

THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS:

64B32-4.001 Fees.

(1) The biennial renewal fee for licensure shall be \$121.00 ~~110.00~~.

(2) The reactivation fee for activating an inactive certification or registration shall be \$55 ~~50~~.

(3) The renewal fee for renewing the inactive status of a certification or registration shall be \$55 ~~50~~.

(4) through (5) No change.

(6) The delinquency fee shall be \$121.00 ~~110.00~~.

~~(7) The application for inactive license fee shall be \$50.00.~~

~~(7)(8)~~ The change in status fee shall be \$35.00.

Specific Authority 456.025(1), 456.065, 456.036(7),(8), 468.353(1), 468.364 FS. Law Implemented 456.025(1),(6), 456.065, 456.036, 468.364 FS. History—New 4-29-85, Formerly 21M-36.04, Amended 5-10-92, Formerly 21M-36.004, Amended 9-21-93, 1-3-94, Formerly 61F6-36.004, Amended 7-18-95, Formerly 59R-73.004, 64B8-73.004, Amended 4-27-00,_____.

DEPARTMENT OF HEALTH

Board of Respiratory Care

RULE TITLE: Provider Approval and Renewal Procedures RULE NO.: 64B32-6.005

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

SUBJECT AREA TO BE ADDRESSED: Provider Approval and Renewal Procedures.

SPECIFIC AUTHORITY: 456.025(4), 468.361(3) FS.

LAW IMPLEMENTED: 456.025(4), 468.361(3) FS.

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

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

THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS:

64B32-6.005 Provider Approval and Renewal Procedures.

(1)(a) No change.

(b) Pay the \$250 ~~200~~ application fee.

(c) No change.

(2) through (3) No change.

(4) The biennial renewal fee for providers shall be \$220 ~~200~~.

(5) through (10) No change.

Specific Authority 456.025(4), 468.361(3) FS. Law Implemented 456.025(4), 468.361(3) FS. History—New 4-24-96, Amended 5-7-97, Formerly 59R-75.0041, Amended 4-23-98, 6-9-99, Formerly 64B8-75.0041, Amended _____.

DEPARTMENT OF CHILDREN AND FAMILY SERVICES

Economic Self Sufficiency Program Office

RULE TITLE: Medicaid Ticket to Work RULE NO.: 65A-1.721

PURPOSE AND EFFECT: This proposed rule implements the Medicaid Ticket to Work program for certain disabled individuals.

SUBJECT AREA TO BE ADDRESSED: The Ticket to Work program allows disabled individuals with earnings to qualify for Medicaid when income and resources are within specified maximums and all program technical eligibility factors are met. This rule establishes eligibility guidelines.

SPECIFIC AUTHORITY: 409.919 FS.

LAW IMPLEMENTED: 409.904 (11), 409.919 FS.

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

TIME AND DATE: 10:30 a.m., February 11, 2002

PLACE: 1317 Winewood Boulevard, Building 3, Room 100, Tallahassee, Florida 32399-0700

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT IS: Audrey Mitchell, Program Administrator, 1317 Winewood Boulevard, Building 3, Room 420, Tallahassee, Florida 32399-0700, Telephone (850)488-3070

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

**Section II
Proposed Rules**

DEPARTMENT OF BANKING AND FINANCE

Division of Banking

RULE TITLE: Reports to the Department RULE NO.: 3C-110.045

PURPOSE AND EFFECT: The purpose and effect of this amendment is to implement Subsection 655.045(2), F.S., which requires state financial institutions to submit periodic reports to the Department.

SUMMARY: The proposed amendment provides that if any due date falls on a weekend or holiday, a quarterly report will be considered to be timely filed if it is postmarked or electronically transmitted no later than the next business day. The proposed amendment also defines “good cause” with regards to the waiver of any administrative fines for untimely filed reports.

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

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

SPECIFIC AUTHORITY: 655.012(3) FS.

LAW IMPLEMENTED: 655.045(2) 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., February 18, 2002

PLACE: Division of Banking Conference Room, 6th Floor, Fletcher Building, 101 East Gaines Street, Tallahassee, Florida
THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Linda B. Charity, Chief, Bureau of Financial Institutions, District I, Division of Banking, 101 East Gaines Street, Suite 636, Tallahassee, Florida 32399-0350, (850)410-9111

THE FULL TEXT OF THE PROPOSED RULE IS:

3C-110.045 Reports to the Department.

The Department shall require a quarterly report of condition; to be prepared as of the close of business on March 31, June 30, September 30, and December 31 on Form NCUA 5300 (revised 12/01) DBF-C-68, Quarterly Report of Condition (revised 10/95), which is hereby incorporated by reference. Such reports shall be due no later than April 22, July 22, October 22, and January 22, respectively, of each year. If any due date falls on a weekend or holiday, a quarterly report is timely filed if it is postmarked or electronically transmitted no later than the next business day. An administrative late fee of \$100.00 per day shall be levied against a credit union pursuant to Section 655.045(2)(b), Florida Statutes, for reports not timely filed unless the administrative fine is waived by the Department for good cause, such as incidental and isolated clerical errors or omissions. ~~Each report shall contain a true and accurate balance sheet, income statement, and delinquent loan summary and shall be signed by the chief executive officer and the individual preparing the report.~~

Specific Authority ~~120.53(1)(b)~~, 655.012(3) FS. Law Implemented 655.045(2) FS. History—New 10-31-81, Formerly 3C-30.31, 3C-30.031, Amended 10-8-95, _____.

NAME OF PERSON ORIGINATING PROPOSED RULE:
Linda Charity, Chief, Division of Banking

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Alex Hager, Director, Division of Banking

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: December 18, 2001

DATE NOTICE OF PROPOSED RULE DEVELOPMENT
PUBLISHED IN FAW: December 28, 2001

DEPARTMENT OF INSURANCE

RULE TITLES:

RULE NOS.:

Minimum Benefit Standards for Policies or

Certificates Issued for Delivery Prior to

January 1, 1992

4-156.006

Benefit Standards for Policies or Certificates

Issued or Delivered on or after

January 1, 1992

4-156.007

Guaranteed Issue of Eligible Persons

4-156.0095

PURPOSE AND EFFECT: To amend Florida Administrative Code to conform to recent updates in the National Association of Insurance Commissioners (NAIC) Model regulation for Medicare Supplement policies. Additionally, the amendments include typographical and grammatical corrections as well as minor changes that clarify existing languages.

SUMMARY: The rules are being amended to reflect changes in the latest draft of the NAIC Model Regulation to implement the NAIC Medicare Supplement Insurance Minimum Standards Model Act.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS: None.

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

SPECIFIC AUTHORITY: 624.308, 624.308(1), 627.674(2), 624.674(2)(a), 672.6741(5) FS.

LAW IMPLEMENTED: 624.307(1), 627.410, 627.411, 627.673, 627.674, 627.6741, 627.6745, 627.6746 FS.

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

TIME AND DATE: 10:00 a.m., February 26, 2002

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

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULES IS: Linda Ziegler, Bureau of Life and Health Forms and Rates, Division of Insurer Services, Department of Insurance, 200 East Gaines Street, Tallahassee, Florida 32399-0328, phone (850)413-5032

Pursuant to the provisions of the Americans with Disabilities Act, any person requiring special accommodations to participate in this program, please advise the Department at least 5 calendar days before the program by contacting: Yvonne White, (850)413-4214.

THE FULL TEXT OF THE PROPOSED RULES IS:

4-156.006 Minimum Benefit Standards for Policies or Certificates Issued for Delivery Prior to January 1, 1992.

No policy certificate may be advertised, solicited, issued, delivered or issued for delivery in this State as a Medicare supplement policy or certificate unless it meets or exceeds the following minimum standards. These are minimum standards and do not preclude the inclusion of other provisions or benefits which are not inconsistent with these standards.

(1) No change.

(2) Minimum Benefit Standards.

(a) through (e) No change.

(f) Coverage for the coinsurance amount or in the case of hospital outpatient department services paid under a prospective payment system, the copayment amount, of Medicare eligible expenses under Part B regardless of hospital confinement, subject to a maximum calendar year out-of-pocket amount equal to the Medicare Part B deductible [\$100]. Coverage for the coinsurance amount of Medicare eligible expenses for covered outpatient drugs used in immunosuppressive therapy subject to the Medicare deductible amount is included herein.

(g) No change.

Specific Authority 624.308(1), 627.674(2) FS. Law Implemented 624.307(1), 627.410, 627.411, 627.674, 627.6741 FS. History—New 1-1-81, Formerly 4-51.05, Amended 9-4-89, 12-9-90, Formerly 4-51.005, Amended 1-1-92, 3-4-01,_____.

4-156.007 Benefit Standards for Policies or Certificates Issued or Delivered on or After January 1, 1992.

The following standards are applicable to all Medicare supplement policies or certificates delivered or issued for delivery in this state on or after January 1, 1992. No policy or certificate may be advertised, solicited, delivered or issued for delivery in this state as a Medicare supplement policy or certificate unless it complies with these benefit standards.

(1) General Standards. The following standards apply to Medicare supplement policies and certificates and are in addition to all other requirements of this regulation.

(a) through (f) No change.

(g) 1. and 2. No change.

3. Each Medicare supplement policy shall provide that benefits and premiums under the policy shall be suspended (for any ~~the~~ period that is provided by federal regulation) at the request of the policyholder if the policyholder is entitled to benefits under Section 226(b) of the Social Security Act and is covered under a group health plan (as defined in Section 1862(b)(1)(A)(v) of the Social Security Act). If suspension occurs and if the policyholder or certificate holder loses coverage under the group health plan, the policy shall be automatically reinstated (effective as of the date of loss of coverage) if the policyholder provides notice of loss of coverage within 90 days after the date of the ~~such~~ loss of

coverage and pays the premium attributable to the period, effective as of the date of termination of enrollment in the group health plan entitlement.

4. Reinstitution of such coverages as described in subparagraphs 2. and 3.:

a. through c. No change.

(2) Standards for Basic (“Core”) Benefits Common to All Benefit Plans. Every issuer shall make available a policy or certificate including only the following basic “core” package of benefits to each prospective insured. An issuer may make available to prospective insureds any of the other Medicare Supplement Insurance Benefit Plans in addition to the basic “core” package, but not in lieu thereof.

(a) through (d) No change.

(e) Coverage for the coinsurance amount, or in the case of hospital outpatient department services paid under a prospective payment system, the copayment amount, of Medicare eligible expenses under Part B regardless of hospital confinement, subject to the Medicare Part B deductible.

(3) No change.

Specific Authority 624.308, 627.674(2)(a) FS. Law Implemented 624.307(1), 627.410, 627.674, 627.6741 FS. History—New 1-1-92, Amended 7-26-99, 3-4-01,_____.

4-156.0095 Guaranteed Issue for Eligible Persons.

(1) Guaranteed Issue.

(a) Eligible persons are those individuals described in subsection (2) who, ~~subject to subsection (2)(b)2.:~~

1. Seek to enroll under the policy during the period specified in subsection (3) Apply to enroll under the policy not later than sixty-three (63) days after the date of the termination of enrollment described in subsection (2); and

2. Submit evidence of the date of termination or disenrollment with the application for a Medicare supplement policy.

(b) With respect to eligible persons, an issuer shall not:

1. Deny or condition the issuance or effectiveness of a Medicare supplement policy described in subsection ~~(5)(3)~~ that is offered and is available for issuance to new enrollees by the issuer;

2. No change.

(2) Eligible Persons. An eligible person is an individual described in any of the following paragraphs:

(a) No change.

~~(b)±~~ The individual is enrolled with a Medicare + Choice organization under a Medicare + Choice plan under Part C of Medicare, and any of the following circumstances apply, or the individual is 65 years of age or older and is enrolled with a Program of All-Inclusive Care for the Elderly (PACE) provider under Section 1894 of the Social Security Act, and there are circumstances similar to those described below that would

permit discontinuance of the individual's enrollment with such provider if such individual were enrolled in a Medicare + Choice plan:

~~1.a.~~ The certification of the organization or plan under this part has been terminated, ~~or the organization or plan has notified the individual of an impending termination of such certification;~~ or

~~2.b.~~ The organization has terminated or otherwise discontinued providing the plan in the area in which the individual resides, ~~or has notified the individual of an impending termination or discontinuance of such plan;~~

~~3.e.~~ No change.

~~4.d.~~ The individual demonstrates, in accordance with guidelines established by the Secretary, that:

~~a.(H)~~ The organization offering the plan substantially violated a material provision of the organization's contract under this part in relation to the individual, including the failure to provide an enrollee on a timely basis medically necessary care for which benefits are available under the plan or the failure to provide such covered care in accordance with applicable quality standards; or

~~b.(H)~~ The organization, or agent or other entity acting on the organization's behalf, materially misrepresented the plan's provisions in marketing the plan to the individual, or

~~5.e.~~ The individual meets such other exceptional conditions as the Secretary may provide.

~~2.a. An individual described in subparagraph (b) may elect to apply subsection (1) by substituting, for the date of termination of enrollment, the date on which the individual was notified by the Medicare + Choice organization of the impending termination or discontinuance of the Medicare + Choice plan it offers in the area in which the individual resides, but only if the individual disenrolls from the plan as a result of such notification.~~

~~b. In the case of an individual making the election in subparagraph (c)1. above, the issuer involved shall accept the application of the individual submitted before the date of termination of enrollment, but the coverage under subsection (1) shall only become effective upon termination of coverage under the Medicare + Choice plan involved.~~

~~(c)1.~~ The individual is enrolled with:

~~a.~~ An eligible organization under a contract under Section 1876, 42 U.S.C. Section 1395mm (1999 Supplement) which is hereby incorporated by reference (Medicare ~~risk or~~ cost);

~~b.~~ through d. No change.

~~2.~~ No change.

~~(d)~~ No change.

~~(e)1.~~ The individual was enrolled under a Medicare supplement policy and terminated enrollment and subsequently enrolled, for the first time, with:

~~a.~~ No change.

b. An eligible organization under a contract under Section 1876, 42 U.S.C. Section 1395mm (1999 Supplement) which is hereby incorporated by reference (Medicare ~~risk or~~ cost), any similar organization operating under demonstration project authority;:-

c. Any PACE provider program under Section 1894 of the Social Security Act; or:-

~~d. An organization under an agreement under Section 1833(a)(1)(A), 42 U.S.C. Section 1395I (1999 Supplement) which is hereby incorporated by reference, (health care prepayment plan); or~~

~~d.e.~~ A Medicare Select policy; and

2. No change.

(f) The individual, upon first becoming eligible for benefits under Part A of Medicare at age 65, enrolls in a Medicare + Choice plan under Part C of Medicare, or ~~with in~~ a PACE program provider under Section 1894 of the Social Security Act, and disenrolls from the plan or program by not later than twelve (12) months after the effective date of enrollment.

(3) Guaranteed Issue Time Periods.

(a) In the case of an individual described in paragraph (2)(a), the guaranteed issue period:

1. Begins on the later of:

a. The date the individual receives a notice of termination or cessation of the supplemental health benefits (or, if a notice is not received, notice that a claim has been denied because of such a termination or cessation); or

b. The date that the applicable coverage terminates or ceases; and

2. Ends sixty-three (63) days after the date of the applicable notice.

(b) In the case of an individual described in paragraph (2)(b), (c), (e) or (f) whose enrollment is terminated involuntarily, the guaranteed issue period begins on the date that the individual receives a notice of termination and ends sixty-three (63) days after the date the applicable coverage is terminated;

(c) In the case of an individual described in subparagraph (2)(d)1., the guaranteed issue period begins on the earlier of:

1. The date that the individual receives a notice of termination, a notice of the issuer's bankruptcy or insolvency, or other similar notice if any; and

2. The date that the applicable coverage is terminated, and ends on the date that is sixty-three (63) days after the date the coverage is terminated;

(d) In the case of an individual described in paragraph (2)(b), subparagraph (d)2. or 3., or paragraph (2)(e) or (f) who disenrolls voluntarily, the guaranteed issue period begins on the date that is sixty (60) days before the effective date of the disenrollment and ends on the date that is sixty-three (63) days after the effective date; and

(e) In the case of an individual described in subsection (2) but not described in the preceding provisions of this subsection, the guaranteed issue period begins on the effective date of disenrollment and ends on the date that is sixty-three (63) days after the effective date.

(4) Extended Medicare Supplement access for interrupted trial periods.

(a) In the case of an individual described in paragraph (2)(e) (or deemed to be so described, pursuant to this paragraph) whose enrollment with an organization or provider described in subparagraph (2)(e)1. is involuntarily terminated within the first twelve (12) months of enrollment, and who, without an intervening enrollment, enrolls with another such organization or provider, the subsequent enrollment shall be deemed to be an initial enrollment described in Rule 4-156.0095(2)(e), F.A.C.:

(b) In the case of an individual described in paragraph (2)(f) (or deemed to be so described, pursuant to this paragraph) whose enrollment with a plan or in a program described in paragraph (2)(f) is involuntarily terminated within the first twelve (12) months of enrollment, and who, without an intervening enrollment, enrolls in another such plan or program, the subsequent enrollment shall be deemed to be an initial enrollment described in Rule 4-156.0095(2)(f), F.A.C.; and

(c) For purposes of paragraphs (2)(e) and (2)(f), no enrollment of an individual with an organization or provider described in subparagraph (2)(e)1., or with a plan or in a program described in paragraph (2)(f), may be deemed to be an initial enrollment under this paragraph after the two year period beginning on the date on which the individual first enrolled with such an organization, provider, plan or program.

(3) through (4) renumbered (5) through (6) No change.

Specific Authority 624.308, 627.674(2), 627.6741(5) FS. Law Implemented 624.307(1), 627.410, 627.673, 627.674, 627.6745, 627.6746 FS. History—New 7-26-99, Amended 3-4-01,_____.

NAME OF PERSON ORIGINATING PROPOSED RULE:
Linda Ziegler, Bureau of Life and Health Forms and Rates,
Division of Insurer Services, Department of Insurance

NAME OF SUPERVISOR OR PERSON WHO APPROVED
THE PROPOSED RULE: Rich Robleto, Chief, Bureau of Life
and Health Forms and Rates, Division of Insurer Services,
Department of Insurance

DATE PROPOSED RULE APPROVED BY AGENCY
HEAD: December 5, 2001

DATE NOTICE OF PROPOSED RULE DEVELOPMENT
PUBLISHED IN FAW: December 21, 2001

DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES

Division of Plant Industry

RULE TITLE:

RULE NO.:

Administration of Arthropod Lots
and Records in the Florida State
Collection of Arthropods

5B-61.001

PURPOSE AND EFFECT: The purpose of this rule chapter is to describe the archival procedures for the acquisition, accession, inventory, loan, and disposal procedures utilized by the Florida State Collection of Arthropods.

SUMMARY: Arthropod lots which are composed of one or more arthropod specimens may originate from identification responsibilities or by donation. Lots originating from identification may or may not be retained for the museum's permanent collection. Donation related matters are the responsibility of the head curator of the museum. Previous donors are supplied sets of Calculation Form for Donations (DACS-08076) in the first quarter of each year. The completed forms are submitted with each donation. A new set of forms is supplied each time a donation is acknowledged. Decisions on retention of donated lots depend on an assessment of their scientific value and the museum's ability to properly store, protect and the preserve the lot. Lots that are retained through identification are accessioned, assigned a unique number, and their data incorporated into an electronic database. The museum inventories new accessions each year. Arthropod lots may be loaned to knowledgeable taxonomists. Holotypes and allotypes of species described from loaned specimens must be returned; paratypes may be distributed to several museums, based on arrangements agreed upon in specific instances. Publications based wholly or in part on material borrowed from the museum should include an acknowledgement. An annual progress report on loans is requested; loan extensions can be arranged. An arthropod lots may be disposed of if it is not scientifically relevant and useful, or if it cannot be properly stored, preserved, or interpreted by the museum. The decision to dispose of a lot is the responsibility of the appropriate curator in consultation with the head curator.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COST: None.

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

SPECIFIC AUTHORITY: 570.07(13),(23),(32) FS.

LAW IMPLEMENTED: 570.07(32), 570.244(5), 570.32(1), 570.903(2)(a), 581.031(22), 581.195(1),(2) FS.

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

TIME AND DATE: 10:00 a.m., February 18, 2002

PLACE: Doyle Conner Building, 1911 Southwest 34th Street, Gainesville, Florida

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Dr. Michael C. Thomas, Biological Administrator III, Division of Plant Industry, Post Office Box 147100, Gainesville, Florida 32614-7100, (352)372-3505

THE FULL TEXT OF THE PROPOSED RULE IS:

5B-61.001 Administration of Arthropod Lots and Records in the Museum of the Florida State Collection of Arthropods.

(1) Definitions. For the purpose of this rule, the definitions in Sections 581.011 and 570.02, Florida Statutes (F.S.), and the following definitions shall apply:

(a) Accession. The process of formally adding a newly acquired arthropod lot to the museum's permanent collections.

