

NAME OF PERSON ORIGINATING PROPOSED RULE:  
Board of Dentistry  
NAME OF SUPERVISOR OR PERSON WHO APPROVED  
THE PROPOSED RULE: Board of Dentistry  
DATE PROPOSED RULE APPROVED BY AGENCY  
HEAD: March 3, 2001  
DATE NOTICE OF PROPOSED RULE DEVELOPMENT  
PUBLISHED IN FAW: April 13, 2001

## FISH AND WILDLIFE CONSERVATION COMMISSION

### Marine Fisheries

RULE CHAPTER TITLE: Reef Fish

RULE TITLE:

RULE NO.:

Commercial Harvest Requirements; Licenses,  
Season Closures, Special Restrictions

68B-14.0045

PURPOSE AND EFFECT: Amendment 15 of the Federal Gulf of Mexico Fishery Management Council's Reef Fish Fishery Management Plan deleted the requirement that a federal permit be obtained to fish commercially for sea basses and red porgy in federal waters of the Gulf of Mexico. The purpose of this rulemaking is to delete the same requirement from rules of the Fish and Wildlife Conservation Commission governing waters of the State of Florida. The effect of this rulemaking will be to make uniform the requirements for commercial harvest of these species in both state and federal waters of the Gulf of Mexico.

SUMMARY: Subparagraph (1)(a)2. of Rule 68B-14.0045, F.A.C., is amended to state that the federal Gulf reef fish permit is not required for the commercial harvest of bank sea bass, black sea bass, rock sea bass, or red porgy from the Gulf of Mexico.

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

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

THIS RULEMAKING IS UNDERTAKEN PURSUANT TO SECTION 120.54(6), FLORIDA STATUTES.

WRITTEN COMMENTS MAY BE SUBMITTED WITHIN 14 DAYS OF THE DATE OF THIS NOTICE TO: James V. Antista, General Counsel, Fish and Wildlife Conservation Commission, 620 South Meridian Street, Tallahassee, Florida 32399-1600

Substantially affected persons may, within 14 days of the date of this notice, file an objection to this rulemaking with the agency. The objection shall specify the portions of the proposed rule to which the person objects and the specific reasons for the objection.

THE FULL TEXT OF THE PROPOSED RULE IS:

68B-14.0045 Commercial Harvest Requirements; Licenses, Season Closures, Special Restrictions.

(1) Licenses.

(a) Each person harvesting any of the species listed in Rule 68B-14.001(4) for commercial purposes in state waters shall possess a valid saltwater products license with a restricted species endorsement and

1. If fishing in state waters of the Atlantic Ocean, either a valid transferable commercial permit or a trip-limited commercial permit for South Atlantic snapper-grouper;

2. If fishing in state waters of the Gulf of Mexico, a valid commercial vessel permit for Gulf reef fish, and if fishing for red snapper, a Class 1 or Class 2 Gulf red snapper license. The requirement of a valid commercial vessel permit for Gulf reef fish shall not apply to the harvest of bank sea bass, black sea bass, rock sea bass, or red porgy for commercial purposes in the Gulf of Mexico.

(b) No person harvesting for commercial purposes pursuant to this subsection shall sell or attempt to sell any of the indicated species, or any part of the indicated species, without possessing and presenting to the purchaser the state and federal licenses and permits specified in paragraph (a). No wholesale dealer, as defined in Section 370.07(1), Florida Statutes, shall purchase any of these species, or any part thereof, without confirming that the seller thereof possesses the state and federal licenses and permits specified in this rule.

Specific Authority Art. IV, Sec. 9, Fla. Const. Law Implemented Art. IV, Sec. 9, Fla. Const. History—New 2-1-90, Amended 12-31-92, 10-18-93, 3-1-94, 6-15-95, 1-1-96, 11-27-96, 12-31-98, 3-1-99, 1-1-00, 3-6-00, 1-1-01, 3-1-01, Formerly 46-14.0045, Amended \_\_\_\_\_.

## Section III Notices of Changes, Corrections and Withdrawals

### DEPARTMENT OF COMMUNITY AFFAIRS

#### Florida Communities Trust

RULE CHAPTER NO.: RULE CHAPTER TITLE:

9K-7 Florida Forever Program

RULE NOS.: RULE TITLES:

9K-7.008 Ranking and Selection of  
Applications

9K-7.009 Conceptual Approval of Projects

#### NOTICE OF CHANGE

Notice is hereby given that the following changes have been made to the proposed rules in accordance with subparagraph 120.54(3)(d)1., F.S., published April 6, 2001, in Vol. 27, No. 14 of the Florida Administrative Weekly.

9K-7.008 Ranking and Selection of Applications.

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

(c) After a final determination of the scoring of each Application, the Governing Board shall consider the point totals ~~and, as well as any other relevant factors not considered directly in the assignment of point totals, including~~ the statutory requirements of this rule chapter, and rank the Applications in descending order, with the highest ranking Application being given highest funding priority.

1. through 3. No change.

Specific Authority 380.507(11) FS. Law Implemented 259.105, 380.510 FS. History—New \_\_\_\_\_.

9K-7.009 Conceptual Approval of Projects.

(1) Following the ranking and selection of Applications described above but prior to the conceptual approval meeting, the Trust staff shall conduct site visits or other investigations. If such visits or investigations reveal undisclosed facts or erroneous evaluation conclusions, the Trust staff shall report such findings to the Governing Board. The Trust shall impose conditions relevant to these findings, ~~or any other conditions deemed necessary to protect the interests of the State.~~ Such conditions will be imposed on the Applicant by the Conceptual Approval Agreement at the conceptual approval meeting. Applicants will be advised of the conditions prior to the conceptual approval meeting. Any such conditions must be met by the Applicant prior to receiving Project Plan approval. Further, the Trust shall have the right to alter the ranking of Applications based on the site visit or investigation findings.

(2) through (4) No change.

(5) The established time frame for conceptual approval for funding shall be for a period not to exceed 12 months from the conceptual approval meeting. Conceptual approval shall be evidenced by an executed Conceptual Approval Agreement between the Trust and the Recipient. When the established time frame has expired and a conceptually approved project has not received Project Plan approval, conceptual approval shall be terminated and Trust funds committed to the project shall then be committed to Applications that are conceptually approved in subsequent funding cycles. The Trust may extend the Conceptual Approval Agreement beyond the established time frame if the Recipient demonstrates that significant progress is being made toward Project Plan approval or that extenuating circumstances warrant an extension of time. All requests for extensions shall be made in writing to the Executive Director, prior to the expiration of the established timeframe, fully explaining the reason for the delay and why the extension is necessary.

(6) through (7) No change.

Specific Authority 380.507(11) FS. Law Implemented 259.105, 380.510 FS. History—New \_\_\_\_\_.

THE PERSON TO BE CONTACTED REGARDING THESE PROPOSED RULES IS: Janice Browning, Executive Director, Florida Communities Trust, 2555 Shumard Oak Boulevard, Tallahassee, Florida 32399-2100, (850)922-2207, Suncom 292-2207

**DEPARTMENT OF LABOR AND EMPLOYMENT  
SECURITY**

**Division of Workers' Compensation**

RULE NOS.:	RULE TITLES:
38F-7.522	Definitions
38F-7.523	Carrier Responsibilities

**NOTICE OF PUBLIC HEARING**

NOTICE IS HEREBY GIVEN that a hearing has been requested on the above-referenced rule repeal, as noticed in the March 9, 2001 issue of the Florida Administrative Weekly (Vol. 27, No. 10). The hearing will be held on Thursday, May 31, 2001, 9:30 a.m., Suite 317, Conference Room, Hartman Building, 2012 Capital Circle, S. E., Tallahassee, Florida.

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Nancy Staff Terrel, Suite 307, Hartman Building, 2012 Capital Circle, S. E., Tallahassee, Florida, (850)488-9370

**DEPARTMENT OF LABOR AND EMPLOYMENT  
SECURITY**

**Division of Workers' Compensation**

RULE CHAPTER NO.:	RULE CHAPTER TITLE:
38F-55	Reemployment Services

**NOTICE OF CHANGE**

NOTICE IS HEREBY GIVEN, in accordance with subparagraph 120.54(3)(d)1., F.S., that the following changes have been made to the above-referenced proposed rules which were published in the April 6, 2001 issue of the *Florida Administrative Weekly* (Vol. 27, No. 14). Said changes were made as a result of comments made by the Joint Administrative Procedures Committee.

