

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

THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS:

64B32-6.004 Procedures for Approval of Attendance at Continuing Education Courses.

(1) through (2) No change.

(3) A minimum of 16 hours each biennium must be obtained by each licensee in approved offerings related to the direct delivery of respiratory care services. No more than 8 hours of appropriate continuing education in the areas of management, risk management, personal growth, and educational techniques will be acceptable for the purpose of biennial renewal of a license. Up to 12 8 hours per biennium may be home study courses.

(4) No change.

Specific Authority 468.353(1), 468.361(2) FS. Law Implemented 468.361(2) FS. History—New 4-29-85, Formerly 21M-38.04, Amended 9-29-86, 11-29-88, 9-24-92, 10-15-92, Formerly 21M-38.004, Amended 1-2-94, 7-10-94, Formerly 61F6-38.004, Amended 11-1-94, 3-14-95, 7-18-95, 4-24-96, 8-27-96, Formerly 59R-75.004, 64B8-75.004, Amended 6-8-00, 5-7-01, 1-22-03,\_\_\_\_\_.

## Section II Proposed Rules

### DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES

#### Division of Standards

RULE TITLES:

Standards

RULE NOS.:

5F-2.001

Adoption of the General Code and the

Codes of Liquid-Measuring Devices,

Liquefied Petroleum Gas and Anhydrous

Ammonia Liquid-Measuring Devices,

Hydrocarbon Gas Vapor-Measuring Devices,

Vehicle-Tank Meters, and Vehicle Tanks

Used as Measures of National Institute

of Standards and Technology Handbook 44 5F-2.014

PURPOSE AND EFFECT: The purpose of 5F-2.001 is to adopt the 2003 edition of the chemical and physical standards set forth in the American Society for Testing and Materials. These standards will be used for quality testing of regulated petroleum products. The effect will be that the Department will use the most recent nationally recognized standards for petroleum products developed by a consensus organization. The purpose of 5F-2.014 is to adopt the 2003 edition of NIST Handbook 44 which contains specifications and testing criteria for liquid and vapor measuring devices. The effect will be the

incorporation of the most recent specifications and testing criteria of measuring devices developed by a consensus organization.

SUMMARY: Proposed rules 5F-2.001 and 5F-2.014 will specify that the 2003 Annual Book of ASTM Standards and 2003 edition of NIST Handbook 44, respectively, are the accepted standards for implementation of Chapter 525, F.S.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COST: None.

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

SPECIFIC AUTHORITY: 525.14, 525.037, 531.40, 531.41(3) FS.

LAW IMPLEMENTED: 525.01, 525.037, 525.07, 525.14, 531.40 FS.

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

TIME AND DATE: 10:00 a.m., May 19, 2003

PLACE: Division of Standards' Conference Room, Suite E, Room 135, Doyle Conner Administration Building, 3125 Conner Boulevard, Tallahassee, Florida 32399-1650

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULES IS: Eric Hamilton, Bureau Chief, Bureau of Petroleum Inspection, 3125 Conner Blvd., Bldg. #1, Tallahassee, FL 32399-1650, (850)488-9740

THE FULL TEXT OF THE PROPOSED RULES IS:

5F-2.001 Standards.

(1) Gasoline. The following specifications apply to gasoline sold or offered for sale in Florida. Specific variations or exemptions may be made by the Department of Agriculture and Consumer Services for gasoline designed for special equipment or service.

(a) Standards. All gasoline shall conform to the chemical and physical standards for gasoline as set forth in the American Society for Testing and Materials designation D 4814-02 ~~D 4814-01a~~, "Standard Specification for Automotive Spark-Ignition Engine Fuel."

(b) Analysis. For purposes of inspection and testing, laboratory analyses shall be conducted using the methods recognized by the American Society for Testing and Materials designation D 4814-02 ~~D 4814-01a~~, "Standard Specification for Automotive Spark-Ignition Engine Fuel."

(2) Kerosene (Kerosine). The following specifications apply to kerosene No. 1-K and No. 2-K sold or offered for sale in Florida.

(a) Standards. All kerosine No. 1-K and No. 2-K shall conform to the chemical and physical standards for kerosene No. 1-K and No. 2-K as set forth in the American Society for Testing and Materials designation D 3699-02 ~~D 3699-01~~, "Standard Specification for Kerosine."

(b) Analysis. For purposes of inspection and testing, laboratory analyses shall be conducted using the methods recognized by the American Society for Testing and Materials designation D 3699-02 ~~D 3699-01~~, "Standard Specification for Kerosine."

(3) Diesel Fuel Oils No. 1-D and No. 2-D. The following specifications apply to diesel fuel oils No. 1-D and No. 2-D sold or offered for sale in Florida.

(a) Standards. All diesel fuel oils No. 1-D and No. 2-D shall conform to the chemical and physical standards for diesel fuel oils No. 1-D and No. 2-D as set forth in the American Society for Testing and Materials designation D 975-02 ~~D 975-01a~~ "Standard Specification for Diesel Fuel Oils."

Analysis. For purposes of inspection and testing, laboratory analyses shall be conducted using the methods recognized by the American Society for Testing and Materials designation D 975-02 ~~D 975-01a~~, "Standard Specification for Diesel Fuel Oils."

(4) Fuel Oils No. 1 and No. 2. The following specifications apply to fuel oils No. 1 and No. 2 sold or offered for sale in Florida.

(a) Standards. All fuel oils No. 1 and No. 2 shall conform to the chemical and physical standards for fuel oils No. 1 and No. 2 as set forth in the American Society for Testing and Materials designation D 396-02a ~~D 396-01~~, "Standard Specification for Fuel Oils."

(b) Analysis. For purposes of inspection and testing, laboratory analyses shall be conducted using the methods recognized by the American Society for Testing and Materials designation D 396-02a ~~D 396-01~~, "Standard Specification for Fuel Oils."

(6) Materials. The following materials are hereby incorporated by reference. Copies of these publications may be obtained from the American Society for Testing and Materials, 100 Barr Harbor Drive, West Conshohocken, PA 19428, or <http://www.astm.org>.

(a) American Society for Testing and Materials D 4814-02 ~~D 4814-01a~~, "Standard Specification for Automotive Spark-Ignition Engine Fuel" (~~approved November 10, 2001~~);

(b) American Society for Testing and Materials D 3699-02 ~~D 3699-01~~, "Standard Specification for Kerosine" (~~approved June 10, 2001~~);

(c) American Society for Testing and Materials D 975-02 ~~D 975-01a~~, "Standard Specification for Diesel Fuel Oils" (~~approved June 10, 2001~~);

(d) American Society for Testing and Materials D 396-02a ~~D 396-01~~, "Standard Specification for Fuel Oils" (~~approved June 10, 2001~~).

Specific Authority 525.037, 525.14 FS. Law Implemented 525.01, 525.037, 525.14 FS. History—Amended 1-15-68, 7-1-71, 7-1-73, 12-1-73, 11-16-74, 2-13-80, 5-3-83, Formerly 5F-2.01, Amended 5-3-90, 8-13-92, 11-29-94, 11-13-97, 12-9-98, 8-3-99, 7-31-00, 9-3-01, 8-15-02, \_\_\_\_\_.

5F-2.014 Adoption of the General Code and the Codes of Liquid-Measuring Devices, Liquefied Petroleum Gas and Anhydrous Ammonia Liquid-Measuring Devices, Hydrocarbon Gas Vapor-Measuring Devices, Vehicle-Tank Meters, and Vehicle Tanks Used as Measures of National Institute of Standards and Technology Handbook 44.

The general code and the codes of liquid-measuring devices, liquefied petroleum gas and anhydrous ammonia liquid-measuring devices, hydrocarbon gas vapor-measuring devices, vehicle-tank meters, and vehicle tanks used as measures relating to specifications, tolerances, and other technical requirements for commercial weighing and measuring devices, contained in National Institute of Standards and Technology Handbook 44, 2003 ~~2002~~ Edition ~~issued November 2002~~, published by U.S. Department of Commerce are hereby adopted by reference as rules of the Department of Agriculture and Consumer Services. Copies may be obtained from the Superintendent of Documents, U. S. Government Printing Office, Washington, D. C. 20402 or at <http://ts.nist.gov/ts/htdocs/230/235/h442001.htm>.

Specific Authority 525.14, 531.40, 531.41(3) FS. Law Implemented 525.07, 531.40 FS. History—New 1-1-74, Amended 7-1-74, Repromulgated 12-31-74, Amended 4-18-75, 1-25-76, 1-17-77, 2-15-79, 6-4-80, 4-5-81, 5-2-82, 6-30-83, 7-15-84, 8-11-85, Formerly 5F-2.14, Amended 7-7-86, 4-5-87, 4-27-88, 5-31-89, 8-21-90, 8-5-91, 12-10-92, 11-29-94, 11-13-97, 12-9-98, 8-3-99, 7-31-00, 9-3-01, 8-15-02, \_\_\_\_\_.

NAME OF PERSON ORIGINATING PROPOSED RULE: Eric Hamilton

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Ben Faulk, Director, Division of Standards

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: April 14, 2003

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: March 28, 2003

**DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES**

**Division of Standards**

RULE TITLES: RULE NOS.:

Adoption of Uniform Packaging and Labeling Regulation	5F-3.001
Package Testing Procedures	5F-3.016

PURPOSE AND EFFECT: The purpose of Rule 5F-3.001, F.A.C., is to amend it to adopt the most recent national standards for packaging and labeling requirements as adopted by the National Conference on Weights and Measures and published in 2003 edition of National Institute of Standards and Technology Handbook 130. The purpose of Rule 5F-3.016, F.A.C., is to amend it to adopt the most recent

national standards for package testing procedures as adopted by the National Conference on Weights and Measures and published in Fourth Edition (January 2003) of National Institute of Standards and Technology Handbook 133. Adoption of the current national standards will make Florida's requirements uniform with the national requirements and facilitate interstate commerce and trade.

SUMMARY: Updates Chapter 5F-3.001 to adopt the current national requirements for the packaging and labeling of commodities as adopted by the National Conference on Weights and Measures and published as the "Uniform Packaging and Labeling Regulation" in the 2003 edition of National Institute of Standards and Technology Handbook 130. Updates Chapter 5F-3.016 to adopt the current national requirements for package testing procedures as adopted by the National Conference on Weights and Measures and published in Fourth Edition (January 2003) of National Institute of Standards and Technology Handbook 133.

SUMMARY OF STATEMENT OF 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: 531.41(3) FS.

LAWS IMPLEMENTED: 531.41(4),(13), 531.47, 531.49 FS.

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

TIME AND DATE: 2:00 p.m., Monday, May 19, 2003

PLACE: Division of Standards' Conference Room, Suite E, Room 135, Doyle Conner Administration Building, 3125 Conner Boulevard, Tallahassee, Florida 32399-1650

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Max Gray, Bureau Chief, Bureau of Weights and Measures, 3125 Conner Blvd., Bldg. #2, Tallahassee, FL 32399-1650, (850)488-9140

THE FULL TEXT OF THE PROPOSED RULE IS:

5F-3.001 Adoption of Uniform Packaging and Labeling Regulation.

The Department of Agriculture and Consumer Services hereby adopts the Uniform Packaging and Labeling Regulation promulgated by the United States Department of Commerce, National Institute of Standards and Technology, NIST Handbook 130, 2003 2002 Edition, as the Rule for packaging and labeling of commodities and incorporates said uniform regulation herein by this reference. A copy of NIST Handbook 130, 2003 2002 Edition, may be obtained from the Superintendent of Documents, United States Government Printing Office, Washington, D.C. 20402, Phone: (202)512-1800 or http://ts.nist.gov/ts/htdocs/230/235/

h130-01.htm. Copies of this uniform regulation are available from the Division of Standards, Bureau of Weights and Measures, 3125 Conner Boulevard, Lab #2, Tallahassee, Florida, 32399-1650, Phone: (850)488-9140.

Specific Authority 531.41(3) FS. Law Implemented 531.41(4), 531.47, 531.49 FS. History--New 1-1-73, Formerly 5F-3.01, Amended 6-14-95, 8-27-98, 8-19-99, 7-3-00, 9-3-01, 6-23-02,\_\_\_\_\_.

5F-3.016 Package Testing Procedures.

The Department of Agriculture and Consumer Services hereby adopts the National Institute of Standards and Technology (NIST) Handbook 133, "Checking the Net Contents of Packaged Goods," Fourth Edition (January 2003) as the Rule for the procedures for testing packaged goods and commodities for net contents and incorporates said Handbook herein by this reference. A copy of NIST Handbook 133, Fourth Edition (January 2003) may be obtained from the National Conference on Weights and Measures, 15245 Shady Grove Road, Suite 130, Rockville, Maryland 20850, Phone: (240)632-9454 or http://ts.nist.gov/ts/htdocs/230/235/h1334.htm.

Specific Authority 531.41(3) FS. Law Implemented 531.41(13) FS. History--New 4-9-98, Amended 6-23-02,\_\_\_\_\_.

NAME OF PERSON ORIGINATING PROPOSED RULE: Max Gray, Chief, Bureau of Weights and Measures

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Ben Faulk, Director, Division of Standards

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: April 14, 2003

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: March 28, 2003

DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES

Division of Standards

RULE TITLE: Specifications, Tolerances and Other

Technical Requirements for Commercial Weighing and Measuring Devices

RULE NO.: 5F-5.001

PURPOSE AND EFFECT: The purpose of this rule is to amend Rule 5F-5.001, F.A.C., to adopt the most recent national standards for weighing and measuring devices developed by the National Conference on Weights and Measures and published in the 2003 edition of National Institute of Standards and Technology Handbook 44. Adoption of the standards provides for uniformity of Florida's requirements with the national requirements to facilitate interstate commerce and trade.

SUMMARY: Rule 5F-5.001, F.A.C., adopts the current national standards for specifications, tolerances and other technical requirements for commercial weighing and measuring devices as published in the 2003 edition of National Institute of Standards and Technology Handbook 44.

SUMMARY OF STATEMENT ESTIMATED REGULATORY COST: None.

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

SPECIFIC AUTHORITY: 531.40, 531.41(3) FS.

LAWS IMPLEMENTED: 531.40 FS.

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

TIME AND DATE: 2:00 p.m., Monday, May 19, 2003

PLACE: Division of Standards' Conference Room, Suite E, Room 135, Doyle Conner Administration Building, 3125 Conner Boulevard, Tallahassee, Florida 32399-1650

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Max Gray, Bureau Chief, Bureau of Weights and Measures, 3125 Conner Blvd., Bldg. #2, Tallahassee, FL 32399-1650, phone (850)488-9140

THE FULL TEXT OF THE PROPOSED RULE IS:

5F-5.001 Specifications, Tolerances, and Other Technical Requirements for Commercial Weighing and Measuring Devices.

(1) The specifications, tolerances, and other technical requirements for commercial weighing and measuring devices adopted by the National Conference on Weights and Measures and contained in National Institute of Standards and Technology (NIST) Handbook 44, 2003 ~~2002~~ Edition, are hereby adopted as rules for the requirements for commercial weighing and measuring devices of the Department of Agriculture and Consumer Services. A copy of NIST Handbook 44, 2003 ~~2002~~ Edition, may be obtained from the Superintendent of Documents, United States Government Printing Office, Washington, D.C. 20402, Phone (202)512-1800 or at <http://ts.nist.gov/ts/htdocs/230/235/h442001.htm>.

(2) The violation of any of the provisions of these rules and regulations is subject to the penalties and remedies provided in the Weights, Measures, and Standards Law, Chapter 531, Florida Statutes.

Specific Authority 531.40, 531.41(3) FS. Law Implemented 531.40 FS. History—New 1-1-73, Amended 7-1-74, 4-18-75, 1-25-76, 1-17-77, 3-29-78, 2-15-79, 6-4-80, 4-5-81, 5-2-82, 6-30-83, 7-15-84, 8-11-85, Formerly 5F-5.01, Amended 7-7-86, 4-5-87, 4-27-88, 5-31-89, 8-21-90, 8-5-91, 12-10-92, 6-21-94, 8-16-95, 10-8-96, 8-27-98, 8-19-99, 7-3-00, 9-3-01, 6-23-02,\_\_\_\_\_.

NAME OF PERSON ORIGINATING PROPOSED RULE: Max Gray, Chief, Bureau of Weights and Measures

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Ben Faulk, Director, Division of Standards

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: April 14, 2003

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: March 28, 2003

## DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES

### Division of Standards

RULE TITLE:

RULE NO.:

Adoption of Uniform Methods of Sale

5F-7.005

PURPOSE AND EFFECT: The purpose of this rule is to adopt the most recent national standards for the method of sale of commodities established by the National Conference on Weights and Measures and published in the 2003 edition of National Institute of Standards and Technology Handbook 130. Adoption of the national standards will make Florida's requirements for methods of sale uniform with the national standards and facilitate interstate commerce and trade.

SUMMARY: Adopts the current national model methods of sale of commodities being sold by weight, measure or count, as published in National Institute of Standards and Technology Handbook 130 to provide for interstate commerce, facilitate value comparison and provide adequate quantity information for consumers and purchasers.

SUMMARY OF STATEMENT ESTIMATED REGULATORY COST: None.

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

SPECIFIC AUTHORITY: 531.41(3) FS.

LAWS IMPLEMENTED: 531.41(4), 531.45 FS.

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

TIME AND DATE: 2:00 p.m., Monday, May 19, 2003

PLACE: Division of Standards' Conference Room, Suite E, Room 135, Doyle Conner Administration Building, 3125 Conner Boulevard, Tallahassee, Florida 32399-1650

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT IS: Max Gray, Bureau Chief, Bureau of Weights and Measures, 3125 Conner Blvd., Bldg. #2, Tallahassee, FL 32399-1650, (850)488-9140

THE FULL TEXT OF THE PROPOSED RULE IS:

5F-7.005 Adoption of Uniform Methods of Sale.

The Florida Department of Agriculture and Consumer Services hereby adopts the Uniform Regulation for the Method of Sale of Commodities, as published by the United States Department of Commerce, National Institute of Standards and Technology, NIST Handbook 130, 2003 ~~2002~~ Edition, as the Rule for the method of sale for commodities, and incorporates said uniform

regulation herein by this reference. A copy of NIST Handbook 130, 2003 ~~2002~~ Edition, may be obtained from the Superintendent of Documents, United States Government Printing Office, Washington, D.C. 20402, Phone: (202)512-1800 or <http://ts.nist.gov/ts/htdocs/230/235/h130-01.htm>. Copies of this uniform regulation are available from the Division of Standards, Bureau of Weights and Measures, 3125 Conner Boulevard, Lab #2, Tallahassee, Florida 32399-1650, Phone: (850)488-9140.

Specific Authority 531.41(3),(4), 531.45 FS. Law Implemented 531.41(3),(4), 531.45 FS. History—New 1-8-90, Amended 6-14-95, 8-27-98, 8-19-99, 7-3-00, 9-3-01, 6-23-02,\_\_\_\_\_.

NAME OF PERSON ORIGINATING PROPOSED RULE: Max Gray, Chief, Bureau of Weights and Measures  
 NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Ben Faulk, Director, Division of Standards  
 DATE PROPOSED RULE APPROVED BY AGENCY HEAD: April 14, 2003  
 DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: March 28, 2003

**DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES**

**Office of Agricultural Water Policy**

RULE CHAPTER TITLE:	Tri-County Agricultural Area	RULE CHAPTER NO.:	
	Interim Measures		5M-4
RULE TITLES:	Purpose	RULE NOS.:	
	Approved Interim Measure Best Management Practices		5M-4.001
	Notice of Intent to Implement		5M-4.002
	Record Keeping		5M-4.003
			5M-4.004

PURPOSE AND EFFECT: The purpose and effect of the proposed rule is to establish and implement agricultural interim measures in accordance with Chapter 403, F.S. These measures will remain in effect until best management practices are adopted by the Department.

SUMMARY: The proposed rule establishes the practices and procedures to be followed by potato and cabbage producers in the Tri-County Agricultural Area; Putnam, Flagler and St. John’s Counties, in order to be eligible to apply for cost share from the St. John’s River Water Management District.

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

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

SPECIFIC AUTHORITY: 403.067(7)(d) FS.

LAW IMPLEMENTED: 403.067(7)(d) FS.  
 IF REQUESTED WITHIN 21 DAYS OF THE DATE OF THIS NOTICE, A HEARING WILL BE HELD AT THE TIME, DATE AND PLACE SHOWN BELOW:

TIME AND DATE: 1:00 p.m., May 16, 2003  
 PLACE: Eyster Auditorium, Conner Building, 3125 Conner Boulevard, Tallahassee, Florida

If an accommodation is needed for a disability in order to participate in this meeting, please notify the Office of Agricultural Water Policy, Department of Agriculture and Consumer Services, (850)488-6249, at least seven days prior to the meeting.

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULES IS: Bill Bartnick, Environmental Administrator, Office of Agricultural Water Policy, 1203 Governor’s Square Boulevard, Tallahassee, Florida 32301, (850)488-6249 or Fax (850)921-2153

THE FULL TEXT OF THE PROPOSED RULES IS:

5M-4.001 Purpose.

The purpose of this rule is to adopt the Tri-County Agricultural Area Water Quality Protection Cost Share Program in order to address pollutant reduction in the Lower St. Johns River basin through the implementation of non-regulatory and incentive based programs which may be determined to have minimal individual or cumulative adverse impacts to the water resources of the state.

Specific Authority 403.067(7)(d) FS. Law Implemented 403.067(7)(d) FS. History—New\_\_\_\_\_.

5M-4.002 Approved Interim Measure Best Management Practices.

The document titled *Tri-County Agricultural Area Water Quality Protection Cost Share Program “Applicant’s Handbook”* is hereby incorporated and adopted by reference in this rule for Flagler, Putnam and St. Johns counties. Copies of this document may be obtained from the St. Johns River Water Management District, 4049 Reid Street, Palatka, Florida 32177.

Specific Authority 403.067(7)(d) FS. Law Implemented 403.067(7)(d) FS. History—New\_\_\_\_\_.

5M-4.003 Notice of Intent to Implement.

A Notice of Intent to Implement non-regulatory and incentive based practices set forth in Rule 5M-4.002, F.A.C., shall be submitted to the Florida Department of Agriculture and Consumer Services, Office of Agricultural Water Policy, 1203 Governor’s Square Boulevard, Suite 200, Tallahassee, Florida 32301.

(1) Such notice shall identify those activities from the best management practices listed in Rule 5M-4.002, F.A.C., the grower intends to implement. The notice shall also include: the name of the property owner; the location of the farm(s); the

property tax identification number(s); a timeline for implementation; the gross acreage on which each practice will be implemented; the name and contact information of an authorized representative; and the signature of the owner, leaseholder, or authorized agent.

(2) Once filed with the Florida Department of Agriculture and Consumer Services, the Notice of Intent to Implement shall enable the grower to apply for assistance with implementation.

Specific Authority 403.067(7)(d) FS. Law Implemented 403.067(7)(d) FS. History--New \_\_\_\_\_.

5M-4.004 Record Keeping.

All participants must preserve sufficient documentation to confirm implementation of the Best Management Practices identified in the Notice of Intent to Implement. All documentation is subject to either Florida Department of Agriculture and Consumer Services or St. Johns River Water Management District inspection.

Specific Authority 403.067(7)(d) FS. Law Implemented 403.067(7)(d) FS. History--New \_\_\_\_\_.

NAME OF PERSON ORIGINATING PROPOSED RULE:  
Bill Bartnick, Environmental Administrator, Office of Agricultural Water Policy

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Chuck Aller, Director, Office of Agricultural Water Policy

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: April 16, 2003

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: March 14, 2003

**DEPARTMENT OF REVENUE**

RULE CHAPTER TITLE: General; Procedure  
RULE CHAPTER NO.: 12-3

RULE TITLE: Compensation to Third-Party Recordkeepers  
RULE NO.: 12-3.012

PURPOSE AND EFFECT: The purpose of the proposed creation of Rule 12-3.012, F.A.C. (Compensation to Third-Party Recordkeepers), is to adopt a single administrative rule to implement the provisions of ss. 202.36(4)(h) and 212.14(7)(h), F.S.

SUMMARY: The proposed creation of Rule 12-3.012, F.A.C. (Compensation to Third-Party Recordkeepers), will provide by administrative rule the compensation that will be paid to third-party recordkeepers who serve as a witness under a subpoena issued by the Department, or who produce books and records under a subpoena duces tecum issued by the Department.

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

Any person who wishes to provide information regarding 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: 202.36(4)(h), 212.14(7)(h), 212.17(6), 213.06(1) FS.

LAW IMPLEMENTED: 202.36(4), 212.14(7) FS.

A HEARING WILL BE HELD AT THE TIME, DATE AND PLACE SHOWN BELOW:

TIME AND DATE: 9:00 a.m., May 21, 2003

PLACE: Room 435, Carlton Building, 501 S. Calhoun Street, Tallahassee, Florida 32399-0100

NOTICE UNDER THE AMERICANS WITH DISABILITIES ACT: Any person requiring special accommodations to participate in any proceeding before the Technical Assistance and Dispute Resolution Office is asked to advise the Department at least five (5) calendar days before such proceeding by contacting Nancy Purvis at (850)488-0712. Persons with hearing or speech impairments may contact the Department by using the Florida Relay Service, which can be reached at 1(800)955-8770 (Voice) and 1(800)955-8771 (TDD).

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Thomas Butscher, Attorney, Technical Assistance and Dispute Resolution, Department of Revenue, P. O. Box 7443, Tallahassee, Florida 32314-7443, (850)922-4710

The Department's proposed rules are available on the Department's web site: [www.myflorida.com/dor/rules](http://www.myflorida.com/dor/rules).

THE FULL TEXT OF THE PROPOSED RULE IS:

12-3.012 Compensation to Third-Party Recordkeepers.

(1) SCOPE. This rule establishes the rates and conditions for payments to reimburse reasonably necessary costs directly incurred by third-party recordkeepers in searching for, reproducing, or transporting books, records, written materials, and electronically recorded information required to be produced under a subpoena duces tecum served by the Department for communications services tax or sales and use tax.

(2) DEFINITIONS. For purposes of this rule, the following definitions apply:

(a) "Subpoena" means a legal document that requires the attendance and testimony of a witness.

(b) "Subpoena duces tecum" means a legal document that requires the production of specified books, records, written materials, and electronically recorded information and may require the attendance and testimony of a witness.

(c) "Third-party recordkeeper" means any person or entity defined as a "third-party recordkeeper" under s. 202.36(4)(b)3. or s. 212.14(7)(b)3., F.S.

(3) COMPENSATION.

(a) Any third-party recordkeeper who receives a subpoena issued by the Department will be compensated for costs incurred for appearing to testify at the rate of \$5 for each day of actual attendance at a proceeding conducted by the Department, plus 6 cents per mile for the actual distance traveled to and from the location of the proceeding. The actual distance traveled will be computed based upon the official mileage used for state employee travel, as provided in s. 112.061, F.S.

(b)1. Any third-party recordkeeper who receives a subpoena duces tecum will be compensated for costs directly incurred to produce, search for, reproduce, and transport the documents requested at the following rates:

a. \$10 per hour for each hour consumed in producing, searching for, and copying such records;

b. 10 cents per page for reproducing such records; plus,

c. The actual costs incurred to ship or mail the documents to the Department.

2. Compensation for costs made pursuant to this paragraph is in addition to any mileage allowance and fees paid under paragraph (a).

(c)1. To request compensation, a third-party recordkeeper is required to submit an invoice to the employee of the Department who served the subpoena duces tecum. The invoice must contain:

a. The third-party recordkeeper's name, address, and federal employer identification number;

b. The case name and number appearing on the subpoena or subpoena duces tecum;

c. The name of the taxpayer to whom the records pertain;

d. The name of the Department employee who served the subpoena or subpoena duces tecum; and

e. An itemized listing of the incurred costs being submitted for compensation.

2. In order to receive compensation from the state, any third-party recordkeepers who receive a subpoena or subpoena duces tecum must keep adequate records of research time, the actual distance traveled to and from the location of the proceeding, shipping and mailing costs, and the number of reproductions made, as applicable.

Specific Authority 202.36(4)(h), 212.14(7)(h), 212.17(6), 213.06(1) FS. Law Implemented 202.36(4), 212.14(7) FS. History--New\_\_\_\_\_.

NAME OF PERSON ORIGINATING PROPOSED RULE: Thomas Butscher, Attorney, Technical Assistance and Dispute Resolution, Department of Revenue, P. O. Box 7443, Tallahassee, Florida 32314-7443, (850)922-4710

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Buzz McKown, Revenue Program Administrator I, Technical Assistance and Dispute Resolution, P. O. Box 7443, Tallahassee, Florida 32314-7443, (850)922-4721

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: April 14, 2003

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: The proposed creation of Rule 12-3.012, F.A.C. (Compensation to Third-Party Recordkeepers), was noticed for a rule development workshop in the Florida Administrative Weekly on February 28, 2003 (Vol. 29, No. 9, pp. 795-796). A rule development workshop was held on March 17, 2003. No one appeared to provide comment regarding these proposed rule changes. No changes have been made by the Department.

**DEPARTMENT OF REVENUE**

**Sales and Use Tax**

RULE CHAPTER TITLE:	RULE CHAPTER NO.:
Sales and Use Tax	12A-1
RULE TITLES:	RULE NOS.:
Consumer's Certificates of Exemption;	
Exemption Certificates	12A-1.038
Revocation of Sales Tax Exemption	
Certificates	12A-1.095
Revocation of Sales Tax Certificates	
of Registration	12A-1.0955

PURPOSE AND EFFECT: The purpose of the proposed amendments to Rule 12A-1.038, F.A.C. (Consumer's Certificates of Exemption; Exemption Certificates), is to remove unnecessary provisions for the Department's intended denial of a consumer's certificate of exemption to an applicant and to remove unnecessary guidelines on how to challenge the Department's proposed denial.

The purpose of the proposed repeal of Rule 12A-1.095, F.A.C. (Revocation of Sales Tax Exemption Certificates), is to remove unnecessary provisions regarding the revocation of a consumer's certificate of exemption that are provided in s. 212.084, F.S.

The purpose of the proposed repeal of Rule 12A-1.0955, F.A.C. (Revocation of Sales Tax Certificates of Registration), is to remove unnecessary provisions regarding the revocation of a sales tax certificate of registration that are provided in s. 212.18(3)(d), F.S.

SUMMARY: Sections 120.569, 120.57, and 120.60, F.S., govern all agency action regarding licensure, including the issuance of certificates of registration, consumer's certificates of exemption, and other licenses issued by the Department. Rule 28-107.004, F.A.C., provides guidelines to agencies for the suspension, revocation, annulment, or withdrawal of a license and requires the agency to issue an administrative complaint in the manner provided in s. 120.60(5), F.S. Rule 28-106.104, F.A.C., provides guidelines to applicants and to license holders on how to file a pleading with an agency clerk. No further guidance in an administrative rule issued by the Department of Revenue is necessary.

The proposed amendments to Rule 12A-1.038, F.A.C. (Consumer's Certificates of Exemption; Exemption Certificates), remove unnecessary provisions for the Department's intended denial of a consumer's certificate of exemption to an applicant and remove guidelines on how to challenge the Department's proposed denial.

The proposed repeal of Rule 12A-1.095, F.A.C. (Revocation of Sales Tax Exemption Certificates), removes unnecessary provisions regarding the revocation of a consumer's certificate of exemption that are provided in s. 212.084, F.S.

The proposed repeal of Rule 12A-1.0955, F.A.C. (Revocation of Sales Tax Certificates of Registration), removes unnecessary provisions regarding the revocation of a sales tax certificate of registration that are provided in s. 212.18(3)(d), F.S.

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

Any person who wishes to provide information regarding 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: 72.011, 212.17(6), 212.18(2), 213.06(1), 213.21 FS.

LAW IMPLEMENTED: 72.011, 95.091(3), 120.569, 120.57(1),(2), 120.60(5),(7), 120.80(14), 212.02(4),(14)(c), 212.05(1)(j), 212.06(1)(c), 212.07(1), 212.08(6),(7), 212.084, 212.085, 212.18(2),(3), 212.21(2), 213.06 FS.

A HEARING WILL BE HELD AT THE TIME, DATE AND PLACE SHOWN BELOW:

TIME AND DATE: 9:00 a.m., May 21, 2003

PLACE: Room 435, Carlton Building, 501 S. Calhoun Street, Tallahassee, Florida 32399-0100

NOTICE UNDER THE AMERICANS WITH DISABILITIES ACT: Any person requiring special accommodations to participate in any proceeding before the Technical Assistance and Dispute Resolution Office is asked to advise the Department at least five (5) calendar days before such proceeding by contacting Nancy Purvis, (850)488-0712. Persons with hearing or speech impairments may contact the Department by using the Florida Relay Service, which can be reached at 1(800)955-8770 (Voice) and 1(800)955-8771 (TDD).

The Department's proposed rules are available on the Department's web site: [www.myflorida.com/dor/rules](http://www.myflorida.com/dor/rules).

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULES IS: Janet L. Young, Tax Law Specialist, Technical Assistance and Dispute Resolution, Department of Revenue, P. O. Box 7443, Tallahassee, Florida 32314-7443, (850)922-9407

THE FULL TEXT OF THE PROPOSED RULES IS:

12A-1.038 Consumer's Certificate of Exemption; Exemption Certificates.

(1) No change.

(2) HOW TO OBTAIN A CONSUMER'S CERTIFICATE OF EXEMPTION.

(a) through (b) No change.

~~(c) Pursuant to the requirements of s. 120.60(3), F.S., the Department will notify an applicant when it intends to deny the applicant a Consumer's Certificate of Exemption by issuing the applicant a Notice of Intent to Deny. The Notice of Intent to Deny notifies the applicant of the Department's intended action and the facts and legal authority which supports the intended action.~~

~~(d) In order to challenge the denial of an application for a Consumer's Certificate of Exemption, the applicant receiving a Notice of Intent to Deny must request an administrative hearing under the provisions of s. 120.57, F.S., pursuant to Rule Chapter 28-106, F.A.C. The Request for Hearing must be delivered to:~~

~~Office of the General Counsel~~

~~Department of Revenue~~

~~501 South Calhoun Street~~

~~Carlton Building~~

~~Post Office Box 6668~~

~~Tallahassee, Florida 32314-6668.~~

~~(e) The Request for Hearing must contain the information provided in Rule Chapter 28-104, F.A.C.~~

(3) through (6) No change.

Specific Authority 212.17(6), 212.18(2), 213.06(1) FS. Law Implemented 95.091(3), 212.02(4), (14)(c), 212.05(1)(j), 212.06(1)(c), 212.07(1), 212.08(6),(7), 212.085, 212.18(2), (3), 212.21(2) F.S. History-Revised 10-7-68, 6-16-72, Amended 9-28-78, 7-20-82, 4-29-85, Formerly 12A-1.38, Amended 8-10-92, 3-17-93, 9-14-93, 12-13-94, 10-2-01, \_\_\_\_\_.

12A-1.095 Revocation of Sales Tax Exemption Certificates.

Specific Authority 212.17(6), 212.18(2), 213.06(1), ~~213.21(4)~~ FS. Law Implemented 120.569, 120.57(1),(2), 120.60(5),(7), 120.80(14), 212.084, 212.18(3), 213.06, ~~213.21(4)~~ FS. History-New 7-8-82, Amended 11-6-85, Formerly 12A-1.95, Amended 8-10-92, 12-8-92, 12-13-94, 10-4-01, Repealed \_\_\_\_\_.

12A-1.0955 Revocation of Sales Tax Certificates of Registration.

Specific Authority 72.011, 212.17(6), 212.18(2), 213.06(1), 213.21 FS. Law Implemented 72.011, 120.569, 120.57(1),(2), 120.60(5), 120.80(14), 212.18(3) FS. History-New 12-8-92, Amended 6-19-01, Repealed \_\_\_\_\_.

NAME OF PERSON ORIGINATING PROPOSED RULE: Janet L. Young, Tax Law Specialist, Technical Assistance and Dispute Resolution, Department of Revenue, P. O. Box 7443, Tallahassee, Florida 32314-7443, (850)922-9407



NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Charles Strausser, Revenue Program Administrator II, Technical Assistance and Dispute Resolution, P. O. Box 7443, Tallahassee, Florida 32314-7443, (850)922-4746

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: April 14, 2003

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: The proposed amendments and proposed rule repeals in Rule Chapter 12A-1, F.A.C. (Sales and Use Tax), were noticed for a rule development workshop in the Florida Administrative Weekly on February 7, 2003 (Vol. 29, No. 6, pp. 504-505). A rule development workshop was held on February 26, 2003. No one appeared to provide comment regarding these proposed rule changes. Technical changes were made by the Department.

**DEPARTMENT OF REVENUE**

**Sales and Use Tax**

RULE CHAPTER TITLE	RULE CHAPTER NO.:
Sales and Use Tax	12A-1
RULE TITLE:	RULE NO.:
Authority to Issue Subpoenas and Subpoenas Duces Tecum	12A-1.0935

PURPOSE AND EFFECT: The purpose of the proposed repeal of Rule 12A-1.0935, F.A.C. (Authority to Issue Subpoenas and Subpoenas Duces Tecum), is to remove the unnecessary recitation of statutory provisions.

SUMMARY: The proposed repeal of Rule 12A-1.0935, F.A.C. (Authority to Issue Subpoenas and Subpoenas Duces Tecum), removes the unnecessary recitation of provisions regarding the issuance of subpoenas and subpoenas duces tecum that are provided in s. 212.14(7), F.S.

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

Any person who wishes to provide information regarding 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: 212.17(6), 212.18(2), 213.06(1) FS.  
LAW IMPLEMENTED: 92.142(1), 212.14(7) FS.

A HEARING WILL BE HELD AT THE TIME, DATE AND PLACE SHOWN BELOW:

TIME AND DATE: 9:00 a.m., May 21, 2003  
PLACE: Room 435, Carlton Building, 501 S. Calhoun Street, Tallahassee, Florida 32399-0100

NOTICE UNDER THE AMERICANS WITH DISABILITIES ACT: Any person requiring special accommodations to participate in any proceeding before the Technical Assistance and Dispute Resolution Office is asked to advise the Department at least five (5) calendar days before such proceeding by contacting Nancy Purvis, (850)488-0712.

Persons with hearing or speech impairments may contact the Department by using the Florida Relay Service, which can be reached at (800)955-8770 (Voice) and (800)955-8771 (TDD).

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Thomas Butscher, Attorney, Technical Assistance and Dispute Resolution, Department of Revenue, P. O. Box 7443, Tallahassee, Florida 32314-7443, telephone (850)922-4710

The Department's proposed rules are available on the Department's web site: [www.myflorida.com/dor/rules](http://www.myflorida.com/dor/rules).

THE FULL TEXT OF THE PROPOSED RULE IS:

12A-1.0935 Authority to Issue Subpoenas and Subpoenas Duces Tecum.

Specific Authority 212.17(6), 212.18(2), 213.06(1) FS. Law Implemented 92.142(1), 212.14(7) FS. History--New 3-27-95, Amended 6-19-01, Repealed

NAME OF PERSON ORIGINATING PROPOSED RULE: Thomas Butscher, Attorney, Technical Assistance and Dispute Resolution, Department of Revenue, P. O. Box 7443, Tallahassee, Florida 32314-7443, telephone (850)922-4710

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Melton H. McKown, Revenue Program Administrator I, Technical Assistance and Dispute Resolution, P. O. Box 7443, Tallahassee, Florida 32314-7443; telephone number (850)922-4721

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: April 14, 2003

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: The proposed repeal of Rule 12A-1.0935, F.A.C. (Authority to Issue Subpoenas and Subpoenas Duces Tecum), was noticed for a rule development workshop in the Florida Administrative Weekly on February 28, 2003 (Vol. 29, No. 9, p. 796). A rule development workshop was held on March 17, 2003. No one appeared to provide comment regarding these proposed rule changes. No written comments have been received by the Department.

**DEPARTMENT OF REVENUE**

**Sales and Use Tax**

RULE CHAPTER TITLE:	RULE CHAPTER NO.:
Registration as a Secondhand Dealer or Secondary Metals Recycler	12A-17
RULE TITLE:	RULE NO.:
Denial, Suspension, or Revocation of Registration	12A-17.004

PURPOSE AND EFFECT: The purpose of the proposed repeal of Rule 12A-17.004, F.A.C. (Denial, Suspension, or Revocation of Registration), is to remove unnecessary provisions regarding the denial of an application for registration as a secondhand dealer or as a secondary metals

recycler and the revocation, restriction, or suspension of any such registration granted by the Department that are provided in ss. 538.09 and 538.25, F.S.

SUMMARY: Sections 120.569, 120.57, and 120.60, F.S., govern all agency action regarding licensure, including the issuance of certificates of registration issued by the Department. Rule 28-107.004, F.A.C., provides guidelines to agencies for the suspension, revocation, annulment, or withdrawal of a license and requires the agency to issue an administrative complaint in the manner provided in s. 120.60(5), F.S. Rule 28-106.104, F.A.C., provides guidelines to applicants and to license holders on how to file a pleading with an agency clerk. No further guidance in an administrative rule issued by the Department of Revenue is necessary.

The proposed repeal of Rule 12A-17.004, F.A.C. (Denial, Suspension, or Revocation of Registration), removes unnecessary provisions provided in ss. 538.09 and 538.25, F.S., regarding the denial of an application for registration as a secondhand dealer or as a secondary metals recycler and the revocation, restriction, or suspension of any such registration granted by the Department.

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

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

SPECIFIC AUTHORITY: 120.53(1)(b), 212.17(6), 212.18(2), 213.06(1), 538.11 FS.

LAW IMPLEMENTED: 538.09, 538.25 FS.

A HEARING WILL BE HELD AT THE TIME, DATE AND PLACE SHOWN BELOW:

TIME AND DATE: 9:00 a.m., May 21, 2003

PLACE: Room 435, Carlton Building, 501 S. Calhoun Street, Tallahassee, Florida 32399-0100

NOTICE UNDER THE AMERICANS WITH DISABILITIES ACT: Any person requiring special accommodations to participate in any proceeding before the Technical Assistance and Dispute Resolution Office is asked to advise the Department at least five (5) calendar days before such proceeding by contacting Nancy Purvis at (850)488-0712. Persons with hearing or speech impairments may contact the Department by using the Florida Relay Service, which can be reached at (800)955-8770 (Voice) and (800)955-8771 (TDD).

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Janet L. Young, Tax Law Specialist, Technical Assistance and Dispute Resolution, Department of Revenue, P.O. Box 7443, Tallahassee, Florida 32314-7443, telephone (850)922-9407

The Department's proposed rules are available on the Department's web site: [www.myflorida.com/dor/rules](http://www.myflorida.com/dor/rules)

THE FULL TEXT OF THE PROPOSED RULES IS:

12A-17.004 Denial, Suspension, or Revocation of Registration.

Specific Authority 120.53(1)(b), 212.17(6), 212.18(2), 213.06(1), 538.11 FS. Law Implemented 538.09, 538.25 FS. History-New 3-15-90, Amended 11-14-91, 4-18-93, 3-20-96, 8-1-02, Repealed.

NAME OF PERSON ORIGINATING PROPOSED RULE: Janet L. Young, Tax Law Specialist, Technical Assistance and Dispute Resolution, Department of Revenue, P. O. Box 7443, Tallahassee, Florida 32314-7443, telephone (850)922-9407

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Charles Strausser, Revenue Program Administrator II, Technical Assistance and Dispute Resolution, P. O. Box 7443, Tallahassee, Florida 32314-7443; telephone number (850)922-4746

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: April 14, 2003

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: The proposed repeal of Rule 12A-17.004, F.A.C. (Denial, Suspension, or Revocation of Registration), was noticed for a rule development workshop in the Florida Administrative Weekly on February 7, 2003 (Vol. 29, No. 6, pp. 505-506). A rule development workshop was held on February 26, 2003. No one appeared to provide comment regarding these proposed rule changes. No written comments have been received by the Department.

**DEPARTMENT OF REVENUE**

**Sales and Use Tax**

RULE CHAPTER TITLE:	RULE CHAPTER NO.:
Communications Services Tax	12A-19
RULE TITLES:	RULE NOS.:
Tax Due at Time of Sale; Tax Returns and Regulations	12A-19.020
Public Use Forms	12A-19.100

PURPOSE AND EFFECT: The purpose of the proposed amendments to Rule 12A-19.020, F.A.C. (Tax Due at Time of Sale; Tax Returns and Regulations), is to: (1) implement the provisions of s. 2, Chapter 2002-48, L.O.F., which created s. 202.151, F.S., imposing a communications services use tax; and (2) provide guidelines on reporting and paying the communications services use tax to the Department.

The purpose of the proposed amendments to Rule 12A-19.100, F.A.C. (Public Use Forms), is to adopt, by reference, form DR-700019, Communications Services Use Tax Return.

SUMMARY: The proposed amendments to Rule 12A-19.020, F.A.C. (Tax Due at Time of Sale; Tax Returns and Regulations), provide guidelines on reporting and paying the communications services use tax to the Department.

The proposed amendments to Rule 12A-19.100, F.A.C. (Public Use Forms), is to adopt, by reference, form DR-700019, Communications Services Use Tax Return.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COST: No statement of estimated regulatory costs has been prepared. Any person who wishes to provide information regarding 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: 202.15, 202.151, 202.16(2), 202.21, 202.26(3)(a),(c),(d) FS.

LAW IMPLEMENTED: 202.11(4),(11),(12), 202.12(1), 202.13(2), 202.15, 202.151, 202.16, 202.17(6), 202.19(1), 202.21, 202.22(6), 202.27, 202.28(1),(2), 202.30, 202.33(2), 202.34(3),(4)(c), 202.35(1) FS.

A HEARING WILL BE HELD AT THE TIME, DATE AND PLACE SHOWN BELOW:

TIME AND DATE: 9:00 a.m., May 21, 2003

PLACE: Room 435, Carlton Building, 501 S. Calhoun Street, Tallahassee, Florida 32399-0100

NOTICE UNDER THE AMERICANS WITH DISABILITIES ACT: Any person requiring special accommodations to participate in any proceeding before the Technical Assistance and Dispute Resolution Office is asked to advise the Department at least five (5) calendar days before such proceeding by contacting Nancy Purvis, (850)488-0712. Persons with hearing or speech impairments may contact the Department by using the Florida Relay Service, which can be reached at 1(800)955-8770 (Voice) and 1(800)955-8771 (TDD).

The Department's proposed rules are available on the Department's web site: [www.myflorida.com/dor/rules](http://www.myflorida.com/dor/rules).

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULES IS: Gary L. Gray, Tax Law Specialist, Technical Assistance and Dispute Resolution, Department of Revenue, P. O. Box 7443, Tallahassee, Florida 32314-7443, (850)922-4729

THE FULL TEXT OF THE PROPOSED RULES IS:

12A-19.020 Tax Due at Time of Sale; Tax Returns and Regulations.

(1)(a)1. through 3. No change.

~~4. For purposes of this rule, when the 20th day falls on Saturday, Sunday, or a legal holiday, payments accompanied by returns will be accepted as timely if postmarked or delivered to the Department on the next succeeding day that is not a Saturday, Sunday, or legal holiday.~~

~~5. For purposes of this rule, a legal holiday means a holiday that is observed by federal or state agencies as a legal holiday as this term is defined in Chapter 683, F.S., and s. 7503 of the Internal Revenue Code. A "legal holiday pursuant to s. 7503 of the Internal Revenue Code means a legal holiday in the District of Columbia or a statewide legal holiday at a location outside the District of Columbia but within an internal revenue district.~~

(b) through (3) No change.

(4)(a) A communications services tax is due on purchases of communications services subject to the state communications services taxes imposed under ss. 202.12 and 203.01(1)(a)2., F.S., and the local communications services tax imposed under s. 202.19, F.S., when the communications services are purchased from a seller located in Florida or in another state, territory, the District of Columbia, or foreign country who is not a registered Florida dealer.

(b) Any person who purchases communications services at retail from a Florida dealer is liable for the state communications services tax imposed under ss. 202.12 and 203.01(1)(a)2., F.S., and the local communications services taxes imposed under s. 202.19, F.S. Proof of payment of the tax to a Florida dealer is sufficient to relieve the purchaser from liability for the tax. Any person engaged in the business of providing taxable communications services in Florida who is required to be a registered Florida dealer remains liable for the communications services taxes until paid to the Department.

(c) Any person who purchases taxable communications services within Florida, or outside Florida, without payment of the applicable communications services tax is required to remit use tax to the Department based on the cost of the communications services. Persons who are not registered with the Department are required to pay use tax with form DR-700019, Communications Services Tax Return (incorporated by reference in Rule 12A-19.100, F.A.C.), on a semi-annual basis. To avoid penalty and interest for late filing, the payment and return for the period ending June 30 must be received by the Department or be postmarked on or before July 20th, and the return for the period ending December 31 must be received by the Department or be postmarked on or before January 20th.

(5) For purposes of this rule, when the 20th day falls on Saturday, Sunday, or a legal holiday, payments accompanied by returns will be accepted as timely if postmarked or delivered to the Department on the next succeeding day that is not a Saturday, Sunday, or legal holiday. For purposes of this rule, a legal holiday means a holiday that is observed by federal or state agencies as a legal holiday as this term is defined in Chapter 683, F.S., and s. 7503 of the Internal Revenue Code of 1986, as amended. A "legal holiday" pursuant to s. 7503 of the Internal Revenue Code of 1986, as amended, means a legal holiday in the District of Columbia or a statewide legal holiday at a location outside the District of Columbia but within an internal revenue district.

(6)(4) Users of a substitute communications system, and purchasers paying communications services use tax directly to the Department, who file a timely tax return are not allowed to deduct a collection allowance as compensation for the

prescribed record keeping accounting for, and timely remittance of taxes imposed by and administered under Chapter 202, F.S.

(5) through (8) renumbered (7) through (10) No change.

Specific Authority 202.15, 202.151, 202.26(3)(a) FS. Law Implemented 202.12(1), 202.15, 202.151, 202.16, 202.19(1), 202.22(6), 202.27, 202.28(1),(2), 202.30(3), 202.33(2), 202.35(1) FS. History—New 1-31-02, Amended 4-17-03, \_\_\_\_\_.

12A-19.100 Public Use Forms.

(1)(a) The Department employs the following public-use forms and instructions in the administration of Chapter 202, F.S., Communications Services Tax. These forms are hereby incorporated by reference in this rule.

(b) Copies of these forms are available, without cost, by one or more of the following methods: 1) writing the Florida Department of Revenue, Distribution Center, 168A Blountstown Highway, Tallahassee, Florida 32399-0100; or, 2) faxing the Distribution Center, (850)922-2208; or, 3) using a fax machine telephone handset to call the Department’s automated FAX on Demand system at (850)922-3676; or, 4) visiting any local Department of Revenue Service Center to personally obtain a copy; or, 5) calling the Forms Request Line during regular office hours at (800)352-3671 (in Florida only) or (850)488-6800; or, 6) downloading the form from the Department’s Internet site at the address shown inside the parentheses (www.myflorida.com/dor). Persons with hearing or speech impairments may call the Department’s TDD at (800)367-8331.

Form Number	Title	Effective Date
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(2) through (3) No change.

(4) DR-700019	Communications Services Use Tax Return (N. 12/02)	_____
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(4) through (7) renumbered (5) through (8) No change.

Specific Authority 202.151, 202.16(2), 202.26(3)(c),(d) FS. Law Implemented 202.11(4),(11),(12), 202.13(2), 202.151, 202.16(2),(4), 202.17(6), 202.34(3),(4)(c) FS. History—New 4-17-03, Amended \_\_\_\_\_.

NAME OF PERSON ORIGINATING PROPOSED RULE: Gary L. Gray, Tax Law Specialist, Technical Assistance and Dispute Resolution, Department of Revenue, P. O. Box 7443, Tallahassee, Florida 32314-7443, (850)922-4729

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Linda L. Bridges, Revenue Program Administrator I, Technical Assistance and Dispute Resolution, P. O. Box 7443, Tallahassee, Florida 32314-7443, (850)488-7157

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: April 14, 2003

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: The proposed changes to Rule Chapter 12A-19, F.A.C. (Communications Services Tax), were noticed for a rule development workshop in the Florida Administrative Weekly on February 7, 2003 (Vol. 29, No. 6, pp. 506-508). A rule development workshop was held on February 26, 2003.

No one appeared to provide comment regarding these proposed rule changes. Technical changes were made by the Department.

**DEPARTMENT OF REVENUE**

**Miscellaneous Tax**

RULE CHAPTER TITLE:	RULE CHAPTER NO.:
Insurance Premium Taxes, Fees, and Surcharges	12B-8
RULE TITLE:	RULE NO.:
State Fire Marshal Regulatory Assessment and Surcharge; Levy and Amount	12B-8.006

PURPOSE AND EFFECT: The purpose of the proposed amendments to Rule 12B-8.006, F.A.C. (State Fire Marshal Regulatory Assessment and Surcharge; Levy and Amount), is to update the percentages used to determine the premium applicable to the peril of fire for the state fire marshal regulatory assessment.

SUMMARY: The proposed amendments to Rule 12B-8.006, F.A.C., provide new percentages that will be used to compute the state fire marshal regulatory assessment beginning with the 2003 Insurance Premium Tax Return (form DR-908).

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

Any person who wishes to provide information regarding 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: 213.06(1) FS.

LAW IMPLEMENTED: 213.05, 624.509, 624.510, 624.511, 624.515, 624.516 FS.

A HEARING WILL BE HELD AT THE TIME, DATE AND PLACE SHOWN BELOW:

TIME AND DATE: 9:00 a.m., May 21, 2003

PLACE: Room 435, Carlton Building, 501 S. Calhoun Street, Tallahassee, Florida 32399-0100

NOTICE UNDER THE AMERICANS WITH DISABILITIES ACT: Any person requiring special accommodations to participate in any proceeding before the Technical Assistance and Dispute Resolution Office is asked to advise the Department at least five (5) calendar days before such proceeding by contacting Nancy Purvis at (850)488-0712. Persons with hearing or speech impairments may contact the Department by using the Florida Relay Service, which can be reached at (800)955-8770 (Voice) and (800)955-8771 (TDD).

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Robert DuCasse, Tax Law Specialist, Technical Assistance and Dispute Resolution, Department of Revenue, P. O. Box 7443, Tallahassee, Florida 32314-7443, telephone (850)922-4715

The Department's proposed rules are available on the Department's web site: [www.myflorida.com/dor/rules](http://www.myflorida.com/dor/rules).

THE FULL TEXT OF THE PROPOSED RULE IS:

12B-8.006 State Fire Marshal Regulatory Assessment and Surcharge; Levy and Amount.

(1) through (2) No change.

(3) For purposes of the regulatory assessment, every insurer issuing policies of insurance covering the peril of fire on properties located in this State shall determine the gross amount of premium applicable to the peril of fire by multiplying the premium amounts reported on the "Exhibit of Premiums and Losses," ~~page 14, of the Annual Statement annual statement submitted by the insurer~~ as follows:

(a) Fire, Line 1 – ~~90~~ ~~400~~ percent.

(b) through (c) No change.

(d) Farmowners multiple peril, Line 3 – ~~20~~ ~~35~~ percent.

(e) Homeowners multiple peril, Line 4 – ~~30~~ ~~35~~ percent.

(f) Commercial multiple peril, Lines 5.1 and 5.2 – ~~20~~ ~~25~~ percent.

(g) No change.

(h) Inland Marine, Line 9 – ~~15~~ ~~20~~ percent.

(i) through (5) No change.

Specific Authority 213.06(1) FS. Law Implemented 213.05, 624.509, 624.510, 624.511, 624.515, 624.516 FS. History—New 2-3-80, Formerly 12B-8.06, Amended 4-10-91, 2-18-93, 12-9-97, \_\_\_\_\_.

NAME OF PERSON ORIGINATING PROPOSED RULE: Robert DuCasse, Tax Law Specialist, Technical Assistance and Dispute Resolution, Department of Revenue, P.O. Box 7443, Tallahassee, Florida 32314-7443, telephone (850)922-4715

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Rodney Felix, Revenue Program Administrator I, Technical Assistance and Dispute Resolution, P. O. Box 7443, Tallahassee, Florida 32314-7443; telephone number (850)922-4111

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: April 14, 2003

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: The proposed amendments to Rule 12B-8.006, F.A.C. (State Fire Marshall Regulatory Assessment and Surcharge; Levy and Amount), were noticed for a rule development workshop in the Florida Administrative Weekly on February 7, 2003 (Vol. 29, No. 6, p. 508). A rule development workshop was held on February 26, 2003. No one appeared to provide comment regarding these proposed rule changes. No changes have been made by the Department.

DEPARTMENT OF CITRUS

RULE CHAPTER TITLE:  
Fresh Fruit Maturity Tests

RULE CHAPTER NO.:  
20-34

RULE TITLE: RULE NO.:

Sample for Break in Color Test 20-34.004

Requirement for Break in Color 20-34.005

PURPOSE AND EFFECT: Requested amendment eliminating requirement to inspect for color-break of fruit before it is sent to coloring rooms and allowing inspection for color-break to take place anytime after grade and prior to packing.

SUMMARY: Eliminating requirement to inspect for color-break of fruit before it is sent to coloring rooms, allowing inspection to take place anytime after grade and prior to packing.

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

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

SPECIFIC AUTHORITY: 601.10(1),(7), 601.11, 601.24, 601.44 FS.

LAW IMPLEMENTED: 601.11, 601.16, 601.19, 601.21, 601.24, 601.44 FS.

A HEARING WILL BE HELD AT THE TIME, DATE AND PLACE SHOWN BELOW:

TIME AND DATE: 10:30 a.m., May 28, 2003

PLACE: Department of Citrus Building, 1115 East Memorial Boulevard, Lakeland, Florida

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Alice P. Wiggins, License and Regulation Specialist, Legal Department, Florida Department of Citrus, P. O. Box 148, Lakeland, Florida 33802-0148

THE FULL TEXT OF PROPOSED RULE IS:

20-34.004 Sample for Break in Color Test.

(1) "A break in color" shall mean that the change from dark green color to the yellow or orange color has progressed to the extent that a tinge of yellow orange is apparent.

(2) Inspectors shall draw a representative sample of not less than ~~25~~ ~~50~~ fruit from each lot or load presented for inspection. If, based upon the sample, more than 25 percent of said lot of fruit fails to show the necessary break in color, the inspector shall notify the owner or person in charge of said fruit and allow him to separate out that portion of fruit which shows the necessary break in color. Fruit which does not show the necessary break in color shall be condemned and destroyed or legally diverted for other suitable use under supervision of the inspector.

~~(3) The sample shall be drawn by the inspector on duty before the fruit is placed in coloring rooms or other storage places at the packinghouse. Fruit placed in coloring rooms or~~

other storage places between the hours of 9 P.M. and 7 A.M., or any time during absence of the inspector, shall be so arranged as to have all boxes accessible to the inspector.

(3)(4) If citrus fruit is tested at night for color break requirements and the results of such tests are unacceptable to either the inspector or applicant for inspection, the fruit shall be set aside until the following day for final color break determination by daylight.

Specific Authority 601.10(1),(7), 601.24, 601.44 FS. Law Implemented 601.24, 601.44 FS. History—Formerly 105-1.01(3)(b), Revised 1-1-75, Formerly 20-34.04, Amended 10-20-96, \_\_\_\_\_.

20-34.005 Requirements for Break in Color.

(1) Grapefruit – yellow or characteristic color must predominate on not less than 25% of the fruit’s surface in the aggregate.

(2) Oranges

(a) For the period August 1 through November 15 of each year, oranges must have yellow color predominating on not less than 50% of the fruit’s surface in the aggregate. Except, oranges of the Parson Brown variety need only show a break in color on not less than 25% of the fruit’s surface in the aggregate.

(b) For the period November 16 through July 31 of the following year all oranges (other than Temple oranges) must have yellow color predominating on not less than 25% of the fruit’s surface in the aggregate.

