

FINANCIAL SERVICES COMMISSION

Office of Insurance Regulation

RULE NO.: 69O-167.004
 RULE TITLE: Required Preinsurance Inspection of Private Passenger Motor Vehicles

PURPOSE AND EFFECT: To adopt amendments to the rule to reflect legislative changes and update forms.

SUBJECT AREA TO BE ADDRESSED: Preinsurance Inspection of Private Passenger Motor Vehicles.

SPECIFIC AUTHORITY: 624.308(1), 627.744(5) FS.

LAW IMPLEMENTED: 624.307(1), 627.744 FS.

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

DATE AND TIME: November 20, 2007, 9:30 a.m.

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

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT AND A COPY OF THE PRELIMINARY DRAFT IS: Brian Bogner, Office of Insurance Regulation, E-mail Brian.Bogner@fldfs.com

Pursuant to the provisions of the Americans with Disabilities Act, any person requiring special accommodations to participate in this program, please advise the Office at least 5 calendar days before the program by contacting the person listed above.

THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS:

69O-167.004 Required Preinsurance Inspection of Private Passenger Motor Vehicles.

(1) Private passenger motor vehicle insurers providing physical damage coverage, including collision or comprehensive coverage, shall comply with Section 627.744, F.S., regarding preinsurance inspection requirements. Certain preinsurance inspections are excluded as prescribed by Sections 627.744(2)(a)-(1)(h), F.S.

(a) through (3) No change.

(4) Suspension of insurance coverage applies only to the physical damage coverage and is defined as a discontinuance of physical damage coverage immediately following the thirtieth ~~seventh~~ calendar day if inspection has not been completed and until the physical damage coverage is reinstated by completion of the inspection. During the period of suspension there is no physical damage coverage.

(5) The applicant may be required to pay the cost of the inspection not to exceed \$5. The inspection shall be performed at no cost or charge to the applicant.

(6) through (9) No change.

(10) An insurer may defer an inspection for thirty (30) ~~seven (7)~~ calendar days following the effective date of coverage for a new policy or the actual notice to the insurer or its agent of additional or replacement vehicle(s) to an existing policy, if an inspection at the time of the request for coverage would create a serious inconvenience for the applicant. The insurance file shall contain information necessary to identify those circumstances resulting in serious inconvenience.

(11) through (18) No change.

(19) Forms OIR-B1-505, "Notice of Mandatory Pre-insurance Inspection Requirement" (07/00), ~~(7/94)~~ OIR-B1-506, "Notice of Suspended Insurance Coverage" (07/00), ~~(7/94)~~ OIR-B1-507, "Florida Motor Vehicle Preinsurance Inspection Form" (07/00), ~~(10/90)~~ and OIR-B1-508, "Acknowledgement of Preinsurance Inspection" (07/00), ~~(7/94)~~ are adopted and incorporated by reference ~~and shall become effective upon adoption of this rule.~~

(20) Form OIR-B1-505, Form OIR-B1-506, Form OIR-B1-507, and Form OIR-B1-508 may be obtained from:

(a) The Office's website located at <https://www.florir.com>;
~~or~~

(b) ~~by writing the Bureau of Property and Casualty Product Review Forms and Market Conduct Review, Division of Insurance Services, 200 E. Gaines Street, Tallahassee, Florida 32399-03300, (850)413-3146.~~

Specific Authority 624.308(1), 627.744(5) FS. Law Implemented 624.307(1), 627.744 FS. History—New 1-23-91, Formerly 4-28.006, Amended 4-28-92, Formerly 4-167.004, Amended.

**Section II
 Proposed Rules**

DEPARTMENT OF LEGAL AFFAIRS

RULE NO.: 2-40.005
 RULE TITLE: Rescheduling Specified Drug Products Containing Hydrocodone as Schedule III Substances

PURPOSE AND EFFECT: The Department proposes the repeal of this rule since the substance of the rule is included in Section 893.03(3), Florida Statutes.

SUMMARY: The rule is being repealed.

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.

SPECIFIC AUTHORITY: 893.0355(2) FS.

LAW IMPLEMENTED: 893.0355 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: M. Catherine Lannon, Senior Assistant Attorney General, PL-01, The Capitol, Tallahassee, Florida 32399-1050

THE FULL TEXT OF THE PROPOSED RULE IS:

2-40.005 Rescheduling Specified Drug Products Containing Hydrocodone as Schedule III Substances.

Specific Authority 893.0355(2) FS. Law Implemented 893.0355 FS. History--New 11-19-00, Repealed.

NAME OF PERSON ORIGINATING PROPOSED RULE: M. Catherine Lannon, Senior Assistant Attorney General

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Simone Marsteller, Associate Deputy Attorney General and General Counsel

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: October 17, 2007

DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES

Division of Plant Industry

RULE NO.: 5B-58.001 RULE TITLE: Citrus Canker Eradication

PURPOSE AND EFFECT: These rules have been incorporated in Rule Chapter 5B-63, F.A.C., Citrus Health Response Program and are no longer necessary.

SUMMARY: Rule Chapter 5B-58, F.A.C., in its entirety is being repealed.

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.

SPECIFIC AUTHORITY: 570.07(21), (23), 581.031(1), (4), (5), 581.091 (1), 581.101(1), 581.184 FS.

LAW IMPLEMENTED: 570.07(2), (13), (21), 581.031(6), (7), (9), (15), (17), 581.083, 581.101, 581.131, 581.141, 581.184, 581.211 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: Connie Riherd, Assistant Director, Division of Plant Industry, P. O. Box 147100, Gainesville, FL 32614-7100

THE FULL TEXT OF THE PROPOSED RULE IS:

5B-58.001 Citrus Canker Eradication.

Specific Authority 570.07(21), (23), 581.031(1), (4), (5), 581.091(1), 581.101(1), 581.184 FS. Law Implemented 570.07(2), (13), (21), 581.031(6), (7), (9), (15), (17), 581.083, 581.101, 581.131, 581.141, 581.184, 581.211 FS. History--New 1-17-96, Amended 4-9-96, 5-14-97, 8-19-97, 11-19-97, 11-16-99, 7-17-00, 2-22-01, Repealed.

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

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Richard Gaskalla, Director, Division of Plant Industry, P. O. Box 147100, Gainesville, FL 32641-7100

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: October 15, 2007

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."

WATER MANAGEMENT DISTRICTS

Southwest Florida Water Management District

RULE NO.: 40D-1.659 RULE TITLE: Forms and Instructions

PURPOSE AND EFFECT: The purpose of the proposed rulemaking is to adopt revised Water Use Permit application forms to require business entity applicants to identify the type of business entity and the name and title of the person signing the application on behalf of the business entity applicant, and to attach documentation of the business entity's authority to do business in the state of Florida. The effect will be to ensure that Water Use Permits are issued accurately to business entities authorized to do business in Florida.

SUMMARY: Business entities such as corporations, limited liability companies, trusts and partnerships are frequently applicants for District Water Use Permits. The District seeks to revise its Water Use Permit application forms to require business entity applicants to submit certain information concerning the legal status and name of the business entity. Similar amendments have been made to the District's other permitting application forms. Amendment of Rule 40D-1.659, F.A.C., will adopt the revised application forms by reference.

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.

SPECIFIC AUTHORITY: 373.044, 373.113, 373.149, 373.171 FS.

LAW IMPLEMENTED: 373.116, 373.206, 373.207, 373.209, 373.216, 373.219, 373.229, 373.239, 373.306, 373.308, 373.309, 373.313, 373.323, 373.324, 373.339, 373.413, 373.414, 373.416, 373.419, 373.421 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: Martha A, Moore, Senior Attorney, Office of General Counsel, 2379 Broad Street, Brooksville, FL 34604-6899, (352)796-7211, extension 4651

THE FULL TEXT OF THE PROPOSED RULE IS:

40D-1.659 Forms and Instructions.

The following forms and instructions have been approved by the Governing Board and are incorporated by reference into this chapter. Copies of these forms may be obtained from the District.

GROUND WATER

(1) through (7) No change.

(8) GENERAL WATER USE PERMIT APPLICATION USE FOR QUANTITIES LESS THAN 100,000 GALLONS PER DAY

FORM NO. WUP-1 FORM 46.20-0024 (____) (~~12/98~~)

(9) GENERAL WATER USE PERMIT APPLICATION USE FOR QUANTITIES OF 100,000 TO 499,999 GALLONS PER DAY

FORM NO. WUP-2 FORM 46.20-0032 (____) (~~12/98~~)

(10) INDIVIDUAL WATER USE PERMIT APPLICATION USE FOR QUANTITIES OF 500,000 GALLONS PER DAY OR GREATER

FORM NO. WUP-3 FORM 46.20-0043 (____) (~~12/98~~)

(11) through (20) No change.

SURFACE WATER

Application for Permit – Used for Docks or Piers and Bulkheads

(1) through (14) No change.

Specific Authority 373.044, 373.113, 373.149, 373.171 FS. Law Implemented 373.116, 373.206, 373.207, 373.209, 373.216, 373.219, 373.229, 373.239, 373.306, 373.308, 373.309, 373.313, 373.323, 373.324, 373.339, 373.413, 373.414, 373.416, 373.419, 373.421 FS. History–New 12-31-74, Amended 10-24-76, Formerly 16J-0.40, 40D-1.901, 40D-1.1.901, Amended 12-22-94, 5-10-95, 10-19-95, 5-26-96, 7-23-96, 2-16-99, 7-12-99, 7-15-99, 12-2-99, 5-31-00, 9-3-00, 10-26-00, 6-26-01, 11-4-01, 6-12-02, 8-25-02, 2-26-03, 9-14-03, 9-30-04, 2-1-05, 6-5-05, 10-19-05, 2-6-07, 9-27-07,

NAME OF PERSON ORIGINATING PROPOSED RULE: Martha A. Moore, Senior Attorney, Office of General Counsel, 2379 Broad Street, Brooksville, FL 34604-6899, (352)796-7211, extension 4651

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Southwest Florida Water Management District Governing Board

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: September 25, 2007

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: October 26, 2007

LAND AND WATER ADJUDICATORY COMMISSION

Myakka Ranch Community Development District

RULE NOS.:	RULE TITLES:
42KKK-1.001	Establishment
42KKK-1.002	Boundary
42KKK-1.003	Supervisors

PURPOSE AND EFFECT: The petition, as supplemented, filed by Resource Conservation of Sarasota, LLC, requests the Commission to establish a community development district located entirely within the unincorporated area of Sarasota County, Florida. The land area proposed to be served by the District comprises approximately 1,055 acres. The Petitioner either owns or has written consent to establish the District from the owners of 100% of the real property located within the proposed District. The development is planned for approximately 375 single family residential units. The District contemplates providing certain master infrastructure improvements within the boundaries to include stormwater management and wetlands mitigation maintenance services, roadways and potable water and sanitary sewer service to all of these residences.

SUMMARY: The petition, as supplemented, filed by Resource Conservation of Sarasota, LLC, requests the Commission to establish a community development district located entirely within the unincorporated area of Sarasota County, Florida. The land area proposed to be served by the District comprises approximately 1,055 acres. The Petitioner either owns or has written consent to establish the District from the owners of 100% of the real property located within the proposed District. The development is planned for approximately 375 single family residential units. The District contemplates providing certain master infrastructure improvements within the boundaries to include stormwater management and wetlands mitigation maintenance services, roadways and potable water and sanitary sewer service to all of these residences.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS: The statement of estimated regulatory costs (SERC) supports the petition, as supplemented, to establish the District. The complete text of the SERC is contained as Exhibit 4 to the petition, as supplemented. The requirements for a SERC are found in

Section 120.541(2), F.S. A SERC must contain (a) a good faith estimate of the number of individuals and entities likely to be required to comply with the rule, together with a description of the types of individuals likely to be affected by the rule; (b) a good faith estimate of the costs to the agency, and to any other state and local government entities, of implementing and enforcing the proposed rule, and any anticipated effect on state or local revenues; (c) a good faith estimate of the transactional costs likely to be incurred by individuals and entities, including local governmental entities, required to comply with the requirements of the rule; (d) an analysis of the impact on small businesses, small counties, and small cities; (e) any additional information that the agency determines may be useful; and (f) any good faith written proposal submitted under section (a) and either a statement adopting the alternative or a statement rejecting the alternative in favor of the proposed rule. Addressing section (a), the principal entities that are likely to be required to comply with the rule include the District, the State of Florida, and Sarasota County. Under section (b), FLWAC and the State of Florida will incur modest administrative costs. Sarasota County will incur modest costs resulting from the initial review and on-going costs resulting from the on-going administration of the District. There is a filing fee paid to Sarasota County to offset any costs it may incur. Adoption of the proposed rule to approve the formation of the District will not have an adverse impact on State and local revenues. Addressing section (c), the District may levy non-ad valorem special assessments on properties within its boundaries to finance infrastructure that the District funds and to defray the costs of operating and maintaining the infrastructure and associated community facilities. The District may issue notes, bonds, or other indebtedness to fund its improvement program. Prospective future land owners would be required to pay off such indebtedness over time in the form of non-ad valorem special assessments or other rates, fees or charges. The District may also impose an annual levy for the operation and maintenance of the District. Under Section (d), approval of the petition, as supplemented, to establish the District will have no impact or a positive impact on all small businesses. The petition, as supplemented, to establish the District will not have an impact on small counties as defined by Section 120.52, F.S., as Sarasota County is not defined as a small county. Under section (e), the analysis provided in the SERC was based on a straightforward application of economic theory. Input was received from the Petitioner's engineer and other professionals associated with the Petitioner.

