

## Section II Proposed Rules

### DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES

#### Division of Food Safety

**RULE NO.:** 5K-4.010 **RULE TITLE:** Fish and Fishery Products

**PURPOSE AND EFFECT:** The Department of Agriculture and Consumer Services (DACS) has regulatory oversight of fish and fishery products that are received, stored, processed, marketed or sold in firms regulated by this agency. Under Section 500.02, F.S., the Department is charged with promoting state laws that are uniform with and conform to applicable federal laws to the extent practicable. As such, the Department has historically adopted the relevant portions of the Federal Food, Drug and Cosmetic Act, applicable portions of the Code of Federal Regulations (CFR), and the corresponding federal guidance documents where applicable. DACS has determined that the language in Rule 5K-4.010, F.A.C., is redundant to the CFR language adopted by reference in paragraph 5K-4.002(1)(d), F.A.C., (specifically CFR Title 21 Part 123) and language provided in the Food Code (CFR Title 21 guidance) as published by the U.S. Public Health Service and adopted by reference in subsection 5K-4.002(4), F.A.C. Therefore, to assure uniformity and conformity, DACS is seeking to repeal this redundant state language in administrative code.

**SUMMARY:** The Florida Department of Agriculture and Consumer Services is seeking to repeal redundant state language in administrative code since relevant federal language exists and has already been adopted by reference within the administrative code. This repeal will have no regulatory or administrative change or effect to currently regulated firms that receive, store, process, market or sell fish or fishery products.

#### SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS AND LEGISLATIVE RATIFICATION:

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

The Agency has determined that the proposed rule is not expected to require legislative ratification based on the statement of estimated regulatory costs or if no SERC is required, the information expressly relied upon and described herein: If adopted, the proposed rule is not expected to require legislative rule ratification under Section 120.541(3), Florida Statutes (or any other statute) before becoming effective for the following reasons: 1) none of the requirements in Section

120.541(1), Florida Statutes, for preparing a Statement of Economic Regulatory Costs (SERC) were triggered and 2) the adverse impact or regulatory cost, if any, of repealing these rules does not exceed any one of the economic analysis criteria in a SERC as set forth in Section 120.541(2)(a), Florida Statutes.

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:** 500.09, 500.12(1)(d), 570.07(23) FS.

**LAW IMPLEMENTED:** 500.03, 500.04, 500.09, 500.10, 500.11, 500.12, 500.13 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:** November 28, 2011, 2:00 p.m. – 4:00 p.m.  
**PLACE:** Eyster Auditorium, Florida Department of Agriculture and Consumer Services, 3125 Conner Boulevard, Tallahassee, Florida 32399-1650

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 48 hours before the workshop/meeting by contacting: Dan Hixson, Government Analyst II, Florida Department of Agriculture and Consumer Services, Division of Food Safety, 3125 Conner Boulevard, MS #C-18, Tallahassee, Florida 32399-1650, phone number: (850)245-5595. 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:** Dan Hixson, Government Analyst II, Florida Department of Agriculture and Consumer Services, Division of Food Safety, 3125 Conner Boulevard, MS #C-18, Tallahassee, Florida 32399-1650, phone number: (850)245-5595

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

5K-4.010 Fish and Fishery Products.

Rulemaking Authority 500.09, 500.12(1)(d), 570.07(23) FS. Law Implemented 500.03, 500.04, 500.09, 500.10, 500.11, 500.12, 500.13 FS. History—New 9-8-68, Revised 3-1-72, Repromulgated 12-31-74, Formerly 5E-6.10, Amended 6-9-93, 9-12-94, Formerly 5E-6.010, Amended 8-8-95, 9-9-99, Repealed.

