

(a) The employee engages in new construction, alterations, or any job or any construction activities involving any form of the building, clearing, filling, excavation or improvement in the size or use of any structure or the appearance of any land as defined in Section 440.02(8), F.S., or performs any job duties or activities which would be subject to those contracting classifications identified in the Contracting Classification Premium Adjustment Program contained in the Florida State Special pages of the Basic Manual (as incorporated in Rule 69L-6.021) within the borders of the state of Florida, regardless of whether an employee returns to his or her home state each night, or

(b) If the employer maintains a permanent staff of employees or superintendents and the staff employee or superintendent assigned to construction activities in Florida for the duration of the job or any portion thereof, or

(c) If the employer hires employees in Florida for the specific purpose of completing all or any portion of construction contract work and related construction activities in the state of Florida.

Specific Authority 440.107(9), 440.591 FS. Law Implemented 440.10(1)(g), 440.38(7) FS. History--New 6-19-04, Amended \_\_\_\_\_.

## Section II Proposed Rules

### DEPARTMENT OF BANKING AND FINANCE

#### Division of Finance

RULE TITLES:	RULE NOS.:
Mortgage Lender License, Mortgage Lender License Pursuant to Saving Clause, and Branch Office License Renewal and Reactivation	3D-40.205
Correspondent Mortgage Lender License and Branch Office License Renewal and Reactivation	3D-40.225

**PURPOSE AND EFFECT:** The amendments to the rules revise and update the renewal forms to provide for certification upon license renewal that the continuing education requirements have been met. The amendments also update mailing addresses.

**SUMMARY:** The amendments to the rules amend the forms to provide for certification upon license renewal that the continuing education requirements have been met. The amendments also update mailing addresses.

**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: 494.0011(2), 494.0064(2) FS.

LAW IMPLEMENTED: 494.0011(2), 494.0064 FS.

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

TIME AND DATE: 10:00 a.m., September 13, 2004

PLACE: Room 547, Fletcher Building, 200 East Gaines Street, Tallahassee, Florida 32399

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 below.

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULES IS: Greg Oaks, Office of Financial Regulation, Fletcher Building, 200 E. Gaines Street, Tallahassee, Florida 32399-0350, (850)410-9805

THE FULL TEXT OF THE PROPOSED RULES IS:

3D-40.205 Mortgage Lender License, Mortgage Lender License Pursuant to Saving Clause, and Branch Office License Renewal and Reactivation.

(1)(a) Each active mortgage lender license and mortgage lender license pursuant to the saving clause shall be renewed for the biennial period beginning September 1 of each even-numbered year upon submission of the statutory renewal fee required by Section 494.0064, F.S., and a completed renewal form. Form ~~OFRDBF~~-ML-R, Mortgage Lender License Renewal and Reactivation Form, revised 06/00, and Form ~~OFRDBF~~-ML-RS, Mortgage Lender License Pursuant to Saving Clause Renewal and Reactivation Form, revised 7/1/2004 ~~06/00~~, are hereby incorporated by reference and available by mail from the Department of Banking and Finance, Division of Securities and Finance, 101 East Gaines Street, Tallahassee, Florida 32399-0350.

(b) In lieu of submitting audited financial statements, the licensee shall certify that it has continuously maintained the net worth requirements of:

1. \$25,000 or more imposed by Section 494.0065, F.S.; or
2. \$250,000 or more imposed by Section 494.0061, F.S.

Upon request of the Department, the licensee shall provide a copy of its most recent audited financial statements that substantiate its net worth.

(2) No change.

(3) Each active mortgage lender branch office license shall be renewed in conjunction with the mortgage lender license renewal upon submission of the statutory renewal fee required by Section 494.0064, F.S., and a completed branch office license renewal form. Form ~~OFRDBF~~-ML-RB, Mortgage Lender and Correspondent Mortgage Lender Branch Office License Renewal and Reactivation Form, revised 7/1/2004

~~10-1-99~~, is hereby incorporated by reference and available by mail from the Department of Banking and Finance, Division of Securities and Finance, 101 East Gaines Street, Tallahassee, Florida 32399-0350.

(4) through (6) No change.

Specific Authority 494.0011(2), 494.0064(2) FS. Law Implemented 494.0011(2), 494.0064 FS. History--New 10-1-91, Amended 9-3-95, 8-5-96, 12-12-99, 11-1-00, 2-5-01, \_\_\_\_\_.

3D-40.225 Correspondent Mortgage Lender License and Branch Office License Renewal and Reactivation.

(1)(a) Each active correspondent mortgage lender license shall be renewed for the biennial period beginning September 1 of each even numbered year upon submission of the statutory renewal fee required by Section 494.0064, F.S., and a completed renewal form. Form ~~OFRDBF-CL-R~~, Correspondent Mortgage Lender License Renewal and Reactivation Form, revised 7/1/2004 ~~06/00~~, is hereby incorporated by reference and available by mail from the Department of Banking and Finance, Division of Securities and Finance, 101 East Gaines Street, Tallahassee, Florida 32399-0350.

(b) In lieu of submitting audited financial statements, the licensee shall certify that it has continuously maintained the net worth requirements of \$25,000 or more imposed by Section 494.0062, F.S. Upon request of the Department, the licensee shall provide a copy of its most recent audited financial statements that substantiate its net worth.

(2) No change.

(3) Each active correspondent mortgage lender branch office license shall be renewed in conjunction with the correspondent mortgage lender license renewal upon submission of the statutory renewal fee required by Section 494.0064, F.S., and a completed branch office license renewal form. Form ~~OFRDBF-ML-RB~~, Mortgage Lender and Correspondent Mortgage Lender Branch Office License Renewal and Reactivation Form, revised 7/1/2004 ~~10/99~~, is hereby incorporated by reference and available by mail from the Department of Banking and Finance, Division of Securities and Finance, 101 East Gaines Street, Tallahassee, Florida 32399-0350.

(4) through (6) No change.

Specific Authority 494.0011(2), 494.0064(2) FS. Law Implemented 494.0011(2), 494.0064 FS. History--New 10-1-91, Amended 9-3-95, 7-25-96, 12-12-99, 11-1-00, 2-5-01, \_\_\_\_\_.

NAME OF PERSON ORIGINATING PROPOSED RULE: Pam Epting, Bureau Chief, Regulatory Review, Office of Financial Regulation

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Don B. Saxon, Director, Office of Financial Regulation

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

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: July 9, 2004

**DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICEES**

**Division of Agricultural Environmental Services**

RULE CHAPTER TITLE: Seed  
RULE CHAPTER NO.: 5E-4  
RULE TITLES: Noxious Weed Seed  
RULE NOS.: 5E-4.003  
Disposition of Seed Contaminated with Noxious Weed Seed 5E-4.0041

PURPOSE, EFFECT AND SUMMARY: The purpose of the proposed actions is to amend Rule 5E-4.003, F.A.C., and to add Rule 5E-4.0041, F.A.C. The effect is to prohibit the sale and distribution of agricultural, vegetable, flower, and forest tree seed lots contaminated with seed of Tropical Soda Apple (*Solanum viarum*) and Benghal dayflower (*Commelina benghalensis*); and to address disposition of seed deemed worthless due to contamination with more noxious weed seed than shown in Rule 5E-4.003, F.A.C. Rule 5E-4.0041, F.A.C., will be added to provide specific guidance regarding reprocessing or disposal of noxious seed.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COST: No SOERC 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 alternative must do so in writing within 21 days of this notice.

SPECIFIC AUTHORITY: 578.11(2) FS.

LAW IMPLEMENTED: 578.11(2) FS.

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

TIME AND DATE: 9:00 a.m., September 10, 2004

PLACE: AES Conference Room, 3125 Conner Blvd., Tallahassee, Florida 32399-1650

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULES IS: Mr. Dale W. Dubberly, Chief, Bureau of Compliance Monitoring, Division of Agricultural Environmental Services, FDACS, L-29, 3125 Conner Boulevard, Tallahassee, Florida 32399-1650, (850)488-8731

THE FULL TEXT OF THE PROPOSED RULES IS:

5E-4.003 Noxious Weed Seed.

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

(d) Tropical soda apple (Solanum viarum) None per pound

(e) Benghal dayflower (Commelina benghalensis) None per pound

(2) through (3) No change.

Specific Authority 570.07(23), 578.11(2) FS. Law Implemented 578.11(2) FS. History—Amended 5-30-63, 8-22-68, 9-29-83, Formerly 5E-4.03, Amended 8-6-89.

5E-4.0041 Disposition of Seed Contaminated with Noxious Weed Seed.

(1) Seed lots containing one or more of the noxious weed seeds listed in Rule 5E-4.003, F.A.C., and found by the department to be in violation of Section 578.13, Florida Statutes, and which have been placed under stop-sale, stop-use, removal, or hold order, shall not be further subdivided or renumbered such that the integrity of the lot for identification and further inspection and testing is maintained. Within 30 days of receipt of the stop-sale, stop-use, removal, or hold order issued by the department, the owner of the seed lot shall arrange for the reprocessing, destruction through incineration, disposal in an approved solid waste landfill, or burial of the seed to a depth of at least 3 feet for a period of at least one year in accordance with state and federal disposal regulations.

(2) Seed lots which have been reprocessed shall be re-inspected and re-tested by the department to determine if the violation of Section 578.13, Florida Statutes, has been corrected. If the violation of Section 578.13, Florida Statutes, has not been corrected after two consecutive attempts to reprocess the seed lot, and the seed lot continues to contain one or more of the noxious weed seeds listed in Rule 5E-4.003, F.A.C., the seed lot under stop-sale, stop-use, removal, or hold order shall be disposed of in an approved solid waste landfill, incinerated, or buried to a depth of at least three feet for a period of at least 1 year in accordance with state and federal disposal regulations. If none of the noxious weed seeds listed in Rule 5E-4.003, F.A.C., are detected during subsequent inspection and testing, the department shall issue a release for the lot under stop-sale, stop-use, removal, or hold order and the seed lot may be sold and distributed. Upon release of the stop-sale, stop-use, removal, or hold order, the seed lot may be further subdivided or assigned one or more new lot numbers.

Specific Authority 578.11(2) FS. Law Implemented 578.11(2) FS. History—New \_\_\_\_\_.

NAME OF PERSON ORIGINATING PROPOSED RULE: Dale Dubberly, Chief, and Bureau of Compliance Monitoring  
 NAME OF PERSON OR SUPERVISOR WHO APPROVED THE PROPOSED RULE: Steven J. Rutz, Director, Division of Agricultural Environmental Services  
 DATE PROPOSED RULE APPROVED BY AGENCY HEAD: July 9, 2004  
 DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: July 23, 2004

**DEPARTMENT OF EDUCATION**

**State Board of Education**

RULE TITLE: Standards for Mid-Year Promotion of Retained Third Graders  
 RULE NO.: 6A-1.094222

PURPOSE AND EFFECT: The purpose of this new rule is to implement the requirements of Section 1008.25(7)(b)4., Florida Statutes, as amended by the 2004 Legislature in CS/SB 364. The rule will set forth the requirements relating to the mid-year promotion of students who were retained in third grade due to a reading deficiency. The effect will be a rule that will apply to students who previously were retained in third grade but have progressed sufficiently to be promoted to fourth grade.

SUMMARY: The rule provides the standards that must be met for a retained third grader to be promoted mid-year to fourth grade. These standards include demonstration that the student is a successful and independent reader as demonstrated by reading at or above grade level and that he or she has progressed sufficiently to master appropriate fourth grade reading skills. The standards can be met through the successful completion of a student portfolio or satisfactory performance on a locally selected standardized assessment.

