

**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 Pharmacy**

RULE TITLES:	RULE NOS.:
Application Fees	64B16-26.1001
Inactive License Fees	64B16-26.1004

PURPOSE AND EFFECT: The Board proposes to review the rules in response to comments from the Joint Administrative Procedures Committee to determine whether amendments are necessary.

SUBJECT AREA TO BE ADDRESSED: The proposed rule amendments would set forth the requirements for a continuing education course review fee and also an inactive to active status licensure fee.

SPECIFIC AUTHORITY: 456.036, 465.009, 465.012, 465.0125, 456.0126 FS.

LAW IMPLEMENTED: 456.036, 456.065(3), 465.007, 465.0075, 465.009, 465.012, 465.0125, 465.0126 FS.

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

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT AND A COPY OF THE PRELIMINARY DRAFT, IF AVAILABLE, IS: Danna Droz, Executive Director, Board of Pharmacy/MQA, 4052 Bald Cypress Way, Bin #C04, Tallahassee, Florida 32399-3254 THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS NOT AVAILABLE.

termite protection for new construction that do not have to be to all areas specified on the label of the pesticide, provided that a primary treatment is applied to all areas specified on the label.

SUMMARY: Use of Pesticides for Preventive Treatment for New Construction.

SPECIFIC AUTHORITY: 482.051 FS.

LAW IMPLEMENTED: 482.051, 482.161 FS.

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

DATE AND TIME: 10:00 a.m., April 8, 2005

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

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Mr. Steve Dwinell, Division of Agricultural Environmental Services, 3125 Conner Blvd., Tallahassee, Florida 32399, (850)488-7447

THE FULL TEXT OF THE PROPOSED RULE IS:

5E-14.106 Use of Pesticides – Labels, Limitations, Precautions.

(1) through (5) No change.

(6) Pesticides used for treatment for the prevention of subterranean termites for new construction shall be applied in the specific amounts, concentration, and treatment areas designated by the label.

(7) Each pesticide used for the preventive treatment of new construction for the prevention of subterranean termites ~~The pesticide~~, in its original formulation, shall be mixed at the treatment site immediately prior to application. A copy of the label of the registered pesticide being used shall be carried in the vehicle from which the application is performed. The licensee shall maintain records for 3 years of each treatment for the prevention of subterranean termites for new construction indicating the date of treatment, address of property treated, total square footage of structure treated, pesticide used, percent concentration of mixture applied and total volume applied as well as maintaining records of all termiticides purchased obtained, or available for its use; the total amount of the area treated; and the total number of sites treated using this and any other method of treatment for the prevention of subterranean termites.

(8) When a pesticide registered as a preventive treatment for new construction has been applied as a preventive treatment for a structure in accordance with subsection 5E-14.106(6), F.A.C., a secondary treatment using a second pesticide registered for preventive treatment for new construction is not subject to the provisions of subsection 5E-14.106(6) or (7), F.A.C., provided that the application is consistent with label directions.

**Section II  
Proposed Rules**

**DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES**

**Division of Agricultural Environmental Services**

RULE CHAPTER TITLE:	RULE CHAPTER NO.:
Entomology – Pest Control	
Regulations	5E-14

RULE TITLE:	RULE NO.:
Use of Pesticides – Labels,	
Limitations, Precautions	5E-14.106

PURPOSE AND EFFECT: The purpose and effect of the proposed rule is to add amendments to the rule allowing secondary treatments for preventive treatment for subterranean

Specific Authority 482.051 FS. Law Implemented 482.051(1) FS., P.L. 92-516, Section 1, Chapter 92-203, Laws of Florida. History--New 1-1-77, Amended 6-17-03,\_\_\_\_\_.

NAME OF PERSON ORIGINATING PROPOSED RULE: Steve Dwinell, Assistant Director, Division of Agricultural Environmental Services  
 NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Steven Rutz, Director, Division of Agricultural Environmental Services  
 DATE PROPOSED RULE APPROVED BY AGENCY HEAD: December 21, 2004  
 DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: January 14, 2005

**DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES**

**Division of Standards**

RULE CHAPTER TITLE: Permitting and Inspection Requirements for Amusement Devices and Attractions  
 RULE CHAPTER NO.: 5F-8

RULE TITLES: RULE NOS.:  
 Bureau of Fair Rides Inspection Forms 5F-8.0012  
 Application For Annual Permit, USAID Number Qualified Inspectors 5F-8.002  
 Nondestructive Testing of Amusement Rides 5F-8.003  
 Request for Inspections, Reinspections 5F-8.004  
 Inspection Standards 5F-8.005  
 Inspection by Owner or Manager 5F-8.009  
 Fees 5F-8.012  
 Training of Managers, Attendants, and Maintenance Persons 5F-8.014  
 Reporting of Accidents and Mechanical, Structural or Electrical Defects 5F-8.0142  
 Exempt Nonmotorized or Human Powered Amusement Rides 5F-8.024

PURPOSE AND EFFECT: The purpose of this proposed rule is to adopt new inspection forms for the Bureau of Fair Rides Inspection, simplify language regarding Qualified Inspectors (QI) and Professional Engineers (PE), add an exemption for a human powered amusement ride, and increase certain inspection and permit fees to capture the program costs for inspection and permitting of amusement rides. The effect of this rule will be to increase inspection revenues to conform to applicable law, Section 616.242(8), Florida Statutes, which requires that the fees charged for inspection and permitting of amusement rides must cover the program costs that are not covered by general revenue appropriations and that those fees shall be established by rule.

SUMMARY: Chapter 5F-8, F.A.C., the Department of Agriculture and Consumer Services rule regarding the inspection and permitting amusement rides.

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

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

SPECIFIC AUTHORITY: 616.165, 616.242(4)(b) FS.  
 LAW IMPLEMENTED: 616.165, 616.242(4)(b), 616.242(1)(p),(q), 616.242(8), 616.242(10) FS.

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

TIME AND DATE: 10:00 a.m., Tuesday, April 5, 2005  
 PLACE: Division of Standards, Conference Room, Suite E, Administration Building, 3125 Conner Boulevard, Tallahassee, Florida 32399-1650

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULES IS: Isadore Rommes, Assistant Director, Division of Standards, 3125 Conner Boulevard, Suite E, Tallahassee, Florida 32399-1650, (850)488-0645

THE FULL TEXT OF THE PROPOSED RULES IS:

5F-8.0012 Bureau of Fair Rides Inspection Forms.  
 The following forms are adopted by this reference for use by the Bureau of Fair Rides Inspection in the amusement ride inspection program.

Form Number	Revised	Title
<del>DACS 03401</del>	<del>9/98</del>	<del>Bureau of Fair Rides Inspection Invoice</del>
DACS 0341902	11/04 9/98	Amusement Ride Inspection Report Form
DACS 0342803	11/04 9/98	Suggested Written Accident Report
DACS 0342004	11/04 9/98	Water Park Amusement Ride Inspection Report
DACS 0342105	11/04 9/98	Go Kart Amusement Ride Inspection Report (Track)
<u>DACS 03422</u>	11/04	<u>Go Kart Amusement Ride Inspection Report (Vehicle)</u>
DACS 0342306	11/04 9/98	Bungy Jump Inspection Report
DACS 0342407	11/04 9/98	Owner's Daily Inspection Report (Carnival Type)
<u>DACS 03425</u>	11/04	<u>Owner's Daily Inspection Report (Water Park)</u>
<u>DACS 03426</u>	11/04	<u>Owner's Daily Inspection Report (Go Kart Track and Vehicle)</u>
<u>DACS 03427</u>	11/04	<u>Owner's Daily Inspection Report (Bungy)</u>
DACS 0343008	11/04 9/98	Mechanical, Structural or Electrical Defect Report

DACS 03409	9/98	<del>Amusement Ride List for Affidavit of Annual Inspection for Exempt Facilities Inspection Report</del>
DACS 0342940	<del>11/04</del> 9/98	Request for Inspection or Reinspection
DACS 03411	9/98	<del>Amusement Ride List for Annual Permit Application</del>
DACS 0343242	<del>11/04</del> 9/98	Amusement Ride Annual Permit Application
DACS 0343143	<del>11/04</del> 9/98	<del>Maintenance &amp; Operation Employee's Training Record</del>
DACS 0343344	<del>11/04</del> 9/98	Affidavit of <u>Compliance and Nondestructive Testing</u>
DACS 0343445	<del>11/04</del> 9/98	Affidavit of Annual Inspection for Exempt Facilities
DACS 03416	9/98	Affidavit of <u>Compliance</u>
DACS 03417	9/98	<del>Amusement Ride List Affidavit of Nondestructive Testing</del>

(2) No change.

Specific Authority 616.165, 616.242(4),(5),(6),(7),(10),(11),(14),(15),(16) FS. Law Implemented 616.242 FS. History--New 2-14-99, Amended \_\_\_\_\_.

5F-8.002 Application for Annual Permit, USAID Number.

(1) The owner of an amusement ride shall make written application to the department for an annual permit for each amusement ride in accordance with Section 616.242(5), F.S., on department form DACS 0343242, Amusement Ride Annual Permit Application.

(2) The current Affidavit of Compliance required by Section 616.242(4), F.S., shall be submitted with the written application for an annual permit on department form DACS 0343346, Affidavit of Compliance and Nondestructive Testing.

(3) The current Affidavit of Nondestructive Testing required by Section 616.242(6)(a), F.S., shall be submitted with the written application for an annual permit on department form DACS 0343344, Affidavit of Compliance and Nondestructive Testing, unless the amusement ride is exempt pursuant to Section 616.242(6)(d), F.S.

(4) The request for inspection required by Section 616.242(5)(b)6., F.S., shall be submitted on department form DACS 0342940, Request for Inspection or Reinspection, with the written application for an annual permit.

(5) No change.

Specific Authority 616.165, 616.242(5) FS. Law Implemented 616.242 FS. History--New 9-15-92, Amended 2-23-94, 2-14-99, \_\_\_\_\_.

5F-8.003 Qualified Inspectors.

(1) Each person seeking to perform amusement ride inspections as a Qualified Inspector (QI) for an insurance underwriter and execute the Affidavit of Compliance ~~and or Affidavit of Nondestructive Testing~~ required for the annual permit shall provide the department the following documents and information:

(a) Written certification from an insurance company, which certification must be renewed by the insurance company every 3 years, verifying that the applicant is an employee or agent of the company and is authorized to act as a qualified inspector for that insurance company, which is insuring the amusement ride; and

(b) Information which will ~~Written references~~ verifying employment dates, together with names and addresses of employers for such period of time as will demonstrate the required experience in the amusement ride field; at least two years of which were involved in actual ride inspection with an amusement ride manufacturer, government agency, park, carnival or insurance company; and

(c) through (d) No change.

(e) ~~When a Qualified Inspector If the applicant~~ possesses the requisite qualifications the department will provide the applicant a qualified inspector number ~~letter~~ designating that person as a qualified inspector for the purpose of executing the Affidavit of Compliance and ~~Affidavit of Nondestructive Testing~~ required for the annual permit. ~~The and will assign a qualified inspector number which shall be used when executing the required affidavits. The letter of authorization and qualified inspector number issued by the department to a qualified inspector shall be valid for up to one year, so long as if the applicant continuously possesses the qualifications required by Section 616.242(1), F.S.~~

(f) through (g) No change.

(2) Each person seeking authorization to perform amusement ride inspection as a Professional Engineer (PE) and execute the Affidavit of Compliance ~~and or Affidavit of Nondestructive Testing~~ required for the Annual Permit shall submit to the department a copy of his or her professional engineer's license issued by the Department of Business and Professional Regulation of the State of Florida or the equivalent licensing body in another state. Upon receipt of proof of current licensure the department will acknowledge receipt of that license in writing, provide the applicant a letter of authorization to act as a qualified inspector, and will assign a qualified inspector number which shall be used when executing any required affidavit, for the purpose of A PE shall use their professional engineer's license number when executing the Affidavit of Compliance and Affidavit of Nondestructive Testing required for the annual permit. The authorization to execute the Affidavit of Compliance and Nondestructive Testing ~~letter of authorization and qualified inspector number~~ shall remain valid for ~~up to~~ one year, unless the QI or PE ceases to possess the qualifications required by law ~~or until expiration of the professional engineer's license and may be renewed upon presentation of the new professional engineer's license.~~

(3) When a QI qualified inspector or PE ~~no longer ceases to possess~~ the qualifications required by Section 616.242(1), F.S., ~~the letter of authorization from the department shall be~~

~~void, and that person shall immediately notify the department, and shall cease to act as a qualified inspector and surrender the letter of authorization back to the department.~~

Specific Authority 616.165, 616.242(3)(q),(5) FS. Law Implemented 616.242 FS. History--New 9-15-92, Amended 2-23-94, 2-14-99, 10-10-01, \_\_\_\_\_.

5F-8.004 Nondestructive Testing of Amusement Rides.

(1) Nondestructive testing of amusement rides shall be conducted in accordance with the requirements of Section 616.242(6), F.S., and shall be reported to the department for each amusement ride by the Qualified Inspector or PE on department form DACS 0343314, Affidavit of Compliance and Nondestructive Testing.

(2) No change.

Specific Authority 616.165, 616.242(4),(6) FS. Law Implemented 616.242 FS. History--New 9-15-92, Amended 9-21-93, 2-23-94, 2-14-99, \_\_\_\_\_.

5F-8.005 Request for Inspections, Reinspections.

(1) All requests for inspection or reinspection by the department shall be submitted to the Bureau of Fair Rides Inspection, in writing, at the Bureau's main office, identified at subsection 5F-8.0012(2), F.A.C., on department form DACS 0342910, Request for Inspection or Reinspection, in accordance with the requirements of Section 616.242(7), F.S. All requests for inspection or reinspection will be scheduled in the order received.

(2) through (9) No change.

Specific Authority 616.165, 616.242(7) FS. Law Implemented 616.241, 616.242 FS. History--New 9-15-92, Amended 2-23-94, 2-14-99, 11-4-02, \_\_\_\_\_.

5F-8.0051 Inspection Standards.

All amusement ride inspections shall be recorded by the inspector and reported to the department on the applicable department form: DACS 0341902 – Amusement Ride Inspection Report; DACS 0342004 – Water Park Amusement Ride Inspection Report; DACS 0342105 – Go Kart Amusement Ride Track Inspection Report (Track); DACS 0342105 – Go Kart Amusement Ride Inspection Report (Vehicle); DACS 0342306 – Bungy Jump Inspection Report.

Specific Authority 616.165, 616.242(11) FS. Law Implemented 616.242 FS. History--New 9-21-93, Amended 2-23-94, 2-14-99, \_\_\_\_\_.

5F-8.009 Inspections by Owner or Manager.

Prior to opening on each day of operation and prior to any inspection by the department the owner or manager of each amusement ride shall inspect the amusement ride in accordance with the requirements of Section 616.242(15), F.S., and record the inspection on the applicable department form DACS 0342407, Owner's Daily Inspection Report (Carnival Type); DACS 03425, Owner's Daily Inspection Report (Water Park); DACS 03426, Owner's Daily Inspection Report (Go Kart Track and Vehicle); DACS 03427 Owner's Daily Inspection Report (Bungy).

Specific Authority 616.165, 616.242(15) FS. Law Implemented 616.242 FS. History--New 9-15-92, Amended 2-23-94, 2-14-99, \_\_\_\_\_.

5F-8.012 Fees.

The following fees are adopted.

