

(c) The requested area is in the vicinity of a bridge, public boat ramp, public dock, public marina, public fueling facility, public sewage pump-out facility, or a specific navigational hazard;

(d) Personnel from the Fish and Wildlife Conservation Commission's Division of Law Enforcement confirm that the proposed area presents a danger to public safety if it remains unregulated;

(e) The rule regulates the boating restricted area at one of the following levels - "Idle Speed No Wake," "Slow Speed Minimum Wake," or "30 miles per hour";

(f) Neither the United States Coast Guard nor the Army Corps of Engineers has objected in writing to the establishment of the proposed restricted area;

(g) No timely request for a public hearing is received and no timely challenge to the proposed rule is filed;

(h) No correspondence or other written communication is received showing organized public opposition to the proposed rule.

Specific Authority 327.46 FS. Law Implemented 327.46 FS. History--New 8-30-83, Formerly 16N-24.03, Amended 6-14-93, Formerly 16N-24.003, 62N-24.003, Amended _____.

NAME OF PERSON ORIGINATING PROPOSED RULE:
Captain Alan S. Richard

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Allan L. Egbert, PhD., Executive Director

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: February 11, 2000

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: February 18, 2000

Section III Notices of Changes, Corrections and Withdrawals

DEPARTMENT OF INSURANCE

RULE CHAPTER NO.: 4-127
RULE CHAPTER TITLE: Fees and Procedures Regarding Department Information and Services

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., Florida Statutes, published in Vol. 25, No. 42, October 22, 1999, of the Florida Administrative Weekly.

4-127.001 Database Information will be changed to read as follows:

The cost for the Annual Report of the Department of Insurance, pursuant to 624.313(1), Florida Statutes, is \$30.00.

~~(1) This rule establishes procedures for individuals and entities purchasing certain data contained in the Department's computer database. These data are: the Department's annual report; other special reports; lists; labels; and bar codes.~~

~~(2) All insurers, firms, individuals, or other entities requesting the information described in subsection (1) from the Department's computer database system shall submit their request in writing to the Bureau of Data Control, Division of Insurer Services, Department of Insurance, Larson Building, 200 East Gaines Street, Tallahassee, FL 32399-0300.~~

The remainder of the rule will read as published.

PUBLIC SERVICE COMMISSION

DOCKET NO. 981104-EU

RULE NO.: 25-6.049
RULE TITLE: Measuring Customer Service
NOTICE OF PUBLIC SERVICE COMMISSION AGENDA ON MARCH 28, 2000

The Public Service Commission notifies all interested persons that the above rule has been rescheduled for the agenda conference for the following time and place:

TIME AND DATE: 9:30 a.m., Tuesday, March 28, 2000

PLACE: Florida Public Service Commission, Room 148, The Betty Easley Conference Center, 4075 Esplanade Way, Tallahassee, FL

PURPOSE AND EFFECT: To consider the record of the rulemaking proceeding for the amendments to the rule and to adopt, reject, or modify the proposed amendments to the rule.

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Mary Anne Helton, (850)413-6096

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

DEPARTMENT OF CORRECTIONS

RULE NOS: 33-507.001, 33-507.201, 33-507.401
RULE TITLES: Substance Abuse Program Services - General Policy, Substance Abuse Program Services - Determination of Need, Confidentiality of Substance Abuse Program Services Records

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. 26, No. 3, January 21, 2000, issue of the Florida Administrative Weekly:

33-507.001 Substance Abuse Program Services – General Policy.

The department shall provide substance abuse program services at institutions and facilities to the extent that is permitted by available resources. Inmates who meet criteria established by the department shall be mandated to participate in substance abuse program services when such services are available. No right to substance abuse program services is stated, intended, or otherwise implied by this chapter.

33-507.201 Substance Abuse Program Services – Determination of Need.

(1) No change.

(2) Criteria for mandated substance abuse program services shall be based upon:

(a) The presence of a diagnosed psychoactive substance dependence or use disorder;

(b) The severity of the addiction;

(c) A history of criminal behavior related to substance abuse;

(d) A sentencing authority recommendation for substance abuse program services;

(e) Unsuccessful participation in community- based substance abuse services;

(f) Sentencing by a Drug Court or a Drug Division;

(g) Other classification or program criteria as determined by the department to ensure security and optimal program placement.

