

DEPARTMENT OF CHILDREN AND FAMILY SERVICES

Economic Self-Sufficiency Program

RULE TITLE: Forms for Client Notice and Contact
 RULE NO.: 65A-1.400

PURPOSE AND EFFECT: This proposed amendment of Rule 65A-1.400, F.A.C., will change the forms that are incorporated by reference in this rule. At the time this rule was created, it was intended to contain all forms for client notice and contact. This has proven to be cumbersome practice. Some client notice and contact forms have been included in other rules over time. Consequently, by this action, only those forms that apply to all programs will be included in this rule, and only to the extent that a separate rule does not exist on the subject matter of the form. All forms to be affected by this action have not yet been identified so that specific forms are not being listed in this notice.

SUBJECT AREA TO BE ADDRESSED: This rule amendment may place revised editions of forms incorporated by reference into Rule 65A-1.400, F.A.C., may newly incorporate some forms by reference and may remove some forms from the rule.

SPECIFIC AUTHORITY: 409.919, 410.033, 414.45 FS.
 LAW IMPLEMENTED: 400.903, 409.904, 410.033, 414.065, 414.075, 414.085, 414.095, 414.105, 414.115, 414.122, 414.125, 414.13, 414.16, 414.21, 414.28, 414.31 FS.

IF REQUESTED IN WRITING AND NOT DEEMED UNNECESSARY BY THE AGENCY HEAD, A RULE DEVELOPMENT WORKSHOP WILL BE HELD AT THE TIME, DATE AND PLACE SHOWN BELOW:

TIME AND DATE: 2:00 p.m., August 19, 2002
 PLACE: Building 3, Room 100, 1317 Winewood Boulevard, Tallahassee, Florida 32399-0700

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT AND A COPY OF THE PRELIMINARY DRAFT, IF AVAILABLE, IS: Audrey Mitchell, Program Administrator, Building 3, Room 421, 1317 Winewood Boulevard, Tallahassee, FL 32399-0700

THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS NOT AVAILABLE.

DEPARTMENT OF CHILDREN AND FAMILY SERVICES

Economic Self-Sufficiency Program

RULE TITLE: SSI-Related Medicaid Post-Eligibility Treatment of Income
 RULE NO.: 65A-1.714

PURPOSE AND EFFECT: This proposed amendment of Rule 65A-1.714, F.A.C., places criteria for budgeting uncompensated medical expenses into rule.

SUBJECT AREA TO BE ADDRESSED: This rule amendment defines the criteria to be used for allowing uncompensated medical expenses in the budgeting process for determining Hospice and Institutional Care Services eligibility.
 SPECIFIC AUTHORITY: 409.919 FS.

LAW IMPLEMENTED: 400.903, 409.904, 414.919 FS.
 IF REQUESTED IN WRITING AND NOT DEEMED UNNECESSARY BY THE AGENCY HEAD, A RULE DEVELOPMENT WORKSHOP WILL BE HELD AT THE TIME, DATE AND PLACE SHOWN BELOW:

TIME AND DATE: 10:00 a.m., August 19, 2002
 PLACE: Building 3, Room 100, 1317 Winewood Boulevard, Tallahassee, Florida 32399-0700

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT IS: Audrey Mitchell, Program Administrator, Building 3, Room 421, 1317 Winewood Boulevard, Tallahassee, FL 32399-0700

THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS NOT AVAILABLE.

**Section II
 Proposed Rules**

DEPARTMENT OF BANKING AND FINANCE

Division of Securities and Finance

| | |
|---|------------|
| RULE TITLES: | RULE NOS.: |
| Definitions | 3D-40.001 |
| Application Procedure for Change in Ownership or Control of Saving Clause Mortgage Lender | 3D-40.100 |
| Application Procedure for Mortgage Lender License | 3D-40.200 |
| Application Procedure for Correspondent Mortgage Lender License | 3D-40.220 |
| Principal Representative | 3D-40.242 |

PURPOSE AND EFFECT: The Purpose of the proposed amendments is to clarify the implementation of legislative changes to Chapter 494, Florida Statutes, made by Chapter 2001-228, Laws of Florida, which took effect October 1, 2001, as to the designation of a "principal representative," specifically, Sections 494.001(29), 494.0061(8), and 494.0062(11), F.S.

SUMMARY: The proposed amendments define statutory terms, and specify that a description of duties must be added to designations of "principal representative."

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

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

SPECIFIC AUTHORITY: 494.0011(1),(2), 494.0061(1),(3), (8),(10), 494.0062(3),(11),(13), 494.0072(2)(c),(p) FS.

LAW IMPLEMENTED: 120.60, 494.001(29), 494.0061(3),(8), 494.0062(3),(11) 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: Bob Tedcastle, Financial Administrator, Division of Securities and Finance, 101 East Gaines Street, 5th Floor, The Fletcher Building, Tallahassee, Florida 32399-0350, (850)410-9500

THE FULL TEXT OF THE PROPOSED RULES IS:

3D-40.001 Definitions.

The definitions provided in Section 494.001, F.S., and the following defined terms, shall apply to this rule chapter and shall serve as the Department's interpretation unless the language of the rule indicates to the contrary:

(1) through (11) Not change.

(12) For purposes of Rules 3D-40.100, 3D-40.200, 3D-40.220, and 3D-40.242, F.A.C.:

(a) "Operate" shall mean to exercise power or influence over the business operations.

(b) "Exercise" shall mean the discharge of an official duty or function.

(c) "Control" shall mean to have the influence and power to make decisions for the business.

Specific Authority 494.0011(2), 494.0072(2)(c), 494.0072(2)(p) FS. Law Implemented 120.695, 494.001, 494.004(1), 494.0041(2)(a),(i), 494.0043, 494.0061(2), 494.0061(8), 494.0062(2), 494.0062(11), 494.0067(5), 494.0072(2)(i) FS. History-Revised 9-23-65, Renumbered from 3-3.01 to 3D-40.01 on 9-8-75, Formerly 3D-40.01, Amended 12-7-89, 6-23-91, 8-24-92, 2-11-93, 11-17-93, 4-14-94, 9-7-94, 5-14-95, 7-25-96, 12-12-99, _____.

3D-40.100 Application Procedure for Change in Ownership or Control of Saving Clause Mortgage Lender.

(1) Each person who seeks to obtain a controlling ownership or voting interest in a mortgage lender licensed pursuant to the saving clause shall apply to the Department by submitting the following:

(a) A completed application for Change in Ownership or Control of Saving Clause Mortgage Lender, Form DBF-MLST, revised 07/02 ~~10/01~~, which is hereby incorporated by reference and available by mail from the Department of Banking and Finance, Division of Securities and Finance, 101 East Gaines Street, Tallahassee, Florida 32399-0350;

(b) through (c) No change.

(d) Designate a principal representative who shall operate and exercise control over of the licensee's business. Beginning October 1, 2001, the principal representative must have completed 24 hours of classroom education in accordance with Rule 3D-40.027, F.A.C., and must also have passed a written

test in accordance with Rule 3D-40.025, F.A.C., prior to the application being approved. If the designated principal representative holds an active mortgage broker license with the Department and was licensed as a mortgage broker on or after July 1, 1992, he or she will have satisfied the 24-hour classroom education and testing requirements of this section. Each mortgage lender pursuant to the saving clause transfer applicant shall attach a statement to the application outlining the principal representative's duties and responsibilities and demonstrating how the principal representative operates and exercises control over the business.

(2) through (7) No change.

Specific Authority 494.0011(1),(2), 494.0072(2)(c),(p), 494.0061(3),(8),(10) FS. Law Implemented 120.60, 494.001(29), 494.0061(1),(3),(8), 494.0065 FS. History-New 8-24-93, Amended 9-3-95, 8-22-99, 12-12-99, 12-9-01, _____.

3D-40.200 Application Procedure for Mortgage Lender License.

(1) Each corporation, general partnership, limited partnership, limited liability company, or other lawful entity desiring to obtain licensure as a mortgage lender shall apply to the Department by submitting the following:

(a) A completed Application for Licensure as a Mortgage Lender, Form DBF-ML-222, revised 07/02 ~~10/01~~, which is hereby incorporated by reference and available by mail from the Department of Banking and Finance, Division of Securities and Finance, 101 East Gaines Street, Tallahassee, Florida 32399-0350;

(b) through (d) No change.

(e) Designate a principal representative who shall operate and exercise control over of the licensee's business. Beginning October 2, 2001, the principal representative must have completed 24 hours of classroom education in accordance with Rule 3D-40.027, F.A.C., and must also have passed a written test in accordance with Rule 3D-40.025, F.A.C., prior to the application being approved. If the designated principal representative holds an active mortgage broker license with the Department and was licensed as a mortgage broker on or after July 1, 1992, he or she will have satisfied the 24-hour classroom education and testing requirements of this section. Each mortgage lender applicant shall attach a statement to the application outlining the principal representative's duties and responsibilities and demonstrating how the principal representative operates and exercises control over the business.

(2) through (8) No change.

Specific Authority 215.405, 494.0011(1),(2), 494.0072(2)(c),(p), 494.0061(3),(8),(10) FS. Law Implemented 120.60, 494.001(29), 494.0061 FS. History New 10-1-91, Amended 6-6-93, 5-14-95, 9-3-95, 11-5-95, 7-14-96, 11-24-97, 8-22-99, 12-12-99, 12-9-01, _____.

3D-40.220 Application Procedure for Correspondent Mortgage Lender License.

(1) Each corporation, general partnership, limited partnership, limited liability company, or other lawful entity desiring to obtain licensure as a correspondent mortgage lender shall apply to the Department by submitting the following:

(a) A completed Application for Licensure as a Correspondent Mortgage Lender, Form DBF-CL-333, revised 07/02 ~~10/01~~, which is hereby incorporated by reference and available by mail from the Department of Banking and Finance, Division of Securities and Finance, 101 East Gaines Street, Tallahassee, Florida 32399-0350;

(b) through (d) No change.

