

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

TIME AND DATE: 10:00 a.m. – 12:00 p.m., July 7, 1999
 PLACE: 1309 Winewood Boulevard, Building 6, Room 407, Tallahassee, Florida

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT IS: Jane Peck, Operations and Management Consultant II, Bureau of Tuberculosis and Refugee Health, 1317 Winewood Boulevard, Building 6, Room 402B, Tallahassee, FL 32399-0700

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

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Joe W. Kight, Assistant Division Director, Division of Animal Industry, 407 S. Calhoun Street, Room 321, Tallahassee, Florida 32399-0800, (850)488-0709, FAX (850)487-3641

THE FULL TEXT OF THE PROPOSED RULE IS:

(Substantial rewording of Rule 5C-13.004 follows. See Florida Administrative Code for present text.)

5C-13.004 Schedule of Fees.

(1) Necropsy Fees. Necropsy fees will normally include gross necropsy, histopathological, bacteriological, and parasitological examinations. With the exception of poultry examinations, additional charges will be made on all virological and toxicological examinations deemed necessary by the diagnostic veterinarian in charge of the case.

(a) Mammals.

1. Bovine and Equine

Over 100 lbs	\$40.00/animal
Under 100 lbs	\$25.00/animal
Fetus	\$10.00/animal

2. Porcine:

Over 250 lbs	\$40.00/animal
20 – 250 lbs	\$25.00/animal
Under 20 lbs	\$10.00/animal
Fetus	\$10.00/animal

3. Ovine and Caprine:

Over 35 lbs	\$35.00/animal
Under 35 lbs	\$25.00/animal
Fetus	\$10.00/animal

4. Canine and Feline:

Over 20 lbs	\$35.00/animal
Under 20 lbs	\$25.00/animal
Fetus	\$10.00/animal

5. Rodents and Rabbits..... \$20.00/animal

6. Other Mammals

(deer, other exotic species)..... \$35.00/animal

7. Miscellaneous Animals

(alligators, snakes, etc.)..... \$35.00/animal

(b) Avian.

1. Poultry (chickens, turkeys, ducks, geese, and other such domesticated birds which primarily serve man as a source of food, either eggs or meat) and Game Birds (quail, chukkers, pheasants, etc. (includes microbiology))..... \$20.00/submission

2. Companion Birds:

Psittacine (canary, finch, etc.)..... \$12.50/bird

3. Wild Birds:

Waterfowl.....	\$10.00/bird
Raptors	\$20.00/bird
Small Wild birds (Grackles, etc.).....	\$10.00/bird

Section II Proposed Rules

DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES

Division of Animal Industry

RULE CHAPTER TITLE: State Diagnostic Laboratories
 RULE CHAPTER NO.: 5C-13

RULE TITLE: Schedule of Fees
 RULE NO.: 5C-13.004

PURPOSE AND EFFECT: The purpose and effect of these rule changes is to provide changes to offset increasing costs in providing services and to remain consistent with other state and federal laboratory fees, a small increase in fees for selected laboratory system services.

SUMMARY: Increases fees for diagnostic laboratory services commensurate with private, and other state and federal laboratories.

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

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

SPECIFIC AUTHORITY: 585.002(3), 570.07(23) FS.

LAW IMPLEMENTED: 585.61(3),(4) FS.

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

TIME AND DATE: 2:00 p.m., June 4, 1999
 PLACE: Department of Agriculture and Consumer Services, Conference Room, Room 316, 407 S. Calhoun Street, Tallahassee, Florida 32399-0800

<u>4. Ratites:</u>	
<u>Birds over 16 weeks of age</u>	\$40.00/bird
<u>Birds 8 to 16 weeks of age</u>	\$30.00/bird
<u>Birds under 8 weeks of age</u>	\$25.00/bird
<u>(2) Bacteriology/Mycology.</u>	
<u>Antibiotic Sensitivity Test</u>	\$5.00/bacterium
<u>Bacterial/Fungal Culture:</u>	
<u>Food Animal</u>	\$1.00/swab/tissue
<u>Non-Food Animal:</u>	
<u>No Isolates Identified</u>	\$4.00/swab/tissue
<u>One – Two Isolates Identified</u>	\$10.00/swab/tissue
<u>Three or More Isolates Identified</u>	\$15.00/swab/tissue
<u>Campylobacter Veneralis Culture</u>	\$4.00swab/tissue
<u>Campylobacter Jejuni Culture</u>	\$10.00/swab/tissue
<u>Contagious Equine Metritis Culture</u>	\$10.00/animal
<u>Cytology</u>	\$5.00/test
<u>Hatchery Air Sample</u>	\$1.00/test
<u>Mycoplasma Culture:</u>	
<u>Food Animal</u>	\$1.00/swab/tissue
<u>Non-Food Animal</u>	\$6.00/swab/tissue
<u>M. paratuberculosis DNA Probe</u>	\$7.50/test
<u>Mycoplasma gallisepticum</u>	
<u>Plate</u>	\$0.50/test
<u>HI</u>	\$1.00/test
<u>(3) Clinical Pathology.</u>	
<u>Complete Blood Count</u>	\$5.00/test
<u>Includes: RBC, WBC, Neutrophils, Lymphocytes, Monocytes, Eosinophils, Basophils, Reticulocytes, PCV, Hemoglobin, MCV, and Platelets.</u>	
<u>Blood Chemistry Profiles</u>	
<u>Avian</u>	\$13.00/profile
<u>Equine</u>	\$13.00/profile
<u>Ruminant</u>	\$13.00/profile
<u>Small Animal</u>	\$13.00/profile
<u>Porcine</u>	\$13.00/profile
<u>Complete Urinalysis</u>	\$3.00/test
<u>Individual Tests Include:</u>	
<u>Albumin</u>	\$3.00/test
<u>Alkaline Phosphatase</u>	\$3.00/test
<u>Amylase</u>	\$3.00/test
<u>Bicarb</u>	\$3.00/test
<u>Bilirubin</u>	\$3.00/test
<u>BUN</u>	\$3.00/test
<u>Calcium</u>	\$3.00/test
<u>Chloride</u>	\$3.00/test
<u>Cholesterol</u>	\$3.00/test
<u>Cholinesterase</u>	\$3.00/test
<u>Creatinine</u>	\$3.00/test
<u>Creatinine Phosphokinase (CPK)</u>	\$3.00/test
<u>Gamma-Glutamyl Transferase</u>	\$3.00/test
<u>Globulin</u>	\$3.00/test
<u>Glucose</u>	\$3.00/test
<u>Hemoglobin</u>	\$3.00/test
<u>Iron</u>	\$3.00/test
<u>Ketone</u>	\$3.00/test
<u>Lactate Dehydrogenase (LDH)</u>	\$3.00/test
<u>Lipase</u>	\$3.00/test
<u>Magnesium</u>	\$5.00/test
<u>Occult Blood</u>	\$3.00/test
<u>PH</u>	\$3.00/test
<u>Phosphorus</u>	\$5.00/test
<u>Potassium</u>	\$5.00/test
<u>Proteins</u>	\$3.00/test
<u>SDH</u>	\$3.00/test
<u>ST (SGOT)</u>	\$3.00/test
<u>ALT (SGPT)</u>	\$3.00/test
<u>Specific Gravity</u>	\$3.00/test
<u>Sodium</u>	\$3.00/test
<u>Thyroid – T4</u>	\$5.00/test
<u>Urine Sediment Evaluation</u>	\$1.00/test
<u>Zinc Sulfate</u>	\$3.00/test
<u>(4) Toxicology.</u>	
<u>Acepromazine</u>	\$5.00/test
<u>Acetylsalicylic Acid</u>	\$5.00/test
<u>Aflatoxin</u>	\$5.00/sample
<u>Aldicarb (Temik)</u>	\$5.00/test
<u>Aldrin</u>	\$5.00./test
<u>Alkaloid & Organic Bases Screen</u>	\$10.00/sample
<u>Alkaloid Identification</u>	\$5.00/test
<u>Amphetamine</u>	\$5.00/test
<u>Anticoagulant Screen</u>	\$10.00/sample
<u>Anticoagulant Identification</u>	\$5.00/test
<u>Arsenic</u>	\$10.00/sample
<u>Atrazine</u>	\$5.00/test
<u>Azinphosmethyl</u>	\$5.00/test
<u>Barbiturates</u>	\$5.00/test
<u>Banamine</u>	\$5.00/test
<u>Bendiocarb (Ficam)</u>	\$5.00/test
<u>Benzocaine</u>	\$5.00/test
<u>Biological Insecticide Test</u>	\$5.00/sample
<u>Brodifacoum</u>	\$5.00/test
<u>Bromadiolone (Supercaid)</u>	\$5.00/test
<u>Caffeine</u>	\$5.00/test
<u>Calcium</u>	\$5.00/sample
<u>Cannibis (Marijuana)</u>	\$5.00/test
<u>Carbaryl (Sevin)</u>	\$5.00/test
<u>Carbofuran</u>	\$5.00/test
<u>Chlordane</u>	\$5.00/test
<u>Chlodirazepoxide</u>	\$5.00/test
<u>Chlorophacinone (Caid)</u>	\$5.00/test

<u>Chlorinated Hydrocarbon Insecticide</u>	\$5.00/test	<u>Ochratoxin</u>	\$5.00/sample
<u>Chlorpromazine</u>	\$5.00/test	<u>Organic Acid/Neutral Compound Screen</u>	\$10.00/test
<u>Chlorpyrifos</u>	\$5.00/test	<u>Oxamyl</u>	\$5.00/test
<u>Cocaine</u>	\$5.00/test	<u>Paraquat/Diaquat</u>	\$5.00/sample
<u>Copper</u>	\$5.00/test	<u>Parathion</u>	\$5.00/test
<u>Coumafuryl (Fumarin)</u>	\$5.00/test	<u>Phenolbarbital</u>	\$5.00/test
<u>Copper</u>	\$5.00/sample	<u>Phenothiazine</u>	\$5.00/test
<u>Cyanide</u>	\$5.00/sample	<u>Phenylbutazone</u>	\$5.00/test
<u>DDD</u>	\$5.00/test	<u>Phosphorus</u>	\$5.00/sample
<u>DDE</u>	\$5.00/test	<u>Pidone (Pival)</u>	\$5.00/test
<u>DDT</u>	\$5.00/test	<u>Polychlorinated Biphenyls (PCB)</u>	\$5.00/test
<u>Demeton (Systox)</u>	\$5.00/test	<u>Potassium</u>	\$5.00/sample
<u>Diazinon</u>	\$5.00/test	<u>Pramitol</u>	\$5.00/test
<u>Dichlorvos</u>	\$5.00/test	<u>Procaine</u>	\$5.00/test
<u>Dieldrin</u>	\$5.00/test	<u>Promazine</u>	\$5.00/test
<u>Diphenadione</u>	\$5.00/test	<u>Propoxur (Batgon)</u>	\$5.00/test
<u>Disulfoton (Di-Syston)</u>	\$5.00/test	<u>Pyriminil</u>	\$5.00/test
<u>Endosulfan (Thiodan)</u>	\$5.00/test	<u>Quaternary Ammonium Compounds</u>	\$5.00/test
<u>Endrin</u>	\$5.00/test	<u>Reinsch Test</u>	\$7.50/test
<u>Ephedrine</u>	\$5.00/test	<u>Ronnel</u>	\$5.00/test
<u>Equine Drug Screen</u>	\$15.00/sample	<u>Selenium</u>	\$5.00/test
<u>Ethylene Glycol</u>	\$5.00/test	<u>Silver</u>	\$5.00/test
<u>Ethion</u>	\$5.00/test	<u>Strychnine</u>	\$ 5.00/test
<u>Ethyl Parathion</u>	\$5.00/test	<u>Selenium</u>	\$5.00/sample
<u>Fenamifos (Nemacur)</u>	\$5.00/test	<u>Sodium</u>	\$5.00/sample
<u>Fenthion (Spoton)</u>	\$5.00/test	<u>Sulfacetamide</u>	\$5.00/test
<u>Fibrinogen</u>	\$3.00/test	<u>Sulfadiazine</u>	\$5.00/test
<u>Fumonisin</u>	\$5.00/sample	<u>T-2</u>	\$5.00/sample
<u>Gamma BHC (Lindane)</u>	\$5.00/test	<u>Theobromine</u>	\$5.00/test
<u>Gossypol</u>	\$10.00/test	<u>Toxaphene</u>	\$5.00/test
<u>Heavy Metal Screen</u>	\$10.00/sample	<u>Urea</u>	\$5.00/sample
<u>Heavy Metal Identification</u>	\$5.00/sample	<u>Vomitoxin</u>	\$5.00/sample
<u>Heptachlor</u>	\$5.00/test	<u>Warfarin</u>	\$5.00/test
<u>Herbicide Screen</u>	\$10.00/sample	<u>Xylazine</u>	\$5.00/test
<u>Herbicide Identification</u>	\$5.00/test	<u>Zearalenone</u>	\$5.00/sample
<u>Insecticide/Pesticide Screen</u>	\$10.00/sample	<u>Zinc</u>	\$5.00/sample
<u>Insecticide/Pesticide Identification</u>	\$5.00/test	<u>(5) Histopathology</u>	
<u>Lannate</u>	\$5.00/test	<u>Cytology</u>	\$10.00/sample
<u>Lead</u>	\$5.00/sample	<u>Histopathology:</u>	
<u>Magnesium</u>	\$5.00/sample	<u>One-Three Tissues</u>	\$10.00
<u>Malathion</u>	\$5.00/test	<u>Four or more Tissues</u>	\$15.00
<u>Meprobamate</u>	\$5.00/test	<u>Histopathological Slide Furnished</u>	\$7.50/each
<u>Mercury</u>	\$10.00/sample	<u>(6) Parasitology</u>	
<u>Methamidophos (Monitor)</u>	\$5.00/test	<u>Acridine Orange Stained Blood Smears:</u>	
<u>Methyl Parathion</u>	\$5.00/test	<u>Anaplasma Bodies</u>	\$3.00/test
<u>Monensin</u>	\$5.00/test	<u>Babesia Bodies</u>	\$3.00/test
<u>Mycotoxin Screen</u>	\$10.00/sample	<u>Eperythrozoon Bodies</u>	\$3.00/test
<u>Napthalene</u>	\$5.00/test	<u>Hemobartonella</u>	\$3.00/test
<u>Nicotine</u>	\$5.00/test	<u>Anaplasmosis CardTest</u>	\$1.50/serum
<u>Nitrate/Nitrite</u>	\$5.00/sample	<u>Avian Parasites (Blood Smears):</u>	

Hemoproteus	\$3.00/sample
Leucocytozoon	\$3.00/sample
<u>Cryptosporidium/Giardia Fluorescent</u>	
<u>Antibody Examination</u>	<u>\$5.00/exam</u>
<u>Fecal Examination.....</u>	<u>\$2.50/sample</u>
<u>Hemoparasite Examinations:</u>	
<u>Hemobartellona</u>	<u>\$3.00/sample</u>
<u>Microfilaria Testing – Identification:</u>	
<u>Knott’s Test</u>	<u>\$2.50/sample</u>
<u>Occult Heartworm – ELISA Test.....</u>	<u>\$5.00/sample</u>
<u>Parasite Identification.....</u>	<u>\$2.00/sample</u>
<u>Rabies – Preparation and Shipment of Head to State</u>	
<u>Health Department.....</u>	<u>\$7.50/sample</u>
<u>Skin Scraping</u>	<u>\$2.00/sample</u>
<u>Toxoplasmosis – HI Titer.....</u>	<u>\$5.00/serum</u>
<u>Trichomonas Culture.....</u>	<u>\$ 3.00/sample</u>
<u>(7) Serology.</u>	
<u>(a) Bacterial.</u>	
<u>Brucella abortus – Plate/Card</u>	<u>\$0.50/serum</u>
<u>Brucella canis – Agglutination</u>	<u>\$5.00/serum</u>
<u>Leptospirosis MA Test (5 serovars)</u>	<u>\$2.50/serum</u>
<u>Mycoplasma gallisepticum – HI.</u>	<u>\$1.00/serum</u>
<u>Mycoplasma gallisepticum – Plate Aggl’n.</u>	<u>\$0.50/serum</u>
<u>Mycoplasma synoviae – HI.....</u>	<u>\$1.00/serum</u>
<u>Mycoplasma synoviae – Plate Aggl’n</u>	<u>\$0.50/serum</u>
<u>Pullorum-Typhoid – Plate Aggl’n Test</u>	<u>\$0.50/serum</u>
<u>(b) Viral.</u>	
<u>1. Agar Gel Immunodiffusion (AGID)</u>	
<u>Avian Influenza</u>	<u>\$ 3.50/serum</u>
<u>Bluetongue (BT).....</u>	<u>\$ 3.50/serum</u>
<u>Bovine Leukosis (BLV)</u>	<u>\$ 3.50/serum</u>
<u>Caprine Arthritis-Encephalitis (CAEV)</u>	<u>\$ 3.50/serum</u>
<u>Epizootic Hemorrhagic Disease (EHD)</u>	<u>\$ 3.50/serum</u>
<u>Equine Infectious Anemia – Coggins.....</u>	<u>\$ 3.50/serum</u>
<u>Infectious Bursal Disease (IBD)</u>	<u>\$ 3.50/serum</u>
<u>Other AGID Tests</u>	<u>\$ 3.50/serum</u>
<u>2. Serum Neutralization (SN)</u>	
<u>Bovine Respiratory Syncytial Virus</u>	<u>\$ 3.50/serum</u>
<u>Bovine Viral Diarrhea (BVD)</u>	<u>\$ 3.50/serum</u>
<u>Equine Rhinopneumonitis (ERV)</u>	<u>\$ 3.50/serum</u>
<u>Equine Viral Arteritis (EVA)</u>	<u>\$ 3.50/serum</u>
<u>Infectious Bovine Rhinotracheitis (IBR).....</u>	<u>\$ 3.50/serum</u>
<u>Bovine Parainfluenza 3 (PI3)</u>	<u>\$ 3.50/serum</u>
<u>Pseudorabies (PRV)</u>	<u>\$ 3.50/serum</u>
<u>Vesicular Stomatitis (VS) Indiana.....</u>	<u>\$ 3.50/serum</u>
<u>Vesicular Stomatitis (VS) New Jersey</u>	<u>\$ 3.50/serum</u>
<u>Other SN Tests</u>	<u>\$ 3.50/serum</u>
<u>3. Enzyme Linked Immuno Absorbant Assay (ELISA)</u>	
<u>Feline Immunodeficient Virus (FIV)</u>	<u>\$5.00/serum</u>
<u>Feline Leukemia (FELV)</u>	<u>\$5.00/serum</u>

<u>4. Indirect Fluorescent Antibody (IFA)</u>	
<u>Canine Distemper.....</u>	<u>\$5.00/serum</u>
<u>Canine Ehrlichiosis</u>	<u>\$5.00/serum</u>
<u>Canine Parvovirus</u>	<u>\$5.00/serum</u>
<u>Equine Influenza</u>	<u>\$5.00/serum</u>
<u>Equine Rhinopneumonitis</u>	<u>\$5.00/serum</u>
<u>Feline Infectious Peritonitis (FIP)</u>	<u>\$5.00/serum</u>
<u>Feline Panleukopenia</u>	<u>\$5.00/serum</u>
<u>Lyme Disease</u>	<u>\$5.00/serum</u>
<u>Potomac Horse Fever</u>	<u>\$5.00/serum</u>
<u>Rocky Mountain Spotted Fever (RMSF)</u>	<u>\$5.00/serum</u>
<u>Transmissible Gastroenteritis (TGE)</u>	<u>\$5.00/serum</u>
<u>Ehrlichia Equi.....</u>	<u>\$5.00/serum</u>
<u>Other IFA Tests</u>	<u>\$5.00/serum</u>
<u>5. Direct Fluorescent Antibody</u>	
<u>Bovine Coronavirus</u>	<u>\$3.00/test</u>
<u>Bovine Parainfluenza Virus</u>	<u>\$3.00/test</u>
<u>Bovine Respiratory Syncytial Virus.....</u>	<u>\$3.00/test</u>
<u>Bovine Rotovirus</u>	<u>\$3.00/test</u>
<u>Bovine Viral Diarrhea</u>	<u>\$3.00/test</u>
<u>Canine Coronavirus.....</u>	<u>\$5.00/test</u>
<u>Canine Distemper.....</u>	<u>\$5.00/test</u>
<u>Canine Parvovirus.....</u>	<u>\$5.00/test</u>
<u>Equine Rhinotracheitis</u>	<u>\$5.00/test</u>
<u>Feline Infectious Peritonitis</u>	<u>\$5.00/test</u>
<u>Feline Panleukopenia</u>	<u>\$5.00/test</u>
<u>Infectious Bovine Rhinotracheitis.....</u>	<u>\$3.00/test</u>
<u>Ovine Progressive Pneumonia</u>	<u>\$3.00/test</u>
<u>Porcine Parvovirus</u>	<u>\$3.00/test</u>
<u>Pseudorabies.....</u>	<u>\$3.00/test</u>
<u>Transmissible Gastroenteritis</u>	<u>\$3.00/test</u>
<u>Other Direct AB Examinations</u>	<u>\$3.00/test</u>
<u>6. Miscellaneous</u>	
<u>Equine Encephalomyelitis HI.....</u>	<u>\$ 5.00/serum</u>
<u>Newcastle HI.....</u>	<u>\$ 5.00/serum</u>
<u>(8) Virology.</u>	
<u>Chlamydia Isolation</u>	<u>\$7.50/tissue/swab</u>
<u>Electron Microscope Examination</u>	<u>\$7.50/tissue/swab</u>
<u>Isolate Identification.....</u>	<u>\$5.00/identification</u>
<u>Giminez Stain for Chlamydia.....</u>	<u>\$3.00/pooled tissue</u>
<u>Virus Isolation.....</u>	<u>\$ 7.50/tissue/swab</u>
<u>(9) Miscellaneous.</u>	
<u>Shipments to Other Laboratories.....</u>	<u>\$3.00/accession</u>
<u>Testing Out-Of-State Samples</u>	<u>\$7.50/test</u>

Specific Authority 585.002(3), 570.07(23) FS. Law Implemented 585.61(3),(4) FS. History–New 12-25-84, Formerly 5C-13.04, Amended 11-27-88, 5-6-93.

