

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

TIME AND DATE: 9:00 a.m., November 3, 2003  
 PLACE: 104J Hartman Building, 2012 Capital Circle, Southeast, Tallahassee, Florida

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT AND A COPY OF THE PRELIMINARY DRAFT IS: Don Davis, Division of Workers' Compensation, Office of Data Quality and Collection, Department of Financial Services, 200 East Gaines Street, Tallahassee, Florida 32399-4226, (850)413-1711

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

THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS:

69L-7.020 Florida Workers' Compensation Health Care Provider Reimbursement Manual.

(1) The Florida Workers' Compensation Health Care Provider Reimbursement Manual, ~~2004~~ ~~2003~~ Edition, is incorporated ~~adopted~~ by reference as part of this rule. The manual contains reimbursement policies, guidelines, codes and maximum reimbursement allowances for medical services and supplies provided by health care providers. The manual provides reimbursement policies and payment methodologies for pharmacists and medical suppliers. The Florida Workers' Compensation Health Care Provider Reimbursement Manual, incorporated above 2003 Edition, is available for inspection during normal business hours at the Florida Department of Financial Services, Document Processing Section, 200 East Gaines Street, Tallahassee, Florida 32399-0311, or via the Department's web site at <http://www.fldfs.com>.

(2) The Physicians' Current Procedural Terminology (CPT®), 2003 Professional Edition, Copyright 2002, American Medical Association; the Current Dental Terminology (CDT-4), Fourth Edition, Copyright 2002, American Dental Association; ~~and for D codes;~~ and for injectable J codes, and the other medical services and supply codes, the American Medical Association "Healthcare Common Procedure Coding System, Medicare's National Level II Codes, HCPCS 2003", Fifteenth Edition, Copyright 2002, Ingenix Publishing Group, are adopted by reference as part of this rule. When a health care provider performs a procedure or service, which is not listed in the Florida Workers' Compensation Health Care Provider Reimbursement Manual, incorporated in subsection (1) above 2003 Edition, the provider must use a code contained in the CPT®, CDT-4 or HCPCS section as specified.

Specific Authority 440.13(7), (8), (11)-(14); 440.591 FS. Law Implemented: 440.13(11), (12), and (14), ~~(6)-(8),(11)-(14)~~ FS. History—New 10-1-82, Amended 3-16-83, 11-6-83, 5-21-85, Formerly 38F-7.20, Amended 4-1-88, 7-20-88, 6-1-91, 4-29-92, 2-18-96, 9-1-97, 12-15-97, 9-17-98, 9-30-01, 7-7-02, Formerly 38F-7.020, ~~4L-7.020~~, Amended \_\_\_\_\_.

69L-7.501 Florida Workers' Compensation Reimbursement Manual for Hospitals.

(1) The Florida Workers' Compensation Reimbursement Manual for Hospitals, ~~2004~~ ~~1999~~ Edition, is incorporated and replacement pages 4, 9, and 22 are adopted by reference as part of this rule. The manual contains reimbursement policies and per diem rates for hospital services and supplies, ~~as well as basic instructions and information for all hospitals and carriers in the preparation and reimbursement of bills for hospital services.~~

(2) The Florida Workers' Compensation Health Care Provider Reimbursement Manual 2004 Edition is incorporated by reference as part of this rule also. The reimbursement policies, billing codes and maximum reimbursement allowances for physical therapy, radiology, occupational therapy, speech therapy, radiology and clinical laboratory services contained in the manual shall be applied to hospital services provided on an outpatient basis only. Form DWC 90, also known as the UB 92, or HCFA 1450, is hereby incorporated by reference as part of this rule.

(3) The Florida Workers' Compensation Reimbursement Manual for Hospitals, incorporated in Subsection (1) above, is 1999 Edition, and Form DWC 90, are available for inspection during normal business hours, at the State of Florida Department of Financial Services, Division of Workers' Compensation, Document Processing Section Center, 200 East Gaines Street, Tallahassee, Florida 32399-0311 ~~4230~~, or via the Department's Division's website home page at <http://www.fldfs.com>, <http://www.t.myflorida.com/les/we/>.

Specific Authority 440.13(4)(b), (6), (11), (12), (14) FS. Law Implemented 440.13(4)(b), (6), (11), (12), (14) FS. History—New 6-9-87, Amended 6-1-92, 10-27-99, 7-3-01, Formerly 38F-7.501, ~~4L-7.501~~, Amended \_\_\_\_\_.

## Section II Proposed Rules

### DEPARTMENT OF STATE

#### Division of Elections

RULE TITLE:	RULE NO.:
Polling Place Procedures Manual	1S-2.034
PURPOSE AND EFFECT: Amend the Polling Place Procedures Manual to include new Federal Help America Vote Act provisions.	
SUMMARY: The proposed rule generally updates the manual to include new HAVA provisions.	
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: 102.014(5) FS.

LAW IMPLEMENTED: 102.014(5) FS.

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

TIME AND DATE: 2:00 p.m., October 31, 2003

PLACE: The Collins Building, Room 102, 107 West Gaines Street, Tallahassee, Florida 32399-0250

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Sarah Jane Bradshaw, 107 West Gaines Street, Suite 100, Tallahassee, Florida 32399-0250, (850)245-6200

Pursuant to the provisions of the Americans with Disabilities Act, any person requiring special accommodations to participate in this hearing should advise the Department at least 5 calendar days before the hearing by contacting Sarah Jane Bradshaw or Marielba Torres at (850)245-6200.

THE FULL TEXT OF THE PROPOSED RULE IS:

1S-2.034 Polling Place Procedures Manual.

The Department of State, Division of Elections, is required to establish a polling place procedures manual, Form DS-DE 11 (~~11/03~~) (~~4/02~~), which is hereby incorporated by reference and available from the Division of Elections, Room 100, The Collins Building, 107 West Gaines Street, Tallahassee, Florida 32399.

Specific Authority 102.014(5) FS. Law Implemented 102.014(5) FS. History--New 2-11-02, Amended \_\_\_\_\_.

NAME OF PERSON ORIGINATING PROPOSED RULE: Sarah Jane Bradshaw, Assistant Division Director

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Edward C. Kast, Director, Division of Elections, Department of State

DATE OF PROPOSED RULE APPROVED BY AGENCY HEAD: October 7, 2003

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: August 22, 2003

**DEPARTMENT OF LEGAL AFFAIRS**

RULE TITLES:	RULE NOS.:
Court Reporting Fees – Purpose	2-39.010
Standard Fee Schedule	2-39.020
Standard Fee Schedule Exception – Procedure	2-39.030

PURPOSE AND EFFECT: The Department intends to repeal the rules relating to court reporters as these rules are outdated.

SUMMARY: The fees relating to court reporters and fees are being repealed.

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: 287.059(14) FS.

LAW IMPLEMENTED: 287.059(14) 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: Larry Daugherty, Government Analyst, Department of Legal Affairs, PL-01, The Capitol, Tallahassee, Florida 32399-1050

THE FULL TEXT OF THE PROPOSED RULES IS:

2-39.010 Court Reporting Fees – Purpose.

Specific Authority 287.059(14) FS. Law Implemented 287.059(14) FS. History--New 1-24-94, Repealed \_\_\_\_\_.

2-39.020 Standard Fee Schedule.

Specific Authority 287.059(14) FS. Law Implemented 287.059(14) FS. History--New 1-24-94, Repealed \_\_\_\_\_.

2-39.030 Standard Fee Schedule Exception – Procedure.

Specific Authority 287.059(14) FS. Law Implemented 287.059(14) FS. History--New 1-24-94, Repealed \_\_\_\_\_.

NAME OF PERSON ORIGINATING PROPOSED RULE: Larry Daugherty, Government Analyst

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Jerry McDaniel, Director of Administration

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: October 2, 2003

**DEPARTMENT OF LEGAL AFFAIRS**

**Division of Victim Services and Criminal Justice Programs**

RULE TITLES:	RULE NOS.:
Scope	2A-8.001
Definitions	2A-8.002
Ability to Pay Benefits	2A-8.003
Designation of Beneficiary or Beneficiaries	2A-8.004
Adjustments to Reflect Consumer Price Index	2A-8.005

PURPOSE AND EFFECT: The proposed rules are intended to set forth criteria for adjustments in the death benefits for law enforcement, correctional, and correctional probation officers.

SUMMARY: The proposed new rules set forth the criteria for adjustments of death benefits by clarifying scope and definitions; the designation of beneficiaries; and clarifying the manner in which said benefits are adjusted.

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: 112.19 FS.

LAW IMPLEMENTED: 112.19 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: Rick Nuss, Chief, Criminal Justice Programs, PL-01, The Capitol, Tallahassee, Florida 32399-1050

THE FULL TEXT OF THE PROPOSED RULES IS:

2A-8.001 Scope.

These rules apply to each employer as defined in Section 112.19(1)(a), Florida Statutes, and each law enforcement, correctional and correctional probation officer as defined in Section 112.19(1)(b), Florida Statutes.

Specific Authority 112.19 FS. Law Implemented 112.19 FS. History--New \_\_\_\_\_.

2A-8.002 Definitions.

For purposes of this rule chapter, the following words or terms have the following definitions:

- (1) "Department" means the Department of Legal Affairs.
- (2) "Bureau" means the Bureau of Criminal Justice Programs.

Specific Authority 112.19 FS. Law Implemented 112.19 FS. History--New \_\_\_\_\_.

2A-8.003 Ability to Pay Benefits.

(1) Each employer shall maintain an ability to pay benefits provided under Section 112.19, Florida Statutes.

(2) Each employer at the request of the Bureau, shall provide the Bureau with evidence of such ability to pay benefits.

Specific Authority 112.19 FS. Law Implemented 112.19 FS. History--New \_\_\_\_\_.

2A-8.004 Designation of Beneficiary or Beneficiaries.

(1) Each law enforcement, correctional, and correctional probation officer who has a beneficiary or beneficiaries who may become eligible for payments under Section 112.19, Florida Statutes, shall file with his or her employer a designation of beneficiary or beneficiaries.

(2) Each employer shall maintain in its possession such designation of beneficiary or beneficiaries until the subject law enforcement, correctional, and correctional probation officer is no longer employed in any capacity with such employer.

Specific Authority 112.19 FS. Law Implemented 112.19 FS. History--New \_\_\_\_\_.

2A-8.005 Adjustments to Reflect Consumer Price Index. Section 112.19(2)(j), Florida Statutes, requires the Bureau to adjust the statutory amount on July 1 of each year based on the Consumer Price Index for all urban consumers published by the United States Department of Labor, using the most recent figures available. The Bureau will utilize the previous March Consumer Price Index published by the United States Department of Labor and the benefits shall be adjusted from the benefit amount of the year before.

(1) The statutory amount for the period July 1, 2002, through June 30, 2003, was:

- (a) For those benefits paid or to be paid under paragraph (a) of subsection (2); \$50,000.
- (b) For those benefits paid or to be paid under paragraph (b) of subsection (2); \$50,000.
- (c) For those benefits paid or to be paid under paragraph (c) of subsection (2); \$150,000.

(2) The Consumer Price Index amount in March 2003 was 3.0 percent. Therefore, the statutory amount for the period July 1, 2003, through June 30, 2004, is:

- (a) For those benefits paid or to be paid under paragraph (a) of subsection (2); \$51,500.
- (b) For those benefits paid or to be paid under paragraph (b) of subsection (2); \$51,500.
- (c) For those benefits paid or to be paid under paragraph (c) of subsection (2); \$154,500.

Specific Authority 112.19 FS. Law Implemented 112.19 FS. History--New \_\_\_\_\_.

NAME OF PERSON ORIGINATING PROPOSED RULE: Rick Nuss, Chief, Criminal Justice Programs  
NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Rodney Doss, Division Director  
DATE PROPOSED RULE APPROVED BY AGENCY HEAD: October 7, 2003  
DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: August 22, 2003

**DEPARTMENT OF LEGAL AFFAIRS  
Florida Elections Commission**

RULE TITLE: Complaints  
PURPOSE AND EFFECT: This rule amendment limits the complaints that a Complainant may file with the Commission. The Complainant would be barred from filing subsequent complaints based upon alleged facts that were raised in a

RULE NO.:  
2B-1.0025

previous complaint or that should have been raised based on the facts alleged on the face of the previous complaint. The rule will take effect immediately and applies to all complaints pending before the Commission. The doctrines of res judicata and collateral estoppel will apply to all complaints filed with the Florida Elections Commission. This rule amendment also amends the Commission's complaint form. The only substantive change in the form is that the person making the complaint is to specify whether the person against whom the complaint is filed is an individual, corporation, political committee, political party, committee of continuous existence, or other entity.

SUMMARY: On May 16, 2003, the Florida Elections Commission received a Petition to Initiate Rulemaking to amend Rule 2B-1.0025, F.A.C., to require that all complaints filed with the Commission must raise all violations of the Florida Election Code that arise from the facts alleged on the face of the complaint at the time the complaint is filed. The Petition was presented to the Commission at its meeting on May 21 and 22, 2003. A rule development workshop was held on July 11, 2003. The Commission adopted this proposed amendment at the Commission's August 13, 2003 meeting.

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: 106.26(1) FS.

LAW IMPLEMENTED: 105.071, 106.25 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., Monday, November 10, 2003

PLACE: Florida Elections Commission Conference Room, 107 West Gaines Street, Suite 224, Collins Building, Tallahassee, FL 32399-1050

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Phyllis Hampton, General Counsel, Florida Elections Commission, 107 W. Gaines St., 243 Collins Bldg., Tallahassee, FL 32399-1050, (850)922-4539

THE FULL TEXT OF THE PROPOSED RULE IS:

#### 2B-1.0025 Complaints.

(1) Any complaint of alleged violations of the Florida Election Code over which the Florida Elections Commission has jurisdiction shall be filed with the Commission. A complaint form, Complaint Form, FEC 001, effective \_\_\_\_\_ 1-2-02, which is hereby adopted and incorporated by reference may be obtained by calling the Commission office

during normal business hours or by writing to the Commission. The complaint form may also be obtained from the Commission's website [www.fec.state.fl.us](http://www.fec.state.fl.us).

(2) Within five working days of receipt of a sworn complaint, the executive director shall send a copy of the complaint to the person against whom the complaint was made, the respondent.

(3) Upon receipt of a complaint, the executive director shall determine whether the complaint is legally sufficient, unless the executive director determines that the identity of the parties or witnesses or other factual or legal basis would prevent his or her determination due to an appearance of impropriety or a conflict as defined by Section 112.312(8), Florida Statutes. Upon the executive director's determination that he or she has a conflict or that action on the complaint would present an appearance of impropriety, the executive director shall refer the complaint to the Commission for a determination of legal sufficiency.

(4) A complaint is legally sufficient if it meets the following criteria.

(a) The complaint alleges a violation of Chapter 104 or 106 or Section 105.071, Florida Statutes;

(b) The complaint was made under oath in the presence of a notary public or other person authorized by law to administer oaths;

(c) The complaint contains specific facts upon which the complainant bases the allegation of a violation of law; and

(d) The complaint alleges a violation that occurred within two years of the date the complaint is filed with the Commission.

(5) A complaint is not required to list every section of the Election Code that a respondent could have violated or to specify facts that support every element of the violations alleged.

(6) Notwithstanding the provisions of subsections (4) and (5), if any complainant fails to raise all violations of the Election Code that arise from the facts alleged on the face of the complaint at the time of filing the complaint, the complainant shall be barred from filing any subsequent complaint or complaints based upon the allegations of violations of the Election Code that should have been raised based on the facts alleged on the face of the first complaint. The Complainant shall also be barred from filing any subsequent complaint or complaints based upon allegations that were raised at the time of filing the first complaint or that should have been raised based on the facts alleged on the face of the first complaint. This rule shall take effect immediately and applies to all complaints pending before the Commission. The doctrines of res judicata and collateral estoppel apply to all complaints filed with the Florida Elections Commission.

~~(7)~~(6) In determining the legal sufficiency of a complaint, the executive director shall consider any document referred to in the complaint and any material Commission staff has

obtained in prior Commission investigations. In determining the legal sufficiency of a complaint alleging a violation of the campaign finance laws, the executive director shall also consider documents ~~campaign treasurer's reports~~ on file with the filing officer.

~~(8)(7)~~ When the executive director ~~or the Commission~~ determines that a complaint is legally insufficient, ~~the complaint shall be dismissed.~~

~~(8)~~ the The complainant and the respondent shall be notified ~~of the dismissal of the complaint.~~ The notice shall include the reason the complaint is legally insufficient and notify the complainant of the right to seek the Commission's review of the executive director's finding that the complaint is legally insufficient ~~dismissal.~~

(9) A complainant seeking the Commission's review of the executive director's finding that the complaint is legally insufficient, ~~dismissal of a complaint~~ shall file a written request for review with the Commission clerk stating with specificity the reasons the complainant believes that the complaint is legally sufficient within 21 days of receipt of the notice ~~of dismissal.~~ If a written request for review is not filed with the Commission clerk within 21 days of receipt of the notice, the complaint will be dismissed.

(10) If the Commission finds the complaint legally sufficient, it shall direct the executive director to further investigate the complaint. If the Commission finds the complaint legally insufficient, it shall dismiss the complaint.

Specific Authority 106.26(1) FS. Law Implemented 105.071, 106.25 FS. History--New 2-17-91, Amended 11-14-93, 3-19-96, 8-19-96, Formerly 1D-1.0025, Amended 1-11-98, 1-2-02,\_\_\_\_\_.

NAME OF PERSON ORIGINATING PROPOSED RULE:  
Florida Elections Commission  
NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Florida Elections Commission  
DATE PROPOSED RULE APPROVED BY AGENCY HEAD: August 13, 2003  
DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: October 17, 2003

**DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES**

**Division of Agricultural Environmental Services**

RULE CHAPTER TITLE: Pesticides  
RULE CHAPTER NO.: 5E-2  
RULE TITLE: Performance Standards and Acceptable Test Conditions for Preventive Termite Treatments for New Construction  
RULE NO.: 5E-2.0311

PURPOSE AND EFFECT: This rule amendment would provide that any soil applied treatment for preventative treatment for new construction that allowed perimeter and limited area treatments would have to conduct building tests and meet a performance standard of no termite infestation in

90% of test buildings for five years. This rule would apply to registered pesticide products labeled for preventative treatment for new construction.

SUMMARY: This amendment addresses soil applied residual treatments meeting performance standards based on field tests that simulate a full coverage treatment under the foundation of a structure.

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

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

SPECIFIC AUTHORITY: 487.041(4)(e) FS.

LAW IMPLEMENTED: 487.041(e) 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:

DATE AND TIME: 10:00 a.m., November 12, 2003

PLACE: George Eyster Auditorium, 3125 Conner Blvd., Tallahassee, Florida 32399-1650

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Mr. Steven Dwinell, Division of Agricultural Environmental Services, Department of Agriculture and Consumer Services, 3125 Conner Blvd., Tallahassee, FL 32399

THE FULL TEXT OF THE PROPOSED RULE IS:

5E-2.0311 Performance Standards and Acceptable Test Conditions for Preventive Termite Treatments for New Construction.

(1) PERFORMANCE STANDARDS FOR PREVENTIVE TERMITE TREATMENTS FOR NEW CONSTRUCTION. The registrant of any pesticide product containing a label statement that includes directions for use as a preventive treatment for subterranean termites for new construction shall provide data to the Department demonstrating that the product meets the performance standard specified for the type of pesticide product listed below. For products registered prior to the effective date of the rule, the registrant shall have one year from the effective date of the rule to provide the data required to meet the performance standards or the period of time specified to meet the test conditions herein, whichever is greater. When data generation requires more than one (1) year, the registrant shall provide annual reports to the Department. In the event that a performance standard is not met during the test period, the provisions of Section 487.041(4)(e), F.S., shall apply.

- (a) For soil applied residual treatments:
  - 1. through 2. No change.



to satisfy requirements of the country to which the food is being exported. The Export Certification Report shall bear the original signature of a designee of the Department, confirmed by a Notary Public, and may certify the Department's findings that:

(a) The food establishment is permitted, regulated and regularly inspected by the Department of Agriculture and Consumer Services, of the State of Florida, of the United States of America.

(b) The sanitation conditions at the food establishment are satisfactory according to the most recent sanitation inspection report issued by the Department.

(c) The food establishment's good manufacturing practices were evaluated by the Department and found to be satisfactory according to the most recent sanitation inspection report issued by the Department.

(d) The food product identified in the Export Certification Report may be freely offered for sale for human consumption, in the State of Florida, of the United States of America.

(e) The food product identified in the Export Certification Report is not at this time the subject of any food safety enforcement action by the Department in the State of Florida.

(f) The Department does not object to the sale of the identified food products in the State of Florida, other states or U.S. Territories, nor its shipment to any other country.

(3) Applications for Export Certification Reports.

