

SUBJECT AREA TO BE ADDRESSED: Procedures for proving satisfaction of licensing education requirements.

RULEMAKING AUTHORITY: 497.103(5), 497.141(2) FS.

LAW IMPLEMENTED: 497.141 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: August 26, 2011, 11:00 a.m.

PLACE: Room 332, Pepper Building, 111 W. Madison 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 4 days before the workshop/meeting by contacting: LaTonya Bryant-Parker, at (850)413-4957 or LaTonya.Bryant-Parker@myfloridaCFO.com. If you are hearing or speech impaired, please contact the agency using the Florida Relay Service, 1(800)955-8771 (TDD) or 1(800)955-8770 (Voice).

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT AND A COPY OF THE PRELIMINARY DRAFT, IF AVAILABLE, IS: Douglas Shropshire, Executive Director, Board of Funeral, Cemetery, and Consumer Services, Division of Funeral, Cemetery, and Consumer Services, Department of Financial Services, 200 East Gaines Street, Tallahassee, FL 32399-0361, (850)413-4984, shropshired@MyFloridaCFO.com. Direct any request for rule development workshop to Mr. Shropshire.

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

Address Confidentiality Program, as well as the role of the program assistants assisting the victims in the enrollment process.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS: The Agency has determined that this will not have an adverse impact on small business or likely increase directly or indirectly regulatory costs in excess of \$200,000 in the aggregate within one year after the implementation of the rule. A SERC has not been prepared by the agency.

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

RULEMAKING AUTHORITY: 741.409 FS.

LAW IMPLEMENTED: 741.401, 741.402, 741.403, 741.404, 741.405, 741.406, 741.407, 741.408, 741.409, 741.465, 97.0585(3) FS.

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

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULES IS: Christina Harris, Chief of Advocacy and Grants Management, Department of Legal Affairs, PL-01, The Capitol, Tallahassee, Florida 32399-1050, (850)414-3300

THE FULL TEXT OF THE PROPOSED RULES IS:

2A-7.001 Definitions.

(1) "Address Confidentiality Program" is the statutorily created program responsible for implementing the provisions of Sections 741.401-409, F.S., within the Office of the Attorney General.

(2) "Agency or Governmental Entity" means an office, department, division, bureau, board, commission, or other statutory unit of state or local government or any functional subdivision of the aforementioned.

(3) "Applicant" means an adult person, a parent or guardian acting on behalf of a minor, or a guardian acting on behalf of a person adjudicated incapacitated under Chapter 744, F.S., who is applying to the department to have an address designated by the department serve as the person's address or the address of the minor or incapacitated person ~~a person who is applying for participation in the Address Confidentiality Program. An applicant may be primary (the victim) or secondary (minor).~~

(4) "Applicant Assistant" means an employee of a state or local agency, or a non-profit organization that has been designated by the department to assist individuals in applying for enrollment in the program.

(5) "Authorization code" is the identification number assigned to a participant.

Section II Proposed Rules

DEPARTMENT OF LEGAL AFFAIRS

Division of Victim Services and Criminal Justice Programs

RULE NOS.:	RULE TITLES:
2A-7.001	Definitions
2A-7.0021	Eligibility
2A-7.0022	Application Process

PURPOSE AND EFFECT: Clarifies definitions, eligibility, application and documentation requirements and processes for victims of domestic violence and stalking to participate in the Address Confidentiality Program, as well as the role of the program assistants assisting the victims in the enrollment process.

SUMMARY: This rule provides the definitions, eligibility, application and documentation requirements and processes for victims of domestic violence and stalking to participate in the

(6) “Authorized personnel” means an employee of the Department of State, Division of Elections, or Supervisor of Elections, who has been designated by the chief executive officer of the respective agency to process and access voter application and voting records pertaining to program participants.

(7) “Department” means the Department of Legal Affairs, Office of the Attorney General.

(8) “Domestic Violence” means an act as defined in Section 741.28, F.S., and includes a threat of such acts committed against an individual in a domestic situation, regardless of whether these acts or threats have been reported to law enforcement officers.

~~(9)(8)~~ “Protected records voter” means a program participant who is registered and qualified to vote in this state and has requested an absentee ballot pursuant to Section 101.62, F.S.

~~(10)(9)~~ “Record” means any information relating to the conduct or performance of a governmental or proprietary function prepared, owned, used, or retained by any state or local agency regardless of physical form or characteristics.

~~(11)(10)~~ “Stalking” means an act as defined in Section 784.048, F.S.

~~(12)(11)~~ “Substitute mailing address” means the mailing address designated by the department which shall not be the participant’s residential address.

Rulemaking Authority 741.409 FS. Law Implemented 741.402, 741.403, 741.405, 741.406, 471.408 FS. History—New 1-27-99, Amended 5-4-11, _____.

2A-7.0021 Eligibility.

(1) A person who is a victim of domestic violence ~~as defined in Section 741.28, F.S., or stalking as defined in Section 784.048, F.S.,~~ is eligible to apply for participation in this program.

(2) A person who is a victim of domestic violence or stalking who relocates to Florida may apply for enrollment and is subject to the same eligibility criteria as Florida residents.

(3) A name change will result in the participant’s cancellation from the program. However, an individual may re-apply by completing an application for enrollment.

(4) Participation in this program cannot be used to circumvent or nullify any other Florida law that requires an individual to register her or his address with another public agency.

Rulemaking Authority 741.409 FS. Law Implemented 97.058(3), 741.403, 741.404, 741.405, 741.406, 741.409, 741.465, 775.13, 775.21, 784.048, 944.606, 944.607, 944.608, 944.609 FS. History—New 5-4-11, Amended _____.

2A-7.0022 Application Process.

(1) ~~The applicant~~ ~~A person who wishes to apply or renew her or his participation~~ shall provide the following information to the department:

- (a) ~~Full Applicant’s full~~ legal name,
- (b) Date of birth,
- (c) Last four digits of social security number,
- (d) Actual home address (street number and name, city, state, zip code),
- (e) Mailing address (if different),
- (f) Home telephone number,
- (g) Work telephone number,
- (h) Other telephone number where applicant can be reached,
- (i) Name and physical address of employer(s),
- (j) School name and physical address if applicable,
- ~~(k) An affirmation that the applicant is not required to register her or his address with any other public agency under Florida law.~~

~~(k)(4)~~ A signed and dated sworn statement by the applicant that he or she has good reason to believe that he or she, or the minor or incapacitated person on whose behalf the application is made, is a victim of domestic violence or stalking, and that the applicant fears for his or her safety or his or her children’s safety or the safety of the minor or incapacitated person on whose behalf the application is made, that attests to the following: “I certify that I am a victim of (select the appropriate category) domestic violence (as defined in Section 741.28, F.S.) or stalking (as defined in Section 784.048, F.S.) I declare under penalty of perjury that the foregoing is true and correct.”

(2) An application for enrollment may be obtained from an applicant assistant at selected state or local agencies or non-profit organizations that have been designated by the department to assist in the application process.

(3) The application must be received by the department at the following address: Office of the Attorney General, Address Confidentiality Program, P. O. Box 6298, Tallahassee, Florida 32314-6298.

(4) An eligible applicant who has filed a properly completed application with the department shall be certified as a participant. Upon certification, each participant will be issued an authorization card, which will include the following:

- (a) Participant’s name,
- (b) Authorization code,
- (c) Substitute mailing address, and
- (d) Expiration date.

(5) Certification shall be effective on the date the application is approved by the department.

(6) Mail received by the department that does not include the name and authorization code of a certified participant may not be able to be forwarded.

(7) If mail forwarded by the department to the participant is returned by the post office, the department will attempt to contact the participant by telephone to verify the address. If contact is not successful within seven days, the participant's certification will be cancelled and the mail will be returned to the United States Postal Service.