NAME OF PERSON ORIGINATING PROPOSED RULE:
 Joe W. Kight, Assistant Director, Division of Animal Industry,
 407 S. Calhoun St., Rm. 321, Tallahassee, FL 32399-0800,
 (850)488-7079, FAX (850)487-3641
 NAME OF SUPERVISOR OR PERSON WHO APPROVED
 THE PROPOSED RULE: Dr. Leroy M. Coffman, Dir., Div. of
 Animal Industry, 407 S. Calhoun St., Rm 330, Tallahassee, FL
 32399-0800, (850)488-7747; FAX: (850)922-8969
 DATE PROPOSED RULE APPROVED BY AGENCY
 HEAD: March 1, 1999
 DATE NOTICE OF PROPOSED RULE DEVELOPMENT
 PUBLISHED IN FAW: March 12, 1999

DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES

Division of Animal Industry

RULE CHAPTER TITLE:	RULE CHAPTER NO.:
Equine Infectious Anemia	5C-18
RULE TITLES:	RULE NOS.:
Official Test	5C-18.003
Quarantine	5C-18.007
Procedures for Assembly Points, Approved Quarantine Assembly Points, Approved Quarantine Premises, and Horse Slaughter Sales	5C-18.011

PURPOSE AND EFFECT: The purpose and effect of these rule changes is to created a fee for maintaining an approved quarantined premise and remove requirements of a notarized copy of the test report for movement.

SUMMARY: This rule establishes an annual fee of \$200 for an approved quarantine premise and removes the requirement of a notarized copy of test report.

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

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

SPECIFIC AUTHORITY: 585.002(4),(5), 585.08(2), 585.671 FS.

LAW IMPLEMENTED: 585.002(5), 585.11(1), 585.08(1), 585.145(1),(2), 585.16, 585.671 FS.

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

TIME AND DATE: 4:00 p.m., June 4, 1999

PLACE: Department of Agriculture and Consumer Services, Conference Room, 407 S. Calhoun Street, Room 316, Tallahassee, Florida 32399-0800

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULES IS: Jay S. Levenstein, Chief, Bureau of Animal Disease Control, Division of Animal Industry, 407 S. Calhoun Street, Room 329, Tallahassee, Florida 32399-0800. Phone (850)488-7182

THE FULL TEXT OF THE PROPOSED RULES IS:

5C-18.003 Official Test.

(1) through (1)(d)4. No change.

(2) Rejected Test Report. A report of an EIA test will be rejected if the report:

(a) through (b) No change.

(c) Is not an original owner's copy or a laboratory certified copy; except that for purposes other than change of ownership shows and exhibitions within Florida, a notarized photocopy of the owner's original copy is acceptable.

(3) through (5)(b) No change.

Specific Authority 585.002(4),(5), 585.08(2), 585.671 FS. Law Implemented 585.002(5), 585.671, 585.11(1) FS. History—New 10-15-73, Formerly 5C-18.03, Amended 8-15-94,_____.

5C-18.007 Quarantine.

(1) through (4) No change.

(5) Approved quarantine premises. Any premise where a reactor horse is to be maintained must be approved in advance by the Director.

(a) Written Request. The owner of the premise, or an authorized representative of the owner, must submit a written request for approval of the premise to the Department of Agriculture and Consumer Services, Division of Animal Industry, Post Office Box 6710, Tallahassee, FL 32314.

(b) Fee. Effective July 1, 1999, all approved quarantine premises must pay an annual fee of \$200.00, paid by certified check or money order made payable to the Florida Department of Agriculture and Consumer Services.

(c) Any individual or organization that maintains reactors for research, educational, or therapeutic purposes at an approved quarantine premise shall be exempt from payment of the fee.

(b) through (e) renumbered (d) through (g) No change.

Specific Authority 585.002(4), 585.08(2), 585.671 FS. Law Implemented 585.08(1), 585.145(1), (2), 585.16, 585.671 FS. History—New 10-15-73, Formerly 5C-18.07, Amended 8-15-94,_____.

5C-18.011 Procedures for Assembly Points, Approved Quarantine Assembly Points, Approved Quarantine Premises, and Horse Slaughter Sales.

(1) through (2) No change.

(3) Approved Quarantine Premises. Approved quarantine premises must have valid permits and must comply with all requirements of 5C-18.007(5)(2).

(4) No change.

Specific Authority 585.002(4), 585.08(2), 585.671 FS. Law Implemented 585.671, 585.14, 585.16, 585.23, 585.18, 585.19 FS. History—New 10-15-73, Formerly 5C-18.11, Amended 8-15-94.

NAME OF PERSON ORIGINATING PROPOSED RULE: Joe W. Kight, Assistant Director, Division of Animal Industry, 407 S. Calhoun St., Rm 321, Tallahassee, FL 32399-0800, (850)488-7079, FAX: (850)487-3641

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Dr. Leroy M. Coffman, Dir., Div. of Animal Industry, 407 S. Calhoun St., Rm 330, Tallahassee, FL 32399-0800, (850)488-7747; FAX: (850)922-8969

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: March 1, 1999

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: March 26, 1999

DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES

Division of Animal Industry

RULE CHAPTER TITLE:	RULE CHAPTER NO.:
Pseudorabies	5C-21
RULE TITLES:	RULE NOS.:
Definitions	5C-21.002
General Requirements and Limitations	5C-21.010
Vaccination, Approval and Procedures	5C-21.011
Procedures for Control and Eradication of Pseudorabies	5C-21.012
Feral Swine, Movement and Test Requirements	5C-21.015

PURPOSE AND EFFECT: The purpose and effect of these rule changes is to provide changes to the State's Pseudorabies Eradication Program in keeping with requirements of State/Federal/Industry Program Standards and recommendations from Florida's swine industry.

SUMMARY: This rule revision eliminates reference to swine dealers' permits; revises exemptions to negative test requirements; and provides for indemnity for reactor animals.

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

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

SPECIFIC AUTHORITY: 585.002(4), 585.08(2) FS.

LAW IMPLEMENTED: 570.0705, 585.01, 585.002(5), 585.003(1),(2), 585.08(1), 585.11(1),(2), 585.14, 585.145(1),(2), 585.16, 585.17(1),(2), 585.18(1), (2), 585.20, 585.22, 585.23, 585.40 FS.

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

TIME AND DATE: 3:00 p.m., June 4, 1999

PLACE: Department of Agriculture and Consumer Services, Conference Room, 407 S. Calhoun Street, Room 316, Tallahassee, Florida 32399-0800

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULES IS: Jay S. Levenstein, Chief, Bureau of Animal Disease Control, Division of Animal Industry, 407 S. Calhoun Street, Room 329, Tallahassee, Florida 32399-0800, Phone (850)488-7182

THE FULL TEXT OF THE PROPOSED RULES IS:

5C-21.002 Definitions.

(1) Accredited Veterinarian. A veterinarian licensed in the state of origin and approved by the Deputy Administrator, United States Department of Agriculture, Animal and Plant Health Inspection Service (USDA, APHIS) to perform certain functions of federal and cooperative state-federal programs in accordance with the provisions of 9 CFR 160-162 (19983).

(2) through (15) No change.

(16) Domestic Swine. Swine which have been maintained in a controlled environment for reproductive or feeding purposes. ~~Feral swine shall be reclassified as domestic swine after a negative pseudorabies test conducted after 30 days of isolation from any infected or free-roaming swine.~~

(17) through (19) No change.

(20) Feral Swine. Swine that have lived all (wild) or any part (feral) of their lives as free-roaming animals. ~~Feral swine shall be reclassified as domestic swine after a negative pseudorabies test conducted after 30 days of isolation from any infected or free-roaming swine.~~

(21) No change.

(22) Herd Clean-Up Plan. A written, mandatory plan to eliminate pseudorabies from a swine herd which is:

(22)(a) through (22)(d) No change.

(23) Immediate Community. All premises within 2 ~~4-5~~ miles radius of the perimeter boundary of the quarantined feedlot or affected herd.

(24) through (30) No change.

(31) Program Standards. The requirements for the pseudorabies eradication program as provided in USDA APHIS publication, "Pseudorabies Eradication, State-Federal-Industry Program Standards", APHIS 91-55-04142 (19983).

(32) through (35)(c) No change.

(36) Pseudorabies Serologic Test. Any test to determine the presence or absence of pseudorabies antibodies, approved by the Administrator for diagnosis of pseudorabies in non-vaccinated swine, conducted in a laboratory approved by the Administrator, and listed in 9 CFR 85.1 (19983).

(37) Pseudorabies Test. Any test for the diagnosis of pseudorabies approved by the Administrator, conducted in a laboratory approved by the Administrator, and listed in 9 CFR 85.1 (19983).

(38) through (50) No change.

(51) Materials. Pseudorabies Eradication, State-Federal-Industry Program Standards, APHIS 91-55-04142, 9 CFR 160-162 (19983) and 9 CFR 85.1 (19983) are hereby incorporated by reference. Copies may be obtained from the United States Government Printing Office, Superintendent of Documents, Mail Stop SSOP, Washington, D.C. 20402-9328.

Specific Authority 585.002(4), 585.08(2) FS. Law Implemented 570.0705, 585.01, 585.08(1), 585.11, 585.145(1) FS. History—New 5-17-87, Amended 10-23-94, _____.

5C-21.010 General Requirements and Limitations.

(1) through (6)(d) No change.

~~(7) Swine dealers, permit and recordkeeping.~~

~~(a) The following dealers, either individuals or other legal entities, must have a permit from the Department:~~

~~1. Any person who engages in the business of buying or selling swine in commerce, either for their own account or as an employee or agent of the seller or buyer; or~~

~~2. Any person who engages in the business of buying or selling swine in commerce on a commission basis.~~

~~(b) Permit required, fees. No person shall conduct business as a swine dealer without a permit. The operator of an approved all market class shall not be required to have a permit as a dealer.~~

~~1. Application for a swine dealer's permit shall be submitted to the Florida Department of Agriculture and Consumer Services, Division of Animal Industry, Post Office Box 6710, Tallahassee, Florida 32314.~~

~~2. The application for a swine dealer's permit must be accompanied by a fee of \$25 paid by certified check or money order made payable to the Florida Department of Agriculture and Consumer Services.~~

~~3. The permit shall expire June 30 of each year and must be renewed prior to expiration. A fee of \$25 must be paid for annual renewal of the permit.~~

~~4. The permit shall bear the name of the dealer and his or her business address.~~

~~(c) Recordkeeping requirements.~~

~~1. Each dealer must keep records of all swine purchased for resale to enable the Department to trace an animal to the farm of origin and to its destination.~~

~~2. All records must be kept for a minimum of two years and must be made available for review upon request by a state or federal representative.~~

~~(d) Dealer permit; denied or revoked. A dealer will be denied a permit or have the permit revoked or be subject to penalties as provided in Section 5C-21.017 when the Department has determined that:~~

~~1. The dealer violated or circumvented recordkeeping requirements of this section or other animal health regulations; or~~

~~2. The dealer failed to provide records for review when requested; or~~

~~3. The dealer conducted business regulated by this section after revocation of the permit or failed to acquire such a permit; or~~

~~4. The dealer has had a permit revoked within one year.~~

~~(7)(8) Quarantined feedlots.~~

(a) No change.

1. ~~An request application~~ for permit shall be submitted to the Florida Department of Agriculture and Consumer Services, Division of Animal Industry, Post Office Box 6710, Tallahassee, Florida 32314.

2. The ~~request application~~ for permit must be accompanied by a fee of \$100, paid by certified check or money order made payable to the Florida Department of Agriculture & Consumer Services.

3. No change.

4. The permit renewal shall be denied if an application is pending for a qualified pseudorabies negative herd or a pseudorabies monitored feeder pig herd within 2 ~~4.5~~ miles.

5. through (b) No change.

1. Quarantined feedlots shall not be permitted within 2 ~~4.5~~ miles of a qualified pseudorabies negative herd or a pseudorabies monitored feeder pig herd.

2. No change.

3. All swine owners within a 2 ~~4.5~~ miles radius of the proposed location of a quarantined feedlot shall be notified prior to the issuance of a quarantined feedlot permit.

4. through (d) No change.

~~(8)(9) Materials. Notice of Quarantine, AI-30 (Rev. 3-94) and Release of Quarantine, AI-28 (Rev. 3-94), Application for Swine Dealer Permit, DACS-09080 (eff. 9/94), and Application for Pseudorabies Quarantined Feedlot Permit, DACS-09081 (eff. 9/94) are hereby incorporated by reference. Copies may be obtained from the Florida Department of Agriculture, Division of Animal Industry, Room 329334, Tallahassee, Florida 32399-0800.~~

Specific Authority 585.002(4), 585.08(2) FS. Law Implemented 570.0705, 585.002(5), 585.08(1), 585.11, 585.145(1),(2), 585.23, 585.40, 585.17 FS. History—New 10-23-94, Amended _____.

5C-21.011 Vaccination, Approval and Procedures.

(1) through (2)(c) No change.

(d) Vaccinated animals are permanently identified by a numbered ~~pink~~ eartag approved by the State Veterinarian; and

(e) No change.

Specific Authority 585.002(4), 585.08(2) FS. Law Implemented 585.11(1),(2), 585.20, 585.21, 585.145 FS. History—New 10-23-94, Amended _____.

5C-21.012 Procedures for Control and Eradication of Pseudorabies.

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

(b) ~~After July 1, 1995, All~~ swine sold, offered for sale or exhibition, except for slaughter, must have evidence of a negative pseudorabies serologic test which has been conducted within the previous 30 days.

(2) Exemptions to negative test requirements. A negative test is not required for the following:

(a) ~~Feeder~~ swine that:

~~(a)1. Originate in a qualified pseudorabies negative herd;~~

or

~~(b)2. Originate in a qualified pseudorabies negative gene altered vaccinated herd; or~~

~~(c)3. Are under six months of age and oOriginate in a pseudorabies monitored feeder pig herd; or~~

~~(d)4. Are under six months of age and oOriginate in a pseudorabies monitored vaccinated feeder pig herd; or~~

~~(e)5. Originate directly from a farm of origin in a Stage ~~III~~ or IV; or V state or area; or~~

~~(f)6. Are sold at an approved all-class market or an approved slaughter market for feeding in a quarantined feedlot or for direct shipment to a recognized slaughtering establishment; or~~

~~(g)7. Are sold at an approved feeder pig market for feeding without restriction.~~

~~(b) Breeder swine that:~~

~~1. Originate in a qualified pseudorabies negative herd; or~~

~~2. Originate in a qualified pseudorabies negative gene altered vaccinated herd; or~~

~~3. Originate directly from a farm of origin in a Stage IV or Stage V state or area.~~

(3) No change.

(a) Pseudorabies ~~monitored feeder pig~~ herd testing.

1. All swine herds in the state must be tested by conducting an annual pseudorabies serologic test of breeding animals of a representative sample of the breeding herd. The sample size shall be as follows:

~~a. 1-10 swine test entire herd;~~

~~b. 11-35 swine test 10 swine; and~~

~~e. 36 swine and over test 30 percent of the herd or 30 swine, whichever is less.~~

2. Subject to the availability of funds, testing shall be conducted at state expense until ~~July 1, 1995 or until~~ Stage IV ~~III~~ is achieved ~~whichever is first~~. At that time, all expenses for conducting the testing required for maintenance of a pseudorabies monitored feeder pig herd shall be the responsibility of the owner.

3. No change.

(b) Circle testing. Herd tests consisting of a representative sample, as described in Subsection (3)(a)1. above, are required of all swine herds within a 2 1/2 miles radius of affected herds. All herds determined to have swine positive to a pseudorabies test shall be quarantined.

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

1. All sows and boars sold at livestock markets and swine buying stations, other than those sold for immediate slaughter, must be tested and be negative to a pseudorabies serologic test within 30 days prior to or on arrival.

~~2. After July 1, 1995, all sows and boars sold at livestock markets and swine buying stations must be tested within 30 days prior to or on arrival.~~

~~23. Herds to which pseudorabies positive swine are traces shall be placed under quarantine.~~

(5) Disposition of Swine.

(a) The Department may indemnify and reimburse the owner of all animals that have reacted to a pseudorabies test. Such indemnity or reimbursement shall not exceed the sum of \$35.00 per animal.

(b) All sows in infected breeding herds must be tested prior to or at farrowing and all positive sows removed from the herd for slaughter or isolation for slaughter within 15 days after weaning. All boars must be tested quarterly and all positives removed from the herd for slaughter or isolation for slaughter within 15 days after test results are reported.

Specific Authority 585.002(4), 585.08(2) FS. Law Implemented 585.145(1),(2), 585.11(1),(2), 585.20 FS. History--New 10-23-94, Amended _____.

5C-21.015 Feral Swine, Movement and Test Requirements.

(1) Feral swine ~~of unknown status~~ may be moved only for immediate slaughter. Movement to hunting preserves or game farms is not considered as movement to slaughter.

(2) No change.

(3) Feral swine moved for breeding purposes, in addition to meeting the requirements in (2) above, must be segregated from all domestic swine and be found negative to two pseudorabies serologic tests ~~with the first~~ conducted at least 30 to 60 days apart following segregation and the second at 60 to 90 days after the first test.

(4) No change.

Specific Authority 585.002(4), 585.08(2) FS. Law Implemented 585.11(1),(2), 585.145(1),(2), 585.16 FS. History--New 10-23-94, Amended _____.