(c) Should the Commission make a determination and advance the seasonal dates, pursuant to §601.19(3), Florida Statutes, the color break requirements for oranges shall be as follows:

1. For the period August 1 through October 31 of the same year, yellow color must predominate on not less than 50% of the fruit’s surface in the aggregate. Except oranges of the Parson Brown variety need only show a break in color on not less than 25% of the fruit’s surface in the aggregate.

2. For the period November 1 through July 31 of the following year, all oranges, other than Temple oranges, must have yellow color predominating on not less than 25% of the fruit’s surface in the aggregate.

(3) Tangerines – yellow color must predominate on not less than 50% of the fruit’s surface in the aggregate.

(4) Hybrids – for color break requirements for all hybrids (~~Honey tangerines, K Early Citrus Fruit, etc.~~) see Department of Citrus Rule 20-13.

Specific Authority 601.10(1),(7), 601.11 FS. Law Implemented 601.11, 601.16, 601.19, 601.21 FS. History—Formerly 105-1.01(3)(c), Revised 1-1-75, Formerly 20-34.05, Amended \_\_\_\_\_.

NAME OF PERSON ORIGINATING PROPOSED RULE: Ken Keck, General Counsel

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Ken Keck, General Counsel

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: February 19, 2003

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: March 7, 2003

DEPARTMENT OF CITRUS

RULE CHAPTER TITLE:	RULE CHAPTER NO.:
Intellectual Property Protocol	20-107
RULE TITLES:	RULE NOS.:
Purpose	20-107.001
General Provisions	20-107.002
Definitions	20-107.003
Procedures	20-107.004
Royalties	20-107.005
Payments	20-107.006

PURPOSE AND EFFECT: New rule chapter establishing Department of Citrus patent protocol.

SUMMARY: Establishing Department of Citrus patent protocol.

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

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

SPECIFIC AUTHORITY: 601.10(1), 601.101 FS.

LAW IMPLEMENTED: 601.101 FS.

A HEARING WILL BE HELD AT THE TIME, DATE AND PLACE SHOWN BELOW:

TIME AND DATE: 10:30 a.m., May 28, 2003

PLACE: Department of Citrus Building, 1115 East Memorial Boulevard, Lakeland, Florida

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULES IS: Alice P. Wiggins, License & Regulation Specialist, Legal Department, Florida Department of Citrus, P. O. Box 148, Lakeland, Florida 33802-0148

THE FULL TEXT OF THE PROPOSED RULES IS:

INTELLECTUAL PROPERTY PROTOCOL

20-107.001 Purpose.

This rule implements the Department of Citrus’ statutory authority to establish procedures associated with intellectual property. The protocol is established to protect the interest of the Florida citrus industry and maximize grower returns by ensuring that patentable items discovered or invented by the staff of the Department will be used for the benefit of the Florida citrus industry. While this protocol is not limited to researchers, establishment of this protocol also enhances the Department’s ability to remain competitive with state Universities and other research institutions in the hiring and retention of qualified personnel.

Specific Authority 601.10(1), 601.101 FS. Law Implemented 601.101 FS. History–New \_\_\_\_\_.

20-107.002 General Provisions.

The Department of Citrus desires patent protection for inventions and discoveries conceived or developed by, or in cooperation with, staff while employed by the Department and recognizes the relative rights and equities of all parties concerned with regard to inventor assignments and royalties.

Specific Authority 601.10(1), 601.101 FS. Law Implemented 601.101 FS. History–New \_\_\_\_\_.

20-107.003 Definitions.

(1) “Patent Administrator” shall be defined as a Department of Citrus employee appointed by the Executive Director. In addition to his/her established work responsibilities, the “Patent Administrator” shall have the responsibility to expedite patentable ideas through Departmental processes, up to and including registration of patents with the U.S. Patent Trademark Office.

(2) “Patent Screening Committee” shall be composed of five (5) to seven (7) Department of Citrus employees to be appointed by the Executive Director or his/her designee. The Committee shall advise and assist the Patent Administrator on the suitability and potential of inventions proposed for patenting.

Specific Authority 601.10(1), 601.101 FS. Law Implemented 601.101 FS. History–New \_\_\_\_\_.

20-107.004 Procedures.

(1) All employees shall assign inventions and patent rights to the Florida Department of Citrus as a condition of employment.

(2) All matters relating to intellectual property of potentially patentable inventions with which a Department of Citrus employee is in any way involved shall first proceed through the Patent Screening Committee.

(3) The Patent Administrator shall routinely solicit Department staff for inventions for possible patents and request inventors to submit an invention disclosure statement.

(4) The Patent Administrator shall convene the Patent Screening Committee to determine if a patent should be pursued, and if so, make a recommendation to the Executive Director. At any step in the process, if the Department elects not to pursue the development of the invention, the Department shall retain all rights assigned to Department by inventors.

(5) If the Department elects to pursue the issuance of a patent, the Executive Director, or his/her designee, will:

(a) Negotiate licenses and other agreements covering the manufacture, use and sale or lease of patented articles or processes resulting from patents or inventions.

(b) Arrange for and direct the collection of royalties and fees and the distribution thereof to those entitled thereto, consistent with this rule and Commission policies or schedules.

(c) Negotiate with cooperating agencies to obtain agreements concerning patent rights to inventions or discoveries made as a result of research carried on by mutual understanding or under grants or contracts.

(6) In cases where the Department holds an interest in an invention co-developed with an outside agency, individual, or company and for which the Department does not take the lead in pursuing a patent, the Patent Administrator will represent the Department in discussions and negotiations with such parties leading to obtaining a patent.

Specific Authority 601.10(1), 601.101 FS. Law Implemented 601.101 FS. History–New \_\_\_\_\_.

20-107.005 Royalties.

(1) Consistent with other state agencies which have been assigned patent ownership rights, and in consideration of staff assignment of patent rights, the Department of Citrus agrees to pay for the life of the patent to the staff inventor(s), or their heirs, its share of net income derived from inventions according to a schedule approved by the Florida Citrus Commission, which schedule may be modified from time to time.

(2) The schedule in effect upon the date of the initial filing for patent protection shall represent the schedule applicable to the inventor’s right to royalty payments.

(3) Royalty payments shall be calculated after deducting the costs of patenting and patent protection, including litigation related to the patent.

(4) In the case of multiple inventors, such royalty payments are to be distributed between inventors according to the percent of inventorship as determined by the Patent Administrator.

Specific Authority 601.10(1), 601.101 FS. Law Implemented 601.101 FS. History–New \_\_\_\_\_.

20-107.006 Payments.

(1) Distribution of royalty payments to inventor(s) shall be made annually, in August, from the amount received in the preceding fiscal year after deducting a share of costs incurred for patenting, patent protection and litigation.

(2) If appropriate, distribution of royalties shall be prorated to co-inventor(s) after deducting their proportionate share of costs incurred for patenting, patent protection and litigation.

(3) The Department of Citrus may withhold distribution of royalties pending resolution of any litigation.

Specific Authority 601.10(1), 601.101 FS. Law Implemented 601.101 FS. History–New \_\_\_\_\_.

NAME OF PERSON ORIGINATING PROPOSED RULE:  
Ken Keck, General Counsel

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Ken Keck, General Counsel

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: March 18, 2003  
 DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: April 4, 2003

**WATER MANAGEMENT DISTRICTS**

**South Florida Water Management District**

RULE TITLE: Permit Application Processing Fees  
 RULE NO.: 40E-1.607

PURPOSE AND EFFECT: To modify and update the District's application processing fees for water use applications for new permits, permit modifications and permit renewals for individual public water supply permits, individual irrigation permits, individual mining (dewatering) permits, individual industrial permits, individual diversion and impoundment permits, permits for independent secondary users of a diversion and impoundment use, and aquifer storage and recovery.

SUMMARY: This rule amends the application processing fees for water use applications for new permits, permit modifications and permit renewals.

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

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

SPECIFIC AUTHORITY: 373.044, 373.113, 373.118, 373.171 FS.

LAW IMPLEMENTED: Parts I and II, Chapter 373 FS.

A HEARING WILL BE HELD AT THE TIME, DATE AND PLACE SHOWN BELOW:

TIME AND DATE: 8:30 a.m., June 12, 2003

PLACE: South Florida Water Management District, B-1 Auditorium, 3301 Gun Club Road, West Palm Beach, FL 33406

Although Governing Board meetings, hearings and workshops are normally recorded, affected persons are advised that it may be necessary for them to ensure that a verbatim record of the proceeding is made, including the testimony and evidence upon which any appeal is to be based.

Persons with disabilities or handicaps who need assistance may contact Garrett Wallace, District Clerk, (561)682-6371, at least two business days in advance to make appropriate arrangements.

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: For technical issues contact Scott Burns (internet: sburns@sfwmd.gov) or Cecile Ross (internet: cross@sfwmd.gov), 1(800)432-2045. For procedural issues contact: Jan Sluth, Paralegal, (internet: jsluth@sfwmd.gov) South Florida Water Management District, Post Office Box 24680, West Palm Beach, FL 33416-4680, 1(800)432-2045, Extension 6299 or (561)682-6299

THE FULL TEXT OF THE PROPOSED RULE IS:

40E-1.607 Permit Application Processing Fees.

A permit application processing fee is required and shall be paid to the District when certain applications are filed pursuant to District rules. An application shall not be considered complete until the appropriate application fee is submitted. These fees are assessed in order to defray the cost of evaluating, processing, monitoring, and inspecting for compliance required in connection with consideration of such applications. Fees are non-refundable in whole or part unless the activity for which an application is filed is determined by the District to be exempt or the fee submitted is determined by the District to be incorrect. Failure of any person to pay the applicable fees established herein will result in denial of an application. Activities that do not require a permit and are exempt pursuant to Rules 40E-2.051, F.A.C., or 40E-3.051, F.A.C., are not subject to the following permit application fees. The District's permit application processing fees are as follows:

(1) Water Use Permit Application processing fees are in the following table:

TABLE 40E-1.607(1)

PERMIT APPLICATION PROCESSING FEES FOR WATER USE PERMIT APPLICATIONS REVIEWED PURSUANT TO CHAPTERS 40E-2 AND 40E-20, F.A.C.

Fee amounts shall apply to applications for new permits, permit modifications, and permit renewals, except as noted.

Category	Amount
Individual Public Water Supply with a duration less than 20 years	
Maximum <del>monthly</del> <del>daily</del> allocation	
Greater than <u>15 million gallons per month (mgm)</u> <del>0.5 million gallons per day (mgd)</del> through <u>30 mgm</u> <del>1 mgd</del>	\$2700
Greater than <u>30 mgm</u> <del>1 mgd</del> through <u>300 mgm</u> <del>10 mgd</del>	\$5500
Greater than <u>300 mgm</u> <del>10 mgd</del>	\$7000
Individual Public Water Supply with a duration of 20 years	
Maximum <del>monthly</del> <del>daily</del> allocation	
Greater than <u>15 million gallons per month (mgm)</u> through <u>30 mgm</u>	\$4200
Greater than <u>30 mgm</u> through <u>300 mgm</u>	\$8500
Greater than <u>300 mgm</u>	\$11500
Individual Irrigation with a duration less than 20 years	\$1000
Individual Irrigation with a duration of 20 years	
Maximum <del>monthly</del> <del>daily</del> allocation	
Greater than <u>15 mgm</u> <del>0.5 mgd</del> through <u>30 mgm</u> <del>1 mgd</del>	<del>\$1600</del> <del>\$1000</del>



Greater than <u>30 mgm</u> <del>1 mgd</del> through <u>300 mgm</u> <del>10 mgd</del>	<del>\$3400</del> <b>\$2500</b>
Greater than <u>300 mgm</u> <del>10 mgd</del>	<del>\$5600</del> <b>\$3500</b>
<u>Individual Mining (Dewatering)</u>	
<u>Maximum monthly allocation</u>	
Greater than <u>15 mgm</u> <del>0.5 mgd</del> through <u>30 mgm</u> <del>1 mgd</del>	\$1800
Greater than <u>30 mgm</u> <del>1 mgd</del> through <u>300 mgm</u> <del>10 mgd</del>	\$3250
Greater than <u>300 mgm</u> <del>10 mgd</del>	\$4000
<u>Individual Industrial with a duration less than 20 years</u>	
<u>Maximum monthly allocation</u>	
Greater than <u>15 mgm</u> <del>0.5 mgd</del> through <u>30 mgm</u> <del>1 mgd</del>	\$1400
Greater than <u>30 mgm</u> <del>1 mgd</del> through <u>300 mgm</u> <del>10 mgd</del>	\$2750
Greater than <u>300 mgm</u> <del>10 mgd</del>	\$3500
<u>Individual Industrial with a duration of 20 years</u>	
<u>Maximum monthly allocation</u>	
Greater than <u>15 mgm</u> through <u>30 mgm</u>	\$2000
Greater than <u>30 mgm</u> through <u>300 mgm</u>	\$3650
Greater than <u>300 mgm</u>	\$5600
<u>Individual Diversion and Impoundment with a duration less than 20 years</u>	
<u>Maximum monthly allocation</u>	
Greater than <u>15 mgm</u> through <u>30 mgm</u>	\$1400
Greater than <u>30 mgm</u> through <u>300 mgm</u>	\$2750
Greater than <u>300 mgm</u>	\$3500
<u>Individual Diversion and Impoundment with a duration of 20 years</u>	
<u>Maximum monthly allocation</u>	
Greater than <u>15 mgm</u> through <u>30 mgm</u>	\$2000
Greater than <u>30 mgm</u> through <u>300 mgm</u>	\$3950
Greater than <u>300 mgm</u>	\$6200
<u>Independent Secondary User of a Diversion and Impoundment with a duration of 20 years</u>	
<u>Maximum monthly allocation</u>	
Greater than <u>15 mgm</u> through <u>30 mgm</u>	\$1000
Greater than <u>30 mgm</u> through <u>300 mgm</u>	\$2000
Greater than <u>300 mgm</u>	\$3200
<u>General Standard Water Use Permit</u>	
<u>Maximum Monthly Allocation</u>	
Less than 3 million gallons per month (mgm) (Minor)	\$350
Greater than 3 mgm through 15 mgm (Major)	\$1000
Short-term Dewatering	\$500
<u>Aquifer Storage and Recovery:</u>	
(cost added to the applicable use type listed above)	\$1000

Permit Transfer to Another Entity Pursuant to Rules 40E-1.611 and 40E-2.351, F.A.C.	\$300
Letter Modification to Individual Permit	no fee
Letter Modification to General Permit (2) through (5) No change.	no fee

Specific Authority 373.109, 373.421(6)(b) FS. Law Implemented 373.109, 373.421(6)(b), 403.201 FS. History--New 1-8-89, Amended 1-2-91, 11-15-92, 6-1-93, 1-23-94, 10-3-95, 4-1-96, 11-8-99, 5-24-00, 6-26-02, 7-11-02,

NAME OF PERSON ORIGINATING PROPOSED RULE:  
Wm. Scott Burns, Director, Water Use Regulation Division  
NAME OF SUPERVISOR OR PERSON WHO APPROVED  
THE PROPOSED RULE: South Florida Water Management  
District Governing Board  
DATE PROPOSED RULE APPROVED BY AGENCY  
HEAD: April 10, 2003  
DATE NOTICE OF PROPOSED RULE DEVELOPMENT  
PUBLISHED IN FAW: November 15, 2002

**WATER MANAGEMENT DISTRICTS**

**South Florida Water Management District**

RULE TITLES:	RULE NOS.:
Policy and Purpose	40E-2.011
Publications Incorporated by Reference	40E-2.091
Conditions for Issuance of Permits	40E-2.301
Duration of Permit	40E-2.321

PURPOSE AND EFFECT: To modify and update the District's Consumptive Use rules regarding supplemental irrigation requirements; pollution remediation; interference with existing legal uses; offsite land use impacts; pasture irrigation; use of reclaimed water; wellfield operational plans; diversion/impoundment permits, including secondary users; permit duration; permit renewal process; impact evaluations; local sources first; aquifer storage and recovery; wetland protection; areas with maximum developable limits; water conservation, forms; and other miscellaneous permit review criteria and limiting conditions. The changes will also correct citations and make changes to clarify language currently in the rules. Amendments to the "Basis of Review for Water Use Permit Applications within the South Florida Water Management District", which is incorporated by reference into Rule 40E-2.091, F.A.C., are posted on the SFWMD Website at [www.sfwmd.gov](http://www.sfwmd.gov).

SUMMARY: These rules are amended to reflect new legislative direction, new policy development and regional water supply plan implementation.

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

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

SPECIFIC AUTHORITY: 373.044, 373.113, 373.118, 373.171 FS.

LAW IMPLEMENTED: Parts I and II, Chapter 373 FS.

A HEARING WILL BE HELD AT THE TIME, DATE AND PLACE SHOWN BELOW:

TIME AND DATE: 8:30 a.m., June 12, 2003

PLACE: South Florida Water Management District, B-1 Auditorium, 3301 Gun Club Road, West Palm Beach, FL 33406

Although Governing Board meetings, hearings and workshops are normally recorded, affected persons are advised that it may be necessary for them to ensure that a verbatim record of the proceeding is made, including the testimony and evidence upon which any appeal is to be based.

Persons with disabilities or handicaps who need assistance may contact Garrett Wallace, District Clerk, (561)682-6371 at least two business days in advance to make appropriate arrangements.

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULES IS: For technical issues contact Scott Burns (internet: sburns@sfwmd.gov) or Cecile Ross (internet: cross@sfwmd.gov), 1(800)432-2045. For procedural issues contact: Jan Sluth, Paralegal, (internet: jsluth@sfwmd.gov) South Florida Water Management District, Post Office Box 24680, West Palm Beach, FL 33416-4680, 1(800)432-2045, Extension 6299 or (561)682-6299

THE FULL TEXT OF THE PROPOSED RULES IS:

40E-2.011 Policy and Purpose.

(1) through (2) No change.

(3) Additional rules relating to water use are found in Chapter 40E-5 (Artificial Recharge), F.A.C., Chapter 40E-8, F.A.C. (Minimum Flows and Levels), Chapter 40E-20, F.A.C. (General Water Use Permits), Chapter 40E-21, F.A.C. (The Water Shortage Plan), Chapter 40E-22, F.A.C. (Regional Water Shortage Plans) and Chapter 40E-23, F.A.C. (Water Resource Caution Areas).

(4) No change.

Specific Authority 373.044, 373.113, 373.171 FS. Law Implemented 373.103(1), 373.203, 373.216, 373.249 FS. History—New 9-3-81, Formerly 16K-2.01, Amended 7-4-82, 2-24-85, 11-18-91, 8-1-02, \_\_\_\_\_.

40E-2.091 Publications Incorporated by Reference.

The “Basis of Review for Water Use Permit Applications within the South Florida Water Management District – \_\_\_\_\_ August 2002,” is hereby published by reference and incorporated into this chapter. A current version of this document is available upon request.

Specific Authority 373.044, 373.113, 373.171 FS. Law Implemented 373.042, 373.0421, 373.219, 373.223, 373.224, 373.229, 373.232, 373.233, 373.236, 373.239 FS. History—New 9-3-81, Formerly 16K-2.035(1), Amended 2-24-85, 11-21-89, 1-4-93, 4-20-94, 11-26-95, 7-11-96, 4-9-97, 12-10-97, 9-10-01, 12-19-01, 8-01-02, \_\_\_\_\_.

40E-2.301 Conditions for Issuance of Permits.

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

(c) Will not cause environmental harm to wetlands or other surface waters;

(d) through (f) No change.

(g) Is in accordance with Section 373.2295, F.S., concerning interdistrict transfer of groundwater and water transport provisions of Sections 373.223(3), F.S., concerning water transport and use of groundwater or surface water across county boundaries and 373.229(3), and the Water Resource Implementation Rule 62 40.422, F.A.C.

(h) Makes use of a reclaimed water source in accordance with the criteria contained in the “Basis of Review” incorporated by reference in Rule 40E-2.091, F.A.C. unless the applicant, in any geographic location, demonstrates that its use is either not economically, environmentally or technically feasible; or in areas not designated as Water Resource Caution Areas pursuant to Chapter 40E-23, F.A.C., the applicant demonstrates reclaimed water is not readily available;

(i) Is in accordance with Meets the established minimum flows and levels and implementation provisions in Chapter 373, F.S., this Chapter and Chapter 40E-8, F.A.C.; and

(j) No change.

(2) No change.

Specific Authority 373.044, 373.113, 373.171 FS. Law Implemented 373.023, 373.042, 373.0421, 373.185, 373.219, 373.223, 373.226, 373.236, 373.250 FS. History—New 9-3-81, Formerly 16K-2.035(2), Amended 2-24-85, 1-4-93, 4-20-94, 7-11-96, 4-9-97, 12-10-97, 9-10-01, 8-1-02, \_\_\_\_\_.

40E-2.321 Duration of Permit.

General Duration Provision. When requested by an applicant, a consumptive use permit shall have a duration of 20 years provided the applicant provides sufficient data to demonstrate reasonable assurance that the proposed use meets the conditions for issuance for the requested 20 year permit duration; or otherwise, permits may be issued for a shorter duration that reflects the period for which such reasonable assurances can be provided. This determination will be made pursuant to requirements in Rule 40E-2.301, F.A.C., and the “Basis of Review” incorporated by reference in Rule 40E-2.091, F.A.C.

(1) Unless revoked or otherwise modified, the duration of a water use permit issued pursuant to this chapter is the lesser of:

(a) The time period for which the permit applicant demonstrates that water will be available to meet the projected demands and during which the conditions for issuance of a permit in Rule 40E-2.301 will be met.

(b) The time period for which the permit applicant demonstrates legal control.

(2) In addition to the duration limitation in subsection (1) above, the permit durations for specific uses shall not exceed the following time periods:

~~(a) For public water supply and industrial water uses, the period shall not exceed 10 years.~~

~~(b) For dewatering water uses, the period shall not exceed 3 years.~~

~~(c) For irrigation uses, the period shall not exceed the basin expiration date as specified in the document described in Rule 40E-2.091 as applicable to the location of the project.~~

~~(d) For aquifer remediations, the period shall not exceed that required to complete the operation as specified in the Remedial Action Plan approved by the state or local agency having legal jurisdiction over such activities or 20 years, whichever is less.~~

~~(e) For all other uses, the period shall not exceed 10 years.~~

Specific Authority 373.044, 373.113, 373.171 FS. Law Implemented 373.236 FS. History—New 9-3-81, Amended 2-24-85, 4-20-94, 7-11-96,\_\_\_\_\_.

NAME OF PERSON ORIGINATING PROPOSED RULE:  
Wm. Scott Burns, Director, Water Use Regulation Division  
NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: South Florida Water Management District Governing Board  
DATE PROPOSED RULE APPROVED BY AGENCY HEAD: April 10, 2003  
DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: November 15, 2002

**WATER MANAGEMENT DISTRICTS**

**South Florida Water Management District**

RULE TITLES:	RULE NOS.:
Policy and Purpose	40E-5.011
Definitions	40E-5.021
Permits Required	40E-5.041
Exemptions	40E-5.051
Content of Application	40E-5.101
Conditions for Permit Issuance	40E-5.301
Duration of Permit	40E-5.321
Modification of Permit	40E-5.331
Limiting Conditions	40E-5.381

PURPOSE AND EFFECT: To modify and update the District’s rules regarding artificial recharge systems in conjunction with aquifer recharge, aquifer storage and recovery systems, and heat exchange or the intentional introduction of water into any underground formation, except activities under Chapter 377, F.S. The changes will also correct citations and make changes to clarify language currently in the rules.

SUMMARY: These rules are amended to reflect modifications and updates to artificial recharge systems pursuant to sections 373.106 and 373.219, F.S.

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

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

SPECIFIC AUTHORITY: 373.044, 373.113 FS.

LAW IMPLEMENTED: 373.106 FS.

A HEARING WILL BE HELD AT THE TIME, DATE AND PLACE SHOWN BELOW:

TIME AND DATE: 8:30 a.m., June 12, 2003

PLACE: South Florida Water Management District, B-1 Auditorium, 3301 Gun Club Road, West Palm Beach, FL 33406

Although Governing Board meetings, hearings and workshops are normally recorded, affected persons are advised that it may be necessary for them to ensure that a verbatim record of the proceeding is made, including the testimony and evidence upon which any appeal is to be based.

Persons with disabilities or handicaps who need assistance may contact Garrett Wallace, District Clerk, (561)682-6371 at least two business days in advance to make appropriate arrangements.

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULES IS: For technical issues contact Scott Burns (internet: sburns@sfwmd.gov) or Cecile Ross (internet: cross@sfwmd.gov), 1(800)432-2045. For procedural issues contact: Jan Sluth, Paralegal, (internet: jsluth@sfwmd.gov) South Florida Water Management District, Post Office Box 24680, West Palm Beach, FL 33416-4680, 1(800)432-2045, Extension 6299 or (561)682-6299

THE FULL TEXT OF THE PROPOSED RULES IS:

40E-5.011 Policy and Purpose.

(1) This Chapter implements Sections 373.106, F.S., which authorizes the District to issue permits for projects involving artificial recharge or the intentional introduction of water into any underground formation, except activities under Chapter 377, F.S. Projects that inject waters into aquifers that contain a total dissolved solids concentration greater than 10,000 mg/l or for the purpose of disposal are not regulated under this Chapter. The rules in this chapter provide for the implementation of a permit system designed to regulate construction of projects involving artificial recharge or the intentional introduction of water into any underground formation.

(2) It is the intent of the District to consolidate permits issued pursuant to this Chapter with consumptive uses regulated under Chapters 40E-2 or 40E-20, F.A.C., when such permit is required. Thus, if water is obtained from a regulated surface or ground water source, authorization under this Chapter shall be issued in conjunction with the associated consumptive use permit. If a consumptive use permit for the project is not required pursuant to Chapter 40E-2 or Chapter

40E-20, F.A.C., (e.g., the recharge water is reclaimed waste water), a separate permit shall be obtained pursuant to this Chapter. Presently the District and the Florida Department of Environmental Regulation (Department) coordinate the evaluation of artificial recharge projects on an informal basis. The Department is now drafting rules to implement a state underground injection control program. The District has been actively involved in evaluating the Department's drafts and proposals. Since the Department has undertaken this effort, the District will continue to coordinate informally until final rules are adopted by the Department. When the Department adopts its underground injection control program, the District intends to formalize its coordination efforts through interagency agreements and amendments to this chapter. Until such time the District will evaluate artificial recharge projects on a case by case basis.

(3) Nothing herein relieves the applicant from complying with the requirements of underground injection control (UIC) permits issued by the Department of Environmental Protection pursuant to Chapter 62-528, F.A.C.

(4) This chapter does not regulate operations of Artificial Recharge Systems authorized under Section 373.087 or 373.1502, F.S.

Specific Authority 373.044, 373.113 FS. Law Implemented 373.106(1) FS. History—New 9-3-81, Amended \_\_\_\_\_.

#### 40E-5.021 Definitions.

When used in this chapter:

(1) "Aquifer storage and recovery" means a well system operated for the purpose of injecting and storing water in an aquifer for direct retrieval and use. "Artificial recharge" means the intentional introduction of any fluid substance into any underground formation. This definition includes fluid substances from facilities such as injection wells, percolation ponds, land spreading, but does not include fluid substances from septic tanks for residential use.

(2) "Artificial recharge" means the practice of introducing water into an aquifer through a horizontal or vertical well that increases the availability of water for consumptive or non-consumptive uses (e.g. a hydraulic barrier against saltwater intrusion, aquifer recharge systems, aquifer storage and recovery systems or heat exchange systems). "Underground formation" means a unit of earth material with distinct physical and chemical characteristics, including the stratigraphic extension over voids and cavities.

(3) "Heat exchange" means a well or combination of wells that remove ground water associated with cooling or heating systems where the water withdrawn is returned to an aquifer.

(4) "Storage horizon" or "injection horizon" means the geological underground formation, group of formations, or part of a formation that receives or stores the injected water.

(5) "Underground Source of Drinking Water" or "USDW" means an aquifer or a portion of an aquifer that: (a) Supplies drinking water for human consumption; is classified by Rule 62-520.410, F.A.C., as Class G-I or G-II ground waters; or, contains a total dissolved solids concentration of less than 10,000 mg/l; and (b) Is not an "exempted aquifer," pursuant to Chapter 62-528, F.A.C.

Specific Authority 373.044, 373.113 FS. Law Implemented 373.106 FS. History—New 9-3-81, Formerly 16K-1.05(2),(9), Amended \_\_\_\_\_.

#### 40E-5.041 Permits Required.

Unless expressly exempt by law or District rule, no person shall, without a permit from the District, construct any project involving artificial recharge or the intentional introduction of water into any underground formation.

(1) Unless expressly exempt by law or District rule, a permit is required pursuant to this Chapter to operate an artificial recharge system. The permit applicant shall provide reasonable assurances that the proposed activity meets the criteria set forth in Rule 40E-5.301, F.A.C. In the event the project also requires a consumptive use permit pursuant to Chapter 40E-2 or 40E-20, F.A.C., demonstration of reasonable assurances required under Rule 40E-5.301, F.A.C., shall be made in conjunction with application for such permit and a consolidated permit will be issued.

(2) Operation of all artificial recharge systems existing at the time of adoption of this rule may be continued only with a permit issued as provided herein. Application for a permit under the provisions of this rule for existing artificial recharge systems that are not currently approved under an existing consumptive use permit shall be made within a period of two years from the effective date of implementation of this rule.

(3) Nothing herein relieves the applicant from complying with the requirements of the underground injection and control (UIC) program including the acquisition of and compliance with permits issued pursuant to Chapter 62-528, F.A.C.

Specific Authority 373.044, 373.113 FS. Law Implemented 373.106(1) FS. History—New 9-3-81, Formerly 16K-2.02(1), Amended \_\_\_\_\_.

#### 40E-5.051 Exemptions.

No permit is required under Rule 40E-5.041 for injection wells permitted under Chapter 377, F.S., or for projects authorized under Section 373.087 or 373.1502, F.S. Florida Statutes.

Specific Authority 373.044, 373.113 FS. Law Implemented 373.106(1) FS. History—New 9-3-81, Formerly 16K-2.02(1), Amended \_\_\_\_\_.

#### 40E-5.101 Content of Application.

(1) Applications for permits required by this Chapter shall be filed with the District. The application shall contain:

(1) Form RC-1 "Application to the South Florida Water Management District" with Section A completed;

(a) The following parts of Form 0645 Surface Water Management Permit Applications and/or Water Use Permit Applications, as incorporated by reference in Rule 40E-1.659, F.A.C.:

1. Part RC-1A Administrative Information for Surface Water Management Permit Applications and/or Water Use Permit Applications;

2. Part RC-1W Application for a Water Use Permit;

(b) The appropriate permit application processing fee required by Rule 40E-1.607, F.A.C.; and

(c) The information required in Section 373.229(1), F.S.; and

(d) Information sufficient to show that the use meets the criteria and conditions established in Rules 40E-2.301 and 40E-5.301, F.A.C.

(2) All final plans, calculations, analyses, or other documents, submitted as part of a permit application are required to be signed and sealed by an appropriate registered professional pursuant to Section 373.117 or 492.111, F.S. Detailed plans and specifications for the construction of the project as prepared by a Florida registered Professional Engineer.

Specific Authority 373.044, 373.113, 373.229 FS. Law Implemented 373.106(1) FS. History--New 9-3-81, Formerly 16K-2.02(2), Amended 5-30-82, \_\_\_\_\_.

40E-5.301 Conditions for Permit Issuance.

(1) In order to obtain a permit, permit renewal, or permit modification pursuant to this chapter, an applicant must give reasonable assurances that the proposed diversion of water to be introduced into an aquifer and the impact of introducing and recovering the water from an aquifer:

(a) Shall not violate the conditions of issuance in Rule 40E-2.301, F.A.C., with regard to the impacts associated with diverting source water for: (i) injection, (ii) storage, and (iii) recovery.

(b) For artificial recharge systems that inject water sources not currently regulated under Chapter 40E-2, F.A.C. (e.g., use of reclaimed water), the system shall not cause water quality changes that would interfere with existing legal uses.

(c) Satisfies the criteria contained in the "Basis of Review for Consumptive Use Permit Applications within the South Florida Water Management District," incorporated by reference in Rule 40E-2.091, F.A.C.; and

(d) Meets state water quality standards as demonstrated through the issuance of a permit under Chapter 62-528, F.A.C.

Specific Authority 373.044, 373.113 FS. Law Implemented 373.106(1) FS. History--New \_\_\_\_\_.

40E-5.321 Duration of Permit.

The duration of the permit issued pursuant to this Chapter shall be 20 years or the demonstrated period of need for the project, whichever is less.

Specific Authority 373.044, 373.113 FS. Law Implemented 373.106(1) FS. History--New \_\_\_\_\_.

40E-5.331 Modification of Permit.

Modification of a permit issued pursuant to this Chapter or a consumptive use permit containing an authorization as specified herein shall be in accordance with the provisions in subsection 40E-2.331(1), F.A.C.

Specific Authority 373.044, 373.113 FS. Law Implemented 373.106(1) FS. History--New \_\_\_\_\_.

40E-5.381 Limiting Conditions.

The Governing Board shall impose on any permit granted under this Chapter such reasonable standards and special permit conditions necessary to assure that the permitted activity is consistent with the overall objectives of the District, will not be harmful to the water resources of the District, is reasonable-beneficial, will not interfere with any presently existing legal uses, and is consistent with the public interest.

Specific Authority 373.044, 373.113 FS. Law Implemented 373.106(1) FS. History--New \_\_\_\_\_.

NAME OF PERSON ORIGINATING PROPOSED RULE: Wm. Scott Burns, Director, Water Use Regulation Division

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: South Florida Water Management District Governing Board

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: April 10, 2003

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: November 15, 2002

**WATER MANAGEMENT DISTRICTS**

**South Florida Water Management District**

RULE TITLES:	RULE NOS.:
Qualifying Procedures	40E-7.203
Competitive Selection for Contractual Services	40E-7.206
Competitive Negotiations for Professional Services	40E-7.2081
Competitive Negotiations for Contractual Services	40E-7.2091
Inconsistency with Section 287.055, Florida Statutes	40E-7.2101
Prohibition Against Contingency Fees	40E-7.2111
Truth in Negotiation Certification	40E-7.2121
Design-Build Contracts	40E-7.213
District Implementation	40E-7.637
Suspension, Debarment, Revocation or Decertification	40E-7.664

PURPOSE AND EFFECT: To repeal portions of the District's procurement rules, Chapter 40E-7, Parts II & VI, F.A.C.

SUMMARY: Repeal Rule Nos. 40E-7.203, 40E-7.206, 40E-7.2081, 40E-7.2091, 40E-7.2101, 40E-7.2111, 40E-7.2121, 40E-7.213, 40E-7.637, 40E-7.664, F.A.C.

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

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

SPECIFIC AUTHORITY: 373.044, 373.113 FS.

LAW IMPLEMENTED: 373.044, 373.113 FS.

A PUBLIC HEARING WILL BE HELD AT THE TIME, DATE AND PLACE SHOWN BELOW:

TIME AND DATE: 9:00 a.m., June 12, 2003

PLACE: South Florida Water Management District, B-1 Auditorium, 3301 Gun Club Road, West Palm Beach, FL 33406

Although Governing Board meetings, hearings, and workshops are normally recorded, affected persons are advised that it may be necessary for them to ensure that a verbatim record of the proceeding is made, including the testimony and evidence upon which any appeal is to be based. Persons with disabilities or handicaps who need assistance may contact Garrett Wallace, District Clerk, (561)682-6371, at least two business days in advance to make appropriate arrangements.

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULES IS: Linda Engelbrecht, Lead Procurement Analyst, Procurement Department, South Florida Water Management District, 3301 Gun Club, West Palm Beach, FL 33406, (561)682-6378

THE FULL TEXT OF THE PROPOSED RULES IS:

40E-7.203 Qualifying Procedures.

Specific Authority 287.055(3)(d), 373.044, 373.113 FS. Law Implemented 287.055, 373.083(1) FS. History–New 9-3-81, Formerly 16K-1.18(1), Amended 10-19-87, 2-18-90, Repealed \_\_\_\_\_.

40E-7.206 Competitive Selection for Contractual Services.

Specific Authority 373.044, 373.113 FS. Law Implemented 287.087, 373.083(1) FS., Ch. 92-28, LOF. History–New 2-18-90, Amended 1-17-93, Repealed \_\_\_\_\_.

40E-7.2081 Competitive Negotiations for Professional Services.

Specific Authority 373.044, 373.113 FS. Law Implemented 287.055 FS. History–New 2-18-90, Amended 5-26-91, 1-17-93, Repealed \_\_\_\_\_.

40E-7.2091 Competitive Negotiations for Contractual Services.

Specific Authority 373.044, 373.113 FS. Law Implemented 287.057, 373.083(1) FS. History–New 2-18-90, Amended 1-17-93, Repealed \_\_\_\_\_.

40E-7.2101 Inconsistency with Section 287.055, Florida Statutes.

Specific Authority 120.53(1), 373.044, 373.113 FS. Law Implemented 287.055 FS. History–New 2-18-90, Repealed \_\_\_\_\_.

40E-7.2111 Prohibition Against Contingency Fees.

Specific Authority 120.53(1), 373.044, 373.113 FS. Law Implemented 287.055(6) FS. History–New 2-18-90, Repealed \_\_\_\_\_.

40E-7.2121 Truth in Negotiation Certification.

Specific Authority 373.044, 373.113 FS. Law Implemented 287.055(5) FS. History–New 2-18-90, Repealed \_\_\_\_\_.

40E-7.213 Design-Build Contracts.

Specific Authority 373.044, 373.113 FS. Law Implemented 287.055(10) FS. History–New 2-18-90, Amended 1-17-93, Repealed \_\_\_\_\_.

40E-7.637 District Implementation.

Specific Authority 373.113, F.S. Law Implemented 373.607 F.S. History–New 9-25-96, Amended 12-23-01, Repealed \_\_\_\_\_.

40E-7.664 Suspension, Debarment, Revocation or Decertification.

Specific Authority 120.569, 373.113 F.S. Law Implemented 120.569, 120.57, 373.607 F.S. History–New 9-25-96, Amended 12-23-01, Repealed \_\_\_\_\_.

NAME OR PERSON ORIGINATING PROPOSED RULE: John J. Fumero, General Counsel, South Florida Water Management District

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: The Governing Board of the South Florida Water Management District

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: April 10, 2003

WATER MANAGEMENT DISTRICTS

South Florida Water Management District

RULE TITLES:	RULE NOS.:
Policy and Purpose	40E-20.011
Publications Incorporated by Reference	40E-20.091
Content of General Water Use	
Permit Applications	40E-20.101
Conditions for Issuance of General	
Water Use Permits	40E-20.301
Types of General Water Use Permits	40E-20.302
Duration of Permits	40E-20.321
Modification of General Water Use Permits	40E-20.331

PURPOSE AND EFFECT: To modify and update the District’s rules regarding conditions for general water use permits and modifications, and permit durations. The changes will also correct citations and make changes to clarify language currently in the rules. Amendments to the “Basis of Review for Water Use Permit Applications within the South Florida Water Management District”, which is incorporated by reference into Section 40E-2.091, F.A.C., are posted on the SFWMD Website at www.sfwmd.gov.

SUMMARY: These rules are amended to reflect new legislative direction, new policy development, regional water supply plans, and clarify the types of general water use permits.

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

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

SPECIFIC AUTHORITY: 373.044, 373.113, 373.118, 373.171 FS.

LAW IMPLEMENTED: Parts I and II, Chapter 373 FS.

A HEARING WILL BE HELD AT THE TIME, DATE AND PLACE SHOWN BELOW:

TIME AND DATE: 8:30 a.m., June 12, 2003

PLACE: South Florida Water Management District, B-1 Auditorium, 3301 Gun Club Road, West Palm Beach, FL 33406

Although Governing Board meetings, hearings and workshops are normally recorded, affected persons are advised that it may be necessary for them to ensure that a verbatim record of the proceeding is made, including the testimony and evidence upon which any appeal is to be based.

Persons with disabilities or handicaps who need assistance may contact Garrett Wallace, District Clerk, (561)682-6371 at least two business days in advance to make appropriate arrangements.

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULES IS: For technical issues contact Scott Burns (internet: sburns@sfwmd.gov) or Cecile Ross (internet: cross@sfwmd.gov), 1(800)432-2045. For procedural issues contact: Jan Sluth, Paralegal, (internet: jsluth@sfwmd.gov) South Florida Water Management District, Post Office Box 24680, West Palm Beach, FL 33416-4680, 1(800)432-2045, Extension 6299 or (561)682-6299

THE FULL TEXT OF THE PROPOSED RULES IS:

40E-20.011 Policy and Purpose.

(1) No change.

(2) District staff shall take final agency action on applications submitted under this rule pursuant to Section 373.118, F.S. and this Chapter Chapter 40E-20, F.A.C. If an application for any proposed water use does not meet the provisions of this Chapter, the District will provide the permit applicant with the option to either withdraw the general permit application, or supply the additional information and fee required for an individual permit. In the event one of these options is not selected, Staff will recommend that the Governing Board deny the general permit application. Where applicable, criteria in the "Basis of Review for Water Use Permit Applications within the South Florida Water Management District August 2002", incorporated by

reference in Rule 40E-20.091, F.A.C., will be utilized to determine whether the conditions for issuance in Rule 40E-20.301, F.A.C., are satisfied.

Specific Authority 373.044, 373.083, 373.113, 373.118 FS. Law Implemented 373.042, 373.0421, 373.083, 373.103(4), 373.118, 373.219 FS. History—New 9-3-81, Formerly 16K-2.031(4), 16K-3.031(4), Amended 4-20-94, 7-11-96, 4-9-97, 12-10-97, 11-4-01, 8-14-02, August 2002.

40E-20.091 Publications Incorporated by Reference.

The "Basis of Review for Water Use Permit Applications within the South Florida Water Management District – August 2002", is hereby published by reference and incorporated into this Chapter. A current version of this document is available upon request.

Specific Authority 373.044, 373.113, 373.118 FS. Law Implemented 373.042, 373.0421, 373.103(4), 373.118, 373.223, 373.229 FS. History—New 8-14-02, Amended August 2002.

40E-20.101 Content of General Water Use Permit Applications.

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

(2) Applicants for a Standard General Water Use Permit under Rule 40E-20.302(1), F.A.C., shall file the following parts of Form 0645 – Water Use Permit Applications, as incorporated by reference in Rule 40E-1.659, F.A.C.:

(a) No change.

(b) Part RC-1W Application for a Water Use permit (all Standard General Water Use Permits) or Part RC-1G Application for a General Water Use ~~General~~ Permit (Standard General Water Use Permits with recommended maximum allocations < 3 million gallons per month).

(3) through (4) No change.

Specific Authority 373.044, 373.113, 373.171 FS. Law Implemented 373.103(1), 373.219, 373.223, 373.229 FS. History—New 8-14-02, Amended August 2002.

40E-20.301 Conditions for Issuance of General Water Use Permits.

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

(c) Will not cause ~~environmental~~ harm to wetlands or other surface waters;

(d) through (f) No change.

(g) Is in accordance with ~~water transport provisions of Section 373.2295, F.S., concerning interdistrict transfer of groundwater and Sections 373.223(3) concerning water transport and use of groundwater or surface water across county boundaries and 373.229(3), and the Water Resource Implementation Rule 62-40.422, F.A.C.~~

(h) For uses with a recommended maximum allocation which exceeds 3 million gallons per month, makes use of a reclaimed water source in accordance with the criteria contained in the "Basis of Review" incorporated by reference in Rule 40E-20.091, F.A.C. unless the applicant, in any geographic location, demonstrates that its use is either not economically, environmentally or technically feasible; or in

areas not designated as Critical Water Supply Problem Areas pursuant to Chapter 40E-23, F.A.C., the applicant demonstrates reclaimed water is not readily available;

(i) Is in accordance with ~~Meets~~ the established minimum flows and levels and implementation provisions in Chapter 373, F.S., Chapter 40E-2, F.A.C., this Chapter, and Chapter 40E-8, F.A.C.; and

(j) No change.

(2) No change.

Specific Authority 373.044, 373.113, 373.118 FS. Law Implemented 373.103(4), 373.118, 373.223, 373.229 FS. History--New 8-14-02, Amended

40E-20.302 Types of General Water Use Permits.

(1) Standard General Water Use Permit – the use of water, which does not exceed a recommended maximum allocation of 15 million gallons per month (MGM), except as stated below, shall qualify for a Standard General Water Use Permit, provided the conditions for issuance in Rule 40E-20.301, F.A.C., are met. There are two types of Standard General Water Use Permits, as follows:

(a) Minor Standard General Water Use Permit, authorizes allocations of three (3) million gallons per month or less; and,

(b) Major Standard General Water Use Permit, authorizes allocations greater than three (3) million and up to fifteen (15) million gallons per month, and includes a requirement under Rule 40E-20.301(1)(h), F.A.C., and the applicable requirements in the “Basis of Review” incorporated by reference in Rule 40E-20.091, F.A.C., that the permit applicant meet the requirements for use of reclaimed water. In addition the monitoring and reporting permit limiting conditions in Sections 4.0 and 5.0 of the “Basis of Review” incorporated by reference in Rule 40E-20.091, F.A.C., are applicable.

(2) Dewatering General Water Use Permit – the use of water in conjunction with short-term dewatering operations such as; well pointing, utility construction, lake construction, exploratory testing, and other minor uses; or in conjunction with a shortterm Remedial Action Plan approved by the state or local agency having legal jurisdiction over such activities, shall qualify for a Dewatering General Water Use Permit, provided the conditions for issuance in Rule 40E-20.301, F.A.C., and the following requirement is met: The proposed dewatering operation will not exceed a maximum of ten million gallons per day, with a maximum of ~~eighteen~~ sixteen hundred (1800) million gallons total pumpage and will not exceed a total duration of one year for the entire project.

(3) No change.

Specific Authority 373.044, 373.113, 373.118 FS. Law Implemented 373.042, 373.0421, 373.103(4), 373.118, 373.219, 373.223 FS. History--New 9-3-81, Amended 12-1-82, Formerly 16K-2.031(1), 16K-2.032(1)(b), Amended 2-24-85, 3-29-87, 7-26-87, 4-20-94, 7-11-96, 4-9-97, 12-10-97, 9-10-01, 8-14-02, \_\_\_\_\_.

40E-20.321 Duration of Permit.

(1) No change.

(2) The duration of the general water use permit authorized in subsection 40E-20.302(1), F.A.C. shall not exceed the following time periods:-

(a) For uses with a maximum monthly allocation less than 3 million gallons per month (mgm), authorized by a Minor Standard General Water Use Permit, the period shall not exceed 20 years.

(b) For uses with a maximum monthly allocation greater than 3 mgm (up to 15 mgm), authorized by a Major Standard General Water Use Permit, the period shall not exceed the basin expiration date as specified in the document described in Rule 40E-20.091 as applicable to the location of the project; or, for Major Standard General Water Use Permits issued, renewed or modified after the applicable basin expiration date, the period shall be based on the provisions in Rule 40E-2.321, and the applicable provisions in the “Basis of Review” incorporated by reference in Rule 40E-20.091, F.A.C.

(3) through (6) No change.

Specific Authority 373.044, 373.113, 373.118 FS. Law Implemented 373.118, 373.236 FS. History--New 9-3-81, Formerly 16K-2.031(2)(j), 16K-2.032(2)(d), Amended 7-26-87, 4-20-94, 8-14-02, \_\_\_\_\_.

40E-20.331 Modification of Permits.

(1) through (2) No change.

(3)(a)1. through 2. No change.

3. Does not potentially interfere with any presently existing legal use of water, cause ~~environmental~~ harm to wetlands or other surface waters, harmful saltwater intrusion or pollution of the water resources, harm to offsite land uses, or does not otherwise raise issues requiring a Staff determination of whether harm to the water resources would occur pursuant to the “Basis of Review ~~for Water Use Permit Applications within the South Florida Water Management District – August 2002~~” incorporated by reference in Rule 40E-20.091, F.A.C.; and

4. through 5. No change.

(b) No change.

Specific Authority 373.044, 373.113 FS. Law Implemented 373.223, 373.229, 373.239 FS. History--New 4-20-94, Amended 7-11-96, 4-9-97, 12-10-97, 8-14-02, \_\_\_\_\_.

NAME OF PERSON ORIGINATING PROPOSED RULE: Wm. Scott Burns, Director, Water Use Regulation Division

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: South Florida Water Management District Governing Board

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: April 10, 2003

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: November 15, 2002



**WATER MANAGEMENT DISTRICTS**

**South Florida Water Management District**

RULE TITLE: Use Classes  
 RULE NO.: 40E-21.651

PURPOSE AND EFFECT: To modify and update the District's definitions of consumptive use classes.

SUMMARY: This rule amends the District's Water Shortage Plan.

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

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

SPECIFIC AUTHORITY: 120.54, 373.044, 373.113 FS.

LAW IMPLEMENTED: 120.54, 373.026, 373.042, 373.0421, 373.103, 373.119, 373.175, 373.246, 373.603, 373.609 FS.

A HEARING WILL BE HELD AT THE TIME, DATE AND PLACE SHOWN BELOW:

TIME AND DATE: 8:30 a.m., June 12, 2003  
 PLACE: South Florida Water Management District, B-1 Auditorium, 3301 Gun Club Road, West Palm Beach, FL 33406

Although Governing Board meetings, hearings and workshops are normally recorded, affected persons are advised that it may be necessary for them to ensure that a verbatim record of the proceeding is made, including the testimony and evidence upon which any appeal is to be based.

Persons with disabilities or handicaps who need assistance may contact Garrett Wallace, District Clerk, (561)682-6371 at least two business days in advance to make appropriate arrangements.

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: For technical issues contact Scott Burns (internet: sburns@sfwmd.gov) or Cecile Ross (internet: cross@sfwmd.gov), 1(800)432-2045. For procedural issues contact: Jan Sluth, Paralegal, (internet: jsluth@sfwmd.gov) South Florida Water Management District, Post Office Box 24680, West Palm Beach, FL 33416-4680, 1(800)432-2045, Extension 6299 or (561)682-6299

THE FULL TEXT OF THE PROPOSED RULE IS:

- 40E-21.651 Use Classes.
- (1)(a) through (e) No change.
- (f) "Diversion and impoundment into non-District facilities" means the diversion or extraction of water into non-District impoundments and delivery systems designed for purposes, including but not limited to, maintaining control elevations in order to provide for groundwater recharge, and to

~~provide water for reasonable-beneficial uses structural integrity, providing agricultural water and other non-recreational, non-aesthetic uses.~~

(2) through (5) No change.

Specific Authority 373.044, 373.113 FS. Law Implemented 373.175, 373.246 FS. History--New 5-31-82, Amended 2-14-91, \_\_\_\_\_.

NAME OF PERSON ORIGINATING PROPOSED RULE: Wm. Scott Burns, Director, Water Use Regulation Division

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: South Florida Water Management District Governing Board

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: April 10, 2003

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: November 15, 2002

**AGENCY FOR HEALTH CARE ADMINISTRATION**

**Medicaid**

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

PURPOSE AND EFFECT: The purpose of the proposed amendment is to incorporate changes to the Florida Title XIX Inpatient Hospital Reimbursement Plan (the Plan) Payment methodology, effective January 1, 2003. These changes are based upon the cost reporting data available to the Agency regarding the calculation of inpatient hospital reimbursement ceilings and the balance of the UPL program provided in House Bill 27E, 2002-03 General Appropriations Act, Specific Appropriations 222 and 222A.

1. Effective January 1, 2003, the Agency for Health Care Administration (AHCA) will increase the total upper payment limit (UPL) balance based upon more current cost reporting data available for inpatient hospitals. The total amounts for the increases are as follows:

Graduate Medical Education (GME)	\$3,920,792.00
Primary Care	\$4,506,657.00
Rural	\$2,185,000.00
Trauma	\$5,500,000.00
CHEP Hospitals	\$585,864.00

2. Clarification regarding the 14.5% calculation of charity care and Medicaid days as a percentage of adjusted patient days.

The effect of the proposed changes is that special Medicaid payments (SMP) will be made in accordance with the 2002-03 General Appropriations Act, Specific Appropriations 222 and 222A, to qualifying hospitals and a clarification regarding the 14.5% calculation of charity care and Medicaid days as a percentage of adjusted patient days.

SUMMARY: Special Medicaid payments (SMP) will be made in accordance with the 2002-03 General Appropriations Act, Specific Appropriations 222 and 222A, to qualifying hospitals

and a clarification will be made regarding the 14.5% calculation of charity care and Medicaid days as a percentage of adjusted patient days.

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

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

SPECIFIC AUTHORITY: 409.919 FS.

LAW IMPLEMENTED: 409.908 FS.

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

TIME AND DATE: 2:00 p.m., May 21, 2003

PLACE: Agency for Health Care Administration, 2727 Mahan Drive, Building 3, Conference Room C, Tallahassee, Florida 32308

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Robert Butler, Medicaid Program Analysis, 2727 Mahan Drive, Mail Stop 21, Tallahassee, Florida 32308

THE FULL TEXT OF THE PROPOSED RULE IS:

59G-6.020 Payment Methodology for Inpatient Hospital Services.

Reimbursement to participating inpatient hospitals for services provided shall be in accord with the Florida Title XIX Inpatient Hospital Reimbursement Plan, Version ~~XXII XXI~~, Effective Date ~~January 8, 2003~~, and incorporated herein by reference. A copy of the Plan as revised may be obtained by writing to the Office of the Deputy Secretary for Medicaid, Agency for Health Care Administration, 2727 Mahan Drive, Building 3, Mail Stop 8, Tallahassee, Florida 32308.

Specific Authority 409.919 FS. Law Implemented 409.908, 409.917 FS. History—New 10-31-85, Formerly 10C-7.391, Amended 10-1-86, 1-10-89, 11-19-89, 3-26-90, 8-14-90, 9-30-90, 9-16-91, 4-6-92, 11-30-92, 6-30-93, Formerly 10C-7.0391, Amended 4-10-94, 8-15-94, 1-11-95, 5-13-96, 7-1-96, 12-2-96, 11-30-97, 9-16-98, 11-10-99, 9-20-00, 3-31-02, 1-8-03, \_\_\_\_\_.

NAME OF PERSON ORIGINATING PROPOSED RULE: Robert Butler

NAME OF PERSON WHO APPROVED THE PROPOSED RULE: Robert Butler

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: December 10, 2002

DATE NOTICE OF RULE DEVELOPMENT PUBLISHED IN FAW: December 20, 2002

**DEPARTMENT OF MANAGEMENT SERVICES**

**Division of Retirement**

RULE CHAPTER TITLE:	RULE CHAPTER NO.:
Membership	60S-1
RULE TITLES:	RULE NOS.:
Statements of Policy	60S-1.002
Participation	60S-1.004
Renewed Membership in the Regular Class and the Senior Management Service Class	60S-1.0045
Special Risk Class; Legislative Intent and Procedures	60S-1.005
Criteria for Special Risk Membership – Firefighters	60S-1.0052
Criteria for Special Risk Membership – Correctional Officers	60S-1.0053
Criteria for Special Risk Membership – Emergency Medical Technicians and Paramedics	60S-1.00535
Special Risk Administrative Support Class	60S-1.0054
Elected Officers’ Class	60S-1.0055
Senior Management Service Class	60S-1.0057

PURPOSE, EFFECT AND SUMMARY: To revise the rules to reflect current legislative mandates, delete obsolete language and language that is without statutory authority.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COST: None.

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

SPECIFIC AUTHORITY: 121.031 FS.

LAW IMPLEMENTED: 121.011, 121.021, 121.051, 120.0511, 121.052, 121.053, 121.0515, 121.055, 121.081, 121.091(8), 121.122, 240.3195 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: 10:00 a.m., May 29, 2003

PLACE: Department of Management Services, 4050 Esplanade Way, Suite 260, Room 260L, Tallahassee, Florida

Pursuant to the provision 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 below.

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULES IS: Sonja P. Mathews, Assistant General Counsel, Department of Management Services, 4050 Esplanade Way, Suite 260, Tallahassee, Florida 32399-0950, (850)487-1082, mathews@dms.state.fl.us.

THE FULL TEXT OF THE PROPOSED RULES IS:

60S-1.002 Statements of Policy.

(1) through (2) No change.

(3) ~~Each employee~~ Upon a person's employment or reemployment, the employer shall furnish to the Division such information as may be required on the Monthly Retirement Report Form FRS M10, adopted in 60S-9.001, for the proper enrollment of the officer or employee into the Florida Retirement System.

Specific Authority 121.031 FS. Law Implemented 121.031, 121.051, 121.053, 121.091 FS. History--New 1-1-72, Amended 10-20-72, Repromulgated 12-31-74, Amended 1-16-77, 7-1-79, 8-26-81, 1-19-82, 2-6-84, 11-6-84, Formerly 22B-1.02, Amended 3-11-87, 5-15-91, 11-14-91, Formerly 22B-1.002, Amended \_\_\_\_\_.

60S-1.004 Participation.

(1) Compulsory Membership – Participation in the Florida Retirement System shall be compulsory as a condition of employment for all officers and employees enumerated in the following paragraphs who are filling a regularly established position as described in subsection 60S-1.004(4), F.A.C., and defined in Rule 60S-6.001, F.A.C., (exceptions are provided in subsection 60S-1.004(2) or (3), F.A.C.). Such officers and employees shall participate in one of the five Florida Retirement System classes of membership. Members shall be assigned to the Regular Class unless eligible or required by virtue of the position held to be in the Special Risk Class as provided in Rule 60S-1.005, F.A.C., the Special Risk Administrative Support Class as provided in Rule 60S-1.0054, F.A.C., the Elected Officers' Class as provided in Rule 60S-1.0055, F.A.C., or the Senior Management Service Class as provided in Rule 60S-1.0057, F.A.C.

(a) through (f) No change.

(g) All officers or employees of a covered group of a city or special district who are members of a local retirement system established in accordance with Chapter 175 or 185, Florida Statutes F.S., may elect coverage under the Florida Retirement System, provided by a majority of such the officers and employees of that covered group under the Florida Retirement System in a referendum held for that purpose. Upon establishing membership in the Florida Retirement System for the covered group, all officers or employees hired thereafter shall be compulsory members of the FRS. Existing officers and employees shall be subject to paragraph 60S-1.004(2)(h), F.A.C.

(h) through (l) No change.

(2) Optional Membership – Participation in the Florida Retirement System shall be optional for all officers and employees enumerated in the following paragraphs who are filling a regularly established position as described in subsection 60S-1.004(4), F.A.C., and defined in Rule 60S-6.001, F.A.C.

(a) through (g) No change.

(h) ~~All officers or employees of a covered group of a city or special district who are members of a local retirement system established in accordance with Chapter 175 or 185, Florida Statutes F.S., All such officers and employees who elect coverage under the Florida Retirement System shall be compulsory members of the Florida Retirement System, provided a majority of such the officers and employees of that covered group elect such coverage under the Florida Retirement System~~ in a referendum held for that purpose.

(i) through (j) No change.

(k) The sheriff or circuit court clerk of a consolidated government as provided in Section 121.052(2)(d), F.S.

(3) Membership Not Permitted – Participation in the Florida Retirement System shall not be permitted for:

(a) through (d) No change.

(e) Any person participating in the Senior Management Service Optional Annuity Program in accordance with paragraph 60S-1.004(2)(d), F.A.C., except as provided in Section 121.055(6)(c)5, F.S.

(f) Any member of an existing system, ~~or any member retired under the disability provisions of the Teachers' Retirement System who recovers and terminates his benefit,~~ who is reemployed on or after July 1, 1988 within 12 months after terminating all employment relationships as provided in Rule 60S-6.001, F.A.C., (Termination), regardless of whether he received a full or partial refund of retirement contributions. Such member shall remain a member of the existing system except as provided in Rules 60S-1.0055 and 60S-1.0057, F.A.C. (See also paragraphs 60S-1.004(1)(f), (2)(f), and (3)(b), F.A.C.)

(g) through (m) No change.

(4) through (7) No change.

