

## DEPARTMENT OF HEALTH

### Board of Pharmacy

RULE TITLE: RULE NO.:

Recommendation by the Tripartite Continuing Education Committee 64B16-26.602

PURPOSE AND EFFECT: The Board proposes to repeal this rule because the rule text is being incorporated into Rule 64B16-26.600.

SUMMARY: Repeal of Rule 64B16-26.602.

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: 465.005 FS.

LAW IMPLEMENTED: 465.009 FS.

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

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: John Taylor, Executive Director, Board of Pharmacy, 4052 Bald Cypress Way, Bin #C04, Tallahassee, Florida 32399-3254

THE FULL TEXT OF THE PROPOSED RULE IS:

64B16-26.602 Recommendation by the Tripartite Continuing Education Committee.

Specific Authority 465.005 FS. Law Implemented 465.009 FS. History--New 10-17-79, Amended 7-29-81, Formerly 21S-13.03, 21S-13.003, 21S-26.602, Amended 7-18-94, Formerly 61F10-26.602, 59X-26.602, Repealed.

NAME OF PERSON ORIGINATING PROPOSED RULE: Board of Pharmacy

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

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: April 18, 2001

## Section III

## Notices of Changes, Corrections and Withdrawals

## DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION

### Board of Funeral and Cemetery Services

RULE NO.: RULE TITLE:  
3F-10.003 Remittances to the Preneed Funeral Contract Consumer Protection Trust Fund

## 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 published in Vol. 26, No. 47, November 24, 2001, issue of the Florida Administrative Weekly.

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Diana Evans, Executive Director, Board of Funeral and Cemetery Services, 101 East Gaines Street, Tallahassee, Florida 32399-0350

3F-10.003 Remittances to the Preneed Funeral Contract Consumer Protection Trust Fund.

For the quarter beginning October 1, 2001, and each quarter thereafter, the following amounts should be remitted to the Preneed Funeral Contract Consumer Protection Trust Fund.

Each certificateholder offering the sale of insurance or by establishing a trust pursuant to s. 497.417 or 497.429 shall remit the sum of \$1.00 per preneed contract. Each certificateholder utilizing s. 497.423 and s. 497.425 shall remit the sum of ~~\$5.00~~ ~~\$1.00~~ for each preneed contract.

Specific Authority 497.417, 497.423, 497.425, 497.429 FS. Law Implemented 497.413(12), 497.417, 497.423, 497.425, 497.429 FS. History--New 3-19-97, Amended.

## DEPARTMENT OF INSURANCE

RULE NOS.:	RULE TITLES:
4-157.001	Purpose
4-157.002	Applicability and Scope
4-157.004	Out-of-State Group Long-Term Care Insurance
4-157.017	Prior Institutionalization
4-157.022	Loss Ratio Requirements
4-157.023	Nonforfeiture Protection Provision

## NOTICE OF WITHDRAWAL

Notice is hereby given that the above rules, as noticed in Vol. 23, No. 10, March 7, 1997, of the Florida Administrative Weekly, have been withdrawn.

## DEPARTMENT OF CORRECTIONS

RULE NO.: RULE TITLE:  
33-302.106 Offender Travel

## NOTICE OF WITHDRAWAL

Notice is hereby given that the above rule, as noticed in Vol. 27, No. 3, January 19, 2001, Florida Administrative Weekly, has been withdrawn.

## DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION

### Board of Cosmetology

RULE NO.: RULE TITLE:  
61G5-32.001 Continuing Education

**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. 11, March 16, 2001, issue of the Florida Administrative Weekly. In subsection (6)(e), delete sentence, "No provider shall reapply for continuing education provider status until at least two (2) years have elapsed since the entry of the final order against the provider."