(b) Acquire. The process of agreeing to accept an arthropod specimen lot for the permanent collection of the museum and taking possession of the arthropod lot by any lawful method, including, but not limited to donation, bequest, purchase, transfer from another agency, staff field collections, or exchange.

(c) Allotype. The single specimen of the opposite sex in the type series of the holotype.

(d) Arthropod Lot. A unit of measure for an accession to the museum. An arthropod lot may consist of one or more arthropod specimens.

(e) Deaccession. The process of formally removing a state-owned arthropod lot from the museum's permanent collections.

(f) Disposal. The process of permanently removing an arthropod lot from the museum's permanent collections by one of the following means:

(aa) Transferring an arthropod lot to another agency, institution, organization, or individual, and moving the lot to the premises of that agency, institution, organization, or individual, or

(bb) Properly discarding or destroying an arthropod lot, if it has deteriorated or has been damaged beyond usefulness or repair.

(g) Donors. Individuals, institutions, agencies, museums, and universities that donate an arthropod lot to the museum.

(h) Holotype. The single specimen designated as the name-bearing type of a nominal species or subspecies.

(i) Regulatory lot. An arthropod lot submitted for identification through the division's identification procedure.

(j) Paratype. Each specimen of a type series other than the holotype or allotype.

(k) Type. A particular kind of specimen as defined by the International Code of Zoological Nomenclature.

(1) Type Series. All the specimens seen by the describer and taken into account in the description of a new species.

(2) Purpose. The purpose of this rule chapter is to describe the archival procedures for the acquisition, accession, inventory, loan, and disposal procedures utilized by the Florida State Collection of Arthropods, hereinafter, the museum. Established in 1963, the museum is the department's arthropod collection. The department was charged with the continued housing and curation of the state-owned arthropod collection. The museum serves as the repository for Florida type material; reference collection of arthropods collected worldwide for the routine daily arthropod identification service provided by the department; and a reference collection for the scientific study of the biology, systematics, and taxonomy of arthropods.

(3) Acquisition Procedures.

(a) An arthropod lot may originate for identification by museum staff and donation to the museum.

(b) Arthropod lots received for the purpose of the department's identification responsibilities may be processed, identified, and accessioned; however, the lot itself may not necessarily be retained in the museum's permanent collections based on the decision of a curator.

(c) The department delegates responsibility for initial contact with prospective donors to the museum's curators and chief of bureau of entomology, nematology, and plant pathology.

(d) Receiving, acknowledging, and coordinating donations and donation-related matters is the responsibility of the head curator of the museum.

(e) In the first quarter of each year, previous donors are mailed Calculation Form for Donations, DACS-08076. A copy of DACS-08076 is incorporated herein and may be obtained from the Division of Plant Industry, The Museum of the Florida State Collection of Arthropods, Post Office Box 147100, Gainesville, Florida 32614-7100. If a donation is made during the year, the donor supplies the completed forms with the donation (separate forms must be completed for each individual donation). The forms supply the information necessary to incorporate the lots into the museum. Forms are sent to the donor each time a donation is acknowledged. Upon receipt, the forms are reviewed for completeness; recounting and recalculation is done, if necessary. The donation is then fumigated and forwarded to the appropriate curator for incorporation into the museum. A letter acknowledging the donation and summarizing the donation is sent for each donation within two weeks of receipt.

(f) All acquisitions are considered to have potential scientific value relating to entomological taxonomic research or exhibition purposes. Retention in the museum is based on

the evaluation of the appropriate museum curator for scientific value and the museum's ability to provide proper storage, protection, and preservation for the lot.

(g) If the museum decides not to acquire a lot for its permanent collections, the lot is returned to the prospective donor or is disposed of by the appropriate curator.

(4) Accessioning Procedures. After the museum has acquired a lot, the lot is accessioned into the museum's permanent collections. A regulatory lot is assigned a unique accession number. The accession number is based on the date of museum's receipt and sequence of lot numbers. The museum maintains several electronic databases and files of paper records to document accessioned lots. The electronic data bases and paper records contain at least the following information about each regulatory lot: accession number, date of collection, date of museum receipt, geographic origin, host plant origin, name of collector, and name of identifier. The museum's paper record file is catalogued by the taxonomic nomenclature of the arthropod and by the host of the arthropod. Additional paper record files may be maintained by a curator.

(5) Inventory of State-owned Arthropod Lots. The museum conducts an annual inventory of arthropod lots donated and identified for the previous fiscal year. A report is provided for the department's annual report to the commissioner of agriculture.

(6) Loan of State-owned Arthropod Lots. An arthropod lot may be loaned to a taxonomist recognized by the museum as knowledgeable and providing justification for the loan in the area of the arthropod lot's taxonomy. An Invoice of Specimens (DACS-08075) form accompanies each arthropod lot. Copies may be obtained from the Division of Plant Industry, Florida State Collection of Arthropods, Post Office Box 147100, Gainesville, Florida 32614-7100. The recipient completes the form indicating receipt of the arthropod lot and intended target date for return to the museum. Holotypes and allotypes, based on specimens from the museum, are to be returned unless other arrangements are agreed upon in specific instances. The first paratype, other than an allotype, must be deposited in the museum, unless other arrangements are agreed upon in specific instances. Representatives of both sexes are desired. Where the type series of a species is adequate in the museum, deposition of paratypes in several museum collections and/or collections of specialists in the group, following an agreement to this effect with the head curator of the museum, is encouraged. The museum must receive a list of all species retained with complete collection data for each specimen, or a group of specimens bearing the same collection data, including collector and host or habitat. Publications resulting wholly or in part from a study of material borrowed from the museum should include an acknowledgement to this collection. The abbreviation "FSCA" should be used in checklist citations. Two copies of any publication resulting wholly or in part from a study of material borrowed from the museum must be sent to

the head curator. The museum requests an annual progress report in January of each year on material borrowed for study. Extensions of loans can be arranged.

(7) Disposal of State-owned Arthropod Lots. All decisions to remove an arthropod specimen/lot from the museum's permanent collections for disposal are made in a manner that is in the best interest of the public and of the museum. The arthropod lot may be disposed of if the lot is not scientifically relevant and useful to the functions and activities of the museum or cannot be properly stored, preserved, or interpreted by the museum. The decision to dispose of a lot is made by the curator responsible for the taxonomic area of the arthropod lot. Additional scientific opinion may be sought from the head curator.

Specific Authority 570.07(13)(23), 570.903(8) FS. Law Implemented 570.07(32), 570.244(5), 570.32(1), 570.903(2)(a), 581.031(22), 581.195(1)(2) FS. History--New

NAME OF PERSON ORIGINATING PROPOSED RULE:
Constance C. Riherd, Assistant Director, Division of Plant Industry, P. O. Box 147100, Gainesville, FL 32614-7100

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Craig Meyer, Deputy Commissioner for Agricultural Services, Commissioner's Office Staff, Florida Department of Agriculture and Consumer Services, PL 10, The Capitol, Tallahassee, FL 32399-0810

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: December 6, 2001

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: November 16, 2001

DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES

Division of Animal Industry

RULE CHAPTER TITLE: Swine Garbage Feeding

RULE CHAPTER NO.: 5C-11

RULE TITLE: Feeding Garbage; Application for Permit; Fees

RULE NO.: 5C-11.015

PURPOSE AND EFFECT: The department proposes fee increases for the application of a permit to feed garbage to swine and for the permitting of the approved facility to feed garbage to swine. The increase in fees is to cover the increased cost to the department to perform the inspection services and maintain records of the permitted facilities.

SUMMARY: The proposed rule increases the fees for a permit to feed garbage as well as increases the fees for the application for the permit.

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

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

SPECIFIC AUTHORITY: 585.0024(4) FS.

LAW IMPLEMENTED: 585.002(5), 585.48, 585.50, 585.51, 585.52 FS.

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

TIME AND DATE: 10:00 a.m., February 6, 2002

PLACE: Room 316, Mayo Building, 407 South Calhoun Street, Tallahassee, FL

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Joe Kight, Assistant Director, Division of Animal Industry, Department of Agriculture and Consumer Services, Room 321, Mayo Building, 407 South Calhoun Street, Tallahassee, FL 32399-0800

THE FULL TEXT OF THE PROPOSED RULE IS:

5C-11.015 Feeding Garbage; Application for Permit; Fees.

(1) Application for Permit. A written request for a permit to feed garbage, together with a non-refundable application fee of \$50 25, must be submitted to the Division of Animal Industry, Florida Department of Agriculture and Consumer Services, 333 Mayo Building, Tallahassee, Florida 32399-0800. The fee must be submitted as a check or money order made payable to the Florida Department of Agriculture and Consumer Services.

(2) Requirements for Permit. An authorized representative of the Department will inspect the facility to determine compliance with the following minimum requirements.

(a) A cooker which has the capacity and ability to raise the temperature of the garbage to 212 degrees F and to hold the garbage at that temperature for not less than 30 minutes;

(b) An enclosed firebox when a direct fire cooker is used;

(c) A cover over the cooker to prevent dilution by rain;

(d) A fence around the area where the cooker is located that prevents livestock from accessing the untreated garbage;

(e) Storage or holding containers for untreated garbage which are covered and leakproof and which have the capacity to hold all untreated garbage;

(f) Separate containers for treated and untreated garbage or if the same containers are used, they must be cleaned of all garbage residue between use for treated and untreated garbage;

(g) Control of insects, rodents, and other possible sources for transmission of disease organisms;

(h) Provision for disposal of excess or untreated garbage in accordance with all environmental regulations;

(i) Vehicles, equipment, facilities and handling areas which are cleaned of all garbage residue after exposure to untreated garbage;

(j) Maintenance of records on sources of all untreated garbage; and

(k) A brief description of the equipment and the method used to cook the garbage.

(3) Issuance of Permit.

(a) Recommendation for Approval. Facilities which meet the requirements in subsection 5C-11.015(2), F.A.C., above on inspection by an authorized representative of the Department will be recommended for approval on Form AI-15. The applicant will submit the signed Form AI-15 recommending approval to the Department accompanied by a permit fee as provided in the following schedule:

1 – 25 swine	\$ <u>50 25</u>
26 – 50 swine	\$ <u>100 50</u>
51 – 100 swine	\$ <u>150 75</u>
over 100 swine	\$ <u>200 400</u>

The fee must be by check or money order made payable to the Florida Department of Agriculture and Consumer Services. The Department will issue the permit on receipt of the completed and signed Form AI-15 and the prescribed fee. All permits expire on July 1.

(b) To determine the permit fee in the initial year, the applicant will indicate the average number of swine expected at a facility in any one month period. The permit reissue fee will be based upon the actual average number of swine per month at the facility during the previous year.

(4) Reissue of Permit. The applicant will submit to the Department a completed AI-15 form indicating a request for reissue of permit signed by an authorized representative and accompanied by a permit fee as set forth in the schedule at paragraph 5C-11.015(3)(a), F.A.C., above. Permit reissue requests will be due by July 1 of each year. If a permit request for reissue has not been received by July 1, an applicant must comply with all provisions of this rule as though never previously permitted.

(5) Forms and Materials. Department of Agriculture and Consumer Services AI-15 Application for Permit to Feed Garbage to Swine (Form AI-15, Rev. 1-91) is hereby incorporated by reference. Copies may be obtained from the Department of Agriculture and Consumer Services, Division of Animal Industry, The Mayo Building, Tallahassee, Florida 32399-0800.

Specific Authority 585.0024(4) ~~585.002~~ FS. Law Implemented 585.002(5), 585.48, 585.50, 585.51, 585.52 FS. History—New 6-29-62, Formerly 5C-11.15, Amended 5-4-94, 7-2-95, _____.

NAME OF PERSON ORIGINATING PROPOSED RULE:
Joe Kight, Assistant Director, Division of Animal Industry

NAME OF PERSON OR SUPERVISOR WHO APPROVED
THE PROPOSED RULE: Dr. Leroy M. Coffman, Director,
Division of Animal Industry

DATE PROPOSED RULE APPROVED BY AGENCY
HEAD: November 28, 2001

DATE NOTICE OF PROPOSED RULE DEVELOPMENT
PUBLISHED IN FAW: December 7, 2001

DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES**Division of Animal Industry**

RULE CHAPTER TITLE: RULE CHAPTER NO.:
 State Diagnostic Laboratories 5C-13
 RULE TITLE: RULE NO.:
 Schedule of Fees 5C-13.004

PURPOSE AND EFFECT: The department proposes fee increases for the services offered by the Animal Disease Diagnostic Laboratory to cover the increase in the cost to the department to perform these services. Some diagnostic procedures have been separated and fees have been assigned to cover the costs of the procedures.

SUMMARY: The proposed changes to the Schedule fees for diagnostic laboratory services will cover the increased cost to the department to perform these services.

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

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

SPECIFIC AUTHORITY: 570.07(23), 585.002(4) FS.

LAW IMPLEMENTED: 585.61(3) 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: 1:00 p.m., February 8, 2002

PLACE: 2700 John Young Parkway, Kissimmee, Florida

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Dr. John Crews, Chief, Bureau of Diagnostic Laboratories, Department of Agriculture and Consumer Services, Post Office Box 420460, Kissimmee, Florida 34742

THE FULL TEXT OF THE PROPOSED RULE IS:

5C-13.004 Schedule of Fees.

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

(a) Mammals.

1. Bovine and Equine:

Over 100 lbs	<u>\$70.00</u> 40.00 /animal
Under 100 lbs	<u>\$50.00</u> 25.00 /animal
Fetus	<u>\$50.00</u> 10.00 /animal
<u>Necropsy Incineration Expense:</u>	
>500 lbs	<u>\$200.00</u> /animal
150-500 lbs	<u>\$125.00</u> /animal

<150 lbs	<u>\$75.00</u> /animal
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2. Porcine:

Over <u>200</u> 250 lbs	<u>\$70.00</u> 40.00 /animal
Under 200 lbs 20-250	<u>\$30.00</u> 25.00 /animal
Under 20 lbs	<u>\$10.00</u> /animal
Fetus	<u>\$30.00</u> 10.00 /animal

Necropsy Incineration Expense:

>150lbs	<u>\$125.00</u> /animal
<150lbs	<u>\$75.00</u> /animal

3. Ovine and Caprine:

Over 35 lbs	<u>\$70.00</u> 35.00 /animal
Under 35 lbs	<u>\$30.00</u> 25.00 /animal
Fetus	<u>\$10.00</u> 30.00 /animal
<u>Necropsy Incineration Expense:</u>	
	<u>\$75.00</u> /animal

4. Canine and Feline:

Over 20 lbs	<u>\$35.00</u> /animal
Under 20 lbs	<u>\$25.00</u> /animal
Per animal	<u>\$50.00</u> /animal
Fetus	<u>\$30.00</u> 10.00 /animal
<u>Necropsy Incineration Expense:</u>	
	<u>\$50.00</u> /animal

5. Rodents and Rabbits.....

	<u>\$30.00</u> 20.00 /animal
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Necropsy Incineration Expense:

	<u>\$25.00</u> /animal
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6. Other Mammals (deer, other

exotic species)	<u>\$70.00</u> 35.00 /animal
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Necropsy Incineration Expense:

>150 lbs	<u>\$125.00</u> /animal
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30-150 lbs	<u>\$75.00</u> /animal
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<30 lbs	<u>\$25.00</u> /animal
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7. Miscellaneous Animals (alligators,

snakes, etc.)	<u>\$35.00</u> /animal
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Over 50 lbs	<u>\$70.00</u> /animal
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Under 50 lbs	<u>\$50.00</u> /animal
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Necropsy Incineration Expense:

>150 lbs	<u>\$125.00</u> /animal
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30-150 lbs	<u>\$75.00</u> /animal
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<30 lbs	<u>\$25.00</u> /animal
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(b) Avian.

1. Poultry (chickens, turkeys, ducks,

geese, and other such domesticated

birds which primarily serve man as

a source of food, either eggs or

meat) and Game Birds (quail,

chukars, peasannts, etc.

(includes microbiology)	<u>\$30.00</u> /bird 20.00 /submission
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Necropsy Incineration Expense:

	<u>\$25.00</u> /bird
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2. Companion Birds:

Psittacine (canary, finch, etc.)	<u>\$20.50</u> 12.50 /bird
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Necropsy Incineration Expense:

	<u>\$25.00</u> /bird
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3. Wild Birds:

Waterfowl.....	<u>\$20.00</u> 10.00 /bird
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Raptors.....	\$20.00/bird
Small Wild birds (Grackles, etc.)	\$10.00/bird
Necropsy Incineration Expense:.....	\$25.00/bird
4. Ratites:	
over 16 weeks of age	\$40.00/bird
8 to 16 weeks of age	\$30.00/bird
under 8 weeks of age	\$25.00/bird
Ostrich, Emu, Rhea.....	\$70.00/bird
Necropsy Incineration Expense:	
Adult	\$40.00/bird
Other	\$25.00/bird
(2) Bacteriology/Mycology.	
Antibiotic Sensitivity Test.....	\$5.00/bacterium
Bacterial/Fungal Culture:	
Food Animals:	
Aerobic culture	\$2.00/swab/tissue
Johne's culture positive.....	\$15.00/swab/tissue
Johne's culture negative	\$15.00/swab/tissue
Johne's culture – overgrowth	\$3.00/swab/tissue
Anaerobic culture	\$2.00/swab/tissue
Microaerophilic culture	\$2.00/swab/tissue
Food Animal	\$1.00/swab/tissue
Non-Food Animal:	
No Isolates Identified	\$5.00 4.00/swab/tissue
One – Two Isolates identified	\$10.00/swab/tissue
One Isolate Identified	\$10.00/swab/tissue
Two Isolates Identified	\$15.00/swab/tissue
Three or More Isolates Identified	\$15.00/swab/tissue
Three Isolate Identified.....	\$15.00/swab/tissue
Campylobacter Veneralis Culture	\$5.00 4.00/swab/tissue
Campylobacter Jejuni Culture	\$10.00/swab/tissue
Contagious Equine Metritis Culture	\$10.00/animal
Cytology	\$5.00/test
Hatchery Air Sample	\$1.00/test
Mycoplasma Culture:	
Food Animal	\$5.00 4.00/swab/tissue
Mycoplasma milk culture	\$5.00/swab/tissue
Johne's ELISA.....	\$15.00/test
Pullorum plate agglutination	\$2.00/test
Leptospiral MAT	\$5.00/test
FA tissue-negative	\$5.00/test
FA tissue-positive	\$5.00/test
Non-Food Animal.....	\$15.00 6.00/swab/tissue
Aerobic Culture-no growth.....	\$5.00/swab/tissue
One isolate	\$5.00/swab/tissue
Two isolates.....	\$10.00/swab/tissue
Three isolates	\$15.00/swab/tissue
Anerobic culture – no growth	\$5.00/swab/tissue
One isolate	\$5.00/swab/tissue

Two isolates.....	\$10.00/swab/tissue
Three isolates.....	\$15.00/swab/tissue
Microaerophilic culture – no growth.....	\$5.00/swab/tissue
One-Two isolates.....	\$10.00/swab/tissue
Three isolates	\$15.00/swab/tissue
No organisms resembling Taylorella	\$15.00/swab
M. paratuberculosis DNA Probe	\$5.00 7.50/test
Brucella Canis agglutination	\$7.50/test
Leptospirosis MAT	\$5.00/test
Brucella Abortus card test	\$5.00/test
FA Lepto-negative.....	\$10.00/test
FA Lepto-positive.....	\$10.00/test
Mycoplasma Synoviae-plate	\$3.00/test
Mycoplasma Synoviae-HI	\$3.00/test
Mycoplasma gallisepticum Plate	\$2.00 0.50/test
HI	\$2.00 1.00/test
Hatchery Air	\$1.00/test
Flock Check.....	\$2.50/test
Para TB Elisa.....	\$6.00/test

(3) Clinical Pathology

Complete Blood Count	\$5.00/test
Includes: RBC, WBC, Neutrophils, Lymphocytes, Monocytes, Eosinophils, Basophils, Reticulocytes, PCV, Hemoglobin, MCV, and Platelets.	
Blood Chemistry Profiles:	
Avian	\$15.00 13.00/profile
Equine.....	\$15.00 13.00/profile
Ruminant	\$15.00 13.00/profile
Small Animal.....	\$15.00 13.00/profile
Porcine.....	\$15.00 13.00/profile
Complete Urinalysis	\$3.00/test
Individual Tests Include:	
Albumin.....	\$5.00 3.00/test
Alkaline Phosphatase	\$3.00/test
Amylase	\$5.00 3.00/test
Bicarb	\$3.00/test
Bilirubin.....	\$3.00/test
Direct Bilirubin.....	\$3.00/test
BUN.....	\$5.00 3.00/test
Calcium	\$5.00 3.00/test
Chloride	\$3.00/test
Cholesterol.....	\$3.00/test
Cholinesterase	\$3.00/test
Creatinine	\$5.00 3.00/test
Creatinine Phosphokinase (CPK)	\$5.00 3.00/test
Gamma-Glutamyl Transferase	\$3.00/test
Globulin	\$3.00/test
Glucose	\$5.00 3.00/test
Hemoglobin	\$3.00/test
Iron	\$6.00 3.00/test

