

Section I
Notices of Development of Proposed Rules
and Negotiated Rulemaking

DEPARTMENT OF EDUCATION

State Board of Education

RULE TITLE: Florida Teacher Certification Examination
RULE NO.: 6A-4.0021

PURPOSE AND EFFECT: The purpose of the rule development is to review the existing application form for necessary changes, to establish a test fee for the General Knowledge Test, and to establish transitional passing scores for the Middle Grades Integrated Curriculum and Physical Education K-12 subject area tests and the Professional Education Test. The effect is that the Florida Teacher Certification Examination application form will be available for applicants and will contain current and accurate information, a fee will be established for the General Knowledge Test, and transitional passing scores will be established for the Middle Grades Integrated Curriculum and Physical Education K-12 subject area tests and the Professional Education Test.

SUBJECT AREA TO BE ADDRESSED: Florida Teacher Certification Examination.

SPECIFIC AUTHORITY: 1012.56(8), 1012.59 FS.

LAW IMPLEMENTED: 1012.56, 1012.59 FS.

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

TIME AND DATE: 4:00 – 6:00 p.m., April 30, 2003

PLACE: Broward County Board Room, District Office, 600 S.E. 3rd Avenue, Fort Lauderdale, Florida 33301, and

TIME AND DATE: 2:00 – 4:00 p.m., April 30, 2003

PLACE: Department of Education, 325 West Gaines Street, Room 403, Tallahassee, Florida 32399

Requests for the rule development workshop should be addressed to Wayne V. Pierson, Agency Clerk, Department of Education, 325 West Gaines Street, Room 1214, Tallahassee, Florida 32399-0400.

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT IS: Kathy Fearon, Accountability, Research, and Measurement, Department of Education, 325 West Gaines Street, Suite 414, Tallahassee, Florida 32399-0400, (850)488-8198

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

DEPARTMENT OF EDUCATION

State Board of Education

RULE TITLE: Educational Leadership Examination
RULE NO.: 6A-4.00821

PURPOSE AND EFFECT: The purpose of this rule development is to review the existing application form for persons to use when registering for the Florida Educational Leadership Examination. The effect will be a form that is current and contains accurate information relating to the examination.

SUBJECT AREA TO BE ADDRESSED: Florida Educational Leadership Examination.

SPECIFIC AUTHORITY: 1012.56(8) FS.

LAW IMPLEMENTED: 1012.56 FS.

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

TIME AND DATE: 4:00 – 6:00 p.m., April 30, 2003

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THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT IS: Kathy Fearon, Accountability, Research, and Measurement, Department of Education, 325 West Gaines Street, Suite 414, Tallahassee, Florida 32399-0400, (850)488-8198

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

DEPARTMENT OF TRANSPORTATION

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

RULE TITLES: Grant Application Process
RULE NOS.: 14-40.020

Florida Highway Beautification Council
 Grant Award Process 14-40.022

Funding, Construction, and Maintenance
 of Beautification Projects 14-40.023

PURPOSE AND EFFECT: This amendment to Part II of Rule Chapter 14-40, F.A.C., addresses several changes that were not included in the March 20, 2003, amendment. The Florida Highway Beautification Council Grant Application also is being revised to include these changes.

SUBJECT AREA TO BE ADDRESSED: This is an amendment to Part II of Rule Chapter 14-40.

SPECIFIC AUTHORITY: 339.2405 FS.

LAW IMPLEMENTED: 339.2405 FS.

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

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT IS: James C. Myers, Management Analyst 4, Florida Department of Transportation, Office of the General Counsel, 605 Suwannee Street, Mail Station 58, Tallahassee, Florida 32399-0458

THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS:

14-40.020 Grant Application Process.

(1) Definitions.

(a) “Agreement” means the contract between the Applicant and the Department setting forth the terms of the grant.

~~(b)(a)~~ “Applicant” means a local governmental entity, as defined in Section 11.45(1)(d), Florida Statutes, or a local highway beautification council.

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

~~(d)(c)~~ “FHBC” means the Florida Highway Beautification Council.

~~(e)(d)~~ “Grant” means funds provided by the Department to Applicants, pursuant to this Rule Chapter.

~~(f)(e)~~ “Grant Agreement” means the contract between the Applicant and the Department setting forth the terms of the Grant.

(f) “Grant Application” means the Florida Highway Beautification Council Grant Application, Form 850-060-01, Rev. ~~04/03~~ ~~03/03~~, incorporated herein by reference. Copies of the grant application form and instructions for completing the grant application may be obtained from Department District Maintenance Offices, District Public Information Offices, Area Maintenance Offices, Central Public Information Office, by writing to the Environmental Management Office, 605 Suwannee Street, Mail Station 37, Tallahassee, Florida 32399-0450, or through the Department website at <http://www11.myflorida.com/emo/>.

(g) “Grant Coordinator” means the Department District employee responsible for the FHBC grant program.

(2) Grant Application.

(a) Grant applications for highway beautification grants from the FHBC must be filed and processed in accordance with this Rule Chapter. When preparing a grant ~~an~~ application for the next fiscal year, applicants should meet and work with the

Grant Coordinator on or about October 1, to give adequate time for review and revisions before the February 1, application deadline.

(b) Previous recipients of grants are eligible to submit a grant application if their previous FHBC grant projects are maintained according to the terms of previous grant agreements, ~~and any construction or maintenance agreements.~~

(c) Applicants must submit grant requests on a completed grant application to the Grant Coordinator ~~Department District Maintenance Engineer~~ having jurisdiction over the state highway on which the beautification project is proposed. Grant applications must be accompanied by the following supporting documents: location map, photographs of existing conditions, one page written project narrative, written or graphic conceptual plan (in accordance with Part I of this Rule Chapter), one paragraph descriptions of each evaluation attribute, photographs or sketches of examples of proposed improvements, list of proposed plant species (scientific and botanical names) and anticipated quantities, anticipated maintenance schedule, proposed means of providing supplemental water, project schedule, and resolutions required in section (g) below.

(d) In order for the FHBC to consider a grant application for any Department fiscal year, ten paper copies or electronic file copies of the completed grant application and supporting documents must be received by the Grant Coordinator by February 1 of the Department fiscal year. When requested by the Grant Coordinator, additional copies will be provided. Incomplete grant applications, or grant applications that do not comply with state or federal regulations, will be returned to the applicant. An applicant may amend and resubmit any returned grant application by the February 1 deadline.

(e) In accordance with Section 215.01, Florida Statutes, the Department’s fiscal year begins on July 1 and ends on June 30.

(f) Applicants may submit an unlimited number of grant applications, for any number of project sites.

(g) The applicant’s governing body must have passed a resolution approving the grant application and authorizing the individual who signs the grant application for the applicant to execute agreements and documents associated with the grant; ~~including a grant agreement.~~ A copy of such resolution must be included with the application.

Specific Authority 339.2405 FS. Law Implemented 339.2405 FS. History—New 1-19-99, Amended 11-22-01, 3-20-03, _____.

14-40.022 Florida Highway Beautification Council Grant Award Process.

(1) The FHBC will consider all grant applications submitted by each Grant Coordinator.

(a) The FHBC will evaluate the applications based on the following attributes:

1. Aesthetic value and imaginative conceptual design.

2. Level of local support and community involvement.
3. Cost effectiveness.
4. Feasibility of installation and maintenance.
5. Contribution to improvement of environmental conditions, including litter prevention, erosion control, visual screening, and noise abatement.
6. Use of Florida native wildflowers, and diversity of other desirable native, hybrid native, or noninvasive plant species.
7. Emphasis on low maintenance, irrigation, and water conservation.
8. Use of recycled materials such as mulch, reuse water, or solid yard waste compost.
9. Contribution to an area wide or regional beautification plan.
10. Value to the community.

(b) The FHBC will assign a numerical score to each application by:

1. Reviewing each grant application and assigning a numerical score using the established range of 0 to 10 points for each attribute for a total possible score of 100 points.
2. Totaling all the attribute scores for a total application numerical score.

(c) Grant ~~a~~Applications will be ranked in priority by numerical score, the highest numerical score being ranked the highest priority.

(2) The FHBC will provide the Department with a list of prioritized grant applications, with recommended funding levels, and conditions for grant awards, by the first day of the fiscal year in which the funds are available.

Specific Authority 339.2405 FS. Law Implemented 339.2405 FS. History--New 3-9-99, Amended 11-22-01, 3-20-03,_____.

14-40.023 Funding, Construction, and Maintenance of Beautification Projects.

(1) Award of Grants.

(a) Each grant will be limited to a maximum of 10% of the total Department's FHBC grants budget. Applicants are encouraged to submit grant applications for projects supported with equal (50%) matching funds from other sources. Other match percentages will be considered.

(b) Official notice of each grant award will be made by the Department by certified mail to the applicant named in the grant application.

(c) To accept a grant, an applicant must send a letter of acceptance by certified mail to the Grant Coordinator within 15 days from the date of receipt of the offer of the award.

(d) Funds will be released by the Department when ~~the grant agreement and any construction and maintenance~~ agreements are executed, the project is constructed as per plans approved by the Department (see Part I of this Rule Chapter), there is written final acceptance by the Department, and receipts for grant expenses are reviewed and approved by the Department.

(e) All funding of grants is contingent upon legislative appropriations.

(2) Execution of ~~Grant~~ Agreements.

(a) ~~The applicant must execute a grant agreement within 90 days after the agreement is received from the Grant Coordinator. Construction and maintenance~~ Agreements associated with the grant must be executed within one year from date of the letter of acceptance grant agreement, and meet the requirements of paragraph 14-40.003(3)(c), F.A.C. Failure to execute the required agreements will result in the grant award being withdrawn. Future grant applications from an applicant who fails to comply with this subsection will not be accepted for a period of two fiscal years.

(b) The ~~grant~~ agreement(s) between the applicant and the Department must state:

1. The intended use of the grant, as described in the grant application.
2. The payment terms for the grant (e.g., lump sum reimbursement or progress payments for long term work).
3. Any actions which the Department will take in the event of noncompliance by the applicant.
4. The methods to be used by the Department to determine compliance with the terms of ~~the grant and~~ the agreement.

(c) The individual(s) who sign the agreements on behalf of the grant applicant, or the grant applicant's designee, shall certify that the project is implemented as specified in the ~~grant agreement, and any construction and maintenance~~ agreements, and shall provide a certification of completion before the final invoices are submitted for the project.

Specific Authority 339.2405 FS. Law Implemented 339.2405 FS. History--New 3-20-03, Amended_____.

DEPARTMENT OF CORRECTIONS

RULE TITLE: Inmate Telephone Use
 RULE NO.: 33-602.205

PURPOSE AND EFFECT: The purpose and effect of the proposed rule is to clarify requirements for attorney/client telephone calls.

SUBJECT AREA TO BE ADDRESSED: Inmate telephone calls to attorneys.

SPECIFIC AUTHORITY: 944.09 FS.

LAW IMPLEMENTED: 20.315, 944.09 FS.

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

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT AND A COPY OF THE PRELIMINARY DRAFT IS: Perri King Dale, 2601 Blair Stone Road, Tallahassee, Florida 32399-2500

THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS:

33-602.205 Inmate Telephone Use.

(1) through (2) No change.

(3) Calls to attorneys.

(a) Inmates shall be allowed to make private telephone calls to attorneys upon presentation to the warden or his designee of evidence that the call is necessary. Such evidence shall be a letter from the attorney (transmission by FAX is acceptable) requesting the return call or a court order containing a deadline the inmate cannot meet if he must communicate by letter with the attorney. Due to the burden placed on staff, telephone calls between attorneys and inmates are not intended to be a substitute for written correspondence. Requests for calls should be limited to those situations where written communication is not feasible due to the need for immediate communication of information. Attorneys and inmates who abuse telephone means of communication through repeated requests shall be subject to being required by the warden to provide a statement in each request that the need for the call is based upon a deadline or other need for immediate communication that cannot be met through written communications. Except as authorized by warrant or order of court, telephone calls to attorneys made pursuant to this section shall not be monitored or electronically recorded. These calls will be placed on telephones designated for this purpose and shall be collect calls; there shall be at least one telephone at each institution that is not connected to the monitoring system for these calls.

(b) through (14) No change.

Specific Authority 944.09 FS. Law Implemented 20.315, 944.09 FS. History—New 11-19-81, Formerly 33-3.125, Amended 11-21-86, 1-6-92, 3-24-97, 7-22-97, 12-21-98, Formerly 33-3.0125, Amended 2-7-00, 6-18-02, 2-4-03,_____.

DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION

Asbestos Consultants/Asbestos Consultant Examination

RULE TITLES: RULE NOS.:

Asbestos Consultants/Contractors; Licensure Requirements 61E1-1.001

Continuing Education Requirements for Asbestos Consultants/Contractors 61E1-1.002

PURPOSE AND EFFECT: The purpose of this rule development is to revise the Specific Authority for Rule 61E1-1.001, F.A.C.; to revise the Law Implemented for Rule 61E1-1.002, F.A.C.; to clarify the time period prescribed in Rule 61E1-1.002, F.A.C., in which asbestos consultants and contractors applying for biennial renewal of a license must complete refresher courses and for which asbestos contractors must maintain records demonstrating that asbestos abatement workers and onsite supervisors have completed a refresher course; and to delete the requirement to perform random audits of asbestos consultants and contractors to verify compliance with the continuing education requirements for license

renewal. The effect is to restate that a refresher course be completed in each year of the preceding biennial period for asbestos consultants, asbestos surveyors, management planners, project designers, project monitors, asbestos contractors, asbestos abatement workers and onsite supervisors and to no longer require the Department to perform random audits of at least five percent of asbestos consultants and contractors to verify compliance with continuing education requirements.

SUBJECT AREA TO BE ADDRESSED: Specific Authority, Law Implemented, and Refresher Course Time Periods for Biennial Renewal.

SPECIFIC AUTHORITY: 469.011 FS.

LAW IMPLEMENTED: 61E1-1.001, 469.004, 469.005 FS., 61E1-1.002, 469.004(6) FS.

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

Requests for the rule development workshop should be addressed to: Charles J. Pellegrini, Assistant General Counsel, Office of the General Counsel, Department of Business and Professional Regulation, 1940 North Monroe Street, Tallahassee, Florida 32399.

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT IS: Anthony Spivey, Executive Director, Asbestos Licensing Unit, Department of Business and Professional Regulation, 1940 North Monroe Street, Tallahassee, Florida 32399, (850)487-9597

THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS:

61E1-1.001 Asbestos Consultants/Contractors; Licensure Requirements.

(1) The Department will accept as meeting the requirements for licensure as an asbestos consultant as defined in Section 469.001(5), Florida Statutes, any individual who meets the requirements set forth in Sections 469.004(1) and 469.005, Florida Statutes.

(2) The Department will accept as meeting the requirements for licensure as an asbestos contractor as defined in Section 469.001(7), Florida Statutes, any individual who meets the requirements set forth in Sections 469.004(2) and 469.005, Florida Statutes.

(3)(a) The Department shall accept as evidence of financial stability, as required in Section 469.005(5)(4), Florida Statutes, a statement from the applicant that he/she has not had any asbestos projects which were not satisfactorily completed and that no claims exist on asbestos projects that have been completed; and compliance with paragraph 61E1-4.001(1)(c), Florida Administrative Code.

(b) The Department shall accept as meeting the requirements of Section 469.005(6)(5), Florida Statutes, an applicant who has paid the appropriate examination fee and passed the Department administered examination set forth in Rules 61E1-2.001 through 61E1-2.005, Florida Administrative Code.

(4) To satisfy the requirements of Section 469.005(4)(3), Florida Statutes, the applicant must submit evidence of ten asbestos projects within the last five years, with said evidence containing a description of the project, the level of responsibility, the dates of the engagement and a statement that no claims of unsatisfactory professional services have been sustained against the professional activities of the applicant. This statement must be certified by the owner or entity for who the service was rendered.

(a) Distribution of the ten projects for an asbestos consultant shall be as follows:

1. Two projects involving asbestos surveys;
2. Two projects involving the development of operations and maintenance plans;
3. Two projects involving asbestos abatement project management and supervision;
4. Two projects involving the design of asbestos abatement projects; and
5. Two additional projects from any of the above categories.

(b) The ten projects for an asbestos contractor shall involve asbestos abatement activities.

Specific Authority 469.011, ~~469.008~~ FS. Law Implemented 469.004, 469.005 FS. History—New 6-14-89, Formerly 21-25.001, Amended 11-11-97, _____.

61E1-1.002 Continuing Education Requirements for Asbestos Consultants/Contractors.

(1) Each applicant for biennial renewal of a license as an asbestos consultant ~~Asbestos Consultant~~ shall;

(a) Complete 2 days of refresher courses in each preceding year for each calendar year related to any of the courses as outlined in Section 469.005(2), Florida Statutes, which have been approved by the Department; and

(b) Maintain records demonstrating that each asbestos surveyor, management planner, project designer, and project monitor has completed an approved refresher course each calendar year for each biennial renewal period. The refresher courses must have met the requirements of Section 469.013, Florida Statutes, and such records shall be furnished upon request pursuant to Rule 61-6.010, Florida Administrative Code.