(3) through (7) No change.

(8) Inmates shall only be subject to disciplinary action when a program slot is available and the inmate refuses to enter or participate in the program.

(a) If an inmate recants an earlier refusal to participate in a mandated program, he or she shall be returned to the priority listing and the priority ranking shall be recalculated.

(b) When a program slot becomes available, the inmate shall be considered for placement into the substance abuse program. Inmates entering a substance abuse program after refusal or who are re-admitted to a program after administrative discharge per (6) of this rule shall be considered at the time of program entry for restoration of incentive gain time in accordance with rule 33-601.105 ~~lost as a result of refusal to participate in or administrative discharge from a mandated substance abuse program.~~

(10) No change.

33-507.401 Confidentiality of Substance Abuse Program Services Clinical Records.

Files of the department which pertain to the identity, diagnosis, and prognosis of substance abuse program services to any inmate are confidential in accordance with the provisions of Section 397.754(8), Florida Statutes, and 42 USCS 290, ee-3, and shall be disclosed only in accordance with these provisions.

FISH AND WILDLIFE CONSERVATION COMMISSION

Division of Marine Fisheries

RULE CHAPTER TITLE: Stone Crabs

RULE NOS.:	RULE TITLES:
68B-13.0015	Definitions
68B-13.002	Stone Crabs, Regulation
68B-13.005	Designation as Restricted Species; Season
68B-13.006	Licenses, Endorsements, and Permits for Experimental, Scientific and Exhibitional Purposes
68B-13.007	Restrictions on Size and on Transport and Possession of Stone Crabs and Stone Crab Claws
68B-13.008	Gear, Trap Construction, Commercial Trap Marking Requirements, Trap Working Regulations, Trap Transfer
68B-13.009	Recreational Stone Crab Harvest – Bag Limit, Trap Limit, Trap Marking Requirements, Trap Pulling
68B-13.010	Stone Crab Trap Limitation Program
68B-13.011	Prohibitions

NOTICE OF CHANGE

The Fish and Wildlife Conservation Commission announces changes to proposed amendment of Rule 68B-13.0015, repeal of Rule 68B-13.002 and new Rules 68B-13.005, 68B-14.0036, 68B-13.006, 68B-13.007, 68B-13.008, 68B-13.009, 68B-13.010 and 68B-13.011, FAC., as published in the December 3, 1999 issue of the Florida Administrative Weekly. The changes are in response to public comment, testimony and Commission discussion contained in the record of the public hearing held by the Commission on February 3, 2000, in Jacksonville, Florida. Each rule was changed by adding a July 1, 2000 effective date.

Rules 68B-13.008 and 68B-13.010 were changed substantively and will read as follows:

68B-13.008 Gear, Trap Construction, Commercial Trap Marking Requirements, Trap Working Regulations, Trap Transfer.

(1) Gear. It is unlawful to use any device in the taking of stone crabs that can puncture, crush, or injure the crab body, such as spears, grains, grabs, hooks, or similar devices.

(2) Trap Construction. No person, firm, or corporation shall transport on the water, fish with, or cause to be fished with, set, or placed, in the harvest of stone crabs, any trap which does not meet the following requirements:

(a) Each trap shall be constructed of either wood, plastic, or wire.

(b) Such traps shall have a maximum dimension of 24 inches, by 24 inches, by 24 inches or a volume of 8 cubic feet.

(c)1. The throat or entrance to all wood and plastic traps shall be located on the top horizontal section of the trap. If the throat is longer in one dimension, the throat size in the longer dimension shall not exceed 5 1/2 inches and in the shorter dimension shall not exceed 3 1/2 inches. If the throat is round, the throat size shall not exceed 5 inches in diameter.

