

Florida Statutes. The osteopathic physician shall also conspicuously post said document in those rooms wherein patients are evaluated for weight loss treatment.

(9) Any osteopathic physician who advertises practice relating to weight loss or whose services are advertised by another person or entity shall be responsible for assuring that such advertising meets the requirements of Rule 64B15-14.001, Florida Administrative Code. In addition advertising of weight loss treatment shall be considered false, deceptive, or misleading if it contains representations that:

- (a) Promise specific results;
- (b) Raise unreasonable expectations;
- (c) Claim rapid, dramatic, incredible, or safe weight loss;
- (d) State or suggest that diets or exercise are not required;

or

- (e) Suggest that weight loss is effortless or magical.

Specific Authority 459.005, 459.0135 FS, Section 188, Chapter 97-264, Laws of Florida Law Implemented 459.0135 FS, Section 188, Chapter 97-264, Laws of Florida History--New 3-29-98, Amended _____.

**DEPARTMENT OF HEALTH
Board of Physical Therapy Practice**

RULE TITLE: Probable Cause Panel
RULE NO.: 64B17-1.004

PURPOSE AND EFFECT: The Board proposes to add the rule with regard to The composition of the Probable Cause Panel.

SUBJECT AREA TO BE ADDRESSED: Probable Cause Panel.

SPECIFIC AUTHORITY: 456.073(4) FS.
LAW IMPLEMENTED: 456.073(4) FS.

IF REQUESTED IN WRITING AND NOT DEEMED UNNECESSARY BY THE AGENCY HEAD, A RULE DEVELOPMENT WORKSHOP WILL BE NOTICED IN THE NEXT AVAILABLE FLORIDA ADMINISTRATIVE WEEKLY.

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT AND A COPY OF THE PRELIMINARY DRAFT IS: Kaye Howerton, Board Executive Director, Board of Physical Therapy Practice, 4052 Bald Cypress Way, Bin #C05, Tallahassee, Florida 32399-3255

THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS:

64B17-1.004 Probable Cause Panel.

(1) The determination as to whether probable cause exists regarding a violation of the provisions of Chapter 486 and 456, Florida Statutes, and/or the rules promulgated by the Board shall be made by majority vote of a probable cause panel of the Board.

(2) The Board Chair shall appoint at least two people to the probable cause panel and shall designate the panel Chair. The appointed people shall be either current Board members or

at least one current Board member and one or more former members of the Board. The panel must include a former or present consumer member if one is available, is willing to serve, and is appointed by the Board Chair. Otherwise, the panel shall be composed of former or present Board members who are licensed physical therapists. The determination as to whether probable cause exists that a violation has occurred shall be made by a majority vote of the probable cause panel of the Board.

(3) The Board Chair may designate an alternate panel with the same membership criteria to share the workload. With regard to either panel, the Board Chair may make temporary appointments, as needed, to conduct the business of the panel in the absence or unavailability of a regularly appointed panel member.

(4) If a Board member has reviewed a case as a member of the probable cause panel, that member shall be on the panel for reconsideration of that case if reconsideration is requested by the prosecutor and that panel member is able and available.

Specific Authority 456.073(4) FS. Law Implemented 456.073(4) FS. History--New _____.

**Section II
Proposed Rules**

DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES

Division of Plant Industry

RULE CHAPTER TITLE: Florida Nursery Stock and Certification Fees
RULE CHAPTER NO.: 5B-2

RULE TITLE: Special Inspection and Certification Fees
RULE NO.: 5B-2.010

PURPOSE AND EFFECT: The purpose of this rule revision is to increase the fees charged for phytosanitary export certification and other special inspection and certification programs. The effect will be to increase the inspection charges by the following amounts: inspection and state of origin certificate, phytosanitary export certificate, and phytosanitary reexport certificate is being increased from \$35 to \$50 per inspection. Other special inspections are being increased from \$35 to \$50 per inspection. There will also be a change in the amount charged for each additional phytosanitary export, phytosanitary reexport, inspection and state of origin, and other applicable special inspection certificate written at the same location provided no inspection was made, from \$5 to \$15 per certificate.

Phytosanitary export certificate noncommercial (homeowner plants or homeowner plant products) and temporary certificate of inspection is being increased from \$15 to \$25 per inspection. Cut flower and cut fern inspection is being increased from \$5 per acre per crop to \$10 per acre per crop

and from a \$15 minimum to a \$25 minimum with no maximum. Import inspection for commercial shipments of plants and plant products from \$35 per hour, per inspector to \$50 per hour per inspector and from a \$35 minimum to a \$50 minimum. Growing season field inspection of bulbs, seed, vegetable, and tobacco transplants from \$5 per acre per crop to \$10 per acre per crop and from a \$15 minimum to a \$25 minimum with no maximum. Vegetable transplants, aquatic, and annual (bedding) plants (greenhouse, hotbeds, or other growing units) from \$15 to \$25 minimum for the first 10,000 square feet of growing unit space or less and from \$2 to \$5 per 1,000 square feet of additional growing space per inspection. Nematode certification from \$20 to \$30 per sample. Fumigation fees for loads exceeding 40 cubic feet from \$240 to \$260. Special diagnostic fees for entomology from \$40 to \$55 per sample. Plant Pathology disease specimens from \$40 to \$55 per sample. Lettuce mosaic samples from \$80 to \$90 per sample. Nematology samples from \$20 to \$25 per sample. Grades and Standards regrading inspections from a system where the charge was based on the number of plants regraded having a range from \$25 to a maximum of \$250 will be changed to a \$50 per hour, per inspector charge. Permits for importing regulated organisms will be changed from \$10 to \$12.50 per species not to exceed \$60 instead of \$50.

SUMMARY: The fees being charged for phytosanitary export certification and other special inspection and certification programs will be increasing by the following amounts: inspection and state of origin certificate, phytosanitary export certificate, and phytosanitary reexport certificate is being increased from \$35 to \$50 per inspection. Other special inspections are being increased from \$35 to \$50 per inspection. There will also be a change in the amount charged for each additional phytosanitary export, phytosanitary reexport, inspection and state of origin, and other applicable special inspection certificate written at the same location provided no inspection was made, from \$5 to \$15 per certificate. Phytosanitary export certificate noncommercial (homeowner plants or homeowner plant products) and temporary certificate of inspection is being increased from \$15 to \$25 per inspection. Cut flower and cut fern inspection is being increased from \$5 per acre per crop to \$10 per acre, per crop and from a \$15 minimum to a \$25 minimum with no maximum. Import inspection for commercial shipments of plants and plant products from \$35 per hour per inspector to \$50 per hour per inspector and from a \$35 minimum to a \$50 minimum. Growing season field inspection of bulbs, seed, vegetable, and tobacco transplants from \$5 per acre per crop to \$10 per acre per crop and from a \$15 minimum to a \$25 minimum with no maximum. Vegetable transplants, aquatic,

and annual (bedding) plants (greenhouse, hotbeds, or other growing units) from \$15 to \$25 minimum for the first 10,000 square feet of growing unit space or less and from \$2 to \$5 per 1,000 square feet of additional growing space per inspection. Nematode certification from \$20 to \$30 per sample. Fumigation fees for loads exceeding 40 cubic feet from \$240 to \$260. Special diagnostic fees for entomology from \$40 to \$55 per sample. Plant Pathology disease specimens from \$40 to \$55 per sample. Lettuce mosaic samples from \$80 to \$90 per sample. Nematology samples from \$20 to \$25 per sample. Grades and Standards regrading inspections from a system where the charge was based on the number of plants regraded having a range from \$25 to a maximum of \$250 will be changed to a \$50 per hour, per inspector charge. Permits for importing regulated organisms will be changed from \$10 to \$12.50 per species not to exceed \$60 instead of \$50.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COST: None.

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

SPECIFIC AUTHORITY: 570.07(23), 581.031(1),(3),(8) FS.

LAW IMPLEMENTED: 581.031(8),(14),(21),(23), 581.131, 581.141 FS.

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

TIME AND DATE: 10:00 a.m., January 22, 2002

PLACE: Doyle Conner Building, 1911 Southwest 34th Street, Gainesville, Florida

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Richard Gaskalla, Director, Division of Plant Industry, Post Office Box 147100, Gainesville, Florida 32614-7100, telephone (352)372-3505

THE FULL TEXT OF THE PROPOSED RULE IS:

5B-2.010 Special Inspection and Certification Fees.

Special inspection and certification services that may be provided by the division, when requested by farmers, growers or other interested parties may include special treatments, special pest identifications, special plant identifications, special investigations, and special regulatory activities not otherwise specifically provided for by Chapter 581, Florida Statutes (FS). Governmental agencies requesting special inspections or permits for research purposes shall be exempt from fees. The prescribed fees for these special inspections and certifications shall be as follows:

TYPE OF CERTIFICATION	CHARGE	FORM
Inspection and state of origin certificate, Phytosanitary export certificate, Phytosanitary reexport certificate. ²	Mileage ¹ and \$50 \$35 minimum per inspection, or, Mileage and \$25 minimum per certificate issued based on other support documents (fruit and vegetable manifest, etc.).	DACS-08014 ³ , Phytosanitary Export Certificate, revised 10/99. DACS-08050 ³ , Inspection and State of Origin Certificate, revised 7/99. DACS-08166 ³ , Attachment For State Phytosanitary Export Certificate, revised 6/99.
Other special inspections. ²	Mileage ¹ and \$50 \$35 minimum per inspection, or, Mileage and \$25 minimum per certificate issued based on other support documents (fruit and vegetable manifest, etc.).	DACS-08211 ³ , Blueberry Certificate, revised 8/99. DACS-08212 ³ , Apple Maggot Certificate, revised 8/99. DACS-08046 ³ , Mamey Stamp, revised 5/99. DACS-08213 ³ , Caribfly Fumigation Certificate, revised 10/99. DACS-08240 ³ , Cold Treatment-California Caribbean Fruit Fly Quarantine, revised 12/99. DACS-08221 ³ , California Hydrilla Quarantine, revised 12/99. DACS-08260 ³ , Noxious Weed Certification, revised 9/99.
Phytosanitary export certificate noncommercial (homeowner plants or homeowner plant products), and temporary certificate of inspection.	Mileage ¹ and \$25 \$15 minimum per inspection.	DACS-08214 ³ , Phytosanitary Export Certificate, revised 10/99. DACS-08010 ³ , Temporary Certificate of Inspection, revised 7/99.
Cut flower, cut fern.	\$10 \$5 per acre per crop inspection plus mileage, \$25 \$15 minimum, \$460 maximum.	DACS-08289 ³ , Certificate for Cut Foliage, Flowers & Aquatic Plants, revised 8/99.
Import inspection for commercial shipments of plants or plant products.	Mileage ¹ and \$50 \$35 per hour per inspector from time of arrival to departure, \$50 \$35 minimum.	DACS-08001 ³ , Nursery, Stockdealer & Special Inspection Report, revised 12/99.
Growing season field inspection of bulbs, seed, vegetable and tobacco transplants.	\$10 \$5 per acre per crop inspection plus mileage, \$25 \$15 minimum, \$460 maximum.	DACS-08159 ³ , Growing Season Inspection Report, revised 11/99. DACS-08237 ³ , Vegetable Inspection Report, revised 10/99.
Witnessing budwood or graftwood cutting.	Mileage ¹ and \$5 per 1000 budeyes cut, \$10 minimum, \$25 maximum.	DACS-08172 ³ , Source Tree Bud Cutting Report, revised 10/99. DACS-08111, Certification to Witness Registered Budwood, revised 7/99.

Vegetable transplants, aquatic and annual (bedding) plants (greenhouse, hotbeds, or other growing units).	Mileage ¹ and \$25 \$15 minimum for first 10,000 square feet of growing unit space or less and \$5 \$2 per 1,000 square feet of additional growing space per inspection.	DACS-08237 ³ , Vegetable Inspection Report, revised 10/99. DACS-08289 ³ , Certificate for Cut Foliage, Flowers & Aquatic Plants, revised 8/99. DACS-08290 ³ , Tomato/Tobacco Plant Certificate, revised 8/99.
Nematode certification.	Mileage ¹ and \$30 \$20 per sample.	DACS-08038 ³ , Citrus Nursery Stock Inspection Tag, revised 7/99. DACS-08048 ³ , Burrowing Nematode Certificate, revised 2/00. DACS-08049 ³ , Nematode Certificate of Inspection for Shipping Nursery Stock to California, revised 7/99. DACS-08130 ³ , Reniform Nematode Certificate, revised 2/00. DACS-08254 ³ , Nematode Certificate of Inspection For Shipping Nursery Stock to California From Stockdealers, revised 2/00. DACS-08270 ³ , Consolidation Declaration For Florida, revised 12/99.
Fumigation services.	\$150 per fumigation of loads 40 cu. ft. or less, \$300 \$240 per fumigation of loads exceeding 40 cu. ft.	DACS-08207 ³ , Request for Fumigation, revised 1/99. DACS-08099 ³ , Certificate of Treatment, revised 1/00.
Irradiation treatment.	\$200 minimum, \$500 per hour.	
Special diagnostic fees		
Entomology	\$55 \$40 per sample	DACS-08074 ³ , Entomology Specimen Identification, revised 11/99.
Plant Pathology	\$55 \$40 per sample	DACS-08079 ³ , Plant Pathology Specimen Report, revised 1/00.
Disease specimens		
Lettuce mosaic samples	\$90 \$80 per sample (\$180 \$160 if found positive).	
Nematology Roots and soil	\$25 \$20 per sample	DACS-08077 ³ , Nematology Specimen Report, revised 9/99.
Caribbean fruit fly protocol participation	\$3.50 per acre per month	DACS-08161 ³ , Application for Participation, revised 12/99. DACS-08233 ³ , Caribfly Certification Program-Establishment of McPhail Traps, revised 12/99.
Grades and Standards regrading inspections	<u>Mileage¹ and \$50 per hour per inspector from time of arrival to departure, \$50 minimum.</u>	DACS-08228 ³ , Grades & Standards-Regrading Inspection Report, revised 10/99.

- 1-50 plants Mileage¹ and \$25
- 51-100 plants Mileage¹ and \$50
- 101-200 plants Mileage¹ and \$75
- 201-300 plants Mileage¹ and \$100
- 301-400 plants Mileage¹ and \$125
- 401-500 plants Mileage¹ and \$150
- 501-1000 plants Mileage¹ and \$200
- Over 1000 plants Mileage¹ and \$250

Permits for importing regulated organisms. **\$12.50** per species not to exceed **\$50** per permit. DACS-08208³, Application and Permit to Move Regulated Organisms, revised 01/00.

¹ Mileage shall be based on the prevailing state mileage rate.
² There shall be a **\$15** charge for each additional phytosanitary export, phytosanitary reexport, inspection and state of origin, and other applicable special inspection certificate written at the same location provided no inspection was made.

³ All DACS forms referenced above are supplied by the division and are incorporated herein by reference. Copies of any of these forms may be obtained from the Division of Plant Industry, Bureau of Plant and Apiary Inspection, Post Office Box 147100, Gainesville, Florida 32614-7100.

Specific Authority 570.07(23), 581.031(1),(3) FS. Law Implemented 581.031(8),(14),(23) FS. History—New 6-15-81, Amended 10-28-85, Formerly 5B-2.10, Amended 7-27-86, 5-6-87, 11-19-89, 5-17-92, 11-29-95, 4-9-96, 10-8-96, 6-12-00, _____.

NAME OF PERSON ORIGINATING PROPOSED RULE:
 Constance C. Riherd, Assistant Director, Division of Plant Industry, P. O. Box 147100, Gainesville, FL 32614-7100
 NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Craig Meyer, Deputy Commissioner for Agricultural Services, Commissioner’s Office Staff, Florida Department of Agriculture and Consumer Services, PL 10, The Capitol, Tallahassee, FL 32399-0810
 DATE PROPOSED RULE APPROVED BY AGENCY HEAD: November 14, 2001
 DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: October 19, 2001

DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES

Division of Plant Industry

RULE CHAPTER TITLE:	RULE CHAPTER NO.:
Citrus Budwood Protection Program	5B-60
RULE TITLES:	RULE NOS.:
Citrus Budwood Protection Procedure Manual,	
Citrus Budwood Testing Manual, and	
Graft-transmissible Diseases of Citrus:	
Handbook for Detection and Diagnosis	5B-60.004
Increase Trees	5B-60.010
Source Tree Registration Certificate	5B-60.012

PURPOSE AND EFFECT: The purpose of this rule revision is to change the tested increase block use from nine to 12 months and to change the rule to add the form “Statement of Charges For Annual Source Tree Registration” (DACS-08064), that was previously left out of the rule. The current nine-month time frame for tested increase blocks is difficult for the data tracking system to deal with from a record keeping standpoint. There is no evidence that citrus tristeza virus (CTV) is moving into increase blocks and three additional months will make very little difference. The standard CTV test in field scion trees is valid for a period of 12 months, so it is logical for testing in field nurseries to be the same life expectancy. The nurserymen would benefit from an additional three months of budwood harvest time.

SUMMARY: The time frame of nine months for increase trees tested negatively between the 22nd and the 24th month for severe strains of CTV will be changed to a time frame of 12 months. Also, a billing form, “Statement of Charges For

Annual Source Tree Registration” (DACS-80864) will be added and the section subsequently renumbered. This change necessitates updating of the Citrus Budwood Protection Manual, the Citrus Budwood Testing Manual, and the Graft-Transmissible Diseases of Citrus: Handbook for Detection and Diagnosis and, therefore, changing of the rule to reflect the new revision dates of those manuals.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COST: None.

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

SPECIFIC AUTHORITY: 570.07(23), 581.031(1),(3),(8) FS.

LAW IMPLEMENTED: 570.07(2),(13), 570.0705, 581.031(1),(14),(17),(23) FS.

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

TIME AND DATE: 10:00 a.m., January 15, 2002

PLACE: Shaw Building, 3027 Lake Alfred Road, Winter Haven, Florida

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULES IS: Michael Kesinger, Chief, Bureau of Citrus Budwood Registration, Division of Plant Industry, 3027 Lake Alfred Road, Winter Haven, Florida 33881-1438, telephone (863)298-7735

THE FULL TEXT OF THE PROPOSED RULES IS:

5B-60.004 Citrus Budwood Protection Procedure Manual, Citrus Budwood Testing Manual, and Graft-transmissible Diseases of Citrus: Handbook for Detection and Diagnosis.

The regulations, definitions, and standards in Citrus Budwood Protection Procedure Manual, Revised 3/01/01 ~~4/21/00~~, Citrus Budwood Testing Manual, Revised 3/08/01 ~~September 16, 1999~~, and C. N. Rostacher, Graft-transmissible Diseases of Citrus: Handbook for detection and diagnosis. (Food and Agricultural Organization of the United Nations, Rome, 1991) are hereby adopted as regulations and rules under the Division of Plant Industry, pursuant to Chapter 581, F.S. Copies may be obtained by contacting the Secretary of State’s Office, Tallahassee, Florida. Copies are available for examination at the Florida Department of Agriculture and Consumer Services, Bureau of Citrus Budwood Registration, 3027 Lake Alfred Road, Winter Haven, Florida 33881, and the Florida Department of Agriculture and Consumer Services, Division of Plant Industry, Plant Pathology Section, 1911 S. W. 34th Street, Gainesville, Florida 32608-1201.

Specific Authority 570.07(23), 581.031(1),(3),(8) FS. Law Implemented 570.07(23), 570.0705, 581.031 (1),(14),(17),(23) FS. History–New 9-30-96, Amended 11-4-98, 2-1-00, 6-12-00, _____.

5B-60.010 Increase Trees.

Increase trees shall be registered on a Certificate of Source Tree Registration (DACS-08072) as specified in 5B-60.012 provided they have been propagated as follows:

(1) through (7) No change.

(8) Trees propagated as increase trees under this rule chapter must only serve as registered sources of budwood with no testing required for a period of up to 24 months from budding. Increase trees can be used for ~~twelve~~ nine more months if tested negatively between the 22nd and 24th month for severe strains of citrus tristeza virus. Test samples must be as follows:

(a) through (d) No change.

(9) through (11) No change.

Specific Authority 570.07(23), 581.031(1),(3),(8) FS. Law Implemented 570.07(2),(13), 570.0705, 581.031(1),(14),(17),(23) FS. History–New 9-30-96, Amended 11-4-98, 2-1-00, _____.

5B-60.012 Source Tree Registration Certificate.

(1) through (3) No change.

(4) Billing. Annual source tree registration fees shall be billed annually on the Statement of Charges For Annual Source Tree Registration (DACS-08064). Form DACS-08064, Revised 3/01, is hereby adopted and incorporated by reference herein. The form may be obtained by writing or visiting the Florida Department of Agriculture and Consumer Services, Division of Plant Industry, Bureau of Citrus Budwood Registration, 3027 Lake Alfred Road, Winter Haven, FL 33881-1438.

~~(5)(4)~~ Cancellation. Source Tree Registration Certificates (DACS-08072) may be canceled or suspended upon:

(a) through (h) No change.

~~(6)(5)~~ Registration fees will not be refunded if the Certificate of Source Tree Registration (DACS-08072) is canceled.

~~(7)(6)~~ Reinstatement. The Certificate of Source Tree Registration (DACS-08072) canceled or suspended as provided above may be reinstated when:

(a) through (d) No change.

Specific Authority 570.07(23), 581.031(1),(3),(8) FS. Law Implemented 570.07(2),(13), 570.0705, 581.031(1),(14),(17),(23) FS. History–New 9-30-96, Amended 11-4-98, 2-1-00, _____.

NAME OF PERSON ORIGINATING PROPOSED RULE: Constance C. Riherd, Assistant Director, Division of Plant Industry, P. O. Box 147100, Gainesville, FL 32614-7100

NAME OF SUPERVISOR OR PERSON WHO APPROVED PROPOSED RULE: Craig Meyer, Deputy Commissioner for Agricultural Services, Commissioner’s Office Staff, Florida Department of Agriculture and Consumer Services, PL 10, The Capitol, Tallahassee, FL 32399-0810

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: November 14, 2001
 DATE NOTICE PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: October 19, 2001

DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES

Division of Agricultural Environmental Services

RULE CHAPTER TITLE:	RULE CHAPTER NO.:
Licensed Pesticide Applicators and Dealers	5E-9
RULE TITLES:	RULE NOS.:
Pesticide Applicator Licenses	5E-9.019
Categories of Licensure for Pesticide Applicators	5E-9.021
Category Certification Standards	5E-9.024
Procedures for Pesticide Dealer Licensure and License Renewal	5E-9.027
License Fees	5E-9.028
Procedures for Pesticide Applicator Recertification	5E-9.029
Pesticide Dealer Records	5E-9.033
Direct Supervision	5E-9.034

PURPOSE AND EFFECT: The purpose of the proposed rule change is to adjust fees to cover program costs; revise requirements and procedures relating to license categories, continuing education, and renewal to meet industry needs and better reflect current educational standards; update forms and addresses; revise pesticide dealer record requirements to provide for more complete and usable records; and provide clarification of direct supervision for unlicensed pesticide applicators and assistants.

SUMMARY: Increase license fees to cover program costs, revise requirements and procedures relating to pesticide recertification, Continuing Education Units (CEUs), pesticide dealer records, and direct supervision.

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

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

SPECIFIC AUTHORITY: 570.07(23), 487.045, 487.046, 487.048, 487.049 FS.

LAW IMPLEMENTED: 487.0435, 487.044, 487.045, 487.046, 487.048, 487.049, 487.1585 FS.

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

TIME AND DATE: 9:30 a. m., January 14, 2002

PLACE: AES Conference Room, Building #8, 3125 Conner Blvd., Tallahassee, Florida 32399

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULES IS: Mr. Dale Dubberly, Chief, Bureau of Compliance Monitoring, Department of Agriculture and Consumer Services, Division of Agricultural Environmental Services, 3125 Conner Blvd., Bldg. 8. (L29), Tallahassee, Florida 32399-1650, telephone (850)488-8731

THE FULL TEXT OF THE PROPOSED RULES IS:

5E-9.019 Pesticide Applicator Licenses.

Each individual licensed as a pesticide applicator must be licensed in one of three license types and must be licensed in a minimum of one primary category.

(1) License types.

(a) Private applicator license. A private applicator license is valid for use by private applicators as defined in section 487.021(52), F.S.

(b) Public applicator license. A public applicator license is valid for use by public applicators as defined in section 487.021(55), F.S.

(c) Commercial applicator license. A commercial applicator license is valid for use by commercial applicators as defined in section 487.021(16), F.S. A commercial applicator shall not be required to have a private applicator license to function as a private applicator; nor shall a commercial applicator be required to have a public applicator license to function as a public applicator; provided the commercial categories in which the applicator is licensed are the appropriate categories for the applications to be made.

(2) No change.

Specific Authority 487.0435, 570.07(23) FS. Law Implemented 487.0435 FS. History—New 6-9-94, Amended 7-2-95, _____

5E-9.021 Categories of Licensure for Pesticide Applicators.

(1) Description of primary categories.

(a) through (p) No change.

(q) Category 11 – Aerial Application. This category is applicable to individuals who apply any pesticide from an aircraft. This category is valid for licensure of private, public, and commercial applicators for treatment sites that may legally (according to product label direction) be treated by aerial application under Chapter 487, F.S.

(r)(e) Category 20 – Regulatory Inspection and Sampling. This category is applicable to government employees who collect regulatory samples of restricted use pesticides or conduct inspections involving the handling of opened containers of restricted use pesticides to determine compliance with applicable laws and regulations. Licensure in this category shall not be required of government inspection or sampling employees licensed in another public or commercial pesticide applicator category in accordance with this chapter, Chapter 388, Florida Statutes, or Chapter 482, Florida Statutes.