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.

SPECIFIC AUTHORITY: 190.005 FS.

LAW IMPLEMENTED: 190.004, 190.005 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, November 27, 2007, 2:00 p.m.

PLACE: The Capitol, Room 2103, 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 two days before the workshop/meeting by contacting: Barbara Leighty, Florida Land and Water Adjudicatory Commission, The Capitol, Room 1801, Tallahassee, Florida 32399-0001, Telephone (850)487-1884. 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: Barbara Leighty, Florida Land and Water Adjudicatory Commission, The Capitol, Room 1801, Tallahassee, Florida 32399-0001, Telephone (850)487-1884

THE FULL TEXT OF THE PROPOSED RULES IS:

MYAKKA RANCH COMMUNITY DEVELOPMENT DISTRICT

42KKK-1.001 Establishment.

The Myakka Ranch Community Development District is hereby established.

Specific Authority 190.005 FS. Law Implemented 190.004, 190.005 FS. History—New_____.

42KKK-1.002 Boundary.

The boundaries of the district are as follows:

A tract of land lying in Sections 17, 19 and 20, all in Township 36 South, Range 20 East and Section 24, Township 36 South, Range 19 East, all within Sarasota County, Florida lying north of the northerly right-of-way line of Fruitville Road (S.R. #780 – Section 17040-2504, a variable width public right-of-way) as recorded in Road Plat Book 2, Page 7 and a additional portion of which is recorded in Official Record Book 2897, Page 1119, Public Records of Sarasota County, Florida; said tract being more particularly described as follows:

BEGIN at the southwest corner of said Section 17, also being the northwest corner of said Section 20 and the northeast corner of said Section 19; thence N.00°18'22"E., along the west line of said Section 17, a distance of 5,423.41 feet to the northwest corner of said Section 17; thence S.88°01'33"E., along the north line of said Section 17, a distance of 5,265.90 feet to the northeast corner of the above mentioned Section 17; thence S.00°07'37"W., along the east line of said Section 17, a distance of 5,279.93 feet to the southeast corner of said Section 17, also being the northeast corner of the above mentioned Section 20; thence S.00°52'53"E., along the east line of said

Section 20, a distance of 2,303.50 feet to a point on the northerly right-of-way line of the above mentioned Fruitville Road; thence along said northerly right-of-way line for the following thirty-seven (37) calls: (1) thence N.64°32'55"W., a distance of 267.28 feet; (2) thence N.63°37'55"W., a distance of 500.00 feet; (3) thence N.63°31'03"W., a distance of 1,463.28 feet to the point of curvature of a non tangent curve to the left, of which the radius point lies S.18°42'40"W., a radial distance of 1,959.86 feet; (4) thence westerly along the arc of said curve, through a central angle of 09°06'41", an arc length of 311.66 feet to the point of tangency of said curve; (5) thence N.08°25'50"E., a distance of 13.00 feet to a point of curvature of a curve to the left having a radius of 90.00 feet and a central angle of 71°56'26"; (6) thence northwesterly along the arc of said curve a distance of 113.00 feet to the point of tangency of said curve; (7) thence N.63°30'36"W., a distance of 25.01 feet; (8) thence S.26°29'24"W., a distance of 80.00 feet; (9) thence S.63°30'36"E., a distance of 25.01 feet to a point of curvature of a curve to the right having a radius of 10.00 feet and a central angle of 71°56'26"; (10) thence southeasterly along the arc of said curve a distance of 12.56 feet to the point of tangency of said curve; (11) thence S.08°25'50"W., a distance of 13.00 feet to the point of curvature of a non tangent curve to the left, of which the radius point lies S.07°15'40"W., a radial distance of 1,959.86 feet; (12) thence westerly along the arc of said curve, through a central angle of 07°00'27", an arc length of 239.70 feet to the point of tangency of said curve; (13) thence N.89°44'48"W., a distance of 1,417.43 feet; (14) thence N.00°14'57"E., a distance of 34.12 feet; (15) thence N.12°56'49"E., a distance of 54.36 feet; (16) thence N.62°21'57"E., a distance of 31.19 feet; (17) thence N.27°38'03"W., a distance of 73.00 feet; (18) thence S.62°21'57"W., a distance of 187.00 feet; (19) thence S.67°52'39"W., a distance of 114.53 feet; (20) thence S.75°24'53"W., a distance of 149.15 feet; (21) thence S.86°14'57"W., a distance of 100.24 feet; (22) thence continue S.86°14'57"W., a distance of 137.83 feet; (23) thence N.89°10'25"W., a distance of 362.52 feet; (24) thence N.89°44'48"W., a distance of 279.08 feet; (25) thence N.89°41'05"W., a distance of 221.09 feet; (26) thence N.89°57'05"W., a distance of 500.00 feet; (27) thence S.89°47'52"W., a distance of 119.37 feet; (28) thence N.89°51'33"W., a distance of 181.14 feet; (29) thence S.88°16'06"W., a distance of 277.29 feet; (30) thence S.87°59'25"W., a distance of 423.14 feet; (31) thence S.88°20'02"W., a distance of 500.01 feet; (32) thence S.87°32'03"W., a distance of 251.21 feet; (33) thence S.88°06'56"W., a distance of 249.26 feet; (34) thence N.01°35'42"W., a distance of 19.35 feet; (35) thence S.89°05'01"W., a distance of 2,314.66 feet to the point of curvature of a non tangent curve to the right, of which the radius point lies N.00°50'36"W., a radial distance of 34,327.48 feet; (36) thence westerly along the arc of said curve, through a central angle of 01°16'45", an arc length of 766.38 feet to the

point of tangency of said curve; (37) thence N.89°33'50"W., a distance of 2,251.79 feet to a point on the west line of the Northeast 1/4 of the above mentioned Section 24; thence N.00°03'08"E., along said west line, a distance of 1,246.63 feet to a point on the north line of said Section 24; thence S.89°37'39"E., along said north line, a distance of 2,646.24 feet to the northeast corner of said Section 24, also being the northwest corner of the above mentioned Section 19; thence N.89°07'23"E., along the north line of said Section 19, a distance of 2,707.30 feet to the north 1/4 corner of said Section 19; thence N.89°09'09"E., continue along said north line of Section 19, a distance of 2,709.53 feet to the POINT OF BEGINNING, also being the northeast corner of said Section 19, the northwest corner of the above mentioned Section 20 and the southwest corner of the above mentioned Section 17. Containing 45,960,198 square feet or 1,055.10 acres, more or less.

Specific Authority 190.005 FS. Law Implemented 190.004 and 190.005 FS. History-New _____.

42KKK-1.003 Supervisors.

The following five persons are designated as the initial members of the Board of Supervisors: James R. Schier, Dale E. Weidemiller, Priscilla G. Heim, Karen L. Byrnes, and Alan Anderson.

Specific Authority 190.005 FS. Law Implemented 190.004, 190.005 FS. History-New _____.

NAME OF PERSON ORIGINATING PROPOSED RULE:
Lisa Saliba

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Lisa Saliba

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: October 19, 2007

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: September 21, 2007

DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION

RULE NO.: 61-5.005
RULE TITLE: License Renewal Fee Waivers

PURPOSE AND EFFECT: The purpose of the rule amendment is to update the rule language to omit prior renewal fee waivers and implement a renewal fee waiver for the following professions: Athlete Agents, Employee Leasing, Real Estate Appraisers, Architecture and Interior Design, Professional Engineers, and Barbering.

SUMMARY: The proposed rule amendment omits prior renewal fee waivers and implements a new renewal fee waiver for the following professions: Athlete Agents, Employee Leasing, Real Estate Appraisers, Architecture and Interior Design, Professional Engineers, and Barbering.

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.

SPECIFIC AUTHORITY: 455.219 FS.

LAW IMPLEMENTED: 455.219 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: November 26, 2007, 10:00 a.m.

PLACE: Professions Board Room, DBPR, 1940 North Monroe 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: April Dawn M. Skilling, (850)488-0063. 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: April Dawn M. Skilling, Deputy General Counsel, DBPR, 1940 North Monroe Street, Tallahassee, Florida 32399

THE FULL TEXT OF THE PROPOSED RULE IS:

61-5.005 License Renewal Fee Waivers.

(1) Pursuant to Section 455.219(1), F.S., the Department of Business and Professional Regulation has determined, based on long-range estimates of the revenue required to implement all provisions of law relating to the regulation of professions, that certain professions have an excess of trust fund moneys required to cover the functions necessary to regulate those professions. ~~These professions, as outlined below, are therefore eligible to receive a waiver of license renewal fees for a period not to exceed two years. This is a one-time waiver and is available only in the two year period following the effective date of this rule.~~

(2) The full renewal fee is waived for licensees of professions named in this subsection renewing their license in the two year period following the effective date of the most recent amendment to this rule.

(a) Real estate brokers and sales associates, regulated pursuant to Part I of Chapter 475, F.S., ~~and~~ whose renewal fees are set in Rule 61J2-1.011, F.A.C. and whose biennial license renewal is scheduled to occur on March 31, 2008, pursuant to Rule 61-6.001, F.A.C.;

(b) Athlete agents regulated pursuant to Part IX of Chapter 468, F.S., and whose renewal fees are set forth in Rule 61-24.004, F.A.C.; Community association managers regulated pursuant to Part VIII of Chapter 468, F.S., and whose renewal fees are set in Rule 61-20.504, F.A.C.-

(c) Employee leasing, regulated pursuant to Part XI of Chapter 468, F.S., and whose renewal fees are set in Rule 61G7-5.001, F.A.C.;

(d) Real estate appraisers, regulated pursuant to Part II of Chapter 475, F.S., and whose renewal fees are set in Rule 61J1-2.001, F.A.C.;

(e) Architecture and interior design, regulated pursuant to Part I of Chapter 481, F.S., and whose renewal fees are set in Rules 61G1-17.001, 61G1-17.002 and 61G1-17.003, F.A.C.;

(f) Professional engineers, regulated pursuant to Chapter 471, F.S., and whose renewal fees are set forth in Rule 61G15-24.001, F.A.C.; and

(g) Barbering, regulated pursuant to Chapter 476, F.S., and whose renewal fees are set forth in Rules 61G3-20.009, 61G3-20.010 and 61G3-20.011, F.A.C.

(3) For renewals covered by this rule, the separate five dollar unlicensed activity fee collected pursuant to Section 455.2281, F.S., must still be paid at the time of renewal by all licensees. Further, this rule does not waive any additional fees owed at the time of renewal, such as late renewal or penalty fees.

Specific Authority 455.219(1) FS. Law Implemented 455.219(1) FS. History--New 10-1-00, Amended 8-17-06,_____.

NAME OF PERSON ORIGINATING PROPOSED RULE: April Dawn M. Skilling, Deputy General Counsel, Department of Business and Professional Regulation, 1940 North Monroe Street, Tallahassee, Florida 32399

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Holly Benson, Secretary, Department of Business and Professional Regulation

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: October 23, 2007

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: August 31, 2007

DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION

RULE NO.: 61-6.001 RULE TITLE: Biennial Licensing

PURPOSE AND EFFECT: The purpose of the rule amendment is to update the rule language to add Professional Engineers and Barber Assistants to the schedule for biennial licensure renewal and delete unnecessary or outdated language.

SUMMARY: The proposed rule amendment adds Professional Engineers and Barber Assistants to the schedule for biennial licensure renewal and deletes unnecessary or outdated language set forth in subsections (4), (5), and (6).

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.

SPECIFIC AUTHORITY: 455.203(5) FS.

