

Section I Notices of Development of Proposed Rules and Negotiated Rulemaking

DEPARTMENT OF TRANSPORTATION

RULE NO.: RULE TITLE:
14-43.001 Regulation of Overhanging
 Encroachments

PURPOSE AND EFFECT: A revised application form is being incorporated by reference.

SUBJECT AREA TO BE ADDRESSED: Rule 14-43.001, F.A.C., is being amended to incorporate by reference a revised application form.

SPECIFIC AUTHORITY: 334.044(2), 337.407 FS.

LAW IMPLEMENTED: 337.406, 337.407, 479.01, 479.16, 768.28 FS.

IF REQUESTED IN WRITING AND NOT DEEMED UNNECESSARY BY THE AGENCY HEAD, A RULE DEVELOPMENT WORKSHOP WILL BE NOTICED IN THE NEXT AVAILABLE FLORIDA ADMINISTRATIVE WEEKLY.

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT AND A COPY OF THE PRELIMINARY DRAFT IS: James C. Myers, Clerk of Agency Proceedings, Florida Department of Transportation, Office of the General Counsel, 605 Suwannee Street, Mail Station 58, Tallahassee, Florida 32399-0458

THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS:

14-43.001 Regulation of Overhanging Encroachments.

(1) through (5) No change.

(6) Applications for an overhanging encroachment must be made in writing to the appropriate District Maintenance Office.

(a) Applications for overhanging signs and canopies shall include:

1. The name and address of the applicant.

2. A drawing of the sign or canopy, drawn to scale, including any message, logo, or emblem.

3. A sketch of the specific location of the sign or canopy, including height, location of supports, proximity to utility poles, and the identification of the state highway where the sign or canopy will be located.

4. Sketches or specific descriptions of the method to be used to affix the sign or canopy to the support structure(s).

5. Proof of compliance with any applicable local governmental regulations.

(b) Applications for banners shall be made no later than 30 days and no earlier than 365 days prior to the requested installation date. The application shall be on Application to

Place Banners on Non Limited Access Right of Way, DOT Form 575-070-18, Rev. ~~03/05~~ 05/08, incorporated herein by reference. Copies of DOT Form 575-070-18 are available from the State Maintenance Engineer or any District Maintenance Engineer. The application shall include:

1. through (8) No change.

Specific Authority 334.044(2), 337.407 FS. Law Implemented 337.406, 337.407, 479.01, 479.16, 768.28 FS. History—Amended 3-21-64, 5-9-70, 7-9-75, Formerly 14-43.01, Amended 8-3-99, 8-2-01, 5-30-05,_____.

BOARD OF TRUSTEES OF THE INTERNAL IMPROVEMENT TRUST FUND

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

PUBLIC SERVICE COMMISSION

UNDOCKETED

RULE NOS.:	RULE TITLES:
25-30.455	Staff Assistance in Rate Cases
25-30.456	Staff Assistance in Alternative Rate Setting
25-30.457	Limited Alternative Rate Increase

PURPOSE AND EFFECT: To change the necessary requirements to receive staff assistance in rate cases for water and wastewater utilities.

SUBJECT AREA TO BE ADDRESSED: Staff assistance in rate cases for water and wastewater companies.

SPECIFIC AUTHORITY: 350.127(2), 367.121, 371.0814 FS.

LAW IMPLEMENTED: 350.123, 367.0814, 367.121, 367.145(2) FS.

IF REQUESTED IN WRITING AND NOT DEEMED UNNECESSARY BY THE AGENCY HEAD, A RULE DEVELOPMENT WORKSHOP WILL BE NOTICED IN THE NEXT AVAILABLE FLORIDA ADMINISTRATIVE WEEKLY.

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT AND A COPY OF THE PRELIMINARY DRAFT IS: Beth Shankle-Anderson, Office of General Counsel, 2540 Shumard Oak Blvd., Tallahassee, FL 32399-0850, (850)413-6216

THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS:

25-30.455 Staff Assistance in Rate Cases.

(1) Water and wastewater utilities whose total gross annual operating revenues are ~~\$250,000~~ ~~\$150,000~~ or less for water service or ~~\$250,000~~ ~~\$150,000~~ or less for wastewater service, or ~~\$500,000~~ ~~\$300,000~~ or less on a combined basis, may petition the Commission for staff assistance in rate applications by submitting a completed staff assisted rate case application. In

accordance with Section 367.0814(4), F.S., a utility that requests staff assistance waives its right to protest by agreeing to accept the final rates and charges approved by the Commission unless the final rates and charges would produce less revenue than the existing rates and charges. If a utility that chooses to utilize the staff assistance option employs outside experts to assist in developing information for staff or to assist in evaluating staff's schedules and conclusions, the reasonable and prudent expense will be recoverable through the rates developed by staff. A utility that chooses not to exercise the option of staff assistance may file for a rate increase under the provisions of Rule 25-30.443, F.A.C.

(2) through (14) No change.

Specific Authority 367.121, 371.0814 FS. Law Implemented 367.0814 FS. History--New 12-8-80, Formerly 25-10.180, Amended 11-10-86, 8-26-91, 11-30-93, 1-31-00,_____.

25-30.456 Staff Assistance in Alternative Rate Setting.

(1) As an alternative to a staff assisted rate case as described in Rule 25-30.455, F.A.C., water and wastewater utilities whose total gross annual operating revenues are \$250,000 ~~\$150,000~~ or less for water service or \$250,000 ~~\$150,000~~ or less for wastewater service, or \$500,000 ~~\$300,000~~ or less on a combined basis, may petition the Commission for staff assistance in alternative rate setting by submitting a completed staff assisted application for alternative rate setting.

(2) through (19) No change.

Specific Authority 367.0814, 367.121 FS. Law Implemented 367.0814 FS. History--New 11-30-93, Amended 1-31-00,_____.

25-30.457 Limited Alternative Rate Increase.

(1) As an alternative to a staff assisted rate case as described in Rules 25-30.455 and 25-30.456, F.A.C., water utilities whose total gross annual operating revenues are \$250,000 ~~\$150,000~~ or less for water service and wastewater utilities whose total gross annual operating revenues are \$250,000 ~~\$150,000~~ or less for wastewater service may petition the Commission for a limited alternative rate increase of up to 20 percent applied to metered or flat recurring rates of all classes of service by submitting a completed application that includes the information required by subsections (8) and (9). In accordance with Section 367.0814(6), F.S., a utility that requests staff assistance waives its right to protest by agreeing to accept the final rates and charges approved by the Commission unless the final rates and charges would produce less revenue than the existing rates and charges. The original and two copies of the application shall be filed with the Office of Commission Clerk.

(2) through (18) No change.