- (1) Annual Permit for any amusement ride: \$4300.00
- (2) Annual Permit for any Bungy jump: \$500.00
- (3) Inspection fee for each inspection of a kiddie amusement ride: \$35.00
- (4) Inspection fee for each inspection of a non kiddie amusement ride: \$70.00
- (5) Inspection fee for each inspection of a super amusement ride: \$140.00
- (6) Inspection fee per go kart, in addition to the track inspection fee: \$75.00
- (7) Reinspection Fee: \$5400.00
- (8) Fee to replace lost U.S. Amusement Identification (USAID) plate: \$100.00
- (9) Fee per amusement ride for late inspection request: \$100.00
- (10) Fee per amusement ride for failure to cancel inspection request: \$100.00
- (11) Additional Fee per amusement ride for inspection on weekend or state holiday: \$750.00

Specific Authority 616.165, 616.242(7),(8),(13) FS. Law Implemented 616.242(8) FS. History--New 9-15-92, Amended 2-23-94, 5-27-96, 9-23-97, 2-14-99, 3-21-00, 12-4-00, 1-22-02, \_\_\_\_\_.

5F-8.014 Training of Managers, Attendants, and Maintenance Persons.

The owner or manager shall maintain the record of employee training required by Section 616.242(16), F.S., on department Form DACS 0343113, Maintenance & Operation Employee's Training Record.

Specific Authority 616.165, 616.242(16) FS. Law Implemented 616.242 FS. History--New 7-31-94, Amended 2-14-99, \_\_\_\_\_.

5F-8.0142 Reporting of Accidents and Mechanical, Structural or Electrical Defects.

(1) Accidents shall be reported to the department in accordance with Section 616.242(14), F.S. Accidents shall ~~may~~ be reported in writing on department form DACS 0342803, Suggested Written Accident Report.

(2) Mechanical, Structural or Electrical defects shall be reported to the department, in writing, in accordance with Section 616.242(14), F.S., on department form DACS 0343008, Mechanical, Structural or Electrical Defect Report.

Specific Authority 616.165, 616.242(4)(b) FS. Law Implemented 616.242(14) FS. History--New 2-14-99, Amended \_\_\_\_\_.

5F-8.024 Exempt Nonmotorized or Human Powered Amusement Rides.

The following amusement rides, and those of comparable construction or function, are exempt from permitting and inspection by the Department pursuant to Section 616.242(10)(b), F.S., because they are nonmotorized or human powered.

(1) through (6) No change.

(7) Outdoor Maze or other comparable locale where the patron passes through a network of passages, without mechanical assistance, attempting to navigate through the area. The area is not covered or enclosed, except for the vegetation or other material used to define the passages within the maze.

Specific Authority 616.165, 616.242(4)(b),(10)(b) FS. Law Implemented 616.242 FS. History--New 10-10-01, Amended.

NAME OF PERSON ORIGINATING PROPOSED RULE: Isadore Rommes, Assistant Director, Division of Standards, 3125 Conner Boulevard, Suite E, Tallahassee, Florida 32399-1650, (850)488-0645

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Paul Driggers Director, Division of Standards, 3125 Conner Boulevard, Suite E, Tallahassee, Florida 32399-1650, (850)488-0645

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: February 18, 2005

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: January 28, 2005, Vol. 31, No. 4

**DEPARTMENT OF EDUCATION**

**Commission for Independent Education**

RULE TITLE: Fair Consumer Practices RULE NO.: 6E-1.0032

PURPOSE AND EFFECT: The Commission proposes the rule amendment to clarify admission standards and add guidance for licensees regarding special requirements or limitations of students.

SUMMARY: The proposed rule amendment adds guidance for licensees regarding special requirements or limitations of students and clarifies the admission standards.

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: 1005.22(1)(e)1., 1005.34 FS.

LAW IMPLEMENTED: 1005.04, 1005.22(1)(k), 1005.31(13), 1005.32(5), 1005.34 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 32399

THE FULL TEXT OF THE PROPOSED RULE IS:

6E-1.0032 Fair Consumer Practices.

(1) through (5) No change.

(6) Each prospective student shall be provided a written copy, or shall have access to an electronic copy, of the institution's catalog prior to enrollment or the collection of any tuition, fees, or other charges. The catalog shall contain the following required disclosures, and catalogs of licensed institutions must also contain the information required in subsections 6E-2.004(11) and (12), F.A.C.:

(a) through (f) No change.

(g) Admissions: The institution shall disclose its method of assessing a student's ability to ~~complete~~ successfully complete the course of study for which he or she has applied. The requirements for admission (~~such as high school diploma, general equivalency diploma, or its equivalent~~) and for graduation shall be disclosed. If the practice of a career has special requirements or limitations, such as certain physical or language capabilities or lack of a criminal record, such requirements or limitations shall be disclosed to prospective students interested in training for that career.

(h) through (k) No change.

(7) through (9) No change.

Specific Authority 1005.22(1)(e)1., 1005.34 FS. Law Implemented 1005.04, 1005.22(1)(k), 1005.31(13), 1005.32(5), 1005.34 FS. History--New 10-19-93, Amended 4-2-96, 11-5-00, 1-7-03, 1-20-04, 3-29-04, \_\_\_\_\_.

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: January 28, 2005

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: August 20, 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: Inmate Trust Fund  
RULE NO.: 33-203.201

PURPOSE AND EFFECT: The purpose and effect of the proposed rule is to shorten the time period in inmate requests for special withdrawals will be processed.

SUMMARY: The proposed rule changes the time frame for transfer of funds after submission of a special withdrawal request from 30 days to 10 days.

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, 944.516, 945.091, 945.215 FS.

LAW IMPLEMENTED: 57.085, 717, 944.09, 944.516, 945.091, 945.215 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:

33-203.201 Inmate Trust Fund.

(1) through (2) No change.

(3)(a) Inmates with sufficient balances in their individual Inmate Trust Fund accounts shall be allowed to spend an amount set by the Secretary not to exceed \$100 a week at the institution's canteen for personal use. Inmates on work release with sufficient balances in their individual Inmate Trust Fund accounts shall be allowed to request a weekly draw set by the Secretary not to exceed \$100 to be expended for personal use. In order to request an expenditure of funds in excess of the authorized canteen limit or weekly draw, the inmate shall complete Form DC2-304, Inmate Trust Fund Special Withdrawal. Form DC2-304 is hereby incorporated by reference. This form may be obtained from any institution or facility or from the Bureau of Finance and Accounting, Inmate Trust Fund Section, 1711 Mahan Drive, Tallahassee, Florida 32308 or from the Forms Control Administrator, Office of Planning, Research and Support Services, Department of Corrections, 2601 Blair Stone Road, Tallahassee, Florida 32399-2500. The effective date of this form is July 13, 2003. ~~If the inmate's identity is verified by designated institution or facility staff, these funds shall be paid to the inmate or his~~

~~designated payee within 30 days after receipt of the written request for withdrawal. This maximum time limitation shall not delay the weekly canteen limit or draw process which is usually accomplished in a shorter period of time.~~ If the withdrawal is for the purpose of making a deposit to a savings or similar interest bearing account in the inmate's name, the check drawn upon the inmate trust fund shall be made payable to the savings institution which has been chosen by the inmate, with the inmate as a reference, and shall be mailed to the savings institution. If an inmate requests a copy of a cancelled check or requests to stop payment on a check, the inmate shall be responsible for the fees charged to process these transactions. Requests for special withdrawals submitted without the required signatures or on other than the approved form will be returned to the inmate without processing. Inmates wishing to send funds to inmates at other institutions must obtain approval from the wardens at both institutions.

(b) With regard to the transfer or payment of funds from inmate trust accounts as identified in paragraphs (2)(d) and (3)(a), the Department will make every reasonable effort to transfer said funds within 10 days of the Department's receipt of an inmate's written request via Form DC2-304, Inmate Trust Fund Special Withdrawal.

(4) through (12) No change.

Specific Authority 944.09, 944.516 945.091, 945.215 FS. Law Implemented 57.085, 717, 944.09, 944.516 945.091, 945.215 FS. History--New 1-27-86, Amended 7-16-89, 5-1-90, 3-2-92, 6-2-92, 8-25-92, 10-19-92, 4-13-93, 5-28-96, 6-15-98, Formerly 33-3.018, Amended 5-7-00, 7-13-03, 10-20-03, 1-23-05.

NAME OF PERSON ORIGINATING PROPOSED RULE: Millie Seay

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

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: February 1, 2005

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: February 11, 2005

**DEPARTMENT OF CORRECTIONS**

RULE TITLE: Determination of Credit When Inmate is Released in Error  
RULE NO.: 33-601.604

PURPOSE AND EFFECT: The purpose and effect of the proposed rule is to describe when it is necessary to conduct a hearing concerning award of out-time credit.

SUMMARY: The proposed rule provides that a hearing is not necessary if a review of the facts reveals that there is no indication that the inmate reasonably should have known that the release was in error or before completion of sentence. The credit will be awarded to the inmate without a hearing in such cases.

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, 944.275 FS.

LAW IMPLEMENTED: 944.09, 944.275 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:

33-601.604 Determination of Credit When Inmate is Released in Error.

(1) When an inmate is released in error prior to satisfaction of the sentence, the facts surrounding the release will be collected by the Bureau of Sentence Structure and Transportation and provided to the Bureau of Classification and Central Records.

(2) A preliminary determination will be made as to where the error occurred. If it is clear that an error was made on the part of the state, and there is no indication that the inmate reasonably should have known that the release was in error or before completion of sentence, the out time will be awarded without the need for hearing. The inmate will be interviewed by the classification staff to obtain the inmate's version of the release.

(3) If it appears the inmate reasonably should have known that the release was in error or before completion of sentence, a fact finding due process hearing will be held to determine if the inmate is due credit for the time out of custody.

(a) Credit will be applied if it is determined that the release involved no fault of the inmate.

(b) Credit will not be applied if it is determined that the inmate was aware of the error and made no attempt to notify the releasing authority.

(4) Credit will not be applied if the release in error was by another state's or federal jurisdiction.

Specific Authority 944.09, 944.275 FS. Law Implemented 944.09, 944.275 FS. History—New 7-11-00, Amended \_\_\_\_\_.

NAME OF PERSON ORIGINATING PROPOSED RULE: George Sapp

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

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: February 22, 2005

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: January 28, 2005

DEPARTMENT OF CORRECTIONS

RULE TITLE: Visiting Schedule RULE NO.: 33-601.722

PURPOSE AND EFFECT: The purpose and effect of the proposed rule is to clarify the scheduling of visits on state holidays.

SUMMARY: The proposed rule provides for regular visiting on specified state holidays, and for the scheduling of visits when the holiday falls on a weekend.

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, 944.23 FS.

LAW IMPLEMENTED: 944.09, 944.23 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:

33-601.722 Visiting Schedule.

(1) Regular visitors shall be allowed to visit between 9:00 a.m. and 3:00 p.m. Eastern Standard Time (EST) – 8:00 a.m. and 2:00 p.m. Central Standard Time CST each Saturday and Sunday.

(a) through (b) No change.

(c) Regular visiting shall occur on ~~when~~ the following holidays: ~~of July Fourth~~,

1. New Year's Day;

2. Birthday of Martin Luther King, Jr., third Monday in January;

3. Memorial Day;

4. Independence Day;

5. Labor Day;

6. Veteran's Day, November 11;

7. Thanksgiving Day; ~~and~~

8. Friday after Thanksgiving;

9. Christmas Day ~~fall on a weekday~~.

(d) If any of the holidays listed in paragraph (c) above falls on Saturday, the preceding Friday shall be observed as a holiday. If any of these holidays falls on Sunday, the following Monday shall be observed as a holiday.

(2) through (3) No change.

Specific Authority 20.315, 944.09, 944.23 FS. Law Implemented 944.09, 944.23 FS. History--New 11-18-01, Formerly 33-601.708, Amended \_\_\_\_\_.

NAME OF PERSON ORIGINATING PROPOSED RULE: George Sapp

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

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: January 25, 2005

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: February 11, 2005

**AGENCY FOR HEALTH CARE ADMINISTRATION**

**Cost Management and Control**

RULE TITLES:	RULE NOS.:
Purpose	59B-15.001
Definitions	59B-15.002
Exclusions	59B-15.003
Reporting Requirements	59B-15.004
Hospital Contact Information	59B-15.005
Certification	59B-15.006
Administrative Penalties	59B-15.007

PURPOSE AND EFFECT: The proposed rules require hospitals to report Surgical Infection Prevention (SIP) Measures to the Agency for Health Care Administration (Agency) for purposes of consumer information.

SUMMARY: The proposed rules require that hospitals report Surgical Infection Prevention (SIP) Measures to the Agency quarterly in a uniform electronic format and submit a certification that the Surgical Infection Prevention (SIP) Measures are true and accurate using a form incorporated by reference. The proposed rules require that hospitals use an Agency approved methodology to determine the Surgical Infection Prevention (SIP) Measures reported. The proposed rules state that failure to report in whole or in part is subject to administrative penalties per Florida Statutes unless an extension is requested by the hospital and granted by the Agency as provided in the proposed rules.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COST: None prepared.

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

SPECIFIC AUTHORITY: 408.061(1)(a),(2), 408.08(2),(5), 408.15(11) FS.

LAW IMPLEMENTED: 408.05(3)(1)1. FS.

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

TIME AND DATE: 10:00 a.m., April 4, 2005

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

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Lisa Rawlins, Bureau Chief, State Center for Health Statistics, 2727 Mahan Drive, Mail Stop #16, Tallahassee, Florida 32308

THE FULL TEXT OF THE PROPOSED RULE IS:

59B-15.001 Purpose.

The rules in this section describe the requirements for reporting Surgical Infection Prevention (SIP) Measures to the Agency for Health Care Administration (Agency) for the purpose of providing comparative information to consumers.

Specific Authority 408.061(1)(a),(2) FS. Law Implemented 408.05(3)(1)1. FS. History--New \_\_\_\_\_.

59B-15.002 Definitions.

(1) "Hospital" means an entity that is licensed per Section 395.002(13), Florida Statutes.

(2) "Reporting period" means a calendar quarter.

(3) "Eligible patient" means a selected surgical patient 18 years of age or older with no prior evidence of infection as specified by the Center for Medicare and Medicaid Services (CMS) in the Specifications Manual for National Hospital Quality Measures available on the CMS website at: [www.cms.hhs.gov/quality/hospital](http://www.cms.hhs.gov/quality/hospital).

Specific Authority 408.061(1)(a),(2) FS. Law Implemented 408.05(3)(1)1. FS. History--New \_\_\_\_\_.

59B-15.003 Exclusions.

(1) State-operated hospitals.

(2) Psychiatric hospitals with no licensed acute care beds other than licensed psychiatric or substance abuse beds.

(3) Specialty rehabilitation hospitals as defined in subparagraph 59A-3.252(1)(c)2., F.A.C.

(4) Intensive Residential Treatment Programs for Children and Adolescents as defined in paragraph 59A-3.252(1)(d), F.A.C.

Specific Authority 408.061(1)(a),(2) FS. Law Implemented 408.05(3)(1)1. FS. History--New \_\_\_\_\_.

59B-15.004 Reporting Requirements.

(1) Hospitals shall report Surgical Infection Prevention (SIP) measures to the Agency for Health Care Administration (Agency) quarterly due on or before December 1, 2005 for the period April 1 through June 30, 2005. Thereafter, data shall be reported for each calendar quarter due 150 calendar days following the end of the quarter.



(2) Hospitals shall report the following measures for all eligible patients regardless of type of payer:

(a) Prophylactic antibiotic received within 1 hour prior to surgical incision;

(b) Prophylactic antibiotic selection for surgical patients;

(c) Prophylactic antibiotics discontinued within 24 hours after surgery end time.

(3) The methodology used to prepare the measures shall meet the standards specified by the Centers for Medicare and Medicaid Services (CMS) in the Specifications Manual for National Hospital Quality Measures available on the CMS website at: [www.cms.hhs.gov/quality/hospital](http://www.cms.hhs.gov/quality/hospital). CMS standards include submission of SIP data to the Quality Improvement Organization Clinical Warehouse, providing records required for reabstraction activities, and compliance with other data quality standards as specified by CMS.