**NAME OF PERSON ORIGINATING PROPOSED RULE:** Lee M. Cornman, Acting Director, Division of Food Safety

**NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE:** Adam H. Putnam, Commissioner of Agriculture

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: October 18, 2011

## DEPARTMENT OF EDUCATION

### State Board of Education

RULE NO.: 6A-1.09422  
 RULE TITLE: Florida Comprehensive Assessment Test and End-of-Course Assessment Requirements

**PURPOSE AND EFFECT:** The purpose of the rule amendment is to include Florida Comprehensive Assessment Test 2.0 (FCAT 2.0) Reading, Mathematics, and Algebra I End-of-Course (EOC) Assessment scale scores for grade level and achievement level as part of the rule governing the statewide assessment program. The effect will be to permit reporting of student achievement on the FCAT 2.0 Reading, Mathematics, and Algebra I EOC Assessments in achievement levels, proving a better understanding of student strengths or needs, as well as summaries of performance for use in the educational accountability system. In addition, this rule will incorporate the cut score for the Algebra I EOC Assessment that indicates if a student is high achieving and has the potential to meet college-readiness standards by the time they graduate from high school.

**SUMMARY:** The purpose of the rule amendment is to include the reading and mathematics grade-level scale scores for each achievement level for use in reporting student proficiency levels in reading and mathematics as part of the student achievement testing programs known as the FCAT 2.0 and Algebra I EOC Assessment.

#### SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS AND LEGISLATIVE RATIFICATION:

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

The Agency has determined that the proposed rule is not expected to require legislative ratification based on the statement of estimated regulatory costs or if no SERC is required, the information expressly relied upon and described herein: 1) no requirement for SERC was triggered under Section 120.541(1), F.S., and 2) based on past experiences with K-12 assessments and rules of this nature, the adverse impact or regulatory cost, if any, do not exceed nor would be expected to exceed any one of the economic analysis criteria set forth in Section 120.541(2)(a), F.S.

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: 1001.02, 1008.22(3)(c)5., 1008.22(11) FS.

LAW IMPLEMENTED: 1001.02, 1001.11, 1008.22, 1008.25, 1008.33 FS.

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

DATE AND TIME: December 5, 2011, 9:00 a.m.

PLACE: Tampa, Florida (The physical location will be posted on the Department's website no later than 14 days prior to the meeting at <http://www.fldoe.org>)

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Sharon Koon, Assistant Deputy Commissioner, Accountability, Research, and Measurement, 325 West Gaines Street, Tallahassee, Florida, (850)245-0513 or [Sharon.koon@fldoe.org](mailto:Sharon.koon@fldoe.org)

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

6A-1.09422 Florida Comprehensive Assessment Test and End-of-Course Assessment Requirements.

(1) The statewide program of educational assessment required by Section 1008.22(3)(c), F.S., shall be developed under the direction and supervision of the Commissioner of Education and shall be:

(a) Kept secured at all times in accordance with the provisions of Rule 6A-10.042, F.A.C.

(b) through (5) No change.

(6) Examinee scores on the FCAT 2.0 Reading and Mathematics shall be reported by the use of scaled scores and achievement levels defined by the baseline assessment administered during the 2010-2011 school year. Examinee scores on the FCAT 2.0 Science shall be reported by the use of scaled scores and achievement levels defined by the baseline assessment administered during the 2011-2012 school year. Examinee scores on EOC assessments shall be reported by the use of scaled scores and achievement levels defined by the baseline assessment administered as follows: Algebra I EOC Assessment (2010-2011), Geometry EOC Assessment (2011-2012), Biology I EOC Assessment (2011-2012), United States History EOC Assessment (2012-2013), and Civics EOC Assessment (2013-2014). Achievement levels ~~will~~ range from 1 through 5, with level 1 being the lowest achievement level, level 5 being the highest achievement level, and level 3 indicating satisfactory performance on the assessment. Scoring at or above achievement level 3 on a Florida EOC Assessment indicates that a student is high achieving and has the potential to meet college-readiness standards by the time the student graduates from high school.

(a) The achievement levels for the FCAT 2.0 Reading and Mathematics shall be as shown in the following tables.

