LAW IMPLEMENTED: 455.033 FS.

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

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT AND FOR A COPY OF THE PRELIMINARY DRAFT, IF AVAILABLE, IS: Kaye Howerton, Board Executive Director, Board of Occupational Therapy Practice, 4052 Bald Cypress Way, Bin #C05, Tallahassee, Florida 32399-3255

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

DEPARTMENT OF HEALTH

Board of Podiatric Medicine

RULE TITLE: RULE NO.:

Active Licenses: Biennial Renewal Fees and Delinquency Fee 64B18-12.004

PURPOSE AND EFFECT: The Board proposes to amend this rule to set forth the biennial renewal fee for x-ray assistants.

SUBJECT AREA TO BE ADDRESSED: Biennial renewal fee for x-ray assistants.

SPECIFIC AUTHORITY: 461.005, 461.007, 461.0135 FS.

LAW IMPLEMENTED: 120.52(9), 456.013(2), 456.025, 461.007, 461.0135 FS.

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

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

THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS:

64B18-12.004 Active Licenses: Biennial Renewal Fees ~~Fee~~ and Delinquency Fee.

To maintain active status of licensure, a podiatrist shall pay a biennial renewal fee of three hundred fifty dollars ($350.00) if the biennial renewal fee is received by the Department during the timeframe established by the Department as the timeframe for the biennial renewal of licensure; otherwise, the podiatrist shall pay a delinquency fee of three hundred fifty dollars ($350.00) in addition to the biennial renewal fee. The biennial renewal fee for x-ray assistants shall be $75.00.

Specific Authority 456.025(1), 461.005, 461.007, 461.0135 FS. Law Implemented 120.52(9), 456.013(2), 456.025, 456.036(7), 461.007(1), 456.0135 FS. History–New 1-29-80, Amended 10-23-85, Formerly 21T-12.05, 21T-12.005, 61F12-12.005, Amended 1-1-96, Formerly 59Z-12.004, Amended .

Section II
Proposed Rules

DEPARTMENT OF EDUCATION

State Board of Education

RULE TITLE: RULE NO.:

Military Leave; Extent 6A-1.083

PURPOSE AND EFFECT: The provisions of this rule are no longer consistent with current law relating to military leave. Section 239.39, Florida Statutes, grants rulemaking authority to the district school boards. The effect of the amendment will be to remove from the Florida Administrative Code a rule which no longer is in compliance with law.

SUMMARY: This rule is to be repealed.

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 the notice.

SPECIFIC AUTHORITY: 229.053(1) FS.

LAW IMPLEMENTED: 231.36, 231.39(2) FS.

A HEARING WILL BE HELD AT THE TIME, DATE AND PLACE SHOWN BELOW:

TIME AND DATE: 9:00 a.m., December 18, 2001

PLACE: Tallahassee, Florida (For exact location, please contact the Office of the Deputy Commissioner for Planning, Budgeting and Management, (850)488-6539)

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Wayne V. Pierson, Deputy Commissioner for Planning, Budgeting and Management, Department of Education, 325 West Gaines Street, Room 1214, Tallahassee, Florida 32399-0400, (850)488-6539

THE FULL TEXT OF THE PROPOSED RULE IS:

6A-1.083 Military Leave; Extent.

Specific Authority 229.053(1) FS. Law Implemented 231.36, 231.39(2) FS. History–Amended 2-20-64, 2-18-74, Repromulgated 12-5-74, Formerly 6A-1.83, Repealed .

NAME OF PERSON ORIGINATING PROPOSED RULE: Wayne V. Pierson, Deputy Commissioner for Planning, Budgeting and Management, Department of Education

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Charlie Crist, Commissioner of Education

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

DEPARTMENT OF EDUCATION

State Board of Education

RULE TITLE: RULE NO.:

Florida Comprehensive Assessment Test Requirements 6A-1.09422

PURPOSE AND EFFECT: The purpose of this rule amendment is to establish achievement levels for the grades three through ten Florida Comprehensive Assessment Test (FCAT). The effect will be to permit student academic performance in reading and mathematics to be reported in gradations thereby enhancing understanding of educational strengths or needs by the student or his or her parents or guardians. Summaries of student performance on the FCAT are used in calculating school accountability grades.

SUMMARY: This rule is amended to specify score ranges that define five achievement levels for the reading and mathematics portion of the FCAT. The additions to the rule define achievement levels for those grade and subject combinations that have been added to the FCAT since its initiation in 1998. The rule provides initial achievement levels effective until 2003 and a second and more difficult set of levels to become effective in 2004.

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 the notice.

SPECIFIC AUTHORITY: 229.57 FS.

LAW IMPLEMENTED: 229.053, 229.0535, 229.57 FS.

A HEARING WILL BE HELD AT THE TIME, DATE AND PLACE SHOWN BELOW:

TIME AND DATE: 9:00 a.m., December 18, 2001

PLACE: Tallahassee, Florida (For exact location, please contact the Office of the Deputy Commissioner for Planning, Budgeting and Management, (850)488-6539)

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Betty Coxe, Deputy Commissioner for Educational Programs, Department of Education, 400 South Monroe Street, PL08 Capitol, Tallahassee, Florida 32399-0400, (850)413-0555

THE FULL TEXT OF THE PROPOSED RULE IS:

6A-1.09422 Florida Comprehensive Assessment Test Requirements.

(1) The statewide program of educational assessment required by Section 229.57(3)(c), Florida Statutes, shall be developed under the direction and supervision of the Commissioner and shall be titled the Florida Comprehensive Assessment Test (FCAT). It shall be:

(a) Kept secured at all times.

(b) Provided to all school districts in the quantity needed for the students in the district.

(c) Administered in accordance with standard written instructions appropriate for the examination. The written instructions will be issued by the Commissioner in the form of the test administration manual and other written communications, as required, and provided to school districts in sufficient time prior to each test.

(d) Revised and updated as needed.

(2) The test shall be developed in consultation with teachers and other appropriate professionals and shall be approved by the Commissioner prior to being administered to students. The FCAT shall:

(a) Consist of three (3) sections: one (1) measuring reading skills, one (1) measuring mathematics skills, and one (1) measuring writing skills.

(b) Be derived from the skills adopted in Rule 6A-1.09401, FAC.

(3) The FCAT shall be administered as follows:

(a) All eligible students in grades three through ten shall take the reading and mathematics tests. All eligible students in grades four, eight, and ten shall take the writing test.

(b) Provisions shall be made by school districts to administer the test to students who are absent on the designated testing dates according to directions specified by the Commissioner. The directions will be issued in the form of the test administration manual and other written communications, as required, and provided to school districts in sufficient time prior to each test.

(c) Provisions shall be made by the Commissioner to permit the test to be administered to home school students and private school students under conditions which preserve the security of the test and require the public school districts to be responsible for the test administration procedures.

(d) In accordance with the requirements of Section 232.245(3), Florida Statutes, provisions shall be made by the Commissioner to retest students the following year if they do not attain minimum performance expectations.

(e) The FCAT shall be administered not less than one time per year on a schedule approved by the Commissioner.

(4) Examinee scores on FCAT <u>reading and mathematics</u> shall be reported on a score scale from 100 to 500 defined by the baseline test administered during January and February

1998. Each examinee shall receive a total score for each subject area in addition to part scores that can be reliably reported.

(5) The total scores on FCAT shall be reported in terms of the following achievement levels for each specified time period:

(a) Beginning with the effective date of this rule through December 31, 2003, the achievement levels shall be:

1. Grade 3 Reading

a. Level 1 shall be a score less than 259;

b. Level 2 shall be a score equal to or more than 259 but less than 284;

c. Level 3 shall be a score equal to or more than 284 but less than 332;

d. Level 4 shall be a score equal to or more than 332 but less than 394;

e. Level 5 shall be a score equal to or more than 394.

2. Grade 3 Mathematics

a. Level 1 shall be a score less than 253;

b. Level 2 shall be a score equal to or more than 253 but less than 294;

c. Level 3 shall be a score equal to or more than 294 but less than 346;

d. Level 4 shall be a score equal to or more than 346 but less than 398;

e. Level 5 shall be a score equal to or more than 398.

3.~~1.~~ Grade 4 Reading

a. Level 1 shall be a score less than 275;

b. Level 2 shall be a score equal to or more than 275 but less than 299;

c. Level 3 shall be a score equal to or more than 299 but less than 339;

d. Level 4 shall be a score equal to or more than 339 but less than 386;

e. Level 5 shall be a score equal to or more than 386.~~;~~

4. Grade 4 Mathematics

a. Level 1 shall be a score less than 260;

b. Level 2 shall be a score equal to or more than 260 but less than 298;

c. Level 3 shall be a score equal to or more than 298 but less than 347;

d. Level 4 shall be a score equal to or more than 347 but less than 394;

e. Level 5 shall be a score equal to or more than 394.

5. Grade 5 Reading

a. Level 1 shall be a score less than 256;

b. Level 2 shall be a score equal to or more than 256 but less than 286;

c. Level 3 shall be a score equal to or more than 286 but less than 331;

d. Level 4 shall be a score equal to or more than 331 but less than 384;

e. Level 5 shall be a score equal to or more than 384.

6.~~2.~~ Grade 5 Mathematics

a. Level 1 shall be a score less than 288;

b. Level 2 shall be a score equal to or more than 288 but less than 326;

c. Level 3 shall be a score equal to or more than 326 but less than 355;

d. Level 4 shall be a score equal to or more than 355 but less than 395;

e. Level 5 shall be a score equal to or more than 395.~~;~~

7. Grade 6 Reading

a. Level 1 shall be a score less than 265;

b. Level 2 shall be a score equal to or more than 265 but less than 296;

c. Level 3 shall be a score equal to or more than 296 but less than 339;

d. Level 4 shall be a score equal to or more than 339 but less than 387;

e. Level 5 shall be a score equal to or more than 387.

8. Grade 6 Mathematics

a. Level 1 shall be a score less than 283;

b. Level 2 shall be a score equal to or more than 283 but less than 315;

c. Level 3 shall be a score equal to or more than 315 but less than 354;

d. Level 4 shall be a score equal to or more than 354 but less than 391;

e. Level 5 shall be a score equal to or more than 391.

9. Grade 7 Reading

a. Level 1 shall be a score less than 267;

b. Level 2 shall be a score equal to or more than 267 but less than 300;

c. Level 3 shall be a score equal to or more than 300 but less than 344;

d. Level 4 shall be a score equal to or more than 344 but less than 389;

e. Level 5 shall be a score equal to or more than 389.

10. Grade 7 Mathematics

a. Level 1 shall be a score less than 275;

b. Level 2 shall be a score equal to or more than 275 but less than 306;

c. Level 3 shall be a score equal to or more than 306 but less than 344;

d. Level 4 shall be a score equal to or more than 344 but less than 379;

e. Level 5 shall be a score equal to or more than 379.

11.~~3.~~ Grade 8 Reading

a. Level 1 shall be a score less than 271;

b. Level 2 shall be a score equal to or more than 271 but less than 310;

c. Level 3 shall be a score equal to or more than 310 but less than 350;

d. Level 4 shall be a score equal to or more than 350 but less than 394;

e. Level 5 shall be a score equal to or more than 394.;

12.~~4.~~ Grade 8 Mathematics

a. Level 1 shall be a score less than 280;

b. Level 2 shall be a score equal to or more than 280 but less than 310;

c. Level 3 shall be a score equal to or more than 310 but less than 347;

d. Level 4 shall be a score equal to or more than 347 but less than 371;

e. Level 5 shall be a score equal to or more than 371.;

13. Grade 9 Reading

a. Level 1 shall be a score less than 285;

b. Level 2 shall be a score equal to or more than 285 but less than 322;

c. Level 3 shall be a score equal to or more than 322 but less than 354;

d. Level 4 shall be a score equal to or more than 354 but less than 382;

e. Level 5 shall be a score equal to or more than 382.

14. Grade 9 Mathematics

a. Level 1 shall be a score less than 261;

b. Level 2 shall be a score equal to or more than 261 but less than 296;

c. Level 3 shall be a score equal to or more than 296 but less than 332;

d. Level 4 shall be a score equal to or more than 332 but less than 367;

e. Level 5 shall be a score equal to or more than 367.

15.~~5.~~ Grade 10 Reading

a. Level 1 shall be a score less than 287;

b. Level 2 shall be a score equal to or more than 287 but less than 327;

c. Level 3 shall be a score equal to or more than 327 but less than 355;

d. Level 4 shall be a score equal to or more than 355 but less than 372;

e. Level 5 shall be a score equal to or more than 372.;

16.~~6.~~ Grade 10 Mathematics

a. Level 1 shall be a score less than 287;

b. Level 2 shall be a score equal to or more than 287 but less than 315;

c. Level 3 shall be a score equal to or more than 315 but less than 340;

d. Level 4 shall be a score equal to or more than 340 but less than 375;

e. Level 5 shall be a score equal to or more than 375.

(b) For the time period beginning January 1, 2004, the achievement levels shall be:

1. Grade 3 Reading

a. Level 1 shall be a score less than 272;

b. Level 2 shall be a score equal to or more than 272 but less than 297;

c. Level 3 shall be a score equal to or more than 297 but less than 345;

d. Level 4 shall be a score equal to or more than 345 but less than 407;

e. Level 5 shall be a score equal to or more than 407.

2. Grade 3 Mathematics

a. Level 1 shall be a score less than 266;

b. Level 2 shall be a score equal to or more than 266 but less than 307;

c. Level 3 shall be a score equal to or more than 307 but less than 359;

d. Level 4 shall be a score equal to or more than 359 but less than 411;

e. Level 5 shall be a score equal to or more than 411.

3.~~1.~~ Grade 4 Reading

a. Level 1 shall be a score less than 288;

b. Level 2 shall be a score equal to or more than 288 but less than 312;

c. Level 3 shall be a score equal to or more than 312 but less than 352;

d. Level 4 shall be a score equal to or more than 352 but less than 399;

e. Level 5 shall be a score equal to or more than 399.;

4. Grade 4 Mathematics

a. Level 1 shall be a score less than 273;

b. Level 2 shall be a score equal to or more than 273 but less than 311;

c. Level 3 shall be a score equal to or more than 311 but less than 360;

d. Level 4 shall be a score equal to or more than 360 but less than 407;

e. Level 5 shall be a score equal to or more than 407.

5. Grade 5 Reading

a. Level 1 shall be a score less than 269;

b. Level 2 shall be a score equal to or more than 269 but less than 299;

c. Level 3 shall be a score equal to or more than 299 but less than 344;

d. Level 4 shall be a score equal to or more than 344 but less than 397;

e. Level 5 shall be a score equal to or more than 397.

6.~~2.~~ Grade 5 Mathematics

a. Level 1 shall be a score less than 301;

b. Level 2 shall be a score equal to or more than 301 but less than 339;

c. Level 3 shall be a score equal to or more than 339 but less than 368;

d. Level 4 shall be a score equal to or more than 368 but less than 408;

e. Level 5 shall be a score equal to or more than 408.~~;~~

7. Grade 6 Reading

a. Level 1 shall be a score less than 278;

b. Level 2 shall be a score equal to or more than 278 but less than 309;

c. Level 3 shall be a score equal to or more than 309 but less than 352;

d. Level 4 shall be a score equal to or more than 352 but less than 400;

e. Level 5 shall be a score equal to or more than 400.

8. Grade 6 Mathematics

a. Level 1 shall be a score less than 296;

b. Level 2 shall be a score equal to or more than 296 but less than 328;

c. Level 3 shall be a score equal to or more than 328 but less than 367;

d. Level 4 shall be a score equal to or more than 367 but less than 404;

e. Level 5 shall be a score equal to or more than 404.

9. Grade 7 Reading

a. Level 1 shall be a score less than 280;

b. Level 2 shall be a score equal to or more than 280 but less than 313;

c. Level 3 shall be a score equal to or more than 313 but less than 357;

d. Level 4 shall be a score equal to or more than 357 but less than 402;

e. Level 5 shall be a score equal to or more than 402.

10. Grade 7 Mathematics

a. Level 1 shall be a score less than 288;

b. Level 2 shall be a score equal to or more than 288 but less than 319;

c. Level 3 shall be a score equal to or more than 319 but less than 357;

d. Level 4 shall be a score equal to or more than 357 but less than 392;

e. Level 5 shall be a score equal to or more than 392.

11.~~3.~~ Grade 8 Reading

a. Level 1 shall be a score less than 284;

b. Level 2 shall be a score equal to or more than 284 but less than 323;

c. Level 3 shall be a score equal to or more than 323 but less than 363;

d. Level 4 shall be a score equal to or more than 363 but less than 407;

e. Level 5 shall be a score equal to or more than 407.~~;~~

12.~~4.~~ Grade 8 Mathematics

a. Level 1 shall be a score less than 293;

b. Level 2 shall be a score equal to or more than 293 but less than 323;

c. Level 3 shall be a score equal to or more than 323 but less than 360;

d. Level 4 shall be a score equal to or more than 360 but less than 384;

e. Level 5 shall be a score equal to or more than 384.~~;~~

13. Grade 9 Reading

a. Level 1 shall be a score less than 298;

b. Level 2 shall be a score equal to or more than 298 but less than 335;

c. Level 3 shall be a score equal to or more than 335 but less than 367;

d. Level 4 shall be a score equal to or more than 367 but less than 395;

e. Level 5 shall be a score equal to or more than 395.

14. Grade 9 Mathematics

a. Level 1 shall be a score less than 274;

b. Level 2 shall be a score equal to or more than 274 but less than 309;

c. Level 3 shall be a score equal to or more than 309 but less than 345;

d. Level 4 shall be a score equal to or more than 345 but less than 380;

e. Level 5 shall be a score equal to or more than 380.

15.~~5.~~ Grade 10 Reading

a. Level 1 shall be a score less than 300;

b. Level 2 shall be a score equal to or more than 300 but less than 340;

c. Level 3 shall be a score equal to or more than 340 but less than 368;

d. Level 4 shall be a score equal to or more than 368 but less than 385;

e. Level 5 shall be a score equal to or more than 385.~~;~~

16. Grade 10 Mathematics

a. Level 1 shall be a score less than 300;

b. Level 2 shall be a score equal to or more than 300 but less than 328;

c. Level 3 shall be a score equal to or more than 328 but less than 353;

d. Level 4 shall be a score equal to or more than 353 but less than 388;

e. Level 5 shall be a score equal to or more than 388.

(6) Pursuant to Section 229.57(3)(c)6., Florida Statutes, students who were enrolled in grade nine in the fall of 1999 and thereafter, shall be required to earn passing scores on the grade ten Florida Comprehensive Assessment Test in reading and mathematics.

(7) The passing score for the reading test shall be a score equal to or greater than 287. The passing score for the mathematics test shall be a score equal to or greater than 295. Effective February 1, 2002, the passing score for the reading and mathematics tests shall be a score equal to or greater than 300.

(8) After July 1, 2002, and before March 1, 2003, the Commissioner of Education shall review student performance levels and determine whether to maintain the existing passing scores or to increase one or both of the requirements.

(9) The test shall be administered according to a schedule approved by the Commissioner.

(10) Students with disabilities may be provided test modifications or accommodations in accordance with the provisions of Rule 6A-1.0943, FAC.

(11) Invalidity of a section of this rule shall not invalidate the remainder of the rule.

Specific Authority 229.57 FS. Law Implemented 229.053, 229.0535, 229.57 FS. History–New 1-24-99, Amended 10-7-01, _____.

NAME OF PERSON ORIGINATING PROPOSED RULE: Betty Coxe, Deputy Commissioner for Educational Programs, Department of Education

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Charlie Crist, Commissioner of Education

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

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: October 5, 2001

DEPARTMENT OF EDUCATION

State Board of Education

RULE TITLE: RULE NO.:

Implementation of Florida's System of School Improvement and Accountability 6A-1.09981

PURPOSE AND EFFECT: The purpose of this rule amendment is to establish procedures for assigning school performance grades based on a combination of student achievement, annual learning gains, and improvement of the lowest performing twenty-five percent of students in each school. The effect will be to begin full implementation of Florida's system of school accountability, beginning with the current school year. School performance grades that result from these procedures are used in determining which schools are eligible for the Opportunity Scholarship and School Recognition programs as well as several other key research and assistance efforts.

SUMMARY: The rule amendment specifies which student test scores are included in the determination of school grades, how indicators of school performance and learning gains are calculated, and how points are accumulated toward a final school performance grade. The rule amendment also specifies the number of points that are required for School Performance Grades A-F, beginning in with the current school year.

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 the notice.

SPECIFIC AUTHORITY: 229.053, 229.0535, 229.592, 229.57 FS.

LAW IMPLEMENTED: 228.0565, 229.0535, 229.57, 229.591, 229.592, 230.23, 231.2905 FS.

A HEARING WILL BE HELD AT THE TIME, DATE AND PLACE SHOWN BELOW:

TIME AND DATE: 9:00 a.m., December 18, 2001

PLACE: Tallahassee, Florida (For exact location, please contact the Office of the Deputy Commissioner for Planning, Budgeting and Management, (850)488-6539)

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Betty Coxe, Deputy Commissioner for Educational Programs, Department of Education, 400 South Monroe Street, PL08 Capitol, Tallahassee, Florida 32399-0400, (850)413-0555

THE FULL TEXT OF THE PROPOSED RULE IS:

6A-1.09981 Implementation of Florida's System of School Improvement and Accountability.

(1) Policy Guidance. Accountability for student learning is the key focus of Florida's system of school improvement. Results from the statewide assessment program required by Section 229.57, Florida Statutes, shall form the basis of Florida's system of school improvement and accountability. Student achievement data from the Florida Comprehensive Assessment Test (FCAT) in grades 3-10 shall be used to establish both proficiency levels and annual progress for individual students, schools, districts, and the state. Results shall further be used as the primary criteria in calculating school performance grades as specified in subsection (5) of this rule, school improvement ratings, school rewards and recognition, and performance-based funding and shall be annually reported. ~~Ultimately,~~ T~~t~~he statewide assessment program shall be used to measure the annual learning gains of each student toward achievement of the Sunshine State Standards appropriate for the student's grade level and to inform parents of the educational progress of their public school children as specified by Section 229.57(1), Florida Statutes. ~~As this requires an expansion of the assessment program to include grades three (3) through ten (10), a fundamental shift to assess annual student progress, and other~~

~~comprehensive changes, full implementation of the statewide accountability program shall occur beginning with school year 2001-2002.~~

(a) Full Implementation of Accountability System in School Year 2001-2002 and Thereafter. Beginning in school year 2001-2002, the school accountability system will be considered to be fully implemented with the following accountability elements. ~~Existing School Year. For the existing school year, the following accountability elements shall be implemented:~~

1. Designation of school performance grades shall be based on a combination of: ~~FCAT reading and writing assessments in grades 4, 8, and 10 and FCAT mathematics assessments in grades 5, 8, and 10 shall be used in designating school performance grades.~~

a. Student achievement scores, based on FCAT reading and mathematics assessments in grades 3-10 and FCAT writing assessments in grades 4, 8, and 10;

b. Annual student learning gains as measured by FCAT reading and mathematics assessments in grades three (3) through ten (10); and

c. Improvement of the FCAT reading scores of students in the lowest twenty-five (25) percent of each school, unless they are performing above satisfactory, defined as FCAT Achievement Levels 4 and 5;

2. School improvement ratings shall be based on the FCAT reading assessments and indicate if a school's student performance in reading has improved, remained the same, or declined compared to the previous year. School improvement ratings shall not be used in the designation of school grades. ~~Data including attendance, discipline data, and dropout rate as specified in subparagraphs (5)(b)3., (c)4., (d)6., and (e)6., of this rule shall be used in designating school performance grades. The Commissioner of Education (Commissioner) shall establish criteria for using student readiness for college as a requirement in designating school performance grades when the process of calibrating FCAT performance data with college placement test data has been completed.~~

3. Schools designated as Performance Grade "C" or above shall be required to demonstrate that adequate progress in reading has been made by the lowest twenty-five (25) percent of students in the school who score at or below FCAT Achievement Level 3 in the current school year. The minimum requirement for adequate progress is deemed to be met if at least fifty (50) percent of such students make learning gains as defined in paragraph (5)(b) of this rule. If the minimum requirement for adequate progress in reading among the lowest twenty-five (25) percent of students in the school is not met, the School Advisory Council shall include in its School Improvement Plan a component for meeting the adequate progress requirement by the next school year. If a school otherwise designated as Performance Grade "C" or above does not meet the adequate progress requirement for two (2) years in a row, the final Performance Grade designation shall be reduced by one (1) letter grade. ~~FCAT mathematics assessments shall be field-tested in grades 3, 4, 6, 7, and 9.~~

4. To ensure that student data accurately represent school performance, schools shall be required to assess at least ninety (90) percent of their eligible students to qualify for a School Performance Grade of D, C, or B and at least ninety-five (95) percent to qualify for an A. ~~FCAT reading assessments shall be field-tested in grades 3, 5, 6, 7, and 9.~~

5. Statewide assessment results shall be publicly reported and shall include a comparison of the achievement of Florida students to the national average through the use of norm-referenced subtests in reading and mathematics. ~~School improvement ratings shall be based on the FCAT reading assessment and indicate if a school's student performance in reading has improved, remained the same, or declined compared to the previous year. School improvement ratings shall not be used in the designation of school grades.~~

6. Schools designated School Performance Grade A and schools improving at least one (1) performance grade designation shall be eligible for school recognition and awards. ~~Schools shall be required to assess at least ninety (90) percent of all eligible students to ensure that the student performance data accurately represents the performance of the school.~~

7. Schools designated School Performance Grade A and schools improving at least two (2) performance grades shall be eligible for deregulated status and increased budget authority. ~~Emphasis shall be placed on adequate progress of students scoring in the lowest quartile.~~

8. Intensive assistance and intervention including on-site assistance, preference for awarding grants, and priority for other discretionary funds as specified in subsections (9), (10), and (11) of this rule shall be provided to schools designated School Performance Grade F and School Performance Grade D. Renegotiation of bargained contracts as specified in subsection (9) of this rule may be provided to schools designated School Performance Grade F. ~~Statewide assessment results shall be publicly reported and shall include a comparison of the achievement of Florida students to the national average through the use of norm-referenced subtests in reading and mathematics.~~

~~9. Grade 10 FCAT reading and mathematics assessments shall be used in place of the High School Competency Test results as a graduation requirement for students entering grade 9.~~

~~10. Schools designated School Performance Grade A and schools improving at least one (1) performance grade designation shall be eligible for school recognition and awards.~~

~~11. Schools designated School Performance Grade A and schools improving at least two (2) performance grades shall be eligible for deregulated status and increased budget authority.~~

~~12. Intensive assistance and intervention including on-site assistance, preference for awarding grants, and priority for other discretionary funds as specified in subsections (9), (10), and (11) of this rule shall be provided to schools designated School Performance Grade F and School Performance Grade D. Renegotiation of bargained contracts as specified in subsection (9) of this rule may be provided to schools designated School Performance Grade F.~~

~~(b) School Year 2000-2001. For the school year 2000-2001, the following accountability elements shall be implemented:~~

~~1. FCAT reading and mathematics assessments in grades 3-10 and FCAT writing assessments in grades 4, 8, and 10 shall be used in designating school performance grades.~~

~~2. Data including attendance, discipline data, and dropout rate as specified in subparagraphs (5)(b)3., (c)4., (d)6., and (e)6., of this rule shall be used in designating school performance grades. The Commissioner shall establish criteria for using student readiness for college as a requirement in designating school performance grades when the process of calibrating FCAT performance data with college placement test data has been completed.~~

~~3. FCAT reading and mathematics assessments in grades 3-10 shall be used as baseline data for determining annual learning gains for the same students.~~

~~4. School improvement ratings shall be based on the FCAT reading assessments and indicate if a school's student performance in reading has improved, remained the same, or declined compared to the previous year. School improvement ratings shall not be used in the designation of school grades.~~

~~5. Grade 10 FCAT reading and mathematics assessments shall be used as a graduation requirement for students who will be graduating in school year 2002-2003.~~

~~6. Emphasis shall be placed on the adequate progress of students scoring in the lowest quartile.~~

~~7. A new reporting element shall be required for the FCAT scores of students in the lowest twenty-five (25) percent of the state.~~

~~8. Schools shall assess at least ninety (90) percent of their eligible students to ensure that their student data accurately represents the school's performance for grade designation.~~

~~9. Statewide assessment results shall be publicly reported and shall include a comparison of the achievement of Florida students to the national average through the use of norm-referenced subtests in reading and mathematics.~~

~~10. Schools designated School Performance Grade A and schools improving at least one (1) performance grade designation are eligible for school recognition and awards.~~

~~11. Schools designated School Performance Grade A and schools improving at least two (2) performance grades will be eligible for deregulated status and increased budget authority.~~

~~12. Intensive assistance and intervention including on-site assistance, preference for awarding grants, and priority for other discretionary funds as specified in subsections (9), (10), and (11) of this rule shall be provided to schools designated School Performance Grade F and School Performance Grade D. Renegotiation of bargained contracts as specified in subsection (9) of this rule may be provided to schools designated School Performance Grade F.~~

~~(c) Full Implementation of Accountability System in School Year 2001-2002 and Thereafter. Beginning in school year 2001-2002, the school accountability system will be considered to be fully implemented with the following accountability elements.~~

~~1. Designation of school performance grades shall be based on:~~

~~a. Annual student learning gains in reading and mathematics;~~

~~b. FCAT reading and mathematics assessments in grades 3-10 and FCAT writing assessments in grades 4, 8, and 10;~~

~~c. Improvement of the FCAT score of students scoring in the lowest twenty-five (25) percent of the state; and~~

~~d. Data including attendance, school discipline data, cohort graduation rate, and dropout rate. The Commissioner shall establish criteria for using student readiness for college as a requirement in designating school performance grades when the process of calibrating FCAT performance data with college placement test data has been completed.~~

~~2. FCAT science assessments shall be field-tested in grades 4, 8, and 10.~~

~~3. School improvement ratings shall be based on the FCAT reading assessments and indicate if a school's student performance in reading has improved, remained the same, or declined compared to the previous year. School improvement ratings shall not be used in the designation of school grades.~~

~~4. Grade 10 FCAT reading and mathematics assessments shall be used as a graduation requirement for students who will be graduating in school year 2002-2003 and thereafter.~~

~~5. The FCAT scores of students in the lowest twenty-five (25) percent of the state shall be publicly reported.~~

~~6. The degree of improvement of the FCAT scores of students in the lowest twenty-five (25) percent in the state shall be publicly reported.~~

~~7. Adequate progress of the overall school population, including students scoring in the lowest twenty-five (25) percent in the state, shall be required for a school to be designated School Performance Grade C or better.~~

~~8. Schools shall be required to assess at least ninety (90) percent of their eligible students to ensure that their student data accurately represents the school's performance.~~

~~9. Statewide assessment results shall be publicly reported and shall include a comparison of the achievement of Florida students to the national average through the use of norm-referenced subtests in reading and mathematics.~~

~~10. Schools designated School Performance Grade A and schools improving at least one (1) performance grade designation shall be eligible for school recognition and awards.~~

~~11. Schools designated School Performance Grade A and schools improving at least two (2) performance grades shall be eligible for deregulated status and increased budget authority.~~

~~12. Intensive assistance and intervention including on-site assistance, preference for awarding grants, and priority for other discretionary funds as specified in subsections (9), (10), and (11) of this rule shall be provided to schools designated School Performance Grade F and School Performance Grade D. Renegotiation of bargained contracts as specified in subsection (9) of this rule may be provided to schools designated School Performance Grade F.~~

(b)~~(d)~~ In an effort to promote the continuous improvement of each student and each school within the state every school year, accountability reports shall be reflective of the data available for each year.

(2) School Accountability for Student Performance. All schools shall be accountable for performance relative to the Student Performance Goal stated in Section 229.591, Florida Statutes. Each school is accountable for the performance of its entire student population. Student achievement data from the FCAT shall be used to measure a school's student performance for the subject areas of reading, mathematics, and writing. The FCAT levels in the performance criteria in subsection (5) of this rule are those specified in Rule 6A-1.09422, FAC., for the year in which achievement data are used for accountability. In addition, the FCAT assessment shall include a norm-referenced subtest that shall be used to report student achievement as compared to national norms. Schools shall report student achievement scores on these subtests to parents. Student achievement data on norm-referenced subtests shall not represent progress toward the Sunshine State Standards and shall not be used in designating school performance grades.

(3) Reporting Student Achievement Data for School Accountability. Student achievement data shall be reported for all students in a school as specified by Section 229.57, Florida Statutes. Each year r~~R~~eports of ~~student~~ achievement data for all students shall be prepared for each school, the district, and the state. For the purpose of assigning school performance grades, each school's aggregate achievement data shall be based on:~~, and shall include the results of students in the lowest twenty-five (25) percent of the state in the previous school year to report a school's progress in serving its lowest performing students. The format of the School Accountability Report shall indicate each school's performance status based on the level of student performance in that school and shall indicate if the school's performance in reading has improved, remained the same, or declined. The report shall also include, but not be limited to, attendance, stability rate, out-of-school suspensions, dropout rate, graduation rate, and other data for the entire student population as specified in Rule 6A-1.09982, FAC. Student achievement data shall be calculated as follows:~~

(a) ~~For the purpose of calculating state and district results,~~ T~~t~~he scores of all students enrolled in standard curriculum courses including ~~shall be included. This includes~~ the scores of students who are speech impaired, gifted, hospital homebound, and Limited English Proficient (LEP) students who have been in an English for Speakers of Other Languages (ESOL) program for more than two (2) years.

(b) In addition, ~~For the purpose of designating a school's performance grade,~~ only the scores of those students ~~used in calculating state and district results~~ who are enrolled in the second period and the third period full-time equivalent student membership survey as specified in Rule 6A-1.0451, FAC., shall be included.

(c) The Commissioner is authorized to designate a single school performance grade for schools which serve multiple levels: elementary and/or middle and/or high school grade levels.

(d) The Commissioner shall periodically review the criteria for including students in the calculation of School Performance Grades, including students in alternative and Department of Juvenile Justice facilities.

