

contacting: Eric Purvis, (850)413-5659 or Eric.Purvis@myfloridacfo.com. If you are hearing or speech impaired, please contact the agency using the Florida Relay Service, 1(800)955-8771 (TDD) or 1(800)955-8770 (Voice).

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT AND A COPY OF THE PRELIMINARY DRAFT, IF AVAILABLE, IS: Eric A. Purvis, Financial Administrator, Division of Agent and Agency Services, Room 412C, Larson Building, 200 E. Gaines Street, Tallahassee, FL 32399-0320, (850)413-5659

THE DEPARTMENT’S WEBSITE AT www.myfloridacfo.com/LegalServices/ruleHearing/

THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS AVAILABLE AT NO CHARGE FROM THE CONTACT PERSON LISTED ABOVE.

Section II Proposed Rules

DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES

Division of Agricultural Water Policy

RULE NOS.:	RULE TITLES:
5M-12.001	Purpose
5M-12.002	Definitions
5M-12.003	Eligible Agricultural Operations
5M-12.004	Plan Development and Revision
5M-12.005	Notice of Intent to Implement
5M-12.006	BMP Record Keeping
5M-12.007	Presumption of Compliance
5M-12.008	Access to Properties

PURPOSE AND EFFECT: The purpose of this rule is to effect agricultural nonpoint source pollutant reduction in Florida through the implementation of conservation plans on specified operations to ensure that agricultural discharges have minimal individual or cumulative adverse impacts to state water resources.

SUMMARY: This rulemaking establishes a procedure for specified agricultural operations to submit a Notice of Intent to implement a conservation plan, which contains agricultural water quality and quantity best management practices (BMPs) applicable to the operation covered by the NOI. Submittal of the NOI to the Florida Department of Agriculture and Consumer Services and implementation of identified BMPs that have been verified effective by the Florida Department of Environmental Protection provides a presumption of compliance with state water quality standards and release from the provisions of Section 376.307(5), Florida Statutes, for those pollutants addressed by the practices. This rulemaking also provides that records maintained by the participant confirming the implementation of BMPs are subject to inspection.

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

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

RULEMAKING AUTHORITY: 403.067(7)(c)2., (13)(b), 570.07(23), 570.085 FS.

LAW IMPLEMENTED: 403.067(7)(c)2., (13)(b), 570.07(23), 570.085 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: Bill Bartnick, Environmental Administrator, Office of Agricultural Water Policy, 1203 Governors Square Blvd., Suite 200, Tallahassee, Florida 32301, (850)617-1705 or FAX (850)617-1701

THE FULL TEXT OF THE PROPOSED RULES IS:

CONSERVATION PLANS FOR SPECIFIED AGRICULTURAL OPERATIONS

5M-12.001 Purpose.

The purpose of this rule is to effect, under incentive-based programs, agricultural nonpoint source pollutant reduction in Florida through the implementation of approved conservation plans containing best management practices (BMPs) that have been verified to be effective by the Florida Department of Environmental Protection (FDEP).

Rulemaking Authority 403.067(7)(c)2., (13)(b), 570.07(23), 570.085 FS. Law Implemented 403.067(7)(c)2., (13)(b), 570.07(23), 570.085 FS. History—New _____.

5M-12.002 Definitions.

(1) “Conservation plan” means a record of the decisions and supporting information for treatment of a unit of land or water, which meets the requirements of Rule 5M-12.004, F.A.C.

(2) “Department” means the Florida Department of Agriculture and Consumer Services.

(3) “Land use” means the producer’s intended use of the land for agricultural purposes.

(4) “Technical service provider” means an individual or entity certified by the United States Department of Agriculture Natural Resources Conservation Service (USDA/NRCS) and placed on its approved list to provide technical services to program participants.

Rulemaking Authority 403.067(7)(c)2., (13)(b), 570.07(23), 570.085 FS. Law Implemented 403.067(7)(c)2., (13)(b), 570.07(23), 570.085 FS. History—New _____.

5M-12.003 Eligible Agricultural Operations.

The following operations may develop and implement site-specific conservation plans, as provided in this rule, to ensure that agricultural discharges have minimal individual or cumulative adverse impacts to the water resources of the state:

(1) Commercial livestock operations.

(2) Operations conducting multiple agricultural land uses on properties within the same county or on contiguous properties that cross county boundaries.

Rulemaking Authority 403.067(7)(c)2., (13)(b), 570.07(23), 570.085 FS. Law Implemented 403.067(7)(c)2., (13)(b), 570.07(23), 570.085 FS. History--New _____.

5M-12.004 Plan Development and Revision.

(1) The conservation plan shall be developed in accordance with the USDA/NRCS National Planning Procedures Handbook Amendment 4, December 2006 (hereby adopted and incorporated by reference), and shall be consistent with quality criteria for soil, water quality, and water quantity contained in Section III A of the USDA/NRCS Field Office Technical Guide (FOTG), April 2005 (hereby adopted and incorporated by reference). These documents may be obtained from USDA/NRCS, P. O. Box 141510, 2614 N.W. 43rd St., Gainesville, FL 32614-1510, or accessed online at: <http://www.floridaagwaterpolicy.com/bestmanagementpractice.s.html> <http://www.nrcs.usda.gov/Technical/efotg/>.

(2) The conservation plan shall identify:

(a) As listed in Section III B of the FOTG, March 2005 (hereby adopted and incorporated by reference), all the essential conservation practices for the identified land uses on the operation, and the applicable facilitating conservation practices that support quality criteria for soil, water quality, and water quantity contained in Section III A of the USDA/NRCS FOTG, April 2005. Section III B of the FOTG, March 2005, may be obtained from USDA/NRCS, P. O. Box 141510, 2614 N.W. 43rd St., Gainesville, FL 32614-1510, or accessed online at: <http://www.nrcs.usda.gov/Technical/efotg/> or <http://www.floridaagwaterpolicy.com/bestmanagementpractices.html>.

(b) All applicable BMPs contained in Department-adopted manuals relevant to the operation. The producer shall complete and include in the plan the BMP checklists from the relevant manuals;

(c) The schedule of operations and activities needed to address all identified soil and water quality and water quantity issues, which provides for implementing:

1. As soon as practicable within one year of Notice of Intent (NOI) submittal, the applicable non-structural nutrient and irrigation management practices.

2. As soon as practicable within two years of NOI submittal, the remaining applicable practices, except for practices that require more time to implement, as specified in the plan.

(d) All applicable record-keeping requirements, including the relevant requirements in Rule 5M-12.006, F.A.C.; and

(e) The date of plan completion or revision.

(3) The plan shall be approved by USDA/NRCS or certified by a Technical Service Provider that it incorporates the relevant FOTG criteria and practices referenced in subsections (1) and (2).

(4) The plan shall be reviewed at least every five years, and updated as necessary to continue to meet the requirements of this rule. If the Department adopts or revises any BMP manuals relevant to the operation subsequent to plan completion, the producer shall incorporate any additional applicable BMPs into the plan.

Rulemaking Authority 403.067(7)(c)2., (13)(b), 570.07(23), 570.085 FS. Law Implemented 403.067(7)(c)2., (13)(b), 570.07(23), 570.085 FS. History--New _____.

5M-12.005 Notice of Intent to Implement.

To enroll in the BMP program, the participant must submit an Notice of Intent to Implement (NOI) to the Florida Department of Agriculture and Consumer Services, Office of Agricultural Water Policy, 1203 Governors Square Boulevard, Suite 200, Tallahassee, Florida 32301. The Notice of Intent to Implement Conservation Plans for Specified Agricultural Operations (DACS-01539, Rev. 01/10), hereby adopted and incorporated by reference, may be obtained from the Office of Agricultural Water Policy or accessed online at <http://www.floridaagwaterpolicy.com/>. The Notice of Intent shall include:

(1) The name of the property owner, the location of the property, and the property tax ID number(s);

(2) The acreage of each agricultural land use on which the identified practices will be implemented;

(3) Contact name and information;

(4) The signature of the owner, leaseholder, or authorized agent; and

(5) A copy of the completed conservation plan. Once submitted to the Department with the NOI, the completed conservation plan is a public document, and shall be made available by the Department upon request, except for plan content that is confidential pursuant to Section 403.067(7)(c)5., F.S.

Rulemaking Authority 403.067(7)(c)2., (13)(b), 570.07(23), 570.085 FS. Law Implemented 403.067(7)(c)2., (13)(b), 570.07(23), 570.085 FS. History--New _____.

5M-12.006 BMP Record Keeping.

Participants must preserve documentation to confirm implementation and maintenance of the BMPs contained in the conservation plan submitted with the NOI. All documentation is subject to inspection. Record keeping shall include:

(1) As applicable to the operation, documentation specified in the USDA/NRCS FOTG.

(2) Records specified for any applicable BMPs in Department-adopted manuals relevant to the operation.

Rulemaking Authority 403.067(7)(c)2., (13)(b), 570.07(23), 570.085 FS. Law Implemented 403.067(7)(c)2., (13)(b), 570.07(23), 570.085 FS. History—New _____.

5M-12.007 Presumption of Compliance.

Pursuant to Sections 403.067(7)(c), and 576.045(4) and (5), F.S., agricultural operations that implement BMPs, in accordance with Department rule, that have been verified by the FDEP as effective in reducing pollutants addressed by the practices are presumed to comply with state water quality standards, and are released from the provisions of Section 376.307(5), F.S., for those pollutants.

(1) Except as stated in subsection (2), in order to meet the statutory requirements for a presumption of compliance with state water quality standards and release from Section 376.307(5), F.S., the participant must:

(a) Develop a site-specific conservation plan that meets the requirements of Rule 5M-12.004, F.A.C.;

(b) Submit an NOI to implement the plan, as outlined in Rule 5M-12.005, F.A.C.;

(c) Implement the plan and maintain the BMPs; and

(d) Comply with the record-keeping requirements in Rule 5M-12.006, F.A.C.

(2) Presumption of compliance with state water quality standards for the areas of livestock operations subject to regulation under Chapters 62-620, 62-621, and 62-670, F.A.C., is governed by the requirements of those rules.

Rulemaking Authority 403.067(7)(c)2., (13)(b), 570.07(23), 570.085, 576.045(6) FS. Law Implemented 403.067(7)(c)2., (13)(b), 570.07(23), 570.085, 576.045(4), (5) FS. History—New _____.

5M-12.008 Access to Properties.

Producers who implement BMPs under this rule shall allow the Department, or the Department in conjunction with FDEP, the applicable water management district or USDA/NRCS representatives, access to the property to confirm implementation, operation, and maintenance of BMPs. Advance notice of inspections shall be provided to the landowner, and the inspection shall be scheduled at a mutually agreeable time.

Rulemaking Authority 403.067(7)(c)2., (13)(b), 570.07(23), 570.085 FS. Law Implemented 403.067(7)(c)2., (13)(b), 570.07(23), 570.085 FS. History—New _____.

NAME OF PERSON ORIGINATING PROPOSED RULE:
Richard J. Budell, Director, Office of Agricultural Water Policy

NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: Charles H. Bronson, Commissioner, Department of Agriculture and Consumer Services

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: January 25, 2010

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: February 5, 2010

DEPARTMENT OF EDUCATION

State Board of Education

RULE NO.:	RULE TITLE:
6A-1.09412	Course Requirements – Grades K-12 Basic and Adult Secondary Programs

PURPOSE AND EFFECT: The purpose of the rule amendment is to adopt revised Social Studies Course Descriptions for the 2010-2011 school-year. The effect will be course descriptions aligned with the Next Generation Sunshine State Standards approved by the State Board of Education.

SUMMARY: The rule is amended to adopt revised Florida Course Descriptions for Social Studies to align with the Next Generation Sunshine State Standards.

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

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

RULEMAKING AUTHORITY: 1001.03(1), 1011.62(1)(s) FS. LAW IMPLEMENTED: 1001.42(9), 1003.42, 1011.62(1)(r) FS.

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

DATE AND TIME: March 16, 2010, 9:00 a.m.

PLACE: Tallahassee Community College, 444 Appleyard Drive, Building 38, Room 105, Tallahassee, Florida

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Todd Clark, Bureau Chief, Bureau of Curriculum and Instruction, Department of Education, 325 West Gaines Street, Room 432, Tallahassee, FL 32399-0400

THE FULL TEXT OF THE PROPOSED RULE IS:

6A-1.09412 Course Requirements – Grades K-12 Basic and Adult Secondary Programs.

A course description directs district personnel by providing the essential content and course requirements for each course in grades K-12 contained in the “Course Code Directory and Instructional Personnel Assignments” adopted by Rule 6A-1.09441, F.A.C. Course requirements approved by the State Board of Education are contained in the publications “~~2010-2011~~ ~~2009-2010~~ Florida Course Descriptions for Grades K-12/Adult, Basic Education,” which is hereby incorporated by reference and made a part of this rule. District school boards of education are authorized, through local rules, to approve a

variance of up to ten (10) percent of the course requirements of each course description. Copies of approved course descriptions may be obtained from K-12 Public Schools, Department of Education, 325 West Gaines Street, Tallahassee, Florida 32399 or online at <http://www.floridastandards.org>.

Rulemaking Authority 1001.03(1), 1011.62(1)(r) FS. Law Implemented 1001.42(7), 1003.42, 1011.62(1)(r) FS. History—New 2-21-85, Formerly 6A-1.9412, Amended 1-29-86, 1-1-87, 9-6-88, 12-13-88, 12-11-89, 1-15-91, 2-20-92, 6-6-93, 10-18-94, 8-28-95, 5-14-96, 9-15-97, 10-13-98, 5-3-99, 5-3-01, 10-15-01, 12-17-02, 7-26-05, 11-21-05, 7-27-06, 1-18-07, 3-24-08, 10-21-09,_____.

NAME OF PERSON ORIGINATING PROPOSED RULE: Dr. Frances Haithcock, Chancellor, Division of Public Schools

NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: Dr. Eric J. Smith, Commissioner of Education

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: February 9, 2010

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: February 12, 2010

DEPARTMENT OF COMMUNITY AFFAIRS

Division of Housing and Community Development

RULE NOS.:	RULE TITLES:
9B-43.0031	Definitions
9B-43.0041	Application Process and Administrative Requirements
9B-43.0045	Category Specific Requirements
9B-43.0051	Grant Administration and Project Implementation
9B-43.0061	Emergency Set-Aside Assistance
9B-43.0071	Section 108 Loan Guarantee Program
9B-43.0081	Nonrecurring CDBG Funding

PURPOSE AND EFFECT: This is a substantial rewrite of the rule.

SUMMARY: Rule Chapter 9B-43, F.A.C., has been revised to include two new sections (Specific Requirements for Competitive Categories and Nonrecurring CDBG Funding). Existing sections have also been revised. Revisions have also been made to the application manual, including scoring criteria, which is incorporated by reference.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS: No Statement of Estimated Regulatory Cost has been prepared. However, the rule revisions will not have a financial impact on the State of Florida or any local government served by the Florida Small Cities CDBG Program. The only costs associated with the rule revision are those related to the public meetings being conducted.

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

RULEMAKING AUTHORITY: 290.048 FS.

LAW IMPLEMENTED: 290.043, 290.044, 290.0455, 290.046, 290.047, 290.0475, 290.048 FS.

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

DATE AND TIME: March 16, 2010, 1:30 p.m. – 5:00 p.m.

PLACE: Department of Community Affairs, Sadowski Building, Randall Kelley Training Center (Room 305), 2555 Shumard Oak Boulevard, Tallahassee, Florida 32399-2100

Toll free call in number: 1(888)808-6959; conference code 6518651.

Pursuant to the provisions of the Americans with Disabilities Act, any person requiring special accommodations to participate in this workshop/meeting is asked to advise the agency at least 7 days before the workshop/meeting by contacting: Judy Peacock, Planning Manager, CDBG Program, 2555 Shumard Oak Boulevard, Tallahassee, Florida 32399-2100 or call (850)487-3644. If you are hearing or speech impaired, please contact the agency using the Florida Relay Service, 1(800)955-8771 (TDD) or 1(800)955-8770 (Voice).

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULES IS: Jacquelyn Dupree, Community Program Manager, Division of Housing and Community Development, 2555 Shumard Oak Boulevard, Tallahassee, Florida 32399-2100, (850)487-3644

THE FULL TEXT OF THE PROPOSED RULES IS:

(Substantial rewording of Rule 9B-43.0031 follows. See Florida Administrative Code for present text.)

9B-43.0031 Definitions.

The Florida Small Cities Community Development Block Grant (CDBG) Program is governed by definitions provided in the Housing and Community Development Act of 1974, as amended; and Title 24 C.F.R. 570, incorporated herein by reference, as effective on 0-00-00. The following additional definitions are provided for clarification.

(1) “Administrative closeout” means the written notification to a recipient by the Department that all applicable administrative actions and all required work of the subgrant have been completed, with the exception of submission of the final audit.

(2) “Administrative costs” include the payment of all reasonable costs of management, coordination, monitoring, and evaluation, and similar costs and carrying charges, related to the planning and execution of community development activities which are funded in whole or in part under the Florida Small Cities Community Development Block Grant

Program. Administrative costs shall include all costs of administration, including general administration, planning and urban design, and project administration costs. Excluded from administrative costs are:

(a) Architectural, engineering and associated construction observation costs where State law or 24 C.F.R. Part 85, as effective on 00-00-00, requires sealed construction documents to obtain a building permit;

(b) Force account crews performing construction work;

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

(3) "Architectural and engineering services" means the basic services required to be performed by an architect or engineer licensed by the State of Florida including preliminary engineering, design services and services during construction except for the following additional engineering services:

(a) Site surveys for water treatment plants, sewage treatment works, dams, reservoirs, and other similar special surveys as may be required, such as route surveys.

(b) Laboratory tests, well tests, borings, and specialized geological soils, hydraulic, or other studies recommended by the engineer.

(c) Property surveys, detailed description of sites, maps, drawings, or estimates related to them, assistance in negotiating for land and easement rights.

(d) Necessary data and filing maps for water rights.

(e) Redesigns ordered by the owner after final plans have been accepted by the owner and the local government, except redesigns to reduce the project cost to within the funds available and projects which received "readiness to proceed" points or a planning and design grant.

(f) Appearances before courts or boards on matters of litigation or hearings related to the project.

(g) Preparation of environment assessments or environmental impact statements.

(h) Performance of detailed staking necessary for construction of the project in excess of the control staking.

(i) Provision of the operation and maintenance manual for a facility.

(j) Activities required to obtain state and federal regulatory agency construction permits.

(k) Design of hookups.

(l) Cost of engineering specialties such as electrical; hydro-geological services; biologists; and heating, ventilation, and air conditioning (HVAC).

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

(5) "Biddable construction plans and specifications" means construction plans and specifications that include all addressed need service areas defined in the application, and includes all addressed need work activities outlined in the application. These documents must be consistent with the project description in the application and the proposed budget and scope of work.

(6) "CATF" means Citizen's Advisory Task Force pursuant to Section 290.046(5), Florida Statutes. The CATF shall be comprised of citizens in the jurisdiction in which the proposed project is to be implemented.

(7) "Complementary activities" are eligible activities, as provided in Section 290.042, F.S., required by the primary activity or project scored in the CDBG application for which grant funds are being requested and which do not, except for Economic Development projects, exceed 35 percent of the cost of the primary activity or project.

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

(9) "Engineer" means a person meeting the qualifications in Section 47(1)005(4), F.S.

(10) A "finding" is a specific issue of noncompliance with federal or state regulatory requirements, including the CDBG subgrant contract provisions.

(11) "Full-time employee" means a person, excluding an elected official, employed by the local government who is on the payroll on one specific payroll date during the 45 day period prior to the application deadline and who is eligible to receive full vacation, retirement, and any other benefits provided by the employing local government to all its regular employees. For county governments, only the employees of the Board of County Commissioners shall be eligible to be included in this definition.

(12) "Fundable range" for each category, except Emergency Set-Aside, shall be determined from the final scores of the eligible applications, ranked by the Department in descending order. Awards are based on the ranking following appeals, beginning with the highest scored application and proceeding in descending order until all available funds in a category for that funding cycle are depleted. If there are unfunded applications in a category, the highest scored unfunded application shall set the score above which a project must remain to be fundable.

(13) "Household" means all individuals residing in a dwelling unit, regardless of their relationship.

(14) "Income" means annual income as defined by the U.S. Department of Housing and Urban Development as set forth in 24 CFR Section 5.609, as effective on 00-00-00.

(15) “Job creation location” means the geographic location in the project area where job creation activities of the Participating Party and expenditure of non-public funds will occur. This excludes locations where public funds from any source are being expended for local government owned infrastructure, local government owned public facilities or within public easements or rights-of-way.

(16) “Jobs – created” means non-public sector jobs that were not in existence in the State of Florida prior to the provision of the CDBG assistance and which would not be created without CDBG assistance. In cases where an employer both creates and eliminates jobs, “jobs – created” means the difference between the new jobs created and the old jobs eliminated.

(17) “Jobs – permanent” means full-time jobs (2,000 hours annually) or full-time equivalent jobs (2,000 hours annually) as set forth in the application which are necessary to the overall goals and objectives of a business and which have no known end.

(18) “Jobs – retained” means jobs that without CDBG assistance, would be abolished by layoffs, plant closing, or other severe economic or natural conditions or as otherwise clarified in 24 C.F.R. 570.483(b)(4), as effective on 00-00-00.

(19) “Jurisdiction” means the corporate limits of a local government.

(20) “Leverage” includes non-CDBG grants and loans to the local government, funds expended by other entities for the project (including by a Participating Party in an Economic Development project), fee waivers, or donated land required for the project. Special CDBG allocations awarded separately from the annual allocation, such as disaster recovery funding, may be used as leverage.

(21) “Liquidated damages” are funds paid to a local government by a contractor, vendor, or any other party pursuant to a CDBG-funded contract when such payment is triggered by non-performance or failure to perform. This definition is applicable whether such funds are withheld by the local government or repaid or rebated to the local government by the contractor, vendor or third party.

(22) “Local government” means a unit of general purpose local government, such as county governments and municipal governments (incorporated cities, towns and villages) within the State of Florida. Unless otherwise stated, “applicant” shall refer to the applying local government.

(23) “Low and moderate income (LMI) household means a household whose annual income does not exceed 80 percent of the median income for the area as most recently determined by HUD.

(24) “Low and moderate income persons” means members of low and moderate-income households.

(25) “Low income household” means a household whose annual income does not exceed 50 percent of the median income for the area as most recently determined by HUD.

(26) “Minority” means African American, American Indian, Alaskan native, Asian, Native Hawaiian, or Pacific Islander individual.

(27) “One hundred year floodplain” or “100 year floodplain” means the area subject to a one percent or greater chance of flooding in any given year as specified in 24 C.F.R. Section 55.2(b)(1), as effective on 00-00-00.

(28) “On schedule” means the local government’s performance on an open CDBG subgrant agreement is in accordance with the expenditure rates and accomplishments described in the contract workplan. Expenditures shall be considered “on schedule” if the local government has received at least 90 percent of the amount projected in the work plan’s schedule of expenditures. Accomplishments shall be considered “on schedule” if an activity identified in the work plan is not more than two months past the scheduled completion date.

(29) “On-time performance” means the local government has not received an extension of the subgrant agreement period for twelve (12) months or more, except for time extensions required for an Economic Development project to track additional job creation when contractual job creation commitments have been met, but the cost per job exceeds \$10,000. For subgrants initially funded only for planning and design, the 12 months shall begin two years after the subgrant was amended for construction phase funding.

(30) “Open subgrant” for the purposes of applicant eligibility is a CDBG agreement that has not been administratively closed.

(31) “Participating Party” means a private, for-profit business or non-governmental private not-for-profit entity responsible for creating or retaining permanent jobs as part of a proposed Economic Development project.

(32) “Principal” means the owner of 50 percent or more of a Participating Party business in a proposed Economic Development project.

(33) “Program income” means gross income received by a unit of local government that was generated from the use of CDBG funds.

(34) “Project area or areas” means the site or sites upon which all subgrant-related construction activities take place, without respect to funding source.

(35) “Public notice” is an advertisement published in a local newspaper of general circulation at least 5 days and no more than 20 days prior to the event for which the notice was placed. The calculation of the time period shall not include the date of publication of the notice.

(36) “Section 3” means Section 3 of the Housing and Community Development Act of 1968, as amended, and 24 C.F.R. Part 135, as effective on 00-00-00, relating to employment and other economic opportunities for lower income persons.

(37) “Service area” means the total geographic area to be directly or indirectly served by the subgrant project, where at least 51 percent of the residents are low and moderate income persons. A service area must include all, and only those, beneficiaries who are reasonably served or would be reasonably served by an activity.

(38) “Time period” or “days” means calendar days. All time periods specified in this rule, the application, the agreement and all correspondence to and from the Department refer to calendar days unless otherwise specified.

(39) “Very low-income (VLI) household” is a household whose annual income does not exceed 30 percent of the median income for the area as most recently determined by HUD.

Rulemaking Specific Authority 290.048 FS. Law Implemented 290.042, 290.043 FS. History–New 5-23-06, Amended _____.

(Substantial rewording of Rule 9B-43.0041 follows. See Florida Administrative Code for present text.)

9B-43.0041 Application Process and Administrative Requirements.

(1) Funding Cycles and Subgrant Agreement Ceilings. Unless otherwise directed by budgetary or administrative constraints, the Florida Department of Community Affairs shall annually initiate a funding cycle for the receipt and review of applications for Community Development Block Grant assistance from eligible units of local government.

(a) An annual application cycle will be announced for each federal award. The Department shall publish a Notice of Funding Availability (NOFA) which establishes a deadline date and time for submission of applications. The NOFA shall be published in the Florida Administrative Weekly at least 45 days in advance of the deadline.

(b) Subgrant ceilings establish limits on the amount of funds that may be requested in an application based on the most recently available U.S. Census of Population data. In the case of county government applicants, the population shall include only the unincorporated areas of the county.

(c) The local governments’ LMI population determines the maximum amount of funds for which they can apply. Population groupings are based on HUD modified census figures summarizing low and moderate income population as the following chart shows:

LMI Population Subgrant Ceiling

- 1 – 499 \$600,000
- 500 – 1,249 \$650,000
- 1,250 – 3,999 \$700,000
- 4,000 – 10,549 \$750,000
- 10,550 – and above \$750,000

(d) Planning and Design Specifications subgrants shall not exceed \$70,000.

(2) Eligible Applicants.

(a) Eligible local governments include those counties and municipalities in Florida that do not receive CDBG entitlement assistance from the U.S. Department of Housing and Urban Development (HUD). In the Small Cities CDBG Program, eligible local governments shall be referred to as “non-entitlement” local governments.

(b) Eligible local governments that have an open Housing, Neighborhood Revitalization, Commercial Revitalization, or Planning and Design Specifications subgrant shall not be eligible to apply for another Housing, Neighborhood, Commercial Revitalization, or Planning and Design Specifications subgrant until administrative closeout of their existing subgrant.

(c) Eligible local governments with an open Housing, Neighborhood Revitalization, Commercial Revitalization, or Planning and Design subgrant whose activities and expenditures are on schedule and on time may apply for an Economic Development subgrant.

(d) Eligible local governments with an open Economic Development subgrant whose activities and expenditures are on schedule and on time as of the opening of the funding cycle can apply for a Housing, Neighborhood Revitalization, Commercial Revitalization, or Planning and Design subgrant.

(e) Eligible local governments with an open Economic Development subgrant whose activities and expenditures are on schedule and on time may receive no more than one additional Economic Development subgrant in each funding cycle.

