

SPECIFIC AUTHORITY: 381.0011, 381.006, 514.0115, 514.021, 514.033, 514.05, 514.075 FS.

LAW IMPLEMENTED: 381.006, 381.0011, 381.0015, 381.0025, 386.01, 386.02, 386.03, 386.041, 386.051, 514.011, 514.0115, 514.021, 514.025, 514.028, 514.03, 514.031, 514.033, 514.04, 514.05, 514.06, 514.071 FS.

A RULE DEVELOPMENT WORKSHOP WILL BE HELD AT THE TIME, DATE AND PLACE SHOWN BELOW:

TIME AND DATE: 10:00 a.m. – 4:00 p.m., November 14, 2002

PLACE: Conference Room “A”, Hurston South Tower, 400 West Robinson Street, Orlando, FL

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT, IF AVAILABLE, IS: Robert Pryor, Department of Health, Bureau of Water Programs, Bin #C22, 4052 Bald Cypress Way, Tallahassee, FL 32399-1742, (850)245-4444, Ext. 2369

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

Section II Proposed Rules

DEPARTMENT OF STATE

Division of Elections

RULE TITLE: Polling Place Accessibility Survey

RULE NO.: 1S-2.035

PURPOSE AND EFFECT: The purpose and effect of the proposed rule is to provide a uniform survey for county supervisors of elections to determine the accessibility of polling places.

SUMMARY: This rule provides an actual physical survey for supervisors of elections to use in making their determination of the accessibility of a polling place. This rule provides guidance and graphics for such things as entrances, parking, door widths, rooms, stairs, elevators, rest rooms, and telephones along with a variety of other issues that would require accessibility.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COST: None.

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

SPECIFIC AUTHORITY: 101.715 FS., Chapter 2002-281, Laws of Florida.

LAW IMPLEMENTED: 101.715 FS., Chapter 2002-281, Laws of Florida.

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

TIME AND DATE: 2:00 p.m., December 3, 2002

PLACE: The Betty Easley Conference Center, Room 166, 4075 Esplanade Way, Tallahassee, Florida 32399

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT IS: Marielba Torres, Division of Elections, Department of State, 107 West Gaines Street, Tallahassee, Florida 32399, (850)245-6200

Pursuant to the Americans with Disabilities Act, persons needing special accommodations to participate in this meeting should contact Marielba Torres, (850)245-6200, at least three days in advance of the meeting.

THE FULL TEXT OF THE PROPOSED RULE IS:

1S-2.035 Polling Place Accessibility Survey.

The Department of State, Division of Elections, is required to establish a polling place accessibility survey, Form DS-DE 43 (10/02), which is hereby incorporated by reference and available from the Division of Elections, The Collins Building, Room 100, 107 West Gaines Street, Tallahassee, Florida 32399.

Specific Authority 101.715 FS. Law Implemented 101.715 FS. History--New

NAME OF PERSON ORIGINATING PROPOSED RULE: Amy Tuck Whitman, Assistant General Counsel

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Edward C. Kast, Director, Division of Elections, Department of State

DATE OF PROPOSED RULE APPROVED BY AGENCY HEAD: October 7, 2002

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: August 30, 2002

DEPARTMENT OF BANKING AND FINANCE

Division of Finance and Securities

RULE TITLES: Definitions

RULE NOS.: 3E-7.001

Certification as a Certified Capital Company

3E-7.002

Capital Requirements for Certified

Capital Companies 3E-7.003

Annual Review 3E-7.004

Requirements to Update Information 3E-7.005

Renewal of Certification 3E-7.006

Books and Records Requirements 3E-7.007

Forms, Instructions and Manuals 3E-7.008

PURPOSE AND EFFECT: These rules will be amended to update and conform the certification procedures for the newly enacted Program Two of the Certified Capital Company Act in Section 288.99, F.S.

SUMMARY: The rules update and conform the certification process and qualifications for Program Two of the Certified Capital Company Act.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COST: None.

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

SPECIFIC AUTHORITY: 288.99(4)(h) FS.

LAW IMPLEMENTED: 288.99(3),(4),(5),(8),(9),(10),(17) FS. IF REQUESTED WITHIN 21 DAYS OF THE DATE OF THIS NOTICE, A HEARING WILL BE HELD AT THE TIME, DATE AND PLACE SHOWN BELOW:

TIME AND DATE: 1:30 p.m., November 12, 2002

PLACE: Department of Banking and Finance, The Fletcher Building, 101 E. Gaines Street, Room G-16C, The JAD Room, Tallahassee, Florida 32399

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT AND A COPY OF THE PRELIMINARY DRAFT IS: Michael Ramsden, 101 E. Gaines Street, Tallahassee, Florida 32399, (850)410-9805

THE FULL TEXT OF THE PROPOSED RULE IS:

3E-7.001 Definitions.

Definitions as used in Rule Chapter 3E-7.

(1) through (2) No change.

~~(3) "Net Capital and Net Worth" mean assets minus liabilities in accordance with Generally Accepted Accounting Principles as adopted by the American Institute of Certified Public Accountants, which are incorporated herein by reference.~~

~~(3)(4) "Predominantly engaged," as used in s. 288.99(3)(k), F.S., means any business engaged in retail sales, real estate development, insurance, banking, lending, oil and gas exploration or engaged in professional services provided by accountants, lawyers, or physicians for which: (i) over fifty percent of the revenues of such business, for the preceding fiscal year, are derived from a combination of one or more such activities, or (ii) if a new enterprise, over fifty percent of the projected revenues of such business, for its first fiscal year, are derived from a combination of one or more such activities.~~

~~(4)(5) "Principal Office" means the place where the chief or principal affairs and business of the applicant are transacted.~~

Specific Authority 288.99(4)(h)(+) FS. Law Implemented 288.99(4) FS. History—New 9-15-98, Amended _____.

3E-7.002 Certification as a Certified Capital Company.

(1) Each applicant seeking certification as a certified capital company shall complete, execute, and file with the department not later than ninety 90 days prior to the scheduled deadline for submission of tax credit allocation requests to the Office of Trade, Tourism, and Economic Development contained in s. 288.99(17), F.S. for the respective Program ~~on~~

~~or before December 1, 1998,~~ Form DOSIP-C-1-98, Application for Certification as a Certified Capital Company, which is incorporated herein by reference.

(a) An application may be obtained directly from the department in paper copy format, on 3.5" diskette, by e-mail, or by accessing the department's website at www.dbf.state.fl.us.

(b) Diskette and e-mail versions of the application are available only in the following format: Microsoft Word for Windows Version 7.0a.

(2) No change.

(3) Any application filed after the date referenced in paragraph (1) of this section ~~December 1, 1998,~~ shall be denied by the department.

(4) through (8) No change.

(9) Whenever an applicant has knowledge that information supplied on or with its application has become inaccurate or obsolete, the applicant shall file an amended application form within 30 days, including an originally executed certification page to the department updating this information. Amended applications may be filed in the same manner as provided for original applications.

(10) The department will make requests for additional information within 30 days, if necessary, after the department receives the application and the full amount of the application fee.

(11) Upon approving an application, the department shall issue a certificate evidencing certification effective ~~from the date issued through December 31, 1999~~ through December 31 of that calendar year. No renewal fees shall be required within 6 months after the date of initial certification.

(12) Copies of all offering materials and advertising materials used by the CAPCO must be filed with the Department no later than the date on which the Certified Capital Company submits tax credit allocation request to the Office of Trade, Tourism, and Economic Development with respect to the Program for which the requests are being submitted.

Specific Authority 288.99(4)(h)(+) FS. Law Implemented 288.99(4) FS. History—New 9-15-98, Amended _____.

3E-7.003 ~~Net~~ Capital Requirements for Certified Capital Companies.

~~Within twenty-four hours after actual knowledge that its minimum net capital is less than the amount required by s. 288.99, F.S., a certified capital company shall notify the department in writing of this deficiency.~~

At the time of application and at all times prior to the receipt of an allocation of tax credits, the applicant shall maintain an equity capitalization in the form of cash and cash equivalents in accordance with s. 288.99(4)(b)(5), F.S. A certified capital company shall notify the Department within twenty-four hours of a failure to maintain such equity capitalization. Any certified capital company that receives an allocation of tax

credits shall immediately be subject to the constraints of s. 288.99(3)(m), F.S. with respect to any distributions or payments.

Specific Authority 288.99(4)(h)(+) FS. Law Implemented 288.99(4) FS. History—New 9-15-98, Amended.

3E-7.004 Annual Review.
(1) through (2) No change.

Specific Authority 288.99(4)(h)(+) FS. Law Implemented 288.99(10) FS. History—New 9-15-98.

3E-7.005 Requirements to Update Information.
No Change.

Specific Authority 288.99(4)(h)(+) FS. Law Implemented 288.99(4) FS. History—New 9-15-98.

3E-7.006 Renewal of Certification.
(1) through (2) No change.

(3) Renewal fees paid by cashier's check, money order or certified check shall be mailed to the Department of Banking and Finance, Division of Securities and Finance, 101 East Gaines Street, Tallahassee, Florida 32399-0350.

(4) Upon receipt of the required renewal fees, the department shall issue a certificate evidencing renewal of the certification through December 31 of that calendar year.

Specific Authority 288.99(4)(h)(+) FS. Law Implemented 288.99(4) FS. History—New 9-15-98, Amended.

3E-7.007 Books and Records Requirements.

(1) Each certified capital company shall prepare and maintain on a current basis the following records:

(a) A complete executed copy of the application, any amendments thereto and the attached schedules.

(b) Files for each Director and Principal containing the following:

1. Evidence that at least two of the Principals meet the requirements of s. 288.99(4)(c)3., F.S.;

2. Full documentation and details pertaining to each affirmative response to the disciplinary questions on Schedule D to Form DOSIP-C-1-98; and

3. Documentation pertaining to any outstanding or resolved customer complaints, actions, internal reviews or investigations into each Director's and Principal's activities while associated with said certified capital company.

(c) Records concerning all securities issued by the certified capital company which include each of the following:

1. The type of security issued;
2. The name, address, and telephone number of the Investor(s);
3. The date of the transaction;
4. The total dollar amount invested;
5. Copies of any prospectus or offering material used in connection with the sale of securities by the certified capital company; and

6. Evidence that the offering security contains the statement required by s. 288.99(4)(f), F.S.

(d) Records relating to each certified investor in the certified capital company which include each of the following:

1. Evidence demonstrating that the certified investor is subject to premium tax liability pursuant to s. 624.509, F.S.;

2. The names of all affiliates and a description of the affiliation; and

3. The investor's state and federal tax identification numbers and premium tax identification number.

(e) Records relating to each qualified business or early stage technology Business (collectively "business") invested in by the certified capital company which includes each of the following:

1. The name of the business;

2. The location of the headquarters and principal business operations of the business;

3. A description of the type of business engaged in;

4. Evidence that the business meets the definition of a small business as defined by s. 288.99(3)(k), F.S.;

5. The affidavit required by s. 288.99(3)(k)3., F.S. Such affidavit shall be duly sworn and notarized, and shall be completed by an authorized representative of such business;

6. A copy of any contractual agreement entered into between the certified capital company and the business;

7. The amount of investment made in the business;

8. The type of investment made along with all supporting documentation;

9. The date of the investment;

10. A description of the procedures used to select the business for investment including the names of all individuals associated with the certified capital company who participated in the decision;

11. A due diligence file on the business;

12. Copies of any prospectus or offering material used in connection with the sale of securities by the business to the certified capital company.

13. All correspondence between the certified capital company and the qualified business; and

14. A summary listing of all investments made in qualified businesses as of the end of each calendar year beginning with December 31, 2000.

15. Copies of annual financial statements and the quarterly and annual unemployment tax filings for each qualified business. For a qualified business that is not required to file quarterly and annual unemployment tax filings, the qualified business shall maintain end-of-quarter and end-of-year payroll records which shall include contracts for the leasing of staff.

(f) Organizational documents, and any amendments to these documents, as are applicable, based upon the type of organizational structure. These documents should include the following, as applicable:

- 1. Articles of Incorporation;
- 2. Partnership Agreement;
- 3. Articles of Organization;
- 4. Bylaws; and
- 5. Evidence of Registration with the Department of State.

(g) Records relating to capital of the certified capital company which is not invested in qualified businesses which include each of the following:

- 1. A ledger or customer statement from the financial institution or broker-dealer holding the assets which includes the details of all purchases, sales, receipts, and deliveries of securities; and
- 2. Evidence that each investment complies with the requirements of s. 288.99(5)(b)3., F.S.

(h) Records relating to all qualified distributions by the certified capital company which include each of the following:

- 1. The date of the distribution;
- 2. The amount of the distribution;
- 3. To whom the distribution was paid;
- 4. The purpose of the distribution; and
- 5. A statement describing how each distribution complies with the definition found in s. 288.99(4)(m), F.S.

(i) Records relating to all distributions by the certified capital company, other than qualified distributions, which include each of the following:

- 1. The date of the distribution;
- 2. The amount of the distribution;
- 3. Who the distribution was paid to;
- 4. The purpose of the distribution; and
- 5. A statement describing how each distribution complies with s. 288.99(9), F.S.

(j) Documentation to support the information provided to the department pursuant to s. 288.99(8)(a), F.S.

(k) Financial records, prepared in accordance with generally accepted accounting principles, which include each of the following:

- 1. A journal or journals, including cash receipts and disbursements records, and any other records of original entry forming the basis of entries in any ledger;
- 2. General and auxiliary ledgers (or other comparable records) reflecting asset, liability, reserve, capital, income and expense accounts;
- 3. All check books, bank statements, canceled checks and cash reconciliations; and
- 4. All bills or statements (or copies thereof), paid or unpaid, relating to the business of the certified capital company.

(2) through (3) No change.

Specific Authority 288.99(4)(h) FS. Law Implemented 288.99(3),(4),(5),(8),(9) FS. History—New 9-15-98, Amended

3E-7.008 Forms, Instructions and Manuals.

(1) through (2) No change.

Specific Authority 288.99(4)(h) FS. Law Implemented 288.99(4) FS. History—New 9-15-98.

NAME OF PERSON ORIGINATING PROPOSED RULE: Don Saxon, Director, Department of Banking and Finance

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Don Saxon, Director, Department of Banking and Finance

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: October 8, 2002

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: September 13, 2002

DEPARTMENT OF INSURANCE

Division of State Fire Marshal

RULE CHAPTER TITLE: Firefighter Death Benefits

RULE CHAPTER NO.: 4A-64

RULE TITLES: Scope

RULE NOS.: 4A-64.001

Definitions 4A-64.002

Ability to Pay of Benefits 4A-64.003

Designation of Beneficiary or Beneficiaries 4A-64.004

Adjustments to Reflect Consumer Price Index 4A-64.005

PURPOSE AND EFFECT: To adopt rules for definitions, procedures for payment of benefits, and price level changes relating to firefighter death benefits in Section 112.191, Florida Statutes.

SUMMARY: This rule chapter implements the firefighter death benefits requirements in Section 112.191, Florida Statutes, and provides for definitions, procedures for payment of benefits, and price level changes based on the consumer price index related thereto.

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

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

SPECIFIC AUTHORITY: 112.191 FS.

LAWS IMPLEMENTED: 112.191 FS.

IF REQUESTED A HEARING WILL BE HELD AT THE TIMES, DATES AND PLACES SHOWN BELOW (IF A HEARING IS NOT REQUESTED, NO HEARING WILL BE HELD):

TIME AND DATE: 9:00 a.m., November 21, 2002

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

In accordance with the Americans with Disabilities Act and Section 286.26, Florida Statutes, persons needing a special accommodation to participate in this meeting or workshop should contact Kimberly Riordan, (850)413-3607, no later than 48 hours prior to the meeting or workshop.

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULES IS: Harriett Abrams, Assistant Director, Division of State Fire Marshal, 200 East Gaines Street, Tallahassee, Florida 32399-0342, (850)413-3608

THE FULL TEXT OF THE PROPOSED RULES IS:

FIREFIGHTERS DEATH BENEFITS

4A-64.001 Scope.

These rules apply to each employer as defined herein.

Specific Authority 112.191 FS. Law Implemented 112.191 FS. History—New

4A-64.002 Definitions.

For purposes of this rule chapter, the following words or terms found this rule chapter or in Section 112.191, Florida Statutes, have the following definitions.

(1) “Department” means the Department of Insurance.

(2) “Division” means the Division of State Fire Marshal.

(3) “Employer” means each state board, commission, department, division, bureau or agency, and each county, municipality, or other political subdivision of the state employing firefighters and includes each private, non-profit corporation, state board, commission, department, division, bureau or agency, and each county, municipality, or other political subdivision of the state utilizing volunteer firefighters which is subject to Section 112.191, Florida Statutes.

(4) “Engaged in the performance of his or her firefighter duties” means that the firefighter is or was in the process of, or in the act of:

(a) Engaging in any activity which is within the firefighter’s job or position description or scope of employment, regardless of whether the firefighter was actually “on duty” at his or her place of employment or not; or

(b) Responding to any emergency or reasonably believing that he or she is responding to an emergency; or

(c) Fighting a fire or engaging in any emergency life or property saving activity; or

(d) Returning from responding to any emergency or from having reasonably believed that he or she was responding to an emergency.

(5) “In the line of duty” means engaged in the performance of his or her firefighter duties, as defined in this section.

(6) “Which has been determined to have been caused by an act of arson” means that the Division of State Fire Marshal or any other investigating agency having jurisdiction to investigate fires and arson such as the local law enforcement authority or the local fire department has made a determination

that the fire was caused by an act of arson, as contemplated by Section 806.01, Florida Statutes. It is not necessary to prove beyond a reasonable doubt in a court of law that an act of arson was committed, or was committed by a specific person.

Nothing in this rule chapter is intended to, or does, limit any portion of Section 112.191, Florida Statutes, in any manner with respect to benefits payable under any other standard set forth therein.

Specific Authority 112.191 FS. Law Implemented 112.191 FS. History—New

4A-64.003 Ability to Pay of Benefits.

(1) Each employer shall maintain an ability to pay the benefits provided under Section 112.191, Florida Statutes.

(2) Each employer shall, at request of the Division, provide the Division with evidence of such ability to pay benefits.

Specific Authority 112.191 FS. Law Implemented 112.191 FS. History—New

4A-64.004 Designation of Beneficiary or Beneficiaries.

(1) Each firefighter who has a beneficiary or beneficiaries who may become eligible for payments under Section 112.191, Florida Statutes, shall file with his or her employer a designation of beneficiary or beneficiaries.

(2) Each employer shall maintain in its possession such designation of beneficiary or beneficiaries until the subject firefighter is no longer associated in any manner with the employer.

Specific Authority 112.191 FS. Law Implemented 112.191 FS. History—New

4A-64.005 Adjustments to Reflect Consumer Price Index.

(1) Section 112.191, Florida Statutes, requires that the Division adjust the statutory amount based on the Consumer Price Index for all urban consumers published by the United States Department of Labor as of July 1 of each year. Since the effective date of the act is July 1, 2002, the statutory amount for the period from July 1, 2002 to June 30, 2003, shall be:

(a) For those benefits paid or to be paid under paragraph (a) of subsection (2): \$50,000.

(b) For those benefits paid or to be paid under paragraph (b) of subsection (2): \$50,000.

(c) For those benefits paid or to be paid under paragraph (c) of subsection (2): \$150,000.

(2) On or before July 1, 2003, and each year thereafter, the Division shall adopt by rule the Consumer Price Index adjustment for the next annual period, in accordance with the most recent Consumer Price Index available at the time of such adoption.

Specific Authority 112.191 FS. Law Implemented 112.191 FS. History—New

NAME OF PERSON ORIGINATING PROPOSED RULE: Harriett Abrams, Assistant Director, Division of State Fire Marshal, 200 East Gaines Street, Tallahassee, Florida 32399-0340
NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Randall A. Napoli, Director, Division of State Fire Marshal, Department of Insurance
DATE PROPOSED RULE APPROVED BY AGENCY HEAD: October 4, 2002
DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: September 6, 2002

DEPARTMENT OF TRANSPORTATION

RULE CHAPTER TITLE: Safety Inspection of Commercial Motor Vehicles
RULE CHAPTER NO.: 14-56
RULE TITLES: Purpose and Scope, Truck Safety Inspection Performed by the Department, Self-Inspectors, Vehicle Inspection Procedures, Fees, Issuance of Decals to Self-Inspectors, Accounting for Issued Decals, Inspection Not to Constitute a Warranty of Mechanical Condition, Suspension or Revocation of Approval as Self-Inspector, Notification of Disapproval, Suspension or Revocation of a Self-Inspector
RULE NOS.: 14-56.001, 14-56.002, 14-56.003, 14-56.004, 14-56.005, 14-56.006, 14-56.007, 14-56.008, 14-56.009, 14-56.010

PURPOSE AND EFFECT: Rule Chapter 14-56, F.A.C., is considered to be obsolete. Although the Motor Carrier Compliance officers continue to inspect commercial motor vehicles as part of their overall inspections for weight, dimensions, and safety, these ten rules are not needed.