When changed, subsection (6)(i) shall read as follows:

(6)(i) At any time, the Board shall recommend to the Department to revoke its approval of a continuing education provider if it finds that such approval is sought or was received by fraud or misrepresentation by the provider, the provider has failed to adhere to the standards and other requirements as set forth in this rule or Rule 61-6.015, FAC, or that the provider has engaged in fraudulent behavior relating to the provision of continuing education. Before requesting that the Department revoke a provider's continuing education approval, the Board shall give the provider notice and an opportunity to be heard. If the approval of a provider is revoked, the continuing education provider shall thereafter be barred from presenting any continuing education courses to licensees or registrants for credit unless the provider demonstrates to the Board that the provider has been sufficiently rehabilitated to be trusted to provide such courses to licensees or registrants in the future. Revocation of a continuing education provider's approval shall also operate as a revocation of all previously approved continuing education courses for all future offerings by the provider.

When changed, subsection (7)(d)(3) and (4) shall read as follows:

(7)(d)(3) A course shall not be offered or credit given for hours other than what was approved by the Board.

(7)(d)(4) A course shall not be offered other than in the manner the Board initially approved the course material. In subsection (7)(j), between the words "shall" and "deny" add the phrase, "request the Department revoke the provider's." Delete the phrase "deny or rescind its."

THE PERSON TO BE CONTACTD REGARDING THE PROPOSED RULE IS: Julie Baker, Executive Director, Board of Cosmetology, Northwood Centre, 1940 N. Monroe Street, Tallahassee, Florida 32399-0750

**DEPARTMENT OF HEALTH****Board of Acupuncture**

RULE NO.:	RULE TITLE:
64B1-6.005	Standards for Approval of Continuing Education Credit

**NOTICE OF PUBLIC HEARING**

The Board of Acupuncture hereby gives notice of a public hearing on the above-referenced rule to be held on August 3, 2001, 9:00 a.m., 4042 Bald Cypress Way, Room 301,

Tallahassee, Florida. The rule was originally published in Vol. 26, No. 50, of the December 15, 2000, Florida Administrative Weekly.

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Joe Baker, Jr., Acting Executive Director, Board of Acupuncture, 4052 Bald Cypress Way, Bin #C06, Tallahassee, Florida 32399-3256

Any person requiring a special accommodation at this hearing because of a disability or physical impairment should contact the Board's Executive Director at least five calendar days prior to the hearing. If you are hearing or speech impaired, please contact the Board office using the Florida Dual Party Relay System which can be reached at 1(800)955-8770 (Voice) and 1(800)955-8771 (TDD).

**DEPARTMENT OF HEALTH****Board of Occupational Therapy**

RULE NO.:	RULE TITLE:
64B11-5.001	Requirements for License Renewal of an Active License

**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. 9, March 2, 2001, issue of the Florida Administrative Weekly. These changes are in response to comments received from the Joint Administrative Procedures Committee, and Board discussion contained in the record of the public hearing held by the Board during a telephone conference call on March 26, 2001.

The rule as changed will read as follows:

64B11-5.001 Requirements for License Renewal of an Active License

(1) through (7) No change.

(8) Active status licensees may apply to the Board for inactive license status at any time by paying a \$50 fee to change licensure status. Additionally, the licensee shall pay any applicable inactive status renewal fee or delinquent fee.

**DEPARTMENT OF HEALTH****Board of Occupational Therapy**

RULE NO.:	RULE TITLE:
64B11-5.003	Requirements for Reactivation of an Inactive License

**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. 9, March 2, 2001, issue of the Florida Administrative Weekly. These changes are in response to comments received from the Joint Administrative Procedures Committee, and Board discussion contained in the record of the public hearing held by the Board during a telephone conference call on March 26, 2001.

The rule as changed will read as follows:

64B11-5.003 Requirements for Reactivation of an Inactive License.

(1) through (3) No change.

(4) Inactive status licensees applying for active status shall pay a \$50 fee to change licensure status. Additionally, the licensee shall pay the reactivation fee and any applicable active status renewal fee or delinquent fees.