2. Each throat (entrance) in any wire trap used to harvest stone crabs shall be horizontally oriented. The width of the opening where the throat meets the vertical wall of the trap and the opening of the throat at its farthest point from the vertical wall, inside the trap, shall be greater than the height of any such opening. No such throat shall extend farther than 6 inches into the inside of any trap, measured from where the throat opening meets the vertical wall of the trap to the throat opening at its farthest point from the vertical wall, inside the trap.

3. Each wire trap used to harvest stone crabs shall have at least three unobstructed escape rings installed on a vertical outer surface, each with a minimum diameter of 2 3/8 inches. One such escape ring shall be located on a vertical outer surface adjacent to each crab retaining chamber.

4. Each plastic or wire trap used to harvest stone crabs shall have a degradable panel.

a. A plastic trap shall be considered to have a degradable panel if it contains at least one sidewall with a rectangular opening no smaller in either dimension than that of the throat. This opening must be obstructed with a cypress or untreated pine slat or slats no thicker than 3/4 inch. When the slat degrades, the opening in the sidewall of the trap will no longer be obstructed.

b. A wire trap shall be considered to have a degradable panel if one of the following methods is used in construction of the trap:

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

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

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

(IV) The trap contains at least one sidewall with a vertical rectangular opening no smaller in either dimension than 6 inches in height by 3 inches in width. This opening must be

laced, sewn, or otherwise obstructed by a single length of untreated jute twine knotted only at each end and not tied or looped more than once around a single mesh bar. When the jute degrades, the opening in the sidewall of the trap will no longer be obstructed.

(V) The trap contains at least one sidewall with a vertical rectangular opening no smaller in either dimension than 6 inches in height by 3 inches in width. This opening must be obstructed with an untreated pine slat or slats no thicker than 3/8-inch. When the slat degrades, the opening in the sidewall of the trap will no longer be obstructed.

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

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

(3) Commercial Trap Marking Requirements.

(a) Each trap used must have the trap owner's stone crab endorsement number permanently attached. In addition, the stone crab endorsement number shall be affixed in legible figures at least two inches high, on each buoy used. The saltwater products license must be on the boat and the license and stone crab claws shall be subject to inspection at all times. Except as provided in paragraph (4)(c) of this rule, no more than two stone crab endorsement numbers shall be used on a single vessel.

(b) A buoy or time release buoy shall be attached to each trap or at each end of a weighted trap trotline. The buoy shall be constructed of styrofoam, cork, molded polyvinyl chloride, or molded polystyrene, be of sufficient strength and buoyancy to float, and be of such color, hue, and brilliancy as to be easily distinguished, seen, and located. Buoys shall be either spherical in shape with a diameter no smaller than 6 inches or some other shape so long as it is no shorter than 10 inches in the longest dimension and the width at some point exceeds 5 inches. No more than 5 feet of any buoy line attached to a buoy used to mark a stone crab trap or attached to a trotline shall float on the surface of the water.

(c) The buoy color and endorsement number shall also be permanently and conspicuously displayed on any vessel used by a person harvesting for commercial purposes for setting and collecting said traps and buoys, so as to be readily identifiable from the air and water, in the following manner:

1. From the Air – The buoy design approved by the Commission shall be displayed and be permanently affixed to the uppermost structural portion of the vessel and displayed horizontally with the painted design up. The display shall exhibit the harvester's approved buoy design, unobstructed, on a circle 20 inches in diameter, outlined in a contrasting color, together with the endorsement number permanently affixed beneath the circle in numerals no smaller than 10 inches in height.

2. From the Water – The buoy design approved by the Commission shall be displayed and be permanently affixed vertically to both the starboard and port sides of the vessel near amidship. The display shall exhibit the harvester's approved buoy design, unobstructed, on a circle 8 inches in diameter, outlined in a contrasting color, together with the endorsement number permanently affixed beneath the circle in numerals no smaller than 4 inches in height.

(4) Trap-working regulations.

(a) It is unlawful for any person to place traps in the navigation channels of the intracoastal waterways, or in navigation channels maintained and marked by the Corps of Engineers, Coast Guard, State of Florida, or any county or municipal government.

(b) Traps may be worked during daylight hours only, and the pulling of traps from one hour after official sunset until one hour before official sunrise is prohibited.