38F-55.001 Definitions.

(7) "Individualized written rehabilitation program" (IWRP) is an individualized written rehabilitation program as defined in the Rehabilitation Act of 1973, 29 U.S.C. §§ 701 et seq.

38F-55.002 Rehabilitation Provider Qualifications.

(2) Applicants applying for renewal shall submit a non-refundable \$25.00 biennial renewal fee, and a signed, typed and completed qualified rehabilitation provider application on form DWC-96, which is incorporated by reference into this rule, and a copy of current certification and applicable licensure.

(3) Each applicant shall submit a signed, typed and completed form DWC-96, proof of attendance at a division sponsored or approved qualified rehabilitation provider

workshop, and a non-refundable check or money order in the amount of \$25.00 payable to Workers' Compensation Administrative Trust Fund to the Division of Workers' Compensation, Bureau of Rehabilitation and Medical Services, Provider Relations Section, 2728 Centerview Drive, 101 Forrest Building, Tallahassee, Florida 32399-0664. Illegible or unsigned applications and applications submitted without the application fee shall be returned. ~~Form DWC-96 is incorporated by reference into Rule 38F-55.014, Florida Administrative Code.~~

38F-55.013 Reporting Services and Costs: Qualified Rehabilitation Provider and Employer or Carrier Responsibilities.

(3) Any qualified rehabilitation provider providing any employer or carrier or Division sponsored reemployment services, reemployment assessments or medical care coordination shall submit with each DWC-21, which is incorporated by reference into this rule, a written report which reports services provided and expected outcomes, covering the following points:

~~(12) Form DWC-21 is incorporated by reference in Rule 38F-55.014, Florida Administrative Code.~~

38F-55.014 List of Forms.

(2) A copy of the forms and accompanying instructions incorporated by Rule 38F-55.014(1) may be obtained from the Division of Workers' Compensation, Bureau of Rehabilitation and Medical Services, 2728 Centerview Drive, Suite 101, Forrest Building, Tallahassee, Florida 32399-0664. Copies of the forms are also available on the Division's web page on the Internet, at <http://www2.myflorida.com/les.wc/>.

## AGENCY FOR HEALTH CARE ADMINISTRATION

### Cost Management and Control

RULE NOS.:	RULE TITLES:
59B-9.017	Certification and Audit Procedures
59B-9.018	Ambulatory Patient Data Format – Data Elements and Codes
59B-9.019	Ambulatory Patient Data Format – Record Layout
59B-9.020	Data Standards

#### NOTICE OF CHANGE

The proposed amendments were originally published in Vol. 27, No. 10 of the Florida Administrative Weekly, dated March 9, 2001. Proposed amendments to Rule 59B-9.017 are being changed to address comments from staff of the Joint Administrative Procedures Committee (JAPC). The JAPC has indicated that the agency does not have an express grant of statutory authority to limit the time available for a desk or field audit as proposed in Section 59B-9.017(4).

Proposed amendments to Rules 59B-9.018, 59B-9.019, and 59B-9.020 are being changed to address comments from HCA-The Healthcare Company. HCA-The Healthcare

Company has requested clarification regarding the definition of KidCare in Section 59B-9.018(2)(i). HCA-The Healthcare Company has requested that the effective date for all data reporting changes in the rule amendments be January 1, 2002 with the exception of those changes which have an effective date of January 1, 2003. Accordingly, these sections have been changed so that when adopted they will read as follows:

59B-9.017(4) The agency shall to the extent practical, apply the same audit standards and use the same audit procedures for all ambulatory centers or audit a random sample of ambulatory centers. The agency will notify each ambulatory center of any possible errors discovered by audit and request that the ambulatory center either correct the data or verify that the data is complete and correct. The notice shall indicate that the ambulatory center must return corrected data if there are errors and certify the data within ninety (90) days of receipt of the notice, or the ambulatory center Chief Executive Officer must verify by signature that the previously submitted and certified data is complete and correct within ninety (90) days of receipt of the notice. The notice shall clearly indicate that the ambulatory center may be subject to penalties pursuant to Rule 59B-9.022. ~~The agency shall not conduct a desk audit or field audit of a report more than thirty-six (36) months following the initial submission of data.~~

59B-9.018(2)(i) Principal Payer Code. A one character field as follows:

A through N No change.

O – KidCare (Report Healthy Kids, MediKids and Children's Medical Services, ~~excluding Medicaid~~. Required for ambulatory visits occurring on or after January 1, 2003.)

59B-9.018(4) The effective date of all data reporting changes in 59B-9.018, as amended after 12-28-98, shall be for discharges occurring on or after January 1, 2002 unless a later date is indicated in Rule 59B-9.018.

59B-9.019(4) The effective date of all data reporting changes in 59B-9.019, as amended after 12-28-98, shall be for discharges occurring on or after January 1, 2002 unless a later date is indicated in Rule 59B-9.019.

59B-9.020(37) The effective date of all data reporting changes in 59B-9.020, as amended after 12-28-98, shall be for discharges occurring on or after January 1, 2002 unless a later date is indicated in Rule 59B-9.020.

## AGENCY FOR HEALTH CARE ADMINISTRATION

### Health Care and Cost Containment Board

RULE NOS.:	RULE TITLES:
59E-7.012	Reporting and Audit Procedures
59E-7.014	Data Elements and Formatting Requirements

#### NOTICE OF CHANGE

The proposed amendments were originally published in Vol. 27, No. 10 of the Florida Administrative Weekly, dated March 9, 2001. Proposed amendments to Rule 59E-7.012 are being

changed to address comments from staff of the Joint Administrative Procedures Committee (JAPC). The JAPC has indicated that the agency does not have an express grant of statutory authority to limit the time available for a desk or field audit as proposed in Section 59E-7.012(12). Proposed amendments to Rule 59E-7.014 are being changed to address comments from HCA-The Healthcare Company. HCA-The Healthcare Company has requested clarification regarding the definition of KidCare in Section 59E-7.014(1)(b)17. HCA-The Healthcare Company has requested that the effective date for all data reporting changes in the rule amendments be January 1, 2002 with the exception of those changes which have an effective date of January 1, 2003. Accordingly, these sections have been changed so that when adopted they will read as follows:

59E-7.012(12) The agency shall to the extent practical, apply the same audit standards and use the same audit procedures for all hospitals or audit a random sample of hospitals. The agency will notify each hospital of any possible errors discovered by audit and request that the hospital either correct the data or verify that the data is complete and correct. The notice shall indicate that the hospital must return corrected data if there are errors and certify the data within ninety (90) days of receipt of the notice, or the hospital Chief Executive Officer must verify by signature that the previously submitted and certified data is complete and correct within ninety (90) days of receipt of the notice. The notice shall clearly indicate that the hospital may be subject to penalties pursuant to Rule 59E-7.013. ~~The agency shall not conduct a desk audit or field audit of a report more than thirty-six (36) months following the initial submission of data.~~

59E-7.014(1)(b)17. Principal Payer Code. A one character alpha field as follows:

A through N No change.

O – KidCare (Report Healthy Kids, MediKids and Children's Medical Services, ~~excluding Medicaid~~). Required for discharges occurring on or after January 1, 2003.)

59E-7.014 (4) The effective date of all data reporting changes in 59E-7.014, as amended, shall be for discharges occurring on or after January 1, 2002 unless a later date is indicated in Rule 59E-7.014.

## AGENCY FOR HEALTH CARE ADMINISTRATION

### Medicaid

RULE NO.: 59G-4.060  
 RULE TITLE: Dental Services

#### 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., F.S., published in Vol. 27, No. 16, April 20, 2001, issue of the Florida Administrative Weekly.

Dental Handbook The procedure codes listed in this chapter are Health Care Financing Administration Common

Page 3-1

Procedure Coding System (HCPCS) Levels 1, 2, and 3. Dental codes are based on the Current Dental Terminology, Third Edition, (CDT-3) book, Level 1 codes are based on the Current Procedural Terminology, Fourth Edition, (CPT) book. ~~HCPCS include CDT-3 and CPT procedure codes.~~

~~The CDT-3 Dental procedure codes are CDT-3 codes, which~~ includes identifying alphanumeric codes and descriptions for reporting dental services and procedures. CDT-3 codes and descriptions and other data only are copyright 199 by the American Dental Association. All rights reserved.

~~The CPT book CPT procedures~~ includes identifying numeric codes and descriptions for reporting medical services and procedures. CPT codes and descriptions are copyright 2000 by the American Medical Association. All rights reserved.

