

Supplement for 7th Grade Requirement (Part A-2) only if he presents a completed DH Form 680, Florida Certification of Immunization Temporary Medical Exemption (Part B), Permanent Medical Exemption (Part C), or completed Form DH 681, Religious Exemption From Immunization, incorporated by reference in Section 64D-3.011(5), F.A.C., or if he is a transfer student. Exemption forms noted shall be completed per instructions for the appropriate school year provided in Immunization Guidelines Florida Schools and Child Care Facilities ~~School Year 1998-99, or Immunization Guidelines Florida Schools and Child Care Facilities School Year 1999-2000, or Immunization Guidelines Florida Schools and Child Care Facilities~~ Effective August 2000, or Immunization Guidelines Florida Schools, Child Care Facilities and Family Day Care Effective July 2001, as incorporated by reference in Section 64D-3.011(5), F.A.C.

(5) Forms and Guidelines – Forms used to document compliance with section 232.032, F.S., and guidelines for completion of the forms, are hereby incorporated by reference;

FORM #	EFFECTIVE DATE	TITLE	FORMS AND GUIDELINES AVAILABILITY
DH 680A	(Aug 98)	Florida Certification of Immunization physicians' offices	DOH county health departments (DOH CHDs);
DH 680	(Aug 2000)	Florida Certification of Immunization	DOH CHDs, physicians' offices
DH 680	(July 2001)	Florida Certificate of Immunization	DOH CHDs, physicians' offices
DH 681	(May 99)	Religious Exemption From Immunization	DOH CHDs
DH 684	(Nov 96)	Immunization Annual Report of Compliance for Kindergarten and Seventh Grade	DOH CHDs
DH 685	(Nov 96)	Kindergarten and Seventh Grade Annual Report of Compliance County Summary	DOH CHDs
	(Aug-98)	<del>Immunization Guidelines Florida Schools and Child Care Facilities School Year, 1998-99</del>	<del>DOH CHDs</del>
	(Aug-99)	<del>Immunization Guidelines Florida Schools and Child Care Facilities School Year 1999-2000</del>	<del>DOH CHDs</del>
	(Aug 2000)	Immunization Guidelines Florida Schools and Child Care Facilities Effective August 2000	DOH CHDs
	(Jul 2001)	<u>Immunization Guidelines Florida Schools, Child Care Facilities and Family Day Care Homes Effective July 2001</u>	<u>DOH CHDs</u>

Specific Authority 232.032(1), 381.0011(13), ~~381.003(1)~~, 381.003(2), 381.005(2) FS. Law Implemented 232.032(1), 381.0011(4), 381.003(1), 381.005(1)(i), 458, 459, 460 FS. History—New 12-29-77, Amended 6-7-82, 11-6-85, Formerly 10D-3.88, Amended 2-26-92, 9-20-94, 9-21-95, 4-7-96, Formerly 10D-3.088, Amended 7-14-99, \_\_\_\_\_.

**DEPARTMENT OF CHILDREN AND FAMILY SERVICES**

**Economic Self-Sufficiency Program**

RULE TITLES: RULE NOS.:  
 Special Provisions 65A-1.702  
 Family-Related Medicaid General  
 Eligibility Criteria 65A-1.705

PURPOSE AND EFFECT: These rule amendments will implement a policy change in Medicaid child-only cases, will add two Medicare premium coverage groups and will clarify citizenship and residence requirements for the Medicaid program.

SUBJECT AREA TO BE ADDRESSED: The department is adopting a policy that excludes Medicaid child-only cases from requirements that a parent cooperate in establishing paternity, assigning rights to medical support and payments, and providing information about liable third parties. Additionally, QI1 and QI2 coverage groups for full Part B Medicare premium coverage and partial Medicare premium coverage are defined and unnecessary statements regarding citizenship and residence requirements are removed. The QI1 and QI2 coverages are not new; they are being defined in rule for the first time.

SPECIFIC AUTHORITY: 409.919 FS.  
 LAW IMPLEMENTED: 409.903, 409.904, 409.919 FS.  
 IF REQUESTED AND DEEMED NECESSARY BY THE AGENCY HEAD, A RULE DEVELOPMENT WORKSHOP WILL BE HELD AT THE TIME, DATE AND PLACE SHOWN BELOW:

TIME AND DATE: 3:00 p.m., May 1, 2001  
 PLACE: 1317 Winewood Boulevard, Building 3, Room 455, Tallahassee, Florida 32399-0700  
 THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT IS: Audrey Mitchell, Program Administrator, 1317 Winewood Boulevard, Building 3, Room 421, Tallahassee, Florida 32399-0700, Telephone (850)488-3090  
 THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS NOT AVAILABLE.

**Section II  
Proposed Rules**

**DEPARTMENT OF BANKING AND FINANCE**

**Division of Securities and Finance**

RULE TITLE: RULE NO.:  
 Compensatory Benefit Plan Exemption 3E-500.017  
 PURPOSE AND EFFECT: Pursuant to Section 517.061(19), Florida Statutes, the Department finds that the securities registration provisions of Section 517.07, F.S., are not necessary for certain employer-sponsored compensatory benefit plans or contracts because of the limited nature of the

offering. The proposed rule will provide an exemption from the registration requirements of Section 517.07, F.S., for certain written employer-sponsored compensatory benefit plans or contracts that meet the requirements of Securities and Exchange Commission Rule 701 (17 CFR 230.701).

SUMMARY: The proposed rule provides an exemption from securities registration requirements of Section 517.07, F.S., for certain written employer-sponsored compensatory benefit plans or contracts.

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

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

SPECIFIC AUTHORITY: 517.03(1), 517.061(19) FS.

LAW IMPLEMENTED: 517.061(19) FS.

IF REQUESTED WITHIN 21 DAYS OF THE DATE OF THIS NOTICE, A HEARING WILL BE HELD AT THE TIME, DATE AND PLACE SHOWN BELOW:

TIME AND DATE: 10:00 a.m., May 14, 2001

PLACE: Room 664, Fletcher Building, 101 East Gaines Street, Tallahassee, Florida

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Rick White, Financial Administrator, Division of Securities and Finance, Room 664, 101 East Gaines Street, Tallahassee, Florida 32399-0350, (850)410-9805

THE FULL TEXT OF THE PROPOSED RULE IS:

3E-500.017 Compensatory Benefit Plan Exemption.

(1) Transactions involving the offer or sale of a security under a written compensatory benefit plan (or a written compensation contract) established by the issuer for the participation of their employees, directors, general partners, trustees, officers, or consultants and advisors, and their family members, and which meet all of the requirements of SEC Rule 701 (17 CFR 230.701) as it existed on November 1, 2000, are exempt from the registration provisions of Section 517.07, F.S.

(2) For the purposes of this rule, the terms "compensatory benefit plan," "employee," and "family member," shall have the same meanings as defined in SEC Rule 701 as it existed on November 1, 2000.

(3) The purpose of this rule is to provide an exemption from the registration requirements of Section 517.07, F.S., for securities issued in compensatory circumstances. This exemption is not available for plans or schemes to circumvent this purpose, such as to raise capital or to evade the registration provisions of Section 517.07, F.S.

(4) Issuers offering and selling securities that are exempt pursuant to this rule are exempt from the registration requirements of Section 517.12, F.S., provided that:

(a) All sales of securities are made by bonafide employees of the issuer as defined by Rule 3E-200.001(8), F.A.C.; and

(b) No person is paid a commission or compensation for the sale of the issuer's securities unless such person is registered as a dealer in this state.

Specific Authority 517.03(1), 517.061(19) FS. Law Implemented 517.061(19) FS. History--New

NAME OF PERSON ORIGINATING PROPOSED RULE: Rick White, Financial Administrator, Division of Securities and Finance

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Don B. Saxon, Director, Division of Securities and Finance

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: March 14, 2001

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: March 23, 2001

**DEPARTMENT OF EDUCATION**

**Florida School for the Deaf and the Blind**

RULE TITLE: Human Resource, Management and Development

RULE NO.: 6D-16.002

PURPOSE AND EFFECT: The purpose of this Rule is to establish the role of the Human Resource Management and Development Department of the Florida School for the Deaf and the Blind.

SUMMARY: This rule establishes guidelines for the Florida School for the Deaf Human Resource, Management and Development Department. The Policies and Procedures were reviewed and amended to comply with state and federal mandates.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COST: None.

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

SPECIFIC AUTHORITY: 242.331(3) FS.

LAW IMPLEMENTED: 242.331(4) FS.

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

TIME AND DATE: 9:00 a.m., June 1, 2001

PLACE: Wilson Music Building Auditorium, FSDB Campus, St. Augustine, Florida

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Elaine F. Ocuto, Executive Assistant to the President, Florida School for the Deaf and the Blind, 207 N. San Marco Avenue, St. Augustine, FL 32084-2799

THE FULL TEXT OF THE PROPOSED RULE IS:

6D-16.002 Human Resource, Management and Development.

(1) through (4) No change.

(5) The Human Resource Management and Development Policies and procedures Manual revised, August 2001 August, 1999, adopted by the Board of Trustees pursuant to the provisions of sections 242.331(3), F.S. shall be incorporated by this rule and made a part of the rules of the Board of Trustees.

(6) No change.

Specific Authority 242.331(3) FS. Law Implemented 242.331(4) FS. History--New 10-26-94, Amended 11-30-98, 9-29-99.

NAME OF PERSON ORIGINATING PROPOSED RULE: Elmer Dillingham, Jr., President Florida School for the Deaf and the Blind

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Board of Trustees of the Florida School for the Deaf and the Blind

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: March 24, 2001

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: February 2, 2001

DEPARTMENT OF TRANSPORTATION

RULE CHAPTER TITLE: Outdoor Advertising Sign Regulation and Highway Beautification

RULE CHAPTER NO.: 14-10

RULE TITLES: General Provisions

RULE NOS.: 14-10.0011

Licenses 14-10.003

Permits 14-10.004

Annual Renewal Billing - License and Permits 14-10.0041

Zoned and Unzoned Commercial and Industrial

Areas Along Interstate and Federal-Aid

Primary Highways 14-10.0051

Additional Permitting Criteria 14-10.006

Maintenance of Nonconforming Signs 14-10.007

PURPOSE AND EFFECT: Rules 14-10.0011, 14-10.003, 14-10.004, 14-10.0041, 14-10.006, and 14-10.007 are being amended. Rule 14-10.0051 is repealed. The forms also are being amended with the 07/01 revisions being incorporated by reference. Changes have been made, in part, based upon rule development workshops and consideration of the Amended Petition to Adopt Administrative Rule filed by the Florida Outdoor Advertising Association and Infinity Outdoor, Inc. and in consideration of the centralization of Outdoor Advertising Regulation by the Department.

SUMMARY: Rules 14-10.0011, 14-10.003, 14-10.004, 14-10.0041, 14-10.006, and 14-10.007 are being amended. Rule 14-10.0051 is repealed. Revised forms are being incorporated by reference.

SPECIFIC AUTHORITY: 334.044(2), 479.02(7) FS.

LAW IMPLEMENTED: 339.05, 479.01-.24, 479.28 FS.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COST: No Statement of Estimated Regulatory Cost has been prepared at this time.

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

IF REQUESTED WITHIN 21 DAYS OF THE DATE OF THIS NOTICE, A HEARING WILL BE HELD AT THE TIME, DATE, AND PLACE SHOWN BELOW:

TIME AND DATE: 9:00 a.m., May 24, 2001

PLACE: Room 250 (Suwannee Room), Haydon Burns Building, 605 Suwannee Street, Tallahassee, Florida

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULES IS: James C. Myers, Administrative and Management Support Level IV, Florida Department of Transportation, Office of the General Counsel, 605 Suwannee Street, Mail Station 58, Tallahassee, Florida 32399-0458

THE FULL TEXT OF THE PROPOSED RULES IS:

14-10.0011 General Provisions.

~~(1) Jurisdiction. The Department has jurisdiction for outdoor advertising regulation over all persons engaged in the business of outdoor advertising as defined by Section 479.01(2), Florida Statutes, and all signs, defined by Section 479.01(17), Florida Statutes. Except as provided by Section 479.16, Florida Statutes, no sign may be erected, operated, or maintained within the controlled area of the State Highway System outside an incorporated area, or on any part of the Interstate or Federal Aid Primary systems unless the Department has issued a permit for such sign. Signs subject to this permit regulation must comply with the requirements of Sections 479.07, 479.106, 479.107, 479.11, 479.111, and 479.15, Florida Statutes. All signs, including those exempted from permitting requirements, must comply with the requirements of Sections 479.107 and 479.11(4) (8), Florida Statutes.~~

~~(1)(2) Definitions. All terms in this rule chapter, shall have the same meanings as which are defined in Section 479.01, Florida Statutes, shall have the same meanings as in that statute.~~ Additionally, the following terms are defined:

(a) "Address of Record" means the mailing address submitted by the licensee or permittee with the initial application for license, the first permit applied for, or the transfer affidavit when a permit is transferred to a new permit holder, or the amended address if amended pursuant to (3)(c), below.

(b) "Charitable Organizations" means those institutions defined by Section 212.08(7)(o)2.b., Florida Statutes.

(c) “Completed Sign,” for purposes of Section 479.07(5)(a), Florida Statutes, means an erected ~~the erection of~~ the sign structure with attached, ~~as described in the permit, as well as attachment of the facing to the structure, and a posted~~ the posting of a message to the facing.

(d) ~~“Controlled Road” means the Interstate, Federal Aid Primary, and State Highway System under the Department’s regulatory jurisdiction.~~

(d)(e) “Crown” means the highest point of elevation on the road pavement of the main traveled way immediately adjacent to the outdoor advertising sign.

(f) ~~“Designated Predominantly for Commercial or Industrial Uses” means that, within 660 feet of the controlled road, the land use category assigned to a land use designation area shown on the future land use map of the comprehensive plan adopted pursuant to Chapter 163, Florida Statutes, allows properties within that designation area to be developed with primarily commercial or industrial uses. This definition does not include areas designated primarily for the purpose of authorizing outdoor advertising signs.~~

(e)(g) “Embellishment” shall mean a temporary extension of the sign face which contains a portion of the message or informative contents, and which is added, modified, or removed when the message is changed.

(f)(h) “Height Above Ground Level (HAGL)” means the distance between the ground and the bottom of the sign face, excluding any border and trim, as measured from the point on the sign facing closest to the main-traveled way.

(g)(i) “Location” means the position of a proposed or existing sign which is fixed by reference to the Roadway Characteristics Inventory (RCI) system, by reference to the State Plane Coordinate system, or by reference to latitude and longitude.

(h)(j) “Permitted Sign” means a sign, whether erected or not, for which an Outdoor Advertising Permit, Form 575-070-30, Rev. 07/01, incorporated herein by reference, has been issued, which permit has not been revoked, canceled, or declared void. Form 575-070-030 may be obtained from the State Outdoor Advertising and Permit Office, Florida Department of Transportation, 605 Suwannee Street, Mail Station 22, Tallahassee, Florida 32399-0450.

(i) “Public or Court Official” for purposes of Section 479.16(4), Florida Statutes, shall mean a person holding a position created by the Constitution or Legislature, or appointed by the Governor.

(j)(k) ~~“Rest Area” shall mean a publicly owned, and controlled, rest and designated place for emergency stops, relaxation, and recreation, with areas and sanitary and other facilities within or adjacent to the highway right of way, reasonably necessary to accommodate the traveling public, and provided as a place for emergency stopping, and for resting by the motorist for short periods.~~

(k)(l) ~~“Sign Structure Height” means the total vertical distance from the crown of the main-traveled way to the top of the highest sign face, including any border or trim, but not including embellishments.~~

(l)(m) ~~“Working Day” means each regular period day when Department offices are open for official business.~~

(3) Names and Addresses.

(a) Licenses and permits may only be issued in the current legal name or registered fictitious name of the licensee or permittee, whether an individual, business, or corporation. Any notice issued by the Department to a fictitious name filed with the Department shall have the same effect as if issued in the legal name of the permittee or licensee.

(b) The Address of Record shall be considered the official address for all correspondence from the Department to the licensee or permittee. Such correspondence may include billing, notices of violation, or other information provided or issued by the Department.

(c) A licensee or permittee shall notify the Department, in writing, within 30 calendar days of any change in address. This notification shall include:

1. The date the change of name or address becomes effective;
2. The account name as listed on the Department billing;
3. The (typed or printed) name of the individual authorized to sign the notice; and
4. The authorized signature.

(d) Notices or any other correspondence issued by the Department to addresses on file prior to receipt of such written notification of an address change are valid and shall be considered received by the licensee or permittee.

(e) ~~Signature authority.~~ License Applications, Permit Applications, Replacement Requests, Transfer Requests, and Cancellation Certifications must contain a statement by the signatory that he/she is the authorized representative and has the authority to sign for the applicant.

Specific Authority 334.044(2), 479.02(7) FS. Law Implemented 479.02 FS. History—New 6-28-98, Amended.

14-10.003 Licenses.

(1) Outdoor Advertising License Required. A person is considered to be in the business of outdoor advertising and is required to have an outdoor advertising license if that person receives compensation ~~derives income~~ from constructing, erecting, operating, using, maintaining, leasing, or selling outdoor advertising structures, outdoor advertising signs, or outdoor advertisements. Persons solely advertising their own businesses and general contractors who construct signs under contract to ~~an~~ outdoor advertising licensees or permittees, are exempt from the licensing requirement.

(2) Application Form. An application for a license to engage in the business of outdoor advertising shall be made on an Outdoor Advertising License Application, Form

575-070-02, Rev. ~~07/01 02/98~~, incorporated herein by reference. Form 575-070-02 may be obtained from the State Outdoor Advertising License and Permit Office, Florida Department of Transportation, 605 Suwannee Street, Mail Station 22, Tallahassee, Florida 32399-0450, ~~or from any of the Department's district offices.~~

(a) Submission of Application for Initial License. The completed application for a license shall be forwarded to the State Outdoor Advertising License and Permit Office, at the address in (2), above.

(b) Payment of the license fee may be made by cash, postal money order, bank draft, cashier's check, or a personal or business check. ~~Cash will not be accepted.~~ In the event a payment document is not honored for any reason by the bank on which it is drawn, a service fee of \$15.00, or 5% of the amount payable, whichever is greater, will be assessed. If an individual or company issues two checks to the Department which are not honored, no further personal or business checks will be accepted regardless of whether restitution has been made on previous checks.

Specific Authority 334.044(2), 479.02(7) FS. Law Implemented 120.60, 215.34(2), 339.05, 479.02, 479.04, 479.05, 479.07 FS. History—(Formerly part of Rule 14-15.05, Right of Way Bureau Operating Procedures), New 3-28-76, Amended 4-21-77, 12-10-77, 1-1-86, Formerly 14-10.03, Amended 6-28-98,

14-10.004 Permits.

(1) An application for a new sign permit is made by completing and submitting an Application for Outdoor Advertising Permit, Form 575-070-04, Rev. ~~07/01 02/98~~, incorporated herein by reference, to the address listed in Rule Section 14-10.003(2) to the district office within whose boundaries the proposed site is located. Applications may be obtained from the State Outdoor Advertising License and Permit Office ~~at the address listed in Rule Section 14-10.003(2), or from any of the Department's district offices.~~ Applications for outdoor advertising sign permits on the Florida Turnpike shall be submitted to the district office of the district in which the specific portion of the Turnpike is located.

(a) Payment of the permit fee shall be made in the same manner provided for license fees in Rule Section 14-10.003(2)(b). The annual permit fee for each sign facing is \$41.00 for 200 square feet or less and \$61.00 for more than 200 square feet. A permittee shall notify the Department, in writing, ~~the district within whose boundaries the sign is located~~, prior to making any changes in the dimensions of a permitted conforming sign which would increase the area of the sign facing to over 200 square feet, and shall submit an additional \$20.00.

(b) The applicant shall submit separate instruments of payment for each application for a new permit, in order to avoid denial of multiple applications for if one application being should be denied.

(c) Prior to issuing any permit, the Department ~~will shall~~ inspect the proposed sign site to assure compliance with Chapter 479, Florida Statutes, and this rule chapter. To ensure that the site inspected is the same specified in the application, the applicant shall mark the proposed sign site in such a manner that the markings are visible from the main-traveled way. The markings shall be displayed from the time of submission of the application, and shall be maintained by the applicant until the Department has approved or denied the application.

(d) The Department will act on permit applications in order of the date of receipt of ~~a~~ complete applications.

1. An application will be considered complete when all items on the application form, ~~to be completed by the applicant~~, have been filled in, all required attachments have been received, and the correct permit fee has been submitted. All information provided on the application by the applicant must be certified as being true and correct.

2. Applications containing incorrect information will be denied.

3. Incomplete permit applications will be returned to the applicant along with any permit fees which were submitted with the application.

4. Completion of, or corrections to, the original submitted document must be initialed by the applicant on the original application.

5. The written statement ~~from the landowner and the statement from the local government official which are~~ required by Section 479.07(3)(b), Florida Statutes, must have been issued to the applicant, or on behalf of the applicant. ~~If a lease document is submitted as the statement from the landowner, the applicant must be the named lessee or the document must be accompanied by a properly executed transfer of the leasehold rights to the applicant. The written statement must:~~

- a. Identify the property on which the sign is to be located;
- b. Indicate that the person authorizing placement of the sign on the property is the owner or the person in lawful control of the property. If the person authorizing placement of the sign is not the owner of the property, the legal status which gives him or her lawful control of the property must be indicated;
- c. Grant the permission to or on behalf of the applicant; and
- d. Authorize placement of the sign on the subject property.

(e) Complete applications will be either approved or denied within 30 calendar days of receipt by the Department, district office unless an earlier application for that site or a competing site is under review, or the application falls within paragraph (h) or (i), below. If denied, the application will remain in a pending status until the time to request an administrative hearing has elapsed. If a hearing is requested, the application shall remain in a pending status until ~~a final~~

order is issued and the time to request an appeal of a final order has elapsed. If an appeal is taken, the application will remain in a pending status until mandate is issued by the appellate court. Subsequent applications for competing sites shall be held without action until the pending status of the earlier application is resolved.

(f) If ~~an~~ the earliest application is approved, all subsequently received applications for competing sites shall be ~~returned~~ denied.

(g) For purposes of (d), above, when a valid permit is being conditionally canceled pursuant to Rule Section 14-10.004(8)(7), the Outdoor Advertising Permit Cancellation Certification, Form 575-070-12, Rev. 07/01, and permit Application for Outdoor Advertising Permit, Form 575-070-04, Rev. 07/01, must be submitted simultaneously to the ~~Department appropriate district office.~~ The date the ~~Department district office~~ receives the cancellation and complete application documents shall be considered the date the application is received.

(h) When a permit application is received for a new sign site requiring vegetation management pursuant to Section 479.106, Florida Statutes, and the which application meets all other requirements of Chapter 479, Florida Statutes, and this rule chapter for issuance of an outdoor advertising sign permit, the Department shall issue a notice of intent to issue an Outdoor Advertising Permit, Form 575-070-30, Rev. 07/01, contingent upon:

1. Issuance of a vegetation management permit from the Department, and
2. Removal of two nonconforming signs, which the Department has approved as meeting the requirements of Section 479.106(5), Florida Statutes.

The application shall remain in a pending status for no longer than 90 calendar days, to allow the applicant to comply with (h)1. and (h)2., above. Competing applications shall be reviewed in accordance with Rule Section 14-10.004(1)(e).

(i) Applications for permits for locations which conflict with the location of an expired or canceled permit will not be processed until the sign for which the expired or canceled permit was issued is removed, unless a permit is being canceled as a condition for issuance of a new permit.

~~(j)(4)~~ A permit shall not be issued for a location at which unpermitted cutting, removal, or trimming, ~~or removal~~ of vegetation has occurred ~~without obtaining the vegetation management permit as required by Section 479.106, Florida Statutes,~~ until such time as payment of the administrative penalty and ~~completion of~~ mitigation as required by Rule 14-40.030, F.A.C., and Section 479.106(7), Florida Statutes, have been accomplished and the applicant has identified two nonconforming signs for surrender in accordance with Section 479.106(5), Florida Statutes.

(2) A permit shall be granted for an automatic changeable facing provided;

(a) The static display time for each message is a minimum of six seconds,

(b) The time to completely change from one message to the next is a maximum of two seconds,

(c) The change of message occurs simultaneously for the entire sign face, and

(d) The application meets all other permitting requirements.

Any such sign shall contain a default design that will hold the face of freeze the sign in one position if a malfunction occurs.

(3) Notwithstanding any other provisions of this rule chapter, an outdoor advertising sign existing at a location which previously was not subject to the permitting requirements of this chapter, but which has become subject to the requirements of this chapter due to changes in the jurisdictional designation of highways, shall be granted a state permit in accordance with the process outlined below:

(a) The Department shall conduct an inventory of outdoor advertising signs on the highway section subject to jurisdictional change and, within 60 calendar days of the effective date of the proposed change, advise all affected sign owners and local governments that the change is being considered, the regulatory effect of the change ~~on the signs,~~ and when the change may become effective.

(b) Upon approval of the jurisdictional change, the Department will provide a second notice to sign owners and local governments advising that the change in jurisdiction has become effective and that sign owners have 30 calendar days from receipt of the second notice to submit an application for a sign permit.

(c) When the Department is unable to provide the advance notice referenced in (a), above, the Department will advise the affected sign owners that they have 90 calendar days from receipt of the notice that the change in jurisdiction has become effective to submit an application for a sign permit.

(d) The Department shall issue an Outdoor Advertising sign Permit, Form 575-070-30, Rev. 07/01, to the sign owner upon receipt of a completed Application for Outdoor Advertising Permit, Form 575-070-04, Rev. 07/01, ~~permit application form~~ together with all items required by Section 479.07(3)(b), Florida Statutes. For existing signs, the written statement required by Section 479.07(3)(b), Florida Statutes, shall be any written document from the appropriate local governmental official indicating compliance with local requirements as of the date of the permit application. A previously issued building permit shall be accepted as the statement from an appropriate local governmental official, except in cases where the local government has provided notice to the sign owner that the sign is illegal or has undertaken action to cause the sign to be removed. When a building permit is submitted as the statement of the local government, the applicant shall certify in writing that the local

government has not provided notice that the sign is illegal, and that the local government has taken no action to cause the sign to be removed.

