

(4) No person harvesting snook pursuant to subsection (1) shall possess or land such snook in the area specified in subsection (2).

PROPOSED EFFECTIVE DATE: January 1, 2002.

Specific Authority Art. IV, Sec. 9, Fla. Const. Law Implemented Art. IV, Sec. 9, Fla. Const. History--New 7-23-85, Amended 3-1-94, 12-31-98, Formerly 46-21.006, Amended 1-1-02.

NAME OF PERSON ORIGINATING PROPOSED RULE: Fish and Wildlife Conservation Commission, 620 South Meridian Street, Tallahassee, Florida 32399-1600

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Allan L. Egbert, Ph.D., Executive Director, Fish and Wildlife Conservation Commission, 620 South Meridian Street, Tallahassee, Florida 32399-1600

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

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

Section III Notices of Changes, Corrections and Withdrawals

DEPARTMENT OF INSURANCE

Division of State Fire Marshal

RULE CHAPTER NO.: 4A-3
RULE CHAPTER TITLE: Fire Prevention – General Provisions

RULE NO.: 4A-3.012
RULE TITLE: Standards of the National Fire Protection Association Adopted
SECOND NOTICE OF CHANGE

Notice is hereby given that the following changes have been made to the proposed rules in accordance with subparagraph 120.54(3)(d)1., F.S., published in Vol. 27, No. 12, March 23, 2001 edition of the Florida Administrative Weekly.

THE FULL TEXT OF THE PROPOSED RULE IS:

4A-3.012 Standards of the National Fire Protection Association Adopted.

- (1) No change except:
NFPA 8502 – 1999, Standard for the Prevention of Furnace Explosions/Implosions in Multiple Burner Boilers,

and:
The portions of 49 Code of Federal Regulations, Parts 100-177 which are referenced in Compressed Gas Association CGA C-1 – 1996, Methods for Hydrostatic Testing of Compressed Gas Cylinders, Compressed Gas Association CGA C-6 – 1993, Standards for Visual Inspection of Steel Compressed Gas Cylinders, Seventh Edition, Reaffirmed 1995, Compressed Gas

Association CGA C-6.1 – 1995, Standards for Visual Inspection of High Pressure Aluminum Compressed Gas Cylinders, and Compressed Gas Association CGA C-6.3 – 1999 Guidelines for Visual Inspection and Requalification of Low Pressure Aluminum Compressed Gas Cylinders, Second Edition, and which pertain to low pressure and high pressure cylinders

49 Code of Federal Regulations, Parts 100-177
The portions of 29 Code of Federal Regulations, Parts 1900-1910 which are referenced in Compressed Gas Association CGA C-1 – 1996, Methods for Hydrostatic Testing of Compressed Gas Cylinders, Compressed Gas Association CGA C-6 – 1993, Standards for Visual Inspection of Steel Compressed Gas Cylinders, Seventh Edition, Reaffirmed 1995, Compressed Gas Association CGA C-6.1 – 1995, Standards for Visual Inspection of High Pressure Aluminum Compressed Gas Cylinders, and Compressed Gas Association CGA C-6.3 – 1999 Guidelines for Visual Inspection and Requalification of Low Pressure Aluminum Compressed Gas Cylinders, Second Edition

29 Code of Federal Regulations, Parts 1900-1910
Compressed Gas Association CGA C-1 – 1996, Methods for Hydrostatic Testing of Compressed Gas Cylinders
Compressed Gas Association CGA C-6 – 1993, Standards for Visual Inspection of Steel Compressed Gas Cylinders, Seventh Edition, Reaffirmed 1995
Compressed Gas Association CGA C-6.1 – 1995, Standards for Visual Inspection of High Pressure Aluminum Compressed Gas Cylinders
Compressed Gas Association CGA C-6.3 – 1999, Guidelines for Visual Inspection and Requalification of Low Pressure Aluminum Compressed Gas Cylinders, Second Edition
CGA, C-1, C-6, C-6.1, C-6.3

(5) The Code of Federal Regulations and the Compressed Gas Association (CGA) documents ~~CGA~~ incorporated by reference in this rule are available for public inspection during regular business hours at the Division currently located on the third floor (Room 326) of the Atrium Building, 325 John Knox Road, Tallahassee, Florida.