Specific Authority 121.031 FS. Law Implemented 121.011, 121.021, 121.051(1), (2), 121.052, 121.053, 121.055, 121.081, 121.091(8), 121.0511, 240.3195 FS. History--New 1-1-72, Amended 10-20-72, 12-31-74, 10-2-78, 7-1-79, 7-1-80, 8-26-81, 1-19-82, 10-11-82, 1-18-83, 11-6-84, 4-17-85, Formerly 22B-1.04, Amended 2-4-86, 1-12-87, 3-11-87, 2-7-89, 9-5-90, 5-15-91, 11-14-91, Formerly 22B-1.004, Amended 3-18-93, 8-4-94, 4-5-95, 3-12-96, 12-12-96, 2-24-99, \_\_\_\_\_.

60S-1.0045 Renewed Membership in the Regular Class and Senior Management Service Class.

(1) On and after July 1, 1991, any retired member of a state-administered retirement system who is employed in a regularly established position, including an elected officer not eligible for membership in the Elected Officers' Class, shall be enrolled as a compulsory member of the Regular Class, except a member participating in the Deferred Retirement Option Program as provided in Rule Chapter 60S-11, F.A.C., or as provided in subsection 60S-1.0055(4), F.A.C., and effective July 1, 1997, any such retired member who is employed in a position included in the Senior Management Service Class shall be enrolled as a compulsory member of the Senior Management Service Class as provided in paragraph 60S-1.0057(2)(a), F.A.C., and may elect, in lieu of the Senior

Management Service Class as provided in paragraph 60S-1.0057(2)(b) or (c), F.A.C., to participate in the Senior Management Service Optional Annuity Program or ~~a lifetime monthly annuity program which may be offered by the local agency~~ withdraw from the Florida Retirement System altogether as provided in Section s. 121.055, F.S. Such Regular Class or Senior Management Service Class renewed member shall be eligible to receive a second-career retirement benefit in the Florida Retirement System Pension Plan as follows:

(a) The member shall be subject to the 12-month reemployment limitations provided in Rule 60S-4.012, F.A.C., except as provided in subsection 60S-11.004(5), F.A.C. or, for an elected officer, as provided in paragraph 60S-4.012(6)(a), F.A.C.

(b) Upon satisfaction of the reemployment limitations, the member shall be eligible to receive retirement benefits as well as compensation for such employment.

(c) The member shall comply with all requirements and be eligible for all benefits applicable to Regular Class or Senior Management Service Class membership except that he shall not be entitled to disability benefits as provided in Rule 60S-4.007, F.A.C.

(d) The member shall be entitled to receive an additional retirement benefit as provided in paragraph 60S-4.004(1)(a) or (d), F.A.C., if such member becomes vested as required by the provisions of the Regular Class or Senior Management Service Class.

Creditable service may include:

1. For vesting in the Regular Class, service earned as an elected officer with renewed membership in the EOC or as a member with renewed membership in the Senior Management Service Class; and

2. For vesting in the Regular Class or the Senior Management Service Class, credit for post-retirement service performed prior to renewed membership and claimed by the member as provided in subsection 60S-2.008(3), F.A.C.

(e) No service for which credit was earned or which remained unclaimed at retirement may be claimed or applied toward the second-career benefit, except that a renewed member who is receiving an annuity from the Optional Retirement Program or the Optional Annuity Program, or who is receiving an IFAS Supplement, may claim such Florida Retirement System service, provided that such service was not used toward another benefit.

(f) Reemployed retirees who elect membership in the FRS Investment Plan shall be eligible to receive benefits upon termination as provided in Section 121.4501, F.S.

(2) If the member is not receiving the maximum health insurance subsidy provided in Rule 60S-4.020, F.A.C., he shall be entitled to earn additional credit toward the maximum subsidy, which he shall receive only at the time of payment of the second-career retirement benefit. The total subsidy paid to

retirees receiving benefits from initial and renewed membership shall not exceed the maximum allowed in Rule 60S-4.020, F.A.C.

(3) Applicable contributions shall be made as provided in subsections 60S-3.003(1) and (7), F.A.C.

Specific Authority 121.031 FS. Law Implemented 121.122, 121.091 FS. History—New 11-14-91, Formerly 22B-1.0045, Amended 3-18-93, 5-10-99,

60S-1.005 Special Risk Class; Legislative Intent and Procedures.

(1) Legislative Intent. – In creating the special risk class of membership within the Florida Retirement System, it is the intent and purpose of the Legislature to recognize that persons employed in certain categories of law enforcement, firefighting, and criminal detention, and emergency medical care positions are required as one of the essential functions of their positions to perform work that is physically demanding or arduous, or work that requires extraordinary agility and mental acuity, and that such persons, because of diminishing physical and mental faculties may find that they are not able, without risk to the health and safety of themselves, the public, or their co-workers, to continue performing such duties and thus enjoy the full career and retirement benefits enjoyed by persons employed in other positions, and that, if such persons find it necessary, due to the physical and mental limitations of their age, to retire at an earlier age and usually with less service, they will suffer an economic deprivation therefrom. Therefore, as a means of recognizing the peculiar and special problems of this class of employees, it is the intent and purpose of the Legislature to establish a class of retirement membership that awards more retirement credit per year of service than that awarded to other employees; nothing contained herein shall require ineligibility for special risk membership upon reaching age 55.

(2) Eligibility – Any member who is employed as a law enforcement officer, a firefighter, or a correctional officer, or an emergency medical technician or paramedic who meets the criteria as set forth in Section 60S-1.0051, 60S-1.0052, or 60S-1.0053, or 60S-1.00535, F.A.C., shall be eligible for approval for special risk membership as provided in this section.

(3) Application. – The following procedures shall govern applications for special risk membership:

(a) Application procedures for officers and employees of state agencies.

1. Applying the requirements for special risk membership in subsection (2), the Department of Management Services shall specify those classes of positions established by the Division of Personnel which shall be included in the Special Risk Class. The incumbents of such positions shall be entitled to special risk membership. If a class is not specified by the Department of Management Services, the employing agency

may petition the State Retirement Commission for inclusion of a particular class among those specified as provided in Section 121.0515(3)(b), F.S.

2. Each state agency utilizing positions specified in subparagraph 1. shall submit the appropriate position class code on the Monthly Retirement Report ~~a Personal History Record (FRS-M10), adopted in 60S-9.001~~, for each officer and employee who fills a position so specified.

3. The effective date of special risk membership for newly employed officers and employees who have been verified by the employing state agency and who are certified or required to be certified by the appropriate council or commission shall be the date of employment in a position specified as special risk as provided in subparagraph 1. Special risk contributions shall begin at that time.

a. If a regular member becomes employed in a special risk position or a position is reclassified as a special risk position, the effective date of special risk membership shall be the first day of the month in which the employee assumes the special risk position or the position is reclassified. Special risk contributions shall be payable effective with the first salary paid on or after the first day of the month of special risk coverage.

b. If a special risk member changes to another position classified as special risk within the same set of criteria (e.g., a corrections officer I changing to a corrections officer II position), ~~the employee shall complete and~~ his employer shall submit the appropriate position class code for the new position on the Monthly Retirement Report ~~an (FRS-M10).~~

c. If a special risk member changes to a special risk position under a different set of criteria (e.g., a transfer from law enforcement to a firefighter or correctional position), ~~he shall complete and~~ his employer shall submit the appropriate position class code for the new position on the Monthly Retirement Report ~~an FRS-M10.~~

(b) Application procedures for officers and employees of county agencies, district school boards, community colleges, cities and special districts, those classified by the Judicial Administrative Classification Plan, and the Department of Lottery.

1. Any regular member who feels that he meets the requirements for special risk membership set forth in subsection (2) may request that his employer submit an application to the Division requesting that the Division designate him as a special risk member. Such member shall complete the employee portions of the Forms ~~FRS-M10 and FRS-400 or FRS-405~~, adopted in Rule 60S-9.001, F.A.C. The employer shall promptly submit to the Division the following documents:

~~a. Personal History Record (FRS-M10).~~

~~a.b.~~ Application for Special Risk Membership Law Enforcement/Correctional Officers (FRS-400) or Application for Special Risk Membership Firefighters/Paramedics/EMTs (FRS-405).

~~b.e.~~ A current job description of the member's duties showing the percentage of time spent performing each duty.

~~c.~~ A copy of a personnel action form showing the effective date of membership in that position.

~~d.~~ Organization chart including applicant's position for any members applying under supervisory criteria.

2. If the employer refuses to submit the member's application to the Division, he shall notify the member of his refusal, together with his reasons. The member may then appeal this refusal to the State Retirement Commission pursuant to Section 121.0515(3)(a), ~~Florida Statutes F.S.~~

3. Upon receipt of the completed application, which shall include all of the items designated in subparagraph 1. above, the Division shall within 90 days determine if the member meets the requirements for special risk membership set forth in subsection (2). If the requirements for special risk membership are met, the Division shall approve the member for special risk membership, which shall commence as follows:

a. When a newly employed member's complete application is received by the Division of Retirement, the effective date of membership in the special risk class shall be the date of employment in the position and special risk contributions shall be payable from that time.

b. If a regular employee changes to a special risk position within the employing agency and, upon submitting the complete special risk application, he is approved for special risk membership, he shall have special risk coverage effective the first day of the month in which the employee assumes the special risk position.

Special risk contributions shall be payable effective with the first salary paid on or after the first day of the month of special risk coverage.

c. If a special risk member changes to another position within the same agency that ~~has not been previously approved for special risk membership~~ is not a preapproved special risk position listed with Class Codes in Chapter 1 of the Division of Retirement Employer Handbook, or is employed with a new agency, he must submit a complete application as provided in section (3)(b)1.a. to the Division of Retirement.

d. If a special risk member changes to a preapproved special risk position listed with Class Codes in Chapter 1 of the Division of Retirement Employer Handbook ~~position previously approved for special risk~~ under the same set of criteria (e.g., a corrections officer I changing to a corrections officer II position), the employer shall submit the appropriate position class code for the new position on the Monthly Retirement Report ~~an FRS-M10.~~

e. If a special risk member changes to a special risk position under a different set of criteria (e.g., a transfer from law enforcement to a firefighter or correctional officer position), he must submit a complete application for special risk membership, except that the employer of such officer who changes to a preapproved special risk position listed with Class Codes in Chapter 1 of the Division of Retirement Employer Handbook must submit only the appropriate position class code for the new position on the Monthly Retirement Report for such member.

4. Within 90 days of receipt of the application, the Division shall determine whether or not the member meets the requirements for special risk membership. If it is determined that the member does not meet the requirements, the Division shall notify the member by certified mail, with a copy to his employer, of the Administrator's intended decision to disapprove the member's application for special risk membership. This notice shall include a summary of the factual, legal and policy grounds for the intended decision.

a. When a member receives notice that the Administrator intends to deny his application for special risk membership, he shall have 21 calendar days to present written evidence or objections challenging the grounds upon which the Administrator has based his intended decision.

b. If the Administrator overrules the objections of the member, the Administrator shall within 21 calendar days provide a written final decision on the merits to the member by certified mail with a copy to the member's employer, giving the reasons for his final decision.

c. If the member does not accept the Administrator's final decision on the merits, the member may request in writing, pursuant to Section 121.23, F.S., ~~and~~ Rule Chapter 60R-1, F.A.C., ~~and the Uniform Rules in Rule Chapter 28-106, F.A.C.~~, a hearing on the denial of his application for special risk membership before the State Retirement Commission pursuant to Section 120.57(1), F.S. Such request shall be filed with the Commission within 21 calendar days from the date the member receives notice of the Administrator's final decision.

d. The decisions of the State Retirement Commission on matters brought before it under this paragraph shall be final agency action.

e. The decisions of the State Retirement Commission shall be reviewable by the District Court of Appeal pursuant to Section 121.23, F.S.

5. A member who receives a final affirmative ruling on his appeal for special risk membership shall have special risk membership retroactive to the date such member would have had special risk membership had such membership been approved by the employer and the Division, as determined by the Division; and the employer contributions shall be paid in full within one year of such final ruling.

(4) No change.

(5) Transfer to a Regular Position. – A special risk member who transfers to a position that does not qualify him for special risk membership shall have his designation of special risk membership discontinued and shall become a regular member on the first day of the month following the date of such transfer. Contributions are payable at the regular membership rate effective with the first salary paid on or after the day the member becomes a regular member. The employer of such a member shall ~~report submit for the member an enrollment Form (FRS-M10) which indicates the member's change to the regular membership class~~ on the Monthly Retirement Report.

(6) No change.

Specific Authority 121.031, 121.0515 FS. Law Implemented 121.021(15), 121.23, 121.0515 FS. History–New 1-1-72, Amended 10-20-72, 12-31-74, 8-9-76, 1-16-77, 10-2-78, 1-19-82, 9-9-82, 11-6-84, 4-17-85, Formerly 22B-1.05, Amended 2-7-89, 11-14-91, Formerly 22B-1.005, Amended 1-25-94, \_\_\_\_\_.

60S-1.0052 Criteria for Special Risk Membership – Firefighters.

The criteria set forth below shall be used pursuant to Rule 60S-1.005, F.A.C., in determining membership in the special risk class for members who are filling firefighter positions, regardless of the title of such a position.

(1) No change.

(2) Any member who seeks special risk membership must hold one of the following firefighters positions:

(a) Firefighter whose duties and responsibilities require on the scene fighting of fires, fire prevention, or firefighter training, or aerial firefighting surveillance by fixed-wing aircraft pilots employed by the Division of Forestry of the Department of Agriculture and Consumer Services.

(b) Command officer or supervisor of a special risk member or members whose duties are listed in (a) ~~include on the scene fighting of fires.~~ However, administrative support personnel cited in subsection (4) shall not be included.

(3) through (4) No change.

Specific Authority 121.031 FS. Law Implemented 121.021(15), 121.0515 FS. History–New 10-2-78, 4-17-85, Formerly 22B-1.052, 22B-1.0052, Amended \_\_\_\_\_.

60S-1.0053 Criteria for Special Risk Membership – Correctional Officers.

The criteria set forth below shall be used pursuant to Rule 60S-1.005, F.A.C., in determining membership in the special risk class for members who are filling correctional officer positions, regardless of the title of such a position.

(1) Any member who seeks to be approved for special risk membership under this section must be certified or required to be certified as a correctional officer in compliance with the Criminal Justice Standards and Training Commission, as provided in Section 943.1395, F.S.

(2) Any member who seeks special risk membership must hold one of the following correctional officer positions:

(a) Correctional officer whose primary duty and responsibility is the custody and physical restraint, when necessary, of prisoners or inmates within a prison, jail, or other criminal detention facility, or while on work detail or while being transported outside the facility.

(b) Command officer or supervisor of a special risk member or members holding a position as described in (2)(a) above.

(c) Superintendent or Assistant Superintendent (regardless of title) of a correction or detention facility where duly committed inmates are confined, housed, or maintained and where correctional officers are employed. Superintendent shall mean the person directly in charge of the day-to-day operations of a specific correction or detention facility. Assistant Superintendent shall mean the one person whose responsibilities include direct line authority from the Superintendent over all subordinate employees for the day-to-day operations at the facility. If no one employee in a corrections facility has such responsibility, then for retirement purposes there is no assistant superintendent at that facility, except that in large state institutions there may be more than one assistant superintendent if the institution is divided into units, each having an assistant superintendent with direct line authority from the superintendent over all subordinate employees for the day to day operations within the unit.

(d) Effective January 1, 2001, community-based correctional probation officer whose primary duties and responsibilities must be the supervised custody, surveillance, control, investigation, and counseling of assigned inmates, probationers, parolees, or community controllees within the community; or the supervisor of a member who has such responsibilities; or probation and parole circuit administrator, or deputy circuit administrator.

(e) Effective January 1, 2001, professional health care member employed by the Department of Corrections or the Department of Children and Family Services in one of the following positions listed in Section 121.0515(2)(f), F.S.

(f) Effective July 1, 2001, youth custody officer of the Department of Juvenile Justice whose primary duties and responsibilities must be the supervised custody, surveillance, control, investigation, apprehension, arrest, and counseling of assigned juveniles within the community.

(3) No administrative support personnel, including but not limited to those whose primary duties and responsibilities are in accounting, purchasing, legal, and personnel, shall be admitted to special risk membership.

Specific Authority 121.031 FS. Law Implemented 121.021(15), 121.0515 FS. History—New 10-2-78, Amended 9-9-82, 11-6-84, 4-17-85, Formerly 22B-1.053, 22B-1.0053, Amended \_\_\_\_\_.

60S-1.00535 Criteria for Special Risk Membership – Emergency Medical Technicians and Paramedics.

The criteria set forth below shall be used pursuant to Rule 60S-1.005, F.A.C., in determining membership in the special risk class for members who are filling emergency medical technician and paramedic positions, regardless of the title of such position.

(1) Any member who seeks special risk membership must be employed as an emergency medical technician or a paramedic by a licensed Advance Life Support (ALS) or Basic Life Support (BLS) employer and be certified in compliance with Section 401.27, F.S.

(2) The member’s primary duties and responsibilities must include on-the-scene emergency medical care, or the member must be the supervisor or command officer of one or more members who have such responsibility.

(3) No administrative support personnel, including but not limited to those whose primary duties and responsibilities are in accounting, purchasing, legal, and personnel, shall be admitted to special risk membership.

Specific Authority 121.031 FS. Law Implemented 121.021(15), 121.0515 FS. History—New \_\_\_\_\_.

60S-1.0054 Special Risk Administrative Support Class.

(1) Intent – In creating the Special Risk Administrative Support Class within the Florida Retirement System, the Legislature recognizes that when special risk members are employed or reassigned for training, career development or to fill a critical agency need they often fail to meet the criteria for special risk membership. They are then placed in the regular class of membership, thereby losing the earlier retirement date and the higher accrual rate 2 percent retirement service credit offered special risk members. While it is not the intent of the Legislature to continue to provide the higher accrual rate 2 percent retirement service credit for such members upon employment or reassignment to non-special risk positions, it is intended that such members who qualify for Special Risk Administrative Support Class membership and satisfy the vesting requirements for the Special Risk Class ~~complete 10 years of special risk service~~ shall be entitled to count such Special Risk Administrative Support Class service towards their special risk normal retirement date.

(2) Eligibility – On or after July 1, 1982, a member being reassigned or employed by an agency shall participate in the Special Risk Administrative Support Class if:

- (a) The member is employed by an agency whose primary purpose is law enforcement, firefighting, ~~or~~ corrections, or emergency medical care, or if the employer has multiple responsibilities, the member must be employed by a unit of the agency whose primary purpose is law enforcement, firefighting, ~~or~~ corrections, or emergency medical care; and
- (b) through (e) No change.

(3) Application – The following procedures shall govern applications for Special Risk Administrative Support Class membership:

(a) The employer of a special risk member who is reassigned or employed in a position determined by the employer to be a special risk administrative support position shall submit to the Division of Retirement the following:

~~1. Personal History Record (FRS-M10),~~

~~1.2.~~ Application for Special Risk Administrative Support Class membership (FRS-404), adopted in Rule Chapter 60S-9, F.A.C.

~~2.3.~~ A current job description of the member’s duties showing the percentage of time spent performing each duty,

~~3.4.~~ A copy of the appropriate certification or other evidence of certification as required by the Criminal Justice Standards and Training Commission in Section 943.1395, F.S. or the Firefighters Standards and Training Council in Section 633.35, F.S.

4. A copy of a personnel action form showing the effective date of membership in that position.

(b) The Division of Retirement shall approve or disapprove all applications for Special Risk Administrative Support Class membership. If the requirements for Special Risk Administrative Support Class membership are met, the Division shall approve the member for membership as provided below:

1. When a newly employed member’s application is received by the Division of Retirement, the effective date of membership in the Special Risk Administrative Support Class shall be the date of employment in the position and Special Risk Administrative Support Class contributions shall be payable from that time.

2. If a former special risk member, now a regular member, changes to a Special Risk Administrative Support Class position within the employing agency and, upon submitting the complete special risk administrative support application, he is approved for Special Risk Administrative Support Class membership, he shall have Special Risk Administrative Support Class coverage effective the first day of the month in which the employee assumes the Special Risk Administrative Support Class position. Special Risk Administrative Support Class contributions shall be payable effective with the first salary paid on or after the first day of the month of special risk administrative support coverage.

3. If a Special Risk Administrative Support Class member changes to another position within the same agency or is employed by another agency ~~that which~~ meets the criteria under these rules, the employer must submit the same documents as required in (3)(a) above to the Division of Retirement.

(4) Transfer to a Regular Position – A Special Risk Administrative Support Class member who transfers to a regular class position that does not qualify him for Special Risk

Administrative Support Class membership shall have his designation of Special Risk Administrative Support Class membership discontinued and shall become a regular class member on the first day of the month following the date of such transfer. Contributions are payable at the regular class membership rate effective with the first salary paid on or after the first day of the month the member becomes a regular class member. The A state employer of such a member shall submit the appropriate position class code for the new position on the Monthly Retirement Report, for the member an enrollment Form (FRS-M10) which will indicate includes the member’s change to the regular class of membership. A local employer of such member shall only report the member’s change to the regular membership class on the Monthly Retirement Report.

(5) Contribution – Contributions shall be paid in accordance with subsection 60S-3.003(4), F.A.C. Employers of members who fail to satisfy the vesting requirements for the Special Risk Class complete less than 10 years of special risk service shall not be refunded contributions for Special Risk Administrative Support Class service.

(6) Retention of Special Risk Normal Retirement Date – A member who earns Special Risk Administrative Support Class credit and satisfies the vesting requirements for the Special Risk Class completes an aggregate of 10 or more years of special risk service, as described in subsection 60S-2.0041(2)(b), F.A.C., shall be able to include the Special Risk Administrative Support Class service towards the satisfaction of the special risk normal retirement date. If, at retirement, the member has failed to satisfy such vesting requirements fails to complete an aggregate of 10 or more years of special risk service at retirement, his Administrative Support Class service shall be calculated as regular service in a dual normal retirement benefit.

(7) through (9) No change.

Specific Authority 121.031, 121.0515(7)(c) FS. Law Implemented 121.0515(7) FS. History–New 10-12-82, Amended 4-17-85, Formerly 22B-1.054, 22B-1.0054, Amended 1-25-94, 10-11-94, \_\_\_\_\_.

60S-1.0055 Elected Officers’ Class.

(1) through (3) No change.

(4) Renewed membership in the Elected Officers’ Class –

(a) Any retired member of a state-administered retirement system who, on and after July 1, 1990, holds an elective office covered by the Elected Officers’ Class, except as provided in paragraph (f), shall be enrolled in the Elected Officers’ Class, or, effective July 1, 1997, such elected officer may elect renewed membership in the Senior Management Service Class as provided in Rule 60S-1.0045, F.A.C., and may elect to participate in the Senior Management Service Optional Annuity Program or a local agency annuity program in lieu of the Senior Management Service Class as provided in paragraph 60S-1.0057(2)(b) or (c), F.A.C. Such elected officer who becomes a member of the Elected Officers’ Class shall be



eligible to elect to participate in the FRS Investment Plan as provided in Section 121.4501 F.S., or to receive a second career benefit in the FRS Pension Plan as follows:

1. The officer shall be eligible to receive retirement benefits as well as compensation for service as an elected officer, and shall not be subject to the reemployment limitations provided in Rule 60S-4.012, F.A.C.

2. The officer shall be entitled to receive an additional retirement benefit as provided in paragraph 60S-4.004(1)(c), F.A.C., if such officer completes at least eight years of service in the Elected Officers' Class. Such service may include credit for post-retirement service as an elected officer prior to July 1, 1990 that the officer claims under the Elected Officers' Class pursuant to paragraph 60S-2.008(2)(a), F.A.C.

3. Such officer shall comply with all provisions and be eligible for all benefits applicable to members of the Elected Officers' Class.

4. No service for which credit was earned or which remained unclaimed at retirement may be claimed or applied toward a second-career benefit in the Elected Officers' Class.

(b) An officer not receiving the maximum health insurance subsidy provided in Rule 60S-4.020, F.A.C., shall be entitled to earn additional credit toward the maximum subsidy. Any additional subsidy shall be paid only at the time of payment of the second-career retirement benefit. The total subsidy paid to retirees receiving benefits from initial and renewed membership shall not exceed the maximum allowed in Rule 60S-4.020, F.A.C.

(c) Applicable contributions shall be made as provided in subsections 60S-3.003(4) and (7), F.A.C.

(d) Renewed membership service earned under the provisions of this subsection may be used in conjunction with Regular Class or Senior Management Service Class renewed membership service toward a second-career benefit as provided in paragraph 60S-1.0045(1)(d), F.A.C.

(e) Any such officer who held an elected office prior to July 1, 1990, suspended his retirement benefit, and reinstated his Florida Retirement System membership shall have his retirement benefit recomputed using such period of creditable reemployment as provided in subsection 60S-2.008(1), F.A.C.

(f) A retired judge who is assigned to temporary duty in any court in accordance with section 2, Article V of the State Constitution, shall not be subject to the renewed membership provisions of this subsection.

Specific Authority 121.031, 121.052(7) FS. Law Implemented 121.031, 121.051, 121.052, 121.053 FS. History—New 11-6-84, Amended 4-17-85, Formerly 22B-1.055, Amended 3-11-87, 11-14-91, Formerly 22B-1.0055, Amended 3-18-93, 2-24-99, \_\_\_\_\_.

60S-1.0057 Senior Management Service Class.

(1) Compulsory Membership – Membership in the Senior Management Service Class shall be compulsory, except as provided in subsection 60S-1.0057(2), F.A.C., for any member of the Florida Retirement System or an existing system who holds any of the following positions:

(a) through (e) No change.

(f) ~~Effective January 1, 1994~~ — Certain judicial system positions as follows:

1. Effective January 1, 1994

~~1.a.~~ State Courts Administrator.

~~2.b.~~ Deputy State Courts Administrators.

~~3.c.~~ Clerk of the Supreme Court.

~~4.d.~~ Marshal of the Supreme Court.

~~5.e.~~ Executive Director of the Justice Administration Commission.

~~6.f.~~ Capital Collateral Regional Counsels.

~~7.g.~~ Clerks of the District Courts of Appeals.

~~8.h.~~ Marshals of the District Courts of Appeals.

~~9.i.~~ Trial Court Administrators of each Judicial Circuit.

2. Effective June 1, 2002 – Chief Deputy Court Administrator.

(g) Effective January 1, 1994 – positions may be designated for inclusion in the Senior Management Service Class as provided below:

1. In the offices of the state attorney and the public defender in each judicial circuit, such positions may be designated by each state attorney and public defender, as follows:

a. One nonelective full-time position may be designated for each state attorney's office and each public defender's office.

b. Additional nonelective full-time positions in such offices with 200 or more filled, regularly established positions may be designated, not to exceed 0.5 percent of the filled, regularly established positions in the office or agency.

2. In local agencies such positions may be designated by each local agency employer, as follows:

a. One nonelective full-time position may be designated for each local agency employer. Effective July 1, 2000, up to 10 additional nonelective full-time positions may be designated for each local agency employer.

b. Additional nonelective full-time positions in such agencies with 200 or more filled, regularly established positions may be designated, not to exceed 0.5 percent of the filled, regularly established positions in the office or agency. Effective June 17, 1998, additional nonelective full-time positions in such agencies with 100 or more filled, regularly established positions may be designated, not to exceed 1 percent of the filled, regularly established positions in the office or agency.

c. Each local agency employer may between July 1, 1997 and December 31, 1997, reassess its designation of positions for inclusion in the Senior Management Service Class as provided in sub-subparagraph b., and may request removal of any such previously designated positions that it deems appropriate. Such removal of positions shall be effective on the first day of the month following receipt of written notification by the Division before January 1, 1998.

3. Such designated positions must meet the following requirements:

a. The position must be managerial or policymaking; and

b. The position must be the head of an organizational unit, or responsible for effecting or recommending personnel, budget, expenditure, or policy decisions in its area of responsibility; and

c. The position must be one in which the employee filling the position is not subject to continuing contract and does not have civil service protection, that is, is subject to termination without cause.

4. The employer designating such positions must:

a. Publish in a newspaper of general circulation in the county or counties affected, once a week for 2 consecutive weeks, a notice of intent to designate a position or positions for inclusion in the class; and

b. Complete Form SMSD-1, Senior Management Service Class Designated Position Form, adopted in Rule Chapter 60S-9, F.A.C. The position number of the designated position, consisting from 1 to 10 numeric digits, must be included on the Form SMS-1.

5. Inclusion of the position in the SMSC shall be effective on January 1, 1994 or, if Form SMSD-1 is received by the Division after February 20, 1994, on the first day of the month following the month in which Form SMSD-1 is received by the Division.

6. Eligible employees filling designated positions must complete and submit application forms as provided in subsection 60S-1.0057(3), F.A.C.

(h) No change.

(i) Effective July 1, 1999 – Judges of compensation claims within the Department of Labor and Employment Security.

(j) Effective January 1, 2001 – Assistant state attorneys, assistant statewide prosecutors, assistant public defenders, and assistant capital collateral regional counsels.

(k) Effective January 1, 2002 – Assistant attorneys general.

(i) through (k) renumbered (l) through (n) No change.

(2) Optional Membership – Membership in the Senior Management Service Class shall be optional for certain eligible members according to the following:

(a) Any member eligible for membership in the Senior Management Service Class as provided in paragraphs 60S-1.0057(1)(a), (b), (c), (d), and (e), F.A.C., who is a

member of an existing retirement system, or the Special Risk Class or the Special Risk Administrative Support Class of the Florida Retirement System, may elect to remain in such system or class in lieu of participation in the Senior Management Service Class as follows:

1. Such election shall be made in writing, as provided in subsection 60S-1.0057(3), F.A.C., and filed with the personnel office of the employer and the Division within 90 days after employment begins in a Senior Management Service Class position.

2. Any such employee who fails to elect to remain in such system or class, or participate in the Optional Annuity Program as provided in paragraph 60S-1.0057(2)(b), F.A.C., within such 90-day period, shall be a compulsory member of the Senior Management Service Class as provided in subsection 60S-1.0057(1), F.A.C.

3. If a Special Risk Class or a Special Risk Administrative Support Class member wishes to make such an election, the Senior Management Service Class position to which he is assigned must be an eligible Special Risk Class or Special Risk Administrative Support Class position.

(b) Any member of the Florida Retirement System or an existing system who is eligible for membership in the Senior Management Service Class as provided in paragraphs 60S-1.0057(1)(a), (b), (e), (f), (g)1., ~~(h)~~, ~~(i)~~ and (2)(e)1., F.A.C., may elect to participate in the Senior Management Service Optional Annuity Program as provided in Section 121.055, F.S., and Chapter 60V, F.A.C., in lieu of the Senior Management Service Class as follows:

1. Such election shall be made in writing, as provided in subsection 60S-1.0057(3), F.A.C., and filed with the personnel office of the employer and the Division within 90 days after employment begins in a Senior Management Service Class position. The effective date of such member's participation in the Senior Management Service Optional Annuity Program shall be the date of employment or the first day of any month during the 90-day period after employment, if so specified by the member, as provided in subsection 60V-1.005(2), F.A.C.

2. Any such eligible employee who fails to elect to participate in the Senior Management Service Optional Annuity Program or to make the election as provided in paragraph 60S-1.0057(2)(a), F.A.C., within such 90-day period, shall be a compulsory member of the Senior Management Service Class as provided in subsection 60S-1.0057(1), F.A.C.

(c) Any member of the Florida Retirement System or an existing system who is eligible for membership in the Senior Management Service Class as provided in sub-paragraphs 60S-1.0057(1)(c), (g)2. and (2)(e)2., F.A.C., may elect to withdraw from the Florida Retirement System altogether ~~participate in a lifetime monthly annuity program which may~~

be offered by the local agency as provided in s. 121.055, FS, in lieu of membership in the Senior Management Service Class as follows:

1. Such election shall be made in writing, as provided in subsection 60S-1.0057(3), F.A.C., and filed with the personnel office of the employer and the Division. The election to ~~withdraw altogether participate in the lifetime monthly annuity program~~ shall be irrevocable for as long as the employee holds a position eligible for membership in the Senior Management Service Class. The effective date of such election shall be the first day of the month following the month in which the Form SMS-3 is received by the Division.

2. Such members are not eligible to participate in the Senior Management Service Optional Annuity Program administered by the Division of Retirement.

(d) Any member of the Florida Retirement System or an existing system who is eligible for membership in the Senior Management Service Class as provided in paragraph 60S-1.0057(1)(d), F.A.C., may elect to participate in the Optional Retirement Program of the State University System as provided in Section 121.35, F.S., and Chapter 60U, F.A.C., in lieu of the SMSC as follows:

1. Such election shall be made in writing, as provided in subsection 60S-1.0057(3), F.A.C., and filed with the personnel office of the employer and the Division within 90 days after employment begins in a Senior Management Service Class position.

2. Any such eligible employee who fails to elect to participate in the Optional Retirement Program of the State University System or to make the election as provided in paragraph 60S-1.0057(2)(a), F.A.C., within such 90-day period, shall be a compulsory member of the Senior Management Service Class as provided in subsection 60S-1.0057(1), F.A.C.

(e) Effective July 1, 1997, within 6 months of assuming office or within 6 months of July 1, 1997, the following elected officers eligible for membership in the Elected Officers' Class as provided in subsection 60S-1.0055(1), F.A.C., may elect membership in the Senior Management Service Class in lieu of the Elected Officers' Class:

1. Any elected state officer; and
2. Any elected county, city, or special district officer.

(f) Assistant state attorneys, assistant statewide prosecutors, assistant public defenders, and assistant capital collateral regional counsels shall not be eligible to participate in the Senior Management Service Optional Annuity Program.

(3) Employees who are eligible to participate in the Senior Management Service Class shall complete and submit to the Division of Retirement the following:

(a) State employees –

1. Employees who elect to participate in the Senior Management Service Class or the Senior Management Service Class Optional Annuity Program, as provided in paragraph

60S-1.0057(2)(b), F.A.C., shall complete and submit Form SMS-1, Senior Management Service Class Optional Annuity Program (SMSOAP)/FRS Ballot/Enrollment Form, and Form FRS-M10, Personal History Record, adopted in Rule Chapter 60S-9, F.A.C.

2. Elected officers who elect to participate in the Senior Management Service Class, as provided in paragraph 60S-1.0057(2)(e), F.A.C., or the Senior Management Service Class Optional Annuity Program as provided in paragraph 60S-1.0057(2)(b), F.A.C., Employees who elect to participate in the Senior Management Service Class Optional Annuity Program, as provided in 60S-1.0057(2)(b), shall complete and submit Form SMS-1, Senior Management Service Class Optional Annuity Program (SMSOAP)/FRS Ballot/Enrollment Form or Form EOC-1, Florida Retirement System Ballot Form for Employees of Elected Officers' Class, adopted in Rule Chapter 60S-9, F.A.C.

(b) Local employees

1. Employees who elect to participate in the Senior Management Service Class shall complete and submit Form SMS-3, and Form SMSC Senior Management Service Class Ballot/Enrollment Form; for Local Agency Employees, and Form FRS-M10, Personal History Record, adopted in Rule Chapter 60S-9, F.A.C.

2. Employees who elect to withdraw from the Florida Retirement System altogether and participate in a lifetime annuity program provided by the local agency, as provided in paragraph 60S-1.0057(2)(c), F.A.C., shall complete and submit Form SMS-3, and Form SMSC Senior Management Service Class Ballot/Enrollment Form; for Local Agency Employees.

(4) No change.

Specific Authority 121.031 FS. Law Implemented 27.701, 121.055 FS. History—New 1-12-87, Amended 2-7-89, 9-5-90, 11-14-91, Formerly 22B-1.0057, Amended 1-25-94, 8-4-94, 12-12-96, 2-24-99, \_\_\_\_\_.

NAME OF PERSON ORIGINATING PROPOSED RULE:  
Erin Sjostrum, Director, Division of Retirement

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Erin Sjostrum, Director, Division of Retirement

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: April 14, 2003

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: April 25, 2003

**DEPARTMENT OF MANAGEMENT SERVICES**

**Division of Retirement**

RULE CHAPTER TITLE:	RULE CHAPTER NO.:
Creditable Service	60S-2
RULE TITLES:	RULE NOS.:
Statements of Policy	60S-2.002
Credit for Prior Service	60S-2.004

Credit Toward Special Risk Normal Retirement Date	60S-2.0041
Credit for Military Service	60S-2.005
Credit for Leaves of Absence Under the Florida Retirement System	60S-2.006
Credit for Out-of-State and In-State Service	60S-2.007
Creditable Service Upon the Death of a Member	60S-2.010
Credit for Upgraded Previous Service	60S-2.013
Value of Each Year of Creditable Service	60S-2.015

PURPOSE, EFFECT AND SUMMARY: To revise the rules to reflect current legislative mandates, delete obsolete language and language that is without statutory authority.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COST: None.

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

SPECIFIC AUTHORITY: 121.031 FS.

LAW IMPLEMENTED: 121.011, 121.021, 121.051, 120.0511, 121.052, 121.053, 121.0515, 121.055, 121.081, 121.091(8), 121.122, 240.3195 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: 10:00 a.m., May 29, 2003

PLACE: Department of Management Services, 4050 Esplanade Way, Suite 260, Room 260L, Tallahassee, Florida  
Pursuant to the provision 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 below.

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULES IS: Sonja P. Mathews, Assistant General Counsel, Department of Management Services, 4050 Esplanade Way, Suite 260, Tallahassee, Florida 32399-0950, (850)487-1082, mathews@dms.state.fl.us.

THE FULL TEXT OF THE PROPOSED RULES IS:

60S-2.002 Statements of Policy.

(1) through (2) No change.

(3) The method provided in subsection (4) for determining service credit shall apply to all employees who retire on or after October 1, 1974, under the Florida Retirement System (Chapter 121, ~~Florida Statutes F.S.~~), the Teachers' Retirement System (Chapter 238, ~~Florida Statutes F.S.~~), the State and County Officers and Employees' Retirement System (Chapter 122, ~~Florida Statutes F.S.~~), the Highway Patrol Pension Trust Fund (Sections 321.15-.222, ~~Florida Statutes F.S.~~), the Public Officers and Employees' General Provisions (Section 112.05,

~~Florida Statutes F.S.)~~ and the Judicial Retirement System (Chapter 123, ~~Florida Statutes F.S.~~). The method provided in subsection (4) for determining service credit shall apply to any service earned through employment with an employer under the retirement system, except as otherwise provided in Chapters 121 and 238, F.S. including prior and past service, but it shall not apply to out-of-state service purchased under the Teachers' Retirement System, leave of absence service, military service, or Workers' Compensation service.

(4) Method for determining retirement service credit:

(a) A member's retirement service credit shall be measured in terms of years and fractions; thereof during each ~~July 1 through June 30~~ fiscal year, as defined in Section 6.001(28), F.S. A year of service credit consists of 12 months of service credit in a ~~July 1 through June 30~~ fiscal year (July 1 through June 30), except as otherwise provided herein pursuant to the Florida Statutes for employees whose approved work year is less than 12 months or whose approved service credit year is not July 1 through June 30. A member who earns 12 full months of service credit during the service credit year shall be granted one year of service credit for that year. A member who earns less than 12 months of service credit, except when a work year less than 12 months has been approved pursuant to Florida Statutes, shall receive a fraction of a year of service credit, such fraction to be determined by dividing the number of months and fractions thereof of service credit earned by 12. A member for whom a shorter work year has been approved pursuant to law shall receive a year of service credit if he earns a full month of service credit for each month of the approved work year. If such member earns service credit for fewer months than comprise his work year, he shall receive a fraction of a year of service credit, such fraction to be determined by dividing the number of months and fractions thereof of service earned by the number of months in the approved work year.

(b) The approved work year pursuant to Florida Statutes for the purpose of determining service credit in accordance with this policy is as follows:

1. Academic or instructional employees (including substitute teachers eligible for membership) of a district school board, community college, or state university: The work year shall be the number of months in the full contract year or nine months, whichever is greater, as specified by the contract between the employee and the school system in accordance with law (Chapters 228 and 230, ~~Florida Statutes F.S.~~). The approved work year for any member included in the definition of "teacher" in ~~Section s. 238.01(4), Florida Statutes F.S.~~, who is not an employee of a district school board, community college, or state university, but whose work year is less than twelve months, shall be the school or contract year or nine months, whichever is greater, as approved by the Division of Retirement.

2. Non-academic or non-instructional employees (including teacher aides) of a district school board, community or junior college, or state university; or employees of a participating employer other than a school board whose total employment is to provide services to a school board for the school year only: The work year shall be the number of months in the school year, or nine months, whichever is greater, as certified by the employing agency, subject to review and approval by the Division of Retirement.

3. Seasonal employees (pursuant to Sections ss.121.051(6)(a) and 122.07, Florida Statutes F.S.): The work year shall be 12 months during the July 1 through June 30 fiscal year.

4. All other employees: The work year shall be 12 months during the July 1 through June 30 fiscal year.

5. An employee of any district school board, community or junior college, or state university, who moves from one position to another position having a different approved work year: If all employments are with any school, college, or university system of the state, all of his service credit for that fiscal year shall be based on the shortest work year under which any service credit was earned. If all employments are not with a school, college, or university system of the state, the employee's service credit for that fiscal year shall be based on each of the different work years under which service credit was earned.

(c) through (g) No change.

~~(5) A break in service shall occur when there is an interruption in the continuous and consecutive service of a member, except that:~~

~~(a) A member who leaves a position of employment (other than a temporary position) with a covered employer to enter active military service, returns to the same employer and receives retirement credit for all such military service that he is eligible to claim in accordance with Rule 60S-2.005(1) shall have continuous service. No period of unemployment subsequent to date of discharge and prior to reemployment with such employer shall be counted as creditable service.~~

~~(b) A member who returns to work from an authorized leave of absence immediately upon termination of his leave of absence shall have continuous service if he receives retirement credit for the entire period of the leave of absence.~~

~~(c) A member whose employment is interrupted by dismissal or suspension and who is later reinstated after having been found to have been dismissed or suspended without just cause shall have continuous service, provided he is reinstated for the period of dismissal or suspension and the required contributions are paid for the period. A member shall receive a full month of retirement service credit based on the full or partial salary he receives for the period he is reinstated.~~

~~(d) A member who retires on disability and recovers and reenters employment of an employer within 6 months after his date of recovery, shall have continuous service, but the period~~

~~beginning with the first month for which he received a disability benefit payment and ending with the date he reentered employment will not be counted as creditable service for the purpose of computing benefits.~~

~~(e) A state law enforcement officer who meets the criteria specified in Rule 60S-1.0051 and who is laid off from his position as provided in Section 110.203(24), F.S. shall be deemed to have continuous service provided the member is reemployed as a state law enforcement officer within 12 calendar months of the date of the layoff. The period of layoff shall not be counted as creditable service.~~

~~(f) A law enforcement officer who meets the criteria specified in Rule 60S-1.0051 who was a member of the State and County Officers and Employees Retirement System or the Florida Highway Patrol Pension System and resigned his employment shall be deemed to have continuous service provided the member was reemployed as a law enforcement officer with an FRS employer within 12 calendar months of the date of his resignation.~~

~~(g) A state law enforcement officer who meets the criteria specified in Rule 60S-1.0051 who resigns his employment to run for an elected office which meets the criteria specified in Rule 60S-1.0051 shall be deemed to have continuous service provided the member is reemployed as a state law enforcement officer or is elected to office within 12 calendar months of the date of his resignation.~~

~~(h) A correctional officer who meets the criteria specified in 60S-1.0053 and whose membership is terminated due to privatization of a county detention facility shall be deemed to have continuous service provided that within 3 years after privatization the contract is terminated and the member returns to employment with the former employer, or within 1 year after his initial termination of employment due to privatization he is employed by any covered employer in a special risk position. The period of employment following the member's termination of membership due to such privatization and prior to the member's return to employment with a covered employer shall not be counted as creditable service.~~

Specific Authority 121.031 FS. Law Implemented 121.021, 121.031, 121.0515, 121.091, 121.111 FS. History—New 1-1-72, Amended 10-20-72, Repromulgated 12-31-74, Amended 12-31-74, 1-16-77, 7-1-79, 12-22-80, 8-26-81, 2-6-84, 11-6-84, 4-17-85, Formerly 22B-2.02, Amended 2-4-86, 3-11-87, 9-5-90, Formerly 22B-2.002, Amended 2-24-99,\_\_\_\_\_.

60S-2.004 Credit for Prior Service.

(1) through (6) No change.

(7) Educational Leave with Pay – Employees of a state agency, who were members of a state administered retirement system and who were granted educational leave with pay pursuant to a written educational leave with pay policy, may claim such periods of educational leave as prior service subject to the following conditions:

(a) The educational leave must have occurred prior to December 31, 1971; and

(b) The member must satisfy the vesting requirements as provided in Rule 60S-4.003, F.A.C., have completed at least 10 years of creditable service excluding the period of the educational leave; and

(c) The employee must have returned to employment with a state agency that participated in the state administered retirement system, and the return must have been immediately upon termination of the educational leave, and the employee must have remained on the employer's payroll for at least one calendar month ~~30 calendar days~~ following his return to employment; and

(d) through (g) No change.

Specific Authority 121.031 FS. Law Implemented 121.021, 121.081 FS. History—New 1-1-72, Amended 10-20-72, 1-16-77, 7-1-79, 1-19-82, 11-6-84, Formerly 22B-2.04, Amended 2-4-86, 3-11-87, 2-7-89, Formerly 22B-2.004, Amended \_\_\_\_\_.

60S-2.0041 Credit Toward Special Risk Normal Retirement Date.

Credit toward Special Risk Normal retirement date is earned for special risk service, high hazard service in the State and County Officers and Employees' Retirement System, and service earned in the Highway Patrol Pension Fund. In addition, a Special Risk member or a former Special Risk member may receive credit toward such date for the following service:

(1) Service in the State and County Officers and Employees' Retirement System; service as a correctional counselor with the Department of Corrections between December 1, 1970 and September 30, 1979 including such service for which the member received a refund and which was reclaimed as prior service; or service in the State and County Officers and Employees' Retirement System (Chapter 122, F.S.) or in the Highway Patrol Pension Fund (Chapter 321, F.S.) for which the member received a refund and which was reclaimed as prior service under the Florida Retirement System. Such service shall have been performed as provided below:

(a) The position filled at that time shall satisfy the criteria as provided in Rule 60S-1.0051, 60S-1.0052 or 60S-1.0053, F.A.C., of these rules, except the requirement for a certificate or waiver of certificate. Verification that the position satisfies the criteria shall be provided by the agency on the forms provided by the Division and must be approved by the Division.

(b) The percentage value of each year shall remain the value determined under the system to which the member belonged when such service was performed; except that service for which a refund was received under Chapters 122 and 321, F.S., and which was reclaimed under the Florida Retirement System, shall have the percentage value of the Florida Retirement System Regular Class.

(c) No additional contributions shall be required for this credit.

(2) Service earned in the Special Risk Administrative Support Class, as provided below:

(a) The required conditions stated in Rule 60S-1.0054, F.A.C., shall be met.

(b) The member must, prior to retirement, satisfy the vesting requirements for the Special Risk Class ~~earn prior to retirement a total of 10 years of special risk service~~, which may include creditable service earned as a member of the Highway Patrol Pension System, the High Hazard class of the State and County Officers and Employees' Retirement System, service claimed under subsection 60S-2.0041(1), F.A.C., and/or past service claimed under paragraph 60S-2.003(1)(g) or (3)(g), F.A.C.

(c) The percentage value of each year earned in the Special Risk Administrative Support Class shall be the value of regular membership in the Florida Retirement System.

(d) Retroactive coverage in the Special Risk Administrative Support Class shall be granted as follows:

1. Any member filling an administrative support position during the period October 1, 1978 through June 30, 1982, shall be covered, provided the member meets the requirements of subsection 60S-1.0054(2), F.A.C., and was:

a. Removed from Special Risk membership effective October 1, 1978, due to a change in special risk criteria ~~as a result of the enactment of Chapter 78-308, Laws of Florida~~; or

b. Was reassigned or employed for training and/or career development or to fill a critical agency need.

2. The member must apply to the Division of Retirement and complete Section 2 of Application for Special Risk Administrative Support Class membership (FRS-404) prior to retirement to claim such credit. The employing agency at the time the service was performed shall complete the portion of the form verifying that the member filled a Special Risk Administrative Support Class position and retained his certification per Rule 60S-1.0051, 60S-1.0052 or 60S-1.0053, F.A.C., during the retroactive period.

3. Service in the Special Risk Administrative Support Class shall be granted without payment of additional contributions for the period October 1, 1978 through June 30, 1982.

Specific Authority 121.031 FS. Law Implemented 121.021, 121.0515 FS. History—New 1-19-82, Amended 10-12-82, Formerly 22B-2.041, Amended 2-7-89, Formerly 22B-2.0041, Amended \_\_\_\_\_.

60S-2.005 Credit for Military Service.

(1) Military Leave of Absence – A member may receive up to 5 years of retirement credit, or more if required for the convenience of the Federal Government as provided in ~~section 2024~~ of the Uniformed Services Employment and Reemployment Rights Act ~~Veterans' Reemployment Rights Act~~, for active military service in the Armed Forces of the United States which interrupts continuous employment, regardless of whether or not an official leave of absence was granted, in accordance with the following:

(a) The member must be entitled to reemployment under the provisions of the Uniformed Services Employment and Reemployment Rights Act ~~Veterans' Reemployment Rights Act~~, 38 U.S.C. §§ ~~2021 et seq.~~, or other law applicable to such reemployment which provides that:

1. The member shall have been employed in a position other than temporary, and shall have left that position for the purpose of induction into the Armed Forces of the United States or entry for active duty in the Armed Forces of the United States. When applied to the Florida Retirement System, "a position other than temporary" shall mean a regularly established position with a Florida Retirement System employer, and it shall be construed that the member left his employment for military purposes if he reported for active duty within 60 days of leaving such employment, unless a determination of the member's entitlement to reemployment under the Uniformed Services Employment and Reemployment Rights Act ~~Veterans' Reemployment Rights Act~~ is made by the Veterans' Administration and submitted to the Division of Retirement by the member; and

2. The member shall have been discharged from the military service under honorable conditions; and

3. The member shall have applied for reemployment with the same employer within 90 days from his date of discharge or separation from active military service or within the time limits set forth in ~~sections 2021 or 2024~~ of the Uniformed Services Employment and Reemployment Rights Act ~~Veterans' Reemployment Rights Act~~ for hospitalization continuing after discharge, and was reemployed by such employer; and

(b) through (d) No change.

(2) Wartime Military Service – A member whose initial date of employment in a regularly established position is before January 1, 1987, who has full-time, active "wartime" military service, other than active duty for training or attendance at a military academy, in the Armed Forces of the United States or in the Allied Forces for which he is not eligible to receive retirement credit as provided in subsection 60S-2.005(1), F.A.C., may receive retirement credit for such active wartime military service, not to exceed a total of 4 years, provided that:

(a) through (c) No change.

(d) The member ~~is vested~~ ~~has completed a minimum of 10 years of creditable service, or 8 years of creditable service as an elected state officer member,~~ and

(e) through (j) No change.

Specific Authority 121.031, 121.052(7) FS. Law Implemented 121.021, 121.111, 121.052(5)(d) FS. History–New 1-1-72, Amended 10-20-72, Repromulgated 12-31-74, Amended 1-16-77, 7-1-79, 1-19-82, 4-17-85, Formerly 22B-2.05, Amended 2-4-86, 2-7-89, 11-14-91, Formerly 22B-2.005, Amended 3-18-93, 4-5-95, 12-12-96, 2-24-99,\_\_\_\_\_.

60S-2.006 Credit for Leaves of Absence Under the Florida Retirement System.

(1) A member may receive retirement credit for a total of two work years of creditable service for authorized leaves of absence under the Florida Retirement System, subject to the following:

(a) A leave of absence must be authorized in writing by a member's employer prior to or during the leave of absence.

(b) The member must satisfy the service requirements for vesting ~~complete a minimum of 10 years of creditable service to be vested~~, excluding any periods of leave of absence, except for military leaves of absence as provided in subsection 60S-2.005(1), F.A.C., prior to receiving a retirement credit for leaves of absence.

(c) The member must return to active employment performing service with a Florida Retirement System employer in a regularly established position immediately upon termination of the leave of absence and remain on the employer's payroll for one calendar month. The exceptions to this requirement are:

1. A member placed on a leave of absence for medical reasons who retires on disability while on the leave of absence shall not be required to return to employment in order to be eligible to receive credit for the leave of absence; and

2. A member whose work year is less than 12 months and whose leave of absence terminates between school years shall be eligible to receive credit for the leave of absence as long as he or she returns to covered employment at the beginning of the next school year and remains on the employer's payroll for one calendar month.

(d) The leave of absence must occur after the employee becomes a member of the Florida Retirement System.

(e) The required contributions must be made in accordance with Rule 60S-3.007, F.A.C.

(f) Such leave of absence shall include an unpaid leave as provided under the federal Family and Medical Leave Act of 1993 granted for up to 12 weeks to care for children at birth or adoption, or to care for a seriously ill child, spouse, or parent, or for the member's own serious illness.

(2) through (7) No change.

Specific Authority 121.031 FS. Law Implemented 121.071, 121.121 FS. History–New 1-1-72, Amended 10-20-72, 12-31-74, 1-16-77, 7-1-79, 8-26-81, 1-18-83, Formerly 22B-2.06, Amended 3-11-87, 2-7-89, 11-14-91, Formerly 22B-2.006, Amended 8-4-94, 2-24-99,\_\_\_\_\_.

60S-2.007 Credit for Out-of-State and In-State Service.

(1) through (2) No change.

(3) A member of the Florida Retirement System may purchase credit for up to 5 years of out-of-state public employment; employment with the federal government (which may include military service not claimed under Rule 60S-2.005, F.A.C.); non-FRS, in-state public employment; or

in-state employment in charter schools, charter technical career centers, or nonpublic schools and colleges accredited by the Southern Association of Colleges and Schools; as follows:

(a) through (b) No change.

(c) To receive credit for such service, the member must ~~satisfy the service requirements for vesting have completed at least 10 years of creditable service~~ in the Florida Retirement System, which can include service in an existing system, and which excludes any service purchased under this subsection.

(d) Prior to ~~satisfying the service requirements for vesting completing 10 years of creditable service~~ in the Florida Retirement System, a member may purchase credit for one year of service under this subsection after the completion of one year of creditable service; with the purchase of additional years of service being allowed on a year for year basis, up to the five-year maximum. However, such service will not be creditable until after the member has satisfied the service requirements for vesting completion of 10 years of creditable service under the Florida Retirement System.

(e) through (h) No change.

Specific Authority 121.031 FS. Law Implemented 238.06(4), 120.045, 122.07, 121.021, 121.051(6)(a), 121.1115, 121.1122 FS. History—New 1-1-72, Amended 8-20-75, 8-5-76, 7-1-79, Formerly 22B-2.07, 22B-2.007, Amended 3-18-93, 4-5-95, 12-12-96, 2-24-99, \_\_\_\_\_.

60S-2.010 Creditable Service Upon the Death of a Member.

(1) through (3) No change.

(4) The surviving spouse of an elected officer who dies in office before he or she is vested, but who would have become vested if the officer had lived to complete his or her term of office, may leave his contributions in the retirement system, or repay, according to paragraph 60S-3.005(1)(a) or (b), F.A.C., any refund of the member's contributions the spouse may have elected to receive as provided in subsection 60S-4.008(1), F.A.C., and purchase additional creditable service based on the officer's incomplete term of office. Such service shall be equal to the number of years required for vesting at least 10 years of any creditable service, or 8 years of creditable service in the Elected Officers' Class, or a greater amount not to exceed the incomplete term of office. Such service shall not be purchased until on or after the date the deceased member would have completed the service being claimed. The surviving spouse may purchase such additional creditable service by making the contributions required by subsection 60S-3.012(2), F.A.C., and shall thereupon be eligible to receive such monthly benefit that is payable to the surviving spouse of a member who dies after becoming vested as provided in Rule 60S-4.008, F.A.C.

(5) Notwithstanding any other provisions in this chapter to the contrary, the surviving spouse, or other eligible joint annuitant, of a member whose employment is terminated by death within one year of such member satisfying the service

requirements for vesting, shall be permitted to purchase only the additional service credit necessary to provide for vesting and retirement eligibility of the deceased member, as follows:

(a) Such purchase shall be by ~~only one~~ or a combination of both of the following methods:

1. Such spouse or joint annuitant may use the deceased member's accumulated hours of annual, sick, and compensatory leave to purchase additional creditable service in accordance with paragraph 60S-3.012(3)(a), F.A.C., on an hour for hour basis, provided such deceased member's accumulated leave is sufficient to cover the additional months required. For each month of service credit needed prior to the final month, credit for the total number of work hours in that month must be purchased, using an equal number of the deceased member's accumulated leave hours. Service credit required for the final month in which the deceased member would have become vested shall be awarded upon the purchase of one hour of credit. Accumulated annual leave hours cannot be used to both increase the average final compensation and purchase additional creditable service; or

2. Such spouse or joint annuitant may purchase additional months of creditable service, up to a maximum of one year, for any periods of out-of-state or in-state service as provided in paragraph 60S-3.012(3)(b), F.A.C., that the deceased member would have been eligible to purchase after becoming vested, prior to his or her death.

(b) through (c) No change.

Specific Authority 121.031 FS. Law Implemented 121.021, 121.052(12)(c) 121.091(7), ~~421.413~~ FS. History—New 1-1-72, Amended 10-20-72, 11-18-72, Repromulgated 12-31-74, Formerly 22B-2.10, Amended 3-11-87, Formerly 22B-2.010, Amended 2-24-99, \_\_\_\_\_.

60S-2.013 Credit for Upgraded Previous Service.

(1) through (2) No change.

(3) If the member does not claim credit for all of the previous service as provided in (1), ~~and (2), (5), and (6)~~, the service claimed must be the most recent period of service.

(4) No change.

(5) A state attorney or state public defender in the Elected Officers' Class may purchase additional retirement credit in the Senior Management Service Class for previous service as an assistant state attorney or assistant state public defender in accordance with (2).

(6) A Special Risk member may upgrade to the Special Risk Class previous service that included fire prevention or firefighter training within the purview of the Special Risk Class as provided in subsection 60S-1.0052(2), F.A.C., provided that:

(a) He notifies the Division in writing of his desire to receive credit for such service, and

(b) The required contributions are made in accordance with subsection 60S-3.012(4), F.A.C.



Specific Authority 121.052(7) FS. Law Implemented 121.052, 121.055 FS. History—New 10-20-72, Amended 12-31-74, 1-16-77, 7-1-79, 8-26-81, 4-17-85, Formerly 22B-2.13, Amended 3-11-87, 9-5-90, 5-15-91, 11-14-91, Formerly 22B-2.013, Amended 4-5-95, 2-24-99,\_\_\_\_\_.

60S-2.015 Value of Each Year of Creditable Service.

(1) All creditable service earned and claimed under the State and County Officers and Employees Retirement System, the Judicial Retirement System, the Teachers' Retirement System, and the Highway Patrol Pension System, by a former member of one of those systems who becomes a member of the Florida Retirement System, shall be added to the creditable service the member earns under the Florida Retirement System and shall have the value authorized by the retirement system under which the creditable service was earned and claimed.

(2) Each complete year of creditable service earned and claimed under the Florida Retirement System shall have the percentage value indicated below, which shall represent the percentage of the member's average final compensation (AFC) that each complete year of creditable service having that same percentage value shall entitle him to receive under Option 1 upon his normal retirement:

(a) No change.

(b) Each year of creditable service earned as a special risk member shall be worth:

2% of AFC for service from December 1, 1970 through September 30, 1974;

3% of AFC for service from October 1, 1974 through September 30, 1978;

2% of AFC for service from October 1, 1978 through December 31, 1988;

2.2% of AFC for service from January 1, 1989 through December 31, 1989;

2.4% of AFC for service from January 1, 1990 through December 31, 1990;

2.6% of AFC for service from January 1, 1991 through December 31, 1991;

2.8% of AFC for service from January 1, 1992 through December 31, 1992; and

3% of AFC for service on and after January 1, 1993.

Effective July 1, 2000, for members retiring after that date, 3% of AFC for service on and after October 1, 1978.