(4) When a change in the designation of a highway removes that highway from the Department's regulatory jurisdiction, a notice will be provided to all owners of outdoor advertising permits on the affected roadway. The notice will advise permit holders of the Department's intent to revoke the permits, and will include a statement of the recipient's right to appeal the Department's action.

(5) When a controlled road or any portion of a controlled road is designated as a scenic highway or scenic byway pursuant to Section 335.093, Florida Statutes, new permits will not be issued for outdoor advertising signs visible from the portion of the highway designated as a scenic highway or byway.

~~(6)(5) Posting of Tags. The permanent metal permit tag issued by the Department must be posted by the permittee at the sign site within 30 calendar days of issuance, and must remain in place at all times, whether or not a sign has been erected. If a permit tag is lost, stolen, or destroyed, the permittee must apply to the Department for a replacement tag on Outdoor Advertising Permit Tag Replacement Request, Form 575-070-01, Rev. 07/01 02/98, incorporated herein by reference, and shall include a replacement fee of \$3.00 per tag permit. This form may be obtained from the State Outdoor Advertising License and Permit Office at the address listed in Rule Section 14-10.003(2).~~

~~(7)(6) Transfer of Permits. Authorization to transfer a permit shall be submitted on Outdoor Advertising Permit Transfer Request, Form 575-070-25, Rev. 07/01 02/98, incorporated herein by reference, to the State Outdoor Advertising License and Permit Office at the address listed in Rule Section 14-10.003(2). The request shall be made in accordance with Section 479.07(6), Florida Statutes. Form 575-070-25 may be obtained from the State Outdoor Advertising License and Permit Office.~~

(a) The transferee shall certify that to written permission of the land owner, or other person in lawful control of the sign site, to maintain the sign on the site in accordance with Section 479.07(2), Florida Statutes, has been secured.

(b) Transfer requests will not be processed without payment of permit fees in the amount necessary to prevent permit expiration, if the transferee and transferor are on different billing cycles.

(c) If a transfer of permit is made when the permit is in violation of Chapter 479, Florida Statutes, or in violation of this rule chapter, or if a revocation proceeding is pending, the transferee is deemed to receive the permit is subject to conditions existing at the time of transfer. The Department's approval of a permit transfer shall does not constitute waiver of rights on the part of the Department, nor shall permit transfer in any way prohibit issuance of notices of violation or to

~~pursue remedies for violation notices issued against the permit nor~~ preclude the Department from revoking the transferee's permit in accordance with Section 479.08, Florida Statutes.

(d) If a transfer of permit is made during the initial 270 days from the date of permit issuance, ~~the transferee is deemed to receive the permit~~ transferee receives the permit subject to all conditions which were applicable to the original applicant subject to its becoming void if the completed sign is not erected within the original 270 day time frame.

~~(8)(7) Cancellation of Permits. Permit cancellation notification must be submitted to the State Outdoor Advertising License and Permit Office at the address listed in Rule Section 14-10.003(2), on Outdoor Advertising Permit Cancellation Certification, Form 575-070-12, Rev. 07/01 02/98, incorporated herein by reference. All canceled tags must be returned to the Department with the certification, or otherwise be accounted for in writing. Pursuant to Section 479.07(8)(b), Florida Statutes, if the sign has not been removed by the former permittee, it shall be removed by the Department and the cost assessed against the former permittee. Form 575-070-12 may be obtained from the State Outdoor Advertising License and Permit Office.~~

~~(9)(8) Conditional Permit Cancellation. In instances where an applicant requests cancellation of one permit in order to obtain a new permit, the existing permit shall be canceled simultaneously with the issuance of the new permit. If a new permit does not meet current permitting requirements and cannot be issued, the existing permit will not be canceled.~~

~~(10)(9) Permits Canceled, or Not Renewed, in Error – Petition for Reinstatement. Pursuant to Section 479.07(8)(b), Florida Statutes, a petition for reinstatement of permits canceled, or not renewed, in error by the permittee shall be submitted to the State Outdoor Advertising License and Permit Office at the address listed in Rule Section 14-10.003(2). The petition must be in writing, must list the affected permit(s), and must certify that:~~

~~(a) The permit was canceled, or not renewed, in error by the permittee;~~

~~(b) The permit tag for the canceled or expired permit was returned to the Department or otherwise accounted for;~~

~~(c) The sign has not been disassembled; and~~

~~(d) The local government has not declared the sign illegal or taken any other action to have it removed.~~

If the Reinstatement Petition is denied by the Department, a new permit may be issued for a sign only if the sign meets all current permitting requirements. The reinstatement fee is \$200.00 for a sign facing of 200 square feet or less, and \$300.00 for a sign facing greater than 200 square feet.

~~(11)(10) Pursuant to the criteria set forth in Section 479.105(1)(e), Florida Statutes, the Department may issue a permit for an unpermitted sign, which has been structurally unchanged and continuously maintained for a period of seven or more years.~~

~~(12)(44)~~ Where the expansion or relocation of a transportation facility causes a sign to be located in the right of way, or within inside or within fifteen feet of outside the right of way, ~~for the expanded or relocated facility~~ and the permit holder desires to relocate the sign to a conforming location ~~along a perpendicular to the roadway from at~~ the site of the existing sign, a permit shall be issued by the Department shall allow the relocation of the permitted sign in conformance with the following:

(a) The permit holder must submit a completed application for the relocated sign replacement site in accordance with Section 479.07(3), Florida Statutes.

(b) The Department must determine that the relocated sign replacement site is in conformance with all requirements for permitting.

~~(c) The new permit shall be issued for the remaining term of the existing permit and no additional fees are required.~~

~~(d) The application shall take precedence over any application submitted to the Department for a competing site.~~

Specific Authority 334.044(2), 479.02(7) FS. Law Implemented 339.05, 479.01(14), 479.02, 479.07, 479.24 FS. History--(Formerly part of Rule 14-10.04, Permits; 14-15.05, Right of Way Bureau Operating Procedures), New 3-28-76, Amended 4-21-77, 12-10-77, 6-26-78, 12-31-78, 1-1-86, Formerly 14-10.04, Amended 7-7-92, 6-28-98, 8-10-99, \_\_\_\_\_.

14-10.0041 Annual Renewal Billing – Licenses and Permits.

(1) All licenses and permits expire annually and shall be renewed in accordance with Section 479.07(8), Florida Statutes.

(2) Annual renewal of a license must include the annual license fee, and the fees for all permits being renewed by that licensee. Acceptance by the Department of renewal fees for a permit against which a violation notice has been issued, or which may be issued, shall not constitute waiver by the Department of any right to pursue remedies for the violation.

(a) Any of the following shall result in the return of submitted fees to the applicant, and shall constitute nonpayment:

1. Payment of renewal fees for any amount less other than the amount shown as due on the Department's billing statement (or its adjusted billing statement prepared in response to a timely notice from the permittee of corrections, additions, or deletions). When an overpayment of renewal fees is submitted, the Department shall accept the fees due amount as shown on the billing statement (or the adjusted billing statement), and provide for the issuance of a refund to the payor in the amount of the overpayment. Acceptance of payment in an amount greater than the amount due shall not constitute acceptance of renewal fees for permits which have been declared invalid.

2. Failure to return or provide an accounting for the nonrenewed permit tags on the Cancellation Certification.

3. Failure to submit affidavits and transfer fees for any permits being transferred.

~~(b) A separate payment instrument from the permit renewal payment shall be submitted in payment for permits being transferred at the time of renewal shall be submitted with the permit renewal payment, but must be in a separate payment instrument, which payment must include both permit renewal fee(s) and transfer fee(s).~~

~~(3) Expiration of permits – Sign removal.~~

~~(a) Pursuant to Section 479.07(8)(b), Florida Statutes, when a permit for a sign has expired, and the permittee has not removed the sign or submitted a request for reinstatement of the expired permit within the 90 day period specified in the final notice of sign removal, the sign shall be removed by the Department. The cost of removal of the sign shall be assessed and reimbursement pursued against the permittee.~~

~~(b) If the sign is subject to removal under (3)(a), above, and the Department receives a permit application for the sign which meets current permit requirements, the Department may allow that sign to remain in place if the applicant reimburses the Department for all costs incurred in preparing to remove the sign. Costs for which the applicant must reimburse the Department shall include costs actually incurred by the Department for:~~

~~1. Preparing and sending the sign removal ("takedown") notice to the appropriate District office.~~

~~2. Processing the takedown notice and assigning takedown responsibilities to the appropriate section within the district office.~~

~~3. Mobilization of the sign removal crew and equipment and associated costs including transport of crew and equipment to the sign site.~~

~~4. Advertising, award, or start up costs prorated for individual sign removals by private contractors.~~

~~5. Any expenses resulting from litigation of the permit.~~

~~(c) When a permit for a conforming sign has expired in accordance with Section 479.07(8)(b), Florida Statutes, and there is a pending application for a competing site from an applicant other than the original permittee, the provisions specified in paragraph (b) of this section do not apply.~~

Specific Authority 334.044(2), 479.02(7) FS. Law Implemented 479.02, 479.07 FS. History--New 6-28-98, Amended \_\_\_\_\_.

14-10.0051 Zoned and Unzoned Commercial and Industrial Areas Along Interstate and Federal-Aid Primary Highways.

Specific Authority 334.044(2), 479.02(7) FS. Law Implemented 339.05, 479.02, 479.11 FS. History--New 8-7-86, Amended 6-28-98, Repealed \_\_\_\_\_.

14-10.006 Additional Permitting Criteria.

Each application for an outdoor advertising sign permit shall meet the requirements of Sections 479.07(9) and 479.11, Florida Statutes, ~~in effect at the time of the application.~~ In



addition, an application must comply with ~~the~~ those requirements of the agreement between the state and the United States Department of Transportation referenced in Section 479.02(1), Florida Statutes, which have not been duplicated in Sections 479.07(9) and 479.11, Florida Statutes, or superseded by stricter provisions in those statutes. ~~The~~ Those requirements are:

(1) Size.

(a) The area of a sign facing shall be measured by the smallest square, rectangle, triangle, circle, or combination thereof which will encompass the entire sign facing including all embellishments.

(b) The maximum allowable height for a sign facing is 30 feet.

(c) The maximum allowable length of a sign facing is 60 feet.

(d) The maximum size limitations shall apply to each sign facing.

(e) Embellishments may not extend more than five feet beyond the permanent sign face, and are included in any measurement of the height, width, or area of the sign facing.

(f) Signs containing both on-premise and off-premise advertising may not exceed 950 square feet, including all sign faces.

(2) Number of Faces. There shall be no more than two faces to each facing showing at one time.

(3) Location. Signs may not be located in such a manner as to obscure or otherwise physically interfere with the effectiveness of an official traffic sign, signal, or device.

(4) Spacing. The minimum required distance between the location for which a permit is sought and the nearest permitted sign shall be measured along the edge of pavement of the main-traveled way from the location marked by the applicant in accordance with Rule 14-10.004 to the location of the permitted sign. In the case of a permitted sign that has not been constructed, the milepost location reflected on the application shall be used as the location of the permitted sign. Measurement along the edge of pavement shall be based on the point perpendicular to a tangent to the edge of the main-traveled way nearest the location of the sign.

~~(a) The spacing requirements set forth in Section 479.07(9), Florida Statutes, apply only to signs located on the same side of the highway and permitted to that highway. For purposes of this section, the term "highway" means a road that carries a specific U.S. or state road number or designation, whether or not the designation changes between adjacent billboards on a continuous roadway.~~

~~(a)(b)~~ For V-type or back-to-back signs to be counted as one sign for spacing purposes, the facings on such signs must be connected by the same sign structure or cross-bracing, or the sign structures must be located not more than 15 feet apart at their nearest point.

~~(b)(e)~~ Official signs, signs exempt under Section 479.16, Florida Statutes, and structures that are not permitted signs shall not be considered ~~counted~~ ~~nor shall measurements be made from them~~ for purposes of determining compliance with spacing requirements.

~~(c)(d)~~ When an intersection is encountered in determining measurements for spacing compliance, the width of such intersection is included in the measured distance. This distance is measured in a direct line from the points of intersection of the edges of the main-traveled ways.

~~(d)(e)~~ No permit shall be issued for a sign located on any portion of ~~an~~ the interstate highway system, outside the boundaries of an incorporated municipality, which is incorporated towns and cities, no permit may be granted for a sign structure located adjacent to or within 500 feet of an interchange, intersection at grade, or rest area. Said 500 feet shall be measured along the interstate in the direction leading away from the interchange, intersection at grade, or rest area, crossroad from the beginning of pavement widening at the exit from the main-traveled way or the end of pavement widening at the entrance to the main-traveled way on an interstate highway. For the purposes of this subsection all portions of the entrance and exit ramp shall be considered part of an interchange. The point of pavement widening at an exit ramp or entrance ramp shall be the point farthest from the crossroad where the outside edge of the ramp pavement first intersects with the outside edge of the pavement on the main-traveled way.

(e) In situations where a sign is visible from the controlled area of more than one highway, subject to the jurisdiction of the Department, pursuant to Section 479.07(1), Florida Statutes, the sign must meet the permitting requirements of, and if it meets the applicable permitting requirements, be permitted to, the highway with the more stringent permitting requirements.

(5) Sign Structure Height. The height of a sign structure shall be measured from a point on the sign structure which is at the same elevation as the crown of the main-traveled way to the top of the highest sign face, excluding embellishments.

(6) Lighting. Signs may be illuminated except those, however, signs which contain, include, or are illuminated by any flashing, intermittent, or moving light. Flashing, intermittent, or moving light or lights ~~are prohibited, except that lights~~ embodied in a the sign may be used to provide public service information. Further, no sign shall be so illuminated that it interferes with the effectiveness of, or obscures, an official traffic sign, device, or signal.

~~(7) In areas designated predominantly for commercial or industrial uses the Department may certify to the Federal Highway Administration that effective control of outdoor advertising signs has been established by local government regulations, provided the local government regulations are approved by the Department as being in compliance with the~~

Highway Beautification Act of 1965, and all applicable federal regulations referenced in Section 479.02(1), Florida Statutes, and provided the local government provides proof that the local customary usage was in existence prior to March 2, 1972.

(7)(8) For purposes of compliance with Section 479.11(4), Florida Statutes, the 100 feet shall be measured from the property line, except in cases where a school or church is the applicant for a permit or has given written permission for the placement of a sign. In such cases the 100 foot feet required distance shall be measured from the outer edges of the primary building, or primary building complex when the individual units of the complex are connected by covered walkways.

Specific Authority 334.044(2), 479.02(7) FS. Law Implemented 339.05, 479.02, 479.07(9), 479.08, 479.11 FS. History—New 3-28-77, Amended 12-10-77, 1-1-86, Formerly 14-10.06, Amended 12-26-95, 6-28-98, \_\_\_\_\_.

14-10.007 Maintenance of Nonconforming Signs.

(1) The following shall apply to nonconforming signs.

(1)(a) A nonconforming sign must remain substantially the same as it was as of the date it became nonconforming.

(2) Reasonable repair and maintenance of nonconforming signs, including change of advertising message, is permitted and is not a change which would terminate the nonconforming status rights. Reasonable repair and maintenance means the work necessary to keep the sign structure in a state of good repair, including the replacement in kind of materials in the sign structure. Where the replacement of materials is involved, such replacement may not exceed 50% of the structural materials in the sign within any 24 month period. "Structural materials" are defined in Section (6)(a)2.a. below. The following are examples of modifications which do not constitute reasonable repair or maintenance, and which constitute substantial changes to a nonconforming sign that will result in the loss of nonconforming status:

(a) Modification that changes the structure of, or the type of structure of, the sign, such as conversion of a back-to-back sign to a V-type, or conversion of a wooden sign structure to a metal structure;

1. The Department may authorize structural alterations to a nonconforming sign in instances where the Occupational Safety and Health Administration (OSHA) requirements or other safety related requirements necessitate alterations, provided that the reconstruction shall not be authorized primarily for the purpose of replacement of deteriorated materials. Structural alterations are allowed only if no alternatives are available which address safety requirements. Documentation of the requirements must be submitted to, and approved by, the Department prior to making any structural alterations. If structural alteration is approved by the Department, the location, structural configuration, number of faces, size of the sign faces, sign structure height, and the materials used in the sign structure and sign faces must be the same type as those used in the sign prior to approval of the

alterations. During the period of temporary removal for those approved structural alterations, the permittee must permanently display the permit tag at the sign location.

2. The addition of a catwalk or other fall protection device for safety reasons, where the device does not increase the structural integrity of the sign or prolong the life of the sign, is allowed without obtaining prior approval from the Department;

(b) Modification that changes enlarges the area of the sign facing or the HAGL of the sign, however;

1. Reduction in the area of the sign facing or the HAGL of the sign, which reduction is required by an ordinance adopted by a local governmental entity with jurisdiction over the sign, is not a change which would terminate the nonconforming status of the sign, provided like materials are used and no enhancements are made to the visibility of the sign.

2. Embellishments may be added to nonconforming signs subject to the limitations regarding size of sign facing, and provided they do not exceed 10% of the area of the sign facing prior to the addition of the embellishment;

3. Modification that raises the HAGL of the sign;

(c) Modification that enhances the visibility of the sign's message, or the period of time that the sign's message is visible;

(d) Modification that adds automatic changeable faces; or

(e) Modification that adds artificial lighting, or changes the existing lighting such that the illumination to the sign facing is substantially increased.

(3) Such prohibited modifications need not be physically part of the sign if they have the effect of enhancing the sign's message, the visibility of the message, or the period of time that the message is visible. However, in such cases, the modifications will not be considered a modification to the sign if:

(a) The modification is the result of removal, cutting, or trimming of vegetation in front of the sign pursuant to if a permit for such removal, cutting, or trimming from has been granted by the Department; or

(b) The modification only incidentally affects the visibility of the sign's message, and the bona fide purpose of the modification is unrelated to the sign.

(4)(b) A nonconforming sign may not be disassembled removed and re-erected at the same location except as provided in (4)(a)(2), below.

(5)(e) A nonconforming sign may not be relocated, except to a conforming location.

(6)(d) A nonconforming sign may continue to exist so long as it is not destroyed, abandoned, or discontinued which is destroyed may not be re-erected. "Destroyed," "abandoned," and "discontinued" have the following meanings:

(a) "Destroyed" ~~means is defined as when~~ more than 50% of the upright supports of a sign structure are physically damaged such that normal repair practices of the industry would call for, in the case of wooden sign structures, replacement of the broken supports and, in the case of a metal sign structure, replacement of at least 25% of the length above ground of each broken, bent, or twisted support. A sign will not be considered "destroyed" within the meaning of this section under the following conditions:

1. The destruction of a sign caused by vandalism or other criminal or tortious act.

2. If the permittee demonstrates ~~However, in the event that such damage occurs, a sign will not be considered destroyed if the sign owner shows~~ that the replacement materials costs to re-erect the sign would not exceed 50% of the value of the structural materials in the sign, immediately prior to destruction. The following shall be applicable in determining whether the replacement materials costs to re-erect the sign would not exceed 50% of the value of the structural materials in the sign:

~~a.1. Structural materials are all those materials incorporated into the sign as load-bearing parts, including vertical supports, horizontal stringers, braces, bracing wires, brackets, and catwalks. Structural materials do shall not include the sign face, any skirt, any electrical service, or electric lighting, except in cases where such items have been incorporated into the sign as load-bearing parts or other non-structural items. Structural materials shall include any support brackets for the face, any catwalk, and any supporting braces or members of the sign structure.~~

~~b.2. The value of the structural materials in the sign immediately prior to destruction shall be based on the cost of all structural materials contained in the sign as it was configured just prior to damage, and the cost of such materials shall be based on normal market cost as if purchased new on or about the date of destruction, without regard to any labor costs or special market conditions.~~

~~c.3. The materials to be included in the replacement materials costs to re-erect the sign shall be all materials that would be used to return the sign to its configuration immediately prior to destruction, and shall include any material obtained from a source other than the sign itself, whether used, recycled, or repaired, but and shall not include any material from the sign itself that is repaired on-site, but shall include any material obtained from a source other than the sign itself, whether used, recycled, or repaired. The repairs to the sign shall be with like materials, both in type and size, and shall be those reasonably necessary to permanently repair the sign in a manner normally accomplished by the industry in that area. The cost of such materials shall be as described in paragraph (4)(a)2.b (1)(d)2.~~

(b) A nonconforming sign is "abandoned" or "discontinued" when the sign owner fails to operate and maintain the sign for a period of 12 months or longer. Signs displaying bona fide public interest messages are not "abandoned" or "discontinued" within the meaning of this section. The following conditions shall be considered failure to operate and maintain the sign:

1. Signs displaying only an "available for lease" or similar message.

2. Signs displaying advertising for a product or service which is no longer available.

3. Signs which are blank or do not identify a particular product, service, or facility.

~~(e) Signs damaged by an Act of God prior to the effective date of this rule amendment shall be subject to the provisions of this rule on the date the sign was damaged; provided, however, that the Department will look to the provisions of paragraph (1)(d) in effect on the effective date of this rule amendment to the extent that they clarify the terms of the rule and do not prejudice the permittee.~~

~~(f) A sign destroyed by vandalism or other criminal or tortious act may be re-erected in kind.~~

~~(g) A sign face which remains void of advertising matter for 12 months or longer shall be deemed an abandoned or discontinued sign and shall lose its nonconforming status; providing, however, signs displaying bona fide public interest messages with artwork done in a professional manner and presented in a manner consistent with outdoor advertising displays in the area will retain their nonconforming status if lawfully maintained. Signs displaying an "available for lease" or similar message, signs displaying advertising for a product or service which is no longer available, and partially obliterated signs which do not identify a particular product, service, or facility shall be considered void of advertising matter.~~

~~(2) The Department may authorize structural alterations to a nonconforming sign in instances where Occupational Safety and Health Administration (OSHA) or other safety related requirements necessitate alterations, provided that reconstruction shall not be authorized primarily for the purpose of replacement of deteriorated materials. Alterations to the structure are allowed only if no alternatives are available which address safety requirements without requiring structural alterations. Documentation of these requirements must be submitted to the Department for approval prior to making any sign alterations. If approval for structural alteration is granted by the Department, the location, structural configuration, number of faces, size of the sign faces, sign structure height, and the materials used in the sign structure and sign faces must be the same type as those used in the sign prior to approval of the alterations. During the period of temporary removal for those approved alterations, the permittee must permanently display the permit tag at the sign location.~~

Specific Authority 334.044(2), 479.02(7) FS. Law Implemented 339.05, 479.02, 479.07(9) FS. History--New 3-28-77, Amended 12-10-77, 1-1-86, Formerly 14-10.07, Amended 6-28-98, 8-10-99.

NAME OF PERSON ORIGINATING PROPOSED RULE:  
 Kenneth M. Towcimak, Director, Office of Right of Way  
 NAME OF SUPERVISOR OR PERSON WHO APPROVED  
 THE PROPOSED RULE: Thomas F. Barry, Jr., P.E.,  
 Secretary  
 DATE PROPOSED RULE APPROVED BY AGENCY  
 HEAD: April 9, 2001  
 DATE NOTICE OF PROPOSED RULE DEVELOPMENT  
 PUBLISHED IN FAW: November 24, 1999

**WATER MANAGEMENT DISTRICTS**  
**South Florida Water Management District**

RULE TITLE: Noticed General Permit for Temporary  
 Agricultural Activities

RULE NO.: 40E-400.470

PURPOSE AND EFFECT: To create a streamlined noticed general environmental resource permit for single-season agricultural projects. The rule proposes to limit agricultural activities to horticultural, seasonal crops that are harvested in one growing season. The rule also proposes that the noticed general permit is valid only for the defined agricultural activities that are located in existing improved or semi-improved pastures or fields that have been cultivated within the last five years.

SUMMARY: The proposed rule sets forth specific criteria for constructing and operating a surface water management system serving seasonal horticultural crops. The proposed Noticed General Permit for Temporary Farming Activities will only be valid for those lands that have been previously been cleared of native plants by mechanical means, and that do not propose any direct wetland impacts. The permissible size of the detention area, pump rates, and discharge structure is set forth in the proposed rule. The proposed rule specifically identifies all of the technical details enabling the growers to complete the application process without hiring an engineering firm to perform the calculations and flood plain routings generally required by the "individual and standard general" environmental resource permit applications. The proposed rule requires an applicant to submit a "best management plan" appropriate to agricultural activities. To assist the applicant with this requirement, the proposed rule includes a list of agricultural best management practices from which to choose. The proposed rule limits its duration to three years, two of the years which may be dedicated to planting and harvesting crops with the remaining year dedicated to fallow time. The proposed rule also requires that the farmed areas be returned to their pre-permitted condition.

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

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

SPECIFIC AUTHORITY: 373.044, 373.113, 373.118 FS.  
 LAW IMPLEMENTED: 120.60, 373.118, 373.119, 373.413, 373.416, 373.418, 373.423 FS.

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

TIME AND DATE: 8:30 a.m., June 14, 2001  
 PLACE: South Florida Water Management District Headquarters, 3301 Gun Club Road, West Palm Beach, FL 33406 (in the Auditorium, 1st Floor)

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Penelope Bell, South Florida Water Management District, 3301 Gun Club Road, MS 1410, West Palm Beach, FL 33416-4680, telephone 1(800)432-2045, Extension 6320 or (561)682-6320 or via email at pbell@sfwmd.gov. Although Governing Board meetings, hearings and workshops are normally recorded, affected persons are advised that it may be necessary for them to ensure that a verbatim record of the proceeding is made, including the testimony and evidence upon which any appeal is to be based. Persons with disabilities or handicaps who need assistance may contact Tony Burns, District Clerk, (561)682-6206, at least two business days in advance to make appropriate arrangements.

THE FULL TEXT OF THE PROPOSED RULE IS:

40E-400.470 Noticed General Permit For Temporary Agricultural Activities.