Specific Authority 633.01(1), 633.022 FS. Law Implemented 633.01, 633.022 FS. History--New 5-14-86, Amended 2-12-87, 4-8-90, 10-30-91, 4-3-95,

DEPARTMENT OF CORRECTIONS

RULE NO.: 33-302.111
RULE TITLE: Early Termination of Supervision
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. 27, No. 29, July 20, 2001 issue of the Florida Administrative Weekly:

33-302.111 Early Termination of Supervision.

(1) ~~Before a c~~Correctional probation officers ~~shall~~ considers recommending an offender ~~recommendations~~ for early termination of supervision, ~~on offenders who meet~~ the following criteria shall be met:

(a) through (d) No change.

(e) ~~A~~ Florida Crime Information Center/National Crime Information Center (FCIC/NCIC) records check reveals no new arrest during the course of supervision of which the sentencing or releasing authority has not been previously notified;

(f) No change.

(g) The offender has made satisfactory adjustment under supervision ~~significant life improvements~~ and is no longer in need of supervision.

~~(2) The officer will also take into account other factors before recommending an early termination including:~~

~~(a) The seriousness of the offense;~~

~~(b) The offender's prior record;~~

~~(c) Any potential threat to the community resulting from early termination of supervision;~~

~~(d) The offender's previous supervision history; and,~~

~~(e) Known objection from the victim, victims, or the State Attorney's office in the county from which the sentence originated.~~

~~(f) Offenders placed on probation or community control for a violation of Chapter 794 or Chapter 827, F.S., shall be subject to the maximum level of supervision, and that supervision shall continue through the full term of the court imposed probation or community control, as provided in Section 948.04, F.S.~~

(3) through (6) renumbered (2) through (5) No change.

Specific Authority 944.09 FS. Law Implemented 944.09, ~~948.04~~ FS. History-New _____.

WATER MANAGEMENT DISTRICTS

South Florida Water Management District

RULE CHAPTER NO.: RULE CHAPTER TITLE:
40E-7, PART VI Supplier Diversity and Outreach
MBE Contracting Rule

RULE NOS.: RULE TITLES:
40E-7.611 Policy
40E-7.621 Definitions
40E-7.631 Proposal Evaluation and MBE
Criteria
40E-7.637 District Implementation
40E-7.645 Compliance
40E-7.651 Reciprocal Application
40E-7.653 Certification Eligibility
40E-7.654 Grandfather Clause
40E-7.655 Certification Review Process

40E-7.659 Graduation from MBE Program
40E-7.661 Recertification Review Procedures
40E-7.664 Suspension, Debarment,
Revocation or Decertification

NOTICE OF CHANGES TO PROPOSED RULE

The South Florida Water Management District announces changes to proposed amendments and new rule for Rule 40E-7, Part VI, F.A.C., as published in the June 8, 2001 issue of the FAW, Vol. 27, No. 23 and amended in the August 10, 2001 issue of the FAW, Vol. 27, No. 32. The changes are in response to public comment, staff recommendations and Commission discussion contained in the record of the public hearing held on September 13, 2001, West Palm Beach, Florida. Proposed amendments to Rules 40E-7.611, 40E-7.621, 40E-7.631, 40E-7.637, 40E-7.645, 40E-7.651, 40E-7.653, 40E-7.654, 40E-7.655, 40E-7.659, 40E-7.661 and 40E-7.664 were changed to read as follows:

40E-7.611 Policy.