(2) Each applicant for renewal of an asbestos contractor license shall;

(a) Complete 1 day of an asbestos abatement project management and supervisor refresher courses in each preceding year for each calendar year which has been approved by the Department; and

(b) Maintain records demonstrating that each asbestos abatement worker and onsite supervisor has completed a 1 day refresher course in each calendar year of each biennial period ~~refresher course each calendar year for each biennial period~~. The refresher courses must have met the requirements of Section 469.012, Florida Statutes, and been approved by the Department, and the records related to such course shall be furnished upon request pursuant to Rule 61-6.010, Florida Administrative Code.

~~(3) The Department shall perform random audits of not less than five (5%) percent of asbestos contractors and five (5%) percent of asbestos consultants in accordance with Rule 61-6.010, Florida Administrative Code, to verify compliance with continuing education required for license renewal.~~

Specific Authority 469.011 FS. Law Implemented 469.004 (6) 455.004(6) FS. History—New 8-13-90, Formerly 21-25.002, Amended 11-11-97, _____.

DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION

Asbestos Consultants/Asbestos Consultant Examination

RULE TITLES:	RULE NOS.:
Written Examination General Requirements	61E1-2.001
Asbestos Training Courses and Providers	61E1-2.006

PURPOSE AND EFFECT: The purpose of this rule development in Rule 61E1-2.001, Florida Administrative Code, is 1) to state that the Department shall administer a written examination to applicants for licensure as asbestos consultants and asbestos contractors procured by the Department in accordance with Section 455.217, Florida Statutes, or provided by a computer-based testing vendor approved by the Department and 2) to revise the Specific Authority and Law Implemented. The purpose of this rule development in Rule 61E1-2.006, Florida Administrative Code, is 1) to require registration with the Department of training course providers and training courses, limiting the time of validity of registration and requiring reapplication for approval of training courses if substantially changed; 2) to revise the definition of Training Course for consistency with Sections 469.005, 469.012 and 469.013, Florida Statutes; 3) to revise the definition of Refresher Course for asbestos consultants and asbestos contractors; 4) to revise the definition of Training Course Provider to include refresher courses as well as training courses; 5) to require training course providers and training courses registered by a state with an Environmental Protection Agency-approved accreditation program to be registered with the Department and comport with Chapter 469, Florida Statutes, and Rule 61-6.015, Florida Administrative Code; 6) to require training course providers and training courses registered by a state with a reciprocating agreement with the Department to be registered with the

Department and comport with Rule 61-6.015, Florida Administrative Code; 7) to state that the information required in applications for course provider and training course approval is not limited to the information specified; 8) to require that the Asbestos Abatement Worker, Building Asbestos Abatement Surveys and Mechanical Systems and Asbestos Management Planner refresher courses contain a course review including a multiple choice test with 70 percent as the minimum passing score; 9) to specify Asbestos Abatement Project Designer initial and refresher courses; 10) to state that worker training for work with asbestos containing flooring material is described in Section 469.002(3), Florida Statutes, and that the training course shall address noticing requirements as prescribed in Section 469.002(3)(d), Florida Statutes; 11) to correct the statutory reference for exemption from licensure for roofing contractors as Section 469.002(2), Florida Statutes; 12) to provide provisions regulating the advertising of training and refresher courses; 13) to revise the requirements for Department training course audits; and 14) to require training course providers to maintain course attendee records for a minimum period of time; to state compliance requirements for course providers; and to state requirements for reporting course attendance to the Department. The effect is to clarify and augment the qualification requirements for course providers and for training and refresher courses for asbestos abatement professionals.

SUBJECT AREA TO BE ADDRESSED: Course Providers, Training Courses, Refresher Courses.

SPECIFIC AUTHORITY: 455.203(5), 469.111 FS.

LAW IMPLEMENTED: 469.405(6), 455.217, 455.2171, 469.014 FS.

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

Requests for the rule development workshop should be addressed to: Charles J. Pellegrini, Assistant General Counsel, Office of the General Counsel, Department of Business and Professional Regulation, 1940 North Monroe Street, Tallahassee, Florida 32399.

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT IS: Anthony Spivey, Executive Director, Asbestos Licensing Unit, Department of Business and Professional Regulation, 1940 North Monroe Street, Tallahassee, Florida 32399, (850)487-9597

THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS:

61E1-2.001 Written Examination ~~Designated~~; General Requirements.

~~The Department of Professional Regulation hereby determines that a~~ written examination shall be given and passed prior to any applicant receiving a license to practice as an asbestos consultant or an asbestos contractor as provided in Chapter 469 ~~455.303(1)(a), (b) and (2)~~, Florida Statutes. The examination shall be provided by the Department pursuant to Section 455.217, Florida Statutes or a computer based testing vendor contract consultant approved by the Department. The written examination shall consist of one day (approximately 8 hours). Examinations are closed book ~~and that is~~, the use of notes and reference books are prohibited. All materials including pens and pencils are to be furnished by the applicant. The examination security requirements as set forth by the Department in Rule 61-11.014, Florida Administrative Code, shall be followed throughout the administration of the examination.

Specific Authority ~~469.011 455.307~~ FS. Law Implemented 469.405(6), 455.217, 455.2171 455.217, 455.303 FS. History--New 2-15-89, Formerly 21-23.001, Amended _____.

61E1-2.006 Asbestos Training Courses and Providers.

(1) Each training course provider must be registered with the Department as a course provider and each training course must be registered with the Department. Provider registration and courses are valid until May 31st of odd numbered years and must be renewed prior to expiration. Any substantial change in the course content will require the provider to reapply to the Department for approval.

~~(2)(1)~~ Definitions.

(a) Training Course: ~~An initial~~ A course of study which provides the educational experience required for asbestos related occupational certification pursuant to Sections 469.005, 469.012 and 469.013 s. 469.001—469.015, Florida Statutes.

(b) Refresher Course: Refresher training required each year to maintain accreditation. For an asbestos consultant, the refresher courses shall include one half day of Asbestos Survey and Mechanical Systems Course, one half day of Asbestos Management Planning Course, and one full day of Project Designer Course. For an asbestos contractor, the refresher course shall include one full day of Asbestos Contractor/Supervisor Course. Survey and Mechanical Systems Course, one half day of Management Planning Course

~~(c)(b)~~ Training Course Provider: An entity and any of its agents engaged in providing training courses and refresher courses as required by this chapter.

~~(d)(e)~~ Training day: The equivalent of 8 hours including breaks and lunch. Breaks and lunches are not to exceed 1.5 hours of each training day.

~~(e)(4)~~ Training Instructor: Any person approved by the department to conduct asbestos training for a department approved asbestos course. Outside experts brought in to address a specific topic or subset of the course are not considered training instructors.

~~(f)(e)~~ Regulatory Review: As used in this rule, regulatory review means review concerning applicable regulations including but not limited to the EPA Worker Protection Rule, Toxic Substance Control Act Title II, OSHA 29 CFR 1926, 1101, NESHAP 40 CFR part 61, subpart M, chapter 469, Florida Statutes, Sections 255.551-255.565, Florida Statutes, the Florida Department of Environmental Protection Fee Chapter 62-257, Florida Administrative Code, and local regulations.

~~(3)(2)~~ A training course provider must meet the standard set forth in ~~Chapter 469 s. 469.001-469.015~~, Florida Statutes, and those set forth in 40 CFR Part 763, subpart E of Appendix C, which are incorporated herein by reference. Copies can be obtained by writing the department at Department of Business and Professional Regulation, Asbestos Licensing Unit, 1940 North Monroe Street, Tallahassee, Florida 32399. The following providers and courses shall be approved.

(a) Training providers and courses registered approved by a state with an Environmental Protection Agency-approved accreditation program must register with the department and meet the requirements of Chapter 469, Florida Statutes and Rule 61-6.015, F.A.C.

(b) Training providers and courses registered approved by a state that has a written reciprocating agreement with the department must register with the department and meet the requirements in subsection 61-6.015(5), F.A.C.

(c) Training courses completed prior to July 1, 1995, that are recognized by the Environmental Protection Agency and listed in the National Directory of Asbestos Hazard Emergency Response Act Accredited Courses as set forth in 40 CFR Part 763, as it existed on September 1, 1997, which are incorporated herein by reference.

~~(4)(3)~~ The application for the provider and course approval shall include but is not limited to the following information.

(a) The course provider's name, address, telephone number, and social security number or federal tax identification number.

(b) A list of states that currently approve the training course.

(c) The course curriculum. Courses must at a minimum demonstrate the inclusion of the following curriculum content areas for initial training and refresher courses:

1. Asbestos abatement worker course (initial) shall include a minimum of 4 training days with a minimum of 14 hours of hands-on training. Additionally an examination of at least 50

multiple choice questions, with a passing score of 70 percent must be given to each person seeking accreditation. The training course shall address the following topics:

- a. Physical characteristics of asbestos;
- b. Potential health effects related to asbestos exposure;
- c. Employee personal protection equipment;
- d. State-of-the-art work practices;
- e. Personal hygiene;
- f. Additional safety hazards;
- g. Medical monitoring;
- h. Air monitoring;
- i. Regulatory review;
- j. Establishment of respiratory protection programs; and
- k. Course review.

2. Asbestos abatement worker course (refresher) shall include a minimum of 1 training day. The training course shall address the following topics:

- a. Physical characteristics of asbestos;
- b. Potential health effects related to asbestos exposure;
- c. Employee personal protective equipment;
- d. State-of-the-art work practices;
- e. Personal hygiene;
- f. Additional safety hazards;
- g. Air monitoring;
- h. Regulatory review; and
- i. Course review to include a multiple choice test with a minimum 70% passing score.

3. Asbestos abatement project management and supervision course (initial) shall include a minimum of 5 training days with a minimum of 14 hours of hands-on training. This course also fulfills the requirements of an asbestos roofing course as required in Section 469.012(3), Florida Statutes. Additionally an examination of at least 100 questions in an objective test format, with a passing score of 70 percent must be given to each person seeking accreditation. The training course shall address the following topics:

- a. Physical characteristics of asbestos and asbestos-containing material;
- b. Potential health effects related to asbestos exposure;
- c. Employee personal protective equipment;
- d. State-of-the-art work practices;
- e. Personal hygiene;
- f. Additional safety hazards;
- g. Medical monitoring;
- h. Air monitoring;
- i. Regulatory review;
- j. Respiratory protection and medical surveillance programs;
- k. Insurance and liability issues;
- l. Record keeping for asbestos abatement projects;

m. Supervisory techniques for asbestos abatement activities;

- n. Contract specifications; and
- o. Course review.

4. Asbestos abatement project management and supervision course (refresher) shall include a minimum of 1 training day. The training course shall address the following topics:

- a. Employee personal protective equipment;
- b. State-of-the-art work practices;
- c. Personal hygiene;
- d. Additional safety hazards;
- e. Medical monitoring;
- f. Air monitoring;
- g. Regulatory review;
- h. Respiratory protection and medical surveillance programs;
- i. Insurance and liability issues;
- j. Record keeping for asbestos abatement projects;
- k. Supervisory techniques for asbestos abatement activities; and

l. Course review to include a multiple choice test with a minimum 70% passing score.

5. Building asbestos abatement surveys and mechanical systems (initial) shall include a minimum of 3 training days, with a minimum of 4 hours of hands-on-training (to include conducting a simulated building walk-through inspection and respirator fit testing). The training course shall address the following topics:

- a. Background information on asbestos;
- b. Potential health effects related to asbestos exposure;
- c. Functions/qualifications and role of inspectors;
- d. Legal liabilities and defenses;
- e. Understanding building systems;
- f. Public/employee/building occupant relations;
- g. Pre-inspection and review of previous inspection records;
- h. Inspecting for friable and non-friable asbestos containing material and assessing the condition of friable asbestos containing material;
- i. Bulk sampling/documentation of asbestos;
- j. Inspector respiratory protection and personal protective equipment;
- k. Record keeping and writing the inspection report;
- l. Regulatory review; and
- m. Course review.

6. Building asbestos abatement surveys and mechanical systems (refresher) shall include a minimum of one-half training day. The training course shall address the following topics:

- a. Functions/qualifications and role of inspectors;

b. Legal liabilities and defenses;

c. Understanding building systems;

d. Public/employee/building occupant relations;

e. Review of previous inspection records;

f. Inspecting for friable and non-friable asbestos containing material and assessing the condition of friable asbestos hazard emergency;

g. Bulk sampling/documentation of asbestos;

h. Regulatory review; and

i. Course review to include a multiple choice test with a minimum 70% passing score.

7. Asbestos abatement management planner course (initial) shall include a minimum of 2 training days, with hands-on training (to include analysis and application of an operation and maintenance plan). Completion of the building asbestos abatement surveys and mechanical systems or inspector course must be demonstrated prior to attendance. The training course shall address the following topics:

- a. Course overview;
- b. Evaluation and interpretation of survey results;
- c. Hazard assessment;
- d. Legal implications;
- e. Evaluation and selection of control options;
- f. Role of other professionals;
- g. Developing an operations and maintenance plan;
- h. Regulatory review;
- i. Record keeping for the management planner;
- j. Assembling and submitting the management plan;
- k. Financing abatement actions; and
- l. Course review.

8. Asbestos abatement management planner course (refresher) shall include a minimum of one-half training day. The training course shall address the following topics:

- a. Legal implications;
- b. Evaluation and selection of control options;
- c. Role of other professionals;
- d. Developing an operations and maintenance plan;
- e. Regulatory review;
- f. Record keeping for the management planner; and
- g. Assembling and submitting the management plan.

i. Course review to include a multiple choice test with a minimum 70% passing score.

9. Asbestos abatement respiratory protection course shall include a minimum of 3 training days, to include a minimum of 8 hours hands-on training. The training course shall address the following topics:

- a. Course overview;
- b. Terminology;
- c. Respiratory system/medical recommendations;
- d. Respiratory hazards and overview;
- e. Selection of respirators and decision making;

f. Establishing and maintaining a respiratory protection program; and

g. Cleaning, maintenance, storage, and inspection of respirators, fit testing (qualitative and quantitative), and protection factors.

10. Asbestos Abatement Project Designer course (initial) shall include a minimum of 3 training days. The project designer course shall include lectures, demonstrations, a field trip, course review, and a written examination of least 100 multiple choice questions, with a passing score of 70 percent correct. The abatement project designer training course shall adequately address the following topics:

- a. Background information on asbestos.
- b. Potential health effects related to asbestos exposure.
- c. Overview of abatement construction projects.
- d. Safety system design specifications.
- e. Field trip.
- f. Employee personal protective equipment.
- g. Additional safety hazards.
- h. Fiber aerodynamics and control.
- i. Designing abatement solutions.
- j. Final clearance process.
- k. Budgeting cost estimating.
- l. Writing abatement specifications.
- m. Preparing abatement drawings.
- n. Contract preparation and administration.
- o. Legal/liabilities/defenses.
- p. Replacement.
- q. Role of other consultants.
- r. Occupied buildings.
- s. Relevant Federal, State, and local regulatory requirements, procedures, and standards.

11. Asbestos Abatement Project Designer (refresher) shall include a minimum of one full day of training. The refresher course shall include the review and discussion of changes in Federal, State and local regulations, developments in state-of-the-art procedures as well as the following:

- a. Potential health effects related to asbestos exposure overview.
- b. Safety system design specifications review.
- c. Additional safety hazards (review of safety considerations).
- d. Fiber aerodynamics and control (review of air monitoring requirements).
- e. Abatement materials and methods update.
- f. Writing abatement specifications review.
- g. Legal/liabilities/defenses.
- h. Course review to include a multiple choice test with a minimum 70% passing score.

~~12.10.~~ Asbestos abatement sampling course shall include a minimum of 4 training days, to include a minimum of 16 hours hands-on training. The training course shall address the following topics:

- a. Course overview;
- b. Sampling and air flow calibration equipment;
- c. Microscopes, accessories, adjustments, calibration and 1-hour review, sampling procedures and calibrations, sampling equipment (pump) placement, statistical calculations and counting procedures, image quality investigation, slide counting procedures and analysis, comprehensive lab and quality control; and
- d. Course review.

~~13.11.~~ Worker training for work with asbestos containing flooring material as described in Section ~~469.002(3) 469.004(4)~~, Florida Statutes, shall include hands on training and a minimum of 1 training day. Additionally an examination of at least 25 objective (i.e. multiple choice or true/false) questions, with a passing score of 70 percent must be given to each person seeking certification. The training course shall address the following topics:

- a. Physical characteristics and methods of recognizing asbestos;
- b. Potential health effects related to asbestos exposure;
- c. Relationship between smoking and asbestos related diseases including a list of names, addresses and phone numbers of public health organizations which provide information and conduct programs concerning smoking cessation;
- d. Employee personal protective equipment including decontamination and emergency procedures;
- e. Regulatory review;
- f. State-of-the-art work practices including removal procedures for resilient floor tile, resilient sheet flooring, and residual asphaltic adhesive as prescribed by OSHA;
- g. Medical surveillance program requirements;
- h. Waste disposal procedures and requirements;
- i. Sign posting and labeling requirements; and
- j. Noticing requirement as prescribed in Section ~~469.002(3)(d) 469.004(4)(d)~~, Florida Statutes.