NAME OF PERSON ORIGINATING PROPOSED RULE: Jay S. Levenstein, Chief, Bureau of Animal Disease Control, Division of Animal Industry, 407 S. Calhoun St., Rm 329, Tallahassee, FL 32399-0800, (850)488-7182, FAX: (850)487-3641

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Dr. Leroy M. Coffman, Dir., Div. of Animal Industry, 407 S. Calhoun St., Rm 330, Tallahassee, FL 32399-0800, (850)488-7747; FAX: (850)922-8969

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: March 1, 1999

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: April 2, 1999

DEPARTMENT OF THE LOTTERY

RULE TITLE: Holidays and Other Authorized Activities
 RULE NO.: 53-16.005

PURPOSE AND EFFECT: The purpose of the proposed rule amendment is to clarify and further define the circumstances and method by which hours of holiday compensatory leave and holiday pay earned by employees is calculated.

SUMMARY: The rule refines and clarifies the language set forth in 53-16.005(4).

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

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

SPECIFIC AUTHORITY: 24.105(10)(j) FS.

LAW IMPLEMENTED: 24.105(21)(d) FS.

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

TIME AND DATE: 9:00 a.m., June 7, 1999

PLACE: Department of the Lottery, Office of the General Counsel, 250 Marriott Drive, Tallahassee, Florida 32399-4011

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Diane D. Schmidt, Office of the General Counsel, Capitol Complex, Tallahassee, Florida 32399-4011, (850)487-7724

THE FULL TEXT OF THE PROPOSED RULE IS:

53-16.005 Holidays and Other Authorized Activities.

(1) through (3) No change.

(4) Each employee filling an authorized established position shall be given all holidays designated in Section 110.117, F.S., if the workload of the Lottery is such that the employee's work can be discontinued.

(a) If the holiday is observed on the employee's regular day off, and the employee is not required to work, the employee will be granted up to eight (8) hours of holiday compensatory leave credits. If the holiday falls or is observed on the employee's regular workday and the employee is required to work, the employee shall receive up to eight (8) hours holiday compensatory leave credits and will be compensated at the rate of 1 1/2 times the employee's hourly base rate of pay for all hours worked on the holiday.

(b) If the actual holiday falls on a weekend and is observed on another day as set forth in Section 110.117(1)(j), Florida Statutes, an employee who works on the observed holiday shall be compensated at the rate of 1 1/2 times the employee's hourly base rate of pay for all hours worked on the observed holiday and shall receive up to 8 hours holiday compensatory

leave credits. If the holiday is observed on the employee's regular day off and the employee is not required to work, the employee shall accrue holiday compensatory leave equal to the number of hours in the employee's regular workday not to exceed eight (8) hours.

(c) If an employee is required to work only on the actual holiday, but not on the observed holiday, the employee will be compensated at the rate of 1 1/2 times the employee's hourly base rate of pay for all hours worked on the actual holiday and shall receive up to 8 hours regular compensatory leave credits. If the holiday falls or is observed on the employee's regular day off and the employee is required to work, the number of hours worked on the holiday shall be counted as hours worked and the employee shall receive up to eight (8) hours holiday compensatory leave credits and be compensated at the rate of 1 1/2 times the employee's hourly base rate of pay for all hours worked on the holiday.

(d) If an employee is required to work both the observed and the actual holidays, the employee will be compensated at the rate of 2 1/2 times the employee's hourly base rate of pay for all hours worked on the actual holiday, and shall be compensated at the rate of 1 1/2 times the employee's hourly base rate of pay for all hours worked on the observed holiday and shall receive up to 8 hours holiday compensatory leave credits for hours worked on the observed holiday. If an employee is required to work both the actual and observed holiday, the holiday shall be recognized on the observed date.

(e) For Memorial Day calculation purposes, the last Monday in May is both the actual and observed holiday. Holiday compensatory leave credits earned by working when a holiday is observed shall be granted as a delayed holiday and shall be compensated in accordance with this subsection. Holiday compensatory leave accrued after June 30, 1992 must be used during the employee's next scheduled leave which would otherwise be charged to annual or regular compensatory leave.

(f) Employees who receive compensation under these provisions for working on a holiday, are not eligible for call back pay for working on the holiday.

(g) Holiday compensatory leave credits earned by working on an observed holiday shall be granted as a delayed holiday and shall be compensated in accordance with this subsection. Holiday compensatory leave accrued after June 30, 1992 must be used during the employee's next scheduled leave, which would otherwise be charged to annual or regular compensatory leave.

(5) through (7) No change.

Specific Authority 24.105(10)(j) FS. Law Implemented 24.105(21)(d) FS. History--New 2-25-93, Amended 7-4-93, 10-13-93.

NAME OF PERSON ORIGINATING PROPOSED RULE:
 Diane D. Schmidt, Office of the General Counsel

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Kenneth H. Hart, Jr. General Counsel
DATE PROPOSED RULE APPROVED BY AGENCY HEAD: May 4, 1999
DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: March 26, 1999

**AGENCY FOR HEALTH CARE ADMINISTRATION
Division of State Health Purchasing**

RULE TITLE: Freestanding Dialysis Center Services
RULE NO.: 59G-4.105
PURPOSE AND EFFECT: To provide freestanding dialysis facilities payment for medically necessary dialysis treatment of eligible recipients. This will incorporate by reference the Florida Medicaid Freestanding Dialysis Center Services Coverage and Limitations Handbook, February, 1999.
SUMMARY: This rule will implement the Medicaid freestanding dialysis center services program for which the Florida Legislature appropriated specific funds in the 1998 General Appropriations Act.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COST: No statement of estimated regulatory cost has been prepared.

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

SPECIFIC AUTHORITY: 409.919 FS.
LAW IMPLEMENTED: 409.906, 409.908 FS.
IF REQUESTED WITHIN 21 DAYS OF THE DATE OF THIS NOTICE, A HEARING WILL BE HELD AT THE TIME, DATE AND PLACE SHOWN BELOW:
TIME AND DATE: 10:00 a.m. – 11:00 a.m., June 8, 1999
PLACE: Conference Room D, 2728 Ft. Knox Blvd., Bldg. 3, Tallahassee, FL 32308

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Susan Rinaldi, Medicaid Program Development, P. O. Box 12600, Tallahassee, Florida 32317-2600, (850)922-7308

THE FULL TEXT OF THE PROPOSED RULE IS:

59G-4.105 Freestanding Dialysis Center Services.

(1) This rule applies to all freestanding dialysis center service providers enrolled in the Medicaid program.

(2) All freestanding dialysis center service providers enrolled in the Medicaid program must comply with the Florida Medicaid Freestanding Dialysis Center Coverage and Limitations Handbook, February 1999, incorporated by

reference, and the Florida Medicaid Provider Reimbursement Handbook, UB-92, which is incorporated by reference in 59G-4.160. Both handbooks are available from the Medicaid fiscal agent.

Specific Authority 409.919 FS. Law Implemented 409.906, 409.908 FS. History–New

NAME OF PERSON ORIGINATING PROPOSED RULE: Susan Rinaldi

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Ruben J. King-Shaw Jr., AHCA Director

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: April 28, 1999
DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: December 11, 1998

**AGENCY FOR HEALTH CARE ADMINISTRATION
Medicaid**

RULE TITLE: Physician Services
RULE NO.: 59G-4.230

PURPOSE AND EFFECT: The purpose of the proposed rule amendment is to incorporate by reference the revised Florida Medicaid Physician Coverage and Limitations Handbook, January 1999. The effect will be to incorporate by reference in the rule the current Florida Medicaid Physician Coverage and Limitations Handbook, January 1999.

SUMMARY: The purpose of the rule is to incorporate by reference the revised Florida Medicaid Physician Coverage and Limitations Handbook, January 1999.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COST: None.

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

SPECIFIC AUTHORITY: 409.919 FS.
LAW IMPLEMENTED: 409.905, 409.908, 409.9081 FS.
IF REQUESTED WITHIN 21 DAYS OF THE DATE OF THIS NOTICE, A HEARING WILL BE HELD AT THE TIME, DATE AND PLACE SHOWN BELOW.

TIME AND DATE: 9:00 a.m. – 12:00 p.m., Tuesday, June 8, 1999

PLACE: Agency for Health Care Administration, 2728 Mahan Drive, Building #3, Conference Room D, Tallahassee, Florida
THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Lynne Metz, Agency for Health Care Administration, Medicaid Program Development, 2728 Mahan Drive, Building 3, Room 2215, Tallahassee, Florida 32317-2600, (850)922-7325

THE FULL TEXT OF THE PROPOSED RULE IS:

59G-4.230 Physician Services.

(2) All physician providers enrolled in the Medicaid program must be in compliance with the Florida Medicaid Physician Coverage and Limitations Handbook, January 1999 ~~January 1998~~, which is incorporated by reference, and the Florida Medicaid Provider Reimbursement Handbook, HCFA 1500 and EPSDT 221, which is incorporated in 59G-5.020. Both handbooks are available from the Medicaid fiscal agent.

Specific Authority 409.919 FS. Law Implemented 409.905, 409.908, 409.9081 FS. History—New 1-1-77, Revised 2-1-78, 4-1-78, 1-2-79, 1-1-80, Amended 2-8-82, 3-11-84, Formerly 10C-7.38, Amended 1-10-91, 11-5-92, 1-7-93, Formerly 10C-7.38, Amended 6-29-93, 9-6-93, Formerly 10P-4.230, Amended 6-13-94, 2-9-95, 3-10-96, 5-28-96, 3-18-98, 9-22-98, _____.

NAME OF PERSON ORIGINATING PROPOSED RULE:
Lynne Metz

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Ruben J. King-Shaw, Jr.

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: April 28, 1999

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: December 4, 1998

DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION

Board of Accountancy

RULE TITLE: Licensee
RULE NO.: 61H1-20.001

PURPOSE AND EFFECT: The proposed rule is being amended in order to be in compliance with the underlying statute.

SUMMARY: Rule 61H1-20.001 is being amended to ensure compliance with Section 473.304, Florida Statutes.

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

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

SPECIFIC AUTHORITY: 473.304 FS.

LAW IMPLEMENTED: 473.304 FS.

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

TIME AND DATE: 9:00 a.m., or shortly thereafter, Thursday, June 10, 1999

PLACE: The Doubletree Hotel, 101 South Adams Street, Tallahassee, Florida

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Martha Willis, Executive Director, Board of Accountancy, 2610 Northwest 43rd Street, Suite 1-A, Gainesville, Florida 32606

THE FULL TEXT OF THE PROPOSED RULE IS:

61H1-20.001 Licensee.

(1) No change.

(2) A “suspended certified public accountant” is prohibited from practicing public accounting ~~as a sole proprietor, partner or shareholder~~ and using the CPA designation. A suspended licensee must maintain an active license during the period of suspension ~~A suspended licensee may be an employee under the supervision of a certified public accountant who holds an active license.~~

Specific Authority 473.304 FS. Law Implemented 473.304 FS. History—New 12-4-79, Formerly 21A-20.01, Amended 10-20-86, Formerly 21A-20.001, Amended.

NAME OF PERSON ORIGINATING PROPOSED RULE:
Board of Accountancy

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

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: April 27, 1999

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: January 22, 1999

DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION

Board of Accountancy

RULE TITLES: Commissions or Referral Fees
RULE NOS.: 61H1-21.003

Other Business Activities 61H1-21.009

PURPOSE AND EFFECT: Under the authority of the Board, Rule 61H1-21.003 is being amended in order to add new language clarifying the rule’s intent and in order to be in compliance with the underlying statute. Rule 61H1-21.009 is being repealed due to it becoming unnecessary, outdated, or because it is covered elsewhere by statute or rule.

SUMMARY: Rule 61H1-21.003 is being amended to add subsections (3) and (4) and to ensure statutory compliance. Rule 61H1-21.009 is being repealed.

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

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

SPECIFIC AUTHORITY: 473.304, 473.3205, 473.315 FS.

LAW IMPLEMENTED: 473.3205, 473.315 FS.

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

TIME AND DATE: 9:00 a.m., or shortly thereafter, Thursday, June 10, 1999

PLACE: The Doubletree Hotel, 101 South Adams Street, Tallahassee, Florida

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULES IS: Martha Willis, Executive Director, Board of Accountancy, 2610 Northwest 43rd Street, Suite 1-A, Gainesville, Florida 32606

THE FULL TEXT OF THE PROPOSED RULES IS:

- 61H1-21.003 Commissions or Referral Fees.
 - (1) through (2) No change.
 - (3) The CPA must hold appropriate licenses as required.
 - (4) If the CPA is not independent as described in 61H1-21.001, F.A.C., it must be disclosed in the engagement letter. However, if the only reason for not being independent is the fact that the Certified Public Accountant is being compensated by a commission or contingent fee then the lack of independence does not have to be disclosed.

Specific Authority 473.304, 473.3205 FS. Law Implemented 473.3205 FS. History--New 12-4-79, Formerly 21A-21.03, Amended 3-28-89, Formerly 21A-21.003, Amended 2-23-98,_____.

61H1-21.009 Other Business Activities.

Specific Authority 473.304, 473.315 FS. Law Implemented 473.315 FS. History--New 9-16-84, Formerly 21A-21.09, 21A-21.009, Repealed_____.

NAME OF PERSON ORIGINATING PROPOSED RULE: Board of Accountancy

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

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: April 27, 1999

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: January 15, 1999 and January 22, 1999

DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION

Board of Accountancy

RULE TITLE: Form of Practice and Name-Shared Office Space
RULE NO.: 61H1-26.001

PURPOSE AND EFFECT: Under the authority of the Board, this proposed rule is being amended to allow for the sharing of office facilities within the requirements provided in the proposed rule.

SUMMARY: Rule 61H1-26.001 is being amended to allow for shared-office facilities.

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

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

SPECIFIC AUTHORITY: 473.304, 473.3101, 473.321 FS.

LAW IMPLEMENTED: 473.3101, 473.321 FS.

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

TIME AND DATE: 9:00 a.m., or shortly thereafter, Thursday, June 10, 1999

PLACE: The Doubletree Hotel, 101 South Adams Street, Tallahassee, Florida

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Martha Willis, Executive Director, Board of Accountancy, 2610 Northwest 43rd Street, Suite 1-A, Gainesville, Florida 32606

THE FULL TEXT OF THE PROPOSED RULE IS:

61H1-26.001 Form of Practice and Name-Shared Office Space.

- (1) through (2) No change.

(3) Certified Public Accountants may share office facilities provided there is adequate disclosure that would enable a reasonable person to determine the practice is not associated with the profession or occupation not regulated by the Board, such as written agreements, signs, etc. A certified public accountant shall not share office facilities with any person that is not a partner or shareholder with him or in his employ unless the office is designed to clearly distinguish the practice of the licensee in a manner that would enable a reasonable person to determine the practice is not associated with a profession or occupation not regulated by the Board. A common waiting area may be acceptable if the public can clearly distinguish the practice of the licensee from that of non-licensees. A licensee must have a separate entrance to the licensee's own offices.

Specific Authority 473.304, 473.3101, 473.321 FS. Law Implemented 473.3101, 473.321 FS. History--New 12-4-79, Amended 11-7-84, 10-28-85, Formerly 21A-26.01, Amended 10-20-86, 12-28-89, 7-1-91, 1-7-93, Formerly 21A-26.001, Amended 11-30-93, 12-30-97,_____.

NAME OF PERSON ORIGINATING PROPOSED RULE: Board of Accountancy

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

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: April 27, 1999

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: January 15, 1999

DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION

Board of Accountancy

RULE TITLE: Fees
 RULE NO.: 61H1-31.001

PURPOSE AND EFFECT: Under the authority of the Board, the proposed rule is being amended in order to decrease the amount for candidates transferring partial credits from another state and in order to delete the late fees imposed by the Board for scan sheets for the Laws and Rules Examination.

SUMMARY: Rule 61H1-31.001 is being amended to decrease the fee for first time candidates transferring partial credits from another state and to delete the late fees assessed for scan sheets.

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

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

SPECIFIC AUTHORITY: 455.213(2), 455.219(4), 455.271, 473.305, 473.312 FS.

LAW IMPLEMENTED: 119.07, 455.219(4), 455.271, 473.305, 473.312, 473.313 FS.

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

TIME AND DATE: 9:00 a.m., or shortly thereafter, Thursday, June 10, 1999

PLACE: The Doubletree Hotel, 101 South Adams Street, Tallahassee, Florida

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Martha Willis, Executive Director, Board of Accountancy, 2610 Northwest 43rd Street, Suite 1-A, Gainesville, Florida 32606

THE FULL TEXT OF THE PROPOSED RULE IS:

61H1-31.001 Fees.

(1) For the applicant to sit for the Uniform CPA Examination, as a first time candidate or for candidates transferring partial credits from another state, thirty-five dollars (\$35.00) and fifty dollars (\$50.00) per part; fifty dollars (\$50.00) per part for extended/conditioned candidates; ~~one hundred ninety-five dollars (\$195.00) for candidates transferring partial credits from another state~~. The Department will defer the fee until the next examination if the applicant is unable to sit for the examination due to illness, death in the

immediate family, military service, or jury duty provided the applicant's illness is supported by a notarized statement of a physician, or absence, by reason of military service is supported by a copy of military order or a letter from the Commanding Officer or death in immediate family is supported by a notarized statement by the applicant and a copy of the death certificate or obituary, or jury duty is supported by evidence from the appropriate court. Such request must be made in writing within sixty (60) days from the last day of the examination.

(2) through (9) No change.

(10) The scan sheet for the Laws and Rules Examination must be postmarked by or on July 15. ~~If it is postmarked after July 15 but by or on September 15, a \$100 fee will be imposed by the Board. If it is postmarked between September 16 and December 1, a \$200 fee will be imposed.~~ No Laws and Rules Examination scan sheet will be accepted if it is postmarked after December 1.

(11) through (12) No change.

Specific Authority 455.213(2), 455.219(4), 455.271, 473.305, 473.312 FS. Law Implemented 119.07, 455.219(4), 455.271, 473.305, 473.312, 473.313 FS. History—New 12-4-79, Amended 2-3-81, 3-4-82, 11-6-83, 3-29-84, Formerly 21A-31.01, Amended 6-4-86, 9-16-87, 2-1-88, 8-30-88, 2-6-89, 12-18-89, 12-28-89, 8-16-90, 4-8-92, 12-2-92, Formerly 21A-31.001, Amended 11-4-93, 2-14-95, 11-3-97, 6-22-98, 10-28-98, _____.

NAME OF PERSON ORIGINATING PROPOSED RULE: Board of Accountancy

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

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: April 27, 1999

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: January 22, 1999

DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION

Board of Accountancy

RULE TITLES: Disciplinary Guidelines; Range of Penalties; Aggravating and Mitigating Circumstances
 RULE NOS.: 61H1-36.004

Citations 61H1-36.005

Minor Violation, Notice of Non-Compliance 61H1-36.0055

PURPOSE AND EFFECT: The proposed rules are being amended in order to be in compliance with the underlying statutes.

SUMMARY: Rules 61H1-36.004, 36.005 and 36.0055 are being amended to ensure statutory compliance.

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

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

SPECIFIC AUTHORITY: 455.224, 455.225, 455.225(3), 455.2273, 473.304 FS.

LAW IMPLEMENTED: 455.224, 455.225, 455.2273, 473.3101, 473.323(1)(m) FS.

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

TIME AND DATE: 9:00 a.m., or shortly thereafter, Thursday, June 10, 1999

PLACE: The Doubletree Hotel, 101 South Adams Street, Tallahassee, Florida

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULES IS: Martha Willis, Executive Director, Board of Accountancy, 2610 Northwest 43rd Street, Suite 1-A, Gainesville, Florida 32606

THE FULL TEXT OF THE PROPOSED RULES IS:

61H1-36.004 Disciplinary Guidelines; Range of Penalties; Aggravating and Mitigating Circumstances.

(1) No change.

(2) The following disciplinary guidelines shall be followed by the board in imposing disciplinary penalties upon licensees for violation of the below mentioned statutes and rules:

VIOLATION	PENALTY RANGE	
	MINIMUM	MAXIMUM

(a) through (k) No change.