LAW IMPLEMENTED: 455.203(1) 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: November 26, 2007, 10:00 a.m.

PLACE: Professions Board Room, DBPR, 1940 North Monroe 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: April Dawn M. Skilling, (850)488-0063. 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: April Dawn M. Skilling, Deputy General Counsel, DBPR, 1940 North Monroe Street, Tallahassee, Florida 32399

THE FULL TEXT OF THE PROPOSED RULE IS:

61-6.001 Biennial Licensing.

(1) Pursuant to Section 455.203(1), F.S. 2004, the Department hereby implements a plan for staggered biennial renewal of licenses issued by the Central Intake Unit, The Division of Service Operation and Licensure, the Department on behalf of the boards within the Department and the Department.

(2) The staggered biennial renewal issuance plan does not apply to the renewal of licenses which have a statutory period of one year or less and which do not mature into permanent licenses which would be subject to regular annual renewal.

(3) Biennial period shall mean a period of time consisting of two 12 month years. The first biennial period for the purposes of each board shall commence and continue on the dates specified in the department plan as set forth for each respective profession.

(4) The schedule for biennial license renewal for each respective profession shall be as follows:

	EVEN YEARS	ODD YEARS
Accountancy Firms		December 31
Accountants Group 3	December 31	
Accountants Group 2		December 31
Athlete Agents	May 31	
Architects/Architect Businesses		February 28
Asbestos Consultants/Contractors	November 30	
Asbestos Business		November 30
Auctioneers, Businesses & Apprentices		November 30
Barber Shops	November 30	
Barbers	July 31	
<u>Barber Assistants</u>	<u>July 31</u>	
Barbers CE Provider	May 31	
Building Code Administrators & Inspectors		November 30
Building Code CE Provider		May 31
Community Association Managers	September 30	
Community Association Managers CE Provider		May 31
Community Association Managers Pre-Licensure CE Provider	May 31	
Centralized Embalming Facilities	November 30	
Construction Industry Licensing Board (Certified)	August 31	
Construction Industry Licensing Board (Registered)		August 31
Construction Industry Licensing Board CE Provider		May 31
Construction Industry Licensing Board Specialty Structure	August 31	
Cosmetologists & Specialties		
Group I		October 31
Group II	October 31	
Cosmetology Salons	November 30	
Cosmetology CE Provider		May 31
Registered Cinerators	November 30	
Direct Disposers & Establishments		August 31
Electrical Contractors	August 31	
Electrical Contractors CE Provider		May 31

Employee Leasing Companies	April 30	
Funeral Home Establishments	November 30	
Funeral Directors & Embalmers		August 31
Geologists/Geology Businesses	July 31	
Interior Designers/Interior Design Businesses		February 28
Landscape Architects/Landscape Architecture Businesses		November 30
Landscape Architecture CE Provider		May 31
<u>Professional Engineers</u>		<u>February 28</u>
Real Estate Appraisers	November 30	
Real Estate Appraiser Instructors		September 30
Real Estate		
Real Estate – Group I	September 30	
Real Estate – Group II		March 31
Real Estate – Group III		September 30
Real Estate – Group IV	March 31	
Real Estate Schools		September 30
Refrigeration Facilities	November 30	
Removal Services	November 30	
Surveyors & Mappers		February 28
Surveying & Mapping Businesses		February 28
Surveying and Mapping CE Provider		May 31
Talent Agencies	May 31	
Veterinarians	May 31	

~~EXTENSION OF BIENNIAL LICENSURE PERIODS~~

~~When a current biennial licensure period for a profession is extended for a period longer than two years to conform to the above schedule of biennial periods, the biennial licensure fee for the profession shall be increased pro-rata to cover the additional extended period. The increased licensure fee shall be based on the biennial licensure fee established by the board. The amended licensure period and the pro-rated renewal fee shall be implemented for the purpose of restructuring the Department's renewal schedule.~~

~~(5) The biennial license renewal fees shall be established by rule by each board, or by the Department, whichever is appropriate.~~

~~(6) The renewal date for real estate appraisers will be extended from November 30, 2004 to April 15, 2005. Thereafter, renewals shall be due on November 30 of each even-numbered year.~~

Specific Authority 455.203(5) FS. Law Implemented 455.203(1) FS. History—New 9-17-78, Amended 9-21-78, 8-20-80, 2-3-81, 4-8-81, 12-7-81, 6-14-82, 11-23-83, 12-2-83, 1-26-84, 7-9-84, Formerly 21-6.08, Amended 4-27-86, 4-21-87, 2-16-88, 11-28-90, 7-18-91, Formerly 21-6.008, Amended 4-3-95, 7-25-05,_____.

NAME OF PERSON ORIGINATING PROPOSED RULE: April Dawn M. Skilling, Deputy General Counsel, Department of Business and Professional Regulation, 1940 North Monroe Street, Tallahassee, Florida 32399

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Holly Benson, Secretary, Department of Business and Professional Regulation

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: October 23, 2007

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: August 31, 2007

DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION

Division of Hotels and Restaurants

RULE NO.: 61C-4.0161
 RULE TITLE: Mobile Food Dispensing Vehicles and Theme Park Food Carts

PURPOSE AND EFFECT: The purpose and effect of this rule amendment is to correct references to rules of the Division of State Fire Marshal and update National Fire Protection Association standards incorporated by reference in the existing rule.

SUMMARY: These amendments update Division of State Fire Marshal rules cited and the National Fire Protection Association standard incorporated by reference in Chapter 61C-4, F.A.C.

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.

SPECIFIC AUTHORITY: 509.032(2)(d), 509.032(6) FS.

LAW IMPLEMENTED: 509.032(2)(d), 509.032(3)(a), 509.211, 509.215, 509.221 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: Michelle Comingore, Operations Review Specialist, Department of Business and Professional Regulation, Division of Hotels and Restaurants, 1940 North Monroe Street, Tallahassee, FL 32399-1012; telephone: (850)488-1133

THE FULL TEXT OF THE PROPOSED RULE IS:

61C-4.0161 Mobile Food Dispensing Vehicles and Theme Park Food Carts.

(1) through (8) No change.

(9) Required extinguishers shall be installed and easily accessible on each cart, and shall be located as remotely as possible from the fuel supply or power source of the cart, in accordance with Chapter 69A-3 4A-43, F.A.C.

(10) Installation of liquefied petroleum gas appliances, equipment, apparatus or containers on theme park food carts is to be performed in accordance with the provisions of National Fire Protection Association, Standard #58, "Liquefied Petroleum Gas Code Gases Handbook," 2004 1995 Edition, and Chapters 4A-3 and 5F-11, F.A.C., herein adopted by reference. The following requirements must also be met:

(a) Gas appliances shall be installed in accordance with manufacturer's specifications.

(b) The gas supply shall be shut off at the tank when equipment is not in use.

(c) No unit utilizing LP gas shall park in a building during the operation of its vending business.

Specific Authority 509.032(2)(d), (6) FS. Law Implemented 509.032(2)(d), (3)(a), 509.211, 509.215, 509.221 FS. History--New 2-21-91, Formerly 10D-13.0291, 7C-4.0161, Amended 3-31-94, 9-25-96, 5-11-98, 7-2-98.

NAME OF PERSON ORIGINATING PROPOSED RULE: Bill L. Veach, Director, Division of Hotels and Restaurants, Department of Business and Professional Regulation

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Holly Benson, Secretary, Department of Business and Professional Regulation

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: October 17, 2007

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: August 3, 2007

DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION

Division of Pari-Mutuel Wagering

RULE NO.: 61D-7.020 RULE TITLE: Pari-Mutuels

PURPOSE AND EFFECT: The purpose and effect of the proposed rule will be to amend the Division's rule regarding foreign wagers.

SUMMARY: The rule addresses the conversion to United States Dollars of foreign wagers that are commingled with Florida on-track pari-mutuel pools.

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.

SPECIFIC AUTHORITY: 550.0251(3), (7), 550.105(2)(b), 550.155(1), 550.3551(10), 550.495(4), 550.6305(5) FS.

LAW IMPLEMENTED: 550.0251, 550.0425, 550.105, 550.155, 550.495, 550.70 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: November 28, 2007, 10:00 a.m. – 12:00 noon

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

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: Mary Polombo at (850)413-0750. 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: Mary Polombo, Clerk, Division of Pari-Mutuel Wagering, 1940 North Monroe Street, Tallahassee, Florida 32399-1035

THE FULL TEXT OF THE PROPOSED RULE IS:

61D-7.020 Pari-Mutuels.

(1) Win, Place and Show Pari-mutuel wagers may not be sold in not less than \$1 denominations, and may be sold only in \$1 increments, except when a guest track in Florida commingles into the pools of an out-of-state host and the out-of-state host offers a lower incremental minimum. A minimum base bet of at least 10 U.S. dollars (ten cents), and any increment greater, may be sold by a Florida permitholder or commingled into a Florida host permitholder's pools by an out-of-state guest for exotic wagers only.

(a) Foreign guests' pools may be commingled into a Florida host permitholder's pools utilizing a currency conversion formula that may result in fractional monetary amounts, provided that the Florida host's established minimum individual bet unit values shall be followed by such guests.

(b) Wagers from foreign sites commingling with the on-track pari-mutuel pool shall be converted to U.S. currency by the guest track, using the exchange rate as of 12:00 P.M. the prior day as established by the Federal Reserve Bank of New York, for the current day's races or games.

(2) through (19) No change.

Specific Authority 550.0251(3), (7), 550.105(2)(b), 550.155(1), 550.3551(10), 550.495(4), 550.6305(5) FS. Law Implemented 550.0251, 550.0425, 550.105, 550.155, 550.495, 550.70 FS. History—New 10-20-96, Amended 12-15-97, 2-24-03, 9-19-04,_____.

NAME OF PERSON ORIGINATING PROPOSED RULE: David J. Roberts, Director, Division of Pari-Mutuel Wagering
 NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Holly Benson, Secretary, Department of Business and Professional Regulation
 DATE PROPOSED RULE APPROVED BY AGENCY HEAD: October 17, 2007
 DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: January 5, 2007

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 ENVIRONMENTAL PROTECTION
 RULE NO.: 62-296.341
 RULE TITLE: Regional Haze – Reasonable Progress Control Technology

PURPOSE AND EFFECT: The proposed rule involves amendments to Rule Chapter 62-296, F.A.C., to implement the reasonable progress portion of the U.S. Environmental Protection Agency’s (EPA’s) regional haze regulations. Pursuant to these regulations, the department is required to ensure that certain sources of visibility-impairing pollutants in Florida limit their emissions such that reasonable progress is made toward the goal of achieving natural visibility conditions in federal Class I areas. New Rule 62-296.341, F.A.C., is created to set forth procedural requirements by which reasonable progress determinations will be made for affected sources.

SUMMARY: The proposed new rule section addresses air permitting and control technology requirements for sources subject to the reasonable progress portion of EPA’s regional haze regulations.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS: A Statement of Estimated Regulatory Costs (SERC) has been requested and is being 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.

SPECIFIC AUTHORITY: 403.061 FS.
 LAW IMPLEMENTED: 403.031, 403.061, 403.087 FS.
 A HEARING WILL BE HELD AT THE DATE, TIME AND PLACE SHOWN BELOW:

DATE AND TIME: Tuesday, December 4, 2007, 9:00 a.m., before the Environmental Regulation Commission (ERC). Any proposed amendment or other comments or objections should be presented in accordance with paragraph 62-110.103(2)(b), F.A.C.

PLACE: Florida Department of Environmental Protection, Douglas Building, Conference Room A, 3900 Commonwealth Boulevard, 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 48 hours before the workshop/meeting by contacting: Ms. Lynn Scarce at (850)921-9551. 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: Mr. Tom Rogers at (850)921-9554 or tom.rogers@dep.state.fl.us

THE FULL TEXT OF THE PROPOSED RULE IS:

62-296.341 Regional Haze – Reasonable Progress Control Technology.

(1) Applicability. This rule applies to all emissions units that:

(a) Commenced construction or reconstruction, or submitted a complete application for an air construction permit for initial construction or reconstruction, prior to August 30, 1999;

(b) Emitted 250 tons per year or more of sulfur dioxide in calendar year 2002 as determined by the annual operating report submitted pursuant to Rule 62-210.370, F.A.C.; and

(c) Have a significant baseline contribution to regional haze in any Class I area within 300 kilometers of the unit.

(2) Definitions. For the purposes of this rule:

(a) “Class I area” shall mean any mandatory Class I federal area where visibility is an important value, as set forth at 40 CFR Part 81, Subpart D, adopted and incorporated by reference at Rule 62-204.800, F.A.C.