(c) Each year of creditable service as a special risk administrative support member shall be worth:

When the member has satisfied the vesting requirements for the Special Risk Class ~~retiring with 10~~ but has less than 25 years of creditable special risk administrative support and special risk service, the administrative support service shall be worth:

1.60% of AFC at age 55

1.63% of AFC at age 56

1.65% of AFC at age 57

1.68% of AFC at age 58 or over, not to exceed 1.68%;

OR

When retiring with 25 or more years of creditable special risk administrative support and special risk service that includes credit for military service, the administrative support service shall be worth the greater of:

1.60% of AFC with a minimum of 25 years of creditable service at age 52 or older, or

1.63% of AFC with a minimum of 26 years of creditable service at age 53 or older, or

1.65% of AFC with a minimum of 27 years of creditable service at age 54 or older, or

1.68% of AFC with a minimum of 28 years of creditable service at age 55 or older, not to exceed 1.68%;

OR

When retiring with 25 or more years of creditable special risk administrative support and special risk service, regardless of age, the administrative support service shall be worth:

1.60% of AFC with 25 years of creditable service

1.63% of AFC with 26 years of creditable service

1.65% of AFC with 27 years of creditable service

1.68% of AFC with 28 or more years of creditable service, not to exceed 1.68%

(d) through (e) No change.

Specific Authority 121.031 FS. Law Implemented 121.091(1), 121.021, 121.052(10), 121.055 FS. History—New 10-20-72, Amended 12-31-74, 7-21-75, 7-1-79, 1-18-83, 5-11-83, 2-6-84, 4-17-85, Formerly 22B-2.15, Amended 1-12-87, 2-7-89, 9-5-90, 5-15-91, Formerly 22B-2.015, Amended 1-25-94, 4-5-95,\_\_\_\_\_.

NAME OF PERSON ORIGINATING PROPOSED RULE: Erin Sjostrum, Director, Division of Retirement

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Erin Sjostrum, Director, Division of Retirement

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: April 14, 2003

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: April 25, 2003

**DEPARTMENT OF MANAGEMENT SERVICES**

**Division of Retirement**

RULE CHAPTER TITLE: Contributions  
RULE CHAPTER NO.: 60S-3

RULE TITLES: Statements of Policy  
RULE NOS.: 60S-3.002

Retirement Contributions for Regular, Special Risk, Elected Officer, Special Risk Administrative Support and Senior Management Service Classes of the Pension and Investment Plans of the Florida Retirement System; Contributions for the Retiree Health Insurance Subsidy; and Contributions for the Deferred Retirement Option Program 60S-3.003

Interest Rate on Payments for Creditable Service 60S-3.0035

Retirement Contributions for Military Service Credit	60S-3.006
Retirement Contributions for Out-of-State and In-State Service Credit	60S-3.008
Payment of Contributions	60S-3.011
Retirement Contributions for Creditable Service upon the Death of a Member	60S-3.012
Retirement Contributions for Upgraded Previous Service Credit	60S-3.013

PURPOSE, EFFECT AND SUMMARY: To revise the rules to reflect current legislative mandates, delete obsolete language and language that is without statutory authority.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COST: None.

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

SPECIFIC AUTHORITY: 121.031 FS.

LAW IMPLEMENTED: 121.011, 121.021, 121.051, 120.0511, 121.052, 121.053, 121.0515, 121.055, 121.081, 121.091(8), 121.122, 240.3195 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: 10:00 a.m., May 29, 2003

PLACE: Department of Management Services, 4050 Esplanade Way, Suite 260, Room 260L, Tallahassee, Florida  
Pursuant to the provision 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 below.

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULES IS: Sonja P. Mathews, Assistant General Counsel, Department of Management Services, 4050 Esplanade Way, Suite 260, Tallahassee, Florida 32399-0950, (850)487-1082, mathews@dms.state.fl.us

THE FULL TEXT OF THE PROPOSED RULES IS:

60S-3.002 Statements of Policy.

(1) through (3) No change.

(4) The required employee contributions for all service other than current service, including but not limited to prior service, past service, military service, ~~and~~ leave of absence service, and out-of-state and in-state service, shall be paid by cash, personal check, cashier's check, or money order ~~only~~; Direct rollovers from eligible retirement plans as described in 401(a)(31), Internal Revenue Code, will be accepted for the purchase of creditable service. Such contributions shall be accompanied by a statement identifying the service for which

payment is made; and shall be made in a lump sum for the total amount due or in annual payments of not less than \$100, except for the final payment if less than \$100, unless another method of payment is authorized in these rules. Interest will be added annually to any unpaid balance not received at the Division on or before June 30 as provided in Rule 60S-3.0035, F.A.C.

(5) The required contributions for any service that have not been made prior to a member's retirement ~~or death~~ may not be made by any person after the member's retirement ~~or death~~. The required contributions for any service that have not been made by the member before his or her death prior to retirement may be made only by those authorized to purchase such service ~~except~~ as provided in Rules 60S-2.010 and 60S-3.012, F.A.C.

(6) through (7) No change.

Specific Authority 121.031 FS. Law Implemented 112.215(13), 121.031, 121.091(7), 121.71, FS. History--New 1-1-72, Amended 10-20-72, 12-31-74, 1-16-77, 8-26-81, 1-19-82, Formerly 22B-3.02, Amended 5-15-91, Formerly 22B-3.002, Amended 8-4-94, \_\_\_\_\_.

60S-3.003 Retirement Contributions for Regular, Special Risk, Elected Officer, Special Risk Administrative Support and Senior Management Service Classes of the Pension and Investment Plans of the Florida Retirement System; Contributions for the Retiree Health Insurance Subsidy; and Contributions for the Deferred Retirement Option Program.

The following tables state the required retirement and Retiree Health Insurance Subsidy contribution rates for members of the Florida Retirement System and their employers in terms of percentages of members' gross compensation as defined in Rule 60S-6.001, F.A.C.; however, effective July 1, 1990, retirement contributions shall not be made on fiscal year compensation in excess of the Internal Revenue Code (IRC) Section 401(a)(17) maximum as provided in the definition of Compensation in Rule 60S-6.001, F.A.C. Contribution rates for both members and employers have changed since they were originally established and these changes are reflected in these tables. Employer contribution rates for the Florida Retirement System Investment Plan are effective on and after July 1, 2002. Changes in the contribution rates are always effective with the first salary paid on or after the beginning date of a change. Contributions are required to be made or deducted as may be appropriate, each pay period.

Effective July 1, 2002, contribution rates represent a blended rate actuarially determined to combine the Pension Plan and Investment Plan rates, by class, (including the Investment Plan disability rates), reduced by application of funds from the surplus in the Florida Retirement System Trust Fund.

(1) Retirement contributions for regular members are as follows:

Dates of Rate Changes	Members	Employers	January 1, 1996, through		
December 1, 1970 through			June 30, 1996	0%	17.00%
December 31, 1974, for state agencies, state universities, community colleges and district school boards	4%	4%	July 1, 1996, through June 30, 1998	0%	16.77%
December 1, 1970 through September 30, 1975, for county agencies, cities and special districts	4%	4%	<u>Effective July 1, 1998 through June 30, 1999</u>	0%	15.51%
January 1, 1975 through September 30, 1978, for state agencies and state universities	0%	9%	<u>July 1, 1999 through June 30, 2000</u>	<u>0%</u>	<u>9.21%</u>
January 1, 1975 through July 31, 1978, for community colleges and district school boards	0%	9%	<u>Effective July 1, 2000 through June 30, 2001</u>	<u>0%</u>	<u>8.11%</u>
October 1, 1975 through September 30, 1978, for county agencies, cities and special districts	0%	9%	<u>July 1, 2001 through June 30, 2002</u>	<u>0%</u>	<u>6.09%</u>
August 1, 1978 through September 30, 1981, for community colleges and district school boards	0%	9.1%	<u>Effective July 1, 2002</u>	<u>0%</u>	<u>4.50%</u>
October 1, 1978 through September 30, 1981, for state agencies, state universities, county agencies, cities, and special districts	0%	9.1%	(2) Retirement contributions for special risk members are as follows:		
October 1, 1981 through September 30, 1984	0%	10.93%	Dates of Rate Changes	Members	Employers
October 1, 1984 through September 30, 1986	0%	12.24%	December 1, 1970 through September 30, 1974	6%	6%
October 1, 1986 through December 31, 1988	0%	13.14%	October 1, 1974 through December 31, 1974, for state agencies, state universities, community colleges, and district school boards	8%	8%
January 1, 1989, through December 31, 1989	0%	13.90%	October 1, 1974 through September 30, 1975, for county agencies, cities and special districts	8%	8%
January 1, 1990, through December 31, 1990	0%	14.66%	January 1, 1975 through September 30, 1978, for state agencies, state universities, community colleges, and district school boards	0%	13%
January 1, 1991, through December 31, 1991	0%	15.72%	October 1, 1975 through September 30, 1978, for county agencies, cities, and special districts	0%	13%
January 1, 1992, through December 31, 1992	0%	16.51%	October 1, 1978 through September 30, 1981	0%	13.95%
January 1, 1993, through December 31, 1993	0%	17.27%	October 1, 1981 through September 30, 1984	0%	13.91%
January 1, 1994, through December 31, 1994	0%	17.10%	October 1, 1984 through September 30, 1986	0%	14.67%
January 1, 1995, through December 31, 1995	0%	16.91%	October 1, 1986 through December 31, 1988	0%	15.11%
			January 1, 1989 through December 31, 1989	0%	17.50%
			January 1, 1990 through December 31, 1990	0%	19.90%
			January 1, 1991 through December 31, 1991	0%	25.52%
			January 1, 1992 through December 31, 1992	0%	26.35%

January 1, 1993 through December 31, 1993	0%	27.14%
January 1, 1994 through December 31, 1994	0%	27.03%
January 1, 1995 through December 31, 1995	0%	26.83%
January 1, 1996 through June 30, 1996	0%	26.84%
July 1, 1996, through June 30, 1998	0%	26.44%
<u>Effective July 1, 1998 through June 30, 1999</u>	0%	24.38%
<u>July 1, 1999 through June 30, 2000</u>	0%	20.22%
<u>Effective July 1, 2000 through June 30, 2001</u>	0%	19.25%
<u>July 1, 2001 through June 30, 2002</u>	0%	17.23%
<u>Effective July 1, 2002</u>	0%	14.75%

(3) Retirement contributions for Special Risk Administrative Support Class members are as follows:

Dates of Rate Changes	Members	Employers
July 1, 1982 through September 30, 1984	0%	11.14%
October 1, 1984 through September 30, 1986	0%	13.09%
October 1, 1986 through December 31, 1988	0%	15.44%
January 1, 1989 through December 31, 1989	0%	14.76%
January 1, 1990 through December 31, 1990	0%	14.09%
January 1, 1991 through December 31, 1991	0%	20.16%
January 1, 1992 through December 31, 1992	0%	19.51%
January 1, 1993 through December 31, 1993	0%	18.83%
January 1, 1994 through December 31, 1994	0%	18.59%
January 1, 1995 through December 31, 1995	0%	17.81%
January 1, 1996 through June 30, 1996	0%	17.80%
July 1, 1996, through June 30, 1998	0%	17.20%
<u>Effective July 1, 1998 through June 30, 1999</u>	0%	14.64%
<u>July 1, 1999 through June 30, 2000</u>	0%	11.53%
<u>Effective July 1, 2000 through June 30, 2001</u>	0%	10.64%

<u>July 1, 2001 through June 30, 2002</u>	0%	8.62%
<u>Effective July 1, 2002</u>	0%	5.30%

(4) Retirement contributions for Elected Officers' Class members are as follows:

Dates of Rate Changes	Members	Employers
July 1, 1972 through September 30, 1977		
Legislators	8%	8%
All Other Members	8%	8%
October 1, 1977 through September 30, 1978		
Legislators	8%	8%
All Other Members	4%	12%
October 1, 1978 through September 30, 1979		
Legislators	8%	10.57%
All Other Members	4%	16.78%
October 1, 1979 through September 30, 1981		
Legislators	8%	10.57%
Governor, Lt. Governor, Cabinet Officer	4%	16.78%
All Other Members	0%	20.78%
July 1, 1981 through June 30, 1984		
County Elected Officers	0%	19.30%
July 1, 1984 through September 30, 1984		
County Elected Officers	0%	20.25%
October 1, 1981 through September 30, 1984		
Legislators	0%	19.30%
Governor, Lt. Governor, Cabinet Officer	0%	21.03%
State Attorney, Public Defender	0%	20.95%
Justice or Judge	0%	22.55%
October 1, 1984 through September 30, 1986		
Justice or Judge	0%	21.79%
County Elected Officers	0%	16.97%
All Other Members	0%	10.98%
October 1, 1986 through December 31, 1988		
Justice or Judge	0%	20.94%
County Elected Officers	0%	17.19%
All Other Members	0%	11.50%
January 1, 1989 through December 31, 1989		
Justice, Judge	0%	22.58%
County Elected Officers	0%	18.44%
All Other Members	0%	13.70%
January 1, 1990 through December 31, 1990		
Justice, Judge	0%	24.22%
County Elected Officers	0%	19.71%
All Other Members	0%	15.91%
January 1, 1991 through December 31, 1991		
Justice, Judge	0%	26.63%
County Elected Officers	0%	23.32%

All Other Members	0%	17.73%
January 1, 1992 through December 31, 1992		
Justice, Judge	0%	28.27%
County Elected Officers	0%	24.59%
All Other Members	0%	19.94%
January 1, 1993 through December 31, 1993		
Justice, Judge	0%	29.91%
County Elected Officers	0%	25.84%
All Other Members	0%	22.14%
January 1, 1994 through December 31, 1994		
Justice, Judge	0%	30.52%
County Elected Officers	0%	26.07%
All Other Members	0%	22.65%
January 1, 1995 through December 31, 1995		
Justice, Judge	0%	30.21%
County Elected Officers	0%	27.48%
All Other Members	0%	22.80%
January 1, 1996 through June 30, 1996		
Justice, Judge	0%	30.15%
County Elected Officers	0%	27.54%
All Other Members	0%	22.90%
July 1, 1996 through June 30, 1998		
Justice, Judge	0%	29.55%
County Elected Officers	0%	27.33%
All Other Members	0%	23.07%
<u>Effective July 1, 1998 through June 30, 1999</u>		
Justice, Judge	0%	27.21%
County Elected Officers	0%	26.99%
All Other Members	0%	22.33%
<u>July 1, 1999 through June 30, 2000</u>		
Justice, Judge	0%	20.48%
County Elected Officers	0%	17.05%
All Other Members	0%	14.31%
<u>July 1, 2000 through June 30, 2001</u>		
Justice, Judge	0%	19.38%
County Elected Officers	0%	15.95%
All Other Members	0%	13.21%
<u>July 1, 2001 through June 30, 2002</u>		
Justice, Judge	0%	17.35%
County Elected Officers	0%	13.93%
All Other Members	0%	11.19%
<u>Effective July 1, 2002</u>		
Justice, Judge	0%	14.60%
County Elected Officers	0%	10.60%
All Other Members	0%	8.15%

(5) Retirement contributions for Senior Management Service Class members are as follows:

Dates of Rate Changes	Members	Employers
February 1, 1987 through December 31, 1988	0%	13.88%

January 1, 1989 through December 31, 1989	0%	14.95%
January 1, 1990 through December 31, 1990	0%	16.04%
January 1, 1991 through December 31, 1991	0%	18.39%
January 1, 1992 through December 31, 1992	0%	19.48%
January 1, 1993 through December 31, 1993	0%	20.55%
January 1, 1994 through December 31, 1994	0%	23.07%
January 1, 1995 through December 31, 1995	0%	23.88%
January 1, 1996 through June 30, 1996	0%	24.14%
July 1, 1996 through June 30, 1998	0%	21.58%
<u>Effective July 1, 1998 through June 30, 1999</u>	0%	23.10%
<u>July 1, 1999 through June 30, 2000</u>	0%	11.19%
<u>Effective July 1, 2000 through June 30, 2001</u>	0%	10.09%
<u>July 1, 2001 through June 30, 2002</u>	0%	8.07%
<u>Effective July 1, 2002</u>	0%	4.80%

(6) Retirement contributions for any retiree reemployed in a regularly established position by any employer, except for a retiree who is elected or appointed to a position eligible for the Elected Officers' Class shall be as follows:

(a) Prior to July 1, 1991, the contributions for such retiree shall be equal to the unfunded actuarial accrued liability portion of the employer contribution required for Regular Class members.

Dates of Rate Changes	Members	Employers
July 1, 1985 through September 30, 1986	0%	5.71%
October 1, 1986 through December 31, 1988	0%	5.91%
January 1, 1989 through December 31, 1989	0%	3.37%
January 1, 1990 through December 31, 1990	0%	4.13%
January 1, 1991 through June 30, 1991	0%	4.81%

(b) Effective July 1, 1991, such retiree shall be enrolled as a renewed member and the contributions shall be equal to the total contributions required for members of the Regular Class or the Elected Officers' Class, as appropriate members. Effective July 1, 1997, a retiree whose position is assigned to the Senior Management Service Class shall have renewed

membership in the Senior Management Service Class and the contributions shall be equal to the total contributions required for Senior Management Service Class members.

(7) In addition to the above retirement contributions, contributions for the following Retiree Health Insurance Subsidy shall be made for all active and reemployed retired members and for all Deferred Retirement Option Program participants of state-administered retirement systems, ~~and are as follows:~~

(a) Retiree Health Insurance Subsidy:

Dates of Rate Change	Members	Employers
October 1, 1987 through December 31, 1988	0%	0.24%
January 1, 1989 through December 1, 1993	0%	0.48%
January 1, 1994 through December 1, 1994	0%	0.56%
January 1, 1995 through June 30, 1998	0%	0.66%
<del>Effective July 1, 1998 through June 30, 2001</del>	<del>0%</del>	<del>0.94%</del>
<u>Effective July 1, 2001</u>	<u>0%</u>	<u>1.11%</u>

(b) For transfer to the State Board of Administration's Administrative Expense Trust Fund to offset the costs of implementing the Public Employee Optional Retirement Program:

<del>Effective July 1, 2000 through June 30, 2002</del>	<del>0%</del>	<del>0.10%</del>
<u>Effective July 1, 2002</u>	<u>0%</u>	<u>0.15%</u>

(8) Retirement contributions for all participants in the Deferred Retirement Option Program are as follows:

<del>Effective July 1, 1998 through June 30, 2002</del>	<del>0%</del>	<del>11.56%</del>
<u>Effective July 1, 2002</u>	<u>0%</u>	<u>8.00%</u>

Specific Authority 112.363(7), 121.031 FS. Law Implemented 112.363, 121.071, 121.052, 121.055, 121.091(9), 121.122, 121.30, ~~121.70, 121.71, 121.72~~ FS. History—New 1-1-72, Amended 10-20-72, 12-31-74, 7-1-79, 8-26-81, 10-12-82, 11-6-84, 9-24-85, Formerly 22B-3.03, Amended 1-12-87, 5-18-88, 2-7-89, 5-15-91, Formerly 22B-3.003, Amended 8-4-94, 3-12-96, 12-12-96, 2-24-99, \_\_\_\_\_.

60S-3.0035 Interest Rate on Payments for Creditable Service.

The interest rate which shall be charged the member on payments due the Division for the purchase of creditable service shall, unless otherwise specified, be compounded annually each June 30 from the appropriate date as provided in these rules, at 4% through June 30, 1975, and at 6.5% from July 1, 1975 through the date of payment. Payments, as provided in subsection 60S-3.002(4), F.A.C., must be received at the Division on or before June 30 to prevent an additional year's interest being added to the unpaid balance.

Specific Authority 121.031 FS. Law Implemented 121.071, 121.081 FS. History—New 2-4-86, Amended 11-14-91, Formerly 22B-3.0035, Amended \_\_\_\_\_.

60S-3.006 Retirement Contributions for Military Service Credit.

(1) No change.

(2) For Wartime Military Service – A member who wishes to claim retirement credit for wartime military service in accordance with subsection 60S-2.005(2), F.A.C., may make the required contributions for such service only after he has satisfied the service requirements for vesting—completed 10 years of creditable service or 8 years of creditable service as an Elected Officers' Class member. Such military service shall be creditable as regular service only.

(a) and (b) No change.

(3) No change.

Specific Authority 121.031 FS. Law Implemented 121.021, 121.111 FS. History—New 1-1-72, Amended 12-31-74, 8-26-81, 2-6-84, 4-17-85, Formerly 22B-3.06, Amended 2-4-86, 2-7-89, 11-14-91, Formerly 22B-3.006, Amended 3-18-93, \_\_\_\_\_.

60S-3.008 Retirement Contributions for Out-of-State and In-State Service Credit.

(1) through (2) No change.

(3) The required contributions for a member who is eligible to claim credit for out-of-state public employment, federal employment including military service, or in-state non-FRS employment, as provided in subsection 60S-2.007(3), F.A.C., shall be 20 percent multiplied by the member's salary for the first full work year of creditable service the member earned under the Florida Retirement System, or \$12,000, whichever is greater; plus interest at 6.5 percent compounded annually from the date of the first year of creditable service is earned. The employer may pay all or a portion of the cost of this service credit.

Specific Authority 121.031 FS. Law Implemented 121.051(6), 121.1115, 121.1122, 122.07 FS. History—New 1-1-72, Amended 12-31-74, 7-1-79, Formerly 22B-3.08, Amended 5-15-91, Formerly 22B-3.008, Amended 4-5-95, 2-24-99, \_\_\_\_\_.

60S-3.011 Payment of Contributions.

(1) All retirement contributions for current services rendered by covered employees of all state-administered retirement plans shall be paid to the Division of Retirement. The required contribution rate shall be the rate in effect at the time the member is paid, as determined by his class of membership. Retirement contributions and accompanying payroll data for each payroll period are due and payable each month no later than the 20th 5th working day of the month following the month in which covered wages are paid. ~~Provided, however, if the due date falls on a weekend or holiday, the due date shall be the next succeeding workday.~~

(2) Retirement contributions and accompanying payroll data not received at the Division on or before the due date shall be considered delinquent, unless a waiver is granted pursuant to ~~subsection (4)~~ the following or, for participants of the FRS Investment Plan, as provided in Rule 19-11.001, F.A.C. Florida Administrative Code.

(a) If the contributions required pursuant to subsection (1)(a) are delinquent, a fee of 1.0 percent shall be assessed for each calendar month or part thereof that said contributions are delinquent. Such delinquent assessment shall be billed to the employer by invoice upon determination of the contributions due.

(b) Effective January 1, 2000, if the delinquent assessment billed to the employer in paragraph subsection (a) above is not received at the Division within 30 days following the Division's invoice date, an additional delinquent assessment of 1.0 percent on the invoiced amount shall be assessed for each calendar month or part thereof that said invoice is delinquent.

(c) If an additional amount is due as a result of a calculation or plan reporting error in the amount previously contributed, the employer shall be billed by invoice. If the additional contributions are not remitted and postmarked within 30 days following the Division's invoice date, an additional delinquent assessment of 1.0 percent on the invoiced amount shall be assessed for each calendar month or part thereof that said invoice is delinquent. If, due to a calculation or reporting error the amount of contributions reported and remitted are less than the amount required, the employer shall owe the difference, plus the delinquent fee, if applicable, of 1.0 percent on the invoiced amount. If the invoiced amount is not paid within 30 days following the invoice date, an additional delinquent assessment of 1.0 percent shall be added to the invoiced amount each month or part-month thereafter until full payment is submitted. Such delinquent fee paid on behalf of contributions reported late on behalf of a participant of the Investment Plan shall be transferred to the participant's investment account as provided in Rule 19-1.001, F.A.C. Such delinquent fee paid on behalf of contributions reported late on behalf of a participant of the Pension Plan shall be retained in the Florida Retirement System Trust Fund.

(d) In the event delinquent employer contributions and accompanying payroll data result in market losses to the participants of the Investment Plan, the employer is required to reimburse each participant's account for such market losses resulting from the late contributions. Additionally, an administrative fee for the cost of the third-party administrator's calculation of the participant's losses shall be assessed against the employer, as provided in Chapter 121, Part III, F.S., and Rule 19-1.001, F.A.C.

(e) Retirement contributions paid for a prior period shall be charged a delinquent fee of 1.0 percent for each calendar month or part thereof that said contributions should have been paid. This includes prior period contributions due to incorrect wages and contributions from an earlier report or wages and contributions that should have been reported, but were not. This delinquent assessment cannot be waived. If the delinquent assessment is not remitted within 30 days following the Division's invoice date, an additional delinquent

assessment of 1.0 percent on the invoiced amount shall be assessed for each calendar month or part thereof that said invoice is delinquent.

(3) Social Security contributions on wages paid on and after January 1, 1987 shall be paid in accordance with subsection 60S-3.010(3), F.A.C.; Social Security contributions on wages paid prior to such date shall be paid to the Division. ~~If additional contributions are due on wages paid prior to January 1, 1987, the Division shall bill the employer by invoice. If payment each calendar month or part thereof that said contributions is not remitted and postmarked within 30 days following the Division's invoice date, a delinquent assessment of 1.0 percent on the invoiced amount shall be assessed for each calendar month or part thereof that said invoice is delinquent.~~

(4) through (6) No change.

(7) Payment of the required employee retirement contributions for other than current service shall be made in accordance with subsections 60S-3.002(4) and Rule 60S-3.0035, F.A.C.

(8) No change.

(9) The Division will transfer all contributions paid on behalf of the members of the FRS Pension Plan and the participants of the FRS Investment Plan to the appropriate trust funds or third party administrator, as required in Sections 121.72, 121.73, 121.74, 121.75 and 121.76, F.S.

Specific Authority 121.031 FS. Law Implemented 121.052(7), 121.055(3) 121.061, 121.071(3), (5), 121.091(9), 121.113, 121.091(7), 121.71, 121.72, 121.73, 121.74, 121.75, 121.76, FS. History—New 1-1-72, Amended 10-20-72, Repromulgated 12-31-74, Amended 7-1-79, 1-19-82, 10-12-82, 11-6-84, 9-24-85, Formerly 22B-3.11, Amended 5-15-91, Formerly 22B-3.011, Amended 12-30-99,\_\_\_\_\_.

60S-3.012 Retirement Contributions for Creditable Service upon the Death of a Member.

The required contributions for creditable service claimed in accordance with Rule 60S-2.010, F.A.C., by a surviving spouse or other dependent upon the death of a member shall be determined as follows:

(1) through (2) No change.

(3) If a surviving spouse or other eligible joint annuitant claims credit, in accordance with subsection 60S-2.010(5), F.A.C., for a deceased member whose employment is terminated by death within one year of satisfying the service requirements for vesting, the required contributions for service credit necessary to vest and qualify for retirement benefits shall be as follows:

(a) To purchase additional creditable service by using the deceased member's accumulated hours of annual, sick, and compensatory leave credit in accordance with subparagraph 60S-2.010(5)(a)1., F.A.C., the spouse or eligible joint annuitant shall pay the contribution rate in effect for the period of time being claimed at the time of purchase for the deceased

member's class of membership, multiplied by such member's monthly salary at the time of death, plus interest as provided in Rule 60S-3.0035, F.A.C.

(b) To purchase additional creditable service by using the deceased member's in-state or out-of-state service in accordance with subparagraph 60S-2.010(5)(a)2., F.A.C., the required contributions for service credit necessary to vest and qualify for retirement shall be as required in subsection 60S-3.008(3), F.A.C.

Specific Authority 121.031 FS. Law Implemented 121.113, 121.091(7) FS. History—New 10-20-72, Amended 11-18-72, Repromulgated 12-31-74, Amended 7-21-75, Formerly 22B-3.12, Amended 3-11-87, Formerly 22B-3.012, Amended 2-24-99.

60S-3.013 Retirement Contributions for Upgraded; Previous Service Credit.

(1) through (3) No change.

(4) The required contributions for a member of the Special Risk Class to claim retirement credit in such class for previous service in fire prevention or firefighter training within the purview of the Class as specified in subsection 60S-2.013(1), F.A.C., shall be equal to the difference between the total employee and employer contribution rate actually paid and the total contribution rate required at the time the service was rendered based on the gross salary received, plus interest as provided in Rule 60S-3.0035, F.A.C., from the first fiscal year of the service being claimed. The required contributions may be paid by the member's employer on behalf of the member.

Specific Authority 121.031, 121.052(7) FS. Law Implemented 121.052, 121.055, 121.0515 FS. History—New 10-20-72, Repromulgated 12-31-74, Amended 1-16-77, 11-6-84, Formerly 22B-3.13, Amended 2-4-86, 3-11-87, 9-5-90, 11-14-91, Formerly 22B-3.013, Amended 8-4-94, 4-5-95.

NAME OF PERSON ORIGINATING PROPOSED RULE:  
Erin Sjostrum, Director, Division of Retirement

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Erin Sjostrum, Director, Division of Retirement

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: April 14, 2003

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: April 25, 2003

**DEPARTMENT OF MANAGEMENT SERVICES**

**Division of Retirement**

RULE CHAPTER TITLE:	RULE CHAPTER NO.:
Benefits	60S-4
RULE TITLES:	RULE NOS.:
Statements of Policy	60S-4.002
Minimum Benefits	60S-4.0025
Retirement Eligibility	60S-4.003
Retirement Application and Effective Retirement Date	60S-4.0035
Benefits Payable upon Normal Retirement	60S-4.004
Benefits Payable Upon Early Retirement	60S-4.005

Benefits Based on Dual Retirement Ages	60S-4.006
Benefits Payable for Disability Retirement	60S-4.007
Benefits Payable upon Death	60S-4.008
Retirement Benefit Payment Options	60S-4.010
Designation of Beneficiary	60S-4.011
Employment After Retirement	60S-4.012
Deduction from Monthly Benefits	60S-4.015

PURPOSE, EFFECT AND SUMMARY: To revise the rules to reflect current legislative mandates, delete obsolete language and language that is without statutory authority.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COST: None.

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

SPECIFIC AUTHORITY: 121.031 FS.

LAW IMPLEMENTED: 121.011, 121.021, 121.051, 120.0511, 121.052, 121.053, 121.0515, 121.055, 121.081, 121.091(8), 121.122, 240.3195 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: 10:00 a.m., May 29, 2003

PLACE: Department of Management Services, 4050 Esplanade Way, Suite 260, Room 260L, Tallahassee, Florida

Pursuant to the provision 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 below.

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULES IS: Sonja P. Mathews, Assistant General Counsel, Department of Management Services, 4050 Esplanade Way, Suite 260, Tallahassee, Florida 32399-0950, (850)487-1082, mathews@dms.state.fl.us.

THE FULL TEXT OF THE PROPOSED RULES IS:

60S-4.002 Statements of Policy.

(1) through (3) No change.

(4) After a retirement benefit payment has been cashed or deposited or after a DROP payment is credited:

(a) No additional service, which remained unclaimed at retirement, may be claimed or purchased;

(b) The selection of an option may not be changed; and

(c) The type of retirement, i.e. normal, early, or disability, may not be changed, except for the following:

1. When a member recovers from disability and subsequently applies for normal or early retirement as provided in subsections 60S-4.007(7) and (8), F.A.C.



2. When a member begins receiving normal or early service retirement benefits while appealing a denial of his application for disability retirement and such disability application is subsequently approved as provided in paragraph 60S-4.007(3)(g), F.A.C., or

3. When an elected officer requests, prior to July 1, 1990, that his benefit be suspended and recalculated as provided in paragraph 60S-4.012(6)(b), F.A.C.

Specific Authority 121.052(7) FS. Law Implemented 121.052, 121.055 FS. History—New 10-20-72, Amended 12-31-74, 1-16-77, 7-1-79, 8-26-81, 4-17-85, Formerly 22B-2.13, Amended 3-11-87, 9-5-90, 5-15-91, 11-14-91, Formerly 22B-2.013, Amended 4-5-95, 2-24-99, \_\_\_\_\_.

**60S-4.0025 Minimum Benefits.**

Any person who is receiving monthly retirement benefits under the provisions of Chapters 121, 122, 123, 238 and ~~Sections 112.05 and 321.15-222~~, F.S., shall, if otherwise eligible, be entitled to receive the minimum monthly benefits provided herein. An eligible person whose monthly benefit, excluding the health insurance subsidy, is less than the applicable minimum monthly benefit described herein shall be entitled to have his monthly benefit increased to such minimum monthly amount effective the first day of the month following the month during which such person becomes eligible for the minimum monthly benefit. No present benefits shall be reduced by application of this rule.

(1) through (2) No change.

(3) The dollar factors used in determining the minimum benefits provided by this section shall be adjusted ~~July 1, 1979 and each July 1 thereafter~~. This adjustment shall be an amount derived by multiplying the current dollar factor by 3 percent.

Specific Authority 121.031 FS. Law Implemented 112.362 FS. History—New 7-1-79, Amended 8-26-81, Formerly 22B-4.025, Amended 2-4-86, 3-11-87, 5-18-88, 2-7-89, Formerly 22B-4.0025, Amended \_\_\_\_\_.

**60S-4.003 Retirement Eligibility.**

(1) A member shall be eligible to receive a retirement benefit based on age and service provided:

(a) He terminates all employment with all employers participating in the Florida Retirement System as provided in Rule 60S-6.001, F.A.C., (termination) ~~and 60S-4.003 or paragraph (3) of this subsection~~, except as provided in subsection 60S-4.012(8), F.A.C., and

(b) He satisfies vesting requirements by completing ~~completes~~ creditable service as follows:

1. 6 years of creditable service, subject to the following:

a. A member who is employed in a covered position on July 1, 2001 or a new member who begins employment in a covered position on or after July 1, 2001 shall satisfy the vesting requirement for retirement eligibility upon completion of a total of 6 years of creditable service in any membership class;

b. A member who is not employed on July 1, 2001 must be employed in a regularly established position for one work year after that date to become eligible for 6-year vesting as provided

in sub-subparagraph a. However, when such member completes the vesting requirements in sub-subparagraphs 60S-4.003(1)(b)2.a.-c., F.A.C., prior to completing the one work year, such member shall be vested.

2. Any member who does not satisfy the requirement of 1. a. or b. shall remain subject to the following vesting requirements:

1-a. 10 years of any creditable service; or

2-b. 8 years of creditable service as an Elected Officers' Class member; or

3-c. 7 years of creditable service as a Senior Management Service Class member, which shall include:

a-(I) Service in the Senior Management Service Class after January 31, 1987 or the effective date of membership in the Senior Management Service Class, whichever is later; and

b-(II) Service within the purview of the Senior Management Service Class performed on and after September 1, 1980 and prior to the effective date of membership in the Senior Management Service Class as provided in subsection 60S-1.0057(1), F.A.C. Such service shall have the percentage value per year of the Class to which the member belonged when the service was performed.

(c) He attains one of the following:

1. Normal retirement age with benefits payable according to Rule 60S-4.004, F.A.C., as follows:

a. He has completed 30 years of creditable service, regardless of age (all creditable service, including military service is applicable); or

b. All of his creditable service is in the Regular Class, the Elected Officers' Class, and/or the Senior Management Service Class, and he has reached age 62; or

c. All of his creditable service is Special Risk Class service or a combination of Special Risk Class service and Special Risk Administrative Support Class service, State and County Officers and Employees' Retirement System high-hazard service, Highway Patrol Pension System service, or service as provided in section Rule 60S-2.0041, F.A.C., and:

(I) He has satisfied vesting requirements in paragraph (b) but has completed 10 but less than 25 years of such creditable service and has reached age 55; or

(II) He has completed 25 years of such creditable service that includes credit for military service, and has reached age 52; or

(III) He has completed 25 years of such creditable service, regardless of age.

2. Early retirement age with benefits payable in accordance with Rule 60S-4.005, F.A.C., as follows:

a. All of his creditable service is in the Regular Class, the Elected Officers' Class, and/or the Senior Management Service Class and he has neither reached age 62, nor completed 30 years of service; or

b. All of his creditable service is in the Special Risk Class or in a combination of the Special Risk Class and the Special Risk Administrative Support Class, the State and County Officers and Employees' Retirement System High-Hazard service, the Highway Patrol Pension System, or service as provided in Rule section 60S-2.0041, F.A.C., and:

(I) He has satisfied vesting requirements in paragraph (b) but has completed 40 but less than 25 years of such creditable service and but has not reached age 55, or

(II) He has completed 25 years of such creditable service that includes credit for military service, but has not reached age 52.

3. Dual retirement ages with benefits payable in accordance with Rule 60S-4.006, F.A.C., when he has creditable service as a Regular Class, Elected Officers' Class or Senior Management Service Class member; and as a Special Risk Class member, or a Special Risk Class member with high-hazard or Highway Patrol service.

(2) through (3) No change.

Specific Authority 121.031, 121.052(7) FS. Law Implemented 121.021, 121.052(3), 121.055 FS. History--New 1-1-72, Amended 10-20-72, Repromulgated 12-31-74, Amended 7-1-79, 9-9-82, 2-6-84, Formerly 22B-4.03, Amended 2-4-86, 1-12-87, 9-5-90, 11-14-91, Formerly 22B-4.003, Amended 3-18-93, 1-25-94,\_\_\_\_\_.

60S-4.0035 Retirement Application and Effective Retirement Date.

(1) through (2) No change.

(3) The Division shall establish the member's effective retirement date as follows:

(a) For a member who makes application for a normal or early retirement benefit as provided in Rule 60S-4.004 or 4.005, F.A.C., the effective retirement date shall be the first day of the month following the month in which the member's termination occurs, provided the Division receives such member's application for retirement no later than 30 calendar days after such termination. If a member fails to apply for retirement within 30 calendar days after termination or if the member chooses to defer his retirement to a later date, the effective retirement date shall be the first day of the month following the month in which the Division receives the member's application, or the first day of a later month specified by the member. However, for a member who retires under the provisions of the Deferred Retirement Option Program as provided in Rule Chapter 60S-11, F.A.C., the member's effective date of retirement shall be the DROP begin date as defined in subsection 60S-11.001(3), F.A.C.

(b) through (4) No change.

Specific Authority 121.031 FS. Law Implemented 112.65, 121.021, 121.091 FS. History--New 11-14-91, Formerly 22B-4.0035, Amended 8-4-94,12-12-96,\_\_\_\_\_.

60S-4.004 Benefits Payable Upon Normal Retirement.

(1) The maximum normal monthly retirement benefit for a member who retires with creditable service only under the Florida Retirement System shall be calculated by multiplying the years of service times the percentage value per year of service times the average final compensation, and dividing the product by 12, as follows:

(a) No change.

(b) For a member who has creditable service only as a special risk member:

Normal Monthly Benefit =

$$\frac{(\text{Product Sum of } A_i \times B_i) \times \text{AFC, as } i \text{ varies from } 1 \text{ to } 6}{12}$$

Where  $A_i$  corresponds to  $B_i$  as follows:

$A_1$  is – 2% at any age.

$B_1$  is – The sum of all complete years and fractions of a year of creditable special risk service under the Florida Retirement System prior to October 1, 1974 and all creditable special risk service performed October 1, 1978 through December 31, 1988.

$A_2$  is – 3% at any age.

$B_2$  is – The sum of all complete years and fractions of a year of creditable special risk service under the Florida Retirement System October 1, 1974 through September 30, 1978 and all creditable special risk service performed on and after January 1, 1993; and for Special Risk Class members who retire on or after July 1, 2000, all creditable special risk service performed on and after October 1, 1974.

$A_3$  is – 2.2% at any age.

$B_3$  is – The sum of the complete year or fraction of the year of creditable special risk service under the Florida Retirement System January 1, 1989 through December 31, 1989.

$A_4$  is – 2.4% at any age.

$B_4$  is – The sum of the complete year or fraction of the year of creditable special risk service under the Florida Retirement System January 1, 1990 through December 31, 1990.

$A_5$  is – 2.6% at any age.

$B_5$  is – The sum of the complete year or fraction of the year of creditable special risk service under the Florida Retirement System January 1, 1991 through December 31, 1991.

$A_6$  is – 2.8% at any age.

$B_6$  is – The sum of the complete year or fraction of the year of creditable special risk service under the Florida Retirement System January 1, 1992 through December 31, 1992.

AFC (Average Final Compensation) is – Computed the same as in paragraph 22B-4.004(1)(a), F.A.C.

(c) through (e) No change.

(2) No change.

Specific Authority 121.031 FS. Law Implemented 121.091(1), 121.021, 121.052, 121.055 FS. History--New 1-1-72, Amended 10-20-72, 12-31-74, 7-1-79, 2-6-84, 4-17-85, Formerly 22B-4.04, Amended 1-12-87, 2-7-89, 9-5-90, 5-15-91, Formerly 22B-4.004, Amended\_\_\_\_\_.

60S-4.005 Benefits Payable Upon Early Retirement.

(1) Upon proper application to the Administrator, a member may receive an early retirement benefit if he has satisfied the service requirements for vesting as provided in paragraph 60S-4.003(1)(b), F.A.C., completed 10 or more years of any creditable service, 8 or more years of creditable service as an elected state officer member, or 7 or more years of creditable service as a senior management service member, but he has not reached his normal retirement age.

(2) No change.

Specific Authority 121.031, 121.052(7) FS. Law Implemented 121.021(30), 121.091(3), 121.052(5), 121.055 FS. History—New 1-1-72, Amended 10-20-72, Repromulgated 12-31-74, Amended 8-26-81, Formerly 22B-4.05, Amended 1-12-87, Formerly 22B-4.005, Amended 12-12-96, \_\_\_\_\_.

60S-4.006 Benefits Based on Dual Retirement Ages.

(1) Upon proper application to the Division, a member who has creditable service as a regular, Elected Officer, or senior management service member, and as a special risk member shall be eligible to receive benefits in accordance with this section.

(2) A member shall be eligible to receive a benefit based on dual retirement ages equal to the normal benefit for his regular, Elected Officer, or senior management service as calculated in accordance with paragraph 60S-4.004(1)(a),(c), or (d), F.A.C., and the normal benefit for his special risk service as calculated in accordance with paragraph 60S-4.004(1)(b), F.A.C., if he has satisfied the service requirements for vesting as provided in paragraph 60S-4.003(1)(b), F.A.C. completed 10 or more years of any creditable service, 8 or more years of creditable service as an Elected Officer member, or 7 or more years of creditable service as a senior management service member, and has attained normal retirement age as follows:

- (a) He has reached age 62; or
- (b) He has completed 30 years of creditable service, regardless of age.

(3) A member shall be eligible to receive a benefit based on dual retirement ages equal to the sum of the early benefit for his regular, Elected Officer, or senior management service as calculated in accordance with Rule 60S-4.005, F.A.C., and the normal benefit for his special risk service as calculated in accordance with paragraph 60S-4.004(1)(b), F.A.C., if he has satisfied the service requirements for vesting as provided in paragraph 60S-4.003(1)(b), F.A.C. completed 10 or more years of any creditable service, 8 or more years of creditable service as an Elected Officer member, or 7 or more years of creditable service as a senior management service member, and has not attained normal retirement age as listed in paragraphs 60S-4.006(2)(a) and (b), F.A.C., but has attained normal special risk retirement age as follows:

- (a) He has reached age 55; or
- (b) He has completed 25 years of creditable service that includes credit for military service, and has reached age 52; or

(c) He has completed 25 years of creditable service, regardless of age.

(4) A member shall be eligible to receive a benefit based on dual retirement ages equal to the sum of the early retirement benefit for his regular, Elected Officer, or senior management service as calculated in accordance with Rule 60S-4.005, F.A.C., and the early retirement benefit for his special risk service as calculated in accordance with Rule 60S-4.005, F.A.C., if he has satisfied the service requirements for vesting as provided in paragraph 60S-4.003(1)(b), F.A.C. completed 10 or more years of any creditable service, and he has not attained normal special risk retirement age as listed in paragraphs 60S-4.006(3)(a), (b) and (c), F.A.C.

Specific Authority 121.031, 121.052(7) FS. Law Implemented 121.091(2), 121.021, 121.052(5), 121.055 FS. History—New 1-1-72, Amended 10-20-72, Repromulgated 12-31-74, Amended 7-1-79, Formerly 22B-4.06, Amended 1-12-87, Formerly 22B-4.006, Amended 1-25-94, \_\_\_\_\_.

60S-4.007 Benefits Payable for Disability Retirement.

(1) A member of the Pension Plan or a participant of the Investment Plan shall be eligible to apply for a disability benefit in accordance with Section 121.091(4), F.S., provided:

(a) The member is in the employ of a Florida Retirement System employer at the time the member becomes disabled; and

(b) The member is no longer able to work; and

(c) The member has creditable service as follows:

1. The member becomes disabled in-line-of-duty regardless of length of service; or

2. The member was employed on or after July 1, 2001, and has completed at least 8 years of creditable service; or

~~3. The member has completed at least 10 years of creditable service prior to July 1, 2001; or~~

~~4. The member completed 5 years of creditable service prior to July 1, 1980; or~~

~~5. The member was employed on July 1, 1980, had completed less than 5 years of creditable service on that date, but has since completed a total of 5 years creditable service and provides proof that he has not attained a fully insured status for benefits under the federal Social Security Act; and~~

(d) The member's eligibility to apply is verified by the Administrator upon the receipt of Form FR-13, adopted in Rule 60S-9.001, F.A.C., according to the following:

1. If the Administrator determines that the member has satisfied the eligibility requirements, the Administrator will then consider the member's total and permanent disability claim (Form FR-13) as provided in paragraphs 60S-4.007(2)(b) and (d), F.A.C.

2. Should the Administrator determine that the member has failed to satisfy such eligibility requirements, the member shall be notified by certified mail with return receipt requested. If the member disagrees with the determination, he may petition in writing the Division of Retirement for an

administrative hearing pursuant to Chapter 120, F.S. If no petition is filed within 21 calendar days of receipt of the certified letter, the determination will become final.

(2) A member who is eligible in accordance with subsection 60S-4.007(1), F.A.C., shall receive a disability benefit provided:

(a) The member is totally and permanently disabled by reason of a medically determinable physical or mental impairment which that prevents him from rendering useful and efficient service as an officer or employee. The unavailability of an employment position that the member is physically and mentally capable of performing shall not be a factor in such determination of total and permanent disability. The member shall be considered disabled in the line-of-duty if his injury or illness arose out of and in the actual performance of duty required by the member's employment; ~~and~~ Documentation must show that:

1. The member's medical condition occurred or became symptomatic during the time the member was employed in an employee/employer relationship with his employer; and

2. The member was totally and permanently disabled at the time he terminated his covered employment; and

3. The member was not employed with any other employer after such termination; and

4. If the application is for in-line-of-duty disability, the disability must have been caused or aggravated by a job-related illness or accident which occurred while the member was in an employee/employer relationship with his employer; and

(b) The member makes proper application in accordance with Rule 60S-4.0035, F.A.C., and submits the following to the Division which must include documentation attesting to the criteria in paragraph (a):

1. Application for Disability Retirement (Form FR-13) to be completed by the member,

2. Statement of Disability by Employer (Form FR-13a), adopted in Rule 60S-9.001, F.A.C., to be completed by the member's employer,

3. Two Physician's Reports (Form FR-13b), adopted in Rule 60S-9.001, F.A.C., to be completed by two Florida licensed physicians, and

4. Any other evidence of disability requested by the Administrator which may include reports from vocational rehabilitation, evaluation, or testing specialists who have evaluated the applicant for employment; and

(c) The member terminates all employment; and

(d) The Administrator approves the member's application for regular disability or in-line-of-duty disability according to the following:

1. Upon receipt of the completed application (Forms FR-13, FR-13a and FR-13b) the Administrator shall determine if the member is totally and permanently disabled by reason of a medically determinable physical or mental impairment which prevents him from rendering useful and efficient service as an

officer or employee. If the member has applied for in-line-of-duty disability, the Administrator will also determine if the member's injury or illness arose out of and in the actual performance of duty required by the member's employment.

2. Any firefighter, paramedic, emergency medical technician, law enforcement officer or correctional officer who is approved for disability retirement due to hepatitis, meningococcal meningitis, or tuberculosis, is presumed to be disabled in the line of duty, unless the contrary is shown by competent evidence, provided:

a. The member, after diagnosis of hepatitis, meningococcal meningitis, or tuberculosis, verifies by written affidavit that he was not exposed, outside the scope of his employment, to such diseases, as provided in Sections 112.181(2)(a), (b), and (c), F.S.; and

b. The member, prior to diagnosis, undergoes immunization or prophylaxis for the prevention of hepatitis, meningococcal meningitis, or tuberculosis, when such immunization or prophylaxis exists and where medically indicated, and unless the member is advised by his doctor in writing that immunization or prophylaxis would pose a significant risk to his health, as provided in Section 112.181(3), F.S.; and

c. The member undergoes, prior to diagnosis, standard, medically acceptable tests which fail to indicate the presence of hepatitis infection, or tuberculosis, or the evidence of medical conditions derived therefrom, and on or after January 1, 1996, a member, prior to employment in an affected position, undergoes a preemployment physical examination that tests for and fails to reveal any evidence of hepatitis infection or tuberculosis.

d. All such members shall file an incident or accident report with their employer of each instance of known or suspected occupational exposure to hepatitis infection, meningococcal meningitis, or tuberculosis; and the employer shall maintain a record of any known or reasonably suspected exposure of such employees to such diseases and immediately notify the employees of such exposure.

3. Any firefighter, law enforcement officer, or correctional officer as defined in Section 943.10(1), (2), or (3), F.S., who is approved for disability retirement due to tuberculosis, heart disease, or hypertension is presumed to be disabled in the line of duty, unless the contrary is shown by competent evidence, provided the member has successfully passed a physical examination upon entering employment as a firefighter or state law enforcement and the examination failed to reveal any evidence of such conditions.

~~4.3.~~ The member shall be notified of the Administrator's approval as follows:

a. If the Administrator approves the member's application for regular disability or in-line-of-duty disability benefits the member shall be notified and shall receive benefits as provided in subsection 60S-4.007(5), F.A.C.

b. For a member who has applied for in-line-of-duty disability benefits, if the Administrator determines that the member is totally and permanently disabled but that such member's illness or injury did not arise out of and in the actual performance of duty required by the member's employment, the Administrator shall notify the member that his application for in-line-of-duty disability benefits is denied but that, if eligible, such member shall receive regular disability benefits as provided in paragraph 60S-4.007(5)(b), F.A.C. If such member chooses to appeal the Administrator's denial of in-line-of-duty disability benefits as provided in subsection 60S-4.007(3), F.A.C., the member may choose to begin receiving the regular disability benefits while appealing such denial.

(3) through (4) No change.

(5) A member who has received approval from the Administrator shall receive benefits in accordance with the following:

(a) The member approved for in-line-of-duty disability may elect to receive:

1. A monthly benefit computed in the same manner as for a normal retirement benefit under Option 1 in subsection 60S-4.010(1), F.A.C., as if the member had reached normal retirement age, but based on his average final compensation and creditable service as of his disability retirement date, except that, if this produces a benefit which is less than 42 percent of his average monthly compensation as of his disability retirement date, he shall receive a benefit equal to 42 percent of his average monthly compensation; except that a Special Risk Class member who retires on or after July 1, 2000, shall receive a benefit equal to at least 65 percent of his average monthly compensation; or

2. A monthly benefit computed in the same manner as for a normal retirement benefit under Options 2, 3 or 4 as provided in paragraphs 60S-4.010(1)(b), (c) and (d), F.A.C. The benefit payable shall be the actuarial equivalent of the disability benefit as described in subparagraph 1. above to which the member would otherwise be entitled.

(b) The member approved for regular disability may elect to receive:

1. A monthly benefit computed in the same manner as for a normal retirement benefit under Option 1 in subsection 60S-4.010(1), F.A.C., as if the member had reached normal retirement age, but based on his average final compensation and creditable service as of his disability retirement date, except that if this produces a benefit which is less than 25 percent of his average monthly compensation as of his disability retirement date, he shall receive a benefit equal to 25 percent of his average monthly compensation; or

2. A monthly benefit computed in the same manner as for a normal retirement benefit under Options 2, 3 or 4 as provided in paragraphs 60S-4.010(1)(b), (c) and (d), F.A.C. The benefit

payable shall be the actuarial equivalent of the disability benefit as described in subparagraph 1. above to which the member would otherwise be entitled.

(6) through (10) No change.

(11) A member who has completed the vesting requirements as provided in paragraph 60S-4.003(1)(b), F.A.C., with at least 10 years of service as a justice of the supreme court, judge of a district court of appeals, circuit judge, judge of a county court, or as an elected constitutional Judicial Officer, including service as a Judicial Officer in any court abolished pursuant to Article V of the State Constitution and who is retired for disability by order of the supreme court upon recommendation of the Judicial Qualifications Commission pursuant to the provisions of Article V, State Constitution, shall:

(a) Receive an Option 1 monthly benefit as provided in paragraph 60S-4.010(1)(a), F.A.C., that shall be not less than two-thirds of his monthly compensation as of his disability retirement date; or he may elect to receive a disability retirement benefit under any other option as provided in sub-paragraph 60S-4.007(4)(b)2., F.A.C.; and

(b) Have all contributions made by him or his employer in his behalf transferred to the General Revenue Fund of the State; and

(c) Have the amount necessary to pay his benefits appropriated annually from the General Revenue Fund and paid into the Florida Retirement System Trust Fund.

Specific Authority 121.031 FS. Law Implemented 112.18, 112.181, 121.021, 121.052(5)(c), 121.091(4), 121.23, 121.055 FS. History—New 1-1-72, Amended 10-20-72, 12-31-74, 11-18-75, 1-16-77, 7-1-79, 8-26-81, 1-19-82, 11-6-84, Formerly 22B-4.07, Amended 2-4-86, 1-12-87, 2-7-89, 11-14-91, Formerly 22B-4.007, Amended 3-18-93, 4-5-95, 12-12-96, 2-24-99,

60S-4.008 Benefits Payable Upon Death.

(1) through (4) No change.

(5) Upon the death of a retired member, joint annuitant, or beneficiary who is receiving monthly benefits, the benefits will be paid as follows:

(a) through (b) No change.

(c) Payments to a guardian of a child receiving retirement benefits under the Florida Retirement System or any existing system shall cease when the child reaches the age of majority unless the:

~~1. The guardian provides evidence that the continued guardianship is required; or~~

~~2. The beneficiary requests that benefits continue to the guardian on behalf of the beneficiary.~~

(d) through (e) No change.

(6) through (7) No change.

(8) Death shall be presumed to be in the line of duty for the following members that satisfy the requirements of Section 112.18 or Section 112.081, F.S., unless the contrary is shown by competent evidence:

(a) A firefighter whose death that occurred on or after July 1, 1973, was caused by tuberculosis, heart disease, or hypertension.

(b) A state law enforcement officer whose death that occurred on or after June 18, 1999, was caused by tuberculosis, heart disease, or hypertension.

(c) A law enforcement officer whose death that occurred on or after July 1, 2002, was caused by tuberculosis, heart disease, or hypertension.

(d) A firefighter, paramedic, emergency medical technician, law enforcement officer or correctional officer whose death that occurred on or after May 23, 1996, was caused by hepatitis, meningococcal meningitis, or tuberculosis.

Specific Authority 121.031 FS. Law Implemented 61.1301, ~~112.18, 112.181, 121.021(14), 121.091(7), 121.052(5), 121.055 FS. History—New 1-1-72, Amended 10-20-72, 12-31-74, 7-21-75, 8-26-81, 2-6-84, Formerly 22B-4.08, Amended 1-12-87, 2-7-89, 9-5-90, 5-15-91, 11-14-91, Formerly 22B-4.008, Amended 3-18-93, 1-25-94, 8-4-94, 12-12-96, 5-10-99, \_\_\_\_\_.~~

60S-4.010 Retirement Benefit Payment Options.

(1) through (6) No change.

(7) If the member retires due to disability and dies after his effective date of retirement and prior to cashing or depositing a retirement benefit payment, benefits will be payable in accordance with the provisions of subsection 60S-4.010(6), F.A.C., except as follows:

(a) If the member had satisfied the service requirements for vesting 10 or more years of service at retirement and his designated beneficiary qualifies as a joint annuitant, the beneficiary may select a refund of member contributions, an Option 3 benefit under disability retirement as of the member's effective date of retirement, or an Option 3 benefit under service retirement as provided in subsection 60S-4.008(3), F.A.C., with the member's previously established effective date of retirement deemed null and void.

(b) If the member had not satisfied the service requirements for vesting, was approved for in-line-of-duty disability less than 10 years of service and his designated beneficiary was qualifieds as a joint annuitant, the beneficiary may select a refund of member contributions or an Option 3 benefit under disability retirement as of the member's effective date of retirement.

(8) through (9) No change.

Specific Authority 121.052(7) FS. Law Implemented 121.052, 121.055 FS. History—New 10-20-72, Amended 12-31-74, 1-16-77, 7-1-79, 8-26-81, 4-17-85, Formerly 22B-2.13, Amended 3-11-87, 9-5-90, 5-15-91, 11-14-91, Formerly 22B-2.013, Amended 4-5-95, 2-24-99, \_\_\_\_\_.

60S-4.011 Designation of Beneficiary.

(1) through (3) No change.

(4) A member may designate a beneficiary or beneficiaries at any time prior to retirement, as follows:

(a) A member may designate one or more beneficiaries, to receive benefits sequentially, or jointly.

(b) A member may designate as beneficiary any person, organization, trust, or his estate; or he may designate that benefits be paid according to law as provided in subsection 60S-4.011(2), F.A.C., and Section 121.091(8), F.S.

(c) Such beneficiary designation shall be made on the ~~Personal History Record, Form FRS M10~~Form BEN-001, as adopted in Rule 60S-9.001, F.A.C.

(d) A member may change his designation of a beneficiary at any time on the Form ~~FRS M10 FST-12~~.

(e) Notwithstanding any other provisions in this section to the contrary, effective January 1, 1999, if a member dies before his or her effective date of retirement, the member's spouse at the time of death shall be the member's beneficiary unless the deceased member had designated a different beneficiary after his or her most recent marriage, as provided herein:

1. If the member was not married at the time of his or her death, the beneficiary shall be the member's most recently designated beneficiary as provided in this section. To establish entitlement to a survivor's benefit, the designated beneficiary must provide to the Division a notarized statement that the member had no spouse at the time of death.

2. If the member was married at the time of his or her death, but the spouse is not the member's designated beneficiary, to establish entitlement to a survivor's benefit the spouse must provide a copy of the marriage certificate verifying that the marriage occurred after the most recent beneficiary designation.

(5) through (6) No change.

Specific Authority 121.031 FS. Law Implemented 121.021, 121.091(6), (8) FS. History—New 1-1-72, Amended 12-31-74, 1-19-82, 9-9-82, Formerly 22B-4.11, Amended 2-7-89, 9-5-90, 5-15-91, 11-14-91, 9-8-92, Formerly 22B-4.011, Amended 3-12-96, 2-24-99, \_\_\_\_\_.

60S-4.012 Employment After Retirement.

(1) through (2) No change.

(3) After the first calendar month of retirement, certain retirees may be reemployed for 780 hours during the reemployment limitation period of the second through the twelfth months following the effective date of retirement as follows:

(a) Any retiree of the Florida Retirement System or the Teachers' Retirement System may be reemployed by a district school board or a participating charter school as a substitute or an hourly teacher on a noncontractual basis; ~~and or~~

(b) Any retiree of the Florida Retirement System may be reemployed by a district school board or a participating charter school as an education paraprofessional, transportation assistant, bus driver, or food service worker on a noncontractual basis; ~~and or~~

(c) Any retiree of the Florida Retirement System or the Teachers' Retirement System may be reemployed by a community college board of trustees as an adjunct instructor (i.e., an instructor who is noncontractual and part-time. A

part-time community college instructor is one who teaches less than 15 course hours per week, or if paid hourly, teaches less than 40 hours per week); or

(d) Any retiree of the Florida Retirement System or the Teachers' Retirement System may be reemployed by a community college board of trustees as a participant in a phased retirement program, within the State Community College System; or ~~and~~

(e) Any retiree of the Florida Retirement System or the Teachers' Retirement System may be reemployed as an adjunct faculty member as defined in paragraph 6C-5.105(5)(c), F.A.C., or as a participant in a phased retirement program, within the State University System; or ~~and~~

(f) Any retiree of the Florida Retirement System or the Teachers' Retirement System may be reemployed as a noncontractual substitute teacher, substitute residential instructor, or substitute nurse for the Florida School for the Deaf and the Blind; or

(g) Any retiree of the Florida Retirement System may be reemployed as a firefighter or paramedic.

