

Stone Crab Appeals Board and in conjunction with changes to Rule Chapter 68B-24, F.A.C., and an identical change for stone crabs. The effect of this effort will be to allow lobster trap harvesters 6-7 more weeks to accomplish transfers.

SUBJECT AREA TO BE ADDRESSED: Transfer time window for the spiny lobster trap certificate program.

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

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

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

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

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

THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS:

68E-18.002 Definitions.

(1) through (18) No change.

(19) "Transfer period" means that period of time when individuals holding trap certificates can transfer their certificates to another individual's certificate allocation. The transfer time shall begin June 15 be coincident with the first placement of traps for the regular lobster season (currently August 1) and end ending midnight March 1.

(20) through (21) No change.

Specific Authority Art IV, Sec. 9, Fla. Const. Law Implemented Art IV, Sec. 9, Fla. Const. History--New 5-16-95, Formerly 62R-18.002, Amended 7-1-01, 4-11-04, _____.

68E-18.005 Transfer of Certificates.

(1) Trap certificates shall only be transferred by the Commission during the June 15-March 1 ~~August 1-March 1~~ transfer period designated in Rule 68E-18.002, F.A.C.

(2) through (10) No change.

Specific Authority Art IV, Sec. 9, Fla. Const. Law Implemented Art IV, Sec. 9, Fla. Const. History--New 5-16-95, Amended 4-7-99, Formerly 62R-18.005, Amended 7-1-01, _____.

Section II Proposed Rules

DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES

Division of Food Safety

RULE TITLE: RULE NO.:

General Requirements for the Manufacturing,
Processing, Packing Holding and
Retailing of Foods 5K-4.004

PURPOSE AND EFFECT: The purpose of Rule 5K-4.004, F.A.C., is to promote food safety, and to notify consumers, food retailers, wholesalers or transporters, regarding health and safety concerns of consuming or selling dietary supplements containing ephedrine alkaloids.

SUMMARY: This is a rule stating clearly that dietary supplements containing ephedrine alkaloids present an unreasonable risk of illness or injury under conditions of use as suggested on the labeling, and are therefore determined to be adulterated under Chapter 500 of the Florida Statutes. This is a rule that very closely mimics a Federal rule recently promulgated by the FDA; the primary difference being that it references appropriate sections in Florida law rather than Federal law for the guidelines for adulteration. Risk from Ephedra consumption has been considered extensively by the FDA, with published reports of over 150 deaths associated with its use, and the Department believes it is a substance that should not be allowed in dietary supplements or any other foods.

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

Any person who wishes to provide a proposal for a lower cost alternative must do so within 21 days of this notice.

SPECIFIC AUTHORITY: 500.09, 500.12, 570.07(23) FS.

LAW IMPLEMENTED: 500.09, 500.12(2)(b) FS.

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

TIME AND DATE: 10:00 a.m., May 27, 2004

PLACE: George Eyster Auditorium, 3125 Conner Blvd., Tallahassee, Florida, (850)488-3951

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Dr. J. D. Warren, Department of Agriculture and Consumer Services, Room 185, 3125 Conner Blvd., Tallahassee, Florida 32399-1650

THE FULL TEXT OF THE PROPOSED RULE IS:

5K-4.004 General Requirements for the Manufacturing, Processing, Packing, Holding and Retailing of Foods.

The provisions of subsections (1) through ~~(7)~~(6) shall apply in determining whether the facilities, methods, practices and controls used in the manufacture, processing, packing, holding, retailing or offering for sale of foods are in conformance with or are operated or administered in conformity with this rule to assure that food for human consumption is safe.

(1) through (6) No change.

(7) DIETARY SUPPLEMENTS CONTAINING EPHEDRINE ALKALOIDS. Dietary supplements containing ephedrine alkaloids present an unreasonable risk of illness or injury to health under conditions of use recommended or suggested in the labeling, or if no conditions of use are recommended or suggested in the labeling, under ordinary conditions of use. Therefore ephedrine alkaloids are deleterious substances, and dietary supplements containing ephedrine alkaloids are adulterated under Section 500.10, F.S.

~~(8)~~(7) EXCLUSIONS. The following operations are excluded from coverage under these general regulations; however, the department will issue special regulations when believed necessary to cover these excluded operations: Establishments engaged solely in the harvesting, storage, or distribution of one or more raw agricultural commodities which are ordinarily cleaned, prepared, treated or otherwise processed before being marketed to the consuming public.

~~(9)~~(8) REVIEW OF PLANS BY THE DEPARTMENT.

(a) An Applicant or holder of a food permit may request assistance from the department in the review of construction or remodeling plans to evaluate conformance with requirements as established in this chapter.

(b) The fee for plan review assistance will be determined by multiplying the number of reviewer hours expended in reviewing plans and in consulting with the applicant, at the rate of \$30.10 per hour. An additional flat fee of \$25.00 per plan review will be charged for associated expense costs such as FAX, telephone, mailing, shipping or document duplication expenditures incurred by the department. Time expended shall be recorded in quarter hour increments with a minimum charge of one hour per plan review.

Payment for plan review assistance is due 15 days from the date of invoice from the department.

Specific Authority 500.09, 500.12, 570.07(23) FS. Law Implemented 500.02, 500.03, 500.023, 500.121, 500.172, 500.04, 500.10, 500.13, 500.09, 500.12(2)(b) FS. History—Revised 3-1-72, Repromulgated 12-31-74, Amended 1-18-83, Formerly 5E-6.04, 5E-6.004, Amended 9-30-96.

NAME OF PERSON ORIGINATING PROPOSED RULE: Dr. Marion F. Aller, Director, Division of Food Safety

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Dr. J. D. Warren, Assistant Director, Division of Food Safety

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: March 16, 2004

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: March 26, 2004

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.”

WATER MANAGEMENT DISTRICTS

South Florida Water Management District

RULE TITLE: Forms and Instructions

RULE NO.: 40E-1.659

PURPOSE AND EFFECT: To update, revise and correct forms incorporated by reference, to delete unnecessary information, to adopt mitigation bank financial assurance forms, and to delete a form that is obsolete.

SUMMARY: The forms which the South Florida Water Management District (SFWMD) uses in dealing with the public concerning environmental resource, water use, and well construction permitting are incorporated by reference in Florida Administrative Code Rule 40E-1.659(1), as required by Section 120.55(1)(a)4., Florida Statutes. The South Florida Water Management District proposes to adopt Mitigation Bank Financial Assurance forms; to delete Form 0938 (Mitigation Construction Commencement Notice); to amend the title of Form No. 0050A (Application to the South Florida Water Management District for a Permit for Utilization of District Works and Modification of Existing Permit Works of the District No.); and to amend Form Numbers: 0123 (Well Construction Permit Application), 0483 (Request for Environmental Resource, Surface Water Management, Water Use or Wetland Resource Permit Transfer), 0889 (Certification of Waiver of Permit Application Processing Fee), 0920 (Request for Conversion of Environmental Resource/Surface Water Management Permit from Construction Phase to Operation Phase and Transfer of Permit to the Operating Entity), 0960 (Environmental Resource/Surface Water Management Permit Construction Commencement Notice), and 0961 (Environmental Resource/Surface Water Management Permit Annual Status Report for Surface Water Management System Construction).

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

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

SPECIFIC AUTHORITY: 120.53, 373.044, 373.113 FS.
 LAW IMPLEMENTED: 120.53, 373.113 FS.
 IF REQUESTED WITHIN 21 DAYS OF THE DATE OF THIS NOTICE, A PUBLIC HEARING WILL BE NOTICED IN THE FAW. (IF NOT REQUESTED, A HEARING WILL NOT BE HELD).

The procedure for requesting a hearing is governed by Florida Administrative Code subsection 28-103.004(2), F.A.C., as follows: a request for a public hearing must be in writing and filed with the District Clerk during normal business hours, at the address below, within 21 days of publication of this notice. The request must specify how the requestor would be affected by the proposed rule. Any affected person who fails to timely file a request for hearing waives the right to request a hearing on the proposed rule.

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

THE PROPOSED FORMS ARE AVAILABLE ON THE DISTRICT'S WEBSITE AT: http://www.sfwmd.gov/org/reg/news/erp_rulemaking/erp_rulemaking.htm

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Ralph Fanson, South Florida Water Management District, Post Office Box 24680, West Palm Beach, FL 33416-4680, 1(800)432-2045, Extension 6921 or (561)682-6921, internet: rfanson@sfwmd.gov. For procedural issues – Jan Sluth, Paralegal, Office of Counsel, South Florida Water Management District, Post Office Box 24680, West Palm Beach, FL 33416-4680, 1(800)432-2045, Extension 6299 or (561)682-6299, internet: jsluth@sfwmd.gov

THE FULL TEXT OF THE PROPOSED RULE IS:

40E-1.659 Forms and Instructions.