This category is valid solely for licensure of public applicators. Licensure in this category does not authorize the application of restricted use pesticides.

~~(s)(†)~~ Category 21 – Natural Areas Weed Management.

This category is applicable to individuals who use or supervise the use of restricted use herbicides to control unwanted vegetation to protect natural communities of conservation and recreation lands and natural areas. This category is valid for licensure of commercial and public applicators. Applicators acting under the authority of another license category prior to this category being established may continue activities under the alternate category until license renewal or expiration.

(2) Description of secondary categories.

~~(a)~~ No change.

~~(b) Category 11 – Aerial Application. This category is applicable to individuals who apply any pesticide from an aircraft. This category is valid for licensure of public and commercial applicators in combination with a primary category including treatment sites that may legally (according to product label direction) be treated by aerial application. This category is valid for licensure of private applicators in combination with the private applicator agricultural pest control category.~~

(3) Requirements and restrictions on category licensure.

(a) Private applicators who apply restricted use pesticides by ground application must be licensed in Category 1C – Private Applicator Agricultural Pest Control. Private applicators who apply pesticides aerially must ~~also~~ be licensed in Category 11 – Aerial Application. No other primary or secondary categories are available for licensure of private applicators.

(b) No change.

(c) Public and commercial applicators must be licensed in all primary and secondary categories applicable to the types of pesticide applications to be made. Exceptions: 1) Category 1C does not apply to public or commercial applicators; 2) individuals licensed in Category 9 need not be licensed in Category 1D or 1E; 3) Aerial applicators who make no ground applications do not need to be licensed in any category except Category 11.

Specific Authority 487.0435, 570.07(23) FS. Law Implemented 487.0435 FS. History–New 6-9-94, Amended 7-2-95, 9-24-98, 6-28-99, _____.

5E-9.024 Category Certification Standards.

(1) Primary categories.

(a) through (p) No change.

(q) Category 11 – Aerial Application. Applicators seeking licensure in this category shall demonstrate a practical knowledge of the principles and practices of aerial pest control and the safe application of pesticides by aerial delivery means.

~~(r)(†)~~ Category 20 – Regulatory Inspection and Sampling. There are no specific certification standards for this category. The general certification standards listed in rule 5E-9.023 are all that is required for licensees in this category.

~~(s)(†)~~ Category 21 – Natural Areas Weed Management. Applicators seeking licensure in this category shall demonstrate practical knowledge of pest plants that invade natural communities in Florida, the chemical control measures that pertain to such pests, and the equipment or methodologies required to safely implement such pest control measures. This knowledge shall include special techniques and proper herbicide selection to effectively control target species and minimize adverse effects to the natural community. Knowledge of herbicide characteristics including toxicity to wildlife, behavior in plants, behavior in soil, persistence, and environmental fate, as well as methods for herbicide dilution and rate calculations will be demonstrated.

(2) Secondary categories.

~~(a)~~ No change.

~~(b) Category 11 – Aerial Application. Applicators seeking licensure in this category shall demonstrate a practical knowledge of the principles and practices of aerial pest control and the safe application of pesticides by aerial delivery means.~~

Specific Authority 487.0435, 570.07(23) FS. Law Implemented 487.0435, 487.044 FS. History–New 6-9-94, Amended 7-2-95, 9-24-98, 6-28-99, _____.

5E-9.027 Procedures for Pesticide Dealer Licensure and License Renewal.

(1) Licensure. Requests for pesticide dealer licensure shall be made by submitting a completed pesticide dealer license application, form ~~DACS-130337~~ DACS-13337, and the appropriate license fee to the Pesticide Certification Office, P. O. Box 6710, Tallahassee, Florida 32314-6710. Pesticide dealer licenses shall expire at the end of the month one (1) year from issue date.

(2) License Renewal. It shall be the responsibility of the pesticide dealer to renew the license at the time of expiration. Request for renewal of a pesticide dealer license shall be made by submitting a signed request for renewal and the appropriate license fee to the Pesticide Certification Office at the above address. Renewed pesticide dealer licenses shall expire one (1) year from the previous expiration date. Licenses that have not been renewed by the expiration date cannot be renewed.

(3) Forms. The following form is hereby incorporated by reference: Application for ~~Restricted Use~~ Pesticide Dealer License (~~DACS-130337~~ DACS-13337, Rev. ~~2/98~~). This form may be obtained from the Florida Department of Agriculture and Consumer Services, Pesticide Certification Office, 3125 Conner Boulevard, Building 8 (L29) MD-1 (L33), Tallahassee, Florida 32399-1650, telephone (850)~~488-3314~~ 488-6838.

Specific Authority 487.048(1), 570.07(23) FS. Law Implemented 487.048(1) FS. History–New 6-9-94, Amended 7-2-95, 9-24-98, _____.

5E-9.028 License Fees.

(1) Private and public pesticide applicator license. The fee for either initial licensure or license renewal is ~~\$60~~ ~~\$35~~, with no additional fee for added categories.

(2) Commercial pesticide applicator license. The fee for either initial licensure or license renewal is ~~\$160~~ ~~\$90~~, with no additional fee for added categories.

(3) Pesticide dealer license. The fee for either initial licensure or license renewal is ~~\$175~~ ~~\$150~~.

(4) Fee submission. All fees shall be submitted to the Pesticide Certification Office, P. O. Box 6710, Tallahassee, Florida 32314-6710. Checks or money orders shall be payable to the Florida Department of Agriculture and Consumer Services.

Specific Authority 487.045, 487.048(1), 570.07(23) FS. Law Implemented 487.045, 487.048(1) FS. History—New 6-9-94, Amended 7-2-95, 9-24-98,

5E-9.029 Procedures for Pesticide Applicator Recertification.

(1) Reexamination shall be required for pesticide applicator recertification in the following circumstances:

~~(a) The licensee failed to renew the license within a 60 day period following the expiration date, provided the delay was, in the judgment of the department, not beyond the control of the applicator; or~~

~~(a)(b) The license was revoked or suspended for 6 months or longer; or~~

~~(b)(c) It is deemed by the department that new information makes reexamination essential for continued certification. In the latter case, the department shall give adequate notice to all applicators affected.~~

(2) In all other circumstances, applicators shall have two options for recertification as follows:

(a) Reexamination. An applicator may become recertified by successfully retaking the examination(s) required for initial certification as specified in this chapter.

~~(b) Continuing Education Units (CEUs). An applicator may become recertified by accumulating a specified number of Continuing Education Units (CEUs) during the four (4) year licensure period. CEUs shall be earned by attending Department approved professional training meetings and seminars or by completing and receiving passing scores on Department approved educational modules. The number of CEUs required for applicator recertification in each specific category is as follows:~~

(3) Effective January 1, 2005, all applicators recertifying by means of CEUs must earn 4 CEUs approved for the general standards of pesticide use and safety (core material) plus the following number of CEUs approved for each specific license category to be renewed:

PRIMARY CATEGORIES	CEU'S REQUIRED
Category 1A1	Agricultural Row Crop Pest Control 8
Category 1A2	Agricultural Tree Crop Pest Control 8
Category 1B	Agricultural Animal Pest Control 4
Category 1C	Private Applicator Agricultural Pest Control 8
Category 1D	Soil and Greenhouse Fumigation 4
Category 1E	Raw Agricultural Commodity Fumigation 4
Category 2	Forest Pest Control 8
Category 3	Ornamental and Turf Pest Control 12
Category 4	Seed Treatment 4
Category 5A	Aquatic Pest Control 16
Category 5B	Organotin Antifouling Paint Pest Control 4
Category 6	Right-of-Way Pest Control 8
Category 7A	Wood Treatment 4
Category 7B	Chlorine Gas Infusion 4
Category 7C	Sewer Root Control 4
Category 9	Regulatory Pest Control 12
<u>Category 11</u>	<u>Aerial Application</u> <u>16</u>
Category 20	Regulatory Inspection and Sampling 4
Category 21	Natural Areas Weed Management 16

SECONDARY CATEGORIES	CEUs REQUIRED
Category 10	Demonstration and Research 4
Category 11	Aerial Application 8

~~(4)(3) Applicators seeking recertification in more than one category by means of CEUs must accumulate the sum of the number of CEUs required for each category in which they hold licensure and seek recertification. As of January 1, 2005, this number of CEUs is in addition to the general standard (core) CEUs required.~~

~~(5)(4) Until January 1, 2005, f~~For each primary category renewed by means of CEUs, a minimum of 2 CEUs earned must consist of CEUs approved for general core competency standards and a minimum of half the CEUs earned must consist of CEUs approved specifically for that category. The remainder of the total number of CEUs earned must consist of CEUs approved either for general core competency standards or for that specific category.

~~(6) For each secondary category renewed by means of CEUs, all CEUs earned must consist of CEUs approved for that specific category. This subsection becomes effective January 1, 2000.~~

~~(7)(5) Categories added to a license after the initial license issue date may be renewed with fewer CEUs per category than stated in paragraph (3) above if the category was added less than two (2) full years before the license expiration date. In this case, the applicator may become recertified in the added category by earning half the required number of CEUs shown for that category above, provided the CEUs were earned between issuance of licensure in the additional category and~~

one year ~~60 days~~ after license expiration. If a licensee adds a category during the last 12 months of licensure, recertification is not required to renew licensure in that category.

(8)(6) CEU program approval. The department shall approve professional meetings or seminars for granting of continuing education units (CEUs) in pesticide use and safety through execution of an agreement between the department and the sponsoring organization and provided the seminar or meeting and sponsor comply with the criteria set forth below. The agreement shall clearly stipulate the sponsoring organization's responsibilities and the department's authority to withhold credits for any seminar or meeting determined not to be in compliance with the approved criteria or the points specified in the agreement. Criteria for allocation of CEUs and procedures for program approval and granting of CEUs to individual licenses are specified below.

(9)(7) CEU program criteria. The following specifications shall be met before a meeting or seminar shall be considered for approval:

(a) The sponsoring organization shall submit a written request for approval to grant CEUs on form DACS-13326 ~~DACS-130326~~ prescribed by the department. The completed form must be received by the department no later than two (2) weeks prior to the date of the program, unless a different time frame is approved by the department on a case by case basis, based on circumstances beyond the control of the sponsoring organization.

(b) A program agenda indicating the start time, duration, instructor or speaker, and description of each program segment for which CEU approval is requested shall be submitted with form DACS-13326 ~~DACS-130326~~. The description of each program segment must be sufficient for verification of content and applicability.

(c) The subject matter presented for CEU credit shall relate directly to the certification standards outlined in this chapter for the appropriate licensure types and categories.

(d) Documentation attesting that the instructors or speakers possess the expertise required to impart the specified information to the attendees shall be submitted with form DACS-13326 ~~DACS-130326~~.

(e) The sponsoring organization shall distribute an official record of attendance, form DACS-13325 ~~DACS-130325~~, provided by the department, to each licensee in attendance and shall monitor attendance to ensure these records are accurate. A designee of the sponsoring organization shall sign the record of attendance forms to verify each licensee's attendance.

(f) Authorized department agents may attend any approved CEU session unannounced and without paying any associated registration fee. If such agents desire to earn CEU credit while monitoring approved training programs, they must follow the same protocol as other attendees for registering and paying fees, if applicable.

(10)(8) Allocation of CEUs. Each 50 minutes of applicable lecture time will be allocated 1 CEU. Program segments consisting of only field trips, demonstrations, and other non-lecture instruction will be assigned 0.5 CEUs per 50 minutes of applicable non-lecture instruction. Each applicable program segment or combination of segments will be designated as an approved CEU session and assigned a distinct number of CEUs, with a minimum of 0.5 CEUs assigned per approved CEU session. Program segments of less than 30 minutes duration will not be assigned individual CEUs, but will be combined with other approved segments into approved CEU sessions with assigned CEUs. A program segment shall be approved for CEU credit only in the areas of licensure to which it is directly germane.

(11)(9) Procedure for determining CEUs.

(a) through (b) No change.

(12)(10) Procedure for granting CEUs to licensees.

(a) A licensee may earn CEUs for license renewal only after the license has been issued and no later than one year ~~60 days~~ after license expiration.

(b) through (c) No change.

(d) Completed and signed record of attendance forms must be received by the department no later than one year ~~60 days~~ after license expiration.

(e) Record of attendance forms will be reviewed by the department and incomplete forms returned to the licensee. Corrected forms may be resubmitted to the department for reevaluation provided resubmissions are received by the department no later than one year ~~60 days~~ after license expiration.

(f) No change.

(g) The licensee is responsible for ensuring that the CEUs required for license renewal are earned according to guidelines specified in this chapter. The licensee is also responsible for maintaining the completed record of attendance forms (form DACS-13325 ~~DACS-130325~~) and submitting these records to the department at the time of request for license renewal.

(13)(11) Forms. The following forms are hereby incorporated by reference. These forms may be obtained from the Florida Department of Agriculture and Consumer Services, Pesticide Certification Office, 3125 Conner Boulevard, Building 8 (L29) MD-1 (L33), Tallahassee, Florida 32399-1650, telephone (850)488-3314 ~~488-6838~~.

(a) Request for Granting Continuing Education Units (CEUs) for Renewal of ~~Restricted Use~~ Pesticide Applicator Licenses (DACS-13326 ~~DACS-130326~~, Rev. 8/97).

(b) Record of Attendance for Continuing Education Units (CEUs) (DACS-13325 ~~DACS-130325~~, Rev. 7/97).

Specific Authority 487.049, 570.07(23) FS. Law Implemented 487.049 FS. History—New 6-9-94, Amended 7-2-95, 9-24-98, 6-28-99, _____.

5E-9.033 Pesticide Dealer Records.

(1) Licensed pesticide dealers shall maintain the following records relating to the sale or transfer of ownership of restricted use pesticides:

- (a) Date of sale;
- (b) Name and license number of licensed applicator making or authorizing the purchase or authorized purchase agent purchasing the pesticide product;
- (c) Name of authorized purchase agent purchasing the pesticide product, if applicable ~~License number of the applicator authorizing the purchase~~;
- (d) Brand name and EPA registration number of each product sold or transferred;
- (e) Size and number of containers of each product sold or transferred; and
- (f) No change.

(2) The information listed in (1)(a) through (1)(e) shall be recorded immediately at the time of sale or transfer and may be incorporated into billing invoices or other business transaction records.

(3) No change.

(4) All required information shall be retained for a period of two (2) years from the date of sale or transfer in a manner that is accessible by authorized department representatives.

(5) No change.

Specific Authority 487.048(2), 570.07(23) FS. Law Implemented 487.048(2) FS. History--New 6-9-94, Amended 7-2-95, _____.

5E-9.034 Direct Supervision.

(1) Licensed applicators are responsible for the pesticide use activities and actions of individuals under their direct supervision and shall be in a location from which they can physically arrive on site before or during pesticide use, if and when their presence is needed. The licensed applicator must be immediately available for verbal communication with persons under his or her immediate supervision to provide direction and instruction during all times pesticides are being used.

(2) through (3) No change.

Specific Authority 487.1585(1), 570.07(23) FS. Law Implemented 487.1585(1) FS. History--New 6-9-94, Amended 7-2-95, _____.

NAME OF PERSON ORIGINATING PROPOSED RULE: Dale Dubberly, Chief, Bureau of Compliance Monitoring, Division of Agricultural Environmental Services

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Steven J. Rutz, Director, Division of Agricultural Environmental Services

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: August 22, 2001

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

DEPARTMENT OF TRANSPORTATION

RULE CHAPTER TITLE: Personnel
RULE CHAPTER NO.: 14-17

RULE TITLES: Ethical Conduct
RULE NOS.: 14-17.011

Conduct Standards for Career Service Employees 14-17.012
Tuition Payment for Educational Courses 14-17.014
Driver's Record Requirements 14-17.015

PURPOSE AND EFFECT: Section 110.055, Florida Statutes, [Section 42 of Chapter 2001-43, Laws of Florida], enacted by the 2001 Legislature, provides that all existing rules relating to Chapter 110, Florida Statutes, are statutorily repealed January 1, 2002, unless otherwise readopted. The Department of Management Services is required to adopt rules pertaining to state employment necessary to effectuate the provisions of Chapter 110, Florida Statutes.

SUMMARY: Rule Chapter 14-17, F.A.C., is being repealed as required by law.

SPECIFIC AUTHORITY: 20.05, 20.23(3)(a), 110.105(1), 110.201(2), 110.213, 110.227, 110.233(6), 110.403(5), 110.605(5), 120.53(1)(a), 334.044(2) FS.

LAW IMPLEMENTED: 20.23(1)(b)1., 110.105(1), 110.213, 110.227, 110.233(6), 110.403(5), 110.605(5), 112.313, 112.3135, 112.3148, 112,3149, 112.3185, 112.3187, 112.3189, 120.53(1), 334.193, 334.195 FS.

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

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

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

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

THE FULL TEXT OF THE PROPOSED RULES IS:

14-17.011 Ethical Conduct.

Specific Authority 20.23(3)(a), 110.233(6), 110.403(5), 110.605(5), 334.044(2) FS. Law Implemented 20.23(1)(b)1., 110.233(6), 110.403(5), 110.605(5), 112.313, 112.3135, 112.3148, 112.3149, 112.3185, 112.3187, 112.3189, 120.53(1), 334.193, 334.195 FS. History--New 7-9-89, Amended 1-22-92, 5-10-94, 4-21-98, Repealed.

14-17.012 Conduct Standards for Career Service Employees.

Specific Authority 20.05, 110.201(2), 120.53(1)(a), 334.044(2) FS. Law Implemented 110.227 FS. History—New 6-1-90, Amended 10-18-94, Repealed.

14-17.014 Tuition Payment for Educational Courses.

Specific Authority 334.044(2), 110.105(1) FS. Law Implemented 110.105(1) FS. History—New 5-10-94, Repealed.

14-17.015 Driver’s Record Requirements.

Specific Authority 110.213, 110.227, 334.044(2) FS. Law Implemented 110.213, 110.227 FS. History—New 5-30-95, Repealed.

NAME OF PERSON ORIGINATING PROPOSED RULE:
David Ferguson, Personnel Officer
NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Thomas F. Barry, Jr., P.E., Secretary
DATE PROPOSED RULE APPROVED BY AGENCY HEAD: December 11, 2001

DEPARTMENT OF TRANSPORTATION

RULE CHAPTER TITLE: Highway Beautification and Landscape Management
RULE CHAPTER NO.: 14-40

RULE TITLE: Highway Landscape Projects
RULE NO.: 14-40.003

PURPOSE AND EFFECT: Part I General Provisions (Rule 14-40.003) is being amended. Part II Florida Highway Beautification Council was amended effective November 22, 2001, and Part III Vegetation Management at Outdoor Advertising Signs (Rule 14-40.030) was submitted in an earlier notice.

SUMMARY: This is an amendment to Part I General Provisions (Rule 14-40.003). Part II already was amended and Part III is being amended by a separate notice.

SPECIFIC AUTHORITY: 334.044(2), 337.2505 FS.

LAW IMPLEMENTED: 334.044(25), 335.167, 337.2505, 337.405, 339.2405, 479.106 FS.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COST: None.

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

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

TIME AND DATE: 2:00 p.m., January 14, 2002

PLACE: Department of Transportation, Haydon Burns Building, 605 Suwannee Street, The Suwannee Room (Room 250), Tallahassee, Florida

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

THE FULL TEXT OF THE PROPOSED RULE IS:

14-40.003 Highway Landscape Projects.

(1) Department Authorization Required. No landscaping vegetation may be altered, removed, or installed on the Department’s right of way by any person without written authorization by the Department pursuant to this Rule Chapter. All requirements for restoring the Department’s right of way and highway landscape projects, where such restoration is made necessary by the construction or maintenance of utilities, are specified in the *Utility Accommodation Manual*, incorporated by reference under Rule 14-46.001. Requests This Part of the Rule Chapter does not apply to requests to remove, cut, or trim, or remove vegetation that screens outdoor advertising signs (~~billboards~~) for which outdoor advertising sign permits have been issued pursuant to Chapter 479, Florida Statutes. ~~Permits for cutting, trimming, or removal of vegetation for such purposes must be made in accordance with obtained under Part III of this Rule Chapter.~~

(2) Definitions.

(a) “Abutting Private Property Owner” means any person or entity having lawful control of land which adjoins, or is contiguous to, Department non limited access right of way.

(b) “Department” means the Florida Department of Transportation.

(c) “Highway Landscape Project” means any planned or actual landscape or landscaping on Department right of way, including construction or installation, planning, beautification, and maintenance thereof, by a local government entity, non governmental entity, or abutting private property owner.

(d) “Landscape” or “Landscaping” means any vegetation, mulches, irrigation systems, and any site amenities, such as, street furniture, decorative paving, fences, and lighting (excluding public utility street and area lighting).

(e) “Local Governmental Entity” means as defined in Section 11.45(1)(e), Florida Statutes.

(f) “Non Governmental Entity” means any person or organization who seeks approval of a highway landscape project.

(g) “Screen” or “Screening” means the planting or installation of any vegetation or other landscape material which will reach a height greater than the height of the bottom of the lowest sign face, as viewed from a height of 3.5 feet above the roadway surface at the edge of the travel lane closest to the outdoor advertising sign.

(3)(2) Approval Criteria.

(a) Approval is based on review of a complete set of landscape plans. The District Landscape Manager can be consulted during preparation of landscape plans. The following plan preparation guidelines must be used:

1. Project data must be included on sheet 1 of the plans, and must include a location map with beginning and end of project mile posts, index of plans included in the set, state road number, local government and contact information, and name and address of the person and firm who prepared the plans.

2. Plans must be drawn to scale, exhibiting an accurate and legible representation of existing conditions (above and below ground), and all proposed work. Plans must show all dimensions necessary to demonstrate compliance with this rule. If there is a baseline survey or centerline of construction, station points must be used. If there is no baseline survey or centerline, dimensioning must be from a fixed point. All dimensions must be noted in English system measurements (inches, feet, yards, miles, etc.). Plans must be drawn at no less than 100 scale (1 inch = 100 feet) on 24 inch by 36 inch or smaller sheets (folded, not rolled). Computer generated plans must use 11 inch by 17 inch sheets. Plans must contain a graphic scale and north arrow with standard orientation on each plan sheet, and reference the state road number, section number, milepost, and local street names. Plans must also include curbs, edge of pavement, edge of travel lanes, guardrails, right of way fence and/or right of way lines, sidewalks, intersections, median breaks, driveways, bike lanes, transit facilities, surveying monuments, signs, vegetation management zones of permitted outdoor advertising signs, lighting, traffic signals, other traffic control devices, drainage features, limits of clear sight, set backs and clear zone limits, existing off site features and conditions which affect or are affected by the project, easements, above and below ground utilities, and all existing vegetation. Details and text must be large enough to be legible on all plan sheets.

3. Only blackline, blue-line, or xerographic reproductions will be accepted for the review process.

4. All proposed landscaping must be identified on the plans. For all plants, give the following information in tabular form:

<u>Common Name</u>
<u>Botanical Name, including variety or cultivar</u>
<u>Quantity</u>
<u>Size when installed (height, caliper, spread, container size clear trunk, multi-trunk, or any other descriptive aspect of the desired plants)</u>
<u>Maximum maintained or typical mature height, spread, and trunk diameter of normal mature plant specimens measured 6 inches above the ground.</u>
<u>Specifications (written and/or graphic)</u>

5. A comprehensive maintenance plan for all proposed landscaping must accompany the plans. This may be on a separate set of plans or documents. Special maintenance requirements for the plant establishment period must be noted. The intent of design elements must be included in a description of the project, accompanied by a written or graphic guide as to the maintenance which will be provided to the plants and other areas within the project limits. When the landscape project is to be maintained by the Department, a maintenance cost estimate based on scheduled maintenance activities must be an attachment to the plans. Maintenance details and specifications must include the following:

<u>Mowing schedule and height of grass, along with physical depiction of the limits of the mowing that will be performed as part of the landscape project.</u>
<u>Fertilizing schedules, formulas, rates, and methods of application.</u>
<u>Weeding/edging schedule and method: chemical, mechanical, or manual.</u>
<u>Herbicide schedules, formulas, rates, methods of application, special instructions, and precautions.</u>
<u>Pruning schedule and methods. In order to have safe, healthy, and aesthetic plants, and to maintain limits of clear sight, special attention must be given to changes in the schedule due to the maturity and size as trees and shrubs grow.</u>
<u>Mulch materials, thickness, and replacement frequency.</u>
<u>Irrigation schedule, supply source, and method of application.</u>
<u>Special care required for any hardscape materials, lighting, signage, benches, or other site amenities.</u>
<u>Litter pick-up and removal schedule (prior to mowing cycle or as needed).</u>
<u>A work zone traffic control plan (if necessary) for installation and maintenance of the project.</u>
<u>An estimate of manpower and equipment required to achieve an acceptable level of maintenance.</u>

6. As-built plans, or a summary of changes, are required for all landscape projects.

7. Plans for highway landscape projects, the total estimated cost of which are \$10,000 or greater, must be prepared by a landscape architect. Signing and sealing of plans submitted to the Department for review must be in accordance with Part II of Chapter 481, Florida Statutes, Landscape Architecture.

(b) No planting or installation of vegetation or other landscape material for landscape projects, or issuance of permits for such planting or installation, including construction and beautification projects, is allowed on Department right of way which screens or which, when mature, will screen an

outdoor advertising sign permitted under Chapter 479, Florida Statutes. This prohibition applies to all landscape, construction, and beautification projects on Department right of way regardless of the source of funds for the project, except for landscape projects approved by the Department prior to the date of the original, state sign permit for the sign. For purposes of this Rule, a landscape, construction, or beautification project is approved when it is specifically identified in the Department's five year work program, is a permitted landscape project, is part of an executed agreement between the Department and a local government, or has been approved in writing by the Department for installation at a later date by a local government.