FCAT 2.0 Reading developmental scale scores (140 to 302) for each achievement level:

Grade	Level 1	Level 2	Level 3	Level 4	Level 5
3	<u>140-181</u>	<u>182-197</u>	<u>198-209</u>	<u>210-226</u>	<u>227-260</u>
4	<u>154-191</u>	<u>192-207</u>	<u>208-220</u>	<u>221-237</u>	<u>238-269</u>
5	<u>161-199</u>	<u>200-215</u>	<u>216-229</u>	<u>230-245</u>	<u>246-277</u>
6	<u>167-206</u>	<u>207-221</u>	<u>222-236</u>	<u>237-251</u>	<u>252-283</u>
7	<u>171-212</u>	<u>213-227</u>	<u>228-242</u>	<u>243-257</u>	<u>258-289</u>

FCAT 2.0 Mathematics developmental scale scores (140 to 298) for each achievement level:

Grade	Level 1	Level 2	Level 3	Level 4	Level 5
3	<u>140-182</u>	<u>183-197</u>	<u>198-213</u>	<u>214-228</u>	<u>229-260</u>
4	<u>155-196</u>	<u>197-209</u>	<u>210-223</u>	<u>224-239</u>	<u>240-271</u>
5	<u>163-204</u>	<u>205-219</u>	<u>220-233</u>	<u>234-246</u>	<u>247-279</u>
6	<u>170-212</u>	<u>213-226</u>	<u>227-239</u>	<u>240-252</u>	<u>253-284</u>
7	<u>179-219</u>	<u>220-233</u>	<u>234-247</u>	<u>248-260</u>	<u>261-292</u>
8	<u>187-228</u>	<u>229-240</u>	<u>241-255</u>	<u>256-267</u>	<u>268-298</u>

(b) The achievement levels for the Algebra I EOC Assessment shall be as shown in the following table.

Algebra I EOC Assessment scale scores (325 to 475) for each achievement level:

Level 1	Level 2	Level 3	Level 4	Level 5
<u>325-374</u>	<u>375-398</u>	<u>399-424</u>	<u>425-436</u>	<u>437-475</u>

(7) through (12) No change.

Rulemaking Authority 1001.02, 1008.22 FS. Law Implemented 1001.02, 1001.11, 1008.22, 1008.25, 1008.33 FS. History--New 1-24-99, Amended 10-7-01, 1-22-02, 12-23-03, 3-27-06, 3-1-07, 2-25-09, 7-19-10, \_\_\_\_\_.

NAME OF PERSON ORIGINATING PROPOSED RULE: Kris Ellington, Deputy Commissioner, Accountability, Research, and Measurement

NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: Gerard Robinson, Commissioner of Education

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: October 26, 2011

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: August 19, 2011

**AGENCY FOR HEALTH CARE ADMINISTRATION**

**Medicaid**

RULE NO.: 59G-13.088  
 RULE TITLE: Developmental Disabilities Medicaid Waivers Consumer-Directed Care Plus Program

PURPOSE AND EFFECT: The purpose of Rule 59G-13.088, F.A.C., is to incorporate by reference The Developmental Disabilities Medicaid Waivers Consumer-Directed Care Plus Program Coverage, Limitations and Reimbursement Handbook, January 2011. The development of the handbook is in response to Legislative mandates per the Appropriations Act that began adding 2,500 Developmental Disabilities Waivers consumers to the program.

SUMMARY: The handbook will include guidelines and requirements specific to the Developmental Disabilities Medicaid Waivers Consumer-Directed Care Plus Program such as definitions, roles, responsibilities, coverage, limitations, forms, and reimbursement.

**SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS AND LEGISLATIVE RATIFICATION:**

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

The Agency has determined that the proposed rule is not expected to require legislative ratification based on the statement of estimated regulatory costs or if no SERC is required, the information expressly relied upon and described herein: A checklist was prepared by the Agency to determine the need for a SERC. Also, based on this information and the requirements found in Section 120.541, F.S., the rule will not require legislative ratification.

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: 409.221 FS.

LAW IMPLEMENTED: 409.221, 409.902, 409.912, 409.913 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:

DATE AND TIME: Monday, November 28, 2011, 10:00 a.m. – 12:00 Noon

PLACE: Agency for Health Care Administration, 2727 Mahan Drive, Building 3, Conference Room B, Tallahassee, Florida 32308-5407

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 48 hours before the workshop/meeting by contacting: Danielle Reatherford at the Bureau of Medicaid Services, (850)412-4263. 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: Danielle Reatherford, Medicaid Services, 2727 Mahan Drive, Mail Stop 20, Tallahassee, Florida 32308-5407, telephone: (850)412-4263, e-mail: danielle.reatherford@ahca.myflorida.com. To download a draft copy of this rule, if available, go to <http://ahca.myflorida.com/Medicaid/review/index.shtml>

