or for cause pursuant to Section 110.227, F.S.~~

~~(10) Separation—The act of removing an employee from the Career Service.~~

~~(11) Shared employment—Part-time career employment whereby the duties and responsibilities of a full-time position in the career service are divided among part-time employees who are eligible for the position and who receive career service benefits and wages pro rata. In no case shall “shared employment” include the employment of persons paid from other personal services funds.~~

Specific Authority 110.201(1) FS. Law Implemented 110.201 FS. History—New 1-1-86, Formerly 22A-7.0021, Amended 10-24-94,\_\_\_\_\_.

60K-4.003 Original Appointments. (Model Rule)

~~(1) No original appointment shall be made by any agency to a class until all Career Service employees who have been laid off pursuant to Rule 60K-17, F.A.C., have been considered for reemployment.~~

~~(1)(2) Except for a promotion, demotion, reinstatement or reassignment appointment made in accordance with the provisions of this chapter, all appointments to established positions shall be considered original appointments.~~

~~(2)(3) Upon original appointment to a class, an employee shall be given status in that class in accordance with the following:~~

~~(a) Probationary Status – An employee appointed to fill an established position shall be given probationary status for a period designated for the class, provided the employee has been determined eligible for the class, except for an employee~~

~~appointed in accordance with Rule 60K-4.00311, F.A.C., who serves a probationary period of one year regardless of the period designated for the class. To be given probationary status, an employee must meet the minimum qualifications for the class and must possess any required entry-level knowledge, skills, and abilities established for the position.~~

~~(b) Overlap Substitute Status – An employee is ~~may be~~ given overlap substitute status in ~~accordance with the following:~~~~

~~1. When appointed employed to perform the duties of an employee in a filled, an established position for the purpose of: of an employee who has been granted a leave of absence with or without pay.~~

~~a. training one employee to take over the duties of another employee. The overlap period will be for a reasonable amount of time to accomplish the required training, but no longer than 60 calendar days; or~~

~~b. performing the duties of an employee who has been placed on educational leave with pay in conformance with an educational leave program adopted by the agency and approved by the Secretary of Management Services pursuant to Chapter 60K-7, F.A.C. The overlap period will not be longer than a 12-month period; or~~

~~c. performing the duties of an employee who has been placed on a leave of absence with or without pay for a period of up to one year; or~~

~~d. performing the duties of an employee for reasons not stated in Section 60K-4.003(2)(b)1.a., b., or c., F.A.C. and which can be justified as in the best interest of the state. A request shall be submitted by the agency with supporting documentation to the Department in advance of the overlap appointment. Supporting documentation shall include the identity of the overlapped employee, the salary of the overlapped employee, the name of the incumbent, the period of the overlap and justification for such action.~~

~~2. The employee must possess the required minimum qualifications and the entry-level knowledge, skills, and abilities established for the position and may be appointed in substitute status for up to one year.~~

~~3. Extensions of overlap may be granted with Ddepartment approval except for employees on military leave or disability leave workers’ compensation, where Ddepartment approval is not required.~~

~~4. The requirements of Rule 60K-3.0071, F.A.C., regarding announcing positions is optional when filling a position with overlap substitute status. However, eEmployees appointed with overlap substitute status shall not thereafter be appointed with probationary status without competing for the position in accordance with the requirements of Rule 60K-3.009, F.A.C. At the time employees are appointed with probationary status in the same position, the agency head or~~

designee shall determine whether the time spent in overlap a substitute status will counts towards completiong of the their probationary period.

(c) Temporary Status – An employee is given temporary status in accordance with the following:

1. When appointed to fill an vacant established position on a full-time or part-time basis for the purpose of: shall be given temporary status

- a. performing seasonal or intermittent work; or
- b. filling a position immediately to prevent an undue hardship on an agency which will hinder the normal operations of an agency; or
- c. filling positions which are limited to a definite period of time.

2. When the appointment is to a position requiring seasonal or intermittent work for no more than 1040 hours during any 12-month period. Extension of a temporary appointment may be granted by the Department upon receipt of justification by the employing agency.

3. Appointments with temporary status may be made without regard to the requirements of Rule 60K-3.0071, F.A.C., regarding announcing positions and shall be justified in writing and approved by the agency head. Employees appointed with temporary status shall not be appointed thereafter with probationary status without competing for the position in accordance with the requirements of Rules 60K-3.0071 and 60K-3.009, F.A.C.

~~(d) Emergency Status – An employee may be appointed in emergency status to fill an established position when an emergency exists and a position must be filled immediately. Emergency appointments may be full-time or part-time and shall not exceed 12 calendar weeks during any 12-month period. Emergency status should be used only in situations where positions which, if not filled immediately, will result in an undue hardship which will hinder the normal operations of the agency as determined by the agency head or when the agency head determines there is danger or potential danger to life, physical or mental health or well-being of employees, the public, clients, or other recipients of services required to be provided by the agency. Appointments with emergency status may be made without regard to the requirements of Rule 60K-3.0071, F.A.C., regarding announcing positions and shall be justified in writing and approved by the agency head. Employees appointed with emergency status shall not be appointed with probationary status without competing for the position in accordance with the requirements of Rule 60K-3.009, F.A.C.~~

~~(d)(e)~~ Trainee Status –

1. An employee appointed to fill an established position with trainee status may be placed into one of four training programs: recruitment trainee; cooperative education; vocational rehabilitation; or an agency trainee program. Entry

into any of these programs shall be in accordance with an established training schedule approved pursuant to Rules 60K-4.0032 or 60K-4.00321, F.A.C.

2. An employee appointed to a position in an established trainee class shall be given trainee status in accordance with the trainee program developed by the agency.

3. Upon successful completion of the training program, the employee may be appointed to a position in the same class requiring the same knowledge, skills and abilities (KSAs) without further competition. The appointment shall be with probationary status.

~~(3)(4)~~ An employee appointed under Sections 60K-4.003~~(2)(3)~~(a), (b), (c), or (d), ~~or (e)~~, F.A.C., does not have Career Service status and may be terminated at any time in accordance with Chapter 60K-9, F.A.C., without the right to appeal such action to the Public Employees Relations Commission.

Specific Authority ~~110.213(4)~~, 110.217~~(5)(7)~~, 110.201(1) FS. Law Implemented 110.2135, ~~110.213~~, 110.217, 110.227, 110.201 FS. History–New 7-1-68, Revised 6-10-70, 7-1-73, Amended 7-1-80, 1-9-83, 6-25-84, 1-1-86, Formerly 22A-7.03, Amended 4-30-86, 10-12-86, 3-30-88, 11-9-88, Formerly 22A-7.003, Amended 10-24-94, \_\_\_\_\_.

60K-4.00311 Appointment of Disabled Veterans.

An honorably discharged veteran with a service-connected disability rating of 30 percent or more may be appointed to a position in accordance with Sections 295.08 and 295.085, Florida Statutes. Appointment shall be for a probationary period of one year, regardless of the probationary period designated for the class. At the time of application, the disabled veteran must furnish a State of Florida Employment Application and the following documentation:

(1) A document from the Department of Defense, commonly known as Form DD-214 or military discharge papers, or equivalent certification from the U. S. Department of Veterans' Affairs Administration, listing military status, dates of service and discharge type;

(2) Certification from the U. S. Department of Veterans' Affairs Administration or Armed Services that the applicant has a service-connected disability of 30 percent or more;

(3) Proof of residence in this state; and

(4) Possession of the minimum qualifications and any required entry-level knowledge, skills, and abilities established for the position as indicated on the position description.

Specific Authority 110.213(6), 110.217~~(5)(7)~~, 110.201(1) FS. Law Implemented 110.2135 FS. History–New 3-30-88, Formerly 22A-7.00311, Amended 10-24-94, \_\_\_\_\_.

60K-4.0032 Procedures for Approval of Appointments with Trainee Status in a Recruitment Trainee Program.

Appointments with trainee status in a recruitment trainee program may be approved by the agency provided:

(1) The appointee has some of the education and experience required but does not possess all the required entry\_level knowledge, skills, and abilities established for the position.

(2) There are fewer than three available applicants who meet the minimum qualification of the class and possess the required entry-level knowledge, skills, and abilities established for the position, or the candidate pool does not enable the agency to fulfill its affirmative action plan.

(3) through (5) No change.

Specific Authority 110.213(4), 110.217(5)(7), 110.201(1) FS. Law Implemented 110.213, 110.217, 110.201 FS. History—New 7-1-80, Revised 1-9-83, 6-25-84, 1-1-86, Formerly 22A-7.032, Amended 11-9-88, Formerly 22A-7.0032, Amended 10-24-94,\_\_\_\_\_.

60K-4.00321 Procedures for Approval of Appointments with Trainee Status in the Cooperative Education, Vocational Rehabilitation, and Agency Trainee Programs.

(1) Cooperative Education Program. Appointments with trainee status in a cooperative education program may be approved by the agency provided:

(a) No change.

(b) That the student is enrolled in the cooperative education program of an eligible post-secondary educational institution, as listed in the Accredited Institutions of Post-Secondary Education publication;

(c) through (d) No change.

(2) Vocational Rehabilitation Program. Appointments with trainee status in a vocational rehabilitation program may be approved by the agency provided:

(a) The employee has been referred to the employing agency by ~~either the department and division responsible for vocational rehabilitation or the blind services program Division of Vocational Rehabilitation, Department of Labor and Employment Security, or the Division of Blind Services, Department of Education;~~ and

(b) There is on file with the employing agency, an agreement between the agency and either the department and division responsible for vocational rehabilitation or the blind services program ~~Division of Vocational Rehabilitation, Department of Labor and Employment Security, or the Division of Blind Services, Department of Education;~~ and

(c) No change.

(3) Agency Trainee Program. Appointments with trainee status in an agency trainee program may be approved by the agency provided:

(a) The appointee meets some of the minimum qualifications and entry\_level knowledge, skills, and abilities, but does not possess all the entry\_level knowledge, skills, and abilities established for the position.

(b) No change.

(4) No change.

~~(5) Project Independence. Appointment with trainee status in an agency trainee program may be approved by the agency provided the appointee comes from a list of Project Independence clients.~~

Specific Authority 110.213(6), 110.217(5)(7), 110.201(1) FS. Law Implemented 110.213, 110.217, 110.201 FS. History—New (Subsections (1) and (2) were formerly subsections (2) and (3) of Section 22A-7.032.) 1-1-86, Amended 10-12-86, Formerly 22A-7.00321, Amended 10-24-94,\_\_\_\_\_.

60K-4.0034 Shared Employment ~~Appointments.~~

Shared employment is defined as part-time career employment whereby the duties and responsibilities of a full-time position in the Career Service are divided among part-time employees who are eligible for the position and who receive Career Service benefits and wages prorated. In no case shall “shared employment” include the employment of persons paid from other-personal-services funds.

(1) An agency may designate up to 10 percent of its full-time ~~Cearer S~~service positions as shared employment positions.

(a) No change.

(b) When a new position is established or an existing position becomes vacant, the position shall be reviewed to determine whether the duties and responsibilities of the position may be performed by two or more employees as adequately or more adequately than by a single employee. If an agency determines it to be in ~~Upon a finding that~~ the best interests of the state ~~would be served, and that~~ less than 10 percent of its Career Service positions are designated as shared employment, the position should be designated for shared employment ~~appointments.~~

(c) No agency shall abolish or convert a position occupied by an employee to a shared employment position unless such action is agreed to in writing by the employee. However, upon the request or consent of an incumbent, the agency may evaluate the incumbent’s position for suitability for shared employment in the same manner as for a vacant position and, upon a favorable evaluation and with the incumbent’s written consent, the agency may appoint the incumbent to the shared employment position with the same status as was held in the full-time position. Recruitment and recruit for appointment of the additional employee(s) in the position will be handled in accordance with Rule 60K-3.0071, F.A.C. the same manner as for a vacant position.

(d) Once a position is designated as a shared position, the position cannot be designated as full-time unless it becomes vacant, the incumbent is given a minimum of 90 calendar days ~~six months~~ notice, or the incumbent agrees to the action in writing.