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: 1008.25(7)(b)4. FS.

LAW IMPLEMENTED: 1008.25(7)(b)4. FS.

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

TIME AND DATE: 9:00 a.m., September 21, 2004

PLACE: 325 West Gaines Street, Tallahassee, Florida 32399

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Shan Goff, K-12 Deputy Chancellor for Student Achievement, Florida Department of Education, 325 West Gaines Street, Room 514, Tallahassee, Florida 32399-0400, (850)245-5020

THE FULL TEXT OF THE PROPOSED RULE IS:

6A-1.094222 Standards for Mid-Year Promotion of Retained Third Graders.  
Effective with the 2004-2005 school year, district school boards are required to adopt and implement a policy for the mid-year promotion of any student retained in third grade, as required by Section 1008.25(5)(b), Florida Statutes, due to a reading deficiency. Such mid-year promotions of retained third grade students should occur during the first semester of the academic year.

(1) To be eligible for mid-year promotion, a student must demonstrate that he or she:

(a) Is a successful and independent reader as demonstrated by reading at or above grade level;

(b) Has progressed sufficiently to master appropriate fourth grade reading skills; and

(c) Has met any additional requirements, such as satisfactory achievement in other curriculum areas, as determined by the policies of the district school board.

(2) Standards that provide a reasonable expectation that the student has met the requirements of subparagraphs (1)(a)-(b) of this rule are as follows:

(a) Successful completion of portfolio elements that meet state criteria in subsection (3) of this rule; or

(b) Satisfactory performance on a locally selected standardized assessment as specified in subsection (4) of this rule.

(3) To promote a student mid-year using a student portfolio, as provided for in paragraph (2)(a) of this rule, there must be evidence of the student's mastery of third grade Sunshine State Standard Benchmarks for Language Arts and beginning mastery of the Benchmarks for fourth grade. The student portfolio must meet the following requirements:

(a) Be selected by the student's teacher;

(b) Be an accurate picture of the student's ability and only include student work that has been independently produced in the classroom;

(c) Include evidence of mastery of the benchmarks assessed by the grade 3 Reading FCAT, as required by Rule 6A-1.094221, FAC.; and

(d) Include evidence of beginning mastery of fourth grade benchmarks that are assessed by the grade 4 Reading FCAT. This includes multiple choice, short response, and extended response items and passages that are approximately fifty (50) percent literary text and fifty (50) percent information text, and that are between 100-900 words with an average of 375 words. Such evidence could include chapter or unit tests from the district's/school's adopted core reading curriculum or teacher-prepared assessments that are aligned with the Sunshine State Standards. For each benchmark, there must be two examples of mastery as demonstrated by a grade of "C" or better.

(e) Be signed by the teacher and the principal as an accurate assessment of the required reading skills.

(4) To promote a student mid-year using a locally selected standardized assessment, as provided for in paragraph (2)(b) of this rule, there must be evidence that the student scored at or above grade level in reading comprehension, as demonstrated by standard scores or percentiles.

(5) The Academic Improvement Plan (AIP) for any retained third grade student who has been promoted mid-year to fourth grade must continue to be implemented for the entire academic year.

Specific Authority 1008.25(7)(b)4. FS. Law Implemented 1008.25(7)(b)4. FS. History--New \_\_\_\_\_.

NAME OF PERSON ORIGINATING PROPOSED RULE: Shan Goff, K-12 Deputy Chancellor for Student Achievement, Department of Education

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Jim Warford, K-12 Chancellor, Department of Education

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: August 10, 2004

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

**DEPARTMENT OF EDUCATION**

**Commission for Independent Education**

RULE TITLE: Administration of the Board

RULE NO.: 6E-3.002

PURPOSE AND EFFECT: The rule is being repealed because it is no longer necessary.

SUMMARY: The rule is 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 regulatory cost alternative must do so in writing within 21 days of this notice.

SPECIFIC AUTHORITY: 120.53(1)(a), 246.041(1)(d),(e), 246.051(1), 246.071 FS.

LAW IMPLEMENTED: 20.05(1)(b), 120.53(1)(b), 246.031, 246.041(1)(d),(n), 246.051 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: Samuel L. Ferguson, Executive Director, Commission for Independent Education, 2650 Apalachee Parkway, Suite A, Tallahassee, Florida 32301

THE FULL TEXT OF THE PROPOSED RULE IS:

6E-3.002 Administration of the Board.

Specific Authority 120.53(1)(a), 246.041(1)(d),(e), 246.051(1), 246.071 FS. Law Implemented 20.05(1)(b), 120.53(1)(b), 246.031, 246.041(1)(d),(n), 246.051 FS. History--New 10-13-83, Formerly 6E-3.02, Amended 11-27-88, 10-19-93, Repealed \_\_\_\_\_.

NAME OF PERSON ORIGINATING PROPOSED RULE: Commission for Independent Education

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Commission for Independent Education

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: July 28, 2003

**DEPARTMENT OF COMMUNITY AFFAIRS**

**Florida Building Commission**

RULE CHAPTER TITLE: RULE CHAPTER NO.:

Florida Building Energy Rating System 9B-60

RULE TITLES: RULE NOS.:

Definitions 9B-60.002

Department Activities 9B-60.003

Florida Building Energy Rating System, Adopted 9B-60.004

Training and Certification Program 9B-60.005

Guidelines for Uniformity, Adopted 9B-60.008

PURPOSE, EFFECT AND SUMMARY: Section 553.992, Part XI, F.S., requires the Department of Community Affairs (the Department) to update the Building Energy-Efficiency Rating System in accordance with the procedures of Chapter 120, F.S. Further, Section 553.995(1)(c), F.S., requires that the energy rating system be compatible with standard federal rating systems and state building codes, where applicable. The purposes of these rule changes are to 1) adopt by reference the Mortgage Industry National Home Energy Rating Systems Accreditation Standards, promulgated by the National Association of State Energy Officials (NASEO)/Residential Energy Services Network (RESNET), June 15, 2002, 2) amend the rating system calculation procedures so that they are consistent with the revisions to Chapter 13 of the Florida Building Code, Building, and Attachment 1 of the Mortgage Industry National Home Energy Rating Systems Accreditation Standards, the National Home Energy Rating Technical Guidelines, 3) to require written disclosure of financial or other conflict of interest in accordance with Section 4.C.6 of the National Accreditation Procedures for Home Energy Rating Systems, 4) to expand recertification requirements for residential raters to require satisfactory demonstration of the skills necessary to perform a Class 1 rating and attend a refresher course if a rater fails to pass the recertification test in his/her rating classification, 5) to require a written report be provided to the client for every rating performed, 6) to remove the Department from software development and maintenance and add the Florida Solar Energy Center and its address to the written report, 7) to require Class 1 duct testing to be performed in accordance with the new standard BSR/ASHRAE 152-04, and 8) to have the Florida Solar Energy Center develop and maintain a database of BERS ratings.

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: 553.992, 553.994, 553.998 FS.

LAW IMPLEMENTED: 553.992, 553.995, 553.995(1),(1)(c),(4), 553.996 FS.

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

TIME AND DATE: 10:00 a.m., September 14, 2004

PLACE: The Randall Kelley Training Center, Third Floor, Room 305, Sadowski Building, 2555 Shumard Oak Boulevard, Tallahassee, Florida 32399-2100

Any person requiring special accommodations at the workshop because of a disability or physical impairment should contact Ila Jones, Community Program Administrator, Department of Community Affairs, 2555 Shumard Oak Boulevard, Sadowski Building, Tallahassee, Florida 32399-2100, (850)487-1824, at least seven days before the date of the workshop. If you are hearing or speech impaired, please contact the Department of Community Affairs using the Florida Dual Party Relay System, 1(800)955-8770 (Voice) or 1(800)955-9771 (TDD).

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULES IS: Ann Stanton, Building Codes Analyst, Department of Community Affairs, 2555 Shumard Oak Boulevard, Tallahassee, Florida 32399-2100, (850)488-0964, Suncom 278-0964

THE FULL TEXT OF THE PROPOSED RULES IS:

9B-60.002 Definitions.

For the purpose of this chapter, the following words, unless the context does not permit such meaning, shall have the meanings indicated:

(1) through (19) No change.

(20) HERS Rating – An audit and computer-generated performance evaluation of a home conducted in accordance with Rule 9B-60.004, F.A.C., of this Chapter and resulting in a HERS Score.

(21) HERS Score – The numerical rating for a home with a value between 0 and 100 where a value of 100 indicates that the home uses no purchased energy for heating, cooling and hot water and a value of 80 indicates that the home has the same energy use for heating, cooling and hot water as the reference home established by the Mortgage Industry National Home Energy Rating Systems Accreditation Standards.

Specific Authority 553.92 FS. Law Implemented 553.992, 553.995 FS. History—New 7-1-94, Amended 1-11-95, 12-27-98, \_\_\_\_\_.

9B-60.003 Department Activities.

(1) No change.

(2) Within three (3) years of the date of adoption of the rating system, and at least triennially thereafter in conjunction with the triennial review of ~~Chapter 13 of the Florida Building Energy Efficiency Code, Building For Construction~~ (the Code), the Department shall review the energy rating system

program criteria and the calculation tools used in common by both the BERS and the Code that are adopted herein to determine the need for revision or modification. The residential rating system methodology is based on Method A of Sub-Chapter 6 of Chapter 13 of the Code, while the commercial rating system methodology is based on Method A of Sub-Chapter 4 of the Code. At a minimum, the Department shall update the rating system by adopting modifications to the current editions of the Code and Attachment 1 to the Mortgage Industry National Home Energy Rating Systems Accreditation Standards (the National Home Energy Rating Technical System (HERS) Guidelines) promulgated by the National Association of State Energy Officials. Copies of the Code and the National Home Energy Rating Technical HERS Guidelines are available from the Florida Department of Community Affairs, Building Codes and Standards Office, 2555 Shumard Oak Boulevard, Tallahassee, Florida 32399-2100, (850)487-1824.

(3) through (4) No change.

Specific Authority 553.992, 553.998 FS. Law Implemented 533.992, 553.996 FS. History—New 7-1-94, Amended 12-27-98,\_\_\_\_\_.

9B-60.004 Florida Building Energy Rating System, Adopted.

(1) No change.

(2) The home energy rating (HERS rating) for ~~new~~ residential buildings (~~Class 3~~) shall be determined using only the Florida Residential Building Energy Rating System software (Energy Gauge/ResFREE, Version ~~3 2~~) ~~developed and maintained by the Department~~, which produces the Florida Building Energy Rating Guide forms: Form #11A-01 ~~97~~ for the North climate zone, Form #11B-01 ~~97~~ for the Central climate zone, and Form #11C-01 ~~97~~ for the South climate. The rating system software (Energy Gauge/ResFREE, Version ~~3 2~~) that produces these forms is hereby incorporated by reference. Air distribution system testing for Class 1 ratings shall be performed in accordance with Annex B and Annex C of BSR/ASHRAE Standard 152-04, "Method of Test for Determining the Design and Seasonal Efficiency of Residential Thermal Distribution Systems." A Class 3 rating shall be clearly labeled as a "projected rating based on plans".

~~(3) The energy rating for existing residential buildings shall be determined using the Florida Residential Building Energy Rating System software (EnergyGauge/ResFREE, Version 2) which produces the Florida Building Energy Rating Guide forms listed in 9B-60.004(2). The Florida Residential Building Energy Rating System software (EnergyGauge/ResFREE, Version 2) is hereby incorporated by reference.~~

~~(3)(4)~~ No change.