(1) The following forms and instructions are hereby incorporated by reference into this chapter:

Form No.	Date	Title
0050A	7-89	Application to the South Florida Water Management District for a Permit for Utilization of District Works or and Modification of Existing Permit Works of the District No.
0108	3-91	Application for Release of Mineral, Canal, and Road Reservations Reserved Under Chapters 6456, 6957, 7305, 9131, 14717 and 20658, Laws of Florida

0113	8-95	Surface Water Management Permit No.
0115	8-95	Surface Water Management Permit Modification No.
0119	8-95	Wetland Resource Permit No.
0122	4-93	Application to the South Florida Water Management District for Authority to Utilize Works or Land of the District
0123	4-95 12-01	Well Construction Permit Application
0124	11-90	Well Completion Report
0145	8-95	Environmental Resource Permit No.
0157	8-95	Environmental Resource Permit Modification No.
0188-QMQ	8-03	Quarterly Report of Withdrawals
0188-MDQ	8-03	Monthly Report of Daily Withdrawals
0188-QASR	8-03	Quarterly Report of Injections and Withdrawals for Aquifer Storage and Recovery (ASR) Wells
0188-QMON	8-03	Quarterly Report of Monitoring Requirements
0188-QMQF	8-03	Quarterly Report of Withdrawals from Wells and Surface Water Pumps
0188-QCROP	8-03	Report of Planting and Harvest of Seasonal Crops
0188-QBWDR	8-03	Quarterly Report of Bulk Water Delivered and Received
0195	6-91	Public Water Supply Well Information and Classification
0196	10-89	Water Well Inspection Scheduling Card
0299	1-90	Water Use Permit No.
0444	8-95	Application for a Standard General Permit for Incidental Site Activities
0445	8-03	Mining/Dewatering Permit Application (RC-1A, RC-1W, RC-1G)
0483	8-95	Request for Environmental Resource, Surface Water Management, Water Use, or Wetland Resource Permit Transfer
0645-W01	8-03	Water Use Permit Application (RC-1A, RC-1W, RC-1G)
0645-G60	8-03	Table A Descriptions of Wells
0645-G61-1	8-03	Table B Description of Surface Water Pumps
0645-G61-2	8-03	Table C Description of Culverts
0645-G65	8-03	Table D Crop Information

0645-G74	8-03	Table E Water Received From or Distributed to Other Entities	0971	8-95	Joint Application for Environmental Resource Permit/Authorization to Use State Owned Submerged Lands/Federal Dredge and Fill Permit
0645-G69	8-03	Table F Past Water Use & Table G Projected Water Use			
0645-G70	8-03	Table H Projected Water Use (For Per Capita Greater than 200 GPD)	0972	8-95	Petition for a Formal Wetland and Surface Water Determination
0645-G71	8-03	Table I Water Treatment Method and Losses	0973	8-95	Above Ground Impoundment Inspection/Certification Report
0645-G72	8-03	Table J Aquifer Storage and Recovery	0974	8-95	Notice of Intent to Construct a Minor Silvicultural System
0645-G73	8-03	Table K Water Supply System Interconnections	0980	8-95	Notice of Intent to Use a Noticed General Environmental Resource Permit
0779	5-92	Guidance for Preparing an Application for a “Works of the District” Permit in the Everglades /Application for a Works of the District Permit	<u>1019</u>	_____	<u>Mitigation Bank Performance Bond to Demonstrate Construction /Implementation Financial Assurance</u>
0830	4-94	Special Use Application and License	<u>1020</u>	_____	<u>Mitigation Bank Irrevocable Letter of Credit to Demonstrate Construction/Implementation Financial Assurance</u>
0881A	9-03	Environmental Resource/Surface Water Management Permit Construction Completion Certification	<u>1021</u>	_____	<u>Mitigation Bank Standby Trust Fund Agreement to Demonstrate Construction/Implementation Financial Assurance</u>
0881B	9-03	Environmental Resource/Surface Water Management Permit Construction Completion Certification – For Projects Permitted Prior to October 3, 1995	<u>1022</u>	_____	<u>Mitigation Bank Trust Fund Agreement To Demonstrate Construction/Implementation Financial Assurance</u>
0889	8-95	Certification of Waiver of Permit Application Processing Fee			
0920	8-95	Request for Conversion of District Environmental Resource/Surface Water Management Permit from Construction Phase to Operation Phase and Transfer of Permit to the Operating Entity	<u>1023</u>		<u>Mitigation Bank Trust Fund Agreement to Demonstrate Perpetual Management Financial Assurance</u>
0938	8-95	Mitigation Construction Commencement Notice			<u>Mitigation Bank Standby Trust Fund Agreement to Demonstrate Perpetual Management Financial Assurance</u>
0941	8-95	Environmental Resource Standard /Noticed General Permit No.	1105	6-02	Performance Bond to Demonstrate Financial Assurance
0942	8-95	Surface Water Management General Permit No.	1106	6-02	Irrevocable Letter of Credit to Demonstrate Financial Assurance
0960	8-95	Environmental Resource/Surface Water Management Permit Construction Commencement Notice	1109	8-03	Water Use General Permit
0961	8-95	Environmental Resource/Surface Water Management Permit Annual Status Report for Surface Water Management System Construction			
0970	8-95	Applicant Transmittal Form for Requested Additional Information			

(2) The forms and instructions listed in subsection (1) are available without cost from the following District Service Centers upon request:

- (a) Florida Keys Service Center, 80431 Old Hwy., Islamorada, FL 33036;
- (b) Ft. Myers Service Center, 2301 McGregor Blvd., Ft. Myers, FL 33901;
- (c) Okeechobee Service Center, 205 North Parrott Ave., Suite 201, P. O. Box 2033, Okeechobee, FL 34973-2033;

(d) Orlando Service Center, 1707 Orlando Central Parkway, Suite 200, Orlando, FL 32809;

(e) Miami/Dade Regional Service Center, 172A W. Flagler Street, Miami, FL 33130;

(f) Big Cypress Basin, 6089 Janes Lane, Naples, FL 34109; and

(g) West Palm Beach Service Center, 3301 Gun Club Road, West Palm Beach, FL 33406.

Specific Authority 120.53, 373.044, 373.113 FS. Law Implemented 120.53, 373.113 FS. History—New 9-3-81, Amended 12-1-82, 3-9-83, Formerly 16K-1.90, Amended 7-26-87, 11-21-89, 1-4-93, Formerly 40E-1.901, Amended 5-11-93, 4-20-94, 10-3-95, 6-26-02, 8-14-02, 8-31-03, 9-16-03,

NAME OF PERSON ORIGINATING PROPOSED RULE: Terrie Bates, Director, Environmental Resource Regulation Department, Water Resources

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

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: April 14, 2004

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: February 27, 2004

WATER MANAGEMENT DISTRICTS

South Florida Water Management District

RULE TITLE: Publications, Rules and Interagency

RULE NO.:

Agreements Incorporated by Reference 40E-4.091

PURPOSE AND EFFECT: To amend the "Basis of Review for Environmental Resource Permit Applications Within the South Florida Water Management District" incorporated by reference in Rule 40E-4.091, F.A.C., to include references to forms that are proposed to be adopted and incorporated by reference in Rule 40E-1.659, F.A.C.

SUMMARY: The proposed amendments to the "Basis of Review for Environmental Resource Permit Applications Within the South Florida Water Management District" incorporated by reference in Rule 40E-4.091, F.A.C., will include references to Mitigation Bank Financial Assurance forms that are proposed to be adopted and incorporated by reference in Rule 40E-1.659, F.A.C.

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

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

SPECIFIC AUTHORITY: 373.044, 373.113, 373.171, 373.413 FS.

LAW IMPLEMENTED: 373.413, 373.4135, 373.414, 373.4142, 373.416, 373.418, 373.421, 373.426 FS.

IF REQUESTED WITHIN 21 DAYS OF THE DATE OF THIS NOTICE, A PUBLIC HEARING WILL BE SCHEDULED AND ANNOUNCED IN THE FAW (IF NOT REQUESTED, A HEARING WILL NOT BE HELD):

The procedure for requesting a hearing is governed by Rule 28-103.004(2), F.A.C., as follows: a request for a public hearing must be in writing and filed with the District Clerk during normal business hours, at the address below, within 21 days of publication of this notice. The request must specify how the requestor would be affected by the proposed rule. Any affected person who fails to timely file a request for hearing waives the right to request a hearing on the proposed rule.

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

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Ralph Fanson, South Florida Water Management District, Post Office Box 24680, West Palm Beach, FL 33416-4680, 1(800)432-2045, Extension 6921 or (561)682-6921, internet: rfanson@sfwmd.gov For procedural issues – Jan Sluth, Paralegal, Office of Counsel, South Florida Water Management District, Post Office Box 24680, West Palm Beach, FL 33416-4680, 1(800)432-2045, Extension 6299 or (561)682-6299, internet: jsluth@sfwmd.gov

THE FULL TEXT OF THE PROPOSED RULE IS:

40E-4.091 Publications, Rules and Interagency Agreements Incorporated by Reference.

(1) The following publications, rules and interagency agreements are incorporated by reference into this chapter, Chapters 40E-40, 40E-41 and 40E-400, F.A.C.:

(a) "Basis of Review for Environmental Resource Permit Applications Within the South Florida Water Management District – September 2003"

(b) through (k) No change.

(2) No change.

Specific Authority 373.044, 373.113, 373.171, 373.413 FS. Law Implemented 373.413, 373.4135, 373.414, 373.4142, 373.416, 373.418, 373.421, 373.426 FS. History—New 9-3-81, Amended 1-31-82, 12-1-82, Formerly 16K-4.035(1), Amended 5-1-86, 7-1-86, 3-24-87, 4-14-87, 4-21-88, 11-21-89, 11-15-92, 1-23-94, 4-20-94, 10-3-95, 1-7-97, 12-3-98, 5-28-00, 8-16-00, 1-17-01, 7-19-01, 6-26-02, 4-6-03, 4-14-03, 9-16-03, _____.