(1) A noticed general permit is hereby granted to any property owner for temporary agricultural activities, provided all the following criteria are met:

(a) The permittee must satisfy and comply with the general and specific conditions set forth in Rule 40E-400.215, F.A.C.:

(b) Agricultural activities shall be horticultural and limited to seasonal crops. Seasonal crops are harvested in one growing season, which shall not exceed one year;

(c) This permit is valid only for activities in existing improved or semi-improved pastures or fields that have been cultivated within the last five years. For purposes of this section, improved or semi-improved pastures are lands that have been cleared of native plants by mechanical means;

(d) For purposes of this section, the project area and scope is defined as both farmed and detention areas. In order to qualify for a permit under this section, the project area shall not exceed 320 contiguous acres;

(e) The project outfall structure must be located more than 1 mile from Outstanding Florida Waters;

(f) No works or farming activities shall occur within 50 feet of a wetland as defined in Section 373.019(22), Florida Statutes. If wetlands are located within the project area, a minimum 50 foot undisturbed buffer must be maintained around the wetland;

(g) Pump rates shall not exceed a volume of 2 inches per day at a rate of 37.7 gallons per minute per acre of farmed area. Pump on/off elevations shall be within 2.5 feet of natural ground within the farmed area. All surface water discharges shall be into detention areas;

(h) Water levels in the detention areas shall not exceed a depth of 1.5 feet above natural ground within the detention area;

(i) Water quality and attenuation requirements shall be met by establishing detention areas at a minimum of fifteen percent of the farmed area;

(j) If wetlands are located within a detention area, then the control elevation of the detention area shall be set at the wetland edge elevation. If no wetlands are located within a detention area, then the control elevation shall be set at natural ground elevation;

(k) Control structures shall be sized according to the following list depending on the project size. The minimum setback between the project edge and the property boundary line shall be 50 feet for all projects:

<u>Project Size</u>	<u>Control Structure</u>
<u>0-25 acres</u>	<u>6" riser and 12" pipe equivalent</u>
<u>26-65 acres</u>	<u>12" riser and 12" pipe equivalent</u>
<u>66-105 acres</u>	<u>18" riser and 18" pipe equivalent</u>
<u>106-145 acres</u>	<u>24" riser and 24" pipe equivalent</u>
<u>146-185 acres</u>	<u>30" riser and 30" pipe equivalent</u>
<u>186-225 acres</u>	<u>36" riser and 36" pipe equivalent</u>
<u>226-265 acres</u>	<u>42" riser and 42" pipe equivalent</u>
<u>266-305 acres</u>	<u>48" riser and 48" pipe equivalent</u>
<u>306-320 acres</u>	<u>54" riser and 54" pipe equivalent;</u>

(l) Discharges shall be to the existing pre-project surface water conveyance pathway. Existing sheetflow, if any, shall be maintained through the use of a spreader swale;

(m) Detention area dikes shall be constructed with a top elevation of 3.5 feet above the control elevation with a minimum 5 foot top width and 2:1 side slopes;

(n) Internal farm ditches shall be no deeper than 3 feet below natural ground elevation (excluding sump areas for pump placement which shall not be deeper than 6 feet below natural ground elevation);

(o) External perimeter berms of the farmed areas shall not exceed 2 feet in height;

(p) Farming areas must be laid out in a manner that will not block or impede off-site flows;

(q) Access to the fields shall be accomplished by existing roads. Roads into or on the project are not part of this authorization.

(2) As a minimum requirement, the applicant must submit a best management plan that addresses sediment control, soil erosion, nutrients, pesticides, herbicides, suspended solids at points of discharge and other agricultural practices appropriate to crop and site conditions. At a minimum, the applicant must choose a total of 8 of the following best management practices, 4 of which must be chosen from letters (a) through (j), below:

(a) An Integrated Nutrient and Pest Management program;

(b) Application equipment shall be properly calibrated and in good repair;

(c) Pesticides and fertilizers shall be stored in a secure, contained location, protected from rainfall. Fertilizers and pesticides shall not be stored together;

(d) All mixing and loading operations shall be conducted away from wells, ditches and wetlands;

(e) Pesticide containers shall be rinsed as soon as they are empty. Containers shall be disposed of in accordance with directions on the label;

(f) Equipment shall be utilized that directs chemicals only to a designated target area. Overspray or application into ditches and wetland buffer areas shall be avoided;

(g) Spills shall be cleaned up as soon as possible;

(h) Equipment shall be cleaned and rinsed away from ditches and wetland buffers;

(i) Slow release fertilizer shall be utilized;

(j) A soil or leaf analysis shall be utilized to determine fertilizer application requirements;

(k) Seed and mulch or use other methods to stabilize the disturbed areas outside of the planted area within 7 days from the completion of planting;

(l) Provide stilling/settling basin at the pump discharge point;

(m) Install silt fences around wetland buffer areas prior to construction;

(n) Install silt fences, hay bales or equivalent downstream of outfall structure;

(o) Provide containment for all fuel tanks located on site;

(p) Provide containment for all permanently placed engines located on site;

(q) Other agricultural best management practices that meet the overall objectives of this rule.

(3) The duration of this permit shall not exceed three years. No more than two years of the permit duration shall be dedicated to the planting and harvesting of crops. The remainder of the duration of the permit must be dedicated to fallow time. At the end of the growing season specified in the permit, all works shall be removed from the site and the site returned to the condition that existed prior to permit issuance. The site shall remain fallow the following year. Within 30 days of the permit expiration, the permittee shall provide written notification to the District that the project has been restored to conditions that existed prior to permit issuance.

(4) The District reserves the right to inspect the site for consistency with the plans and requirements during the growing season and after the site has been restored to conditions that existed prior to permit issuance.

(5) This permit does not provide authorization to use water or constitute a permit under Part II of Chapter 373, F.S., Rules 40E-2 or 40E-20, F.A.C.

(6) It is recommended that the permittee consult the USDA Farm Service Agency regarding the applicability of the National Food Security Act, USCA, Title 16 § 3821, to the temporary agricultural activities.

Specific Authority 373.044, 373.113, 373.118 FS. Law Implemented 120.60, 373.118, 373.119, 373.413, 373.416, 373.418, 373.423 FS. History—New

NAME OF PERSON ORIGINATING PROPOSED RULE:  
Bob Howard, Deputy Director, Environmental Resource Regulation Division, Water Resources Management Department

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: South Florida Water Management District's Governing Board

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: January 11, 2001

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: April 28, 2000 and June 9, 2000

**AGENCY FOR HEALTH CARE ADMINISTRATION**

**Medicaid**

RULE TITLE: Advanced Registered Nurse Practitioner Services  
RULE NO.: 59G-4.010

PURPOSE AND EFFECT: The purpose of the proposed rule amendment is to incorporate by reference the revised Florida Medicaid Advanced Registered Nurse Practitioner Coverage and Limitations Handbook, January 2001. The handbook includes the updated fee schedule. The effect will be to incorporate by reference in the rule the current Florida Medicaid Advanced Registered Nurse Practitioner Coverage and Limitations Handbook, January 2001.

SUMMARY: The purpose of the rule is to incorporate by reference the revised Florida Medicaid Advanced Registered Nurse Practitioner Coverage and Limitations Handbook, January 2001.

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

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

SPECIFIC AUTHORITY: 409.919 FS.

LAW IMPLEMENTED: 409.905, 409.908, 409.9081 FS.

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

TIME AND DATE: 9:00 a.m., May 15, 2001

PLACE: Agency for Health Care Administration, 2728 Mahan Drive, Building #3, Conference Room C, Tallahassee, Florida  
THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Belinda McClellan, Agency for Health Care Administration, Medicaid Program Development, 2728 Mahan Drive, Mail Stop 20, Tallahassee, Florida 32308, (850)922-7324

THE FULL TEXT OF THE PROPOSED RULE IS:

59G-4.010 Advanced Registered Nurse Practitioner Services.

(1) No change.

(2) All advanced registered nurse practitioner services providers enrolled in the Medicaid program must be in compliance with the Florida Medicaid Advanced Registered Nurse Practitioner Coverage and Limitations Handbook, January 2001 ~~January 2000~~, which is incorporated by reference, and the Florida Medicaid Provider Reimbursement Handbook, HCFA 1500 and Child Health Check-Up 221, which is incorporated in 59G-5.020. Both handbooks are available from the Medicaid fiscal agent.

Specific Authority 409.919 FS. Law Implemented 409.905, 409.908, 409.9081 FS. History—New 12-21-80, Formerly 10C-7.52, Amended 8-18-92, Formerly 10C-7.052, Amended 8-22-96, 3-11-98, 10-13-98, 6-8-99, 4-23-00,

NAME OF PERSON ORIGINATING PROPOSED RULE:  
Belinda McClellan

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Ruben J. King-Shaw, Jr.

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: March 30, 2001

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: July 21, 2000

**AGENCY FOR HEALTH CARE ADMINISTRATION**

**Medicaid**

RULE TITLE: Birth Center Services  
RULE NO.: 59G-4.030

PURPOSE AND EFFECT: The purpose of the proposed rule amendment is to incorporate by reference the revised Florida Medicaid Birth Center and Licensed Midwife Services Coverage and Limitations Handbook, January 2001. The effect will be to incorporate by reference in the rule the current Florida Medicaid Birth Center and Licensed Midwife Services Coverage and Limitations Handbook, January 2001.

SUMMARY: The purpose of the rule is to incorporate by reference the revised Florida Medicaid Birth Center and Licensed Midwife Services Coverage and Limitations Handbook, January 2001.

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

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

SPECIFIC AUTHORITY: 409.919 FS.

LAW IMPLEMENTED: 383.335, 409.906, 409.908, 409.9081 FS.

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

TIME AND DATE: 9:00 a.m., May 15, 2001

PLACE: Agency for Health Care Administration, 2728 Mahan Drive, Building #3, Conference Room C, Tallahassee, Florida  
THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Belinda McClellan, Agency for Health Care Administration, Medicaid Program Development, 2727 Mahan Drive, Mail Stop 20, Tallahassee, Florida 32308, (850)922-7324

THE FULL TEXT OF THE PROPOSED RULE IS:

59G-4.030 Birth Center Services.

(1) No change.

(2) All birth center services providers enrolled in the Medicaid program must be in compliance with the Florida Medicaid Birth Center and Licensed Midwife Services Coverage and Limitations Handbook, January 2001 ~~January 2000~~, which is incorporated by reference, and the Florida Medicaid Provider Reimbursement Handbook, HCFA 1500 and Child Health Check-Up 221, which is incorporated in 59G-5.020. Both handbooks are available from the Medicaid fiscal agent.

Specific Authority 409.919 FS. Law Implemented 383.335, 409.906, 409.908, 409.9081 FS. History—New 4-18-85, Formerly 10C-7.0532, Amended 8-18-92, Formerly 10C-7.0532, Amended 4-22-96, 3-11-98, 10-13-98, 5-24-99, 4-23-00, \_\_\_\_\_.

NAME OF PERSON ORIGINATING PROPOSED RULE: Belinda McClellan

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Ruben King-Shaw, Jr.

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: March 21, 2001

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: July 21, 2000

**AGENCY FOR HEALTH CARE ADMINISTRATION**

**Medicaid**

RULE TITLE: Physician Services  
RULE NO.: 59G-4.230

PURPOSE AND EFFECT: The purpose of the proposed rule amendment is to incorporate by reference the revised Florida Medicaid Physician Coverage and Limitations Handbook, January 2001. The effect will be to incorporate by reference in the rule the current Florida Medicaid Physician Coverage and Limitations Handbook, January 2001.

SUMMARY: The purpose of the rule is to incorporate by reference the revised Florida Medicaid Physician Coverage and Limitations Handbook, January 2001.

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

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

SPECIFIC AUTHORITY: 409.919 FS.

LAW IMPLEMENTED: 409.905, 409.908, 409.9081 FS.

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

TIME AND DATE: 9:00 a.m., May 15, 2001

PLACE: Agency for Health Care Administration, 2728 Mahan Drive, Building #3 MS 20, Conference Room C, Tallahassee, Florida

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Lynne Metz, Agency for Health Care Administration, Medicaid Program Development, 2727 Mahan Drive, Mail Stop 20, Tallahassee, Florida 32308, (850)922-7325

THE FULL TEXT OF THE PROPOSED RULE IS:

59G-4.230 Physician Services.

(1) No change.

(2) All physician providers enrolled in the Medicaid program must be in compliance with the Florida Medicaid Physician Coverage and Limitations Handbook, January 2001 ~~January 2000~~, which is incorporated by reference, and the Florida Medicaid Provider Reimbursement Handbook, HCFA 1500 and Child Health Check-Up 221, which is incorporated in 59G-5.020. Both handbooks are available from the Medicaid fiscal agent.

Specific Authority 409.919 FS. Law Implemented 409.905, 409.908, 409.9081 FS. History—New 1-1-77, Revised 2-1-78, 4-1-78, 1-2-79, 1-1-80, Amended 2-8-82, 3-11-84, Formerly 10C-7.38, Amended 1-10-91, 11-5-92, 1-7-93, Formerly 10C-7.38, Amended 6-29-93, 9-6-93, Formerly 10P-4.230, Amended 6-13-94, 2-9-95, 3-10-96, 5-28-96, 3-18-98, 9-22-98, 8-25-99, 4-23-00, \_\_\_\_\_.

NAME OF PERSON ORIGINATING PROPOSED RULE: Lynne Metz  
NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Ruben King-Shaw, Jr.  
DATE PROPOSED RULE APPROVED BY AGENCY HEAD: March 15, 2001  
DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: July 21, 2000

**AGENCY FOR HEALTH CARE ADMINISTRATION**

**Medicaid**

RULE TITLE: Physician Assistant Services  
RULE NO.: 59G-4.231

PURPOSE AND EFFECT: The purpose of the proposed rule amendment is to incorporate by reference the revised Florida Medicaid Physician Assistant Coverage and Limitations Handbook, January 2001. The effect will be to incorporate by reference in the rule the current Florida Medicaid Physician Assistant Coverage and Limitations Handbook, January 2001.  
SUMMARY: The purpose of the rule is to incorporate by reference the revised Florida Medicaid Physician Assistant Coverage and Limitations Handbook, January 2001.  
SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COST: No statement of regulatory costs has been prepared.

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

SPECIFIC AUTHORITY: 409.919 FS.  
LAW IMPLEMENTED: 409.906, 409.908, 409.9081 FS.

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

TIME AND DATE: 9:00 a.m., May 15, 2001  
PLACE: Agency for Health Care Administration, 2728 Mahan Drive, Building #3, Conference Room C, Tallahassee, Florida  
THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Belinda McClellan, Agency for Health Care Administration, Medicaid Program Development, 2727 Mahan Drive, Mail Stop 220, Tallahassee, Florida 32308, (850)922-7324

THE FULL TEXT OF THE PROPOSED RULE IS:

59G-4.231 Physician Assistant Services.

(1) No change.

(2) All physician assistant providers enrolled in the Medicaid program must be in compliance with the Florida Medicaid Physician Assistant Coverage and Limitations Handbook, ~~January 2001~~ ~~January 2000~~, which is incorporated by reference, and the Florida Medicaid Provider

Reimbursement Handbook, HCFA 1500 and Child Health Check-Up 221, which is incorporated in 59G-5.020. Both handbooks are available from the Medicaid fiscal agent.

Specific Authority 409.919 FS. Law Implemented 409.906, 409.908, 409.9081 FS. History—New 8-21-95, Amended 5-28-96, 3-11-98, 10-13-98, 8-9-99, 4-23-00.

NAME OF PERSON ORIGINATING PROPOSED RULE: Belinda McClellan  
NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Ruben King-Shaw, Jr.  
DATE PROPOSED RULE APPROVED BY AGENCY HEAD: March 19, 2001  
DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: July 21, 2000

**DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION**

**Board of Professional Engineers**

RULE TITLES: Areas of Competency and Grading Criteria  
RULE NOS.: 61G15-21.002  
Exam Review Procedure 61G15-21.006

PURPOSE AND EFFECT: These two rules are to being repealed as they are obsolete and describe processes and exam details no longer required by Section 455.217, F.S. Therefore, they are no longer relevant to the use of an approved national examination for licensure.

SUMMARY: Rule 61G15-21.002 is obsolete as Section 455.217(1)(b), F.S. exempts national examinations from its requirements. Pursuant to Rule 61G15-21.001, F.A.C., the Board has designated the examinations provided by the National Council of Examiners for Engineers and Surveyors as the approved examination for applicants to pass in order to qualify for licensure by examination to practice as a professional engineer. Hence, an exam review procedure established under Rule 61G15-21.006, F.A.C. is not feasible nor authorized by Florida law. See Section 455.217(3), F.S.

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

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

SPECIFIC AUTHORITY: 455.217(1)(b),(2), 471.008 FS.

LAW IMPLEMENTED: 455.217(1)(b),(2), 471.013 FS.

IF REQUESTED WITHIN 21 DAYS OF THE DATE OF THIS NOTICE, A HEARING WILL BE SCHEDULED AND ANNOUNCED IN THE NEXT AVAILABLE ISSUE OF THE FLORIDA ADMINISTRATIVE WEEKLY.



THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULES IS: Natalie Lowe, Administrator, Board of Professional Engineers, 1208 Hays Street, Tallahassee, Florida 32301

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Dr. Ruth R. Stiehl, Executive Director, Board of Nursing, 4080 Woodcock Drive, Suite 202, Jacksonville, Florida 32207

THE FULL TEXT OF THE PROPOSED RULES IS:

THE FULL TEXT OF THE PROPOSED RULE IS:

61G15-21.002 Areas of Competency and Grading Criteria.

Specific Authority 455.217(1)(b), 471.008 FS. Law Implemented 455.217(1)(b), 471.013 FS. History--New 1-8-80, Amended 2-23-81, 8-25-81, 8-16-82, 4-30-85, 8-20-85, Formerly 21H-21.02, Amended 10-27-92, 1-10-93, Formerly 21H-21.002, Amended 2-14-95, 6-28-95, 11-10-99, Repealed

64B9-3.009 Practice of Nursing by Applicants for Licensure by Endorsement.

(1) No change.

61G15-21.006 Exam Review Procedure.

Specific Authority 455.217(2) FS. Law Implemented 455.217(2) FS. History--New 1-8-80, Formerly 21H-21.06, Amended 12-24-89, Formerly 21H-21.006, Amended 6-10-99, Repealed

(2) If a license by endorsement has not been issued within the 60-day limit, the applicant shall contact the Board office for permission to continue working. ~~The permit may be extended for 60 days when verification of licensure from the other state has not been received by the Board within the 60 day period, and otherwise, until acted upon by the Board.~~

(3) No change.

NAME OF PERSON ORIGINATING PROPOSED RULE:

Specific Authority 464.006 FS. Law Implemented 464.009, 464.015(1),(2),(3),(4), 464.022(4),(8) FS. History--New 4-27-80, Amended 7-2-81, Formerly 21O-8.27, Amended 3-3-87, 12-8-87, 6-8-88, 8-2-90, 1-9-91, Formerly 21O-8.027, Amended 9-7-93, Formerly 61F7-3.009, 59S-3.009, Amended 12-30-97, 4-9-98, \_\_\_\_\_.

Board of Professional Engineers

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

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: December 6, 2000

NAME OF PERSON ORIGINATING PROPOSED RULE:

Board of Nursing

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

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: December 6, 2001

DEPARTMENT OF HEALTH

Board of Nursing

RULE TITLE: RULE NO.:

Practice of Nursing by Applicants for

Licensure by Endorsement 64B9-3.009

PURPOSE AND EFFECT: The proposed rule amendment is intended to delete the provision of the rule which deals with the extension of temporary permits.

SUMMARY: The proposed rule amendment deletes the provision of the rule which deals with the extension of temporary permits, in response to written comments submitted by the staff of the Joint Administrative Procedures Committee.

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

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

SPECIFIC AUTHORITY: 464.006 FS.

LAW IMPLEMENTED: 464.009, 464.015(1),(2),(3),(4), 464.022(4),(8) FS.

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

TIME AND DATE: 10:00 a.m., May 16, 2001

PLACE: Room 324, Collins Building, 107 W. Gaines Street, Tallahassee, FL

DEPARTMENT OF HEALTH

Board of Respiratory Care

RULE TITLE: RULE NO.:

Fees for Application, Examination, Initial

and Renewal Licensure 64B32-3.005

PURPOSE AND EFFECT: The Board proposes to raise a fee and clarifies that it is a licensure fee.

SUMMARY: The Board needs to raise the fee charged for initial licensure and makes a correction to the appropriate designation of this fee.

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

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

SPECIFIC AUTHORITY: 468.364, 455.641 FS.

LAW IMPLEMENTED: 468.364, 455.641 FS.

IF REQUESTED WITHIN 21 DAYS OF THE DATE OF THIS NOTICE, A HEARING WILL BE HELD AT A TIME, DATE AND PLACE TO BE PUBLISHED IN THE NEXT

AVAILABLE FLORIDA ADMINISTRATIVE WEEKLY (IF NOT REQUESTED, THIS HEARING WILL NOT BE HELD).

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

THE FULL TEXT OF THE PROPOSED RULE IS:

64B32-3.005 Fees for Application, Examination, Initial and Renewal ~~Licensure Registration~~.

(1) through (2) No change.

(3) The initial ~~licensure registration~~ fee for a person who becomes licensed shall be \$110.00 ~~\$70.00~~.

(4) No change.

Specific Authority 468.364, ~~456.025~~ ~~455.644~~ FS. Law Implemented 468.364, ~~456.025~~ ~~455.644~~ FS. History--New 4-29-85, Formerly 21M-35.05, 21M-35.005, Amended 9-21-93, 1-3-94, Formerly 61F6-35.005, Amended 9-29-94, Formerly 59R-72.006, 64B8-72.006, ~~Amended~~.

NAME OF PERSON ORIGINATING PROPOSED RULE: Board of Respiratory Care

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

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: October 13, 2000

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: February 16, 2001

**DEPARTMENT OF CHILDREN AND FAMILY SERVICES**

**Economic Self-Sufficiency Program**

RULE TITLES: Verification  
Program Administration

RULE NOS.: 65A-33.007  
65A-33.008

PURPOSE AND EFFECT: The proposed amendment of rule 65A-33.007 requires that an applicant for the Emergency Financial Assistance for Housing Program (EFAHP) must either be a current client of the Temporary Cash Assistance Program or be homeless as verified through a recognized social services agency. The rule 65A-33.008 amendment provides the manner in which these requirements are to be administered. These amended procedures will assure that available funding serves those most vulnerable and in need.

SUMMARY: These proposed rule amendments revise the department's application processing procedures for EFAHP. Procedures are being changed so that available funding will serve those most vulnerable and in need. This is to be accomplished via requiring as a base for eligibility current Temporary Cash Assistance (TCA) eligibility or homelessness as verified through social service agencies/entities, such as the Department of Children and Families, faith based and other public/private agencies. Additional eligibility requirements for

EFAHP established by these rule amendments are that non-TCA clients must first seek the services of a social service agency with that agency substantiating the person(s) homelessness, and TCA clients must show proof of eviction or pending eviction.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COST: None.

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

SPECIFIC AUTHORITY: 414.45 FS.

LAW IMPLEMENTED: 414.16 FS.

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

TIME AND DATE: 3:00 p.m., May 14, 2001

PLACE: 1317 Winewood Boulevard, Building 3, Room 455, Tallahassee, Florida 32399-0700

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULES IS: Paul Bartlett, Operations and Management Consultant Manager, Building 3, Room 306, 1317 Winewood Boulevard, Tallahassee, FL 32399-0700, Telephone (850)921-9115

THE FULL TEXT OF THE PROPOSED RULES IS:

65A-33.007 Verification.

(1) through (4) No change.

(5) An applicant who is a current (at the time of application) participant of Temporary Cash Assistance must so indicate and verification of this status must be obtained from the Department of Children and Families prior to authorizing Emergency Financial Assistance for Housing benefits.

(6) Applicants who are participants of the Temporary Cash Assistance Program may be eligible for the Emergency Financial Assistance for Housing Program if their eviction is pending, with verification provided as stated in Section 65A-33.007(8), FAC.

(7) Applicants who are not clients of the Temporary Cash Assistance Program must provide written verification that they are homeless, that they have sought the services of a recognized social services agency (such as faith based and other agencies), recognized by the Internal Revenue Service, and that this agency has substantiated a housing emergency exists.

(5) through (7) renumbered (8) through (10) No change.

(a) No change.

~~(b) For the homeless applicant, contact with a shelter or a non relative who can verify the homelessness will suffice.~~

~~(b)(e)~~ No change.

~~(11)(8)~~ No change.

Specific Authority 414.45 FS. Law Implemented 414.16 FS. History--New 3-13-88, Amended 4-2-91, 7-15-93, Formerly 10C-33.007, Amended 2-16-00, \_\_\_\_\_.

65A-33.008 Program Administration.

(1) through (8) No change.

(9) The approval for eligibility in the Temporary Cash Assistance Program and verification of pending eviction is required for TCA clients. For non-TCA clients, verification of homelessness by a social service agency shall be required prior to the granting of assistance by the Emergency Financial Assistance for Housing Program. Proof of this status shall be submitted to the Department of Children and Families prior to approval for Emergency Financial Assistance for Housing Program benefits.

(9) through (19) renumbered (10) through (20) No change.

Specific Authority 414.45 FS. Law Implemented 414.16 FS. History--New 3-13-88, Amended 4-2-91, 7-15-93, Formerly 10C-33.008, Amended 2-16-00, \_\_\_\_\_.

NAME OF PERSON ORIGINATING PROPOSED RULE: Tiffany Lynn, Management Review Specialist  
NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Paul Bartlett, Operations and Management Consultant Manager  
DATE PROPOSED RULE APPROVED BY AGENCY HEAD: March 26, 2001  
DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: January 19, 2001

**FISH AND WILDLIFE CONSERVATION COMMISSION**

**Freshwater Fish and Wildlife**

RULE TITLE: Permits for Hunting or Other Recreational Use on Type I Wildlife Management Areas  
RULE NO.: 68A-9.004

PURPOSE AND EFFECT: The proposed change would allow for modifications to be made to the price and quota of recreational use permits pending actions taken by the legislature.

SUMMARY: The proposed rule would enable timely incorporation of changes needed to conform to statutory or budgetary changes made by the legislature.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COST: It is estimated that the proposed action will cost the agency approximately \$255 for administrative preparation and \$210 for legal advertising. No other significant economic impacts are expected.

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

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

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

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

TIME AND DATES: 8:30 a.m., each day, May 23-25, 2001

PLACE: Doubletree Hotel, 4431 PGA Boulevard, Palm Beach Gardens, Florida 33410

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

THE FULL TEXT OF THE PROPOSED RULE IS:

68A-9.004 Permits for Hunting or Other Recreational Use on Type I Wildlife Management Areas.

(1) No change.

(a) No change.