Diagnosis codes to be used are found in the International Classification of Diseases, 9th Edition, Clinical Modifications (ICD-9-CM). ~~Diagnosis codes to be used are found in the International Classification of Diseases, 9th Edition, Clinical Modifications ICD-9-CM).~~ A diagnosis code is required on the HCFA-1500 claim form for all dental procedures and on the Dental 111 for the oral and maxillofacial surgery procedures. Use the most specific code available. Fourth and Fifth digits are required when available.

## AGENCY FOR HEALTH CARE ADMINISTRATION

### Medicaid

RULE NO.: 59G-4.110  
 RULE TITLE: Hearing Services

#### 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., F.S., published in Vol. 27, No. 16, April 20, 2001, issue of the Florida Administrative Weekly.

Hearing Handbook, page 3-1, middle of the page The procedure codes listed in this chapter are Health Care Financing Administration Common Procedure Coding System (HCPCS) Level 1, 2 and 3 codes. Level 1 codes are based on the Physician's Current Procedural Terminology (CPT) book. Level 3 procedure codes are locally assigned codes that have been approved by HCFA HCPCS include CPT procedure codes.

~~The CPT includes the HCPCS descriptive terms and numeric identifying codes and modifiers for reporting services and procedures. CPT procedures include identifying numeric codes and descriptions for reporting services and procedures. Diagnosis codes to be used are found in the International Classification of Diseases, Clinical Modifications, (ICD-9-CM). A diagnosis code is required on the HCFA 1500 claim form.. The most specific code, including the fourth and fifth digits, when available, must be used.~~

~~CPT procedures include identifying numeric codes and descriptions for reporting services and procedures. CPT codes and descriptions are copyright 2000 by the American Medical Association. All rights reserved.~~

#### AGENCY FOR HEALTH CARE ADMINISTRATION

##### Medicaid

RULE NO.:  
59G-4.210

RULE TITLE:  
Optometric Services

#### 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., F.S., published in Vol. 27, No. 16, April 20, 2001, issue of the Florida Administrative Weekly.

Optometric Handbook, Page 3-1 Source of Procedure Codes

The procedure codes listed in this chapter are Health Care Financing Administration Common Procedure System (HCPCS) Level 1 codes 2, and 3. They are based on the Physicians Current Procedural Terminology (CPT) book. HCPCS include CPT procedures codes. The CPT includes the HCPCS descriptive terms and numeric identifying codes and modifiers for reporting services and procedures. CPT procedures include identifying numeric codes and descriptions for reporting services and procedures. CPT codes and descriptions are copyright 2000 by the American Medical Association. All rights reserved.

Diagnosis codes to be used are found in the International Classification of Diseases, 9th Edition, Clinical Modifications, (ICD-9-CM). A diagnosis code is required on the HCFA 1500 claim form. The most specific code

including fourth and fifth digits, when available, must be used. Use the most specific code available. Fourth and fifth digits are required when available.

#### DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION

##### Construction Industry Licensing Board

RULE NO.:  
61G4-12.019

RULE TITLE:  
Exemption from Renewal Requirements for Spouses of Members of the Armed Forces of the United States

#### CORRECTED NOTICE OF CHANGE

Pursuant to subparagraph 120.54(3)(d)1., F.S., notice is hereby given that the following changes have been made to the proposed rule, as published in Vol. 27, No. 8, February 23, 2001, issue of the Florida Administrative Weekly. These changes are in response to comments received from the Joint Administrative Procedures Committee and from the Board meeting held April 12, 2001 in Orlando, Florida.

The rule shall now read as follows:

61G4-12.019 Exemption from Renewal Requirements for Spouses of Members of the Armed Forces of the United States. Spouses of members of the Armed Forces of the United States are exempt from licensure renewal provisions, but only in cases of absence from the state because of their spouses' duties with the Armed Forces. Copies of the military orders requiring the change in duty station must be sent to the Board office in order to qualify for the exemption. Upon receipt of the military orders by the Board office confirming exemption eligibility, the spouse's license will be placed on inactive status with no fee required. Reactivation of the inactive license will not require payment of the fee set forth in Rule 61G4-12.009(6), F.A.C. The license will remain in inactive status for up to two renewal cycles at which time the licensee must either renew this exemption, before expiration, by submitting a current set of orders establishing eligibility for the exemption or reactivate the license. The licensee may reactivate the license by submitting an application for change of status from inactive to active and will not be required to pay the fee set forth in Rule 61G4-12.009(12)(a), F.A.C. If a license is not reactivated nor the exemption renewed by the expiration date, the license shall become delinquent. Reactivation of the delinquent license will not require payment of the fee set forth in Rule 61G4-12.009(11)(b), F.A.C.

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Cathleen O'Dowd, Executive Director, Construction Industry Licensing Board, 7960 Arlington Expressway, Suite 300, Jacksonville, Florida 32211-7467

## DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION

### Board of Professional Engineers

RULE NOS.:	RULE TITLES:
61G15-32.002	Definitions
61G15-32.003	Common Requirements to All Fire Protection Engineering Documents
61G15-32.004	Design of Water Based Fire Protection Systems

### NOTICE OF CHANGE

Pursuant to subparagraph 120.54(3)(d)1., F.S., notice is hereby given that changes have been made to the proposed rules, substantially rewording the rules as previously published in Vol. 27, No. 3, January 19, 2001, issue of the Florida Administrative Weekly. The changes are in response to two additional public hearings held on these rules. The first hearing was held on March 5, 2001, by telephone conference call, and the other public hearing was scheduled at the same time as the Board's regularly scheduled board meeting on April 24, 2001, in Tampa, Florida. Since a substantial number of changes were voted upon by the Board, a substantial rewording of the rules shall read as follows:

#### 61G15-32.002 Definitions.

(1) Engineer of Record for the Fire Protection System(s): The Florida Registered Professional Engineer who develops the Fire Protection System(s) design criteria; performs analysis as required; and is responsible for the preparation of the Fire Protection System Engineering Documents.

(2) Fire Protection Component: Any individual part, subsystem or device to be incorporated in a Fire Protection System.

(3) Fire Protection System: Any assembly of Fire Protection components, materials, equipment, which require design to form a fully functional fire protection system.

(4) Listed: A fire protection component tested by a nationally recognized fire protection equipment testing organization. Recognized organizations include, but are not limited to Underwriters Laboratories, Inc. and Factory Mutual Research Corporation.

(5) Fire Protection System Engineering Documents: The fire protection system engineering drawings, specifications, prescriptive and performance criteria, water supply analysis and other materials or representations, which are submitted with the general construction documents pursuant to 553.79(6)(c), F.S., that set forth the overall design requirements and provide sufficient direction for the contractor to layout the construction, alteration, demolition, renovation, repair, modification, permitting and such, for any public or private fire protection system(s), which are prepared, signed, dated and sealed by the Engineer of Record for the Fire Protection System(s).

(6) Fire Protection System Layout Documents: Layout drawings, hydraulic calculations, catalog information on standard products, and other construction data prepared by the licensed contractor or Engineer of Record that provides detail on the location of risers, cross mains, branch lines, sprinkler heads, sizing of pipe, hanger locations, and hydraulic calculations and also serves as a guide for fabrication and installation of a fire protection system. Fire Protection System Layout Documents are based upon engineering direction provided in the Fire Protection System Engineering Documents and require no additional engineering input. These documents do not require the seal of a Florida registered engineer.

(7) Codes and Standards: Those nationally recognized codes and standards adopted directly or by reference in Chapter 633, Florida Statutes. Applicable codes and standards also include those promulgated by the State Fire Marshal as well as by State and local authorities having jurisdiction. In the event the codes and standards fail to cover or address a specific protection requirement, alternative research, test results, and engineering data may be utilized, relying on the Engineer of Record for Fire Protection to make an informed engineering decision. This definition is not intended to preclude the use of new technologies when said technology has been demonstrated to provide equivalent or improved protection above that of published National Fire Protection standards.

(8) Material Deviation: Any deviation from the design parameters established and documented by the Engineer of Record.

(9) Layout: The location of risers, cross mains, branch lines, sprinkler heads, sizing of pipe, hanger locations, and hydraulic calculations based on engineering documents.