Specific Authority 350.127(2), 367.0814, 367.121(1)(a) FS. Law Implemented 350.123, 367.0814, 367.121, 367.145(2) FS. History--New 3-15-05, Amended_____.

WATER MANAGEMENT DISTRICTS

St. Johns River Water Management District

RULE NOS.:	RULE TITLES:
40C-4.021	Definitions
40C-4.091	Publications Incorporated by Reference

PURPOSE AND EFFECT: The St. Johns River Water Management District (District) proposes to amend the definition of listed species in its rules governing the issuance of environmental resource permits (ERP) to update the rule and statutory references concerning listed wildlife and plant species, and to specifically reference the bald eagle, which is protected under a federal statute known as the Bald and Golden Eagle Protection Act. Under the District's existing rules, the bald eagle is included in the definition of listed species by reference to a previous Florida Fish and Wildlife Conservation Commission (FWC) rule identifying threatened species; however, the FWC has recently amended its rules such that the bald eagle is no longer classified as a threatened species by the FWC. Specifically, the District proposes to amend the definition of listed species in subsection 40C-4.021(20), F.A.C., and in Section 2.0 Applicant's Handbook: Management and Storage of Surface Waters. Table 12.2.7-1 in the Applicant's Handbook would also be amended to include the bald eagle under a new category (other) and remove it from the category of threatened species. If these amendments are adopted, the protections afforded by the District's rules to wildlife species that are now classified as endangered, threatened or species of special concern would continue to be afforded the bald eagle which is no longer classified by FWC as a threatened species, effective May 15, 2008.

SUBJECT AREA TO BE ADDRESSED: The proposed rules amend the definition of listed species in subsection 40C-4.021(20), F.A.C., and in Section 2.0 Applicant's Handbook: Management and Storage of Surface Waters and update rule references in Section 12.2.7. of the Applicant's Handbook. The proposed rules would remove the bald eagle from the category of threatened species in Table 12.2.7-1 of the Applicant's Handbook and include it under a new category. **SPECIFIC AUTHORITY:** 373.044, 373.113, 373.414, 373.418 FS.

LAW IMPLEMENTED: 373.016(2), 373.413, 373.414, 373.416, 373.418, 373.426 FS.

IF REQUESTED IN WRITING AND NOT DEEMED UNNECESSARY BY THE AGENCY HEAD, A RULE DEVELOPMENT WORKSHOP WILL BE NOTICED IN THE NEXT AVAILABLE FLORIDA ADMINISTRATIVE WEEKLY.

Pursuant to the provisions of the Americans with Disabilities Act, any person requiring special accommodations to participate in this workshop/meeting is asked to advise the agency at least 5 days before the workshop/meeting by contacting: Sandy Bertram, Assistant District Clerk,

(386)329-4127. If you are hearing or speech impaired, please contact the agency using the Florida Relay Service, 1(800)955-8771 (TDD) or 1(800)955-8770 (Voice).

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT AND A COPY OF THE PRELIMINARY DRAFT IS: Norma Messer, Rules Coordinator, Office of General Counsel, St. Johns River Water Management District, 4049 Reid Street, Palatka, Florida 32177-2529, (386)329-4459, email nmesser@sjrwm.d.com

THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS:

40C-4.021 Definitions.

When appearing in this chapter or in Chapter 40C-40, 40C-41, 40C-42, 40C-44, or 40C-400, F.A.C., the following words shall mean:

(1) through (19) No change.

(20) "Listed species" means those animal species which are endangered, threatened or of special concern and are listed in Rules 68A-27.003 (as amended December 13, 2003), 68A-27.004 (as amended May 15, 2008), and 68A-27.005 (as amended November 8, 2007) ~~39-7.003, 39-27.004, and 39-27.005~~, F.A.C.; the bald eagle (*Haliaeetus leucocephalus*), which is protected under the Bald and Golden Eagle Protection Act (16 U.S.C. 668-668d); and those plant species listed in 50 Code of Federal Regulation 17.12 (as amended April 8, 2004), when such plants are found to be located in a wetland or other surface water.

(21) through (32) No change.

Specific Authority 373.044, 373.113, 373.414, 373.418 FS. Law Implemented 373.019, 373.403, 373.413, 373.414, 373.416, 373.418, 373.426, 403.813(2) FS. History—New 1-31-77, Formerly 16I-4.02, 40C-4.02. Amended 2-3-81, 12-7-83, Formerly 40C-4.021, 40C-4.0021, Amended 9-25-91, 2-27-94, 10-3-95, 10-11-01, _____.

40C-4.091 Publications Incorporated by Reference.

(1) The Governing Board hereby adopts by reference:

(a) Part I "Policy and Procedures," Part II "Criteria for Evaluation," subsections 18.0, 18.1, 18.2, and 18.3 of Part III and Appendix K "Legal Description Upper St. Johns River Hydrologic Basin," "Legal Description Ocklawaha River Hydrologic Basin," "Legal Description of the Wekiva River Hydrologic Basin," "Legal Description of the Wekiva Recharge Protection Basin," "Legal Description of the Wekiva Recharge Protection Basin," "Legal Description of the Econlockhatchee River Hydrologic Basin," "Legal Description of the Sensitive Karst Areas Basin, Alachua County," "Legal Description Tomoka River Hydrologic Basin," "Legal Description Spruce Creek Hydrologic Basin," "Legal Description of the Sensitive Karst Areas Basin, Marion County," and "Legal Description of the Lake Apopka Hydrologic Basin," and Appendix M "Regional Watersheds for

Mitigation Banking," of the document entitled "Applicant's Handbook: Management and Storage of Surface Waters," effective May 13, 2008.

(b) through (d) No change.

(2) No change.

Specific Authority 369.318, 373.044, 373.046(4), 373.113, 373.4136, 373.414, 373.415, 373.416, 373.418, 373.421, 373.461 FS. Law Implemented 120.60, 369.316, 369.318, 373.016(2), 373.042, 373.0421, 373.046, 373.085, 373.086, 373.103, 373.109, 373.146(1), 373.406, 373.413, 373.4135, 373.4136, 373.414, 373.4141, 373.415, 373.416, 373.417, 373.418, 373.421(2)-(6), 373.423, 373.426, 373.461(3), 380.06(9), 403.813(2) FS. History—New 12-7-83, Amended 10-14-84, Formerly 40C-4.091, Amended 5-17-87, Formerly 40C-4.0091, Amended 8-20-87, 10-1-87, 10-11-87, 11-26-87, 8-30-88, 1-1-89, 8-1-89, 10-19-89, 4-3-91, 9-25-91, 11-12-91, 3-1-92, 7-14-92, 9-8-92, 9-16-92, 11-12-92, 11-30-92, 1-6-93, 1-23-94, 2-27-94, 11-22-94, 10-3-95, 8-20-96, 11-25-98, 12-3-98, 1-7-99, 1-11-99, 8-21-00, 7-8-01, 10-11-01, 4-10-02, 9-26-02, 3-7-03, 11-11-03, 2-1-05, 12-3-06, 7-1-07, 5-13-08, _____.