~~14.12.~~ Supervisor training for the supervision of intact removal of resilient flooring material shall include a minimum of one half day training in addition to successful completion of the 1 day worker training in subparagraph 61E1-2.006(3)(c)11., Florida Administrative Code. The additional one half day training will include an examination of at least 25 objective (i.e. multiple choice or true/false) questions on the following topics, with a passing score of 70 percent for certification:

b. Assessment of the work area including site preparation and safety hazards; a. Prework activities and considerations including a list of common building materials containing asbestos;

c. Supervising workers which includes goal setting, establishing expectations, motivating, and providing clear instructions;

d. Course review.

~~15.43~~ On site roofing supervisor training for the purpose of meeting the exemption of Section ~~469.002(2)~~ ~~469.004(3)~~, Florida Statutes, and described in Section 469.012(3), Florida Statutes, shall be equivalent to the requirements of the competent person as defined by OSHA for work with Class II roofing material under 29 CFR, Part 1926.1101, as it existed on September 1, 1997, which is hereby incorporated by reference and made a part of this rule.

(d) A statement from the course provider clearly indicating compliance with the requirements of subsection 61E1-2.006(2), F.A.C., and:

1. The length of training days;
2. The amount and a description of hands-on training;
3. The length, format and passing score of the examination; and
4. The topics covered in the course.

(e) A copy of all course materials, including student manuals, instructor notebooks, handouts, videotapes and any other materials requested by the department.

1. Pursuant to 40 CFR, Part 763, subpart E of appendix C, the asbestos worker courses are the only courses approved to be conducted in a language other than English.

2. Any course provider who wishes to conduct a course in a language other than English must comply with the following:

- a. Translate the course into other language;
- b. Provide the translated course material to the Department;

c. Give written assurance with the submission of the course that the translation has been checked for accuracy; and

d. Give assurance that the instructor is fluent in the language that the course is being taught and that no additional translator is being used.

(f) A detailed statement about the development of the examination used in the course, including the number of questions in the item bank, the names and qualifications of the persons or entities who developed the examination, and the psychometric data used to support the validity of the examination.

(g) The names and qualifications of course instructors. Instructors must have academic credentials or certification, and field experience in asbestos abatement. Instructors must have completed both initial and refresher courses from an approved provider in the course(s) they instruct. Such proof of course completion will be required to be documented in the

application. The list of instructors and their qualifications must be updated and submitted to the department whenever changes are made. Outside experts may address topics including but not limited to legal liabilities and defenses, insurance and liability issues, and regulatory review.

(h) A description and example of the certificate of successful completion issued to students who attend the course and pass examination.

(i) A fee as provided in this rule, which must be received by the department in order for the application for approval to be deemed complete.

(5) Advertising of Training and Refresher Courses:

(a) A course provider may not advertise a course as one approved by the Department until such approval is granted.

(b) A course provider may not include any false or misleading information regarding the contents, instructors, or number of classroom hours of any course approved under this rule.

(c) Once approved, the course provider shall use the course number in the course syllabus, in all other course materials used in connection with the course, and in all written advertising materials used in connection with the course.

(d) Upon completion of an initial or refresher course, the provider shall issue a completion certificate listing the name and license number of the attendee, the name and course number, the provider name and registration number, the date the course was offered, the instructor name, and the length of the course.

~~(6)(4)~~ Training course audits.

(a) The department shall, at its discretion ~~least once every three years following the date that approval was granted by the department or other approval agencies,~~ conduct on-site random audits of training courses to ensure compliance with subsection 61E1-2.006(2), Florida Administrative Code., which shall include, but not be limited to an evaluation of the following:

1. Training course content;
2. Technical accuracy;
3. Instructor effectiveness; and
4. Course administration.

(b) Such audits may be conducted without advance notice if the department has reasonable cause to believe that a violation of this rule or Chapter ~~469.001-469.015~~, Florida Statutes, has occurred.

(c) The department shall pursue administrative action to suspend or revoke approval of the course if the on-site reviewer finds the course not in compliance with the requirements of this rule as set forth in paragraph 61E-2.006(2)(a)., Florida Administrative Code.

(d) Training course providers who are located outside this state must meet the requirements of this section in either of the following ways;

1. The training course provider will make arrangements for the department representatives to conduct an on-site review of the training course located outside the state at no charge, including travel, subsistence, and lodging costs as provided in Section 112.061, Florida Statutes.

2. Another state in which the training provider is approved has reciprocal agreement with this state for auditing of training courses for compliance with the standards set forth in this rule.

~~(7)(5)~~ Upon a change of instructors, the provider shall submit the credentials of the new instructor to the department for approval.

~~(8)(6)~~ The department will seek written reciprocal agreements with other states where equivalency of asbestos accreditation requirements with the Florida requirements can be demonstrated.

~~(9)(7)~~ Fees.

(a) Fees for initial training course review shall be \$350.00 per training day. Courses with a duration of eight hours will be assessed at the 8 hour day rate (\$350.00). An additional \$350.00 will be assessed for each 8-hour day of training above the minimum days of training specified in Sections 469.001 through 469.015, Florida Statutes, and those set forth in 40 CFR Section 763, subpart E of Appendix C, as it existed on September 1, 1997. Courses with a duration of four hours of training will be assessed \$175.00. Courses with a duration of eight hours will be assessed at the 8-hour day rate (\$350.00).

(b) Fees for refresher training course approval shall be as follows:

1. \$175.00 – per 4 hour day
2. \$250.00 – per 8 hour day

(c) All application fees are non-refundable.

~~(10)(8)~~ Records.

(a) Training course providers shall be responsible for maintaining records of all persons taking approved courses for a minimum of 3 years from the date of the course. Copies of such records shall be released upon written request by the trainee and shall be made available to the department at any time upon request of the department.

(b) Upon ceasing to provide training and/or refresher courses, the provider shall forward all records relating to persons trained to the department within 60 days. Such records shall include class rosters, examination scores, certificates issued, and any other record which may be used to verify training. Upon receipt of the records, the department shall void the provider's certificate.

(c) Any changes in the course provider name, address, telephone number, course curriculum and/or instructors must be submitted in writing to the department, within 30 days of such change.

(d) The provider must comply with the requirements stated in subsection 61-6.015(5), Florida Administrative Code, as a condition of approval as a course provider and provide the attendee list to the Department in the prescribed electronic

format of all licensees who attended refresher courses to obtain continuing education credits. The provider is required to resolve reporting conflicts with the licensee by the expiration date.

(e) The course provider shall not offer any training courses if the provider status is expired or under discipline.

(f) The provider must submit attendance rosters of all Florida licensed consultants and contractors who have attended refresher courses within 30 days of completion of such course(s). The roster should include the licensee name, course number, course name, date the course was administered and the provider number.

(g) If the provider status is revoked by the Department, the provider cannot reapply to be registered as a provider for two years from the date of the Final Order revoking the registration.

Specific Authority 455.203(5), 469.111 FS. Law Implemented 469.014 FS. History—New 5-12-93, Formerly 21-23.006, Amended 8-17-94, 11-24-97.

DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION

Asbestos Consultants/Asbestos Consultant Examination

RULE TITLE: RULE NO.:

Fees; License Renewal; Active, Inactive and Delinquent Licenses; Change of Status

61E1-3.001

PURPOSE AND EFFECT: The purpose of this rule development is 1) to provide a fee for training provider and course renewals; 2) to provide that fees due a testing vendor for computer-based testing shall be paid directly to the vendor; 3) to provide that any license not renewed before the end of the biennial period shall become delinquent; 4) to require licensees on inactive status to meet the requirements of Sections 469.004(3) and 469.005(6), Florida Statutes; and 5) to require a fee to add a qualifying agent; and 6) to revise the Specific Authority. The effect is to require a registration fee for added qualifying agents, a registration renewal fee for training course providers and a registration initial and renewal fee for training and refresher courses, to clarify that business and qualifying agent licenses that are not renewed before the end of the biennial period shall become delinquent, and to require licensees on inactive status to meet examination and continuing education requirements.

SUBJECT AREA TO BE ADDRESSED: Course Provider Fee, Course Fees, Delinquent Licenses, Inactive Licenses, Qualifying Agents.

SPECIFIC AUTHORITY: 469.011, 469.004, 469.006, 469.008 FS.

LAW IMPLEMENTED: 455.271, 469.006, 469.008 FS.

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

Requests for the rule development workshop should be addressed to: Charles J. Pellegrini, Assistant General Counsel, Office of the General Counsel, Department of Business and Professional Regulation, 1940 North Monroe Street, Tallahassee, Florida 32399.

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT IS: Anthony Spivey, Executive Director, Asbestos Licensing Unit, Department of Business and Professional Regulation, 1940 North Monroe Street, Tallahassee, Florida 32399, (850)487-9597

THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS:

61E1-3.001 Fees; License Renewal; Active, Inactive and Delinquent Licenses; Change of Status.

(1) The following fee schedule is adopted by the Department regarding the applications, initial licensure, examinations, delinquent licenses, reactivation, change of status, active and inactive licenses, renewals, late renewals, unlicensed activities, transfers, and changing a qualifying agent or financially responsible officer, for asbestos consultants and asbestos contractors, and for business organizations or qualified agents proposing to engage in consulting or contracting under a name other than the applicant's legal name, training provider and course renewal pursuant to Sections 455.203(1), 455.271, 455.2281, 469.006, 469.008, F.S:

(a) Application fee	\$300.00
(b) Initial License fee	\$500.00
(c) Delinquent fee	\$250.00
(d) Reactivation fee	\$100.00
(e) Biennial License Renewal fee for Asbestos Consultants, Asbestos Contractors	\$300.00
(f) Biennial License Renewal fee for Asbestos Business Organizations	\$500.00
(g) Biennial Inactive License Renewal fee for Asbestos Consultants, Asbestos Contractors	\$200.00
(h) Examination fee	\$400.00
(i) Reexamination fee	\$400.00
(j) Change of Status fee	\$100.00
(k) Unlicensed Activity fee	\$5.00
(l) To change a Financial Officer	\$100.00
(m) To <u>add or</u> change a Qualifying Agent	\$100.00

(n) Transfer fee	\$200.00
(o) <u>Provider renewal fee</u>	\$100.00
(p) <u>Training course initial or refresher renewal fee</u>	\$100.00

(2) ~~All~~ The fees shall be made payable to: ~~The~~ Department of Business and Professional Regulation. Any fee due to the testing vendor for computer based testing shall be made payable directly to the vendor.

(3) An asbestos consultant, asbestos contractor, business organization or qualifying agent shall renew his or her license on or before November 30 of each biennial year. If an asbestos consultant, asbestos contractor, business organization or qualifying agent makes a written request to change a qualifier or financially responsible officer during the biennial period, the department shall charge the respective changing fee and a transfer fee.

(4) Any license, ~~other than a business organization or qualifying agent license~~, which is not renewed prior to the end of each biennium renewal period, shall automatically revert to a delinquent status.

(a) A licensee may change a delinquent status license by remitting a delinquent fee and the applicable biennial license renewal fee(s) to the department.

(b) If a licensee makes a written request during the renewal period to activate a delinquent status license to active or inactive, the department shall impose a delinquent fee, a reactivation fee, a renewal fee that will be applied to the delinquent biennium period, and a biennial license renewal fee.

(c) If a licensee makes a written request to the department to activate a delinquent status license to active or inactive status at a time other than the renewal period, the department shall impose a delinquent fee, a reactivation fee, a change of status fee, a renewal fee that will be applied to the delinquent biennium period, and a biennial license renewal fee.

(d) The failure of a delinquent status licensee to change the status of the license to active or inactive before the expiration of the current licensure period, shall render the license null without any further action by the department. Thereafter, any subsequent licensure shall be as a result of applying for and meeting all requirements imposed on an applicant for new licensure.

(e) A business organization shall not be required to take an examination or reexamination.

(f) The department shall conduct an investigation to determine whether an applicant, whose license has become null, has met the minimum qualifications for new licensure.

(5) A licensee may make written request during the renewal period to place his or her license in an inactive status and remit the biennial inactive license renewal fee. The department shall then change the status of the license to inactive status.

(a) An inactive license may be maintained during each subsequent biennium period by the department in an inactive status upon the payment of a biennial inactive license renewal fee. However, the department shall require a licensee, who has been on an inactive status to meet the requirements of ss. 469.004(3) and 469.005(6), ~~for more than two consecutive biennial licensure periods~~, F.S.

(b) If a licensee makes a written request to the department during the renewal period to activate his or her license from an inactive status to an active status, the department shall impose a reactivation fee in addition to the biennial license renewal fee.

(c) If a licensee makes a written request to the department at a time other than during the renewal period to activate his or her license from an inactive status to an active status, the department shall impose a reactivation fee, a change of status fee, and a biennial license renewal fee.

(d) The department shall conduct an investigation to determine whether a licensee has met the minimum qualifications for active licensure.

(6) An asbestos consultant, asbestos contractor, business organization or qualifying agent shall not work with an inactive, delinquent, or null license.

Specific Authority ~~455.274~~, 469.004, 469.006, 469.008, 469.011 FS. Law Implemented 455.271, 469.006, 469.008 FS. History—New 9-22-94, Amended 10-17-95, 10-29-97, _____.

DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION

Asbestos Consultants/Asbestos Consultant Examination

RULE TITLES:	RULE NOS.:
Licensure of Business Organizations and Qualifying Agents	61E1-4.001
Financial Responsibility; Definitions; Grounds for Denial	61E1-4.002
Public Liability and Property Damage Insurance	61E1-4.003

PURPOSE AND EFFECT: The purpose of this rule development in Rule 61E1-4.001, F.A.C., is 1) to specify more fully the contents required of credit reports and financial statements to be submitted with the applications of business organizations or qualifying agents for licensure; 2) to require a signed statement of the prescribed amounts of public liability and property damage insurance; 3) to delete a provision making it a violation to fail to continually maintain public liability and property damage insurance; 4) to require that applicants for licensure provide answers pertaining to the organization and its responsible persons to specified questions concerning past financial settlements, unpaid past-due bills and claims, liens, suits or judgments of record or pending, bankruptcy proceedings, past assignment of assets in settlement, disciplinary proceedings, and criminal proceedings; and 5) to define “responsible person.” The effect is to provide the Department with more comprehensive information with which to determine the fitness of applicants for licensure. The

purpose of this rule development in Rule 61E1-4.002, F.A.C., is to define “financial responsibility” and to set forth grounds based on financial responsibility for denying applicants for licensure. The effect is to make more clear what the Department shall consider in assessing an applicant’s fitness for licensure. The purpose of this rule development in Rule 61E1-4.003, F.A.C., is to require that applicants for licensure certify that they have obtained and will maintain public liability and property damage insurance in the amounts specified in the rule and to authorize the Department to conduct random audits of at least ten percent of licensees directing them to submit proof of coverage by means of a Certificate of Insurance as prescribed in the rule. The effect is to provide assurance that licensees procure and maintain adequate insurance coverage. Both Rules 61E1-4.002 and 61E1-4.003, F.A.C., provide that failure to meet certain of their provisions constitutes a violation of the rule.

SUBJECT AREAS TO BE ADDRESSED: Business Organizations, Qualifying Agents, Applications, Credit Reports, Financial Statements, Financial Responsibility, Public Liability and Property Damage Insurance, Responsible Persons.

SPECIFIC AUTHORITY: 455.203(5), 469.011 FS.

LAW IMPLEMENTED: 469.006, 469.007 FS.

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

Requests for the rule development workshop should be addressed to: Charles J. Pellegrini, Assistant General Counsel, Office of the General Counsel, Department of Business and Professional Regulation, 1940 North Monroe Street, Tallahassee, Florida 32399.

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT IS: Anthony Spivey, Executive Director, Asbestos Licensing Unit, Department of Business and Professional Regulation, 1940 North Monroe Street, Tallahassee, Florida 32399, (850)487-9597

THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS:

61E1-4.001 Licensure of Business Organizations and Qualifying Agents.

(1)(a) As a prerequisite to the initial issuance of a license to a qualifying agent, business organization, or a change in the status of an active business organization license, the applicant shall pay the required fee as provided for in Rule 61E1-3.001, F.A.C., of this Chapter, and submit a signed, completed application on a form approved by the department. The form is entitled “Application For Business Organizations or Qualifying Agents,” Form AB/LP, effective 6-20-95, and incorporated herein by reference. Copies of the application and

other forms required by this Rule can be obtained by contacting the Department at the following address: Asbestos Licensing Unit, 1940 North Monroe Street, Tallahassee, Florida 32399-1006. If the applicant proposes to engage in asbestos consulting or asbestos contracting as a partnership, corporation, business trust or other legal entity, or in any name other than the applicant's legal name, the legal entity must comply with Section 469.006(2), F.S. The applicant must furnish evidence of statutory compliance of Section 865.09, F.S., if a fictitious name is used.