(4) Hospitals shall use the SIP methodology specified by CMS for the applicable reporting period to determine the SIP measures reported to the Agency. If the hospital uses sampling, the hospital must follow the sampling protocol specified by CMS.

(5) Hospitals shall report the population size, rate, numerator value, and denominator value as specified by CMS for each type of surgery to include coronary artery bypass surgery (CABG), cardiac surgery, hip arthroplasty, knee arthroplasty, colon surgery, hysterectomy, vascular surgery, and for all of the above surgeries overall.

(6) Hospitals shall report data separately for each location consistent with Rule 59E-7.012, F.A.C., unless reporting separately would be contrary to CMS specifications. If a combined report is submitted, report the name of the hospital and AHCA hospital identification number required in subsection 59B-15.005(1), F.A.C., for each of the hospitals included in the report.

(7) The data shall be submitted in a text file, using a tab between each data element. Start a new line for each type of surgery and for each measure. Order the rows of data by type of surgery as listed in subsection (5) with three consecutive rows of data for each measure in subsection (2) above reported for each type of surgery. Each line of data shall state the name of the type of surgery or state all of the above surgeries overall as in subsection (5) above and state the name of the type of measure as in (2) above. The rate shall be reported as a decimal number greater than or equal to zero (0) and less than or equal to one hundred (100) using the format X.XX, XX.XX, or XXX.XX as required. Report hospital contact information required in Rule 59B-15.005, F.A.C., in the order specified starting a new line beginning with contact name and contact telephone number. Hospital contact information should be reported at the beginning of the document.

(8) Hospitals shall send the SIP measures by electronic mail to [SIPReport@ahca.myflorida.com](mailto:SIPReport@ahca.myflorida.com) or, if requested in writing by the hospital and approved by the Agency, to the

Agency's mailing address using a 3.5" diskette or CD-ROM. The mailing address of the Agency is: Agency for Health Care Administration, 2727 Mahan Drive, Mail Stop #16, Tallahassee, Florida 32308 with the statement, "Attention: State Center for Health Statistics." If the hospital has a vendor send the SIP measures to the Agency, the hospital will direct the vendor to copy (cc) the hospital contact when the report is e-mailed to the Agency.

Specific Authority 408.061(1)(a),(2) FS. Law Implemented 408.05(3)(l)l. FS. History--New \_\_\_\_\_.

#### 59B-15.005 Hospital Contact Information.

(1) Each hospital shall include the following contact information when submitting a report required in this section to the Agency for Health Care Administration:

(a) Name of hospital;

(b) AHCA hospital identification number;

(c) Reporting year in four digits;

(d) Reporting quarter as a 1, 2, 3, or 4 where 1 corresponds to the first quarter of a calendar year;

(e) Contact name;

(f) Contact title;

(g) Contact address;

(h) Contact direct telephone number;

(i) Hospital telephone number;

(j) Contact e-mail address;

(k) Contact FAX number.

(2) The hospital contact information shall be reported in a text file as described in Rule 59B-15.004, F.A.C., using a tab between each data element.

Specific Authority 408.061(1)(a),(2) FS. Law Implemented 408.05(3)(l)l. FS. History--New \_\_\_\_\_.

#### 59B-15.006 Certification.

(1) Each hospital shall provide certification of the accuracy of the Surgical Infection Prevention measures including all data required in this section as provided in Section 408.061(1)(a), Florida Statutes.

(2) The certification shall be submitted to the Agency for Health Care Administration (Agency) using the Certification of Surgical Infection Prevention Measures Form SIP-1, dated 2/01/2005, incorporated by reference. The certification shall be submitted to the Agency for Health Care Administration (Agency) quarterly prior to or concurrent with the submission of the Surgical Infection Prevention Measures as provided in Rule 59B-15.004, F.A.C. The Certification of Surgical Infections Prevention Measures Form will be available from the Agency website at [www.ahca.myflorida.com](http://www.ahca.myflorida.com). The signed Certification of Surgical Infections Prevention Measures may be submitted electronically to [SIPReport@ahca.myflorida.com](mailto:SIPReport@ahca.myflorida.com) using a pdf file with a scanned signature or mailed to the Agency address provided in Rule 59B-15.004, F.A.C.

(3) If a combined report is submitted per subsection 59B-15.004(6), F.A.C., a separate Certification of Surgical Infection Prevention Measures Form SIP-1 must be submitted for each hospital included in the report.

Specific Authority 408.061(1)(a),(2) FS. Law Implemented 408.05(3)(l)1. FS. History--New \_\_\_\_\_.

59B-15.007 Administrative Penalties.

Failure to report as required in this section in whole or in part is subject to administrative fines as provided in Section 408.08(2) and 408.08(5), Florida Statutes, unless the hospital has been granted an extension of up to 30 days by the Agency for Health Care Administration for reasons of extraordinary or hardship circumstances such as a natural disaster or emergency event impacting the hospital. Hospitals must request the extension, in writing, prior to the due date specified in Rule 59B-15.004 F.A.C.

Specific Authority 408.061(1)(a),(2), 408.08(2),(5), 408.15(11) FS. Law Implemented 408.05(3)(l)1. FS. History--New \_\_\_\_\_.

NAME OF PERSON ORIGINATING PROPOSED RULE:  
Lisa Rawlins, Bureau Chief, State Center for Health Statistics

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Alan Levine, Secretary, Agency for Health Care Administration

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: February 8, 2005

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

**AGENCY FOR HEALTH CARE ADMINISTRATION**

**Medicaid**

RULE TITLE: Dental Services  
RULE NO.: 59G-4.060

PURPOSE AND EFFECT: The purpose of this rule amendment is to incorporate by reference update January 2005 to the Florida Medicaid Dental Services Coverage and Limitations Handbook. The effect will be to incorporate by reference in the rule the January 2005 update to the Florida Medicaid Dental Services Coverage and Limitations Handbook.

SUMMARY: This rule amendment is to incorporate by reference update January 2005 to the Florida Medicaid Dental Services Coverage and Limitations Handbook. The handbook revisions include the restoration of adult dentures, a coinsurance on adult dental services, revisions to orthodontic and behavioral management services, a revised orthodontics assessment form, and a new behavioral management report form. The revisions also include the removal of the January 2004 fee schedules.

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

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

SPECIFIC AUTHORITY: 409.919 FS.

LAW IMPLEMENTED: 409.906, 409.908, 409.912 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: 2:30 p.m., Monday, April 4, 2005

PLACE: Agency for Health Care Administration, 2727 Mahan Drive, Building #3, Mail Stop 20, Conference Room D, Tallahassee, Florida

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT IS: Mary Cerasoli, Bureau of Medicaid Services, 2727 Mahan Drive, Mail Stop 20, Tallahassee, Florida 32308, (850)922-7328

THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS:

59G-4.060 Dental Services.

(1) No change.

(2) All dental services providers enrolled in the Medicaid program must be in compliance with the Florida Medicaid Dental Services Coverage and Limitations Handbook, January 2004, updated January 2005, and the Florida Medicaid Provider Reimbursement Handbook, Dental 111, October 2003, which are incorporated by reference, and the Florida Medicaid Provider Reimbursement Handbook, CMS-1500, which is incorporated by reference in Rule 59G-4.001, F.A.C. All the handbooks are available from the Medicaid fiscal agent.

Specific Authority 409.919 FS. Law Implemented 409.906, 409.908, 409.912 FS. History--New 7-10-80, Amended 2-19-81, 10-27-81, 7-21-83, Formerly 10C-7.523, Amended 9-11-90, 11-3-92, Formerly 10C-7.0523, Amended 6-29-93, Formerly 10P-4.060, Amended 7-19-94, 7-16-96, 3-11-98, 10-13-98, 12-28-98, 6-10-99, 4-23-00, 4-24-01, 7-5-01, 2-20-03, 8-5-03, 1-8-04, 10-12-04, \_\_\_\_\_.

NAME OF PERSON ORIGINATING PROPOSED RULE: Mary Cerasoli

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Alan Levine, Secretary

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: February 25, 2005

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: October 8, 2004

**DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION**

**Division of Alcoholic Beverages and Tobacco**

RULE TITLES:	RULE NOS.:
Records Required to Maintain the Designation Formula for Compliance With Required Percentage of Gross Food Sales Revenues	61A-7.006
For Percentage of Gross Alcohol Sales for Consumption on the Licensed Premises Revenue Formula	61A-7.007
Method Used to Determined Whether an Establishment is Predominately Dedicated to the Serving of Alcoholic Beverages	61A-7.008
	61A-7.009

PURPOSE AND EFFECT: The purpose and effect of the proposed rule is to implement statutory provisions relating to the Florida Clean Indoor Air Act and smoking in stand-alone bars.

SUMMARY: These rules will address The Florida Clean Indoor Air Act and smoking in stand-alone bars.

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: 386.2125, 561.695(9) FS.

LAW IMPLEMENTED: 386.203(11), 561.695(6) 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: Mike Martinez, Special Counsel, Florida Department of Business and Professional Regulation, Office of the General Counsel, 1940 North Monroe Street, Suite 42, Tallahassee, Florida 32399, (850)488-0063

THE FULL TEXT OF THE PROPOSED RULES IS:

61A-7.006 Records Required to Maintain the Designation.

(1) Stand-alone bars holding an “ss” or “ssf” designation shall maintain records to substantiate reports, affidavits and designation qualifications. Records of all purchases of food, all gross retail sales of alcohol for consumption on the licensed premises, all gross retail sales of alcohol for consumption off the licensed premises, all gross retail sales of food sold for consumption on the premises, all gross retail sales of food sold for consumption off the premises, and gross revenue from all other sales shall be separately documented.

(2) Stand-alone bars holding an “ss” or “ssf” designation shall maintain complete and accurate records of all sales and purchases. Records shall include, but are not limited to, purchase invoices, sales tickets, inventory records, receiving

records, cash register journal tapes, on premises food sales records, computer records generated from automatic dispensing devices, Department of Revenue Sales Tax Returns, and any other record documenting sales. Sales records shall be sequentially organized by month and year and include a monthly statement summarizing the total sales revenue, food revenue, and percentage of food revenue for each month.

Specific Authority 386.2125, 561.695(9) FS. Law Implemented 386.203(11), 561.695(6) FS. History--New \_\_\_\_\_.

61A-7.007 Formula for Compliance with Required Percentage of Gross Food Sales Revenues.

In order to determine compliance, the division shall use the formula of gross food sales revenue from the sale of food the licensee sells for consumption on premises, including but not limited to non-alcoholic beverages, divided by gross total sales revenue, in any consecutive two month period. The results of the formula will represent the percentage of food sales revenues as defined herein and in Section 561.695, Florida Statutes.

Specific Authority 386.2125, 561.695(9) FS. Law Implemented 386.203(11), 561.695(6) FS. History--New \_\_\_\_\_.

61A-7.008 For Percentage of Gross Alcohol Sales for Consumption on the Licensed Premises Revenue Formula.

In order to determine compliance, the division shall use the formula of gross alcohol sales revenues from the sale of alcohol the licensee sells for consumption on premises, divided by gross total sales revenue, in any consecutive two-month period.

Specific Authority 386.2125, 561.695(9) FS. Law Implemented 386.203(11), 561.695(6) FS. History--New \_\_\_\_\_.

61A-7.009 Method Used to Determine Whether an Establishment is Predominately Dedicated to the Serving of Alcoholic Beverages.

In order to determine whether an establishment, other than one holding a specialty license designated in Rule 61A-7.003, F.A.C., is predominantly dedicated to the serving of alcoholic beverages for consumption on the licensed premises, the division shall compare the percentage of gross alcohol sales revenue from the sale of alcohol the licensee sells for consumption on premises with the following categories of revenue:

(1) For stand-alone bars holding the “ss” designation:

(a) The percentage of gross alcohol sales revenue from the sale of alcohol the licensee sells for consumption off the premises where the purchaser is required to enter the premises.

(b) The percentage of gross alcohol sales revenue from the sale of alcohol the licensee sells for consumption off the premises where the purchaser is not required to enter the premises, and

(c) The percentage of gross revenue from any source not included in the alcohol categories above.

If the percentage of gross alcohol sales revenue from the sale of alcohol the licensee sells for consumption on premises is greater than that of the gross sales revenue from each individual category of gross sales in paragraphs 61A-7.009(1)(a)-(c), F.A.C., an establishment is deemed predominately dedicated to the serving of alcoholic beverages.

(2) For stand-alone bars holding the “ssf” designation:

(a) The percentage of gross food sales revenue from the sale of food the licensee sells for consumption on premises.

(b) The percentage of gross food sales revenue from the sale of food the licensee sells for consumption off premises.

(c) The percentage of gross alcohol sales revenue from the sale of alcohol the licensee sells for consumption off the premises, and

(d) The percentage of gross revenue from any source not included in the food and alcohol categories above.

If the percentage of gross alcohol sales revenue from the sale of alcohol the licensee sells for consumption on premises is greater than that of the gross sales revenue from each individual category of gross sales in paragraphs 61A-7.009(2)(a)-(d), F.A.C., an establishment is deemed predominately dedicated to the serving of alcoholic beverages.

Specific Authority 386.2125, 561.695(9) FS. Law Implemented 386.203(11), 561.695(6) FS. History—New \_\_\_\_\_.

**DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION**

**Division of Pari-Mutuel Wagering**

RULE TITLE: Superfecta Pool

RULE NO.: 61D-7.013

PURPOSE AND EFFECT: The purpose and effect of the proposed rule will be to implement and interpret Florida Statutes that relate to wagering and the types of wagers that are permissible. In particular, a new variation upon the Superfecta is being implemented in which there will be a forced payout at the end of a performance.

SUMMARY: This proposed rule addresses the manner in which a wager, the Superfecta pool, is administered and carried out.

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 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: 550.0251(3),(7), 550.155(1) FS.

LAW IMPLEMENTED: 550.0251, 550.155 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. – 12:00 Noon, April 5, 2005

PLACE: Florida Department of Business and Professional Regulation, Northwood Centre, Board Room, 1940 N. Monroe Street, Tallahassee, Florida 32399

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Mary Polombo, Clerk, Division of Pari-Mutuel Wagering, Department of Business and Professional Regulation, 1940 North Monroe Street, Tallahassee, Florida 32399-1035

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 Department at least 5 calendar days before the hearing by contacting: Mary Polombo, (850)413-0750. If you are hearing or speech impaired, please contact the agency using the Florida Dual Party Relay System, 1(800)955-8770 (Voice) or 1(800)955-8771 (TDD).

Written comments or suggestions on the proposed rule may be submitted to Mary Polombo, Clerk, Division of Pari-Mutuel Wagering, Department of Business and Professional Regulation, 1940 North Monroe Street, Tallahassee, Florida 32399-1035, within 21 days of this notice for inclusion in the record of this proceeding.

THE FULL TEXT OF THE PROPOSED RULE IS:

61D-7.013 Superfecta Pool.

(1) No change.

(2) Permitholders may elect to conduct a Superfecta in the carryover method as provided in subsection (10) below. If a permitholder elects to offer the carryover method, a notice shall be made in the daily program explaining that there is a carryover provision and the percentages applying to the jackpot pool and the minor pool. All Superfectas not conducted in the carryover method shall be conducted in the non-carryover method as provided in subsection (3) below.

(3)(2) The net non-carryover Superfecta pool shall be distributed to winning wagers in the following precedence, based upon the official order of finish:

(a) through (e) No change.

(4)(3) If less than four betting interests finish and the contest is declared official, payouts will be made based upon the order of finish of those betting interests completing the contest.

(5)(4) If there is a dead heat for first involving:

(a) through (c) No change.

(6)(5) If there is a dead heat for second involving:

(a) through (b) No change.

