

## Section II Proposed Rules

### DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION

#### Division of Hotels and Restaurants

RULE NO.:                      RULE TITLE:

61C-3.001                      Sanitation and Safety Requirements

**PURPOSE AND EFFECT:** The purpose and effect of this proposed rule is to clarify the requirements for the sanitation notice to guests; remove the requirement that newly constructed or extensively remodeled public lodging establishments comply with the more stringent and costly Food Code sanitation requirements relating to glassware, tableware, and utensils. The proposed rule will allow public lodging establishments to continue to comply with sanitation requirements by using ordinary household dishwashers in lieu of installing commercial dishwashers or three-compartment sinks. The proposed rule also adopts minimum requirements for approved locking devices and exempts licensed nontransient apartments from specific kitchen requirements.

**SUMMARY:** The proposed rule clarifies the requirements for the sanitation notice to guests; removes more costly Food Code compliance for new or extensively remodeled public lodging establishments; replaces the National Fire Prevention Association’s NFPA 101, Life Safety Code, as the standard for approved locks with the appropriate section of the 2007 Florida Building Code; and specifies that establishments licensed as nontransient apartments are not subject to certain kitchen requirements.

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

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

**RULEMAKING AUTHORITY:** 509.032, 509.2112 FS.

**LAW IMPLEMENTED:** 509.032, 509.211, 509.2112, 509.221 FS.

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

**THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS:** Michelle Comingore, Operations Review Specialist, Division of Hotels and Restaurants, Department of Business and Professional Regulation, 1940

North Monroe Street, Tallahassee, Florida 32399-1011, telephone: (850)488-1133, E-Mail: Michelle.Comingore@dbpr.state.fl.us

THE FULL TEXT OF THE PROPOSED RULE IS:

61C-3.001 Sanitation and Safety Requirements.

The following requirements and standards shall be met by all public lodging establishments.

(1) Glassware, tableware, and utensils –

(a) No change.

(b) Any public lodging establishment which cannot comply with this provision shall post in a conspicuous place in each guest room where dishware, glassware, kitchenware or utensils are provided, a placard or sign which contains the following statement, or its equivalent: clearly states

“NOTICE TO GUESTS: Dishware, glassware, kitchenware and/or utensils have been provided in this room as a guest convenience. These items have been cleaned within this room or unit using ordinary household dishwashing facilities and agents. They have not been sanitized according to Federal and State standards for public food service establishments.” ~~or equivalent language, in each guest room where such dishware, glassware, kitchenware or utensils are provided.~~

~~(c) Any public lodging establishment initiating new construction or extensive remodeling involving the construction of walls or plumbing fixtures in any area which would permit compliance with any portion of these requirements shall fully comply with the above requirements.~~

(2) Kitchen and kitchen equipment –

(a) Kitchen appliances and refrigeration equipment shall be kept clean, free from odors and in good repair. Refrigerators shall be properly drained. Kitchens shall be ventilated to minimize the occurrence of excessive heat, steam, condensation, vapors, objectionable odors, smoke, and fumes. Kitchens must also have at least 10 foot candles of light, sufficient and suitable cooking utensils, and adequate garbage receptacles.

(b) A kitchen sink with hot and cold running water under pressure is required.

(3) No change.

(4) Locks – An approved locking device for the purposes of Section 509.211, F.S., is a locking device that meets the requirements of chapter 10, section 1008.1.8 of the 2007 Florida Building Code: Building National Fire Protection Association 101 (NFPA 101), Life Safety Code, 2006 edition, as adopted by the Division of State Fire Marshal in Rule 69A-3.012, F.A.C., herein adopted by reference. Public lodging establishments as defined in paragraph 61C-1.002(4)(a), F.A.C., shall have at least one approved locking device which cannot be opened by a non-master guest

room key on all outside and connecting doors. An approved locking device does not include a “sliding chain” or “hook and eye” type device.

(5) No change.

(6) Exemptions – Resort condominiums, nontransient apartments and resort dwellings are exempt from subsection (1) of this rule. Establishments opting to provide any of the services listed in subsection (1) of this rule shall comply with the requirements described herein. Nontransient apartments are exempt from paragraph (2)(a) of this rule.