Any food establishment applying for an Export Certification Report must use Department Form No. DACS-14219, which is incorporated by reference herein, and titled "Application for Export Certification Report;" effective date of said form being October 7, 2003. These applications may be obtained from the Export Certification Coordinator, Florida Department of Agriculture and Consumer Services, Division of Food Safety, 3125 Conner Boulevard, Suite "H", Tallahassee, Florida 32399-1650, or by e-mailing a request for an application to the Export Certification Coordinator at: [foodexport@doacs.state.fl.us](mailto:foodexport@doacs.state.fl.us). The application shall include or be accompanied by the list of food products to be exported by the food establishment. Submission of applications by electronic means will be accepted, and is preferred. Any application that is illegible, incomplete, or contains incorrect information will be denied and returned to the firm owner for correction.

(4) Issuance of Export Certification Report.

(a) The Department will issue an Export Certification Report for a food establishment if the firm:

1. Is regulated and inspected by the Department; and
2. Has a current, valid Food Permit from the Department; and
3. Has received a satisfactory sanitation inspection report on the most recent inspection performed by the Department; and

4. Has submitted an application listing only food products which may be freely offered for sale for human consumption, in the State of Florida, of the United States of America.

(b) Firm information provided in the application must be consistent with the Department's Food Permit records. The Department will bill the firm owner. Billing invoices for Export Certification Reports will be sent to the firm owner's mailing address on record with the Department. Denial of any application for an Export Certification Report shall be sent to the firm owner.

(5) Cost and payment for Export Certification Report.

The Department will assess a charge of \$15.00 per Export Certification Report in the English language. This charge includes the cost of processing the application, research, and preparation of the export certification report. An additional charge, billed at a rate of \$20.00 per half-hour, may be required if expedited preparation, customized wording or foreign language is requested and provided. Owner must remit payment to the Florida Department of Agriculture, Bureau of Finance and Accounting, P. O. Box 6720, Tallahassee, FL 32314-6720. All payments must be remitted to the Department within 10 working days after billing. All such payments shall be deposited into the General Inspection Trust Fund.

(6) An Export Certification Report issued by the Department pursuant to this rule shall not be construed or represented to be an express or implied warranty of any of the products named in the export certification report or the firm's good manufacturing practices nor shall the Export Certification Report be used for advertising or promotional purposes.

Specific Authority 500.09, 500.148(3), 570.07(23) FS. Law Implemented 500.09, 500.148 (2), (3) FS. History-New \_\_\_\_\_

NAME OF PERSON ORIGINATING PROPOSED RULE:  
Dana H. Plummer, Esq., Division of Food Safety, 3125 Conner Blvd., Suite C, Tallahassee, Florida 32399-1650, (850)488-8306

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: J.D. Warren, Assistant Director, Division of Food Safety, 3125 Conner Blvd., Suite C, Tallahassee, Florida 32399-1650, (850)488-3951

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: October 8, 2003

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: August 1, 2003

**DEPARTMENT OF EDUCATION**

**State Board of Education**

RULE TITLE: Florida Comprehensive Assessment Test Requirements  
RULE NO.: 6A-1.09422

PURPOSE AND EFFECT: The purpose of this rule amendment is to add the FCAT developmental scores for each grade and subject, to change the effective date for

implementing new achievement level scores, to add the FCAT developmental scores required for graduation, and to update the date for subsequent review of existing passing scores. The effect of this rule amendment is that achievement levels using the new FCAT developmental scores will be codified and the implementation of achievement level standards will be delayed.

SUMMARY: This rule is amended to amend Florida Comprehensive Assessment Test scores as required in this rule.

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 the notice.

SPECIFIC AUTHORITY: 1008.22, 1001.11, 1001.02, 1000.03 FS.

LAW IMPLEMENTED: 1001.02, 1001.11, 1008.33, 1008.22, 1008.25 FS.

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

TIME AND DATE: 9:00 a.m., November 18, 2003

PLACE: 325 West Gaines Street, Tallahassee, Florida 32399

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Dr. Cornelia Orr, Director of Assessment and School Performance, Accountability, Research, and Measurement, Department of Education, 325 W. Gaines Street, Suite 414, Tallahassee, FL 32399; (850)245-0513

THE FULL TEXT OF THE PROPOSED RULE IS:

6A-1.09422 Florida Comprehensive Assessment Test Requirements.

(1) The statewide program of educational assessment required by Section 1008.22(3)(c) ~~229.57(3)(e)~~, Florida Statutes, shall be developed under the direction and supervision of the Commissioner of Education and shall be titled the Florida Comprehensive Assessment Test (FCAT). It shall be:

(a) Kept secured at all times.

(b) Provided to all school districts in the quantity needed for the students in the district.

(c) Administered in accordance with standard written instructions appropriate for the examination. The written instructions will be issued by the Commissioner in the form of ~~the~~ test administration manuals and other written communications, as required, and provided to school districts in sufficient time prior to each test.

(d) Revised and updated as needed.

(2) The test shall be developed in consultation with teachers and other appropriate professionals and shall be approved by the Commissioner prior to being administered to students. The FCAT shall:

(a) Consist of four (4) ~~three (3)~~ sections: one (1) measuring reading skills, one (1) measuring mathematics skills, ~~and one (1) measuring writing skills, and one (1) measuring science skills.~~

(b) Be derived from the skills adopted in Rule 6A-1.09401, F.A.C.

(3) The FCAT shall be administered as follows:

(a) All eligible students in grades three through ten shall take the reading and mathematics tests. All eligible students in grades four, eight, and ten shall take the writing test. All eligible students in grades five, eight, and ten shall take the science test.

(b) Provisions shall be made by school districts to administer the test to students who are absent on the designated testing dates according to directions specified by the Commissioner. The directions will be issued in the form of ~~the~~ test administration manuals and other written communications, as required, and provided to school districts in sufficient time prior to each test.

(c) Provisions shall be made by the Commissioner to permit the test to be administered to home school students and private school students under conditions which preserve the security of the test and require the public school districts to be responsible for the test administration procedures.

(d) In accordance with the requirements of Section 1008.25(4), ~~233.245(3)~~ Florida Statutes, provisions shall be made by the Commissioner to retest students the following year if they do not attain minimum performance expectations.

(e) The FCAT shall be administered to students in grades 3 through 9 not less than one time per year on a schedule approved by the Commissioner and up to three times per year for students who do not attain minimum performance expectations on the grade 10 FCAT as specified in subsection (7) of this rule.

(4) Examinee scores on FCAT reading and mathematics shall be reported on a score scale from 100 to 500 defined by the baseline test administered during January and February 1998, and a developmental scale of approximately 0 to 3000 that defines performance across grades 3 through 10. Examinee scores on FCAT Science shall be reported on a score scale from 100 to 500 defined by the baseline test administered during March 2003. Each examinee shall receive a total score for each subject area in addition to part scores that can be reliably reported.

(5) The total scores on FCAT Reading and Mathematics are also reported on an achievement-level scale. The total scores that correspond to each achievement level are shown in the following paragraphs. shall be reported in terms of the following achievement levels for each specified time period:



(a) Beginning with the effective date of this rule, until changes are recommended by the Commissioner of Education to the State Board of Education, through December 31, 2003, the achievement levels for the first phase of implementation (step 1) shall be: as shown in the following tables.

1. Grade 3 Reading grade-level scale scores (100 to 500) for each achievement level – step 1:

Grade	Level 1	Level 2	Level 3	Level 4	Level 5
3	100-258	259-283	284-331	332-393	394-500
4	100-274	275-298	299-338	339-385	386-500
5	100-255	256-285	286-330	331-383	384-500
6	100-264	265-295	296-338	339-386	387-500
7	100-266	267-299	300-343	344-388	389-500
8	100-270	271-309	310-349	350-393	394-500
9	100-284	285-321	322-353	354-381	382-500
10	100-286	287-326	327-354	355-371	372-500

Reading developmental scale scores (86 to 3008) for each achievement level – step 1:

Grade	Level 1	Level 2	Level 3	Level 4	Level 5
3	86-1045	1046-1197	1198-1488	1489-1865	1866-2514
4	295-1314	1315-1455	1456-1689	1690-1964	1965-2638
5	474-1341	1342-1509	1510-1761	1762-2058	2059-2713
6	539-1449	1450-1621	1622-1859	1860-2125	2126-2758
7	671-1541	1542-1714	1715-1944	1945-2180	2181-2767
8	886-1695	1696-1881	1882-2072	2073-2281	2282-2790
9	772-1771	1772-1971	1972-2145	2146-2297	2298-2943
10	844-1851	1852-2067	2068-2218	2219-2310	2311-3008

Mathematics grade level scale scores (100 to 500) for each achievement level – step 1:

Grade	Level 1	Level 2	Level 3	Level 4	Level 5
3	100-252	253-293	294-345	346-397	398-500
4	100-259	260-297	298-346	347-393	394-500
5	100-287	288-325	326-354	355-394	395-500
6	100-282	283-314	315-353	354-390	391-500
7	100-274	275-305	306-343	344-378	379-500
8	100-279	280-309	310-346	347-370	371-500
9	100-260	261-295	296-331	332-366	367-500
10	100-286	287-314	315-339	340-374	375-500

Mathematics developmental scale scores (375 to 2709) for each achievement level – step 1:

Grade	Level 1	Level 2	Level 3	Level 4	Level 5
3	375-1078	1079-1268	1269-1508	1509-1749	1750-2225
4	581-1276	1277-1443	1444-1657	1658-1862	1863-2330
5	569-1451	1452-1631	1632-1768	1769-1956	1957-2456
6	770-1553	1554-1691	1692-1859	1860-2018	2019-2492
7	958-1660	1661-1785	1786-1938	1939-2079	2080-2572
8	1025-1732	1733-1850	1851-1997	1998-2091	2092-2605
9	1238-1781	1782-1900	1901-2022	2023-2141	2142-2596
10	1068-1831	1832-1946	1947-2049	2050-2192	2193-2709

a. Level 1 shall be a score less than 259;

b. Level 2 shall be a score equal to or more than 259 but less than 284;

c. Level 3 shall be a score equal to or more than 284 but less than 332;

d. Level 4 shall be a score equal to or more than 332 but less than 394;

e. Level 5 shall be a score equal to or more than 394.

2. Grade 3 Mathematics

a. Level 1 shall be a score less than 253;

b. Level 2 shall be a score equal to or more than 253 but less than 294;

c. Level 3 shall be a score equal to or more than 294 but less than 346;

d. Level 4 shall be a score equal to or more than 346 but less than 398;

e. Level 5 shall be a score equal to or more than 398.

3. Grade 4 Reading

a. Level 1 shall be a score less than 275;

b. Level 2 shall be a score equal to or more than 275 but less than 299;

c. Level 3 shall be a score equal to or more than 299 but less than 339;

d. Level 4 shall be a score equal to or more than 339 but less than 386;

e. Level 5 shall be a score equal to or more than 386.

4. Grade 4 Mathematics

a. Level 1 shall be a score less than 260;

b. Level 2 shall be a score equal to or more than 260 but less than 298;

c. Level 3 shall be a score equal to or more than 298 but less than 347;

d. Level 4 shall be a score equal to or more than 347 but less than 394;

e. Level 5 shall be a score equal to or more than 394.

5. Grade 5 Reading

a. Level 1 shall be a score less than 256;

b. Level 2 shall be a score equal to or more than 256 but less than 286;

c. Level 3 shall be a score equal to or more than 286 but less than 331;

d. Level 4 shall be a score equal to or more than 331 but less than 384;

e. Level 5 shall be a score equal to or more than 384.

6. Grade 5 Mathematics

a. Level 1 shall be a score less than 288;

b. Level 2 shall be a score equal to or more than 288 but less than 326;

c. Level 3 shall be a score equal to or more than 326 but less than 355;

d. Level 4 shall be a score equal to or more than 355 but less than 395;

e. Level 5 shall be a score equal to or more than 395.

7. Grade 6 Reading

a. Level 1 shall be a score less than 265;

b. Level 2 shall be a score equal to or more than 265 but less than 296;

c. Level 3 shall be a score equal to or more than 296 but less than 339;

d. Level 4 shall be a score equal to or more than 339 but less than 387;

- e. Level 5 shall be a score equal to or more than 387.
- 8. Grade 6 Mathematics
  - a. Level 1 shall be a score less than 283;
  - b. Level 2 shall be a score equal to or more than 283 but less than 315;
  - c. Level 3 shall be a score equal to or more than 315 but less than 354;
  - d. Level 4 shall be a score equal to or more than 354 but less than 391;
  - e. Level 5 shall be a score equal to or more than 391.
- 9. Grade 7 Reading
  - a. Level 1 shall be a score less than 267;
  - b. Level 2 shall be a score equal to or more than 267 but less than 300;
  - c. Level 3 shall be a score equal to or more than 300 but less than 344;
  - d. Level 4 shall be a score equal to or more than 344 but less than 389;
  - e. Level 5 shall be a score equal to or more than 389.
- 10. Grade 7 Mathematics
  - a. Level 1 shall be a score less than 275;
  - b. Level 2 shall be a score equal to or more than 275 but less than 306;
  - c. Level 3 shall be a score equal to or more than 306 but less than 344;
  - d. Level 4 shall be a score equal to or more than 344 but less than 379;
  - e. Level 5 shall be a score equal to or more than 379.
- 11. Grade 8 Reading
  - a. Level 1 shall be a score less than 271;
  - b. Level 2 shall be a score equal to or more than 271 but less than 310;
  - c. Level 3 shall be a score equal to or more than 310 but less than 350;
  - d. Level 4 shall be a score equal to or more than 350 but less than 394;
  - e. Level 5 shall be a score equal to or more than 394.
- 12. Grade 8 Mathematics
  - a. Level 1 shall be a score less than 280;
  - b. Level 2 shall be a score equal to or more than 280 but less than 310;
  - c. Level 3 shall be a score equal to or more than 310 but less than 347;
  - d. Level 4 shall be a score equal to or more than 347 but less than 371;
  - e. Level 5 shall be a score equal to or more than 371.
- 13. Grade 9 Reading
  - a. Level 1 shall be a score less than 285;

- b. Level 2 shall be a score equal to or more than 285 but less than 322;
- c. Level 3 shall be a score equal to or more than 322 but less than 354;
- d. Level 4 shall be a score equal to or more than 354 but less than 382;
- e. Level 5 shall be a score equal to or more than 382.
- 14. Grade 9 Mathematics
  - a. Level 1 shall be a score less than 261;
  - b. Level 2 shall be a score equal to or more than 261 but less than 296;
  - c. Level 3 shall be a score equal to or more than 296 but less than 332;
  - d. Level 4 shall be a score equal to or more than 332 but less than 367;
  - e. Level 5 shall be a score equal to or more than 367.
- 15. Grade 10 Reading
  - a. Level 1 shall be a score less than 287;
  - b. Level 2 shall be a score equal to or more than 287 but less than 327;
  - c. Level 3 shall be a score equal to or more than 327 but less than 355;
  - d. Level 4 shall be a score equal to or more than 355 but less than 372;
  - e. Level 5 shall be a score equal to or more than 372.
- 16. Grade 10 Mathematics
  - a. Level 1 shall be a score less than 287;
  - b. Level 2 shall be a score equal to or more than 287 but less than 315;
  - c. Level 3 shall be a score equal to or more than 315 but less than 340;
  - d. Level 4 shall be a score equal to or more than 340 but less than 375;
  - e. Level 5 shall be a score equal to or more than 375.

(b) The Commissioner of Education will review FCAT performance data after each test administration and make a recommendation to the State Board of Education about future implementation of the step 2 achievement levels shown in the following tables. For the time period beginning January 1, 2004, the achievement levels shall be:

1. Grade 3 Reading grade-level scale scores (100 to 500) for each achievement level – step 2:

Grade	Level 1	Level 2	Level 3	Level 4	Level 5
3	100-271	272-296	297-344	345-406	407-500
4	100-287	288-311	312-351	352-398	399-500
5	100-268	269-298	299-343	344-396	397-500
6	100-277	278-308	309-351	352-399	400-500
7	100-279	280-312	313-356	357-401	402-500
8	100-283	284-322	323-362	363-406	407-500
9	100-297	298-334	335-366	367-394	395-500
10	100-299	300-339	340-367	368-384	385-500

Reading developmental scale scores (86 to 3008) for each achievement level – step 2:

Grade	Level 1	Level 2	Level 3	Level 4	Level 5
3	<u>86-1129</u>	<u>1130-1281</u>	<u>1282-1572</u>	<u>1573-1949</u>	<u>1950-2514</u>
4	<u>295-1395</u>	<u>1396-1536</u>	<u>1537-1770</u>	<u>1771-2046</u>	<u>2047-2638</u>
5	<u>474-1419</u>	<u>1420-1587</u>	<u>1588-1839</u>	<u>1840-2135</u>	<u>2136-2713</u>
6	<u>539-1525</u>	<u>1526-1697</u>	<u>1698-1936</u>	<u>1937-2202</u>	<u>2203-2758</u>
7	<u>671-1613</u>	<u>1614-1786</u>	<u>1787-2017</u>	<u>2018-2252</u>	<u>2253-2767</u>
8	<u>886-1761</u>	<u>1762-1947</u>	<u>1948-2137</u>	<u>2138-2347</u>	<u>2348-2790</u>
9	<u>772-1846</u>	<u>1847-2046</u>	<u>2047-2220</u>	<u>2221-2372</u>	<u>2373-2943</u>
10	<u>844-1925</u>	<u>1926-2142</u>	<u>2143-2293</u>	<u>2294-2385</u>	<u>2386-3008</u>

Mathematics scale scores (100 to 500) for each achievement level – step 2:

Grade	Level 1	Level 2	Level 3	Level 4	Level 5
3	<u>100-265</u>	<u>266-306</u>	<u>307-358</u>	<u>359-410</u>	<u>411-500</u>
4	<u>100-272</u>	<u>273-310</u>	<u>311-359</u>	<u>360-406</u>	<u>407-500</u>
5	<u>100-300</u>	<u>301-338</u>	<u>339-367</u>	<u>368-407</u>	<u>408-500</u>
6	<u>100-295</u>	<u>296-327</u>	<u>328-366</u>	<u>367-403</u>	<u>404-500</u>
7	<u>100-287</u>	<u>288-318</u>	<u>319-356</u>	<u>357-391</u>	<u>392-500</u>
8	<u>100-292</u>	<u>293-322</u>	<u>323-359</u>	<u>360-383</u>	<u>384-500</u>
9	<u>100-273</u>	<u>274-308</u>	<u>309-344</u>	<u>345-379</u>	<u>380-500</u>
10	<u>100-299</u>	<u>300-327</u>	<u>328-352</u>	<u>353-387</u>	<u>388-500</u>

Mathematics developmental scale scores (375 to 2709) for each achievement level – step 2:

Grade	Level 1	Level 2	Level 3	Level 4	Level 5
3	<u>375-1142</u>	<u>1143-1331</u>	<u>1332-1572</u>	<u>1573-1812</u>	<u>1813-2225</u>
4	<u>581-1337</u>	<u>1338-1503</u>	<u>1504-1717</u>	<u>1718-1923</u>	<u>1924-2330</u>
5	<u>569-1516</u>	<u>1517-1696</u>	<u>1697-1833</u>	<u>1834-2021</u>	<u>2022-2456</u>
6	<u>770-1613</u>	<u>1614-1750</u>	<u>1751-1918</u>	<u>1919-2078</u>	<u>2079-2492</u>
7	<u>958-1715</u>	<u>1716-1840</u>	<u>1841-1994</u>	<u>1995-2135</u>	<u>2136-2572</u>
8	<u>1025-1786</u>	<u>1787-1905</u>	<u>1906-2051</u>	<u>2052-2146</u>	<u>2147-2605</u>
9	<u>1238-1828</u>	<u>1829-1947</u>	<u>1948-2069</u>	<u>2070-2188</u>	<u>2189-2596</u>
10	<u>1068-1888</u>	<u>1889-2003</u>	<u>2004-2105</u>	<u>2106-2249</u>	<u>2250-2709</u>

- a. Level 1 shall be a score less than 272;
  - b. Level 2 shall be a score equal to or more than 272 but less than 297;
  - c. Level 3 shall be a score equal to or more than 297 but less than 345;
  - d. Level 4 shall be a score equal to or more than 345 but less than 407;
  - e. Level 5 shall be a score equal to or more than 407.
2. Grade 3 Mathematics
- a. Level 1 shall be a score less than 266;
  - b. Level 2 shall be a score equal to or more than 266 but less than 307;
  - c. Level 3 shall be a score equal to or more than 307 but less than 359;
  - d. Level 4 shall be a score equal to or more than 359 but less than 411;
  - e. Level 5 shall be a score equal to or more than 411.
3. Grade 4 Reading
- a. Level 1 shall be a score less than 288;
  - b. Level 2 shall be a score equal to or more than 288 but less than 312;
  - c. Level 3 shall be a score equal to or more than 312 but less than 352;

- d. Level 4 shall be a score equal to or more than 352 but less than 399;
  - e. Level 5 shall be a score equal to or more than 399.
4. Grade 4 Mathematics
- a. Level 1 shall be a score less than 273;
  - b. Level 2 shall be a score equal to or more than 273 but less than 311;
  - c. Level 3 shall be a score equal to or more than 311 but less than 360;
  - d. Level 4 shall be a score equal to or more than 360 but less than 407;
  - e. Level 5 shall be a score equal to or more than 407.
5. Grade 5 Reading
- a. Level 1 shall be a score less than 269;
  - b. Level 2 shall be a score equal to or more than 269 but less than 299;
  - c. Level 3 shall be a score equal to or more than 299 but less than 344;
  - d. Level 4 shall be a score equal to or more than 344 but less than 397;
  - e. Level 5 shall be a score equal to or more than 397.
6. Grade 5 Mathematics
- a. Level 1 shall be a score less than 301;
  - b. Level 2 shall be a score equal to or more than 301 but less than 339;
  - c. Level 3 shall be a score equal to or more than 339 but less than 368;
  - d. Level 4 shall be a score equal to or more than 368 but less than 408;
  - e. Level 5 shall be a score equal to or more than 408.
7. Grade 6 Reading
- a. Level 1 shall be a score less than 278;
  - b. Level 2 shall be a score equal to or more than 278 but less than 309;
  - c. Level 3 shall be a score equal to or more than 309 but less than 352;
  - d. Level 4 shall be a score equal to or more than 352 but less than 400;
  - e. Level 5 shall be a score equal to or more than 400.
8. Grade 6 Mathematics
- a. Level 1 shall be a score less than 296;
  - b. Level 2 shall be a score equal to or more than 296 but less than 328;
  - c. Level 3 shall be a score equal to or more than 328 but less than 367;
  - d. Level 4 shall be a score equal to or more than 367 but less than 404;
  - e. Level 5 shall be a score equal to or more than 404.
9. Grade 7 Reading
- a. Level 1 shall be a score less than 280;

b. Level 2 shall be a score equal to or more than 280 but less than 313;

e. Level 3 shall be a score equal to or more than 313 but less than 357;

d. Level 4 shall be a score equal to or more than 357 but less than 402;

e. Level 5 shall be a score equal to or more than 402.