## FISH AND WILDLIFE CONSERVATION COMMISSION

### Freshwater Fish and Wildlife

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

#### NOTICE OF CHANGE TO PROPOSED RULE

Notice is hereby given that the following change, in accordance with subparagraph 120.54(3)(d)1., F.S., has been made to subparagraph 68A-9.004(1)(b)1.,3.,4.,5.,(c)4.,5., of this proposed rule which was published in Vol. 27, No. 16, Florida Administrative Weekly, April 20, 2001, so that when adopted, it will read as follows:

(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:

1. Nassau WMA – \$197 ~~96.25~~
3. Moore's Pasture WMA – \$125 ~~99~~
4. Bluewater Creek ~~Champion International~~ – \$180 ~~140~~
5. Flint Rock – \$206 ~~98~~

(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:

4. Bluewater Creek ~~Champion International~~ – 400 ~~325~~
5. Flint Rock – 450 ~~600~~.

## FISH AND WILDLIFE CONSERVATION COMMISSION

### Freshwater Fish and Wildlife

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

#### NOTICE OF CHANGE TO PROPOSED RULE

Notice is hereby given that the following change, in accordance with subparagraph 120.54(3)(d)1., F.S., has been made to subparagraph 68A-15.063(9)(d)4. of this proposed rule which was published in Vol. 27, No. 16, Florida Administrative Weekly, April 20, 2001, so that when adopted, it will read as follows:

(d) General regulations:

4. Vehicular access into the portion of the still hunt area lying east of S.R. 65 will be limited to designated hunting days and for a period of one week prior to the archery and general gun seasons for scouting. Hunters shall enter and exit the area through Road 2, Road 1; ~~or Road 114 or Sadberry Road~~ only.

5. Hunting with dogs other than bird dogs is prohibited in the still hunt area (that portion of the area lying east of State Road 65; ~~CC Road 28 and CC Road 29; also that portion of the area encompassed by County Roads 270, 269 and 269B).~~

## FISH AND WILDLIFE CONSERVATION COMMISSION

### Marine Fisheries

RULE CHAPTER TITLE: Stone Crabs

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

#### NOTICE OF CHANGES TO PROPOSED RULES

The Fish and Wildlife Conservation Commission announces changes to proposed amendments and new rule for Rule Chapter 68B-13, F.A.C., as published in the April 20, 2001 issue of the Florida Administrative Weekly. The changes are in response to public comment, testimony, and Commission discussion contained in the record of the public hearing held by the Commission on May 23, 2001, in Palm Beach Gardens, Florida. No changes were made to proposed amendments to Rules 68B-13.0015, 68B-13.008, 68B-13.009, or 68B-13.011, or to proposed new Rule 68B-13.012. Proposed amendments to Rule 68B-13.010 were changed to read as follows:

68B-13.010 Stone Crab Trap Limitation Program.

(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.

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 trap 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 2002/2003 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, 2002 ~~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 notarized Form DMF-SL3000 (Stone Crab Trap Certificate Transfer Application), incorporated herein by reference, which has been signed by both parties, 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 that 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 wanting 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, Sect. 9, Fla. Const. History—New 7-1-00, Amended.

## FISH AND WILDLIFE CONSERVATION COMMISSION

### Marine Fisheries

RULE CHAPTER TITLE: Pompano, African Pompano, and Permit

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

### NOTICE OF CHANGES TO PROPOSED RULES

The Fish and Wildlife Conservation Commission announces changes to proposed amendments and new rule for Rule Chapter 68B-35, F.A.C., as published in the April 20, 2001 issue of the Florida Administrative Weekly. The changes are in response to public comment, testimony, and Commission discussion contained in the record of the public hearing held by the Commission on May 23, 2001, in Palm Beach Gardens, Florida. The proposed amendments to Rules 68B-35.003 and

68B-35.004 and proposed new Rule 68B-35.005 were changed. The proposed amendments to the rules and new rule will now read as follows:

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

(1) No change.