(2) Employees filling shared employment positions are ~~part-time employees and will be~~ subject to the provisions of the personnel rules governing part-time employees.

(3) Shared employment positions shall be identified as such according to Rule 60K-1.002(6), F.A.C., and shall be reviewed by the Department in a post audit capacity.

Specific Authority 110.201(1), 110.201 FS. Law Implemented 110.201, 110.203(26), 110.21 FS. History—New 6-29-82, Amended 1-1-86, Formerly 22A-7.034, 22A-7.0034, Amended 10-24-94, \_\_\_\_\_.

60K-4.004 Permanent Status.

(1) through (2) No change.

(3) An employee shall not attain permanent status in a class while serving with overlap ~~substitute~~, temporary, ~~emergency~~, or trainee status.

(4) When an employee who has not attained permanent status in the class is granted a leave of absence with or without pay in excess of five (consecutive or non-consecutive) workdays during any month, the time spent on such leave shall not count toward completion of the employee's probationary period for that class. The time spent on military leave, however, shall count toward completion of the employee's probationary period.

(5) If an employee is promoted to a higher class in a series prior to completing the probationary period for the lower class in the series, all documented successful performance in the higher class shall count towards the completion of the probationary period for the lower class. All successful performance in the next higher-level class in the same series shall be counted toward the completion of the probationary period for the class from which the employee was promoted. In order to use any time toward completion of the probationary period for the lower class, the employee's satisfactory performance in the higher class must be documented in writing.

(6) No change.

~~(7) A disabled veteran applicant appointed pursuant to Rule 60K-4.00311, F.A.C., shall be appointed for a probationary period of one year, notwithstanding the probationary period designated for the class.~~

Specific Authority 110.213(4), 110.217(5)(7), 110.201(1) FS. Law Implemented 110.213, 110.217, 110.201 FS. History—New 7-1-68, Revised 6-10-70, 7-1-73, Amended 7-1-80, Formerly 22A-7.04, Amended 1-1-86, 10-12-86, 3-30-88, 11-9-88, Formerly 22A-7.004, Amended 10-24-94, \_\_\_\_\_.

60K-4.006 Promotion Appointments. ~~(Model Rule)~~

(1) An employee shall be given a promotion appointment when the employee is moved from one class to another class having a higher maximum salary or the same or lower maximum salary but a higher level of responsibility as determined by the Department of Management Services.

(2) Upon promotion, an employee shall be given probationary, overlap ~~substitute~~, temporary, ~~emergency~~, or trainee status. However, if the employee previously held permanent status in the class to which promoted and the employee has not had a subsequent break in service, the promotion will be with permanent status.

~~(3) An employee shall not attain permanent status in a class while serving with substitute, temporary, emergency, or trainee status.~~

~~(4) An employee who is promoted shall be required to serve the probationary period designated for the class.~~

~~(a) The probationary period may be extended for up to a total of 60 calendar days by the agency head provided there is written justification from the supervisor. Military leave shall not be used as justification for extending a probationary period.~~

~~(b) The probationary period shall also be extended if the employee has been granted a leave of absence in accordance with Rule 60K-4.004(4) of this chapter.~~

Specific Authority 110.213(4), 110.217(5)(7), 110.201(1) FS. Law Implemented 110.213, 110.217, 110.227, 110.201 FS. History—New 7-1-68, Revised 6-10-70, 7-1-73, Amended 7-1-80, Formerly 22A-7.06, Amended 1-1-86, 10-12-86, 11-9-88, Formerly 22A-7.006, Amended 10-24-94, \_\_\_\_\_.

60K-4.007 Demotion Appointments.

(1) An employee shall be given a demotion appointment when the employee is moved from one class to another class having a lower maximum salary or having the same or a higher maximum salary but a lower level of responsibility as determined by the Department of Management Services.

(2) Upon demotion, an employee shall be given probationary, overlap ~~substitute~~, temporary, ~~emergency~~, or trainee status. However, if the employee previously held permanent status in the class to which demoted or has completed the probationary period for the lower class in accordance with Rule 60K-4.004(5), F.A.C., the demotion shall be with permanent status.

(3) An employee who is demoted and who has not previously attained permanent status in the lower class shall be required to serve the probationary period designated for the class. However, if an employee is demoted within a class series as a result of workforce reduction and the employee has attained permanent status in a higher class in the same series, the demotion to the lower class shall be with permanent status.

Specific Authority 110.213(4), 110.217(5)(7), 110.201(1) FS. Law Implemented 110.213, 110.217, 110.227, 110.201 FS. History—New 7-1-68, Revised 6-10-70, 7-1-73, Amended 4-30-79, 7-1-80, Formerly 22A-7.07, Amended 1-1-86, 10-12-86, 11-9-88, Formerly 22A-7.007, Amended 10-24-94, \_\_\_\_\_.

60K-4.008 Reassignment Appointments.

(1) An employee shall be given a reassignment appointment when moved from a position in one class to a different position in the same class or a different class having the same degree of responsibility. For the purpose of this rule, the same degree of responsibility shall be determined by pay range assignment ~~and~~ or the essential functions of the position or both.

(2) through (3) No change.

(4) An employee with Career Service status who is given a reassignment appointment to a different position in a different class shall be given probationary status and be required to

serve the probationary period designated for the class, provided the employee meets the minimum qualifications for the class and possesses the entry-level knowledge, skills, and abilities established for the position. The probationary period may be extended for up to a total of 60 calendar days by the agency head provided there is written justification from the supervisor. The probationary period may be extended for a longer period of time if the employee has been granted a leave of absence in accordance with Rule 60K-4.004(4) of this chapter which resulted in an extension of the probationary period. If, however, the employee previously held permanent status in the class to which reassigned, the reassignment shall be with permanent status. If, and if an employee is on military leave such time shall be counted towards attaining he can attain permanent status while on such leave.

Specific Authority 110.213(6), 110.217(5)(7), 110.201(1) FS. Law Implemented 110.213, 110.217, 110.227, 110.201 FS. History—New 7-1-68, Revised 6-10-70, 7-1-73, Amended 7-1-80, Formerly 22A-7.08, Amended 1-1-86, 10-12-86, Formerly 22A-7.008, Amended 10-24-94, \_\_\_\_\_.

**60K-4.0081 Reinstatement Appointments.**

(1) An employee may be given a reinstatement appointment when the employee returns to the same agency, to a position in the same class, within 31 calendar days from the date the separation from the agency occurred.

(2) Upon reinstatement, an employee will be appointed with the same status, pay and benefits of the employee's previous position, at the time of separation from the agency.

Specific Authority 110.213(6), 110.217(5), 110.201(1) FS. Law Implemented 110.213, 110.217, 110.227, 110.201 FS. History—New \_\_\_\_\_.

**60K-4.009 Transfers.**

Specific Authority 110.213(6), 110.217(5)(7), 110.201(1) FS. Law Implemented 110.213, 110.217, 110.201, 110.227 FS. History—New 7-1-68, Revised 6-10-70, 7-1-73, Amended 7-1-80, Formerly 22A-7.09, Amended 1-1-86, 10-12-86, Formerly 22A-7.009, Amended 10-24-94.

**60K-4.010 Separations.**

(1) Resignations – An employee who resigns should present the reasons therefore in writing to the agency. Verbal or written resignations shall be accepted in writing by the employee's immediate supervisor or higher level employee as designated by the agency. Resignation from one agency to accept a position with another agency shall not constitute a separation from the Career Service, provided there is no break in service of more than 31 calendar days between the last day on the payroll of the separating agency and the first day on the payroll of the receiving agency as prescribed in Section 60K-5.022(1), F.A.C.

(2) Abandonment of Position.

(a) No change.

(b) When an employee's conduct implies the employee has abandoned the position, the agency shall initiate a predetermination proceeding pursuant to Rules 60K-9.0041 through 60K-9.0046, F.A.C. The employee shall have all of the rights prescribed by those rules.

~~(3) Unauthorized Seeking or Holding of Public and Local Public Office.~~

~~(a) An employee who seeks or holds office contrary to or without complying with the provisions of Section 110.233(4), Florida Statutes, shall be presumed to have become ineligible for continuation of employment and shall be deemed to have resigned from the Career Service.~~

~~(b) An employee who becomes ineligible for continued employment pursuant to Section 110.233(4), Florida Statutes, shall be entitled to review in accordance with Section 120.57, Florida Statutes, or Section 60K-13.032, F.A.C. If the office is a local public office, the employee shall be notified in writing by certified mail, return receipt requested, and such notification shall include a statement as to the employee's right to review under Chapter 60K-13, F.A.C.~~

~~(3)(4) Dismissals.~~

(a) No change.

(b) An agency head may dismiss any employee for just cause. Just cause shall include, but not be limited to, negligence, inefficiency, or inability to perform assigned duties; repeated and/or gross substandard performance of assigned duties or both; insubordination; willful violation of the provisions of law or agency rules; conduct unbecoming a public employee; misconduct, habitual drug abuse, or conviction of a crime involving moral turpitude.

(c) A dismissal action taken against an employee for job-related drug and alcohol abuse shall be in accordance with the Section 112.0455, Florida Statutes, Drug Free Workplace Act, State Policy on Alcoholism as adopted by the Administration Commission and the guidelines issued by the Secretary of Management Services as Personnel Policy and Procedure Memorandum 73-20, dated September 1, 1973, which is hereby incorporated by reference.

(d) No change.

Specific Authority 110.217(5)(7), 110.227(2), 110.201(1) FS. Law Implemented 110.217, 110.201, 110.227, 110.124, 112.0455 FS. History—New 7-1-68, Revised 6-10-70, 7-1-73, Amended 9-27-76, 4-30-79, 7-1-80, 1-9-83, Formerly 22A-7.10, Amended 1-1-86, 10-12-86, Formerly 22A-7.010, Amended 10-24-94, \_\_\_\_\_.

**DEPARTMENT OF MANAGEMENT SERVICES**

**Career Service System**

RULE CHAPTER TITLE: Disciplinary Actions, Grievances and Appeals  
 RULE CHAPTER NO.: 60K-9

RULE TITLE: Appeals to the Public Employees Relations Commission  
 RULE NO.: 60K-9.005

PURPOSE AND EFFECT: Repeals the subsection which limits an employees' appeals rights because of a demotion.

SUBJECT AREA TO BE ADDRESSED: Identifies the personnel actions which can be appealed to the Public Employees Relations Commission (PERC) by employees with Career Service status.

SPECIFIC AUTHORITY: 110.227(2), 110.201(1) FS.  
 LAW IMPLEMENTED: 110.227(4),(5) 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: 2:00 p.m., April 27, 1999  
 PLACE: Room 301, 4040 Esplanade Way, Tallahassee, Florida 32399-0950  
 THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT IS: Richard McLellan, Personnel Consultant, 4040 Esplanade Way, Tallahassee, Florida 32399-0950

THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS:

60K-9.005 Appeals to the Public Employees Relations Commission.

(5) An employee who has earned permanent status in the Career Service in accordance with the provisions of Chapter 60K-4.004, F.A.C., shall have the right to appeal to the Public Employees Relations Commission any suspension, reduction in pay, transfer, layoff, demotion from a class in which the employee has permanent status in the Career Service System, or dismissal by the agency or officer by whom employed, except that:

(a) through (d) No change.

~~(e) An employee whose position is reclassified to a lower class which results in a demotion appointment shall not have the right to appeal the demotion to the Public Employees Relations Commission. If, however, the employee's salary is reduced as a result of the demotion appointment, the employee shall have the right to appeal the reduction in pay to the Public Employees Relations Commission.~~

~~(e)(f)~~ When an action is both appealable to the Public Employees Relations Commission and grievable under the grievance procedure prescribed by a collective bargaining agreement, an employee who is in a position that is in a certified bargaining unit covered by the agreement shall have the option of utilizing the Career Service appeal procedure or the collective bargaining grievance procedure, but such employee cannot use both the Career Service appeal procedure and the grievance procedure. Further, agencies employing sworn law enforcement or correctional personnel must assure that the provisions of Part VI of Chapter 112, Florida Statutes, Law Enforcement Officers' and Correctional Officers' Bill of Rights, are followed in the case of any employee covered by that statute. Agencies employing firefighter personnel must assure that the provisions of Part VIII of Chapter 112, Florida Statutes, Firefighters' Bill of Rights, are followed in the case of any employee covered by that statute.