10. Grade 7 Mathematics

a. Level 1 shall be a score less than 288;

b. Level 2 shall be a score equal to or more than 288 but less than 319;

e. Level 3 shall be a score equal to or more than 319 but less than 357;

d. Level 4 shall be a score equal to or more than 357 but less than 392;

e. Level 5 shall be a score equal to or more than 392.

11. Grade 8 Reading

a. Level 1 shall be a score less than 284;

b. Level 2 shall be a score equal to or more than 284 but less than 323;

e. Level 3 shall be a score equal to or more than 323 but less than 363;

d. Level 4 shall be a score equal to or more than 363 but less than 407;

e. Level 5 shall be a score equal to or more than 407.

12. Grade 8 Mathematics

a. Level 1 shall be a score less than 293;

b. Level 2 shall be a score equal to or more than 293 but less than 323;

e. Level 3 shall be a score equal to or more than 323 but less than 360;

d. Level 4 shall be a score equal to or more than 360 but less than 384;

e. Level 5 shall be a score equal to or more than 384.

13. Grade 9 Reading

a. Level 1 shall be a score less than 298;

b. Level 2 shall be a score equal to or more than 298 but less than 335;

e. Level 3 shall be a score equal to or more than 335 but less than 367;

d. Level 4 shall be a score equal to or more than 367 but less than 395;

e. Level 5 shall be a score equal to or more than 395.

14. Grade 9 Mathematics

a. Level 1 shall be a score less than 274;

b. Level 2 shall be a score equal to or more than 274 but less than 309;

e. Level 3 shall be a score equal to or more than 309 but less than 345;

d. Level 4 shall be a score equal to or more than 345 but less than 380;

e. Level 5 shall be a score equal to or more than 380.

15. Grade 10 Reading

a. Level 1 shall be a score less than 300;

b. Level 2 shall be a score equal to or more than 300 but less than 340;

e. Level 3 shall be a score equal to or more than 340 but less than 368;

d. Level 4 shall be a score equal to or more than 368 but less than 385;

e. Level 5 shall be a score equal to or more than 385.

16. Grade 10 Mathematics

a. Level 1 shall be a score less than 300;

b. Level 2 shall be a score equal to or more than 300 but less than 328;

e. Level 3 shall be a score equal to or more than 328 but less than 353;

d. Level 4 shall be a score equal to or more than 353 but less than 388;

e. Level 5 shall be a score equal to or more than 388.

(6) Pursuant to Section 1008.22(3)(c)5., 229.57(3)(e)6. Florida Statutes, students who were enrolled in grade nine in the fall of 1999 and thereafter, shall be required to earn passing scores on the grade ten Florida Comprehensive Assessment Test in reading and mathematics.

(7) ~~The passing score for the reading test shall be a score equal to or greater than 287. The passing score for the mathematics test shall be a score equal to or greater than 295. Effective February 1, 2002, For students in the graduating class of 2003-04 school year and beyond, the passing score for the reading and mathematics tests shall be a score equal to or greater than 300 on the 100 to 500 scale, and 1926 for the reading test and 1889 for the mathematics test on the developmental scale, unless the student had previously qualified for the passing scores required for the 2002-03 graduating class.~~

(8) After July 1, ~~2005, 2002,~~ and before March 1, ~~2006, 2003,~~ the Commissioner of Education shall review student performance levels and recommended to the State Board of Education whether to determine whether to maintain the existing passing scores and achievement levels (step 1) or to increase one or both of the requirements.

(9) The test shall be administered according to a schedule approved by the Commissioner.

(10) Students with disabilities may be provided test modifications or accommodations in accordance with the provisions of Rule 6A-1.0943, F.A.C.

(11) Invalidation of a section of this rule shall not invalidate the remainder of the rule.

Specific Authority 1008.22, 1001.11, 1001.02, 1000.03 229.57 FS. Law Implemented 1001.02, 1001.11, 1008.33, 1008.22, 1008.25 229.053, 229.0535, 229.57 FS. History—New 1-24-99, Amended 10-7-01, 1-22-02,\_\_\_\_\_.

NAME OF PERSON ORIGINATING PROPOSED RULE:  
Cornelia Orr, Chief, Assessment and School Performance,  
Department of Education

NAME OF SUPERVISOR OR PERSON WHO APPROVED  
THE PROPOSED RULE: John Winn, Deputy Commissioner  
for Accountability, Research, and Measurement, Department  
of Education

DATE PROPOSED RULE APPROVED BY AGENCY  
HEAD: October 7, 2003

DATE NOTICE OF PROPOSED DEVELOPMENT  
PUBLISHED IN FAW: June 13, 2003

**DEPARTMENT OF EDUCATION**

**State Board of Education**

RULE TITLE: Implementation of Florida’s System of  
School Improvement and Accountability

RULE NO.: 6A-1.09981

PURPOSE AND EFFECT: The purpose of this rule  
amendment is to make revisions to Florida’s System of School  
Improvement and Accountability. This amendment improves  
the alignment of Florida’s system with the requirements of the  
U.S. No Child Left Behind Act of 2001 and raises the expected  
performance levels for schools. The effect of this rule  
amendment is that modified criteria will be utilized to generate  
the School Performance Grades in 2004.

SUMMARY: This rule is amended to revise Florida’s System  
of School Improvement and Accountability.

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 the notice.

SPECIFIC AUTHORITY: 1001.02, 1001.11, 1008.22,  
1008.33, 1008.345 FS.

LAW IMPLEMENTED: 1003.63, 1008.33, 1008.34, 1000.03,  
1001.42, 1008.345, 1008.36 FS.

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

TIME AND DATE: 9:00 a.m., November 18, 2003

PLACE: 325 West Gaines Street, Tallahassee, Florida 32399

THE PERSON TO BE CONTACTED REGARDING THE  
PROPOSED RULE IS: Dr. Cornelia Orr, Director of  
Assessment and School Performance, Accountability,  
Research, and Measurement, Department of Education, 325 W.  
Gaines Street, Suite 414, Tallahassee, FL 32399;  
(850)245-0513

THE FULL TEXT OF THE PROPOSED RULE IS:

6A-1.09981 Implementation of Florida’s System of  
School Improvement and Accountability

(1) Policy Guidance. Accountability for student learning is  
the key focus of Florida’s system of school improvement.  
Results from the statewide assessment program required by  
Section ~~1008.34~~ ~~229.57~~, Florida Statutes, shall form the basis  
of Florida’s system of school improvement and accountability.  
Student achievement data from the Florida Comprehensive  
Assessment Test (FCAT) in grades 3-10 shall be used to  
establish both proficiency levels and annual progress for  
individual students, schools, districts, and the state. Results  
shall further be used as the primary criteria in calculating  
school performance grades as specified in subsection (5) of this  
rule, ~~school improvement ratings~~, school rewards and  
recognition, and performance-based funding and shall be  
annually reported. The statewide assessment program shall be  
used to measure the annual learning gains of each student  
toward achievement of the Sunshine State Standards  
appropriate for the student’s grade level and to inform parents  
of the educational progress of their public school children as  
specified by Section ~~1008.34~~ ~~229.57~~(1), Florida Statutes.

(a) Full Implementation of Accountability System in  
School Year 2001-2002 and ~~Hereafter~~, Beginning in school  
year 2001-2002, the school accountability system will be  
considered to be fully implemented with the following  
accountability elements.

1. Designation of school performance grades shall be  
based on a combination of:

a. Student achievement scores, based on FCAT reading  
and mathematics assessments in grades 3-10 and FCAT writing  
assessments in grades 4, 8, and 10;

b. Annual student learning gains as measured by FCAT  
reading and mathematics assessments in grades three (3)  
through ten (10); and

c. Improvement of the FCAT reading scores of students in  
the lowest twenty-five (25) percent of each grade, aggregated  
for each school, unless they are performing above satisfactory,  
defined as FCAT Achievement Levels 4 and 5;

2. School improvement ratings shall be based on the ~~FCAT  
reading assessments and indicate if a school’s student  
performance grade in the current year in reading has improved,  
remained the same, or declined~~ compared to the previous year.  
School improvement ratings shall not be used in the  
designation of school grades.

3. Schools designated as Performance Grade “C” or above  
shall be required to demonstrate that adequate progress in  
reading, defined as annual learning gains in paragraph (5)(b) of  
this rule, has been made by the lowest twenty-five (25) percent  
of students in the school who scored at or below FCAT  
Achievement Level 3, based on their previous year’s FCAT  
score. The minimum requirement for adequate progress is  
deemed to be met when ~~if~~ at least fifty (50) percent of such  
students make learning gains as defined in paragraph (5)(b) of

this rule. If the minimum requirement for adequate progress in reading among the lowest twenty-five (25) percent of students in the school is not met, the School Advisory Council shall amend its School Improvement Plan to include a component for improving learning gains of the lowest performing students demonstrating adequate progress. If a school otherwise designated as Performance Grade "B" or "C" does not meet minimum adequate progress, demonstrate learning gains for at least half of the lowest performing students, requirement in at least one of for two (2) consecutive years in a row, the final Performance Grade designation shall be reduced by one (1) letter grade. No school shall be designated as Performance Grade "A" unless the minimum criteria for adequate progress criterion in reading, learning gains for at least half of the lowest performing students, is met each year and the difference between the reading gains for the lowest twenty-five (25) percent of students in the school as defined in paragraph (5)(e) of this rule and the reading gains for all eligible students in the school as defined in paragraph (5)(b) of this rule is no more than ten (10) percentage points.

4. To ensure that student data accurately represent school performance, schools shall be required to assess at least ninety (90) percent of their eligible students to qualify for a School Performance Grade of D, C, or B and at least ninety-five (95) percent to qualify for an A.

5. Statewide assessment results shall be publicly reported and shall include a comparison of the achievement of Florida students to the national average through the use of norm-referenced subtests in reading and mathematics.

6. Schools designated School Performance Grade A and schools improving at least one (1) performance grade designation shall be eligible for school recognition and awards.

7. Schools designated School Performance Grade A and schools improving at least two (2) performance grades shall be eligible for deregulated status and increased budget authority.

8. Intensive assistance and intervention, including on-site assistance, preference for awarding grants, and priority for other discretionary funds as specified in subsections (9), (10), and (11) of this rule, shall be provided to schools designated School Performance Grade F and School Performance Grade D. Renegotiation of bargained contracts as specified in subsection (9) of this rule may be provided to schools designated School Performance Grade F.

(b) In an effort to promote the continuous improvement of each student and each school within the state every school year, accountability reports shall be reflective of the data available for each year.

(2) School Accountability for Student Performance. All schools shall be accountable for performance relative to the Student Performance Goal stated in Section 1008.345 229.594, Florida Statutes. Each school is accountable for the performance of its entire student population. Student achievement data from the FCAT shall be used to measure a

school's student performance for the subject areas of reading, mathematics, and writing. The FCAT levels in the performance criteria in subsection (5) of this rule are those specified in Rule 6A-1.09422, F.A.C., for the year in which achievement data are used for accountability. In addition, the FCAT assessment shall include a norm-referenced subtest that shall be used to report student achievement as compared to national norms. Schools shall report student achievement scores on these subtests to parents. Student achievement data on norm-referenced subtests shall not represent progress toward the Sunshine State Standards and shall not be used in designating school performance grades, but may be used to validate the reasonableness of the improvements demonstrated for the purpose of designating a school performance grade as described in this rule.

(3) Reporting Student Achievement Data for School Accountability. Student achievement data shall be reported for all students in a school as specified by Section 1008.22 229.57, Florida Statutes. Each year reports of achievement data for all students shall be prepared for each school, the district, and the state. For the purpose of assigning school performance grades, each school's aggregate achievement data shall be based on:

(a) The scores of all students enrolled in standard curriculum courses including the scores of students who are speech impaired, gifted, hospital homebound, and Limited English Proficient (LEP) students who have been in an English for Speakers of Other Languages (ESOL) program for more than two (2) years.

(b) In addition, only the scores of those students who are enrolled in the second period and the third period full-time equivalent student membership survey, as specified in Rule 6A-1.0451, F.A.C., shall be included.

(c) The Commissioner is authorized to designate a single school performance grade for schools that which serve multiple levels: elementary and/or middle and/or high school grade levels.

(d) The Commissioner will issue guidelines regarding which school types shall receive school performance grades. The accountability contact person, as specified in paragraph (9) of this rule, is responsible for verifying that each school is appropriately classified by type before the issuance of school grades. The Commissioner shall periodically review the criteria for including students in the calculation of School Performance Grades, including students in alternative and Department of Juvenile Justice facilities.

(4) School Performance Grades. The measure of school accountability shall be the school performance grade. The Commissioner is authorized to designate a school performance grade for each school that:

(a)± Has at least thirty (30) eligible students with valid FCAT assessment scores in reading in both the current and the previous years, and

~~(b)2. Has at least thirty (30) eligible students with valid FCAT assessment scores in math in the current and previous years, and~~

~~3. was included in the School Accountability System the previous year.~~

School performance grade designations shall be made in the summer of each school year. Performance designations shall be made using School Performance Grades A, B, C, D, and F, as specified in Section 1008.34(2) 229.57(7), Florida Statutes. School performance grades shall be based on the assessments and criteria as specified in subsection (5) of this rule. The Commissioner is authorized to establish appropriate achievement level criteria in newly assessed grade levels for submission to the State Board for final approval.

(5) Criteria for Designating School Performance Grades. School performance grades shall be designated in the summer of each year and shall be based on a combination of the following three components, as specified in Section 1008.34(3) 229.57(8), Florida Statutes:

(a) Student achievement scores, aggregated for each school, which indicate the percent of eligible students who score at or above FCAT Achievement Level 3 in reading and math and the percent of students who score “3” or higher averaged with the percent who score “3.5” or higher on the FCAT writing assessment;

(b) Annual learning gains, aggregated for each school, which indicate the percent of eligible students who have:

1. Improved their FCAT Achievement level from one (1) year to the next, or

2. Maintained their achievement levels within levels 3, 4, or 5 from one (1) year to the next, or

3. Remained within FCAT Achievement Levels 1 or 2, ~~but and~~ who demonstrated more than one (1) year’s growth on the FCAT developmental scale, ~~as determined by the Department of Education. The Department of Education has identified the scores in the following table as representing one (1) year’s growth.~~

	<u>Grade</u> <u>3-4</u>	<u>Grade</u> <u>4-5</u>	<u>Grade</u> <u>5-6</u>	<u>Grade</u> <u>6-7</u>	<u>Grade</u> <u>7-8</u>	<u>Grade</u> <u>8-9</u>	<u>Grade</u> <u>9-10</u>
<u>Reading</u>	<u>230</u>	<u>166</u>	<u>133</u>	<u>110</u>	<u>92</u>	<u>77</u>	<u>77</u>
<u>Math</u>	<u>162</u>	<u>119</u>	<u>95</u>	<u>78</u>	<u>64</u>	<u>54</u>	<u>48</u>

Students whose FCAT Achievement Level declines from one (1) year to the next shall not be deemed to have made annual learning gains. The annual learning gains calculation shall be based on students who have a valid FCAT reading and/or math score in both the current and previous year, and who take a higher grade level test in the current year than in the previous year.

~~(c) Improvement, as defined in paragraph (5)(b) of this rule, of the lowest twenty-five (25) percent of students in reading in each grade, as defined in paragraph (5)(b) of this~~

rule, shall be aggregated for each school, unless the students so designated they are performing above proficiency satisfactory, defined as FCAT Achievement Levels 4 and 5.

(6) Procedures for Calculating School Performance Grades. The overall Performance Grade of A, B, C, D or F for school years 2001-2002 and thereafter, as designated in Section 1008.34(2) 229.57(7), Florida Statutes, shall be based on the sum of the following six (6) school grade point elements:

(a) One (1) point for each percent of students who score at or above FCAT Achievement Level 3 in reading;

(b) One (1) point for each percent of students who score at or above FCAT Achievement Level 3 in mathematics;

(c) One (1) point for each percent of students who score “3” or higher averaged with the percent who score “3.5” or higher on the FCAT writing assessment;

(d) One (1) point for each percent of students who make annual learning gains in reading as defined in paragraph (5)(b) of this rule;

(e) One (1) point for each percent of students who make annual learning gains in mathematics as defined in paragraph (5)(b) of this rule; and

(f) One (1) point for each percent of students in the lowest twenty-five (25) percent in reading in the school as defined in paragraph (5)(c) of this rule who make learning gains as defined in paragraph (5)(b) of this rule.

The percent of students reflected in each of the six (6) school grade point elements defined in paragraphs (6)(a) ~~through - (f)~~ of this rule shall be expressed to the nearest whole number. The corresponding points assigned for each grade point element shall also be expressed to the nearest whole number. In the event that a school does not have at least thirty (30) eligible students tested in writing, the district average in writing grade point element as defined in paragraph (6)(c)(a) of this rule shall be substituted for the ~~grade point element defined in paragraph (6)(e) of this rule.~~ In the event that a school does not have at least thirty (30) students in the lowest twenty-five (25) percent in reading as defined in paragraph (5)(c) of this rule, the lowest performing thirty (30) students at or below proficiency, defined as FCAT Achievement Levels 1, 2, and 3, will be used. In the event there are still not thirty (30) qualified students in the lowest achieving group, the grade point element defined in paragraph (6)(d) of this rule shall be substituted for the grade point element defined in paragraph (6)(f) of this rule.

(7) School Performance Grading Scale. The School Performance Grade shall be based on the sum of the six (6) grade point elements as defined in paragraphs (6)(a) ~~through - (f)~~ of this rule and shall be scaled to reflect school performance, learning gains, and improvement of the lowest twenty-five (25) percent beginning with the 2001-2002 school year, as required by Section 1008.34(1) 229.57(7), Florida

Statutes. In addition to the requirements in subsection (5) of this rule for minimum percent of students tested, the following scale shall be applied:

(a) At least 410 school grade points shall be required for a School Performance Grade of A<sub>2</sub>;

(b) At least 380 school grade points shall be required for a School Performance Grade of B<sub>2</sub>;

(c) At least 320 school grade points shall be required for a School Performance Grade of C<sub>2</sub>;

(d) At least 280 school grade points shall be required for a School Performance Grade of D<sub>2</sub>;

(e) If a school accumulates fewer than 280 school grade points, it shall be assigned a School Performance Grade of F.

~~(f) To achieve a smoother transition from the previous grading system, the Commissioner is authorized to apply to the 2002 school performance grades a one-time variance of up to five (5) percent of the grading scale as defined in paragraphs (7)(a)-(e) of this rule.~~

(8) Planned System Enhancements. As indicated in this subsection, planned enhancements will occur in Florida's System of School Improvement and Accountability. The Commissioner of Education will periodically recommend additional changes to the system to the State Board of Education as necessary to ensure that continuous improvements are made in the educational programs of the state.

(a) The points earned for writing defined in paragraph (6)(c) of this rule will be based on the percent of students who score "3.5" or higher on the FCAT writing assessment for School Performance Grades determined in 2004-05 and 2005-06. For the School Performance Grades determined in 2006-07 and beyond, the points earned for writing defined in paragraph (6)(c) of this rule will be based on the percent of students who score "4" or higher on the FCAT writing assessment.