1. Screening is prohibited within a permitted vegetation management zone, as defined in Rule 14-40.030(1)(d).

2. Where there is no permitted vegetation management zone for an outdoor advertising sign, the landscape architect will notify the sign permittee that a highway landscape project is proposed within the view zone. The sign permittee will have 30 days to submit an Application for Vegetation Management that proposes a vegetation management zone (See Part III). The screening prohibition in 1. above will apply upon approval of the Permit for Vegetation Management at Outdoor Advertising Sign. If an Application for Vegetation Management has not been submitted by the sign permittee within 30 days of notification, screening will be prohibited wherever the sign face is not screened within the view zone, beginning at Terminus A and extending along the outside travel lane edge in advance of the sign until the sign face is not screened for a total of 500 feet. Contact information for any permitted sign may be obtained by contacting the State Outdoor Advertising Administrator, Florida Department of Transportation, 605 Suwannee Street, MS 22, Tallahassee, Florida 32399-0450.

3. The limits of the screening prohibition may be adjusted pursuant to a written agreement between the sign permittee and a local governmental entity.

(c)(a) A local governmental entity may request obtain approval to alter, remove, or install landscaping landscape materials on the Department's right of way through submission of a highway landscape plan construction and maintenance memorandum of agreement. After review by the Department, and the making of any necessary revisions by the local governmental entity, the Department will prepare a written agreement requiring the local governmental entity to properly construct and maintain the landscape project. The landscape plan will become Exhibit A to the agreement. If separate, the maintenance plan as described Subsection (2)(a)7. will become Exhibit B of the agreement. When the agreement is executed, and a Notice to Proceed is issued by the Department, the local governmental entity may proceed with the project.

(d)(b) Private entities and Non-governmental entities organizations may seek obtain approval to alter, remove, or install landscaping vegetation on the Department's right of

way through submission of a landscape plan, and a resolution from the appropriate local government that commits the local that government to execution of executing an agreement to properly construct and maintain the landscape project as described in Section (c) above highway landscape construction and maintenance memorandum of agreement.

(e)(e) An abutting private property owner is not required to comply with may disregard Subsection (3)(d)(2)(b) of this Rule and may apply for a permit to alter or install landscape materials on the Department's non limited non-limited access right of way directly abutting the owner's property through submission approval of a Permit for Landscaping on State Road Right of Way, Form # 850-060-03, Rev. 05/00 03/98, which is incorporated herein by reference and. Form 850-060-03 is available at any Department District Maintenance Office. Abutting private property owners must submit for approval a landscape plan, maintenance plan, and work zone traffic control plan. Approval will only be granted when it is determined that all plans meet the requirements of this section. A permit for the cutting, trimming, or removal of any vegetation will only be approved in association with mitigation required by this subsection. No permit will be issued to an abutting private property owner to provide visibility of such property through the cutting, trimming, or removal of trees, shrubs, or herbaceous plants. A permittee shall mitigate in accordance with the following requirements for the impact to vegetation from cutting, trimming, removal, or accidental damage of vegetation on the Department's right of way:

1. Mitigation is required where cutting or trimming of, or damage to vegetation permanently detracts from the appearance or health of trees (including palm trees), shrubs, or herbaceous plants, or where cutting and trimming of trees or shrubs is not done in accordance with the standards set forth in the American National Standards Institute (ANSI A300) publication, incorporated herein. This requirement does not apply to the cutting or trimming of, or damage to invasive exotic plants (plants listed by the Florida Department of Environmental Protection Rule Chapter 62C-52, Florida Prohibited Aquatic Plants, and plants listed by the Florida Department of Agriculture and Consumer Services, Rule Chapter 5B-57, Introduction or Release of Plant Pests, Noxious Weeds, Arthropods, and Biological Control Agents, or other plant species determined by the Department to be a nuisance to natural habitats or agriculture, or to have an adverse affect on the maintenance or safety of the Department's right of way):

2. Where mitigation is necessary, the applicant will provide a mitigation plan, a maintenance plan (including irrigation and establishment for a period of one year from the date of planting), and a schedule for completion for any vegetation planted. These plans are subject to the requirements of this Rule Chapter, the Florida Highway Landscape Guide,

and the Highway Landscape, Beautification, and Plan Review Procedure (650-050-001-e). Mitigation must be completed within six months after vegetation is cut, trimmed, or removed.

3. Mitigation of trees is not required when trimming maintains the tree's natural habit of growth, and is performed in accordance with professionally accepted arboricultural standards. The American National Standards Institute (ANSI) Tree Shrub and Other Woody Plant Maintenance Standard Practices, 1995, Publication #A300, and Tree Pruning Guidelines authored and published by the International Society of Arboriculture, 1995, are hereby incorporated by reference. Copies of these publications are available from the International Society of Arboriculture, Post Office Box GG, Savoy, Illinois 61874-9902, Phone 217-355-9411, FAX 217-355-9516. Invasive exotic plants may be removed without mitigation. Where the District Landscape Manager has determined that vegetation is diseased or structurally damaged beyond a point where restoration is practicable, the vegetation may be removed without mitigation.

4. On-site mitigation (mitigation provided on or adjacent to the impacted site) for removal or damage of trees shall be at 2:1 ratio measured in inches diameter of the trunk at breast height (DBH). DBH is to be measured 4 1/2 feet high. Multi-trunk trees are measured using the cumulative diameter of the three main trunks at breast height. To mitigate for trees with a DBH greater than 2", two or more trees (of one inch caliper or greater) with a combined equivalent diameter to the removed or damaged trees, may be used. Mitigation for removal of shrubs and herbaceous plants shall be at a 1:1 ratio calculating the total plant height per impacted species. Required mitigation is calculated by estimating the number of shrubs of a species impacted, and multiplying by their average height. Mitigation for removal of shrubs and herbaceous plants under 6" in height shall be calculated by measuring the area impacted, and replanting an equivalent area with the same or other approved species. Mitigation shall be completed pursuant to the requirements of the approved plan.

5. Remote mitigation (mitigation provided away from the impacted site but along the same state highway and within the same county) for removal of trees shall be at a 3:1 ratio measured in inches DBH. Mitigation for trees with a DBH greater than 2" may be provided as described in paragraph (c)4. Remote mitigation for removal of shrubs and herbaceous plants shall be at a 2:1 ratio. Required mitigation is calculated by estimating the number of shrubs of a species impacted, and multiplying by their average height. Mitigation for removal of shrubs and herbaceous plants under 6" in height shall be calculated by measuring the area impacted for replanting an equivalent area with the same or other approved species. A location for remote mitigation must be approved by the District Maintenance Engineer or designee. No vegetation will be cut, trimmed, or removed until after remote mitigation has occurred.

6. The permittee is required, at his/her expense, to remove and replace any mitigation materials that have not survived in a healthy condition for the first full year after planting. The replacement materials shall be of like size and variety as the replaced material, or may be other material proposed by the permittee and determined by the District Maintenance Engineer or designee to be more likely to survive. The permittee is also required, at his/her expense, to remove and replace any replacement materials that have not survived in a healthy condition for the first full year after planting.

7. The permittee may choose, in lieu of mitigation, to contribute funds to a District mitigation program for the beautification, aesthetic, and environmental improvement of the Department's right of way. The remote mitigation ratios shall apply and include wholesale cost of materials, installation, and one year establishment and maintenance. The permittee must contact the District Maintenance Engineer or designee to contribute to such a program(s) as part, or in lieu of other mitigation requirements. No vegetation will be cut, trimmed, or removed until after contribution.

(d) Approval to alter or install landscaping materials on the Department's right of way will only be granted when it is determined that the proposed landscape improvement meets the requirements of Part I of this Rule Chapter, the Florida Highway Landscape Guide, and Rule 14-40.030(1)(c) 3., 5., 6., and 8. The highway landscape construction and maintenance memorandum of agreement or permit will include conditions for maintenance of the landscaping pursuant to Rule 14-40.003(5)(e).

(3) Application Process. A request for Permit for Landscaping on State Road Right of Way or a highway landscape construction and maintenance memorandum of agreement shall be accompanied by landscape plan(s), landscape maintenance plan(s), and maintenance of traffic plan(s), prepared in accordance with the Florida Highway Landscape Guide, (650-050-001-e) and the landscape plan preparation provisions of the Highway Landscape, Beautification, and Plan Review Procedure (650-050-001-e), which are incorporated herein by reference. Applicants should meet and work with the District Maintenance Engineer or designee during preparation of application and landscape plan.

(4) Government Approvals.

(a) All proposed landscape projects shall be consistent with the policies and objectives of the approved local government comprehensive plan (LGCP) including the future land use element and any approved community design element.

(b) If the proposed highway landscape project improvement is to be located on an Interstate Highway facility, then Federal Highway Administration (FHWA) review is also required. Approval A permit issued pursuant to this Part does not relieve the local governmental entity, non governmental entity, or abutting property owner permittee of local or other jurisdictional requirements.

(5) Installation and Maintenance.

(a) ~~Prior to issuance of a Notice to Proceed for installation or the commitment of funds by the Department, landscape plans must be approved in writing and all necessary permits (including environmental) and agreements must be executed. The use of cypress mulch in landscape projects is strictly prohibited.~~

(b) ~~No vegetation that will interfere with the visibility of an outdoor advertising sign face shall be planted within a permitted vegetation management zone. Where there is no permitted vegetation management zone, no vegetation that will interfere with the visibility of the outdoor advertising sign face shall be planted within the first 500' of the view zone, measured from point A (See Figure 2 and Figure 3 contained in 14-40.030). Where there is a written agreement between affected parties, vegetation that partially interferes with the visibility of a sign face may be planted within the vegetation management zone.~~

(a)(e) ~~All landscape installation or maintenance activities performed by a local governmental entity, non governmental entity, or abutting property owner others on the Department's right of way must be performed in conformity with Department safety criteria as detailed in the Manual on Uniform Traffic Control Devices (incorporated by reference under Rule 14-15.010, F.A.C.), Standard Specifications for Road and Bridge Construction, (incorporated by reference under Rule 14-85.004, F.A.C.), and the Roadway and Traffic Design Standards (incorporated by reference under Rule 14-85.004, F.A.C.).~~

(d) ~~The responsibility for maintaining landscape projects which are constructed on the Department's right of way by parties, individuals, agencies, or organizations other than the Department shall be borne by the permittee or the appropriate local governmental entity. The responsibility for maintenance, whether by the abutting property owner or by a local government, shall include all landscaped, turfed, hard-scaped, or otherwise modified areas installed on the Department's right of way within the limits of the project. All maintenance shall be in accordance with Department standards.~~

(b)(e) ~~If an landscape maintenance memorandum of agreement or maintenance memorandum of agreement already exists between the Department and a local governmental entity for the maintenance of an the existing median and grassed areas for the section of roadway for which a landscape project is proposed, and if the Department determines that such agreement obligates the local governmental entity to maintain the proposed this project in accordance with the approved maintenance plan Florida Highway Landscape Guide, the agreement will be applied to the maintenance of used for maintaining the landscape project. If the Department has previously agreed to provide funds for such maintenance, no increased compensation will be provided by the Department for maintenance of the landscape project.~~

(6) Donation of Landscape Projects Materials. The Department will accept donations of plants, materials, installation, and maintenance for landscape projects on the State Highway System that meet the requirements of this Rule Chapter.

(a) ~~The donated materials and services must conform to the requirements of this Rule Chapter and all other applicable Department criteria pertaining to landscape design, installation, and maintenance.~~

(b) ~~Signs acknowledging donated materials by an individual or entity may be erected in or near the landscaping when the donation includes installation and maintenance pursuant to an executed highway landscape construction and maintenance memorandum of agreement. The donated landscape projects materials or services must substantially improve the appearance or manageability of the median or roadside. The agreement must stipulate that the sign and the landscape project may be removed by the Department for failure to meet the requirements of this Rule Chapter or the agreement. The sign shall remain in place for a maximum of five years or a term specified in the agreement. An executed highway landscape construction and maintenance memorandum of agreement must be on file with the Department for the area in question before placement of the sign by the Department. Signs acknowledging donated landscape projects by an individual or entity may be erected on the right of way, when the donation includes installation and maintenance pursuant to an executed agreement. Such signs will remain in place for a term of five years, unless otherwise specified in the agreement. The appropriate sign must not contain commercial logos or trademarks. Signs will be placed at each end of the landscape project. shall be as follows:~~

(a)1- ~~Interstate Highways: The sign acknowledging donation of landscape projects on the Interstate Highway System will be provided by the Department. This sign will be similar to structure and face shall conform to the design used for the Adopt-a-Highway Program sign used by the Department, except that the word "landscaping" will shall be substituted for the words "litter control;" and the colors will be green lettering on white background. The signs shall be installed and maintained by the Department. Signs will not contain logos or trademarks. Signs will be placed at each end of the landscape project.~~

(b)2- ~~Arterial Other State Highways: The approved sign design for arterial highways is depicted in Figure 1. The sign panel will be 18 inches tall and 24 inches wide with white background and green lettering, using lettering shown in Figure 1 and fabricated with non-reflective materials. The signs shall be constructed by the permittee in conformance with the color and lettering prescribed for Recreational and Cultural Interest Signs by the Manual on Uniform Traffic Control Devices, incorporated by reference into Rule 14-15.010, except that reflective materials shall not be used~~

~~and the sign may be constructed of wood or composite materials. The sign must~~ Signs shall be mounted on 4 inch by 4 inch 4" X 4" pressure treated posts, or ~~alternate acceptable break away posts that meet or exceed the requirements of the Roadway and Traffic Design Standards (incorporated by reference under Rule 14-85.004, F.A.C.)~~ ~~mounting system.~~ The top of signs will be a maximum of no more than two feet above grade. An approved sign design is depicted in Figure 1.

Installation of signs is ~~Signing will also be contingent upon an signed highway landscape construction and maintenance memorandum of agreement with the appropriate local governmental entity. The approved sign panel(s) must be provided and replaced by the local governmental entity. Signs will be placed according to the approved landscape plan.~~

INSERT CHART 14-40

Specific Authority 334.044(2), 337.2505(+) FS. Law Implemented 334.044(25), 335.167, 337.2505, 337.405, 339.2405, 479.106 FS. History--New 9-22-92, Amended 1-19-99,_____.

NAME OF PERSON ORIGINATING PROPOSED RULE:
Jeff Caster, Environmental Management Office

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Thomas F. Barry, Jr., P.E., Secretary

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

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: April 20, 2001

DEPARTMENT OF TRANSPORTATION

RULE CHAPTER TITLE: Discrimination and Sexual Harassment Complaints
RULE CHAPTER NO.: 14-84

RULE TITLE: Discrimination and Sexual Harassment Complaints
RULE NO.: 14-84.0011

PURPOSE AND EFFECT: Section 110.055, Florida Statutes, [Section 42 of Chapter 2001-43, Laws of Florida], enacted by the 2001 Legislature, provides that all existing rules relating to Chapter 110, Florida Statutes, are statutorily repealed January 1, 2002, unless otherwise readopted. The Department of Management Services is required to adopt rules pertaining to state employment necessary to effectuate the provisions of Chapter 110, Florida Statutes.

SUMMARY: Rule 14-84.0011, F.A.C., is being repealed as required by law.

SPECIFIC AUTHORITY: 334.044(2), 339.05 FS.

LAW IMPLEMENTED: 110.105, 110.112, 110.201(3), 110.227, 119.07(3)(q), 760.10, 760.11 FS.

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

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

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

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

THE FULL TEXT OF THE PROPOSED RULE IS:

14-84.0011 Discrimination and Sexual Harassment Complaints.

Specific Authority 334.044(2), 339.05 FS. Law Implemented 110.105, 110.112, 110.201(3), 110.227, 119.07(3)(q), 760.10, 760.11 FS. History--New 8-5-96, Amended 8-3-99, Repealed_____.

NAME OF PERSON ORIGINATING PROPOSED RULE
 REPEALS: Art Wright, Manager, Equal Opportunity Office
 NAME OF SUPERVISOR OR PERSON WHO APPROVED
 THE PROPOSED RULE: Thomas F. Barry, Jr., P.E.,
 Secretary
 DATE PROPOSED RULE APPROVED BY AGENCY
 HEAD: December 11, 2001

DEPARTMENT OF TRANSPORTATION

RULE CHAPTER TITLE:	RULE CHAPTER NO.:
Highway Traffic Safety Program	14-98
RULE TITLES:	RULE NOS.:
Purpose	14-98.001
Definitions	14-98.002
Policy	14-98.003
Funds Availability	14-98.004
Application and Award Procedures	14-98.005
Funds Distribution	14-98.006
Grant Conditions	14-98.007
Forms	14-98.008

PURPOSE AND EFFECT: This notice, which includes changes resulting from the Joint Administrative Procedures Committee review and other suggested revisions, replaces a previously published notice, which was published in Vol. 27, No. 35, Florida Administrative Weekly, dated August 31, 2001, which was withdrawn. The rule chapter is being amended to include repeal of Rules 14-98.006 and 14-98.007, revise policy and procedures, revise purpose and definitions, and adopt revised forms.

SUMMARY: The rule chapter is amended to include procedural amendments, clarification, repeal of two rules, revised definitions, and the adoption of revised forms related to the Highway Traffic Safety Program. A previously proposed notice of rulemaking, published in the August 31, 2001, Florida Administrative Weekly was withdrawn.

SPECIFIC AUTHORITY: 334.044(2),(25) FS.

LAW IMPLEMENTED: 334.044(25) FS.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COST: None.

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

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

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

THE FULL TEXT OF THE PROPOSED RULES IS:

14-98.001 Purpose.

~~Section 334.044(24), Florida Statutes, transferred the Highway Traffic Safety Program from the Department of Community Affairs to the Florida Department of Transportation in 1991. The purpose of the Highway Traffic Safety Program is to develop, implement, and manage a data-driven comprehensive traffic safety program aimed at saving lives, preventing injuries, and reducing related costs associated with traffic crashes on Florida's roadways assist other State and local agencies in the management of the diverse array of activities comprising the State's total traffic safety resources in a manner that achieves the most effective focus on critical crash problems in accordance with the standards of the National Highway Safety Act of 1966, as amended. The Highway Traffic Safety Program provides for the acceptance of State and Community Highway Safety Funds grant funds provided through the United States Department of Transportation under Section 402, Title 23, United States Code, and Public Law 89-564, as amended, for the State's implementation of the provisions of the National Highway Safety Act of 1966, as amended. The law statutes establishes broad objectives for the purpose of funds allocation. This Rule Chapter These rules shall be liberally construed by the Department to effectuate the purposes of the statutes, and the National Highway Safety Act of 1966, as amended. It is the intent of the Department that these rules permit maximum flexibility within the limits of the statutes, yet define procedures consistent with sound public funds management principles and consistent with the need to apprise potential applicants, fund recipients, and the public of the Department's policy governing administration of the program. Funding for the Highway Traffic Safety program is based on the Federal Fiscal Year, from October 1 of each year through September 30 of the following year.~~

Specific Authority ~~120.53(1),~~ 334.044(2) FS. Law Implemented 334.044(25)(24) FS. History—New 12-30-84, Amended 6-10-85, Formerly 9B-32.01, 9B-32.001, 9G-15.001, Amended 12-7-93, _____.

14-98.002 Definitions.

As used in these rules, except where the context clearly indicates a different meaning:

(1) "Activity" means elements of work that accumulate to accomplish subgrant objectives, such as hiring of personnel, purchasing of equipment or materials, conducting surveys, performing specific duties, and ~~or~~ any other duties or acts designated in the subgrant agreement.

~~(2) "Actual" means the attained level of resources expended or accomplishments, as opposed to planned expenditures or accomplishments.~~

~~(2)(3) "Applicant" means a unit of local government entity as defined in Section 11.45, Florida Statutes; or state agency as defined in Section 216.011, Florida Statutes; sheriff; special district; corporation not for profit; or a Florida university that~~

meets the minimum standards established in Rule 6E-1.0045, F.A.C., and is accredited by the Southern Association of Colleges and Schools or some other nationally recognized accreditation board, that requests approval of a Subgrant Application for Highway Safety Funds requesting highway safety funds or a non-governmental not-for-profit or non-profit agency requesting funding for a pilot project.

(3) “Corporation Not for Profit” means as defined in Section 617.01401, Florida Statutes, and shall include foreign corporations defined in that section. For purposes of this rule, the corporation must list in Article III of its Articles of Incorporation at least one purpose related to traffic safety or injury prevention.

(4) “Chief Financial Officer” means the employee of the subgrantee agency or the implementing agency who has overall fiscal responsibility for the subgrant. “DBE” means disadvantaged business enterprise as defined in rule chapter 14-78.

(5) “Concept Paper” means an initial request for highway safety funding, which includes a statement of the highway safety problem that the applicant has identified, a statement of proposed activities that the applicant will take to address the problem, an estimated budget for conducting the activities, and the name of a contact. Concept papers must be accompanied by a letter of support from the head of the agency that will implement the project, if funded. “CFR” means Code of Federal Regulations.

(6) “Cost Incurred” means costs are considered incurred on the date that goods or services are received and accepted.

(7) “Department” means Florida Department of Transportation.

(8) “Office” means State Safety Office.

(9) “U.S. DOT” means U.S. Department of Transportation.

(8)(10) “Evaluation” means a process that involves measuring the success or failure of a project in achieving predetermined objectives.

(9)(11) “FFY” means Federal Fiscal Year, the period beginning October 1 and ending September 30 the following year.

(10)(12) “FHWA” means Federal Highway Administration.

(13) “Unit of Local Government” means any municipality, special district, or board of county commissioners or other governing body of a county, however styled, including that of a consolidated or metropolitan government.

(14) “State Agency” means any official, officer, commission, board, authority, council, committee, or department of the executive branch, or the judicial branch of state government as defined in Section 216.011, Florida Statutes.

(11)(15) “Governor’s Highway Safety Representative” means the State official appointed by the Governor of Florida, who is responsible to and represents the Governor in the conduct of the Statewide Highway Traffic Safety Program.

(12)(16) “HSP” means Highway Safety Plan. The HSP is a program document between the U.S. DOT National Highway Traffic Safety Administration, Federal Highway Administration, and the State of Florida. It is a plan to which available federal funds may be obligated. It is the overall funding plan for a given fiscal year.

(13)(17) “Implementing Agency” means the subgrantee’s designee for performing the activity defined in agency responsible for implementation and management of the subgrant.

(14) “MBE” means minority business enterprise, which is a small business concern that is owned or controlled by one or more minorities as defined in 49 C.F.R. Part 23, incorporated herein by reference.

(18) “Pilot Project” means a special project implemented by either a governmental agency or non-governmental not-for-profit agency to demonstrate, evaluate, or enhance a specific countermeasure.

(15)(19) “Milestone” means the development of a specific activity within a specific period of time.

(16)(20) “NHTSA” means National Highway Traffic Safety Administration.

(17) “Office” means State Safety Office.

(18)(21) “OMB” means Federal Office of Management and Budget.

(22) “P. L.” means Public Law.

(19)(23) “Program” means the Highway Traffic Safety Program or two one or more consecutive traffic safety projects implemented by the same agency in consecutive years, with the succeeding projects being a continuation of the initial project.

(20)(24) “Program Manager” means a staff member of the State Safety Office, authorized by the Governor’s Highway Safety Representative to act as the liaison between the State Safety Office, and the subgrantee, and implementing agency in all matters pertaining to a subgrant agreement.

(25) “Program Period” means the total of one or more project periods not to exceed 36 months without specific written approval from the Department.

(21)(26) “Project” means a specific plan of action being undertaken to improve an identified traffic highway safety problem.

(22)(27) “Project Director” means the person responsible to the implementing agency for the management and operation of the subgrant or contract.

(23)(28) “Project Number” means the identification a number assigned by the State Safety Office to each subgrant or contract.

(29) "Project Period" means the estimated length of time to complete a highway safety project. The project period cannot exceed twelve consecutive months or September 30th, whichever is earlier, without specific written approval from the Department.

(24)(30) "Subgrant" means the approved Subgrant Application for Highway Safety Funds, which constitutes a contract written agreement between the Department and the applicant, unit of local government, state agency, or other eligible recipient in which the applicant recipient agrees to perform certain specified activities toward reaching certain specified objectives in return for certain specified compensation from the Department.

(25)(31) "Subgrantee" means the unit of local government, state agency, or other eligible applicant to whom the Department awards a subgrant or contract.

(26)(32) "Subgrant Period" means the effective time between the beginning and ending dates of the subgrant.

(27) "U.S. DOT" means United States Department of Transportation.

(33) "WBE" means Women-owned Business Enterprise.

Specific Authority 334.044(2) FS. Law Implemented 334.044(25)(24) FS. History—New 12-30-84, Amended 6-10-85, Formerly 9B-32.02, 9B-32.002, Amended 11-19-89, Formerly 9G-15.002, Amended 12-7-93,_____.

14-98.003 Policy.

(1) Subgrant Applications. Each pProject proposals must be designed to impact one or more address a range of services and activities having a measurable and potentially major impact on the causes of traffic crashes, injuries, and/or fatalities; to evaluate or identify traffic crash problems in Florida; or to increase public awareness of the state's crash problem. Each project must be capable of producing measurable results, which will be used to determine the effectiveness of the project.