(7)(6) If there is a dead heat for third, all wagering combinations correctly selecting the first two finishers, in exact order, along with any two of the betting interests involved in the dead heat for third shall share in a profit split.

(8)(7) If there is a dead heat for fourth, all wagering combinations correctly selecting the first three finishers, in exact order, along with any of the betting interests involved in the dead heat for fourth shall share in a profit split.

(9)(8) In the event that more than one component of a coupled entry or mutuel field finishes within the first four positions, the first member of the coupled entry or field to finish shall determine the position of the single betting interest. The net pool shall be distributed to those whose selection included the coupled entry or mutuel field and each of the other three betting interests.

(10) The net carryover Superfecta pool shall be distributed to winning wagers in the following precedence, based upon the following order of finish:

(a) If tickets are sold on the winning combination of the Superfecta, the net pool shall have added to it any carryover monies from previous Superfecta contests, and shall then be equally divided among those ticket holders.

(b) If no tickets are sold on the winning combination of the Superfecta, then the net pool shall be divided into two separate pools. For example, seventy-five percent of the net pool shall be paid into a pool known as the Jackpot Carryover, and carried over to the next regularly scheduled Superfecta contest. The remaining 25 percent of the net pool shall be paid into a pool known as the Superfecta minor pool, and this pool shall be equally divided among those ticket holders who correctly selected the first three finishers in exact order. If no ticket has been sold correctly selecting the first three finishers in exact order, then the Superfecta minor pool shall be paid to the first two finishers in exact order; if no ticket has been sold correctly selecting the first two finishers in exact order, then the Superfecta minor pool shall be paid to those ticket holders who selected the winning betting interest. In the event no ticket has been sold correctly selecting the winning betting interest to finish first, then the Superfecta gross pool (excluding monies carried over from previous Superfecta contests) shall be refunded.

(c) If the Superfecta gross pool is refunded in accordance with the above-described rules, then all monies carried over, if any, shall be held in escrow until the next regularly scheduled Superfecta.

(d) If less than four betting interests finish and the contest is declared official, payouts will be made from the Superfecta minor pool only, and shall be made to holders of tickets correctly selecting the greatest number of actual finishing betting interests in exact order. In this event, the Jackpot Carryover will be carried over to the next regularly scheduled Superfecta contest.

(e) In the event the accumulated Jackpot Carryover has not been distributed prior to the final contest of the performance in which the Jackpot Carryover was generated, then the accumulated Jackpot Carryover and the net pool in the final Superfecta contest of the performance shall be distributed to

holders of Superfecta tickets who correctly selected the first four official finishers in exact order; or if no ticket is sold as above described, to those who correctly selected the first three finishers in exact order; or if no ticket is sold as above described, to those who correctly selected the first two finishers in exact order; or if no ticket is sold as above described, to those who correctly selected the winning betting interest to finish first. In the event no ticket has been sold correctly selecting the winning betting interest to finish first, then the gross Superfecta pool will be refunded and the Jackpot Carryover distributed equally to all final contest Superfecta ticket holders.

(f) In the event the final Superfecta contest of a performance is unable to be conducted and the jackpot remains unpaid, the accumulated jackpot amount will be added to the first Superfecta contest of the next performance.

(g) All dead heat provisions of subsections (5), (6), (7), (8) and coupled entry or mutuel field provisions of subsection (9) apply to the net carryover Superfecta pool distributions.

(11)(9) There shall be no minimum number of betting interests required to start in a contest in which Superfecta wagering is offered except that when the Superfecta represents half of a Trifecta and Superfecta combination, the minimum shall be seven.

(12) Permitholders electing to offer the net carryover Superfecta pool may, prior to offering the wager, designate the Jackpot Carryover amount at any given percentage of the net pool; the remaining percentage will be the minor pool portion, if any. This elected percentage may not be changed during the performance on which the Superfecta is conducted in the carryover method.

(13) Each permitholder conducting a Superfecta pool of any type, must notify the wagering public via a statement in the official program or by prominently displaying on each level of the facility, a declaration of whether the standard version or the carryover version of the pool is being conducted.

(14) Different methods of conduct of this pool may not be combined for the Superfecta between intertrack or simulcast wagering hosts and guests.

Specific Authority 550.0251(3),(7), 550.155(1) FS. Law Implemented 550.0251, 550.155 FS. History--New 10-20-96, Amended \_\_\_\_\_.

NAME OF PERSON ORIGINATING PROPOSED RULE:

David J. Roberts, Director, Division of Pari-Mutuel Wagering

NAME OF SUPERVISOR OR PERSON WHO APPROVED

THE PROPOSED RULE: Diane Carr, Secretary, Department of Business and Professional Regulation

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: February 25, 2005

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

**DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION****Division of Pari-Mutuel Wagering**

RULE TITLE:

RULE NO.:

Reporting Requirements for Charity/

Scholarship Performances

61D-8.003

PURPOSE AND EFFECT: The proposed rule will implement and interpret Florida Statutes related to charity/scholarship racing performances. The proposed amendments to Rule 61D-8.003, Florida Administrative Code, specify reporting and other requirements for charity/scholarship performances and specifically address reporting for "Greyhound Adopt-A-Pet Day."

SUMMARY: This proposed rule addresses reporting requirements for charity/scholarship racing performances that require submittal of BPR Forms 14-008 and 14-009 and the specific requirements for an additional performance for "Greyhound Adopt-A-Pet Day" as authorized by Section 550.1648, Florida Statutes.

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

Any person who wishes to provide information regarding the statement of estimated 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: 550.0251(3),(7), 550.125(2)(b), 550.155(1) FS.

LAW IMPLEMENTED: 550.0251, 550.0351, 550.125, 550.155, 550.1647, 550.1648 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. – 12:00 Noon, April 5, 2005

PLACE: Florida Department of Business and Professional Regulation, Northwood Centre, Board Room, 1940 N. Monroe Street, Tallahassee, Florida 32399

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 Department at least 5 calendar days before the hearing by contacting: Mary Polombo, (850)413-0750. If you are hearing or speech impaired, please contact the agency using the Florida Dual Party Relay System, 1(800)955-8770 (Voice) or 1(800)955-8771 (TDD).

Written comments or suggestions on the proposed rule may be submitted to Mary Polombo, Clerk, Division of Pari-Mutuel Wagering, Department of Business and Professional Regulation, 1940 North Monroe Street, Tallahassee, Florida 32399-1035, within 21 days of this notice for inclusion in the record of this proceeding.

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Mary Polombo, Clerk, Division of Pari-Mutuel Wagering, Department of Business and Professional Regulation, 1940 North Monroe Street, Tallahassee, Florida 32399-1035

THE FULL TEXT OF THE PROPOSED RULE IS:

61D-8.003 Reporting Requirements for Charity/Scholarship Performances.

~~(1) Each permitholder desiring to conduct charity/scholarship performances shall submit Form DBPR 14-021, Proposed Recipients of Charity/Scholarship Performance Proceeds, incorporated by Rule 61D-10.001, Florida Administrative Code, with their annual application for a license to conduct performances during the next state fiscal year.~~

(1)(2) Proceeds from all charity/scholarship performances shall be distributed only to proposed recipients which are determined by the division to be in compliance with Section 550.0351, Florida Statutes. Any charity registered with or determined to be exempt by the Division of Consumer Services pursuant to Chapter 496, Florida Statutes, shall be deemed in compliance with Section 550.0351, Florida Statutes. It shall be the permitholder's responsibility to insure that charity recipients are registered or have been determined to be exempt pursuant to Chapter 496, Florida Statutes, or are duly qualified with the division by the filing of a copy of the exemption from taxation issued by the Internal Revenue Service to such charity.

~~(2)(3) No proceeds may be distributed to any organization who does not meet the requirements of subsection (1)(2) of this rule.~~

(3)(4) Within 120 days after the conclusion of its fiscal year each permitholder shall pay the proceeds of all the charity performances to the authorized charities and, within 45 days after the required due date for such payments, shall submit to the division BPR Form DBPR 14-008, Statement of Proceeds for Charity/Scholarship Performance, adopted and incorporated by Rule 61D-10.001, Florida Administrative Code, and BPR Form DBPR 14-009, Statement of Charity Day Distribution, adopted and incorporated by Rule 61D-10.001, Florida Administrative Code. A separate BPR Form DBPR 14-008 and BPR Form DBPR 14-009 shall be submitted for each charity performance conducted by the permitholder. Copies of supporting documentation such as checks should be included with the forms, along with a statement and reconciliation which includes all deductions and additions of money, and support for all banking transactions including bank statements, for the "Greyhound Adopt-A-Pet Day."

(4) A greyhound permitholder may hold one additional charity day, designated as "Greyhound Adopt-A-Pet Day," as authorized by Section 550.1648, Florida Statutes. "Profits" for

this charity event shall be calculated in the same manner as required for "proceeds" in Sections 550.0351(4) and (5), Florida Statutes.

(5) The permitholder must maintain an accounting of the funds related to the "Greyhound Adopt-A-Pet Day" charity. All revenue associated with this charity event must be deposited into a separate account, within 7 days of the event. Documentation, including names of recipients, individuals or entities, must be maintained of all disbursements from the fund account. Disbursements may be made only to recipients allowed by Section 550.1648, Florida Statutes, in that the money must be used to support activities for promoting greyhound adoptions.

(6) The permitholder is the custodian of the funds related to the "Greyhound Adopt-A-Pet Day" charity event. As part of any review by the division in which it is determined there were unlawful recipients of the charity funds, the permitholder will be required to reimburse the fund for the amount of the improper disbursement(s).

Specific Authority 550.0251(3),(7), 550.125(2)(b), 550.155(1) FS. Law Implemented 550.0251, 550.0351, 550.125, 550.155, 550.1647, 550.1648 FS. History--New 10-20-96, Amended 12-15-97, \_\_\_\_\_.

NAME OF PERSON ORIGINATING PROPOSED RULE:  
David J. Roberts, Director, Division of Pari-Mutuel Wagering  
NAME OF SUPERVISOR OR PERSON WHO APPROVED  
THE PROPOSED RULE: Diane Carr, Secretary, Department  
of Business and Professional Regulation  
DATE PROPOSED RULE APPROVED BY AGENCY  
HEAD: February 25, 2005  
DATE NOTICE OF PROPOSED RULE DEVELOPMENT  
PUBLISHED IN FAW: December 30, 2004

**DEPARTMENT OF BUSINESS AND PROFESSIONAL  
REGULATION**

**Construction Industry Licensing Board**

RULE TITLE: Collection Efforts  
RULE NO.: 61G4-21.006

PURPOSE AND EFFECT: The Board proposes to add this section to the procedures for processing claims to the Florida Homeowners' Construction Recovery Fund.

SUMMARY: To add Collection Efforts to the Florida Homeowners' Recovery Fund Procedures.

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: 489.108 FS.  
LAW IMPLEMENTED: 489.140-143 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: Tim Vaccaro, Executive Director, Construction Industry Licensing Board, Northwood Centre, 1940 North Monroe Street, Tallahassee, Florida 32399-0750

THE FULL TEXT OF THE PROPOSED RULE IS:

61G4-21.006 Collection Efforts.

(1) At the time of payment from the Recovery Fund, the claimant shall assign his or her right, title, and interest in any judgment to the extent of such payment.

(2) Claimant shall file the assignment in the records of the county where the original judgment has been filed.

(3) Upon assignment, the Board shall be surrogated to the right, title, and interest of the claimant; and any amount subsequently recovered on the judgment, award, or restitution order by the Board, to the extent of the right, title and interest of the Board therein, shall be for the purpose of reimbursing the Recovery Fund.

(4) The Board shall attempt to collect from the Contractor repayment of the funds disbursed.

Specific Authority 489.108 FS. Law Implemented 489.143 FS. History--New \_\_\_\_\_

NAME OF PERSON ORIGINATING PROPOSED RULE:  
Tim Vaccaro, Executive Director, Construction Industry  
Licensing Board

NAME OF SUPERVISOR OR PERSON WHO APPROVED  
THE PROPOSED RULE: Construction Industry Licensing  
Board

DATE PROPOSED RULE APPROVED BY AGENCY  
HEAD: January 14, 2005

DATE NOTICE OF PROPOSED RULE DEVELOPMENT  
PUBLISHED IN FAW: November 5, 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 Occupational Therapy**

RULE TITLE: Requirements for Reactivation of  
an Inactive License  
RULE NO.: 64B11-5.003

PURPOSE AND EFFECT: The Board proposes to rewrite this section to conform this section to the requirements of Section 456.036, Florida Statutes, and the Board's rules concerning fees.

SUMMARY: The rule revises and clarifies the fee and continuing education requirements for reactivating an inactive license.

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: 456.036 FS.

LAW IMPLEMENTED: 468.219(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: Kaye Howerton, Executive Director, Board of Occupational Therapy Practice, 4052 Bald Cypress Way, Bin #C05, Tallahassee, Florida 32399-3255

THE FULL TEXT OF THE PROPOSED RULE IS:

(Substantial rewording of Rule 64B11-5.003 follows. See Florida Administrative Code for present text.)

64B11-5.003 Requirements for Reactivation of an Inactive License.

(1) An inactive license for an occupational therapist or occupational therapist assistant shall be reactivated upon demonstration that the licensee has satisfied the following requirements:

(a) Paid the reactivation fee and any applicable delinquent or renewal fees as set forth in Rule 64B11-5.006, F.A.C.:

(b) Unless exempted by subsection 64B11-5.001(8), F.A.C., completed 13 hours of approved continuing education for each year of inactive status and 26 hours of approved continuing education for the last biennium in which the licensee held an active license;

(c) Unless exempted by subsection 64B11-5.001(8), F.A.C., completed a two hour course on laws and rules (as required by subsection 64B11-5.001(6), F.A.C.) for each full biennium in which the licensee was in an inactive status and for the last biennium in which the licensee held an active status license. This requirement shall count towards the 13 total yearly or 26 total biennial hourly requirements, as applicable;

(d) Completed one (1) hour of approved continuing education in the area of HIV/AIDS or end of life-palliative health care as authorized and prescribed in subsection 64B11-5.001(4), F.A.C., for each full biennium in which the licensee was in an inactive status and for the last biennium in which the licensee held an active status license.

(e) Completion of two (2) hours of approved continuing education relating to the prevention of medical errors, as authorized and prescribed in subsection 64B11-5.001(5),

F.A.C., for each full biennium in which the licensee was in an inactive status and for the last biennium in which the licensee held an active status license.

(2) A licensee may perform no more than six (6) hours of continuing education as home study education per year of inactive status.

(3) No provision of this section shall be construed to require the completion of continuing education in any specific subject area, for any biennial period in which continuing education in that subject area was not specifically required by law for renewal of an active license.

(4) The continuing education credits required by this section for reactivation may be earned at any time during the inactive licensure period. Credits allowed to meet this requirement may also include up to 26 hours of approved continuing education credits earned during the last biennium in which the licensee held an active status license.

(5) The provisions of Rule 64B11-2.012, F.A.C., are not applicable to licensees reactivating an inactive license.

Specific Authority 456.036, 468.214, 468.219 FS. Law Implemented 456.036, 468.219 FS. History--New 4-17-95, Formerly 59R-64.020, Amended 10-18-01,

NAME OF PERSON ORIGINATING PROPOSED RULE: Board of Occupational Therapy Practice

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Board of Occupational Therapy Practice

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

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: January 28, 2005

**DEPARTMENT OF HEALTH**

**Board of Psychology**

RULE TITLE: Examination  
RULE NO.: 64B19-11.001

PURPOSE AND EFFECT: The Board proposes to delete paragraph 64B19-11.001(4)(c), F.A.C.

SUMMARY: The time limit for passing both parts of the examination and submitting evidence of completed post-doctoral work experience will be deleted from the rule.