Ketone	\$3.00/test	Canine fecal.....	\$5.00/test
Lactate Dehydrogenase (LDH)	\$5.00 3.00 /test	Ruminant fecal	\$5.00/test
Lipase	\$6.00 3.00 /test	Equine fecal.....	\$5.00/test
Magnesium	\$5.00/test	Feline fecal	\$5.00/test
Occult Blood	\$5.00 3.00 /test	Porcine fecal.....	\$5.00/test
PH.....	\$5.00 3.00 /test	Misc. fecal	\$5.00/test
Phosphorus	\$5.00/test	Perkinsus culture	\$15.00/test
Potassium	\$5.00/test	Perkinsus prep fee	\$5.00/test
Proteins.....	\$5.00 3.00 /test	Anap card	\$1.50/test
SDH.....	\$3.00/test	Trich test.....	\$3.00/test
ST (SGOT)	\$3.00/test	Abomasal para id.....	\$2.50/test
ALT (SGPT).....	\$7.00 3.00 /test	Intest. Para ID.....	\$2.50/test
Specific Gravity.....	\$3.00/test	Blood trypan pos.....	\$3.00/test
Sodium	\$3.00/test	Blood trypan neg	\$3.00/test
Thyroid – T4.....	\$5.00/test	Knott's neg	\$3.50/test
Zinc Sulfate	\$3.00/test	Knott's pos HW.....	\$3.50/test
TSH	\$5.00/test	Knott's pos dipe filaria.....	\$2.50/test
T3	\$5.00/test	AO anap neg.....	\$3.00/test
T4	\$5.00/test	AO anap pos	\$3.00/test
Base Cortisol	\$5.00/test	AO hemobart neg	\$5.00/test
Post Cortisol	\$5.00/test	AO hemobart pos	\$5.00/test
Progesterone	\$8.00/test	Para ID.....	\$5.00/test
CBC.....	\$7.50/test	AO babesia neg	\$3.00/test
Fibrinogen	\$3.00/test	AO babesia pos.....	\$3.00/test
Urinalysis	\$5.00/test	AO epeythrozoo neg.....	\$3.00/test
Equine IGG	\$8.00/test	AO epeythrozoo pos.....	\$3.00/test
Post Cortisol ACTH	\$8.00/test	Fecal neg	\$5.00/test
Total Protein	\$5.00/test	Micro exam giardia	\$2.00/test
Testosterone	\$8.00/test	Skin scraping neg	\$2.00/test
PCV	\$3.00/test	Crypto acid fast	\$5.00/test
Platelet Count	\$3.00/test	Heartworm sero	\$5.00/test
Retic count.....	\$3.00/test	Preg test	\$5.00/test
Heinz body	\$3.00/test	Intest coccid scriping neg.....	\$2.50/test
ALP	\$5.00/test	Toxo Sero	\$8.00/test
AST	\$5.00/test	Trich culture	\$5.00/test
Cholesterol	\$3.00/test	Rabies	\$7.50/test
Electrolyte	\$9.00/test	Crypto/giard. FA	\$10.00/test
Urine Micro Exam.....	\$5.00/test	Fluke or Lungworm.....	\$2.50/test
Triglyceride	\$8.00/test	Para ID TVMDL	\$10.00/test
GGT.....	\$5.00/test	Coomb's test.....	\$13.00/test
Co2	\$5.00/test	Pre/post bile acid	\$16.00/test
HGB	\$3.00/test	Babesia titer.....	\$16.00/test
A/G ratio.....	\$3.00/test	Bile Acid	\$8.00/test
Fluid Analysis	\$8.00/test	Babesia titer canine	\$26.00/test
Ketones.....	\$5.00/test	(4) Toxicology	
Bili U.....	\$5.00/test	Accepromazine.....	\$5.00/test
Blood	\$5.00/test	Acetyl Salicylic Acid	\$5.00/test
Nitrate.....	\$5.00/test	Aflatoxin	\$10.00 5.00 /sample
Urobilinogen.....	\$5.00/test	Aldicarb (Temik).....	\$5.00/test
Avian fecal exam.....	\$5.00/test	Aldrin	\$5.00/test

Alkaloid & Organic Bases Screen.....	<u>\$15.00</u> 40.00 /sample
Alkaloid Identification.....	<u>\$10.00</u> 5.00 /test
Prep fee.....	<u>\$15.00</u> /test
Amphetamine	<u>\$5.00</u> /test
Anticoagulant Screen.....	<u>\$15.00</u> 40.00 /sample
Prep fee.....	<u>\$15.00</u> /sample
Anticoagulant Identification	<u>\$5.00</u> /test
Arsenic.....	<u>\$15.00</u> 40.00 /sample
Prep fee.....	<u>\$15.00</u> /sample
Atrazine	<u>\$5.00</u> /test
Azinphosmethyl.....	<u>\$5.00</u> /test
Barbiturates.....	<u>\$5.00</u> /test
Banamine	<u>\$5.00</u> /test
Bendiocarb (Ficam).....	<u>\$5.00</u> /test
Benzocaine	<u>\$5.00</u> /test
Biological Insecticide Test	<u>\$15.00</u> 5.00 /sample
Prep fee.....	<u>\$15.00</u> /sample
Brodifacoum	<u>\$5.00</u> /test
Bromadiolone (Supercid).....	<u>\$5.00</u> /test
Caffeine	<u>\$5.00</u> /test
Cannibis (Marijuana).....	<u>\$5.00</u> /test
Carbaryl (Sevin)	<u>\$5.00</u> /test
Carbofuran	<u>\$5.00</u> /test
Chlordane	<u>\$5.00</u> /test
Chlodirazepoxide.....	<u>\$5.00</u> /test
Chlorophacinone (Caid)	<u>\$5.00</u> /test
Chlorinated Hydrocarbon Insecticide.....	<u>\$5.00</u> /test
Chlorpromazine	<u>\$5.00</u> /test
Chlorpyrifos.....	<u>\$5.00</u> /test
Cholinesterase.....	<u>\$10.00</u> /test
Prep fee.....	<u>\$10.00</u> /test
Cocaine.....	<u>\$5.00</u> /test
Copper	<u>\$15.00</u> 5.00 /test
Tissue prep fee.....	<u>\$10.00</u> /test
Coumafuryl (Fumarin).....	<u>\$5.00</u> /test
Cyanide.....	<u>\$5.00</u> /sample
DDD	<u>\$5.00</u> /test
DDE.....	<u>\$5.00</u> /test
DDT.....	<u>\$5.00</u> /test
Demeton (Systox).....	<u>\$5.00</u> /test
Diazinon	<u>\$5.00</u> /test
Dichlorvos	<u>\$5.00</u> /test
Dieldrin.....	<u>\$5.00</u> /test
Diphenadione.....	<u>\$5.00</u> /test
Disulfoton (Di-Syston).....	<u>\$5.00</u> /test
Endosulfan (Thiodan).....	<u>\$5.00</u> /test
Endrin	<u>\$5.00</u> /test
Ephedrine.....	<u>\$5.00</u> /test
Equine Drug Screen.....	<u>\$15.00</u> /sample

Identification	<u>\$15.00</u> /sample
Prep fee.....	<u>\$15.00</u> /sample
Ethylene Glycol.....	<u>\$15.00</u> 5.00 /test
Prep fee.....	<u>\$15.00</u> /test
Ethion	<u>\$5.00</u> /test
Ethyl Parathion	<u>\$5.00</u> /test
Fenamifos (Nemacur).....	<u>\$5.00</u> /test
Fenthion (Spoton).....	<u>\$5.00</u> /test
Fumonisin	<u>\$10.00</u> 5.00 /sample
Gamma BHC (Lindane)	<u>\$5.00</u> /test
Gossypol.....	<u>\$15.00</u> 40.00 /test
Heavy Metal Screen	<u>\$10.00</u> /sample
Heavy Metal Identification.....	<u>\$5.00</u> /sample
Heptachlor	<u>\$5.00</u> /test
Herbicide Screen	<u>\$10.00</u> /sample
Herbicide Identification.....	<u>\$15.00</u> 5.00 /test
Iron	<u>\$10.00</u> /test
Prep fee.....	<u>\$10.00</u> /test
Insecticide/Pesticide Screen	<u>\$10.00</u> /sample
Insecticide/Pesticide Identification.....	<u>\$5.00</u> /test
Lannate	<u>\$5.00</u> /test
Lead.....	<u>\$15.00</u> 5.00 /sample
Feed, paint, tissue prep fee	<u>\$15.00</u> /sample
Blood prep fee	<u>\$10.00</u> /sample
Magnesium	<u>\$5.00</u> /sample
Malathion.....	<u>\$5.00</u> /test
Meprobamate.....	<u>\$5.00</u> /test
Mercury	<u>\$15.00</u> 40.00 /sample
Prep fee.....	<u>\$15.00</u> /sample
Methamidophos (Monitor)	<u>\$5.00</u> /test
Methyl Parathion	<u>\$5.00</u> /test
Monensin	<u>\$5.00</u> /test
Prep fee	<u>\$10.00</u> /test
Mycotoxin Screen.....	<u>\$60.00</u> 40.00 /sample
Napthalene.....	<u>\$5.00</u> /test
Nicotine	<u>\$5.00</u> /test
Nitrate/Nitrite	<u>\$10.00</u> 5.00 /sample
Ochratoxin	<u>\$10.00</u> 5.00 /sample
Organic Acid/Neutral Compound Screen	<u>\$10.00</u> /test
Oxamyl	<u>\$5.00</u> /test
Prep fee.....	<u>\$15.00</u> /test
Paraquat/Diaquat	<u>\$5.00</u> /sample
Parathion.....	<u>\$5.00</u> /test
Phenolbarbital.....	<u>\$5.00</u> /test
Phenothiazine	<u>\$5.00</u> /test
Phenylbutazone	<u>\$5.00</u> /test
Phosphorus	<u>\$5.00</u> /sample
Pidone (Pival).....	<u>\$5.00</u> /test
Polychlorinated Biphenyls (PCB)	<u>\$5.00</u> /test

Potassium	\$5.00/sample
Pramitol	\$5.00/test
Procaine	\$5.00/test
Promazine	\$5.00/test
Propoxur (Batgon)	\$5.00/test
Pyriminil	\$5.00/test
Quaternary Ammonium Compounds	\$5.00/test
Reinsch Test	\$7.50/test
Rommel	\$5.00/test
Silver	\$7.50 5.00/test
Strychnine	\$ 5.00/test
Selenium	\$5.00/sample
Feed, tissue, prep fee	\$15.00/sample
Blood, serum prep fee	\$15.00/sample
Sodium	\$5.00/sample
Sulfacetamide	\$5.00/test
Sulfadiazine	\$5.00/test
T-2	\$10.00 5.00/sample
Theobromine	\$5.00/test
Toxaphene	\$5.00/test
Urea	\$15.00 5.00/sample
Prep fee	\$15.00/sample
Vomitoxin	\$10.00 5.00/sample
Zearalenone	\$10.00/sample
Warfarin	\$5.00/test
Xylazine	\$5.00/test
Zearalenone	\$5.00/sample
Zinc	\$10.00 5.00/sample
Tissue prep fee	\$10.00/sample

(5) Microbiology

PCR	\$15.00/test
Prep fee	\$15.00/test

(6)(5) Histopathology.

Cytology	\$10.00/sample
Histopathology:	
Per submission, regardless of # of tissue	\$15.00
Prep fee per submission	\$15.00
One — Three Tissues	\$10.00
Four or more tissues	\$15.00
Histopathological slide furnished	\$7.50/each

(7)(6) Parasitology.

Acridine Orange Stained Blood Smears:	
Anaplasma Bodies	\$3.00/test
Babesia Bodies	\$3.00/test
Eperythrozoon Bodies	\$3.00/test
Hemobartonella	\$5.00/test
Anaplasmosis Card Test	\$3.00 1.50/serum
Avian Parasites (Blood Smears):	
Hemoproteus	\$3.00/sample
Leucocytozoon	\$3.00/sample

Cryptosporidium/Giardia Fluorescent:

Antibody Examination	\$10.00 5.00 /exam
Fecal Examination	\$5.00 2.50/sample
Hemoparasite Examinations:	
Hemobartellona	\$3.00/sample
Microfilaria Testing – Identification:	
Knott's Test	\$3.50 2.50/sample
Ocult Heartworm – ELISA Test	\$5.00/sample
Parasite Identification	\$10.00 2.00/sample
Rabies — Preparation and Shipment of Head to State Health Department	\$7.50
Skin Scraping	\$2.00/sample
Toxoplasmosis – HI Titer	\$8.00 5.00/serum
Trichomonas Culture	\$4.00 3.00/sample
(8)(7) Serology.	

(a) Bacterial.

Brucella abortus – Plate/Card	\$5.00 .50/serum
Brucella canis – Agglutination	\$7.50 5.00/serum
Leptospirosis MA Test (5 serovars)	\$5.00 2.50/serum
Mycoplasma gallisepticum – HI	\$2.00 1.00/serum
Mycoplasma gallisepticum – Plate Aggl'n.	\$2.00 .50/serum
Mycoplasma synoviae – HI	\$3.00 1.00/serum
Mycoplasma synoviae – Plate Aggl'n	\$3.00 .50/serum
Pullorum-Typhoid – Plate Aggl'n Test	\$2.00 .50/serum

(b) Viral

1. Agar Gel Immunodiffusion (AGID):

Avian Influenza	\$5.00 3.50/serum
Bluetongue (BT)	\$7.00 3.50/serum
Bovine Leukosis (BLV)	\$6.00 3.50/serum
Caprine Arthritis-Encephalitis (CAEV)	\$6.00 3.50/serum
Epizootic Hemorrhagic Disease (EHD)	\$6.00 3.50/serum
Equine Infectious Anemia – Coggins	\$6.00 3.50/serum
Infectious Bursal Disease (IBD)	\$3.50/serum
Other AGID Tests	\$6.00 3.50/serum

2. Serum Neutralization (SN):

Bovine Respiratory Syncytial Virus	\$7.50 3.50/serum
Bovine Viral Diarrhea (BVD)	\$3.50/serum
Equine Rhinopneumonitis (ERV)	\$3.50/serum
Equine Viral Arteritis (EVA)	\$3.50/serum
Infectious Bovine Rhinotracheitis (IBR)	\$3.50/serum
Bovine Parainfluenza 3 (PI3)	\$3.50/serum
Pseudorabies (PRV)	\$3.50/serum
Vesicular Stomatitis (VS) Indiana	\$3.50/serum
Vesicular Stomatitis (VS) New Jersey	\$3.50/serum
Other SN Tests	\$3.50/serum

3. Enzyme Linked Immuno Absorbant

Assay (ELISA)	
Feline Immunodeficient Virus (FIV)	\$5.00/serum
Feline Leukemia (FELV)	\$5.00/serum

3.4. All Indirect Fluorescent

Antibody (IFA)	\$15.00/serum
Canine Distemper	\$5.00/serum
Canine Ehrlichiosis	\$5.00/serum
Canine Parvovirus	\$5.00/serum
Equine Influenza	\$5.00/serum
Equine Rhinopneumonitis	\$5.00/serum
Feline Infectious Peritonitis (FIP)	\$5.00/serum
Feline Panleukopenia	\$5.00/serum
Lyme Disease	\$5.00/serum
Potomac Horse Fever	\$5.00/serum
Rocky Mountain Spotted Fever (RMSF)	\$5.00/serum
Transmissible Gastroenteritis (TGE)	\$5.00/serum
Ehrlichia Equine	\$5.00/serum
Other IFA Tests	\$5.00/serum

4.5. All Direct Fluorescent Antibody

Bovine Coronavirus	\$3.00/test
Bovine Parainfluenza Virus	\$3.00/test
Bovine Respiratory	\$3.00/test
Synectial Virus	\$3.00/test
Bovine Rotavirus	\$3.00/test
Bovine Viral Diarrhea	\$3.00/test
Canine Coronavirus	\$5.00/test
Canine Distemper	\$5.00/test
Canine Parvovirus	\$5.00/test
Equine Rhinotracheitis	\$5.00/test
Feline Infectious Peritonitis	\$5.00/test
Feline Panleukopenia	\$5.00/test
Infectious Bovine Rhinotracheitis	\$3.00/test
Ovine Progressive Pneumonia	\$3.00/test
Porcine Parvovirus	\$3.00/test
Pseudorabies	\$3.00/test
Transmissible Gastroenteritis	\$3.00/test
Other Direct AB Examinations	\$3.00/test

5.6. Miscellaneous

Equine	
Encephalomyelitis HI	\$5.00/serum
Newcastle HI	\$5.00/serum

(9)(8) Virology.

Chlamydia Isolation	\$15.00 7.50/tissue/swab
<u>Chlamydia isolation prep fee</u>	
<u>1st 2 animals (each)</u>	<u>\$10.00</u>
Electron Microscope Examination	\$15.00 7.50/tissue/swab
<u>EM prep fee, 1st 2 animals (each)</u>	<u>\$5.00</u>
<u>Isolate Identification</u>	<u>\$5.00/identification</u>
Gimenez Stain for Chlamydia	\$3.00/pooled tissue
Virus Isolation	\$15.00 7.50/tissue/swab
<u>Virus Isolation prep, 1st 2 animals (each)</u>	<u>\$10.00</u>
All FA tests	\$10.00/test
All IFA tests	\$15.00/test

Newcastle HI	\$10.00/test
FELV/FIV ELISA	\$12.00/test
EIA Coggins ELISA	\$15.00/test
Encephalitis-Eastern/Western H	\$6.00/test
West Nile/Venezuelan virus HI	\$5.00/test
Other HI tests	\$5.00/test

(9)(10) Miscellaneous.

Shipments to Other Laboratories	\$3.00/accession
Testing Out-Of-State Samples	\$7.50/test
<u>Rabies – Preparation and Shipment</u>	
<u>of Head to State Health Department</u>	<u>\$15.00 7.50/sample</u>

Specific Authority 570.07(23), 585.002(4) FS. Law Implemented 585.61(3) History—New 12-25-84, Formerly 5C-13.04, Amended 11-27-88, 5-6-93, 2-21-95, 7-21-99.

NAME OF PERSON ORIGINATING PROPOSED RULE:
Dr. John Crews, Chief, Bureau of Diagnostic Laboratory

NAME OF PERSON OR SUPERVISOR WHO APPROVED
THE PROPOSED RULE: Dr. Leroy Coffman, Director,
Division of Animal Industry

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

DATE NOTICE OF PROPOSED RULE DEVELOPMENT
PUBLISHED IN FAW: November 16, 2001

DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES**Division of Animal Industry**

RULE CHAPTER TITLE: RULE CHAPTER NO.:

Schedule of Fees for Services 5C-24

RULE TITLE: RULE NO.:

Official Certificate of Veterinary
Inspection (OCVI) 5C-24.003

PURPOSE AND EFFECT: The department proposes fee increases for the Official Certificates of Veterinary Inspection forms. The increase in fees is to cover the increased cost to the department to maintain the forms and to perform the inspection services and maintain records of the completed Official Certificates of Veterinary Inspection.

SUMMARY: The proposed changes increase the fee for the Official Certificates of Veterinary Inspection Forms from \$25 per book to \$65 per book.

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

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

SPECIFIC AUTHORITY: 585.002(4),(5), 585.09(2)(a), 585.15, 585.145(2) FS.

LAW IMPLEMENTED: 585.002(5), 585.08(1),(2), 585.145(1),(2),(3), 585.155, 828.29 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: 1:00 p.m., February 6, 2002

PLACE: Room 316, Mayo Building, 407 South Calhoun Street, Tallahassee, FL

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Joe Kight, Assistant Director, Division of Animal Industry, Department of Agriculture and Consumer Services, Room 321, Mayo Building, 407 South Calhoun Street, Tallahassee, FL 32399-0800

THE FULL TEXT OF THE PROPOSED RULE IS:

5C-24.003 Official Certificate of Veterinary Inspection (OCVI).

(1) Horses.

(a) OCVI. The OCVI for horses is the Official Equine Certificate of Veterinary Inspection, DACS 09002 (SN 6001) (10/97).

(b) The fee for the OCVI, DACS 09002 (SN 6001) (10/97) is ~~\$65~~ 25 per book of 25.

(2) Livestock.

(a) The OCVI for cattle, goats, sheep, swine, cervidae, ratites, and other hoofed animals, excluding horses, is the Official Certificate of Veterinary Inspection, DACS 09001 (SN 6000) (1/98).

(b) The fee for the OCVI, DACS 09001 (SN 6000) (1/98) is ~~\$65~~ 25 per book of 25.

(3) Domesticated Fowl.

(a) OCVI. The OCVI for domesticated fowl originating from other than NPIP participating flocks, hatcheries or dealers is the Official Certificate of Veterinary Inspection, DACS 09001 (SN 6000) (1/98).