(2) Bag Limits

(a) Except for persons harvesting pompano or permit pursuant to a valid saltwater products license with a restricted species endorsement, persons harvesting pompano from federal EEZ waters pursuant to Rule 68B-35.005, or persons harvesting pompano as bycatch in a federal gill net fishery for other species pursuant to Rule 68B-35.004(3)(c), 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), only in the following areas of state waters:

1. In the area of state waters between 25°09' North Latitude and 26°00' North Latitude, between Cape Sable and Hurricane Pass.

2. In specified state waters, upon designation by the Executive Director of the Commission, after a total of at least 1,500 pounds of pompano have been landed on two different observer trips where pompano are caught, by a person taking pompano pursuant to Rule 68B-35.005(2), harvested with a gill or entangling net in federal EEZ waters adjacent to such specified state waters on each trip.

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

(c) Such possession is allowed by persons who have harvested pompano in adjacent federal EEZ waters as an incidental bycatch in gill or entangling nets fished for other species, which persons possess a valid saltwater products license with a restricted species endorsement and provided the amount of all pompano aboard such vessel at any time does not exceed 100 individual fish.

(d) Paragraphs (a), (b), and (c) 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, except that the mesh size requirement in paragraph (c) shall not apply to the exception in paragraph (3)(c):

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

(b) Such net shall be at least 70 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., Art. X, Sec. 16, Fla. Const., 370.021(3) FS, 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 and License Requirements for Sale or Purchase.

(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 a Vessel Saltwater Products License with a Restricted Species Endorsement.

(b) The applicant must own a commercially registered vessel 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.

(c) No applicant shall receive a pompano endorsement who, in the previous three license years, 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 (PSAL) – The Fish and Wildlife Conservation Commission intends to issue PSALs to qualified commercial fishers to allow them to

use gill and entangling nets for an exploratory fishery 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 PSAL without first meeting each of the following criteria and conditions:

(a) The applicant must possess a Vessel Saltwater Products License with a Restricted Species Endorsement.

(b) The applicant must own a commercially registered vessel 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, the vessel shall not be smaller than 25 feet in documented length.

(c) The applicant must have documented landings of pompano of at least 2,000 pounds from state waters or from federal EEZ waters during any continuous 24-month period.

(d) No applicant shall receive a PSAL who, in the previous three license years, 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.

(e) Any person issued a PSAL must agree to notify the Division of Law Enforcement, by submission of a float plan, at least 24 hours prior to all exploratory fishing trips pursuant to the license. The licenseholder shall submit a trip report, after all exploratory fishing trips using the trip ticket record, to the Division of Marine Fisheries within 72 hours of completion of each trip. The licenseholder must agree to take an FWC observer aboard once she/he has used the PSAL to determine the extent of the fishery. The PSAL will contain a condition requiring notification of FWC's Marine Research Institute at least 48 hours prior to any trip the licenseholder intends to allow placement of an observer on board the vessel. The named licenseholder/vessel owner must always be on board during exploratory fishing trips.

(f) PSALs will be issued at any time during the fishing year and they will be valid for a period of six (6) months. The licenseholder may apply for a single six-month extension of the PSAL. If during that extension, no federal waters gill or entangling net fishery is established pursuant to Rule 68B-35.004(3)(a)2., the licenseholder is barred for a period of one year from the expiration of the extension from applying for another PSAL.

(g) The licenseholder must acknowledge that violation of any of the terms or conditions stated in the license may result in the revocation of the license or denial of a requested extension.

(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 250 individual pompano; provided, however,



that no more than 250 pompano harvested pursuant to this subsection shall be possessed aboard any vessel at any time. Such persons are subject to the gear limitations of Rule 68B-35.004(2)(b).

(a) No person shall sell more than 250 individual pompano per day, unless such person possesses either a valid PSAL or a valid Pompano Endorsement, in addition to a saltwater products license with a restricted species endorsement.