(b) The application shall contain the information contained in Section 469.006(2)(a)1., 2. & 3., F.S.

1. If a limited partnership is formed for the purposes of a joint venture, the qualifying business organization or individual must be a general partner of the joint venture.

2. The applicant's street and mailing address, and where applicable, a current license number. A post office box, by itself, is not acceptable as an address.

3. A list of the previous three completed asbestos projects, including the date of completion, address of the project, and the name of the owner.

4. If the business organization has a financially responsible officer, the financially responsible officer, rather than the qualifying contractor or consultant, shall sign and complete the application. The application shall include the requirements of s. 469.006(2)(a)2., F.S.

5. If the qualifying agent is a primary qualifying agent, the application shall include the requirements of s. 469.006(2)(a)1., F.S.

6. If the qualifying agent is a secondary qualifying agent, the application shall include the requirements of s. 469.006(2)(a)3., F.S.

(c) In order that the department may carry out its statutory duty to investigate the financial responsibility, credit and business reputation of a new applicant for licensure or a change of status of a licensee, an applicant shall be required to forward the following, in addition to the signed, completed application for licensure, to the Department for review:

1. A credit report ~~on, not older than six months,~~ from any recognized credit bureau which includes but is not limited to liens, judgments, suits and bankruptcy obtained from county, state, and federal records. The credit report must be dated within six (6) months of the date of filing the application. Reports which are limited to only information obtained from the qualifying agent or past or present employers are not acceptable.

2. A comprehensive financial statement reflecting the financial condition of the business entity in its previous fiscal year provided the statement is prepared within 12 months of the date of the filing of the application. The financial statement shall include the following: balance sheet, income statement, capital statement, and statement of changes in financial position. Unless prepared by a certified public accountant, the

financial statement shall be signed, in the presence of a notary, by a responsible officer of the business entity as representing the financial condition of the business entity for the period reflected in the statement. The financial statement must indicate a positive net worth. A financial statement, not older than 12 months and showing a positive net worth, which shall contain information indicating the current assets, current liabilities, total assets, total liabilities, and total net worth.

3. A letter of bond ability, a letter of credit or a compliance bond established to reimburse the appropriate parties for diversion of funds, abandonment, and all other statutory violations. These instruments must be written in the amount of \$10,000 dollars or more and are not to be construed as performance bonds.

4. A signed statement indicating ~~that~~ the applicant has obtained and will maintain public liability and property damage insurance in the amounts set forth herein during the life of each asbestos job.

~~5. It shall be considered a violation of this rule for any licensee to fail to continually maintain public liability and property damage insurance in amounts set forth herein for the life of each asbestos job.~~

5. Answers to the following questions on the application:

(a) Has any bonding or surety company ever completed or made a financial settlement upon any construction contract or work undertaken by any person named in (i) below or any organization in which such person was a responsible person as defined in paragraph (j)? Yes () No ().

(b) Are there any unpaid past-due bills or claims for labor, materials, or services, as a result of the consultant or construction operations of any person named in (i) below or any organization in which any such person was a responsible person as defined in paragraph (j)? Yes () No ().

(c) Are there now any liens, suits or judgments of record or pending against any person named in (i) below or any organization in which such person was a responsible person as defined in paragraph (j), as a result of the consultant or construction operations of such persons or organization? Yes () No ().

(d) Are there now any liens of record by the U.S. Internal Revenue Service or the State of Florida Corporate Tax Division against any person named in (i) below or any organization in which such a person was a responsible person as defined in paragraph (j)? Yes () No ().

(e) Has any person named in (i) below or has any organization in which any such person was a responsible person as defined in paragraph (j) been adjudicated as bankrupt, within the past five years or is any such person or organization presently in the process of bankruptcy proceedings? Yes () No ().

(f) Has any person named in (i) below or has any organization in which any such person was a responsible person as defined in paragraph (j) ever made an assignment of assets in settlement of consultant or construction obligations for less than the total amount of indebtedness? Yes () No ()

(g) Has any person named in (i) below or has any business organization in which any such person was a member been convicted of acting in the capacity of a consultant or contractor without a license or if licensed as a consultant or contractor in this or any other state, has any disciplinary action (including probation, fine or reprimand) ever been taken against such license by a state, county, or municipality? Yes () No ()

(h) Has any person in (i) below or has any business organization in which any such person was a responsible person as defined in paragraph (j) ever been convicted of any offense in this state or elsewhere, other than a traffic violation? Yes () No ()

(i) Required signatures: if an individual, the qualifying consultant or contractor; if a partnership, the qualifying consultant or contractor and the partners; if a corporation, the qualifying consultant or contractor, the president, vice-president and secretary.

(j) For purposes of this rule, "responsible person" includes any partner, officer, trustee, qualifying consultant or contractor, or any person having managerial or supervisory role in a business organization as defined in s. 469.006, F.S.

Specific Authority 455.203(5), 469.011 FS. Law Implemented 469.006, 469.007 FS. History--New 10-17-95, Amended 10-29-97, _____.

61E1-4.002 Financial Responsibility; Definitions; Grounds for Denial.

(1) For purposes of this rule, the phrase "financial responsibility" is defined as the ability to insure the public, laborers, materialmen, suppliers and other parties with whom the applicant will do business as an asbestos consultant or contractor, will not sustain economic losses resulting from the consultant or contractors inability to pay his or her lawful contractual obligations.

(2) The financial responsibility grounds on which the Department may refuse to qualify an applicant can include:

(a) Failure to submit any of the items required by Rule 61E1-4.001, F.A.C.

(b) The existence, within the past five years preceding the application, of an unsatisfied court judgement rendered against the applicant based upon the failure of the applicant to pay its just obligations to parties with whom the applicant conducted business as a consultant or contractor.

(c) An unfavorable credit report or history as indicated by any of the documents submitted.

(d) A determination by the Department that the applicant lacks the financial stability necessary to assure compliance with the standards set forth in section (1) of this rule. As guidelines for the determination of financial stability the

Department shall consider the applicant's financial statement and responses to the questions set forth in subsection 61E1-4.001(1), F.A.C.

(3) The applicant's history of bankruptcy is included in the statutory definition of financial responsibility and shall be considered by the Department; however, the fact that an applicant has been or is a debtor in bankruptcy shall not be the sole basis of the Department's determination to deny the issuance of a license.

Specific Authority 455.203(5), 469.011 FS. Law Implemented 469.006, 469.007 FS. History--New _____.

61E1-4.003 Public Liability and Property Damage Insurance.

(1) As a prerequisite to the issuance of a license, the applicant shall submit a signed affidavit attesting the applicant has obtained and will maintain public liability and property damage insurance, in the amounts stated herein. It shall be a violation of this rule for any licensee to fail to continually maintain liability and property damage insurance in amounts set forth herein.

(2) To verify the accuracy of the signed affidavit, the Department will conduct random audits of at least 10% of the total number of licensees. Upon written request by the Department, by certified mail, each selected licensee must within thirty days submit proof of coverage, in the form of an original Certificate of Insurance, showing the licensee obtained and continually maintained the proper amount of public liability and property damage within the specified time period set forth in the Department's request.

(3) The Certificate of Insurance must be prepared by a licensed insurance agency and must contain the following information.

(a) Date the Certificate of Insurance was issued.

(b) Name and license number of insurance agent.

(c) Name of insured must reflect the exact name of the entity qualified by applicant.

(d) Name of insurance company.

(e) Policy number must be on certificate. Binder numbers are not acceptable.

(f) Expiration date of policy.

(g) The minimum amount of liability and property damage insurance required as a prerequisite to the issuance of a license is:

1. Liability Insurance (including completed operations and products) \$100,000/\$300,000 and,

2. Property Damage Insurance (including completed operations and products) \$100,000/\$300,000.

(h) Certificate holder must be the Department of Business and Professional Regulation.

(i) The cancellation notice shall stipulate that, should the public liability and property damage coverage described above, be canceled before the expiration date, the issuing company will mail a thirty-day written notice to the Certificate holder on the Certificate.

(j) The agent's signature.

(k) The licensee's correct license number.

(4) The insurance must be in the name of the licensee or the business name appearing on the license.

(5) Failure to comply with the Department's request to submit proof of coverage, which meets the requirements of the Department, will be a violation of this rule.

Specific Authority 455.203(5), 469.011 FS. Law Implemented 469.006, 469.007 FS. History--New _____

DEPARTMENT OF HEALTH

Board of Osteopathic Medicine

RULE TITLE: Performance of Pro bono Medical Services RULE NO.: 64B15-13.005

PURPOSE AND EFFECT: The Board proposes the rule amendments to clarify and to update continuing education credits for pro bono services provided by osteopathic physicians.

SUBJECT AREA TO BE ADDRESSED: The proposed rule amendments specify pro bono services for continuing education credits as pro bono medical services, and establish the health entities where provision of pro bono medical services for continuing education credits may be obtained.

SPECIFIC AUTHORITY: 456.013(7), 459.005 FS.

LAW IMPLEMENTED: 456.013(7) FS.

IF REQUESTED IN WRITING AND NOT DEEMED UNNECESSARY BY THE AGENCY HEAD, A RULE DEVELOPMENT WORKSHOP WILL BE SCHEDULED AT THE BOARD'S NEXT MEETING TO BE HELD ON JUNE 7, 2003 IN MIAMI, FLORIDA.

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT AND A COPY OF THE PRELIMINARY DRAFT IS: Pam King, Executive Director, Board of Osteopathic Medicine/MQA, 4052 Bald Cypress Way, Bin # C06, Tallahassee, Florida 32399-3256

THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS:

64B15-13.005 Performance of Pro bono Medical Services.

(1) Up to 10 hours, per biennium, of continuing education credit may be fulfilled by the performance of pro bono medical services to the indigent or to underserved populations or in areas of critical need within the state where the licensee practices. The standard for determining indigency shall be low-income (no greater than 150% of the federal poverty level) or uninsured persons. Credit shall be given on an hour per hour

~~basis that recognized by the Federal Poverty Income Guidelines produced by the Department of Health and Human Services~~

(2) The Board approves for credit under this rule, the following entities:

(a) The Department of Health;

(b) Community and Migrant Health Centers funded under section 330 of the United States Public Health Service Act; and

(c) Volunteer Health Care provider programs contracted to provide uncompensated care under the provisions of section 766.1115, Florida Statutes, with the Department of Health.

(3)(2) For services provided to an entity not specified under this rule a licensee must apply for prior approval in order to receive credit. ~~under this rule, licensees must make application to the Board and receive approval in advance. Credit shall be given on an hour per hour basis.~~ In the application for approval, licensees shall disclose the type, nature and extent of services to be rendered, the facility where the services will be rendered, the number of patients expected to be served, and a statement indicating that the patients to be served are indigent. If the licensee intends to provide services in underserved or critical need areas, the application shall provide a brief explanation as to those facts.

(4)(3) Unless otherwise provided through Board order, no licensee who is subject to a disciplinary action that requires additional continuing education as a penalty, shall be permitted to use pro-bono medical services as a method of meeting the additional continuing education requirements.

Specific Authority 456.013(7), 459.005 FS. Law Implemented 456.013(7) FS. History--New 12-7-92, Formerly 21R-13.005, 61F9-13.005, Amended 10-25-95, Formerly 59W-13.005, Amended _____

DEPARTMENT OF HEALTH

Board of Osteopathic Medicine

RULE TITLE: Reinstatement of License RULE NO.: 64B15-19.0055

PURPOSE AND EFFECT: The Board proposes the new rule, similar to the Board of Medicine's, to set requirements for reinstatement of license after an inactive period for disciplinary reasons.

SUBJECT AREA TO BE ADDRESSED: The Board's proposed new rule addresses the requirements and conditions for reinstatement of license after revocation, suspension or other restrictions, and the requirements to demonstrate the ability to safely engage in the practice of osteopathic medicine.

SPECIFIC AUTHORITY: 459.005, 459.015 FS.

LAW IMPLEMENTED: 456.013(6), 459.015 FS.

IF REQUESTED IN WRITING AND NOT DEEMED UNNECESSARY BY THE AGENCY HEAD, A RULE DEVELOPMENT WORKSHOP WILL BE SCHEDULED AT THE BOARD'S NEXT MEETING TO BE HELD ON JUNE 7, 2003 IN MIAMI, FLORIDA.

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT AND A COPY OF THE PRELIMINARY DRAFT IS: Pam King, Executive Director, Board of Osteopathic Medicine/MQA, 4052 Bald Cypress Way, Bin # C06, Tallahassee, Florida 32399-3256

THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS:

64B15-19.0055 Reinstatement of License.

(1) No license to practice osteopathic medicine in Florida which was revoked by the Board after June 5, 1983, or which was voluntarily relinquished after July 1, 1988, shall be subject to reinstatement unless leave to petition for reinstatement was specifically authorized in the final order. An osteopathic physician whose license was revoked or relinquished may, however, apply for relicensure unless, in the case of relinquishment, the osteopathic physician explicitly agreed never to reapply for licensure.

(2) When disciplinary action is taken against a licensee which results in the licensee's being unable to use the license for a period of time for reasons including, but not limited to, suspension, inactivation, or other restriction, but not including revocation subsequent to June 5, 1983, the licensee may petition for reinstatement of the license as follows:

(a) When the suspension, inactivation, or restriction is for a definite period of time and is not based upon the osteopathic physician's ability to safely engage in the practice of osteopathic medicine pursuant to Section 459.015(3), F.S., the license shall be reinstated upon expiration of the period of suspension if full compliance with the final order has been shown and the licensee has submitted documentation of completion of the continuing medical education requirements imposed on an active status licensee for all biennial licensure periods in which the licensee was suspended, inactive or under other restriction:

(b) When the suspension, inactivation, or other restriction is for a definite period of time, is based upon the osteopathic physician's ability to safely engage in the practice of osteopathic medicine, or both, the licensee shall demonstrate to the Board at the expiration of the period of suspension, or immediately prior thereto, compliance with the terms and conditions of the final order, completion of the continuing medical education requirements imposed on an active status licensee for all biennial licensure periods in which the licensee was suspended, inactive or under other restriction, and, where applicable, the ability to safely engage in the practice of osteopathic medicine in order to obtain reinstatement. The Board shall consider reinstatement at either the Board meeting immediately preceding expiration or at any Board meeting subsequent thereto. If the licensee is able to demonstrate compliance with the terms of the final order and, where applicable, the ability to safely engage in the practice of osteopathic medicine, the Board shall reinstate the license.

(c) When the suspension, inactivation, or other restriction is for a definite period of time or for an indefinite period of time, the licensee may petition the Board to consider reinstatement of a license acted against for an indefinite period of time or early reinstatement of a license acted against for a definite period of time. When such a petition is filed, it must include all documentation of the petitioner's compliance with the final order, completion of the continuing medical education requirements imposed on an active status licensee for all biennial licensure periods in which the licensee was suspended, inactive or under other restriction, petitioner's ability to safely engage in practice, petitioner's plan for the return to practice, and any other information which the petitioner would want the Board to consider if it grants the petition for consideration. If the plan for return to practice includes a period of supervised practice, the documentation should include the name of the proposed supervising physician and a written statement from the proposed supervising physician of his or her willingness to serve in that capacity. No oral testimony or personal appearance will be permitted at the time the Board hears a petition to consider reinstatement or early reinstatement. Upon the granting by the Board of the petition to consider such reinstatement or early reinstatement, the licensee shall, at a subsequent meeting, have an opportunity to demonstrate his or her ability to safely engage in the practice of osteopathic medicine and compliance with the terms of the final order. The Board shall reinstate the license upon a proper demonstration of competency and of compliance with the final order by the licensee.

(3) In order to demonstrate the ability to safely engage in the practice of osteopathic medicine, a licensee shall show compliance with all terms of the final order and may, in addition, present evidence of additional matters, including, but not limited to:

(a) Completion of continuing education courses approved by the Board;

(b) Participation in medical educational programs, including post-graduate training, internships, residencies, or fellowships;

(c) Submission of reports of mental or physical examination by appropriate professionals;

(d) Completion of treatment within a program designed to alleviate alcohol, chemical, or drug dependencies, including necessary aftercare measures or a plan for continuation of such treatment, as appropriate;

(e) If action was taken against a Florida license based on action taken against the license or the authority to practice osteopathic medicine by the licensing authority of another jurisdiction, proof that the licensee has a license in the jurisdiction which took action and that license is in good standing and unencumbered;

(f) If action was taken against the license based on conviction of, being found guilty of, or entry of a plea of nolo contendere to a crime, proof that all criminal sanctions imposed by the court have been satisfied; and,

(g) Other factors, not enumerated, which would demonstrate the osteopathic physician's ability to safely engage in the practice of osteopathic medicine.

Specific Authority 459.005, 459.015 FS. Law Implemented 456.013(6), 459.015 FS. History--New _____.