#### 61G15-32.003 Common Requirements to All Fire Protection Engineering Documents.

(1) The Fire Protection System Engineering Documents shall provide the engineering requirements to be used in the preparation of the Fire Protection System Layout Documents and to indicate the nature and scope of the work, and to describe, detail, dimension, label and define the Fire Protection Components, System(s), materials, assemblies, equipment and its structural and utility support system(s), insofar as they involve the safeguarding of life, health or property.

(2) The Fire Protection System Engineering Documents shall specify the applicable requirements for the acceptance testing of the fire protection system and components, which shall be based upon applicable codes and standards, where available.

(3) The occupancy of the area or description of a specific hazard being protected by the Fire Protection System(s) shall be shown on the Fire Protection System Engineering Documents.

(4) The applicable code and standard to be used in the preparation of the Fire Protection System Layout Documents shall be shown on the Fire Protection System Engineering Documents. When codes and standards are not available or applicable, and said layout documents are to be based on engineering judgment, any reasons and assumptions made to develop the fire protection concept shall be identified on the Fire Protection System Engineering Documents.

(5) Structural support and structural openings required by the Fire Protection System shall be shown on the Fire Protection System Engineering Documents and shall be referenced on structural engineering documents.

(6) When layout documents contain material deviation from the Engineer of Record's Fire Protection System Engineering Document, such layout documents are not compliant unless they are accompanied by revised Engineering Documents made and sealed by the Engineer of Record for the Fire Protection System.

(7) Requirements for activation control systems, sequence, operating parameters, interlocks, safety related devices, indicators and alarms, shall be shown on the Fire Protection System Engineering Documents, unless shown on other related documents.

(8) Any information deemed appropriate by the Engineer of Record to assist the Authority Having Jurisdiction in understanding the owner's intended use and proposed protection of the building or facility and to provide sufficient direction to the installation contractor or other interested parties regarding the layout of the system(s), shall be included in the Fire Protection System Engineering Documents.

#### 61G15-32.004 Design of Water Based Fire Protection Systems.

(1) Water Based Fire Protection Systems include, but are not limited to, automatic sprinkler systems of wet, dry, fine water spray (mist), manual, and deluge valve controlled types, pumping systems, standpipes, fire water mains and dedicated fire protection water sources.

(2) To ensure minimum design quality in Fire Protection System Engineering Documents, said documents shall include as a minimum the following information when applicable:

(a) The Point of Service for the fire protection water supply as defined by 633.021(17), F.S.

(b) Applicable NFPA standard to be applied, or in the case where no such standard exists, the engineering study, judgments, and/or performance based analysis and conclusions.

(c) Classification of hazard occupancy for each room or area.

(d) Design approach, which includes system type, densities, device temperature rating, and spacing for each separate hazard occupancy.

(e) Characteristics of water supply to be used, such as main size and location, whether it is dead-end or circulating; and if dead-end, the distance to the nearest circulating main, as well as its minimum duration and reliability for the most hydraulically demanding design area.

(f) When private or public water supplies are used, the flow test data, including date and time of test, who conducted test or supplied information, test elevation, static gauge pressure at no flow, flow rate with residual gauge pressure, hydrant butt coefficient, and location of test in relation to the hydraulic point of service.

(g) Valving and alarm requirements to minimize potential for impairments and unrecognized flow of water.

(h) Microbial Induced Corrosion (MIC). The Engineer of Record shall make reasonable efforts to identify water supplies that could lead to Microbial Induced Corrosion (MIC). Such efforts may consist of discussions with the local water purveyor and/or fire official, familiarity with conditions in the local area, or laboratory testing of water supplies. When conditions are found that may result in MIC contamination of the fire protection piping, the engineer shall design corrective measures.

(i) Backflow prevention and metering specifications and details to meet local water purveyor requirements including maximum allowable pressure drop.

(j) Quality and performance specifications of all yard and interior fire protection components.

(3) Contractor submittals which deviate from the above minimum design parameters shall be considered material deviations and require supplemental engineering approval and documentation.

(4) In the event the Engineer of Record provides more information and direction than is established above, he or she shall be held responsible for the technical accuracy of the work in accordance with applicable codes, standards, and sound engineering principles.

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Natalie Lowe, Administrator, Board of Professional Engineers, Northwood Centre, 1208 Hays Street, Tallahassee, Florida 32399-32301

#### DEPARTMENT OF ENVIRONMENTAL PROTECTION

DOCKET NO.: 00-43R

RULE CHAPTER NO.:	RULE CHAPTER TITLE:
62-303	Identification of Impaired Surface Waters
RULE NOS.:	RULE TITLES:
62-303.100	Scope and Intent
62-303.150	Relationship Between Planning and Verified Lists
62-303.200	Definitions
62-303.320	Exceedances of Aquatic Life-Based Water Quality Criteria

62-303.330	Biological Assessment
62-303.340	Toxicity
62-303.380	Drinking Water Use Support and Protection of Human Health
62-303.420	Exceedances of Aquatic Life-Based Water Quality Criteria
62-303.430	Biological Impairment
62-303.440	Toxicity
62-303.470	Fish and Shellfish Consumption Use Support
62-303.480	Drinking Water Use Support and Protection of Human Health

#### NOTICE OF CHANGE

Notice is hereby given, in accordance with subparagraph 120.54(3)(d)1., F.S., that the following changes have been made to the proposed rule in the March 23, 2001, issue of the Florida Administrative Weekly, Vol. 27, No. 12. The changes are in response to written and oral comments from interested parties, and supported by the record of the public hearing held before the Environmental Regulation Commission on April 26, 2001. The proposed rule has changed so that when it is adopted the following sections will read:

##### 62-303.100 Scope and Intent.

(1) This chapter establishes a methodology to identify surface waters of the state that will be included on the state's planning list of waters that will be assessed pursuant to subsections 403.067(2) and (3), Florida Statutes (F.S.). It also establishes a methodology to identify impaired waters that will be included on the state's verified list of impaired waters, for which the Department will calculate Total Maximum Daily Loads (TMDLs), pursuant to subsection 403.067(4), F.S., and which will be submitted to the United States Environmental Protection Agency (EPA) pursuant to ~~subparagraph~~ 303(d)(1)(~~C~~) of the Clean Water Act (CWA).

(2) through (5) No change.

##### 62-303.150 Relationship Between Planning and Verified Lists.

(1) The Department shall follow the methodology in Section 62-303.300 to develop a planning list pursuant to subsection 403.067(2), F.S. As required by subsection 403.067(2), F.S., the planning list shall not be used in the administration or implementation of any regulatory program, and shall be submitted to EPA for informational purposes only. Waters on this planning list will be assessed pursuant to subsection 403.067(3), F.S., as part of the Department's watershed management approach. During this assessment, the Department shall determine whether the water body is impaired and whether the impairment is due to pollutant discharges using the methodology in Part III. The resultant verified list of impaired waters, which is the list of waters for which TMDLs will be developed by the Department pursuant to subsection 403.067(4), will be adopted by Secretarial Order and will be subject to challenge under subsection 120.569 and

120.57, F.S. Once adopted, the list will be submitted to the EPA pursuant to ~~subparagraphs~~ 303(d)(1)(~~A~~) and (~~C~~) of the CWA.

(2) No change.

##### 62-303.200 Definitions.

(1) through (19) No change.

~~(20) "Tier 2 Data Quality Assessment" shall mean an assessment of the quality controls used in generating water quality data, as outlined in the Department's Guidance Document, "A Tiered Approach to Data Quality Assessment" (DEP EAS 001-00, October 2000), which is incorporated by reference.~~

~~(20)(21)~~ No change.

~~(21)(22)~~ "Verified list" shall mean the list of impaired water bodies or segments for which TMDLs will be calculated, as provided in subsection 403.067(4), F.S., and which will be submitted to EPA pursuant to ~~subparagraph~~ 303(d)(1)(~~C~~) of the CWA.

(23) through (26) renumbered (22) through (25) No change.

##### 62-303.320 Exceedances of Aquatic Life-Based Water Quality Criteria.

(1) through (5) No change.

(6) Values that exceed possible physical or chemical measurement constraints (pH greater than 14, for example) or that represent data transcription errors shall be excluded from the assessment. Outliers identified through statistical procedures shall be evaluated to determine whether they represent valid measures of water quality excluded from the assessment. If the Department determines that they are not valid, they shall be excluded from the assessment. However, the Department shall note for the record that the data were excluded and explain why they were excluded.

(7) The Department shall consider all readily available water quality data. However, to be used to determine water quality exceedances,

(a) No change.