(h)(g) Such retiree described in (a) through (g) who is reemployed is subject to the following:

1. He may concurrently receive retirement benefits and compensation for such employment for a total of 780 hours during the reemployment limitation period stated in subsection 60S-4.012(2), F.A.C.;

2. He shall notify the employer in writing that he is receiving retirement benefits from the Florida Retirement System or the Teachers' Retirement System;

3. If he is reemployed for more than 780 hours during the reemployment limitation period he shall:

a. Notify the employer and the Division in writing of the date on which he will complete 780 hours of employment, at which time the Division shall suspend his retirement benefits effective the first day of the month following the month in which he completes 780 hours of employment. This suspension shall remain in effect for every month in which he is employed during the remainder of the reemployment limitation period, and benefits that would have been paid during the period of suspension are forfeited;

b. Repay to the Division any retirement benefits received during the reemployment limitation period while reemployed beyond the month in which he completes 780 hours of employment. Benefits suspended beyond the end of the reemployment limitation period shall apply toward repayment of benefits received during the reemployment limitation period while reemployed beyond the month in which he completes 780 hours of employment;

c. Upon expiration of the reemployment limitation period or upon termination of employment prior to expiration of the reemployment limitation period, notify the Division in writing that his reemployment limitation period has expired or that he is no longer employed and desires to have his benefits

reinstated. Upon verification by his employer, his retirement benefits will then be reinstated effective the first day of the month following termination of employment or expiration of the reemployment limitation period;

d. If he returns to work again during the reemployment limitation period, notify the Division to suspend his benefits again for any month in which he is employed.

(4) through (5) No change.

(6)(a) Any person previously retired from a state-administered retirement system who holds an elective public office or appointment to an elective public office shall have renewed membership in the Florida Retirement System as provided by Rule 60S-1.0045, F.A.C., for an office not covered by the Elected Officers' Class, or as provided by subsection 60S-1.0055(4), F.A.C., for an office that is covered by the Elected Officers' Class. Such Elected Officers shall continue to receive retirement benefits as well as compensation for the elected office without regard to the limitations provided in this section.

(b) Any retired member who was elected to an office prior to July 1, 1990, suspended his retirement benefit, and reinstated his Florida Retirement System membership, shall, upon subsequent retirement, have his retirement benefits recomputed using such period of creditable reemployment as provided in subsection 60S-2.008(1), F.A.C. All required contributions shall be made by the employer and/or the member for the entire period of reemployment, as required in Rule 60S-3.009, F.A.C.

(c) Any elected officer participating in the Deferred Retirement Optional Program as a member of the Elected Officers' Class prior to July 1, 2002 may continue in elected office upon reaching the Deferred Retirement Optional Program end date and shall become a renewed member of the Elected Officers' Class the first of the month following Deferred Retirement Optional Program termination.

(d) Any elected officer participating in the Deferred Retirement Optional Program as a member of the Elected Officers' Class on or after July 1, 2002 may continue in elected office upon reaching the Deferred Retirement Optional Program end date and shall not be eligible to become a renewed member of the Florida Retirement System for as long as such officer holds an office covered under the Florida Retirement System.

(7) through (9) No change.

Specific Authority 121.031 FS. Law Implemented 121.021, 121.091(6), (11) FS. History—New 1-1-72, Amended 12-31-74, 7-1-79, 5-18-80, 8-26-81, 1-18-83, 11-6-84, 4-17-85, Formerly 22B-4.10, Amended 3-11-87, 9-5-90, 5-15-91, 9-8-92, Formerly 22B-4.010, Amended 3-12-96, 12-12-96, 2-24-99, \_\_\_\_\_.

60S-4.015 Deductions from Monthly Benefits.

(1) through (4) No change.

~~(5) Payment for alimony, child support or division of marital assets may be deducted provided: Payments to an alternate payee for alimony, child support, or division of marital assets pursuant to a Qualified Domestic Relations Order (QDRO) under s. 222.21, F.S., and Income Deduction Orders as provided in s. 61.1301, F.S., may be deducted, provided such payments are paid through the appropriate court disbursing depository.~~

(a) Payments for alimony and child support pursuant to Income Deduction Orders under Section 61.1301, F.S., shall be paid through the appropriate court-disbursing depository:

(b) Payments to an alternate payee resulting from a division of marital assets pursuant to a Qualified Domestic Relations Order (QDRO) under Section 222.21, F.S., shall be paid to the alternate payee, at the last known address. There shall be no liability to the Division of Retirement if the alternate payee fails to provide the correct mailing address. The alternate payee shall provide to the Division of Retirement all information requested, in the format required by the Division, in order to establish the alternate payee as a payee under the Florida Retirement System.

(6) No change.

Specific Authority 121.031 FS. Law Implemented 61.1301, 121.031, 222.21 FS. History—New 1-1-72, Amended 10-20-72, Repromulgated 12-31-74, Formerly 22B-4.15, Amended 5-15-91, Formerly 22B-4.015, Amended 8-4-94.

NAME OF PERSON ORIGINATING PROPOSED RULE:  
Erin Sjostrum, Director, Division of Retirement

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Erin Sjostrum, Director, Division of Retirement

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: April 14, 2003

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: April 25, 2003

**DEPARTMENT OF MANAGEMENT SERVICES**

**Division of Retirement**

RULE CHAPTER TITLE: Definitions  
RULE CHAPTER NO.: 60S-6

RULE TITLE: Definitions  
RULE NO.: 60S-6.001

PURPOSE, EFFECT AND SUMMARY: To revise the rules to reflect current legislative mandates, delete obsolete language and language that is without statutory authority.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COST: None.

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

SPECIFIC AUTHORITY: 121.031 FS.

LAW IMPLEMENTED: 121.011, 121.021, 121.051, 120.0511, 121.052, 121.053, 121.0515, 121.055, 121.081, 121.091(8), 121.122, 240.3195 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: 10:00 a.m., May 29, 2003

PLACE: Department of Management Services, 4050 Esplanade Way, Suite 260, Room 260L, Tallahassee, Florida  
Pursuant to the provision 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 below.

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULES IS: Sonja P. Mathews, Assistant General Counsel, Department of Management Services, 4050 Esplanade Way, Suite 260, Tallahassee, Florida 32399-0950, (850)487-1082, mathews@dms.state.fl.us

THE FULL TEXT OF THE PROPOSED RULE IS:

60S-6.001 Definitions.

(1) through (7) No change.

~~(8) BASE BENEFIT — Means the total monthly benefit payable to a retiree or beneficiary in accordance with existing laws at date of adjustment.~~

(9) through (10) renumbered (8) through (9) No change.

(10)(11) BONUS – Means a payment made in addition to an employee’s regular or overtime salary that is usually non-recurring, does not increase the employee’s base rate of pay and includes no commitment for payment in a subsequent year. Such payments are not considered compensation and, effective July 1, 1989, shall not be reported to the Division as salary, and retirement contributions shall not be made on such payments.

(a) A payment is a bonus if any of the following apply:

1. The payments are not paid according to a formal written policy applying to all eligible employees equally, or
2. The payments commence later than the eleventh year of employment, or
3. The payments are not based on permanent eligibility, or
4. The payments are paid less than annually;

(b) Bonuses shall include but not be limited to the following:

1. Exit bonus or severance pay;
2. Longevity payments in conformance with the provisions of paragraph 60S-6.001(11)(a), F.A.C., above;
3. Salary increases granted due to an employee’s agreement to retire, including increases paid over several months or years prior to retirement;



4. Payments for accumulated overtime or compensatory time, reserve time, or holiday time worked, if not made within 11 months of the month in which the work was performed;

~~5. Quality Instruction Incentives Program (QUIIP) Payments;~~

~~5.6.~~ Lump sum payments in recognition of employees' accomplishments.

(12) through (15) renumbered (11) through (14) No change.

~~(15)(16)~~ COMPENSATION OR GROSS COMPENSATION –

(a) Compensation means the total gross monthly salary paid a member by his employer for work performed arising from that employment, including:

1. Overtime payments, except as provided in subparagraph 60S-6.001(11)(b)4., F.A.C.;

2. Accumulated annual leave payments, as defined in subsection 60S-6.001(1), F.A.C.;

3. Payments in addition to the employee's base rate of pay if all the following apply:

a. The payments are paid according to a formal written policy that applies to all eligible employees equally, and

b. The policy provides that payments shall commence not later than the eleventh year of employment, and

c. The payments are paid for as long as the employee continues his employment, and

d. The payments are paid at least annually;

4. Amounts withheld for tax-sheltered annuities or deferred compensation programs, or any other type of salary reduction plan authorized under the Internal Revenue Code;

5. Payments, whether made annually or in 12 or 26 equal payments within a 12-month period, made in lieu of a permanent increase in the base rate of pay when the member's base pay is at the maximum of his pay range. When a portion of a member's annual increase raises his base pay to the maximum of his pay range, and the excess is paid as a lump sum payment, such lump sum payment shall be compensation for retirement purposes.

6. Salary supplements paid on or after July 1, 2002, to teachers under the Excellent Teaching Program or the Florida Mentor Teacher Pilot Program, as provided in and subject to the requirements of Sections 231.700, 236.08106, and 231.700(3)(e)5., F.S.

(b) No change.

(17) through (23) renumbered (16) through (22) No change.

~~(23)(24)~~ EARLY RETIREMENT AGE – Means the first day of the month following the date a member satisfies the service requirements for vesting as provided in paragraph 60S-4.003(1)(b), F.A.C. ~~completes 10 years of any creditable service, 8 years of creditable service as an elected state officer member, or 7 years of creditable service as a senior~~

~~management service member~~, and elects to receive retirement benefits when the member has not attained normal retirement age as provided in paragraph 60S-4.003(1)(c), F.A.C. Such benefits shall be based on the average monthly compensation and creditable service as of the member's early retirement date, and the benefit so computed shall be reduced by 5/12 of 1 percent for each complete month by which the early retirement age precedes his normal retirement age.

~~(24)(25)~~ EFFECTIVE RETIREMENT DATE – Means the first day of the month in which retirement benefits begin to accrue as provided in Rule 60S-4.0035 or subsection 60S-11.001(3), F.A.C.

(26) through (52) renumbered (25) through (51) No change.

~~(52)(53)~~ RETIREE – Means a former member of one of the retirement systems established by Chapters 121, 122, 123, 238, and 321, ~~Florida Statutes F.S.~~, who has terminated his employment, and is receiving benefits from the system in which he was a member. This term also includes a person who retired and is receiving benefits under Section 112.05, Florida Statutes F.S. and a DROP participant as provided in Rule Chapter 60S-11, F.A.C., who has not terminated his employment.

(54) through (55) renumbered (53) through (54) No change.

~~(55)(56)~~ SPECIAL RISK CLASS MEMBER – Prior to October 1, 1978, Special Risk Class member means any officer or employee receiving salary payments for work performed as a peace officer, law enforcement officer, policeman, highway patrolman, custodial employee at a correctional or detention facility, fireman or any other job in the field of law enforcement or fire protection; provided the duties of such person are certified as hazardous by his employer and approved by the Division of Retirement.

(a) Effective October 1, 1978, Special Risk Class member shall mean any officer or employee employed as a law enforcement officer, firefighter or correctional officer who complies with the criteria set forth in Rules 60S-1.0051, 60S-1.0052, and 60S-1.0053, F.A.C., and is approved for special risk membership by the Division of Retirement pursuant to Rule 60S-1.005, F.A.C.

(b) Effective October 1, 1999, Special Risk Class member shall also include officer or employee employed as an emergency medical technician or paramedic who complies with the criteria set forth in Rule 60S-1.00535, F.A.C., and is approved for special risk membership by the Division of Retirement pursuant to Rule 60S-1.005, F.A.C.

(c) Effective January 1, 2001, Special Risk Class member shall also mean any officer or employee employed as a community-based correctional probation officer, and certain professional health care members employed by the Department of Corrections or the Department of Children and Family Services as provided in paragraph 60S-1.0055(2)(d), F.A.C.

(d) Effective July 1, 2001, Special Risk Class member shall also mean any officer or employee employed by the Department of Juvenile Justice who meets the criteria set forth in paragraph 60S-1.0053(2)(f), F.A.C.

(57) through (67) renumbered (56) through (66) No change.

(67) PENSION PLAN – Means the Florida Retirement System defined benefit plan as provided in Part I of Chapter 121, F.S.

(68) INVESTMENT PLAN – Means the Florida Retirement System defined contribution plan, otherwise known as the Public Employee Optional Retirement Program, as provided in Part II of Chapter 121, F.S.

(69) BLENDED OR UNIFORM CONTRIBUTION RATE – Means the single contribution rate required for each class of membership in the Florida Retirement System, which shall be sufficient to fund both Part I and Part II of the Florida Retirement System in an actuarially sound manner, as provided in Part III of Chapter 121, F.S.

Specific Authority 121.031, 121.052(7) FS. Law Implemented 112.215, 121.031, 121.021, 121.091(5)(e), 121.051, 121.0515, 121.052, 121.4501, 121.70, 943.22(2)(e) FS. History—New 1-1-72, Amended 10-20-72, 12-31-74, 1-16-77, 10-3-78, 7-1-79, 8-26-81, 1-19-82, 9-9-82, 10-12-82, 1-18-83, 2-6-84, 11-6-84, 4-17-85, Formerly 22B-6.01, Amended 2-4-86, 1-12-87, 3-11-87, 2-7-89, 9-5-90, 5-15-91, 11-14-91, Formerly 22B-6.001, Amended 1-25-94, 8-4-94, 4-5-95, 3-12-96, 7-4-96, 12-12-96, 2-24-99.

NAME OF PERSON ORIGINATING PROPOSED RULE: Erin Sjostrum, Director, Division of Retirement

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Erin Sjostrum, Director, Division of Retirement

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: April 14, 2003

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: April 25, 2003

**DEPARTMENT OF MANAGEMENT SERVICES**  
**Division of Retirement**

RULE CHAPTER TITLE:	RULE CHAPTER NO.:
Actuarial Factors	60S-7
RULE TITLES:	RULE NOS.:
Actuarial Factors for Calculating Benefits Provided by Options 2, 3, and 4 on and After August 1, 1983	60S-7.009
Actuarial Factors for Calculating Disability Benefits Provided by Options 2, 3, and 4 on and After August 1, 1983	60S-7.010
Actuarial Factors for Calculating Benefits Provided by Options 1, 2, 3, and 4 in the Teachers' Retirement System on and After August 1, 1983	60S-7.050

Actuarial Factors for Calculating Reduced Benefits Provided in the State and County Officers and Employees' Retirement System on and After August 1, 1983 60S-7.060

Actuarial Factors for Calculating Reduced Benefits Provided by the Highway Patrol Pension Fund on and After August 1, 1983 60S-7.070

PURPOSE, EFFECT AND SUMMARY: To revise the rules to reflect current legislative mandates, delete obsolete language and language that is without statutory authority.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COST: None.

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

SPECIFIC AUTHORITY: 121.031 FS.  
LAW IMPLEMENTED: 121.011, 121.021, 121.051, 120.0511, 121.052, 121.053, 121.0515, 121.055, 121.081, 121.091(8), 121.122, 240.3195 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: 10:00 a.m., May 29, 2003  
PLACE: Department of Management Services, 4050 Esplanade Way, Suite 260, Room 260L, Tallahassee, Florida  
Pursuant to the provision 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 below.

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULES IS: Sonja P. Mathews, Assistant General Counsel, Department of Management Services, 4050 Esplanade Way, Suite 260, Tallahassee, Florida 32399-0950, (850)487-1082, mathews@dms.state.fl.us

THE FULL TEXT OF THE PROPOSED RULES IS:  
60S-7.009 Actuarial Factors for Calculating Benefits Provided by Options 2, 3, and 4 on and After August 1, 1983.  
(1) The actuarial factors used to determine the benefits that are payable to a member who retires with an effective date of August 1, 1983, or later, and who elects to receive benefits as provided by Option 2 in paragraphs 60S-4.010(1)(b), Option 3 in 60S-4.010(1)(c), or Option 4 in 60S-4.010(1)(d), F.A.C., are incorporated by reference and may be obtained by contacting the Division of Retirement, Cedars Executive Center, Building C, 2639 North Monroe Street, Tallahassee, Florida 32399-1560. The appropriate factor is determined by the age of the member and the member's joint annuitant at his date of

retirement. For the purpose of selecting the appropriate actuarial factor, the age of the member and the joint annuitant shall be determined as follows:

(2) If the effective date of retirement occurs fewer than 7 months after the birth month, the actuarial factor selected shall be the factor for the age as of the last birthday. If the effective date of retirement occurs 7 or more months after the birth month, the actuarial factor selected shall be the factor for the age as of the next birthday.

Specific Authority 121.031 FS. Law Implemented 121.091(6)(b) FS. History—New 10-18-83, Formerly 22B-7.09, Amended 11-14-91, Formerly 22B-7.009, Amended \_\_\_\_\_.

60S-7.010 Actuarial Factors for Calculating Disability Benefits Provided by Options 2, 3, and 4 on and After August 1, 1983.

(1) The actuarial factors used to determine the disability benefits as provided in Section 121.091(4), F.S., that are payable to a member who retires with an effective date of August 1, 1983, or later, and who elects to receive benefits as provided by Option 2 in paragraphs 60S-4.010(1)(b), Option 3 in 60S-4.010(1)(c), or Option 4 in 60S-4.010(1)(d), F.A.C., are incorporated by reference and may be obtained by contacting the Division of Retirement, Cedars Executive Center, Building C, 2639 North Monroe Street, Tallahassee, Florida 32399-1560. The appropriate factor is determined by the age of the member and the member's joint annuitant at his date of retirement. For the purpose of selecting the appropriate actuarial factor, the age of the member and the joint annuitant shall be determined as follows:

(2) If the effective date of retirement occurs fewer than 7 months after the birth month, the actuarial factor selected shall be the factor for the age as of the last birthday. If the effective date of retirement occurs 7 or more months after the birth month, the actuarial factor selected shall be the factor for the age as of the next birthday.

Specific Authority 121.031 FS. Law Implemented 121.091(6)(b) FS. History—New 10-18-83, Formerly 22B-7.10, Amended 11-14-91, Formerly 22B-7.010, Amended \_\_\_\_\_.

60S-7.050 Actuarial Factors for Calculating Benefits Provided by Options 1, 2, 3, and 4 in the Teachers' Retirement System on and After August 1, 1983.

(1) The actuarial factors used to determine the regular or disability benefits that are payable to a member who retires with an effective date of August 1, 1983, or later, and who elects to receive benefits as provided by Option 1, 2, 3, or 4 in Section 238.08, F.S., are incorporated by reference and may be obtained by contacting the Division of Retirement, Cedars Executive Center, Building C, 2639 North Monroe Street, Tallahassee, Florida 32399-1560. The appropriate factor is determined by the age of the member and the member's joint annuitant at his date of retirement. For the purpose of selecting the appropriate actuarial factor, the age of the member and the joint annuitant shall be determined as follows:

(2) If the effective date of retirement occurs fewer than 7 months after the birth month, the actuarial factor selected shall be the factor for the age as of the last birthday. If the effective date of retirement occurs 7 or more months after the birth month, the actuarial factor selected shall be the factor for the age as of the next birthday.

Specific Authority 121.031 FS. Law Implemented 121.091(6), 238.08 FS. History—New 10-18-83, Formerly 22B-7.50, Amended 11-14-91, Formerly 22B-7.050, Amended \_\_\_\_\_.

60S-7.060 Actuarial Factors for Calculating Reduced Benefits Provided in the State and County Officers and Employees' Retirement System on and After August 1, 1983.

(1) The actuarial factors used to determine the regular or disability benefits that are payable to a member who retires with an effective date of August 1, 1983, or later, and who elects to receive a reduced regular or disability benefit as provided in Section 22.08, F.S., are incorporated by reference and may be obtained by contacting the Division of Retirement, Cedars Executive Center, Building C, 2639 North Monroe Street, Tallahassee, Florida 32399-1560. The appropriate factor is determined by the age of the member and the member's joint annuitant at his date of retirement. For the purpose of selecting the appropriate actuarial factor the age of the member and the joint annuitant shall be determined as follows:

(2) If the effective date of retirement occurs fewer than 7 months after the birth month, the actuarial factor selected shall be the factor for the age as of the last birthday. If the effective date of retirement occurs 7 or more months after the birth month, the actuarial factor selected shall be the factor for the age as of the next birthday.

Specific Authority 121.031 FS. Law Implemented 121.091(6), 122.08 FS. History—New 10-18-83, Formerly 22B-7.60, Amended 11-14-91, Formerly 22B-7.060, Amended \_\_\_\_\_.

60S-7.070 Actuarial Factors for Calculating Reduced Benefits Provided by the Highway Patrol Pension Fund on and After August 1, 1983.

(1) The actuarial factors used to determine the regular or disability benefits that are payable to a member who retires with an effective date of August 1, 1983, or later, and who elects to receive a reduced regular or disability benefit as provided in Section 321.20, F.S., are incorporated by reference and may be obtained by contacting the Division of Retirement, Cedars Executive Center, Building C, 2639 North Monroe Street, Tallahassee, Florida 32399-1560. The appropriate factor is determined by the age of the member and the member's joint annuitant at his date of retirement. For the purpose of selecting the appropriate actuarial factor, the age of the member and the joint annuitant shall be determined as follows:

(2) If the effective date of retirement occurs fewer than 7 months after the birth month, the actuarial factor selected shall be the factor for the age as of the last birthday. If the effective

date of retirement occurs 7 or more months after the birth month, the actuarial factor selected shall be the factor for the age as of the next birthday.

Specific Authority 121.031 FS. Law Implemented 121.091(6), 321.20 FS. History—New 10-18-83, Formerly 22B-7.70, Amended 11-14-91, Formerly 22B-7.070, Amended.

NAME OF PERSON ORIGINATING PROPOSED RULE:  
Erin Sjostrum, Director, Division of Retirement  
NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Erin Sjostrum, Director, Division of Retirement  
DATE PROPOSED RULE APPROVED BY AGENCY HEAD: April 14, 2003  
DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: April 25, 2003

**DEPARTMENT OF MANAGEMENT SERVICES**

**Division of Retirement**

RULE CHAPTER TITLE:	RULE CHAPTER NO.:
Deferred Retirement Option Program	60S-11
RULE TITLES:	RULE NOS.:
Definitions	60S-11.001
Participation	60S-11.002
Contributions	60S-11.003
Benefits	60S-11.004

PURPOSE, EFFECT AND SUMMARY: To revise the rules to reflect current legislative mandates, delete obsolete language and language that is without statutory authority.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COST: None.

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

SPECIFIC AUTHORITY: 121.031 FS.

LAW IMPLEMENTED: 121.011, 121.021, 121.051, 120.0511, 121.052, 121.053, 121.0515, 121.055, 121.081, 121.091(8), 121.122, 240.3195 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: 10:00 a.m., May 29, 2003

PLACE: Department of Management Services, 4050 Esplanade Way, Suite 260, Room 260L, Tallahassee, Florida  
Pursuant to the provision 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 below.

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULES IS: Sonja P. Mathews, Assistant General Counsel, Department of Management Services, 4050 Esplanade Way, Suite 260, Tallahassee, Florida 32399-0950, (850)487-1082, mathews@dms.state.fl.us

THE FULL TEXT OF THE PROPOSED RULES IS:

60S-11.001 Definitions.

The definitions in 60S-6.001 apply to this section unless otherwise expressly stated, and when used in this section, the following words and terms have the meaning indicated.

(1) DEFERRED RETIREMENT OPTION PROGRAM – means a program, hereinafter referred to as the DROP, available to certain members who are eligible for retirement under the FRS Pension Plan, under which members effectively retire and have their retirement benefits accumulate, tax deferred, in the FRS Trust Fund while they continue covered employment for a limited time.

(2) DROP ELIGIBILITY DATE means the first day of the month in which a vested member becomes eligible to elect to participate in DROP by virtue of reaching either his normal retirement date or a deferred eligibility date, if a deferred eligibility date is applicable and elected by the member. Both the 12-month period during which the member may elect to participate in the DROP (except for instructional personnel as provided in subparagraph (b)4.) and the 60-month period that a member is allowed to participate in DROP begin on the member’s DROP eligibility date.

(a) The normal retirement date is achieved when the member becomes age 62, (or age 55 for a Special Risk member); or when the member completes 30 years of service (or 25 years of Special Risk service). The member may either include or exclude optional service credit in determining the date on which 30 years of any service, (or 25 years of Special Risk service) has been attained.

(b) A deferred eligibility date is achieved as follows:

1. For a member who has completed 30 years of service prior to age 57 (or 25 years of Special Risk service prior to age 52), the DROP eligibility date may be deferred to age 57, or age 52 for a Special Risk member.

2. For a member with dual normal retirement dates, the DROP eligibility date may be determined by the member as the first day of the month in which normal retirement is achieved in either class.

3. For an elected officer member who has reached normal retirement date during a term of office, the DROP initial eligibility date may be deferred to the first day of the month after the begin date of the next succeeding term of office.

4. Effective February 1, 2003, for a member who satisfies the definition of instructional personnel for grades K-12 as adopted in s.1012.01 of Chapter 2002-387, Laws of Florida, the DROP eligibility date may be deferred to the first of any month after the member first reaches normal retirement date.

(3) Initial Eligibility Date – means the first day of the month in which a vested member first becomes eligible to elect to participate in DROP by virtue of reaching his or her normal retirement date.

(4) Deferred Eligibility Date – means the first day of any month to which a vested member is eligible to defer his election to participate in DROP by virtue of meeting the election deferral criteria set forth under rule subsection 60S-11.002(2), F.A.C.

(5) DROP BEGIN DATE – means the first day of the month in which the member’s DROP participation period begins and is always the same date as the member’s effective date of retirement. Such date shall be the first day of the month in which the eligible member submits a DROP application, or any future month after the member reaches his or her DROP eligibility date, as selected by the member. However, a member’s DROP begin date cannot precede the month of the Division receives the DROP application by the Division.

(6) DROP PARTICIPATION PERIOD – means the period of time a member participates in DROP, not to exceed 60 months.

(7) DROP PARTICIPANT or PARTICIPANT – means a person who has retired from the FRS Pension Plan and is participating in the DROP.

(8) DROP END DATE – means the date DROP participation ceases and shall be the date termination of all employment occurs as defined in subsection 60S-6.001(63), F.A.C., except as provided in Rule 60S-11.004(10), F.A.C., for elected officers. The DROP end date shall be effective as of the date of the participant’s designated deferred resignation, as stated on *Form DP-ELE*, or earlier if the participant terminates prior to the designated resignation date. The participant may cease participation in DROP prior to the designated resignation date only by satisfying the definition of termination as provided in subsection 60S-6.001(63), F.A.C.

(9) OPTIONAL SERVICE CREDIT – includes credit for prior service, past service purchased by the member, wartime military service, a military leave of absence before December 3, 1974, a leave of absence without pay, in-state and out-of-state service, a suspension without pay, teaching in a federally operated school in Florida, and periods of disability retirement. Optional service credit does not include Workers’ Compensation credit, past service credit paid for by the employer, credit for a military leave of absence on or after December 3, 1974 paid for by the employer, or credit for upgraded service purchased by the member or employer.

(10) DROP BREAK IN SERVICE – occurs when no compensation is reported for a DROP participant during one full month of the participant’s work year and there is no continuing employer-employee relationship. A member who is on a leave of absence without pay or on a Workers’ Compensation leave has an employer-employee relationship.

(11) INSTRUCTIONAL PERSONNEL – means a member who is employed by a District School Board in grades K-12, and satisfies the definition of instructional personnel as defined in Section 1012.01, F.S.

Specific Authority 121.031 FS. Law Implemented 121.021, 121.091(13) FS. History–New\_\_\_\_\_.

#### 60S-11.002 Participation.

(1) ELIGIBILITY – A member of the Florida Retirement System, the Teachers’ Retirement System, or the State and County Officers’ and Employees’ Retirement System shall be eligible to participate in the DROP provided:

(a) The member attains normal retirement date as provided in paragraph 60S-4.003(1)(b) or (c), F.A.C., for Florida Retirement System members, or normal retirement date as specified in Chapter 238, F.S., for Teachers’ Retirement System members or in Chapter 122, F.S., for State and County Officers’ and Employees’ Retirement System members;

(b) The member is employed in a regularly established position as defined in Rule 60S-6.001, F.A.C.; and

(c) The member is not a member of the State Community College System Optional Retirement Program as provided in s. 121.051, F.S., the Senior Management Service Optional Annuity Program as provided in Chapter 60V, F.A.C., or the State University System Optional Retirement Program as provided in Chapter 60U, F.A.C.

(2) ELECTION TO PARTICIPATE – An eligible member must elect to participate in DROP within a 12-month period beginning on the member’s DROP eligibility date as defined in Rule 60S-11.001, F.A.C., subject to one of the following conditions:

(a) A member who reaches his initial eligibility date based on years of service before reaching age 57, or age 52 for a Special Risk Class member, and is therefore eligible to defer the DROP election period as defined in subparagraph 60S-11.001(2)(b)1., F.A.C., may defer his election to join DROP to anytime during the period from the initial eligibility date through the end of the twelfth month after he attains age 57, or age 52 for a Special Risk Class member. The member may participate for up to 60 months following the DROP begin date.

(b) A member may elect to include or exclude any optional service credit from the total service used to establish the DROP begin date when determining the DROP eligibility date.

(c) A member with dual normal retirement dates, due to an employment history in two different classes of membership with different normal retirement date and age requirements, may elect to participate in DROP within 12 months of attaining normal retirement date in either membership class.

(d) An elected officer who reaches his or her DROP eligibility date during a term of office may defer DROP participation until the next term in such office. The officer must elect to participate in DROP within 12 months of the first day of the month following the first month of such succeeding term and may participate for no more than 60 months after such day or until the end of the term, whichever occurs first.

(e) Effective February 1, 2003, a member who is filling an instructional personnel position (K-12) as defined in subsection 60S-11.001(11), F.A.C., may elect to participate in DROP at any time after reaching the initial eligibility date.

### (3) APPLICATION TO PARTICIPATE –

(a) Member's Responsibility – It shall be the responsibility of the eligible member to make proper application to the Division to participate in DROP. To qualify for DROP, the member shall submit to the Division:

1. Form DP-ELE, Notice of Election to Participate in the DROP and Resignation of Employment, as adopted in Rule Chapter 60S-9, F.A.C., which shall specify the DROP begin date and the DROP termination and resignation date, shall be acknowledged by the employer, and shall be received by the Division no later than the end of the last month of the member's 12-month election period described in subsection (2) or a later date if authorized in subsection (2). Such termination and resignation date shall constitute a binding letter of resignation with the employer. Failure to complete and submit Form DP-ELE within the limitations of subsection 60S-11.002(2), F.A.C., will result in the member being ineligible for DROP participation.

2. Form DP-11, Application for Service Retirement and the DROP, as adopted in Rule Chapter 60S-9, F.A.C., which will be accepted by the Division up to 6 months in advance of the intended DROP begin date, and shall establish the member's effective date of retirement and DROP begin date. The effective date of retirement and the DROP begin date shall both be the first day of the month that the member indicates on his application as the date he wishes his or her DROP participation to begin, provided the Division receives the member's application no later than the close of business on the last day of the month in which the DROP begin date occurs. If a member fails to apply for DROP by the last day of the month in which his intended DROP begin date occurs, the effective date of retirement and the DROP begin date shall be the first day of the month in which the Division receives the member's application, provided the application is received within the 12-month election as provided in subsection (2).

(b) Division's Responsibility – When the Division receives a member's application for DROP is received, the Division will:

1. Acknowledge receipt of the member's application and advise him or her of any required information or documents that have not yet been received. Such information may include, but is not limited to, birth date verification as required by subsection 60S-4.0035(2), F.A.C., beneficiary designation as required by subsection 60S-11.004(2), F.A.C., option selection as required by Rule 60S-4.010, F.A.C., spousal acknowledgment if option 1 or 2 is selected as required by subsection 60S-4.010(9), F.A.C., any payments due the member's account for purchase of additional service credit or a written statement from the member that the member does not wish to claim such service credit, and certification of final salary and accumulated annual leave payments as defined in Rule 60S-6.001, F.A.C.

2. Establish the DROP begin date as defined in subsection 60S-11.001(3), F.A.C.

3. Send a follow-up notice, reminding the member of any required information or documents that have not yet been received.

(c) Subject to timely submission of all required documents, the effective date of DROP participation shall be the effective date of retirement as defined in subsection 60S-6.001(25), F.A.C. The DROP participant may not modify or cancel his or her retirement benefit after the last day of the month of the DROP begin date as defined in subsection 60S-11.001(3), F.A.C. The DROP benefit shall be deemed cashed or deposited as required in subsection 60S-4.002(4), F.A.C., as of the last day of the month following the DROP begin date.

(d) Cancellation of DROP Application - If all the required information and documents have not been received by the Division after 3 follow-up notices have been sent to the member, the Division will send the member a certified letter, advising the member that he has 21 days to provide such information or documents without loss of his DROP begin date. If the Division has not received all of the required information and documents after the 21 days specified in the certified letter, the Division will send a final agency action letter to the member advising the member that his application is canceled and that he must reapply to join DROP, if eligible, with a new effective DROP begin date to be established upon application.

Specific Authority 121.031 FS. Law Implemented 121.021, 121.091, 1012.01 FS. History–New \_\_\_\_\_.

### 60S-11.003 Contributions.

(1) All employers paying the salary of a DROP participant shall contribute the required percentage of such participant's gross compensation as provided in subsection 60S-3.003(8), F.A.C.

(2) In addition to the above contributions, the contributions for the Retiree Health Insurance Subsidy provided in subsection 60S-3.003(7), F.A.C., shall be made for all DROP participants.

Specific Authority 121.031 FS. Law Implemented 121.091(13) FS. History--New \_\_\_\_\_.

60S-11.004 Benefits.

(1) Calculation of Benefits.

(a) The retirement benefit of a member who has elected to participate in the DROP shall be calculated as provided in Rule 60S-4.004 or 60S-4.006, F.A.C.

(b) A member may choose to receive his accumulated annual leave payment, as defined in Rule 60S-6.001, F.A.C., and earned in accordance with agency policy, either upon beginning or terminating DROP.

1. If the member elects to receive this payment at the beginning of DROP, the payment, which must be certified to the Division, will be included in the calculation of the member's average final compensation. This early annual leave payment will be based on the hourly wage of the member at the time he begins participation in DROP. Any additional annual leave payment made at the DROP end date according to the employer's leave policy cannot be included in the retirement benefit, which was determined and fixed by law when the member elected to participate in DROP.

2. If the member elects to receive the annual leave payment upon termination of DROP and termination of employment with his employer, any accumulated annual leave payment made at that time cannot be included in the retirement benefit, which was determined and fixed by law when the member elected to participate in DROP.

(2) Beneficiary Designation – The beneficiary eligible to receive any accrued DROP benefits payable if the DROP participant dies before the completion of the DROP participation period will be the most recent joint annuitant or beneficiary designated to receive retirement benefits upon the death of the participant, as directed by the participant on the Forms DP-11 or FST-12. However, if the beneficiary or joint annuitant dies during the DROP participation period, the participant may designate a new beneficiary as provided in Rule 60S-4.011, F.A.C., as follows:

(a) If the participant retired under option 1 or 2, he may name a new beneficiary on Form FST-12, Beneficiary Designation for Retired Members, adopted in Rule Chapter 60S-9, F.A.C. Such beneficiary will be eligible for both the DROP benefits and any benefits provided by the option selected; or

(b) If the participant retired under option 3 or 4, he may name a new qualified joint annuitant or spouse on Form JA-1, Change of Joint Annuitant Form, adopted in Rule Chapter 60S-9, F.A.C. Such beneficiary will be eligible for both the accrued DROP benefits and any continuing benefits; or

(c) If the participant retired under option 3 or 4, he may name, on Form FST-12, Beneficiary Designation for Retired Members, a new beneficiary who will receive only the accrued DROP benefits. Such beneficiary will not replace the joint annuitant or spouse or be eligible for any continuing benefits.

(d) The participant may not name a beneficiary to receive DROP benefits who is different from the beneficiary designated to receive the retirement benefits.

(3) Accrual of DROP Benefits

(a) Effective with the DROP begin date, the member's initial normal monthly benefit shall be fixed and shall accrue monthly in the System Trust Fund.

(b) Interest shall accrue at an effective annual rate of 6.5 percent compounded monthly, on the prior month's accumulated ending balance, up to the month of the DROP participant's termination or death.

(c) The DROP benefit will be increased by the annual cost-of-living adjustment as provided in Rule 60S-4.013, F.A.C.

(4) Health Insurance Subsidy – A DROP participant is not eligible to apply for or receive retiree health insurance subsidy payments as specified in Rule 60S-4.020, F.A.C., until such participant has terminated employment and DROP participation. A member shall not earn creditable service applicable to the Health Insurance Subsidy while participating in DROP.

(5) Employment During DROP Participation.

(a) A DROP participant is considered a retiree as defined in subsection 60S-6.001(53), F.A.C. However, participation in DROP does not alter the participant's employment status. Terms and conditions of employment, including, but not limited to, salary, insurance coverage, leave accrual, and seniority status, do not change as a result of DROP participation. However, employment is not guaranteed during the DROP participation period.

(b) Employment continues during participation in DROP through the date the member preselected to stop participation in DROP, except that elected officers may continue in office after the DROP end date as provided in (10).

1. A DROP participant may change jobs or have more than one FRS employer, as long as the participant does not have a break in service as defined in subsection 60S-11.001(8), F.A.C. If a break in service occurs, DROP participation will cease as of the end of the month in which no compensation is received for covered employment.

2. If the participant is employed by two employers upon beginning participation in DROP, the member and both employers must complete and submit Form DP-ELE. Only one employer is required to submit Form DP-11. A change or addition of a new employer after commencement of DROP only requires the employee and new employer to submit Form DP-ELE.

3. All employers are required to acknowledge on Form DP-ELE the participant's DROP termination date, which may be extended as provided in subparagraph 4. (but not beyond the maximum 60 months) and to acknowledge potential liability for any additional retirement contributions and interest required if the participant fails to timely terminate employment.

(6) Disability benefits – DROP participants shall not be eligible for disability benefits as described in Rule 60S-4.0073, F.A.C. If a participant continues employment beyond the preselected DROP end date and prior to completion of the maximum 60 months allowed, a new form DP-ELE must be submitted with a new DROP end date acknowledged by both the participant and any affected employer.

(7) DROP benefits shall be subject to the provisions of Rules 60S-4.014 and 60S-4.021, F.A.C., pertaining to assignment, execution, or attachment of benefits, and forfeiture of benefits, respectively.

(8) Death Benefits

(a) Eligibility to participate in the DROP ends upon the death of the participant.

(b) A DROP participant's survivors shall not be eligible to receive FRS in-line-of-duty death benefits as described in subsection 60S-4.008(4), F.A.C.

(c) If the participant dies on or after the DROP begin date, but prior to the first monthly benefit being credited to his or her DROP account, benefits shall be paid as follows:

1. According to the option selected by the participant at the time he or she entered DROP; or

2. If the beneficiary qualifies as a joint annuitant and the participant had selected an option other than option 3, the beneficiary may choose to receive a benefit payable under option 3 with no payout of DROP accrual, as though the participant had not applied for DROP and had retired on the date of death; or

3. If no option had been selected by the participant, benefits shall be paid according to subsection 60S-4.008(3), F.A.C.

(d) Upon the death of a DROP participant, the designated beneficiary shall be entitled to apply for and receive the accrued benefits in the DROP as provided in subsection 60S-11.004(11), F.A.C.

(9) Termination of Employment for Participants Not in the Elected Officers' Class – A DROP participant not in the Elected Officers' Class must terminate employment on or before the preselected resignation date specified on Form DP-ELE. If a participant fails to terminate on or before the DROP termination and resignation date:

(a) Retirement and DROP participation are voided.

(b) The DROP accumulation and any monthly retirement benefits received are forfeited.

(c) Membership in the member's retirement plan will be retroactively reestablished to the date the member initiated DROP participation.

(d) Each employer is liable for payment of or eligible for a refund of, as applicable, the difference between the DROP contributions paid and the required FRS retirement contributions for the applicable class of membership during the period of DROP participation. Payment of additional contributions shall include 6.5 percent interest compounded annually. No interest will be paid on refunds to employers.

(e) The beneficiary designated in subsection (2) will remain the named beneficiary on Form DP-11 or a subsequent Form FST-12, unless revised as specified in subsection 60S-4.011(4), F.A.C.

(10) Termination of Employment for Participants in the Elected Officers' Class – A member of the Elected Officers' Class participating in the DROP may continue to serve in elected office upon reaching the DROP end date as follows:

(a) For such officer who began participating in the DROP prior to July 1, 2002:

1. Payment of the accumulated DROP benefits shall be made as provided in subsection (11).

2. Beginning the first month following the DROP end date, monthly retirement benefits shall be paid to the officer in addition to compensation received as an elected officer.

3. The officer shall be a renewed member in the Elected Officers' Class as provided in subsection 60S-1.0055(4), F.A.C., effective the first day of the month following the DROP end date.

(b) For such officer who began participating in the DROP on or after July 1, 2002:

1. No additional DROP benefits shall accumulate on behalf of the officer after the officer's DROP end date, however, cost-of-living adjustments and interest shall continue to accrue as provided in subsection (3) until the officer ceases holding office and satisfies the definition of termination provided in subsection 60S-6.001(63), F.A.C.

2. The officer shall not be a renewed member in the Elected Officers' Class and the employer shall not make retirement contributions on the officer's behalf after the officer's DROP end date, however, the employer shall submit health insurance subsidy contributions until the officer ceases holding elective office.

3. Monthly retirement benefit payments shall be paid to the officer beginning the first month after the officer ceases holding office and satisfies the definition of termination provided in subsection 60S-6.001(63), F.A.C.

4. After satisfying the definition of termination, such officer who is reemployed or reelected shall be subject to the reemployment limitations provided in Rule 60S-4.012, F.A.C.

(11) DROP Distribution – Upon the participant's termination of all employment as defined in subsection 60S-6.001(63), F.A.C., the deferred resignation becoming



effective, and the conclusion of the DROP participation period, or upon the death of the participant, or for an elected officer as provided in (10)(a) benefits shall be paid or distributed as follows:

(a) The previously determined normal monthly retirement benefits, plus applicable cost-of-living increases, will commence in accordance with the method of payment chosen by the participant at the time he began DROP participation; and

(b) The total accumulated DROP benefits will be distributed to the participant, or, if deceased, to the participant's joint annuitant or beneficiary as appropriate, provided the Division receives:

1. From the participant only, the Form DP-TERM, DROP Termination Notification, adopted in Rule Chapter 60S-9, F.A.C., signed by both the participant and employer or employers, verifying termination of employment, and

2. Form DP-PAYT, DROP Selected Payout Method, adopted in Rule Chapter 60S-9, F.A.C., submitted by the participant, or if the participant has died, by his or her beneficiary, notifying the Division as to which of the following methods of payment he has chosen:

a. Lump sum (if the participant is deceased, a beneficiary, other than a spouse, must receive the lump sum distribution only.);

b. Direct rollover, or

c. Combined partial lump sum and rollover.

A DROP participant or beneficiary who submits all required forms, but fails to elect a method of payment within 60 days of termination of DROP, will automatically receive a lump sum distribution, less applicable withheld taxes.

3. If a direct rollover or a partial lump sum and rollover are requested, Form DP-PAYT must be submitted to the Division. A participant who elects a rollover must have the rollover paid directly to the custodian of an eligible retirement plan as defined in s. 402(c)(8)(B) of the Internal Revenue Code. Eligible retirement plans include:

a. An Individual Retirement Account as described in s. 408(a), Internal Revenue Code.

b. An Individual Retirement Annuity as described in s. 408(b), Internal Revenue Code, excluding an endowment contract.

c. A Qualified Trust established in accordance with s. 401(a), Internal Revenue Code, for the sole and exclusive benefit of employees or their beneficiaries.

d. An Annuity Plan as described in s. 403(a), Internal Revenue Code, excluding a s. 403(b) plan or a s. 457 plan as specified in the Internal Revenue Code.

e. An eligible deferred compensation plan described in s. 457(b), Internal Revenue Code which is maintained by an eligible employer as described in s. 457(e)(1)(A), Internal Revenue Code.

f. An annuity contract as described in 403(b) of the Internal Revenue Code.

If the DROP participant dies and the surviving spouse wishes to roll over the DROP account, it can only be rolled over into an arrangement as cited in sub-sub paragraphs a., b., e., or f. of this subparagraph as described in s. 402(c)(9), Internal Revenue Code.

(12) Federal Limits – Benefits accumulating in the DROP are not subject to federal benefit limitations specified in s. 415 of the Internal Revenue Code, until DROP participation ends and the participant begins receiving his monthly retirement benefits. The amount of the accumulated DROP at the time the member ceases DROP is amortized over the member's expected lifetime, in the manner required by the Internal Revenue Code, and the annualized value of the DROP account reduces the federal maximum annual benefit the member is entitled to receive.

(13) Reemployment After DROP – Except as otherwise provided in subsection (10):

(a) Upon the conclusion of DROP, the reemployment provisions specified in Rule 60S-4.012, F.A.C., are applicable to DROP participants.

(b) Reemployment with an employer during the first calendar month after concluding DROP shall result in cancellation of DROP and retirement. The member's DROP application shall be void, and he shall be required to repay all DROP and monthly retirement benefits received. The employer who reemploys such member is liable for payment of or eligible for a refund of, as applicable, the difference between the DROP contributions paid and the required FRS retirement contributions for the applicable class of membership during the period of DROP participation. Payment of additional contributions shall include 6.5 percent interest compounded annually. No interest will be paid on refunds to employers.

Specific Authority 121.031 FS. Law Implemented 121.131,121.091 FS. History–New\_\_\_\_\_.

NAME OF PERSON ORIGINATING PROPOSED RULE: Erin Sjostrum, Director, Division of Retirement

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Erin Sjostrum, Director, Division of Retirement

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: April 14, 2003

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: April 25, 2003

**DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION**

**Division of Florida Land Sales, Condominiums and Mobile Homes**

RULE CHAPTER TITLE: Florida Mobile Home Relocation Corporation  
RULE CHAPTER NO.: 61B-36

RULE TITLES: Procedures for Operation  
 Claims Procedures  
 Approved Forms

RULE NOS.: 61B-36.001  
 61B-36.002  
 61B-36.003

PURPOSE AND EFFECT: Chapter 723, F.S., was amended during the 2001 Legislative Session to create the Florida Mobile Home Relocation Corporation and the Florida Mobile Home Relocation Trust Fund to provide payments to mobile home owners who are evicted due to a change in the use of the land comprising the mobile home park. The statute provides payment of actual moving expenses of a mobile home up to \$5,000 for a single section home or \$10,000 for a multi-section home. Additionally, in the event the mobile home owner who is evicted for change in the use of the land comprising the mobile home park abandons his or her home and transfers title to the park owner, he or she is entitled to one-fourth of the \$5,000 or \$10,000 payment.

SUMMARY: As a result of the statute, a board of directors was appointed to administer the trust fund and to ensure that people who are displaced will receive their payment for moving expenses or for abandonment of their homes as expeditiously as possible. The proposed rules provide quick, fair and effective procedures for administrative processing and board consideration of applications for relocation expenses and abandoned homes. The need for a quick payment procedure is due to the fact that many people who are forced to move or abandon their homes due to a change in the use of the land cannot afford to pay to have their homes moved. In the case of a home owner who must abandon his or her home, the payment is needed immediately in order to make a deposit on a new home or find other suitable means of housing.

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

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

SPECIFIC AUTHORITY: 723.0611(3)(a) FS.

LAW IMPLEMENTED: 723.0611, 723.06115, 723.06116, 723.0612 FS.

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

TIME AND PLACE: 10:30 a.m., Monday, May 19, 2003

PLACE: Shady Lane Oaks, 1577 Bolesta Road, #174, Clearwater, Florida

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULES IS: Robert S. Cohen, General Counsel, Florida Mobile Home Relocation Corporation, Post Office Box 14125, Tallahassee, FL 32317-4125, 1(888)862-7010 (Toll free)

THE FULL TEXT OF THE PROPOSED RULES IS:

61B-36.001 Procedures for Operation.

(1) The Florida Mobile Home Relocation Corporation board of directors, one of whom serves as chair, shall conduct the corporation's business at meetings held as frequently as deemed necessary by the board. All such meetings shall be noticed in the Florida Administrative Weekly, as well as the principal publications of the largest nonprofit association representing mobile home owners in this state and the largest nonprofit association representing the manufactured housing industry in this state, who comprise the members of the corporation board of directors. Such notice shall be published at least 14 days prior to the date scheduled for the meeting of the board of directors, except in the case of emergency meetings of the board of directors, in which case the notice may be published less than 14 days prior to the date of the meeting. The board of directors may hold meetings by telephone conference call, or other electronic means, by providing 48 hours written notice via facsimile to the largest nonprofit association representing mobile home owners in this state, the largest nonprofit association representing the manufactured housing industry in this state and to other interested parties who have provided notice to the corporation of their interest in receiving public notice of corporation business to review applications for payment of relocation expenses or abandonment so as to meet the timetable set forth in s. 723.0612(4), F.S.

(2) The board of directors may employ or retain attorneys, accountants or administrative personnel to perform the administrative and financial transactions and responsibilities of the corporation and to perform any other necessary duties not prohibited by law. The board of directors is not required to engage in a competitive solicitation or bidding process for goods and services needed by the board to perform its functions.

(3) Members of the board of directors may be reimbursed by the corporation for actual and necessary expenses incurred by them as members in accordance with state guidelines as approved by the department. Members of the board of directors are not entitled to any additional compensation for their services.

(4) The corporation shall establish, by rule, an address for receipt of mail and any official notices required by Section 723.0612. The initial address for receipt of such mail or notices shall be Florida Mobile Home Relocation Corporation, Post Office Box 14125, Tallahassee, Florida 32317-4125.

(5) The corporation is authorized to open accounts with financial institutions or credit unions to conduct the financial affairs of the corporation.

(6) The corporation shall implement procedures, in conjunction with the department, for the transfer of funds from the Florida Mobile Home Relocation Trust Fund to the corporation for the payment of claims for relocation expenses approved by the board of directors.

Specific Authority 723.0611(3) F.S. Law Implemented 723.0611, .0612 F.S. History—New \_\_\_\_\_.

#### 61B-36.002 Claims Procedures.

(1) In order to receive payment from the corporation for relocation expenses, the mobile home owner shall submit to the corporation, with a copy to the park owner, an Application for Payment of Relocation Expenses, FMHRC Form 1001, which includes a copy of the notice of eviction due to change in use of the land comprising the mobile home park and a copy of the signed contract with a moving or towing contractor that includes an itemization of the costs of taking down, moving and setting up the mobile home in a new location. The copy of the notice of eviction shall show a date after July 1, 2001, the effective date of the statute creating the Florida Mobile Home Relocation Corporation. The cost itemization referenced herein shall be in a form substantially similar to FMHRC Form 1007 in order to be considered for approval by the board of the Corporation. The application shall also include a copy of the title to the mobile home showing the name of the owner of the home being the same as the applicant for relocation expenses. The title certificate must bear the Department of Highway Safety and Motor Vehicles designation of "HS" which designates the home as a "mobile home." No other designation on the title will be accepted for processing and approval for relocation expenses. Any application received that does not contain complete information and all of the required documentation shall be returned by the corporation to the applicant along with a notice of the deficiencies in the application. Only completed applications will receive a date stamp. In the event the applicant resubmits the application with the required documentation, the application will then receive a date stamp assigning its priority.

(2) Any claims made pursuant to this rule shall be prioritized as follows: The mail will be collected from the post office box address of the corporation at least Monday, Wednesday and Friday, state and federal holidays excluded. Any completed applications received will be date stamped. Priority of payment of claims for relocation expenses will be based upon the date the completed application is date stamped.

(3) The corporation must approve payment within 45 days after receipt of the completed application, or payment is deemed approved. Once the mobile home has been moved to its new location, the corporation shall forward to the park owner a copy of the approval along with an invoice for payment of \$2,000 for a single-section mobile home or \$2,500 for a multi-section mobile home.

(4) If funds are available and the completed application is approved, the following shall occur:

(a) In the event the mobile home has not yet been moved to a new location, the corporation shall issue a voucher to the moving or towing contractor in the amount of the contract price for relocation of the mobile home. The amount of the voucher shall be as approved by the board of the corporation and as set forth in s. 723.0612(1), F.S. The moving or towing contractor may redeem the voucher from the corporation following completion of the relocation of the mobile home and upon approval of the relocation by the mobile home owner that the work performed was satisfactory. Within 30 days of receipt of the voucher and proof of the satisfactory completion of the relocation by the moving or towing contractor, the corporation shall pay the amount set forth on the voucher.

(b) In the event the home owner has already moved the mobile home to a new location and paid for the move, the corporation shall issue a voucher to the home owner whose application was previously approved by the corporation in accordance with this rule. The amount of the voucher shall be as approved by the board of the corporation and as set forth in s. 723.0612(1), F.S. The home owner may redeem the voucher upon submitting proof of the relocation of the mobile home in the form of a receipt or invoice marked "paid" by the moving or towing contractor. Within 30 days of receipt of the voucher and proof of the relocation by the moving or towing contractor, as set forth herein, the corporation shall pay the amount set forth on the voucher.

(5) In the event a mobile home owner who has been evicted for change in the use of the land chooses to abandon the mobile home pursuant to s. 723.0612(7), F.S., the home owner may collect an amount equal to one-fourth of the maximum allowable moving expenses from the corporation so long as the mobile home owner delivers to the park owner the current title to the mobile home properly endorsed by the owner of record with valid releases of all liens shown on the title. In order to qualify for reimbursement under this subsection, the title certificate on the mobile home sought to be abandoned must bear the Department of Highway Safety and Motor Vehicles designation of "HS" which is the designation as a "mobile home." No other designation will be accepted for processing and approval for payment for an abandoned home. The mobile home owner who seeks payment under this section shall submit to the corporation an Application for Payment for Abandoned Home, FMHRC Form 1002, which includes a copy of the notice of eviction due to change in the use of the land comprising the mobile home park and a copy of the current title to the mobile home with the proper designation of "HS" duly endorsed to the park owner by the owner of record and valid releases of all liens shown on the title. Upon approval of the application by the corporation, the corporation shall forward to the park owner a copy of the approval along with an invoice for the payment of one-fourth of the maximum allowable moving expenses.

(6) In the event the funds for payment of relocation expenses or the payment for abandonment of the mobile home have been exhausted due to the payment of previous claims and expenses of the corporation, the mobile home owner who has properly completed the application and attached the required documentation will receive a certificate showing the time and date of approval of payment to a claimant. Should sufficient funds become available, the corporation shall pay the claimant for relocation expenses whose unpaid claim is the earliest by time and date of approval. In the event the funds for payment for an abandoned home have been exhausted, the corporation shall pay the home owner at the time the park owner has made the payment to the corporation of the one-fourth of the maximum allowable moving expenses as set forth in the previous subsection.

Specific Authority 723.0611(3) FS. Law Implemented 723.061, 723.06116, 723.0612 FS. History—New \_\_\_\_\_.

**61B-36.003 Approved Forms.**

The corporation adopts the forms below as suggested forms for use by Mobile home owners and park owners:

(1) Application for Payment of Relocation Expenses, FMHRC Form 1001, incorporated by reference herein and effective X-1-2003.

(2) Application for Payment for Abandoned Mobile Home, FMHRC Form 1002, incorporated by reference herein and effective X-1-2003.

(3) Contractor Voucher for Payment for Mobile Home Relocation, FMHRC Form 1003, incorporated by reference herein and effective X-1-2003.

(4) Home Owner Voucher for Payment for Mobile Home Relocation, FMHRC Form 1004, incorporated by reference herein and effective X-1-2003.

(5) Certificate for Payment When Relocation Funds Become Available, FMHRC Form 1005, incorporated by reference herein and effective X-1-2003.

(6) Certificate for Payment When Abandoned Home Funds Become Available, FMHRC Form 1006, incorporated by reference herein and effective X-1-2003.

(7) Standard Form Relocation Contract, FMHRC Form 1007, incorporated by reference herein and effective X-1-2003. All forms referenced in these rules may be obtained by writing to the Florida Mobile Home Relocation Corporation, Post Office Box 14125, Tallahassee, Florida 32317-4125.

Specific Authority 723.00611(3) FS. Law Implemented 723.061, 723.0611, 723.06116, 723.0612 FS. History—New \_\_\_\_\_.

NAME OF PERSON ORIGINATING PROPOSED RULE:  
Robert S. Cohen, General Counsel, Florida Mobile Home Relocation Corporation

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Board of Directors, Florida Mobile Home Relocation Corporation, Jack Latvala, Chairman

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: April 1, 2003

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: February 28, 2003

**DEPARTMENT OF ENVIRONMENTAL PROTECTION**

**Office of the Secretary**

DOCKET NO.: 03-01R

RULE CHAPTER TITLE:

RULE CHAPTER NO.:

Coastal Management Program

Grants

62S-4

PURPOSE AND EFFECT: Rule amendments and new rules are proposed in order to clarify language in Chapter 62S-4, F.A.C., streamline review procedures, screen out ineligible applications, avoid conflicts with other laws, and provide for a wider range of projects to be funded by Coastal Management Program grants.

SUMMARY: The proposed rule amendments make technical changes to clarify and improve the review process for Coastal Partnership Initiative grants, including changing the date of noticing the availability of funds; requiring a budget and other information to aid application review; refining grant criteria to screen out ineligible applications and target a greater variety of coastal needs; and providing for a greater maximum amount for non-construction grants. In addition, new rules and new subsections of existing rules provide procedures and criteria for grants to state agencies and water management districts that assist in implementing priorities of the Florida Coastal Management Program.

The full text of this notice is published on the Internet at the Department of Environmental Protection's home page at <http://www.dep.state.fl.us/> under the link or button titled "Official Notices."

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Susan Goggin, 3900 Commonwealth Blvd., MS 47, Tallahassee, FL 32399-3000, (850)245-2161, or [susan.goggin@dep.state.fl.us](mailto:susan.goggin@dep.state.fl.us).

**DEPARTMENT OF HEALTH**

**Board of Medicine**

RULE TITLE:

Standards of Practice

RULE NO.:

64B8-44.007

PURPOSE AND EFFECT: The Board proposes to add a requirement to the rule that the initial nutritional assessment must be made by the licensee with a patient in a face-to-face setting.

SUMMARY: This amendment to the rule specifies that the initial nutritional assessment must be done in a face-to-face setting, whereas subsequent communications between the patient and the licensee may be accomplished either face-to-face or by other means.

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

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

SPECIFIC AUTHORITY: 468.507 FS.

LAW IMPLEMENTED: 468.516, 468.517, 468.518 FS.

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

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Kaye Howerton, Executive Director, Board of Medicine, Dietetics and Nutrition Council /MQA, 4052 Bald Cypress Way, Bin #C05, Tallahassee, Florida 32399-3253

THE FULL TEXT OF THE PROPOSED RULE IS:

64B8-44.007 Standards of Practice.

Licensees, under Chapter 468, Part X, Florida Statutes, shall comply with the following standards in their professional practice and conduct, which reflect the ethical principles of the dietetic/nutrition professional and outline obligations of the licensee to self, client, society and the profession.

(1) through (20) No change.

(21) The licensee's initial nutritional assessment of a patient must be done in a face-to-face setting, and may not be done by telephone, fax, internet, or by any other means in which the patient is not physically present with the licensee. Communication between the patient and the licensee subsequent to the initial nutritional assessment may be accomplished either face-to-face or by other means, in the reasonable clinical judgment of the licensee.