DEPARTMENT OF CHILDREN AND FAMILY SERVICES

Developmental Disabilities Program

RULE CHAPTER TITLE: Supported Living
RULE CHAPTER NO.: 65B-11

PURPOSE AND EFFECT: This rule amendment will repeal sections identified in Rule Chapter 65B-11, F.A.C., for which the Department does not have sufficient rule making authority. The specific sections proposed for repeal are: paragraphs 65B-11.005(2)(a) and (d), F.A.C. The repeal of these rules will have no affect on supported living programs funded by the Medicaid Home and Community Based waiver as identical rules are provided for in the Agency for Health Care Administration's Coverage and Limitations Handbook covering the Developmental Disabilities Supported Living program.

SUBJECT AREA TO BE ADDRESSED: This proposed rule amendment addresses the criteria for the selection of housing for the Developmental Disabilities Supported Living program. This amendment removes the criteria limiting the size and location of such housing. Size and location criteria for the Developmental Disabilities Supported Living program are, however, included in the Agency for Health Care Administration's Coverage and Limitations Handbook, Rule 59G-8.200, F.A.C., Home and Community Based Services Waiver.

SPECIFIC AUTHORITY: 393.501(1) FS.

LAW IMPLEMENTED: 393.066, 393.063(50) FS., 42 USC 1396u.

IF REQUESTED 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., April 29, 2003

PLACE: Building 3, Room 313, 1317 Winewood Boulevard, Tallahassee, Florida 32399-0700

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT IS: Ed Rousseau, Building 3, Room 302, 1317 Winewood Boulevard, Tallahassee, FL. 32399-0700

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

FISH AND WILDLIFE CONSERVATION COMMISSION

Marine Fisheries Commission

RULE CHAPTER TITLE: Gear Specifications and Prohibited Gear

RULE TITLE: Carriage of Proscribed Nets Across
RULE NO.: 68B-4.0082

PURPOSE AND EFFECT: The purpose of this proposed rule development is to provide clarification and readopt portions of Section 370.092, Florida Statutes, a statute implementing the prohibitions of Article X, Section 16 of the Florida Constitution. Minimum sizes for vessels transporting proscribed nets are retained. The effect of the effort will be to assist enforcement and assure that persons operating vessels to transport nets otherwise illegal in the waters of the State of Florida to federal waters (or other jurisdictions where legal) proceed to such destinations as directly and expeditiously as possible, minimizing opportunities for illegal use.

SUBJECT AREA TO BE ADDRESSED: Carriage of nets proscribed by Article X, Section 16 of the Florida Constitution, on Florida waters.

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

LAW IMPLEMENTED: Art. IV, Sec. 9 and Art. X, Sec. 16, Fla. Const.

IF REQUESTED AND NOT DEEMED UNNECESSARY BY THE AGENCY HEAD, A RULE DEVELOPMENT WORKSHOP WILL BE HELD AT A TIME, DATE AND PLACE TO BE LATER ANNOUNCED IN THIS PUBLICATION.

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT IS: James V. Antista, General Counsel, 620 South Meridian Street, Tallahassee, FL 32399-1600

THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS:

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

(1) Except as provided in subsection (3), the transport aboard any vessel of any of the following gear is prohibited, unless such transport is as direct, continuous, and expeditious as possible from the place where the vessel is regularly docked, moored, or otherwise stored to waters where the use of said gear is lawful, and from waters where the use of said gear is lawful back to the place where the vessel is regularly docked, moored, or otherwise stored or back to the licensed wholesale dealer where the catch is to be sold:

(a) Gill net.

(b) Entangling net.

(c) Any seine containing more than 500 square feet of mesh area.

(d) Any net, other than a cast net, with a mesh size greater than 2 inches stretched mesh.

(e) More than four seines, regardless of the number of persons also on board or whether one or more additional vessels are carried aboard or are towed.

(2) Hovering, drifting, and other similar activities inconsistent with the direct, continuous, and expeditious transit of such vessels shall constitute a violation of subsection (1) by each person present aboard the vessel. The presence of fish in such a proscribed net shall not constitute a violation of this rule if the persons on board the vessel are otherwise in compliance with its provisions.

(3) Subsection (1) shall not apply to:

(a) Persons with docked vessels meeting the length requirements of subsection (4).

(b) Persons operating vessels containing or otherwise transporting dry nets that are rolled, folded, or otherwise properly and securely stowed in sealed containers or compartments so as to make their immediate use as fishing implements impracticable.

(c) Persons with vessels using nets in a licensed aquaculture operation.

(d) Persons operating vessels containing or transporting trawl nets, as long as the trawl's doors or frame are not deployed.

(4) Notwithstanding any other provision of this rule, the possession of any gill or entangling net, any seine larger than 500 square feet in mesh area, or any net other than a cast net with mesh size larger than 2 inches stretched mesh, on any airboat, or on any other vessel less than 22 feet in length or on any vessel less than 25 feet in length if the primary power of the vessel is mounted forward of the vessel center point, is prohibited.

(5) Except as provided in subsection (1), the possession aboard any vessel of more than four seines is prohibited, regardless of the number of persons also aboard. For the purpose of this subsection, possession aboard any vessel shall include nets stored in any vessel being towed by or otherwise connected to, or transported aboard, the primary vessel. Any vessel being towed by or otherwise connected to, or transported aboard a primary vessel, if it is to be used to deploy or retrieve seines or harvest commercial quantities of fish, shall be no less than 8 feet in length and shall have a commercial vessel registration as required by Section 370.06(2)(i), Florida Statutes.

(6) For purposes of this rule, "vessel length" means the straight line horizontal measurement of the overall length from the foremost part of the vessel to the aftermost part of the vessel, measured from end to end over the deck excluding sheer, and measured parallel to the centerline. Bow sprits, bumpkins, rudders, outboard motor brackets, handles, and other similar fittings, attachments, and extensions are not included in the measurement.

Specific Authority Art. IV, Sec. 9, Fla. Const. Law Implemented Art. IV, Sec. 9 and Art X, Sec. 16, Fla. Const. History--New

FISH AND WILDLIFE CONSERVATION COMMISSION

Marine Fisheries Commission

RULE CHAPTER TITLE: Stone Crabs

RULE TITLES:

RULE NOS.:

Designation as Restricted Species; Season; Repeal of Special Act

68B-13.005
68B-13.010

PURPOSE AND EFFECT: The purpose of this rule development effort is to implement minor changes to the stone crab trap limitation program to apply in the 2003-2004 season. The Stone Crab Trap Certificate Advisory and Appeals Board, having finished its task of helping the Commission sort out appeals of initial trap certificate allocations, is being transitioned into an industry advisory board to assist in solving problems as the program matures over the next few years. An archaic special act is being repealed and clarifications are made to unpaid certificate and incidental take endorsement provisions. The effect of this effort should be to continue progress toward a healthy stone crab industry, while maintaining the health and abundance of the species.

SUBJECT AREA TO BE ADDRESSED: Stone Crabs.

SPECIFIC AUTHORITY: Art. IV, Sec. 9, Florida Constitution.

LAW IMPLEMENTED: Art. IV, Sec. 9, Florida Constitution.

IF REQUESTED AND NOT DEEMED UNNECESSARY BY THE AGENCY HEAD, A RULE DEVELOPMENT WORKSHOP WILL BE HELD AT A TIME, DATE AND PLACE TO BE LATER ANNOUNCED IN THIS PUBLICATION.

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

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

THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS:

68B-13.005 Designation as Restricted Species; Season; Repeal of Special Act.

(1) Stone crabs are hereby designated as a restricted species pursuant to Section 370.01(21), Florida Statutes.

(2) The season for the harvest, possession and sale of stone crab claws shall be from October 15 through May 15, each year. No person, firm or corporation, shall harvest, or have in his or her possession, regardless of where taken, or sell or offer for sale, any stone crab of any size, or any parts thereof, from May 16 through October 14, each year, except for stone crab claws, placed in inventory by a wholesale or retail dealer as defined in Section 370.07, Florida Statutes, prior to May 16 of each year.

(3) Chapter 73-432, Laws of Florida, relating to the maximum allowed number of stone crab traps fished per boat in Citrus, Dixie, Levy, and Taylor Counties, is hereby repealed.

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

68B-13.010 Stone Crab Trap Limitation Program.

(1) No change.

(2) CERTIFICATES AND TRAP TAGS. Each holder of a stone crab trap endorsement must have a certificate on record for each stone crab trap used or possessed in or on the water. In addition, attached to each trap shall be a tag, issued annually by the Commission, which corresponds to a valid certificate.

(a) Certificates.

1. through 13. No change.

14. After the 2002/2003 fishing year, the fees for unpaid certificates will accumulate each year a certificate holder fails to pay his or her annual certificate fee. Partial payment of accumulated certificate fees will not be accepted. In the event a holder's annual certificate fee is not paid for a period of 3 years, the certificates shall be considered abandoned and permanently removed from the pool of available certificates. All prior certificate fees must be paid in order to keep certificates current and avoid a declaration of abandonment.

(b) through (e) No change.

(3) through (4) No change.

(5) INCIDENTAL TAKE ENDORSEMENT. Persons possessing valid crawfish or blue crab endorsements, but who do not also possess a valid stone crab endorsement, may land and sell 5 gallons of stone crab claws per day if the stone crab claws are harvested from legal crawfish or blue crab traps and the crawfish or blue crab endorsement holder also possesses a valid stone crab incidental take endorsement. Application for an incidental take endorsement shall be on Commission Form DMF-SL2800 (07-01) (Application for a Stone Crab Incidental Take Endorsement (I#)), incorporated herein by reference.

(6) No change.

~~(7) STONE CRAB TRAP CERTIFICATE ADVISORY AND APPEALS BOARD.~~ There is hereby established the Stone Crab Trap Certificate Advisory and Appeals Board. Such board shall consider and advise the Commission on ~~disputes and other problems arising from the implementation~~

~~of the stone crab trap limitation program. The board may also provide information to the Commission on the operation of the trap limitation program and any problems in the fishery.~~

(a)1. Board Composition. The board shall consist of a member of the Commission staff appointed by the executive director, and eight members appointed by the executive director according to the following criteria, except as otherwise provided in subparagraph 2.:

a. All appointed members other than the commission staff person, shall be stone crab trap certificate holders, ~~none of whom are appealing their trap certificate allotment.~~ At least two shall hold fewer than 1000 200 certificates, at least two shall hold at least 1000 200 but no more than 3000 750 certificates, and at least two shall hold more than 3000 750 but not more than 2,000 certificates, and two shall hold more than 2,000 certificates.

b. At least one member shall come from each of the following regions:

(I) Wakulla, Taylor, Dixie, or Levy Counties;

(II) Citrus, Hernando, Pasco, Pinellas, or Hillsborough Counties; and

(III) Manatee, Sarasota, Charlotte, or Lee Counties.

~~(IV)e. The remaining five members of the board shall come from Collier, Monroe and Dade Counties.~~

~~c.d.~~ At least one appointed member shall be a person of Hispanic origin capable of speaking conversational English and Spanish.

d. The initial Board members will consist of the members of the stone crab Trap Certificate Advisory and Appeals Board, which Board sunsets on July 1, 2003.

2. If there are not enough individuals that meet the above-referenced criteria, the executive director of the Commission may fill any position on the initial board with an individual who does not fulfill the requirements of subparagraph 1. However, as soon as individuals are available that meet the requirements of subparagraph 1., the executive director may replace any individual who does not meet the above-referenced criteria, and fill the position on the board with the qualified appointees. The executive director of the commission shall replace any board member who is cited for and convicted of a violation of Chapter 68B-13, F.A.C., or who misses more than two scheduled meetings of the board without approval from the board chair with another stone crab fisherman from any region.

3. Stone crab endorsement holders wanting to be considered for appointment to the Stone Crab Trap Certificate Technical Advisory and Appeals Board shall make their request on Commission form DMF-SL3080 (07-01) (Application for Stone Crab Trap Certificate Technical Advisory ~~and Appeals~~ Board), incorporated herein by reference.

(b) Meetings. The staff member of the Commission appointed by the executive director shall sit on the board as a voting member, ~~and shall call the organizational meeting of the board.~~ The board shall annually elect a chair and a vice chair. There shall be no limitation on successive terms that may be served by a chair or vice chair. The board shall meet at the call of its chair, at the request of a majority of its membership, at the request of the Commission, or at such times as may be prescribed by its procedural rules. Official action of the board shall require a majority vote of the total membership of the board present at the meeting.

(c) Terms. Board members shall serve staggered terms of three years, provided however that this shall not apply to the commission staff member who serves at the pleasure of the executive director. Three terms will expire on July 1, 2004, three terms will expire on July 1, 2005, and two terms will expire on July 1, 2006.

~~(d)~~(e) Expenses. Members of the board shall receive no compensation, however, they shall be reimbursed for per diem and travel expenses as provided in Section 112.061, Florida Statutes.

~~(e)~~(d) Final Action. Upon reaching a decision on any dispute or problem brought before it, ~~including any decision involving the initial allocation of certificates under paragraph (f);~~ the board shall submit such decision as a recommendation to the executive director of the Commission. The executive director may submit said recommendation(s) to the Commission at his or her discretion. The executive director may accept, alter, or disapprove any decision of the board, with notice given in writing to the board and to each party in the dispute explaining the reasons for the alteration or the disapproval. The action of the executive director of the Commission constitutes final agency action, and is appealable pursuant to the requirements of Chapter 120, Florida Statutes.

(f)(e) Board Authority. The Board shall have the authority to conduct workshops with fishermen to determine what problems exist in the fishery and to make recommendations to solve those problems. In addition to those certificates allotted pursuant to the initial eligibility provisions established in paragraph (2)(a), up to 180,000 trap certificates may be allotted by the board to make recommendations on allocations to settle disputes or other problems arising from implementation of the trap limitation program, and for special circumstances.

1. Disputes arising from the implementation of the trap limitation program shall cover those problems arising from implementation of the program during the 2000-2001 and 2001-2002 fishing seasons.

2. Special circumstances shall include but are not limited to the following:

a. Fishermen who can demonstrate that they were affected by Chapter 73-432, Laws of Florida (1973), which limited fishermen in Citrus, Dixie, Levy, and Taylor Counties to 600 stone crab traps per boat.

~~b. Persons who had landings, but did not record any traps on their saltwater products license application during the qualifying years and therefore did not receive an initial trap certificate allocation.~~

~~e. Persons who can demonstrate through copies of trip tickets, legitimate sales to a licensed wholesale dealer which were not reported by the dealer or included in the agency landings database.~~

~~d. Persons who worked together on the same boat but operated as separate business entities, each with their own SPL and stone crab endorsement, but who reported their landings or who had their landings reported on a single SPL. Under such circumstances the boards may divide the number of certificates allotted between the two people; however, each person must agree to the division prescribed by the board.~~

~~e. Persons displaced by Article X, Section 16, of the Florida Constitution who do not otherwise qualify for the stone crab limited entry program and who can demonstrate through landings that their net fishing occurred from Wakulla through Monroe Counties. Such persons shall qualify for 100 trap certificates if they can demonstrate that they:~~

~~(I) Sold nets to the state according to the provisions of the net buy back program, Section 370.0805(5), Florida Statutes;~~

~~(H) Invested money in the stone crab fishery by the 1999/2000 fishing season;~~

~~(III) Produced at least 300 pounds of claws since July 1, 1995; and~~

~~(IV) Have no record of net violations since July 1, 1995.~~

3. Any trap certificates not allotted by July 1, 2002, shall become permanently unavailable.

4. All appeals for additional certificates or other disputes must be filed with the board, on a form established by the commission, before October 1, 2001.

~~(f) In determining eligibility and initial allotment of traps for the trap reduction program, when a fisherman disagrees with commission records regarding the number of traps fished by the fisherman during a particular qualifying year, the burden of proof shall be on the fisherman to establish the number of traps fished, through trip tickets or copies of his or her SPL applications.~~

(g) Dissolution. On July 1, ~~2008~~ 2003, the board shall be dissolved.

Specific Authority Art. IV, Sec. 9, Fla. Const. Law Implemented Art IV, Sec. 9, Fla. Const. History--New 7-1-00, Amended 7-22-01, 6-2-02, _____.

FISH AND WILDLIFE CONSERVATION COMMISSION

Marine Fisheries Commission

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

RULE TITLES:	RULE NOS.:
Definitions	68B-24.002
Bag Limit	68B-24.004

Commercial Licensing Requirements 68B-24.0055
Gear: Traps, Buoys, Identification

Requirements, Prohibited Devices 68B-24.006

PURPOSE AND EFFECT: The purpose of this rule development is to improve the program to preserve and protect Florida's spiny lobster resources. Spiny lobsters are an important resource heavily exploited by recreational and commercial users. Several lobster allocation issues have been raised. These issues are the division of the resource between the recreational and commercial user groups, and the allocation between the commercial trap fishery and the commercial dive fishery. These allocation issues are important as they may affect the goals of the trap reduction program. The trap reduction program was designed to reduce the number of traps, and reduce biological and environmental problems associated with excessive trap numbers, in the fishery while maintaining historical catches. Shifts in allocations could affect catch per unit effort in the trap fishery depending upon the magnitude of the shifts. The effect of these rule amendments should be to equitably address the allocation shifts of spiny lobster among user groups.

SUBJECT AREA TO BE ADDRESSED: Spiny Lobster.