Rulemaking Authority 741.409 FS. Law Implemented 97.058(3), 741.403, 741.404, 741.405, 741.406, 741.409, 741.465, ~~775.13, 775.21~~, 784.048, ~~944.606, 944.607, 944.608, 944.609~~ FS. History--New 5-4-11, Amended.

NAME OF PERSON ORIGINATING PROPOSED RULE: Christina Harris, Chief of Advocacy and Grants
 NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: Attorney General Pam Bondi
 DATE PROPOSED RULE APPROVED BY AGENCY HEAD: July 19, 2011
 DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: May 6, 2011

DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES

Division of Marketing and Development

RULE NOS.:	RULE TITLES:
5H-5.001	Information for Weekly Report
5H-5.004	Tobacco Warehouses; Auction, Weighing and Handling Fees; Commission on Gross Sales

PURPOSE AND EFFECT: This rulemaking proposes to repeal existing Chapter 5H-5, F.A.C., which has become outdated.

SUMMARY: This rulemaking proposes to repeal existing Chapter 5H-5, F.A.C., which has become outdated.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS: The Agency has determined that this will not have an adverse impact on small business or likely increase directly or indirectly regulatory costs in excess of \$200,000 in the aggregate within one year after the implementation of the rule. A SERC has not been prepared by the agency.

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

RULEMAKING AUTHORITY: 574.08, 574.14 FS.

LAW IMPLEMENTED: 574.08 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: Marshall Wiseheart, (850)488-4131, Marshall.Wiseheart@freshfromflorida.com

THE FULL TEXT OF THE PROPOSED RULES IS:

5H-5.001 Information for Weekly Report.

Rulemaking Specific Authority 574.08, 574.14 FS. Law Implemented 574.08 FS. History--Repromulgated 12-31-74, Formerly 5H-5.01, Amended 6-4-95, Repealed.

5H-5.004 Tobacco Warehouses; Auction, Weighing and Handling Fees; Commission on Gross Sales.

Rulemaking Specific Authority 574.14 FS. Law Implemented 574.12(1) FS. History--New 7-22-65, Repromulgated 12-31-74, Formerly 5H-5.04, Amended 8-12-91, Repealed.

NAME OF PERSON ORIGINATING PROPOSED RULE: Kerry Flack, Assistant Director Division of Marketing and Development
 NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: Adam H. Putnam, Commissioner of Agriculture
 DATE PROPOSED RULE APPROVED BY AGENCY HEAD: July 22, 2011

DEPARTMENT OF CORRECTIONS

RULE NO.:	RULE TITLE:
33-208.403	Random Drug Testing of Employees

PURPOSE AND EFFECT: The purpose and effect of the proposed rule is to generally modify the provisions concerning who is subject to random testing and the procedures associated with such testing.

SUMMARY: The proposed rule amends the provisions regarding who is subject to drug testing and the consequences of positive drug testing results.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS: The agency has determined that this rule will not have an adverse impact on small business and is not expected to directly or indirectly increase regulatory costs more than \$200,000 within a year of taking effect. A SERC has not been prepared by the agency.

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

RULEMAKING AUTHORITY: 944.09, 944.474 FS.

LAW IMPLEMENTED: 112.0455, 944.09, 944.474 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: Kendra Lee Jowers, 501 South Calhoun Street, Tallahassee, Florida 32399-2500

THE FULL TEXT OF THE PROPOSED RULE IS:

33-208.403 Random Drug Testing of Employees.
 (1) Definitions.

(a) Authorizing Individual – The person designated by the Chief of Personnel to interact with an employee regarding the drug testing program.

(b) Chain of Custody – The procedures used to account for the integrity of each specimen by tracking its handling and storage from the point of specimen collection to final disposition.

(c) Contact Person – The employees designated by the Chief of Personnel to interact with the laboratory and Medical Review Officer and coordinate the drug testing program.

(d) Medical Review Officer – A licensed physician under contract with the Department or the outside vendor used by the Department who reviews all drug tests from the laboratory and makes the final determination regarding the test result.

(e) Random Employee Drug Test – A drug test conducted upon based on a computer-generated random sampling of Department employees, administered for the purposes of detecting the presence of drugs, controlled substances; (including anabolic steroids); or their metabolites.

~~(f) Random Test Designated Position – An employee is in a random test designated position, and thus is required to submit to random testing, if the employee:~~

- ~~1. Has job duties that require or allow the employee to carry a firearm;~~
- ~~2. Possesses law enforcement powers;~~
- ~~3. Has job duties involving regular unsupervised access to and direct contact with inmates or offenders under community supervision;~~
- ~~4. Has job duties involving unsupervised access to controlled substances;~~
- ~~5. Operates dangerous instrumentalities such as vehicles;~~
- ~~6. Provides health care and psychological care to inmates;~~
- ~~7. Provides direct services to inmates;~~
- ~~8. Has access to investigations of criminal allegations and the ability to alter the investigation;~~
- ~~9. Has the ability to alter information in databases, computer systems, or records relating to inmates or offenders under community supervision; or~~
- ~~10. Is in any position, including a supervisory or management position, in which a drug impairment could constitute an immediate and direct threat to public health or safety.~~

(2) All Department Only employees shall be subject to mandatory random employee drug tests in random test designated positions, including employees required to maintain certification under Sections 943.13 and 943.135, F.S., random drug testing. Employees who are not in test designated positions will be included in the random drug testing pool only if such employees choose to voluntarily participate in the random testing program. An employee may seek review of the determination that he or she is working in a test designated

~~position within 14 days of notification of test designation or, subsequently, within 14 days of a change in the employee's job duties.~~

~~(a) To seek review, the employee shall submit a letter of explanation based upon the criteria in paragraph (1)(f) of this rule to the Chief, Bureau of Personnel.~~

~~(b) Additional review of position duties will be conducted by the Bureau of Personnel and the Office of the General Counsel and will include information provided in the employee's request as well as any other information obtained during the review.~~

~~(c) A written response from the Bureau of Personnel will be provided to the employee once a determination is made on the appeal.~~

~~(a)(3) The Department shall generate random lists of employees individual positions subject to testing each fiscal quarter. The time period for testing in an individual quarter shall be randomly chosen each quarter.~~

~~(b)(a) The Department shall disburse the list to the authorizing individuals during each random testing period.~~

~~(c)(b) The list shall include the date by which all tests for that testing period must be completed.~~

~~(d)(e) Each time an employee's name appears on the random list, he or she shall be tested regardless of whether or not he or she has been previously tested.~~

~~(e)(d) Listed employees shall not be excused from random drug testing unless they are on approved leave of absence or are out of town on Department department business, or it is determined that the employee was listed in error. If the employee returns to his or her assigned worksite in time for the test to be rescheduled and completed within the prescribed time period deadline, the authorizing individual shall ensure testing is completed.~~

~~(f)(e) The list is confidential and shall not be disseminated to non-essential staff members prior to testing.~~

(4) Off-Site Testing and Confirmation Process. Once an employee is randomly selected for a drug test, the authorizing individual shall:

- (a) Initiate the chain of custody process;
- (b) Provide the employee with the drug testing instructions and directions to the designated collection site;
- (c) Provide the employee with a written notice and consent for testing form that advises the employee that he or she has been randomly selected for testing; and that he or she has 24 hours to complete the test.

(5) Once the necessary forms have been completed and signed, the employee shall be instructed to present the employee's Department of Corrections' employee identification card to collection site staff. The employee shall take all copies of the chain of custody form to the collection site.

(6) The employee shall remain at the collection site until able to produce a sufficient specimen unless the employee advises that a medical condition has caused the inability to produce a sufficient specimen. If the employee cannot produce a sufficient specimen quantity, the collection site staff shall contact the authorizing individual. The employee shall provide a doctor's statement to the authorizing individual within three 3 business days attesting to the medical condition. If the current random testing period has not expired, the employee will be given another notice that he or she has 24 hours to complete the test and will be required to report again for testing.

(7) If an employee's test results show the specimen to be adulterated, the employee will be considered to have failed the test.