~~(2)~~ It is the objective of the District to provide incentives to increase the participation of MBEs which are experiencing the effects of marketplace discrimination and have sought to do business in the District's relevant market area.

~~(3)~~~~(2)~~ The District shall evaluate the progress of its Program to determine specific program provisions that require modification, expansion, and/or curtailment.

Specific Authority ~~373.113~~ ~~373.607~~ FS. Law Implemented 373.607 FS. History-New 9-25-96, Amended _____.

40E-7.621 Definitions.

(2) "Certified Minority Business Enterprise" means a firm certified by the District pursuant to Rules 40E-7.651 and 40E-7.653, F.A.C. and Sections 287.0943(1) and ~~&~~ (2), Florida Statutes.

(4) "Domicile" means the state in which the business has its principal place of business. For corporations, domicile means ~~and as it relates to corporations it also means~~ the state under whose laws the corporation was formed.

~~(20)~~ "Responsive" means a firm's bid or proposal conforms in all material respects to the invitation to bid or request for proposal and shall include compliance with MBE goals or good faith efforts.

~~(20)~~~~(21)~~ "A Small Business" means an independently owned and operated business concern that employs 200 or fewer permanent full-time employees and that, together with its affiliates, has a net worth of not more than \$5 million, or any firm based in this state which has a Small Business Administration 8(a) Certification. As applicable to sole proprietorships, the \$5 million net worth requirement shall include both personal and business investments.

~~(21)~~~~(22)~~ "Sole Proprietorship" means a business concern owned by one minority person.

~~(22)~~(23) "Supplier" means a firm that sells goods and commodities.

~~(23)~~(24) "Third-Party Development Assistance Provider" means local, regional, state or federal agencies, institutions and business development organizations that provide technical, management, financial and other related assistance to small, minority-owned businesses.

Specific Authority ~~373.113 337.607~~ FS. Law Implemented ~~288.703, 287.0943(1),(2), 373.607~~ FS. History–New 9-25-96, Amended _____.

40E-7.631 Proposal Evaluations and MBE Criteria.

(1) For contracts awarded based on evaluation criteria, there shall be a MBE participation criterion of 10% or 20% of the total points awarded. The District shall award points as reflected in Table 7.6-3 below. Maximum points will be awarded to the proposer if 30% or more of the total project work is performed by MBE firms. Percentages reflect the amount of total contract value proposed to be assigned to MBE firms. In the case of CCNA contracts, the percentages reflect the amount of total project work which shall be equated to the project dollars assigned to MBE firms.

Table 7.6-3

10 POINTS FOR MBE PARTICIPATION

≥30% =	10 points
≥27% =	9 points
≥24% =	8 points
≥21% =	7 points
≥18% =	6 points
≥15% =	5 points
≥12% =	4 points
≥ 9% =	3 points
≥ 6% =	2 points
≥ 3% =	1 point

20 POINTS FOR MBE PARTICIPATION

≥30% =	20 points
≥27% =	18 points
≥24% =	16 points
≥21% =	14 points
≥18% =	12 points
≥15% =	10 points
≥12% =	8 points
≥ 9% =	6 points
≥ 6% =	4 points
≥ 3% =	2 points

~~(3) The proposers must meet the certification criteria established by the District for utilizing MBE firms to ensure participation as described in Rule 40E 7.653, F.A.C.~~

~~(3)~~(4) The percentage of MBE participation will be calculated by dividing the proposer's expenditures to a MBE subcontractor for providing direct labor or a bona fide service by the total project dollars as identified in the proposal.

~~(4)~~(5) A proposer may count toward its MBE participation the fees or commissions charged for providing direct labor or a bona fide service, such as professional, technical, consultant or managerial services.

(5) A District certified MBE firm shall be prohibited from acting as a subcontractor to its own firm for the purposes of providing the proposer with MBE participation. A proposer shall not do business with its own entity in an effort to circumvent this Rule.