(The following represents proposed changes to the document entitled "Basis of Review for Environmental Resource Permit Applications Within the South Florida Water Management District – September 2003" incorporated by reference in Rule 40E-4.091, F.A.C.)

4.3.7.6 Financial Responsibility Mechanisms

Financial responsibility for the mitigation, monitoring and corrective action for the project may be established by any of the following methods, at the discretion of the applicant, and in substantial conformance with the forms referenced below:

(a) Performance bond (See Form No. 1105, incorporated by reference in Rule 40E-1.659, F.A.C.);

(b) Irrevocable letter of credit (See Form No. 1106, incorporated by reference in Rule 40E-1.659, F.A.C.);

4.4.4.7 Draft documentation of financial responsibility meeting the requirements of section 4.4.10, and in substantial conformance with the Mitigation Bank Financial Assurance Form Nos. 1019-1024, incorporated by reference in Rule 40E-1.659, F.A.C.

NAME OF PERSON ORIGINATING PROPOSED RULE:
Terrie Bates, Director, Environmental Resource Regulation Department, Water Resources

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

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: April 14, 2004

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: February 27, 2004

AGENCY FOR HEALTH CARE ADMINISTRATION

Medicaid

RULE TITLE: Early Intervention Services

RULE NO.: 59G-4.085

PURPOSE AND EFFECT: The purpose of this rule amendment is to incorporate by reference the Florida Medicaid Early Intervention Services Coverage and Limitations Handbook, October 2003. The effect will be to incorporate by reference in the rule the current Florida Medicaid Early Intervention Services Coverage and Limitations Handbook. The rule text references the Florida Medicaid Provider Reimbursement Handbook, CMS-1500, as being incorporated by reference in Rule 59G-4.001, F.A.C.

SUMMARY: This proposed rule would incorporate by reference the current Florida Medicaid Early Intervention Services Coverage and Limitations Handbook.

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

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

SPECIFIC AUTHORITY: 409.919 FS.

LAW IMPLEMENTED: 409.905, 409.908 FS.

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

TIME AND DATE: 8:30 a.m., May 24, 2004

PLACE: 2727 Ft. Knox Blvd., Bldg. 3, Conference Room D, Tallahassee, Florida

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Gail Connolly, Medicaid Services, 2727 Mahan Drive, Building 3, Mail Stop 20, Tallahassee, Florida 32308-5407, (850)922-7319

THE FULL TEXT OF THE PROPOSED RULE IS:

59G-4.085 Early Intervention Services.

(1) This rule applies to all Early Intervention Services providers enrolled in the Medicaid program.

(2) All Early Intervention Services providers enrolled in the Medicaid program must be in compliance ~~comply~~ with the Florida Medicaid Early Intervention Services Coverage and Limitations Handbook, October 2003 ~~February 1999~~, incorporated by reference, and the Florida Medicaid Provider Reimbursement Handbook, CMS HCFA-1500, ~~and Child Health Check-Up 221~~, which is incorporated by reference in Rule 59G-4.001 ~~59G-5.020~~, F.A.C. Both handbooks are available from the Medicaid fiscal agent.

Specific Authority 409.919 FS. Law Implemented 409.905, 409.908 FS. History—New 2-1-94, 4-30-00, Amended.

NAME OF PERSON ORIGINATING PROPOSED RULE:
Gail Connolly

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Rhonda M. Medows, M.D., FAAFP, Secretary

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: April 8, 2004

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

AGENCY FOR HEALTH CARE ADMINISTRATION

Medicaid

RULE TITLE: Hearing Services

RULE NO.: 59G-4.110

PURPOSE AND EFFECT: The purpose of the proposed rule amendment is to incorporate by reference the revised Florida Medicaid Hearing Services Coverage and Limitations Handbook, January 2004. The effect will be to incorporate by reference in the rule the current Florida Medicaid Hearing Services Coverage and Limitations Handbook, January 2004.

SUMMARY: The purpose of this rule amendment is to incorporate by reference in the rule the revised Florida Medicaid Hearing Services Coverage and Limitations Handbook, January 2004. The coverage and limitations handbook revisions include global HIPAA language, modifications in procedure code and claim form combinations due to HIPAA, policy to reflect new procedure codes, and an updated fee schedule effective January 2004.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COST: No statement of 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: 409.919 FS.

LAW IMPLEMENTED: 409.906, 409.907, 409.908 FS.

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

TIME AND DATE: 1:00 p.m., Monday, May 24, 2004

PLACE: Agency for Health Care Administration, 2727 Mahan Drive, Building #3, Conference Room C, Tallahassee, Florida
 THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Ouida Mazzoccoli, Agency for Health Care Administration, Bureau of Medicaid Services, 2727 Mahan Drive, MS 20, Tallahassee, Florida 32308, (850)922-7351

THE FULL TEXT OF THE PROPOSED RULE IS:

59G-4.110 Hearing Services.

(1) No change.

(2) All physicians, audiologists and hearing aid specialists ~~hearing services providers~~ enrolled in the Medicaid program must be in compliance with the provisions of the Florida Medicaid Hearing Services Coverage and Limitations Handbook, January 2004 ~~March 2003~~, which is incorporated by reference, and the Florida Medicaid Provider Reimbursement Handbook, CMS HCFA-1500 and Child Health Check Up 221, which is incorporated by reference in Rule 59G-4.001 ~~59G-5.020~~, F.A.C. Both handbooks are available from the Medicaid fiscal agent.

Specific Authority 409.919 FS. Law Implemented 409.906, 409.907, 409.908 FS. History—New 8-3-80, Amended 7-21-83, Formerly 10C-7.522, Amended 4-13-93, Formerly 10C-7.0522, Amended 12-21-97, 10-13-98, 5-7-00, 7-5-01, 2-20-03, 8-5-03, _____.

NAME OF PERSON ORIGINATING PROPOSED RULE: Ouida Mazzoccoli

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Mary Pat Moore, Interim Secretary

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: April 1, 2004

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: February 6, 2004

AGENCY FOR HEALTH CARE ADMINISTRATION

Medicaid

RULE TITLE: Physician Assistant Services

RULE NO.: 59G-4.231

PURPOSE AND EFFECT: The purpose of the proposed rule amendment is to incorporate by reference the revised Florida Medicaid Physician Assistant Services Coverage and Limitations Handbook, January 2004. The effect will be to incorporate by reference in the rule the current Florida Medicaid Physician Assistant Services Coverage and Limitations Handbook, January 2004.

SUMMARY: The purpose of this rule amendment is to incorporate by reference in the rule the revised Florida Medicaid Physician Assistant Services Coverage and Limitations Handbook, January 2004. The coverage and limitations handbook revisions include global HIPAA language, modifications in procedure code and claim form combinations due to HIPAA, policy to reflect new physician assistant procedure codes, and updated fee schedules effective January 2004.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COST: No statement of 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: 409.919 FS.

LAW IMPLEMENTED: 409.906, 409.907, 409.908, 409.9081 FS.

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

TIME AND DATE: 9:00 a.m. – 11:00 a.m., May 25, 2004

PLACE: Agency for Health Care Administration, 2727 Mahan Drive, Building #3, Conference Room C, Tallahassee, Florida
 THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Lynne Metz, Agency for Health Care Administration, Bureau of Medicaid Services, 2727 Mahan Drive, MS 20, Tallahassee, Florida 32308, (850)922-7325

THE FULL TEXT OF THE PROPOSED RULE IS:

59G-4.231 Physician Assistant Services.

(1) No change.

(2) All physician assistant services providers enrolled in the Medicaid program must be in compliance with the Florida Medicaid Physician Assistant Services Coverage and Limitations Handbook, January 2004 ~~March 2003~~, which is incorporated by reference, and the Florida Medicaid Provider Reimbursement Handbook, CMS HCFA-1500 and Child Health Check-Up 221, which is incorporated by reference in Rule 59G-4.001 ~~59G-5.020~~, F.A.C. Both handbooks are available from the Medicaid fiscal agent.

Specific Authority 409.919 FS. Law Implemented 409.906, 409.907, 409.908, 409.9081 FS. History--New 8-21-95, Amended 5-28-96, 3-11-98, 10-13-98, 8-9-99, 4-23-00, 8-5-01, 2-20-03, 8-5-03,_____.

NAME OF PERSON ORIGINATING PROPOSED RULE: Lynne Metz

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Mary Pat Moore, Interim Secretary
DATE PROPOSED RULE APPROVED BY AGENCY HEAD: March 23, 2004

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: February 6, 2004

AGENCY FOR HEALTH CARE ADMINISTRATION

Medicaid

RULE TITLE: Registered Nurse First Assistant Services
RULE NO.: 59G-4.270

PURPOSE AND EFFECT: The purpose of this rule amendment is to incorporate by reference the revised Florida Medicaid Registered Nurse First Assistant Services Coverage and Limitations Handbook, January 2004. The effect will be to incorporate by reference in the rule the Florida Medicaid Registered Nurse First Assistant Services Coverage and Limitations Handbook, January 2004.

SUMMARY: The purpose of this rule amendment is to incorporate by reference the revised Florida Medicaid Registered Nurse First Assistant Services Coverage and Limitations Handbook, January 2004. The handbook revisions include the federal Health Insurance Portability and Accountability Act (HIPAA) requirements and an updated fee schedule.