(8) If the employee fails or refuses to cooperate in any way with the drug testing process as outlined in this Rule subsections (4) through (6), including completing and signing required paperwork; failing to report to the collection site within the specified time frame; failing to follow proper collection site protocols; failing to provide a specimen without a doctor's statement as specified in subsection (6); using a substitute specimen; or providing a specimen determined to be adulterated, the authorizing individual shall notify the servicing personnel office, and the employee shall be advised in writing that he is subject to disciplinary action up to and including dismissal for refusal to submit to testing.

~~(9) Refusal to submit to drug testing is considered to be a failed drug test. Employees who are not in test designated positions, but have volunteered for testing, are permitted to withdraw from their volunteer status at any point prior to the actual submission of a specimen and such withdrawal shall not be considered to be a failed drug test.~~

~~(10)(9)~~ If the employee's test results are negative for drugs but show possible dilution, the test shall be considered negative.

~~(11)(10)~~ If the test results are positive, the specimen will be retested by the laboratory for confirmation.

~~(12)(11)~~ All employees with a positive confirmed drug test shall be contacted by the Medical Review Officer within three 3 days of receipt of the results from the laboratory and offered the opportunity to produce valid documentation of lawful ingestion of the identified controlled substance. The Medical Review Officer may also request consent to review the employee's medical records to assist in evaluating the test results. The employee shall have five 15 days from the date of contact by the Medical Review Officer to present valid documentation of lawful intake of the identified controlled substance from the positive test results.

~~(13)(12)~~ If the Medical Review Officer cannot contact the employee within three 3 days, the Medical Review Officer shall request that the contact person direct the employee to contact the Medical Review Officer. If the employee does not

contact the Medical Review Officer within two 2 days from the request to the employee by the contact person, the Medical Review Officer shall report the test results as positive, which is considered to be a failed drug test.

~~(13) In the case of positive test results for which the employee did not or could not provide valid documentation of lawful intake of the identified controlled substance, the employee shall be notified in writing of the positive test results and the consequences of the results, in accordance with the following:~~

~~(a) First time positive test result for staff not certified under Section 943.13, F.S.~~

~~1. All employees will be given a mandatory referral to the employee assistance program (in accordance with department procedure).~~

~~2. Any governing licensure/certification board (relevant to the employee's position requirements) will be advised of the positive test result.~~

~~3. Any employee in a safety sensitive position (as defined by Section 112.0544, F.S.), receiving a first time positive confirmed drug test will be immediately placed on leave status. If the employee refuses to be placed on leave status, the department will initiate official proceedings to remove the employee from her/his position.~~

~~4. All employees will be required to complete the course of treatment recommended by the employee assistance program treatment provider; however, employees in safety sensitive positions who are placed on leave status pursuant to subparagraph (13)(a)3. above, will be required to complete the recommended course of treatment or present a release to return to work from the treatment provider prior to returning to work.~~

~~5. If an employee refuses to comply with all requirements of subparagraph (13)(a)4. above, she/he will be dismissed in accordance with department procedure.~~

~~6. Once the employee is released to return to work by the treatment provider, the employee will be returned to work in the same or equivalent position, unless such action is prevented due to actions taken by the governing licensure or certification board or body relevant to the employee's position requirements.~~

~~7. If actions by a governing licensure or certification board or body prevent placement into or ongoing employment in the previously held position, the department will offer alternate position placement in accordance with the employee's qualifications, if such is available. If no alternate position placement is available or the employee is unwilling to accept available placement options, the employee will be dismissed in accordance with department procedure.~~

~~8. Follow Up Testing: All employees who remain employed following a first time positive confirmed drug test will be subject to follow up urinalysis drug testing on a quarterly, semiannual, or annual basis for up to two years thereafter, pursuant to Section 112.0455, F.S.~~

~~(b) First time positive result for staff certified under Section 943.13, F.S.~~

~~1. All employees receiving a positive confirmed drug test will immediately be placed on leave status. If the employee refuses to be placed on leave status, the Department will initiate official proceedings to remove the employee from his position.~~

~~2. All employees receiving a positive confirmed drug test will be removed from the class. The Department will offer alternate non-certified position placement in accordance with the employee's qualifications, if such is available. If no alternative position placement is available or the employee is unwilling to accept available placement options, the employee will be dismissed in accordance with department procedure.~~

~~3. All employees will be given a mandatory referral to the employee assistance program in accordance with department procedure.~~

~~4. The Criminal Justice Standards and Training Commission will be contacted and provided with a report in accordance with established reporting procedures.~~

~~5. All employees placed in an alternate position will be required to complete the course of treatment recommended by the employee assistance program treatment provider.~~

~~6. If an employee refuses to comply with all requirements for subparagraph (13)(b)5. above, he will be dismissed in accordance with department procedure.~~

~~7. Follow Up Testing: All employees who remain employed following a first time positive confirmed drug test will be subject to follow up urinalysis drug testing on a quarterly, semiannual, or annual basis for up to two years thereafter, pursuant to Section 112.0455, F.S.~~

~~(c) Second time positive test result.~~

~~1. Any employee receiving a second time positive confirmed drug or alcohol test will be dismissed.~~

~~2. Any other governing licensure or certification board or body (relevant to the employee's position requirements) will be contacted and provided with a report in accordance with established reporting procedures.~~

~~(d) Employees in trainee or probationary status.~~

~~1. Any employee in trainee or probationary status receiving a positive confirmed drug test will be dismissed.~~

~~2. Any other governing licensure or certification board or body (relevant to the employee's position requirements) will be contacted and provided with a report in accordance with established reporting procedures.~~

(14) In the event of collection site or laboratory error, the Medical Review Officer will report the test results as cancelled and a retest shall be scheduled immediately. The employee shall be given no more than 24 hours notice for the retest. If a re-test cannot be conducted prior to the deadline for the random testing period, the authorizing individual shall provide an explanation to the Chief of Personnel.

(15) If the Medical Review Officer receives subsequent documentation that a positive test result was caused by a legitimate use of drugs, the Medical Review Officer shall report the result as negative and the Department's contact person shall be notified as such.

(16) Should subsequent documentation be received reflecting that the positive result was in error, the authorizing individual shall inform the Bureau of Personnel so that remedial action can be taken if necessary.

(17) In the case of positive test results for which the employee did not or could not provide valid documentation of lawful intake of the identified controlled substance, the employee shall be notified in writing of the positive test results and the consequences of the results, in accordance with the following:

(a) For staff not certified under Section 943.13, F.S.:

1. First-time positive result:

a. All such employees will be given a mandatory referral to the employee assistance program (in accordance with Department procedure).

b. Any governing licensure/certification board (relevant to the employee's position requirements) will be advised of the positive test result.

c. The employee will be required to complete the course of treatment recommended by the employee assistance program treatment provider.

d. If the employee refuses to comply with all requirements of the course of treatment recommended by the employee assistance program treatment provider, she/he will be dismissed in accordance with Department procedure.

e. Once the employee is released to return to work by the treatment provider, the employee will be returned to work in the same or equivalent position, unless such action is prevented due to actions taken by the governing licensure or certification board or body relevant to the employee's position requirements.

f. If actions by a governing licensure or certification board or body prevent placement into or ongoing employment in the previously held position, the Department will offer alternate position placement in accordance with the employee's qualifications, if such is available. If no alternate position placement is available or the employee is unwilling to accept available placement options, the employee will be dismissed in accordance with Department procedure.

g. Follow-Up Testing: All employees who remain employed following a first time positive confirmed drug test will be subject to follow-up urinalysis drug testing pursuant to Section 112.0455, F.S.

2. Second time positive test result.

a. Any such employee receiving a second-time positive confirmed drug or alcohol test will be dismissed.

b. Any governing licensure or certification board or body relevant to the employee's position requirements will be contacted and provided with a report in accordance with established reporting procedures.