(e) Designate a principal representative who shall operate and exercise control over ~~of~~ the licensee's business. Beginning October 2, 2001, the principal representative must have completed 24 hours of classroom education in accordance with Rule 3D-40.027, F.A.C., and must also have passed a written test in accordance with Rule 3D-40.025, F.A.C., prior to the application being approved. If the designated principal representative holds an active mortgage broker license with the Department and was licensed as a mortgage broker on or after July 1, 1992, he or she will have satisfied the 24-hour classroom education and testing requirements of this section. Each correspondent mortgage lender applicant shall attach a statement to the application outlining the principal representative's duties and responsibilities and demonstrating how the principal representative operates and exercises control over the business.

(2) through (8) No change.

Specific Authority 215.405, 494.0011(1)(2), 494.0062(3)(8),(11),(13) FS. Law Implemented 494.0062 FS. History New 10-1-91, Amended 6-6-93, 5-14-95, 9-3-95, 11-5-95, 7-14-96, 11-24-97, 8-22-99, 12-12-99, 12-9-01, _____.

3D-40.242 Principal Representative.

(1) Effective October 1, 2001, each mortgage lender, correspondent mortgage lender, and mortgage lender pursuant to the saving clause shall designate a principal representative who operates and exercises control over the business and the individual so designated shall accept responsibility by completing the Principal Representative Designation Form DBF-ML/CL-PR, revised 7/02 ~~effective 10/01~~, which is hereby incorporated by reference and available by mail from the Department of Banking and Finance, Division of Securities and Finance, 101 East Gaines Street, Tallahassee, Florida 32399-0350.

(2) Each mortgage lender, correspondent mortgage lender, and mortgage lender pursuant to the saving clause shall include a statement on the Principal Representative Designation Form, DBF-ML/CL-PR, revised 7/02, outlining the principal representative's duties and responsibilities and demonstrating how the principal representative operates and exercises control over the business.

~~(3)~~ Upon any change of principal representative, the licensee and the newly designated principal representative shall complete the Principal Representative Designation, Form DBF-ML/CL-PR, revised 7/02. Form DBF-ML/CL-PR, revised 7/02, shall be maintained at the principal office of the mortgage lender, correspondent mortgage lender, or mortgage lender pursuant to the saving clause, and a copy shall be mailed to the Department at the above address or electronically transmitted to the Department's website at www.dbf.state.fl.us on the Internet within thirty (30) days of said designation or change in designation.

~~(4)~~ Anyone being designated as a principal representative or any change in the principal representative after October 1, 2001, must submit evidence that he or she was originally licensed as a mortgage broker pursuant to Section 494.0033, F.S., on or after July 1, 1992, or has completed 24 hours of classroom education in accordance with Rule 3D-40.027, F.A.C., and has passed a written test in accordance with Rule 3D-40.025, F.A.C.

~~(5)~~ The penalty for failure to maintain Form DBF-ML/CL-PR shall be the issuance of a "notice of noncompliance" for a first offense. Any subsequent finding of a violation of this rule during an examination or investigation shall be a fine of \$500. In cases where the failure to maintain Form DBF-ML/CL-PR is intentional, the penalty shall be a fine of \$5,000.

~~(6)~~ Each principal representative shall notify the Department of Banking and Finance, Division of Securities and Finance, 101 East Gaines Street, Tallahassee, Florida 32399-0350 in writing, within thirty (30) days, of the termination of his or her principal representative status.

Specific Authority 494.0011(1)(2), 494.0016(4), 494.0072(2)(c),(p), 494.0061(1),(3),(8), 494.0062(3),(11) FS. Law Implemented 120.60, 120.695, 494.001(29), 494.0016(1), 494.0061, 494.0062, 494.0067, 494.0072 FS. History--New 1-27-02, Amended _____.

NAME OF PERSON ORIGINATING PROPOSED RULE: Bob Tedcastle, Financial Administrator, Division of Securities and Finance

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

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: July 12, 2002

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: July 26, 2002

DEPARTMENT OF INSURANCE

Career Service System

RULE TITLE: Prohibition Against Retaliation
 RULE NO.: 4E-3.008

PURPOSE, EFFECT AND SUMMARY: The proposed repeal of Rule 4E-3.008, F.A.C., prohibits retaliation against a person who reports a violation of the Smoking Policy rules. The Joint

Administrative Procedures Committee (JAPC) objected to this rule, due to a lack of specific legislative authority. The rule is not necessary as the Department has other disciplinary procedures available to address improper behavior towards persons who report smoking policy violations.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS: 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: 120.53 FS.

LAW IMPLEMENTED: 386.205 FS.

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

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Herb Yohner, Bureau Chief, Bureau of Personnel Management, Department of Insurance, 200 East Gaines Street, Tallahassee, Florida 32399-0314, phone (850)413-2020

THE FULL TEXT OF THE PROPOSED RULE IS:

4E-3.008 Prohibition Against Retaliation.

Specific Authority 120.53 FS. Law Implemented 386.205 FS. History—New 4-22-92, Repealed

NAME OF PERSON ORIGINATING PROPOSED RULE: Herb Yohner, Bureau Chief, Bureau of Personnel Management, Division of Administration, Department of Insurance

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Ralph Sharp, Director, Division of Administration, Department of Insurance

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: July 23, 2002

DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES

Division of Agricultural Water Policy

RULE CHAPTER TITLE: Fertilizers

RULE CHAPTER NO.: 5E-1

RULE TITLE: Procedures for Landowners and Leaseholders

RULE NO.: 5E-1.023

to Submit the Notice of Intent to Implement the Nitrogen Best Management Practices (BMPs)

PURPOSE AND EFFECT: The purpose of this rule is to effect pollutant reduction though the implementation of non-regulatory incentive based programs which may be determined to have a minimal individual or cumulative adverse impacts to the water resources of the state.

SUMMARY: The rule establishes a procedure for submitting a Notice of Intent to Implement that, when filed with the Florida Department of Agriculture and Consumer Services (FDACS), and implemented, provides a wavier of liability from the recovery cost of nitrate contamination of groundwater and could provide a presumption of compliance with state water quality standards and release from the provisions of s. 373.307(5), F.S., for those pollutants addressed by the practices. This rule also provides that records maintained by the applicant confirming implementation of non-regulatory and incentive-based programs are subject to FDACS inspection.

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 within 21 days of this notice.

SPECIFIC AUTHORITY: 576.045 FS.

LAW IMPLEMENTED: 576.045 FS.

IF REQUESTED WITHIN 21 DAYS OF THE DATE OF THIS NOTICE, A HEARING WILL BE HELD.

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Ken Kuhl, Environmental Administrator, Office of Agricultural Water Policy, 1203 Governors Square Blvd., Suite 200, Tallahassee, FL 32301, (850)488-6249 or Fax (850)921-2153

THE FULL TEXT OF THE PROPOSED RULE IS:

5E-1.023 Procedures for Landowners and Leaseholders to Submit the Notice of Intent to Implement the ~~Comply with~~ Nitrogen Best Management Practices (BMPs).

(1) Definitions.

(a) Interim Measures means primarily horticultural practices consistent with the fertilizer recommendations published by the University of Florida or the Florida Agricultural and Mechanical University, or modified by the Department, to reflect public input.

(b) Notice of Intent to Implement the Nitrogen ~~Comply with~~ BMPs means a notice of intent to implement the ~~comply with~~ nitrogen Interim Measures and/or BMPs, or to no longer apply fertilizers or other soil-applied nutrimental material containing nitrogen.

(c) Ridge Citrus means all citrus that is non-bedded and grown on permeable, better drained soils.

(d) Permeable, Better Drained Soils means those soils that are in a drainage class where water is removed more rapidly than in poorly drained soils, and have a permeability of six inches per hour or more, and an available water capacity of 0.10 inch per inch of soil or less, in all horizons to a depth of 80 inches or to bedrock if bedrock is within 80 inches of the surface. Permeable, better drained soils which occur in citrus

producing areas of the state include soils unnamed and characteristic of quartzipsamments, and the following soil series classifications: Adamsville, Archbold, Astatula, Bahiahonda, Broward, Canaveral, Candler, Cocoa, Dade, Florahome, Fort Meade, Gainesville, Lake, Lakewood, Neilhurst, Orlando, Orsino, Palm Beach, Paola, Satellite, St. Augustine, St. Lucie, Tavares.

(2) Notice of Intent to Implement:

(a) Notice of Intent to Implement the ~~comply with~~ Nitrogen BMPs and all document requests made of the department must be submitted to the Environmental Administrator, Florida Department of Agriculture and Consumer Services, Office of Agricultural Water Policy, 1203 Governors Square Blvd., Tallahassee, Florida 32301 ~~Office of Agricultural Environmental Services, 3125 Conner Blvd, Tallahassee, FL 32399-1650.~~ Proof of providing the Notice of Intent to the Department must be retained by the submitter.

(b)(3) The Notice of Intent to Implement must contain the following information related to the implementation of the BMPs and Interim Measures: the name of the property owner, the name of the BMP or Interim Measures to be followed, the date of implementation, the name and the tax parcel identification number of the parcel or land unit upon which the practices will be implemented, the gross acreage on which said practices will be implemented, the county(s) where said parcels or land units are located, the name and contact information of a authorized representative, and the signature of the landowner(s) or leaseholder(s), or authorized representative.

(3)(4) Future Considerations: The Department will consider requests to:

(a) Adopt Best Management Practices and Interim Measures as defined in this rule, other than those incorporated herein, in accordance with Section 576.045(3)(b), Florida Statutes, and

(b) Modify adopted Best Management Practices and Interim Measures as defined in this rule based upon submission of adequate data in accordance with Section 576.045(3)(b), Florida Statutes.

(4)(5) Approved Nitrogen BMPs.