(4) School Performance Grades. The measure of school accountability shall be the school performance grade. The Commissioner is authorized to designate a school performance grade for each school that has at least thirty (30) eligible students with valid FCAT assessment scores in reading and at least thirty (30) eligible students with valid FCAT assessment math scores. School performance grade designations shall be made in the summer of each school year, using student achievement data from the school year for which the designation is made. Performance designations shall be made using School Performance Grades A, B, C, D, and F, as specified in Section 229.57(7), Florida Statutes. School performance grades shall be based on the assessments and criteria as specified in subsection (5) of this rule. The Commissioner is authorized to establish appropriate achievement level criteria in newly assessed grade levels for submission to the State Board for final approval. ~~The measure of school accountability shall be the school performance grade. The Commissioner is authorized to designate a school performance grade for each school that has at least thirty (30) eligible students in membership in each of the grade levels assessed for state accountability purposes as specified in subsection (3) of this rule. The Department shall identify schools that require accountability measures other than those specified in subsection (2) of this rule for designation of a school performance grade. School performance grade designations shall be made in the summer of each school year, using student achievement data from the school year for which the designation is made. Performance designations shall be~~

~~made using School Performance Grades A, B, C, D, and F, as specified in Section 229.57(7), Florida Statutes. School performance grades shall be based on the assessments and criteria as specified in subsection (5) of this rule. The Commissioner is authorized to establish appropriate achievement level criteria in newly assessed grade levels for submission to the State Board for final approval.~~

(5) Criteria for Designating School Performance Grades. School performance grades shall be designated in the summer of each year and shall be based on a combination of the following three components, as specified in Section 229.57(8), Florida Statutes ~~the following~~:

(a) Student achievement scores, aggregated for each school, which indicate the percent of eligible students who score at or above FCAT Achievement Level 3 in reading and math and the percent of students who score "3" or higher combined with the percent who score "4" or higher on the FCAT writing assessment, not to exceed one-hundred (100) percent; ~~School Performance Grade F. A school is designated School Performance Grade F, failing to make adequate progress, if it meets the following criteria:~~

~~1. High Schools. Fewer than sixty (60) percent of students scoring at or above Achievement Level 2 in reading on the FCAT, tenth grade administration; fewer than sixty (60) percent of students scoring at or above Achievement Level 2 in mathematics on the FCAT, tenth grade administration; and fewer than seventy-five (75) percent of students scoring "3" or above in writing on the FCAT, tenth grade administration.~~

~~2. Middle Schools/Junior High Schools. Fewer than sixty (60) percent of students scoring at or above Achievement Level 2 in reading on the FCAT, eighth grade administration; fewer than sixty (60) percent of students scoring at or above Achievement Level 2 in mathematics on the FCAT, eighth grade administration; and fewer than sixty-seven (67) percent of students scoring "3" or above in writing on the FCAT, eighth grade administration.~~

~~3. Elementary Schools. Fewer than sixty (60) percent of students scoring at or above Achievement Level 2 in reading on the FCAT, fourth grade administration; fewer than sixty (60) percent of students scoring at or above Achievement Level 2 in mathematics on the FCAT, fifth grade administration; and fewer than fifty (50) percent of students scoring "3" or above in writing on the FCAT, fourth grade administration.~~

(b) Annual learning gains, aggregated for each school, which indicate the percent of eligible students who have improved their FCAT Achievement level from one (1) year to the next or maintained a satisfactory or higher FCAT Achievement Level within levels 3, 4, or 5 from one (1) year to the next or improved their relative standing within FCAT Achievement Levels 1 or 2 in the current year as compared to the previous year. Students whose FCAT Achievement Level declines from one (1) year to the next shall not be deemed to have made annual learning gains. The annual learning gains calculation shall be based on students who have a valid FCAT reading and/or math score in both the current and previous year. Each school's Performance Grade shall also be based on: ~~School Performance Grade D. A school is designated School Performance Grade D, making less than satisfactory progress, if it meets the following criteria:~~

~~1. The student achievement scores in at least one (1) of the subject areas specified for state accountability were below the criteria in paragraph (5)(a) of this rule.~~

~~2. At least ninety (90) percent of the school's student population eligible for inclusion in the designation of the school's performance grade as specified in subsection (3) of this rule were assessed.~~

~~3. For elementary, middle, and high schools, the percent of students absent more than twenty (20) days and the percent of out-of-school suspensions were no more than one standard deviation above the state average. For high schools, the drop-out rate was no more than one standard deviation above the state average. If the school's performance for any of the data requirements in this subparagraph has improved from the previous school year, then the criteria for that data requirement will be considered to have been met.~~

(c) Improvement, as defined in paragraph (5)(b) of this rule, of the lowest twenty-five (25) percent of students in reading in each school, unless they are performing above satisfactory, defined as FCAT Achievement Levels 4 and 5. ~~School Performance Grade C. A school is designated School Performance Grade C, making satisfactory progress, if it meets the following criteria:~~

~~1. None of the school's student achievement scores were below the criteria in paragraph (5)(a) of this rule in any of the subject areas identified for state accountability.~~

~~2. The percent of students in the school who score in the lowest twenty-five (25) percent in the state in reading is maintained within two (2) percentage points or decreased from the previous year. This provision shall apply to schools that have at least thirty (30) students in the lowest twenty-five (25) percent in the state in reading. If a school does not have at least thirty (30) students in the lowest twenty-five (25) percent in the state in reading, then the cumulative number of students in the school scoring in FCAT Achievement Level 1 and Achievement Level 2 in reading shall be substituted for students scoring in the lowest twenty-five (25) percent in the state, unless there are fewer than thirty (30) students.~~

~~3. At least ninety (90) percent of the school's student population eligible for inclusion in the designation of the school's performance grade as specified in subsection (3) of this rule were assessed.~~

~~4. For elementary, middle, and high schools, the percent of students absent more than twenty (20) days and the percent of out-of-school suspensions were no more than one standard deviation above the state average. For high schools, the~~

drop-out rate was no more than one standard deviation above the state average. If the school's performance for any of the data requirements in this subparagraph has improved from the previous school year, then the criteria for that data requirement will be considered to have been met.

5. The school does not meet the performance criteria for designation of School Performance Grade B or School Performance Grade A.

(d) School Performance Grade B. A school is designated School Performance Grade B, making above average progress, if it meets the following criteria:

1. High Schools. Fifty (50) percent or more of the students scoring at or above Achievement Level 3 in reading on the FCAT, tenth grade administration; fifty (50) percent or more of the students scoring at or above Achievement Level 3 in mathematics on the FCAT, tenth grade administration; eighty (80) percent or more of the students scoring "3" or above in writing on the FCAT, tenth grade administration; and the criteria in subparagraphs (5)(d)4., 5., and 6., of this rule.

2. Middle Schools/Junior High Schools. Fifty (50) percent or more of the students scoring at or above Achievement Level 3 in reading on the FCAT, eighth grade administration; fifty (50) percent or more of the students scoring at or above Achievement Level 3 in mathematics on the FCAT, eighth grade administration; seventy-five (75) percent or more of the students scoring "3" or above in writing on the FCAT, eighth grade administration; and the criteria in subparagraphs (5)(d)4., 5., and 6., of this rule.

3. Elementary Schools. Fifty (50) percent of students scoring at or above Achievement Level 3 in reading on the FCAT, fourth grade administration; fifty (50) percent or more of the students scoring at or above Achievement Level 3 in mathematics on the FCAT, fifth grade administration; sixty-seven (67) percent or more of the students scoring "3" or above in writing on FCAT, fourth grade administration; and the criteria in subparagraphs (5)(d)4., 5., and 6., of this rule.

4. The percent of students in the school who score in the lowest twenty-five (25) percent in the state in reading is maintained within two (2) percentage points or decreased from the previous year. This provision shall apply to schools that have at least thirty (30) students in the lowest twenty-five (25) percent in the state in reading. If a school does not have at least thirty (30) students in the lowest twenty-five (25) percent in the state in reading, then the cumulative number of students in the school scoring in FCAT Achievement Level 1 and Achievement Level 2 in reading shall be substituted for students scoring in the lowest twenty-five (25) percent in the state, unless there are fewer than thirty (30) students.

5. At least ninety (90) percent of the school's student population eligible for inclusion in the designation of the school's performance grade as specified in subsection (3) of this rule were assessed.

6. For elementary, middle, and high schools, the percent of students absent more than twenty (20) days and the percent of out-of-school suspensions were no more than one standard deviation above the state average. For high schools, the drop-out rate was no more than one standard deviation above the state average. If the school's performance for any of the data requirements in this subparagraph has improved from the previous school year, then the criteria for that data requirement will be considered to have been met.

7. The school does not meet the performance criteria for School Performance Grade A.

(e) School Performance Grade A. A school is designated School Performance Grade A, making excellent progress, if it meets the following criteria:

1. The school's performance meets or exceeds the performance criteria as specified in subparagraphs (5)(d)1., 2., and 3., of this rule.

2. The percent of students in the school who score in the lowest twenty-five (25) percent in the state in reading is maintained within two (2) percentage points or decreased from the previous year. This provision shall apply to schools that have at least thirty (30) students in the lowest twenty-five (25) percent in the state in reading. If a school does not have at least thirty (30) students in the lowest twenty-five (25) percent in the state in reading, then the cumulative number of students in the school scoring in FCAT Achievement Level 1 and Achievement Level 2 in reading shall be substituted for students scoring in the lowest twenty-five (25) percent in the state, unless there are fewer than thirty (30) students.

3. Student achievement scores demonstrate substantial improvement of more than two (2) percentage points gain in reading at or above FCAT Achievement Level 3. However, if the school has seventy-five (75) percent or more students scoring at or above FCAT Achievement Level 3 in reading and not more than a two (2) percentage point decrease from the previous year, then substantial improvement will be considered to have been met.

4. Student achievement scores do not decline five (5) or more percentage points in the percent of students scoring at or above FCAT Achievement Level 3 in mathematics and in the percent of students scoring "3" and above in writing on the FCAT.

5. At least ninety-five (95) percent of the school's student population eligible for inclusion in the designation of the school's performance grade as specified in subsection (3) of this rule were assessed.

6. For elementary, middle, and high schools, the percent of students absent more than twenty (20) days and the percent of out-of-school suspensions were no more than one standard deviation above the state average. For high schools, the drop-out rate was no more than one standard deviation above the state average. If the school's performance for any of the

~~data requirements in this subparagraph has improved from the previous school year, then the criteria for that data requirement will be considered to have been met.~~

(6) Procedures for Calculating School Performance Grades. The overall Performance Grade of A, B, C, D or F for school years 2001-2002 and thereafter, as designated in Section 229.57(7), Florida Statutes, shall be based on the sum of the following six (6) school grade point elements: ~~Designating Schools to a Higher School Performance Grade. For the purpose of designating a school to a higher school performance grade, a school must meet the criteria listed in subsection (5) of this rule for a higher school performance grade.~~

(a) One (1) point for each percent of students who score at or above FCAT Achievement Level 3 in reading;

(b) One (1) point for each percent of students who score at or above FCAT Achievement Level 3 in mathematics;

(c) One (1) point for each percent of students who score "3" or higher combined with the percent who score "4" or higher on the FCAT writing assessment, not to exceed one-hundred (100) percent;

(d) One (1) point for each percent of students who make annual learning gains in reading as defined in paragraph (5)(b) of this rule;

(e) One (1) point for each percent of students who make annual learning gains in mathematics as defined in paragraph (5)(b) of this rule; and

(f) One (1) point for each percent of students in the lowest twenty-five (25) percent in reading in the school as defined in paragraph (5)(c) of this rule who make learning gains as defined in paragraph (5)(b) of this rule. The percent of students reflected in each of the six (6) school grade point elements defined in paragraphs (6)(a)-(f) of this rule shall be expressed to the nearest whole number. The corresponding points assigned for each grade point element shall also be expressed to the nearest whole number. In the event that a school does not have at least thirty (30) eligible students tested in writing, the grade point element as defined in paragraph (6)(a) of this rule shall be substituted for the grade point element defined in paragraph (6)(c) of this rule. In the event that a school does not have at least thirty (30) students in the lowest twenty-five (25) percent in reading as defined in paragraph (5)(c) of this rule, the grade point element defined in paragraph (6)(d) of this rule shall be substituted for the grade point element defined in paragraph (6)(f) of this rule.

(7) Bonus Points For Substantial Improvement In Reading for Selected Students in the Lowest Twenty-five (25) Percent in Each School. After all grade point elements are added together, one (1) bonus point for each student in the lowest twenty-five (25) percent in reading whose relative standing improves by ten (10) percentile points or more shall be added in an amount up to twenty-five percent of the school grade points defined in paragraph (6)(f) of this rule not to exceed the minimum number required to raise a school's final performance designation one (1) letter grade. Bonus points shall accrue only to students in the lowest twenty-five (25) percent in reading who improve from FCAT achievement levels one (1)or two (2).

(8) School Performance Grading Scale. The School Performance Grade shall be based on the sum of the six (6) grade point elements as defined in paragraphs (6)(a)-(f) of this rule and shall be scaled to reflect school performance, learning gains and improvement of the lowest twenty-five (25) percent beginning with the 2001-2002 school year, as required by Section 229.57(7), Florida Statutes. In addition to the requirements in subsection (5) of this rule for minimum percent of students tested, the following scale shall be applied prior to the addition of bonus points defined in subsection (7) of this rule:

(a) At least 410 school grade points shall be required for a School Performance Grade of A;

(b) At least 380 school grade points shall be required for a School Performance Grade of B;

(c) At least 320 school grade points shall be required for a School Performance Grade of C;

(d) At least 280 school grade points shall be required for a School Performance Grade of D;

(e) If a school accumulates fewer than 280 school grade points, it shall be assigned a School Performance Grade of F.

(f) To achieve a smoother transition from the previous grading system, the Commissioner is authorized to apply a variance of up to five (5) percent of the grading scale as defined in paragraphs (8)(a)-(e) of this rule.

(9)~~(7)~~ Accuracy and Representativeness of Performance Data. Each school district superintendent shall designate a school accountability contact person to be responsible for verifying that each school is appropriately classified by type, reconciling student test answer documents that do not match survey three membership records, and verifying student eligibility for inclusion in school grade calculations prior to their issuance. Student eligibility changes may include, but are not limited to, officially recorded test invalidations, Exceptional Student or Limited English Proficient Student status changes made prior to testing, and school withdrawals made prior to testing. All changes in student eligibility for inclusion in school grade calculations shall be made prior to the issuance of school grades and must be accompanied by written documentation deemed appropriate by the Department. Each school district ~~certify the accuracy of performance data and~~ shall be responsible for providing all related information to the Department within the time limits specified by the Commissioner. Unless performance data can be determined to accurately represent the progress of the school, the Commissioner is authorized to withhold the designation of a school's performance grade or designate the school in a lower performance grade. If less than ninety (90) percent of the

school's student population eligible for inclusion in the designation of the school's performance grade were assessed, the school's performance grade shall be designated incomplete for no more than thirty (30) days or until the data are determined by the Commissioner to accurately represent the performance of the school. The Commissioner's determination of a school's performance grade shall be final.

(8) through (13) renumbered (10) through (15) No change.

Specific Authority 229.053, 229.0535, 229.592, 229.57 FS. Law Implemented 228.0565, 229.053, 229.0535, 229.57, 229.591, 229.592, 230.23, 231.2905, FS. History–New 10-11-93, Amended 12-19-95, 3-3-97, 1-24-99, 2-2-00, _____.

NAME OF PERSON ORIGINATING PROPOSED RULE: Betty Coxe, Deputy Commissioner for Educational Programs, Department of Education

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Charlie Crist, Commissioner of Education

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

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: October 5, 2001

DEPARTMENT OF COMMUNITY AFFAIRS

Division of Housing and Community Development

RULE CHAPTER TITLE:	RULE CHAPTER NO.:
Florida Small Cities Community Development Block Grant Program	9B-43
RULE TITLES:	**RULE NOS.:**
Definitions	9B-43.003
Eligible Applicants	9B-43.004
Application Criteria	9B-43.005
Application Procedures for All Categories	9B-43.006
Scoring System	9B-43.007
Community-wide Needs for all Categories	9B-43.008
Program Requirements for Housing	9B-43.009
Program Requirements for Neighborhood Revitalization	9B-43.010
Program Requirements for Economic Development	9B-43.012
Program Requirements for Commercial Revitalization	9B-43.013
General Grant Administration for All Categories	9B-43.014

PURPOSE AND EFFECT: This amendment revises the rule in order to improve the program administration of the Small Cities Community Development Block Grant. The effect of these amendments will be to clarify definitions, improve administrative efficiency and streamline and simplify the application requirements.

SUMMARY: The proposed rule amendments primarily simplify the rule by deleting and simplifying definitions and repetitive administrative requirements.

In Rule 9B-43.003, the "Definitions" section, the number of defined terms is reduced from 58 to 38, partially through the transfer of definitions to the application manual. Also, some definitions are shortened.

In Rule 9B-43.004, the "Eligible Applicants" section, the "joint applicants" section is deleted and the basis for contract performance being "on schedule" is simplified.

In Rule 9B-43.005, the "Application Criteria" section, application procedures for the Neighborhood Revitalization Emergency Set-aside will be based on an emergency rule. Three of four grant ceilings are increased by $100,000 each.

In Rule 9B-43.006, the "Application Procedures" section, the score deduction for not submitting maps is increased to 250 points. Most performance penalties are eliminated or reduced. Prior accrued penalties are either voided or reduced to the remaining penalties.

In Rule 9B-43.007, Rule 9B-43.008 on "Community-wide Needs for all Categories" is revised and re-incorporated into this section as part of the "Scoring System."

In Rule 9B-43.009 through Rule 9B-43.013, the individual program categories (Housing, Neighborhood Revitalization, Economic Development and Commercial Revitalization), goals statements and provisions duplicated in the application manuals are deleted.

In Rule 9B-43.009, the Economic Development category, language is added to prohibit loans to a developer and requiring funds in a developer project to be used only for the minimum infrastructure required.

In Rule 9B-43.010, the Commercial Revitalization category, two currently eligible types of activities involving land are deleted.

In Rule 9B-43.014, the "General Grant Administration" category, acceptable procedures for reducing construction bids which exceed the project budget are specified. Two separate amendment categories are combined into one category and the types of amendments requiring public notice are reduced. The time that cash in excess of $5000 may be retained by the subgrantee is increased from 5 to 10 days. The penalty for not submitting amendments within a certain time is eliminated. Audit requirements are clarified and administrative requirements are clarified.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COST: These changes to Rule Chapter 9B-43 are intended to reduce the regulatory burden of administering the Small Cities Community Development Block Grant through clarification of procedures, streamlining of application requirements and simplification of procedures.

Any person who wishes to provide the agency with 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 after publication of this notice.

SPECIFIC AUTHORITY: 120.53, 290.048 FS.
LAW IMPLEMENTED: 290.0401-290.049 FS.
TWO PUBLIC HEARINGS WILL BE HELD AT THE TIMES, DATES AND PLACES SHOWN BELOW:
TIME AND DATE: 10:00 a.m., Tuesday, December 12, 2001
PLACE: Department of Community Affairs, Capital Circle Office Complex, Sadowski Building, Room 305, Randall Kelley Training Room, 2555 Shumard Oak Boulevard, Tallahassee, Florida; (Call (850)487-3644 for directions)
TIME AND DATE: 10:00 a.m., Thursday, December 13, 2001
PLACE: Courtyard by Marriott, 3712 Southwest 38th Avenue, Ocala, Florida; (Call (352)237-8000 for directions)
Any person requiring a special accommodation at this hearing because of a disability or physical impairment should contact the Community Development Block Grant Section at (850)487-3644 at least five calendar days prior to the hearing in their area. If you are hearing or speech impaired, please contact the Community Development Block Grant Section using the Florida Dual Party Relay System at (850)922-5609 (TDD). If a person desires to appeal any decision with respect to any matter considered at the above cited hearing, he will need a record of the proceeding, and for such purpose, he may need to ensure that a verbatim record of the proceedings is made, which includes the testimony and evidence upon which the appeal is to be based.
THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULES IS: Mr. Steve Fellerman, Planner IV, Division of Housing and Community Development, Department of Community Affairs, Sadowski Building, Room 260A, 2555 Shumard Oak Boulevard, Tallahassee, Florida 32399-2100, (850)487-3644

THE FULL TEXT OF THE PROPOSED RULES IS:

9B-43.003 Definitions.

(1) No change.

(2) "Administrative costs" means the payment of all reasonable costs of management, coordination, monitoring, and evaluation, and similar costs and carrying charges, related to the planning and execution of community development activities which are funded in whole or in part under the Florida Small Cities Community Development Block Grant Program. Administrative costs shall include all costs of administration, including general administration, planning and urban design, and project administration costs. Excluded from administrative costs are: ~~those costs related to carrying out grant-funded activities as outlined in Section 290.042, F.S. Specific costs to be included as administrative costs include at a minimum:~~

~~(a) All personnel costs directly related to the CDBG program, including salaries and fringe benefits. Such personnel costs shall include, but not be limited to:~~

~~1. Percentage of time charged to the grant by a city or county manager or clerk;~~

~~2. All community development directors, administrators, coordinators, specialists, administrative or staff assistants, planners, and individuals performing similar functions;~~

~~3. All fiscal coordinators, specialists, bookkeepers, analysts, and individuals performing similar functions;~~

~~4. All rehabilitation specialists, counselors, inspectors, specifications writers, and individuals performing similar functions;~~

~~5. All relocation and acquisition specialists, counselors, and individuals performing similar functions; and~~

~~6. All consultant management and administrative services, including all staff employed by the consulting firm being charged to the grant.~~

~~(b) Other included administrative costs are:~~

~~1. All legal fees or costs, except title searches and legal fees for property acquisition;~~

~~2. All audit, bookkeeping or financial management costs (If CDBG funds are to be used to pay part of the cost of an audit, audit costs must be allocated among all sources of federal funding such that CDBG funds pay only a proportional share of audit costs in relation to all funds expended during the audit period.);~~

~~3. All staff training expenses;~~

~~4. All travel expenses for all staff;~~

~~5. All grant related costs and charges for office space rent, utilities, telephone and other communication charges, furniture, equipment, purchase or lease of computer hardware and software, publications, advertising, printing or reproduction, postage, office supplies, subscriptions and membership dues, the purchase or lease of any personal property, based on an established written cost allocation plan pursuant to OMB Circular A-87 or invoices properly allocated among program areas;~~

~~6. All planning and urban design costs including costs of application preparation. If the cost of application preparation is to be paid from the CDBG grant, those costs must be documented in the application. This amount will be paid from the total amount available for administration of that grant contract. Should a grant application not be funded, the Department shall pay no part of any cost incurred for preparation of the grant application; and~~

~~7. All costs associated with compliance with 24 C.F.R. Part 58.~~

~~(c) Excluded from administrative costs are:~~

(a)~~1.~~ Architectural, engineering and associated construction observation costs where State law or 24 C.F.R. Part 85 requires sealed construction documents in order to obtain a building permit;

(b)~~2~~. Force account crews performing actual construction work;

(c)~~3.~~ Title searches, appraisals and costs of surveys.

~~(3) "Affordable rents" means, for a household, the average monthly cost for rent and utility charges; or the average monthly cost for all mortgage payments, real property taxes and utility charges; or 30 percent of the gross monthly income of all adult members of the individual's household, including supplemental income from other public agencies, whichever is less; or the adjusted gross income pursuant to 24 C.F.R. Section 215.1.~~

~~(4) "Annual payroll" means the projected aggregate of all wages and salaries calculated on an annualized basis to be paid for the permanent jobs created or retained for an Economic Development project. Fringe benefits, commissions, and bonuses are not to be included.~~

~~(5) "Application manuals" means the Florida Small Cities Community Development Block Grant program application manuals for the Housing, Neighborhood Revitalization, Economic Development, and Commercial Revitalization categories which shall be published annually and which shall contain application forms, instructions and administrative rules.~~

~~(6) "Appropriate" relating to economic development activities means the criteria established by HUD pursuant to 24 C.F.R. Section 570.482(e) used to assess an Economic Development project.~~

(3)~~(7)~~ "Architectural and engineering services" means the basic services required to be performed by an architect or engineer licensed by the State of Florida including preliminary engineering, design services and services during construction except for the following additional engineering services: ~~Specific costs may include, but are not limited to, the following:~~

~~(a) Preliminary Engineering, which includes the following information if appropriate;~~

~~1. General Activity Information: Describes the local government's current situation, identifies alternatives, and proposes a specific course of action.~~

~~2. Service Area: Describes each service area providing location maps, aerials, and other pertinent exhibits explaining the service area. Special areas of concern should be identified if known.~~

~~3. Existing Facilities: Describes the existing facilities related to an activity. Provides topographical survey information and other pertinent route survey information as required.~~

~~4. Need for an Activity: Briefly describes the need for an activity in each service area and what would be a successful outcome of the activity.~~

~~5. Proposed Activity: Provides a full description of the proposed activity based on the service area needs. The description shall identify the proposed activity components. A brief preliminary engineering design shall be included identifying the activities, components, size, type, location and preliminary details. An engineer's estimate of the probable cost of construction shall accompany this section detailing the costs for each component.~~

~~6. Conclusions: Provides a brief summary of the report findings and implementation.~~

~~(b) Design development, which includes drawings and other documents to fix and describe the size and character of the entire construction project as to structural, mechanical, and electrical systems, materials and other such elements as may be appropriate;~~

~~(c) Construction documents, which include detailed drawings and specifications which set forth in detail the requirements for construction of the project, bidding information and forms, and forms of agreement between the owner and the contractor in accordance with the owner's instructions;~~

~~(d) Bidding and negotiations for contracts, which include preparation of necessary documents, obtaining bids and assisting in the award and preparation of contracts for construction;~~

~~(e) Construction administration shall include:~~

~~1. A general review of the work completed to ascertain that the construction conforms to the design;~~

~~2. Construction observation;~~

~~3. Coordination with other appropriate governmental agencies;~~

~~4. Review of the contractor's application for progress and final payments;~~

~~5. Preparation of necessary contract change-orders for approval on a timely basis;~~

~~6. A final review prior to the issuance of a statement of substantial completion of all construction and submission of a written report;~~

~~7. A statement of final completion and a written acceptance of the facility; and~~

~~8. Provision of a set of reproducible as-built drawings, such drawings will be based on construction records provided by the contractor during construction.~~

~~(f) Additional engineering services including, but not limited to:~~

1. through 12. renumbered (a) through (l) No change.

(4)~~(8)~~ "Authorized signature" means the original signature of the Chief Elected Official or the signature of a person who is designated by charter, resolution, code, ordinance or other official action of the local government to sign CDBG related documents. If a signature other than the Chief Elected Official is submitted, a copy of that designation ~~document~~ must accompany that signature.

~~(9) "CDBG" means the Florida Small Cities Community Development Block Grant Program.~~

(5)~~(10)~~ "CATF" means Citizen's Advisory Task Force pursuant to Section 290.046(5), Florida Statutes.

~~(11) "Closeout package" means those forms prescribed by the Department to effect grant closeout, but shall not include required audit reports.~~

~~(12) "Community Redevelopment Agency" means a public instrumentality which is established and controlled pursuant to Section 163.356 or 163.357, F.S.~~

~~(13) "Community Redevelopment Plan" means a community redevelopment plan developed and adopted in accordance with Part III, Chapter 163, Florida Statutes, within which the Community Redevelopment Area is geographically defined.~~

(6)~~(14)~~ "Complementary activities" means eligible activities, as provided in 290.042, F.S., which are necessitated by ~~directly related to and in support of~~ the primary activity or project scored in the CDBG application for which grant funds are being requested. The use of CDBG funds for complementary activities shall not exceed 35 percent of total CDBG funds requested for the primary activity in Housing and 50 percent in Neighborhood Revitalization. All complementary activities in the Commercial Revitalization and Economic Development categories shall be paid by non-CDBG funds and are therefore not subject to these limitations.

(a) In the Housing category, complementary activities are water hookup and sewer hookup activities to provide service to units being rehabilitated or providing rehabilitation to the kitchen and/or bathroom plumbing of houses so that they can receive the benefits of water and/or sewer hook-ups. The per housing unit cost of providing service shall not exceed $5,000.

(b) In the Neighborhood Revitalization category, complementary activities on a housing unit shall be limited to rehabilitation of units to construct bathrooms where no bathrooms exist or to do necessary plumbing repairs to meet local code prior to being ~~and which are to be~~ hooked up to a sewer or water system by the Neighborhood Revitalization project.

~~(c) In the Economic Development and Commercial Revitalization categories, complementary activities are CDBG eligible activities that are directly related to the project, support the project, or extend the scope or impact of the project. These activities must be funded by a source other than the CDBG contract.~~

(7)~~(15)~~ "Created jobs" means permanent jobs which were not in existence in the State of Florida prior to the provision of the CDBG assistance. In cases where an employer both creates and eliminates jobs, "created jobs" means the difference between the new jobs created and the old jobs eliminated.

(8)~~(16)~~ "Developer" or "Developer project" means an entity acquiring or constructing a facility where jobs will be created, who will not be a business operator or employer in the facility. In a developer project, the business(es) creating the jobs in the facility are unknown at the time of submission of an economic development application. A local government may not be the developer. ~~"Department" or "Department of Community Affairs" means the Florida Department of Community Affairs.~~

(9)~~(17)~~ "Direct Benefit" is CDBG assistance that promotes or enhances individual well-being including housing rehabilitation, sewer and water hookups, or job creation by a Participating Party. Activities that only meet a national objective through an area-wide determination do not confer direct benefit.

~~(18) This number omitted intentionally.~~

~~(19) This number omitted intentionally.~~

~~(20) "Eligible applicants" are counties and municipalities which qualify as eligible local governments under Section 290.042(5), F.S.~~

~~(21) "Eligible Units" in Housing are units in the project area which are substandard and are owned or rented by persons of low and moderate income.~~

(10)~~(22)~~ "Engineer" means a person meeting the qualifications determined in Section 471.005(4), F.S.

~~(23) "Equity", as part of the leverage, in an Economic Development project can only be the debt free value of real estate or cash that will be invested into a project by a Participating Party or a principal of a Participating Party. This investment must be for the direct benefit of the Participating Party and be irreversible. The value of purchase discounts or donations are ineligible for scoring under this definition.~~

(11)~~(24)~~ "Full time employee" means all those persons employed by the local government who are payroll employees on any one specific payroll date during the 45 day period prior to the application deadline date and who receive full vacation, retirement, and any other benefits provided by the employing local government to all its regular employees. Elected officials are not defined as "full time" employees. For county governments, only the employees of the Board of County Commissioners shall be counted.

(12)~~(25)~~ No change.

(13)~~(26)~~ No change.

~~(27) "HUD" means the U.S. Department of Housing and Urban Development.~~

(28) through (31) renumbered (14) through (17) No change.

(18)~~(32)~~ "Liquidated damages" are funds paid to a local government by a contractor, vendor, or any other party pursuant to a CDBG-funded contract ~~to be paid by CDBG funds~~ when such payment is triggered by non-performance or failure to perform on their part. This definition is applicable whether such funds are withheld by the local government or repaid or rebated to the local government by the contractor, vendor or third party.

~~(33) "Local Comprehensive Plan" means the adopted growth management plan required under the Local Government Comprehensive Planning and Land Development Regulation Act, Section 163.3161, F.S., et seq.~~

(19)~~(34)~~ No change.

(20)~~(35)~~ "Low and moderate income families" means "lower income families" and "very low-income families" as defined under 24 C.F.R. 813.106 ~~the HUD Section 8 Assisted Housing Program~~. A lower income family is a household whose annual income does not exceed 80 percent of the median income for the area or does not exceed 80 percent of the median income for the State, whichever is higher, as most recently determined by HUD. A very low-income family is a household whose annual income does not exceed 50 percent of the median income for the area or does not exceed 50 percent of the median income for the State, whichever is higher, as most recently determined by HUD.

(21)~~(36)~~ "Low and moderate income persons" means members of low and moderate income families ~~having incomes equal to or less than the Section 8 low-income limit established by HUD. A low-income person means a member of a family that has an income equal to or less than the Section 8 very low-income limit established by HUD~~. Unrelated individuals will be considered as one-person families for this purpose.

(22)~~(37)~~ "Main Street Program participants" means entities in a local government's jurisdiction which have been selected for participation in the Florida Main Street program by the Secretary of State and are currently considered active participants ~~under contract for participation~~ in the Main Street Program by the Department of State as of the application date.

(23)~~(38)~~ "Minority" means a Black, American Indian, Alaskan native, Hispanic, Asian, Hasidic Jew or Pacific Islander individual.

~~(39) "Most recently completed funding cycle" means the last funding cycle in which the Department completed its scoring and ranking of eligible applications, and grant agreements have been executed.~~

~~(40) "Net jobs" means the total number of permanent jobs created by an intrastate relocation of an employer minus the number of jobs lost in the Florida jurisdiction from which the employer's move originated.~~

(41) through (45) renumbered (24) through (28) No change.

~~(46) This number omitted intentionally.~~

(29)~~(47)~~ "Program income" shall be defined in accordance with 24 C.F.R. Section 570.489(e), as amended~~, without regard to any excluded amounts or closeout of grants~~. Any program income generated by a CDBG grant, whether open or closed, shall be reported to the Department and handled as program income.

(30)~~(48)~~ No change.

(31)~~(49)~~ No change.

~~(50) "Quarter" means the four calendar periods of the year: January 1 to March 31, April 1 to June 30, July 1 to September 30, and October 1 to December 31.~~

(51) through (53) renumbered (32) through (34) No change.

~~(54) "Slum area" means an area as defined in Section 163.340, F.S.~~

(55) through (57) renumbered (35) through (37) No change.

(38)~~(58)~~ "Workforce Development Initiatives" means the State of Florida Temporary Assistance to Needy Families (TANF) program which requires work in exchange for time-limited public assistance and provides support to families moving from welfare to work and other state and federal welfare reform initiatives administered through Workforce Florida, Inc., the State of Florida's chief workforce policy organization. ~~"WAGES" means the State of Florida Work and Gain Economic Self-Sufficiency program and other related federal or state welfare reform programs.~~

Specific Authority 120.53, 290.048 FS. Law Implemented 290.042, 290.043 FS. History–New 11-30-87, Amended 10-11-88, 9-25-89, 10-14-90, 12-29-91, 4-26-93, 1-30-95, 2-13-96, 12-25-96, 1-29-98, _____.

9B-43.004 Eligible Applicants.

(1) through (2) No change.