(b) For staff certified under Section 943.13, F.S., who test positive:

1. All employees receiving a positive confirmed drug test will immediately be placed on leave status, and the Department will initiate official proceedings to remove the employee from his position.

2. The Criminal Justice Standards and Training Commission or other governing licensure/certification board relevant to the employee's position requirements will be contacted and provided with a report in accordance with established reporting procedures, and the Department shall move to terminate the employee in accordance with Department procedure.

(c) Employees in trainee or probationary status.

1. Any employee in trainee or probationary status receiving a positive confirmed drug test will be dismissed.

2. Any other governing licensure or certification board or body (relevant to the employee's position requirements) will be contacted and provided with a report in accordance with established reporting procedures.

(18)(47) The following appeal process shall be available to an employee who wants to appeal a positive confirmed drug test.

(a) Within 5 working days of the notification of the failed drug test, the employee may submit a letter to the Chief, Bureau of Personnel, contesting or explaining the result.

(b) Within 180 days after receipt of the notification of the failed drug test, the employee may request a re-test of the original specimen at the employee's expense by the same laboratory or another laboratory licensed and approved by the Agency for Health Care Administration. The re-test must be at an equal or greater sensitivity for the drug in question as was used in the first laboratory test. All costs associated with such re-tests shall be borne by the employee.

(19)(18) On-Site Presumptive Testing with Confirmation Process Follow-up for Presumptive Positives. If on-site presumptive testing is employed, the authorizing individual shall:

(a) Ensure administration of presumptive testing using an oral fluid device or other non-invasive process;

(b) Refer employees with presumptive positive results to off-site testing in accordance with subsection (4) of this rule.

(20) No employee selected for random urinalysis testing shall be required to provide the specimen in the direct visual or aural presence of the tester unless there is a documented reason to suspect that the employee has or will adulterate the specimen, such as a prior finding of adulteration.

(21)(19) All information, interviews, statements, memoranda, and drug test results, written or otherwise, received or produced as a result of the drug testing program shall be confidential.

Rulemaking Specific Authority 944.09, 944.474 FS. Law Implemented 112.0455, 944.09, 944.474 FS. History--New 9-11-05, Amended 12-18-06, 12-3-08,_____.

NAME OF PERSON ORIGINATING PROPOSED RULE: Russell Hosford, Assistant Secretary of Institutions

NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: Edwin G. Buss, Secretary

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: June 22, 2011

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: July 1, 2011

DEPARTMENT OF HEALTH

Board of Podiatric Medicine

RULE NO.: 64B18-16.006
 RULE TITLE: Registration Requirements of Podiatric Residents

PURPOSE AND EFFECT: The Board proposes the rule amendment to update the form referenced.

SUMMARY: The rule amendment will update the revision date of form.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS: The Agency has determined that this will not have an adverse impact on small business or likely increase directly or indirectly regulatory costs in excess of \$200,000 in the aggregate within one year after the implementation of the rule. A SERC has not been prepared by the agency.

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

RULEMAKING AUTHORITY: 461.005, 461.014(3) FS.

LAW IMPLEMENTED: 461.014(3) FS.

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

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Bruce Deterding, Executive Director, Board of Podiatric Medicine, 4052 Bald Cypress Way, Bin #C07, Tallahassee, Florida 32399-3258

THE FULL TEXT OF THE PROPOSED RULE IS:

64B18-16.006 Registration Requirements of Podiatric Residents

(1) Every podiatric resident participating in a residency program in a hospital in this state shall register with the Board within sixty (60) days of the date of commencement of residency using the Podiatric Resident Registration Form DH-MQA 1139 (revised ~~8/2010~~ ~~04/09~~), hereby adopted and incorporated by reference, that can be obtained from the Board of Podiatric Medicine’s website at <http://www.doh.state.fl.us/mqa/podiatry/index.html>.

(2) The Board will deny the application for examination and licensure of any resident who is obliged to register with the Board pursuant to Section 461.014(1)(c), F.S., but who fails to do so.

Rulemaking Specific Authority 461.014(3) FS. Law Implemented 461.014(3) FS. History–New 11-24-80, Formerly 21T-16.06, 61F12-16.006, Amended 1-4-96, Formerly 59Z-16.006, Amended 6-17-09,_____.

NAME OF PERSON ORIGINATING PROPOSED RULE:
Board of Podiatric Medicine
NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: Board of Podiatric Medicine
DATE PROPOSED RULE APPROVED BY AGENCY HEAD: August 6, 2010
DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: July 1, 2011

DEPARTMENT OF HEALTH

Board of Podiatric Medicine

RULE NO.: 64B18-24.001 RULE TITLE: Initial Certification for Podiatric X-Ray Assistants

PURPOSE AND EFFECT: The Board proposes the rule amendment to update the form referenced.

SUMMARY: The rule amendment will update the revision date of form.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS: The Agency has determined that this will not have an adverse impact on small business or likely increase directly or indirectly regulatory costs in excess of \$200,000 in the aggregate within one year after the implementation of the rule. A SERC has not been prepared by the agency.

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

RULEMAKING AUTHORITY: 461.005, 461.0135 FS.
LAW IMPLEMENTED: 456.013(2), 456.025(1), 461.003(2), 461.0135 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: Bruce Deterding, Executive Director, Board of Podiatric Medicine, 4052 Bald Cypress Way, Bin #C07, Tallahassee, Florida 32399-3258

THE FULL TEXT OF THE PROPOSED RULE IS:

64B18-24.001 Initial Certification for Podiatric X-Ray Assistants.

(1) Each applicant for initial certification as a podiatric x-ray assistant shall submit an application, on form DH-MQA 1026, entitled, “Application for Certified Podiatric X-ray Assistant,” which is hereby incorporated by reference, effective ~~8/2010~~ ~~6/2008~~, copies of which may be obtained from the Board of Podiatric Medicine’s website http://www.doh.state.fl.us/mqa/podiatry/po_applications.html and shall include:

- (a) A certification fee of \$75.00; and
- (b) The name(s) of the applicant’s supervising Florida licensed podiatric physician(s).

(2) Any change of supervisor must be reported by the applicant/certified podiatric x-ray assistant to the Board within 30 days of the change on form DH-MQA 1118, entitled, “Update Supervisor for Certified Podiatric x-ray Assistant,” which is hereby incorporated by reference effective 2/2008, and can be obtained from the Board of Podiatric Medicine’s website http://www.doh.state.fl.us/mqa/podiatry/po_applications.html.

(3) The Board shall verify successful passage of the course and examination required by Section 461.0135, F.S., prior to issuance of the podiatric x-ray assistant certification.

Rulemaking Specific Authority 461.005, 461.0135 FS. Law Implemented 456.013(2), 456.025(1), 461.003(2), 461.0135 FS. History–New 2-16-00, Amended 8-31-08,_____.

NAME OF PERSON ORIGINATING PROPOSED RULE:
Board of Podiatric Medicine
NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: Board of Podiatric Medicine
DATE PROPOSED RULE APPROVED BY AGENCY HEAD: August 6, 2010
DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: July 1, 2011

**FISH AND WILDLIFE CONSERVATION
COMMISSION**

Marine Fisheries

RULE NOS.:	RULE TITLES:
68B-42.002	Definitions
68B-42.003	Prohibition of Harvest: Longspine Urchin, Bahama Starfish
68B-42.0035	Live Landing and Live Well Requirements
68B-42.0036	Closed Areas
68B-42.004	Size Limits
68B-42.005	Recreational Bag Limit
68B-42.006	Commercial Season, Harvest Limits
68B-42.0065	Commercial Requirements; Endorsements; Requalifying; Appeals; Leasing; Transferability
68B-42.008	Live Rock: Harvest in State Waters Prohibited; Aquacultured Live Rock Harvest and Landing Allowed
68B-42.009	Prohibition on the Taking, Destruction, or Sale of Marine Corals Sea Fans, and Non-erect, Encrusting Octocorals; Exception

PURPOSE AND EFFECT: The purpose of these rule amendments is to extend Florida’s octocoral and marine life regulations into federal waters. The Gulf of Mexico Fishery Management Council intends to remove octocorals from its Coral and Coral Reefs Fishery Management Plan (FMP) and the South Atlantic Fishery Management Council is in the process of redefining the fishery management unit in their Coral, Coral Reef, and Live/Hardbottom Habitat FMP to exclude allowable octocorals in federal waters off Florida. These actions would result in the repeal of federal regulations for octocorals and allow Florida to take over management of these species in federal waters off Florida. Based on Commission direction and at the request of the Councils, Florida agreed to manage the octocoral fishery in both state and federal waters. In addition to extending existing state regulations into federal waters, the rule amendments would also establish an annual quota for octocoral harvest in state and federal waters off Florida. Additionally, the Commission would continue to prohibit all harvest of octocorals in Atlantic federal waters north of Cape Canaveral and in the Coral Habitat Areas of Particular Concern adjacent to Florida state waters (Stetson-Miami Terrace and Pourtales Terrace).