(f) To be eligible to apply for a Housing, Neighborhood Revitalization, or Commercial Revitalization subgrant, a local government with an open but completed Housing, Neighborhood, Commercial Revitalization, or Planning and Design subgrant shall submit an administrative closeout which must be received by the Department no later than 5:00 PM EST on the day prior to the advertised opening of the application cycle. The Department will acknowledge a local government’s closeout request by mailing an administrative closeout notification or a Notice of Outstanding Closeout Issues (NOCISS) letter.

1. The NOCISS letter shall identify issues that the local government must resolve before the Department’s review of the closeout can be completed.

2. A local government’s response to an NOCISS letter must be received by the Department at least ten days before the application deadline for the local government to retain eligibility for the funding cycle. For a NOCISS response received at least ten days prior to application deadline, eligibility will be retained if the response satisfies the deficiencies set forth in the NOCISS letter, regardless of whether the Department’s closeout notification has been mailed before the application deadline date.

(3) Citizen Participation Requirements.

(a) The applicant shall demonstrate that the citizen participation requirements required by this rule, sections 104(a)(1) and (2) and 106(d)(5)(C) of Title I of the Housing and Community Development Act of 1974, and Section 290.046(5), F.S., with public notice provided in accordance with Rule 9B-43.003, F.A.C., have been satisfied. Each applicant shall certify that it is following a Citizen Participation Plan pursuant to Section 104(a)(3) of Title I of the Housing and Community Development Act of 1974. The local government must inform and involve its citizens in the project planning and selection, and decision-making process regarding all CDBG-funded projects. These requirements are:

1. Public information is made available for various activities and the range of activities that may be undertaken;

2. At least one public hearing is held to obtain citizens' views regarding community development needs. This shall be known as the first public hearing. The public hearing must be advertised at least 5 days and no more than 20 days before the meeting;

3. At least one public hearing is held to obtain citizen views regarding the proposed project to be submitted for funding. A summary of the proposed application shall be published at least 5 days prior to and no more than 20 days before the hearing. The summary must provide citizens with an opportunity to examine the application and submit their comments on the final application prior to its submission to the department. The summary shall include, at a minimum, the proposed project description and anticipated location of the activities, what activities will be undertaken, and a specific CDBG amount for each activity. This shall be known as the second public hearing.

4. The applicant considers all comments and views expressed by citizens on the proposed application and, if appropriate modifies the proposed application;

5. Both public hearings shall be given proper public notice as defined in Rule 9B-43.002, F.A.C., Program Definitions (35), herein. The advertisement for the second public hearing on the application shall not occur until after the date of the first public hearing; and

6. All public hearings required to meet these citizen participation requirements must be conducted by a member of the governing body of the applying local government or by a duly authorized employee of that local government.

(b) The local government shall establish a Citizens Advisory Task Force (CATF) comprised of at least three residents of the jurisdiction, none of which shall be elected officials and no more than one employee of the local government. The purpose of the CATF shall be to provide input on all phases of the project process. The local government must obtain consent from the Department of Community Affairs for any other type of citizen participation plan upon showing that its plan is better suited to secure citizen participation for that locality.

1. The Citizens Advisory Task Force shall conduct at least one public meeting to discuss the proposed application before the second public hearing notice is published.

2. The CATF shall provide recommendations to the local government for all aspects of the local CDBG program.

(4) Application Preparation and Submission.

(a) Application Preparation: During each funding cycle, eligible applicants can submit applications in the following categories:

1. Either Housing or Neighborhood Revitalization, but not both. If both are received from an applicant, only the first application logged in by the Department will be scored. The second application will be returned unscored;

2. Commercial Revitalization; and

3. Economic Development;

(b) An applicant cannot receive more than one subgrant in any funding cycle from any of the following categories: Housing, Neighborhood Revitalization, or Commercial Revitalization, or Planning and Design.

(c) Application Forms. Application forms are in the application manuals, hereby incorporated into this rule by reference, effective as of 00-00-00, and which are available from the Department of Community Affairs at the address specified in the NOFA:

1. CDBG-H, Housing Application Manual;

2. CDBG-N, Neighborhood Revitalization Application Manual;

3. CDBG-C, Commercial Revitalization Application Manual; and

4. CDBG-E, Economic Development Application Manual;
(d) Administrative Costs.

1. Percentage Limitations. Applicants under the Housing category shall utilize no more than 15 percent of the total eligible subgrant amount for administrative costs. Applicants under the Economic Development, Neighborhood Revitalization and Commercial Revitalization categories shall utilize no more than 8 percent of the total eligible subgrant amount for administrative costs.

2. If administrative cost percentages set forth in Section 290.047, F.S., are exceeded in the application, the administrative costs shall be reduced prior to the offering of an award to bring the percentages into compliance based on the total eligible subgrant costs.

(e) Architectural and Engineering Costs. The maximum percentage of CDBG funds that may be spent on design architectural and engineering costs, excluding additional engineering services, shall be based on the total initial construction budget for eligible subgrant activities which require architecture and engineering and shall not exceed the Rural Development (RD) Rural Utility Service (RUS) fee schedule in Florida, RUS Bulletin 1780-9 (rev 10/2009), hereby incorporated into this rule by reference. Engineering

services during construction shall not exceed the Rural Development (RD) Rural Utility Service (RUS) fee schedule in Florida, RUS Bulletin 1780-9 (rev 6/2007), hereby incorporated into this rule by reference.

1. If more than one design professional is needed for an activity or activities (i.e., a landscape architect in addition to an engineer for sidewalk construction in a commercial revitalization project), the local government shall not exceed the appropriate RD/RUS fee curve for each activity covered by each design professional negotiated separately.

2. For projects involving both Table I and II activities, engineering costs shall be pro-rated appropriately.

3. For each additional engineering service as defined in subsection 9B-43.003(3), F.A.C., and for preliminary engineering, the local government shall negotiate a reasonable fee for the service following procurement procedures in 24 C.F.R. 85.36, as effective on 00-00-00.

4. Preliminary engineering costs not to exceed one-half of one percent of the estimated construction cost may be paid with CDBG funds over and above the amounts included the RD/RUS fee schedule.

5. If "readiness to proceed" points are part of the final application score, then CDBG subgrant funds for engineering costs shall not include preliminary engineering and shall not exceed \$10,000 plus the percentage in the fee schedule for Table IA, Table IIA, or a prorated amount of both tables for projects involving activities included in both tables. Also, CDBG funds shall not be used to fund any additional design or redesign costs, even if the "readiness to proceed" points are subsequently removed from the application after a subgrant award.

(f) Consistency with Local Comprehensive Plan.

1. The application shall include affirmations from all jurisdictions in which activities will take place that the proposed activities are not inconsistent with the applicable elements of the adopted local comprehensive plan.

2. If the Department determines that an application is inconsistent with the adopted local comprehensive plan, the applicant shall be advised of that determination in the completeness review letter. If after review of the applicant's response the Department reaffirms its determination of inconsistency, the application shall be rejected.

(g) Application Submission. Applications shall be received by the Department in Tallahassee by 5:00 p.m. EST on the date specified in the NOFA. Applications not received by the specified deadline shall not be considered. Applicants must also meet intergovernmental coordination and review requirements as follows:

1. By the application deadline, 12 copies of the following information for Housing, Neighborhood Revitalization, Commercial Revitalization and Planning and Design Specifications applications shall be mailed to the Department

of Environmental Protection, Florida State Clearing House, 3900 Commonwealth Boulevard, Mail Station 47, Tallahassee, Florida 32399-3000:

a. Application Profile and Narrative.

b. Sources and Uses of Non-CDBG Funds Information.

c. CDBG Funds and Activity Goal Score Spreadsheet.

d. All Maps.

e. If applicable, Historic Preservation Documents.

2. A transmittal letter, requesting that documents relating to the Clearing House review be sent to the local government and the CDBG Program, shall accompany the materials sent to the State Clearing House.

3. By the application deadline, one copy of the above materials shall be sent to the Regional Planning Council that serves the local government.

(h) Application Submission and Fund Reservation for Economic Development Projects.

1. Economic Development applications may be submitted when the annual funding cycle opens. Economic Development applications received by the application deadline will be scored, ranked and, if successful, awarded until all available funds are committed. Should initial application requests not exceed available funds, applications received after the application deadline will be reviewed and awarded on a first-come, first-served basis until all funds are committed.

2. These funds shall include the annual Economic Development allocation and may include any funds unawarded from previous cycles and deobligated funds from previous Economic Development subgrants, in accordance with the Annual Action Plan under the State of Florida Consolidated Plan submitted by the Department to the U.S. Department of Housing and Urban Development, as amended.

3. A local government may apply up to three times in an annual funding cycle.

4. A local government cannot submit an additional Economic Development application in an annual funding cycle until any previously submitted Economic Development application for that annual funding cycle has been rejected by the Department, has lost its funding reservation, or is withdrawn in writing by the Chief Elected Official or his or her designee.

5. Economic Development applications will be date stamped upon receipt by the Community Development Block Grant Section. The date stamp and time received by the Community Development Block Grant Section shall establish the date and time for fund reservation purposes. Date stamps from any other section of the Department shall not establish a funding reservation. Funds will be reserved in the order received by date and time.

6. Once the application is received, the local government will not be allowed to provide new documentation from a Participating Party to meet the initial Participating Party requirements in the application.

7. If sufficient funds are available to fully fund an application, that amount is reserved for the applicant upon receipt of the application. The application continues to have those funds reserved until a subgrant is executed or until there is a loss of fund reservation.

8. Should insufficient funds be available to fund or partially fund applications with a funding reservation, those applications shall retain a position in the funding reservation line and may be funded if additional funds are made available by additional allocations or by a loss of funding reservation by another applicant.

9. If partial funding is available, the Department will offer to partially fund an eligible application and will continue with the application review and scoring for partial funding. If the application remains eligible after review and scoring considering the partial funding available, the Department will offer to partially fund it. There is no guarantee of full funding in such an offer, but a partially funded subgrant will be considered first if additional funds become available. The local government has the option of declining a partially funded offer.

10. The review and offer of funding will then be made to the next eligible pending application. If there are no other applications pending or if the amount of the funds available is too small for reasonable consideration, the partial funds can be held until additional funds are available.

(5) National Objective and Public Benefit Documentation.

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

1. An activity shall be considered to benefit low and moderate income persons when it benefits ~~are~~ low and moderate income persons as specified in 24 C.F.R. Section 570.483(b), as effective on 00-00-00; or

2. Aid in the prevention or elimination of slums or blight as determined pursuant to 24 C.F.R. Section 570.483(c), as effective on 00-00-00; or

3. Meet urgent community development needs where there is a serious and immediate threat to the health and welfare of the community, which are of recent origin or recently became urgent and where other financial resources are not available as determined pursuant to 24 C.F.R. Section 570.483(d), as effective on 00-00-00.

4. Applications must demonstrate they meet the criteria for complying with a national objective per 24 CFR 570.483, that they meet public benefit standards as outlined in 24 CFR 483, and that they address community need as outlined in Florida Statutes 290.046(3)(a)-(d). Each annual action plan will identify which national objective(s) will be considered for funding.

5. An applicant for a Neighborhood Revitalization or Commercial Revitalization subgrant shall meet a national objective by demonstrating that its activities will be carried out in distinct service areas characterized by the existence of slums or blighted conditions, or by the concentration of persons of low or moderate income.

(b) Public Benefit Achievement. Determination of benefit to persons of low to moderate income is established through the following methods:

1. HUD Census Data – LMI benefit can be documented by using HUD-provided Census Data where the service area geographically corresponds with block groups, census tracts, or local government geographical limits. A jurisdiction-wide activity using census data rather than a survey to establish the national objective of benefit primarily to low and moderate income persons can score VLI points by calculating a percentage of VLI benefit using census data. VLI beneficiaries are calculated by totaling, for each block group in each census tract, the numbers shown in the PVLOW. The total of VLI beneficiaries is divided by the total beneficiaries (LOWMODUNIV) to establish the VLI percentage for scoring the appropriate VLI beneficiary points.

2. Random Sample Survey Methodology – A sample-based survey of the beneficiaries must use the “Household Income Certification Form,” located in the Application Manual, which must correspond with the random sampling requirements established by HUD in Notice CPD-05-06, as effective on 5-23-06.

a. The survey process must verify eligibility of any proposed direct benefit activities, certify the number of projected very low, low and moderate income households and beneficiaries, and the total number of beneficiaries.

b. When the sample-based survey results appear to substantially overstate the proportion of persons with low or moderate income in a service area when compared to census data, the Department will require the local government to provide supporting evidence substantiating the survey data. If the survey results are found to be inaccurate, the application shall be rejected.

3. Small Service Area Survey Methodology. For surveys of service areas under 50 households, all households must be surveyed. Any non-responding household must be assumed to be above low and moderate income.

4. The number of household members for non-responding households shall be based on the average household size for all responding households.

5. A survey approved by the Department for a funded CDBG application remains valid for the same geographic service area for up to five years from the date the survey was completed.

6. Only the methods of LMI benefit determination provided for in this rule shall be used.

(6) Beneficiaries of Public Improvements.

(a) For activities where hookups or connections are required for beneficiary access to the CDBG-funded improvement, low and moderate income benefit shall be determined by the number of low and moderate income persons in households connected to and able to use the water, sewer or other infrastructure at the time of administrative closeout. The percentage of low and moderate income benefit shall be calculated by dividing the number of LMI persons connected to the CDBG-funded infrastructure by the total number of persons who could be connected to it.

(b) CDBG funded activities may not extend beyond the location of the last LMI beneficiary except where it is required for sound engineering, operation, or design reasons as certified by a licensed engineer.

(c) For activities where hookups or connections are required as a condition for beneficiary access to a CDBG funded public improvement, hookup or connection fees shall not be charged to very-low, low or moderate-income beneficiaries. Further, none of the project construction costs shall be charged to very-low, low or moderate income beneficiaries. All very low, low and moderate income beneficiaries in a Neighborhood Revitalization project service area with hookups as an activity shall be hooked up unless they provide written notice that they do not desire a hookup.

(d) Where non-LMI beneficiaries will have to pay a one-time fee (i.e., assessment, impact fee, etc.) to connect to or access the CDBG funded public improvement, and where a periodic service fee (i.e., water bill, sewer bill, etc.) will be charged, the proposed non-LMI beneficiaries will be advised of the estimated cost of the one-time fee and all beneficiaries will be advised of the estimated amount of any periodic service fee. The application narrative and budget must outline the estimated costs to be paid by non-LMI beneficiaries.

(e) Surveyed beneficiaries shall be advised of both fees in writing with signature acknowledgement of receipt and understanding prior to application submission. If census data is used, a random sample representing ten percent of the beneficiaries must be advised in writing with signature acknowledgement of receipt and understanding prior to application submission. If a household refuses to provide signature acknowledgement, the refusal shall be noted on the form.

(f) An applicant for an Economic Development project must meet a national objective through the creation or retention of jobs, of which fifty-one percent must be jobs for persons from low to moderate-income households and must provide a public benefit by creating or retaining a number of full time equivalent jobs that divided into the subgrant amount results in a cost per job of under \$35,000.

(7) Interlocal Agreements for Applicants with Activities Outside Their Jurisdiction.

(a) Prior to application submission, a written interlocal agreement shall be executed by all local governments in whose jurisdictions the CDBG activities will be undertaken. The interlocal agreement must authorize the applying local government to undertake the activities outside its jurisdiction, giving the concurrence of the other local government(s) with the activity and committing resources by one or both local governments to maintain the activity. Such an interlocal agreement must be submitted with the application for funding.

(b) Each local government signing an interlocal agreement shall affirm that all activities, project areas, service areas, and job creation locations are not inconsistent with its comprehensive plan.

(c) The application shall contain excerpts of the comprehensive plans of all local governments in whose jurisdiction activities will take place. The excerpts must document that the activities, project areas, service areas, and job creation locations are not inconsistent with the local government's comprehensive land use plan.

(d) An eligible applicant's activities can extend beyond its jurisdiction, provided the areas outside its jurisdiction are eligible. The applicant must have legal authority to provide such services or undertake such activities and be supported by a signed interlocal agreement executed by both eligible local governments. Except for Economic Development projects, no more than 25 percent of the service area beneficiaries may reside outside the applicant's jurisdiction unless all CDBG funded work is taking place within the applicant's jurisdiction or on property owned by the applicant. When all work will take place within the applicant's jurisdiction or on property owned by the applicant, up to 50 percent of the beneficiaries may reside outside the applicant's jurisdiction.

(e) Pursuant to 24 C.F.R. 570.486(b), as effective on 00-00-00, an eligible individual applicant may apply to undertake a portion of an eligible Neighborhood Revitalization activity in an otherwise eligible location outside its jurisdiction or service area, if it can provide written documentation that the activity is required by an engineer or by a state or federal agency having regulatory authority over the activities. Any benefit to persons outside the jurisdiction or service area must not be a Direct Benefit and may only be incidental to the like activity undertaken within the jurisdiction or service area. Indirect benefit to persons outside the jurisdiction or service area shall not be used to establish activity eligibility for scoring purposes. All service area residents shall reside within the jurisdiction of the local government submitting the individual application.

(f) An eligible individual applicant can apply to undertake Economic Development infrastructure activity outside its jurisdiction, if it can provide written documentation that the infrastructure activities outside its jurisdiction are necessary to meet the needs of a job-creating Participating Party, pursuant to Section 290.046(2)(b), F.S.

1. The job creation location shall either be within the jurisdiction of the applying local government connecting to infrastructure outside its jurisdiction owned and operated by another public or private entity, or

2. The job creation location shall be outside the jurisdiction of the applying local government if that local government owns the necessary infrastructure (treatment, production, or storage) to be connected to the job creation location on behalf of the Participating Party.

3. In either case, liability for CDBG performance and compliance with all applicable rules and regulations rests with the applying local government.

(8) Application Reviews.

(a) The Department will complete a threshold review to determine that the local government, the application, and all proposed activities are eligible.

(b) The Department will undertake a completeness review to determine that the application is mathematically correct and contains all required documentation. This review will generate a list of issues to be addressed at site visit.

(c) Except for the Community-Wide Needs Score, any scoring item left blank will be scored as zero. This zero score cannot be changed as a result of site visit or because of information elsewhere in the application.

(9) Application Site Visits and Completeness Letters.

(a) Site visits shall be conducted by the Department prior to publication of the application rankings in the fundable range. For Economic Development projects, any Participating Party must be available during the site visit(s), or the Participating Party must come to Tallahassee to meet with Department staff within 30 days after the site visit(s). Should a Participating Party fail to meet one of the two conditions, the application must be withdrawn by the local government or the application will lose its funding reservation.

(b) The Department shall notify the Chief Elected Official in writing of the date and approximate time the site visit will take place.

(c) The Department shall examine all documents that have been certified to in the application.

(d) Except as otherwise provided for in Economic Development applications, after the site visit, the Department shall request in writing all documentation found to be unavailable or inadequate. Applicants shall have 21 days from the date that the request is received to provide the requested information to the Department. Responses to completeness letters must be transmitted by the applicant and received by the deadline established by the Department.

(e) Additional Completeness Review Items for Neighborhood Revitalization Applications. During the completeness review period, the Department shall review applications that propose land assembly or site preparation for

new housing construction for low and moderate income persons to determine whether documentation is provided to show:

1. Firm commitments for construction from the developer,

2. Documentation of ownership, or

3. An option on the land to control the sale to or ensure use by low and moderate income persons, and

4. Documentation that the proposed site is properly zoned.

(f) If the requested material is not received by five p.m. EST on the 21st day in the Community Development Block Grant Section at the address specified in the application manual, or if at the end of the completeness period, material is found to be incomplete or not in compliance, the following points shall be deducted from the applicant's total score:

1. Required Maps with information specified in the completeness letter – 250 points.

2. Interlocal Agreement, if applicable – 250 points.

3. In the Housing category, selection criteria for beneficiaries or a complete list of beneficiaries selected – 250 points.

4. Any scoring points associated with issues in the completeness letter for which additional documentation was requested.

(g) Completeness Review Items for Economic Development Applications. Completeness Issues found during application review, that require a response, are included in the Notice of Upcoming Site Visit letter. Following the site visit, the Department will mail to the local government an award and offer to contract letter and a subgrant agreement, including any necessary special conditions, for execution by the local government.

1. If additional issues are generated during the site visit, a list of additional questions or requests for information will be included with the award and offer to contract letter and the subgrant agreement if they have not been resolved prior to that time.

2. Within 60 calendar days of the local government's receipt of the award and offer to contract letter (the 60 day period), the Department must receive from the applying local government the information required in the Award and Offer to Contract Documentation section of the Application, any additional required documentation referenced in the award and offer to contract letter, and a signed subgrant agreement ready for the Department's execution.

3. The signed subgrant and all required documentation in 2. above must be received by the Department on or before 5:00 PM EST of the 60th day. The day the award and offer to contract letter is received by the local government shall not be included in the sixty-day completeness period. Facsimile or electronic submissions are acceptable to meet the requirements of the 60 day period.

4. If all program requirements have been met, the Department will execute the subgrant and return a signed copy of it to the local government.

5. If CDBG Economic Development funds are unavailable, the eligible applications will be held in the order of their funding reservation as established in this section should additional funds become available.

(10) Application Scoring. Once an application is submitted to the Department, no aspect of the application may be revised to improve the score or broaden the scope of the project.

(a) The maximum score possible in each category is 1,000 points. These points shall be divided among three program factors as specified below.

Community-wide needs:	250 points
Program Impact:	650 points
Outstanding performance in equal opportunity employment and fair housing:	100 points
Total points:	1,000 points

(b) Community-wide Need Scores (CWNS) for All Categories. The Department shall calculate the community-wide needs score from the most recent and uniformly available federal and State data for all jurisdictions eligible to apply. Current decennial U.S. Census data shall be used unless otherwise noted. Data shall be further defined as:

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

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

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

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

- a. Number of persons below poverty – 125 points
- b. Number of year-round housing units with 1.01 or more persons per room – 62.5 points;
- c. Number of persons in the low and moderate income population according to the latest HUD census – 62.5 points.

5. Method of Calculation. All eligible local governments shall be compared on the factors identified in paragraph 9B-43.0041(10)(a), F.A.C. Eligible local governments shall be compared on each factor with all other applicants in their population group as designated in paragraph 9B-43.0041(1)(c), F.A.C. Calculating each applicant's score shall include the following steps:

a. The highest statistic in each population group for each factor identified in paragraph 9B-43.0041(10)(a), F.A.C., shall be the basis for relative comparison of all other eligible local governments in the population group.

statistic on factor
----- = percentage to be used as factor multiplier
highest statistic on factor population group

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

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

c. The Community-Wide Needs Score factors shall be summed for each eligible local government for the overall Community-Wide Needs Score. Pursuant to Section 290.046(3)(b), F.S., each local government awarded subgrant funds shall have its community-wide needs score reduced by 5 points for every \$100,000, or fraction thereof, of contracted funding. If \$100,000 or more in funding is deobligated at the time the administrative closeout is approved by the Department, the score will be adjusted and the CWNS increased accordingly. This adjustment shall not be made during the first application cycle in which the most recent census data is used. All adjustments for subgrant funds received shall be based on subgrants received in all application cycles after the most recent census data was first used. This calculation shall be based on all funds contracted as of the end of the month prior to the opening date of the application cycle. The adjusted community-wide needs score cannot be less than zero. No deduction to CWNS shall be made for Emergency Set-Aside subgrants.

(c) Further point breakdowns for Program Impact, Equal Opportunity and Fair Housing are found in the rule section pertaining to individual program categories or in the application manual for each category.

(d) Applications with scores in the fundable range following appeals and that meet all other requirements contained herein shall be awarded funds for eligible activities.

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

(f) The Department shall offer an applicant scoring within the fundable range an amount less than that requested in the application when insufficient funds are available to fund the total subgrant request or if ineligible activities are proposed in the application.

(g) Leverage. For leverage scoring purposes, only leveraged funds expended after the date of site visit and prior to the date of submission of the administrative closeout shall be counted.

(h) Penalty Points for Past Performance. A penalty shall be assessed against future subgrant applications based on prior contractual performance on subgrant agreements, including those subgrants which have submitted an administrative closeout prior to application deadline. This penalty will apply regardless of whether the subgrant has been amended to permit the reduction in accomplishments. If the subgrant is terminated with no expenditures or is terminated with expenditures for administration and/or engineering only, no penalty shall be assessed. This penalty expires two years from the date of administrative closeout. The Department will waive these penalties if the local government is unable to meet subgrant requirements due solely to a state or federally declared natural disaster or emergency. Penalties will include:

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

2. A penalty of five points per low and moderate income household not served or business facade not addressed as geographically displayed on the original application maps (as modified, if necessary, during the completeness process) in the Neighborhood Revitalization or the Commercial Revitalization categories up to a maximum of 50 points. All direct benefit proposed in the application (i.e., water hookups) must be completed to avoid this penalty per house or facade. No penalty shall be assessed for failure to provide a water or sewer hookup if the hookup is not possible because the home is vacant or became damaged or destroyed after application submission, the homeowner refused the hookup or became non-LMI after the survey, and there are no other homes in the service area identified in the application as unmet need which can qualify for a hookup to replace any home not hooked up.

(11) Application Rejection and Loss of Funding Reservation Criteria. Applications that do not meet the following minimum requirements as outlined in Section 290.0475, F.S. shall be rejected without scoring:

(a) The application is not received by the Department by the application deadline.

(b) The proposed project does not meet one of three national objectives as contained in federal or state legislation;

(c) The application is not consistent with the local government's comprehensive plan adopted pursuant to Section 163.3184(7), F.S.;

(d) The proposed project is not an eligible activity as contained in the federal legislation;

(e) The applicant has an open Community Development Block Grant, except as provided in Section 290.046(2)(c), F.S.

(f) The local government is not in compliance with the citizen participation requirements required by ss.104(a)(1) and (2) and 106(d)(5)(c) of Title I of the Housing and Community Development Act of 1984 and department rule.

(g) Misrepresentation. The eligibility and scoring of the application is subject to the truth and accuracy of all information, representations, and materials submitted or provided by the applicant in the application, in any subsequent submission or in any response to fulfill the application requirements. The lack of accuracy thereof or any material changes which would materially change the scoring of the application or the subgrantee's eligibility shall cause the application to be rejected for eligibility or scoring.

(h) The survey results are inaccurate or cannot be substantiated.

(i) Loss of Fund Reservation for Economic Development Applications: An Economic Development application shall lose its fund reservation if:

1. An applicant is not eligible.

2. An activity is found to be ineligible. If an activity is found to be ineligible, the funding reservation will be reduced by the budgeted amount for that activity and any related engineering and administration.

3. The application is missing an initially required item that is specified in the Documentation Requirements section of the application.

4. The local government withdraws the application in a letter signed by the Chief Elected Official.

5. Prior to the end of the site visit, the local government fails to provide documentation requested in the Notice of Pending Site Visit letter.

6. The Department does not receive the required documentation and the subgrant signed by the Chief Elected Official or his or her designee within 60 days of the applying local government's receipt of the award and offer to contract letter. If the local government submits the required documentation and signed subgrant after the 60-day period has expired and unreserved funds are available, the date that the subgrant and all required documents are received by the Department becomes the new fund reservation date. If the documentation is adequate and unreserved funds are available to fund the application, a subgrant will be executed by the Department.

7. A Participating Party withdraws prior to the execution of the subgrant by the Department, unless the subgrant remains within the fundable range with the remaining Participating Parties. Increasing the job creation numbers or leverage of the remaining Participating Parties beyond that referenced in the application shall not be allowed. Replacement of Participating Parties shall not be allowed without withdrawal and resubmission of the application.

Rulemaking Specific 290.048 FS. Law Implemented 290.044, 290.046, 290.047, 290.0475 FS. History--New 5-23-06, Amended 2-26-07, _____.

9B-43.0045 Category Specific Requirements.(1) Program Requirements for Neighborhood Revitalization.