SUMMARY: This is a repeal of ten obsolete rules relating to safety inspections of commercial motor vehicles.

SPECIFIC AUTHORITY: 334.044(2) FS.

LAW IMPLEMENTED: 316.610 FS.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COST: No Statement of Estimated Regulatory Cost has been developed.

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

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: James C. Myers, Management Analyst 4, Florida Department of Transportation, Office of the General Counsel, 605 Suwannee Street, Mail Station 58, Tallahassee, Florida 32399-0458

THE FULL TEXT OF THE PROPOSED RULES IS:

14-56.001 Purpose and Scope.

Specific Authority 334.044(2) FS. Law Implemented 316.610 FS. History-New 1-1-84, Formerly 14-56.01, Repealed.

14-56.002 Truck Safety Inspection Performed by the Department.

Specific Authority 334.044(2) FS. Law Implemented 316.610 FS. History-New 1-1-84, Formerly 14-56.02, Repealed.

14-56.003 Self-Inspectors.

Specific Authority 334.044(2) FS. Law Implemented 316.610 FS. History-New 1-1-84, Formerly 14-56.03, Repealed.

14-56.004 Vehicle Inspection Procedures.

Specific Authority 334.044(2) FS. Law Implemented 316.610 FS. History-New 1-1-84, Formerly 14-56.04, Repealed.

14-56.005 Fees.

Specific Authority 334.044(2) FS. Law Implemented 316.610 FS. History-New 1-1-84, Formerly 14-56.05, Repealed.

14-56.006 Issuance of Decals to Self- Inspectors.

Specific Authority 334.044(2) FS. Law Implemented 316.610 FS. History-New 1-1-84, Formerly 14-56.06, Repealed.

14-56.007 Accounting for Issued Decals.

Specific Authority 334.044(2) FS. Law Implemented 316.610 FS. History-New 1-1-84, Formerly 14-56.07, Repealed.

14-56.008 Inspection Not to Constitute a Warranty of Mechanical Condition.

Specific Authority 334.044(2) FS. Law Implemented 316.610 FS. History-New 1-1-84, Formerly 14-56.08, Repealed.

14-56.009 Suspension or Revocation of Approval as Self-Inspector.

Specific Authority 334.044(2) FS. Law Implemented 316.610 FS. History-New 1-1-84, Formerly 14-56.09, Repealed.

14-56.010 Notification of Disapproval, Suspension, or Revocation of a Self-Inspector.

Specific Authority 334.044(2) FS. Law Implemented 316.610 FS. History-New 1-1-84, Formerly 14-56.10, Amended 1-18-99, Repealed.

NAME OF PERSON ORIGINATING PROPOSED RULE: Lt Col David Binder, Motor Carrier Compliance Office

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Thomas F. Barry, Jr., P.E., Secretary

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: October 3, 2002

PUBLIC SERVICE COMMISSION

DOCKET NO. 020644-TP

RULE TITLE: Design and Construction of Plant

RULE NO.: 25-4.036

PURPOSE AND EFFECT: To incorporate the most recent editions of the National Electrical Safety Code and National Electrical Code.

SUMMARY: The amendment updates the rule so that it incorporates the most recent editions of the National Electrical Safety Code and the National Electrical Code.

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

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

SPECIFIC AUTHORITY: 350.127(2) FS.

LAW IMPLEMENTED: 364.01(4), 364.03 FS.

Written comments or suggestions on the proposed rule may be submitted to the FPSC, Division of the Commission Clerk and Administrative Services, within 21 days of the date of this notice for inclusion in the record of the proceeding.

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

If any person decides to appeal any decision of the Commission with respect to any matter considered at the rulemaking hearing, if held, a record of the hearing is necessary. The appellant must ensure that a verbatim record, including testimony and evidence forming the basis of the appeal is made. The Commission usually makes a verbatim record of rulemaking hearings.

Any person requiring some accommodation at this hearing because of a physical impairment should call the Division of the Commission Clerk and Administrative Services, (850)413-6770, at least 48 hours prior to the hearing. Any person who is hearing or speech impaired should contact the Florida Public Service Commission by using the Florida Relay Service, which can be reached at 1(800)955-8771 (TDD).

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Ray Kennedy, Florida Public Service Commission, 2540 Shumard Oak Blvd., Tallahassee, Florida 32399-0862, (850)413-6245

THE FULL TEXT OF THE PROPOSED RULE IS:

25-4.036 Design and Construction of Plant.

(1) The plant and facilities of the utility shall be designed, constructed, installed, maintained and operated in accordance with provisions of the 2002 ~~1993~~ Edition of the National Electrical Safety Code (IEEE C2-2002 ~~1993~~), ~~except that Rule 350G of the safety code shall be effective for cable installed on or after January 1, 1996,~~ and the National Electrical Code (NFPA 70-2002 ~~1993~~), pertaining to the construction of telecommunications facilities.

(2) No change.

Specific Authority 350.127(2) FS. Law Implemented 364.01(4), 364.03 FS. History—Revised 12-1-68, Amended 4-19-77, Formerly 25-4.36, Amended 2-5-86, 3-26-91, 5-3-94, _____.

NAME OF PERSON ORIGINATING PROPOSED RULE: Ray Kennedy

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Florida Public Service Commission

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: October 1, 2002

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: Vol. 28, No. 18, May 3, 2002

PUBLIC SERVICE COMMISSION

DOCKET NO. 010774-TP

RULE TITLE: Notice to Customers Prior to Increase

RULE NO.:

in Rates or Charges 25-24.491

PURPOSE AND EFFECT: To require interexchange telecommunications companies to provide reasonable prior notice to their customers of any increase in price or changes in terms and conditions of service that would increase the customers' cost of service.

SUMMARY: The proposed rule requires that interexchange telecommunications companies give reasonable prior notice to their customers of any increase in price or changes in terms and conditions of service that would increase the customers' cost of service. The proposed rule provides flexibility in the way such notice may be given and also provides circumstances in which the notice will be presumed reasonable.

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

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

SPECIFIC AUTHORITY: 350.127, 364.0252, 364.19 FS.

LAW IMPLEMENTED: 364.0252, 364.19 FS.

Written comments or suggestions on the proposed rule may be submitted to the FPSC, Division of the Commission Clerk and Administrative Services, within 21 days of the date of this notice for inclusion in the record of the proceeding.

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

If any person decides to appeal any decision of the Commission with respect to any matter considered at the rulemaking hearing, if held, a record of the hearing is necessary. The appellant must ensure that a verbatim record, including testimony and evidence forming the basis of the appeal is made. The Commission usually makes a verbatim record of rulemaking hearings.

Any person requiring some accommodation at this hearing because of a physical impairment should call the Division of the Commission Clerk and Administrative Services, (850)413-6770, at least 48 hours prior to the hearing. Any person who is hearing or speech impaired should contact the Florida Public Service Commission by using the Florida Relay Service, which can be reached at 1(800)955-8771 (TDD).

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Samantha Cibula, Florida Public Service Commission, 2540 Shumard Oak Blvd., Tallahassee, Florida 32399-0862, (850)413-6199

THE FULL TEXT OF THE PROPOSED RULE IS:

25-24.491 Notice to Customers Prior to Increase in Rates or Charges.

(1) All interexchange telecommunications companies shall provide reasonable notice of any increase in intrastate telecommunications rates, or any changes in terms or conditions that would cause a material increase in customer charges, to each of their affected residential and single-line business retail subscribers, prior to implementation of the increase.

(2) The notice shall be clear and conspicuous, shall be identified with the heading: "Notice of Price Increase," or "Notice of Price Change," if the change will result in a price increase for some customers and a price decrease for some customers, and shall be presumed reasonable if provided in any of the following manners:

(a) First class mail postmarked at least 15 days prior to the effective date of the increase in rates or charges to the customer;

(b) A bill insert or bill message mailed to the customer no later than one billing cycle prior to the effective date of the increase in rates or charges to the customer;

(c) For those customers who have elected to receive electronic billing, an electronic message sent at least 7 days prior to the effective date of the increase in rates or charges to the customer; or

(d) Pursuant to a written contract that specifically and conspicuously prescribes a method for notice of price increases.

Specific Authority 350.127, 364.0252, 364.19 FS. Law Implemented 364.0252, 364.19 FS. History—New

NAME OF PERSON ORIGINATING PROPOSED RULE:
Office of Public Counsel

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Florida Public Service Commission

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: October 1, 2002

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: Vol. 27, No. 27, July 6, 2001

PUBLIC SERVICE COMMISSION

DOCKET NO. 020644-TP

RULE TITLES:	RULE NOS.:
Pay Telephone Service	25-24.515
Rules Incorporated	25-24.585

PURPOSE AND EFFECT: To incorporate the most recent editions of the National Electrical Safety Code, National Electrical Code, and the American National Standards Institute's Accessible and Usable Building and Facilities standards into the rules.

SUMMARY: The amendments update the rules so that they incorporate the most recent editions of the National Electrical Safety Code, the National Electrical Code and American National Standards Institute's Accessible and Usable Building and Facilities standards. The amendments also remove some compliance deadlines that are no longer relevant and incorporate the requirements of Rule 25-4.036 into Rule 25-24.585, so that the requirements apply to shared tenant service companies.

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

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

SPECIFIC AUTHORITY: 350.127(2), 427.704(8) FS.

LAW IMPLEMENTED: 350.113, 364.01(4), 364.03, 364.035, 364.063, 364.337, 364.3375, 364.345, 364.016, 364.17, 364.18, 364.183, 364.185, 364.339 FS.

Written comments or suggestions on the proposed rule may be submitted to the FPSC, Division of the Commission Clerk and Administrative Services, within 21 days of the date of this notice for inclusion in the record of the proceeding.

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

If any person decides to appeal any decision of the Commission with respect to any matter considered at the rulemaking hearing, if held, a record of the hearing is necessary. The appellant must ensure that a verbatim record,

including testimony and evidence forming the basis of the appeal is made. The Commission usually makes a verbatim record of rulemaking hearings.

Any person requiring some accommodation at this hearing because of a physical impairment should call the Division of the Commission Clerk and Administrative Services, (850)413-6770, at least 48 hours prior to the hearing. Any person who is hearing or speech impaired should contact the Florida Public Service Commission by using the Florida Relay Service, which can be reached at 1(800)955-8771 (TDD).

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULES IS: Ray Kennedy, Florida Public Service Commission, 2540 Shumard Oak Blvd., Tallahassee, Florida 32399-0862, (850)413-6245

THE FULL TEXT OF THE PROPOSED RULES IS:

25-24.515 Pay Telephone Service.

(1) through (8) No change.

(9) ~~Each~~ Except as provided in paragraph 9(c), each pay telephone station shall be equipped with a legible sign, card, or plate of reasonable permanence which shall identify the following:

(a) through (b) No change.

~~(c) Pay telephone providers have until June 30, 1999, or six months after the effective date of this rule, which ever is later, to comply with the requirements of placing the certificate number on the pay telephone station sign, card, or plate.~~

(10) through (13)(a) No change.

(b) A pay telephone provider may petition the Commission for an exemption from the incoming call requirement for a period that shall not exceed two years from the effective date of the Order granting the exemption. Requests for exemption from the requirement that each pay telephone station allow incoming calls shall be accompanied by a completed Form PSC/CMP-2 (02/99), entitled "Request to Block Incoming Calls," which is incorporated into this rule by reference and may be obtained from the Commission's Division of Competitive Markets and Enforcement. The form requires an attestation from the owner of the pay telephone, the owner of the pay telephone location, and the chief of the responsible law enforcement agency that the request is sought in order to deter criminal activity facilitated by incoming calls being received at the specified pay telephone. A separate form shall be filed for each telephone number for which an exemption is sought. ~~Exemptions which were granted prior to the two-year limitation will expire two years from the effective date of the amendment establishing the two-year limitation.~~

The provider of the pay telephone may request subsequent two-year exemptions by filing another Form PSC/CMP-2 (02/99). Where incoming calls are not received, central-office based intercept shall be provided at no charge to the end user and a written notice shall be prominently displayed on the

instrument directly above or below the telephone number which states: "Incoming calls blocked at request of law enforcement."

(14) through (15)(b) No change.

(16)(a) Where there is a single pay telephone station, a directory shall be maintained at each station. Where there are two or more pay telephone stations located in a group, a directory for the entire local calling area shall be maintained at every other station. However, where telephone pay stations are fully enclosed, a directory shall be maintained at each pay telephone station. For purposes of this rule, the term "directory" shall mean both a current white page directory for the local calling area and a reasonably current yellow page directory that is appropriate for the calling area of the pay telephone station. ~~Companies must comply with this subsection by June 30, 1999, or six months after the effective date of this rule, which ever is longer.~~

(b) through (17) No change.

(18)(a) Except as provided in paragraphs (18)(b)-(d) ~~(a)-(c) and (e)~~ below, each pay telephone station shall conform to sections 703.7.2.3 and 704 4.28.8.4 and 4.29 of the American National Standards Accessible and Usable Buildings and Facilities, approved ~~December 15, 1992,~~ by the American National Standards Institute, Inc. (ANSI A117.1-1998 1992), which is incorporated by reference into this rule.

(b) through (c) No change.

~~(d) Pay telephone stations located in buildings which are not wheelchair accessible must comply with all ANSI provisions cited in this subsection except that these stations are exempt from complying with ANSI sections 4.29.2 through 4.29.4, 4.29.7, and 4.29.8 until the building is modified to make it wheelchair accessible.~~

~~(d)(e)~~ Pay telephones shall not be installed where the required "clear floor or ground space" provided for in ANSI section 704.2.1 would be 4.29.2 is reduced by a vehicle parked in a designated parking space.

~~(f) Each pay telephone provider shall modify its pay telephone station to comply with ANSI section 4.29.5 within six months from the effective date of these rules.~~

(19) through (22) No change.

(23) Pay telephone facilities shall be designed, constructed, installed, maintained and operated in accordance with provisions of the National Electrical Safety Code (IEEE C2-2002) and the National Electrical Code (NEPA 70-2002).

Specific Authority 350.127(2) FS. Law Implemented 364.03, 364.035, 364.063, 364.337, 364.3375, 364.345 FS. History—New 1-5-87, Amended 4-14-92, 12-21-92, 2-3-93, 10-10-94, 12-27-94, 9-5-95, 2-1-99.

25-24.585 Rules Incorporated.

(1) The following rules are incorporated herein by reference and apply to shared tenant service companies:

<u>SECTION</u>	<u>TITLE</u>	<u>PORTIONS APPLICABLE</u>
25-4.019	Records and Reports in General	All
25-4.020	Location and Preservation of Records	All except (1) and (3)
<u>25-4.036</u>	<u>Design and Construction of Plant</u>	<u>All</u>
25-4.043	Response to Commission Staff Inquiries	All
25-4.0161	Regulatory Assessment Fees; Telecommunication Companies	All
25-4.160	Operation of Telecommunications Relay Service	All

(2) No change.

Specific Authority 350.127(2), 427.704(8) FS. Law Implemented 350.113, 364.016, 364.17, 364.18, 364.183, 364.185, 364.339 FS. History—New 1-28-91, Amended 12-29-91, 11-13-95, 7-29-97, 4-8-98, _____.

NAME OF PERSON ORIGINATING PROPOSED RULE:
Ray Kennedy

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Florida Public Service Commission
DATE PROPOSED RULE APPROVED BY AGENCY HEAD: October 1, 2002

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: Vol. 28, No. 18, May 3, 2002

DEPARTMENT OF CORRECTIONS

<u>RULE TITLES:</u>	<u>RULE NOS.:</u>
Criteria for Assignment to Staff Housing	33-208.504
Responsibilities of Staff Housing Occupants	33-208.507
Staff Housing Inspections	33-208.508
Termination of Staff Housing Assignment	33-208.510

PURPOSE AND EFFECT: The purpose and effect of the proposed rules is to clarify procedures related to staff housing.

SUMMARY: The proposed rules clarify staff housing rule provisions regarding employee owned mobile homes, officer quarters, responsibilities for correction of deficiencies, and issuance of notices of expiration.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COST: None.

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

SPECIFIC AUTHORITY: 20.315, 944.09, 945.025 FS.

LAW IMPLEMENTED: 20.315, 944.09, 945.025 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: Perri King Dale, Office of the General Counsel, Department of Corrections, 2601 Blair Stone Road, Tallahassee, Florida 32399-2500

THE FULL TEXT OF THE PROPOSED RULE IS:

33-208.504 Criteria for Assignment to Staff Housing.

The warden shall assign staff housing based upon the best interests of the institution and the following:

- (1) No change.
- (2) Mobile Home Spaces.
- (a) through (c) No change.

(d) Mobile homes owned by employees are not considered staff housing and will not be subject to annual inspections, but if there is cause to suspect illegal activities are occurring at that location, the Inspector General's Office shall be contacted.

- (3) through (5) No change.

Specific Authority 20.315, 944.09(1), 945.025(1) FS. Law Implemented 20.315, 944.09(1), 945.025(1) FS. History—New 9-1-88, 9-5-89, Formerly 33-26.004, 33-602.504, Amended 8-16-00, 4-8-02, _____.

33-208.507 Responsibilities of Staff Housing Occupants.

- (1) No change.
- (2) General.
- (a) through (i) No change.
- (j) Occupants of officer quarters shall not permit family or other persons to reside or be overnight guests in their rooms.
- (k) through (n) No change.

(o) If an occupant of a personally owned mobile home leaves or transfers from the institution, he or she shall be responsible for removing the mobile home from the institutional grounds prior to or at the time of transfer. Occupants of personally-owned mobile homes who sell or transfer title to their mobile home to someone who is not assigned to occupy a mobile home space shall ensure that the mobile home is removed from the institution grounds prior to or at the time of sale or title transfer. If the new owner is someone who is assigned to occupy a mobile home space, he or she will be required to provide proof of ownership by title or registration as provided in paragraph 33-208.505(2)(b), F.A.C.

- (p) through (3) No change.

Specific Authority 20.315, 944.09(1), 945.025(1) FS. Law Implemented 20.315, 944.09(1), 945.025(1) FS. History—New 9-1-88, Formerly 33-26.007, 33-602.507, Amended 8-16-00, _____.

33-208.508 Staff Housing Inspections.

(1) through (2) No change.

(3) Deficiencies found to be the responsibility of the occupant shall be corrected within one week unless an exception is granted by the warden. The occupant shall report corrective action taken in writing to the warden.

Specific Authority 20.315, 944.09(1), 945.025(1) FS. Law Implemented 20.315, 944.09(1), 945.025(1) FS. History--New 9-1-88, Formerly 33-26.008, 33-602.508, Amended 8-16-00, _____.

33-208.510 Termination of Staff Housing Assignment.

(1) Expiration.

(a) No change.

(b) Written notice of expiration under subparagraphs (1)

(a) 1 or 2 above, including the effective date, shall be issued to an occupant by the warden with an effective date which shall not exceed fourteen (14) days from the date of written notice. If the occupant is the warden, the regional director shall issue the notice of expiration within the stated time frame.

(c) through (3) No change.

Specific Authority 20.315, 944.09(1), 945.025(1) FS. Law Implemented 20.315, 944.09(1), 945.025(1) FS. History--New 9-1-88, Amended 6-22-89, Formerly 33-26.010, 33-602.510, Amended 8-16-00, 4-8-02, _____.

NAME OF PERSON ORIGINATING PROPOSED RULE:
Ethan Colchiski

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

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: September 30, 2002

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: September 6, 2002

DEPARTMENT OF CORRECTIONS

RULE TITLE: Probation and Parole – Use of Force

RULE NO.: 33-302.105

PURPOSE AND EFFECT: The purpose and effect of the proposed rule is to clarify procedures for use of force and reporting use of force by correctional probation officers.

SUMMARY: The proposed rule clarifies procedures for use of force and reporting use of force by correctional probation officers.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COST: None.

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

SPECIFIC AUTHORITY: 944.09 FS.

LAW IMPLEMENTED: 944.35 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: Perri King Dale, Office of the General Counsel, Department of Corrections, 2601 Blair Stone Road, Tallahassee, Florida 32399-2500

THE FULL TEXT OF THE PROPOSED RULE IS:

33-302.105 Probation and Parole – Use of Force.

(1) Physical force shall not be used on offenders under supervision in the performance of duty unless required:

(a) No change.

(b) To prevent damage to property owned or leased by the department; or

(c) To quell a disturbance on property owned or leased by the department; or

(d) To overcome physical resistance to application of handcuffs or authorized restraining devices a lawful command; or

(e) through (f) No change.

(2) No change.