The effect of these rule amendments would be to extend Florida’s marine life regulations into federal waters in the absence of federal rules, establish an annual quota for octocoral harvest in state and federal waters off Florida, and to add federal waters closed areas to state rules. These rules would be effective upon repeal of federal octocoral regulations and are not expected to affect the octocoral fishery because similar

rules are currently in effect in federal waters. Additionally, the rule amendments would clarify that state marine life rules extend into federal waters.

SUMMARY: Rule 68B-42.002, F.A.C., (Definitions) would be modified to include a definition of “colony.” Rule 68B-42.003, F.A.C., (Prohibition of Harvest: Longspine Urchin, Bahama Starfish) would be modified to clarify that harvest and possession of longspine urchin and Bahama starfish are prohibited within or without state waters. Rule 68B-42.0035, F.A.C., (Live Landing and Live Well Requirements) would be modified to clarify that marine life species harvested within or without state waters must be landed alive and persons harvesting marine life within or without state waters must have aboard the vessel being used for harvest a continuously recirculating live well or aeration or oxygen system of adequate size and capacity to maintain harvested marine life organisms in a healthy condition. Rule 68B-42.0036, F.A.C., (Closed Areas – formerly titled Harvest in Biscayne National Park Prohibited; Exception) would prohibit harvest of octocorals in Atlantic federal waters north of Cape Canaveral (28°35.1’N latitude), Stetson-Miami Terrace Deepwater Coral Habitat Area of Particular Concern (HAPC), and Pourtales Terrace Deepwater Coral HAPC. Rule 68B-42.004, F.A.C., (Size Limits) would be modified to clarify that size limits established in this section for all marine life species apply in state and adjacent federal waters.

Rule 68B-42.005, F.A.C., (Recreational Bag Limit) and Rule 68B-42.006, F.A.C., (Commercial Season, Harvest Limits) would be modified to clarify that the bag limits established in these sections for all marine life species, including octocorals, apply in state and adjacent federal waters. Specifically, the 6-colony recreational bag limit for octocorals established in Rule 68B-42.005, F.A.C., would be extended into federal waters. The allowance for harvest of octocorals with attached substrate within 1 inch of the perimeter of the holdfast would be extended into federal waters. The proposed final rule would establish an annual quota of 70,000 colonies for octocoral harvest in state and adjacent federal waters. Additionally, these sections would be modified to specify that if the quota for octocoral harvest described in Rule 68B-42.006, F.A.C., is met before the end of the fishing year, all harvest of octocorals would be prohibited from the date the octocoral quota is projected to be met until the following October 1. Language that closes state waters to octocoral harvest when federal waters close would be removed. Finally, the zone north and west of the southernmost point of Egmont Key in the Gulf of Mexico in which ornamental sponges may be collected with attached substrate within 1 inch of the perimeter of the holdfast at the base of the sponge and extending 1 inch below the holdfast of the sponge would also be extended into adjacent federal waters.

Rule 68B-42.0065, F.A.C., (Commercial Requirements; Endorsements; Requalifying; Appeals; Leasing; Transferability) would be modified to clarify that a marine life tiered endorsement is required for commercial harvest of species listed in this rule in state and adjacent federal waters. Rule 68B-42.008, F.A.C., (Live Rock: Harvest in State Waters Prohibited; Aquacultured Live Rock Harvest and Landing Allowed) would be modified to clarify that substrate that is lawfully harvested as part of the harvest of ornamental sponges pursuant to this chapter are exempt from prohibitions on the harvest, possession, or sale of live rock. Outdated references in this section would also be updated. Rule 68B-42.009, F.A.C., (Prohibition on the Taking, Destruction, or Sale of Marine Corals, Sea Fans, and Non-erect, Encrusting Octocorals; Exception – Formerly titled Prohibition on the Taking, Destruction, or Sale of Marine Corals and Sea Fans; Exception.) would be modified to clarify that harvest and possession of any non-erect, encrusting species of the Subclass Octocorallia is prohibited. This prohibition would not apply to any non-erect, encrusting species of the Subclass Octocorallia that is 1) legally harvested outside state and adjacent federal waters and entering Florida in interstate or international commerce harvested or 2) harvested and possessed pursuant to state and federal aquacultured live rock regulations.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS: The Agency has determined that this will not have an adverse impact on small business or likely increase directly or indirectly regulatory costs in excess of \$200,000 in the aggregate within one year after the implementation of the rule. A SERC has not been prepared by the agency.

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

RULEMAKING AUTHORITY: Art. IV, Sec. 9, Florida Constitution.

LAW IMPLEMENTED: Art. IV, Sec. 9, Florida Constitution.

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

DATES AND TIME: During the Commission’s regular meeting, September 7-9, 2011, 8:30 a.m. – 5:00 p.m., each day
PLACE: Naples Grande Beach Resort, 475 Seagate Drive Naples, FL 34103

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: William Teehan, Fish and Wildlife Conservation Commission, 620 South Meridian Street, Tallahassee, Florida 32399-1600, (850)487-0554

THE FULL TEXT OF THE PROPOSED RULES IS:

68B-42.002 Definitions.

As used in this rule chapter:

(1) No change.

(2) “Colony” means a continuous group of octocoral polyps forming a single unit.

(2) through (18) renumbered (3) through (19) No change.

PROPOSED EFFECTIVE DATE: October 31, 2011.

Rulemaking Specific Authority Art. IV, Sec. 9, Fla. Const. Law Implemented Art. IV, Sec. 9, Fla. Const. History–New 1-1-91, Amended 7-1-92, 1-1-95, 7-15-96, Formerly 46-42.002, Amended 2-1-05, 7-1-06, 7-1-09, 10-31-11.

68B-42.003 Prohibition of Harvest: Longspine Urchin, Bahama Starfish.

No person shall harvest, or possess within or without the waters of ~~while in or on the waters of~~ the state, or land any of the following species:

(1) Longspine urchin, *Diadema antillarum*.

(2) Bahama starfish, *Oreaster reticulatus*.

PROPOSED EFFECTIVE DATE: October 31, 2011.

Rulemaking Specific Authority Art. IV, Sec. 9, Fla. Const. Law Implemented Art. IV, Sec. 9, Fla. Const. History–New 1-1-91, Amended 7-1-92, Formerly 46-42.003, Amended 10-31-11.

68B-42.0035 Live Landing and Live Well Requirements.

(1) Each person harvesting any tropical ornamental marine life species or any tropical ornamental marine plant within or without state waters shall land such marine organism alive.

(2) Each person harvesting any tropical ornamental marine life species or any tropical ornamental marine plant within or without state waters shall have aboard the vessel being used for such harvest a continuously circulating live well or aeration or oxygenation system of adequate size and capacity to maintain such harvested marine organisms in a healthy condition.

PROPOSED EFFECTIVE DATE: October 31, 2011.