APPLICANT'S HANDBOOK SECTIONS

2.0 Definitions

The following definitions are used by the District to clarify its intent in implementing its permitting programs pursuant to part IV, Chapter 373, F.S. Many of these definitions are derived directly from chapter 373, F.S., and are reproduced here for the convenience of applicants.

(a) through (p) No change.

(q) Endangered Species – Those animal species which are listed in Rule 68A-27.003 (as amended December 13, 2003) ~~39-27.003~~, F.A.C., and those plant species which are listed as endangered in 50 Code of Federal Regulations 17.12 (as amended April 8, 2004).

(r) through (bb) No change.

(cc) "Listed species" – Those animal species which are endangered, threatened or of special concern and are listed in Rules 68A-27.003 (as amended December 13, 2003), 68A-27.004 (as amended May 15, 2008), and 68A-27.005 (as amended November 8, 2007) ~~39-27.003, 39-27.004, and 39-27.005~~, F.A.C.; the bald eagle (*Haliaeetus leucocephalus*), which is protected under the Bald and Golden Eagle Protection Act (16 U.S.C. 668-668d); and those plant species which are listed in 50 Code of Federal Regulation 17.12 (as amended April 8, 2004), when such plants are located in a wetland or other surface water.

(dd) through (aaa) No change.

(bbb) Threatened Species – Those animal species listed in Rule 68A-27.004 (as amended May 15, 2008) ~~39-27.004~~, F.A.C., and those plant species which are listed as threatened in 50 Code of Federal Regulations 17.12 (as amended April 8, 2004) when such plants are located in a wetland or other surface water.

(ccc) through (hhh) No change.

12.2.7 Secondary Impacts

Pursuant to paragraph 12.1.1(f), an applicant must provide reasonable assurances that a regulated activity will not cause adverse secondary impacts to the water resource, as described in paragraphs (a) through (d) below. Aquatic or wetland dependent fish and wildlife are an integral part of the water resources which the District is authorized to protect under Part IV, Chapter 373, F.S. Those aquatic or wetland dependent species which are listed as defined in section 2.0 ~~threatened, endangered or of special concern~~ are particularly in need of protection.

A proposed system shall be reviewed under this criterion by evaluating the impacts to: wetland and surface water functions identified in subsection 12.2.2, water quality, upland habitat for aquatic or wetland dependent listed species, and historical and archaeological resources. De minimis or remotely related secondary impacts will not be considered. Applicants may propose measures such as preservation to prevent secondary impacts. Such preservation shall comply with the land preservation provisions of subsection 12.3.8. If such secondary impacts can not be prevented, the applicant may propose mitigation measures as provided for in subsections 12.3 – 12.3.8.

This secondary impact criterion consists of the following four parts:

- (a) No change.
- (b) An applicant shall provide reasonable assurance that the construction, alteration, and intended or reasonably expected uses of a proposed system will not adversely impact the ecological value of uplands to aquatic or wetland dependent listed animal species for enabling existing nesting or denning by these species, but not including:

- 1. Areas needed for foraging; or
- 2. Wildlife corridors, except for those limited areas of uplands necessary for ingress and egress to the nest or den site from the wetland or other surface water.

Table 12.2.7-1 identifies those aquatic or wetland dependent listed species that use upland habitats for nesting and denning.

For those aquatic or wetland dependent listed animal species for which habitat management guidelines have been developed by the U.S. Fish and Wildlife Service (USFWS) or the Florida Fish and Wildlife Conservation Commission (FWC) ~~Florida Game and Fresh Water Fish Commission (FGFWFC)~~, compliance with these guidelines will provide reasonable assurance that the proposed system will not adversely impact upland habitat functions described in paragraph (b). For those aquatic or

wetland dependent listed animal species for which habitat management guidelines have not been developed or in cases where an applicant does not propose to use USFWS or FWC ~~FGFWFC~~ habitat management guidelines, the applicant may propose measures to mitigate adverse impacts to upland habitat functions described in paragraph (b) provided to aquatic or wetland dependent listed animal species. (c) through (d) No change.

TABLE 12.2.7-1

Listed Wildlife Species That Are Aquatic Or Wetland Dependent

And That Use Upland Habitats For Nesting Or Denning Fishes

- Species of special concern
 - Rivulus marmoratus (mangrove rivulus; rivulus)
- Reptiles
 - Endangered
 - Chelonia mydas mydas (Atlantic green turtle)
 - Crocodylus acutus (American crocodile)
 - Dermochelys coriacea (leatherback turtle; leathery turtle)
 - Eretmochelys imbricata imbricata (Atlantic hawksbill turtle)
 - Kinosternon bauri (striped mud turtle) THIS SPECIES LISTED ONLY IN LOWER KEYS
 - Lepidochelys kempi (Atlantic ridley turtle)
 - Threatened
 - Caretta caretta caretta (Atlantic loggerhead turtle)
 - Thamnophis sauritus sackeni (Florida (Keys) ribbon snake) THIS SPECIES LISTED ONLY IN LOWER KEYS
 - Species of special concern
 - Alligator mississippiensis (American alligator)
 - Graptemys barbouri (Barbour’s map turtle; Barbour’s sawback turtle)
 - Macrolemys temmincki (alligator snapping turtle)
 - Pseudemys concinna suwanniensis (Suwannee cooter)
- Birds
 - Endangered
 - Ammodramus maritimus mirabilis (Cape Sable seaside sparrow)
 - Mycteria americana (wood stork)
 - Rostrhamus sociabilis (snail kite)
 - Threatened
 - Charadrius alexandrinus tenuirostris (southeastern snowy plover)
 - Charadrius melodus (piping plover)
 - Columba leucocephalus (white-crowned pigeon)
 - Grus canadensis pratensis (Florida sandhill crane)
 - ~~Haliaeetus leucocephala (bald eagle)~~

Picoides borealis (red-cockaded woodpecker) THIS SPECIES ONLY WETLAND DEPENDENT IN LEE, COLLIER, AND CHARLOTTE COUNTIES

Polyborus plancus audubonii (Audubon's crested caracara)

Sterna antillarum (least tern)

Sterna dougallii (roseate tern)

Species of special concern

Ajaia ajaia (roseate spoonbill)

Ammodramus maritimus juncicolus (Wakulla seaside sparrow)

Ammodramus maritimus peninsulae (Scott's seaside sparrow)

Aramus guarauna (limpkin)

Cistothorus palustris griseus (Worthington's marsh wren)