Rulemaking Authority 509.032, 509.2112 FS. Law Implemented 509.032, 509.211, 509.2112, 509.221 FS. History—Amended 1-20-63, Revised 2-4-71, Amended 9-19-84, Formerly 7C-3.01, Amended 12-31-90, Formerly 7C-3.001, Amended 3-31-94, 9-25-96, 1-18-98, 8-12-08, 3-24-10, \_\_\_\_\_.

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

NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: Charlie Liem, Secretary, Department of Business and Professional Regulation

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: April 8, 2011

DATE NOTICES OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: April 23, 2010 and June 4, 2010

**DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION**

**Division of Hotels and Restaurants**

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

PURPOSE AND EFFECT: The purpose and effect of the proposed rule development is to specify acceptable methods of conducting employee training.

SUMMARY: The proposed rule amendment will allow division-approved public food service employee training programs to be conducted through a variety of instruction formats, including Internet-based training.

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

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

RULEMAKING AUTHORITY: 509.032, 509.039, 509.049 FS.

LAW IMPLEMENTED: 509.039, 509.049 FS.

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

DATE AND TIME: May 24, 2011, 9:00 a.m. – 11:00 a.m. or until business is completed

PLACE: Professions Board Room, Department of Business and Professional Regulation, 1940 North Monroe Street, Tallahassee, FL. or via Conference call: 1(888)808-6959, enter conference code 9225046.

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: Michelle Comingore, Operations Review Specialist, Division of Hotels and Restaurants, Department of Business and Professional Regulation, 1940 North Monroe Street, Tallahassee, Florida 32399-1011, Telephone: (850)488-1133, E-mail: Michelle.Comingore@dbpr.state.fl.us. If you are hearing or speech impaired, please contact the agency using the Florida Relay Service, 1(800)955-8771 (TDD) or 1(800)955-8770 (Voice).

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Michelle Comingore, Operations Review Specialist, Division of Hotels and Restaurants, Department of Business and Professional Regulation, 1940 North Monroe Street, Tallahassee, Florida 32399-1011, Telephone: (850)488-1133, E-mail: Michelle.Comingore@dbpr.state.fl.us

THE FULL TEXT OF THE PROPOSED RULE IS:

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

- (1) through (3) No change.
- (4) Public Food Service Employee Training.
- (a) through (c) No change.

(d) Public food service employee training may be provided through written materials, interactive distance learning, in-person instruction, or any other method of delivery that conveys the necessary information, so long as the training program has been approved by the division and complies with all requirements in this subsection and Section 509.049, F.S. Regardless of the delivery method, each employee training certificate and card provided to the student upon completing the public food service employee training program must include the provider number assigned by the division, and the name and certificate number of the certified food manager responsible for providing the training.

1. For the purpose of this rule, “interactive distance learning” means the delivery of an approved public food service employee training program via the internet or other interactive electronic media. Such training must be interactive, providing for the exchange of information at regular intervals to promote student involvement, and must provide for the registration, evaluation, monitoring, and verification of public food service employee training. Interactive distance learning training programs must require the student to complete and submit a statement at the end of the course that the student personally completed each module of instruction. Interactive distance learning must not require passage of an examination to complete the training.

2. Each provider of an approved public food service employee training program provided through interactive distance learning is responsible for verifying student identification upon each log-in and at regular intervals, and ensuring that one student registration cannot be used to complete the training program more than one time. Student identification verification may be based upon information obtained at the time of registration.

3. Each provider of an approved public food service employee training program must notify the division in writing that it will provide the training program through interactive distance learning. Such notification must include the approved program provider number; the form of electronic media utilized; the internet address for the training program, if provided through the internet; and the name and certificate number of the certified food manager responsible for maintaining and updating the information provided by the training program. The approved provider must notify the division in writing of any changes to the required information within 30 days of the change.

Rulemaking Authority 509.032, 509.039, 509.049 FS. Law Implemented 509.039, 509.049 FS. History—New 2-21-91, Amended 5-12-92, Formerly 10D-13.037, 7C-4.023, Amended 3-31-94, 10-9-95, 1-18-98, 2-7-01, 8-12-08, 6-30-10, \_\_\_\_\_.