(6) For the purposes of this rule, the District will not count toward a proposer's MBE participation any portion or portions of the MBE subcontractor's work that is subcontracted back to:

(a) The proposer, either directly, ~~to~~ or through any other company or firm owned ~~and~~ or controlled by the proposer, or

(b) Any non-MBE firm ~~with which the MBE firm has a present business relationship. A present business relationship is defined as both firms having some of the same owners or the sharing of space, equipment, financing or employees.~~

(7) For the purposes of this rule, a MBE subcontractor shall not be allowed to subcontract all or a majority of the subcontractual portion of the work to another non-MBE firm or firms. A MBE subcontractor shall be prohibited from engaging in a subcontractual agreement with the intent of collecting a broker's fee or commission. A MBE subcontractor shall also be prohibited from entering into a subcontractual agreement with a firm and whose employees perform none of the direct labor or service activities specified in the contract.

(8) Participation by a MBE firm shall not be considered and the MBE firm shall be disqualified if the owner ~~or owners~~ of the MBE firm enters into ~~engages in~~ an agreement with a non-MBE firm with the intent of securing employment with that non-MBE firm during the course of performing a District contract.

Specific Authority ~~373.113 373.607, 287.055~~ FS. Law Implemented ~~287.055, 373.607~~ FS. History–New 9-25-96, Amended _____.

40E-7.637 District Implementation.

(6) When requested by an unsuccessful proposer bidder, conduct debriefing sessions on awarded contracts to explain why ~~bids~~ proposals may have been unsuccessful.

(7) Coordinate outreach with Procurement and contracting departments to offer instructions and clarify ~~bid~~ proposal specifications, procurement policy, procedures, and general bidding requirements.

(9) Ensure that ~~bid~~ proposals, specifications, and plans are written so as not to unreasonably limit MBE participation.

(15) Schedule ~~pre-bid or~~ pre-proposal meetings, where appropriate, to inform potential contractors of Program requirements and other ~~bid/proposal~~ requirements.

(16) Maintain a file of successful ~~bid/proposal~~ documents from past procurement and encourage MBEs to review and evaluate such documents.

(22) Place notices of contract opportunities ~~and bids~~ at District service centers, in the Dodge report, MBE trade association newsletters, major local or regional newspapers, and minority – and woman – focused media.

(25) Provide notices of ~~bids/business~~ proposals to facilitate the participation of MBEs.

Specific Authority ~~373.113 373.607~~ FS. Law Implemented 373.607 FS. History–New 9-25-96, Amended _____.

40E-7.645 Compliance.

(7) The District shall ensure program compliance by a contractor or its participating subcontractors through contract provisions. Contractor compliance provisions include:

(c) Refusal of all future ~~proposals bids or~~ offers submitted to the District by the Contractor for a period of three (3) years;

(e) Cancellation of the ~~contract, eligible project/contract for cause.~~

Specific Authority ~~373.113 373.607~~ FS. Law Implemented 287.134, 287.094, 373.607 FS. History–New 9-25-96, Amended _____.

40E-7.651 Reciprocal Application Certification.

(1) Reciprocal ~~application certification~~ shall be granted to applicant businesses which have been certified by other jurisdictions and meet the District certification standards. ~~An applicant business shall provide an affidavit attesting that the applicant business has sought to do business within the District's relevant market area prior to the time a bid or proposal is submitted.~~

(2) An applicant business is not eligible for reciprocal ~~application certification~~ if the business exceeds a net worth of \$5 million. As applicable to sole proprietorships, the \$5 million net worth requirement shall include both personal and business investments.

(3) Eligibility for reciprocal ~~application certification~~ shall be contingent upon ~~(+)~~ an agreement between the District and another certifying jurisdiction within the state of Florida ~~and~~ ~~(2) any additional requirements, pursuant to this Rule.~~ The applicant businesses seeking reciprocal application certification must submit to the District a copy of the current certification from the certifying jurisdiction and a copy of the completed application submitted to the certifying jurisdiction along with a statement affidavits of continued eligibility.