Cistothorus palustris marianae (Marian's marsh wren)

Egretta caerulea (little blue heron)

Egretta rufescens (reddish egret)

Egretta thula (snowy egret)

Egretta tricolor (tricolored heron; Louisiana heron)

Eudocimus albus (white ibis)

Haematopus palliatus (American oystercatcher)

Pandion haliaetus (osprey) THIS SPECIES LISTED ONLY IN MONROE COUNTY

Pelecanus occidentalis (brown pelican)

Rhynchops niger (black skimmer)

Other

Haliaeetus leucocephalus (bald eagle)

Mammals

Endangered

Felis concolor coryi (Florida panther)

Microtus pennsylvanicus dukecampbelli (Duke's saltmarsh vole; Florida saltmarsh vole)

Myotis grisescens (gray bat)

Myotis sodalis (Indiana bat)

Odocoileus virginianus clavium (Key deer; toy deer)

Oryzomys argentatus (silver rice rat)

Sylvilagus palustris hefneri (Lower Keys marsh rabbit)

Threatened

Mustela vison evergladensis (Everglades mink)

Sciurus niger avicennia (Big Cypress fox squirrel; mangrove fox squirrel)

Ursus americanus floridanus (Florida black bear) THIS SPECIES NOT LISTED IN BAKER AND COLUMBIA COUNTIES AND THE APALACHICOLA NATIONAL FOREST

Species of Special Concern

Oryzomys palustris sanibeli (Sanibel Island rice rat)

Sorex longirostris eionis (Homosassa shrew)

DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION

Board of Pilot Commissioners

RULE NO.: 61G14-11.007
 RULE TITLE: Documents Issued

PURPOSE AND EFFECT: The Board proposes to review the existing language in this rule to determine whether changes are necessary.

SUBJECT AREA TO BE ADDRESSED: Documents Issued.

SPECIFIC AUTHORITY: 310.185 FS., Chapter 94-119, Laws of Florida.

LAW IMPLEMENTED: 310.071(3) FS., Chapter 94-119, Laws of Florida.

IF REQUESTED IN WRITING AND NOT DEEMED UNNECESSARY BY THE AGENCY HEAD, A RULE DEVELOPMENT WORKSHOP WILL BE NOTICED IN THE NEXT AVAILABLE FLORIDA ADMINISTRATIVE WEEKLY.

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT AND A COPY OF THE PRELIMINARY DRAFT, IF AVAILABLE, IS: Robyn Barineau, Executive Director, Board of Pilot Commissioners, 1940 North Monroe Street, Tallahassee, Florida 32399-0750
 THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS NOT AVAILABLE.

DEPARTMENT OF ENVIRONMENTAL PROTECTION

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

DEPARTMENT OF HEALTH

Board of Medicine

RULE NO.: 64B8-3.003
 RULE TITLE: Renewal Fees

PURPOSE AND EFFECT: The Board proposes the development of rule amendments to address the renewal fees for physicians.

SUBJECT AREA TO BE ADDRESSED: Renewal fees for online and mail renewals.

SPECIFIC AUTHORITY: 456.025, 458.309(1), 458.3145, 458.315, 458.316, 458.3165, 458.317, 458.319, 458.345 FS.

LAW IMPLEMENTED: 456.025(1), 456.036(3), 458.319(1), 458.345(4) FS.

IF REQUESTED IN WRITING AND NOT DEEMED UNNECESSARY BY THE AGENCY HEAD, A RULE DEVELOPMENT WORKSHOP WILL BE NOTICED IN THE NEXT AVAILABLE FLORIDA ADMINISTRATIVE WEEKLY.

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT AND A COPY OF THE PRELIMINARY DRAFT IS: Larry McPherson, Jr., Executive Director, Board of Medicine/MQA, 4052 Bald Cypress Way, Bin #C03, Tallahassee, Florida 32399-3253

THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS:

64B8-3.003 Renewal Fees.

(1) No change.

(2) The following renewal fees are prescribed by the Board:

(a) Biennial renewal fee for physicians licensed pursuant to Sections 458.311, 458.3115, 458.3124, and 458.313, F.S., for physicians holding a limited license; and for physicians holding a medical faculty certificate as a distinguished medical scholar, a temporary certificate for practice in areas of critical need, a public psychiatry certificate, or a public health certificate shall be \$360.00, for those who choose online renewal. For those who choose to renew by mail, the biennial renewal fee shall be \$385.00. However the following exceptions shall apply:

1. through 2. No change.

3. If the licensee is either a resident physician, assistant resident physician, fellow, or intern in an approved postgraduate training program, the biennial renewal fee shall be \$ 220.00, for those who choose online renewal. For those who choose to renew by mail, the biennial renewal fee shall be \$245.00.

4. If the licensee whose license is on inactive status chooses to renew the license in an inactive status, the biennial renewal fee shall be \$121.00, for those who choose online renewal. For those who choose to renew by mail, the biennial renewal fee shall be \$146.00.

(b) Biennial renewal fee for a person registered as a house physician pursuant to Section 458.345, F.S., shall be \$220.00, for those who choose online renewal. For those who choose to renew by mail, the biennial renewal fee shall be \$245.00.

Specific Authority 456.025, 458.309(1), 458.3145, 458.315, 458.316, 458.3165, 458.317, 458.319, 458.345 FS. Law Implemented 456.025(1), 456.036(3), 458.319(1), 458.345(4) FS. History—New 12-5-79, Amended 10-24-85, Formerly 21M-19.03, Amended 12-4-86, 11-3-87, 5-24-88, 11-15-88, 11-12-89, 1-9-92, Formerly 21M-19.003, Amended 9-21-93, 4-14-94, Formerly 61F6-19.003, Amended 10-10-95, 6-24-96, 1-26-97, Formerly 59R-3.003, Amended 6-7-98, 8-11-98, 12-14-99, 10-30-01, 3-25-02, 10-19-03, 12-2-03, 7-2-07,_____.

DEPARTMENT OF HEALTH

Board of Medicine

RULE NO.: 64B8-45.004
RULE TITLE: Continuing Education Requirements for Reactivation of an Inactive or Delinquent License

PURPOSE AND EFFECT: The Board proposes the rule amendment to clarify continuing education credit for college courses.

SUBJECT AREA TO BE ADDRESSED: Continuing Education Requirements for Reactivation of an Inactive, Retired or Delinquent License.

SPECIFIC AUTHORITY: 456.036, 468.507, 468.515(3) FS.

LAW IMPLEMENTED: 456.036, 468.515 FS.

IF REQUESTED IN WRITING AND NOT DEEMED UNNECESSARY BY THE AGENCY HEAD, A RULE DEVELOPMENT WORKSHOP WILL BE NOTICED IN THE NEXT AVAILABLE FLORIDA ADMINISTRATIVE WEEKLY.