~~(4)(5)~~ The energy rating for ~~new~~ public and ~~new~~ commercial buildings shall be determined using only the Florida Commercial Building Energy Rating System software (EnergyGauge/ ComFREE 97, Version ~~1 2.2~~) ~~developed and~~

~~maintained by the Department~~ which produces the Florida Building Energy Rating Guide forms: Form #12A-01 ~~97~~ for the North climate zone, Form #12B-01 ~~97~~ for the Central climate zone and Form #12C-01 ~~97~~ for the South climate zone. The Florida Commercial Building Energy Rating System software (EnergyGauge/ComFREE 97, Version ~~1 2.2~~) is hereby incorporated by reference. Public buildings owned or leased by state agencies and units of local government that are governed by Section 255.254, F.S., may utilize this rating system as one of the annual energy usage and cost methods approved by those agencies.

~~(6) The energy rating for existing commercial buildings shall be determined using only the Florida Commercial Building Energy Rating software (EnergyGauge/ComFree 97, Version 2.2) developed and maintained by the Department which produces the Florida Commercial Building Energy Rating Guide forms listed in 9B-60.004(5), F.A.C. The Florida Commercial Building Energy Rating System software (EnergyGauge/ComFREE 97, Version 2.2) is hereby incorporated by reference.~~

(7) No change.

Specific Authority 553.992 FS. Law Implemented 553.994, 553.995(1) FS. History—New 7-1-94, Amended 10-3-94, 1-11-95, 12-27-98,\_\_\_\_\_.

9B-60.005 Training and Certification Program.

(1) General Provisions.

(a) Beginning with the implementation date of this rule, no person may provide a rating for buildings in Florida unless such a person has been certified as provided by this part. To perform a rating for any building as required by this rule, the person performing the rating must be certified by the Department of Community Affairs. In accordance with Chapter 1, Section 4.C.6 of the "National Accreditation Procedures for Home Energy Rating Systems," a Florida Certified Rater who has a financial or other interest resulting from the energy Rating results (including any recommended improvements resulting from the Rating) shall provide written disclosure of the nature of the financial or other interest to the owner of the property being rated utilizing Form 11D-01, Interest Disclosure Form.

(b) No change.

(c) An application for annual certification renewal shall be submitted on Form 500B-01 ~~98~~, herein incorporated by reference, with a renewal fee of \$50. In addition to the annual renewal fee, a certified residential rater must, over a three year period, have completed twelve credit hours of continuing education in courses accepted by the Department for certification renewal. Acceptable courses shall, in general, be those dealing with energy use in buildings or building systems (including heating, ventilating and air conditioning), building design or construction, codes or plan review, financing or selling buildings, and courses on energy rating systems.

(2) The following qualifications, at a minimum, are required for certification as a rater:

(a) The individual shall submit an application on the Department of Community Affairs Form #500A-01 98, herein incorporated by reference, and pay the appropriate application fee of \$150.00. The form is available by writing to the Department of Community Affairs, Energy Rating System Program, 2555 Shumard Oak Blvd, Tallahassee, Florida 32399-2100.

(b) through (d) No change.

(e) Recertification is required within six months of the effective date of major revisions to Chapter 13 of the Florida Building Energy Efficiency Code, For Building, Construction or at least every three years from the rater's last date of certification. For recertification, the applicant shall attend training on changes impacting the rating system provided by the Department of Community Affairs and demonstrate achievement of a level of knowledge and proficiency so as to successfully rate buildings by passing a Department test applicable to the buildings being rated. The fee for recertification shall be the annual certification renewal fee. In addition to the written test, Class 1 residential raters shall be required to satisfactorily demonstrate performance testing skills necessary to perform a Class 1 rating as part of the recertification as well as at the time of training and testing. Class 1 residential raters shall be required to satisfactorily perform and complete one Class 1 rating, accompanied and evaluated by another randomly chosen Class 1 rater, as a requirement for recertification and to comply with Attachment 1 of the Mortgage Industry National Accreditation Procedures for Home Energy Rating Systems (the National Home Energy Rating Technical HERS Guidelines); requirement for periodic peer review and reevaluation of raters. Class 1 raters shall also be required to serve as a Class 1 peer evaluator at least once within three years before being recertified. These regulations in no way exempt any person from other state and local occupational licensure requirements. Any rater who fails to pass the recertification test in his or her rating classification shall be required to attend a refresher course approved by the Department of Community Affairs and retake the test. Until the rater can demonstrate his/her ability to perform ratings in his/her classification, registration of ratings by the rater shall be prohibited.

(3) Reporting Requirements. Certified raters shall submit all ratings to the Department in care of the Florida Solar Energy Center, 1679 Clearlake Road, Cocoa, FL 32920 in electronic format, either via electronic mail (e-Mail) or on 3 1/2 43" diskette.

(a) The Florida Solar Energy Center shall maintain an electronic database that can be queried by the public to verify that a BERS Rating has been registered for a specific real property.

(b) Upon request and if authorized by the homeowner or his/her agent, the Florida Solar Energy Center may provide a registered BERS Rating report from the electronic database to a homeowner, or prospective home purchaser, for a fee.

(4) A written report shall be provided to the purchaser of real property or that individual who requested the rating. Such report shall include the ~~The~~ Florida Building Energy Rating report and the following provided to the client shall include:

(a) A completed copy of the Florida Building Energy Rating Guide (Form #11-01 97 or Form #12-01 97); containing the following:

(b) ~~(a)~~ The certified rater's signature, typed or printed name and certification number;

(c) ~~(b)~~ The date that the rating was completed; and

(d) ~~(e)~~ The statement: "This notice is provided to you by an individual certified by the Florida Department of Community Affairs to perform a building energy rating evaluation. Any questions, comments, or complaints regarding the person or agency performing this service may be directed to the Florida Department of Community Affairs, Building Energy Rating System Program, 2555 Shumard Oak Boulevard, Tallahassee, Florida 32399-2100, (850)487-1824, or the Florida Solar Energy Center, 1679 Clearlake Road, Cocoa, FL 32920. The Department or the Florida Solar Energy Center may request the owner's permission in the future to conduct a quality assurance review of this rating;" and

(e) The disclosure form printed from the Energy Gauge Res/Free program (Form No. 11D-01).

Specific Authority 553.992 FS. Law Implemented 553.995(4) FS. History--New 7-1-94, Amended 10-3-94, 1-11-95, 12-27-98, \_\_\_\_\_.

9B-60.008 Guidelines for Uniformity, Adopted.

The Mortgage Industry National Home Energy Rating Systems Accreditation Standards, promulgated by the National Association of State Energy Officials (NASEO)/Residential Energy Services Network (RESNET), June 15, 2002, 1996 Guidelines for Uniformity, Voluntary Procedures for Home Energy Ratings, Version 2.0, prepared by the Home Energy Rating Systems (HERS) Council and the Florida Addendum to the National HERS Council Guidelines, dated December 1998, are adopted and incorporated by reference as the rule of this Department.

Specific Authority 553.992 FS. Law Implemented 553.995(1)(c) FS. History--New 12-27-98, Amended \_\_\_\_\_.

NAME OF PERSON ORIGINATING PROPOSED RULE:  
Ann Stanton, Building Codes Analyst, Department of Community Affairs, 2555 Shumard Oak Boulevard, Tallahassee, Florida 32399-2100, (850)488-0964, Suncom 278-0964

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Janice Browning, Director, Division of Housing and Community Development, 2555 Shumard Oak Boulevard, Tallahassee, Florida 32399-2100

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: August 2, 2004  
 DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: April 2, 2004

**DEPARTMENT OF TRANSPORTATION**

RULE CHAPTER TITLE: Prompt Settlement or Legal Defense of Claims and Disqualification for Failure to Settle Claims  
 RULE CHAPTER NO.: 14-24

RULE TITLE: Provisions for Prompt Settlement or Legal Defense of Claims and Disqualification for Failure to Settle Claims  
 RULE NO.: 14-24.001

PURPOSE AND EFFECT: This amendment is to update the revision date for Form 700-050-21, Contractor’s Affidavit and Surety Consent (Form 21-A), which is incorporated by reference in Rule 14-79.006, F.A.C., and cross referenced in this rule. Rule 14-79.006, F.A.C., also is being amended by separate notice to incorporate the revised form by reference.

SUMMARY: This is an editorial amendment to update the revision date for Form 700-050-21, Contractor’s Affidavit and Surety Consent (Form 21-A), which is cross referenced within this rule and incorporated by reference under Rule 14-79.006, F.A.C.

SPECIFIC AUTHORITY: 334.044(2), 337.18(1) FS.

LAW IMPLEMENTED: 334.044(28), 337.141, 337.18(1) 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 RULE 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 RULE IS:

14-24.001 Provisions for Prompt Settlement or Legal Defense of Claims and Disqualification for Failure to Settle Claims.

Any surety which does not settle or provide defense for claims or actions in connection with liabilities arising under a contract promptly and satisfactorily shall be disqualified from issuing bonds for future contracts by the Department in accordance with this rule.

(1) Failure on the part of the surety to furnish an affidavit to the effect that these requirements have been met on Contractor’s Affidavit and Surety Consent (Form 21-A), Florida Department of Transportation Form 700-050-21, Rev. 08/04 ~~10/99~~, which is incorporated by reference under Rule 14-79.006, F.A.C., to the Department within 90 days of the Department’s offer of final payment shall constitute grounds for disqualification. Preliminary notice of disqualification will be furnished to the surety 30 days prior to disqualification. Qualification will be reinstated upon receipt by the Department of the properly executed Form Contractor’s Affidavit and Surety Consent (Form 21-A).

(2) No change.

Specific Authority 334.044(2), 337.18(1) FS. Law Implemented 334.044(28), 337.141, 337.18(1) FS. History—Formerly 14-10.01, F.A.C., Amended 3-21-64, 9-24-75, Formerly 14-24.01, Amended 10-30-96, 1-17-99, 3-28-00,

NAME OF PERSON ORIGINATING PROPOSED RULE: Anath Prasad, Director, State Construction Office

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: José Abreu, P.E., Secretary

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: August 9, 2004

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

**DEPARTMENT OF TRANSPORTATION**

RULE CHAPTER TITLE: Construction Management Development Program and Bond Guarantee Program  
 RULE CHAPTER NO.: 14-79

RULE TITLE: Construction Management Development Program  
 RULE NO.: 14-79.006

PURPOSE AND EFFECT: This amendment is to incorporate by reference a revised version of Form 700-050-21, Contractor’s Affidavit and Surety Consent (Form 21-A). A cross reference to this form in Rule 14-24.001, F.A.C., is being amended by separate notice.

SUMMARY: This amendment is to incorporate by reference a revised version of Form 700-050-21, Contractor’s Affidavit and Surety Consent (Form 21-A).

SPECIFIC AUTHORITY: 334.044(2), 337.18(1) FS.

LAW IMPLEMENTED: 334.044(28), 337.141, 337.18(1) 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 RULE 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 RULE IS:

14-79.006 Construction Management Development Program.

This rule implements a voluntary comprehensive Construction Management Development Program (CMDP) for Disadvantaged Business Enterprises and other small businesses and establishes a program for providing financial assistance to Disadvantaged Business Enterprises through a Bond Guarantee Program (BGP).

- (1) through (9) No change.
- (10) Bond Guarantee Program.
  - (a) Department Requirements/Limitations.
    - 1. No change.

2. As a condition of receiving a bond guarantee on a Department contract, the Department shall retain five percent of the total contract amount designated for the Disadvantaged Business Enterprise. This bond guarantee retainage shall be released upon final acceptance of the project and receipt of a Contractor's Affidavit and Surety Consent (Form 21-A), Florida Department of Transportation Form 700-050-21, Rev. 08/04 ~~10/99~~, showing all subcontractors and suppliers have been paid.