(a) The primary objective of the Neighborhood Revitalization category is to preserve and revitalize declining, primarily residential, low and moderate-income service area neighborhoods by addressing the major infrastructure problems contributing to such decline.

(b) Measurement of Program Impact. Specific criteria used to calculate the total 650 points for Program Impact are found in the Neighborhood Revitalization section of the application.

(c) Service Area Requirements.

1. An activity conducted in a primarily residential service area will be considered to benefit low-and moderate-income persons when at least 51 percent of the residents of that service area are low- and moderate-income persons. Such a service area must contain all households that will benefit from the activity. All activities shall meet the national objective of LMI benefit as specified in 24 C.F.R. 570.483(b), as effective on 00-00-00. When all construction is limited to direct benefit activities (e.g., water or sewer hookups), no service area is needed because all households benefitting from the activity must be LMI.

2. Any survey of the beneficiaries of a service area must correspond to the requirements established in paragraph 9B-43.0041(5)(b), F.A.C.

3. For activities where hookups or connections are required for beneficiary access to the public improvement (Direct Benefit), low and moderate income benefit shall be determined by the number of low and moderate income persons in households connected to and able to use the water, sewer or other infrastructure at the time of administrative closeout compared to the total number of persons who could be connected to the infrastructure. Evidence at the time of closeout must show:

a. The total number of persons in households in the service area, and

b. The total number of low and moderate income persons in households connected to the infrastructure, and

c. Document that the number of LMI persons in households connected to the infrastructure divided by the total number of beneficiaries for that activity in the service area equals at least 51 percent, or a larger percent if required to remain within the fundable range.

d. Eligibility for a hookup shall be based on verification of household income and sources not more than one year before the hookup is provided.

4. Area benefit activities as defined in 24 C.F.R. 570.483(b)(1)(i), as effective on 00-00-00, addressing the needs of elderly, handicapped or homeless beneficiaries are

presumed to provide 51 percent low and moderate income benefit for scoring purposes unless a survey of the service area of such activity documents a higher percentage of benefit.

5. CDBG funded activities may not extend beyond the location of the last LMI beneficiary except where it is required for sound engineering, operation, or design as certified by a licensed engineer.

(2) Program Requirements for Housing.

(a) The primary objectives of the Housing category are to improve housing conditions or expand housing opportunities primarily for low and moderate income persons.

(b) Housing subgrant recipients must have a Department approved Housing Assistance Plan addressing the activities specified in the application.

(c) Low and Moderate Income Benefit for Housing.

1. Selection of beneficiaries or housing units need not take place during the application process, but may take place at any time during the subgrant application or implementation process. All beneficiaries must be low and moderate income persons pursuant to 24 C.F.R. Section 570.482, as effective on 00-00-00.

2. Activities involving rehabilitation or acquisition of property to provide housing shall be considered to directly benefit low and moderate income persons only to the extent that such housing shall, upon completion, be occupied by low and moderate income persons, and for rental units the units must be occupied by low and moderate income persons at affordable rents pursuant to 24 C.F.R. 92.252, as effective on 00-00-00.

3. Water or sewer hookups may only be performed under this category as a complementary activity in conjunction with rehabilitation of a home.

(d) The applicant shall adopt and implement procedures to fulfill regulatory and statutory requirements relating to Lead-Based Paint pursuant to 24 C.F.R. 570.487, 24 C.F.R. 36 and 37, all as effective on March 28, 2002, and Section 302 of the Lead-Based Paint Poisoning Prevention Act (42 U.S.C. Section 1251 et seq.). The recipient is required to:

1. Prohibit use of lead-based paint;

2. Notify potential beneficiaries of the hazards of lead-based paint;

3. Inspect appropriate properties prior to initiating rehabilitation to determine if lead-based paint is present;

4. Undertake appropriate protection of workers and occupants during abatement;

5. Ensure proper clean up and disposal procedures are used;

6. Retain records of enforcement and monitoring for at least five years.

(e) Rehabilitation of all housing units addressed in any way with CDBG funds must be in compliance with the current Florida Building Code for Existing Buildings, as well as

implementing local Building Codes and local Maintenance Codes. If housing units must be replaced, construction of new units must be in full compliance current Florida Building Code.

(f) When CDBG funds are expended to acquire property through a voluntary process for the purpose of assisting low and moderate-income households to relocate out of a 100 year floodplain, the following shall apply:

1. Future development of the property acquired shall be prohibited;

2. The local government may retain title to the property or transfer the title to a land conservancy agency or program, subject to Department approval;

3. The beneficiaries shall agree in writing to relocate outside a 100 year floodplain; and

4. Any beneficiary or household who subsequently relocates at any time into a 100 year floodplain shall not be provided any direct benefit with CDBG funds at any future point in time and this restriction shall be noted in the relocation document signed by the beneficiaries in paragraph (c) above.

5. All structures on the property shall be demolished or relocated out of the floodplain.

(3) Program Requirements for Commercial Revitalization. Applications submitted under this category shall be designed to conserve and revitalize commercial areas, which serve primarily low and moderate income persons.

(a) Eligible activities. All activities must be geographically and physically located within the boundaries of the jurisdiction and the project area and be contiguous to or located on property that is primarily commercial as of the application deadline date. Unimproved property on which activities are proposed cannot be zoned for residential purposes only.

(b) Funds requested and approved for Commercial Revitalization activities shall not be used as grants or loans for working capital, inventory or supplies, or for interior repairs and renovations, except for repairs necessary to correct code violations or removal of architectural barriers to handicap access; and

(c) Service Area Requirements. Activities in Commercial Revitalization projects are considered to serve the entire jurisdiction in which they are to be undertaken, unless the applicant can justify a smaller service area (e.g., a CRA in a portion of a county). The applicant shall document, using census data or a survey, that least 51 percent of beneficiaries in the service area are low and moderate-income persons. A survey shall comply with the requirements specified in subparagraph 9B-43.004(5)(b)2., F.A.C.

(d) Requirements for Rehabilitation of Commercial Buildings. If CDBG funds will be used for rehabilitation of commercial buildings, the local government must prepare, receive Departmental approval, and then adopt procedures for providing rehabilitation assistance to building units occupied

by businesses through the Rehabilitation of Commercial Buildings activity before requesting funds for that activity. The procedures shall include at a minimum, but not be limited to, the following:

1. Restrict the Rehabilitation of Commercial Buildings activity to commercial buildings within the project area pursuant to 24 C.F.R. Section 570.202(a)(3). Properties upon which or adjacent to where CDBG activities are undertaken shall not be zoned for residential purposes only;

2. Require all businesses receiving rehabilitation assistance to provide services, which are available to all the residents of the service area, thereby meeting the national objective of benefiting low and moderate-income persons;

3. Specify the terms and conditions under which the rehabilitation assistance will be provided.

4. Provide that all buildings to be rehabilitated, except as provided in 11. below will be occupied at the time the assistance is provided or subject to a lease agreement such that the building will be occupied prior to closeout. The occupant shall be a legally constituted business with business, sales tax, and occupational licenses;

5. Provide that all contracts for rehabilitation over \$2,000 will comply with the Davis-Bacon Act.

6. Provide that businesses residing in a building rehabilitated with CDBG funds shall comply with the provisions of Section 504 of the Rehabilitative Act of 1973 (29 U.S.C. Section 794) as it relates to employment discrimination and facility accessibility;

7. Provide that CDBG funds addressing those code violations specified in the application will be in compliance with all local and state building codes and standards;

8. Establish a process for recognizing potential conflicts of interest, making those conflicts publicly known, dealing with those conflicts on a local level, and requesting waivers of those conflicts when appropriate pursuant to 24 C.F.R. Section 570.489 and Chapter 112.311-112.3143, F.S. Additionally, provide that no building owner, lesser, lessee, tenant, or occupant, or employee or immediate relative of the same, either personally or corporately, shall serve as a contractor to be paid with CDBG funds for the rehabilitation of said building, nor shall they be paid for their own labor with CDBG funds for the rehabilitation of said building;

9. Establish a process for final inspection of a commercial structure after rehabilitation and a process for final acceptance of a contractor's work on any grant funded activity and before the local government considers the rehabilitation completed.

10. The expenditure of CDBG funds per façade shall not exceed \$22,000 in CDBG funds. A building on a corner containing a single business may be considered to have two facades. Buildings which have been previously subdivided or portioned may be addressed as separate facades only if the building is subdivided such that:

a. There are separate primary entrances for each business;

b. Each of the businesses has separate and distinct occupational and sales tax licenses.

11. The façade only of a vacant building may be addressed if it is part of an overall building façade renovation effort in a contiguous area.

12. CDBG funds may be expended on the roof of a privately owned commercial building only after the issuance of a bona fide code violation report and only after the rehabilitation of the façade, the removal of architectural barriers to handicap access in the entrances and the bathroom areas, and the correction of other documented code violations.

13. CDBG funds for Commercial Revitalization activities shall not be used as grants or loans for working capital, inventory or supplies, or for interior repairs and renovations, except for repairs necessary to correct code violations or removal of architectural barriers to handicap access and correction of architectural barriers to handicap access in public buildings located in the project area pursuant to the requirements of 24 C.F.R. Part 8, as effective 00-00-00.

(4) Program Requirements for Economic Development.

(a) Applications submitted under this category shall be for creation or retention of jobs, of which at least 51 percent are for low and moderate income persons. A governmental entity cannot be a Participating Party.

(b) Prohibited Uses of Funds.

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

2. Direct assistance to non-public entity shall not be in the form of a grant.

3. Funds cannot be used to purchase assets from any entity if any principal of the Participating Party owns an interest of 20 percent or more in that entity.

4. Funds cannot be used to build or develop infrastructure beyond that which is required as a prerequisite for the job creation by the Participating Party.

5. Funds shall not be used to refinance existing debt.

6. Funds cannot be used for a loan to a non-public entity which is determined not to be appropriate as defined in 24 C.F.R. 570.482(e), as effective on March 28, 2002.

(c) Eligibility Requirements for Loans.

1. Determining Eligibility for loans to non-public entities. All Economic Development applications submitted to the Department shall be screened to determine if the amount of any loan assistance to a private, for-profit entity; a private non-profit entity; a neighborhood based organization, a local development organization; or other not for profit entities is appropriate to carry out the Economic Development project. A financial underwriting analysis of the project shall be conducted to determine that the minimum amount of assistance is being requested, that the terms and interest rates are appropriate given the entity's debt service capacity, and that the

entity has the ability to meet the proposed debt service, given historical financial statements, data and reasonable projections of revenues and operating expenses, if applicable.

2. Applications which do not contain justification of the appropriateness of the assistance being requested shall be ineligible in accordance with federal law and federal guidelines and shall be ineligible for scoring as provided in Section 290.0475, F.S.

3. If based on the Department's review of the financial underwriting analysis for the assistance, the funds requested exceeds the funds necessary, the application request shall be reduced by the Department.

4. The local government shall provide to the Department a financial underwriting analysis and other Participating Party documentation not required at the time of application. The underwriting analysis must meet the requirements of 24 C.F.R. Section 570.482(e), as effective on March 28, 2002, and Appendix A. The underwriting analysis must be prepared by a certified public accountant, a commercial lending underwriter, a financial professional employed by the local government or the Participating Party, or some other financial or economic development professional, and shall verify:

a. That all project costs are reasonable;

b. That all sources of funding included in the application document their commitment to the project through written offers to fund with all contingencies stated;

c. That to the extent practicable, CDBG funds are not substituted for readily available non-federal financial support;

d. That the project is financially feasible;

e. That to the extent practicable, the return on owner's equity investment shall not be unreasonably high; and

f. That to the extent practicable, CDBG funds will be disbursed on a pro-rata basis with other finances provided to the project.

5. Once this financial underwriting analysis and other required documentation has been provided by the local government, any material change, including changes in corporate or ownership structure, which affects the underlying assumptions upon which the local government relied will require that the analysis be re-evaluated by the local government and any assistance requested for the Participating Party must be adjusted if a "material change" has occurred.

6. For CDBG loans only, CDBG funds may be used to fund up to 50 percent of the cost of eligible activities at the job creation location. The administrative cost shall not be included in this calculation. Applications which do not meet this requirement shall lose their funding reservation.

(d) Eligibility Requirements for Infrastructure Projects.

1. Determination of eligibility for infrastructure projects shall be based on the type of activities proposed and documentation that benefit primarily to low and moderate-income persons shall occur.

2. Applications shall also document that the entity proposing to create jobs is financially viable based on accepted industry standards.

3. The applicant shall document that the route, scope, cost, and size of the components of the proposed infrastructure are the minimum necessary to provide for the needs of a Participating Party at a job creation location.

4. Job Commitment. Applicants shall document that the Participating Party has the financial capacity to meet its commitment to provide or retain the jobs specified in the application. Applications which do not contain evidence of the capacity to provide jobs shall be assessed a 251-point reduction of their program impact score and will lose their funding reservation.

5. Job Creation or Retention. The number of jobs proposed to be created or retained shall be such that the cost in CDBG funds per job is consistent with 24 C.F.R. 570.482(f)(2) and (f)(4), as effective on 00-00-00. Applications which do not meet the cost-per-job requirements shall lose their funding reservation.

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

(e) National Objective and Public Benefit Documentation.

1. In determining whether an activity will benefit low and moderate-income persons, the net effect of the completed activity shall be considered. In the Economic Development category, each activity shall meet a national objective pursuant to 24 C.F.R. Section 570.483(b)(4), as effective on 00-00-00.

a. New jobs. The determination of actual benefit to low and moderate income persons shall be made based on the number and percent of persons who, at the time they were hired, were low and moderate-income persons as defined herein.

b. Retained jobs. The determination of actual benefit to low and moderate income persons shall be made based on the number of low and moderate income persons employed in the jobs that would actually be lost to the labor market or the jobs that would reasonably be expected to turn over within the following two years and filled with LMI persons upon turn over. The calculation of jobs shall be determined as of the date the application is submitted.

c. Where job creation is the method of meeting a national objective for construction of a public improvement or facility, all jobs created or retained as a direct result of the construction of the public improvement or facility shall be considered. However, if the costs per job and the time period specified in 24 C.F.R. Section 570.482(f)(2)(i), as effective on 00-00-00, are attained, only those jobs created by businesses included in the application must be counted for the purpose of meeting a national objective.

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

a. Jobs will be created which do not require special skills that can only be acquired with substantial work experience, education beyond high school, or specialized work experience.

b. Training opportunities will be provided to make such jobs available to low and moderate income persons who would not otherwise qualify; and

c. The advertising and recruiting efforts are directed toward low and moderate income persons.

3. If a national objective is attained under the provisions of 24 C.F.R. 570.483(b)(4)(iv) or (v), as effective on 00-00-00, demographic and/or census documentation must be provided with the application.

(f) Public improvement activities are also subject to the requirements of 24 C.F.R. Section 570.483(e)(1), as effective on 00-00-00. Activities to address the needs of those beneficiaries listed in 24 C.F.R. 570.483(b)(2)(ii)(A), as effective on 00-00-00, will be presumed to meet the national objective of benefit to low and moderate income persons if they are directly related to the job creation or retention activities.

(g) Program Impact Criteria for the Economic Development Category. Program Impact criteria for Economic Development shall be based on a maximum of 650 points.

(h) If the contract must be modified because of withdrawal of a Participating Party or a reduction in leverage or job numbers, the local government must amend the contract and remain within the fundable range. Substitution of Participating Parties will be allowed only if the substitute is a business desiring to locate at the proposed job creation location or a location that will use the same infrastructure proposed in the application. The substitute Participating Party shall sign a Participating Party agreement which includes an obligation to create the same number of jobs and expend the same amount of leverage.

(5) Program Requirements for Planning and Design Subgrants.

Planning and Design subgrants provide phased funding for a project. Funds are initially provided only for engineering design and related grant administration. After completion of

biddable construction plans and specifications, funding is provided for construction phase costs by a subgrant amendment.

(a) A Planning and Design subgrant may be offered to an applicant in the Neighborhood or Commercial Revitalization category whose score is below the fundable range for full funding and did not receive readiness to proceeds points.

1. Planning and Design subgrants will be offered based on rank ordered scores, subject to available funding.

2. Preference for Planning and Design subgrants will be given to applications in the Neighborhood Revitalization category.

3. Only those local governments whose applications indicate they will consider Planning and Design funding will be offered such a subgrant.

4. Only those applications which meet all other program requirements will be considered for a Planning and Design subgrant.

(b) Each Planning and Design subgrant shall not exceed \$70,000 and shall fund only the costs of engineering services required for the development of biddable construction plans and specifications and grant administration.

1. Engineering costs funded from the subgrant shall not exceed the RUS fee schedule for engineering (Table I, Table II, or proration of these tables, depending on the nature of the project) and applicable additional engineering services as defined in this rule.

2. Grant administrative costs funded by the subgrant shall not exceed six percent of the amount of the Planning and Design subgrant.

(c) After biddable construction plans and specifications are provided to the Department, the subgrant will be amended, as funds become available, for construction phase costs up to the maximum amount allowed for the jurisdiction.

(d) If biddable construction plans and specifications cannot be completed, the subgrant shall be closed out.

Rulemaking Authority 290.048 FS. Law Implemented 290.043, 290.044, 290.046 FS. History—New _____.

(Substantial rewording of Rule 9B-43.0051 follows. See Florida Administrative Code for present text.)

9B-43.0051 Grant Administration and Project Implementation.

(1) Environmental Review. CDBG subgrant recipients must comply with the procedures set forth in 24 CFR Part 58, Environmental Review Procedures for Title I Community Development Block Grant Programs and 40 CFR Section 1500-15-8, National Environmental Policy Act Regulations.

(2) Procurement. CDBG funds shall be used to obtain commodities and services only in accordance with written procurement procedures adopted by the recipient and shall comply with the provisions of 24 C.F.R. Section 85.36, as

effective on 00-00-00, and for covered professional services contracts, Section 287.055, F.S., (Consultants Competitive Negotiation Act).

(a) Any procurement which requires public notice in a newspaper based on the local CDBG procurement policy shall be published in a daily newspaper of general circulation in a nearby OMB designated metropolitan statistical area (MSA). Alternatively, a local government may substitute such notice with any solicitation procedure which generates at least three responsible and responsive bids or proposals which can be considered. Such procedure shall allow at least 12 days for receipt of the proposals or bids.

(b) The Department must provide written approval prior to the recipient awarding any contract exceeding \$25,000 procured as a result of inadequate competition, a sole source, or a non-competitive procurement. For contracts below \$25,000, the recipient's files must document the justification for the procurement which complies with 24 C.F.R. Section 85.36 (b) (4), as effective on 00-00-00. If prior written approval is not obtained, the Department has no obligation to fund the contract unless the Department subsequently approves the procurement.

(c) In procuring services for subgrant administration, recipients shall evaluate in writing any economies of scale or other means of securing efficiency that may be available as a result of the type, number and geographic distribution of subgrants to be administered by the recipient or by a prospective subgrant administrator.

(d) Under Section 290.047(5), F.S., a local government is permitted to contract with the same entity for more than one service, provided that the local government can document that the entity is either (i) the sole source or (ii) was determined, through the Request for Proposals process, to be the proposer most advantageous to the local government. Unlike services, such as, program administration, and engineering services, shall not be combined in a single contract except for design-build contracts procured in accordance with Section 287.055, F.S. If separate procurements result in one firm selected for application and administration services, those services may be combined into one contract provided there are separate scopes of work and a separate fee for each service.

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

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

a. Proposals may be submitted for one or more of the services;

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

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

2. A written evaluation, such as a ranking sheet or narrative, shall be prepared for each proposal, ranking or comparing each proposal to the criteria in the published Request for Proposals. Based on those criteria, the written evaluation will document why the successful proposal was selected.

3. A separate professional services contract must be procured and executed between the local government and any professional services consultant for each CDBG subgrant, except as provided in paragraph (f) below. Each advertisement for procurement of CDBG professional services, except for application preparation, must identify either the CDBG funding cycle by federal fiscal year or the CDBG subgrant number. In the absence of any identifier, the procurement will be presumed to be for the CDBG funding cycle closest to the publication date of the advertisement or, if there is no advertisement, the date of receipt for proposals.

4. Each professional services contract must identify the CDBG subgrant number to which it is applicable.

5. No firm shall be precluded from submitting a bid or proposal for any work funded partially or wholly with CDBG funds based on a minimum experience requirement. A firm's experience can be addressed as an evaluation factor in the ranking for professional services and is a consideration in determining the "responsibility" of a firm when determining the "low, responsive, responsible bidder" for services procurement through bids, as required by 24 CFR 85.36(d)(2)(ii)(D).

(f) Engineering and Administration Services.

1. If the procurement for administration or engineering services for a subgrant initially funded only for planning and design was accepted by the Department and the public notice or Request for Proposals stated that the firm awarded a contract for planning and design services would also, at the discretion of the local government, provide the services during project construction, then a procurement for those services during construction is not required. If the Request for Proposals specifically included services during construction in the scope of work, then no additional procurement is required for those services.

2. A recipient whose application received "readiness to proceed" points may use the design engineer for services during construction if the Department determines that the procurement for design services was competitive or authorizes a non-competitive procurement.

(g) Construction Contracts.

1. If CDBG and other sources of funding are jointly used to fund activities under a single contract, the activities to be paid for with CDBG funds must be shown separately so that the bid proposal identifies the CDBG activities and the amount of a contract to be paid from CDBG.

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

3. All contracts in excess of \$100,000 covered by Section 3 regulations shall contain the language required in 24 C.F.R. 135.38, as effective on 00-00-00.

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

(3) Fund Distribution.

Payment from the Department shall not be for an amount less than \$5,000, unless it is a recipient's final Request for Funds.

(4) Amendments. All proposed amendments must be approved by the Department. Amendments reducing the number of intended beneficiaries or the accomplishments from the original application shall require review by the recipient's Citizens Advisory Task Force and a public hearing with public notice. Any amendment which would reduce the score below the fundable range shall not be approved by the Department.

(a) Documentation Required. Requests for amendments shall include the following written documentation for review by the Department.

1. A cover letter signed by the Chief Elected Official or his or her designee which describes the need for the proposed changes and their effect upon the approved project. If the amendment involves an extension of time, the recipient must provide a justification for the extension.

2. All application forms that would be changed by the proposed amendment.

3. If applicable, a revised work plan.

4. If applicable, a revised budget showing the current and amended budget.

5. If there is a change in activity location, a map indicating the proposed changes.

6. If applicable, a copy of the minutes of the meeting of the Citizen's Advisory Task Force at which the proposed amendment was reviewed.

7. If applicable, a copy of the public notice for the public hearing at which the amendment was approved, which shall evidence compliance with subsection 9B-43.0031(35), F.A.C.

(b) To allow the Department adequate time to ensure the amendment is processed before the subgrant termination date, amendments requests must be received at least 45 days prior to the end of the subgrant. Time extension requests must be received at least 90 days before the end of the subgrant.

(c) Department approval or rejection of an amendment request shall be noticed to the local government within 45 days of the Department's receipt of the request. If additional information is requested by the Department to act on the amendment request, the Department shall notice the local government within 30 days of receipt of the additional information required for the approval or rejection of the request.

(d) If the local government requests administrative closeout prior to the termination date of the subgrant, any amendment affecting closeout must be included with the closeout documents.

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

(5) Subgrant Agreement Closeout.

(a) At the time the closeout report is submitted, the local government must have available documentation to verify its certification that all construction has been completed, inspected and approved by all parties prior to the subgrant end date and submission of the administrative closeout. All funds drawn from the Department and not expended must be returned to the Department prior to or with the submission of the closeout.

(b) Upon completion of the activities contained in the local government's CDBG subgrant, including any amendments, the local government shall submit to the Department a closeout report which gives the final statement of costs, certifies that the project and all non-administrative activities are completed and accepted, that all costs except those reflected on the closeout report have been paid, and reports demographics of the program's beneficiaries. Economic Development projects in which the cost per job exceeds \$10,000 shall not submit an administrative closeout until one year after the date CDBG funded activities were completed.

1. If any change has been made since the application map or the last map amendment in Commercial Revitalization or Neighborhood Revitalization, the closeout shall also contain a revised map of the completed activities.

2. The closeout report in Housing shall include a list of the homes assisted and certify that each housing unit was within the local government's jurisdiction.

(c) The closeout report must contain original signatures. Facsimile (FAX) submissions are not acceptable to meet submission requirements.

(d) If a recipient fails to meet contractual requirements on time, the Department reserves the right to require that a recipient financially (not administratively) close out a subgrant to meet federal requirements for the timely distribution of funds set by HUD.

(6) Performance.

(a) Reporting. At a minimum, the local government shall provide the Department with a final closeout report.

(b) Monitoring by the Recipient. Recipients shall constantly monitor their own performance of project activities to ensure that time schedules are met, projected milestones are accomplished, and other performance goals are achieved.

(c) Monitoring by the Department. The Department shall review each subgrant periodically to determine whether the recipient is implementing the subgrant as described in the approved application, the subgrant contract and in compliance with the requirements of Sections 290.0401-.049, F.S., this rule, and other applicable State laws and federal regulations.

1. Recipients shall be required to supply data and make available records as are necessary to complete an accurate evaluation of contracted activities. Recipients shall respond to any monitoring finding, and to any concern identified as requiring a response, within (35) days of the receipt of the Department's letter. Otherwise, the Department will reject any Request for Funds. The Department will grant one 15-day extension to the response period upon request by the recipient.

2. If the Department must take formal action under the terms of the subgrant to terminate it for cause, the recipient will be assessed 150 penalty points against the score of future applications. This penalty expires two years from final closeout (not administrative closeout) of the terminated grant.

(d) Remedies. When the Department determines on the basis of a review of the recipient's performance that the terms of the subgrant are not being met, the Department shall:

1. Initiate actions as prescribed in 24 C.F.R. 570.910(b), "Corrective and Remedial Actions" and 570.911, "Reduction, Withdrawal, or Adjustment of Grant or other appropriate action," both as effective on _____.

2. If at any time after the effective date of a subgrant the Department determines that a funded activity is not eligible pursuant to 24 C.F.R. Part 570, as effective on 00-00-00, the Department may unilaterally modify the agreement to delete the ineligible activity and deobligate any unencumbered funds.

(e) Submission of inaccurate information by the recipient may be subject to one or more of the following penalties. This applies to inaccurate information in monitoring report responses; audit or audit finding responses; quarterly, closeout, program income, or other reports; or Requests for Funds if this inaccuracy results in subsequent official Department action (such as the granting of administrative or final closeout status, releasing funds, or clearance of findings). These penalties are:

1. In the case of monitoring or audit responses, it shall result in the revocation of closeout status, audit clearance, and/or monitoring report clearance.

2. In the case of an action, which avoids a penalty, the penalty will be assessed.

3. In the case of an administrative closeout status, it shall result in the nullification of the eligibility of the recipient to apply for and receive additional CDBG funding in accordance with Section 290.046(2)(c)(i), Florida Statutes. Such revocation of administrative closeout status would also affect subsequent Department actions made on that basis, including the cancellation of any subsequent subgrant and repayment by the recipient of any funds previously expended under the nullified subgrant.

(7) Audit Requirements.

(a) The annual financial audit report should be accompanied by management letters and the recipient's response to all findings, including corrective actions to be taken. A Single Audit under OMB Circular A-133, or an attestation statement that a Single Audit is not required, must be received from a local government with either an open or administratively closed contract by the June 30 deadline date, or a penalty will be assessed. A 25 point penalty will be assessed for audits not received by the June 30 deadline. A 10 point penalty will be assessed for attestation statements not received by the June 30 deadline. The penalty will expire two years from the date that the audit or attestation statement was received.

(b) The annual financial audit report shall include a schedule of financial assistance specifically identifying all agreement and grant revenue by sponsoring department and agreement number.