Rulemaking Specific Authority Art. IV, Sec. 9, Fla. Const. Law Implemented Art. IV, Sec. 9, Fla. Const. History–New 7-1-92, Formerly 46-42.0035, Amended 10-31-11.

68B-42.0036 Closed Areas Harvest in Biscayne National Park Prohibited; Exception.

(1) through (2) No change.

(3) No person shall harvest or possess any octocorals in the following areas:

(a) Federal Exclusive Economic Zone (EEZ) waters of the Atlantic Ocean north of 28°35.1' N. lat. (due east of the NASA Vehicle Assembly Building, Cape Canaveral, FL).

(b) Stetson-Miami Terrace Deepwater Coral Habitat Area of Particular Concern.

(c) Pourtales Terrace Deepwater Coral Habitat Area of Particular Concern.

(4) For the purposes of this rule, the term “Stetson-Miami Terrace Deepwater Coral Habitat Area of Particular Concern” shall mean all waters lying within the following geographical boundary coordinates:

Point	Latitude	Longitude
133	28°30'37"N	79°48'35"W
134	28°14'00"N	79°46'20"W
135	28°11'41"N	79°46'12"W
136	28°08'02"N	79°45'45"W
137	28°01'20"N	79°45'20"W
138	27°58'13"N	79°44'51"W
139	27°56'23"N	79°44'53"W
140	27°49'40"N	79°44'25"W
141	27°46'27"N	79°44'22"W
142	27°42'00"N	79°44'33"W
143	27°36'08"N	79°44'58"W
144	27°30'00"N	79°45'29"W
145	27°29'04"N	79°45'47"W
146	27°27'05"N	79°45'54"W
147	27°25'47"N	79°45'57"W
148	27°19'46"N	79°45'14"W
149	27°17'54"N	79°45'12"W
150	27°12'28"N	79°45'00"W
151	27°07'45"N	79°46'07"W
152	27°04'47"N	79°46'29"W
153	27°00'43"N	79°46'39"W
154	26°58'43"N	79°46'28"W
155	26°57'06"N	79°46'32"W
156	26°49'58"N	79°46'54"W
157	26°48'58"N	79°46'56"W
158	26°47'01"N	79°47'09"W
159	26°46'04"N	79°47'09"W
160	26°35'09"N	79°48'01"W
161	26°33'37"N	79°48'21"W
162	26°27'56"N	79°49'09"W
163	26°25'55"N	79°49'30"W
164	26°21'05"N	79°50'03"W
165	26°20'30"N	79°50'20"W
166	26°18'56"N	79°50'17"W
167	26°16'19"N	79°54'06"W
168	26°13'48"N	79°54'48"W
169	26°12'19"N	79°55'37"W
170	26°10'57"N	79°57'05"W

171	26°09'17"N	79°58'45"W
172	26°07'11"N	80°00'22"W
173	26°06'12"N	80°00'33"W
174	26°03'26"N	80°01'02"W
175	26°00'35"N	80°01'13"W
176	25°49'10"N	80°00'38"W
177	25°48'30"N	80°00'23"W
178	25°46'42"N	79°59'14"W
179	25°27'28"N	80°02'26"W
180	25°24'06"N	80°01'44"W
181	25°21'04"N	80°01'27"W
182	25°21'04"N	79°42'04"W

(5) For the purposes of this rule, the term “Pourtales Terrace Deepwater Coral Habitat Area of Particular Concern” shall mean all waters lying within the following geographical boundary coordinates:

Point	Latitude	Longitude
Origin	24°20'12"N	80°43'50"W
1	24°33'42"N	80°34'23"W
2	24°37'45"N	80°31'20"W
3	24°47'18"N	80°23'08"W
4	24°51'08"N	80°27'58"W
5	24°42'52"N	80°35'51"W
6	24°29'44"N	80°49'45"W
7	24°15'04"N	81°07'52"W
8	24°10'55"N	80°58'11"W

PROPOSED EFFECTIVE DATE: October 31, 2011.

Rulemaking Specific Authority Art. IV, Sec. 9, Fla. Const. Law Implemented Art. IV, Sec. 9, Fla. Const. History—New 7-1-92, Formerly 46-42.0036, Amended 10-31-11.

68B-42.004 Size Limits.

(1) The regulations in this section apply in all state waters and, in absence of any regulations for the species in federal waters, apply in adjacent federal Exclusive Economic Zone (EEZ) waters.

(2)(1) Angelfishes:

(a) No person harvesting for commercial purposes shall harvest, possess while in or on the waters of the state, or land any of the following species of angelfish (Family Pomacanthidae), of total length outside of the limits specified below:

1. through 3. No change.

(b) No change.

(3)(2) Butterflyfishes:

(a) No person harvesting for commercial purposes shall harvest, possess while in or on the waters of the state, or land any butterflyfish (Family Chaetodontidae) of total length less than one (1) inch.

(b) No person shall harvest, possess ~~while in or on the waters of the state~~, or land any butterflyfish of total length greater than 4 inches.

~~(4)(3)~~ Gobies – No person shall harvest, possess ~~while in or on the waters of the state~~, or land any gobie (Family Gobiidae) of total length greater than 2 inches.

~~(5)(4)~~ Jawfishes – No person shall harvest, possess ~~while in or on the waters of the state~~, or land any jawfish (Family Opistognathidae) of total length greater than 4 inches.

~~(6)(5)~~ Porkfish – No person shall harvest, possess ~~while in or on the waters of this state~~, or land any porkfish (*Anisotremus virginicus*) of total length less than 1 1/2 inches.

~~(7)(6)~~ Cuban (Spotfin) and Spanish hogfish:

(a) No person shall harvest, possess ~~while in or on the waters of this state~~, or land any Spanish hogfish (*Bodianus rufus*) of total length less than 2 inches.

(b) No person shall harvest, possess ~~while in or on the waters of this state~~, or land any Cuban (spotfin) hogfish (*Bodianus pulchellus*) of total length less than 3 inches.

(c) No person shall harvest, possess ~~while in or on the waters of this state~~, or land any Spanish hogfish (*Bodianus rufus*) or Cuban (spotfin) hogfish (*Bodianus pulchellus*) of total length greater than 8 inches.

~~(8)(7)~~ Tangs – No person shall harvest, possess ~~while on the waters of the state~~, or land any tangs (Family Acanthuridae) of fork length greater than 9 inches.

~~(9)(8)~~ Parrotfish – No person shall harvest, possess ~~while on the waters of the state~~, or land any parrotfish (Family Scaridae) of total length greater than 12 inches.

PROPOSED EFFECTIVE DATE: October 31, 2011.

Rulemaking Specific Authority Art. IV, Sec. 9, Fla. Const. Law Implemented Art. IV, Sec. 9, Fla. Const. History–New 1-1-91, Amended 7-1-92, 1-1-95, 7-15-96, Formerly 46-42.004, Amended 6-1-99, 7-1-09, 10-31-11.

68B-42.005 Recreational Bag Limit.

(1) The regulations in this section apply in all state waters and, in absence of any regulations for the species in federal waters, apply in adjacent federal Exclusive Economic Zone (EEZ) waters.

~~(2)(1)~~ Except as provided in Rule 68B-42.006, F.A.C., or subsection (3) or (4) of this rule, no person shall harvest, possess ~~while in or on the waters of the state~~, or land more than 20 individuals per day of tropical ornamental marine life species. No more than 5 of any one species, as defined in subsections 68B-42.001(2) and (3), F.A.C., can be harvested within the 20 organism bag limit. No person shall possess more than 40 total marine life organisms anywhere at any time.

~~(3)(2)~~ Except as provided in Rule 68B-42.006, F.A.C., no person shall harvest, possess ~~while in or on the waters of the state~~, or land more than one (1) gallon per day of tropical

ornamental marine plants, in any combination of species. No person shall harvest or possess more than 2 gallons of tropical ornamental plants anywhere at any time.