1. The OCVI, DACS 09001 (SN 6000) (1/98) will be provided to licensed and accredited veterinarians.

2. The fee for the OCVI, DACS 09001 (SN 6000) (1/98) is ~~\$65~~ 25 per book of 25.

(b) NPIP Participating Flocks, Hatcheries, and Dealers. The certification of health status for interstate shipment of flocks, hatcheries, and dealers participating in the NPIP is the Report of Sales of Hatching Eggs, Chicks, and Poults, VS Form 9-3 (08/95).

1. The Report of Sales of Hatching Eggs, Chicks, and Poults, VS Form 9-3 (08/95) will be certified by a Division representative and provided to an NPIP participating flock, hatchery, or dealer.

2. The certification and processing fee for the Report of Sales of Hatching Eggs, Chicks, and Poults, VS Form 9-3 (08/95) is ~~\$50~~ 25 for 25 certified forms.

(c) Official Health Certificate Avian, DACS 09023 (8/95). The Official Health Certificate Avian, DACS 09023 (8/95) is the OCVI for NPIP participating flocks, hatcheries, and dealers which are required by the country or state of destination to provide an OCVI in addition to the Report of Sales of Hatching Eggs, Chicks, and Poults, VS Form 9-3 (08/95).

1. The Official Health Certificate Avian, DACS 09023 (8/95) is certified by a Division veterinarian and is provided to the NPIP participating flock, hatchery or dealer.

2. The fee for the Official Health Certificate Avian, DACS 09023 (8/95) is ~~\$100~~ 35 per 100 certificates.

3. Special Certifications. The fee for individual OCVI including, but not limited to, certificates requiring individual identification numbers of domesticated fowl, vaccination status, or the Florida Department of Agriculture seal, is ~~\$30~~ 15.00 for each certificate.

(4) Dogs, Cats and Other Non-Livestock Species.

(a) OCVI for Interstate Movement. The OCVI for dogs, cats and other non-livestock species, including but not limited to zoo animals and domesticated non-native wildlife, is the Official Certificate of Veterinary Inspection for Interstate Movement of Dogs, Cats, and Other Non-livestock Species, DACS 09086 (SN 6002) (1/98).

(b) OCVI for Sale of Dog or Cat. The OCVI for Sale of Dog or Cat, DACS 09085 (SN 6003) (10/97) must accompany any dog or cat sold, or offered for sale, in the state of Florida.

(c) The fee for the OCVI, DACS 09085 (SN 6003) (10/97) or DACS 09086 (SN 6002) (10/97) is ~~\$65~~ 25 per package of 25.

(5) Forms. The Official Equine Certificate of Veterinary Inspection, DACS 09002 (SN 6001) (10/97); the Official Certificate of Veterinary Inspection, DACS 09001 (SN 6000) (1/98); the Official Certificate of Veterinary Inspection for Interstate Movement of Dogs, Cats, and Other Non-Livestock Species, DACS 09085 (SN 6002) (1/98); the Official Certificate of Veterinary Inspection for Sale of Dog or Cat, DACS 09086 (SN 6003) (10/97); and the Official Health Certificate Avian, DACS 09023 (8/95) are hereby incorporated by reference. Copies may be obtained from the Florida Department of Agriculture and Consumer Services, Division of Animal Industry, 407 South Calhoun Street, Room 323, Mayo Building, Tallahassee, Florida 32399-0800. The Report of Sales of Hatching Eggs, Chicks, and Poults, VS Form 9-3 (08/95) is hereby incorporated by reference. Copies may be obtained from the United States Government Printing Office, Superintendent of Documents, Mail Stop SSOP, Washington, DC 20402-9328.

Specific Authority 585.002(4),(5), 585.09(2)(a), 585.15, 585.145(2) FS. Law Implemented 585.002(5), 585.08(1),(2), 585.145(1),(2),(3), 585.155, 828.29 FS. History—New 7-13-99, Amended.

NAME OF PERSON ORIGINATING PROPOSED RULE:
Joe Kight, Assistant Director, Division of Animal Industry

NAME OF PERSON OR SUPERVISOR WHO APPROVED THE PROPOSED RULE: Dr. Leroy M. Coffman, Director, Division of Animal Industry

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: November 28, 2001

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: December 7, 2001

DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES

Division of Agricultural Environmental Services

RULE CHAPTER TITLE: Pesticides

RULE CHAPTER NO.: 5E-2

RULE TITLE: Restrictions on Use and Sale of Aldicarb;

RULE NO.: 5E-2.028

Permit Requirements and Procedures;

Department Approval; Records; Penalties

PURPOSE AND EFFECT: The purpose of the proposed rule change is to update procedures for obtaining approval to apply aldicarb (Temik) in Florida, making available an electronic filing process and deleting the need for applicators to file amendments. The rule change will also update forms and addresses and change the name of the process from a notification of intent to apply aldicarb to an aldicarb permitting process.

SUMMARY: The proposed rule updates procedures for obtaining approval to apply aldicarb (Temik) in Florida, making available an electronic filing process and deleting the need for applicators to file amendments.

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

SPECIFIC AUTHORITY: 487.051, 570.07(23) FS.

LAW IMPLEMENTED: 487.051 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: 9:30 a.m., February 25, 2002

PLACE: Agricultural Environmental Services Conference Room, 3125 Conner Blvd., Tallahassee, Florida 32399-1650

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Dale Dubberly, Chief, Bureau of Compliance Monitoring, Department of Agriculture and Consumer Services, 3125 Conner Blvd., Building 8 (L29), Tallahassee, Florida 32399-1650; telephone (850)488-8731

THE FULL TEXT OF THE PROPOSED RULE IS:

5E-2.028 Restrictions on Use and Sale of Aldicarb; Permit Reporting Requirements and Procedures; Department Approval; Records; Penalties.

(1) Use and Sale Restrictions. The use of aldicarb in accordance with label directions is authorized statewide, with the following ~~additional~~ restrictions:

(a) Aldicarb shall be applied only during the time period for which written authorization is issued by the department by means of an aldicarb permit.

(b) Aldicarb shall be applied only at the site for which written authorization is issued by the department by means of an aldicarb permit.

(c) No change.

(d) Aldicarb shall not be applied within 300 feet of any well in this state, with the exception of wells that meet the provisions of subsection (1)(e). Aldicarb shall not be used on Florida citrus within 1000 feet of any well when any soil series within the intended site of application is identified by the U.S.D.A. Soil Conservation Service as highly permeable well-drained sand, unless the applicator furnishes the department with construction documentation confirming that the well is properly cased to a depth of 100 feet below ground surface or a minimum of 30 feet below the water table. The 1000-foot setback requirement shall not apply to any wells that meet the provisions of subsection (1)(e). Soils series which have been identified by the U.S.D.A. Soil Conservation Service as highly permeable well-drained sand include, but are not limited to, the following:

Adamsville

Archbold

Astatula

Candler

Cassia

Lake

Neilhurst

Orsino

Palm Beach

Paola

Satellite

St. Lucie

Tavares

Well construction documentation shall consist of either a copy of the well completion report construction permit issued by the appropriate water management district or a statement certified as to accuracy by a licensed well contractor.

(e) through (i) No change.

(2) Reporting Requirements and Procedures.

(a) At least 10 days prior to applying aldicarb in this state, the licensed applicator shall obtain a permit to apply aldicarb in Florida. Permits may be obtained by filing an application for permit with the department and meeting all permit requirements. file the original and 3 copies of a Notice of Intended Application of Aldicarb, Form DACS-130317, revised 9/97, hereby adopted and incorporated herein by reference Applications shall be filed either electronically on the web site www.temikintent.com or in hard copy by delivery of a completed Application for Permit to Apply Aldicarb (Temik), Form DACS-13317, Rev. 1/02, to the address listed on the form. For the purposes of this rule, filing means received by the department. Copies of the form may be obtained from the Pesticide Certification Office, 3125 Conner Boulevard, Tallahassee, Florida 32399-1650.

(b) Licensed applicators conducting research with aldicarb and making application to no more than 10 acres per site shall be exempt from the 10-day pre-application ~~notification~~ requirement, provided ~~that~~ a signed statement attesting the application is for research purposes is filed with the permit application Form DACS-130317 and provided a permit is obtained before the application is made.

~~(c)(b)~~ Each intended application site shall be listed as a separate entry on the permit application or on a separate form. Application sites situated in more than one township, range, and/or section must be submitted as multiple sites, with each site identified as one entry with a distinct township, range, and section. For purposes of this rule, contiguous parcels of property lying within more than one section of a township may be identified as a single entry, using the section number in which the larger portion of the property is located.

(d) Form DACS-13317, Application for Permit to Apply Aldicarb (Temik), revised 1/02, hereby adopted and incorporated by reference, may be obtained from the Pesticide Certification Section, Florida Department of Agriculture and Consumer Services, 3125 Conner Boulevard, Building 8 (L29), Tallahassee, Florida 32399; telephone (850)488-3314.

~~(e) A separate Form DACS-130317 shall be filed for each intended application site under different ownership or management from other reported application sites.~~

(3) Amendments to Notice of Intended Application:

(a) When there is a change in the licensed applicator for a particular site, the original applicator shall file an original and 3 copies of Form DACS-130309, revised 9/97, hereby adopted and incorporated herein by reference, canceling the original notice of application for that site. The newly designated applicator shall also file an original and 3 copies of Form

~~DACS-130309. Copies of Form DACS-130309 may be obtained from the Pesticide Certification Office, 3125 Conner Boulevard, Tallahassee, Florida 32399-1650. The department shall not issue authorization to the newly designated applicator until all the requirements of this chapter and chapter 5E-9, F.A.C., have been met.~~

~~(b) The applicator shall file an original and 3 copies of Form DACS-130309 when the intended application of aldicarb is cancelled for any site. The form shall be filed no later than 30 days after the intended application period. In this event, the applicator shall not apply aldicarb to that site unless further written authorization is issued by the department.~~

~~(c) If any information other than that described in paragraphs (a) and (b) of this subsection submitted to the department on Forms DACS-130317 or DACS-130309 shall change, the applicator shall file an original and 3 copies of Form DACS-130309 reflecting the corrected information no later than 30 days after the authorized application period.~~

(3)(4) Department Authorization; Permit.

(a) No person shall apply aldicarb in this state unless written or electronic authorization has been issued by the department by means of an aldicarb permit.

(b) No person shall apply aldicarb in this state to any site for at least 10 days after an aldicarb permit has been approved DACS-130317 has been filed for that site. This subsection shall not apply to licensed applicators who apply aldicarb for research purposes to 10 acres or less per site and who otherwise meet the requirements set forth in this chapter.

(c) The department shall designate on the permit application Form DACS-130317 the dates during which aldicarb is approved for application in this state. The time period authorized for application shall not exceed six (6) months.

(d) Department authorization is not transferable.

~~(e) For purposes of this section, filing means received by the department.~~

(4)(5) Records. Each applicator shall maintain a copy of all aldicarb permits approved by forms filed with the department for by that applicator, including all attachments, for a minimum of 2 years. These records shall be made available upon request by an authorized representative of the department. For permit approvals issued to the applicator via the web site www.temikintent.com, upon request by an authorized representative of the department, the applicator must either provide a printed copy of the permit information from the web site or make the permit information available by computer screen for review and printing by the department representative.

(5)(6) Penalties. The use, sale, distribution or application of aldicarb by any person in a manner inconsistent with the provisions of this rule is a violation of Chapter 487, F.S., and subject to the penalties described therein.

Specific Authority 487.042, 487.051, 570.07(23) FS. Law Implemented 487.051, 487.160 FS. History--New 1-1-84, Amended 4-8-84, 5-8-85, Formerly 5E-2.28, Amended 2-9-93, 7-18-95, 9-21-98, _____.

NAME OF PERSON ORIGINATING PROPOSED RULE:
Dale Dubberly, Chief, Bureau of Compliance Monitoring,
Division of Agricultural Environmental Services, 3125 Conner
Blvd. Tallahassee, Florida 32399-1650

NAME OF SUPERVISOR OR PERSON WHO APPROVED
THE PROPOSED RULE: Steven J. Rutz, Director, Division of
Agricultural Environmental Services, 3125 Conner Blvd,
Tallahassee, Florida 32399-1650

DATE PROPOSED RULE APPROVED BY AGENCY
HEAD: December 18, 2001

DATE NOTICE PROPOSED RULE DEVELOPMENT
PUBLISHED IN FAW: December 28, 2001

DEPARTMENT OF CORRECTIONS

RULE TITLES:

RULE TITLES:	RULE NOS.:
Inmate Visiting – Definitions	33-601.713
Inmate Visiting – General	33-601.714
Visiting Application Initiation Process	33-601.715
Visiting Denial	33-601.717
Visiting by Former and Current Department and Contract Employees	33-601.719
Visiting Operations	33-601.721
Visiting Check-In Procedures	33-601.723
Permissible Items for Visitors	33-601.725
Visitor Searches	33-601.726
Visitor Conduct	33-601.727
Denial or Termination of Visits	33-601.729
Visiting Check-Out Procedures	33-601.730
Revocation or Suspension of Visiting Privileges	33-601.731
Reinstatement of Revoked or Suspended Visiting Privileges	33-601.732
Visiting – Special Status Inmates	33-601.733
Visiting – Disciplinary Confinement, Protective Management and Administrative Confinement	33-601.734
Special Visits	33-601.736

PURPOSE AND EFFECT: The purpose and effect of the proposed rules is to: clarify definitions relating to inmate visiting; clarify provisions relating to denial or termination of visits; add provisions concerning relating to falsification of required documentation; clarify responsibilities of central visitation authority staff; and to delete unnecessary language.

SUMMARY: The proposed rules clarify definitions relating to inmate visiting; clarify provisions relating to denial or termination of visits; add provisions concerning relating to falsification of required documentation; clarify responsibilities of central visitation authority staff; and delete unnecessary language from the rules.

SUMMARY OF STATEMENT OF ESTIMATED
REGULATORY COST: None.

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

SPECIFIC AUTHORITY: 20.315, 944.09, 944.23 FS.

LAW IMPLEMENTED: 944.09, 944.23 FS.

IF REQUESTED WITHIN 21 DAYS OF THE DATE OF THIS NOTICE, A HEARING WILL BE SCHEDULED AND ANNOUNCED IN THE FAW.

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULES IS: Perri King Dale, Office of the General Counsel, Department of Corrections, 2601 Blair Stone Road, Tallahassee, Florida 32399-2500

THE FULL TEXT OF THE PROPOSED RULES IS:

33-601.713 Inmate Visiting – Definitions.

(1) No change.

(2) “Automated Visiting Record (AVR)” refers to a computer subsystem of the Offender Based Information System (OBIS) that automates visitor facility entry and exit and records visiting information.

(3) through (10) No change.

(11) “Approved Visitor” refers to any person who is approved by the CVA to visit an inmate and whose approval is documented in the automated inmate visiting record.

(12) through (18) No change.

Specific Authority 20.315, 944.09, 944.23 FS. Law Implemented 944.09, 944.23 FS. History--New 11-18-01, Amended _____.

33-601.714 Inmate Visiting – General.

(1) through (2) No change.

(3) The warden, assistant warden, or duty warden is authorized to deny or terminate a visit if any of its aspects are disruptive or violate rules, procedures, instructions, restrictions, orders, or directions. Any disruption or violation shall be entered on the AVR and shall subject the visitor to revocation or suspension of visiting privileges by the CVA and the inmate to disciplinary action.

(4) through (6) No change.

~~(7) Visitors whose visiting privileges have been denied, suspended or revoked shall be allowed to appeal in writing within 60 days of the date of the notice of denial, suspension or revocation to the Office of the Family Ombudsman for review. The Office of the Family Ombudsman shall review the denial, suspension or revocation of the visitor’s visiting privileges and respond to the visitor in writing within 60 days of the receipt of the appeal. The Office of the Family Ombudsman shall have the authority to recommend modification of the denial, suspension or revocation to the CVA.~~

Specific Authority 20.315, 944.09, 944.23 FS. Law Implemented 944.09, 944.23 FS. History--New 11-18-01, Formerly 33-601.708, Amended _____.

33-601.715 Visiting Application Initiation Process.

(1) through (2) No change.

(3) The CVA shall conduct criminal history background checks on ~~all~~ applicants requesting visiting privileges if information on the application indicates that it is prudent to do so.

(4) No change.

Specific Authority 20.315, 944.09, 944.23 FS. Law Implemented 944.09, 944.23 FS. History--New 11-18-01, Formerly 33-601.706, 33-601.708, Amended.

33-601.717 Visiting Denial.

(1) through (4) No change.

(5) Any person shall be subject to denial of permission to visit based upon the following criteria:

(a) through (e) No change.

(f) Either the inmate or prospective visitor gave false or misleading information to obtain visiting privileges with in the past six months five years; discovery of falsification of visitor information after the visitor has been approved for visitation shall result in the visitor being considered for suspension of visiting privileges pursuant to paragraph 33-601.731(9)(d), F.A.C.

(g) through (l) No change.

(6) No change.

Specific Authority 20.315, 944.09, 944.23 FS. Law Implemented 944.09, 944.23 FS. History--New 11-18-01, Formerly 33-601.706, 33-601.707, Amended.

33-601.719 Visiting by Former and Current Department and Contract Employees.

(1) Former Department and Contract Employees. The CVA shall consider approving former department employees and former employees of a contractor who was under contract with the department for visiting privileges under the following circumstances:

(a) No change.

(b) During employment the applicant did not have a documented incident of any of the following:

1. through 2. No change.

3. A personal or business relationship with an offender. A personal or business relationship is any that goes beyond what is necessary for the performance of one's job.

4. through 5. No change.

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

Specific Authority 20.315, 944.09, 944.23 FS. Law Implemented 944.09, 944.23 FS. History--New 11-18-01, Formerly 33-601.706, Amended.

33-601.721 Visiting Operations.

(1) through (4) No change.

(5) Inmates shall be required to conduct visits in a separately designated visiting area as determined by the warden, ~~assistant warden~~, or duty warden when visiting in the regular visiting area poses a threat to security, safety, or good order of the institution or any person.

(6) through (11) No change.

Specific Authority 20.315, 944.09, 944.23 FS. Law Implemented 944.09, 944.23 FS. History--New 11-18-01, Formerly 33-601.708, Amended.

33-601.723 Visiting Check-In Procedures.

(1) through (3) No change.

(4) All visitors ~~sixteen~~ twelve years of age or older must present a valid form of picture identification for visiting registration. Acceptable forms of identification are identification cards that contain a photograph, current address, and date of birth and physical characteristics of the individual. Signatures are not required if the identification otherwise complies with all other standards of proper identification.

(5) A visitor seventeen years old or younger who cannot furnish proof of emancipation must be accompanied during a visit by an approved parent, legal guardian, or authorized adult and must remain under the supervision of that adult at all times. An authorized non-parental adult accompanying a visiting minor must provide a notarized document of guardianship from the parent or legal guardian (not an inmate) granting permission for the minor to visit a specifically identified inmate. The document shall be notarized by someone other than the non-parental adult accompanying the minor and shall be updated every six months from the date of issue. Falsification of a document of guardianship shall result in the person being subject to suspension of visiting privileges pursuant to paragraph 33-601.731(9)(d), F.A.C.

~~(6) Upon completion of visitor registration, the approved visitors shall exchange his or her valid identification for a numbered visitor's badge.~~

~~(a) Visitors shall not exchange the issued numbered badge with any non-Department of Corrections personnel.~~

~~(b) An ultra-violet hand stamp will be used as a secondary method of visitor verification. The stamp will be applied and viewed at registration.~~

~~(6)(7)~~ Should a visitor find it necessary to leave the visiting park prior to completion of the visit, the visitor shall not depart until institutional staff have verified the identity of the visitor and the presence and location of the inmate being visited. The visitor will not be allowed reentry unless approved by the shift supervisor or the duty warden. If reentry is approved, the visitor will proceed through the automated visiting record check-in procedure as required in this rule.

Specific Authority 20.315, 944.09, 944.23 FS. Law Implemented 944.09, 944.23 FS. History--New 11-18-01, Formerly 33-601.708, Amended.

33-601.725 Permissible Items for Visitors.

(1) Visitors shall be allowed to bring only authorized items listed into any department facility. Entry shall be denied if the visitor attempts to enter the institution or facility while possessing any unauthorized item or any authorized item in more than the approved amounts. Authorized items include:

(a) through (c) No change.

~~(d) One numbered visitor's badge;~~

~~(d)(e)~~ Prescription medications. The department reserves the right to prohibit individuals from bringing any medication into the facility that may pose a threat to the inmate population or institutional security. Visitor requiring medical injections must leave such items secured in their vehicles and will be allowed to depart the visiting area if an injection is required. Reentry into the visiting area shall be allowed in accordance with Rule 33-601.723(6)(7), F.A.C. The visitor shall not be allowed to bring needles or syringes into any department facility or dispose of them on the grounds of any department institution or facility under any circumstances.

1. through 3. No change.