(b) Beginning with the performance grades to be issued in 2004-05, the students eligible to be included in the system, described in paragraph (3)(a) of this rule, will be expanded to include all students, regardless of disability or limited English proficiency classification, with valid FCAT assessment scores in reading in both the current year and the previous year. Inclusion of these students will be applied to paragraph (1)(a)4., regarding the percent tested, and to paragraphs (6)(d), (6)(e), and (6)(f), regarding the determination of student learning gains, of this rule.

(c) Science will be added as an additional category of performance beginning in 2006-07. For this category of achievement, schools will earn one (1) point for each percent of students who score at or above Achievement Level 3, proficient, as will be recommended by committees of educators and approved by the State Board of Education during 2005-06.

~~(9)(8) Accuracy and Representativeness of Performance Data. The Commissioner will review all information submitted by school districts to represent the performance of schools receiving a school performance grade.~~

(a) Each school district superintendent shall designate a school accountability contact person to be responsible for verifying that each school is appropriately classified by type, verifying student data indicators and eligibility for inclusion and exclusion in school grade calculations, and reconciling student test answer documents that do not match survey three membership records, ~~and verifying student eligibility for inclusion in school grade calculations~~ prior to the ~~their~~ issuance of school grades. Student eligibility changes may include, but are not limited to, officially recorded test invalidations, Exceptional Student or Limited English Proficient Student status changes made prior to testing, and school withdrawals made prior to testing. All changes in student eligibility for ~~inclusion in~~ school grade calculations shall be made prior to the issuance of school grades and must be accompanied by written documentation deemed appropriate by the Department. Each school district shall be responsible for providing all related information to the Department within the time limits specified by the Commissioner.

(b) Unless performance data can be determined to accurately represent the progress of the school, the Commissioner is authorized to withhold the designation of a school's performance grade or designate the school in a lower performance grade. If less than ninety (90) percent of the school's student population eligible for inclusion in the designation of the school's performance grade were assessed, the school's performance grade shall be designated incomplete (I) for ~~at least no more than~~ thirty (30) days or until the data are determined by the Commissioner to accurately represent the performance of the school. In the event that the percent tested remains less than ninety (90) percent, the final performance grade will be one letter grade lower than indicated by the points described in subsection (7) of this rule or will be a grade determined by the Commissioner of Education to accurately represent the performance of the school.

(c) After the initial issuance of school performance grades, the school district shall have at least thirty (30) days to review the data on which the performance grade was based. If the school district determines that a different performance grade should be assigned because of the omission of student data, a data miscalculation, or special circumstances that might have affected the grade assigned, a request for a state review of the data can be submitted. Changes to the criteria or process described in paragraph (9)(a) will not be considered as part of this review and must be addressed as described therein. Appropriate documentation of all elements and data to be reviewed by the Department must be submitted within the time limits specified by the Commissioner. The Commissioner's determination of a school's performance grade shall be final.



~~(10)(9)~~ Rewards and Recognition. Schools must have a designated school performance grade to participate in the Florida School Recognition Program as authorized by Section 1008.36 ~~231.2905~~, Florida Statutes. Schools designated School Performance Grade A and schools that have improved at least one (1) performance grade from the previous school year are eligible for school recognition and financial awards.

(a) Schools designated School Performance Grade A and schools that have improved at least two (2) performance grades may be given deregulated status as specified in Section 1003.63 ~~228.0565~~(5), (7), (8), (9), and (10), Florida Statutes. Districts shall develop guidelines for the implementation of this provision and shall provide deregulated status to eligible schools that request it. The school advisory council and principal of an eligible school seeking waivers from state statutes shall submit requests as specified in Section 1003.63 ~~228.0565~~(7)(a) and (b), Florida Statutes. The school's deregulated status shall remain in effect as long as the school abides by the provisions of Section 1003.63 ~~228.0565~~(5), (7), (8), (9), and (10) or unless the school's performance grade declines.

(b) Schools designated School Performance Grade A and schools that have improved at least two (2) performance grades shall have greater authority over the allocation of the school's total budget. Local school boards shall adopt policies in accordance with Section 1001.42 ~~230.23~~(17)(d), Florida Statutes, which grant schools greater authority over the allocation of the school's total budget, including, but not limited to, allocation of instructional staff and the acquisition of instructional materials, equipment, and technology. The school's total budget includes funds generated from the FEFP, state categoricals, lottery funds, grants, and local funds. The policies shall provide for approval of a school's written proposal as long as the proposal remains within the school's total budget, specifies the areas in which the school will have administrative and fiscal autonomy, specifies the areas in which the school will follow school district fiscal and administrative policies, and is consistent with the school's deregulated status.

~~(c) Schools that have improved at least one (1) performance grade from the previous school year are eligible for school recognition and financial awards under the provisions of the Florida School Recognition Program authorized by Section 231.2905, Florida Statutes. Schools designated as School Performance Grade F that make substantial progress toward the next performance grade level designation may receive financial awards under guidelines to be determined by the Commissioner.~~

(11)(10) Assistance and Intervention for Schools Designated School Performance Grade F or School Performance Grade D. Assistance and intervention plans shall be provided for each school designated School Performance Grade F and School Performance Grade D.

(a) Assistance for Schools Designated School Performance Grade F or School Performance Grade D. Each school designated School Performance Grade F shall develop its school improvement plan in collaboration with the school advisory council, school board, and the Department. The school improvement plan shall take into account the unique demographic characteristics of the school. The school board shall have final approval of the plan. Each school designated School Performance Grade F or School Performance Grade D shall receive specific assistance and interventions, including additional resources if needed, from the district school board as provided in Section 1001.42 ~~230.23~~(16)(c), Florida Statutes. The district's two-year plan of increasing individualized assistance and intervention for each school designated School Performance Grade F or School Performance Grade D shall be approved by the school board. Assistance shall be provided to each designated school in the district at increasingly intensive levels as long as the school continues to be so designated. For the purpose of documenting compliance with Section 1001.42 ~~230.23~~(16)(c), Florida Statutes, school boards shall provide to the Department annually a copy of the approved assistance and intervention plan for each school designated School Performance Grade F in the district.

(b) The Commissioner is authorized to give preference to schools designated School Performance Grade F and School Performance Grade D in awarding federal and state grants designed to improve student achievement. The Department shall give priority to School Performance Grade F and School Performance Grade D schools in providing school improvement assistance and resources. The Department will identify demographically similar, but higher performing, schools in the state for possible assistance.

(c) The local school board is authorized to declare an emergency in order to negotiate special provisions of its contract with appropriate bargaining units to implement programs and strategies needed to improve student performance as specified in Section 1001.42 ~~230.23~~(19), Florida Statutes.

~~(12)(11) State Board of Education Action for Schools Designated Performance Grade F. A process for invoking State Board of Education action shall be implemented if, during any two (2) years out of a four (4) year period, a school is designated School Performance Grade F. The Commissioner shall coordinate the process and ensure that members of the State Board of Education are informed of recommendations for action regarding schools failing to make adequate progress. This process shall include the following steps: STEP 1: Within thirty (30) days after the school has been notified by the Department that it has been designated School Performance Grade F, failed to make adequate progress, for the second year in a four-year period, the district school board chair, the superintendent, the school advisory council chair, and the school principal shall submit a written report to the~~

Commissioner. The report shall outline the steps taken to remedy the inadequate performance and identify causes for continued failure to make adequate progress. The Commissioner shall provide the report to the State Board of Education and may include recommendations.

STEP 2: The State Board of Education shall review the school's performance data, including data reported as required in subsection (3) of this rule and Rule 6A-1.09982, F.A.C. The State Board of Education shall, if necessary, collect additional information on which to make a decision and may require the school district superintendent to provide additional written or verbal information.

STEP 3: Based on an analysis of all reports and data including a thorough consideration of the unique characteristics of the school, and after the district and school are given an opportunity to respond to any new information, the State Board of Education shall formally determine the degree of progress made by the school. Pursuant to this determination and recommendations of the Commissioner, the State Board of Education shall take action as authorized in Section 1008.33(2) 229.0535, Florida Statutes.

STEP 4: If the school board fails to comply with the actions recommended by the State Board of Education, within the time specified in said action, the school district's lottery funds shall be withheld unless the school board can justify its noncompliance, to the State Board's satisfaction. If the State Board accepts a district's justification for noncompliance, the State Board may amend its recommended actions, or extend the time allowed for compliance.

~~(13)~~(12) State Board of Education Review of Schools Designated Performance Grade D. A process for invoking State Board of Education review may be initiated by the Commissioner if, during any two (2) years out of a four (4) year period, a school is designated School Performance Grade D. The Commissioner is authorized to require the school and district to report to the State Board of Education for an instructional review and action as authorized in Section 1001.42(16)(d) 229.0535, Florida Statutes.

~~(14)~~(13) Responsibilities of Schools Performing at School Performance Grade C and Above. Schools determined to be performing at School Performance Grade C and above shall continue identifying needs, developing school improvement plans, and defining goals for improved performance without required State Board of Education intervention and assistance. These schools shall continue to assess and report progress on the goals as required by Sections 1008.34(1) 229.592(8) and 1001.42 230.23(16)(e), Florida Statutes, and Rule 6A-1.09982, F.A.C.

~~(15)~~(14) Measures of Student Performance. The Department shall develop statewide assessments designed to measure student performance based on the following four standards to achieve the goal set forth in Section 1001.03(1) 229.591(3)(e), Florida Statutes, with special emphasis on

reading, writing, and mathematics as defined in Rule 6A-1.09401, F.A.C., in the "Sunshine State Standards 1996" as incorporated by reference. Beginning in school year 2002-2003, science will be added as a subject area for special emphasis.

(a) Florida students locate, comprehend, interpret, evaluate, maintain, and apply information, concepts, and ideas found in literature, the arts, symbols, recordings, video and other graphic displays, and computer files in order to perform tasks and/or for enjoyment.

(b) Florida students communicate in English and other languages using information, concepts, prose, symbols, audio and video recordings, speeches, graphic displays, and computer-based programs.

(c) Florida students use numeric operations and concepts to describe, analyze, disaggregate, communicate, and synthesize numeric data, and to identify and solve problems.

(d) Florida students use creative thinking skills to generate new ideas, make the best decisions, recognize and solve problems through reasoning, interpret symbolic data, and develop efficient techniques for lifelong learning.

Specific Authority 1001.02, 1001.11, 1008.22, 1008.33, 1008.345 229.053, 229.0535, 229.592, 229.57 FS. Law Implemented 1003.63, 1008.33, 1008.34, 1000.03, 1001.42, 1008.345, 1008.36 228.0565, 229.053, 229.0535, 229.57, 229.591, 229.592, 230.23, 231.2905 FS. History—New 10-11-93, Amended 12-19-95, 3-3-97, 1-24-99, 2-2-00, 2-11-02, \_\_\_\_\_.

NAME OF PERSON ORIGINATING PROPOSED RULE: Cornelia Orr, Chief, Assessment and School Performance, Department of Education

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: John Winn, Deputy Commissioner for Accountability, Research, and Measurement, Department of Education

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: October 7, 2003

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

**DEPARTMENT OF EDUCATION**

**State Board of Education**

RULE TITLE: Florida Teacher Certification Examination

RULE NO.: 6A-4.0021

PURPOSE AND EFFECT: The purpose of this rule amendment is to establish standard passing scores for the General Knowledge Test, the Kindergarten-Grade 6 subject area examination, and the Exceptional Student Education subject area examination; and to adopt and publish a revised set of the competencies and skills required for teacher certification in Florida. The effect is that standard passing scores will be established for the General Knowledge Test, the Kindergarten-Grade 6 subject area examination, and the

Exceptional Student Education subject area examination and new and revised competencies and skills will be used on the Florida Teacher Certification Examinations.

SUMMARY: Standard passing scores will be established and new and revised competencies and skills will be adopted.

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 the notice.

SPECIFIC AUTHORITY: 1012.56(8) FS.

LAW IMPLEMENTED: 1012.56 FS.

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

TIME AND DATE: 9:00 a.m., November 18, 2003

PLACE: 325 West Gaines Street, Tallahassee, Florida 32399-0400

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Kathy Fearon, Accountability, Research, and Measurement, Department of Education, 325 W. Gaines St., Room 414, Tallahassee, FL 32399, (850)488-8198

THE FULL TEXT OF THE PROPOSED RULE IS:

6A-4.0021 Florida Teacher Certification Examinations.

(1) No change.

(2) Description of the examinations and competencies to be demonstrated.

(a) The Florida Teacher Certification Examinations shall be developed by the Commissioner of Education.

(b) The written examinations shall include subtests of reading, writing, mathematics, professional skills, and subject area specialty. These examinations may contain multiple choice questions and questions requiring the examinee to write an answer or demonstrate a proficiency.

(c) The following competencies are to be demonstrated by means of the written examinations:

1. Beginning with the July ~~2004~~ ~~2003~~ test administration, the general knowledge competencies and skills as contained in the publication "Competencies and Skills Required for Teacher Certification in Florida, ~~Ninth~~ ~~Eighth~~ Edition."

2. Before July 1, ~~2004~~ ~~2003~~, the professional competencies and skills contained in the publication, "Competencies and Skills Required for Teacher Certification in Florida, ~~Eighth~~ ~~Seventh~~ Edition" which is hereby incorporated by reference and made a part of this rule. Beginning July 1, ~~2004~~ ~~2003~~, the professional competencies and skills contained in the publication "Competencies and Skills Required for Teacher Certification in Florida, ~~Ninth~~ ~~Eighth~~ Edition" which is hereby incorporated by reference and made a part of this rule. Copies of these publications may be

obtained from the Department of Education, 325 West Gaines Street, Tallahassee, Florida 32399 at a price to be established by the Commissioner not to exceed actual cost, and

3. Before July 1, ~~2004~~ ~~2003~~, the subject area competencies and skills contained in the publication, "Competencies and Skills Required for Teacher Certification in Florida, ~~Eighth~~ ~~Seventh~~ Edition" which is hereby incorporated by reference and made a part of this rule. Beginning July 1, ~~2004~~ ~~2003~~, the subject area competencies and skills contained in the publication "Competencies and Skills Required for Teacher Certification in Florida, ~~Ninth~~ ~~Eighth~~ Edition" which is hereby incorporated by reference and made a part of this rule. Copies of these publications may be obtained as described in subparagraph (2)(c)2. of this rule.

(d) Before July 1, 2002, the College Level Academic Skills Test or the Praxis I: Academic Skills Assessment as described in subsection (13) of this rule shall be used to demonstrate mastery of general knowledge for an individual who holds a bachelor's or higher degree as specified in Rules 6A-4.004, 6A-4.050, and 6A-4.066, F.A.C.

(7) Scoring the general knowledge subtests. Effective ~~January 2004~~, ~~July 2002~~, the passing scores for the general knowledge subtests listed below shall be a scaled score of at least two hundred (200). This scaled score shall be equivalent to the following raw scores on the July 2002 test administration ~~as defined below~~:

(a) General Knowledge Reading Subtest:- 25 correct items. ~~A reading subtest raw score that results in an examinee passing rate of seventy six (76) percent, which was the passing rate of teacher candidates who took the College Level Academic Skills Reading Subtest for the first time during the 2000-2001 administration year.~~

(b) General Knowledge English Skills Subtest:- 29 correct items. ~~An English skill subtest raw score that results in an examinee passing rate of seventy four (74) percent, which was the passing rate for teacher candidates who took the College Level Academic Skills English Skills Subtest for the first time during the 2000-2001 administration year.~~

(c) General Knowledge English Essay Subtest:- A total raw score of six (6). ~~An English essay subtest total raw score of six (6), which was the passing score of teacher candidates who took the College Level Academic Skills Essay Subtest for the first time during the 2000-2001 administration year.~~

(d) General Knowledge Mathematics Subtest:- 26 correct items. ~~A mathematics subtest raw score that results in an examinee passing rate of fifty three (53) percent, which was the passing rate of teacher candidates who took the College Level Academic Skills Mathematics Subtest for the first time during the 2000-2001 administration year.~~

(9) Scoring of the subject area specialty examinations.

(k) Effective ~~January 2004, July 2002~~, the passing scores for the subject area speciality examinations listed below shall be a scaled score of at least two hundred (200). This scaled score shall be equivalent to the following raw scores on the July 2002 test administration as ~~defined below~~:

<u>SUBJECT</u>	<u>SCORE</u>
<u>Exceptional Student Education K-12</u>	<u>72 correct items</u>
<u>Kindergarten-Grade Six</u>	<u>138 correct items</u>

~~1. Exceptional Student Education K-12 Examination. An examination raw score that results in an examinee passing rate of ninety two (92) percent, which was the average of the passing rates of teacher candidates who took the Emotionally Handicapped K-12, Mentally Handicapped K-12, Physically Impaired K-12, Specific Learning Disabilities K-12, and Varying Exceptionalities K-12 specialty examinations for the first time during the 2000-2001 examination administration year. In the event that fewer than fifty (50) examinees are tested in the July 2002 examination administration, the passing score shall be seventy one (71) percent of the items.~~

~~2. Kindergarten-Grade Six Examination. An examination raw score that results in an examinee passing rate of eighty two (82) percent, which was the passing rate of teacher candidates who took the Elementary Education 1-6 speciality examination for the first time during the 2000-2001 administration year. In the event that fewer than fifty (50) examinees are tested in the July 2002 examination administration, the passing score shall be sixty six (66) percent of the items.~~

(l) ~~After sufficient data have been collected, Not later than September 1, 2003~~, the Commissioner of Education shall review examinee performance levels for ~~all General Knowledge Subtests, the Kindergarten-Grade Six Examination, and the Exceptional Student Education K-12 Examination~~ and determine whether to recommend to the State Board of Education to maintain or change the above existing passing scores.

(p) Before July 1, ~~2004 2003~~, the subject area specialty examinations approved for use in the Florida Teacher Certification Examinations are listed by subject area in the publication, "Competencies and Skills Required for Teacher Certification in Florida, Eighth ~~Seventh~~ Edition."

(q) Beginning July 1, ~~2004 2003~~, the subject area specialty examinations approved for use in the Florida Teacher Certification Examinations are listed by subject area in the publication "Competencies and Skills Required for Teacher Certification in Florida, Ninth ~~Eighth~~ Edition."

Specific Authority 1012.55(1), 1012.56, 1012.59 FS. Law Implemented 1012.56 FS. History—New 8-27-80, Amended 1-11-82, 1-6-83, 5-3-83, 10-5-83, 10-15-84, Formerly 6A-4.021, Amended 12-25-86, 4-26-89, 4-16-90, 7-10-90, 4-22-91, 10-3-91, Amended 8-10-92, 11-28-93, 4-12-95, 7-1-96, 9-30-96, 10-1-99, 7-17-00, 7-16-01, 3-24-02, 7-16-02, 3-24-03, 7-21-03,

NAME OF PERSON ORIGINATING PROPOSED RULE: Cornelia Orr, Chief, Assessment and School Performance, Department of Education,

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: John Winn, Deputy Commissioner for Accountability, Research, and Measurement, Department of Education

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: October 6, 2003

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: September 19, 2003

**DEPARTMENT OF TRANSPORTATION**

RULE CHAPTER TITLE: Highway Beautification and Landscape Management

RULE CHAPTER NO.: 14-40

RULE TITLES: Grant Application Process

RULE NOS.: 14-40.020

Florida Highway Beautification Council Grant Award Process

14-40.022

PURPOSE AND EFFECT: This amendment to Part II of Rule Chapter 14-40, F.A.C., proposes several minor changes. The Florida Highway Beautification Council Grant Application also is being revised to include these changes. The due dates for applications are amended.

SUMMARY: This is an amendment to Part II of Rule Chapter 14-40, F.A.C.

SPECIFIC AUTHORITY: 339.2405 FS.

LAW IMPLEMENTED: 339.2405 FS.

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

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

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

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULES IS: James C. Myers, Clerk of Agency Proceedings, Florida Department of Transportation, Office of the General Counsel, 605 Suwannee Street, Mail Station 58, Tallahassee, Florida 32399-0458

THE FULL TEXT OF THE PROPOSED RULES IS:

PART II Florida Highway Beautification Council Grants

14-40.020 Grant Application Process.

(1) Definitions.

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

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

(c) "Department" means the Florida Department of Transportation.

(d) "FHBC" means the Florida Highway Beautification Council.

(e) "Grant" means funds provided by the Department to Applicants, pursuant to this Rule Chapter.

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

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

(2) Grant Application.

(a) Grant applications for highway beautification grants from the FHBC must be filed and processed in accordance with this Rule Chapter. When preparing a grant application ~~for the next fiscal year~~, applicants should meet and work with the Grant Coordinator on or about ~~July~~ ~~October~~ 1, to give adequate time for review and revisions before the ~~October~~ ~~February~~ 1, application deadline.

(b) Previous recipients of grants are eligible to submit a grant application if their previous FHBC grant projects are maintained according to the terms of previous agreements.