(2) Annual Highway Safety Plan. The Office Department shall formulate an annual HSP which identifies projects that will be funded during the FFY Highway Safety Plan to define programs to achieve goals and objectives for improving highway safety and allocation of federal funds which will most economically and efficiently carry out the assigned mission.

(3) Technical Assistance. The Office Department will provide, within limitations of staff time and budget, training and technical assistance, within limitations of staff time and budget to all eligible applicants, subgrantees and members of other governmental units upon request, or upon a determination by the Department of a subgrantee's need.

(4) Monitoring and Evaluation. The Office Department will perform such activities as may be necessary to monitor subgrantee compliance with sState and fFederal laws, rules, and regulations, to evaluate the fiscal and programmatic effectiveness of the subgrantee's activities, and to confirm the status of fiscal and program activities.

(5) Annual Report. The Office shall prepare an Annual Report that summarizes the activities which took place during the previous FFY contributed to meeting the program's highway safety goals.

(6) Public Awareness. The Office will promote public awareness of traffic safety issues affecting the state by distributing educational and public awareness materials through law enforcement agencies, public health departments, and other traffic safety organizations.

Specific Authority 334.044(2) FS. Law Implemented 334.044(25)(24) FS. History—New 12-30-84, Formerly 9B-32.03, 9B-32.003, Amended 11-19-89, Formerly 9G-15.003, Amended 12-7-93,_____.

14-98.004 Funds Availability.

(1) The amount of federal funds available shall be that amount allocated each FFY to the State of Florida by the Federal Government under the National Highway Safety Act of 1966, as amended, and all other applicable sections of Section 402, Title 23, United States Code.

(2) The Office Department shall attempt to distribute all of the funds available in the current FFY, but may distribute part of the funds in a later FFY, when permitted by Federal law and Florida Statutes to do so, and if such action, in the judgment of the Department, will best carry out the program objectives. Funds not distributed in the current FFY will be distributed in a subsequent FFY.

Specific Authority ~~420.53(4)~~, 334.044(2) FS. Law Implemented 334.044(25)(24) FS. History—New 12-30-84, Formerly 9B-32.04, 9B-32.004, 9G-15.004, Amended 12-7-93,_____.

14-98.005 Application and Award Procedures.

(1) The Office Department will conduct an annual problem analysis of the traffic crash history of the sState by April 30th of each year, based on the most currently available crash data from the Department of Highway Safety and Motor Vehicles, identifying those counties geographic areas with the most severe traffic crash problems, in a Traffic Safety Matrix ranked listing.

(2) The selection of potential subgrant recipients will be based, in part, on their position on the Traffic Safety Matrix ranked list for the particular type of highway safety problem. Data from the Department of Highway Safety and Motor Vehicles, pertinent local safety data, the Office's annual observational survey of safety belt use, and past subgrant history will also be considered when selecting potential subgrant recipients.

(3) To be eligible for funding, an applicant: to be considered as a potential subgrant recipient, the potential recipient

(a) Cannot have been previously funded for an the proposed activity in the same priority area of the Highway Safety Plan for more than three consecutive fiscal years in excess of 36 months nor can the proposed activity supplant funds allocated or appropriated for the same activity. Agencies that have received funding in the same priority area for three

consecutive years must wait one year before being eligible for highway safety grant funding in that priority area. The three-year limit shall not apply to statewide programs for training, coordination, evaluation, or public awareness.

(b) Cannot request funding that would supplant funds previously allocated or appropriated by the applicant for the same activity, nor can funding replace equipment previously purchased with local or federal funds.

(c) Shall not be eligible for funding if it has violated a condition of a previous subgrant.

(3) Each ranking is based on three components:

(a) Magnitude. "Magnitude" is the absolute number of injuries and fatalities in each of four categories: Total Crashes, Alcohol-Related, Pedestrian, and Bicycle. The injuries and fatalities are totaled for a three-year period.

(b) Rate. "Rate" is calculated by dividing the "Magnitude" by a normalizing variable. The total number of vehicle miles travelled in each of the three years is used to normalize "Total Crashes" and "Alcohol-Related" crashes, and average annual population estimates are used to normalize the statistics for "Pedestrian" and "Bicycle" crashes.

(c) Trend. "Trend" is the ratio of a short-term to a long-term moving averages of the "Magnitude" over a seven year period.

(4) Indices are calculated to represent how each county compares to others in each factor. The rankings are based on the composite of these three components: magnitude, rate, and trend.

(5) The Office Department will provide, upon request, the Highway Safety Concept Paper Form 500-065-17 as well as information on how to prepare a concept paper for highway safety funding an application package (Instructions for Highway Safety Subgrant Application for Highway Safety Funds, and Subgrant Application for Highway Safety Funds, FDOT Form 500-065-01, 09/94) to any potential local government, state agency, or other eligible applicant. Concept papers will be accepted annually from January 1 through March 31 for the upcoming fiscal year. Concept papers must be post marked no later than March 31 to be considered for funding. The Office will formally acknowledge receipt of all concept papers.

(5) The Office will review all concept papers for compliance with this rule and state and federal rules and regulations, hereby listed herein.

(a) Federal. The following listed federal rules are incorporated by reference:

1. 41 C.F.R., Part 60, *Office of Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor.*

2. 49 C.F.R., Part 18, *Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments.*

3. 49 C.F.R., Part 19, *Uniform Administrative Requirements for Grants and Agreements with Institutions of Higher Education, Hospitals, and Other Non-Profit Organizations.*

4. 49 C.F.R., Part 20, *New Restrictions on Lobbying.*

5. 49 C.F.R., Part 26, *Participation by Disadvantaged Business Enterprises in Department of Transportation Financial Assistance Programs.*

6. 49 C.F.R., Part 29, *Governmentwide Department and Suspension (Nonprocurement) and Governmentwide Requirements for Drug-Free Workplace (Grants).*

7. OMB Circular A-21, *Cost Principles for Educational Institutions.*

8. OMB Circular A-87, *Cost Principles for State, Local, and Indian Tribal Governments.*

9. OMB Circular A-102, *Grants and Cooperative Agreements with State and Local Governments.*

10. OMB Circular A-110, *Uniform Administrative Requirements for Grants and Agreements with Institutions of Higher Education, Hospitals, and Other Non-Profit Organizations.*

11. OMB Circular A-122, *Cost Principles for Non-Profit Organizations.*

12. OMB Circular A-133, *Audits of States, Local Governments, and Non-Profit Organizations.*

13. 10 U.S.C. 2304(g), *Armed Forces, Contracts: Completion Requirements.*

14. 18 U.S.C.1001, *Crimes and Criminal Procedures, Statements or Entries Generally.*

15. 31 U.S.C. 3801, *The Program Fraud Civil Remedies Act of 1966.*

16. 33 U.S.C. 1251, *Federal Water Pollution Control Act.*

17. 41 U.S.C. 253(g), *Public Contracts, Completion Requirements.*

18. 42 U.S.C. 7401, *Clean Air Act.*

19. Executive Order 11246, *Equal Employment Opportunity.*

20. Executive Order 11375, *Amending Executive Order 11246, relating to Equal Employment Opportunity.*

(b) State. The following Florida Statutes are listed for reference purposes:

1. Section 112.061, Florida Statutes.

2. Chapter 119, Florida Statutes.

3. Section 216.347, Florida Statutes.

4. Chapter 287, Florida Statutes.

5. Section 768.28, Florida Statutes.

(6) Concept papers that comply with state and federal rules and regulations will be prioritized on the basis of:

(a) The Concept Paper Evaluation Form, FDOT Form 500-065-18.

(b) Subgrant history.

(c) The Traffic Safety Matrix, and

(d) Analysis of relevant crash data, citation data, and survey results.

(7) Two copies of the application form, Subgrant Application for Highway Safety Funds, FDOT Form 500-065-01, Rev. 01/02, will be sent to those applicants whose concept papers are selected for funding. Applicants whose concept papers were not selected for funding will be notified by the Office.

(8)(6) Applicants shall forward one copy three copies of the completed application and a minimum of three signature pages, containing all each with an original signatures, to the Office Department.

(9) Each corporation not for profit applicant shall attach to its application a copy of its "certificate of status" from the Florida Department of State verifying its not for profit status, and a current financial statement which shows that it has funds equal to the amount of the subgrant award on deposit in a special account designated for project activities only.

(10)(7) The Office Department shall review all applications and will reject any applications not meeting the requirements of these rules and applicable Federal and State laws, within ten working days of receipt of said applications. In the event that an applicant submits a Subgrant Application for Highway Safety Funds, FDOT Form 500-065-01, Rev. 01/02, for an activity that is not included in the Highway Safety Plan, the application shall be rejected. Failure to reject any application within ten days shall not result in the automatic award of a subgrant. All subgrants are subject to funds availability.

(11)(8) Notice of denial of grant award. Notice of the Office's Department's intended action will be provided in accordance with Rule 28-106.111, F.A.C. The Department's action to deny will become final unless a timely petition for a hearing is filed in accordance with Rules 28-106.104, 28-106.201, and 28-106.301, F.A.C. In order to be timely, the petition must be filed with the Department's Clerk of Agency Proceedings within 21 days after receipt of the Department's notice, in accordance with Rule 28-106.111. Provision of any notice, denial, revocation, or notice of Administrative Hearing Rights by the Department under this rule shall not constitute, or create, entitlement to an administrative hearing where such right does not otherwise exist.

(9) The Department is authorized to select applicants for funding pilot projects for the purpose of demonstrating, evaluating or enhancing the effectiveness of highway traffic safety programs. The National Highway Traffic Safety Administration (NHTSA) shall review each pilot project for compliance with NHTSA program guidelines. No more than 10% of the highway safety funds allocated to the State of Florida under the State and Community Highway Traffic

Safety Program in any fiscal year may be awarded to pilot projects in that year. A nongovernmental not for profit or non-profit agency may qualify as recipient for a pilot project.

Specific Authority 334.044(2) FS. Law Implemented 334.044(25)(24) FS. History--New 12-30-84, Amended 6-10-85, Formerly 9B-32.05, 9B-32.005, 11-19-89, Formerly 9G-15.005, Amended 12-7-93, 11-29-94, 1-17-99, _____.

14-98.006 Funds Distribution.

Specific Authority 120.53(1), 334.044(2) FS. Law Implemented 334.044(25)(24) FS. History--New 12-30-84, Amended 6-10-85, Formerly 9B-32.06, 9B-32.006, 9G-15.006, Repealed _____.

14-98.007 Grant Conditions.

Specific Authority 334.044(2) FS. Law Implemented 334.044(25)(24) FS. History--New 12-30-84, Amended 6-10-85, Formerly 9B-32.07, Amended 6-3-86, Formerly 9B-32.007, Amended 11-19-89, Formerly 9G-15.007, Amended 12-7-93, Repealed _____.

14-98.008 Forms.

The following forms used in the Highway Traffic Safety Program are hereby incorporated by reference:

- (1) Non-Expendable Property Accountability Record – FDOT Form 500-065-09, Rev. 01/02 8/93.
- (2) Statement of Highway Safety Project Costs – FDOT Form 500-065-04, Rev. 01/02 09/94.
- (3) Summary Statement of Personnel Personal Services Cost – FDOT Form 500-065-05, Rev. 01/02 08/93.
- (4) Personnel Personal Services Time Sheet – FDOT Form 500-065-06, Rev. 01/02 08/93.
- (5) Detail of Costs Expense (Except Personal Services Cost) – FDOT Form 500-065-07, Rev. 01/02 08/93.
- (6) Subgrant Application for Highway Safety Funds – FDOT Form 500-065-01, Rev. 01/02 09/94.
- (7) Highway Safety Concept Paper – FDOT Form 500-065-17, Rev. 01/02.
- (8) Concept Paper Evaluation Form – FDOT Form 500-065-18, Rev. 01/02.

Copies of these forms may be obtained by writing or calling the Florida Department of Transportation, State Safety Office, 605 Suwannee Street, MS-17, Tallahassee, Florida 32399-0450; Telephone (850)(904)488-5455.

Specific Authority 334.044(2),(25)(24) FS. Law Implemented 334.044(25)(24) FS. History--New 6-10-85, Formerly 9B-32.08, 9B-32.008, Amended 11-19-89, Formerly 9G-15.008, Amended 12-7-93, 6-14-94, 11-29-94, _____.

NAME OF PERSON ORIGINATING PROPOSED RULE:
Carla G. Sims, Traffic Safety Administrator
NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Thomas F. Barry, Jr., P.E., Secretary
DATE PROPOSED RULE APPROVED BY AGENCY HEAD: December 11, 2001
DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: July 20, 2001

DEPARTMENT OF CORRECTIONS

RULE TITLES: RULE NOS.:
 Food Services – Definitions 33-204.002
 Food Services – Standards of Operation 33-204.003

PURPOSE AND EFFECT: The purpose and effect of the proposed rules is to clarify issues related to institutional food services operations and to provide for the use of contract food services providers.

SUMMARY: The proposed rules clarify definitions and correct staff titles used in conjunction with food services operations, clarify circumstances under which menu substitutions may be made, set forth requirements for food items to be served, and provide for the use of contract food services providers.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COST: None.

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

SPECIFIC AUTHORITY: 20.315, 944.09 FS.

LAW IMPLEMENTED: 20.315, 944.09 FS., Child Nutrition Act of 1966, 42 USC s. 1773, Richard B. Russell National School Lunch Act, 42 USC s. 1751 et seq.

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

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULES IS: Perri King Dale, Office of the General Counsel, Department of Corrections, 2601 Blair Stone Road, Tallahassee, Florida 32399-2500

THE FULL TEXT OF THE PROPOSED RULES IS:

33-204.002 Food Services – Definitions.

For the purposes of this chapter:

(1) “Master menu” means the menu which is designed to be served at all facilities to provide uniformity in items served to each inmate. The master menu shall be planned under the direction of the department’s master menu committee. It should be certified nutritionally adequate as determined by a licensed registered dietitian employed by the department. The master menu shall provide all Recommended Dietary Allowances or Dietary Reference Intakes as established by the Food and Nutrition Board of the National Academy of Sciences. The Recommended Dietary Allowances and Dietary Reference Intakes are incorporated by reference in Rule 33-204.003, F.A.C.

(2) through (3) No change.

(4) “Master Menu Committee” consists of the central office’s Bureau of Food Services staff as designated by the bureau chief, the public health nutrition program manager, the field food service coordinators ~~managers~~, the central office

food service managers, and the field public health nutrition consultants. The chief of food services has the authority to invite other staff.

(5) “Centers” refers to work release centers, probation and restitution centers and drug treatment centers.

(6) through (7) No change.

Specific Authority 20.315, 944.09 FS. Law Implemented 20.315, 944.09 FS, Child Nutrition Act of 1966, 42 USC s. 1773, Richard B. Russell National School Lunch Act, 42 USC s. 1751 et seq. History–New 1-18-89, Amended 7-21-97, Formerly 33-30.002, Amended 8-9-00, 11-16-00, 10-2-01,_____.

33-204.003 Food Services – Standards of Operation.

(1) General. Inmates in general population shall receive three meals per day, of which at least two shall be hot meals. The meals shall be provided at regular meal times during each 24-hour period, with a period of no more than 14 hours between the end of the evening meal and the beginning of the morning meal, weather and security permitting. The warden, ~~or~~ work release center major or the lieutenant in charge of a probation and restitution center or drug treatment center shall be allowed to authorize an altered meal schedule of two meals for approved holidays listed in the master menu manual, but both must be hot meals. Holiday substitutions that deviate from the master menu must be approved in advance by the chief of food services ~~or the central office food service managers~~. An alternate meal schedule for therapeutic diets shall provide regular meal times during each 24-hour period with no more than 14 hours between the end of the evening and thevance by the chief of food services or the central office food service managers. An alternate meal schedule for therapeutic diets shall provide regular meal times during each 24-hour period with no more than 14 hours between the end of the evening and thevance by the chief of food services or the central office food service managers. An alternate meal schedule for therapeutic diets shall provide regular meal times during each 24-hour period with no more than 14 hours between the end of the evening and thetained from the Bureau of Food Services, Office of Administration, 2601 Blair Stone Road, Tallahassee, Florida 32399-2500. The effective date of the Revised Recommended Dietary Allowances is January 18, 1989. The Dietary Reference Intakes were copyrighted in 2001.

(a) through (b) No change.

(c) Meals ~~for inmates and staff~~ shall be prepared and served in accordance with the master menu in effect. No specially prepared meals shall be served except those approved therapeutic diets that are prescribed by the attending physician, clinical associate or dentist.

(d) The master menu shall be adhered to except that specific menus and menu items are subject to change by the person in charge of food service at each facility due to production problems, product availability, ~~cost~~, or security issues. Failure to order a product does not constitute a lack of availability. Substitutions will not be planned to utilize leftovers. When menu substitutions are required, the

substitutions will be from the same food group as the original menu item. ~~Menu substitutions will be initially reviewed and approved by a field food service manager. If menu substitutions are determined to deviate from the list of approved substitutions, they will be referred by the field food service manager to the central office public health nutrition program manager for evaluation and final approval.~~ The master menu manual provides a list of appropriate substitutions within food groups. All inmates shall receive the same food items as specified on the master menu. Adequate amounts of food must be prepared to serve all inmates according to the master menu.

(e) All vegetables shall be prepared without meat, animal meat fat, meat-based broth or margarine or butter so as to be suitable for religious and strict vegetarian diets.

(4) Sanitation.

(a) through (b) No change.

(c) The individual responsible for food service at the institution or facility shall be responsible for the following:

1. Writing instructions for the operation and cleaning of the physical plant, equipment and utensils. A current copy of these instructions shall be forwarded to the regional food service coordinator ~~manager~~ for review to check for compliance with the State Sanitary Code, Department of Health Rule 64E-11.005, F.A.C.

2. Preparing a frequency chart for the regular periodic cleaning of the physical plant, equipment and utensils, and ensuring that cleaning is done according to the frequency chart; and

3. Daily inspection of the food service areas, including the recording of the temperatures of coolers, freezers, dishwashers, and hot tap water on the contractor's designated document Master Menu Production Log, Form DC2-404. Form DC2-404 is hereby incorporated by reference. A copy of this form is available from the Forms Control Administrator, Office of the General Counsel, 2601 Blair Stone Road, Tallahassee, Florida 32399-2500. The effective date of this form is August 9, 2000.

(d) No change.

(5) Maintenance of Equipment. ~~The person responsible for food service at each institution or facility shall, with the participation of the person in charge of the maintenance department, shall~~ prepare a schedule for periodic, preventative maintenance of the physical plant and equipment. The preventative maintenance program shall include inspection, lubrication, replacement of parts as necessary, and any other maintenance to extend equipment life as suggested by manufacturer's instructions. The person in charge of responsible for food service shall monitor the program to ensure that preventative maintenance is performed. He or she will also ensure that equipment is utilized properly, abuse of equipment is minimized, and that sanitation standards are maintained. It will be the responsibility of the person in charge of maintenance to ensure that the preventative maintenance

program operates effectively. He or she will maintain a file on each piece of major equipment denoting when and what was done and at what cost.

(6) Security. ~~The person in charge of food service and chief of security shall jointly~~ write and post a plan and schedule for supervision of inmates during meals. The chief of security shall be responsible for enforcement of the written plan for control.

(7) through (9) No change.

Specific Authority 20.315, 944.09 FS. Law Implemented 20.315, 944.09 FS, Child Nutrition Act of 1966, 42 USC § 1773, Richard B. Russell National School Lunch Act, 42 USC § 1751 et seq. History--New 1-18-89, Amended 7-21-97, Formerly 33-30.003, Amended 8-9-00, 11-16-00, 10-2-01,_____.

NAME OF PERSON ORIGINATING PROPOSED RULE:
Sam Siler

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Peggy Ball

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: December 5, 2001

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: October 19, 2001

DEPARTMENT OF CORRECTIONS

RULE TITLE: Inmate Death Notification Process

RULE NO.: 33-602.112

PURPOSE AND EFFECT: The purpose and effect of the proposed rule is to clarify the process for reporting inmate deaths.

SUMMARY: The proposed rule provides for the notification of the duty officer for the Office of the Inspector General, the institutional inspector, and the Office of Health Services in the event of an inmate death.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COST: None.

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

SPECIFIC AUTHORITY: 944.09 FS.

LAW IMPLEMENTED: 245.06, 245.08, 382, 406, 936 FS.

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

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Perri King Dale, Office of the General Counsel, Department of Corrections, 2601 Blair Stone Road, Tallahassee, Florida 32399-2500

THE FULL TEXT OF THE PROPOSED RULE IS:

33-602.112 Inmate Death Notification Process.

(1) Notice of Death. Upon the death of an inmate while in the custody of the department:

(a) The institution shall immediately notify:

1. The district medical examiner of the district in which the death occurred,
2. The State Attorney of the judicial circuit in which the death occurred,
3. The person designated by the inmate to receive notice of his death; the chaplain will normally be responsible for giving or arranging such notice;
4. The Office of the Inspector General duty officer via emergency action center, as well as the local institution appropriate prison inspector. ~~The prison inspector shall be provided with a brief statement of currently known facts about the death. The prison inspector shall forward such statement along with notice of the death to the Bureau of Health Services and the Bureau of Offender Records, and, if the death occurred in the absence of an attending physician or from causes other than natural causes, to the secretary, the chief inspector and the regional director; and~~

5. The Office of Health Services; and

~~6.5.~~ Any authorized organ donor organization which has received prior approval from the deceased for removal and donation of organs.

(b) through (4) No change.

Specific Authority 944.09 FS. Law Implemented 245.06, 245.08, 382, 406, 936 FS. History--New 10-8-76, Amended 9-24-81, Formerly 33-3.09, Amended 6-2-88, 2-18-90, 2-12-97, Formerly 33-3.009, Amended.

NAME OF PERSON ORIGINATING PROPOSED RULE: Jerry Vaughan

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Michael W. Moore

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

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: October 19, 2001 (Notice of Rule Development published as 33-401.201, subsequently renumbered as 33-602.112)

AGENCY FOR HEALTH CARE ADMINISTRATION

Medicaid

RULE TITLE: Payment Methodology for Inpatient Hospital Services
RULE NO.: 59G-6.020

PURPOSE AND EFFECT: The purpose of the proposed amendment is to incorporate changes to the Florida Title XIX Inpatient Hospital Reimbursement Plan (the Plan) payment methodology, effective only for Fiscal year 2001-2002, to provide the following changes based on Legislative direction provided in Senate Bill 2000, General Appropriations Act 2001-2002, Specific Appropriation 254:

1. Special Medicaid payments will be made to statutory teaching hospitals, hospitals providing primary care to low-income individuals, hospitals that operate designated or provisional trauma centers and rural hospitals.
2. Inpatient reimbursement ceilings will be eliminated for hospitals whose charity care and Medicaid days as a percentage of total hospital days equals or exceeds fifteen percent. Hospitals that exceed the fifteen percent as described above and are a trauma center shall be paid \$2,000,000 if their variable cost rate is less than their variable cost target or county ceiling target. The Agency shall use the 1997 audited DSH data available as of March 1, 2001.
3. Inpatient reimbursement ceilings will be eliminated for hospitals whose Medicaid days as a percentage of total hospital days exceeds 9.6%, and are a trauma center. The Agency shall use the 1997 audited DSH data available as of March 1, 2001.
4. Special Medicaid payments will be made to hospitals that serve as a safety net in providing emergency and inpatient care to low-income and indigent individuals.
5. The Medicaid inpatient per diem rate will be adjusted for Lake Wales Hospital, Winter Haven Hospital, Health Central Hospital and Larkin Community Hospital in accordance with s. 409.905(5)(c), Florida Statutes.
6. From the funds made available under the Medicare program, the Medicaid program, and the State Children's Health Insurance Program Benefits Improvement and Protection Act of 2000 for the 2001 federal fiscal year, disproportionate share program funds shall be distributed as follows: \$13,937,997 to Jackson Memorial; \$285,298 to Mount Sinai Medical Center; \$313,748 to Orlando Regional Medical Center; \$2,734,019 to University Medical Center - Shands; \$1,060,047 to Shands - University of Florida; \$1,683,415 to Tampa General Hospital; and \$2,231,910 to North Broward Hospital District.
7. Special Medicaid payments of \$379,036,725 will be made to inpatient hospitals providing enhanced services to low-income individuals.

Additional changes to the Plan unrelated to Senate Bill 2000 are as follows:

1. The audited data for charity care days has been updated to 1994 charity data to be used to calculate payments under the regular disproportionate share program.
2. The definition for charity care or uncompensated charity care has been updated to reflect the Federal poverty level is equal to or less than 200 percent for charity care or uncompensated charity care in Section X, Definitions, subsection F.
3. All Code of Federal Regulations (CFR) references have been updated to the year 2000.
4. The Health Care Financing Administration (HCFA) has been renamed the Centers for Medicare and Medicaid Services (CMS).

5. The definition for Community Hospital Education Program (CHEP) hospitals has been expanded in Section X, Definitions, subsection R.
6. Hospital inpatient rates shall be reduced by 6 percent effective July 1, 2001 and restored effective April 1, 2002. (Senate Bill 792)
7. Section II.E.6 (page 6), the statutory reference relating to repayments was changed to "Section" 414.41, F.S., instead of "Chapter" 414.41, F.S.
8. Section V.C.6.b.4 (page 18), the reference to "Department" was changed to "AHCA."
9. Section J.1.h. (page 41) referred to two non-existent entities, the Florida Health Care Purchasing Cooperative and the Florida Health Access Corporation, each of which has been disbanded and repealed from statute. These references have been deleted.
10. Section X.H. (page 52), the definition of "Community Hospital Education Program (CHEP) hospitals" referred to the Board of Regents as the administering entity. Chapter 2001-222, Laws of Florida, transferred this responsibility to the Department of Health and therefore the reference to the Board of Regents has been changed to the Department of Health.
11. Revision to the definition of "Rural Hospital" (Section X) to reflect the current statutory definition found in s. 395.602(2)(e), F.S., and s. 408.07(42), F.S.