Specific Authority 468.507 FS. Law Implemented 468.516, 468.517, 468.518 FS. History--New 6-22-94, Formerly 61F6-50.007, Amended 2-20-96, Formerly 59R-44.007, Amended \_\_\_\_\_.

NAME OF PERSON ORIGINATING PROPOSED RULE: Dietetics and Nutrition Practice Council

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Dietetics and Nutrition Practice Council

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: April 5, 2003

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: March 28, 2003

**DEPARTMENT OF HEALTH  
Board of Podiatric Medicine**

RULE TITLE:  
Continuing Education Required  
for License Renewal

RULE NO.:  
  
64B18-17.001

PURPOSE AND EFFECT: The Board proposes the rule amendments to specify licensed podiatrists' continuing education requirements for renewal of license, and to address an exemption from the requirements when there is an overlap between a licensee's professional education at initial licensure and the first renewal period.

SUMMARY: The Board's proposed rule amendments replace "licensee" with "licensed podiatrists" in subsection (1), and provide licensees an exemption from certain continuing education requirements when an overlap in time occurs between completion of professional education and the first renewal period.

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

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

SPECIFIC AUTHORITY: 456.013(6), 456.033, 461.005, 461.007(3) FS.

LAW IMPLEMENTED: 456.013(6), 456.033, 461.007 FS.

IF REQUESTED WITHIN 21 DAYS OF THE DATE OF THIS NOTICE, A HEARING WILL BE SCHEDULED FOR THE BOARD'S NEXT MEETING TO BE HELD ON JULY 25, 2003, LOCATION TO BE DETERMINED.

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Joe Baker, Jr., Executive Director, Board of Podiatric Medicine/MQA, 4052 Bald Cypress Way, Bin #C07, Tallahassee, Florida 32399-3257

THE FULL TEXT OF THE PROPOSED RULE IS:

64B18-17.001 Continuing Education Required for License Renewal.

(1) No change.

(2) All licensed podiatrists ~~licensees~~ who seek to renew the active status of their licensure must demonstrate that they have completed, during the previous two years, at least forty (40) hours of continuing education.

(a) through (e) No change.

(3) through (8) No change.

(9) For the first renewal period after initial licensure, the licensee is exempt from the continuing education requirements of Rule 64B18-17.001, F.A.C., except for hours mandated by statute for medical errors.

Specific Authority 456.013(6), 456.033, 461.005, 461.007(3) FS. Law Implemented 456.013(6), 456.033, 461.007 FS. History--New 11-24-80, Formerly 21T-17.01, Amended 10-14-86, 2-21-88, 5-16-89, Formerly 21T-17.001, Amended 7-6-94, Formerly 61F12-17.001, Amended 1-1-96, 1-2-97, 6-1-97, Formerly 59Z-17.001, Amended 4-25-00, 9-27-01, \_\_\_\_\_.

NAME OF PERSON ORIGINATING PROPOSED RULE: Board of Podiatric Medicine

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Board of Podiatric Medicine  
 DATE PROPOSED RULE APPROVED BY AGENCY HEAD: April 4, 2003  
 DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: February 28, 2003

**DEPARTMENT OF HEALTH**

**Board of Psychology**

RULE TITLE: Continuing Education Provider Fees  
 RULE NO.: 64B19-12.009

PURPOSE AND EFFECT: The Board proposes to change the date that the renewal fee for continuing education providers is due.

SUMMARY: This amendment changes the date that the renewal fee for continuing education providers is due from February 28, 2003 to May 31, 2003 of every even numbered year.

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

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

SPECIFIC AUTHORITY: 456.025(5), 490.0085(4) FS.

LAW IMPLEMENTED: 456.025(5), 490.0085(4) FS.

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

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Kaye Howerton, Executive Director, Board of Psychology/MQA, 2020 Capital Circle, S. E., Bin #C05, Tallahassee, Florida 32399-3253

THE FULL TEXT OF THE PROPOSED RULE IS:

64B19-12.009 Continuing Education Provider Fees.

(1) The application fee and the renewal fee for Board approval of a continuing education provider is \$500.00.

(2) The application or renewal fee shall be paid to the Department of Health by May 31 ~~February 28~~ of every even numbered year.

Specific Authority 456.025(5)(3),(4), 490.0085(4) FS. Law Implemented 456.025(5)(3),(4), 490.0085(4) FS. History—New 10-14-87, Amended 6-23-91, 10-28-92, Formerly 21U-12.001, 61F13-12.011, Amended 1-7-96, Formerly 59AA-12.009, Amended 9-20-98, 8-8-01, Amended.

NAME OF PERSON ORIGINATING PROPOSED RULE: Board of Psychology

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

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: November 16, 2002

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: December 6, 2002

**DEPARTMENT OF HEALTH**

**Division of Environmental Health**

RULE TITLES:	RULE NOS.:
Alternative Systems	64E-6.009
Abandonment of Systems	64E-6.011
Standards for the Construction, Operation, and Maintenance of Aerobic Treatment Units	64E-6.012
Requirements for Registration	64E-6.019
Master Septic Tank Contractors	64E-6.020
Issuance of Registration Certificates and Renewal	64E-6.021
Definitions	64E-6.025
Applications for Innovative System Permits and System Construction Permits	64E-6.026
Permits	64E-6.027
Monitoring	64E-6.029
Innovative System Reclassification	64E-6.0295

PURPOSE AND EFFECT: These amendments incorporate proposals that have been reviewed and recommended by the Technical Review and Advisory Panel. Technical corrections are also addressed as well as areas changes requested by the Joint Administrative Procedures Committee.

SUMMARY: The proposed rule amends many of the current standards related to onsite sewage treatment and disposal systems which are necessitated by the modification of Chapter 381, F.S. Additionally, changes are necessary to codify updated standards and methods related to the industry and program.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COST: Not prepared.

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

SPECIFIC AUTHORITY: 154.06, 381.0011, 381.006, 381.0065, 489.553, 489.557 FS.

LAW IMPLEMENTED: 154.01, 381.001, 381.0011, 381.0012, 381.0025, 381.006, 381.0061, 381.0065, 381.00655, 381.0066, 381.0067, 386.01, 386.03, 386.041, 489.552, 489.553 FS.

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

TIME AND DATE: 10:00 a.m., Monday, May 19, 2003

PLACE: Bureau of Onsite Sewage Programs Conference Room 140 P, Capital Circle Office Center, 4042 Bald Cypress Way, Tallahassee, Florida

Any person requiring a special accommodation at this hearing because of disability or physical impairment should contact Shirley Kugler, (850)245-4070, at least two weeks prior to the hearing.

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULES IS: Gerald Briggs, Chief, Bureau of Onsite Sewage Programs, HSES, 4052 Bald Cypress Way, Bin #A08, Tallahassee, FL 32399-1713

THE FULL TEXT OF THE PROPOSED RULES IS:

64E-6.009 Alternative Systems.

When approved by the DOH county health department, alternative systems may, at the discretion of the applicant, be utilized in circumstances where standard subsurface systems are not suitable or where alternative systems are more feasible. Unless otherwise noted, all rules pertaining to siting, construction, and maintenance of standard subsurface systems shall apply to alternative systems. In addition, the DOH county health department may, using the criteria in subsection 64E-6.004(4), F.A.C., require the submission of plans prepared by an engineer registered in the State of Florida, prior to considering the use of any alternative system. The DOH county health department shall require an engineer registered in the state of Florida to design a system having a total absorption area greater than 1000 square feet and shall require the design engineer to certify that the installed system complies with the approved design and installation requirements.

(1) through (2) No change.

(3) Mound systems – are used to overcome certain limiting site conditions such as an elevated seasonal high water table, shallow permeable soil overlying slowly permeable soil and shallow permeable soil located over creviced or porous bedrock. Special installation instructions or design techniques to suit a particular site shall, using the criteria in subsection 64E-6.004(4), F.A.C., be specified on the construction permit in addition to the following general requirements.

(a) through (e) No change.

(f) There shall be a minimum 4 feet separation between the shoulder of the fill and the nearest trench or absorption bed sidewall. Where a portion of the mound slope will be placed adjacent to building foundations, pilings or supports for elevated structures, mobile home walls, swimming pool walls, retaining walls, or similar obstructions there shall be a minimum 5 foot separation between the sidewall of the absorption area and the obstruction. Such obstructions shall impact the slope on no more than 50 percent of the shoulder perimeter. Retaining walls must be designed by a professional engineer registered in the state of Florida to withstand the lateral earth forces under saturated conditions and to prevent seepage. Where mounds are placed on slopes exceeding 2 percent, the toe of the slope on the downslope side of the mound shall extend an additional 4 inches for each additional 1 percent of slope. To taper the maximum elevation of the

mound down to the toe of the slope, additional moderately or slightly limited fill shall be placed at a minimum 2 foot horizontal to 1 foot vertical grade where mound height does not exceed 36 inches. Mound heights which exceed 36 inches shall have a slope not steeper than 3 foot horizontal to 1 foot vertical. The entire mound including slopes, shoulders and the soil cap shall be stabilized with vegetation. Slopes steeper than 5:1 shall be sodded. Soil caps and unsodded slopes must, at a minimum, be seeded with grass and a layer of hay or similar cover. ~~The slopes of a mound system shall be stabilized with sod. When the mound slopes are not stabilized with sod, the mound slopes shall be a minimum of a 5:1 grade.~~ Where fill material is present in the amount so as to provide a level surface from the top of the required cover over the system over the area where the slopes would normally be located, no slopes shall be required. For example, if the neighboring lot has been permanently filled to the same level as the applicant's lot, a five-foot separation from the property line to the system will be required, as opposed to requiring the slope area. ~~The entire mound including slopes, shoulders and the soil cap shall be stabilized with sod or by seeding with grass and a layer of hay or similar cover shall be placed to prevent mound erosion.~~ Stabilization of a mound shall be the responsibility of the septic tank contractor who constructed the mound system unless the written agreement for system construction clearly states the system owner is responsible. Mound slopes which do not conform to permit requirements shall at a minimum be restored to permit specifications prior to stabilizing. Other vegetative covers providing protection from mound erosion equal to or better than sod shall be approved by the State Health Office. Final installation approval shall not be granted until sodding or seeding and haying or other approved stabilization of the mound has occurred. No portion of the drainfield or shoulder area shall be covered with asphalt or a concrete driveway or be subject to vehicular traffic. Landscaping features such as boulders or trees which obstruct drainfield or fill shoulder area shall not be used.

(g) through (h) No change.

(i) All fill material used in the construction of systems shall be free of extraneous non-soil material such as grass, roots and any other debris. Shell fragments less than 2.0 between 0.1 and 1.0 mm in diameter are excluded from the classification of extraneous non-soil materials and are considered to be soil particles. Severely limited soil material shall not be used in system construction. Fill material consisting of mechanically crushed and sieved rock shall not be used in system construction.

(4) No change.

(5) Drip irrigation systems – Drip irrigation systems may, at the option of the applicant, be used in lieu of a mineral aggregate drainfield. Drip irrigation systems shall meet all requirements of this Chapter except as noted below.

(a) Drip irrigation systems receiving effluent from an approved aerobic treatment unit – shall meet the following requirements:

1. Drip irrigation systems shall be designed by an engineer registered in the state of Florida.

2. The infiltrative area required shall be the same as the area required for a mineral aggregate drainfield with reductions allowed for the reduction of CBOD<sub>5</sub> and TSS as noted in this chapter for aerobic treatment units.

3. In an absorption bed configuration, the drainfield area shall be calculated as extending one foot beyond the sides of the outermost emitter lines.

4. In a trench containing a single emitter line, the drainfield area shall be calculated as 2 feet multiplied by the emitter spacing in feet multiplied by the number of emitters.

5. Drip effluent disposal systems shall be considered pressure distribution systems. Head loss calculations shall be provided to insure proper hydraulic pressure at the emitter. Pump selection shall be indicated in the design specifications. Pump performance curves shall be included in the permit application.

6. Recirculation rates shall be in the design specifications.

7. Check valves, petcocks, inline filters, and vacuum breaking device locations shall be shown on the design drawings.

8. Drip irrigation systems shall be time-dosed over the 24-hour period. Demand control dosing shall override timed-dosing in periods of flow where timed dosing cannot accommodate the excessive flow.

9. Emitter lines shall be designed as a continuous loop circuit with no dead-ends.

10. Emitter lines shall be drawn to scale and emitter spacing shall be indicated on the drawings.

11. Vacuum release valves shall be installed at the highpoint of the emitter lines.

12. The maximum emitter longitudinal spacing on an emitter line shall be 2 feet. The maximum spacing between adjacent emitter lines in an absorption bed configuration shall be 2 feet. The 24-inch separation from the seasonal high water table shall be measured from the emitter orifice. Setbacks shall be measured from the drip emitter lines.

13. The setback from drip emitter lines to building foundations and property lines shall be no less than two feet.

14. The definition of a filled system in Rule 64E-6.002, F.A.C., is not applicable to drip effluent disposal systems. A drip effluent disposal system is considered to be a mound system when any part of the bottom surface of any drip emitter line is located at or above the elevation of undisturbed native soil in the drainfield area. A drip effluent disposal system is considered a standard subsurface drainfield system when the

entire bottom surface of every drip emitter line is installed below the elevation of undisturbed native soil in the drainfield area.

15. For mound systems there shall be a minimum 18-inch separation between the shoulder of the fill and the nearest drip emitter line. Mound system slopes shall be in accordance with paragraph 64E-6.009(3)(f), F.A.C. Mound systems shall be stabilized in accordance with paragraph 64E-6.009(3)(f), F.A.C.

16. For standard subsurface systems, the elevation of any fill covering the drainfield shall extend no less than 18 inches away from all emitter lines before tapering down to natural grade.

17. Minimum cover on the emitter lines shall be 6 inches for all drip irrigation systems. The maximum cover for all drip irrigation systems shall be no greater than 12 inches.

18. The system shall include a petcock on the dosing pump discharge line for effluent sampling.

19. All systems shall incorporate an automatic mechanism for backwashing or flushing the drip lines and filters.

20. All onsite sewage treatment and disposal systems that include a drip effluent disposal system and aerobic treatment unit shall have an annual operating permit, maintenance contract with an approved aerobic treatment system maintenance entity, and shall be inspected in accordance with the requirements of this chapter.

21. Drip irrigation systems shall be designed to have a minimum operating pressure at the emitter head of 10 PSI, a maximum operating pressure at the emitter head of 45 PSI, a maximum system operating pressure of 60 PSI, and a maximum discharge rate per emitter of 1.5 gallons per hour.

22. Drip irrigations shall be used for treating domestic wastewater only.

23. Drip irrigation systems shall only use components approved by the Bureau of Onsite Sewage Programs.

(b) Drip irrigation systems receiving waste from other treatment devices shall be regulated under Part IV of this Chapter.

(6) Tire chip aggregate systems – tire chip aggregate may be used as a substitute for mineral aggregate in onsite sewage treatment and disposal system drainfields under the following conditions:

(a) The tire chips meets the specifications for mineral aggregate found in this chapter: Mixed tire and mineral aggregate shall be approved where each type of aggregate meets its' respective standard and the combined mixture meets the gradation requirements in paragraph 64E-6.014(5)(c), F.A.C.

(b) Exposed wire protrudes no more than one-half (1/2) inch from 90% of the chips.

(c) At least 80% of the bead wire has been removed from the tires to be chipped.



(d) The system receives domestic wastewater only.

(e) Tire chip aggregate shall not be used where the seasonal high water table is less than 12 inches below the bottom of the drainfield at the wettest season of the year.

(f) In all other respects tire chip aggregates and mixed tire-mineral aggregates shall be installed with identical site restrictions and construction requirements as approved mineral aggregates.

(7)(5) Alternative system component drainfield materials and design approval – After innovative system testing is completed, requests Requests for approval of system components drainfield materials and designs which are not specifically addressed in this chapter Rule 64E-6.014, F.A.C., shall be submitted to the department’s Bureau of Onsite Sewage Programs.

(a) Requests for alternative system component material and design drainfield approval shall include:

1. be accompanied by Detailed system design and construction plans by an engineer registered in the State of Florida

2. Certification of the performance capabilities of the product submitted by an engineer registered in the State of Florida.

3. Research supporting the proposed system materials.

4. and Empirical data showing results of innovative system testing in the State of Florida system use in other states with similar soil conditions.

5. A design, installation and maintenance manual showing how to design and install the system in accordance with this chapter for standard, filled, mounded, gravity-fed, dosed, bed and trench configurations.

(b) In addition to those items listed in paragraph 64E-6.009(7)(a), F.A.C., manufacturers of drip effluent disposal system distribution lines, emitters, and components shall apply for and obtain approval from the Bureau of Onsite Sewage Programs for specific model numbers or part numbers prior to inclusion of the components on any site specific permit application. Manufacturer’s of drip effluent disposal system components shall provide design and installation manuals for engineering and construction guidance. Design manuals shall include tables that detail flow rates vs. pressure and pressure loss per length(s) of distribution pipe.

(c) The detailed plans and information submitted with the approval request shall be reviewed by the department onsite sewage program to determine whether or not there is a reasonable certainty that the information submitted provides evidence of the effectiveness and reliability of the proposed alternative system component drainfield. Except as provided for in Part IV of this rule, alternative drainfield units shall not be approved which would result in a reduction in drainfield size using the mineral aggregate drainfield system as described in Rule 64E-6.014, F.A.C., and the total surface area of soil at the bottom of the drainfield as the criteria for drainfield sizing

comparisons. If the department is not satisfied that the information provided provides reasonable evidence of the effectiveness and reliability of the alternative system component and designs, drainfield the department shall deny the approval. Department approval of any alternative system component drainfield system does not guarantee or imply that any individual system installation will perform satisfactorily for a specific period of time. Upon department approval of the material and design, the manufacturer shall list the department approval date in the installation and design manual. Proposals to amend the approved installation and design manual shall be submitted to the bureau for approval. The date of amendment approval shall be included in the manual.

The individual system design engineer or the registered septic tank contractor if an engineer did not design the system is primarily responsible for determining the best system design to meet the specific wastewater treatment and disposal needs and to address specific installation area site conditions and limitations.

(d) Except as provided for in Part IV of this rule, alternative drainfield materials and designs shall not be approved which would result in a reduction in drainfield size using the mineral aggregate drainfield system as described in Rule 64E-6.014, F.A.C., and the total surface area of soil at the bottom of the drainfield as the criteria for drainfield sizing comparisons. Alternative system component and design approvals shall not be granted for the following items:

1. Those which, in whole or in part, are used to achieve thea more advanced level of treatment than the baseline treatment level specified in part IV of this chapter.

2. Aerobic treatment units.

3. Septic tank designs, filters, seals, and sealants.

4. Additives.

5. Header and drainfield pipe, including their layout.

6. Water table separation and setback requirements.

(8)(6) Other alternative systems - systems such as low pressure distribution networks, small diameter gravity sewers, low pressure sewer systems, alternating absorption fields, and sand filters designed and submitted by an engineer who is registered in the State of Florida, meeting the general requirements of this Chapter, shall be approved by the DOH county health department where evidence exists that use of such systems will not create sanitary nuisance conditions, health hazards or pollute receiving waters. Use of an alternative system may require the establishment of procedures for routine maintenance, operational surveillance, and environmental monitoring to assure the system continues to function properly.

(9)(7) Use of a system to serve more than one residence or commercial building under separate ownership and when located on separate lots shall require the establishment of a

local sewer district, maintenance franchise, or other legally binding arrangement for the operation and maintenance of such system.

~~(10)(8)~~ All materials incorporated herein may be obtained by contacting the department.

Specific Authority 381.0011(4),(13), 381.006, 381.0065(3)(a), 489.553(3), 489.557(1) FS. Law Implemented 154.01, 381.001(2), 381.0011(4), 381.0012, 381.0025, 381.006(7), 381.0061, 381.0065, 381.0067, 386.041, 489.553 FS. History—New 12-22-82, Amended 2-5-85, Formerly 10D-6.49, Amended 3-17-92, 1-3-95, Formerly 10D-6.049, Amended 11-19-97, 2-3-98, 3-22-00, 4-21-02,\_\_\_\_\_.

64E-6.011 Abandonment of Systems.

(1) No change.

(2) The following actions shall be taken, in the order listed, to abandon an onsite sewage treatment and disposal system:

(a) through (d) No change.

(e) An inspection of the system abandonment shall be conducted by the department or by the local utility or plumbing authority performing the system abandonment.

(3) The permitting provisions of paragraph 64E-6.011(2)(a), F.A.C., are not required if a local utility or local plumbing authority performs a system abandonment program which requires the completion of those steps listed in paragraphs 64E-6.011(2)(b), (c), ~~and (d), and (e)~~, F.A.C. If the system abandonment is performed by a local utility or local plumbing authority, the local utility or local plumbing authority performing the abandonment program shall maintain a log of all inspections performed and shall forward the log to the County Health Department on a monthly basis.

Specific Authority 154.06, 381.0011, 381.006, 381.0065, 489.553, 489.557 FS. Law Implemented 154.01, 381.001, 381.0011, 381.0012, 381.0025, 381.006, 381.0061, 381.0065, 381.00655, 381.0066, 381.0067, Part I 386 FS. History—New 12-22-82, Amended 2-5-85, Formerly 10D-6.53, Amended 3-17-92, 1-3-95, Formerly 10D-6.053, Amended \_\_\_\_\_.

64E-6.012 Standards for the Construction, Operation, and Maintenance of Aerobic Treatment Units.

When aerobic treatment units are used for treating domestic and commercial sewage waste, each unit shall be installed, operated and maintained in conformance with the following provisions:

(1) through (3) No change.

(4) No aerobic treatment unit shall be serviced or repaired by a person or entity engaged in an aerobic treatment unit maintenance service until the service entity has obtained an annual written permit issued on Form DH 4013 from the DOH county health department in the county where the service company is located. Each service entity shall employ at least one plumbing contractor licensed under s. 489.105(3)(m), FS, septic tank contractor registered under Part III of chapter 489, FS, or a state-licensed wastewater treatment plant operator, who is responsible for maintenance and repair of all systems

under contract. Application for a Maintenance Service Permit, Form DH 4066, shall be made to the DOH county health department and shall contain the following information:

(a) No change.

~~(b) A signed statement from the applicant attesting that the applicant has adequate staff, possesses proper equipment and has sufficient spare structural and mechanical parts and components to perform routine system monitoring and servicing and is able to make a service response within 36 hours after notification of the need for emergency repairs. The statement shall include confirmation that the location of locations of service personnel and replacement parts will be no more than 200 miles from any aerobic treatment unit under contract for servicing.~~

(c) Payment of \$25.00 to the DOH county health department per annum for the aerobic treatment unit maintenance service permit.

(5) No change.

Specific Authority 381.0011(13), 381.006, 381.0065(3)(a), 489.553(3), 489.557(1) FS. Law Implemented 154.01, 381.001(2), 381.0011(4), 381.0012, 381.0025, 381.006(7), 381.0061, 381.0065, 381.0067, Part I 386 FS. History—New 3-17-92, Amended 1-3-95, Formerly 10D-6.0541, Amended 11-19-97, 4-21-02,\_\_\_\_\_.

64E-6.019 Requirements for Registration.

(1) through (2) No change.

(3) A person shall be eligible to take the registration examination if they submit necessary exhibits and fees and meet the requirements of s. 489.553(4), F.S.

(a) Under the supervision and control of a registered septic tank contractor or a plumbing contractor in s. 489.553(4)(d), F.S., is defined as an employment relationship where compensation can be documented by the regular deduction of FICA and withholding tax and the provision of worker's compensation, all as required by law. Principal officers of a corporation or partners of a partnership providing onsite sewage contracting services shall be recognized as being under the supervision and control of the corporation's or partnership qualifying registered septic tank contractor or plumbing contractor.

(b) through (c) No change.

(4) through (5) No change.

Specific Authority 154.06(1), 381.0011(4),(13), 381.006, 381.0065(3)(a), 489.553(2),(3), 489.557 FS. Law Implemented 154.01, 381.001, 381.0011(4), 381.0012, 381.006, 381.0061, 381.0065, Part III 489.552, 489.553 FS. History—New 10-25-88, Amended 3-17-92, 1-3-95, 5-14-96, 2-13-97, Formerly 10D-6.072, Amended 2-3-98, 4-21-02,\_\_\_\_\_.

64E-6.020 Master Septic Tank Contractors.

(1) A septic tank contractor or a plumbing contractor certified under Section 489.105(3)(m), F.S., who is eligible under Section 489.553(5)(a) and (b), F.S., may apply to the department on Form DH 4105, 10/96, Application for Master

Septic Tank Contractor Registration, hereby incorporated by reference and available from the department, to take the master contractor examination provided the contractor:

- (a) through (f) No change.
- (2) through (4) No change.

(5) Master septic tank contractor certificates shall be renewed only after the contractor has completed 12 classroom hours of approved instruction for each renewal cycle. At least 6 classroom hours must be successfully completed in an approved master contractor course. Instructional time spent by a master septic tank contractor in providing department approved continuing education training shall receive credit as master contractor course hours. Application for renewal shall be made on Form DH 4076, 01/03 10/96, Application for Septic Tank Contractor Registration Renewal, herein incorporated by reference, accompanied by the required supporting documentation and fees.

- (a) through (e) No change.

(6) All materials incorporated herein may be obtained by contacting the department.

Specific Authority 154.06(1), 381.0011(4),(13), 381.006, 381.0065(3)(a), 489.553(2),(3), 489.557 FS. Law Implemented 154.01, 381.001, 381.0011(4), 381.0012, 381.006, 381.0061, 381.0065, Part III 489.552, 489.553 FS. History—New 2-13-97, Formerly 10D-6.0725, Amended 2-3-98, 4-21-02,\_\_\_\_\_.

64E-6.021 Issuance of Registration Certificates and Renewal.

(1) Certificates of registration shall be renewed only after information has been provided to the department that the contractor has successfully completed 6 classroom hours of department-approved instruction within the previous 12-month period. However, if a registered contractor successfully completes 12 or more classroom hours of approved instruction within a 12-month period, a maximum of 6 unused hours can be rolled over to renew their next year's certificate of registration. Such information shall be accompanied by necessary renewal fees and a completed renewal application on Form DH 4076, Application for Septic Tank Contractor Registration Renewal, ~~incorporated by reference in these rules.~~

- (2) through (6) No change

Specific Authority 154.06, 381.0011, 381.006, 381.0065, 489.553, 489.557 FS. Law Implemented 154.01, 381.001, 381.0011, 381.0012, 381.0025, 381.006, 381.0061, 381.0065, 381.00655, 381.0066, 381.0067, 386.041, Part III 489 FS. History—New 10-25-88, Amended 3-17-92, 1-3-95, 5-14-96, 2-13-97, Formerly 10D-6.073, Amended 3-22-00, 4-21-02,\_\_\_\_\_.

64E-6.025 Definitions.

Definitions in Chapter 64E-6, F.A.C., Parts I and II, are also applicable to Chapter 64E-6, F.A.C., Part IV.

- (1) through (2) No change.

(3) Baseline system standards – A wastewater system with the following operational criteria: A passive, gravity fed subsurface trench system that is made up of the following components and characteristics, and is in compliance with Part I requirements:

- ~~(a) a dual compartment septic tank, or tanks in series,~~
- ~~(b) an approved outlet filter device meeting the manufacturers recommendations, installed on or immediately after in a separate chamber the septic tank discharge outlet immediately prior to discharge into the drainfield,~~

~~(e)(a) Anticipated e~~ffluent concentrations from the treatment tank; are within the following ranges:

1. CBOD<sub>5</sub> – ~~≤120~~-240 mg/l
2. TSS – ~~≤65~~-176 mg/l
3. TN – ~~≤36~~- 45 mg/l
4. TP – ~~≤6~~- 10 mg/l

- ~~(d) a distribution box or header pipe,~~
- ~~(e) a mineral aggregate drainfield trench with the following characteristics~~

1. measures 12 inches deep by 36 inches wide
2. the top of the drainfield no closer to the ground surface than 6 inches
3. the bottom of the drainfield no farther from the ground surface than 30 inches
4. bottom of drainfield is a minimum of 24 inches above the seasonal high water table in undisturbed natural soil
5. a 4 inch distribution line.

~~(f)(b) Anticipated p~~ercolate concentrations from the baseline system prior to discharge to groundwater; is within the following ranges:

1. CBOD<sub>5</sub> – <5 mg/l
2. TSS – <5 mg/l
3. TN – ~~≤15~~- 25 mg/l
4. TP – <5 mg/l

- (4) Through (7) No change.

(8) Florida Keys nutrient reduction treatment – a treatment which will provide a recovered water product that contains not more, on a permitted annual average basis, than the following concentrations from a sampling point located following the final design treatment step of the onsite sewage treatment and disposal system:

- |   |         |
|---|---------|
| 1. Biochemical Oxygen Demand (CBOD <sub>5</sub> ) | 10 mg/l |
| 2. Suspended Solids                               | 10 mg/l |
| 3. Total Nitrogen, expressed as N                 | 10 mg/l |
| 4. Total Phosphorus, expressed as P               | 1 mg/l  |

(9) Innovative System – as defined by s. 381.0065(2)(g), F.S.

~~(10)(8)~~ Performance-based treatment system – a specialized onsite sewage treatment and disposal system designed by a professional engineer with a background in wastewater engineering, registered in the state of Florida, using appropriate application of sound engineering principles to achieve specified levels of CBOD<sub>5</sub> (carbonaceous biochemical oxygen demand), TSS (total suspended solids), TN (total nitrogen), TP (total phosphorus), and fecal coliform found in domestic sewage waste, to a specific and measurable

established performance standard. This term also includes innovative systems. This term does not include package sewage treatment facilities and other treatment works regulated under chapter 403.

(9) through (13) renumbered (11) through (15) No change.

Specific Authority 381.0011(13), 381.006, 381.0065(3)(a), 489.553(3), 489.557(1) FS. Law Implemented 154.01, 381.001(2), 381.0011(4), 381.0012, 381.0025, 381.006(7), 381.0061, 381.0065, 381.0067, 386.041, 489.553 FS. History—New 2-3-98, Amended 3-22-00, \_\_\_\_\_.

64E-6.026 Application for Innovative System Permits and System Construction Permits.

(1) Applications for innovative system permits – Applications for innovative system permits shall be made using form DH 3143 herein incorporated by reference. The application and all supporting information shall be signed, dated and sealed by an engineer, registered in the State of Florida. Except as provided for in subsection 64E-6.028(3), F.A.C., alternative drainfield materials and designs shall not be approved which would result in a reduction in drainfield size using the mineral aggregate drainfield system as described in subsection 64E-6.014, F.A.C., and the total surface area of soil at the bottom of the drainfield as the criteria for drainfield sizing comparisons. Applications shall include:

(a) A monitoring protocol designed to validate that the system will perform to the engineer’s design specifications.

(b) Compelling evidence that the system will function properly and reliably to meet the requirements of this chapter and Section 381.0065, F.S. Such compelling evidence shall include one or more of the following from a third-party testing organization approved through the NSF Environmental Technology Verification Program:

1. Side stream testing, where effluent is discharged into a system regulated pursuant to Chapter 403, F.S.

2. Testing of systems in other states with similar soils and climates.

3. Laboratory testing.

(2) Applications for system construction permits – All information required in Part I for an application for system construction permit shall be included as part of the application for a performance-based treatment system. ~~Additional information shall include the following.~~ (1) Two copies of all information shall be dated, signed and sealed by the registered engineer who designed the system, and provided to the department. Upon any change to the design, two copies of any revisions shall be provided to the department. Additional information shall include the following:

(a) System design criteria, to include performance levels for the performance-based system and monitoring requirements and monitoring locations, and method of monitoring flow through the system. Performance levels shall be indicated in the design as secondary treatment standards, advanced secondary treatment standards, or advanced wastewater treatment standards, or baseline treatment. ~~If soil is~~

~~considered part of the treatment system in any performance-based standard, monitoring points in the effluent plume within the boundaries of the property must be in compliance with the minimum criteria for class G-I and G-II groundwater as specified in Rule 62-520.420, F.A.C., hereby incorporated by reference.~~

(b) System design calculations for the performance-based system.

(c) System design plans and drawings for the performance-based treatment system, to include all components and method of installation to be used in construction. A detailed installation drawing shall be included. The site plan required in paragraph 64E-6.004(3)(a), F.A.C., shall be drawn to scale.

(d) Where soil is used as part of the treatment system, a site plan showing the direction of groundwater movement, the locations of all effluent plume monitoring wells or devices, and the anticipated extent of the effluent plume.

~~(e)(d)~~ Contingency plan for effluent to be collected and disposed of, or treated, in the event of system failure.

~~(f)(e)~~ Certification of design. The design engineer shall certify the design of the system to meet all applicable performance standards. The certification shall be as follows: “I certify that the engineering features of this performance-based treatment system have been designed or specified by me and conform to engineering principles applicable to such projects. In my professional judgment, this system, when properly constructed, operated and maintained, will achieve the established performance standard and comply with all applicable statutes of the State of Florida and rules of the Department”.

~~(g)(f)~~ An operation and maintenance manual shall be prepared by the design engineer and provided as part of the original design.

~~(h)(g)~~ All changes to the engineering specifications shall be approved and certified by the design engineer. A copy of any changes shall be provided to the county health department for review for compliance with performance-based system standards and approval or disapproval.

~~(i)(h)~~ All changes to the operation and maintenance manual shall be approved and certified by the design engineer. A copy of any changes shall be provided to the county health department for review and approval or disapproval.

~~(j)(i)~~ A cover letter addressed to the county health department stating that the applicant wishes to apply for a performance-based treatment system.

~~(2) Within five working days after receipt of an application, or change to the original application, the county health department shall request additional information if the application is not complete.~~

(3) All materials incorporated herein may be obtained by contacting the department.

Specific Authority 381.0011(13), 381.006, 381.0065(3)(a), 489.553(3), 489.557(1) FS. Law Implemented 154.01, 381.001(2), 381.0011(4), 381.0012, 381.0025, 381.006(7), 381.0061, 381.0065, 381.0067, Part I 386, 489.553 FS. History—New 2-3-98, Amended \_\_\_\_\_.

64E-6.027 Permits.

~~Permits for performance based treatment systems shall be issued in accordance with the following requirements.~~

(1) Innovative System Permit – An application for system construction permit for an innovative system cannot be reviewed until the innovative system permit has been approved specifying the number of systems and time limits. The department’s decision to grant or deny the innovative system permit shall be based on the presence or absence of compelling evidence that the innovative systems will function properly and reliably to meet the requirements of this chapter and Section 381.0065, F.S.

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

(3)(2) Within 15 working days after the department receives a completed application for a performance-based treatment system, the county health department must either issue a permit for the system or shall notify the applicant that the system does not comply with the performance criteria, and refer the application to the Bureau of Onsite Sewage Programs, who shall review the application for a determination whether the system should be approved, disapproved, or approved with modifications. The determination of the engineer for the Bureau of Onsite Sewage Programs shall prevail over the action of the local county health department. All applications for a construction permit for an innovative system shall be reviewed for completeness by the county health department and referred to the Bureau of Onsite Sewage Programs for review and approval, disapproval or approval with modifications.

(3) through (4) renumbered (4) through (5) No change.

~~(6)(5) Operating permits – No residence or establishment served by a performance-based treatment system shall be occupied until Form DH 4081, 10/96, “Application for Onsite Sewage Treatment and Disposal System Operating Permit” has been received and approved by the department. Form DH 4081, is hereby incorporated by reference, and is available from the department. Where a performance-based treatment system is used, only one operating permit shall be required for the system.~~

(a) through (d) No change.

(e) No performance-based treatment system shall be serviced or repaired by a person or entity engaged in a performance-based treatment system maintenance service until the service entity has obtained an annual written permit issued on Form DH 4013 from the DOH county health department in the county where the service company is located. Each service entity shall employ at least one plumbing contractor licensed under s. 489.105(3)(m), F.S., septic tank contractor registered under Part III of chapter 489, F.S., or a state-licensed wastewater treatment plant operator, who is responsible for

maintenance and repair of all systems under contract. Application for a Maintenance Service Permit, Form DH 4066, shall be made to the DOH county health department and shall contain the following information:

1. No change.

~~2. A signed statement from the applicant attesting that the applicant has adequate staff, possesses proper equipment and has sufficient spare structural and mechanical parts and components to perform routine system monitoring and servicing and is able to make a service response within 36 hours after notification of the need for emergency repairs. The statement shall include confirmation that the location or locations of service personnel and replacement parts will be no more than 200 miles from any performance-based treatment system under contract for servicing.~~

3. Payment of \$25.00 to the DOH county health department per annum for the performance-based treatment system maintenance service permit.

Specific Authority 381.0011(13), 381.006, 381.0065(3)(a), 489.553(3), 489.557(1) FS. Law Implemented 154.01, 381.001(2), 381.0011(4), 381.0012, 381.0025, 381.006(7), 381.0061, 381.0065, 381.0067, Part I 386, 489.553 FS. History—New 2-3-98, Amended 4-21-02, \_\_\_\_\_.

64E-6.029 Monitoring.

Monitoring requirements – All performance-based treatment systems shall be monitored in compliance with the following requirements in this section. If soil is considered part of the treatment system in any performance-based standard, monitoring points in the effluent plume within the boundaries of the property must be in compliance with the minimum criteria for total nitrogen, total phosphorous and fecal coliform.

(1) No change.

(2) Secondary treatment systems and advanced secondary treatment systems.

(a) A maintenance report shall be kept by the performance system maintenance entity. A copy of all maintenance reports shall be provided to the county health department on quarterly intervals. All reports must be legible. The report shall include the items required in subparagraphs 64E-6.029(1)(a)1., 2., 5., 6., and 7., F.A.C., in addition to the following information:

1. Ponding depth observed through drainfield observation ports or, when the drainfield design prevents direct measurement of ponding depth, CBOD<sub>5</sub> and TSS results for samples collected at a point prior to the discharge to the drainfield.

2. If system performance is necessitated by setback reductions or lot flow allowances:

a. Sampling results for Fecal Coliform from Secondary Treatment Systems.

b. Sampling results for Nitrogen, Phosphorous and Fecal Coliform from Advanced Secondary Treatment Systems.

c. Collection time and date of all samples.

d. Name of the person who collected samples.

(b) All reports of operating permit violations shall be reported to the department within five working days.

(c) If the system cannot be brought into compliance with design parameters, the contingency plan must be implemented by the system owner.

(d) All failures of the performance-based treatment system shall be reported to the county health department by the maintenance entity within one working day from discovery of failure. The testing laboratory shall mail copies of all results to the county health department.

(3) Florida Keys nutrient reduction treatment systems shall be monitored and sampled in accordance with Part II of this chapter.

(4)(2) All systems with drainfields designed under subsection 64E-6.028(3), F.A.C. All other performance-based treatment systems shall be monitored via placing a minimum of two observation ports in the drainfield. Monitoring will consist of recording depth of effluent ponding in the drainfield in at least two places on a quarterly monthly basis during the first six months and quarterly thereafter.

(5) If soil is considered part of the treatment system in any performance-based standard, two monitoring points in the effluent plume within the boundaries of the property must be in compliance with the performance level specified by the design engineer.

(6)(3) Any performance based treatment system that is out of compliance with the terms of the operating permit shall be re-engineered by an engineer registered in the State of Florida. The system shall be brought into compliance with treatment standards required at the time of system permitting.

(7) Innovative systems shall be monitored in accordance with the design engineer's protocol submitted with the application as approved by the department. All monitoring and sampling shall be performed at the expense of the applicant. At a minimum, the monitoring protocol shall:

- (a) Determine if baseline standards are being met.
- (a) Address the monitoring for any contaminant being reduced.
- (b) Address the monitoring of any site condition being modified.

(8)(4) The following shall be considered as violations of the performance based treatment system operating permit:

- (a) through (c) No change.

Specific Authority 381.0011(13), 381.006, 381.0065(3)(a), 489.553(3), 489.557(1) FS. Law Implemented 154.01, 381.001(2), 381.0011(4), 381.0012, 381.0025, 381.006(7), 381.0061, 381.0065, 381.0067, 386.041, 489.553 FS. History—New 2-3-98, Amended 3-22-00, \_\_\_\_\_.

64E-6.0295 Innovative System Reclassification.

(1) Following the installation and monitoring of the number of systems allowed by the innovative system permit, the applicant may request reclassification of their innovative system by the Bureau of Onsite Sewage Programs. Requests for reclassification as an alternative system component and

design shall be made in accordance with subsection 64E-6.009(5), F.A.C. Requests for reclassification as a performance-based treatment system shall include the following:

- (a) Results and analysis of monitoring of the systems installed.
- (b) Observations of system performance.
- (c) Maintenance, repairs or modifications performed on any systems.
- (d) Comments from the system operators or users.
- (e) Comments from the design engineers who designed the individual system designs.
- (f) Comments from the county health departments in the counties where the systems were installed.
- (g) Specification of the proposed classification as performance-based.
- (h) Rationale for the proposed type of classification desired.
- (i) Proposed monitoring protocol.
- (j) A sample manual addressing the siting, design, installation, inspection, operation, maintenance and abandonment procedures.

(2) The Bureau of Onsite Sewage Programs shall process the request in accordance with Chapter 120, F.S. The department shall approve the request only if the department is satisfied that the system will reliably perform to the standards desired under normal operating conditions as demonstrated by the information provided.

Specific Authority 381.0011(13), 381.006, 381.0065(3)(a), 489.553(3), 489.557(1) FS. Law Implemented 154.01, 381.001(2), 381.0011(4), 381.0012, 381.0025, 381.006(7), 381.0061, 381.0065, 381.0067, 386.041, 489.553 FS. History—New \_\_\_\_\_.

NAME OF PERSON ORIGINATING PROPOSED RULE:  
Dale Holcomb  
NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Gerald Briggs, Chief, Bureau of Onsite Sewage Programs  
DATE PROPOSED RULE APPROVED BY AGENCY HEAD: January 20, 2003  
DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: July 19, 2002

**DEPARTMENT OF CHILDREN AND FAMILY SERVICES**

**Family Safety and Preservation Program**

RULE TITLES:	RULE NOS.:
Definitions	65C-16.001
Adoptive Family Selection	65C-16.002
Case Reviews	65C-16.003
Recruitment, Screening and Application	
Process for Adoptive Applicants	65C-16.004
Evaluation of Applicants	65C-16.005

Abuse Hotline and Criminal Records Checks	65C-16.007
Dispute Resolutions and Appeals	65C-16.008
Adoption Placement	65C-16.009
Adoption Placement – Post Placement Services	65C-16.010
Confidentiality – Human Immunodeficiency Virus (HIV) Infected Clients	65C-16.011
Types of Adoption Assistance	65C-16.012
Determination of Maintenance Subsidy Payments	65C-16.013
Determination of Medical Subsidy	65C-16.014
Non-Recurring Adoption Expenses	65C-16.015
Access to Closed Adoption Records	65C-16.016
Florida Adoption Reunion Registry	65C-16.017

PURPOSE AND EFFECT: These substantial rule modifications will reflect changes to state and federal law, internal departmental procedural and policy changes and will eliminate conflicts of interest of individuals in the area of adoptions.

SUMMARY: The rule recognizes community based providers as providers of adoption services under contract with the department, modifies and clarifies the role and operation of the adoptive Family Review Committee, provides for rejection of applicants wishing to adopt if they have prior findings of abuse, neglect or abandonment; determining maintenance adoption subsidy.

SPECIFIC AUTHORITY: 39.001, 63.126, 63.233, 120, 381.004, 382.015, 409.031, 409.145, 409.165, 409.166(2)(6)(7), 409.919, 435.045 FS.

LAW IMPLEMENTED: 39.001, 63.126, 63.233, 120, 381.004, 382.015, 409.031, 409.145, 409.165, 409.166(2)(6)(7), 409.919, 435.045 FS.

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

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULES IS: Carol Hutcheson, Senior Management Analyst Supervisor, Adoptions Unit, Family Safety Program Office, 1317 Winewood Blvd., Building 7, Suite 208, Tallahassee, Florida 32399 or by phone at (850)921-2177

THE FULL TEXT OF THE PROPOSED RULES IS:

(Substantial rewording of Rule 65C-16.001 follows. See Florida Administrative Code for present text.)

65C-16.001 Definitions.

(1) “Abuse Hotline” means the department’s single statewide toll-free telephone number established for the purpose of receiving reports of child abuse, abandonment or neglect.

(2) “Adoption” means “adoption” as defined in Section 63.032(2), F.S.

(3) “Adoption Assistance” means payments and services provided to a special needs child and his or her adoptive family, as specified in the adoption assistance agreement. Such assistance may include maintenance subsidy, medical subsidy, Medicaid and reimbursement of non-recurring expenses associated with the legal adoption. College tuition exemption is also available. State employees may be eligible for an employee adoption benefit.

(4) “Adoption Entity” means “adoption entity” as defined in Section 63.032(2), F.S.

(5) “Adoption Exchange” means a mechanism for linking adoptive family resources with children needing adoption placement. The Exchange serves all department adoption and foster care staff, and the staff of licensed child placing agencies in Florida.

(6) “Adoption Home Study” means a written evaluation of the adoptive parents’ capacity for adoptive parenthood. The study assesses the applicants’ home and living environment, their marriage, family and social activities and relationships.

(7) “Adoption Reunion Registry” means a voluntary computer data base which acts as a repository for current names, addresses and telephone numbers of parties to any Florida adoption.

(8) “Agency” means “agency” as defined in Section 63.032(5), F.S.

(9) “At-Risk Adoptive Placement” means a placement of a minor in the home of an approved adoptive parent prior to the termination of the minors’ parents’ parental rights.

(10) “Children’s Case Manager” means a person who is responsible for participating in the development and implementation of a service plan, linking the behavioral health service providers to a child or adolescent and his or her family, monitoring the delivery of behavioral health services, providing advocacy services, and collecting information to determine the effect of the behavioral health services and treatment.

(11) “Community Based Provider” means a private agency which has entered into a contract with the department to provide supervision of and services to children in out-of-home placements.

(12) “Court” means “court” as defined in Section 63.032(7), F.S.

(13) “Custodian” means a person or entity in whom the legal right to custody of a child is vested.

(14) “Department” means the Department of Children and Families.

(15) “Disruption” means the termination of an adoption placement prior to legal finalization.

(16) “Dissolution” means a termination of an adoption following legal finalization.

(17) “District/Region” means a geographic area through which the department plans and administers its programs.

(18) “Intermediary” means “intermediary” as defined in Section 63.032(9), F.S.

(19) “Interstate Compact” means an agreement among states, enacted into law in all 50 states, the District of Columbia and the Virgin Islands, which governs the interstate movement of children. It establishes orderly procedures for the interstate adoptive or out of home placement of children, including post-placement supervision.

(20) “Lead Agency” means “eligible lead community-based provider” as defined in Section 409.1671(1)(b), F.S.

(21) “Mental health multidisciplinary team” means the group of people brought together by the child’s mental health case manager to plan and coordinate mental health and related services to meet the child’s needs in the most appropriate, least restrictive setting. Members of the team should include the child, unless contraindicated, the child’s parent or legal guardian, caregiver, targeted case manager, psychiatrist, therapist or behavioral specialists, family safety counselor and any other agency representative who is providing mental health or related services to the child.

(22) “Non-Recurring Adoption Expenses” means reasonable and necessary adoption fees, court costs, attorney fees, and other expenses that are directly related to the legal adoption of a special needs child, that were incurred prior to adoption finalization.

(23) “Placement” means the act of physically moving a minor into the physical custody of the prospective adoptive parent, or in the case of adoption by a foster parent, relative, or other current caretaker, the date the placement agreement is signed.

(24) “Primary Residence and Place of Employment in Florida” means “Primary Residence and Place of Employment” as defined in Section 63.032(17), F.S.

(25) “Relative” means “relative” as defined in Section 39.01(60), F.S.

(26) “Significant Emotional Tie” means the relationship between a child and his or her caretaker family when a child is bound to that family in such a vital and ardent manner that removal of the child from that family would have detrimental consequences for the child. This term is also used in evaluating a child’s eligibility for adoption subsidy when the question of eligibility rests solely on his adoption by the current caretaker.

(27) “Sibling” means one of two or more individuals having one or both parents in common.

(28) “Single Point of Access” means the designated district/region staff person or Alcohol, Drug Abuse and Mental Health or the authorized agent designated by the department within a geographical area who is identified as the point of contact to assist the family services counselor in accessing mental health assessments and other mental health services for children in the care and custody of the department.

(29) “Special Needs Child” means “special needs child” as defined in Section 409.166(2), F.S.

(30) “Suitability of Intended Placement” means the fitness of the intended placement with primary consideration given to the welfare of the child and the fitness and capabilities of the adoptive parents for a particular child.

(31) “To Place” means the process of giving up a child for adoption and the prospective parents’ receiving and adopting the child including all actions by any person or agency participating in the process.

Specific Authority 63.233, 409.166(7), 409.167(6) FS. Law Implemented 39.001, 39.453, 39.701, 63.032, 63.092, 63.122, 63.165, 63.192, 63.212, 409.166, 409.167, 409.401 415-508 FS. History—New 4-28-92, Amended 4-19-94, Formerly 10M-8.0013, Amended 12-4-97, \_\_\_\_\_.

(Substantial rewording of Rule 65C-16.002 follows. See Florida Administrative Code for present text.)

~~65C-16.002 Adoption Placement—Children Placement Adoptive Family Selection.~~

(1) The authority of the Department regarding adoption is limited to facilitating the adoption of children with special needs. Persons seeking to adopt non-special needs children will be referred to private agencies. Birth parents seeking adoption planning for their non-special needs children will be referred to private adoption agencies. Any non-special needs children in the care of the department for whom adoption is the goal, will be referred to private adoption agencies for placement planning, unless there is a plan for adoption by the current custodian.

(2) General Policy. A person or government involved in adoption may not deny to any individual the opportunity to become an adoptive parent on the basis of race, color or national origin of the individual or the child. A person or government may not delay or deny the placement of a child for adoption on the basis of race, color or national origin of the adoptive parent or the child.

(3) It is the policy of the state and of the department that adoption placements must be made consistent with the best interest of the child. The role of good judgment in assessing the best interest of the child cannot be replaced by rote policy decrees. The exercise of that judgement must be shaped by the following considerations:

(a) Grandparent priority. Grandparents with whom a child has lived for at least six months must be notified that their grandchild is being considered for adoption as specified in Section 63.0425, F.S. Such grandparents must be afforded the opportunity to have a home study completed and to petition for adoption, and the court is required to give first priority to that petition.

(b) Other relative priority. Other relatives may wish to be considered as an adoption placement for the child. If such a relative is identified and requests consideration for adoption placement, the application of the relative must be evaluated to determine suitability through an adoptive home study.



(c) Current custodian priority. The current custodian of the child may wish to adopt. If the custodian applies to adopt the child, the application must be evaluated to determine suitability through an adoptive home study. The homestudy must assess the length of time the child has lived in a stable, satisfactory environment and the depth of the relationship existing between the child and the custodian. It should be recognized that individuals who might not be considered the placement of choice for children not known to them, can be the placement of choice for children with whom they have an existing stable relationship. There are some situations in which adoption by the current custodian may not be in the best interest of the child. Examples of these situations include:

1. The current custodians want to adopt a child but not his or her siblings and it is in the best interest of the sibling group to be placed together.

2. The current custodian has returned other adopted children to the department, or has arranged for some other out-of-home informal long-term placement for a previously adopted child.

(d) Non-custodian with whom child has a relationship. Persons known to the child, but who do not have custody of the child, may wish to be considered for adoption. If such persons apply to adopt the child, the application must be evaluated to determine suitability through an adoptive home study. In addition, the depth of the relationship existing between the child and the non-custodial applicant must be examined.

(e) Family new to the child. Many families who pursue adoption do not have a specific child in mind when they apply. These families must be provided information about the children available for adoption through the department, and must be helped, through training, preparation, and the homestudy process, to determine if special needs adoption is appropriate for their family.

#### (4) Siblings.

(a) When considering adoption placement of a sibling group, the department must consider the fact that placing siblings together, whenever possible, preserves the family unit.

(b) In situations where consideration is being given to separating siblings, the adoption unit must staff the case as a team. The team must consider the emotional ties existing between and among the siblings and the degree of harm which each child is likely to experience as a result of separation. The positives and negatives of keeping the children together must be thoroughly explored, and at least one member of the team must be assigned the role of defending the position of placing the children together. In particularly difficult cases, professionals who have expertise in this area can be consulted.

(c) The decision to separate siblings must be approved in writing by the district/region Family Safety Program Office or the community based provider staff charged with this responsibility. Adoption staff will prepare a memorandum directed to the district/region Family Safety Program Office or

the appropriate community based provider staff describing efforts made to keep the siblings together and an assessment of the short term and long range effects of separation on the children. The memorandum must also include a description of the plan for future contact between the children if separation is approved. The plan must be one to which each adoptive parent and caretaker can commit.

(d) If after placement as a sibling group, one child does not adjust to the family, a decision must be made regarding what is best for all of the children. The adoption staff must review this situation as a team, and choose the plan that will be least detrimental to the children. The decision must be documented in the children's files. This documentation must also include the plan for future contact if the decision is to pursue separate placements.

(e) Sometimes the department may take into custody a child who is a sibling to previously adopted children. The department shall advise the adoptive parents of this occurrence. If this child becomes available for adoption, the adoptive parents of the previously placed sibling shall be given an opportunity to apply to adopt this child. The application of these adoptive parents will be given the same consideration as an application for adoption by a relative, as described above.

(5) Occasionally a child whose parental rights have been terminated, for whom there is a plan for foster parent adoption, has relatives who indicate an interest in adopting after the termination process is completed. The following factors must be considered in making a decision that represents the best interest of the child in this situation.

(a) Attachment. Consideration must be given to the quality and length of the attachment to the foster parent. The age of the child at placement and the current age must be considered in assessing attachment. The ease with which the child attached to the current family and any indications of attachment difficulty in the child's history must be evaluated. The number of moves the child has experienced will be an important factor in determining the likelihood that the child will form a healthy attachment to the relative.

(b) Kinship. Children have a shared history with extended family and cultural values and traditions are more likely to be passed on to the child when there is opportunity to grow up in the care of family members. Consideration must be given to the quality of the relationship with the relative. Some children will already know and trust the relative seeking to adopt. If not, the willingness of the relative to participate in pre-placement activities to promote the development of a relationship must be considered.

(c) Permanence. The capacity of the relative and the foster parent to meet the child's need for permanence must be evaluated. The ability of the prospective parent to understand the needs of adoptive children in different developmental stages and their awareness of the inherent challenges of parenting an adopted child must be carefully considered.

(6) In any adoptive placement of a Native American child, the federal "Indian Child Welfare Act" governs the order of placement preference. While the Indian Child Welfare Act gives a placement preference, it allows each tribe to establish a different order of preference by resolution, and that order must be followed. The Act lists the placement preference for adoption of an Indian child in the following order:

- (a) A member of the child's extended family.
- (b) Other members of the Indian child's tribe; or
- (c) Other Indian families.

(7) Study of the Child. Completing the study of the child is an important part of the preparation needed to find an adoptive family. Before preparing the study of the child, the counselor must be thoroughly familiar with the content of the child's foster care record. The record must include all available information regarding the child and the birth family's medical and social history. All available social and medical history information must be provided to the adoptive parents prior to or at the time of the adoption placement. The study of the child, with identifying information removed, will be a part of the written background information provided to the adopting family. A study of the child will include:

(a) Developmental History. A developmental history must be obtained from the birth parents whenever possible. When the child has been in care for a period of time, developmental history obtained from birth parents must be supplemented by direct study and observation by the counselor, foster parents, pediatrician, and if indicated, psychologist, teacher and other consultants. The developmental history must include:

1. Birth and health history.
2. Early development.
3. Child's characteristic way of responding to people.
4. Deviations from the normal range of development.
5. Child's prior experiences, including continuity of care,

separations, and information regarding other known significant relationships the child has had prior to and since entering foster care.

(b) Medical History. A medical examination must be completed by a qualified physician, preferably a pediatrician, to determine the child's state of health and significant health factors which may interfere with normal development. The medical history must take into consideration the following:

1. Circumstances of birth and possible birth trauma.
2. Congenital conditions which may have been corrected or need additional correction or treatment.
3. Physical handicaps that may interfere with normal activity and achievement.
4. Significant illnesses and health of the child, parents and other family members.
5. Immunization record of the child.

(c) Family History. Family history will be obtained from birth parents when possible and will include any significant information about both parents and any siblings. Material about the child's birth family, which will be shared with the adoptive family and later with the child, must be carefully and accurately recorded. This information should include:

1. Age of both parents.
2. Race, national origin or ethnicity.
3. Religion.
4. Physical characteristics.
5. Educational achievements and occupations.
6. Health, medical history and possible hereditary problems.
7. Personality traits, special interests and abilities.
8. Child's past and present relationship with family members and the significance of these relationships.

(d) Psychological and Psychiatric Evaluations. Psychological or psychiatric evaluations of children known or suspected of having mental health problems must be obtained prior to the adoption placement. Any child who will be placed for adoption with medical subsidy for treatment of a psychological or psychiatric condition must have had such an evaluation within the 12 month period preceding the adoption placement.

(e) Heredity. There are no hereditary factors that rule out adoptive planning for a child. Genetic and medical professionals will assist in deciding which hereditary conditions entail significant risk because they limit life expectancy or adversely effect normal development. With the recognition that there are adoptive parents who are willing to accept children with special needs, such conditions must be carefully evaluated. An unfavorable diagnosis does not rule out adoption for the child when there are families willing to assume the risks.

(f) Pre-placement Physical Examination. Prior to placement every child must be given a complete physical examination. This will be completed when a specific family is being considered for a child and they express interest in proceeding after having received specific information about the child. Should placement with an identified family not occur after the physical has been completed, another examination will not be necessary if the child is placed with a subsequent family within six months of the date of the physical. No child will be placed without a physical which has been conducted within six months of placement. The department will arrange to have the examination completed or if the adoptive family prefers, the examination may be completed by the family's pediatrician at their expense, and a copy provided to the department. It is important that this examination be thorough and provide the potential adoptive family and the counselor with a clear understanding of the child's physical condition.

(8) The information discussed in (a) through (f) must be shared in writing with the adoptive parents. The identity of the birth family must be protected when providing this written material to the family.

Specific Authority 39.001, 39.012, 39.0121, 63.233, 409.026, 409.165 FS. Law Implemented 39.41, 39.464, 39.467(2)(k), 39.621, 63.0425, 63.052, 63.062(3), 409.145 FS. History—New 2-14-84, Formerly 10M-8.02, Amended 5-20-91, 4-28-92, 4-19-94, 8-17-94, 1-8-95, Formerly 10M-8.002, Amended 12-4-97, \_\_\_\_\_.

(Substantial rewording of Rule 65C-16.003 follows. See Florida Administrative Code for present text.)

65C-16.003 Case Reviews.

(1) The purpose of case reviews is to ensure that appropriate permanent plans are developed and executed for every child at the earliest possible time.

(2) The case review requirements for children in adoption planning consist of three types of reviews:

(a) Judicial Review. All children served by the department's adoption units, including those for whom a termination of parental rights has not been completed and those for whom termination of parental rights has been completed are subject to periodic court review. Children in adoption placements that have not yet finalized are subject to court review until legal finalization of the adoption. Judicial Review reports for children in adoption planning must include information about reasonable efforts to recruit an adoptive family, place the child for adoption and finalize the adoption.

(b) Quarterly Case Staffings. Local case management staff responsible for planning for children in need of adoption will meet together as a team to staff and assess the needs of waiting children and available families. The teams will meet as often as necessary to assure that permanency needs are met. Each waiting child is to be staffed at least quarterly.

(c) Supervisory Consultation. Supervisory consultation is an on-going function of direct service supervision. Consultation must be directed at ensuring thorough case assessment, case planning and service delivery. Supervisory consultation must be provided to every direct service staff member regardless of prior training and experience, and must include individual supervisory case conferences, at least monthly.