(f) through (i) renumbered (e) through (h) No change.

(2) No change.

Specific Authority 20.315, 944.09, 944.23 FS. Law Implemented 944.09, 944.23 FS. History--New 11-18-01, Amended.

33-601.726 Visitor Searches.

(1) through (2) No change.

(3) The visitor shall be instructed to sign an Unclothed Body Search Consent, Form DC1-803, if specific factual reasons support the suspicion that contraband is concealed on a visitor's person, and this suspicion is not resolved by a less intrusive search. The parent, legal guardian, or authorized adult shall sign the consent form if a minor is to be searched. Form DC1-803 is incorporated by reference in Rule 33-601.737, F.A.C.

(a) The warden, ~~assistant warden~~, or duty warden must approve strip searches. Approval shall be given only after careful evaluation of the asserted factual grounds that justify the search. The visit shall be denied if the visitor refuses to give written consent to the strip search.

(b) through (5) No change.

Specific Authority 20.315, 944.09, 944.23 FS. Law Implemented 944.09, 944.23 FS. History--New 11-18-01, Formerly 33-601.708, Amended.

33-601.727 Visitor Conduct.

(1) Visitors must conduct themselves in accordance with the following requirements while on department property.

(a) No change.

(b) Visitors are prohibited from using cameras on department property ~~without the express consent of the warden. The warden is authorized to approve camera use on a case-by-case basis when the warden determines that it would not be detrimental to the security and order of the institution.~~

~~1. Visitors shall not photograph any part of the institution's physical structure, buildings, fences, staff, visitors, or inmates.~~

~~2. Areas in which the general public is prohibited from taking photographs shall be clearly posted and identified in the institution's visitor information.~~

(c) through (i) No change.

(j) Visitors shall not give to or receive from the inmate any item of any description nor take any article whatsoever from the visiting area or grounds of the institution unless authorization is first obtained from the warden, ~~assistant warden~~, or duty warden. The only exceptions are food and beverage items purchased by visitors from vending machines or canteens and photographs purchased through the inmate photo project. The visitor may pass the food or beverage only to the inmate he or she is visiting. The visitor shall not give cash or currency directly to an inmate.

(k) No change.

(2) No change.

Specific Authority 20.315, 944.09, 944.23 FS. Law Implemented 944.09, 944.23 FS. History--New 11-18-01, Formerly 33-601.708, Amended.

33-601.729 Denial or Termination of Visits.

(1) A warden, ~~assistant warden~~, or duty warden shall be authorized to deny or terminate a visit for the following reasons:

(a) through (m) No change.

(2) Before considering denial or termination of a visit in progress due to violation of or failure to comply with any establish rule or procedure, the warden, ~~assistant warden~~ or duty warden shall first attempt less severe alternatives if the violation does not pose an immediate threat to the security and order of the institution, including verbal warnings to the inmate and visitor about improper conduct. If the visit is denied or terminated, the visitor shall be interviewed and a statement recorded by staff prior to exiting the institution if the situation does not pose an immediate threat to the security and order of the institution.

(3) Reconsideration for Visitation.

(a) A visitor denied visiting by the warden, ~~assistant warden~~, or duty warden shall be permitted to ask the CVA to mediate the matter, using local or institutional telephone access for this purpose. The CVA employee will either inform the visitor of his or her agreement with the decision of the duty warden or shall contact the facility on behalf of the visitor. The final decision shall rest with the warden, assistant warden, or duty warden.

(b) No change.

(4) The warden, ~~assistant warden~~ or duty warden shall ensure that the inmate is notified of the denial of his or her visitor's admission and the reasons as soon as the inmate can be located. Comments regarding the incident shall be made on the AVR system.

Specific Authority 20.315, 944.09, 944.23 FS. Law Implemented 944.09, 944.23 FS. History–New 11-18-01, Formerly 33-601.705, 33-601.707, Amended.

33-601.730 Visiting Check-Out Procedures.

(1) through (2) No change.

~~(3) Upon departure from the visiting park, each visitor shall be verified by visitor badge number and shall then proceed to the visitor registration area.~~

~~(4) At the registration area, each visitor shall turn in his or her numbered badge to the officer. The officer shall verify the identity of the visitor by physically comparing the picture identification. The picture identification will be returned to the visitor.~~

~~(5) Additional verification shall be obtained by viewing the ultra-violent stamp on the visitor's hand.~~

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

Specific Authority 20.315, 944.09, 944.23 FS. Law Implemented 944.09, 944.23 FS. History–New 11-18-01, Amended.

33-601.731 Revocation or Suspension of Visiting Privileges.

(1) through (8) No change.

(9) Suspension of Visitor's Visiting Privileges.

(a) No change.

(b) A visitor's visiting privileges shall be revoked by the CVA when the visitor:

1. through 5. No change.

6. Evidences intent to harm to staff, inmates or visitors.

(c) Visiting privileges shall be suspended by the CVA for up to two years when the visitor:

1. through 4. No change.

~~5. Evidences intent to do harm to a staff member, visitor or inmate.~~

5.6. No change.

(d) Visitors found in violation of paragraph Rule 33-601.717(5)(f), F.A.C. – falsifying information to obtain visiting privileges, subsections 33-601.723(3) and (5), F.A.C., falsifying information at visitor registration and falsifying documents of guardianship, subsection Rule 33-701.724(9), F.A.C. – visitor attire, Rule 33-601.726, F.A.C. – visitor searches, or visitor conduct standards as outlined in paragraphs Rule 33-601.727(1)(a)-(h), F.A.C., shall have visiting privileges suspended by the CVA supervisor for up to one year.

(10) The warden shall have the discretion to recommend to the CVA supervisor a length of suspension less than the maximum allowed by rule by considering the type of violation, the impact of the violation on the overall security or safety of the institution, and prior visits without incident. The warden shall set forth the justification for the length of suspension, if less than the maximum, in the recommendation to the CVA supervisor.

Specific Authority 20.315, 944.09, 944.23 FS. Law Implemented 944.09, 944.23 FS. History–New 11-18-01, Formerly 33-601.707, 33-601.708, Amended.

33-601.732 Reinstatement of Revoked or Suspended Visiting Privileges.

(1) No change.

(2) The CVA supervisor shall approve or deny requests for reinstatement of a visitor's revoked or suspended visiting privilege. The visitor, or inmate on behalf of the affected visitor, shall submit a written request for reinstatement of privileges to the CVA supervisor. The visitor for whom the reinstatement is being considered shall submit a Request for Visiting Privileges, Form DC6-111A, if the suspension has been for longer than six months.

(a) through (c) No change.

Specific Authority 20.315, 944.09, 944.23 FS. Law Implemented 944.09, 944.23 FS. History–New 11-18-01, Amended.

33-601.733 Visiting – Special Status Inmates.

(1) No change.

(a) During initial reception periods, inmates awaiting transfer to their initial permanent facility shall not be permitted visits. The warden, ~~assistant warden~~ or duty warden has authority to grant exceptions if the inmate remains at the reception center more than 45 days and the CVA has approved the visitors.

(b) through (5) No change.

(6) An inmate in close management shall be allowed to receive visits from approved visitors in accordance with Rule 33-601.800 ~~33-601.803~~, F.A.C.

Specific Authority 20.315, 944.09, 944.23 FS. Law Implemented 944.09, 944.23 FS. History–New 11-18-01, Formerly 33-601.704, Amended.

33-601.734 Visiting – Disciplinary Confinement, Protective Management and Administrative Confinement Inmates.

(1) Disciplinary confinement inmates shall not be permitted visits other than legal visits unless exceptions are made by the warden, ~~assistant warden~~ or duty warden for emergencies.

(2) Protective Management. Inmates shall have a minimum of two hours a week for visiting under the following conditions:

(a) No change.

(b) If a separate facility is not available, the warden, ~~assistant warden~~ or duty warden shall schedule visiting at a time or day different than that for general population inmates.

(c) The warden, ~~assistant warden~~ or duty warden is authorized to limit or deny the visit based upon the degree of threat to the inmate. The warden, assistant warden or duty warden shall determine whether the visit shall be contact or non-contact.

(d) No change.

(3) Administrative Confinement.

(a) Inmates in administrative confinement shall be permitted visits with the approval of the warden, ~~assistant warden~~ or duty warden based on the best interest of all concerned.

(b) No change.

(c) The warden, ~~assistant warden~~ or duty warden shall determine if non-contact visits are appropriate for inmates in administrative confinement status.

(d) No change.

Specific Authority 20.315, 944.09, 944.23 FS. Law Implemented 944.09, 944.23 FS. History—New 11-18-01, Formerly 33-601.709, Amended

33-601.736 Special Visits.

(1) The warden, ~~assistant warden~~, or duty warden is authorized to approve special visits, impose special conditions for visiting outside of the regular visiting schedule, and to make exceptions to the number of visitors allowed.

(2) through (3) No change.

(4) Requests for a special visit shall be made by the inmate on the Inmate Request, Form DC6-236 or in writing or by phone by an individual requesting a special visit. The request shall be submitted no less than five workdays in advance of the requested visit. The warden, ~~assistant warden~~ or duty warden shall approve or deny the request by the next working day after receipt. If it can be conclusively established that circumstances prevented the visitor from requesting a special visit within the five-day period, the warden, ~~assistant warden~~, or duty warden shall consider the request for a special visit. The inmate shall be responsible for notifying individuals approved for a special visit.

(5) A visitor who has been denied a special visit by the warden, ~~assistant warden~~ or duty warden may request that the CVA mediate on his or her behalf. A local or institution telephone shall be used for this purpose if the visitor is on institutional property. The CVA shall either advise the visitor that the warden's, assistant warden's or duty warden's decision is appropriate or speak to the denying authority on behalf of the visitor. However, the final decision will rest with the approving authority.

Specific Authority 20.315, 944.09, 944.23 FS. Law Implemented 944.09, 944.23 FS. History—New 11-18-01, Amended

NAME OF PERSON ORIGINATING PROPOSED RULE:
Jerry Vaughan

NAME OF SUPERVISOR OR PERSON WHO APPROVED
THE PROPOSED RULE: Michael W. Moore

DATE PROPOSED RULE APPROVED BY AGENCY
HEAD: January 2, 2002

DATE NOTICE OF PROPOSED RULE DEVELOPMENT
PUBLISHED IN FAW: November 21, 2001

DEPARTMENT OF MANAGEMENT SERVICES

Agency for Workforce Innovation

RULE CHAPTER TITLE:	RULE CHAPTER NO.:
Title	60BB-1
RULE TITLES:	RULE NOS.:
Definitions	60BB-1.001
Filing Grievances and Complaints	60BB-1.002
WIA, WT and WtW Hearing and Appeals Chart	60BB-1.003
Process for Filing Grievances and Complaints with RWBs	60BB-1.004
Grievance and Complaint Hearing Process at RWB Level.	60BB-1.005
The Appeal of RWB Decisions or Lack of Action	60BB-1.006
Appeal and Review of RWB Decisions by the State	60BB-1.007
State Level Original Grievance and Complaint and Hearing Process for WIA, WT and WtW Programs	60BB-1.008
Remedies	60BB-1.009
Judicial Appeal of a Final State Agency Decision	60BB-1.010
Special Review of Final State Agency Decisions	60BB-1.011
Federal Level Appeal Process	60BB-1.012
Complaint Procedures Related to Wagner-Peyser Job Service Activities	60BB-1.013
Regional Workforce Board/One-Stop JS and MSFW Complaint and Resolution Procedures	60BB-1.014
Reporting Criminal Fraud and Abuse, Discrimination, Health and Safety, and Employment Complaints and Violations	60BB-1.015
Reporting WIA, WT, WtW, and Wagner-Peyser Discrimination Complaints	60BB-1.016
Contact Entities for Discrimination, Employment, Health and Safety, or Florida Law Violations and Complaints	60BB-1.017
Other Legal Rights	60BB-1.018
PURPOSE, EFFECT AND SUMMARY: Chapter Law 2000-165, Sections 4(5) and 11(4)(a) transferred the functions of the federally funded employment and training programs from the Department of Labor and Employment Security to the Agency for Workforce Innovation (AWI). The federally funded Workforce Investment Act (WIA), Welfare Transition (WT)/TANF Program, and the Welfare-to-Work (WtW) Grant Program require the State, the local areas, and direct recipient of program funds to establish and maintain grievance, complaint, hearing and appeal procedures for handling program related complaints. The purpose of this rule is to promulgate those requirements.	

SPECIFIC AUTHORITY: 20.05(1)(e), 20.50,120.54(6) FS.

LAW IMPLEMENTED: Chapter 443, 120.54(2), 120.569, 120.57, 445.002(1)(4), 445.004(1),(2),(3),(5), 445.006, 445.024, 445.028, 445.031 FS., Federal Laws: 29 USCA 2801 et seq. Workforce Investment Act (WIA); 47 USCA 601-619, Temporary Assistance for Needy Families (TANF).

THIS RULEMAKING IS UNDERTAKEN PURSUANT TO SECTION 120.54(6), FLORIDA STATUTES.

WRITTEN COMMENTS MAY BE SUBMITTED WITHIN 14 DAYS OF THE DATE OF THIS NOTICE TO: Michelle M. Austin, General, Agency for Workforce Innovation, 1320 Executive Center Drive, Suite 300, Tallahassee, FL 32399-2250

SUBSTANTIALLY AFFECTED PERSONS MAY WITHIN 14 DAYS OF THE DATE OF THIS NOTICE, FILE AN OBJECTION TO THIS RULEMAKING WITH THE AGENCY. THE OBJECTION SHALL SPECIFY THE PORTIONS OF THE PROPOSED RULE TO WHICH THE PERSON OBJECTS AND THE SPECIFIC REASONS FOR THE OBJECTION.

THE FULL TEXT OF THE PROPOSED RULES IS:

CHAPTER 60BB-1

WORKFORCE PROGRAMS' GRIEVANCE, COMPLAINT, HEARING AND APPEAL PROCEDURES

60BB-1.001 Definitions.

Terms are used herein as defined in the referenced substantive laws and regulations. In addition, the following definitions shall apply:

(1) One-Stop is a term used to describe the federal workforce strategy that is the backbone of the Workforce Investment Act. The foundation of the concept is that all service needed to assist people in obtaining gainful employment will be offered at one location.

(2) Party means any person whose substantial interest is being determined in the proceeding, or any other person, entity or public body entitled to and makes an appearance in the proceeding, pursuant to Temporary Assistance for Needy Families statute, Workforce Investment Act or Chapter 120, Florida Statutes.

(3) Temporary Assistance for Needy Families (TANF), as codified at 42 United States Code (USC) §§601-617, is the federal program under which benefits are provided to needy families pursuant to the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (PRWORA), Public Law 104-193. The work activity and training and support services component of TANF is administered by Workforce Florida, Inc. and the Agency for Workforce Innovation, pursuant to chapter 445, Florida Statutes.

(4) Wagner-Peyser Act is the federally funded nationwide employment program, as codified at Title 29 USC, §§ 49 et seq.

(5) Welfare-to-Work (WtW) is a federally funded program, encompassed within TANF, which provides transitional assistance to assist public assistance recipients and other eligible persons move into unsubsidized employment and economic self-sufficiency. The legislation creating and funding the program is found at 42 USC § 603.

(6) Welfare Transition (WT) is an initiative of the State of Florida encompassed with the Florida Workforce Innovation Act, Senate Bill 2050, effective October 1, 2000. This program substantially redefined Florida's welfare delivery system by replacing the former WAGES program with the Welfare Transition (WT) program. This legislation also consolidated and streamlined the state workforce and welfare support services programs under one board, Workforce Florida, Inc. (WFI) and created the Agency for Workforce Innovation (AWI). The WT program is TANF funded.

(7) Welfare Transition Services are those workforce services provided to current or former recipients of temporary cash assistance under chapter 414. The transitional benefits and services are more particularly identified in Sections 445.028 through 445.032, Florida Statutes.

(8) Workforce Investment Act (WIA) is the federal legislation that contains the framework for the national employment and training strategy, Public law 105-220, codified at Title 29 United States Code, §§2801 et seq.

Specific Authority 20.50, 120.54(6), 445.003(4) FS. Law Implemented 120.54(6), 445.023, 445.025, 445.028, 445.029, 445.030, 445.031, 445.032 FS. History—New

60BB-1.002 Filing Grievances and Complaints.

(1) This rule shall apply to the filing of grievances related to the Wagner-Peyser (WP), Welfare-to-Work (WtW), Welfare Transition (WT), and WIA programs, except that grievances alleging discrimination, employment, and health and safety violations shall be filed or mailed directly to the appropriate federal agency as allowed by federal regulation. The addresses of the federal agencies are found in rule 60BB-1.017. A copy of the complaint or alleged violation report shall also be mailed to the Agency for Workforce Innovation (AWI), Office of General Counsel, 1320 Executive Center Drive, 300 Atkins Building, Tallahassee, Florida 32399-2250. Alternatively, the original complaint may be filed with AWI at the foregoing address. Upon receipt, AWI shall forward the complaint to the proper federal agency. Notwithstanding the foregoing, WtW participants in work activities may file grievances regarding health and safety violations and gender discrimination complaints, with the appropriate RWB or AWI. Such WtW grievances will be processed in accordance with the RWB or state procedure.

(2) Any participant or other interested party adversely affected by a decision or action within the local workforce system, including decisions by One-Stop partners and service providers, has the right to file a grievance and complaint with the regional workforce board (RWB).

(3) TANF cash assistance eligibility or benefit entitlement grievances and complaints shall be filed with the local Department of Children and Families (DCF) office, the state responsible for administration of the cash assistance part of TANF, as prescribed in 20 CFR 662.280.

(4) Grievances and complaints shall be filed at the State level only when based upon actions or decisions made by AWI, the State recipient and administrative entity. Any grievance and complaint filed with an inappropriate entity will be forwarded to the proper entity or agency for action. The sixty (60) day timeframe to handle the grievance will start upon receipt of grievance and complaint.

(5) A grievance or complaint may be filed by regular employees regarding displacement by a WIA, WT, or WtW program participant and by program participants regarding displacement. Displacement action prohibitions and available relief specifications are described in WIA at 20 CFR 667.279, in TANF at 45 CFR 261.270, and in WtW at 20 CFR 645.265.

(6) All local workforce grievances and complaints shall be filed with the relevant RWBs using their established procedures. The exception to this is the Job Corps grievances that are processed according to requirements of 20 CFR 670.990.

(7) DCF has assigned to WFI and AWI the responsibility for providing a grievance process for TANF participants when filing grievances related to the delivery of support services and benefits, including transitional benefits, that are related to work activities and are delivered within the context of the Workforce Innovation Act.

Specific Authority 20.50, 120.54(6), 445.003(4) FS. Law Implemented 120.54(6), 445.023, 445.025, 445.028, 445.029, 445.030, 445.031, 445.032 FS. History—New _____.

60BB-1.003 WIA, WT and WtW Hearing and Appeals Chart.

The terms “complaint” and “grievance” are used interchangeably. The chart below summarizes and identifies the WIA, WT, and WtW grievances, complaints, and hearing and appeal actions that shall be filed with the regional workforce board, the Agency for Workforce Innovation (AWI), or U.S. Department Of Labor (USDOL), as appropriate according to rule chapter 60BB.

<u>Hearing/Appeal Issue</u>	<u>Local Hearing/ Appeal</u>	<u>State Hearing/ Appeal</u>	<u>Federal Hearing/ Appeal</u>
<u>Denial or termination of Eligibility as a Training provider (WIA)</u>	<u>Yes</u>	<u>Yes</u>	<u>No</u>
<u>Denial of Eligibility as an OJT or Customized Training Provider by a One-Stop operator (WIA)</u>	<u>Yes</u>	<u>Yes</u>	<u>No</u>
<u>RWB Substantial Violation (WIA)</u>	<u>No</u>	<u>Yes</u>	<u>Yes</u>
<u>RWB Performance Failure/ Sanctions (WIA)</u>	<u>No</u>	<u>Yes</u>	<u>Yes</u>
<u>Participant Sanctioned for Using Controlled Substances (WIA)</u>	<u>Yes</u>	<u>Yes</u>	<u>No</u>
<u>WtW Gender Discrimination</u>	<u>Yes</u>	<u>Yes</u>	<u>Yes</u>
<u>WtW Health and Safety Complaint</u>	<u>Yes</u>	<u>Yes</u>	<u>Yes</u>
<u>Displacement of Regular Employee or Program Participant (WIA, WT, WtW)</u>	<u>Yes</u>	<u>Yes</u>	<u>Yes</u>
<u>Sanction for Non-Compliance with Work Activities (WT/TANF)</u>	<u>Yes</u>	<u>Yes</u>	<u>No</u>

Specific Authority 20.50, 120.54(6), 445.003(4) FS. Law Implemented 120.54(6), 445.023, 445.025, 445.028, 445.029, 445.030, 445.031, 445.032 FS. History—New _____.

60BB-1.004 Process for Filing Grievances and Complaints with RWBs.