(b) “Reasonable Progress Control Technology (RPCT)” shall mean an emission limitation based on the degree of reduction achievable through application of a system of continuous emission reduction for sulfur dioxide taking into consideration the technology available and the criteria of 40 CFR 51.308(d)(1)(i)(A), adopted and incorporated by reference at Rule 62-204.800, F.A.C.

(c) “Significant Baseline Contribution to Regional Haze” shall mean, for a given emissions unit, that the unit’s contribution to regional haze in a Class I area is equal to or greater than a visibility contribution value of 50, where the

visibility contribution value is determined by dividing the unit's year-2002 emissions of sulfur dioxide, in tons, by the unit's distance from the Class I area, in kilometers.

1. A unit's year-2002 sulfur dioxide emissions shall be determined, as follows, by the annual operating report(s) submitted pursuant to Rule 62-210.370, F.A.C.:

a. For an electric utility unit: the unit's sulfur dioxide emissions for calendar year 2002 multiplied by the ratio of the unit's average annual heat input over the 5-year period 2000-2004, divided by the unit's heat input for calendar year 2002;

b. For any other unit: the unit's sulfur dioxide emissions for calendar year 2002.

2. A unit's distance from a given Class I area shall be determined by calculating the distance from the unit's emission point to the Class I area's reference point (latitude/longitude) as set forth below for all Class I areas in Florida or within 300 kilometers of the state:

a. Everglades National Park: 25.3910 degrees North, 80.6806 degrees West.

b. Chassahowitzka National Wilderness Area: 28.7484 degrees North, 82.5549 degrees West.

c. Saint Marks National Wilderness Area: 30.0926 degrees North, 84.1614 degrees West.

d. Okefenokee and Wolf Island National Wilderness Areas: 30.7405 degrees North, 82.1283 degrees West.

e. Breton National Wilderness Area: 29.1189 degrees North, 89.2066 degrees West.

(3) RPCT Required.

(a) The Department shall establish RPCT in an air construction permit issued in accordance with the subsection 62-296.341(4), F.A.C.

(b) The owner or operator of one more emissions units subject to this rule must obtain an air construction permit from the Department that establishes RPCT for each such emissions unit and install, operate, and maintain RPCT as set forth in such permit.

(c) After December 31, 2017, no emissions unit subject to this rule shall operate except in compliance with a permit that includes RPCT.

(4) Air Construction Permit Provisions.

(a) The owner or operator of one or more emissions units subject to this rule shall submit an application for air construction permit to the Department not later than January 31, 2012, containing an evaluation of RPCT and proposed RPCT determination for each emissions unit subject to this rule. In such application, the owner or operator shall identify the technology available and apply the criteria of 40 CFR 51.308(d)(1)(i)(A), adopted and incorporated by reference at Rule 62-204.800, F.A.C., in evaluating RPCT.

1. In identifying the technology available, the owner or operator shall use Steps 1-3 of Section IV.D of 40 CFR Part 51, Appendix Y, Guidelines for BART Determinations Under the Regional Haze Rule, adopted and incorporated by reference at Rule 62-204.800, F.A.C.

2. In evaluating RPCT according to the criteria of 40 CFR 51.308(d)(1)(i)(A), the owner or operator shall use Step 4 of Section IV.D of 40 CFR Part 51, Appendix Y, and, for "time necessary for compliance," use the compliance deadline of December 31, 2017.

3. In proposing RPCT, the owner or operator shall use Section IV.E of 40 CFR Part 51, Appendix Y, except that analysis of modeled visibility impacts of the emissions unit is not required.

(b) The Department shall issue an air construction permit that establishes RPCT for each emissions unit addressed in an application submitted pursuant to paragraph 62-296.341(4)(a), F.A.C. In establishing RPCT, the Department shall apply the criteria of 40 CFR 51.308(d)(1)(i)(A), taking into consideration the applicant's RPCT evaluation and proposed RPCT determination for each affected emissions unit.

1. If, by October 1, 2012, the owner or operator fails to make a permit application, submitted in accordance with paragraph 62-296.341(4)(a), F.A.C., complete, the Department shall issue an air construction permit that establishes RPCT based on the criteria of 40 CFR 51.308(d)(1)(i)(A), taking into consideration all information available.

2. The Department shall state the basis for its RPCT determination(s) in a technical evaluation document supporting its intent to issue.

3. The permit shall require the owner or operator of the affected emissions units to comply with RPCT as expeditiously as practicable, but not later than December 31, 2017.

4. The permit shall require an operation and maintenance plan for any control equipment required by the Department's RPCT determination.

(c) Before taking final agency action on an air construction permit application to establish RPCT, the Department shall comply with all applicable provisions of Rule 62-110.106, F.A.C., and, in its intent to issue, provide an opportunity for public comment which shall include at a minimum the following:

1. Pursuant to Chapter 119, Florida Statutes, a complete file available for public inspection at its Tallahassee offices which includes the information submitted by the owner or operator, exclusive of confidential records under Section 403.111, Florida Statutes, and the Department's technical evaluation and proposed air construction permit;

2. A 30-day period for submittal of public comments; and

3. A notice, by advertisement in a newspaper of general circulation in the county affected, specifying the nature and location of the affected unit and the location of the information specified in subparagraph 62-296.341(4)(c)1., F.A.C., and

notifying the public of the opportunity for submitting comments. The notice shall be prepared by the Department and published by the applicant in accordance with all applicable provisions of Rule 62-110.106, F.A.C., except that the applicant shall cause the notice to be published no later than thirty (30) days prior to final agency action.

(5) Exemptions. An affected emissions unit shall be exempt from the requirement for an RPCT determination if:

(a) It is not subject to the CAIR Program and it has received a best available retrofit technology (BART) determination for sulfur dioxide pursuant to subsection 62-296.340(3), F.A.C.; or

(b) It is subject to the CAIR Program and it has received a BART-equivalent emission limitation for sulfur dioxide pursuant to subsection 62-296.340(4), F.A.C.

Specific Authority 403.061, 403.087 FS. Law Implemented 403.031, 403.061, 403.087 FS. History—New _____.

NAME OF PERSON ORIGINATING PROPOSED RULE: Mr. Joseph Kahn, Director, Division of Air Resource Management

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Ms. Mimi Drew, Deputy Secretary

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: October 11, 2007

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: May 25, 2007

DEPARTMENT OF ENVIRONMENTAL PROTECTION

RULE NO.: 62-620.100
 RULE TITLE: Scope/Applicability/References

PURPOSE, EFFECT AND SUMMARY: The proposed amendments revise existing Department rules that adopt by reference United States Environmental Protection Agency's (EPA) requirements for cooling water intake structures at existing large steam electric power plants. The Department is amending its rule to reflect EPA's suspension of majority of its rule on the subject.

SPECIFIC AUTHORITY: 403.061, 403.087, 403.0885 FS.
 LAW IMPLEMENTED: 403.061, 403.087, 403.088, 403.0885 FS.

THIS RULEMAKING IS UNDERTAKEN PURSUANT TO SECTION 403.8055, F.S. WRITTEN COMMENTS MAY BE SUBMITTED WITHIN 21 DAYS OF THE DATE OF THIS NOTICE TO: Marc Harris, 2600 Blair Stone Road, MS 3545, Tallahassee, FL 32399-2400

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

THE FULL TEXT OF THE PROPOSED RULE IS:

62-620.100 Scope/Applicability/References.

(1) through (2) No change.

(3) References. The Department adopts and incorporates by reference the following sections of Title 40 of the Code of Federal Regulations (CFR) revised as of July 1, 2007, and the Department Guide to Permitting Wastewater Facilities or Activities Under Chapter 62-620, F.A.C., dated 7-10-06. Copies of these documents may be obtained by writing the Department of Environmental Protection, Bureau of Water Facilities Regulation, 2600 Blair Stone Road, MS 3535, Tallahassee, Florida 32399-2400.

(a) through (y) No change.

(z) 40 CFR 125.90(b) ~~part 125 subpart J~~, containing requirements applicable to cooling water intake structures for phase II existing facilities under section 316(b) of the Clean Water Act, amended July 9, 2007, at 72 FR 37107.

~~(aa) 40 CFR part 122.21(r), containing application requirements for facilities with cooling water intake structures.~~
 (4) No change.

Specific Authority 403.061, 403.087, 403.0885 FS. Law Implemented 403.061, 403.087, 403.088, 403.0885 FS. History—New 11-29-94, Amended 12-24-96, 3-2-00, 10-22-00, 10-23-00, 6-1-01, 8-25-03, 12-8-03, 12-23-04, 2-7-06, 3-13-06, 6-19-06, 7-10-06, 10-16-07, _____.

DEPARTMENT OF HEALTH

Board of Acupuncture

RULE NO.: 64B1-4.001
 RULE TITLE: Acupuncture Program Requirements

PURPOSE AND EFFECT: The Board proposes the rule amendment to update and clarify licensure requirements.

SUMMARY: The rule amendment will update and clarify licensure requirements.

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.

SPECIFIC AUTHORITY: 457.102, 457.104, 457.105 FS.

LAW IMPLEMENTED: 456.033, 457.102, 457.105 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: Pamela King, Executive Director, Board of Acupuncture/MQA, 4052 Bald Cypress Way, Bin #C05, Tallahassee, Florida 32399-3255

THE FULL TEXT OF THE PROPOSED RULE IS:

64B1-4.001 Acupuncture Program Requirements.

In order to be certified to take the licensure examination or to be eligible for licensure by endorsement, the applicant must establish that he/she has met the following minimal requirements.

(1) For students enrolled in a program prior to August 1, 1997, applicants under this section must have completed at least 900 hours of supervised instruction in traditional oriental acupuncture and at least 600 hours of supervised clinical experience as well as 20 hours of supervised instruction in Florida Statutes and Rules, including Chapters 456 and 457, F.S., and this rule chapter, which can be obtained through an approved continuing education program on in a program offered at an ACAOM accredited oriental medicine school. All applicants under this provision must have started classes no later than February 1, 1998.

~~(2) Applicants who apply for licensure on or after August 1, 2001 must have completed a core curriculum comparable to that of the Accreditation Commission for Acupuncture and Oriental Medicine (ACAOM) master's level program in oriental medicine with a minimum of 2700 hours of supervised instruction:~~

~~(a) 15 hours of supervised instruction in universal precautions; and~~

~~(b) 20 hours of supervised instruction in Florida Statutes and Rules, including Chapters 456 and 457, F.S., and this rule chapter.~~

~~(2)(3) All other applicants who apply for licensure on or after October 1, 2003 must have graduated from an Accreditation Commission for Acupuncture and Oriental Medicine (ACAOM) institution candidate or accredited 4-year master's level program or foreign equivalent in oriental medicine with a minimum of 2700 hours of supervised instruction and must have successfully completed:~~

~~(a) 15 hours of supervised instruction in universal precautions; and~~

~~(b) 20 hours of supervised instruction in Florida Statutes and Rules, including Chapters 456 and 457, F.S., and this rule chapter which may be obtained through an approved continuing education program or in a program offered at an ACAOM accredited oriental medicine school; and For purposes of the Florida Statutes and Rules and HIV/AIDS requirements imposed by this chapter for initial licensure, the term "supervised instruction" shall mean instruction in a Board approved continuing education program or in a program offered at an ACAOM accredited oriental medicine school.~~

~~(c)(4) For applicants who enroll on or after July 31, 2001, applicants must have completed An 8 eight hour program that incorporates the safe and beneficial use of laboratory test and imaging findings in the practice of acupuncture and oriental medicine.~~

Specific Authority 457.102, 457.104, 457.105 FS. Law Implemented 456.033, 457.102, 457.105 FS. History--New 8-30-84, Formerly 21AA-4.01, Amended 7-20-88, 4-30-89, 9-19-89, 3-18-92, Formerly 21AA-4.001, 61F1-4.001, Amended 3-24-96, Formerly 59M-4.001, Amended 12-31-97, 11-1-99, 6-21-00, 4-3-01, 5-24-04, 10-11-04, 10-24-04, 5-30-07.

NAME OF PERSON ORIGINATING PROPOSED RULE: Board of Acupuncture

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

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: September 14, 2007

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: August 10, 2007

DEPARTMENT OF HEALTH

Board of Acupuncture

RULE NO.: 64B1-7.0015 RULE TITLE: Continuing Education Requirement

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

SUMMARY: The rule amendment will clarify continuing education requirements.

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.

SPECIFIC AUTHORITY: 456.013, 457.104, 457.107, 457.108, 457.1085 FS.