(l) <u>Licensees practicing in an unlicensed firm (including sole proprietors)</u>	Reprimand and \$100 per month fine
Firm practicing without license	to maximum of \$5,000 and suspension of right to practice until corrected

or otherwise in violation of 473.309, 473.3101, and 473.323(1)(g), F.S.

(m) through (o) No change.

(3) No change.

Specific Authority 455.2273 FS. Law Implemented 455.2273, 473.323(1)(m) FS. History--New 1-7-87, Amended 9-16-87, 8-25-88, 6-18-91, 12-30-91, Formerly 21A-36.004, Amended 12-7-93, 5-23-94, _____.

61H1-36.005 Citations.

(1) through (2) No change.

(3) The following violations with accompanying fines may be disposed of by citation:

(a) No change.

(b) Licensees practicing in an unlicensed firm (including sole proprietors)
~~Firm practicing without license~~
or otherwise in violation of 473.309, ~~473.323(1)(g)~~, 473.3101, and ~~473.323(1)(g)~~, F.S.

Reprimand and \$100 per month fine to maximum of \$5,000 and suspension of right to practice until corrected.

(c) No change.

(4) through (5) No change.

Specific Authority 455.224, 455.225, 473.304 FS. Law Implemented 455.224 FS. History--New 12-30-91, Formerly 21A-36.005, Amended 12-7-93, 5-23-94, _____.

61H1-36.005 Minor Violation, Notice of Non-Compliance.

(1) No change.

(2) The following violations are minor violations for which the Department may issue a notice of non-compliance:

(a) through (b) No change.

(c) Licensees practicing in a firm which was not licensed
~~Failure of a firm to become licensed~~ within three months of the date the firm began doing business. Any late fees shall still apply.

(d) through (h) No change.

(3) No change.

Specific Authority 455.225(3), 473.304 FS. Law Implemented 455.225, 473.3101 FS. History--New 10-15-97, Amended 7-16-98, _____.

NAME OF PERSON ORIGINATING PROPOSED RULE: Board of Accountancy

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

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: April 27, 1999

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: January 22, 1999

DEPARTMENT OF ENVIRONMENTAL PROTECTION

DOCKET NO: 99-15R

RULE TITLE: Federal Regulations Adopted by Reference
RULE NO.: 62-204.800

PURPOSE, EFFECT AND SUMMARY: The proposed rule amendments update through March 31, 1999, the adoptions by reference of air pollution regulations promulgated by the U.S. Environmental Protection Agency (EPA) at 40 CFR Parts 60, 61, and 63.

SPECIFIC AUTHORITY: 403.8055 FS.

LAW IMPLEMENTED: 403.031, 403.061, 403.087, 403.8055 FS.

THIS RULEMAKING IS UNDERTAKEN PURSUANT TO SECTION 403.8055, FS.

SUBSTANTIALLY AFFECTED PERSONS MAY FILE OBJECTIONS WITH THE ENVIRONMENTAL REGULATION COMMISSION AT THE FOLLOWING ADDRESS: 3900 Commonwealth Boulevard, Mail Station 18, Tallahassee, Florida 32399-3000, Attention: Jacki McGorty. Objections must be received within 14 days of publication of this notice and must specify the portions of the proposed rule to which the person objects and the reason for the objection. Objections, which are frivolous, will not be considered sufficient to prohibit adoption of the rule as published.

WRITTEN COMMENTS: The Secretary of the Department of Environmental Protection will consider written comments received within 21 days of publication of this notice. Comments should be submitted to Ms. Sandy Ladner, Division of Air Resource Management, Department of Environmental Protection, 2600 Blair Stone Road, MS 5500, Tallahassee, Florida 32399-2400

THE FULL TEXT OF THE PROPOSED RULE IS:

62-204.800 Federal Regulations Adopted by Reference.

(7) Chapter 40, Code of Federal Regulations, Part 60, Standards of Performance for New Stationary Sources.

(b) Standards Adopted. The following Standards of Performance for New Stationary Sources contained in 40 CFR Part 60, revised as of July 1, 1996, or later as specifically indicated, are adopted and incorporated by reference:

1. 40 CFR 60, Subpart D, Fossil-Fuel-Fired Steam Generators for Which Construction is Commenced After August 17, 1971, amended February 12, 1999, 64 FR 7458 (effective July 1, 1999).

2. 40 CFR 60, Subpart Da, Electric Utility Steam Generating Units for Which Construction is Commenced After September 18, 1978, amended February 12, 1999, 64 FR 7458 (effective July 1, 1999).

3. 40 CFR 60, Subpart Db, Industrial-Commercial-Institutional Steam Generating Units, amended February 12, 1999, 64 FR 7458 (effective July 1, 1999).

4. 40 CFR 60, Subpart Dc, Small Industrial-Commercial-Institutional Steam Generating Units, amended February 12, 1999, 64 FR 7458 (effective July 1, 1999).

6. 40 CFR 60, Subpart Ea, Municipal Waste Combustors for which Construction is Commenced after December 20, 1989 and on or before September 20, 1994, amended February 12, 1999, 64 FR 7458 (effective July 1, 1999).

13. 40 CFR 60, Subpart J, Petroleum Refineries, amended February 12, 1999, 64 FR 7458 (effective July 1, 1999).

33. 40 CFR 60, Subpart AA, Steel Plants: Electric Arc Furnaces Constructed After October 21, 1974 and on or Before August 17, 1983, amended March 2, 1999, 64 FR 10105 (effective July 1, 1999).

34. 40 CFR 60, Subpart AAa, Steel Plants: Electric Arc Furnaces and Argon-Oxygen Decarburization Vessels Constructed After August 7, 1983, amended March 2, 1999, 64 FR 10105 (effective July 1, 1999).

36. 40 CFR 60, Subpart CC, Glass Manufacturing Plants, amended February 12, 1999, 64 FR 7458 (effective July 1, 1999).

44. 40 CFR 60, Subpart NN, Phosphate Rock Plants, amended February 12, 1999, 64 FR 7458 (effective July 1, 1999).

53. 40 CFR 60, Subpart XX, Bulk Gasoline Terminals, amended February 12, 1999, 64 FR 7458 (effective July 1, 1999).

55. 40 CFR 60, Subpart DDD, Volatile Organic Compound (VOC) Emissions From the Polymer Manufacturing Industry, amended March 9, 1999, 64 FR 11536 (effective July 1, 1999).

68. 40 CFR 60, Subpart SSS, Magnetic Tape Coating Facilities, amended February 12, 1999, 64 FR 7458 (effective July 1, 1999).

72. 40 CFR 60, Subpart WWW, Municipal Solid Waste Landfills, amended February 24, 1999, 64 FR 9258 (effective July 1, 1999).

(d) General Provisions Adopted. The following general subparts of 40 CFR Part 60 are adopted and incorporated by reference:

1. 40 CFR Part 60, Subpart A, General Provisions, amended February 12, 1999, 64 FR 7458 (effective July 1, 1999).

(8) Chapter 40, Code of Federal Regulations, Part 60, Subpart C, Emission Guidelines and Compliance Times.

(c) Municipal Solid Waste Landfills. 40 CFR 60, Subpart Cc, Emission Guidelines and Compliance Times for Municipal Solid Waste Landfills, amended June 16, 1998, 63 FR 32743; amended February 24, 1999, 64 FR 9258 (effective July 1, 1999).

(9) Chapter 40, Code of Federal Regulations, Part 61, National Emission Standards for Hazardous Air Pollutants.

(b) Standards Adopted. The following National Emission Standards for Hazardous Air Pollutants contained in 40 CFR Part 61, revised as of July 1, 1996, or later as specifically indicated, are adopted and incorporated by reference.

7. 40 CFR 61, Subpart L, Benzene Emissions from Coke By-Product Recovery Plants, amended February 12, 1999, 64 FR 7458 (effective July 1, 1999).

8. 40 CFR 61, Subpart M, National Emission Standard for Asbestos, amended February 12, 1999, 64 FR 7458 (effective July 1, 1999).

9. 40 CFR 61, Subpart N, Inorganic Arsenic Emissions From Glass Manufacturing Plants, amended February 12, 1999, 64 FR 7458 (effective July 1, 1999).

(d) General Provisions Adopted. The following general subparts of 40 CFR Part 61 are adopted and incorporated by reference:

1. 40 CFR 61, Subpart A, General Provisions, amended February 12, 1999, 64 FR 7458 (effective July 1, 1999).

(10) Chapter 40, Code of Federal Regulations, Part 63, National Emission Standards for Hazardous Air Pollutants for Source Categories.

(b) Standards Adopted. The following National Emission Standards for Hazardous Air Pollutants contained in 40 CFR Part 63, revised as of July 1, 1996, or later as specifically indicated, are adopted and incorporated by reference:

13. 40 CFR 63, Subpart U, Hazardous Air Pollutant Emissions: Group I Polymers and Resins, amended March 9, 1999, 64 FR 11536 (effective July 1, 1999).

15. 40 CFR Part 63, Subpart X, Hazardous Air Pollutants From Secondary Lead Smelting, amended January 29, 1999, 64 FR 4570 (effective July 1, 1999).

27. 40 CFR 63, Subpart JJJ, National Emission Standards for Hazardous Air Pollutant Emissions: Group IV Polymers and Resins, amended March 9, 1999, 64 FR 11536 (effective July 1, 1999).

(d) General Provisions Adopted. The following general subparts of 40 CFR Part 63 are adopted and incorporated by reference:

1. 40 CFR 63, Subpart A, General Provisions, amended February 12, 1999, 64 FR 7458 (effective July 1, 1999).

Specific Authority 403.061, 403.8055 FS. Law Implemented 403.031, 403.061, 403.087, 403.8055 FS. History—New 3-13-96, Amended 6-25-96, 10-7-96, 10-17-96, 12-20-96, 4-18-97, 6-18-97, 7-7-97, 10-3-97, 12-10-97, 3-2-98, 4-7-98, 5-20-98, 6-8-98, 10-19-98, 4-1-99.

NAME OF PERSON ORIGINATING PROPOSED RULE: Howard L. Rhodes, Director, Division of Air Resource Management

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Kirby B. Green, Deputy Secretary, Department of Environmental Protection

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: February 13, 1998

DEPARTMENT OF ENVIRONMENTAL PROTECTION

DOCKET NO.: 99-04R

RULE CHAPTER TITLE: State Revolving Loan Program for Stormwater Facilities

RULE CHAPTER NO.: 62-504

RULE TITLES: Definitions 62-504.200
General Program Information 62-504.300
Program Administration Costs 62-504.400
Loan Agreements 62-504.430
Funds Reserved for Specific Purposes 62-504.500
Priority List Information 62-504.600
Priority List Management 62-504.680

PURPOSE AND EFFECT: The proposed rule revisions would accomplish three substantive rule changes, update the two forms incorporated in the rule by reference to reflect the proposed rule changes, and clarify existing rule provisions. 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 change in the loan service fee provisions. 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. A deadline would be established for adding projects to an adopted priority list to enable timely disclosure of information to affected parties. Definitions incorporating Forms 62-504.900(1) and (2) would be revised to reflect the proposed rule amendments. Changes to the forms would reflect proposed rule changes. Various rule revisions would clarify existing rule provisions.

SUMMARY: 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 the second loan repayment is due. 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. 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. Definitions of "loan application" and "request for inclusion" incorporating Forms 62-504.900(2) and (1), respectively, would reflect the pending effective date for the proposed rule amendments. Various clarifications of the existing rule would address the loan service fee, grant allocation assessment, capitalized interest rate, and interest rate provisions.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COST: None.

Any person who wishes to provide a proposal for a lower cost regulatory alternative must do so in writing within 21 days of this notice.

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

LAW IMPLEMENTED: 403.1835 FS.

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

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

62-504.200 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) No change.

(3) "Capitalized interest" means interest accruing at the rate of 60% of the 20-Bond GO Index ~~as~~ cited in rule 62-504.430(3), F.A.C., and compounding annually from the time when disbursements are made until six months before the first semiannual loan repayment is due.

(4) through (11) No change.

(12) "Loan application" means Form 62-504.900(2), Loan Application, effective November 11, 1998, which is incorporated herein by reference, for construction loan financial assistance. 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.

(13) through (15) No change.

(16) "Post-allowance project costs" means costs for allowable construction, equipment, materials, demolition, allowable land acquisition under rule 62-504.300(1)(a), F.A.C., contingency, capitalized interest, technical service costs incurred after construction bid opening, and loan repayment reserve, ~~and loan service fee.~~

(17) through (19) No change.

(20) "Request for inclusion" means form 62-504.900(1), Request for Inclusion on the Priority List for Stormwater Facilities, effective [EFFECTIVE DATE], which is incorporated herein 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.

(21) through (25) No change.

Specific Authority 403.1835(5)(a) FS. Law Implemented 403.1822, 403.1835, 403.1836 FS. History--New 11-11-98, Amended.

62-504.300 General Program Information.

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

(a) through (b) No change.

~~(c) Administrative loan service fee charged by the Department under rule 62-504.400, F.A.C.;~~

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

Specific Authority 403.1835(5)(a) FS. Law Implemented 403.1835, 403.1836, 403.1838 FS. History--New 11-11-98, Amended.

62-504.400 Program Administration Costs.

(1) A loan service fee based on a percentage of the total loan amount less the portion of the loan for capitalized interest and loan repayment reserve shall be paid by the local government. The service fee percentage shall be established at the beginning of each fiscal year by the Department for all loans to be executed during that year. 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 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 62-504.500(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 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. A fee based on the adjusted post-allowance project costs shall be paid once as a loan service fee by the loan recipient. The procedures for determining the amount of the loan service fee shall be as set forth in rule 62-503.400(1), F.A.C. The loan service fee shall not be less than 2% nor greater than 4%. Loan service fees shall be adjusted downward, maintaining the previously established fee percentage, if procurement contracts result in a loan decrease.

(2) No change.

Specific Authority 403.1835(5)(a) FS. Law Implemented 403.1835, 403.1836 FS. History—New 11-11-98, Amended.

62-504.430 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 stormwater, water, or 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 adjusted post-allowance project costs. When pledged revenues result from revenues other than those 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 (6) below or increased loan repayment reserves shall be negotiated. Any loan repayment reserve in excess of that based on the 0.03 factor specified above shall be established using local funds.

(2) No change.

(3) The interest rate shall be 30% of the market rate as established using the Thomson Publishing Corporation's "Bond Buyer" 20-Bond GO Index. 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. The market rate used to determine the loan interest rate shall be computed as follows:

(a) through (b) No change.

(4) No change.

(5) The grant allocation assessment rate and the interest rate shall be combined and applied independently 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 grant allocation assessment rate and the interest rate shall be fixed for the principal amount of the loan. The one-to-one relationship between the amount of the grant allocation assessment and the amount of the interest also shall be fixed

for the principal amount of the loan. The combined grant allocation assessment rate and the interest rate shall not exceed the interest rate paid on the last bonds sold pursuant to Section 14, Article VII, State Constitution. Loan repayments will have grant allocation assessment, interest, and principal components.

(6) through (13) No change.

Specific Authority 403.1835(5)(a), 216.349 FS. Law Implemented 403.1835, 403.1836 FS. History—New 11-11-98, Amended.

62-504.500 Funds Reserved for Specific Purposes.

A portion of the annual revenue received in the Sewage Treatment Revolving Loan fund for stormwater facilities loans are reserved for use by small communities. Funds are also reserved to reimburse the Department for its administrative expenses in managing the program. The reserves are addressed in the following:

(1) No change.

(2) Service fees collected for loan program administration under Rule 62-504.400, 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.~~

Specific Authority 403.1835(5)(a) FS. Law Implemented 403.1835, 403.1836 FS. History—New 11-11-98, Amended.

62-504.600 Priority List Information.

Each year, a revised priority list shall be adopted at a public hearing held by the Department. The list becomes effective after adoption, but not before July 1 of the fiscal year for which it is developed. A local government may define a stormwater facilities project as consisting of any combination of facilities that each qualify under rule 62-504.655, 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 priority list shall not be increased to encompass additional work unless such increases have been subject to the prioritization procedures of rule 62-504.650, F.A.C., and either the list development procedures of rule 62-504.655, F.A.C., or the list management procedures of rule 62-504.680, F.A.C., as appropriate.

(1) The Department shall accept a request for inclusion on the next year's priority lists when it is postmarked or delivered between December 1 and February 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 15 deadline for any project previously listed on the planning

portion or contingency portion to qualify for listing on the fundable portion. Procedures for the review of requests for inclusion shall be:

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

Specific Authority 403.1835(5)(a) FS. Law Implemented 403.1835, 403.1836 FS. History—New 11-11-98, Amended.

62-504.680 Priority List Management.

The fundable portion of the project list may be modified as the result of a public hearing as described in subsection (1) below or as a result of an administrative action as described in subsection (2) below. The Department shall modify the contingency portion of the priority list as described in subsection (3) below. Modifications to the planning portion of the priority list shall be pursuant to subsections (4) and (5) below. At the request of a local government, a project shall be rescheduled or withdrawn from the priority list as described in subsection (6) below.

(1) Upon receipt of a written request to conduct a public hearing for the purpose of modifying the project list, the Department shall schedule a public hearing to be held within 90 days for the purpose of assigning additional funds to projects on the fundable portion and adding projects to the bottom of the fundable portion if unassigned funds are available and the requirements of this subsection are met. Requests shall include the information identified below and shall be submitted to the Department of Environmental Protection, Bureau of Water Facilities Funding, MS 3505, 2600 Blair Stone Road, Tallahassee, Florida 32399-2400 before the date on which the public notice for the hearing appears in the Florida Administrative Weekly. Previously funded projects, projects currently on the fundable portion, projects advancing from the contingency portion, projects listed on the previous year’s planning portion, and other projects not previously described represent different preference groupings listed in descending order of funding preference. Projects shall be subranked according to priority score within each preference grouping. Projects categorized in paragraphs (a) and (b) below and having equal priority scores within a preference grouping shall be further subranked in order of the date of postmark or delivery to the Department, whichever is earlier, of the request for additional funds assignment or for the addition of a project to the fundable portion. However, additional funds shall not be assigned to any segmented project nor shall funds be assigned to any additional project sponsored by a local government that has already received the maximum funding assignment allowed for the fiscal year unless additional state or federal appropriations have been made which increase the estimate, made at the time of list adoption, of the funds available.

- (a) through (6) No change.

Specific Authority 403.1835(5)(a) FS. Law Implemented 403.1835, 403.1836 FS. History—New 11-11-98, Amended.

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: David B. Struhs, 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: May 3, 1999

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: March 12, 1999

DEPARTMENT OF ENVIRONMENTAL PROTECTION

DOCKET NO.: 98-85R

RULE CHAPTER TITLE: Small Community Wastewater
 RULE CHAPTER NO.: 62-505

Facilities Grants	62-505
RULE TITLES:	RULE NOS.:
Definitions	62-505.200
General Program Information	62-505.300
Priority Determination	62-505.650

PURPOSE AND EFFECT: The proposed rule revisions would accomplish four objectives and would update, to reflect the proposed rule changes, the two forms incorporated in the rule by reference. The rule provisions for eligibility for participation in the grant program would enable use of 1990 data (and 2000 data after the turn of the century) until such time as more current data becomes available. The current decennial census data may not be available during the period that the project list is to be developed in the year for which new decennial census data is to be made available. The provision that would limit State Revolving Fund loans, under rule chapter 62-503, F.A.C., to the non-grant funded share of the post-allowance (construction related) project cost portion of the total project cost would avoid situations where the project sponsor might have to qualify for a pre-construction loan before any pre-construction allowances under a grant could be disbursed. However, the pre-construction allowances probably would be necessary to get the work completed to qualify for such a loan. Therefore, pre-construction loan funding would not be a likely source of the non-grant share of the pre-construction costs. The provision that a project sponsor must obtain a binding commitment for the non-grant share of the project costs within a reasonable time after execution of a grant agreement would ensure that grant funding would result in timely project completion. No grant disbursements would be made prior to the grant recipient’s securing the non-grant share of project costs in order to avoid grant recovery in the event the non-grant share cannot be obtained. The flow factor component of the priority system would be established using

smaller units of measurement to enable greater differentiation between project priority scores. This is necessary because a difference in flows in the small facilities might not be significant using larger units of measurement.