(b) The cost of recreational user permits as required for hunting on the following privately owned wildlife management areas as provided by s. 372.57(4)(b)2., F.S., shall be:

The cost of the following recreational use permits may be subject to change pending provisions contained in the 2001-02 General Appropriations Act or other action taken by the Legislature that amends or modifies s. 372.57(4)(b)2., F.S.

1. through 3. No change.

4. ~~Bluewater Creek Champion International~~ – \$140

5. No change.

(c) The total number of permits available for each of the following privately owned wildlife management areas established pursuant to s. 372.57(4)(b)2., F.S., shall be:

The number of total available recreational use permits may be subject to change pending provisions contained in the 2001-02 General Appropriations Act or other action taken by the Legislature that amends or modifies s. 372.57(4)(b)2., F.S.

1. through 3. No change.

4. ~~Bluewater Creek Champion International~~ – 325

5. through (2) No change.

Specific Authority Art. IV, Sec. 9, Fla. Const. Law Implemented 372.121, 372.57, 375.313 FS. History--New 8-1-79, Amended 6-4-81, 6-21-82, Formerly 39-9.04, Amended 6-2-86, 11-1-89, 7-16-98, 5-13-99, Formerly 39-9.004, Amended 7-1-00, \_\_\_\_\_.

NAME OF PERSON ORIGINATING PROPOSED RULE: Timothy A. Breault

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Dr. Allan L. Egbert

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: April 4, 2001

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: November 22, 2000

**FISH AND WILDLIFE CONSERVATION COMMISSION**

**Freshwater Fish and Wildlife**

RULE TITLE: Open Season for Taking and Bag Limits for Non-Migratory Game and Issuance of Antlerless Deer Permits to Private Landowners  
 RULE NO.: 68A-13.004

PURPOSE AND EFFECT: The proposed rule change is necessary to correct the delineation between the South and Central hunting zones. The boundary should be State Road 70.

SUMMARY: The proposed rule make a correction to the zone boundary between the South and Central hunting zones by correcting the definition of the South zone to include that portion of Manatee County lying south of S.R. 70 and the definition of the Central zone to include only that portion of Manatee County lying north of S.R. 70.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COST: It is estimated that the proposed action will cost the agency approximately \$570 for administrative preparation and \$235 for legal advertising. No other significant economic impacts are anticipated.

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

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

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

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

TIME AND DATES: 8:30 a.m., each day, May 23-25, 2001

PLACE: Doubletree Hotel, 4431 PGA Boulevard, Palm Beach Gardens, Florida 33410

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

THE FULL TEXT OF THE PROPOSED RULE IS:

68A-13.004 Open Season for Taking and Bag Limits for Non-Migratory Game and Issuance of Antlerless Deer Permits to Private Landowners.

The open season and bag limits for non-migratory game shall be as follows unless otherwise amended by the Commission, provided that regulations for hunting on wildlife management areas shall be as established by specific rule.

(1) through (2)(a) No change.

1. South Zone comprised of the counties of Broward, Charlotte, Collier (except that portion lying south of State Road 84, west of State Road 29, north of U.S. Highway 41 and east of the western boundary of the Fakahatchee Strand State

Preserve where there will be no open season), Dade, DeSoto (south of State Road 70), Glades, Hendry, Highlands (south of State Road 70), Lee, Martin, Manatee (south of State Road 70), Monroe (except in the Florida Keys where there will be no open season), Okeechobee (south of State Road 70), St. Lucie (south of State Road 70), Sarasota and Palm Beach: Opening the last Saturday in October and closing 71 days thereafter.

2. Central Zone comprised of the counties of Alachua, Baker, Bradford, Brevard, Citrus, Clay, Columbia, DeSoto (north of State Road 70), Dixie, Duval, Flagler, Gilchrist, Hamilton, Hardee, Hernando, Highlands (north of State Road 70), Hillsborough, Indian River, Jefferson (north of U.S. Highway 27, east of State Road 59 and south of U.S. Highway 98), Lafayette, Lake, Levy, Madison, Manatee (north of State Road 70), Marion, Nassau, Okeechobee (north of State Road 70), Orange, Osceola, Pasco, Pinellas, Polk, Putnam, St. Johns, St. Lucie (north of State Road 70), Seminole, Sumter, Suwannee, Taylor, Union, Volusia, Leon (north of U.S. Highway 27 and east of State Road 155) and Wakulla (south of U.S. Highway 98 and east of the St. Marks River): Opening the second Saturday in November and closing 71 days thereafter.

3. No change.

(b) through (i) No change.

(3) No change.

Specific Authority Art. IV, Sec. 9, Fla. Const. Law Implemented Art. IV, Sec. 9, Fla. Const. History—New 8-1-79, Amended 5-19-80, 6-4-81, 6-21-82, 7-1-83, 7-1-84, 7-1-85, Formerly 39-13.04, Amended 6-1-86, 5-10-87, 6-8-87, 5-1-88, 7-1-89, 7-1-90, 7-1-91, 7-1-92, 7-1-93, 3-1-94, 7-1-94, 7-1-96, 10-28-97, 4-27-98, 12-28-98, Formerly 39-13.004, Amended.

NAME OF PERSON ORIGINATING PROPOSED RULE:

Timothy A. Breault

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Dr. Allan L. Egbert

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: April 4, 2001

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: November 22, 2000

**FISH AND WILDLIFE CONSERVATION COMMISSION**

**Freshwater Fish and Wildlife**

RULE TITLE: Hunting Regulations for Migratory Birds  
 RULE NO.: 68A-13.008  
 Other than Ducks and Coots

PURPOSE AND EFFECT: The purpose of the proposed rule change is to establish season dates and bag limits for crows and migratory game birds other than ducks and coots in conformance with federal regulations. Rule wording would be changed to shorten the gallinule falconry season by one day to accommodate an increase, made last year, in the number of Youth Waterfowl Hunting Days.

SUMMARY: This rule amends migratory bird hunting regulations to shorten the gallinule falconry season by one day to accommodate an increase, made last year, in the number of Youth Waterfowl Hunting Days.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COST: It is estimated that the proposed rule change will cost the agency approximately \$120 for administrative preparation and \$157 for advertising. There will be no direct cost or economic benefit as a result of this proposed rule change, and any such impacts would result not from proposed promulgation of this rule but from federal action to set migratory bird seasons. There is estimated to be no impact on competition or the open market for employment as a result of the proposed rule.

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

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

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

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

TIME AND DATES: 8:30 a.m., each day May 23-25, 2001

PLACE: Doubletree Hotel, 4431 PGA Boulevard, Palm Beach Gardens, Florida 33410

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

THE FULL TEXT OF THE PROPOSED RULE IS:

68A-13.008 Hunting Regulations for Migratory Birds Other than Ducks and Coots.

The Commission has approved the following regulations and bag limits for taking crows and migratory game birds other than ducks and coots:

- (1) through (5) No change.
- (6) Falconry:
  - (a) No change.
  - (b) Open seasons:
    - 1. through 2. No change.
    - 3. Florida gallinules (common moorhens): Opening September 1 and closing December ~~14~~ 15.
    - 4. through 5. No change.

Specific Authority Art. IV, Sec. 9, Fla. Const. Law Implemented Art. IV, Sec. 9, Fla. Const. History—New 8-17-89, Amended 8-9-90, 8-22-91, 8-23-92, 9-2-93, 9-15-94, 9-15-96, 9-7-97, Formerly 39-13.008, Amended.

NAME OF PERSON ORIGINATING PROPOSED RULE: Mr. Timothy E. O’Meara

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

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: April 3, 2001

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: November 22, 2000

**FISH AND WILDLIFE CONSERVATION COMMISSION**

**Freshwater Fish and Wildlife**

RULE TITLE: Quota Permits; Antlerless Deer Permits; Special-Opportunity Permits

RULE NO.: 68A-15.005

PURPOSE AND EFFECT: The purpose and effect of the proposed rule is to reincorporate a revised list for quota and special-opportunity permits.

SUMMARY: The proposed changes would reincorporate a new reference list for quota hunt permits. The new list has been revised to reduce and reconfigure hunter quotas on Robert Brent Wildlife Management Area to accommodate acreage reductions requested by the landowner. The quota for the general gun hunt (first 13 days) would be reduced from 1,200 to 500 and be split into two hunts - a general gun still hunt (first 13 days) with a quota of 250 and a general gun dog hunt (first 13 days) with a quota of 250.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COST: It is estimated that the proposed action will cost the agency approximately \$324 for administrative preparation and \$27 for legal advertising. No other significant economic impacts are expected.

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

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

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

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

TIME AND DATES: 8:30 a.m., each day, May 23-25, 2001

PLACE: Doubletree Hotel, 4431 PGA Boulevard, Palm Beach Gardens, Florida

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

THE FULL TEXT OF THE PROPOSED RULE IS:

68A-15.005 Quota Permits; Antlerless Deer Permits; Special-Opportunity Permits.

(1) No change.

(2) The maximum number of quota and special-opportunity permits to be issued for each wildlife management area, fish management area, or wildlife and environmental area shall be maintained on a list titled "Quota and special-opportunity permits," effective August 1, 2001 July 1, 2001, incorporated herein by reference and kept by the Commission at its headquarters office and regional offices.

(3) through (4) No change.

Specific Authority Art. IV, Sec. 9, Fla. Const. Law Implemented Art. IV, Sec. 9, Fla. Const. History--New 8-1-79, Amended 5-19-80, 6-22-80, 12-29-80, 6-4-81, 8-4-81, 6-21-82, 7-29-82, 7-1-83, 7-5-84, 7-1-85, 9-19-85, Formerly 39-15.05, Amended 5-7-86, 6-10-86, 5-10-87, 6-8-87, 10-8-87, 4-13-88, 6-7-88, 7-1-89, 7-1-90, 9-1-90, 7-1-91, 7-2-91, 7-1-92, 8-23-92, 7-1-93, 7-1-94, 3-30-95, 6-20-95, 8-15-95, 4-1-96, 6-27-96, 9-15-96, 10-20-96, 6-1-97, 8-7-97, 11-23-97, 7-1-98, 7-2-98, 8-11-98, 12-28-98, 5-13-99, Formerly 39-15.005, Amended 12-9-99, 4-30-00, 7-1-01, 8-1-01.

NAME OF PERSON ORIGINATING PROPOSED RULE: Mr. Timothy A. Breault  
NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Dr. Allan L. Egbert  
DATE PROPOSED RULE APPROVED BY AGENCY HEAD: April 10, 2001  
DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: November 22, 2000

FISH AND WILDLIFE CONSERVATION COMMISSION

Freshwater Fish and Wildlife

RULE TITLE: Specific Regulations for Type I Wildlife Management Areas – Northwest Region  
RULE NO.: 68A-15.063

PURPOSE AND EFFECT: The proposed change would allow for modifications to the specific area regulations for Robert Brent Wildlife Management Area (WMA) pending final actions taken by the landowner that will reduce the acreage in the WMA. The effect would be to continue to accommodate public access and hunting following reconfiguration of the WMA if acreage is reduced as anticipated.

SUMMARY: The proposed rule would enable timely incorporation of changes needed to accommodate public access and hunting on Robert Brent WMA for the 2001/2002 hunting season if a significant reduction in acreage is required and reconfiguration of the WMA is necessary.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COST: It is estimated that the proposed action will cost the agency approximately \$367 for administrative preparation and \$125 for legal advertising. No other significant economic impacts are expected.

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

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

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

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

TIME AND DATES: 8:30 a.m., each day, May 23-25, 2001

PLACE: Doubletree Hotel, 4431 PGA Boulevard, Palm Beach Gardens, Florida

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE AND ECONOMIC STATEMENT IS:

James Antista, General Counsel, Florida Fish and Wildlife Conservation Commission, 620 South Meridian Street, Tallahassee, Florida 32399-1600

THE FULL TEXT OF THE PROPOSED RULE IS:

68A-15.063 Specific Regulations for Type I Wildlife Management Areas – Northwest Region.

(1) through (8) No change.

(9) No change.

(a) through (c) No change.

(d) General regulations:

1. through 2. No change.

3. Vehicles may be operated only on established roads. Vehicle access and use may be further modified in the event of a reduction in acreage in the WMA.

4. through 8. No change.

(10) through (18) No change.

Specific Authority Art. IV, Sec. 9, Fla. Const. Law Implemented Art. IV, Sec. 9, Fla. Const. History--New 6-21-82, Amended 7-1-83, 7-5-84, 7-1-85, 5-7-86, 5-10-87, 6-8-87, 5-1-88, 7-1-89, 7-1-90, 9-1-90, 9-1-91, 7-1-92, 7-2-92, 7-1-93, 3-1-94, 7-1-94, 7-1-95, 7-2-95, 8-15-95, 7-1-96, 7-2-96, 6-1-97, 12-3-97, 7-1-98, 7-2-98, 8-11-98, 7-1-99, Formerly 39-15.063, Amended 11-17-99, 7-1-00, \_\_\_\_\_.

NAME OF PERSON ORIGINATING PROPOSED RULE: Mr. Timothy A. Breault

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Dr. Allan L. Egbert

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: April 10, 2001

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: November 22, 2000

FISH AND WILDLIFE CONSERVATION COMMISSION

Marine Fisheries

RULE CHAPTER TITLE: Gear Specifications and Prohibited Gear

RULE TITLE: Use of Power With Certain Gear Prohibited in Inside Waters; Exceptions; Definition

RULE NO.: 68B-4.004

PURPOSE AND EFFECT: The purpose of this rulemaking is to repeal a rule that prohibits the use of power to retrieve a beach or haul seine in nearshore or inshore waters. The effect of the repeal should be to provide a means to allow persons with disabilities to compete with able-bodied fishers using cast nets.

SUMMARY: Rule 68B-4.004, F.A.C., which prohibits the use of power to retrieve a beach or haul seine in nearshore or inshore waters, is repealed.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COST: A statement has not been prepared regarding these proposed rules.

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

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

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

THE FISH AND WILDLIFE CONSERVATION COMMISSION WILL CONDUCT A PUBLIC RULEMAKING HEARING ON THE PROPOSED RULES DURING ITS REGULAR MEETING AT THE TIME, DATE AND PLACE SHOWN BELOW:

TIME AND DATES: 8:30 a.m. – 5:00 p.m., each day, May 23-25, 2001

PLACE: Doubletree Hotel, 4431 PGA Boulevard, Palm Beach Gardens, Florida

Pursuant to the provisions of the Americans with Disabilities Act, any person requiring special accommodations to participate in this workshop/meeting is asked to advise the agency at least 5 calendar days before the workshop/meeting by contacting Andrena Knicely, (850)487-1406. If you are hearing or speech impaired, please contact the agency by calling (850)488-9542.

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

SECTION 286.0105, FLORIDA STATUTES, PROVIDES THAT, IF A PERSON DECIDES TO APPEAL ANY DECISION MADE BY THE COMMISSION WITH RESPECT TO ANY MATTER CONSIDERED AT THIS HEARING, HE WILL NEED A RECORD OF PROCEEDINGS, AND FOR SUCH PURPOSES, HE MAY NEED TO ENSURE THAT A VERBATIM RECORD OF THE PROCEEDINGS IS MADE, WHICH RECORD INCLUDES THE TESTIMONY AND EVIDENCE UPON WHICH THE APPEAL IS BASED.

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

THE FULL TEXT OF THE PROPOSED RULE IS:

68B-4.004 Use of Power With Certain Gear Prohibited in Inside Waters; Exceptions; Definition.

Specific Authority Art. IV, Sec. 9, Fla. Const. Law Implemented Art. IV, Sec. 9, Fla. Const. History--New 10-19-89, Amended 11-26-92, 9-30-96, Formerly 46-4.004, Repealed.

NAME OF PERSON ORIGINATING PROPOSED RULE: Fish and Wildlife Conservation Commission, 620 South Meridian Street, Tallahassee, Florida 32399-1600

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Allan L. Egbert, Ph.D., Executive Director, Fish and Wildlife Conservation Commission, 620 South Meridian Street, Tallahassee, Florida 32399-1600

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: March 30, 2001

FISH AND WILDLIFE CONSERVATION COMMISSION

Marine Fisheries

RULE CHAPTER TITLE: Stone Crabs

RULE TITLES:	RULE NOS.:
Definitions	68B-13.0015
Gear, Trap Construction, Commercial Trap Marking Requirements, Trap Working Regulations, Trap Transfer	68B-13.008
Recreational Stone Crab Harvest: Bag Limit, Trap Limit, Trap Marking Requirements, Trap Pulling	68B-13.009
Stone Crab Trap Limitation Program	68B-13.010
Prohibitions	68B-13.011
Commission Policy Regarding the Assessment of Administrative Penalties	68B-13.012

PURPOSE AND EFFECT: In July 2000, amendments to Rule Chapter 68B-13, F.A.C., became effective to incorporate fishery regulations previously codified in statute and to establish the basics of a trap certificate and limitation program. The 2000 Legislature established fees and administrative penalties applicable to stone crab licensing requirements and the trap certificate program and conviction of specified violations of stone crab regulations, respectively. The purpose of this proposed rule is to amend Rule Chapter 68B-13, F.A.C., to further clarify and define Commission policy and procedure to be followed in implementation of the stone crab trap limitation program. The effect will be the effective implementation of the program, which will benefit stone crab commercial harvesters and the marine environment of Florida.

SUMMARY: Rule 68B-13.0015, F.A.C., is amended to add new definitions of the terms "A1-certificates," "A2-certificates," "active certificates," "allotted certificates," "B-certificates," "certificate holder," "Commission," "fair market value," "inactive certificates," "initial allocation," "issued certificates," "passive reduction," "stone crab trap," "transferred certificates," "trap certificate transfer," "trap tag," and "X-number" for purposes of the rule chapter. Minor technical, clarifying amendments are proposed for the existing definitions of the terms "harvest for commercial purposes," "incidental take endorsement," and "stone crab endorsement."

Paragraph (3)(a) of Rule 68B-13.008, F.A.C., is amended to clarify that a valid saltwater products license with the corresponding stone crab endorsement number must be on board a commercial stone crab harvesting boat and be available for inspection. Paragraph (4)(c) of the rule is amended to clarify and provide additional requirements for granting permission to allow persons other than the licenseholder to work or pull stone crab traps.

Paragraph (2)(a) of Rule 68B-13.010, F.A.C., is amended to address specific situations that will be encountered in making initial allocations of stone crab trap certificates and provide for appeal of decisions made with respect to initial allocations. Paragraph (2)(c) is amended to establish requirements for the issuance of replacement tags for those that are lost or damaged. Subsection (3) of the rule is amended to establish a time window for the transfer of certificates each year and establish additional requirements for those involved in the transfer. Procedures for implementing passive reductions are clarified and qualifications are established for reduced transfer fees for specified crew members receiving transferred certificates. Subsection (5) of the rule is amended to clarify application requirements for incidental take endorsements. Subsection (7) of the rule is amended to clarify requirements for persons selected to sit on the Trap Certificate Technical Advisory and Appeals Board.

Subsection (11) of Rule 68B-13.011, F.A.C., is amended to state that a federal stone crab trap tag meets the requirements of the rule for traps fished only in federal waters.

Proposed new Rule 68B-13.012, F.A.C., establishes Commission policy for assessing administrative penalties as authorized by Section 370.13(2), Florida Statutes, for use of stone crab traps without valid tags, for use of altered or forged tags, for unauthorized sale of certificates or trap tags, for fraudulent reporting of value of certificates upon transfer, for molestation of stone crabs traps, for theft of trap contents, and for commercial harvest of stone crabs while the applicable stone crab license or endorsement is under suspension.

In all of these rule amendments and new rules, whenever forms are referred to, they are designated by number and incorporated by reference.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS: A statement has not been prepared regarding these proposed rules.

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

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

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

THE FISH AND WILDLIFE CONSERVATION COMMISSION WILL CONDUCT A PUBLIC RULE MAKING HEARING ON THE PROPOSED RULES DURING ITS REGULAR MEETING AT THE TIME, DATE AND PLACE SHOWN BELOW:

TIME AND DATES: 8:30 a.m. – 5:00 p.m., each day, May 23-25, 2001

PLACE: DoubleTree Hotel, 4431 PGA Boulevard, Palm Beach Gardens, 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 calendar days before the workshop/meeting by contacting Andrena Knicely, (850)487-1406. If you are hearing or speech impaired, please contact the agency by calling (850)488-9542.

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

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

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

THE FULL TEXT OF THE PROPOSED RULES IS:

68B-13.0015 Definitions.

(1) No change.

(2) As used in this rule chapter:

(a) "A1-certificates" are trap certificates that have never been transferred from the original certificate holder.

(b) "A2-certificates" are trap certificates that have been transferred to or from an immediate family member for which no surcharge was collected.



(c) “Active certificates” are those certificates for which all license fees, certificate fees, transfer fees and surcharges have been paid in full and are current, and the holder’s saltwater products license (SPL) and stone crab endorsement (X-number) are not inactive.

(d) “Allotted certificates” and “allocated certificates” mean the number of stone crab trap certificates assigned to an individual certificate holder and maintained by the Commission after the initial allocation is established for an individual Saltwater Products License number with a stone crab endorsement. The certificate balance is that number of certificates as adjusted to reflect lawful transfer of certificates into or out of the certificate holder’s trap certificate account and other adjustments as are lawful and otherwise authorized under the program.

(e) “B-certificates” are trap certificates that have been transferred outside a trap certificate holder’s immediate family and for which a surcharge is due or has been collected.

(f) “Certificate holder” is the individual who holds a valid Saltwater Products License with a current stone crab endorsement and received an initial allotment of trap certificates or obtained trap certificates from another trap certificate holder, or otherwise lawfully acquired trap certificates and these certificates are assigned to his/her Saltwater Products License/stone crab endorsement. The certificates may be active or inactive.

(g) “Commission” means the Florida Fish and Wildlife Conservation Commission.

(h) “Fair Market Value” means the actual price paid for each certificate by the transferee to the transferor.

(i)(~~a~~) “Harvest” means the catching or taking of a stone crab by any means whatsoever, followed by a reduction of stone crab to possession. Stone crabs caught but immediately returned to the water free, alive, and unharmed, temporarily possessed to determine compliance with size requirements or remove claws, or stored aboard a vessel temporarily until claws are removed as authorized by Rule 68B-13.007(3), F.A.C., are not harvested.

(j)(~~b~~) “Harvest for commercial purposes” means the taking or harvesting of stone crabs for purposes of sale, barter, trade or exchange or with intent to sell, barter, trade or exchange or in excess of the recreational bag limit.

(k)(~~e~~) The term “immediate family” for purposes of this chapter and Section 370.13, Florida Statutes, refers to an endorsement or certificate holder’s mother, father, sister, brother, spouse, son, daughter, step-father, step-mother, step-son, step-daughter, half-sister, or half brother.

(l) “Inactive Certificates” are those certificates which are allocated to a certificate holder but are not available for transfer or issuance of trap tags because the certificate holder has outstanding license fees, certificate fees or penalty assessments and/or the certificate holder’s Saltwater Products

License, stone crab endorsement, or other required licenses, endorsements or authorizations are otherwise under suspension, revocation or inactive.

(m)(~~d~~) “Incidental take endorsement” means an identification number stamped on a saltwater products license, showing that the holder of the license is authorized to harvest a limited amount of stone crab claws for commercial purposes as specified in 68B-13.010(5). Such endorsement shall only be valid when used in conjunction with a crawfish or blue crab endorsement; also known as an “I-number”.

(n) “Initial allocation” of certificates means those certificates assigned to an eligible individual pursuant to Rule 68B-13.010(2)(a), F.A.C.

(o) “Issued certificates” means those certificates which have been paid for, are current, and are assigned to a Saltwater Products License/stone crab endorsement account.

(p) “Passive reduction” means a decrease in the number of stone crab trap tags, and thus authorized traps, through a reduction in the total number of trap certificates available to the fishery incorporated into the trap certificate transfer process pursuant to Rule 68B-13.010(3), Florida Administrative Code.

(q)(~~e~~) “Stone crab endorsement” means an identification number stamped on a saltwater products license showing that the holder of the license is authorized to harvest stone crabs for commercial purposes; also known as an “X-number”.

(r) “Stone crab trap” is any device or gear, as defined in Rule 68B-13.008, Florida Administrative Code, which is used to aid in the taking of stone crab. Only authorized stone crab traps may be used, and trap tags obtained from trap certificate allocations do not create any authorization whatsoever to use any gear not otherwise lawful to use or aid in the taking of stone crab.

(s) “Transferred certificates” means those certificates that have changed ownership pursuant to Rule 68B-13.010(3), F.A.C.

(t) “Trap certificate transfer” is the process whereby ownership of a specified number of certificates is changed by the Commission from one person to another pursuant to Rule 68B-13.010(3), F.A.C.

(u) “Trap tag” is a physical, durable, annual stone crab trap identification and authorization label, furnished by the Commission to the certificate holder. One trap tag is issued for each active trap certificate held.

(v)(~~f~~) “Untreated pine” means raw pine wood that has not been treated with any preservative or pine wood that has been pressure treated with no more than 0.40 pounds of chromated copper arsenate (CCA) compounds per cubic foot of wood.

(w) “X-number” is another term for stone crab endorsement; derived from the letter “X”, which when used with a number on a Saltwater Products License, represents the license holder’s stone crab endorsement.

Specific Authority Art. IV, Sec. 9, Fla. Const. Law Implemented Art IV Sec. 9, Fla. Const. History—New 8-25-87, Amended 10-4-95, 7-1-00, Formerly 46-13.0015, Amended.

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

(1) through (2) No change.

(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. A valid commercial the saltwater products license with the corresponding stone crab endorsement number 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.

(4) TRAP WORKING REGULATIONS

(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/her traps. Permission may be granted upon receipt of a written statement signed by both the commercial harvester seeking to have his/her traps pulled and the person designated to pull the traps. 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 name and number of the vessel to be used by 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 to be engaged in pulling the traps; and
6. The dates the other person will be transporting, deploying, pulling or retrieving the traps.