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

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

SPECIFIC AUTHORITY: 409.919 FS.

LAW IMPLEMENTED: 409.902 409.905, 409.908 409.9081 FS.

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

TIME AND DATE: 9:00 a.m. – 11:00 a.m., May 25, 2004

PLACE: 2727 Ft. Knox Blvd., Building 3, Conference Room C, Tallahassee, Florida

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Madeleine Nobles, Medicaid Services, 2727 Mahan Drive, Building 3, Mail Stop 20, Tallahassee, Florida 32308, (850)922-7326

THE FULL TEXT OF THE PROPOSED RULE IS:

59G-4.270 Registered Nurse First Assistant Services.

(1) No change.

(2) All registered nurse first assistant services providers enrolled in the Medicaid program must be in compliance with the Florida Medicaid Registered Nurse First Assistant Services Coverage and Limitations Handbook, January 2004 ~~March 2003~~, which is incorporated by reference, and the Florida Medicaid Provider Reimbursement Handbook, CMS HCFA 1500 and Child Health Check-Up 221, which is incorporated by reference in Rule 59G-4.001 ~~59G-5.020~~, F.A.C. Both handbooks are available from the Medicaid fiscal agent.

Specific Authority 409.919 FS. Law Implemented 409.902 ~~409.905~~, 409.906, 409.908, 409.9081 FS. History--New 3-11-98, Amended 10-13-98, 5-24-99, 4-23-00, 7-5-01, 2-20-03, 8-5-03,_____.

NAME OF PERSON ORIGINATING PROPOSED RULE: Madeleine Nobles

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Mary Pat Moore, Interim Secretary
DATE PROPOSED RULE APPROVED BY AGENCY HEAD: April 19, 2004

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: February 6, 2004

DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION

Board of Veterinary Medicine

RULE TITLE: Continuing Education Standards
RULE NO.: 61G18-16.003

PURPOSE AND EFFECT: The Board proposes to add language to address Board meetings and The Registry of Approved Continuing Education Courses (RACE).

SUMMARY: A rule will be amended to add language to address Board meetings and The Registry of Approved Continuing Education Courses (RACE).

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: 474.206, 474.211, 474.212 FS.

LAW IMPLEMENTED: 474.211, 474.212 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: , Juanita Chastain, Executive Director, Board of Veterinary Medicine, 1940 North Monroe Street, Tallahassee, Florida 32399-0750

THE FULL TEXT OF THE PROPOSED RULE IS:

61G18-16.003 Continuing Education Standards.

(1) No change.

(2) Approved courses are scientific and continuing education courses provided by:

(a) National, State and International veterinary association meetings and Board meetings.

(b) Board Certified Specialties recognized by the AVMA

(c) University of Florida, College of Veterinary Medicine sponsored courses, including clinical grand rounds, veterinary resident's seminars and Board specialty review sessions.

(d) The Registry of Approved Continuing Education Courses (RACE).

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

Specific Authority 474.206, 474.211, 474.212 FS. Law Implemented 474.211, 474.212 FS. History--New 12-10-81, Amended 8-15-84, 5-7-85, Formerly 21X-16.03, Amended 10-14-86, 3-26-90, Formerly 21X-16.003, Amended 8-18-94, 2-6-95, 7-4-95, 12-30-97, _____.

NAME OF PERSON ORIGINATING PROPOSED RULE: Board of Veterinary Medicine

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

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: March 2, 2004

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: March 26, 2004

DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION

Board of Veterinary Medicine

RULE TITLE: Standards for Providers of Continuing Veterinary Medical Education
RULE NO.: 61G18-16.0035

PURPOSE AND EFFECT: The Board proposes to add language to address registration of providers and Board approval.

SUMMARY: A rule will be amended to add language to address registration of providers and Board Approval.

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: 474.206, 474.211, 474.212 FS.

LAW IMPLEMENTED: 474.211, 474.212 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: Juanita Chastain, Executive Director, Board of Veterinary Medicine, 1940 North Monroe Street, Tallahassee, Florida 32399-0750

THE FULL TEXT OF THE PROPOSED RULE IS:

61G18-16.0035 Standards for Providers of Continuing Veterinary Medical Education.

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

(4) Providers must be registered with and approved by the Board. Such Board approval must be renewed by the Provider every four years.

Specific Authority 474.206, 474.211, 474.212 FS. Law Implemented 474.211, 474.212 FS. History--New 5-19-96, Amended 9-24-96, _____.

NAME OF PERSON ORIGINATING PROPOSED RULE: Board of Veterinary Medicine

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

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: March 2, 2004

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: March 26, 2004

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 Chiropractic Medicine

RULE TITLE: Continuing Education During Initial Licensure Period
RULE NO.: 64B2-13.007

PURPOSE AND EFFECT: The Board proposes to update the existing rule text.

SUMMARY: The Board specifies that practitioners are required to obtain five additional continuing education hours through board meeting attendance during the first 12 months after initial licensure.

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

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

SPECIFIC AUTHORITY: 456.013(6), 460.405, 460.408 FS.

LAW IMPLEMENTED: 456.013(6), 460.408 FS.

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

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

THE FULL TEXT OF THE PROPOSED RULE IS:

64B2-13.007 Continuing Education During Initial Licensure Period.

During the first 12 months after initial licensure ~~initial biennium of licensure~~, practitioners are required to obtain five hours of continuing education in the subject area of risk management by attending one full day or 8 hours at a Florida Board of Chiropractic Medicine meeting at which disciplinary hearings are conducted as provided in subsection 64B2-13.004(8), F.A.C. Once the hours required by Rule 64B2-13.0045, F.A.C, have been met, licensed practitioners shall not be required to complete any other continuing education requirements during the biennium in which they receive initial licensure.

Specific Authority 456.013(6), 460.405, 460.408 FS. Law Implemented 456.013(6), 460.408 FS. History—New 1-25-88, Formerly 21D-13.007, 61F2-13.007, 59N-13.007, Amended 11-13-01, 5-4-03, _____.

NAME OF PERSON ORIGINATING PROPOSED RULE: Board of Chiropractic Medicine

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

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: February 27, 2004

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: April 2, 2004

DEPARTMENT OF HEALTH

Board of Clinical Laboratory Personnel

RULE TITLE:	RULE NO.:
Curriculum Requirements for Clinical Laboratory Personnel Training Programs	64B3-3.003

PURPOSE AND EFFECT: The Board proposes to add new language to the existing rule text.

SUMMARY: The Board is adding curriculum requirements for embryology and andrology technician or technologist level programs to include: maintenance and use of instrumentation, isolation principles and techniques, culture techniques and principles, specimen handling, and quality control.

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

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

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

LAW IMPLEMENTED: 483.800, 483.809, 483.811 FS.

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

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

THE FULL TEXT OF THE PROPOSED RULE IS:

64B3-3.003 Curriculum Requirements for Clinical Laboratory Personnel Training Programs.

(1) No change.

(2) All programs not accredited by the National Accrediting Agency for Clinical Laboratory Science (NAACLS), the Council on Accreditation of Allied Health Education Programs (CAAHEP), or the Accrediting Bureau of Health Education Schools (ABHES) except for those in the categories of cytology, cytogenetics, ~~or~~ histocompatibility, embryology or andrology shall adopt the curriculum standards defined in the Florida Department of Education Program Standards as designated in Section 229.565, F.S., for the categories in which training occurs as follows:

(a) through (d) No change.

(3) through (6) No change.

(7) For the category of embryology, technician or technologist level programs shall at a minimum include instruction in the following competencies:

(a) Maintenance and use of instrumentation utilized in the embryology laboratory.

(b) Principles and techniques for isolating specimens.

(c) Appropriate culture techniques of specimens including principles of culture techniques.

(d) Appropriate handling of specimens.

(e) Quality control and quality assurance.

(8) For the category of andrology, technician or technologist level programs shall at a minimum include instruction in the following competencies:

(a) Maintenance and use of instrumentation utilized in the category of andrology testing.

(b) Principles and techniques for isolation specimens.

(c) Appropriate culture techniques of specimens including principles of culture techniques.

(d) Appropriate handling of specimens.

(e) Quality control and quality assurance.

(7) through (8) renumbered (9) through (10) No change.

Specific Authority 483.805(4), 483.811(2) FS. Law Implemented 483.800, 483.809, 483.811 FS. History–New 5-9-95, Amended 12-4-95, 4-24-96, Formerly 590-3.003, Amended 3-19-98, 9-20-98, 1-11-99, 10-30-02, _____.

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

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

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: January 23, 2004

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: February 13, 2004

DEPARTMENT OF HEALTH

Board of Medicine

RULE TITLE: Requirements for Approval of Training Courses for Laser and Light-Based Hair Removal or Reduction

RULE NO.:

64B8-52.004

PURPOSE AND EFFECT: The Board proposes the rule amendments to require the compliance of continuing education providers with paragraph 64B8-51.006(3)(g), F.A.C., and also to establish the number of hours of hands-on instruction of laser and light-based devices.

SUMMARY: The proposed rule amendments require continuing education provider applicants to submit a copy of the facility’s license and the most recent Department of Health inspection sheet; also, to require that at least five (5) hours of a 30-hour instruction course consist of hands-on experience.

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: 478.43 FS.

LAW IMPLEMENTED: 478.42(5), 478.43(3), 478.50 FS.