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

(d) In order for the FHBC to consider a grant application for any Department fiscal year, ten paper copies or electronic file copies of the completed grant application and supporting documents must be received by the Grant Coordinator by ~~October~~ ~~February~~ 1 of the Department fiscal year. When requested by the Grant Coordinator, additional copies will be

provided. Incomplete grant applications, or grant applications that do not comply with state or federal regulations, will be returned to the applicant. An applicant may amend and resubmit any returned grant application by the ~~October~~ ~~February~~ 1 deadline.

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

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

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

Specific Authority 339.2405 FS. Law Implemented 339.2405 FS. History—New 1-19-99, Amended 11-22-01, 3-20-03, 8-10-03, \_\_\_\_\_.

14-40.022 Florida Highway Beautification Council Grant Award Process.

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

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

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

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

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

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

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

Specific Authority 339.2405 FS. Law Implemented 339.2405 FS. History--New 3-9-99, Amended 11-22-01, 3-20-03, 8-10-03, \_\_\_\_\_.

NAME OF PERSON ORIGINATING PROPOSED RULE:  
 Jeff Caster, State Transportation Landscape Architect  
 NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: José Abreu, P.E., Secretary  
 DATE PROPOSED RULE APPROVED BY AGENCY HEAD: October 2, 2003  
 DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: September 19, 2003

**BOARD OF TRUSTEES OF THE INTERNAL IMPROVEMENT TRUST FUND**

Pursuant to Chapter 2003-145, Laws of Florida, all notices for the Board of Trustees of the Internal Improvement Trust Fund are 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."

**PUBLIC SERVICE COMMISSION**

DOCKET NO. 030830-WS

RULE TITLE: Establishment of Price Index, Adjustment of Rates; Requirement of Bond; Filings After Adjustment; Notice to Customers  
 RULE NO.: 25-30.420

PURPOSE AND EFFECT: To provide the Commission with the information necessary to investigate and make a determination of a utility's quality of service pursuant to Section 367.081(4)(a), F.S.

SUMMARY: The rule amendment will require water and wastewater utilities to provide a statement as to whether the utility has any active written complaints, corrective orders, consent orders, or outstanding citations with the Department of Environmental Protection or the County Health Departments in price index applications. If the utility has any such complaints, corrective orders, consent orders, or citations, a copy of those must be filed with the Commission.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COST: No statement of estimated 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: 350.127(2), 367.081(4)(a), 367.121(1)(c), 367.121(1)(f) FS.

LAW IMPLEMENTED: 367.081(4), 367.121(1)(c), 367.121(1)(g) FS.

WRITTEN COMMENTS OR SUGGESTIONS ON THE PROPOSED RULE MAY BE SUBMITTED TO THE FPSC, DIVISION OF THE COMMISSION CLERK AND ADMINISTRATIVE SERVICES, WITHIN 21 DAYS OF THE DATE OF THIS NOTICE FOR INCLUSION IN THE RECORD OF THE PROCEEDING.

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: Samantha M. Cibula, Florida Public Service Commission, 2540 Shumard Oak Blvd., Tallahassee, Florida 32399-0862, (850)413-6202

THE FULL TEXT OF THE PROPOSED RULE IS:

25-30.420 Establishment of Price Index, Adjustment of Rates; Requirement of Bond; Filings After Adjustment; Notice to Customers.

(1) No change.

(2) Any utility seeking to increase or decrease its rates based upon the application of the index established pursuant to subsection (1) and as authorized by Section 367.081(4)(a), F.S., shall file an original and five copies of a notice of intention and the materials listed in (a) through ~~(i)(g)~~ below with the Commission's Division of Economic Regulation at least 60 days prior to the effective date of the increase or decrease. The adjustment in rates shall take effect on the date specified in the notice of intention unless the Commission finds that the notice of intention or accompanying materials do not comply with the law, or the rules or orders of the Commission. The notice shall be accompanied by:

(a) through (g) No change.

(h) A statement that the utility does not have any active written complaints, corrective orders, consent orders, or outstanding citations with the Department of Environmental Protection (DEP) or the County Health Department(s) or that the utility does have active written complaints, corrective orders, consent orders, or outstanding citations with the DEP or the County Health Department(s).

(i) A copy of any active written complaints, corrective orders, consent orders, or outstanding citations with the Department of Environmental Protection (DEP) or the County Health Department(s).

(3) through (7) No change.

Specific Authority 350.127(2), 367.081(4)(a), 367.121(1)(c), 367.121(1)(f) FS. Law Implemented 367.081(4), 367.121(1)(c), 367.121(1)(g) FS. History--New 4-5-81, Amended 9-16-82, Formerly 25-10.185, Amended 11-10-86, 6-5-91, 4-18-99, \_\_\_\_\_.

NAME OF PERSON ORIGINATING PROPOSED RULE: Ryan Fitch

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Florida Public Service Commission

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: September 30, 2003  
 DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: April 11, 2003, Vol. 29, No. 15

**DEPARTMENT OF CORRECTIONS**

RULE TITLE: Monitoring Sex Offender Conditions of Supervision  
 RULE NO.: 33-302.108

PURPOSE AND EFFECT: The purpose and effect of the proposed rule is to clarify responsibilities of staff supervising sex offenders.

SUMMARY: The proposed rule clarifies restrictions that may be imposed on sex offenders in accordance with s. 948.03 and outlines officers' search 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: 944.09 FS.

LAW IMPLEMENTED: 944.09, 947.1405, 948.03 FS.

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

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

THE FULL TEXT OF THE PROPOSED RULE IS:

33-302.108 Monitoring Sex Offender Conditions of Supervision.

(1) No change.

(2) Prohibition of Living w~~W~~ithin 1000 f~~F~~eet of a school, day care center, park, playground, or other p~~P~~lace w~~W~~here c~~C~~hildren r~~R~~egularly c~~C~~ongregate, as prescribed by the court or releasing authority – If the court or releasing authority imposes this condition of supervision, the supervisor shall ensure:

(a) through (3) No change.

(4) ~~Sex Offender~~ Driving Log – If the court or releasing authority imposes a condition of supervision requiring maintenance of a driving log and a prohibition against driving a motor vehicle alone without the prior approval of the supervising officer, the officer shall:

(a) through (7) No change.

(8) Computer or Internet Restrictions –

(a) If the court or releasing authority imposes a condition of supervision that limits or prohibits use of computers or the internet, the officer shall monitor compliance by:

(a) ~~c~~Conducting walk through searches during the initial visit and at a minimum, once quarterly during subsequent visits to the offender's residence to ensure the offender is in compliance with the condition of supervision;

(b) No change.

(c) If reasonable suspicion exists to conduct the search, the officer has the authority to search the offender's person, property, residence or employment site, which includes the offender's computer. This authority to search exists with or without a condition of supervision that limits or prohibits use of computers or the internet.

Specific Authority 944.09 FS. Law Implemented 944.09, 947.1405, 948.03 FS. History—New 12-18-01, Amended 6-18-02, \_\_\_\_\_.

NAME OF PERSON ORIGINATING PROPOSED RULE: Tina Hayes

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: James V. Crosby, Jr.

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: October 3, 2003

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: September 5, 2003

**DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION**

**Electrical Contractors' Licensing Board**

RULE TITLE: Probation  
 RULE NO.: 61G6-10.007

PURPOSE AND EFFECT: The Board proposes the development of rules to address probation requirements.

SUMMARY: A new rule will be promulgated to establish probation reporting requirements.

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

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

SPECIFIC AUTHORITY: 455.2273, 489.507(3) FS.

LAW IMPLEMENTED: 455.2273 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: Anthony Spivey, Executive Director, Electrical Contractors' Licensing Board, 1940 North Monroe Street, Tallahassee, Florida 32399-0750

THE FULL TEXT OF THE PROPOSED RULE IS:

61G6-10.007 Probation.

All probation imposed by the Board for violations of Sections 489.531, F.S. and 489.533, F.S., shall require quarterly reports to be filed every ninety (90) days from the date of the final order entered by the Board. The quarterly reports must be filed using Form BPR/ECLB-4458 – Probation and Quarterly Report Form and submitted to the Board Office.

Specific Authority 455.2273, 489.507(3), 489.533(2)(e) FS. Law Implemented 489.533(2)(e) FS. History–New \_\_\_\_\_.

NAME OF PERSON ORIGINATING PROPOSED RULE: Electrical Contractors’ Licensing Board

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Electrical Contractors’ Licensing Board

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

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: June 13, 2003

DEPARTMENT OF ENVIRONMENTAL PROTECTION

Pursuant to Chapter 2003-145, Laws of Florida, all notices for the Department of Environmental Protection are 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.”

DEPARTMENT OF HEALTH

Board of Acupuncture

RULE TITLE: Re-examination Fee RULE NO.: 64B1-2.006

PURPOSE AND EFFECT: The board intends to delete portions of the rule sections that are obsolete.

SUMMARY: The Board proposes to delete obsolete language from sections (4) and (5) of this rule.

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: 457.104, 457.105 FS.

LAW IMPLEMENTED: 457.105 FS.

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

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Pamela King, Executive Director, Board of Acupuncture, 4052 Bald Cypress Way, Bin C06, Tallahassee, Florida 32399.

THE FULL TEXT OF THE PROPOSED RULE IS:

64B1-2.006 Re-examination Fee.

The re-examination fees are:

(1) through (3) No change.

~~(4) In May of 1999 and October of 1999, a special re-examination administration of the written portion of the NCCAOM (Acupuncture Theory and Clean Needle Technique) will be provided by the Department of Health.~~

~~(5) The Department of Health will provide two administrations of NCCAOM’s Practical Examination on Point Location Skills in the May and October of 1999. After that all applicants shall apply directly to NCCAOM for the Computer Simulation Point Location Examination (CSPL).~~

Specific Authority 457.104, 457.105(2)(d) FS. Law Implemented 457.105(2)(d) FS. History–New 8-8-84, Formerly 21AA-2.06, Amended 2-2-86, 12-21-87, 3-11-92, Formerly 21AA-2.006, 61F1-2.006, Amended 9-17-95, 11-21-95, Formerly 59M-2.006, Amended 4-5-99.

NAME OF PERSON ORIGINATING PROPOSED RULE: Board of Acupuncture

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

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

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: April 4, 2003

DEPARTMENT OF HEALTH

Board of Acupuncture

RULE TITLES: Acupuncture Examination RULE NOS: 64B1-3.004

Examiners in Practical Examinations: Criteria for Selection 64B1-3.007

Licensure by Endorsement Through National Certification 64B1-3.009

PURPOSE AND EFFECT: The Board proposes to update the licensure examination requirements in Rule 64B1-3.004, F.A.C., to conform to statutory authority and changing examination methods for the national exam approved for Florida licensure. The Board proposes to repeal obsolete language and the now obsolete Rule 64B1-3.007, F.A.C., concerning criteria for selecting examiners. And in Rule 64B1-3.009, F.A.C., the Board proposes to delete the requirement that an applicant for endorsement by certification be certified within the three years preceding the application.

SUMMARY: The proposed rule amendments delete obsolete language concerning examination requirements and examiners, while conforming the licensure by endorsement requirements to the authorizing statutes.

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: 456.017(1)(c), 457.104 FS.

LAW IMPLEMENTED: 456.017(1)(b),(c), 457.104, 457.105 FS.

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

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULES IS: Pamela King, Executive Director, Board of Acupuncture, 4052 Bald Cypress Way, Bin C06, Tallahassee, Florida 32399.

THE FULL TEXT OF THE PROPOSED RULES IS:

#### 64B1-3.004 Acupuncture Examination.

The Board ~~currently hereby~~ approves as the Florida examination for licensure the ~~written~~ NCCAOM examination and ~~Computer Simulated Point Location Examination (CSPLE)~~. Initial applicants will apply directly to NCCAOM for examination.

~~(1) For the May and October 1999 examinations only, the Board approves both the Practical Examination of Point Location Skills (PEPLS) and the Computer Simulated Point Location Examination (CSPLE) at the election of the candidate.~~

~~(2) For May and October of 1999, the Board approves a special administration for the two parts of the former NCCAOM written examination for candidates who have failed one part of the examination and passed the other. The two parts of the examination are:~~

- ~~(a) One part on acupuncture theory, and~~
- ~~(b) One part on clean needle technique.~~

Specific Authority 456.017(1)(e), 457.104 FS. Law Implemented 456.017(1)(e), 457.104 FS. History—New 8-13-84, Amended 10-2-84, Formerly 21AA-3.04, Amended 1-25-88, 9-3-89, 2-27-92, 5-6-92, Formerly 21AA-3.004, Amended 1-27-94, Formerly 61F1-3.004, Amended 11-21-95, Formerly 59M-3.004, Amended 10-15-97, 5-11-98, 4-20-99, \_\_\_\_\_.

64B1-3.007 Examiners in Practical Examinations: Criteria for Selection.

Specific Authority 456.017(1)(c) FS. Law Implemented 456.017(1)(b) FS. History—New 8-13-84, Formerly 21AA-3.07, Amended 1-25-88, Formerly 21AA-3.007, 61F1-3.007, 59M-3.007, Repealed \_\_\_\_\_.

64B1-3.009 Licensure by Endorsement Through National Certification.

Pursuant to Section 457.105(2)(c), F.S., the Board of Acupuncture will certify for licensure by endorsement those applicants who establish successful completion of a board-approved national certification or recertification process ~~within the three years preceding the application~~, and demonstrate they meet the requirements of Sections

457.105(2)(a) and (b), F.S. The applicant must establish successful completion of a board-approved national certification process by requesting notification of certification or recertification be provided to the Board by the national certification organization. For the purpose of this requirement the Board approves the National Commission for Certification of Acupuncturist and Oriental Medicine certification.

Specific Authority 457.104 FS. Law Implemented 457.105 FS. History—New 10-1-89, Amended 2-27-92, Formerly 21AA-3.009, 61F1-3.009, Amended 3-31-96, 11-13-96, Formerly 59M-3.009, Amended 10-15-97, 4-29-99, \_\_\_\_\_.

NAME OF PERSON ORIGINATING PROPOSED RULE: Board of Acupuncture

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

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

DATE NOTICE OF PROPOSED RULE DEVELOPMENTS PUBLISHED IN FAW: August 1, 2003

## DEPARTMENT OF HEALTH

### Board of Dentistry

RULE TITLE: Dental Hygiene Examination

RULE NO.: 64B5-2.0135

PURPOSE AND EFFECT: The Board proposes the rule amendment to provide dental hygiene examination candidates the ability to assess board patients in order to screen for any significant health problems that might present potential risks during the clinical board examination.

SUMMARY: The proposed rule would allow examination candidates for the dental hygiene clinical boards under direct supervision to assess the suitability of patients as board patients.

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: 456.017, 466.004(4), 466.007 FS.

LAW IMPLEMENTED: 456.017, 466.007, 466.009(3) FS.

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

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Sue Foster, Executive Director, Board of Dentistry/MQA, 4052 Bald Cypress Way, Bin #C08, Tallahassee, Florida 32399-3258

THE FULL TEXT OF THE PROPOSED RULE IS:

64B5-2.0135 Dental Hygiene Examination.

(1) through (8) No change.

(9) Candidates for the dental hygiene state clinical boards may assess patients for suitability as board patients at any dental office under the direct supervision of a dentist, or at any accredited dental hygiene program or accredited dental school under direct supervision of a program faculty member.

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

Specific Authority 456.017, 466.004(4), 466.007 FS. Law Implemented 456.017, 466.007, 466.009(3) FS. History--New 3-16-82, Amended 5-2-84, 5-19-85, 10-8-85, 12-8-85, Formerly 21G-2.135, Amended 12-31-86, 10-19-87, 2-21-88, 5-29-88, Formerly 21G-2.0135, 61F5-2.0135, Amended 11-15-95, Formerly 59Q-2.0135, Amended 10-31-01,\_\_\_\_\_.

NAME OF PERSON ORIGINATING PROPOSED RULE: Board of Dentistry  
NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Board of Dentistry  
DATE PROPOSED RULE APPROVED BY AGENCY HEAD: September 26, 2003  
DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: May 2, 2003

**DEPARTMENT OF HEALTH**

**Board of Dentistry**

RULE TITLES: RULE NOS.:  
Temporary Certificate Requirements for Dentists Practicing in State and County Government Facilities 64B5-7.0035

Teaching Permits 64B5-7.005

PURPOSE AND EFFECT: The Board proposes the amendments to establish educational and continuing education requirements for dentists who hold a temporary certificate or a teaching permit to practice dentistry in Florida.

SUMMARY: The proposed rule amendments require dentists who hold a temporary certificate to comply with all continuing education requirements of active Florida licensees, and require dentists with teaching permits be eligible to take the Florida licensure examination and pass certain clinical examinations.

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: 466.002(6), 466.004(4) FS.

LAW IMPLEMENTED: 456.032, 466.017(4), 466.002(6), 466.025 FS.

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

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULES IS: Sue Foster, Executive Director, Board of Dentistry/MQA, 4052 Bald Cypress Way, Bin # C08, Tallahassee, Florida 32399-3258

THE FULL TEXT OF THE PROPOSED RULES IS:

64B5-7.0035 Temporary Certificate Requirements for Dentists Practicing in State and County Government Facilities.

(1) through (4) No change.

(5) A temporary certificate shall be renewed each biennium. At the time of renewal the certificate holder shall sign a statement that he or she has complied with all continuing education requirements of active licensees. A temporary certificate shall be canceled by the Board upon the unlicensed dentist being terminated from employment by a state or county government facility or upon a finding by the Board that the temporary certificate holder has violated any provision of Sections 466.027 or 466.028, F.S., or has failed the Florida dental licensure examination.

Specific Authority 466.004(4) FS. Law Implemented 456.032, 466.017(4), 466.025 FS. History--New 8-12-93, Formerly 61F5-7.0035, 59Q-7.0035, Amended 11-10-98, 3-25-99, 12-25-01,\_\_\_\_\_.

64B5-7.005 Teaching Permits.

(1) A teaching permit may be issued by the Board of Dentistry to a faculty member of a dental school accredited by the Commission on Dental Accreditation of the American Dental Association or a medical school accredited by the American Medical Association's Liaison Committee for Medical Education upon the request of the dean of the school if the faculty member:

(a) Is eligible to take the Florida dental licensure examination or hHas not failed the Florida dental licensure examination. A permit may not be issued if an applicant fails to pass the clinical examination in three attempts until he or she completes a one year general practice residency, advanced education general dentistry residency, or pedodontic residency or a minimum of one academic year of undergraduate clinical coursework in dentistry at a dental school approved by the American Dental Association's Commission on Dental Accreditation; and

(b) through (4) No change.

Specific Authority 466.002(6), 466.004(4) FS. Law Implemented 466.002(6), 466.017(4) FS. History--New 4-30-80, Amended 1-13-81, Formerly 21G-7.05, Amended 1-29-89, Formerly 21G-7.005, 61F5-7.005, Amended 10-16-96, 3-16-97, Formerly 59Q-7.005, Amended 11-10-98, 8-3-00,\_\_\_\_\_.

NAME OF PERSON ORIGINATING PROPOSED RULE: Board of Dentistry

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

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: September 26, 2003

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: May 2, 2003

**DEPARTMENT OF HEALTH**

**Board of Dentistry**

RULE TITLE: COURSES REQUIRED FOR INITIAL LICENSURE, RENEWAL, OR REACTIVATION RULE NO.: 64B5-12.019

PURPOSE AND EFFECT: The Board proposes the rule amendments to permit the substitution of certain continuing education courses when required courses have been completed in the immediately preceding biennium, and the required courses are taken at least every other biennium.

SUMMARY: The proposed rule amendments allow the substitution of end-of-life and palliative health care courses for required courses in HIV/AIDS and domestic violence if the required courses have been taken in the immediately preceding biennium and the licensee takes the required HIV/AIDS and domestic violence courses at least every other biennium.

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: 456.031, 456.033 FS.

LAW IMPLEMENTED: 456.013, 456.031, 456.033 FS.

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

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Sue Foster, Executive Director, Board of Dentistry/MQA, 4052 Bald Cypress Way, Bin #C08, Tallahassee, Florida 32399-3258

THE FULL TEXT OF THE PROPOSED RULE IS:

64B5-12.019 Courses Required for Initial Licensure, Renewal, or Reactivation.

(1) through (8) No change.

(9) In lieu of completing a Board approved HIV/AIDS course, a licensee who has completed such approved course in the immediately preceding biennium may complete a course in end-of-life care and palliative health care, or any other course approved under the provisions of this rule chapter, as substitute for the course so completed in the immediately preceding biennium. A Board approved HIV course must be taken no less than every other biennium for license renewal. In lieu of completing a Board approved HIV/AIDS or domestic violence course, a licensee who has completed either such approved course in the immediately preceding biennium may complete a

course in end-of-life care and palliative health care, or any other course approved under the provisions of this rule chapter, as substitute for the course so completed in the immediately preceding biennium.

(10) In lieu of completing a Board approved domestic violence course, a licensee who has completed such approved course in the immediately preceding biennium may complete a course in end-of-life care and palliative health care, or any other course approved under the provisions of this rule chapter, as substitute for the course so completed in the immediately preceding biennium. A Board approved domestic violence course must be taken no less than every other biennium for license renewal.

~~(11)~~(10) No change.