SPECIFIC AUTHORITY: Art. IV, Sec. 9, Florida Constitution.

LAW IMPLEMENTED: Art. IV, Sec. 9, Florida Constitution.

IF REQUESTED AND NOT DEEMED UNNECESSARY BY THE AGENCY HEAD, A RULE DEVELOPMENT WORKSHOP WILL BE HELD AT A TIME, DATE AND PLACE TO BE LATER ANNOUNCED IN THIS PUBLICATION.

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

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

THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS:

68B-24.002 Definitions.

As used in this rule chapter:

(1) "Artificial habitat" means any material placed in the waters of the state that is reasonably suited to providing cover and habitat for spiny lobster. Such material may be constructed of, but is not limited to, wood, metal, fiberglass, concrete, or plastic, or any combination thereof, and may be fabricated for this specific purpose or for some other purpose. The term does

not include fishing gear allowed by rule of the Commission, legally permitted structures, or artificial reef sites constructed pursuant to permits issued by the United States Army Corps of Engineers or by the Florida Department of Environmental Protection.

(2) "Biscayne National Park" means all state waters lying within the boundaries of Biscayne National Park, a legal description of which can be found in subsection 68B-28.004(2), F.A.C.

(3)(4) "Bully net" means a circular frame attached at right angles to the end of a pole and supporting a conical bag of webbing. The webbing is usually held up by means of a cord which is released when the net is dropped over a lobster.

(4)(2) "Commercial harvester" means a person who holds a valid crawfish license or trap number, lobster trap certificates if traps are used to harvest spiny lobster, and a valid saltwater products license issued by the Fish and Wildlife Conservation Commission.

Beginning August 1, 1994, "commercial harvester" shall mean a person who holds a valid crawfish license or trap number, lobster trap certificates if traps are used to harvest spiny lobster or a valid commercial dive permit if harvest is by diving, and a valid saltwater products license with a restricted species endorsement issued by the Fish and Wildlife Conservation Commission.

(5)(3) "Diving" means swimming at or below the surface of the water.

(6)(4) "Harvest" means the catching or taking of spiny lobster by any means whatsoever, followed by a reduction of such spiny lobster to possession. Spiny lobster that are caught but immediately returned to the water free, alive and unharmed are not harvested. In addition, temporary possession of a spiny lobster for the purpose of measuring it to determine compliance with the minimum size requirements of this chapter shall not constitute harvesting such lobster, provided that it is measured immediately after taking, and immediately returned to the water free, alive and unharmed if undersized.

(7)(5) "Hoop net" means a frame, circular or otherwise, supporting a shallow bag of webbing and suspended by a line and bridles. The net is baited and lowered to the ocean bottom, to be raised rapidly at a later time to prevent the escape of lobster.

(8)(6) "Land," when used in connection with the harvest of a spiny lobster, means the physical act of bringing the harvested lobster ashore.

(9)(7) "Lobster trap certificates" means those certificates allotted by the Fish and Wildlife Conservation Commission pursuant to Section 370.142(2), Florida Statutes.

(10)(8) "Person" means any natural person, firm, entity, or corporation.

(11)(9) "Recreational harvester" means any person other than a commercial harvester.

~~(12)(40)~~ “Slipper lobster,” also known as Spanish, sand, shovelnose, and bulldozer lobster, means any crustacean of the species *Scyllarides nodifer*, or any part thereof.

~~(13)(41)~~ “Spiny lobster” or “crawfish” means any crustacean of the species *Panulirus argus*, or any part thereof.

~~(14)(42)~~ “Untreated pine” means raw pine wood that has been treated with any preservative or pine wood that has been pressure treated with no more than 0.40 pounds of chromated copper arsenate (CCA) compounds per cubic foot of wood.

Specific Authority Art. IV, Sec. 9, Fla. Const. Law Implemented Art. IV, Sec. 9, Fla. Const. History—New 7-2-87, Amended 7-2-90, 3-1-92, 6-1-94, 10-4-95, Formerly 46-24.002, Amended _____.

68B-24.004 Bag Limit.

(1) Except as provided in subsections (2), (3), and (4), the harvest from state waters, or possession while on or below such water, of more than 6 spiny lobster per recreational harvester per day ~~or 24 spiny lobster per boat, whichever is greater, is prohibited.~~

(2)(a) Except in Monroe County and in Biscayne National Park, during the first day of the two-day sport season specified in Rule 68B-24.005, F.A.C., no recreational harvester shall harvest more than 12 spiny lobster, or possess more than 12 spiny lobster, whether on or off the waters of the state. During the second day of the two-day sport season, no recreational harvester shall harvest or possess while in or on state waters more than 12 spiny lobster, or possess more than 24 spiny lobster once such harvester has landed and departed the state waters.

(b) In Monroe County and in Biscayne National Park, during the first day of the two-day sport season specified in Rule 68B-24.005, F.A.C., no recreational harvester shall harvest more than 6 spiny lobster, or possess more than 6 spiny lobster, whether on or off the waters of the state. During the second day of the two-day sport season, no recreational harvester shall harvest or possess while in or on the waters of Monroe County or Biscayne National Park more than 6 spiny lobster, or possess more than 12 spiny lobster in said county or in said park once such harvester has landed and departed those the Monroe County waters. Pursuant to Rule 68B-24.0065, F.A.C., John Pennekamp Coral Reef State Park in Monroe County is closed to spiny lobster harvest during the two-day sport season.

(3) Special Recreational Crawfish (Spiny Lobster) Bag Limit – No person who possesses a valid special recreational crawfish license issued by the Fish and Wildlife Conservation Commission pursuant to Section 370.063, Florida Statutes, shall harvest in any one day during the regular season specified in subsection 68B-24.005(1), F.A.C., ~~more than 50~~ spiny lobster than the amounts specified below for the respective fishing seasons; provided, however, when one or more persons possessing a valid special recreational crawfish license are aboard a single vessel in or on state waters, together with any

number of regular recreational harvesters, no more than the specified amount of 50 spiny lobster for the applicable fishing season shall be possessed aboard such vessel.

(a) 2003-2004 – 50.

(b) 2004-2005 – 45.

(c) 2005-2006 – 40.

(d) 2006-2007 – 35.

(e) 2007-2008 – 30.

(f) 2008-2009 – 25.

(g) 2009-2010 – 20.

(h) 2010-2011 – 15.

(i) 2011-2012 – 10.

(j) Beginning with the 2012-2013 season and for each season thereafter, no Special Recreational Crawfish Licenses shall be issued or renewed. All recreational harvesters shall be subject to the bag limit specified in subsection (1).

(4) No person shall harvest or possess, while on or below the water, more spiny lobster than the limit established in subsection (1), unless such person:

(a) Is engaged in the lawful importation of spiny lobster pursuant to Rule 68B-24.0045, F.A.C.;

(b) Is a commercial harvester as defined in Rule 68B-24.002(4) ~~Possesses a current valid crawfish license or trap number issued by the Fish and Wildlife Conservation Commission pursuant to Section 370.14(2)(a), Florida Statutes, and a current valid saltwater products license with a restricted species endorsement;~~ or

(c) Until March 31, 2012, possesses a current valid special recreational crawfish license issued by the Fish and Wildlife Conservation Commission pursuant to Section 370.063, Florida Statutes.

Specific Authority Art. IV, Sec. 9, Fla. Const. Law Implemented Art. IV, Sec. 9, Fla. Const. History—New 7-2-87, Amended 7-2-90, 7-1-92, 6-1-94, 10-4-95, Formerly 46-24.004, Amended 7-9-02, _____.

68B-24.0055 Commercial Licensing Requirements.

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

(2) Beginning in the 2004-2005 fishing season, in addition to a valid saltwater products license with a restricted species endorsement and a valid crawfish endorsement, a commercial dive permit is required to harvest spiny lobster in commercial quantities by diving. Application for issuance of a commercial dive permit shall be made on a form provided by the

Commission (Form DMF-SL4040), incorporated herein by reference. The applicant must have documented commercial dive lobster landings pursuant to Commission trip ticket records generated under the provisions of Rule Chapter 68E-5, F.A.C., during any one license year between July 1, 2001 and June 30, 2002, or during the period between July 1, 2002 and June 30, 2003. No commercial harvester with a commercial dive permit may hold one or more trap certificates. Effective March 31, 2005, no new commercial dive permits will be issued and no commercial dive permit will be renewed or replaced except those that were active during the 2004-2005 fishing season.

Specific Authority Art IV, Sec. 9, Fla. Const. Law Implemented Art IV, Sec. 9, Fla. Const. History--New 7-1-01, Amended _____.

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

(1) through (5) No change.

(6) Each commercial harvester who harvests spiny lobster by diving shall permanently and conspicuously display on the boat used in such diving a "divers-down flag" symbol on an identification placard, which symbol shall have dimensions no less than 16 inches by 20 inches. The term "divers-down flag" shall have the meaning ascribed in Section 861.065(3), Florida Statutes. The commercial harvester's current crawfish license or trap number shall be permanently affixed to the diagonal stripe on the placard in legible figures to provide ready identification from the air and water.

(7) During any time of the year when it is legal to transport spiny lobster traps, a harvester may obtain permission from the Division of Law Enforcement to allow another person to transport, deploy, pull, or retrieve his or her traps. Permission may be granted upon receipt of a written statement signed by both the commercial harvester seeking to have his or her traps pulled and the person designated to pull the traps. Such written statement shall contain the following: Permission to pull or work traps belonging to another, during the regular season, may be granted by the Division of Law Enforcement. Such permission shall be granted by the Division only upon receipt of a written statement signed by the commercial harvester detailing license or trap number and buoy colors. Additionally, the harvester shall list the license or trap number, buoy colors, and audit numbers of the harvester and general locations of the pulling activity of the boat engaged in pulling or working the traps. Permission to pull traps in this manner shall be obtained daily; however, extension of permission may be obtained by telephone for up to a maximum of 5 days.

(a) The reason the harvester needs to have his or her traps pulled;

(b) The numbers of the saltwater products license and crawfish endorsement of both, the harvester seeking to have the traps pulled and the person who will be pulling the traps;

(c) The buoy colors of the harvester seeking such permission;

(d) The name and number of the vessel to be used by the person who will be pulling the traps;

(e) The general locations of the pulling activity of the vessel to be engaged in pulling the traps; and

(f) The dates the other person will be transporting, deploying, pulling or retrieving the traps. Permission to pull traps in this manner shall be obtained daily by telephone from the Division of Law Enforcement for a maximum of 5 days without renewal or extension of the request. Permission to have traps pulled by another person for a longer period of time, must be based on extraordinary circumstances such as severe personal or family illness or accident or major equipment problem, and shall be obtained through petition to the Division of Law Enforcement on Commission Form DMF-SL3040 (07-03) (Spiny Lobster Trap Pulling Petition), herein incorporated by reference, and will be granted upon such conditions as the division deems appropriate for the protection of the resource. It shall be the responsibility of the commercial harvester, or a member of the harvester's immediate family, to petition the division. The petition shall include a complete description of the extraordinary circumstances with corroborating documentation, the amount of additional time requested, the number of traps to be pulled, and a signed statement from the other person, attesting to his/her willingness and ability to pull these traps during this time period as well as an awareness of all rules governing the spiny lobster fishery. If the person designated to pull the petitioner's traps does not possess a saltwater products license with restricted species and a crawfish endorsement, the petitioner, as the license holder of record must possess a vessel saltwater products license and shall be held accountable for the designee's compliance with all regulations governing the spiny lobster fishery. Permission to pull another's traps shall not be granted to a person holding a commercial dive permit.

(8) through (9) No change.

(10) No person shall harvest any spiny lobster from artificial habitat.

Specific Authority Art. IV, Sec. 9, Fla. Const. Law Implemented Art. IV, Sec. 9, Fla. Const. History--New 7-2-87, Amended 7-2-90, 3-1-92, 7-1-92, 6-1-94, 10-4-95, 9-30-96, 6-1-99, Formerly 46-24.006, Amended 7-1-01, 7-9-02, _____.

FISH AND WILDLIFE CONSERVATION COMMISSION

Marine Fisheries Commission

RULE CHAPTER TITLE: Pompano, African Pompano, and Permit

RULE TITLES:	RULE NOS.:
Definitions	68B-35.002
Size and Bag Limits; Prohibition of Sale	68B-35.003

Gear Specifications and Prohibited Gear 68B-35.004
 Commercial Pompano Harvest Requirements:

Pompano Endorsement Criteria; State and Federal Waters Pompano Daily Harvest Limits and License Requirements for Sale or Purchase

68B-35.005

PURPOSE AND EFFECT: A Florida Marine Research Institute stock assessment concluded that pompano are undergoing overfishing on both coasts and that reductions in fishing mortality following implementation of the 1995 net limitation amendment have dissipated. The purpose of this rule development is to implement management measures that would reduce pompano harvest by approximately 10%. The effect of this effort will be to assure the continuing availability of pompano to commercial and recreational harvesters who rely on the species.

SUBJECT AREA TO BE ADDRESSED: Pompano.

SPECIFIC AUTHORITY: Art. IV, Sec. 9, Florida Constitution.

LAW IMPLEMENTED: Art. IV, Sec. 9, Art. X, Sec. 16, Florida Constitution.

IF REQUESTED AND NOT DEEMED UNNECESSARY BY THE AGENCY HEAD, A RULE DEVELOPMENT WORKSHOP WILL BE HELD AT A TIME, DATE, AND PLACE TO BE LATER ANNOUNCED IN THIS PUBLICATION.

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

THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS:

68B-35.002 Definitions.

As used in this rule chapter:

(1) through (2) No change.

(3) "Fork length" means the length of a fish as measured from the most forward point of the head to the rear center edge of the tail.

(4) through (7) No change.

Specific Authority Art. IV, Sec. 9, Fla. Const. Law Implemented Art. IV, Sec. 9, Fla. Const. History--New 7-1-89, Amended 1-1-96, Formerly 46-35.002, Amended _____.

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

(1) Size Limits.

(a) No person shall harvest in or from state waters, or possess while in or on state waters, any pompano or permit, with a fork length less than 10 inches, or greater than 20 inches, except that a person harvesting pursuant to the bag limit specified in paragraph (2)(a) of this rule may harvest and possess one pompano or permit greater than 20 inches in fork length. No person shall purchase, sell, or exchange any pompano or permit with a fork length less than 10 inches, or greater than 20 inches.

(b) No person shall harvest in or from state waters, or possess while in or on state waters, any African pompano with a fork length less than 24 inches.

(c) No change.

(2) Bag Limits.

(a) Except for persons harvesting pompano or permit pursuant to a valid saltwater products license with a restricted species endorsement, persons harvesting pompano from federal EEZ waters pursuant to Rule 68B-35.005, F.A.C., or persons harvesting pompano as bycatch in a federal gill net fishery for other species pursuant to paragraph 68B-35.004(3)(b)(e), F.A.C., no person shall harvest in or from state waters more than a total of 5 ~~10~~ pompano or permit per day, in any combination of species, nor possess while in or on state waters more than 5 ~~10~~ such fish. No more than one (1) of such fish shall exceed 20 inches length.

(b) No change.

Specific Authority Art. IV, Sec. 9, Fla. Const. Law Implemented Art. IV, Sec. 9, Fla. Const. History--New 7-1-89, Amended 1-1-96, Formerly 46-35.003, Amended 11-1-01, _____.

68B-35.004 Gear Specifications and Prohibited Gear.

(1) through (2) No change.

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

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

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

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

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

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

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

(4) Each pompano gill or entangling net possessed in state waters or used in federal EEZ waters pursuant to subsection (3) shall meet the following specifications, except that the mesh size requirement in paragraph (c) shall not apply to the exception in paragraph (3)~~(b)(e)~~:

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

(b) Such net shall be at least 70 meshes deep at its shallowest point.

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

Specific Authority Art. IV, Sec. 9, Fla. Const. Law Implemented Art. IV, Sec. 9, Fla. Const., Art. X, Sec. 16, Fla. Const., 370.021(3) FS. History—New 7-1-89, Amended 1-1-96, Formerly 46-35.004, Amended 11-1-01, _____.

68B-35.005 Commercial Pompano Harvest Requirements: Pompano Endorsement Criteria; ~~Pompano Special Activity License Criteria~~; State and Federal Waters Pompano Daily Harvest Limits and License Requirements for Sale or Purchase.

(1) No change.