THE FULL TEXT OF THE PROPOSED RULE IS:

59G-13.088 Developmental Disabilities Medicaid Waivers Consumer-Directed Care Plus Program. Individuals enrolled in the Developmental Disabilities Medicaid Waivers Program for Consumer-Directed Care Plus, along with all program representatives, consultants, employees, vendors, and Agency for Persons with Disabilities staff must be in compliance with the Developmental Disabilities Medicaid Waivers Consumer Directed-Care Plus Program Coverage, Limitations, and Reimbursement Handbook, January 2011, which is incorporated by reference. Rulemaking Authority 409.221 FS. Law Implemented 409.221, 409.902, 409.912, 409.913 FS. History--New \_\_\_\_\_.

NAME OF PERSON ORIGINATING PROPOSED RULE: Danielle Reatherford  
 NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: Elizabeth Dudek  
 DATE PROPOSED RULE APPROVED BY AGENCY HEAD: March 22, 2011  
 DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: September 25, 2009

**DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION**

**Board of Professional Engineers**

RULE NO.: 61G15-18.011      RULE TITLE: Definitions  
 PURPOSE AND EFFECT: The Board proposes the rule amendment to delete unnecessary language and to renumber the rule accordingly.  
 SUMMARY: The rule amendment will delete unnecessary language and renumber the rule accordingly.  
 SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COST: The Board determined that a Statement of Estimated Regulatory Cost (SERC) was not necessary. The Board has determined that this will not have an adverse impact on small business, or likely increase regulatory costs in excess of \$200,000 in the aggregate within 1 year after implementation of the rule. These rule amendments will not require ratification by the Legislature.  
 Any person who wishes to provide information regarding the statement of estimated costs, or to provide a proposal for a lower regulatory cost alternative must do so in writing within 21 days of this notice.  
 RULEMAKING AUTHORITY: 471.008, 471.013(1)(a)1., 2. FS.  
 LAW IMPLEMENTED: 471.003(2)(f), 471.005(6), (7), 471.013(1)(a)1., 2., 471.023(1), 471.025(3), 471.033(1)(j) 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: Carrie Flynn, Executive Director, Board of Professional Engineers, 2507 Callaway Road, Suite 200, Tallahassee, Florida 32303-5268

THE FULL TEXT OF THE PROPOSED RULE IS:

61G15-18.011 Definitions.  
 As used in Chapter 471, F.S., and in these rules where the context will permit the following terms have the following meanings:  
 (1) through (3) No change.  
 (4) "Certification" shall mean a statement signed and/or sealed by a professional engineer representing that the engineering services addressed therein, as defined in Section 471.005(6), F.S., have been performed by the professional engineer, and based upon the professional engineer's knowledge, information and belief, and in accordance with commonly accepted procedures consistent with applicable standards of practice, and is not a guaranty or warranty, either expressed or implied.  
~~(5) "FEMC" shall mean the Florida Engineers Management Corporation, created in Section 471.038(3), F.S.~~  
 (5)(6) No change.

Rulemaking Authority 471.008, 471.013(1)(a)1., 2. FS. Law Implemented 471.003(2)(f), 471.005(7), 471.005(6), 471.013(1)(a)1., 2., 471.023(1), 471.025(3), 471.033(1)(j) FS. History--New 6-23-80, Amended 12-19-82, 11-22-83, Formerly 21H-18.11, Amended 1-16-91, 4-4-93, Formerly 21H-18.011, Amended 12-22-99, 4-19-01, 10-16-02, 9-15-04, 6-5-08, 6-2-09, \_\_\_\_\_.