(c) The complete financial audit report, including all items specified in paragraph (a) or (b) above, shall be sent directly to the addresses specified in the subgrant.

(d) If the audit shows that the entire funds, or any portion thereof, were not spent in accordance with the conditions of a CDBG subgrant or this Rule, the recipient shall be held liable for reimbursement to the Department of all funds not spent in accordance with applicable regulations and subgrant provisions within thirty (30) days after the Department has notified the recipient of such noncompliance.

(e) The recipient shall retain all financial records, supporting documents, statistical records, and any other documents pertinent to a CDBG subgrant for a period of six years after the date of final closeout submission of the final expenditures report. However, if litigation or an audit has been initiated prior to the expiration of the six year period, the records shall be retained until the litigation or audit findings have been resolved.

(f) The recipient shall have all audits completed by an independent certified public accountant (ICPA) who shall either be a certified public accountant or a public accountant licensed under Chapter 473, Fla. Stat. The ICPA shall state that the audit complied with the applicable provisions noted above.

(8) Displacement and Relocation.

(a) Recipients are required to develop a written plan for assisting persons or businesses that may be displaced as a result of activities assisted with CDBG funds. The plan shall include actions that the recipient shall take to mitigate any adverse effects resulting from CDBG funded activities that may cause such displacement. This plan shall be in accordance with Section 104(d) of Title I of the Housing and Community Development Act of 1974, as amended and is required even if displacement is not anticipated.

(b) If the CDBG funded activity involves the acquisition of real property by the local government or causes displacement of persons or businesses, the federal "Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970," as amended, shall apply. For activities resulting in displacement of persons or businesses that do not involve the acquisition of real property, and thus not subject to the "Uniform Act," the local government's local written policy shall identify the assistance it elects to provide for such persons or businesses.

(c) The recipient shall make its displacement and relocation policy available to the public.

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

(10) Program and Non-Program Income.

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

(b) Program income generated after closeout shall be returned to the Department. Program income generated prior to closeout of a subgrant shall be returned to the Department unless:

1. The program income is used to fund additional units of CDBG activities referenced in the subgrant under which the program income was generated; and

2. The recipient amends the subgrant to encompass expenditure of the program income prior to administrative closeout; and

3. The funds are to be expended pursuant to the provisions of 24 C.F.R. Part 570, as effective on 00-00-00, Sections 290.046-.049, Florida Statutes, and this rule.

(11) Conflict of Interest. If CDBG funds are to be expended to assist or benefit any person listed in 24 C.F.R. Section 570.489(h)(3), as effective on 00-00-00, or listed in Section 112.312 (21), Florida Statutes who is subject to a conflict described in 24 C.F.R. Section 570.489(h)(2), as effective on 00-00-00, a waiver of that conflict shall first be requested pursuant to 24 C.F.R. Section 570.489(h)(4), as effective on 00-00-00. Should CDBG funds be expended prior to the Department's approval of the waiver of the conflict of interest, the funds expended will not be considered an eligible expense and shall be subject to repayment.

(12) Direct Benefit. The eligibility of households receiving direct benefit, including water or sewer hookups, shall be established no earlier than one year before the work is performed. Eligibility documentation shall include third party verification of household income and source(s) regardless of the value of the direct benefit.

Rulemaking Specific Authority 290.048 FS. Law Implemented 290.044, 290.046, 290.047, 290.0475 FS. History–New 5-23-06, Amended 2-26-07, _____.

(Substantial rewording of Rule 9B-43.0061. See Florida Administrative Code for present text.)

9B-43.0061 Emergency Set-Aside Assistance.

Applications will be accepted for the Emergency Assistance Set-aside in accordance with the following criteria:

(1) The maximum funds available under this set-aside from each federal fiscal year's allocation shall be five percent of the funds and shall be for 12 months from the award date of the federal grant.

(2) Any funds in this set-aside for which a notice of intent to submit an emergency application has not been received prior to the date established in subsection (1) above shall be reallocated in accordance with Section 290.044(4), F.S.

(3) Applications will only be accepted from eligible local governments, as defined in Section 290.042(5), F.S., which have been declared by executive order of the Governor to be in a state of emergency as provided under Section 252.36, F.S., and any subsequent emergency rule criteria prepared by the Department to address the emergency. A local government with an open subgrant in any other category is not precluded from applying for or receiving Emergency Set-aside funds because of the open subgrant or its status.

(4) The purpose of funds shall be to meet serious, urgent community needs of low and moderate income residents resulting from the disaster. Sufficient documentation must exist to show that the need for the activities being undertaken is directly related to a specific disaster event covered by an

executive order. The amount of funds requested shall be limited to that amount necessary to address the emergency need.

(5) All other provisions of this rule chapter shall apply to the Emergency Assistance Set-aside unless otherwise stated in the Notice of Funding Availability.

(6) If the total requests for funding exceed the amount of available funds, the Department shall allocate funds among all applicants with eligible activities but not to exceed the amount requested by any applicant.

(a) A prorated allocation shall be calculated by dividing the available funding by the total eligible costs requested by all applicants. Each applicant shall be offered an amount, rounded to the nearest dollar, equal to the percentage developed from this calculation.

(b) Any funds remaining after the procedure in (a) shall be allocated to the applicant with the lowest eligible request. If two or more applicants have the same lowest eligible request, the remaining funds shall be allocated equally between them.

(c) If an applicant chooses not to accept the amount offered, that amount shall be redistributed equally among all applicants who accepted their offer.

Rulemaking Specific Authority 290.044 FS. Law Implemented 290.044 FS. History–New 5-23-06, Amended _____.

(Substantial rewording of Rule 9B-43.0071 follows. See Florida Administrative Code for present text.)

9B-43.0071 Section 108 Loan Guarantee Program.

(1) Application Process.

(a) Projects which propose loans to a third party or parties shall include letters of commitment from all funding sources evidencing sufficient funds to complete the project. For economic development projects, these commitments shall include at a minimum those stated in the Economic Development section of the Florida Small Cities CDBG Application Manual under "Initial Participating Party Commitments."

(b) Following the receipt of a formal invitation to submit an application, the local government (Applicant/Borrower) shall have a third party conduct and complete a detailed underwriting analysis in accordance with 24 C.F.R. 570.482(e)(2) and Appendix A of 24 C.F.R. Part 570. The Department may, as necessary, require additional underwriting standards, criteria or review.

(c) The Department shall retain the right of approval of the third party underwriter, the method of analysis and adherence to the guidelines in 24 C.F.R. 570.482(e)(2) and Appendix A.

(d) The local government shall submit the underwriting analysis with the final application package. The Department reserves the right to require additional information from the local government, the underwriter and/or the third party to whom a loan is proposed. Once a financial underwriting analysis and other required documentation has been provided

by the local government, any material change, including changes in corporate or ownership structure, which affects the underlying assumptions upon which the local government relied will require that the underwriting analysis be re-evaluated by the local government and any assistance requested for the Participating Party must be adjusted if a material change has occurred.

(2) Site Visit and Contracting Period.

(a) The Department will conduct a site visit following review and acceptance of the final application package. For projects which propose loans to a third party or parties, a representative of the third party(ies) shall attend the site visit or must meet with Department staff within 30 days after the site visit at the Department of Community Affairs.

(b) The local government shall submit a fully executed Participating Party Agreement meeting the requirements set out in the Economic Development section of the Florida Small Cities CDBG Application Manual.

(3) Administration and Reporting.

(a) The local government shall copy the Department on all written correspondence with HUD, the underwriter, the Participating Party and all other involved parties.

(b) The local government shall at a minimum provide the Department with quarterly progress reports until such time as the project is administratively closed. This report shall include documentation in a form acceptable to the Department of the project's draws and repayments, accomplishments to date and updates on previous areas of concern as determined by the Department.

Rulemaking Specific Authority 290.048 FS. Law Implemented 290.0455 FS. History--New 5-23-06, Amended _____.

9B-43.0081 Nonrecurring CDBG Funding.

(1) When nonrecurring CDBG funds are awarded to the State of Florida by the U.S. Department of Housing and Urban Development (HUD) to address disaster recovery needs in Presidentially declared disaster areas, the Department will adhere to the following process:

(a) Submit an Action Plan to HUD which describes the proposed use of the funds.

(b) Notify eligible applicants of the availability of the funds, the eligible uses, and the manner in which they can be accessed.

(c) Evaluate local government proposals for the use of the funds and make on-site visits to ensure compliance with federal guidelines.

(d) Execute subgrant agreements with the local governments.

(2) The objective of nonrecurring disaster funding is to address disaster relief, long-term recovery, and to restore housing and infrastructure, particularly that which affects persons who are of low and moderate income that suffered damage or loss as a result of the disaster. Funds may be made

available to both Urban Entitlements and participants of the Florida Small Cities CDBG Program, federally designated Indian Tribes and nonprofit organizations.

(3) Rule 9B-43.0031, F.A.C. (Definitions, except the definition of "service area") and subsections 9B-43.0051(2), (3), (4) and (8), F.A.C. (Selected portions of Subgrant Administration and Project Implementation) will apply to CDBG disaster recovery funding. All other portions of Rule Chapter 9B-43, F.A.C., are waived.

(4) Service area. "Service area" is defined as the total geographical area to be served by an activity. A service area will encompass all beneficiaries who are reasonably served or would be reasonably served by an activity.

(5) Interlocal Agreements. Eligible applicants proposing eligible activities in other eligible jurisdictions will enter into an Interlocal Agreement with the following provisions or submit documentation of an established relationship between eligible jurisdictions which includes the following provisions:

(a) Includes as parties all local governments whose jurisdictions are included in the project and/or service area(s);

(b) Authorizes the applicant to undertake the activities in all jurisdictions included in the interlocal agreement; and

(c) Affirms that all activities are consistent with each local government's comprehensive plan and provides applicable excerpts of each local government's comprehensive plan in the supporting documentation section of the application.

(6) Administrative Costs. The State's Action Plan will limit the amount of funds that local governments may use for the administrative costs specified in 24 CFR 570.206. This does not include staff and administrative costs directly related to carrying out activities eligible under 24 CFR 570 since those costs are eligible as part of those activities.

(7) Program Income. Any program income earned as a result of activities funded under a CDBG disaster recovery subgrant must be reported to the Department, but may be retained for the life of the subgrant by the local government and used to continue the activities from which the funds were generated. Contractual agreements will provide additional guidelines for utilization of program income funds.

(8) Other Funds. Applicants and/or beneficiaries must provide documentation of funds received from other sources which were applied toward the costs of the project funded by CDBG disaster recovery funds.

(9) Beneficiaries of Public Improvements. For activities where hookups or connections are required for beneficiary access to CDBG-funded infrastructure, low and moderate income benefit shall be determined by the number of low and moderate income persons in households connected to and able to use the water, sewer or other infrastructure at the time of administrative closeout. For activities where hookups or connections are required as a condition for beneficiary access to a CDBG funded infrastructure, no hookup or connection fees shall be charged to very-low, low or moderate-income

beneficiaries. Further, no portion of the project construction costs shall be charged to very-low, low or moderate-income beneficiaries.

(10) Amendments. All proposed subgrant agreement amendments must be approved by the Department.

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

1. A cover letter signed by the Chief Elected Official or their designee which describes the need for the proposed changes and their effect upon the approved project.

2. All application forms that would be changed by the proposed amendment.

3. If applicable, a revised activity work plan.

4. If applicable, a revised budget showing the current and amended budget.

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

6. A copy of the minutes of the meeting at which the amendment was approved.

7. Signature of the Chief Elected Official on Form DCA 07.02, Request for Amendment, provided by the Department upon request, which is hereby incorporated by reference, or documentation from the local governing body authorizing the proposed amendment.

(b) The amendment must be received by the Department at least 45 days prior to the end of the subgrant agreement. If the amendment is extending the subgrant agreement period, it must be received by the Department at least 90 days prior to the end of the subgrant agreement.

(c) If the local government requests administrative closeout prior to the termination date of the subgrant agreement, any amendment affecting closeout and requiring Department approval must be included with the closeout.

(d) Time Extensions to Subgrant Agreements. Any proposed amendment extending the termination date of the subgrant agreement must be approved by the Department. The local government must explain any delay affecting project completion and must justify the need for the extension.

(12) Subgrant Closeout.

(a) At the time of submission of the closeout report, the local government must have available documentation which verifies its certification that all construction has been completed, inspected and approved by all parties prior to the subgrant agreement end date and submission of the administrative closeout.

(b) An administrative closeout may be submitted only when the local government has no funds on hand. All funds drawn from the Department and not expended must be returned to the Department prior to, or with, the submission of the closeout.

(c) Upon completion of the activities contained in the local government's CDBG subgrant agreement (including any amendments), the local government shall submit to the Department a closeout which, at a minimum, gives the final statement of costs, certifies that the project and all non-administrative activities are completed and accepted, certifies that all costs except those reflected on the closeout have been paid and reports demographics of the program's beneficiaries.

(d) If any change has been made since the application map or the last map amendment, the closeout shall also contain a revised map of the activities completed during the term of the CDBG contract.

(e) When housing assistance is provided, the closeout must, at a minimum, include a list of the households assisted by the contract. Additional information required by HUD may be requested by the Department at any time.

(f) For activities where hookups or connections are required for beneficiary access to the public improvement, evidence at the time of closeout must show:

1. The total number of persons in all households in the service area;

2. The number of low and moderate income persons in households connected to the infrastructure; and

3. Projects required to meet the LMI national objective must document that the number of LMI persons in households connected to the infrastructure divided by the total number of beneficiaries in the service area equals at least 51 percent or higher or the percentage required by HUD at the time of the application.

(g) The closeout must contain original signatures. Facsimile (FAX) submissions are not acceptable.

(h) If a local government fails to meet contractual requirements on time, the Department reserves the right to require that a local government financially (not administratively) close out a subgrant agreement in order to meet federal requirements for the timely distribution of funds set by HUD.

(i) All closeout documentation is due within 45 days after expiration or termination of the subgrant agreement.

Rulemaking Authority 290.048 FS. Law Implemented 290.043 FS. History--New _____.

NAME OF PERSON ORIGINATING PROPOSED RULE:
Jacquelyn Dupree, Community Program Manager
NAME OF AGENCY HEAD WHO APPROVED THE
PROPOSED RULE: Thomas G. Pelham, Secretary
DATE PROPOSED RULE APPROVED BY AGENCY
HEAD: February 10, 2010
DATE NOTICE OF PROPOSED RULE DEVELOPMENT
PUBLISHED IN FAW: December 4, 2009

BOARD OF TRUSTEES OF THE INTERNAL IMPROVEMENT TRUST FUND

Notices for the Board of Trustees of the Internal Improvement Trust Fund between December 28, 2001 and June 30, 2006, go to <http://www.dep.state.fl.us/> under the link or button titled "Official Notices."

DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION

Pilotage Rate Review Board

RULE NO.: RULE TITLE:

61E13-2.005 Contents of Application by a Pilot

PURPOSE AND EFFECT: The proposed rule change increases the threshold amount of consolidated or combined revenues, from \$250,000 to \$1,000,000, which requires an audited financial statement to be submitted in support of the application for a change of rates of pilotage. The proposed rule change also removes a reference to a Board of Accountancy Rule.

SUMMARY: The proposed rule change increases the threshold amount of consolidated or combined revenues, from \$250,000 to \$1,000,000, which requires an audited financial statement to be submitted in support of the application for a change of rates of pilotage. The proposed rule change also removes a reference to a Board of Accountancy Rule.

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

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

RULEMAKING AUTHORITY: 310.151(1)(c) FS.

LAW IMPLEMENTED: 310.151(2), (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 RULE IS: Robyn Barineau, Executive Director, Pilotage Rate Review Board, Department of Business and Professional Regulation, Northwood Centre, 1940 North Monroe Street, Tallahassee, FL 32399-0750

THE FULL TEXT OF THE PROPOSED RULE IS:

61E13-2.005 Contents of Application by a Pilot.

Applications by a pilot for a change in rates of pilotage in order to be considered complete, shall include:

(1) A consolidated or combined financial statement of the pilot making application prepared in accordance with generally accepted accounting principles as defined in the Board of Accountancy Rule 61H1-20.007, F.A.C. Such financial statements shall be prepared as of the fiscal year ending closest

to the date on which the rate change application is filed and shall also include the financial condition and the results of operation for the preceding fiscal year. The financial statements shall include the consolidated or combined financial condition and the results of operations of all the entities owned or partially owned by the pilot which provides pilot-related services. The consolidated or combined financial statements shall be audited by an independent certified public accountant and shall include an unqualified opinion from that certified public accountant except where the consolidated or combined revenues of the applying pilot are less than \$1,000,000 ~~250,000~~, in which case, a compiled financial statement prepared in accordance with Statements on Standards for Accounting and Review Services promulgated by the American Institute of Certified Public Accountants ~~and adopted by the Florida Board of Accountancy in Rule 61H1-20.009, F.A.C.~~, shall be accepted. The financial statements shall include a supplemental schedule detailing all operating expenses.

(2) A schedule derived from the financial statements submitted indicating the average net income of pilots in the port area including the value of all benefits derived from service as a pilot. This schedule will also contain a comparison of the average net income using current rates to the projected average net income using the requested rates. The information for this shall be derived from the projected statements defined in subsection (8).

(3) A schedule indicating the pilotage rates in other ports if deemed relevant by the applicant.

(4) A schedule indicating the amount of time the applying pilot spends on actual piloting duty and the amount of time spent on other essential support services.

(5) A schedule of the prevailing compensation available to individuals in other maritime services of comparable professional skills, if deemed relevant by the applicant.

(6) Projected changes in vessel traffic for the next twenty-four months and the methodology used to reach the conclusions.

(7) A narrative explaining special characteristics, dangers, and risks of the particular port.

(8) Projected balances sheets, projected income statements, and projected statements of cash-flows for the next two fiscal years indicating the impact of the requested rates, projected changes in vessel traffic and projected expenses. This statement shall be prepared in accordance with the Guide for Prospective Financial Statements promulgated by the American Institute of Certified Public Accountants ~~and adopted by the Florida Board of Accountancy in Rule 61H1-20.0094, F.A.C.~~

(9) The application shall specify the rate change requested.

(10) A narrative statement justifying the requested change.

(11) Fee of \$150.

(12) A statement as to how the requested rate change will result in fair, just and reasonable rates taking into consideration the public interest in promoting and maintaining efficient, reliable and safe piloting services and further taking into consideration the factors set forth in subsection 310.151(5)(b), F.S.

Rulemaking Specific Authority 310.151(1)(c) FS. Law Implemented 310.151(2), (3) FS. History—New 8-8-95, Amended 10-14-97,_____.

NAME OF PERSON ORIGINATING PROPOSED RULE:
Pilotage Rate Review Board

NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: Pilotage Rate Review Board

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: December 9, 2009

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: October 16, 2009

DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION

Pilotage Rate Review Board

RULE NO.: 61E13-2.007 RULE TITLE: Processing of Application

PURPOSE AND EFFECT: The proposed rule change amends the procedures followed in processing an application to change or fix the rates of pilotage.

SUMMARY: The proposed rule amends the procedures followed in processing an application to change or fix the rates of pilotage.

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

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

RULEMAKING AUTHORITY: 310.151(1)(c) FS.

LAW IMPLEMENTED: 310.151 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: Robyn Barineau, Executive Director, Pilotage Rate Review Board, Department of Business and Professional Regulation, Northwood Centre, 1940 North Monroe Street, Tallahassee, FL 32399-0750

THE FULL TEXT OF THE PROPOSED RULE IS:

61E13-2.007 Processing of Application.

To ~~ensure~~ insure adequate time for comment to be received from the general public as well as all persons affected by the proposed fixing or changing of pilotage rates, and to ~~ensure~~ insure adequate time for the Board to properly investigate and report on the facts supporting the change in rates, the following procedures are established.

(1) Every application to fix or change the rates of pilotage shall be submitted to the Board ~~with the original and seven (7) copies to expedite required distribution.~~ In addition, any person other than a pilot or group of pilots filing the application shall serve ~~by certified mail~~ a copy of the application on a licensed state pilot or group of licensed state pilots at the port in question.

~~(2) An application fee of \$150 must be submitted to the Board upon the filing of the application for a rate change.~~

~~(2)(3)~~ Upon receipt of the application, the staff of the Board shall promptly review the application for facial completeness and compliance with Rule 61E13-2.005 or 61E13-2.006, F.A.C., respectively. The Board staff shall promptly notify the applicant of any incomplete items. The time periods in the following paragraphs shall not begin to run until the application is facially complete. The application shall be deemed complete if the staff does not notify the applicant of any incompleteness within 30 days of receipt of the application. Upon a determination of facial completeness, the Board staff shall promptly notify every person who has previously requested receipt of notice of the filing of applications for a particular port and advise them that an application has been filed for the port by whom it was filed, and how a copy of the application may be obtained.

~~(3)(4)~~ Upon determination of facial completeness of the application by the Board staff, the Chairman of the Board, or the Vice Chairman in the event of his absence shall immediately appoint an investigation committee to consist of members of the Department staff to review, investigate and certify to the Board the information presented in the application. ~~The investigation committee shall conclude its investigation within 20 days of the publication of the notice referenced in subsection (5) below. In the event that additional time is requested by the investigation committee, the Chairman of the Board shall, for good cause, grant a reasonable extension up to five additional business days. Good cause shall include intervening holidays, unavoidable delays in receipt of information necessary for a proper investigation, or any other reason for which such an extension would be granted in a judicial proceeding. The investigation committee shall prepare a report of the investigation which shall be filed, no later than 10 days prior to the public hearing, with the Executive Director of the Board who shall immediately send a copy to each member of the Board as well as to any other person requesting a copy. Any changes or additions to the original application must be sent in the form of a revised application with seven (7)~~

copies, and must be received by the Board Office five (5) business days prior to the completion date of the investigation. The filing of a revised application begins the application process anew requiring the Board staff to review the revised application for completeness within 30 days as provided in subsection (2)(3).

(4)(5) Upon determination of completeness of the application, the Board's Chairman or the Vice Chairman in the event of his absence shall schedule a public hearing on the application for the change in rates of pilotage. The Board shall provide notice in the next available issue of the Florida Administrative Weekly and in a newspaper of general circulation in the affected port area and by mailing such notice to each person or organization which has requested advance notice of hearings relating to rates of pilotage. The notice shall state that an application for a change in the rates of pilotage has been filed with the Board, state the affected port, contain a brief statement summarizing the requested change in rates of pilotage and state the time, date and place of the public hearing and site visit to the port to be conducted prior to the public hearing. The notice shall also include instructions for obtaining a copy of the application and a copy of the investigation committee's report to the Board when it becomes available. The notice shall advise all interested parties that they may file an answer, an additional or alternative application, or any other applicable pleading or response, including all documentation in support thereof submitted within 30 days after the date of publication of the notice, and the notice shall specify the last date by which any such pleading must be filed. Such publication and mailing of notice shall occur at least fourteen ~~forty five~~ days prior to the hearing. The Board, through its Chairman, shall, for good cause, extend the period for responses to a petition for up to five business days. Good cause shall include intervening holidays, unavoidable delays in receipt of information necessary for a proper response, or any other reason for which such an extension would be granted in a judicial proceeding.

(5)(6) The filing of an additional or alternative application by an interested party shall require that the application be considered for completeness, and upon such determination being made, shall be consolidated with the original pending application. The investigation and the public hearing proceeding shall not occur until that determination has been made and all pending applications are consolidated.

(6)(7) The Board shall conduct a visit of the port in question before the public hearing for the purpose of familiarizing itself with the port and the pilot station to assist the Board in analyzing the application.

(8) ~~The Board shall conclude its investigation, conduct a public hearing, and determine whether to modify the existing rates of pilotage in that port within 60 days after the filing of~~

~~the completed application, except that the Board may not be required to complete a hearing for more than one port within any 60-day period.~~

(7)(9) The public hearings shall be held in the affected port area, unless a different location is agreed upon by all parties to the proceeding.

Rulemaking Specific Authority 310.151(1)(c) FS. Law Implemented 310.151 FS. History—New 8-8-95, Amended 10-14-97, _____.

NAME OF PERSON ORIGINATING PROPOSED RULE:
Pilotage Rate Review Board

NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: Pilotage Rate Review Board

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: December 9, 2009

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: October 16, 2009

DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION

Pilotage Rate Review Board

RULE NO.: 61E13-2.010
RULE TITLE: Notice of Intended Agency Action

PURPOSE AND EFFECT: The proposed rule amendment eliminates language that merely tracks existing statutory language. The proposed rule also requires publication of a Notice of Intent to modify rates of pilotage on the Department of Business and Professional Regulation's website, and makes mandatory a requirement that a summary of the agency's intended action, rather than the complete written order, be published.

SUMMARY: The proposed rule amendment eliminates language that merely tracks existing statutory language. The proposed rule also requires publication of a Notice of Intent to modify rates of pilotage on the Department of Business and Professional Regulation's website, and makes mandatory a requirement that a summary of the agency's intended action, rather than the complete written order, be published.

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

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

RULEMAKING AUTHORITY: 310.151(1)(c) FS.

LAW IMPLEMENTED: 310.151 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: Robyn Barineau, Executive Director, Pilotage Rate Review Board, Department of Business and Professional Regulation, Northwood Centre, 1940 North Monroe Street, Tallahassee, FL 32399-0750

THE FULL TEXT OF THE PROPOSED RULE IS:

61E13-2.010 Notice of Intended Agency Action.

~~The written order expressing the notice of intended agency action shall be filed with the agency clerk of the Department. The applicant shall be given written notice by service of the written order of intended agency action, by certified mail. In addition, a copy of the written order shall be mailed to each person who has previously requested copies of such orders.~~ Notice of the intent to modify the pilotage rates in that port shall ~~also~~ be published in the next available Florida Administrative Weekly and in a newspaper of general circulation in the affected port area, on the Department of Business and Professional Regulation's website for 21 days, and shall be mailed to any person who has formally requested notice of any rate change in the affected port area. The published notice shall may be in the form of a summary of the intended agency action rather than the complete written order of intended agency action.

~~Rulemaking Specific Authority 310.151(1)(c) FS. Law Implemented 310.151, 120.57 FS. History--New 8-8-95. Amended _____.~~

NAME OF PERSON ORIGINATING PROPOSED RULE: Pilotage Rate Review Board

NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: Pilotage Rate Review Board

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: December 9, 2009

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: October 16, 2009

DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION

Board of Professional Engineers

RULE NO.: 61G15-19.0051 RULE TITLE: Notice of Noncompliance

PURPOSE AND EFFECT: To add language in compliance with new statutory requirements.

SUMMARY: The Board proposes to add language in compliance with new statutory requirements.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS: No Statement of Estimated Regulatory Cost was prepared. The Board determined the proposed rule will not have an impact on small business.

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

RULEMAKING AUTHORITY: 455.225 FS.

LAW IMPLEMENTED: 455.224 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: Carrie Flynn, Executive Director, Board of Professional Engineers, 2507 Callaway Road, Suite 200, Tallahassee, Florida 32301

THE FULL TEXT OF THE PROPOSED RULE IS:

61G15-19.0051 Notice of Noncompliance.

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

(d) Failing to report a criminal conviction or plea of nolo contendere, regardless of adjudication, pursuant to Section 455.227(1)(t), F.S., if the conviction or plea occurred prior to July 1, 2009. This subsection shall remain in effect until July 1, 2012.

(2) No change.

~~Rulemaking Specific Authority 455.225 FS. Law Implemented 455.224 FS. History--New 4-2-00. Amended _____.~~

NAME OF PERSON ORIGINATING PROPOSED RULE: Board of Professional Engineers

NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: Board of Professional Engineers

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: December 2, 2009

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: November 20, 2009

DEPARTMENT OF ENVIRONMENTAL PROTECTION

Notices for the Department of Environmental Protection between December 28, 2001 and June 30, 2006, go to <http://www.dep.state.fl.us/> under the link or button titled "Official Notices."