(3) Whenever force is used, the highest ranking official involved or the most senior highest ranking official shall inform the circuit administrator immediately. Whenever force is used, except as provided in paragraph (5)(f), a detailed written report of force used shall be prepared, dated and signed by the initial employee using force. This report shall be completed within one working day (Monday through Friday) of the incident. Form DC3-210, Community Corrections Report of Force Used, shall be used for this purpose. If more than one employee was involved in the initial use of force, the highest ranking official involved or the most senior highest ranking official involved shall complete the report. Each additional employee involved in the use of force who agrees with the facts and circumstances as reported on Form DC3-210 part I shall prepare a Community Corrections Report of Force Used Staff Supplement, Form DC3-211, within one working day (Monday through Friday) of the incident. The report shall describe in detail the type and amount of force used by himself or herself. Any additional employee who does not agree with the facts and circumstances as reported in Form DC3-210 part I shall prepare a separate Form DC3-210, Community Corrections Report of Force Used within one working day (Monday through Friday) of the incident. Any employee who witnesses the use of force, but was not directly or physically involved in the use of force, shall complete Form DC3-225, Community Corrections Incident Report, within one working day (Monday through Friday) of the incident. Forms DC3-210, DC3-211 and DC3-225 shall be submitted to the circuit administrator upon completion. Forms DC3-210, DC3-211 and DC3-225 are hereby incorporated by reference. Copies of these forms may be obtained from the Forms Control Administrator, Office of the General Counsel, Department of Corrections,

2601 Blair Stone Road, Tallahassee, Florida 32399-2500. The effective date of these forms is _____. Staff or Offender Injury Sustained During Use of Force Incident.

(a) Medical attention for any injury sustained by staff during an incident involving the use of force shall be sought through Worker's Compensation, unless injuries warrant the summoning of emergency medical personnel.

(b) When safety is not jeopardized, the offender will be asked if any injury was sustained as soon as possible following a use of force incident. If the offender responds in the affirmative and the offender is in the custody of law enforcement, the correctional probation officer shall convey the reported injury to law enforcement. The officer shall document details of this reported injury in case notes, including the name of the law enforcement officer and any witnesses.

(c) If the offender is not in custody, the officer shall call emergency services for the offender as soon as possible, without jeopardizing the officer's safety. Documentation of contacts for medical services shall be included in the Community Corrections Report of Force Used.

(4) Use of Handcuffs.

(a) Officers shall use handcuffs in accordance with subsection (1) of this rule only in case of emergencies in the office involving the following:

1. Self-defense or the protection of others; or
2. To prevent damage to property; or
3. To quell a disturbance; or
4. To overcome physical resistance to a lawful command;

or

5. To prevent an offender from inflicting injury to herself or himself; or

6. When assisting law enforcement in the lawful performance of their duties.

(b) A minimum of one set of The handcuffs shall be maintained by the supervisor in an accessible location in the office.

(c) No change.

(d) In any case in which handcuffs are used, an accurate record shall be maintained by the circuit administrator as to the location and reason for use, and a factual description of the circumstances and the incident. This information shall be reflected on the Community Corrections Report of Force Used, Form DC3-210. ~~The officer who used the handcuffs shall complete the report within five working days (Monday through Friday) after the incident.~~ Any additional officer(s) physically involved in the handcuffing who agrees with the facts and circumstances as reported on the DC3-210, shall prepare a Community Corrections Report of Force Used – Staff Supplement, DC3-211. ~~Form DC3-211 is hereby incorporated by reference. A copy of this form may be obtained from the~~

Forms Control Administrator, Office of the General Counsel, 2601 Blair Stone Road, Tallahassee, Florida 32399-2500. The effective date of this form is October 2, 2001.

(5) Use of chemical agents.

(a) Officers shall use chemical agents in accordance with subsection (1) of this rule. Chemical agents shall be used only for self defense or defense of another and only after all other reasonable efforts to avoid confrontation with a disorderly person or persons or animal posing an immediate threat of bodily harm to an officer have been exhausted. Chemical agents will never be used to punish an offender. Chemical agents will be used when this level of force is the least likely to cause injuries to all parties involved, and when a lesser level of force or persuasion is ineffective.

(b) Chemical agents shall be used only by persons trained by instructors certified by the Florida Department of Law Enforcement, and shall be used only for authorized purposes as outlined in this rule. ~~FDLE training shall be coordinated by the director of the Florida Corrections Academy.~~ Officers shall receive training within 6 months after hire and shall receive retraining yearly. Training documentation shall be maintained in the employee's personnel file. Chemical agents shall be used only according to the principles taught by FDLE and only in situations authorized in this rule.

(c) Only those chemical agents containing oleoresin capsicum and that are non-flammable shall be approved for use. Chemical agents may be issued to correctional probation staff including clerical support staff who have received training pursuant to paragraph (5)(b). Trained support staff are authorized to be issued a chemical agent with not more less than two (2) ounces. The Receipt for Chemical Agents, Form DC3-254, will be utilized to document the issuance, testing, and return of chemical agents. This form is hereby incorporated by reference. The Chemical Agent Inventory, Form DC3-253, is utilized by the circuit office to maintain control of the chemical agents issued, stored, returned, and disposed of within the circuit. ~~The circuit office will conduct semi-annual chemical agent inventories.~~ This form is hereby incorporated by reference. Copies of Form DC3-254 and DC3-253 may be obtained from the Forms Control Administrator, Office of the General Counsel, 2601 Blair Stone Road, Tallahassee, Florida 32399-2500. The effective date of these forms is October 2, 2001. Staff who have received training may carry chemical agents upon their persons during working hours. Nothing in this rule authorizes staff to carry department issued chemical agents while off duty. Support staff must ~~shall~~ store chemical agents safely and securely in the office after working hours. If an employee has a question regarding chemical agents, he or she shall refer to the manufacturer's instructions or shall contact his or her supervisor.

(d) through (e) No change.

(f) Use of chemical agents on animals shall be limited to those situations in which the officer is in danger of an immediate attack from the animal. Following use of chemical agents, the officer shall immediately remove himself from the area, contact local animal control officers or local law enforcement if there is no local animal control office, and make a formal complaint regarding the attack. Under no circumstances shall chemical agents be used on animals who are not posing an immediate threat to the officer. Form DC3-225, Community Corrections Incident Report, shall be used to report use of chemical agents on animals.

(g) In any case in which chemical agents are used, except for training or testing purposes, an accurate record shall be maintained as to what type was used, how much was used, and the location and reason for use, and a factual description of the circumstances and the incident. When chemical agents are used on a person, this information shall be reflected on the Community Corrections Report of Force Used, Form DC3-210. When chemical agents are used on an animal, this information shall be reflected on the Community Corrections Incident Report, Form DC3-225. The employee who used the chemical agent shall complete the report ~~within five working days (Monday through Friday) after the incident. The employee shall notify his or her supervisor within one working day when chemical agents are used and the supervisor shall notify the circuit administrator.~~

(6) Staff or Offender Injury Sustained During Use of Force Incident.

(a) Medical attention for any injury sustained by staff during an incident involving the use of force shall be sought through Worker's Compensation, unless injuries warrant the summoning of emergency medical personnel.

(b) When force is used by department staff and the offender is taken into custody by another law enforcement agency, the correctional probation officer shall notify the law enforcement agency with custody of the offender that force was used and that s. 944.35, F.S., requires that a health care provider examine the offender to determine the extent of any injury after any use of force by department employees. The correctional probation officer shall request that such examination be provided by the agency taking custody of the offender. The correctional probation officer shall document details of this report and request in case notes, including any noticeable injury of the offender, the name of the law enforcement officer to whom the report and request were made and any witnesses to the report and request.

(c) When the offender has not been taken into custody after a use of force incident, the correctional probation officer shall advise the offender that he or she must be examined by a health care provider. When there is noticeable physical injury and the extent of the noticeable injury indicates that the offender needs emergency medical services, the correctional probation officer shall call emergency services for the offender

as soon as possible. Documentation of notification to the offender that a medical examination is required, any express refusal of medical care, and all contacts for medical services by the correctional probation officer shall be included in the Community Corrections Report of Force Used, Form DC3-210.

~~(7)~~(6) No change.

Specific Authority 944.09 FS. Law Implemented 944.35 FS. History--New 5-28-86, Amended 8-6-90, 2-15-98, Formerly 33-24.017, Amended 10-2-01,

NAME OF PERSON ORIGINATING PROPOSED RULE:
Tina Hayes

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

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

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

DEPARTMENT OF CORRECTIONS

RULE TITLE: Inmate Orientation
RULE NO.: 33-601.100

PURPOSE AND EFFECT: The purpose and effect of the proposed rule is to create a new rule for inmate orientation procedures, removing orientation language from Rule 33-602.101, F.A.C., Care of Inmates, in order to provide clarity in organization of rule provisions.

SUMMARY: The proposed rule creates a new rule for inmate orientation procedures, removing orientation language from Rule 33-602.101, F.A.C., Care of Inmates, in order to provide clarity in organization of rule provisions.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COST: None.

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

SPECIFIC AUTHORITY: 944.09 FS.

LAW IMPLEMENTED: 944.09 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: Perri King Dale, Office of the General Counsel, Department of Corrections, 2601 Blair Stone Road, Tallahassee, Florida 32399-2500

THE FULL TEXT OF THE PROPOSED RULE IS:

33-601.100 Inmate Orientation.

Upon initial arrival in the Department of Corrections, as well as upon transfer within the department, each inmate shall be provided with orientation at which time the rules and

procedures of the Department of Corrections, as well as information particular to the local institution shall be explained to the inmate. The warden shall review and approve the contents of the orientation to ensure that the security of the institution is not compromised. The reception centers shall provide a more in-depth orientation of overall department rules, while the receiving institutions which serve as the inmates' permanent locations shall emphasize the local operating procedures in their orientation. As inmates are received into the department, reception centers shall provide each inmate with a printed copy of Rules 33-601.301-601.314, F.A.C., Inmate Discipline. Translations or translation assistance shall be provided as needed. Copies of the rules and procedures shall be available to inmates upon request to read or review (not for retention). In cases where the inmate is unable to read or comprehend English, translation shall be made available. Copies of the rules and procedures shall also be available for inmate inspection in the institutional library.

Specific Authority 944.09 FS. Law Implemented 944.09 FS. History—New

NAME OF PERSON ORIGINATING PROPOSED RULE:
Jerry Vaughan
NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Michael W. Moore
DATE PROPOSED RULE APPROVED BY AGENCY HEAD: October 7, 2002
DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: September 13, 2002

DEPARTMENT OF CORRECTIONS

RULE TITLE: Care of Inmates
RULE NO.: 33-602.101

PURPOSE AND EFFECT: The purpose and effect of the proposed rule is to delete orientation language which is being moved to a new orientation rule in order to provide clarity in organization of rule provisions, and to provide guidelines for receipt and possession of books on tape by impaired inmates.

SUMMARY: The proposed rule deletes orientation language which is being moved to a new orientation rule and provides guidelines for receipt and possession of books on tape by impaired inmates.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COST: None.

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

SPECIFIC AUTHORITY: 944.09 FS.

LAW IMPLEMENTED: 944.09 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: Perri King Dale, Office of the General Counsel, Department of Corrections, 2601 Blair Stone Road, Tallahassee, Florida 32399-2500

THE FULL TEXT OF THE PROPOSED RULE IS:

33-602.101 Care of Inmates.

~~(1) Upon initial arrival in the Department of Corrections, as well as upon transfer within the department, each inmate shall be provided with orientation at which time the Rules and Regulations and Directives of the Department of Corrections, as well as the local institutional operating procedures shall be explained to him. The warden shall review and approve the contents of the orientation to ensure that the security of the institution is not compromised. The reception centers shall provide a more in-depth orientation of overall department rules, while the receiving institutions which serve as the inmates' permanent locations shall emphasize the local operating procedures in their orientation. As inmates are received into the department they shall be provided with a printed copy of rules 33-601.301-601.314, Inmate Discipline. Translations or translation assistance shall be provided as needed. Copies of the Department Rules shall be available to inmates upon request to read or review (not for retention). In cases where the inmate is unable to read or comprehend English, translation must be made available. Copies of the Rules and Regulations shall also be available for inmate inspection in the institutional library.~~

(2) through (10) renumbered (1) through (9) No change.

~~(10)(11) Inmates who are unable to handle or read written material due to physical impairment (this includes those who are visually impaired, paraplegic or quadriplegic, or severely affected with arthritis) and who receive assistance from the Bureau of Braille and Talking Book Library Services shall be allowed to possess a tape player or record player from the Bureau. Any alteration of equipment provided by the Bureau shall result in confiscation of the equipment and suspension of those privileges. A tape recorder shall be available for inmate use at a location determined by the warden which allows for supervision of use and which does not unduly restrict access. Inmates shall obtain approval from the chief health officer to utilize the tape recorder in lieu of pen and paper for correspondence purposes. Any material or equipment that an inmate receives from the Bureau of Braille and Talking Book Library Services remains the Bureau's property and must be returned to the Bureau if an inmate loses the use of this material or equipment for disciplinary reasons. Impaired inmates shall be limited to possession of four books on tape. An inmate who has four books on tape in his possession will not be allowed to receive additional books until some are returned to the Bureau of Braille and Talking Book Library Services.~~

Specific Authority 944.09 FS. Law Implemented 944.09 FS. History—New 10-8-76, Formerly 33-3.02, Amended 4-19-79, 4-24-80, 1-9-85, 11-3-87, 9-16-88, 7-23-89, 8-27-91, 3-30-94, 11-14-95, 6-2-99, Formerly 33-3.002, Amended 11-21-00, 1-25-01, _____.

NAME OF PERSON ORIGINATING PROPOSED RULE: Jerry Vaughan
NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Michael W. Moore
DATE PROPOSED RULE APPROVED BY AGENCY HEAD: October 7, 2002
DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: September 13, 2002

DEPARTMENT OF CORRECTIONS

RULE TITLE: Inmate Telephone Use
RULE NO.: 33-602.205
PURPOSE AND EFFECT: The purpose and effect of the proposed rule is to clarify the application of telephone privileges and the process for making changes to the inmate telephone list.
SUMMARY: The proposed rule clarifies the application of telephone privileges and the process for making changes to the inmate telephone list.
SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COST: None.

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

SPECIFIC AUTHORITY: 944.09 FS.
LAW IMPLEMENTED: 20.315, 944.09 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: Perri King Dale, Office of the General Counsel, Department of Corrections, 2601 Blair Stone Road, Tallahassee, Florida 32399-2500

THE FULL TEXT OF THE PROPOSED RULE IS:

33-602.205 Inmate Telephone Use.

(1) This subsection sets forth the minimum telephone privileges that shall be granted to inmates housed in institutions or facilities other than community correctional centers, ~~Florida State Prison, or inmates housed on death row at Union Correctional Institution.~~ All inmate calls, with the exception of those calls placed to attorneys pursuant to paragraph (3)(a) shall be subject to monitoring and recording. Due to the high level of security needs ~~on at Florida State Prison and death row at Union Correctional Institution,~~ the only telephone privileges available to ~~FSP and UCI~~ death row

inmates are those set forth in paragraph (3)(a), private calls to attorneys, and subsection (4), calls made in the event of family crisis.

(2) Inmate telephone procedures will be conducted as follows:

(a) No change.

(b) The reception center classification staff shall compile the inmate calling list through use of Form DC6-223, in conjunction with the acquisition of the inmate visiting list. Form DC6-223 shall become part of the inmate’s permanent file and shall accompany the inmate with each subsequent transfer. Form DC6-223 is hereby incorporated by reference. Copies of this form are available from the Forms Control Administrator Office of the General Counsel, 2601 Blair Stone Road, Tallahassee, FL 32399-2500. The effective date of this form is February 7, 2000.

(c) An inmate shall be allowed to change his or her telephone list once every six months by completing a new Form DC6-223, Inmate Telephone Agreement and Number List. Changes can be made more frequently for the following reasons only:

1. The number for a person already on the inmate’s list has been changed. The inmate shall be responsible for providing documentation of the change to his or her classification officer before the list will be amended. Documentation shall be in the form of copies of the cover page of both the old and new telephone statement of the person whose number has been changed. The cover page must include the name, address and telephone number of the individual.

2. through 3. No change.

(d) through (14) No change.

Specific Authority 944.09 FS. Law Implemented 20.315, 944.09 FS. History—New 11-19-81, Formerly 33-3.125, Amended 11-21-86, 1-6-92, 3-24-97, 7-22-97, 12-21-98, Formerly 33-3.0125, Amended 2-7-00, 6-18-02, _____.

NAME OF PERSON ORIGINATING PROPOSED RULE: Jerry Vaughan
NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Michael W. Moore
DATE PROPOSED RULE APPROVED BY AGENCY HEAD: September 30, 2002
DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: September 6, 2002

DEPARTMENT OF ELDER AFFAIRS

Aging and Assisted Living Programs

RULE TITLES:	RULE NOS.:
Definitions	58A-1.001
Responsibilities of the Department of Elder Affairs as the State Agency on Aging	58A-1.004
The Area Agency on Aging’s Area Plan	58A-1.006
Area Agency on Aging Functions and Responsibilities	58A-1.007

PURPOSE AND EFFECT: The purpose of the amendments to Rules 58A-1.001, .004, .006, and .007, F.A.C., is to delete all references to the Department of Elder Affairs Programs and Services Manual and incorporate instead the Home and Community-Based Services Manual.

SUMMARY: The proposed rule revisions delete references to the Department of Elder Affairs Programs and Services Manual from Chapter 58A, F.A.C. The rule revision will instead incorporate a new manual to be entitled the Home and Community-Based Services Manual that will provide standards and guidelines for service providers under contract or subcontract with the Department of Elder Affairs to follow in the performance of normal business operations.

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

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

SPECIFIC AUTHORITY: 20.41(2), 410.016(2)(k), 430.08 FS., ch. 91-115, s. 10, Laws of Fla.

LAW IMPLEMENTED: 20.41, 410.011, 410.016, 430.03(6), 430.06 FS., ch. 91-115, s. 10, Laws of Fla.

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

TIME AND DATE: 10:00 a.m. – 12:00 p.m., November 13, 2002

PLACE: Department of Elder Affairs, Conf. Rm. 225F, 4040 Esplanade Way, Tallahassee, FL

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Tom Thomas, Office of Legal Affairs, Department of Elder Affairs, 4040 Esplanade Way, Suite 315, Tallahassee, Florida 32399-7000, (850)414-2000

THE FULL TEXT OF THE PROPOSED RULE IS:

58A-1.001 Definitions.

(1) through (44) No change.

(45) HOME AND COMMUNITY-BASED SERVICES MANUAL PROGRAMS AND SERVICES MANUAL is the Department of Elder Affairs Home and Community-Based Services Manual Programs and Services Manual, dated January 1, 2003 ~~July 1994 and revised November 1994~~, available from the Department of Elder Affairs, 4040 Esplanade Way, Tallahassee, Florida 32399-7000 ~~in the Office of the Secretary and at each Area Agency on Aging~~, and herein incorporated by reference.

(46) through (57) No change.

Specific Authority 20.41(2), 410.016(2)(k), 430.08 FS., ch. 91-115, s. 10, Laws of Fla. Law Implemented 20.41(2), 410.011, 410.016, 430.03(6) FS., ch. 91-115, Laws of Fla. History—New 12-23-81, Formerly 10A-11.01, 10A-11.001, Amended 3-28-95,_____.

58A-1.004 Responsibilities of the Department of Elder Affairs as the State Agency on Aging.

(1) through (5) No change.

(6) The Department will coordinate the development of programs and services, including those of Titles III and VII of the Older Americans Act, pursuant to State and Federal law and pursuant to and establish policy and minimum standards ~~for them~~ as prescribed defined in the Department of Elder Affairs Home and Community-Based Programs and Services Manual, ~~dated July 1994 and revised November 1994~~, available in the Office of the Secretary and at each Area Agency on Aging, and herein incorporated by reference.

(7) through (8) No change.

(9) For the purpose of acquiring programmatic and fiscal information for Federal and State data and analysis the Department shall establish, through contract, reporting requirements for Area Agencies on Aging and service providers ~~in accordance with the Department of Elder Affairs Programs and Services Manual, Chapter I-4, Program Reporting Responsibilities, dated July 1994 and revised November 1994~~, available in the Office of the Secretary and at each Area Agency on Aging, and herein incorporated by reference.

(10) No change.

Specific Authority 20.41(2), 410.016(2)(k), 430.08 FS., ch. 91-115, s. 10, Laws of Fla. Law Implemented 20.41, 410.011, 410.016, 430.06 FS., ch. 91-115, s. 10, Laws of Fla. History—New 12-23-81, Formerly 10A-11.04, 10A-11.004, Amended 3-28-95,_____.

58A-1.006 The Area Agency on Aging's Area Plan.

(1) No change.