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT AND A COPY OF THE PRELIMINARY DRAFT, IF AVAILABLE, IS: Allen Hall, Executive Director, Dietetics and Nutrition Council/MQA, 4052 Bald Cypress Way, Bin #C05, Tallahassee, Florida 32399-3255

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

DEPARTMENT OF HEALTH

Division of Environmental Health

RULE NO.: 64E-16.012
RULE TITLE: Fees

PURPOSE AND EFFECT: The purpose is to increase biomedical waste program fees within the statutory limits. The effect will be to reduce the program’s operating deficit.

SUBJECT AREA TO BE ADDRESSED: Biomedical waste program fees.

SPECIFIC AUTHORITY: 381.006, 381.0098(4) FS.

LAW IMPLEMENTED: 381.0098 FS.

IF REQUESTED IN WRITING AND NOT DEEMED UNNECESSARY BY THE AGENCY HEAD, A RULE DEVELOPMENT WORKSHOP WILL BE NOTICED IN THE NEXT AVAILABLE FLORIDA ADMINISTRATIVE WEEKLY.

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THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT AND A COPY OF THE PRELIMINARY DRAFT IS: Gina Vallone-Hood, Environmental Manager, Bureau of Community

Environmental Health, Department of Health, 4052 Bald Cypress Way, BIN A08, Tallahassee, Florida 32399-1712, (850)245-4277

THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS:

64E-16.012 Fees.

(1) ~~When the facility will be in operation six (6) months or less before the annual renewal date, the annual fee shall be prorated on a quarterly basis.~~ Public sharps collection programs, as defined in subsection 64E-16.002(19), F.A.C., and sState-owned and operated biomedical waste facilities are exempt from the permit fee.

(2) Fee schedule.

Generator Permit:

(application received by October 1)	\$85.00 \$55.00
(application received after October 1)	\$105.00 \$75.00

Treatment Permit:

(application received by October 1)	\$85.00 \$55.00
(application received after October 1)	\$105.00 \$75.00

Storage Permit:

(application received by October 1)	\$85.00 \$55.00
(application received after October 1)	\$105.00 \$75.00

Transporter Registration (one vehicle):

(application received by October 1)	\$85.00 \$55.00
(application received after October 1)	\$105.00 \$75.00

Additional Vehicle \$10.00

No fee or combination of fees shall exceed the maximum amount established by the statute.

(3) All fees collected pursuant to this section shall be placed in a specially designated account within the individual county health department trust fund to be used to meet the cost of administering the biomedical waste program described in this chapter.

Specific Authority 381.006, 381.0098(4) FS. Law Implemented 381.006, 381.0098 FS. History—New 12-14-92, Amended 1-23-94, 6-3-97, Formerly 10D-104.0078, Amended.

FINANCIAL SERVICES COMMISSION

FSC – Financial Institution Regulation

RULE NOS.:	RULE TITLES:
69U-100.100	Authority, Purpose, and Scope
69U-100.101	Definitions Concerning Debt Cancellation Products
69U-100.102	Prohibited Practices
69U-100.103	Refunds
69U-100.104	Method of Payment or Fees
69U-100.105	Disclosures
69U-100.106	Affirmative Election to Purchase and Acknowledgement of Receipt of Disclosures Required

PURPOSE AND EFFECT: Currently, financial institutions may offer debt cancellation products pursuant to an Order of General Application that was issued by the Office of Financial Regulation on February 1, 2006. During the 2008 regular session, the Florida Legislature passed HB 347, which, among other things, codifies this authority in statute. HB 347 was signed into law (Chapter 2008-75, Laws of Florida) on May 28, 2008, and will take effect on October 1, 2008. The new law provides authority for financial institutions and their subsidiaries to offer debt cancellation products, and charge fees for such products, in connection with the loans, leases, and similar extensions of credit made by the financial institutions and their subsidiaries pursuant to Sections 655.947 and 655.954, F.S., and the rules and orders of the Commission and the Office of Financial Regulation. The proposed rules implement the new law by setting forth standards that will apply to debt cancellation products offered by financial institutions and their subsidiaries. The purpose of these standards is to ensure that financial institutions and their subsidiaries offer debt cancellation products consistent with safe and sound financial institution practices, and subject to appropriate consumer protection. The proposed rules apply to all contracts and agreements for debt cancellation products entered into by financial institutions and their subsidiaries in connection with extensions of credit they make, purchase, or assume. The proposed rules are based on and consistent with federal regulations set forth in 12 C.F.R. Part 37.

SUBJECT AREA TO BE ADDRESSED: Financial Institutions/Debt Cancellation Products.

SPECIFIC AUTHORITY: 655.012(2), 655.947(3) FS.

LAW IMPLEMENTED: 655.947, 655.954 FS.

IF REQUESTED IN WRITING AND NOT DEEMED UNNECESSARY BY THE AGENCY HEAD, A RULE DEVELOPMENT WORKSHOP WILL BE NOTICED IN THE NEXT AVAILABLE FLORIDA ADMINISTRATIVE WEEKLY.

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT AND A COPY OF THE PRELIMINARY DRAFT IS: Bruce Kuhse, Chief Counsel, Division of Financial Institutions, Office of Financial Regulation, The Fletcher Building, 200 East Gaines Street, Tallahassee, Florida 32399, (850)410-9896, Bruce.Kuhse@flofr.com

THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS:

69U-100.100 Authority, Purpose, and Scope.

(1) Financial institutions and their subsidiaries may offer debt cancellation products, and charge fees for such products, in connection with the loans, leases, and similar extensions of credit made by the financial institutions and their subsidiaries, pursuant to Sections 655.947 and 655.954, F.S., and the rules and orders of the Commission and the Office.

(2) Rules 69U-100.100 – 69U-100.106, F.A.C., set forth the standards that apply to debt cancellation products offered by financial institutions and their subsidiaries. The purpose of these standards is to ensure that financial institutions and their subsidiaries offer debt cancellation products consistent with safe and sound financial institution practices, and subject to appropriate consumer protection.

(3) Rules 69U-100.100 – 69U-100.106, F.A.C., apply to all contracts and agreements for debt cancellation products entered into by financial institutions and their subsidiaries in connection with extensions of credit they make, purchase, or assume.

Specific Authority 655.012(2), 655.947(3) FS. Law Implemented 655.947, 655.954 FS. History–New _____.

69U-100.101 Definitions Concerning Debt Cancellation Products.

For the purposes of Rules 69U-100.100 – 69U-100.106, F.A.C., the following definitions apply:

(1) “Actuarial method” means the system of allocating payments made on a debt between the amount financed and the finance charge pursuant to which a payment is applied first to the accumulated finance charge and any remainder is subtracted from, or any deficiency is added to, the unpaid balance of the amount financed.