DEPARTMENT OF HEALTH

Board of Clinical Laboratory Personnel

RULE NO.: 64B3-4.001 RULE TITLE: Trainee Registration

PURPOSE AND EFFECT: The Board proposes the rule amendment to incorporate an updated form.

SUMMARY: An updated form will be incorporated into the rule.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS: No Statement of Estimated Regulatory Costs was prepared. The Board determined the proposed rule will not have an impact on small business.

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

RULEMAKING AUTHORITY: 483.805(4) FS.

LAW IMPLEMENTED: 483.809(3), 483.811(2), (3), (4), 483.825 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: Joe Baker, Jr., Executive Director, Board of Clinical Laboratory Personnel, 4052 Bald Cypress Way, Bin #C07, Tallahassee, Florida 32399-3257

THE FULL TEXT OF THE PROPOSED RULE IS:

64B3-4.001 Trainee Registration.

(1) No change.

(2) An applicant for trainee registration shall apply to the Department Form #DH-MQA 3005 (12/09 ~~11/08~~) "Clinical Laboratory Trainee" which is incorporated by reference herein copies of which, can be obtained from the Board office at 4052 Bald Cypress Way, Bin #C07, Tallahassee, Florida 32399-3257 or from its website at <http://www.doh.state.fl.us/mqa/ClinLab/index.html>.

(3) through (7) No change.

Rulemaking Authority 483.805(4) FS. Law Implemented 483.809(3), 483.811(2), (3), (4), 483.825 FS. History--New 7-20-93, Formerly 21KK-4.001, 61F3-4.001, Amended 4-10-96, 7-3-97, Formerly 59O-4.001, Amended 3-19-98, 2-15-01, 3-24-02, 3-30-04, 6-17-09, _____.

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

NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: Board of Clinical Laboratory Personnel

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: December 4, 2009

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: September 25, 2009

DEPARTMENT OF HEALTH

Board of Clinical Laboratory Personnel

RULE NO.: RULE TITLE:

64B3-5.008 Public Health Laboratory Personnel

PURPOSE AND EFFECT: The Board proposes the rule amendment to incorporate an updated form.

SUMMARY: An updated form will be incorporated into the rule.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS: No Statement of Estimated Regulatory Costs was prepared. The Board determined the proposed rule will not have an impact on small business.

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

RULEMAKING AUTHORITY: 483.805(4) FS.

LAW IMPLEMENTED: 483.812 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: Joe Baker, Jr., Executive Director, Board of Clinical Laboratory Personnel, 4052 Bald Cypress Way, Bin #C07, Tallahassee, Florida 32399-3257

THE FULL TEXT OF THE PROPOSED RULE IS:

64B3-5.008 Public Health Laboratory Personnel.

(1) through (3) No change.

(4) All applicants for licensure as a Public Health Laboratory Scientist shall apply to the Department on Form # DH-MQA 3001 (12/09 ~~11/08~~) "Applicant for Public Health Laboratory Scientist" which is incorporated by reference herein, copies of which can be obtained from the Board office at 4052 Bald Cypress Way, Bin #C07, Tallahassee, Florida 32399-3257 or from its website at <http://www.doh.state.fl.us/mqa/ClinLab/index.html>.

Rulemaking Authority 483.805(4) FS. Law Implemented 483.812 FS. History--New 5-26-98, Amended 4-20-04, 6-17-09, _____.

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

NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: Board of Clinical Laboratory Personnel

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: December 4, 2009

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: September 25, 2009

DEPARTMENT OF HEALTH

Board of Clinical Laboratory Personnel

RULE NO.: RULE TITLE:

64B3-6.001 Manner of Application

PURPOSE AND EFFECT: The Board proposes the rule amendment to incorporate an updated form.

SUMMARY: An updated form will be incorporated into the rule.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS: No Statement of Estimated Regulatory Costs was prepared. The Board determined the proposed rule will not have an impact on small business.

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

RULEMAKING AUTHORITY: 483.805(4) FS.

LAW IMPLEMENTED: 456.013, 483.815, 483.823 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: Joe Baker, Jr., Executive Director, Board of Clinical Laboratory Personnel, 4052 Bald Cypress Way, Bin #C07, Tallahassee, Florida 32399-3257

THE FULL TEXT OF THE PROPOSED RULE IS:

64B3-6.001 Manner of Application.

(1) All applicants for licensure as a Clinical Laboratory Personnel Director, Supervisor, Technologist, or Technician shall apply to the Department on Form #DH-MQA 3000 (12/09 4408) "Application for Clinical Laboratory Personnel Director, Supervisor, Technologist, and Technician" which is incorporated by reference herein, copies of which can be obtained from the Board office at 4052 Bald Cypress Way, Bin #C07, Tallahassee, Florida 32399-3257 or from its website at <http://www.doh.state.fl.us/mqa/ClinLab/index.html>. The application must be accompanied by the appropriate application fee required by Rule 64B3-9.001, F.A.C.

(2) through (3) No change.

Rulemaking Authority 483.805(4) FS. Law Implemented 456.013, 483.815, 483.823 FS. History—New 12-29-93, Formerly 61F3-6.001, Amended 5-29-95, 8-1-95, Formerly 59O-6.001, Amended 8-27-97, 9-20-98, 1-5-00, 3-24-02, 4-13-04, 6-17-09, _____.

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

NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: Board of Clinical Laboratory Personnel

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: December 4, 2009

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: September 25, 2009

DEPARTMENT OF HEALTH

Board of Clinical Laboratory Personnel

RULE NOS.:	RULE TITLES:
64B3-9.001	Application Fees
64B3-9.002	Initial Licensure Fees
64B3-9.004	Active Status Renewal Licensure Fee

PURPOSE AND EFFECT: The Board proposes the rule amendment to clarify the application fees.

SUMMARY: The fees for the applications will be clarified.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS: No Statement of Estimated Regulatory Costs was prepared. The Board determined the proposed rule will not have an impact on small business.

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

RULEMAKING AUTHORITY: 456.025, 456.036, 483.805(4), 483.807(1) FS.

LAW IMPLEMENTED: 456.025, 456.036, 483.807, 483.815 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, Jr., Executive Director, Board of Clinical Laboratory Personnel, 4052 Bald Cypress Way, Bin #C07, Tallahassee, Florida 32399-3257

THE FULL TEXT OF THE PROPOSED RULES IS:

64B3-9.001 Application Fees.

(1) No change.

(2) Licensure application – ~~\$100~~.

(a) Director – \$90.

(b) Supervisor – \$70.

(c) Technologist – \$50.

(d) Technician – \$25.

(3) through (5) No change.

Rulemaking Specific Authority 456.025, 483.807(1) FS. Law Implemented 456.025, 483.807, 483.815 FS. History—New 12-7-93, Formerly 61F3-9.001, 59O-9.001, Amended 5-26-98, 5-13-99, 6-10-99, 3-9-00, 4-29-02, 9-15-05, _____.

64B3-9.002 Initial Licensure Fees.

(1)(a) Director – ~~\$65~~ For all clinical laboratory personnel licenses – ~~\$100~~.

(b) Supervisor – \$55.

(c) Technologists – \$45.

(d) Technician – \$25.

(2) through (3) No change.

Rulemaking Specific Authority 456.025, 483.805(4), 483.807(1) FS. Law Implemented 456.025, 483.807 FS. History–New 12-7-93, Formerly 61F3-9.002, 59O-9.002, Amended 6-10-99, 4-7-02, _____.

64B3-9.004 Active Status Renewal Licensure Fee.

- (1) Director – ~~\$130.150~~.
- (2) Supervisor – ~~\$110.130~~.
- (3) Technologist – ~~\$90.110~~.
- (4) Technician – ~~\$50.75~~.
- (5) through (6) No change.

Rulemaking Specific Authority 456.025(4), 456.036, 483.807(1) FS. Law Implemented 456.025(4), 456.036, 483.807 FS. History–New 12-7-93, Formerly 61F3-9.004, Amended 12-26-94, Formerly 59O-9.004, Amended 5-26-98, 3-9-00, 5-16-02, 5-25-06, _____.

NAME OF PERSON ORIGINATING PROPOSED RULE:
Board of Clinical Laboratory Personnel
NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: Board of Clinical Laboratory Personnel
DATE PROPOSED RULE APPROVED BY AGENCY HEAD: February 9, 2010
DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: December 31, 2009

DEPARTMENT OF HEALTH

Board of Clinical Laboratory Personnel

RULE NO.: RULE TITLE:
64B3-12.001 Disciplinary Guidelines

PURPOSE AND EFFECT: The Board proposes the rule amendment to clarify the penalties for violations of the disciplinary guidelines.

SUMMARY: Penalties for violations of disciplinary guidelines will be updated.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS: No Statement of Estimated Regulatory Costs was prepared. The Board determined the proposed rule will not have an impact on small business.

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

RULEMAKING AUTHORITY: 456.079, 483.805(4) FS.

LAW IMPLEMENTED: 456.072, 456.079, 483.825 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: Joe Baker, Jr., Executive Director, Board of Clinical Laboratory Personnel, 4052 Bald Cypress Way, Bin #C07, Tallahassee, Florida 32399-3257

THE FULL TEXT OF THE PROPOSED RULE IS:

64B3-12.001 Disciplinary Guidelines.

- (1) No change.
- (2) No change.

(a) Section 483.825(1)(a) or 456.072(1)(h), F.S.: Attempting to obtain, obtaining, or renewing a license or registration under this part by bribery – from a minimum fine of \$500 and/or up to two years of probation to a maximum of permanent revocation. After the first offense, from a minimum fine of \$5,000 up to a maximum fine of \$10,000 and/or permanent revocation.

1. Fraudulent misrepresentation – from six months probation and a fine of \$10,000 to a maximum of permanent revocation and a fine of \$10,000. For a second offense, a fine of \$10,000 and permanent revocation.

2. Error of the Department or the Board – from a minimum letter of concern and/or a \$500 fine up to a maximum of suspension for one year followed by two years of probation and a fine of \$5,000. For a second offense, from a minimum fine of \$3,000 to permanent revocation of license. After the second offense, up to a maximum fine of \$10,000 and/or permanent revocation.

(b) Section 483.825(1)(b), F.S.: Engaging in or attempting to engage in, or representing oneself as entitled to perform, any clinical laboratory procedure or category of procedures not authorized pursuant to the license – from a minimum fine of \$300 and/or one year of probation to a maximum fine of \$5,000 and/or two years of probation. After the first offense, from a minimum fine of \$1,000 and/or two years of probation to a maximum fine of \$10,000 and/or permanent revocation, however, regardless of whether it is an initial or repeat occurrence, if the violation is for fraud or knowingly making a false or fraudulent representation, the fine portion of the discipline imposed shall be \$10,000 per count or offense.

(c) Section 483.825(1)(c), F.S.: Demonstrating incompetence or making consistent errors in the performance of clinical laboratory examinations or procedures or erroneous reporting – from a minimum fine of \$300 and/or two years probation to a maximum fine of \$5,000 and/or six months suspension. For a second offense, from a minimum fine of \$750 and one year of probation to a maximum fine of \$10,000 and/or permanent revocation. After the second offense, a fine of \$10,000 and/or permanent revocation.

(d) Section 483.825(1)(d), F.S.: Performing a test and rendering a report thereon to a person not authorized by law to receive such services – from a minimum fine of \$500 and/or six months of probation to a maximum fine of \$1,500 and one year of suspension. For a second offense, from a minimum fine of \$750 and six months of probation to a maximum fine of \$5,000 and/or up to three years suspension. After the second offense, up to a maximum fine of \$10,000 and/or permanent revocation.

(e) Section 483.825(1)(e) or 456.072(1)(c), F.S.: Having been convicted of a crime relating to the practice or ability to practice or involving moral turpitude – from a minimum fine of \$500 and/or one year of probation to a maximum fine of \$6,000 and/or permanent revocation. After the first offense, from a minimum fine of \$1,000 and/or two years of probation to a maximum fine of \$10,000 and/or permanent revocation.

(f) No change.

(g) Section 483.825(1)(g), 483.825(1)(w), 456.072(1)(b) or 456.072(1)(dd), F.S.

1. Violating or aiding and abetting in the violation of any provision of Chapter 456 or Chapter 483, Part III, F.S., or the rules adopted thereunder – from a minimum fine of \$500 and/or a reprimand to a maximum fine of up to \$8,000 and/or permanent revocation. For a second offense, from a minimum fine of \$1,000 and/or six months of probation to a maximum fine of \$10,000 and/or permanent revocation. After the second offense, from a minimum fine of \$1,500 and/or one year of probation to a maximum fine of \$10,000 and/or permanent revocation.

2. Section 456.072(1)(e) or 456.072(1)(s), F.S.: In the case of noncompliance with a continuing education or HIV/AIDS or domestic violence course requirement, which is not a citation offense under Section 456.072(3), F.S., – from a minimum of suspension until the required continuing education hours are earned and/or a fine of \$500 up to a maximum fine of \$5,000 and/or permanent revocation.

(h) Section 483.825(1)(h), F.S.: Reporting a test result when no laboratory test was performed on a clinical specimen – fine of \$10,000 and/or permanent revocation.

(i) Section 483.825(1)(i) or 456.072(1)(m), F.S.: Knowingly advertising false services or credentials or making fraudulent misrepresentations or employing a trick or scheme – from six months of probation and a fine of \$10,000 per count or offense up to a maximum of one year suspension followed by two years of probation. After the first offense, from a minimum of two years of probation with a fine of \$10,000 per count or offense up to a maximum of permanent revocation and a \$10,000 fine per count or offense.

(j) No change.

(k) Section 483.825(1)(k), 456.072(1)(w) or 456.072(1)(x), F.S.: Failing to report to the Board in writing within 30 days of conviction, adjudication of incompetency, or if disciplinary action has been taken against one's license as clinical laboratory personnel in another state, territory or country – from a minimum fine of \$750 and/or a letter of concern up to a maximum fine of \$5,000 and/or three months suspension followed by probation. After the first offense, from a minimum fine of \$3,000 up to a maximum fine of \$10,000 and/or permanent revocation.

(l) Section 483.825(1)(l), 456.072(1)(aa) or 456.072(1)(z), F.S.: Being unable to perform or report clinical laboratory examination with reasonable skill and safety to patients by

reason of illness or use of alcohol, drugs, narcotics, chemicals, or any other type of material or as a result of any mental or physical condition or testing positive for any drug, as defined in Section 112.0455, F.S., on any confirmed preemployment or employer-ordered drug screening when the practitioner does not have a lawful prescription and legitimate medical reason for using the drug – from a minimum referral for a PRN evaluation up to permanent revocation for non-compliance. After the first offense, from a minimum referral for a PRN evaluation up to maximum of permanent revocation and/or a \$3,000 fine.

(m) Section 483.825(1)(m), 456.072(1)(j) or 456.072(1)(p), F.S.: Delegating professional responsibilities to a person when the licensee delegating such responsibilities knows, or has reason to know, that such person is not qualified by training, experience, or licensure to perform them or aiding unlicensed person to practice – from a minimum fine of \$800 and/or six months of probation up to a maximum fine of \$5,000 and three years suspension of license followed by up to 2 years probation. For a second offense, from a minimum fine of \$1,000 and one year of probation up to a maximum fine of \$7,500 and/or permanent revocation. After the second offense, from a minimum fine of \$2,000 and/or six months suspension followed by probation up to a maximum of permanent revocation and/or a fine of \$10,000.

(n) Section 483.825(1)(n) or 456.072(1)(q), F.S.: Violating an order or failing to comply with subpoena – from a minimum fine of \$500 and a reprimand up to a maximum fine of \$5,000 and/or three years suspension of license followed by a term of probation. For a second offense, from a minimum fine of \$1,500 and/or two years of probation up to a maximum fine of \$10,000 and/or permanent revocation of license. After the second offense, from a minimum fine of \$5,000 and/or six months of suspension followed by probation up to a maximum fine of \$10,000 and/or permanent revocation of license.

(o) Section 483.825(1)(o) or 456.072(1)(i), F.S.: Failing to report a person in violation of Part III of Chapter 483, Chapter 456, F.S., or the applicable rules – from a minimum fine of \$800 and a letter of concern up to a maximum fine of \$2,000 and/or six months suspension followed by probation. After the second offense, from a minimum of six months probation and/or a fine of \$1,000 up to a maximum fine of \$10,000 and/or permanent revocation.

(p) Section 483.825(1)(p) or 456.072(1)(l), F.S.: Negligent filing of false report – from a minimum fine of \$500 and a letter of concern up to a maximum \$3,000 fine and/or up to three years of probation. For a second offense, from a minimum fine of \$1,500 and a reprimand to a maximum fine of \$10,000 and/or two years suspension followed by probation. After the second offense, up to a maximum fine of \$10,000 and/or permanent revocation.

(q) Section 483.825(1)(p), 456.072(1)(g), or 456.072(1)(l), F.S.: Willful filing of false report, impeding, or inducing another to file a false report – from a minimum fine of \$2,000 and/or suspension of license for three months followed by six months of probation up to a maximum fine of \$8,000 and/or permanent revocation of license. After the first offense, up to a maximum fine of \$10,000 and/or permanent revocation; however, regardless of whether it is an initial or repeat occurrence, if the violation is for fraud or knowingly making a false or fraudulent representation, the fine portion of the discipline imposed shall be \$10,000 per count or offense.

(r) Section 483.825(1)(q), F.S.: Paying or receiving a kickback, bonus, or split fee arrangement – from a minimum fine of \$1,000 and/or one year probation up to a maximum fine of \$10,000 and/or permanent revocation. After the first offense, from a minimum fine of \$1,500 and two years of probation up to a maximum fine of \$10,000 and/or permanent revocation.

(s) Section 483.825(1)(r) or 456.072(1)(n), F.S.: Exercising influence or exploitation for financial gain – from a minimum fine of \$1,000 and/or restitution of improper gains and six months of probation to a maximum fine of \$10,000 and/or permanent revocation. After the first offense, up to a maximum fine of \$10,000 and/or permanent revocation.

(t) Section 483.825(1)(s) or 456.072(1)(o), F.S.: Practicing or offering to practice beyond the scope permitted or competent to perform – from a minimum fine of \$1,000 and/or one year of probation up to a maximum suspension of the license for two years followed by probation and a fine of \$8,000. After the first offense, up to a maximum fine of \$10,000 and/or permanent revocation.

(u) Section 483.825(1)(t) or 456.072(1)(a), F.S.: Misrepresenting or concealing a material fact or fraudulent representations – from a minimum of six months of probation and a fine of \$10,000 per count or offense up to a maximum of permanent revocation and a fine of \$10,000 per count or offense. After the first offense, from a fine of \$10,000 per count or offense as well as a minimum of one year of suspension followed by probation up to a maximum of permanent revocation.

(v) Section 483.825(1)(u) or 456.072(1)(r), F.S.: Improperly interfering with an investigation or disciplinary proceeding – from a minimum fine of \$1,000 and/or one year of probation up to a maximum fine of \$10,000 and/or permanent revocation. After the first offense, from a minimum fine of \$2,000 and two years of probation up to a maximum fine of \$10,000 and/or permanent revocation.

(w) Section 483.825(1)(v) or 456.072(1)(v), F.S.: Engaging or attempting to engage in sexual misconduct – from a minimum reprimand and/or referral for PRN evaluation up to a maximum fine of \$10,000 and/or permanent revocation.

After the first offense, from a minimum year of probation and fine of \$1,500 to a maximum fine of \$10,000 and/or permanent revocation.

(x) Section 456.072(1)(k), F.S.: Failing to perform any legal obligation – from a minimum fine of \$500 and/or a reprimand to a maximum fine of up to \$8,000 and/or permanent revocation. After the first offense, from a minimum fine of \$1,000 and/or one year of probation to a maximum fine of \$10,000 and/or permanent revocation.

(y) Section 456.072(1)(hh), F.S.: Being terminated from a treatment program for impaired practitioners, which is overseen by an impaired practitioner consultant, as described in Section 456.076, F.S., for failure to comply without good cause, with the terms of the monitoring or treatment contract entered into by the licensee, or for not successfully completing any drug-treatment or alcohol treatment program – from a minimum fine of \$500 to \$1000 and suspension until compliant up to permanent revocation.

(z) Section (zz) Section 456.072(1)(ii), F.S. for being convicted of or entering a plea of guilty or nolo contendere to, any misdemeanor or felony, regardless of adjudication, under 18 U.S.C. s. 669, ss. 285-287, s. 371, s. 1001, s. 1035, s. 1341, s. 1343, s. 1347, s. 1349, or s. 1518, or 42 U.S.C. ss. 1320a-7b, relating to Medicaid program- from a minimum of permanent revocation and a fine of \$10,000, or in the case of application for licensure, denial of license.

(aa) Section 456.072(1)(jj), F.S., for failing to remit the sum owed to state for an overpayment from Medicaid program pursuant to a final order, judgment, or stipulation or settlement – from a minimum of a letter of concern to probation and a fine of \$500 to a maximum of a reprimand to permanent revocation and fine of \$2,500 for a first offense. After the first offense, from a minimum of suspension and \$5,000 fine to maximum of permanent revocation and \$10,000 fine.

(bb) Section 456.072(1)(kk), F.S., for being terminated from the state Medicaid program pursuant to s. 409.913, any other state Medicaid program, or the federal Medicare program, unless eligibility to participate in the program from which the practitioner was terminated has been restored - from a minimum of letter of concern and \$1,000 fine to maximum of reprimand to permanent revocation and \$5,000 fine. After the first offense, from a minimum of suspension and \$5,000 fine to maximum of permanent revocation and \$10,000 fine.

(cc) Section 456.072(1)(ll), F.S., for being convicted of, or entering a plea of guilty or nolo contendere to, any misdemeanor or felony, regardless of adjudication, a crime in any jurisdiction which relates to health care fraud - permanent revocation or denial of license (minimum and maximum same).

(3) through (6) No change.

Rulemaking Specific Authority 456.079, 483.805(4) FS. Law Implemented 456.072, 456.079, 483.825 FS. History—New 8-3-93, Formerly 61F3-12.001, Amended 2-7-95, 5-3-95, 12-4-95, Formerly 59O-12.001, Amended 3-19-98, 9-20-98, 10-6-02, 2-23-06, 3-20-08, 11-25-08,_____.

NAME OF PERSON ORIGINATING PROPOSED RULE:
Board of Clinical Laboratory Personnel
NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: Board of Clinical Laboratory Personnel
DATE PROPOSED RULE APPROVED BY AGENCY HEAD: December 4, 2009
DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: December 31, 2009

DEPARTMENT OF HEALTH

Board of Medicine

RULE NO.: 64B8-44.003
RULE TITLE: Disciplinary Guidelines

PURPOSE AND EFFECT: The purpose of this rule change is to bring the rule into compliance with the mandates of SB 1986.

SUMMARY: The proposed rule change updates the disciplinary guidelines for licensed dietitian and nutrition counselors, and licensed applicants in accordance with the mandates of SB 1986.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS: A Statement of Estimated Regulatory Cost was prepared. The rule amendments would impose an impact to small businesses depending on the severity of the penalties imposed by the Board of Medicine.

VIOLATION

- (a) Violating Practice Act or Board or Department Rules. (468.518(1)(a), F.S.)
- (b) Inability to practice with skill and safety. (468.518(1)(b), F.S.)

Penalties which restrict or terminate the licensees' ability to work in a private practice will have an impact on small businesses.

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

RULEMAKING AUTHORITY: 456.072(1)(t), 456.079, 458.309, 468.507 FS.

LAW IMPLEMENTED: 456.072(1)(t), 456.079, 468.517, 468.518(2) 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: Allen Hall, Executive Director, Dietetics and Nutrition Council/MQA, 4052 Bald Cypress Way, Bin #C05, Tallahassee, Florida 32399-3255

THE FULL TEXT OF THE PROPOSED RULE IS:

64B8-44.003 Disciplinary Guidelines.

(1) through (3) No change.

(4) Violations and Range of Penalties. In imposing discipline upon applicants and licensees, in proceedings pursuant to Sections 120.57(1) and (2), F.S., the Board shall act in accordance with the following disciplinary guidelines and shall impose a penalty within the range corresponding to the violations set forth below. The verbal identification of offenses are descriptive only; the full language of each statutory provision cited must be consulted in order to determine the conduct included.

RECOMMENDED RANGE OF PENALTY

- (a)1. From a minimum of six months' probation to revocation or denial of licensure, and an administrative fine from \$150.00 to \$1000.00, depending on the seriousness of the underlying offense and the magnitude of the violation.
- (a)2. After the first offense, a minimum of one year probation to revocation or denial of licensure, and an administrative fine from \$200.00 to \$1,000.00, depending on the seriousness of the underlying offense and the magnitude of the violation.
- (b) From submission to a mental or physical examination directed towards the problem, one year probation with conditions, possible referral to the PRN to revocation or

- denial, and an administrative fine from \$100.00 to \$1000.00.
- (c) Attempting to procure a license by bribery, fraud, or misrepresentation or through error of the department or the council.
(468.518(1)(c), 456.072(1)(h), F.S.)
 - (c)1. Attempting to obtain an initial license by bribery or fraud. (c)1. Denial of application and \$10,000 fine.
 - (c)2. Attempting to renew a license by bribery or fraud. (c)2. For the first offense, from revocation of the license with ability to reapply upon payment of a \$10,000 fine to permanent revocation. After the first offense, permanent revocation and a \$10,000 fine.
 - (c)3. Obtaining or renewing a license by fraud. (c)3. For the first offense, from revocation of the license with ability to reapply upon payment of a \$10,000 fine to permanent revocation. After the first offense, permanent revocation and a \$10,000 fine.
 - (c)4. Obtaining or renewing a license through error of the department or the council. (c)4. Revocation.
 - (c)5. Obtaining or renewing a license through negligent misrepresentation. (c)5. For the first offense, from a \$300 fine and 3 hours of continuing education on ethics to suspension and a reprimand and a \$1,000 administrative fine. After the first offense, from suspension and a reprimand and a \$3,000 fine to revocation or denial of application.
 - (d) Action taken against license by another jurisdiction. (468.518(1)(d), F.S.) (d) From imposition of discipline comparable to that which would have been imposed if the substantive violation had occurred in Florida to suspension or denial of license until it is unencumbered in the other jurisdiction, and an administrative fine from \$100.00 to \$1000.00. Evaluations shall be required to determine the need for referral to PRN.
 - (e) Conviction of a crime relating to the practice. (468.518(1)(e), F.S.) (e)1. From a one year probation with conditions to revocation or denial of the license and an administrative fine ranging from \$100.00 to \$1000.00. Any Board ordered probation shall be for no less time than Court ordered sanctions.
(e)2. After the first offense, from a three-year probation with conditions to revocation or denial of the license, and an administrative fine ranging from \$250.00 to \$1,000.00. Any Board ordered probation shall be for no less time than Court ordered sanctions.
 - (f) Filing a false report or failing to file a report as required. (468.518(1)(f), F.S.)