(c) During any time of the year when it is legal to transport stone crab traps, a harvester may obtain permission from the Division of Law Enforcement to allow another person to transport, deploy, pull, or retrieve his or her traps. Permission may be granted upon receipt of a written statement signed by the commercial harvester seeking to have his or her traps pulled. Such written statement shall contain the following:

1. The reason the harvester needs to have his or her traps pulled.

2. The numbers of the saltwater products license and stone crab endorsement of both, the harvester seeking to have the traps pulled and the person who will be pulling the traps.

3. The buoy colors of the harvester seeking such permission.

4. The vessel number and vessel name of the person who will be pulling the traps, and

5. The general locations of the pulling activity of the vessel engaged in pulling the traps.

Permission to pull traps in this manner shall be obtained daily; however, extension of permission may be obtained by telephone for up to a maximum of 5 days without renewal or extension. Permission to have traps pulled by another person

for a longer period of time, must be based on extraordinary circumstances such as severe personal or family illness or accident, and may be obtained through petition to the Division of Marine Fisheries, and may be granted upon such conditions as the division deems appropriate.

(d) Except as provided in paragraph (e) of this subsection, it shall be unlawful to transport on the water, fish with, set, or place, or cause to be fished with, set, or placed, any trap or part thereof during the closed stone crab season, except that traps may be placed in the water and baited 10 days prior to the opening of the stone crab season and shall be removed within five days after the close of the stone crab season. However, the Division of Law Enforcement of the Fish and Wildlife Conservation Commission may grant an extension for the retrieval of traps for up to a maximum of ten days after the expiration of the five-day grace period, or a total of up to 15 days after the close of the stone crab season, upon the following conditions:

1. The trap owner or the owner's lawfully designated agent shall request, in writing, permission for an extension of the grace period for retrieval of traps. The request shall specify the owner's name and trap number, the name of the boat to be used for trap retrieval, the boat owner's name, the period of additional time needed for trap retrieval, and the reason(s) for the request.

2. On the day that trap retrieval commences, and on each subsequent day that trap retrieval continues, the Division of Law Enforcement must be advised in person or by telephone of the trap locations and landing site.

3. Reasons for granting an extension shall be limited to:

a. Hazardous weather at the end of the season or during the trap retrieval period.

b. Medical emergencies which make it impossible for the owner to operate a boat.

c. Equipment breakdown.

4. Nothing herein shall authorize the landing or sale of any stone crab or stone crab claw during the closed season.

(e) Any traps, floats or ropes in the water more than ten days prior to the opening of the stone crab season or remaining in the water or otherwise abandoned during the closed season (following the grace period and any extensions thereof for retrieval of traps) are declared to be public nuisances and shall be disposed of in a manner approved by the Division of Law Enforcement. This provision shall be in addition to any penalty imposed by law.

(5) Trap Transfer. Ownership of stone crab traps may be transferred to other persons, firms or corporations, so long as the following conditions are met:

(a) The person or entity acquiring ownership of such stone crab traps must notify the Division of Law Enforcement within five days of acquiring ownership and prior to placing or setting the traps in the water, as to the number of traps purchased, the vendor and the endorsement number currently displayed on the

traps, and in addition, shall request issuance of a stone crab endorsement if such person or entity does not currently have one.

(b) Buoys must be renumbered and recolored at the first pulling of traps.

(c) The new endorsement number must be permanently attached to the traps prior to setting such traps in the following open season.

(d) The new owner must retain a valid bill of sale.
PROPOSED EFFECTIVE DATE: July 1, 2000.

Specific Authority Art. IV, Sec. 9, Fla. Const. Law Implemented Art IV, Sec. 9, Fla. Const. History—New 7-1-00.

68B-13.010 Stone Crab Trap Limitation Program.

(1) Purpose and Intent. Rapid growth of Florida's stone crab trap industry has led to an excessive number of traps in the water, declining yields per trap, and an increase in conflicts between stone crabbers and shrimp trawlers. The expanding number of traps, buoys and ropes impede navigation and damage hard bottom and sea grass beds. In an effort to solve these problems, the Fish and Wildlife Conservation Commission is establishing a trap limitation program for the stone crab fishery in which the principal goal is to stabilize the fishery while generating an optimum sustainable yield utilizing the fewest number of traps.