~~(3) Joint Applicants.~~

~~(a) Eligible local governments may submit a joint application to address a shared problem, the solution to which requires the common action of the applying local governments. One local government shall be designated as the lead agency responsible for the administration of the grant. Both applicants must be eligible under the provisions of this rule. All provisions of this rule relating to past performance by any local government and future penalties to be assessed against any local government shall apply to all parties to the joint application.~~

~~(b) Joint applicants shall execute a written Interlocal agreement authorizing the applicants to undertake the activity, giving the concurrence of both local governments with the activity, delineating the responsibilities of each local government, and committing resources by one or both local governments to maintain the activity. Such an Interlocal agreement must be submitted with their application for funding.~~

~~(c) Each local government signing an Interlocal Agreement shall affirm that all activities, project areas, service areas, and job creation locations are not inconsistent with that local government's comprehensive plan;~~

~~(d) The joint application shall contain excerpts of the comprehensive plans of all local governments in whose jurisdiction activities will take place documenting that all activities, project areas, service areas, and job creation locations are not inconsistent with that local government's comprehensive plan;~~

~~(e) The maximum amount of grant funds that may be applied for in a joint application shall be no more than the aggregate amount of the local government's individual eligibility or $750,000, whichever is less; and~~

~~(f) The mean average of the Community Wide Needs Scores of the applying local governments shall be used for scoring purposes.~~

~~(4) The applicants submitting a joint application under either the Housing or Neighborhood Revitalization or Commercial Revitalization category cannot submit an individual application under any of these three categories, but may submit an additional individual or joint application under the Economic Development category.~~

(3)~~(5)~~ No change.

(4)~~(6)~~ No change.

(5)~~(7)~~ Local governments with an open Housing, Neighborhood Revitalization or Commercial Revitalization Community Development Block Grant contract~~, either individual or joint,~~ from any State fiscal year shall not be eligible to apply for another Housing, Neighborhood Revitalization or Commercial Revitalization grant until administrative closeout of their existing contract(s). The Neighborhood Revitalization Emergency Assistance Set-aside shall be exempt from this requirement.

(6)~~(8)~~ Contract performance shall be determined to be on schedule when the scheduled expenditure~~,~~ and accomplishments ~~and beneficiary data~~ contained in the contract and/or the work plan(s) on any open CDBG grant have been met or surpassed for all activities as of the ~~thirty days prior to~~ application deadline or, in the case of economic development applications, on the date of ~~thirty days prior to~~ receipt of the application by the Department. This will be evidenced by the recipient's certification of on-time performance as required in the application. ~~Failure to submit this certification of on-time performance shall not be curable during the completeness period as set forth in Section 9B-43.006(3) and shall cause the application to be ineligible pursuant to Section 290.046(2)(c), F.S.~~ The certification of on-time performance is subject to verification by Department staff during the site visit. If the Department determines as a result of the site visit that the certification of on-time performance is inaccurate and the performance is not in accordance with the expenditure rates and accomplishments described in the contract and/or contained in the work plans, then the application will not be considered further until revised work plans have been received ~~applicant shall be deemed ineligible in accordance with Section 290.046(2)(c), F.S~~. Requests for funds or rate of expenditure of funds that meet or exceed contract requirements shall not be a contract performance issue for eligibility.

(7)~~(9)~~ No change.

Specific Authority 120.53, 290.048 FS. Law Implemented 290.044, 290.046 FS. History–New 11-30-87, Amended 10-11-88, 10-14-90, 12-29-91, 1-30-95, 2-13-96, 1-29-98, _____.

9B-43.005 Application Criteria.

(1) through (2) No change.

~~(3) Economic Development applications may be submitted at any time after announcement of the initial deadline date and time established by the Department and noticed by publication of a Notice of Funding Availability (NOFA) in the Florida Administrative Weekly and the mailing of NOFA announcements to all eligible local governments. A local government may apply up to three times in any annual funding cycle; however, a local government shall not receive more than one such grant per annual Economic Development funding cycle, in accordance with Section 290.046, F.S. A local government may not submit an additional Economic Development application in an annual funding cycle until any previously submitted Economic Development application for that annual funding cycle has been rejected by the Department or withdrawn in writing by the Chief Elected Official or their designee. Economic Development funds will be awarded each year based upon the eligible applications received until all available Economic Development funds have been encumbered. These funds shall include the annual Economic Development allocation and shall include any funds not awarded in previous phases or deobligated from previous Economic Development grants, in accordance with the Annual Action Plan under the State of Florida Consolidated Plan submitted by the Department to the U.S. Department of Housing and Urban Development, as amended.~~

(3)~~(4)~~ No change.

(a) No change.

(b) Applications will only be accepted from eligible non-entitlement local government applicants which have been declared by executive order of the Governor to be in a state of emergency as provided under Section 252.36, F.S. and any subsequent emergency rule criteria prepared by the Department to address the emergency:~~, and which meet the following criteria:~~

~~1. They are located in areas identified by the Division of Emergency Management in the Department of Community Affairs as sustaining disaster damage, as documented with appropriate disaster damage assessment reports.~~

~~2. This emergency set-aside will be used for only those disaster events covered by executive order of the Governor with no subsequent approved Presidential disaster declaration. For purposes of this set-aside, it is presumed that a Presidential disaster declaration provides for other funding of these disaster needs to the citizens of the affected local governments so they will not be eligible for this emergency funding.~~

~~3. Applications from each emergency event will be scored separately in the chronological order of the sequence of emergency declarations by the Governor beginning April 1 of each year.~~

~~4. If more than one eligible application is received under the same disaster declaration, all applications will be ranked against each other according to the regular neighborhood~~

~~revitalization scoring process with the awards made in rank order, subject to subparagraph (b)5. below, until no funds remain within the emergency set-aside.~~

~~5. No emergency application will be funded unless it scores higher than the highest unfunded application in the competition for that fiscal year's regular neighborhood revitalization grant category.~~

~~(c) The applicant shall submit notification of intent to submit an application within 60 days of a Notice of Emergency Set-Aside Funding Availability in the Florida Administrative Weekly (FAW) following such declaration, and a completed application must be received by the Department within 120 days of such FAW notice. An applicant eligible, due to subsequent executive orders resulting from the same emergency event, shall have up to 60 days from the date of issuance of any subsequent FAW notice to file its notification of intent to submit an application and 120 days from that FAW notice to submit an application.~~

(d) through (f) renumbered (c) through (e) No change.

(4)~~(5)~~ Grant Size for All Program Categories. Grant ceilings establish limits on the amount of funds that may be requested in a single grant application based on the most recently available U.S. Census of Population data. In the case of county government applicants the population shall include only the unincorporated areas of the county. ~~Joint applicants shall base their grant ceiling on the population of the lead agency.~~

(a) Local governments shall comply with the population sizes and grant ceilings listed below to determine the maximum amount of funds for which they may apply. Population groupings are based on HUD modified census figures summarizing low and moderate income population.

LMI Population	Grant Ceiling
1-499	$600,000 ~~$500,000~~
500-1,249	$650,000 ~~$550,000~~
1,250-3,999	$700,000 ~~$600,000~~
4,000-10,549	$750,000
10,550 and above	$750,000

(b) No change.

Specific Authority 120.53, 290.048 FS. Law Implemented 290.044, 290.046, 290.047 FS. History–New 11-30-87, Amended 10-11-88, 9-25-89, 10-14-90, 12-29-91, 1-30-95, 2-13-96, 12-25-96, _____.

9B-43.006 Application Procedures for All Categories.

(1) Application Forms. Application forms are found in the application manuals which are hereby incorporated into this rule by reference, effective as of _____, and which are available from the Department of Community Affairs at the address specified in the NOFA:

(a) through (d) No change.

(2) Rejection Criteria. All applications shall meet the following minimum requirements as outlined in Section 290.0475, F.S., to qualify for scoring and shall be rejected if they fail to satisfy these requirements:

(a) Submission of Applications in Housing, Neighborhood Revitalization and Commercial Revitalization. The Department shall publish a Notice of Funding Availability (NOFA) which establishes a deadline date and time for submission of applications. The NOFA shall be published in the Florida Administrative Weekly at least 45 days in advance of the deadline date. Applications shall be sent by U.S. Mail, other licensed carriers, or hand delivered. If hand delivered or mailed, applications shall be received by the Department in Tallahassee by 5:00 p.m. on the deadline date. Applications which do not meet the established deadline date and time shall not be considered. No waivers will be granted by the Department for applications that do not meet the established deadline date and time. ~~In the Economic Development category applications may be accepted at any time after a date specified in the NOFA, subject to the availability of funding, per Rule 9B-43.005(3), F.A.C. The NOFA shall also specify the last date an application for Economic Development can be received by the Department to be eligible for the prior year's Economic Development cycle.~~

(b) Submission of applications in Economic Development. Economic Development applications may be submitted at any time after announcement of the initial deadline date and time established by the Department and noticed by publication of a Notice of Funding Availability (NOFA) in the Florida Administrative Weekly. A local government may apply up to three times in any annual funding cycle; however, a local government shall not receive more than one such grant per annual Economic Development funding cycle, in accordance with Section 290.046, F.S. A local government may not submit an additional Economic Development application in an annual funding cycle until any previously submitted Economic Development application for that annual funding cycle has been rejected by the Department or withdrawn in writing by the Chief Elected Official or their designee. Economic Development funds will be awarded each year based upon the eligible applications received, until all available Economic Development funds have been encumbered. These funds shall include the annual Economic Development allocation and shall include any funds not awarded in previous phases or deobligated from previous Economic Development grants, in accordance with the Annual Action Plan under the State of Florida Consolidated Plan submitted by the Department to the U.S. Department of Housing and Urban Development, as amended.

(c)~~(b)~~ Achievement of National Objectives. An applicant shall demonstrate that each of the activities proposed in its application meets at least one of the following three national objectives and that at least 70 percent of the funds requested shall benefit low and moderate income persons:

1. through 3. No change.

(c) through (e) renumbered (d) through (f) No change.

(g)~~(f)~~ Citizen Participation. The applicant shall demonstrate that the citizen participation requirements prescribed in sections 104(a)(1) and (2) and 106(d)(5)(C) of Title I of the Housing and Community Development Act of 1974, and Section 290.046(5), F.S., ~~Florida Statutes~~, with public notice provided in accordance with Rule 9B-43.003, F.A.C. have been satisfied. All local public hearings required to meet these citizen participation requirements must be conducted by a member of the governing body of the applying local government or by a duly authorized employee of that local government.

(3) Completeness Review Period. All applications in all categories which satisfy the requirements of subsection ~~Rule~~ 9B-43.006(2), F.A.C., and are in the fundable range shall be reviewed for completeness except as specified in subsection (10) under the Economic Development Application and Contracting Process.

(a) No change.

~~(b) Intentionally omitted.~~

(b)~~(c)~~ The Department shall notify the local government in writing of any material requested.

(c)~~(d)~~ Except as provided for Economic Development applications in subsection 9B-43.006(10), F.A.C., applicants shall have twelve working days from the date that the Department's notification is received to have the requested material received by the Department as described below. Responses to completeness letters must be received in original form by the deadline established by the Department. Facsimile responses are not acceptable.

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

~~1. This number omitted intentionally.~~

~~2. This number omitted intentionally.~~

1.~~3.~~ Maps (where required) – 250 points;

~~4. Documentation of public agency or other units of government commitments; private commitments and match; leverage or other funding commitments; business plan, financial and profit and loss statements, if applicable; or local government commitment – 50 points for each commitment not documented;~~

2.~~5.~~ Interlocal Agreement, if applicable – 250 points.

3.~~6.~~ Selection criteria for beneficiaries in the Housing Category or a complete list of beneficiaries selected – 250 points.

(4) Administrative Costs.

(a) No change.

(b) If administrative cost percentages set forth in Section 290.047, F.S., are exceeded, ~~the application shall be scored. If the application scores in the fundable range,~~ the dollars for administrative costs shall be reduced prior to the offering of a grant award in order to bring the percentages into compliance based on the total eligible grant costs. ~~If the percentages cannot be reduced without substantially affecting the structure of the project, beneficiaries or the applicant's ability to carry out the project or if the applicant declines to reduce the percentages, the Department shall not make a grant award offer.~~

(5) Architectural and Engineering Costs. The maximum percentage of contracted block grant funds that may be spent on architectural and engineering costs by an eligible local government shall be based on the total eligible grant activities which require architecture and engineering and shall not exceed the Rural Development (RD) Rural Utility Service (RUS) fee ~~(formerly U.S. Farmers Home Administration (FmHA)~~ schedule in Florida RUS Bulletin 1780-9 ~~as applied to projects in Florida on the date of the application~~. If more than one design professional is needed for an activity or activities (i.e., a landscape architect in addition to an engineer for sidewalk construction in a commercial revitalization project), the local government shall not exceed the appropriate RD/RUS fee curve for each activity covered by each design professional negotiated separately. ~~For unusually complex items as designated by RD (FmHA) (water treatment plants, sewers, sewage treatment plants, rehabilitation of existing water and wastewater treatment facilities) engineering costs are calculated using Tables I and I-A of Attachment I of RD (FmHA) Form 1942-19. For all other projects, engineering costs are calculated using Tables II and II-A of Attachment I of RD (FmHA) Form 1942-19.~~ For projects involving both Table I and II ~~unusually complex and other~~ activities, engineering costs shall be pro-rated appropriately. For each additional engineering service as defined in s. ~~Rule~~ 9B-43.003(3)~~(6)(f)~~, F.A.C., and for preliminary engineering, the local government shall negotiate a reasonable fee for the service following procurement procedures in 24 C.F.R. 85.36. Preliminary engineering costs not to exceed one-half of one percent of the estimated construction cost may be paid with CDBG funds over and above the amounts included in the RD/RUS fee schedule. ~~Tables I, IA, II, and IIA of Attachment I of RD (FmHA) Form 1942-19.~~

(6) Past Performance for All Categories.

~~(a) Audits. Audits or attestation statements, signed by the Chief Elected Official, for the preceding local government fiscal year must be received at the Department by 5:00 PM on or before April 30 of the following year. If April 30th falls on a weekend, the audit or attestation statement is due on the next workday. No waivers or extensions of this provision will be granted by the Department for any reason. If the Single Audit is not required pursuant to OMB Circular A-133, the local~~

~~government shall submit an attestation statement, pursuant to Section 216.349(c), Florida Statutes, stating that it has complied with the provisions of the grant.~~

~~1. If the Department has not received an audit report or attestation statement by April 30 that meets the requirements of OMB Circular A-133 and Section 216.349(c), Florida Statutes, a 15 point penalty will be assessed against future grant applications. If the local government has not responded to an audit findings letter issued by the Department within the time frame prescribed by the Department, the Department shall not execute a new contract or shall withhold funding from an existing contract until a satisfactory response is received which satisfies the requirements set forth in federal OMB Circular A-133, Subpart B, Section .225. These assessments of penalty points shall apply to all audits due after the effective date of this rule amendment including any audits that are required to be submitted for any administratively-closed CDBG Grants. These penalties expire two years from the date of the clearance of the audit or audits involved. Audit penalties accrued from any prior year audit due before the effective date of this rule will also expire two years from the date of the clearance. Audit penalties will be nullified upon successful competition for CDBG funding.~~

~~2. If a required an annual local government audit or attestation statement from a local government with an open or administratively closed grant, is not received by the Department within12 months of the end of any audit period, a 251 point penalty will be assessed at application deadline against the total Project Impact score of any application received by the Department. This penalty shall continue until such time as the audit and all audit findings are brought in compliance with federal OMB Circular A-133, Subpart B, Section .225. Once this late audit penalty is assessed against a CDBG application, the penalty levied against that application shall not be abrogated by subsequent submission of the audit after the application due date.~~

~~(b) Monitoring Findings. As of the effective date of this rule, all existing monitoring penalties are void. No further penalties will be assessed in this area except for delay in final administrative closeout until all monitoring findings are resolved.~~

~~(c) Closeouts. A 5-point score reduction will be assessed against future grant applications if the required closeout package has not been received by the Department within 45 days of the expiration date of the contract, as it may have been amended. This penalty expires two years from administrative closeout of the grant for which the closeout was due or upon successful competition for funding. This provision shall apply to any open CDBG grant for which the closeout submission becomes due on or after the effective date of this rule, or is past due as of the effective date of this rule.~~

(a) Effective with adoption of this rule, all prior penalties accrued for late audit, amendment and close-out are voided beginning with the 2002 application cycle. All accrued penalties for prior year contractual performance will be reduced to those outlined in paragraph (b).

(b)~~(d)~~ A penalty shall be assessed against future grant applications based on prior contractual performance on grants which have submitted an administrative closeout package prior to application deadline. This penalty will apply regardless of whether the contract has been amended to permit the reduction in accomplishments. If the grant contract is terminated with no expenditure or is terminated with expenditures for administration and/or engineering only, no penalty shall be assessed under this ~~sub~~paragraph (b)~~(d)~~. This penalty ~~applies to FFY 1995 grants and subsequent grants and~~ expires two years from the date of administrative closeout or upon successful competition for funding. ~~Prior year grants which have been administratively closed shall continue to have other closeout penalties applied as identified in the rule effective at the time of original grant application. Those prior year penalties will also expire two years from the date of administrative closeout or upon successful competition for funding.~~ The Department will waive these penalties if the local government is unable to meet contract requirements due solely to a state or federally declared natural disaster or emergency. Penalties will include:

1. A penalty of five ~~ten~~ points per housing unit up to a maximum of 50 points for failure to rehabilitate or address the original number of housing units scored in the original contract in the housing category.

2. A penalty of 5 points per low and moderate income household not served or business facade not addressed ~~50 points for failure to serve the entire service area(s)~~ as geographically displayed on the original application maps (as modified, if necessary, during the completeness process) ~~in the original contract~~ in the neighborhood revitalization or the commercial revitalization categories up to a maximum of 50 points. All direct benefit proposed in the application (i.e., water hook-ups) must be completed to avoid this penalty per house or facade.

3. No change.

~~4. When a local government requests closeout prior to expenditure of all CDBG funds, a 50 point penalty shall be assessed if all accomplishments for an activity referenced as "number of units to be addressed" in the application have not been completed, unless one of the following applies:~~

~~a. The activities could not be accomplished during the original term of the CDBG contract plus one six month extension for reasons beyond the local government's control.~~

~~b. The CDBG funds remaining are not adequate to complete an increment of one full accomplishment, i.e., one commercial facade, one sewer hook-up, or one housing unit rehabilitation.~~

~~(e) Penalties will continue to be assessed on grants that are open as of the effective date of this rule based on the penalties included in the rule pertinent to the funding cycle in which the application was originally received. All such penalties, including the fifteen point penalty for failure to meet the originally contracted for number of jobs in the most recently closed out Economic Development grant, will expire two years after the date of administrative closeout or upon successful competition for funding unless otherwise specified in this rule.~~

(7) Site Visits. At a minimum, site visits shall be conducted by the Department prior to issuance of an award ~~preliminary scoring~~ list for those applying local governments in the fundable range.

(a) No change.

(b) The Department shall examine all documents that have been certified to in the application ~~by the Town, City or County Clerk~~.

~~(c) The Department staff shall determine the validity and accuracy of all information, representations, and materials submitted or provided by the applicant in the application, including:~~

~~1. Evidence which documents all claims and representations made in the application.~~

~~2. Any documentation to determine the reasonableness of cost in a funding request pursuant to 24 C.F.R. Part 85.~~

(c)~~(d)~~ Except as otherwise provided for in Economic Development applications, the Department shall request in writing any documentation found to be unavailable or inadequate. Applicants shall have twelve working days from the date that the request is received to provide the requested information to the Department. Responses to completeness letters must be received in original form by the deadline established by the Department. Facsimile responses are not acceptable.

(d)~~(e)~~ If the Department has not received the requested material by 5:00 p.m. on the twelfth working day, the applicant's score and funding request shall be revised accordingly.

(8) through (9) No change.

(10) Economic Development Application and Contracting Process

(a) Economic Development Funding Reservation Process

1. through 2. No change.

3. Application review and scoring.

a. No change.

b. The Department will secondly undertake a review to determine that the application is complete and contains the items required on Form CDBG-E-1 through Form CDBG-E-10.

(I) Based upon the second review, any issues in Form CDBG-E-1 through Form CDBG-E-10 which require elaboration or correction due to inconsistencies or lack of clarity shall be explained to the local government contact person by telephone or facsimile (FAX) at the time of site visit scheduling.

(II) Once the application is received, the local government will not be allowed to provide new documentation from a participating party to meet application requirements in Form CDBG-E-1 through Form CDBG-E-10.

c. through d. No change.

e. Following the site visit, the Department will mail to the local government an award and offer to contract letter and a contract, including any necessary special conditions, ready for execution by the local government.

1. No change.

2. Within 60 calendar days of the local government's receipt of the award and offer to contract letter (the 60 day period), the Department must receive from the applying local government the information required in Form CDBG-E-__~~11~~, any required documentation referenced in the award and offer to contract letter, and a contract ready for the Department's execution.

f. through i. No change.

(b) Loss of Fund Reservation

1. An Economic Development application shall lose its fund reservation if:

a. through c. No change.

d. The application is missing an initially required item that is specified on Form CDBG-E1 through Form CDBG-E-__~~10~~.

e. through i. No change.

(c) through (f) No change.

(11) Documenting LMI Service Area Benefit

(a) HUD Census Data – LMI benefit may be documented by using HUD-provided "CDBG Program Listing from the current ~~1990~~ Census Special Tab Tape, Percent of Low and Moderate Income Persons, State of Florida" where the service area geographically corresponds with block groups, census tracts, or local government geographical limits. ~~This tape may be obtained from the Department at 2555 Shumard Oak Boulevard, Tallahassee, Florida 32399-2100.~~

(b) through (f) No change.

Specific Authority 120.53, 290.048 FS. Law Implemented 290.044, 290.046, 290.047, 290.0475 FS. History–New 11-30-87, Amended 10-11-88, 9-25-89, 10-14-90, 12-29-91, 4-26-93, 1-30-95, 2-13-96, 12-25-96, 1-29-98,_____.

9B-43.007 Scoring System.

(1) The maximum score possible in each program category is 1,000 points. These points shall be divided among three program factors as specified below:~~.~~ ~~Further point breakdowns for program impact are found in the rule section pertaining to individual program categories:~~

Community-wide needs	250 points
Program impact, Scope of Work, LMI Benefit	650 points
Outstanding performance in equal opportunity employment and fair housing	100 points
Total points	1,000 points

(a) Community-wide Need Scores for All Categories.

1. General. The Department shall calculate the community-wide needs score from the most recent and uniformly available federal and State data for all jurisdictions eligible to apply. Current decennial U.S. Census data shall be used unless otherwise noted. Data shall be further defined as:

a. For municipal government applicants, the data relevant for the entire incorporated area shall be used;

b. For county government applicants, the data relevant for only the unincorporated areas within the county shall be used;

c. For municipalities incorporated since the most recent census, the block group or census tract data for the area that was incorporated shall be used where available, otherwise a proportion of the county's census data shall be used to calculate the community-wide needs score.

2. Factors. Three factors shall be used to determine the community-wide needs score with the following maximum points available for each:

a. Number of persons below poverty – 125 points

b. Number of year-round housing units with 1.01 or more persons per room – 62.5 points;

c. Number of persons in the low and moderate income population according to the latest HUD census – 62.5 points.

3. Method of Calculation. All eligible local governments shall be compared on the factors identified in Rule 9B-43.007(1)(a), F.A.C. Eligible local governments shall be compared on each factor with all other applicants in their population group as designated in Rule 9B-43.005(2)(a), F.A.C. Calculating each applicant's score shall include the following steps:

a. The highest statistic in each population group for each factor identified in Rule 9B-43.007(1)(a), F.A.C., shall be the basis for relative comparison of all other eligible local governments in the population group.

$$\frac{\text{statistic on factor}}{\text{highest statistic on factor population group}} = \text{percent to be used as factor multiplier}$$

b. For each eligible local government, the percentage calculated shall then be multiplied by the maximum number of points available for that particular factor.

percent x maximum points available = score for eligible local government on factor

c. The score for factors in ss. 9B-43.007(1)(a)1.-3., F.A.C., shall be summed for each eligible local government for the community-wide score. However, local governments that have previously received Community Development Block Grant funds shall have their community-wide needs score adjusted to reflect the funding impact pursuant to Section 290.046(3)(b), F.S. Each local government which previously received any Community Development Block Grant funds shall have its community-wide needs score reduced by 5 points for every $100,000, or fraction thereof, of funding disbursed by the Department. This calculation shall be based on all funds disbursed through the Florida Small Cities Community Development Block Grant program as of the end of the month prior to the opening date of the application cycle for the Housing category. The adjusted community-wide needs score cannot be less than zero. This adjustment shall not be made during the first application cycle in which the most recent census data is used, and all adjustments for grant funds received shall be based on the grants received in all application cycles after the most recent census data was first used.

(b) Further point breakdowns for program impact, equal opportunity and fair housing are found in the rule section pertaining to individual program categories or in the application manual for each category.

(2) Applications which score within the fundable range following appeals shall be awarded funds for activities which are eligible and meet all other requirements contained herein.

(3) Ties. In the event that two or more applications receive an equal final score, the application addressing the highest State priority goal as reflected by the goal points for application activities shall receive first consideration. If a tie still exists, then the application receiving the highest impact score calculated out 15 decimals, shall receive first consideration. If a tie still exists, then the applicant with the highest community-wide needs score shall receive first consideration.

Specific Authority 120.53, 290.048 FS. Law Implemented 290.046 FS. History–New 11-30-87, Amended 10-11-88, 10-14-90, Repromulgated 1-30-95, Amended 2-13-96, _____.

9B-43.008 Community-wide Needs for All Categories.

Specific Authority 120.53, 290.048 FS. Law Implemented 290.044, 290.046, 290.047 FS. History–New 11-30-87, Amended 10-11-88, 10-14-90, 12-29-91, 4-26-93, 1-30-95, 2-13-96, Repealed _____.

9B-43.009 Program Requirements for Housing.

(1) through (2) No change.

~~(3) Housing Goals. Goals under the CDBG Housing category seek a solution to substandard housing conditions in targeted low and moderate income housing areas. The primary housing goal is to provide a long-term solution by upgrading housing stock to a condition that shall last for at least 15 years. A secondary goal is to provide a short-term solution by upgrading the units to a liveable condition which makes the units safe, decent and sanitary.~~

(3)~~(4)~~ Housing Low and Moderate Income Benefit

~~(a) The local government shall provide beneficiary and housing unit selection procedures and criteria as required in the application manual and subsequently undertake selection of low and moderate income beneficiaries and housing units as proposed in the application manual. Any modification of this process must be approved by the Department prior to the use of the modified criteria. Only those households selected prior to~~

~~the second public hearing must be disclosed at the second public hearing and only those households selected prior to application deadline must be disclosed in the application.~~

~~(b) Upon final selection of beneficiaries, the local government shall have complete information on each housing unit proposed to be addressed with CDBG funds. This information shall document the proposed beneficiary's assertion of income eligibility, the structural and health and safety condition of the housing unit, the potential violations of the local housing code that exist, the ethnic makeup of the household and whether the household contains elderly (over 60 years of age), handicapped or female head of household.~~

(a)~~(c)~~ No change.

(b)~~(d)~~ No change.

(4)~~(6)~~ If the average proposed cost of addressing an LMI housing unit exceeds, on an average, $52,000 ~~$36,999~~ of CDBG total funds requested, a 100 point score reduction shall be assessed against the application.

(5)~~(7)~~ No change.

(a) through (f) No change.

~~(8) This number omitted intentionally.~~

~~(9) In order to be eligible for scoring, the expenditure of any non-CDBG or local government general revenue funds designated in the application as leverage for a housing grant must be expended after the date of the site visit and prior to the date of administrative close-out except for the cost of application preparation paid by the local government. In order to be counted for scoring, any non-CDBG funds leveraged for the rehabilitation of housing units may be expended only after beneficiaries are selected.~~

(6)~~(10)~~ No change.

(7)~~(11)~~ No change.

(a) through (e) No change.

Specific Authority 120.53, 290.048 FS. Law Implemented 290.046 FS. History–New 11-30-87, Amended 10-11-88, 10-14-90, Repromulgated 1-30-95, Amended 2-13-96, _____.

9B-43.010 Program Requirements for Neighborhood Revitalization.

(1) No change.

(a) through (f) No change.

(g) Mitigation of future natural disaster hazards, such as ~~including~~ voluntary acquisition of flood prone property, drainage for low and moderate income neighborhoods, and relocation of homes and/or beneficiaries from properties acquired.

(2) Measurement of Program Impact. Specific formulas used to calculate the total 650 points for Program Impact are found in ~~Form CDBG-N,~~ the Neighborhood Revitalization Application Manual.

~~(3) Neighborhood Revitalization Category Goals. Goal point values for specific activities are found in Form CDBG-N.~~

~~(a) Goal 1: To assist local governments with appropriate solutions to serious water and sewer deficiencies which are detrimental to the public health and safety in areas of concentrations of low and moderate income persons.~~

~~(b) Goal 2: To assist local governments with appropriate solutions to other serious deficiencies in public facilities which are detrimental to the public health and safety in areas of concentrations of low and moderate income persons.~~

~~(c) Goal 3: To assist local governments with appropriate solutions to deficiencies in public facilities in areas of concentrations of low and moderate income persons.~~

~~(d) Goal 4: To assist local governments with appropriate solutions to deficiencies in land assembly or site preparation for new housing construction in areas of concentrations of low and moderate income persons.~~

~~(e) Goal 5: To assist local governments in providing the elderly and the handicapped with facilities to meet their special needs and to provide access to all public facilities by the handicapped.~~

~~(f) Goal 6: To assist local governments in providing social service facilities and recreational facilities to persons of low and moderate income.~~

~~(g) Goal 7: To assist local governments in mitigating future natural disaster hazards.~~

(3)~~(4)~~ Service Area Requirements.

(a) through (d) No change.

1. through 3. No change.

~~4. When required by law, documentation of compliance with Chapter 381.00655(1), F.S., which describes the notification process for enforced hookup to a sewage collection line and treatment system, is required prior to administrative closeout.~~

(e) through (f) No change.

~~(g) In order to be eligible for scoring, the expenditure of any non-CDBG or local government general revenue funds leveraged for a neighborhood revitalization project may only take place after the date of the site visit and prior to the date of submission of the administrative closeout except for the cost of CDBG application preparation paid by the local government.~~

(4)~~(5)~~ No change.

(a) through (b) No change.

(c) By direct written notification prior to application deadline of those households proposed for direct benefit.

Specific Authority 120.53, 290.048 FS. Law Implemented 290.043, 290.044, 290.046 FS. History–New 11-30-87, Amended 10-11-88, 10-14-90, 12-29-91, 4-26-93, 1-30-95, 2-13-96, 12-25-96, _____.

9B-43.012 Program Requirements for Economic Development.

(1) Eligible Activities.

(a) through (c) No change.

~~(d) Energy conservation improvements designed to encourage the efficient use of energy resources;~~

(d)~~(e)~~ Public, commercial or industrial real property or infrastructure improvements, including railroad spurs or similar extensions, tied to a specific project in a public or private easement;

~~(f) Activities to remove barriers which restrict access for the elderly or handicapped to publicly owned and privately owned buildings, facilities, and improvements; and~~

(e)~~(g)~~ Activities designed to provide job training and placement and/or other employment support services on behalf of the participating party as outlined in 24 C.F.R. 570.482(d)(2).

(2) Prohibited Uses of Funds.

(a) Funds shall not be used for working capital, inventory or supplies or to refinance existing debt.

(b) through (e) No change.

(f) Funds cannot be used for a loan to a non-public entity which is determined not to be appropriate as defined in 24 C.F.R. Section 570.482(e) ~~herein~~.

(g) Funds shall only be used for infrastructure in a developer project. No loan to a developer shall be made with CDBG funds.

(3) Eligibility Requirements.

(a) No change.

(b) Determining Eligibility for Infrastructure Projects.

1. No change.

2. Applications shall also document that the entity proposing to create jobs is financially viable based on accepted industry standards and document the statistical basis upon which the job creation estimate is calculated.

3. ~~The applicant shall complete any job creation assessment required in 24 C.F.R. 570.483.~~ The applicant shall document that the route, scope, cost, and size of the components of the proposed infrastructure is the minimum necessary to provide for the needs of a participating party at a job creation location.

~~4. Leverage is not required in projects where all the CDBG funded activities are administration, engineering, or infrastructure.~~

(c) Job Commitment. Applicants shall document that the participating party or developer has the financial capacity to meet its commitment to provide or retain the jobs specified in the application. Applications which do not contain evidence of the capacity to provide jobs shall be assessed a 251-point reduction of their program impact score.

(d) No change.

~~(e) Intentionally omitted.~~

(e)~~(f)~~ Leveraging of CDBG Dollars. Non-CDBG public funds directly linked to the proposed project may be included for scoring purposes. Applicants shall include documentation that all funds to be used for leverage are available and committed to the project and will be ~~are~~ in the form of cash, loans, or grants. For CDBG loans, ~~leveraged~~ funds expended on assets purchased prior to the date of site visit shall not be counted to meet the fifty (50) percent non-CDBG match portion of the project costs. Match ~~Leverage~~ is not required for infrastructure-only projects. In order to be eligible for scoring, only leveraged funds expended after the date of the site visit and prior to the date of submission of administrative closeout shall be counted, except for the cost of CDBG application preparation paid by the local government.

(f)~~(g)~~ Compliance with National Objectives.

1. No change.

2. Determination of Benefit of Completed Project.

a. through b. No change.

c. Where job creation is the method of meeting a national objective for construction of a public improvement or facility, all jobs created or retained as a direct result of the construction of the public improvement or facility shall be considered. However, if the costs per job and the time period specified in 24 C.F.R. Section 570.482(2)(i) are attained, only those jobs created by businesses included in the application must ~~original assessment shall~~ be counted for the purpose of meeting a national objective.

3. Determination of Availability of Jobs to Low and Moderate Income Persons. To determine that the created or retained jobs will be ~~have been~~ made available to low and moderate income persons, the local government or participating Party shall ensure that:

a. through c. No change.

4. No change.

(4) No change.

~~(5) Information or documentation in applications submitted under the Economic Development category shall be verified by on-site visits when funds are available or by consulting pertinent and authoritative published materials such as those available from the U.S. Census Bureau, U.S. Department of Commerce, Florida Department of Revenue, Florida Department of Community Affairs, Florida Department of Labor and Employment Security, Florida Chamber of Commerce or Robert Morris Associates.~~

~~(6) For the purpose of determining if a job is held by or made available to LMI persons, the person may be presumed to be an LMI person if he or she meets the requirements of 24 C.F.R. 570.483 (b)(4)(iv).~~

(5)~~(7)~~ Program Impact Criteria for the Economic Development Category.

~~(a) Applications submitted under this category shall be designed to promote the provision of long-term jobs with growth potential, principally for low and moderate income persons; the investment of private capital; the development of local economic enterprises; and the expansion of local tax bases.~~

(a)~~(b)~~ Program Impact criteria for Economic Development shall be based with the maximum number of 650 points as reflected in Form CDBG-E, the Economic Development Application Manual.