(1) The WIA, WT and WtW laws and regulations require that the One-Stop partners, service providers, participants, and other interested parties affected by the local Workforce/One-Stop System have the right to file a grievance and complaint.

(2) These grievances and complaints shall be filed at the local level using the procedures established by the individual Regional Workforce Board (RWB).

(3) The RWB shall receive, review, and attempt to informally resolve the initial WIA, WT, and WtW grievance and complaint. If the grievance and complaint cannot be resolved informally, then a hearing shall be held and a decision issued within the required sixty (60) calendar days from receipt of complaint or grievance.

Specific Authority 20.50, 120.54(6), 445.003(4) FS. Law Implemented 120.54(6), 445.023, 445.025, 445.028, 445.029, 445.030, 445.031, 445.032 FS. History—New _____.

60BB-1.005 Grievance and Complaint Hearing Process at RWB Level.

(1) After the RWB has received and reviewed the complaint, the local Workforce Board shall schedule a hearing, and notify the grievant or complainant by certified mail, return receipt, at a minimum of fifteen (15) calendar days prior to the hearing. The hearing notice shall advise the following:

(a) The date, time, and place of the hearing;

(b) The pertinent sections of the WIA, WT and WtW, or any other federal regulations involved;

(c) Affected parties may present witnesses or documentary evidence at the hearing;

(d) Affected parties may be represented at the hearing by an attorney or other representative; and

(e) The RWB shall issue its decision within sixty (60) calendar days from receipt of the grievance or complaint.

(2) The hearing shall be conducted as prescribed in the procedures established by the appropriate RWB. However, a complainant who alleges a labor standard violation has the option to submit the complaint for binding arbitration, if the collective bargaining agreement covers the parties involved.

Specific Authority 20.50, 120.54(6), 445.003(4) FS. Law Implemented 120.54(6), 445.023, 445.025, 445.028, 445.029, 445.030, 445.031, 445.032 FS. History—New

60BB-1.006 The Appeal of RWB Decisions or Lack of Action.

(1) If the RWB has:

(a) conducted a hearing but the grievant or complainant is dissatisfied with or has been adversely affected by the decision;

(b) not conducted a hearing within the sixty (60) calendar days from receipt of the grievance and complaint; or

(c) conducted the hearing but has not issued a decision within the mandated sixty (60) calendar day timeframe, then the grievant or complainant may file an appeal with the Agency for Workforce Innovation (AWI).

(2) The appeal shall be concise and shall not exceed five pages, not including exhibits and attachments, and shall be filed with AWI, Office of General Counsel, 1320 Executive Center Drive, 300 Atkins Building, Tallahassee, Florida 32399-2250.

(3) The appeal request shall state the facts, and identify the laws, procedures and other information, as the grievant or complainant believes to be relevant for review. The appeal must be filed with AWI within thirty (30) calendar days of receipt of the RWB's decision or within thirty (30) calendar days after the required 60 calendar day timeframe for the RWB to act has elapsed.

(4) The request shall specifically identify the grievant's or complainant's address where official notices will be mailed and telephone number where the grievant or complainant can be reached between 7:30 a.m. and 5:30 p.m.

(5) AWI can remand the grievance and complaint back to the RWB to hold a hearing or impose other remedies to resolve the grievance and complaint.

Specific Authority 20.50, 120.54(6), 445.003(4) FS. Law Implemented 120.54(6), 445.023, 445.025, 445.028, 445.029, 445.030, 445.031, 445.032 FS. History—New

60BB-1.007 Appeal and Review of RWB Decisions by the State.

(1) This section applies to appeals of RWB decisions filed with AWI.

(2) Within five (5) working days of receipt of appeal notice, the AWI agency head or his or her designee shall notify each party that an appeal has been filed. Each party shall have fifteen (15) calendar days from the date of the notice to submit written argument and provide supporting documentation. Only unaltered, verbatim transcripts of the original hearing evidence and other proof introduced at the initial hearing will be considered for purposes of the appeal.

(3) Subject to section 57.081, Florida Statutes, the party submitting the transcript, shall bear all expenses of the transcription and deliver a copy of the transcript to the agency head and the opposing party. If a stenographer authorized to administer oaths has not recorded the proceedings and prepared the transcript, an exact copy of the tape recording, video, or other recording must also be delivered to the agency head and the parties, along with the transcript. The party submitting the transcript and the recording must include a certification that the transcript is verbatim and the recording is of the entire proceeding and has not been altered. The agency head will not consider a transcript when the foregoing procedure has not been followed.

(4) A party desiring exemption from the paragraph (3) above, shall file a certification of indigency as prescribed in section 57.081, Florida Statutes. The certification shall be filed with Agency for Workforce Innovation, Agency Clerk, Office of the General Counsel, 1320 Executive Center Circle Drive, Suite 300, Atkins Building, Tallahassee, Florida 32300-0667.

(5) Upon receipt of the certification, the Agency Clerk shall obtain the transcript from the RWB.

(6) Agency decisions shall be issued as follows:

(a) Based upon the review of the record, the agency head or his or her designee shall issue a decision within sixty (60) calendar days of receipt of the request for review.

(b) Except a decision shall be issued within 30 calendar days of receipt of a complaint or grievance related to WtW activities and involves: gender discrimination, as prescribed in 20 CFR 645.255(d); health and safety standards established under State and Federal law that are applicable to similarly employed employees, of the same employer, who are not participants in WtW programs, as prescribed at 20 CFR 645.260; or displacement of WtW participants or regular employees, as prescribed at 20 CFR 645.265.

Specific Authority 20.50, 120.54(6), 445.003(4) FS. Law Implemented 120.54(6), 445.023, 445.025, 445.028, 445.029, 445.030, 445.031, 445.032 FS. History--New

60BB-1.008 State Level Original Grievance and Complaint Hearing Process for WIA, WT and WtW Programs.

(1) Any individual or entity, including the RWB, adversely affected by a decision or action by AWI may file a grievance or complaint. The grievance or complaint shall be filed with Agency for Workforce Innovation, Office of General Counsel, 1320 Executive Center Drive, 300 Atkins Building, Tallahassee, Florida 32399-2250.

(2) At the state level, the agency head or his or her designee is the presiding officer and shall conduct all hearings of original state level complaints.

(3) The agency head of the Agency for Workforce Innovation, or his or her designee, will hear initial complaints or grievances regarding actions taken or decisions made by the state administrative agency. Upon receipt, the state shall review and attempt to informally resolve the WIA, WT, and WtW grievance and complaint. The agency head or his or her designee will review the grievance and complaint and contact the grievant or complainant within five (5) working days of receipt of complaint. The agency head or designee shall contact the parties and proceed with the informal resolution process.

(4) If the grievance or complaint cannot be resolved informally, then the agency head or designee will act as presiding officer and hear the grievance or complaint.

(5) The hearing notice shall be provided at least fifteen (15) calendar days prior to the hearing and shall advise the following:

(a) The date, time, and place of the hearing;

(b) The pertinent sections of the WIA, WT, and WtW, or any other federal regulations involved;

(c) Affected parties may present witnesses or documentary evidence at the hearing;

(d) Affected parties may be represented at the hearing by an attorney or other representative; and

(e) The parties will receive the decision within sixty (60) calendar days from receipt of the grievance or complaint, except as prescribed in rule section (7)(b) below.

(6) The hearing shall be conducted in compliance with model rules contained in Chapter 28-106, Parts I, II, and III, Florida Administrative Code, incorporated herein by reference. A copy of those rules may be obtained from the Agency for Workforce Innovation, Office of General Counsel, 1320 Executive Center Drive, 300 Atkins Building, Tallahassee, Florida 32399-2250.

(7) Hearings shall be scheduled as follows:

(a) Except as provided in (7)(b), the Presiding Officer will schedule a hearing, complete the hearing, and issue a decision within the required sixty (60) calendar days of receipt of complaint or grievance.

(b) A decision shall be issued within 30 calendar days of receipt of a complaint or grievance related to WtW activities and that involves: gender discrimination, as prescribed in 20 CFR 645.255(d); health and safety standards established under State and Federal law that are applicable to similarly employed employees, of the same employer, who are not participants in WtW programs, as prescribed at 20 CFR 645.260; or displacement of WtW participants or regular employees, as prescribed at 20 CFR 645.265.

(8) Individuals with a disability needing special accommodations shall call the State Administrative Entity Process Manager at (850)488-7228, at a minimum of five (5) working days prior to the hearing and indicate what special accommodations are needed in order to participate in the hearing.

Specific Authority 20.50, 120.54(6), 445.003(4) FS. Law Implemented 120.54(6), 445.023, 445.025, 445.028, 445.029, 445.030, 445.031, 445.032 FS. History--New

60BB-1.009 Remedies.

(1)(a) As specified in 42 USCA section 403(a)(5)(I)(iv), the remedies that may be imposed under WtW complaints relating to displacement, health and safety, and gender discrimination shall include:

1. Suspension or termination of payments under the WtW program;

2. Prohibition of placement of participant with an employer that has violated any of the prohibitions against: gender discrimination, as prescribed in 20 CFR 645.255(d); health and safety standards established under State and Federal law which are applicable to similarly employed employees, of the same employer, who are not participants in WtW programs, as prescribed at 20 CFR 645.260; and displacement of other employees, as prescribed at 20 CFR 645.265; and,

3. Where applicable, reinstatement of an employee, payment of lost wages and benefits, and reestablishment of other relevant terms, conditions, and privileges of employment, where applicable; and

4. Where appropriate, other equitable relief.

(b) As specified in 29 USCA section 2931, the remedies that may be imposed under WIA for a violation of any requirement of WIA shall be limited:

1. To suspension or termination of payments under this chapter;

2. To prohibition of placement of a participant with an employer that has violated any requirement under this chapter;

3. Where applicable, to reinstatement of an employee, payment of lost wages and benefits, and reestablishment of other relevant terms, conditions, and privileges of employment; and

4. Where appropriate, to other equitable relief.

(2) Other WIA, WT, and WtW grievance and complaint remedies including other equitable relief to be imposed as appropriate.

Specific Authority 20.50, 120.54(6), 445.003(4) FS. Law Implemented 120.54(6), 445.023, 445.025, 445.028, 445.029, 445.030, 445.031, 445.032 FS. History–New

60BB-1.010 Judicial Appeal of a Final State Agency Decision.

(1) A grievant or complainant may appeal a final order issued by AWI, if the grievant or complainant is dissatisfied with or has been adversely affected by the final decision.

(2) A judicial appeal must be filed within thirty (30) calendar days of the rendition the state's decision. The final order issued by AWI shall be dated on the day it is mailed. The period for judicial review will run from the date the order is mailed. The final order shall include a notice of the opportunity to file for judicial review, including directions for filing the appeal. Rules 9.110 and 9.190, Florida Rules of Appellate Procedure, set forth the procedures for an individual to appeal a final state agency decision or action.

(3) The appeal shall be commenced by filing a notice of appeal conforming to the requirements of rule 9.110(D), Florida Rules of Appeal, accompanied with the appropriate filing fee.

(4) The notice of appeal shall be filed with the Agency Clerk, Agency for Workforce Innovation, Office of General Counsel, 1320 Executive Center Drive, 300 Atkins Building, Tallahassee, Florida 32399-2250.

Specific Authority 20.50, 120.54(6), 445.003(4) FS. Law Implemented 120.54(6), 445.023, 445.025, 445.028, 445.029, 445.030, 445.031, 445.032 FS. History–New

60BB-1.011 Special Review of Final State Agency Decisions.

(1) This section applies only to the review of a complaint or grievance related to WtW activities and that involves: gender discrimination, as prescribed in 20 CFR 645.255(d); health and safety standards established under State and Federal law which are applicable to similarly employed employees, of the same employer, who are not participants in WtW programs, as prescribed at 20 CFR 645.260; and displacement of WtW participants or regular employees, as prescribed at 20 CFR 645.265.

(2) Rather than an immediate judicial review of a final agency order, a grievant or complainant may request a hearing before the Division of Administrative Hearings.

(3) A request for hearing under this provision shall be filed within twenty-one (21) calendar days of receipt of final agency action and shall be filed with the Agency Clerk, Agency for Workforce Innovation, Office of General Counsel, 1320 Executive Center Drive, 300 Atkins Building, Tallahassee, Florida 32399-2250.

Specific Authority 20.50, 120.54(6), 445.003(4) FS. Law Implemented 120.54(6), 445.023, 445.025, 445.028, 445.029, 445.030, 445.031, 445.032 FS. History–New

60BB-1.012 Federal Level Appeal Process.

(1) As an alternate to filing an appeal under rule 60BB-1.011, within sixty (60) days of the receipt of the final decision by the state agency, the party which such decision has adversely impacted may appeal to the Secretary of the United States Department of Labor, U.S. Department of Labor, Washington D.C., 20210. A copy of the appeal must be simultaneously provided to the appropriate USDOL Regional Administrator and the opposing party.

(2) As provided in the WIA regulations, 20 CFR Section 667.600, if the RWB or the state has not issued a decision within the required sixty (60) calendar day timeframe, the grievant or complainant can file an appeal with the USDOL. The appeal must be filed with USDOL no later than one hundred and twenty (120) calendar days of the filing of the grievance with the State, or the filing of the appeal of a local grievance with the State. A copy of the appeal must be simultaneously provided to the appropriate Regional Administrator and the opposing party.

(3)(a) A local area that has been found in substantial violation of WIA Title I, pursuant to 20 CFR 667.650, and which has received a notice from the Governor that either all or part of the local plan will be revoked or that a reorganization will occur, has the right to appeal such sanctions to USDOL Secretary under WIA Section 184 (b).

(b) These appeals shall be filed no later than thirty (30) days after receipt of written notification of the revoked plan or imposed reorganization. A copy of the appeal must be simultaneously provided to the Governor, in care of the Director, Agency for Workforce Innovation, Suite 300, Atkins Building, 1320 Executive Center Drive, Tallahassee, Florida 32399-2250.

(c) The Request for Review or Appeal must be submitted by certified mail, return receipt to: Secretary, U. S. Department of Labor, Washington, D.C. 20210, Attention ASET.

Specific Authority 20.50, 120.54(6), 445.003(4) FS. Law Implemented 120.54(6), 445.023, 445.025, 445.028, 445.029, 445.030, 445.031, 445.032 FS. History–New

60BB-1.013 Complaint Procedures Related to Wagner-Peyser Job Service Activities.

(1) Background and Underlying State and Federal Policy. Federal regulations at 20 CFR Part 658, Subpart E, provide that each state shall establish and maintain a job service complaint system, which includes procedures at the local, State and Federal levels.

(2) As provided in 29 CFR Part 34, Wagner-Peyser participants have the right to file discrimination complaints against the Agency for Workforce Innovation (AWI) or its employees or complaints alleging discrimination by an employer, as follows:

(a) Complaints involving an employer in another state or another state agency;

(b) Complaints involving more than one office, another One-Stop Center, or statewide system;

(c) Complaints involving the violation of the Job Service Regulations by an office or One-Stop Center;

(d) Complaints involving the violation of an employment related law by an employer; and

(e) Complaints involving a violation of the terms and conditions of a job order by an employer.

(3) Complaints filed by Migrant and Seasonal Farm Workers (MSFWs). The RWB shall attempt to resolve the MSFW complaint. If the MSFW complaint cannot be resolved within five (5) working days of receipt of complaint by the RWB, the complaint form and copies of all documents in the complaint file are forwarded to the Agency for Workforce Innovation, Monitor Advocate Office, Atkins Building, Suite 300, Tallahassee, Florida 32399-2250, Attention: Senior Monitor Advocate.

(4) As required by 20 CFR Sec. 658.514, non-job service related complaints including employment, discrimination, and health and safety shall be forwarded as soon as possible after being received at the local level. These complaints shall be sent to: The Agency for Workforce Innovation, Office of General Counsel, 1320 Executive Center Drive, 300 Atkins Building, Tallahassee, Florida 32399-2250 or to the appropriate federal agency with a copy of the complaint sent to AWI Office of General Counsel. Rule 60BB-1.017, F.A.C., contains a list of workforce related federal agencies and addresses.

(5) Job-service (JS) complaints as defined in 20 CFR 658.401 are: (i) Complaints against an employer about the specific job to which the applicant was referred by the JS involving violations of the terms and conditions of the job order or employment-related law (employer-related complaint); and (ii) complaints about Job Service actions or omissions under JS regulations (agency-related complaints). All other complaints are non-job service complaints. JS complaint procedures are not applicable to complaints related to the Unemployment Compensation program. Complaints alleging violations of the Unemployment Compensation program are to be processed as required by laws and regulations related to the Unemployment Compensation program.

(6) The original JS complaint must be filed within one year of the alleged occurrence.

Specific Authority 20.50, 120.54(6), 445.003(4) FS, Law Implemented 120.54(6), 445.023, 445.025, 445.028, 445.029, 445.030, 445.031, 445.032 FS, History—New

60BB-1.014 Regional Workforce Board/One-Stop JS and MSFW Complaint and Resolution Procedures.

(1) Complaints related to JS and MSFW are handled by the One-Stop Manager/Complaint Specialist. The Manager/Specialist will maintain a separate file for each complaint and enter the complaint on the Complaint Log. The local RWB will attempt to resolve all JS related complaints.

(2) The complaint is resolved when the complainant is satisfied with the outcome; the complainant chooses not to elevate to the next level; or when the complainant has not responded within twenty (20) working days after correspondence has been mailed for JS complaints and within forty (40) work days for MSFW complaints.

(3) If the JS complaint is not resolved within fifteen (15) working days, then the complaint and associated file documents are forwarded to the Agency for Workforce Innovation, 1320 Executive Center Drive, 200 Atkins Building, Tallahassee, Florida 32399-2250, Attention: Employment Services Complaint Coordinator.

(4) Within 5 workdays after the end of the quarter, the local One-Stop Office Manager will mail the Complaint Logs to the Senior Monitor Advocate at the address included in the MSFW procedures above.

(5) MSFW complaints involving an allegation of noncompliance with assurances regarding wage and hour law or other employment conditions are to be forwarded to the nearest USDOL Wage and Hour office. The local USDOL office nearest you may be found at the USDOL web site: <http://www.dol.gov/dol/esa/public/whd.org.htm>.

(6) For MSFW violations of Occupational Safety and Health Administration (OSHA) Directives, complaints should be forwarded to USDOL, Occupational Safety and Health Administration, at the address shown in Rule 60BB-1.017, F.A.C.

(7) As identified in 20 CFR 658.501(a), any of the following is a basis for discontinuation of services to employers:

(a) Employer submits and refuses to alter or withdraw job orders containing specifications which are contrary to employment related laws;

(b) Employer submits job order and refuses to provide assurances that the jobs offered are in compliance with employment related laws;

(c) Employer is found through field checks or otherwise to have misrepresented the terms or conditions of employment specified on the job order or to have failed to comply fully with assurances made on the job orders;

(d) The One-Stop Center is notified by an enforcement agency that the employer has violated an employment related law;

(e) Employer, following investigation of complaint, is found to have violated job service regulations;

(f) Employer refuses to accept qualified workers referred;

(g) Employer refuses to cooperate in field checks; and

(h) Employer repeatedly causes discontinuation proceedings to be initiated.

(8)(a) The Job Service Complaint System as prescribed in 20 CFR sections 658.411-.418, is contained in the Complaint Resolution System Handbook. The Handbook contains instructions for filing, assigning, and handling Job Service related complaints, complaint resolution, referrals, and hearings. Also, a list of referral agencies is available in the Complaint Resolution System Handbook that has been provided to each RWB, local Representative, and One-Stop Center.

(b) The Complaint Resolution System Handbook incorporated herein by reference. A copy may be obtained from the Agency for Workforce Innovation, Office of General Counsel, 1320 Executive Center Drive, 300 Atkins Building, Tallahassee, Florida 32399-2250.

Specific Authority 20.50, 120.54(6), 445.003(4) FS. Law Implemented 120.54(6), 445.023, 445.025, 445.028, 445.029, 445.030, 445.031, 445.032 FS. History—New _____.

60BB-1.015 Reporting Criminal Fraud and Abuse, Discrimination, Health and Safety, and Employment Complaints and Violations.

(1) Criminal fraud and abuse, discrimination, health and safety, and employment, complaints that violate federal laws, regulations, and directives are handled differently than the program related complaints/grievances handled by local and state hearing and appeal procedures.

(2) Reporting Criminal Fraud and Abuse.

(a) The process for filing complaints and reports of criminal fraud and abuse are prescribed in 20 CFR 667.630. Complaints/reports shall be reported immediately to the USDOL Office of Inspector General, Office of Investigations, Room S5514, 200 Constitution Avenue, N. W., Washington, D.C. 20210.

(b) The complaint or report can also be mailed to the USDOL South East Regional Inspector General for Investigations, Office of Investigations, Sam Nunn Atlanta Federal Center, 61 Forsyth Street, S.W., Suite 6T1, Atlanta, Georgia 30303 with a copy simultaneously provided to the Employment and Training Administration.