- | | | |
|---|--------------|--|
| <p>(f)1. Negligently filing a false report or failing to file a report as required.</p> | <p>(f)1.</p> | <p>For the first offense, from a letter of concern or denial of application to one (1) year probation and an administrative fine from \$300 to \$1,500. After the first offense, from one (1) year probation to revocation, and an administrative fine from \$1,500 to \$3,000.</p> |
| <p>(f)2. Fraudulently filing a false report or failing to file a report as required.</p> | <p>(f)2.</p> | <p>For the first offense, from one (1) year probation to revocation or denial of application, and a \$10,000 fine. After the first offense, from suspension to revocation and a \$10,000 fine.</p> |
| <p>(g) False, deceptive, or misleading advertising.
(468.518(1)(g), F.S.)</p> | | |
| <p>(g)1. Negligent false, deceptive or misleading advertising.</p> | <p>(g)1.</p> | <p>For the first offense, from a letter of concern to one (1) year suspension or denial of application, and an administrative fine from \$300 to \$1,500. After the first offense, from reprimand to up to one (1) year suspension or denial of application, and an administrative fine from \$1,500 to \$3,000.</p> |
| <p>(g)2. Fraudulent false, deceptive or misleading advertising.</p> | <p>(g)2.</p> | <p>For the first offense, from reprimand to up to one (1) year suspension or denial of application, and an administrative fine of \$10,000. After the first offense, from suspension up to revocation and a fine of \$10,000.</p> |
| <p>(h) Committing fraud in the practice.
(468.518(1)(h), F.S.)</p> | <p>(h)1.</p> | <p>From one year probation with conditions to revocation or denial of licensure and an administrative fine of \$10,000.</p> |
| | <p>(h)2.</p> | <p>After the first offense, from one year suspension followed by probation with conditions to revocation or denial of licensure, and an administrative fine of \$10,000.</p> |
| <p>(i) Practicing on delinquent, revoked, suspended, or inactive license.
(468.518(1)(i), F.S.)</p> | <p>(i)1.</p> | <p>From a \$250.00 administrative fine to revocation.</p> |
| | <p>(i)2.</p> | <p>After the first offense, from a \$750.00 administrative fine to revocation.</p> |
| <p>(j) Treating ailments by means other than dietetics and nutrition practice.
of (468.518(1)(j), F.S.)</p> | <p>(j)1.</p> | <p>From one year suspension followed by at least one year probation with conditions to revocation or denial licensure, and an administrative fine from \$250 to \$1000.00.</p> |
| | <p>(j)2.</p> | <p>For a second offense, two years suspension followed by at least one year probation with conditions to revocation or denial of licensure, and an administrative fine from \$400.00 to \$1,000.00.</p> |
| | <p>(j)3.</p> | <p>For a third offense, revocation or denial of licensure and an administrative fine from \$800.00 to \$1,000.00.</p> |
| <p>(k) Failure to maintain acceptable standards of practice.
(468.518(1)(k), F.S.)</p> | <p>(k)1.</p> | <p>From one year probation with conditions to revocation or denial of a license,</p> |

- (l) Kickbacks or split fee arrangements.
(468.518(1)(l), F.S.)

 - (k)2. After the first offense, a minimum of one year suspension followed by a minimum of one year probation with conditions to revocation or denial of a license, and an administrative fine from \$350.00 to \$1,000.00.
 - (l)1. From six months suspension followed by one year probation with conditions to revocation or denial of licensure, and an administrative fine from \$250.00 to \$1000.00.
 - (l)2. After the first offense, from one year suspension followed by two years of probation with conditions to revocation or denial of licensure, and an administrative fine from \$350.00 to \$1,000.00.
- (m) Advertising any experimental assessment or treatment.
(468.518(1)(m), F.S.)

 - (m)1. From suspension to revocation or denial of licensure, and an administrative fine from \$500.00 to \$1000.00.
 - (m)2. For a second offense, revocation or denial of licensure, and an administrative fine from \$750.00 to \$1000.00.
- (n) Failure to keep written medical records.
(Rule 64B8-44.004, F.A.C.)

 - (n)1. From probation with conditions to denial or one year suspension followed by a minimum of one year probation with conditions and an administrative fine from \$100.00 to \$1000.00.
 - (n)2. After the first offense, from one year suspension followed by a minimum of one year probation with conditions to revocation or denial of a license, and an administrative fine from \$400.00 to \$1,000.00.
- (o) Sexual misconduct.
(456.063, 456.072(1)(u), F.S.)

 - (o)1. From one year probation with conditions to revocation or denial of licensure, and an administrative fine from \$500.00 to \$1,000.00. Evaluations shall be required to determine the need for referral to PRN.
 - (o)2. For a second offense, from one year suspension followed by a minimum of one year probation with conditions to revocation or denial of licensure, and an administrative fine from \$800.00 to \$1,000.00. Evaluations shall be required to determine the need for referral to PRN.
 - (o)3. After the second offense, revocation of license and a fine of \$1,000.00.
- (p) Failing to report in writing within 30 days after the licensee has been convicted

 - (p)1. From a \$100.00 administrative fine to revocation or denial of a license.

- or found guilty of, or has entered a plea of nolo contendere to, regardless of adjudication, a crime in any jurisdiction. (455.624(1)(w), F.S.)

(p)2. After the first offense, from a \$250.00 administrative fine to revocation or denial of a license.
- (q) Testing positive for drugs on employment drug screening. (456.072(1)(z), F.S.)

(q) From submission to a mental or physical examination directed towards the problem and one year probation with conditions, to revocation or denial, and administrative fine from \$100.00 to \$1,000.00.
- (r) Being terminated from or failing to successfully complete an impaired practitioners treatment program.

(r) First offense Minimum stayed suspension and probation for a period of one (1) year with a fine of \$500.00 to a maximum of suspension or denial of license until successful completion or receipt of a written confirmation from the program that further treatment is neither required nor indicated followed by a one (1) year probation and a fine of \$1,500.00.
Subsequent offenses Minimum suspension for three (3) years or until licensee is able to demonstrate to the Board the ability to practice with reasonable skill and safety, whichever is longer and a fine of \$1,000.00 to a maximum of revocation or denial of license and a \$3,000.00 fine.
- (s) Performing or attempting to perform health care services on the wrong patient, a wrong procedure, an unauthorized procedure, or a procedure that is medically unnecessary or otherwise unrelated to the patient’s diagnosis or medical condition. (456.072(1)(aa), F.S.)

(s) For the first offense, from 1 year probation with conditions and a \$1,000 fine to 1 year suspension, 2 years probation and a \$5,000 fine. For the second offense, from 1 year suspension, 2 years probation with conditions and a \$5,000 fine to revocation and a \$10,000 fine.
- (t) Failure to notify patients of practioner’s license type or failure to identify license type in advertisement that names a practioner. (456.072(1)(t), F.S.)

(t) First offense from letter of concern to 1 year suspension and an administrative fine of \$300 to \$1,500. After first offense from reprimand to 3 year suspension and an administrative fine of \$1,500 to \$3,000.
- (u) Being convicted of, or entering a plea of guilty or nolo contendere to, any misdemeanor or felony, regardless of adjudication, under 18 U.S.C. s. 669, ss. 285-287, s. 371, s. 1001, s. 1035, s. 1341, s. 1343, s. 1347, s. 1349, or s. 1518, or 42 U.S.C. ss. 1320a-7b, relating to the Medicaid program. (456.072(1)(ii), F.S.)

(u) Revocation or non-renewal or denial of the initial license and a fine of \$10,000.
- (v) Failing to remit the sum owed to the State for an overpayment from the Medicaid Program pursuant to a final order, judgment, or Stipulation or settlement. (456.072(1)(jj), F.S.)

(v) For the first offense, one year of probation, with conditions and a \$2,500 fine. For the second offense, one year of suspension and a \$5,000 fine.
- (w) Being terminated from the state Medicaid Program pursuant to s. 409.913, any other state Medicaid program, or the federal Medicare program, unless eligibility to participate in the program from which the practitioner was terminated has been restored. (456.072(1)(kk), F.S.)

(w) Revocation or non-renewal or denial of the initial license and a fine of \$10,000.

(x) Being convicted of, or entering a plea of guilty or nolo contendere to, any misdemeanor or felony, Regardless of adjudication, a crime in any jurisdiction Which related to health care fraud.
(456.072(1)(l), F.S.)

(x) Revocation or non-renewal or denial of the initial license and a fine of \$10,000.

(5) through (7) No change.

Rulemaking Specific Authority 456.072(1)(t), 456.079, 458.309, 468.507 FS. Law Implemented 456.072(1)(t), 456.079, 468.517, 468.518(2) FS. History--New 12-4-90, Formerly 21M-50.003, Amended 6-22-94, Formerly 61F6-50.003, 59R-44.003, Amended 3-16-98, 8-19-99, 9-28-00, 9-26-01, 2-13-03, 4-10-06, 1-8-07,

64B32-5.001 Disciplinary Guidelines.

(1) The Board may impose disciplinary penalties upon a determination that an applicant or licensee:

(a) No change.

(b) Has violated any provision of Chapter 456, F.S., or any rules promulgated thereunder;

1. Section 456.0635, F.S., outlines specific offenses for which the Board is prohibited from issuing or renewing a license, certificate, or registration to any applicant if the candidate has been convicted of, pled nolo contendere, or guilty to, regardless of adjudication, a felony under Chapter 409, Chapter 817, Chapter 893, 21 U.S.C. ss. 801-970, or 42 U.S.C. ss 1395-1396, unless the sentence and any subsequent period of probation for such conviction or pleas ended more than 15 years prior to the date of the application.

(c) through (d) No change.

(2) The range of disciplinary penalties which the Board may impose includes any and all set forth in Section 456.072, F.S., unless the conduct to be disciplined falls within the purview of Section 456.0635, F.S., in which case the Board shall impose the penalty specified in Section 456.0635, F.S. In determining the appropriate disciplinary action to be imposed in each case, the Board shall take into consideration the following factors:

(a) through (i) No change.

(3) Violations and Range of Penalties. In imposing discipline upon applicants and licensees, in proceedings pursuant to Sections 120.57(1) and (2), F.S., the Board shall act in accordance with the following disciplinary guidelines and shall impose a penalty within the range corresponding to the severity and repetition of the violations as set forth below. The mitigating or aggravating circumstances used to justify any deviation from the specified guidelines must be enunciated in the final order. The verbal identification of offenses are descriptive only; the full language of each statutory provision cited must be consulted in order to determine the conduct included. For applicants, any and all offenses listed herein are sufficient for refusal to certify an application for licensure. In addition to the penalty imposed, the Board shall recover the costs of the investigation and prosecution of the case. Additionally, if the Board makes a finding of pecuniary benefit or self-gain related to the violation, then the Board shall require refund of fees billed and collected from the patient or a third party on behalf of the patient.

NAME OF PERSON ORIGINATING PROPOSED RULE:
Dietetics and Nutrition Council
NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: Board of Medicine
DATE PROPOSED RULE APPROVED BY AGENCY HEAD: January 6, 2010
DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: January 15, 2010

DEPARTMENT OF HEALTH

Board of Respiratory Care

RULE NO.: 64B32-5.001
RULE TITLE: Disciplinary Guidelines

PURPOSE AND EFFECT: The Board proposes the rule amendment to add new language to update and clarify disciplinary guidelines and penalties.

SUMMARY: The rule amendment will add new language to update and clarify disciplinary guidelines and penalties.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS: A Statement of Estimated Regulatory Cost was prepared and voted upon. The Board determined that small businesses would not be affected by this rule. However, a Statement of Estimated Regulatory Cost was prepared for review.

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

RULEMAKING AUTHORITY: 456.079, 468.365(4) FS.

LAW IMPLEMENTED: 456.072, 468.365 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: Allen Hall, Executive Director, Board of Respiratory Care Specialists/MQA, 4052 Bald Cypress Way, Bin #C05, Tallahassee, Florida 32399-3255

THE FULL TEXT OF THE PROPOSED RULE IS:

VIOLATION

(a) through (ff) No change.

(gg) Any felony offense classified under Chapter 409, 817, 893, F.S., or 21 U.S.C ss. 801-970, or 42 U.S.C. ss. 1395-1396, (456.0635, F.S.) Any Offense

(hh) Terminated for cause from the Florida Medicaid program pursuant to Section 409.913, F.S. Any Offense

(ii) Terminated for cause, pursuant to the appeals procedures established by the state or Federal Government, from any other state Medicaid program or the Federal Medicare program Any Offense

(4) through (6) No change.

Rulemaking Specific Authority 456.079, 468.365(4) FS. Law Implemented 456.072, 468.365 FS. History--New 4-29-85, Formerly 21M-37.01, 21M-37.001, Amended 1-3-94, Formerly 61F6-37.001, 59R-74.001, 64B8-74.001, Amended 5-5-02, 12-5-04, 5-15-05, 2-23-06, 3-29-07,_____.

NAME OF PERSON ORIGINATING PROPOSED RULE: Board of Respiratory Care Specialists

NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: Board of Respiratory Care Specialists

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: January 8, 2010

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: December 18, 2009

DEPARTMENT OF HEALTH

Board of Respiratory Care

RULE NO.: 64B32-6.001 RULE TITLE: Continuing Education Requirement

PURPOSE AND EFFECT: The Board proposes the rule amendment to modify the requirements for continuing education requirements.

SUMMARY: The rule amendment will modify the requirements for continuing education requirements.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS: A Statement of Estimated Regulatory Cost was prepared and voted upon. The Board determined that small businesses would not be affected by this rule. However, a Statement of Estimated Regulatory Cost was prepared for review.

RECOMMENDED RANGE OF PENALTY

The board is prohibited from issuing or renewing a license, certificate, or registration, unless the sentence and any subsequent period of probation for such conviction or pleas ended more than 15 years prior to the date of the application. The board is prohibited from issuing or renewing a license, certificate, or registration, unless the applicant has been in good standing with the Florida Medicaid program for the most recent 5 years.

The board is prohibited from issuing or renewing a license, certificate, or registration, unless the applicant has been in good standing with a state Medicaid program or the Federal Medicare program for the most recent 5 years and the termination occurred at least 20 years prior to the date of the application.

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

RULEMAKING AUTHORITY: 456.013(8), 468.361(2) FS.

LAW IMPLEMENTED: 468.361 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: Allen Hall, Executive Director, Board of Respiratory Care Specialists/MQA, 4052 Bald Cypress Way, Bin #C05, Tallahassee, Florida 32399-3255

THE FULL TEXT OF THE PROPOSED RULE IS:

64B32-6.001 Continuing Education Requirement.

(1) through (2) No change.

(3) Those persons initially licensed during the second year of a biennium who do not currently hold a respiratory care license are exempt from the continuing education requirements, except for the Medical Errors course and HIV/AIDS course pursuant to subsection (5) of this rule and Section 456.033, F.S., for their first renewal. Continuing education requirements must be met for each biennium thereafter.

(4) No change.

(5) A licensee needs twenty-four (24) hours per biennium in order to renew the license.

The hours can be obtained in the following manner:

(a) No change.	
(b) Non-Direct Respiratory Patient Care (i.e. management, risk management, personal growth, and educational techniques)	Mandatory for all licensees: No more than 8 hours in this area will be acceptable for the purpose of biennial renewal of a license pursuant to subsection 64B32-6.004(3), F.A.C.

- (c) through (d) No change.
- (6) No change.

Rulemaking Authority 456.013(8), 468.361(2) FS. Law Implemented 468.361 FS. History—New 4-29-85, Formerly 21M-38.01, Amended 9-29-86, Formerly 21M-38.001, Amended 1-2-94, Formerly 61F6-38.001, Amended 11-1-94, Formerly 59R-75.001, Amended 6-9-99, Formerly 64B8-75.001, Amended 5-15-05, 10-28-07, 5-15-08, 8-4-09,_____.

NAME OF PERSON ORIGINATING PROPOSED RULE:
Board of Respiratory Care Specialists
NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: Board of Respiratory Care Specialists
DATE PROPOSED RULE APPROVED BY AGENCY HEAD: January 8, 2010
DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: December 18, 2009

DEPARTMENT OF HEALTH

Division of Family Health Services

RULE NO.: 64F-12.011
RULE TITLE: Wholesale Distribution of Prescription Drugs – Exceptions and Specific Distributions Authorized

PURPOSE AND EFFECT: This rule section is being revised in response to a comment and possible objection received from the Joint Administrative Procedures Committee concerning a “written agreement” requirement in paragraph (1)(j) of the rule section. The written agreement determines the manner and under what conditions undispensed medications would be returned to the Department by community pharmacies who received the medications under the authority of the “emergency medical reasons” exemption from the definition of wholesale distribution in Section 499.003(53), F.S.

SUMMARY: This rule deletes the “written agreement” provision for determining the manner and under what conditions returns of un-dispensed prescription drugs will be returned to the Department by a community pharmacy.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS: The proposed changes will not impact small businesses, small counties, or small cities. There should be no transactional costs for any individual or entity related to this rule revision. There is no change to any fees, costs, monitoring or reporting currently required.

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

RULEMAKING AUTHORITY: 499.003(53)(b), 499.012, 499.03, 499.05 FS.

LAW IMPLEMENTED: 499.003(53)(b), 499.012, 499.03, 499.05 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: Rebecca R. Poston, R. Ph., Director, Drugs, Devices and Cosmetics Program, 4052 Bald Cypress Way, Mail Bin #C04, Tallahassee, Florida 32399

THE FULL TEXT OF THE PROPOSED RULE IS:

64F-12.011 Wholesale Distribution of Prescription Drugs – Exceptions and Specific Distributions Authorized.

(1) The exemption from the definition of wholesale distribution in Section 499.003(53)(b)2., F.S., for “emergency medical reasons” includes:

- (a) through (i) No change.
- (j) Transfers of prescription drugs by or on behalf of the Department of Health to a community pharmacy authorized to purchase prescription drugs, for dispensing to persons in need of emergency medical services, including controlling communicable diseases or providing protection from unsafe conditions that pose an imminent threat to public health;

~~provided that the community pharmacy returns un-dispensed prescription drugs in a manner and under the conditions specified in a written agreement with the Department of Health.~~

- (2) through (4) No change.

Rulemaking 499.003 (53) (b), 499.012, 499.03, 499.05 FS. Law Implemented 499.003 (53) (b), 499.012, 499.03, 499.05 FS. History—New 7-1-96, Formerly 10D-45.0525, Amended 1-26-99, 4-17-01, 1-1-04, 10-4-07, 12-13-09,_____.

NAME OF PERSON ORIGINATING PROPOSED RULE: Rebecca Poston, R.Ph

NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: Dr. Ana Viamonte Ros

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: February 9, 2010
 DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: October 9, 2009

DEPARTMENT OF HEALTH

Office of Statewide Research

RULE NO.: 64H-1.002
 RULE TITLE: Biomedical Research Grant Applications

PURPOSE AND EFFECT: The purpose of this rule is to provide information to apply for a Biomedical Research Grant, pursuant to the provisions of Sections 215.5602 and 381.922, Florida Statutes.

SUMMARY: This rule provides information on how to apply for grant funding through the James & Esther King Biomedical Research Program and the Bankhead-Coley Cancer Research Program.

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

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

RULEMAKING AUTHORITY: 215.5602(9) FS.

LAW IMPLEMENTED: 215.5602(5), 381.922(3)(a) 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: Susan Phillips, Office of Public Health Research, Department of Health, 4052 Bald Cypress Way, Mail Bin #A24, Tallahassee, FL 32399, (850)245-4585

THE FULL TEXT OF THE PROPOSED RULE IS:

64H-1.002 Biomedical Research Grant Applications.

(1) Grant Applications.

(a) The Florida Department of Health (Department) will accept grant applications for research initiatives into the prevention, diagnosis, treatment, and cure of tobacco-related diseases to be funded by the James and Esther King Biomedical Research Program (Program) and for research initiatives into the prevention, diagnosis, treatment, and cure of cancer to be funded by the Bankhead-Coley Cancer Research Program (Program) in response to Calls for Grant Applications (Calls).

(b) The Calls will be announced and available at the Program's website (www.floridabiomed.com) and applications will be submitted through a web-based electronic system in a format determined by the Department.

(c) The Department may modify the format and content requirements for the Calls at any time. Notice of the modification will be announced at the Program's website.

(d) Applicants shall not initiate contact with Biomedical Research Advisory Council members regarding the status, substance, or preparation of a grant application.

(2) Conflicts of Interest.

(a) Biomedical Research Advisory Council members are prohibited from attempting to use their council position to influence a decision to recommend an award or contract to the entities or persons with which the council member has a conflict of interest as defined in Section 112.312(8), Florida Statute.

(b) Nothing in this rule prohibits the Department or the Biomedical Research Advisory Council from adopting additional standards and reporting requirements relating to prohibited conflicts of interest that may be more rigorous than set forth in Florida Statute. Council members must comply with additional standards upon adoption.

(3) Peer Review Process.

(a) The Department will endeavor to ensure that projects representing the best science are funded. This will be accomplished through a rigorous scientific peer review process of grant applications in coordination with the Biomedical Research Advisory Council and the State Surgeon General.

(b) Scientific peer reviewers will be located outside of Florida, must disclose all conflicts of interest, and will receive an honorarium.

(c) In addition to scientific merit scores, peer reviewers will assign a tobacco-relatedness score for the James and Esther King Biomedical Research Program and a cancer-relatedness score for the Bankhead-Coley Cancer Research Program. To the extent possible, priority for funding grant applications will be given to proposals with better relatedness scores.

(4) Grant Terms and Conditions.

(a) Grant recipients must sign a Grant Terms and Conditions document. A sample document is included with each Call.

(b) Grant recipients are under a continuing obligation to notify the Program of any adverse conditions that materially impact milestones and objectives included in the research proposal and Grant Terms and Conditions.

(c) Grant funds may not be used for purposes other than those for which the grant was awarded.

(5) Termination of Grants.

(a) The Program may terminate grants prior to the expiration of the terms and conditions.

(b) The Program will notify the grant recipient in writing of the intent to terminate funding.

Rulemaking Authority 215.5602(9) FS. Law Implemented 215.5602(5), 381.922(3)(a) FS. History--New

NAME OF PERSON ORIGINATING PROPOSED RULE:
Susan Phillips
 NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: Ana M. Viamonte Ros, M.D. M.P.H.
 DATE PROPOSED RULE APPROVED BY AGENCY HEAD: February 5, 2010
 DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: January 8, 2010

DEPARTMENT OF HEALTH

Vital Statistics

RULE NOS.: 64V-1.022 64V-1.023 64V-1.024 64V-1.025	RULE TITLES: Appointment of Local Registrars Appointment of Deputy Registrars Appointment of Subregistrars Duties of Local Registrar for Transmittal of Records or Report of No Records
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PURPOSE AND EFFECT: The purpose and effect of these rules is to incorporate forms used in the appointment of registrars and for the submission of vital records.

SUMMARY: These rules are to ensure compliance with requirements of Section 382.003(10), F.S.

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

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

RULEMAKING AUTHORITY: 382.003(10), 382.005 FS.

LAW IMPLEMENTED: 382.003, 382.005, 382.006, 382.007, 382.008, 382.013 FS.

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

Pursuant to the provisions of the Americans with Disabilities Act, any person requiring special accommodations to participate in this workshop/meeting is asked to advise the agency at least 5 days before the workshop/meeting by contacting: Kevin Wright, Operations Manager, State Office of Vital Statistics, P. O. Box 210, Jacksonville, Florida 32231-0042, telephone (904)359-6900, ext. 1004. If you are hearing or speech impaired, please contact the agency using the Florida Relay Service, 1(800)955-8771 (TDD) or 1(800)955-8770 (Voice).

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULES IS: Kevin Wright, Operations Manager, State Office of Vital Statistics, P. O. Box 210, Jacksonville, Florida 32231-0042, telephone (904)359-6900, ext. 1004

THE FULL TEXT OF THE PROPOSED RULES IS:

64V-1.022 Appointment of Local Registrars.

Upon appointment of a local registrar of vital statistics for the registration district in the state by the Office of Vital Statistics, a Local Registrar's Acceptance, DH 1233B, Oct 2009, hereby incorporated by reference and available from the Florida Department of Health, Office of Vital Statistics, P. O. Box 210, Jacksonville, Florida 32231-0042 shall be issued.

Rulemaking Authority 382.003(10) FS. Law Implemented 382.003(5) FS. History--New _____.

64V-1.023 Appointment of Deputy Registrars.

Each local registrar, immediately upon appointment, shall designate one or more deputy registrars. Upon appointment, the Office of Vital Statistics shall issue a Chief Deputy Registrar's Acceptance, DH 1233, Oct 2009 or a Deputy Registrar's Acceptance, DH 1233A, Oct 2009, both hereby incorporated by reference and available from the Florida Department of Health, Office of Vital Statistics, P. O. Box 210, Jacksonville, Florida 32231-0042 which authorizes the deputy registrars to act on behalf of the local registrar.

Rulemaking Authority 382.003(10) FS. Law Implemented 382.005(4) FS. History--New _____.

64V-1.024 Appointment of Subregistrars.

The Office of Vital Statistics shall appoint suitable persons to act as subregistrars, who shall be authorized to receive death certificates and fetal death certificates and to issue burial permits. An Application for Appointment of Subregistrar of Vital Statistics, DH 1233C, Oct 2009, hereby incorporated by reference and available from the Florida Department of Health, Office of Vital Statistics, P. O. Box 210, Jacksonville, Florida 32231-0042 shall be submitted to the Office of Vital Statistics for approval.

Rulemaking Authority 382.003(10) FS. Law Implemented 382.003(9), 382.006, 382.007, 382.008 FS. History--New _____.

64V-1.025 Duties of Local Registrar for Transmittal of Records or Report of No Records.

Each local registrar or designee shall transmit to the department all original certificates registered or if no births, deaths, or fetal deaths occurred in any month, the local registrar or deputy shall report that fact to the department on a Birth Record Transmittal Report, DH 758A, July 2009, a Fetal Death Record Transmittal Report, DH 758B, Sept 2008 or a Death Record Transmittal Report, DH 758C, Sept 2008, all three forms hereby incorporated by reference and available from the Florida Department of Health, Office of Vital Statistics, P. O. Box 210, Jacksonville, Florida 32231-0042.

Rulemaking Authority 382.003(10) FS. Law Implemented 382.005(3), 382.013 FS. History--New _____.

NAME OF PERSON ORIGINATING PROPOSED RULE:
Kevin Wright, Operations Manager, State Office of Vital Statistics

NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: Dr. Ana M. Viamonte Ros, M. D., M.P.H., State Surgeon General

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: January 25, 2010

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: November 25, 2009

DEPARTMENT OF CHILDREN AND FAMILY SERVICES

Economic Self-Sufficiency Program

RULE NO.: 65A-1.303
RULE TITLE: Assets

PURPOSE AND EFFECT: The proposed rule amendment amends vehicle language and includes technical changes of a non-substantive nature.

SUMMARY: The proposed rule allows for the exclusion of all vehicles as a resource for the Food Stamp Program.

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

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

RULEMAKING AUTHORITY: 414.45 FS.

LAW IMPLEMENTED: 409.903, 409.904, 414.075 FS.

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

DATE AND TIME: March 15, 2010, 1:30 p.m.

PLACE: 1317 Winewood Boulevard, Building 3, Room 455, Tallahassee, Florida 32399-0700

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Cindy Keil, ACCESS Florida Program Policy, 1317 Winewood Boulevard, Building 3, Tallahassee, Florida 32399-0700, (850)410-3291, cindy_keil@dcf.state.fl.us

THE FULL TEXT OF THE PROPOSED RULE IS:

65A-1.303 Assets.

(1) through (3) No change.

~~(4) Vehicles. The determination of whether a vehicle is an asset for food stamps and/or cash assistance purposes depends on the use of the vehicle, whether the vehicle is licensed or unlicensed, and the vehicle's equity value. The determination must be made in accordance with Section 414.075, F.S., and 7 CFR 273.8.~~

Rulemaking Specific Authority 409.919, 414.45 FS. Law Implemented 409.903, 409.904, 414.075 FS. History–New 4-9-92, Amended 9-19-94, Formerly 10C-1.303, Amended 8-22-05,_____.