(b)~~(c)~~ No change.

(6)~~(8)~~ No change.

(7)~~(9)~~ No change.

Specific Authority 120.53, 290.048 FS. Law Implemented 290.044, 290.046 FS. History–New 11-30-87, Amended 10-11-88, 10-14-90, 12-29-91, 1-30-95, 2-13-96, 12-25-96, _____.

9B-43.013 Program Requirements for Commercial Revitalization.

(1) No change.

(a) through (b) No change.

~~(c) To sell, lease, or otherwise make available land in such areas for residential, recreational, commercial, or other use, including parking or other facilities functionally related or subordinate to such use, or for public use or to retain such land for public use, in accordance with a community redevelopment plan;~~

~~(d) To dispose of all real and personal property or any interest in such property, or assets, cash or other funds held or used in connection with residential, recreational, commercial or other use, including parking or other facilities functionally related or subordinate to such use, or any public use specified in a community redevelopment plan or project, except that such disposition shall be at its fair market value;~~

(c)~~(e)~~ No change.

1. through 2. No change.

(d)~~(f)~~ No change.

(e)~~(g)~~ No change.

(2) Program Requirements. Applicants shall include a description of the role of CDBG funding in the solution of the problem. If the project involves public improvements ~~rehabilitation of privately owned commercial buildings~~, the applicant shall ~~identify the private entities in the application and~~ document that the amount of CDBG funds being expended on that activity is cost reasonable.

(3) No change.

(4) Program Impact Criteria for the Commercial Revitalization Category.

(a) through (c) No change.

~~(5) Commercial Revitalization Category Goals. Goal point values for specific activities are found in Form CDBG-C.~~

~~(a) Goal 1: To assist local governments in upgrading public facilities in commercial areas located in areas of concentrations of LMI persons.~~

~~(b) Goal 2: To assist local governments in providing assistance to private-for-profit businesses to improve building facades and correct code violations.~~

~~(c) Goal 3: To assist local governments in improving other public facilities in the commercial area.~~

(5)~~(6)~~ No change.

Specific Authority 120.53, 290.048 FS. Law Implemented 290.044, 290.046, 290.047 FS. History–New 11-30-87, Amended 10-11-88, 9-25-89, 10-14-90, 12-29-91, 4-26-93, 1-30-95, 2-13-96, 12-25-96, _____.

9B-43.014 General Grant Administration of All Categories.

(1) Procurement Procedures. Grant funds shall ~~may~~ be used to obtain ~~procure~~ commodities and services only in accordance with written procurement procedures adopted by the recipient and ~~certified by the chief executive officer of the recipient as meeting or exceeding the minimum standards set forth in this subsection~~.

~~(a) Such procedures~~ shall comply with the provisions of 24 C.F.R. Section 85.36 and for covered professional services contracts, Section 287.055, F.S., (Consultants Competitive Negotiation Act).

(a) Any procurement which requires public notice ~~publication~~ in a newspaper shall be published in a daily newspaper of general circulation ~~distributed~~ in a nearby OMB designated metropolitan statistical area (MSA). Alternatively, a local government may substitute such notice with a combination of local newspaper publication and mailed announcement to potential bidders/proposers which generates at least three responsible and responsive bids or proposals. Such publication and/or mailing shall allow ~~occur~~ at least 12 days ~~prior to the deadline~~ for receipt of the proposals or bids. ~~This requirement becomes effective 45 days after the effective date of this rule and does not apply to procurements prior to that time.~~

(b) ~~A recipient's procurement procedures may provide exceptions from the requirement of competition for commodities and services available only from a single source and for procurements from another unit of government. For procurements exceeding $25,000, the~~ The Department must provide written permission ~~to the recipient~~ prior to the recipient awarding ~~entering into~~ any contract exceeding $25,000 procured as a result of inadequate competition, a sole source or a non-competitive procurement ~~negotiation based upon whether the criteria in 24 C.F.R. Section 85.36 have been satisfied~~. For contracts below $25,000, the recipient's files must document the justification for such procurement which complies with ~~inadequate competition from a sole source or based on non-competitive negotiation pursuant to~~ 24 C.F.R. Section 85.36(b)(4).

(c) No change.

(d) Under Section 290.047(5), F.S. ~~Florida Statutes~~, a local government is permitted to contract with the same entity for more than one service, provided that the local government can document that the entity is either (i) the sole source or (ii) was determined, through the Request for Proposals process, to be the proposer most advantageous to the local government. ~~In accordance with HUD Circular Letter 81-69, unlike~~ Unlike services, such as grant application preparation, administering

CDBG Programs, providing engineering services, shall ~~and the like must~~ not be combined ~~lumped together~~ in a single contract except for design-build contracts procured in accordance with Section 287.055, F.S.

(e) All contracts for professional services shall conform to the following:

1. Any Request for Proposals which includes more than one service shall provide that:

a. No change.

~~b. Proposals will be considered on an equal competitive basis;~~

b.~~c.~~ Qualifications and proposals shall ~~should~~ be separately stated for each service;

c.~~d~~. The evaluation of the proposals shall ~~should~~ be separate for each service.

2. No change.

3. A separate professional services contract must be procured and executed between the local government and any professional services consultant for each particular CDBG grant. Each advertisement for procurement of CDBG professional services, except for grant application preparation, must identify either the ~~specify the proposed scope of work, and~~ CDBG grant cycle by federal fiscal year or the CDBG contract number.

~~4. Those types of services having a relatively undefined scope, such as program management or administration, and those services of a more defined scope, such as engineering or architectural design, must be separated from each other into individual contracts; and~~

4.~~5.~~ Each services contract must identify by grant agreement number ~~and individual project~~ the grant to which it is applicable.

~~6. Number omitted intentionally.~~

~~7. All procured contracts shall conform to 24 C.F.R. 85.36(i) and Section 287.055, F.S.~~

(f) Construction Contracts.

1.~~8.~~ If CDBG and other sources of funding are being jointly used to fund activities under a single contract ~~(excluding housing construction or housing rehabilitation contracts)~~, the activities to be paid for with CDBG funds must be shown separately so that in the bid proposal ~~as a separate line item or alternative (deducted or added) in the procurement documents. CDBG funded activities shall be separately stated so that CDBG funded activities are readily identifiable and quantifiable. This shall be done to clearly denote~~ the CDBG activities and the amount of a contract to be paid from CDBG funds are identifiable.

2. If after applying any specified deductive alternates, construction bids exceed available funds, the local government shall not negotiate with the low bidder unless there is only one bidder or all bidders are allowed to submit revised bids for the revised project. If the construction cost can be reduced by deleting entire bid line items or reducing quantities based on unit prices identified in the bid, the effect of such deletions or reduction on all bidders' prices shall be determined. Contract award shall be made to the low, responsive and responsible bidder for the revised project.

3.~~9.~~ All contracts in excess of $100,000 covered by Section 3 regulations shall contain the language required in 24 C.F.R. 135.38.

(g)~~(f)~~ The provisions of this subsection shall not be construed to conflict with or supersede the requirements of s. 287.055, F.S., or any other applicable State or federal law.

~~(2) Contract. Upon award of funds by the Department, a written contract shall be executed by the local government and returned to the Department within 30 days after receipt of the contract by the local government which specifies the terms and conditions of the award. The term of the original contract shall not exceed 24 months. The following shall become a part of the contract:~~

~~(a) The approved application with its statement of assurances and clerk's certifications;~~

~~(b) The approved grant budget by activity, containing all sources and uses of funds;~~

~~(c) Any applicable evidentiary materials;~~

~~(d) Any standard conditions and special conditions as determined by the Department;~~

~~(e) Work plans, which establish the timeframes, expenditure rates, accomplishments and beneficiaries; and~~

~~(f) Any attachment to the contract referenced within the contract.~~

~~(3) Fulfillment of Special Conditions. Applicants who are awarded funding under this part shall have 90 days, unless otherwise amended utilizing the amendment procedure described in Rule 9B-43.014(6), to provide the Department with legally binding commitments and all other necessary evidentiary materials to be specified in the contract. No project funds shall be released to the recipient until the required evidentiary materials are received and approved by the Department. The Department shall terminate its obligation to fund the recipient if the recipient is unable to comply with the evidentiary materials submission requirements.~~

(2)~~(4)~~ Method of Fund Distribution.

(a) No change.

(b) Recipients may maintain cash-on-hand in amounts of $5,000 or less for more than ten ~~five~~ working days to meet daily cash needs.

(c) No change.

(3)~~(5)~~ Escrow Accounts. Recipients may draw down CDBG funds and deposit them into an interest bearing escrow account for housing rehabilitation ~~in order to encourage the participation of small and minority-owned contracting firms~~. An escrow account may be established when direct grants or loans are made to owners of private property for the purpose of

housing rehabilitation. ~~All escrow accounts shall be interest bearing.~~ Escrow accounts shall only be used pursuant to 24 C.F.R. Part 570.511.

(a) through (f) No change.

(4)~~(6)~~ Amendments ~~Requiring Prior Written Approval~~. All proposed amendments must be approved by the Department except for quantity revisions which do not reduce the number of beneficiaries and deobligation of funds at closeout. Any proposed amendment that reduces the number of intended beneficiaries, the accomplishments, or the score from the original contract shall require review by the Citizens Advisory Task Force and a public hearing with public notice. ~~prior written Department approval except as specified in 9B-43.014(7)(b). Where prior written Department approval is required, the local government shall submit all necessary information to re-score the local government's application using the scoring procedures in effect at the time of the application. In order to be approved, all amendment changes shall be re-scored by the local government and the score must remain within the fundable range of the application cycle in which the grant was originally approved.~~ Any amendment which would reduce the score below the fundable range shall not be approved by the Department except as specified under Rule 9B-43.012(7)~~(9)~~, F.A.C.

(a) Documentation Required. All requests for contract amendments ~~requiring prior written Department approval~~ shall include the following written documentation for review by the Department:~~.~~

1. A cover letter signed by the Chief Elected Official or their designee which describes the need for ~~includes a detailed narrative description of~~ the proposed changes and their effect upon the approved project. If the ~~The~~ amendment involves a score reduction, the ~~cover~~ letter must ~~specifically~~ state the amended score ~~and verify that the grant remains in the fundable range as a result of this amendment~~.

2. All application forms that would be ~~altered or~~ changed by the proposed amendment ~~including a revised scoring page and any pages which modify the original application scores in terms of sources and uses of funds (leveraging) or project impact including changes in budget per activity goal points, number of beneficiaries or accomplishments~~.

3. If applicable, a ~~A~~ revised work plan ~~for each activity~~.

4. If applicable, a ~~A~~ revised budget showing the current and amended budget (Form DCA-69 and Form DCA-70).

5. If there is any change in activity location, a legible map which indicates the proposed changes.

6. If applicable, a copy ~~A Copy~~ of the minutes of the meeting of the Citizen's Advisory Task Force (CATF) at which the proposed amendment was reviewed.

7. If applicable, a copy ~~A Copy~~ of the public notice for the public hearing at which the amendment was approved, which shall evidence compliance with Rule 9B-43.003(31)~~(49)~~.

8. Signature of the Chief Elected Official on Form DCA-69 or documentation ~~resolution~~ from the local governing body authorizing the proposed amendment.

(b) In order to allow the Department adequate time to ensure that the amendment is processed before the contract end date, any ~~Any~~ amendment requiring Department ~~prior written~~ approval must be received at least 45 days prior to the end of the contract. ~~If the amendment is not received within this time frame, there will be a 15 point penalty against future grant applications for a late amendment request. This penalty expires two years from the date of administrative closeout or upon successful competition for funding.~~

(c) ~~The~~ Department ~~shall promptly review all amendment requests requiring prior written approval. The~~ approval or rejection of ~~such~~ an amendment request shall be noticed to the local government within 45 days of the Department's receipt of the request. If additional information is requested by the Department to act on the amendment request, the Department shall notice the local government within 30 days of receipt of the additional information required for the approval or rejection of the request.

(d) If the local government requests administrative closeout prior to the termination date of the contract, any amendment affecting closeout and requiring ~~prior written~~ Department approval must be included with ~~received 45 days before submission of~~ the closeout package or that closeout package is incomplete ~~void and its receipt shall not prevent assessment of penalties otherwise required in this rule.~~

(e) Time Extensions to Contracts. Any proposed amendment extending the termination date of the contract must be in increments of six months not to exceed one year. ~~The first such request for extension will be considered a non-prior approval amendment if it is received at least 45 days before the termination date of the contract. Any subsequent amendments requesting an extension of the termination date of the contract will be considered prior written approval amendments and must be received by the Department at least forty-five (45) days prior to the termination date or submission of the closeout package to avoid penalties.~~ Each time extension amendment requested by the local government ~~(including the first)~~ must explain the delay and justify the need for the extension. If such justification is not deemed reasonable by the Department, the request will be rejected and the local government will be provided with ~~contract will be unilaterally terminated by the Department with~~ appropriate appeal rights ~~explained to the local government~~.

(f) If a contract must be amended after the termination date, the local government or the Department may ~~must~~ request in writing that the grant be reopened for the purpose of amending the contract. This request must be in addition to other documentation that may be required based upon the purpose of the amendment.

(7) Amendments Not Requiring Prior Written Approval by the Department. Any proposed amendment that does not reduce the number of intended beneficiaries, accomplishments or scoring points from the original contract or any subsequent approved amendment shall not require prior written Department approval. If the first six-month request for an extension of the contract does not require prior written approval for other reasons, it may be submitted as an amendment not requiring prior approval. Upon receipt by the Department, the non-prior approval amendment will be reviewed immediately. The acknowledgment letter will indicate that the amendment became effective upon receipt and will be immediately incorporated into the contract.

(a) Documentation Required. All requests for contract amendments not requiring prior written Department approval shall include the following written documentation for review by the Department:

1. A cover letter signed by the Chief Elected Official or their designee which includes a detailed narrative description of the proposed changes and their effect upon the approved project. The amendment cover letter must verify that there is no reduction in accomplishments, beneficiaries, or score. The Department will reject any non-prior approval amendment which includes any such reductions.

2. All application forms that would be changed by the proposed amendment to show increases including changes which would increase the number of beneficiaries or accomplishments and any scoring changes.

3. A revised work plan for each activity.

4. A revised budget showing the current and amended budget (Form DCA-69 and Form DCA-70).

5. A legible map which indicates the proposed changes if there is any change in activity location.

(b) The following types of minor amendments do not require prior written approval by the Department:

1. So long as the number of beneficiaries is not reduced, prior written approval is not required for modifications in the quantity of units needed for an activity (i.e., lineal feet of pavement) based solely on final engineering or final surveying when the application map still accurately identifies the activity as going from Point A to Point B. Requests to increase the scope of work beyond the original grant activities, but within the scope of need outlined in the original application, shall be submitted in writing to the Department.

2. Amendments for the first six-month time extension to the contract which do not otherwise negatively affect the scoring, accomplishments or beneficiaries, do not require prior written approval. In such cases, local governments may still closeout their contract prior to the end of the six month period if all work has been completed.

3. Amendments to modify the terms of a Participating Party Agreement that do not otherwise affect scoring, leverage or job creation/retention numbers, do not require prior written approval.

4. In the Housing category, the temporary relocation budget, temporary relocation accomplishments and temporary relocation beneficiaries may be reduced and remaining funds in that activity may be deobligated at closeout without an amendment that requires prior written Department approval or may be reprogrammed to increase eligible activities otherwise allowed under this rule. Any such deobligation of funds or reprogramming of funds shall not create penalties relating to timeliness as long as any eligible expenditure of funds was completed prior to the end of the contract period. The Department will not approve any amendment under this paragraph that does not meet a national objective or reduces a grant score below the fundable range.

5. In the Neighborhood Revitalization category, the number of hookups and contracted number of beneficiaries of those hookups may be reduced and the funds remaining in that activity may be deobligated at closeout without an amendment that requires prior written Department approval. Any such modification shall not create penalties relating to timeliness, but may create penalties for failure to serve the service area or contracted number of LMI households. The Department will not approve any amendment under this paragraph that does not meet a national objective or reduces a grant score below the fundable range.

6. Any proposed budget change which does not also reflect a reduction in score, benefit or accomplishments, shall not require prior approval by the Department. Budget amendments which result in a decrease in score do not require prior approval if they do not reduce accomplishments or beneficiaries, do not add activities not previously included in the contract, and remain above the fundable range. All requests for budget amendments shall include revised application forms to document how the score is affected. Any such change shall be submitted in writing to the Department on Forms DCA-69 and DCA-70, which are hereby incorporated into this rule by reference, effective as of _____, and which are available from the Department of Community Affairs at the address specified in the NOFA and a scoring sheet from the original application showing that the original score has increased or had no change as a result of this budget change. This requirement applies to changes to any portion of the approved budget - CDBG, non-CDBG, or program income.

(b) Amendments not requiring prior written Department approval may be submitted with a closeout package without any closeout penalty which would otherwise be assessed. Should it be determined that the amendment received with the closeout package requires prior written Department approval,

~~the amendment and closeout package will be rejected, and all penalties will be assessed, including ineligibility for the next application cycle if applicable.~~

(5)~~(8)~~ Grant Closeout.

(a) ~~If not previously initiated by the local government, the Department shall advise the local government to initiate closeout when the Department determines in consultation with the local government, that there are no impediments to closeout, the local government does not have any outstanding monitoring findings, and the local government has performed all elements of its scope of work. A closeout package shall not be submitted prior to the completion and acceptance by the local government of all non-administrative activities.~~ At the time of submission of the closeout report, the local government must have available documentation which verifies their certification that all construction has been completed, inspected and approved by all parties prior to the contract end date and submission of the administrative closeout. An administrative closeout package may be submitted only when the local government has no more than $5,000 in total funds on hand. ~~Any closeout package reflecting funds on hand greater than these amounts will be rejected as void.~~ All funds drawn from the Department and not expended that exceed $5,000 must be returned to the Department prior to or with the submission of the closeout package. If the local government has transferred funds from the regular CDBG administrative account or the escrow account and these funds remain under the control of the local government, these funds are not considered expended for purposes of administrative closeout.

(b) No change.

1. If any change has been made since the application map or the last map amendment in commercial revitalization or neighborhood revitalization, the ~~The~~ closeout package ~~in commercial revitalization and neighborhood revitalization~~ shall also contain a revised map of ~~which shall geographically depict~~ the activities completed during the term of the CDBG grant ~~if any change has been made since the application or last map amendment~~.

2. No change.

(c) A recipient whose closeout package is not received by the Department prior to the date of the opening of the application cycle as defined in the Notice of Funding Availability (NOFA) shall not be eligible pursuant to s. ~~Rule~~ 9B-43.004(5)~~(7)~~. The closeout package must contain original signatures. Facsimile (FAX) submissions are not acceptable to meet submission requirements.

(d) No change.

~~(e) Impediments or barriers to administrative closeout include, but are not limited to: open monitoring findings or open concerns that require a response; open audit findings in connection with any CDBG contract; overdue audit reports; all required Department monitoring not completed; minimum annual fair housing requirements not met or documented; required maps not received with closeout; documentation required to verify allowable engineering costs or any additional engineering costs not approved under the contract or submitted with closeout; unpaid costs exceeding 10% of the grant amount at the date the closeout is signed by the Chief Elected Official; open citizen complaints not handled in accordance with approved local policy; and leveraged local funds or other funds not documented.~~

(6)~~(9)~~ Performance.

(a) No change.

1. A closeout package is due within 45 days after expiration of the grant award agreement. ~~Failure to have the closeout package received by the Department on the due date shall result in a score reduction as provided in Rule 9B-43.006(6)(c) and may affect eligibility as provided in Rule 9B-43.004(9).~~

2. No change.

(b) Monitoring by the Recipient. Recipients shall constantly monitor their own performance under grant-supported activities to ensure that time schedules are met, projected mile-stones are accomplished with specified time periods, and other performance goals are achieved. ~~Such review shall be made for each program, function, or activity as set forth in the grant application and award agreement.~~

(c) No change.

~~1. The Department shall review each recipient's performance in accordance with applicable portions of 24 C.F.R. 570.901, "Review for Compliance with Primary Objectives."~~

~~2. Department review of the recipient's performance shall include site visits as frequently as necessary to evaluate program accomplishments and management.~~

1.~~3.~~ Recipients shall be required to supply data and make available records as are necessary to complete an accurate evaluation of contracted activities. Recipients shall respond to any monitoring finding within (35) days of the receipt of the Department's letter. The Department will grant one 15 day extension to the response period upon request by the recipient. ~~Failure to respond within the required time period will result in the suspension of funds until the response is received, unless such suspension is waived by the Department based upon hardship to the recipient or exigent circumstances~~.

2.~~4.~~ No change.

(d) through (e) No change.

(7)~~(10)~~ Audit Requirements. If required, a ~~A~~ local government shall provide the Department with an annual financial audit report ~~or attestation statement~~ which meets the requirements of ~~Sections 11.45 and 216.349, Fla. Stat., and Chapter 10.550 and 10.600, Rules of the Auditor General, and, to the extent applicable,~~ the Single Audit Act of 1984, 31 U.S.C. ss. 7501-7507, OMB Circular A-133 for the purposes of auditing and monitoring the funds awarded under CDBG Grant Agreements. Audits for the preceding local government

fiscal year must be received at the Department by 5:00 PM on or before April 30 of the following year. If April 30th falls on a weekend, the audit or attestation statement is due on the next workday.

(a) The annual financial audit report should be accompanied by all management letters and the recipient's response to all findings, including corrective actions to be taken. ~~If these documents do not accompany the original audit submission, the local government has sixty additional days to submit them to the Department without penalty.~~

(b) through (f) No change.

(g) If audit requirements are not documented at the time of site visit, the Department shall find that the local government has inadequate administrative capacity making it subject to rejection or to special conditions in their CDBG contract agreement. ~~The Audit Report shall be submitted on time according to the dates specified in 9B-43.006(6)(a).~~

~~(h) Grantees shall comply with the requirement of s. 216.349, F.S., concerning the submission of audits and attestation statements.~~

(8)~~(11)~~ Displacement and Relocation.

(a) through (c) No change.

(9)~~(12)~~ Records. The local government shall maintain all grant files and records within a readily accessible site within its jurisdiction and under its control at all times until three years after receipt of final closeout approval from the Department. The local government shall provide all interested citizens with reasonable access to the grant records during normal business hours.

(10)~~(13)~~ Non-program Income. Liquidated damages, rebates, refunds, or any other "non-program income" funds received from any party previously paid (or from whom payment was withheld) shall be used to conduct additional eligible activities or returned to the Department. Additional direct and quantifiable costs (i.e., legal fees, court costs, engineering fees or administrative fees as defined in this rule) generated by the incident creating the liquidated damages may be deducted from the total liquidated damages prior to undertaking additional activities or returning funds to the Department. Use of the funds for additional eligible CDBG activities must be preceded by an amendment to the CDBG contract detailing their use.

(11)~~(14)~~ Program Income. Program income generated after closeout shall be returned to the Department. Program income generated prior to closeout of a grant shall be returned to the Department unless:

(a) through (c) No change.

(12)~~(15)~~ Conflict of Interest. If CDBG funds are to be expended to assist or benefit any person listed in 24 C.F.R. Section 570.489(h)(3) who is subject to a conflict described in 24 C.F.R. Section 570.489(h)(2), a waiver of that conflict shall first be requested pursuant to 24 CFR Section 570.489(h)(4). Should CDBG funds be expended prior to the Department's approval of the waiver of the conflict of interest, the funds expended will not be considered an eligible expense and shall be subject to repayment.

~~(16) After submission of the fourth quarterly report for the period ending December 31, 1996, quarterly reports required pursuant to the rules governing all open grants are no longer required to be submitted each quarter. Existing penalties for failure to comply with submission of such reports on time up to that time are not eliminated.~~

Specific Authority 120.53, 290.048 FS. Law Implemented 290.046 FS. History–New 11-30-87, Amended 10-11-88, 10-14-90, 12-29-91, 4-26-93, 1-30-95, 2-13-96, 12-25-96, 1-29-98,_____.

NAME OF PERSON ORIGINATING PROPOSED RULE: Susan Cook, Community Program Administrator, Division of Housing and Community Development, Department of Community Affairs, Sadowski Building, 2555 Shumard Oak Boulevard, Tallahassee, Florida 32399-2100, (850)487-3644

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Shirley Collins, Director, Division of Housing and Community Development, Department of Community Affairs, Sadowski Building, 2555 Shumard Oak Boulevard, Tallahassee, Florida 32399-2100, (850)488-7956

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

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: August 17, 2001

DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION

Board of Professional Engineers

RULE TITLE: RULE NO.:
Probable Cause Determination 61G15-18.005

PURPOSE AND EFFECT: The purpose of the Board is to amend its rule on probable cause determination to delegate the determination of probable cause to the Department of Business and Professional Regulation only in specific cases.

SUMMARY: By adopting this amendment to its rule on Probable Cause Determination, the Board would delegate that determination to the Department of Business and Professional Regulation only when the only charge that would otherwise go before the Board's Probable Cause Panel is that of failure to comply with a Final Order of the Board.

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: 455.225 FS.

LAW IMPLEMENTED: 455.225 FS.

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

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Natalie Lowe, Administrator, Board of Professional Engineers, 2507 Callaway Road, Suite 200, Tallahassee, Florida 32303-5267

THE FULL TEXT OF THE PROPOSED RULE IS:

61G15-18.005 Probable Cause Determination.

(1) Probable cause determination as to a violation of Chapter 471, or Chapter 455, F.S., and rules promulgated pursuant thereto shall be made by a probable cause panel of three (3) board members or two (2) board members and one (1) past board member. Said members shall be appointed as a standing probable cause committee at the first board meeting of each calendar year and shall serve for a period of one (1) year. All proceedings of the probable cause panel shall be conducted in accordance with Chapters 120 and 455, Florida Statutes.

(2) Notwithstanding the procedure outlined in subsection (1) above, the Board hereby delegates to the Department the determination of probable cause when the only charge that otherwise would go before the probable cause panel is that of failure to comply with the Board's final order pursuant to 471.033(1)(k), Florida Statutes and Rule 61G15-19.001(6)(o), Florida Administrative Code. Should an investigation support charges in addition to the failure to comply with the Board's final order, the case shall be presented to the probable cause panel for a determination of probable cause.

Specific Authority 455.225 FS. Law Implemented 455.225 FS. History–New 1-8-80, Amended 4-5-81, Formerly 21H-18.05, 21H-18.005, Amended 11-15-94, _____.

NAME OF PERSON ORIGINATING PROPOSED RULE: Board of Professional Engineers

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

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

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: October 12, 2001

DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION

Board of Professional Engineers

RULE TITLE:	RULE NO.:
Attendance at Board Meetings, Unexcused Absences	61G15-18.0071

PURPOSE AND EFFECT: The purpose of the Board in creating this new rule is to define unexcused absences from Board meetings by Board members and outline the steps to be taken by Board members to establish an excused absence from a Board meeting.

SUMMARY: This new rule establishes the requirement for mandatory attendance of all Board meetings by all Board members unless prevented from doing so by the reasons stated in the rule. It further defines an unexcused absence from a Board meeting and establishes a method for notifying the Board Administrator and Chairperson of an impending absence from a Board meeting.

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: 455.207(3) FS.

LAW IMPLEMENTED: 455.207(3) FS.

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

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Natalie Lowe, Administrator, Board of Professional Engineers, 2507 Callaway Road, Suite 200, Tallahassee, Florida 32303-5267

THE FULL TEXT OF THE PROPOSED RULE IS:

61G15-18.0071 Attendance at Board Meetings, Unexcused Absences.

(1) Board members shall attend all regularly scheduled Board meetings unless prevented from doing so by reason of court order, subpoena, business with a court which has the sole prerogative of setting the date of such business, conflict with other scheduled business of the Board, conflicting business previously authorized by the Board, death of family member, illness of the Board member, hospitalization of the member's immediate family, unavoidable travel delays or cancellations, or other extraordinary circumstances as approved by the Board.

(2) Three consecutive unexcused absences or absences constituting 50 percent or more of the board's meetings within any 12-month period shall cause the board membership of the member in question to become void, and the position shall be considered vacant. No Board member may be absent from three consecutive regularly scheduled Board meetings unless the absence is excused for one of the reasons stated in subsection (1) of this rule. An absence for any reason other than the reasons stated in subsection (1) constitutes an unexcused absence for the purpose of declaring a vacancy of

the Board. An otherwise excused absence is not excused if the Board member fails to notify the Board's Administrator and Chairperson of the impending absence 48 hours prior to the regularly scheduled Board meeting at which the absence will occur or unless the failure to notify the Board's Administrator and Chairperson is the result of circumstances surrounding the reason for the absence which the Board itself excuses after the absence has occurred. The reason for the absence from a meeting shall be made part of the minutes of that meeting.

(3) "Family" consists of immediate family, nieces, nephews, cousins, and in-laws.

(4) "Immediate family" consists of spouse, child, parents, parents-in-law, siblings, grandchildren, and grandparents.

Specific Authority 455.207(3) FS. Law Implemented 455.207(3) FS. History–New _____.

NAME OF PERSON ORIGINATING PROPOSED RULE: Board of Professional Engineers

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

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

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: October 19, 2001

DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION

Board of Professional Engineers

RULE TITLE: RULE NO.:

Foreign Degrees 61G15-20.007

PURPOSE AND EFFECT: The purpose of the Board in amending its rule on foreign degree applicants for licensure is to provide for all approved foreign degree evaluation services within the rule itself, so all applicants will be on notice as to the service to be used.

SUMMARY: All foreign degree holders will be required to have their transcripts evaluated by the firm that has been listed in the existing rule as one that applicants could use for such a purpose. The existing text in the rule indicating a separate approval of such evaluation agencies by the Board is being deleted, as the only approved evaluation agencies will be listed within the text of the rule itself.

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: 471.008 FS.

LAW IMPLEMENTED: 471.013, 471.015 FS.

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

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Natalie Lowe, Administrator, Board of Professional Engineers, 2507 Callaway Road, Suite 200, Tallahassee, Florida 32303-5267

THE FULL TEXT OF THE PROPOSED RULE IS:

61G15-20.007 Foreign Degrees.

(1) through (4) No change.

~~(5) Translation and/or evaluation of university credentials and secondary certificates, where applicable, shall be provided by the applicant at their expense, utilizing evaluation agencies approved by the FBPE. However, the fact that any such evaluation concludes that the applicant has the equivalent of an engineering degree is not controlling, if the evaluation does not demonstrate the number of required hours and subjects as set forth in paragraph (2). Where insufficient information is provided by such evaluations, the Board shall require copies of syllabi or other supporting documents, in order to adequately assess course level and content.~~

(5)~~(6)~~ The applicant must ~~may~~ request an evaluation of substantial equivalency of his or her credentials to ABET standards through Engineering Credentials Evaluation International, P. O. Box 13084, Baltimore, MD 21203-3084.

~~(7) The Educational Advisory Committee shall utilize evaluations provided by recognized independent agencies including ABET and the National Council of Examiners for Engineers and Engineering Surveying, when submitted by the applicant.~~

(6)~~(8)~~ No change.

(7)~~(9)~~ Any applicant whose only educational deficiency under paragraph (2) involves humanities and social sciences shall be entitled to receive conditional approval to take the Fundamentals examination. Such an applicant shall not become eligible for the Principles and Practice examination until satisfactory completion and documentation of the necessary hours in humanities and social sciences as provided in paragraph (2), or completion and documentation of a post baccalaureate degree in engineering as provided in paragraph (6)~~(8)~~.

Specific Authority 471.008 FS. Law Implemented 471.013, 471.015 FS. History–New 7-20-95, Amended 6-5-96, 4-16-98, 1-17-99, 7-28-99, _____.