(2) Preparation and submission of a formal Area Plan will be done pursuant to contract provisions with in accordance with the prescribed Area Plan Format and the Department of Elder Affairs Programs and Services Manual, ~~dated July 1994 and revised November 1994~~, available in the Office of the Secretary and at each Area Agency on Aging, and herein incorporated by reference.

(a) through (g) No change.

(3) through (6) No change.

(7) Withdrawal of an Area Agency on Aging designation will be done in conformity with Federal Regulations governing the Older Americans Act program and in accordance with the Administrative Procedures Act, Chapter 120, F.S., ~~subsection 58A-1.005(4), F.A.C., above, and the Department's Programs and Services Manual, Chapter IV-1, General Policies, Older American Act, dated July 1, 1994~~, available at Department headquarters and at each Area Agency on Aging, and incorporated herein by reference.

Specific Authority 20.41(2), 410.016(2)(k), 430.08 FS., ch. 91-115, s. 10, Laws of Fla. Law Implemented 20.41, 410.016(2)(h), (m), 430.03(6) FS., ch. 91-115, s. 10, Laws of Fla. History—New 12-23-81, Formerly 10A-11.06, 10A-11.006, Amended 3-28-95,_____.

58A-1.007 Area Agency on Aging Functions and Responsibilities.

(1) through (2) No change.

(3) The Area Agency on Aging is authorized to plan and administer under contract with the Department the following programs as established by Federal and requirements, Florida State law, and policies of the Department of Elder Affairs, Programs and Services Manual:

(a) through (h) No change.

Specific Authority 20.41(2), 410.016(2)(k), 430.08 FS., ch. 91-115, s. 10, Laws of Fla. Law Implemented 20.41, 409.508(4), 410.016(2)(d), (f), (h), (i), (m), 410.401, 410.402, 410.403, 430.03(6) FS., ch. 91-115, s. 10, Laws of Fla. History—New 12-23-81, Formerly 10A-11.07, 10A-11.007, Amended 3-28-95,_____.

NAME OF PERSON ORIGINATING PROPOSED RULE: Terry White, Secretary

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Terry White, Secretary

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: October 8, 2002

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: August 9, 2002

DEPARTMENT OF MANAGEMENT SERVICES

Division of Human Resource Management

RULE TITLES: RULE NOS.:
General Responsibilities 60L-31.001

Job Family Descriptions, Occupational Group Characteristics, and Occupation Profiles 60L-31.002

Position Descriptions 60L-31.003

Exercise of Classification Authority 60L-31.004

PURPOSE AND EFFECT: To implement the “broad-branding” classification and compensation program required by section 110.2035, F.S., which replaces the classification plan required by section 110.207, F.S.

SUMMARY: Amends existing rules to effect the classification portion of the “broad-branding” classification and compensation program developed under section 110.2035, F.S.

SPECIFIC AUTHORITY: 110.1055, 110.2035(6) FS.

LAW IMPLEMENTED: 110.2035 FS.

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

TIME AND DATE: 3:00 p.m., November 26, 2002

PLACE: Department of Management Services, 4040 Esplanade Way, Suite 301, Tallahassee, Florida

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT IS: Frederick J. Springer, Department of Management Services, Office of General Counsel, 4050 Esplanade Way, Suite 260, Tallahassee, FL 32399-0950, (850)487-1898, springf@dms.state.fl.us

THE FULL TEXT OF THE PROPOSED RULE IS:

60L-31.001 General Responsibilities.

(1) ~~The official broadband level code class titles and class codes~~ shall be used on all personnel and payroll records and in the preparation of legislative and operating budgets.

(2) Positions shall not be allocated to a broadband level class that has not been approved as part of the classification plan.

(3) The Department shall prescribe, and each employing agency shall maintain, a position numbering system that identifies each individual position.

(4) The Department shall assign to each position those designators the Department has established under sub-paragraph 60L-31.002(3)(e). designate all classes as excluded or included (in FLSA terms, exempt or non-exempt). ~~If any agency finds that a position allocated to a class designated as excluded does not meet the FLSA requirements for exemption, the agency shall:~~

~~(a) If the position is in the selected exempt service or senior management service, notify the Department in writing and await advice on what action is necessary to comply with the FLSA; or~~

~~(b) In all other instances, either remove the duties that prevent the position from being deemed to fall within a class designated as excluded, or reallocate the position to a class designated as included.~~

(5) The Department shall be responsible for the following.

(a) The overall establishment, coordination, review, and maintenance of the classification plan.

~~(b) The establishment of new classes and the revision or abolishment of existing classes.~~

~~(c) The determination of all designations for the classes in the classification plan.~~

~~(d)~~ (d) The conducting of periodic studies and surveys to assure that the classification plan is maintained on a current basis.

~~(e)~~ (e) The post audit of the action taken by an employing agency in classifying or reclassifying positions.

~~(f)~~ (f) The development of model forms to be used by all agencies in describing essential functions of the position, assigned duties, supervisory relationships, special skills required, and other information necessary to determine the proper classification of each position. When deemed necessary

for the maintenance of the classification plan, the Department may require submission of forms or any other related information.

(6) Except as expressly delegated to an agency, ~~the~~ Department shall assign positions to the selected exempt service and senior management service in accordance with the specific designations under Section 110.205, Florida Statutes, and the organization structures determined in accordance with Chapters 20 and 216, Florida Statutes, or other applicable law. The Department may assign positions that are not so designated by taking into account as a minimum:

(a) through (f) No change.

Specific Authority 110.1055, 110.131(3), 110.201(1), 110.2035(1), ~~110.207(1)(f), 110.403(1)(c), 110.605(1)~~ FS. Law Implemented 110.131, 110.201, 110.2035, 110.20, 110.403, 110.605 FS. History–New 1-1-02, Amended _____.

(Substantial rewording of Rule 60L-31.002 follows. See Florida Administrative Code for present text.)

60L-31.002 Job Family Descriptions, Occupational Group Characteristics, and Occupation Profiles Class Specifications.

(1) The Department shall establish and maintain the job family descriptions, occupational group characteristics, and occupation profiles.

(2) Each job family description shall include a list of occupational groups within the job family and a list of all occupations within the occupational group.

(3) For each occupational group, the Department shall establish and maintain:

(a) A description of the occupational group;

(b) An effective date;

(c) The primary performance factors within the occupational group;

(d) Performance typically associated with each broadband level; and

(e) Position designators valid within each broadband level.

(4) For each occupation, the Department shall establish and maintain:

(a) A description of the occupation;

(b) An effective date;

(c) Examples of work;

(d) Examples of job characteristics;

(e) Examples of knowledge, skills and abilities as established and maintained by the Department for positions that will be allocated to the broadband level (while the exact duties and responsibilities of positions in the broadband level may differ, all positions allocated to the broadband level shall be sufficiently similar as to kind of work, level of difficulty or responsibility, and qualification requirements to warrant like treatment); and

(f) Licensure, certification or registration requirements.

Specific Authority 110.1055, 110.131(3), 110.201(1), 110.2035(1), ~~110.207(1)(f), 110.403(1)(c), 110.605(1)~~ FS. Law Implemented 110.131, 110.201, 110.2035, 110.20, 110.403, 110.605 FS. History–New 1-1-02, Amended _____.

60L-31.003 Position Descriptions.

(1) The employing agency shall ~~prepare~~ maintain a current position description for each established position authorized for the agency ~~prepared in accordance with this rule.~~ The position description shall include: an accurate description of the duties and responsibilities normally assigned to the position; and the job related knowledge, skills, and abilities required for the position; any licensure, certification or registration required for the position (including testing); and any position designators. The current position description shall serve as the official record of the duties and responsibilities assigned the position and shall be used to officially classify the position.

(2) When a position description is prepared, it shall be completed and signed by the appropriate authority as determined by the agency to certify that the duties described are accurate and reflect the responsibilities officially assigned to the position.

(3) Each position description and any attached information shall be maintained by the employing agency or by the Department's designee and a copy shall be made available to each incumbent of the position.

(4) ~~The agency shall furnish to the Department~~ shall have electronic access to the official a copy of each position description ~~for selected exempt service and senior management service positions.~~

(5) Upon good cause shown in writing, the Department may excuse an agency from this rule's requirement of maintaining records electronically. In assessing good cause, the Department shall consider the agency's technological capability and whether the records are electronically accessible via the Department's designee.

Specific Authority 110.1055, 110.131(3), 110.201(1), 110.2035(1), ~~110.207(1)(f), 110.403(1)(c), 110.605(1)~~ FS. Law Implemented 110.131, 110.201, 110.2035, 110.20, 110.403, 110.605 FS. History–New 1-6-02, Amended _____.

60L-31.004 Exercise of Classification Authority.

(1) No change.

(2) Classification actions taken by an employing agency shall be within the classification system ~~classes of positions~~ established by the Department, ~~shall be in accordance with the concepts and allocation factors for the classes established by the Department,~~ and shall be in accordance with these rules.

(3) Any classification action to be taken by an employing agency shall be initiated by preparation of a current position description.

(a) If Office of Policy and Budget approval is required to effect a classification action, the employing agency shall not effect the classification action until the required approval has been obtained.

(b) An agency requesting a revision of the classification system ~~new class or class revision~~ shall furnish to the Department position descriptions, the a proposed changes class specification, and any other material the agency believes justifies the request.

(4) Classification actions of the employing agency shall be subject to post audit review by the Department. If the Department determines that the duties and responsibilities officially assigned to the position are not in accordance with the classification system allocation factors contained in the Department's class specification, the action may be changed as provided in Chapter 110, Florida Statutes.

(5) No change.

Specific Authority 110.1055, 110.131(3), 110.201(1), 110.2035(1), 110.207(1)(f), 110.403(1)(c), 110.605(1) FS. Law Implemented 110.131, 110.201, 110.207, 110.403, 110.605 FS. History--New 1-22-02, Amended

NAME OF PERSON ORIGINATING PROPOSED RULE:
Robert H. Hosay, Assistant Deputy Secretary, Department of Management Services

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Cynthia A. Henderson, Secretary, Department of Management Services

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: September 16, 2002

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: June 28, 2002

DEPARTMENT OF MANAGEMENT SERVICES

Division of Human Resource Management

RULE TITLES:	RULE NOS.:
Determining Salary upon Appointment	60L-32.001
Increases to Base Rate of Pay	60L-32.0011
Salary Additives	60L-32.0012
Computation of Hourly Rate	60L-32.002
Dual Employment and Compensation	60L-32.003
Benefits	60L-32.005

PURPOSE AND EFFECT: To implement the "broad-branding" classification and compensation program required by Section 110.2035, F.S., which replaces the compensation plan required by Section 110.209, F.S.

SUMMARY: Amends existing rules to effect the compensation portion of the "broad-branding" classification and compensation program developed under Section 110.2035, F.S.

SPECIFIC AUTHORITY: 110.1055, 110.2035(6) FS.

LAW IMPLEMENTED: 110.2035 FS.

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

TIME AND DATE: 3:00 p.m., November 26, 2002

PLACE: Department of Management Services, 4040 Esplanade Way, Suite 301, Tallahassee, Florida
THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT IS: Frederick J. Springer, Department of Management Services, Office of General Counsel, 4050 Esplanade Way, Suite 260, Tallahassee, FL 32399-0950, (850)487-1898, springf@dms.state.fl.us

THE FULL TEXT OF THE PROPOSED RULE IS:

60L-32.001 Determining Salary upon Appointment.

Upon appointment, an agency shall set an employee's base rate of pay within the pay band salary range for the broadband level class to which appointed; provided, that an employee given trainee status shall be paid during the training period in accordance with the individual training scheduled, subject to FLSA requirements. ~~An agency may use an advanced appointment rate to set the base rate of pay above the minimum in the range.~~

Specific Authority 110.1055, 110.131(3), 110.201(1), 110.2035(1), ~~110.209(1)(c), 110.209(3)~~, 110.403(1)(c), 110.605(1) FS. Law Implemented 110.131, 110.201, 110.2035, ~~110.209~~, 110.403, 110.603 FS. History--New 1-6-02, Amended

60L-32.0011 Increases to Base Rate of Pay.

An agency may increase an employee's base rate of pay within the established pay band range at any time, based upon documented justification, provided funds are available for the increase, and the increase is not specifically prohibited by law.

Specific Authority 110.1055, 110.131(3), 110.201(1), 110.2035(1), ~~110.209(1)(c), 110.209(3)~~, 110.403(1)(c), 110.605(1) FS. Law Implemented 110.131, 110.201, 110.2035, ~~110.209~~, 110.403, 110.603 FS. History--New 1-1-02, Amended

60L-32.0012 Salary Additives.

(1) Salary additives are temporary increases to the base rate of pay. ~~The Department shall approve salary additives for specific classes within the career service.~~ Employees filling positions for which a salary additive has been approved shall receive the salary additive. A salary additive shall be removed or adjusted upon a change in the conditions upon which it was granted.

(2) For career service employees, salary additives include the following:

(a) through (b) No change.

(c) Hazardous Duty Additive – An agency may approve this additive for specific positions ~~within a class~~ when it can be demonstrated that such positions are required to perform duties and responsibilities that are exceptionally hazardous or dangerous. Such duties and responsibilities shall not be customarily associated with all positions in the broadband level class.

(d) Leadworker Additive – An agency may approve this additive for individuals with sufficient knowledge and experience to lead others ~~within the same class~~ when assigned

such responsibilities on a continuing basis. The leadership does not include evaluating other’s performance or administering disciplinary actions, and it does not justify reclassification. Duties must be reflected on the position description and in accordance with Chapter 60L-31.

(e) Temporary Special Duty Additive – An agency may approve this additive, for a period of ninety days, when a position has been assigned temporary duties and responsibilities not customarily assigned to the position. An agency ~~shall not may request Office of Policy and Budget approval to~~ extend the period without Department approval.

(f) Trainer Additive – An agency may approve this additive when an employee is assigned the responsibility to provide on-the-job training to other employees as part of an agency-approved formalized training program; provided, that such training is not part of the customarily assigned duties of the position class.

(g) Competitive Area Differential Additive – An agency shall not grant this additive without Department approval. This additive is justified ~~for a class~~ based on geographical, localized recruitment, turnover, or competitive pay problems. This additive ~~should~~ shall apply to all positions with similar duties and responsibilities in the approved occupation class within the geographical area for which the Department approves the additive.

~~(h) Coordinator Additive – An agency may approve this additive for individuals with sufficient knowledge and experience to coordinate others across classes when assigned such responsibilities on a continuing basis. The coordination does not justify reclassification. Duties must be reflected on the position description and in accordance with Chapter 60L-31.~~

~~(h)(+)~~ Critical Market Pay Additive – An agency shall not grant this additive without Department approval. This additive is justified when pay for a position is substantially below the prevailing market rate, resulting in hiring and retention difficulties. In considering requests for this additive, the Department shall conduct all relevant analyses to determine the need for a pay adjustment for the position. An agency requesting this additive shall assist the Department in any analyses the Department requests.

Specific Authority 110.1055, 110.131(3), 110.201(1), 110.2035(1), ~~110.209(1)(e), 110.209(3),~~ 110.403(1)(c), 110.605(1) FS. Law Implemented 110.131, 110.201, 110.2035, 110.209; 110.403, 110.603 FS. History–New 1-22-02, Amended.

60L-32.002 Computation of Hourly Rate.

(1) through (2) No change.

(3) Calculate hourly regular rate of pay as follows:

Biweekly Base Rate of Pay x 26 = Hourly Regular Base Rate of Pay
2080 hours

Monthly Base Rate of Pay x 12 = Hourly Regular Base Rate of Pay
2080 hours

(4) No change.

Specific Authority 110.1055, 110.131(3), 110.201(1), 110.2035(1), ~~110.209(1)(e), 110.209(3),~~ 110.403(1)(c), 110.605(1) FS. Law Implemented 110.131, 110.201, 110.2035, 110.209; 110.403, 110.603 FS. History–New 1-1-02, Amended.

60L-32.003 Dual Employment and Compensation.

(1) through (4) No change.

Specific Authority 110.1055, 110.131(3), 110.201(1), 110.2035(1), ~~110.209(1)(e), 110.209(3),~~ 110.403(1)(c), 110.605(1) FS. Law Implemented 110.131, 110.201, 110.2035, 110.209; 110.403, 110.603, 216.262(1)(e) FS. History–New 1-6-02.

60L-32.005 Benefits.

(1) through (2) No change.

(3) Adoption benefits are available to employees of the state as outlined below:

(a) through (d) No change.

~~(e) Payment of monthly installments shall begin in the calendar month immediately after the calendar month the lump sum payment is made.~~

~~(e)(f)~~ The benefit is a non-qualified plan under Section 125 of the Internal Revenue Code, subject to withholding taxes.

~~(g) If employment terminates, the monthly installments shall continue for the remainder of the benefits.~~

~~(f)(h)~~ If funds are appropriated for payment of new adoptions, the ~~The~~ Department shall administer the funds appropriated for this benefit. The Department shall hold an annual open enrollment period for submission of applications between the first business day of April and the last business day of May. To apply for this benefit, the applicant shall fully complete and submit the Department’s Application for Adoption Benefits Form (Form DMS/HRM/ADOPT, eff. 1/1/02), which is hereby incorporated by reference.

1. through 2. No change.

~~(g)(+)~~ No change.

Specific Authority 110.1055, 110.15201, 110.201(1), 110.2035(1), 110.403(1)(c), 110.605(1) FS. Law Implemented 110.152, 110.201, 110.209, 110.403, 110.603 FS. History–New 1-1-02, Amended.

NAME OF PERSON ORIGINATING PROPOSED RULE:
Robert H. Hosay, Assistant Deputy Secretary, Department of Management Services

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Cynthia A. Henderson, Secretary, Department of Management Services

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: September 16, 2002

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: June 28, 2002

DEPARTMENT OF MANAGEMENT SERVICES

Division of Human Resource Management

RULE TITLES:	RULE NOS.:
General Principles	60L-33.002
Status Upon Appointment	60L-33.003
Reinstatement	60L-33.0031
Shared Employment	60L-33.0032
Appointment of Veterans	60L-33.0033
Workforce Reduction and Employee Transition	60L-33.004
Equal Employment Opportunity and Affirmative Action	60L-33.007

PURPOSE AND EFFECT: To make minor changes necessary to harmonize terminology with “broad-branding” classification and compensation program implemented under section 110.2035, F.S.

SUMMARY: Amends existing rules to harmonize terminology with the “broad-branding” classification and compensation program developed under section 110.2035, F.S.

SPECIFIC AUTHORITY: 110.1055, 110.2035(6) FS.

LAW IMPLEMENTED: 110.2035 FS.

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

TIME AND DATE: 3:00 p.m., November 26, 2002

PLACE: Department of Management Services, 4040 Esplanade Way, Suite 301, Tallahassee, Florida

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULES DEVELOPMENT IS: Frederick J. Springer, Department of Management Services, Office of General Counsel, 4050 Esplanade Way, Suite 260, Tallahassee, FL 32399-0950, (850)487-1898, springf@dms.state.fl.us

THE FULL TEXT OF THE PROPOSED RULES IS:

60L-33.002 General Principles.

(1) No change.

(2) Any person appointed to a position must meet any licensure, certification or registration requirements ~~minimum qualifications~~ established for the position class (or equivalent qualifications), and any required entry-level knowledge, skills, ~~and abilities, and any other requirements the agency establishes~~ for the position, unless the appointment is with trainee or temporary status in accordance with paragraph 60L-33.003(2)(b)(d) or (c)(e), F.A.C.

(3) through (4) No change.

(5) Every employee not permanent in a position ~~the career service~~ shall serve at the pleasure of the agency and shall be subject to any personnel action, including but not limited to suspension, dismissal, reduction in pay, demotion, or reassignment, at the discretion of the agency. Except when taken with respect to ~~a permanent~~ career service employees

permanent in their position, such personnel actions are exempt from the provisions of Section 110.227 and Chapter 120 of the Florida Statutes.

Specific Authority 110.1055, 110.131(3), 110.201(1), 110.217(1)(a), 110.217(5), 110.227(2), 110.403(1), 110.503(2), 110.605(1) FS. Law Implemented 110.131, 110.201, 110.217, 110.227, 110.403, 110.503, 110.605 FS. History–New 1-22-02, Amended.

60L-33.003 Status Upon Appointment.

(1) No change.

(2) An employee appointed to fill a position in the career service shall be given status in accordance with the following:

(a) through (b) No change.

(c) Trainee Status – An employee appointed to a position as a trainee shall be given trainee status in accordance with the trainee program developed by the agency. The program shall include an outline of the proposed pay schedule for the training period, including justification for the proposed schedule. Upon successful completion of the trainee program, the employee may be appointed to a position in the same broadband level class requiring the same licensure, certification or registration requirement and required entry-level knowledge, skills, and abilities. An agency may approve appointments with trainee status in the following programs: cooperative education program; vocational rehabilitation or blind services program; agency trainee program; or return to work program. Time spent on trainee status shall not count toward completion of a probationary period.