(a) Shadehouse Grown Leatherleaf Ferns:

The BMP for the Shadehouse Grown Leatherleaf Ferns found in the University of Florida, Cooperative Extension Services, Institute of Food and Agricultural Sciences Bulletin 300 (published February 1995), Irrigation and Nutrient Management Practices for Commercial Leatherleaf Fern Production in Florida is hereby adopted. Copies may be obtained from Central Florida Research and Education Center, Institute of Food and Agricultural Sciences, University of Florida, 2807 Binion Road, Apopka, Florida 32707. The associated recordkeeping requirements specified in Recordkeeping For The Nitrogen Best Management Practices For Shadehouse Grown Leatherleaf Ferns dated 12-01-95 is

also adopted. Copies are available from the Department. The foregoing documents are incorporated by reference into this rule.

(b) Citrus:

The document titled Nitrogen Best Management Practices (BMPs) for Florida Ridge Citrus dated 7-23-02, and the associated recordkeeping requirements dated 7-23-02 are hereby adopted and incorporated by reference into this rule. Copies may be obtained from the Department of Agriculture and Consumer Services, Office of Agricultural Water Policy, 1203 Governors Square Blvd., Suite 200, Tallahassee, FL 32301. "Ridge Citrus" Growers currently enrolled in the Nitrogen Interim Measure for Florida Citrus must submit a Notice of Intent to Implement the Best Management Practices for Florida Ridge Citrus by January 1, 2003 to maintain eligibility for the "waiver of liability" from the recovery of costs or damages associated with nitrate contamination of groundwater, Section 576.045(4), F.S., and the "presumption of compliance" with state nitrate groundwater quality standards Section 576.045(5), F.S. Effective January 1, 2003 the document titled Nitrogen Interim Measure for Florida Citrus under paragraph (5)(a) of this rule will be repealed for Ridge Citrus.

(5)(6) Approved Interim Measures:

(a) Citrus.

The Approved Nitrogen Interim Measure for Florida Citrus dated 12-01-95, and the associated recordkeeping requirements dated 12-01-95 are hereby adopted and incorporated by reference into this rule. Copies may be obtained from the Department. Effective January 1, 2003 the document titled Nitrogen Interim Measure for Florida Citrus under paragraph (5)(a) of this rule will be repealed for Ridge Citrus.

(b) Bahiagrass and Bermuda Grass:

The approved Nitrogen Interim Measure for Bahiagrass and Bermuda Grass dated 10-31-00, and the associated recordkeeping requirements dated 10-31-00 are hereby adopted and incorporated by reference into this rule. Copies may be obtained from the Department of Agriculture and Consumer Services, Office of Agricultural Water Policy, 1203 Governors Square Blvd., Suite 200, Tallahassee, FL 32301.

Specific Authority 576.045 FS. Law Implemented 576.045 FS. History--New 10-16-96, Amended 5-1-01, _____.

NAME OF PERSON ORIGINATING PROPOSED RULE: Kenneth A. Kuhl, Environmental Administrator, Office of Agricultural Water Policy, 1203 Governors Square Boulevard, Suite 200, Mail Stop B50, Tallahassee, FL 32301, Telephone (850)488-6249, Fax (850)921-2153

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Mr. Charles C. Aller, Director, Office of Agricultural Water Policy, The Capitol, LL-28, Mail Stop CA- 43, Tallahassee, FL 32399-0810

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: February 28, 2002
 DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: April 12, 2002

FLORIDA PAROLE COMMISSION

| | |
|--|-------------------|
| RULE CHAPTER TITLE: | RULE CHAPTER NO.: |
| Addiction Recovery Supervision | 23-25 |
| RULE TITLES: | RULE NOS.: |
| General | 23-25.001 |
| Definitions | 23-25.002 |
| Addiction Recovery Supervision | |
| Evaluation Procedure | 23-25.003 |
| Addiction Recovery Supervision | 23-25.004 |
| Revocation of Addiction Recovery Supervision | 23-25.005 |

PURPOSE AND EFFECT: The purpose and effect of the proposed rule is to set forth procedures for implementation of the Addiction Recovery Supervision Program pursuant to Sections 944.4731 and 947.141, Florida Statutes (2001), for inmates eligible for post-prison supervision in the Program.

SUMMARY: The proposed rule defines statutory terms and sets forth procedures for administration of the Addiction Recovery Supervision Program.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COST: Projected Number of Inmates affected by the Rule: FY 2002-2003 – 180 to 330; FY 2003-2004 – 480 to 630; FY 2004-2005 – 626 to 776. The only costs to be assessed against these affected individuals are costs of supervision as set by statute and court-ordered costs.

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: 944.4731(8) FS.

LAW IMPLEMENTED: 944.4731, 947.141 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: William L. Camper, General Counsel, Florida Parole Commission, 2601 Blair Stone Road, Bldg. C, Tallahassee, Florida 32399-2450

THE FULL TEXT OF THE PROPOSED RULE IS:

23-25.001 General.

The Parole Commission is charged with establishing the term and conditions of supervision for offenders released from incarceration who are subject to the addiction-recovery supervision as provided under Section 944.4731, F.S. The Parole Commission has the authority to issue warrants and revoke such supervision upon a finding of a violation of a condition of addiction-recovery supervision.

Specific Authority 944.4731(8) FS. Law Implemented 944.4731, 947.141 FS. History–New _____.

23-25.002 Definitions.

- (1) Chair – means the Chair of the Parole Commission.
- (2) Addiction Recovery Supervisor – means the person assigned to provide supervision for the Releasee.
- (3) Commission – means the Parole Commission.
- (4) Controlled Substance – means a “controlled substance” as defined in Section 893.02, F.S.
- (5) Conviction – means a “conviction” as defined in Section 921.0021, F.S.
- (6) Department – means the Department of Corrections.
- (7) Eligible Offender – means any offender who meets the criteria of Section 944.4731(2)(a), F.S.
- (8) History of substance abuse or addiction – means: (1) a score of 4 or more on the Department of Corrections Drug Simple Screening Instrument; or (2) two or more prior convictions for an offense for which an element of that offense relates to a controlled substance, alcohol, or drug paraphernalia; or (3) one prior conviction for any offense for which an element of that offense relates to a controlled substance, alcohol, or drug paraphernalia and the current offense has as an element of the offense a controlled substance, alcohol or drug paraphernalia; or (4) acknowledgement by the offender that he or she has sought help for alcohol or substance abuse.
- (9) Participated in any drug treatment – means prior community supervision drug treatment, prison drug treatment, or mandated or voluntary substance abuse treatment.
- (10) Releasee – means an offender placed on addiction recovery supervision pursuant to Section 944.4731, F.S.
- (11) Revocation – means the order of the Commission entered after a Releasee has been found to have violated one or more conditions of the addiction recovery supervision, and requires the Releasee’s return to prison to resume service of sentence.
- (12) Standard Conditions of Supervision – include the following:
 - (a) Promptly upon being released on addiction recovery supervision, you will proceed to (address) _____, where you will reside. Within 3 days of your release, you will report by personal visit to the Addiction Recovery Supervisor under whose supervision you are to be released.
 - (b) You shall secure the permission of your Addiction Recovery Supervisor before:
 - 1. You change your residence or employment,
 - 2. You leave the county of your residence or the state,
 - 3. You post bail or accept pretrial release if you are arrested for a felony.
 - (c) You shall submit a full and truthful report to your Addiction Recovery Supervisor before the fifth day of each month in writing on the forms provided or in person.

(d) You shall not:

1. Use alcohol or intoxicants of any kind.

2. Use or possess narcotics, drugs or marijuana unless prescribed by a physician.

(e) You shall not knowingly associate with any person who is engaging in any criminal activity.

(f) You shall secure the permission of your Addiction Recovery Supervisor before you own, carry, or have in your constructive possession a knife or any other weapon.

(g) You shall obey all laws, ordinances and statutory conditions of addiction recovery supervision.

(h) You shall:

1. Submit to a search by an Addiction Recovery Supervisor, of your person, residence or automobile,

2. Waive extradition back to the state of Florida if you are wanted for return as an alleged addiction recovery supervision violator.

3. Permit your Addiction Recovery Supervisor to visit you at your residence, employment or elsewhere.

4. Promptly and truthfully answer all questions and follow instructions asked or given to you by your Addiction Recovery Supervisor or the Commission.

(i) You understand that you are to remain on addiction recovery supervision until released therefrom by expiration or by Commission order.

(j) During your addiction recovery supervision term, you shall submit to random testing as directed by your supervising officer or the professional staff of any treatment center or residential program where treatment is being received to determine the presence or use of alcohol or controlled substances pursuant to Section 877.111, Florida Statutes, or Chapter 893, Florida Statutes.

(k) During your addiction recovery supervision term, you shall submit and pay for urinalysis testing to identify alcohol and/or drug usage and understand that your failure to make such payment or participate as defined under this condition of your addiction recovery supervision will be considered grounds for revocation of addiction recovery supervision by the Parole Commission.

(l) You shall pay cost of supervision and rehabilitation as calculated and assessed by the Department of Corrections as provided and required in Section 948.09, Florida Statutes, and any court ordered payments such as child support and restitution.

(m) You shall participate and be supervised under drug offender probation pursuant to Section 948.001(4), Florida Statutes.

(n) You shall not enter any business establishment whose primary purpose is the sale/consumption of alcoholic beverages.

(o) You shall execute and present to your Addiction Recovery Supervisor all necessary authorizations to release records to your Addiction Recovery Supervisor and the Commission so that your progress and participation in required programs can be monitored and documented.

(p) You must participate in (Alcoholics Anonymous or Narcotics Anonymous) and attend meetings as directed by your Addiction Recovery Supervisor.

(q) If you are accepted into a substance-abuse-transition housing program, you shall comply with the terms and conditions of that program, including payment of fees to defray the cost of your participation.

(13) Tentative Release Date – means the projected release date computed by the Department of Corrections based upon length of sentence reduced by applicable gain-time.

(14) Violation Hearing – means an administrative proceeding provided to a Releasee under warrant and conducted by the Commission, a Commissioner, or a duly authorized representative of the Commission, to determine whether the Releasee has violated any condition(s) of his/her release.