SUMMARY: The community population and income data used to determine eligibility for participation in the grant program would be based on the latest published decennial census data. The definitions that incorporate Forms 62-505.900(1) and (2) into rule chapter 62-505, F.A.C., would provide for the effective date of the proposed rule revision. The forms track the proposed changes to the rule. Only post-allowance project costs would be allowable for loan funding under rule chapter 62-503, F.A.C. A commitment for the non-grant share of project costs must be secured within 180 days of grant execution and before any grant funds are disbursed. The number of decimal places used to document the flow factor component of the priority score would be increased from two to four so that a flow differential of one hundred gallons per day would be significant. The flow factor formula would be altered such that the base flow factor would increase by one ten-thousandth for each 100-gallon increase in flow.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COST: None.

Any person who wishes to provide a proposal for a lower cost regulatory alternative must do so in writing within 21 days of this notice.

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

LAW IMPLEMENTED: 403.1835 FS.

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

TIME AND DATE: 9:00 a.m., June 24, 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:

62-505.200 Definitions.

For purposes of this rule:

(1) through (4) No change.

(5) "Financially disadvantaged small community" or "disadvantaged community" shall mean, for the purposes of financially disadvantaged small community grant funding, a municipality which according to the latest published U.S.

Department of Commerce decennial census had a total population of 7,500 or less and a per capita annual income less than the state per capital annual income. Data may be obtained from the State Data Center, 200 Hartman Building, 2012 Capital Circle, Southeast, Tallahassee, Florida 32399-2151.

(6) through (8) No change.

(9) "Grant application" means Form 62-505.900(2), Grant Application, effective _____ ~~November 30, 1998~~, which is incorporated herein 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.

(10) through (15) No change.

(16) "Request for inclusion" means form 62-505.900(1), Request for Inclusion on the Priority List for Wastewater Facilities Grants, effective _____ ~~November 30, 1998~~, which is incorporated herein 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.

(17) through (20) No change.

Specific Authority 403.1838(3)(a)(b) FS. Law Implemented 403.1835, 403.1838 FS. History--New 11-30-98, Amended.

62-505.300 General Program Information.

(1) through (6) No change.

(7) The portion of the post-allowance project costs that is not funded by a disadvantaged community grant or a rural hardship community grant shall be allowable for loan funding under rule chapter 62-503, F.A.C. However, the project sponsor must obtain a separate fundable portion listing for loan funding under rule chapter 62-503, F.A.C.

(8) through (9) No change.

(10) A project sponsor shall obtain, within 180 days of grant agreement execution, a binding commitment for the non-grant share of the project costs described in, and to be incurred under, the grant agreement if such funds are not available at the time of grant application. No grant disbursements shall be made before the non-grant share has been secured.

Specific Authority 403.1838(3)(a)(b) FS. Law Implemented 403.804, 403.1835, 403.1838 FS. History--New 11-30-98, Amended.

62-505.650 Priority Determination.

The project priority score is determined based upon public health as well as surface and ground water pollution considerations. 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 priority water body

identified in an adopted Surface Water Improvement and Management (SWIM) Plan. The project priority score shall be rounded to the nearest one ten-thousandth (0.0001) of a point.

(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, a minimum flow factor of ~~5.0000, corresponding to a flow of 0.05 million gallons per day, and a maximum flow factor of 5.71, corresponding to a flow of one million gallons per day,~~ shall be used. Flow factors for any flow not listed below may be determined by interpolating between the data tabulated below or by using the formula:

$$\text{Flow factor} = 5.0000 + \frac{[0.752 - X (\text{flow in } \text{million gallons per day}) / 1.000,000]}{1.000,000}$$

<u>Flow (million gallons per day)</u>	<u>Flow Factor</u>
100 1.00 and greater	5.0001 5.71
1,000 0.75	5.0010 5.53
10,000 0.50	5.0100 5.34
100,000 0.25	5.1000 5.15
1,000,000 0.05 and less	6.0000 5.00

(3) No change.

Specific Authority 403.1838(3)(a),(b), 403.1835(7) FS. Law Implemented 403.1835, 403.1838 FS. History--New 11-30-98, Amended.

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: David B. Struhs, 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: May 3, 1999

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: December 18, 1998

DEPARTMENT OF ENVIRONMENTAL PROTECTION

DOCKET NO.: 98-86R

RULE CHAPTER TITLE:	RULE CHAPTER NO.:
State Revolving Fund Program for Drinking Water Facilities	62-552
RULE TITLES:	RULE NOS.:
Definitions	62-552.200
General Program Information	62-552.300
Pre-construction Loans for Rate-Based Community Water Systems	62-552.350
Pre-construction Grants for Financially Disadvantaged Communities	62-552.360

Construction Grants for Financially Disadvantaged Communities	62-552.370
Program Administration Costs	62-552.400
Project Allowances	62-552.420
Construction Loans for Rate-Based Community Water Systems	62-552.430
Funds Reserved for Specific Purposes Priority Determination	62-552.500 62-552.650
Forms for the State Revolving Fund Program for Drinking Water Facilities	62-552.900

PURPOSE AND EFFECT: The proposed rule revisions would accomplish several objectives. Limitations on land purchase costs would preclude the subsidized purchase, using State Revolving Fund (SRF) funds, of property that might be acquired for purposes in addition to that of siting community water systems. This would conserve program funds for community water system needs. The limitation that State Revolving Fund assistance is available only for improving existing (as opposed to new) community water systems would be eliminated to reflect the change in EPA policy governing the SRF program. The maximum repayment period for pre-construction loans that do not result in construction loans would be shortened to avoid long term administration of relatively small loans. Pre-construction loans would not be made available for the non-grant portion of projects to avoid potential delays in initiating projects while loan applicants develop the financial planning necessary to qualify for an SRF loan. The proposed requirement for a project sponsor to obtain a timely commitment for the non-grant share of project costs would minimize delays in project implementation and thereby enable efficient use of program funding. Withholding grant disbursements until the commitment is obtained would minimize grant recoveries in the event problems in obtaining the non-grant share are encountered. Clarification would be provided regarding the eligibility and prioritization of projects that have public health risk components. The procedure for assessing loan service fees would be modified to establish procedural uniformity with the SRF program administered under the Amended Clean Water Act and to facilitate access to the administrative funds necessary to operate the SRF program for drinking water facilities. There would be no increase in the loan service fee authorized under the proposed rule, and there would be no increase in the loan repayments resulting from the proposed rule change. Collected loan service fees would be used solely to administer the financial assistance programs of the Bureau of Water Facilities Funding to protect the integrity of the SRF programs. Project allowances would no longer reflect the costs associated with the acquisition of property or water supply capacity in order to bring the funding benefits more in line with required planning, design, and administrative activities. Clarification would be made as to grant and loan shares of project costs funded with both types of financial assistance. Clarification would be made as to the eligibility of engineering and administrative allowances for projects funded

with pre-construction and, subsequently, with construction financial assistance in order to preclude double funding benefits. The maximum project cost upon which allowances are based would be increased regardless of whether regionalization or consolidation would occur. While this could decrease the amount of funds available for other projects, it would significantly simplify the program by eliminating different maximums applicable to different situations. Clarifications would be made as to the conditions under which increases to allowances would be made. The procedures for adjusting allowances affected by the maximum project cost upon which pre-construction project allowances are based would be established. Clarification would be made as to the appropriate grant percentage to be used in conjunction with adjustments, if any, to allowances when construction grant projects are funded. More options would be provided to secure loans to allow consideration of loan applicants that have not demonstrated the ability to service long-term debt or for whom limited default remedies would be available. This would serve to protect the interests of the State while enabling loan assistance to applicants with potentially higher risks of loan default. It also would avoid situations where a loan would be denied because the existing security provisions would not be adequate to ensure loan repayment.

SUMMARY: The cost of acquiring land would be limited to the fair market value of the property necessary for locating project facilities. The limitation that State Revolving Fund assistance would be available only for improving existing community water systems would be eliminated. The maximum repayment period for pre-construction loans would be 10 years. However, the pre-construction loan balance may be rolled-over into a construction loan and repaid over a period as long as 30 years if the pre-construction activities are properly completed. Pre-construction loans would not be available to supplement pre-construction grants. Project allowances included in a pre-construction loan or grant would be limited to a maximum estimated post-allowance project cost of \$2 million. A binding commitment for the non-grant share of project costs would have to be obtained within 180 days of the grant agreement. The existing public health risk priority requirement for construction grant funding of projects and project components would be clarified. Clarification also would be provided that a compliance priority component of a project that also has a separate public health risk priority component may be funded with a construction grant, but only after all public health risk projects and components of all projects have been so funded. The compliance priority components for each project would be individually ranked for construction grant funding based on priority considerations for each compliance component standing by itself, regardless of the relative costs of project components. A further clarification would be made that project components to which an "other" priority is assigned are not eligible for construction grant funding. Clarification would be made that pre-construction projects, involving either a grant or

a loan, would be funded if any part of the project would eliminate a public health risk. However, after the pre-construction assistance, the "umbrella" public health risk priority no longer would apply to subsequent construction project funding. Loan service fees would no longer be capitalized as part of the SRF loan principal. The fee would be assessed after execution of the loan agreement, and either paid at that time or paid with accrued interest by the due date of the second scheduled loan repayment. The collected fees would be used solely to administer the financial assistance programs of the Bureau of Water Facilities Funding. Allowances for the planning, design and administration of projects would not reflect the costs associated with the acquisition of property or water supply capacity. Clarification would be made that allowances that are to be included in a construction assistance agreement preceded by a pre-construction assistance agreement would be limited to the incremental difference, if any, between the available allowances. Clarification would be made that when both grant and loan assistance is given, the loan assistance amount would be determined after determining the grant assistance amount. Allowances under pre-construction assistance agreements would be limited to a post-allowance project cost of \$2,000,000 regardless of whether consolidation or regionalization is involved. Clarification would be made that increases to allowances initially provided under pre-construction assistance agreements are available only after projects have been planned and designed according to such agreements. Further, increases would be available only in conjunction with a construction assistance agreement. Allowance adjustments would be made after execution of the last procurement contract covered by the scope of work described in the construction assistance agreement. The grant funding percentage for engineering and administrative allowance adjustments would be at 85% for projects having post-allowance project costs not exceeding \$2,000,000. The grant funding percentage for engineering and administrative allowance adjustments would be at 65% or 85%, depending on the median household income and financial burden ratio, for projects having post-allowance project costs exceeding \$2,000,000. More options would be provided to secure loans in situations where the ability to service long-term debt has not been demonstrated or limited default remedies would be available. These options would include requiring additional reserve funds, liens on assets, special personal or corporate debt service obligations, debt guarantees, or other equivalent options that would ensure debt repayment. Forms 62-552.900(1) through (3) would be updated to reflect the proposed rule changes. There would be other clarifications and reorganizations of rule provisions to track the proposed rule revisions regarding loan service fees, pre-construction loan roll-over, criteria for obtaining 65% and 85% grant funding levels, loan agreement security features, project allowances, project allowance adjustments, and priority for grant funding.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COST: None.

Any person who wishes to provide a proposal for a lower cost regulatory alternative must do so in writing within 21 days of this notice.

SPECIFIC AUTHORITY: 403.8532 FS.

LAW IMPLEMENTED: 403.8532, 403.804 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., June 11, 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)55-8771 (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:

62-552.200 Definitions.

For purposes of this rule chapter:

(1) through (2) No change.

(3) "Adjusted post-allowance project costs" means the costs associated with post-allowance project activities for a project that will qualify for construction loan or construction grant funding. Capitalized interest, and loan repayment reserve, ~~and loan service fee costs~~ pertain to loans only, and such costs for loan funded projects are excluded from adjusted post-allowance project costs.

(4) through (24) No change.

(25) "Post-allowance project costs" means allowable costs for post-allowance activities and contingency and, for projects to be funded with loans, capitalized interest, and loan repayment reserve, ~~and loan service fee~~.

(26) through (37) No change.

Specific Authority 403.8532, 403.852 FS. Law Implemented 403.8532 FS. History--New 4-7-98, Amended 8-10-98,_____.

62-552.300 General Program Information.

(1) through (2) No change.

(a) Land, including easements and rights-of-way, that will be acquired from a willing seller and is necessary for the location of the facilities to be funded. Funding of an acquisition shall be limited to the fair market value of the property necessary to locate the project facilities thereon including mandatory set-backs and buffer areas. However, the

cost of acquisition shall not be included in the adjusted post-allowance project cost for the purpose of establishing allowances under rule 62-552.420, F.A.C.;

~~(b) Administrative loan service fee charged by the Department under rule 62-552.400, F.A.C.;~~

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

~~(l)(m)~~ Acquiring all or part of an existing public water system from a willing seller as part of a consolidation or regionalization project. Funding of an acquisition shall be limited to the fair market value. However, the cost of acquisition shall not be included in the adjusted post-allowance project cost for the purpose of establishing allowances under rule 62-552.420, F.A.C.; and

~~(m)(n)~~ Capacity purchase in an existing public water system. However, the cost of capacity purchase shall not be included in the adjusted post-allowance project cost for the purpose of establishing allowances under rule 62-552.420, F.A.C.

(3) through (3)(f) No change.

(g) Any project sponsored by a for-profit private owner or investor-owner entity of a community water system that regularly serves 1,500 service connections or more within the a single certified or franchised area in which the project will be located unless such project will result in the consolidation of the project sponsor's public water system and at least one additional public water system;

(h) through (j) No change.

(4) through (5) No change.

(6) The repayment period for loans under this rule chapter and the Act shall be limited as follows:

(a) Construction loans shall be repaid in no more than 20 years except for loans to project sponsors qualifying as financially disadvantaged communities. The 30-year limitation established under section 403.8532, F.S., shall be available only for construction loans for projects to serve financially disadvantaged communities.

(b) Pre-construction loans shall be repaid in no more than 10 years. However, when construction loans are executed to finance the facilities planned and designed under a pre-construction loan, the project sponsor shall have the option to convert the repayment period to the repayment period negotiated for the construction loan.

(7) through (12) No change.

~~(13) Loans secured by rate-based revenues and grants for financially disadvantaged communities shall be available only to project sponsors for the improvement of existing community water systems.~~

Specific Authority 403.8532 FS. Law Implemented 403.804, 403.8532 FS. History--New 4-7-98, Amended 8-10-98,_____.

62-552.350 Pre-construction Loans for Rate-Based Community Water Systems.

Funding of pre-construction loans for planning, engineering, and administrative allowances shall be made only to project sponsors having rate-based community water systems for projects which have a public health risk priority component under rules 62-552.650(4)(a) through (d), F.A.C. A pre-construction loan shall not be available as a supplement to a pre-construction grant. A pre-construction loan project sponsor must qualify as a small community unless the project priority is based, in part, on consolidation or regionalization under rule 62-552.650(5)(c), F.A.C. Pre-construction loans shall be available only after a listing on the fundable portion of the priority list has been obtained, a complete loan application has been submitted to the Department, and execution of a loan agreement for which the Department shall have the primary responsibility for drafting and settling of terms. Pre-construction loans shall be available before the completion of project planning.

(1) The maximum estimated adjusted post-allowance project costs, for the purpose of establishing upon which the allowances shall be based shall be limited to \$2,000,000 \$1,000,000 unless the project priority is based, in part, on consolidation or regionalization under rule 62-552.650(5)(c), F.A.C., in which case the maximum shall be limited to \$1,500,000.

(2) through (4) No change.

(5) Loan agreements shall provide for the following:

(a) The loan repayment reserve, semiannual loan repayment, interest rate determination, loan service fee, loan security features, escrow account, pledged revenue coverage, legal affirmation, assurances of compliance with SRF program requirements, disbursement, and annual certification requirements of rule 62-552.430, F.A.C.

(b) through (e) No change.

(f) A project sponsor shall be entitled to roll over the pre-construction loan principal into a construction loan when a project to be funded with such an additional completion loan has been planned and designed according to the schedule incorporated into a pre-construction loan agreement and the project has been included on the fundable portion of the priority list for a construction loan. However, the loan service fee, if included in the principal of the pre-construction loan, shall not be rolled over into the principal of the construction loan. The loan service fee for both the pre-construction and construction portions of the total loan principal shall be applied as described under rule 62-552.400(1), F.A.C.

Specific Authority 403.8532 FS. Law Implemented 403.8532 FS. History—New 8-10-98, Amended _____.

62-552.360 Pre-construction Grants for Financially Disadvantaged Communities.

Grants shall be available only after a listing on the fundable portion of the priority list has been obtained, a complete grant application has been submitted to the Department, and a grant agreement has been executed. Pre-construction grants shall be available before the completion of project planning.

(1) through (2) No change.

(3) Pre-construction grants for financially disadvantaged communities shall be for 85% of the allowances under rule 62-552.420, F.A.C., unless a lesser amount is requested by the project sponsor.

(4) through (6) No change.

(7) Pre-construction grants shall be subject to the requirements and limitations of rules 62-552.370(1)(j), (2), (3), F.A.C.

Specific Authority 403.8532 FS. Law Implemented 403.8532 FS. History—New 8-10-98, Amended _____.

62-552.370 Construction Grants for Financially Disadvantaged Communities.

Grants shall be available only to project sponsors that qualify as financially disadvantaged communities. Additionally, projects must meet the financial burden, benefit limitation, and priority criteria under this rule section. Grants shall be available only after a listing on the fundable portion of the priority list has been obtained, a complete grant application has been submitted to the Department, and a grant agreement has been executed.

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

~~(b)1-~~ The grant funding shall not exceed 85% of any allowance under rule 62-552.420, F.A.C., and the estimated post-allowance project costs when the median household income is below 80% of the statewide average not more than and the financial burden ratio is at least 0.5% as established that stated as the criteria under rule 62-552.200(14)(b)2-, F.A.C.

~~(c)2-~~ The grant funding shall not exceed 65% of any allowance under rule 62-552.420, F.A.C., and the estimated post-allowance project costs when the following conditions have been met:

~~1.a-~~ The median household income is at least 80% of the statewide average but less not more than the statewide average and the financial burden ratio is at least 1.0% that stated as the criteria as established under rule 62-552.200(14)(b)1-, F.A.C., or

~~2.b-~~ The median household income is below 80% of the statewide average not more than that stated as the criterion under rule 62-552.200(14)(b)2-, F.A.C., without regard to and the financial burden ratio is less than 0.5% as established under rule 62-552.200(14)(b), F.A.C.

(b) through (d) renumbered (e) through (g) No change.

~~(h)(e) Grants shall be awarded only for projects and for project components to which a public health risk has been assigned and components thereof, regardless of cost, to which a public health risk or compliance priority is assigned under rules 62-552.650(4)(a) through (d)(e), F.A.C. When a multiple component project has both public health risk and compliance priority components, project components to which compliance priorities have been assigned under rule 62-552.650(4)(e), F.A.C., may be grant funded. The grant funding of project components having compliance priorities under rule 62-552.650(4)(e), F.A.C., shall be subject to the following considerations:~~

~~1. through 2. No change.~~

~~3. No project component to which an "other" priority has been assigned under rule 62-552.650(4)(f), F.A.C., shall be eligible for grant funding.~~

~~(f) renumbered (i) No change.~~

~~(j) A project sponsor shall obtain, within 180 days of grant agreement execution, a binding commitment for the non-grant share of the project costs described in, and to be incurred under, the grant agreement if such funds are not available at the time of grant application. No grant disbursements shall be made before the non-grant share has been secured.~~

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

Specific Authority 403.8532 FS. Law Implemented 403.8532 FS. History—New 8-10-98, Amended _____.

62-552.400 Program Administration Costs.