The effect of the proposed amendment will be Special Medicaid Payments will be made to statutory teaching hospitals, hospitals providing primary care to low-income individuals, hospitals that operate designated or provisional trauma centers and rural hospitals; inpatient reimbursement ceilings will be eliminated for hospitals whose charity care and Medicaid days as a percentage of total hospital days equals or exceeds fifteen percent; hospitals that exceed the fifteen percent as described above and are a trauma center shall be paid \$2,000,000 if their variable cost rate is less than their variable cost target or county ceiling target; inpatient reimbursement ceilings will be eliminated for hospitals whose Medicaid days as a percentage of total hospital days exceeds 9.6%, and are a trauma center; Special Medicaid payments will be made to hospitals that serve as a safety net in providing emergency and inpatient care to low-income and indigent individuals; the Medicaid inpatient per diem rate will be adjusted for Lake Wales Hospital, Winter Haven Hospital, Health Central Hospital and Larkin Community Hospital in accordance with s. 409.905(5)(c), Florida Statutes; hospital inpatient rates shall be reduced by 6 percent effective July 1, 2001 and restored effective April 1, 2002; from the funds made available under the Medicare program, the Medicaid program, and the State Children's Health Insurance Program Benefits Improvement and Protection Act of 2000 for the 2001 federal fiscal year, disproportionate share program funds shall be distributed as follows: \$13,937,997 to Jackson Memorial;

\$285,298 to Mount Sinai Medical Center; \$313,748 to Orlando Regional Medical Center; \$2,734,019 to University Medical Center – Shands; \$1,060,047 to Shands – University of Florida; \$1,683,415 to Tampa General Hospital; and \$2,231,910 to North Broward Hospital District; Special Medicaid payments of \$379,036,725 will be made to inpatient hospitals providing enhanced services to low-income individuals; the audited data for charity care days has been updated to 1994 charity data to be used to calculate payments under the regular disproportionate share program; the definition for charity care or uncompensated charity care has been updated to reflect the Federal poverty level is equal to or less than 200 percent for charity care or uncompensated charity care in Section X, Definitions, subsection F; all Code of Federal Regulations (CFR) references have been updated to the year 2000; the Health Care Financing Administration (HCFA) has been renamed the Centers for Medicare and Medicaid Services (CMS); the definition for Community Hospital Education Program (CHEP) hospitals has been expanded in Section X, Definitions, subsection R.

SUMMARY: The proposed amendment to rule number 59G-6.020 incorporates revisions to the Florida Title XIX Inpatient Hospital Reimbursement Plan by providing for Special Medicaid Payments made to statutory teaching hospitals, hospitals providing primary care to low-income individuals, hospitals that operate designated or provisional trauma centers and rural hospitals; inpatient reimbursement ceilings will be eliminated for hospitals whose charity care and Medicaid days as a percentage of total hospital days equals or exceeds fifteen percent; hospitals that exceed the fifteen percent as described above and are a trauma center shall be paid \$2,000,000 if their variable cost rate is less than their variable cost target or county ceiling target; inpatient reimbursement ceilings will be eliminated for hospitals whose Medicaid days as a percentage of total hospital days exceeds 9.6%, and are a trauma center; Special Medicaid payments will be made to hospitals that serve as a safety net in providing emergency and inpatient care to low-income and indigent individuals; the Medicaid inpatient per diem rate will be adjusted for Lake Wales Hospital, Winter Haven Hospital, Health Central Hospital and Larkin Community Hospital in accordance with s. 409.905(5)(c), Florida Statutes; hospital inpatient rates shall be reduced by 6 percent effective July 1, 2001 and restored effective April 1, 2002; from the funds made available under the Medicare program, the Medicaid program, and the State Children's Health Insurance Program Benefits Improvement and Protection Act of 2000 for the 2001 federal fiscal year, disproportionate share program funds shall be distributed as follows: \$13,937,997 to Jackson Memorial; \$285,298 to Mount Sinai Medical Center; \$313,748 to Orlando Regional Medical Center; \$2,734,019 to University Medical Center – Shands; \$1,060,047 to Shands – University of Florida; \$1,683,415 to Tampa General Hospital; and \$2,231,910 to North Broward Hospital District; Special

Medicaid payments of \$379,036,725 will be made to inpatient hospitals providing enhanced services to low-income individuals; the audited data for charity care days has been updated to 1994 charity data to be used to calculate payments under the regular disproportionate share program; the definition for charity care or uncompensated charity care has been updated to reflect the Federal poverty level is equal to or less than 200 percent for charity care or uncompensated charity care in Section X, Definitions, subsection F; all Code of Federal Regulations (CFR) references have been updated to the year 2000; the Health Care Financing Administration (HCFA) has been renamed the Centers for Medicare and Medicaid Services (CMS); the definition for Community Hospital Education Program (CHEP) hospitals has been expanded in Section X, Definitions, subsection R.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS: A statement of estimated regulatory cost has not been prepared.

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

SPECIFIC AUTHORITY: 409.919 FS.

LAW IMPLEMENTED: 409.908 FS.

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

TIME AND DATE: 9:00 a.m., January 14, 2002

PLACE: Building 3, Conference Room C, 2727 Fort Knox Boulevard, Tallahassee, Florida 32308

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: John Owens, Medicaid Program Analysis, Agency for Health Care Administration, Building 3, Room 2120B, 2727 Mahan Drive, Mail Stop 21, Tallahassee, Florida 32308

THE FULL TEXT OF THE PROPOSED RULE IS:

59G-6.020 Payment Methodology for Inpatient Hospital Services.

Reimbursement to participating inpatient hospitals for services provided shall be in accord with the Florida Title XIX Inpatient Hospital Reimbursement Plan, Version ~~XX~~ XIX, Effective Date: ~~September 20, 2000~~, and incorporated herein by reference. A copy of the Plan as revised may be obtained by writing to the Office of the Deputy Secretary for Medicaid Director, Agency for Health Care Administration, 2727 Mahan Drive, Building 3, Mail Stop 8, Tallahassee, Florida 32308.

Specific Authority 409.919 FS. Law Implemented 409.908 FS. History--New 10-31-85, Formerly 10C-7.391, Amended 10-1-86, 1-10-89, 11-19-89, 3-26-90, 8-14-90, 9-30-90, 9-16-91, 4-6-92, 11-30-92, 6-30-93, Formerly 10C-7.0391, Amended 4-10-94, 8-15-94, 1-11-95, 5-13-96, 7-1-96, 12-2-96, 11-30-97, 9-16-98, 11-10-99, 9-20-00, _____.

NAME OF PERSON ORIGINATING PROPOSED RULE: Mr. John Owens

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Mr. Bob Sharpe

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

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: December 14, 2001

DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION

Board of Veterinary Medicine

RULE TITLE: Citations **RULE NO.:** 61G18-30.003

PURPOSE AND EFFECT: The purpose of the amendments is to update the rule text with regard to citation violations.

SUMMARY: The Board proposes to add a new subsection (4)(h) which will set forth the fine to be charged for operating a veterinary establishment without a permit for more than 60 days but less than one year.

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

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

SPECIFIC AUTHORITY: 455.224, 474.206 FS.

LAW IMPLEMENTED: 455.224 FS.

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

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Sherry Landrum, Executive Director, Board of Veterinary Medicine, Northwood Centre, 1940 N. Monroe Street, Tallahassee, Florida 32399-0750

THE FULL TEXT OF THE PROPOSED RULE IS:

61G18-30.003 Citations.

(1) through (3) No change.

(4) Pursuant to Section 455.224, Florida Statutes (1991), the Board sets forth below those violations for which there is no substantial threat to the public health, safety, and welfare; or, if there is a substantial threat to the public health, safety, and welfare, such potential for harm has been removed prior to the issuance of the citation. The Board hereby designates the following as citation violations which shall result in a penalty of five hundred dollars (\$500.00) unless otherwise noted:

(a) through (g) No change.

(h) Operating a veterinary establishment without a premises permit for more than 60 days but less than one year. The fine shall be \$100 per month, to a maximum of \$1,200.

(5) through (7) No change.

Specific Authority 474.206, 455.224 FS. Law Implemented 455.224 FS. History—New 1-1-92, Formerly 21X-30.003, Amended 7-4-95, 5-13-96,

NAME OF PERSON ORIGINATING PROPOSED RULE:
Board of Veterinary Medicine

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

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

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: December 7, 2001

DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION

Board of Accountancy

RULE TITLE: Fees
RULE NO.: 61H1-31.001

PURPOSE AND EFFECT: The Board proposes to update this rule to increase the fees to \$60.00 for an applicant to sit for the Uniform CPA Examination. In anticipation of an increase in charges from the AICPA, the Board proposes to increase the fee in November 2002 to \$75.00. If the AICPA does not increase its fees, the Board will not increase the fees to \$75.00.

SUMMARY: This rule sets forth the cost and requirements for an applicant to sit for the Uniform CPA Examination. Explains how and when the Department will defer the fees if an individual is unable to sit for the exam at the time of the initial application. Sets out fees for active, inactive licenses, for renewal of licenses for individuals, for partnerships and for corporations; how to obtain a duplicate license; how to obtain a refund if ineligible to sit for the exam.

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

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

SPECIFIC AUTHORITY: 455.213(2), 455.219(4), 455.271, 473.305, 473.312 FS.

LAW IMPLEMENTED: 119.07, 455.219(4), 455.271, 473.305, 473.312, 473.313 FS.

IF REQUESTED WITHIN 21 DAYS OF THE DATE OF THIS NOTICE, A NOTICE OF HEARING DATE WILL BE PUBLISHED IN THE NEXT AVAILABLE FLORIDA ADMINISTRATIVE WEEKLY. (IF NOT REQUESTED IN WRITING, A HEARING WILL NOT BE HELD):

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Martha Willis, Executive Director, Board of Accountancy, 240 N. W. 76 Drive, Suite 1, Gainesville, Florida 32607

THE FULL TEXT OF THE PROPOSED RULE IS:

61H1-31.001 Fees.

(1) For the applicant to sit for the Uniform CPA Examination, as a first time candidate or for candidates transferring partial credits from another state, thirty-five dollars (\$35.00) and ~~sixty dollars (\$60.00) fifty dollars (\$50.00)~~ per part; ~~sixty dollars (\$60.00) fifty dollars (\$50.00)~~ per part for extended/conditioned candidates. The charge will go to \$75.00 for the November 2002 exam and thereafter if the American Institute of Certified Public Accountants increases its charge as expected. If the charge does not occur, the fee will remain \$60.00. The Department will defer the fee until the next examination if the applicant is unable to sit for the examination due to illness, death in the immediate family, military service, or jury duty provided the applicant's illness is supported by a notarized statement of a physician, or absence, by reason of military service is supported by a copy of military order or a letter from the Commanding Officer or death in immediate family is supported by a notarized statement by the applicant and a copy of the death certificate or obituary, or jury duty is supported by evidence from the appropriate court. Such request must be made in writing within sixty (60) days from the last day of the examination.

(2) For initial licensure the fee shall be twenty-five dollars (\$25.00). However, in no event will an initial license be issued if the initial licensure fee and all required documents are not received within 12 months of the date of certification by the Board. In such a case, the certification expires and the individual affected must reapply and requalify for licensure based on the laws and rules in effect at the time of the new application.

(3) For individual active and inactive status licenses, biennial renewal fee provided in Section 473.305, F.S., ninety-five dollars (\$95.00).

(4) For change of status other than during the renewal period, fifty dollars (\$50.00); for reactivation of an inactive status license to active status, fifty dollars (\$50.00); for reactivation of a delinquent status license to active or changing a delinquent status license to inactive status, fifty dollars (\$50.00).

In all cases completion of the requirements of Rule 61H1-33.006, F.A.C., and passage of the examination on Chapters 455 and 473, F.S., and related rules shall be required for reactivation.

(5) The biennial renewal fee provided in Section 473.305, F.S., for partnerships, corporations, and limited liability companies licensed in Section 473.3101, F.S., one hundred fifty dollars (\$150.00). The penalty for late renewal for partnerships, corporations, and limited liability companies shall be fifty dollars (\$50.00). The biennial renewal fee provided in Section 473.305, F.S., for sole proprietor firms and other legal entities owned by a sole proprietor licensed in Section 473.3101, F.S., twenty-five dollars (\$25.00). The

penalty for late renewal for sole proprietor firms and other legal entities owned by a sole proprietor shall be twenty-five dollars (\$25.00).

(6) Persons, partnerships and corporations licensed in the first year of the biennial period, as established by the Department, shall pay the fees established above. Those persons, partnerships and corporations licensed in the second year of the biennial period, as established by the Department, shall pay one half of the fees established above.

(7) For application for license by endorsement provided in Section 473.308, F.S., One Hundred Fifty Dollars (\$150.00) per person. If such application is withdrawn or denied, no portion of the fee will be refunded by the Department.

(8) The fee for the examination is refundable in the amount of fifty dollars per part if the applicant is found to be ineligible to sit for the examination.

(9) For fees relating to the Foreign Language Examination refer to Section 455.11, F.S.

(10) The scan sheet for the Laws and Rules Examination must be postmarked by or on July 15. No Laws and Rules Examination scan sheet will be accepted if it is postmarked after December 1.

(11) The CPE reporting form must be postmarked by or on July 15. If it is postmarked after July 15 but by or on December 1, a \$50 delinquency fee will be imposed by the Board. No CPE reporting form will be accepted if it is postmarked after December 1.

(12) Duplicate licensee fee – If a licensee requests a duplicate license, the Board will issue the duplicate if the request is made in writing and is accompanied by a payment of \$25.

Specific Authority 455.213(2), 455.219(4), 455.271, 473.305, 473.312 FS. Law Implemented 119.07, 455.219(4), 455.271, 473.305, 473.312, 473.313 FS. History—New 12-4-79, Amended 2-3-81, 3-4-82, 11-6-83, 3-29-84, Formerly 21A-31.01, Amended 6-4-86, 9-16-87, 2-1-88, 8-30-88, 2-6-89, 12-18-89, 12-28-89, 8-16-90, 4-8-92, 12-2-92, Formerly 21A-31.001, Amended 11-4-93, 2-14-95, 11-3-97, 6-22-98, 10-28-98, 7-15-99, _____.

NAME OF PERSON ORIGINATING PROPOSED RULE: Board of Accountancy

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

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: November 20, 2001

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: December 14, 2001

DEPARTMENT OF ENVIRONMENTAL PROTECTION

DOCKET NO.: 01-53R

RULE CHAPTER TITLE: Wastewater Facility and Activities

RULE CHAPTER NO.: 62-620

RULE TITLE: General Conditions for All Permits

RULE NO.: 62-620.610

PURPOSE AND EFFECT: Certain unauthorized releases or spills of treated or untreated wastewater would be reported to the Department using the State Warning Point Toll Free Number so that these spills can be responded to on an expedited basis in order to protect public health and the environment. These notifications are already required under the existing rule.

SUMMARY: This rulemaking amends language in Rule 62-620.610(20), F.A.C., to provide that certain unauthorized discharges be reported to the Department by calling the State Warning Point's toll free telephone number to facilitate communication and enable immediate response action where necessary.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COST: None.

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

SPECIFIC AUTHORITY: 403.061, 403.087 FS.

LAW IMPLEMENTED: 403.051, 403.061, 403.087, 403.088, 403.0885 FS.

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

TIME AND DATE: 10:00 a.m., January 14, 2002

PLACE: Department of Environmental Protection, Room 609, 2600 Blair Stone Road, Tallahassee, FL 32301

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 48 hours before the meeting by contacting the Bureau of Personnel Services at (850)488-2996. If you are hearing or speech impaired, please contact the Florida Relay Service by calling (800)955-8771 (TDD).

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: John Coates, P.E., Environmental Administrator, 2600 Blair Stone Road, M.S. #3550 Tallahassee, Florida 32399-2400, (850)488-4520

THE FULL TEXT OF THE PROPOSED RULE IS:

62-620.610 General Conditions for All Permits.

(1) through (19) No change.

(20) The permittee shall report to the Department any noncompliance which may endanger health or the environment. Any information shall be provided orally within 24 hours from the time the permittee becomes aware of the circumstances. A written submission shall also be provided within five days of the time the permittee becomes aware of the circumstances. The written submission shall contain: a

description of the noncompliance and its cause; the period of noncompliance including exact dates and time, and if the noncompliance has not been corrected, the anticipated time it is expected to continue; and steps taken or planned to reduce, eliminate, and prevent recurrence of the noncompliance.

(a) No change.

(b) For releases or spills of treated or untreated wastewater to surface or ground waters, unless authorized elsewhere in this permit, oral reports as required above shall be provided as follows:

1. For unauthorized releases or spills in excess of 1,000 gallons per incident, or where public health or the environment may be endangered, oral reports shall be provided to the Department by calling the STATE WARNING POINT TOLL FREE NUMBER (800) 320-0519, as soon as practical, but no later than 24 hours from the time the permittee becomes aware of the discharge. The permittee, to the extent known, shall provide the following information to the State Warning Point:

a. Name, address, and telephone number of person reporting.

b. Name, address, and telephone number of permittee or responsible person for the discharge.

c. Date and time of the discharge and status of discharge (ongoing or ceased).

d. Characteristics of the wastewater spilled or released (untreated or treated, industrial or domestic wastewater).

e. Estimated amount of the discharge.

f. Location or address of the discharge.

g. Source and cause of the discharge.

h. Whether the discharge was contained on-site, and cleanup actions taken to date.

i. Description of area affected by the discharge, including name of water body affected, if any.

j. Other persons or agencies contacted.

2. For unauthorized releases or spills of 1,000 gallons or less, per incident, oral reports shall be provided to the Department within 24 hours from the time the permittee becomes aware of the discharge.

(c)(b) If the oral report has been received within 24 hours, the noncompliance has been corrected, and the noncompliance did not endanger health or the environment, the Department shall waive the written report.

Specific Authority 403.061, 403.087 FS. Law Implemented 403.051, 403.061, 403.087, 403.088, 403.0885 FS. History—New 11-29-94, Amended 12-24-96, 10-23-00, _____.

NAME OF PERSON ORIGINATING PROPOSED RULE:
Mimi Drew, Division Director
NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Allan Bedwell, Deputy Secretary
DATE PROPOSED RULE APPROVED BY AGENCY HEAD: December 11, 2001

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: December 7, 2001

DEPARTMENT OF HEALTH

Board of Clinical Laboratory Personnel

RULE TITLE: Definitions
RULE NO.: 64B3-2.003

PURPOSE AND EFFECT: The Board proposes to clarify which courses will be counted as academic science.

SUMMARY: Physics and physical science are not acceptable courses for purposes of academic science.

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

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

SPECIFIC AUTHORITY: 483.805(4), 483.811(2) FS.

LAW IMPLEMENTED: 483.803, 483.811, 483.821, 483.823 FS.

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

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Joe Baker, Jr., Board Executive Director, Board of Clinical Laboratory Personnel, 4052 Bald Cypress Way, Bin #C07, Tallahassee, Florida 32399-3259

THE FULL TEXT OF THE PROPOSED RULE IS:

64B3-2.003 Definitions.

(1) through (5) No change.

(6) Academic science is a science course with a ~~physical~~, chemical or biological science prefix. Acceptable courses include general chemistry, organic chemistry, biochemistry, qualitative or quantitative analysis, ~~physics~~, general biology, zoology, physiology, comparative anatomy, bacteriology, parasitology, cell biology and immunology. For purposes of this rule, the courses of geology, astronomy, entomology, oceanography marine biology, physics and physical science or remedial, preparatory or introductory science courses shall not be acceptable.

(7) through (20) No change.

Specific Authority 483.805(4), 483.811(2) FS. Law Implemented 483.803, 483.811, 483.821, 483.823 FS. History—New 11-4-93, Formerly 61F3-2.003, Amended 11-21-94, 11-30-94, 12-26-94, 5-3-95, 7-12-95, Formerly 590-2.003, Amended 3-19-98, 12-13-98, 3-28-99, 9-12-99, 11-15-99, _____.

NAME OF PERSON ORIGINATING PROPOSED RULE:
Board of Clinical Laboratory Personnel

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Board of Clinical Laboratory Personnel

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: October 19, 2001

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: October 12, 2001

DEPARTMENT OF HEALTH

Board of Clinical Laboratory Personnel

RULE TITLE: Technologist RULE NO.: 64B3-5.003

PURPOSE AND EFFECT: The Board proposes to update cytology qualifications and to delete a duplicative provision relating to technologists.

SUMMARY: The proposal clarifies the qualifications for Cytology technologist and deletes technologist responsibilities that are set forth elsewhere in the rules.

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

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

SPECIFIC AUTHORITY: 483.805(4), 483.811(2), 483.823 FS.

LAW IMPLEMENTED: 381.0034, 483.800, 483.809, 483.811(2), 483.815, 483.823 FS.

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

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Joe Baker, Jr., Board Executive Director, Board of Clinical Laboratory Personnel, 4052 Bald Cypress Way, Bin #C07, Tallahassee, Florida 32399-3259

THE FULL TEXT OF THE PROPOSED RULE IS:

64B3-5.003 Technologist.

(1) Technologist Qualifications. Degrees or semester hours of academic credit required in this section shall be obtained at a regionally accredited college or university or, if foreign education, equated pursuant to subsection 64B3-6.002(6), F.A.C. All associate degrees used to qualify shall include, at a minimum, 60 semester hours of academic credit including a total of 16 ~~eight~~ semester hours ~~each~~ of academic biological and/or chemical science. Applicants for technologist licensure in the categories of microbiology, serology/immunology, chemistry, hematology, immunohematology, radioassay, histocompatibility, blood

banking and blood gas analysis shall have four hours of Board approved HIV/AIDS continuing education and at a minimum have one of the following:

(a) through (k) No change.

(2) Qualifications for Cytology Technologist. For the specialty of cytology, applicants for technologist shall ~~be have earned a baccalaureate degree with coursework including at least 16 semester hours of academic science, and shall have successfully completed an accredited training program in cytology. Applicants who were~~ nationally certified in cytology prior to 1985 by the American Society of Clinical Pathologists ~~must have an associates degree or the equivalent.~~ Applicants shall have four hours of Board approved HIV/AIDS continuing education as stated in Rule 64B3-11.005, F.A.C., or in subsequent rule of the Department.

(3) Qualifications for Histology Technologist. For the category of histology, applicants for technologist licensure shall have four hours of Board approved HIV/AIDS continuing education as stated in Rule 64B3-11.005, F.A.C., or in subsequent rule of the Department, and have one of the following:

(a) Board certification gained by examination in histology through the Board of Registry of the American Society of Clinical Pathologists certification at the Histotechnologist (HTL) level.

(b) Board certification gained by examination in histology through the Board of Registry of the American Society of Clinical Pathologists certification at the Histotechnician (HT) level, 48 contact hours of continuing education in immunohistochemistry/advanced histologic techniques and five years of pertinent clinical laboratory experience ~~post certification.~~

(c) Graduation from a NAACLS approved associate degree histotechnology program and Board certification gained by examination in histology through the Board of Registry of the American Society of Clinical Pathologists certification at the Histotechnician (HT) level.

(d) Board certification gained by examination in histology through the Board of Registry of the American Society of Clinical Pathologists certification at the Histotechnician (HT) level and Qualification in Immunohistochemistry (QIHC).

(e) Florida licensure as a histology technician, 48 contact hours of continuing education in immunohistochemistry/advanced histologic techniques and 10 years of pertinent clinical laboratory experience ~~post licensure.~~

(4) through (5) No change.

~~(6) Responsibilities of Technologists. Technologists shall:~~

~~(a) Assist the supervisor in fulfilling the supervisor's responsibilities, as assigned, or, in the absence of the supervisor, handle supervisory responsibilities as needed.~~

~~(b) Follow the clinical laboratory's procedures for specimen handling and processing, test analyses, reporting and maintaining records of patient test results.~~

~~(e) Adhere to the clinical laboratory's quality control policies, document all quality control activities, instrument and procedural calibrations and maintenance performed in accordance with the clinical laboratory's policies and procedures.~~

~~(d) Follow the clinical laboratory's established policies and procedures whenever test systems are not within the clinical laboratory's defined acceptable levels of performance and document corrective action taken.~~

~~(e) Identify problems that may adversely affect test performance or reporting of test results and either correct the problems or immediately notify a supervisor or director.~~

~~(f) Exercise professional judgement in evaluation of specimen integrity, result accuracy and validity and take corrective action as necessary. If a specimen appears to be compromised, the technologist shall cause a disclaimer statement to appear in the report indicating the potential compromised nature of the result and why, in accordance with Chapter 64B3-7, F.A.C.~~

~~(g) When performing cytology procedures, document slide interpretation results of each case examined or reviewed as specified in Chapter 64B3-7, F.A.C., and the clinical laboratory's policies and procedures. In each 24 hour period, record the number of slides and the number of hours spent examining or reviewing slides.~~

~~(6)(7) Qualifications for Molecular Genetics Technologist. For the specialty of molecular genetics, applicants for technologist licensure shall have a minimum of a baccalaureate degree, which shall include 16 semester hours of academic science, four hours of Board approved HIV/AIDS continuing education as stated in Rule 64B3-11.005, F.A.C., or in subsequent rule of the Department, and one of the following:~~

- ~~(a) Successfully completed a technologist level accredited or Board approved program in molecular genetics.~~
- ~~(b) One year of pertinent clinical laboratory experience in molecular genetics; or~~
- ~~(c) Successfully passed the molecular biology examination given by NCA (National Certification Agency for Medical Laboratory Personnel).~~

Specific Authority 483.805(4), 483.811(2), 483.823 FS. Law Implemented 381.0034, 483.800, 483.809, 483.811(2), 483.815, 483.823 FS. History—New 12-6-94, Amended 7-12-95, 9-10-95, 12-4-95, Formerly 59O-5.003, Amended 5-26-98, 1-11-99, 7-5-01,_____.