~~(4)(3)~~ Except as provided in Rule 68B-42.006, F.A.C., no person shall harvest, possess ~~while in or on the waters of the state~~, or land more than 5 angelfishes (Family Pomacanthidae) per day. Each angelfish shall be counted for purposes of the 20 individual bag limit specified in subsection (1) of this rule.

~~(5)(4)(a)~~ Except as provided in Rule 68B-42.006, F.A.C., or unless ~~Unless~~ the season is closed pursuant to paragraph (b), no person shall harvest, possess ~~while in or on the waters of the state~~, or land more than 6 colonies per day of octocorals. Each colony of octocorals or part thereof shall be considered an individual of the species for purposes of subsection ~~(2)(1)~~ of this rule and shall be counted for purposes of the 20 individual bag limit specified therein. Each person harvesting any octocoral as authorized by this rule may also harvest substrate within 1 inch of the perimeter of the holdfast at the base of the octocoral, provided that such substrate remains attached to the octocoral.

~~(b) If the harvest of octocorals in federal Exclusive Economic Zone (EEZ) waters adjacent to state waters is closed to all harvesters~~ If the octocoral quota established in Rule 68B-42.006, F.A.C. is projected to be met prior to September 30 of any year, the season for harvest of octocorals ~~in state waters~~ shall ~~also~~ close until the following October 1, upon notice given by the Executive Director of the Fish and Wildlife Conservation Commission, in the manner provided in Section 120.81(5), F.S.

~~(6)(5)~~ Except as provided in Rule 68B-42.006, F.A.C., no person shall harvest, possess ~~while in or on the waters of the state~~, or land more than 5 single polyps in the order Corallimorpharia. Each polyp must be harvested using a flexible blade, such as a putty knife, razor blade, or paint scraper with a blade no wider than 2 inches.

~~(7)(6)~~ Except as provided in Rule 68B-42.006, F.A.C., no person shall harvest, possess ~~while in or on the waters of the state~~, or land more than 5 polyps of the order Zoanthidea. Each zoanthid polyp must be harvested using a flexible blade, such as a putty knife, razor blade, or paint scraper with a blade no wider than 2 inches.

~~(8)(7)~~ Except as provided in Rule 68B-42.006, F.A.C., no person shall harvest, possess ~~while in or on the waters of the state~~, or land more than 5 ornamental sponges as defined in Rule 68B-42.001, F.A.C. In all ~~state~~ waters north of a line extending due west from the southernmost point of Egmont Key in the Gulf of Mexico, northward and westward these sponges can be collected with substrate within 1 inch of the perimeter of the holdfast at the base of the sponge and extending 1 inch below the holdfast of the sponge. South of this line, no substrate is allowed.

PROPOSED EFFECTIVE DATE: October 31, 2011.

Rulemaking Specific Authority Art. IV, Sec. 9, Fla. Const. Law Implemented Art. IV, Sec. 9, Fla. Const. History–New 1-1-91, Amended 1-1-95, Formerly 46-42.005, Amended 7-1-09, 10-31-11.

68B-42.006 Commercial Season, Harvest Limits.

(1) The regulations in this section apply in all state waters and, in absence of any regulations for the species in federal waters, apply in adjacent federal Exclusive Economic Zone (EEZ) waters.

(2)(4) Except as provided in Rule 68B-42.008, F.A.C., no person shall harvest, possess ~~while in or on the waters of the state~~, or land quantities of tropical ornamental marine life species or tropical ornamental marine plants in excess of the bag limits established in Rule 68B-42.005, F.A.C., unless such person is fishing under or harvesting under a valid saltwater products license with both a marine life fishery endorsement and a restricted species endorsement issued by the Fish and Wildlife Conservation Commission.

(3)(2) Persons harvesting tropical ornamental marine life species or tropical ornamental marine plants for commercial purposes shall have a season that begins on October 1 of each year and continues through September 30 of the following year. These persons shall not harvest, possess ~~while in or on the waters of the state~~, or land tropical ornamental marine life species in excess of the following limits:

(a) through (e) No change.

(f) There shall be no limits on the harvest for commercial purposes of octocorals unless and until the season for all harvest of octocorals ~~in federal Exclusive Economic Zone (EEZ) waters adjacent to state waters~~ is closed. The quota for all persons who harvest allowable octocoral is 70,000 colonies. When this quota is projected to be met, At such time, the season for harvest of octocorals in state waters shall also close until the following October 1, upon notice given by the Executive Director of the Fish and Wildlife Conservation Commission, in the manner provided in Section 120.81(5), F.S. Each person harvesting any octocoral as authorized by this rule may also harvest substrate within 1 inch of the perimeter of the holdfast at the base of the octocoral, provided that such substrate remains attached to the octocoral.

(g) through (m) No change.

(n) There is no harvest limit of ornamental sponges as defined in Rule 68B-42.001, F.A.C., however in all state waters north of a line extending due west from the southernmost point of Egmont Key in the Gulf of Mexico, northward and westward these sponges can be collected with substrate within 1 inch of the perimeter of the holdfast at the base of the sponge and extending 1 inch below the holdfast of the sponge. South of this line, no substrate is allowed.

PROPOSED EFFECTIVE DATE: October 31, 2011.

Rulemaking Specific Authority Art. IV, Sec. 9, Fla. Const. Law Implemented Art. IV, Sec. 9, Fla. Const. History–New 1-1-91, Amended 7-1-92, 1-1-95, Formerly 46-42.006, Amended 6-1-99, 2-28-02, 7-1-09, 10-31-11.

68B-42.0065 Commercial Requirements; Endorsements; Requalifying; Appeals; Leasing; Transferability.

(1)(a) Beginning in the 2005/2006 license year, in addition to a valid saltwater products license with a valid restricted species endorsement, a marine life tiered endorsement is required to harvest marine life species within or without state waters in quantities greater than the recreational bag limit or to sell marine life species as defined by Rule 68B-42.001, F.A.C.

(b) No change.

(2) through (17) No change.

PROPOSED EFFECTIVE DATE: October 31, 2011.

Rulemaking Specific Authority Art. IV, Sec. 9, Fla. Const. Law Implemented Art. IV, Sec. 9, Fla. Const. History–New 2-1-05, Amended 7-1-09, 5-1-11, 10-31-11.

68B-42.008 Live Rock: Harvest in State Waters Prohibited; Aquacultured Live Rock Harvest and Landing Allowed.

(1) through (2) No change.

(3) Subsection (1) shall not apply to:

(a) No change.

(b) Any person lawfully harvesting substrate as part of the harvest of octocorals or ornamental sponges pursuant to subsection 68B-42.005(5)(4), ~~or~~ paragraph 68B-42.006(3)(2) (f), subsection 68B-42.005(7), or paragraph 68B-42.006(3)(n), F.A.C.

PROPOSED EFFECTIVE DATE: October 31, 2011

Rulemaking Specific Authority Art. IV, Sec. 9, Fla. Const. Law Implemented Art. IV, Sec. 9, Fla. Const. History–New 7-1-92, Amended 10-18-93, 1-1-95, Formerly 46-42.008, Amended 6-1-99, 10-31-11.

68B-42.009 Prohibition on the Taking, Destruction, or Sale of Marine Corals ~~and Sea Fans, and Non-erect, Encrusting Octocorals~~; Exception.

(1) Except as provided in subsection (2), no person shall take, attempt to take, or otherwise destroy, or sell, or attempt to sell, any sea fan of the species *Gorgonia flabellum* or of the species *Gorgonia ventalina*, or any hard or stony coral (Order Scleractinia) or any fire coral (Genus *Millepora*). No person shall possess any such fresh, uncleaned, or uncured sea fan, hard or stony coral, or fire coral. No person shall harvest or possess any non-erect, encrusting species of the Subclass Octocorallia within or without state waters.