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

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Kaye Howerton, Executive Director, Electrolysis Council, Board of Medicine/MQA, 4052 Bald Cypress Way, Bin #C05, Tallahassee, Florida 32399-3255

THE FULL TEXT OF THE PROPOSED RULE IS:

64B8-52.004 Requirements for Approval of Training Courses for Laser and Light-Based Hair Removal or Reduction.

The Electrolysis Council will approve laser and light-based hair removal or reduction continuing education training courses upon application if the following requirements are met:

(1) Continuing education providers seeking initial approval by the Council shall pay a fee of \$250, and shall complete and submit to the Council the application form entitled “Application for Laser and Light Based Hair Removal or Reduction Continuing Education Provider”, form DOH/MQA/EO/LASER/CEU/07/23/01, which is hereby incorporated by reference and became effective July 23, 2001, copies of which may be obtained from the Council office. Continuing education providers seeking renewal of provider status shall also pay a \$250 fee each biennium. To receive Council approval, a continuing education program:

(a) No change.

(b) Shall have its sponsor submit to the Council at least the following:

1. through 5. No change.

6. A copy of the electrology facility license and the most recent Department of Health inspection sheet from the location where the continuing education training course is offered demonstrating compliance with paragraph 64B8-51.006(3)(g), F.A.C.

(2) The course consists of thirty (30) hours of instruction, which may include 15 hours of home-study didactic training, in the use of laser and light-based hair removal or reduction devices, including:

(a) through (v) No change.

(w) At least five (5) hours of hHands-on experience with laser and light-based devices to include hair removal or reduction from all areas of the body.

Specific Authority 478.43 FS. Law Implemented 478.42(5), 478.43(3), 478.50 FS. History–New 10-3-00, Amended 12-24-01, 12-26-02, _____.

NAME OF PERSON ORIGINATING PROPOSED RULE:
Board of Medicine

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

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: February 7, 2004 and April 3, 2004

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: January 30, 2004

DEPARTMENT OF HEALTH

Florida Clean Indoor Air Act

RULE TITLES:	RULE NOS.:
Procedures to be Followed by Department of Health (DOH) Personnel When Investigating Florida Clean Indoor Air Act (FCIAA) Complaints and Notifying Alleged Violators	64E-25.001
On-Site Investigations of Enclosed Indoor Workplaces	64E-25.002
DOH Procedures for Responding to Complaints and Complaint Referrals Involving Enclosed Indoor Workplaces	64E-25.003
Minimum Standards for Assessing Fines by DOH Personnel Against an Enclosed Indoor Workplace Found to be in Violation of the Florida Clean Indoor Air Act	64E-25.004
Smoking Cessation Program Designations	64E-25.005
Definitions	64E-25.006

PURPOSE AND EFFECT: To amend current rule and to implement statutory provisions relating to Chapter 386, Florida Statutes.

SUMMARY: The proposed rule conforms to 2003 legislative changes to Chapter 386, Florida Statutes, which prohibits smoking in enclosed indoor workplaces, with specific exceptions.

STATEMENT OF ESTIMATED REGULATORY COSTS: None 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: 386.2125, 386.207 FS.

LAW IMPLEMENTED: 381.0012, 386.206, 386.207 FS.

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

TIME AND DATE: 1:30 p.m., Monday, May 24, 2004

PLACE: Tampa Airport Marriott, Tampa International Airport, Tampa, Florida

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULES IS: Donna Arnold, Program Specialist, Department of Health, 4052 Bald Cypress Way, Bin #C23, Tallahassee, Florida 32399-1743, (850)245-4281, 1(800)337-3742, email: Donna_Arnold@doh.state.fl.us, Fax (850)414-7497

THE FULL TEXT OF THE PROPOSED RULES IS:

64E-25.001 Procedures to be Followed by Department of Health (DOH) ~~DOH~~ Personnel When Investigating Florida Clean Indoor Air Act (FCIAA) Complaints and Notifying Alleged Violators.

(1) During inspections, DOH environmental health personnel shall document all observed violations of the Florida Clean Indoor Air Act (FCIAA) according to the requirements of Chapter 64E-25, F.A.C.

(2) Upon completion of the on-site inspection, DOH environmental health personnel ~~shall will~~ complete the required sections of the Request for Inspection Form, DH 1026, 11/03, 4/97; a copy of which may be obtained from the Department of Health, Division of Health Awareness and Tobacco, Bureau of Facility Programs, 4052 Bald Cypress Way, Bin C23, A08, Tallahassee, FL 32399-1743, 4710, and which is incorporated herein by reference, reporting that:

(a) The enclosed indoor workplace facility is not in compliance with the FCIAA and at the request of the proprietor or other person in charge of the enclosed indoor workplace, an extension from the initial 21 30 days given from receipt of the noncompliance letter, ~~and upon request of the facility~~, shall ~~should~~ be granted, or

(b) The enclosed indoor workplace facility is not in compliance with the FCIAA and administrative proceedings shall ~~should~~ be initiated, or

(c) ~~There were no violations of the FCIAA found~~ The facility is in compliance with FCIAA and the case shall ~~should~~ be closed.

(3) The county health department director or administrator will forward the completed inspection form to the Division of Health Awareness and Tobacco, Bureau of Facility Programs, 4052 Bald Cypress Way, Bin #C23, A08, Tallahassee, FL 32399-1743 4710.

(4) Upon receipt of the county health department ~~director's report~~, the Division of Health Awareness and Tobacco shall ~~Bureau of Facility Programs will~~:

(a) Grant an extension, at the ~~based upon~~ request of the proprietor or other person in charge of the enclosed indoor workplace ~~from facility~~ to the environmental health inspector during initial inspection, ~~in~~ which facility indicates such person's willingness to correct observed violation(s) ~~violations~~ and meet compliance within 7 days of the next inspection. A follow-up inspection will occur within 7 days. Should observed violation(s) ~~violations~~ continue to not be found in the follow-up ~~corrected within 7 days of the next~~ inspection, an administrative penalty shall be assessed in accordance with Chapter 120, F.S., and Rule 64E-25.004, F.A.C., or

(b) Initiate administrative proceedings according to the provisions of Chapter 120, F.S., or

(c) Close the case.

Specific Authority 386.207, 386.2125 FS. Law Implemented 381.0012, ~~386.205, 386.206, 386.207~~ FS. History-New 2-27-94, Amended 4-2-96, Formerly 10D-105.008, 64D-1.001, Amended 11-5-02, _____.

64E-25.002 On-Site Investigations of Enclosed Indoor Workplaces Public Places.

During inspections or investigations of any Florida Clean Indoor Air Act (FCIAA) complaint, DOH environmental health personnel shall document all observed violation(s) violations of Section ~~386.205 or~~ 386.206, F.S. Such violations include the following:

(1) The proprietor or other person in charge of an enclosed indoor workplace shall develop a policy regarding the prohibition of smoking in an enclosed indoor workplace. Such policy must include a prohibition of smoking in the enclosed indoor workplace. In any workplace where there are smokers and nonsmokers, employers shall develop a policy with regard to the designation of smoking areas. Should there be no written policy, a violation of Section 386.206(2), 386.205 (3), F.S., exists and shall will be documented as: "Failure to develop a smoking policy regarding smoking prohibition ~~smoking and nonsmoking areas.~~"

(2) The proprietor or other person in charge of an enclosed indoor workplace shall implement a policy regarding smoking prohibition. Employers are required to implement a written smoking policy. If persons employees are observed violating the a workplace policy, a violation of Section 386.206(2) 386.205(3), F.S., exists and shall will be documented as: "Failure to implement a ~~an existing smoking~~ policy regarding smoking prohibition."

(3) The proprietor or other person in charge of an enclosed indoor workplace where a smoking cessation program, medical research, or scientific research is conducted shall conspicuously post, or cause to be posted, signs designating areas where smoking is permitted for such purposes within the enclosed indoor workplace. If such signs are not posted then a violation of Section 386.206(4), F.S., exists and will be documented as: "Failure to post signs designating smoking permitted areas."

(3) Should a smoking policy exist for a workplace but not be posted, a violation of Section 386.205(3), F.S., exists and will be documented as "Failure to post a smoking policy."

(4) The proprietor or other person in charge of an enclosed indoor workplace where, prior to the adoption of section 20, Art. X of the State Constitution was required to post signs under Section 386.206, F.S., shall continue to post signs stating that smoking is prohibited within the enclosed indoor workplace. If such signs are not posted then a violation of Section 386.206(1), F.S., exists and shall be documented as: "Failure to post smoking prohibited signs."

(4) If one or more workers assigned to a common work area does not consent to smoking being permitted in that common work area, then that area can not be designated as a smoking area. If a smoking area is designated in a common work area over the objections of any worker assigned to work

in that area, then a violation of Section 386.205(3), F.S., exists and will be documented as: "Common work area designated as smoking area without employee consent."