(2) Certificates and trap tags. Each holder of a stone crab endorsement must have a certificate on record for each stone crab trap used or possessed in or on the water. In addition, attached to each trap shall be a tag, issued annually by the Commission, which corresponds to a valid certificate.

(a) Certificates.

1. A person is eligible for the initial allocation of stone crab trap certificates if he or she possessed a saltwater products license (SPL) with a restricted species endorsement and a stone crab endorsement during the 1999/2000 fishing season, and can establish pursuant to Commission trip ticket records generated under the provisions of s. 370.07(6), Florida Statutes, that he or she had at least 300 pounds of stone crab claw landings associated with any one SPL, during any one fishing season from 1993/1994 through 1998/1999. A SPL with less than 300 pounds is not eligible to receive stone crab trap certificates.

2. Once eligible, a person will qualify for the initial allocation of certificates for each SPL based on whichever is less, the number of traps listed on the SPL application, or the pounds of claws landed divided by 2, as reported through the trip ticket program during any one of the applicable fishing seasons. The number of certificates allocated will be based on the highest cumulative total of qualified certificates for each SPL during one fishing season, 1995/1996 through 1997/1998.

3. Certificates shall only be issued to natural persons. For the purposes of this section, the term "natural person", or "person", refers to a human being and does not include a firm,

organization, partnership, association, corporation, or other business or legal entity or group or combination. All endorsement holders other than natural persons shall designate the person or persons to whom their certificates will be allotted and the number thereof to each, if more than one person is designated.

4. Certificates shall only be issued to persons who possess a current year saltwater products license with a stone crab endorsement, neither of which are under suspension or revocation

5. In no event shall any person, firm, corporation, or other business entity, possess or control, directly or indirectly, more than 1% of the total available certificates issued in any fishing season.

6. The fees for unpaid certificates will accumulate each year a certificate holder fails to pay his or her annual certificate fee. In the event a holder's annual certificate fee is not paid for a period of 3 years, the certificate shall be considered abandoned and be removed from the pool of available certificates.

(b) Trap tags. Beginning October 1, 2001, each trap used for the directed harvest of stone crabs in state waters or adjacent federal waters shall, in addition to having the stone crab endorsement number permanently attached as required by rule 68B-13.008(3)(a), F.A.C., also have firmly affixed thereto a current trap tag issued annually by the Commission. Each such tag shall be made of durable plastic or material similarly durable and shall have stamped thereon the owner's endorsement number. The number of trap tags issued to each endorsement holder shall not exceed the number of trap certificates held by the endorsement holder at the time of issuance. To facilitate enforcement and record keeping, such tags shall be issued each year in a different color from that of each of the previous 3 years. Replacement tags for lost or damaged tags may be obtained from the Commission. Traps with tags which are not firmly affixed by nails, staples, or otherwise securely fastened as may be specified by the Commission, shall be considered untagged for enforcement purposes.

(3) Certificate transferability and passive reduction. After initial issuance, trap certificates are transferable on a market basis and may be transferred for a fair market value agreed upon between the transferor and transferee.

(a) Transfer of any certificates shall, within 72 hours thereof, be recorded on a notarized form provided for that purpose by the Commission and hand delivered or sent by certified mail, return receipt requested, to the Commission for record keeping purposes. No transfer of any certificates will be effective, resulting in the issuance of transfer tags, until:

1. The Commission receives the notarized transfer form from the seller and the transfer fee is paid, and

2. The Commission receives a notarized copy of the bill of sale from the purchaser, and

3. All outstanding license fees, endorsement fees, trap tag fees, surcharges and any other charges owed to the Commission by either party in the transaction are paid, and

4. The saltwater products license, stone crab endorsement, and all certificates or other required licenses, endorsements or authorizations held by both parties in the transaction are not suspended, revoked, or inactive.