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

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

SPECIFIC AUTHORITY: 490.004 FS.

LAW IMPLEMENTED: 490.005 FS.





1. An observed, estimated, inferred or suspected population size reduction of at least 80% over the previous ten years or three generations, whichever is longer, where the reduction or its causes may not have ceased OR may not be understood OR may not be reversible, based on; (and specifying); any of the following:

- a. Direct observation;
- b. An index of abundance appropriate for the species;
- c. A decline in area of occupancy, extent of occurrence or quality of habitat;
- d. Actual or potential levels of exploitation;
- e. The effects of introduced taxa species, hybridization, pathogens, pollutants, competitors or parasites.

2. A population size reduction of at least 80%, projected or suspected to be met within the next ten years or three generations, whichever is longer (up to a maximum of 100 years), based on; (and specifying); any of sub-subparagraph 1.b., 1.c., 1.d. or 1.e. above.

3. An observed, estimated, inferred, projected, or suspected population size reduction of at least 80% over any 10 year or three generation period, whichever is longer (up to a maximum of 100 years in the future), where the time period must include both past and future, and where the reduction or its causes may not have ceased OR may not be understood OR may not be reversible, based on (and specifying) any of sub-subparagraphs 1.a. 1.b., 1.c., 1.d. or 1.e. above.

4. An observed, estimated, inferred, or suspected reduction of at least 90% over the last 10 years or three generations, whichever is longer, where the causes of reduction are clearly reversible AND understood AND ceased, based on (and specifying) any of sub-subparagraphs 1.a. 1.b., 1.c., 1.d. or 1.e. above.

(b) Geographic range in the form of either eExtent of occurrence estimated to be less than 40 square miles or area of occupancy estimated to be less than 4 square miles, and estimates indicating any two of the following:

1. Severity fragmented or known to exist at only a single location.

2. Continuing decline, observed, inferred or projected, in any of the following:

- a. Extent of occurrence;
- b. Area of occupancy;
- c. Area, extent and/or quality of habitat;
- d. Number of locations or subpopulations;
- e. Number of mature individuals.

3. Extreme fluctuations in any of the following:

- a. Extent of occurrence;
- b. Area of occupancy;
- c. Number of locations or subpopulations;
- d. Number of mature individuals.

(c) Population size estimated to number fewer than 250 mature individuals and either:

1. An estimated continuing decline of at least 25% within three years or one generation, whichever is longer, or

2. A continuing decline, observed, projected or inferred, in numbers of mature individuals and at least one of the following population structure in the form of either:

a. Population structure in the form of either no subpopulation estimated to contain more than 50 mature individuals, or at least 90% of mature individuals in one subpopulation. Severe fragmentation (that is, no subpopulation estimated to contain more than 50 mature individuals)

b. Extreme fluctuations in number of mature individuals. All individuals are in a single subpopulation.

(d) Population size estimated to number less than 50 mature individuals.

(e) Quantitative analysis showing the probability of extinction in the wild is at least 50% within ten years or three generations, whichever is longer (up to a maximum of 100 years).

(28) through (73) No change.

(74) Species of special concern – As designated by the Commission, a species, subspecies, or isolated population of a species or subspecies which is facing a moderate risk of extinction in or extirpation from Florida in the future, as determined by paragraphs (a), (b), (c), (d) or (e) below:

(a) Reduction in pPopulation size based on any of the following reduction in the form of either:

1. An observed, estimated, inferred or suspected population size reduction of at least ~~30~~ 20% over the last ten years or three generations, whichever is longer, where the reduction or its causes may not have ceased or may not be understood or may not be reversible, based on; (and specifying); any of the following:

- a. Direct observation;
- b. An index of abundance appropriate for the species;
- c. A decline in area of occupancy, extent of occurrence and/or quality of habitat;
- d. Actual or potential levels of exploitation;
- e. The effects of introduced species, hybridization, pathogens, pollutants, competitors or parasites;

2. A population size reduction of at least ~~30~~ 20%, projected or suspected to be met within the next ten years or three generations, whichever is longer (up to a maximum of 100 years), based on; (and specifying), any of sub-subparagraphs 1.b., 1.c., 1.d. or 1.e. above.

3. An observed, estimated, inferred, projected or suspected population reduction of at least 30% over any 10 year or three generation period, whichever is longer (up to a maximum of 100 years in the future), where the time period must include both past and future, and where the reduction or its causes may not have ceased or may not be understood or may not be reversible, based on (and specifying) any of sub-subparagraphs 1.a. 1.b., 1.c., 1.d. or 1.e. above.

4. An observed, estimated, inferred or suspected population size reduction of at least 50% over the last 10 years or three generations, whichever is longer, where the causes of reduction are clearly understood AND reversible AND ceased, based on (and specifying) any of sub-subparagraphs 1.a. 1.b., 1.c., 1.d. or 1.e. above.

(b) Geographic range in the form of either eExtent of occurrence estimated to be less than 7,700 square miles or area of occupancy estimated to be less than 770 square miles, and estimates indicating any two of the following:

1. Severely fragmented or known to exist at no more than 10 locations only a single location.

2. Continuing decline, observed, inferred or projected, in any of the following:

- a. Extent of occurrence;
- b. Area of occupancy;
- c. Area, extent and/or quality of habitat;
- d. Number of locations or subpopulations;
- e. Number of mature individuals.

3. Extreme fluctuations in any of the following:

- a. Extent of occurrence;
- b. Area of occupancy;
- c. Number of locations or subpopulations;
- d. Number of mature individuals.

(c) Population size estimated to number fewer than 10,000 mature individuals and either:

1. An estimated continuing decline of at least 10% within ten years or three generations, whichever is longer; or

2. A continuing decline, observed, projected, or inferred, in numbers of mature individuals and at least one of the following population structure in the form of either:

a. Population structure in the form of either no subpopulations estimated to contain more than 1,000 mature individuals, or all mature individuals are in one subpopulation. Severely fragmented (i.e., no subpopulation estimated to contain more than 1,000 mature individuals)

b. Extreme fluctuations in number of mature individuals All individuals are in a single subpopulation.

(d) Population very small or restricted in the form of either of the following:

1. Population size estimated to number fewer than 1,000 mature individuals.

2. Population with a very restricted is characterized by an acute restriction in its area of occupancy (less than 16 40 square miles) or in the number of locations (typically 5 or fewer than 5) such that it is prone to the effects of human activities or stochastic events within a very short time period in an uncertain future.

(e) Quantitative analysis showing the probability of extinction in the wild is at least 10% within 100 years.

(75) through (77) No change.

(78) Threatened species – As designated by the Commission, a species, subspecies, or isolated population of a species or subspecies which is facing a very high risk of extinction in or extirpation from Florida in the future, as determined by paragraphs (a), (b), (c), (d) or (e) below:

(a) Reduction in pPopulation size based on any reduction in the form of either of the following:

1. An observed, estimated, inferred, or suspected population size reduction of at least 50% over the last ten years or three generations, whichever is longer, where the reduction or its causes may not have ceased or may not be understood or may not be reversible, based on; (and specifying); any of the following:

- a. Direct observation;
- b. An index of abundance appropriate for the species;
- c. A decline in area of occupancy, extent of occurrence and/or quality of habitat;
- d. Actual or potential levels of exploitation;
- e. The effects of introduced species, hybridization, pathogens, pollutants, competitors or parasites.

2. A population size reduction of at least 50%, projected or suspected to be met within the next ten years or three generations, whichever is longer (up to a maximum of 100 years), based on; (and specifying); any of sub-subparagraphs 1.b., 1.c., 1.d. or 1.e. above.

3. An observed, estimated, inferred, projected or suspected population size reduction of at least 50% over any 10 year or three generation period, whichever is longer (up to a maximum of 100 years in the future), where the time period must include both past and future, and where the reduction or its causes may not have ceased or may not be understood or may not be reversible, based on any of sub-subparagraphs 1.a. 1.b., 1.c., 1.d. or 1.e. above.

4. An observed, estimated, inferred or suspected population size reduction of at least 70% over the last 10 years or three generations, whichever is longer, where the causes of reduction are clearly understood AND reversible AND ceased, based on (and specifying) any of sub-subparagraphs 1.a. 1.b., 1.c., 1.d. or 1.e. above.

(b) Geographic range in the form of either eExtent of occurrence estimated to be less than 2,000 square miles or area of occupancy estimated to be less than 200 square miles, and estimates indicating any two of the following:

1. Severely fragmented or known to exist at no more than five locations

2. Continuing decline, observed, inferred or projected, in any of the following:

- a. Extent of occurrence;
- b. Area of occupancy;
- c. Area, extent and/or quality of habitat;
- d. Number of locations or subpopulations;
- e. Number of mature individuals;

- 3. Extreme fluctuations in any of the following:
  - a. Extent of occurrence;
  - b. Area of occupancy;
  - c. Number of locations or subpopulations;
  - d. Number of mature individuals.
- (c) Population size estimated to number fewer than 2,500 mature individuals and either:
  - 1. An estimated continuing decline of at least 20% within five years or two generations, whichever is longer (up to a maximum of 100 years in the future); or
  - 2. A continuing decline, observed, projected, or inferred, in numbers of mature individuals and at least one of the following population structure in the form of either:
    - a. Population structure in the form of either no subpopulation estimated to contain more than 250 mature individuals, or at least 95% of mature individuals in one subpopulation. Severely fragmented (i.e., no subpopulation estimated to contain more than 250 mature individuals)
    - b. Extreme fluctuations in number of mature individuals. All individuals are in a single subpopulation.
  - (d) Population size estimated to number fewer than 250 mature individuals.
  - (e) Quantitative analysis showing the probability of extinction in the wild is at least 20% within 20 years or five generations, whichever is longer (up to a maximum of 100 years).

(79) through (90) No change.

Specific Authority Art. IV, Sec. 9, Fla. Const. Law Implemented Art. IV, Sec. 9, Fla. Const. History—New 8-1-79, Amended 6-15-81, 11-17-81, 6-21-82, 7-1-83, 7-1-84, 7-1-85, Formerly 39-1.04, Amended 6-1-86, 5-10-87, 10-8-87, 3-1-88, 4-13-88, 4-27-89, 4-11-90, 7-1-92, 4-20-93, 3-1-94, 7-1-94, 4-1-96, 11-23-97, 7-1-98, 6-23-99, Formerly 39-1.004, Amended 7-1-00, 5-1-01, 5-1-03, 7-1-04.

NAME OF PERSON ORIGINATING PROPOSED RULE:  
Mr. Timothy Breault

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

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: March 2, 2005

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: December 10, 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**

**Freshwater Fish and Wildlife**

RULE CHAPTER TITLE: Miscellaneous Permits  
RULE TITLE: Permits for Hunting or Other Recreational Uses on Wildlife Management Areas

RULE CHAPTER NO.: 68A-9  
RULE NO.: 68A-9.004

PURPOSE AND EFFECT: The purpose and effect of the proposed rule change is to reduce the number of recreational user permits for San Pedro Bay Wildlife Management Area (WMA) because of a reduction in acreage per landowner request.

SUMMARY: The proposed rule change would reduce the recreational user permit quota for San Pedro Bay WMA from 355 to 310. Lands in San Pedro Bay WMA are privately-owned, and the landowners have requested withdrawal of about 17,700 acres. The proposed reduction in permits is necessary to accommodate this reduction in acreage which would leave about 28,800 acres in the WMA.

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; 372.121, 372.57, 375.313 FS.

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

TIME AND DATES: 8:30 a.m. – 5:00 p.m. each day, April 14-15, 2005

PLACE: Ramada Inn and Conference Center, 2900 North Monroe Street, Tallahassee, 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: ADA Coordinator, (850)488-6411. If you are hearing or speech impaired, please contact the agency by calling (850)488-9542.

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE 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:

68A-9.004 Permits for Hunting or Other Recreational Use on Wildlife Management Areas.

(1) In addition to other licenses, permits and stamps required by law, stamp requirements for hunting, camping, fishing, or other recreational uses on lands owned, leased or managed by the Commission or the State of Florida for the use and benefit of the Commission shall be as provided by Section 372.57(8)(i)1., F.S.

(a) through (b) No change.

(c) The total number of permits available for each of the following privately owned wildlife management areas established pursuant to Section 372.57(8)(i)1., F.S., shall be:

- 1. Nassau WMA – 350
- 2. San Pedro Bay WMA – ~~310~~ 355
- 3. Blue Water Creek – 400
- 4. Flint Rock – 450
- 5. Twelve Mile Swamp – 200
- 6. Robert Brent – 100
- 7. Relay – 300
- 8. Ft. McCoy – 150
- 9. Gulf Hammock – 450
- 10. Grove Park – 200

(d) through (f) No change.

(2) No change.

PROPOSED EFFECTIVE DATE: June 1, 2005.

Specific Authority Art. IV, Sec. 9, Fla. Const. Law Implemented 372.121, 372.57, 375.313 FS. History—New 8-1-79, Amended 6-4-81, 6-21-82, Formerly 39-9.04, Amended 6-2-86, 11-1-89, 7-16-98, 5-13-99, Formerly 39-9.004, Amended 7-1-00, 5-29-01, 7-22-01, 6-2-02, 7-28-02, 5-1-03, 7-7-03, 10-12-03, 5-12-04, 7-15-04, ~~6-1-05.~~

NAME OF PERSON ORIGINATING PROPOSED RULE: Mr. Nick Wiley

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

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: March 2, 2005

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: December 10, 2004

**FISH AND WILDLIFE CONSERVATION COMMISSION**

**Freshwater Fish and Wildlife**

RULE CHAPTER TITLE:	RULE CHAPTER NO.:
General Hunting Regulations	68A-13
RULE TITLE:	RULE NO.:
Hunting Regulations for Ducks, Geese, and Coots	68A-13.003

PURPOSE AND EFFECT: The purpose and effect of the rule amendment is to adjust season dates for taking Canada geese.

SUMMARY: Paragraph (4)(a) of Rule 68A-13.003, F.A.C., is amended to adjust the first phase of the Canada goose season in September each year.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COST: It is estimated that the proposed rule change will cost the agency approximately \$135 for administrative preparation and \$103 for advertising.

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

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

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

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

TIME AND DATES: 8:30 a.m. – 5:00 p.m. each day, April 14-15, 2005

PLACE: Ramada Inn and Conference Center, 2900 North Monroe Street, Tallahassee, 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: ADA Coordinator, (850)488-6411. If you are hearing or speech impaired, please contact the agency by calling (850)488-9542.

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE 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:

68A-13.003 Hunting Regulations for Ducks, Geese, and Coots.

The Commission has approved the following regulations and bag limits for taking ducks, geese, and coots:

- (1) through (3) No change.
- (4) Canada goose season:
  - (a) Open season:

1. First phase – Opening the ~~first~~ Saturday ~~prior to the last Wednesday~~ in September and closing ~~the last Wednesday in September~~ four days thereafter.

2. Second phase – Opening the Saturday before Thanksgiving and closing the Sunday following Thanksgiving.

3. Third phase – December 1 through January 30.

4. Canada geese may be taken only in the Florida waters of Lake Seminole in Jackson County that are south of SR 2, north of the Jim Woodruff Dam, and east of ~~CR~~ SR 271.

(b) Shooting hours: One-half hour before sunrise until sunset.

(c) Limits:

- 1. Daily bag: The daily bag limit is five Canada geese.
- 2. Possession: The possession limit is ten Canada geese.

(5) No change.