LAW IMPLEMENTED: 456.013, 456.033, 457.107, 457.108, 457.1085, 457.109 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: Pamela King, Executive Director, Board of Acupuncture/MQA, 4052 Bald Cypress Way, Bin #C05, Tallahassee, Florida 32399-3255

THE FULL TEXT OF THE PROPOSED RULE IS:

64B1-7.0015 Continuing Education Requirement.

(1) As a condition of the biennial renewal of a license, each licensee shall complete a minimum of 20 credit hours per biennium of continuing education that meets the requirements of Chapter 457, F.S. Effective March 1, 2002, as a condition of the biennial renewal of a license, each licensee shall complete a minimum of 30 credit hours per biennium of continuing education that meets the requirements of Section 457.107, F.S. Pursuant to Section 456.033(2), F.S., each licensee shall submit confirmation of having completed a 3-hour HIV/AIDS course

when submitting fees for the initial biennial renewal. Each biennium, the licensee shall complete a program awarding at least 5 hours of continuing education credit in Biomedical Clinical Competencies Programs as set forth in Rule 64B1-6.005, F.A.C. concerning the use of laboratory test findings. ~~Each biennium, the licensee shall complete a program awarding at least 3 hours of continuing education credit concerning the use of imaging findings.~~ Each biennium, the licensee shall complete a program on Chapters 456 and 457, F.S., and Rule Chapter 64B1, F.A.C., consisting of at least 2 hours of study.

(2) through (6) No change.

~~(7) Other provisions of a rule of the Board notwithstanding, effective for the biennium beginning March 1, 2004, and ending February 28, 2006, all non-statutory continuing education licensure renewal requirements imposed by Board rule are suspended. No continuing education credits will be required for renewal of licensure at the February 28, 2006 renewal date except for the medical errors and HIV/palliative care requirements imposed by Sections 456.013(7) and 456.033, F.S., respectively.~~

Specific Authority 456.013, 457.104, 457.107, 457.108, 457.1085 FS. Law Implemented 456.013, 456.033, 457.107, 457.108, 457.1085, 457.109 FS. History–New 3-18-97, Formerly 59M-7.0015, Amended 4-25-00, 4-3-01, 11-24-02, 5-18-04, 5-30-07,_____.

NAME OF PERSON ORIGINATING PROPOSED RULE:

Board of Acupuncture

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

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: September 14, 2007

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: August 10, 2007

DEPARTMENT OF HEALTH
Board of Dentistry

RULE NO.: 64B5-13.0046

RULE TITLE: Citation Authority

PURPOSE AND EFFECT: The Board proposes the rule amendment to add as a citation offense failure to pay the one-time fee by February 28, 2008.

SUMMARY: The rule amendment will add as a citation offense failure to pay the one-time fee by February 28, 2008.

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.

SPECIFIC AUTHORITY: 456.077, 466.004(4) FS.

LAW IMPLEMENTED: 456.072(3)(a), 456.077 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: Sue Foster, Executive Director, Board of Dentistry/MQA, 4052 Bald Cypress Way, Bin #C08, Tallahassee, Florida 32399-3258

THE FULL TEXT OF THE PROPOSED RULE IS:

64B5-13.0046 Citation Authority.

(1) through (10) No change.

(11) Violations of Rule 64B5-15.030, F.A.C., through a violation of 466.028(1)(ii), Florida Statutes, for failing to pay the one-time fee by no later than February 28, 2008, will result in a \$1,000 fine.

(11) through (15) renumbered (12) through (16) No change

Specific Authority 456.077, 466.004(4) FS. Law Implemented 456.072(3)(a), 456.077 FS. History–New 12-24-91, Formerly 21G-13.0046, Amended 11-22-93, Formerly 61F5-13.0046, 59Q-13.0046, Amended 7-19-01, 10-9-96,_____.

NAME OF PERSON ORIGINATING PROPOSED RULE:

Board of Dentistry

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

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: September 14, 2007

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: October 5, 2007

FISH AND WILDLIFE CONSERVATION COMMISSION

RULE NOS.:

RULE TITLES:

68-1.001

Adoption of Uniform Rules of Procedure; Subject Matter Index; Official Reporter

68-1.008

Due Process Procedures

68-1.009

Delegations of Authority to the Executive Director

PURPOSE AND EFFECT: The purpose of this proposed rule amendment and these proposed new rules is to publish the Commission’s existing Due Process Procedures into rule and incorporate by reference into rule the Commission’s existing Delegations of Authority, delegating authority from the Commission to the Executive Director. Inclusion of the Due Process Procedures in rule is taken in response to Section (1) of Chapter 2007-223, Laws of Florida. The effect of this rulemaking should be to make operations of the Commission even more transparent and promote public understanding of those operations.

SUMMARY: Rule 68-1.001, F.A.C., is amended to delete subsection (2), which incorporated the Commission’s Due Process Procedures into rule by reference. Proposed new Rule 68-1.008 contains the Due Process Procedures followed by the Fish and Wildlife Conservation Commission. Proposed new Rule 68-1.009 incorporates by reference the Commission’s existing delegations of authority to its Executive Director.

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.

SPECIFIC AUTHORITY: Article IV, Section 9, Florida Constitution.

LAW IMPLEMENTED: Article IV, Section 9, Florida Constitution.

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

DATES AND TIME: During the Commission’s regular meeting, December 5-6, 2007, 8:30 a.m. – 5:00 p.m. each day

PLACE: Key Largo Bay Marriott Beach Resort, 103800 Overseas Highway, Key Largo, Florida 33037

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: The ADA Coordinator, at (850)488-6411. 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: James V. Antista, General Counsel, 620 South Meridian Street, Tallahassee, Florida 32399-1600

THE FULL TEXT OF THE PROPOSED RULES IS:

68-1.001 Adoption of Uniform Rules of Procedure; ~~Due Process Procedures~~; Subject Matter Index; Official Reporter.

(1) The Uniform Rules of Procedure, Chapter 28, F.A.C., shall be the procedural rules of the Fish and Wildlife Conservation Commission.

~~(2) The due process procedures adopted by the Commission on July 7, 1999, are incorporated herein by reference.~~

(2)(3) The Commission designates Florida Administrative Law Reports (FALR) as its official reporter for purposes of publishing and indexing by subject matter all Commission orders rendered pursuant to exercise of authority granted to the Commission by state statute.

Specific Authority Article IV, Sec. 9, Fla. Const. Law Implemented Art. IV, Sec. 9, Fla.Const., 20.331(9)(8) FS. History–New 7-19-06, Amended _____.

68-1.008 Due Process Procedures.

(1) Summary of Due Process Procedures: The due process procedures adopted by the Fish and Wildlife Conservation Commission (FWC) are designed to satisfy Article IV, Section 9, Florida Constitution, and to address the recommendations in Section 20.331(6)(a),(b) and (c), F.S. (1999). The procedures adopted by the FWC are adequate within the meaning of the constitution because the procedures fully comply with the applicable procedural and substantive due process provisions of Chapter 120, F.S., and its companion provisions, the Uniform Rules of Procedure. As to rules promulgated under the FWC’s constitutional authority, there are adequate judicial remedies to adjudicate such rules and provide due process of law. With respect to FWC proposed rules to list or delist species as endangered, threatened or of special concern, the FWC has adopted an additional procedure, not required by law, which assures that any party shall receive a special hearing, known as a “draw-out,” before an Administrative Law Judge as to the phase one part of the listing process, and that such special “draw-out” hearing shall suspend the rule. FWC rulemaking authority over endangered marine species, such as manatees and sea turtles, is derived from the legislature and adjudication of proposed rules on these species is subject to Administrative Procedures Act (APA).

(2) Background: Article IV, Section 9, Florida Constitution, as amended by Constitution Revision Commission Revision 5, as adopted in 1998, created the Fish and Wildlife Conservation Commission (FWC) to exercise the state’s regulatory and executive authority with respect to wild animal life and freshwater aquatic life and to exercise executive and regulatory authority with respect to marine life. The issue of due process is specifically addressed in Revision 5 which states that the Commission shall establish procedures to ensure adequate due process in the exercise of its regulatory and executive functions. Due process is also addressed in the “merger bill” which implements Revision 5. See, Chapter 99-245, Laws of Florida, now codified in pertinent part as Section 20.331, Florida Statutes. While this law does not mandate that any particular due process procedure must be followed by FWC, it provides several recommendations in Section 20.331(6)(a)-(c), F.S. First, it states that FWC shall implement a system of adequate due process procedures to be accorded to any party, as defined in Section 120.52, F.S., whose substantial interests will be affected by any action of the Fish and Wildlife Conservation Commission in the performance of its constitutional duties or responsibilities. Second, the legislation encourages the commission to incorporate in its process the provisions of Section 120.54(3)(c), F.S., when adopting rules in the performance of its constitutional duties or responsibilities. Third, the

provisions of chapter 120 shall be accorded to any party whose substantial interests will be affected by any action of the commission in the performance of its statutory duties or responsibilities. For purposes of this subsection, statutory duties or responsibilities include, but are not limited to, the following:

(a) Research and management responsibilities for marine species listed as endangered, threatened, or of special concern, including, but not limited to, manatees and marine turtles;

(b) Establishment and enforcement of boating safety regulations;

(c) Land acquisition and management;

(d) Enforcement and collection of fees for all recreational and commercial hunting or fishing licenses or permits;

(e) Aquatic plant removal and management using fish as a biological control agent;

(f) Enforcement of penalties for violations of commission rules, including, but not limited to, the seizure and forfeiture of vessels and other equipment used to commit those violations;

(g) Establishment of free fishing days;

(h) Regulation of off-road vehicles on state lands;

(i) Establishment and coordination of a statewide hunter safety course;

(j) Establishment of programs and activities to develop and distribute public education materials;

(k) Police powers of wildlife and marine officers;

(l) Establishment of citizen support organizations to provide assistance, funding, and promotional support for programs of the commission;

(m) Creation of the Voluntary Authorized Hunter Identification Program; and

(n) Regulation of required clothing of persons hunting deer.

(3) The commission is directed to provide a report on the development and implementation of its adequate due process provisions to the President of the Senate, the Speaker of the House of Representatives, and the appropriate substantive committees of the House of Representative and the Senate no later than December 1, 1999.

(4) In compliance with the constitution and the "merger bill," the FWC, at its inaugural meeting in Ft. Lauderdale, on July 7, 1999, approved and adopted due process procedures which address and satisfy the constitutional requirement and legislative recommendations. Accordingly, the FWC submitted its Due Process Procedures to the Legislature on December 1, 1999, in compliance with Section 20.231, F.S. (1999).

(5) Due Process Procedures Adopted by the Fish and Wildlife Conservation Commission

(a) Article IV, Section 9, Constitution of Florida, as amended by Revision 5 and as approved by the electorate in November 1998, requires that "The (Florida Fish and Wildlife Conservation) Commission shall establish procedures to

ensure adequate due process in the exercise of its executive and regulatory functions." The following due process procedures of the Florida Fish and Wildlife Conservation Commission (FWC) approved and adopted by the Commission on July 7, 1999, are designed to provide adequate due process, in compliance with Article IV, Section 9, Florida Constitution, as amended, and to address the special recommendations on due process of Section 20.331, F.S. (1999).

(b) Procedural Due Process: Procedural due process, in a broad sense, encompasses the procedural requirements that must be observed in the course of a legal proceeding to ensure the protection of private rights and property. Procedural due process, in an administrative setting, consists of requirements for notice, a meaningful opportunity to be heard and a fair, impartial decision-making authority.

1. The FWC has adopted, by Rule 68A-2.009, F.A.C., The Uniform Rules of Procedure, and shall follow Chapter 28-101, F.A.C., as the rules of procedure for the FWC. The Uniform Rules of Procedure are a companion to the APA and shall govern the practical and procedural aspects of agency action on the following subjects:

a. Statement of agency organization;

b. Scheduling of meetings and workshops;

c. Decisions determining substantial interests;

d. Petitions for declaratory statements;

e. Summary proceedings;

f. Mediation;

g. Bid challenges;

h. Waivers and variances.

2. The FWC shall follow Chapter 120, F.S., the Administrative Procedures Act (APA), for all notices of FWC meetings and workshops.

3. The FWC shall follow the APA for all notices of FWC rule development and rulemaking.

4. The FWC shall follow the APA in the use of rule development workshops and shall prepare statements of estimated regulatory cost and statements of lower cost regulatory alternative in accordance with the APA.

5. The FWC shall comply with the Public Records Act (Chapter 119, F.S.) with respect to all records of the FWC and with the Sunshine Law with respect to meetings of the FWC.