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

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

~~(b) The applicant must own a commercially registered vessel no smaller than 22 feet in documented length, except in the case of a vessel with the primary power mounted forward of the center point of the vessel, the vessel shall not be smaller than 25 feet in documented length.~~

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

~~(d) No applicant shall receive a PSAL who, in the previous three license years, has been charged with violating any provision of Article X, Section 16 of the State Constitution, Section 370.092 or 370.093, Florida Statutes, or subsection 68B-4.0081(2), F.A.C., and who has received a judicial disposition other than acquittal or dismissal on such charges.~~

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

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

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

~~(2)(3) STATE AND FEDERAL WATERS DAILY COMMERCIAL HARVEST LIMITS – Persons harvesting pompano in state and federal waters pursuant to a saltwater products license with a restricted species endorsement, but who do not possess a pompano endorsement, shall be subject to a daily harvest and landing limit of 175 250 individual pompano; provided, however, that no more than 175 250 pompano harvested pursuant to this subsection shall be possessed aboard any vessel at any time. Such persons are subject to the gear limitations of paragraph 68B-35.004(2)(b), F.A.C.~~

~~(a) No person shall sell more than 175 250 individual pompano per day, unless such person possesses either a valid PSAL or a valid Pompano Endorsement, in addition to a saltwater products license with a restricted species endorsement.~~

~~(b) No wholesale dealer shall purchase more than 175 250 individual pompano per day from any person who does not possess and present to the dealer either a valid PSAL or a valid Pompano Endorsement, in addition to a saltwater products license with a restricted species endorsement.~~

Specific Authority Art. IV, Sec. 9, Fla. Const. Law Implemented Art. IV, Sec. 9, Fla. Const., Art. X, Sec. 16, Fla. Const., 370.021(3) F.S. History--New 11-1-01, Amended

SHRIMPING AND TRAPPING STONECRABBING: CLOSED AREAS AND SEASONS

FISH AND WILDLIFE CONSERVATION COMMISSION

Marine Fisheries Commission

RULE CHAPTER TITLE: Shrimping and Trapping: Closed Areas and Seasons

RULE TITLE: Citrus-Hernando Shrimping and Trapping Closed Areas and Seasons RULE NO.: 68B-38.001

PURPOSE AND EFFECT: This rule development effort is in conjunction with proposed changes to rules governing the stone crab trap fishery. The purpose of this effort is to expand the scope of existing rules governing areas and times when shrimping and stonecrabbing are allowed to occur off the coast of Citrus and Hernando Counties on the west coast of Florida. The changes would prohibit all trap fishing in specific existing delineated zones on a seasonal basis. A secondary objective is to remove from the rule advisory Loran coordinates no longer useful to fishers in defining the boundaries of the zones in the rule. The effect of this effort will be to assure that fishers would not be able to avoid complying with the areal-seasonal closures of this rule by using trap gear used for other fisheries.

SUBJECT AREA TO BE ADDRESSED: Shrimping and Trapping in waters of the Gulf of Mexico off Citrus and Hernando Counties.

SPECIFIC AUTHORITY: Art. IV, Sec. 9, Florida Constitution.

LAW IMPLEMENTED: Art. IV, Sec. 9, Florida Constitution.

IF REQUESTED AND NOT DEEMED UNNECESSARY BY THE AGENCY HEAD, A RULE DEVELOPMENT WORKSHOP WILL BE HELD AT A TIME DATE AND PLACE TO BE LATER ANNOUNCED IN THIS PUBLICATION.

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

THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS:

68B-38.001 Citrus-Hernando Shrimping and Trapping Stonecrabbing Closed Areas and Seasons.

(1) For purposes of regulating shrimping and trapping stonecrabbing in the state waters of Citrus and Hernando Counties, five zones are hereby established as described in subsection (2) and depicted on the following map: (MAP NOT BEING CHANGED)

(2) The zones established in subsection (1) are described as follows:

(a) ZONE I – Bounded by a continuous line connecting the following points expressed by latitude and longitude (Loran notations are unofficial and are included only for the convenience of fishermen):

Table with columns: Point, Latitude, Longitude, West Loran Chain 7980, X-Y-Z. Rows A through X.

Thence northerly to Point A

(b) ZONE II – Bounded by a continuous line connecting the following points expressed by latitude and longitude (Loran notations are unofficial and are included only for the convenience of fishermen):

Table with columns: Point, Latitude, Longitude, West Loran Chain 7980, X-Y-Z. Rows I through Z.

Thence northerly to Point I

(c) ZONE III – Bounded by a continuous line connecting the following points expressed by latitude and longitude (Loran notations are unofficial and are included only for the convenience of fishermen):

Table with columns: Point, Latitude, Longitude, West Loran Chain 7980, X-Y-Z. Rows P through S.

Thence northerly to Point P

(d) ZONE IV – Bounded by a continuous line connecting the following points expressed by latitude and longitude (~~Loran notations are unofficial and are included only for the convenience of fishermen~~):

Point	Latitude	Longitude W	West Loran Chain 7980 X-Y-Z			
E	28° 41.650'	82° 55.416'	14353.7	31300.2	45193.9	62970.0
N	28° 41.650'	82° 53.200'	14357.4	31304.4	45176.0	62955.0
S	28° 30.850'	82° 52.916'	14327.7	31247.0	45086.6	62955.0
O	28° 30.850'	82° 55.183'	14323.7	31242.4	45104.9	62970.0

Thence northerly to Point E

(e) ZONE V – Bounded by a continuous line connecting the following points expressed by latitude and longitude (~~Loran notations are unofficial and are included only for the convenience of fishermen~~):

Point	Latitude	Longitude W	West Loran Chain 7980 X-Y-Z			
F	28° 41.650'	82° 56.150'	14352.4	31298.6	45199.4	62975.0
G	28° 48.933'	82° 56.316'	14372.6	31337.2	45260.0	62975.0
K	28° 50.983'	82° 54.266'	14381.6	31351.8	45260.0	62960.0
L	28° 41.650'	82° 53.933'	14356.2	31303.0	45181.7	62960.0

Thence west to Point F

(3) No person shall operate any trawl in the following zones during the time periods indicated:

(a) ZONES I and III – Beginning on October 5 of each year and continuing through May 20 of the following year.

(b) ZONE IV – Beginning on December 2 of each year and continuing through April 1 of the following year.

(c) ZONE V – Beginning on December 1 of each year and continuing through March 15 of the following year.

(4) No person shall fish with, set, or place any ~~stone~~ ~~crab~~ trap in the following zones during the time periods indicated:

(a) ZONE II – Beginning on October 5 of each year and continuing through May 20 of the following year.

(b) ZONE IV – Beginning on October 5 of each year and continuing through December 1 of the same year and beginning on April 2 of each year and continuing through May 20 of the same year.

(c) ZONE V – Beginning on October 5 of each year and continuing through November 30 of the same year and beginning on March 16 of each year and continuing through May 20 of the same year.

(5) This rule shall not be construed as allowing shrimping or ~~trapping stone~~ ~~crabbing~~ in areas or during times as may be otherwise prohibited by law or rule.

(6) “Trawl” means a net in the form of an elongated bag with the mouth kept open by various means and fished by being towed or dragged on the bottom.

(7) “Trapping” means deployment of any device for harvesting crabs, fish, or other animals, which device captures by entrapping such animals within its walls, including, but not limited to any trap authorized in Rules 68B-13.008, 68-14.005, 68B-24.006, or 68B-45.004, or in Section 370.1105, Florida Statutes.

Specific Authority Art. IV, Sec. 9, Fla. Const. Law Implemented Art. IV, Sec. 9, Fla. Const. History—New 10-1-89, Amended 2-24-98, Formerly 46-38.001, Amended _____.

FISH AND WILDLIFE CONSERVATION COMMISSION

Marine Fisheries Commission

RULE CHAPTER TITLE: Mullet

RULE TITLES:

Designation	RULE NOS.:
as Restricted Species	68B-39.001
Definitions	68B-39.002
Size Limit; Exception	68B-39.003
Bag Limit	68B-39.004
Seasonal Bag Limit for Portion of Pinellas County	68B-39.0045

Seasonal Night Closure for Portion of Charlotte County (Punta Gorda)	68B-39.0046
Allowable Harvesting Gear	68B-39.0047
Commercial Harvest, Statewide Regulations	68B-39.005
Pasco-Lee Region; Seasons; Closed Areas	68B-39.008

PURPOSE AND EFFECT: The Fish and Wildlife Conservation Commission has received comments from commercial fishers expressing concern about an apparent decline in silver mullet abundance on Florida’s Atlantic Coast since the mid-1990s. A Florida Marine Research Institute stock assessment confirmed the decline and concluded that the Atlantic fishery is approaching overfishing. The Gulf of Mexico stock appears healthy. The purpose of this rule development is to expand the existing mullet rule chapter to implement management measures to achieve at least a 10% reduction in harvest in the Atlantic silver mullet fishery. The effect of this effort will be to assure the continuing availability of silver mullet to commercial and recreational harvesters who rely on the species.

SUBJECT AREA TO BE ADDRESSED: Silver mullet.

SPECIFIC AUTHORITY: Art. IV, Sec. 9, Florida Constitution.

LAW IMPLEMENTED: Art. IV, Sec. 9, Florida Constitution.

IF REQUESTED AND NOT DEEMED UNNECESSARY BY THE AGENCY HEAD, A RULE DEVELOPMENT WORKSHOP WILL BE HELD AT A TIME, DATE AND PLACE TO BE LATER ANNOUNCED IN THIS PUBLICATION.

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

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

THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS:

68B-39.001 ~~Purpose and Intent; Repeal of Certain General and Special Acts; Designation as Restricted Species.~~

~~(1) The purpose and intent of this chapter are to protect and conserve Florida's mullet resources and assure the continuing health and abundance of the species.~~

~~(2) It is the intent of this chapter to expressly effect the repeal of and replace Section 370.11(2)(a)7., Florida Statutes, and the remainder of Section 370.11(2)(a), Florida Statutes, as it pertains to mullet.~~

~~(3) It is the intent of this chapter to repeal and replace the following special acts (local laws), which are rules of the Department of Environmental Protection pursuant to subsection (5) of Section 2 of Chapter 83-134, as amended by Chapter 84-121, Laws of Florida:~~

~~(a) Chapter 21429, Laws of Florida (1941), which regulates the taking of mullet in Okaloosa County.~~

~~(b) Chapter 26115, Laws of Florida (1949), which regulates the taking of mullet in Palm Beach County.~~

~~(c) Chapter 57-1320, Laws of Florida (1957), which allows the taking of mullet smaller than 12 inches in length for bait and provides for the licensing of mullet dealers, in Flagler County.~~

~~(d) Chapter 61-1998, Laws of Florida (1961), which regulates the taking of mullet in Citrus County.~~

~~(e) Chapter 69-948, Laws of Florida (1969), which allows the taking of mullet smaller than 12 inches in length for bait and provides for the licensing of mullet dealers, in Clay County.~~

~~(4) Striped mullet and silver mullet are hereby designated as a restricted species pursuant to Section 370.01(21), Florida Statutes.~~

~~Specific Authority Art. IV, Sec. 9, Fla. Const.; Chapter 83-134, Laws of Fla., as amended by Chapter 84-121, Laws of Fla.; Law Implemented Art. IV, Sec. 9, Fla. Const.; Chapter 83-134, Laws of Fla., as amended by Chapter 84-121, Laws of Fla.; History—New 10-19-89, Amended 9-1-91, 11-16-98, Formerly 46-39.001, Amended _____.~~

68B-39.002 Definitions.

As used in this rule chapter:

(1) "East region" means all state waters along the east coast of Florida and the Florida Keys lying between the Florida-Georgia border and the Monroe-Collier county line, and adjacent federal Exclusive Economic Zone waters.

~~(2)(1) No change.~~

~~(3)(2) No change.~~

~~(4)(3) "Harvest for commercial purposes" means the taking or harvesting of any striped or silver mullet for purposes of sale or with intent to sell. Striped or silver mullet harvested in excess of the recreational bag limit, shall constitute harvest for commercial purposes.~~

~~(5)(4) No change.~~

(6) "Silver mullet" means any fish of the species *Mugil curema* (white mullet), *Mugil gyrans* (fantail mullet), or *Mugil gaimardianus* (redeye mullet), or any part thereof.

~~(7)(5) "Striped mullet," also commonly known as black mullet, means any fish of the species *Mugil cephalus*, or any part thereof.~~

~~(6) "Skimmer net" means a net in the form of an elongated bag kept open by a rigid L shaped frame together with a weight. Such nets are deployed in tandem on either side of a vessel and are not towed or dragged along the sea bottom.~~

~~(8)(7) No change.~~

~~(9)(8) No change.~~

~~(10)(9) No change.~~

(11) "West region" means all state waters along the west coast of Florida lying between the Alabama-Florida line and the Collier-Monroe county line, and all adjacent Exclusive Economic Zone waters.

~~Specific Authority Art. IV, Sec. 9, Fla. Const. Law Implemented Art. IV, Sec. 9, Fla. Const. History—New 10-19-89, Amended 10-1-90, 11-16-93, 7-15-96, 3-3-97, 1-1-98, Formerly 46-39.002, Amended 10-7-01, _____.~~

68B-39.003 Size Limit; Exception.

(1) A person harvesting pursuant to Rules 68B-39.005 and 68B-39.008, F.A.C., shall not harvest or possess, while in or on the waters of the state, a quantity of striped mullet smaller in size than 11 inches fork length, which quantity exceeds 10 percent of the total whole weight of all striped mullet in possession of the harvester at any time.

(2) All striped and silver mullet harvested for commercial purposes within or without the waters of the state shall be landed in a whole condition. The possession, while in or on state waters, of a mullet harvested for commercial purposes that has been deheaded, sliced, divided, filleted, ground, skinned, scaled, or deboned is prohibited. Mere evisceration or "gutting" of striped or silver ~~such~~ mullet, or mere removal of gills before landing is not prohibited.

~~Specific Authority Art. IV, Sec. 9, Fla. Const. Law Implemented Art. IV, Sec. 9, Fla. Const. History—New 10-19-89, Formerly 46-39.003, Amended _____.~~

68B-39.004 Bag Limit.

Except as provided in Rules 68B-39.0045-.008:

(1) No person shall harvest within or without the waters of the state, more than 50 striped or silver mullet per day, in any combination of species; provided, however, that two or more harvesters aboard a single vessel in or on the waters of the state shall be subject to the vessel possession limit specified in subsection (2).

(2)(a) During the period beginning September 1 each year and continuing through January 31 of the following year, the possession of more than 50 striped or silver mullet aboard a vessel in or on the waters of the state at any time is prohibited.

(b) During the period beginning February 1 and continuing through August 31 each year, the possession of more than 100 striped or silver mullet aboard a vessel in or on the waters of the state at any time is prohibited.

Specific Authority Art. IV, Sec. 9, Fla. Const. Law Implemented Art. IV, Sec. 9, Fla. Const. History—New 10-19-89, Amended 9-1-91, 10-5-92, Formerly 46-39.004, Amended 3-30-00, _____.

68B-39.0045 Seasonal Bag Limit for Portion of Pinellas County.

(1) During the period beginning October 1 and continuing through the following January 31 each year, no person, including those harvesting pursuant to Rules 68B-39.005 and 68B-39.008, F.A.C., shall harvest within the areas described in subsection (3), more than five striped mullet per day. However, if there are two or more harvesters aboard a single vessel in the areas described in subsection (3), the vessel possession limit specified in subsection (2) shall apply.

(2) The possession of more than 5 striped mullet aboard a vessel in the areas described in subsection (3) is prohibited.

(3) No change.

Specific Authority Art. IV, Sec. 9, Fla. Const. Law Implemented Art. IV, Sec. 9, Fla. Const. History—New 10-5-92, Formerly 46-39.0045, Amended _____.

68B-39.0046 Seasonal Night Closure for Portion of Charlotte County (Punta Gorda).

(1) During the period beginning on November 1 each year and continuing through the last day of February of the following year, no person, including those harvesting pursuant to Rules 68B-39.005 and 68B-39.008, F.A.C., shall harvest or attempt to harvest, within the area described in subsection (2), any striped mullet during the period beginning 6:00 p.m. each evening and continuing until 6:00 a.m. the following morning. No person shall possess any striped mullet in, on, or above the waters of the area during this nightly closure.

(2) No change.

Specific Authority Art. IV, Sec. 9, Fla. Const. Law Implemented Art. IV, Sec. 9, Fla. Const. History—New 2-24-98, Formerly 46-39.0046, Amended _____.

68B-39.0047 Allowable Harvesting Gear.

(1) The harvest or attempted harvest of any striped and silver mullet by or with the use of any gear or method other than the following is prohibited.

(a) No change.

(b) No change.

~~(c) Until January 1, 2000, skimmer net meeting the following specifications:~~

~~1. No skimmer net shall have an opening larger than 28 feet around the perimeter.~~

~~2. No more than two skimmer nets shall be attached to or fished from a single vessel.~~

~~3. No skimmer net shall have a total area (mesh area plus the area of any other attached material that adds to the fishing surface of the net) larger than 500 square feet. No skimmer net shall be longer than 30 feet long in a stretched condition.~~

~~4. The bag of any skimmer net shall be constructed of no smaller than #12 dipped nylon mesh. The use of monofilament netting material in any part of the net is prohibited. The mesh size in the final 8 feet of the net shall not exceed 3 1/2 inches stretched mesh and the mesh size in the remainder of the net shall not exceed 4 1/2 inches stretched mesh.~~

~~5. No skimmer net shall come in contact with the sea bottom while being deployed from a vessel under power.~~

~~(c)(d) No change.~~

~~(d)(e) No change.~~

(2) No person shall possess or sell or offer for sale any striped or silver mullet harvested in state waters with any gear not specifically allowed in subsection (1) of this rule.