NAME OF PERSON ORIGINATING PROPOSED RULE: Board of Professional Engineers  
 NAME AGENCY HEAD WHO APPROVED THE PROPOSED RULE: Board of Professional Engineers  
 DATE PROPOSED RULE APPROVED BY AGENCY HEAD: July 19, 2011  
 DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: September 28, 2011

**DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION**

**Board of Professional Engineers**

RULE NO.: 61G15-21.001      RULE TITLE: Written Examination Designated; General Requirements  
 PURPOSE AND EFFECT: The Board proposes the rule amendment to add new language to clarify the parts of the written examination and general requirements for taking the examination.  
 SUMMARY: The rule amendment will add new language to clarify the parts of the written examination and general requirements for taking the examination.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COST:

The Board determined that a Statement of Estimated Regulatory Cost (SERC) was not necessary. The Board has determined that this will not have an adverse impact on small business, or likely increase regulatory costs in excess of \$200,000 in the aggregate within 1 year after implementation of the rule. These rule amendments will not require ratification by the Legislature.

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

RULEMAKING AUTHORITY: 455.217(1) FS.

LAW IMPLEMENTED: 455.217(1), 471.015 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: Carrie Flynn, Executive Director, Board of Professional Engineers, 2507 Callaway Road, Suite 200, Tallahassee, Florida 32303-5628

THE FULL TEXT OF THE PROPOSED RULE IS:

61G15-21.001 Written Examination Designated; General Requirements.

(1) The Florida Board of Engineers hereby determines that a written examination shall be given and passed prior to any applicant receiving a license to practice as a professional engineer, or as an engineer intern in the State of Florida except as provided in Section 471.015, F.S. The examination shall be provided by the National Council of Examiners for Engineers and Surveyors (NCEES). The examination consists of two parts, ~~each of eight hours. Part One of the examination provided by NCEES is the fundamentals examination and is eight (8) hours.~~ The engineer intern examination is defined to be Part One of the written examination provided by the NCEES. Part Two of the examination provided by NCEES is the principles and practice examination, is eight (8) hours, and is given by discipline. The principles and practice examination for structural engineering, however, is sixteen (16) hours. Candidates are permitted to bring certain reference materials and calculators. A list of approved reference materials and calculators will be provided to all candidates prior to each examination. National examination security requirements as set forth by the NCEES shall be followed throughout the administration of the examination.

(2) Applicants for licensure by examination must be graduates of a Board-approved engineering program as defined in Rule 61G15-20.001, F.A.C. Acceptance into the fundamentals engineering intern examination, either in Florida or elsewhere, does not indicate automatic acceptance for the

principles and practice professional engineers examination, nor does it exempt said applicant from meeting the criteria set forth in Chapter 471, F.S. and Chapter 61G15, F.A.C.

Rulemaking Specific Authority 455.217(1) FS. Law Implemented 455.217(1), 471.015 FS. History–New 1-8-80, Formerly 21H-21.01, Amended 10-5-92, Formerly 21H-21.001, Amended 11-15-94, 10-14-02, 3-9-04, 2-3-05, \_\_\_\_\_.

NAME OF PERSON ORIGINATING PROPOSED RULE: Board of Professional Engineers

NAME AGENCY HEAD WHO APPROVED THE PROPOSED RULE: Department of Business and Professional Regulation

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: July 19, 2011

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: September 28, 2011

**DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION**

**Board of Professional Engineers**

RULE NO.: RULE TITLE:

61G15-23.001 Seals Acceptable to the Board

PURPOSE AND EFFECT: The Board proposes the rule amendment to modify language to clarify seals acceptable to the Board.

SUMMARY: The rule amendment will modify language to clarify seals acceptable to the Board.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COST: The Board determined that a Statement of Estimated Regulatory Cost (SERC) was not necessary. The Board has determined that this will not have an adverse impact on small business, or likely increase regulatory costs in excess of \$200,000 in the aggregate within 1 year after implementation of the rule. These rule amendments will not require ratification by the Legislature.

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

RULEMAKING AUTHORITY: 471.008, 471.025 FS.

LAW IMPLEMENTED: 471.025 FS.

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

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Carrie Flynn, Executive Director, Board of Professional Engineers, 2507 Callaway Road, Suite 200, Tallahassee, Florida 32303-5628

THE FULL TEXT OF THE PROPOSED RULE IS:

61G15-23.001 Seals Acceptable to the Board.

(1) No change.

(2) Embossing impression seals ~~which otherwise comply with these provisions and~~ which do not provide an opaque and permanent impression or permanent ink representation and computer generated seals which otherwise comply with these provisions are also acceptable to the Board.