(b) For data collected after one year from the effective date of this rule, the sampling agency must provide to the Department, either directly or through entry into STORET, all of the data quality assessment elements listed in Table 2 of the Department's Guidance Document "Data Quality Assessment Elements for Identification of Impaired Surface Waters" (DEP EAS 01-01, April 2001), which is incorporated by reference ~~the associated quality assurance data needed for a Tier 2 data quality assessment, with appropriate data fields entered into STORET.~~

(8) through (10) No change.

##### 62-303.330 Biological Assessment.

(1) No change.



(2) Bioassessments used to assess streams and lakes under this rule shall include BioRecons, Stream Condition Indices (SCIs), and the benthic macroinvertebrate component of the Lake Condition Index (LCI), which only applies to clear lakes with a color less than ~~20~~ 40 platinum cobalt units. Because ~~these of the complexity of~~ bioassessment procedures require specific training and expertise, persons conducting the bioassessments must comply with ~~will, in addition to meeting~~ the quality assurance requirements of Chapter 62-160, F.A.C., attend at least eight hours of Department sanctioned field training, and be required to pass a Department sanctioned field audit that verifies the sampler follows the applicable SOPs in Chapter 62-160, F.A.C., before their bioassessment data will be considered valid for use under this rule.

(3) through (4) No change.

#### 62-303.340 Toxicity.

(1) All toxicity tests used to place a water segment on a planning list shall be based on surface water samples in the receiving water body and shall be conducted and evaluated in accordance with Chapter 62-160, F.A.C., and subsections 62-302.200(1) and (4), F.A.C., respectively.

(2) through (3) No change.

#### 62-303.380 Drinking Water Use Support and Protection of Human Health.

(1) No change.

(2) A water shall be place on the planning list for assessment of the threat to human health if:

(a) For human health-based criteria expressed as maximums, the water segment does not meet the applicable criteria based on the methodology described in Section 62-303.320, or

(b) For human health-based criteria expressed as annual averages, the annual average mean concentration for any year of the assessment period exceeds the a human health-based criteria expressed as an annual average. To be used to determine whether a water should be assessed further for human-health impacts, data must meet the requirements of paragraphs (2), (3), (6), and (7) in Rule 62-303.320.

#### 62-303.420 Exceedances of Aquatic Life-Based Water Quality Criteria.

(1) through (2) No change.

Table 2: Verified List

Minimum number of measured exceedances needed to put on the Verified list with at least 90% confidence that the actual exceedance rate is greater than or equal to ten percent.					
Sample sizes		Are listed if they have at least this # of exceedances	Sample sizes		Are listed if they have at least this # of exceedances
From	To		From	To	
<del>40</del>	<del>44</del>	3	245	253	32
<del>42</del>	<del>48</del>	4	254	262	33
<u>20</u> <del>49</del>	25	5	263	270	34
26	32	6	271	279	35
33	40	7	280	288	36
41	47	8	289	297	37
48	55	9	298	306	38
56	63	10	307	315	39
64	71	11	316	324	40
72	79	12	325	333	41
80	88	13	334	343	42
89	96	14	344	352	43
97	104	15	353	361	44
105	113	16	362	370	45
114	121	17	371	379	46
122	130	18	380	388	47
131	138	19	389	397	48
139	147	20	398	406	49
148	156	21	407	415	50
157	164	22	416	424	51
165	173	23	425	434	52
174	182	24	435	443	53
183	191	25	444	452	54
192	199	26	453	461	55
200	208	27	462	470	56
209	217	28	471	479	57
218	226	29	480	489	58
227	235	30	490	498	59
236	244	31	499	500	60

(3) through (4) No change.

(5) Values that exceed possible physical or chemical measurement constraints (pH greater than 14, for example) or that represent data transcription errors, outliers the Department determines are not valid measures of water quality. Outliers identified through statistical procedures water quality criteria exceedances due solely to violations of specific effluent limitations contained in state permits authorizing discharges to surface waters, water quality criteria exceedances within permitted mixing zones for those parameters for which the mixing zones are in effect, and water quality data collected following contaminant spills, discharges due to upsets or bypasses from permitted facilities, or rainfall in excess of the 25-year, 24-hour storm, shall be excluded from the assessment. However, the Department shall note for the record that the data were excluded and explain why they were excluded.

(6) No change.

#### 62-303.430 Biological Impairment.

(1) through (3) No change.

(4) Following verification that the water is biologically impaired, a water shall be included on the verified list of biological impairment if:

(a) There are water quality data reasonably demonstrating specifying the particular pollutant(s) causing the impairment and the concentration of the pollutant(s); and

(b) One of the following demonstrations is made:

1. If there is a numeric criterion for the specified pollutant(s) in Chapter 62-302, F.A.C., but the criterion is met, an identification of the specific factors that reasonably demonstrate as to why the numeric criterion is not adequate to protect water quality and how the specific pollutant is causing the impairment, or

2. If there is not a numeric criterion for the specified pollutant(s) in Chapter 62-302, F.A.C., an identification of the specific factors that reasonably demonstrate how concerning the particular pollutant(s) are associated with shall be identified which connect the specified pollutant to the observed biological effect.

#### 62-303.440 Toxicity.

(1) A water segment shall be verified as impaired due to surface water toxicity in the receiving water body if:

(a) through (b) No change.

(2) through (3) No change.

#### 62-303.470 Fish and Shellfish Consumption Use Support.

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

(c) There are sufficient data from within the last 7.5 ~~seven~~ years to support the continuation of the advisory.

(2) through (3) No change.

#### 62-303.480 Drinking Water Use Support and Protection of Human Health.

If the water segment was listed on the planning list due to exceedances of a human health-based water quality criterion and there were insufficient data from the last five years preceding the planning list assessment to meet the data sufficiency requirements of Section 303.320(4), additional data will be collected as needed to meet the requirements. Once these additional data are collected, the Department shall re-evaluate the data using the methodology in Rule 62-303.380(2) and limit the analysis to data collected during the five years preceding the planning list assessment and the additional data collected pursuant to this paragraph (not to include data older than 7.5 years). For this analysis, the Department shall exclude any data meeting the requirements of paragraph 303.420(5). The following ~~Any~~ water segments shall be listed on the verified list:

(1) For human health-based criteria expressed as maximums, water segments that meet the requirements in Rule 62-303.420(6), or

(2) For human health-based criteria expressed as annual averages, water segments that have an ~~a mean~~ annual average that exceeds the applicable criterion ~~shall be listed on the verified list.~~

### DEPARTMENT OF HEALTH

#### Board of Dentistry

##### RULE NOS.:

64B5-15.009

64B5-15.010

64B5-15.012

##### RULE TITLES:

Fee for Reactivation of Inactive License

Fee for Inactive Status

Change of Status Processing Fee

#### NOTICE OF WITHDRAWAL

Notice is hereby given that the above rules, as noticed in Vol. 27, No. 11, March 16, 2001, Florida Administrative Weekly have been withdrawn.

THE PERSON TO BE CONTACTED REGARDING THE NOTICE OF WITHDRAWAL IS: Sue Foster, Executive Director, Board of Dentistry/MQA, 4052 Bald Cypress Way, Bin #C06, Tallahassee, Florida 32399-3256

### FISH AND WILDLIFE CONSERVATION COMMISSION

#### Division of Law Enforcement

##### RULE CHAPTER NO.:

68D-23

##### RULE NOS.:

68D-23.003

68D-23.103

68D-23.104

##### RULE CHAPTER TITLE:

Uniform Waterway Markers in Florida Waters

##### RULE TITLES:

Placement of Regulatory Markers in Waters of the State

Definitions

Placement of Markers

68D-23.105	Criteria for Approval of Regulatory Markers
68D-23.106	Permit Conditions
68D-23.112	Exemptions

#### NOTICE OF CHANGE

Notice is hereby given that the following changes have been made to the proposed rule published in Vol. 27, No. 4, January 26, 2001, issue of the FAW on pages 377 through 385. The changes are in response to testimony at a public hearing held in Tallahassee, Florida on February 22, 2001, and written comments timely received. The revised sections of the rule will now read as follows:

68D-23.003 Placement of Regulatory Markers in Waters of the State.

Rule section will be repealed – No change.

#### 68D-23.103 Definitions.

(1) For purposes of this chapter and chapters 68C-22 and 68D-24, the following definitions shall apply:

(a) “Aid to navigation” means any device external to a vessel intended to assist a navigator to determine position or safe course, or to warn of dangers or obstructions to navigation.