(15) Warrant – means a document executed by any member of the Commission which will cause the arrest and detention of a Releasee pending further action by the Commission.

Specific Authority 944.4731(8) FS. Law Implemented 944.4731, 947.141 FS. History–New _____.

23-25.003 Addiction Recovery Supervision Evaluation Procedure.

(1) Within 180 days prior to an Eligible Offender's Tentative Release Date, a representative of the Department of Corrections will interview the offender and review the offender's program participation, disciplinary record, psychological and medical records, release plan, court ordered payments including, but not limited to, costs of supervision and restitution, and any other information pertinent to the pending release. The Department of Corrections will forward the results of said interview and review to the Commission.

(2) A panel of no fewer than two Commissioners shall review the results of the interview and review, and establish the term and conditions of such release.

Specific Authority 944.4731(8) FS. Law Implemented 944.4731, 947.141 FS. History–New _____.

23-25.004 Addiction Recovery Supervision.

(1) Prior to an Eligible Offender being released from incarceration, the Commission shall determine the term and conditions of supervision.

(2) If an Eligible Offender has received a term of probation or community control to be served after release from incarceration, the period of probation or community control shall not be substituted for addiction recovery supervision, but shall follow the term of addiction recovery supervision.

(3) If an Eligible Offender is subject to both conditional release supervision and addiction recovery supervision, the offender shall be subject to the type of supervision that will result in the longest term of supervision, taking into consideration any applicable term of probation. If the terms of supervision are equal, the offender shall be subject to addiction recovery supervision.

(4) The Commission will determine the term of addiction recovery supervision based on the amount of gain-time that the inmate received on sentences that are eligible for addiction recovery supervision, and will toll periods of supervision as necessary to achieve the maximum period of supervision.

(a) In cases involving concurrent sentences, the maximum supervision date will be based on the eligible sentence that has the greatest amount of gain-time.

(b) In cases involving consecutive sentences, the amount of gain-time from eligible sentences will be added together to obtain the maximum term of supervision.

(5) All Eligible Offenders placed on addiction recovery supervision shall be initially subject to Standard Conditions of Supervision upon their release from incarceration. In addition to the Standard Conditions of Supervision, Eligible Offenders shall be subject to such special conditions of supervision as the Commission deems necessary from its review of the record.

(6) Offenders shall have no right to administrative review of the term and conditions of addiction recovery supervision as determined by the Commission.

Specific Authority 944.4731(8) FS. Law Implemented 944.4731, 947.141 FS. History—New.

23-25.005 Revocation of Addiction Recovery Supervision.

(1) Warrants.

(a) A warrant for the arrest of a Releasee shall only be executed by a Commissioner except in the case of an emergency warrant as provided in (2) herein. The decision to issue a warrant shall be based on evidence which indicates reasonable grounds to believe a Releasee has violated a condition of addiction recovery supervision. The issuance of a warrant is discretionary.

(b) Warrant requests will be reviewed by Commission staff for sufficiency of information and if found sufficient, staff shall submit a warrant request to a Commissioner for review.

(c) The reviewing Commissioner will execute a warrant, deny the warrant request, or have the warrant request placed before a panel of no fewer than two Commissioners for a decision.

(d) Should a warrant be issued, such will be transmitted to the requesting agency for appropriate service or filing. Alleged violators of addiction recovery supervision will be entered into the Florida Crime Information Center and the National Crime

Information Center, unless in custody. The Commission has authority to pursue extradition of alleged violators from other jurisdictions.

(e) Should a warrant be issued and a dismissal of the warrant is requested, the signing Commissioner or Chair is authorized to dismiss the warrant for good cause.

(2) Emergency Warrants.

(a) An emergency warrant can be issued by a Commissioner or any Commission representative duly authorized by the Chair, when the Commission receives notification from an arresting agency that a Releasee has been arrested and charged with a new felony offense and there is no outstanding Commission warrant for the Releasee.

(b) The decision to issue an emergency warrant shall be based on evidence which indicates there are reasonable grounds to believe a Releasee violated the conditions of addiction recovery supervision.

(c) Should an emergency warrant be issued, Commission staff will transmit the warrant to the detaining agency for appropriate service or filing and enter information regarding the Releasee into the Florida Crime Information Center and National Crime Information Center, unless the Releasee is in custody. The Commission has authority to pursue extradition of alleged violators from other jurisdictions.

(3) Release on Recognizance.

(a) The Commission or a Commissioner may at any time during the violation process release a Releasee on recognizance. Such release will be conditioned upon the releasee's appearance at any hearings noticed by the Commission or until further order of the Commission and may include any other condition deemed warranted from the Commission's review of the record.

(b) A review regarding release on recognizance for alleged addiction recovery supervision violators who are in custody shall be conducted before or at the time of the initial service of the notice of the Violation Hearing.

(c) The alleged violator must be informed that by accepting release on recognizance, he is waiving any and all time constraints related to the Violation Hearing.

(d) Any Releasee who has been arrested pursuant to a Commission warrant may request and shall be provided a hearing on the matter of release on recognizance regarding the Commission warrant. Such hearing shall be held by a Commissioner or a duly authorized representative of the Commission, who shall provide the Commission with a written summary of the hearing, after which a panel of no fewer than two Commissioners shall make a decision and inform the Releasee. Should the Commission or an authorized representative receive reliable information that the Releasee has violated the conditions of the release on recognizance, a Commissioner can enter an order revoking the release on recognizance. Such order shall be sufficient to cause the arrest and return of the Releasee to custody.

(4) Addiction Recovery Supervision Violation Hearing.

(a) A Commissioner or a duly authorized representative of the Commission shall convene a Violation Hearing within 45 days after notification of the arrest in the State of Florida of a Releasee charged with violation(s), unless waived by the Releasee, or within 45 days of receipt of written notification from the Department of Corrections that the alleged violator has been returned to the custody of the Department from another jurisdiction.

(b) The Releasee shall be informed, in writing, at least 14 days prior to the Violation Hearing of the date, time and location of the hearing. The notice of the hearing shall contain the charges of violation and a list of the Releasee's rights, as follows:

1. The opportunity to be present for the Violation Hearing.

2. The opportunity to present evidence in his or her own behalf, including witnesses and evidence secured by subpoena or subpoena duces tecum.

3. The opportunity to receive, prior to the Violation Hearing, the disclosure of evidence that will be presented at the Violation Hearing.

4. The opportunity to confront and cross-examine any adverse witness.

5. The opportunity to be represented by counsel, either retained or appointed, provided that such appointment is made consistent with the guidelines of the United States Supreme Court case of Gagnon v. Scarpelli, 411 U.S. 778 (1973).

(c) Any Violation Hearing may be waived by the Releasee after an explanation of the consequences of a waiver. The waiver shall be in writing and shall be executed before a Commissioner or duly authorized representative of the Commission. The Releasee may withdraw the waiver by submitting a written request which waives all time constraints. The waiver withdrawal request must be appropriately witnessed, and postmarked within 14 days after the execution of the waiver. Upon receipt of the waiver withdrawal request, a Violation Hearing shall be convened after appropriate notice.

(d) The Releasee may request that the Violation Hearing be postponed until such time as any pending criminal charges that are listed on the Commission's warrant or notice of hearing have been resolved. The granting of a postponement on behalf of the Releasee constitutes a waiver by the Releasee of all time constraints and any requirements for a local hearing. If there are also pending technical charges, the granting of the postponement also postpones disposition of the technical charges until such time as the criminal charges are resolved.

(e) The Releasee may request that the Violation Hearing be continued upon showing of good cause. The request for continuance may be submitted to the person conducting the hearing in writing prior to convening the hearing, provided that the reasons for the request are outlined with specificity. The granting of a continuance on behalf of the Releasee constitutes a waiver by the Releasee of all time constraints, and any

requirements for a local hearing. If a Violation Hearing has been convened, such may be continued beyond 45 days on the motion of the Releasee, the Commission or duly authorized representative of the Commission, provided the record reflects a good cause for such continuance.

(f) Subpoenas and subpoenas duces tecum for the Releasee and the Commission shall be issued by a Commissioner or a duly authorized representative of the Commission on behalf of the State or the Releasee. The Commission, a Commissioner or a duly authorized representative of the Commission will decline a request to subpoena a witness whose testimony is found to be cumulative, irrelevant or non-probative. The party requesting the subpoenas shall furnish to the Commission, a Commissioner or a duly authorized representative of the Commission the names and addresses of his proposed witnesses at least 14 days prior to the hearing date.

(g) At the hearing, the Releasee may waive representation by an attorney, provided the waiver is reflected clearly in writing or in the record of the proceeding. Should the Releasee desire, retained counsel may represent the Releasee at the hearing. If the Releasee desires counsel and has not retained one, the following procedure shall apply:

(1) The person conducting the hearing shall determine the Releasee's financial ability to retain private counsel. When the person conducting the hearing determines a Releasee has the ability to retain private counsel, reasonable time shall be permitted for the Releasee to secure counsel, if the Releasee so desires.

(2) If the person conducting the hearing concludes the Releasee is unable to secure counsel by reason of indigence, the person conducting the hearing shall then proceed to determine if the Releasee is eligible for appointed counsel as provided in the guidelines outlined in Gagnon v. Scarpelli, 411 U.S. 778 (1973). If a request for counsel is denied, the grounds for the denial shall be stated in the record.

(h) During the Violation Hearing, the person conducting the hearing has authority to entertain arguments of counsel or the Releasee. The person conducting the hearing has authority to elect to rule on such matters during the course of the Violation Hearing or may elect to withhold ruling pending consultation with counsel or staff. Arguments of counsel of a legal nature must be reduced to writing, and, if possible, presented prior to the Violation Hearing.