6. The FWC due process procedures shall be accorded to any party as defined in Section 120.52, F.S., whose substantial interests will be affected by any action of the FWC.

(c) Substantive Due Process: Substantive due process refers to constitutional protections provided by the due process clause of the Florida and Federal Constitution. Therefore, substantive due process applies with respect to the decisions, orders and adjudications of government.

1. The FWC rules derived from constitutional authority are not to be subject to administrative rule challenges under Section 120.56, F.S. See, *Airboat Association of Florida, Inc. v.*

Florida Game and Fresh Water Fish Commission, 498 So. 2d 629 (Fla. 3rd DCA 1986). Under the APA, The FWC is not defined as an agency except when it is acting pursuant to statutory authority derived from the Legislature. See, Section 120.52(1)(b), F.S. However, rules derived from constitutional authority can be challenged in a number of ways:

a. The FWC rules, and possible proposed rules, derived from constitutional authority may be challenged directly before the circuit court by declaratory action, injunctive action or, in appropriate circumstances, under the Bert J. Harris Private Property Rights Protection Act (Section 70.001, F.S.). Decisions often circuit court can be appealed to the appropriate District Court of Appeal, and potentially to the Supreme Court of Florida.

b. The FWC rules derived from constitutional authority which carry a criminal or non-criminal sanction can, upon issuance of a citation, be challenged in county court. Decisions of the county court can be appealed to the circuit court, or, in some cases, directly to the District Court of Appeal.

c. FWC proposed rules derived from constitutional authority may also be subject to a special hearing, known as a "draw-out" hearing. See Section 120.54(3)(c), F.S. A "draw-out" is a special hearing which may be provided upon request of a party if the agency determines that the rulemaking proceeding is inadequate to protect the person's substantial interests and that the normal public hearing on a proposed rule does not provide that person with an adequate opportunity to protect their interests. The FWC, just as any other state agency, may consider, on a case by case basis, requests for use of a "draw-out" for proposed rules promulgated in performance of its constitutional duties in accordance with the statutory criteria.

2. The FWC rules which are derived from statutory authority are fully subject to administrative rule challenges under Section 120.56, F.S. See Section 20.331, F.S.

3. All discretionary actions, orders, or decisions of the FWC which affect substantial interests are subject to adjudication under Chapter 120, F.S. Accordingly, to the extent that agency action is discretionary, FWC action to grant or deny permits or licenses or to suspend or revoke such permits or licenses is subject to adjudication under Sections 120.57, 120.569 and 120.60, F.S. These discretionary decisions to grant or deny permits or licenses or to revoke or suspend such permits or licenses include, but are not limited to, the following subjects:

- a. Bid disputes;
- b. Commercial fishing licenses;
- c. Restricted species endorsements;
- d. Salt water products licenses;
- e. Marine special activity licenses;
- f. Captive wildlife permits;

g. Permits to take remove or relocate wildlife, including wildlife listed as endangered, threatened or of special concern;

h. Permits to take freshwater fish, marine life, manatees, sea turtles or wildlife for educational or scientific purposes;

i. Permits to operate alligator farms and management programs;

j. Permits to operate game fish aquaculture facilities;

k. Permits to operate haul seines in Lake Okeechobee.

4. The FWC shall also comply with the following provisions of law that assure adequate due process relating to various actions of the Commission.

a. FWC comments to other permitting agencies: If another agency relies upon recommendations of the FWC in granting or denying a license or permit, the FWC may be required to appear as a party in any legal challenge brought on such license or permit to show that the recommendation is within the FWC jurisdiction and is valid. See, Section 120.60(7), F.S. In addition, such recommendations or comments must be based upon credible, factual scientific data, are not binding on any permitting agency, must be submitted within a strict 30-day deadline, and the FWC must bear its costs in defending its recommendation. See Section 20.331(7), F.S. (1999).

b. Alteration of hunting or fishing seasons: Agency action which has the effect of altering the established hunting or fishing seasons, or altering the established annual harvest limits for saltwater fishing is not a rule if the procedure for altering such harvest limits is set out by rule of the FWC. Such action shall be adequately noticed in the area affected through publishing in a newspaper of general circulation or through notice by broadcasting via electronic media. Section 120.81(5), F.S.

c. Personnel and disciplinary actions: When FWC acts to suspend, reduce in pay, transfer, and layoff, demote or dismiss any permanent employee in the Career Service System; the employee shall have appeal rights to the Public Employees Relations Commission. Section 447.207(8), F.S.

(d) Additional Due Process Procedures by use of the draw-out procedure of Section 120.54(3)(c), F.S.: Section 20.331(6) (b), F.S., recommends that the FWC consider the use of the "draw out" procedure of Section 120.54(7)(c), F.S., in the performance of its constitutional duties. Accordingly, FWC shall require that upon timely request, a party shall receive a special "draw out" hearing conducted by an administrative law judge on proposed rules that list or delist fish or wildlife as endangered, threatened or of species of special concern, during the phase one process for listing or delisting such species. This draw-out will only be used specifically for phase one of the new listing process, as created by rule amendments approved by the GFC at its May 14, 1999 meeting. (See, Appendix; FWC rule sections governing the list and delisting of species). The "phase one" stage of the listing process determines if a species warrants a classification as endangered, threatened or of special concern, or, if the species is already classified, whether the species should be re-classified or removed from the list. The "phase two" stage deals with the specific

conservation needs of the species, such as additional regulations or management. The draw-out process is appropriate for the "phase one" aspect of the listing process for a number of reasons: First, determining whether a species warrants classification or whether its classification should change is a decision which must be based upon credible biological data and therefore, an evidentiary hearing, such as a draw-out, may be useful. Secondly, phase one of the listing process deals with whether a species qualifies for higher level of protection or management and therefore, the decision should be factually correct and afforded special care and deliberation. Finally, listing affects a broad constituency and may significantly affect land-use decisions by other levels or agencies of government, including the federal government, and accordingly, an extra level of care and deliberation is appropriate. The effect of a draw-out is to suspend any proposed rule until the completion of the draw-out proceeding. The draw-out proceeding consists of a hearing before an administrative law judge, the preparation of a record and the transmittal to and review of the record by the FWC. The draw-out is an evidentiary hearing only; there are no recommended findings of fact or conclusions of law and the draw-out record is not binding on the FWC nor is subject to appeal. It should be noted that the use of a special draw-out in these circumstances goes beyond what is legally required of state agencies under the draw-out provision of Section 120.54(3)(c), F.S. Under the statute, the use of a draw-out is left to the discretion of the state agencies, and is decided on a case by case basis.

(e) Due Process relating to marine species that are endangered, threatened or of special concern, and turtles and manatees: Under the merger bill, research and management responsibilities for marine species listed as endangered or threatened, including marine turtles and manatees, is a statutory responsibility that has been delegated to FWC. See Section 20.331(6)(c)1, F.S. (1999), and Section 370.025(4)(a), F.S. (1999). Under the bill, the FWC can only promulgate rules pertaining to endangered or threatened marine species if specifically authorized by the statutes. These provisions of the merger bill were the subject of a complaint in the case Caribbean Conservation Corporation and Save the Manatee Club, Inc. et al. v. Florida Fish and Wildlife Conservation Commission, et al., Case No. 99-4188 (Circuit Court for the Second Judicial Circuit, Leon County). This complaint alleges that parts of merger bill encroach upon the Commission's constitutional authority and violate the recently amended version of Article IV, Section 9, of the Florida Constitution. Currently, the FWC is enjoined from complying with the merger bill. Therefore, until such time as a court order to the contrary is entered, FWC rules or proposed rules promulgated with respect to endangered or threatened marine species, including the West Indian manatee and sea turtles, shall be subject to APA administrative appeal procedures under Section 120.56, F.S. (1999). On January 16, 2003, the Supreme Court

of Florida upheld the Legislative bill (Chapter 99-245, Laws of Florida) which implemented FWC. In this ruling, the Supreme Court concluded that endangered and threatened marine species such as the Florida manatee, whales and sea turtles were not regulated by FWC under the Florida Constitution. FWC's authority to regulate these species was derived not from the constitution but from statute (Section 370.12, F.S.). Therefore, the Administrative Procedures Act (Chapter 120, F.S.) applied in all respects to rulemaking for these species. See, Save the Manatee Club, et al v. FWC, 838 So.2d 492 (Fla. 2003).

Specific Authority Article IV, Sec. 9, Fla. Const. Law Implemented Art. IV, Sec. 9, Fla. Const., 20.331(9) FS. History-New _____.

68-1.009 Delegations of Authority to the Executive Director.

The Delegation of Authority Resolution adopted by the Fish and Wildlife Conservation Commission (FWC) on April 14, 2005 is incorporated herein by reference. The incorporation of this resolution into rule does not preclude or prohibit the Commission from delegating additional delegations of authority to its Executive Director from time-to-time as may be necessary to assure orderly administration of the agency. Any actions to be taken, or decisions to be made, by the Commission pursuant to any rule of the agency may be exercised by the Executive Director or his or her designee unless such actions or decisions are expressly reserved by the Commission in the rule or are specifically required by law to be made by the Commission in an area not involving the Commission's constitutional authority.

Specific Authority Article IV, Sec. 9, Fla. Const. Law Implemented Art. IV, Sec. 9, Fla. Const. History-New _____.

BE ADVISED THAT THESE PROPOSED RULES MAY BE FILED FOR ADOPTION AS SOON AS POSSIBLE FOLLOWING THE COMMISSION MEETING AT WHICH THEY ARE CONSIDERED IF THE RULES ARE NOT CHANGED. IF CHANGED, THE RULES MAY BE FILED AS SOON AS POSSIBLE AFTER PUBLICATION OF A NOTICE OF CHANGE IN THE FAW.

NAME OF PERSON ORIGINATING PROPOSED RULE: James V. Antista, General Counsel

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Mr. Kenneth D. Haddad, Executive Director

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: September 13, 2007

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: June 15, 2007

FISH AND WILDLIFE CONSERVATION COMMISSION

Freshwater Fish and Wildlife

RULE NOS.:	RULE TITLES:
68A-6.003	Facility and Structural Caging Requirement for Class I, II and III Wildlife
68A-6.007	Possession, Transportation, Exhibition and Caging Venomous Reptiles and Reptiles of Concern
68A-6.0071	Record Keeping and Reporting Requirements
68A-6.0072	Identification of Non-Native Venomous Reptiles and Reptiles of Concern; Escape

PURPOSE AND EFFECT: The purpose of these proposed rule amendments is to address the possession and housing of captive wildlife, venomous reptiles and reptiles of concern. The proposed rule amendments should have the effect of clarifying the rules and eliminating inconsistencies between rules and statutes resulting from the passage of Chapter 2007-239, Laws of Florida, during the 2007 legislative session. The proposed rule amendments will also add reporting requirements in the instance of the escape of Class I wildlife. Rules 68A-6.003, 68A-6.007, 68A-6.0071 and 68A-6.0072, adopted on April 6, 2007, are effective January 1, 2008. These proposed rule amendments are designed to amend the rules as soon as possible after that date.

SUMMARY: Rule 68A-6.003, F.A.C., is amended to require that escapes of Class I wildlife be reported to the FWC and that a list of contiguous land owners and neighbors be maintained by a person possessing Class I wildlife for the use of appropriate local authorities should such an escape occur. Rule 68A-6.007, F.A.C., is amended to delete prohibitions relating to sea snakes and to make technical changes necessary to eliminate inconsistencies with recent statutory changes. Rule 68A-6.0071, F.A.C., is amended to eliminate inconsistencies with recent statutory changes. Rule 68A-6.0072, F.A.C., is amended to eliminate inconsistencies with recent statutory changes and to clarify provisions relating to implantation of PIT tags in venomous reptiles.

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.

SPECIFIC AUTHORITY: Article IV, Section 9, Florida Constitution, 372.86, 372.87, 372.92, 372.921, 372.922 FS.

LAW IMPLEMENTED: Art. IV, Sec. 9, Florida Constitution, 372.86, 372.87, 372.92, 372.921, 372.922 FS.

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

DATES AND TIME: During the Commission’s regular meeting, December 5-6, 2007, 8:30 a.m. – 5:00 p.m., each day
PLACE: Marriott Key Largo, 103800 Overseas Highway, Key Largo, FL 33037, (305)453-0582

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: The ADA Coordinator, at (850)488-6411. 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: Captain Linda Harrison, Division of Law Enforcement, Investigations Section, Fish and Wildlife Conservation Commission, 620 South Meridian Street, Tallahassee, Florida 32399-1600, (850)488-6253

THE FULL TEXT OF THE PROPOSED RULES IS:

68A-6.003 Facility and Structural Caging Requirement for Class I, II and III Wildlife.