**PROPOSED EFFECTIVE DATE: July 1, 2005.**

Specific Authority Art. IV, Sec. 9, Fla. Const. Law Implemented Art. IV, Sec. 9, Fla. Const. History—New 8-1-79, Amended 10-23-79, 8-19-80, 9-29-81, 8-30-82, 7-27-83, 8-13-84, 8-13-85, 10-1-85, Formerly 39-13.03, Amended 8-5-86, 8-24-87, 8-18-88, 12-12-88, 8-17-89, 10-30-89, 8-9-90, 10-31-90, 8-22-91, 10-31-91, 8-23-92, 10-22-92, 9-2-93, 10-28-93, 11-6-94, 10-23-95, 10-20-96, 8-7-97, 10-28-97, 11-12-98, 6-23-99, Formerly 39-13.003, Amended 11-7-00, 5-13-02, 5-1-03, 7-1-04, 7-1-05.

NAME OF PERSON ORIGINATING PROPOSED RULE:  
Mr. Nick Wiley

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

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: September 22, 2004

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: September 10, 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**

**Freshwater Fish and Wildlife**

RULE CHAPTER TITLE:	RULE CHAPTER NO.:
Type I Wildlife Management Areas	68A-15
RULE TITLE:	RULE NO.:
Specific Regulations for Wildlife Management Areas – North Central Region	68A-15.062

PURPOSE AND EFFECT: The purpose of the proposed rule change is to revise specific area regulations on the San Pedro Bay Wildlife Management Area (WMA) to no longer allow the use of dogs to take deer on a portion of the WMA. The effect of the proposed rule change is to continue to provide public hunting opportunities under the Recreational Use Permit Program on lands that remain in the WMA.

SUMMARY: The proposed rule change would revise regulations to no longer allow the use of dogs to take deer on a portion of the WMA (about 7,240 acres; lands south of Camp Jackson Road) due to removal of adjacent lands from the WMA.

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; 372.121, 375.313 FS.

LAW IMPLEMENTED: Article IV, Section 9, Florida Constitution; 372.121, 375.313 FS.

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

TIME AND DATES: 8:30 a.m. – 5:00 p.m. each day, April 14-15, 2005

PLACE: Ramada Inn and Conference Center, 2900 North Monroe Street, Tallahassee, 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: ADA Coordinator, (850)488-6411. If you are hearing or speech impaired, please contact the agency by calling (850)488-9542.

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE 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:

68A-15.062 Specific Regulations for Wildlife Management Areas – North Central Region.

- (1) through (20) No change.
- (21) San Pedro Bay Wildlife Management Area.
- (a) through (c) No change.
- (d) General regulations:

1. Deer dogs may be trained north of Camp Jackson Road ~~on the area~~ between the established muzzleloading gun season and general gun season.

2. Hunting with dogs is prohibited during the archery season except that waterfowl retrievers and bird dogs may be used during the early experimental duck season established by Rule 68A-13.003, F.A.C.

3. Motorized vehicles may be operated only on established roads. Vehicular traffic is prohibited on roads identified and posted as closed.

4. Public access to the area is prohibited from one and one-half (1 1/2) hours after sunset to one and one-half (1 1/2) hours before sunrise.

5. Vehicles may only enter and exit the area at designated entrances.

6. Horses are permitted only during periods closed to hunting.

7. Fires are prohibited.

8. Access is permitted only by individuals possessing a valid recreational user permit except as provided by Section 372.57, F.S.

9. Hunters shall check in an out at a check station when entering and exiting the area and shall check all game taken.

10. The possession or use of dogs, other than bird dogs or waterfowl retrievers, is prohibited south of Camp Jackson Road during open hunting seasons.

(22) through (36) No change.

PROPOSED EFFECTIVE DATE: August 1, 2005.

Specific Authority Art. IV, Sec. 9, Fla. Const., 372.121, 375.313 FS. Law Implemented Art. IV, Sec. 9, Fla. Const., 372.121, 375.313 FS. History—New 6-21-82, Amended 7-1-83, 11-17-83, 7-5-84, 7-1-85, 2-16-86, 5-7-86, 6-10-86, 11-27-86, 5-10-87, 5-1-88, 6-7-88, 7-1-89, 8-17-89, 7-1-90, 9-1-90, 7-1-91, 7-2-91, 7-1-92, 7-2-92, 8-23-92, 10-22-92, 7-1-93, 7-1-94, 2-9-95, 7-1-95, 7-1-96, 9-15-96, 6-1-97, 7-1-98, 7-2-98, 7-1-99, Formerly 39-15.062, Amended 12-9-99, 7-1-00, 7-1-01, 11-11-01, 6-2-02, 10-16-02, 5-25-03, 7-7-03, 9-29-03, 7-1-04, 8-1-04, 8-1-05.

NAME OF PERSON ORIGINATING PROPOSED RULE:  
Mr. Nick Wiley

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

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: March 2, 2005

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: December 10, 2004

**FISH AND WILDLIFE CONSERVATION COMMISSION**

**Freshwater Fish and Wildlife**

RULE CHAPTER TITLE: Rules Relating to Endangered or Threatened Species

RULE CHAPTER NO.: 68A-27

RULE TITLE: Procedures for Listing, Delisting and Reclassifying Endangered, Threatened and Species of Special Concern

RULE NO.: 68A-27.0012

PURPOSE AND EFFECT: The purpose of the proposed change is to revise the process for listing imperiled species by specifying the time petitions will be evaluated, adding language to address harvested marine species, altering the biologic review panel, requiring the panel use the regional guidelines, and requiring the panel to follow the criteria application guidelines.

SUMMARY: The proposed rule changes specify the time petitions will be evaluated, adds language addressing harvest marine species, alters the biologic review panel, requires the panel use the regional guidelines, and requires the panel to follow the criteria application guidelines.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COST: It is estimated that the proposed action will cost the agency approximately \$285 for administrative preparation and \$188 for legal advertising. No other significant economic impacts are expected.

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

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

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

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

TIME AND DATES: 8:30 a.m. – 5:00 p.m. each day, April 14-15, 2005

PLACE: Ramada Inn and Conference Center, 2900 North Monroe Street, Tallahassee, 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: ADA Coordinator, (850)488-6411. If you are hearing or speech impaired, please contact the agency by calling (850)488-9542.

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE 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:

68A-27.0012 Procedures for Listing, Delisting and Reclassifying Endangered, Threatened and Species of Special Concern.

(1) Petition to list, delist, or reclassify a species in Rule 68A-27.003, 68A-27.004 or 68A-27.005, F.A.C.

(a) Persons wishing to add, delete or reclassify species in Rule 68A-27.003, 68A-27.004 or 68A-27.005, F.A.C., shall submit a written petition to the Commission. Petitions will be reviewed for completeness from July 1 through December 31.

~~(b)~~ Petitions shall be clearly identified as such, and must contain the following in order to be considered complete:

~~1.a.~~ The rule to which the species is proposed to be added, removed from or reclassified to,

~~2.b.~~ The name, address and signature of the petitioner, and

~~3.e.~~ Sufficient information on the biology and distribution of the species to warrant investigation of its status using the criteria contained in definitions of endangered, threatened or species of special concern in Rule 68A-1.004, F.A.C.

~~(c)(b)~~ Incomplete petitions will be returned to the petitioner with insufficiencies clearly noted in writing. Corrected petitions may be resubmitted for consideration.

~~(d)(e)~~ Complete petitions will be evaluated in accordance with the provisions in subsection (2).

~~(e)(d)~~ Emergency petitions may be submitted at any time and if in the opinion of the Executive Director, immediate inclusion of a species in Rule 68A-27.003, F.A.C., is essential to prevent imminent extinction, such listing may be effected on a temporary basis by Executive Order; provided that the Executive Order shall be approved or terminated at the next regularly scheduled meeting of the Commission. ~~The Commission staff shall, within 365 240 days after the effective date of such approval, conduct the evaluations prescribed in subsections (2) and (3) of this rule to determine the appropriate final classification of the species. The Commission shall take final action on the listing at the next regularly scheduled meeting following the 365 240 day evaluation period.~~

~~(f) Notwithstanding the provisions contained in this paragraph, these procedures shall not be applied to harvested marine species that: would only meet the listing criteria in Rule 68A-1.004, F.A.C., due to declines caused by either recreational harvest, commercial harvest, or both; that are monitored through periodic stock assessments or other techniques; that are the subject of any rule in Title 68B, F.A.C., that allows harvest; and that have a management plan or other system of rules and processes that functions as a management plan.~~

(2) Review of petitions to determine biological status; Phase 1.

~~(a) The Commission shall establish an annual work plan for investigating pending complete petitions, considering conservation priorities and available resources. The work plan Commission shall establish a deadline for completion of each the biological status review of each complete petition. Complete petitions not identified for staff action will be reconsidered with new complete petitions each subsequent year.~~

~~(b) The Commission shall designate a biological review panel of scientists with demonstrated knowledge of species conservation and management that consists of an odd number of members not to exceed 7. The biological review panel shall summarize information provided in the petition, information obtained from the public, and other available biological data on the status of the petitioned species into a biological status report. When assessing a species, this panel shall follow "Guidelines for Application of IUCN Red List Criteria at Regional Levels Version 3.0" and "Guidelines for Using the IUCN Red List Categories and Criteria." The biological status report shall contain a listing classification based solely on the IUCN guidelines. In addition, the panel may provide within the~~

report a biologically justified recommended classification which differs from the criteria-based classification by one level.

~~(c)(b)~~ The Commission shall provide notice by mail to parties who request such notification and shall publish in the Florida Administrative Weekly a solicitation of information on the biological status of the petitioned species. Written comments regarding biological status shall be accepted by the Commission for a period of no less than 45 days following public notice.

~~(e) The Commission shall summarize information provided in the petition, information obtained from the public and other available biological data on status of the petitioned species into a preliminary biological status report. The preliminary biological status report shall contain a recommended classification for the petitioned species consistent with the available biological data and based on the criteria established in Rule 68A-1.004, F.A.C.~~

~~(d) The Commission shall designate a biological review panel with a minimum of three scientists with demonstrated knowledge and expertise pertaining to species conservation and management. This panel shall independently evaluate information compiled on the petitioned species' biological status relative to its proposed classification in Rules 68A-27.003, 68A-27.004 or 68A-27.005, F.A.C.~~

~~(e) The biological status report and the information referenced in paragraph (e) shall be provided to members of the panel of scientific experts for the review mandated in paragraph (d) of this rule. Panel members shall have no fewer than 45 days to review the document and provide recommendations to the Commission.~~

~~(d)(f)~~ The Commission shall consider the ~~final~~ biological status report, ~~biological recommendations from the panel of scientific experts and public comments testimony~~ regarding the biological status in making a final determination whether addition, deletion or reclassification of the petitioned species in Rule 68A-27.003, 68A-27.004 or 68A-27.005, F.A.C., is warranted.

~~(e)(g)~~ If the petitioned species is determined by the Commission to warrant inclusion in Rule 68A-27.003, 68A-27.004 or 68A-27.005, F.A.C., the Commission shall:

1. Specify the appropriate listing category for the species based on biological status.

2. Establish a deadline for completion of Phase 2 for the species as described in subsection (3) below, considering the recommendation of Commission employees and other interested parties.

3. If the species is not already listed in Rule 68A-27.003, 68A-27.004 or 68A-27.005, F.A.C., it shall be added to the list of candidate species in Rule 68A-27.0021, F.A.C., and the protective provisions therein shall apply to the species.

(3) Development of management plans; ~~regulations; permit requirements for candidate species;~~ Phase 2.



(a) Phase 2 will be initiated subsequent to Commission action pursuant to subsection (2) except for a decision not to list a previously unlisted species. Within 45 days following ~~designation of a candidate species~~ the Commission meeting, the Commission shall provide notice by mail to parties who request such notification and shall publish in the Florida Administrative Weekly a solicitation of information on the conservation needs of the species, and any economic and social factors that should be considered in its management.

(b) The Commission shall use information obtained from the public and other available information to develop a draft management plan for each ~~candidate~~ species described in paragraph (3)(a) of this rule section. This draft plan shall ~~that~~ addresses:

1. Biological status as determined in Phase 1,
2. Conservation objectives,
3. Recommended management actions,
4. Recommended Commission regulations and incentives,
5. Anticipated economic and social impacts of implementing or not implementing the recommended conservation actions.

(c) The Commission shall provide notice by mail to parties who request such notification and shall publish in the Florida Administrative Weekly a notice of the availability of the draft management plan. Written comments regarding conservation recommendations and expected economic and social impacts of implementation of the management plan shall be accepted by the Commission for a period of no less than 45 days following public notice.

(d) Final Commission action on the petition shall include:

1. Deletion of the species from Rule 68A-27.0021, F.A.C., if appropriate, and addition to and/or deletion from Rule 68A-27.003, 68A-27.004 or 68A-27.005, F.A.C., in accordance with the determination made in subsection (2) of this rule.
2. A determination on any proposed regulations in the management plan.

Specific Authority Art. IV, Sec. 9, Fla. Const. Law Implemented Art. IV, Sec. 9, Fla. Const. History—New 6-23-99, Formerly 39-27.0012, Amended 7-1-03,

NAME OF PERSON ORIGINATING PROPOSED RULE:  
Mr. Timothy Breault

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

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: March 2, 2005

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: December 10, 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: Oysters

RULE TITLES: RULE NOS.:

Apalachicola Bay Oyster	
Harvesting Restrictions	68B-27.017
Seasons	68B-27.019

PURPOSE AND EFFECT: The purpose of these rule amendments is to modify the oyster harvesting seasons in Apalachicola Bay. The effect should be to have open seasons for the Bay that better correspond with product availability.

SUMMARY: Subsection (1) of Rule 68B-27.017, F.A.C., is amended to change the Apalachicola Bay closure days to coincide with the shifting of the summer and winter seasons in the Bay. Paragraph (1)(a) of Rule 68B-27.019, F.A.C., is amended to change the summer open season in Apalachicola Bay from July 1 through September 30 each year to June 1 through August 31. The winter season is changed to September 1 through May 31 and references to open bars is corrected to refer to Department of Agriculture and Consumer Services rule.

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

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

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

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

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

TIME AND DATES: 8:30 a.m. – 5:00 p.m. each day, April 14-15, 2005

PLACE: Ramada Inn and Conference Center, 2900 North Monroe Street, Tallahassee, 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: ADA Coordinator, (850)488-6411. If you are hearing or speech impaired, please contact the agency by calling (850)488-9542.

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

THE FULL TEXT OF THE PROPOSED RULE IS:

68B-27.017 Apalachicola Bay Oyster Harvesting Restrictions.

In addition to all other provisions of this chapter, the following provisions shall apply to Apalachicola Bay:

(1) No person shall harvest or take oysters for commercial purposes from the waters of Apalachicola Bay:

(a) On any Friday or Saturday from June July 1 through August 31 September 30 of each year.

(b) On any Saturday or Sunday from September October 1 through November 15 of each year.

(2) through (3) No change.

Specific Authority Art. IV, Sec. 9, Fla. Const. Law Implemented Art. IV, Sec. 9, Fla. Const. History--New 3-10-91, Amended 11-29-93, Formerly 46-27.017, Formerly 46-27.017, Amended 6-1-99.

68B-27.019 Seasons.

(1) In all areas of the state, no person shall harvest oysters on the public reefs of this state, or have such oysters in possession, from July 1 through September 30 of each year, except in the following areas or circumstances:

(a) In Apalachicola Bay,;

1. The harvest or possession of oysters on the public reefs is allowed from June July 1 through August 31 September 30 of each year only in the areas specified in subsection 5L-1.003(1), F.A.C., for the Apalachicola Bay System paragraph 68D 7.005(6)(e), F.A.C.

2. The harvest or possession of oysters on the public reefs is allowed from September 1 through May 31 of each year only in the areas specified in subsection 5L-1.003(1), F.A.C., for the Apalachicola Bay System.

(b) As otherwise provided in this chapter or in Section 370.16, Florida Statutes.

(c) In Wakulla, Dixie, and Levy Counties, no person shall harvest or possess oysters on public reefs from June 1 through August 31 each year.