Specific Authority 456.031, 456.033 FS. Law Implemented 456.013, 456.031, 456.033 FS. History--New 1-18-89, Amended 10-28-91, 2-1-93, Formerly 21G-12.019, Amended 6-14-94, Formerly 61F5-12.019, Amended 11-15-95, 2-10-97, Formerly 59Q-12.019, Amended 10-29-00, 8-2-01, 9-27-01, 12-23-02, \_\_\_\_\_.

NAME OF PERSON ORIGINATING PROPOSED RULE: Board of Dentistry

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

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: September 26, 2003

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: May 2, 2003

**DEPARTMENT OF HEALTH**

**Board of Dentistry**

RULE TITLES: REMEDIABLE TASKS DELEGABLE TO DENTAL ASSISTANTS RULE NOS.: 64B5-16.005

REMIABLE TASKS DELEGABLE TO A DENTAL HYGIENIST 64B5-16.006

PURPOSE AND EFFECT: The Board proposes the amendments to correct the text of the recent amendment to Rule 64B5-16.005, F.A.C., and to update Rule 64B5-16.006, F.A.C., with the same language.

SUMMARY: The proposed amendments allow dental assistants under direct supervision and dental hygienists under indirect supervision who have received formal training to make impressions for study casts for the purpose of fabricating orthodontic retainers.

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: 466.004(4), 466.023, 466.024(3) FS.

LAW IMPLEMENTED: 466.023, 466.024 FS.

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

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULES IS: Sue Foster, Executive Director, Board of Dentistry/MQA, 4052 Bald Cypress Way, Bin #C08, Tallahassee, Florida 32399-3258

THE FULL TEXT OF THE PROPOSED RULES IS:

64B5-16.005 Remediable Tasks Delegable to Dental Assistants.

(1) The following remediable tasks may be performed by a dental assistant who has received formal training and who performs the tasks under direct supervision:

(a) through (s) No change.

(t) Making impressions for study casts which are being made for the purpose of fabricating ~~passive~~ orthodontic retainers.

(2) through (5) No change.

Specific Authority 466.004(4), 466.024(3) FS. Law Implemented 466.024 FS. History—New 1-18-89, Amended 11-16-89, 3-25-90, 9-5-91, 2-1-93, Formerly 21G-16.005, Amended 3-30-94, Formerly 61F5-16.005, Amended 1-9-95, 9-27-95, 6-12-97, Formerly 59Q-16.005, Amended 1-8-01,\_\_\_\_\_.

64B5-16.006 Remediable Tasks Delegable to a Dental Hygienist.

(1) No change.

(2) The following remedial tasks may be performed by a dental hygienist who has received training in these procedures in pre-licensure education or who has received formal training and who performs the tasks under indirect supervision:

(a) through (e) No change.

(f) Making impressions for study casts which are being made for the purpose of fabricating orthodontic retainers.

(3) through (5) No change.

Specific Authority 466.004, 466.023, 466.024 FS. Law Implemented 466.023, 466.024 FS. History—New 1-18-89, Amended 11-16-89, 3-25-90, 9-5-91, 2-1-93, Formerly 21G-16.006, Amended 3-30-94, Formerly 61F5-16.006, Amended 1-9-95, 6-12-97, Formerly 59Q-16.006, Amended 1-25-98, 9-9-98, 3-25-99, 4-24-00, 9-27-01,\_\_\_\_\_.

NAME OF PERSON ORIGINATING PROPOSED RULE: Board of Dentistry

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

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: September 26, 2003

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: September 19, 2003

**DEPARTMENT OF HEALTH**

**Board of Speech-Language Pathology and Audiology**

RULE TITLES:	RULE NOS.:
Educational Requirements for Assistants	64B20-4.002
On-the-Job Training, Role and Observation of Speech-Language Pathology and Audiology Assistants	64B20-4.003

PURPOSE AND EFFECT: The Board proposes to amend the requirements for certified audiology assistant licensure, and revise the level of supervision and scope of duties delegable to certified audiology assistants by audiologists.

SUMMARY: The rule revises education standards for licensure as a certified audiology assistant and revises the scope of delegable duties to certified audiology assistants. The rule revises the level of supervision required by the supervising audiologist.

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: 468.1135(4), 468.1215, 468.1125 FS.

LAW IMPLEMENTED: 468.1215, 468.1125 FS.

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

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULES IS: Pamela E. King, Executive Director, Board of Speech-Language Pathology and Audiology, 4052 Bald Cypress Way, Bin #C06, Tallahassee, Florida 32399

THE FULL TEXT OF THE PROPOSED RULES IS:

64B20-4.002 Educational Requirements for Assistants.

(1) No change.

(2) Candidates for certification as an audiology assistant shall submit to the Board an official transcript or transcripts evidencing that they have completed a minimum of 24 semester hours at an institution as described in subsection 64B20-2.002(1), F.A.C., ~~to include: Twelve (12) semester hours in courses that provide fundamental information applicable to normal human growth and development, psychology, normal development and use of speech, hearing and language or general sciences.~~

(3) No change.

Specific Authority ~~468.1125, 468.1135(4), 468.1215(3)~~ FS. Law Implemented ~~468.1125, 468.1215(4), (2)~~ FS. History—New 3-14-91, Formerly 21LL-4.002, Amended 10-12-93, Formerly 61F14-4.002, 59BB-4.002, Amended 2-14-01,\_\_\_\_\_.

(Substantial rewording of Rule 64B20-4.003 follows. See Florida Administrative Code for present text.)

64B20-4.003 On-the-Job Training, Role and Observation of Speech-Language Pathology and Audiology Assistants.

(1) A licensee who employs a speech-language pathology assistant or an audiology assistant shall provide such assistant with on-the-job training, and shall maintain responsibility for all services performed or omitted by such assistant. The licensee shall not permit the assistant to perform any service on a client unless:

(a) The licensee provides the assistant with on-the-job training for each service for which there is no available documentation of a previously acquired competency, and

(b) The assistant is clearly identified as an assistant by means of a nametag or similar identification.

(2) At a minimum, on-the-job training shall include step by step instruction and demonstration of each and every service the assistant is to perform and continuous visual observation by the licensee of the assistant's performance of such service until the licensee establishes the assistant's competency. The licensee shall maintain a record of each service indicating the activity, date, time, and location of the foregoing demonstration and observations concerning competency. The record shall be signed by both the licensee and the assistant and a copy thereof shall be provided to the assistant and shall be maintained by the supervising licensee for the duration of employment and shall be maintained by the assistant as long as the assistant is certified by the Board. A new supervising licensee shall obtain and maintain for the duration of employment, records demonstrating competency for all services performed by the assistant. Upon request of the Department or Board, the supervising licensee and the assistant shall produce the documentation of competency records required herein.

(3) The speech-language pathology or audiology licensee shall notify the Department within thirty (30) days of any changes in the roster of assistants registered under his or her name.

(4) Following the completion of on-the-job training, the speech-language pathology assistant shall engage only in those services that are planned, designed and supervised by the speech-language pathology licensee. The scope of services which a speech-language pathology assistant may provide includes:

(a) Record case history information.

(b) Screen speech, language or hearing by the use of procedures that are included in published material containing directions for administration and scoring.

(c) Implement, without diagnostic interpretation, evaluative procedures that are:

1. Planned and designed by the licensee, and

2. Included in published materials which have directions for administration and scoring.

(d) Implement treatment programs that:

1. Are planned and designed by the licensee to meet pre-established goals, and

2. Contain pre-established criteria for mastery.

(e) Record, chart, graph or otherwise display data relative to client performance.

(f) Perform clerical functions necessary to maintain clinical records.

(g) Report changes in client performance to the licensee having responsibility for that client.

(h) Prepare clinical materials.

(i) Test equipment to determine if the equipment is performing according to published specifications.

(j) Participate with the licensee in research projects, in-service training, public relations programs, or similar activities as planned, designed and directed by the licensee.

(k) Serve as an interpreter (translator) for the speech-language pathology licensee during clinical procedures.

(l) Assist in the evaluation or treatment of difficult-to-test clients.

(5) The speech-language pathology licensee shall not delegate to the speech-language pathology assistant any tasks which call for a diagnostic interpretation or put the client at physical risk. The following tasks shall not be delegated to a speech-language pathology assistant:

(a) Conducting the initial interview with the client.

(b) Performing initial testing or evaluation.

(c) Determining or discussing specific diagnoses with the client or making statements regarding prognosis or levels of proficiency.

(d) Relating or discussing with clients or consumers of services the reports from other professionals or related services unless those findings have previously been interpreted and reported by the supervising licensee.

(e) Providing any interpretation or elaboration of information that is contained in reports written by the licensee, although he or she may, upon assignment from the licensee, present information regarding clients at staffings or conferences; however, the assistant may discuss with the client or consumer specifically observed behaviors that have occurred during a treatment when they are supported by objective data.

(f) Performing any procedure where there is a risk of physical injury as a result of the procedure; specifically, the insertion of tracheoesophageal prostheses or catheter into the esophageal puncture; endoscopy; administration of barium or other substances for the assessment of swallowing; fitting or insertion of tracheal valves or instrumentation for generation of voice; and initial measurements and fitting of oral prostheses.

(g) Devising or planning treatment based upon assessment or diagnostic findings.

(h) Providing counseling to the client or to his or her family.

(i) Making referrals for additional services.

(j) Signing any document without the co-signature of the licensee.

(k) Using any title other than the Speech-Language Pathology Assistant.

(6) Following the completion of on-the-job training by the supervising audiology licensee, the audiology assistant may engage only in those services that are planned, designed, and supervised by the licensee.

(7) The audiology licensee may permit the audiology assistant to perform the following services under the direct supervision of the supervising licensee:

(a) Conduct basic hearing testing without diagnostic interpretation, including air and bone conduction thresholds and speech audiometry.

(b) Conduct impedance audiometric testing.

(c) Assist in the evaluation of difficult-to-test patients.

(d) Record case history information.

(e) Assist in conducting real ear measurements.

(f) Assist in ABR, ENG, and otoacoustic emissions testing.

(g) Report changes in client performance to the audiology licensee having responsibility for that client.

(h) Participate with the audiology licensee in research projects, in-service training, in public relations programs, or similar activities as planned, designed and directed by the audiology licensee.

(i) Assist in implementing a plan or program for management and/or treatment developed by the supervising audiology licensee.

(8) The following activities of a certified audiology assistant are permitted under the responsible supervision of the supervising audiologist without the requirement of the physical presence of a supervising audiologist:

(a) Demonstrate assistive listening devices.

(b) Test hearing aids to determine if they meet appropriate specification and/or mechanical performance.

(c) Demonstrate care and use of the hearing aid controls, battery insertion and insertion of the hearing aid or ear mold into the ear.

(d) Perform clerical functions necessary to maintain clinical records.

(e) Prepare clinical materials and where appropriate, in accordance with universal precautions.

(f) Test equipment to determine if the equipment is performing according to published specifications.

(g) Screen hearing using established criteria on a pass/fail basis, including but not limited to newborn hearing screening.

(9) The audiology licensee shall not delegate to the audiology assistant any tasks which call for a diagnostic interpretation or put the client at physical risk. The following tasks shall not be delegated to an audiology assistant:

(a) Providing diagnostic services to children below the age of five years or to other clients whose hearing impairment, medical condition, behavior or other disabling condition would preclude the use of services from anyone other than the licensed audiologist.

(b) Performing any procedure where there is a risk of physical injury as a result of the procedure; specifically, where injury to the physical structures of hearing is likely to occur.

(c) Developing a plan of care or treatment for auditory or vestibular disorders.

(10) The speech-language pathologist shall directly observe the speech-language pathology assistant's service as follows:

(a) During the first 12 months of continuous employment on at least one occasion, and if treatment is provided, a minimum of one out of every five sessions or a minimum of one session every two weeks per client.

(b) Following the first 12 months of continuous employment on at least one occasion and, if treatment is provided, a minimum of one out of every fifteen sessions or more frequently depending upon the individual client's needs.

(11) A speech-language pathology assistant who has greater than 12 months continuous employment at one site and changes employment settings shall, for the first 30 calendar days of employment within a new facility, be provided the same level of supervision/observation as required for new assistants. After the initial 30 days, with licensee certification of competency, then the assistant will be provided supervision as required for the assistant who has greater than 12 months experience.

Specific Authority 468.1125, 468.1135(4), 468.1215 FS. Law Implemented 468.1215, 468.1125(3), (4) FS. History—New 3-14-91, Formerly 21LL-4.003, 61F14-4.003, Amended 9-8-94, 8-17-95, Formerly 59BB-4.003, Amended \_\_\_\_\_.

NAME OF PERSON ORIGINATING PROPOSED RULE:  
Board of Speech-Language Pathology and Audiology

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Board of Speech-Language Pathology and Audiology

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: August 21, 2003

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: May 30, 2003 and August 1, 2003

**FISH AND WILDLIFE CONSERVATION COMMISSION**

**Freshwater Fish and Wildlife**

RULE TITLE: Specific Fish Management Area Regulations  
 RULE NO.: 68A-20.005

PURPOSE AND EFFECT: The proposed rule would open Hardee County Park Fish Management Area (FMA) to public fishing and establishes freshwater fishing regulations to effectively manage public use to provide quality freshwater fishing in this fish management area.

SUMMARY: The proposed rule, beginning January 1, 2004, would open Hardee County Park FMA to fishing. Daily bag and length limits for freshwater fish would include: catch and release for black bass, six striped bass, 20 panfish, in the aggregate, six catfish, in the aggregate, and 10 black crappie that may be 10 inches or greater in total length. Days and hours of operation and fishing quotas on specific lakes would be as designated by Hardee County. Additionally proposed rules would allow Hardee County to authorize use of cast nets to take Tilapia in certain specified Hardee County Park lakes. Other proposed regulations for fishers using Hardee County Park FMA would include: guns are prohibited, motor vehicles may be operated only on designated roads, parking areas and boat ramps with no vehicle to be parked in such a manner as to obstruct gates, fire lanes, boat ramp access or roads; all water craft would be operated at idle speed, and swimming or use of float tubes would be prohibited.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COST: Development and promulgation of this rule is not expected to exceed \$170.

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, November 19-21, 2003

PLACE: Hawk's Cay Resort, 61 Hawk's Cay Boulevard, Duck Key, Florida

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE AND STATEMENT OF ESTIMATED REGULATORY COSTS 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-20.005 Specific Fish Management Area Regulations.  
 (1) through (3) No change.

- (4) Southwest Region:
  - (a) through (t) No change.
  - (u) Hardee County Park, Hardee County – ~~All water bodies closed to fishing.~~

1. General Regulations:

- a. All fishers shall enter at the Park main entrance, the designated entry point, unless otherwise instructed.
- b. Angling from a boat and is allowed by entry pass issued by Hardee County. Angling from shore does not require an entry pass unless otherwise posted at the Park main entrance.
- c. Days and hours of operation and quotas for freshwater fishing shall be as designated by Hardee County and posted at the Park main entrance. Fishing is permitted in designated lakes only. All other lakes and restricted areas so posted are closed to public fishing. Any lake may be closed to public access by Hardee County for management purposes, or in the event that access to the lake exposes the public to danger, by posted notice at the Park main entrance.
- d. Hardee County may authorize persons to use cast nets to remove Tilapia (*Oreochromis aurea*) from specific lakes.
- e. No person shall kill or possess any black bass.
- f. Daily bag limit for sunshine bass shall be six.
- g. Daily bag limit for panfish shall be 20, in the aggregate.
- h. Daily bag limit for black crappie shall be 10. No person shall kill or possess any black crappie that is less than 10 inches in total length.
- i. Daily bag limit for catfish shall be six, in the aggregate.
- j. Fish may not be filleted, nor their head or tail fin removed, until the angler has left the Park. Disposal of fish remains within Hardee County Park is prohibited.
- k. Guns are prohibited.
- l. Motor vehicles may be operated only on designated roads, parking areas, and boat ramps.
- m. No person shall park any vehicle in a manner that obstructs a road, boat ramp, gate, or fire lane.
- n. Swimming or use of float tubes is prohibited.
- o. All watercraft shall be operated only at idle speed.

- (5) South Region:
  - (a) through (d) No change.

PROPOSED EFFECTIVE DATE: January 1, 2004

Specific Authority Art. IV, Sec. 9, Fla. Const. Law Implemented Art. IV, Sec. 9, Fla. Const. History--New 8-1-79, Amended 2-19-80, 5-19-80, 6-4-81, 9-28-81, 6-21-82, 7-1-83, 11-17-83, 7-1-84, 7-1-85, Formerly 39-20.05, Amended 2-27-86, 6-1-86, 5-10-87, 4-13-88, 7-1-89, 7-1-90, 4-11-91, 7-1-91, 7-2-92, 8-23-92, 4-20-93, 7-1-94, 8-15-95, 10-23-95, 4-1-96, 2-16-97, 6-1-97, 6-29-97, 1-1-98, 7-1-98, 11-2-98, Formerly 39-20.005, Amended 4-30-00, 7-1-00, 10-10-00, 4-1-01, 7-1-01, 10-9-01, 7-1-02, 1-1-03, 7-1-03, 1-1-04.

NAME OF PERSON ORIGINATING PROPOSED RULE:  
 Darrell L. Scovell

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

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: September 3, 2003

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: November 22, 2002  
BE ADVISED THAT THESE PROPOSED RULES MAY BE FILED FOR ADOPTION AS SOON AS POSSIBLE FOLLOWING THE COMMISSION MEETING AT WHICH THEY ARE CONSIDERED IF THE RULES ARE NOT CHANGED. IF CHANGED, THE RULES MAY BE FILED AS SOON AS POSSIBLE AFTER PUBLICATION OF A NOTICE OF CHANGE IN THE FAW.

**FISH AND WILDLIFE CONSERVATION COMMISSION**

**Freshwater Fish and Wildlife**

RULE TITLE: Taking and Disposal of Nuisance – Alligators Statewide  
RULE NO.: 68A-25.003

PURPOSE AND EFFECT: The purpose of this proposed rule amendment is to allow contracted nuisance alligator trappers to have an unlimited number of assistant trappers who could take nuisance alligators under the direct supervision of and in the immediate presence of the nuisance trapper. The nuisance alligator trapper would still be limited to three agent trappers who could take nuisance alligators independent of the nuisance trapper. The proposed rule would require assistant trappers to be licensed as alligator trapping agents under s. 372.6673, F.S.

SUMMARY: The proposed rule change would allow contracted nuisance alligator trappers to have an unlimited number of licensed assistant trappers that could take nuisance alligators in their immediate presence and under their direct supervision. These assistant trappers would be in addition to the present maximum of three agent trappers utilized by nuisance trappers.

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., 372.6672, 372.6673, 372.86, 372.921, 372.922 FS.

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, November 19-21, 2003

PLACE: Hawk’s Cay Resort, 61 Hawk’s Cay Boulevard, Duck Key, 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-25.003 Taking and Disposal of Nuisance – Alligators Statewide.

(1) through (4)(a)-(i) No change.

(j) Each nuisance-alligator trapper may have up to three alligator trapping agents, licensed under s. 372.6673, F.S. Such agents are authorized to conduct nuisance-alligator trapping activities under the direction of the nuisance-alligator trapper. Such activities may be performed by the agents in the absence of the nuisance-alligator trapper. ~~The nuisance-alligator trapper shall be held accountable for the conduct of his agents. Any confirmed misconduct may result in termination of the nuisance-alligator trapper’s contract or the revocation of the nuisance-alligator trapper’s or agents’ licenses as prescribed by Rule 68A-5.004, F.A.C.~~

(k) Each nuisance alligator trapper may have assistant trappers to assist in the taking of nuisance alligators. Assistant trappers shall be licensed as alligator trapper agents under s. 372.6673, F.S., and shall work in the direct supervision and in the immediate presence of the nuisance alligator trapper. Activities of the assistant trapper shall be limited to nuisance alligator removal on public waters.

(l) The nuisance-alligator trapper shall be held accountable for the conduct of his agents and assistant trappers. Any confirmed misconduct may result in termination of the nuisance-alligator trapper’s contract or the revocation of the nuisance-alligator trapper’s or agents’ licenses as prescribed by Rule 68A-5.004, F.A.C.

~~(m)(\*)~~ CITES tags shall remain the property of the Commission until affixed as provided herein. No person except an authorized nuisance-alligator trapper and his agents shall possess any unused CITES tag at any time, and such nuisance-alligator trapper shall insure that all CITES tags issued to him shall remain in his or his agents’ possession.

(n)(+) No change.

Specific Authority Art. IV, Sec. 9, Fla. Const. Law Implemented Art. IV, Sec. 9, Fla. Const., 372.6672, 372.6673 FS. History–New 8-1-79, Amended 10-23-79, 6-22-80, 6-4-81, 6-21-82, 7-1-85, Formerly 39-25.03, Amended 6-1-86, 12-23-87, 5-5-88, 2-14-89, 4-11-90, 4-14-92, 3-30-95, 4-1-96, Formerly 39-25.003, Amended 4-30-00, \_\_\_\_\_.