(d) Probationary or Permanent Status – An employee shall be given probationary status or permanent status in accordance with the following.

1. Upon original appointment, promotion or demotion to a different broadband ~~occupational~~ level, or any time an employee moves between agencies, an employee shall be given probationary status unless a demotion is to a position in which the employee has previously held permanent status in the agency or unless the legislature has designated that an employee shall be moved but shall not have status as a new employee.

2. through 4. No change.

Specific Authority 110.1055, 110.131(3), 110.201(1), 110.217(1)(a), 110.217(5), 110.403(1), 110.503(2), 110.605(1) FS. Law Implemented 110.131, 110.201, 110.213, 110.2135, 110.217, 110.403, 110.503, 110.605 FS. History–New 1-22-02, Amended.

60L-33.0031 Reinstatement.

(1) An employee may be reinstated when the employee returns to the same position and broadband level class within the same agency within thirty-one calendar days from the effective date of the resignation from employment in a career service position.

(2) No change.

Specific Authority 110.1055, 110.201(1), 110.217(1), 110.217(5) FS. Law Implemented 110.201, 110.217 FS. History–New 1-1-02, Amended.

60L-33.0032 Shared Employment.

(1) Agencies shall identify a shared employment position as a single position, which will retain its unity for purposes of classification, assignment to a pay ~~band grade~~, and other personnel transactions that apply to the position.

(2) through (4) No change.

Specific Authority 110.1055, 110.201(1), 110.21 FS. Law Implemented 110.201, 110.21 FS. History--New 1-1-02, Amended.

60L-33.0033 Appointment of Veterans.

An honorably discharged veteran seeking preference under Section 295.08 or 295.085, Florida Statutes, must furnish documentation of the following.

(1) Military status, dates of service, and discharge type, i.e., the Department of Defense Form DD-214 or equivalent certification from the U.S. Department of Veterans' Affairs;

(2) If claiming disability, certification from the U.S. Department of Veterans' Affairs or Armed Services that the applicant has a service-connected disability of ~~thirty percent or more~~.

(3) Proof of Florida residence.

(4) Possession of the required licensure, certification or registration, minimum qualifications and any required entry-level knowledge, skills, and abilities, and any other requirements the agency establishes established for the position, as indicated on the position description.

Specific Authority 110.1055, 110.201(1), 110.217(1), 110.217(5) FS. Law Implemented 110.2135, 295.08, 295.085 FS. History--New 1-1-02, Amended.

60L-33.004 Workforce Reduction and Employee Transition.

(1) through (5) No change.

(6) Agencies shall update and maintain the workforce transition database and ~~Upon request, agencies shall provide to the Department upon request any additional all information related to the database necessary to update and maintain the workforce transition database.~~

(7) No change.

Specific Authority 110.1055, 110.201(1), 110.227(2) FS. Law Implemented 110.201, 110.227 FS. History--New 1-1-02, Amended.

60L-33.007 Equal Employment Opportunity and Affirmative Action.

(1) through (2) No change.

(3) Each agency shall conduct an analysis of its work force to determine whether underrepresentation exists, that is, whether the percentage of an EEO group within an occupation class of positions or an EEO job category is lower than the corresponding percentage in the available labor market. If underrepresentation exists, the agency shall establish annual affirmative action goals in an effort to achieve full utilization of EEO groups underrepresented in its work force.

(4) Each agency shall develop and implement a written plan to promote equal employment opportunity and to meet the agency's established affirmative action goals. The plan shall include the following elements:

(a) through (f) No change.

(g) Work force analysis, which shall include:

1. through 2. No change.

3. Measurable goals for the applicable time period for all EEO job categories with underrepresentation. Measurable goals may also be established in occupations job classes with underrepresentation.

4. No change.

Specific Authority 110.1055, 110.112(2)(a), 110.201(1)(a), 110.112(2), 110.1221 FS. Law Implemented 110.105(2), 110.112(1), 110.1221, 110.233(1), 110.403(1)(h), 110.605(1)(d) FS. History--New 1-1-02, Amended.

NAME OF PERSON ORIGINATING PROPOSED RULE: Robert H. Hosay, Assistant Deputy Secretary, Department of Management Services

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Cynthia A. Henderson, Secretary, Department of Management Services

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: September 16, 2002

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: June 28, 2002

DEPARTMENT OF HEALTH

Board of Dentistry

RULE TITLE: COURSES REQUIRED FOR INITIAL LICENSURE, RENEWAL, OR REACTIVATION RULE NO.: 64B5-12.019

PURPOSE AND EFFECT: The Board proposes the rule amendment to implement Section 456.013(7), Florida Statutes, requiring a two (2) hour course on prevention of medical errors.

SUMMARY: The Board is amending the rule to update licensure continuing education requirements for a course on prevention of medical errors pursuant to Section 456.013(7), Florida Statutes.

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

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

SPECIFIC AUTHORITY: 456.031, 456.033 FS.

LAW IMPLEMENTED: 456.031, 456.033, 456.013 FS.

IF REQUESTED WITHIN 21 DAYS OF THE DATE OF THIS NOTICE, A HEARING WILL BE SCHEDULED AT THE BOARD'S NEXT MEETING TO BE HELD ON NOVEMBER 16, 2002 IN FT. LAUDERDALE, FLORIDA. THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Sue Foster, Executive Director, Board of Dentistry/MQA, 4052 Bald Cypress Way, Bin #C08, Tallahassee, Florida 32399-3258

THE FULL TEXT OF THE PROPOSED RULE IS:

64B5-12.019 Courses Required for Initial Licensure, Renewal, or Reactivation.

(1) No license shall be granted and no license shall be renewed or reactivated unless the applicant or licensee submits confirmation to the Board that he or she has successfully completed, within 24 months prior to seeking initial licensure, renewal or reactivation, a Board-approved course on Human Immunodeficiency Virus (HIV) and Acquired Immune Deficiency Syndrome (AIDS), and other infectious diseases pertinent to the practice of dentistry and dental hygiene, and a Board-approved course on domestic violence, and a Board-approved course on prevention of medical errors.

(2) though (9) No change.

(10) To receive Board approval, courses on prevention of medical errors shall include a study of root cause analysis, error reduction and prevention, and patient safety. Every such course shall have a minimum of two (2) hours dedicated to the subject areas set forth.

Specific Authority 456.031, 456.033 FS. Law Implemented 456.031, 456.033, 456.013 FS. History--New 1-18-89, Amended 10-28-91, 2-1-93, Formerly 21G-12.019, Amended 6-14-94, Formerly 61F5-12.019, Amended 11-15-95, 2-10-97, Formerly 59Q-12.019, Amended 10-29-00, 8-2-01, 9-27-01, _____.

NAME OF PERSON ORIGINATING PROPOSED RULE: Board of Dentistry
NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Board of Dentistry
DATE PROPOSED RULE APPROVED BY AGENCY HEAD: July 20, 2002
DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: July 12, 2002

DEPARTMENT OF HEALTH

Board of Dentistry

RULE TITLE: Courses Required of Licensees for Renewal and Reactivation
RULE NO.: 64B5-12.020

PURPOSE AND EFFECT: The Board proposes to amend the rule in order to implement Section 456.013(7), Florida Statutes, which requires a two (2) hour course in prevention of medical errors.

SUMMARY: The Board is amending the rule to update licensure continuing education requirements for a course in prevention of medical errors pursuant to Section 456.013(7).

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

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

SPECIFIC AUTHORITY: 466.004 FS.

LAW IMPLEMENTED: 456.013(6),(7),(8), 466.0135, 466.014 FS.

IF REQUESTED WITHIN 21 DAYS OF THE DATE OF THIS NOTICE, A HEARING WILL BE SCHEDULED AT THE BOARD'S NEXT MEETING TO BE HELD ON NOVEMBER 16, 2002 IN FT. LAUDERDALE, FLORIDA. THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Sue Foster, Executive Director, Board of Dentistry/MQA, 4052 Bald Cypress Way, Bin #C08, Tallahassee, Florida 32399-3258

THE FULL TEXT OF THE PROPOSED RULE IS:

64B5-12.020 Courses Required of Licensees for Renewal and Reactivation.

Licensed dentists and dental hygienists are required to complete the following continuing education during each license renewal biennium.

(1) through (2) No change.

(3) A course in the prevention of medical errors of at least 2 hours in relevant topics including a study of root cause analysis, error reduction and prevention, and patient safety.

Specific Authority 466.004 FS. Law Implemented 456.013(6),(7),(8), 466.0135, 466.014 FS. History--New 4-11-94, Amended 7-18-94, Formerly 61F5-12.020, 59Q-12.020, Amended 1-23-01, 6-7-01, 9-27-01, _____.

NAME OF PERSON ORIGINATING PROPOSED RULE: Board of Dentistry
NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Board of Dentistry
DATE PROPOSED RULE APPROVED BY AGENCY HEAD: July 20, 2002
DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: July 12, 2002

DEPARTMENT OF HEALTH

Board of Dentistry

RULE TITLE: Ownership of Dental Instruments
by a Dental Hygienist

RULE NO.: 64B5-17.0105

PURPOSE AND EFFECT: The Board proposes a new rule to allow dental hygienists to own and use dental instruments in the provision of their dental hygiene services so long as utilized under a supervising dentist.

SUMMARY: The Board proposes a new rule to address the ownership and use of dental instruments by dental hygienists under the authority of a supervising dentist.

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

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

SPECIFIC AUTHORITY: 466.004 FS.

LAW IMPLEMENTED: 466.0285 FS.

IF REQUESTED WITHIN 21 DAYS OF THE DATE OF THIS NOTICE, A HEARING WILL BE SCHEDULED FOR THE BOARD'S NEXT MEETING BE HELD ON NOVEMBER 16, 2002 IN FT. LAUDERDALE, FLORIDA.

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Sue Foster, Executive Director, Board of Dentistry/MQA, 4052 Bald Cypress Way, Bin #C08, Tallahassee, Florida 32399-3258

THE FULL TEXT OF THE PROPOSED RULE IS:

64B5-17.0105 Ownership of Dental Instruments by a Dental Hygienist.

For purposes of interpreting Section 466.0285, Florida Statutes, a Dental Hygienist is not precluded from owning dental instruments used by her or him in the provision of dental hygiene services, so long as the final authority on the suitability and/or manner in which said instruments will be used in the provision of dental hygiene services remains with the supervising dentist.

Specific Authority 466.004 FS. Law Implemented 466.0285 FS. History--New

NAME OF PERSON ORIGINATING PROPOSED RULE: Board of Dentistry

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

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: July 20, 2002

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: August 9, 2002

DEPARTMENT OF HEALTH

Board of Occupational Therapy

RULE TITLE: Fees; Renewal of License

RULE NO.: 64B11-2.009

PURPOSE AND EFFECT: To amend the language due to legislative changes.

SUMMARY: The Board has determined to amend this rule pursuant to s. 456.025(1), F.S.

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

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

SPECIFIC AUTHORITY: 468.204, 468.221 FS.

LAW IMPLEMENTED: 468.221 FS.

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

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

THE FULL TEXT OF THE PROPOSED RULE IS:

64B11-2.009 Fees; Renewal of License.

Each licensed occupational therapist shall submit a biennial fee of ~~\$55.00~~ ~~\$150.00~~ by check or money order made payable to the order of the Department of Health.

Specific Authority 468.204, 468.221 FS. Law Implemented 468.221 FS. History--New 4-28-76, Amended 8-9-76, 11-15-78, 9-9-85, Formerly 21M-13.09, Amended 6-29-89, 7-23-91, Formerly 21M-13.009, 61F6-13.009, 59R-61.009, Amended 12-16-01.

NAME OF PERSON ORIGINATING PROPOSED RULE: Board of Occupational Therapy

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

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: October 4, 2002

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: September 20, 2002

DEPARTMENT OF HEALTH

Board of Occupational Therapy

RULE TITLE: Fees; Renewal of License

RULE NO.: 64B11-3.007

PURPOSE AND EFFECT: To amend the language due to legislative changes.

SUMMARY: The Board has determined to amend this rule pursuant to s. 456.025(1), F.S.

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

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

SPECIFIC AUTHORITY: 468.204, 468.221 FS.

LAW IMPLEMENTED: 468.221 FS.

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

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

THE FULL TEXT OF THE PROPOSED RULE IS:

64B11-3.007 Fees; Renewal of License.

Each licensed occupational therapist assistant shall submit a biennial fee of \$55.00 ~~\$150.00~~ by check or money order made payable to the order of the Department of Health.

Specific Authority 468.204, 468.221 FS. Law Implemented 468.221 FS. History—New 4-28-76, Amended 8-9-76, 11-15-78, 9-9-85, Formerly 21M-14.08, Amended 6-29-89, 7-23-91, Formerly 21M-14.008, 61F6-14.008, 59R-62.008, Amended 2-7-02, _____.

NAME OF PERSON ORIGINATING PROPOSED RULE: Board of Occupational Therapy

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

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: October 4, 2002

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: September 20, 2002

DEPARTMENT OF HEALTH

Board of Physical Therapy Practice

RULE TITLE: Continuing Education RULE NO.: 64B17-9.001

PURPOSE AND EFFECT: The Board proposes to add to current rule text.

SUMMARY: The Board decided that up to three contact hours in prevention of medical errors could be included in the 24 contact hours required within a biennium.

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

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

SPECIFIC AUTHORITY: 486.025 FS.

LAW IMPLEMENTED: 486.109(2) FS.

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

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

THE FULL TEXT OF THE PROPOSED RULE IS:

64B17-9.001 Continuing Education.

(1) through (2) No change.

(3) Acceptable subject areas for physical therapy continuing education include professional ethics, clinical education, clinical practice, clinical research, clinical management, clinical science, Florida law relating to physical therapy, basic sciences, risk management, and HIV/AIDS. No more than five contact hours of courses in risk management shall be accepted within a biennium. Up to three contact hours in HIV/AIDS education pursuant to Rule Chapter 64B17-8, F.A.C., may be included in the twenty-four contact hours. Up to three contact hours in prevention of medical errors education pursuant to Rule Chapter 64B17-8 may be included in the twenty-four contact hours.

(4) through (7) No change.

Specific Authority 486.025 FS. Law Implemented 486.109(2) FS. History—New 4-6-92, Formerly 21MM-9.001, Amended 3-7-94, Formerly 61F11-9.001, Amended 12-5-95, Formerly 59Y-9.001, Amended 2-14-02, 4-21-02, _____.

NAME OF PERSON ORIGINATING PROPOSED RULE: Board of Physical Therapy Practice

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Board of Physical Therapy Practice

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: June 12, 2002

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: August 9, 2002

FLORIDA HOUSING FINANCE CORPORATION

RULE TITLE: Applicant Administrative Appeal Procedures RULE NO.: 67-21.0035

PURPOSE AND EFFECT: The purpose of this Rule is to outline the procedures by which the Corporation handles appeals from applicants regarding the scoring of applications.

SUMMARY: The proposed amendments revise the appeal process for Applicants.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COST: None.

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

SPECIFIC AUTHORITY: 420.507, 420.508 FS.

LAW IMPLEMENTED: 120.569, 120.57, 420.507, 420.508 FS.

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

DATE AND TIME: 10:00 a.m., November 8, 2002

PLACE: Florida Housing Finance Corporation, 227 North Bronough Street, 6th Floor, Seltzer Room, Tallahassee, Florida 32301-1329

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Wayne Conner, Deputy Development Officer, Florida Housing Finance Corporation, 227 North Bronough Street, Suite 5000, Tallahassee, Florida 32031-1329, (850)488-4197

THE FULL TEXT OF THE PROPOSED RULE IS:

67-21.0035 Applicant Administrative Appeal Procedures.

(1) At the conclusion of the review and scoring process established by Rule 67-21.003, each Applicant will be provided with its final score and notice of rights, which shall constitute the ~~sole~~ point of entry to contest any issue related to the Applicant's Application for the Program.

(2) Each Applicant that wishes to contest its final score must file a petition with the Corporation on or before the 21st Calendar Day after the date Applicant receives its notice of rights. The petition must conform to subsection 28-106.201(2) or 28-106.301(2), F.A.C., as applicable, and specify in detail each issue and score sought to be challenged. Submission by facsimile or other electronic means will not be accepted. If the petition does not raise a disputed issue of material fact, the challenge will be conducted pursuant to Section 120.57(2), F.S. If the petition raises one or more disputed issues of material fact, a formal administrative hearing will be conducted pursuant to Section 120.57(1), F.S. At the conclusion of any administrative hearing, a recommended order shall be entered by the designated hearing officer which will then be considered by the Board.

(3) Any Applicant who wishes to challenge the findings and conclusions of the recommended order entered pursuant to a Section 120.57(2), F.S., proceeding concerning its own Application shall be allowed the opportunity to submit written arguments to the Board. Any written argument should be typed and double-spaced with margins no less than one inch in either Times New Roman 14-point or Courier New 12-point font and may not exceed five pages. Written arguments must be filed with Florida Housing Finance Corporation's Clerk at 227

North Bronough Street, Suite 5000, Tallahassee, Florida 32301-1329, no later than 5:00 p.m., Eastern Time, on the date contained in the recommended order. Submission by facsimile or other electronic means will not be accepted. Failure to timely file a written argument shall constitute a waiver of the right to have a written argument considered by the Board. Parties will not be permitted to make oral presentations to the Board in response to recommended orders. The Board shall consider all recommended orders and written arguments and enter the appropriate final orders.

(4) Following the entry of final orders in all petitions filed pursuant to Section 120.57(2), F.S., and in accordance with ~~the prioritization of the QAP and~~ Rule Chapter 67-21, F.A.C., the Corporation shall issue final rankings. For an Applicant that filed a petition pursuant to Section 120.57(1), F.S., which challenged the scoring of its own Application but has not had a final order entered as of the date the final rankings are approved by the Board, the Corporation shall, if any such Applicant ultimately obtains a final order that modifies the score so that its Application would have been in the funding range of the applicable final ranking had it been entered prior to the date the final rankings were presented to the Board, provide the requested ~~funding and/or~~ allocation (~~as applicable~~) from the next available ~~funding and/or~~ allocation (~~as applicable~~), whether in the current year or a subsequent year. Nothing contained herein shall affect any applicable credit underwriting requirements.

(5) Each Applicant will be provided with a final ranking of all Applications and notice of rights, which shall constitute the ~~sole~~ point of entry to contest any ranking or scoring issue related to any other Applications for the Program. An Applicant that wishes to contest the final ranking or score of another Applicant may do so only if:

(a) The competing Applicant files a petition on or before the 21st Calendar Day after the receipt of the notice of rights pursuant to this subsection (5). Submission by facsimile or other electronic means will not be accepted. The petition must conform to subsection 28-106.201(2) or 28-106.301(2), F.A.C., as applicable, and specify in detail each issue, score or ranking sought to be challenged.

(b) For any Application cycle closing after January 1, 2002, if the contested issue involves an error in scoring, the contested issue must (i) be one that could not have been cured pursuant to subsection 67-48.004(14), F.A.C., or (ii) be one that could have been cured, if the ability to cure was not solely within the Applicant's control. The contested issue cannot be one that was both curable and within the Applicant's sole control to cure. With regard to curable issues, ~~it is presumed that a contested issue would have been cured, unless a petitioner must~~ can prove by competent substantial evidence that the contested issue was not feasibly curable within the time allowed for cures in subsection 67-21.003(6) a reasonable time.

(c) The competing Applicant alleges facts in its petition sufficient to demonstrate that, but for the specifically identified threshold, scoring or ranking errors in the challenged Application, its Application would have been in the funding range at the time Florida Housing provided the Applicant with its final ranking.

(d) If the petition does not raise a disputed issue of material fact, the appeal will be conducted pursuant to Section 120.57(2), F.S. If the petition raises one or more disputed issues of material fact, a formal administrative hearing will be conducted pursuant to Section 120.57(1), F.S. At the conclusion of any administrative hearing, a recommended order shall be entered which will then be considered by the Board.

(6) Any Applicant who wishes to challenge the findings and conclusions of the recommended order entered pursuant to a Section 120.57(2), F.S., proceeding as described in subsection (5) above concerning the final ranking of another Application, shall be allowed the opportunity to submit written arguments to the Board. Any written arguments should be typed and double-spaced with margins no less than one inch in either Times New Roman 14-point or Courier New 12-point font and may not exceed five pages. Written arguments must be filed with Florida Housing Finance Corporation's Clerk at 227 North Bronough Street, Suite 5000, Tallahassee, Florida 32301-1329, no later than 5:00 p.m., Eastern Time, on the date contained in the recommended order. Submission by facsimile or other electronic means will not be accepted. Failure to timely file a written argument shall constitute a waiver of the right to have a written argument considered by the Board. Parties will not be permitted to make oral presentations to the Board in response to recommended orders. The Board shall consider all recommended orders and written arguments and enter the appropriate final orders.