Specific Authority ~~373.113 373.607~~ FS. Law Implemented 373.607 FS. History–New 9-25-96, Amended _____.

40E-7.653 Certification Eligibility.

(1) The District shall have the authority to accept, review, approve, and ~~or~~ deny applications for MBE certification. The District shall also have the authority to decertify, suspend and/or debar firms pursuant to Rule 40E-7.664, F.A.C.

(2) Applicant businesses shall submit applications for MBE certification using Form No. 0964, "MBE Application for Certification Application." ~~effective date~~ _____, which is hereby incorporated by reference and which can be obtained from the District upon request. Mailing addresses must include the number, name of the street, suite number, if any, and correct zip code. A post office box will not be acceptable absent a street address. An applicant business shall provide in the MBE Certification Application an affidavit attesting that the applicant business has sought to do business within the District's relevant market area prior to the time a ~~bid or~~ proposal is submitted.

(4) If ~~present ownership applicant business~~ was obtained by transfer, the minority person on whom eligibility is based must own 51% of the applicant firm for a minimum of two (2) years when any previous majority ownership interest in the firm was by a non-minority who is or was a relative, former employer, or current employer of the minority person on whom eligibility is based. This requirement shall not apply to minority persons who are otherwise eligible who take a 51% or greater interest in a firm that requires professional licensure to operate and who will be the qualifying license holder licensure for the firm when certified. A transfer made within a related immediate family group from a non-minority person to a minority person in order to establish ownership by a minority person shall be deemed to have been made solely for purposes of satisfying certification criteria and shall render such ownership invalid for purposes of qualifying for such certification if the combined total net asset value of all members of such family group exceeds \$1 million. For purposes of this subparagraph, the term "related immediate family group" means one or more children under 16 years of age and a parent of such children or the spouse of such parent residing in the same house or living unit.

3. In any other form of organization, the minority owners must own at least 51% of the business interest of the organization, including, but not limited to, 51% of the ownership of assets, dividends, and intangible assets such as copyrights and patents.

(c) The minority owners must demonstrate that they share in all the risks assumed by the business firm. Such sharing of business risks shall be demonstrated through the minority owners' primary role in decision-making, and negotiation and execution of related transaction documents either as individuals or as officers of the business. The minority owners'

sharing in business risks shall be commensurate with their percentage of ownership, including start-up costs and contributions, acquisition of additional ownership interests, third-party agreements, and bonding applications. Start-up contributions may be space, cash, equipment, real estate, inventory or services estimated at fair market value. All contributions of capital by the minority owners must be real and substantial. The following are presumed not to be real and substantial capital contributions:

4. Past services rendered by the minority person as an employee, rather than as a decision-maker.

(d) The business firm cannot at any time enter into any agreement, option, or scheme, or create any rights of conversion, which, when exercised, would result in less than 51% minority ownership or in the loss of the minority owners' control of the business firm.

(5) An applicant must establish that the minority owner seeking certification be the license holder, ~~qualifying agent,~~ and/or the professional license holder and possess the authority to control and exercise dominant control over the management and daily operations of the business.

(6) To establish that it is a small minority business concern, the applicant shall:

(a) Demonstrate that it is an independently owned and operated business concern. In assessing business independence, the District shall consider all relevant factors, including the date the firm was established, the adequacy of its resources, and the degree to which financial, managerial and/or operational relationships exist with other persons and/or business concerns. For purposes of this rule, the District's consideration of such financial relationships, managerial and/or operational relationships shall not be affected by arrangements made out of necessity or due to the business' inability to secure traditional capitalization through banks, lending institutions or others.

(b) Demonstrate that it is not an affiliate of a non-minority business nor share (on an individual or combined basis) common ownership, directors, management, employees, facilities, inventory, financial resources and expenses, equipment or business operations with a non-minority person and/or business concern which is in the same or an associated field of operation.