Permission to pull traps in this manner shall be obtained daily by telephone from the Division of Law Enforcement for a maximum of 5 days without renewal or extension of the request; however, extension of permission shall 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 or major equipment problem, and shall be obtained through petition to the Division of Law Enforcement Marine Fisheries on Commission Form DMF-SL3030, (Stone Crab

Trap Pulling Petition), herein incorporated by reference, and will be granted upon such conditions as the division deems appropriate for the protection ~~protection~~ of the resource. It shall be the responsibility of the commercial harvester, or a member of the harvester’s immediate family, to petition the division. The petition shall include a complete description of the extraordinary circumstances with corroborating documentation, the amount of additional time requested, the number of traps to be pulled, and a signed statement from the other person, attesting to his/her willingness and ability to pull these traps during this time period as well as an awareness of all rules governing the stone crab fishery. If the person designated to pull the petitioner’s traps does not possess a Saltwater Products License with restricted species and stone crab endorsements, the petitioner, as the license holder of record must possess a vessel Saltwater Products License and shall be held accountable for the designee’s compliance with all regulations governing the stone crab fishery.

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

68B-13.009 Recreational Stone Crab Harvest: Bag Limit, Trap Limit, Trap ~~Marketing Marketing~~ Requirements, Trap Pulling.

(1) BAG LIMIT. Except for persons harvesting pursuant to a saltwater products license with a stone crab endorsement or an incidental take endorsement and a restricted species endorsement, each harvester of stone crab claws is subject to a daily bag limit of 1 gallon of stone crab claws; provided, however that no more than 2 gallons shall be possessed aboard any vessel at any time.

(2) TRAP LIMIT. Except for persons holding a Saltwater Products License with restricted species and stone crab endorsements, no person harvesting stone crabs pursuant to this subsection shall harvest from, fish with, set, or place in the waters of the state more than 5 stone crab traps. No person harvesting stone crabs pursuant to this paragraph shall fish with, set, or place in the waters of the state more than 5 traps. Any such traps shall meet all the requirements for stone crab traps specified in Rule 68B-13.008, F.A.C., in subsection (2) and in paragraphs (3)(b), (4)(a), (4)(b), (4)(d), and (4)(e).

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

68B-13.010 Stone Crab Trap Limitation Program.

(1) No change.

(2) CERTIFICATES AND TRAP TAGS. Each holder of a stone crab trap endorsement must have a certificate on record for 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.

a. A person who possesses an individual SPL and a vessel SPL with the number of traps listed only on one license's application form and landings primarily reported on the other license shall be considered to have only one SPL for purpose of this section and allocated trap certificates as described above.

b. A person who has purchased another's stone crab business, between July 1, 1995 and July 1, 2000 shall receive the trap certificates allocated to the seller, without a passive reduction, provided that they can submit documentation showing that the seller's landings history was specifically part of the sale-purchase agreement. Acceptable documentation includes a copy of a contract or bill of sale specifically identifying landings history as one of the items included in the sale of the business or a letter from the seller to the Commission stating that he/she is the recipient of the original trap certificate allocation and describing what specifically was included in the sale of the business. The seller of a stone crab business that included the landings history cannot receive an additional allocation of certificates based on landings subsequent to sale of that business. Any trap certificates obtained through purchase of a stone crab business after July 1, 2000 will be subject to passive reduction at the time of transfer.

c. For the 2001/2002 fishing year, the Commission will issue the number of stone crab trap tags in excess of their initial allocation of stone crab trap certificates as requested by fishermen on Commission Form DMF-SL3040, (2001/2002 Supplemental/Additional Stone Crab Trap Tag Order Form) herein incorporated by reference. This offer shall only be allowed for the 2001/2002 fishing year during the resolution of appeals to the initial allocations of trap certificates and shall only be made available to persons qualified under paragraph (2)(a)1. who held a stone crab endorsement in the 2000/2001 fishing year.

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 they are assigning their certificates ~~will be allotted~~ and the number thereof to each, if more than one person is designated, on Commission Form DMF-SL3070 (Certificate Designation For Business or Corporation), incorporated herein by reference.

4. A firm, organization, partnership, association, corporation, or other business entity or legal entity or group or combination can neither receive an initial allocation nor purchase and possess in their name stone crab trap certificates.

5.4- 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.

6. The Commission shall notify all holders of a 1999/2000 Saltwater Products License with a stone crab endorsement of their initial allocation of stone crab certificates; those persons will indicate either their acceptance of or intent to appeal the initial allocation on Commission Forms DMF-SL3050 (Statement of Acceptance or Appeal of Stone Crab Certificate Allocation), and DMF-SL 3060 (Application for Appeal/Review of Stone Crab Trap Certificate Allocation), incorporated herein by reference.

7.5- 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.

8. Certificates will only be issued in whole numbers; there are no fractional certificates.

9. There must be one or more certificates allocated to a certificate holder in order for the certificate holder to have a trap certificate account established. A person may have an Saltwater Products License/stone crab endorsement with no trap certificates; a person may not receive trap certificates without a stone crab endorsement.

10. Partial payment of annual certificate fees will not be accepted. However, upon receipt of the trap certificate billing statement for 2001/2002 stone crab trap tags, a certificate holder may submit fees for only those trap certificates that they wish to retain in their account. Any trap certificates for which the fees are not paid at that time will be forfeited and permanently removed from the fishery.

11. Any payment of certificate fees by an invalid check is cause for suspension of all current certificates if valid payment is not received within thirty days of notification of insufficient funds. Payment shall include any returned check charges incurred by the Commission.

12. Stone crab trap certificates and tags shall not be issued to certificate holders until all license fees, certificate fees, surcharges and any other outstanding fees owed the Commission have been paid in full and are current and the certificate holder's SPL, stone crab endorsement are not otherwise inactive.

13. Trap certificates are considered to be inactive if:

a. The certificate holder fails to renew his/her Saltwater Products License or has his/her license suspended or revoked;

b. The certificate holder does not renew his/her stone crab endorsement or the endorsement has been suspended or revoked;

c. All annual certificate fees have not been paid in full;

d. The certificates holder is deceased;

14.6. 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 certificates shall be considered abandoned and permanently be removed from the pool of available certificates. All prior certificate fees must be paid in order to keep certificates current and avoid a declaration of abandonment.

(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 in 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 ~~printed 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 ~~provided specified~~ by the Commission, shall be considered untagged for enforcement purposes. A federal stone crab trap tag issued by the National Marine Fisheries Service meets the requirements of this rule for traps fished in federal waters or in transit to federal waters.

(c) Lost or damaged tags may be replaced using Commission Form DMF-SL3010 (Stone Crab Trap Tag Replacement Application), herein incorporated by reference, and upon proper verification of loss as defined in (e) below, and payment of the replacement tag fee. Damaged tags must be returned to the Commission.

(d) Cost of the replacement tags for tags lost in the event of a major natural disaster will reasonably reflect the actual cost incurred by the Commission, which is construed to include shipping and handling fees.

(e) Notification of lost or damaged tags shall be a written report made to the Commission on the NOAA/National Marine Fisheries Service Report of Lost or Stolen Fish and Shellfish Traps Form, which may be obtained from the local Division of Law Enforcement offices. The report shall include the certificate holder's name, license number, endorsement number, and tag numbers lost, location or area tags lost in, and circumstances of the loss.

(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 window. Trap certificates shall only be transferred from the trap certificate account of one person to the account of another during the period August 1 through March 1 each year. However, requests to transfer trap certificates received after February 15 may not be completed during the current season if all required information and fees are not also received at that time.

(b) Both the purchaser and seller of stone crab trap certificates must hold a valid Saltwater Products License with a stone crab endorsements at the time of transfer.

(c) A person who intends to close their trap certificate account by transferring all of their trap certificates to another person, and does not qualify for the restricted species endorsement, shall be exempt from the restricted species requirement of Rule 68B-13.006(1)(a).

~~(d)(a)~~ Transfer of any certificates shall, within 72 hours thereof, be reported recorded on a Commission Form DMF-SL3000 (Stone Crab Trap Certificate Transfer Application), incorporated herein by reference, which has been signed by both parties, notarized, notarized provided for that purpose by the commission and hand delivered or sent by certified mail, return receipt requested, to the Commission for recording in the seller's and purchaser's trap certificate accounts record keeping purposes. No transfer of ~~for~~ 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, ~~transfer fees~~, surcharges and any other charges owed 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.

(e) The certificate holder transferring his/her trap certificates shall designate in detail which type of certificates (A1, A2 or B) are being transferred, and in what combinations thereof. B-certificates will be reduced prior to A-certificates at the time of transfer.

(f)(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 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.

(g) If the percentage reduction results in a fractional number, that fraction, which represents a partial trap certificate/trap, will be rounded off to the nearest whole number, representing a whole trap certificate/trap. Only whole trap certificates will be removed from an account during reduction.

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

(i)(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.

(j) A person is eligible for the reduced transfer fee of s. 370.13(1)(b)2., F.S., if he/she:

1. Has crew share statements and IRS Forms 1099 and 1040 or IRS Forms W2 and 1040 showing participation in the stone crab fishery as a crew member on a properly licensed vessel during at least one of two previous stone crab fishing seasons;

2. Qualifies for a restricted species endorsement;

3. Is sponsored by a captain who has knowledge and expertise in the stone crab fishery with annual landings of stone crab claws of at least 1000 pounds in any two of the previous three stone crab seasons and who certifies, on Commission Form DMF-SL3020 (Eligible Mate, Stone Crab Certificate Sponsorship Form), incorporated herein by reference, that the person is knowledgeable and possess skills necessary for participation in the stone crab fishery; and,

4. Has not received an initial allocation of one or more stone crab trap certificates from the Commission.

A person requesting the reduced transfer fee shall submit their request, with supporting eligibility documentation, at the same time they submit the stone crab trap certificate transfer application (Form DMF-SL 3000) to report their first purchase of trap certificates. Once eligible, a person will receive the reduced transfer fee on all purchases of trap certificates made within a 12 month period beginning with the date of first purchase.

(k)(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 crab pursuant to the requirements of this rule chapter.

(5) INCIDENTAL TAKE ENDORSEMENT. Persons possessing valid crawfish or blue crab endorsements may land and sell 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. Application for an incidental take endorsement shall be on Commission Form DMF-SL2800 (05-00) (Application for a Stone Crab Incidental Take Endorsement (I#)), incorporated herein by reference.

(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 may replace any individual who does not meet the above-referenced criteria, and fill the position on the board with the qualified appointees. The executive director of the commission shall replace any board member who is cited for and convicted of a violation of Chapter 68B-13, F.A.C. or who misses more than two scheduled meetings of the board without approval from the board chair with another stone crab fisherman from any region.

3. Stone crab endorsement holders wishing to be considered for appointment to the Trap Certificate Technical Advisory and Appeals Board shall make their request on Commission form DMF-SL3080 (Application for Stone Crab Trap Certificate Technical Advisory and Appeals Board), incorporated herein by reference.

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

68B-13.011 Prohibitions.

(1) through (10) No change.

(11) It is unlawful for a person to possess or use a stone crab trap in or on state waters or adjacent federal waters without having firmly affixed thereto the trap tag required by this rule. A federal stone crab trap tag issued by the National Marine Fisheries Service meets the tagging requirements of this rule only for traps fished in the federal waters of the Gulf of Mexico or in transit to the federal waters.

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

68B-13.012 Commission Policy Regarding the Assessment of Administrative Penalties.

(1) It shall be the policy of the Commission to assess administrative penalties pursuant to s. 370.13(2)(a), Florida Statutes, for conviction of a violation involving use of stone crab traps without current year trap tags (Rules 68B-13.010(2)(b) and 68B-13.011(11) and (5)), as follows:

(a) For a first conviction:

1. Involving 20 or fewer untagged stone crab traps – \$25 per untagged trap;

2. Involving 21 or more untagged stone crab traps – \$1000 and suspension of the stone crab endorsement for the remainder of the fishing season.

(b) For a second conviction occurring within 24 months of any previous such conviction:

1. Involving 5 or fewer untagged stone crab traps – \$50 per untagged trap;

2. Involving 6 up to and including 20 untagged stone crab traps – \$75 per untagged trap and suspension of the stone crab endorsement for 12 calendar months;

3. Involving 21 or more untagged stone crab traps – \$2000 and suspension of the stone crab endorsement for 12 calendar months.

(c) For a third conviction occurring within 36 months of two previous such convictions:

1. Involving 5 or fewer untagged stone crab traps – \$100 per untagged trap and suspension of the stone crab endorsement for 24 calendar months;

2. Involving 6 up to and including 20 untagged stone crab traps – \$2500 and suspension of the stone crab endorsement for 24 calendar months;

3. Involving 21 or more untagged stone crab traps – \$5000 and suspension of the stone crab endorsement for 24 calendar months.

(d) For a fourth conviction occurring within 48 months of three previous such violations, regardless of the number of untagged stone crab traps involved – permanent revocation of the saltwater products license, all endorsements and associated fishing privileges.

(2) It shall be the policy of the Commission to assess administrative penalties pursuant to s. 370.13(2)(a) and (c), Florida Statutes, for conviction of a violation involving the possession or use of any stone crab trap tags not issued by the Commission or the unlawful making, altering, forging, counterfeiting or reproducing of stone crab trap tags (Rules 68B-13.011(5),(6) and (7) as follows:

(a) For a first conviction:

1. Involving 15 or fewer illegal stone crab trap tags – \$1000;

2. Involving 16 or more illegal stone crab trap tags – \$1000 and suspension of the stone crab endorsement for the remainder of the license year.

(b) For a second conviction occurring within 24 months of a previous such violation:

1. Involving 10 or fewer illegal stone crab trap tags – \$1000 and suspension of the stone crab endorsement for 12 calendar months;

2. Involving 11 or more illegal stone crab trap tags – \$2000 and suspension of the stone crab endorsement for 12 calendar months.

(c) For a third conviction occurring within 36 months of two previous such violations:

1. Involving 5 or fewer illegal stone crab trap tags – \$3000 and suspension of the stone crab endorsement for 24 calendar months;

2. Involving 6 or more illegal stone crab trap tags – \$5000 and suspension of the stone crab endorsement for 24 calendar months.

(d) For a fourth conviction occurring within 48 months of three previous such violations, regardless of the number of illegal stone crab trap tags involved, permanent revocation of the Saltwater Products License, all endorsements and associated fishing privileges.

(3) It shall be the policy of the Commission to assess administrative penalties pursuant to s. 370.13(2)(a) and (c), Florida Statutes, for conviction of a violation involving the sale, barter, trade, loan, or giving of stone crab trap certificates or trap tags without authorization from the Commission (Rule 68B-13.011(8)) as follows:

(a) For a first conviction:

1. Involving 5 or fewer stone crab trap certificates or trap tags – \$1000;

2. Involving 6 or more stone crab trap certificates or trap tags – \$1000 and suspension of the stone crab endorsement for the remainder of the fishing season.

(b) For a second conviction occurring within 24 months of a previous such violation:

1. Involving 5 or fewer stone crab trap certificates or trap tags – \$1000 and suspension of the stone crab endorsement for 12 calendar months;

2. Involving 6 or more stone crab trap certificates or trap tags – \$2000 and suspension of the stone crab endorsement for 12 calendar months.

(c) For a third conviction occurring within 36 months of two previous such violations:

1. Involving 5 or fewer stone crab trap certificates or trap tags – \$3000 and suspension of the stone crab endorsement for 24 calendar months;

2. Involving 6 or more stone crab trap certificates or trap tags – \$5000 and suspension of the stone crab endorsement for 24 calendar months.

(d) For a fourth conviction occurring within 48 months of three previous such violations, regardless of the number of stone crab trap tags involved, permanent revocation of the Saltwater Products License, all endorsements and associated fishing privileges.

(4) It shall be the policy of the Commission to assess an administrative penalty pursuant to s. 370.13(2)(d), Florida Statutes, for conviction of a violation involving fraudulently reporting the actual value of stone crab trap certificates on the Commission's trap certificate transfer form (Rule 68B-13.011(10)) as follows:

(a) If the difference between the actual value and the reported value of the trap certificate(s) is less than 25% of the actual value – suspension of the purchaser's stone crab endorsement for six calendar months.

(b) If the difference between the actual value and the reported value of the trap certificate(s) is between 25% and 49.9% of the actual value – suspension of the purchaser's stone crab endorsement for 12 calendar months and a fine in the amount equal to the original surcharge owed the Commission.

(c) If the difference between the actual value and the reported value of the trap certificate(s) is equal to or greater than 50% of the actual value – permanent revocation of the purchaser's stone crab endorsement and a fine in an amount equal to twice the original surcharge owed the Commission.

(5) It shall be the policy of the Commission to assess an administrative penalty pursuant to s. 370.13(2)(c), Florida Statutes, for conviction of a violation involving the willful molestation of a stone crab trap, trap line or buoy without permission of that license holder (Rule 68B-13.011(4)) as follows:

(a) For a first conviction – \$2500 and suspension of the stone crab endorsement or incidental take endorsement for 12 calendar months;

(b) For a second and each of all subsequent such convictions – \$5000 and suspension of the stone crab or incidental take endorsement for 24 calendar months.

(6) It shall be the policy of the Commission to assess an administrative penalty of \$5000 and permanently revoke all Saltwater Products License privileges, including all Saltwater Products Licenses, permits, endorsements and trap certificates pursuant to s. 370.13(2)(b), Florida Statutes, for conviction of a violation involving theft of trap contents (Rule 68B-13.011(3)).

(7) It shall be the policy of the Commission to assess an administrative penalty of \$5000 and suspend the applicable endorsement pursuant to s. 370.13(2)(c)5., Florida Statutes, for conviction of a violation involving commercial harvest of stone crabs during the time period when that person's stone crab endorsement or incidental take endorsement is under suspension.

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

NAME OF PERSON ORIGINATING PROPOSED RULE: Fish and Wildlife Conservation Commission, 620 South Meridian Street, Tallahassee, Florida 32399-1600

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Allan L. Egbert, Ph.D., Executive Director, Fish and Wildlife Conservation Commission, 620 South Meridian Street, Tallahassee, Florida 32399-1600

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: March 30, 2001

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: March 23, 2001

**FISH AND WILDLIFE CONSERVATION COMMISSION**

**Marine Fisheries**

RULE CHAPTER TITLE: Spiny Lobster (Crawfish) and Slipper Lobster

RULE TITLES:	RULE NOS.:
Commercial Licensing Requirements	68B-24.0055
Gear: Traps, Buoys, Identification	
Requirements, Prohibited Devices	68B-24.006
Trap Reduction Schedule	68B-24.009

PURPOSE AND EFFECT: The spiny lobster trap reduction program was begun in 1992 with the object of reducing the number of lobster traps used in the commercial fishery to the lowest number that will maintain or increase overall catch levels, while simultaneously promoting economic efficiency and conserving natural resources. Management concerns addressed by the program include overcapitalization, the mortality of sublegal lobsters used as attractants, the impact of lost traps, and environmental damage caused by traps. The primary purpose of this rulemaking is to implement a means to reduce the present number of trap certificates from 542,704 to 400,000, a level at which total catch is predicted to be unaffected by the reductions, according to current data and science. Until now, trap reduction has been active, i.e., reduction in traps and certificates is applied proportionally across the board to all trap fishers. The Commission has determined that a hybrid reduction schedule based on a combination of active and passive trap reduction is the most appropriate to achieve the desired 400,000 trap level. Passive reduction employs reductions upon the transfer of trap tags and certificates. The effect of continued trap reductions in the spiny lobster fishery is to further reduce mortality on sublegal lobsters and environmental damage caused by traps. A minor additional part of this rulemaking is a new rule to clarify that a crawfish endorsement is required to harvest spiny lobster for commercial purposes and that it can only be issued to a person, firm, or corporation possessing a valid saltwater products license with a restricted species endorsement. Additional language in a rule amendment will require trap tags to be

firmly affixed to spiny lobster traps. These two technical changes will have the effect of clarifying requirements for commercial spiny lobster trappers.

SUMMARY: New proposed Rule 68B-24.0055, F.A.C., requires anyone harvesting spiny lobster in commercial quantities or for commercial purposes to have a trap number, also known as a crawfish endorsement or crawfish license. Such person shall also have a saltwater products license with a restricted species endorsement. The term "harvest for commercial purposes" is defined for purposes of the rule. Subsection (4) of Rule 68B-24.006, F.A.C., is amended to require that each commercial spiny lobster trap have a current trap tag firmly attached thereto, using nails, staples, or other means to securely fasten the tag to the trap.

Subsection (1) of Rule 68B-24.009, F.A.C., is amended to establish a hybrid passive/active trap reduction method, to be used to reduce the number of spiny lobster trap certificates each year by a total of 4% annually, until the number of traps and certificates in the fishery equals 400,000. Subsection (2) is amended to require that sale of certificates outside an immediate family will result in a 25% reduction of the certificates so transferred. Certificates forfeited for a conviction for theft from a trap or reverting for nonpayment of fees will be included as part of this passive reduction each year. A new subsection (3) is added to the rule to apply an active reduction to all trap certificate accounts to make up the remainder of the annual 4% reduction, if such additional reduction is necessary to reach that percentage. A new subsection (4) is added to the rule to define the term "immediate family" for purposes of the rule.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COST: A statement has not been prepared regarding these proposed rules.

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

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

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

THE FISH AND WILDLIFE CONSERVATION COMMISSION WILL CONDUCT A PUBLIC RULEMAKING HEARING ON THE PROPOSED RULES DURING ITS REGULAR MEETING AT THE TIME, DATE AND PLACE SHOWN BELOW:

TIME AND DATES: 8:30 a.m. – 5:00 p.m., each day, May 23-25, 2001

PLACE: Doubletree Hotel, 4431 PGA Boulevard, Palm Beach Gardens, Florida

Pursuant to the provisions of the Americans with Disabilities Act, any person requiring special accommodations to participate in this workshop/meeting is asked to advise the



agency at least 5 calendar days before the workshop/meeting by contacting Andrena Knicely at (850)487-1406. If you are hearing or speech impaired, please contact the agency by calling (850)488-9542.

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

SECTION 286.0105, FLORIDA STATUTES, PROVIDES THAT, IF A PERSON DECIDES TO APPEAL ANY DECISION MADE BY THE COMMISSION WITH RESPECT TO ANY MATTER CONSIDERED AT THIS HEARING, HE WILL NEED A RECORD OF PROCEEDINGS, AND FOR SUCH PURPOSES, HE MAY NEED TO ENSURE THAT A VERBATIM RECORD OF THE PROCEEDINGS IS MADE, WHICH RECORD INCLUDES THE TESTIMONY AND EVIDENCE UPON WHICH THE APPEAL IS BASED.

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

THE FULL TEXT OF THE PROPOSED RULES IS:

68B-24.0055 Commercial Licensing Requirements.

Section 370.14, Florida Statutes, requires each person using traps to harvest spiny lobster or taking spiny lobster in commercial quantities to purchase and possess a trap number, also known as a crawfish endorsement or crawfish license. A crawfish endorsement is hereby required to harvest spiny lobster for commercial purposes, and shall only be issued to a person, firm, or corporation that possesses a valid saltwater products license with a restricted species endorsement. "Harvest for commercial purposes" means the taking or harvesting of spiny lobster for purposes of sale or with intent to sell or in excess of established bag limits.

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

68B-24.006 Gear: Traps, Buoys, Identification Requirements, Prohibited Devices.

(1) through (3) No change.

(4) Each trap and buoy used to harvest spiny lobster shall have the commercial harvester's current crawfish license or trap number permanently affixed in legible figures. Each such trap shall also have firmly affixed thereto a current trap tag issued annually by the Commission. Traps with tags that are not firmly affixed by nails, staples, or otherwise securely fastened as may be provided by the Commission, shall be considered untagged for enforcement purposes. On each buoy, the affixed crawfish license or trap number shall be at least 2 inches high. The buoy color and license or trap number shall also be permanently and conspicuously displayed on any

vessel used by a commercial harvester for setting traps and buoys, so as to be readily identifiable from the air and water, in the following manner:

(a) 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 permit numbers permanently affixed beneath the circle in numerals no smaller than 10 inches in height.

(b) 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 permit numbers permanently affixed beneath the circle in numerals no smaller than 4 inches in height.

Specific Authority Art IV, Sec. 9, Fla. Const. Law Implemented Art IV, Sec. 9, Fla. Const. History--New 7-2-87, Amended 7-2-90, 3-1-92, 7-1-92, 6-1-94, 10-4-95, 9-30-96, 6-1-99, Formerly 46-24.006, Amended

68B-24.009 Trap Reduction Schedule.

(1) Except as otherwise provided in this rule, beginning with the 2001-2002 1997-1998 license year, the maximum number of lobster trap certificates issued each season by the Commission pursuant to Section 370.142, Florida Statutes, shall be reduced each season by 4 percent the percentage specified in this subsection from the total issued for the immediately previous season. These reductions shall be achieved through passive reductions pursuant to subsection (2). If in any year such passive reduction does not amount to 4 percent of available certificates, an active reduction shall be applied pursuant to subsection (3) apply to all lobster trap certificate holders to achieve the 4 percent target. If in any year, passive reductions pursuant to subsection (2) exceed 4 percent of available certificates, the number of certificates in excess of 4 percent shall be applied to meet the 4 percent reduction target for the following year. Once the number of lobster trap certificates is reduced through this passive/active mechanism to 400,000, there shall be no further reduction in the number of lobster trap certificates issued each year.

~~(a) For the license year 1997-1998, the reduction shall be 0 percent.~~

~~(b) For the license year 1998-1999, the reduction shall be 10 percent.~~

~~(c) For the license year 1999-2000, the reduction shall be 0 percent.~~

~~(d) For the license year 2000-2001, the reduction shall be 0 percent.~~

~~(e) For the license year 2001-2002, the reduction shall be 10 percent.~~

(2) Passive Reduction – 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 25 percent. Additionally, certificates forfeited due to conviction for theft from a spiny lobster trap pursuant to s. 370.142(2)(c)3. or reverting to the Commission for nonpayment of certificate fees pursuant to s. 370.142(2)(c)7., shall be included as trap certificates passively reduced in a license year. It is the intention of the Fish and Wildlife Conservation Commission to annually review and evaluate the impact of the trap reduction schedule on the spiny lobster fishery. Should it become necessary to suspend, reverse, or extend the reduction schedule, the Commission shall initiate rulemaking to amend subsection (1) of this rule.

(3) Active Reduction – If the total passive reduction in lobster trap certificates pursuant to subsection (2) in any license year does not total 4 percent of the certificates available during that season, an additional reduction in the number of available certificates shall be made at the end of the season in the appropriate percentage to achieve the 4 percent target reduction for that year. This reduction shall be applied on a pro rata basis to all lobster trap certificate accounts.