(2) Subsection (1) shall not apply to:

(a) Any sea fan, hard or stony coral, ~~or~~ fire coral, or non-erect, encrusting species of the Subclass Octocorallia legally harvested outside of state waters or federal Exclusive Economic Zone (EEZ) waters adjacent to state waters and entering Florida in interstate or international commerce. The burden shall be upon any person possessing such species to establish the chain of possession from the initial transaction

after harvest, by appropriate receipt(s), bill(s) of sale, or bill(s) of lading, and any customs receipts, and to show that such species originated from a point outside the waters of the State of Florida or federal Exclusive Economic Zone (EEZ) adjacent to state waters and entered the state in interstate or international commerce. Failure to maintain such documentation or to promptly produce same at the request of any duly authorized law enforcement officer shall constitute a violation of this rule.

(b) Any sea fan, hard or stony coral, ~~or~~ fire coral, or non-erect, encrusting species of the Subclass Octocorallia harvested and possessed pursuant to the aquacultured live rock provisions of paragraph 68B-42.008(3)(a), F.A.C., Chapter 597, F.S., or pursuant to a Live Rock Aquaculture Permit issued by the National Marine Fisheries Service under 50 C.F.R. Section 622.41(a) and meeting the following requirements:

- 1. through 3. No change.
- 4. Any sea fan, hard or stony coral, ~~or~~ fire coral, or non-erect, encrusting species of the Subclass Octocorallia harvested pursuant to paragraph 68B-42.008(3)(a), F.A.C., shall remain attached to the cultured rock.

PROPOSED EFFECTIVE DATE: October 31, 2011.

Rulemaking Specific Authority Art. IV, Sec. 9, Fla. Const., Chapter 83-134, Laws of Fla., as amended by Chapter 84-121, Laws of Fla. Law Implemented Art. IV, Sec. 9, Fla. Const., Chapter 83-134, Laws of Fla., as amended by Chapter 84-121, Laws of Fla. History—New 1-1-95, Amended 7-15-96, Formerly 46-42.009, Amended 7-1-09, 10-31-11.

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 F.A.W.

NAME OF PERSON ORIGINATING PROPOSED RULE: William Teehan, Division of Marine Fisheries Management, 620 South Meridian Street, Tallahassee, Florida 32399-1600, (850)487-0554

NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: Florida Fish and Wildlife Conservation Commission

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: June 9, 2011

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: December 23, 2010

DEPARTMENT OF FINANCIAL SERVICES

Division of Insurance Agents and Agency Services

RULE NO.: 69B-125.004
RULE TITLE: Credit Report Use and Disclosure in Consideration of Insurance Applications

PURPOSE AND EFFECT: This rule is being repealed since it is duplicative of Rule 69O-125.004, F.A.C., which is administered by the Office of Insurance Regulation.

SUMMARY: Rule 69B-125.004, F.A.C., is repealed.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS: The Agency has determined that this will not have an adverse impact on small business or likely increase directly or indirectly regulatory costs in excess of \$200,000 in the aggregate within one year after the implementation of the rule. A SERC has not been prepared by the agency.

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

RULEMAKING AUTHORITY: 624.308(1), 626.9611 FS.

LAW IMPLEMENTED: 624.307(1), 626.9541(1)(a)4., (x), 626.9641(1)(a), 627.318, 627.4091 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: August 29, 2011, 10:00 a.m.

PLACE: Room 142, Larson Building, 200 E. Gaines Street, Tallahassee, FL

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: Cindy Benefield, (850)413-5404 or Cindy.Benefield@MyFloridaCFO.com. If you are hearing or speech impaired, please contact the agency using the Florida Relay Service, 1(800)955-8771 (TDD) or 1(800)955-8770 (Voice).

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Cindy Benefield, Senior Management Analyst, Division of Insurance Agents and Agency Services, 200 E. Gaines Street, Tallahassee, FL 32399 (850)413-5404

THE FULL TEXT OF THE PROPOSED RULE IS:

69B-125.004 Credit Report Use and Disclosure in Consideration of Insurance Applications.

Rulemaking Specific Authority 624.308(1), 626.9611 FS. Law Implemented 624.307(1), 626.9541(1)(a)4., (x), 626.9641(1)(a), 627.318, 627.4091 FS. History—New 10-10-96, Formerly 4-125.004, Repealed.

NAME OF PERSON ORIGINATING PROPOSED RULE: Greg Thomas, Director, Division of Insurance Agents and Agency Services	6A-6.09021	Annual English Language Proficiency Assessment for English Language Learners
NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: Jeff Atwater, Chief Financial Officer, Department of Financial Services	6A-6.09022	Extension of Services in English for Speakers of Other Languages Program
DATE PROPOSED RULE APPROVED BY AGENCY HEAD: July 18, 2011	6A-6.0903	Requirement for Classification, Reclassification, and Post Reclassification of English Language Learners
	6A-6.09031	Post Reclassification of English Language Learners

Section III
Notices of Changes, Corrections and Withdrawals

DEPARTMENT OF STATE

Division of Elections

RULE NO.:	RULE TITLE:
1S-2.002	Placement of Races on Primary Ballots

NOTICE OF CORRECTION

Notice is hereby given that the following correction has been made to the proposed rule in Vol. 37, No. 27, July 8, 2011 issue of the Florida Administrative Weekly. If adopted, the proposed rule repeal is not expected to require legislative rule ratification under Section 120.541(3), Florida Statutes (or any other statute) before becoming effective for the following reasons: 1) no requirement for the Statement of Economic Regulatory Costs (SERC) was triggered under Section 120.541(1), Florida Statutes, and 2) based on past experiences with election-related activities and rules of this nature, the adverse impact or regulatory cost, if any, do not exceed nor would exceed any one of the economic analysis criteria in a SERC as set forth in Section 120.541(2)(a), Florida Statutes.

DEPARTMENT OF EDUCATION

State Board of Education

RULE NO.:	RULE TITLE:
6A-2.0040	Sanitation Standards in K-12 Private Schools

NOTICE OF CONTINUATION

Notice is hereby given that the above rule, as noticed in Vol. 37, No. 15, April 15, 2011 Florida Administrative Weekly has been continued from August 16, 2011 to September 20, 2011.

DEPARTMENT OF EDUCATION

State Board of Education

RULE NOS.:	RULE TITLES:
6A-6.0902	Requirements for Identification, Eligibility Programmatic and Annual Assessments of English Language Learners

NOTICE OF CONTINUATION

Notice is hereby given that the above rule, as noticed in Vol. 37, No. 20, May 20, 2011 Florida Administrative Weekly has been continued from August 16, 2011 to September 20, 2011.

DEPARTMENT OF FINANCIAL SERVICES

Division of Funeral, Cemetery, and Consumer Services

RULE NO.:	RULE TITLE:
69K-23.003	Renewal of direct disposer licenses

NOTICE OF CORRECTION

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. 37, No. 25, June 24, 2011 issue of the Florida Administrative Weekly. This notice advises of a change in the date and time of the hearing regarding this proposed rule. The hearing regarding this proposed rule was initially set for July 13, 2011, but has been changed as follows. The hearing regarding this proposed rule, if requested, will be held on August 25, 2011 at 9:00 a.m., at Room 332, Pepper Building, 111 W. Madison Street, Tallahassee, Florida. No changes have been made to the text of the proposed rule, as published in Vol. 37, No. 25, June 24, 2011 issue of the Florida Administrative Weekly.

Section IV
Emergency Rules

DEPARTMENT OF REVENUE

Corporate, Estate and Intangible Tax

RULE NO.:	RULE TITLE:
12CER11-15	Adjustments for Excess Section 179 Expense and Special Bonus Depreciation

SPECIFIC REASONS FOR FINDING AN IMMEDIATE DANGER TO THE PUBLIC HEALTH, SAFETY OR WELFARE: Chapter 2011-229, Laws of Florida, authorizes the Department of Revenue to promulgate an emergency rule, and to renew such rule, to implement the provisions of the law. The law provides that conditions necessary for an emergency rule and its renewal have been met. Chapter 2011-229, Laws of