(b) Upon the sale or transfer of certificates outside the immediate family of the certificate holder, the number of certificates received by the purchaser shall be reduced by the following percentages depending on the overall number of certificates available to harvesters throughout the state at the time of sale:

1. If more than 1 1/2 million certificates are available, there shall be a 25 percent reduction in the number of certificates received by the purchaser.

2. If more than 1 1/4 million, but fewer than 1 1/2 million certificates are available, there shall be a 22 1/2 percent reduction in the number of certificates received by the purchaser.

3. If more than 1 million, but fewer than 1 1/4 million certificates are available, there shall be an 18 1/2 percent reduction in the number of certificates received by the purchaser.

4. If more than 3/4 of a million, but fewer than 1 million certificates are available, there shall be a 15 percent reduction in the number of certificates received by the purchaser.

5. If more than 600,000, but fewer than 3/4 of a million certificates are available, there shall be a 10 percent reduction in the number of certificates received by the purchaser.

6. When 600,000 certificates or fewer are available, there shall be no percentage reduction in the number of certificates received by the purchaser.

(c) The Commission will maintain records of all certificates and their transfers and annually provide each endorsement holder with a statement of their certificate account.

(d) In the event of death or disability, endorsements and certificates may be transferred to a member of the immediate family without the family member being subject to any transfer fees or a reduction in the number of certificates transferred. However, certificates will only be transferred if all outstanding license fees, endorsement fees, trap tag fees, surcharges and any other charges owed by either party to the Commission are paid, and both parties' saltwater products license, stone crab endorsement, and all certificates or other required licenses, endorsements or authorizations are not suspended, revoked or inactive.

(e) Each year as the numbers of certificates are reduced, the Commission may make up to 5% of the total amount of reduced certificates available to persons properly licensed and qualified to harvest stone crabs pursuant to the requirements of this rule chapter.

(4) Leasing prohibited. The leasing of stone crab certificates or the corresponding trap tags is prohibited.

(5) Incidental take endorsement. Persons possessing valid crawfish or blue crab endorsements may land 5 gallons of stone crab claws per day if the stone crab claws are harvested from legal crawfish or blue crab traps and the crawfish or blue crab endorsement holder also possesses a stone crab incidental take endorsement.

(6) No vested rights. The stone crab trap limitation program does not create any vested rights for endorsement or certificate holders whatsoever and may be altered or terminated by the Commission as necessary to protect the stone crab resource, the participants in the fishery, or the public interest.

(7) Trap Certificate Advisory and Appeals Board. There is hereby established the Trap Certificate Advisory and Appeals Board. Such board shall consider and advise the Commission on disputes and other problems arising from the implementation of the stone crab trap limitation program. The board may also provide information to the Commission on the operation of the trap limitation program.

(a)1. Board Composition. The board shall consist of a member of the Commission staff appointed by the executive director, and eight members appointed by the executive director according to the following criteria, except as otherwise provided in subparagraph 2.:

a. All appointed members other than the commission staff person, shall be stone crab trap certificate holders, none of whom are appealing their trap certificate allotment. Two shall hold fewer than 200 certificates, two shall hold at least 200 but no more than 750 certificates, two shall hold more than 750 but not more than 2,000 certificates, and two shall hold more than 2,000 certificates.

b. At least one member shall come from each of the following regions:

(I) Wakulla, Taylor, Dixie, or Levy Counties;

(II) Citrus, Hernando, Pasco, Pinellas, or Hillsborough Counties;

(III) Manatee, Sarasota, Charlotte, or Lee Counties; and

c. The remaining five members of the board shall come from Collier, Monroe and Dade Counties.

d. At least one appointed member shall be a person of Hispanic origin capable of speaking conversational English and Spanish.

2. If there are not enough individuals that meet the above-referenced criteria, the executive director of the Commission may fill any position on the initial board with an individual who does not fulfill the requirements of subparagraph 1. However, as soon as individuals are available that meet the requirements of subparagraph 1, the executive director must replace any individual who does not meet the above-referenced criteria, and fill the position on the board with the qualified appointees.