(7) For those Applicants that have filed a petition pursuant to subsection (5) above, the Corporation shall, if any such Applicant ultimately obtains a final order that demonstrates that its Application would have been in the funding range of the applicable final ranking, provide the requested allocation from the next available allocation, whether in the current year or a subsequent year. Nothing contained herein shall affect any applicable credit underwriting requirements. The filing of a petition pursuant to subsection (5) above shall not stay the Corporation's provision of funding to Applicants per the final rankings referenced in subsection (4) above.

Specific Authority ~~420.507(4)(2), 420.508(2)(a), 420.508(6)~~ FS. Law Implemented 120.57, 120.569(2)(b), 420.502, 420.507(~~4~~), (~~13~~), (~~14~~), (~~18~~), (~~20~~), (~~21~~), (~~24~~), 420.508 FS. History—New 11-4-99, Amended 2-12-01, 3-17-02, 10-8-02, _____.

NAME OF PERSON ORIGINATING PROPOSED RULE: Wayne Conner, Florida Housing Finance Corporation, 227 North Bronough Street, Suite 5000, Tallahassee, Florida 32031-1329, (850)488-4197

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Mark Kaplan, Executive Director, Florida Housing Finance Corporation, 227 North Bronough Street, Suite 5000, Tallahassee, Florida 32031-1329, (850)488-4197

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: May 22, 2002

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: Vol. 28, No. 7, February 15, 2002

FLORIDA HOUSING FINANCE CORPORATION

RULE TITLE: Applicant Administrative Appeal Procedures RULE NO.: 67-48.005

PURPOSE AND EFFECT: The purpose of this Rule is to outline the procedures by which the Corporation handles appeals from applicants regarding the scoring of applications.

SUMMARY: The proposed amendments revise the appeal process for Applicants.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COST: None.

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

SPECIFIC AUTHORITY: 420.507 FS.

LAW IMPLEMENTED: 120.57, 120.569, 420.5087, 420.5089, 420.5099 FS.

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

DATE AND TIME: 10:00 a.m., November 8, 2002

PLACE: Florida Housing Finance Corporation, 227 North Bronough Street, 6th Floor, Seltzer Room, Tallahassee, Florida 32301-1329

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Kerey Carpenter, Deputy Development Officer, Florida Housing Finance Corporation, 227 North Bronough Street, Suite 5000, Tallahassee, Florida 32031-1329, (850)488-4197

THE FULL TEXT OF THE PROPOSED RULE IS:

67-48.005 Applicant Administrative Appeal Procedures.

(1) At the conclusion of the review and scoring process established by Rule 67-48.004, each Applicant will be provided with its final score and notice of rights, which shall constitute the sole point of entry to contest any issue related to the Applicant's Application for the ~~State Apartment Incentive Loan (SAIL) Program, the HOME Investment Partnerships (HOME) Program or the Housing Credit (HC) Program.~~

(2) Each Applicant that wishes to contest its final score must file a petition with the Corporation on or before the 21st Calendar Day after the date Applicant receives its notice of rights. The petition must conform to subsection 28-106.201(2) or 28-106.301(2), F.A.C., as applicable, and specify in detail each issue and score sought to be challenged. Submission by facsimile or other electronic means will not be accepted. If the petition does not raise a disputed issue of material fact, the challenge will be conducted pursuant to Section 120.57(2), F.S. If the petition raises one or more disputed issues of material fact, a formal administrative hearing will be conducted pursuant to Section 120.57(1), F.S. At the conclusion of any administrative hearing, a recommended order shall be entered by the designated hearing officer which will then be considered by the Board.

(3) Any Applicant who wishes to challenge the findings and conclusions of the recommended order entered pursuant to a Section 120.57(2), F.S., proceeding concerning its own Application shall be allowed the opportunity to submit written arguments to the Board. Any written argument should be typed and double-spaced with margins no less than one inch in either Times New Roman 14-point or Courier New 12-point font and may not exceed five pages. Written arguments must be filed with Florida Housing Finance Corporation's Clerk at 227 North Bronough Street, Suite 5000, Tallahassee, Florida 32301-1329, no later than 5:00 p.m., Eastern Time, on the date contained in the recommended order. Submission by facsimile or other electronic means will not be accepted. Failure to timely file a written argument shall constitute a waiver of the right to have a written argument considered by the Board. Parties will not be permitted to make oral presentations to the Board in response to recommended orders. The Board shall consider all recommended orders and written arguments and enter the appropriate final orders.

(4) Following the entry of final orders in all petitions filed pursuant to Section 120.57(2), F.S., and in accordance with the prioritization of the QAP and Rule Chapter 67-48, F.A.C., the Corporation shall issue final rankings. For an Applicant that filed a petition pursuant to Section 120.57(1), F.S., which challenged the scoring of its own Application but has not had a final order entered as of the date the final rankings are approved by the Board, the Corporation shall, if any such Applicant ultimately obtains a final order that modifies the score so that its Application would have been in the funding range of the applicable final ranking had it been entered prior to the date the final rankings were presented to the Board, provide the requested funding and/or allocation (as applicable) from the next available funding and/or allocation (~~as applicable~~), whether in the current year or a subsequent year. Funding refers to SAIL or HOME and allocation refers to HC. Nothing contained herein shall affect any applicable credit underwriting requirements.

(5) Each Applicant will be provided with a final ranking of all Applications and notice of rights, which shall constitute the ~~sole~~ point of entry to contest any ranking or scoring issue related to any other Applications for the ~~State Apartment Incentive Loan (SAIL) Program, the HOME Investment Partnerships (HOME) Program or the Housing Credit (HC) Program.~~ An Applicant that wishes to contest the final ranking or score of another Applicant may do so only if:

(a) The competing Applicant files a petition on or before the 21st Calendar Day after the receipt of the notice of rights pursuant to this subsection (5). Submission by facsimile or other electronic means will not be accepted. The petition must conform to subsection 28-106.201(2) or 28-106.301(2), F.A.C., as applicable, and specify in detail each issue, score or ranking sought to be challenged.

(b) For any Application cycle closing after January 1, 2002, if the contested issue involves an error in scoring, the contested issue must (i) be one that could not have been cured pursuant to subsection 67-48.004(14), F.A.C., or (ii) be one that could have been cured, if the ability to cure was not solely within the Applicant's control. The contested issue cannot be one that was both curable and within the Applicant's sole control to cure. With regard to curable issues, ~~it is presumed that a contested issue would have been cured, unless a petitioner must~~ can prove by competent substantial evidence that the contested issue was not feasibly curable within the time allowed for cures in subsection 67-48.004(6) a reasonable time.

(c) The competing Applicant alleges facts in its petition sufficient to demonstrate that, but for the specifically identified threshold, scoring or ranking errors in the challenged Application, its Application would have been in the funding range at the time Florida Housing provided the Applicant with its final ranking.

(d) If the petition does not raise a disputed issue of material fact, the appeal will be conducted pursuant to Section 120.57(2), F.S. If the petition raises one or more disputed issues of material fact, a formal administrative hearing will be conducted pursuant to Section 120.57(1), F.S. At the conclusion of any administrative hearing, a recommended order shall be entered which will then be considered by the Board.

(6) Any Applicant who wishes to challenge the findings and conclusions of the recommended order entered pursuant to a Section 120.57(2), F.S., proceeding as described in subsection (5) above concerning the final ranking of another Application, shall be allowed the opportunity to submit written arguments to the Board. Any written arguments should be typed and double-spaced with margins no less than one inch in either Times New Roman 14-point or Courier New 12-point font and may not exceed five pages. Written arguments must be filed with Florida Housing Finance Corporation's Clerk at 227 North Bronough Street, Suite 5000, Tallahassee, Florida

32301-1329, no later than 5:00 p.m., Eastern Time, on the date contained in the recommended order. Submission by facsimile or other electronic means will not be accepted. Failure to timely file a written argument shall constitute a waiver of the right to have a written argument considered by the Board. Parties will not be permitted to make oral presentations to the Board in response to recommended orders. The Board shall consider all recommended orders and written arguments and enter the appropriate final orders.

(7) For those Applicants that have filed a petition pursuant to subsection (5) above, the Corporation shall, if any such Applicant ultimately obtains a final order that demonstrates that its Application would have been in the funding range of the applicable final ranking, provide the requested funding and/or allocation (as applicable) from the next available funding and/or allocation (~~as applicable~~), whether in the current year or a subsequent year. Funding refers to SAIL or HOME and allocation refers to HC. Nothing contained herein shall affect any applicable credit underwriting requirements. The filing of a petition pursuant to subsection (5) above shall not stay the Corporation's provision of funding to Applicants per the final rankings referenced in subsection (4) above.

Specific Authority 420.507 FS. Law Implemented 120.57, 120.569, 420.5087, 420.5089(4), 420.5099 FS. History—New 7-22-96, Amended 12-23-96, 1-6-98, Formerly 91-48.005, Amended 4-7-98, 11-9-98, 2-24-00, 2-22-01, 3-17-02, 10-8-02, _____.

NAME OF PERSON ORIGINATING PROPOSED RULE: Kerey Carpenter, Florida Housing Finance Corporation, 227 North Bronough Street, Suite 5000, Tallahassee, Florida 32031-1329, (850)488-4197

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Mark Kaplan, Executive Director, Florida Housing Finance Corporation, 227 North Bronough Street, Suite 5000, Tallahassee, Florida 32031-1329, (850)488-4197

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: May 22, 2002

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: Vol. 28, No. 7, February 15, 2002

FISH AND WILDLIFE CONSERVATION COMMISSION

Freshwater Fish and Wildlife

RULE TITLE: Registration of Off-Road Vehicles

RULE NO.: 68A-11.001

PURPOSE AND EFFECT: The purpose of this proposed rule is to delete this rule which was authorized pursuant to Chapter 375, F.S. This statute was amended during the 2002 legislative session thereby deleting the authority of the Commission to charge a fee and annually register off-road vehicles used on public lands. The rule is being deleted because it is inconsistent with the new provisions in Chapter 375, F.S.

SUMMARY: The proposed rule would delete the requirement of annual registration of off-road vehicles used on public land. SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COST: It is estimated that the proposed rule will cost the agency \$205 for administrative preparation and review and \$69 for legal advertising costs.

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

SPECIFIC AUTHORITY: Art. IV, Sec. 9, Fla. Const.

LAW IMPLEMENTED: Art. IV, Sec 9, Fla. Const.

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

TIME AND DATES: 8:30 a.m. each day, November 20-22, 2002

PLACE: Hawk's Cay Resort, 61 Hawk's Cay Boulevard, Duck Key, Florida 33050

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE AND ECONOMIC STATEMENT IS: James Antista, General Counsel, Florida Fish and Wildlife Conservation Commission, 620 South Meridian Street, Tallahassee, Florida 32399-1600

THE FULL TEXT OF THE PROPOSED RULE IS:

68A-11.001 Registration of Off-Road Vehicles.

~~(1) Registration of off road vehicles is required.~~

~~(a) Any "off road vehicle," as defined in s. 375.312(4), F.S., operated upon "public lands," as defined in s. 375.312(2), F.S., not currently registered and licensed under Chapter 320, F.S., shall be registered as provided herein.~~

~~(b) Upon filing of an application on forms furnished by the Commission to register an off road vehicle, the owner of such vehicle shall receive a certificate of registration, a permanent registration decal and a current validation sticker. All tracked vehicles used in the South Region to take wildlife or freshwater fish shall be inspected to determine compliance with the provisions of 68A-11.005 prior to being initially registered.~~

~~1. The registration decal with the current validation sticker attached, shall be displayed on all two or three wheeled vehicles on the left fork leg.~~

~~2. On all other off road vehicles, the registration decal with current validation sticker attached shall be displayed on the left front in a prominent visible manner.~~

~~(c) The annual registration fee for each off road vehicle shall be \$10. Validation stickers expire on June 30.~~

~~(d) The certificate of registration shall be presented for inspection upon the request of any duly authorized law enforcement officer.~~

~~(e) The provisions of this rule shall not be construed as authorizing the operating or use of such vehicles contrary to Chapter 316 or 589, Florida Statutes.~~

~~(f) No person shall remove and transfer any registration decal to any other vehicle.~~

Specific Authority Art. IV, Sec. 9, Fla. Const., 375.313 FS. Law Implemented 375.315 FS. History--New 8-1-79, Amended 11-17-81, 6-21-82, Formerly 39-11.01, 39-11.001, Repealed.

NAME OF PERSON ORIGINATING PROPOSED RULE:
Timothy A. Breault
NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Kenneth Haddad, Executive Director
DATE PROPOSED RULE APPROVED BY AGENCY HEAD: July 24, 2002
DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: September 27, 2002

FISH AND WILDLIFE CONSERVATION COMMISSION

Freshwater Fish and Wildlife

RULE TITLE: Use of Tracked Vehicles in the South Region RULE NO.: 68A-11.005

PURPOSE AND EFFECT: The purpose of the proposed rule is to make necessary corrections to conform to changes made to Chapter 375, F.S., during the 2002 legislative session which deleted the requirement to annually register all off-road vehicles used on public land. Proposed changes to the rule will also clarify that tracked vehicles used in the South Region to take wildlife or freshwater fish shall have a permanent no cost registration decal that shall be displayed on the left front in a prominent and visible location.

SUMMARY: The proposed rule deletes language referencing an annual registration requirement for tracked vehicles and clarifies that a permanent registration decal shall be required for tracked vehicles used to take wildlife or freshwater fish in the South Region.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COST: It is estimated that the proposed rule will cost the agency approximately \$275 for administrative preparation and review and \$33 for legal advertising.

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

SPECIFIC AUTHORITY: Art. IV, Sec. 9, Fla. Const.

LAW IMPLEMENTED: Art. IV, Sec 9, Fla. Const.

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

TIME AND DATES: 8:30 a.m. each day, November 20-22, 2002

PLACE: Hawk's Cay Resort, 61 Hawk's Cay Boulevard, Duck Key, Florida 33050

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE AND ECONOMIC STATEMENT IS: James Antista, General Counsel, Florida Fish and Wildlife Conservation Commission, 620 South Meridian Street, Tallahassee, Florida 32399-1600, (850)487-1764

THE FULL TEXT OF THE PROPOSED RULE IS:

68A-11.005 Use of Tracked Vehicles in the South Region. In the South Region, no person shall take wildlife or freshwater fish from any tracked vehicle that does not meet the following specifications:

(1) through (3) No change.

(4) Tracked vehicles ~~registered as required by Rule 68A-11.001 and~~ affixed with a TRG decal prior to January 1, 1982, shall be exempt from the engine limitations in subsection (2).

(5) All tracked vehicles used in the South Region to take wildlife or freshwater fish shall be inspected to determine compliance with this section prior to being issued a permanent TR registration decal.

(6) TRG or TR permanent registration decals shall be displayed on the left front in a prominent and visible location.

Specific Authority Art. IV, Sec. 9, Fla. Const., 372.021 FS. Law Implemented Art. IV, Sec. 9, Fla. Const. History--New 6-21-82, Amended 7-1-85, Formerly 39-11.05, Amended 6-8-87, Formerly 39-11.005, Amended.

NAME OF PERSON ORIGINATING PROPOSED RULE:
Timothy A. Breault
NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Kenneth Haddad, Executive Director
DATE PROPOSED RULE APPROVED BY AGENCY HEAD: July 24, 2002
DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: September 27, 2002

FISH AND WILDLIFE CONSERVATION COMMISSION

Freshwater Fish and Wildlife

RULE TITLE: Specific Fish Management Area Regulations RULE NO.: 68A-20.005

PURPOSE AND EFFECT: The proposed rule would establish Lake Rachael, Madison County, as a Fish Management Area (FMA) for the purpose of allowing public access to private property and to manage angler activities.

SUMMARY: The proposed rule would establish Lake Rachael as an FMA for the purpose of allowing public access to private property in return for fishery management and, at the request of the landowners, would include regulations specifying use of electric motors only, catch and release only for largemouth bass, and prohibiting discharge of firearms.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COST: It is estimated that the proposed action will cost the agency approximately \$200 for administrative preparation, \$71.28 for advertising, and less than \$400 for miscellaneous expenses such as new signs or brochures. Costs for fish management activities including aquatic plant management and improved angler access are estimated at \$10,000 and \$2,000 respectively.

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

SPECIFIC AUTHORITY: Art. IV, Sec. 9, Fla. Const.

LAW IMPLEMENTED: Art. IV, Sec. 9, Fla. Const.

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

TIME AND DATES: 8:30 a.m. each day, November 20-22, 2002

PLACE: Hawk's Cay Resort, 61 Hawk's Cay Boulevard, Duck Key, Florida 33050

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE AND ECONOMIC STATEMENT IS: James Antista, General Counsel, Florida Fish and Wildlife Conservation Commission, 620 South Meridian Street, Tallahassee, Florida 32399-1600

THE FULL TEXT OF THE PROPOSED RULE IS:

68A-20.005 Specific Fish Management Area Regulations.

(1) Northwest Region:

(2) North Central Region:

(a) through (j) No change.

(k) Lake Rachael, Madison County:

1. The use of boats propelled by gasoline motors is prohibited.

2. No person shall kill or possess any black bass.

3. Discharge of firearms is prohibited.

(3) through (5) No change.

Specific Authority Art. IV, Sec. 9, Fla. Const. Law Implemented Art. IV, Sec. 9, Fla. Const. History—New 8-1-79, Amended 2-19-80, 5-19-80, 6-4-81, 9-28-81, 6-21-82, 7-1-83, 11-17-83, 7-1-84, 7-1-85, Formerly 39-20.05, Amended 2-27-86, 6-1-86, 5-10-87, 4-13-88, 7-1-89, 7-1-90, 4-11-91, 7-1-91, 7-2-92, 8-23-92, 4-20-93, 7-1-94, 8-15-95, 10-23-95, 4-1-96, 2-16-97, 6-1-97, 6-29-97, 1-1-98, 7-1-98, 11-2-98, Formerly 39-20.005, Amended 4-30-00, 7-1-00, 10-10-00, 4-1-01, 7-1-01, 10-9-01, 7-1-02,_____.

NAME OF PERSON ORIGINATING PROPOSED RULE: Darrell Scovell

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

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: July 1, 2002

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: November 30, 2001

FISH AND WILDLIFE CONSERVATION COMMISSION

Marine Fisheries

RULE CHAPTER TITLE:	RULE CHAPTER NO.:
	68B-14
RULE TITLES:	RULE NOS.:
Purpose and Intent, Designation as Restricted Species	68B-14.001
Definitions	68B-14.002
Size Limits: Amberjacks, Black Sea Bass, Gray Triggerfish, Grouper, Hogfish, Red Porgy, Snapper	68B-14.0035
Size Limits for Importation and Sale	68B-14.00355
Recreational Bag Limits: Snapper, Grouper, Hogfish, Black Sea Bass, Red Porgy, Amberjacks, Exception, Wholesale/Retail Purchase Exemption	68B-14.0036
Commercial Harvest Requirements; Licenses, Season Closures, Bag and Trip Limits	68B-14.0045
Regulation and Prohibition of Certain Harvesting Gear: Allowable Gear, Incidental Bycatch, Violation	68B-14.005

PURPOSE AND EFFECT: The primary purpose of these rule amendments and new rules is to implement minimum size limits for the possession and sale of imported reef fishes, and, secondarily, to eliminate outdated provisions, reorganize reef fish regulations, and develop consistent minimum size limits for red snapper and scamp caught in state and federal waters of the Gulf of Mexico. The effect will be to clarify existing regulations regarding the possession of imported fish that are less than state and/or federal minimum size limits and to develop minimum size limits that are consistent with federal regulations.

SUMMARY: Subsections (2) and (3) of Rule 68B-14.001, F.A.C., are deleted as outdated and transitional. Existing subsection (4) of the rule is renumbered as subsection (2) and amended in paragraph b) to alphabetize the listing of groupers and seabasses. Rule 68B-14.002, F.A.C., is amended to insert the term "goliath grouper" in place of the outdated term "jewfish" and alphabetize the listing of definitions. Rule 68B-14.0035, F.A.C., is amended to incorporate commercial size limits being deleted from Rule 68B-14.0045 and to conform certain size limits to existing size limits in adjacent federal waters.