(b) “Information marker” means a device external to a vessel intended to provide the mariner with information concerning matters other than dangers or obstructions to navigation, or regulatory matters.

(c) “Regulatory marker” means a device used to alert the mariner to various warnings or regulatory matters such as horsepower, speed, or wake restrictions.

(d) “Mooring buoy” means a device that is permanently secured to the bottom of a body of water and to which a vessel may be secured when not underway.

(e) “Buoy” means any device designed to float which is anchored in the waters of the state and which is used to convey a message or carry a sign.

(f) “Sign” means an object which displays a message and which is attached to another object such as a piling, buoy, structure, or the land itself.

(g) “Symbol” means the orange geometric shape displayed on an information or regulatory marker. The meanings associated with the orange geometric shapes are as follows:

1. A vertical open-faced diamond signifies danger;

2. A vertical diamond shape having a cross centered within indicates that all vessels or certain classes of vessels are excluded from the marked area;

3. A circular shape indicates that certain operating restrictions are in effect within the marked area; and,

4. A square or rectangular shape will contain directions or instructions lettered within the shape.

(h) “Display area” means the area on an information marker or regulatory marker within which the symbol is displayed.

(i) “Boating restricted area” means an area of the waters of the state within which the operation of vessels is subject to specified restrictions or from which vessels are excluded.

(j) “Shore” means that area of land immediately adjacent or contiguous to the waters of the state such that a sign or marker erected thereon is readily visible to the operator of a vessel who might reasonably believe that the sign or marker displays navigational, regulatory or other information relevant to the operation of the vessel.

(k) “Florida Intracoastal Waterway” means:

1. All waters within the platted right-of way of the Atlantic Intracoastal Waterway, the Georgia state line north of Fernandina to Miami; the Port Canaveral lock and canal to the Atlantic Intracoastal Waterway; the Atlantic Intracoastal Waterway, Miami to Key West; the Okeechobee Waterway Route 1 across Lake Okeechobee; the Gulf Intracoastal Waterway, Anclote to Fort Myers; the Gulf Intracoastal Waterway, Carrabelle to Tampa Bay; the Gulf Intracoastal Waterway, Carrabelle to Anclote open bay section (using the Gulf of Mexico); and the Gulf Intracoastal Waterway, Carrabelle to the Alabama state line west of Pensacola; and,

2. All waters from shoreline to shoreline within the Okeechobee Waterway, Stuart to Fort Myers, not including Route 1 across Lake Okeechobee; the St. Johns River, Jacksonville to Sanford; and, the Apalachicola, Chattahoochee, and Flint Rivers in Florida.

(l) “Uniform State Waterway Marking System” means the system of aids to navigation, information markers, regulatory markers, and mooring buoys, as specified in Part 66 of Title 33 of the Code of Federal Regulations.

(m) “United States Aids to Navigation System” means the system of aids to navigation, information markers, regulatory markers, and mooring buoys, as specified in Part 62 of Title 33 of the Code of Federal Regulations.

(n) “Private Aid to Navigation” means an aid to navigation the establishment of which is authorized by a permit issued by the United States Coast Guard pursuant to Part 66 of Title 33 of the Code of Federal Regulations.

(o) “Maritime property” means vessels and their engines, tackle, gear, equipment, appurtenances, furnishings, cargoes, stores, personal property then on board belonging to the vessels' occupants, and such other similar property as is consistent with the general maritime law of the United States. This definition does not include littoral or riparian property, the shores thereof, seawalls, docks, wharfs, or other property intentionally and permanently attached to the shore.

(2) When used on markers, the terms:

(a) “Idle Speed No Wake” and “Idle Speed” may be used interchangeably and mean that a vessel must proceed at a speed no greater than that which will maintain steerageway and headway. At no time is any vessel required to proceed so slowly that the operator is unable to maintain control over the vessel or any other vessel or object that it has under tow.

(b) "Slow Speed" and "Slow Speed Minimum Wake" may be used interchangeably and mean that a vessel must be fully off plane and completely settled into the water. The vessel must then proceed at a speed which is reasonable and prudent under the prevailing circumstances so as to avoid the creation of an excessive wake or other hazardous condition which endangers or is likely to endanger other vessels or other persons using the waterway. A vessel that is:

1. Operating on plane is not proceeding at this speed;
2. In the process of coming off plane and settling into the water or coming up onto plane is not proceeding at this speed;
3. Operating at a speed that creates a wake which unreasonably or unnecessarily endangers other vessels or other persons using the waterway, or is likely to do so, is not proceeding at this speed;
4. Completely off plane and which has fully settled into the water and is proceeding at a reasonable and prudent speed with little or no wake is proceeding at this speed.

5. "Slow Speed" and "Slow Speed Minimum Wake" are the preferred terms. "Slow Down Minimum Wake" markers may continue to be used for restricted areas authorized prior to January 1, 2001, except when such a restricted area is contiguous to an Idle Speed No Wake boating restricted area.

(c) "Caution zone" means an area presenting a significant risk of navigational hazard, an area frequently inhabited by manatees on a somewhat regular basis, or other area similarly requiring that vessels be operated with particular alertness and caution so as to avoid endangering life, limb, vessel traffic safety or maritime property, or manatees.

(d) "Vessel exclusion zone" means an area from which all vessels or certain classes of vessels are excluded. Examples include:

1. "No Vessels" or "Swim Area" – All vessels of any type are prohibited from entering the marked area.
2. "No Motorized Vessels" or "No Motorboats" or "Motorboats Prohibited" – All vessels equipped with any mechanical means of propulsion are prohibited from entering the marked area, even if the mechanical means of propulsion is not in use.

3. "No Power-driven Vessels" – All vessels equipped with any mechanical means of propulsion are prohibited from entering the marked area unless the mechanical means of propulsion is not in use and, if possible to do so, is tilted or raised out of the water.

4. "No Internal Combustion Motors" – All vessels equipped with internal combustion motors (e.g.: gasoline or diesel motors) for propulsion are prohibited from entering the marked area, even if the motor is not in use.

5. "Manually Propelled Vessels Only" – All vessels other than those propelled by oars, paddles, or poles are prohibited from entering the marked area. Vessels equipped with

mechanical means of propulsion may enter the marked area only if the mechanical means of propulsion is not in use and, if possible to do so, is tilted or raised out of the water.

6. "No Entry Area" – All vessels and all persons, either in vessels or swimming, diving, or wading, are prohibited from entering the marked area.

(e) "Miles per hour" and "MPH" mean speed made good over the bottom measured in statute miles. A specific number will be posted in conjunction with "miles per hour" or "MPH" and is the maximum speed at which a vessel may lawfully be operated within the marked area. Although it is the intention of the Commission to allow those vessels capable of attaining a planing configuration at posted numerical speed limit to do so, this posted speed limit shall not be construed as permitting the reckless or careless operation of a vessel, in violation of Section 327.33, Florida Statutes, or authorizing any vessel to travel at an unsafe speed, in violation of navigation rule 6 as adopted pursuant to Section 327.33, Florida Statutes, by reason of:

1. Having an elevated bow which restricts visibility, or
2. Producing an excessive wake or other hazardous condition which endangers or is likely to endanger other vessels, other persons using the waterway, or natural resources of the state.

(f) "Wake," when used in conjunction with a numerical size limit, means all changes in the vertical height of the water's surface caused by the passage of a vessel including, but not limited to, a vessel's bow wave, stern wake, and propeller wash, measured from the ambient tide level to the crest of the vessel's wake at a distance of not less than 25 feet from the vessel.

(g) "Holiday" means:

1. New Year's Day.
2. Birthday of Martin Luther King, Jr., the third Monday in January.
3. Memorial Day.
4. Independence Day, the Fourth of July.
5. Labor Day.
6. Columbus Day.
7. Veterans' Day, November 11.
8. Thanksgiving Day.
9. Friday after Thanksgiving.
10. Christmas Day.
11. If any of these holidays falls on Saturday, the preceding Friday shall be observed as a holiday. If any of these holidays falls on Sunday, the following Monday shall be observed as a holiday.

(3) The division may authorize the use of other terminology on regulatory markers if the message is clear, unambiguous, and accurately describes a lawfully imposed restriction.

Specific Authority 327.40, 327.41, 327.46, 370.12 FS. Law Implemented 327.40, 327.41, 327.46, 370.12 FS. History—New

#### 68D-23.104 Placement of Markers.

(1) No person, municipality, county or other governmental entity shall place, cause to be placed, or maintain in place any marker in, on or over the waters of the state or the shores thereof without a permit from the division.