NAME OF PERSON ORIGINATING PROPOSED RULE: Board of Professional Engineers

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

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

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: October 19, 2001

DEPARTMENT OF ENVIRONMENTAL PROTECTION

DOCKET NO.: 00-15R

RULE CHAPTER TITLE:	RULE CHAPTER NO.:
State Revolving Loan Program for Water Pollution Control	62-503
RULE TITLES:	**RULE NOS.:**
Definitions	62-503.200
General Program Information	62-503.300
Preconstruction Loan Funding	62-503.350
Program Administration Costs	62-503.400
Project Allowances	62-503.420
Loan Agreements	62-503.430
Funds Reserved for Specific Purposes	62-503.500
Priority List Information	62-503.600
Priority Determination	62-503.650
Ranking Projects for Priority List Development	62-503.655
Priority Lists Management	62-503.680
Planning, Design, Construction, and Post-Construction Requirements	62-503.700
Audits Required	62-503.800

PURPOSE, EFFECT AND SUMMARY: The rules addressing the financing of stormwater management facilities, under Chapter 62-504, FAC., and the financing of wastewater management facilities, under Chapter 62-503, FAC., would be consolidated in the proposed amendments to Chapter 62-503. The separate rule chapter for funding stormwater management facilities would be eliminated. The proposed amendments also would expand the financing program to additional categories of projects and enable participation by both governmental and non-governmental entities. New definitions would be provided to facilitate the description of expanded State Revolving Fund (SRF) policies. The capitalization for the SRF program would include the proceeds from tax-exempt bonds issued by the Florida Water Pollution Control Financing Corporation. The SRF program would thus become "leveraged." Use of bond money requires the imposition of U.S. Treasury requirements. Various proposed rule provisions for such U.S. Treasury requirements implement the July 2001 incipient agency policy. The tax exempt bond proceeds would be used for leveraged loans. Leveraged loans would become available to finance point source water pollution control projects. Point source projects include wastewater management projects and urban stormwater management projects. Financing point source water pollution control projects results from Section 212 of the federal Water Pollution Control Act as amended (Act). Direct loans would be made from State and Federal appropriations, investment earnings, and loan repayments. The allowable use of the SRF program funding, using direct loans, is extended to include non-point source water pollution control activities and, in particular, implementation of agricultural water pollution control practices. Non-point source projects include stormwater management projects that do not require permitting under the National Pollutant Discharge Elimination System and are not eligible for funding as a result of Section 212 of the Act unless such projects are sponsored by a local government. Financing non-point source water pollution control projects results from Section 319 (addressing non-point source pollution) or Section 320 (addressing estuary protection) of the Act. While local governmental project sponsors and non-governmental project sponsors would be eligible to participate in the SRF program, only local governments would be eligible to apply for loans to finance point source water pollution control projects such as wastewater management facilities. Notably, non-governmental sponsors of projects implementing agricultural practices for concentrated animal feeding operations for which a National Pollutant Discharge Elimination System Permit has been issued are not eligible to participate in the SRF program. As long as bond proceeds remain available, local government project sponsors would have to accept leveraged loans as opposed to direct loans if such local governments have existing tax-exempt debt. However, such local governments could receive direct loans when bond proceeds are no longer available. Until the proposed rule is amended in the future as contemplated, non-governmental project sponsors would have to demonstrate the ability to repay SRF loans from established and predictable revenues and have audited financial statements for two years or, alternatively, have borrowed money in an aggregate amount at least that of the requested SRF loan without default. Refinancing of SRF loans at lower financing rates using direct loans would not be allowable. However, the rule would be silent on refinancing SRF loans using leveraged loans. Requirements and limitations for funding under the proposed rule would be the same for wastewater and urban stormwater point source pollution control projects. Other than compliance with U.S. Treasury limitations, there would be no difference in planning, design, or construction requirements for direct and leveraged loans. The requirements for funding point source and non-point source pollution control projects would be different due to the inherent differences in planning options and procedures and the differences between Sections 212, 319, and 320 of the Act. There would be no limitation on the percentage of the SRF capitalization that could be used for point source or non-point source water pollution control. This provision would implement the December 2000 incipient agency policy. Certain construction related costs incurred before a loan agreement is executed would become allowable provided that the procurement requirements under the proposed rule are followed. Subject to U.S. Treasury limitations associated with tax-exempt bonds under leveraged loans, other project costs for specialized technical services such as geotechnical evaluations of subsurface conditions, sewer system evaluations for infiltration/inflow control, property surveys for new collection sewers, and appraisals for eligible land would be allowable on

a reimbursement basis. Costs for a project sponsor's personnel to construct facilities or implement agricultural management practices would not be allowable for loan funding. Loans to non-governmental project sponsors would have to be repaid in the lesser of 10 years or the useful life of the project. Loans to governmental project sponsors would have to be repaid in the lesser of 20 years or the useful life of the project. The 10 or 20-year periods would be assumed, however the project sponsor could elect a shorter repayment period. Preconstruction loans would be available only to governmental project sponsors. There would be no limitation on the size of population of the governmental project sponsor or the cost of the project. Preconstruction loans would become available for stormwater management projects sponsored by a local government. These provisions would implement the September 2000 incipient agency policy regarding preconstruction loans. Preconstruction loans could be rolled over only into the principal of direct loans for construction. This provision would implement the July 2001 incipient agency policy. The financing rate available for construction of the total project or the construction of the first part of the total project when multiple subprojects are used in implementing any part of a successfully completed preconstruction project would be the lesser of the rate available for any project at the time the construction loan is executed or the rate established in the preconstruction loan agreement. The prerequisites for a loan to finance the construction of a project planned and designed under a preconstruction loan would include obtaining a listing on the fundable portion. Allowances for planning, engineering, and administration generally would be included in the approved project cost under preconstruction loans only. Allowances would not be available under leveraged loans. Project sponsors expecting a leveraged loan for construction could apply for a preconstruction loan in order to receive allowances. These provisions would implement the July 2001 incipient agency policy addressing preconstruction loans. Administrative allowances could be included in both point and non-point source project costs being financed with direct loans regardless of whether construction is involved. Planning allowances would be available under preconstruction loans. Allowances for engineering work would be available only for direct loans for any construction project. In addition to the existing conventional engineering allowance, a new allowance for conceptual engineering would become available for situations involving partial preparation of design documents such as would be done in preparation of a request for design/ build proposals. Preconstruction loans would be used to finance the planning and conceptual engineering work for design/build projects. This would implement the September 2000 incipient agency policy. The schedule for developing the annual project priority list would be advanced to begin the process prior to October 15. The proposed rule would require project sponsors to submit project information by December 1 to qualify for inclusion on any portion (fundable, contingency, or planning) of the project list under development. This provision enables the purging of projects from the planning portion of the project list when the project sponsor no longer is pursuing funding for them. Project list development for Fiscal Year 2001/2002 was carried out under the December 2000 incipient agency policy. The proposed rule would provide for amending the project list throughout the year. Information that is submitted by a project sponsor and found incomplete by the Department and that remains incomplete following the Department's attempt to cure the deficiencies would continue to be interpreted such that a minimum priority for funding would result. This provision has the effect of giving a project sponsor the option of taking a default minimum priority score in lieu of providing detailed information to fully prioritize the project. An integrated priority system would replace the individual systems for stormwater control and wastewater control projects. It would be used to evaluate all projects to be placed on a single annual project list. Use of the integrated priority systems for development of the Fiscal Year 2001/2002 project list was authorized by the December 2000 incipient agency action. Base score priorities would be assigned as a result of documented and potential public health hazards, surface water and ground water quality considerations, enforceable regulatory requirements, reclaimed water reuse, watershed management, wetlands protection, and other water pollution control objectives. The base score would be adjusted to reflect a cost-to-benefit index, protection and restoration of priority surface water bodies, project importance as evidenced by multiple agency funding, and financial hardship in small communities. The cost-to-benefit index would be the output of a mathematical expression utilizing the ratio of the project cost to the priority score as adjusted using the multiplier for the restoration or protection of special surface water bodies. The priority adjustment of projects based on the flow, utilized under previous rules, would be eliminated. The proposed provisions would favor small projects as opposed to larger ones having the same base priority scores. The three-part annual project list would be maintained, but there would no longer be a separate list for preconstruction projects or a separate list for urban stormwater control projects. A project for which a construction loan will be sought could be placed on the fundable portion of the project list as soon as the planning and environmental review requirements identified in the proposed rule have been met and funds are expected to become available to finance the project within a two-year timeframe. There would be no planning requirements to be met in order to obtain placement of a preconstruction loan on the fundable portion. The funds to become available would include the proceeds of bonds issued by the Florida Water Pollution Control Financing Corporation. The contingency portion would continue to identify future segments of large projects. The funding segment cap (maximum amount of funds that may be loaned to any project sponsor in any fiscal year) would be limited to 25% of the spending authority when funding

requests exceed that available for the fiscal year. The segmentation limit would apply independently for wastewater, urban stormwater, and non-point source pollution control project categories. This provision would implement the December 2000 incipient agency policy regarding project segmentation and continued funding commitments. Spending authority, as established through the legislative budgeting process and the issue of tax-exempt bonds, would be less than the funding expected to become available over the two-year period considered in placing projects on the fundable portion of the project list. Provisions for establishing a two-year period with which to consider potential funds availability would implement September 2000 incipient agency policy. Available spending authority would be different for direct loans and leveraged loans as there is a statutory cap on the amount of bonds that may be issued to capitalize the SRF program. This situation could result in the temporary inability of the Department to offer direct loans to applicants while spending authority remains available for leveraged loans. The planning portion of the priority list would include projects that are identified each year as not ready to be funded. The small-community reserve would be implemented so that projects to serve small communities could be placed on the fundable portion using the set-aside funds when such projects would not otherwise qualify for listing because of low priority scores. The small community reserve would become important when more projects, regardless of the population to be served, qualify for the fundable portion than there is financing capability projected to become available over a two-year period. The function of the small-community reserve would be achieved upon list adoption at which time the set-aside becomes unreserved. Loans would become available for all projects on a first-come, first-serve basis for projects on the fundable portion of the project list regardless of priority scores. The proposed listing requirements for the fundable portion of the project list and the subsequent funding procedures would implement the September 2000 incipient agency policy. Projects that remain on the fundable portion of the project list at the end of the fiscal year due to the project sponsor's inability to complete the engineering and administrative tasks prerequisite to preparing a loan agreement would be reassigned to the planning portion of the project list. Such projects subsequently could be reinstated to the fundable portion if funds are available. Projects that remain on the fundable portion of the project list at the end of the fiscal year due to the Department's lack of spending authority would be reinstated to the fundable portion of the succeeding year's project list and would be offered loans as soon as sufficient spending authority is obtained. The target date concept for getting a loan agreement ready for the Department's execution would remain but the latest target date would be extended to June 30 of the fiscal year at issue. When a target date is not met, project progress would be reviewed at a public hearing and if progress is not being made and there are inadequate funds to add other qualifying projects to the fundable portion of the project list, the project would be reassigned to the planning portion of the project list. The current rule requirements for timely submittal of a loan application after addition to the project list via a list management action would be replaced by the aforementioned target date and end-of-fiscal–year list management actions. The end-of-fiscal-year deadline would govern in situations where the target date has not been met even when the project sponsor is making progress towards completing all tasks leading up to submitting a signed loan agreement to the Department. Financing rates for direct and leveraged loans to governmental sponsors would be the same. The financing rate available to non-governmental project sponsors would be 60% of prime rate indexed to track the rates reported for the top 25 U.S. commercial banks. The financing rate available to governmental project sponsors would continue to be 60% of 20-Bond General Obligation Index. One-half of the financing rate would be applied to all loans as a grant allocation assessment. Although the benchmark percentages for governmental and non-governmental borrowing is the same (60%), the relative subsidies involved are not the same as the prime rate exceeds the tax-exempt general obligation rate. The percentage mark-down would be greater but the actual financing rate also would be greater for non-governmental project sponsors. The funds generated by the grant allocation assessment would continue to be used for wastewater management grants to financially disadvantaged small communities administered under Chapter 62-505, FAC. The remaining one-half of the financing rate would continue to accrue to the SRF trust fund for future use in making direct loans. Direct loans at reduced financing rates would be available to small communities facing financial hardships. Hardship loan funding would not be contingent upon hardship grant funding and vice versa. Financial hardship for loan funding would be defined as a situation where the community's median household income is not more than 80% of the statewide average. The financing rate reduction would be directly and inversely proportional to the percentage that the community's median household income is to the statewide median. The criteria for hardship grants and loans are different as a result of the different statutory authorizations. Loan repayment reserve funding as part of the loan principal would be available only under direct loans. This provision would implement the July 2001 incipient agency policy regarding U.S. Treasury requirements for tax-exempt bonds. The loan repayment reserve for direct loans to non-governmental project sponsors would be 12% of the loan principal less capitalized interest and the reserve itself. The loan repayment reserve for direct loans to governmental project sponsors would continue to be 3% of the loan principal less capitalized interest and the reserve itself. The higher reserve for projects sponsored by non-governmental entities would accommodate the probably irregular accumulation of revenue pledged to repay non-point source project loans. The 12% reserve would represent less

than two semiannual loan repayments (when the prime rate is approximately 7.5%). Repayments would begin six months after the original date scheduled for project completion for all loans. The requirement for monthly escrow of pledged revenue would be replaced with a more flexible requirement for escrowing the pledged revenues as they become available. This flexibility would accommodate the less predictable revenues associated with projects sponsored by non-governmental entities. The financing rate, once established in any loan agreement, would be fixed for the duration of the loan. However, each loan amendment providing additional funds would involve a new financing rate for such additional funds. All loans would be repaid on a semiannual schedule using level debt service. Pledged revenue coverage would be 115% for all projects unless special provision is made for additional reserve funds to be provided by the project sponsor. A one-time, two-percent loan administration fee would continue to be separately assessed on every loan. The provision for annual adjustment of the fee for new loans each year would be eliminated. The administrative fee could be repaid as a separate loan originating from a trust fund separate from the SRF trust fund. Alternatively, a loan service fee can be paid at loan origination. All recipients of loans would be required to keep records of transactions. The authorized representatives or chief financial officers would have to review reserve and escrowed funds and report annually on their status to the Department. The applicability of federal "cross-cutting" authorities would be revised to clarify that the additional federal requirements apply to projects that, in aggregate, are equivalent in cost to the amount of the USEPA capitalization grant awarded to the Department. The amount of the capitalization grant may vary from year to year requiring adjustment of the cost threshold at which projects sponsors are required to comply with the federal cross-cutting authorities. The Department would assist project sponsors in identifying capitalization grant projects. The federal cross-cutting authorities would not include Davis-Bacon Act requirements for payment of minimum wages as a result of instructions issued by U.S.E.P.A. The planning prerequisites of an SRF loan would be revised to encompass non-point source pollution control projects. The planning requirements for point source pollution control projects would be curtailed. Various provisions relating to project planning, public participation, and environmental review would implement the September 2000 incipient agency policy. A cost comparison rather than a cost-effective comparison would be required for the point source projects. At the project sponsor's option, cost comparisons could be between the recommended project and no action. The cost comparison requirement would be deemed met when the project involves agricultural management or conservation practices. Sufficient detail to locate and justify all projects would be required. The public participation requirement would be deemed to have been met for agricultural practices consistent with plans prepared pursuant to Sections 319 or 320 of the Act. A plan under Section 320 would be a Comprehensive Conservation and Management Plan prepared under the National Estuary Program. A plan for an agricultural management practice project under Section 319 could be a Comprehensive Nutrient Management Plan or a Conservation Plan prepared to satisfy National Resource Conservation Service (NRCS) or it could be another agricultural management plan that would be acceptable for permitting purposes. Plans for Section 319 non-point source pollution control projects other than agricultural water pollution control would not have to meet agricultural management requirements. However, all Section 319 projects would have to be justified in the Department's Florida Non-point Source Management Program Update. Adverse environmental effects of a project must be offset by environmental benefits to demonstrate environmental soundness. While a multi-disciplinary review of projects to be funded as a result of Section 319 or 320 of the Federal Water Pollution Control Act would not be required, such projects would have to be reviewed via the State Clearinghouse process to meet the public participation process required for project list adoption. For all practical purposes, the State Clearinghouse process would be the same as a multi-disciplinary review. The public participation requirements for point source projects would be those of the local governments' and public hearings no longer would be required. Alternatives to formal resolutions adopting planning recommendations would become acceptable. The requirement that urban stormwater and wastewater management systems be financially self-sufficient would be replaced with the requirement that all project sponsors demonstrate the ability to repay loans. The requirement that projections of the project sponsor's revenues and expenses be done for a five-year period would be reduced to a two-year requirement for all projects. Sufficient information about the project sponsors revenues and expenses would have to be provided to enable an assessment by the Department of financial feasibility. Environmental information documents would be prepared only for wastewater and urban stormwater point source pollution control projects. Clarification would be provided about the procedures to be followed when additional environmental information becomes available to the Department during the 30-day comment period. In particular, when a Florida Categorical Exclusion Notice (FCEN) is issued and information justifying a detailed environmental review is received, then such a detailed review would be undertaken. The use of FCEN is extended from sewer systems additions and reclaimed water facilities in disturbed areas to all water pollution control facilities in disturbed areas. The requirements to qualify for a loan once planning is complete would remain the same for point source pollution control projects except that additional flexibility would be provided for the procurement related to construction. The requirements for non-point source pollution control projects would include completion of plans and specifications, value engineering for projects valued in excess of $10 million,

and permitting, where appropriate, site availability, financial assurance of project completion, and provision for price consideration during procurement. Competition in the selection of contractors and equipment would continue to be emphasized, but federal procurement procedures would not be required. Procurement according to 40 CFR Part 33 (1995) would be listed as an example of an acceptable procedure. Competition also would be emphasized for the use of design/ build (with or without an operate option) and construction manager at risk procurement. An example of an acceptable procurement procedure for design/build would be given. Use of design/build procurement procedures in implementing non-point source pollution control projects sponsored by a non-governmental entity is not expected to be as rigorous as the procedures used by local governmental project sponsors. The proposed rule would continue to require a project close-out audit for all loans, but only leveraged loans would require annual audits. The auditing provisions would implement the July 2001 incipient agency policy.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COST: The Department has prepared a Statement of Estimated Regulatory Cost, as referenced in sections 120.54(3)(b)1. and 12.541 of the Florida Statutes. Since participation in the SRF program is voluntary, costs are not imposed on nonparticipants.

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(10) 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., December 11, 2001

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

Pursuant to the provisions of the Americans with Disabilities Act, any person requiring special accommodations to participate in the hearing is asked to advise the agency at least 48 hours before the hearing by contacting the Bureau of Personnel Services at (850)488-2996. If you are hearing impaired or speech impaired, please contact the Florida Relay Service by calling 1(800)955-8771 (TDD).

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULES IS: Dick Smith, 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:

(Substantial rewording of Rule 62-503.200 follows. See Florida Administrative Code for present text.)

62-503.200 Definitions.

For purposes of this rule chapter:

(1) "Act" means the federal Water Pollution Control Act, Pub. L. 92-500, as amended also known as the amended Clean Water Act.

(2) Adjusted post-allowance project costs" means the post-allowance project costs less capitalized interest and loan repayment reserve if any.

(3) "Best management practice" means a control technique that is used for a given set of conditions to achieve water quality and water quantity enhancement at a feasible cost.

(4) "Capitalization grant project" means a project for which the project sponsor shall document compliance with specific federal requirements under Rule 62-503.700(1), F.A.C., in addition to the general requirements under Rules 62-503.700(2) through (11), F.A.C., to qualify for a loan. The aggregate funds used for the annual loans to be made for capitalization grant projects represents the amount of the corresponding annual capitalization grant received by the Department from the EPA.

(5) "Capitalized interest" means interest accruing at the rate of 60% of either the market rate (20-Bond GO Index) for loans to local governments or the indexed prime rate for loans to other project sponsors and compounding annually from the time when disbursements are made until six months before the first semiannual loan repayment is due. The procedures for establishing the market rate (20-Bond GO Index) and indexed prime rate are as described under subsection (22) below.

(6) "Complete loan application" means completed Form 62-503.900(2), Loan Application, effective , which is hereby incorporated by reference. Copies of this form may be obtained by writing to the Department of Environmental Protection, Bureau of Water Facilities Funding, 2600 Blair Stone Road, MS 3505, Tallahassee, Florida 32399-2400.

(7) "Complete request for inclusion" means completed Form 62-503.900(1), Request for Inclusion, effective , which is hereby incorporated by reference. Copies of this form may be obtained by writing to the Department of Environmental Protection, Bureau of Water Facilities Funding, 2600 Blair Stone Road, MS 3505, Tallahassee, Florida 32399-2400.

(8) "Construction manager at risk" means a firm or other single entity that contracts with the project sponsor for a guaranteed maximum price for the work. The construction manager is responsible for performance under individual construction contracts.

(9) "Contingency portion" means the portion of a priority list consisting of projects that are qualified to be on the fundable portion but cannot be placed on the fundable portion until there are sufficient funds.

(10) "Department" means the Department of Environmental Protection.

(11) "Design/build" means a contracting procedure whereby a firm or other single entity contracts with the project sponsor for a fixed price for the work and is responsible for both design and construction.

(12) "Direct loan" means a loan from other than the proceeds of bonds issued by the Florida Water Pollution Control Financing Corporation.

(13) "EPA" means the U.S. Environmental Protection Agency.

(14) "Financial hardship" means a situation where the median household income of a small community to be served by the project is less than the statewide average as of the most recent decennial census. Data may be obtained from the State Data Center, 200 Hartman Building, 2012 Capital Circle, Southeast, Tallahassee, Florida 32399-2151.

(15) "Financing rate" means the semiannual compounding rate at which charges are imposed on the principal, including capitalized interest, of a State Revolving Fund loan. The financing rate has a loan interest rate component and, for loans made after June 30, 1997, a grant allocation assessment rate. The financing rate is adjusted for a projects that will serve a small community having a financial hardship.

(16) "Fiscal year" means the 12-month period between July 1 and the following June 30.

(17) "Florida Water Pollution Control Financing Corporation" means the nonprofit public-benefit corporation created for the purpose of financing or refinancing the costs of water pollution control projects and activities authorized under section 403.1835, F.S. The activities of the corporation are specifically limited to assisting the department in implementing financing activities to provide funding for the programs authorized under section 403.1835, F.S.

(18) "Fundable portion" means the portion of a priority list consisting of the projects to which funds allocated each year by the Department have been assigned.

(19) "Funds allocated each year by the Department" means funds that are available or expected to be available for loans during both the fiscal year for which a priority list is being developed and the succeeding fiscal year as a result of the following:

(a) Federal capitalization grants and state appropriations less the amount of any funds appropriated or statutorily designated for specific projects or purposes;

(b) Loan repayments;

(c) Investment earnings; and

(d) Net proceeds of bonds issued by the Florida Water Pollution Control Financing Corporation.

(20) "Grant allocation assessment" means that portion of each repayment of each loan made after June 30, 1997, used solely for the purpose of making wastewater grants to financially disadvantaged small communities under Rule Chapter 62-505, F.A.C. The grant allocation assessment is in addition to the principal and interest portions of each loan repayment. The grant allocation assessment is established using a rate that compounds semiannually from a point in time six months before the first semiannual loan repayment is due until the loan is repaid.

(a) For loans to project sponsors that are local governments, the grant allocation assessment rate is 30% of the market rate for interest as established using the Thomson Publishing Corporation's "Bond Buyer" 20-Bond GO Index. The market rate (20-Bond GO Index) is established by the Department as of January 1, April 1, July 1, and October 1 of each year and it is the average weekly yield during the three months immediately preceding the date of determination. The average weekly yield is derived from the yields reported in the "Bond Buyer" for the full weeks occurring during the three-month period.

(b) For loans to project sponsors that are not local governments, the grant allocation assessment rate is 30% of the indexed prime rate for interest. The indexed prime rate is established by the Department as of January 1, April 1, July 1, and October 1 of each year and it is the average rate during the three months immediately preceding the date of determination. The indexed prime rate is derived from data for the top 25 insured U.S. chartered commercial banks as reported weekly in the Federal Reserve Statistical Release available through the Federal Reserve internet address www.federalreserve.gov.

(21) "Leveraged loan" means a loan from the proceeds of bonds issued by the Florida Water Pollution Control Financing Corporation.

(22) "Loan interest rate" means 30% of either the market rate (20-Bond GO Index) for loans to local governments or the indexed prime rate for loans to other project sponsors. Interest compounds semiannually from a point in time six months before the first semiannual loan repayment is due until the loan is repaid.

(a) For loans to project sponsors that are local governments, the loan interest rate is 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) is established by the Department as of January 1, April 1, July 1, and October 1 of each year and it is the average weekly yield during the three months immediately preceding the date of determination. The average weekly yield is derived from the yields reported in the "Bond Buyer" for the full weeks occurring during the three-month period.

(b) For loans to project sponsors that are not local governments, the loan interest rate is 30% of the indexed prime rate. The indexed prime rate is established by the Department

as of January 1, April 1, July 1, and October 1 of each year and it is the average rate during the three months immediately preceding the date of determination. The indexed prime rate is derived from data for the top 25 insured U.S. chartered commercial banks as reported weekly in the Federal Reserve Statistical Release available through the Federal Reserve internet address www.federalreserve.gov.

(23) "Local government" means a municipality, county, district, or authority, or any agency thereof, or a combination of two or more of the foregoing acting jointly in connection with a project and having jurisdiction over collection, transmission, treatment, or disposal of wastewater, industrial wastes, or other wastes. It includes a district or authority, the principal responsibility of which is to provide airport, industrial or research park, or port facilities to the public.

(24) "Planning portion" means the portion of the priority list consisting of projects that may receive funding in a future fiscal year. Projects identified on the planning portion shall be listed in alphabetical order. Projects not qualifying for the fundable or the contingency portion shall be included on the planning portion.

(25) "Pledged revenue" means revenue specifically approved by the Department and pledged or dedicated to the repayment of the loan.

(26) "Post-allowance project costs" means costs, subject to the limitations imposed by Rule 62-503.300(1), F.A.C., for allowable construction, equipment, materials, demolition, land acquisition, contingency, capitalized interest, legal and technical service costs and, for direct loans, the portion of the loan repayment reserve disbursement associated with the foregoing costs.

(27) "Priority list" means the yearly listing of fundable, contingency, and planning portion projects.

(28) "Project" means as follows:

(a) For funding as a result of section 212 of the Act, devices and systems associated with wastewater or stormwater collection, transmission, treatment, or disposal facilities. This includes facilities to produce, store, convey, and distribute reclaimed water. Project construction need not, in and of itself, result in an operable water pollution control system; and

(b) For funding as a result of either section 319 or section 320 of the Act, devices and systems or implementation of best management practices associated with non-point source water pollution control.

(29) "Project sponsor" means a local government eligible under the Act or other entity eligible as a result of sections 319 and 320 of the Act to receive a loan and that meets the following requirements:

(a) Has the current capability to repay the loan from established and predictable revenues; and

(b) Has audited financial statements for the two years preceding the loan application date demonstrating the availability of established and predictable revenues or has not defaulted on loans, from a commercial bank or government agency, the aggregate amount of which is at least as large as that requested from the Department.

(30) "Refinancing loan" means a loan from the State Revolving Fund for any portion of a project originally financed with bond proceeds or a previous loan from the State Revolving Fund.

(31) "Secretary" means the Secretary of the Department of Environmental Protection.

(32) "Segmented project" means a project for which the allowable costs in a given fiscal year exceed the amount that the Department commits to provide under Rule 62-503.600(2)(b), F.A.C.

(33) "Small community" means a municipality or unincorporated community with a total population of 20,000 or less as of the most recent decennial census. Data may be obtained from the State Data Center, 200 Hartman Building, 2012 Capital Circle, Southeast, Tallahassee, Florida 32399-2151.

(34) "Spending authority" means the amount of budget and proceeds of bonds issued by the Florida Water Pollution Control Financing Corporation available to the Department to execute loans during the fiscal year.

(35) "Target date" means the anticipated date for a negotiated loan agreement for any part of the amount listed on the fundable portion of the project list to be ready for execution by the individual authorized to commit State Revolving Fund monies to finance the project.

(36) "Value engineering" means a review of existing engineering work related to the design of project facilities by a professional engineer that has relevant expertise and that has a license to practice in the State of Florida. Value engineering is intended to result in savings in capital costs and operation and maintenance costs without detracting from project function over the design life of the project facilities.

Specific Authority 403.1835(10) FS. Law Implemented 403.1822(3), 403.1835 FS. History–New 4-17-89, Amended 12-4-91, 2-23-94, Formerly 17-503.200, Amended 1-4-98, 7-1-99, _____.

(Substantial rewording of Rule 62-503.300 follows. See Florida Administrative Code for present text.)

62-503.300 General Program Information.

(1) The categories of allowable project costs include the following subject to such limitations for leveraged loans as are necessary to maintain the tax-exempt status of bonds issued by the Florida Water Pollution Control Financing Corporation:

(a) Land, including easements and rights-of-way, that will be used for the ultimate disposal of wastewater or stormwater residues or will be an integral part of the treatment process;

(b) Construction and related procurement and other arrangements used to implement planned activities (such as a best management practice) under the following conditions:

1. A contract is executed after a loan is made;

2. A contract is executed before a loan is made and after authorization to incur costs has been given by the Department;

3. A contract is executed but costs are not incurred before a loan is made and there is no authorization to incur costs from the Department, all provided that procurement is consistent with the procedures required under Rule 62-503.700, F.A.C.; or

4. An equipment or materials contract is executed, costs are incurred before a loan is made, there is no authorization to incur costs from the Department, and the equipment or materials furnished are to be installed under a separate contract described in subparagraphs 1. or 2. above, all provided that procurement is consistent with the procedures required under Rule 62-503.700, F.A.C.

(c) Demolition and removal of existing structures;

(d) Contingency for project cost overruns;

(e) Legal and technical services after bid opening or receipt of proposals;

(f) Loan repayment reserve under a direct loan;

(g) Unretired debt principal, excluding any reserves such as for debt service when refinancing a project;

(h) Capitalized interest;

(i) Allowances for costs under Rule 62-503.420, F.A.C.;

(j) Technical services for specialized field studies and tests such as soil and hydrogeological tests for potential reuse sites, geotechnical evaluations for subsurface conditions, sewer system evaluations for infiltration/inflow elimination, property surveys for new sewer collection systems, and appraisals for eligible land;

(k) Costs for design when incorporated into a fixed price contract for providing complete and operable water pollution control system and when the contract price is based on incomplete plans and specifications prepared by the project sponsor such as under design/build procurement. Such design costs are considered an integral part of the construction cost; and

(l) Costs to implement best management practices for agricultural non-point source water pollution control.

(2) Unallowable project costs include the following:

(a) Acquiring all or part of existing stormwater, wastewater, or water pollution control management systems;

(b) Project facilities or activities not included within the approved project scope;

(c) Costs for the project sponsor's personnel in constructing project facilities or implementing of agricultural best management or conservation practices;

(d) Costs, such as for pending construction claims, yet to be incurred at the time of the on-site administrative action taken by the Department to document project completion;

(e) Project facilities or services for which the requirements of Rule 62-503.700, F.A.C., are not met;

(f) Water pollution control systems or components thereof, under a leveraged loan, that serve a private use to the extent that the tax status of bonds issued by the Florida Water Pollution Control Financing Corporation is jeopardized; and

(g) Any other cost not listed as allowable under subsection (1) above.

(3) The amount of the project contingency, at the time of loan approval and when actual costs are unknown, shall not exceed 10% of the estimated sum of the costs for allowable land, equipment contracts, service contracts, materials contracts, and construction contracts. The contingency shall be adjusted by the Department to not more than 5% of construction, equipment, services, and materials contract amounts after procurement contracts have been executed. The contingency remaining after accounting for contract change orders shall be eliminated by the Department when project closeout occurs. Contingency funds shall not be used to purchase equipment or pay for construction work or other activities not described in the loan agreement.

(4) Loan repayment periods shall be limited as follows:

(a) Construction loan and preconstruction loan repayment periods for projects sponsored by a local government shall be limited to 20 years under the Act or the useful life of the project, whichever is less.

(b) Repayment periods for loans sponsored by other than a local government shall be limited to 10 years or the useful life of the project, whichever is less.

(5) A preconstruction loan shall be available under Rule 62-503.350(1), F.A.C., only to a project sponsor qualifying as local government.

(6) The construction loan financing rate available for a project, planned and designed in accordance with the schedule incorporated into a preconstruction loan agreement, shall be subject to special consideration under Rule 62-503.430(3)(a)5., F.A.C.

(7) A project, or any portion thereof, that is financed with a State Revolving Fund loan shall not be refinanced, at a lower loan interest rate or a lower grant allocation assessment rate, by the Department via a subsequent direct loan.

(8) The scope of a fundable or contingency portion project described on the priority list shall not be increased to encompass additional work except where such increases have been subject to the prioritization procedures of Rule 62-503.650, F.A.C., and either the list development procedures of Rule 62-503.655, F.A.C., or the list management procedures of Rule 62-503.680, F.A.C., as appropriate.

(9) In order to receive consideration for a loan, the project sponsor shall achieve a fundable portion listing for the project, satisfy the appropriate requirements under Rule 62-503.430(2), F.A.C., and submit a complete loan application to the Department of Environmental Protection, Bureau of Water Facilities Funding, 2600 Blair Stone Road, MS 3505, Tallahassee, Florida 32399-2400. The project sponsor may

incorporate into a loan application by reference any information previously submitted to the Department that meets the applicable requirements of this rule in lieu of resubmitting such information.

(10) Projects shall be placed on the fundable portion of the priority list being developed under Rule 62-503.655, F.A.C., or shall be added to the list under Rule 62-503.680, F.A.C.

(11) Loans shall be offered to project sponsors for projects listed on the fundable portion on a first-come, first-served basis under Rule 62-503.430(1), F.A.C., while spending authority remains. Spending authority assigned to the Department for loans in any year may be less that the amount of funds allocated each year by the Department.

(12) A portion of the funds allocated each year by the Department shall be reserved, under Rule 62-503.500(1), F.A.C., to place small-community projects on the priority list. When the priority list is adopted, any part of the reserved amount not needed for small-community projects shall become available for any project. However, all uncommitted funds allocated each year by the Department shall remain available to place small-community projects on the priority list according to priority established under Rule 62-503.650, F.A.C., and the procedures under Rule 62-503.680, F.A.C.

(13) Projects that remain on the fundable portion at the close of the fiscal year due to the failure of the project sponsor to complete all funding requirements shall be subject to reranking on the succeeding year's priority list as planning portion projects under Rule 62-503.680(6), F.A.C. Projects that remain on the fundable portion at the close of the fiscal year solely as a result of the Department's inability to execute loan agreements shall be placed on the succeeding year's fundable portion under Rule 62-503.655(6)(b), F.A.C.

(14) Direct loans shall be available to project sponsors for projects to serve small communities qualifying for financial hardship assistance under Rule 62-503.430(3)(a)4., F.A.C. To qualify, the project must be listed on the fundable portion and its sponsor must be a local government. Both preconstruction and construction loans shall be available for financial hardship assistance situations as long as spending authority is available for direct loans.

(15) Projects that qualify for funding as a result of section 212 of the Act shall be eligible for direct loans or leveraged loans. However, a project sponsor that has previously financed any stormwater project or wastewater project using tax-exempt bond proceeds shall not qualify for a direct loan for construction as long as the net proceeds of bonds issued by the Florida Water Pollution Control Financing Corporation are available.

(16) Projects that qualify for funding as a result of section 319 or 320 of the Act shall be eligible for direct loans only.

Specific Authority 403.1835(10), 403.1837(9) FS. Law Implemented 403.1835 FS. History–New 4-17-89, Amended 12-4-91, 2-23-94, Formerly 17-503.300, Amended 1-4-98, 7-1-99, _____.

(Substantial rewording of Rule 62-503.350 follows. See Florida Administrative Code for present text.)

62-503.350 Preconstruction Loan Funding.

(1) Preconstruction loans shall be available only to local governments. Preconstruction loans shall be available to finance administrative, planning, and design activities for projects to be constructed. Preconstruction loans shall be available for the initial design/build project work described under Rules 62-503.420(4) and (5), F.A.C. The scope of a preconstruction loan project need not include all of the local government's water pollution control needs.

(2) Loan recipients shall prepare and submit to the Department, no later than the time set forth in the loan agreement, documentation of completion of the planning and design related requirements associated with Rule 62-503.700, F.A.C.

(3) A preconstruction loan agreement shall provide for the continuation of the preconstruction financing rate to finance the post-allowance project costs regardless of whether the post-allowance project costs are financed with a direct or a leveraged construction loan. However, when the entire project is not included on the fundable portion via a construction loan and subsequently funded, continuation of the preconstruction financing rate shall be limited to only the first such portion or segment of the project for which a loan agreement or amendment is executed. When the preconstruction activities are not completed as required under the loan agreement, the Department's commitment to provide funds at the financing rate provided under the preconstruction loan agreement for post-allowance project costs shall be terminated.