~~(1) A loan service fee based on a percentage 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 once as a loan service fee by the loan recipient. The service fee percentage shall be established at the beginning of each fiscal year by the Department for all loans to be executed during that year. 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. Projections of loan program administration costs over a period of five (5) years 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 62-552.500(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 1% below the Thomson Publishing Corporation's "Bond Buyer" 20-Bond GO Index average weekly yield for the full weeks during the~~

January 1 to March 31 calendar year quarter immediately preceding the fiscal year for which the loan service fee is being established. The fee percentage authorized shall be not more than that required 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 (2) 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 0.1%. However, the loan service fee shall not be less than 2% nor greater than 4%. Loan service fees shall be adjusted downward if procurement contracts result in a loan decrease.

~~(2) No change.~~

Specific Authority 403.8532 FS. Law Implemented 403.8532 FS. History—New 4-7-98, Amended _____.

62-552.420 Project Allowances.

Certain allowances shall be included in the allowable project cost at the request of the project sponsor. ~~However, the costs of acquiring land, including easements and rights-of-way; acquiring existing public water systems; and purchasing capacity in an existing public water system shall be excluded from the adjusted post-allowance project costs for the purpose of establishing allowances.~~ Allowances shall be used in lieu of reimbursement for incurred costs. When administrative and engineering allowances are disbursed under a pre-construction loan or pre-construction grant, the project sponsor shall be ineligible to receive the same allowances ~~disbursements~~ under a construction loan or construction grant for the same project. ~~The amount of the disbursements under a construction assistance agreement shall be established by subtracting the amount previously disbursed under a pre-construction agreement from that allowable under the construction assistance agreement. When a construction project is funded with a combination of a grant and a loan, the financial assistance shall have both grant and loan components. The grant percentage established under rule 62-552.370(1)(b) or (c), F.A.C., shall be applied to each allowance to determine the grant portion under such combined grant and loan assistance. The loan portion of administrative and engineering allowances shall be for the remainder after subtracting the grant portion from the total of each allowance. There shall be no loan portion for a planning allowance since no pre-construction loans shall be made in conjunction with pre-construction grants.~~

~~(1) The allowance for administrative expenses not exceed the following:~~

~~(a) For pre-construction loans and pre-construction grants construction loans, the allowance shall not exceed 0.6% of the adjusted post-allowance project costs. The maximum allowance that may be requested for projects with adjusted post-allowance project costs less than \$2,000,000 shall be \$12,000 regardless of the adjusted post-allowance project costs.~~

(b) For ~~pre-construction grants~~ construction loans and construction grants, the allowance shall not exceed ~~85% of~~ 0.6% of the adjusted post-allowance project costs. However, the maximum allowance that may be requested for projects with adjusted post-allowance project costs not exceeding \$2,000,000 shall be \$12,000 less than \$1,000,000 shall be 85% of \$6,000.

(c) For ~~construction grants~~, the allowance shall not exceed the amount determined using the appropriate grant percent, listed under rule 62-552.370(1)(a), F.A.C., of ~~0.6% of the adjusted post-allowance project costs.~~ The maximum allowance that may be requested for projects with adjusted post-allowance project costs less than \$1,000,000 shall be \$5,100 for 85% grants or \$3,900 for 65% grants the above-referenced appropriate grant percent of \$6,000.

(2) The allowance for engineering work performed before construction bid opening shall not exceed the following:

(a) For pre-construction loans and pre-construction grants, the allowance shall not exceed the larger of the allowance listed under "Engineering Amount" for the range in costs or the amount calculated using the percentage listed under "Engineering Amount" multiplied by the estimated adjusted post-allowance project costs ~~or the minimum engineering amount listed for the range in costs as given in the table below.~~ The amount of the allowance shall be subject to the adjusted post-allowance project costs limitation of \$2,000,000 under rule 62-552.350(1) or 62-552.360(6), F.A.C., respectively.

<u>Adjusted Post – allowance Project Costs</u>	<u>Engineering Amount</u>
Less than \$500,000	10.3% or \$21,000
At least \$500,000 but less than \$1,000,000	8.5% or \$52,000
At least \$1,000,000 but less than \$2,000,000 <u>\$5,000,000</u>	7.5% or \$85,000
<u>At least \$2,000,000 but less than \$5,000,000</u>	<u>6.8% or \$150,000</u>
At least \$5,000,000 but less than \$10,000,000	6.4% or \$375,000
At least \$10,000,000 but less than \$50,000,000	6.0% or \$640,000
At least \$50,000,000	5.7% or \$3,000,000

(b) For construction loans and construction pre-construction grants, the allowance shall not exceed the ~~larger of the allowance amount calculated using the percentage listed under "Engineering Amount" for the range in costs or the amount calculated using the percentage listed under "Engineering Amount"~~ multiplied by the estimated adjusted post-allowance project costs ~~or the minimum engineering amount listed for the range in costs as given in the table under paragraph (a) above.~~

(c) For ~~construction grants~~, the allowance shall not exceed the larger amount determined using the appropriate grant percent, identified under rule 62-552.370(1)(a), F.A.C., of the amount calculated using the percentage listed under "Engineering Amount" multiplied by the estimated adjusted post-allowance project costs ~~or the minimum engineering amount listed for the range in costs as given in the table under paragraph (a) above.~~

(3) The allowance for planning work under a pre-construction loan or a pre-construction grant shall be independent of other allowances for engineering work and administrative expenses under this rule section. The amount of the allowance shall be subject to the adjusted post-allowance project costs limitation of \$2,000,000 under rule 62-552.350(1) or 62-552.360(6), F.A.C., respectively. The planning allowance shall not exceed the following:

(a) For ~~pre-construction loans~~, the allowance shall not exceed the larger of the allowance listed under "Planning Amount" for the range in costs or the amount calculated using the percentage listed under "Planning Amount" multiplied by the estimated adjusted post-allowance project costs ~~or the minimum planning amount listed for the range in costs as given in the table below:~~

<u>Adjusted Post-allowance Project Costs</u>	<u>Planning Amount</u>
Less than \$1,000,000	4.4% or \$15,000
At least \$1,000,000 but not more than \$2,000,000 <u>\$1,500,000</u>	3.9% or \$44,000

~~(b) For pre-construction grants, the allowance shall not exceed the larger of the amount determined using 85% of the amount calculated using the percentage listed under "Planning Amount" multiplied by the estimated adjusted post-allowance project costs or the minimum planning amount listed for the range in costs as given in the table under paragraph (a) above.~~

(4) No change.

(5) Increases to allowances shall be subject to the procedures for obtaining a priority for funding under either rule 62-552.655 or 62-552.680(1), F.A.C., and to the following:

(a) There shall be no increase in the amount of a planning allowance.

~~(b)(6)~~ An increase, if requested, to the administrative or engineering allowance shall be according to the following:

1. An increase in an allowance initially included in a pre-construction loan or pre-construction grant shall be available only when a project has been planned and designed according to the schedule incorporated into a pre-construction assistance agreement and only made in conjunction with a construction loan or construction grant that provides funding for facilities designed under the pre-construction loan or pre-construction grant. The amount of an allowance increase shall be established by subtracting the allowance based upon the originally estimated costs for post-allowance activities documented in the pre-construction assistance agreement application from the allowance based upon the adjusted post-allowance project costs established upon execution of the final procurement contract for which the design was funded under the pre-construction assistance agreement. The costs included in such final adjusted post-allowance project costs shall be in the award amount(s) for the construction related contract(s) included in the project scope as described in the construction assistance agreement, regardless of whether project funding has been segmented under rule 62-552.500(1)(d) or 62-552.600(1)(b), F.A.C. ~~estimated costs~~

~~for post-allowance activities documented in the completed water facilities plan subject to adjustment under paragraph (b) below.~~

~~a. When an increase in post-allowance project costs occurs for a project funded first with a pre-construction grant that has not been limited by the \$2,000,000 maximum adjusted post-allowance project costs imposed by rule 62-552.360(6), F.A.C., and then funded with a construction grant for any part of the project, an increase to grant participation in engineering and administrative allowances shall be made at the 85% grant participation level for that part of the project being funded with the construction grant.~~

~~b. When an increase in post-allowance project costs occurs for a project funded first with a pre-construction grant that has been limited by the \$2,000,000 maximum adjusted post-allowance project costs imposed by rule 62-552.360(6), F.A.C., and then funded with a construction grant for any part of the project, an increase to grant participation in engineering and administrative allowances shall be made at the construction grant participation level for that part of the project being funded with the construction grant.~~

~~c. When a project funded first with a pre-construction grant that has been limited by the \$2,000,000 maximum adjusted post-allowance project costs imposed by rule 62-552.360(6), F.A.C., and then is funded with a construction grant for any part of the project, grant participation in that part of the engineering and administrative allowances previously disallowed by the \$2,000,000 maximum shall be available on request. Such grant funding shall be made at the construction grant participation level for that part of the project being funded with the construction grant.~~

~~2. An increase in an allowance initially included in a construction loan or construction grant shall be available when the amount of all construction related contract awards exceeds the estimate documented in the construction assistance agreement. The amount of an allowance increase shall be established by subtracting the allowance based upon the originally estimated costs for post-allowance activities documented in the construction assistance agreement from the allowance based upon the adjusted post-allowance project costs established upon execution of the final procurement contract. The costs included in such final adjusted post-allowance project costs shall be in the award amount for the construction related contracts included in the project scope as described in the construction assistance agreement, regardless of whether project funding has been segmented under rule 62-552.500(1)(d) or 62-552.600(1)(b), F.A.C.~~

~~(b) An adjustment in the allowances initially included in a construction loan or construction grant shall be made to reflect adjusted post-allowance project costs established upon execution of procurement contracts. Any increase to allowances shall be subject to the procedures of either rules 62-552.655 or 62-552.680(1), F.A.C.~~

~~(6)(7) A Decreases to allowances shall be made by amendment to the financing agreement which the Department shall prepare and provide to the project sponsor for execution subject unilaterally by the Department according to the following:~~

~~(a) Decreases to allowances established under pre-construction grants or pre-construction loans shall be made by amendment to the financing agreement which the Department shall prepare and provide to the project sponsor for execution. The amount of the any decrease under pre-construction grants or pre-construction loans shall be established as follows:~~

~~1. When planning is not completed as required by a financing agreement, the amount of the decrease shall be established by eliminating all remaining undisbursed allowances from the pre-construction grant or pre-construction loan amount.~~

~~2. When planning is completed but facilities are not designed as required by a financing agreement, the amount of the decrease shall be established as the engineering allowance for the incomplete design work based on the estimated adjusted post-allowance costs documented in the completed facilities plan. The decrease shall be applied to all remaining undisbursed allowances under the pre-construction loan or pre-construction grant. If necessary, the decrease shall be recovered in conjunction with a construction loan or construction grant that provides funding for any part of the designed facilities. Allowances are subject to further adjustment under paragraph (6)(b) below above.~~

~~(b) The amount of any dDecreases to allowances established under construction grants or construction loans shall be made by amendment to the financing agreement which the Department shall prepare and provide to the project sponsor for execution. The amount of the decrease shall be established under paragraph (6)(b) above, by subtracting the allowance based upon the adjusted post-allowance project costs established upon execution of the final procurement contract from the allowance based upon the originally estimated costs for post-allowance activities documented in the construction assistance agreement. The costs included in such final adjusted post-allowance project costs shall be in the award amount for construction related contracts included in the project scope as described in the construction assistance agreement, regardless of whether project funding has been segmented under rule 62-552.500(1)(d) or 62-552.600(1)(b), F.A.C.~~

~~1. When a decrease in post-allowance project costs occurs for a project funded first with a pre-construction grant that has not been limited by the \$2,000,000 maximum adjusted post-allowance project costs imposed by rule 62-552.360(6), F.A.C., and then funded with a construction grant for any part of the project, a decrease to grant participation in engineering~~

and administrative allowances shall be made at the 85% grant participation level for that part of the project being funded with the construction grant.

2. When a decrease in post-allowance project costs occurs for a project funded first with a pre-construction grant that has been limited by the \$2,000,000 maximum adjusted post-allowance project costs imposed by rule 62-552.360(6), F.A.C., and then funded with a construction grant for any part of the project, a decrease to grant participation in engineering and administrative allowances shall be made only if the costs drop below the maximum and then the grant decrease shall be made at the 85% grant participation level for that part of the project being funded with the construction grant.

Specific Authority 403.8532 FS. Law Implemented 403.8532 FS. History—New 4-7-98, Amended 8-10-98,_____.

62-552.430 Construction Loans Agreements for Rate-Based Community Water Systems.

To receive a loan, a project sponsor 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 project sponsor shall establish a loan repayment reserve account. When pledged revenues result from the operation of water systems or water and sewer systems entirely owned and operated by a single project sponsor responsible for systems operation and for loan repayment, the reserve shall be 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 other revenues, or the project sponsor responsible for loan repayment is other than as previously described in this subsection, or the project sponsor has not demonstrated the ability to service long term debt, or all default remedies under subsection (15) below are not available to the Department, the repayment security in the form of coverage in addition to the 1.15 amount and other security features described in subsection (4) below or an increased loan repayment reserve shall be negotiated. However, any loan repayment reserve in excess of that based on the 0.03 factor specified above shall be established using local funds unless the project sponsor qualifies as a financially disadvantaged community.

(2) through (3) No change.

(4) Pledged revenues resulting from the operation of water systems or water and sewer systems entirely owned and operated by a single project sponsor responsible for systems operation and for loan repayment each year shall be as follows:

(a) When the project sponsor has demonstrated the ability to service long term debt and all default remedies under subsection (15) below are available to the Department, pledged revenue shall be not less than 1.15 times the amount required to make each semiannual loan repayment; unless the project sponsor establishes an escrowed reserve using local funds in an amount not less than one semiannual loan repayment. The

~~pledged revenue coverage for the loan from the Department shall not result from or be transferred from or be derived from coverage required by senior lien debt documents. When pledged revenues result from other revenues or the project sponsor responsible for loan repayment is other than as previously described in this subsection, the pledged revenue coverage shall be negotiated.~~

(b) When the project sponsor has demonstrated the ability to service long term debt but all default remedies under subsection (15) below are not available to the Department, pledged revenues shall be not less than 1.15 times the amount required to make each semiannual loan repayment.

(c) When the project sponsor has not demonstrated the ability to service long term debt and all default remedies under subsection (15) below are not available to the Department, pledged revenues shall be not less than 1.15 times the amount required to make each semiannual loan repayment. In addition, special loan security provisions shall be negotiated that provide assurance that debt service requirements will be fulfilled. The additional security provisions shall be as follows:

1. Additional escrowed reserve funds equivalent to not less than five semiannual loan repayments. Upon request from a financially disadvantaged community, the Department shall include the equivalent of one of the five additional semiannual loan repayments in the loan repayment reserve funds to be included in the loan principal under subsection (1) above. Escrowed funds shall be accompanied by a lien on the assets of the project sponsor in the amount of the total loan principal less the amount of security of principal provided by the additional escrowed funds.

2. A letter of credit from a bank or trust company, having a combined capital and unimpaired surplus of not less than \$50 million, authorized to transact commercial banking or savings and loan business in the State of Florida and insured by the Federal Deposit Insurance Corporation assuring that no less than five semiannual loan repayments will be made. The letter of credit shall be accompanied by a lien on the assets of the project sponsor in the amount of the total loan principal less the amount of security of principal provided by the letter of credit.

3. A personal or corporate, as applicable, obligation ensuring that all semiannual repayments can be made.

4. Other security features equivalent to those described in subparagraphs 1. through 3. above.

(d) When the project sponsor has not demonstrated the ability to service long term debt and all default remedies under subsection (15) below are available to the Department, pledged revenues shall be not less than 1.15 times the amount required to make each semiannual loan repayment.

(5) Pledged revenues resulting from the operation of water systems or water and sewer systems that are not entirely owned by a single project sponsor responsible for systems operation and for loan repayment shall be subject to the negotiated loan security provisions under paragraph (c) above.

(6) Pledged revenue coverage for the loan from the Department shall not result from or be transferred from or be derived from coverage required by senior lien debt documents.

(5) through (13) renumbered (7) through (15) No change.

Specific Authority 403.8532 FS. Law Implemented 403.8532 FS. History—New 4-7-98, Amended 8-10-98,_____.

62-552.500 Funds Reserved for Specific Purposes.

A portion of the funds allocated each year by the Department, including the financially disadvantaged community funds established under rule 62-552.300(8), F.A.C., is reserved for the benefit of small communities. Funds are also reserved to reimburse the Department for its administrative costs in managing the program.

(1) No change.

(2) Service fees under rule 62-552.400, 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 used by the Department to implement the financial assistance program authorized by the Act.

Specific Authority 403.8532 FS. Law Implemented 403.8532 FS. History—New 4-7-98, Amended 8-10-98,_____.

62-552.650 Priority Determination.

(1) No change.

(2) Each project, or component of a project when a project has components qualifying for different baseline priority scores, shall be assigned a baseline priority score to indicate protection of public health, compliance with the Act or other enforceable requirements, or another lower priority need.

(a) When a construction loan project has components qualifying for different baseline priority scores, the score for the entire project shall be the highest number of points for which at least 50% of the estimated project costs qualify. When no single project component generates at least 50% of the estimated project costs, the cost of the highest priority component shall be combined with one or more lower priority component costs, at the lowest number of points associated with any of the combined components, to achieve the 50% threshold and thereby establish the overall project baseline priority score.

(b) When a construction grant project has components qualifying for different baseline priority scores, each component shall be assigned its own priority score. A project must have a public health risk assigned to it or to one of its components to qualify for a construction grant under rule 62-552.370(1)(h), F.A.C. The priority of any project component, regardless of the ratios of component costs to total project cost, shall not establish overall project baseline priority score.

(c) When a pre-construction project has components qualifying for different baseline priority scores, one of the project components must have a public health risk assigned to it to qualify for a loan under rule 62-552.350, F.A.C., or a grant under rule 62-552.360, F.A.C. Such a public health risk priority establishes the overall project baseline priority score. However, an overall pre-construction project baseline priority score shall not be carried over to any subsequent construction grant or construction loan project. Any prioritization of a construction project shall be subject to the applicable paragraph (a) or (b) above.

(3) through (5) No change.

Specific Authority 403.8532 FS. Law Implemented 403.8532 FS. History—New 4-7-98, Amended _____.

62-552.900 Forms for the State Revolving ~~Fund Loan~~ Program for Drinking Water Facilities.

Each form is listed below by rule number, which is also the form number, and with the title and effective date. Copies of the following forms, which are hereby incorporated by reference and identified by this rule number, may be obtained by writing to the Bureau Chief, Bureau of Water Facilities Funding, 2600 Blair Stone Road, MS 3505, Tallahassee, Florida 32399-2400:

(1) Request for Inclusion on the Priority List for Drinking Water Facilities, dated (Effective _____ ~~08-10-98~~).

(2) Loan Application, dated (Effective _____ ~~08-10-98~~).

(3) Grant Application, dated (Effective _____ ~~08-10-98~~).

Specific Authority 403.8532 FS. Law Implemented 403.8532 FS. History—New 4-7-98, Amended 8-10-98,_____.

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: David B. Struhs, 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: May 3, 1999

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: January 8, 1999

**DEPARTMENT OF ENVIRONMENTAL PROTECTION
Division of Marine Resources**

DOCKET NO.: 93-03R

RULE CHAPTER TITLE: RULE CHAPTER NO.:

The Comprehensive Blue Crab

Control Code

62R-8

RULE TITLES:	RULE NOS.:
Blue Crab Food Processing-General Definitions	62R-8.001 62R-8.002
Permit and Certification Requirements; Revocation	62R-8.003
General Blue Crab Food Supplies and Protection	62R-8.004
Personnel	62R-8.005
General Blue Crab Food Equipment and Utensils	62R-8.006
General Blue Crab Sanitary Facilities and Controls	62R-8.007
Other Facilities and Operations; General	62R-8.008
Specific Blue Crab Plant Operations	62R-8.009
Blue Crab Standards and Container Identification	62R-8.010
Inspection of Blue Crab Food Processing Plants	62R-8.011
Examination and Condemnation of Blue Crab Food	62R-8.012
Procedure When Infection Is Suspected	62R-8.013
Pasteurization of Crab Meat	62R-8.014

PURPOSE, EFFECT AND SUMMARY: To repeal the Comprehensive Blue Crab Control Code because the Florida Department of Agriculture and Consumer Services is adopting rule language.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COST: No Statement of Estimated Regulatory Costs (SERC) has been prepared.