(2) “Closed-end credit” means consumer credit other than open-end credit as defined in these rules.

(3) “Customer” means an individual who obtains an extension of credit from a financial institution primarily for personal, family, or household purposes.

(4) “Debt cancellation products” shall have same meaning as defined in Section 655.005(1), F.S.

(5) “Debt suspension agreement” means a loan or lease term, or other contractual arrangement modifying loan or lease terms, under which a financial institution agrees to suspend all or part of a customer’s obligation to repay an extension of credit from that financial institution upon the occurrence of a specified event. The agreement may be separate from, or a part of, other loan or lease documents. The term debt suspension agreement does not include loan or lease payment deferral arrangements in which the triggering event is the borrower’s unilateral election to defer repayment, or the financial institution’s unilateral decision to allow a deferral of repayment.

(6) “Financial institution” shall have the same meaning as defined in Section 655.005(1), F.S., and includes insured depository institutions as defined in 12 U. S. C. § 1813, and subsidiaries of each such institution.

(7) “Open-end credit” means consumer credit extended by a financial institution under a plan in which:

(a) The financial institution reasonably contemplates repeated transactions;

(b) The financial institution may impose a finance charge from time to time on an outstanding unpaid balance; and

(c) The amount of the credit that may be extended to the customer during the term of the plan (up to any limit set by the financial institution) is generally made available to the extent that any outstanding balance is repaid.

(8) “Residential mortgage loan” means a loan secured by 1-to-4 family residential real property.

Specific Authority 655.012(2), 655.947(3) FS. Law Implemented 655.947, 655.954 FS. History–New _____.

69U-100.102 Prohibited Practices.

(1) A financial institution may not extend credit nor alter the terms or conditions of an extension of credit conditioned upon the customer entering into a debt cancellation product with the financial institution.

(2) A financial institution may not engage in any practice or use an advertisement that could mislead or otherwise cause a reasonable person to reach an erroneous belief with respect to information that must be disclosed under Rules 69U-100.101 – 69U-100.106, F.A.C.

(3) A financial institution may not offer debt cancellation products that contain terms:

(a) Giving the financial institution the right unilaterally to modify the debt cancellation product unless:

1. The modification is more favorable to the customer and made without additional charge to the customer; or

2. The customer is notified of any proposed change and is provided a reasonable opportunity to cancel the debt cancellation product without penalty before the change goes into effect; or

(b) Requiring a lump sum, single payment for the debt cancellation agreement payable at the outset of the debt cancellation agreement, where the debt subject to the debt cancellation agreement is a residential mortgage loan.

Specific Authority 655.012(2), 655.947(3) FS. Law Implemented 655.947, 655.954 FS. History–New _____.

69U-100.103 Refunds.

(1) If a debt cancellation product is terminated (including, for example, when the customer prepays the covered loan), the financial institution shall refund to the customer any unearned fees paid for the debt cancellation product unless the debt cancellation product provides otherwise. A financial institution may offer a customer a debt cancellation product that does not provide for a refund only if the financial institution also offers that customer a bona fide option to purchase a comparable debt cancellation product that provides for a refund.

(2) The financial institution shall calculate the amount of a refund using a method at least as favorable to the customer as the actuarial method.

Specific Authority 655.012(2), 655.947(3) FS. Law Implemented 655.947, 655.954 FS. History–New _____.

69U-100.104 Method of Payment or Fees.

Except as provided in paragraph 69U-100.102(3)(b), F.A.C., a financial institution may offer a customer the option of paying the fee for a debt cancellation product in a single fee, provided the financial institution also offers the customer a bona fide option of paying the fee for that debt cancellation product in monthly or other periodic payments. The option of monthly or periodic payments need not be offered for any debt cancellation product designed to protect a customer against a deficiency between the outstanding loan or lease amount and the value of the motor vehicle that is used as collateral for the loan. If the financial institution offers the customer the option to finance the single payment by adding it to the amount the customer is borrowing, the financial institution must also disclose to the customer, in accordance with Rule 69U-100.105, F.A.C., whether and, if so, the time period during which, the customer may cancel the agreement and receive a refund.

Specific Authority 655.012(2), 655.947(3) FS. Law Implemented 655.947, 655.954 FS. History—New _____.

69U-100.105 Disclosures.

(1) The short form of disclosures required by these rules must include the information described in Form OFR-U-XX, “Debt Cancellation Products – Short Form Disclosures”, effective XX-XX-2008, which is hereby incorporated by reference, that is appropriate to the product offered. Short form disclosures made in a form that is substantially similar to the disclosures in Form OFR-U-XX will satisfy the short form disclosure requirements of this rule.

(2) The long form of disclosures required by these rules must include the information described in Form OFR-U-YY, “Debt Cancellation Products – Long Form Disclosures”, effective XX-XX-2008, which is hereby incorporated by reference, that is appropriate to the product offered. Long form disclosures made in a form that is substantially similar to the disclosures in Form OFR-U-YY will satisfy the long form disclosure requirements of this rule.

(3) The financial institution shall make the short form disclosures orally or in writing at the time the financial institution first solicits the purchase of a debt cancellation product.

(4) The financial institution shall make the long form disclosures in writing before the customer completes the purchase of the debt cancellation product. If the initial solicitation occurs in person, then the financial institution shall provide the long form disclosures at that time.

(5) If the debt cancellation product is solicited by telephone, the financial institution shall provide the short form disclosures orally and shall mail the long form disclosures, and, if appropriate, a copy of the debt cancellation product

contract or agreement to the customer within 3 business days, beginning on the first business day after the telephone solicitation.

(6) If the debt cancellation product is solicited through written materials such as mail inserts or “take one” applications, the financial institution may provide only the short form disclosures in the written materials if the financial institution mails the long form disclosures to the customer within 3 business days, beginning on the first business day after the customer contacts the financial institution to respond to the solicitation, subject to the requirements of subsection 69U-100.106(3), F.A.C.

(7) The disclosures provided in this rule may be provided through electronic media in a manner consistent with the requirements of the Electronic Signatures in Global and National Commerce Act, 15 U.S.C. §§ 7001, et seq., and Ch. 668, F.S.

(8) The disclosures required by this rule must be conspicuous, simple, direct, readily understandable, and designed to call attention to the nature and significance of the information provided.

(9) The disclosures required by this rule must be in a meaningful form. Examples of methods that could call attention to the nature and significance of the information provided include:

(a) A plain-language heading to call attention to the disclosures;

(b) A typeface and type size that are easy to read;

(c) Wide margins and ample line spacing;

(d) Boldface of italics for key words; and

(e) Distinctive type style, and graphic devices, such as shading or sidebars, when the disclosures are combined with other information.