(5) ~~If smoking is allowed in a classroom, laboratory, library, faculty office, administrative office, dining facility or any other building owned or leased by any public or private college, school, day care facility or other educational facility then a violation of Section 386.205(2)(a), F.S., exists and will be documented as "Smoking permitted or designated in a prohibited area."~~

(6) ~~If more than one half of the total square footage of any public place or any enclosed indoor area of a public place used for a common purpose as defined by Section 386.202 and 386.205, F.S., is designated as smoking permitted areas then a violation of Section 386.205(4), F.S., exists and will be documented as "More than one half total square footage of a public place is designated as a smoking area."~~

(7) ~~If smoking is allowed anywhere in a mass transit terminal concourse, then a violation of Section 386.205, F.S., exists and shall be documented as: "Smoking permitted or designated in a prohibited area."~~

(8) ~~If smoking is allowed anywhere in an enclosed shopping mall concourse, then a violation of Section 386.205, F.S., exists and shall be documented as "Smoking permitted or designated in a prohibited area."~~

(9) ~~If smoking is permitted in a patient's room in a hospital, nursing home, or other health care facility without the permission from the primary attending physician and without full consent by all patients assigned to that room, then a violation of Section 386.205(2)(a), F.S., exists and will be documented as: "Smoking permitted in a patient's room without permission from attending physician and full consent from all patients assigned to that room."~~

(10) ~~If smoking is permitted in more than one half of the rooms in a hospital, nursing home, or other health care facility then a violation of Section 386.205(2)(b), F.S., exists and will be documented as: "More than one half of the rooms in a health care facility is designated as smoking."~~

(11) ~~If smoking is allowed in an enclosed shopping mall food court and is not specifically regulated by the Department of Business and Professional Regulation, then a violation of Section 386.205, F.S., exists and shall be documented as: "Smoking permitted or designated in a prohibited area."~~

(12) ~~If smoking is allowed in common areas (Section 386.203(6), F.S.) of a public place then a violation of Section 386.205(2)(a), F.S. exists and will be documented as: "Smoking areas designated in common areas expected to be used by the public."~~

Specific Authority 386.207, 386.2125 FS. Law Implemented 386.205-386.206, 386.207 FS. History—New 2-27-94, Amended 2-19-96, 4-2-96. Formerly 10D-105.009, Formerly 64D-1.002, Amended 11-5-02,_____.

64E-25.003 DOH Procedures for Responding to Complaints and Complaint Referrals Involving Enclosed Indoor Workplaces ~~Public Places~~.

(1) To report a violation of the Florida Clean Indoor Air Act, the public may call the FCIAA office at 1(800)337-3742 or correspond via email at DHAT_Tobaccocomplaint@doh.state.fl.us ~~http://www9.myflorida.com/environment/facility/feiaa/feiaareq.htm~~. If mailing a complaint, the FCIAA program office will need the following information: Name of enclosed indoor workplace ~~public place~~ (where violation is occurring), mailing address, city, and zip code, nature of violation(s), and if possible, the name of the person in charge. Mail to the Division of Health Awareness and Tobacco, Bureau of Facility Programs, 4052 Bald Cypress Way, Bin C23, A08, Tallahassee, FL 32399-1743 ~~32399-1710~~.

(2) In responding to complaints concerning alleged violations of Section ~~386.205~~ or 386.206, F.S., in an enclosed indoor workplace ~~public places~~ not inspected by the Department of Business and Professional Regulation (DBPR), ~~DBPR~~, DOH personnel ~~shall~~ will, by certified mail:

(a) Issue a letter of noncompliance to the proprietor or other person in charge of the enclosed indoor workplace ~~affected public place~~ indicating that alleged complaints have been received.

(b) Describe the specific violation(s) ~~violations~~ that pertain to that enclosed indoor workplace ~~public place~~.

(c) Describe the remedial action needed.

(d) Require a written response and a copy of the ~~current~~ smoking policy regarding smoking prohibition within 21 ~~thirty~~ days of receipt of the notice.

(3) Should the proprietor or other person in charge fail to respond within 21 ~~30~~ days of the receipt of the notice or should the department receive an additional complaint thereafter, the Division of Health Awareness and Tobacco shall ~~Bureau of Facility Programs will~~:

(a) Identify the violation(s) that is ~~violations which are~~ reported to have occurred by completing a Request for Inspection Form.

(b) Forward the Request For Inspection Form to the county health department director or administrator in the county where the violation(s) was ~~violations were~~ reported.

(4) Request that county health department personnel conduct an inspection of the enclosed indoor workplace premises alleged to be in violation within 30 days of receipt of the Request For Inspection Form following the inspection guidelines delineated in Section 64E-25.002, F.A.C.

Specific Authority 386.207, 386.2125 FS. Law Implemented 381.0012, 386.205, 386.206, 386.207 FS. History—New 2-27-94, Amended 4-2-96, Formerly 10D-105.010, 64D-1.003, Amended 11-5-02, _____.

64E-25.004 Minimum Standards for Assessing Fines by DOH Personnel Against an Enclosed Indoor Workplace ~~Public Places~~ Found to be in Violation of the Florida Clean Indoor Air Act.

When the proprietor or other person in charge of an enclosed indoor workplace ~~a public place~~ has been notified of observed violation(s) upon receipt of the department's noncompliance letter ~~violations~~ and has failed to correct the violation(s), ~~those violations~~, the department shall assess fines in accordance with the following fine schedule and the provisions of Chapter 120, Florida Statutes. ~~The minimum standards for assessing penalties are as follows:~~

	First Offense	Second Offense	Third Offense
Smoking permitted or designated in prohibited area:	\$250.00	\$500.00	\$1000.00
Smoking permitted in a patient's room without permission from attending physician and consent of all patients assigned to that room:	\$100.00	\$200.00	\$500.00
More than one-half of the rooms in a health care facility is designated as smoking:	\$75.00	\$150.00	\$300.00
Failure to develop a no smoking policy:	\$250.00	\$500.00	\$1000.00
Failure to implement a no smoking policy:	\$75.00	\$150.00	\$300.00
Failure to post a smoking policy:	\$75.00	\$150.00	\$300.00
Smoking permitted or designated in a common work area without employee consent:	\$100.00	\$300.00	\$500.00
More than one-half the total square footage of a public place is designated as a smoking area:	\$100.00	\$300.00	\$500.00
Smoking area designated in common areas expected to be used by the public:			
"Designated Smoking Area"	\$250.00	\$500.00	\$1000.00
or "Smoking Permitted"	\$75.00	\$150.00	\$300.00
signs not posted in designated areas of an enclosed indoor workplace where a smoking cessation program, medical research, or scientific research is conducted:			
"Smoking prohibited"	\$250.00	\$500.00	\$1000.00
signs not posted.			

Specific Authority 420.535, 381.0012, 381.0025, 381.0064, 386.207, 386.2125 FS. Law Implemented 381.0012, 386.205, 386.206, 386.207 FS. History—New 2-27-94, Amended 4-2-96, Formerly 10D-105.012, 64D-1.004, Amended

64E-25.005 Smoking Cessation Program Designations.

(1) If a smoking cessation program is conducted within an enclosed indoor workplace and requires smoking during its sessions, the department must approve the program in order to permit smoking within an enclosed indoor workplace.

(2) Those smoking cessation programs, which desire to seek such approval, must apply to the department and comply with the following requirements:

(a) The program provides a minimum of four sessions. Sessions may be conducted with individuals or groups. These sessions shall include the following topics:

- 1. Establishing reasons for quitting;
- 2. Various techniques for quitting and remaining a non-smoker;
- 3. Overcoming the problems of quitting, i.e. withdrawal symptoms;
- 4. Short-term goal setting;
- 5. Setting a quit date; and
- 6. Relapse prevention information.

(b) The program operates under a written program or service outline. This outline shall include:

- 1. Overview of the program or service;
- 2. Objectives and key topics covered;
- 3. General counseling strategies; and
- 4. Clearly stated process of evaluation.

(c) The program employs counselors who have training and experience in smoking cessation.

(d) The program utilizes an evaluation process as set out in a written program or service outline.

(e) If smoking is permitted in any area, the area must be designated as such and comply with signage requirements under s. 386.206(4), F.S.

(f) Such designated areas must exhaust tobacco smoke directly to the outside and away from air intake ducts, and be maintained under negative pressure, with respect to surrounding spaces to contain tobacco smoke within the designated area.

Specific Authority 386.2125, 386.207 FS. Law Implemented 386.2045(5), 386.206(4), 386.207 FS. History–New _____.

64E-25.006 Definitions.

(1) “Predominantly bounded by physical barriers” means:

(a) More than fifty percent covered from above, to be calculated as if fully extended, by a physical barrier, that excludes rain, and

(b) More than fifty percent covered on the sides with surfaces that block air flow.

(2) “Proprietor or other person in charge of an enclosed indoor workplace” means:

(a) When the enclosed indoor workplace is rented to a tenant, the tenant or the tenant’s employees or agents, without limiting the ultimate responsibility of the tenant to implement the policy regarding smoking prohibition, or

(b) When the enclosed indoor workplace is not rented to a tenant, the owner of the enclosed indoor workplace or that owner’s employees or agents, without limiting the ultimate responsibility of the owner of the enclosed indoor workplace to implement the policy regarding smoking prohibition in all enclosed indoor workplaces where (a) does not apply.

Specific Authority 386.2125 FS. Law Implemented 386.203(5),(12) FS. History–New _____.