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

NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: Charlie Liem, Secretary, Department of Business and Professional Regulation

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: April 8, 2011

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: February 19, 2010

**FISH AND WILDLIFE CONSERVATION COMMISSION**

**Freshwater Fish and Wildlife**

<b>RULE NOS.:</b>	<b>RULE TITLES:</b>
68A-27.0001	Purpose and Intent
68A-27.0012	Procedures for Listing and Removing Species from Florida’s Endangered and Threatened Species List
68A-27.003	Designation of Endangered Species; Prohibitions

**PURPOSE AND EFFECT:** The purpose of the proposed rule is to address the concerns raised by the Joint Administrative Procedures Committee. The effect will be to amend provisions of Chapter 68A-27, F.A.C., for consistency with the creation of a new, separate list of marine endangered and threatened species in Rule 68A-27.0031, F.A.C., which is being created under a separate rule proposal.

**SUMMARY:** The proposed amendments removes intent language, which will no longer be relevant due to the creation of the new list; alter the listing process to accommodate the new list and eliminate from consideration under the listing process species that are not within the Commission’s constitutional authority; and remove species, which will be included on the new list, from the existing list of endangered and threatened species.

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

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

**RULEMAKING AUTHORITY:** Article IV, Section 9, Florida Constitution.

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

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

**DATES AND TIME:** During the Commission’s regular meeting June 8-9, 2011, 8:30 a.m. – 5:00 p.m., each day

**PLACE:** The Renaissance Resort at World Golf Village, 500 South Legacy Trail, St. Augustine, FL 32092-2719

**THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULES IS:** Bud Vielhauer, General Counsel, 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-27.0001 Purpose and Intent.

(1) through (4) No change.

~~(5) This rule chapter is not intended to exercise regulatory authority over those species under Legislative authority. The Commission will continue to regulate those species to the extent authorized by Florida Statute.~~

Rulemaking Authority Art. IV, Sec. 9, Fla. Const. Law Implemented Art. IV, Sec. 9, Fla. Const. History–New 11-8-10, Amended \_\_\_\_\_.

68A-27.0012 Procedures for Listing and Removing Species from Florida’s Endangered and Threatened Species List.

(1) Federally-designated Endangered and Threatened Species. Species which are native to Florida and which are designated as Endangered or Threatened under the Federal Endangered Species Act (ESA), ~~16~~ 15 U.S.C. § 1531 et seq. and rules thereto will be listed by the Commission as a Florida Endangered and Threatened Species by virtue of the federal designation. If a species native to Florida is added or reclassified under the ESA, and is a species within the Commission’s constitutional authority, the species shall be so listed or reclassified in the Florida Endangered and Threatened Species rule pursuant to the notice provisions of Subsection 120.54(6), F.S., relating to adoption of federal standards. Before species that have been removed from the ESA are removed from the Florida Endangered and Threatened Species rule, they shall receive a biological status review according to subparagraph (2)(c)2. to determine if the species warrants listing as a state-designated species. Prior to any species being removed from the Florida Endangered and Threatened Species list, the Commission shall develop a management plan that is intended to maintain or enhance the conservation of that species.

(2) State-designated Threatened Species.

(a) Except as provided in subsection (1) above, these procedures shall not apply to:

1. Federally-designated Endangered and Threatened species,
2. Species not native to Florida,
3. Harvested species that are monitored through periodic stock assessments or other techniques and are the subject of any rule in Title 68, F.A.C., that allows harvest,
4. Species whose occurrence in Florida is only accidental,
5. Species that is not within the Commission’s constitutional authority.

(b) through (e) No change.

(3) through (4) No change.

Rulemaking Authority Art. IV, Sec. 9, Fla. Const. Law Implemented Art. IV, Sec. 9, Fla. Const. History–New 6-23-99, Formerly 39-27.0012, Amended 7-1-03, 5-26-05, 11-8-10, \_\_\_\_\_.