NAME OF PERSON ORIGINATING PROPOSED RULE: Lieutenant Colonel Mike Wiwi, Deputy Director, North Operations, Division of Law Enforcement, Florida Fish and Wildlife Conservation Commission, 620 South Meridian Street, Tallahassee, Florida 32399-1600, (850)488-6251



NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Colonel Julie Jones, Director, Division of Law Enforcement, Florida Fish and Wildlife Conservation Commission, 620 South Meridian Street, Tallahassee, Florida 32399-1600, (850)488-6251

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: September 5, 2003

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: November 22, 2002

BE ADVISED THAT THESE PROPOSED RULES MAY BE FILED FOR ADOPTION AS SOON AS POSSIBLE FOLLOWING THE COMMISSION MEETING AT WHICH THEY ARE CONSIDERED IF THE RULES ARE NOT CHANGED. IF CHANGED, THE RULES MAY BE FILED AS SOON AS POSSIBLE AFTER PUBLICATION OF A NOTICE OF CHANGE IN THE FAW.

**FISH AND WILDLIFE CONSERVATION COMMISSION**

**Freshwater Fish and Wildlife**

RULE TITLE: RULE NO.:

Designation of Endangered Species; Prohibitions; Permits 68A-27.003

PURPOSE AND EFFECT: The purpose of the proposed rule is to add the Miami blue (*Cyclargus [= Hemiargus] thomasi bethunebakeri*), a butterfly, to the list of endangered species, and implement regulations and permit requirements in support of the Miami blue management plan. The rule is also reorganized to separate species listed prior to and after June 23, 1999, when new listing procedures went into effect.

SUMMARY: The proposed rule adds language to list the Miami blue as an endangered species and adds language to prohibit take of Miami blue except pursuant to permit issued by the Executive Director. The rule is also reorganized to separate species listed prior to and after June 23, 1999, when new listing procedures went into effect.

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, DATE AND PLACE SHOWN BELOW:

TIME AND DATES: 8:30 a.m., each day, November 19-21, 2003

PLACE: Hawk's Cay Resort, 61 Hawk's Cay Boulevard, Duck Key, Florida

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE AND STATEMENT OF ESTIMATED REGULATORY COSTS 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-27.003 Designation of Endangered Species; Prohibitions; Permits.

(1) The following species, listed prior to June 23, 1999, are hereby declared to be endangered and shall be afforded the protective provisions specified.

(+) No person shall pursue, molest, harm, harass, capture, possess, or sell any of the endangered species included in this subsection, or parts thereof or their nests or eggs except as authorized by specific permit, permits being issued only when the permitted activity will clearly enhance the survival potential of the species.

- (a) Pillar coral (*Dendrogyra cylindrus*)
- (b) Blackmouth shiner (*Notropis melanostomus*)
- (c) Okaloosa darter (*Etheostoma okaloosae*)
- (d) Shortnose sturgeon (*Acipenser brevirostrum*)
- (e) American crocodile (*Crocodylus acutus*)
- (f) Atlantic green turtle (*Chelonia mydas mydas*)
- (g) Atlantic hawksbill turtle (*Eretmochelys imbricata imbricata*)
- (h) Atlantic ridley turtle (*Lepidochelys kempii*)
- (i) Leatherback turtle (*Dermochelys coriacea*)
- (j) Mud turtle (*Kinosternon bauri*) (lower keys population only)
- (k) Wood stork (*Mycteria americana*)
- (l) Snail kite (*Rostrhamus sociabilis plumbeus*)
- (m) Peregrine falcon (*Falco peregrinus*)
- (n) Ivory-billed woodpecker (*Campephilus principalis*)
- (o) Bachman's warbler (*Vermivora bachmanii*)
- (p) Kirtland's warbler (*Dendroica kirtlandii*)
- (q) Florida grasshopper sparrow (*Ammodramus savannarum floridanus*)
- (r) Cape Sable seaside sparrow (*Ammodramus maritimus mirabilis*)
- (s) Gray bat (*Myotis grisescens*)
- (t) Indiana bat (*Myotis sodalis*)
- (u) Florida mastiff bat (*Eumops glaucinus floridanus*)
- (v) Silver rice rat (*Oryzomys argentatus*)
- (w) Choctawhatchee beach mouse (*Peromyscus polionotus allophrys*)
- (x) Perdido Key beach mouse (*Peromyscus polionotus trissyllepsis*)
- (y) St. Andrews beach mouse (*Peromyscus polionotus peninsularis*)

- (z) Anastasia Island beach mouse (*Peromyscus polionotus phasma*)
- (aa) Key Largo cotton mouse (*Peromyscus gossypinus allapaticola*)
- (bb) Key Largo woodrat (*Neotoma floridana smalli*)
- (cc) Florida saltmarsh vole (*Microtus pennsylvanicus dukecampbelli*)
- (dd) Lower Keys marsh rabbit (*Sylvilagus palustris hefneri*)
- (ee) West Indian manatee (*Trichechus manatus*)
- (ff) Florida panther (*Felis concolor coryi*)
- (gg) Key deer (*Odocoileus virginianus clavium*). No person shall feed Key deer (*Odocoileus virginianus clavium*) by hand or by placing any food that serves to attract such species.
- (hh) Atlantic right whale (*Eubalaena glacialis*)
- (ii) Finback whale (*Balaenoptera physalus*)
- (jj) Sei whale (*Balaenoptera borealis*)
- (kk) Humpback whale (*Megaptera novaeangliae*)
- (ll) Sperm whale (*Physeter catodon*)
- (mm) Schaus' swallowtail butterfly (*Heraclides aristodemus ponceanus*)
- (nn) Stock Island tree snail (*Orthalicus reses*)

(2) The Miami blue butterfly (*Cyclargus [=Hemiargus] thomasi bethunebakeri*), listed after June 23, 1999, is hereby declared to be endangered, and shall be afforded the protective provisions specified in this subsection. No person shall take, harm, harass, possess, sell, or transport any Miami blue butterfly (*Cyclargus [= Hemiargus] thomasi bethunebakeri*), or parts thereof or their eggs, larvae or pupae except as authorized by permit from the executive director. Permits will be issued based upon whether issuance would further management plan goals and objectives. In addition to prohibitions and permit requirements in subsection (1), no person shall feed endangered species listed in this subsection by hand or by placing any food that serves to attract such species. Key deer (*Odocoileus virginianus clavium*)

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, 7-1-84, 7-1-85, Formerly 39-27.03, Amended 6-1-86, 5-10-87, 4-27-89, 9-14-93, 6-23-99, Formerly 39-27.003, Amended \_\_\_\_\_.

NAME OF PERSON ORIGINATING PROPOSED RULE:  
Timothy A. Breault  
NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Kenneth Haddad, Executive Director, Fish and Wildlife Conservation Commission, 620 South Meridian Street, Tallahassee, Florida 32399-1600  
DATE PROPOSED RULE APPROVED BY AGENCY HEAD: October 8, 2003  
DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: November 22, 2002

BE ADVISED THAT THESE PROPOSED RULES MAY BE FILED FOR ADOPTION AS SOON AS POSSIBLE FOLLOWING THE COMMISSION MEETING AT WHICH THEY ARE CONSIDERED IF THE RULES ARE NOT CHANGED. IF CHANGED, THE RULES MAY BE FILED AS SOON AS POSSIBLE AFTER PUBLICATION OF A NOTICE OF CHANGE IN THE FAW.

**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*), also sometimes called the Econfina crayfish, to the list of threatened species, and implement regulations and permit requirements in support of the Panama City crayfish management plan. A separate Notice of Proposed Rule removes the Panama City crayfish from the list of species of special concern. The rule is also reorganized to separate species listed prior to and after June 23, 1999, when new listing procedures went into effect.

SUMMARY: The proposed rule adds language to list the Panama City crayfish as a threatened species and adds language to continue the prohibition on take of Panama City crayfish unless permitted by the Executive Director to do so. The rule is also reorganized to separate species listed prior to and after June 23, 1999, when new listing procedures went into effect.

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, November 19-21, 2003

PLACE: Hawk's Cay Resort, 61 Hawk's Cay Boulevard, Duck Key, Florida

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE AND STATEMENT OF ESTIMATED REGULATORY COSTS 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 June 23, 1999, are hereby declared to be threatened, and shall be afforded the protective provisions specified.

(a) No person shall take, possess, transport, molest, harass or sell any of the threatened species included in this subsection or parts thereof or their nests or eggs except as authorized by specific permit from the Executive Director, permits being issued only for scientific or conservation purposes and only upon a showing by the applicant that the permitted activity will not have a negative impact on the survival potential of the species.

- ~~(a)1-~~ Crystal darter (*Ammocrypta asprella*)
- ~~(b)2-~~ Key silverside (*Menidia conchorum*)
- ~~(c)3-~~ Loggerhead sea turtle (*Caretta caretta*)
- ~~(d)4-~~ Blue-tailed mole skink (*Eumeces egregius lividus*)
- ~~(e)5-~~ Sand skink (*Neoseps reynoldsi*)
- ~~(f)6-~~ Big Pine Key ringneck snake (*Diadophis punctatus acricus*)
- ~~(g)7-~~ Miami black-headed snake (*Tantilla oolitica*)
- ~~(h)8-~~ Short-tailed snake (*Stilosoma extenuatum*)
- ~~(i)9-~~ Florida brown snake (*Storeria dekayi victa*) (lower keys population only)
- ~~(j)10-~~ Florida ribbon snake (*Thamnophis sauritus sackeni*) (lower keys population only)
- ~~(k)11-~~ Indigo snake (*Drymarchon corais couperi*)
- ~~(l)12-~~ Atlantic salt marsh water snake (*Nerodia fasciata taeniata*)
- ~~(m)13-~~ Bald eagle (*Haliaeetus leucocephalus*)
- ~~(n)14-~~ Southeastern kestrel (*Falco sparverius paulus*)
- ~~(o)15-~~ Crested caracara (*Polyborus plancus*)
- ~~(p)16-~~ Florida sandhill crane (*Grus canadensis pratensis*)
- ~~(q)17-~~ Roseate tern (*Sterna dougalli*)
- ~~(r)18-~~ Least tern (*Sterna albifrons*)
- ~~(s)19-~~ White-crowned pigeon (*Columba leucocephala*)
- ~~(t)20-~~ Scrub jay (*Aphelocoma coerulescens*)
- ~~(u)21-~~ Snowy plover (*Charadrius alexandrinus*)
- ~~(v)22-~~ Piping plover (*Charadrius melodus*)
- ~~(w)23-~~ Mangrove fox squirrel (*Sciurus niger avicennia*)
- ~~(x)24-~~ Florida black bear (*Ursus americanus floridanus*) (other than those found in Baker and Columbia counties or in Apalachicola National Forest or which are held in captivity under permit)
- ~~(y)25-~~ Everglades mink (*Mustela vison evergladensis*)
- ~~(z)26-~~ Southeastern beach mouse (*Peromyscus polionotus niveiventris*)

(2) The Panama City crayfish (*Procambarus econfinae*), listed after June 23, 1999, is hereby declared to be threatened, and shall be afforded the protective provisions specified in this

subsection. No person shall take, harass, possess, sell, or transport any Panama City crayfish (*Procambarus econfinae*) or parts thereof or their eggs, nests, or burrows except as authorized by permit from the executive director. Permits will be issued based upon whether issuance would further 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, Fish and Wildlife Conservation Commission, 620 South Meridian Street, Tallahassee, Florida 32399-1600

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: October 8, 2003

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: November 22, 2002

BE ADVISED THAT THESE PROPOSED RULES MAY BE FILED FOR ADOPTION AS SOON AS POSSIBLE FOLLOWING THE COMMISSION MEETING AT WHICH THEY ARE CONSIDERED IF THE RULES ARE NOT CHANGED. IF CHANGED, THE RULES MAY BE FILED AS SOON AS POSSIBLE AFTER PUBLICATION OF A NOTICE OF CHANGE IN THE FAW.

**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 remove the Panama City crayfish (*Procambarus econfinae*), previously referred to as the Econfina crayfish, from the list of species of special concern. A separate Notice of Proposed Rule adds the Panama City crayfish to the list of threatened species. SUMMARY: The proposed rule removes language listing the Panama City crayfish as a species of special concern.

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, DATE AND PLACE SHOWN BELOW:

TIME AND DATES: 8:30 a.m., each day, November 19-21, 2003

PLACE: Hawk's Cay Resort, 61 Hawk's Cay Boulevard, Duck Key, Florida

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE AND STATEMENT OF ESTIMATED REGULATORY COSTS 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) The following species are hereby declared to be of special concern, and shall be afforded the protective provisions specified.

(a) No person shall take, possess, transport, or sell any species of special concern included in this paragraph or parts thereof or their nests or eggs except as authorized by Commission regulations or by permit from the executive director or by statute or regulation of any other state agency, permits being issued upon reasonable conclusion that the permitted activity will not be detrimental to the survival potential of the species.

(b) The following species were listed prior to June 23, 1999 ~~January 1, 2001~~, and have been further categorized by the numbers in parentheses under the following criteria: (1) has a significant vulnerability to habitat modification, environmental alteration, human disturbance, or human exploitation which, in the foreseeable future, may result in its becoming a threatened species unless appropriate protective or management techniques are initiated or maintained; (2) may already meet certain criteria for designation as a threatened species but for which conclusive data are limited or lacking; (3) may occupy such an unusually vital or essential ecological niche that should it decline significantly in numbers or distribution other species would be adversely affected to a significant degree; (4) has not sufficiently recovered from past population depletion, and (5) occurs as a population either intentionally introduced or being experimentally managed to attain specific objectives, and the species of special concern prohibitions in Rule 68A-27.002, F.A.C., shall not apply to species so designated, provided that the intentional killing, attempting to kill, possession or sale of such species is prohibited.

1. Atlantic sturgeon (*Acipenser oxyrhynchus*) (1)
2. Lake Eustis pupfish (*Cyprinodon variegatus hubbsi*) (1)
3. Saltmarsh topminnow (*Fundulus jenkinsi*) (1)
4. Rivulus (*Rivulus marmoratus*) (1)
5. Southern tessellated darter (*Etheostoma olmstedi maculiceps*) (1)
6. Harlequin darter (*Etheostoma histrio*) (1)

7. Shoal bass (*Micropterus* sp.) (1, 2)
8. Suwannee bass (*Micropterus notius*) (1)
9. Key blenny (*Starksia starcki*) (1)
10. Gopher frog (*Rana areolata*) (1, 2)
11. Pine Barrens treefrog (*Hyla andersonii*) (1)
12. Florida bog frog (*Rana okaloosae*) (2)
13. Georgia blind salamander (*Haideotriton wallacei*) (1, 2)
14. Alligator snapping turtle (*Macrochelys temmincki*) (1)
15. Suwannee cooter (*Chrysemys concinna suwanniensis*) (1, 2)
16. Barbour's map turtle (*Graptemys barbouri*) (1, 2)
17. Gopher tortoise (*Gopherus polyphemus*) (1, 2, 3)
18. American alligator (*Alligator mississippiensis*) (1, 3)
19. Florida key mole skink (*Eumeces egregius egregius*) (1)
20. Red rat snake (*Elaphe guttata guttata*) (lower keys population only) (1)
21. Brown pelican (*Pelecanus occidentalis*) (1)
22. Florida pine snake (*Pituophis melanoleucus mugitus*) (2)
23. Little blue heron (*Egretta caerulea*) (1, 4)
24. Osprey (*Pandion haliaetus*) (Monroe County population only) (1, 2)
25. Black skimmer (*Rynchops niger*) (1)
26. White ibis (*Eudocimus albus*) (2)
27. Snowy egret (*Egretta thula*) (1)
28. Reddish egret (*Egretta rufescens*) (1, 4)
29. Tricolored heron (*Egretta tricolor*) (1, 4)
30. Roseate spoonbill (*Ajaia ajaja*) (1, 4)
31. Whooping crane (*Grus americana*) (5)
32. Limpkin (*Aramus guarauna*) (1)
33. American oystercatcher (*Haematopus palliatus*) (1, 2)
34. Burrowing owl (*Athene cunicularia*) (1)
35. Marian's marsh wren (*Cistothorus palustris marianae*) (1)
36. Worthington's marsh wren (*Cistothorus palustris griseus*) (1)
37. Scott's seaside sparrow (*Ammodramus maritimus peninsulae*) (1)
38. Wakulla seaside sparrow (*Ammodramus maritimus juncicolus*) (1)
39. Sherman's fox squirrel (*Sciurus niger shermani*) (1, 2)
40. Eastern chipmunk (*Tamias striatus*) (1)
41. Florida mouse (*Podomys floridanus*) (1)
42. Sherman's short-tailed shrew (*Blarina brevicauda shermanii*) (2)
43. Homosassa shrew (*Sorex longirostris eionis*) (2)
44. Sanibel Island rice rat (*Oryzomys palustris sanibelli*) (1, 2)
45. Florida tree snail (*Liguus fasciatus*) (1)

- 46. Bluenose shiner (*Ptreonotropis welaka*) (1, 2)
- 47. Black Creek crayfish (*Procambarus pictus*) (1)
- ~~48. Eeonfina crayfish (*Procambarus eeonfinae*) (1)~~
- ~~48,49.~~ Sims Sink crayfish (*Procambarus erythropros*) (1)

(2) The following species, listed after June 23, 1999 ~~January 1, 2001~~, are hereby declared to be of special concern, and shall be afforded the protective provisions specified in this subsection.

(a) Flatwoods salamander (*Ambystoma cingulatum*). 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*). 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 whether issuance would further 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, 9-29-03,

NAME OF PERSON ORIGINATING PROPOSED RULE:  
Timothy A. Breault

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Kenneth Haddad, Executive Director, Fish and Wildlife Conservation Commission, 620 South Meridian Street, Tallahassee, Florida 32399-1600

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: October 8, 2003

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: November 22, 2002

BE ADVISED THAT THESE PROPOSED RULES MAY BE FILED FOR ADOPTION AS SOON AS POSSIBLE FOLLOWING THE COMMISSION MEETING AT WHICH THEY ARE CONSIDERED IF THE RULES ARE NOT CHANGED. IF CHANGED, THE RULES MAY BE FILED AS SOON AS POSSIBLE AFTER PUBLICATION OF A NOTICE OF CHANGE IN THE FAW.

**DEPARTMENT OF FINANCIAL SERVICES**

**Division of Workers' Compensation**

RULE TITLE: Notice of Election to be Exempt

RULE NO.: 69L-6.012

PURPOSE, EFFECT AND SUMMARY: The rule is being amended to reflect amendments to Sections 440.02(15) and 440.05, Florida Statutes, contained in Chapter 2003-412, Laws of Florida. Amendments to Sections 440.02(15) and 440.05, F.A.C., delete authority for sole proprietors engaged in the construction industry, partners in partnerships engaged in the construction industry, and corporate officers who own less than 10% of the stock of a corporation engaged in the construction

industry to elect to be exempt pursuant to Section 440.05, Florida Statutes. A purpose is also to interpret by rule the status of certificates of election to be exempt issued by the Department of Financial Services prior to January 1, 2004 to certain individuals engaged in the construction industry.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS: None.

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

SPECIFIC AUTHORITY: 440.05(9), 440.591 FS.

LAW IMPLEMENTED: 440.02(15), 440.05 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: 1:30 p.m., November 13, 2003

PLACE: 104J Hartman Building, 2012 Capital Circle Southeast, Tallahassee, Florida

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Bruce Brown, Bureau Chief, Bureau of Compliance, Division of Workers' Compensation, Department of Financial Services, 200 East Gaines Street, Tallahassee, Florida 32399-4228, phone (850)488-2333

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

THE FULL TEXT OF THE PROPOSED RULE IS:

~~69L-6.012 Notice of Election to be Exempt and Revocation of Election to be Exempt by Sole Proprietors, Partners or Corporate Officers.~~

(1) Certificates of Election to be Exempt issued on or before December 31, 2003, to persons engaged in the construction industry are void after January 1, 2004, pursuant to Chapter 2003-412, Laws of Florida.

(2) Legislative changes made through Chapter 2003-412, Laws of Florida, that are effective January 1, 2004, allow only certain corporate officers engaged in the construction industry to file a Notice of Election to be Exempt and to be issued a valid Certificate of Election to be Exempt by the Department pursuant to Section 440.05, Florida Statutes. Only corporate officers who meet the conditions on the issuance of valid exemptions stated in Chapter 440, Florida Statutes, and implemented by this rule may file a Notice of Election to be Exempt. Only a business entity organized under Chapter 607 or 617, Florida Statutes, will qualify as a corporation for purposes of issuing a Certificate of Election to be Exempt to a corporate officer under this rule.

(3) Pursuant to Chapter 2003-412, Laws of Florida, Florida Statutes does not permit a sole proprietor of a sole proprietorship engaged in the construction industry or a partner in a partnership engaged in the construction industry to file a Notice of Election to be Exempt. Accordingly, the Department shall not issue a Certificate of Election to be Exempt to any sole proprietor or partner on or after January 1, 2004, because they are "employees" who are not eligible to be exempt under section 2 of Chapter 2003-412, Laws of Florida. Beginning January 1, 2004, the Department shall deny any Notice of Election to be Exempt (DWC-250) filed on the basis of the applicant being a sole proprietor of a sole proprietorship engaged in the construction industry or a partner in a partnership engaged in the construction industry.