NAME OF PERSON ORIGINATING PROPOSED RULE:
Nathan Lewis

NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: George H. Sheldon

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: February 3, 2010

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: January 8, 2010

DEPARTMENT OF CHILDREN AND FAMILY SERVICES

Agency for Persons with Disabilities

RULE NOS.: 65G-4.014, 65G-4.015, 65G-4.016, 65G-4.017
RULE TITLES: Eligibility for Agency Services – Definitions, Eligibility Criteria, Application Process, Establishing Eligibility

PURPOSE AND EFFECT: Establish the process and criteria for eligibility for services provided to persons with developmental disabilities by the Agency.

SUMMARY: Defines qualifying conditions, defines the application process and establishes objective standards for eligibility

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

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

RULEMAKING AUTHORITY: 393.065, 393.501, 393.063 FS.

LAW IMPLEMENTED: 393.065 FS.

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

Pursuant to the provisions of the Americans with Disabilities Act, any person requiring special accommodations to participate in this workshop/meeting is asked to advise the agency at least 7 days before the workshop/meeting by contacting: Terri McGarrity, (850)414-7452 or SC 994-7452. If you are hearing or speech impaired, please contact the agency using the Florida Relay Service, 1(800)955-8771 (TDD) or 1(800)955-8770 (Voice).

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULES IS: Terri McGarrity, Sr. Management Analyst Supervisor, Agency for Persons with Disabilities, 4030 Esplanade Way, Tallahassee, Florida 32399, (850)414-7452 or SC 994-7452

THE FULL TEXT OF THE PROPOSED RULES IS:

65G-4.014 Eligibility for Agency Services – Definitions.

(1) Autism – As used in this rule for eligibility for services from Agency for Persons with Disabilities (Agency), autism is limited to the definition of autistic disorder as described in the Diagnostic and Statistical Manual of Mental Disorders of the American Psychiatric Association (DSM IV). While characteristics of autism occur on a spectrum, autism in this rule refers only to autistic disorder as defined in the DSM IV. Autistic disorder refers to qualitative impairments in social interaction, qualitative impairments in communication and restricted repetitive and stereotyped patterns of behavior, interests and activities and delays or abnormal functioning of one of the following with onset prior to age 3:

- (a) Social interaction.
- (b) Language as used in social communication, or
- (c) Symbolic of imaginative play.

(2) Cerebral Palsy – means a group of disabling symptoms of extended duration that result from damage to the developing brain during the prenatal period and characterized by paralysis, spasticity, or abnormal control of movement or posture, such as poor coordination or lack of balance, which is manifest prior to three years of age. For purposes of the rule, cerebral palsy also means the presence of other significant motor dysfunction appearing prior to age 18 due to perinatal or external events such as anoxia, oxygen deprivation, or traumatic brain injury. Excluded from this definition are motor dysfunction caused by medical events, including stroke or progressive diseases, such as muscular dystrophy.

(3) Mental Retardation or Intellectual Disability – means (a) significantly sub average general intellectual functioning; an Intelligence Quotient (IQ) of 70 or below on an individually administered IQ or for infants and young children, and a clinical judgment of significantly sub average intellectual functioning, existing concurrently with paragraph (b) deficits in adaptive functioning in at least two of the five following areas – communication, self-care, home living, social/interpersonal skills, use of community resources, self-direction, functional academic skills, work, leisure, health and safety, which are paragraph (c) manifested prior to age 18.

(4) Prader-Willi Syndrome – means a non-inherited, genetic syndrome which is most often associated with a random deletion of chromosome 15. Commonly associated characteristics include diminished fetal activity, insatiable appetite and chronic overeating. Individuals diagnosed with Prader-Willi Syndrome generally have mental retardation;

however, an individual with Prader-Willi syndrome can be determined as eligible for AGENCY without an accompanying diagnosis of mental retardation.

(5) Spina Bifida – for the purposes of Agency eligibility, spina bifida refers to a confirmed diagnosis of spina bifida cystica or myelomeningocele.

Rulemaking Authority 393.065, 393.501, 393.063 FS. Law Implemented 393.065 FS. History–New _____.

65G-4.015 Eligibility Criteria.

(1) In order to be determined eligible for Agency services the applicant must:

(a) Be at least three years of age.

(b) Be a resident of and domiciled in the state of Florida in accordance with Sections 222.17(1) and (2), F.S. Domicile may not be established in Florida by a minor who has no parent domiciled in Florida, or by a minor who has no legal guardian domiciled in Florida, or by any alien not classified as a resident alien. Dependents of active duty military personnel stationed in the state of Florida are exempt from residency and domicile requirements.

(c) Have a confirmed diagnosis of one of the following developmental disabilities as defined in this rule: autism, cerebral palsy, mental retardation, Prader-Willi Syndrome, Spina Bifida, or children between 3 and 5 years of age who are at high risk of later diagnosis of one of these disabilities. Such high risk children shall not be placed on the waiting list for waiver services until a confirmed diagnosis of a qualifying disability is given.

Rulemaking Authority 393.065, 393.501, 393.063 FS. Law Implemented 393.065 FS. History–New _____.

65G-4.016 Application Process.

(1) Application for services from the Agency shall be made, by submitting an application by hand delivery, U.S. Mail or facsimile, to the Agency service area where the applicant resides. The application for services is available on the Agency website at www.APD.myflorida.com or by contacting the Agency.

(2) Upon receipt of a completed, signed and dated Application for Services, the area Agency staff shall review the application and supporting documentation and within 45 days for children under the age of 6, and 60 days for individuals 6 years of age and older, shall notify the applicant of the final determination of eligibility for Agency services. If requests for collateral information or additional evaluations are necessary to determine eligibility, the time may be extended for no more than an additional ninety (90) days.

(3) If an applicant is unable to produce an existing evaluation that establishes eligibility or if there is concern that the information provided is inaccurate, incorrect or incomplete, the Agency area office will be responsible for obtaining an evaluation to establish eligibility. The evaluation process

includes only those assessments necessary to determine eligibility that were administered by a person qualified to administer the instrument(s).

(4) When the eligibility determination is complete, the Agency Area Office shall notify the applicant, in writing, within five (5) business days of the decision. If the applicant is determined ineligible for Agency services, the Agency Area Office shall notify the applicant of the right to appeal the decision in accordance with Chapter 120, F.S.

(5) If the applicant is determined to be ineligible to receive services from the Agency, the Agency Area Office shall offer suggestions regarding other programs, agencies or services for which the applicant may be eligible.

Rulemaking Authority 393.065, 393.501, 393.063 FS. Law Implemented 393.065 FS. History–New _____.

65G-4.017 Establishing Eligibility.

(1) Establishing Eligibility – Autism. A diagnosis of autism, as defined by this rule, may only be made by one or more of the following who has specific training and experience in making such diagnoses:

(a) A Florida-licensed psychiatrist.

(b) A Florida-licensed psychologist.

(c) A board certified pediatric neurologist who is qualified by training and experience to make a diagnosis of autism.

(d) A board certified developmental pediatrician.

(e) If the diagnosis of autism is not clear, an instrument such as the Autism Diagnostic Observation Schedule (ADOS) or the Autism Diagnostic Interview – Revised (ADI-R) may be administered by a qualified psychologist or psychiatrist with experience and training in use of the tool administered to confirm the diagnosis.

(f) Collateral information received from another state may be accepted if the evaluator is licensed through the same credentials required for licensure in Florida for the professions listed in paragraph (1)(a) above.

(2) Establishing Eligibility – Cerebral Palsy. Diagnosis is confirmed by written documentation from one or more of the following:

(a) A medical doctor;

(b) A doctor of osteopathy; or

(c) Medical records documenting a diagnosis of cerebral palsy before the age of 18.

(3) Establishing Eligibility – Mental Retardation. There are two requirements for establishing that an individual has mental retardation:

(a) The first requirement is that the individual's performance is measured at two or more standard deviations below the mean on a currently used version of a standardized, normed and individually administered assessment of

intelligence at the time of the assessment. The assessment administered must have been the version of the assessment that was accepted at the time of evaluation.

(b) When there are several assessments that have been conducted with varying I.Q.s, the Agency may rely on patterns or clusters of scores and shall reject those scores that appear to be significantly lower or higher than the average of the other scores. A single subtest should not be used alone to determine eligibility when multiple test results are available. If a person has significantly different (statistically defined) scores on different scales of a test or tests, or a great deal of variability on subtest scores of an IQ test, the full-scale score may not indicate mental retardation and should not be relied on as a valid score. In that instance, closer scrutiny is required to make an appropriate differential diagnosis. This may include review of school records, school placement, achievement scores, behavior during testing and the psychosocial situation at the time of testing. Closer scrutiny must also be required when there is a great deal of variability between IQ scores on different IQ tests or different administrations of the same IQ test.

(c) The second requirement is that the individual has a documented deficit in adaptive functioning. Mental retardation is indicated if there are significant deficits in adaptive functioning (usually 2 or more standard deviations below the mean in at least two areas.) in areas such as ability to meet self-care needs, understanding and use language and self-direction.

(d) The performance measures for this category of adaptive functioning deficits must be validated by the professional judgment of a psychologist who is experienced in working with people who have retardation, who has specific training and validation in the assessment instrument that is used, and who is either:

(i) A Florida-licensed psychologist,

(ii) A Florida-licensed school psychologist,

(iii) A certified school psychologist.

(e) Accepted standardized tests of intelligence to establish eligibility for mental retardation are:

(i) Stanford-Binet Intelligence Test (all ages),

(ii) Wechsler Preschool and Primary Scale of Intelligence (under six years of age),

(iii) Differential Ability Scales – Preschool Edition (under six years of age),

(iv) Wechsler Intelligence Scale for Children (WISC) (children up to fifteen years, eleven months),

(v) Differential Ability Scales (children up to fifteen years, eleven months),

(vi) Wechsler Adult Intelligence Scale (WAIS),

(vii) Test of Nonverbal Intelligence-3 (TONI-3),

(viii) Comprehensive Test of Nonverbal Intelligence-2 (C-TONI 2).

(ix) Universal Nonverbal Intelligence Test (UNIT).

(x) Leiter International Performance Scale-Revised (Leiter-R).

(f) The following are Tests of Adaptive Functioning accepted in the determination:

(i) Vineland Adaptive Behavior Scales.

(ii) AAMR Adaptive Behavior Scale.

(iii) Adaptive Behavior Assessment System (ABAS).

(iv) Adaptive Behavior Evaluation Scale (ABES).

(g) In all cases, assessments or evaluations for eligibility should be obtained from appropriately licensed professionals with experience and training with the instruments and population for whom eligibility is to be determined.

(4) Establishing Eligibility – Prader-Willi Syndrome. Diagnosis is confirmed by written documentation from one or more of the following:

(a) A medical doctor;

(b) A doctor of osteopathy; or

(c) Medical records that document a diagnosis of Prader-Willi Syndrome before the age of 18.

(5) Establishing Eligibility – Spina Bifida. Diagnosis is confirmed by written documentation from one or more of the following:

(a) A medical doctor;

(b) A doctor of osteopathy; or

(c) Medical records that document a diagnosis of spina bifida cystica or myelomeningocele before the age of 18.

(6) Establishing Eligibility – High Risk Children, 3 to 5 years of age. Evidence under this category requires an area office determination that a medical diagnosis of developmental delay evidenced by the child indicates a high probability that the child is likely to have an eventual diagnosis of a qualifying condition under Rule 65G-4.014, F.A.C., if early intervention services are not provided, or the child has one or more physical or genetic anomalies associated with a developmental disability, such as:

(a) Genetic or chromosomal disorders (such as Down syndrome or Rett syndrome);

(b) Metabolic disorders (such as phenylketonuria);

(c) Congenital malformations (such as microcephaly or hydrocephaly);

(d) Neurological abnormalities and insults;

(e) Congenital and acquired infectious diseases;

(f) Chronic or catastrophic illnesses or injuries;

(g) A parent or guardian with developmental disabilities who requires assistance in meeting the child's developmental needs; or

(h) Other conditions or genetic disorders generally associated with developmental disabilities, such as tuberous sclerosis, congenital syphilis, fetal alcohol syndrome, or maternal rubella, as documented by a physician.

(7) If a child between three and five years of age already has been determined to have a developmental disability in one of the five categories identified in Chapter 393, F.S., that child shall be eligible for services from the Agency under the appropriate diagnosis and shall be added to the wait list.

(8) If a child served under the category of high risk does not have a confirmed diagnosis by his or her fifth birthday, they shall be given a notice of case closure, the child's case will be closed at the Agency. The Agency shall make the child's parent or guardian aware of appropriate agencies, programs or school programs which the Agency is aware of which might be able to assist the child.

Rulemaking Authority 393.065, 393.501, 393.063 FS. Law Implemented 393.065 FS. History–New _____.

NAME OF PERSON ORIGINATING PROPOSED RULE:
Terri McGarrity, Sr. Management Analyst Supervisor

NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: Jim DeBeaugrine

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: February 9, 2010

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: January 15, 2010

DEPARTMENT OF FINANCIAL SERVICES

Division of State Fire Marshal

RULE NO.:
69A-62.004

RULE TITLE:
Uniform Minimum Firefighter
Employment Standards: Presence
of Toxic Substances

PURPOSE AND EFFECT: The purpose of the rule amendment is to allow flexibility in maintaining current notices of toxic substances in the workplace, without the need for constant rule amendment.

SUMMARY: The rule sets forth requirements that firefighter employers must meet when toxic substances are used or stored in the workplace. The amendment redacts many pages of toxic substances that were adopted in 2001, and replaces them with a definition, thus providing the employer the flexibility to recognize newly identified toxic substances without the need to wait for the rule to be updated.

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

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

RULEMAKING AUTHORITY: 633.01(1), 633.808 FS.

LAW IMPLEMENTED: 633.45(1)(a), 633.807, 633.821 FS.

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

DATE AND TIME: Wednesday, March 17, 2010, 9:30 a.m.

PLACE: Third floor conference room at the Atrium, 325 John Knox Road, Tallahassee, Florida

Pursuant to the provisions of the Americans with Disabilities Act, any person requiring special accommodations to participate in this workshop/meeting is asked to advise the agency at least 5 days before the workshop/meeting by contacting: Charles Brush, Phone: (352)369-2836. If you are hearing or speech impaired, please contact the agency using the Florida Relay Service, 1(800)955-8771 (TDD) or 1(800)955-8770 (Voice).

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Charles Brush, Safety Program Manager, Bureau of Fire Standards and Training, Division of State Fire Marshal, phone: (352)369-2836

THE FULL TEXT OF THE PROPOSED RULE IS:

(Substantial rewording of Rule 69A-62.004 follows. See Florida Administrative Code for present text.)

69A-62.004 Uniform Minimum Firefighter Employment Standards; Presence of Toxic Substances; ~~Notice to Fire Departments.~~

(1) A firefighter employer shall maintain in the firefighter place of employment:

(a) A list of work areas, identified by name and location, where toxic substances, as defined in subsection (3) and not exempted by subsection (4) below, are present, and the chemical and common name of each toxic substance present, and

(b) A material safety data sheet for each toxic substance listed above.

(2) Whenever there is a change in the work areas where toxic substances are stored, or the addition of toxic substances in the firefighter place of employment, the firefighter employer shall update the information provided pursuant to subsection (1).

(3) Since not all substances are hazardous in every form to which a firefighter employee may be exposed, these rules apply when the following conditions are present:

(a) The substance is manufactured, produced, used, applied, or stored in the workplace, and

(b) The substance is known to cause damage to living tissue, impairment of the central nervous system, severe illness, or, in extreme cases, death, when ingested, inhaled or absorbed by the skin, during customary or reasonably foreseeable handling or use.

(4) A substance or mixture which satisfies the criteria in (3) is exempt from coverage if the substance:

(a) Is toxic only if chronically ingested;

(b) Is an alcoholic beverage as defined in the Beverage Law;

(c) Is toxic but labeled pursuant to the Federal Insecticide, Fungicide, and Rodenticide Act, as amended; and the Federal Food, Drug and Cosmetic Act, as amended;

(d) Is a consumer product;

(e) Is a commercial product which is substantially equivalent in formulation to similar consumer products used for the same general purpose, when used in the workplace in such a manner that firefighter employee exposure is not significantly greater than exposures resulting from the principal consumer use of the similar consumer product;

(f) Is food stuff;

(g) Is fossil fuel in fuel tanks, engines, and other operating systems of vehicles where the substances are present only in amounts and forms substantially equivalent to the amounts and forms generally available to consumers, and

(h) Is fossil fuel used for heating, or power generation purposes, such that firefighter employees are not exposed to fumes or combustion by-products.

(5) Every firefighter employer who uses, applies, or stores toxic substances, as described in subsection (3) and not exempted in subsection (4), in the workplace shall post a notice in a place where notices are normally posted, informing firefighter employees of their rights under the law. Such posters may be obtained upon request from the State Fire Marshal.

Rulemaking Specific Authority 633.01(1), 633.808 FS. Law Implemented 633.45(1)(a), 633.807, 633.821 FS. History—New 11-21-01, Formerly 4A-62.004, Amended _____.

NAME OF PERSON ORIGINATING PROPOSED RULE: Charles Brush

NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: Alex Sink

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: January 4, 2010

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: December 11, 2009

DEPARTMENT OF FINANCIAL SERVICES

Division of Insurance Agents and Agency Services

RULE NO.: 69B-211.320 RULE TITLE: Curriculum Standards for Special Designation

PURPOSE AND EFFECT: Rule 69B-211.320, F.A.C., establishes curriculum standards for designations identified by Section 626.221(2)(k), F.S., as exempting a license applicant from the requirement of an examination. This proposed amendment is to include the designation Certified Adjuster

(CA) from ALL LINES Training to the list of designations for which curriculum standards are established. This conforms the rule to the existing statute.

SUMMARY: The proposed rule adds the Certified Adjuster (CA) designation identified in Section 626.221(2)(k), F.S.

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

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

RULEMAKING AUTHORITY: 626.221 FS.

LAW IMPLEMENTED: 626.221 FS.

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

DATE AND TIME: Tuesday, March 16, 2010, 9:30 a.m.

PLACE: 139 Larson Building, 200 East Gaines Street, Tallahassee, Florida

Pursuant to the provisions of the Americans with Disabilities Act, any person requiring special accommodations to participate in this workshop/meeting is asked to advise the agency at least 5 days before the workshop/meeting by contacting: Hannah Tucker, Financial Administrator, (850)413-2813 or Leslie Kitterman, Insurance Administrator, (850)413-5472. If you are hearing or speech impaired, please contact the agency using the Florida Relay Service, 1(800)955-8771 (TDD) or 1(800)955-8770 (Voice).

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Hannah Tucker, Financial Administrator, (850)413-2813 or Leslie Kitterman, Insurance Administrator, (850)413-5472, Division of Agent and Agency Services, Department of Financial Services, 200 East Gaines Street, Tallahassee, Florida 32399-0319

THE FULL TEXT OF THE PROPOSED RULE IS:

69B-211.320 Curriculum Standards for Special Designation.

Pursuant to Section 626.221(1), F.S., the Department of Financial Services establishes the following curriculum standards:

(1) No change.

(2) For designation as an Accredited Claims Adjuster (ACA), Professional Claims Adjuster (PCA), Professional Property Insurance Adjuster (PPIA) from the HurriClaim Training Academy, Certified Adjuster (CA) from ALL LINES Training or Certified Claims Adjuster (CCA) from the Association of Property and Casualty Claims Professionals, the requirement is at least 40 course hours:

(a) through (b) No change.

Rulemaking Specific Authority 626.221 FS. Law Implemented 626.221 FS. History--New 11-6-01, Amended 8-7-03, Formerly 4-211.320, Amended 1-17-05, 11-7-06, 7-3-07, _____.

NAME OF PERSON ORIGINATING PROPOSED RULE: Hannah Tucker, Financial Administrator, Division of Agent and Agency Services, Department of Financial Services

NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: Alex Sink, Chief Financial Officer, Department of Financial Services

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: October 5, 2009

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: October 16, 2009

DEPARTMENT OF FINANCIAL SERVICES

Division of Insurance Agents and Agency Services

RULE NOS.:	RULE TITLES:
69B-231.030	Definitions
69B-231.080	Penalties for Violation of Section 626.611, F.S.
69B-231.100	Penalties for Violation of Subsection 626.621(6), F.S.
69B-231.110	Penalties for Violation of Other Specific Provisions of the Florida Insurance Code
69B-231.160	Aggravating/Mitigating Factors

PURPOSE AND EFFECT: The purpose of the proposed rule development is to update the rules that govern suspension and revocation of licenses of insurance agents, customer representatives, service representatives and adjusters. The amendments include adding new regulations adopted by the Florida Legislature and deleting laws that have been repealed. The rules are also updated by increasing penalties for violating certain laws in order to reflect the Department’s experience in dealing with the frequency and severity of these violations. The purpose of other changes is to clarify the rules.

SUMMARY: The amendment to Rule 69B-231.030, F.A.C., amends the definitions for “administrative complaint” and “count” and adds a new definition for “administrative charges.” Rule 69B-231.080, F.A.C., is amended to add new penalties for violations of Section 626.611(17), F.S. Rule 69B-231.100, F.A.C., is amended to increase the length of license suspension for violations of certain unfair and deceptive insurance practices and adds penalties for misrepresentations and false advertising of insurance policies and twisting as well as adds penalties for violations under Section 626.9541(1), F.S. Rule 69B-231.110, F.A.C., is amended to increase the length of license suspension for violations of certain other provisions of the Florida Insurance Code and adds the penalty of revocation for licensees who fail to comply with the court, pursuant to Section 631.155, F.S., regarding accounting for premiums and unearned commissions. Rule 69B-231.160, F.A.C., is amended to repeal

the consideration of cooperation with the Department as an aggravating or mitigating factor and adds penalties for violation of any part of Sections 626.9541 and 627.4554, F.S. in relation to the sale of a life insurance policy or annuity to a senior citizen. Further, the rule is amended to delete the term “timely” as it relates to restitution to victims.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS: 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.

RULEMAKING AUTHORITY: 624.308, 626.207(2), 627.4554(9) FS.

LAW IMPLEMENTED: 624.307(1), 626.308, 626.207(2), 626.611, 626.621, 626.631, 626.641, 626.681, 626.691, 626.9541, 626.9541(1), 627.4554, 631.155 FS.

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

DATE AND TIME: Tuesday, March 16, 2010, 9:00 a.m.

PLACE: Room 142, Larson Building, 200 E. Gaines Street, Tallahassee, Florida

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULES IS: Kathy Spencer, Division of Agent & Agency Services, Department of Financial Services, 200 E. Gaines Street, 412 Larson Building, Tallahassee, FL 32399-0319, (850)413-5644

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 the person listed above.

THE FULL TEXT OF THE PROPOSED RULES IS:

69B-231.030 Definitions.

The following definitions shall apply for purposes of this rule chapter.

(1) “Administrative complaint” means a charging document ~~refers to formal administrative charges~~ filed by the Department against a licensee. ~~The charges consist of factual allegations with citations to violations of the Insurance Code, Department rules or orders grouped together in one or more counts.~~

(2) “Administrative charges” means charges consisting of factual allegations with citations to violations of the Insurance Code, Department rules or orders grouped together in one or more counts.

~~(3)(2) A “Count” is a single allegation or multiple allegations relating~~ refers to a series of one or more numbered paragraphs of factual allegations in an administrative complaint that are grouped together under the word “Count” followed by a Roman numeral and which are set apart from other counts in an administrative complaint, which relate to a single transaction or occurrence, and which if true, would constitute a violation of one or more provisions of the Insurance Code.

~~(4)(3) “Convicted”~~ means adjudicated guilty by a court.

~~(5)(4) “Crimes involving moral turpitude”~~ means each felony crime identified in subsections 69B-211.042(23) and (24)(21), F.A.C., and each felony crime not identified in subsections 69B-211.042(23) and (24)(21), F.A.C., that is substantially similar to a crime identified in subsections 69B-211.042(23) and (24)(21), F.A.C.

~~(6)(5) “Department”~~ means the Florida Department of Financial Services.

~~(7)(6) “Final penalty”~~ means the penalty ~~actually~~ imposed on a licensee by the Department.

~~(8)(7) “Penalty per count”~~ means ~~refers to~~ the penalty to be assessed for a single count and is which shall be equal to the highest stated penalty in the count for all proven ~~proven~~ violations.

~~(9)(8) “Stated penalty”~~ means the penalty set forth in Rules 69B-231.080 through 69B-231.150, F.A.C.

~~(10)(9) “Total penalty”~~ means ~~refers to~~ the sum of the highest stated penalties ~~for~~ each count.

Rulemaking Specific Authority 624.308, 626.207(2) FS. Law Implemented 624.307(1), 624.308, 626.207(2), 626.611, 626.621 FS. History—New 7-13-93, Amended 9-23-02, Formerly 4-231.030, Amended 8-15-06,_____.

69B-231.080 Penalties for Violation of Section 626.611, F.S.

If it is found that the licensee has violated any of the following subsections of Section 626.611, F.S., for which compulsory suspension or revocation of license(s) and appointment(s) is required, the following stated penalty shall apply:

(1) through (8) No change.

(9) Section 626.611(9), F.S. – suspension 12 ~~9~~ months

(10) through (16) No change.

(17) Section 626.611(17)(a), (c) or (d), F.S. – suspension 12 months.

(18) Section 626.611(17)(b), F.S. – revocation.

Rulemaking Specific Authority 624.308, 626.207(2) FS. Law Implemented 624.307(1), 624.308, 626.207(2), 626.611 FS. History—New 7-13-93, Amended 9-23-02, Formerly 4-231.080, Amended 8-15-06,_____.

69B-231.100 Penalties for Violation of Section 626.621(6), F.S.

If a licensee is found to have violated subsection 626.621(6), F.S., by engaging in unfair methods of competition or in unfair or deceptive acts or practices as defined in any of the following paragraphs of subsection 626.9541(1), F.S., the following stated penalty shall apply:

- (1) Section 626.9541(1)(a), F.S. – suspension 12 ~~6~~ months.
- (2) through (11) No change.
- (12) Section 626.9541(1)(l), F.S. – suspension 12 ~~9~~ months.
- (13) through (28) No change.
- (29) Section 626.9541(1)(cc), F.S. – suspension 6 months.
- (30) Section 626.9541(1)(ee), F.S. – suspension 12 months.
- (31) Section 626.9541(1)(ff), F.S. – suspension 12 months.

Rulemaking Specific Authority 624.308, 626.207(2) FS. Law Implemented 624.307(1), 624.308, 626.207(2), 626.621, 626.9541(1) FS. History–New 7-13-93, Formerly 4-231.100, Amended 8-15-06, _____.

69B-231.110 Penalties for Violation of Other Specific Provisions of the Florida Insurance Code.

If the licensee is found to have violated any of the following provisions of the Insurance Code, the following stated penalty shall apply:

- (1) through (4) No change.
- (5) Section 626.536, F.S. – administrative fine of not less than \$500 for the first violation; administrative fine of not less than \$1,000 for the second violation; and suspension of 2 months for the third and subsequent violations.
- (6) Section 626.541, F.S. – not less than \$500 for the first violation; administrative fine of not less than \$1,000 for the second violation; and suspension of 2 months for the third and subsequent violations.
- (7) through (34) No change.
- (35) Section 626.901(1), F.S. – suspension 12 ~~6~~ months
- (36) through (38) No change.
- (39) Section 631.155, F.S. – revocation.

Rulemaking Specific Authority 624.308, 626.207(2) FS. Law Implemented 624.307(1), 624.308, 626.207(2), 626.611, 626.621, 626.681, 626.691, 631.155 FS. History–New 7-13-93, Formerly 4-231.110, Amended 8-15-06, _____.

69B-231.160 Aggravating/Mitigating Factors.

The Department shall consider the following aggravating and mitigating factors and apply them to the total penalty in reaching the final penalty assessed against a licensee under this rule chapter. After consideration and application of these factors, the Department shall, if warranted by the Department’s consideration of the factors, either decrease or increase the penalty to any penalty authorized by law.