Specific Authority 39.012, 39.601, 39.701 FS. Law Implemented 39.001, 409.145, 39.701, 39.703, 39.451, 39.453, 409.175, 409.1755 FS. History—New 4-28-92, Amended 4-19-94, Formerly 10M-8.0023, Amended 12-4-97, \_\_\_\_\_.

(Substantial rewording of Rule 65C-16.004 follows. See Florida Administrative Code for present text.)

65C-16.004 Recruitment, Screening and Application Process Adoptive Applicants.

(1) The department or community based care provider will ensure that an assessment of adoptive parent resource needs is done in each district at the beginning of each calendar year, and that recruitment activities are planned for the year based on

the results of the assessment. The districts' annual recruitment plan will be submitted to the headquarters Family Safety Program Office by February 15 of each year. The headquarters Family Safety Program Office staff will develop a statewide recruitment plan, based on the needs of individual districts, as reflected in the district plans.

(2) The recruitment activities must be designed to meet the needs of all children in foster care who need adoptive homes and must include informational meetings for potential adoptive applicants to be held at least every 90 days.

(3) The department and its designees shall recruit adoptive families that reflect the ethnic and racial diversity of children needing adoptive placement.

(4) The prospective adoptive parents' initial inquiry to the Department of Children and Families local office, or to the community based provider, whether written or verbal, will receive a written response or a telephone call within seven (7) working days. Prospective adoptive parents who indicate an interest in adopting special needs children must be offered the opportunity to participate in the department's approved adoptive parent training program. If space is limited in scheduled classes, slots in the classes will be assigned in the following priority order:

(a) Persons with an existing relationship with a specifically identified child who is waiting for adoption placement, or that child's sibling.

(b) Persons who have expressed an interest in adopting a specifically identified child waiting for adoption, or that child's sibling.

(c) Persons who have explicitly stated their willingness to adopt children available for placement through the department or its designee; and

(d) Persons expressing a general willingness to adopt special needs children.

(5) An application to adopt must be made on a form approved by the department, which includes necessary identifying information and information required by statute.

Specific Authority 39.012, 63.233 FS. Law Implemented 63.022(2)(c), 63.122, 409.145, 409.401 FS. History—New 7-18-95, Formerly 10M-8.0042, Amended \_\_\_\_\_.

(Substantial rewording of Rule 65C-16.005 follows. See Florida Administrative Code for present text.)

65C-16.005 ~~Adoption—Placement~~ Evaluation of Applicants.

(1) No person shall be denied the opportunity to become an adoptive parent on the basis of race, color or national origin. The placement of a child with a particular family must not be denied or delayed on the basis of race, color or national origin of the family or the child.

(2) A social study which involves careful observation, screening and evaluation shall be made of the child and adoptive applicants prior to the placement of the child. The

aim of this evaluation is to select families who will be able to meet the physical, emotional, social, educational and financial needs of a child, while safeguarding the child from further loss and separation from primary caretakers.

(3) In determining which applications for adoption should be approved, all of the following criteria, not listed in any order of priority, must be considered:

(a) The child's choice, if the child is developmentally able to participate in the decision. The child's consent to the adoption is required if the child is age 12 or older.

(b) The ability and willingness of the adoptive family to adopt some or all of a sibling group, although no individual child shall be impeded or disadvantaged in receiving a loving and nurturing home due to the inability of the adoptive family to adopt all siblings. The needs of each individual child must be promoted.

(c) The commitment of the applicant to value, respect, appreciate, and educate the child regarding his or her racial and ethnic heritage and to permit the child the opportunity to know and appreciate that ethnic and racial heritage.

(d) The family's child rearing experience. Applicants with previous child-rearing experience who exhibit the energy, physical stamina, and life expectancy which would allow them to raise the child to adulthood and who have a demonstrated history of having provided consistent financial support to other minor children, either birth or adopted, will be considered. Applicants who do not have previous child rearing experience but who demonstrate the capacity to parent a special needs child will also be considered. Applicants who have experienced an adoption disruption or dissolution in the past must be carefully evaluated. When evaluating the previous disruption or dissolution experience, staff must assess the reasons for the disruption or dissolution, the family's openness in dealing with the problems that led to the disruption, their willingness to accept help with the problems, and their willingness to help the child move to the next placement.

(e) Marital Status. The department and its designees will accept applications to adopt from married couples and from single adults. Couples married less than two years must be given particularly careful evaluation.

(f) Residence. Florida families must be prepared to remain in Florida long enough to have the adoption study completed, the child placed, and the adoption finalized. Families from other states wishing to adopt Florida children may apply and be studied by an agency authorized or licensed to practice adoption in their state of residence. Out of state placements will be facilitated through established regional or national adoption exchanges or directly with out of state agencies, and will comply with the requirements of the Interstate Compact for the Placement of Children.

(g) Income. The family must have income and resources to assure financial stability and security to meet expenses incurred in adequate care of the family. While a family's

income must meet the needs of its current members, a family interested in a special needs child must not be precluded from consideration if the availability of an adoption subsidy would enable them to adopt a special needs child. Management of current income and the ability to plan for future changes in income so that the child's social, physical and financial needs will be met are as important as the amount of income.

(h) Housing and neighborhood. Housing and neighborhoods must provide adequate space and the living conditions necessary to promote the health and safety of the family.

(i) Health. Applicants will be required to fully disclose health history, current health status, including any condition that is progressive and debilitating in its course, and any past and current treatment and services received for such condition, regarding themselves and each member of the household. The physical, mental and emotional health of the prospective adoptive household members must not jeopardize the safety and permanency of the child's placement and will be considered in determining the best interest of the child.

(j) Other Children in the Family. When families have children by birth or adoption, the anticipated impact of a new child on the family must be considered.

(k) Working Parents. The willingness and ability of prospective adoptive parents who are employed outside the home to make arrangements to be with the child during the transition period must be considered. It is desirable that one parent be free to devote full time to the care of the child for a period of time after placement. The exact length of time is determined by the needs and the age of the child, and the needs of the child must be given priority over the employment situation of the parent.

(l) Department Employees. Employees of the department and the community based care provider will be considered as adoptive applicants. In situations where the employee has a close working relationship with the foster care or adoption staff in his or her district or provider agency, or had such a relationship in the recent past, the applicants study shall be conducted by another district or a licensed adoption agency. The district Family Safety Program Office or the appropriate entity in the provider agency must be notified immediately when an application to adopt is received from a departmental or provider agency employee. The office or the provider entity will make a decision regarding whether the adoption study for the employee will be completed by the district or provider agency, or if the services of another district or agency will be sought. If the decision is to have the employees adoption study and subsequent placement handled by another district or agency, the district Family Safety Program Office or the provider entity will make the necessary arrangements with the Family Safety program office in the other district or the chosen agency. When an adoptive applicant is a member of a board or group which has actual or perceived authority over the

department, its community based provider, its staff or operations, such applicant will be referred to another district or a local licensed child placing agency for handling.

(m) Affidavit of Good Moral Character. All adoptive parent applicants must complete an affidavit of good moral character attesting to their own good moral character. Foster parents who are adopting a foster child in their home and who have completed this affidavit as a part of their licensing requirements need not complete it again.

(n) All adoptive applicants must complete the requirements for background screening as outlined in Rule 65C-16.007, F.A.C.

(o) Use of References. A minimum of five written references will be required. At least two of the references will be non-relatives. References must be obtained from persons who have had the opportunity to observe the applicants in situations that may give some indication for their capacity for parenthood or who would have documented knowledge of deviant behavior or immoral character. References should be obtained from employers of applicants and from schools or day care providers who have had an opportunity to know the family.

#### (4) Family Preparation and Study Process.

(a) Adoption staff must explain to applicants what to expect during the preparation and study process. The process must also help to establish a relationship with adoptive applicants which will make it possible for them to ask for and use help during the presentation, pre-placement, placement and the post-placement adjustment period.

(b) The department's approved adoptive parent training program provides a format through which prospective foster, shelter and adoptive parents can be selected and prepared to work with the department as team members in permanency planning.

(c) At the beginning of each year districts and community based care organizations responsible for adoption services must establish a 12 month training calendar so that inquiring families can be aware of when they can expect to begin the preparation process. Districts and providers must also maintain the ability to conduct extra training groups when there is a need. This will be particularly important when there are significantly higher numbers of families waiting for group than can be accommodated in the regularly scheduled sessions. Districts and providers who assure that all appropriate adoption licensing and foster care staff are trained and certified in the delivery of the adoption training will be prepared to deal with such emergency situations.

#### (5) Family Preparation Through Use of the Individual Study Process

(a) Although the most preferred method of preparing applicants for adoptive parenthood is the group process, there will be exceptional cases in which an individual study

approach must be used. Some examples of factors which might led to a decision to prepare an applicant family via an individual study are as follows:

1. Extreme distance which would cause hardship for the family.

2. Small numbers of inquiring families at irregular times.

3. Families who are adopting subsequent children and have already been trained.

4. Cases in which the child has been living in the home for an extended period and there is evidence of well functioning relationships.

(b) Each decision to use the individual study approach must be approved in writing by the district Family Safety Program Office, or the appropriate entity in the community based agency, and the family's record must include justification for use of this method.

(c) The focus of the individual study, as in group preparation, must be on education and preparation of the family.

(6) Families Who Adopt Again. Prior approval of a family to adopt does not automatically deem the family appropriate to adopt again. Families previously approved in other states or districts/regions should be carefully evaluated. Consideration of any family for placement of a subsequent child requires an updating of the previous study. Such an update will include an assessment of the following:

(a) Issues Related to the Previously Adopted Child. This should include a brief description of the child, his or her incorporation into the family, and the skills the parents have demonstrated in providing for this child.

(b) Motivation of the family in seeking to adopt another child at this time.

(c) School adjustment of the previously adopted child.

(d) Health Needs. Any significant medical problems and any impact they have had on the previous adoption or might be expected to have on subsequent placements must be discussed.

(e) Housing needs and the capacity of the home to comfortably accommodate another child.

(f) Income. Any major changes in the family income must be discussed. A determination should be made as to whether or not the addition of another child, even with adoption subsidy, will tax the family's ability to manage within their current income.

(g) Marriage. The effect of the previous adoption on the marriage must be discussed.

(h) Extended Family and Neighbors. How the previous adoption has been perceived, received or rejected by family and/or neighbors and, if applicable, the coping skills of the adoptive family in dealing with adverse reactions to the adoption.

(i) Updated References. References should be asked to address how the family seems to have managed with the previously adopted child and how they believe the family will cope with additional children.

(j) Abuse Hotline/Criminal Records Check. Abuse Hotline and criminal records checks must be conducted as part of each subsequent application to adopt.

(k) Other Major Changes. Address any additional family members not considered in the initial study. Also address any other major changes such as job changes, deaths, and serious illness or medical conditions which may have had an effect on the family or which may compromise the applicants ability to meet the needs of another child.

(7) The Written Adoption Study. Whether or not the parent preparation is conducted in a group process or in an individual study, a written report, generally referred to as the adoption home study, must be prepared for each studied family. The written home study must address the issues discussed in (1) through (6) above.

(8) At the conclusion of the preparation and study process, the counselor and supervisor will make a decision about the family's appropriateness to adopt. That decision will be reflected in the final recommendation included in the written study. If the recommendation is for approval, the study and written recommendation will be submitted to the Family Safety Program Administrator or designee or the appropriate entity in the community based care agency for approval. If the counselor and supervisor do not recommend approval the case will be reviewed by Adoption Review Committee according to the directions provided in subsection 65C-16.0061(9), F.A.C.

(9) Adoption Review Committee. Each district and community based care provider responsible for providing adoption services for children in the department's custody must establish an Adoption Review Committee. The committee will consist of at least three (3) persons, and may include the district adoption specialist. The district or community based care agency will select a committee member to serve as the committee chair.

(a) The committee will provide consultation and assistance to the adoption counselor on any adoptive homestudy in which the counselor and supervisor are recommending rejection, or adoption case situations which present challenging issues. Requests for committee review may be made by the adoption counselor, the adoption specialist, the family safety program administrator or the appropriate entities with the community based provider. Requests for committee review will be made in writing and forwarded to the adoption specialist or the appropriate entity in the community based care agency. While the committee is available to review any challenging case, cases with the following issues must be referred to the committee.

1. Health. Cases in which it is determined that the adoptive applicant is experiencing a serious or chronic medical condition and such condition predictably compromises or could compromise the applicant's ability to provide the physical, emotional, social and economic support necessary for the child to thrive.

2. Abuse History. Cases in which the Abuse Hotline clearance reveals verified findings of abuse, neglect, or abandonment which did not result in a disqualifying felony conviction, and cases in which there were some indicators of abuse or neglect.

3. Criminal History. In cases in which the required criminal history checks pursuant to Section 435.045(1), F.S., reveal that the applicant(s) have been convicted of crimes specified in Section 435.045(1)(a)1., F.S., their application must be rejected. A referral to the adoptive applicant review committee will not be required. The applicant must be advised that he or she cannot be approved. If the criminal history check reveals that the applicant was convicted of a law violation listed in Section 435.045(1)(a)2., F.S., within the last five years, the applicant cannot be considered for approval, until five years after the violation was committed. These applicants must be referred to the committee.

4. Cases in which the applicant is a current or former foster parent and the review of the foster parent file reveals that there have been care and supervision concerns or a violation of licensing standards.

5. With the exception of those applicants convicted of a crime specified in Section 435.045(1)(a), F.S., counselors must seek the assistance of the committee prior to a decision to reject an applicant.

(b) The adoptive applicant review committee chairperson will convene the committee and issue a written recommendation to district legal counsel or the appropriate entity within the community based care agency within 30 days of receipt of the request. Following input from district legal counsel or the community based care entity, the chairperson will prepare a written report summarizing consensus of the committee and the recommendation from district legal counsel or the community based care agency entity. This recommendation will be submitted to the district administrator or the chief executive officer of the community based care agency.

(c) The district administrator or chief executive officer will provide the applicant with written notification of the decision to approve or reject the application, within 10 working days of the decision. The written notice must include the reason for the rejection, and must advise the applicant of his/her judicial option as described in the Administrative Procedures Act, Chapter 120, F.S.

Specific Authority 39.012, 63.233 FS. Law Implemented 63.022(2)(c), 409.145, 63.122, 409.401, 415.51(2)(a), 415.51(6), 435.045 FS. History—New 2-14-84, Formerly 10M-8.05, Amended 4-28-92, 4-19-94, 8-17-94, 1-8-95, 7-18-95, Formerly 10M-8.005, Amended \_\_\_\_\_.

(Substantial rewording of Rule 65C-16.007 follows. See Florida Administrative Code for present text.)

65C-16.007 Abuse Hotline and Criminal Records Checks.

(1) Abuse Hotline checks must be conducted on all adoptive applicants. The applicants must be informed of this part of the investigation early in the homestudy process and must provide written consent for the check to be completed. For applicants who have previously been foster parents or have adopted in other states, Abuse Hotline checks must be completed in the previous state. Abuse Hotline checks must be current within 30 days of placement of an adoptive child in the home.

(a) The counselor must submit to the district background screening coordinator, sufficient information to conduct a search of the Florida Abuse Hotline Information System. Abuse Hotline record checks must also be conducted on all other household members who are 12 years of age or older.

(b) Any request for information from the Abuse Hotline must be in writing and must include a statement of statutory authorization to receive the information.

(c) All Department of Children and Families personnel and other agencies and professionals using information from the Abuse Hotline, or any child abuse case record should be informed that misuse of such information may cause them to be held personally liable, and any person injured or aggrieved by such disclosure may be entitled to damages. Unauthorized release of abuse reports may result in criminal prosecution. The offense is a misdemeanor in the third degree.

(2) Criminal background checks through local, state and federal law enforcement agencies will be conducted on all persons age 18 or older residing in the prospective adoptive home. For applicants who have been foster parents or who have adopted in other states, local and state checks must be completed in the state of previous residence. Should the background reveal that the applicant has been convicted of a crime specified in Section 435.045(1)(a)1., F.S., the application must be rejected. Juvenile delinquency checks through the Florida Department of Law Enforcement must be conducted on all household members twelve through seventeen years of age as a public record search. If this check reveals a Juvenile Justice record, this information must be addressed in the homestudy and a determination must be made regarding possible impact on the adopted child.

(3) For foster parents and relative caregivers who are adopting a department child, federal background checks must be current within 5 years at the time of adoption placement. For potential adoptive parents who are not foster parents or relative caregivers, federal background checks must be current within one year at the time of adoption placement. All potential adoptive parents must have state and local background checks that are current within 90 days of the date of adoption placement.

(4) Applicants who have been convicted of any crime specified under Section 435.045(1)(a)2., F.S., within the last five years cannot be considered for approval until five years after the violation was committed. At that time these applicants must also be referred to the adoption review committee. Applicants who have been found guilty or entered a plea of guilty or nolo contendere for crimes not listed in Section 435.045(1)(a), F.S., shall be carefully evaluated as to the extent of their rehabilitation. Factors to be considered will include the severity of the action resulting in the record, how much time has lapsed since the offense, circumstances surrounding the incident, and whether records indicate single or repeated offenses. Referral of these applicants to the adoption review committee is not required but they must be submitted to the district Family Safety Program Administrator or the appropriate entity in the community based care agency for approval.

(5) Abuse Complaints Against Adoptive Parents.

(a) When the department receives reports of abuse or neglect by adoptive parents whose adoptions have been finalized, they will be handled as any other family on whom a report has been received.

(b) In cases where such reports are received on families whose adoptions are not finalized, the protective investigator will consult with the adoption counselor or supervisor who knows the family and children.

(c) Should an allegation of abuse, neglect or abandonment be made directly to the adoption counselor, the Florida Abuse Hotline must be notified immediately. The report will be transmitted to the district Protective Investigation unit. Complaints which do not contain allegations of abuse, neglect or abandonment and are made directly to the adoption counselor must be investigated by the counselor.

(d) If an investigation of an abuse, neglect or abandonment report by protective investigations reveals that the subject of the report is an adoptive parent whose adoption has not been finalized, the adoption counselor must be notified immediately and must assume responsibilities in the investigation as outlined above. The child should be removed from the adoptive home if he or she meets the criteria for removal pursuant to Section 39.401, F.S.

(e) If abuse or neglect is established but does not warrant immediate or permanent removal of the children, careful consideration should be given to providing services to the family for a specified period of time. Services may be provided by the department's Protective Services unit and a referral to the mental health multidisciplinary team may be appropriate. Prior to the expiration of the specified period of time, input from the district adoption specialist or the appropriate entity in the community based care agency must be sought to assess progress being made and the likelihood that the consent to the adoption may safely be issued. The district adoption specialist or the appropriate entity in the community

based care agency shall convene a meeting to include the protective services counselor and supervisor and the adoption counselor and supervisor. These individuals must decide if the placement will be terminated and the child returned to foster care or if a recommendation to issue consent for finalization of the adoption will be made to the district administrator for the adoption to finalize. The district administrator must provide written approval of the plan to issue consent.

(f) Whether the department recommends finalization of the adoption or removal of the children, information about the complaint, services provided to the family, and reasons for the department's final decision must be documented and provided to the court.

Specific Authority 409.026(8), 39.012, 63.233, 409.145 FS. Law Implemented 409.145, 63.022, 63.092(2)(b), 415.51(1)(a),(2)(a), 435.045 FS. History—New 5-20-91, Formerly 10M-8.00513, Amended 4-28-92, 4-18-94, 8-17-94, 1-8-95, Formerly 10M-8.0053, Amended \_\_\_\_\_.

(Substantial rewording of Rule 65C-16.008 follows. See Florida Administrative Code for present text.)

65C-16.008 ~~Complaints~~— Dispute Resolutions and Appeals.

(1) When an adoptive applicant or parent is adversely affected by a decision or action taken by the department, or by a community based agency acting for the department, efforts should be made to settle the dispute at the counselor/supervisor level. If this attempt is unsuccessful, the Adoption Review Committee will be convened as outlined in subsection 65C-16.005(9), F.A.C. If this review results in a decision by the district administrator that supports the departments/agency's original decision, the applicant or parent must be told of that decision in writing and advised of their judicial option as described in the Administrative Procedures Act, Chapter 10068, F.S. and of their right to a hearing pursuant to Section 120.57, F.S.

(2) Adoptive applicants do not have the right to appeal the department's decision on the selection of and adoptive home for a particular child.

Specific Authority 409.145, 120.68, 120.57, 409.026(8) FS. Law Implemented 409.145, 120.68, FS. History—New 5-20-91, Formerly 10M-8.00514, Amended 4-19-94, 7-18-95, Formerly 10M-8.0054, Amended \_\_\_\_\_.

(Substantial rewording of Rule 65C-16.009 follows. See Florida Administrative Code for present text.)

65C-16.009 Adoption Placement.

(1) The adoption placement process incorporates the following:

- (a) Selection of the family.
- (b) Presentation of the information to the family regarding the child and to the child regarding the family.
- (c) First meeting.
- (d) Get acquainted period and pre-placement visits.
- (e) Day of placement.

(2) The decision on final placement is based on the child's readiness and the cues given by the child to the counselor that he is ready to move into his new home.

(3) The mechanics of final placement include:

(a) An assessment of the child and family's adjustment during the transition activities, and their readiness for placement.

(b) A decision regarding the appropriate geographical location for placement. Depending on the child's developmental age, the placement may occur in the foster home, the adoptive home, or another location determined suitable by the parties. The child's counselor will be present regardless of the selected location.

(c) An opportunity for the child to say good-bye to each member of the foster family.

(4) When it is necessary for the child to travel to the home of the adoptive parent for placement, the child should be accompanied by the counselor and the person with whom he or she has the most meaningful relationship. If this person is a member of the foster family the department will provide financial reimbursement for any costs incurred.

(5) Occasionally it may be in the child's best interest to be placed in a prospective adoptive applicant's home prior to completion of legal termination of parental rights. Examples of situations where at-risk placement may be appropriate include:

(a) The child's termination of parental rights is on appeal.

(b) The child has been voluntarily surrendered and termination of parental rights by the court is anticipated.

(c) A petition for termination of parental rights has been filed, as it appears unlikely that the child can be returned to the biological parents within a reasonable period of time.

(d) The child must be moved from his or her current foster home placement, and the placement in a pre-adoptive home will result in one less move for the child.

(6) Consideration of a placement under one of the above situations presumes that relatives as placement resources have been considered and found not available or inappropriate. Such placements must only occur with approved adoptive families. These placements must be carefully planned and must have written approval of the district Family Safety Program Office or the appropriate entity with the community based care provider, prior to discussion with the family. The prospective adoptive family must clearly understand the risks involved in such a placement. This is particularly critical if the termination of parental rights is being appealed or if it can be anticipated that the biological family will seek to prevent the severance from occurring. The pre-adoptive family must be given the opportunity to consider the risks and allowed to decide if they are willing to proceed. Families entering into an at-risk placement must indicate in writing that they understand and accept the risks involved.



Specific Authority 39.012, 63.233 FS. Law Implemented 63.022, 63.042, 409.145 FS. History—New 4-28-92, Formerly 10M-8.0058, Amended

(Substantial rewording of Rule 65C-16.010 follows. See Florida Administrative Code for present text.)

65C-16.010 Adoption Placement – Post Placement ~~Supervision~~ Services.

(1) The department has a legal responsibility to provide services until the finalization of an adoption. This period is no less than 90 days from the date the child was placed in the physical custody of the adoptive parent. The first home visit must be made within one week after placement. There shall be a minimum of three supervisory visits in placements which are non-problematic. For placements which do not proceed smoothly, additional and more frequent contacts are necessary. The adoptive child or children must be contacted a minimum of once every calendar month until adoption finalization. The entire family must be seen together at least once during the post placement supervision period.

(2) Some placements are, by nature, complex and will require additional services during the post-placement period. Examples of these placements include:

(a) Sibling placements. Incorporating a large sibling group into an adoptive family is complex due to the number of new relationships this entails. Another difficult situation occurs when one child in a sibling group experiences difficulty in establishing a relationship with the adoptive family and the other child or children appear to be adjusting well. The counselor must decide whether to separate the siblings. Before making a decision to separate siblings, the adoption unit must staff the case as a team. The positives and negatives of keeping the children together must be thoroughly explored and the team must decide what is in the best interest of the children. If it is determined that the removal of only one child is best, arrangements must be made for continuing contact among the children. Refer to Rule 65C-16.002, F.A.C., for criteria to assist in decision making for sibling placements. The decision and the reasons for the decision must be documented in the case file. The file must also include documentation of a plan to assure on-going contact among separated siblings.

(b) Children with severe emotional and behavioral difficulties. Children who required specialized services to maintain stability in their foster home often need the same services in the adoptive home.

(c) Adolescents. Adoption placement of adolescents can be difficult because the developmental task for this age group is to become free of close family ties and establish independence. This can make the task of attaching to an adoptive family challenging and additional services for the family and the adopted youth may be required.

(d) Children placed transracially. Families adopting children of a different race will face challenges specific to this situation. It is important for adoption staff to assist the family

in understanding the importance of race and ethnic heritage and to assist the family in accessing resources to help meet the specific needs of the child who is adopted transracially.

(3) Mental Health Multidisciplinary Team. During the post-placement supervision period, adoptive families may access the services of the Mental Health Multidisciplinary Team. When the services of the team are needed, the adoption counselor should initiate contact with the identified single point of access in the district Alcohol, Drug Abuse and Mental Health Program Office.

(4) Although emotional ties through the parent/child relationship are being established through living together, the legal finalization procedure gives the relationship sanction and protection. Legalization of the adoption assures the child who is adopted the rights and responsibilities of membership in a permanent family.

(a) At the end of the supervisory period, the department adoption supervisor and the counselor, or the appropriate community based provider entity, must make a final assessment of the placement. Before the final adoption hearing, or within 90 days after the adoption petition is filed with the court by the adoptive family, whichever occurs first, a final home evaluation must be completed as directed in Section 63.125, F.S., and a written report on the findings, including a recommendation on the granting of the adoption petition, must be filed with the court. In addition to the requirements of Section 63.125, F.S., the following must be addressed in the written report to the court:

1. A summary of issues discussed in Rule 65C-16.0061, F.A.C., Evaluation of Applicants and Rule 65C-16.007, F.A.C., Abuse Hotline and Criminal Checks.

2. Full discussion and disclosure regarding any unusual circumstances in the adoptive family including health records and findings, and financial problems.

(b) After the post-placement period has been completed, the department supervisor or appropriate community based provider entity, signs the consent to adoption and forwards it to the adoptive parents' attorney. Attached to the consent must be the family medical history containing such information concerning the medical history of the child and birth parents as is available or readily obtainable. This information must be made available to the adopting parents. With the consent and medical history, the attorney can proceed with the filing of the petition for adoption in court. If not previously provided, the adoptive parents must be provided with a copy of the study of the child at this time. If the study contains identifying information about the biological family, that information must be deleted prior to presenting it to the family.

(c) The counselor or community based provider case manager completes the original and two copies of Section A and B of the Certified Statement of Final Decree of Adoption to be used by the Clerk of the Court to obtain the new birth certificate. As soon as the petition is filed, and a copy is routed

to the adoption unit, that unit will forward the Certified Statement to the Clerk of the Court for completion and certification and will notify the attorney that the form has been forwarded.

(d) When a placement disrupts the counselor or community based provider case manager must record a disruption summary, which provides an evaluation and assessment of the reasons for the disruption. In addition to assessing and summarizing the reasons for the disruption, the summary must also assess the impact the failed placement had on the child and issues which must be resolved before another placement can be considered. Any specific attributes which will be necessary in the next adoptive parents must also be included. This summary must be recorded within 10 days after the disruption occurs.

Specific Authority 39.012, 63.233 FS. Law Implemented 409.145, 63.022, 63.122, 63.152, 63.162, 382.015, 382.025 FS. History—New 2-14-84, Formerly 10M-8.06, Amended 4-28-92, 4-14-94, 1-8-95, Formerly 10M-8.006, Amended 12-4-97, \_\_\_\_\_.

65C-16.011 Confidentiality – Human Immunodeficiency Virus (HIV) Infected Clients.

(1) The department or the community based provider agency shall disclose to adopting parents the name of a child who has been tested for HIV and the results of that test when the decision to adopt the child has been confirmed by the adopting parent and the agency. Prior to the confirmation of the decision, the adoptive parents shall be told that the child being considered by them has tested positive for HIV but cannot may be told the child's name until after the decision to place has been made.

(2) The adopting parents who have accepted an HIV infected child into their home must be given a written statement ~~statement in writing~~ which includes the following language: "This information has been disclosed to you from records whose confidentiality is protected by state law. State law prohibits you from making any further disclosure of such information without the specific written consent of the person to whom such information pertains, or as otherwise permitted by state law. A general authorization for the release of medical or other information is NOT sufficient for this purpose."

(3) The adoption record must contain documentation that the written statement was given to the adoptive family.

Specific Authority 389.004(3)(f)H, 381.004(3)(f)11, FS. Law Implemented 381.004(3)(f)1. FS. History—New 5-20-91, Amended 4-19-94, Formerly 10M-8.006, Amended \_\_\_\_\_.

(Substantial rewording of Rule 65C-16.012 follows. See Florida Administrative Code for present text.)

65C-16.012 Types of Adoption Assistance Subsidies.

(1) The intent of adoption assistance is to promote the adoption of special needs children who are in the department's foster care program or in the care of a licensed private child placing agency. It is the responsibility of the department or the

community based care agency adoption staff to inform prospective adoptive parents of the availability of all of the benefits listed below.

(2) Maintenance Subsidy. A monthly payment may be made for support and maintenance of a special needs child until the child's 18th birthday. Unless approved by the Secretary of the Department pursuant to Rule 65C-16.013(9), F.A.C., the amount of the payment may not exceed the standard foster care board rate for which the child would have been eligible had the adoption placement not taken place. Annual reevaluations of the continued need for subsidy are required.

(3) Medical Subsidy. The cost of medical, surgical, hospital and related services needed as a result of a physical or mental condition of the child which existed prior to the adoption may be subsidized. The need for medical services for a condition recognized prior to adoption must be established and authorized prior to the placement for adoption, although the service might not be delivered until some time after finalization of the adoption. The need for medical subsidy must be supported by documentation of that need from the appropriate professional, such as a licensed physician or dentist, or qualified mental health professional, and must be reassessed annually.

(4) Other Medical Services. Other medical services available may include on-going Medicaid coverage and continuing eligibility with Children's Medical Services for children who were receiving such services prior to adoption.

(5) Reimbursement for Non-recurring Adoption Expenses. Nonrecurring adoption expenses are those reasonable and necessary adoption fees, court costs, attorneys fees, and other expenses that are directly related to the legal adoption of a special needs child.

(6) Adoption Benefit for State Employees. State employees who adopt a dependent child are entitled to financial assistance.

(7) Tuition Waiver. Children who were in the custody of the department and who were adopted after May 5, 1997 are eligible for an exemption of undergraduate college tuition fees at Florida universities or community colleges.

(8) Adoption assistance for eligible children will be paid irrespective of the child's state of residence. Adoptive parents receiving adoption assistance are obligated to notify the department of any change of address.

(9) The provision of all adoption assistance is contingent upon the availability of state and federal funds.

Specific Authority 409.166 FS. Law Implemented 409.166 FS. History—New 2-14-84, Formerly 10M-8.18, 10M-8.018, Amended \_\_\_\_\_.

(Substantial rewording of Rule 65C-16.013 follows. See Florida Administrative Code for present text.)

65C-16.013 Determination of Maintenance Subsidy Payments.

(1) The purpose of adoption subsidy is to make available to prospective adoptive parents financial aid which could enable them to adopt a special needs child. Every adoptive family must be advised of the availability of adoption subsidy and the purpose for which it is intended. Placement without subsidy must be the placement of choice unless it can be shown that such placement is not in the best interest of the child.

(2) The child's and the family's need for subsidy must be determined prior to placement. When this need is not determined prior to placement, and the adoptive parents feel they have been wrongly denied subsidy benefits on behalf of an adopted child, they have the right to request a fair hearing pursuant to Chapter 120, F.S. If, through the fair hearing process, subsidy is approved, the effective date of the subsidy will be the date the family officially requested subsidy. Retroactive payment dating back to the date of placement will not be approved.

(3) Children with income of less than 200% of the Federal Poverty Level and who reside in Florida may have their subsidies funded with Temporary Assistance for Needy Families (TANF), pursuant to Section 414.045, F.S. and the Title IV-A State Plan. A TANF funded subsidy must be changed to another funding source if the child moves out of Florida. Families receiving TANF funded subsidy must keep the department informed of all changes to the child's income.

(4) Medical or mental health evaluations may be required to document the need for maintenance subsidy. When this is the case, these evaluations must be no more than 12 months old at the time of initial subsidy determination.

(5) Efforts to place the child in a non-subsidized placement must be documented in the child's record. Documentation of this exploration shall be one of the following:

(a) List of other families considered.

(b) Letters to agencies specifically seeking a home for the child.

(c) Registration of the child on the adoption exchange.

It is not the intent of this requirement that a child remain unnecessarily in foster care while the department searches for a non-subsidized placement, if a family who can meet the special needs of the child is available, but requires a subsidy.

(6) The one exception to the requirement to explore placement without subsidy is when it has been determined that the child's adoption by his current caretaker, with whom he/she has established significant emotional ties, is the placement of choice. However, the current caretaker must be asked if he/she will adopt the child without subsidy. This exploration must be documented in the child's record. The caretaker must understand that being an adoptive parent

includes different parental rights and responsibilities. Some of these responsibilities are financial, and adoption subsidy, unlike foster care board rate payments, is not intended to cover the complete cost of the child's care. The maintenance subsidy payment is intended to assist the adoptive parent in supporting the extra costs associated with adopting a child with special needs.

(7) Initial Basic Maintenance Subsidy. The initial determination of the monthly basic maintenance payment will be based on the department's published standard foster care board rates. This initial basic subsidy will be 80% of the standard foster care board rate at the time the payment determination is being made, or, if the child is in medical foster care, 80% of the medical foster care board rate at the time the determination is made. It is important to remember that basic subsidy determination is based on standard board rates, not actual board rates that may have been paid for a particular child.

(8) Supplemental Maintenance Payment. An additional supplemental amount may be added to the child's basic subsidy when a child has a specific and diagnosed physical, mental, emotional, or behavioral problem which requires care, supervision, and structure beyond that ordinarily provided in a family setting. The total of the basic subsidy amount and the supplemental amount may not exceed the standard foster care board rate for which the child was eligible as a foster child, unless an exception is granted by the Secretary as discussed in (9) below. This payment is not intended to cover services which may be obtained through family insurance, Medicaid, Children's Medical Services, medical subsidy, or through special education plans provided by the public school district.

(9) The proposed amount of subsidy, including the supplemental amount must be submitted to the district Family Safety Program Administrator or designee, or the appropriate entity with the community based care provider for approval. Documentation supporting the request for a supplemental payment must be included.

(10) When the Secretary of the Department determines that it is appropriate, an exception may be granted to the policy limiting subsidy to the standard board rate. No adoption subsidy may exceed the actual amount of the foster care board paid for the child. Any request for this policy exception must come in writing to the Secretary from the district or region administrator.

(11) Each authorization for subsidy will be for a period of twelve months, effective on the date of placement, or in the case of adoption by the current caregiver, on the date the placement agreement is signed. There must always be a current adoption assistance agreement signed by the parent and the department's representative. Payments may not be made for any months in which there is no current adoption assistance agreement in place.

(12) The family must be advised that it is their responsibility to notify the department immediately of any change in circumstances, including changes in the child's need for services covered by the supplemental payment.

(13) Maintenance subsidy payment will be terminated when the child reaches 18 years of age or if the parents cease having responsibility for the child or the child is no longer receiving support from the parents.

(14) Subsidy redeterminations. At redetermination the basic monthly maintenance subsidy amount will remain the same as the amount initially determined. If the child is receiving a supplemental payment, the continued need for the supplemental payment will also be determined at this time. A new or updated prognosis will be required to document the continued need for service and support. If the service is no longer required, the supplemental payment must be discontinued. The total adoption assistance agreement must be re-negotiated with the adoptive parent at each scheduled or unscheduled change to the subsidy payment.

(15) No child will have his or her subsidy payment reduced based on application of this rule.

(16) Any child who has been determined eligible for adoption subsidy whose adoption has been dissolved by termination of parental rights or by the death of the adoptive parents will retain his or her original subsidy eligibility if subsequently placed for adoption.

Specific Authority 409.166 (7), 409.026(8), 409.031 FS. Law Implemented 409.166, 409.031 FS. History—New 2-14-84, Formerly 10M-8.20, Amended 5-20-91, 4-19-94, Formerly 10M-8.020, Amended \_\_\_\_\_.

(Substantial rewording of Rule 65C-16.014 follows. See Florida Administrative Code for present text.)

#### 65C-16.014 Determination of Medical Subsidy.

(1) The department may pay the adopting parents a subsidy for medical, surgical, hospital and related services needed as a result of a physical or mental condition of the child which existed prior to the adoption. The need for medical subsidy must be established and authorized prior to the adoption placement, although the service might not actually be needed until a later date. When this need is not established prior to placement and the adoptive parents feel they have been wrongly denied subsidy benefits on behalf of an adopted child, they have the right to request a fair hearing. If, through the fair hearing process, subsidy is approved, the effective date of the subsidy will be the date the family officially requested subsidy. Retroactive payment dating back to the date of placement will not be approved.

(2) Medical subsidy must be terminated when the condition for which it was granted no longer exists or on the child's 18th birthday, whichever occurs first. Children needing residential mental health services will be referred to the district's Alcohol, Drug Abuse and Mental Health Program Office, children's program for services.

(3) The medical subsidy is not to include those costs which can be or are covered by the adopting family's medical insurance, Children's Medical Services, Children's Mental Health Services, Medicaid or local school districts.

(4) The adoptive parents must obtain the approval of the department or the community based care provider agency prior to planning for the use of medical subsidy funds. The adoptive parents must submit a copy of the bill for the service to the department or to the community based care provider agency to initiate reimbursement. The bill must be clearly legible and must specify the name of the child, the service rendered and the date of the service, in addition to the charge for the service.

Specific Authority 409.166 FS. Law Implemented 409.166 FS. History—New 2-14-84, Formerly 10M-8.21, 10M-8.021, Amended \_\_\_\_\_.

(Substantial rewording of Rule 65C-16.015 follows. See Florida Administrative Code for present text.)

#### 65C-16.015 Non-Recurring Adoption Expenses.

(1) Under any adoption assistance agreement with adoptive parents of a special needs child, the state is required to make payments to the adoptive parents for non-recurring, one time, expenses incurred in connection with adoption of the special needs child. Nonrecurring adoption expenses are those reasonable and necessary adoption fees, court costs, attorney fees, and other expenses which are directly related to the legal adoption of the special needs child. Such costs may include expenditures for physical and psychological examinations of the adoptive parents required as a part of the adoption process as well as transportation, lodging and food for the child or adoptive parents when necessary to complete the placement or adoption process.

(2) Agency adoption fees must be waived for families adopting children who are in custody of the department for whom subsidies will be paid. Such fees need not be waived for families adopting children who are in the custody of licensed child-placing agencies. If these children are otherwise eligible, agency fees shall be counted as allowable expense under non-recurring adoption expenses. It is not necessary that the family be receiving a money payment to be eligible for this program.

(3) The maximum payment allowable under this program is \$1,000 per adoption placement. In cases where siblings are placed and adopted either separately or as a unit, each child is treated as an individual with separate reimbursement for nonrecurring expenses up to the maximum amount of \$1,000 per child.

(4) There can be no income eligibility requirements for adoptive parents in determining whether payments for non-recurring expenses of adoption will be made.

(5) Parents cannot be reimbursed for out-of-pocket expenses for which they have been otherwise reimbursed.

(6) Except where it would be contrary to the best interest of the child, a reasonable but unsuccessful effort must be made to place the child without adoption assistance prior to reimbursement for non-recurring adoption expenses.

(7) The following procedures will initiate payments for reimbursement of nonrecurring adoption expenses.

(a) All adoptive parents of special needs children will be advised of the availability of nonrecurring expense reimbursement.

(b) Reimbursement for eligible costs may be made to the adoptive parent or directly to a vendor. All parents will be advised to keep copies of receipts of expenditures related to the adoption. Copies of such receipts must be available in the subsidy record. Eligible expenses include court costs, attorney fees, birth certificates, costs of required physicals and psychological examinations, costs of transportation, lodging and food for the child and/or adoptive parents when necessary to complete the adoption process, and the cost of the homestudy if the child is in the custody of a private agency.

(c) When a placement decision has been made, the adoption assistance agreement will be negotiated with the family and will include a statement of the projected cost to be reimbursed for nonrecurring adoption expenses, as well as proposed maintenance and medical subsidy amounts if appropriate.

(d) Payments for nonrecurring expenses can be made up to two years following the finalization of the adoption. However, every effort should be made to complete these transactions within three months following adoption finalization.

Specific Authority 409.301, 409.166 FS. Law Implemented 409.301, 409.166 FS. History—New 5-20-91, Amended 4-19-94, 7-18-95, Formerly 10M-8.0054, Amended \_\_\_\_\_.

(Substantial rewording of Rule 65C-16.016 follows. See Florida Administrative Code for present text.)

#### 65C-16.016 Access to Closed Adoption Records.

(1) The confidentiality of adoption records, original birth records, and court files is protected by sealing them upon adoption finalization. Persons seeking information from those records will be referred to the headquarters Office of Family Safety for assistance. Florida law requires non-identifying information to be released to adoptive parents and adult adoptees but does not allow access to the record by other parties.

(2) Requests for information from closed adoption records must be written, and no information will be released by telephone. Because records must be indexed by names of the adoptive parents, that information must be included in the letter requesting release of information as well as some form of identification such as a photocopy of the client's driver's license or birth certificate.

(3) In order to respond to written requests from adoptive parents or adult adoptees for non-identifying information, the department or the community based care provider agency must be able to access the adoption records and other records which concern the adoptee. The department or community based care provider agency shall retain as confidential all records relating to each child who became adopted through the department's adoption program. These confidential records shall be referred to as department closed adoption records and shall be retained in the district/region or in the community based care provider agency until called for by the headquarters Office of Family Safety for permanent storage.

(4) The department will assume responsibilities for the closed adoption records of private licensed child placing agencies in Florida who cease to operate.

Specific Authority 63.233, 63.162 FS. Law Implemented 63.233, 63.162 FS. History—New 5-20-91, Amended 4-28-92, 4-19-94, Formerly 10M-8.024, Amended \_\_\_\_\_.

#### 65C-16.017 Florida Adoption Reunion Registry.

(1) The state registry of adoption information created in Section 63.165, F.S., is also known as the Florida Adoption Reunion Registry. The purpose of the registry is to reunite adult adopted persons with members of their family without either party having to take court action to accomplish this goal. The department shall retain and maintain the registry records on a permanent basis. The registry shall be open with respect to all adoptions in the state, regardless of when they took place. The registry shall be available for those persons choosing to enter information, but no one shall be required to do so.

(2) The department operates the state-wide registry for persons who have come forward to voluntarily register information about themselves for release to specified other parties to that adoption. The registry is the mechanism whereby individuals from families separated by adoption may be reunited should each party seek that reunion. All birth and adoptive parents who are parties to an adoption shall be advised of registry services prior to adoption finalization.

#### (3) Procedures for Registration.

(a) Any person may register by completing and submitting the application for registry services, indicating to whom they consent to release identifying information about themselves.

(b) Persons to whom identifying information may be released are limited by Section 63.165, F.S., to the following:

1. Adoptee.
2. Birth father.
3. Birth mother.
4. Adoptive mother.
5. Adoptive father.
6. Birth siblings.
7. Maternal birth grandparents of the adoptee.
8. Paternal birth grandparents of the adoptee.

(4) Adoptee birth data will be verified by registry staff, with the assistance of the Vital Records section of the Office of Vital Statistics in the Department of Health. In cases where birth information cannot be verified and registration is not possible, applicants will be notified of data used as a basis for search and given opportunity to correct or change that data for resubmission. Should verification of the birth information still not be possible, no further attempts will be made to process that application. If the applicant desires to submit new or different information, a new application and accompanying fee must be submitted.

(5) Original applications, signed by registrants, will be placed on file permanently.

(6) Updating of Registry Information.

(a) Any registrant may change the name, address or telephone number associated with their registration, may limit or restrict their consent to release information, or may completely withdraw from the registry at any time.

(b) Responsibility for update rests with registrants and only the most current information on file will be disclosed to designated recipients upon their completion of registration procedures.

(7) All registry documents containing identifying information shall be handled and stored in accordance with procedures for the handling of confidential information.

(8) The department will offer counseling services to registrants at the time of registration. Counseling, as specified in Section 63.165(2), F.S., consists of professional advice provided by the department, by counselors employed by the department, by agencies licensed by the State of Florida to provide adoption services, or by other persons who have adoption training or experience.

(9) Fee for Service.

(a) The registry shall establish a fee for initial filing of identifying information with the registry. This fee shall be submitted in the form of a money order, bank draft, or personal check by the registrant and shall be deposited in a trust account specified by the department. These fees shall be used to defray the direct and indirect costs of operating the registry.

(b) The registry shall establish a fee for updating information previously filed or for changing, limiting or withdrawing consent to release identifying information. These fees shall be deposited in a trust fund specified by the department. These fees shall be used to defray the direct and indirect costs of operating the registry.

(c) Receipts will be mailed to registrants to acknowledge the processing of fees. Accompanying letters of acknowledgement will state the status of the applicant's registration.

(d) Fees are collected to offset costs of researching birth information, processing applications, and providing staff to service client information and other requests. When an

application has been accepted by the registry for processing, fees will be deposited and will not be returned to the applicants, even if registration proves to be impossible.

(e) Fees for counseling services shall be set and collected by the department, licensed agency, or other professional who provides the service.

(f) The department shall waive fees in cases where need and hardship can be documented. Acceptable documentation of hardship includes verification that applicant is receiving unemployment benefits, public assistance, social security income or food stamps.

(10) Applications for Registry Services, and applications to change or update information are available upon request.

Specific Authority 63.233, 63.162, 382.003(10) FS. Law Implemented 63.233, 63.162, 63.165 FS. History—New \_\_\_\_\_.

NAME OF PERSON ORIGINATING PROPOSED RULE:  
Gloria Walker

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROSED RULE: Carol Hutcheson

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: February 25, 2003

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: March 7, 2003

PURCHASE ORDER NO: HA0056

**FISH AND WILDLIFE CONSERVATION COMMISSION**

**Freshwater Fish and Wildlife**

RULE TITLE: RULE NO.:

Permits for Hunting or Other Recreational

Use on Wildlife Management Areas 68A-9.004

PURPOSE AND EFFECT: The purpose and effect of this proposed rule is to establish a permit quota and permit fee for Robert Brent Wildlife Management Area (WMA) and revise the permit quota and permit fee for Twelve Mile Swamp WMA. In addition, the purpose and effect of this proposed rule is to establish permit quotas and permit fees for several other privately-owned Wildlife Management Areas (WMAs) that may need to be converted to the Recreational User Permit Program depending upon the outcome of legislative deliberations and negotiations with private landowners. The following WMAs, or portions thereof, may be converted: Ft. McCoy, Gulf Hammock, Lochloosa, and Relay.

SUMMARY: On Robert Brent WMA, proposed changes would establish a permit quota of 100 and a permit fee of \$150. On Twelve Mile Swamp, proposed changes would reduce the permit fee from \$425 to \$227 and increase the permit quota from 200 to 400. Proposed changes would establish permit quotas and permit fees for several other privately-owned Wildlife Management Areas (WMAs) that may need to be converted to the Recreational User Permit Program depending upon the outcome of legislative deliberations and negotiations

with private landowners. Specific quotas and fees proposed for these WMAs will be determined following the close of the legislative session and final negotiations with the appropriate landowners.

**SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COST:** It is estimated that the proposed rule action will cost the agency approximately \$150 for administrative preparation and review and \$110 for legal advertising costs.

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

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

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

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

**TIME AND DATES:** 8:30 a.m. each day, May 29-31, 2003

**PLACE:** Osceola County Administration Building, One Courthouse Square, 4th Floor, Room 400, Kissimmee, Florida  
**THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE AND ECONOMIC STATEMENT IS:** James Antista, General Counsel, Florida Fish and Wildlife Conservation Commission, 620 South Meridian Street, Tallahassee, Florida 32399-1600, (850)487-1764

**THE FULL TEXT OF THE PROPOSED RULE IS:**

68A-9.004 Permits for Hunting or Other Recreational Use on Wildlife Management Areas.

(1) In addition to other licenses, permits and stamps required by law, stamp requirements for hunting, camping, fishing, or other recreational uses on lands owned, leased or managed by the Commission or the State of Florida for the use and benefit of the Commission shall be as provided by Section 372.57(4)(b), F.S.

(a) The cost of permits as required for hunting on wildlife management areas as provided by Section 372.57(4)(b)1., F.S., shall be \$25.

(b) The cost of recreational user permits as required for hunting on the following privately owned wildlife management areas as provided by Section 372.57(4)(b)2., F.S., shall be:

1. Nassau WMA – \$197
2. San Pedro Bay WMA – \$225
3. Blue Water Creek – \$180
4. Flint Rock – \$206
5. Twelve Mile Swamp – ~~\$227~~ \$425
6. Robert Brent – \$150

(c) The total number of permits available for each of the following privately owned wildlife management areas established pursuant to Section 372.57(4)(b)2., F.S., shall be:

1. Nassau WMA – 600
2. San Pedro Bay WMA – 355
3. Blue Water Creek – 400
4. Flint Rock – 450
5. Twelve Mile Swamp – ~~400~~ 200
6. Robert Brent – 100

(d) Recreational user permits required for hunting on privately owned wildlife management areas shall also authorize the permittee to engage in all activities authorized for wildlife management area permits.

(e) Recreational user permits for privately owned wildlife management areas designated herein shall be non-transferable.

(f) A recreational use permit for privately owned wildlife management areas designated herein shall be renewable for two consecutive years provided that proper application and payment is received prior to June 1.

(2) Additional stamp requirements may be promulgated for each individual wildlife management area and are set forth in Chapter 68A-15, F.A.C.

Specific Authority Art. IV, Sec. 9, Fla. Const. Law Implemented 372.121, 372.57, 375.313 FS. History–New 8-1-79, Amended 6-4-81, 6-21-82, Formerly 39-9.04, Amended 6-2-86, 11-1-89, 7-16-98, 5-13-99, Formerly 39-9.004, Amended 7-1-00, 5-29-01, 7-22-01, 6-2-02, 7-28-02, 5-1-03,

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

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

**DATE PROPOSED RULE APPROVED BY AGENCY HEAD:** April 14, 2003

**DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW:** November 22, 2002

**FISH AND WILDLIFE CONSERVATION COMMISSION**

**Freshwater Fish and Wildlife**

**RULE TITLE:** Quota Permits; Antlerless Deer Permits; Special-Opportunity Permits

**RULE NO.:** 68A-15.005

**PURPOSE AND EFFECT:** The purpose and effect of the proposed rule is to revise or delete hunter quotas on wildlife management areas (WMAs). In addition, the purpose of proposed changes is to reincorporate the list of quotas by area and hunt.

**SUMMARY:** The proposed rule would revise the hunter quotas for Robert Brent Robert Brent WMA to accommodate removal of privately-owned lands per landowner request. The general gun still hunt quota would be reduced from 100 to 250, and the general gun dog hunt would be deleted. The proposed rule would delete quotas on Lake Butler and Georgia Pacific WMAs to accommodate removal of these privately-owned WMAs from the system per landowner request. In addition, it

may be necessary to revise or delete quotas for Steinhatchee Falls, Lochloosa, Ft. McCoy, Gulf Hammock, and Relay WMAs to accommodate withdrawal of privately-owned lands from these WMAs; specific revisions will be proposed depending upon the outcome of legislative deliberations and negotiations with landowners.

**SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COST:** It is estimated that the proposed action will cost the agency approximately \$285 for administrative preparation and \$209 for legal advertising. No other significant economic impacts are expected.

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

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

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

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

**TIME AND DATES:** 8:30 a.m., each day, May 28-30, 2003

**PLACE:** Osceola County Administration Building, One Courthouse Square, 4th Floor, Room 400, Kissimmee, Florida

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

**THE FULL TEXT OF THE PROPOSED RULE IS:**

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

(1) During the first nine days of the general hunting season and at other times specified herein, a quota or special-opportunity permit in addition to other license, permit and stamp requirements, shall be required for any person while hunting on wildlife management areas, wildlife and environmental areas, and fish management areas or specified units thereof, identified in this rule. Those persons exempt from license requirements by Section 372.57(1), F.S., or stamp requirements by Section 372.57(4), F.S., or persons age 65 or over who have obtained a Florida lifetime hunting or lifetime sportsman's license are also exempt from quota permit requirements on all areas except those specified by "(no exemptions)" in this rule. Quota, antlerless deer and special-opportunity permits shall be in the hunter's possession and shall be displayed upon request by any Commission employee. Quota, antlerless deer, and special-opportunity permits shall be transferable, except that quota, antlerless deer, and special-opportunity permits issued to exempt persons shall be transferable only to another exempt person, and application for same, if necessary, shall be made in accordance with Rule 68A-5.005, F.A.C.

(2) The maximum number of quota and special-opportunity permits to be issued for each wildlife management area, fish management area, or wildlife and environmental area shall be maintained on a list titled "Quota and special-opportunity permits," effective July 2, 2003 ~~July 1, 2003~~ incorporated herein by reference and kept by the Commission at its headquarters office and regional offices.

(3) Antlerless deer permits will be issued on specified wildlife management areas or wildlife and environmental areas during such hunting seasons or portions thereof as may be ordered by the Executive Director. Estimated deer density, estimated carrying capacity of available habitat and management objectives will be considered in determining the number of antlerless deer permits to be issued. Antlerless deer permits shall be transferable. No person shall take any antlerless deer on a management area unless authorized by permit or by area regulations.

(4) No person shall sell, purchase or offer to purchase any quota permit or any antlerless deer permit.

Specific Authority Art. IV, Sec. 9, Fla. Const. Law Implemented Art. IV, Sec. 9, Fla. Const. History--New 8-1-79, Amended 5-19-80, 6-22-80, 12-29-80, 6-4-81, 8-4-81, 6-21-82, 7-29-82, 7-1-83, 7-5-84, 7-1-85, 9-19-85, Formerly 39-15.05, Amended 5-7-86, 6-10-86, 5-10-87, 6-8-87, 10-8-87, 4-13-88, 6-7-88, 7-1-89, 7-1-90, 9-1-90, 7-1-91, 7-2-91, 7-1-92, 8-23-92, 7-1-93, 7-1-94, 3-30-95, 6-20-95, 8-15-95, 4-1-96, 6-27-96, 9-15-96, 10-20-96, 6-1-97, 8-7-97, 11-23-97, 7-1-98, 7-2-98, 8-11-98, 12-28-98, 5-13-99, Formerly 39-15.005, Amended 12-9-99, 4-30-00, 7-1-01, 8-1-01, 11-1-01, 5-13-02, 10-16-02, \_\_\_\_\_

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

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

**DATE PROPOSED RULE APPROVED BY AGENCY HEAD:** February 4, 2003

**DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW:** November 22, 2002

**FISH AND WILDLIFE CONSERVATION COMMISSION**

**Freshwater Fish and Wildlife**

**RULE TITLE:** Specific Regulations for Wildlife Management Areas – North Central Region **RULE NO.:** 68A-15.062

**PURPOSE AND EFFECT:** The purpose of the proposed changes is to establish specific regulations for Gulf Hammock, Lochloosa, and Steinhatchee Falls Wildlife Management Areas (WMAs) depending upon the outcome of legislative deliberations and negotiations with the landowner. In addition the purpose of proposed changes is to delete specific rules for Lake Butler WMA to accommodate a request from the landowner to remove their lands from the WMA system.

**SUMMARY:** The proposed changes would revise specific regulations for Gulf Hammock, Lochloosa, and Steinhatchee Falls to accommodate conversion of privately-owned lands to



the Recreational User Permit Program depending upon the outcome of legislative deliberations and negotiations with the landowners. Specific regulations revisions would be determined through negotiations with the landowner. The proposed changes would delete specific rules for Lake Butler WMA.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COST: It is estimated that the proposed action will cost the agency approximately \$275 for administrative preparation and \$375 for legal advertising. No other significant economic impacts are expected.

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

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

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

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

TIME AND DATES: 8:30 a.m. each day, May 28-30, 2003

PLACE: Osceola County Administration Building, One Courthouse Square, 4th Floor, Room 400, Kissimmee, Florida  
 THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE AND ECONOMIC STATEMENT IS: James Antista, General Counsel, Florida Fish and Wildlife Conservation Commission, 620 South Meridian Street, Tallahassee, Florida 32399-1600

THE FULL TEXT OF THE PROPOSED RULE IS:

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

- (1) through (2) No change.
- (3) Gulf Hammock Wildlife Management Area.
  - (a) Open season:
    - 1. General gun – November 9 through January 5.
    - 2. Spring turkey – March 15 through April 20.
    - 3. Archery – September 21 through October 20.
    - 4. Fishing and frogging – Permitted only during periods when hunting is allowed.
  - (b) Legal to take: All legal game, fish, frogs and furbearers. Wild hogs may not be taken after the first 23 days of general gun season.
  - (c) Camping: Permitted only at designated campsites during periods in which hunting is allowed.
  - (d) General regulations:
    - 1. Camps may be set up beginning one day before each hunting period and shall be removed from campsites within one day following the close of each hunt period. Camping is limited to tents, trailers and self-propelled vehicles.
    - 2. Vehicles may be operated only on established roads.

3. Public access is permitted only when hunting is allowed and on the Friday prior to archery and spring turkey season and on the consecutive Friday, Saturday, and Sunday prior to the general gun season.

4. Public access to the area is permitted only at designated entrances. Public access during periods when hunting is permitted is limited to entering the area no earlier than one hour before legal shooting hours and exiting the area no later than one hour after legal shooting hours.

5. Fires other than campfires are prohibited.

~~(4) Lake Butler Wildlife Management Area.~~

~~(a) Open season:~~

- ~~1. General gun – November 8 through January 4.~~
- ~~2. Small game – January 5 through February 29 in still hunt areas only.~~
- ~~3. Spring turkey – March 20 through April 25.~~
- ~~4. Archery – September 20 through October 19 in the still hunt area only.~~
- ~~5. Duck and coot – During the duck and coot season established by Rule 68A-13.003, F.A.C.~~
- ~~6. Fishing and frogging – Throughout year.~~
- ~~7. Trapping – January 5 through March 1.~~

~~(b) Legal to take: All legal game, fish, frogs and furbearers.~~

~~(c) Camping: Permitted only at designated campsites along the Florida Trail.~~

~~(d) General regulations:~~

- ~~1. Hunting with dogs other than bird dogs is prohibited in that portion of the area lying south of Road 32.~~
- ~~2. Licensed trappers may possess .22 rimfire rifles or pistols from January 5 through March 1.~~
- ~~3. Vehicles may be operated only on named or numbered roads in the still hunt portion of the area during the general gun and spring turkey seasons.~~
- ~~4. Dogs may be taken into the dog hunting area November 8 and shall be removed by January 4.~~
- ~~5. During the general gun season, hunting as specified by paragraph 68A-24.002(2)(b), F.A.C., is permitted except south of Road 32.~~

~~6. Taking of wildlife by use of a gun on or from rights-of-way of Possum Trot Road and Elijah Dobson Road is prohibited as provided by Rule 68A-4.008, F.A.C.~~

~~7. Shotguns are prohibited during the archery season.~~

~~8. The hunting or taking of hogs by the use of dogs is prohibited.~~

~~9. Fires are permitted only in fire rings at designated campsites along the Florida Trail.~~

~~(4)(5) Lochloosa Wildlife Management Area.~~

~~(a) Open season:~~

- ~~1. General gun – November 8 through January 4.~~
- ~~2. Spring turkey – March 20 through April 25.~~

3. Archery – September 20 through October 19.
4. Muzzleloading gun – October 24-26.
5. Duck and coot – During the duck and coot season established by Rule 68A-13.003, F.A.C.
6. Fishing and frogging – Throughout year.
7. Trapping – December 1 through January 4 in the still hunt portion of the area only.
  - (b) Legal to take: All legal game, fish, frogs and furbearers. No size or bag limit on hogs.
  - (c) Camping: Camping allowed only by permit from the St. Johns River Water Management District, and only at the designated campsite.
  - (d) General regulations:
    1. Hunting with dogs other than bird dogs is prohibited west of County Road 325 and north of County Road 2082 during general gun season.
    2. The taking of hogs by the use of dogs is prohibited.
    3. Vehicles are prohibited year-round in the still hunt areas west of and including Old Rail Bed Road, south of County Road 346, and north of County Road 2082. Vehicles are restricted to established roads in the remaining portion of the area. Non-motorized bicycles are permitted, but may be ridden only on established roads.
    4. During the general gun season, hunting as specified by paragraph 68A-24.002(2)(b), F.A.C., is permitted except west of C.R. 325.
    5. Taking of wildlife by use of a gun on or from the rights-of-way of County Roads 325 and 346 is prohibited as provided by Rule 68A-4.008, F.A.C.
    6. Hunting with dogs is prohibited during the archery and muzzleloading gun seasons.
    7. Fires are prohibited on the area.
    8. Horses are permitted only during periods closed to hunting. Horses may be ridden only on established roads.
      - ~~(5)(6)~~ Osceola Wildlife Management Area.
        - (a) through (d) No change.
      - ~~(6)(7)~~ Big Bend Wildlife Management Area – Tide Swamp Unit.
        - (a) through (d) No change.
      - ~~(7)(8)~~ Big Bend Wildlife Management Area – Spring Creek Unit.
        - (a) through (d) No change.
      - ~~(8)(9)~~ Big Bend Wildlife Management Area – Hickory Mound Unit.
        - (a) through (d) No change.
      - ~~(9)(10)~~ Big Bend Wildlife Management Area – Jena Unit.
        - (a) through (d) No change.
      - ~~(10)(11)~~ Big Bend Wildlife Management Area – Snipe Island Unit.
        - (a) through (d) No change.
      - ~~(11)(12)~~ PCS Phosphate Wildlife Management Area.
        - (a) through (d) No change.