Rulemaking Authority 471.008, 471.025 FS. Law Implemented 471.025 FS. History--New 1-8-80, Amended 6-23-80, Formerly 21H-23.01, 21H-23.001, Amended 4-1-97, 2-5-04, 8-8-05, 11-16-09,

NAME OF PERSON ORIGINATING PROPOSED RULE:  
Board of Professional Engineers

NAME AGENCY HEAD WHO APPROVED THE PROPOSED RULE: Department of Business and Professional Regulations

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: July 19, 2011

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: September 28, 2011

**DEPARTMENT OF ENVIRONMENTAL PROTECTION**

RULE NO.: RULE TITLE:

62-113.100 Purpose

PURPOSE AND EFFECT: The proposed amendment to Chapter 62-113, F.A.C., will provide for a partial delegation of the Environmental Resource Permit (ERP) program under Part IV of Chapter 373, F.S., from the Department of Environmental Protection (DEP) to the Environmental Protection Commission of Hillsborough County (EPCHC). This delegation is in accordance with Section 373.441, F.S., and Chapter 62-344, F.A.C. Under the delegation, EPCHC will be responsible for permitting, compliance, and enforcement of ERP applications and activities (including issuance and denial of permits) for such things as construction, alteration, operation, and removal of docks, seawalls, and individual, single-family residences in wetlands and other surface waters within Hillsborough County. This will streamline review and agency action for those activities by allowing EPCHC to combine action on the delegated ERP with local permits required by the EPCHC and the Tampa Port Authority. For the delegated activities, EPCHC proposes to charge an application fee that will be the same or less than the separate application fees that otherwise would have been charged by DEP and EPCHC. In addition, EPCHC will be considered to be a "DEP duly authorized designee" who would be able to administer a U.S. Army Corps of Engineers (USACE) State Programmatic General permit for the activities under this delegation, if authorized to do so by the USACE, therefore further streamlining federal, state, and local regulatory and proprietary reviews. This delegation will not affect ERP responsibilities of

the Southwest Florida Water Management District within Hillsborough County pursuant to the Operating Agreement between DEP and SWFWMD, July 1, 2007.

SUMMARY: The amendment to Chapter 62-113, F.A.C., will incorporate by reference a Delegation Agreement between DEP and EPCHC regarding permitting, compliance, and enforcement of activities regulated under Part IV of Chapter 373, F.S. As required by Section 373.441, F.S., and Chapter 62-344, F.A.C., this delegation will provide for an efficient, effective, and streamlined ERP program, while maintaining protection of environmental resources. The Department has determined that EPCHC has the financial, technical, and administrative capabilities and desire to effectively and efficiently implement and enforce the program, as required by Rule 62-344.500, F.A.C.

OTHER RULES INCORPORATING THIS RULE: The chapter is referenced in subsection 62-330.100(1), F.A.C., Rules 62-344.100, 62-344.300, 62-346.020 and 62-346.080, F.A.C.

EFFECT ON THOSE OTHER RULES: There will be no effect on those rules or subsections.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS AND LEGISLATIVE RATIFICATION:

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

The Agency has determined that the proposed rule is not expected to require legislative ratification based on the statement of estimated regulatory costs or if no SERC is required, the information expressly relied upon and described herein: A Statement of Estimated Regulatory Cost is not required under Section 120.54(3)(b), F.S., and has not been prepared. The delegation will not result in any new fees or stricter local environmental standards than have already existed in Hillsborough County since 1985. In fact, application fees will either be reduced or will remain the same depending on the circumstances of the application; EPCHC estimates cost savings will range between \$100 and \$1,580 for many applicants. EPCHC intends to implement the delegation within its current workload and using existing staff; additional costs will be minor administrative costs related to enforcing the delegated ERP program rules. The proposed delegation will apply primarily to single-family residences rather than commercial facilities. Based on permitting data for the year 2010, the delegation could result in a reduction of revenue to the state (fees received from ERP permit applications and notices) by as much as approximately \$64,000, consisting of 84 requests to verify exemptions, 25 noticed general permits, and 12 individually processed applications for the types of