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

SPECIFIC AUTHORITY: 370.071(1) FS.

LAW IMPLEMENTED: 370.071 FS.

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

TIME and DATE: 10:30 a.m., June 8, 1999

PLACE: Florida Department of Agriculture and Consumer Services, Conner Building, 1st Floor Meeting Room, 3125 Conner Blvd., Tallahassee, Florida

If an accommodation is needed for a disability in order to participate in this activity, please notify the Personnel Services Specialist in the Bureau of Personnel at (850)488-2996 or (800)955-8771(TDD), at least seven days prior to the event

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULES IS: Mark L. Collins, Environmental Administrator, Bureau of Marine Resource Regulation and Development, M.S. 205, 3900 Commonwealth Boulevard, Tallahassee, Florida, Phone: (850)488-5471

THE FULL TEXT OF THE PROPOSED RULES IS:

62R-8.001 Blue Crab Food Processing-General.

Specific Authority 370.021, 370.071, 20.25(6), 20.06(4), 381.031(1)(g)3 FS. Law Implemented 20.25(6), 381.031(1)(a),(b),(c),(d),(e),(f),(g), 381.061(2),(3),(4),(5),(6),(9), 381.071, 381.101, 381.311, 381.531, 381.411(1),(2),(3), 386 FS. History--New 7-28-77, Formerly 16B-28.21, 16B-28.021, 16R-8.001, Repealed.

62R-8.002 Definitions.

Specific Authority 370.021, 370.071, 20.25(6), 20.06(4), 381.031(1)(g)3 FS. Law Implemented 20.25(6), 381.031(1)(a), (b),(c),(d),(e),(f),(g), 381.061(2),(3),(4),(5),(6),(9), 381.071, 381.101, 381.311, 381.351, 381.411(1),(2),(3), 386 FS. History--New 7-28-77, Formerly 16B-28.22, 16B-28.022, 16R-8.002, Repealed.

62R-8.003 Permit and Certification Requirements; Revocation.

Specific Authority 370.021, 370.071, 20.25(6), 20.06(4), 381.031(1)(g)3 FS. Law Implemented 20.25(6), 381.031(1)(a),(b),(c),(d),(e),(f),(g), 381.061(2),(3),(4),(5),(6),(9), 381.071, 381.101, 381.311, 381.351, 381.411(1),(2),(3), 386 FS. History--New 7-28-77, Joint Administrative Procedures Committee Objection filed--See FAW Vol. 12, No. 8, February 21, 1986, Formerly 16B-28.23, 16B-28.023, 16R-8.003, Repealed.

62R-8.004 General Blue Crab Food Supplies and Protection.

Specific Authority 370.021, 370.071, 20.25(6), 20.06(4), 381.031(1)(g)3 FS. Law Implemented 20.25(6), 381.031(1)(a), (b),(c),(d),(e),(f),(g), 381.061(2),(3),(4),(5),(6),(9), 381.071, 381.101, 381.311, 381.351, 381.411(1),(2),(3), 386 FS. History--New 7-28-77, Formerly 16B-28.24, 16B-28.024, 16R-8.004, Repealed.

62R-8.005 Personnel.

Specific Authority 370.021, 370.071, 20.25(6), 20.06(4), 381.031(1)(g)3 FS. Law Implemented 20.25(6), 381.031(1)(a),(b),(c),(d),(e),(f),(g), 381.061(2),(3),(4),(5),(6),(9), 381.071, 381.101, 381.311, 381.351, 381.411(1),(2),(3) FS. History--New 7-28-77, Formerly 16B-28.25, 16B-28.025, 16R-8.005, Repealed.

62R-8.006 General Blue Crab Food Equipment and Utensils.

Specific Authority 370.021, 370.071, 20.25(6), 20.06(4), 381.031(1)(g)3 FS. Law Implemented 20.25(6), 381.031(1)(a),(b),(c),(d),(e),(f),(g), 381.061(2),(3),(4),(5),(6),(9), 381.071, 381.091, 381.101, 381.111, 381.351, 381.411(1),(2),(3), 386 FS. History--New 7-28-77, Formerly 16B-28.26, 16B-28.026, 16R-8.006, Repealed.

62R-8.007 General Blue Crab Sanitary Facilities and Controls.

Specific Authority 370.021, 370.071, 20.25(6), 20.06(4), 381.031(1)(g)3 FS. Law Implemented 20.25(6), 381.031(1)(a),(b),(c),(d),(e),(f),(g), 381.071, 381.091, 381.101, 381.311, 381.351, 381.411(1),(2),(3), 386 FS. History--New 7-28-77, Formerly 16B-28.27, 16B-28.027, 16R-8.007, Repealed.

62R-8.008 Other Facilities and Operations; General.

Specific Authority 370.021, 370.071, 20.25(6), 20.06(4), 381.031(1)(g)3 FS. Law Implemented 20.25(6), 381.031(1)(a),(b),(c),(d),(e),(f),(g), 381.061(2),(3),(4),(5),(6),(9), 381.071, 381.091, 381.101, 381.311, 381.351, 381.411(1),(2),(3), 386 FS. History--New 7-28-77, Formerly 16B-28.28, 16B-28.028, 16R-8.008, Repealed.

62R-8.009 Specific Blue Crab Plant Operations.

Specific Authority 370.021, 370.071, 20.25(6), 20.06(4), 381.031(1)(g)3 FS. Law Implemented 20.25(6), 381.031(1)(a),(b),(c),(d),(e),(f),(g), 381.061(2),(3),(4),(5),(6),(9), 381.071, 381.091, 381.101, 381.311, 381.351, 381.411(1),(2),(3), 386 FS. History--New 7-28-77, Formerly 16B-28.29, 16B-28.029, 16R-8.009, Repealed.

62R-8.010 Blue Crab Standards and Container Identification.

Specific Authority 370.021, 370.071, 20.25(6), 20.06(4), 381.031(1)(g)3 FS. Law Implemented 20.25(6), 381.031(1)(a),(b),(c),(d),(e),(f),(g), 381.061(2),(3),(4),(5),(6),(9), 381.071, 381.091, 381.101, 381.111, 381.351, 381.411(1),(2),(3), 386 FS. History—New 7-28-77, Formerly 16B-28.30, 16B-28.030, 16R-8.010, Repealed.

62R-8.011 Inspection of Blue Crab Food Processing Plants.

Specific Authority 370.021, 370.071, 20.25(6), 20.06(4), 381.031(1)(g)3 FS. Law Implemented 20.25(6), 381.031(1)(a),(b),(c),(d),(e),(f),(g), 381.061(2),(3),(4),(5),(6),(9), 381.071, 381.091, 381.101, 381.111, 381.351, 381.411(1),(2),(3), 386 FS. History—New 7-28-77, Formerly 16B-28.31, 16B-28.031, 16R-8.011, Repealed.

62R-8.012 Examination and Condemnation of Blue Crab Food.

Specific Authority 370.021, 370.071, 20.25(6), 20.06(4), 381.031(1)(g)3 FS. Law Implemented 20.25(6), 381.031(1)(a),(b),(c),(d),(e),(f),(g), 381.061(2),(3),(4),(5),(6),(9), 381.071, 381.091, 381.101, 381.111, 381.351, 381.411(1),(2),(3), 386 FS. History—New 7-28-77, Joint Administrative Procedures Committee Objection Filed—See FAW Vol. 12, No. 8, February 21, 1986, Formerly 16B-28.32, 16B-28.032, 16R-8.012, Repealed.

62R-8.013 Procedure When Infection is Suspected.

Specific Authority 370.021, 370.071, 20.25(6), 20.06(4), 381.031(1)(g)3 FS. Law Implemented 20.25(6), 381.031(1)(a),(b),(c),(d),(e),(f),(g), 381.061(2),(3),(4),(5),(6),(9), 381.071, 381.091, 381.101, 381.111, 381.351, 381.411(1),(2),(3), 386 FS. History—New 7-28-77, Formerly 16B-28.33, 16B-28.033, 16R-8.013, Repealed.

62R-8.014 Pasteurization of Crab Meat.

Specific Authority 370.021, 370.071, 20.25(6), 20.06(4), 381.031(1)(g)3 FS. Law Implemented 20.25(6), 381.031(1)(a),(b),(c),(d),(e),(f) (g), 381.061(2),(3),(4),(5),(6),(9), 381.071, 381.091, 381.101, 381.111, 381.351, 381.411(1),(2),(3), 386 FS. History—New 7-28-77, Formerly 16B-28.34, 16B-28.034, 16R-8.014, Repealed.

NAME OF PERSON ORIGINATING PROPOSED RULE:
Mark L. Collins, Environmental Administrator, Bureau of Marine Resource Regulation and Development, M.S. 205, 3900 Commonwealth Boulevard, Tallahassee, Florida, Phone: (850)488-5471

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: David C. Heil, Chief, Bureau of Marine Resource Regulation and Development

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: January 13, 1999

**DEPARTMENT OF HEALTH
Board of Clinical Laboratory Personnel**

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

PURPOSE AND EFFECT: The proposed rule amendment is intended to address technicians who perform high complexity testing.

SUMMARY: The proposed rule amendment sets forth criteria for technicians who perform high complexity testing.

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

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

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

TIME AND DATE: 10:00 a.m., June 9, 1999

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

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Joe Baker, Jr., Executive Director, Board of Clinical Laboratory Personnel/MQA, 2020 Capital Circle, S. E., Bin #C07, Tallahassee, Florida 32399-3257

THE FULL TEXT OF THE PROPOSED RULE 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 59O-5.004, Amended 5-26-98, 9-20-98, 1-11-99, _____.

NAME OF PERSON ORIGINATING PROPOSED RULE: Board of Clinical Laboratory Personnel

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Board of Clinical Laboratory Personnel

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: March 24, 1999

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: April 9, 1999

DEPARTMENT OF HEALTH

Board of Clinical Laboratory Personnel

RULE TITLES:	RULE NOS.:
Examination and Reexamination Fees	64B3-9.003
Processing Fee	64B3-9.010

PURPOSE AND EFFECT: The proposed rule amendment to Rule 64B3-9.003 increases the examination and reexamination fees for the specialty of blood banking, immunohematology to \$175. The proposed amendment to Rule 64B3-9.010 is intended to clarify the circumstances under which a processing fee is required.

SUMMARY: The proposed amendment to 64B3-9.003 increases the examination and reexamination fees for the specialty of blood banking, immunohematology to \$175. The proposed amendment to Rule 64B3-9.010 specifies that the processing fee of \$50 is required when the licensee applies for a change in licensure status at any time other than during licensure renewal.

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

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

SPECIFIC AUTHORITY: 455.587, 455.711, 483.807(1) FS.

LAW IMPLEMENTED: 455.587, 455.711, 483.807 FS.

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

TIME AND DATE: 10:00 a.m., June 9, 1999

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

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULES IS: Joe Baker, Jr., Executive Director, Board of Clinical Laboratory Personnel/MQA, 2020 Capital Circle, S. E., Bin #C07, Tallahassee, Florida 32399-3257

THE FULL TEXT OF THE PROPOSED RULES 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, 59O-9.003, Amended 5-26-98, 1-28-99, Amended

64B3-9.010 Processing Fee.

A licensee shall pay a processing fee of \$50.00 when the licensee applies for a change in licensure status at any time other than during licensure renewal. The renewal period shall

begin ninety (90) days prior to the end of the biennium and shall end on the last of the biennium. The fee for processing a licensee's request to change licensure status at any time other than at the beginning of a licensure cycle shall be \$50.00.

Specific Authority 455.587, 455.711, 483.807(1) FS. Law Implemented 455.587, 455.711, 483.807 FS. History--New 12-26-94, Formerly 59O-9.010, Amended

NAME OF PERSON ORIGINATING PROPOSED RULE: Board of Clinical Laboratory Personnel

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Board of Clinical Laboratory Personnel

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: March 24, 1999

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: 64B3-9.003 (April 9, 1999); 64B3-9.010 (April 2, 1999).

DEPARTMENT OF HEALTH

Division of Disease Control

RULE TITLES:	RULE NOS.:
Definitions	64D-2.002
Confidentiality	64D-2.003
Testing Requirements	64D-2.004
Registration of HIV Testing Programs	64D-2.006

PURPOSE AND EFFECT: The proposed rules will implement changes made to the Omnibus AIDS Act during the 1998 Legislative Session.

SUMMARY: The proposed amendments to Rule 64D-2.002 are technical in nature. One amendment adds "preliminary test" to the list of HIV/AIDS related terms defined in statute and the second clarifies the definition of a health care provider. The proposed amendments to Rule 64D-2.003 on confidentiality correct statutory references, incorporate the revised "Partner Notification Protocol for Practitioners," and include the additional disclosures of HIV information permitted by statute. These disclosures are related to significant exposures and situations related to the care of developmentally disabled persons. The proposed amendments to Rule 64D-2.004 incorporate the "Model Protocol for HIV Counseling and Testing for County Health Departments and Registered Testing Programs" and the "Model Protocol for HIV Counseling and Testing Conducted Outside County Health Departments and Registered Testing Programs," delete language related to pre and post-test counseling, and update the address for the Bureau of HIV/AIDS. The proposed amendments to Rule 64D-2.006 implement the reregistration of HIV testing programs and incorporate the Department of Health Form 1781, Application for Registration and Reregistration of HIV Testing Programs.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COST: No statement of estimated regulatory cost has been prepared.

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

SPECIFIC AUTHORITY: 381.0011, 381.004(10), 381.0041(10), 384.33 FS.

LAW IMPLEMENTED: 381.0011, 381.0031(4), 381.004, 381.0041, 384.31, 455.674 FS.

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

TIME AND DATE: 10:00 a.m., June 8, 1999

PLACE: 1309 Winewood Blvd, Building 6, Room 103, Tallahassee, Florida

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULES IS: Laura Gengler Reeves, Planner II, Bureau of HIV/AIDS, Division of Disease Control, 2020 Capital Circle, S. E., Bin# A09, Tallahassee, Florida 32399-1715, (850)413-0739, (FAX) (850)414-0038

THE FULL TEXT OF THE PROPOSED RULES IS:

64D-2.002 Definitions.

As used in this chapter, "HIV test," "HIV test result," "preliminary test." "Significant exposure," and "Test subject" have the same meaning as in s. 381.004(2), F.S., and the following words and phrases shall have the following meanings:

(1) through (8) No change.

Specific Authority 381.0011, 381.004(10), 381.0041(10) FS. Law Implemented 381.0011, ~~381.004, 483, 154, 394, 397, 458, 459, 466, 461, 462, 491-23~~ FS. History--New 11-6-85, Formerly 10D-93.62, Amended 7-12-89, 5-30-90, 1-20-92, 5-1-96, Formerly 10D-93.062, Amended.

64D-2.003 Confidentiality.

(1) Any person, including the department, and any county health department, contract provider, testing program authorized by the department, health care provider or health care facility ~~who conducts HIV-related testing~~ shall comply with the confidentiality provisions of s. 381.004(3)(e)(f), F.S., and ~~this rule Rule 64D-2.003, F.A.C.,~~ in administering the HIV test, protecting the identity of the test subject, and managing records which contain laboratory reports of HIV test results or any report or notation of a laboratory report of an HIV test.

(2) No person, including health care facilities and health care providers as defined in Rule 64D-2.002(4)(13) and (5)(14), F.A.C., shall disclose or be compelled to disclose the identity of a test subject or his or her HIV test results, except to the following persons:

(a) No change..

(b) Any person designated in a legally effective release executed by the test subject prior to or after the performance of the HIV test. The following releases are legally effective:

1. through 2. No change.

3. A hospital can honor a general release without prior written authorization, provided the hospital first obtains the test subject's written informed consent in accordance with Rule 64D-2.004, F.A.C., and releases the information in accordance with s. ~~395.017~~ 395.3025, F.S. The informed consent shall include a statement to the effect that the test subject's HIV test results can be released to anyone to whom the test subject gives written permission to see or to copy his or her medical record.

(c) Any medical personnel who experience a significant exposure during the course of employment or in the performance of professional duties ~~in accordance with Rule 10D-93.0681, F.A.C.,~~ or non-medical personnel who experience a significant exposure while providing emergency assistance.

(d) An authorized agent or employee of a health care facility or health care provider if:

1. through 2. No change.

3. An agent or employee has a need to know the identity of a test subject or his or her HIV test results if:

a. The agent or employee has a need to know the identity of a test subject or his or her HIV test result ~~in order~~ to discharge properly his or her duties in the ordinary course of participating in or administering the business operations of a health care facility or health care provider. Examples of these agents or employees are:

(I) through (IV) No change.

b. The agent or employee has a need to know the identity of a test subject or his or her HIV test results ~~in order~~ to discharge properly his or her duties in the ordinary course of providing patient care. Examples of these agents or employees include, but are not limited to:

(I) through (II) No change.

c. The agent or employee has a need to know the identity of a test subject or his or her HIV test results ~~in order~~ to learn or to teach properly in the ordinary course of an approved educational program in a medical teaching facility or a research program under ~~Chapter Section 405, F.S. of Florida Statutes.~~ Examples of these agents or employees include, but are not limited to:

(I) Students, interns, and residents involved in making rounds at a teaching hospital.

(II) Researchers and their assistants engaged in research authorized under ~~Chapter Section 405, F.S. of Florida Statutes.~~

(e) Health care providers involved in the care or treatment of a test subject and consulting between or among themselves or with health care facilities to determine diagnosis or treatment of a test subject. This is not an exception to s. ~~395.017~~ 395.3025, F.S., which requires hospitals to obtain written authorization before furnishing patient records to anyone other than the patient.

1. through 2. No change.

(f) through (j) No change.

(k) The provisions of s. 951.27, F.S., permit the county and municipal detention facilities to test inmates for HIV. The results of that HIV test can be given to the authority specified by related rules or, if none, to the highest ranking official in charge of the jail, or detention facility.

~~(k)(4)~~ Pursuant to s. 960.003(2)-(5), F.S., and s. 775.0877(2), F.S., Rule 10D-93.068(8)(j), F.A.C., the victim of a criminal sexual offense involving the transmission of body fluids from one person to another shall, upon request, obtain the HIV test results of the person charged with or convicted of the criminal sexual offense. The test results shall be disclosed in accordance with s. 381.004(3)(c)(e), F.S. The test results shall not be disclosed to any other person except as expressly authorized by law or court order.

~~(l)(4)~~ In accordance with specific circumstances established in s. ~~455.674~~ 455.2416, F.S., a practitioner regulated through the Division of Medical Quality Assurance within the Department of Health can disclose the identity of an HIV-positive patient to the patient's sex or needle-sharing partner. Any notification of a sex or needle-sharing partner pursuant to this section shall be done in accordance with the "Partner Notification Protocol for Practitioners," dated March 1999 ~~May 1, 1999~~, incorporated by reference in this rule. This protocol can be obtained from the Department of Health, Bureau of HIV/AIDS, 2020 Capital Circle, S. E., Bin A09, Tallahassee, Florida 32399-1715.

~~(m)(4)~~ No change.

(n) Employees of residential facilities or community-based care programs licensed under Chapter 393, F.S., for developmentally disabled persons if the employees are directly involved in the care, control, or custody of such test subject and have a need to know such information.

(o) A person allowed access by a court order which is issued in compliance with s. 381.004(3)(e)(f)9., F.S.

(p) A person allowed access by order of a judge of compensation claims of the Division of Workers' Compensation of the Department of Labor and Employment Security. Such order shall not be issued by a judge of compensation claims unless the person seeking the test results has demonstrated a compelling need for the test results which cannot be accommodated by other means.