- (a) through (d) No change.
  - ~~(12)(13)~~ Raiford Wildlife Management Area.
    - (a) through (d) No change.
  - ~~(13)(14)~~ Cedar Key Scrub Wildlife Management Area.
    - (a) through (d) No change.
  - ~~(14)(15)~~ Andrews Wildlife Management Area.
    - (a) through (d) No change.
  - ~~(15)(16)~~ Big Shoals Wildlife Management Area.
    - (a) through (d) No change.
  - ~~(16)(17)~~ Twin Rivers Wildlife Management Area.
    - (a) through (d) No change.
  - ~~(17)(18)~~ Twin Rivers Wildlife Management Area – Blue Springs Unit.
    - (a) through (c) No change.
  - ~~(18)(19)~~ Jennings Forest Wildlife Management Area.
    - (a) through (d) No change.
  - ~~(19)(20)~~ Holton Creek Wildlife Management Area.s
    - (a) through (d) No change.
  - ~~(20)(21)~~ Steinhatchee Falls Wildlife Management Area
    - (a) Open season:
      1. Archery – September 20 through October 5.
      2. Muzzleloading gun – October 24-26.
      3. General gun – November 8-16.
      4. Small game – November 29 through December 14.
      5. Spring turkey – March 20 through April 4.
      6. Fishing – Throughout the year.
        - (b) Legal to take: Antlered deer, wild hogs, gray squirrel, rabbit and all legal fish. Bearded turkey may be taken only during the archery and spring turkey season. Migratory game birds may be taken only during the small game seasons. There shall be no bag or size limit on wild hogs.
        - (c) Camping: Prohibited during periods open to hunting. During periods closed to hunting, camping is allowed only with a permit from the landowner.
        - (d) General regulations:
          1. Fires are prohibited.
          2. Hunting with dogs is prohibited.
          3. Vehicles may be operated only on designated portions of named or numbered roads.
          4. The use of tracked vehicles, airboats, motorcycles, horses and all-terrain vehicles is prohibited.
          5. During periods closed to hunting, access shall be restricted to daylight hours only.
          6. Entry into or exit from the area at locations other than the entrances designated on the hunt map is prohibited.
          7. Wild hogs may not be transported alive from the area.
            - ~~(21)(22)~~ Goethe Wildlife Management Area.
              - (a) through (d) No change.
            - ~~(22)(23)~~ San Pedro Bay Wildlife Management Area.
              - (a) through (d) No change.

- ~~(23)~~(24) Citrus Wildlife Management Area.  
(a) through (d) No change.
- ~~(24)~~(25) Flying Eagle Wildlife Management Area.  
(a) through (d) No change.
- ~~(25)~~(26) Potts Wildlife Management Area.  
(a) through (d) No change.
- ~~(26)~~(27) Homosassa Wildlife Management Area.  
(a) through (d) No change.
- ~~(27)~~(28) Croom Wildlife Management Area.  
(a) through (d) No change.
- ~~(28)~~(29) Chassahowitzka Wildlife Management Area.  
(a) through (d) No change.
- ~~(29)~~(30) Devil's Hammock Wildlife Management Area.  
(a) through (d) No change.
- ~~(30)~~(31) Mallory Swamp Wildlife Management Area.  
(a) through (d) No change.
- ~~(31)~~(32) Middle Aucilla Wildlife Management Area.  
(a) through (d) No change.
- ~~(32)~~(33) Little River Wildlife Management Area.  
(a) through (d) No change.
- ~~(33)~~(34) Troy Springs Wildlife Management Area.  
(a) through (d) No change.
- ~~(34)~~(35) Bayard Wildlife Management Area.  
(a) through (d) No change.

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

NAME OF PERSON ORIGINATING PROPOSED RULE:  
Timothy A. Breault  
NAME OF PERSON WHO APPROVED THE PROPOSED RULE: Mr. Kenneth D. Haddad, Executive Director  
DATE PROPOSED RULE APPROVED BY AGENCY HEAD: April 14, 2003  
DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: November 22, 2002

**FISH AND WILDLIFE CONSERVATION COMMISSION**

**Freshwater Fish and Wildlife**

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

PURPOSE AND EFFECT: The purpose of the proposed changes is to revise specific regulations for Robert Brent Wildlife Management Area (WMA) to accommodate a landowner request to remove lands from the WMA and convert the remaining lands to the Recreational User Permit Program. In addition, the purpose of the proposed changes is to delete

specific regulations for Ed Ball WMA to accommodate a landowner request to remove this privately-owned WMA from the system.

SUMMARY: The proposed changes would revise specific regulations for Robert Brent WMA to accommodate removal of some lands from the WMA and conversion of the remaining lands to the Recreational User Permit Program. The proposed changes also would delete specific rules for Ed Ball WMA.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COST: It is estimated that the proposed action will cost the agency approximately \$275 for administrative preparation and \$375 for legal advertising. No other significant economic impacts are expected.

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

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

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

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

TIME AND DATES: 8:30 a.m. each day, May 28-30, 2003

PLACE: Osceola County Administration Building, One Courthouse Square, 4th Floor, Room 400, Kissimmee, Florida

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

THE FULL TEXT OF THE PROPOSED RULE IS:

68A-15.063 Specific Regulations for Wildlife Management Areas – Northwest Region.

(1) through (6) No change.

~~(7) Edward Ball Wildlife Management Area~~

~~(a) Open season:~~

~~1. General gun — November 27 30 and December 13 through February 4 (Mondays, Tuesdays and Wednesdays closed to hunting after December 21 in the dog hunt area only).~~

~~2. Archery — October 18 through November 16.~~

~~3. Muzzleloading gun and archery — February 19 29 (Mondays, Tuesdays and Wednesdays closed to hunting).~~

~~4. Early duck — In the September season established by Rule 68A 13.003, F.A.C.~~

~~5. Dove — First phase established by Rule 68A 13.008, F.A.C.~~

~~6. Fishing — Permitted year-round.~~

~~7. Trapping — January 1 through February 1 in that portion south of the Intracoastal Canal by permit from the Panama City regional office only.~~

~~(b) Legal to take: All legal game, fish and furbearers.~~

(c) Camping: Prohibited

(d) General regulations:

- ~~1. Vehicles may be operated only on established roads.~~
- ~~2. Hunting deer with dogs is prohibited south of the Intra-coastal Waterway.~~
- ~~3. Bird dogs may be used during the muzzleloading gun and archery season.~~
- ~~4. The use of all terrain vehicles is prohibited.~~
- ~~5. Operation of a vehicle is prohibited from 11 p.m. to 4 a.m. Eastern Standard Time during the general gun season.~~
- ~~6. No person shall operate a vehicle south of the gate on the Catfish Creek Canal Levee Road.~~
- ~~7. No person shall operate a vehicle on the area from March 15 through September 15.~~
- ~~(7)(8) Joe Budd Wildlife Management Area~~  
(a) through (d) No change.
- ~~(8)(9) Robert Brent Wildlife Management Area~~  
(a) Open season:
  1. General gun – November 27-30 and December 13 through February 4.
  2. Small game – November 8-26, December 1-12 and February 5-29.
  3. Spring turkey – March 20 through April 25.
  4. Archery – October 18 through November 16.
  5. Muzzleloading gun – November 21-23.
  6. Archery and muzzleloading gun – February 19-29.
  7. Dove – During the mourning dove and white-winged dove season established by Rule 68A-13.008, F.A.C.
  8. Fishing and frogging - Throughout year.
  9. Trapping – January 1 through March 1 ~~in still hunt areas~~ by permit from the Panama City regional office only.
- (b) Legal to take: All legal game, fish, frogs and furbearers. Bearded turkeys or gobblers may be taken from November 27-30 and from December 13-24. Taking of antlered deer not having at least one forked antler and having one or more antlers at least 5 inches in length visible above the hairline is prohibited. The forked antler shall have at least two points one inch or greater in length.

(c) Camping: Prohibited.

(d) General regulations:

- ~~1. The taking of wild hogs by the use of dogs is prohibited.~~
- ~~2. The use of all-terrain vehicles is prohibited.~~
- ~~2.3. Vehicles may be operated only on established roads. Vehicle access and use may be further modified in the event of a reduction in acreage in the WMA.~~
- ~~3.4. Vehicular access into the portion of the still hunt area lying east of S.R. 65 will be limited to designated hunting days and for a period of one week prior to the archery and general gun seasons for scouting. Hunters shall enter and exit the area through Road 2 or Road 1 or Road 114 only.~~

~~4.5. Hunting with dogs other than bird dogs is prohibited in the still hunt area (that portion of the area lying east of State Road 65).~~

~~5.6. Taking of wildlife by use of a gun on or from rights-of-way of State Roads 65, 271, 270 or 12 is prohibited as provided by Rule 68A-4.008, F.A.C.~~

~~6.7. Hunters shall check in and out at a designated check station when entering and exiting the still hunt portion of the area and shall check all game taken, during the muzzleloading gun, general gun and archery/muzzleloading gun seasons.~~

~~7.8. Taking or attempting to take wildlife on, upon or from the rights-of-way of Roads 1 and 2 is prohibited.~~

~~(9)(10) Blue Water Creek Wildlife Management Area.~~  
(a) through (d) No change.

~~(10)(11) Point Washington Wildlife Management Area.~~  
(a) through (d) No change.

~~(11)(12) Talquin Wildlife Management Area.~~  
(a) through (d) No change.

~~(12)(13) Ochlockonee River Wildlife Management Area.~~  
(a) through (d) No change.

~~(13)(14) Tate's Hell Wildlife Management Area.~~  
(a) through (d) No change.

~~(14)(15) Tate's Hell Wildlife Management Area – Womack Creek Unit.~~  
(a) through (d) No change.

~~(15)(16) Aucilla Wildlife Management Area.~~  
(a) through (d) No change.

~~(16)(17) Flint Rock Wildlife Management Area.~~  
(a) through (d) No change.

~~(17)(18) Pine Log Wildlife Management Area.~~  
(a) through (d) No change.

~~(18)(19) Eglin AFB Wildlife Management Area.~~  
(a) through (d) No change.

~~(19)(20) Escambia River Wildlife Management Area.~~  
(a) through (d) No change.

~~(20)(21) Tyndall AFB Wildlife Management Area.~~  
(a) through (d) No change.

~~(21)(22) Choctawhatchee River Wildlife Management Area.~~  
(a) through (d) No change.

~~(22)(23) Upper Chipola River Wildlife Management Area~~  
(a) through (d) No change.

~~(23)(24) Yellow River Wildlife Management Area~~  
(a) through (d) No change.

~~(24)(25) Econfina Creek Wildlife Management Area~~  
(a) through (d) No change.

Specific Authority Art. IV, Sec. 9, Fla. Const. Law Implemented Art. IV, Sec. 9, Fla. Const. History—New 6-21-82, Amended 7-1-83, 7-5-84, 7-1-85, 5-7-86, 5-10-87, 6-8-87, 5-1-88, 7-1-89, 7-1-90, 9-1-90, 7-1-91, 9-1-91, 7-1-92, 7-2-92, 7-1-93, 3-1-94, 7-1-94, 7-1-95, 7-2-95, 8-15-95, 7-1-96, 7-2-96, 6-1-97, 12-3-97, 7-1-98, 7-2-98, 8-11-98, 7-1-99, Formerly 39-15.063, Amended 11-17-99, 7-1-00, 7-1-01, 7-22-01, 6-2-02, \_\_\_\_\_.

NAME OF PERSON ORIGINATING PROPOSED RULE:  
 Timothy A. Breault  
 NAME OF SUPERVISOR OR PERSON WHO APPROVED  
 THE PROPOSED RULE: Mr. Kenneth D. Haddad, Executive  
 Director  
 DATE PROPOSED RULE APPROVED BY AGENCY  
 HEAD: April 14, 2003  
 DATE NOTICE OF PROPOSED RULE DEVELOPMENT  
 PUBLISHED IN FAW: November 22, 2002

**FISH AND WILDLIFE CONSERVATION  
 COMMISSION**

**Freshwater Fish and Wildlife**

RULE TITLE: Specific Regulations for Wildlife Management  
 Areas – Northeast Region

RULE NO.: 68A-15.065

PURPOSE AND EFFECT: The purpose of proposed changes is to delete specific rules for Georgia Pacific Wildlife Management Area (WMA) to accommodate a request from the landowner to remove their lands from the WMA system and to establish specific regulations for Ft. McCoy and Relay Wildlife Management Areas (WMAs) depending upon the outcome of legislative deliberations and negotiations with the landowner.

SUMMARY: The proposed changes also would delete specific rules for Georgia Pacific WMA. The proposed changes would revise specific regulations for Ft. McCoy and Relay to accommodate conversion of privately-owned lands to the Recreational User Permit Program depending upon the outcome of legislative deliberations and negotiations with the landowners. Specific regulations revisions would be determined through negotiations with the landowner.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COST: It is estimated that the proposed action will cost the agency approximately \$275 for administrative preparation and \$375 for legal advertising. No other significant economic impacts are expected.

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

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

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

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

TIME AND DATES: 8:30 a.m. each day, May 28-30, 2003

PLACE: Osceola County Administration Building, One Courthouse Square, 4th Floor, Room 400, Kissimmee, Florida

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

THE FULL TEXT OF THE PROPOSED RULE IS:

68A-15.065 Specific Regulations for Wildlife Management Areas – Northeast Region.

- (1) No change.
- (2) Ft. McCoy Wildlife Management Area
  - (a) Open season:
    - 1. General gun – November 8 through January 4.
    - 2. Small game – January 5-25.
    - 3. Archery – September 20 through October 19.
    - 4. Muzzleloading gun – October 24-26.
    - 5. Spring turkey – March 20 through April 25.
    - 6. Fishing and frogging – Permitted during periods in which hunting is allowed.
  - (b) Legal to take: All legal game, fish, frogs and furbearers. Wild hogs may be taken only during archery or muzzleloading gun seasons and during the first 9 days of the general gun season.
  - (c) Camping: Permitted during periods in which hunting is allowed at designated campsites only.
  - (d) General regulations:
    - 1. Only tents, trailers or self-propelled camping vehicles may be used for camping.
    - 2. Vehicles may be operated only on named or numbered roads.
    - 3. Persons operating vehicles shall enter and exit only at designated entrances.
    - 4. Hunting with dogs is prohibited, except bird dogs may be used during the small game season.
    - 5. The area is closed to public access except during periods when hunting is allowed.
    - 6. Taking of wildlife by use of a gun on or from rights-of-way of all paved roads or Gooski Road is prohibited as provided by Rule 68A-4.008, F.A.C.
    - 7. The possession of center-fire rifles is prohibited during spring turkey season.
- ~~(3) Georgia Pacific Wildlife Management Area~~
  - ~~(a) Open season:~~
    - ~~1. General gun – November 8 through January 4.~~
    - ~~2. Small game – January 5 through February 29.~~
    - ~~3. Spring turkey – March 20 through April 25.~~
    - ~~4. Archery – September 20 through October 19.~~
    - ~~5. Fishing and frogging – During periods open to hunting. Permitted throughout the year in Rice Creek Sanctuary.~~
  - ~~(b) Legal to take: All legal game, fish, frogs and furbearers.~~
  - ~~(c) Camping: Prohibited.~~
  - ~~(d) General regulations:~~
    - ~~1. Hunting with dogs is prohibited, except bird dogs may be used during the small game season.~~

~~2. The possession or use of pistols or rifles other than .22 caliber rimfire or muzzleloading rifles is prohibited. Rifles or pistols are prohibited during spring turkey season.~~

~~3. Hunters shall enter or exit the area only at designated entrances, register upon entering and record all game taken.~~

~~4. Airboats, tracked vehicles, horses and all terrain vehicles are prohibited.~~

~~5. Vehicles may be operated only on named or numbered roads.~~

~~6. The area is closed to public access except during periods when hunting is allowed.~~

~~7. Taking of wildlife by use of a gun on or from rights of way of all paved roads is prohibited as provided by Rule 68A-4.008, F.A.C.~~

~~(3)(4)~~ Ocala Wildlife Management Area.

(a) through (e) No change.

~~(4)(5)~~ Richloam Wildlife Management Area.

(a) through (d) No change.

~~(5)(6)~~ Richloam Wildlife Management Area – Baird Unit.

(a) through (d) No change.

~~(6)(7)~~ Three Lakes Wildlife Management Area.

(a) through (d) No change.

~~(7)(8)~~ Prairie Lakes Unit, Three Lakes Wildlife Management Area.

(a) through (d) No change.

~~(8)(9)~~ Tiger Bay Wildlife Management Area.

(a) through (d) No change.

~~(9)(10)~~ Tiger Bay Wildlife Management Area – Rima Ridge Unit.

(a) through (d) No change.

~~(10)(11)~~ Relay Wildlife Management Area.

(a) Open season:

1. General gun – November 8 through January 4.

2. Archery – September 20 through October 19 (Fridays, Saturdays and Sundays only).

3. Muzzleloading gun – October 24-26.

4. Small game – January 5 through February 29.

5. Spring turkey – March 20 through April 25.

6. Fishing and frogging – Permitted during periods open to hunting.

(b) Legal to take: All legal game, fish, frogs and furbearers.

(c) Camping: Permitted only during periods open to hunting except during small game season. Camping is permitted only at designated campsites by permit from The Plum Creek Timber Company.

(d) General regulations:

1. Hunters shall check in and out at a check station when entering and exiting the area and shall check all game taken.

2. Vehicles or horses may be used only on named or numbered roads.

3. The area is closed to public access except during periods when hunting is allowed.

4. Possession of centerfire rifles (other than muzzleloading) or pistols is prohibited.

5. Camping equipment may be brought onto the area only during the weekend before the archery season and during periods when hunting is allowed on the area.

~~(11)(12)~~ Tosohatchee Wildlife Management Area

(a) through (d) No change.

~~(12)(13)~~ Seminole Ranch Wildlife Management Area

(a) through (d) No change.

~~(13)(14)~~ Jumper Creek Wildlife Management Area

(a) through (d) No change.

~~(14)(15)~~ Rock Springs Run Wildlife Management Area

(a) through (d) No change.

~~(15)(16)~~ Guana River Wildlife Management Area

(a) through (d) No change.

~~(16)(17)~~ Half Moon Wildlife Management Area

(a) through (d) No change.

~~(17)(18)~~ Caravelle Ranch Wildlife Management Area

(a) through (d) No change.

~~(18)(19)~~ Lake George Wildlife Management Area

(a) through (d) No change.

~~(19)(20)~~ Lake George Wildlife Management Area – Dexter/Mary Farm Unit.

(a) through (d) No change.

~~(20)(21)~~ Seminole Forest Wildlife Management Area.

(a) through (d) No change.

~~(21)(22)~~ Triple N Ranch Wildlife Management Area.

(a) through (d) No change.

~~(22)(23)~~ Etoniah Creek Wildlife Management Area.

(a) through (d) No change.

~~(23)(24)~~ Little Big Econlockhatchee Wildlife Management Area – Kilbee Unit.

(a) through (d) No change.

~~(24)(25)~~ Lake Panasoffke Wildlife Management Area.

(a) through (d) No change.

~~(25)(26)~~ Ross Prairie Wildlife Management Area.

(a) through (d) No change.

~~(26)(27)~~ Buck Lake Wildlife Management Area.

(a) through (d) No change.

~~(27)(28)~~ Nassau Wildlife Management Area.

(a) through (d) No change.

~~(28)(29)~~ Cary Wildlife Management Area.

(a) through (d) No change.

~~(29)(30)~~ Fort Drum Wildlife Management Area.

(a) through (d) No change.

~~(30)(31)~~ Ocklawaha River Wildlife Management Area – Gores Landing Unit.

(a) through (d) No change.

~~(31)~~~~(32)~~ Seminole Forest Wildlife Management Area – Lake Tracy Unit.

(a) through (d) No change.

~~(32)~~~~(33)~~ Twelve Mile Swamp Wildlife Management Area.

(a) through (d) No change.

~~(33)~~~~(34)~~ Upper St. Johns River Marsh Wildlife Management Area.

(a) through (d) No change.

~~(34)~~~~(35)~~ Ralph E. Simmons Memorial Wildlife Management Area.

(a) through (d) No change.

~~(35)~~~~(36)~~ Dunns Creek Wildlife Management Area

(a) through (d) No change.

Specific Authority Art. IV, Sec. 9, Fla. Const. Law Implemented Art. IV, Sec. 9, Fla. Const., 375.313 FS. History—New 6-21-82, Amended 6-29-82, 7-1-83, 7-5-84, 10-1-84, 7-1-85, 5-7-86, 5-10-87, 5-1-88, 7-1-89, 12-19-89, 7-1-90, 7-1-91, 7-2-91, 7-2-92, 7-1-93, 7-1-94, 7-1-95, 7-1-96, 9-15-96, 6-1-97, 7-1-98, 7-2-98, 8-11-98, 12-28-98, 7-1-99, Formerly 39-15.065, Amended 12-20-99, 7-1-00, 12-26-00, 7-1-01, 6-2-02, 7-28-02, \_\_\_\_\_.

NAME OF PERSON ORIGINATING PROPOSED RULE: Timothy A. Breault

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

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: April 14, 2003

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: November 22, 2002

**FISH AND WILDLIFE CONSERVATION COMMISSION**

**Freshwater Fish and Wildlife**

RULE TITLE: RULE NO.:

Procedures for Listing, Delisting and Reclassifying Endangered, Threatened and Species of Special Concern 68A-27.0012

PURPOSE AND EFFECT: The purpose of the proposed rule is to clarify the provisions of the emergency listing aspects of the rule.

SUMMARY: The proposed rule clarifies that emergency listings are effected by Executive Order, and that the Commission has 240 days from the date of the Executive Order to conduct the evaluations called for by the rule. The proposed rule also clarifies that the final action on an emergency listing occurs at the next regularly scheduled Commission meeting after the 240 day period.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COST: It is estimated that the proposed rule will cost the agency approximately \$185 for administrative preparation and review and \$25 for legal advertising.

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

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

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

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

TIME AND DATES: 8:30 a.m. each day, May 28-30, 2003

PLACE: Osceola County Administration Building, One Courthouse Square, 4th Floor, Room 440, Kissimmee, Florida

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

THE FULL TEXT OF THE PROPOSED RULE IS:

68A-27.0012 Procedures for Listing, Delisting and Reclassifying Endangered, Threatened and Species of Special Concern.

(1) No change.

(a) through (c) No change.

(d) If, in the opinion of the Executive Director, immediate inclusion of a species in Rule 68A-27.0003(4), F.A.C., is essential to prevent imminent extinction, such listing may be effected on a temporary basis by Executive Order not to exceed 240 days; provided that the Executive Order shall be approved or terminated at the next regularly scheduled meeting of the Commission. Such emergency listings shall be approved by the Commission at the next scheduled meeting. The Commission shall, within 240 days after the effective date of such approval, conduct the evaluations prescribed in (2) and (3) of this subsection to determine the appropriate classification of the species. The Commission shall take final action on the listing at the next regularly scheduled meeting following the 240 day evaluation period.

(2) No change.

(3) No change.

Specific Authority Art. IV, Sec. 9, Fla. Const. Law Implemented Art. IV, Sec. 9, Fla. Const. History—New 6-23-99, Formerly 39-27.0012, Amended \_\_\_\_\_.

NAME OF PERSON ORIGINATING PROPOSED RULE: Timothy A. Breault

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

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: March 26, 2003

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: November 22, 2002

**FISH AND WILDLIFE CONSERVATION COMMISSION**

**Freshwater Fish and Wildlife**

RULE TITLE: Designation of Threatened Species; Prohibitions; Permits

RULE NO.: 68A-27.004

PURPOSE AND EFFECT: The purpose of the proposed rule is to add the Panama City crayfish (*Procambarus econfinae*) to the list of threatened species, implement regulations and permit requirements in support of the Panama City crayfish management plan, and remove the red-cockaded woodpecker (*Picoides borealis*) from the list of threatened species. A separate Notice of Proposed Rule removes the Panama City crayfish, (previously referred to as the Econfina crayfish) from the list of species of special concern, and adds the red-cockaded woodpecker to the list of species of special concern.

SUMMARY: The proposed rule adds language to list the Panama City crayfish as a threatened species, adds language to continue the prohibition on take of Panama City crayfish unless permitted by the Executive Director to do so, and deletes language that listed the red-cockaded woodpecker as a threatened species.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COST: It is estimated that the proposed rule will cost the agency approximately \$185 for administrative preparation and review and \$25 for legal advertising.

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

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

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

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

TIME AND DATES: 8:30 a.m. each day, May 28-30, 2003

PLACE: Osceola County Administration Building, One Courthouse Square, 4th Floor, Room 440, Kissimmee, Florida

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

THE FULL TEXT OF THE PROPOSED RULE IS:

68A-27.004 Designation of Threatened Species; Prohibitions; Permits.

(1) The following species, listed prior to January 1, 2001, are hereby declared to be threatened, and shall be afforded the protective provisions specified.

- (a) No change.
- 1. through 20. No change.

21. Red-cockaded woodpecker (*Picoides borealis*)

22. through 27. renumbered 21. through 26. No change.

(2) The following species, listed after January 1, 2001, are hereby declared to be threatened, and shall be afforded the protective provisions specified.

(a) Panama City crayfish (*Procambarus econfinae*)

(b) No person shall take, harass, possess, sell, or transport any Panama City crayfish or parts thereof or their eggs, nests, or burrows except as authorized by permit from the executive director. Permits will be issued based upon consistency with management plan goals and objectives.

Specific Authority Art. IV, Sec. 9, Fla. Const. Law Implemented Art. IV, Sec. 9, Fla. Const. History--New 8-1-79, Amended 6-22-80, 7-1-83,7-1-85, Formerly 39-27.04, Amended 6-1-86, 5-10-87, 4-27-89, 6-23-99, Formerly 39-27.004, Amended \_\_\_\_\_.

NAME OF PERSON ORIGINATING PROPOSED RULE: Timothy A. Breault

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

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: March 26, 2003

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: November 22, 2002

**FISH AND WILDLIFE CONSERVATION COMMISSION**

**Freshwater Fish and Wildlife**

RULE TITLE: Designation of Species of Special Concern; Prohibitions; Permits

RULE NO.: 68A-27.005

PURPOSE AND EFFECT: The purpose of the proposed rule is to add the red-cockaded woodpecker (*Picoides borealis*) to the list of species of special concern, implement regulations and permit requirements in support of the red-cockaded woodpecker management plan, and remove the Panama City crayfish (*Procambarus econfinae*) from the list of species of special concern. A separate Notice of Proposed Rule removes the red-cockaded woodpecker from the list of threatened species, and adds the Panama City crayfish, previously referred to as the Econfina crayfish) to the list of threatened species.

SUMMARY: The proposed rule adds language to list the red-cockaded woodpecker as a species of special concern, adds language to continue the prohibition on take of red-cockaded woodpeckers unless permitted by the Executive Director to do so, and removes language listing the Panama City crayfish as a species of special concern. The proposed rule also reorganizes section (2) to provide a subsection for each included species.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COST: It is estimated that the proposed rule will cost the agency approximately \$185 for administrative preparation and review and \$25 for legal advertising.



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

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

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

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

TIME AND DATES: 8:30 a.m. each day, May 28-30, 2003

PLACE: Osceola County Administration Building, One Courthouse Square, 4th Floor, Room 440, Kissimmee, Florida

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

THE FULL TEXT OF THE PROPOSED RULE IS:

68A-27.005 Designation of Species of Special Concern; Prohibitions; Permits.

- (1) No change.
- (a) through (b) No change.
- 1. through 47. No change.

~~48. *Econfinia* crayfish (*Procambarus econfinae*) (1)~~

~~48.49. Sims Sink crayfish (*Procambarus erythropros*) (1)~~

~~(2) The following species, listed after January 1, 2001, are hereby declared to be of special concern, and shall be afforded the protective provisions specified. No person shall directly take any Flatwoods salamander (*Ambystoma cingulatum*) or parts thereof or their eggs except as authorized by Commission rule or by permit from the executive director.~~

~~(a) Flatwoods salamander (*Ambystoma cingulatum*)~~

~~1. No person shall directly take any flatwoods salamander or parts thereof or their eggs except as authorized by Commission rule or by permit from the executive director.~~

~~(b) Red-cockaded woodpecker (*Picoides borealis*)~~

~~1. No person shall take, harass, possess, sell, or transport any red-cockaded woodpecker or parts thereof or their eggs or their nests or dens except as authorized by permit from the executive director. Permits will be issued based upon consistency with management plan goals and objectives.~~

Specific Authority Art. IV, Sec. 9, Fla. Const. Law Implemented Art. IV, Sec. 9, Fla. Const. History—New 8-1-79, Amended 6-22-80, 6-21-82, 7-1-84, 7-1-85, Formerly 39-27.05, Amended 6-1-86, 5-10-87, 4-27-89, 10-22-92, 5-26-94, 6-23-99, Formerly 39-27.005, Amended 2-27-01, 5-1-01, \_\_\_\_\_.

NAME OF PERSON ORIGINATING PROPOSED RULE: Timothy A. Breault

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

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: March 26, 2003

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: November 22, 2002

**FISH AND WILDLIFE CONSERVATION COMMISSION**

**Marine Fisheries**

RULE CHAPTER TITLE: Gear Specifications and Prohibited Gear  
 RULE CHAPTER NO.: 68B-4

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

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

SUMMARY: Subsection (1) of proposed new Rule 68B-4.0082, F.A.C., prohibits the transport of otherwise illegal net gears in Florida waters unless such transport is direct, continuous, and expeditious from the place where the vessel is moored to where use of the net gear would be legal. Subsection (2) states that hovering, drifting, or any other activity inconsistent with direct transport would constitute a violation of subsection (1) by all persons on board the vessel. Subsection (3) provides exceptions. Subsection (4) prohibits possession of specified net gears aboard certain smaller vessels. Subsection (5) prohibits the possession aboard a vessel (including a primary vessel and any other vessel being transported or towed) of more than 4 seines, except as provided in subsection (1). Auxiliary (towed or transported) vessels would not increase the number of nets that could be possessed and would have to be commercially registered and 8 feet in length or larger. Subsection (6) defines the term “vessel length” for purposes of the rule.

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

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

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

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

The fish and wildlife conservation commission will conduct a public rulemaking hearing on the proposed rules during the regular commission meeting, to be held at the time, date and place shown below:

TIME AND DATES: 8:30 a.m. – 5:00 p.m., each day, May 28-30, 2003

PLACE: Osceola County Administration Building, One Courthouse Square, 4th Floor, Room 400, Kissimmee, Florida  
Pursuant to the provisions of the Americans with Disabilities Act, any person requiring special accommodations to participate in this workshop/meeting is asked to advise the agency at least 5 calendar days before the workshop/meeting by contacting Cindy Hoffman, ADA Coordinator, at (850)488-6411. If you are hearing or speech impaired, please contact the agency by calling (850)488-9542.

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

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

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

THE FULL TEXT OF THE PROPOSED RULE IS:

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

(1) 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 \_\_\_\_\_.

NAME OF PERSON ORIGINATING PROPOSED RULE:  
 Fish and Wildlife Conservation Commission, 620 South Meridian Street, Tallahassee, Florida 32399-1600  
 NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Kenneth D. Haddad, Ph.D., Executive Director, Fish and Wildlife Conservation Commission, 620 South Meridian Street, Tallahassee, Florida 32399-1600  
 DATE PROPOSED RULE APPROVED BY AGENCY HEAD: March 27, 2003  
 DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: April 18, 2003

**FISH AND WILDLIFE CONSERVATION COMMISSION**

**Marine Fisheries**

RULE CHAPTER TITLE:	RULE CHAPTER NO.:
Stone Crabs	68B-13
RULE TITLES:	RULE NOS.:
Designation as Restricted Species; Season;	
Repeal of Special Act	68B-13.005
Stone Crab Trap Limitation Program	68B-13.010

PURPOSE AND EFFECT: The purpose of these rule amendments 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 rulemaking should be to continue progress toward a healthy stone crab industry, while maintaining the health and abundance of the species.

SUMMARY: A new subsection (3) is added to Rule 68B-13.005, F.A.C., to accomplish the repeal of Chapter 73-432, Laws of Florida, relating to the number of stone crab traps that can be fished per boat in Citrus, Dixie, Levy, and Taylor Counties. Paragraph (2)(a) of Rule 68B-13.010, F.A.C., is amended to clarify that partial payment of accumulated certificate fees will not be accepted after the 2002-2003 fishing year. Subsection (5) of that rule is amended to clarify that persons possessing a stone crab endorsement do not need to also possess an incidental take endorsement. Subsection (7) of the rule is amended to change the name of the Trap Certificate Advisory and Appeals Board to the Stone Crab Advisory Board, extend the life of the Board until 2008, and to change slightly the qualifications and terms of Board members.

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

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

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

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

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

TIME AND DATES: 8:30 a.m. – 5:00 p.m. each day, May 28-30, 2003

PLACE: Osceola County Administration Building, One Courthouse Square, 4th Floor, Room 400, Kissimmee, Florida  
 Pursuant to the provisions of the Americans with Disabilities Act, any person requiring special accommodations to participate in this workshop/meeting is asked to advise the agency at least 5 calendar days before the workshop/meeting by contacting Cindy Hoffman, ADA Coordinator, at (850)488-6411. If you are hearing or speech impaired, please contact the agency by calling (850)488-9542.

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

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

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

THE FULL TEXT OF THE PROPOSED RULES 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 ~~(07-03 07-04)~~ (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;~~

~~(II) 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, \_\_\_\_\_.

NAME OF PERSON ORIGINATING PROPOSED RULE:  
Fish and Wildlife Conservation Commission, 620 South Meridian Street, Tallahassee, Florida 32399-1600

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Kenneth D. Haddad, Executive Director, Fish and Wildlife Conservation Commission, 620 South Meridian Street, Tallahassee, Florida 32399-1600

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: March 27, 2003

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: April 18, 2003

**FISH AND WILDLIFE CONSERVATION COMMISSION**

**Marine Fisheries**

RULE CHAPTER TITLE:	RULE CHAPTER NO.:
Spiny Lobster (Crawfish) and Slipper Lobster	68B-24
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 these rule amendments 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.

**SUMMARY:** Rule 68B-24.002, F.A.C., is amended to add new definitions of the terms "artificial habitat" and "Biscayne National Park" for purposes of the rule chapter. The definition of the term "commercial harvester" is amended to eliminate outdated license language and include the commercial dive permit established in this rulemaking. Subsection (1) of Rule 68B-24.004, F.A.C., is amended to delete the 24 lobster vessel limit from the regular season recreational bag limit for the species. Subsection (2) is amended to include Biscayne National Park with Monroe County for purposes of establishing the bag limit during the two-day sport lobster season. Subsection (3) is amended to phase down and out the higher bag limit for persons holding the Special Recreational Crawfish License. Subsection (4) is amended to eliminate outdated or unnecessary language. A new subsection (2) is added to Rule 68B-24.0055, F.A.C., to establish a commercial dive permit beginning in the 2004-2005 fishing season. Rule 68B-24.006, F.A.C., is amended to provide procedures to allow another person to pull a harvesters traps under extraordinary circumstances. A new subsection (10) is added to the rule to prohibit the harvest of spiny lobster from artificial habitat.

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

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

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

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

**A HEARING WILL BE HELD AT THE TIME, DATES AND PLACE SHOWN BELOW:**

**TIME AND DATES:** 8:30 a.m. – 5:00 p.m. each day, May 28-30, 2003

**PLACE:** Osceola County Administration Building, One Courthouse Square, 4th Floor, Room 400, Kissimmee, Florida Pursuant to the provisions of the Americans with Disabilities Act, any person requiring special accommodations to participate in this workshop/meeting is asked to advise the agency at least 5 calendar days before the workshop/meeting by contacting Cindy Hoffman, ADA Coordinator, at (850)488-6411. If you are hearing or speech impaired, please contact the agency by calling (850)488-9542.

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

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

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

**THE FULL TEXT OF THE PROPOSED RULES 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) "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)(10) "Slipper lobster," also known as Spanish, sand, shovelnose, and bulldozer lobster, means any crustacean of the species *Scyllarides nodifer*, or any part thereof.

(13)(11) "Spiny lobster" or "crawfish" means any crustacean of the species *Panulirus argus*, or any part thereof.

(14)(12) "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 subsection 68B-24.002(4), F.A.C. 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-SL0610 (7-03)), 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 the license year July 1, 2001 through June 30, 2002, or during the license year July 1, 2002 through June 30, 2003. Commercial dive permits will not be issued to or renewed for applicants who own one or more trap certificates. Effective January 1, 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:

(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-SL5040 (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.

~~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.~~

(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,

NAME OF PERSON ORIGINATING PROPOSED RULE: Fish and Wildlife Conservation Commission, 620 South Meridian Street, Tallahassee, Florida 32399-1600

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Kenneth D. Haddad, Executive Director, Fish and Wildlife Conservation Commission, 620 South Meridian Street, Tallahassee, Florida 32399-1600

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: March 27, 2003

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: April 18, 2003

**FISH AND WILDLIFE CONSERVATION COMMISSION**

**Marine Fisheries**

RULE CHAPTER TITLE:	RULE TITLE CHAPTER:
Pompano, African Pompano, and Permit	68B-35
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; Pompano Special Activity License Criteria; State 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 these rule amendments is to implement management measures that would reduce pompano harvest by approximately 10%. The effect of this rulemaking will be to assure the continuing availability of pompano to commercial and recreational harvesters who rely on the species.

SUMMARY: Rule 68B-35.002, F.A.C., is amended to recast the definition of the term "length" as "fork length" for purposes of complying with the size limits in the chapter. Rule 68B-35.003, F.A.C., is amended to reduce the daily bag and possession limit from 10 to 5 and to relocate the allowance for one fish larger than the 20-inch size limit for pompano and permit to a more appropriate place within the rule. Rule 68B-35.004, F.A.C., is amended to eliminate the Pompano Special Activity License. Rule 68B-35.005, F.A.C., is amended to eliminate provisions establishing the Pompano Special Activity License, reduce the state waters commercial daily harvest limit from 250 to 175, and apply the limit to fish caught in federal waters except for those not fishing with a pompano endorsement.

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

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

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

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

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

TIME AND DATES: 8:30 a.m. to 5:00 p.m., each day, May 28-30, 2003

PLACE: Osceola County Administration Building, One Courthouse Square, 4th Floor, Room 400, Kissimmee, Florida  
 Pursuant to the provisions of the Americans with Disabilities Act, any person requiring special accommodations to participate in this workshop/meeting is asked to advise the agency at least 5 calendar days before the workshop/meeting by contacting Cindy Hoffman, ADA Coordinator, at (850)488-6411. If you are hearing or speech impaired, please contact the agency by calling (850)488-9542.

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

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

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

THE FULL TEXT OF THE PROPOSED RULES 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 that the amount of all pompano aboard such vessel at any time does not exceed the harvest, possession, and landing limit specified in paragraph 68B-35.005(2)(c), F.A.C. ~~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. Persons harvesting pompano pursuant to a Pompano Endorsement shall only sell pompano harvested from the federal EEZ waters specified in paragraph 68B-35.004(3)(a), F.A.C.~~

~~(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.~~

~~(c) Persons harvesting pompano as incidental bycatch pursuant to paragraph 68B-35.004(3)(b), F.A.C., shall be subject to a daily harvest, landing, and possession limit of 100 pompano.~~

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 11-1-01, Amended \_\_\_\_\_.

NAME OF PERSON ORIGINATING PROPOSED RULE:  
Fish and Wildlife Conservation Commission, 620 South Meridian Street, Tallahassee, Florida 32399-1600

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Kenneth D. Haddad, Executive Director, Fish and Wildlife Conservation Commission, 620 South Meridian Street, Tallahassee, Florida 32399-1600  
 DATE PROPOSED RULE APPROVED BY AGENCY HEAD: March 27, 2003  
 DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: April 18, 2003

**FISH AND WILDLIFE CONSERVATION COMMISSION**

**Marine Fisheries**

RULE CHAPTER TITLE: Shrimping and Trapping: Closed Areas and Seasons  
 RULE CHAPTER NO.: 68B-38  
 RULE TITLE: Citrus-Hernando Shrimping and Trapping Closed Areas and Seasons  
 RULE NO.: 68B-38.001

PURPOSE AND EFFECT: This rule amendment 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 rulemaking 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.

SUMMARY: The title of the rule chapter is being changed to reflect the expanded scope of Rule 68B-38.001, F.A.C. The latter rule is amended to prohibit any trapping in any area off Citrus and Hernando Counties currently closed seasonally to stonecrabbing. Loran coordinates are being deleted as unnecessary for the delineation of the zones in the rule.

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

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

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

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

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

TIME AND DATES: 8:30 a.m. – 5:00 p.m. each day, May 28-30, 2003

PLACE: Osceola County Administration Building, One Courthouse Square, 4th Floor, Room 400, Kissimmee, Florida  
 Pursuant to the provisions of the Americans with Disabilities Act, any person requiring special accommodations to participate in this workshop/meeting is asked to advise the agency at least 5 calendar days before the workshop/meeting by contacting Cindy Hoffman, ADA Coordinator, at (850)488-6411. If you are hearing or speech impaired, please contact the agency by calling (850)488-9542.

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

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

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

THE FULL TEXT OF THE PROPOSED RULE IS:

**SHRIMPING AND TRAPPING STONECRABBING: CLOSED AREAS AND SEASONS**

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~~):

Point	North		West		Loran Chain 7980			
	Latitude	Longitude	W	X	Y	Z		
A	28° 59.500'	82° 50.410'	14416.5	31409.4	45259.1	62895.3		
B	28° 59.500'	83° 00.166'	14396.0	31386.3	45376.8	63000.0		
C	28° 26.016'	82° 59.783'	14301.5	31205.9	45103.2	63000.0		
D	28° 26.016'	82° 56.900'	14307.0	31212.2	45080.0	62981.3		
T	28° 27.766'	82° 55.150'	14315.2	31225.8	45080.0	62970.0		
E	28° 41.650'	82° 55.416'	14353.7	31300.2	45193.9	62970.0		
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		
H	28° 54.080'	82° 51.100'	14393.9	31371.8	45260.0	62937.0		
I	28° 54.080'	82° 47.500'	45229.5	62910.0				
W	28° 57.910'	82° 47.530'	14410	62910				
X	28° 59.410"	82° 50.410'	14410	62930				

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~~):

Point	North		West		Loran Chain 7980		
	Latitude	Longitude	W	X	Y	Z	
I	28° 54.080'	82° 47.500'			45229.5	-62910.0	
H	28° 54.080'	82° 51.100'			45260.0	62937.0	
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	
M	28° 41.650'	82° 45.100'			45111.5	-62900.0	
J	28° 43.530'	82° 45.220'	14375.0			-62900.0	
Z	28° 44.380'	82° 46.710'	14375.0	-		62910.0	

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~~):

Point	North		West		Loran Chain 7980		
	Latitude	Longitude	W	X	Y	Z	
P	28° 40.000'	82° 53.133'	14352.9	-31295.7	45161.8	62955.0	
Q	28° 40.000'	82° 47.966'	14361.3	-31305.4	45120.0	62920.0	
R	28° 35.233'	82° 47.783'	14348.6	-31280.6	45080.0	62920.0	
U	28° 30.850'	82° 52.150'	14329.1	-31248.6	45080.0	62949.9	
S	28° 30.850'	82° 52.916'	14327.7	-31247.0	45086.6	62955.0	

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	North		West		Loran Chain 7980		
	Latitude	Longitude	W	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	North		West		Loran Chain 7980		
	Latitude	Longitude	W	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 ~~stonecrab~~ 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 stonecrabbing~~ 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, F.A.C., 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 \_\_\_\_\_.

NAME OF PERSON ORIGINATING PROPOSED RULE: Fish and Wildlife Conservation Commission, 620 South Meridian Street, Tallahassee, Florida 32399-1600

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Kenneth D. Haddad, Executive Director, Fish and Wildlife Conservation Commission, 620 South Meridian Street, Tallahassee, Florida 32399-1600

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: March 27, 2003

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: April 18, 2003

**FISH AND WILDLIFE CONSERVATION COMMISSION**

**Marine Fisheries**

RULE CHAPTER TITLE:	RULE CHAPTER NO.:
Mullet	68B-39
RULE TITLES:	RULE NOS.:
Designation 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 these rule amendments 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 rules will also minimally affect Gulf silver mullet harvest by designating the species a restricted species statewide, setting a statewide recreational bag limit statewide, and imposing a weekend commercial closure coinciding with striped mullet rules. The effect of this rulemaking will be to assure the continuing availability of silver mullet to commercial and recreational harvesters who rely on the species.

**SUMMARY:** Rule 68B-39.001, F.A.C., is amended to delete outdated provisions relating to the repeal of special acts and expanding the designation of restricted species to include the silver, as well as the striped mullet. Rule 68B-39.002, F.A.C., is amended to add definitions of the terms "east region" and "silver mullet," and delete the definition of the term "skimmer net." Rule 68B-39.003, F.A.C., is amended to apply the 11-inch commercial minimum size limit to striped mullet only and to require that both silver and striped mullet harvested commercially be landed in a whole condition. Rule 68B-39.004, F.A.C., is amended to make the current recreational bag limit an aggregate limit for both species of mullet. Rule 68B-39.0045, F.A.C., is amended to limit the applicability of the rule imposing a special bag limit in a portion of Pinellas County to striped mullet only. Rule 68B-39.0046, F.A.C., is amended to limit the applicability of the night-time seasonal closure in a portion of Charlotte County to striped mullet only. Subsection (1) of Rule 68B-39.0047, F.A.C., is amended to delete an archaic provision allowing skimmer trawls to be used to harvest mullet until the year 2000. Rule 68B-39.005, F.A.C., is amended to apply the statewide commercial regulations of the rule to silver mullet and to add a provision closing the commercial season for silver mullet in the east region during the month of February. Rule 68B-39.008, F.A.C., is amended to limit the applicability of the seasonal closure of specified areas of the Pasco-Lee Region to striped mullet only.

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

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

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

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

**A HEARING WILL BE HELD AT THE TIME, DATE AND PLACE SHOWN BELOW:**

**TIME AND DATES:** 8:30 a.m. – 5:00 p.m. each day, May 28-30, 2003

**PLACE:** Osceola County Administration Building, One Courthouse Square, 4th Floor, Room 400, Kissimmee, Florida  
Pursuant to the provisions of the Americans with Disabilities Act, any person requiring special accommodations to participate in this workshop/meeting is asked to advise the agency at least 5 calendar days before the workshop/meeting by contacting Cindy Hoffman, ADA Coordinator, at (850)488-6411. If you are hearing or speech impaired, please contact the agency by calling (850)488-9542.

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

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

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

**THE FULL TEXT OF THE PROPOSED RULES 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 of the Atlantic Ocean along the east coast of Florida lying between the Florida-Georgia border and the Monroe-Dade county line, and adjacent federal Exclusive Economic Zone waters.

(2) 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.~~

~~(7) through (9) renumbered (8) through (10)~~ 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, 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, F.A.C.

(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) through (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 ~~(c)(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

NAME OF PERSON ORIGINATING PROPOSED RULE: Fish and Wildlife Conservation Commission, 620 South Meridian Street, Tallahassee, Florida 32399-1600

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Kenneth D. Haddad, Executive Director, Fish and Wildlife Conservation Commission, 620 South Meridian Street, Tallahassee, Florida 32399-1600

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: March 27, 2003

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: April 18, 2003

**FISH AND WILDLIFE CONSERVATION COMMISSION**

**Marine Fisheries**

RULE CHAPTER TITLE: Sharks and Rays RULE CHAPTER NO.: 68B-44

RULE TITLES: Commercial Season; Season Closure; Prohibition of Sale RULE NOS.: 68B-44.006

PURPOSE AND EFFECT: The purpose of this rule amendment is to conform the state process for closing the season for commercial shark harvest to be consistent with the federal closure process, which proceeds on a species-by-species basis. Currently, Florida has a process that closes all commercial harvest for sharks for the remainder of a six-month period whenever any large or small coastal shark species is closed to harvest in adjacent federal EEZ waters. The effect of this rule amendment should be to simplify closure procedures and reduce confusion on the part of commercial shark fishers who must keep track of seasons.

SUMMARY: Subsection (2) of Rule 68B-44.006, F.A.C., is amended to provide that commercial shark season closures will be implemented in state waters on a species-by-species basis when adjacent federal EEZ waters are closed on the same basis.

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

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

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

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

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

TIME AND DATES: 8:30 a.m. – 5:00 p.m. each day, May 28-30, 2003

PLACE: Osceola County Administration Building, One Courthouse Square, 4th Floor, Room 400, Kissimmee, Florida Pursuant to the provisions of the Americans with Disabilities Act, any person requiring special accommodations to participate in this workshop/meeting is asked to advise the agency at least 5 calendar days before the workshop/meeting by contacting: Cindy Hoffman, ADA Coordinator, (850)488-6411. If you are hearing or speech impaired, please contact the agency by calling (850)488-9542.

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

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

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

THE FULL TEXT OF THE PROPOSED RULE IS:

68B-44.006 Commercial Season; Season Closure; Prohibition of Sale.

(1) All persons harvesting sharks for commercial purposes shall have a season that begins on July 1 of each year and continues through June 30 of the following year, unless closed earlier pursuant to subsection (2).

(2)(a) If at any time ~~during the period beginning on July 1 and continuing through December 31 each year,~~ the harvest of any species of large or small coastal sharks for commercial purposes in waters of the federal Exclusive Economic Zone (EEZ) adjacent to Florida waters is closed, corresponding the season for harvest of all sharks for commercial purposes in state waters shall be closed to commercial harvest of the species affected by the federal closure, from the date of such ~~federal~~ closure until federal waters are reopened to the commercial harvest of such species the following January 1.

(b) If at any time ~~during the period beginning on January 1 and continuing through June 30 each year,~~ the harvest of large or small coastal sharks for commereial purposes in waters of



THE FULL TEXT OF THE PROPOSED RULE IS:

68B-44.008 Protected Species: Sawfishes, Basking Shark, Whale Shark, White Shark, Sand Tiger Shark, Bigeye Sand Tiger Shark, Spiny Dogfish, Manta Ray, and Spotted Eagle Ray; Prohibition of Harvest, Landing, and Sale.

(1) Pursuant to Section 370.027(2)(f), Florida Statutes, the smalltooth sawfish (*Pristis pectinata*), largetooth sawfish (*Pristis pristis*), basking shark (*Cetorhinus maximus*), whale shark (*Rhincodon typus*), white shark (*Carcharodon carcharias*), sand tiger shark (*Odontaspis taurus*), bigeye sand tiger (*Odontaspis noronhai*), spiny dogfish (*Squalus acanthias*), manta ray (species of the genus *Manta* and *Mobula*), and spotted eagle ray (*Aetobatus narinari*) are hereby declared and designated protected species. The purposes of this designation are to increase public awareness of the need for extensive conservation action in order to prevent these resources from becoming endangered and to encourage voluntary conservation practices.

(2) No person shall harvest, possess, land, purchase, sell, or exchange any smalltooth sawfish, largetooth sawfish, basking shark, whale shark, white shark, sand tiger shark, bigeye sand tiger shark, spiny dogfish, manta ray, or spotted eagle ray, or any part of any of these species.

Specific Authority Art. IV, Sec. 9, Fla. Const. Law Implemented Art. IV, Sec. 9, Fla. Const. History—New 4-8-92, Amended 1-1-98, Formerly 46-44.008, Amended \_\_\_\_\_.

NAME OF PERSON ORIGINATING PROPOSED RULE: Fish and Wildlife Conservation Commission, 620 South Meridian Street, Tallahassee, Florida 32399-1600

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Kenneth D. Haddad, Executive Director, Fish and Wildlife Conservation Commission, 620 South Meridian Street, Tallahassee, Florida 32399-1600

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: March 27, 2003

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: April 18, 2003

**FISH AND WILDLIFE CONSERVATION COMMISSION**

**Marine Fisheries**

RULE CHAPTER TITLE: Blue Crab RULE CHAPTER NO.: 68B-45

RULE TITLES: Definitions RULE NOS.: 68B-45.002

Other Prohibitions 68B-45.006

PURPOSE AND EFFECT: These rule amendments are in conjunction with proposed changes to rules governing the stone crab trap fishery. The purpose of this rulemaking 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.

SUMMARY: Rule 68B-45.002, F.A.C., is amended to add a definition of the term “Northwest Seasonal Closure Area.” Rule 68B-45.006, F.A.C., is amended to close the Northwest Seasonal Closure Area to the use of any blue crab trap during the period from September 20 through October 4 each year.

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

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

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

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

A HEARING WILL BE AT THE TIME, DATES AND PLACE SHOWN BELOW:

TIME AND DATES: 8:30 a.m. – 5:00 p.m., each day, May 28-30, 2003

PLACE: Osceola County Administration Building, One Courthouse Square, 4th Floor, Room 400, Kissimmee, Florida Pursuant to the provisions of the Americans with Disabilities Act, any person requiring special accommodations to participate in this workshop/meeting is asked to advise the agency at least 5 calendar days before the workshop/meeting by contacting Cindy Hoffman, ADA Coordinator, at (850)488-6411. If you are hearing or speech impaired, please contact the agency by calling (850)488-9542.

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

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

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

THE FULL TEXT OF THE PROPOSED RULES 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

NAME OF PERSON ORIGINATING PROPOSED RULE: Fish and Wildlife Conservation Commission, 620 South Meridian Street, Tallahassee, Florida 32399-1600

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Kenneth D. Haddad, Executive Director, Fish and Wildlife Conservation Commission, 620 South Meridian Street, Tallahassee, Florida 32399-1600

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: March 27, 2003

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: April 18, 2003

FISH AND WILDLIFE CONSERVATION COMMISSION

Marine Fisheries

RULE CHAPTER TITLE: Trap Retrieval and Trap Debris Removal

RULE CHAPTER NO.:

68B-55

RULE TITLES: Definitions

RULE NOS.:

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 new rule chapter 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 rulemaking should be to reduce the negative environmental impacts of lost and abandoned traps and trap debris.

SUMMARY: Proposed new Rule 68B-55.001 provides definitions of the terms “closed season,” “trap debris,” “derelict trap,” “fishable trap,” “Fishery Participant Organization,” and “trap.” New Rule 68B-55.002, F.A.C., authorizes public and private organizations to remove trap debris from shoreline areas landward of mean low water and requires that trap debris removal in other areas of state waters proceed only after prior authorization by the Commission. New Rule 68B-55.003 provides requirements for the trap retrieval program funded pursuant to Section 370.143, Florida Statutes. New Rule 68B-55.004, F.A.C., provides for Commission-sanctioned retrieval of derelict traps during open and closed season periods.

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

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

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

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

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

TIME AND DATES: 8:30 a.m. – 5:00 p.m. each day, May 28-30, 2003

PLACE: Osceola County Administration Building, One Courthouse Square, 4th Floor, Room 400, Kissimmee, Florida Pursuant to the provisions of the Americans with Disabilities Act, any person requiring special accommodations to participate in this workshop/meeting is asked to advise the agency at least 5 calendar days before the workshop/meeting by contacting Cindy Hoffman, ADA Coordinator, at (850)488-6411. If you are hearing or speech impaired, please contact the agency by calling (850)488-9542.

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

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

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

THE FULL TEXT OF THE PROPOSED RULE IS:

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 Rules 68B-13.008, 68B-24.006, 68B-45.004, F.A.C.; Section 370.1105(1)(b), 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/endorsement number.
- (c) Presence or absence of a required tag.
- (d) Commercial or recreational trap.
- (e) Location of trap.
- (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

NAME OF PERSON ORIGINATING PROPOSED RULE:  
Fish and Wildlife Conservation Commission, 620 South Meridian Street, Tallahassee, Florida 32399-1600

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Kenneth D. Haddad, Executive Director, Fish and Wildlife Conservation Commission, 620 South Meridian Street, Tallahassee, Florida 32399-1600

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: November 21, 2002

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: April 18, 2003

### Section III Notices of Changes, Corrections and Withdrawals

**PUBLIC SERVICE COMMISSION**

DOCKET NO.: 020398-EQ

RULE NO.: 25-22.082

RULE TITLE:

Selection of Generating Capacity

**NOTICE OF CHANGE**

Notice is hereby given that the following changes have been made to the proposed rules in accordance with subparagraph 120.54(3)(d)1., F.S., published in Vol. 28, No. 43, October 25, 2002, issue of the Florida Administrative Weekly. The Notice of Rule Development was published in Vol. 28, No. 23, June 7, 2002, issue of the Florida Administrative Weekly.

25-22.082 Selection of Generating Capacity.

(1) ~~Scope and Intent. A Public Utility is required to provide reasonably sufficient, adequate, and efficient service to the public at fair and reasonable rates. In order to assure an adequate and reliable source of energy, a public utility must plan and construct or purchase sufficient generating capacity. To assure fair and reasonable rates and to avoid the further uneconomic duplication of generation, transmission, and distribution facilities in Florida, a public utility must select the most economical and cost effective mix of supply side and demand side resources to meet the demand and energy requirements of its end use consumers.~~ The intent of this rule is to provide the Commission information to evaluate a public utility's decision regarding the addition of generating capacity pursuant to ~~Section Chapter~~ 403.519, Florida Statutes. The use of a Request for Proposals (RFP) process is an appropriate means to ensure that a public utility's selection of a proposed generation addition is the most cost-effective alternative available.

(2) through (a) No change.

(b) Next Planned Generating Unit: the next generating unit addition planned for construction by a public an investor-owned utility that will require certification pursuant to Section 403.519, Florida Statutes.

(c) through (e) No change.

(3) Prior to filing a petition for determination of need for an electrical power plant pursuant to Section 403.519, Florida Statutes, each public investor-owned electric utility shall evaluate supply-side alternatives to its next planned generating unit by issuing a Request for Proposals (RFP).

(4) through (c) No change.

(5) No term of the RFP shall be unfair, unduly discriminatory, onerous, or commercially infeasible. Each public utility's RFP shall include, at a minimum:

(a) through 13. No change.