(1) No change.

(2) In order to assure public safety, the facilities for the housing of Class I and Class II wildlife shall meet the requirements of this rule. Compliance with these requirements is a necessary condition for licensure. For the purposes of this rule, a “facility” means the site at which Class I or Class II wildlife are kept or exhibited. Applicants shall submit documentation verifying that the construction of the facility, its cages and enclosures are not prohibited by county ordinance and, if within a municipality, municipal ordinance.

(a) Notification of escapes:

Any person authorized to possess any Class I wildlife as listed pursuant to Rule 68A-6.002, F.A.C., must report any escapes from the primary caging or enclosures or the approved facility location; or other enclosure, cage, leash or other constraint when wildlife is away from such approved facility location, to the Florida Fish and Wildlife Conservation Commission, Division of Law Enforcement. Such reporting shall occur immediately upon discovery of the escape. Any person authorized to possess Class I wildlife shall maintain a list of the current contiguous land owners or neighbors in Part B of the Captive Wildlife Critical Incident/Disaster Plan form FWCDLE 619 (02-06), as required in subsection 68A-6.0022(7), F.A.C. Such list shall include the name, address and contact phone number for contiguous land owners or neighbors. For the purposes of this section a “contiguous land owner or neighbor” shall mean the current resident for all properties sharing a common boundary with the facility

location. The entire width of a dedicated roadway shall be considered sharing a common boundary in instances of a dedicated roadway between neighboring properties.

- (a) through (e) renumbered (b) through (f) No change.
- (3) No change.

Specific Authority Art. IV, Sec. 9, Fla. Const. Law Implemented Art. IV, Sec. 9, Fla. Const., 372.921, 372.922 FS. History—New 8-1-79, Amended 6-21-82, Formerly 39-6.03, Amended 6-1-86, 7-1-90, 7-1-92, 2-1-98, Formerly 39-6.003, Amended 1-1-08, _____.

68A-6.007 Possession, Transportation, Exhibition and Caging Venomous Reptiles and Reptiles of Concern; Prohibited Reptile Species.

(1) Any person who keeps, possesses, exhibits or sells poisonous or venomous reptiles shall comply with Sections 372.86, 372.87, 372.88, 372.89, 372.90, 372.901, 372.91 and 327.921, F.S., and the provisions of this rule.

~~(2) Any person who keeps, possesses, exhibits or sells reptiles of concern shall comply with Sections 372.921 and 372.922, F.S., and the provisions of this rule.~~ The following reptiles, including any subspecies or hybrids thereof, are designated as reptiles of concern:

- (a) Indian or Burmese python (*Python molurus*)
- (b) Reticulated python (*Python reticulatus*)
- (c) African rock python (*Python sebae*)
- (d) Amethystine or Scrub python (*Morelia amethystinus*)
- (e) Green anacondas (*Eunectes murinus*)
- (f) Nile monitor (*Varanus niloticus*)

(3) through (7) renumbered (2) through (6) No change.

~~(7)(8)~~ Transporting:

Any person transporting venomous reptiles shall comply with Section ~~372.86~~ ~~372.90~~, F.S., and the provisions of this rule. Venomous reptiles shall be placed in a stout closely woven cloth sack, tied or otherwise secured. In lieu of a stout closely woven cloth sack, the venomous reptile may be contained in a trap or box of solid construction which is locked or otherwise secured. The sack, trap or box shall then be placed in a box. The box shall be of strong material in solid sheets, except for small air holes which shall be screened. Boxes containing venomous reptiles shall be prominently labeled “Danger – Venomous Reptiles.”

~~(8)(9)~~ No change.

~~(10) All species of snakes commonly known as sea snakes or sea kraits, belonging to the families Elapidae, Hydrophiidae or Laticaudidae are prohibited from being imported or possessed, except under the provisions of Section 370.081(4), F.S.~~

Specific Authority Art. IV, Sec. 9, Fla. Const., 372.86, 372.92, 372.921,~~372.922~~ FS. Law Implemented Art. IV, Sec. 9, Fla. Const., 372.86, 372.87, 372.88, ~~372.89~~, ~~372.90~~, ~~372.901~~, ~~372.91~~, 372.92, 372.921,~~372.922~~ FS. History—New 1-1-08, Amended _____.

68A-6.0071 Record Keeping and Reporting Requirements.

Any person who possesses any live venomous reptile or reptile of concern shall have a permit issued in accordance with Section 372.86, F.S., and, if applicable, 372.921 ~~or 372.922~~, F.S., and comply with the provisions of this rule, Rule 68A-6.007, F.A.C., and, if applicable, Rule 68A-6.0072, F.A.C.

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

(b) Persons possessing any live venomous reptile or live reptile of concern in accordance with Section 372.86, F.S., ~~or any live reptile of concern in accordance with Section 372.922, F.S.~~, for personal use shall complete a Captive Wildlife Inventory-Reptile form, FWCDLE_620IV-R (12-06), and submit same to Florida Fish and Wildlife Conservation Commission, Division of Law Enforcement, 620 South Meridian Street, Tallahassee, Florida 32399-1600, upon annual renewal of license and upon any instance of inventory change.

(c) No change.

Specific Authority Art. IV, Sec. 9, Fla. Const., 372.86, 372.92, 372.921,~~372.922~~ FS. Law Implemented Art. IV, Sec. 9, Fla. Const., 372.86, 372.87, 372.88, ~~372.89~~, ~~372.90~~, ~~372.901~~, ~~372.91~~, 372.92, 372.921,~~372.922~~ FS. History—New 1-1-08, Amended _____.

68A-6.0072 Identification of Non-Native Venomous Reptiles and Reptiles of Concern; Escape.

(1) Any person who keeps or possesses for personal use any live venomous reptile not indigenous to Florida or any live reptile of concern, in accordance with Section 372.86, F.S., ~~or any live reptile of concern, in accordance with Section 372.922, F.S.~~, must permanently identify such reptile.

(a) through (c) No change.

(2) No change.

(3) Passive integrated transponder (PIT tag) identification shall consist of the implantation ~~implementation~~ of a unique PIT tag under the specimen’s skin in a manner to maintain the PIT tag permanently in place.

(a) For snakes implantation ~~implementation~~ shall be in specimens with a two (2) inch or greater diameter. The PIT tag shall be implanted in the back one-third (1/3) of the snake, forward of the anal plate.

(b) For lizards implantation ~~implementation~~ shall be in the body cavity in close proximity to and forward of a rear leg or in a rear leg.

(c) The requirement pertaining to the location of the PIT tag implantation ~~implementation~~ shall not apply to specimens implanted prior to acquisition of the animal or prior to the effective date of this rule.

(4) through (5) No change.

Specific Authority Art. IV, Sec. 9, Fla. Const., 372.86, 372.92, 372.921,~~372.922~~ FS. Law Implemented Art. IV, Sec. 9, Fla. Const., 372.86, 372.87, 372.88, ~~372.89~~, ~~372.90~~, ~~372.901~~, ~~372.91~~, 372.92, 372.921,~~372.922~~ FS. History—New 1-1-08, Amended _____.

NAME OF PERSON ORIGINATING PROPOSED RULE:
Colonel Julie Jones, Director, Division of Law Enforcement
NAME OF SUPERVISOR OR PERSON WHO APPROVED
THE PROPOSED RULE: Mr. Kenneth D. Haddad, Executive
Director
DATE PROPOSED RULE APPROVED BY AGENCY
HEAD: September 13, 2007
DATE NOTICE OF PROPOSED RULE DEVELOPMENT
PUBLISHED IN FAW: May 4, 2007

**FISH AND WILDLIFE CONSERVATION
COMMISSION**

Freshwater Fish and Wildlife

RULE NO.: RULE TITLE
68A-13.003 Hunting Regulations for Ducks,
 Geese, and Coots

PURPOSE AND EFFECT: The purpose of the proposed rule change is to establish bag limits for taking ducks in conformance with federal regulations. The daily bag limit for canvasbacks is accordingly increased from one to two. The effect of this rule amendment is to allow a larger harvest of these birds, but within safe levels to assure their conservation.

SUMMARY: Subparagraph (1)(f)1. of Rule 68A-13.003, F.A.C., is amended to increase the daily bag limit for canvasbacks from one to two.

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.

SPECIFIC AUTHORITY: Article IV, Section 9, Florida Constitution.

LAW IMPLEMENTED: Article IV, Section 9, Florida Constitution.

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

DATES AND TIME: During the regular meeting of the Commission, December 5-6, 2007, 8:30 a.m. – 5:00 p.m., each day

PLACE: Marriott Key Largo, 103800 Overseas Highway, Key Largo, 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: The ADA Coordinator, at (850)488-6411. 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: James Antista, General Counsel, Florida Fish and Wildlife Conservation Commission, 620 South Meridian Street, Tallahassee, Florida 32399-1600

THE FULL TEXT OF THE PROPOSED RULE IS:

68A-13.003 Hunting Regulations for Ducks, Geese, and Coots.

The Commission has approved the following regulations and bag limits for taking ducks, geese, and coots:

- (1) Duck, light goose, and coot season:
 - (a) through (e) No change.
 - (f) Limits: The possession limit for ducks and coots shall be two days' bag limit. There shall be no possession limit for light geese. Light geese include only snow (including blue) and Ross' geese.

1. Ducks: The daily bag limit for ducks is six, including no more than four mallards, of which only two can be females, two scaup, four scoters, two wood ducks, two redheads, one pintail, ~~two~~ one canvasbacks, one black duck, one Florida duck (mottled duck), and one fulvous whistling-duck. In addition to the daily bag limit for ducks, the daily bag limit for mergansers is five, only two of which may be hooded mergansers.

2. Light geese: The daily bag limit for light geese is 15.

3. Coots: The daily bag limit for coots is 15.

(2) through (5) No change.

Specific Authority Art. IV, Sec. 9, Fla. Const. Law Implemented Art. IV, Sec. 9, Fla. Const. History–New 8-1-79, Amended 10-23-79, 8-19-80, 9-29-81, 8-30-82, 7-27-83, 8-13-84, 8-13-85, 10-1-85, Formerly 39-13.03, Amended 8-5-86, 8-24-87, 8-18-88, 12-12-88, 8-17-89, 10-30-89, 8-9-90, 10-31-90, 8-22-91, 10-31-91, 8-23-92, 10-22-92, 9-2-93, 10-28-93, 11-6-94, 10-23-95, 10-20-96, 8-7-97, 10-28-97, 11-12-98, 6-23-99, Formerly 39-13.003, Amended 11-7-00, 5-13-02, 5-1-03, 7-1-04, 7-1-05, 2-1-06, 7-1-06, 1-9-07,_____.

BE ADVISED THAT THESE PROPOSED RULES MAY BE FILED FOR ADOPTION AS SOON AS POSSIBLE FOLLOWING THE COMMISSION MEETING AT WHICH THEY ARE CONSIDERED IF THE RULES ARE NOT CHANGED. IF CHANGED, THE RULES MAY BE FILED AS SOON AS POSSIBLE AFTER PUBLICATION OF A NOTICE OF CHANGE IN THE FAW.

NAME OF PERSON ORIGINATING PROPOSED RULE: Mr. Nick Wiley, Director, Division of Hunting and Game Management

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Mr. Kenneth D. Haddad, Executive Director

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: September 12, 2007

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: November 22, 2006

FISH AND WILDLIFE CONSERVATION COMMISSION

Freshwater Fish and Wildlife

RULE NOS.:	RULE TITLES:
68A-27.003	Designation of Endangered Species; Prohibitions; Permits
68A-27.004	Designation of Threatened Species; Prohibitions; Permits

PURPOSE AND EFFECT: The purpose of these proposed revised rules is to reclassify the Florida manatee from an endangered species to a threatened species. The Fish and Wildlife Conservation Commission has determined that this reclassification is warranted. The effect of these rule changes will be to more accurately classify the imperiled status of the manatee while maintaining protections to conserve the species.

SUMMARY: Rule 68A-27.003, F.A.C., is amended to delete the listing of the manatee as an endangered species. Rule 68A-27.004, F.A.C., is amended to add the listing of the manatee as a threatened species.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS: The Commission expects the effects of the proposed rule changes to be very limited and thus does not expect significant economic impacts to result from the change in classification from “endangered” to “threatened.” Costs to implement the rule changes are not expected to exceed a few thousand dollars and the Commission does not anticipate any significant change in state or local revenues. The statement of estimated regulatory costs is available at: <http://myfwc.com/manatee/>.