(2) Any person, municipality, county, or other governmental entity desiring to place a marker shall make application to the division on the Florida Uniform Waterway Marker Application form, FWC/DLE 153(01/2000), which is adopted and incorporated herein by reference. Application forms may be obtained by submitting a request to: Fish and Wildlife Conservation Commission, Division of Law Enforcement, Office of Boating Safety and Waterway Management, 620 South Meridian Street, Tallahassee, Florida 32399-1600. Each application must include:

(a) A scale drawing no larger than 8 1/2 inches by 11 inches, reproducible on standard office photocopying equipment, showing the approximate placement of the proposed markers with each proposed marker labeled to correspond to the list required below. If the application is for regulatory markers, the drawing must also depict the exact boundaries of the proposed boating restricted area.

(b) A list of the markers proposed, labeled to correspond to the drawing required above.

(c) A statement of the specifications for the markers proposed, including:

1. A description giving each marker's size, shape, color, height above mean high water, and number, letter or message;

2. A description of the type, size, shape, and material used for any structure which will support the markers;

3. A statement of the color, characteristic, height above mean high water, intensity, and nominal range of any light which will be placed on the markers;

4. A statement of the type signal (whistle, horn, bell, etc.) and characteristic for any audible fog signal.

5. The latitude and longitude expressed in degrees, minutes, and seconds or degrees and decimal minutes of the location where each marker will be placed.

(d) A statement of the purpose for placing the proposed markers. If the application is for regulatory markers, this statement must include the purpose for regulating vessel operation and a statement of the facts and circumstances justifying the establishment of the restriction on speed or operation.

(e) A statement listing the names or titles of the individuals responsible for the placement and maintenance of the markers along with an address and a contact telephone number for each individual.

(f) If the application is for regulatory markers, the applicant must enclose therewith proof of the lawful imposition of restrictions on the speed or operation of vessels for which the regulatory markers are requested, as follows:

1. A copy of an ordinance adopted pursuant to Section 327.22, Florida Statutes, which imposes the restriction only upon vessels resident within the county or municipality imposing the restriction; or

2. A copy of an ordinance adopted pursuant to Section 327.60, Florida Statutes, which imposes the restriction for reasons of vessel traffic safety or public safety; or

3. A copy of an ordinance adopted by a county or municipality and approved by the commission pursuant to paragraph 370.12(2)(o), Florida Statutes, which imposes the restriction for reasons of manatee protection; or

4. A copy of the statute, special act, rule, regulation, order, or other instrument which imposes the restriction for reasons other than public safety or manatee protection, and a statement of the specific authority under which the restriction is imposed.

(3) Upon receipt of all statements and other documents specified above, the division will:

(a) Determine whether or not there exists a conflict with the provisions of Chapter 327, Florida Statutes, or any amendments thereto or regulations thereunder, for ordinances adopted pursuant to Section 327.60, Florida Statutes.

(b) Forward the request to the Bureau of Protected Species Management for review and approval pursuant to paragraph 370.12(2)(o), Florida Statutes, for ordinances adopted thereunder.

(c) For regulatory markers, determine whether or not the markers as proposed would clearly mark the area as a boating restricted area and adequately notice mariners of the restrictions imposed on vessel speed or operation.

(d) Determine whether or not the placement of the proposed markers in the proposed locations would create an unreasonable hazard to navigation.

(e) Determine whether the proposed markers conform to the United States Aids to Navigation System.

(4) The division may consult, coordinate, or cooperate with any other governmental entity having concurrent jurisdiction over the waters for which the permit is requested.

(5) After obtaining the requested permit, the applicant must install, inspect, maintain, and remove the permitted marker at its own expense and as directed by the division.

Specific Authority 327.40, 327.41 FS. Law Implemented 327.40, 327.41 FS. History—New

#### 68D-23.105 Criteria for Approval of Regulatory Markers.

(1) The division shall find a valid vessel traffic safety or public safety purpose is presented for ordinances adopted pursuant to Section 327.60, Florida Statutes, under the following facts and circumstances:

(a) For an Idle Speed-No Wake boating restricted area, if the area is:

1. Within 500 feet of any boat ramp, hoist, marine railway, or other launching or landing facility available for use by the general boating public on waterways more than 300 feet wide and within 300 feet of any boat ramp, hoist, marine railway, or other launching or landing facility available for use by the general boating public on waterways not exceeding 300 feet wide.

2. Within 500 feet of fuel pumps or dispensers at any marine fueling facility which sells motor fuel to the general boating public on waterways more than 300 feet wide and within 300 feet of the fuel pumps or dispensers at any licensed terminal facility which sells motor fuel to the general boating public on waterways not exceeding 300 feet wide.

3. Inside or within 300 feet of any lock structure.

4. An area where boating accident reports, uniform boating citations, vessel traffic studies, or other creditable data demonstrate a high risk of collision or where any significant vessel wake would be likely to endanger life, limb, vessel traffic safety or maritime property.

(b) For a Slow Speed Minimum Wake boating restricted area if the area is:

1. Within 300 feet of any bridge fender system.

2. Within 300 feet of any bridge span presenting a vertical clearance of less than 25 feet or a horizontal clearance of less than 100 feet.

3. Within 300 feet of a confluence of water bodies presenting a blind corner, a bend in a narrow channel or fairway, or such other area where an intervening obstruction to visibility may obscure other vessels or other users of the waterway.

4. Subject to unsafe levels of vessel traffic congestion.

5. Subject to hazardous water levels or currents, or containing other navigational hazards.

6. An area that accident reports, uniform boating citations, vessel traffic studies, or other creditable data demonstrate to present a significant risk of collision or a significant threat to public safety.

(c) For a numerical speed limit boating restricted area if the area is:

1. Subject to unsafe levels of vessel traffic.

2. Subject to hazardous water levels or currents or containing other navigational hazards.

3. An area that accident reports, uniform boating citations, vessel traffic studies, or other creditable data demonstrate to present a risk of collision or a risk to public safety.

4. An area within which a proposed numerical speed limit is less restrictive than the speed limit in place for the surrounding area if hazardous tides or currents require that vessels operate faster than the surrounding speed limit in order to properly maintain maneuvering ability and headway or if the

geographic configuration of the area and levels of vessel traffic density indicate that higher speeds do not pose a threat to life, limb, property, or manatees. Any dispute concerning the threat to manatees shall be resolved as provided in paragraph 370.12(2)(o), Florida Statutes.

(d) For vessel exclusion zones if the area is:

1. Designated as a public bathing beach or swim area.

2. Reserved exclusively as a canoe trail or otherwise limited to vessels under oars or under sail.

3. Reserved exclusively for a particular activity and user group separation must be imposed to protect the safety of those participating in such activity.

(e) For other boating restricted areas (caution zone, no skiing, no parasailing, one-way vessel traffic, etc.) if the area is one that accident reports, uniform boating citations, vessel traffic studies, or other creditable data demonstrate to present a risk to vessel traffic safety or public safety.

(2) The division shall find a valid manatee safety purpose is presented for ordinances adopted pursuant to paragraph 327.12(2)(o), Florida Statutes, upon the determination by the commission that manatees are frequently sighted and can be generally assumed to inhabit the area periodically or continuously and that the restrictions imposed are justified and necessary for the protection of manatees or their habitat. Any dispute concerning the threat to manatees or their habitat shall be resolved as provided in paragraph 370.12(2)(o), Florida Statutes.

Specific Authority 327.40, 327.41 FS. Law Implemented 327.40, 327.41, 370.12 FS. History—New

68D-23.106 Permit Conditions.

(1) All permits issued pursuant to this chapter are subject to the following conditions:

(a) Placement of these markers must be as requested in the application. Any deviation will require that the applicant apply to have the permit amended.

(b) The applicant must display the permit number on each marker and the ordinance number, municipal code section number, or rule number (etc.) on each regulatory marker. These numbers must be displayed in black, block characters approximately one inch in height.

1. The permit number must be displayed in the lower left corner on the face of each regulatory marker. The ordinance number, municipal code section number, or rule number (etc.) must be displayed in the lower right corner on the face of each regulatory marker.

2. All markers other than regulatory markers must display the permit number. This display shall be placed at any location on the marker where it can easily be read, including the reverse side of a sign, provided that it does not interfere with the message of the marker.