(i) Based on evidence presented at the Violation Hearing, or received by stipulation, the person conducting the hearing shall make findings of fact regarding the alleged violations, with a written recommendation to the Commission. When the Commission finds that the Releasee has committed one or more violations, the Commission shall enter an order revoking the addiction recovery supervision, restoring the Releasee to supervision or such an order as deemed appropriate. Notification by copy of the Commission order shall be

provided to the Releasee. If the decision of the Commission is to revoke, the order entered shall contain the condition(s) that have been violated and the evidence relied upon.

(j) The person conducting the hearing has authority to elect to receive information following the Violation Hearing if the Releasee stipulates to the receipt of such information and such stipulation is reflected in the record.

(k) When a panel of no fewer than two Commissioners revokes addiction recovery supervision, the Releasee shall be entitled to credit for time spent in custody on the Commission's warrant prior to the Violation Hearing. Time spent in another jurisdiction as a result of intervening sentences shall be considered. Credit for time in custody as decided by the panel shall be reflected in the order of revocation of addiction recovery supervision.

Specific Authority 944.4731(8) FS. Law Implemented 944.4731, 947.141 FS. History--New _____.

NAME OF PERSON ORIGINATING PROPOSED RULE:
William L. Camper
NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: William L. Camper
DATE PROPOSED RULE APPROVED BY AGENCY HEAD: July 11, 2002
DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: May 31, 2002

AGENCY FOR HEALTH CARE ADMINISTRATION

Medicaid

RULE TITLE: Medicaid Certified School Match Program
RULE NO.: 59G-4.035
PURPOSE AND EFFECT: The purpose of this rule amendment is to incorporate by reference the Florida Medicaid Certified School Match Program Coverage and Limitations Handbook, July 2002. The effect will be to incorporate by reference in the rule the current Florida Medicaid Certified School Match program Coverage and Limitations Handbook.
SUMMARY: This proposed rule would incorporate by reference the current Florida Medicaid Certified School Match Coverage and Limitations handbook.
SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COST: No statement of estimated regulatory cost has been prepared.

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

SPECIFIC AUTHORITY: 409.919 FS.
LAW IMPLEMENTED: 236.0812, 409.905, 409.906, 409.9071, 409.908, 409.9122, 409.9126 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: 9:15 a.m. (EST), August 26, 2002
PLACE: 2728 Ft. Knox Blvd., Bldg. 3, Conf. Room E, Tallahassee, Florida

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Kim Corsmeier, Bureau of Health Systems Development, 2728 Ft. Knox Blvd., Bldg. 3, MS #20, Tallahassee, Florida 32308-5403, (850)922-7318

THE FULL TEXT OF THE PROPOSED RULES IS:

59G-4.035 Medicaid Certified School Match Program.

(1) This rule applies to all school districts enrolled in the Medicaid certified school match program, as described in Section 409.9071, F.S.

(2) All school district providers enrolled in Medicaid under the certified school match program must be in compliance with the Florida Medicaid Certified School Match Program Coverage and Limitations Handbook, July 2002 ~~August 2000~~, incorporated by reference, and the Florida Medicaid Provider Reimbursement Handbook, HCFA-1500 and Child Health Check-Up 221, which is incorporated by reference in Rule 59G-5.020, F.A.C. Both handbooks are available from the Medicaid fiscal agent.

Specific Authority 409.919, FS. Law Implemented 236.0812, 409.905, 409.906, 409.9071, 409.908, 409.9122, 409.9126 FS. History--New 4-9-98, Amended 11-23-99, 5-27-01, _____.

NAME OF PERSON ORIGINATING PROPOSED RULE:
Kim Corsmeier
NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Rhonda M. Medows, M.D., FAAFP, Secretary
DATE PROPOSED RULE APPROVED BY AGENCY HEAD: July 23, 2002
DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: May 10, 2002

DEPARTMENT OF HEALTH

Board of Massage Therapy

RULE TITLE: Minimum Requirements for Board of Massage Therapy Approval
RULE NO.: 64B7-32.003
PURPOSE AND EFFECT: The Board proposes to update the existing courses of study and classroom hour requirements for approved massage schools.
SUMMARY: The Board deems it necessary to amend the course criteria for massage school approval.
SPECIFIC AUTHORITY: 480.035(7) FS.
LAW IMPLEMENTED: 480.033(9), 480.041(1)(b) FS.

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

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Karen Eaton, Executive Director, Board of Massage Therapy, Department of Health, 4052 Bald Cypress Way, Bin C06, Tallahassee, Florida 32399-3256

THE FULL TEXT OF THE PROPOSED RULE IS:

64B7-32.003 Minimum Requirements for Board of Massage Therapy Approval.

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

(b) Effective July 1, 2004, offers a course of study that includes, at a minimum, the 700 classroom hours listed below, completed at the rate of no more than 40 classroom hours per calendar week. Offer a course of study that includes, at a minimum, the 500 classroom hours listed below, completed at the rate of no more than 6 classroom hours per day and no more than 30 classroom hours per calendar week:

| Course of Study | Classroom Hours |
|---|---------------------------|
| Anatomy and Physiology (<u>Western/Nonwestern</u>) | <u>190</u> 150 |
| Kinesiology, and System Related Pathology | |
| <u>Massage Related Pathology</u> | <u>45</u> |
| Basic Massage Theory and Clinical Practicum | <u>315</u> 225 |
| <u>Professional and Personal Development</u> | <u>36</u> |
| <u>Medical Errors</u> | <u>2</u> |
| Florida Statutes/Rules and History of Massage | 10 |
| Theory and Practice of Hydrotherapy | 15 |
| Allied Modalities | <u>80</u> 97 |
| <u>Professional Ethics</u> | <u>4</u> |
| HIV/AIDS Education | 3 |
| <u>Total</u> | <u>700</u> |

(c) No change.

(2) through (3) No change.

(4) A Board of Massage Therapy-approved school must notify the Board of Massage Therapy within (30) ~~90~~ days of:

(a) through (c) No change.

(5) No change.

(6) Any student enrolled in school on or after July 1, 2004 must meet the 700 hour requirement to be eligible for licensure.

Specific Authority 480.035(7) FS. Law Implemented 480.033(9), 480.041(1)(b) FS. History–New 3-25-86, Amended 8-15-89, 12-22-92, Formerly 21L-32.003, Amended 10-20-96, Formerly 61G11-32.003, Amended 8-16-98,_____.

NAME OF PERSON ORIGINATING PROPOSED RULE:
Board of Massage Therapy

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

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: April 25, 2002

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: October 5, 2001

DEPARTMENT OF HEALTH

School Psychology

RULE TITLE: Continuing Education
RULE NO.: 64B21-502.001

PURPOSE AND EFFECT: Pursuant to the requirements of Section 456.013, Florida Statutes, the Department of Health is requiring as a condition of licensure renewal that each individual licensed as a school psychologist in the State of Florida take a two-hour continuing education course in the prevention of medical errors.

SUMMARY: Language is being added to this rule to update the continuing education licensure renewal requirements for school psychologists.

SPECIFIC AUTHORITY: 490.007(2), 490.0085, 490.015 FS.

LAW IMPLEMENTED: 490.007(2), 490.0085, 490.015, 45.013, 456.031 FS.

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

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Kaye Howerton, Executive Director, Department of Health, 4052 Bald Cypress Way, BIN #C05, Tallahassee, Florida 32399-3255

THE FULL TEXT OF THE PROPOSED RULE IS:

64B21-502.001 Continuing Education.

Every applicant for licensure renewal of ~~licensure~~ shall complete ~~complete demonstrate evidence of having obtained~~ thirty (30) ~~contact~~ hours of continuing education credit ~~earned during each biennial renewal period~~. One (1) of the thirty (30) hours must be on domestic violence consistent with Section 456.031, F.S. Two (2) of the thirty (30) hours, must be on the prevention of medical errors consistent with Section 456.013, F.S. The licensee shall retain for four (4) years certificates of attendance or other records to document the completion of the continuing education requirement. The Department will audit at random a number of licensees as is necessary to assure that the continuing education requirements are met.

Specific Authority 490.007(2), 490.0085, 490.015 FS. Law Implemented 490.007(2), 490.0085, 456.031, 456.013 FS. History–New 4-13-82, Amended 11-27-83, 2-21-85, Formerly 21U-502.01, Amended 12-26-91, 6-24-92, Formerly 21U-502.001, 61E9-502.001, Amended 10-16-01,_____.

NAME OF PERSON ORIGINATING PROPOSED RULE:
Kaye Howerton

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Amy Jones

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: July 17, 2002

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: June 21, 2002

FISH AND WILDLIFE CONSERVATION COMMISSION

Freshwater Fish and Wildlife

RULE TITLE: Importation of Cervids

RULE NO.: 68A-4.0051

PURPOSE AND EFFECT: The purpose and effect of this proposed rule is to establish criteria for the importation and intrastate movement of wildlife species in the family Cervidae to prevent the introduction of Chronic Wasting Disease (CWD) into the wild deer population in Florida. CWD has been found in captive and free-ranging elk, white-tailed deer, mule deer and black-tailed deer in a number of Western and Midwestern states. CWD is a progressive neurological disease that belongs to a family of diseases known as transmissible spongiform encephalopathies which attack the brainstem of live animals eventually causing death. The origin, epidemiology, or transmission of CWD is unknown and there is no live animal test or prophylactic or treatment regimen available. Consequently, introduction of this disease into native white-tailed deer has the potential for catastrophic mortality.

SUMMARY: The proposed rule will prohibit the importation of wildlife species in the family Cervidae unless they originate from a herd with a CWD surveillance and monitoring program approved by the Florida Department of Agriculture and Consumer Services (FDACS) that holds a CWD free status for at least sixty (60) months prior to importation of animals into Florida. The proposed rule also requires an Official Certificate of Veterinary Inspection for all imported cervids and for the person importing cervids to have obtained prior permission from the FDACS State Veterinarian; to be in possession of a valid license or permit to possess wildlife; and to be in compliance with the requirements of an approved FDACS Cervidae Herd Health Plan. Intrastate movement of cervids will require prior permission from the FDACS State Veterinarian and will require both the consignor and consignee to possess a valid license or permit to possess wildlife and be in compliance with the requirements of an approved FDACS Cervidae Herd Health Plan.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COST: It is estimated that the proposed rule action will cost the agency approximately \$575 for administrative preparation and review and \$378 for legal advertising costs.