(4) The Department shall inform the holder of a Certificate of Election to be Exempt that is rendered void pursuant to Chapter 2003-412, Laws of Florida, of the availability of, conditions on, and procedures to obtain a valid corporate officer construction exemption.

(5) The Department shall issue without additional fee a new Certificate of Election to be Exempt to a sole proprietor of a sole proprietorship engaged in the construction industry, a partner in a partnership engaged in the construction industry, or a corporate officer engaged in the construction industry who:

(a) Holds a Certificate of Election to be Exempt issued between January 1, 2002, and December 31, 2003.

(b) Is eligible for the issuance of the Certificate of Election to be Exempt under Chapter 440, Florida Statutes, as amended by Chapter 2003-412, Laws of Florida, and

(c) Files an Application for Re-Issuance of Notice of Election to be Exempt (DWC-250X) as a corporate officer of a corporation engaged in the construction industry in compliance with this rule.

(6) Any Certificate of Election to be Exempt re-issued pursuant to subsection (5) shall be valid only for the unexpired period of the prior Certificate of Election to be Exempt that was re-issued. The re-issued Certificate of Election to be Exempt shall expire on the date that the prior Certificate of Election to be Exempt would have expired.

(7) The Department shall inform an applicant who files a Notice of Election to be Exempt (DWC-250) on the basis that the applicant is a sole proprietor of a construction industry sole proprietorship or a partner in a construction industry partnership of the limitation of construction exemptions pursuant to Chapter 2003-412, Laws of Florida, and the availability of, conditions on, and procedures to obtain a valid corporate officer construction exemption.

(8)(1) Any sole proprietor or partner actively engaged in the construction industry, and any corporate officer of a construction or non-construction industry corporation, who elects to be exempt from the provisions of the workers'

compensation law (Chapter 440, Florida Statutes), shall file with the Division a Notice of Election to be Exempt (DWC250).

(9)(2) For a corporate officer engaged in the construction industry, the applicant following documentation shall be attached by the applicant to or, where appropriate, list on every Notice of Election to be Exempt (DWC250) the following:

(a) Each sole proprietor actively engaged in the construction industry shall attach a copy of the sole proprietor's Federal Income Tax Form 1040 and its accompanying Schedule C as filed by the applicant with the Internal Revenue Service (IRS) for the most recent tax year.

(b) Each partner of a partnership actively engaged in the construction industry shall attach a copy of the partner's Federal Income Tax Schedule K-1 (Form 1065), and Form 1040 and its accompanying Schedule E as filed by the applicant with the IRS for the most recent tax year.

(c) In lieu of the documents required in paragraphs (a) and (b) above, a sole proprietor or partner that is engaged in the construction industry but has not been in business long enough to provide the federal tax documentation prescribed in paragraphs (a) and (b) shall establish an intention to engage in a legitimate enterprise within the construction industry by submitting all of the following:

(a)1. A copy of any occupational license required by the jurisdiction in which the business is located or has employees engaged in performing regular work;

(b)2. A copy of any contractor licensing held by the applicant through a certification or registration issued pursuant to trade license required by the political subdivision of the State in which the work is being performed or a state license required under Chapter 489, F.S.;

3. Proof that the business has obtained a fictitious name if a fictitious name is used; and

(c)4. The A Federal Employer Identification Number issued to the corporation named by the corporate officer on the Notice of Election to be Exempt business associated with the sole proprietor or partner, applying for the exemption;

(d) The Social Security Number of the applicant; Each corporate officer shall attach, if the applicant is not listed as an officer of the corporation on the current records of the Florida Secretary of State, Division of Corporations, a notarized affidavit attesting that the applicant is a bona fide officer of the corporation and providing the date such appointment or election became or shall become effective. The statement must be signed, under oath, by both the officer and the president or chief operating officer of the corporation.

(e) The Florida Department of State, Division of Corporations, registration number of the corporation named on the Notice of Election to be Exempt;

(f) A copy of the stock certificate(s) issued to the applicant by the corporation named on the Notice of Election to be Exempt evidencing at least ten percent (10%) ownership of the named corporation by the applicant on the date that the Notice of Election to be Exempt is filed with the Department;

(g) The primary business or trade of the applicant;

(h) The applicant's corporate officer title;

(i) The corporate name, Florida Department of State, Division of Corporations, registration number, and Federal Employer Identification Number of any other corporation(s) in which the applicant has an ownership interest or serves as a corporate officer; and

(j) The corporate name, Florida Department of State, Division of Corporations, registration number, and Federal Employer Identification Number of any other corporation(s) that is under the same or substantially the same ownership or control as the corporation named on the Notice of Election to be Exempt.

(10) For a corporate officer engaged in the construction industry, if the Department's records show three active Certificates of Election to be Exempt issued to corporate officers of a corporation or of any group of affiliated corporations, the Department shall deny any Notice of Election to be Exempt that would result in more than three active Certificates of Election to be Exempt issued in the name of corporate officers of the corporation or group of affiliated corporations.

(11) For a corporate officer not engaged in the construction industry, the applicant shall attach to or, where applicable, list on every Notice of Election to be Exempt (DWC-250) the following:

(a) A copy of any occupational license required by the jurisdiction in which the business is located or has employees engaged in work;

(b) The Federal Employer Identification Number issued to the corporation named by the corporate officer on the Notice of Election to be Exempt;

(c) The Social Security Number of the applicant;

(d) The Florida Department of State, Division of Corporations, registration number of the corporation named on the Notice of Election to be Exempt;

(e) The applicant's corporate officer title; and

(f) The corporate name, Florida Department of State, Division of Corporations, registration number, and Federal Employer Identification Number of any other corporation(s) in which the applicant has an ownership interest or serves as a corporate officer.

(3) The following information may be stricken by any applicant from a Federal Income Tax Form before filing same with the Division:

(a) Identification of the spouse and dependents of the applicant, including filing status;

(b) Any W-2 income, interest and dividend income, refunds, credits, alimony received, capital gains or losses other than those associated with the applicant's business enterprise;

(c) IRA distributions, pensions, annuities, farm income, unemployment compensation, or social security benefits;

(d) Any deductions from income in order to derive adjusted gross income;

(e) Tax computation, credits, other taxes, payments, refunds or amounts owed.

(12)(4) Incomplete Applications, Duplicate Applications.

(a) An applicant shall have thirty days from the date his/her application is mailed or otherwise returned by the Division to the applicant as incomplete in which to file documentation or information which completes the application, at which time the application shall be processed without any additional processing fee.

(b) Except for an Application for Re-issuance of Notice of Election to be Exempt that has been re-issued under subsection (5) of this rule, an application filed by an applicant who has an exemption on file for the same business, which is current at the time a duplicate application is received by the Division, shall be treated as a new application. Any duplicate exemption on file shall be null and void as of the date a new exemption is issued by the Division.

(13)(5) Any sole proprietor, partner or corporate officer of a construction corporation or any corporate officer of a non-construction corporation who has been issued an exemption from the provisions of Florida's workers' compensation law (Chapter 440, Florida Statutes), may revoke such exemption by filing with the Division a Revocation of Election to be Exempt (DWC250-R).

(14)(6) Subject to the exceptions listed in subsection 440.05(5), Florida Statutes, the issue date of any exemption is the date the Certificate of Election to be Exempt is approved and saved to the Coverage Compliance Automated System database of the Department, and effective date of any revocation of exemption, for which the application or notice is complete and valid, shall be the date following the day such application or notice is postmarked; or, in the event that a postmark is not present or not legible, or the application or notice is delivered to the Division by other than U. S. mail, the date following the day such application or notice is received by the Division.

(15)(7) Notice of Election to be Exempt (DWC 250), or Revocation of Election to be Exempt (DWC 250-R), shall only be filed by an applicant on the applicant's own behalf.

(16)(8) Any application for exemption or revocation of exemption which is returned to the applicant by the Division, within thirty days after receipt by the Division as incomplete, is not "received" for purposes of Section 440.05(5), Florida Statutes.

(17) The following forms are hereby incorporated by reference:

(a) Form DWC-252, Certificate of Election to be Exempt, (revised September 2003).

(b) Form DWC-250X, Application for Re-Issuance of Notice of Election to be Exempt, revised September 2003.

(c) Form DWC-253, Re-issuance of Construction Industry Certificate of Exemption (revised September 2003).

Specific Authority 440.05(9), 440.591 FS. Law Implemented 440.02(15), 440.05, FS. History—New 5-28-91, Amended 2-15-94,12-28-97, 2-2-00, 9-6-01, Formerly 38F-6.012, 4L-6.012, Amended 3-26-03, \_\_\_\_\_.

NAME OF PERSON ORIGINATING PROPOSED RULE: Bruce Brown, Bureau Chief, Bureau of Compliance, Division of Workers' Compensation, Department of Financial Services

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Daniel Sumner, Assistant Division Director, Division of worker's Compensation, Department of Financial Services

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: October 8, 2003

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: September 5, 2003

**DEPARTMENT OF FINANCIAL SERVICES**

**Division of Workers' Compensation**

RULE TITLE: Construction Industry Classification Codes, RULE NO.:

Descriptions, and Operations 69L-6.021

PURPOSE, EFFECT AND SUMMARY: The rule is being amended to reflect amendments to Sections 440.02(8) and 440.02(15), Florida Statutes, contained in Chapter 2003-412, Laws of Florida. The amendment to Section 440.02(8), Florida Statutes, authorizes the Division of Workers' Compensation to by rule establish standard industrial classification codes and definitions thereof which meet the criteria of the term "construction industry" as set forth in Section 440.02, Florida Statutes. Amendments to Section 440.02(15), Florida Statutes, delete provisions of law that made exemptions obtained by corporate officers of a corporation actively engaged in the construction industry, and sole proprietors or partners actively engaged in the construction industry, inapplicable to work performed at commercial building projects estimated to be valued at \$250,000 or greater.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS: None.

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

SPECIFIC AUTHORITY: 440.02(8), 440.591 FS.

LAW IMPLEMENTED: Ch. 2003-412, Section 1, Laws of Florida (repealing parts of Section 440.02(15), F.S.), 440.02(8) 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: 1:30 p.m., November 13, 2002

PLACE: 104J Hartman Building, 2012 Capital Circle, Southeast, Tallahassee, Florida

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Bruce Brown, Bureau Chief, Bureau of Compliance, Division of Workers' Compensation, Department of Financial Services, 200 East Gaines Street, Tallahassee, Florida 32399-4228, phone (850)488-2333

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

THE FULL TEXT OF THE PROPOSED RULE IS:

69L-6.021 Construction Industry Classification Codes, Descriptions, and Operations Scope of Exemption.

(1) The Division adopts the classification codes and descriptions that are specified in the Florida Contracting Classification Premium Adjustment Program, and published in the Florida exception pages of the National Council on Compensation Insurance, Inc. (NCCI), Basic Manual (1996 ed., issued Jan.1, 2003). For convenience, the Division lists here the classification codes and descriptions that are published in the Florida exception pages of the Basic Manual and adopted in this Rule. For work performed at a commercial building project estimated to be valued at \$250,000 or greater, the Division shall utilize the contracting classifications eligible for the Florida Contracting Classification Premium Adjustment Program (FCCPAP) included in the Florida exception pages of the National Council on Compensation Insurance, Inc.'s Basic Manual — 1996 Edition — Florida, with Revisions Effective Prior to January 1, 2001, to determine whether a workers' compensation exemption issued pursuant to Section 440.05, F.S., is applicable.

~~(a) For any person whose activities are included under a contracting classification identified in this rule, the exemption is not applicable for work performed at a commercial building project estimated to be valued at \$250,000 or greater.~~

~~(b) For any person whose activities are not included under a contracting classification identified in this rule, the exemption is applicable, including for work performed at a commercial building project estimated to be valued at \$250,000 or greater.~~

~~(c) The contracting classifications identified in this rule are as follows:~~



1.	0042	Landscape Gardening and Drivers	35.	5474	Painting or Paperhanging NOC and Shop Operations, Drivers
2.	0050	Farm Machinery Operation – By Contractor and Drivers	36.	5478	Carpet, Linoleum, Vinyl, Asphalt, or Rubber Floor Title Installation
3.	1322	Oil or Gas Well: Cleaning or Swabbing of Old Wells Having Previously Produced Gas or Oil – By Contractor – No Drilling – and Drivers	37.	5479	Insulation Work NOC and Drivers
4.	3365	Welding or Cutting NOC and Drivers	38.	5480	Plastering NOC and Drivers
5.	3719	Oil Still Erection or Repair	39.	5491	Paperhanging and Drivers
6.	3724	Machinery or Equipment Erection or Repair NOC and Drivers	40.	5506	Street or Road Construction: Paving or Repaving and Drivers
7.	3726	Boiler Installation or Repair – Steam	41.	5507	Street or Road Construction: Subsurface Work and Drivers
8.	5020	Ceiling Installation – Suspended Acoustical Grid Type	42.	5508	Street or Road Construction: Rock Excavation and Drivers
9.	5022	Masonry NOC	43.	5509	Street or Road Maintenance, County or State Department – and Drivers
10.	5037	Painting: Metal Structures – Over Two Stories in Height – and Drivers	44.	5536	Heating and Air Conditioning Duct Work – Shop and Outside – and Drivers
11.	5040	Iron or Steel: Erection – Frame Structures	45.	5538	Sheet Metal Work – Shop and Outside – NOC and Drivers
12.	5057	Iron or Steel: Erection NOC	46.	5551	Roofing – All kinds and Yard Employees, Drivers
13.	5059	Iron or Steel: Erection – Frame Structures Not Over Two Stories in Height	47.	5606	Contractor – Executive Supervisor or Construction Superintendent
14.	5069	Iron or Steel: Erection – Construction of Dwellings Not Over Two Stories in Height	48.	5610	Cleaner – Debris Removal
15.	5102	Door, Door Frame or Sash Erection – Metal or Metal Covered	49.	5613	Cleaner – Debris Removal – Temporary Labor Service
16.	5146	Furniture or Fixtures Installation – Portable – NOC	50.	5645	Carpentry – Detached One or Two Family Dwellings
17.	5160	Elevator Erection or Repair	51.	5651	Carpentry – Dwellings – Three Stories or Less
18.	5183	Plumbing NOC and Drivers	52.	5703	Building Raising or Moving and Drivers
19.	5188	Automatic Sprinkler Installation and Drivers	53.	5705	Salvage Operation – No Wrecking or Any Structural Operations
20.	5190	Electrical Wiring – Within Buildings and Drivers	54.	6003	Pile Driving
21.	5213	Concrete Construction NOC	55.	6005	Jetty or Breakwater Construction – All Operations to Completion and Drivers
22.	5215	Concrete Work – Incidental to the Construction of Private Residence	56.	6017	Dam or Lock Construction: Concrete Work – All Operations
23.	5221	Concrete or Cement Work – Floors, Driveways, Yards, and Sidewalks – and Drivers.	57.	6018	Dam or Lock Construction: Earth Moving or Placing – All Operations
24.	5222	Concrete Construction in Connection with Bridges or Culverts	58.	6045	Levee Construction – All Operations to Completion and Drivers
25.	5223	Swimming Pool Construction – Not Iron or Steel – and Drivers	59.	6204	Drilling NOC and Drivers
26.	5348	Stone, Mosaic or Terrazzo or Ceramic Tile Work – Inside	60.	6206	Oil or Gas Well: Cementing and Drivers
27.	5402	Hothouse Erection – All Operations	61.	6213	Oil or Gas Well: Specialty Tool Operation NOC – By Contractor – All Employees and Drivers
28.	5403	Carpentry NOC	62.	6214	Oil or Gas Well: Perforating of Casing – All Employees and Drivers
29.	5437	Carpentry – Installation of Cabinet Work or Interior Trim	63.	6216	Oil or Gas Lease Work NOC – By Contractor and Drivers
30.	5443	Lathing and Drivers	64.	6217	Excavation and Drivers
31.	5445	Wallboard Installation Within Buildings and Drivers	65.	6229	Irrigation or Draining System Construction and Drivers
32.	5462	Glazier – Away From Shop and Drivers	66.	6233	Oil or Gas Pipeline Construction and Drivers
33.	5472	Asbestos Contractor – Pipe and Boiler Work Exclusively and Drivers	67.	6235	Oil or Gas Well: Drilling or Redrilling and Drivers
34.	5473	Asbestos Contractor – NOC and Drivers			

- 68. 6236 Oil or Gas Well: Installation or Recovery of Casing and Drivers
- 69. 6237 Oil or Gas Well: Instrument Logging or Survey Work and Drivers
- 70. 6251 Tunneling – Not Pneumatic – All Operations
- 71. 6252 Shaft Sinking – All Operations
- 72. 6260 Tunneling – Pneumatic – All Operations
- 73. 6306 Sewer Construction – All Operations and Drivers
- 74. 6319 Gas Main or Connection Construction and Drivers
- 75. 6325 Conduit Construction – For Cable or Wires – and Drivers
- 76. 6400 Fence Erection – Metal
- 77. 7538 Electric Light or Power Line Construction and Drivers
- 78. 7601 Telephone, Telegraph or Fire Alarm Construction and Drivers
- 79. 7605 Burglar Alarm Installation or Repair and Drivers
- 80. 7611 Telephone or Cable TV Line Installation – Contractors, Underground and Drivers
- 81. 7612 Telephone or Cable TV Line Installation – Contractors, Overhead, and Drivers
- 82. 7613 Telephone or Cable TV Line Installation – Contractors, Service Lines and Connections and Drivers
- 83. 7855 Railroad Construction: Laying or Relaying of Tracks or Maintenance of Way By Contractor – No Work On Elevated Railroads – and Drivers
- 84. 8227 Construction or Erection – Permanent Yard
- 85. 9534 Mobile Crane and Hoisting Service Contractors – NOC – All Operations – Including Yard Employees and Drivers.
- 86. 9554 Sign Installation, Maintenance, Repair, Removal, or Replacement NOC & Drivers

NAME OF PERSON ORIGINATING PROPOSED RULE: Bruce Brown, Bureau Chief, Bureau of Compliance, Division of Workers' Compensation, Department of Financial Services  
 NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Daniel Sumner, Assistant Division Director, Division of Workers' Compensation, Department of Financial Services  
 DATE PROPOSED RULE APPROVED BY AGENCY HEAD: October 8, 2003  
 DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: September 5, 2003

**Section III**  
**Notices of Changes, Corrections and Withdrawals**

**DEPARTMENT OF BANKING AND FINANCE**

**Division of Securities and Finance**

RULE NO.: 3E-600.0132                      RULE TITLE: Sales of Certificates of Deposit  
 NOTICE OF WITHDRAWAL

Notice is hereby given that the above rule, as noticed in Vol. 28, No. 40, October 4, 2002, has been withdrawn.

**DEPARTMENT OF INSURANCE**

RULE NO.: 4-154.202                      RULE TITLE: Definitions  
 NOTICE OF CHANGE

Notice is hereby given that the following changes have been made to the proposed rule in accordance with subparagraph 120.54(3)(d)1., F.S., published in Vol. 29, No. 37, September 12, 2003, of the Florida Administrative Weekly. These changes are being made to address concerns expressed at the public hearing.

Amended Subsection (19) is added to Rule 4-154.202, F.A.C., to read:

(19) Unearned Premium Reserve.

(a) This reserve values that portion of the premium paid or due to the insurer which is applicable to the period of coverage extending beyond the valuation date. Thus if an annual premium of \$120 was paid on November 1, \$20 would be earned as of December 31 and the remaining \$100 would be unearned. The unearned premium reserve shall be on a gross basis as in this example, or on a valuation net premium basis. The reserve for a policy which provides for the return of unearned premium in the event of termination shall be on a gross basis.

(b) Single premium credit disability insurance, both individual and group, is excluded from this definition of unearned premium reserve.

The remainder of the rule reads as previously published.

(2) The Division adopts the definitions published by NCCI, SCOPES of Basic Manual Classifications (Jan. 2003) that correspond to the classification codes and descriptions adopted in subsection (1), above. The definitions identify the workplace operations that satisfy the criteria of the term "construction industry" as used in the workers' compensation law. The Florida exception pages of the National Council on Compensation Insurance, Inc.'s Basic Manual are herein incorporated by reference.

(3) This Rule shall take effect January 1, 2004. However, the provisions of subsection (1) limiting the use of workers' compensation exemptions at commercial building projects valued at \$250,000 or greater were repealed by virtue of the enactment of Section 1 of Ch. 2003-412, Laws of Florida, effective July 15, 2003.

Specific Authority 440.591, 440.02(8) FS. Law Implemented Ch. 2003-412, § 1, Laws of Florida (repealing parts of § 440.02(15), FS) 440.02(8) 440.02(14)(b)2., 440.02(14)(c)2., 440.02(14)(d)1., 440.05 FS. History--New 10-21-02, Formerly 4L-6.021, Amended \_\_\_\_\_.