(3) No change.

Specific Authority Art. IV, Sec. 9, Fla. Const. Law Implemented Art. IV, Sec. 9, Fla. Const. History—New 3-3-97, Amended 1-1-98, 11-16-98, 12-31-98, Formerly 46-39.0047, Amended 12-2-99, 7-1-01, _____.

68B-39.005 Commercial Harvest, Statewide Regulations.

(1) Any person harvesting striped or silver mullet in excess of the bag limit established by Rule 68B-39.004, F.A.C. shall be governed by the statewide regulations contained in this rule and by the specific regional requirements contained in Rule 68B-39.008, F.A.C. Such person shall either possess a valid saltwater products license with a restricted species endorsement or be aboard a vessel with another person so qualified.

(2) No person shall harvest striped or silver mullet for commercial purposes in water of the Atlantic Ocean or Gulf of Mexico offshore of the “three nautical mile line” (formerly known as the territorial sea line) except that, in the Collier-Monroe Gulf Region, no person shall harvest striped or silver mullet for commercial purposes offshore of the Everglades National Park Line. Such line shall commence at a point on the three nautical mile line due southwest of the West Pass Marker, 81° 31' 12" W longitude, 25° 49' 03" N latitude, thereafter going due northeast to the West Pass Marker, thereafter going in a southerly direction following the Western boundary of the Everglades National Park to the lighted buoy #2 at 80° 52.9' W longitude, 24° 52.3' N latitude, thereafter 240° True (or 242° magnetic) to the three nautical mile line, at which point it shall terminate.

(3)(a) Except as provided in paragraph ~~(e)(e)~~ of this subsection, no person shall harvest, possess while in or on the waters of the state, or land in any one day striped or silver mullet in quantities greater than the bag limit specified in Rule

68B-39.004, F.A.C. on any weekend during the period beginning on July 1 of each year and ending on January 31 of the following year.

(b) No person shall purchase, sell, or exchange, or offer to purchase, sell, or exchange any striped or silver mullet harvested on any weekend during the period beginning on July 1 of each year and ending on January 31 of the following year.

(c) A person who has lawfully harvested striped or silver mullet for commercial purposes prior to the beginning of a weekend may possess, aboard a vessel, mullet in quantities greater than the bag limit after the weekend begins, if the vessel is tied up to the docking facilities of a licensed wholesale saltwater products dealer, the vessel was docked at the facility prior to the beginning of the weekend, and the person is in the process of landing the striped or silver mullet at the dealer's facility.

(d) No person shall harvest or possess silver mullet in or on waters of the east region in quantities greater than the bag limit specified in Rule 68B-39.004, F.A.C. during the period beginning February 1 and continuing through the last day of February each year. During this period, no person shall purchase, sell, or exchange, or offer to purchase, sell, or exchange any silver mullet harvested from waters of the east region.

Specific Authority Art. IV, Sec. 9, Fla. Const. Law Implemented Art. IV, Sec. 9, Fla. Const. History--New 10-19-89, Amended 10-1-90, 9-1-91, 11-16-93, 3-3-97, 11-16-98, Formerly 46-39.005, Amended _____.

68B-39.008 Pasco-Lee Region; Seasons; Closed Areas.

(1) No change.

(2) During the period beginning November 1 of each year and continuing through January 31 of the following year, the following waters shall be closed to the harvest of striped mullet in excess of the bag limit established by Rule 68B-39.004, F.A.C., during the period specified above. These closures shall not affect operation of existing closures of the same areas established by law or rule, during the remainder of the year.

(a) through (c) No change.

Specific Authority Art. IV, Sec. 9, Fla. Const. Law Implemented Art. IV, Sec. 9, Fla. Const. History--New 10-19-89, Amended 10-1-90, 10-5-92, 9-1-93, 11-29-93, 3-3-97, Formerly 46-39.008, Amended _____.

FISH AND WILDLIFE CONSERVATION COMMISSION

Marine Fisheries Commission

RULE CHAPTER TITLE: Sharks and Rays

RULE TITLES:

Definitions

Bag Limit Applicable to State Waters,

Gear Restriction

RULE NOS.:

68B-44.002

68B-44.003

Practice of Finning Prohibited; Removal of Fins from Sharks Harvested in State Waters Prohibited; Compliance With Federal Requirements, Filleting Prohibited	68B-44.004
Commercial Harvest of Sharks: Federal Permit Required	68B-44.005
Commercial Season; Season Closure; Prohibition of Sale	68B-44.006
Protected Species: Sawfishes, Basking Shark, Whale Shark, White Shark, Sand Tiger Shark, Bigeye Sand Tiger Shark, Manta Ray, and Spotted Eagle Ray; Prohibition of Harvest, Landing, and Sale	68B-44.008

PURPOSE AND EFFECT: The Atlantic States Marine Fisheries Commission, an interstate compact regulatory organization authorized to adopt fishery management plans for Atlantic coast interstate fisheries, has asked the Florida Fish and Wildlife Conservation Commission to prohibit the harvest of spiny dogfish, a species of shark more prevalent in states to the north of Florida. The purpose of this rule development effort is to implement that rule change for Florida and to add shark species to the list of prohibited species that have also been prohibited by federal regulations in adjacent EEZ waters. The effect of this effort should be to contribute to the collective goals of reestablishing abundance to the Atlantic Spiny dogfish fishery and recovering overfished species of sharks.

SUBJECT AREA TO BE ADDRESSED: Shark species protected from harvest, possession, and sale.

SPECIFIC AUTHORITY: Art. IV, Sec. 9, Florida Constitution.

LAW IMPLEMENTED: Art. IV, Sec. 9, Florida Constitution. IF REQUESTED AND NOT DEEMED UNNECESSARY BY THE AGENCY HEAD, A RULE DEVELOPMENT WORKSHOP WILL BE HELD AT A TIME, DATE AND PLACE TO BE LATER ANNOUNCED IN THIS PUBLICATION.

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

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

FISH AND WILDLIFE CONSERVATION COMMISSION

Marine Fisheries Commission

RULE CHAPTER TITLE: Blue Crab

RULE TITLES:	RULE NOS.:
Definitions	68B-45.002
Other Prohibitions	68B-45.006

PURPOSE AND EFFECT: This rule development effort is in conjunction with proposed changes to rules governing the stone crab trap fishery. The purpose of this effort is to close an area of the blue crab fishery seasonally in northwest Florida where blue crab fishers might be able to stockpile stone crabs in blue crab traps just prior to the opening of stone crab season. The effect should be to assure that stone crab fishers participating in the trap certificate program in northwest Florida will realize the benefits of the effort limitation program implemented for their fishery.

SUBJECT AREA TO BE ADDRESSED: Blue crab seasonal closure area for northwest Florida.

SPECIFIC AUTHORITY: Art. IV, Sec. 9, Florida Constitution.

LAW IMPLEMENTED: Art. IV, Sec. 9, Florida Constitution.

IF REQUESTED AND NOT DEEMED UNNECESSARY BY THE AGENCY HEAD, A RULE DEVELOPMENT WORKSHOP WILL BE HELD AT A TIME, DATE, AND PLACE TO BE LATER ANNOUNCED IN THIS PUBLICATION.

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

THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS:

68B-45.002 Definitions.

As used in this rule chapter:

(1) through (8) No change.

(9) "Northwest Seasonal Closure Region" means all state waters of the Gulf of Mexico seaward of three nautical miles and north and west of latitude 29 degrees, 17 minutes, and 02 seconds North (from the south bank of the mouth of the Suwannee River to near channel marker 21 westward to the outer limits of state waters).

~~(10)(9)~~ "Peeler crab" means a hard blue crab in pre-molt condition having a new soft shell developed under the hard shell and having a definite white, pink, or red line or rim on the outer edge of the back fin or flipper, and retained specifically for soft crab shedding operations and marketed only after molting and prior to the hardening of the new shell.

~~(11)(10)~~ "Push scrape" means a mesh net or bag attached to the outer edges of a triangular or rectangular rigid frame with a handle attached that is fished by being pushed across the bottom by a person wading.

~~(12)(11)~~ "Trotline" means a submerged line with bait at repetitive intervals.

~~(13)(12)~~ "Untreated pine" means raw pine wood that has not been treated with any preservative or pine wood that has been pressure treated with no more than 0.40 pounds of chromated copper arsenate (CCA) compounds per cubic foot of wood.

Specific Authority Art. IV, Sec. 9, Fla. Const. Law Implemented Art. IV, Sec. 9, Fla. Const. History--New 12-14-93, Amended 6-1-94, 10-4-95, Formerly 46-45.002, Amended _____.

68B-45.006 Other Prohibitions.

(1) through (2) No change.

(3) In the Northwest Seasonal Closure Region, no blue crab trap, including any trap used to harvest peeler crabs, may be placed in the water, fished, or soaked during the period beginning September 20 and continuing through October 4 each year.

Specific Authority Art. IV, Sec. 9, Fla. Const. Law Implemented Art. IV, Sec. 9, Fla. Const. History--New 12-14-93, Formerly 46-45.006, Amended _____.

FISH AND WILDLIFE CONSERVATION COMMISSION

Marine Fisheries Commission

RULE CHAPTER TITLE: Trap Retrieval and Trap Debris

Removal

RULE TITLES:	RULE NOS.:
Definitions	68B-55.001
Retrieval of Trap Debris	68B-55.002

Trap Retrieval Program Funded Pursuant to Section 370.143, Florida Statutes	68B-55.003
Retrieval of Derelict Traps	68B-55.004

PURPOSE AND EFFECT: The purpose of this rule development effort is to promote the retrieval of derelict traps and trap debris from Florida's coastal waters. These traps are used to harvest five marine species: spiny lobster (crawfish), stone crabs, blue crabs, black sea bass, and pinfish. Trap debris and derelict traps have many negative impacts on the marine environment. Existing programs for the funded retrieval of traps during closed seasons are inadequate to effectively deal with the problem. This effort reflects the cooperation of commercial fishing groups and representatives, environmental organizations engaged in shoreline and reef cleanups, and

government entities such as the Department of Environmental Protection and the Florida Keys National Marine Sanctuary. The effect of this effort should be to reduce the negative environmental impacts of lost and abandoned traps and trap debris.

SUBJECT AREA TO BE ADDRESSED: Trap Retrieval and Debris Removal.

SPECIFIC AUTHORITY: Art. IV, Sec. 9, Florida Constitution.

LAW IMPLEMENTED: Art. IV, Sec. 9, Florida Constitution.

IF REQUESTED AND NOT DEEMED UNNECESSARY BY THE AGENCY HEAD, A RULE DEVELOPMENT WORKSHOP WILL BE HELD AT A TIME, DATE, AND PLACE TO BE LATER ANNOUNCED IN THIS PUBLICATION.

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

THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS:

TRAP RETRIEVAL AND TRAP DEBRIS REMOVAL

68B-55.001 Definitions.

As used in this chapter:

(1) “Closed season,” means that specified period of time during which harvest is prohibited.

(2) “Trap debris,” means any piece of a trap, or any combination of such pieces not constituting a fishable trap.

(3) “Derelict trap” means any trap during any closed season for the species, or any fishable trap during the open season that lacks more than two of the following elements:

(a) Buoy.

(b) Line.

(c) Current trap tag (spiny lobster or stone crab) or identification (blue crabs).

(d) Current license.

(4) “Fishable trap” means a trap that has 6 intact sides and at least two of the following elements:

(a) Buoy.

(b) Line.

(c) Current trap tag (if required).

(d) Identification.

(5) “Fishery Participant Organization” means a group of commercial fishermen all of whom possess a current saltwater products license and a blue crab, stone crab or spiny lobster endorsement. For the purpose of participation in the retrieval of derelict traps this means participants who receive and possess written permission from each other to bring their traps into land or move them back into line, who work under law enforcement supervision to retrieve traps, or who prepare a plan for Commission authorization pursuant to this rule.

(6) “Trap” means legal harvesting gear as defined in Rule 68B-13.008, F.A.C.; Rule 68B-24.006, F.A.C.; Rule 68B-45.004, F.A.C.; Section 370.1105(1)(b), F.S.; or Section 370.1105(1)(c), F.S.

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

68B-55.002 Retrieval of Trap Debris.

(1) Local, state, or federal governmental entities, nonprofit nongovernmental organizations, fishery participant organizations, or other community or citizens groups are hereby authorized to remove trap debris from shoreline areas landward of mean low water, and from mangroves or other shoreline vegetation when they organize, promote, and participate in coastal cleanup events for the purpose of removing marine debris.

(2) Other coastal cleanup events for the purpose of removing trap debris from all other areas of state waters shall only be undertaken with prior authorization from the Commission, to assure that such removal is adequately supervised.

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

68B-55.003 Trap Retrieval Program Funded Pursuant to Section 370.143, Florida Statutes.

(1) Traps shall be retrieved by Commission personnel or by a contractor under direct oversight of such personnel, by any approved persons through either a cooperative agreement with federal, state, or local governments, or with fishery participant organizations acting in conjunction with the Commission.

(2) For each trap retrieved pursuant to this section, the following information shall be documented:

(a) The intended species targeted by the trap.

(b) Owner identification.

(c) Presence or absence of a required tag.

(d) Commercial or recreational trap.

(e) Location of retrieval.

(f) Buoy colors.

(3) The Commission’s Division of Law Enforcement office, in the area most appropriate to the cleanup, shall be notified by the Commission program administrator, no less than 24 hours prior to commencement of trap retrieval under this program, and on each day thereafter until cleanup ceases.

(4) Trap owners affected by a disaster pursuant to Chapter 370.143(4), Florida Statutes, will be allowed ten calendar days after notification to claim traps from a Commission authorized storage area. Unclaimed traps will be properly disabled and disposed of as trap debris.

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

68B-55.004 Retrieval of Derelict Traps.

(1) During the closed season for the harvest of any species for which traps are allowable gear, and after any authorized trap retrieval period together with any extensions, traps are considered to be derelict and may be retrieved as part of coastal cleanup events conducted by local, state, or federal government entities, nonprofit nongovernmental organizations, fishery participant organizations, or other community or citizens groups. Such events shall only be undertaken with prior authorization from the Commission, to assure that such removal is adequately supervised but without the mandatory reporting required in Rule 68B-55.003, F.A.C.

(2) During the open season for harvest of any species for which traps are allowable gear, retrieval of derelict traps may occur at any time deemed appropriate by the Commission. Commission employees, local, state, or federal personnel, or members of a fishery participant organization may retrieve derelict traps. Retrieval other than by Commission personnel shall only be pursuant to a Commission approved plan. The plan shall include the operational area and time period proposed, authorized personnel, the number of vessels, methods of disposition, and number and qualifications of supervisory personnel. An approved plan also include notification of the Commission’s Division of Law Enforcement no less than 24 hours prior to commencement of retrieval under this program with final float plan information including contact information, vessel registration numbers, trip times, and number of days.

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

**Section II
Proposed Rules**

DEPARTMENT OF BANKING AND FINANCE

Division of Finance

RULE TITLE: Examination Fees **RULE NO.:** 3D-30.028
PURPOSE, EFFECT AND SUMMARY: Rule 3D-30.028, F.A.C., sets the examination fee for examiners engaged in examinations of cemetery companies, pre-need sales certificate holders and agents, and guaranteeing organizations. It also sets forth compensation for travel time, per diem subsistence allowance, and report writing off premises. The rule is no

longer necessary because the Florida Legislature enacted Chapter 2000-195, Laws of Florida that amended sections 497.103, 497.245 and 497.431, Florida Statutes, to delete the requirement that the examinee pay the expenses of the examination. Travel expense and per diem subsistence allowance for out of state travel by state employees in connection with an examination is still included. Sections 497.213 and 497.407, Florida Statutes, were amended to increase the cemetery license and certificate of authority fees.

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: 497.103(1), 497.105(5) FS.

LAW IMPLEMENTED: 497.103(4), 497.213, 497.245, 497.407, 497.431 FS.

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

TIME AND DATE: 9:00 a.m., May 14, 2003

PLACE: Room 142, Larson Building, 200 East Gaines Street, Tallahassee, Florida

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Diana Evans, Chief, Bureau of Funeral and Cemetery Services, Division of Consumer Services, 200 East Gaines Street, Tallahassee, Florida 32399-0316, (850)413-5790

Pursuant to the provisions of the Americans with Disabilities Act, any person requiring special accommodations to participate in this program, please advise the Department at least 5 calendar days before the program by contacting the person listed above.

THE FULL TEXT OF THE PROPOSED RULE IS:

3D-30.028 Examination Fees.

Specific Authority 497.103(1), 497.105(5) FS. Law Implemented 497.431 FS. History–New 7-14-81, Formerly 3D-30.28, Amended 3-22-95, Repealed _____.

NAME OF PERSON ORIGINATING PROPOSED RULE: Diana Evans, Chief, Bureau of Funeral and Cemetery Services

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Marta Arrington, Director, Division of Consumer Services, Department of Insurance

DATE PROPOSED RULE APPROVED BY AGENCY

HEAD: March 28, 2003