NAME OF PERSON ORIGINATING PROPOSED RULE:
 Donna Arnold, Senior Human Services Program Specialist
 NAME OF SUPERVISOR OR PERSON WHO APPROVED
 THE PROPOSED RULE: Phil E. Williams, Division Director
 DATE PROPOSED RULE APPROVED BY AGENCY
 HEAD: April 17, 2004
 DATE NOTICE OF PROPOSED RULE DEVELOPMENT
 PUBLISHED IN FAW: October 3, 2003
 P.O. # QT1812

DEPARTMENT OF FINANCIAL SERVICES

Division of State Fire Marshal

RULE CHAPTER TITLE: Explosives
 RULE CHAPTER NO.: 69A-2
 RULE TITLE: Construction Materials Mining Activities
 RULE NO.: 69A-2.024

PURPOSE AND EFFECT: The purpose of this rule is to provide forms and procedures under Sections 552.32-552.44, Florida Statutes, for bonds and letters of credit. The effect of this rule development will be to assist mining companies subject to Chapter 552, Florida Statutes, in complying with the Florida Construction Materials Mining Activities Administrative Recovery Act, Sections 552.32-552.44, Florida Statutes.

SUMMARY: Provides procedures and forms to implement the legislation providing for bonds and letters of credit as security for payment of judgments.

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

Any person who wishes to provide information regarding the statement of 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: 552.38 FS.

LAW IMPLEMENTED: 552.38 FS.

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

TIME AND DATE: 9:00 a.m., June 2, 2004

PLACE: Room 116, Larson Building, 200 East Gaines Street, Tallahassee, Florida

Pursuant to the provisions of the Americans with Disabilities Act and Section 286.26, Florida Statutes, any person requiring special accommodations to participate in this program, please advise the Department at least 5 calendar days before the program by contacting: Nancy Ray, (850)413-3622.

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Terry Hawkins, Safety Program Manager, Regulatory Licensing Section, Bureau of Fire Prevention, Division of State Fire Marshal, 200 East Gaines Street, Tallahassee, Florida 32399-0342, (850)922-3171

THE FULL TEXT OF THE PROPOSED RULE IS:

69A-2.024 Construction Materials Mining Activities.

(1) through (13) No change.

(14) FLORIDA CONSTRUCTION MATERIALS MINING ACTIVITIES ADMINISTRATIVE RECOVERY ACT, SECTIONS 552.32-552.44, FLORIDA STATUTES; BONDS, LETTERS OF CREDIT.

(a) Any person seeking to obtain a new User of Explosives License or to renew an existing User of Explosives License pursuant to the provisions of Section 552.091(5)(a), Florida Statutes, and who is engaged in or intends to engage in the use of explosives in connection with construction materials mining activities, or any person seeking to obtain a new Construction Materials Mining Permit or to renew an existing Construction Materials Mining Permit issued pursuant to the provisions of Section 552.30, Florida Statutes, must post and maintain a bond as security on Form DFS-K3-1580 which is hereby adopted and incorporated herein by reference, except as set forth in paragraph (d).

(b) Form DFS-K3-1580 may be obtained from the Department of Financial Services, Division of State Fire Marshal, Bureau of Fire Prevention, 200 East Gaines Street, Tallahassee, Florida 32399-0342.

(c) Any bond which is on a form other than Form DFS-K3-1580 is not acceptable and is void and of no effect.

(d) In lieu of the bond required in paragraph (a), a person referred to in paragraph (a) is permitted to obtain and maintain a letter of credit, which for purposes of this subsection shall be referred to as "Letter." If a Letter is obtained and maintained in place of a bond, the following provisions apply.

1. Except as provided in this subsection, the provisions of Chapter 675, Florida Statutes, including, but not limited to, the definitions contained in Section 675.103, Florida Statutes, are applicable to each Letter, each party to a Letter, and to this subsection.

2. The issuer of the Letter must be a financial institution chartered under the laws of the United States of America or of the State of Florida.

3. The beneficiary of each Letter shall be the Department of Financial Services on behalf of a prevailing party in an action for damages sustained under the Florida Construction Materials Mining Activities Administrative Recovery Act, Sections 552.32-552.44, Florida Statutes, if any person referred to in paragraph (a) fails to pay damages awarded within 30 days after a final order awarding damages is issued by an administrative law judge of the Division of Administrative Hearings, or within 30 days after the entry of an appellate mandate affirming a final order awarding damages.

4. The applicant for the Letter must be a person referred to in paragraph (a).

5.a. Each Letter must contain a condition of the undertaking.

b. The condition of the undertaking of each Letter is that the Letter shall specifically authorize recovery by the department on behalf of a prevailing party in an action for damages sustained under the Florida Construction Materials Mining Activities Administrative Recovery Act, Sections 552.32-552.44, Florida Statutes, in the event that the applicant for the Letter fails to pay damages awarded within 30 days after a final order awarding damages is issued by an administrative law judge of the Division of Administrative Hearings, or within 30 days after entry of an appellate mandate affirming a final order awarding damages.

6. Each Letter must be authenticated by a signature which is on file with the department or in accordance with the standard practices referred to in Section 675.108(5), Florida Statutes.

7. The original of each Letter, once issued, must be maintained in the custody of the department.

8.a. No Letter is permitted to contain a statement that it is revocable.

b. If a Letter contains a statement that it is revocable, such Letter is void and of no effect for purposes of complying with the Florida Construction Materials Mining Activities Administrative Recovery Act, Sections 552.32-552.44, Florida Statutes, or these rules.

9.a. Each Letter shall state that it is perpetual.

b. Each Letter shall be perpetual within the meaning of Section 675.106, Florida Statutes.

10.a. Each Letter must be replaced not later than 4 years and 6 months after the stated date of issuance or, if none is stated, after the actual date of issuance.

b. Failure to replace the Letter within the 4 years and 6 months period without providing a bond as permitted by paragraph (a) constitutes an immediate, serious danger to the public health, safety, and welfare, and shall result in an immediate final order of revocation of the licensee's or

permittee's license or permit, and also constitutes grounds for the imposition of any other applicable penalty provided for in Chapter 552, Florida Statutes.

11.a. Each Letter shall be payable on or before the seventh day after presentation of a document evidencing satisfaction of the condition of the undertaking.

b. Presentation of a certified copy of a judgment awarding damages from an administrative law judge of the Division of Administrative Hearings under the Florida Construction Materials Mining Activities Administrative Recovery Act, Sections 552.32-552.44, Florida Statutes, or a certified copy of an appellate court mandate affirming such a judgment, together with an affidavit from an authorized department representative that such judgment has not been paid, constitutes sufficient evidence to satisfy the condition of the undertaking for payment under the Letter.

c. Authorized representatives of the department are the Chief Financial Officer acting as the State Fire Marshal, the department's Chief of Staff, any Deputy Chief Financial Officer acting on behalf of the Chief Financial Officer acting as the State Fire Marshal, the director of the Division of State Fire Marshal, the Chief of the Bureau of Fire Prevention, the Safety Program Manager of the Bureau of Fire Prevention, and any attorney employed by the department.

d. Payment under the Letter shall be made to the "Department of Financial Services."

e. After receipt of payment of the Letter, the department shall deposit the check and, upon clearance of such check, the department shall issue a check for the exact same amount as the payment under the Letter to the owner or holder of the judgment referenced in this subsection.

12.a. Each Letter shall state that it is transferable and assignable from the department to the department's transferee or assignee.

b. The department's transferee or assignee shall be the owner and holder of a judgment from an administrative law judge of the Division of Administrative Hearings providing for damages under the Florida Construction Materials Mining Activities Administrative Recovery Act, Sections 552.32-552.44, Florida Statutes, or a mandate affirming such a judgment, which the licensee or permittee has failed to pay within the time allotted in such Act.

13. Each Letter shall be governed by, and shall state that it is governed by, the laws of the State of Florida, regardless of the country, state, territory, or other location at which the Letter was applied for, requested, or issued.

14. Each Letter shall state that venue for any cause of action brought under the Letter in state court shall lie in the circuit court of the Second Judicial Circuit of Florida, in and for Leon County, and, if an action is brought under the laws of the United States of America, venue shall lie in the United States District Court for the Northern District of Florida, Tallahassee Division.

15. Each Letter is subject to approval by the department; however, the department shall not unreasonably withhold approval of any Letter which complies with these rules.

16. Once approved by the department, no Letter may be altered or amended in any manner except with written approval of the department.

(e)1. Each bond or letter of credit shall provide security for payment of any award against the user or permit holder in the initial amount of not less than \$100,000.00, which amount shall be maintained at all times the user or permit holder engages in construction materials mining activities. If the user or permit holder wishes, such bond or letter of credit may be maintained in an amount that exceeds \$100,000.00.

2. If an award is made pursuant to Section 552.40(7), Florida Statutes, and the respondent which is a user or permit holder fails to pay the damages within 30 days after the final order is issued or within 30 days after the entry of an appellate mandate affirming a final order awarding damages, and the award is paid from the bond or letter of credit provided for in Section 552.38, Florida Statutes, and this rule, the respondent shall immediately secure a replacement bond or letter of credit in the full sum of not less than \$100,000.00.

3. The respondent against whom the award was made and the award paid from the bond or letter of credit shall not engage in construction materials mining activities without having secured an effective replacement bond or letter of credit.

(15)(14) No change.

Specific Authority 552.38 FS. Law Implemented 552.38 FS. History--New 11-25-01, Amended 6-24-02, Formerly 4A-2.024, Amended _____.