(10) The short form disclosures are required in advertisements and promotional materials for debt cancellation products unless the advertisements and promotional materials are of a general nature describing or listing the services or products offered by the financial institution.

(11) All forms referenced in this rule may be obtained from the Office of Financial Regulation’s website (www.flofr.com), or by mail by submitting a request to the Office of Financial Regulation, Division of Financial Institutions, 200 East Gaines Street, Tallahassee, Florida 32399-0371.

Specific Authority 655.012(2), 655.947(3) FS. Law Implemented 655.947, 655.954 FS. History—New _____.

69U-100.106 Affirmative Election to Purchase and Acknowledgment of Receipt of Disclosures Required.

(1) Before entering into a debt cancellation product, the financial institution must obtain a customer’s written affirmative election to purchase a debt cancellation product and written acknowledgment of receipt of the disclosures

required by subsection 69U-100.105(2), F.A.C. The election and acknowledgment information must be conspicuous, simple, direct, readily understandable, and designed to call attention to their significance. The election and acknowledgment satisfy these standards if they conform with the requirements of subsection 69U-100.105(2), F.A.C.

(2) If the sale of a debt cancellation product occurs by telephone, the customer’s affirmative election to purchase may be made orally, provided the financial institution:

(a) Maintains sufficient documentation to show that the customer received the short form disclosures and then affirmatively elected to purchase the debt cancellation product;

(b) Mails the affirmative written election and written acknowledgment, together with the long form disclosures required Rule 69U-100.105, F.A.C., to the customer within 3 business days after the telephone solicitation, and maintains sufficient documentation to show it made reasonable efforts to obtain the documents from the customer; and

(c) Permits the customer to cancel the purchase of the debt cancellation product without penalty within 30 days after the financial institution has mailed the long form disclosures to the customer.

(3) If the contract is solicited through written mail inserts or “take one” applications and the financial institution provides only the short form disclosures in the written materials, then the financial institution shall mail acknowledgment of the receipt of disclosures, together with the long form disclosures required by Rule 69U-100.105, F.A.C., to the customer within 3 business days, beginning on the first business day after customer contacts the financial institution or otherwise responds to the solicitation. The financial institution may not obligate the customer to pay for the debt cancellation product until after the financial institution has received the customer’s written acknowledgment of receipt of disclosures unless the financial institution:

(a) Maintains sufficient documentation to show that the financial institution provided the acknowledgment of receipt of disclosures to the customer as required by this rule;

(b) Maintains sufficient documentation to show that the financial institution made reasonable efforts to obtain from the customer a written acknowledgment of receipt of the long form disclosures; and

(c) Permits the customer to cancel the purchase of the debt cancellation product without penalty within 30 days after the financial institution has mailed the long form disclosures to the customer.

(4) The affirmative election and acknowledgment may be made electronically in a manner consistent with the requirements of the Electronic Signatures in Global and National Commerce Act, 15 U.S.C. §§ 7001 et seq., and Ch. 668, F.S.

Specific Authority 655.012(2), 655.947(3) FS. Law Implemented 655.947, 655.954 FS. History—New

FINANCIAL SERVICES COMMISSION

Securities

RULE NOS.:

69W-600.013

69W-600.0131

69W-600.0133

RULE TITLES:

Prohibited Business Practices for Dealers and Their Associated Persons

Prohibited Business Practices for Investment Advisers and Their Associated Persons

Use of Senior-Specific Certifications and Professional Designations by Associated Persons and Investment Advisers

PURPOSE AND EFFECT: Rule 69W-600.0133, F.A.C., is being proposed to prohibit the use of a senior specific certification or designation in connection with the offer, sale or purchase of securities or the provision of advice as the advisability of investing in, purchasing or selling securities, either directly or indirectly or through publications or writings, or by issuing or promulgating analyses or reports relating to securities, that indicates or implies that the user has special certification or training in advising or servicing senior citizens or retirees, in such a way as to mislead any person shall be a dishonest and unethical practice in the securities business in violation of Section 517.161(1)(d) or 517.161(1)(h), Florida Statutes. The Rule provides examples of misleading designations, including use of certifications unearned, nonexistent or self-conferred titles and use of titles that imply a certification or designation the person does not have. Also included in paragraph (1)(d) of the Rule with this category are use of certifications or designations from an organizations that: 1) is primarily engaged in the business of instruction in sales and /or marketing; 2) does not have reasonable standards or procedures for assuring the competency of its designees or certificants; 3) does not have reasonable standards or procedures for monitoring and disciplining its designees or certificants for improper or unethical conduct; or 4) does not have reasonable continuing education requirements for its designees or certificants in order to maintain the designation or certification. In subsection (2) of the Proposed Rule, a rebuttable presumption is created that organizations accredited by the American National Standards Institute, National Commission for Certifying Agencies or any Organization on the U.S. Department of Education list entitled “Accrediting Agencies Recognized for Title IX Purposes” will not be disqualified under the terms of subparagraphs (1)(d)1. through 4. In determining whether words constitute a certification or professional designation indicating or implying a special expertise in advising or servicing senior citizens, use of the words such as “senior,” “elder,” “retirement,” combined with such words such as “certified,” “registered,” “chartered,” and like words will be considered. See text of Rule for complete index. Job titles within an organization are excluded. This Rule is based on the National Association of Securities

Administrators Association (NASAA) Model Rule adopted March 20, 2008. Rule 69W-600.013 and Rule 69W-600.0131, F.A.C., are amended to add conforming amendments that provide that any unethical practice pursuant to Rule 69W-600.0133, F.A.C., shall constitute a demonstration of unworthiness by the dealers and their associated persons per Rule 69W-600.013, F.A.C., and investment advisers and their associated persons per Rule 69W-600.0131, F.A.C.

SUBJECT AREA TO BE ADDRESSED: Securities Regulation/Senior Designations.

SPECIFIC AUTHORITY: 517.03(1), 517.1215(2), 517.1217 FS.

LAW IMPLEMENTED: 517.081, 517.12, 517.1215, 517.1217, 517.161 FS.

IF REQUESTED IN WRITING AND NOT DEEMED UNNECESSARY BY THE AGENCY HEAD, A RULE DEVELOPMENT WORKSHOP WILL BE NOTICED IN THE NEXT AVAILABLE FLORIDA ADMINISTRATIVE WEEKLY.

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT AND A COPY OF THE PRELIMINARY DRAFT IS: Bill Reilly, Chief, Securities Regulation, Office of Financial Regulation, The Fletcher Building, 200 East Gaines Street, Tallahassee, Florida 32399, (850)410-9783

THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS:

69W-600.013 Prohibited Business Practices for Dealers and Their Associated Persons.