68A-27.003 Designation of Endangered Species; Prohibitions.

(1) Federally-designated Endangered and Threatened species:

(a) No person shall take, possess, or sell any of the endangered or threatened species included in this subsection, or parts thereof or their nests or eggs except as allowed by specific federal or state permit or authorization.

(b) The following Federally-designated Endangered and Threatened species shall be afforded the protection afforded under Commission rules and Florida Statutes and under the Federal Endangered Species Act, 16 U.S.C. § 1531 et seq. and its implementing regulations. Species classified as endangered are identified below by (E) and threatened as (T).

(c) Fish:

1. ~~Gulf sturgeon (*Acipenser oxyrinchus [oxyrinchus] desotoi*)(T);~~
2. Okaloosa darter (*Etheostoma okaloosae*)(E);
3. Shortnose sturgeon (*Acipenser brevirostrum*)(E);
4. Smalltooth sawfish (*Pristis pectinata*)(E).

(d) Amphibians:

1. Frosted flatwoods salamander (*Ambystoma cingulatum*)(T),
2. Reticulated flatwoods salamander (*Ambystoma bishopi*)(E).

(e) Reptiles:

1. American alligator (*Alligator mississippiensis*)(T[S/A]); Listed only because of similarity of appearance to the American crocodile,
2. American crocodile (*Crocodylus acutus*)(T),
3. Atlantic salt marsh snake (*Nerodia clarkii taeniata*)(T),
4. Bluetail mole skink (*Eumeces egregius lividus*)(T),
5. Eastern indigo snake (*Drymarchon corais couperi*)(T),
6. ~~Green sea turtle (*Chelonia mydas*)(E);~~
7. Hawksbill sea turtle (*Eretmochelys imbricata*)(E);
8. ~~Kemp’s ridley sea turtle (*Lepidochelys kempii*)(E);~~
9. ~~Leatherback sea turtle (*Dermochelys coriacea*)(E);~~
10. ~~Loggerhead sea turtle (*Caretta caretta*)(T);~~
6. ~~4. Sand skink (*Neoseps reynoldsi*)(T).~~

(f) Birds:

1. Audubon’s crested caracara (*Polyborus plancus audubonii*)(T),
2. Bachman’s wood warbler (*Vermivora bachmanii*)(E),
3. Cape Sable seaside sparrow (*Ammodramus maritimus mirabilis*)(E),
4. Everglade snail kite (*Rostrhamus sociabilis plumbeus*)(E),
5. Eskimo curlew (*Numenius borealis*)(E),
6. Florida grasshopper sparrow (*Ammodramus savannarum floridanus*)(E),

- 7. Florida scrub-jay (*Aphelocoma coerulescens*)(T),
- 8. Ivory-billed woodpecker (*Campephilus principalis*)(E),
- 9. Kirtland’s wood warbler (*Dendroica kirtlandii*)(E),
- 10. Piping plover (*Charadrius melodus*)(T),
- 11. Red-cockaded woodpecker (*Picoides borealis*)(E),
- 12. Roseate tern (*Sterna dougallii dougallii*)(T),
- 13. Whooping crane (*Grus americana*)(XN); Listed as experimental population in Florida,
- 14. Wood stork (*Mycteria americana*)(E).

(g) Mammals:

- 1. Anastasia Island beach mouse (*Peromyscus polionotus phasma*)(E),
- ~~2. Caribbean monk seal (*Monaachus tropicalis*)(E),~~
- ~~2.3. Choctawhatchee beach mouse (*Peromyscus polionotus allophrys*)(E),~~
- ~~4. Finback whale (*Balaenoptera physalus*)(E),~~
- ~~5. West Indian manatee (*Trichechus manatus*)(E),~~
- ~~3.6. Florida panther (*Puma (=Felis) concolor coryi*)(E),~~
- ~~4.7. Florida salt marsh vole (*Microtus pennsylvanicus dukecampbelli*)(E),~~
- ~~5.8. Gray bat (*Myotis grisescens*)(E),~~
- ~~6.9. Gray wolf (*Canis lupus*)(E),~~
- ~~10. Humpback whale (*Megaptera novaeangliae*)(E),~~
- ~~7.11. Indiana bat (*Myotis sodalis*)(E),~~
- ~~8.12. Key deer (*Odocoileus virginianus clavium*)(E). No person shall feed Key deer by hand or by placing any food that serves to attract such species,~~
- ~~9.13. Key Largo cotton mouse (*Peromyscus gossypinus allapaticola*)(E),~~
- ~~10.14. Key Largo woodrat (*Neotoma floridana smalli*)(E),~~
- ~~11.15. Lower Keys rabbit (*Sylvilagus palustris hefneri*)(E),~~
- ~~16. North Atlantic right whale (*Eubalaena glacialis*)(E),~~
- ~~12.17. Perdido Key beach mouse (*Peromyscus polionotus trissyllepsis*)(E),~~
- ~~13.18. Red wolf (*Canis rufus*)(E),~~
- ~~14.19. Rice rat (*Oryzomys palustris natator* (E); Lower Keys population west of 7-mile bridge,~~
- ~~20. Sei whale (*Balaenoptera borealis*)(E),~~
- ~~15.21. Southeastern beach mouse (*Peromyscus polionotus niveiventris*)(T),~~
- ~~22. Sperm whale (*Physeter macrocephalus*)(E),~~
- ~~16.23. St. Andrew beach mouse (*Peromyscus polionotus peninsularis*)(E).~~

(h) Corals:

- ~~1. Elkhorn coral (*Acropora palmata*)(T),~~
- ~~2. Staghorn coral (*Acropora cervicornis*)(T).~~

(h)(i) Crustaceans:

Squirrel Chimney Cave shrimp (*Palaemonetes cummingi*)(T).

(i)(j) Insects:

- 1. American burying beetle (*Nicrophorus americanus*)(E),

2. Schaus swallowtail butterfly (*Heraclides aristodemus ponceanus*)(E).

(j)(k) Mollusks:

- 1. Chipola slabshell (mussel) (*Elliptio chiplolaensis*)(T),
  - 2. Fat threeridge (mussel) (*Amblema neislerii*)(E),
  - 3. Gulf moccasinshell (mussel) (*Medionidus penicillatus*)(E),
  - 4. Ochlockonee moccasinshell (mussel) (*Medionidus simpsonianus*)(E),
  - 5. Oval pigtoe (mussel) (*Pleurobema pyriforme*)(E),
  - 6. Purple bankclimber (mussel) (*Elliptioideus sloatianus*)(T),
  - 7. Shinyrayed pocketbook (mussel) (*Lampsilis subangulata*)(E),
  - 8. Stock Island tree snail (*Orthalicus reses* [not incl. *nesodryas*])(T).
- (2) No change.

Rulemaking Authority Art. IV, Sec. 9, Fla. Const. Law Implemented Art. IV, Sec. 9, Fla. Const. History–New 8-1-79, Amended 6-22-80, 7-1-83, 7-1-84, 7-1-85, Formerly 39-27.03, Amended 6-1-86, 5-10-87, 4-27-89, 9-14-93, 6-23-99, Formerly 39-27.003, Amended 12-16-03, 7-20-09, 11-8-10,\_\_\_\_\_.

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

NAME OF PERSON ORIGINATING PROPOSED RULE:  
Bud Vielhauer, General Counsel, Fish and Wildlife Conservation Commission, 620 South Meridian Street, Tallahassee, Florida 32399-1600, (850)487-1764

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

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: April 7, 2011

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

**FISH AND WILDLIFE CONSERVATION COMMISSION**

**Freshwater Fish and Wildlife**

RULE NO.:	RULE TITLE:
68A-27.0031	Marine Endangered and Threatened Species

PURPOSE AND EFFECT: The purpose of the proposed rule is to address the concerns raised by the Joint Administrative Procedures Committee. The effect will be to create a list of marine endangered and threatened species.

SUMMARY: The new rule lists marine endangered and threatened species that are not within the Commission's constitutional authority.

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

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

RULEMAKING AUTHORITY: 379.1025 FS.

LAW IMPLEMENTED: 379.1025 FS.