(3) All patient records, client records or medical records containing HIV test results are recommended to ~~shall~~ be kept in the following manner:

(a) through (d) No change.

(e) A subpoena ~~directed to the department~~ for medical records containing HIV test results is not sufficient to release such records, except for HIV testing performed in hospitals as provided in s. 381.004(3)(g), F.S. ~~The recipient shall notify in writing the county health department district legal counsel so that appropriate action can be taken.~~

(4) Pursuant to s. 381.004(3)(f)(g), F.S., oral disclosure of HIV test results shall be accompanied by oral notice and followed by a written notice within 10 days. This written notice shall include the following statement: "This information has been disclosed to you from records whose confidentiality is protected by state law. State law prohibits you from making any further disclosure of such information without the specific written consent of the person to whom such information pertains, or as otherwise permitted by state law. A general authorization for the release of medical or other information is NOT sufficient for this purpose." This written statement shall not be required for disclosures made in accordance with s. 381.004(3)(e)(f)3., and 4., F.S.

(5) The anonymity of individuals tested for HIV in county health department anonymous test sites or other testing programs approved through the department registration process to conduct anonymous testing, ~~by the designated agent of the county health department, when anonymous testing is requested,~~ shall be ensured as follows:

(a) Names or other specified identifying information about test subjects shall not be collected ~~or released for any purpose without the signed, informed consent of the test subject.~~

(b) A unique identification number shall be assigned to the test subject, and identically numbered labels shall be used to identify all records and blood specimens.

(c) The identification number shall be given to the individual ~~in writing with the authorized signature of a staff member of the county health department or contract provider in order~~ for the individual to secure test results and receive ancillary services at a later time.

~~(d) The county health department or contract provider shall compile and maintain statistical records, without the individual's name, for the following services:~~

- ~~1. Number of tests provided;~~
- ~~2. Number of pre-test counseling sessions;~~
- ~~3. Number of post-test counseling sessions; and~~
- ~~4. Number of referrals for medical or other support services.~~

~~(d)(e) Fees for anonymous HIV testing cannot be collected in a form which can be used to identify the test subject. Fees shall not be charged for HIV anonymous testing if the test subject verbally declares an inability to pay in accordance with s. 402.33, F.S.~~

Specific Authority 381.0011, 381.004(10), 381.0041(10), 384.33 FS. Law Implemented 381.0011, 381.0031(4), 381.004, 381.0041, ~~455.674-395.017-402.33, 405, 766.101, 960.003, 455.2416, 409.175, 945.35, 796.08, 951.27, 384.30~~ FS. History—New 11-6-85, Formerly 10D-93.64, Amended 7-12-89, 5-30-90, 1-20-92, Formerly 10D-93.064, Amended.

64D-2.004 Testing Requirements.

(1) Pursuant to s. 381.004(3)(a), F.S., informed consent shall be obtained prior to testing for HIV except in the limited situations outlined in s. 381.004(3)(h)(i), F.S. Informed consent shall include an explanation that the information

identifying the test subject and the results of the test are confidential and protected against further disclosure to the extent provided by law. Information shall also be included on the fact that persons who test positive will be reported to the local county health department and that anonymous testing is available.

(2) In addition to the information on confidentiality, reporting and anonymous testing listed above, aAn explanation of the following information constitutes sound and reasonable practice in providing information sufficient to secure informed consent:

(a) through (b) No change.

(c) The procedures to be followed, ~~including pre and post test counseling;~~ and

(d) No change.

(3) No change.

(4) Informed consent to perform a test for HIV shall be in writing for the following:

(a) From the potential donor or from the donor's legal representative prior to the first donation of blood, plasma, organs, skin, semen, or other human tissue. ~~The consent form must specify that the donor is consenting to repeated HIV testing of each of his donations for the subsequent year. The consent form must be signed annually prior to transfusion or other use;~~

(b) through (c) No change.

(5) The following minors can be tested for HIV without parental consent provided the minor gives informed consent:

(a) Any minor who requests examination, testing, consultation or treatment for a sexually transmissible disease, including HIV, in accordance with s. 384.30, F.S., and who demonstrates sufficient knowledge and maturity to make an informed judgment. ~~Children 12 years or older should be presumed to be able to exercise informed judgment unless facts suggest otherwise.~~

(b) Any minor who has reached the age of 17 years who gave consent to the donation of his or her blood, in compliance with s. 743.06, F.S.

(c) No change.

(6) Any health care provider attending a pregnant woman for conditions related to her pregnancy shall counsel the woman on the benefits of treatment to reduce the risk of transmission from infected women to their babies and offer HIV testing in accordance with s. 384.31, F.S.

(7)(6) Pursuant to s. 381.004(8), F.S., the Department of Health developed the Model Protocol for HIV Counseling and Testing for County Health Departments and Registered Testing Programs HIV Test Counseling, dated March 29, 1999 October 1991, and the Model Protocol for HIV Counseling and Testing Conducted Outside County Health Departments and Registered Testing Programs, dated March 29, 1999, consistent with the provisions of this section and incorporates ~~these documents~~ by reference in this rule. The model protocols can

be obtained from the Department of Health, Bureau of HIV/AIDS Office of Disease Intervention, 2020 Capital Circle, S. E., Bin A09, 1317 Winewood Boulevard, Tallahassee, Florida 32399-1715 0700.

(7) In reporting test results, the approved laboratory shall report the written test results to the county health department, contract provider, health care facility, or health care provider who ordered the HIV test.

(8) Persons ordering an HIV test must ensure that all reasonable efforts are made to notify the test subject of the test result and relate certain information to the test subject in accordance with s. 381.004(3)(c), F.S., and the applicable Model Protocol for HIV Counseling and Testing specified in Rule 64D-2.004(7), F.A.C. If the test subject was tested in a facility, such as a jail or hospital emergency department, and was released before being notified of a positive HIV test result, the facility may inform the county health department to notify the test subject. The county health department, contract provider, health care facility, or health care provider shall notify the test subject of HIV test results in person during a prescheduled return visit to the test site or home visit by the health care provider. Blood banks and persons who collect blood, organs, skin, semen, or other tissue shall comply with Rule 64D-2.005, F.A.C., and s. 381.0041(5), (6), F.S.

~~(9) No test results, negative or positive, shall be revealed to the test subject by telephone or by mail, except by blood banks, pursuant to s. 381.0041(6), F.S., or persons who collect blood, organs, skin, semen, or other tissue who find evidence of HIV infection in the donor, pursuant to s. 381.0041(5), F.S.~~

Specific Authority 381.0011, 381.004(10), 381.0041(10), 384.33 FS. Law Implemented 381.0011, 381.0031(4), 381.004, 381.0041, 384.31 FS. History—New 11-6-85, Formerly 10D-93.67, Amended 7-12-89, 1-20-92, 5-1-96, Formerly 10D-93.067, Amended _____.

64D-2.006 Registration of HIV Testing Programs.

(1)(a) All county health departments and persons who conduct or make any personal, telephone or mail contact or other communication to a person, or make any announcement, solicitation, display, or advertisement to inform the general public that they are conducting a testing program as defined in (b) below, must first register with the Department of Health, Bureau of HIV/AIDS Office of Disease Intervention and must reregister annually. Initial rRegistration and subsequent reregistration shall be approved by the department based upon compliance with s. 381.004(5), F.S., ~~as evidenced by a completed application and subsequent receipt of certificate of registration.~~

(b) For the purpose of this rule, an HIV testing program is a program which provides HIV testing services with the sole purpose of either identifying HIV infection infected persons, or providing HIV testing services as an adjunct to the provision of comprehensive, out-patient care and treatment to HIV infected

persons. This definition does not include any health care provider that performs or provides HIV testing services which are incidental to the primary diagnosis or care of a patient.

(c) When the testing program satisfactorily completes the registration or reregistration requirements, the department shall mail a certificate of registration to the program.

(2) Effective January 1, 1990, An application for initial registration to conduct an HIV testing program shall be made to the department on DOH Form 1781, 11/98 ~~Oct-89~~, Application for Registration and Reregistration of HIV Testing Programs, incorporated by reference in this rule. The application can be obtained from the Department of Health, Bureau of HIV/AIDS, 2020 Capital Circle, S. E., Bin A09 ~~DOH Office of Disease Intervention, 1317 Winewood Boulevard~~, Tallahassee, Florida 32399-17150700. A completed application shall be mailed to the Department of Health, Bureau of HIV/AIDS, Attention: Counseling and Testing Program Registration ~~DOH Office of Disease Intervention~~ at the same address and shall be accompanied by the \$100.00 initial registration fee. No fee is required for reregistration.

(3) The initial registration fee shall be made payable to the department and will be deposited in the Department of Health ~~DOH~~ Deputy Secretary for Health Grants and Donations Trust Fund.

(4) Persons or facilities receiving funding pursuant to s. 381.004(4), F.S., shall be exempt from payment of the initial registration fees.

(5) Effective October 1, 1998, HIV testing programs must reregister with the department annually. The application form for reregistration, DH Form 1781, 11/98, will be mailed by the Department of Health, Bureau of HIV/AIDS to the registered testing program 60 days prior to the program's reregistration date. Reregistration dates have been established as follows:

(a) Testing programs registered with the department prior to October 1, 1998, will be notified in writing of their reregistration date by January 31, 1999.

(b) Testing programs who register with the department on or after October 1, 1998, will be sent a certificate of registration with a designated reregistration date.

(6) Pursuant to this section, if the application for reregistration is not received by the reregistration date, the certification is expired and the program is not authorized to continue operating.

(7)(5) Each certificate of registration shall be valid only for the person or facility to which it was issued. The certificate of registration must be posted in a conspicuous location in the facility.

(8)(6) The certificate of registration shall not be subject to sale, assignment or other transfer.

(9)(7) The department shall be notified in writing no later than 15 days upon change of ownership or classification, suspension, revocation, or voluntary cessation of operation and the certificate of registration shall be returned immediately to the department.

(10)(8) The department shall deny, suspend, or revoke the registration of a person or agency which:

(a) fails to comply with s. 381.004(5), F.S., or the rules in implementation thereof; or

(b) causes to happen an intentional or negligent act which physically or materially affects the health, safety, or welfare of the person receiving services.

(11)(9) Pursuant to s. 381.031, F.S., the department shall have the right to make inspections and investigations by any duly authorized officer or employee of the department as are necessary in order to respond to complaints or to determine compliance with the provisions of s. 381.004(5), F.S., and the rules adopted thereto.

(12)(10) The department shall institute injunctive proceedings in a court of competent jurisdiction when violations of the provisions of s. 381.004(5), F.S., or any rules promulgated thereunder constitute an emergency affecting the immediate health, safety, and welfare of a person receiving services.

(13)(11) Pursuant to s. 381.004(5)(a), F.S., the program shall be directed by a person with a minimum number of 15 contact hours of experience in counseling persons with human immunodeficiency virus. Examples of counseling include: informing a test subject of an HIV positive test result; providing case management services to HIV-infected persons; facilitating a support group for HIV-infected persons; and providing medical care.

(14)(12) Each person providing post-test counseling to a patient with a positive test result shall have received specialized training which shall be equivalent to consistent with the Department of Health ~~DOH~~ specialized training in providing post-test counseling to HIV-positive clients. Specialized training must include information on the following:

a. Confidentiality, the meaning of a positive test result and the importance of not donating blood, blood products, tissues, or sperm;

b. Early intervention, referrals and linkages to care/services;

c. Prevention of secondary HIV transmission;

d. Partner counseling and referral services;

e. HIV infection reporting; and

f. Documentation of test results.

(13) All patient records shall be confidential as required by rule 64D-2.003, F.A.C., and maintained in the following manner:

- ~~(a) the laboratory shall convey a copy of the HIV test results to the originating clinic or health care provider;~~
- ~~(b) one person in the clinic shall have responsibility for the test results (i.e., senior clinic nurse, medical records librarian, etc.);~~
- ~~(c) this person shall keep the test results secure until the client returns for post-test counseling;~~
- ~~(d) the counselor shall note the HIV test results in the client's laboratory test portion of the medical file; and~~
- ~~(e) a copy of the test results shall be kept on file for at least one year.~~

Specific Authority 381.004 FS. Law Implemented 381.004, ~~381.031~~ FS. History—New 11-29-89, Amended 5-1-96, Formerly 10D-93.076, Amended _____.

NAME OF PERSON ORIGINATING PROPOSED RULE:
Sherry Riley, Bureau of HIV/AIDS, Department of Health

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Landis K. Crockett, M.D., M.P.H., Division Director, Disease Control, Department of Health

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: May 3, 1999

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN THE FAW: September 25, 1998

Purchase Order No.: EV 2415

DEPARTMENT OF CHILDREN AND FAMILY SERVICES

Economic Self-Sufficiency Program

RULE TITLE: Overpayment and Benefit Recovery

RULE NO.: 65A-1.900

PURPOSE AND EFFECT: This proposed rule amendment changes the use of a federal regulation cite as the sole authority governing certain food stamp collection procedures and defines recipient.

SUMMARY: This rule amendment will clarify that reference to 7 CFR 273.18 as the authority for collections does not apply to collection procedures for agency error in the Food Stamp program. These specific collection procedures are conducted in accordance with section 844, Public Law 104-193. Section 844, Public Law 104-193 will be inserted as a reference to collection procedures for agency error in the Food Stamp program. Additionally, the rule amendment adds a definition for the use of the word recipient and indicates the transfer of the Division of Public Assistance Fraud to the Department of Law Enforcement.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COST: None.

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

SPECIFIC AUTHORITY: 120.53, 414.41, 414.45 FS.

LAW IMPLEMENTED: 24.115(4), 414.31, 414.41 FS.

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

TIME AND DATE: 10:00 a.m., June 8, 1999

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

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Wilbur Williams, Coordinator for Special Programs, 1317 Winewood Boulevard, Building 3, Room 412J, Tallahassee, Florida 32399-0700

THE FULL TEXT OF THE PROPOSED RULE IS:

65A-1.900 Overpayment and Benefit Recovery.
Opening paragraph through (1)(h) No change.

(1)(i) Recipient: Recipient is defined as a person in receipt of and included in the cash assistance benefit. However, this includes the payee of the cash assistance benefit whose needs are not included in determining the amount of the benefit; payees are responsible for reporting changes in circumstances of the assistance group to the department on behalf of the assistance group.

(2) through (4)(a) No change.

(b) Monthly repayment amounts of food stamp overpayments shall be negotiated in accordance with 7 CFR 273.18, as amended, except for agency error repayments. Agency error repayments will be required in accordance with section 844, Public Law 104-193.

(c) through (5)(b) No change.

(c) The method of repayment of a food stamp overpayment shall be as specified in 7 CFR 273.18, as amended, except when the repayment involves an agency error. Agency error repayments will be required in accordance with section 844, Public Law 104-193.

(d) through (8) No change.

(9) Determination of Intentional Program Violation.

(a) Pursuant to ss. 414.39 and 414.41, F.S., the department will refer cases of suspected fraud as defined in subparagraph (1)(d)2. to the Office of the Auditor General, Division of Public Assistance Fraud (DPAF), for investigation. Effective October 1, 1999, DPAF will be transferred to the Department of Law Enforcement. In cases of suspected fraud in the AFDC and temporary cash assistance (excluding RAP) or food stamp programs the department will, upon the recommendation of DPAF, pursue a determination of IPV through either court action, administrative disqualification hearing (ADH), or both where permitted by 7 CFR 273.16, and 45 CFR 235.112. The department will, upon the recommendation of DPAF, pursue a determination of IPV through court action when instances of suspected fraud occur in the Medicaid or refugee assistance programs.

(b) through (12) No change.

Specific Authority ~~120.53~~, 414.41, 414.45 FS. Law Implemented 24.115(4), 414.31, 414.41 FS. History--New 7-21-92, Amended 1-5-93, 9-5-93, Formerly 10C-1.900, Amended 7-9-98.

NAME OF PERSON ORIGINATING PROPOSED RULE: Rodney McInnis, Management Review Specialist
NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Kim Shaver, Chief, Policy Bureau
DATE PROPOSED RULE APPROVED BY AGENCY HEAD: April 30, 1999
DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: March 26, 1999

Section III
Notices of Changes, Corrections and Withdrawals

DEPARTMENT OF INSURANCE

RULE NO.: 4-127
RULE TITLE: Fees and Procedures Regarding Department Information and Services

NOTICE OF CHANGE

Notice is hereby given that the following changes have been made to the proposed rule in accordance with subparagraph 120.54(3)(d)1., Florida Statutes, published in the Florida Administrative Weekly, Vol. 25, No. 15, on April 16, 1999.

The following was not included in the publication of this rule:
NAME OF PERSON ORIGINATING PROPOSED RULE: Jamie Payne, Document Processing, Department of Insurance
NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Ken Nipper, Division of Administration, Department of Insurance
DATE PROPOSED RULE APPROVED BY AGENCY HEAD: February 6, 1999
DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: March 12, 1999

DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES

Division of Consumer Services

RULE NO.: 5J-13.004
RULE TITLE: Security Claims

NOTICE OF CORRECTION

The Florida Department of Agriculture and Consumer Services, Division of Consumer Services, announces a correction to the Notice of Proposed Rulemaking regarding Rule Chapter 5J-13 which appeared in the May 7, 1999, issue of the Florida Administrative Weekly, Vol. 25, No. 18. Specifically, the notice published in the May 7, 1999, issue indicates a hearing date of May 31, 1999. The correct hearing date is June 1, 1999, with no change in time.

DEPARTMENT OF REVENUE

NOTICE OF CABINET AGENDA ON MAY 25, 1999

The Governor and Cabinet, on May 25, 1999, sitting as head of the Department of Revenue, will consider approval of amendments to Rule 12-25.009, F.A.C., Performance of Audit Services, for adoption. The proposed rule amendments are needed to remove the requirement that contract auditors comply with any written or verbal directions issued by the Department, beyond those specifically authorized by statute or rule. The proposed amendments were originally noticed in the Florida Administrative Weekly of April 2, 1999, Vol. 25, No. 13, p. 1326. A public hearing on the proposed rule was held on April 27, 1999. No comments were received at the public hearing.

DEPARTMENT OF REVENUE

Sales and Use Tax

NOTICE OF CABINET AGENDA ON MAY 25, 1999

The Governor and Cabinet, on May 25, 1999, sitting as head of the Department of Revenue, will consider approval of amendments to Rule 12A-1.0091, F.A.C., Cleaning Services; Rule 12A-1.044, F.A.C., Vending Machines; Rule 12A-1.061, F.A.C., Rentals, Leases, and Licenses to Use Transient Accommodations, and Rule 12A-1.097, F.A.C., Public Use Forms; Rule 12A-1.064, F.A.C., Sales in Interstate and Foreign Commerce; Sales to Nonresident Dealers; Sales to Diplomats; Rule 12A-1.096, F.A.C., Industrial Machinery and Equipment for Use in a New or Expanding Business; and proposed repeal of Rule 12A-1.098, F.A.C., Itinerant Merchants, Flea Market Vendors and Other Retailers Without Permanent Places of Business, for adoption. The proposed amendments were originally noticed in the Florida Administrative Weekly of April 2, 1999, Vol. 25, No. 13, pp. 1326-1335. A public hearing on the proposed rule amendments and rule repeal was held on April 27, 1999. No comments were received at the public hearing.

DEPARTMENT OF REVENUE

Miscellaneous Tax

NOTICE OF CABINET AGENDA ON MAY 25, 1999

The Governor and Cabinet, on May 25, 1999, sitting as head of the Department of Revenue, will consider approval of amendments to Rule 12B-8.003, F.A.C., Tax Statement; Overpayments, for adoption. The proposed amendments incorporate updates to the annual return for the Florida Life and Health Guaranty Association Credit, and Police Officers' and Firefighters' Pension Trust Fund Schedules. The proposed amendments were originally noticed in the Florida Administrative Weekly of April 2, 1999, Vol. 25, No. 13, pp. 1337-1338. A public hearing on the proposed rule was held on April 27, 1999. No comments were received at the public hearing.