(1) For penalties other than those assessed under Rule 69B-231.150, F.A.C.:

- (a) through (d) No change.
- (e) Restitution to victims ~~Timely~~;
- (f) and (g) No change.
- (h) Financial loss to victim ~~Cooperation with the Department~~;
- (i) through (l) No change.
- (m) Violation of any part of Sections 626.9541 and 627.4554, F.S., in relation to the sale of a life insurance policy or annuity to a senior citizen; and
- (n)(m) Other relevant factors.
- (2) No change.

Rulemaking Specific Authority 626.308, 626.207(2), 627.4554(9) FS. Law Implemented 624.307(1), 624.308, 626.207(2), 626.611, 626.621, 626.631, 626.681, 626.9541, 627.4554 FS. History–New 7-13-93, Formerly 4-231.160, Amended 8-15-06, _____.

NAME OF PERSON ORIGINATING PROPOSED RULE: Barry Lanier, Chief of Investigation, Bureau of Investigation, Division of Agent & Agency Services, Department of Financial Services

NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: Alex Sink, Chief of Financial Officer, Department of Financial Services

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: December 1, 2009

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: January 8, 2010

FINANCIAL SERVICES COMMISSION

OIR – Insurance Regulation

RULE NOS.:	RULE TITLES:
690-157.302	Facility Only Rates
690-157.303	Home Health Care Only Rates
690-157.304	Comprehensive Only Rates

PURPOSE AND EFFECT: Rules 690-157.302, 690-157.303, and 690-157.304, F.A.C., pertaining to Facility Only Rates, Home Health Care Only Rates, and Comprehensive Only Rates, are being amended to publish the new business rates that will be effective for 2010.

SUMMARY: Paragraph 627.9407(7)(c), Florida Statutes, regarding long-term care insurance, provides that any premium increase for existing insureds shall not result in a premium that exceeds the premium charged on a newly issued policy. This puts limits on how high the premium for existing customers can rise; they cannot be higher than rates charged for new policies.

The paragraph further provides that if the insurer is not issuing new coverage, the new business rate shall be as published by the Office, at the rate representing the new business rate of

insurers representing 80% of the carriers currently offering policies with similar coverage, as determined by the prior calendar year earned premium.

In simple terms, every year the Office does a survey of insurers issuing new policies, and comes up with the “new business rate”, broken down by geographical area, and type of long-term care insurance.

Rules 69O-157.302, .303, and .304, F.A.C., pertaining to Facility Only Rates, Home Health Care Only Rates, and Comprehensive Only Rates, respectively, are being amended to publish the new business rates that will be effective for 2010.

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

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

RULEMAKING AUTHORITY: 627.9408(1) FS.

LAW IMPLEMENTED: 627.9407(7) FS.

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

DATE AND TIME: March 24, 2010, 9:30 a.m.

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

Pursuant to the provisions of the Americans with Disabilities Act, any person requiring special accommodations to participate in this workshop/meeting is asked to advise the agency at least 5 days before the workshop/meeting by contacting: Gerry Smith, Life and Health Product Review, Office of Insurance Regulation, E-mail Gerry.Smith@flor.com. If you are hearing or speech impaired, please contact the agency using the Florida Relay Service, 1(800)955-8771 (TDD) or 1(800)955-8770 (Voice).

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Gerry Smith, Life and Health Product Review, Office of Insurance Regulation, E-mail Gerry.Smith@flor.com

THE FULL TEXT OF THE PROPOSED RULE IS:

69O-157.302 Facility Only Rates.

(1) The following maximum new business rates are effective for 2010 rate increase filings and for 2011 rate filings until new rates are published: These annual rates are appropriate for:

- (a) Tax qualified policies;
- (b) A benefit of \$100/day;
- (c) An elimination period of 90 days.
- (d) Policies offering Restoration of Benefits, and

(e) Sales in Hillsborough County. For all other counties, the rate from this table should be adjusted by the insurer’s current area factor applicable in that county relative to the insurer’s area factor in Hillsborough County.

(f) Insurers who did not use area factors in the closed blocks for which a rate change is being requested may calculate the new business rate as a weighted average of the Hillsborough and the South Florida area factors, where the weights used are in-force premium by county. For the purposes of this calculation, the South Florida area factors are those that apply in Broward, ~~Miami-Dade Duval~~ and Palm Beach county. The South Florida area factor is equal to 1.00.

(2) Facility Only Rates:

Issue Age	3-Yr Benefit- Period	5-Yr Benefit- Period	Unlimited Benefit- Period
30	\$244.38	\$296.71	\$324.72
31	\$245.76	\$299.01	\$324.72
32	\$247.18	\$301.32	\$324.72
33	\$248.61	\$303.70	\$324.72
34	\$250.08	\$306.08	\$324.72
35	\$274.33	\$339.84	\$393.60
36	\$275.92	\$342.43	\$393.60
37	\$277.56	\$345.02	\$393.60
38	\$279.19	\$347.65	\$393.60
39	\$280.87	\$350.32	\$393.60
40	\$305.37	\$378.71	\$447.72
41	\$307.09	\$381.46	\$447.72
42	\$308.81	\$384.30	\$447.72
43	\$310.57	\$387.18	\$447.72
44	\$312.37	\$390.10	\$447.72
45	\$362.59	\$455.72	\$575.64
46	\$365.02	\$459.37	\$575.64
47	\$367.49	\$463.12	\$575.64
48	\$370.01	\$466.94	\$575.64
49	\$372.56	\$470.84	\$575.64
50	\$392.25	\$497.62	\$629.76
51	\$403.43	\$510.23	\$649.44
52	\$411.81	\$525.78	\$669.12
53	\$431.63	\$549.95	\$713.40
54	\$454.37	\$579.89	\$762.60
55	\$477.16	\$607.08	\$816.72
56	\$511.89	\$650.81	\$870.84
57	\$547.50	\$695.62	\$934.80
58	\$589.72	\$747.22	\$1,008.60
59	\$632.91	\$805.76	\$1,087.32
60	\$682.93	\$865.57	\$1,170.96
61	\$734.08	\$932.48	\$1,264.44
62	\$789.34	\$1,000.87	\$1,362.84
63	\$859.63	\$1,093.53	\$1,485.84
64	\$937.93	\$1,192.11	\$1,613.76
65	\$1,017.65	\$1,289.90	\$1,756.44
66	\$1,105.08	\$1,399.93	\$1,913.88
67	\$1,200.43	\$1,521.37	\$2,081.16
68	\$1,320.99	\$1,677.23	\$2,322.24
69	\$1,471.97	\$1,856.70	\$2,583.00
70	\$1,637.36	\$2,071.79	\$2,878.20
71	\$1,842.51	\$2,312.52	\$3,207.84
72	\$2,059.81	\$2,579.92	\$3,576.84
73	\$2,274.97	\$2,868.25	\$3,936.00
74	\$2,502.28	\$3,190.21	\$4,334.52
75	\$2,767.75	\$3,547.64	\$4,777.32
76	\$3,074.08	\$3,942.45	\$5,259.40
77	\$3,415.26	\$4,385.38	\$5,790.76
78	\$3,796.56	\$4,872.71	\$6,435.28
79	\$4,215.98	\$5,416.32	\$7,153.60
80	\$4,683.37	\$6,020.61	\$7,950.64

81	\$5,205.93	\$6,725.28	\$8,836.24
82	\$5,782.36	\$7,499.43	\$9,820.24
83	\$6,313.69	\$8,190.73	\$10,622.20
84	\$6,890.31	\$8,918.80	\$11,488.12
85	\$8,214.34	\$10,442.14	\$12,427.84
86	\$8,930.08	\$11,338.00	\$13,446.28
87	\$9,702.70	\$12,319.18	\$14,543.44
88	\$10,546.42	\$13,380.94	\$15,734.00
89	\$11,461.24	\$14,532.68	\$17,018.12

88	\$10,546.42	\$13,380.94	\$15,734.00
89	\$11,461.24	\$14,532.68	\$17,018.12

Rulemaking Authority 627.9408(1) FS. Law Implemented 627.9407(7) FS. History--New 11-1-07, Amended 5-31-09, _____.

69O-157.303 Home Health Care Only Rates.

(1) The following maximum new business rates are effective for 2010~~09~~ rate increase filings and for 2011~~10~~ rate filings until new rates are published. These annual rates are appropriate for:

- (a) Tax qualified policies;
- (b) A benefit of \$100/day;
- (c) An elimination period of 0 days;
- (d) Policies offering Restoration of Benefits, and
- (e) Sales in Hillsborough County. For all other counties, the rate from this table should be adjusted by the insurer's current area factor applicable in that county relative to the insurer's area factor in Hillsborough County.

(f) Insurers who did not use area factors in the closed blocks for which a rate change is being requested may calculate the new business rate as a weighted average of the Hillsborough and the South Florida area factors, where the weights used are in-force premium by county. For the purposes of this calculation, the South Florida area factors are those that apply in Broward, ~~Miami-Dade Duvall~~ and Palm Beach county. The South Florida area factor is equal to 1.34 ~~1.30~~.

(2) Home Health Care Only Rates:

Issue Age	3-Yr Benefit Period	5-Yr Benefit Period	Unlimited Benefit Period
30	\$228.66	\$275.22	\$324.72
31	\$229.22	\$276.15	\$324.72
32	\$229.80	\$277.08	\$324.72
33	\$230.37	\$278.04	\$324.72
34	\$230.96	\$279.01	\$324.72
35	\$263.37	\$323.73	\$393.60
36	\$264.01	\$324.77	\$393.60
37	\$264.67	\$325.82	\$393.60
38	\$265.33	\$326.88	\$393.60
39	\$266.01	\$327.96	\$393.60
40	\$298.51	\$364.86	\$447.72
41	\$299.21	\$365.97	\$447.72
42	\$299.90	\$367.12	\$447.72
43	\$300.61	\$368.28	\$447.72
44	\$301.34	\$369.45	\$447.72
45	\$369.67	\$458.14	\$575.64
46	\$370.65	\$459.62	\$575.64
47	\$371.65	\$461.13	\$575.64
48	\$372.66	\$462.67	\$575.64
49	\$373.70	\$464.24	\$575.64
50	\$398.60	\$497.67	\$629.76
51	\$411.60	\$511.24	\$649.44
52	\$420.64	\$528.82	\$669.12
53	\$445.60	\$558.37	\$713.40
54	\$474.57	\$595.90	\$762.60
55	\$503.55	\$629.49	\$816.72
56	\$540.19	\$675.41	\$870.84
57	\$577.18	\$721.76	\$934.80
58	\$622.49	\$776.52	\$1,008.60
59	\$668.19	\$839.72	\$1,087.32
60	\$722.30	\$903.44	\$1,170.96
61	\$776.87	\$975.68	\$1,264.44
62	\$835.93	\$1,048.51	\$1,362.84
63	\$909.53	\$1,145.28	\$1,485.84
64	\$992.02	\$1,247.26	\$1,613.76
65	\$1,077.91	\$1,354.58	\$1,756.44
66	\$1,172.56	\$1,472.49	\$1,913.88
67	\$1,276.07	\$1,603.49	\$2,081.16
68	\$1,412.37	\$1,779.48	\$2,322.24
69	\$1,575.08	\$1,979.13	\$2,583.00
70	\$1,754.91	\$2,207.30	\$2,878.20
71	\$1,962.10	\$2,462.77	\$3,207.84
72	\$2,188.32	\$2,745.97	\$3,576.84
73	\$2,413.69	\$3,040.44	\$3,936.00
74	\$2,658.09	\$3,368.27	\$4,334.52
75	\$2,934.86	\$3,730.21	\$4,777.32
76	\$3,245.07	\$4,127.01	\$5,259.40
77	\$3,589.14	\$4,571.51	\$5,790.76
78	\$4,000.29	\$5,093.26	\$6,435.28
79	\$4,452.28	\$5,677.36	\$7,153.60
80	\$4,957.50	\$6,328.35	\$7,950.64
81	\$5,524.62	\$7,065.07	\$8,836.24
82	\$6,150.23	\$7,883.56	\$9,820.24
83	\$6,898.27	\$8,833.79	\$10,922.20
84	\$7,790.02	\$9,932.78	\$12,148.12
85	\$8,814.34	\$11,182.14	\$13,507.84
86	\$8,930.08	\$11,338.00	\$14,446.28
87	\$9,702.70	\$12,319.18	\$15,543.44

Issue Age	3-Yr Benefit Period	5-Yr Benefit Period	Unlimited Benefit Period
30	\$272.61	\$315.91	\$353.52
31	\$272.61	\$315.91	\$353.52
32	\$272.61	\$315.91	\$353.52
33	\$272.61	\$315.91	\$353.52
34	\$272.61	\$315.91	\$353.52
35	\$292.22	\$341.82	\$391.06
36	\$292.22	\$341.82	\$391.06
37	\$292.22	\$341.82	\$391.06
38	\$292.22	\$341.82	\$391.06
39	\$292.22	\$341.82	\$391.06
40	\$324.90	\$380.85	\$434.82
41	\$324.90	\$380.85	\$434.82
42	\$324.90	\$380.85	\$434.82
43	\$324.90	\$380.85	\$434.82
44	\$324.90	\$380.85	\$434.82
45	\$370.83	\$445.80	\$509.73
46	\$370.83	\$445.80	\$509.73
47	\$370.83	\$445.80	\$509.73
48	\$370.83	\$445.80	\$509.73
49	\$370.83	\$445.80	\$509.73
50	\$421.10	\$505.80	\$580.43
51	\$434.17	\$525.23	\$599.12
52	\$453.78	\$538.19	\$624.11
53	\$466.85	\$564.09	\$649.11
54	\$486.64	\$583.70	\$674.02
55	\$531.60	\$638.59	\$728.08
56	\$558.45	\$665.26	\$770.08
57	\$592.02	\$702.21	\$812.26
58	\$632.66	\$752.71	\$867.74
59	\$673.29	\$799.76	\$923.39
60	\$710.48	\$856.73	\$978.95
61	\$757.65	\$907.40	\$1,037.12
62	\$805.00	\$960.84	\$1,098.99

63	\$869.58	\$1,045.35	\$1,187.81
64	\$937.24	\$1,129.94	\$1,286.48
65	\$1,015.07	\$1,221.01	\$1,381.53
66	\$1,092.89	\$1,308.46	\$1,482.81
67	\$1,170.63	\$1,406.00	\$1,590.31
68	\$1,268.77	\$1,523.75	\$1,714.91
69	\$1,373.54	\$1,651.59	\$1,852.13
70	\$1,484.75	\$1,782.46	\$1,995.50
71	\$1,602.50	\$1,923.26	\$2,145.09
72	\$1,720.25	\$2,067.09	\$2,307.23
73	\$1,849.76	\$2,216.67	\$2,457.18
74	\$1,979.08	\$2,369.96	\$2,613.54
75	\$2,118.57	\$2,532.58	\$2,779.57
76	\$2,261.06	\$2,698.82	\$2,948.38
77	\$2,403.54	\$2,867.92	\$3,123.33
78	\$2,587.37	\$3,079.04	\$3,330.88
79	\$2,771.21	\$3,293.78	\$3,544.75
80	\$2,968.20	\$3,511.28	\$3,754.99
81	\$3,171.73	\$3,745.54	\$3,981.31
82	\$3,381.79	\$3,982.57	\$4,213.86
83	\$3,595.48	\$4,223.98	\$4,447.43
84	\$3,819.42	\$4,471.88	\$4,697.07
85	\$4,052.80	\$4,729.19	\$4,943.09
86	\$4,296.34	\$4,996.60	\$5,205.36
87	\$4,542.80	\$5,270.49	\$5,470.06
88	\$4,921.25	\$5,687.82	\$5,849.84
89	\$5,302.62	\$6,111.55	\$6,235.76

69	\$1,440.02	\$1,743.20	\$1,933.48
70	\$1,555.98	\$1,880.50	\$2,083.78
71	\$1,677.68	\$2,028.54	\$2,239.54
72	\$1,799.38	\$2,177.21	\$2,406.31
73	\$1,941.59	\$2,345.20	\$2,576.68
74	\$2,083.65	\$2,518.49	\$2,752.65
75	\$2,236.67	\$2,697.93	\$2,939.17
76	\$2,390.27	\$2,882.58	\$3,126.07
77	\$2,543.88	\$3,067.70	\$3,318.37
78	\$2,746.01	\$3,306.02	\$3,557.64
79	\$2,948.15	\$3,549.56	\$3,802.46
80	\$3,161.83	\$3,793.49	\$4,042.05
81	\$3,381.25	\$4,054.16	\$4,297.79
82	\$3,606.40	\$4,315.21	\$4,559.00
83	\$3,836.78	\$4,586.24	\$4,825.18
84	\$4,078.18	\$4,862.95	\$5,107.51
85	\$4,325.84	\$5,145.89	\$5,384.62
86	\$4,584.46	\$5,439.74	\$5,678.03
87	\$4,843.59	\$5,739.26	\$5,971.53
88	\$5,281.80	\$6,238.12	\$6,427.23
89	\$5,720.53	\$6,742.59	\$6,888.32

Rulemaking Authority 627.9408(1) FS. Law Implemented 627.9407(7) FS. History--New 11-1-07, Amended 5-31-09,_____.

690-157.304 Comprehensive Only Rates.

(1) The following maximum new business rates are effective for 2010~~09~~ rate increase filings and for 2011~~10~~ rate filings until new rates are published. These annual rates are appropriate for:

- (a) Tax qualified policies;
- (b) A benefit of \$100/day;
- (c) An elimination period of 90 days;
- (d) Policies offering Restoration of Benefits, and
- (e) Sales in Hillsborough County. For all other counties, the rate from this table should be adjusted by the insurer's current area factor applicable in that county relative to the insurer's area factor in Hillsborough County.

(f) Insurers who did not use area factors in the closed blocks for which a rate change is being requested may calculate the new business rate as a weighted average of the Hillsborough and the South Florida area factors, where the weights used are in-force premium by county. For the purposes of this calculation, the South Florida area factors are those that apply in Broward, ~~Miami-Dade~~ ~~Duval~~ and Palm Beach county. The South Florida area factor is equal to 1.00.

(2) Comprehensive Only Rates:

Issue Age	3-Yr Benefit- Period	5-Yr. Benefit- Period	Unlimited- Benefit Period
30	\$356.29	\$454.14	\$622.87
31	\$357.87	\$456.21	\$625.56
32	\$359.50	\$458.88	\$628.85
33	\$361.17	\$470.16	\$640.99
34	\$371.48	\$472.96	\$644.48
35	\$394.20	\$488.52	\$681.96
36	\$396.05	\$500.51	\$694.85
37	\$398.42	\$503.55	\$699.14
38	\$400.41	\$507.18	\$703.57
39	\$411.53	\$510.43	\$708.14
40	\$425.67	\$546.94	\$744.90
41	\$431.46	\$553.40	\$754.41
42	\$435.96	\$558.44	\$761.15
43	\$440.16	\$563.69	\$777.40

Issue Age	3-Yr Benefit- Period	5-Yr. Benefit- Period	Unlimited Benefit- Period
30	\$300.45	\$352.73	\$389.82
31	\$300.45	\$352.73	\$389.82
32	\$300.45	\$352.73	\$389.82
33	\$300.45	\$352.73	\$389.82
34	\$300.45	\$352.73	\$389.82
35	\$317.66	\$375.46	\$422.76
36	\$317.66	\$375.46	\$422.76
37	\$317.66	\$375.46	\$422.76
38	\$317.66	\$375.46	\$422.76
39	\$317.66	\$375.46	\$422.76
40	\$346.34	\$409.72	\$461.16
41	\$346.34	\$409.72	\$461.16
42	\$346.34	\$409.72	\$461.16
43	\$346.34	\$409.72	\$461.16
44	\$346.34	\$409.72	\$461.16
45	\$386.64	\$466.71	\$526.90
46	\$386.64	\$466.71	\$526.90
47	\$386.64	\$466.71	\$526.90
48	\$386.64	\$466.71	\$526.90
49	\$386.64	\$466.71	\$526.90
50	\$436.88	\$527.53	\$597.11
51	\$448.35	\$544.59	\$613.51
52	\$465.56	\$555.95	\$635.44
53	\$477.03	\$578.69	\$657.38
54	\$494.39	\$595.90	\$679.24
55	\$548.14	\$660.38	\$743.00
56	\$575.78	\$687.87	\$785.99
57	\$609.32	\$726.42	\$829.12
58	\$653.14	\$780.94	\$888.01
59	\$696.96	\$830.39	\$947.05
60	\$735.72	\$890.59	\$1,006.01
61	\$785.28	\$945.26	\$1,065.22
62	\$834.99	\$1,000.32	\$1,129.72
63	\$905.94	\$1,092.84	\$1,226.03
64	\$977.57	\$1,185.44	\$1,333.02
65	\$1,060.15	\$1,283.72	\$1,434.80
66	\$1,142.73	\$1,376.79	\$1,542.04
67	\$1,225.23	\$1,480.75	\$1,654.74
68	\$1,329.72	\$1,606.53	\$1,788.57

44	\$453.08	\$569.55	\$785.18	50	\$479.26	\$595.61	\$813.68
45	\$462.69	\$600.10	\$811.36	51	\$505.23	\$623.11	\$835.17
46	\$476.62	\$604.61	\$827.36	52	\$513.39	\$649.76	\$864.38
47	\$481.31	\$609.99	\$834.12	53	\$538.24	\$668.55	\$893.83
48	\$487.16	\$617.01	\$843.22	54	\$556.76	\$686.10	\$923.80
49	\$501.72	\$624.68	\$872.16	55	\$576.17	\$705.82	\$953.92
50	\$510.28	\$643.51	\$885.02	56	\$613.07	\$763.28	\$1,013.97
51	\$530.60	\$665.25	\$910.57	57	\$644.96	\$814.10	\$1,077.32
52	\$547.56	\$693.85	\$941.52	58	\$685.09	\$865.63	\$1,142.80
53	\$565.67	\$712.92	\$972.94	59	\$727.89	\$918.63	\$1,225.21
54	\$584.47	\$743.02	\$1,005.11	60	\$770.32	\$982.63	\$1,295.72
55	\$604.14	\$754.11	\$1,038.38	61	\$837.63	\$1,054.63	\$1,407.63
56	\$644.88	\$809.63	\$1,098.41	62	\$902.26	\$1,125.02	\$1,517.18
57	\$679.14	\$865.06	\$1,168.20	63	\$970.76	\$1,216.48	\$1,641.04
58	\$724.11	\$932.83	\$1,241.76	64	\$1,037.79	\$1,299.00	\$1,754.64
59	\$760.97	\$982.81	\$1,327.49	65	\$1,115.07	\$1,381.69	\$1,897.16
60	\$817.49	\$1,054.33	\$1,406.23	66	\$1,227.95	\$1,534.96	\$2,109.14
61	\$883.47	\$1,136.02	\$1,518.87	67	\$1,363.32	\$1,701.42	\$2,340.31
62	\$954.83	\$1,213.95	\$1,634.80	68	\$1,500.23	\$1,865.03	\$2,577.06
63	\$1,029.20	\$1,304.31	\$1,763.51	69	\$1,633.30	\$2,052.92	\$2,819.57
64	\$1,101.86	\$1,392.44	\$1,889.04	70	\$1,789.01	\$2,248.85	\$3,075.07
65	\$1,189.14	\$1,489.02	\$2,039.15	71	\$2,018.76	\$2,528.81	\$3,470.22
66	\$1,303.22	\$1,638.22	\$2,242.87	72	\$2,256.08	\$2,812.66	\$3,900.29
67	\$1,439.64	\$1,819.93	\$2,472.25	73	\$2,512.25	\$3,130.51	\$4,333.65
68	\$1,586.10	\$1,997.01	\$2,717.22	74	\$2,787.33	\$3,470.24	\$4,800.53
69	\$1,726.79	\$2,189.76	\$2,977.95	75	\$3,076.60	\$3,832.91	\$5,298.58
70	\$1,882.16	\$2,399.49	\$3,258.58	76	\$3,443.00	\$4,280.81	\$5,959.12
71	\$2,122.56	\$2,689.46	\$3,650.61	77	\$3,835.70	\$4,784.33	\$6,705.56
72	\$2,380.33	\$3,011.03	\$4,078.34	78	\$4,226.95	\$5,296.16	\$7,436.47
73	\$2,643.96	\$3,334.39	\$4,516.90	79	\$4,655.32	\$5,816.66	\$8,167.71
74	\$2,925.10	\$3,689.09	\$4,989.64	80	\$5,033.64	\$6,283.38	\$9,137.19
75	\$3,233.67	\$4,080.01	\$5,495.62	81	\$5,957.64	\$7,384.25	\$9,856.49
76	\$3,622.71	\$4,564.96	\$6,160.74	82	\$6,462.62	\$8,016.60	\$10,649.85
77	\$4,043.45	\$5,116.80	\$6,891.93	83	\$7,047.04	\$8,737.67	\$11,569.42
78	\$4,467.54	\$5,674.34	\$7,616.29	84	\$7,672.15	\$9,524.34	\$12,583.26
79	\$4,913.66	\$6,236.42	\$8,355.38	85	\$8,275.28	\$10,351.15	\$13,731.52
80	\$5,365.77	\$7,657.61	\$10,904.13	86	\$9,225.98	\$11,509.12	\$15,353.86
81	\$5,851.19	\$8,314.46	\$11,818.20	87	\$9,960.46	\$12,463.27	\$16,617.84
82	\$6,360.85	\$9,038.95	\$12,820.94	88	\$10,770.06	\$13,480.85	\$17,971.04
83	\$6,954.06	\$9,851.27	\$13,927.26	89	\$11,635.34	\$14,571.84	\$19,424.16
84	\$7,579.36	\$10,744.46	\$15,117.75				
85	\$9,393.68	\$11,738.30	\$16,454.06				
86	\$10,622.25	\$13,240.69	\$17,976.84				
87	\$11,550.00	\$14,432.21	\$19,582.64				
88	\$12,554.44	\$15,692.91	\$21,291.57				
89	\$13,619.15	\$17,034.25	\$23,112.87				

Rulemaking Authority 627.9408(1) FS. Law Implemented 627.9407(7) FS. History--New 11-1-07, Amended 5-31-09,_____.

NAME OF PERSON ORIGINATING PROPOSED RULE:
Gerry Smith, Life and Health Product Review, Office of Insurance Regulation, E-mail Gerry.Smith@fior.com

NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: The Financial Services Commission

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: January 26, 2010

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: October 23, 2009

Section III Notices of Changes, Corrections and Withdrawals

DEPARTMENT OF EDUCATION

State Board of Education

RULE NO.: 6A-1.099811 RULE TITLE: Differentiated Accountability State System of School Improvement

Issue	3-Yr Benefit	5-Yr. Benefit	Unlimited Benefit
Age	Period	Period	Period
30	\$338.04	\$424.62	\$551.77
31	\$339.55	\$426.64	\$553.82
32	\$341.12	\$438.88	\$556.47
33	\$352.01	\$441.06	\$559.25
34	\$353.68	\$443.59	\$562.12
35	\$372.21	\$466.26	\$609.39
36	\$373.99	\$468.92	\$613.04
37	\$376.10	\$471.68	\$616.87
38	\$387.27	\$474.83	\$620.85
39	\$389.53	\$487.62	\$625.03
40	\$401.94	\$511.06	\$666.22
41	\$406.86	\$516.21	\$677.58
42	\$410.98	\$520.70	\$686.36
43	\$424.26	\$525.26	\$696.61
44	\$428.32	\$540.20	\$706.05
45	\$435.39	\$555.82	\$737.53
46	\$447.54	\$560.69	\$749.12
47	\$452.53	\$566.29	\$760.44
48	\$467.40	\$572.59	\$773.49
49	\$473.01	\$589.03	\$798.54