(4) A preconstruction loan agreement shall provide for the roll over of loan principal into a construction loan for the post-allowance project costs only when such costs are financed with a direct loan and only when preconstruction activities are completed according to the schedule in the loan agreement. Construction loan prerequisites include placement of the project or a segment thereof on the fundable portion. When the preconstruction activities are not completed as required under the loan agreement, the Department's commitment to roll over the preconstruction loan principal into a construction loan shall be terminated.

Specific Authority 403.1835(10) FS. Law Implemented 403.1835 FS. History–New 2-23-94, Formerly 17-503.350, Amended 1-4-98, 7-1-99, _____.

(Substantial rewording of Rule 62-503.400 follows. See Florida Administrative Code for present text.)

62-503.400 Program Administration Costs.

A loan service fee shall be paid by the project sponsor in the amount of two percent of the total loan amount less the portion of the loan for capitalized interest and the loan repayment reserve (if any). The loan service fee shall not be included in the principal of the loan. 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 interest accruing at the loan interest rate thereon no later than by the time that the second semiannual loan repayment is due.

Specific Authority 403.1835(10) FS. Law Implemented 403.1835 FS. History–New 12-4-91, Amended 2-23-94, Formerly 17-503.400, Amended 1-4-98, 7-1-99, _____.

(Substantial rewording of Rule 62-503.420 follows. See Florida Administrative Code for present text.)

62-503.420 Project Allowances.

(1) Certain allowances for costs shall be included in the approved project cost under a direct loan at the request of the project sponsor. Allowances shall be adjusted to reflect revised project costs after procurement contracts are executed under direct loans. The maximum allowances available upon request of the project sponsor shall be based on adjusted post allowance project costs. Project sponsors shall not be eligible to receive engineering allowances under both subsections (3) and (4) below for the same project. When allowances are disbursed under a preconstruction loan, the recipient shall be ineligible to receive the same allowance disbursements under a construction loan for the same project. Planning and engineering allowances are not available unless the project involves construction. Allowances for project administration, planning, conceptual engineering, and design engineering shall be used in lieu of reimbursement for incurred costs.

(2) The allowance for administrative expenses shall not exceed 0.6% of the adjusted post-allowance project costs when that amount exceeds $2,000,000. The maximum allowance that may be requested for projects with lower total eligible amounts shall be $12,000.

(3) The allowance for engineering work when the procurement method is as described in Rule 62-503.700(9), F.A.C., including design, performed before construction bid opening or otherwise when construction plans and specifications are completed prior to executing a contract to complete all the work shall not exceed either the amount determined by multiplying the percentage listed below for the range encompassing the adjusted post-allowance project costs by the actual adjusted post-allowance project costs or the allowance listed below for that range, whichever is greater:

Adjusted Post-Allowance Project Costs ($1,000 Units)	Allowance
Less than $500	10.3% or $21,000
At least $500 but less than $1,000	8.5% or $52,000
At least $1,000 but less than $5,000	7.5% or $85,000
At least $5,000 but less than $10,000	6.4% or $375,000
At least $10,000 but less than $50,000	6.0% or $640,000
At least $50,000	5.7% or $3,000,000

(4) The allowance for engineering work performed in preparation of a request for proposals when only conceptual or partial design documents are completed prior to executing a contract to complete all the work shall not exceed 20% of the amount determined under subsection (3) above. The work for which the allowance is available is that performed prior to the date established for receipt of proposals by the project sponsor.

(5) The allowance for planning work shall be independent of the allowance for engineering work available under subsection (3) or (4) above. Planning allowances shall be available only for projects funded with a preconstruction loan. The planning allowance shall not exceed either the amount determined by multiplying the percentage listed below for the range encompassing the adjusted post-allowance project costs by the actual adjusted post-allowance project costs or the allowance listed below for that range, whichever is greater:

Adjusted Post-Allowance Project Costs ($1,000 Units)	Allowance
Less than $500	5.2% or $10,000
At least $500 but less than $1,000	4.4% or $26,000
At least $1,000 but less than $5,000	3.9% or $44,000
At least $5,000 but less than $10,000	2.9% or $195,000
At least $10,000 less than $50,000	2.5% or $290,000
At least $50,000	1.8% or $1,250,000

(6) Disbursement of allowances under direct loans shall be as follows:

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

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

(c) For non-point source water pollution control loans to implement best management practices as opposed to construction, administrative allowances shall be disbursed upon request of the project sponsor after a loan agreement is signed.

Specific Authority 403.1835(10), 403.1837(9) FS. Law Implemented 403.1835 FS. History–New 4-17-89, Amended 12-4-91, 6-21-93, 2-23-94, Formerly 17-503.420, Amended 1-4-98, 7-1-99, _____.

(Substantial rewording of Rule 62-503.430 follows. See Florida Administrative Code for present text.)

62-503.430 Loan Agreements.

(1) To receive a loan, a project sponsor must enter into a negotiated written agreement. Loan agreements shall be offered to project sponsors for projects listed on the fundable portion on a first-come, first-served basis irrespective of priority score, project rank, or qualification for the small-community reserve funds while spending authority remains. Available spending authority for direct loans is expected to be different than for leveraged loans. A complete loan application shall be submitted to the Department.

(2) Project sponsors shall meet the following requirements prior to being offered a loan:

(a) For loans to construct projects qualifying for funding as a result of section 212 of the Act, the following shall be submitted to the Department:

1. Plans and specifications as described in Rule 62-503.700(4), F.A.C.

2. Value engineering report as necessary and as described in Rule 62-503.700(5), F.A.C.

3. Permitting related documentation as described in Rule 62-503.700(8), F.A.C.

4. Certification of availability of project sites as described in Rule 62-503.700(6), F.A.C.

5. Reasonable financial assurance documentation as described in Rule 62-503.700(7), F.A.C.

(b) For loans to implement projects qualifying for funding as a result of section 319 or 320 of the Act, the following shall be submitted to the Department:

1. For projects that involve construction, the requirements of paragraph (a) above shall be met.

2. For projects that do not involve construction, the following requirements shall be met:

a. All project sites necessary to carry out the project activity over the useful life of the project shall be available.

b. Procurement of equipment, materials, and services shall provide for price consideration.

c. Reasonable financial assurance that project activities will be completed. Such assurance may be in the form of a commitment to maintain adequate reserve funds dedicated throughout the project period to ensuring project completion. Other forms of such reasonable assurance include requirements for service providers and equipment suppliers or manufacturers to provide performance guarantees; and insurance covering workers' compensation, comprehensive general liability, vehicle liability, and property damage to the extent that coverage is available for project activities.

(c) For loans to implement preconstruction projects, all loan agreement prerequisites shall be met upon submittal of a complete loan application.

(3) The Department or its designee shall have the primary responsibility for drafting the agreement and settling its terms. Loan agreement covenants shall vary for direct and leveraged loans. Projects being funded as a result of different sections of the Act or as a result of different sources of pledged revenues shall have different loan agreement covenants.

(a) Agreements for direct loans shall provide for the following:

1. For a project sponsored by a local government, a loan repayment reserve account shall be established in the amount of 0.03 times the total loan amount less the portion of the loan for capitalized interest and loan repayment reserve. Any additional loan repayment reserve established as a result of subparagraph 6. below shall be established using local funds.

2. For a project sponsored by other than a local government, a loan repayment reserve account shall be established in the amount of 0.12 times the total loan amount less the portion of the loan for capitalized interest and loan repayment reserve. Any additional loan repayment reserve established as a result of subparagraph 6. below shall be established using local funds.

3. Loan repayments shall be made semiannually. The loan recipient shall make deposits of pledged revenues to an escrowed debt service account and shall be responsible for the maintenance of that account.

4. The financing rate that shall be fixed for the principal amount of the loan, once an agreement is fully executed, and for the duration of the loan repayment period shall be established. For loans to benefit financial hardship communities, the financing rate shall be adjusted downward using the percent that the median household income is of the statewide average.

5. The financing rate available for construction of a project or a portion of a project planned and designed in accordance with the schedule incorporated into a preconstruction loan agreement shall be as described in Rule 62-503.350(3), F.A.C. When a financing rate is retained for a preconstruction loan agreement executed on or before June 30, 1997, it shall be converted such as to have equal loan interest rate and grant allocation assessment rate components.

6. Pledged revenues shall be 1.15 times the amount required to make each semiannual loan repayment unless the project sponsor establishes an escrowed reserve in an amount not less than the equivalent of two semiannual loan repayments. The pledged revenue coverage for the loan from the Department shall not be transferred or derived from coverage required by senior lien debt instruments.

(b) Agreements for leveraged loans shall provide for the following:

1. A loan repayment reserve shall not be included in the loan amount. However, a special loan repayment reserve may be required to be established by the project sponsor using its

own funds when pledged revenues are not at least 1.15 times the amount required to make each semiannual loan repayment as described under subparagraph (3)(a)6. above.

2. The provisions for loan repayment, financing rate, and pledged revenues addressed in subparagraphs (3)(a)3., 4. (except that hardship loans shall not be available), 5., and 6. above shall be applicable to leveraged loan agreements.

3. Acknowledgement that the tax-exempt status of bonds issued by the Florida Water Pollution Control Financing Corporation shall be maintained.

(4) The loan agreement shall have reasonable and necessary terms to meet program requirements.

(5) When a loan agreement executed by the project sponsor is submitted to the Department for execution, it shall include an affirmation by the project sponsor's legal counsel that:

1. The loan agreement constitutes a valid and legal obligation of the borrower;

2. The loan agreement specifies the revenues pledged to the repayment of the loan; and

3. The pledge is valid and enforceable.

(6) The Department shall have no lien on or security interest in or claim on any moneys except as expressly provided in the loan agreement.

(7) The project sponsor shall provide assurance that:

(a) Records will be kept using generally accepted accounting practices. The Department, the Auditor General, and their agents shall have access to all records pertaining to the loan.

(b) Project facilities will be properly operated and maintained and best management practices shall be continued, as appropriate.

(c) Loan funds will not be used for the purpose of lobbying the Legislature, the judicial branch, or a state agency.

(8) The financing rate specified in a loan agreement offered to a project sponsor may be revised upward prior to the Department's execution of the loan agreement when the loan agreement is not signed and returned to the Department in the same three-month calendar year quarter in which it is offered. The financing rate shall be the greater of that established in the originally offered loan agreement and the financing rate available when the signed loan agreement is returned to the Department.

(9) The project sponsor shall begin repaying a loan no later than the date originally scheduled under the loan agreement. The scheduled date shall be six months after construction or other activity completion or, for refinancing loans, six months after the date estimated for the final disbursement by the Department.

(10) Disbursements to the project sponsor shall be for allowable costs. However, capitalized interest is not disbursed. For direct loans, disbursements shall be for costs paid or incurred, certain allowances, and establishing a loan repayment reserve. For leveraged loans, disbursements shall be only for costs paid or incurred. Disbursements shall be subject to the following requirements:

(a) Requests for disbursements (other than those relating to allowances) shall be accompanied by certifications and itemized summaries of the materials, labor, or services to identify the nature of the work performed. Certifications shall state that the construction or other service for which payment or reimbursement is sought has been satisfactorily performed.

(b) The materials, labor, and services shall be part of the approved project scope.

(c) The disbursement shall be due under the terms of the loan agreement, and there shall be money available under the loan agreement for the payment of it.

(d) Disbursements for allowances shall be subject to the limitations imposed by Rule 62-503.420, F.A.C.

(11) No later than three months prior to the first loan repayment and annually thereafter until the final loan repayment is made, the project sponsor's authorized representative or its chief financial officer shall submit a certification that:

(a) Current pledged revenue collections plus those projected to be collected (at current collection rates) prior to the due date for a semiannual loan repayment satisfy the rate coverage requirement;

(b) The pledged revenue escrow account contains the funds required;

(c) The loan repayment reserve account required for a direct loan contains the funds required; and

(d) Insurance, including that issued through the National Flood Insurance Program authorized under 42 U.S.C. secs. 4001-4128, when applicable, in effect for the facilities generating the pledged revenues, adequately covers the customary risks to the extent that such insurance is available.

(12) Remedies for delinquent loan repayment and other events of default shall be limited to those set forth in loan agreements. Events of default shall include noncompliance with any of the terms of a loan agreement. No delay or omission to exercise any right or power accruing upon an event of default shall impair any such right or power or shall be construed to be a waiver of any such default or acquiescence therein, and every such right and power may be exercised as often as may be deemed expedient.

Specific Authority 403.1835(10), 216.349, 403.1837(9) FS. Law Implemented 403.1835 FS. History–New 4-17-89, Amended 12-4-91, 6-21-93, 2-23-94, Formerly 17-503.430, Amended 1-4-98, 7-1-99, _____.

(Substantial rewording of Rule 62-503.500 follows. See Florida Administrative Code for present text.)

62-503.500 Funds Reserved for Specific Purposes.

(1) Fifteen percent of the funds allocated each year by the Department less the amount of any bonds issued or to be issued by the Florida Water Pollution Control Financing Corporation shall be reserved to fund projects that will serve small communities. The Department shall administer the small-community reserve funds as follows:

(a) A project serving a small community shall retain eligibility for funding from the small-community reserve regardless of the population of the project sponsor seeking funding for the project. However, a project shall not be eligible for funding from the small-community reserve if more than half of the population of the community to be served by the project is located within an incorporated jurisdiction that is not a small community.

(b) When the priority list is adopted, any part of the reserved amount not needed for small-community projects shall become available for all projects.

(c) The execution of a loan agreement shall be subject to the first-come, first-served provision of Rule 62-503.430(1), F.A.C.

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

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

Specific Authority 403.1835(10) FS. Law Implemented 403.1835 FS. History–New 4-17-89, Amended 12-4-91, 2-23-94, Formerly 17-503.500, Amended 1-4-98, 7-1-99, _____.

(Substantial rewording of Rule 62-503.600 follows. See Florida Administrative Code for present text.)

62-503.600 Priority List Information.

(1) Each year, a 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 project sponsor may describe a project as consisting of various facilities or activities. Other projects may be separately described as a result of differences in readiness-to-proceed.

(2) The Department shall accept a complete request for inclusion for the next year's priority list when it is postmarked or delivered between October 15 and December 1. Acceptance of a complete request for inclusion shall be prerequisite to placement of a project on any portion of the priority list. Procedures for the review of a complete request for inclusion shall be:

(a) A priority determination under Rule 62-503.650, F.A.C., shall be made for each project. Additional information may be requested by the Department when the data provided are incomplete or unclear. Data remaining incomplete or unclear after 30 days from receipt of the Department's written request for additional information shall result in a funding priority reflecting a substitution of assumed data for the incomplete or unclear data. The assumed data shall be such as to generate the minimum priority score component or consideration attributed to the incomplete or unclear data.

(b) The amount of funds available to a project sponsor in any one fiscal year for projects to be listed on the fundable portion of the priority list shall be limited to no more than 25% of the spending authority when the total cost of the projects qualifying for the fundable portion exceeds the spending authority. There shall be no limitation imposed on the amount of funding assigned to contingency portion projects. A project shall be segmented for deferred funding of the unavailable funds when a project sponsor qualifies for funding in excess of that available to it in any one fiscal year. The 25% limitation applies independently to a project sponsor for each category of its projects identified below.

1. Wastewater management projects eligible for funding as a result of section 212 of the Act.

2. Stormwater management projects eligible for funding as a result of section 212 of the Act.

3. Non-point source water pollution control projects eligible for funding as a result of section 319 of the Act.

4. Any projects eligible for funding as a result of section 320 of the Act.

(c) A target date shall be assigned to each project, including those partially funded during the preceding fiscal year. Projects to be scheduled for funding in the fiscal year for which the list is being developed shall have target dates no later than June 30 of that fiscal year.

(3) After the ranking of projects under Rule 62-503.655, F.A.C., the proposed list shall be made available to interested parties at least 30 days before adoption.

Specific Authority 403.1835(10) FS. Law Implemented 403.1835 FS. History–New 4-17-89, Amended 12-4-91, 2-23-94, Formerly 17-503.600, Amended 12-26-96, 1-4-98, 7-1-99, _____.

(Substantial rewording of Rule 62-503.650 follows. See Florida Administrative Code for present text.)

62-503.650 Priority Determination.

(1) Eligible projects shall be given priority according to the extent each project is intended to remove, mitigate, or prevent adverse effects on surface or ground water quality and public health. The final priority score, calculated to the nearest 0.01 point, for each project shall be the adjusted score

established under subsections (2) and (3) below multiplied by the cost-to-benefit index under subsection (4) below and then increased for multiple funding source priority coordination and economic hardship, if appropriate, under subsections (5) and (6) below.

(2) Each project shall be categorized by the highest single base score justified by any one of its components or facilities. A project shall be assigned a base priority score according to one of the categories as follows:

(a) Reduce documented public health hazards (800 points);

(b) Protect ground water that is under the direct influence of surface water when such ground water is used for public drinking water supply (400 points);

(c) Reduce potential public health hazards (200 points);

(d) Eliminate failing on-site sewage treatment and disposal systems or those that are causing environmental damage (140 points);

(e) Eliminate direct discharge of untreated stormwater to Class F-I, G-I, or G-II ground water or Class I or II surface water (130 points);

(f) Promote reclaimed water reuse, such as agricultural or landscape irrigation, cooling water, and waste conveyance, the purpose of which is to provide an alternative to consumptive use of public drinking water supply (120 points);

(g) Reduce saltwater intrusion into ground water under a management program to retard such intrusion (110 points);

(h) Assist in the implementation of total maximum daily loads adopted by the Secretary or pollutant load reduction goals established under Rule Chapter 62-40, F.A.C. (100 points);

(i) Contribute to compliance with laws, such as Chapter 90-262, Laws of Florida, requiring the elimination of discharges to specific water bodies (90 points);

(j) Enhance, create, preserve, or restore wetlands (80 points);

(k) Contribute to compliance with other enforceable water pollution control requirements or water quality standards, such as those included in a National Pollutant Discharge Elimination System permit, toxics control, wastewater residuals management, or reduction of nutrients, sediment, or bacteria (70 points); or

(l) Achieve other water pollution control objectives, rehabilitation of deteriorating infrastructure, implementation of best management practices, or otherwise promote the protection or restoration of Florida's surface and ground waters (30 points).

(3) A project base score assigned under subsection (1) above shall be multiplied by 1.2 if the project will assist in the restoration or protection of special surface waters. The special water bodies justifying the multiplier are as follows:

(a) A priority water body identified in an adopted Surface Water Improvement and Management Plan;

(b) Outstanding Florida Waters;

(c) Water bodies identified under the National Estuary Program;

(d) Wild and Scenic Rivers; or

(e) A water body in a priority watershed established under the Unified Watershed Assessment Program.

(4) The relative costs of achieving environmental and public health benefits shall be taken into consideration. The ratio of the total cost for each project to the score (benefit) for that project as established after adjustment, if appropriate, of the base score under subsection (2) above for restoration and protection of special surface waters under subsection (3) shall be computed. The cost data used shall be expressed in units of one-thousand dollars (e.g., $1,000,000 shall become $1,000 for purposes of determining the cost-to-benefit index). The least desirable (highest) cost divided by benefit ratio shall be indexed at not less than 1.00. The most desirable (lowest) cost divided by benefit ratio shall be indexed at not more than 1.20. The cost-to-benefit index (multiplier) for a specific project shall be established to the nearest 0.01 value as follows:

1.20 – 0.021 x Natural Logarithm of (Project Cost to Benefit Ratio)

(5) The importance placed on a project by another governmental entity shall be taken into consideration. Ten points shall be added to the priority score, after adjustment under subsections (3) and (4) above, when another governmental entity is providing funding for the project.

(6) The extent of the economic hardship existing in a small community to be served by the project shall be taken into consideration. Five points will be added to the priority score, after adjustment under subsections (3) and (4) above, when the ratio of a community's median household income to the statewide average is not more than 0.80. Median household income data shall be established as of the most recent decennial census. Data may be obtained from the State Data Center, 200 Hartman Building, 2012 Capital Circle Southeast, Tallahassee, Florida 32399-2151.

Specific Authority 403.1835(10), 403.1835(7) FS. Law Implemented 403.1835 FS. History–New 4-17-89, Amended 8-1-90, 2-23-94, Formerly 17-503.650, Amended 1-4-98, 7-1-99, _____.

(Substantial rewording of Rule 62-503.655 follows. See Florida Administrative Code for present text.)

62-503.655 Ranking Projects for Priority List Development.

(1) The Department shall assign projects to the fundable, contingency, and planning portions of the priority list each year, thus establishing project rankings. Project ranking information shall be made available to interested parties under Rule 62-503.600(3), F.A.C. Each project shall be listed on the fundable, contingency, or planning portion, depending on the

readiness of the project to proceed, the amount of funds allocated each year by the Department, and the priority score of the project. The small-community reserve funds under Rule 62-503.500(2)(a), F.A.C., shall be administered so that the ranking of small-community projects to be funded from the reserve may be independent of rankings of other projects on the priority list at the time of list development. The extent to which segmented projects qualify for deferred funding shall be evaluated each year. Projects with equal priority scores shall be subranked and may be listed on the fundable or contingency portions. Such subranking shall follow the order of the date of postmark or delivery to the Department of the complete request for inclusion, whichever is earlier. Similar subranking of projects shall take place when updated project information is submitted under Rule 62-503.600, F.A.C.

(2) Projects qualify for ranking on the fundable portion if sufficient funds are expected to be available from funds allocated each year by the Department, priority list information is submitted as described under Rule 62-503.600(2), F.A.C., and the appropriate requirements listed below are met:

(a) Construction projects to be funded as a result of section 212 of the Act qualify for placement on the fundable portion after the following conditions have been met:

1. The planning requirements of Rule 62-503.700(1), F.A.C., have been met for capitalization grant projects;

2. The planning requirements of Rule 62-503.700(2), F.A.C., have been met for all projects;

3. The results of the Department's environmental review have been published under Rule 62-503.700(3), F.A.C.; and

4. The environmental concerns, if any, identified during the 30-day comment period have been resolved.

(b) Non-point source water pollution control projects or other projects to be funded as a result of section 319 or 320 of the Act qualify for placement on the fundable portion after the planning requirements of Rule 62-503.700(2), F.A.C., have been met.

(c) Preconstruction projects qualify for placement on the fundable portion regardless of the status of any planning documentation.

(3) When a project is segmented and included on the fundable portion, the unfunded remainder shall be deferred to the contingency portion to be financed with future spending authority.

(4) Projects to serve small communities included on the fundable portion may have lower priority scores than other projects that cannot be so included as a result of the administration of the small-community reserve funds under Rule 62-503.500(1), F.A.C. When there are more small-community project needs qualifying for the reserved funds than money available, reserved funds shall be made available in descending order of relative priority score for projects having lower priority scores than the lowest ranked fundable portion project initially established by assigning only unreserved funds to fundable portion projects. Any remaining reserved funds then shall be assigned to small-community projects with priority scores higher than the lowest ranked fundable portion project initially established by assigning only unreserved funds to fundable portion projects. This procedure may result in the re-establishment of the lowest ranked fundable portion project, and it may result in the assignment of small-community projects with relatively low priority scores to the fundable portion of the priority list. When there are fewer small-community project needs qualifying for the reserved funds than money available, reserved funds shall be allocated to place all qualifying small-community loan projects on the fundable portion of the initial priority list.

(5) When the reserved or unreserved funds expected to be available will not fully finance the lowest-ranked project being considered for the fundable portion, and the project sponsor seeking funding will not commit to completing the entire project without an assurance of additional funding from the Department, the project shall be deferred to the contingency portion and listed immediately below the segmented projects.

(6) Projects shall be ranked on the fundable portion according to the following:

(a) Projects included on the fundable portion of the previous fiscal year's list and continuing to require funds to carry out the approved scope of work shall be placed on the fundable portion if current target date and estimated cost information are provided by December 1 under Rule 62-503.600(2), F.A.C. Projects shall appear on the fundable portion as follows:

1. Segmented projects limited to the maximum funding under Rule 62-503.600(2)(b), F.A.C., and having an unfunded remainder listed on the contingency portion in the immediately preceding fiscal year shall be subranked according to priority score and advanced to the top of the fundable portion.

2. Other incompletely funded projects shall be subranked according to priority score and listed immediately after the segmented projects that advance from the contingency portion.

(b) Projects included on the preceding year's fundable portion and for which all funding requirements were met, including receipt by the Department of signed loan agreements, but for which the Department was unable to execute loan agreements shall be placed on the fundable portion and ranked according to priority score below the incompletely funded projects referenced in subparagraph (a)2. above.

(c) Projects included on the preceding year's contingency portion shall advance, maintaining the same relative order with respect to each other, to the fundable portion. However, projects not continuing to qualify shall be assigned to the planning portion.

(d) Projects on the planning portion of the preceding fiscal year's priority list and those potentially to be assigned to the planning portion under Rule 62-503.680(6), F.A.C., that qualify for the fundable portion shall be subranked according

to priority score and included on the list below all projects advancing from the contingency portion under paragraph (c) above.

(e) Projects not identified on the preceding year's priority list but that qualify for the fundable portion shall be subranked according to priority score and have the lowest ranking for funding of any projects listed on the fundable portion.

(7) The requirements to add or retain any project or segment of a project on the contingency portion are the same as for adding a project to the fundable portion under subsection (2) above except that funds availability shall not be considered. When a project has a segment listed on the fundable portion, the unfunded remainder shall be ranked with the unfunded remainders of other such projects in priority score order on the top of the contingency portion.

(a) Projects shall be retained on the contingency portion when the funds allocated each year by the Department are insufficient for advancement to the fundable portion. Projects shall advance up the contingency portion maintaining the same relative order with respect to each other and be listed after the continuing segmented projects and ahead of those added to the contingency portion under paragraph (b) below.

(b) Qualifying projects listed on the previous year's planning portion shall be added to the contingency portion in order of priority score below projects that are retained on the contingency portion.

(c) Qualifying projects not listed on the previous year's planning portion shall be added to the contingency portion in order of priority score after projects are added to the contingency portion under paragraph (b) above.

(8) All other projects that cannot be listed on either the fundable or the contingency portion shall be listed on the planning portion in alphabetical order.

Specific Authority 403.1835(10) FS. Law Implemented 403.1835 FS. History–New 12-4-91, Amended 2-23-94, Formerly 17-503.655, Amended 1-4-98, 7-1-99, _____.

(Substantial rewording of Rule 62-503.680 follows. See Florida Administrative Code for present text.)

62-503.680 Priority List Management.

(1) The fundable portion of the current year's project list may be modified as the result of a public hearing as described in subsection (2) below or as a result of an administrative action as described in subsection (3) below. The Department shall modify the contingency portion as described in subsection (4) below. Modifications to the planning portion shall be pursuant to subsections (5) and (6) below. At the request of a project sponsor, a project shall be rescheduled or withdrawn from the priority list as described in subsection (7) below.

(2) The Department shall modify the priority list as a result of a public hearing by assigning additional funds to projects on the fundable portion and adding projects to the bottom of the fundable portion if unassigned funds allocated each year by the Department are available and the requirements of this subsection are met. Previously funded projects, projects currently on the fundable portion, projects advancing from the contingency 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 that have 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 an entity that has already received the maximum funding assignment allowed for the fiscal year unless additional funds allocated each year by the Department become available that increase the estimate, made at the time of list adoption, of the funds allocated each year by the Department.

(a) Additional money shall be assigned to a previously funded project or to a project currently on the fundable portion if additional funds are available and if an itemized cost breakdown and explanation are submitted that justify the requested increase. The complete request for inclusion previously submitted to the Department shall be used to re-establish priority scores for previously funded projects.

(b) A project shall be added to the bottom of the fundable portion behind projects advancing from the contingency portion if additional funds are available; a complete request for inclusion has been submitted; the requirements of Rule 62-503.655(2), F.A.C., as appropriate, are met; and the project sponsor has established a target date deadline.

(3) Projects, other than those designated as segmented, that are currently listed on the contingency portion shall be advanced in order of listing on the contingency portion to the fundable portion without a public hearing when unassigned funds allocated each year by the Department become available.

(4) The Department shall modify the contingency portion only as a result of a public hearing by assigning additional funds to projects on the contingency portion and adding projects to the bottom of the contingency portion. Additional funds shall be assigned to a project currently on the contingency portion if an itemized cost breakdown and explanation are submitted justifying the requested increase. A project shall be added to the bottom of the contingency if a complete request for inclusion has been submitted, and the appropriate provisions of Rules 62-503.655(2), F.A.C., are met. The availability of funds shall not be a consideration in modifying the contingency portion.

(5) A project shall be added to the planning portion if a complete request for inclusion is received by the Department. Additions to the planning portion shall not require a public hearing.

(6) A project shall be subject to reassignment to the planning portion when the assignment of the project to the fundable portion has been withdrawn. If the target date deadline is not met, the project status shall be scheduled for review at a public hearing to be held by the Department no sooner than 30 days after the deadline. If, as a result of the hearing, the Department determines that the deficiencies in the project work at issue have not been addressed and there are inadequate funds allocated each year by the Department to modify the fundable portion as provided under subsections (2) and (3) above, the Department shall withdraw the project from the fundable portion. Target date considerations notwithstanding, a project that achieved fundable portion status and for which a loan agreement has not been executed prior to the close of the fiscal year because of the failure of the project sponsor to meet appropriate funding requirements under Rule 62-503.430(2), F.A.C., submit a complete loan application, or sign a loan agreement as offered by the Department shall be subject to reranking on the succeeding year's priority list as a planning portion project. Once subjected to reranking, such a project qualifies for subsequent placement on the fundable portion according to Rule 62-503.655(6)(d), F.A.C.

(7) Projects shall be rescheduled for implementation in a future fiscal year or removed from a priority list on request of the project sponsor without a public hearing. Rescheduled projects shall be listed on the planning portion.

Specific Authority 403.1835(10) FS. Law Implemented 403.1835 FS. History–New 4-17-89, Amended 12-4-91, 2-23-94, Formerly 17-503.680, Amended 1-4-98, 7-1-99, _____.

(Substantial rewording of Rule 62-503.700 follows. See Florida Administrative Code for present text.)

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

(1) The requirements of subsections (2) through (11) below, where applicable, shall be met for all projects. Federal regulations incorporated by reference shall be read so that the terms "United States," "federal," "EPA," and "officials of EPA" mean "the state" unless the context clearly indicates otherwise. These federal regulations also shall be read so that "grants" means "loans." Capitalization grant projects shall be subject to the requirements of specific federal cross-cutting authorities identified in the loan application Form 62-503.900(2), F.A.C.

(2) Evidence of planning shall include documentation of the following:

(a) Sufficient illustrative detail of the local area to identify where the project or activity would be located. Landmarks and other readily identifiable features shall be noted.

(b) The need or justification for the project or activity.

(c) A cost comparison of at least two alternatives. Alternatives may include no action. When an agricultural practice, identified in subparagraphs 1. through 3. below, is selected for implementation during planning for non-point source water pollution control projects qualifying for funding as a result of section 319 or section 320 of the Act, the cost comparison requirement shall be deemed to have been met.

1. Conservation practices listed in Natural Resource Conservation Service's "Field Office Technical Guide, Section IV."

2. Best management practices established in statute or rule.

3. Best management practices and related activities addressed in the Department's "Florida Non-point Source Management Program Update."

(d) The adverse environmental effects, if any, associated with the selected facilities. Adverse effects, if any, must be offset by environmental benefits in order to demonstrate environmental soundness.

(e) The public participation process used to explain the project and the financial impacts to affected parties.

1. When a project is eligible for funding as a result of section 212 of the Act, the public participation process shall include the project sponsor's public meeting held before the project sponsor's acceptance of the planning recommendations. The public meeting shall provide for public participation in the evaluation of project alternatives.

2. When an agricultural practice identified in subparagraphs (c)1. through 3. above is selected for implementation during planning for non-point source water pollution control and it is eligible for funding as a result of section 319 or section 320 of the Act, the public participation requirement shall be deemed to have been met.

(f) Financial feasibility information addressing the following:

1. The revenues to be dedicated to repaying the loan and the expenses, charges, and liens against such dedicated funds or revenues. The information shall demonstrate the ability to repay the loan.

2. Capital improvements that will be financed from the same funds or revenues dedicated to repaying the loan. Information must include capital improvements that will be implemented over a period of that includes a two-year period commencing with the first semiannual loan repayment.

3. The proposed system of charges, rates, fees, and other collections that will generate the revenues to be dedicated to loan repayment.

(g) The responses generated by a multi-disciplined intergovernmental review for projects eligible for funding as a result of section 212 of the Act.

(h) A description of the recommended facilities, estimated capital costs, and estimated operation and maintenance costs, if applicable.

(i) The schedule for implementing the recommended facilities or activities.

(j) Adopting resolution for planning documentation or other specific authorization to implement the planning recommendations;

(3) The Department shall perform an environmental review for each project to be funded as a result of section 212 of the Act. An environmental review shall not be required for projects to be funded as a result of section 319 or section 320 of the Act. The environmental review shall establish the environmental significance of a proposed project and whether the planning of the project meets the requirements of this rule. The environmental review also shall establish the Department's intention to make funding available for a project after the project sponsor has met the applicable requirements of this rule. The results of the Department's environmental review for each project shall be issued as an environmental information document. The different environmental information documents are described in paragraphs (c) through (f) below. A notice of availability of an environmental information document shall be published in the Florida Administrative Weekly to announce the results of the Department's environmental review. The notice of availability shall include instructions about the procedures for accessing the project information and the Department's findings. The Department shall provide a 30-day period, commencing as of the date of the notice of availability, for public comment about the environmental impacts of proposed projects. Written comments from the public shall be considered by the Department before approving a project for funding if postmarked or delivered within the 30-day comment period to the Department of Environmental Protection, Bureau of Water Facilities Funding, 2600 Blair Stone Road, MS 3505, Tallahassee, Florida 32399-2400.

(a) When an environmental review is performed for a component or portion of the project in advance of completing the review for the entire pollution control system, the environmental review process is partitioned. A partitioned environmental review shall be performed only if all the conditions listed below are met. However, partitioning shall not imply further approvals for the remainder of the water pollution control system, and the environmental review for such remainder shall conform to the applicable requirements of this subsection.

1. The component will immediately remedy a public health, water quality, or other environmental problem, or advance completion will achieve a demonstrable cost savings;

2. Environmentally sound, implementable alternatives for the overall water pollution control system of which the component is a part have been identified, and the component does not foreclose any of the alternatives; and

3. The component will not cause adverse environmental impacts, including impacts that will be minimized or eliminated only by completing the entire system.

(b) Review procedures, identical to those described in this subsection, shall be used when the Department amends an environmental information document to announce project changes that have potentially significant environmental impacts.