(b) through (13) No change.

(14) Forms. The following listed forms are hereby incorporated by reference and made a part of the rules of the Department:

Form Number	Form Title	Revision Date
275-030-070-a	Application for Construction Management Development Program (CMDP) and Bond Guarantee Program (BGP)	03/89
275-030-071-a	Application for Small Business Certification (SBC)	03/89
275-030-073-a	Technical Assistance Request	03/89
275-030-074-a	Justification for Bond Guarantee	03/89
700-050-21	Contractor's Affidavit and Surety Consent (Form 21-A)	<u>08/04</u> <del>10/99</del>

Copies of these forms are to be obtained from the Florida Department of Transportation, Equal Opportunity Office, 605 Suwannee Street, Mail Station 65, Tallahassee, Florida 32399-0450.

Specific Authority 334.044(2), 339.0805(1)(b) FS. Law Implemented 334.044(28), 337.141, 339.0805(2) FS. History—New 5-24-89, Amended 8-5-96, 10-30-96, 5-6-97, 1-17-99, 3-17-00, \_\_\_\_\_.

NAME OF PERSON ORIGINATING PROPOSED RULE: Anath Prasad, Director, State Construction Office

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: José Abreu, P.E., Secretary

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: August 9, 2004

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: August 6, 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."

**DEPARTMENT OF CORRECTIONS**

RULE TITLE: Special Review  
 RULE NO.: 33-601.211

PURPOSE AND EFFECT: The purpose and effect of the proposed rule is to provide for designation of special review status for inmates who pose a potentially serious threat to other inmates or staff or who pose a risk to the security and order of an institution.

SUMMARY: The proposed rule provides for designation of special review status for inmates who pose a potentially serious threat to other inmates or staff or who pose a risk to the security and order of an institution.

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 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:

33-601.211 Special Review.

(1) Special review is the classification status assigned to inmates who pose a potentially serious threat to other inmates or staff or who pose a risk to the security and order of an institution.

(2) The purpose of the special review designation is to ensure that the inmates are tracked and housed to minimize potential conflict.

(3) Special review status shall be assigned only in cases in which the circumstances are serious and expected to be long-term in nature.

(4) The Bureau of Classification and Central Records is responsible for verifying, documenting, approving and assigning special review status.

(5) The facility housing the special review inmate shall ensure that documentation related to the inmate is processed and maintained as current. If inmates at other facilities are involved in a special review, the facility housing the special review inmate shall forward copies of all special review documentation pertinent to the other facility's inmate for inclusion in that inmate's file.

Specific Authority 944.09 FS. Law Implemented 944.09 FS. History—New

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: July 6, 2004

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: July 23, 2004

**DEPARTMENT OF CORRECTIONS**

RULE TITLES:	RULE NOS.:
Basic Training Program – Definitions	33-601.233
Basic Training Program Selection Process	33-601.234
Basic Training Program Operation	33-601.236
Basic Training Program – Inmate Privileges and Restrictions	33-601.237
Basic Training Program – Discipline	33-601.241
Removal From Basic Training Program	33-601.242

PURPOSE AND EFFECT: The purpose and effect of the proposed rules is to delete unnecessary and obsolete language, correct staff and office titles, and clarify responsibilities and inmate privileges.

SUMMARY: The proposed rules delete unnecessary and obsolete language, correct staff and office titles, and clarify responsibilities and inmate privileges related to the basic training program.

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: 20.315, 944.09, 958.04, 958.045, 958.11 FS.

LAW IMPLEMENTED: 20.315, 944.09, 946.40, 958.04, 958.045, 958.11 FS.

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

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED 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:

33-601.233 Basic Training Program – Definitions.

(1) No change.

(2) Basic Training Program – refers to a program designed to provide an alternative to long periods of incarceration for inmates who have been sentenced by the court or who have been classified as youthful offenders by the department and who meet specific criteria set forth in Rule 33-601.234, F.A.C. The program is a regimented schedule of structured discipline, counseling, general education development and adult basic education, work assignments, physical training and other rehabilitation programs.

(2) through (5) renumbered (3) through (6) No change.

~~(6) Human Services Counselor—a staff member assigned to the basic training program to provide group and individual counseling and instruction in social adjustment skills to the inmates in the basic training program.~~

(7) through (10) No change.

(11) Reception and Youthful Offender Section – refers to the Bureau of Classification and Central Records section in central office, responsible for administering reception and youthful offender activities.

~~(12)(14) Review Team – refers to a team composed of a sergeant or above; and drill instructor; and human services counselor. The purpose of the review team is to review inmate misconduct that may result in sanctions above the level of alternative training.~~

(12) through (13) renumbered (13) through (14) No change.

~~(15)(14) Youthful Offender – refers to any person sentenced by the court or classified by the department in accordance with Section 958.04 or 958.11, F.S.~~

Specific Authority 958.04, 958.045, 958.11 FS. Law Implemented 958.04, 958.045, 958.11 FS. History--New 2-26-89, Amended 1-25-96, 10-23-97, Formerly 33-27.003, Amended 3-13-01, Formerly 33-506.203, Amended 1-17-02, \_\_\_\_\_.

### 33-601.234 Basic Training Program Selection Process.

(1) No change.

(2) The classification officer will screen the youthful offender during the reception process to determine if he or she meets the program eligibility criteria. If the inmate meets the criteria, the classification officer will notify the inmate and explain the requirements and benefits of successful participation and completion of the program. If the inmate does not meet the criteria, the inmate will be notified and the results will be recorded on the admission summary. The Reception and Youthful Offender Section in the Bureau of Classification and Central Records will be notified by the classification officer of any inmate who meets the criteria and is amenable to the program. Such staff shall either approve or deny the inmate's participation in the program. The sentencing court shall be notified in writing by the Bureau of Classification and Central Records requesting approval for the inmate to participate in the program. If the inmate is classified by the department as a youthful offender, the prosecuting state attorney shall, at the same time, be notified that the inmate is being considered for placement in the basic training program. If the sentencing court disapproves the department's recommendation for the offender's placement in the basic training program, the offender shall be so notified and shall complete incarceration pursuant to the terms of the commitment order. If the sentencing court approves the department's recommendation for the offender's placement in the basic training program, the offender shall be notified of assignment to the basic training program. When the response is received from the sentencing court, the Reception and Youthful Offender Services Section in the Bureau of Classification and Central Records shall either schedule the inmate for transfer to the basic training program if the sentencing court has approved the placement, or note on the record that the sentencing court has denied the placement of the offender and notify the institutional classification team of the sentencing court's decision. If the sentencing court disapproves the recommendation, the classification officer shall notify the inmate of the sentencing court's decision and the inmate shall complete incarceration pursuant to the terms of the commitment order. If the sentencing court approves the recommendation, the classification officer will notify the inmate of assignment to the basic training program. The department shall contact the sentencing court within 21 days after receipt of the department's request to determine the status of the request for approval to participate in the basic training program. The inmate will be placed in the program after the sentencing court approves his or her placement for participation.

(3) No change.

Specific Authority 958.04, 958.045 FS. Law Implemented 946.40, 958.04, 958.045 FS. History--New 2-26-89, Amended 11-2-90, 1-25-96, 10-23-97, Formerly 33-27.004, Amended 3-13-01, Formerly 33-506.204, Amended 1-17-02, 1-9-03, \_\_\_\_\_.

### 33-601.236 Basic Training Program Operation.

(1) The basic training program will be inclusive of the phases listed below:

(a) No change.

(b) Phase II – will consist of educational programming and personal development training provided within a quasi-military environment for a period not to exceed the length of sentence imposed by the sentencing court. Inmates will be required to participate successfully in Phase II of the Basic Training Program for a minimum of 60 days. The length of time that an inmate may participate in Phases I and II combined shall be no less than 120 days. Each inmate will be required to participate in a satisfactory manner for a minimum of 120 days in order to successfully complete the basic training program.

(c) through (4) No change.

(5) Request for Sentence Modification.

(a) Inmates who have satisfactorily completed the basic training program will be recommended for sentence modification. A male inmate who has successfully completed the basic training program and is awaiting release by the sentencing court or other releasing authority shall remain at Sumter Correctional Institution Basic Training Unit or at a youthful offender facility designated by the Reception and Youthful Offender Services Section pending release. If eligible, the inmate may be placed on community work release. A female inmate who has successfully completed the basic training program and is awaiting release by the sentencing court or other releasing authority shall remain at the basic training program at Lowell Correctional Institution or at a youthful offender facility designated by the Reception and Youthful Offender Services Section pending release. If eligible, the inmate may be placed on community work release.

(b) The inmate management plan team shall notify the Reception and Youthful Offender Services Section in the Bureau of Classification and Central Records when the inmate has successfully completed the basic training program. The inmate management plan team will recommend a modification of sentence to the court that will include release to community supervision or placement in a community residential facility as a condition of community supervision within 3 working days after the inmate's completion of the basic training program.

(c) The inmate management plan team shall determine which inmates are suitable for community release based upon the inmate's employment, residence, family circumstances, and probation or post-release supervision obligations while under community supervision, and submit the packet to the Bureau of

Classification and Central Records, Reception and Youthful Offender Services. The inmate management plan team shall document the inmate transition plan on the database.

(d) The Bureau of Classification and Central Records Reception and Youthful Offender Services Office shall either approve the inmate management plan team's recommendation, disapprove the recommendation, or refer the matter back to the inmate management plan team for additional information.

(e) If approved by the Bureau of Classification and Central Records, the sentence modification package will be sent to the community corrections intake office within the circuit of the sentencing court within 3 working days from the receipt of an e-mail or telephone call from the inmate management plan team that the inmate has successfully completed the basic training program senteneing authority for approval or disapproval.

(f) The sentence modification packet shall include the following:

1. A cover letter indicating that the inmate has completed the basic training program;

2. A completed Order Modifying Sentence and Placing Defendant on Probation, Form DC3-234, hereby incorporated by reference. A copy of this form is available from the Forms Control Administrator, Office of the General Counsel, 2601 Blair Stone Road, Tallahassee, Florida 32399-2500. The effective date of this form is \_\_\_\_\_.

3. A completed Defendant's Waiver of Rights in Modification of Sentence and Placement on Probation, Form DC3-235, incorporated by reference in Rule 33-601.226, F.A.C.;

4. A report describing the inmate's performance, and

5. A recommendation for probation or community residential placement.

(g) The community corrections intake office shall submit the sentence modification packet to the court for approval or disapproval within 5 working days from receipt of the packet.

(h) The community corrections intake office shall ensure that Form DC3-234, Order Modifying Sentence and Placing Defendant on Probation, is received from the sentencing court and shall route the form to the Bureau of Sentence Structure and Transportation.

(i) The Bureau of Sentence Structure and Transportation shall notify the Release Services Unit and the Reception and Youthful Offender Services Section of the receipt of Form DC3-234, Order Modifying Sentencing and Placing Defendant on Probation.

(j) Upon receipt of the court's written action, The Bureau of Classification and Central Records shall review the sentence modification order and clear the inmate for release to community supervision.

(k) If Form DC3-234, Order Modifying Sentence and Placing Defendant of Probation, is denied by the sentencing court, the institutional classification team at the institution

housing the inmate shall initiate a transfer recommendation to the state classification office for transfer of the inmate to a youthful offender institution or community release facility if eligible. The institutional classification team shall notify the inmate of the court's denial.