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

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

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

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

TIME AND DATES: 8:30 a.m. each day, September 4-6, 2002
PLACE: Clarion Suites, 20 Via DeLuna, Pensacola Beach, Florida

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE AND ECONOMIC STATEMENT IS: James Antista, General Counsel, Florida Fish and Wildlife Conservation Commission, 620 South Meridian Street, Tallahassee, Florida 32399-1600, (850)487-1764

THE FULL TEXT OF THE PROPOSED RULE IS:

68A-4.0051 Importation of Cervids.

(1) For the purpose of this rule, the following words shall have the meaning indicated:

(a) “Brucellosis” means an infectious disease of animals and humans caused by bacteria of the genus *Brucella*. The disease is characterized by abortion and impaired fertility in its principal animal hosts.

(b) “Cervid(ae)” means any member of the family Cervidae which includes deer, elk, moose, or their hybrids or related species. Cervidae mentioned in this rule are privately or publicly maintained or held for economic or other purposes within a perimeter fence or confined space.

(c) “Cervidae Herd Health Plan” means a written herd management agreement between FDACS and the herd owner.

(d) “Chronic Wasting Disease (CWD)” means a progressive neurological, debilitating disease affecting cervidae. CWD belongs to a family of diseases known as Transmissible Spongiform Encephalopathies (TSEs) or prion diseases.

(e) “FDACS” means Florida Department of Agriculture and Consumer Services.

(f) “FWC” means Florida Fish and Wildlife Conservation Commission.

(g) “Import, Imported, Importation” means the movement of animals into the State of Florida, from another state, United States territories or a foreign country.

(h) “Intrastate Movements” means Cervidae movement within the State of Florida from one county to another or within the same county.

(i) “Movement Risk Assessment” means Cervids are classified for movement as follows: High Risk cervids are from herds where CWD has been diagnosed, or from herds that have been exposed to CWD. Medium Risk cervids are from herds without known exposure in states where CWD has been diagnosed in captive or free-ranging cervids but do not originate in a prescribed physical proximity where CWD has

been diagnosed. Low Risk cervids are from CWD monitored herds in states where CWD has not been diagnosed but which have a surveillance/ prevention program(s).

(j) “Official Certificate of Veterinary Inspection (OCVI)” means a legible certificate made on an official form from the state of origin or from the United States Department of Agriculture (USDA), issued by an authorized representative, and approved by the chief animal health official of the state of origin.

(k) “Trace-forward herd” means a herd that has received an animal from a CWD positive herd within sixty (60) months prior to the diagnosis of CWD in the positive herd.

(l) “Trace-back herd” means a herd in which a CWD positive animal resided in any of the sixty (60) months prior to diagnosis of CWD in the positive herd.

(m) “Tuberculosis” means a disease in cattle, captive cervids, bison, and goats caused by the bacteria *Mycobacterium bovis*.

(2) The General Requirements for Importation are as follows:

(a) Notwithstanding any other FWC rules, all cervidae for importation shall originate from a herd which has a CWD surveillance/prevention program approved by FDACS and currently holds a CWD- free status. The originating herd status must be CWD free for sixty (60) months prior to importation of any animals into Florida.

(b) OCVI Required. Notwithstanding any other FWC rules, all cervidae imported into the state must be accompanied by an OCVI, except cervidae consigned directly to a recognized slaughtering establishment which are accompanied by permission from the FDACS State Veterinarian or authorized representative as denoted in subsection (3). The OCVI shall be attached to the waybill or be in the possession of the driver of the vehicle or person otherwise in charge of the animals. The OCVI shall accompany the animals to their final destinations in Florida. No person, firm, or association shall have charge, custody, or control of animals imported in violation of this emergency rule.

(c) All information required on the OCVI shall be fully completed by the issuing veterinarian and shall include the following:

1. The name, address and phone number of the consignor;
2. The name, address and phone number of the consignee;
3. The point of origin;
4. The point of destination;
5. The date of examination;
6. The number of animals examined;
7. The individual permanent identification number or other identification approved by the FDACS, for each animal;
8. The sex, age, breed and species of each identified animal;

9. Test results and herd or state status on CWD, brucellosis and tuberculosis as specified in this emergency rule;

10. A statement by the issuing veterinarian that the animals identified on the OCVI are free of signs of infectious, communicable or neurologic disease, and;

11. The phone number of the issuing veterinarian.

(d) A copy of the OCVI, approved by the chief animal health official of the state of origin, shall be forwarded immediately to the Florida Department of Agriculture and Consumer Services, Division of Animal Industry, Tallahassee, Florida.

(e) The OCVI shall be void 30 days after issuance.

(f) All person importing cervidae shall have permission from the FDACS State Veterinarian or authorized representative prior to animal importation. This permission shall be recorded by a number or certificate which shall accompany the OCVI during any animal movement.

(g) Consignee shall possess, and provide for inspection, a valid FWC license or permit to possess wildlife, as required by rule or law.

(h) Consignee must be in compliance with the requirements of an approved FDACS Cervidae Herd Health Plan.

(3) The General Requirements for Intrastate Movement are as follows:

(a) Animals which are not required to have an OCVI and animals being transported totally within the state shall be accompanied by evidence of ownership or authority for possession of the animals or a notarized affidavit of authority to transport. These documents shall disclose:

1. The name, address and phone number of the consignor;
2. The name, address and phone number of the consignee;
3. The point of origin;
4. The point of destination, and;
5. The individual permanent identification number or other identification approved by the FDACS, for each animal;

(b) All persons moving cervidae shall possess permission from the FDACS State Veterinarian or authorized representative prior to animal movement. This permission shall be recorded by a number or certificate which shall accompany the animals during movement.

(c) Consignee and consignor shall possess, and provide for inspection, a valid FWC license or permit to possess wildlife, as required by rule or law.

(d) Consignee and consignor must be in compliance with the requirements of an approved FDACS Cervidae Herd Health Plan.

(4) Other requirements and exceptions:

(a) Chronic Wasting Disease Test: No test is presently required for importation. To date, there is no approved live animal test to detect CWD in cervidae. A positive diagnosis is based on post mortem brain testing at a CWD certified laboratory.

(b) Tuberculosis Test: No test is required for cervidae which originate from an Accredited Tuberculosis-Free Herd program that is approved by FDACS. The statement of herd status shall be recorded on the OCVI accompanying the cervidae. Cervidae not known to be affected with or exposed to tuberculosis may be imported if they:

1. Are under one (1) month of age, or
2. Originate from a herd which has been classified negative to an official tuberculosis test of all eligible animals conducted within the past twelve (12) months, and the animals to be imported have been classified negative to an official tuberculosis test, conducted within ninety (90) days prior to importation, or

3. Have been classified negative to two (2) official tuberculosis tests conducted not less than ninety (90) days apart; the second test was conducted within ninety (90) days prior to importation; and the animals were isolated from all other members of the herd during the testing period.
The tuberculosis test results must be recorded on the OCVI accompanying the cervidae.

(c) Brucellosis Test: No test is required for cervidae which originate from an Accredited Brucellosis-Free Herd program that is accepted by FDACS. The statement of herd status shall be recorded on the OCVI accompanying the cervidae. Cervidae not known to be affected with or exposed to brucellosis may be imported if they:

1. Are less than one (1) month of age, or
2. Have a negative official brucellosis test conducted within ninety (90) days prior to importation.

The brucellosis test results must be recorded on the OCVI accompanying the cervidae.

(5) Cervidae Herd Health Plan: The Cervidae Herd Health Plan is a written herd management agreement between FDACS and the herd owner. This plan is based upon a thorough epidemiological investigation and risk assessment of the herd and their facility. This plan analyzes the risk of continued disease transmission by clinical and subclinical animals and/or environmental contamination. This plan sets out specific actions to be followed to monitor or survey the herd for specific disease(s) or eradicate specific disease(s) from the herd.

(6) Exceptions: Exceptions to the movement requirements in this rule shall be determined by the FDACS State Veterinarian or authorized representative. Cervids that are classified by the Movement Risk Assessment as Low Risk for CWD may be considered for waiver of this rule based upon sound scientific information then available as determined by

the FDACS State Veterinarian or authorized representative. Cervids that are classified as High Risk for CWD or Medium Risk for CWD shall not be subject to a waiver from this rule.

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

NAME OF PERSON ORIGINATING PROPOSED RULE:
 Timothy A. Breault

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Kenneth Haddad, Executive Director

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: July 15, 2002

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: July 5, 2002

FISH AND WILDLIFE CONSERVATION COMMISSION

Freshwater Fish and Wildlife

RULE TITLE: Regulations Governing the Operation of Private Hunting Preserves

RULE NO.: 68A-12.010

PURPOSE AND EFFECT: The purpose and effect of the proposed rule is to allow hunting preserves to release Florida-strain mottled ducks, as an alternative to mallards, for shooting purposes. This change would increase economic and recreational opportunity for private hunting preserves statewide.

SUMMARY: Proposed rule changes would allow private hunting preserves to release Florida-strain mottled ducks for shooting purposes. There currently is no commercial source for large numbers of captive-reared Florida strain mottled ducks. Therefore, in order to establish breeding stock in captivity, the proposed rule provides for the removal of mottled duck eggs and/or birds from the wild and for the provision of these eggs and/or birds to a limited number of breeding facilities.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COST: It is estimated that the proposed action will cost the agency approximately \$1,050 for administrative preparation and \$142 for advertising.

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

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

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

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

TIME AND DATES: 8:30 a.m. each day, September 4-6, 2002

PLACE: Clarion Suites, 20 Via DeLuna, Pensacola Beach, Florida 32561

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

THE FULL TEXT OF THE PROPOSED RULE IS:

68A-12.010 Regulations Governing the Operation of Private Hunting Preserves.