(4) The term “immediate family” for purposes of this rule refers to a lobster trap certificate holder’s mother, father, sister, brother, spouse, son, daughter, step-father, step-mother, step-son, step-daughter, half-sister, or half brother.

Specific Authority Art IV, Sec. 9, Fla. Const. Law Implemented Art IV, Sec. 9, Fla. Const. History–New 3-1-92, Amended 6-1-94, 6-3-96, 3-5-97, 6-29-00, Formerly 46-24.009, Amended \_\_\_\_\_.

NAME OF PERSON ORIGINATING PROPOSED RULE:  
Fish and Wildlife Conservation Commission, 620 South Meridian Street, Tallahassee, Florida 32399-1600

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Allan L. Egbert, Ph.D., Executive Director, Fish and Wildlife Conservation Commission, 620 South Meridian Street, Tallahassee, Florida 32399-1600

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: March 30, 2001

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: December 1, 2000

**FISH AND WILDLIFE CONSERVATION COMMISSION**

**Marine Fisheries**

RULE CHAPTER TITLE: Pompano, African Pompano, and Permit

RULE TITLES:	RULE NOS.:
Size and Bag Limits; Prohibition of Sale	68B-35.003
Gear Specifications and Prohibited Gear	68B-35.004
Commercial Pompano Harvest Requirements:	
Pompano Endorsement Criteria; Pompano	
Special Activity License Criteria; State Waters	
Pompano Daily Harvest Limits	68B-35.005

PURPOSE AND EFFECT: The purpose of these rule amendments and new rule is to establish a set of rules and licensing requirements for the commercial pompano fishery, to allow the prosecution of a federal waters gill net fishery for the species, without encouraging the illegal use of those nets in state waters. Information developed by the Commission from many sources from both the Atlantic and Gulf of Mexico coasts suggests that there is both a legal gill net fishery in federal waters, and an illegal gill net fishery targeting pompano in state waters. The objectives of the rules being developed include: aiding apprehension of illegal pompano gill netting in state waters; documenting where a fishery in federal waters exists, showing where harvest occurs; allowing quick designation of new zones, since documentation of a fishery will not take many trips; treating fishermen fairly; and, avoiding the perception of a time limited opportunity so a derby or gold rush mentality does not develop and tax Commission resources. The effect of these rules should be to protect the health of economically-important pompano stocks, allow a federal waters fishery, protect the hook-and-line commercial fishery in state waters, and increase compliance with netting laws.

SUMMARY: Paragraph (2)(a) of Rule 68B-35.003, F.A.C., is amended to differentiate licensing requirements for commercial harvest of pompano from those regarding permit, referring to new proposed Rule 68B-35.005. Paragraph (2)(b) of Rule 68B-35.004, F.A.C., is amended to limit the applicability of existing allowable gear provisions to state waters. A new subsection (3) is added to the rule to limit possession of any pompano together with any gill or entangling net to persons with a saltwater products license with restricted species and pompano endorsements, which persons have harvested the pompano in allowed designated areas of federal waters. A procedure is included to allow the executive director of the Commission to designate new areas upon a showing that a fishery exists in the area. Paragraph (b) of the subsection also allows possession of pompano together with a gill or entangling net by persons with a Special Activity License, issued pursuant to proposed new Rule 68B-35.005, for the establishment of a federal waters fishery for pompano. These provisions allowing the possession of pompano together with gill or entangling nets do not apply to any person stopping in state waters to fish such gear or persons otherwise violating Section 370.092, Florida Statutes. Subsection (4) is added to the rule to provide specifications for the net gear used to prosecute the federal pompano fishery.

Subsection (1) of proposed new Rule 68B-35.005 establishes criteria for issuance of a pompano endorsement on the saltwater products license. Subsection (2) establishes criteria for the issuance of a pompano Special Activities License to those seeking to show that a federal waters fishery for the species exists. Subsection (3) establishes a pompano daily commercial harvest and landing limit in state waters of 300 pounds.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COST: Prior to the net limitation amendment pompano fishing occurred in state waters, generally near the surf line of beaches, using gill nets. Since the ban on the use of gill nets in state waters, fishers have explored fishing sand bars and rocky shallows in federal waters to net pompano. The proposed rule would limit pompano fishing with gill nets in federal waters by establishing paperwork requirements to possess a gill net and pompano in state waters. The proposal balances the need to aid law enforcement in stopping illegal pompano fishing in state waters and the procedure to document viable regional fisheries in federal waters. The rule establishes one such area in Southwest Florida, a procedure to document other areas, establishment language so the Executive Director may designate new regions, and prohibits pompano fishing with gill nets in Northwest and Northeast Florida. The rule will create additional paperwork, the rule will create additional agency costs, and the rule may affect small businesses and small local governments.

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

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

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

THE FISH AND WILDLIFE CONSERVATION COMMISSION WILL CONDUCT A PUBLIC RULEMAKING HEARING ON THE PROPOSED RULES DURING ITS REGULAR MEETING AT THE TIME, DATE AND PLACE SHOWN BELOW:

TIME AND DATES: 8:30 a.m. – 5:00 p.m., each day, May 23-25, 2001

PLACE: Doubletree Hotel, 4431 PGA Boulevard, Palm Beach Gardens, Florida

Pursuant to the provisions of the Americans with Disabilities Act, any person requiring special accommodations to participate in this workshop/meeting is asked to advise the agency at least 5 calendar days before the workshop/meeting by contacting Andrena Knicely, (850)487-1406. If you are hearing or speech impaired, please contact the agency by calling (850)488-9542.

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

SECTION 286.0105, FLORIDA STATUTES, PROVIDES THAT, IF A PERSON DECIDES TO APPEAL ANY DECISION MADE BY THE COMMISSION WITH RESPECT TO ANY MATTER CONSIDERED AT THIS HEARING, HE WILL NEED A RECORD OF PROCEEDINGS, AND FOR SUCH PURPOSES, HE MAY NEED TO ENSURE THAT A VERBATIM RECORD OF

THE PROCEEDINGS IS MADE, WHICH RECORD INCLUDES THE TESTIMONY AND EVIDENCE UPON WHICH THE APPEAL IS BASED.

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

THE FULL TEXT OF THE PROPOSED RULES IS:

68B-35.003 Size and Bag Limits; Prohibition of Sale.

(1) No change.

(2) Bag Limits –

(a) Except for persons harvesting permit pursuant to a valid saltwater products license with a restricted species endorsement or pompano pursuant to Rule 68B-35.005, no person shall harvest in or from state waters more than a total of 10 pompano or permit per day, in any combination of species, nor possess while in or on state waters more than 10 such fish. No more than one (1) of such fish shall exceed 20 inches length.

(b) Each harvester of African pompano is subject to a bag limit of 2 African pompano per day, however, no more than 2 African pompano shall be possessed aboard any vessel while in or on state waters at any time.

Specific Authority Art. IV, Sec. 9, Fla. Const. Law Implemented Art. IV, Sec. 9, Fla. Const. History–New 7-1-89, Amended 1-1-96, Formerly 46-35.003, Amended \_\_\_\_\_.

68B-35.004 Gear Specifications and Prohibited Gear.

(1) No change.

(2)(a) The harvest or attempted harvest of any African pompano or permit in or from state waters, by or with the use of any gear other than a hook and line gear is prohibited.

(b) The harvest or attempted harvest of any pompano in state waters by or with the use of any gear other than a beach or haul seine, a cast net, or hook and line gear is prohibited.

(3) Except as provided in this subsection, no person shall simultaneously possess aboard any vessel in state waters any pompano together with any gill or entangling net.

(a) Such possession is allowed by persons who have harvested pompano in adjacent federal Exclusive Economic Zone (EEZ) waters and who possess a valid saltwater products license with a restricted species endorsement and a pompano endorsement issued pursuant to Rule 68B-35.005(1), in the following areas of state waters:

1. In the area of state waters between 25°09' North Latitude and 25°00' North Latitude, between Cape Sable and Hurricane Pass.

2. In state waters of any county, upon designation by the Executive Director of the Commission, after it has been established by a person taking pompano pursuant to a Special Activity License issued pursuant to Rule 68B-35.005(2), that on two different trips within a one month period, no less than

1,000 pounds of pompano per trip was harvested with a gill or entangling net in federal EEZ waters adjacent to such county on each trip.

(b) Such possession is allowed by persons who have harvested pompano in adjacent federal EEZ waters and who possess a valid Special Activity License issued pursuant to Rule 68B-35.005(2).

(c) Paragraphs (a) and (b) shall not apply to any person or vessel returning from federal EEZ waters that stops to fish in state waters or otherwise fails to meet all requirements of Section 370.092, Florida Statutes.

(4) Each pompano gill or entangling net possessed in state waters or used in federal EEZ waters pursuant to subsection (3) shall meet the following specifications:

(a) Such net shall not be less than 400 yards in length, along the cork line and along the leadline.

(b) Such net shall be at least 100 meshes deep at its shallowest point.

(c) Such net shall have a mesh size of at least 4 1/2 inches stretched mesh, throughout the net.

Specific Authority Art. IV, Sec. 9, Fla. Const. Law Implemented Art. IV, Sec. 9, Fla. Const. History--New 7-1-89, Amended 1-1-96, Formerly 46-35.004, Amended \_\_\_\_\_.

68B-35.005 Commercial Pompano Harvest Requirements; Pompano Endorsement Criteria; Pompano Special Activity License Criteria; State Waters Pompano Daily Harvest Limits.

(1) POMPANO ENDORSEMENT – No person shall be issued a pompano endorsement on their saltwater products license without first meeting each of the following criteria:

(a) The applicant must possess and have commercially registered a vessel or airboat no smaller than 22 feet in documented length, except in the case of a vessel with the primary power mounted forward of the center point of the vessel, in which case the vessel shall not be smaller than 25 feet in documented length.

(b) The applicant must demonstrate an average annual harvest of pompano of at least 1,000 pounds during each of the 1997-1998, 1998-1999, and 1999-2000 license years.

(c) No applicant shall receive a pompano endorsement who has been charged with violating any provision of Article X, Section 16 of the State Constitution, Section 370.092 or Section 370.093, Florida Statutes, or Rule 68B-4.0081(2), F.A.C., and who has received a judicial disposition other than acquittal or dismissal on such charges.

(2) POMPANO SPECIAL ACTIVITY LICENSE - The Fish and Wildlife Conservation Commission intends to issue Pompano Special Activity Licenses to qualifying commercial fishers to allow them to use gill and entangling nets to harvest pompano in federal Exclusive Economic Zone (EEZ) waters adjacent to state waters, for the sole purpose of establishing that a federal waters fishery exists in specific areas. No person shall be issued a Pompano Special Activity License without first meeting each of the following criteria and conditions:

(a) The applicant must possess and have commercially registered a vessel or airboat no smaller than 22 feet in documented length, except in the case of a vessel with the primary power mounted forward of the center point of the vessel, in which case the vessel shall not be smaller than 25 feet in documented length.

(b) The applicant must demonstrate an average annual harvest of pompano of at least 2,000 pounds during each of the 1997-1998, 1998-1999, and 1999-2000 license years.

(c) No applicant shall receive a Pompano Special Activity License who has been charged with violating any provision of Article X, Section 16 of the State Constitution, Section 370.092 or Section 370.093, Florida Statutes, or Rule 68B-4.0081(2), F.A.C., and who has received a judicial disposition other than acquittal or dismissal on such charges.

(d) The applicant must agree to either take a Commission observer aboard or be observed by personnel of the Commission's Division of Law Enforcement from another vessel, during each trip taken to fish under the Pompano Special Activity License. The license will contain a condition requiring notification of the Commission's Division of Marine Fisheries at least 48 hours prior any trip to allow placement of an on board observer on the vessel or notification of the Division of Law Enforcement, together with submission of a float plan, at least 24 hours prior to such trip. The licensee shall provide a trip report to the Division of Marine Fisheries within 72 hours of completion of any such trip.

(e) The applicant must agree to surrender the Pompano Special Activity License if no trips have been taken within 6 months of issuance of the license.

(f) The applicant must acknowledge that violation of any of the conditions of the license may result in the revocation of the license.

(3) STATE WATERS DAILY COMMERCIAL HARVEST LIMITS – Persons harvesting pompano in state waters pursuant to a saltwater products license with a restricted species endorsement, shall be subject to a daily harvest and landing limit of 300 pounds of pompano. Such persons are subject to the gear limitations of Rule 68B-35.004(2)(b).

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

NAME OF PERSON ORIGINATING PROPOSED RULE: Fish and Wildlife Conservation Commission, 620 South Meridian Street, Tallahassee, Florida 32399-1600

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Allan L. Egbert, Ph.D., Executive Director, Fish and Wildlife Conservation Commission, 620 South Meridian Street, Tallahassee, Florida 32399-1600

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: November 8, 2000

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: April 13, 2001

**FISH AND WILDLIFE CONSERVATION COMMISSION**

**Manatees**

<b>RULE CHAPTER TITLE:</b>	<b>RULE CHAPTER NO.:</b>
Manatees	68C-22
<b>RULE TITLES:</b>	<b>RULE NOS.:</b>
Brevard County Zones	68C-22.006
Turkey Creek Zones Established	68C-22.018
Manatee Cove Zone Established	68C-22.021

**PURPOSE AND EFFECT:** The purpose of the proposed rule is to revise the existing motorboat speed and operation zones and safe haven zones to improve manatee protection in Brevard County and to consolidate the existing three rules into a single rule. The net effect would be an increase in the amount of area where motorboat speed and operation are regulated for manatee protection. An existing zone in Mosquito Lagoon would be removed and several existing zones in the Indian and Banana rivers would be reduced in size, while new or more restrictive zones would be added in other parts of these rivers as well as in the Canaveral Barge Canal, Sykes Creek, and Newfound Harbor. Permits for commercial fishing and professional fishing guide activities would continue to be available.

**SUMMARY:** Some of the existing manatee protection zones would be revised while new zones would be added in several areas. Rules 68C-22.018 and 68C-22.021 would be repealed, with the zones that are set forth in each of these rules being incorporated into Rule 68C-22.006. The existing Slow Speed zone in 68C-22.018 would be revised slightly. The existing 30 MPH zone in Mosquito Lagoon would be removed, the existing Slow Speed zones in the Indian River between Titusville and the NASA Parkway would be reduced in size, and a small section of the existing Slow Speed zone north of State Road 528 would be removed. The existing Slow Speed zones in the Banana River between State Road 528 and State Road 520 would be reduced in size as would the existing Slow Speed zones on the east side of the river in the Cocoa Beach area and on the west side of the river north of State Road 404. In Mosquito Lagoon, the existing 30 MPH zone in the Intracoastal Waterway (ICW) channel would be changed to 25 MPH and a small Slow Speed zone that includes the ICW would be added at the northeast entrance to Haulover Canal. The ICW in the Indian River north of Titusville would also be regulated at 25 MPH as would two short stretches farther to the south (at NASA Parkway and near the Brevard County/Indian River County line). With the exception of the areas described above and a small Slow Speed zone at the southwest entrance to Haulover Canal, the ICW in the Indian River would not be regulated. New Slow Speed zones would be added in the Indian River in the southern portion of Turnbull Basin, along the eastern shoreline opposite the power plants, and along most of the shorelines between State Road 528 and Grant. All of the Canaveral Barge Canal and Sykes Creek would become Slow

Speed zones. An Idle Speed zone would be added in the Banana River just south of State Road 528. New Slow Speed zones would be added in the Banana River north of State Road 528, along the western shoreline south of State Road 520, in Newfound Harbor, and north of State Road 404. A 25 MPH zone would be added in the main Banana River channel south of State Road 404, while the existing year-round and seasonal 25 MPH access channels throughout the Banana River would be removed. All areas that are currently identified as being eligible for commercial fishing and professional fishing guide permits would continue to be eligible and most of the new Slow Speed zones would also be eligible.

**SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS:** No Statement of Estimated Regulatory Costs (SERC) has been prepared.

Any person who wishes to provide information regarding a SERC, or to provide a proposal for a lower cost regulatory alternative, must do so in writing within 21 days of this notice. **SPECIFIC AUTHORITY:** 370.12(2)(f),(k),(m),(n) FS.

**LAW IMPLEMENTED:** 370.12(2)(d),(f),(j),(k),(m),(n) FS.

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

**TIME AND DATE:** 4:00 p.m. – 9:00 p.m., Thursday, May 3, 2001

**PLACE:** Hilton Melbourne Airport, 200 Rialto Place, Rialto Ballroom, Melbourne, Florida

People wishing to speak do not need to be present at the start of the hearing, nor do they need to stay for the entire duration of the hearing. Written comments will also be accepted. Written comments received by the Commission on or before the date of the final public hearing will be considered and made a part of the rulemaking record.

**THE FINAL PUBLIC HEARING WILL BE HELD DURING THE REGULAR MEETING OF THE COMMISSION, WHICH IS SCHEDULED FOR THE DATE AND LOCATION SHOWN BELOW:**

**DATES:** Wednesday, May 23, 2001 through Friday, May 25, 2001

**PLACE:** Doubletree Hotel, 4431 PGA Boulevard, Palm Beach Gardens, Florida

Please refer to the Commission’s agenda for the specific day and time when this item will be addressed.

If accommodation for a disability is needed to participate in either of the above hearings, please notify the contact person listed below at least seven days before the hearing.

**THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULES IS:** Mr. Scott Calleson, Environmental Specialist III, Florida Fish and Wildlife Conservation Commission, Bureau of Protected Species Management (OES-BPS), 620 South Meridian Street, Tallahassee, Florida 32399, telephone (850)922-4330.

## THE FULL TEXT OF THE PROPOSED RULES IS:

(Substantial rewording of Rule 68C-22.006 follows. See Florida Administrative Code for present text.)

## 68C-22.006 Brevard County Zones.

(1) The Commission hereby designates the waters within Brevard County, as described below, as areas where manatee sightings are frequent and where it can be assumed that manatees inhabit on a regular, periodic or continuous basis. The Commission has further determined that a likelihood of threat to manatees exists in these waters as a result of manatees and motorboats using the same areas. The primary purpose of this rule is to protect manatees from harmful collisions with motorboats and from harassment by regulating the speed and operation of motorboats within these designated areas. A secondary purpose is to protect manatee habitat. In balancing the rights of fishers, boaters, and water skiers to use these waterways for recreational and commercial purposes (as applicable under 370.12(2)(j), F.S.) with the need to provide manatee protection, the Commission has examined the need for unregulated areas or higher speed travel corridors through regulated areas. Such areas or corridors are provided in those locations where the Commission determined, on the basis of all available information, (1) there is a need for the area or corridor and (2) the area or corridor will not result in serious threats to manatees or their habitat. Unregulated areas or higher speed corridors are not provided in locations where both of the above findings were not made.

(2) The following year-round and seasonal zones are established, which shall include all associated and navigable tributaries, lakes, creeks, coves, bends, backwaters, canals, and boat basins unless otherwise designated or excluded. As used in this rule, ICW means the Intracoastal Waterway. Access to the NO ENTRY and MOTORBOATS PROHIBITED zones designated in paragraphs (2)(a) and (b) will be provided in accordance with procedures set forth in subsection (4), hereunder, and applicable provisions of Rule 68C-22.003.

## (a) NO ENTRY (November 15 – March 31)

1. Indian River, Reliant Corporation Delespine Power Plant Area: All waters within the discharge canal of the Reliant Corporation Delespine power plant, and; All waters southerly of a line extending eastward from and following the same bearing as the southernmost seawall of the power plant discharge canal, with said line bearing approximately 70°, westerly of a line 250 feet east of and parallel to the western shoreline of the Indian River, and northerly of the jetty on the north side of the power plant intake canal.

2. Indian River, FPL Frontenac Power Plant Area: All waters in the vicinity of the Florida Power and Light (FPL) Frontenac power plant southerly of a line connecting the northern guy wires of the power poles immediately north of the FPL Unit 2 discharge area from the western shoreline of the Indian River to the third power pole east of the western

shoreline (approximately 1,650 feet east of the shoreline), and westerly of a line running from said third power pole to the easternmost point (approximate latitude 28° 28' 07" North, approximate longitude 80° 45' 19" West) of the jetty on the north side of the FPL intake canal.

(b) MOTORBOATS PROHIBITED (All Year, except as noted)

1. Indian River, Reliant Corporation Delespine Power Plant Area: All waters in the vicinity of the Reliant Corporation Delespine power plant southerly of a line bearing 90° from a point (approximate latitude 28° 29' 41" North, approximate longitude 80° 46' 35" West) on the western shoreline of the Indian River 95 feet north of the northernmost seawall of the power plant discharge canal, westerly of a line 250 feet east of and parallel to the western shoreline of the Indian River, and northerly of a line extending eastward from and following the same bearing as the southernmost seawall of the power plant discharge canal, with said line bearing approximately 70°. This zone is in effect from November 15 through March 31.

2. C-54 Canal: All waters of the C-54 Canal (South Florida Water Management District Canal 54) east of the spillway (approximate latitude 27° 49' 50" North, approximate longitude 80° 32' 24" West) and west of a line drawn perpendicular to the northern shoreline of the C-54 Canal at a point (approximate latitude 27° 49' 55" North, approximate longitude 80° 32' 00" West) on the northern shoreline 2,500 feet east of the spillway.

(c) IDLE SPEED (All Year, except as noted)

1. Indian River, Power Plant Area: All waters west of the western boundary of the ICW channel, south of a line bearing 90° from a point (approximate latitude 28° 30' 13" North, approximate longitude 80° 46' 48" West) on the western shoreline of the Indian River approximately three-fourths of a mile north of the Delespine power plant discharge canal, and north of a line bearing 90° from a point (approximate latitude 28° 27' 27" North, approximate longitude 80° 45' 43" West) on the western shoreline of the Indian River approximately three-fourths of a mile south of the Frontenac power plant discharge canal, except as otherwise designated under (2)(a) and (b)1. This zone is in effect from November 15 through March 31.

2. Banana River, Cape Canaveral Area: All waters north of a line bearing 270° from the southwesternmost point (approximate latitude 28° 23' 29" North, approximate longitude 80° 37' 10" West) of Long Point in Cape Canaveral to a point (approximate latitude 28° 23' 29" North, approximate longitude 80° 37' 49" West) in the Banana River approximately 3,500 feet west of Long Point, and east of a line bearing 331° from said point in the Banana River to a point (approximate latitude 28° 24' 16" North, approximate longitude 80° 38' 19" West) on the State Road 528 Causeway (west of State Road 401).

3. Banana River, Manatee Cove Area: All waters of Manatee Cove (on the east side of the Banana River, just south of State Road 520) east of a line at the mouth of the cove running between a point (approximate latitude 28° 21' 21" North, approximate longitude 80° 36' 52" West) on the northern shoreline and a point (approximate latitude 28° 21' 09" North, approximate longitude 80° 36' 51" West) on the southern shoreline.

4. Turkey Creek: All waters of Turkey Creek north and east (downstream) of Melbourne-Tillman Drainage District structure MS-1 and south and west of a line at the mouth of Turkey Creek that runs from the southeasternmost point (approximate latitude 28° 02' 21" North, approximate longitude 80° 34' 48" West) of Castaway Point to the northeasternmost point (approximate latitude 28° 02' 14" North, approximate longitude 80° 34' 43" West) of Palm Bay Point.

5. Sebastian Inlet Area: All waters of the cove on the northern side of Sebastian Inlet (commonly known as Campbell Cove) northwest of a line running between the two rock jetties at the entrance to the cove.

6. Sebastian River Area: All waters of the North Prong of Sebastian River, and; All waters of the North Fork Sebastian River (also known as Sebastian Creek) and the C-54 Canal west of a north-south line from a point (approximate latitude 27° 50' 08" North, approximate longitude 80° 31' 02" West) on the northern shoreline of the North Fork Sebastian River at the intersection of the river and the North Prong and east of a line drawn perpendicular to the northern shoreline of the C-54 Canal at a point (approximate latitude 27° 49' 55" North, approximate longitude 80° 32' 00" West) on the northern shoreline 2,500 feet east of the spillway.

(d) SLOW SPEED (All Year)

1. Mosquito Lagoon: All waters west of the ICW channel, south of the Volusia County/Brevard County line, and north of ICW channel marker "43," and; All waters of Mosquito Lagoon (including the ICW channel) south of ICW channel marker "43," southwest of a line commencing at ICW channel marker "43" and then running to ICW channel marker "45" and then on a bearing of 132° for a distance of 1,000 feet to the line's terminus at a point in Mosquito Lagoon (approximate latitude 28° 44' 35" North, approximate longitude 80° 44' 35" West), and north of a line running from said point in Mosquito Lagoon on a bearing of 221° to the western shoreline of Mosquito Lagoon.

2. Indian River, Turnbull Basin Area: All waters south and east of a line commencing at a point (approximate latitude 28° 44' 36" North, approximate longitude 80° 46' 19" West) on the eastern shoreline of Turnbull Basin (about one mile north of Haulover Canal) and then bearing 193° to a point 1,500 feet northwest of the ICW channel, then running in a southwesterly direction 1,500 feet northwest of and parallel with the ICW channel to a point (approximate latitude 28° 41' 22" North, approximate longitude 80° 49' 05" West) 1,500 feet northwest

of ICW channel marker "12," and then running in a southerly direction 1,500 feet west of and parallel with the ICW channel to the Florida East Coast Railroad Bridge, including all waters west of the ICW channel and south of an east-west line 1,500 feet north of the point where the Florida East Coast Railroad Bridge crosses over the ICW, but excluding the ICW channel as designated under (2)(e)2.

3. Indian River, Titusville Area: All waters south of the Florida East Coast Railroad Bridge, east of the ICW channel, and north of an east-west line 1,200 feet south of the point where the Florida East Coast Railroad Bridge crosses over the ICW, and; All waters west of the ICW channel south of the Florida East Coast Railroad Bridge and north of the State Road 402 Bridge and Causeway.

4. Indian River, State Road 402 (Max Brewer Causeway) to State Road 405 (NASA Parkway): All waters within 2,000 feet of the general contour of the western shoreline of the Indian River, excluding the ICW channel where the channel is less than 2,000 feet from the western shore; All waters within one mile of the general contour of the eastern shoreline of the Indian River south and east of a point (approximate latitude 28° 36' 04" North, approximate longitude 80° 44' 44" West) on the western shoreline of Peacock's Pocket (northwest of Banana Creek), and; All waters south of an east-west line 3,400 feet north of the point where the State Road 405 Bridge crosses over the ICW, excluding the ICW channel as designated under (2)(e)3.