(6) through (7) No change.

Specific Authority 110.227(2), 110.201(1) FS. Law Implemented 110.227(4),(5) FS. History--New 7-1-68, Revised 6-10-70, 7-1-73, Amended 4-30-79, 7-1-80, Formerly 22A-10.05, Amended 10-12-86, Formerly 22A-10.005, Amended 10-24-94,\_\_\_\_\_.

**DEPARTMENT OF MANAGEMENT SERVICES**

**Personnel Management System**

|  |                   |
|--|-------------------|
| RULE CHAPTER TITLE:                                | RULE CHAPTER NO.: |
| State Training Program                             | 60L-14            |
| RULE TITLES:                                       | RULE NOS.:        |
| Scope and Purpose                                  | 60L-14.001        |
| Definitions  | 60L-14.002        |
| Statements of Policy                               | 60L-14.003        |
| Department of Management Services                  |                   |
| Responsibilities                                   | 60L-14.004        |
| Agency Responsibilities                            | 60L-14.005        |
| Basic Supervisory Skills Training Program, (BSSTP) | 60L-14.006        |
| SMS/SES Professional Development Program           | 60L-14.0061       |

PURPOSE AND EFFECT: Establishes the policies for training and development programs in executive branch agencies, including the Basic Supervisory Skills Training Program, and establishes the SMS/SES Professional Development Program.

SUBJECT AREA TO BE ADDRESSED: The policies and procedures for the state training and development programs.

SPECIFIC AUTHORITY: 110.201(1), 110.605(1) FS.

LAW IMPLEMENTED: 110.105(1), 110.109, 110.1095(1), (2), 110.403(3), 110.601 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., April 26, 1999  
 PLACE: Room 301, 4040 Esplanade Way, Tallahassee, Florida 32399-0950  
 THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT IS: Anna B. Gray, Personnel Consultant, 4040 Esplanade Way, Tallahassee, Florida 32399-0950

THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS:

60L-14.001 Scope and Purpose.

This chapter provides for a state training and development program for enhancing employee and organizational performance. This rule applies only to Career Service, Senior Management Service (SMS) and Selected Exempted Service (SES) employees in which includes executive branch agencies and excludes the State University System.

Specific Authority 110.201(1), 110.605(1) FS. Law Implemented 110.105(1), 110.109, 110.1095(1),(2), 110.403(3), 110.601 FS. History--New 12-10-85, Formerly 22K-22.01, Amended 4-13-89, Formerly 22K-22.001, Amended 10-24-94,\_\_\_\_\_.

60L-14.002 Definitions.

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

(1) Agency – Any official, officer, commission, board, authority, council, committee or department of the Executive Branch of state government authorized to employ Career Service, SMS, and SES personnel.

(2) Agency Training and Development Plan – A comprehensive plan designed to direct the agency’s training and development efforts for individuals and organizations.

(3)(2) Basic Supervisory Skills Training Program (BSSTP) – An agency training program, the components of which cover fundamental supervisory skills and which that all employees hired or promoted into supervisory or managerial positions must complete within six months of appointment or promotion to such positions, or as otherwise provided in this chapter.

(3) Continuing Education for Supervisors and Managers – An agency training program that updates supervisors’ and managers’ skills on a regular and continuing basis.

(4) Department – The Department of Management Services.

(5) Employee – Any ~~state officer or~~ employee whether elected or appointed filling an authorized and established position within the Career Service, Senior Management Service (SMS), or the Selected Exempt Service (SES), unless specifically excluded.

(6) Managerial Position – A policy-making position in the SMS or SES, that is required to exercise independent judgement in making decisions and formulating, or assisting in the formulation of, policies and procedures which significantly impact a program area or the performance of the organization.  
Needs Assessment – A process for identifying requirements in organizational performance for which employee training may be an element.

(7) Needs Assessment – A process for identifying gaps in individual or organizational performance which may be addressed through training. Program Review – A review designed to improve work force productivity and agency program effectiveness

(8) SMS/SES Professional Development Program – An agency training program, the components of which provide for the systematic development of the managerial, executive, or administrative skills of Career Service, SMS, or SES employees who currently fill, or may eventually fill, managerial or policy-making positions in the SMS or SES, as well as professional positions in the SES.

(9)(8) Supervisory Position Class – A position in the Career Service class that has as its primary purpose the responsibility for spending a majority of time communicating with, motivating, training, and evaluating employees and planning and directing work; or a position in the SMS or SES that is responsible for the work of others.

~~(9) Total Quality Management – A management led, employee driven, total commitment to improving the effectiveness of state government; a process where employees and managers work in teams, continually examining work processes to eliminate waste and errors.~~

(10) Training and Development – Participation by an ~~officer or~~ employee in a structured learning experience session, course, program or other structured learning activity designed to enhance career development or increase job knowledge, skills, and abilities.

~~(11) Training Evaluation – A process for judging the value of a training program.~~

~~(12) Training Plan – A written document which identifies the annual training needs of employees.~~

Specific Authority 110.201(1), 110.605(1) FS. Law Implemented 110.105(1), 110.109, 110.1095(1),(2), 110.403(3), 110.601 FS. History—New 12-10-85, Formerly 22K-22.02, Amended 4-13-89, Formerly 22K-22.002, Amended 10-24-94, \_\_\_\_\_.

60L-14.003 Statements of Policy.

(1) Each agency shall design, implement, and administer an agency training and development plan to address employee and organizational performance; prepare employees for greater responsibilities; and enhance the agency’s ability to retain a highly qualified, motivated, and productive work force. This plan shall include the Basic Supervisory Skills Training and the SMS/SES Professional Development Programs.

~~(2)(1) Agencies are encouraged to develop and maintain may have individual employee training plans developed in conjunction with the employee’s supervisor and based upon meeting identified employee performance enhancement needs. in which an employee, in conjunction with his/her supervisor, shall develop a training plan based upon resources available to the agency.~~

~~(2) Each agency will design, implement, and administer a training program with activities to improve employee effectiveness, prepare employees for greater responsibilities; and enhance the agency’s ability to retain a highly qualified, motivated, and productive work force.~~

~~(3) The department shall encourage and promote the planning, development, improvement, coordination, and evaluation of training activities in and among state agencies and provide assistance through oversight reviews.~~

~~(4) The department shall encourage, facilitate, and/or provide interagency training activities to maximize opportunities for training and career development, and shall encourage the efficient use of resources.~~

~~(5) Each agency shall adhere to the requirements of a basic supervisory training program in accordance with provisions established and administered by the department.~~

(3)(6) A supervisor who completed the basic supervisory skills training program is not required to attend the program when promoted or transferred to another supervisory or managerial position within state government.



(4) A new or newly promoted employee filling a supervisory or managerial position may substitute a Department certified supervisory or professional development course if the course meets the Department guidelines for BSSTP or SMS/SES Professional Development, as appropriate.

~~(7) Records shall be maintained to reflect the status of attendance in the basic supervisory training program.~~

Specific Authority 110.201(1), 110.605(1) FS. Law Implemented 110.105(1), 110.109, 110.1095(1),(2), 110.403(3), 110.601 FS. History—New 12-10-85, Formerly 22K-22.03, Amended 4-13-89, Formerly 22K-22.003, Amended 10-24-94,\_\_\_\_\_.

60L-14.004 Department of Management Services Responsibilities.  
The Department shall:

(1) Provide consultative and technical assistance to agencies for developing the overall agency training and development plan and each of its requisite components with needs assessment, training plan development, program evaluation, and program oversight. Training plan development may include:

- ~~(a) Designing and recommending needs assessment approaches.~~
- ~~(b) Conducting technical workshops on plan development.~~
- ~~(c) Researching and recommending professional literature and technical training packages for use by agency training staff.~~

(2) Review agency training and development plans to assure they meet established criteria, ~~and provide appropriate feedback and assistance to agencies.~~

(3) Coordinate training and development activities among agencies.

(4) Provide guidance to agencies in the formulation and implementation of training and development policies, as well as in the use of appropriate measures to assess agency effectiveness in enhancing individual and organization performance. ~~Establish and administer a continuing education program for supervisors and managers to update their skills and knowledge on a regular basis.~~

(5) Facilitate interagency meetings and other activities to maximize opportunities for information sharing and to achieve efficient use of resources. ~~Review and consolidate the information reported by the agencies and annually report the progress of the agencies in training to the Governor, the President of the Senate, and the Speaker of the House of Representatives.~~

(6) Establish and administer the BSSTP program pursuant to Section 60L-14.006, F.A.C., as well as provide the agencies with specific learning objectives for enhancing performance.

(7) Establish and administer the SMS/SES Professional Development Program pursuant to Section 60L-14.0061, F.A.C., as well as provide the agencies with specific learning objectives for enhancing performance.

(8) Provide a research function to the agencies.

Specific Authority 110.201(1), 110.605(1) FS. Law Implemented 110.105(1), 110.109, 110.1095(1),(2), 110.403(3), 110.601 FS. History—New 12-10-85, Formerly 22K-22.04, Amended 4-13-89, Formerly 22K-22.004, Amended 10-24-94,\_\_\_\_\_.

60L-14.005 Agency Responsibilities.

Each agency shall:

(1) Develop, implement, ~~and~~ administer, and annually evaluate, an annual an agency training and development training plan that includes the following critical elements:

- (a) Agency overall mission and goals.
- (b) Agency tTraining goals mission and goals objectives.
- (c) A needs assessment process or method that reflects and records individual and organizational performance enhancement ~~to assess human resource development needs~~ within specific organizational units and agency wide.

(d) Identification of tTraining and development resources, such as funding, equipment, materials, and staff.

~~(e) Employee(s) responsible for development, implementation, and evaluation of the plan.~~

(e)(f) A Basic Supervisory Skills Training Program, including a continuing education component to ensure skills are updated as appropriate.

(f) A SMS/SES Professional Development Program.

(g) Sexual Harassment, Equal Employment Opportunity, and Affirmative Action training courses. A method of training and development program evaluation.

(h) An evaluation of all agency training activities using the Department's training and development guidelines for evaluation. A list of individuals to be trained in the principles of Equal Employment Opportunity/Affirmative Action and the time period in which the training will be provided.

~~(i) A report of all training programs used that were not provided by the department.~~

(2) Submit a copy of the agency training and development plan to the Department for department review no later than October 15 of each year;

~~(3) Evaluate its training program at least annually to determine the extent that intended objectives are being achieved. If required by such evaluations, the agency's training plan shall be amended and a copy of the amended plan shall be furnished to the department;~~

~~(4) Maintain records showing the assessment of training needs;~~

(3)(5) Account for and report all training and development expenditures for training and development in accordance with specific requirements and procedures established by the State of Florida Comptroller.

(4) Adhere to the requirements for a certified BSSTP program, in accordance with provisions established and administered by the Department pursuant to Section 60L-14.006, F.A.C.

~~(5) Adhere to the requirements for a SMS/SES Professional Development Program in accordance with provisions established and administered by the Department pursuant to Section 60L-14.0061, F.A.C.~~

~~(6) Provide continuing education opportunities for supervisors and managers to update their skills.~~

~~(6)(7) Communicate training and development opportunities to all agency employees.~~

~~(8) Annually evaluate and report to the department the training implemented and the progress made in the area of training.~~

Specific Authority 110.201(1), 110.605(1) FS. Law Implemented 110.105(1), 110.109, 110.1095(1),(2), 110.235(4), 110.403(3), 110.601 FS. History—New 12-10-85, Formerly 22K-22.05, Amended 4-13-89, Formerly 22K-22.005, Amended 10-24-94,\_\_\_\_\_.

60L-14.006 Basic Supervisory Skills Training Program (BSSTP).