NAME OF PERSON ORIGINATING PROPOSED RULE:
Board of Clinical Laboratory Personnel

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Board of Clinical Laboratory Personnel

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: October 19, 2001

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: October 12, 2001

DEPARTMENT OF HEALTH

Board of Medicine

RULE TITLE: Disciplinary Guidelines
RULE NO.: 64B8-8.001

PURPOSE AND EFFECT: The proposed rule amendments are intended to clarify guidelines with regard to fraud violations.

SUMMARY: The proposed rule amendments set forth guidelines pursuant to new statutory provisions with regard to violations for fraud.

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: 458.331(5), 458.309, 456.079 FS.

LAW IMPLEMENTED: 458.331(5), 456.072, 456.079 FS.

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

TIME AND DATE: 10:00 a.m., January 16, 2002

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

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Pamela King, Acting Executive Director, Board of Medicine/MQA, 4052 Bald Cypress Way, Bin #C03, Tallahassee, Florida 32399-3253

THE FULL TEXT OF THE PROPOSED RULE IS:

64B8-8.001 Disciplinary Guidelines.

(1) No change.

(2) Violations and Range of Penalties. In imposing discipline upon applicants and licensees, in proceedings pursuant to Section 120.57(1) and 120.57(2), Florida Statutes, the Board shall act in accordance with the following disciplinary guidelines and shall impose a penalty within the range corresponding to the violations set forth below. The verbal identification of offenses are descriptive only; the full language of each statutory provision cited must be consulted in order to determine the conduct included.

RECOMMENDED RANGE OF PENALTY

VIOLATION	FIRST OFFENSE	SECOND OFFENSE
(a) Attempting to obtain, <u>obtaining or renewing</u> a license or certificate by bribery, fraud or through an error of the Department or the Board. (458.331(1)(a), F.S.)	(a) From denial or revocation of license with ability to reapply upon payment of \$5,000.00 fine to denial of license without ability to reapply, or permanent revocation.	(a) From denial or revocation without the ability to reapply and payment of a \$10,000 fine, to denial or revocation without the ability to reapply and a \$10,000.00 fine.
(456.072(1)(h), F.S.)		
1. <u>Attempting to obtain an initial license by bribery or fraud.</u>	1. <u>Denial of application and a \$10,000.00 fine.</u>	
2. <u>Attempting to renew a license by bribery or fraud.</u>	2. <u>From revocation of the license with ability to reapply upon payment of a \$10,000.00 fine to permanent revocation.</u>	2. <u>Revocation and a \$10,000.00 fine.</u>
3. <u>Obtaining or renewing a license by bribery or fraud.</u>	3. <u>From revocation of the license with ability to reapply upon payment of a \$10,000.00 fine to permanent revocation.</u>	3. <u>Revocation and a \$10,000.00 fine.</u>
4. <u>Obtaining or renewing a license through error of the Department or the Board.</u>	4. <u>Revocation.</u>	4. <u>Revocation.</u>
(b) Action taken against license by another jurisdiction.	(b) From imposition of discipline comparable to the discipline which would have been imposed if the occurred in Florida to suspension or denial of the license until the license is unencumbered in the jurisdiction in which disciplinary action was originally taken, and an administrative fine ranging from \$1,000.00 to \$5,000.00.	(b) From imposition of discipline comparable to the discipline which would have been imposed if the occurred in Florida to revocation or denial of the license, and an administrative fine ranging from \$5,000.00 to \$10,000.00.
(458.331(1)(b), F.S.)		
(456.072(1)(f), F.S.)		
1. Action taken against license by another jurisdiction relating to healthcare fraud in dollar amounts in excess of \$5,000.00.	1. <u>Revocation or in the case of application for licensure, denial of licensure, and a fine of \$10,000.00.</u>	1. <u>Revocation or denial without the ability to reapply and payment of a \$10,000.00 fine.</u>
2. Action taken against license by another jurisdiction relating to healthcare fraud in dollar amounts of \$5,000.00 or less.	2. A \$10,000.00 administrative fine, and suspension of the license, followed by a period of probation.	2. <u>Revocation or denial and a fine of \$10,000.00.</u>
(c) Guilty of crime directly relating to practice or ability to practice.	(c) From probation to revocation or denial of the license and an administrative fine ranging from \$1,000.00 to \$10,000.00.	(c) From suspension to revocation or denial of the license and an administrative fine ranging from \$5,000.00 to \$10,000.00
(458.331(1)(c), F.S.)		
(456.072(1)(c), F.S.)		
1. Involving a crime related to healthcare fraud in dollar amounts in excess of \$5,000.00.	1. <u>Revocation or in the case of application for licensure, denial of licensure and a fine of \$10,000.00.</u>	1. <u>Revocation without the ability to reapply or in the case of application for licensure, denial of licensure, and payment of a \$10,000.00 fine.</u>

2. Involving a crime related to healthcare fraud in dollar amounts of \$5,000.00 or less.

(d) False, deceptive, or misleading advertising.
(458.331(1)(d), F.S.)

1. Negligent false, deceptive, or misleading advertising.
(458.331(1)(d), F.S.)

2. Fraudulent false, deceptive or misleading advertising.

(e) through (f) No change.

(g) Failure to perform legal obligation.
(458.331(1)(g), F.S.)
(456.072(1)(k), F.S.)

1. No change.
2. Continuing medical education (CME) violations.
(456.072(1)(e), F.S.)
(456.072(1)(s), F.S.)

a. Failure to document required HIV/AIDS and related infections of TB or domestic violence or medical errors CME, or substituted end-of-life care CME.

~~b. Failure to document required domestic violence CME, or substituted end-of-life care CME.~~

b.e. Failure to document required HIV/AIDS and related infections of TB and failure to document domestic violence and failure to document medical errors CME.

~~c.d.~~ No change.

d.e. No change.

3. No change.

2. A \$10,000.00 administrative fine, compliance with any criminal probation, a reprimand and suspension of the license, followed by a period of probation.

~~(d) From a letter of concern to one (1) year suspension or denial, and an administrative fine from \$1,000.00 to \$5,000.00.~~

1. From a letter of concern to one (1) year suspension or denial, and an administrative fine from \$1,000.00 to \$5,000.00.

2. From reprimand to up to one (1) year suspension or denial, and an administrative fine of \$10,000.00.

(g) For any offense not specifically listed herein, based upon the severity of the offense and the potential for patient harm, from a letter of concern to revocation or denial and an administrative fine from \$1,000.00 to \$10,000.00.

2. Within twelve months of the date of the filing of the final order, the licensee must submit certified documentation of completion of all CME requirements for the period for which the citation was issued; prior to renewing the license for the next biennium, Respondent must document compliance with the CME requirements for the relevant period; AND:

a. An administrative fine of \$500.00 to \$1,000.00.

~~b. An administrative fine of \$500.00 to \$1,000.00.~~

b.e. An administrative fine of \$1,000.00 to \$2,000.00.

2. Revocation and a fine of \$10,000.00.

~~(d) From reprimand to up to one (1) year suspension or denial, and an administrative fine from \$5,000.00 to \$10,000.00.~~

1. From reprimand to up to one (1) year suspension or denial, and an administrative fine from \$5,000.00 to \$10,000.00.

2. From suspension up to revocation and a fine of \$10,000.00.

(g) For any offense not specifically listed herein, based upon the severity of the offense and the potential for patient harm, from a reprimand to revocation or denial and an administrative fine from \$5,000.00 to \$10,000.00.

2. Within twelve months of the date of the filing of the final order, the licensee must submit certified documentation of completion of all CME requirements for the period for which the citation was issued; prior to renewing the license for the next biennium, Respondent must document compliance with the CME requirements for the relevant period; AND:

a. A reprimand and an administrative fine of \$1,000.00 to \$5,000.00.

~~b. A reprimand and an administrative fine of \$1,000.00 to \$5,000.00.~~

b.e. A reprimand and an administrative fine of \$5,000.00 to \$10,000.00.

4. Failing to comply with the requirements for profiling and credentialing.

(456.072(1)(v), F.S.);
(458.319, F.S.);
(458.565, F.S.)

a. Involving a violation of any provision of Chapter 456, F.S., for failing to comply with the requirements for profiling and credentialing, by failing to timely provide updated information, on a profile, credentialing, or initial or renewal licensure application, not appropriate for a notice of noncompliance.

b. Involving violations of any provision of Chapter 456, F.S., for making misleading, untrue, deceptive, or fraudulent representations on a profile, credentialing, or initial or renewal licensure application.

(I) negligently making misleading or untrue representations on a profile, credentialing, or initial licensure or renewal application.

(II) fraudulently making misleading, untrue, deceptive or fraudulent representations on a profile, credentialing, or initial licensure or renewal application.

5. through 9. No change.

(h) Filing a false report or failing to file a report as required.

(458.331(1)(h), F.S.)
(456.072(1)(l), F.S.)

1. Negligently filing a false report or failing to file a report as required.

2. Fraudulently filing a false report or failing to file a report as required.

~~3.1.~~ Involving healthcare fraud in dollar amounts in excess of \$5,000.00.

~~4.2.~~ Involving healthcare fraud in dollar amounts of \$5,000.00 or less.

(i) through (ff) No change.

a. If the licensee complies within six (6) months of the violation, then an administrative fine of up to \$2,000.00; if compliance after six (6) months, an administrative fine of up to \$5,000.00 and a reprimand.

~~b. Referral to State Attorney for prosecution pursuant to Sections 456.067 and 456.066, F.S., and from suspension and a reprimand and a \$5,000.00 administrative fine to revocation or denial.~~

(I) From a \$1,000.00 fine and 3 hours CME on ethics to suspension and a reprimand and a \$5,000.00 administrative fine.

(II) Referral to State Attorney for prosecution pursuant to Sections 456.067 and 456.066, F.S. and from suspension and a reprimand and a \$10,000.00 fine to revocation or denial.

~~(h) From a letter of concern or denial to one (1) year probation, and an administrative fine from \$1,000.00 to \$5,000.00.~~

1. From a letter of concern or denial to one (1) year probation, and an administrative fine from \$1,000.00 to \$5,000.00.

2. From one (1) year probation to revocation or denial, and a \$10,000.00 fine.

~~3.1.~~ Revocation or in the case of application for licensure, denial of licensure, and a \$10,000.00 fine.

~~4.2.~~ A \$10,000.00 administrative fine, suspension of the license, followed by a period of probation.

a. If the licensee complies within six (6) months of the violation, then a reprimand and an administrative fine from \$5,000.00 to \$10,000.00; if compliance after six (6) months, from suspension to revocation and an administrative fine of \$10,000.00.

~~b. Referral to State Attorney for prosecution and from suspension and a reprimand and a \$10,000.00 fine to revocation or denial.~~

(I) From suspension and a reprimand and a \$10,000.00 fine to revocation or denial.

(II) Referral to State Attorney for prosecution and revocation or denial and a \$10,000.00 fine.

~~(h) From one (1) year probation to revocation or denial, and an administrative fine from \$5,000.00 to \$10,000.00.~~

1. From one (1) year probation to revocation or denial, and an administrative fine from \$5,000.00 to \$10,000.00.

2. From suspension to revocation and a \$10,000.00 fine.

~~1. Revocation or denial without the ability to reapply and payment of a \$10,000.00 fine.~~

~~4.2.~~ Revocation and a \$10,000.00 fine

(gg) Misrepresenting or concealing a material fact.
(458.331(1)(gg), F.S.)

(gg) From denial or revocation of license with ability to reapply upon payment of up to a \$10,000 fine ~~\$1,000.00 fine~~ to denial of license without ability to reapply.

(gg) From suspension to revocation or denial, and an administrative fine from \$5,000.00 to \$10,000.00.

(hh) through (oo) No change.

(3) through (7) No change.

Specific Authority 458.331(5), 458.309, 456.079 FS. Law Implemented 458.331(5), 456.072, 456.079 FS. History--New 12-5-79, Formerly 21M-20.01, Amended 1-11-87, 6-20-90, Formerly 21M-20.001, Amended 11-4-93, Formerly 61F6-20.001, Amended 6-24-96, 12-22-96, Formerly 59R-8.001, Amended 5-14-98, 12-28-99, 1-31-01, 7-10-01,_____.

NAME OF PERSON ORIGINATING PROPOSED RULE: Rules Committee, Board of Medicine
NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Board of Medicine
DATE PROPOSED RULE APPROVED BY AGENCY HEAD: November 30, 2001
DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: August 31, 2001

DEPARTMENT OF HEALTH

Board of Nursing

RULE TITLE: Definitions
RULE NO.: 64B9-3.001

PURPOSE AND EFFECT: The Board proposed a review of this rule to determine if any amendments are necessary.

SUMMARY: The Board determined a C- grade reflects substantial equivalency as required for licensure by endorsement.

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

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

SPECIFIC AUTHORITY: 464.006, 464.022(4) FS.

LAW IMPLEMENTED: 464.008(1)(b), 464.015(4), 464.022(4), 464.019 FS.

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

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Joe Baker, Interim Executive Director, Board of Nursing/MQA, 4052 Bald Cypress Way, Bin #C02, Tallahassee, Florida 32399-3252

THE FULL TEXT OF THE PROPOSED RULE IS:

64B9-3.001 Definitions.

(1) through (7) No change.

(8) Practical Nursing Education Equivalency – professional nursing courses of study, successfully completed with a grade of “C-” “C” or better, which meet the standards of practical nursing education required in approved practical nursing programs in Florida.

(9) No change.

Specific Authority 464.006, 464.022(4) FS. Law Implemented 464.008(1)(b), 464.015(4), 464.022(4), 464.019 FS. History--New 4-27-80, Amended 7-11-83, Formerly 21O-8.20, Amended 3-3-87, Formerly 21O-8.020, 61F7-3.001, Amended 7-5-95, 11-15-95, Formerly 59S-3.001, Amended 11-2-98, 1-22-01,_____.

NAME OF PERSON ORIGINATING PROPOSED RULE: Board of Nursing

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

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: December 5, 2001

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: November 9, 2001

DEPARTMENT OF HEALTH

Board of Nursing

RULE TITLES: Disciplinary Proceedings
RULE NOS.: 64B9-8.005

Disciplinary Guidelines; Range of Penalties; Aggravating and Mitigating Circumstances 64B9-8.006

PURPOSE AND EFFECT: The Board proposes to review these rules to determine if amendments are necessary.

SUMMARY: Rule 64B9-8.005 is being amended to set forth and define what qualifies as failing to meet or departing from minimal standards of acceptable and prevailing practice. The substantial rewrite of rule is 64B9-8.006 is intended to clarify the minimum and maximum penalties and appropriate citations to violations of any present rules or statutory provisions relating to the Board of Nursing.

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: 456.072, 456.079, 464.006 FS.

LAW IMPLEMENTED: 456.072, 456.079, 464.018, 464.018 FS.

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

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULES IS: Joe Baker, Interim Executive Director, Board of Nursing/MQA, 4052 Bald Cypress Way, Bin #C02 Tallahassee, Florida 32399-3252

THE FULL TEXT OF THE PROPOSED RULES IS:

(Substantial rewording of Rule 64B9-8.005 follows. See Florida Administrative Code for present text.)

64B9-8.005 Disciplinary Proceedings.

(1) Unprofessional conduct shall include:

(a) Inaccurate recording; or

(b) Misappropriating supplies or equipment; or

(c) Leaving a nursing assignment without advising licensed nursing personnel; or

(d) Practicing registered nursing or practical nursing in the State of Florida with a delinquent license for no more than 90 days; or

(e) Acts of negligence either by omission or commission; or

(f) Submitting the attestation of 24 hours of continuing education and one hour continuing education on domestic violence for licensure renewal under Rule 64B9-3.013 when the licensee has not attended or completed all such hours in the biennium; or

(g) Failure of an ARNP dispensing practitioner to comply with the registration and compliance requirements of Rule 64B9-4.011.

(2) Failing to meet or departing from minimal standards of acceptable and prevailing nursing practice shall include, but not be limited to, the following:

(a) Falsifying or altering of patient records or nursing progress records, employment applications or time records; or

(b) Administering medications or treatments in negligent manner; or

(c) Misappropriating drugs; or

(d) Violating the confidentiality of information or knowledge concerning a patient; or

(e) Discrimination on the basis of race, creed, religion, sex, age or national origin, in the rendering of nursing services as it relates to human rights and dignity of the individuals; or

(f) Engaging in fraud, misrepresentation, or deceit in taking the licensing examination; or

(g) Aiding and abetting the practice of registered nursing or practical nursing by any person not licensed as a registered nurse or a licensed practical nurse; or

(h) Impersonating another licensed practitioner, or permitting another person to use his certificate for the purpose of nursing for compensation; or

(i) Acts of gross negligence, either by omission or commission; or

(j) Exercising influence on a patient in such a manner as to exploit the patient for financial gain of the licensee or a third party; or

(k) Testing positive for any drugs under Chapter 893 on any drug screen when the nurse does not have a prescription and legitimate medical reason for using such drug; or

(l) Violation of a Board order entered in a licensure proceeding.

(m) Providing false or incorrect information to the employer regarding the status of the license; or

(n) Practicing beyond the scope of the licensee's license, educational preparation or nursing experience.

Specific Authority 464.006 FS. Law Implemented 464.018 FS. History—New 11-28-79, Amended 3-16-81, 10-8-81, 9-11-83, Formerly 21O-10.05, Amended 4-21-86, 2-5-87, 8-2-90, 3-12-91, 9-16-91, 4-18-92, 9-29-92, Formerly 21O-10.005, Amended 9-7-93, Formerly 61F7-8.005, Amended 11-6-94, 5-1-95, 11-16-95, Formerly 59S-8.005, Amended 2-18-98, 3-23-00, _____.

(Substantial rewording of Rule 64B9-8.006 follows. See Florida Administrative Code for present text.)

64B9-8.006 Disciplinary Guidelines; Range of Penalties; Aggravating and Mitigating Circumstances.

(1) The legislature created the Board to assure protection of the public from nurses who do not meet minimum requirements for safe practice or who pose a danger to the public. The suspensions, restrictions of practice, and conditions of probation used by the Board in discharging its duties under Sections 464.018 and 456.072, F.S., shall include, but are not limited to, the following:

(a) Suspension until appearance before the Board or for a definite time period and demonstration of ability to practice safely.

(b) Suspension until appearance before the Board, or for a definite time period, and submission of mental or physical examinations from professionals specializing in the diagnosis or treatment of the suspected condition, completion of counseling, completion of continuing education, demonstration of sobriety and ability to practice safely.

(c) Suspension until fees and fines paid or until proof of continuing education completion submitted.

(d) Suspension until evaluation by and treatment in the Intervention Project for Nurses. In cases involving substance abuse, chemical dependency, sexual misconduct, physical or

mental conditions which may hinder the ability to practice safely, the Board finds participation in the IPN under a stayed suspension to be the preferred and most successful discipline.

(e) Suspension stayed so long as the licensee complies with probationary conditions.

(f) Probation with the minimum conditions of not violating laws, rules, or orders related to the ability to practice nursing safely, keeping the Board advised of the nurse's address and employment, and supplying both timely and satisfactory probation and employer/supervisor reports.

(g) Probation with specified continuing education courses in addition to the minimum conditions. In those cases involving unprofessional conduct or substandard practice, including record keeping, the Board finds continuing education directed to the practice deficiency to be the preferred punishment.

(h) Probation with added conditions of random drug screens, abstention from alcohol and drugs, participation in narcotics or alcoholics anonymous, psychological counseling, the prohibition on agency work, or the requirement that work must be under direct supervision on a regularly assigned unit.

(i) Personal appearances before the Board to monitor compliance with the Board's order.

(j) Administrative fine and payment of costs associated with probation or professional treatment.

(2) The Board sets forth below a range of disciplinary guidelines from which disciplinary penalties will be imposed upon practitioners and applicants for licensure guilty of violating Chapters 464 and 456, F.S. The purpose of the disciplinary guidelines is to give notice to licensees and applicants of the range of penalties which will normally be imposed upon violations of particular provisions of Chapters 464 and 456, F.S. The disciplinary guidelines are based upon a single count violation of each provision listed. Multiple counts of violations of the same provision of Chapters 464 and 456, F.S., or the rules promulgated thereto, or other unrelated violations will be grounds for enhancement of penalties. All penalties set forth in the guidelines include lesser penalties, i.e., reprimand and or course-work which may be included in the final penalty at the Board's discretion.

(3) The following disciplinary guidelines shall be followed by the Board in imposing disciplinary penalties upon licensees for violation of the noted statutes and rules:

(a) Procuring, attempting to procure, or renewing a license to practice nursing by bribery, by knowing misrepresentations, or through an error of the department or the board.

(456.072(1)(h) or 464.018(1)(a), F.S.)

	<u>MINIMUM</u>	<u>MAXIMUM</u>
<u>FIRST OFFENSE</u>	<u>\$250 fine and probation</u>	<u>denial of licensure or revocation</u>
<u>SECOND OFFENSE</u>	<u>\$500 fine and probation</u>	<u>denial of licensure or permanent revocation</u>

(b) Having a license to practice nursing revoked, suspended, or otherwise acted against, including the denial of licensure, by the licensing authority of another state, territory, or country.

(464.018(1)(b), F.S.)

	<u>MINIMUM</u>	<u>MAXIMUM</u>
<u>FIRST OFFENSE</u>	<u>\$100 fine and same penalty imposed by the other jurisdiction</u>	<u>denial of licensure or \$250 fine and suspension followed by probation</u>
<u>SECOND OFFENSE</u>	<u>\$250 fine and same penalty imposed by the other jurisdiction which at a minimum must include a term of probation</u>	<u>denial of licensure or \$500 fine and revocation</u>
<u>THIRD OFFENSE</u>	<u>\$500 fine and same penalty imposed by the other jurisdiction which at a minimum must include a term of suspension</u>	<u>denial of licensure or \$750 fine and permanent revocation</u>

(c) Having a license or the authority to practice any regulated profession revoked, suspended, or otherwise acted against, including the denial of licensure, by the licensing authority of any jurisdiction, including its agencies or subdivisions, for a violation that would constitute a violation under Florida law.

(456.072(1)(f), F.S.)

	<u>MINIMUM</u>	<u>MAXIMUM</u>
<u>FIRST OFFENSE</u>	<u>\$100 fine and same penalty imposed by the other jurisdiction</u>	<u>denial of licensure or \$250 fine and suspension followed by probation</u>
<u>SECOND OFFENSE</u>	<u>\$250 fine and same penalty imposed by the other jurisdiction which at a minimum must include a term of probation</u>	<u>denial of licensure or \$500 fine and revocation</u>
<u>THIRD OFFENSE</u>	<u>\$500 fine and same penalty imposed by the other jurisdiction which at a minimum must include a term of suspension</u>	<u>denial of licensure or \$750 fine and permanent revocation</u>

(d) Being convicted or found guilty of, or entering a plea of nolo contendere to, regardless of adjudication, a crime in any jurisdiction which directly relates to the practice of nursing or to the ability to practice nursing.

(456.072(1)(c) or 464.018(1)(c), F.S.)

	<u>MINIMUM</u>	<u>MAXIMUM</u>
<u>FIRST OFFENSE</u>	<u>\$250 fine</u>	<u>denial of licensure or \$500 fine and suspension to be followed by a term of probation</u>
<u>SECOND OFFENSE</u>	<u>\$500 fine and probation</u>	<u>denial of licensure or \$1000 fine and revocation</u>

(e) Being found guilty, regardless of adjudication, of a forcible felony as defined in Chapter 776, F.S.

(464.018(1)(d)1., F.S.)

	<u>MINIMUM</u>	<u>MAXIMUM</u>
<u>FIRST OFFENSE</u>	<u>\$250 fine</u>	<u>denial of licensure or \$500 fine and suspension to be followed by a term of probation</u>
<u>SECOND OFFENSE</u>	<u>\$500 fine and probation</u>	<u>denial of licensure or \$1000 fine and revocation</u>

(f) Being found guilty, regardless of adjudication, of a violation of Chapter 812, F.S., relating to theft, robbery, and related crimes.
(464.018(1)(d)2., F.S.)

	<u>MINIMUM</u>	<u>MAXIMUM</u>
<u>FIRST OFFENSE</u>	<u>\$250 fine</u>	<u>denial of licensure or \$500 fine and suspension to be followed by a term of probation</u>
<u>SECOND OFFENSE</u>	<u>\$500 fine and probation</u>	<u>denial of licensure or \$1000 fine and revocation</u>

(g) Being found guilty, regardless of adjudication, of a violation of Chapter 817, F.S., relating to fraudulent practices.
(464.018(1)(d)3., F.S.)

	<u>MINIMUM</u>	<u>MAXIMUM</u>
<u>FIRST OFFENSE</u>	<u>\$250 fine</u>	<u>denial of licensure or \$500 fine and suspension to be followed by a term of probation</u>
<u>SECOND OFFENSE</u>	<u>\$500 fine and probation</u>	<u>denial of licensure or \$1000 fine and revocation</u>

(h) Being found guilty, regardless of adjudication, of a violation of Chapter 800, F.S., relating to lewdness and indecent exposure.
(464.018(1)(d)4., F.S.)