(c) Upon completion of the installation of markers, the applicant must notify the division in writing within 10 working days. If the latitude and longitude of each marker, as installed, is different from that listed in the application, this notification must include the correct latitude and longitude in degrees, minutes, and seconds.

(d) All markers must be maintained in proper condition at all times. A discrepancy exists whenever a marker is not exactly as described in the approved application or is destroyed, damaged, moved, or is otherwise unserviceable or not watching properly. The applicant must immediately report any discrepancy in the marker to the division by telephone, telefacsimile or other similarly rapid means of communication. Unless the applicant's permit expressly provides for a longer period, the applicant must correct any discrepancy within not more than 30 days and must notify the division when the correction is accomplished.

(e) Authorization by the division for the placement of a marker does not authorize any invasion of private rights, nor grant any exclusive privileges, nor does it obviate the necessity of complying with any other federal, state or local laws or regulations.

(f) All permits issued pursuant to this chapter are contingent upon the consent of and, if necessary, the issuance of appropriate permits by the United States Army Corps of Engineers authorizing the placement of structures for the support of the proposed markers. Consent may be by nationwide permit, regional permit, letter permit, authorization letter, statement of no objection, or other similar means.

(g) All permits issued pursuant to this chapter are contingent upon the consent of and, if necessary, the issuance of appropriate permits by the United States Coast Guard authorizing the establishment of private aids to navigation pursuant to Part 66 of Title 33 of the Code of Federal Regulations.

(h) All permits issued pursuant to this chapter authorizing the placement of markers, buoys, or signs on submerged lands, or other property or structure not owned by the applicant are contingent upon the applicant receiving the written consent of the owner of the submerged lands, other property, or structure to the placement of said signs and providing a copy of such consent to the division.

(i) By accepting any permit and placing the markers authorized therein, the applicant other than a governmental entity, to the extent authorized by law, agrees and promises to hold harmless the State of Florida and its agencies, employees, agents, or successors from fault with respect to any claim or claims arising from alleged negligence in the placement, maintenance, operation and removal of any and all markers placed by applicants pursuant to such permits. The applicant other than a governmental entity further agrees to indemnify the State of Florida for any and all legal fees and costs incurred

in defense of any suit brought against the State as a result of alleged negligence by applicant in the placement, maintenance, operation or removal of the markers.

(j) Applicants for permits to place regulatory markers or the governmental entities establishing the rules, ordinances, or other actions imposing the regulations must provide for the enforcement of operating restrictions noticed by said markers.

Specific Authority 327.40, 327.41 FS. Law Implemented 327.40, 327.41 FS. History—New

#### 68D-23.112 Exemptions.

(1) Nothing herein shall apply to the United States Government or its agencies, nor to any aid to navigation, marker, mooring buoy, or other similar device placed thereby.

(2) Persons establishing private aids to navigation other than regulatory markers and mooring buoys on waters of concurrent state/federal jurisdiction pursuant to the provisions of 33 CFR §66.01 shall submit to the division a copy of their United States Coast Guard permit (CG-2554) in lieu of the materials required under 68D-23.104. Upon receipt by this division of said copy of their permit, such private aids to navigation shall be exempt from further permitting and need not display a permit number.

(3) Regulatory markers authorized by the former Florida Department of Natural Resources prior to January 1, 1988, are exempt until December 31, 2003, from the requirement that they display a permit number. After that date, every regulatory marker without a permit number, in place in, on or over the waters of the state or shores thereof shall be declared a nuisance. The division and its officers and all other law enforcement officers charged with the enforcement of Chapter 327, Florida Statutes, shall have the authority to remove or cause the removal of any such regulatory marker. Markers authorized prior to January 1, 1988, for which no permit number was assigned shall be issued a permit number upon receipt by the division of the following:

(a) A copy of the correspondence authorizing placement of said markers;

(b) A statement of the specifications for the markers, including:

1. A list of the markers;

2. A description giving each markers size and message, and

3. The latitude and longitude coordinates in degrees-minutes-seconds of the location of each marker;

4. A statement that the markers have been inspected during the ninety days preceding the instant request and that:

a. The markers are properly maintained and in serviceable condition,

b. The markers conform to the requirements of this chapter,

c. The markers are still properly on station, and

d. The date or dates on which the markers were inspected.



(4) The inspection and certification requirements in Rule 68D-23.110 shall not apply to markers maintained by an Inland Navigation District pursuant to s. 374.997, F.S., but shall instead be specified in each permit.

(5) The restrictions displayed on regulatory markers shall not apply:

(a) In the case of an emergency;

(b) To law enforcement patrol vessels or firefighting vessels; or.

(c) To any rescue vessel owned or operated by a governmental entity.

Specific Authority 327.40, 327.41 FS. Law Implemented 327.40, 327.41, 327.46, 370.12 FS. History-New

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Captain Alan S. Richard, Coordinator, Office of Boating Safety and Waterway Management, Division of Law Enforcement, Fish and Wildlife Conservation Commission, 620 South Meridian Street, Tallahassee, FL 32399-1600

## Section IV Emergency Rules

### DEPARTMENT OF THE LOTTERY

RULE TITLE: How to Play PLAY 4

RULE NO.: 53ER01-25

SUMMARY OF THE RULE: This emergency rule sets forth the liability limit provisions for PLAY 4 play. Subsection (1) shall supersede subsection 53-31.001(5), F.A.C.

THE PERSON TO BE CONTACTED REGARDING THE EMERGENCY RULE IS: Ken Hart, General Counsel, Department of the Lottery, Capitol Complex, Tallahassee, Florida 32399-4011

THE FULL TEXT OF THE EMERGENCY RULE IS:

#### 53ER01-25 How to Play PLAY 4.

(1) A liability limit of \$5 million is established for PLAY 4. When the play of a particular four digit number for a drawing reaches the Lottery's PLAY 4 liability limit of \$5 million, no further ticket sales for any type of play that would involve that four digit number will be allowed for that drawing.

(2) Subsection (1), above, shall supersede subsection 53-31.001(5), F.A.C.

Specific Authority 24.109(1), 24.105(10)(a),(c),(j) FS. Law Implemented 24.105(10)(a),(c),(j) FS. History-New 4-30-01.

THIS EMERGENCY RULE TAKES EFFECT IMMEDIATELY UPON BEING FILED WITH THE DEPARTMENT OF STATE.

EFFECTIVE DATE: April 30, 2001

### DEPARTMENT OF THE LOTTERY

RULE TITLE:

How to Play CASH 3

RULE NO.:

53ER01-26

SUMMARY OF THE RULE: This emergency rule sets forth the liability limit provisions for CASH 3 play.

THE PERSON TO BE CONTACTED REGARDING THE EMERGENCY RULE IS: Ken Hart, General Counsel, Department of the Lottery, Capitol Complex, Tallahassee, Florida 32399-4011

THE FULL TEXT OF THE EMERGENCY RULE IS:

#### 53ER01-26 How to Play CASH 3.

A liability limit of \$10 million is established for CASH 3. When the play of a particular three digit number for a drawing reaches the Lottery's CASH 3 liability limit of \$10 million, no further ticket sales for any type of play that would involve that three digit number will be allowed for that drawing. In addition, no Front Pair or Back Pair plays that involve the first two or last two digits respectively of the three digit number will be allowed for that drawing.

Specific Authority 24.109(1), 24.105(10)(a),(c),(j) FS. Law Implemented 24.105(10)(a),(c),(j) FS. History-New 4-30-01.

THIS EMERGENCY RULE TAKES EFFECT IMMEDIATELY UPON BEING FILED WITH THE DEPARTMENT OF STATE.

EFFECTIVE DATE: April 30, 2001

### DEPARTMENT OF THE LOTTERY

RULE TITLE:

Procurement of Commodities and Contractual Services

RULE NO.:

53ER01-27

SUMMARY OF THE RULE: The rule replaces previously adopted rule 53ER97-39 in response to comments received from the Joint Administrative Procedures Committee.

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

THE FULL TEXT OF THE EMERGENCY RULE IS:

#### 53ER01-27 Procurement of Commodities and Contractual Services.

(1) The secretary or a designee is authorized to execute contracts for commodities and contractual services which are to be used in the normal operation of the Lottery provided that such contracts are made in accordance with the provisions of these rules. The Lottery specifically finds that, due to the unique nature of its business, strict compliance with Chapter 287, Florida Statutes and the rules adopted thereunder, would impair or impede the effective and efficient operation of the Lottery. Therefore, the Lottery is adopting this rule to provide