(c) To establish that it is a small business concern, the applicant shall demonstrate that the net worth of the business concern, together with its affiliates, does not exceed five (5) million dollars ~~and an average net worth after federal income taxes, excluding any carryover losses, for the preceding two years of not more than two (2) million dollars.~~ In determining the net worth of the business and its affiliates, the District shall consider the most recent federal tax returns or annual financial statements for the business and business owner. As applicable to sole proprietorships, the 5 million dollar net worth requirement shall include both personal and business

investments. If no annual financial statement is available, the applicant shall submit a financial statement for any quarter during the previous six (6) months. In determining the business' income, the District shall consider the two most recent financial statements for the business and/or the most recent federal income tax returns.

(d) To establish that it is a small business concern, the applicant shall provide documentation to demonstrate that it employs two-hundred (200) or fewer permanent, full-time employees. ~~The number of permanent, full time employees shall be determined by adding the number of employees the applicant acknowledges to be permanent, full-time employees to the number of permanent positions the applicant needs in order to carry out its business is based upon the quantity of work performed and the annual gross receipts of the business concern.~~ In determining whether the applicant meets the criteria for a small business, the District shall consider such documentation as:

(8) The applicant business must provide evidence of the minority status of owners who are claiming to be minority persons, as follows:

(a) Demonstrate that the applicant business owners' ethnicity qualifies them as an eligible person pursuant to Rule 40E-7.621(12)(8), F.A.C. In determining the ethnicity of a person, the District shall consider any of the following:

(b) Demonstrate that the applicant business owners' gender qualifies them as an eligible person pursuant to Rule 40E-7.621(12)(19), F.A.C. In determining the gender of a person, the District shall consider any of the following:

(c) Demonstrate that the applicant business owners' origin qualifies them as an eligible person pursuant to Rule 40E-7.621(15)(8), F.A.C. When determining a person's origins, the District shall accept any of the following documentation in order to clearly establish a direct line of descent:

5. An ~~a~~ Affidavit, except that of an official of the federal government, a state government or a municipality.

Specific Authority ~~373.113 373.607~~ FS. Law Implemented 373.607 FS. History--New 9-25-96, Amended 6-16-98, _____.

40E-7.654 Grandfather Clause.

MBE firms that are certified on the effective date of the rule amendment shall remain certified until the firms' certification expires.

Specific Authority 373.113 FS. Law Implemented 373.607 FS. History--New _____.

40E-7.655 Certification Review Procedures.

(4) Applicants determined eligible shall receive a certification letter stating the length of time for which the business has been certified, the specialty areas of the business, the minority status categories in which the business is certified, and the business' responsibilities set out in Section 287.0943(1) ~~and~~ & (2), F.S. Once certified, an applicant shall

remain certified for a period of ~~three (3) years~~ one (1) year unless the applicant fails to follow this rule and is sanctioned pursuant to Rule 40E-7.645, F.A.C. ~~otherwise revoked for cause~~ The District retains the right to reevaluate the certification of any business at any time.

Specific Authority ~~373.113 373.607~~ FS. Law Implemented 373.607 FS. History--New 9-25-96, Amended _____.

40E-7.659 Graduation from MBE Program.

~~(1) Participation in the District's Program will be dependent upon the MBE's need for the affirmative procurement initiatives extended to MBE's under this Part. The MBE shall be graduated and shall not be eligible for continued participation in the affirmative procurement initiatives contained in the rules under this Part as a prime contractor if the business exceeds a net worth of \$3 million and an average net income after federal income taxes, excluding any carryover losses, for the preceding 2 years of \$2 million. As applicable to sole proprietorships, the \$3 million net worth requirement shall include both personal and business investments.~~

~~(2) A MBE which is considered graduated under this section shall be counted towards prime contractor's goal attainment when utilized as a subcontractor or joint venture partner.~~

Specific Authority ~~373.113 373.607~~ FS. Law Implemented 373.607 FS. History--New 9-25-96, Repealed _____.