	<u>MINIMUM</u>	<u>MAXIMUM</u>
<u>FIRST OFFENSE</u>	<u>\$250 fine, IPN evaluation, and probation</u>	<u>\$500 fine, IPN evaluation, and suspension to be followed by a term of probation</u>
<u>SECOND OFFENSE</u>	<u>\$750 fine, IPN evaluation, and suspension to be followed by a term of probation</u>	<u>denial of licensure and \$1000 fine and permanent revocation</u>

(i) Being found guilty, regardless of adjudication, of a violation of Chapter 784, F.S., relating to assault, battery, and culpable negligence.
(464.018(1)(d)5., F.S.)

	<u>MINIMUM</u>	<u>MAXIMUM</u>
<u>FIRST OFFENSE</u>	<u>\$250 fine</u>	<u>denial of licensure or \$500 fine and suspension to be followed by a term of probation</u>

<u>SECOND OFFENSE</u>	<u>\$500 fine and probation</u>	<u>denial of licensure or \$1000 fine and revocation</u>
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(j) Being found guilty, regardless of adjudication, of a violation of Chapter 827, F.S., relating to child abuse.
(464.018(1)(d)6., F.S.)

	<u>MINIMUM</u>	<u>MAXIMUM</u>
<u>FIRST OFFENSE</u>	<u>\$250 fine</u>	<u>denial of licensure or \$500 fine and suspension to be followed by a term of probation</u>
<u>SECOND OFFENSE</u>	<u>\$500 fine and probation</u>	<u>denial of licensure or \$1000 fine and permanent revocation</u>

(k) Being found guilty, regardless of adjudication, of a violation of Chapter 415, F.S., relating to protection from abuse, neglect, and exploitation.
(464.018(1)(d)7., F.S.)

	<u>MINIMUM</u>	<u>MAXIMUM</u>
<u>FIRST OFFENSE</u>	<u>\$250 fine</u>	<u>denial of licensure or \$500 fine and suspension to be followed by a term of probation</u>
<u>SECOND OFFENSE</u>	<u>\$500 fine and probation</u>	<u>denial of licensure or \$1000 fine and permanent revocation</u>

(l) Being found guilty, regardless of adjudication, of a violation of Chapter 39, F.S., relating to child abuse, abandonment, and neglect.
(464.018(1)(d)8., F.S.)

	<u>MINIMUM</u>	<u>MAXIMUM</u>
<u>FIRST OFFENSE</u>	<u>\$250 fine</u>	<u>denial of licensure or \$500 fine and suspension to be followed by a term of probation</u>
<u>SECOND OFFENSE</u>	<u>\$500 fine and probation</u>	<u>denial of licensure or \$1000 fine and permanent revocation</u>

(m) Having been found guilty of, regardless of adjudication, or entered a plea of nolo contendere or guilty to, any offense prohibited under s. 435.03, F.S., or under any similar statute of another jurisdiction; or having committed an act which constitutes domestic violence as defined in s. 741.28, F.S.
(464.018(1)(e), F.S.)

	<u>MINIMUM</u>	<u>MAXIMUM</u>
<u>FIRST OFFENSE</u>	<u>\$250 fine</u>	<u>denial of licensure or \$500 fine and suspension to be followed by a term of probation</u>
<u>SECOND OFFENSE</u>	<u>\$500 fine and probation</u>	<u>denial of licensure or \$1000 fine and permanent revocation</u>

(n) Making or filing a false report or record, which the licensee knows to be false, intentionally or negligently failing to file a report or record required by state or federal law,

willfully impeding or obstructing such filing or inducing another person to do so. Such reports or records shall include only those which are signed in the nurse's capacity as a licensed nurse.

(464.018(1)(f), or 456.072(1)(l), F.S.)

	<u>MINIMUM</u>	<u>MAXIMUM</u>
<u>FIRST OFFENSE</u>	<u>\$250 fine</u>	<u>\$500 fine and suspension followed by probation</u>
<u>SECOND OFFENSE</u>	<u>\$500 fine and probation</u>	<u>\$750 fine and suspension followed by probation</u>
<u>THIRD OFFENSE</u>	<u>\$750 fine and suspension</u>	<u>\$1000 fine and revocation followed by probation</u>

(o) False, misleading, or deceptive advertising.

(464.018(1)(g), F.S.)

	<u>MINIMUM</u>	<u>MAXIMUM</u>
<u>FIRST OFFENSE</u>	<u>\$100 fine</u>	<u>\$250 fine and probation</u>
<u>SECOND OFFENSE</u>	<u>\$250 fine</u>	<u>\$500 fine and suspension followed by probation</u>
<u>THIRD OFFENSE</u>	<u>\$500 fine and probation</u>	<u>\$750 fine and suspension followed by probation</u>

(p) Unprofessional conduct in which case actual injury need not be established.

(464.018(1)(h), F.S.)

	<u>MINIMUM</u>	<u>MAXIMUM</u>
<u>FIRST OFFENSE</u>	<u>citation</u>	<u>citation</u>
<u>SECOND OFFENSE</u>	<u>\$500 fine</u>	<u>\$750 fine and suspension followed by probation</u>
<u>THIRD OFFENSE</u>	<u>\$750 fine and probation</u>	<u>\$1000 fine and suspension followed by probation</u>

Unprofessional conduct in which case actual injury has been established.

(464.018(1)(h), F.S.)

	<u>MINIMUM</u>	<u>MAXIMUM</u>
<u>FIRST OFFENSE</u>	<u>\$250 fine and probation</u>	<u>\$500 fine and suspension followed by probation</u>
<u>SECOND OFFENSE</u>	<u>\$750 fine and suspension followed by probation</u>	<u>\$1000 fine and revocation</u>

(q) Engaging or attempting to engage in the possession, sale, or distribution of controlled substances as set forth in Chapter 893, F.S., for any other than legitimate purposes authorized by this part.

(464.018(1)(i), F.S.)

	<u>MINIMUM</u>	<u>MAXIMUM</u>
<u>FIRST OFFENSE</u>	<u>\$250 fine, IPN evaluation, and probation</u>	<u>denial of licensure or \$500 fine, IPN evaluation, and suspension followed by probation</u>
<u>SECOND OFFENSE</u>	<u>\$750 fine, IPN evaluation, and suspension followed by probation</u>	<u>denial of licensure and \$1000 fine and permanent revocation</u>
<u>THIRD OFFENSE</u>	<u>\$750 fine and revocation</u>	<u>\$1000 fine and permanent revocation</u>

(r) Being unable to practice nursing with reasonable skill and safety to patients by reason of illness or use of alcohol, drugs, narcotics, or chemicals or any other type of material or as a result of any mental or physical condition.

(456.072(1)(y) or 464.018(1)(j), F.S.)

	<u>MINIMUM</u>	<u>MAXIMUM</u>
<u>FIRST OFFENSE</u>	<u>\$250 fine, IPN evaluation and probation</u>	<u>denial of licensure or \$500 fine, IPN evaluation, and suspension followed by probation</u>
<u>SECOND OFFENSE</u>	<u>\$750 fine, IPN evaluation, and suspension followed by probation</u>	<u>denial of licensure and \$1000 fine and permanent revocation</u>
<u>THIRD OFFENSE</u>	<u>\$750 fine and revocation</u>	<u>\$1000 fine and permanent revocation</u>

(s) Failing to report to the department any person who the licensee knows is in violation of this part or of the rules of the department or the board; however, if the licensee verifies that such person is actively participating in a board-approved program for the treatment of a physical or mental condition, the licensee is required to report such person only to an impaired professionals consultant.

(456.072(1)(i) or 464.018(1)(k), F.S.)

	<u>MINIMUM</u>	<u>MAXIMUM</u>
<u>FIRST OFFENSE</u>	<u>\$100 fine</u>	<u>\$250 fine and probation</u>
<u>SECOND OFFENSE</u>	<u>\$250 fine</u>	<u>\$500 fine and suspension followed by probation</u>
<u>THIRD OFFENSE</u>	<u>\$500 fine and probation</u>	<u>\$750 fine and suspension followed by probation</u>

(t) Knowingly violating any provision of this part, a rule of the board or the department, or a lawful order of the board or department previously entered in a disciplinary proceeding or failing to comply with a lawfully issued subpoena of the department.

(456.072(1)(b) or 464.018(1)(l), F.S.)

	<u>MINIMUM</u>	<u>MAXIMUM</u>
<u>FIRST OFFENSE</u>	<u>\$250 fine and compliance with rule or terms of prior order</u>	<u>\$500 fine and suspension until compliance with rule or terms of prior order</u>
<u>SECOND OFFENSE</u>	<u>\$500 fine and suspension until compliance with rule or terms of prior order</u>	<u>\$750 and suspension until compliance with rule or terms of prior order plus extended probation</u>
<u>THIRD OFFENSE</u>	<u>\$750 fine and suspension until compliance with rule or terms of prior order plus extended probation</u>	<u>\$1000 fine and revocation</u>

(u) Failing to report to the department any licensee under Chapter 458, F.S., or under Chapter 459, F.S., who the nurse knows has violated the grounds for disciplinary action set out in the law under which that person is licensed and who provides health care services in a facility licensed under Chapter 395, F.S., or a health maintenance organization certificated under part I of Chapter 641, F.S., in which the nurse also provides services.

(464.018(1)(m), F.S.)

	<u>MINIMUM</u>	<u>MAXIMUM</u>
<u>FIRST OFFENSE</u>	<u>\$100 fine</u>	<u>\$250 fine and probation</u>
<u>SECOND OFFENSE</u>	<u>\$250 fine</u>	<u>\$500 fine and suspension followed by probation</u>
<u>THIRD OFFENSE</u>	<u>\$500 fine and probation</u>	<u>\$750 fine and suspension followed by probation</u>

(v) Making misleading, deceptive, or fraudulent representations in or related to the practice of the licensee's profession.
(456.072(1)(a), F.S.)

	<u>MINIMUM</u>	<u>MAXIMUM</u>
<u>FIRST OFFENSE</u>	<u>\$250 fine</u>	<u>denial of licensure or \$500 fine and suspension followed by probation</u>
<u>SECOND OFFENSE</u>	<u>\$500 fine and probation</u>	<u>denial of licensure or \$1000 fine and revocation</u>

(w) Intentionally violating any rule adopted by the board or the department, as appropriate.
(456.072(1)(b), F.S.)

	<u>MINIMUM</u>	<u>MAXIMUM</u>
<u>FIRST OFFENSE</u>	<u>\$250 fine and compliance with rule or terms of prior order</u>	<u>\$500 fine and suspension until compliance with rule or terms of prior order</u>
<u>SECOND OFFENSE</u>	<u>\$500 fine and suspension until compliance with rule or terms of prior order</u>	<u>\$750 and suspension until compliance with rule or terms of prior order plus extended probation</u>
<u>THIRD OFFENSE</u>	<u>\$750 fine and suspension until compliance with rule</u>	<u>\$1000 fine and revocation or terms of prior order plus extended probation</u>

(x) Using a Class III or a Class IV laser device or product, as defined by federal regulations, without having complied with the rules adopted pursuant to s. 501.122(2) governing the registration of such devices.
(456.072(1)(d), F.S.)

	<u>MINIMUM</u>	<u>MAXIMUM</u>
<u>FIRST OFFENSE</u>	<u>\$100 fine</u>	<u>\$250 fine and probation</u>
<u>SECOND OFFENSE</u>	<u>\$250 fine</u>	<u>\$500 fine and suspension followed by probation</u>
<u>THIRD OFFENSE</u>	<u>\$500 fine and probation</u>	<u>\$750 fine and suspension followed by probation</u>

(y) Failing to comply with the educational course requirements for human immunodeficiency virus and acquired immune deficiency syndrome.
(456.072(1)(e), F.S.)

	<u>MINIMUM</u>	<u>MAXIMUM</u>
<u>FIRST OFFENSE</u>	<u>\$250 fine and complete the course</u>	<u>\$500 fine and suspension until the course is completed</u>
<u>SECOND OFFENSE</u>	<u>\$500 fine and complete the course</u>	<u>\$750 and suspension until the course is completed</u>
<u>THIRD OFFENSE</u>	<u>\$750 fine and suspension until the course is completed plus probation</u>	<u>\$1000 fine and suspension until the course is completed plus probation</u>

(z) Having been found liable in a civil proceeding for knowingly filing a false report or complaint with the department against another licensee.
(456.072(1)(g), F.S.)

	<u>MINIMUM</u>	<u>MAXIMUM</u>
<u>FIRST OFFENSE</u>	<u>\$250 fine</u>	<u>denial of licensure or \$500 fine and suspension followed by probation</u>
<u>SECOND OFFENSE</u>	<u>\$500 fine and probation</u>	<u>denial of licensure or \$1000 fine and revocation</u>

(aa) Aiding, assisting, procuring, employing, or advising any unlicensed person or entity to practice a profession contrary to this chapter, the chapter regulating the profession, or the rules of the department or the board.
(456.072(1)(j), F.S.)

	<u>MINIMUM</u>	<u>MAXIMUM</u>
<u>FIRST OFFENSE</u>	<u>\$250 fine</u>	<u>denial of licensure or \$500 fine and suspension followed by probation</u>
<u>SECOND OFFENSE</u>	<u>\$500 fine and probation</u>	<u>denial of licensure or \$1000 fine and revocation</u>

(bb) Failing to perform any statutory or legal obligation placed upon a licensee.
(456.072(1)(k), F.S.)

	<u>MINIMUM</u>	<u>MAXIMUM</u>
<u>FIRST OFFENSE</u>	<u>\$250 fine and compliance with legal obligation</u>	<u>\$500 fine and suspension until compliance with legal obligation</u>
<u>SECOND OFFENSE</u>	<u>\$500 fine and suspension until compliance with legal obligation</u>	<u>\$750 and suspension until compliance with legal obligation plus extended probation</u>
<u>THIRD OFFENSE</u>	<u>\$750 fine and suspension until compliance with legal obligation plus extended probation</u>	<u>\$1000 fine and revocation</u>

(cc) Making deceptive, untrue, or fraudulent representations in or related to the practice of a profession or employing a trick or scheme in or related to the practice of a profession.
(456.072(1)(m), F.S.)

	<u>MINIMUM</u>	<u>MAXIMUM</u>
<u>FIRST OFFENSE</u>	<u>\$250 fine</u>	<u>denial of licensure or \$500 fine and suspension followed by probation</u>
<u>SECOND OFFENSE</u>	<u>\$500 fine and probation</u>	<u>denial of licensure or \$1000 fine and revocation</u>

(dd) Exercising influence on the patient or client for the purpose of financial gain of the licensee or a third party.
(456.072(1)(n), F.S.)

	<u>MINIMUM</u>	<u>MAXIMUM</u>
<u>FIRST OFFENSE</u>	<u>\$250 fine and probation</u>	<u>denial of licensure or revocation</u>
<u>SECOND OFFENSE</u>	<u>\$500 fine and probation</u>	<u>denial of licensure or permanent revocation</u>

(ee) Practicing or offering to practice beyond the scope permitted by law or accepting and performing professional responsibilities the licensee knows, or has reason to know, the licensee is not competent to perform.

(456.072(1)(o), F.S.)

	<u>MINIMUM</u>	<u>MAXIMUM</u>
<u>FIRST OFFENSE</u>	<u>\$250 fine and probation</u>	<u>denial of licensure or revocation</u>
<u>SECOND OFFENSE</u>	<u>\$500 fine and probation</u>	<u>denial of licensure or permanent revocation</u>

(ff) Delegating or contracting for the performance of professional responsibilities by a person when the licensee delegating or contracting for performance of such responsibilities knows, or has reason to know, such person is not qualified by training, experience, and authorization when required to perform them.

(456.072(1)(p), F.S.)

	<u>MINIMUM</u>	<u>MAXIMUM</u>
<u>FIRST OFFENSE</u>	<u>\$250 fine and probation</u>	<u>denial of licensure or revocation</u>
<u>SECOND OFFENSE</u>	<u>\$500 fine and probation</u>	<u>denial of licensure or permanent revocation</u>

(gg) Improperly interfering with an investigation or inspection authorized by statute, or with any disciplinary proceeding.

(456.072(1)(r), F.S.)

	<u>MINIMUM</u>	<u>MAXIMUM</u>
<u>FIRST OFFENSE</u>	<u>\$250 fine</u>	<u>denial of licensure or \$500 fine and suspension followed by probation</u>
<u>SECOND OFFENSE</u>	<u>\$500 fine and probation</u>	<u>denial of licensure or \$1000 fine and revocation</u>

(hh) Failing to comply with the educational course requirements for domestic violence.

(456.072(1)(s), F.S.)

	<u>MINIMUM</u>	<u>MAXIMUM</u>
<u>FIRST OFFENSE</u>	<u>\$250 fine and complete the course</u>	<u>\$500 fine and suspension until the course is completed</u>
<u>SECOND OFFENSE</u>	<u>\$500 fine and complete the course</u>	<u>\$750 and suspension until the course is completed</u>
<u>THIRD OFFENSE</u>	<u>\$750 fine and suspension until the course is completed plus probation</u>	<u>\$1000 fine and suspension until the course is completed plus probation</u>

(ii) Failing to comply with the requirements of ss. 381.026 and 381.0261, F.S., to provide patients with information about their patient rights and how to file a patient complaint.

(456.072(1)(t), F.S.)

	<u>MINIMUM</u>	<u>MAXIMUM</u>
<u>FIRST OFFENSE</u>	<u>\$100 fine</u>	<u>\$250 fine and probation</u>
<u>SECOND OFFENSE</u>	<u>\$250 fine</u>	<u>\$500 fine and suspension followed by probation</u>
<u>THIRD OFFENSE</u>	<u>\$500 fine and probation</u>	<u>\$750 fine and suspension followed by probation</u>

(jj) Engaging or attempting to engage in sexual misconduct as defined and prohibited in s. 456.063(1), F.S.

(456.072(1)(u), F.S.)

	<u>MINIMUM</u>	<u>MAXIMUM</u>
<u>FIRST OFFENSE</u>	<u>\$250 fine, IPN evaluation, and probation</u>	<u>denial of licensure or \$500 fine, IPN evaluation, and suspension followed by probation</u>
<u>SECOND OFFENSE</u>	<u>\$750 fine, IPN evaluation, and suspension followed by probation</u>	<u>denial of licensure and \$1000 fine and permanent revocation</u>

(kk) Failing to comply with the requirements for profiling and credentialing, including, but not limited to, failing to provide initial information, failing to timely provide updated information, or making misleading, untrue, deceptive, or fraudulent representations on a profile, credentialing, or initial or renewal licensure application.

(456.072(1)(v), F.S.)

	<u>MINIMUM</u>	<u>MAXIMUM</u>
<u>FIRST OFFENSE</u>	<u>\$250 fine</u>	<u>\$500 fine and suspension followed by probation</u>
<u>SECOND OFFENSE</u>	<u>\$500 fine and probation</u>	<u>\$750 fine and suspension followed by probation</u>

(ll) Failing to report to the board, or the Department if there is no board, in writing within 30 days after the licensee has been convicted or found guilty of, or entered a plea of nolo contendere to, regardless of adjudication, a crime in any jurisdiction. Convictions, findings, adjudications, and pleas entered into prior to the enactment of this paragraph must be reported in writing to the board, or Department if there is no board, on or before October 1, 1999.

(456.072(1)(w), F.S.)

	<u>MINIMUM</u>	<u>MAXIMUM</u>
<u>FIRST OFFENSE</u>	<u>\$250 fine and probation</u>	<u>denial of licensure or revocation</u>
<u>SECOND OFFENSE</u>	<u>\$500 fine and probation</u>	<u>denial of licensure or permanent revocation</u>

(mm) Using information about people involved in motor vehicle accidents which has been derived from accident reports made by law enforcement officers or persons involved in accidents pursuant to s. 316.066, F.S., or using information published in a newspaper or other news publication or through a radio or television broadcast that has used information gained from such reports, for the purposes of commercial or any other solicitation whatsoever of the people involved in such accidents.

(456.072(1)(x), F.S.)

	<u>MINIMUM</u>	<u>MAXIMUM</u>
<u>FIRST OFFENSE</u>	<u>\$100 fine</u>	<u>\$250 fine and probation</u>
<u>SECOND OFFENSE</u>	<u>\$250 fine</u>	<u>\$500 fine and suspension followed by probation</u>
<u>THIRD OFFENSE</u>	<u>\$500 fine and probation</u>	<u>\$750 fine and suspension followed by probation</u>

(nn) Testing positive for any drug, as defined in s. 112.0455, F.S., on any confirmed preemployment or employer-ordered drug screening when the practitioner does not have a lawful prescription and legitimate medical reason for using such drug.

(456.072(1)(z), F.S.)

	<u>MINIMUM</u>	<u>MAXIMUM</u>
<u>FIRST OFFENSE</u>	<u>\$250 fine, IPN evaluation, and probation</u>	<u>denial of licensure or \$500 fine, IPN evaluation, and suspension followed by a probation</u>
<u>SECOND OFFENSE</u>	<u>\$750 fine, IPN evaluation, and suspension followed by probation</u>	<u>denial of licensure and \$1000 fine and permanent revocation</u>

(oo) Falsifying or altering of patient records or nursing progress records, employment applications or time records.
(64B9-8.005(2)(a), F.A.C.)

	<u>MINIMUM</u>	<u>MAXIMUM</u>
<u>FIRST OFFENSE</u>	<u>\$250 fine</u>	<u>\$500 fine and suspension followed by probation</u>
<u>SECOND OFFENSE</u>	<u>\$500 fine and probation</u>	<u>\$750 fine and suspension followed by probation</u>
<u>THIRD OFFENSE</u>	<u>\$750 fine and suspension followed by probation</u>	<u>\$1000 fine and permanent revocation</u>

(pp) Administering medications or treatments in negligent manner.
(64B9-8.005(2)(b), F.A.C.)

	<u>MINIMUM</u>	<u>MAXIMUM</u>
<u>FIRST OFFENSE</u>	<u>\$250 fine</u>	<u>\$500 fine and suspension followed by probation</u>
<u>SECOND OFFENSE</u>	<u>\$500 fine and probation</u>	<u>\$750 fine and suspension followed by probation</u>
<u>THIRD OFFENSE</u>	<u>\$750 fine and suspension followed by probation</u>	<u>\$1000 and revocation</u>

(qq) Misappropriating drugs.
(64B9-8.005(2)(c), F.A.C.)

	<u>MINIMUM</u>	<u>MAXIMUM</u>
<u>FIRST OFFENSE</u>	<u>\$250 fine, IPN evaluation, and probation</u>	<u>denial of licensure or \$500 fine, IPN evaluation, and suspension followed by probation</u>
<u>SECOND OFFENSE</u>	<u>\$750 fine, IPN evaluation, and suspension followed by probation</u>	<u>denial of licensure and \$1000 fine and permanent revocation</u>

(rr) Violating the confidentiality of information or knowledge concerning a patient.
(64B9-8.005(2)(d), F.A.C.)

	<u>MINIMUM</u>	<u>MAXIMUM</u>
<u>FIRST OFFENSE</u>	<u>\$250 fine and probation</u>	<u>denial of licensure or revocation</u>
<u>SECOND OFFENSE</u>	<u>\$500 fine and probation</u>	<u>denial of licensure or permanent revocation</u>

(ss) Discrimination on the basis of race, creed, religion, sex, age or national origin, in the rendering of nursing services as it relates to human rights and dignity of the individuals.
(64B9-8.005(2)(e), F.A.C.)

	<u>MINIMUM</u>	<u>MAXIMUM</u>
<u>FIRST OFFENSE</u>	<u>\$250 fine</u>	<u>\$500 fine and suspension followed by probation</u>
<u>SECOND OFFENSE</u>	<u>\$500 fine and probation</u>	<u>\$750 fine and suspension followed by probation</u>
<u>THIRD OFFENSE</u>	<u>\$750 fine and suspension followed by probation</u>	<u>\$1000 fine and permanent revocation</u>

(tt) Impersonating another licensed practitioner, or permitting another person to use his certificate for the purpose of nursing for compensation.
(64B9-8.005(2)(f), F.A.C.)

	<u>MINIMUM</u>	<u>MAXIMUM</u>
<u>FIRST OFFENSE</u>	<u>\$250 fine and probation</u>	<u>denial of licensure or revocation</u>
<u>SECOND OFFENSE</u>	<u>\$500 fine and probation</u>	<u>denial of licensure or permanent revocation</u>

(uu) Acts of gross negligence, either by omission or commission.
(64B9-8.005(2)(g), F.A.C.)

	<u>MINIMUM</u>	<u>MAXIMUM</u>
<u>FIRST OFFENSE</u>	<u>\$250 fine</u>	<u>\$500 fine and suspension followed by probation</u>
<u>SECOND OFFENSE</u>	<u>\$500 fine and probation</u>	<u>\$750 fine and suspension followed by probation</u>
<u>THIRD OFFENSE</u>	<u>\$750 fine and suspension</u>	<u>\$1000 fine and revocation followed by probation</u>

(vv) Testing positive for any drugs under Chapter 893, F.S., on any drug screen when the nurse does not have a prescription and legitimate medical reason for using such drug.
(64B9-8.005(2)(h), F.A.C.)

	<u>MINIMUM</u>	<u>MAXIMUM</u>
<u>FIRST OFFENSE</u>	<u>\$250 fine, IPN evaluation, and probation</u>	<u>denial of licensure or \$500 fine, IPN evaluation, and suspension followed by probation</u>
<u>SECOND OFFENSE</u>	<u>\$750 fine, IPN evaluation, and suspension followed by probation</u>	<u>\$1000 fine and permanent revocation</u>

(ww) Providing false or incorrect information to the employer regarding the status of the license.
(64B9-8.005(2)(i), F.A.C.)