(2) The possession of oysters during the closed seasons specified in this chapter constitutes a violation of this rule.

Specific Authority Art. IV, Sec. 9, Fla. Const. Law Implemented Art. IV, Sec. 9, Fla. Const. History--New 3-10-91, Amended 10-3-94, 7-15-96, Formerly 46-27.019, Amended.

NAME OF PERSON ORIGINATING PROPOSED RULE: Mr. Mark Robson

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

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: February 3, 2005

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: March 4, 2005

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 TITLES:

Definitions 68B-45.002

Blue Crab Limited Entry Endorsement Program 68B-45.007

PURPOSE AND EFFECT: The purpose of this proposed rule amendment and new rule is to create a limited entry endorsement program that would limit fishing effort in the commercial blue crab fishery by limiting the number of fishers. The effect should be to maintain a economically viable commercial trap fishery for blue crabs while protecting the species' long-term health and abundance.

SUMMARY: Rule 68B-45.002, F.A.C., is amended to insert new definitions of the terms "hard shell crab," "immediate family," and "soft shell crab" for purposes of the rule chapter. Proposed new Rule 68B-45.007, F.A.C., would cap the number of blue crab endorsements in the fishery; establish eligibility and qualifying requirements for receiving an endorsement; establish qualifying years; require trap tags; separate the hard blue crab from the soft-shell blue crab fisheries; develop a Blue Crab Appeals Board; develop an apprentice program; establish a Blue Crab Advisory Board; and allow transferability of endorsements.

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

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

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

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

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

TIME AND DATES: 8:30 a.m. – 5:00 p.m. each day, April 14-15, 2005

PLACE: Ramada Inn and Conference Center, 2900 North Monroe Street, Tallahassee, 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: 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.

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

THE FULL TEXT OF THE PROPOSED RULES IS:

68B-45.002 Definitions.

(1) through (6) No change.

(7) "Hard shell crab" means any blue crab in intermolt condition that has a shell that is rigid and inflexible.

(8)(7) "Mesh size" means the size of the opening or space within a polygon formed by the wire of a crab trap, to be measured at the largest dimension across such opening or space in an undistorted condition.

(9)(8) "Harvest" means the catching or taking of a blue crab by any means whatsoever, followed by a reduction of such blue crab to possession. Blue crabs caught but immediately returned to the water free, alive, and unharmed are not harvested. Temporary possession of a blue crab for the purpose of measuring it to determine compliance with the size requirements of this chapter shall not constitute the harvesting of such blue crab, provided that it is measured on the water immediately after taking, and immediately returned to the water free, alive, and unharmed if undersized.

(10)(9) "Harvest for commercial purposes" means the taking or harvesting of blue crab for purposes of sale or with intent to sell or in excess of the bag limit.

(11) "Immediate family" refers to a license holder's mother, father, sister, brother, spouse, son, daughter, step-father, step-mother, step-son, step-daughter, half-sister, half-brother, son-in-law or daughter-in-law.

(12) "Offshore" means all state waters seaward of the COLREGS Demarcation Line.

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

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

(15) "Soft shell crab" means any blue crab that has recently molted and has a shell that is tender and flexible.

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

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

Specific Authority Art. IV, Sec. 9, Fla. Const. Law Implemented Art. IV, Sec. 9, Fla. Const. History--New 12-14-93, Amended 6-1-94, 10-4-95, Formerly 46-45.002, Amended 7-1-03, 7-15-04, \_\_\_\_\_.

68B-45.007 Blue Crab Limited Entry Endorsement Program.

(1) Beginning in the 2006/2007 license year, in addition to a valid saltwater products license and a valid restricted species endorsement, a blue crab limited entry endorsement number is required to harvest or possess blue crab in quantities greater than the recreational bag limit or to sell blue crab.

(2) The Commission shall notify all holders of a 2004/2005 commercial saltwater products license with a restricted species endorsement and an existing blue crab endorsement of their initial eligibility or denial of a blue crab limited entry endorsement. Those notified will indicate either their acceptance of the initial award of a blue crab limited entry endorsement number by completion of an acceptance application (Form DMF-SL4500 (05-05), incorporated herein by reference) or submit an application to appeal (Form DMF-SL4510 (05-05), incorporated herein by reference), as specified in paragraph (1)(b).

(3) The acceptance application must be received by the Commission no later than September 30, 2006. An applicant may be a person, firm, or corporation.

(a) In order to qualify for a blue crab limited entry endorsement number, an applicant must have held a valid saltwater products license with a valid restricted species endorsement and a blue crab endorsement pursuant to Section 370.135(2), F.S., at the time of application and qualify as specified in paragraph (3)(b). A limited entry blue crab endorsement number will not be issued to an applicant who did not hold a valid saltwater products license with a valid restricted species endorsement and a blue crab endorsement pursuant to Section 370.135(2), F.S., at the time of application.

(b) Qualification for a blue crab limited entry endorsement number shall be determined by landings of blue crab reported on a valid saltwater products license with a valid restricted species endorsement and a blue crab endorsement, and as specified in paragraph (c).

(c) Qualified blue crab limited entry endorsement number applicants must have documented blue crab landings in quantities as specified in subsections (4) or (5) pursuant to Commission trip ticket records generated under the provisions of Rule Chapter 68E-5, F.A.C., during at least one of the following three license years: July 1, 2000 through June 30, 2001, July 1, 2001 through June 30, 2002, or July 1, 2002 through June 30, 2003. Qualifying landings must have been received by the FWC by August 1 2003; applicants lacking sufficient blue crab landings during the qualifying years may have their eligibility for a blue crab limited entry endorsement considered by the blue crab limited entry endorsement appeals board as specified in paragraph (11).

(4) Hard Shell Blue Crab Endorsement (V-H). The hard shell blue crab limited entry endorsement is required to harvest commercial quantities of hard shell blue crab using gears as authorized in subsection 68B-45.004(1), F.A.C.

(a) In order to obtain a V-H endorsement on a saltwater products license, an applicant must have documented landings of hard shell blue crab equal to or greater than 500 pounds during any one of the qualifying years as specified in paragraph (3)(c). Persons holding more than one saltwater products license, none of which individually have 500 pounds of hard shell blue crab landings, may qualify for a single V-H endorsement if the sum of hard shell blue crab landings listed on multiple saltwater products licenses that have a restricted species endorsement and current blue crab endorsement is equal to or greater than 500 pounds.

(b) An applicant qualifying for a V-H endorsement pursuant to paragraph (4)(a) may receive a unique endorsement number on each additional saltwater products license with a restricted species endorsement and current blue crab endorsement if the applicant has hard shell blue crab landings equal to or greater than 7,500 pounds on each such license during any one of the qualifying landings years as specified in paragraph (3)(c).

(c) An applicant will be issued a unique V-H endorsement number for each qualifying saltwater products license.

(d) Once eligible, a qualifying applicant shall be entitled to deploy up to 600 hard shell blue crab traps in any state waters and an additional 400 hard shell blue crab traps in offshore state waters in the Gulf of Mexico per V-H endorsement number.

(e) Persons holding a hard shell V-H endorsement number shall be allowed to land a maximum bycatch of 150 peeler crabs daily and operate up to three peeler crab shedding tanks.

(5) Soft Shell Blue Crab Endorsement (V-S). The soft shell blue crab limited entry endorsement is required to harvest peeler blue crabs in excess of the bycatch limit established in paragraph (4)(e) using gears as authorized in subsection 68B-45.004(2), F.A.C., or to produce soft shell blue crabs with more than three (3) shedding tanks.

(a) In order to obtain a V-S endorsement number on a saltwater products license, an applicant must have documented landings of soft shell or peeler blue crabs equal to or greater than 750 crabs during any one of the qualifying years as specified in paragraph (3)(c). Persons holding more than one saltwater products license, none of which individually have 750 soft shell or peeler blue crabs, may qualify for a V-S endorsement number if the sum of soft shell or peeler blue crab landings listed on multiple licenses is equal to or greater than 750 soft shell or peeler blue crabs.

(b) An applicant that qualifies for a single V-S endorsement number pursuant to paragraph (5)(a) may receive a unique V-S endorsement number on one additional saltwater products license if such license has documented landings of soft shell blue crab or peeler crab landings equal to or greater than 2,500 crabs during any one of the qualifying landings years specified in paragraph (3)(c).

(c) An applicant will be issued a unique V-S endorsement number for each qualifying saltwater products license.

(d) Once eligible, the holder of a V-S endorsement number as specified in paragraph (a) shall be entitled to fish up to 400 peeler crab traps as specified in subsection 68B-45.004(2), F.A.C., in state waters.

(e) Persons holding a V-S endorsement number as specified in paragraph (b) shall be entitled to fish up to 250 peeler crab traps as specified in subsection 68B-45.004(2), F.A.C., in state waters in addition to those specified in paragraph (d).

(6) Trap Tags.

(a) Trap tags shall only be issued to holders of a current valid saltwater products license with a restricted species endorsement and a blue crab limited entry endorsement number.

(b) Beginning July 1, 2006, each trap used for the directed harvest of blue crabs must have securely fastened thereto a current trap tag issued annually by the Commission. Each such tag shall be manufactured by a Commission vendor and made of durable plastic or similarly durable material and shall have printed thereon the holder's blue crab limited entry endorsement number. To facilitate enforcement and record keeping, such tags shall be issued each year in a color different from those used in the preceding three years. Traps with tags that are not securely fastened shall be considered untagged for enforcement purposes.

(c) Blue crab trap tags shall only be issued to natural persons. For the purpose of this section, the term "natural person" or "person" refers to a human being and does not include a firm, organization, partnership, association, corporation, or other business or legal entity or group or combination. A corporation that holds a blue crab limited entry endorsement number shall designate one individual to whom they are assigning their trap tags.

(d) Each persons who possess a blue crab limited entry endorsement number must annually submit a blue crab limited entry endorsement trap tag order application form (DMF-SL4520 (05-05), incorporated herein by reference) within the time frame specified in paragraph (e) stating the number of tags they wish to receive, up to the maximum specified in subsections (4) or (5).

(e) Blue crab limited entry endorsement trap tag order applications for each license year will only be accepted from February 1 through March 15 of the prior license year, except as specified in paragraph (f).

(f) Additional authorized trap tags not ordered within the time-frame specified in paragraph (e) may only be ordered in blocks of 50 tags.

(g) Blue crab trap tags shall not be issued to blue crab limited entry endorsement holders until all license fees and any other outstanding fees owed the Commission have been paid in full and are current and the tag holder's saltwater products license with valid restricted species endorsement and blue crab limited entry endorsement are not otherwise inactive.

(h) Lost or damaged tags may be replaced using Commission Form DMF-SL4530 (05-05), Blue Crab Trap Tag Replacement Application, incorporated herein by reference, and upon proper verification of loss as provided in paragraph (i). Damaged tags must be immediately returned to the Commission.

(i) As part of the Blue Crab Trap Tag Replacement Application (DMF-SL-4530 (05-05)), the applicant shall provide the tag holder's name, saltwater products license number, blue crab limited entry endorsement number, the number of tags that were lost, location or area where the tags were lost, and circumstances under which the tags were lost.

(8) Effective September 30, 2006, no additional blue crab limited entry endorsements will be issued and no such endorsement will be renewed or replaced except those that were issued pursuant to subsections (4), (5), or (11).

(9) Beginning in the 2007/2008 license year, each holder of a blue crab limited entry endorsement number, or an immediate family member of such holder in the case of an individual, must renew the endorsement number each license year before September 30. Failure to renew the endorsement number by September 30 of any year will result in forfeiture of the endorsement number.

(10) Requalification. Beginning with license year 2009/2010, the holder of a blue crab limited entry endorsement number must requalify for the endorsement number by documenting landings on such endorsement as specified in paragraph (a) or (b) in at least one of the previous three license years. Each endorsement number will then be valid for three years from the date of requalification, but must still be renewed annually as required by subsection (9). Any blue crab limited entry endorsement number not meeting the requalification criteria as specified in paragraph (a) or (b) will not be renewed.

(a) In order to requalify a V-H endorsement number, an applicant for requalification must document landings equal to or exceeding 500 pounds of hard shell blue crabs. Persons wishing to also requalify V-H endorsement numbers on additional saltwater products licenses must document landings equal to or exceeding 7,500 pounds of hard shell blue crabs on each of those licenses.

(b) In order to requalify a V-S endorsement number, an applicant for requalification must document landings equal to or exceeding 750 soft crabs or peeler crabs. Persons wishing to also requalify a V-S endorsement number on an additional saltwater products license must document landings equal to or exceeding 2,500 soft crabs or peeler crabs on that license.

(11) Blue Crab Appeals Board. An appeals board, composed of six members of the Blue Crab Advisory Board and one Commission staff member, shall consider disputes or problems arising from the initial denial of a blue crab limited entry endorsement.

(a) The six members of the appeals board from the Blue Crab Advisory Board shall be elected by members of the Blue Crab Advisory Board, and will consist of five (5) members that qualify for a V-H endorsement number and one that qualifies for a V-S endorsement number, none of which may have appealed their initial blue crab limited entry endorsement award. The Commission staff member shall be appointed by the Executive Director of the Commission.

(b) An appeal of the initial denial of a blue crab limited entry endorsement number is initiated by submission and receipt of a completed appeals application (Form DMF-SL4510 (05-05)) to the Director of the Division of Marine Fisheries Management before September 30, 2005.

(c) The burden of proof shall be on an appellant to demonstrate, through copies of trip tickets or other proof of landings, legitimate sales to a licensed wholesale dealer that were not reported by the wholesale dealer during the qualifying years or included in the agency landings database as of August 1, 2003.

(d) Criteria for issuance of blue crab limited entry endorsement numbers by the appeals board on grounds of hardship shall be established by the Blue Crab Advisory Board.

(e) After disputes are considered, a recommendation shall be submitted to the Executive Director of the Commission, or his designee, for resolution of the appeal, which recommendation shall either allot an endorsement number to the appellant or uphold the denial of an endorsement number. Notice will be given in writing to the appellant explaining the reasons for the final decision. The action of the Executive Director of the Commission constitutes final agency action, and is appealable pursuant to the requirements of Chapter 120, Florida Statutes.

(12) Blue Crab Advisory Board. There is hereby established the Blue Crab Advisory Board. Such board shall consider and advise the Commission on the operation of the trap limitation program and any problems in the fishery.

(a) The board shall consist of a member of the Commission staff appointed by the Executive Director of the Commission, and eight members appointed by the Executive Director of the Commission according to the following criteria, except as otherwise provided in paragraph (b).

1. All appointed members other than the commission staff person shall be holders of a blue crab limited entry endorsement holders and shall not have been convicted of any major fishery violations of Chapter 68B-45, F.A.C., within the last six (6) years. At least two shall have blue crab landings equal to or greater than 5,000 pounds during the preceding license year and at least two shall have landings less than 5,000 pounds during such license year.

2. At least five appointed members shall hold a V-H endorsement number, and at least two shall hold a V-S endorsement number.

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

a. Escambia, Santa Rosa, Okaloosa, Walton, Bay, Gulf, Franklin, Wakulla counties;

b. Jefferson, Taylor, Dixie, Levy, Citrus, Hernando, Pasco counties;

c. Pinellas, Hillsborough, Manatee, Sarasota, Charlotte, Lee, Collier counties;

d. Indian River, St. Lucie, Martin, Palm Beach, Broward, Dade, Monroe counties;

e. Nassau, Duval, Clay, St. Johns, Putnam, Flagler, Volusia, Brevard counties.