New Rule 68B-14.00355 establishes size limits for importation and sale of reef fish and prohibits possession and sale of undersize fish. Rule 68B-14.0036, F.A.C., is amended to make minor organizational changes in the rule, and to substitute the term "goliath grouper" for the term "jewfish". Rule 68B-14.0045, F.A.C., is amended to delete commercial size limits that have been moved elsewhere, delete closure notice provisions made unnecessary by federal fishery-wide closures, use the term "goliath grouper" where appropriate, conform

commercial requirements for certain species to federal regulations, and make technical and grammatical improvements. Rule 68B-14.005, F.A.C., is amended to move black sea bass trap provisions to a more logical place in the rule and to correct cross-references.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COST: The proposed rule will clarify that possession of 19 species of snapper and grouper is limited to compliance with minimum size limits. The adoption of the possession language is to ensure compliance with a sustainable harvest of these fish stocks through closing avenues for poaching. However, reef fish species below these minimum size limits are available for purchase from other countries in the Caribbean basin. The rule proposal creates a new section to clarify that imported reef fish species must comply with minimum size limits. Three workshops were held in Miami and Tampa to elicit testimony on this issue and 150 wholesale dealers identified by the Florida Department of Agriculture and Consumer Services, Bureau of Seafood Marketing as reef fish importers were sent workshop notices and a briefing paper. Only five persons attended the workshops in opposition to the rule. They stated that the rule would affect their small businesses that import small reef fish and that employment levels would be affected by effective enforcement of minimum size limits. Based on the level of testimony received the rule should not affect local government's costs or revenues. The rule will not create additional agency costs except for promulgation and will aid in the understanding of existing provisions. The rule will not create additional reporting or paperwork requirements.

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

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

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

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

TIME AND DATES: 8:30 a.m. – 5:00 p.m. each day, November 20-22, 2002

PLACE: Hawk's Cay Resort, 61 Hawk's Cay Boulevard, Duck Key, Florida

Pursuant to the provisions of the Americans with Disabilities Act, any person requiring special accommodations to participate in this workshop/meeting is asked to advise the agency at least 5 calendar days before the workshop/meeting by contacting: Cindy Hoffman, ADA Coordinator, (850)488-6411. If you are hearing or speech impaired, please contact the agency by calling (850)488-9542.

All written material received by the Commission within 21 days of the date of publication of this notice shall be made a part of the official record.

Section 286.0105, Florida Statutes, provide that, if a person decides to appeal any decision made by the commission with respect to any matter considered at this hearing, he will need a record of proceedings, and for such purposes, he may need to ensure that a verbatim record of the proceedings is made, which record includes the testimony and evidence upon which the appeal is based.

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULES IS: James V. Antista, General Counsel, Fish and Wildlife Conservation Commission, 620 South Meridian Street, Tallahassee, Florida 32399-1600

THE FULL TEXT OF THE PROPOSED RULES IS:

~~68B-14.001 Purpose and Intent, Repeal of Section 370.11(2)(a)8., F.S., Designation as Protected Species, Designation as Restricted Species.~~

(1) Purpose and intent.

(a) The purpose of this chapter is to protect and replenish Florida's reef fish resources by imposing minimum size limits, recreational bag limits, and restrictions on gear used to harvest the families, genera and species listed herein.

(b) The prohibitions contained in this chapter are not intended to supersede or conflict with provisions of any federal management plan or regulations operative in Exclusive Economic Zone (EEZ) waters adjacent to Florida waters.

~~(2) Repeal of Section 370.11(2)(a)8., F.S. This chapter is intended to repeal and replace Section 370.11(2)(a)8., F.S., and the remainder of Section 370.11(2)(a), F.S., as it pertains to grouper. This chapter is not intended, and shall not be construed, to repeal any other subdivision of Section 370.11, F.S., or any other existing general or local law applicable to snapper, grouper, or sea bass.~~

~~(3) Designation as protected species. Red snapper and jewfish are hereby declared and designated as protected species. The purposes of this designation are to increase public awareness of the need for extensive conservation action in order to prevent this resource from becoming endangered and to encourage voluntary conservation practices.~~

~~(2)(4) Designation as restricted species. The following species are hereby designated as restricted species pursuant to Section 370.01(21), Florida Statutes:~~

~~(a) Amberjacks – Genus *Seriola*:~~

- ~~1. Almaco jack – *Seriola rivoliana*.~~
- ~~2. Banded rudderfish – *Seriola zonata*.~~
- ~~3. Greater amberjack – *Seriola dumerili*.~~
- ~~4. Lesser amberjack – *Seriola fasciata*.~~

~~(b) Groupers and Sea Basses – Family Serranidae:~~

- ~~1. Bank sea bass – *Centropristis ocyurus*.~~
- ~~2. Black grouper – *Mycteroperca bonaci*.~~

- 3. Black sea bass – *Centropristis striata*.
- 4. Coney – *Epinephelus fulvus*.
- 5. Gag – *Mycteroperca microlepis*.
- 6. Graysby – *Epinephelus cruentatus*.
- 7. Misty grouper – *Epinephelus mystacinus*.
- 8. Red grouper – *Epinephelus morio*.
- 9. Red hind – *Epinephelus guttatus*.
- 10. Rock hind – *Epinephelus adscensionis*.
- 11. Rock sea bass – *Centropristis philadelphica*.
- 12. Scamp – *Mycteroperca phenax*.
- ~~13. Speckled hind – *Epinephelus drummondhayi*.~~
- 13.14. Snowy grouper – *Epinephelus niveatus*.
- 14. Speckled hind – *Epinephelus drummondhayi*.
- 15. Tiger grouper – *Mycteroperca tigris*.
- 16. Warsaw grouper – *Epinephelus nigritus*.
- 17. Yellowedge grouper – *Epinephelus flavolimbatus*.
- 18. Yellowfin grouper – *Mycteroperca venenosa*.
- 19. Yellowmouth grouper – *Mycteroperca interstitialis*.
- (c) Snappers – Family Lutjanidae:
 - 1. Black snapper – *Apsilus dentatus*.
 - 2. Blackfin snapper – *Lutjanus buccanella*.
 - 3. Cubera snapper – *Lutjanus cyanopterus*.
 - 4. Dog snapper – *Lutjanus jocu*.
 - 5. Gray (mangrove) snapper – *Lutjanus griseus*.
 - 6. Lane snapper – *Lutjanus synagris*.
 - 7. Mahogany snapper – *Lutjanus mahogoni*.
 - 8. Mutton snapper – *Lutjanus analis*.
 - 9. Queen snapper – *Etelis oculatus*.
 - 10. Red snapper – *Lutjanus campechanus*.
 - 11. Schoolmaster – *Lutjanus apodus*.
 - 12. Silk snapper – *Lutjanus vivanus*.
 - 13. Vermilion snapper – *Rhomboplites aurorubens*.
 - 14. Wenchman – *Pristipomoides aquilonaris*.
 - 15. Yellowtail snapper – *Ocyrus chrysurus*.
- (d) Gray triggerfish – *Balistes capriscus*.
- (e) Hogfish – *Lachnolaimus maximus*.
- (f) Red porgy – *Pagrus pagrus*.

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 7-29-85, Formerly 46-14.001, Amended 12-11-86, 2-1-90, 3-1-94, 12-31-98, 1-1-00, _____.

68B-14.002 Definitions.

For purposes of this chapter, except where the context clearly requires otherwise:

(1) “Atlantic Ocean” means that body of water south and east of the line beginning at the point where the Natural Resources Boundary Line intersects 83 deg. W. longitude (24 deg. 29 min. N. latitude), thence north along 83 deg. W. longitude to where it intersects 24 deg. 35 min. N. latitude (near the Dry Tortugas), thence eastward along that parallel

through Rebecca Shoal and the Quicksand Shoal to 82 deg. 13 min. W. longitude, then following the Territorial Sea Boundary south and east to the point it intersects 24 deg. 33 min. N. latitude, thence eastward along that parallel to the point where it intersects Key West, then continuing along a line eastward to the terminus of U.S. Highway 1 to the point where it intersects the mainland at the east end of Florida Bay.

(2) “Charter vessel” means a vessel operated by a captain licensed by the United States Coast Guard to carry passengers for hire.

(3) “Fork length” means the length of a fish as measured from the tip of the snout to the rear center edge of the tail.

(4) “Goliath grouper” means any fish of the species *Epinephelus itajara*, or any part thereof.

~~(5)~~(4) “Gulf of Mexico” means that body of water north and west of the line described in the definition of “Atlantic Ocean” contained in subsection (1) of this rule.

~~(6)~~(5) “Harvest” means the catching or taking of a fish by any means whatsoever, followed by a reduction of such fish to possession. Fish that are caught but immediately returned to the water free, alive and unharmed are not harvested. In addition, temporary possession of a fish for the purpose of measuring it to determine compliance with the minimum size requirements of this chapter shall not constitute harvesting such fish, provided that it is measured immediately after taking, and immediately returned to the water free, alive and unharmed if undersize.

~~(6) “Headboat” means a vessel that holds a valid Certificate of Inspection issued from the U.S. Coast Guard to carry passengers for hire when it carries a passenger who pays a fee or when there are more than three persons aboard, including operator and crew.~~

(7) “Harvest for commercial purposes” means the taking or harvesting of fish for purposes of sale or with intent to sell or in excess of established bag limits.

(8) “Headboat” means a vessel that holds a valid Certificate of Inspection issued from the U.S. Coast Guard to carry passengers for hire when it carries a passenger who pays a fee or when there are more than three persons aboard, including operator and crew. “Jewfish” means any fish of the species *Epinephelus itajara*, or any part thereof.

(9) “Land,” when used in connection with the harvest of a fish, means the physical act of bringing the harvested fish ashore.

(10) “Nassau grouper” means any fish of the species *Epinephelus striatus*, or any part thereof.

(11) “Person” means any natural person, firm, entity or corporation.

(12) “Recreational harvester” means any person, other than a person harvesting for commercial purposes, who harvests fish in or from the waters of the State of Florida.

(13) "Spearing" means the catching or taking of a fish by bow hunting, giggering, spearfishing, or by any device used to capture a fish by piercing the body. Spearing does not include the catching or taking of a fish by a hook with hook and line gear or by snagging (snatch hooking).

(14) "Total length" means the length of a fish as measured from the tip of the snout to the tip of the tail.

(15) "Trip" means a fishing trip of whatever duration which begins with departure of the fishing vessel from a dock, berth, beach, seawall, or ramp and which terminates with return to a dock, berth, beach, seawall, or ramp.

Specific Authority Art. IV, Sec. 9, Fla. Const. Law Implemented Art. IV, Sec. 9, Fla. Const. History--New 7-29-85, Formerly 46-14.002, Amended 12-11-86, 2-1-90, 12-31-92, 3-1-94, 1-1-98, 12-31-98, 1-1-00, _____.

68B-14.0035 Size Limits: Amberjacks, Black Sea Bass, Gray Triggerfish, Grouper, Hogfish, Red Porgy, Snapper.

No person shall ~~harvest in or from state waters at any time, land, possess, unnecessarily destroy, purchase, exchange, or sell or offer for sale (except as provided in Rule 68B-14.0045, F.A.C.), any of the following species harvested in or from state waters,~~ of a length less than set forth as follows:

(1) Amberjacks (measured in terms of fork length)

(a) Banded rudderfish no less than 14 inches, no greater than 22 inches.

(b) 1. Greater amberjack harvested recreationally 28 inches.

2. Greater amberjack harvested commercially 36 inches.

(c) Lesser amberjack no less than 14 inches, no greater than 22 inches.

(2) Black sea bass 10 inches total length.

(3) Gray triggerfish 12 inches total length.

(4) Grouper (measured in terms of total length)

(a) 1. Black grouper harvested recreationally from the Atlantic Ocean and all waters of Monroe County 24 inches.

2. ~~(b) 1. Black grouper harvested recreationally from the Gulf of Mexico except from all waters of Monroe County 22 inches.~~

(b) 2. Black grouper harvested commercially from the Gulf of Mexico except from all waters of Monroe County 24 inches.

(c) 1. Gag (gray) grouper harvested recreationally from the Atlantic Ocean and all waters of Monroe County 24 inches.

2. ~~(d) 1. Gag (gray) grouper harvested recreationally from the Gulf of Mexico except from all waters of Monroe County 22 inches.~~

(d) 2. Gag (gray) grouper harvested commercially from the Gulf of Mexico except from all waters of Monroe County 24 inches.

(e) Red grouper 20 inches.

(f) 1. Scamp harvested from the Atlantic Ocean and all waters of Monroe County 20 inches.

2. Scamp harvested from the Gulf of Mexico except from all waters of Monroe County 16 inches.

(g) Yellowfin grouper 20 inches.

(h) Yellowmouth grouper 20 inches.

(5) Hogfish 12 inches fork length.

(6) Red porgy harvested in waters of the Atlantic Ocean 14 inches total length.

(7) Snapper (measured in terms of total length)

(a) Blackfin snapper 12 inches.

(b) Cubera snapper 12 inches.

(c) Dog snapper 12 inches.

(d) 1. Gray (mangrove) snapper harvested recreationally 10 inches.

2. Gray (mangrove) snapper harvested commercially 12 inches.

(e) Lane snapper 8 inches.

(f) Mahogany snapper 12 inches.

(g) Mutton snapper 16 inches.

(h) Queen snapper 12 inches.

(i) Red snapper harvested from the Atlantic Ocean 20 inches.

(j) 1. Red snapper harvested recreationally from the Gulf of Mexico 16 inches.

2. Red snapper harvested commercially from the Gulf of Mexico 15 inches.

(k) Silk snapper 12 inches.

(l) Schoolmaster snapper 10 inches.

(m) Vermilion snapper harvested recreationally 10 inches.

(n) 1. Vermilion snapper harvested commercially from the Atlantic Ocean 12 inches.

2. Vermilion snapper harvested commercially from the Gulf of Mexico 10 inches.

(o) ~~(n)~~ Yellowtail snapper 12 inches.

Specific Authority Art. IV, Sec. 9, Fla. Const. Law Implemented Art. IV, Sec. 9, Fla. Const. History--New 12-31-98, Formerly 46-14.0035, Amended 3-1-99, 1-1-00, 1-1-01, 1-1-01, _____.

68B-14.00355 Size Limits for Importation and Sale.

(1) No person shall possess for purposes of sale, purchase, sell, or exchange any of the following species of a length less than set forth as follows:

(a) Black sea bass 10 inches total length.

(b) Greater amberjack 36 inches fork length.

(c) Gray triggerfish 12 inches total length.

(d) Grouper (measured in terms of total length).

1. Black grouper 24 inches.

2. Gag 24 inches.

3. Red grouper 20 inches.

4. Scamp 16 inches.

5. Yellowfin grouper 20 inches.

(e) Hogfish 12 inches fork length.

(f) Snapper (measured in terms of total length).

1. Cubera snapper 12 inches.

2. Dog snapper 12 inches.
3. Gray (mangrove) snapper 12 inches.
4. Lane snapper 8 inches.
5. Mahogany snapper 12 inches.
6. Mutton snapper 16 inches.
7. Red snapper 15 inches.
8. Schoolmaster snapper 10 inches.
9. Vermilion snapper 10 inches.
10. Yellowtail snapper 12 inches.

(2) Minimum size limits do not apply to the possession, purchase, sale, or exchange of the following species that have been imported from another state, or foreign country: banded rudderfish, lesser amberjack, yellowmouth grouper, blackfin snapper, queen snapper, silk snapper, or red porgy.

(3) The possession, purchase, sale, or exchange of any Nassau grouper or goliath grouper is prohibited.

(4) A person may possess any species listed in subsection 68B-14.001(2) that have been imported into Florida from another state or foreign country, provided that those species comply with the provisions specified in paragraphs (1) and (2) of this section, and the purchaser possesses a receipt(s), bill(s) of sale, or bill(s) of lading to show that the fish were harvested and purchased in another state or foreign country and are entering the state in interstate or international commerce. Such documentation shall accompany the fish through retail or restaurant sale. Failure to maintain such documentation or to promptly produce same at the request of any duly authorized law enforcement officer shall constitute violation of this rule.

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

68B-14.0036 Recreational Bag Limits: Snapper, Grouper, Hogfish, Black Sea Bass, Red Porgy, Amberjacks, Exception, Wholesale/Retail Purchase Exemption.

(1) Snapper.

(a) Aggregate bag limit. Except as provided elsewhere in this rule, no recreational harvester shall harvest in or from state waters, nor possess while in or on state waters, more than a total of 10 snapper per day, in any combination of species.

(b) Gray (mangrove) snapper. Except as provided elsewhere in this rule, no recreational harvester shall harvest in or from state waters, nor possess while in or on state waters, more than 5 gray (mangrove) snapper per day. Such bag and possession limit shall be counted for purposes of the aggregate snapper bag and possession limit prescribed in paragraph (a).

(c) Red snapper. Except as provided elsewhere in this rule, no recreational harvester shall harvest in or from state waters of the Atlantic Ocean, nor possess while in or on state waters of the Atlantic Ocean, more than 2 red snapper per day, nor shall a recreational harvester harvest in or from state waters of the Gulf of Mexico, nor possess while in or on state waters of the Gulf of Mexico, more than 4 red snapper per day. Such bag

and possession limit shall be counted for purposes of the aggregate snapper bag and possession limit prescribed in paragraph (a).

(d) 1. Atlantic vermilion snapper. Except as provided elsewhere in this rule, no recreational harvester shall harvest in or from state waters of the Atlantic Ocean, nor possess while in or on state waters of the Atlantic Ocean, more than 10 vermilion snapper per day. Such bag and possession shall not be counted for purposes of the aggregate snapper bag and possession limits prescribed in paragraph (a).

2. Gulf vermilion snapper. Vermilion snapper harvested in state waters of the Gulf of Mexico shall not be subject to nor counted for purposes of determining compliance with the bag and possession limits established in paragraph (a).

(e) Gulf lane ~~and Gulf vermilion~~ snapper. Lane snapper ~~and vermilion snapper~~ harvested in state waters of the Gulf of Mexico shall not be subject to nor counted for purposes of determining compliance with the bag and possession limits established in paragraph (a).

(f) Cubera snapper.

1. Cubera snapper of a length less than 30 inches shall be included in the aggregate snapper bag and possession limit established in paragraph (a), and the exception provided in subsection ~~(7)~~(6).

2. No recreational harvester shall harvest in or from state waters, nor possess while in or on state waters, more than 2 cubera snapper 30 inches in total length or larger per day, and no more than 2 such cubera snapper shall be possessed aboard any vessel in or on state waters at any time. Such larger cubera snapper shall not be included in the aggregate snapper bag and possession limit prescribed in paragraph (a).

(2) Grouper.

(a) Aggregate bag limit. Except as provided elsewhere in this rule, no recreational harvester shall harvest in or from state waters, nor possess while in or on state waters, more than a total of 5 grouper per day, in any combination of species.

(b) Gag and black grouper. Except as provided elsewhere in this rule, in all state waters of the Atlantic Ocean and all state waters of Monroe County, within the aggregate bag and possession limit established in paragraph (a), no more than 2 fish may be gag or black grouper, either individually or in combination. No recreational harvester may harvest in or from state waters of the Atlantic Ocean or in or from state waters of Monroe County, nor possess while in or on the waters of the Atlantic Ocean or in or on state waters of Monroe County, more than 2 such fish.

(c) Speckled hind and Warsaw grouper. No recreational harvester shall harvest in or from state waters, nor possess while in or on state waters, more than one speckled hind or more than one Warsaw grouper per day, and no more than one of each species shall be possessed aboard any vessel in or on

state waters, at any time. Such fish shall be counted for purposes of the aggregate grouper bag and possession limit prescribed in paragraph (a).

(d) Nassau grouper and goliath grouper jewfish. No person shall harvest in or from state waters, nor possess while in or on the waters of the state, or land, any Nassau grouper or goliath grouper jewfish. The purchase, sale, or exchange of any Nassau grouper or goliath grouper jewfish is prohibited.

(3) Hogfish. Except as provided elsewhere in this rule, no recreational harvester shall harvest in or from state waters, nor possess while in or on state waters, more than 5 hogfish per day.

(4) Black sea bass. Except as provided elsewhere in this rule, no recreational harvester shall harvest in or from state waters of the Atlantic Ocean, nor possess while in or on state waters of the Atlantic Ocean, more than 20 black sea bass per day.

(5) Red porgy. No recreational harvester shall harvest from state waters of the Atlantic Ocean more than 1 red porgy per day, nor possess more than 1 such fish while in, on, or above state waters of the Atlantic Ocean or on any dock, pier, bridge, beach, or any fishing site adjacent to such waters.

(6) Amberjacks. Except as allowed for those persons harvesting for commercial purposes pursuant to Rule 68B-14.0045, F.A.C.:

(a) Greater amberjack. No person shall harvest from state waters, more than 1 greater amberjack per day, nor possess more than 1 such fish while in, on, or above the waters of the state or on any dock, pier, bridge, beach, or any fishing site adjacent to such waters.

(b) Banded rudderfish and lesser amberjack. No person shall harvest from state waters, more than an aggregate bag limit of 5 banded rudderfish and lesser amberjack per day either individually or in combination, nor possess more than 5 such fish while in, on, or above the waters of the state or on any dock, pier, bridge, beach or any fishing site adjacent to such waters.

(7) Exception.