(1) through (11) No change.

(12) With respect to waterfowl, only captive-reared mallards and captive-reared, Florida-strain mottled ducks which are more than two generations removed from the wild may be released for shooting and only in accordance with the provisions of this paragraph. Such birds may not be handled so as to attract wild waterfowl. No person shall be permitted to shoot game farm ducks on any hunting preserve situated on a marsh, lake, river or any other place where there are concentrations of wild waterfowl or if the operation of the preserve attracts concentrations of wild waterfowl. Mallards may be released for shooting on hunting preserves, including preserves denoted as either private or commercial on GFC Form 333, only until June 30, 2008, and only in accordance with the following:

(a) through (b) No change.

(c) No more than 9,000 mallards shall be released by a permittee during the open season.

(13) Florida-strain mottled ducks (mottled ducks) may be released for shooting purposes on hunting preserves only in accordance with the following. Preserves shall:

(a) Obtain mottled ducks only from validly permitted breeding facilities with which the Commission has a current, legal agreement for raising mottled ducks;

(b) Maintain and provide upon request complete records including certificates of origin for mottled ducks, the number of mottled ducks released annually, and daily harvest records indicating how many of which species of ducks were killed and whether the ducks were wild or released;

(c) Release only mottled ducks meeting minimum standards for genetic purity as defined by the Commission. Purity standards shall be based on phenotypic characteristics or, when available, genetic characteristics that provide the best available indicators of whether a bird is a pure, Florida-strain mottled duck; and

(d) Be subject to inspection by the Commission.

(14) In order to establish a source of captive-reared, Florida-strain mottled ducks for release on hunting preserves, the Executive Director shall:

(a) Permit the removal of mottled duck eggs and/or birds from the wild for breeding on a limited number of breeding facilities. The number of eggs and/or birds made available by permit for breeding facilities shall be no greater than one-half

of the number that the Executive Director determines may be removed from the wild population without negative impacts to the population. This number shall be estimated conservatively, using the best available biological information, so as to safeguard the welfare of the wild mottled duck population in Florida;

(b) Determine the number of breeding facilities to which Florida-strain mottled ducks and/or eggs shall be made available based on the number of ducks and/or eggs an individual breeding facility would need to establish a sustainable captive population and on the number of eggs and/or ducks to be removed from the wild;

(c) Use the following criteria to determine which breeding facilities shall be eligible to receive ducks and/or eggs. The proposed facilities shall:

1. Document a history of successfully breeding ducks;

2. Adhere to accepted husbandry standards;

3. Possess all required state and federal licenses and permits; and

4. Not have been adjudicated guilty or pled nolo contendere to any wildlife or game law violation in the state of Florida or other jurisdiction.

(d) Select breeding facilities that shall be permitted to receive ducks and/or eggs based on a random drawing from a pool of breeding facilities that meet the criteria listed in (14)(c); and

(e) Enter into agreements with breeding facilities receiving eggs and/or ducks. Mottled ducks produced at facilities with such agreements shall be eligible for release in Florida subject to license and permitting requirements of these rules. Such agreements shall include the following specific requirements for the breeding facility:

1. Rights of inspection;

2. Separation of mottled ducks from other stock;

3. Marking of birds; and

4. Protocols for culling possible hybrids.

(13) through (20) renumbered (15) through (22) No change.

Specific Authority Art. IV, Sec. 9, Fla. Const. Law Implemented Art. IV, Sec. 9, Fla. Const. History—New 8-1-79, Amended 6-4-81, 6-21-82, 7-1-83, Formerly 39-12.10, Amended 8-5-86, 4-11-90, 4-15-92, 10-20-96, 6-23-99, Formerly 39-12.010, Amended 5-29-01, _____.

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

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Kenneth D. Haddad

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: July 15, 2002

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: July 5, 2002

FISH AND WILDLIFE CONSERVATION COMMISSION

Freshwater Fish and Wildlife

RULE TITLE: RULE NO.:

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

PURPOSE AND EFFECT: The proposed rule change will allow antlerless deer permits to be issued to any qualifying landowner including governmental owners. This will provide landowners greater latitude in managing deer herds on their property.

SUMMARY: The proposed rule change will allow antlerless deer permits to be issued to any qualifying landowner.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COST: It is estimated that the proposed rule will cost the agency approximately \$135 for administrative preparation and \$77 for legal advertising.

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

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

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

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

TIME AND DATES: 8:30 a.m. each day, September 4-6, 2002

PLACE: Clarion Suites, 20 Via DeLuna, Pensacola Beach, Florida 32561

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

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

THE FULL TEXT OF THE PROPOSED RULE IS:

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

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

(1) through (2) No change.

(3) Issuance of antlerless deer permits to ~~private~~ landowners – Antlerless deer may be taken under permit from the executive director during the muzzleloading gun, archery/muzzleloading gun, and antlered deer seasons in accordance with the following:

(a) through (g) No change.

Specific Authority Art. IV, Sec. 9, Fla. Const. Law Implemented Art. IV, Sec. 9, Fla. Const. History—New 8-1-79, Amended 5-19-80, 6-4-81, 6-21-82, 7-1-83, 7-1-84, 7-1-85, Formerly 39-13.04, Amended 6-1-86, 5-10-87, 6-8-87, 5-1-88, 7-1-89, 7-1-90, 7-1-91, 7-1-92, 7-1-93, 3-1-94, 7-1-94, 7-1-96, 10-28-97, 4-27-98, 12-28-98, Formerly 39-13.004, Amended 7-1-01, 5-13-02.

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

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Mr. Kenneth Haddad

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: May 1, 2002

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: November 30, 2001

FISH AND WILDLIFE CONSERVATION COMMISSION

Freshwater Fish and Wildlife

RULE TITLE: RULE NO.:

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

PURPOSE AND EFFECT: The purpose and effect of the proposed rule is to establish, revise, or delete hunter quotas on wildlife management areas (WMAs) and wildlife and environmental areas (WEAs). In addition, the purpose of proposed changes is to reincorporate the list of quotas by area and hunt and establish the effective date of said list as October 1, 2002.

SUMMARY: The proposed rule would establish hunter quotas on Mallory Swamp WMA as follows: muzzleloading gun (first nine days), 20 by special hunt application and 20 at check station (no exemptions); general gun still (first nine days), 20 by regular hunt application and 20 at check station (no exemptions); and general gun dog (first nine days), 75 by regular hunt application and 75 at check station (no exemptions). Additionally the proposed rule would establish the effective date of the quota and special-opportunity permit list as of October 1, 2002.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COST: It is estimated that the proposed action will cost the agency approximately \$225 for administrative preparation and \$75 for legal advertising. No other significant economic impacts are expected.

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

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

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

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

TIME AND DATES: 8:30 a.m. each day, September 4-6, 2002

PLACE: Clarion Suites, 20 Via DeLuna, Pensacola Beach, Florida

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

THE FULL TEXT OF THE PROPOSED RULE IS:

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

(1) No change.

(2) The maximum number of quota and special-opportunity permits to be issued for each wildlife management area, fish management area, or wildlife and environmental area shall be maintained on a list titled "Quota and special-opportunity permits," effective October 1, 2002 ~~July 1, 2002~~, incorporated herein by reference and kept by the Commission at its headquarters office and regional offices.

(3) through (4) No change.

Specific Authority Art. IV, Sec. 9, Fla. Const. Law Implemented Art. IV, Sec. 9, Fla. Const. History—New 8-1-79, Amended 5-19-80, 6-22-80, 12-29-80, 6-4-81, 8-4-81, 6-21-82, 7-29-82, 7-1-83, 7-5-84, 7-1-85, 9-19-85, Formerly 39-15.05, Amended 5-7-86, 6-10-86, 5-10-87, 6-8-87, 10-8-87, 4-13-88, 6-7-88, 7-1-89, 7-1-90, 9-1-90, 7-1-91, 7-2-91, 7-1-92, 8-23-92, 7-1-93, 7-1-94, 3-30-95, 6-20-95, 8-15-95, 4-1-96, 6-27-96, 9-15-96, 10-20-96, 6-1-97, 8-7-97, 11-23-97, 7-1-98, 7-2-98, 8-11-98, 12-28-98, 5-13-99, Formerly 39-15.005, Amended 12-9-99, 4-30-00, 7-1-01, 8-1-01, 11-1-01, 5-13-02, _____.

NAME OF PERSON ORIGINATING PROPOSED RULE: Timothy A. Breault

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Kenneth Haddad

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: July 15, 2002

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: November 30, 2001

FISH AND WILDLIFE CONSERVATION COMMISSION

Freshwater Fish and Wildlife

RULE TITLE: Specific Regulations for Type I Wildlife

RULE NO.:

Management Areas – North Central Region 68A-15.062

PURPOSE AND EFFECT: The purpose and effect of this proposed rule is to establish specific regulations for the Mallory Swamp Wildlife Management Area (WMA) to provide new public hunting opportunities in Lafayette County.

SUMMARY: The proposed rule would establish the following specific regulations for Mallory Swamp WMA: (a) archery (September 21 through October 20); (b) muzzleloading gun (October 26 through November 3 in the still hunt area only); (c) general gun (November 9 through January 5); (d) small game (January 6 through February 2); (e) spring turkey (March 15 through 30); (f) duck and coot (during the duck and coot season and the early duck season in September established pursuant to Rule 68A 13.003, F.A.C.); (g) fishing and frogging

(throughout the year); and (h) trapping (January 6 through March 1). The proposed rule would establish the following as legal to take: all legal game, fish, frogs, and furbearers with no size or bag limit on hogs. The proposed rule would prohibit the following: camping; fires; public access from one and one-half (1 1/2) hours after sunset to one and one-half (1 1/2) hours before sunrise; and the use of tracked vehicles, airboats, motorcycles or all-terrain vehicles. The proposed rule would prohibit dogs with a shoulder height of more than 17 inches during the general gun season and hunting with dogs other than bird dogs in that portion of the area lying west of Crapps Tower Grade and north of L.A. Bennett Grade and in that portion of the area lying west of Crapps Tower Grade and south of Deserter's Hammock Road. The proposed rule would require hunters to check all game taken during the muzzleloading gun and general gun seasons at the check station. The proposed rule would permit horses only on roads and designated horse trails during periods closed to hunting and only during daylight hours. The proposed rule would allow operation of motorized vehicles only on established roads and would prohibit vehicular traffic on roads identified and posted as closed. The proposed rule would permit possession of .22 rimfire rifles or pistols from February 3 through March 1 by licensed trappers.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COST: It is estimated that the proposed rule action will cost the agency approximately \$275 for administrative preparation and review and \$345 for legal advertising costs.