(c) A Florida Categorical Exclusion Notice (FCEN) shall be used for certain projects that are not expected to generate controversy over potential environmental effects. A FCEN shall not be used when there are documented environmental objections to a project before the local government adopted the planning recommendations provided that such objections have a basis in statute, regulation, or ordinance. A FCEN shall not be used where a project will result in the inability of the existing water pollution control system to meet permit criteria.

1. In issuing a FCEN, the Department shall:

a. Briefly describe the project, the justification for the categorical exclusion, and the proposed loan funding.

b. Conclude the environmental review only after the 30-day public comment period, under subsection (3) above, has expired and:

I. No information is received about adverse environmental impacts;

II. Information is received about adverse environmental impacts and the objections either are without a basis in statute, regulation, or ordinance or the objections are resolved; or

III. Information is received about adverse environmental impacts, the FCEN is rescinded, and an environmental review is undertaken according to paragraph (d) or (e) below.

2. Projects categorically excluded from further environmental review are:

a. Rehabilitation of existing water pollution control system components or replacement of structures, materials or equipment;

b. Water pollution control systems that do not change the existing discharge point or permitted pollutant concentration limits and that do not involve acquisition of undisturbed land;

c. Water pollution control systems that serve less than 10,000 people in unsewered communities that involve self-contained individual or cluster systems providing both treatment and disposal of wastewater that will take place near the buildings from which the wastewater is to be discharged;

d. Water pollution control systems in areas where streets have been established, underground utilities installed, or building sites excavated;

e. Treatment plant upgrades that are solely to enable reclaimed water reuse if the treatment level enables unrestricted public access.

(d) A Florida Finding of No Significant Impact (FFONSI) shall be used when a project sponsor proposes a project not categorically excluded from a detailed environmental review and not requiring a Florida Environmental Impact Statement. In issuing a FFONSI, the Department shall:

1. Record the basis for the decision to provide financial assistance for the project, addressing:

a. The existing and future environmental conditions without the project and the environmental consequences of the project;

b. The purpose and the need for the project;

c. The alternatives, including no action, to and the cost considerations for the project;

d. Any environmental enhancement measures to be implemented;

e. The public participation process;

f. The interdisciplinary review of the project; and

g. Compliance with rules of the Department.

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

3. Conclude the environmental review for the project only after the 30-day comment period has expired and:

a. No information is received about previously unconsidered adverse environmental impacts;

b. Information is received about previously unconsidered adverse environmental impacts and one of the following occurs:

I. The objections are either without a basis in statute, regulation, or ordinance or the objections are resolved;

II. A re-evaluation of the project is made as a result of the comments and the Department confirms the original decision or requires environmental enhancement measures before implementing the project; or

III. The FFONSI is rescinded.

(e) A Florida Environmental Impact Statement (FEIS) and a Florida Record of Decision (FROD) shall be used for a project for which there is an adverse direct or indirect impact on land use and population patterns, the quality of the environment, cultural or environmental resource areas, or the habitats of endangered or threatened species. A FEIS and FROD also shall be used when there is unresolved public controversy over the environmental impacts of a project provided that the objections to the project have a basis in statute, regulation, or ordinance. A FEIS shall be prepared by the Department or, at the direction of the Department and in accordance with the Consultants' Competitive Negotiation Act, section 287.055 of the Florida Statutes, by others with no conflicting interest in the outcome. In completing the environmental review, the Department shall:

1. Issue a notice of intent to prepare a FEIS for the project;

2. Develop a plan of study and convene a meeting of government, including EPA, and other interested parties to determine the scope of the FEIS;

3. Identify and evaluate project alternatives;

4. Provide for public participation and review by federal and state environmental regulatory agencies;

5. Ensure that adverse impacts of the project are minimized or eliminated;

6. Document the findings of the environmental review using both the FROD and FEIS;

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

8. Conclude the environmental review only after a 30-day public comment period has expired without receipt of comments about adverse environmental impacts or if, after receipt of such comments, the Department takes action to:

a. Confirm the original decision;

b. Require additional analysis and environmental enhancement as a condition of confirmation of the original decision; or

c. Rescind the original decision.

(f) A Florida Reaffirmation Notice (FRAN) shall be used to establish the Department's continuing intention to make funds available for unimplemented projects, the planning for which was previously documented as accepted by the Department in a FCEN, FFONSI, FROD, or analogous documents issued by EPA, or amendments to any of the foregoing. In issuing a FRAN, the Department shall:

1. State the findings being reaffirmed.

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

3. Conclude the environmental review only after the public comment period has expired and:

a. No information is received about changed conditions resulting in adverse environmental impacts;

b. Information is received about changed conditions resulting in adverse environmental impacts and one of the following occurs:

I. The objections are resolved;

II. A re-evaluation of the project is made as a result of the comments and the Department confirms the original decision or requires environmental enhancement measures before implementing the project; or

III. The FRAN is rescinded.

(4) The project sponsor shall submit plans and specifications conforming to the planning documentation for projects involving construction.

(5) The project sponsor shall submit a value engineering report for operationally related project facilities for which the adjusted post-allowance project costs exceed $10,000,000 unless the project is to be implemented under a design/build fixed price contract.

(6) The project sponsor shall certify that all sites necessary for the purposes of construction, operation, and maintenance or affirm that project sites to otherwise carry out the project activity over the useful life of the project are available.

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

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

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

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

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

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

(e) An intent to issue a permit for construction under Part IV, Chapter 373, F.S., has been established.

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

(10) Project changes after advertising for bids or other project proposals and before bid or proposal opening shall be made by addendum. Changes to executed contracts involving construction shall be made by change order. The project sponsor shall submit all addenda and change orders to the Department. Unless a change order involves one or more of the following, the Department shall not perform an eligibility determination for it except as necessitated by an audit under Rule 62-503.800(2), F.A.C.:

(a) The additional cost of the changes covered by a single change order exceeds $100,000;

(b) The change would affect the project scope or include work outside the approved project scope;

(c) Procurement methods involved would not be consistent with those approved by the Department prior to contract award; or

(d) The change would conflict with any requirement of Chapter 62-503, F.A.C.

(11) Design/build and construction manager at risk procurement are allowable alternatives to the procurement methods described in subsection (9) above. Procurement for contractors that will provide both professional and construction services shall be according to a recognized procurement method such as described in the following:

(a) Requests for proposals shall be used in the selection process.

(b) The request for proposals shall describe the work eligible for a loan, the requirements with which the successful respondent shall comply, and the evaluation process to be used in selecting the successful respondent.

(c) Advertising shall include announcement in a publication having general circulation on a statewide basis and either in a construction trade journal or a professional journal.

(d) The time allowed for development of proposals shall be commensurate with the complexity and extent of the work and with the extent of the conceptual documents provided with the request for proposals.

(e) Both the qualifications of the respondents and the price for completing the advertised work shall be considered in the selection process.

(f) The project sponsor shall demonstrate that the competition solicited is sufficient for the complexity and extent of the work.

(g) Requests for proposals shall be submitted to the Department prior to advertising for a determination of compliance with loan program requirements.

Specific Authority 403.1835(10) FS. Law Implemented 403.1835 FS. History–New 4-17-89, Amended 8-1-90, 12-4-91, 6-21-93, 2-23-94, Formerly 17-503.700, Amended 1-4-98, 7-1-99, _____.

(Substantial rewording of Rule 62-503.800 follows. See Florida Administrative Code for present text.)

62-503.800 Audits Required.

(1) Beginning with the fiscal year in which an agreement for a leveraged loan is executed and continuing for each year thereafter until the loan is retired, the local government shall submit annual audit reports to the Department. Audits shall address the local government's financial condition; accounts of water and sewer systems or other sources generating the pledged revenues; loan disbursements received, if any; project expenditures, if any; and compliance with loan agreement covenants. The local government shall cause its auditor to notify the Department immediately if anything comes to the auditor's attention during the annual examination of the local government's records that would constitute a default under the loan agreement. Reports shall be submitted within one year after the end of each audited fiscal year.

(2) Within the later of 12 months after the effective date of a loan agreement amendment establishing final project costs or the date upon which deposits of pledged revenues under Rule 62-503.430(3), F.A.C., are first required, the project sponsor shall submit to the Department a report for a state project-specific audit of the loan related revenues and expenditures. Audits of both direct loans and leveraged loans shall address the project sponsor's financial condition; accounts of the sources generating the pledged revenues; loan disbursements received, and project expenditures; and compliance with loan agreement covenants. The project sponsor shall cause its auditor to notify the Department immediately if anything comes to the auditor's attention during the examination of the records that would constitute a default under the loan agreement. The audit findings shall set aside or question any costs that are unallowable under this rule chapter. A final determination of whether such costs are allowed shall be made by the Department. The above-described state project-specific audit shall be required unless the only disbursements under the loan agreement are for allowances, loan service fee, and loan repayment reserve under a preconstruction loan. The definition of a state project-specific audit may be found in section 215.97 of the Florida Statutes.

(3) The Department may conduct an audit within three years following project close-out if loan covenant compliance problems have been noted; record keeping deficiencies are noted during close-out; the project involves unusual or questioned costs; or other justification for conducting the audit becomes apparent.

(a) The Department shall give the project sponsor advance notice of any audit.

(b) The Department shall prepare a written report on each audit and shall provide a copy of the report to the project sponsor. The project sponsor must respond, in writing, to the findings and recommendations within 30 days after receipt of a written request from the Department.

Specific Authority 403.1835(10), 403.1837(9) FS. Law Implemented 403.1835 FS. History–New 4-17-89, Amended 12-4-91, 2-23-94, Formerly 17-503.800, Amended 1-4-98, _____.

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

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

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

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: July 28, 2000

DEPARTMENT OF ENVIRONMENTAL PROTECTION

DOCKET NO.: 00-46R

RULE CHAPTER TITLE:	RULE CHAPTER NO.:
State Revolving Loan Program for Stormwater Facilities	62-504
RULE TITLE:	**RULE NOS.:**
Definitions	62-504.200
General Program Information	62-504.300
Program Administration Costs	62-504.400
Project Allowances	62-504.420
Loan Agreements	62-504.430
Funds Reserved for Specific Purposes	62-504.500
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Priority Determination	62-504.650
Ranking Projects for Priority List Determination	62-504.655
Priority List Management	62-504.680
Planning, Design, Construction, and Post-construction Requirements	62-504.700
Audits Required	62-504.800

PURPOSE, EFFECT AND SUMMARY: The existing Chapter 62-504, FAC., provides for low-interest loans to local governments to finance urban stormwater management projects under the State Revolving Fund (SRF). The rules sets forth the procedures for identifying and prioritizing projects for funding; the planning, design, and construction related requirements for participating in the SRF Program; and the continuing responsibilities of the local government and the Department after a loan agreement is executed. Section

403.1835, F.S., the authorizing state statute for the SRF Program, was amended in 2000 to expand the scope of projects eligible for funding to include both traditional point source pollution control (such as urban stormwater management) and non-point source pollution control. The amendment extended eligibility for participation in the SRF Program to both governmental and non-governmental entities. The statutory amendments also authorized the sale of tax-exempt bonds to provide additional capitalization for the SRF Program. It is proposed to repeal Chapter 62-504, FAC. The repeal would be in conjunction with substantial revision of the existing provisions and subsequent incorporation into Chapter 62-503, FAC. Consolidation of Chapters 62-503 and 62-504, FAC., is occurring under rulemaking separate from the proposed repeal of Chapter 62-504, FAC.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COST: The Department prepared a Statement of Estimated Regulatory Cost, as referenced in sections 120.54(3)(b)1. and 120.541 of the Florida Statutes, for the Notice of Proposed Rulemaking for Chapter 62-503, FAC. Chapter 62-503, FAC., will incorporate the provisions formerly included in Chapter 62-504, FAC. Since participation in the SRF program is voluntary, costs are not imposed on nonparticipants.

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(10) FS.

LAW IMPLEMENTED: 216.349, 403.1822, 403.1835, 403.1838 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., December 11, 2001

PLACE: Department of Environmental Protection, Room 611, 2600 Blair Stone Road, Tallahassee, Florida 32399-2400

Pursuant to the provisions of the Americans with Disabilities Act, any person requiring special accommodations to participate in the hearing is asked to advise the agency at least 48 hours before the hearing by contacting the Bureau of Personnel Services at (850)488-2996. If you are hearing impaired or speech impaired, please contact the Florida Relay Service by calling 1(800)955-8771 (TDD).

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.

Specific Authority 403.1835(10) FS. Law Implemented 403.1822, 403.1835 FS. History–New 11-11-98, Amended 7-20-99, Repealed _____.

62-504.300 General Program Information.

Specific Authority 403.1835(10) FS. Law Implemented 403.1835, 403.1838 FS. History–New 11-11-98, Amended 7-20-99, Repealed _____.

62-504.400 Program Administration Costs.

Specific Authority 403.1835(10) FS. Law Implemented 403.1835 FS. History–New 11-11-98, Amended 7-20-99, Repealed _____.

62-504.420 Project Allowances.

Specific Authority 403.1835(10) FS. Law Implemented 403.1835 FS. History–New 11-11-98, Repealed _____.

62-504.430 Loan Agreements.

Specific Authority 403.1835(10), 216.349 FS. Law Implemented 403.1835 FS. History–New 11-11-98, Amended 7-20-99, Repealed _____.

62-504.500 Funds Reserved for Specific Purposes.

Specific Authority 403.1835(10) FS. Law Implemented 403.1835 FS. History–New 11-11-98, Amended 7-20-99, Repealed _____.

62-504.600 Priority List Information.

Specific Authority 403.1835(10) FS. Law Implemented 403.1835 FS. History–New 11-11-98, Amended 7-20-99, Repealed _____.

62-504.650 Priority Determination.

Specific Authority 403.1835(10) FS. Law Implemented 403.1835 FS. History–New 11-11-98, Repealed _____.

62-504.655 Ranking Projects for Priority List Development.

Specific Authority 403.1835(10) FS. Law Implemented 403.1835 FS. History–New 11-11-98, Repealed _____.

62-504.680 Priority List Management.

Specific Authority 403.1835(10) FS. Law Implemented 403.1835 FS. History–New 11-11-98, Amended 7-20-99, Repealed _____.

62-504.700 Planning, Design, Construction, and Post-construction Requirements.

Specific Authority 403.1835(10) FS. Law Implemented 403.1835 FS. History–New 11-11-98, Repealed _____.

62-504.800 Audits Required.

Specific Authority 403.1835(10) FS. Law Implemented 403.1835 FS. History–New 11-11-98, Repealed _____.

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: Allan F. Bedwell, Deputy Secretary, Department of Environmental Protection, 3900 Commonwealth Boulevard, MS #10, Tallahassee, Florida 32399-3000, Telephone (850)488-1554

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

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: September 22, 2000

DEPARTMENT OF HEALTH

Board of Clinical Social Work, Marriage and Family Therapy and Mental Health

RULE TITLE: RULE NO.:
Approved Courses for Continuing Education 64B4-6.002

PURPOSE AND EFFECT: The Board proposes to update the rule language regarding continuing education program providers.

SUMMARY: The new language in this proposed amendment is intended to update the list of continuing education program providers who are approved by the Board.

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

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

SPECIFIC AUTHORITY: 456.013(6), 491.004(5), 491.0085 FS.

LAW IMPLEMENTED: 456.013(6), 491.0085(1), 491.007(2) FS.

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

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: John Taylor, Executive Director, Board of Clinical Social Work, Marriage and Family Therapy and Mental Health Counseling/MQA, 4052 Bald Cypress Way, Bin #C08, Tallahassee, Florida 32399-3258

THE FULL TEXT OF THE PROPOSED RULE IS:

64B4-6.002 Approved Courses for Continuing Education.

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

(e) Programs offered by providers approved by one or more of the following organizations to provide continuing education credits: National Board of Certified Counselors (NBCC), American Society of Sex Educators and Therapists (ASECT), American Society of Clinical Hypnosis (ASCH), American Psychological Association (APA), National Association of Social Work (NASW), Clinical Social Work Federation (CSWF), ~~and~~ Association of Social Work Boards (ASWB), American Counseling Association (ACA), American Mental Health Counselors Association (AMHCA), American Association for Marriage and Family Therapy (AAMFT), American Association of State Counseling Boards (AASCB), American Marriage and Family Therapy Regulatory Boards (AMFTRB), American Psychiatric Association, (APA), International Association of Marriage and Family Counselors (IAMFC), American Board of Clinical Examiners (ABCE), American Board for Professional Psychiatrists (ABPP).

(2) through (5) No change.

Specific Authority 456.013(6), 491.004(5), 491.0085 FS. Law Implemented 456.013(6), 491.0085(1), 491.007(2) FS. History–New 4-4-89, Amended 10-16-90, 6-19-91, 9-2-91, 8-24-92, Formerly 21CC-6.002, Amended 1-9-94, Formerly 61F4-6.002, Amended 10-4-94, 12-22-94, 1-7-96, 12-29-96, Formerly 59P-6.002, Amended 12-11-97, 2-9-99, 8-9-00, _____.

NAME OF PERSON ORIGINATING PROPOSED RULE: Board of Clinical Social Work, Marriage and Family Therapy and Mental Health

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Board of Clinical Social Work, Marriage and Family Therapy and Mental Health

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: October 25, 2001

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

DEPARTMENT OF HEALTH

Board of Medicine

RULE TITLE: RULE NO.:
Formulary 64B8-30.008

PURPOSE AND EFFECT: The proposed rule amendment is a substantial rewording of the formulary rule intended to convert the current physician assistant formulary to a negative formulary in response to recent legislation as set forth in Section 458.347(4)(f)1., Florida Statutes.

SUMMARY: The proposed rule amendment converts the current physician assistant formulary to a negative formulary.

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

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

SPECIFIC AUTHORITY: 458.309, 458.347(4)(f)1. FS.

LAW IMPLEMENTED: 458.347(4)(e),(f) 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., December 12, 2001

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

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

THE FULL TEXT OF THE PROPOSED RULE IS:

(Substantial rewording of Rule 64B8-30.008 follows. See Florida Administrative Code for present text.)

64B8-30.008 Formulary.

(1) PHYSICIAN ASSISTANTS APPROVED TO PRESCRIBE MEDICINAL DRUGS UNDER THE PROVISIONS OF SECTIONS 458.347(4)(e) OR 459.022(4)(e), FLORIDA STATUTES, ARE NOT AUTHORIZED TO PRESCRIBE THE FOLLOWING MEDICINAL DRUGS, IN PURE FORM OR COMBINATION:

(a) Controlled substances, as defined in Chapter 893, F.S.;

(b) Antipsychotics;

(c) General, spinal or epidural anesthetics;

(d) Radiographic contrast materials;

(e) Any parenteral preparation except insulin and epinephrine. Parenteral includes: intravenous, subcutaneous, intramuscular, and any route other than the alimentary canal; however, it does not include topical or mucosal application. Nothing in this formulary prohibits a physician assistant from administering a parenteral drug under the direction or supervision of the supervising physician.

(2) A supervising physician may delegate to a prescribing physician assistant only such authorized medicinal drugs as are used in the supervising physician's practice.

(3) Subject to the requirements of this subsection, Section 458.347 and 459.022, F.S., and the rules enacted thereunder, drugs not appearing on this formulary may be delegated by a supervising physician to a prescribing physician assistant to prescribe.

(4) Nothing herein prohibits a supervising physician from delegating to a physician assistant the authority to order medicinal drugs for a hospitalized patient of the supervising physician, nor does anything herein prohibit a supervising physician from delegating to a physician assistant the administration of a medicinal drug under the direction and supervision of the physician.

Specific Authority 458.309, 458.347(4)(f)1.~~3.~~ FS. Law Implemented 458.347(4)(e),(f) FS. History–New 3-12-94, Formerly 61F6-17.0038, Amended 11-30-94, 2-22-95, 1-24-96, 11-13-96, 3-26-97, Formerly 59R-30.008, Amended 11-26-97, 1-11-99, 12-28-99, 6-20-00, 11-13-00, _____.

NAME OF PERSON ORIGINATING PROPOSED RULE: Council on Physician Assistants

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

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: August 4, 2001

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: October 19, 2001

DEPARTMENT OF HEALTH

Board of Osteopathic Medicine

RULE TITLE: RULE NO.:
Formulary 64B15-6.0038

PURPOSE AND EFFECT: The proposed rule amendment is a substantial rewording of the formulary rule intended to convert the current physician assistant formulary to a negative formulary in response to recent legislation as set forth in Section 459.022(4)(e), Florida Statutes.

SUMMARY: The proposed rule amendment converts the current physician assistant formulary to a negative formulary.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COST: No Statement of Estimated Regulatory Cost was prepared. Any person who wishes to provide information regarding the statement of estimated costs, or to provide a proposal for a lower cost regulatory alternative must do so in writing within 21 days of this notice.

SPECIFIC AUTHORITY: 458.347, 459.022(4)(e) FS.

LAW IMPLEMENTED: 459.022(4)(e) 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., December 12, 2001

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

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Karen Eaton, Executive Director, Board of Osteopathic Medicine/MQA, 4052 Bald Cypress Way, Bin #C06, Tallahassee, Florida 32399-3256

THE FULL TEXT OF THE PROPOSED RULE IS:

(Substantial rewording of Rule 64B15-6.0038 follows. See Florida Administrative Code for present text.)

64B15-6.0038 Formulary.

(1) PHYSICIAN ASSISTANTS APPROVED TO PRESCRIBE MEDICINAL DRUGS UNDER THE PROVISIONS OF SECTIONS 458.347(4)(e) OR 459.022(4)(e), FLORIDA STATUTES, ARE NOT AUTHORIZED TO PRESCRIBE THE FOLLOWING MEDICINAL DRUGS, IN PURE FORM OR COMBINATION:

(a) Controlled substances, as defined in Chapter 893, F.S.

(b) Antipsychotics

(c) General, spinal or epidural anesthetics

(d) Radiographic contrast materials

(e) Any parenteral preparation except insulin and epinephrine. Parenteral includes: intravenous, subcutaneous, intramuscular, and any route other than the alimentary canal; however, it does not include topical or mucosal application.

Nothing in this formulary prohibits a physician assistant from administering a parenteral drug under the direction or supervision of the supervising physician.

(2) A supervising physician may delegate to a prescribing physician assistant only such authorized medicinal drugs as are used in the supervising physician's practice.

(3) Subject to the requirements of this subsection, Section 458.347 and 459.022, F.S., and the rules enacted thereunder, drugs not appearing on this formulary may be delegated by a supervising physician to a prescribing physician assistant to prescribe.

(4) Nothing herein prohibits a supervising physician from delegating to a physician assistant the authority to order medicinal drugs for a hospitalized patient of the supervising physician, nor does anything herein prohibit a supervising physician from delegating to a physician assistant the administration of a medicinal drug under the direction and supervision of the physician.

Specific Authority 458.347, 459.022(4)(e) FS. Law Implemented 459.022(4)(e) FS. History–New 3-12-94, Formerly 61F9-6.0038, Amended 11-30-94, 4-17-95, 8-27-95, 11-13-96, Formerly 59W-6.0038, Amended 5-12-98, 3-10-99, 3-9-00, 6-19-00, 11-23-00, _____.

NAME OF PERSON ORIGINATING PROPOSED RULE: Council on Physician Assistants

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

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: August 4, 2001

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: October 19, 2001

DEPARTMENT OF HEALTH

Board of Speech Language Pathology and Audiology

RULE TITLE: RULE NO.:
Licensure by Certification of Credentials 64B20-2.001

PURPOSE AND EFFECT: The Board proposes to update the rule text by requiring licensees and initial applicants to attend a two (2) hour continuing education course for the prevention of medical errors .

SUMMARY: The Board has determined the rule text should be amended to reflect the required two (2) hour prevention of medical errors continuing education course counting towards the total number of education hours required for the profession.

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: 468.1135(4), 456.013(7) FS.

LAW IMPLEMENTED: 468.1135(4), 468.1145(2), 456.013(7) FS.

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

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Karen Eaton, Executive Director, Board of Speech Language Pathology and Audiology, 4052 Bald Cypress Way, Bin #C06, Tallahassee, Florida 32399-3256

Pursuant to the provisions of the Americans with Disabilities Act, any person requiring special accommodations to participate in this workshop meeting, is asked to advise the Board at least 5 calendar days before the workshop / meeting by contacting the Board at (850)245-4460. If you are hearing or speech impaired, please contact the Board using the Dual Party Relay System, 1(800)955-8770 (Voice) and 1(800)955-8771 (TDD).

THE FULL TEXT OF THE PROPOSED RULE IS:

64B20-2.001 Licensure by Certification of Credentials.

(1) Any person desiring to be licensed as a speech-language pathologist or audiologist shall apply to the Department of Health and pay the fee required by Rule 64B20-3.002, F.A.C. The application shall be made on Form SPA-1, Application for Licensure, which is incorporated by reference herein, will be effective March 25, 1991, and can be obtained from the Board of Speech-Language Pathology & Audiology, Department of Health, 4052 Bald Cypress Way ~~2020 Capital Circle S.E.~~, Bin #C06~~8~~, Tallahassee, Florida 32399-3256~~3258~~. The Department shall notify the applicant by letter of any deficiencies in the application within 30 days after the application is filed. The applicant shall rectify all deficiencies in the application within one year from the date of such letter or the application will be processed as an incomplete application and the application file will be closed.

(2) No change.

(3) Effective January 1, 2002, all applicants for initial or renewal of initial license or licensure by endorsement shall submit to the Board proof of completion of a two (2) hour continuing education course relating to the prevention of medical errors. The 2-hour course shall count toward the total number of continuing education hours required for the profession. The course must be approved by the Board and shall include a study of root-cause analysis, error reduction and prevention, and patient safety. The address of the Board of Speech Language Pathology & Audiology is 4052 Bald Cypress Way, Bin #C06, Tallahassee, FL 32399-3256.

Specific Authority 468.1135(4), 456.013(7) FS. Law Implemented 468.1185, 468.1145(2), 456.013(7) FS. History–New 3-14-91, Amended 5-25-92, Formerly 21LL-2.001, Amended 11-30-93, Formerly 61F14-2.001, 59BB-2.001, Amended _____.

NAME OF PERSON ORIGINATING PROPOSED RULE: Board of Speech-Language Pathology and Audiology

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Board of Speech-Language Pathology and Audiology

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: October 4, 2001

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: August 24, 2001

DEPARTMENT OF HEALTH

Board of Speech Language Pathology and Audiology

RULE TITLE: RULE NO.:
Educational Requirements 64B20-2.002

PURPOSE AND EFFECT: The Board proposes to update the rule text by requiring licensees and initial applicants to attend a two (2) hour continuing education course for the prevention of medical errors .

SUMMARY: The Board has determined the rule text should be amended to reflect the required two (2) hour prevention of medical errors continuing education course counting towards the total number of education hours required for the profession.

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: 468.1135(4) FS.

LAW IMPLEMENTED: 468.1135(4), 468.1145(2), 456.013(7) FS.

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

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Karen Eaton, Executive Director, Board of Speech Language Pathology and Audiology, 4052 Bald Cypress Way, Bin #C06, Tallahassee, Florida 32399-3256

Pursuant to the provisions of the Americans with Disabilities Act, any person requiring special accommodations to participate in this workshop meeting, is asked to advise the Board at least 5 calendar days before the workshop/meeting by contacting the Board at (850)245-4460. If you are hearing or speech impaired, please contact the Board using the Dual Party Relay System, 1(800)955-8770 (Voice) and 1(800)955-8771 (TDD).

THE FULL TEXT OF THE PROPOSED RULE IS:

64B20-2.002 Educational Requirements.

(1) Candidates for licensure or provisional licensure as a speech-language pathologist or audiologist shall submit to the Board an official transcript or transcripts to evidence the receipt of a master's degree or doctoral degree with a major emphasis in speech-language pathology or audiology from an institution of higher learning which, at the time the applicant was enrolled and graduated, was accredited by an accrediting agency recognized by the Council for Higher Education ~~on Post Secondary~~ Accreditation or from an institution which is publicly recognized as a member in good standing with the Association of Universities and Colleges of Canada. If the transcript submitted pursuant to this section does not, at the time it is submitted, reflect that the applicant has the required master's degree, the Board will not accept the transcript as evidence of such degree unless it is accompanied by Form SPA-2D, Certification of Conferral of Master's Degree, which is incorporated herein by reference, effective March 16, 1994, and can be obtained from the Board of Speech-Language Pathology and Audiology, Department of Health, 4052 Bald Cypress Way, Bin #C06 ~~Northwood Centre, 1940 North Monroe Street~~, Tallahassee, Florida 32399-3256~~0778~~. An applicant who graduated from a program at a university or college outside of the United States or Canada shall present documentation of the determination of equivalency to programs accredited by the council on post-secondary accreditation in order to qualify.

(2) No change.

(3) The applicant shall also have completed a minimum of 300 clock hours of supervised clinical practice, with at least 200 of said hours in the area of licensure. The supervised clinical practice shall be completed within the training institution or in one of its cooperating programs. The supervised clinical practices shall include:

(a) For the speech-language pathologist, twenty (20) hours in the evaluation and twenty (20) hours in the treatment of speech disorders in children, twenty (20) hours in the evaluation and twenty (20) hours in the treatment of language disorders in children, twenty (20) hours in the evaluation and twenty (20) hours in the treatment of speech disorders in adults, twenty (20) hours in the evaluation and twenty (20) hours in the treatment of language disorders in adults, and twenty (20) hours in hearing disorders ~~seventy-five (75) hours in language, twenty-five (25) hours in fluency, twenty-five (25) hours in articulation, twenty-five (25) hours in voice, and thirty-five (35) hours in hearing disorders~~. Experience in both evaluation and management shall be gained within each area.

(b) For the audiologist, fifty (50) hours in auditory assessment, fifty (50) hours in habilitation and rehabilitation, and twenty (20) ~~thirty-five (35)~~ hours in speech pathology.

(4) An applicant who graduates from a program approved by the Council on Academic Accreditation (CAA) ~~Education Standards Board (ESB)~~ of the American Speech-Language-Hearing Association (ASHA) will be deemed to have met the educational requirements pursuant to this section.

Specific Authority 468.1135(4) FS. Law Implemented 468.1155, 468.1185 FS. History–New 3-14-91, Formerly 21LL-2.002, Amended 11-15-93, 3-16-94, Formerly 61F14-2.002, 59BB-2.002, Amended _____.

NAME OF PERSON ORIGINATING PROPOSED RULE: Board of Speech-Language Pathology and Audiology

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Board of Speech-Language Pathology and Audiology

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: October 4, 2001

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: August 24, 2001

DEPARTMENT OF HEALTH

Board of Speech Language Pathology and Audiology

RULE TITLE: RULE NO.:
Unlicensed Activity Fee 64B20-3.015

PURPOSE AND EFFECT: The Board proposes to update the rule text by adding a $5.00 fee in addition to all other fees to fund unlicensed activity

SUMMARY: The Board has determined the rule text should be amended to reflect an additional $5.00 fee to all other fees for funding unlicensed activity.

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

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

SPECIFIC AUTHORITY: 456.065(3) FS.

LAW IMPLEMENTED: 456.065(3), 468.1145(1) FS.

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

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Karen Eaton, Executive Director, Board of Speech Language Pathology and Audiology, 4052 Bald Cypress Way, Bin #C06, Tallahassee, Florida 32399-3256

Pursuant to the provisions of the Americans with Disabilities Act, any person requiring special accommodations to participate in this workshop meeting, is asked to advise the Board at least 5 calendar days before the workshop / meeting by contacting the Board at (850)245-4460. If you are hearing or speech impaired, please contact the Board using the Dual Party Relay System, 1(800)955-8770 (Voice) and 1(800)955-8771 (TDD).

THE FULL TEXT OF THE PROPOSED RULE IS:

64B20-3.015 Unlicensed Activity Fee.

Upon ~~From each fee for~~ initial licensure or licensure renewal, a $5.00 fee shall be in addition to all other fees collected from each licensee ~~earmarked for the~~ to fund efforts to combat ~~purpose of combatting~~ unlicensed activity.

Specific Authority 456.065(3) FS. Law Implemented 456.065(3), 468.1145(1) FS. History–New 8-18-93, Formerly 61F14-3.015, 59BB-3.015, Amended _____.

NAME OF PERSON ORIGINATING PROPOSED RULE: Board of Speech-Language Pathology and Audiology

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Board of Speech-Language Pathology and Audiology

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: October 4, 2001

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: August 24, 2001

DEPARTMENT OF HEALTH

Board of Speech Language Pathology and Audiology

RULE TITLE: RULE NO.:
Continuing Education as a Condition for
Renewal or Reactivation 64B20-6.001

PURPOSE AND EFFECT: The Board proposes to update the rule text requiring licensees to attend a 2-hour continuing education course for prevention of medical errors.

SUMMARY: The Board has determined the rule text should be amended to reflect an additional two (2) hour continuing education course of prevention of medical errors as a condition of renewing the license for the profession.

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: 468.1135(4)(a), 468.1195(1),(3), 468.1205(1), 456.013(7) FS.

LAW IMPLEMENTED: 468.1195(1),(30), 468.1205(1), 456.013(7) FS.

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

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Karen Eaton, Executive Director, Board of Speech Language Pathology and Audiology, 4052 Bald Cypress Way, Bin #C06, Tallahassee, Florida 32399-3256

Pursuant to the provisions of the Americans with Disabilities Act, any person requiring special accommodations to participate in this workshop meeting, is asked to advise the Board at least 5 calendar days before the workshop / meeting by contacting the Board at (850)245-4460. If you are hearing or speech impaired, please contact the Board using the Dual Party Relay System, 1(800)955-8770 (Voice) and 1(800)955-8771 (TDD).

THE FULL TEXT OF THE PROPOSED RULE IS:

64B20-6.001 Continuing Education as a Condition for Renewal or Reactivation.

(1) As a condition of the biennial renewal of an active status license, the licensee shall attend and certify attending 30 credit hours, per biennium, of Board approved continuing education, twenty (20) of which shall be clinically related as defined in 64B20-6.002(5) and two (2) of which shall be proof of completion of a course relating to prevention of medical errors as specified in 64B20-2.001(3). Those licensed as both audiologists and speech-language pathologists shall attend and certify attending 50 credit hours, per biennium, of Board approved continuing education, forty (40) hours of which shall be clinically related, twenty (20) in each specialty.

(2) through (12) No change.