The BSSTP is designed to ~~provide~~ improve the delivery of supervisory training by providing a standard set of fundamental supervisory skills and expected learning objectives to enhance supervisory performance. The department shall:

~~(1) Certify a~~Agency programs shall be certified by the Department to ensure that the learning objectives established by the Department for each program component will be achieved. ~~that meet the set of standards for fundamental supervisory skills.~~

~~(2) Administer the~~ BSTP. The Pprogram shall ~~will~~ include but not be limited to the following components:

- ~~(a) Basic Supervisory and Managerial Skills~~
  - ~~1.(a) The Roles and Responsibilities of Supervisors;~~
  - ~~2. Modern Management Principles;~~
  - ~~(b) Total Quality Management;~~
  - ~~3.(c) Leadership, Work Style and Motivation;~~
  - ~~4. Delegation and Work Assignments; and~~
  - ~~5. Performance-Based Management;~~
  - ~~(b) Supervisory Functional Areas~~
    - ~~1.(d) Supervisory Personnel Functions Within the Law—Managing Workplace Cultural Diversity in the Work Force;~~
    - ~~(e) Performance Based Management;~~
    - ~~(f) Delegation and Work Assignments;~~
    - ~~2.(g) Effective Recruitment and Selection techniques including the principles of Equal Employment Opportunity and Affirmative Action Program;~~
    - ~~3.(h) Americans with Disabilities Act;~~
    - ~~4.(i) Purchasing and Travel Policies;~~
    - ~~5.(j) Managing Employee Grievances;~~
    - ~~6.(k) Disciplinary Actions;~~
    - ~~7.(l) Selection and Performance Reviews Appraisal;~~
    - ~~8.(m) Understanding Labor Contracts requirements; and~~
    - ~~9.(n) Managing Attendance and Leave.~~

~~(3) Allow a~~Agencies ~~may~~ to choose the following options to provide BSSTP by either

~~(a) D~~delivery of an in-house program or a contracted program that meets the guidelines as established and recommended by the ~~D~~department.

~~(b) Use those programs provided by the department.~~

~~(c) Allow a new or promoted employee to substitute a certified supervisory course if the course meets the guidelines as established by the department.~~

~~(4) Agencies shall provide BSSTP training to employees~~ Require agencies to provide BSTP for employees within the first six months following their appointment or promotion into supervisory or managerial positions.

(a) An agency may extend this period up to six months when there are extenuating circumstances.

(b) Extenuating circumstances include, but are not limited to: military leave; natural disasters and other emergency conditions; parental leave; and disability or sick leave.

~~(5) Require a~~Agencies ~~are required to~~ maintain current BSSTP records in the Department's designated human resource information management system, notwithstanding any local tracking system which may also be employed. COPEs or in a COPEs-compatible format developed by the department's Bureau of Personnel Systems Development. The records shall ~~will~~ include the following elements:

(a) Dates employees are hired or promoted into supervisory or managerial positions;-

(b) Checklist of courses required through BSSTP; ~~and-~~

(c) Dates employees complete each required course.

Specific Authority 110.201(1) FS. Law Implemented 110.1095(1),(2) FS. History—New 4-13-89, Formerly 22K-22.006, Amended 10-24-94,\_\_\_\_\_.

60L-14.0061 SMS/SES Professional Development Program.

The SMS/SES Professional Development Program is designed to develop and enhance managerial and executive level skills.

(1) The components for the SMS/SES Professional Development Program shall include, but are not limited to, the following:

- (a) strategic planning;
- (b) valuating results;
- (c) current budgeting practices;
- (d) program cost analysis techniques;
- (e) strategic thinking and problem solving;
- (f) modern management principles;
- (g) effective communication techniques;
- (h) effective presentations;
- (i) understanding Florida Government;
- (j) workplace diversity; and
- (k) ethics and integrity.

(2) Agency programs shall be certified by the Department to meet the set of standards and learning objectives as outlined for professional development.

(3) Agencies may deliver an in-house or contracted program that meets the Department's guidelines.

(4) Agencies shall also maintain current records that include the following elements:

(a) Dates managers are hired into SMS or SES positions and

(b) A list of courses taken by each manager and the date taken.

Specific Authority 110.403(1) FS. Law Implemented 110.403(3) FS. History--New \_\_\_\_\_.

**DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION**

**Electrical Contractors' Licensing Board**

RULE TITLE: Fees

RULE NO.: 61G6-8.001

PURPOSE AND EFFECT: The Board proposes to amend this rule by reducing some of the fees prescribed by the Board.

SUBJECT AREA TO BE ADDRESSED: Fees.

SPECIFIC AUTHORITY: 455.217(2), 455.219(1), 489.507(3), 489.509 FS.

LAW IMPLEMENTED: 119.07(1)(a), (b), 455.217(2), 455.219(1), 455.271(8), 489.509, 489.511(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: 9:00 a.m. or shortly thereafter on May 26, 1999

PLACE: The Hilton Ocean Front Resort, 2637 South Atlantic Avenue, Daytona Beach, Florida 32118

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT AND A COPY OF THE PRELIMINARY DRAFT, IF AVAILABLE, IS: Ila Jones, Executive Director, Electrical Contractors' Licensing Board, 1940 North Monroe Street, Northwood Centre, Tallahassee, Florida 32399-0750

THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS:

61G6-8.001 Fees.

The following fees are prescribed by the Board:

(1) No change.

(2) The initial application fee for licensure by endorsement as a certified unlimited electrical contractor shall be one hundred fifty three hundred dollars ~~(\$150.00)~~ ~~(\$300.00)~~.

(3) The fee for issuance, renewal or reinstatement of certification for electrical contractor or alarm systems contractor shall be two hundred fifty three hundred dollars ~~(\$250.00)~~ ~~(\$300.00)~~.

(4) No change.

(5) The initial fee for registration shall be one hundred fifty dollars ~~(\$100.00)~~ ~~(\$150.00)~~.

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

(7) The fee for renewal of registration shall be one hundred fifty dollars ~~(\$100.00)~~ ~~(\$150.00)~~.

(8) through (9) No change.

(10) Transfer fee. The fee to transfer a certificate or registration from one business organization to another shall be one hundred fifty two hundred dollars ~~(\$150.00)~~ ~~(\$200.00)~~ for a certified contractor and fifty one hundred dollars ~~(\$50.00)~~ ~~(\$100.00)~~ for a registered contractor.

(11) through (12) No change.

(13) The initial application fee for licensure by second entity as certified unlimited electrical contractor or alarm system contractor shall be two hundred fifty three hundred dollars ~~(\$250.00)~~ ~~(\$300.00)~~.

(14) through (15) No change.

Specific Authority 455.217(2), 455.219(1), 489.507(3), 489.509 FS. Law Implemented 119.07(1)(a),(b), 455.217(2), 455.219(1), 455.271(8), 489.509, 489.511(2) FS. History--New 1-2-80, Amended 10-27-80, 5-13-81, 5-3-82, 8-4-82, 5-2-83, 1-19-84, Formerly 21GG-8.01, Amended 7-9-86, 12-24-87, 10-30-88, 2-20-89, 8-26-90, 4-1-91, 7-3-91, Formerly 21GG-8.001, Amended 3-14-94, 11-30-94, 4-5-95, 7-13-95, 12-25-96, 6-1-97, 3-10-98, 12-31-98, \_\_\_\_\_.

**DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION**

**Electrical Contractors' Licensing Board**

RULE TITLE: Violations and Penalties

RULE NO.: 61G6-10.002

PURPOSE AND EFFECT: The Board proposes to amend this rule by adding new rule text to Subsection (15)(e).

SUBJECT AREA TO BE ADDRESSED: Violations and penalties.

SPECIFIC AUTHORITY: 455.2273 FS.

LAW IMPLEMENTED: 455.2273 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. or shortly thereafter on May 26, 1999

PLACE: The Hilton Ocean Front Resort, 2637 South Atlantic Avenue, Daytona Beach, Florida 32118

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT AND A COPY OF THE PRELIMINARY DRAFT, IF AVAILABLE, IS: Ila

Jones, Executive Director, Electrical Contractors' Licensing Board, 1940 North Monroe Street, Northwood Centre, Tallahassee, Florida 32399-0750

**THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS:**

**61G6-10.002 Violations and Penalties.**

In imposing disciplinary penalties upon licensees, the board shall act in accordance with the following disciplinary guidelines and shall impose a penalty corresponding to the violations set forth below absent aggravating and mitigating circumstances and subject to the other provisions of Chapters 455 and 489, Part II: The cited statutory language is intended to provide a description of the violation and is not a complete statement of the violation; the complete statement may be found in the statutory provision cited following the violation description.

(1) through (14) No change.

(15) Failure to comply with Chapter 489, Part II, F.S. (489.533(1)(o), F.S.):

(a) through (d) No change.

(e) Failure to respond to request to submit any proof of continuing education, liability or workers' compensation insurance. A \$1,000 fine for each offense.

(f) No change.

(16) through (21) No change.

Specific Authority 455.2273 FS. Law Implemented 455.2273 FS. History--New 12-10-86, Amended 2-26-89, Formerly 21GG-10.002, Amended 12-24-97, 2-18-99\_\_\_\_\_

**DEPARTMENT OF ENVIRONMENTAL PROTECTION**

DOCKET NO.: 97-65R

RULE CHAPTER TITLE:

RULE CHAPTER NO.:

State Revolving Loan Program  
for Wastewater Facilities

62-503

RULE TITLES:

RULE NOS.:

Definitions

62-503.200

General Program Information

62-503.300

Preconstruction Loan Funding

62-503.350

Program Administration Costs

62-503.400

Project Allowances

62-503.420

Loan Agreements

62-503.430

Funds Reserved for Specific Purposes

62-503.500

Priority List Information

62-503.600

Priority Determination

62-503.650

Ranking Projects for Priority List Development

62-503.655

Priority Lists Management

62-503.680

Planning, Design, Construction, and

Post-Construction Requirements

62-503.700

**PURPOSE AND EFFECT:** The proposed rule revisions would accomplish several objectives. A funding mechanism would be established for loans to any local government for stormwater management facilities to carry out s. 403.1835(3)(a), F.S. The

stormwater funding would not raise the financing costs for wastewater management loans. A funding mechanism would be established for wastewater management grants to benefit financially disadvantaged small communities to carry out s. 403.1835(3)(b), F.S. The grants program would not raise the financing cost for wastewater management loans. The procedure for assessing loan service fees would be modified to satisfy changing federal requirements. There would be no increase in the service fee authorized under the proposed rule, and there would be no increase in the loan repayments resulting from the proposed rule change. The repayment period for preconstruction loans would be limited to avoid relatively burdensome requirements associated with long term debt involving small amounts of money. However, long term financing would remain available when a preconstruction loan is rolled over into a construction loan. Disbursement of allowances under preconstruction loans would be made as work progresses to avoid situations where all funds are disbursed but the work is not finished. Provision for updating the planning portion of the priority list would be made to purge the list of projects for which funding is no longer being pursued. Funding segmentation of high cost projects would be required only if there is a shortage of funds. The flow factor component of the priority system would be established using smaller units of measurement to enable greater differentiation between projects. Dates for project list development and other administrative actions would be keyed to the state fiscal year to facilitate financial accounting. This would require earlier submittals of project information to qualify for each year's initial priority list. It would also enable earlier obligation of state funds appropriated for each fiscal year. A deadline would be established for adding projects to an adopted priority list to enable timely disclosure of information to affected parties. To track existing engineering practice, construction documents would not have to state salient requirements when a brand name and an "or equal" is specified. Finally, the revisions would reorganize and clarify various rule provisions.