(c) Reports or complaints alleging criminal fraud and abuse may also be reported through USDOL's Hotline at 1-800-347-3756.

Specific Authority 20.50, 120.54(6), 445.003(4) FS. Law Implemented 120.54(6), 445.023, 445.025, 445.028, 445.029, 445.030, 445.031, 445.032 FS. History—New _____.

60BB-1.016 Reporting WIA, WT, WtW, And Wagner-Peyser Discrimination Complaints.

(1) WIA Section 667.275(a) requires that recipients of WIA funds comply with federal nondiscrimination and other applicable equal opportunity laws. (See WIA Section 188 and 29 CFR part 37.)

(2) Guidance, found at 20 CFR 645.255, provides that participants in Welfare-to-Work programs have the same rights that apply to any federal, state or local law that prohibits discrimination. Guidance, found at 20 CFR 658.401(d), prohibits discrimination against applicants for or recipients of Wagner-Peyser program services.

(3) Under Wagner-Peyser, discrimination complaints may be filed directly with a local-office equal opportunity representative, when such has been designated and trained, with the state agency having administrative responsibility for Wagner-Peyser programs, or with the Civil Rights Center, U.S. Department of Labor. (Reference: 20 CFR 658.411).

(4) As provided by section 760.06, Florida Statutes, employees or applicants may also choose to file employment complaints with the Florida Commission on Human Relations.

Specific Authority 20.50, 120.54(6), 445.003(4) FS. Law Implemented 120.54(6), 445.023, 445.025, 445.028, 445.029, 445.030, 445.031, 445.032 FS. History—New _____.

60BB-1.017 Contact Entities for Discrimination, Employment, Health and Safety, or Florida Law Violations and Complaints.

Florida Commission on Human Relations Florida Law Violations 325 John Knox Road, Building F, Suite 240 Tallahassee, Florida 32303-4149 or call at (850)488-7082 or 1-800-342-8170 (voice and TTY).	U. S. Department of Labor Civil Rights Center Discrimination Complaints 200 Constitution Avenue, N. W. Room N-4123 Washington, D. C. 20210
U.S. Equal Employment Opportunity Commission (EEOC) Employment Complaints Miami District Office One Biscayne Tower, Suite 2700 2 South Biscayne Boulevard Miami, Florida 33131 (305)536-5721 or TTY (305)536-5721	USDOL Occupational Safety and Health Administration Safety and Health Violations 200 Constitution Avenue, N.W. Washington, D.C. 20210
EEOC Tampa Area Office 501 East Polk Street, Tenth Floor Tampa, Florida 33602 (813)228-2310 or TTY (813)228-2003	USDOL Office of Inspector General Office of Investigations 200 Constitution Avenue, N. W. Room S5514 Washington, D. C. 20210.

Specific Authority 20.50, 120.54(6), 445.003(4) FS. Law Implemented 120.54(6), 445.023, 445.025, 445.028, 445.029, 445.030, 445.031, 445.032 FS. History—New _____.

60BB-1.018 Other Legal Rights.

Nothing included in this rule precludes a grievant or complainant from pursuing a remedy authorized under another Federal, State, or local law.

Specific Authority 20.50, 120.54(6), 445.003(4) FS. Law Implemented 120.54(6), 445.023, 445.025, 445.028, 445.029, 445.030, 445.031, 445.032 FS. History—New.

DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION

Division of Pari-Mutuel Wagering

RULE TITLE: RULE NO.:
Permitted Medications for Horses 61D-6.008

PURPOSE AND EFFECT: The purpose and effect of the proposed rule will be to interpret Florida Statutes giving the Division authority to adopt rules for permitted medications.

SUMMARY: This proposed rule implements Florida Statutes necessary to establish permitted medications in racing animals.

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 regulatory costs, or to provide a proposal for a lower cost regulatory alternative must do so in writing within 21 days of this notice.

SPECIFIC AUTHORITY: 120.80(4)(a), 550.0251(3),(11), 550.2415(13),(16) FS.

LAW IMPLEMENTED 120.80(4)(a), 550.0251, 550.2415 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. – 4:00 p.m., February 28, 2002

PLACE: Florida Department of Business and Professional Regulation, Northwood Centre, Board Room, Room 130, 1940 N. Monroe Street, Tallahassee, Florida 32399

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Mary Polombo, Clerk, Division of Pari-Mutuel Wagering, Department of Business and Professional Regulation, 1940 North Monroe Street, Tallahassee, Florida 32399-1035

Pursuant to the provisions of the Americans with Disabilities Act, any person requiring special accommodations to participate in this hearing is asked to advise the Department at least 5 calendar days before the hearing by contacting Mary Polombo at (850)413-0750. If you are hearing or speech impaired, please contact the agency using the Florida Dual Party Relay System by calling (800)955-8770 (Voice) or (800)955-8771 (TDD).

Written comments or suggestions on the proposed rule may be submitted to Mary Polombo, Clerk, Division of Pari-Mutuel Wagering, Department of Business and Professional Regulation, 1940 North Monroe Street, Tallahassee, Florida 32399-1035, within 21 days of this notice for inclusion in the record of this proceeding.

THE FULL TEXT OF THE PROPOSED RULE IS:

61D-6.008 Permitted Medications for Horses.

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

(b) When the post race serum sample of such horse contains an amount of phenylbutazone or its metabolites equal to or in excess of 5 micrograms, but less than 8 micrograms per milliliter of serum, the trainer as the absolute insurer of the horse, shall be subject to the following penalties:

- | | |
|---|--|
| 1. First violation in a 12-month period | \$250.00 fine; |
| 2. Second violation in a 12-month period | \$500.00 fine; |
| 3. Third or subsequent violation in a 12-month period | \$1,000.00 fine and suspension of any division license 0 to 15 days. |

(c) When the post race serum sample contains an amount of phenylbutazone or its metabolites equal to or in excess of 8 micrograms per milliliter of serum, the trainer as the absolute insurer of the horse, shall be subject to the following penalties:

- | | |
|---|---|
| 1. First violation in a 12-month period | \$500.00 fine and suspension of any division license 0 to 15 days; |
| 2. Second violation in a 12-month period | \$1,000.00 and suspension of any division license up to 30 days; |
| 3. Third or subsequent violation in a 12-month period | \$1,000.00 fine and suspension of any division license up to 60 days. |

(3)(a) Furosemide (~~Salix Lasix~~) may be used solely for the treatment of horses participating in pari-mutuel racing events in the State of Florida that have exhibited exercise induced pulmonary hemorrhage (bleeding) as provided below:

1. A “bleeder” shall be defined as a horse which demonstrates pulmonary hemorrhage within 3.0 hours of exercise as evidenced by fulminant bilateral epistaxis where endoscopic examination is not warranted, or by intratracheal evidence of pulmonary hemorrhage ascertained through endoscopic examination, either of which must be witnessed and certified in writing by a Florida licensed veterinarian who is employed solely by a permitholder conducting pari-mutuel wagering in the State of Florida (the track veterinarian), or employed by the Division of Pari-Mutuel Wagering (the division veterinarian), or when the episode of exercise induced pulmonary hemorrhage cannot be witnessed by an official veterinarian, certification may be by two Florida practicing and

licensed veterinarians, one of whom shall have no current employment affiliation with the owner of the animal being tested and who has no direct pecuniary interest in the racing animal being witnessed and certified. Such certification shall be submitted to the division's Salix Lasix coordinator on Form BPR Form 15-020, Bleeder's Certificate, incorporated by Rule 61D-10.001, Florida Administrative Code. Out of state horses racing in Florida, must be witnessed in Florida as outlined above or must have been certified by the state/commission or association/track veterinarian from the previous state. Certification, in writing from the accredited College of Veterinary Medicine, will also be accepted if the horse has received a comprehensive cardio-pulmonary examination at an accredited College of Veterinary Medicine and as a result thereof is diagnosed with exercise induced pulmonary hemorrhage either viewed endoscopically after a treadmill exercise or via tracheal wash cytology and therefore found to require medication with furosemide in order to successfully compete.

2. No change.

3. It shall be the trainer's responsibility to provide the required documentation of certification to the Salix Lasix coordinator prior to entry of any horse entered to race on furosemide in a pari-mutuel event in the State of Florida. When the trainer cannot provide written documentation within 48 hours prior to the scheduled post time for the race, the trainer of the horse in question may personally attest in writing that the horse meets all eligibility requirements for the use of furosemide and request that the stewards waive the requirement for receipt of written documentation prior to racing the horse on furosemide. All requests for waiver must be submitted on Form BPR 15-033, Salix Lasix Certification Waiver, incorporated by Rule 61D-10.001, Florida Administrative Code. The stewards then may allow the horse to race on furosemide and grant the trainer a reasonable period of time, not to exceed 10 days, to produce the necessary written documentation as required in paragraph (a) above.

4. through (b)1. No change.

2. Second time after a race if racing without Salix Lasix in any racing jurisdiction – 14 days suspension;

3. Second time after a race if racing with Salix Lasix in any racing jurisdiction – 30 days suspension;

4. through 5. No change.

(c) Horses will be eligible to race on the day immediately following the completion of the suspension period. The owner or trainer of any horse placed on the Veterinarian's List as a result of exercise induced pulmonary hemorrhage (bleeding) may elect to place the animal on Florida's official Furosemide (Salix Lasix) List. The official Furosemide List shall be maintained by the Salix Lasix coordinator and shall be the official list of horses approved for racing with furosemide in Florida. Horses placed on the official Furosemide List must have furosemide administered on race day, at a dosage of 0.3 –

1.0mg/kg (150mg – 500mg), administered intravenously (I.V.) no closer than 4 hours prior to the officially scheduled post time of the race for which the horse is entered. The furosemide must be administered by a veterinarian currently licensed pursuant to Chapters 474 and 550, Florida Statutes. Every race day administration of furosemide must be reported by the attending veterinarian to the division on Form BPR Form 15-005, Veterinarian Report of Race-Day Salix Lasix Administration. ~~BPR form 15-005 shall be~~ incorporated by Rule 61D-10.001, Florida Administrative Code.

(d) Horses racing on furosemide which ship in to run from centers or other pari-mutuel facilities must be in the receiving barn no later than four hours prior to the post time of their officially scheduled race and have the furosemide (Salix Lasix) tag, Form BPR Form 15-005 firmly attached to their halter. Any violation of this rule shall be subject to the following penalties:

1. First violation in a 12-month period	\$100.00 fine;
2. Second violation in a 12-month period	\$200.00 fine;
3. Third violation in a 12-month period	\$350.00 fine;
4. Fourth or of subsequent violation in a 12-month period	Horse scratched <u>from</u> for race entered.

(e) Horses placed on the official Furosemide List must remain on that list unless a trainer requests to remove a horse after consultation with and upon the advice of the horse's attending veterinarian. This request to discontinue use of furosemide must be submitted with a written verification from the bleeder horse's attending veterinarian to the Salix Lasix coordinator no later than 48 hours prior to racing the horse without furosemide. Such requests shall be submitted on ~~Form BPR 15-025, Request To Discontinue~~ Form BPR 15-025, Request To Discontinue Salix Lasix, incorporated ~~herein~~ by Rule 61D-10.001, Florida Administrative Code ~~reference~~. Once a horse has been removed from the official Furosemide List, it shall not be placed back on the list until it exhibits exercise induced pulmonary hemorrhage in accordance with paragraph (3)(a), (b) and (c) of this rule.

(f) Horses are ineligible for ~~f~~Furosemide/Salix Lasix use if they:

1. No change.
2. Have been certified as bleeders but whose trainers do not elect to place the animal on the official Furosemide/Salix Lasix List.
3. Are officially on a Furosemide/Salix Lasix List but have been approved to discontinue ~~f~~Furosemide/Salix Lasix.

(g) Certified bleeders that run in jurisdictions that do not allow the use of ~~fFurosemide/Salix Lasix~~ shall be allowed to run on ~~fFurosemide/Salix Lasix~~ upon returning to Florida without re-qualifying. Trainers shall notify the ~~Salix Lasix~~ coordinator of the status of these horses prior to entry.

(h) Certified bleeders that run in jurisdictions that allow ~~fFurosemide/Salix Lasix~~ usage, but do not run on ~~fFurosemide/Salix Lasix~~, will be considered "off-~~Salix Lasix~~" and must re-qualify to run on ~~fFurosemide/Salix Lasix~~ in Florida.

(i) Re-qualifying for ~~fFurosemide/Salix Lasix~~ means that the horses must exhibit subsequent exercise induced pulmonary hemorrhage in accordance with paragraphs (3)(a), (b) and (c) above to again become eligible for use of ~~fFurosemide/Salix Lasix~~.

(j) The trainer of any horse to be entered in a race in a pari-mutuel event in the State of Florida shall report any previous or current incidents of exercise induced pulmonary hemorrhage and any previous or current use of ~~fFurosemide/Salix Lasix~~ to the track veterinarian, division veterinarian, and ~~Salix Lasix~~ coordinator prior to entry.

(4) Synthetic ~~cCorticosteroids~~ are permitted to be administered to a horse providing:

(a) No change.

(b) All other corticosteroids (natural, synthetic, or precursors) shall not be administered closer than 24 hours prior to the officially scheduled post time.

~~(c) Oral administration of any corticosteroid (natural, synthetic, or precursor) is expressly prohibited except when prescribed by a licensed veterinarian; administration of any synthetic corticosteroid by any route must be reported to the division on forms prescribed by the division.~~

(5) through (6) No change.

Specific Authority 120.80(4)(a), 550.0251(3), ~~(4)~~, 550.2415(8), ~~(9)~~, (13), (16) FS. Law Implemented 120.80(4)(a), 550.0251, 550.2415 FS. History--New 10-20-96, Amended 1-5-98, 6-6-00, _____.

NAME OF PERSON ORIGINATING PROPOSED RULE:

David J. Roberts, Director, Division of Pari-Mutuel Wagering

NAME OF SUPERVISOR OR PERSON WHO APPROVED

THE PROPOSED RULE: Kim Binkley-Seyer, Secretary, Department of Business and Professional Regulation

DATE PROPOSED RULE APPROVED BY AGENCY

HEAD: January 2, 2002

DATE NOTICE OF PROPOSED RULE DEVELOPMENT

PUBLISHED IN FAW: February 9, 2001

DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION

Electrical Contractors' Licensing Board

RULE TITLE:

Public Liability and Workers'

Compensation Insurance

RULE NO.:

61G6-5.008

PURPOSE AND EFFECT: The Board proposes the development of an amendment to address public liability and workers' compensation insurance.

SUMMARY: This amendment is complying with rulemaking mandate pursuant to Section 489.510, Florida Statutes.

SUMMARY OF STATEMENT OF ESTIMATED

REGULATORY COST: No Statement of Estimated Regulatory Cost was prepared.

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

SPECIFIC AUTHORITY: 489.507(2), 489.510, 489.511(4), 489.515 FS.

LAW IMPLEMENTED: 489.507(2), 489.510, 489.511(4), 489.515, 489.517(5), 489.537 FS.

IF REQUESTED WITHIN 21 DAYS OF THE DATE OF THIS NOTICE, A HEARING WILL BE SCHEDULED AND ANNOUNCED IN THE FAW.

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Anthony Spivey, Executive Director, Electrical Contractors Licensing Board, 1940 North Monroe Street, Tallahassee, Florida 32399-0750

THE FULL TEXT OF THE PROPOSED RULE IS:

61G6-5.008 Public Liability and Workers' Compensation Insurance.

(1) No change.

(2) As a prerequisite to the initial issuance, or a change in the status of an active certificate or registration, the applicant shall submit evidence the applicant has obtained workers' compensation insurance in the form of a Certificate of Insurance or an appropriate exemption pursuant to Chapter 440, Florida Statutes. It shall be a violation of this rule for any licensee to fail to continually maintain workers' compensation coverage or an appropriate exemption as required.

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

~~(4)(3)~~ By applying for renewal, each certificateholder or registrant certifies that he or she has continually maintained the required amounts of public liability and property damage. To verify each certificateholder or registrant has continually maintained the required amounts of public liability and property damage, as well as workers' compensation coverage or appropriate exemption pursuant to Chapter 440, Florida Statutes, the Board will conduct random sample audits of at least 10% of the total number of certificates and registrants. Upon written request by the Board, by certified mail, each selected licensee must within thirty days submit proof of coverage, in the form of an original Certificate of Insurance, showing the licensee has obtained and continually maintained the proper amount of public liability and property damage insurance, as well as workers' compensation coverage or

appropriate exemption pursuant to Chapter 440, Florida Statutes, within the specified time period set forth in the Board's request.

(5)(4) No change.

Specific Authority 489.507(2), 489.510, 489.511(4), 489.515 FS. Law Implemented 489.507(2), 489.510, 489.511(4), 489.537, 489.515, 489.517(5) FS. History—New 1-2-80, Formerly 21GG-5.08, Amended 5-20-92, Formerly 21GG-5.008, Amended 9-22-97, 3-29-99, _____.

NAME OF PERSON ORIGINATING PROPOSED RULE:

Electrical Contractors' Licensing Board

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Electrical Contractors' Licensing Board

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: November 14, 2001

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: December 14, 2001

DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION

Building Code Administrators and Inspectors Board

RULE TITLE: Aggravating and Mitigating Factors

RULE NO.: 61G19-5.003

PURPOSE AND EFFECT: The proposed rule amendment is intended to delete severity of offense as an aggravating or mitigating factor in response to written comments submitted by the Joint Administrative Procedures Committee.

SUMMARY: The rule amendment deletes severity of offense as an aggravating or mitigating factor with regard to imposition of discipline.

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: 468.606, 455.2273 FS.

LAW IMPLEMENTED: 455.2273 FS.

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

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Anthony Spivey, Executive Director, Building Code Administrators and Inspectors Board, Northwood Centre, 1940 North Monroe Street, Tallahassee, Florida 32399-0750

THE FULL TEXT OF THE PROPOSED RULE IS:

61G19-5.003 Aggravating and Mitigating Factors.

Based upon the consideration of the facts present in an individual case, the Board shall consider the following factors in aggravation and mitigation when deviating from the disciplinary guidelines set forth in Rule 61G19-5.002, Florida Administrative Code. The Board must make a specific finding of mitigating or aggravating circumstances in order to deviate from the guidelines.

~~(1) Severity of the offense;~~

(2) through (11) renumbered (1) through (10) No change.

Specific Authority 468.606, 455.2273 FS. Law Implemented 455.2273 FS. History—New 5-23-94, Amended 12-7-97, _____.

NAME OF PERSON ORIGINATING PROPOSED RULE:

Building Code Administrators and Inspectors Board

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Building Code Administrators and Inspectors Board

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

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: October 26, 2001

DEPARTMENT OF ENVIRONMENTAL PROTECTION

DOCKET NO.: 99-27R

RULE CHAPTER TITLE: Permits

RULE CHAPTER NO.: 62-4

RULE TITLE: Antidegradation Permitting Requirements;

RULE NO.: 62-4.242

Outstanding Florida Waters; Outstanding National Resource Waters;

Equitable Abatement

62-4.242

SUMMARY: The proposed amendments would add a pollution prevention analysis to the list of factors to be considered under an antidegradation review. The proposed amendments differentiate between domestic wastewater and industrial wastewater discharges. Domestic dischargers would be required to demonstrate that the following are not economically and technologically reasonable: (1) implementation of water conservation measures, (2) implementation of infiltration/inflow reduction measures, (3) reuse of domestic reclaimed water, and (4) use of other discharge locations. Industrial wastewater discharge permit applicants would need to demonstrate that the following are not economically and technologically reasonable: (1) use of the other discharge locations, (2) land application, or (3) recycling at offsite locations. Furthermore, industrial wastewater permit applicants would be required to submit a certified affidavit that a waste minimization and source reduction analysis was completed.

The full text of this notice is published on the Internet at the Department of Environmental Protection's home page at <http://www.dep.state.fl.us/> under the link or button titled "Official Notices."

DEPARTMENT OF ENVIRONMENTAL PROTECTION

DOCKET NO.: 98-52R

RULE CHAPTER TITLE: RULE CHAPTER NO.:
Surface Water Quality Standards 62-302

SUMMARY: The Federal Clean Water Act requires states to conduct a comprehensive review of their surface water quality standards every three years ("triennial review"). The proposed rule amendments were developed after eight public workshops. The proposed amendments: (1) clarify that "generic" permits as well as general permits are exempt from an antidegradation review; (2) provide a dissolved metals permitting alternative, limited to aquatic life-based criteria for seven metals; (3) add definitions of "total" and "dissolved" metals; (4) revise the opening paragraph in Rule 62-302.530 to delete a reference to Rule 62-302.510, F.A.C.; (5) update total recoverable metals criteria in Rule 62-302.530, F.A.C. for copper, chromium III, nickel, lead and zinc to match EPA's recommended chronic criteria measured as total recoverable; (6) add a footnote to the Criteria Table in Rule 62-302.530, F.A.C., giving the location of the dissolved metals permitting option as Rule 62-302.500(2)(d), F.A.C.; and (7) renumber the Site-Specific Alternative Criteria provisions in Rule 62-302.800, F.A.C., to make it more clear that there are two approaches for establishing site-specific alternative criteria. In addition, several non-substantive rule changes are proposed.