5. Indian River, State Road 405 (NASA Parkway) to State Road 528 (Bennett Causeway): All waters north of an east-west line 3,000 feet south of the point where the State Road 405 Bridge crosses over the ICW, excluding the ICW channel as designated under (2)(e)3.; All waters west of the ICW channel and north of the overhead power transmission line that crosses the western shoreline of the Indian River approximately 1,200 feet north of State Road 528, excepting those areas otherwise designated for seasonal regulation under (2)(a), (b)1., and (c)1. when said seasonal zones are in effect; All waters south of said overhead power transmission line and west of a north-south line running through the second power pole east of the western shoreline; All waters within one-half mile of the eastern shoreline of the Indian River north of a point (approximate latitude 28° 25' 47" North, approximate longitude 80° 43' 24" West) on the eastern shoreline of the Indian River 1,500 feet south of the canal on the southern side of Meadow Lark Lane, including all waters of Rinkers Canal, and; All waters east of the ICW channel and south of the overhead power transmission line that crosses the eastern shoreline of the Indian River approximately 3,900 feet north of State Road 528.

6. Indian River, State Road 528 (Bennett Causeway) to State Road 518 (Eau Gallie Causeway): All waters within 1,000 feet of the general contour of the western shoreline of the Indian River; All waters south of State Road 528 and within

500 feet of the State Road 528 Causeway, within 500 feet of the State Road 520 Causeway, within 500 feet of the State Road 404 Causeway, and north of State Road 518 and within 500 feet of the State Road 518 Causeway; All waters within 1,000 feet of the general contour of the eastern shoreline of the Indian River between State Road 528 and State Road 520; All waters east of the ICW channel from State Road 520 to an east-west line 300 feet south of the southernmost point (approximate latitude 28° 19' 22" North, approximate longitude 80° 42' 00" West) of the spoil island east of ICW channel marker "80," and; All waters within 500 feet of the general contour of the eastern shoreline of the Indian River south of the aforementioned east-west line and north of State Road 404 (Pineda Causeway).

7. Indian River, State Road 518 (Eau Gallie Causeway) to Cape Malabar: All waters within 1,000 feet of the general contour of the eastern shoreline of the Indian River; All waters south of State Road 518 and within 500 feet of the State Road 518 Causeway and within 500 feet of the State Road 192 Causeway; All waters within 1,000 feet of the general contour of the western shoreline of the Indian River south of State Road 518 and north of the easternmost point (approximate latitude 28° 02' 24" North, approximate longitude 80° 34' 48" West) of Castaway Point (including all waters of the Eau Gallie River and Crane Creek), and; All waters south of said easternmost point of Castaway Point, north of Cape Malabar, and west of a line commencing at a point (approximate latitude 28° 02' 29" North, approximate longitude 80° 34' 38" West) in the Indian River 1,000 feet northeast of said easternmost point of Castaway point, then bearing 130° to the westernmost point (approximate latitude 28° 02' 15" North, approximate longitude 80° 34' 19" West) of the spoil site west of ICW channel marker "14," then bearing 153° to the westernmost point (approximate latitude 28° 01' 32" North, approximate longitude 80° 33' 55" West) of the spoil site southwest of ICW channel marker "15," then bearing 138° to the line's terminus at a point (approximate latitude 28° 01' 12" North, approximate longitude 80° 33' 35" West) in the Indian River approximately 2,400 feet northeast of Cape Malabar.

8. Indian River, Cape Malabar to Grant: All waters within 1,000 feet of the general contour of the eastern shoreline of the Indian River south of Cape Malabar and north of a point (approximate latitude 27° 55' 59" North, approximate longitude 80° 30' 30" West) on the eastern shoreline of the Indian River (north of Mullet Creek); All waters south of Cape Malabar, north of the spoil island between ICW channel markers "25" and "27," and west of a line commencing at a point (approximate latitude 28° 01' 12" North, approximate longitude 80° 33' 35" West) in the Indian River approximately 2,400 feet northeast of Cape Malabar, then bearing 157° to the easternmost point (approximate latitude 28° 00' 26" North, approximate longitude 80° 33' 13" West) of the spoil site between ICW channel markers "16" and "17," then bearing 152° to the easternmost point (approximate latitude 27° 59' 21"

North, approximate longitude 80° 32' 35" West) of the spoil island west of ICW channel marker "22," then bearing 166° to the line's terminus at the easternmost point (approximate latitude 27° 57' 50" North, approximate longitude 80° 32' 10" West) of the spoil island between ICW channel markers "25" and "27;" All waters within 1,000 feet of the general contour of the western shoreline of the Indian River south of said spoil island between ICW channel markers "25" and "27," and north of ICW channel marker "35," and; All waters west of the ICW channel between ICW channel markers "35" and "38."

9. Indian River, Grant to the Indian River County Line: All waters west of the ICW channel between ICW channel marker "38" and the Brevard County/Indian River County line, including those waters east of the centerline of the U.S. 1 Bridge over the Sebastian River, and; All waters within 1,500 feet of the general contour of the eastern shoreline of the Indian River, south of a point (approximate latitude 27° 55' 59" North, approximate longitude 80° 30' 30" West) on the eastern shoreline of the Indian River (north of Mullet Creek) and north of an east-west line running through ICW channel marker "59" (approximate latitude 27° 51' 38" North, approximate longitude 80° 28' 57" West), including those waters within 1,500 feet west of the westernmost edge of the Mullet Creek Islands, within 1,500 feet west of the westernmost edge of the islands south of Mathers Cove, within 1,500 feet west of the westernmost edge of Long Point, and within 1,500 feet west of the westernmost extensions of Campbell Pocket south to said east-west line running through ICW channel marker "59," and; All waters of the Indian River and Sebastian Inlet east of the ICW channel, south of said east-west line running through ICW channel marker "59," north of the Brevard County/Indian River County line, and west of a line 200 feet southwest of and parallel with the centerline of the State Road A1A Bridge, except as otherwise designated under (2)(c)5, and excluding the marked Sebastian Inlet channel.

10. Sebastian River Area: All waters of the Sebastian River (including waters also known as San Sebastian Bay), the South Fork San Sebastian River (also known as St. Sebastian River, Sebastian River and Sebastian Creek), and the North Fork Sebastian River (also known as Sebastian Creek) within Brevard County west of the centerline of the U.S. 1 Bridge and east of a north-south line from a point (approximate latitude 27° 50' 08" North, approximate longitude 80° 31' 02" West) on the northern shoreline of the North Fork Sebastian River at the intersection of the river and the North Prong of Sebastian River.

11. Canaveral Barge Canal: All waters of the Canaveral Barge Canal east of the general contour of the eastern shoreline of the Indian River and west of the general contour of the western shoreline of the Banana River.

12. Sykes Creek and Kiwanis Basin: All waters of Sykes Creek and Kiwanis Basin south of the Canaveral Barge Canal and north of the centerline of State Road 520.



13. Newfound Harbor: All waters south of State Road 520 and within 1,000 feet of the State Road 520 Bridge and Causeway; All waters within 1,000 feet of the general contour of the western shoreline of Newfound Harbor north of the runway for the Merritt Island Airport (approximately one mile south of State Road 520), and; All waters within 1,000 feet of the general contour of the eastern shoreline of Newfound Harbor and an extension of said shoreline to a point 1,000 feet south of Buck Point.

14. Banana River, North of State Road 528: All waters within 1,500 feet of the general contour of the western shoreline of the Banana River south of a point (approximate latitude 28° 26' 10" North, approximate longitude 80° 39' 35" West) on the shoreline near Kars Park on the boundary of the federal No Motor zone; All waters south of an east-west line running through the westernmost point (approximate latitude 28° 24' 42" North, approximate longitude 80° 38' 34" West) of the first spoil island north of the Canaveral Locks (commonly known as Ski Island), including those waters in Port Canaveral west of State Road 401, and; All waters east and south of a line commencing at the northernmost point (approximate latitude 28° 24' 44" North, approximate longitude 80° 38' 32" West) of Ski Island, then running to the southernmost point (approximate latitude 28° 24' 55" North, approximate longitude 80° 38' 31" West) of the second spoil island north of the Canaveral Locks, then following the eastern shoreline of said spoil island to its northernmost point, then bearing 6° to a point (approximate latitude 28° 25' 09" North, approximate longitude 80° 38' 29" West) in the Banana River underneath the overhead power transmission line south of the third spoil island north of Canaveral Locks, then following said transmission line (which is the boundary of the federal No Motor zone) in an easterly direction to the line's terminus at a point (approximate latitude 28° 25' 16" North, approximate longitude 80° 36' 13" West) on the eastern shoreline of the Banana River.

15. Banana River, State Road 528 to State Road 520: All waters south of State Road 528 and north of an east-west line 1,000 feet south of the point where the State Road 528 Bridge crosses over the main Banana River channel, except as otherwise designated under (2)(c)2.; All waters west of a line running from a point (approximate latitude 28° 24' 16" North, approximate longitude 80° 39' 30" West) on the State Road 528 Causeway east of the western State Road 528 Relief Bridge to a point (approximate latitude 28° 21' 26" North, approximate longitude 80° 39' 32" West) on the State Road 520 Causeway approximately 1,200 feet west of the water storage tanks, and; All waters south of a line bearing 270° from the southwesternmost point (approximate latitude 28° 23' 29" North, approximate longitude 80° 37' 10" West) of Long Point in Cape Canaveral to a point (approximate latitude 28° 23' 29" North, approximate longitude 80° 37' 49" West) in the Banana River approximately 3,500 feet west of Long Point, and east of a line bearing 174° from said point in the Banana River to a point (approximate latitude 28° 21' 28" North, approximate

longitude 80° 37' 35" West) on the State Road 520 Causeway approximately 1,000 feet west of Cape Canaveral Hospital Complex.

16. Banana River, Cocoa Beach Area: All waters south of State Road 520 and within 1,000 feet of the State Road 520 Causeway, excluding the main Banana River channel; All waters within 1,000 feet of the general contour of the western shoreline of the Banana River, south of State Road 520 and north of Buck Point and an extension of said shoreline to a point 1,000 feet south of Buck Point, excluding the main Banana River channel where the channel is less than 1,000 feet from the western shoreline, and; All waters east of a line commencing at a point (approximate latitude 28° 21' 25" North, approximate longitude 80° 38' 30" West) on the State Road 520 Causeway (approximately 2,000 feet east of the State Road 520 Bridge over the main Banana River channel), then bearing 190° to a point (approximate latitude 28° 19' 15" North, approximate longitude 80° 38' 55" West) in the Banana River approximately 1,900 feet west of the northwesternmost point of the Cocoa Beach Municipal Park, then bearing 270° to a point (approximate latitude 28° 18' 38" North, approximate longitude 80° 38' 55" West) in the Banana River approximately 1,700 feet west of the southwesternmost point of the Cocoa Beach Municipal Park, then bearing 171° for approximately 3,000 feet to a point (approximate latitude 28° 18' 07" North, approximate longitude 80° 38' 50" West) in the Banana River east of channel marker "15," then bearing 124° to a point (approximate latitude 28° 16' 52" North, approximate longitude 80° 36' 45" West) in the Banana River 1,000 feet west of the eastern shoreline of the Banana River, then heading in a southerly direction 1,000 feet west of and parallel with the eastern shoreline of the Banana River to the line's terminus at a point (approximate latitude 28° 15' 51" North, approximate longitude 80° 36' 38" West) in the Banana River near the northern boundary of Patrick Air Force Base.

17. Banana River, South of Cocoa Beach to State Road 404 (Pineda Causeway): All waters south of an east-west line running through the southernmost point (approximate latitude 28° 16' 19" North, approximate longitude 80° 39' 25" West) of the more southerly of the two islands east of Macaw Way (on Merritt Island) and west of a line bearing 162° from said southernmost point to State Road 404; All waters south and east of the overhead power transmission line in the Banana River adjacent to Patrick Air Force Base, and; All waters north of the centerline of State Road 404 and within 2,000 feet of the State Road 404 Bridges and Causeway, excluding the main Banana River channel as designated under (2)(e)5.

18. Banana River, South of State Road 404 (Pineda Causeway): All waters south of the centerline of State Road 404, including those waters east of a line bearing 270° from the southernmost point (approximate latitude 28° 08' 32" North, approximate longitude 80° 36' 15" West) of Merritt Island

(commonly known as Dragon Point) to the Eau Gallie Causeway, excluding the main Banana River channel as designated under (2)(e)5.

(e) 25 MPH (All Year)

1. Mosquito Lagoon: All waters in the ICW channel south of the Volusia County/Brevard County line and north of ICW channel marker "43" (north of Haulover Canal).

2. Indian River, Turnbull Basin and Titusville Area: All waters in the ICW channel southwest of ICW channel marker "1" (southwest of Haulover Canal) and north of an east-west line 1,200 feet south of the point where the Florida East Coast Railroad Bridge crosses over the ICW.

3. Indian River, State Road 405 (NASA Parkway) Area: All waters in the ICW channel south of an east-west line 3,400 feet north of the point where the State Road 405 Bridge crosses over the ICW and north of an east-west line 3,000 feet south of the point where the State Road 405 Bridge crosses over the ICW.

4. South Indian River Area: All waters in the ICW channel south of ICW channel marker "59" and north of the Brevard County/Indian River County line.

5. South Banana River Area: All waters in the main Banana River channel south of a point in the channel 2,000 feet north of the State Road 404 Bridge, and north of a point (approximate latitude 28° 09' 15" North, approximate longitude 80° 36' 32" West) in the channel on the northern boundary of the local Idle Speed zone approximately 1,900 feet north of the Mathers Bridge.

(3) Commercial Fishing and Professional Fishing Guide Permits: The following provisions pertain to the issuance of permits to allow individuals engaged in commercial fishing and professional fishing guide activities to operate their vessels in specified areas at speeds greater than the speed limits

established under subsection (2) above. Procedures related to the application for and the review and issuance of these permits are as set forth in 68C-22.003, Florida Administrative Code.

(a) Permits shall be limited as follows:

1. Permits shall only be available for the zones or portions of zones described under (2)(d)1. through (2)(d)9., and (2)(d)13. through (2)(d)18.

2. Permits shall not apply on weekends or on the holidays identified in s. 110.117, F.S.

(b) Permit applications may be obtained at the Commission's Law Enforcement office at 1-A Max Brewer Memorial Parkway in Titusville or by contacting the Commission at Mail Station OES-BPS, 620 South Meridian Street, Tallahassee, Florida 32399 (850-922-4330).

(4) Access to the NO ENTRY and MOTORBOATS PROHIBITED zones is allowed for Reliant Corporation employees or their authorized agents (for the zones designated under (2)(a)1. and (b)1.) and for Florida Power and Light Company employees or their authorized agents (for the zone designated under (2)(a)2.) provided that entry into the zones is necessary to conduct activities associated with power plant maintenance, emergency operations or environmental monitoring. The Commission must receive notification of the activity prior to its commencement. In the event of an emergency activity, the Commission shall be notified no more than one week after the activity has been commenced. All vessels used in the operation or associated with the activity shall be operated at no greater than Idle Speed while within the zones and must have an observer on board to look for manatees.

(5) The zones described in 68C-22.006(2) are depicted on the following maps, labeled "Brevard County Manatee Protection Zones." The maps are intended as depictions of the above-described zones. In the event of conflict between the maps and descriptions, the descriptions shall prevail.

(INSERT MAP – 1 OF 6)

(INSERT MAP – 2 OF 6)

(INSERT MAP – 3 OF 6)

(INSERT MAP – 4 OF 6)

(INSERT MAP – 5 OF 6)

(INSERT MAP – 6 OF 6)



Specific Authority 370.12(2)(f),(k),(m),(n) FS. Law Implemented 370.12(2)(d),(f),(j),(k),(m),(n) FS. History--New 3-19-79, Formerly 16N-22.06, Amended 12-20-89, 8-28-90, 7-25-91, 8-18-92, Formerly 16N-22.006, Amended 10-12-94, 12-29-98, Formerly 62N-22.006, Amended

68C-22.018 Turkey Creek Zones Established.

Specific Authority 370.12(2)(f) FS. Law Implemented 370.12(2)(f)14. FS. History--New 11-23-83, Formerly 16N-22.18, 16N-22.018, 62N-22.018, Repealed

68C-22.021 Manatee Cove Zone Established.

Specific Authority 370.021(2) FS. Law Implemented 370.12(2)(k)2. FS. History--New 12-4-85, Formerly 16N-22.21, 16N-22.021, 62N-22.021, Repealed

NAME OF PERSON ORIGINATING PROPOSED RULE: Mr. David Arnold, Chief of the Bureau of Protected Species Management, Florida Fish and Wildlife Conservation Commission

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Mr. Bradley J. Hartman, Director of the Office of Environmental Services, Florida Fish and Wildlife Conservation Commission

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: March 30, 2001

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: October 6, 2000

FISH AND WILDLIFE CONSERVATION COMMISSION

Marine Resources

RULE CHAPTER TITLE: The Florida Artificial Reef Program

Table with 2 columns: RULE TITLES and RULE NOS. containing items like Introduction and Scope (68E-9.001), Definitions (68E-9.002), etc.

PURPOSE AND EFFECT: The proposed new rules implement Section 370.25, F.S., transferred to FWC on July 1, 2000. The FWC grants-in aid program, provides technical assistance and federal and state funds to coastal local governments and non-profit corporations to develop and monitor artificial reefs.

SUMMARY: The proposed new rules govern the development and funding of state and federally funded artificial reefs, the review and ranking of project applications eligible for funding, and the administration of funds.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COST: A statement has not been prepared regarding these proposed rules.

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

SPECIFIC AUTHORITY: Article IV, Section 9, Florida Constitution, Sections 370.25(2),(4) FS.

LAW IMPLEMENTED: Article IV, Section 9, Florida Constitution, Section 370.25 FS.

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

TIME AND DATES: 8:30 a.m., each day, May 23-25, 2001

PLACE: DoubleTree Hotel, 4431 PGA Boulevard, Palm Beach Gardens, Florida

SECTION 286.0105, FLORIDA STATUTES, PROVIDES THAT, IF A PERSON DECIDES TO APPEAL ANY DECISION MADE BY THE COMMISSION WITH RESPECT TO ANY MATTER CONSIDERED AT THIS HEARING, HE WILL NEED A RECORD OF PROCEEDINGS, AND FOR SUCH PURPOSES, HE MAY NEED TO ENSURE THAT A VERBATIM RECORD OF THE PROCEEDINGS IS MADE, WHICH RECORD INCLUDES THE TESTIMONY AND EVIDENCE UPON WHICH THE APPEAL IS BASED.

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

THE FULL TEXT OF THE PROPOSED RULES IS:

CHAPTER 68E-9 THE FLORIDA ARTIFICIAL REEF PROGRAM

68E-9.001 Introduction and Scope.

(1) It is the intent of the Florida Fish and Wildlife Conservation Commission pursuant to statutory authority under section 370.25, Florida Statutes to establish a program to provide grant funding and technical assistance to coastal local governments and nonprofit corporations qualified under section 501 (c)(3) of the U. S. Internal Revenue Code for the development of artificial reefs and the monitoring and evaluation of their recreational, economic, and biological effectiveness in the predominantly marine waters of Florida and adjacent federal waters. The program is intended to accomplish the following objectives: 1) promote coordinated and effective efforts to develop artificial reefs; 2) locally enhance fishery resources; 3) increase hard bottom reef fish habitat where appropriate; 4) increase saltwater fishing and diving opportunities, and 5) facilitate artificial reef related research and monitoring.

(2) The purpose of this rule is to govern the development of state and federally funded artificial reefs, the review and ranking of project applications eligible for funding, and the administration of funds from the Florida Artificial Reef Program.

Specific Authority 370.25(2),(4) FS, Law Implemented Article IV, Section 9, Florida Constitution, 370.25 FS, History—New

62E-9.002 Definitions.

(1) “Applicant” means a local coastal governmental entity or an eligible nonprofit organization qualified under s. 501(c)(3) of the U.S. Internal Revenue Code submitting a written grant application or proposal for financial assistance.

(2) “Artificial reef” for purposes of this rule means one or more manufactured or natural objects intentionally placed on the bottom in predominantly marine waters to provide conditions believed to be favorable in sustaining, or enhancing the spawning, breeding, feeding, or growth to maturity of Florida’s managed reef associated fish species as well as to increase the productivity of other reef community resources which support fisheries. Included in this definition are artificial reefs developed with one or more of the following additional objectives: enhancement of fishing and diving opportunities, fisheries research, and fisheries conservation/preservation purposes.

(3) “Coastal local government” means any local governing body which is duly constituted under the laws of Florida and whose geographical jurisdiction covers, includes or borders the Atlantic Ocean, Gulf of Mexico, estuaries, or other predominantly marine waters.

(4) “Commission” means the Florida Fish and Wildlife Conservation Commission.

(5) “Development” for the purposes of this rule shall mean the process of creating a plan for a reef project or reef program, project site selection, obtaining permits, securing or fabricating reef materials, and transportation, and placement of artificial reef materials for the purpose of constructing an artificial reef.

(6) “Division” means the Division of Marine Fisheries in the Florida Fish and Wildlife Conservation Commission.

(7) “Evaluation” for purposes of this rule means the objective and accurate measurement of various characteristics of the artificial reef and its associated environmental related fishery and user benefits, for the purpose of judging whether the artificial reef is meeting the objectives specified for it by the grantee. Evaluation is synonymous with assessment.

(8) “Live bottom” for purposes of this rule shall mean an area that contains varying biological assemblages of perennial algal species and/or such invertebrates as sea fans, sea whips, hydroids, anemones, ascidians, sponges, bryozoans, or corals living upon and attached to naturally occurring permanent or ephemeral hard or rocky formations with rough, broken or smooth topography and of variable vertical relief. Live bottom

is a subset of hard bottom which also includes living natural reefs such as tropical coral reefs, Oculina coral reefs, oyster reefs, and worm reefs, as well as artificial reefs.

(9) “Monitoring” for the purposes of this rule means the process of making technical and scientific observations at a reef site, as a means of gathering data according to a predetermined study plan in order to detect physical, biological, or recreational use patterns and changes.

(10) “Nonprofit corporation” for purposes of this rule means an organization that is a not-for-profit charitable, scientific or educational organization under 501(c)(3) of the Internal Revenue Service Code and is in full compliance with the regulations defining and governing that organization.

(11) “Permitted site” means an area with discrete boundaries inside of which one or more artificial reefs may be located and for which all required permits and authorizations have been obtained. These permits and authorizations include: artificial reef permits issued by the Florida Department of Environmental Protection and/or the Army Corps of Engineers and other permits, licenses, or authorizations required by any governing body.

(12) “Pollution” for purposes of this rule means any substances released into the waters of the state and adjacent federal waters resulting in a man-made alteration of the chemical, physical, biological, or radiological integrity of the water in quantities or levels which are potentially harmful or injurious to human health or welfare, animal or plant life, or property, including outdoor recreation.

(13) “Predominantly marine waters” means surface waters in which the chloride concentration at the surface is greater than or equal to 1,500 milligrams per liter.

(14) “Prefabricated modules” means structures specifically designed and built for use as artificial reefs and which meet the environmental safety, durability, and stability requirements of this rule, as well as providing complexity and texture which are suitable as habitat for fishes and for colonization by encrusting marine organisms.

(15) “Program” means the Florida Artificial Reef Program.

(16) “Project” means an artificial reef project involving procurement of services and/or goods which has been granted money from the Artificial Reef Program.

(17) “Project Managers” means those individuals designated to act on behalf of the applicant and the Commission on matters relating to any subsequent grant agreement.

(18) “Research” for the purposes of this rule means investigation or experimentation aimed at the discovery and interpretation of facts which may lead to improved methods for the design, construction, placement, and use of artificial reefs as fishery management tools.

(19) "Staging area" means a land-based holding area for artificial reef material where such material is stored and prepared for transportation to an approved artificial reef site.

Specific Authority 370.25(2).(4) FS. Law Implemented Article IV, Section 9, Florida Constitution, 370.25 FS. History--New

68E-9.003 Artificial Reef Program Application.

(1) Applicant Eligibility. Program financial assistance is available only to coastal local governments as defined in Section 68E-9.002(3) and nonprofit corporations as defined in 68E-9.002(10), F.A.C. To meet project funding eligibility requirements, a nonprofit corporation must also:

(a) State in its articles of incorporation or bylaws that one of its objectives is the development or monitoring of artificial reefs;

(b) Demonstrate coordination with the appropriate coastal local government, including conceptual project approval by the local government;

(c) Have written authorization from the permit holder to use a permitted site if the permit holder is an entity other than the nonprofit corporation; and

(d) Have filed Articles of Incorporation with the Department of State prior to applying for financial assistance under this grant program and furnish the Commission with a valid letter of authorization or similar documentation of 501(c)(3) status from the Internal Revenue Service.

(2) A coastal local government or qualified nonprofit corporation interested in applying for financial assistance under the program must submit to the Commission a completed construction and/or monitoring application together with all required attachments. The construction grant application is listed as FWCC-AR01 and the monitoring grant application is listed as FWCC-AR02 in Section 68E-9.007, F.A.C. An applicant may submit no more than one construction project application and one monitoring application per grant cycle.

(3) For complex projects beyond the scope of the standard applications, a formal project proposal is required which includes but is not limited to a detailed project description and relevant application data as provided by the application forms listed in 68E-9.007 and in 68E-9.005(3), F.A.C. In order to meet program strategic plan objectives, or complete federal grant tasks, the Commission may elect to solicit grant applications on specific topics by advertising requests for proposals in the Florida Administrative Weekly and by contacting interested parties in writing at least two months prior to the closing date for program application.

(4) Application Process. The Division shall send out a call for applications to all prospective project applicants in the first week of January. The call for applications shall include both construction and monitoring project application forms and other information as required. The application receipt deadline

shall be the third Friday in March. This does not preclude the Division from providing funds for additional projects after the deadline if additional uncommitted funds become available.

Specific Authority 370.25(2).(4) FS. Law Implemented Article IV, Section 9, Florida Constitution, 370.25(2) FS. History--New

68E-9.004 Program Criteria for Allocating Funds.

The following criteria establish minimum standards for the funding of artificial reef development and monitoring projects.