(b) Meetings. The staff member of the Commission appointed by the executive director shall sit on the board as a voting member, and shall call the organizational meeting of the board. The board shall annually elect a chair and a vice chair. There shall be no limitation on successive terms that may be served by a chair or vice chair. The board shall meet at the call of its chair, at the request of a majority of its membership, at the request of the Commission, or at such times as may be prescribed by its procedural rules. Official action of the board shall require a majority vote of the total membership of the board present at the meeting.

(c) Expenses. Members of the board shall receive no compensation, however, they shall be reimbursed for per diem and travel expenses as provided in s. 112.061, Florida Statutes.

(d) Final Action. Upon reaching a decision on any dispute or problem brought before it, including any decision involving the initial allocation of certificates under paragraph (f), the board shall submit such decision as a recommendation to the executive director of the Commission. The executive director may accept, alter, or disapprove any decision of the board, with notice given in writing to the board and to each party in the dispute explaining the reasons for the alteration or the disapproval. The action of the executive director of the Commission constitutes final agency action, and is appealable pursuant to the requirements of Chapter 120, Florida Statutes.

(e) Board Authority. In addition to those certificates allotted pursuant to the initial eligibility provisions established in subparagraph (2)(a), up to 100,000 trap certificates may be allotted by the board to make recommendations on allocations to settle disputes or other problems arising from implementation of the trap limitation program, and for special circumstances.

1. Disputes arising from the implementation of the trap limitation program shall cover those problems arising from implementation of the program during the 2000-2001 and 2001-2002 fishing seasons.

2. Special circumstances shall include but are not limited to the following:

a. Fishermen who can demonstrate that they were affected by Chapter 73-432, Laws of Florida (1973), which limited fishermen in Citrus, Dixie, Levy, and Taylor Counties to 600 stone crab traps per boat.

b. Persons who had landings, but did not record any traps on their saltwater products license application during the qualifying years and therefore did not receive an initial trap certificate allocation.

c. Persons who can demonstrate through copies of trip tickets, legitimate sales to a licensed wholesale dealer which were not reported by the dealer or included in the agency landings database.

d. Persons who worked together on the same boat but operated as separate business entities, each with their own SPL and stone crab endorsement, but who reported their landings or

who had their landings reported on a single SPL. Under such circumstances the boards may divide the number of certificates allotted between the two people; however, each person must agree to the division prescribed by the board.

e. Persons displaced by Article X, Section 16, of the Florida Constitution who do not otherwise qualify for the stone crab limited entry program and who can demonstrate through landings that their net fishing occurred from Wakulla through Monroe Counties. Such persons shall qualify for 100 trap certificates if they can demonstrate that they:

(I) Sold nets to the state according to the provisions of the net buy back program, s. 370.0805(5), Florida Statutes.

(II) Invested money in the stone crab fishery by the 1999/2000 fishing season.

(III) Produced at least 300 pounds of claws since July 1, 1995, and

(IV) Have no record of net violations since July 1, 1995.

3. Any trap certificates not allotted by July 1, 2002, shall become permanently unavailable.

4. All appeals for additional certificates or other disputes must be filed with the board, on a form established by the commission, before October 1, 2001.

(f) In determining eligibility and initial allotment of traps for the trap reduction program, when a fisherman disagrees with commission records regarding the number of traps fished by the fisherman during a particular qualifying year, the burden of proof shall be on the fisherman to establish the number of traps fished, through trip tickets or copies of his or her SPL applications.

(g) Dissolution. On July 1, 2002, the board shall be dissolved.

PROPOSED EFFECTIVE DATE: July 1, 2000.

Specific Authority Art. IV, Sec. 9, Fla. Const. Law Implemented Art IV, Sec. 9, Fla. Const. History—New 7-1-00.

Section IV Emergency Rules

DEPARTMENT OF THE LOTTERY

RULE TITLE: Instant Game 91 Specifics

RULE NO.: 53ER00-5

SUMMARY OF THE RULE: This emergency rule relates to the Instant Game 91, "HIGHBALL POOL" for which the Department of the Lottery will start selling tickets on a date to be determined by the Secretary of the Department. The rule sets forth the specifics of the game, determination of prize winners and the number and size of prizes in the game.

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