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

DATES AND TIME: During the Commission's regular meeting June 8-9, 2011, 8:30 a.m. – 5:00 p.m., each day

PLACE: The Renaissance Resort at World Golf Village, 500 South Legacy Trail, St. Augustine, FL 32092-2719

Pursuant to the provisions of the Americans with Disabilities Act, any person requiring special accommodations to participate in this workshop/meeting is asked to advise the agency at least 5 days before the workshop/meeting by contacting: The ADA Coordinator at (850)488-6411. If you are hearing or speech impaired, please contact the agency using the Florida Relay Service, 1(800)955-8771 (TDD) or 1(800)955-8770 (Voice).

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Bud Vielhauer, General Counsel, 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-27.0031 Marine Endangered and Threatened Species.

(1) Under the Florida constitutional revision that revised Article IV, Section 9 of the Florida Constitution and created Article XII, Section 22, the Commission's constitutional authority does not include authority to regulate marine life when those species meet the definition of endangered and threatened species as those terms were defined in Florida Statutes, Section 372.072 (1997).

(2) The following species are Marine endangered and threatened species:

(a) Fish:

1. Gulf sturgeon (*Acipenser oxyrinchus* [=*oxyrhynchus*] *desotoi*)(T).

2. Shortnose sturgeon (*Acipenser brevirostrum*)(E).

3. Smalltooth sawfish (*Pristis pectinata*)(E).

(b) Reptiles:

1. Green sea turtle (*Chelonia mydas*)(E).

2. Hawksbill sea turtle (*Eretmochelys imbricata*)(E).

3. Kemp's ridley sea turtle (*Lepidochelys kempii*)(E).

4. Leatherback sea turtle (*Dermochelys coriacea*)(E).

5. Loggerhead sea turtle (*Caretta caretta*)(T).

(c) Mammals:

1. Caribbean monk seal (*Monachus tropicalis*)(E).

2. Finback whale (*Balaenoptera physalus*)(E).

3. West Indian manatee (*Trichechus manatus*)(E).

4. Humpback whale (*Megaptera novaeangliae*)(E).

5. North Atlantic right whale (*Eubalaena glacialis*)(E).

6. Sei whale (*Balaenoptera borealis*)(E).

7. Sperm whale (*Physeter macrocephalus*)(E).

(d) Corals:

1. Elkhorn coral (*Acropora palmata*)(T).

2. Staghorn coral (*Acropora cervicornis*)(T).

Rulemaking Authority 379.1025 FS. Law Implemented 379.2291 FS. History—New \_\_\_\_\_.

NAME OF PERSON ORIGINATING PROPOSED RULE: Bud Vielhauer, General Counsel, Fish and Wildlife Conservation Commission, 620 South Meridian Street, Tallahassee, Florida 32399-1600, (850)487-1764

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

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: April 7, 2011

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: April 15, 2011

**FISH AND WILDLIFE CONSERVATION COMMISSION**

**Marine Fisheries**

RULE NO.: 68B-14.0039  
 RULE TITLE: Recreational Grouper Seasons

PURPOSE, EFFECT AND SUMMARY: The purpose of this draft rule amendment is to achieve consistency between the Commission's Reef Fish Rule on recreational gag grouper harvest in the Gulf of Mexico and interim rules that are anticipated to be implemented by NOAA Fisheries Service in June 2011. Gag grouper is considered to be overfished (low stock abundance) and undergoing overfishing (excessive harvesting pressure). The Gulf of Mexico Fishery Management Council developed interim regulatory actions to address overfishing of gag grouper while a long-term rebuilding plan is developed. This rule amendment will close recreational Gulf of Mexico gag grouper harvest from June 1 through September 15, 2011 and November 16, through December 31, 2011 and would be consistent with the federal interim rule. This management measure is intended to help end overfishing of gag grouper while still allowing some fishing opportunities.

The effect of this rule amendment is to prohibit recreational harvest and possession of gag grouper from June 1 through September 15, 2011 and November 16 through December 31, 2011. With this rule amendment, federal and state regulations will be consistently applied. This minimizes public confusion, aids enforceability, and contributes to the overall health and status of gag grouper in the Gulf of Mexico.