NAME OF PERSON ORIGINATING PROPOSED RULE: James Goodloe, Chief, Bureau of Fire Prevention, Division of State Fire Marshal, Department of Financial Services
NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Randall Napoli, Director, Division of State Fire Marshal, Department of Financial Services
DATE PROPOSED RULE APPROVED BY AGENCY HEAD: February 23, 2004
DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: March 12, 2004

DEPARTMENT OF FINANCIAL SERVICES

Office of Insurance Regulation

RULE TITLES: RULE NOS.:
Title Insurance Rates 690-186.003
Premium Schedule Applicable to "Truth in Lending" and Other Endorsements 690-186.005
Forms Adopted 690-186.016

PURPOSE, EFFECT AND SUMMARY: To adopt appropriate rates for Junior Loan Title Insurance; to adopt forms for use with Junior Loan Title Insurance; and to list forms adopted for use with Junior Loan Title Insurance.

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: 624.308(1), 626.9611, 627.777, 627.782, 627.7825 FS.

LAW IMPLEMENTED: 624.307(1), 626.9541(1)(h)3.a., 627.777, 627.782, 627.7825, 627.783, 627.7831, 627.7841, 627.7845, 697.04(1) FS.

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

TIME AND DATE: 9:30 a.m., May 26, 2004

PLACE: Room 116, Larson Building, 200 East Gaines Street, Tallahassee, Florida

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

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULES IS: Eric Lingswiler, Chief, Bureau of Property and Casualty Forms and Rates, Office of Insurance Regulation, 200 East Gaines Street, Tallahassee, Florida 32399-0328, e-mail: lingswilere@dfs.state.fl.us

THE FULL TEXT OF THE PROPOSED RULES IS:

690-186.003 Title Insurance Rates.

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

(c) For junior loan title insurance:

1. The premium for junior loan title insurance shall be:

a. \$1.33 per \$1,000.00 of liability written.

b. The minimum premium shall be \$50.00.

c. The minimum insurer retention shall be 30%.

2. Eligibility for the junior loan policy shall be restricted to the following:

a. The insured title is for land having 1-4 residential units;

b. The junior loan must be a second or subsequent mortgage loan and must meet the definitional requirements of a "federally related mortgage loan", as defined in the Real Estate Settlement Procedures Act of 1974, 12 USC ss. 2601 et seq;

c. The junior mortgage loan amount is less than or equal to \$500,000.

d. No junior loan policy may be issued for an amount less than the full junior loan principal debt.

e. The following forms are hereby incorporated herein by reference exclusively for use with junior loan title insurance:

(I) ALTA Residential Limited Coverage Junior Loan Policy with Florida Modifications and accompanying ALTA Endorsement JR1, as adopted in Rule 690-186.016, F.A.C.

(II) ALTA Short Form Residential Limited Coverage Junior Loan Policy with Florida Modifications and accompanying ALTA Endorsement JR1, as adopted in Rule 690-186.016, F.A.C.

(2) through (12) No change.

Specific Authority 624.308(1), 626.9611, 627.782, 627.7825 FS. Law Implemented 624.307(1), 626.9541(1)(h)3.a., 627.777, 627.782, 627.7825, 627.783, 627.7831, 627.7841, 627.7845 FS. History-New 9-17-71, Amended 12-28-73, Repromulgated 12-24-74, Amended 4-12-82, 12-23-82, Formerly 4-21.03, Amended 6-25-86, 2-26-90, 7-26-90, 2-27-91, Formerly 4-21.003, 4-186.003, Amended 2-13-95, 1-27-02, Formerly 4-186.003, Amended _____

690-186.005 Premium Schedule Applicable to "Truth in Lending" and Other Endorsements.

(1) through (5) No change.

(6)(a) In recognition of the increased risk in issuing the following endorsements on a mortgage or owner's policy, as such endorsements have been approved by the Office and adopted in Rule 690-186.016, F.A.C., the minimum premium shall be \$25.00 for each endorsement on any mortgage or owner's policy issued. The endorsements shall be itemized on the closing statement furnished to the insured.

1. ALTA 4/4.1 Condominium.

2. ALTA 5/5.1 Planned Unit Development.

3. ALTA 6 Renegotiable Rate.

4. ALTA 6.1 Variable Rate.

5. ALTA 6.2 Negative Amortization.

6. ALTA 7.0 Manufactured Housing.

7. ALTA 8.1 Environmental Protection Lien.

8. Revolving Credit Endorsement.

(b) No change.

(c) In recognition of the increased risk in issuing optional endorsement ALTA Endorsement JR 2 Revolving Credit/Variable Rate on a junior loan title insurance policy, which has been approved by the Office and adopted in Rule 690-186.016, F.A.C., the minimum premium shall be \$25.00 for issuing ALTA Endorsement JR 2 Revolving Credit/Variable Rate on any junior loan title insurance policy issued. ALTA Endorsement JR 2 Revolving Credit/Variable Rate is the only optional endorsement available for issue with the junior loan title insurance policy and this endorsement shall be itemized on the closing statement furnished to the insured. Irrespective of whether the ALTA Endorsement JR 2 Revolving Credit/Variable Rate is issued, no additional premium shall apply to the ALTA Endorsement JR1 which must accompany any junior loan title insurance policy.

(7) through (16) No change.

Specific Authority 624.308, 627.777, 627.782 FS. Law Implemented 624.307(1), 627.777, 627.782, 697.04(1) FS. History-New 9-17-71, Repromulgated 12-24-74, Formerly 4-21.05, Amended 6-25-86, 2-26-90, 2-27-91, Formerly 4-21.005, Amended 2-13-95, Formerly 4-186.005, Amended _____

69O-186.016 Forms Adopted.

(1) The following forms are hereby adopted and incorporated herein by reference:

- (a) ALTA 4 Condominium (3/27/92).
- (b) ALTA 4.1 Condominium (10/17/92).
- (c) ALTA 5 Planned Unit Development (3/27/92).
- (d) ALTA 5.1 Planned Unit Development (10/17/92).
- (e) ALTA 6 Renegotiable Rate (6/1/87).
- (f) ALTA 6.1 Variable Rate (6/1/87).
- (g) ALTA 6.2 Negative Amortization (6/1/87).
- (h) ALTA 7.0 Manufactured Housing (6/1/87).
- (i) ALTA 8.1 Environmental Protection Lien (3/12/88).
- (j) ALTA Endorsement JR1 (10/19/96).
- (k) ALTA Endorsement JR 2 Revolving Credit/Variable Rate (10/19/96).

(l) ALTA Residential Limited Coverage Junior Loan Policy (10/19/96) with Florida Modifications.

(m) ALTA Short Form Residential Limited Coverage Junior Loan Policy (10/19/96) with Florida Modifications.

(2) Copies of these forms are available from American Land Title Association, 1828 L Street N. W., Washington, D.C., 20036-5104, except the ALTA Residential Limited Coverage Junior Loan Policy (10/19/96) with Florida Modifications and the ALTA Short Form Residential Limited Coverage Junior Loan Policy (10/19/96) with Florida Modifications, which are available from the Office of Insurance Regulation, 200 East Gaines Street, Tallahassee, FL 32309.

Specific Authority 624.308, 627.777 FS. Law Implemented 624.307(1), 627.777 FS. History—New.

NAME OF PERSON ORIGINATING PROPOSED RULE: Eric Lingswiler, Chief, Bureau of Property and Casualty Forms and Rates, Office of Insurance Regulation

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Lisa Miller, Deputy Director, Office of Insurance Regulation

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: April 21, 2004

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

Section III
Notices of Changes, Corrections and Withdrawals

DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES

Division of Agricultural Environmental Services

RULE CHAPTER NO.: 5E-13
RULE CHAPTER TITLE: Mosquito Control Program Administration

RULE NOS.:

- 5E-13.021
- 5E-13.022
- 5E-13.027
- 5E-13.030
- 5E-13.031
- 5E-13.032

RULE TITLES:

- Definitions
- Eligibility for State Aid
- Certified Budgets, Filing
- State Aid Basis and Availability
- District or County Use of Funds
- Program Directors, Employment and Classification

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., published in Vol. 30, No. 7, February 13, 2004, issue of the Florida Administrative Weekly. These changes reflect comments received from the Florida Administrative Procedures Committee and comments received at the hearing held on March 5, 2004.

THE PROPOSED RULE NOW READS AS FOLLOWS:

5E-13.021 Definitions.

(1) “Approved Mosquito Control Agency” – any county or district in current compliance with Sections 388.101 or 388.241, ~~388.261(2), 403.088(1), 388.162,~~ 388.271, 388.341, Florida Statutes, and Rule 5E-13.032, Florida Administrative Code.

(2) through (12) No change.

(13) “Labeling” – all labels and all other written, printed, or graphic matter:

(a) Accompanying the pesticide or device at any time; or

(b) To which reference is made on the label or in literature accompanying the pesticide or device, except to current official publications of the Environmental Protection Agency, the United States Departments of Agriculture and Interior, the Department of Health and Human Services, ~~Education and Welfare~~, and other similar federal or state institutions or agencies authorized by law to conduct research in the field of pesticides.

(14) through (19) No change.

(20) “Director” – a qualified person responsible for the planning and direct supervision of a district as defined under Section 388.011(5)~~2~~, F.S., who directs the execution of a county or district mosquito control program and oversees its day-to-day activities.

(21) through (23) No change.

(24) “Public land management agency” – any federal, state, or county agency that may be responsible for the management of such public lands as parks, wildlife management areas, preserves, fishing grounds, sea shores, etc., including but not limited to the department, the Florida Department of Environmental Protection, Fish and Wildlife Conservation ~~Game and Fresh Water Fish~~ Commission, and Trustees of the Internal Improvement Trust Fund.

(25) through (26) No change.