activities that would be delegated; however, it is likely this estimate is much higher than will actually be realized because it may include many applicants who would not be subject to the delegation (i.e., activities for larger types of development that will not be delegated to EPCHC). There may be some limited circumstances when a small business could be subject to the proposed rule, but the impact will only be positive through reduced application fees for many applicants, a simplified application process, and easier, more direct (closer) access to processing staff. The delegation will also further the goals of Executive Order No 11-01 (January 4, 2011); it (1) will not unnecessarily restrict entry into any profession or occupation; (2) will not adversely affect the availability of professional or occupational services to the public; (3) will not unreasonably affect job creation or job retention; (4) will not impose burdensome costs on businesses; and (5) is justifiable when the overall cost-effectiveness and economic impact of the regulation, including indirect costs to consumers, is considered. In summary, the delegation will decrease fees and regulatory burdens on the residents and businesses located in Hillsborough County without adversely affecting the environment. No lower cost regulatory alternative has been submitted for the proposed delegation.

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: 373.043, 373.046, 373.418, 373.441, 403.061 FS.

LAW IMPLEMENTED: 373.026, 373.046, 373.441, 403.061, 403.182 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:

DATE AND TIME: November 30, 2011, 9:00 a.m.

PLACE: Department of Environmental Protection, Southwest District Office, Main Conference Room, 13051 N. Telecom Pkwy., Temple Terrace, FL

Pursuant to the provisions of the Americans with Disabilities Act, any person requiring special accommodations to participate in this workshop/meeting is asked to advise the agency at least 5 days before the workshop/meeting by contacting: Mary VanTassel at (850)245-8486. 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: For a copy of the draft rule and draft Delegation Agreement, contact Mary Van Tassel, Florida Department of Environmental Protection, Office of Submerged Lands and Environmental Resources, MS 2500, 2600 Blair Stone Road, Tallahassee, FL 32399-2400, telephone (850)245-8486 or e-mail: Mary.VanTassel@dep.state.fl.us. For

questions about the rule and delegation, contact Douglas Fry at (850)245-8480 or Doug.Fry@dep.state.fl.us. Further information and updates on this rule development also may be obtained from the Department's web site at: [http://www.dep.state.fl.us/water/rules\\_dr.htm#erp](http://www.dep.state.fl.us/water/rules_dr.htm#erp). (OGC No. 07-1612)

THE FULL TEXT OF THE PROPOSED RULE IS:

62-113.100 Purpose.

This rule chapter lists the delegation agreements which have been entered into by the Department with another state agency, political subdivision or water management district, and which delegate any of the Department's duties and responsibilities under Chapters 253, 373, 376 and 403, F.S., and Title 62, F.A.C. This rule chapter additionally lists the agreements with water management districts which specify that the Department is exercising any of its independent regulatory authorities pursuant to Chapter 373, F.S. For purposes of Title 62, F.A.C., wherever the term "Department" appears, it shall mean the Florida Department of Environmental Protection or its delegatee as provided in the agreements listed in Chapter 62-113, F.A.C. These delegation agreements are hereby incorporated by reference and are available for public inspection and copying during normal business hours at the Department's Office of General Counsel, 3900 Commonwealth Blvd., Tallahassee, Florida.

(1) No change.

(2) Delegations to political subdivisions.

(a) through (o) No change.

(p) #11-1: Delegation Agreement Between the Florida Department of Environmental Protection and the Environmental Protection Commission, Hillsborough County, Regarding Implementation of Environmental Resource Permitting, Compliance, and Enforcement, under Part IV, Chapter 373, F.S.

(3) No change.

Rulemaking Specific Authority 373.043, 373.046, 373.418, 373.441, 403.061 FS. Law Implemented 373.026, 373.046, 373.441, 403.061, 403.182 FS. History--New 1-5-93, Amended 11-16-93, 3-14-94, Formerly 17-113.100, Amended 7-4-95, 4-3-96, 3-24-98, 12-3-98, 7-16-01, 7-1-07, 12-26-07, \_\_\_\_\_.

NAME OF PERSON ORIGINATING PROPOSED RULE: Herschel T. Vinyard, Jr., Secretary

NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: Jeff Littlejohn, Deputy Secretary for Regulatory Programs

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

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: August 27, 2010