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

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

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

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

TIME AND DATES: 8:30 a.m., each day, September 4-6, 2002

PLACE: Clarion Suites, 20 Via DeLuna, Pensacola Beach, Florida

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE AND ECONOMIC STATEMENT IS: James Antista, General Counsel, Florida Fish and Wildlife Conservation Commission, 620 South Meridian Street, Tallahassee, Florida 32399-1600, (850)487-1764

THE FULL TEXT OF THE PROPOSED RULE IS:

68A-15.062 Specific Regulations for Type I Wildlife Management Areas – North Central Region.

(1) through (30) No change.

(31) Mallory Swamp Wildlife Management Area

(a) Open season:

1. Archery – September 21 through October 20.

2. Muzzleloading gun – October 26 through November 3.

- 3. General gun – November 9 through January 5.
- 4. Small game – January 6 through February 2.
- 5. Spring turkey – March 15-30.
- 6. Duck and coot – During the duck and coot season and the early duck season in September established pursuant to Rule 68A-13.003, F.A.C.
- 7. Trapping – January 6 through March 1.
- 8. Fishing and frogging – Throughout the year.
 - (b) Legal to take: All legal game, fish, frogs and furbearers. No size or bag limits on wild hogs.
 - (c) Camping: Prohibited.
 - (d) General regulations:
 - 1. Dogs with a shoulder height of more than 17 inches are prohibited during the general gun season. Hunting with dogs other than bird dogs is prohibited in that portion of the area lying west of Crapps Tower Grade and north of L.A. Bennett Grade, and in that portion of the area lying west of Crapps Tower Grade and south of Deserter’s Hammock Road.
 - 2. During the muzzleloading gun and general gun seasons, hunters shall check all game taken at the check station.
 - 3. The use of tracked vehicles, airboats, motorcycles or all-terrain vehicles is prohibited. Horses are permitted only on roads and designated horse trails during daylight hours and only during periods closed to hunting.
 - 4. Motorized vehicles may be operated only on established roads. Vehicular traffic is prohibited on roads identified and posted as closed.
 - 5. Public access to the area shall be prohibited from one and one-half (1 1/2) hour after sunset to one and one-half (1 1/2) hour before sunrise.
 - 6. Fires are prohibited.
 - 7. Licensed trappers may possess .22 rimfire rifles or pistols from February 3 through March 1.

Specific Authority Art. IV, Sec. 9, Fla. Const. Law Implemented Art. IV, Sec. 9, Fla. Const., 375.313 FS. History—New 6-21-82, Amended 7-1-83, 11-17-83, 7-5-84, 7-1-85, 2-16-86, 5-7-86, 6-10-86, 11-27-86, 5-10-87, 5-1-88, 6-7-88, 7-1-89, 8-17-89, 7-1-90, 9-1-90, 7-1-91, 7-2-91, 7-1-92, 7-2-92, 8-23-92, 10-22-92, 7-1-93, 7-1-94, 2-9-95, 7-1-95, 7-1-96, 9-15-96, 6-1-97, 7-1-98, 7-2-98, 7-1-99, Formerly 39-15.062, Amended 12-9-99, 7-1-00, 7-1-01, 11-11-01, 6-2-02, _____.

NAME OF PERSON ORIGINATING PROPOSED RULE:
 Timothy A. Breault
 NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Kenneth Haddad
 DATE PROPOSED RULE APPROVED BY AGENCY HEAD: July 15, 2002
 DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: November 30, 2001

FISH AND WILDLIFE CONSERVATION COMMISSION

Marine Fisheries

RULE TITLE: RULE NO.:

Repeal, Amendment, and Readoption of Sections of Chapter 70-973, Laws of Florida (1970), as Amended by Chapter 73-652, Laws of Florida (1973), Volusia County Special Act 68B-3.008

PURPOSE AND EFFECT: The purpose of this rule amendment is to expand the list of gears allowable in Volusia County inland saltwaters, to include pinfish traps authorized by Section 370.1105(1)(b), Florida Statutes, and recreational blue crab traps meeting the requirements of Rule Chapter 68B-45, F.A.C. Additionally, language regarding commercial blue crab traps considered archaic is being deleted from the rule, again referring to the specifications in Rule Chapter 68B-45. The effect of this rulemaking will be to promote uniformity of trapping gears across the state, including Volusia County, and reducing confusion caused by varying local regulations.

SUMMARY: Paragraph (3)(a) of Rule 68B-3.008, F.A.C., is amended to include pinfish traps meeting the requirements of Florida law as allowable gear for use in the inland saltwaters of Volusia County. Paragraph (3)(h) of the rule is amended to allow the use of blue crab traps in such waters pursuant to Rule Chapter 68B-45, F.A.C., and to affirmatively allow recreational blue crab trapping as allowed by such rules. Obsolete language regarding permits issued by the Department of Environmental Protection and specifications in conflict with Rule Chapter 68B-45, are deleted.

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; s. 2, Chapter 83-134, Laws of Florida, as amended by Chapter 84-121, Laws of Florida.

LAW IMPLEMENTED: Article IV, Section 9, Florida Constitution; s. 2, Chapter 83-134, Laws of Florida, as amended by Chapter 84-121, Laws of Florida.

IF REQUESTED WITHIN 21 DAYS OF THE DATE OF THIS NOTICE, A HEARING WILL BE HELD DURING THE FISH AND WILDLIFE CONSERVATION COMMISSION’S REGULAR MEETING AT THE TIME, DATES AND PLACE SHOWN BELOW:

TIME AND DATES: 8:30 a.m. – 5:00 p.m. each day, September 4-6, 2002

PLACE: Clarion Suites Resort, 20 Via DeLuna, Pensacola Beach, 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-3.008 Repeal, Amendment, and Readoption of Sections of Chapter 70-973, Laws of Florida (1970), as Amended by Chapter 73-652, Laws of Florida (1973), Volusia County Special Act.

(1) through (2) No change.

(3) This section intended to readopt certain provisions of Chapter 70-973, Laws of Florida (1970), as amended by Chapter 73-652, Laws of Florida (1973), as a Commission rule. As of the effective date of this section, the aforesaid Chapter 70-973, Laws of Florida (1970), as amended by Chapter 73-652, Laws of Florida (1973), as readopted, shall read as follows:

(a) It is unlawful for any person, firm or corporation to harvest or attempt to harvest marine species of fish in the inland salt waters of Volusia County in any way or with any appliance other than with the ordinary cast net, rod and reel, pinfish trap meeting the specifications of Section 370.1105(1)(b), Florida Statutes, or hook and line except as provided otherwise in Section 68B-3.008, F.A.C. Legal size flounders may be taken by the means of a barbed spear, with not more than three (3) prongs.

(b) through (g) No change.

(h) No person, firm or corporation shall set or place, or cause to be set or placed, any trap ~~or other device~~ for the taking of crabs for any purpose in the inland salt waters of Volusia County, unless such trap meets all the requirements of Rule Chapter 68B-45, F.A.C. ~~or device is buoyed with a device other than glass, attached to each such trap or device used for taking crabs, buoy to be of sufficient strength and buoyancy to continuously remain afloat and must be of such hue and~~

~~brilliancy as to be easily seen and located. Provided further, that each crab trap or device used for taking crabs must have a permit number attached permanently both to the trap and to the buoy. This permit number shall be issued by the Department of Environmental Protection (formerly the Department of Natural Resources) upon the receipt of application for such number by the owner of such trap or device. The design of the application and of the permit numbers shall be determined by said department. The trap permit number must be painted in legible figures not less than three (3) inches high on each buoy marking the set of any trap or other device used for taking crabs.~~ A person may use traps for taking crabs for personal consumption if such person meets all the requirements for blue crab harvest with a trap for other than commercial purposes as established by Rule Chapter 68B-45, F.A.C. without a buoy and without a permit if the traps or lines attached to the traps are held by the person and provided the size of the traps does not exceed twenty-four (24) inches in their largest dimension when closed or forty-eight (48) inches in the largest dimension when open. No trap may be abandoned or discarded in or along the shore of the waters of Volusia County. Not more than two hundred (200) crab traps shall be fished under one (1) permit. No buoyed crab traps shall be left unattended for more than seventy-two (72) hours, weather permitting. No buoyed crab traps shall be placed within one hundred (100) yards of any bridge or dock where fishing is legal from that bridge or dock except that persons with written permission of the owner of a dock may place legal traps closer to that dock.

Specific Authority Art. IV, Sec. 9, Fla. Const., s. 2, Chapter 83-134, Laws of Fla., as amended by Chapter 84-121, Laws of Fla. Law Implemented Art. IV, Sec. 9, Fla. Const., s. 2, Chapter 83-134, Laws of Fla., as amended by Chapter 84-121, Laws of Fla. History—New 10-19-89, Amended 1-9-91, 1-1-92, 7-1-92, 11-26-92, 10-3-94, 9-30-96, 7-30-97, Formerly 46-3.008, 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: Kenneth D. Haddad, Executive Director

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: May 31, 2002

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: July 19, 2002

Section III Notices of Changes, Corrections and Withdrawals

DEPARTMENT OF STATE

Division of Elections

RULE NO.:
1S-2.032

RULE TITLE:
Uniform Primary and General
Election Ballot