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

SPECIFIC AUTHORITY: Article IV, Section 9, Florida Constitution.

LAW IMPLEMENTED: Article IV, Section 9, Florida Constitution; 372.121 FS.

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

DATES AND TIME: During the Commission’s regular meeting December 5-6, 2007, 8:30 a.m. – 5:00 p.m., each day

PLACE: Marriott Key Largo, Key Largo, 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: The ADA Coordinator, at (850)488-6411. 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: Mr. Tim Breault, Director, Division of Habitat and Species Conservation, Fish and Wildlife Conservation Commission, 620 South Meridian Street, Tallahassee, Florida 32399-1600

THE FULL TEXT OF THE PROPOSED RULES IS:

68A-27.003 Designation of Endangered Species; Prohibitions; Permits.

(1) The following species, listed prior to June 23, 1999, are hereby declared to be endangered and shall be afforded the protective provisions specified. No person shall pursue, molest, harm, harass, capture, possess, or sell any of the endangered species included in this subsection, or parts thereof or their nests or eggs except as authorized by specific permit, permits being issued only when the permitted activity will clearly enhance the survival potential of the species.

- (a) Pillar coral (*Dendrogyra cylindrus*)
- (b) Blackmouth shiner (*Notropis melanostomus*)
- (c) Okaloosa darter (*Etheostoma okaloosae*)
- (d) Shortnose sturgeon (*Acipenser brevirostrum*)
- (e) American crocodile (*Crocodylus acutus*)
- (f) Green sea turtle (*Chelonia mydas*)
- (g) Hawksbill sea turtle (*Eretmochelys imbricata*)
- (h) Kemp’s ridley sea turtle (*Lepidochelys kempii*)
- (i) Leatherback sea turtle (*Dermochelys coriacea*)
- (j) Striped mud turtle (*Kinosternon bauri*) (lower keys population only)
- (k) Wood stork (*Mycteria americana*)
- (l) Snail kite (*Rostrhamus sociabilis plumbeus*)
- (m) Peregrine falcon (*Falco peregrinus*)
- (n) Ivory-billed woodpecker (*Campephilus principalis*)
- (o) Bachman’s warbler (*Vermivora bachmanii*)
- (p) Kirtland’s warbler (*Dendroica kirtlandii*)
- (q) Florida grasshopper sparrow (*Ammodramus savannarum floridanus*)
- (r) Cape Sable seaside sparrow (*Ammodramus maritimus mirabilis*)
- (s) Gray bat (*Myotis grisescens*)
- (t) Indiana bat (*Myotis sodalis*)
- (u) Florida mastiff bat (*Eumops glaucinus floridanus*)
- (v) Silver rice rat (*Oryzomys argentatus*)
- (w) Choctawhatchee beach mouse (*Peromyscus polionotus allophrys*)
- (x) Perdido Key beach mouse (*Peromyscus polionotus trissyllepsis*)
- (y) St. Andrews beach mouse (*Peromyscus polionotus peninsularis*)
- (z) Anastasia Island beach mouse (*Peromyscus polionotus phasma*)

- (aa) Key Largo cotton mouse (*Peromyscus gossypinus allapaticola*)
- (bb) Key Largo woodrat (*Neotoma floridana smalli*)
- (cc) Florida saltmarsh vole (*Microtus pennsylvanicus dukecampbelli*)
- (dd) Lower Keys marsh rabbit (*Sylvilagus palustris hefneri*)
- ~~(ee) Florida manatee (*Trichechus manatus latirostris*)~~
- ~~(ee)(ff)~~ Florida panther (*Puma concolor coryi*)
- ~~(ff)(gg)~~ Key deer (*Odocoileus virginianus clavium*). No person shall feed Key deer (*Odocoileus virginianus clavium*) by hand or by placing any food that serves to attract such species.

- ~~(gg)(hh)~~ North Atlantic right whale (*Eubalaena glacialis*)
- ~~(hh)(ii)~~ Fin whale (*Balaenoptera physalus*)
- ~~(ii)(jj)~~ Sei whale (*Balaenoptera borealis*)
- ~~(jj)(kk)~~ Humpback whale (*Megaptera novaeangliae*)
- ~~(kk)(ll)~~ Sperm whale (*Physeter macrocephalus*)
- ~~(ll)(mm)~~ Schaus' swallowtail butterfly (*Heraclides aristodemus ponceanus*)
- ~~(mm)(nn)~~ Stock Island tree snail (*Orthalicus reses*)

(2) The Miami blue butterfly (*Cyclargus [= Hemiargus] thomasi bethunebakeri*), listed after June 23, 1999, is hereby declared to be endangered, and shall be afforded the protective provisions specified in this subsection. No person shall take, harm, harass, possess, sell, or transport any Miami blue butterfly (*Cyclargus [= Hemiargus] thomasi bethunebakeri*), or parts thereof or their eggs, larvae or pupae except as authorized by permit from the executive director. Permits will be issued based upon whether issuance would further management plan goals and objectives.

Specific Authority Art. IV, Sec. 9, Fla. Const. Law Implemented Art. IV, Sec. 9, Fla. Const. History—New 8-1-79, Amended 6-22-80, 7-1-83, 7-1-84, 7-1-85, Formerly 39-27.03, Amended 6-1-86, 5-10-87, 4-27-89, 9-14-93, 6-23-99, Formerly 39-27.003, Amended 12-16-03,_____.

68A-27.004 Designation of Threatened Species; Prohibitions; Permits.

(1) The following species, listed prior to June 23, 1999, are hereby declared to be threatened, and shall be afforded the protective provisions specified.

(a) No person shall take, possess, transport, molest, harass or sell any of the threatened species included in this subsection or parts thereof or their nests or eggs except as authorized by specific permit from the Executive Director, permits being issued only for scientific or conservation purposes and only upon a showing by the applicant that the permitted activity will not have a negative impact on the survival potential of the species.

1. Crystal darter (*Crystallaria asprella*)
2. Key silverside (*Menidia conchorum*)
3. Loggerhead seaturtle (*Caretta caretta*)

4. Bluetail mole skink (*Eumeces egregius lividus*)
5. Sand skink (*Neoseps reynoldsi*)
6. Key ringneck snake (*Diadophis punctatus acricus*)
7. Rim rock crowned snake (*Tantilla oolitica*)
8. Short-tailed snake (*Stilosoma extenuatum*)
9. Florida brown snake (*Storeria dekayi victa*) (lower keys population only)
10. Florida ribbon snake (*Thamnophis sauritus sackeni*) (lower keys population only)
11. Eastern Indigo snake (*Drymarchon corais couperi*)
12. Atlantic salt marsh water snake (*Nerodia clarkii taeniata*)
13. Bald eagle (*Haliaeetus leucocephalus*)
14. Southeastern American kestrel (*Falco sparverius paulus*)
15. Crested caracara (Caracara cheriway)
16. Florida sandhill crane (*Grus canadensis pratensis*)
17. Roseate tern (*Sterna dougalli*)
18. Least tern (*Sterna antillarum*)
19. White-crowned pigeon (*Columba leucocephala*)
20. Florida scrub jay (*Aphelocoma coerulescens*)
21. Snowy plover (*Charadrius alexandrinus*)
22. Piping plover (*Charadrius melodus*)
23. Big Cypress fox squirrel (*Sciurus niger avicennia*)
24. Florida black bear (*Ursus americanus floridanus*) (other than those found in Baker and Columbia counties or in Apalachicola National Forest or which are held in captivity under permit)
25. Everglades mink (*Mustela vison evergladensis*)
26. Southeastern beach mouse (*Peromyscus polionotus niveiventris*)

(2) The following species, listed after June 23, 1999, are hereby declared to be threatened, and shall be afforded the protective provisions specified.

~~(a)(2)~~ The Gopher tortoise (*Gopherus polyphemus*) is hereby declared to be threatened, and shall be afforded the protective provisions specified in this paragraph. No person shall take, attempt to take, pursue, hunt, harass, capture, possess, sell or transport any gopher tortoise or parts thereof or their eggs, or molest, damage, or destroy gopher tortoise burrows, except as authorized by Commission permit or when complying with Commission approved guidelines for specific actions which may impact gopher tortoises and their burrows. A gopher tortoise burrow is a tunnel with a cross-section that closely approximates the shape of a gopher tortoise. Permits will be issued based upon whether issuance would further management plan goals and objectives.

(b) The Florida manatee (*Trichechus manatus latirostris*) is hereby declared to be threatened and shall be afforded the protective provisions specified in this paragraph. It is unlawful for any person at any time, by any means, or in any manner intentionally or negligently to annoy, molest, harass, or disturb

or attempt to molest, harass, or disturb any manatee; injure or harm or attempt to injure or harm any manatee; capture or collect or attempt to capture or collect any manatee; pursue, hunt, wound, or kill or attempt to pursue, hunt, wound, or kill any manatee; or possess, literally or constructively, any manatee or any part of any manatee. Permits to possess manatees for scientific or enhancement purposes may be issued by the U. S. Department of the Interior.

Specific Authority Art. IV, Sec. 9, Fla. Const. Law Implemented Art. IV, Sec. 9, Fla. Const. History—New 8-1-79, Amended 6-22-80, 7-1-83, 7-1-85, Formerly 39-27.04, Amended 6-1-86, 5-10-87, 4-27-89, 6-23-99, Formerly 39-27.004, Amended 9-29-03, _____.

NAME OF PERSON ORIGINATING PROPOSED RULE: Mr. Tim Breault, Division of Habitat and Species Conservation
 NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Mr. Kenneth D. Haddad, Executive Director
 DATE PROPOSED RULE APPROVED BY AGENCY HEAD: June 13, 2007
 DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: May 4, 2007

published in Vol. 33, No. 14, April 6, 2007 issue of the Florida Administrative Weekly to establish minimum lake levels and guidance levels for certain lakes in Pasco County, Florida, specifically, Crews Lake. Notice of the first public hearing was published in the June 15, 2007, Vol. 33, No. 24 Florida Administrative Weekly. Notices continuing the public hearing published in the Florida Administrative Weekly on August 10, 2007, Vol. 33, No. 32 and on September 14, 2007, Vol. 33, No. 37. This notice continues the public hearing to the date and time listed above.

A copy of the agenda may be obtained by contacting: Karen A. Lloyd, Assistant General Counsel, 2379 Broad Street, Brooksville, Florida 34604-6899, (352)796-7211, extension 4651.

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: Dianne Lee, (352)796-7211 or 1(800)423-1476, extension 4658; TDD only number 1(800)231-6103. 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).

Section III
Notices of Changes, Corrections and Withdrawals

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."

WATER MANAGEMENT DISTRICTS

Southwest Florida Water Management District

RULE NO.: 40D-8.624
 RULE TITLE: Guidance and Minimum Levels for Lakes

NOTICE OF PUBLIC HEARING

The Southwest Florida Water Management District announces a hearing regarding the above rule, as noticed in Vol. 33, No. 14, April 6, 2007 Florida Administrative Weekly.

DATE AND TIME: December 18, 2007, 9:00 a.m.
 PLACE: Governing Board Room, Southwest Florida Water Management District Headquarters, 2379 Broad Street, Brooksville, Florida 34604-6899
 GENERAL SUBJECT MATTER TO BE CONSIDERED: James P. Gills, as Trustee, has requested a public hearing pursuant to paragraph 120.54(3)(c), F.S., regarding the District's notice of proposed Rule 40D-8.624, F.A.C.,

AGENCY FOR HEALTH CARE ADMINISTRATION

Medicaid

RULE NO.: 59G-4.140
 RULE TITLE: Hospice Services
 NOTICE OF CHANGE

Notice is hereby given that the following changes have been made to the proposed rule in accordance with subparagraph 120.54(3)(d)1., F.S., published in Vol. 33, No. 26, June 29, 2007 issue of the Florida Administrative Weekly.

This is the second Notice of Change. The first Notice of Change was published in Vol 33, No. 34, August 24, 2007, issue of the Florida Administrative Weekly. A second public hearing was advertised in Vol. 33, No. 39, September 28, 2007, issue of the Florida Administrative Weekly.

These changes are in response to comments received prior to the second public hearing.

The rule incorporates by reference update January 2007 to the Florida Medicaid Hospice Services Coverage and Limitations Handbook. On page 2-27, Room and Board Reimbursement for a Medicaid-Certified Bed, last paragraph, first sentence, we added "Effective (date of adoption will be entered here after the rule is filed)" room and board reimbursement for hospice recipients residing in a nursing facility does not include the day of discharge from hospice.