**SUMMARY:** Ten percent of the funds allocated each year would be reserved for stormwater management facilities. A grant allocation assessment would be applied to each loan to provide wastewater grants for financially disadvantaged small communities. The grant allocation assessment rate would be equal to the interest rate. The two rates would be combined and applied to the unpaid loan principal to establish the loan repayment amount. The loan service fee no longer would be capitalized as part of the State Revolving Fund loan principal. The fee would be assessed after execution of the loan agreement and, at the project sponsor's election, either paid immediately or paid with interest by the time of that the second loan repayment is due. The maximum repayment period for preconstruction loans would be 10 years if the project sponsor does not implement construction under a State Revolving Fund construction loan. The maximum 20-year repayment period for construction loans is unchanged. Successful completion of the

preconstruction activities would qualify for an extension of the repayment period to the 20-year maximum. One-half of the allowances for planning, engineering, and administration under preconstruction loans would be disbursed at the outset of work and the remainder would be disbursed upon completion of that work. The provision allowing planning portion projects on the project priority list to be carried over from year-to-year without further evidence of interest in funding on the part of the project sponsor would be stricken. Funding segmentation of a project having costs exceeding 25% of the total annual funds to be allocated by the Department for loans would be required only if there isn't enough money to enable loans for all projects qualifying for that annual allocation. The number of decimal places used to document the flow factor component of the priority score would be increased so that flow would be reported in thousands of gallons per day. Dates for project priority list development and other administrative actions would be changed to reflect the July 1 to June 30 state fiscal year rather than the October 1 to September 30 federal fiscal year. The date of publication of the Florida Administrative Weekly announcement of a project priority list management hearing would be the deadline for submittal of a request to have a project added to the current list at the scheduled hearing. Construction specifications would not have to state salient performance requirements when a brand name and an "or equal" is used. Clarification and reorganization of rule provisions for project priority list management as well as planning, design, construction, and post-construction requirements would not change any State Revolving Fund program requirements.

SPECIFIC AUTHORITY: 403.1835(5)(a) FS.

LAW IMPLEMENTED: 403.1835 FS.

IF REQUESTED IN WRITING WITHIN 21 DAYS OF THE DATE OF THIS NOTICE, A HEARING WILL BE HELD AT THE TIME, DATE AND PLACE SHOWN BELOW:

TIME AND DATE: 9:00 a.m., May 19, 1999

PLACE: Department of Environmental Protection, Room 609, 2600 Blair Stone Road, Tallahassee, Florida 32399-2400

If an accommodation is needed for a disability in order to participate in this activity, please notify the Americans with Disabilities Act Coordinator at (850)488-2996 or 1(800)955-8771 (TDD) at least seven days prior to the event.

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULES IS: Richard W. Smith, P.E., Bureau of Water Facilities Funding, Department of Environmental Protection, 2600 Blair Stone Road, MS #3505, Tallahassee, Florida 32399-2400, Telephone (850)488-8163

THE FULL TEXT OF THE PROPOSED RULES IS:

62-503.200 Definitions.

For purposes of this Rule:

(1) "Adjusted post-allowance project costs" means the post-allowance project costs less capitalized interest and loan repayment reserve ~~the following:~~

- ~~(a) Capitalized interest;~~
- ~~(b) Loan repayment reserve; and~~
- ~~(c) Loan service fee.~~

(2) "Capitalized interest" means interest accruing at the rate of 60% of the 20-Bond GO Index cited in Rule 62-503.430(3), F.A.C., ~~interest rate set for the loan~~ and compounding annually from the time when disbursements are made until six months before the first semiannual loan repayment is due.

(3) through (7) No change.

(8) "Equivalency project" means a project for which the local government shall document compliance with specific federal requirements under Rules ~~62-503.700(1) and (5),~~ F.A.C., in addition to the general requirements under Rules 62-503.700(2) through ~~(10)(4),(6), and (7),~~ F.A.C., to qualify for a loan. ~~These federal equivalency requirements shall be met for continued segmented funding of ongoing construction or materials contracts that were funded as an equivalency project in the preceding fiscal year.~~

(9) "Facilities plan" means plans and studies, adopted by resolution or other approval action of the local government's governing body, that directly relate to selecting facilities for a complete wastewater management system. The requirements for a facilities plan are set forth in Rule 62-503.700(2), F.A.C. ~~A facilities plan is further defined to include documentation of the following:~~

~~(a) Cost-effectiveness of feasible alternatives over a 20-year planning period based on a discount rate expected to be in effect during that planning period;~~

~~(b) Implementability of the selected alternative from legal, institutional, financial, and management perspectives;~~

~~(c) Environmental effects and other non-monetary considerations associated with the feasible alternatives;~~

~~(d) Demographic, topographic, hydrologic, and institutional characteristics of the study area; and~~

~~(e) Conformance with the criteria listed in Title 40 of the Code of Federal Regulations (C.F.R.), Part 35, State and Local Assistance (1990), under 40 C.F.R. 35.2030(b) (except that the reference to 40 C.F.R. Part 6 shall be interpreted to mean Rule 62-503.700(3), F.A.C., and an evaluation of alternative flow reduction methods under 40 C.F.R. 35.2030(b)(3)(i) shall be required unless the estimated average per capita discharge to the sanitary sewer system is less than 70 gallons per day) and 40 C.F.R. 35.2120(a), (b), (c)(1), and (c)(2)(i) incorporated by reference.~~

(10) "Fiscal year" means the 12-month period between July ~~October~~ 1 and June ~~September~~ 30.

(11) No change.

(12) No change.

(a) As a direct result of federal capitalization grants and state appropriations less the amount of any funds appropriated; or statutorily similarly designated; for specific projects or purposes; ~~including the establishment of the small community set aside under Rule 62-503.500(1), F.A.C.~~

(b) through (c) No change.

(13) "Grant allocation assessment" means that portion of each repayment of each loan made after June 30, 1997, that shall be used solely for the purpose of making wastewater grants to financially disadvantaged small communities under Rule Chapter 62-505, F.A.C. The grant allocation assessment shall be in addition to the principal and interest portions of each loan repayment.

(13) through (15) renumbered as (14) through (16) No change.

(17) "Post-allowance project costs" means costs for allowable construction, equipment, materials, demolition, allowable land acquisition under Rule 62-503.300(1)(a), F.A.C., contingency, capitalized interest, legal and technical service costs incurred after construction bid opening, and the portion of the loan repayment reserve disbursement ~~and loan service fee~~ associated with the foregoing costs.

(18) through (23) renumbered (19) through (24) No change.

Specific Authority 403.1835(5)(a) FS. Law Implemented 403.1835 FS. History—New 4-17-89, Amended 12-4-91, 2-23-94, Formerly 17-503.200, Amended 1-4-98,\_\_\_\_\_.

62-503.300 General Program Information.

(1) The categories of allowable project costs include the following:

(a) No change.

~~(b) Administrative loan service fee charged by the Department under Rule 62-503.400, F.A.C.;~~

(c) through (m) renumbered (b) through (l) No change.

(2) through (5) No change.

(6) The loan repayment period shall be limited as follows:

(a) Construction loan repayment periods shall be limited to 20 years under the Clean Water Act. The 30-year limitation established under Chapter 403.1835, F.S., shall be imposed only if the federal requirements are changed to allow the longer loan repayment period.

(b) Preconstruction loan repayment periods shall be limited to 10 years. However, when a construction loan is executed to finance the facilities planned and designed under a pre-construction loan and the project has been included on the fundable portion of the priority list for a construction loan, the local government shall have the option to convert the repayment period to that negotiated for the construction loan.

(7) No change.

(8) The construction loan financing interest rate available ~~for to finance construction~~ of a project, planned and designed in accordance with the schedule incorporated into a

preconstruction loan agreement, that will serve a small community shall be as described in paragraphs (a) and (b) below, as follows: When a preconstruction interest rate is retained, it shall be converted such as to have equal interest and grant allocation assessment components.

(a) The rate for project sponsors having preconstruction loan agreements executed on or after 1-4-98 shall be the lesser of the interest rate established in the preconstruction loan agreement or, after the project becomes listed on the fundable portion of the construction loan priority list, the arithmetical sum of ~~to~~ the rate based on market conditions as described in Rule 62-503.430(3), F.A.C., plus the grant allocation assessment rate as described in Rule 62-503.430(4), F.A.C.

(b) No change.

(9) No change.

(10) The Department shall make grant allocation assessments on loans for the purpose of making grants for wastewater projects to financially disadvantaged small communities under Rule Chapter 62-505, F.A.C. The grant allocation assessment rate shall be established under Rule 62-503.430(4), F.A.C.

Specific Authority 403.1835(5)(a) FS. Law Implemented 403.1835 FS. History—New 4-17-89, Amended 12-4-91, 2-23-94, Formerly 17-503.300, Amended 1-4-98,\_\_\_\_\_.

62-503.350 Preconstruction Loan Funding.

Funding of preconstruction loans for planning, engineering, and administrative allowances and the construction of projects shall be made only to small communities from the 15 percent reserve established under Rule 62-503.500(1), F.A.C. The maximum estimated total project cost, including construction, upon which the allowances are based shall be \$10,000,000. Preconstruction loans shall be available prior to the completion of project planning. Disbursements by the Department for planning and administrative allowances shall be available ~~immediately~~ after loan execution in accordance with Rule 62-503.420(4), F.A.C. Disbursements by the Department of engineering allowances shall be available after upon completion of the Department's environmental review of the planning documentation submitted by the local government in accordance with Rule 62-503.420(4), F.A.C.

(1) No change.

(2) Loan agreements shall provide for the continuation of the preconstruction interest rate under Rule 62-503.300(8), F.A.C., for the post-allowance portion of the project and for the roll over of preconstruction loan principal into a construction loan under Rule 62-503.300(6)(b), F.A.C., contingent upon accomplishment of the following according to the schedule in the loan agreement:

(a) through (b) No change.

(3) through (5) No change.

Specific Authority 403.1835(5)(a) FS. Law Implemented 403.1835 FS. History—New 2-23-94, Formerly 17-503.350, Amended 1-4-98,\_\_\_\_\_.

## 62-503.400 Program Administration Costs.

(1) A loan service fee based on a percentage one-time fee of 2.0% of the total loan amount less the portion of the loan for capitalized interest; and loan repayment reserve; and loan service fee shall be paid as a loan service fee by the local government during Fiscal Year 1994. The loan service fee shall not be included in the principal of the loan. The service fee percentage shall be ~~re-established~~ at the beginning of each fiscal year by the Department for all loans to be executed during that year annually by the Secretary. Each loan agreement shall identify the loan service fee percentage and the loan service fee amount. The loan service fee shall be assessed at the time of loan agreement execution. The loan recipient may elect to pay the entire loan service fee at the time of loan agreement execution or pay it plus capitalized interest thereon no later than by the time that the second semiannual loan repayment is due. Five-year projections of loan program administration ~~expenses~~ needs shall be made by the Department to establish the service fee percentage for each year. These projections shall take into account the balance of the administrative funds available under Rule 62-503.500(2), F.A.C., at the beginning of each fiscal year and the estimated investment earnings thereon, funds resulting from scheduled loan repayments, federal and state appropriations for the fiscal year under consideration and that are available at the time the fee is being established, and projected expenses to administer the program. The earnings on investments shall be estimated using an interest rate one-percent below the Thomson Publishing Corporation's "Bond Buyer" 20-Bond GO Index weekly average yield for the full weeks during the ~~January April 1 to March 31 June 30~~ January April 1 to March 31 period immediately preceding the date of the loan service fee determination. The fee percentage shall be sufficient to ensure that the balance of administrative funds available at the beginning of the first year is not less than the sum of the administrative expenses for the succeeding two fiscal years and the projected balance at the end of the fifth year is not less than zero. The fee percentage shall be rounded to the nearest one-tenth percent. However, the loan service fee shall not be less than two percent nor greater than four percent. Loan service fees shall be adjusted downward by loan agreement amendment if procurement contracts result in a loan decrease.

(2) No change.

Specific Authority 403.1835(5)(a) FS. Law Implemented 403.1835 FS. History—New 12-4-91, 2-23-94, Formerly 17-503.400, Amended 1-4-98,\_\_\_\_\_.

## 62-503.420 Project Allowances.

Certain allowances shall be included in the approved project cost at the request of the local government. Allowances shall be adjusted to reflect revised project costs after procurement contracts are executed. Allowances for project administration and engineering shall be used in lieu of reimbursement for incurred costs. Similarly, the planning allowance available for

projects to be funded from the reserve for small communities shall be used in lieu of reimbursement for incurred costs. ~~The administrative allowance under any loan agreement, the engineering allowance under a construction loan agreement and the planning allowance under a preconstruction loan agreement shall be disbursed on request of the local government after a loan agreement is signed. The engineering allowance under a preconstruction loan agreement shall be disbursed upon request of the local government if the Department has completed its environmental review as evidenced by the Department's publication of a notice of availability of a Florida Categorical Exclusion Notice, a Florida Finding of No Significant Impact, or a Record of Decision for a Florida Environmental Impact Statement under Rule 62-503.700(3), F.A.C.~~ When administrative and engineering allowances are disbursed under a preconstruction loan, the recipient local government shall be ineligible to receive the same allowances disbursements under a construction loan for the same project. Any increase to such allowances shall be made pursuant to Rule 62-503.300(7), F.A.C.