(l) If the sentence modification order for release of the inmate is not received within 21 days after the inmate completes the basic training program, the Reception and Youthful Offender Services Section shall notify by telephone the community corrections intake office which submitted the sentence modification packet to the court. The community corrections intake office staff shall contact the sentencing judge to determine the status of the request for sentence modification. Community Corrections Intake staff shall notify the Reception and Youthful Offender Services Section as to the status of the request for sentence modification. If the community corrections intake office staff member obtains the approved DC3-234, the staff member shall forward the DC3-324 to the Bureau of Sentence Structure and Transportation. The Bureau of Sentence Structure and Transportation shall make the necessary sentence structure adjustments and route the DC3-234 to the Release Services unit in the Bureau of Classification and Central Records. Release services staff shall review the sentence modification order and clear the inmate for release. If the sentencing court disapproves the sentencing modification, the Bureau of Sentence Structure and Transportation shall notify the institutional classification team at the institution housing the inmate and the steps in paragraph (5)(k) shall be followed.

(6) The basic training program consists of the following major components:

(a) Physical Training with obstacle course. This portion of the program consists of strenuous exercise designed to develop optimum physical conditioning of the inmate.

(b) through (g) No change.

(h) General education development and adult basic education courses.

Specific Authority 20.315, 944.09, 958.045 FS. Law Implemented 20.315, 944.09, 958.045 FS. History—New 2-26-89, Amended 1-25-96, Formerly 33-27.006, Amended 3-13-01, Formerly 33-506.206, Amended 1-17-02, 10-3-02, \_\_\_\_\_.

33-601.237 Basic Training Program – Inmate Privileges and Restrictions.

Inmates in the basic training program shall have privileges normally afforded the general inmate population modified as set forth below:

(1) No change.

(2) Canteen Privileges. Inmates in the basic training program shall be allowed to purchase items from the inmate canteen once per week on a prearranged schedule. Inmate canteen purchases shall be limited to the following items:

(a) Toiletries (soap, shampoo, deodorant, Q-Tips, chap stick, shaving cream, skin care lotion, toothbrush, toothpaste, toothbrush holder, unwaxed dental floss, soap dish, nail clippers, baby powder)

(b) Health aids (headache and cold remedies, antacids, laxatives, eye wash, antifungal preparation, cough drops, nasal sprays)

(c) Writing materials (black pens, writing pads and envelopes) and

(d) Stamps

(3) through (4) No change.

(5) Religious Practices.

(a) No change.

(b) The ~~human services counselor, the~~ institutional chaplain and the program director will assess requests on a case by case basis for religious observances or practices not routinely available in the Basic Training Program.

Specific Authority 944.09, 958.045 FS. Law Implemented 944.09, 958.045 FS. History—New 2-26-89, Amended 1-25-96, Formerly 33-27.007, Amended 3-13-01, Formerly 33-506.207, Amended 1-17-02,\_\_\_\_\_.

33-601.241 Basic Training Program – Discipline.

(1) No change.

(2) Review Team. The review team is authorized to impose any alternative training procedures as well as any of the following disciplinary measures:

(a) through (c) No change.

(d) Assign participation in specially devised physical activities.

(3) No change.

Specific Authority 944.09, 958.045. Law Implemented 944.09, 958.045 FS. History—New 2-26-89, Amended 1-25-96, Formerly 33-27.012, Amended 3-13-01, Formerly 33-506.211, Amended 1-17-02,\_\_\_\_\_.

33-601.242 Removal from Basic Training Program.

(1) No change.

(2) The classification officer shall recommend removal by docketing the inmate’s case for review by the ICT by using Form DC6-120, Institutional Classification Team Docket. Form DC6-120 is hereby incorporated by reference. Copies of this form are available from the Forms Control Administrator, Office of the General Counsel, 2601 Blair Stone Road, Tallahassee, Florida 32399-2500. The effective date of this form is January 17, 2001. The inmate will not be removed from the basic training program until the SCO has approved the inmate’s removal and transfer from the program. The decision and justification shall be noted on the offender based information system.

(3) through (4) No change.

Specific Authority 958.04(4)(b), 958.045(1)(b) FS. Law Implemented 944.09, 958.04, 958.045 FS. History—New 2-26-89, Amended 1-25-96, 10-23-97, Formerly 33-27.013, Amended 3-13-01, Formerly 33-506.212, Amended 1-17-02,\_\_\_\_\_.

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: July 6, 2004

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: July 23, 2004

**DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION**

**Division of Hotels and Restaurants**

RULE CHAPTER TITLE: Florida Elevator Safety Code

RULE CHAPTER NO.: 61C-5

RULE TITLE: Elevator Safety Technical Advisory Council

RULE NO.: 61C-5.016

PURPOSE AND EFFECT: The purpose is to update the existing rules and implement requirements in accordance with Chapter 399, Florida Statutes, as imposed by the 2004 Legislature in House Bill 129 relative to the Elevator Safety Technical Advisory Council. The effect will be to put the public on notice of these new rule provisions and requirements of Chapter 399, Florida Statutes, and to implement the statutory requirements of this program.

SUMMARY: The proposed rule development will address the membership composition of the Elevator Safety Technical Advisory Council and the staggered term of service for each classification of membership.

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: 399.1061 FS.

LAW IMPLEMENTED: 399.10, 399.1061 FS.

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

TIME AND DATE: 2:00 p.m. – 3:00 p.m. (EST), September 10, 2004

PLACE: The Secretary’s Conference Room, Room #259, The Johns Building, 725 South Bronough Street, Tallahassee, Florida

Pursuant to the provisions of the Americans with Disabilities Act, any person requiring special accommodations to participate in this hearing is asked to advise the agency at least 48 business hours before the hearing by contacting: Lee M. Cornman, Operations Review Specialist, (850)488-1133. If you are hearing or speech impaired, please contact the agency by calling 1(800)955-8771 (TDD).

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Lee M. Cornman, Operations Review Specialist, Department of Business and Professional Regulation, Division of Hotels and Restaurants, 1940 North Monroe Street, Tallahassee, FL 32399-1012, (850)488-1133

THE FULL TEXT OF THE PROPOSED RULE IS:

61C-5.016 Elevator Safety Technical Advisory Council.

The Elevator Safety Technical Advisory Council shall consist of eight members appointed by the secretary of the department. Each of the representatives shall serve 4-year terms except, to provide for staggered terms as specified in statute, four of the initial appointees shall serve 2-year terms. The council representatives that shall serve an initial 2-year term of service are as follows: one representative from a major elevator manufacturing company or its authorized representative; one representative from a building design profession; one representative of labor involved in the installation, maintenance, and repair of elevators; and one representative of a local government in this state. The council representatives that shall serve an initial 4-year term of service are as follows: one representative from an elevator servicing company; one representative of the general public; one representative of a building owner or manager; and one representative who is a certified elevator inspector from a private inspection service. All subsequent appointments shall be for 4-year terms.

Specific Authority 399.1061 FS. Law Implemented 399.10, 399.1061 FS. History—New \_\_\_\_\_.

NAME OF PERSON ORIGINATING PROPOSED RULE: Division of Hotels and Restaurants, Department of Business and Professional Regulation

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: General Counsel, Department of Business and Professional Regulation

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: July 12, 2004

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: July 23, 2004, Vol. 30, No. 30

**DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION**

**Board of Professional Engineers**

RULE TITLE: Qualification Program for Special Inspectors of Threshold Buildings  
RULE NO.: 61G15-35.003

PURPOSE AND EFFECT: The Board finds it necessary to clarify that to qualify as a special inspector of threshold buildings one must obtain experience in structural design after having been licensed as a professional engineer.

SUMMARY: The rule sets forth the criteria to qualify for special inspector of threshold buildings.

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: 471.008, 471.033(2) FS.

LAW IMPLEMENTED: 471.015(7), 471.033 FS.

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

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Paul J. Martin, Executive Director, Board of Professional Engineers, 2507 Callaway Road, Suite 200, Tallahassee, Florida 32399-0750

THE FULL TEXT OF THE PROPOSED RULE IS:

61G15-35.003 Qualification Program for Special Inspectors of Threshold Buildings.

(1) through (b) No change.

(c) Two years of experience in the structural design of threshold buildings after having achieved licensure as a professional engineer. For the purpose of these criteria, structural design shall mean the design of all structural components of the building and shall not be limited to specific structural components only, such as foundations, prestressed or post-tensioned concrete, etc.

(d) through (4) No change.

Specific Authority 471.008, 471.033(2) FS. Law Implemented 471.015(7), 471.033 FS. History—New 4-19-01, Amended 7-7-02, 4-5-04, \_\_\_\_\_.

NAME OF PERSON ORIGINATING PROPOSED RULE: Board of Professional Engineers

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

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

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: July 23, 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: Exemption of Spouses of Members of Armed Forces from Licensure Renewal Provisions 64B2-13.005

RULE NO.: 64B2-13.005

PURPOSE AND EFFECT: To exempt spouses of members of the Armed Forces from specific license renewal requirements pursuant to the Florida legislature.

SUMMARY: The licensee spouse of a member of the military is exempt from renewal requirements while out of Florida, but must notify the Board within six months of their return to Florida or the spouse's discharge from the military. This exemption may continue for the duration of the 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 cost regulatory alternative must do so in writing within 21 days of this notice.

SPECIFIC AUTHORITY: 456.024(2) FS.

LAW IMPLEMENTED: 456.024(2) 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:

64B2-13.005 Exemption of Spouses of Members of Armed Forces from Licensure Renewal Provisions.

A licensee who is the spouse of a member of the Armed Forces of the United States shall be exempt from all licensure renewal provisions for any period of time which the licensee is absent from the State of Florida due to the spouse's duties with the Armed Forces. The licensee must document the absence and the spouse's military status to the Board. The licensee is required to notify the Board of a change in status within six months of the licensee's return to the State of Florida or the spouse's discharge from active duty. If the change of status occurs within the second half of the biennium, the licensee is exempt from the continuing education requirement for that biennium.

Specific Authority 456.024(2) FS. Law Implemented 456.024(2) FS. History--New \_\_\_\_\_.

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: May 21, 2004

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: June 11, 2004

**DEPARTMENT OF HEALTH**

**Board of Hearing Aid Specialists**

RULE TITLE: General Description of Department Organization and Operations 64B6-1.001

RULE NO.: 64B6-1.001

PURPOSE AND EFFECT: To repeal an obsolete rule.

SUMMARY: The Board determined to repeal this rule as it is no longer necessary.

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: 120.53(1) FS.

LAW IMPLEMENTED: 120.53(1), 456.009 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 Hearing Aid Specialist, 4052 Bald Cypress Way, Bin #C08, Tallahassee, Florida 32399-3258

THE FULL TEXT OF THE PROPOSED RULE IS:

64B6-1.001 General Description of Department Organization and Operations.

Specific Authority 120.53(1) FS. Law Implemented 120.53(1), 456.009 FS. History--New 1-10-84, Formerly 21JJ-1.01, 22JJ-1.001, 21JJ-1.015, 61G9-1.015, Repealed \_\_\_\_\_.

NAME OF PERSON ORIGINATING PROPOSED RULE: Board of Hearing Aid Specialists

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Board of Hearing Aid Specialists

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: July 30, 2004

**DEPARTMENT OF HEALTH**

**Board of Hearing Aid Specialists**

RULE TITLES: Examination and Re-examination Fees 64B6-4.002

Examination Review Fee 64B6-4.006

PURPOSE AND EFFECT: To repeal obsolete rules.

SUMMARY: The Board determined to repeal these rules as they are no longer necessary.

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, 484.044, 484.0447(2),(3) FS.