40E-7.661 Recertification Review Procedures.

(1) Applications for recertification shall be submitted using form No. 0958, "Application for Recertification", effective date _____, which is hereby incorporated by reference and available from the District upon request.

(2) The District will notify MBE's no later than sixty (60) days before the end of the certification period. If the minority owner is unable to use the recertification affidavit because changes in the applicant's business have occurred, the minority owner shall notify the District in writing. Recertification requests must be filed in the District no later than the last effective date of the current certification period. Recertification requests received by the District after the expiration of the certification period shall be given a ten (10) day grace period. ~~Recertification requests received by the District after the ten (10) day grace period will not be processed for a period of 90 days.~~

(6) Applicants deemed eligible shall receive a recertification letter stating the length of time for which the business has been certified, the specialty areas of the business, and the minority status categories in which the business is certified. Once recertified, an applicant shall remain certified for a period of three (3) years ~~one (1) year~~ unless the District determines that the applicant failed to comply with this rule. If an applicant fails to comply with this rule, the District may

apply any of the sanctions referenced in 40E-7.645, F.A.C. otherwise revoked for cause. The District retains the right to reevaluate the certification of any business at any time.

Specific Authority ~~373.113 373.607~~ FS. Law Implemented 373.607 FS. History--New 9-25-96, Amended _____.

40E-7.664 Suspension, Debarment, Revocation or Decertification.

(2) Facts or conduct that could warrant suspension, decertification, or debarment include ~~but are not limited to:~~

~~(a) Failure to meet qualifying criteria.~~

~~(a)(b) Fraud, deceit, or misrepresentation for the purpose of obtaining MBE status.~~

~~(b)(e) Refusal to permit on-site inspections.~~

~~(c)(d) Failure to report changes regarding the business entity or its in the status or activities of the business entity or its minority ownership which affects the MBE's eligibility for certification.~~

(3) The written notice issued by the District shall contain:

(c) A statement that the firm has the right to file a request for an administrative hearing pursuant to Sections 120.569 and 120.57, Florida Statutes, and Chapter 28-106.111, F.A.C., within 21 14 days of receipt of the notice.

(d) A statement that the suspension, debarment, revocation or decertification shall become conclusive and final agency action if no request for a hearing is filed within the time frames prescribed in Chapter 120, Florida Statutes, and Chapter 28-106, Florida Administrative Code 14 days of receipt of the ~~notice.~~

(4) All requests for a hearing pursuant to Sections 120.569 and 120.57, Florida Statutes, shall be made in the form of a Petition in accordance with Chapter 28-106, Florida Administrative Code.

~~(5) If the firm fails to file a request for a hearing within the time frames prescribed in Chapter 120, Florida Statutes, and Chapter 28-106, Florida Administrative Code, 15 days after receipt of the notice, the suspension, debarment, revocation or decertification shall become conclusive and final agency action.~~

Specific Authority ~~373.113, 120.569 120.57, 373.607~~ FS. Law Implemented ~~120.569, 120.57 120.53,~~ 373.607 FS. History--New 9-25-96, Amended _____.

DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION

Division of Hotels and Restaurants

RULE CHAPTER NO.:	RULE CHAPTER TITLE:
61C-4	Public Food Service Establishments
RULE NO.:	RULE TITLE:
61C-4.023	Food Protection Manager Certification and Public Food Service Employee Training

NOTICE OF CHANGE

Notice is hereby given that the following changes have been made to the proposed rule referenced above in accordance with subparagraph 120.54(3)(d)1., F.S., published in Vol. 27, No. 33, August 17, 2001, issue of the Florida Administrative Weekly. The changes are in response to comments made at a public rule hearing held on September 10, 2001, written comments received from the public, and written comments made by the Joint Administrative Procedures Committee.