(1) through (3) No change.

(4) Disbursement of allowances shall be as follows:

(a) For preconstruction loans, one-half of each of the administrative and the planning allowances shall be disbursed on request of the project sponsor after a loan agreement is signed. The remaining one-half of each of the administrative and the planning allowances shall be disbursed on request of the project sponsor and after the environmental review under Rule 62-503.700(3), F.A.C., has been completed. One-half of the engineering allowance under a preconstruction loan agreement shall be disbursed upon request of the project sponsor after the environmental review under Rule 62-503.700(3), F.A.C., has been completed. The remaining one-half of the engineering allowance shall be disbursed upon request of the project sponsor after completion of the plans and specifications.

(b) For construction loans, administrative and engineering allowances shall be disbursed on request of the project sponsor after a loan agreement is signed. Planning allowances shall not be included in construction loans.

Specific Authority 403.1835(5)(a) FS. Law Implemented 403.1835 FS. History—New 4-17-89, Amended 12-4-91, 6-21-93, 2-23-94, Formerly 17-503.420, Amended 1-4-98,\_\_\_\_\_.

## 62-503.430 Loan Agreements.

To receive a loan, a local government must enter into a negotiated written agreement with the Department. The Department shall have the primary responsibility for drafting the agreement and settling its terms. Loan agreements shall provide for the following:

(1) The local government shall establish a loan repayment reserve account. When pledged revenues result from the operation of water and sewer systems, entirely owned and

operated by a single local government responsible for loan repayment, the reserve shall be in the amount of 0.03 times the total loan amount less the portion of the loan for capitalized interest; and loan repayment reserve, and the loan service fee. When pledged revenues result from revenues other than previously described in this subsection or the local government responsible for loan repayment is other than as previously described in this subsection, repayment security in addition to the 1.15 amount described in subsection (4) below or increased loan repayment reserves shall be negotiated. Any loan repayment reserve in excess of that based on 0.03 factor specified above shall be established using local funds.

(2) No change.

(3) The interest rate shall be 30% ~~60%~~ of the market rate as established using the Thomson Publishing Corporation's "Bond Buyer" 20-Bond GO Index ~~and shall not exceed that paid on the last bonds sold pursuant to s. 14, Art. VII, State Constitution.~~ The market rate (20-Bond GO Index) shall be established by the Department as of January 1, April 1, July 1, and October 1 of each year and shall be the average weekly yield during the three months immediately preceding the date of determination. The average weekly yield shall be derived from the yields reported in the "Bond Buyer" for the full weeks occurring during the three-month period. ~~Once established in the loan agreement, the interest rate shall be fixed for the principal amount of the loan in accordance with the loan agreement.~~ Interest rates for additional funds (if any) lent to the local government via a loan agreement amendment shall be established using procedures identical to those described in this subsection.

(a) through (b) No change.

(4) The grant allocation assessment rate shall be 30% of the market rate as established using the Thomson Publishing Corporation's "Bond Buyer" 20-Bond GO Index and shall be determined identically to the procedures set forth in subsection (3) above.

(5) The grant allocation assessment rate and the interest rate shall be combined and applied to the unpaid loan principal to determine the amount of each uniform semiannual repayment payable under subsection (2) above. Once established in the loan agreement, the combined rate for the grant allocation assessment and the interest shall be fixed for the principal amount of the loan. The combined rate shall not exceed the interest rate paid on the last bonds sold pursuant to Section 14, Article VII, State Constitution.

(4) through (12) renumbered (6) through (14) No change.

Specific Authority 403.1835(5)(a), 216.349 FS. Law Implemented 403.1835 FS. History--New 4-17-89, Amended 12-4-91, 6-21-93, 2-23-94, Formerly 17-503.430, Amended 1-4-98, \_\_\_\_\_.

62-503.500 Funds Reserved for Specific Purposes.

A portion of the funds allocated each year by the Department are reserved for use by small communities. Funds are also reserved to reimburse the Department for its administrative costs in managing the program. These reserves are addressed in the following:

(1) No change.

(2) Service fees collected for loan program administration under Rule 62-503.400, F.A.C., shall be deposited in the Department's Grants and Donations Trust Fund. Fee proceeds, including investment earnings, shall be reserved to pay for the administration of the financial assistance programs of the Bureau of Water Facilities Funding Department's revolving loan program administration expenses.

(3) Ten percent of the funds allocated each year by the Department shall be reserved as funds available for loans to local governments for the construction of stormwater management facilities under Rule Chapter 62-504, F.A.C. Each year's reserve shall be used on a timely basis as required under Rule Chapter 62-504, F.A.C., or released for funding wastewater management facilities under this Rule Chapter.

(4) Grant allocation assessments collected under Rule 62-503.300(10), F.A.C., shall be deposited in the Grants and Donations Trust Fund. Grant allocation assessments and earnings thereon shall be used solely for making wastewater management project grants to financially disadvantaged small communities under Rule Chapter 62-505, F.A.C.

Specific Authority 403.1835(5)(a) FS. Law Implemented 403.1835 FS. History--New 4-17-89, Amended 12-4-91, 2-23-94, Formerly 17-503.500, Amended 1-4-98, \_\_\_\_\_.

62-503.600 Priority List Information.

Each year, revised construction and preconstruction loan priority lists shall be adopted at a public hearing held by the Department. The lists become effective after adoption, but not before ~~July~~ October 1 of the fiscal year for which they are developed. A local government may define a wastewater facilities project as consisting of various facilities, all of which qualify under Rule 62-503.655, F.A.C., for the fundable or contingency portion. Other projects may be defined as consisting of facilities that qualify for the planning portion as a result of differences between the projects in readiness to proceed. The scope of a fundable or contingency portion project described on the construction loan priority list shall not be increased to encompass additional work except where such increases have been subject to the prioritization procedures of Rule 62-503.650, F.A.C., and either the list development procedures of Rule 62-503.655, F.A.C., or the list management procedures of Rule 62-503.680, F.A.C., as appropriate. The scope of a preconstruction loan project shall encompass all the small community's wastewater facilities needs throughout a 20-year planning period.



(1) The Department shall accept requests for inclusion on the next year's priority lists when they are postmarked or delivered between ~~December~~ January 1 and February ~~March~~ 15. ~~Resubmittal shall not be necessary if the requested project was included on a preceding year's list. However, Current~~ target date and estimated cost information shall be provided by the ~~February~~ March 15 deadline for any project previously listed on the planning portion or contingency portion to qualify for listing on the fundable portion. Requests for inclusion on a priority list shall be submitted on Form 62-503.900(1), Request for Inclusion on a Priority List for Wastewater Facilities, effective ~~1-4-98~~, which is hereby incorporated by reference. Copies of this form may be obtained by writing to the Department of Environmental Protection, Bureau of Water Facilities Funding, 2600 Blair Stone Road, MS 3505, Tallahassee, Florida 32399-2400. Procedures for the review of requests for inclusion shall be:

(a) No change.

(b) The amount of funds available to a local government for all its projects to be listed on the fundable portion of the construction loan list shall be limited to no more than 25% of the funds allocated each year by the Department for loans in any one fiscal year less the amount of the funds reserved under Rule 62-503.500, F.A.C., when the total cost of the projects qualifying for the fundable portion exceeds the funds allocated each year by the Department. Loan amounts shall not exceed 25% of the funds allocated each year by the Department for loans in any one fiscal year when there are insufficient funds to enable funding of all projects qualifying for placement on the fundable portion of the priority list. There shall be no limitation imposed on the amount of funding assigned to contingency portion projects. A project shall be segmented for deferred funding of the unavailable funds when a local government qualifies for funding in excess of that available to it in any one fiscal year.

(c) through (d) No change.

(2) After the ranking of projects under Rule 62-503.655, F.A.C., the proposed lists shall be made available to interested parties before adoption and no later than ~~June~~ September 1 before the fiscal year for which the lists are being developed.

Specific Authority 403.1835(5)(a) FS. Law Implemented 403.1835 FS. History--New 4-17-89, Amended 12-4-91, 2-23-94, Formerly 17-503.600, Amended 1-4-98,\_\_\_\_\_.

62-503.650 Priority Determination.

The project priority score is determined based upon public health considerations and the potential for surface and ground water pollution control. The quantity of existing flow that will be collected, treated, or which otherwise generates the need for the project shall be used as a further determinant of priority. Special consideration shall be given to a project which will assist in the restoration or protection of a water body with an adopted Surface Water Improvement and Management (SWIM) Plan.

(1) No change.

(2) The project's base score shall be adjusted by multiplying it by the flow factor for the highest existing average daily flow for a one-month period generating the need for the associated facility. However, flow factors shall be limited by a minimum flow factor of 5,000, corresponding to a flow of 0.05 million gallons per day, and a maximum flow factor of 20,000, corresponding to a flow of 20 million gallons per day, shall be used. Flow factors shall be established to the nearest 0.001 value. Flow factors for any flow not listed below may be determined by interpolating between the data tabulated below or by using the formula:

Flow factor = 5,000 + [0.752 X (flow ~~in 0.05 million~~ gallons per day divided by 1,000,000)]

| <u>Flow (million gallons per day)</u>          | <u>Flow Factor</u>             |
|--|--------------------------------|
| <u>20,000,000</u> <del>20,00</del> and greater | 20.000                         |
| <u>12,000,000</u> <del>12,00</del>             | <u>14.000</u> <del>13.99</del> |
| <u>6,000,000</u> <del>7,00</del>               | <u>9.500</u> <del>10.23</del>  |
| <u>4,000</u>                                   | 7.97                           |
| <u>2,000,000</u> <del>2,00</del>               | <u>6.500</u> <del>6.47</del>   |
| <u>1,000</u>                                   | 5.71                           |
| <u>100,000</u>                                 | <u>5.075</u>                   |
| <u>10,000</u>                                  | <u>5.008</u>                   |
| <u>1,000</u>                                   | <u>5.001</u>                   |
| <u>0.05 and less</u>                           | 5.00                           |

(3) No change.

Specific Authority 403.1835(5)(a), 403.1835(7) FS. Law Implemented 403.1835 FS. History--New 4-17-89, Amended 8-1-90, 2-23-94, Formerly 17-503.650, Amended 1-4-98,\_\_\_\_\_.

62-503.655 Ranking Projects for Priority List Development.

The Department shall assign projects to the fundable, contingency, and planning portions of the priority lists each year, thus establishing project rankings. Project ranking information shall be made available to interested parties under Rule 62-503.600(2), F.A.C. Each project shall be listed on the fundable, contingency, or planning portion, depending on the readiness of the project to proceed, the amount of funds allocated each year by the Department for loans to local governments, and the priority score of the project. The small-community reserve funds under Rule 62-503.500(1), F.A.C., shall be administered so that the ranking of small-community projects to be funded from the reserve may be independent of rankings of other projects on the construction loan priority list. The extent to which segmented projects qualify for deferred construction loan funding shall be evaluated each year. Projects with equal priority scores shall be subranked and may be listed on the fundable or contingency portions. Such subranking shall follow the order of the date of postmark or delivery to the Department of the request for

inclusion, whichever is earlier. Similar subranking of projects shall take place when updated project information is submitted under Rule 62-503.600, F.A.C.

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

2. Projects included on the fundable portion of the previous fiscal year's list and requiring additional funds to carry out the approved scope of work are able to be placed on the fundable portion of the construction loan priority list being developed if current target date and estimated cost information are provided by ~~February~~ March 15 under Rule 62-503.600(1), F.A.C. The incompletely funded projects shall appear on the fundable portion as follows:

a. through b. No change.

(b) No change.