LAW IMPLEMENTED: 456.017, 484.0447(2),(3), 484.045 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 Hearing Aid Specialist, 4052 Bald Cypress Way, Bin #C08, Tallahassee, Florida 32399-3258

THE FULL TEXT OF THE PROPOSED RULES IS:

64B6-4.002 Examination and Re-examination Fees.

Specific Authority 484.044, 484.0447(2),(3) FS. Law Implemented 456.017, 484.0447(2),(3), 484.045 FS. History--New 3-29-84, Formerly 21JJ-5.04, 21JJ-5.004, Amended 1-19-87, 12-25-88, Formerly 21JJ-4.003, Amended 6-26-95, Formerly 61G9-4.003, Repealed.

64B6-4.006 Examination Review Fee.

Specific Authority 456.017, 484.044 FS. Law Implemented 456.017 FS. History--New 11-12-89, Formerly 21JJ-4.013, 61G9-4.013, Repealed.

NAME OF PERSON ORIGINATING PROPOSED RULE: Board of Hearing Aid Specialists  
NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Board of Hearing Aid Specialists  
DATE PROPOSED RULE APPROVED BY AGENCY HEAD: July 30, 2004

DEPARTMENT OF HEALTH

Board of Pharmacy

RULE TITLES: Exemptions for Members of the Armed Forces; Spouses  
Continuing Education Records Requirements  
RULE NOS.: 64B16-26.104  
64B16-26.603

PURPOSE AND EFFECT: The Board proposes the amendments to implement Section 456.024, Florida Statutes; and, to update continuing education requirements.

SUMMARY: The first proposed amendment exempts licensees from license renewal requirements while members of or spouses of members of the Armed Forces of the United States. The second proposed amendment addresses continuing education documentation.

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: 465.005 FS.

LAW IMPLEMENTED: 456.024, 465.009 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: Danna Droz, Executive Director, Board of Pharmacy/MQA, 4052 Bald Cypress Way, Bin #C04, Tallahassee, Florida 32399-3254

THE FULL TEXT OF THE PROPOSED RULES IS:

64B16-26.104 Exemptions for Members of the Armed Forces; Spouses.

(1) Any licensed pharmacist on active duty with the Armed Forces of the United States who at the time of becoming such a member was in good standing with the Board and was entitled to practice the profession of pharmacy in Florida shall be exempt from all license renewal provisions obtaining a biennial license renewal and paying the fees required hereunder so long as the licensee ~~he~~ is on active duty with the Armed Forces and for a period of six months after discharge so long as the licensee ~~he~~ is not engaged in the practice of pharmacy in the private sector for profit.

(2) A licensee who is a spouse of a member of the Armed Forces of the United States and who was caused to be absent from the State of Florida because of the spouse's duties with the Armed Forces and who at the time of the absence was in good standing with the Board and entitled to practice as a pharmacist in Florida shall be exempt from all license renewal provisions.

Specific Authority 465.005 FS. Law Implemented 456.024 FS. History--New 3-19-79, Amended 4-30-85, Formerly 21S-6.09, 21S-6.009, Amended 7-31-91, Formerly 21S-26.104, 61F10-26.104, 59X-26.104, Amended.

64B16-26.603 ~~Reporting~~ Continuing Education Records Requirements.

Each ~~registered pharmacist shall at the time of the biennial license renewal, report programs of continuing professional education compliance during the applicable renewal period.~~ Each registered pharmacist shall retain documentation of participation in ~~such~~ continuing education programs required for license renewal for not less than two years after the license is renewed ~~each biennial license renewal~~ for audit purposes if and when such audit is undertaken by the Department of Health and the Board of Pharmacy. Such documentation shall



consist of statements of credit slips for lecture attendance, certification forms from instructors, or course completion slips from correspondence courses.

Specific Authority 465.005 FS. Law Implemented 465.009 FS. History—New 10-17-79, Formerly 21S-13.04, Amended 5-10-89, Formerly 21S-13.004, 21S-26.603, 61F10-26.603, 59X-26.603, Amended \_\_\_\_\_.

NAME OF PERSON ORIGINATING PROPOSED RULE:  
Board of Pharmacy

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

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: June 28, 2004

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: May 28, 2004

**DEPARTMENT OF HEALTH**

**Board of Pharmacy**

RULE TITLES: RULE NOS.:

Licensure by Examination; Foreign Pharmacy Graduates 64B16-26.2031  
Licensure by Endorsement 64B16-26.204

PURPOSE AND EFFECT: The Board proposes the new rule and rule amendments to update and to consolidate the requirements for licensure application into Chapter 64B-26, F.A.C.

SUMMARY: The new rule establishes the licensure requirements for foreign graduate applicants. The amended rule updates licensure requirements for application by endorsement.

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: 456.033, 465.005, 465.07 FS., Chapter 2001-166, Laws of Florida.

LAW IMPLEMENTED: 456.013(1), 456.033, 465.007, 465.0075, 465.022 FS., Chapter 2001-166, Laws of Florida.

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: Danna Droz, Executive Director, Board of Pharmacy/MQA, 4052 Bald Cypress Way, Bin #C04, Tallahassee, Florida 32399-3254

THE FULL TEXT OF THE PROPOSED RULES IS:

64B16-26.2031 Licensure by Examination; Foreign Pharmacy Graduates.

In order for a foreign pharmacy graduate to be admitted to the professional licensure examination, the applicant must:

(1) Be a graduate of a four year undergraduate pharmacy program at a school or college outside the United States.

(2) Successfully pass the foreign pharmacy graduate equivalency examination which is given by the Foreign Pharmacy Graduate Equivalency Commission.

(3) Demonstrate proficiency in the use of English by passing the Test of English as a Foreign Language (TOEFL) which is given by the Educational Testing Service, Inc., with a score of at least 500 for the pencil and paper test or 173 for the computer version.

(4) Demonstrate proficiency in the use of spoken English by passing the Test of Spoken English (TSE) with a score of at least 200 or an equivalent score of 45 on the recalibrated TSE.

(5) Complete a minimum of 500 hours of supervised work activity within the State of Florida. Such experience must be equivalent to that required in the internship program as set forth in Rule 64B16-26.2032, F.A.C. The work experience program including both the preceptor and the permittee must be approved by the Board of Pharmacy. Further, no program of work activity will be approved for any applicant until said applicant has successfully completed the examination as set forth in subsections (2) and (3) above.

Specific Authority 465.005, 465.007 FS. Law Implemented 465.007 FS. History—New \_\_\_\_\_.

~~64B16-26.204 Licensure by Manner of Application—Endorsement.~~

~~All applicants for licensure shall complete a course on HIV/AIDS prior to licensure. The course shall be no less than 3 contact hours and shall cover the subjects listed in subsection 64B16-26.103(3), F.A.C. All applicants for licensure shall complete a course on medication errors prior to licensure. The course shall be no less than 2 contact hours and shall cover the subjects listed in subsection 64B16-26.103(4), F.A.C.~~

~~(1) An applicant for licensure by endorsement Applicants must be at least 18 years of age and a recipient of a degree from a school or college of pharmacy accredited by an accrediting agency recognized and approved by the United States Office of Education. Applicants qualifying under the education requirements of Section 465.007(1)(b)2., F.S. (foreign graduates), must complete the requirements of Rule 64B16-26.205, F.A.C., prior to the certification for the examination required in subsection (6) of this rule.~~

~~(1)(2) All applications for licensure by endorsement shall be made on board approved form DOH/MQA/PH100 (10-15-01). The instructions and application form, entitled Florida Pharmacist Endorsement Application, which is hereby incorporated by reference, effective 11-8-01, shall be accompanied with a non-refundable endorsement application fee and of \$100, the initial licensure fee as set forth in Rules 64B16-26.1001 and 64B16-26.1002, F.A.C. of \$190, and \$5.00 unlicensed activity fee.~~

(2) The applicant must submit satisfactory proof that one of the following requirements has been met:

(a) Two (2) years of active practice, as defined in Section 465.0075(1)(c), Florida Statutes, within the immediately preceding five (5) years. If the applicant meets the requirements of this section, proof of completion of 30 hours of approved continuing education obtained in the two years immediately preceding application, must also be submitted.

(b) Successful completion of a board-approved postgraduate training program within the immediately preceding year.

(c) Successful completion of a board-approved clinical competency examination within the immediately preceding year.

(d) Successful completion of an internship meeting the requirements of Section 465.0075(1)(c), Florida Statutes, within the immediately preceding two (2) years.

(3) The applicant must submit satisfactory proof of completion of the following:

(a) A Board approved course of no less than three (3) contact hours on HIV/AIDS covering the subjects set forth in Rule 64B16-26.602, F.A.C. The course shall be completed no earlier than 12 months prior to application.

(b) A course of no less than two (2) hours on medication errors covering the subjects set forth in Rule 64B16-26.602, F.A.C. The course shall be completed no earlier than 12 months prior to application.

(4) Applicants qualifying under the education requirements of Section 465.007(1)(b)2., Florida Statutes, (foreign graduates), must complete the requirements of Rule 64B16-26.205, F.A.C., prior to certification for the examination required in subsection (6) of this rule.

(5)(3) All requirements for licensure by endorsement must be met within one (1) year of the receipt of the application. Applicants failing to meet this requirement must reapply.

(4) through (5) renumbered (6) through (7) No change.

(8)(6) Applicants deemed qualified for licensure by endorsement as provided in Section 465.0075, F.S., shall be required to complete the Multistate Pharmacy Jurisprudence Examination – Florida Version, examination described in paragraph 64B16-26.200(1)(b), F.A.C. Passing scores on this examination may be used upon reapplication only if the examination was completed within three (3) years of the reapplication.

(7) Applicants shall submit satisfactory proof that one of the following requirements has been met:

(a) Two years of active practice, as defined in Section 465.0075(1)(c), F.S., within the immediately preceding 5 years.

(b) Successful completion of a board-approved postgraduate training program within the immediately preceding year.

~~(e) Successful completion of a board-approved clinical competency examination within the immediately preceding year.~~

~~(d) Successful completion of an internship meeting the requirements of Section 465.0075(1)(c), F.S., within the immediately preceding two years.~~

~~(8) Applicants licensed for more than two years in another state must submit 30 hours of approved continuing education obtained in the two calendar years immediately preceding application.~~

Specific Authority 456.033, 465.005 FS., Chapter 2001-166, Laws of Florida. Law Implemented 456.013(1), 456.033, 465.007, 465.0075, 465.022 FS., Chapter 2001-166, Laws of Florida. History–New 11-8-01, Amended

NAME OF PERSON ORIGINATING PROPOSED RULE:  
Board of Pharmacy

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

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: June 28, 2004

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: May 28, 2004

**DEPARTMENT OF HEALTH**

**Board of Pharmacy**

RULE TITLES:	RULE NOS.:
Nuclear Pharmacist Licensure	64B16-26.303
Subject Matter for Nuclear Pharmacist License Renewal Continuing Education Programs	64B16-26.304

PURPOSE AND EFFECT: The Board proposes the new rules to update and to consolidate the requirements for nuclear pharmacist licensure into Chapter 64B-26., F.A.C.

SUMMARY: The new rules establish the requirements for nuclear pharmacist licensure and the subject matter required for nuclear pharmacist continuing education.

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: 465.005, 465.0126 FS.

LAW IMPLEMENTED: 465.0126 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: Danna Droz, Executive Director, Board of Pharmacy/MQA, 4052 Bald Cypress Way, Bin #C04, Tallahassee, Florida 32399-3254

THE FULL TEXT OF THE PROPOSED RULES IS:

64B16-26.303 Nuclear Pharmacist Licensure.