61C-4.023 Food Protection Manager Certification and Public Food Service Employee Training.

(4) Public Food Service Employee Training.

(a) All public food service employees must receive training on professional hygiene and foodborne disease prevention through a food safety training program administered by the division's contracted training provider or another food safety training program approved by the division. Any food safety training program established and administered to food handler employees utilized at a public food service establishment prior to July 1, 2000 may provide food handler employee training and certification if the program is reviewed and approved by the division. For purposes of division approval, the program provider shall submit its training program to the division for review by providing a completed application ~~using, which is~~ DBPR Form HR 5026-011, entitled Food Safety Training Certification Program Application, incorporated herein by reference and effective ~~10-01-01~~ 11-08-00, ~~a copy of which is available by writing the Division of Hotels and Restaurants, 1940 North Monroe Street, Tallahassee, Florida 32399-1012, identifying the training components covered by the program in the application, as well as an executed copy of the division's applicant affidavit attesting to the accuracy of the application.~~ The division will approve programs that the division determines to be in substantial compliance with the division's adopted minimum food safety standards and related rules. A provider's approval is subject to the program provider's continued compliance with the division's minimum food safety standards and related rules. The division may conduct random audits of approved programs to determine compliance and may audit any program if it has reason to believe a program is not in compliance with the division's minimum food safety standards. The division may revoke its approval of any program which, upon examination, fails to substantially comply with the minimum food safety standards and related rules established by the division, as amended from time to time.

(b) Approved program providers must maintain training information for a period of at least three years from the date training is provided. This information must include the name of the trained food service employee, the name of establishments where training has been provided, the date of training, and the specific course which was used for the training. The division may revoke its approval of any program

~~where which~~, upon examination, the program provider is found to have failed to keep this required information or to have knowingly participated in falsifying any training record.

THE REMAINDER OF THE RULE WILL READ AS PUBLISHED.

DEPARTMENT OF HEALTH

Board of Pharmacy

RULE NO.: 64B16-27.500
 RULE TITLE: Negative Drug Formulary

AMENDED NOTICE OF PUBLIC HEARING

The Board of Pharmacy hereby gives notice of a public hearing to be held on the above-referenced rule on October 9, 2001, 2:00 p.m., at The Radisson Hotel, 415 North Monroe Street, Tallahassee, Florida. This notice replaces the earlier notice which scheduled the hearing for September 14, 2001. The public hearing is being held in response to two requests received from DuPont Pharmaceutical Company and Florida Chapter of American College of Cardiology. The rule was originally published in Vol. 27, No. 30, of the July 27, 2001, Florida Administrative Weekly.

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: John Taylor, Executive Director, Board of Pharmacy/MQA, 4052 Bald Cypress Way, Bin #C04, Tallahassee, Florida 32399-3254

Any person requiring a special accommodation at this hearing because of a disability or physical impairment should contact the Board's Executive Director at least five calendar days prior to the hearing. If you are hearing or speech impaired, please contact the Board office using the Florida Dual Relay System which can be reached at 1(800)955-8770 (Voice) and 1(800)955-8771 (TDD).

Section IV
 Emergency Rules

DEPARTMENT OF THE LOTTERY

RULE TITLE: Instant Game Number 397, CRAZY 7s
 RULE NO.: 53ER01-61

SUMMARY OF THE RULE: This emergency rule relates to the Instant Game Number 397, "CRAZY 7s" for which the Department of the Lottery will start selling tickets on a date to be determined by the Secretary of the Department. The rule sets forth the specifics of the game, determination of prizewinners and the number and size of prizes in the game.

THE PERSON TO BE CONTACTED REGARDING THE EMERGENCY RULE IS: Diane D. Schmidt, Legal Analyst, Department of the Lottery, Capitol Complex, Tallahassee, Florida 32399-4011