	<u>MINIMUM</u>	<u>MAXIMUM</u>
<u>FIRST OFFENSE</u>	<u>\$250 fine and probation</u>	<u>denial of licensure or revocation</u>
<u>SECOND OFFENSE</u>	<u>\$500 fine and probation</u>	<u>denial of licensure or permanent revocation</u>

(4) In licensure and disciplinary matters involving impairment, the applicant or licensee may be referred to IPN in addition to the imposition of the above-outlined disciplinary action.

(5)(a) The Board shall be entitled to deviate from the foregoing guidelines upon a showing of aggravating or mitigating circumstances by clear and convincing evidence, presented to the Board prior to the imposition of a final penalty at informal hearing. If a formal hearing is held, any aggravating or mitigating factors must be submitted to the hearing officer at formal hearing. At the final hearing following a formal hearing, the Board will not hear additional aggravating or mitigating evidence.

(b) Circumstances which may be considered for purposes of mitigation or aggravation of penalty shall include, but are not limited to, the following:

1. The danger to the public.

- 2. Previous disciplinary action against the licensee in this or any other jurisdiction.
- 3. The length of time the licensee has practiced.
- 4. The actual damage, physical or otherwise, caused by the violation.
- 5. The deterrent effect of the penalty imposed.
- 6. Any efforts at rehabilitation.
- 7. Attempts by the licensee to correct or stop violations, or refusal by the licensee to correct or stop violations.
- 8. Cost of treatment.
- 9. Financial hardship.
- 10. Cost of disciplinary proceedings.

Specific Authority 456.072, 456.079 FS. Law Implemented 456.072, 456.079, 464.018 FS. History--New 2-5-87, Amended 8-12-87, 12-8-87, 11-23-89, 7-28-92, Formerly 21O-10.011, Amended 12-5-93, Formerly 61F7-8.006, Amended 5-1-95, Formerly 59S-8.006, Amended 8-18-98, 7-1-99, 3-23-00, 5-8-00.

NAME OF PERSON ORIGINATING PROPOSED RULE:
Board of Nursing
NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Board of Nursing
DATE PROPOSED RULE APPROVED BY AGENCY HEAD: December 5, 2001
DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: October 19, 2001

FISH AND WILDLIFE CONSERVATION COMMISSION

Marine Fisheries

RULE CHAPTER TITLE: Gear Specifications and Prohibited Gear

RULE TITLE: Carriage of Proscribed Nets Across Florida Waters

RULE NO.: 68B-4.0082

PURPOSE AND EFFECT: The purpose of this proposed new rule is to provide clarification and readopt portions of Section 370.092, Florida Statutes, a statute implementing the prohibitions of Article X, Section 16 of the Florida Constitution. Persons operating vessels transporting nets whose use is prohibited by the constitutional provision or laws or rules implementing it, will be required to proceed directly to and from waters where the use of such nets is legal. Hovering or drifting inconsistent with direct transit will constitute a violation of the rule. Minimum sizes for vessels transporting proscribed nets are retained. The effect of the effort will be to assist enforcement and assure that persons operating vessels to transport nets otherwise illegal in the waters of the State of Florida to federal waters (or other jurisdictions where legal) proceed to such destinations as directly and expeditiously as possible, minimizing opportunities for illegal use.

SUMMARY: Subsection (1) of proposed new Rule 68B-4.0082 requires persons operating any vessel with otherwise illegal nets aboard to proceed directly to and from

waters where use of such nets is allowed. Hovering, drifting, or similar activities inconsistent with direct transit is affirmatively prohibited so as to constitute a violation by all persons aboard. Exceptions for persons with docked vessels, persons engaged in aquaculture, and persons operating vessels with trawl nets not deployed are retained.

Subsection (2) prohibits possession of otherwise illegal net gear aboard any vessel less than 22 feet in length and aboard any vessel less than 25 feet in length if the primary power of the vessel is mounted forward of the center point. Vessel length will be determined according to Section 327.02(13), Florida Statutes. Subsection (3) provides an exception from the rule for persons transporting dry nets properly stowed so as to make their immediate use impracticable.

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

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

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

LAW IMPLEMENTED: Article IV, Section 9 and Article X, Section 16, Florida Constitution.

A HEARING WILL BE HELD DURING THE REGULAR MEETING OF THE COMMISSION AT THE TIME, DATE AND PLACE SHOWN BELOW:

TIME AND DATES: 8:30 a.m. – 5:00 p.m. each day, January 23-25, 2002

PLACE: Holiday Inn – Capitol, 1355 Apalachee Parkway, Tallahassee, Florida

Pursuant to the provisions of the Americans with Disabilities Act, any person requiring special accommodations to participate in this workshop/meeting is asked to advise the agency at least 5 calendar days before the workshop/meeting by contacting Cindy Hoffman, ADA Coordinator, at (850)488-6411. If you are hearing or speech impaired, please contact the agency by calling (850)488-9542.

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

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

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

THE FULL TEXT OF THE PROPOSED RULE IS:

68B-4.0082 Carriage of Proscribed Nets Across Florida Waters.

(1) No person shall operate (as that term is defined by Section 327.02(25), Florida Statutes) any vessel containing or otherwise transporting in or on Florida waters any gill net, entangling net, or seine or other rectangular net containing a mesh size larger than two inches stretched mesh, or any vessel containing or otherwise transporting in or on nearshore and inshore Florida waters any net containing more than 500 square feet of mesh area, unless such person proceeds as directly, continuously, and expeditiously as possible from the place where the vessel is regularly docked, moored, or otherwise stored to waters where the use of said nets is lawful, and from waters where the use of said nets is lawful back to the place where the vessel is regularly docked, moored, or otherwise stored or back to the licensed wholesale dealer where the catch is to be sold. Hovering, drifting, and other similar activities inconsistent with the direct, continuous, and expeditious transit of such vessels shall constitute a violation of this rule by each person present aboard the vessel. The presence of fish in such a proscribed net shall not constitute a violation hereof if the persons on board the vessel are otherwise in compliance with this rule. This subsection shall not apply to:

- (a) Persons with docked vessels;
- (b) Persons with vessels utilizing nets in a licensed aquaculture operation; or
- (c) Persons operating vessels containing trawl nets as long as the trawl doors or frame are not deployed in the water.

(2) Notwithstanding subsection (1), no person shall possess any gill or entangling net, any seine or other rectangular net with mesh size larger than 2 inches stretched mesh, or any seine larger than 500 square feet in mesh area, on any airboat, or on any other vessel less than 22 feet in length and on any vessel less than 25 feet in length if the primary power of the vessel is mounted forward of the vessel center point. Vessel length shall be determined as provided in Section 327.02(13), Florida Statutes.

(3) This rule shall not apply to persons operating vessels containing or otherwise transporting dry nets that are rolled, folded, or otherwise properly and securely stowed in sealed containers or compartments so as to make their immediate use as fishing implements impracticable.

Specific Authority Art. IV, Sec. 9, Fla. Const. Law Implemented Art. IV, Sec. 9 and Art X, Sec. 16, Fla. Const. History—New

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

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

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: December 12, 2001

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: December 14, 2001

FISH AND WILDLIFE CONSERVATION COMMISSION

Marine Fisheries

RULE CHAPTER TITLE: Southwest Florida Shells

RULE TITLE: Live Shellfish, Regulation RULE NO.: 68B-26.003

PURPOSE AND EFFECT: The Board of County Commissioners of Lee County has requested that the Fish and Wildlife Conservation Commission entertain a rule amendment to prohibit the harvesting of live shells in all of Lee County. Currently, such harvest is prohibited within the City of Sanibel and the Town of Ft. Myers Beach, and the remainder of the county is under a two live shellfish (of a single species) bag limit. The Board of County Commissioners has completed public hearings and adopted a formal resolution requesting this action. The purpose of this rule amendment is to implement the county’s request. The effect will be to conserve live shellfish in an area very popular with shell collectors and to place Lee County under a single regulatory regime, the primary enforcement of which will be performed by the county.

SUMMARY: Subsection (1) of Rule 68B-26.003, F.A.C., is amended to extend the prohibition on live shellfish harvest that currently applies to Sanibel and Ft. Myers Beach in Lee County to include all of the county.

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

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

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

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

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

TIME AND DATES: 8:30 a.m. – 5:00 p.m. each day, January 23-25, 2002

PLACE: Holiday Inn – Capitol, 1355 Apalachee Parkway, Tallahassee, Florida

Pursuant to the provisions of the Americans with Disabilities Act, any person requiring special accommodations to participate in this workshop/meeting is asked to advise the agency at least 5 calendar days before the workshop/meeting by contacting Cindy Hoffman, ADA Coordinator, (850)488-6411. If you are hearing or speech impaired, please contact the agency by calling (850)488-9542.

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

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

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

THE FULL TEXT OF THE PROPOSED RULE IS:

68B-26.003 Live Shellfish, Regulation.

(1) Lee County Live Shellfish Restrictions

~~(a) Except as provided in paragraph (b) for Sanibel and Ft. Myers Beach, and in subsection (3), No person shall:~~

~~(a)1- Harvest any more than two live shellfish of any single species, per day, within Lee County.~~

~~(b)2- Possess, in that area of Lee County between the mean high water line and the county limits in the Gulf of Mexico, any more than two live shellfish of any single species at any time.~~

~~(b) Except as provided in subsection (3), no person shall harvest any live shellfish within the following named communities, or possess, in that area between the mean high water line and the city or town limits, any live shellfish at any time:~~

~~1. The City of Sanibel.~~

~~2. The Town of Ft. Myers Beach.~~

(2) Manatee County Live Shellfish Restrictions – Except as provided in subsection (3), beginning July 1, 1996, no person shall:

(a) Harvest more than 2 live shellfish of any single species, per day, within Manatee County.

(b) Possess, in that area of Manatee County between the mean high water line and the seaward extent of state waters within the county, more than two live shellfish of any single species at any time.

(3) Pursuant to Section 370.10(2), Florida Statutes, the Fish and Wildlife Conservation Commission may issue permits to harvest or possess more live shellfish of any single species

within Lee County or Manatee County than provided for in subsections (1) and (2) of this rule, for experimental, scientific, or exhibitional purposes.

(4) It is lawful to harvest any shell within Lee County or within Manatee County, so long as such shell does not contain any live shellfish at the time of harvest and so long as a live shellfish is not killed, mutilated, or removed from its shell prior to such harvest.

Specific Authority Art. IV, Sec. 9, Fla. Const. Law Implemented Art. IV, Sec. 9, Fla. Const. History–New 10-15-87, Amended 9-1-93, 1-1-95, 4-1-96, 8-3-00, Formerly 46-26.003, Amended.

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

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

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: December 12, 2001

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: July 27, 2001

FISH AND WILDLIFE CONSERVATION COMMISSION

Marine Fisheries

RULE CHAPTER TITLE: Shrimp

RULE TITLE:

RULE NO.:

Statewide Live Bait Shrimp

Production Restrictions

68B-31.008

PURPOSE AND EFFECT: The purpose of this rule amendment is to standardize statewide the capacity requirements for shoreside live well storage facilities for live bait shrimp at 32 cubic feet of water. The effect of this rule amendment should be to bring small-scale live bait dealers into compliance with the rule.

SUMMARY: Paragraph (2)(a) of Rule 68B-31.008, F.A.C., is stricken and the live well requirements of paragraph (2)(b) for vessels, transport vehicles, and shoreside facilities holding live bait shrimp currently applicable to Northeast Florida are made statewide requirements.

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

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

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

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

A HEARING WILL BE HELD DURING THE REGULAR MEETING OF THE COMMISSION AT THE TIME, DATE AND PLACE SHOWN BELOW:

TIME AND DATES: 8:30 a.m. – 5:00 p.m. each day, January 23-25, 2002

PLACE: Holiday Inn – Capitol, 1355 Apalachee Parkway, Tallahassee, Florida

Pursuant to the provisions of the Americans with Disabilities Act, any person requiring special accommodations to participate in this workshop/meeting is asked to advise the agency at least 5 calendar days before the workshop/meeting by contacting Cindy Hoffman, ADA Coordinator, (850)488-6411. If you are hearing or speech impaired, please contact the agency by calling (850)488-9542.

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

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

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

THE FULL TEXT OF THE PROPOSED RULE IS:

68B-31.008 Statewide Live Bait Shrimp Production Restrictions.

Each person harvesting shrimp in or on the waters of the state as a live bait shrimp producer shall comply with the requirements specified in this rule.

- (1) No change.
- (2) Live Well Requirements

~~(a) Except as provided in paragraph (b), Each person harvesting shrimp in or on the waters of the state as a live bait shrimp producer shall have aboard the vessel being used for such harvest a continuously circulating live well with a capacity of at least 16 cubic feet of water for the purpose of maintaining harvested shrimp in a healthy condition. Each person selling live bait shrimp as a wholesale or retail dealer shall store and transport such shrimp in a continuously circulating live well, with a capacity of at least 64 cubic feet of water in the storage facility and 32 cubic feet of water on any delivery vehicle, for the purpose of maintaining the shrimp in a healthy condition until transfer of possession upon sale.~~

~~(b) In Nassau, Duval, St. Johns, and Flagler Counties, Shrimp harvested as live bait pursuant to this rule shall be constantly maintained in wet live storage condition to~~

minimize mortality. All such shrimp harvested by use of allowable trawling gear shall be directly and expeditiously transported from the harvesting vessel to onshore facilities on the premises of a licensed wholesale or retail saltwater products dealer with equipment functioning to maintain the quality of shrimp delivered in a live, healthy condition. Shrimp so delivered shall be placed in a tank of clean saline, aerated water at that facility and shall be maintained alive throughout all handling and storage processes. Equipment to maintain live bait shrimp during harvest pursuant to this rule and during subsequent transport and storage shall, at a minimum, meet the following requirements.

~~(a)1-~~ Vessel requirements – Each vessel engaged in the harvest of live bait shrimp ~~in these counties~~ pursuant to this rule shall be equipped with a watertight tank, containing a minimum of 16 cubic feet of continuously aerated saline water during such harvest and during transport of any live bait shrimp.

~~(b)2-~~ Vehicle requirements – Each vehicle used to transport live bait shrimp harvested ~~in these counties~~ pursuant to this rule shall be equipped with a watertight tank, containing a minimum of 32 cubic feet of continuously aerated saline water during transport and holding on the vehicle.

~~(c)3-~~ Storage requirements – Each facility used to store live bait shrimp harvested pursuant to this rule, on the premises of a licensed wholesale or retail saltwater products dealer, shall be equipped with a watertight tank, containing a minimum of 32 cubic feet of continuously aerated saline water during storage.

Specific Authority Art. IV, Sec. 9, Fla. Const. Law Implemented Art. IV, Sec. 9, Fla. Const. History–New 1-1-92, Amended 10-3-94, 1-1-96, Formerly 46-31.008, Amended 12-2-99, _____.

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

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

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: November 2, 2001

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: December 14, 2001

FISH AND WILDLIFE CONSERVATION COMMISSION

Marine Fisheries

RULE CHAPTER TITLE: Marine Life

RULE TITLE: RULE NO.:

Commercial Season, Harvest Limits 68B-42.006

PURPOSE AND EFFECT: The purpose of this rule amendment is to extend the current moratorium on the issuance of new marine life fishery endorsements from July 1, 2002,

until July 1, 2005. The effect will be to retain the cap on the number of participants in this highly competitive fishery and assist in the management of these tropical marine life species.

SUMMARY: Subsection (1) of Rule 68B-42.006, F.A.C., is amended by designating the current subsection as paragraph (1)(a) and adding a paragraph (1)(b) to extend the moratorium on issuance of new marine life endorsements until July 1, 2005, while retaining current provisions in Section 370.06(2)(d), Florida Statutes, regarding renewal deadlines and the endorsement fee.

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

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

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

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

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

TIME AND DATES: 8:30 a.m. – 5:00 p.m. each day, January 23-25, 2002

PLACE: Holiday Inn – Capitol, 1355 Apalachee Parkway, Tallahassee, Florida

Pursuant to the provisions of the Americans with Disabilities Act, any person requiring special accommodations to participate in this workshop/meeting is asked to advise the agency at least 5 calendar days before the workshop/meeting by contacting Cindy Hoffman, ADA Coordinator, (850)488-6411. If you are hearing or speech impaired, please contact the agency by calling (850)488-9542.

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

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

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

THE FULL TEXT OF THE PROPOSED RULE IS:

68B-42.006 Commercial Season, Harvest Limits.

(1)(a) Except as provided in Rule 68B-42.008(7), no person shall harvest, possess while in or on the waters of the state, or land quantities of tropical ornamental marine life species or tropical ornamental marine plants in excess of the bag limits established in Rule 68B-42.005 unless such person possesses a valid saltwater products license with both a marine life fishery endorsement and a restricted species endorsement issued by the Fish and Wildlife Conservation Commission.

(b) Notwithstanding s. 370.06(2)(d)2.a., Florida Statutes, effective July 1, 2002, and until July 1, 2005, a marine life fishery endorsement may not be issued, except that those endorsements that were active during the 2001-2002 fiscal year may be renewed. In 2002 and in subsequent years until July 1, 2005, persons or corporations holding a marine life fishery endorsement that was active in the 2001-2002 fiscal year or an immediate family member of that person must request renewal of the marine life fishery endorsement before September 30 of each year. All provisions of s. 370.06(2)(d)1., 2. d.-g., and 3., Florida Statutes, shall continue to apply to the issuance and renewal of marine life fishery endorsements with the applicable dates specified in this paragraph.

Specific Authority Art. IV, Sec. 9, Fla. Const. Law Implemented Art. IV, Sec. 9, Fla. Const. History—New 1-1-91, Amended 7-1-92, 1-1-95, 6-1-99, Formerly 46-42.006, Amended.

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

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

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: November 1, 2001

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: December 14, 2001

FISH AND WILDLIFE CONSERVATION COMMISSION

Marine Fisheries

RULE CHAPTER TITLE: Blue Crabs

RULE TITLE:	RULE NO.:
Regulation and Prohibition of Certain Harvesting Gear	68B-45.004

PURPOSE AND EFFECT: The purpose of this rule amendment is to extend the current moratorium on the issuance of new blue crab endorsements from July 1, 2002, until July 1, 2005. The effect will be to retain the cap on the number of participants in this highly competitive fishery and assist in the management of blue crabs.

SUMMARY: This rule will create a Slow Speed Minimum Wake boating restricted area within the right-of-way of the Florida Intracoastal Waterway from 300 feet east-southeast of the abandoned CSX railroad bridge to 300 feet west-northwest of the center fender system of the Gasparilla Island Causeway Bridge and a Slow Speed Minimum Wake boating restricted area from shoreline to shoreline within 300 feet north and south of the center line of the Tom Adams Bridge.

SPECIFIC AUTHORITY: 327.04, 327.46 FS.

LAW IMPLEMENTED: 327.46 FS.

SUMMARY OF THE STATEMENT OF ESTIMATED REGULATORY COST: The Commission has not prepared a formal statement of the estimated regulatory cost.

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

IF REQUESTED WITHIN 21 DAYS OF THE DATE OF THIS NOTICE, A HEARING WILL BE SCHEDULED AT THE COMMISSION MEETING DESCRIBED BELOW:

TIME AND DATES: 8:30 a.m. each day, January 23-25, 2002

PLACE: Holiday Inn Capital, 1355 Apalachee Parkway, Tallahassee, Florida

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

THE FULL TEXT OF THE PROPOSED RULE IS:

68D-24.108 Charlotte County Boating Restricted Areas.

(1) For the purpose of regulating the speed and operation of vessel traffic on and adjacent to the Intracoastal Waterway in Charlotte County, Florida, the following Boating Restricted Areas are ~~Area is~~ established:

(a) 1. Cape Haze – A Slow Speed Minimum Wake boating restricted area ~~zone~~ from shoreline to shoreline, in and adjacent to the Intracoastal Waterway, from a line drawn east/west

across the waterway 4,982 feet south east of platted Lot Number 6 within the Cape Haze Subdivision, Section 3, Township 42S, Range 20E, in Charlotte County, Florida, to a line drawn perpendicular to the centerline of the waterway 2,552 feet northwest of said Lot, as depicted in drawing A.

2. Gasparilla Island Bridge – a Slow Speed Minimum Wake boating restricted area within the right-of-way of the Florida Intracoastal Waterway from a line drawn perpendicular to the center line of the waterway 300 feet east-southeast of the abandoned CSX railroad bridge to a line drawn perpendicular to the center line of the waterway 300 feet west-northwest of the center fender system of the Gasparilla Island Causeway Bridge, as depicted in drawing B.

3. Tom Adams Bridge – a Slow Speed Minimum Wake boating restricted area on all waters in and adjacent to the Florida Intracoastal Waterway, from shoreline to shoreline, bounded on the northwest by a line drawn parallel to the center line of the Tom Adams Bridge 300 feet northwest of the centerline of said bridge, bounded on the southwest by the shoreline and by a line drawn perpendicular to the centerline of said bridge running from the southwest terminus of the bridge northwest until it intersects with the northwest boundary line (26°56'00"N, 82°21'19"W), bounded on the southeast by a line drawn parallel to the center line of said bridge 300 feet southeast of the centerline of said bridge, and bounded on the east and northeast by the shoreline, as depicted in drawing C.

(b) Charlotte County and the Gasparilla Island Bridge Authority are ~~is~~ authorized to install and maintain appropriate regulatory markers as directed by the Division of Law Enforcement within such boating restricted areas.

(2) The boating restricted areas described in Rule 68D-24.108, F.A.C. ~~are~~ is depicted on the following drawings:

SEE FLORIDA ADMINISTRATIVE CODE FOR
THE CAPE HAZE BOATING RESTRICTED AREA
DRAWING

WHICH WILL BE DESIGNATED AS DRAWING A.

ADD DRAWING B AND DRAWING C
1 PAGE OF 1

Specific Authority 327.04, 327.46 FS. Law Implemented 327.46 FS. History--
New 6-27-95, Formerly 62N-24.108, Amended _____.

NAME OF PERSON ORIGINATING PROPOSED RULE:
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, Florida 32399-1600

NAME OF SUPERVISOR OR PERSON WHO APPROVED
THE PROPOSED RULE: Colonel Robert Edwards, Director,
Division of Law Enforcement, Fish and Wildlife Conservation
Commission, Tallahassee, Florida 32399-1600

DATE PROPOSED RULE APPROVED BY AGENCY
HEAD: September 8, 2001

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

Section III Notices of Changes, Corrections and Withdrawals

DEPARTMENT OF STATE

Division of Elections

RULE NO.: RULE TITLE:
1S-2.028 State Write-in Ballot

NOTICE OF CHANGE

Notice is hereby given that proposed Rule 1S-2.028, published in the Florida Administrative Weekly, Pages 5207-5208, Vol. 27, No. 45, on November 9, 2001, has been changed to reflect comments received from the Joint Administrative Procedures Committee.

Paragraph (4) has been added to Section 1S-2.028 so that it now reads:

(4) Additional local races, for which the voter may otherwise be entitled to vote, may be inserted at the end of the form.

Specific Authority 101.6951 FS. Law Implemented 101.6951 FS. History--
New _____.

DEPARTMENT OF STATE

Division of Elections

RULE NO.: RULE TITLE:
1S-2.029 Eligibility for Late Registration by
Overseas Voters

NOTICE OF WITHDRAWAL

Notice is hereby given that the above proposed rule, published in the Florida Administrative Weekly, Vol. 27, No. 45, on November 9, 2001, has been withdrawn.

DEPARTMENT OF STATE

Division of Elections

RULE NO.: RULE TITLE:
1S-2.030 Electronic Transmission of
Absentee Ballots

NOTICE OF WITHDRAWAL

Notice is hereby given that the above proposed rule, published in the Florida Administrative Weekly, Vol. 27, No. 45, on November 9, 2001, has been withdrawn.

DEPARTMENT OF BANKING AND FINANCE

Division of Securities and Finance

RULE NO.: RULE TITLE:
3C-560.906 Consumer Credit Counseling
Services

NOTICE OF CHANGE

Notice is hereby given that the Department has made the following changes to the above referenced rule, which was originally published in the September 28, 2001, Vol. 27, No. 39, issue of the Florida Administrative Weekly.

3C-560.906 Consumer Credit Counseling Services.

(1) The Department shall publish a list of consumer credit counseling agencies by October 1 of each calendar year via the Department's website (www.dbf.state.fl.us). The Department will accept requests from consumer credit counseling agencies to be included on the list on an ongoing basis and may periodically republish the list at its discretion. If the Department makes a decision to publish the list more often, a notice of such change will be posted on the Department's website. The provider will then be responsible for making and distributing such additional copies of the list to all branch locations engaging in deferred presentment transactions.

(2) Every deferred presentment provider shall maintain a copy of the Department's list of approved consumer credit counseling agencies and shall provide a copy of the list, free of charge, to any drawer who requests the grace period in accordance with the provisions of Section 560.404(22), F.S.

(3) The list shall consist of nonprofit agencies that provide consumer credit counseling services to Florida residents in person, by telephone, or through the internet and may be used by drawers to satisfy the requirements for obtaining a sixty (60) day grace period.

(4) In order to verify that a drawer has made an appointment with a consumer credit counseling agency, the provider may require the drawer to provide it with the name and telephone number of the agency with which the drawer has made the appointment.

(5)(a) If the drawer completes consumer credit counseling within sixty (60) days and chooses to enter into a contractual repayment plan, the drawer shall have until the end of the