The full text of this notice is published on the Internet at the Department of Environmental Protection's home page at <http://www.dep.state.fl.us/> under the link or button titled "Official Notices."

DEPARTMENT OF HEALTH

Board of Nursing

RULE CHAPTER TITLE: RULE CHAPTER NO.:
LPN Supervision in Nursing 64B9-16

Home Facilities 64B9-16

RULE TITLES: RULE NOS.:

Definitions 64B9-16.001

Supervision by Licensed Practical Nurses

in Nursing Home Facilities 64B9-16.002

Competency and Knowledge Requirements

Necessary to Qualify the LPN to Supervise

in Nursing Home Facilities 64B9-16.003

Delegation of Tasks Prohibited 64B9-16.004

PURPOSE AND EFFECT: The Board proposes the development of a rule chapter to address LPN supervision guidelines in nursing home facilities.

SUMMARY: These new rules are being promulgated to set forth the qualifications and requirements of an LPN who may wish to become a supervisor in a nursing home environment.

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: 400.23(3) FS.

LAW IMPLEMENTED: 400.23(3) FS.

IF REQUESTED WITHIN 21 DAYS OF THE DATE OF THIS NOTICE, A HEARING WILL BE SCHEDULED AND ANNOUNCED IN THE FAW.

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULES IS: Joe Baker, Interim Executive Director, Board of Nursing/MQA, 4052 Bald Cypress Way, Bin #C02 Tallahassee, Florida 32399-3252

THE FULL TEXT OF THE PROPOSED RULES IS:

64B9-16.001 Definitions.

As used in this Chapter, the following mean:

(1) "Certified nursing assistant" (CNA) is a person certified pursuant to Chapter 464, Part II, F.S.

(2) "Unlicensed personnel" (UP) are persons who do not hold licensure from the Division of Health Quality Assurance of the Department of Health but who have been assigned to function in an assistive role to registered nurses or licensed practical nurses in the provision of patient care services through regular assignments or delegated tasks or activities and under the supervision of a nurse. Unlicensed personnel do not include certified nursing assistants.

(3) Nursing services are acts that require knowledge and skill based on biological, social, behavioral, and nursing science. Only specified nursing acts can be performed by CNAs and UPs. RNs and LPNs can perform nursing acts as stated in s. 464.003, F.S.

(4) "Supervision" is the provision of guidance and periodic inspection by the nurse for the accomplishment of a nursing task or activity, provided the nurse is qualified and legally entitled to perform such a task or activity. Supervision may be provided by an LPN to another LPN, CNA, or unlicensed personnel.

(5) "General supervision" means the registered nurse is not on the premises but accessible by two-way communication, is able to respond to an inquiry when made, and is readily available for consultation.

(6) "Immediate supervision" means the supervisor is on the premises and is physically present where the tasks and activities are being performed.

(7) "Indirect supervision" means the registered nurse is not on the premises but is accessible by two way communication, is able to respond to an inquiry when made, and is readily available for consultation.

(8) "Nursing home" means a facility licensed under Chapter 400, Part II, Florida Statutes.

(9) "Hospital" means a facility licensed pursuant to Chapter 395, Florida Statutes.

(10) "Delegation" is the transference to a competent individual the authority to perform a selected task or activity in a selected situation by a nurse qualified by licensure and experience to perform the task or activity.

Specific Authority 400.23(3)(c) FS. Law Implemented 400.23(3)(c) FS. History—New _____.

64B9-16.002 Supervision by Licensed Practical Nurses in Nursing Home Facilities.

(1) The licensed practical nurse working in a nursing home shall qualify to supervise by meeting all of the following requirements:

(a) Completing a minimum thirty (30) hour post-basic, Board approved licensed practical nurse supervisory education course prior to accepting any supervisory assignments. The course may be provided by a Board approved continuing education provider or an approved school of nursing.

(b) Demonstrating a work history of no less than six (6) months of full-time clinical nursing experience in a hospital or nursing home.

(2) In lieu of the thirty (30) hour post-basic nurse supervisory education course referenced above, licensed practical nurses may qualify to supervise if the nurse has successfully completed a supervisory course on a post-graduate level and a provider credits the nurse for such course, providing each component of the course content of paragraphs 64B9-15.003(3)(a)-(m), F.A.C., is tested by and competency demonstrated to the provider.

(3) There shall be a registered nurse providing supervision of the licensed practical nurse.

(4) Tasks and activities shall be delegated by the LPN to the CNA or UP based on the following:

(a) The task/activity is within the area of responsibility of the nurse delegating the task.

(b) The task/activity is within the knowledge, skills, and ability of the nurse delegating the task.

(c) The task/activity is of a routine, repetitive nature and shall not require the CNA or UP to exercise nursing knowledge, judgment, or skill.

(d) The CNA or UP can and will perform the task/activity with the degree of care and skill that would be expected of the nurse.

Specific Authority 400.23(3)(c) FS. Law Implemented 400.23(3)(c) FS. History—New _____.

64B9-16.003 Competency and Knowledge Requirements Necessary to Qualify the LPN to Supervise in Nursing Home Facilities.

(1) The licensed practical nurse supervisory course must be sponsored by an approved nursing education program or an approved provider of nursing continuing education pursuant to Rule 64B9-5, Florida Administrative Code.

(2) The course instructor must be a currently licensed registered nurse in good standing with this state, have nursing education experience, and have professional nursing experience involving delegation and supervision.

(3) The minimum thirty (30) hour post-basic licensed practical nurse supervisory education course shall include:

(a) An overview of Chapter 464, F.S., the Nurse Practice Act, s. 456.031, F.S., s. 456.033, F.S. and Chapter 64B9, F.A.C., Rules and Regulations for Nursing.

(b) The scope of practice for the licensed practical nurse is defined in s. 464.003(3)(b), F.S..

(c) The supervisory role of the licensed practical nurse as defined in s. 400.23(3)(b), F.S., including limits of authority and appropriate documentation in patient records.

(d) Supervisory role transition.

(e) Strategies for directing the practice of others.

(f) Principles of delegation.

(g) Effective communication.

(h) Team building and conflict resolution.

(i) Work performance accountability.

(j) Employee evaluation.

(k) Interpersonal relationship skills.

(l) Assignment development, and

(m) Recognition and resolution of inappropriate delegation.

(4) Nursing homes utilizing licensed practical nurses in a supervisory role shall provide at least sixteen (16) hours supervisory experience with direct supervision by a registered nurse prior to the licensed practical nurse assuming supervisory responsibilities. Documentation by the registered nurse of the licensed practical nurse's supervisory competence shall be maintained in the licensed practical nurse's personnel file.

(5) Once a licensed practical nurse with at least five (5) years of full-time clinical nursing experience completes the sixteen (16) hours of supervisory experience as outlined above in (4), he or she may immediately begin supervisory duties and have until August 31, 2002 to complete the requirements outlined above in (1) and (2).

Specific Authority 400.23(3)(c) FS. Law Implemented 400.23(3)(c) FS. History—New _____.

64B9-16.004 Delegation of Tasks Prohibited.

The licensed practical nurse, under the direction of the appropriate licensed professional as defined in s. 464.003(3)(b), F.S., shall not delegate:

(1) Any activity that is outside the scope of practice of the LPN; or in which the Nurse Practice Act stipulates that the LPN must have direct supervision of a Registered Nurse in order to perform the procedure.

(2) Those activities for which the licensed practical nurse, certified nurse assistant or UP has not demonstrated competence.

Specific Authority 400.23(3)(c) FS. Law Implemented 400.23(3)(c) FS.
History—New _____.

NAME OF PERSON ORIGINATING PROPOSED RULE:
Board of Nursing

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

DATE PROPOSED RULE APPROVED BY AGENCY
HEAD: December 5, 2001

DATE NOTICE OF PROPOSED RULE DEVELOPMENT
PUBLISHED IN FAW: December 21, 2001

DEPARTMENT OF HEALTH

Board of Psychology

RULE TITLE: _____ RULE NO.: _____

Application Forms 64B19-11.012

PURPOSE AND EFFECT: The proposed new rule is intended
to incorporate application forms in the rule.

SUMMARY: The proposed rule incorporates by reference,
application forms which the Board utilizes in dealing with
applicants.

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: 490.004(4) FS.

LAW IMPLEMENTED: 490.005, 490.006(1)(b) FS.

IF REQUESTED WITHIN 21 DAYS OF THE DATE OF
THIS NOTICE, A HEARING WILL BE SCHEDULED AND
ANNOUNCED IN THE FAW.

THE PERSON TO BE CONTACTED REGARDING THE
PROPOSED RULE IS: Kaye Howerton, Executive Director,
Board of Psychology/MQA, 4052 Bald Cypress Way, Bin
#C05, Tallahassee, Florida 32399-3255

THE FULL TEXT OF THE PROPOSED RULE IS:

64B19-11.012 Application Forms.

(1) All applicants for licensure pursuant to Chapter 490, F.S., shall complete and submit form DOH/MQA/PY APP/REV. 10/01, "Application for Psychologist Licensure," effective _____, which is incorporated herein by reference and which may be obtained from the Board office.

(2) All applicants for licensure pursuant to Chapter 490, F.S., who have ever held a license to practice psychology or a related profession shall complete and submit PY FORM 1.VERIF (rev. 10/01), "Licensure/Certification Verification Form," effective _____, which is incorporated herein by reference and which may be obtained from the Board office.

(3) An applicant who is a diplomate in good standing with the American Board of Professional Psychology, Inc., and who wishes to apply for licensure by endorsement pursuant to section 490.006(1)(b), F.S., shall submit as part of his or her application PY FORM 4.abpp (rev. 10/01), "ABPP Diplomate Verification Form," effective _____, which is incorporated herein by reference and which may be obtained from the Board office.

(4) All applicants for licensure other than those applying for licensure pursuant to section 490.006, F.S., shall complete and submit PY FORM 2.sup (rev. 10/01), "Supervising Psychologist Verification Form," effective _____, which is incorporated herein by reference and which may be obtained from the Board office.

Specific Authority 490.004(4) FS. Law Implemented 490.005, 490.006(1)(b) FS. History—New _____.

NAME OF PERSON ORIGINATING PROPOSED RULE:
Board of Psychology

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

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

DATE NOTICE OF PROPOSED RULE DEVELOPMENT
PUBLISHED IN FAW: December 7, 2001

DEPARTMENT OF CHILDREN AND FAMILY SERVICES

Economic Self-Sufficiency Program

RULE TITLES: _____ RULE NOS.: _____

Rights and Responsibilities 65A-2.022

Optional State Supplementation _____

Coverage Groups 65A-2.033

Optional State Supplementation Base Provider _____

Rates and Program Standards 65A-2.036

PURPOSE AND EFFECT: These rule amendments implement
OSS redesign for residents of Adult Family Care Homes
(AFCH) effective January 2002. OSS redesign allows
enhanced payments through Medicaid Assistive Care Services
(ACS) if the facility becomes enrolled as a qualified Medicaid
provider of Assistive Care Services.

SUMMARY: Rule 65A-2.022 is amended so that the OSS
payment for residents of AFCHs will provide for room and
board. Rule 65A-2.033 is amended for those OSS eligible
AFCH residents who are not OSS eligible under OSS redesign
standards as of January 1, 2002 and who are not Medicaid
eligible as of January 1, 2002. These individuals will be
budgeted under OSS standards in rule paragraphs
65A-2.036(3)(b) and 65A-2.036(4)(b). Additionally, eligibility
standards and base provider rates in Rule 65A-2.036 are
changed effective January 2002.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COST: A statement of estimated regulatory cost was not prepared for this rule.

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

SPECIFIC AUTHORITY: 409.212(7) FS.

LAW IMPLEMENTED: 409.212 FS.

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

TIME AND DATE: 10:00 a.m., February 18, 2002

PLACE: 1317 Winewood Boulevard, Building 3, Room 100, Tallahassee, Florida 32399-0700

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULES, THE PUBLIC HEARING OR AN ECONOMIC STATEMENT IS: Audrey Mitchell, Program Administrator, 1317 Winewood Boulevard, Building 3, Room 421, Tallahassee, Florida 32399-0700, (850)488-3090

THE FULL TEXT OF THE PROPOSED RULES IS:

65A-2.022 Rights and Responsibilities.

(1) Any individual has the right to apply for Optional State Supplementation (OSS) and, if found eligible according to these rules and s. 409.212, F.S., to receive an established monthly payment. The OSS payment is made to assist individuals residing in Assisted Living Facilities (ALFs) and Adult Family Care Homes (AFCHs) in those Mental Health Residential Treatment Facilities (MHRTFs) that are enrolled as qualified Medicaid Assistive Care Services (ACS) providers with the cost of room and board. Additionally, the OSS payment is made to assist individuals residing in those Mental Health Residential Treatment Facilities (MHRTFs) that are enrolled as qualified Medicaid providers of Assistive Care Services (ACS) with room and board. The OSS payment made to individuals residing in ~~Adult Family Care Homes~~, Mental Health Residential Treatment Facilities that ~~are do not meet the criteria for enrollment~~ as qualified Medicaid ~~ACS~~ providers of ACS, and for the individuals covered under subsections 65A-2.033(3) and (4) is inclusive of room, board and personal care. The individual's use of the personal needs allowance is not restricted.

(2) through (5) No change.

Specific Authority 409.212(7) FS. Law Implemented 409.212 FS. History—New 1-1-77, Formerly 10C-2.22, 10C-2.022, Amended 12-16-01,_____.

65A-2.033 Optional State Supplementation Coverage Groups.

To be determined eligible for Optional State Supplementation (OSS), an individual must qualify under one of the following coverage groups.

(1) through (3) No change.

(4) The individual must: reside in an ALF or MHRTF; have been eligible for and receiving OSS payments for August 2001; have become ineligible for OSS as of September 2001 solely because their income exceeds the applicable OSS income standard of \$609.40; and, not be categorically eligible for full Medicaid benefits as of September 2001. Additionally, in regard to an AFCH, the individual must: reside in an AFCH; have been eligible for and receiving OSS payment for December 2001; have become ineligible for OSS as of January 2002 solely because their income exceeds the applicable OSS income standard of \$623.40; and, not be categorically eligible for full Medicaid benefits as of January 2002. As long as the individual continues to meet all OSS eligibility criteria and the income standard test in paragraph 65A-2.036(3)(b), they will remain eligible for payment under the provider rates in paragraph 65A-2.036(4)(b). Once an OSS recipient no longer meets all OSS eligibility criteria or the income standard in paragraph 65A-2.036(3)(b), they will no longer be eligible under this coverage group.

Specific Authority 409.212(7) FS. Law Implemented 409.212 FS. History—New 1-1-77, Formerly 10C-2.33, Amended 9-30-86, 2-9-88, Formerly 10C-2.033, Amended 12-16-01,_____.

65A-2.036 Optional State Supplementation Base Provider Rates and Program Standards.

(1) through (2) No change.

(3) Optional State Supplementation (OSS) Program Financial Standards.

OSS program financial standards are subject to Florida legislative appropriations and federal cost of living adjustments.

(a) The monthly income eligibility standard for residents of Assisted Living Facilities (ALFs), Adult Family Care Homes (AFCHs) and, except as specified in paragraph (b) of this rule, Mental Health Residential Treatment Facilities (MHRTFs) is \$~~623~~623.40.

(b) The monthly income eligibility standard for residents of ~~Adult Family Care Homes~~, for residents of MHRTFs that do not meet the criteria for enrollment as qualified Medicaid ~~ACS~~ providers of ACS, and for individuals with coverage under subsections 65A-2.033(3) and (4) is \$~~730~~730+6.

(c) No change.

(4) Optional State Supplementation (OSS) Base Provider Rates. OSS base provider rates are subject to Florida legislative appropriations and federal cost of living adjustments.

(a) For Assisted Living Facilities (ALFs), Adult Family Care Homes (AFCHs) and, except as specified in paragraph (b) of this rule, Mental Health Residential Treatment Facilities (MHRTFs), the monthly base provider rate is \$~~569~~569.40 and is inclusive of room and board only.

(b) For ~~Adult Family Care Homes~~, Mental Health Residential Treatment Facilities that do not meet the criteria for enrollment as qualified Medicaid ~~ACS~~ providers of ACS.

and for the individuals covered under subsections 65A-2.033(3) and (4), the monthly base provider rate is \$73046 and is inclusive of room, board and personal care.

(5) through (8) No change.

Specific Authority 409.212(7) FS Law Implemented 409.212 FS. History—New 1-1-77, Amended 9-27-79, 10-7-80, 9-29-81, 9-29-82, 10-31-83, 11-28-83, 9-30-84, 10-1-85, Formerly 10C-2.36, Amended 1-1-87, 2-9-88, 11-6-88, 2-16-89, 3-1-90, 1-27-91, 2-19-95, Formerly 10C-2.036, Amended 1-27-99, 12-16-01,_____.

NAME OF PERSON ORIGINATING PROPOSED RULE:
Rodney McInnis, Operations Review Specialist
NAME OF SUPERVISOR OR PERSON WHO APPROVED
THE PROPOSED RULE: Audrey Mitchell, Program
Administrator, Public Assistance Policy Bureau
DATE PROPOSED RULE APPROVED BY AGENCY
HEAD: January 9, 2002
DATE NOTICE OF PROPOSED RULE DEVELOPMENT
PUBLISHED IN FAW: November 23, 2001

Section III Notices of Changes, Corrections and Withdrawals

DEPARTMENT OF STATE

Division of Elections

RULE NO.: 1S-2.027
RULE TITLE: Clear Indication of Voter's Choice
on a Ballot

NOTICE OF CHANGE

Notice is hereby given that proposed Rule 1S-2.027, published in the Florida Administrative Weekly, Pages 4617-4618, Vol. 27, No. 40, on October 5, 2001, has been changed to reflect comments received from the public as well as the Joint Administrative Procedures Committee. Changes were made to Rule 1S-2.027 so that it now reads:

1S-2.027 Clear Indication of Voter's Choice on a Ballot.

(1) The following are standards to determine ~~voter intent~~ in a manual recount as provided specifically by Section 102.166, Florida Statutes, and on an optical scan voting system, whether there is a clear indication on the ballot that the voter has made a definite choice.

~~(2) The following are guidelines for determining on an optical scan voting system whether or not there is a clear indication on the ballot that the voter has made a definite choice:~~

~~(a) Ballots must be marked in pen or pencil.~~

~~(a)(b)~~ If a ballot is marked with a color or device that does not permit an accurate machine count, that vote shall count.

~~(b)(e)~~ If a voter circles the oval or arrow next to a candidate or issue, the vote for that candidate or issue shall count.

~~(c)(d)~~ If a voter circles or underlines the name of a candidate, the vote shall count for that candidate.

~~(d)(e)~~ If a voter circles or underlines the name of a party next to a candidate's name, the vote shall count for that candidate.

~~(e)(f)~~ If there is an "X," a check mark, a diagonal, horizontal or vertical mark, a plus sign, an asterisk, a star or any other mark that is substantially contained in the oval, touching the oval or arrow, or within the blank space between the head and tail of the arrow that clearly indicates the voter intended the oval or arrow to be marked, that vote shall count.

~~(f)(g)~~ If a voter marks more candidates than there are positions to be elected for that office, the votes for the candidates of that office shall not count.

~~(g)(h)~~ If a voter marks fewer less candidates than there are positions to be elected for those offices, the votes for all of those candidates shall count.

~~(h)(i)~~ If a voter does not mark a candidate or issue, the votes for other candidates or issues on the same ballot that are validly marked shall be counted.

~~(i)(j)~~ If a voter attempts to correct the ballot in a way that is clearly evident in the space where the voter could indicate a ballot choice by completing the target area, and the voter has marked the target area ~~clearly and properly voted~~ for another candidate or issue, the vote for the marked ~~clearly and properly voted~~ candidate or issue shall count.

~~(j)(k)~~ If a voter has indicated in a clear fashion that a mistake has been made and has attempted to correct it, by either an "X" or equivalent mark to cross out a choice, and the voter has marked the target area ~~clearly and properly voted~~ for another candidate or issue, the vote for the marked target area ~~clearly and properly voted~~ candidate or issue shall count.

~~(k)(l)~~ If the voter has made one or more stray marks that are clearly unrelated to the voter's intent to vote for a candidate or issue and the marks are visible in the read area of the ballot, the marks shall not invalidate the ballot.

~~(l)(m)~~ If the voter writes on the ballot in a way that interferes with the ability of the automatic tabulating equipment to correctly read the ballot, and the writing is clearly unrelated to the voter's intent to vote for a candidate or issue, the writings shall not invalidate the ballot.

~~(m)(n)~~ An otherwise valid vote cast for a write-in candidate should not be invalid if the voting position on the ballot marked "WRITE-IN CANDIDATE" for that office has not been marked by the marking device.