(b) No wholesale dealer shall purchase more than 250 individual pompano per day from any person who does not possess and present to the dealer either a valid PSAL or a valid Pompano Endorsement, in addition to a saltwater products license with a restricted species endorsement.

Specific Authority Art. IV, Sec. 9, Fla. Const. Law Implemented Art. IV, Sec. 9, Fla. Const., Art. X, Sec. 16, Fla. Const., 370.021(3) FS. History—New

## FISH AND WILDLIFE CONSERVATION COMMISSION

### Vessel Registration and Boating Safety

RULE CHAPTER NOS.: RULE CHAPTER TITLES:

68D-23 Uniform Waterway Markers in  
Florida Waters

RULE NOS.: RULE TITLES:

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

68D-23.101 Intent

68D-23.102 Scope

68D-23.103 Definitions

68D-23.104 Placement of Markers

68D-23.105 Criteria for Approval

68D-23.106 Permit Conditions

68D-23.107 Federal System Adopted

68D-23.108 Specifications for Markers

68D-23.109 Additional Specifications for  
Information and Regulatory  
Markers

68D-23.110 Triennial Inspection

68D-23.111 Enforcement

68D-23.112 Exemptions

### NOTICE OF DEFERRAL

The Florida Fish and Wildlife Conservation Commission announces that it has deferred the final public hearing on the above rules as published in the May 11, 2001 Florida Administrative Weekly, until its next regularly scheduled meeting on September 5 through 7, 2001, at Amelia Island, Florida. These rules were noticed for rule development in the December 22, 2000, issue of the FAW. The notice of proposed rulemaking was published in the January 26, 2001, issue of the FAW on pages 377 through 385. A notice of change was published in the May 11, 2001, issue of the FAW on pages 2345 through 2351.

DATES AND TIMES: 8:30 a.m. each day, September 5-7, 2001

PLACE: Amelia Island Plantation, Amelia Island, Florida

THIS MEETING IS OPEN TO THE PUBLIC

Section 286.0105, Florida Statutes, provides that, if any person decides to appeal any decision with respect to any matter considered at the above meeting, he or she will need a record of the proceedings, and that, for such purposes, he or she 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 to be based.

Pursuant to the provisions of the Americans with Disabilities Act, any person requiring special accommodations to participate in this meeting is asked to advise the agency at least five calendar days before the meeting by contacting Terry Mara, (850)487-3796. If hearing or speech impaired, please contact the agency by calling (850)488-9542.

## Section IV Emergency Rules

NONE

## Section V Petitions and Dispositions Regarding Rule Variance or Waiver

### WATER MANAGEMENT DISTRICTS

NOTICE IS HEREBY GIVEN that on May 11, 2001, the South Florida Water Management District (SFWMD) received a petition for waiver from the Hillsboro Pines Civic Association, for utilization of works or land of the SFWMD known as the Hillsboro Canal, Broward County. The petition seeks relief from the Rule 40E-6.221(2)(j), Fla. Admin. Code, and the Basis of Review for Use or Occupancy of the Works or Lands of the District Permit Applications within the South Florida Water Management District, incorporated by reference in Rule 40E-6.091(1), Fla. Admin. Code, which requires payment of an application processing fee for right of way occupancy permits.

A copy of the petition may be obtained from: Jan Sluth, (561)682-6299 or e-mail at jsluth@sfwmd.gov.

The SFWMD will accept comments concerning the petition for 14 days from the date of publication of this notice. To be considered, comments must be received by the end of business on the 14th day at the South Florida Water Management District, 3301 Gun Club Road, MSC 1410, West Palm Beach, FL 33406, Attn: Jan Sluth, Office of Counsel.

NOTICE IS HEREBY GIVEN that on May 18, 2001, the South Florida Water Management District (SFWMD) received a petition for waiver from David Bratt, for utilization of works