**SUMMARY:** Rule 68B-14.0039, F.A.C., (Recreational Grouper Seasons) would be amended to close recreational Gulf of Mexico gag grouper harvest from June 1 through September 15, 2011 and November 16, through December 31, 2011. These closures would occur in 2011 only.

**RULEMAKING AUTHORITY:** Article IV, Section 9, Florida Constitution.

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

**THIS RULEMAKING IS UNDERTAKEN PURSUANT TO SECTION 120.54(1)(i)5., F.S. WRITTEN COMMENTS MAY BE SUBMITTED WITHIN 14 DAYS OF THE DATE OF THIS NOTICE TO:** Bud Vielhauer, General Counsel, Fish and Wildlife Conservation Commission, 620 South Meridian Street, Tallahassee, Florida 32399-1600, (850)487-1764.

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

**THE FULL TEXT OF THE PROPOSED RULE IS:**

68B-14.0039 Recreational Grouper Seasons.

(1) In all state waters of the Gulf of Mexico, except in all waters of Monroe County, the closed season for the recreational harvest and possession of gag grouper, red grouper, black grouper, yellowfin grouper, yellowmouth grouper, rock hind, red hind or scamp shall be from February 1 through March 31, each year.

(2) GAG GROUPEr CLOSURE FOR 2011. In all state waters of the Gulf of Mexico, except in all waters of Monroe County, recreational harvest and possession of gag grouper shall be prohibited during the following closed periods:

(a) June 1 through September 15, 2011.

(b) November 16 through December 31, 2011.

(3)(2) In all state waters of the Atlantic Ocean, including all waters of Monroe County, the closed season for the recreational harvest and possession of gag grouper, black grouper, red grouper, yellowfin grouper, yellowmouth grouper, rock hind, red hind, scamp, coney, graysby, and tiger grouper shall be from January 1 through April 30 each year.

Rulemaking Authority Art. IV, Sec. 9, Fla. Const. Law Implemented Art. IV, Sec. 9, Fla. Const. History—New 1-6-09, Amended 8-27-09, 1-19-10, \_\_\_\_\_.

## FISH AND WILDLIFE CONSERVATION COMMISSION

### Marine Fisheries

**RULE NO.:**

68B-14.004

**RULE TITLE:**

Recreational Amberjack Season

**PURPOSE, EFFECT AND SUMMARY:** The purpose of this draft rule amendment is to achieve consistency between the Commission's Reef Fish Rule on the recreational season for greater amberjack in the Gulf of Mexico and rules that are planned to be implemented by NOAA Fisheries Service on or before June 1, 2011. Reef fish (including greater amberjack) are managed in Gulf federal waters adjacent to Florida by the Gulf of Mexico Fisheries Management Council, of which Florida is a voting member. The effect of this rule amendment is to create a two month closure to the recreational harvest of greater amberjack in Gulf state waters that would contribute to the federal rebuilding plan, reduce the likelihood of exceeding the federal recreational quota, and help avoid in-season quota closures for greater amberjack. This proposed closure would coincide with the open recreational red snapper season in the Gulf of Mexico, thus minimizing the economic and social impacts of the closure and allowing for continued harvest of greater amberjack after the red snapper recreational season closes. With this rule amendment, federal and state regulations will be consistently applied. This minimizes public confusion, aids enforceability, and contributes to the overall health and status of greater amberjack in the Gulf of Mexico.

**SUMMARY:** Rule 68B-14.004, F.A.C., (Recreational Amberjack Season) would be created to prohibit the harvest of greater amberjack in state waters of the Gulf of Mexico from June 1 through July 31 of each year.

**RULEMAKING AUTHORITY:** Article IV, Section 9, Florida Constitution.

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

**THIS RULEMAKING IS UNDERTAKEN PURSUANT TO SECTION 120.54(1)(i)5., F.S. WRITTEN COMMENTS MAY BE SUBMITTED WITHIN 14 DAYS OF THE DATE OF THIS NOTICE TO:** Bud Vielhauer, General Counsel, Fish and Wildlife Conservation Commission, 620 South Meridian Street, Tallahassee, Florida 32399-1600, (850)487-1764.