(c) The requirements for a project to qualify for a construction loan fundable portion listing are such that the local government shall have postmarked or delivered the following documentation to the Department by ~~April 15~~ June 1 preceding the fiscal year for which a list is being developed:

1. ~~The facilities plan under Rule 62-503.700(2), F.A.C. The capital financing plan and public hearing records for the dedicated revenue disclosure; and~~

2. ~~The complete facilities plan adopted by resolution of the local government, including site specific studies, collection system studies, major sewer system rehabilitation reports, sewer system evaluation reports, and other specialized studies; public participation records; and responses generated by the required intergovernmental review.~~

3. ~~User charge system.~~

4. ~~Proposed user charge ordinance.~~

5. renumbered 2. No change.

6. through 7. renumbered 3. through 4. No change.

8. ~~Executed and fully implementable interlocal service agreements, whenever facilities or services beyond the local government's jurisdiction are involved.~~

9. through 11. renumbered 5. through 7. No change.

(2) through (8) No change.

Specific Authority 403.1835(5)(a) FS. Law Implemented 403.1835 FS. History—New 4-17-89, Amended 12-4-91, 2-23-94, Formerly 17-503.680, Amended 1-4-98, \_\_\_\_\_.

62-503.680 Priority List Management.

(1) through (3)(b)1. No change.

2. The local government has established a deadline for filing a complete loan application no later than the date below corresponding to the three-month period in which the notification to the local government by the Department of the listing on the fundable portion occurs 45 days prior to the last day of the three-month period beginning January 1, April 1, July 1, or October 1 immediately following the three-month period in which the public hearing occurs.

Notification Period Deadline

January 1 to March 31

May 15

April 1 to June 30

August 15

July 1 to September 30

November 15

October 1 to December 31

February 15

3. No requests for addition to the fundable portion of the project list shall be considered unless the request has been received by the Department of Environmental Protection, Bureau of Water Facilities Funding, 2600 Blair Stone Road, MS 3505, Tallahassee, Florida 32399-2400, before the date on which the public notice for the hearing appears in the Florida Administrative Weekly.

(4) Projects, other than those designated as segmented projects on the construction loan priority list, that are currently listed on the contingency portion of a priority list shall be advanced in order of listing on the contingency portion to the fundable portion without a public hearing when unassigned funds become available. However, advancement in order of listing shall be subject to the availability of reserved and unreserved moneys. When such an advancement occurs, the deadline for filing a complete loan application shall be no later than the date under subparagraph (3)(b)2. above corresponding to the three-month period in which the notification to the local government by the Department of the advancement occurs 45 days prior to the last day of the three-month period beginning January 1, April 1, July 1, or October 1 immediately following the three-month period in which notification to the local government by the Department of the advancement occurs.

(5) No change.

(a) All of the conditions under Rule 62-503.655(1)(c), F.A.C., have been met; ~~and~~

(b) A schedule compatible with any deadlines required by administrative or judicial actions or by permit conditions for completing all remaining requirements has been furnished; ~~and-~~

(c) The deadline, established under subparagraph (3)(b)3. above, for requesting addition to the priority list has been met.

(6) through (8) No change.

Specific Authority 403.1835(5)(a) FS. Law Implemented 403.1835 FS. History—New 4-17-89, Amended 12-4-91, 2-23-94, Formerly 17-503.680, Amended 1-4-98, \_\_\_\_\_.

62-503.700 Planning, Design, Construction, and Post-Construction Requirements.

Special federal requirements under subsections (1) ~~and (5)~~ below shall be met for equivalency projects. ~~When projects cease to be equivalency projects, the special federal requirements shall not be mandatory. However, T~~the requirements of subsections (2) through ~~(10)~~(4), (6), and (7) below shall be met for all projects. Federal regulations incorporated by reference shall be read so that the terms "United States," "federal," "EPA," and "officials of EPA" mean "the state" unless the context clearly indicates otherwise. These federal regulations also shall be read so that "grants" means "loans."

(1) Equivalency projects shall be subject to the requirements of specific federal cross-cutting authorities identified in the loan application Form 62-503.900(2), F.A.C. Implementation of the loan program for projects determined to be equivalency projects shall be governed by Parts 4 and 35 of Title 40 of the Code of Federal Regulations (40 C.F.R.). The incorporated provisions of the Code of Federal Regulations are:

(a) 40 C.F.R. Part 4, Uniform Relocation Assistance and Real Property Acquisition for Federal and Federally Assisted Programs (1988); and

(b) Parts of 40 C.F.R. Part 35, State and Local Assistance (1996), as follows: 40 C.F.R. 35.2005 (except when such definitions conflict with Rule 62-503.200, F.A.C., in which case the definitions of Rule 62-503, F.A.C., take precedence); 35.2030(b) (except that the reference to 40 C.F.R. Part 6 shall be interpreted to mean Rule 62-503.700(3), F.A.C., and an evaluation of alternative flow reduction methods under 40 C.F.R. 35.2030(b)(3)(i) shall be required unless the estimated average per capita discharge to the sanitary sewer system is less than 70 gallons per day); 35.2102, 35.2110, 35.2114, 35.2120(a), (b), (c)(1) and (c)(2)(i), 35.2122, 35.2130, 35.2140, 35.2206(a), 35.2208, 35.2214 (except that a plan of operation is not required to be submitted to the Department); and 35.2218 (except that the reference to 40 C.F.R. Part 33 shall be interpreted to mean Chapter 287.055, F.S.).

(2) A facilities plan shall include the documentation of the following: The value of potable water resources conserved as a result of reclaimed water reuse alternatives (such as agricultural or landscape irrigation) shall be addressed in facilities plans.

(a) The boundaries of the planning area as well as the existing and future project service areas.

(b) The demographic, geologic, topographic, hydrogeologic, and institutional characteristics of the study area impacting the evaluation of alternatives to the selected facilities.

(c) The cost-effectiveness of feasible alternatives to the selected facilities, including regionalization of facilities, considering capital costs and operation and maintenance costs over the useful life of the facilities based on a discount rate projected to be in effect during a year planning period of not less than five (5) years.

(d) The value of potable water resources conserved as a result of reclaimed water reuse alternatives (such as agricultural or landscape irrigation).

(e) The implementability of the selected facilities from legal, institutional, financial, technical, and management perspectives.

(f) The environmental effects and other non-monetary considerations, if any, associated with the selected facilities.

(g) The collection, transmission, treatment, reuse, and disposal problems associated with the wastewater system and the local physical conditions associated with those problems.

(h) The facilities needed to comply with wastewater treatment plant discharge permits issued by the Department and the facilities needed to maintain compliance throughout the project service area over a planning period of not less than five (5) years.

(i) The public participation process, including the project sponsor's public hearing held before formal adoption of the facilities plan for the purpose of enabling public participation in the final evaluation of project alternatives.

(j) Capital improvements financing information addressing the following:

1. The source of funds or revenues to be dedicated to repaying the loan and the expenses, charges, and liens against such dedicated funds or revenues.

2. All capital improvements, including those to be financed using any type of debt instrument, that will be implemented over a period of five (5) years beginning with the projected year of the first annual loan repayment and that will be financed from the same funds or revenues dedicated to repaying the loan.

3. The proposed system of charges, rates, fees, and other collections that will generate the revenues to be dedicated to loan repayment demonstrating that the wastewater management system is to be financially self-sufficient.

4. The proposed rate ordinance or other enforceable schedule for charges, rates, fees, and other collections associated with loan repayment.

5. The applicable actual and projected wastewater management system operating and non-operating expenses and revenues for the following years:

a. The most recent audited operating year.

b. The first full year after the project has been constructed and is in operation.

(k) An affirmation that the selected facilities are consistent with other locally adopted plans.

(l) The responses generated by a multi-disciplined intergovernmental review, if applicable.

(m) The executed and fully implementable contractual agreements whenever facilities or services beyond the local government's jurisdiction are involved.

(n) The following Additional information shall be provided if the cost-effectiveness of the recommended facilities is determined by wastewater flow.

1. Flow reduction methods shall be documented unless the estimated average per capita discharge to the sewer system is less than 70 gallons per day.

2. Infiltration and inflow reduction shall be documented if the rainfall-induced inflow results in chronic operational problems, rainfall-induced inflow exceeds 275 gallons per

capita per day during storm events, or the wastewater flow rate exceeds 120 gallons per capita per day during periods of high groundwater.

(o) The benefits of improving operation and maintenance of existing facilities if the cost-effectiveness of recommended facilities is determined by the level to which wastewater or residuals is treated.

(p) A description of the recommended facilities, preliminary design parameters, estimated capital costs, and estimated operation and maintenance costs.

(q) The schedule for constructing the recommended facilities.

~~(3)(a) The Department shall perform an environmental review for each project to be funded. The environmental review shall establish the environmental significance of a proposed project and whether the planning of the project meets the requirements of this rule. The environmental review also shall establish the Department's intention to make funding available for a project after the local government has met the applicable appropriate requirements of this rule. A notice of availability shall be published in the Florida Administrative Weekly to announce the results of the Department's environmental review. The notice of availability shall include instructions about the procedures for accessing the project information and the Department's findings. The Department shall provide a 30-day period, commencing as of the date of the notice of availability, for public comment about the environmental impacts of proposed projects. Written comments from the public shall be postmarked or delivered, with the 30-day comment period, to the Department of Environmental Protection, Bureau of Water Facilities Funding, 2600 Blair Stone Road, MS 3505, Tallahassee, Florida 32399-2400. The Department shall distribute information about its findings to interested parties and provide a 30-day period for public comment about the environmental impacts of proposed projects.~~

(b) renumbered (a) No change.

~~(b)(e) The findings, conclusions, and recommendations of previous EPA and Department environmental reviews formally issued since January 1, 1974, shall meet the requirements of this subsection if such findings, conclusions, and recommendations have been reaffirmed, under subsection (f) (g) below, after five years from the time of issue. The Department shall provide guidance to the preparers consult with local governments during the preparation of facilities plans to assure assist in the proper documentation preparation of environmental information. The local government shall document applicable appropriate cultural, historical, archaeological, biological, and fiscal aspects of a project during the facilities planning process. When necessary, conditions shall be placed on a loan agreement to enhance the compatibility of the project with the existing environment. The Department shall document the results of its environmental~~

reviews as described in paragraphs (c) ~~(3)(d)~~ through (f)~~(g)~~ below. When an environmental review document is amended in lieu of issuing a new document to reflect proposed project changes that potentially have environmental impacts, the same basic procedures as were used to produce the original document shall be used.

~~(c)(d) A Florida Categorical Exclusion Notice (FCEN) shall be used for certain projects that are not expected to generate controversy over potential environmental effects. A FCEN shall not be used where there are environmental objections to a project at the public hearing held, under paragraph (2)(i) above, before the local government adopted the facilities plan provided that such objections have a basis in statute, regulation, or ordinance. A FCEN shall not be used where a project will result in the inability of existing facilities to meet permit criteria or will result in unpermitted discharges or where the project would provide capacity to service previously undisturbed areas such that more than 30 percent of the total design population for the project is attributed to the undisturbed areas.~~

1. through 1.a. No change.

b. Conclude the environmental review only after the 30-day public comment period, under subsection (3) above, has expired and: no information is received about adverse environmental impacts; information is received about adverse environmental impacts and the objections either are without a basis in statute, regulation, or ordinance or are resolved; or information is received about adverse environmental impacts and the FCEN is rescinded.

2. No change.

~~(e) through (e)1.g. renumbered (d) through (d)1.g. No change.~~

2. Consider public comments about environmental impacts of a project if the comments are received within 30 days after the publication date of the notice of availability under subsection (3) above.

3. No change.

~~(f) through (f)6. renumbered (e) through (e)6. No change.~~

7. Announce the funding eligibilities using a FROD and consider public comments about environmental impacts if received during the 30-day period beginning on the date of publication of the notice of availability under subsection (3) above; and

8. No change.

~~(g) through (g)1. renumbered (f) through (f)1. No change.~~

2. Consider public comments about changed conditions altering the environmental impacts since the previous FCEN, FFONSI, FROD, or analogous documents issued by EPA, or amendments to any of the foregoing. Comments shall be considered if received during the 30-day period beginning on the date of publication of the notice of availability of the FRAN under subsection (3) above.