(a) Any person harvesting pursuant to the bag limits established in paragraphs (a), (b), (c), (d)L, and (f)1., of subsection (1), paragraphs (a) and (b) of subsection (2), and subsections (3), (4), (5), ~~and~~ (6)(a) and (b) of this rule, who has fished for more than one day, may possess double the bag limit once such person has landed the fish, departed the fishing site and is no longer within 100 yards of any state waters, docks, fishing piers, or other fishing sites.

(b) Any person harvesting pursuant to the bag limits established in paragraphs (a), (b), (c), (d)L, and (f)1., of subsection (1), paragraphs (a) and (b) of subsection (2), and subsections (3), (4), ~~and~~ (5), ~~and~~ (6)(a) and (b) of this rule, who has fished aboard a charter vessel or headboat on a trip that spans more than 24 hours may possess and land double the bag

limit if the vessel has a sleeping berth for each passenger aboard the vessel and each such passenger possess a receipt issued on behalf of the vessel that verifies the length of the trip.

(8) Wholesale/retail purchase exemption. Except as provided in paragraph (2)(c), the possession limits of this rule do not apply to any licensed seafood dealer, or to any fish purchased from a licensed wholesale or retail seafood dealer. The burden shall be upon the person claiming the benefit of this exemption to show, by receipts, bills of sale, or other appropriate documentation, that such fish were purchased from a licensed wholesale or retail seafood dealer. Failure to maintain such receipts, bills of sale, or other appropriate documentation shall constitute a violation of this rule.

Specific Authority Art. IV, Sec. 9, Fla. Const. Law Implemented Art. IV, Sec. 9, Fla. Const. History--New 12-31-98, Amended 3-1-99, Formerly 46-14.0036, Amended 10-22-99, 1-1-00, 3-6-00, 3-1-01, _____.

68B-14.0045 Commercial Harvest Requirements; Licenses, Season Closures, Bag and Trip Limits Special Restrictions.

(1) Licenses.

(a) Each person harvesting any of the species listed in subsection 68B-14.001(2)(4), F.A.C., for commercial purposes in state waters shall possess a valid saltwater products license with a restricted species endorsement and

1. If fishing in state waters of the Atlantic Ocean, either a valid transferable commercial permit or a trip-limited commercial permit for South Atlantic snapper-grouper;

2. If fishing in state waters of the Gulf of Mexico, a valid commercial vessel permit for Gulf reef fish, and if fishing for red snapper, a Class 1 or Class 2 Gulf red snapper license. The requirement of a valid commercial vessel permit for Gulf reef fish shall not apply to the harvest of bank sea bass, black sea bass, rock sea bass, or red porgy for commercial purposes in the Gulf of Mexico.

(b) No person harvesting for commercial purposes pursuant to this subsection shall sell or attempt to sell any of the indicated species, or any part of the indicated species, without possessing and presenting to the purchaser the state and federal licenses and permits specified in paragraph (a). No wholesale dealer, as defined in Section 370.07(1), Florida Statutes, shall purchase any of these species, or any part thereof, without confirming that the seller thereof possesses the state and federal licenses and permits specified in this rule.

(2) Season closures.

(a) Persons harvesting any of the species listed in subsection 68B-14.001(2)(4), F.A.C., for commercial purposes shall have a season that begins on January 1 and continues through December 31 each year.

(b) If at any time adjacent federal Exclusive Economic Zone (EEZ) waters are closed to commercial harvest of any of the species listed in subsection 68B-14.001(2)(4), F.A.C., corresponding state waters shall also be closed to commercial

harvest of the species affected by the federal closure, beginning from the date of such closure until federal waters are reopened to the commercial harvest of such species.

(c) During the period of any closure pursuant to paragraph (b), the harvest, possession, or landing in quantities greater than the bag limits specified in Rule 68B-14.0036, F.A.C., and the purchase, sale or exchange, of any species to which the closure applies, is prohibited.

~~(d) Notice of any closure for state waters required by paragraph (b), and notice of any resulting prohibition as required by paragraph (c), shall be given by the Executive Director of the Fish and Wildlife Conservation Commission in the manner provided in s. 120.81(5), Florida Statutes.~~

(d)(e) The closure specified in paragraph (b), and the prohibitions specified in paragraph (c), shall not apply when the species to which the closure applies is legally harvested outside the waters of the closed area. Any person possessing such species during the time period of a closure shall establish the chain of possession from the initial transaction after harvest, by appropriate receipt(s), bill(s) of sale, or bill(s) of lading, to show that such species originated from a point outside the closed area. 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 subsection.

(e)(f) 1. During the months of March and April each year, the harvest, possession, or landing in quantities greater than the recreational bag limits specified in Rule 68B-14.0036, F.A.C., and the purchase, sale, or exchange, of gag grouper, or black grouper harvested from state waters of the Atlantic Ocean and from all state waters of Monroe County, is prohibited.

2. Beginning February 15 and continuing through March 14 of each year, the harvest, possession, or landing in quantities greater than the recreational bag limits specified in Rule 68B-14.0036, F.A.C., and the purchase, sale, or exchange, of gag grouper, black grouper, or red grouper harvested from state waters of the Gulf of Mexico, except from all waters of Monroe County, is prohibited.

(f)(g) During the months of March, April and May of each year, the harvest and possession in quantities greater than the recreational bag limits specified in Rule 68B-14.0036, F.A.C., and the purchase, sale and exchange of any species of amberjack harvested from state waters, is prohibited.

(g)(h) Beginning January 1 and continuing through April 30 each year, no person harvesting for commercial purposes shall harvest in or from state waters of the Atlantic Ocean, nor possess while in or on state waters of the Atlantic Ocean, any red porgy; provided, however, a person harvesting other species for commercial purposes during this closure may harvest and possess one red porgy, a recreational bag limit of red porgy pursuant to Rule 68B-14.0036(5), F.A.C. During this closed season, the purchase, sale, or exchange of any red porgy harvested from state waters of the Atlantic Ocean is prohibited.

(3) Bag and Trip Limits ~~Special restrictions~~

(a) Snapper.

1. Cubera snapper. No person harvesting for commercial purposes shall harvest in or from state waters more than 2 cubera snapper 30 inches in total length or larger per day and no more than 2 such cubera snapper shall be possessed aboard any vessel in or on state waters, at any time.

~~2. Gray (mangrove) snapper. No person shall buy, sell, or exchange any gray (mangrove) snapper of a total length less than 12 inches.~~

~~3. Mutton snapper. During May and June of each year, no person harvesting for commercial purposes shall possess harvest in or from state waters more than 10 mutton snapper per day or 10 mutton snapper per trip, whichever is more restrictive during the months of May or June each year. During this period each year, no such person shall possess more than 10 mutton snapper while in or on state waters.~~

~~3.4. Red snapper. No person harvesting for commercial purposes shall harvest in or from state waters of the Atlantic Ocean, more than 2 red snapper per day. No person harvesting for commercial purposes shall harvest in or from state waters of the Gulf of Mexico, more than 4 red snapper per day.~~

~~5. Vermilion snapper. No person shall buy, sell, or exchange any vermilion snapper harvested from state waters of the Atlantic Ocean of a total length less than 12 inches.~~

(b) Grouper.

1. Nassau grouper and goliath grouper jewfish. No person harvesting for commercial purposes shall harvest in or from state waters, nor possess while in or on the waters of the state, or land, any Nassau grouper, or goliath grouper jewfish. The purchase, sale, or exchange of any Nassau grouper or goliath grouper jewfish is prohibited.

2. Speckled hind and Warsaw grouper. No person shall harvest in or from state waters any speckled hind or Warsaw grouper for commercial purposes and the purchase, sale, or exchange of such fish is prohibited.

(c) Amberjack.

~~1. No person harvesting for commercial purposes shall harvest or land any amberjack with a fork length less than 36 inches. No person shall purchase, sell, or exchange any amberjack with a fork length less than 36 inches.~~

~~1.2. Except during the three-month closed season specified in paragraph (2)(f) above, no person harvesting for commercial purposes shall harvest in or from state waters of the Atlantic Ocean, possess while in or on such waters, or land from such waters more than 1,000 pounds of greater amberjack harvested in or from state waters of the Atlantic Ocean shall be possessed aboard any vessel or landed from such a vessel per day.~~

~~2.3. No person harvesting for commercial purposes shall, on the same trip, harvest or possess greater amberjack pursuant to the bag limit specified in subsection 68B-14.0036(6), F.A.C.~~

(d) Red Porgy. Except during the closed season specified in paragraph (2)(g) above, no person harvesting for commercial purposes shall harvest in or from state waters of the Atlantic Ocean, possess while in or on such waters, or land from such waters more than 50 pounds of red porgy shall be possessed aboard any vessel in or on state waters of the Atlantic Ocean, or landed from such a vessel, per day.

Specific Authority Art. IV, Sec. 9, Fla. Const. Law Implemented Art. IV, Sec. 9, Fla. Const. History—New 2-1-90, Amended 12-31-92, 10-18-93, 3-1-94, 6-15-95, 1-1-96, 11-27-96, 12-31-98, 3-1-99, Formerly 46-14.0045, Amended 1-1-00, 3-6-00, 1-1-01, 3-1-01, 6-1-01, _____.

68B-14.005 Regulation and Prohibition of Certain Harvesting Gear: Allowable Gear, Incidental Bycatch, Violation, ~~Black Sea Bass Traps~~.

(1) Allowable gear. Except as provided in subsection (2), the following shall be the only gear types and methods allowed for the harvest in or from state waters of any of the species specified in subsection 68B-14.001(2)(4), F.A.C.:

(a) Hook and line gear.

(b) A black sea bass trap meeting the requirements of Section 370.1105(1)(c), Florida Statutes. Additionally, each such trap shall comply with the following specifications:

1. Biodegradable panel. For purposes of Section 370.1105(1)(c), Florida Statutes, a black sea bass trap shall be considered to have a “biodegradable panel” or a “degradable panel” if one of the following methods is used in construction of the trap:

a. The trap lid tie-down strap is secured to the trap at one end by a single loop of untreated jute twine. The trap lid must be secured so that when the jute degrades, the lid will no longer be securely closed.

b. The trap lid tie-down strap is secured to the trap at one end with a corrodible loop composed of non-coated steel wire measuring 24 gauge or thinner. The trap lid must be secured so that when the loop degrades, the lid will no longer be securely closed.

c. The trap lid tie-down strap is secured to the trap at one end by an untreated pine dowel no larger than 2 inches in length by 3/8 inch in diameter. The trap lid must be secured so that when the dowel degrades, the lid will no longer be securely closed.

d. The trap contains at least one sidewall with a vertical rectangular opening no smaller in either dimension than 6 inches in height by 3 inches in width. This opening must be laced, sewn, or otherwise obstructed by a single length of untreated jute twine knotted only at each end and not tied or looped more than once around a single mesh bar. When the jute degrades, the opening in the sidewall of the trap will no longer be obstructed.

e. The trap contains at least one sidewall with a vertical rectangular opening no smaller in either dimension than 6 inches in height by 3 inches in width. This opening must be obstructed with an untreated pine slat or slats no thicker than

3/8 inch. When the slat degrades, the opening in the sidewall of the trap will no longer be obstructed. “Untreated pine” means raw pine wood that has not been treated with any preservative or pine wood that has been pressure treated with no more than 0.40 pounds of chromated copper arsenate (CCA) compounds per cubic foot of wood.

f. The trap contains at least one sidewall with a vertical rectangular opening no smaller in either dimension than 6 inches in height by 3 inches in width. The opening may either be laced, sewn, or otherwise obstructed by non-coated steel wire measuring 24 gauge or thinner or be obstructed with a panel of ferrous single-dipped galvanized wire mesh made of 24 gauge or thinner wire. When the wire or wire mesh degrades, the opening in the sidewall of the trap will no longer be obstructed.

g. The trap contains at least one sidewall with a vertical rectangular opening no smaller in either dimension than 6 inches in height by 3 inches in width. The opening may be obstructed with a rectangular panel made of any material, fastened to the trap at each of the four corners of the rectangle by rings made of non-coated 24 gauge or thinner wire or single strands of untreated jute twine. When the corner fasteners degrade, the panel will fall away and the opening in the sidewall of the trap will no longer be obstructed.

2. Escape vents. All black sea bass traps shall have an unobstructed escape vent opening on at least two opposite vertical sides, excluding top and bottom, that complies with one of the following minimum sizes:

a. A rectangular vent, 1.125 inches (2.9 cm) by 5.75 inches (14.6 cm).

b. A circular vent, 2 inches (5.1 cm) in diameter.

c. A square vent with sides of 1.75 inches (4.4 cm) measured inside the square.

(c) Spearing. This provision shall not be construed to allow the use of any powerhead, bangstick, or handheld device employing an explosive charge for the harvest in state waters of any snapper or grouper listed in Rule 68B-14.001, F.A.C.

(2) Incidental bycatch. No person shall harvest in or from state waters any of the species specified in Rule 68B-14.001(2)(4), F.A.C., by or with the use of any gear other than those types of gear specified in subsection (1); provided, however, that such fish harvested as an incidental bycatch of other species lawfully harvested with other types of gear shall not be deemed to be unlawfully harvested in violation of this section, if:

(a) The quantity of such fish so harvested does not exceed the bag and possession limits established in Rule 68B-14.0036, F.A.C.; and

(b) The harvesting of such fish would not violate any other provision of applicable law.

SUMMARY: Paragraph (1)(c) of Rule 68B-31.010, F.A.C., is amended to make the skimmer trawl an allowable form of food shrimp production gear throughout the Northwest Region, and delete language limiting the gear's use to a specified portion of Apalachicola Bay.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COST: Has not been prepared regarding these proposed rules.

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

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

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

THE FISH AND WILDLIFE CONSERVATION COMMISSION WILL CONDUCT A PUBLIC RULEMAKING HEARING ON THE PROPOSED RULE AT THE TIME, DATES AND PLACE SHOWN BELOW:

TIME AND DATES: 8:30 a.m. – 5:00 p.m. each day, November 20-22, 2002

PLACE: Hawk's Cay Resort, 61 Hawk's Cay Boulevard, Duck Key, Florida

Pursuant to the provisions of the Americans with Disabilities Act, any person requiring special accommodations to participate in this workshop/meeting is asked to advise the agency at least 5 calendar days before the workshop/meeting by contacting Cindy Hoffman, ADA Coordinator, at (850)488-6411. If you are hearing or speech impaired, please contact the agency by calling (850)488-9542.

All written material received by the Commission within 21 days of the date of publication of this notice shall be made a part of the official record.

Section 286.0105, Florida Statutes, provides that, if a person decides to appeal any decision made by the commission with respect to any matter considered at this hearing, he will need a record of proceedings, and for such purposes, he may need to ensure that a verbatim record of the proceedings is made, which record includes the testimony and evidence upon which the appeal is based.

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: James V. Antista, General Counsel, Fish and Wildlife Conservation Commission, 620 South Meridian Street, Tallahassee, Florida 32399-1600

THE FULL TEXT OF THE PROPOSED RULE IS:

68B-31.010 Northwest Region Food Shrimp Production Gear Specifications.

Each person harvesting shrimp in the Northwest Region as a food shrimp producer shall comply with the requirements specified in this rule.

(1) Allowable Gear – No person shall harvest shrimp in the nearshore and inshore Florida waters of the region as a food shrimp producer with any type of gear other than:

(a) A roller frame trawl meeting the following specifications:

1. Neither the upper nor lower horizontal beam on a roller frame trawl so used is greater than 16 feet in length.

2. The vertical bars shielding the trawl opening are spaced no further than 3 inches apart.

3. No more than two such trawls, unconnected, shall be towed by a single vessel at any time.

4. The netting of the trawl shall be no larger in mesh area than specified by subsection 68B-31.0035(2), F.A.C.

(b) No more than two unconnected otter trawls, each with a perimeter around the leading edge of the net not greater than 66 feet and a net no larger in mesh area than specified by subsection 68B-31.0035(2), F.A.C. The two otter trawls allowed in the nearshore and inshore Florida waters of this region shall include any try net being towed.

(c) ~~Only in the area of the Northwest Region specified herein,~~ No more than two unconnected skimmer trawls meeting the following specifications:

1. The perimeter around the leading edge of any skimmer trawl shall not exceed 56 feet.

2. No more than two skimmer trawls, unconnected other than being attached to the same vessel, shall be deployed from a single vessel at any time.

3. The netting of a skimmer trawl shall be no larger in mesh area than specified by subsection 68B-31.0035(2), F.A.C.

~~4. No skimmer trawl shall be used to harvest shrimp except in the following described area in Apalachicola Bay in the Northwest Region: All waters of Apalachicola Bay in Franklin County bounded on the north by the John Gorrie Memorial Bridge, on the west by the Apalachicola Shipping Channel to Channel Marker No. 2, on the south by ICWW Channel, and on the east by the Bryant Patton Bridge.~~

(2) No trawl shall be used for food shrimp production in the inshore waters of the Northwest Region that has a mesh size less than 3/4 inch bar measurement in the body of the net and 5/8 inch bar measurement in the cod end. In any trawl with a rigid turtle excluder device (TED), the section of netting surrounding the device shall have a mesh size no smaller than 1/2 inch bar measurement and shall be no more than 50 meshes in total length.

(3) No otter or skimmer trawl shall be used for food shrimp production in the Northwest Region that is not in compliance with Rule 68B-31.004, F.A.C.

(4) In the Northwest Region, no person harvesting shrimp as a food shrimp producer shall operate or fish any otter or skimmer trawl, or possess any otter or skimmer trawl that is

rigged for fishing aboard any vessel, which trawl does not have a bycatch reduction device (BRD) installed therein meeting the requirements of Rule 68B-31.0045, F.A.C.

Specific Authority Art. IV, Sec. 9, Fla. Const. Law Implemented Art. IV, Sec. 9, Fla. Const. History—New 1-1-92, Amended 1-1-96, 8-17-98, 6-1-99, Formerly 46-31.010, Amended 5-2-01.

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: Kenneth D. Haddad, Executive Director, Fish and Wildlife Conservation Commission, 620 South Meridian Street, Tallahassee, Florida 32399-1600

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: September 5, 2003

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: October 11, 2002

reason of employment in a regularly established position with a state employer commencing after April 1, 2002; or with a district school board employer commencing after July 1, 2002; or with a local employer commencing after October 1, 2002

NOTICE OF CHANGE

Notice is hereby given that the following changes have been made to the proposed amended rule in accordance with subparagraph 120.54(3)(d)1., F.S., published in the Vol. 28, No. 34, which is the August 23, 2002, issue of the Florida Administrative Weekly.

1) In Rule 19-10.003(6), the first sentence will now read: "The amount transferred to each investment product shall be based on the percentage of total investment allocated to each fund by the participant on his or her election form as described in subsection (3)(b), above."

STATE BOARD OF ADMINISTRATION

RULE NO.: 19-11.001
RULE TITLE: Procedures regarding Employer Contributions

NOTICE OF CHANGE

Notice is hereby given that the following changes have been made to the proposed amended rule in accordance with subparagraph 120.54(3)(d)1., F.S., published in the Vol. 28, No. 34, which is the August 23, 2002, issue of the Florida Administrative Weekly.

1) In subsection (2), paragraph (d) is deleted and subsequent paragraphs renumbered.

2) In subsection (4)(a), the second sentence is amended to read: "The TPA will perform the market value calculation using a period certain which begins on the first day of the month immediately following the calendar month in which the contributions are due, or the next succeeding business day if the first day of the month immediately following the calendar month in which the contributions are due falls on a weekend or a legal holiday, in which contributions would have been processed, and ending on the date used by the TPA to provide "as of" pricing for covered payroll."

STATE BOARD OF ADMINISTRATION

RULE NOS.: 19-12.001, 19-12.007
RULE TITLES: Definitions, Acceptance of Rollovers

Section III

Notices of Changes, Corrections and Withdrawals

DEPARTMENT OF INSURANCE

RULE NO.: 4-128.025
RULE TITLE: Confidentiality of Consumer Personal Financial and Health Information Pursuant to Section 627.3111, F.S.

NOTICE OF CHANGE

Notice is hereby given of a technical change to Rule 4-128.024, published in Vol. 28, No. 34, on August 23, 2002, and filed for adoption on October 1, 2002. The number of the rule has been changed to Rule 4-128.025, F.A.C. The remainder of the rule remains unchanged.

DEPARTMENT OF INSURANCE

RULE NO.: 4-211.042
RULE TITLE: Effect of Law Enforcement Records on Applications for Licensure

NOTICE OF CORRECTION

The Notice of Rule Development for the referenced rule published in Vol. 28, No. 40, October 4, 2002, included an incorrect date for the rule development workshop. The date of the workshop has been changed to 9:30 a.m., November 6, 2002.

STATE BOARD OF ADMINISTRATION

RULE NO.: 19-10.003
RULE TITLE: Asset Transfer Procedures: For employees who become eligible to participate in PEORP by