(1) The following are deemed demonstrations of unworthiness by a dealer under Section 517.161(1)(h), F.S., without limiting that term to the practices specified herein:

(a) through (n) No change.

(o) Any unethical practice pursuant to Rule 69W-600.0133, F.A.C.

(2) The following are deemed demonstrations of unworthiness by an associated person of a dealer under Section 517.161(1)(h), F.S., without limiting that term to the practices specified herein:

(a) through (g) No change.

(h) Engaging in any of the practices specified in paragraph (1)(a), (b), (e), (f), (g), (h), (i), (k), (l), (m), ~~(n)~~ or (o).

(3) No change.

Specific Authority 517.03(1), 517.1217 FS. Law Implemented 517.081, 517.1217, 517.161(1) FS. History—New 12-5-79, Amended 9-20-82, Formerly 3E-600.13, Amended 8-1-91, 6-16-92, 1-11-93, 11-7-93, 5-5-94, 9-9-96, 10-20-97, 1-25-00, 10-30-03, Formerly 3E-600.013, Amended 10-23-06,_____.

69W-600.0131 Prohibited Business Practices for Investment Advisers and Their Associated Persons.

(1) The following are deemed demonstrations of unworthiness by an investment adviser or an associated person of an investment adviser under Section 517.161(1)(h), F.S., without limiting that term to the practices specified herein:

(a) through (t) No change.

(u) Any unethical practice pursuant to Rule 69W-600.0133, F.A.C.

(2) through (3) No change.

Specific Authority 517.03(1), 517.1215 FS. Law Implemented 517.12(4), 517.1215, 517.161(1) FS. History—New 1-25-00, Amended 4-10-03, Formerly 3E-600.0131, Amended 10-23-06,_____.

69W-600.0133 Use of Senior-Specific Certifications and Professional Designations by Associated Persons and Investment Advisers.

(1) The use of a senior specific certification or designation by any person in connection with the offer, sale, or purchase of securities, or the provision of advice as to the value of or the advisability of investing in, purchasing, or selling securities, either directly or indirectly or through publications or writings, or by issuing or promulgating analyses or reports relating to securities, that indicates or implies that the user has special certification or training in advising or servicing senior citizens or retirees, in such a way as to mislead any person shall be a dishonest and unethical business practice in the securities industry in violation of Section 517.161(1)(d) or 517.161(1)(h), F.S., by an associated person of a dealer or investment adviser. The prohibited use of such certifications or professional designation includes, but is not limited to, the following:

(a) Use of a certification or professional designation by a person who has not actually earned or is otherwise ineligible to use such certification or designation;

(b) Use of a nonexistent or self-conferred certification or professional designation;

(c) Use of a certification or professional designation that indicates or implies a level of occupational qualifications obtained through education, training, or experience that the person using the certification or professional designation does not have; and

(d) Use of a certification or professional designation that was obtained from a designating or certifying organization that:

1. Is primarily engaged in the business of instruction in sales and/or marketing;

2. Does not have reasonable standards or procedures for assuring the competency of its designees or certifiants;

3. Does not have reasonable standards or procedures for monitoring and disciplining its designees or certifiants for improper or unethical conduct; or

4. Does not have reasonable continuing education requirements for its designees or certificants in order to maintain the designation or certificate.

(2) There is a rebuttable presumption that a designating or certifying organization is not disqualified solely for purposes of paragraph (1)(d) above when the organization has been accredited by:

(a) The American National Standards Institute; or

(b) The National Commission for Certifying Agencies; or

(c) An organization that is on the United States Department of Education’s list entitled “Accrediting Agencies Recognized for Title IV Purposes” and the designation or credential issued therefrom does not primarily apply to sales and/or marketing.

(3) In determining whether a combination of words (or an acronym standing for a combination of words) constitutes a certification or professional designation indicating or implying that a person has special certification or training in advising or servicing senior citizens or retirees, factors to be considered shall include:

(a) Use of one or more words such as “senior,” “retirement,” “elder,” or like words, combined with one or more words such as “certified,” “registered,” “chartered,” “adviser,” “specialist,” “consultant,” “planner,” or like words, in the name of the certification or professional designation; and

(b) The manner in which those words are combined.

(4) For purposes of this rule, a certification or professional designation does not include a job title within an organization that is licensed or registered by a state or federal financial services regulatory agency, when that job title:

(a) Indicates seniority or standing within the organization;

or

(b) Specifies an individual’s area of specialization within the organization.

For purposes of this subsection, financial services regulatory agency includes, but is not limited to, an agency that regulates broker-dealers, investment advisers, or investment companies as defined under the Investment Company Act of 1940, 15 U.S.C. s. 80a-1 et seq.

(5) Nothing in this rule shall limit the Office of Financial Regulation’s authority to enforce existing law.

Specific Authority 517.03(1), 517.1215(2), 517.1217 FS. Law Implemented 517.1215(2), 517.1217, 517.161 FS. History—New _____.

Section II Proposed Rules

DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES

Division of Animal Industry

RULE NOS.:	RULE TITLES:
5C-29.001	Definitions
5C-29.002	General Requirements for Movement of Sheep and Goats
5C-29.003	Recordkeeping Requirements for Identification of Sheep and Goats
5C-29.004	Scrapie Free Flock/Herd Certification Programs
5C-29.005	Scrapie Monitoring and Surveillance
5C-29.006	Scrapie Flock/Herd Clean-up Plans
5C-29.007	Florida Scrapie Certification Board
5C-29.008	Materials

PURPOSE AND EFFECT: The purpose and effect of this proposed new rule is to specify, detail, and clarify a Scrapie Control and Eradication Program in Florida. The proposed new rule adopts standards established by USDA, APHIS, under its Scrapie Eradication Uniform Methods and Rules (APHIS 91-55-079, June, 2005) and Voluntary Scrapie Flock Certification Program Standards (APHIS 91-55-091, June 2007). Implementation of this proposed new rule will establish Florida in a Consistent State Status regarding the control and eradication of Scrapie in the U.S.

SUMMARY: This proposed new rule establishes general requirements, definitions, record keeping, tests and documentation for establishing and maintaining Scrapie – Free Flocks/Herds and handling infected flocks/herds in the state.

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

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

SPECIFIC AUTHORITY: 570.07(23), 570.36(2), 570.07(15), 585.002(4), 585.007 FS.

LAW IMPLEMENTED: 585.003, 585.08(1), 585.11(1), 585.14, 585.145(1),(2), 585.15, 585.16, 585.17, 585.18, 585.23, 585.40 FS.

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

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULES IS: Dr. William Jeter, Chief, Bureau of Animal Disease Control, Division of Animal Industry, Room 332, 407 S. Calhoun Street, Tallahassee, FL 32399-0800; Phone: (850)410-0900; Fax: (850)410-0957