(1) Project Activity Eligibility. The following activities are eligible for funding under the program: engineering activities, transportation of artificial reef material, cost of project advertising, purchase or construction prefabricated modules, materials preparation, monitoring or evaluation of artificial reefs, development or updating of local, regional or state artificial reef plans, and associated studies or research needed to gather and analyze data necessary for the development or revision of such plans or to improve artificial reef management processes in Florida.

(a) Engineering activities. No more than \$5,000 or 10% (whichever is less) of project funds granted under the program may be expended for engineering services. Any funds required in excess of this amount must be provided by the applicant. For purposes of this program, engineering activities may include but need not be limited to the following:

1. Post deployment mapping of the orientation and position of the reef materials in relation to each other;

2. Observation of deployment operations including observation vessel charter, camera film and film development, video and video media, and duplication;

3. Material stability analysis; and

4. When necessary to assure accurate placement of material, costs of anchors, chain, shackles, temporary buoys, line, etc.

(b) Transportation of artificial reef materials, for purposes of this program includes:

1. Transportation of artificial reef construction material to a staging area;

2. Water transportation of material from the staging area to the artificial reef site; and

3. Rental of cranes, forklifts, or other equipment for handling material at construction, staging and artificial reef sites.

(c) Costs of advertising includes costs associated with all forms of publicity to announce bid specifications and secure vendors;

(d) Cost of purchasing natural rock and prefabricated modules which may include design and construction of the latter material;

(e) Reef material preparation costs include cleaning and any necessary inspections or laboratory analyses requiring special expertise to identify and insure removal of polluting

material any necessary welding, cutting, or other modifications necessary to insure human and environmental safety; or, to enhance the habitat quality of the material;

(f) Physical monitoring, mapping, and evaluation of artificial reefs to determine the relative merit of the material and the stability and durability of the artificial reef; biological monitoring to describe the reef community and track reef community trends; evaluations to compare two or more reefs for purposes of comparing reef biological or physical characteristics;

(g) Establishment or updating of comprehensive local government, regional, or state artificial reef management plans to guide local reef development activities; and,

(h) Associated applied research, planning, economic, user, or harvest studies needed to provide documentation for the management direction to be provided in local, regional or state artificial reef plans.

(2) Reef Construction Project Eligibility. Only those artificial reef construction projects which are proposed for placement on permitted sites with permits, valid throughout the project period, designed to be in compliance with all permit terms and conditions, and whose primary objectives for development are included in the definition of an artificial reef (68E-9.002(2)) shall be eligible for program funding. Proposed project activities must be consistent with adopted local, state, and national artificial reef plans, and other applicable local, state and federal regulations and fishery management plans. Although a variety of coastal structures are recognized to create hard bottom habitat, projects not eligible for program funding are those whose primary objective is:

(a) Shoreline or inlet stabilization, bridge, pier, jetty or dock construction;

(b) Wave or current attenuation (breakwaters);

(c) Solid waste or dredge spoil disposal;

(d) Mitigation for damaged or destroyed habitat resulting from a specific human activity for which another party is liable;

(e) Placement of artificial reef material for the purpose of subsequently removing the material and/or its associated reef community as part of an aquaculture project;

(f) To serve as an underwater art form, novelty or entertainment/media event.

(3) Acceptable artificial reef construction locations. Only construction projects with locations that meet all of the following criteria will be considered qualified for program funding. The proposed reef location must:

(a) Be at least 150 feet from the boundary of the permitted site to provide a buffer area if some movement of materials occurs, or if problems with placement precision arise;

(b) Be no closer than 150 feet from submerged aquatic vegetation, live bottom, coral and other natural reef structures, and

(c) Be on substrate firm enough to support the artificial reef materials proposed for deployment so that loss of reef function through subsidence will be minimized. Documentation of substrate compatibility shall include, at a minimum, identification of the specific substrate type.

(4) Artificial reef construction materials eligible for program funding. All program funded projects must demonstrate either through prior documented observation and/or based upon an engineering assessment acceptable to the Division, projected durability and stability in a 20 year return interval storm event at the depth placed. Under these conditions the permitted reef should not move off the permitted site or substantially break up with resultant loss of habitat value. Funded artificial reefs are expected to serve as an effective artificial reef for a minimum of 20 years. No artificial reef structures will be funded that consist of low density long-lived component parts that may disassociate and become prone to movement as the reef breaks down over time. Artificial reef materials must not cause pollution. The materials that will be funded in Commission artificial reef projects include clean concrete or rock, clean steel boat hulls, other clean, heavy gauge steel products with a thickness of 1/4 inch or greater, and prefabricated structures that are concrete or a mixture of clean concrete and heavy gauge steel.

Specific Authority 370.25(2),(4) FS, Law Implemented Article IV, Section 9, Florida Constitution, 370.25 FS, History--New \_\_\_\_\_.

#### 68E-9.005 Project Application Review and Ranking Application Review.

The review of project applications will be conducted by a three person application review team designated by the Division Director. The review process will be as follows:

(1) Reef Construction Project Ranking. The application review team will competitively rank eligible artificial reef construction projects according to the following factors based upon information provided by the Applicant:

(a) Project site selection and environmental assessment.

1. Submit a bottom survey and discuss these results (up to four points);

2. An environmental assessment that justifies the project and project site based upon minimum environmental impact (up to five points);

3. Discussion of the range of wave height, current velocity, temperature, salinity, visibility, tidal range, and other physical oceanography conditions and how those factors may affect the project (up to four points);

4. Availability of relevant prior biological, or environmental data associated with the proposed reef site or general site vicinity (up to five points);

(b) Local demand for artificial reefs based upon:

1. Demonstrated public support for the proposed artificial reef project, based upon written letters or resolutions of support less than six months old; (up to five points);

2. Numbers of recreational boats 16 feet long or longer registered in the affected county (data provided by Division); (up to five points);

3. Number of one year resident and nonresident recreational fishing license holders in the affected county (data provided by Division) (up to five points); and

4. Number of charter/head boats in the affected county (data provided by the Division) (up to five points).

(c) Access. The presence of at least one navigable inlet access point regardless of location that is within 20 nautical miles of the project site (three points).

(d) Financial. Except in the case of funding steel hulled vessels pursuant to 68E-9.004(4), providing cash match funds is not a requirement for the applicant. However the commitment of the applicant to provide funds to help construct the proposed artificial reef will be ranked in proportion to the percentage match of the project. (Up to 4 points)

(e) Supply.

1. Estimated percent coverage of natural hard bottom in the multi-county area (more points allotted to lesser coverage) (data provided by Division) (up to eight points);

2. The number of existing artificial reefs within a .25 nautical mile radius of the proposed project (more points awarded for fewer reefs) (up to four points).

(f) The applicant included specific, well defined and measurable objectives to gauge the success of the project (up to five points);

(g) The applicant's plan to measure the success of project objective achievement; (up to five points);

(h) Availability of a five year local artificial reef management plan which shows a linkage with the proposed project (up to five points);

(i) Availability of a written artificial reef monitoring and assessment plan (up to five points);

(j) The applicant's project plan that addresses logistics, coordination, and staging area availability and location material (up to five points);

(k) Reef design and configuration; habitat complexity, interstitial spaces, surface area, material placement and positioning (up to 10 points);

(l) The project is an innovative project or designed to provide future monitoring potential (up to five points);

(m) Project practicality. The extent to which the project is physically and economically feasible based upon the project description and the available funding (up to five points);

(n) Demonstrated durability and stability of the reef material at the depth proposed for placement based on prior field evaluations or stability analyses (four points);

(o) Assurance of the availability of reef material for the proposed project (three points);

(p) Demonstrated involvement of a marine advisory board (two points);

(q) The applicant's historic ability of timely project completion, and compliance with grant agreement terms and conditions based upon the most recent grant agreement performance (up to five points);

(r) Number of staff and percentage of time available to undertake administrative and field aspects of project, including subsequent monitoring and assessment (up to five points);

(s) First time participation in the program by the applicant (five points);

(t) The applicant is located in an economically depressed rural coastal county (Division provides data) (five points); and

(u) Overall quality of application preparation and accuracy (up to four points).

(2) Monitoring Project Evaluation. The review of project applications will be conducted by a three person application review team designated by the Division Director. The review process will be as follows:

(a) The proposed project collects useful data that will be of value to the Commission and the applicant in determining an artificial reef's effectiveness in meeting the objectives for which the reef was constructed (up to 5 points);

(b) Clearly stated project monitoring or assessment objectives (up to 5 points);

(c) The methods of data collection are clearly presented and are scientifically acceptable and proven field methods and appropriate for the specific monitoring objectives stated (up to 5 points);

(d) Final deliverables are clearly described in the application (up to 5 points);

(e) The data to be collected is transferrable to the Commission in an acceptable format (up to five points);

(f) The applicant's historic commitment to timely project completion, and in compliance with grant agreement terms and conditions based upon the most recent monitoring grant agreement performance (up to five points);

(g) The qualifications, training and experience of the individuals performing the data collection and data analysis (up to five points);

(h) The project's cost effectiveness in relation to the quantity, quality, and type of data expected to be collected (up to five points);

(i) The procedures to be used to check on the quality of the data as it is collected and handled (quality assurance/quality control); (up to five points);

(j) Are a continuation of an ongoing multi-year project effort which has provided reliable and useful data and demonstrated high compliance with prior grant agreement terms and conditions (up to three points);

(k) Are endorsed by the local government reef coordinator whose county has a written artificial reef monitoring plan in place and who will provide multi-year monitoring (two points);

(1) Project proposals that address unresolved scientific issues or provide data relevant to artificial reef management (up to five points)

(3) Ranking of other complex planning, research, and evaluation projects. These projects will be funded based upon ability of the project to meet state or local artificial reef planning and management needs, availability of funds, and likelihood of successful completion of the project objectives. These project applications will include a detailed formal proposal that includes but is not limited to:

- (a) Purpose of the project and specific measurable objective(s);
- (b) Detailed scope of work;
- (c) Complete explanation of how funds are to be spent;
- (d) A description of sampling methodologies and statistical analyses;
- (e) A time table; and
- (f) Qualifications of investigators.

Specific Authority 370.25(2),(4) FS. Law Implemented Article IV, Section 9, Florida Constitution, 370.25(2) FS. History-New

68E-9.006 Project Funding.

Project funding limits. The Commission may provide up to \$60,000 per state fiscal year for an artificial reef project, based on the criteria set forth in Section 68E-9.003, F.A.C. above. During any given funding year the combined funding available to all the applicants applying from a given county shall not exceed twenty percent of the total artificial reef project funds available. The Commission may consider project funding in excess of \$60,000 for a single project depending on the availability of funds, the total number of applications received, and the nature and scope of project applications which provide the following:

- (1) Expanded economic opportunities, particularly in depressed areas;
- (2) Research and evaluation projects on traditional or new artificial reef materials or designs;
- (3) Experimental artificial reef construction designed to:
  - (a) Provide improvements in habitat quality, durability or stability over that of conventional reuse material;
  - (b) Provide reefs which enhance the conservation/preservation of fisheries resources through design and placement resulting in reduction of directed fishing pressure and over fishing.
- (4) Development of local or regional artificial reef management plans and supporting studies; and
- (5) Multi-county regional reef construction or assessment projects.

Specific Authority 370.25(2),(4) FS. Law Implemented Article IV, Section 9, Florida Constitution, 370.25(2) FS. History-New

68E-9.007 Forms and Instructions.

(1) Project Administration Forms. Information required by the Commission must be placed on the prescribed forms, titles and numbers of which are listed below. Such forms and instructions may be obtained without cost by writing: Florida Fish and Wildlife Conservation Commission, Division of Marine Fisheries, 620 South Meridian Street, Box MF-MFM, Tallahassee, Florida 32399-1600.

(2) This list of forms includes:

- (a) FWCC-AR01 Artificial Reef Program Construction Grant Application.
- (b) FWCC-AR02 Artificial Reef Program Monitoring Grant Application.

Specific Authority 370.25(2),(4) FS. Law Implemented 370.25(2) FS. History-New

NAME OF PERSON ORIGINATING PROPOSED RULE:  
Robert Palmer, Division of Marine Fisheries, Fish and Wildlife Conservation Commission, 620 South Meridian Street, Tallahassee, Florida 32399-1600

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Allan L. Egbert, Ph.D.

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: March 30, 2001

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: February 16, 2001

**FISH AND WILDLIFE CONSERVATION COMMISSION**

**Marine Resources**

RULE CHAPTER TITLE: Spiny Lobster Trap Certificate Program

RULE TITLES:	RULE NOS.:
Definitions	68E-18.002
Spiny Lobster Trap Tags	68E-18.004
Transfer of Certificates	68E-18.005
Trap Reduction	68E-18.007
Re-allotment of Reverted Certificates	68E-18.009

PURPOSE AND EFFECT: The spiny lobster trap reduction program was begun in 1992 with the object of reducing the number of lobster traps used in the commercial fishery to the lowest number that will maintain or increase overall catch levels, while simultaneously promoting economic efficiency and conserving natural resources. Management concerns addressed by the program include overcapitalization, the mortality of sublegal lobsters used as attractants, the impact of lost traps, and environmental damage caused by traps. The purpose of these rule amendments is to make the technical changes necessary to conform trap certificate program implementation rules originally adopted by the Department of Environmental Protection, Division of Marine Resources, to new rule provisions being proposed elsewhere by the Fish and Wildlife Conservation Commission, to change the spiny

lobster trap reduction program to a passive-active trap reduction regime. The goal is to reduce the present number of trap certificates from 542,704 to a level of 400,000. Until now, trap and certificate reduction has been entirely active. The effect these rules together with continued trap reductions in the spiny lobster fishery will be to further reduce mortality on sublegal lobsters and the environmental damage caused by traps.

SUMMARY: Subsection (10) of Rule 68E-18.002, F.A.C., is amended to include a half sister and half brother within the meaning of the term "immediate family." Subsection (16) of the rule is amended to conform the definition of the terms "standardized trap reduction" and "annual trap reduction" to the 4% annual trap reduction schedule set in proposed amended Rule 68B-24.009. Subsection (21) of the rule is amended to clarify slightly the definition of the terms "trap tag" or "lobster trap tag" to conform with proposed amendments to Rule Chapter 68B-24.

A new subsection (1) is added to Rule 68E-18.004, F.A.C., to require trap tags to be firmly affixed by specified means to spiny lobster traps. Subsequent subsections are renumbered.

Subsection (6) of Rule 68E-18.005, F.A.C., is amended to exempt persons selling all of their trap certificates from the requirement that all commercial harvesters have a restricted species endorsement in addition to the C-number and Saltwater Products License and to specify that transfer fees will only be assessed on received trap certificates, after reduction.

Subsection (1) of Rule 68E-18.007, F.A.C., is amended to restate the 400,000 trap goal of the trap reduction program. Subsection (2) of the rule is amended to apply the one certificate minimum reduction on all trappers, not just those with 10 or fewer certificates. Subsection (3) of the rule is amended to delete obsolete language referring to "standardized trap reduction." Subsection (5) is amended to apply active reductions to certificates allocated but not issued.

Rule 68E-18.009, F.A.C., which contains obsolete provisions governing re-allotment of reverted certificates, is proposed to be repealed.

The citations of specific authority and law implemented in each of the rules proposed to be amended are themselves being amended to cite to Article IV, Section 9 of the Florida Constitution, the Commission's general constitutional authority.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COST: A statement has not been prepared regarding these proposed rules.

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

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

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

THE FISH AND WILDLIFE CONSERVATION COMMISSION WILL CONDUCT A PUBLIC RULEMAKING HEARING ON THE PROPOSED RULES DURING THE COMMISSION'S REGULAR MEETING AT THE TIME, DATE, AND PLACE SHOWN BELOW:

TIME AND DATES: 8:30 a.m. – 5:00 p.m., each day, May 23-25, 2001

PLACE: DoubleTree Hotel, 4431 PGA Boulevard, Palm Beach Gardens, Florida

Pursuant to the provisions of the Americans with Disabilities Act, any person requiring special accommodations to participate in this workshop/meeting is asked to advise the agency at least 5 calendar days before the workshop/meeting by contacting Andrena Knicely at (850)487-1406. If you are hearing or speech impaired, please contact the agency by calling (850)488-9542.

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

SECTION 286.0105, FLORIDA STATUTES, PROVIDES THAT, IF A PERSON DECIDES TO APPEAL ANY DECISION MADE BY THE COMMISSION WITH RESPECT TO ANY MATTER CONSIDERED AT THIS HEARING, HE WILL NEED A RECORD OF PROCEEDINGS, AND FOR SUCH PURPOSES, HE MAY NEED TO ENSURE THAT A VERBATIM RECORD OF THE PROCEEDINGS IS MADE, WHICH RECORD INCLUDES THE TESTIMONY AND EVIDENCE UPON WHICH THE APPEAL IS BASED.

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

THE FULL TEXT OF THE PROPOSED RULES IS:

68E-18.002 Definitions.

(1) through (9) No change.

(10) "Immediate Family" for purposes of the Lobster Trap Certificate Program means mother, father, sister, brother, spouse, son, daughter, step-son, step-daughter, step-father, ~~or~~ step-mother, half sister, or half brother of the individual certificate holder.

(11) through (15) No change.

(16) "Standardized trap reduction" and "annual trap reduction" means the ~~4 number or percent of~~ annual trap reduction reductions established from time to time by the FWC

pursuant to Rule 68B-24.009, F.A.C. ~~The reduction will be applied evenly, in whole numbers of traps, to all trap certificate allocations.~~

(17) through (20) No change.

(21) "Trap tag" or "lobster trap tag" is a physical, durable, annual lobster trap identification and authorization label, furnished annually by the Commission to the certificate holder. One trap tag may be obtained by the certificate holder for each trap certificate held. The trap tag must be firmly affixed to the lobster trap each fishing season in order to place the trap in the water and use the trap to aid in the taking of lobster.

Specific Authority Art IV, Sec. 9, Fla. Const. 370.142(6) FS. Law Implemented Art IV, Sec. 9, Fla. Const. 370.142 FS. History—New 5-16-95, Formerly 62R-18.002, Amended \_\_\_\_\_.

68E-18.004 Spiny Lobster Trap Replacement Tags.

(1) No lobster trap shall be used on or in the waters of the state without a current year trap tag firmly affixed thereto. Traps with tags that are not firmly affixed by nails, staples, or otherwise securely fastened as may be provided by the Commission, shall be considered untagged for enforcement purposes.

(2)(4) Lost or damaged tags may be replaced upon proper verification of loss, as defined in (3) below, and payment of the replacement tag fee designated for that year have been made. Damaged tags must be turned in to the Commission. Payment for replacement tags must be made before the replacement tags are issued to the certificate holder.

(3)(2) Cost of replacement tags will reasonably reflect the actual cost charged to the Commission by the vendor manufacturing the tags, plus a fee of three dollars per order to cover processing and handling.

(4)(3) Notification of lost or damaged tags shall be a written report made to the Commission of the tag numbers lost or damaged ("Spiny Lobster Trap Tag Replacement form"), Form No. FWC 30-203, September 1995, hereby incorporated by reference, may be obtained by contacting the local Division of Law Enforcement Office. In addition, a report must be filed concurrently with the local Division of Law Enforcement Office stating the location of where the traps were lost and the circumstances of the loss.

Specific Authority Art IV, Sec. 9, Fla. Const. 370.06(8), 370.142(6) FS. Law Implemented Art IV, Sec. 9, Fla. Const. 370.142 FS. History—New 5-16-95, Amended 2-11-96, Formerly 62R-18.004, Amended \_\_\_\_\_.

68E-18.005 Transfer of Certificates.

(1) through (5) No change.

(6) The transferee shall have a valid SPL and a current C-number before any transfer will be authorized considered and any other licenses endorsements or other authorizations. A certificate holder who intends to close their trap certificate account by transfer of all certificates to another person's account, and who is not eligible for the restricted species endorsement, shall be exempt from the requirements of 68B-24.0055, F.A.C., for purposes of completing the transfer.

However, the transferor shall not be issued a crawfish endorsement on an actual saltwater products license without the restricted species endorsement. The transferee is responsible for ensuring that all transfer/surcharge fees are paid to the Commission. Transfer fees and surcharges will be assessed only on those trap certificates actually received from the transferor by the transferee.

Specific Authority Art IV, Sec. 9, Fla. Const. 370.142(6) FS. Law Implemented Art IV, Sec. 9, Fla. Const. 370.142 FS. History—New 5-16-95, Amended 4-7-99, Formerly 62R-18.005, Amended \_\_\_\_\_.

68E-18.007 Trap Reduction.

(1) Beginning July 1, 2001, and in each subsequent year until such time as only 400,000 trap certificates are available to the fishery, the number of trap certificates shall be reduced pursuant to Rule 68B-24.009, F.A.C. The trap reduction for the 1993-94 and each subsequent regular spiny lobster season, as provided by Section 370.142, F.S., and Rule 68B-24, F.A.C., shall take place following the close of the transfer period on March 1.

(2) If the percentage reduction results in a fractional number, that partial trap represented in the fraction will be rounded off. For example, a calculation of an annual or standardized reduction percentage times the certificate allocation yields the product 18.5; in this application, the certificate allocation would be reduced by 18 certificates. If a calculation of an annual or standardized reduction percentage times the certificate allocation yields the product 18.6; in this application, the certificate allocation would be reduced by 19 certificates. For all certificate holders that have ten (10) or less certificates, any annual reduction will never be less than one (1) certificate.

(3) Any certificate allocation reduced to zero trap certificates will be deleted from the Commission's active certificate allocation records. The certificate allocation may only be reduced to zero by standardized trap reduction, sale or transfer of certificates out of the certificate holder's allocation, forfeiture, or other lawful process.

(4) During trap reduction, B-certificates will be reduced prior to the reduction of any A-certificates.

(5) Certificates allocated but not issued shall be included in an active reduction, should an active reduction be necessary in a given year pursuant to Rule 68B-24.009 the standard reduction in a given year. Each allocation will be reduced whether the tags are purchased and issued or not.

(6) Failure to pay certificate fees and other charges in any year will not exempt a certificate holder from having their certificates reduced as part of the annual reduction. All charges and fees on active and inactive certificates must be paid, including charges and fees on certificates lost to reduction.



(7) If an individual has more than one C-number and the additional C-numbers have allocated certificates, the reduction shall apply to certificates allocated to each C-number; that is, each C-number allocation shall be reduced according to the percentage reduction authorized for that year.

Specific Authority Art IV, Sec. 9, Fla. Const. 370.142(6) FS. Law Implemented Art IV, Sec. 9, Fla. Const. 370.142 FS. History-New 5-16-95, Formerly 62R-18.007, Amended.

68E-18.009 Re-allotment of Reverted Certificates.

Specific Authority 370.142(6) FS. Law Implemented 370.142 FS. History-New 5-16-95, Formerly 62R-18.009, Repealed.

NAME OF PERSON ORIGINATING PROPOSED RULE: Fish and Wildlife Conservation Commission, 620 South Meridian Street, Tallahassee, Florida 32399-1600  
NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Allan L. Egbert, Ph.D., Executive Director, Fish and Wildlife Conservation Commission, 620 South Meridian Street, Tallahassee, Florida 32399-1600  
DATE PROPOSED RULE APPROVED BY AGENCY HEAD: March 30, 2001  
DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: April 13, 2001

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

#### DEPARTMENT OF INSURANCE

##### Division of Insurer Services

RULE NO.:                   RULE TITLE:  
4H-1.007                   Settlement of Losses  
                                  SECOND 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. 26, No. 43, October 27, 2000, of the Florida Administrative Weekly, and a Notice of Change published in Vol. 27, No. 11, March 16, 2001:

4H-1.007(1) in the first line after the word "basis" add the language "of the damaged property has been replaced with property of like kind and quality; or pay the cost of repairing; whichever is less".

The remainder of the rule reads as previously published.

#### DEPARTMENT OF EDUCATION

##### State Board of Education

RULE NO.:                   RULE TITLE:  
6A-1.0503                   Definition of Qualified  
                                  Instructional Personnel

#### NOTICE OF WITHDRAWAL

Notice is hereby given that the above rule, as noticed in Vol. 26, No. 51, December 22, 2000, and Vol. 27, No. 15, April 13, 2001, Florida Administrative Weekly has been withdrawn.

#### DEPARTMENT OF COMMUNITY AFFAIRS

##### Florida Coastal Management Program

RULE CHAPTER NO.:   RULE CHAPTER TITLE:  
9M-1                   Administration and Procedure  
RULE NO.:             RULE TITLE:  
9M-1.005             Preliminary Approval

#### NOTICE OF CHANGE

Notice is hereby given that the following change has been made to the proposed rule in accordance with subparagraph 120.54(3)(d)1., F.S. published in Vol. 27, No. 10, March 9, 2001, issue of the Florida Administrative Weekly.

- 9M-1.005 Preliminary Approval.
- (1) through (2) No change.
- (3) Notice of the scores and rankings of applications shall be published in the Florida Administrative Weekly. Any person whose substantial interests are affected may request a hearing pursuant to Section 120.57, F.S., within 21 ~~14~~ days of publication of the notice. Failure to request a hearing within the applicable time period shall constitute a waiver of the right to a hearing.
- (4) No change.

Specific Authority 120.569, 120.57, 380.22(3) FS. Law Implemented 120.569, 380.22 FS. History-New 10-15-81, Formerly 17-24.05, Amended 12-2-87, Formerly 17-24.050, Amended 11-22-93, 4-30-96,                   .

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: L. Christine McCay, Environmental Administrator, Florida Coastal Management Program, 2555 Shumard Oak Boulevard, Tallahassee, Florida 32399-2100, (850)414-6562, Suncom 994-6562

#### DEPARTMENT OF REVENUE

##### NOTICE OF CABINET AGENDA ON MAY 15, 2001

The Governor and Cabinet, on May 15, 2001, sitting as head of the Department of Revenue, will consider the proposed amendments and proposed repeals to the following rule sections in Rule Chapter 12A-1, F.A.C.:

RULE NOS.:                   RULE TITLES:  
12A-1.001                   Specific Exemptions  
12A-1.0011                  Schools Offering Grades K  
                                  Through 12; Parent-Teacher  
                                  Associations; and  
                                  Parent-Teacher Organizations  
12A-1.004                   Sales Tax Brackets  
12A-1.007                   Aircraft, Boats, Mobile Homes, and  
                                  Motor Vehicles  
12A-1.009                   Receipts from Services Rendered  
                                  by Insect or Pest Exterminators