(1) A pharmacist licensed to practice pharmacy in this state who performs a radiopharmaceutical service shall, prior to engaging in such specialized practice, be actively licensed as a nuclear pharmacist.

(2) A pharmacist seeking licensure as a nuclear pharmacist in this state shall submit to the Board of Pharmacy a course outline from an accredited college of pharmacy or other program recognized by the Florida Department of Health and the Florida Board of Pharmacy (a program comparable to those offered by accredited colleges of pharmacy for the training of nuclear pharmacists), and a certificate of training which provides a minimum of 200 clock hours of formal didactic training, which includes:

(a) Radiation physics and instrumentation (85 hours).

(b) Radiation protection (45 hours).

(c) Mathematics pertaining to the use and measurement of radioactivity (20 hours).

(d) Radiation biology (20 hours).

(e) Radiopharmaceutical chemistry (30 hours).

(3) Such academic training programs will be submitted to the Board of Pharmacy for approval by an accredited educational institution which operates under the auspices of or in conjunction with an accredited college of pharmacy.

(4) The minimum on-the-job training which shall be included in a radiopharmacy internship is 500 hours of training and experience in the handling of unsealed radioactive material under the supervision of a licensed nuclear pharmacist. The training and experience shall include but shall not be limited to the following:

(a) Ordering, receiving and unpackaging in a safe manner, radioactive material, including the performance of related radiation surveys.

(b) Calibrating dose calibrators, scintillation detectors, and radiation monitoring equipment.

(c) Calculating, preparing and verifying patient doses, including the proper use of radiation shields.

(d) Following appropriate internal control procedures to prevent mislabeling.

(e) Learning emergency procedures to safely handle and contain spilled materials, including related decontamination procedures and surveys.

(f) Eluting technetium-99m from generator systems, assaying the eluate for technetium-99m and for molybdenum-99 contamination, and processing the eluate with reagent kits to prepare technetium-99m labeled radiopharmaceuticals.

(g) Clinical practice concepts.

(5) Guidelines for such programs are in a publication entitled "Guidelines for Florida Board of Pharmacy Internship Training in Radiopharmacy" (1988), incorporated herein by

reference, and which can be obtained by contacting the Board of Pharmacy, 4052 Bald Cypress Way, Bin #C04, Tallahassee, Florida 32399-3254. Governmental and private radiopharmacy internship programs shall not apply to the pharmacy internship required under Rule 64B16-26.2031, F.A.C.

(6) If the didactic and experiential training required in this section have not been completed within the last seven (7) years, the applicant must have been engaged in the lawful practice of nuclear pharmacy in another jurisdiction at least 1080 hours during the last seven (7) years.

Specific Authority 465.005, 465.0126 FS. Law Implemented 465.0126 FS. History--New \_\_\_\_\_.

64B16-26.304 Subject Matter for Nuclear Pharmacist License Renewal Continuing Education Programs.

(1) A licensee completing the continuing education requirement for nuclear pharmacist license renewal pursuant to Rule 64B16-26.103, F.A.C., shall complete twenty-four (24) additional hours per biennium of coursework each two year period by or through a Committee approved provider, instructionally designed to provide in-depth treatment of nuclear pharmacy practice with suggested subject matter set out in subsection (2) of this rule.

(2) Content of nuclear pharmacist continuing education program.

(a) Application of radiopharmaceutical theory in a practice or a research setting with respect to the drug products and their clinical application. Provision of drug and radiopharmaceutical information as it pertains to optimal handling and use of these products in a clinical setting.

(b) Effective communication skills in a multi-disciplinary environment with patients, nuclear medicine physicians, nuclear medicine technologists, radiation safety personnel and other nuclear pharmacists. The multi-faceted regulatory environment requires such skills in the preparation and maintenance of a radioactive by-product materials license, the identification and reporting of adverse reactions and misadministration, instances of poor product performance, environmental and personnel radiation safety.

(c) Application of the most rigorous and up-to-date principles of radiation safety and quality assurance in order to assure regulatory compendia, and operational standards for drug and radiopharmaceutical products and equipment. Record-keeping and other documentation activities essential to procurement, storage, compounding, handling and use, distribution and disposal should be emphasized.

(d) Management of a nuclear pharmacy unit in accordance with regulatory and administrative agencies' requirements.

(e) Advances in drug, radiopharmaceutical or related technology (including, but not limited to: monoclonal antibodies, magnetic resonance imaging, computed

tomography, positron-emission tomography, radioplaque and other contact enhancement agents, radioimmunoassay) with emphasis on paragraphs (a)-(d) above for such new agents.

Specific Authority 465.005, 465.0126 FS. Law Implemented 465.0126 FS. History—New \_\_\_\_\_.

NAME OF PERSON ORIGINATING PROPOSED RULE:  
Board of Pharmacy

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

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: June 28, 2004

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: May 28, 2004

**DEPARTMENT OF HEALTH**

**Board of Pharmacy**

RULE TITLES: RULE NOS.:  
Subject Matter for Continuing Education to

Order and Evaluate Laboratory Tests 64B16-26.320  
Pharmacy Interns; Registration; Employment 64B16-26.400

PURPOSE AND EFFECT: The Board proposes the rule amendments to update the requirements for continuing education when a pharmacist orders and evaluates laboratory tests. The amendments also update and consolidate the requirements of pharmacy internship into Chapter 64B-26, F.A.C.

SUMMARY: The rule amendments set forth the requirements for pharmacists who order and evaluate laboratory tests, and set forth the requirements for pharmacy intern registration and employment.

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: 465.005, 465.009, 465.0125(3) FS.

LAW IMPLEMENTED: 465.013 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: Danna Droz, Executive Director, Board of Pharmacy/MQA, 4052 Bald Cypress Way, Bin #C04, Tallahassee, Florida 32399-3254

THE FULL TEXT OF THE PROPOSED RULES IS:

64B16-26.320 Subject Matter for Continuing Education to Order and Evaluate —~~Ordering and Evaluation of Laboratory Tests.~~

(1) ~~Those~~ Consultant pharmacists and pharmacists holding the Doctor of Pharmacy degree that wish to order and evaluate laboratory tests under the provisions of Section 465.0125, F.S., shall successfully complete the requirements of a continuing education course set forth herein provided for by this section prior to such practice. Successful completion of the course will certify the pharmacist for this practice for two (2) years from date of completion.

(2) No change.

(3) A consultant pharmacist may apply the three (3) hour initial certification course and the one (1) hour recertification course toward the continuing education requirement ~~that a consultant pharmacist biennially complete twenty-four (24) hours of continuing education~~ for renewal of a consultant pharmacist license under Rule 64B16-26.300, F.A.C., or may apply such continuing education hours toward the continuing education requirement ~~that a pharmacist biennially complete thirty (30) hours of continuing education~~ for renewal of a pharmacist license under Rules 64B16-26.103 ~~and 64B16-26.606~~, F.A.C., but may not use the same continuing education hours to satisfy both requirements. A Doctor of Pharmacy who is not a consultant pharmacist may apply the three (3) hour initial certification course and the one (1) hour recertification course toward the requirement that a pharmacist biennially complete thirty (30) hours of continuing education requirement for renewal of a pharmacist license under Rules 64B16-26.103 ~~and 64B16-26.606~~, F.A.C.

Specific Authority 465.009, 465.0125(3) FS. Law Implemented 465.013 FS. History—New 2-23-98, Amended 6-15-98, 1-12-03, \_\_\_\_\_.

64B16-26.400 Pharmacy Interns; Registration; Employment.

(1) ~~A No person may serve as a~~ pharmacy intern is required to be registered with the Board of Pharmacy as an intern before being employed as an intern in a pharmacy in Florida in a pharmacy in this state until such time as he is registered with the Department of Health as an intern. This requirement applies only to interns interning in this state.

(2) An applicant for pharmacy intern registration must submit ~~No person shall be registered as a pharmacy intern until such time as he has submitted to the satisfaction of the Florida Board of Pharmacy, proof of that he:~~

(a) Enrollment ~~is enrolled in an internship program at an accredited college or school of pharmacy or;~~

(b) ~~Graduation from~~ ~~Is a graduate of an accredited college or school of pharmacy and is not yet licensed in the state.~~ For purposes of this rule only, any individual who has been accepted by the Foreign Pharmacy Graduate Examination Commission to sit for the Foreign Pharmacy Graduate Equivalency Examination ~~as defined in Rule 64B16-26.205, F.A.C.,~~ shall be considered a graduate of an accredited college or school of pharmacy ~~and shall be permitted to practice as an intern until such graduate has successfully completed the Foreign Pharmacy Graduate Equivalency Examination.~~ The internship experience allowed under this provision shall not count toward the 500-hours internship required subsequent to passage of the Foreign Pharmacy Graduate Equivalency Examination as mandated in Section 465.007(1)(b)2., F.S., and as defined in Rule 64B16-26.203~~5~~, F.A.C.

(3) No change.

(4) No intern shall perform any acts relating to the filling, compounding, or dispensing of medicinal drugs unless it is done ~~he does so~~ under the direct and immediate personal supervision of a person actively licensed to practice pharmacy in this state.

(5) An intern certificate shall expire ~~for all persons described in paragraph 64B16-26.400(2)(b), F.A.C., shall expire if a person fails to apply for and take each examination until the examination is passed.~~

(a) Six (6) years from the date of issue, if the person is enrolled in an accredited college or school of pharmacy; or

(b) One (1) year from the date of issue if the person is a graduate of an accredited college or school of pharmacy.

(6) An intern certificate may be renewed for a term of one (1) year at the discretion of the Board.

Specific Authority 465.005 FS. Law Implemented 465.013 FS. History—Amended 8-20-63, 5-19-72, 8-18-73, Repromulgated 12-18-74, Amended 11-10-80, 4-30-85, Formerly 21S-1.21, Amended 10-20-88, Formerly 21S-1.021, Amended 7-31-91, 1-10-93, Formerly 21S-26.400, 61F10-26.400, 59X-26.400, Amended \_\_\_\_\_.

NAME OF PERSON ORIGINATING PROPOSED RULE:  
Board of Pharmacy

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

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: June 28, 2004

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: May 28, 2004

**FISH AND WILDLIFE CONSERVATION COMMISSION**

**Marine Fisheries**

RULE CHAPTER TITLE: Local Laws

RULE TITLE:

RULE NO.:

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

68B-3.008

PURPOSE AND EFFECT: The purpose of this rule amendment is to allow the use of gigs to harvest legal size sheepshead in Volusia County. The effect will be to conform this local rule for Volusia County with current statewide rules for the harvest of sheepshead in Rule Chapter 68B-48, F.A.C.

SUMMARY: Paragraph (3)(a) of Rule 68B-3.008, F.A.C., is amended to allow the harvest of sheepshead by the means of a barbed spear, with not more than three (3) prongs, in Volusia County.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COST: A statement of estimated regulatory cost has not been prepared regarding these proposed rules.

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

SPECIFIC AUTHORITY: Article IV, Section 9, Florida Constitution.

LAW IMPLEMENTED: Article IV, Section 9, Florida Constitution.

THE HEARING ON THE PROPOSED RULES WILL BE HELD DURING THE REGULAR MEETING OF THE COMMISSION TO BE HELD AT THE TIME, DATE AND PLACE SHOWN BELOW:

TIME AND DATES: 8:30 a.m. each day, September 22-24, 2004

PLACE: St. Petersburg Hilton, 333 First Street, South, St. Petersburg, Florida 33701-4342

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

All written material received by the Commission within 21 days of the date of publication of this notice shall be made a part of the official record.