Specific Authority 468.1135(4)(a), 468.1195(1),(3), 468.1205(1), 456.013(7) FS. Law Implemented 468.1195(1),(3), 468.1205(1), 456.013(7) FS. History–New 3-14-91, Amended 8-11-91, 5-28-92, 2-24-93, Formerly 21LL-6.001, Amended 1-31-94, 7-5-94, Formerly 61F14-6.001, Amended 3-28-95, 10-1-95, 11-20-95, 4-1-96, Formerly 59BB-6.001, Amended 7-7-98, 1-6-00, _____.

NAME OF PERSON ORIGINATING PROPOSED RULE: Board of Speech-Language Pathology and Audiology

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Board of Speech-Language Pathology and Audiology

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: October 4, 2001

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: August 24, 2001

DEPARTMENT OF HEALTH

Board of Speech Language Pathology and Audiology

RULE TITLE:	RULE NO.:
Disciplinary Guidelines	64B20-7.001

PURPOSE AND EFFECT: The purpose of the amendments is to update the rule text with regard to disciplinary guidelines and the range of penalties.

SUMMARY: The Board has determined that the rule text should be amended to reflect the range of penalties requirement relating to disciplinary guidelines.

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: 468.1135(4) FS.

LAW IMPLEMENTED: 456.063, 456.072, 456.076, 468.1295, 468.1296 FS.

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

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Karen Eaton, Executive Director, Board of Speech Language Pathology & Audiology, 4052 Bald Cypress Way, Bin #C06, Tallahassee, FL 32399-3256

Pursuant to the provisions of the Americans with Disabilities Act, any person requiring special accommodations to participate in this workshop meeting, is asked to advise the Board at least 5 calendar days before the workshop/meeting by contacting (850)245-4460. If you are hearing or speech impaired, please contact the Board using the Dual Party Relay System, 1(800)955-8770 (Voice) and 1(800)955-8771 (TDD).

THE FULL TEXT OF THE PROPOSED RULE IS:

(Substantial rewording of Rule 64B20-7.001 follows. See Florida Administrative Code for present text.)

64B20-7.001 Disciplinary Guidelines.

(1) Purpose. The Legislature created the Board to assure protection of the public from persons who do not meet minimum requirements for safe practice or who pose a danger to the public. Pursuant to 456.079, F.S., the Board provides within this rule disciplinary guidelines which shall be imposed upon applicants or licensees whom it regulates under Chapter 468, Part I, F.S. The purpose of this rule is to notify applicants and licensees of the ranges of penalties which will routinely be imposed unless the Board finds it necessary to deviate from the guidelines for the stated reasons given within this rule. The ranges of penalties provided below are based upon a single count violation of each provision listed; multiple counts of the violated provisions or a combination of the violations may result in a higher penalty than that for a single, isolated violation. Each range includes the lowest and highest penalty and all penalties falling between. The purposes of the

imposition of discipline are to punish the applicants or licensees for violations and to deter them from future violations; to offer opportunities for rehabilitation, when appropriate; and to deter other applicants or licensees from violations.

(2) Among the range of penalties including any and all in Section 456.072(2), F.S., in increasing severity are:

(a) Denial of an application for licensure with conditions to be met prior to any re-application.

(b) Revocation or Permanent Revocation, with no or limited ability to re-apply or suspension of a license.

(c) Imposition of an administrative fine not to exceed $10,000 for each count or separate offense and costs of investigation and prosecution.

(d) Issuance of a Letter of concern, remedial education, and/or refund of fees billed.

(e) Placement of the licensee on probation for a period of time and subject to such conditions as the Board may specify to assure protection of the public, including requiring the speech-language pathologist or audiologist to attend continuing education courses or to work under the supervision of another licensed speech-language pathologist or audiologist.

(f) Restriction of the authorized scope of practice.

(3) The Department shall reissue the license of a speech-language pathologist or audiologist who has been disciplined upon certification by the Board that the person has complied with all of the terms and conditions set forth in the final order.

(4) Violations and Range of Penalties. In imposing discipline upon applicants and licensees, in proceedings pursuant to Section 120.57(1) and (2), F.S., the Board shall act in accordance with the following disciplinary guidelines and shall impose a penalty within the range corresponding to the violations set forth below. The verbal identification of offenses are descriptive only; the full language of each statutory provision cited must be consulted in order to determine the conduct included. For applicants, any and all offenses listed herein are sufficient for refusal to certify an application for licensure. In addition to the penalty imposed, the Board shall recover the costs of investigation and prosecution of the case. Additionally, if the Board makes a finding of pecuniary benefit or self-gain related to the violation, then the Board shall require funds of fees billed and collected from the patient or a third party on behalf of the patient.

VIOLATIONS	RECOMMENDED PENALTIES		
	First Offense	Second Offense	Third Offense
(a) Procuring or attempting to procure, or renew a license by misrepresentation, bribery, fraud or through an error of the Department or the Board. (468.1295(1)(a), F.S.); (456.072(1)(h), F.S.)	(a) From suspension to revocation of the license and an administrative fine ranging from $1,000.00 to $3,000.00, or refusal to certify an application for licensure.	(a) From suspension to revocation of the license and an administrative fine ranging from $3,000.00 to $6,000.00, or refusal to certify an application for licensure.	(a) From revocation, without the ability to reapply, and an administrative fine ranging from $6,000.00 to $10,000.00, or refusal to certify an application for licensure.
(b) Action taken against license by another jurisdiction. (468.1295(1)(b), F.S.) (456.072(1)(f), F.S.)	(b) Imposition of discipline which would have been if the substantive violation occurred in Florida and $100 fine up to suspension/ denial until the license is unencumbered in the jurisdiction in which the disciplinary action was originally taken and $1,000 fine.	(b) Imposition of discipline which would have been if the substantive violation occurred in Florida and $1,000.00 fine up to revocation until the license is unencumbered in the jurisdiction in which the disciplinary action was originally taken and $2,000 fine.	(b) Revocation and $10,000 fine.

(c) Guilty of a crime directly related to the ability to practice speech pathology or audiology. (468.1295(1)(c), F.S.); (456.072(1)(l), F.S.)	(c) From 6 months probation with conditions to 1 year suspension and an administrative fine ranging from $1,000.00 to $5,000.00, or refusal to certify an application for licensure.	(c) From 1 year suspension of the license to revocation and an administrative fine ranging from $5,000.00 to $10,000, or refusal to certify an application for licensure.	

(d) Filing a false report or failing to file a report as required. Such reports or records shall include only those which the person is required to make or file as a speech pathologist or audiologist. (468.1295(1)(d), F.S.).	(d) From a letter of concern to reprimand of the license, and an administrative fine ranging from $2,500.00 to $5,000.00, or refusal to certify an application for licensure.	(d) From reprimand to probation of the license, and an administrative fine ranging from $5,000.00 to $7,500.00, or refusal to certify an application for licensure.	(d) From probation to suspension of the license, and an administrative fine ranging from $7,500.00 to $10,000.00, or refusal to certify an application for licensure.
(e) False, deceptive, or misleading advertising. (468.1295(1)(e), F.S.).	(e) From a letter of concern to 6 months suspension of the license, and an administrative fine ranging from $250.00 to $500.00, or refusal to certify an application for licensure.	(e) From 6 to 9 months suspension of the license, and an administrative fine ranging from $500.00 to $750.00, or refusal to certify an application for licensure.	(e) From 9 months suspension to revocation of the license, and an administrative fine ranging from $750.00 to $1,000.00, or refusal to certify an application for licensure.
(f) Fraud or deceit, or negligence, incompetence, or misconduct in the authorized practice of speech pathology or audiology. (468.1295(1)(f), F.S.).	(f) From reprimand to probation of the license, and an administrative fine of $10,000.00, or refusal to certify an application for licensure.	(f) From probation to suspension of the license, and an administrative fine of $10,000.00, or refusal to certify an application for licensure.	(f) From suspension to revocation of the license, and an administrative fine of $10,000.00, or refusal to certify an application for licensure.
(g)1. Violation or repeated violation of Chapter 468, Part I or Chapter 456, or any rules promulgated pursuant thereto, or a subpoena of the Department. (468.1295(1)(g),(i),F.S.) (456.072(1)(b),(q),F.S.)	(g)1. From reprimand to suspension of the license, and an administrative fine ranging from $1,000 to $3,000.00, or refusal to certify an application for licensure.	(g)1. From probation to revocation of the license, and an administrative fine ranging from $3,000.00 to $6,000.00, or refusal to certify an application for licensure.	(g)1. From suspension to revocation of the license, and an administrative fine ranging from $6,000.00 to $10,000.00, or refusal to certify an application for licensure.

2. Violation of a lawful order of the Board or Department.	2. From a letter of concern to reprimand of the license, and an administrative fine ranging from $1,000.00 to $3,000.00, or refusal to certify an application for licensure.	2. From probation to suspension of the license, and an administrative fine ranging from $3,000.00 to $5,000.00, or refusal to certify an application for licensure.	2. From suspension to revocation of the license, and an administrative fine ranging from $5,000.00 to $10,000.00, or refusal to certify an application for licensure.
(h) Practicing with a revoked, suspended, inactive or delinquent license. (468.1295(1)(h), F.S.).	(h) From reprimand to probation of the license, and an administrative fine ranging from $250.00 to $1,000.00, or refusal to certify an application for licensure.	(h) From probation to suspension of the license and an administrative fine ranging from $1,000.00 to $5,000.00, or refusal to certify an application for licensure.	(h) From suspension to revocation, and an administrative fine ranging from $5,000.00 to $10,000.00, or refusal to certify an application for licensure.
(i) Using, promoting any testimonial, promotional literature, any advertising matter, warranty, label, brand however disseminated or published which is misleading, deceiving or untruthful. (468.1295(1)(j), F.S.).	(i) From reprimand to suspension of the license, and an administrative fine ranging from $250.00 to $1,000.00, or refusal to certify an application for licensure.	(i) From probation to suspension, and an administrative fine ranging from $1,000.00 to $5,000.00, or refusal to certify an application for licensure.	(i) From suspension to revocation, and an administrative fine ranging from $5,000.00 to $10,000.00, or refusal to certify an application for licensure.
(j) Showing or demonstrating or, in the event of sale, delivery or a product unusable or impractical for the purpose represented or implied by such action. (468.1295(1)(j), F.S.).	(j) From reprimand to probation of the license, and an administrative fine ranging from $250.00 to $500.00, or refusal to certify an application for licensure.	(j) From probation to suspension of the license, and an administrative fine ranging from $500.00 to $750.00, or refusal to certify an application for licensure.	(j) From suspension to revocation of the license and an administrative fine ranging from $750.00 to $1,000.00, or refusal to certify an application for licensure.

(k) Failure to maintain and have available for inspection by the Agency certification for the testing and calibration of any audiometric testing equipment designated by the Board covering the current year as well as the three (3) years prior. (468.1295(1)(5), F.S.).	(k) From reprimand to suspension of the license, and an administrative fine ranging from $500.00 to $750.00, or refusal to certify an application for licensure.	(k) From probation to suspension, and an administrative fine ranging from $750.00 to $1,000.00, or refusal to certify an application for licensure.	(k) From suspension to revocation of the license, and an administrative fine ranging from $750.00 to $1,000.00, or refusal to certify an application for licensure.

(l) Aiding, assisting, procuring, or advising any licensed person to practice speech-language pathology or audiology contrary to this part or to a rule of the Department or the Board adopted thereto. (468.1295(1)(l), F.S.)	(l) From a reprimand to probation of the license, and an administrative fine ranging from $2,500.00 to $5,000.00, or refusal to certify an application for licensure.	(l) From probation to suspension of the license, and an administrative fine ranging from $5,000.00 to $7,500.00, or refusal to certify an application for licensure.	(l) From suspension to revocation of the license, and an administrative fine ranging from $7,500.00 to $10,000.00, or refusal to certify an application for licensure.
(m) Misrepresentation of professional services available in the fitting, sale, adjustment, service or repair of a hearing aid, or use of any other term or title connoting availability of professional services when such use is not accurate. (468.1295(1)(m), F.S.); (456.072(1)(i), F.S.).	(m) From a letter of concern to probation of the license, and an administrative fine ranging from $2,500.00 to $5,000.00, or refusal to certify an application for licensure.	(m) From probation to suspension of the license, and an administrative fine ranging from $5,000.00 to $7,500.00, or refusal to certify an application for licensure.	(m) From suspension to revocation of the license and an administrative fine ranging from $7,500.00 to $10,000.00, or refusal to certify an application for licensure.

(n) Representation, advertisement, or implication that a hearing aid or its repair is guaranteed without full disclosure of the identity of the guarantor; the nature, extent, and duration of the guarantee; and the existence of the conditions or limitations imposed upon the guarantee. (468.1295(1)(n), F.S.); (456.072(1)(n), F.S.).	(n) From reprimand to probation of the license, and an administrative fine ranging from $250.00 to $500.00, or refusal to certify an application for licensure.	(n) From probation to revocation of the license, and an administrative fine ranging from $500.00 to a $750.00, or refusal to certify an application for licensure.	(n) From suspension to revocation and an administrative fine ranging from $750.00 to $1,000.00, or refusal to certify an application for licensure.
(o) Representing, directly or by implication, that a hearing aid utilizing bone conduction has certain specified features, such as absence of anything in the ear or leading to the ear, or the like, without disclosing clearly or conspicuously that the instrument operates on the bone conduction principle and that in many cases of hearing loss this type of instrument may not be suitable. (468.1295(1)(o), F.S.).	(o) From letter of guidance to suspension of the license, and an administrative fine ranging from $500.00 to $750.00, or refusal to certify an application for licensure.	(o) From suspension to revocation of the license, and an administrative fine ranging from $750.00 to $900.00, or refusal to certify an application for licensure.	(o) From suspension to revocation of the license, without the ability to reapply, and an administrative fine ranging from $900.00 to $1,000.00, or refusal to certify an application for licensure.

(p) Stating or implying that the use of any hearing aid will improve or preserve hearing or prevent or retard the progression of a hearing impairment or that it will have any similar or opposite effect. (468.1295(1)(p), F.S.).	(p) From reprimand to probation of the license, and an administrative fine ranging from $250.00 to $500.00, or refusal to certify an application for licensure.	(p) From probation to suspension of the license, and an administrative fine ranging from $500.00 to $750.00, or refusal to certify an application for licensure.	(p) From suspension to revocation of the license, and an administrative fine ranging from $750.00 to $1,000.00, or refusal to certify an application for licensure.
(q) Making any statement regarding the cure of the cause of a hearing impairment by the use of a hearing aid. (468.1295(1)(q), F.S.);	(q) From reprimand to suspension of the license, and an administrative fine ranging from $500.00 to $750.00, or refusal to certify an application for licensure.	(q) From probation to revocation of the license, and an administrative fine ranging from $750.00 to $900.00, or refusal to certify an application for licensure.	(q) From suspension to revocation of the license, and an administrative fine ranging from $900.00 to $1,000.00, or refusal to certify an application for licensure.

(r) Representing or implying that hearing aid is or will be "custom-made," "made to order," or "prescription-made" or in any other sense specially fabricated for an individual person, when such is not the case. (468.1295(1)(r), F.S.);	(r) From reprimand to probation of the license, and an administrative fine ranging from $250.00 to $500.00, or refusal to certify an application for licensure.	(r) From probation to suspension of the license, and an administrative fine ranging from $500.00 to $750.00, or refusal to certify an application for licensure.	(r) From suspension to revocation of the license, and an administrative fine ranging from $750.00 to $1,000.00, or refusal to certify an application for licensure.
(s) Canvassing from house to house or by telephone either in person or by an agent for the purpose of selling a hearing aid, except that contacting persons who have evidenced an interest in hearing aids, or have been referred as in need of hearing aids, shall not be considered canvassing. (468.1295(1)(s), F.S.);	(s) From reprimand to suspension of the license, and an administrative fine ranging from $250.00 to $500.00, or refusal to certify an application for licensure.	(s) From probation to revocation of the license, and an administrative fine ranging from $500.00 to $750.00, or refusal to certify an application for licensure.	(s) From suspension to revocation of the license, and an administrative fine ranging from $750.00 to $1,000.00, or refusal to certify an application for licensure.

	First Offense	Second Offense	Third Offense
(t) Failing to notify the department in writing of a change in current mailing and place-of-practice mailing address within thirty (30) days after such change. (468.1295(1)(t), F.S.	(t) Letter of guidance to reprimand of license and an administrative fine of $250.00 to $500.00	(t) Reprimand to probation of license and an administrative fine of $500.00 to $750.00.	(t) Reprimand to suspension of license and an administrative fine of $750.00 to $1,000.00.
(u) Failure to provide all information as described in Section 468.1245 (1), 468.1225(5)(b) and 468.1246. (468.1295(1)(u), F.S.)	(u) From a letter of guidance to reprimand of the license, and an administrative fine ranging from $2,500.00 to $5,000.00, or refusal to certify an application for licensure.	(u) From reprimand to probation of the license, and an administrative fine ranging from $5,000.00 to $7,500.00, or refusal to certify an application for licensure.	(u) From suspension to revocation of license, and an administrative fine ranging from $7,500.00 to $10,000.00, or refusal to certify an application for licensure.
(v) Exercising influence on a client in such a manner as to exploit the client for financial gain of the licensee or of a third party.	(v) Reprimand of the license, and an administrative fine ranging from $500.00 to $3,000.00, or refusal to certify an application for licensure.	(v) Probation of the license, and an administrative fine ranging from $3,000.00 to $6,000.00, or refusal to certify an application for licensure.	(v) Six month suspension, and an administrative fine ranging from $6,000.00 to $10,000.00, or refusal to certify an application for licensure.

(w) Practicing or offering to practice beyond the scope permitted by law or accepting and performing professional responsibilities the licensee or certificateholder knows, or has reason to know, the licensee or certificateholder is not competent to perform. (468.1295(1)(w), F.S.)	(w) From reprimand to suspension of the license, and an administrative fine ranging from $2,500.00 to $5,000.00, or refusal to certify an application for licensure.	(w) From probation to revocation of the license, and an administrative fine ranging from $5,000.00 to $7,500.00, or refusal to certify an application for licensure.	(w) From suspension to revocation of license, and an administrative fine ranging from $7,500.00 to $10,000.00, or refusal to certify an application for licensure.

(x) Aiding, assisting, procuring, or employing any unlicensed person to practice speech-language pathology or audiology. (468.1295(1)(x), F.S.) Should the violator be an unlicensed person, the Board will request the Department to enter a cease and desist order.	(x) From a reprimand to probation of the license, and an administrative fine ranging from $2,500.00 to $5,000.00, or refusal to certify an application for licensure.	(x) From probation to suspension of the license, and an administrative fine ranging from $5,000.00 to $7,500.00, or refusal to certify an application for licensure.	(x) From suspension to revocation of license, and an administrative fine ranging from $7,500.00 to $10,000.00, or refusal to certify an application for licensure.
(y) Delegating or contracting for the performance of professional responsibilities by a person when the licensee delegating or contracting for performance of such responsibilities knows, or has reason to know, such person is not qualified by training, experience and authorization to perform them. (468.1295(1)(y), F.S.)	(y) From a letter of concern to reprimand of the license, and an administrative fine ranging from $2,500.00 to $5,000.00, or refusal to certify an application for licensure.	(y) From reprimand to suspension of the license, and an administrative fine ranging from $5,000.00 to $7,500.00, or refusal to certify an application for licensure.	(y) From suspension to revocation of license, and an administrative fine ranging from $7,500.00 to $10,000.00, or refusal to certify an application for licensure.

(z) Committing any act upon a patient or client which would constitute sexual batter or which would constitute sexual misconduct as defined pursuant to section 468.1296. (468.1295(10)(z), F.S.)	(z) From reprimand to suspension of the license until such time as the fine has been paid and the licensee personally appears before the Board, and an administrative fine ranging from $2,500.00 to $5,000.00, or refusal to certify an application for licensure.	(z) From probation to suspension of the license until such time as the fine has been paid and the licensee personally appears before the Board, and an administrative fine ranging from $5,000.00 to $7,500.00, or refusal to certify an application for licensure.	(z) From suspension to revocation of license until such time as the fine has been paid and the licensee personally appears before the Board, and an administrative fine ranging from $7,500.00 to $10,000.00, or refusal to certify an application for licensure.
(aa) Impairment under 456.076, Florida Statutes. (468.1295(1)(aa), F.S.)	(aa) Referral to Physicians Recovery Network (PRN) up to suspension until the licensee can demonstrate the ability to practice with reasonable skill and safety, and an administrative fine ranging from $250.00 to $500.00, or refusal to certify an application for licensure.	(aa) Referral to PRN up to suspension until the licensee can demonstrate the ability to practice with reasonable skill and safety, and an administrative fine ranging from $500.00 to $750.00, or refusal to certify an application for licensure.	(aa) Referral to PRN up to suspension until the licensee can demonstrate the ability to practice with reasonable skill and safety, and an administrative fine ranging from $750.00 to $1,000.00, or refusal to certify an application for licensure.

(bb) Violating any provision of this chapter or chapter 456, or any rules adopted pursuant thereto. (468.1295(1)(bb), F.S.)	(bb) From a reprimand to probation of the license, and an administrative fine ranging from $2,500.00 to $5,000.00, or refusal to certify an application for licensure.	(bb) From probation to suspension of the license, and an administrative fine ranging from $5,000.00 to $7,500.00, or refusal to certify an application for licensure.	(bb) From suspension to revocation of license, and an administrative fine ranging from $7,500.00 to $10,000.00, or refusal to certify an application for licensure.

Specific Authority 468.1135(4) FS. Law Implemented 456.063, 456.072, 456.076, 468.1295, 468.1296 FS. History–New 2-7-91, Amended 11-9-92, Formerly 21LL-7.001, 61F14-7.001, Formerly 59BB-7.001, Amended 10-25-00, _____.

NAME OF PERSON ORIGINATING PROPOSE RULE: Board of Speech-Language Pathology and Audiology

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Board of Speech-Language Pathology and Audiology

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: October 4, 2001

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: August 24, 2001

DEPARTMENT OF HEALTH

Board of Speech Language Pathology and Audiology

RULE TITLE: RULE NO.:
Minor Violations 64B20-7.003

PURPOSE AND EFFECT: Technical change.

SUMMARY: Technical change.

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

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

SPECIFIC AUTHORITY: 456.073(3), 468.1135(4) FS.

LAW IMPLEMENTED: 456.073(3), 468.1295(1)(m) FS.

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

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Karen Eaton, Executive Director, Board of Speech Language Pathology and Audiology, 4052 Bald Cypress Way, Bin #C06, Tallahassee, FL 32399-3256

Pursuant to the provisions of the Americans with Disabilities Act, any person requiring special accommodations to participate in this workshop meeting, is asked to advise the Board at least 5 calendar days before the workshop / meeting by contacting (850)245-4460. If you are hearing or speech impaired, please contact the Board using the Dual Party Relay System, 1(800)955-8770 (Voice) and 1(800)955-8771 (TDD).

THE FULL TEXT OF THE PROPOSED RULE IS:

64B20-7.003 Minor Violations.

(1) As an alternative to the provisions of 456.073(1) and (2), Florida Statutes, the Department ~~Agency~~ may provide a licensee with a notice of non-compliance for an initial offense of a minor violation.

(2) through (3) No change.

Specific Authority 456.073(3), 468.1135(4) FS. Law Implemented 456.073(3), 468.1295(1)(m) FS. History–New 4-15-91, Formerly 21LL-7.003, 61F14-7.003, 59BB-7.003, Amended 7-7-98, _____.

NAME OF PERSON ORIGINATING PROPOSED RULE: Board of Speech-Language and Audiology

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Board of Speech-Language and Audiology

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: October 4, 2001

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: August 24, 2001

DEPARTMENT OF HEALTH

Board of Speech Language Pathology and Audiology

RULE TITLE: RULE NO.:
Mitigating and Aggravating Circumstances 64B20-7.005

PURPOSE AND EFFECT: The purpose of the amendments is to update the rule text with regard to disciplinary guidelines and the range of penalties.

SUMMARY: The Board has determined that the rule text should be amended to reflect the range of penalties requirement relating to disciplinary guidelines.

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

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

SPECIFIC AUTHORITY: 456.073, 468.1135(4), 456.079(3) FS.

LAW IMPLEMENTED: 468.1295 FS.

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

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Karen Eaton, Executive Director, Board of Speech Language Pathology & Audiology, 4052 Bald Cypress Way, Bin #C06, Tallahassee, FL 32399-3256

Pursuant to the provisions of the Americans with Disabilities Act, any person requiring special accommodations to participate in this workshop meeting, is asked to advise the Board at least 5 calendar days before the workshop / meeting by contacting (850)245-4460. If you are hearing or speech impaired, please contact the Board using the Dual Party Relay System, 1(800)955-8770 (Voice) and 1(800)955-8771 (TDD).

THE FULL TEXT OF THE PROPOSED RULE IS:

64B20-7.005 Mitigating and Aggravating Circumstances.

(1) The Board shall be entitled to deviate from the disciplinary guidelines upon a showing of aggravating or mitigating circumstances. A specific finding in the final order of mitigating or aggravating circumstances shall allow the Board to impose a penalty other than that provided for in the guidelines.

(2) Aggravating circumstances include:

(a) Disciplinary history ~~History~~ of previous violations of the practice act and rules promulgated thereto.

(b) Disciplinary history ~~History~~ of related violations of professional practice acts in other jurisdictions, including penalties imposed.

(c) Number of counts or violations.

(d) In the case of negligence or incompetence ~~incompetency~~, actual harm or damage to the patient.

(e) In the case of fraud or financial exploitation, the amount of economic damage to the patient(s).

(3) Mitigating circumstances include:

(a) Lack of previous disciplinary history.

(b) Restitution of any damages suffered by a patient.

(c) In cases of negligence, the minor nature and lack of harm to the patient.

(d) Rehabilitative steps ~~Steps~~ taken to prevent the occurrence of similar violations in the future.

(e) Any other relevant mitigating factors.

Specific Authority 456.073, 468.1135(4), 456.079(3) FS. Law Implemented 468.1295 FS. History–New 9-17-92, Formerly 21LL-7.005, 61F14-7.005, 59BB-7.005, Amended _____.

NAME OF PERSON ORIGINATING PROPOSED RULE: Board of Speech-Language and Audiology

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Board of Speech-Language and Audiology

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: October 4, 2001

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: August 24, 2001

DEPARTMENT OF HEALTH

Board of Speech Language Pathology and Audiology

RULE TITLE: RULE NO.:
Standard Probation Terms 64B20-7.008

PURPOSE AND EFFECT: Technical change.

SUMMARY: Technical change.

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

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

SPECIFIC AUTHORITY: 456.072(2)(f), 468.1135(4) (a) FS.

LAW IMPLEMENTED: 456.072(2)(f), 468.1295(2)(e) FS.

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

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Karen Eaton, Executive Director, Board of Speech Language Pathology and Audiology, 4052 Bald Cypress Way, Bin #C06, Tallahassee, FL 32399-3256

Pursuant to the provisions of the Americans with Disabilities Act, any person requiring special accommodations to participate in this workshop meeting, is asked to advise the Board at least 5 calendar days before the workshop / meeting by contacting (850)245-4460. If you are hearing or speech impaired, please contact the Board using the Dual Party Relay System, 1(800)955-8770 (Voice) and 1(800)955-8771 (TDD).

THE FULL TEXT OF THE PROPOSED RULE IS:

64B20-7.008 Standard Probation Terms.

Any licensee determined to have violated the provisions of Part I of Chapter 468 or Chapter 456, Florida Statutes, and the rules adopted thereunder may be ordered to serve probationary terms including any or all of the following:

(1) through (2) No change.

(3) The licensee's probation shall be subject to the following terms and conditions:

(a) Licensee shall comply with all state statutes and rules pertaining to Speech ~~speech~~ language Pathology ~~pathology~~ and Audiology ~~audiology~~ in Chapter 456 and Part I of Chapter 468, Florida Statutes, and the rules of the Board.

(b) through (g) No change.

(4) No change.

Specific Authority 456.072(2)(f), 468.1135(4)(a) FS. Law Implemented 456.072(2)(f), 468.1295(2)(e) FS. History–New 10-16-97, Amended _____.

NAME OF PERSON ORIGINATING PROPOSED RULE: Board of Speech-Language and Audiology

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Board of Speech-Language and Audiology

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: October 4, 2001

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: August 24, 2001

DEPARTMENT OF CHILDREN AND FAMILY SERVICES

Economic Self-Sufficiency Services

RULE TITLE: RULE NO.:

Food Stamp Assets 65A-1.606

PURPOSE AND EFFECT: This proposed rule provides for the implementation of the food stamp regulations at 7 U.S.C. s. 2014 (g) (20) (d) that permits the adoption of the Temporary Assistance for Needy Families (TANF) vehicle value rules for determining food stamp eligibility. Currently, state eligibility rules for the food stamp program use the fair market value of certain non-excluded licensed vehicles and the fair market value of other vehicles. The current food stamp vehicle rules are somewhat punitive to those who are employed as the fair market vehicle valuation is based on the trade in value of the vehicle.

For low-income and welfare transition families that need reliable transportation to obtain and retain a job, the food stamp vehicle asset standard has become inconsistent with the state's welfare transition objectives. Aligning the food stamp and temporary cash assistance (TCA) vehicle equity valuations should reduce the risk of error through the administration of two different vehicle standards and better serve participants with reliable transportation so that they may obtain and retain employment.

SUMMARY: The proposed rule provides that the TCA vehicle allowance requirements at s. 414.075(2)(a), F.S., apply in determining food stamp eligibility.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COST: None.

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

SPECIFIC AUTHORITY: 414.45 FS.

LAW IMPLEMENTED: 414.31, 414.075(2)(a) FS.

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

TIME AND DATE: 10:00 a.m., December 10, 2001

PLACE: 1317 Winewood Blvd., Bldg. 3, Room 455, Tallahassee, Florida 32399-0700

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

THE FULL TEXT OF THE PROPOSED RULE IS:

65A-1.606 Food Stamp Assets.

(1)(a) Vehicles – In determining the countable value of vehicles, the public assistance specialist must consider the use of the vehicle, whether or not the vehicle is licensed or unlicensed and the vehicle's equity value to determine whether a household meets the asset eligibility standards.

(b) Vehicles will be excluded in accordance with 7 CFR s. 273.8(h)(1). Additionally, vehicles with an equity value of less than or equal to $1,500 will be excluded.

(2) The asset value of all licensed vehicles which are not excluded, will be determined for Food Stamp Program purposes using Temporary Cash Assistance policy as follows:

(a) A standard filing unit that does not contain an individual subject to work participation may exclude one licensed vehicle, regardless of use, as long as the equity value of the vehicle does not exceed $8,500.

(b) A standard filing unit with individuals either employed or subject to work participation requirements is allowed to exclude vehicles needed for training, employment or education purposes as long as the combined value of those vehicles does not exceed a total of $8,500.

(c) If the standard filing unit with individuals either employed or subject to work participation requirements owns multiple vehicles, some of which may not be used for employment and training purposes, the non-employment and training use vehicle with the highest equity value has the $8,500 deduction applied first; any remaining portion(s) of the $8,500 deduction is applied to the employment and training vehicles.

(d) If there is more than one vehicle used for employment and training, the $8,500 deduction is applied first to the vehicle with the highest equity value and any equity value of vehicle(s) remaining after the $8,500 deduction is applied will be counted toward the $2,000 or $3,000 asset limit.

Specific Authority 414.45 FS. Law Implemented 414.31, 414.075(2)(a) FS. History–New _____.

NAME OF PERSON ORGINATING PROSPOSED RULE: Marcia Dukes, Operations Review Specialist

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

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: November 5, 2001

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: September 14, 2001

Section III
Notices of Changes, Corrections and Withdrawals

DEPARTMENT OF INSURANCE

RULE NO.:	RULE TITLE:
4-137.001	Annual and Quarterly Reporting Requirements

AMENDED NOTICE OF PROPOSED RULEMAKING

The following information was omitted from the notice of proposed rulemaking for the referenced rule published in Vol. 27, No. 42, October 19, 2001:

NAME OF PERSON ORGINATING RULE: Kerry Krantz, Bureau of Life and Health Insurer Solvency, Division of Insurer Services, Department of Insurance.

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Tom Streukens, Bureau Chief, Bureau of Life and Health Insurer Solvency, Department of Insurance.

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: August 26, 2001

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: September 14, 2001

The remainder of the notice as published is unchanged.

DEPARTMENT OF INSURANCE

RULE NO.:	RULE TITLE:
4-138.001	NAIC Financial Examiners Handbook Adopted

AMENDED NOTICE OF PROPOSED RULEMAKING

The following information was omitted from the notice of proposed rulemaking for the referenced rule published in Vol. 27, No. 42, October 19, 2001:

NAME OF PERSON ORGINATING PROPOSED RULE: Kerry Krantz, Bureau of Life and Health Insurer Solvency, Division of Insurer Services, Department of Insurance.

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Tom Streukens, Bureau Chief, Bureau of Life and Health Insurer Solvency, Department of Insurance

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: August 26, 2001

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: September 14, 2001

The remainder of the notice as published is unchanged.

DEPARTMENT OF COMMUNITY AFFAIRS

Florida Building Commission

RULE CHAPTER NO.:	RULE CHAPTER TITLE:
9B-7	Florida Building Commission – Handicapped Accessibility Standards
RULE NO.:	RULE TITLE:
9B-7.003	Procedures

NOTICE OF CHANGE

Notice is hereby given that the following changes have been made to the proposed rule and to Request for Waiver, Forms No. 2001-1 and 2001-2, as incorporated by reference in the proposed rule in accordance with subparagraph 120.54(3)(d)1., F.S., published in the Vol. 27, No. 36, September 7, 2001, issue of the Florida Administrative Weekly. The changes were made in response to comments made at the public hearing.

9B-7.003 Procedures.

(1) through (5) No change.

(6) The Commission may waive one or more requirements of the Act or Code if it finds that compliance with the literal requirements will cause an unnecessary, unreasonable, or extreme hardship. A waiver or denial of a waiver shall be applicable only to the project in the Request, and no waiver shall stand as precedent for any other project or projects. In order for the Commission to find an unnecessary, unreasonable, or extreme hardship, the owner of the project must show the following:

(a) That the hardship is caused by a condition or set of conditions affecting the owner which does not affect owners in general.

(b) That substantial financial costs will be incurred by the owner if the waiver is denied.

(c) That the owner has made a diligent investigation into the costs of compliance with the Code, but cannot find an efficient mode of compliance.

(7) No change.

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., December 4, 2001

PLACE: Rosen Plaza Hotel, 9700 International Drive, Orlando, Florida

Any person requiring special accommodation at the hearing because of a disability or physical impairment should contact Ila Jones, Community Program Administrator, Department of