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

**THE FULL TEXT OF THE PROPOSED RULE IS:**

68B-14.004 Recreational Amberjack Season.

In all state waters of the Gulf of Mexico the recreational harvest and possession of greater amberjack shall be prohibited June 1 through July 31, each year.

Rulemaking Authority Art. IV, Sec. 9, Fla. Const. Law Implemented Art. IV, Sec. 9, Fla. Const. History–New

**Section III**  
**Notices of Changes, Corrections and Withdrawals**

**DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES**

**Division of Standards**

RULE NO.:                      RULE TITLE:  
5F-11.002                      Standards of National Fire Protection Association Adopted

**NOTICE OF CORRECTION**

Notice is hereby given that the following correction has been made to the proposed rule in Vol. 37, No. 14, April 8, 2011 issue of the Florida Administrative Weekly.

The Purpose and Effect Statement and Summary Statement incorrectly noted that the Department was adopting NFPA 54, National Fuel Gas Code, 2006 Edition. The statement should have indicated that the text of the proposed rule only amends to the title of NFPA 54, National Fuel Gas Code, 2006 Edition, in the rule text.

Based upon new information provided to the Department by the liquefied petroleum gas industry, the Department believes that a SERC is required and has corrected the Summary of Statement of Estimated Regulatory Costs Statement as follows: The agency has determined that this rule will have an impact on small business. A SERC has been prepared by the agency. 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.

**DEPARTMENT OF EDUCATION**

**State Board of Education**

RULE NOS.:                      RULE TITLES:  
6A-1.09412                      Course Requirements – Grades K-12 Basic and Adult Secondary Programs  
6A-1.09441                      Requirements for Programs and Courses Which are Funded Through the Florida Education Finance Program and for Which the Student May Earn Credit Toward High School Graduation

**NOTICE OF CONTINUATION**

Notice is hereby given that the above rule, as noticed in Vol. 37, No. 15, April 15, 2011 Florida Administrative Weekly has been continued from May 17, 2011 to June 21, 2011.

**DEPARTMENT OF EDUCATION**

**State Board of Education**

RULE NO.:                      RULE TITLE:  
6A-1.09981                      Implementation of Florida’s System of School Improvement and Accountability

**NOTICE OF CHANGE**

Notice is hereby given that the following changes have been made to the proposed rule in accordance with subparagraph 120.54(3)(d)1., F.S., published in Vol. 37, No. 15, April 15, 2011 issue of the Florida Administrative Weekly.

The changes are in response to written material submitted to the agency on April 19, 2011. The changes will be presented to the State Board of Education for consideration at the May 17, 2011, meeting. The changes are as follows: the summary of the proposed rule is expanded to include an adjustment mechanism to the school grading scale; the change to the text in Subsection (8) of the proposed rule is found below.

(8) Planned System Enhancements. As indicated in this subsection, planned enhancements will occur in Florida’s System of School Improvement and Accountability. The Commissioner of Education will periodically recommend additional changes to the system to the State Board of Education as necessary to ensure that continuous improvements are made in the educational programs of the state. Beginning with the 2011-12 school year and annually thereafter, the percentage of “A” and “B” school grades for the year shall be reviewed to determine whether to adjust the school grading scale upward for the following year’s school grades. The first adjustment would occur no earlier than the 2012-13 school year. An adjustment will be made if the percentage of schools earning an “A” or “B” in the current year represents seventy-five (75) percent or more of all graded schools within a particular school type. There are four school types used for accountability: elementary, middle, high, and combination. The adjustment would reset the minimum required percentage of points for each passing grade (A, B, C, D) at the next highest percentage ending in the numeral 5 (five) or 0 (zero), whichever is closest to the current percentage. Annual reviews of the percentage of schools earning an “A” or “B” and adjustments to required points will be suspended when the following grade scale is achieved: 90 percent or more of the points for an “A”; 80 to 89 percent of the points for a “B”; 70 to 79 percent of the points for a “C”; and 60 to 69 percent of the points for a “D.”