Section 286.0105, Florida Statutes, provides that, if a person decides to appeal any decision made by the commission with respect to any matter considered at this hearing, he will need a record of proceedings, and for such purposes, he may need to ensure that a verbatim record of the proceedings is made, which record includes the testimony and evidence upon which the appeal is based.

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

THE FULL TEXT OF THE PROPOSED RULE IS:

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

(1) through (2) No change.

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

(b) through (h) No change.

PROPOSED EFFECTIVE DATE: January 1, 2005.

~~Specific Authority Art. IV, Sec. 9, Fla. Const., s. 2, Chapter 83-134, Laws of Fla., as amended by Chapter 84-121, Laws of Fla. Law Implemented Art. IV, Sec. 9, Fla. Const., s. 2, Chapter 83-134, Laws of Fla., as amended by Chapter 84-121, Laws of Fla. History-New 10-19-89, Amended 1-9-91, 1-1-92, 7-1-92, 11-26-92, 10-3-94, 9-30-96, 7-30-97, Formerly 46-3.008, Amended 10-16-02, 1-1-05.~~

NAME OF PERSON ORIGINATING PROPOSED RULE: Fish and Wildlife Conservation Commission, 620 South Meridian Street, Tallahassee, Florida 32399-1600

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

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: August 11, 2004

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

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**

**Marine Fisheries**

RULE CHAPTER TITLE: Blue Crab

RULE TITLE: Regulation and Prohibition of RULE NO.:

Certain Harvesting Gear 68B-45.004

PURPOSE AND EFFECT: The purpose of this rule amendment is to implement recommendations of the Blue Crab Advisory Board to allow the feeding of male blue crabs used to attract female peeler crabs into peeler traps; to make a technical change in the specifications for orientation of degradable panels; allow the use of degradable staples; and extend the moratorium on issuing new blue crab endorsements until July 1, 2006. The effect will be to allow peeler crab harvesters to keep male crabs, used as bait, alive; to give blue crab trappers more options for degradable panels and materials; and to extend the blue crab endorsement moratorium while an effort management plan is established.

SUMMARY: Paragraph (2)(d) of Rule 68B-45.004, F.A.C., is amended to allow feeding of male crabs used as bait to attract female blue crabs into peeler traps. Paragraphs (7)(d)-(g) of Rule 68B-45.004, F.A.C., are amended to allow vertical or horizontal orientation of degradable panels in blue crab traps. Additionally, paragraph (7)(g) is amended to allow the use of 16 gauge degradable staples. Paragraph (9)(b) of Rule 68B-45.004, F.A.C., is amended to extend the moratorium on issuing new blue crab endorsements until July 1 2006.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COST: A statement of regulatory cost has not been prepared regarding these proposed rules.

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

SPECIFIC AUTHORITY: Article IV, Section 9, Florida Constitution.

LAW IMPLEMENTED: Article IV, Section 9, Florida Constitution.

A HEARING ON THE PROPOSED RULES WILL BE HELD DURING THE REGULAR MEETING OF THE COMMISSION TO BE HELD AT THE TIME, DATE AND PLACE SHOWN BELOW:

TIME AND DATES: 8:30 a.m. – 5:00 p.m. each day, September 22-24, 2004

PLACE: St. Petersburg Hilton, 333 First Street, St. Petersburg, Florida

Pursuant to the provisions of the Americans with Disabilities Act, any person requiring special accommodations to participate in this workshop/meeting is asked to advise the agency at least 5 calendar days before the workshop/meeting

by contacting: Cindy Hoffman, ADA Coordinator, (850)488-6411. If you are hearing or speech impaired, please contact the agency by calling (850)488-9542.

All written material received by the Commission within 21 days of the date of publication of this notice shall be made a part of the official record.

Section 286.0105, Florida Statutes, provides that, if a person decides to appeal any decision made by the commission with respect to any matter considered at this hearing, he will need a record of proceedings, and for such purposes, he may need to ensure that a verbatim record of the proceedings is made, which record includes the testimony and evidence upon which the appeal is based.

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

THE FULL TEXT OF THE PROPOSED RULE IS:

68B-45.004 Regulation and Prohibition of Certain Harvesting Gear.

(1) No change.

(2)(a) Peeler crabs may be harvested in traps constructed of wire with a minimum mesh size of one inch and with the throats or entrances located only on a vertical surface. Such traps shall have a maximum dimension of 24 inches by 24 inches by 24 inches or a volume of 8 cubic feet and a degradable panel.

(b) Each trap used to harvest peeler crabs shall have buoys and be identified as described in subparagraph (a)2., and (a)3. or (a)4. of this subsection.

(c) All peeler crabs harvested must be kept in a container separate from other blue crabs.

(d) Each trap used to harvest peeler crabs shall only be baited with live male blue crabs. Male crabs so used as bait to attract female blue crabs into peeler traps may be periodically fed with no more than a single bait fish. Any trap used to harvest blue crabs that is baited with anything other than live male blue crabs shall meet the requirements of paragraph (1)(a) of this rule.

(3) through (6) No change.

(7) A trap shall be considered to have a degradable panel if one of the following methods is used in construction of the trap:

(a) through (c) No change.

(d) The trap contains at least one sidewall with a ~~vertical~~ rectangular opening no smaller in either dimension than 6 inches in height by 3 inches in width. This opening must be laced, sewn, or otherwise obstructed by a single length of untreated jute twine knotted only at each end and not tied or

looped more than once around a single mesh bar. When the jute degrades, the opening in the sidewall of the trap will no longer be obstructed.

(e) The trap contains at least one sidewall with a ~~vertical~~ rectangular opening no smaller in either dimension than 6 inches in height by 3 inches in width. This opening must be obstructed with an untreated pine slat or slats no thicker than 3/8 inch. When the slat degrades, the opening in the sidewall of the trap will no longer be obstructed.

(f) The trap contains at least one sidewall with a ~~vertical~~ rectangular opening no smaller in either dimension than 6 inches in height by 3 inches in width. The opening may either be laced, sewn, or otherwise obstructed by non-coated steel wire measuring 24 gauge or thinner or be obstructed with a panel of ferrous single-dipped galvanized wire mesh made of 24 gauge or thinner wire. When the wire or wire mesh degrades, the opening in the sidewall of the trap will no longer be obstructed.

(g) The trap contains at least one sidewall with a ~~vertical~~ rectangular opening no smaller in either dimension than 6 inches in height by 3 inches in width. The opening may be obstructed with a rectangular panel made of any material, fastened to the trap at each of the four corners of the rectangle by galvanized staples 16 gauge or thinner, rings made of non-coated 24 gauge or thinner wire, or single strands of untreated jute twine. When the corner fasteners degrade, the panel will fall away and the opening in the sidewall of the trap will no longer be obstructed.

(8) No change.

(9)(a) No person shall harvest any blue crabs for commercial purposes with any trap unless such person possesses a valid saltwater products license to which is affixed both a blue crab endorsement and a restricted species endorsement.

(b) Notwithstanding Section 370.135(2)(a), Florida Statutes, effective July 1, 2002, and until July 1, 2006 ~~2005~~, no blue crab endorsements, except those endorsements that were active during the 2001-2002 fiscal year, shall be renewed or replaced. In 2002 and in subsequent years until July 1, 2006 ~~2005~~, persons or corporations holding a blue crab endorsement that was active in the 2001-2002 fiscal year or an immediate family member of that person must request renewal of the blue crab endorsement before September 30 of each year. All provisions of Sections 370.135(2)(c)-(e), Florida Statutes, shall continue to apply to the issuance and renewal of blue crab endorsements with the applicable dates specified in this paragraph.

Specific Authority Art. IV, Sec. 9, Fla. Const. Law Implemented Art. IV, Sec. 9, Fla. Const. History--New 12-14-93, Amended 6-1-94, 1-1-95, 10-4-95, 9-30-96, 1-1-98, Formerly 46-45.004, Amended 6-1-99, 2-28-02, \_\_\_\_\_.

NAME OF PERSON ORIGINATING PROPOSED RULE:  
 Fish and Wildlife Conservation Commission, 620 South  
 Meridian Street, Tallahassee, Florida 32399-1600  
 NAME OF SUPERVISOR OR PERSON WHO APPROVED  
 THE PROPOSED RULE: Kenneth D. Haddad, Executive  
 Director  
 DATE PROPOSED RULE APPROVED BY AGENCY  
 HEAD: August 11, 2004  
 DATE NOTICE OF PROPOSED RULE DEVELOPMENT  
 PUBLISHED IN FAW: July 30, 2004  
 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.

RULE NOS.:	RULE TITLES:
40B-4.1040	Permits Required
40B-4.2030	Conditions for Issuance of
	Environmental Resource Permits
40B-4.3010	General Works of the District
	Development Permits
40B-4.3030	Conditions for Issuance of Works of
	the District Development
	Permits

NOTICE OF CHANGE

Notice is hereby given that proposed Rule 40B-4, F.A.C., published in the Florida Administrative Weekly, Vol. 30, No. 22, on May 28, 2004, has been changed to reflect comments received from the Florida Engineering Society. When changed, Chapter 40B-4, F.A.C., shall read as follows:

40B-4.1040 Permits Required.

(1) Permits are required as follows:

(a) Environmental resource ~~Surfacewater management~~ permit prior to initiating any project which involves draining, developing, or subdividing property, construction of roads or bridges, commercial or industrial developments, and agricultural or forestry activities, including dredging or filling, or the construction, alteration, maintenance, operation, or abandonment of any dam, impoundment, reservoir, appurtenant works, works, or surfacewater management system.

Specific Authority 373.044, 373.113, 373.171 FS. Law Implemented 373.084, 373.085, 373.086, 373.413, 373.416, 373.426 FS. History—New 9-25-85, Amended 12-22-92, 10-3-95,\_\_\_\_\_.

40B-4.2030 Conditions for Issuance of Environmental Resource ~~Surfacewater Management~~ Permits.

(11) The district shall not approve the issuance of permits for new surface water management systems or individual works which result in permanent damage to a work of the district.

(13) The district shall not approve the issuance of permits for mining, associated mining activities, and borrow pits within a work of the district.

Specific Authority 373.044, 373.113 FS. Law Implemented 373.016, 373.042, 373.084, 373.085, 373.086, 373.117, 373.409, 373.413, 373.416, 373.426 FS. History—New 9-25-85, Amended 2-1-89, 10-3-95,\_\_\_\_\_.

40B-4.3010 General Works of the District Development Permits.

(1) A general works of the district development permit may be granted pursuant to the procedures in Rule 40B-1.703, F.A.C., to any person for a duration not to exceed three years for the development described below:

Construction of a structure for single-family residential or agricultural use including the leveling of land for the foundation and associated private water supply, wastewater disposal, and driveway access which is in compliance with all

Section III

Notices of Changes, Corrections and Withdrawals

**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**

**Suwannee River Water Management District**

RULE CHAPTER NO.:	RULE CHAPTER TITLE:
40B-2	Permitting of Water Use
RULE NO.:	RULE TITLE:
40B-2.321	Duration of Permits

NOTICE OF WITHDRAWAL

Notice is hereby given that the above-referenced Proposed Rule Development, as noticed in Vol. 30, No. 14, of the Florida Administrative Weekly on April 2, 2004, has been withdrawn. THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT IS: Linda Welch, Administrative Assistant, Suwannee River Water Management District, 9225 C.R. 49, Live Oak, Florida 32060, (386)362-1001 or 1(800)226-1066 (FL only)

**WATER MANAGEMENT DISTRICTS**

**Suwannee River Water Management District**

RULE CHAPTER NO.:	RULE CHAPTER TITLE:
40B-4	Environmental Resource and Works of the District Permits