3. No change.

~~(4) The local government shall submit biddable plans and specifications along with evidence that the Department has established the conformance of the plans and specifications with the wastewater facilities plan. The local government shall hold a public hearing before formal adoption of its facilities plan. The purpose of the hearing shall be to enable public participation in the final evaluation of project alternatives. The local government shall publish a notice of the hearing in a local newspaper of general circulation before the date of the hearing and mail copies to persons having identified themselves as interested parties. The facilities plan shall be made available to the public before the hearing. The local government shall have a complete record of the hearing and shall make the record available to interested parties on request.~~

~~(5) The local government shall submit a value engineering report for operationally related project facilities for which the adjusted post-allowance project costs exceed \$10,000,000. The requirements of the Davis-Bacon Act (40 U.S.C. Section 276a) and Related Acts as described in 29 C.F.R. Part 1, Procedures for Predetermination of Wage Rates (1986), Part 3, Contractors and Subcontractors on Public Building or Public Work Financed in Whole or in Part by Loans or Grants from the United States (1964), and Part 5, Labor Standards Provisions Applicable to Contracts Covering Federally Financed Construction (1992) shall be in effect for the construction of equivalency projects.~~

~~(6) The local government shall certify that all project sites necessary for the purposes of construction, operation, and maintenance of the project will be available over the useful life of the facilities.~~

~~(7) The local government shall provide reasonable financial assurance that project construction will be completed. Such assurance may be in the form of a commitment to maintain adequate reserve funds dedicated throughout the construction period to ensuring project completion. Other forms of such reasonable assurance include requirements for contractors to provide performance and payment bonds under s. 255.05, F.S., and insurance covering workers' compensation, comprehensive general liability, vehicle liability, and property damage to the extent that coverage is available for construction activities.~~

~~(8) The local government shall submit evidence that any of the following permitting related conditions exist for the project:~~

~~(a) The use of a general permit under Rule 62-620.705, F.A.C., has been authorized;~~

~~(b) An intent to issue a permit under Rule 62-620.510, F.A.C., has been established;~~

~~(c) The Department has issued other authorization for project construction; or~~

~~(d) The Department has determined that its authorization is not required prior to construction.~~

~~(9)(6) Construction contractors shall be selected according to the competitive or noncompetitive negotiation procurement methods or the formal advertised competitive bidding method. Procurement requirements shall be as set forth in the following sections of 40 C.F.R. Part 33, Procurement Under Assistance Agreements (1995) incorporated herein by reference: 33.230(c) and (d) (except that the references to architects and engineers shall be interpreted to mean the offerors of technical services, the procurement of which is not subject to Chapter 287.055, F.S.), 33.255(c) (except that the salient requirements of the named brand which must be met by offerors need not be stated and the reference to 40 C.F.R. Part 35 is deleted), 33.305, 33.310, 33.315, 33.405, 33.410, 33.415, 33.420(a) through (d) and (f) (except for references to section 33.295 and Form 5720-4), 33.425, 33.430 (except that bid rejection shall be based solely on sound documented business reasons), 33.505, 33.510 (except for references to section 33.295 and Form 5720-4), 33.515, 33.520, and 33.605(a) through (c) as supplemented by the provision that noncompetitive negotiated procurement also shall be deemed justified when a material, product, or service provides for necessary interchangeability of parts and equipment or promotes innovative technologies.~~

~~(7) renumbered (10) No change.~~

Specific Authority 403.1835(5)(a) FS. Law Implemented 403.1835 FS. History--New 4-17-89, Amended 8-1-90, 12-4-91, 6-21-93, 2-23-94, Formerly 17-503.700, Amended 1-4-98.

NAME OF PERSON ORIGINATING PROPOSED RULE: Mimi A. Drew, Director, Division of Water Facilities, Department of Environmental Protection, 2600 Blair Stone Road, MS #3500, Tallahassee, Florida 32399-2400, telephone (850)487-1855

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Kirby B. Green, Deputy Secretary, Department of Environmental Protection, 3900 Commonwealth Boulevard, MS #10, Tallahassee, Florida 32399-3000, telephone (850)488-1554

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: February 11, 1999

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: November 14, 1997

**DEPARTMENT OF HEALTH**

**Board of Clinical Laboratory Personnel**

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

PURPOSE AND EFFECT: The Board proposes an amendment to the rule to address technicians who perform high complexity testing.

SUBJECT AREA TO BE ADDRESSED: Technicians who perform high complexity testing.

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 THE TIME, DATE AND PLACE SHOWN BELOW:

TIME AND DATE: 9:00 a.m., or as soon thereafter as can be heard, April 30, 1999

PLACE: Sheraton, Ft. Lauderdale Airport, 1825 Griffin Road, Ft. Lauderdale, Florida 33004

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 Clinical Laboratory Personnel/MQA, 2020 Capital Circle, S. E., Bin #C07, Tallahassee, Florida 32399-3257

THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS:

64B3-5.004 Technician.

(1) through (4) No change.

(5) Qualifications for Technicians who perform High Complexity Testing. Technicians performing high complexity testing as defined in 42 C.F.R. 493.10 and 493.17, and who have been licensed after September 1, 1997, shall meet the minimum educational and training qualifications provided in 42 C.F.R. 493.1489, including a minimum of an associate degree in laboratory science, medical laboratory technology, or equivalent education and training.

~~(6)~~(5) 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, 1-11-99, \_\_\_\_\_.

**DEPARTMENT OF HEALTH**

**Board of Clinical Laboratory Personnel**

RULE TITLE: Examination and Reexamination Fees

RULE NO.: 64B3-9.003

PURPOSE AND EFFECT: The Board proposes an increase in the examination and reexamination fees for the specialty of blood banking, immunohematology to \$175.

SUBJECT AREA TO BE ADDRESSED: Examination and reexamination fees.

SPECIFIC AUTHORITY: 483.807(1) FS.

LAW IMPLEMENTED: 483.807 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., or as soon thereafter as can be heard, April 30, 1999

PLACE: Sheraton, Ft. Lauderdale Airport, 1825 Griffin Road, Ft. Lauderdale, Florida 33004

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 Clinical Laboratory Personnel/MQA, 2020 Capital Circle, S. E., Bin #C07, Tallahassee, Florida 32399-3257

THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS:

64B3-9.003 Examination and Reexamination Fees.

(1) No change.

(2) The fee for the generalist technician and the specialty of blood banking, immunohematology examination or reexamination is \$175 ~~\$70~~.

Specific Authority 483.807(1) FS. Law Implemented 483.807 FS. History—New 12-7-93, Formerly 61F3-9.003, 590-9.003, Amended 5-26-98, 1-28-99, \_\_\_\_\_.

**DEPARTMENT OF HEALTH**

**Board of Orthotists and Prosthetists**

RULE TITLE: Licensure Renewal

RULE NO.: 64B14-5

PURPOSE AND EFFECT: The purpose of the rule development will be to develop the rules setting forth continuing education requirements.

SUBJECT AREA TO BE ADDRESSED: Licensure Renewal.

SPECIFIC AUTHORITY: 468.802, 468.806(2) FS.

LAW IMPLEMENTED: 468.805(2), 468.806, 468.806(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 R. Baker, Jr., Executive Director, Board of Orthotists and Prosthetists/MQA, 2020 Capital Circle, S. E., Bin #C09, Tallahassee, Florida 32399-3259

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

**DEPARTMENT OF CHILDREN AND FAMILY SERVICES**

**Economic Self-Sufficiency Program**

RULE CHAPTER TITLE: PUBLIC ASSISTANCE PROGRAMS  
 RULE CHAPTER NO.: 65A-1

RULE TITLE: MEDICARE BUY-IN DEMONSTRATION PROJECT  
 RULE NO.: 65A-1.720

**PURPOSE AND EFFECT:** Special demonstration project procedures are proposed for the QMB, SLMB and PBMO programs of SSI-Related Medicaid to determine the effect of increased outreach for individuals qualifying for these programs. This demonstration project is being conducted under the guidance of the Health Care Financing Administration (HCFA) and the Social Security Administration (SSA) of the Department of Health and Human Services (HHS). The project is limited to individuals referred to the department by the SSA under project criteria in Orange and Osceola Counties and central Miami in Dade County. The project will terminate at the end of calendar year 1999. This proposed rule affects the department's processing of applications for individuals specifically referred by SSA in the demonstration project area for these programs.

**SUBJECT AREA TO BE ADDRESSED:** The department will implement limited documentation requirements in the demonstration project area for these programs. This potentially will involve new forms for use in this project. Rule material also will reflect elimination of a face-to-face interview requirement with the department in this demonstration project. All demonstration project criteria apply only to applicants specifically referred to the department by the SSA under demonstration project procedures.

**SPECIFIC AUTHORITY:** 409.919 FS.

**LAW IMPLEMENTED:** 409.903, 409.904, 409.919 FS.

**IF REQUESTED IN WRITING AND DEEMED NECESSARY BY THE AGENCY HEAD, A RULE DEVELOPMENT WORKSHOP WILL BE HELD AT THE TIME, DATE AND PLACE SHOWN BELOW:**

**TIME AND DATE:** 11:00 a.m., April 26, 1999

**PLACE:** 1317 Winewood Boulevard, Building 3, Room 414, Tallahassee, Florida 32399-0700

**THE PERSON TO BE CONTACTED REGARDING PROPOSED RULE DEVELOPMENT IS:** Audrey Mitchell, Program Administrator, 1317 Winewood Boulevard, Building 3, Room 412D, Tallahassee, Florida 32399-0700

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

**Section II  
 Proposed Rules**

**DEPARTMENT OF LAW ENFORCEMENT**

RULE CHAPTER TITLE: \_\_\_\_\_  
 RULE CHAPTER NO.: \_\_\_\_\_

|  |                   |
|--|-------------------|
| General Information                                      | 11-1              |
| <b>RULE TITLES:</b>                                      | <b>RULE NOS.:</b> |
| Agency Description                                       | 11-1.001          |
| Headquarters, Mailing address, Etc.                      | 11-1.002          |
| Department Internal Organization                         | 11-1.003          |
| Powers and Duties of Department                          | 11-1.004          |
| Confirmation and Delegation of Authority                 | 11-1.0041         |
| Relations with Other Officers and Agencies               | 11-1.005          |
| Public Information and Inspection and Copying of Records | 11-1.0061         |
| Public Business  | 11-1.008          |
| Vouchers   | 11-1.010          |

**PURPOSE AND EFFECT:** To eliminate administrative rules that are redundant, obsolete, or superseded by statute or rule, by repealing sections of Rule Chapter 11-1, F.A.C., that describe the agency organization, powers, duties, and access to public information. To provide for delegation of authority relating to the Administrative Procedure Act, s. 120.74, F.S.; to change the amounts required for approval by the Department Head from \$25,000.00 to \$100,000.00 for professional and consulting contracts; for compromise and settlement of all claims, actions and legal proceedings; and to raise the reporting requirement, by the Executive Director to the Department Head from \$25,000.00 to \$100,000.00, for expenditures involving contracts, leases, licenses, and other agreements.

**SUMMARY:** The sections of Rule Chapter 11-1, F.A.C., which describe the Florida Department of Law Enforcement organization, powers and duties, public access and dissemination of public records information are repealed and incorporated in the Agency Organization Statement. The rule sections dealing with public record inspection are repealed because the sections are duplicative of Chapter 119, F.S. Proposed revisions to Rule 11-1.0041, F.A.C., provide for the delegation of authority by the Governor and Cabinet, as Head of the Florida Department of Law Enforcement, to the Executive Director or the Director's designee, to implement the provisions of the Administrative Procedure Act, Chapter 120, F.S. The proposed amendments raise the amount required to be approved by the Head of the Department from \$25,000.00 to \$100,000.00 for professional and consulting contracts, and the compromise and settlement of claims, actions and other legal proceedings. The amendment also raises the amount required to be reported by the Executive Director to the Department Head from \$25,000.00 to \$100,000.00 for expenditures involving all contracts, leases, lease-purchases, licenses, and agreements. Other terms are updated to conform to the agency's new organizational designations.

**SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COST:** None.