(b) If there are not enough individuals that meet the above-referenced criteria, the Executive Director of the Commission of the Commission may fill any position on the initial board with an individual who does not fulfill the requirements of subparagraph (12)(a)3. However, as soon as individuals are available that meet such requirements, the Executive Director of the Commission may reconstitute the board with qualified appointees. The Executive Director of the Commission shall replace any board member who is cited for and convicted of a violation of Chapter 68B-45, F.A.C., or who misses more than two scheduled meetings of the board without approval from the board chair with another blue crab fisherman from any region.

(c) Holders of blue crab limited entry endorsement numbers wanting to be considered for appointment to the Blue Crab Advisory Board shall make their request on Commission Form DMF-SL4540 (05-05), incorporated herein by reference.

(d) The staff member of the Commission appointed by the Executive Director of the Commission shall sit on the board as a voting member. The board shall annually elect a chair and a vice chair the first meeting in the calendar year. The

Commission staff member may not serve as either chair or vice chair. There shall be no limitation on successive terms that may be served by a chair or vice chair. The board shall meet at the call of its chair, at the request of a majority of its membership or at the request of the Commission. Official action of the board shall require a majority vote of the total membership of the board members present during a meeting.

(e) Board members shall serve staggered terms of up to three (3) years, provided however, that this shall not apply to the Commission staff member who serves at the pleasure of the Executive Director of the Commission.

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

(g) Upon reaching a decision on any issue brought before it, the board shall submit such decision as a recommendation to the Executive Director of the Commission. The Executive Director of the Commission may submit said recommendation to the Commission at his or her discretion.

(h) The Board shall have the authority to conduct workshops with fishers to determine what problems exist in the fishery and to make recommendations to the Commission to solve those problems.

(i) On July 1, 2011, the board is dissolved unless extended by the Executive Director of the Commission.

(13) Leasing Prohibited. The leasing or renting of blue crab limited entry endorsement numbers, tags, or traps is prohibited.

(14) Endorsement Holder Responsibility. The holder of a blue crab endorsement number is responsible for the actions of anyone working under that endorsement. All monies or proceeds from the sale of blue crabs landed under the blue crab limited entry endorsement holder's saltwater products license shall be issued only to the endorsement holder.

(15) Transferability. After the initial issuance, the hard shell blue crab (V-H) and soft shell blue crab (V-S) limited entry endorsement numbers are transferable upon approval of the Commission under the following conditions:

(a) The buyer must hold a saltwater products license with a valid restricted species endorsement and a blue crab limited entry endorsement number. If a buyer does not possess a blue crab limited entry endorsement number, they must hold a certificate of completion of the blue crab apprentice program as specified in paragraph (b).

(b) Persons not already holding a blue crab limited entry endorsement number and wishing to purchase such an endorsement number shall complete an apprenticeship program consisting of working no fewer than fourteen (14) days fishing for blue crab with a properly licensed blue crab limited entry endorsement number holder. As evidence thereof, such person must possess a blue crab limited entry apprenticeship form (DFM-SL4550 (05-05), incorporated herein by reference) signed by the endorsement holder

attesting to the applicant having worked no fewer than fourteen (14) days fishing for blue crabs on the endorsement holder's vessel.

(c) A person who wishes to transfer an endorsement number shall submit a notarized statement of intent within 72 hours of the final notarized signature, that has been signed by both parties to the transaction, hand delivered, or sent by United States Postal Service certified mail, return receipt requested, to the Commission. The statement of intent (Form DMF-SL-4560 (05-05), incorporated herein by reference, shall include the following information:

- 1. The name, address, and SPL number of seller;
- 2. The name, address, and SPL number of buyer; and
- 3. The selling price.

(d) A blue crab limited entry endorsement number shall not be issued, transferred, or renewed until all license fees, surcharges, and any other outstanding fees, fines, or penalties owed to the Commission by either party to the transaction have been paid in full.

(16) In the event of the death or permanent disability of a person holding a blue crab endorsement number, the endorsement number may be transferred by the license holder or the executor of the estate to a member of his or her immediate family within 12 months of the date of death or disability and upon payment of all outstanding fees, fines, or penalties to the Commission in full.

(17) No Vested Rights. This blue crab limited entry program does not create any vested rights for endorsement number holders whatsoever and may be altered or terminated by the Commission as necessary to protect the blue crab resource, the participants of the fishery, or the public interest.

Specific Authority Art. IV, Sec. 9, Fla. Const. Law Implemented Art. IV, Sec. 9, Fla. Const. History--New \_\_\_\_\_.

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

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

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: February 3, 2005

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: March 4, 2005

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**

**Vessel Registration and Boating Safety**

RULE CHAPTER TITLE:	RULE CHAPTER NO.:
Minimum Standards for Mandatory Boating Safety Courses	68D-36
RULE TITLES:	RULE NOS.:
Minimum Requirements for Training Facilities and Instructors	68D-36.004
Minimum Requirements for Boating Safety Courses	68D-36.008
Proof of Successful Completion of the Course	68D-36.009
Purpose	68D-36.101
Definitions	68D-36.102
Minimum Requirements for Training Facilities and Instructors	68D-36.103
Minimum Standards for Boating Safety Courses	68D-36.104
Proof of Successful Completion of Approved Courses and Equivalency Exams	68D-36.105
Violator Courses	68D-36.106
Minimum Training Requirements for Personal Watercraft Rentals	68D-36.107
Florida Boater Education Temporary Certificate Program	68D-36.108

PURPOSE AND EFFECT: This rulemaking updates Chapter 68D-36, F.A.C., to conform the rules to statutory changes made to Sections 327.39, 327.395, 327.54 and 327.731, F.S. It also updates the curriculum to conform it to the current standards of the National Association of State Boating Law Administrators and to current Florida and federal law. The intended effect is to make the rule consistent with current statutory requirements, to clarify the rule and make it easier to understand, and to codify temporary certificate examination program policies and procedures presently imposed by individual contacts.

SUMMARY: This rule repeals Rules 68D-36.004, 68D-36.008, and 68D-36.009, F.A.C., and amends and reenacts the substance of those provisions in Rules 68D-36.101 through 68D-36.107, F.A.C. This rulemaking action updates rule language to conform the rule to statutory changes made to Sections 327.39, 327.395, 327.54 and 327.731, F.S. It updates the curriculum and conforms it to the current standards of the National Association of State Boating Law Administrators and current Florida and federal law. It revises the portions of Rule 68D-36.008, F.A.C., that pertain to rented personal watercraft and other vessels and moves those requirements to a new rule section. This rule also revises the section on proof of successful completion of the course to eliminate obsolete requirements and creates a new rule section to provide guidelines and procedures for administering the FWC's temporary certificate examination program. The effect of this action is to make the rule consistent with current statutory

requirements, to clarify the rule and make it easier to understand, and to codify temporary certificate examination program policies and procedures presently imposed by individual contacts.

SPECIFIC AUTHORITY: 327.04, 327.39, 327.395, 327.54, 327.731 FS.

LAW IMPLEMENTED: 327.39, 327.395, 327.54, 327.731 FS.

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

The Commission believes that the adoption of this rule will have minimal, if any, economic impact. Any person who wishes to provide information regarding the statement of estimated regulatory costs must do so in writing within 21 days of this notice.

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

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULES IS: Captain Alan S. Richard, Assistant General Counsel, Fish and Wildlife Conservation Commission, 620 South Meridian Street, Tallahassee, Florida 32399-1600, (850)487-1764

THE FULL TEXT OF THE PROPOSED RULES IS:

68D-36.004 Minimum Requirements for Training Facilities and Instructors.

Specific Authority 327.04, 327.395, 327.731 FS. Law Implemented 327.395, 327.731 FS. History—New 12-27-88, Formerly 16N-36.004, Amended 12-29-96, Formerly 62N-36.004, Repealed \_\_\_\_\_.

68D-36.008 Minimum Requirements for Boating Safety Courses.

Specific Authority 327.04, 327.395, 327.54, 327.731 FS. Law Implemented 327.395, 327.54, 327.731 FS. History—New 12-27-88, Formerly 16N-36.008, Amended 12-29-96, Formerly 62N-36.008, Repealed \_\_\_\_\_.

68D-36.009 Proof of Successful Completion of the Course.

Specific Authority 327.04, 327.395, 327.731 FS. Law Implemented 327.395, 327.731 FS. History—New 12-27-88, Formerly 16N-36.009, Amended 12-29-96, Formerly 62N-36.009, Repealed \_\_\_\_\_.

#### 68D-36.101 Purpose.

The purpose of this chapter is to state the standards for boating safety courses, indicate the procedure for providing proof of successful course completion, establish requirements for violators, provide training requirements for personal watercraft rentals, and list specific Florida Boater Education Temporary Certificate Program contract provisions.

Specific Authority 327.04, 327.39, 327.395, 327.54, 327.731 FS. Law Implemented 327.39, 327.395, 327.54, 327.731 FS. History—New \_\_\_\_\_.

#### 68D-36.102 Definitions.

For the purposes of this chapter, the following definitions shall apply:

(1) “Person” means an individual, partnership, firm, corporation, association, joint venture, syndicate, or any other entity, group, or combination.

(2) “Photographic identification” means a form of identification which includes the following for the individual to whom it is issued:

(a) The individual’s full name.

(b) The individual’s current street address including: the house or lot number; the street name or number; the apartment or unit number if applicable; the city, state and zip code if within the United States; the city, state or province, postal code if applicable, and the country if not within the United States.

(c) The individual’s date of birth.

(d) A photograph not more than six years old of the face of the individual.

(e) The name of the governmental agency, employer, school, training facility, or person that prepared or issued the identification.

(3) “Training facility” means a school or other sponsoring organization that offers to the public boating safety courses that meeting the minimum standards established by the National Association of State Boating Law Administrators.

Specific Authority 327.04, 327.39, 327.395, 327.54, 327.731 FS. Law Implemented 327.39, 327.395, 327.54, 327.731 FS. History—New \_\_\_\_\_.

68D-36.103 Minimum Requirements for Training Facilities and Instructors.

(1) Training Facility Requirements.

(a) “Training facility” means a school or other sponsoring organization that offers to the public boating safety courses that meet the minimum standards established by the National Association of State Boating Law Administrators.

(b) Each training facility shall require its instructors to demonstrate knowledge of boating safety and the current laws and regulations pertaining to the operation of vessels, as well as teaching skills in the area of boating safety, and shall ensure that all instructors meet the qualifications set forth in subsection (2).

(c) Training facilities should make maximum use of the existing cadre of qualified instructors who have been trained through state boating safety programs, the United States Coast Guard Auxiliary, the United States Power Squadrons, the American National Red Cross, the Young Men’s Christian Association, the United States Coast Guard’s National Boating Safety Course, and other similar public and private boating safety oriented programs.

(d) Each training facility is responsible for maintaining an ongoing quality control program. Training facilities should periodically update or recertify their instructors. Quality of



instruction will be assured through this means with each training facility, or the training facility's sponsoring organization, auditing its own program.

(e) Each training facility must teach a course of instruction, the content of which has received the prior approval of the National Association of State Boating Law Administrators. This approval is valid only for three years. Each training facility or its sponsoring organization must ensure that the course materials are resubmitted for continuing approval so as to avoid a lapse of approved status.

(2) Instructor qualifications.

(a) Each instructor shall have knowledge of boating safety, and the current laws and regulations pertaining to the operation of vessels, as well as teaching skills in the area of boating safety.

(b) Each instructor must have the knowledge, skills, and abilities necessary for the transmittal of the information necessary to implant knowledge of boating safety in students. The following skills, knowledge, and abilities are considered essential for this purpose:

1. Instructor/student communication.
2. Logical thinking.
3. Human relations and human diversity.
4. Lesson planning.
5. Teaching methods.
6. Instructional aids.
7. Handicaps to learning.
8. Evaluation of student performance.

(c) Certifications of instructors for specialized courses such as canoeing, kayaking, boardsailing, etc., that are available through the American National Red Cross, American Canoe Association, and other boating safety oriented programs are recognized. These certifications, however, are in addition to and do not eliminate the necessity of instructors possessing the knowledge, skills, and abilities set forth in paragraph (2)(b), above.

Specific Authority 327.04, 327.395, 327.731 FS. Law Implemented 327.395, 327.731 FS. History--New \_\_\_\_\_.

68D-36.104 Minimum Standards for Boating Safety Courses.

(1) Each boating safety course taught pursuant to Section 327.395, F.S. or Section 327.731, F.S., must maintain current approval from the National Association of State Boating Law Administrators and the Florida Fish and Wildlife Conservation Commission.

(a) The National Boating Education Standards established by the National Association of State Boating Law Administrators are hereby adopted by reference.

(b) To ensure continued conformance to the National Boating Education Standards, the Executive Director of the Florida Fish and Wildlife Conservation Commission may

approve reenactment of this rule as necessary to incorporate by reference amendments to the National Boating Education Standards.

(2) In addition to minimum course content adopted by the National Association of State Boating Law Administrators, boating safety courses approved for use in the State of Florida shall contain state-specific information covering the following topics.

(a) Personal Watercraft Requirements.

1. Mandatory wear of personal flotation devices.
2. Age restrictions to operate or rent.
3. Hours of operation restrictions.
4. Wake-jumping concerns and reckless operation.
5. Causes and prevention of personal watercraft accidents.

(b) Boating Safety Identification Cards.

1. Age and engine horsepower requirements.
2. Photographic identification required.

(c) Vessel Safety Regulations.

1. Personal flotation devices for children requirements.
2. Florida's adoption of all federal equipment requirements.

(d) State Divers-Down Flag Requirements.

(e) Water Ski, Parasail, and Aquaplane Regulations.

1. Participants must wear a personal flotation device.
2. Towing vessels must have either an observer or wide-angle rearview mirror.
3. Hours restrictions.

(f) Boating Restricted Areas. Regulatory markers including Idle Speed, Slow Speed, and mile per hour restrictions.

(g) Boating Accidents.

1. Requirements for reporting accidents.
2. Remaining on scene/rendering assistance.

(h) Manatee Awareness.

(i) Ecosystem Awareness.

(3) For each course approved for use in Florida, the training facility must use the following:

(a) A boating safety workbook or text, or the electronic equivalent.

(b) A final exam of not less than 50 questions, including a minimum of 10 Florida-specific questions, with a minimum passing score of 75 percent.

(c) A syllabus or course outline.

(d) A list of course objectives.

Specific Authority 327.04, 327.395, 327.731 FS. Law Implemented 327.395, 327.731 FS. History--New \_\_\_\_\_.

68D-36.105 Proof of Successful Completion of Approved Courses and Equivalency Exams.

Individuals who have successfully completed an approved course, including a correspondence course, or an equivalency exam will be issued a boating safety identification card from the Commission that may be carried on the waters of this state as proof of successful completion.

(1) Individuals successfully completing an approved course or passing an approved equivalency exam may submit as proof a certificate from the training facility providing a course approved by NASBLA and the State of Florida. The certificate must include the name of the training facility; date of issue; and the student's first name, middle initial, last name, date of birth, and current mailing address.

(2) Training facilities offering approved courses may submit student rosters to initiate issuance of boating safety identification cards to students who have successfully completed the course. A roster must include the name of the training facility, the date of course completion, and the name of the primary instructor. In addition, the following information must be provided for each student successfully completing the course:

- (a) First name, middle initial, and last name.
- (b) Date of Birth.
- (c) Current mailing address.

Specific Authority 327.04, 327.395, 327.731 FS. Law Implemented 327.395, 327.731 FS. History—New \_\_\_\_\_.

68D-36.106 Violator Courses.

(1) Any person convicted of two non-criminal boating violations listed in Section 327.731, F.S., within a twelve-month period must successfully complete any boating safety course approved by the National Association of State Boating Law Administrators and the State of Florida. The course must be successfully completed following the date of second violation. Proof of successful completion must be filed with the Commission, as provided in Rule 68D-36.105, F.A.C., within the 90 days first following the successful completion of the course.

(2) Any person convicted of a boating infraction arising from involvement in a boating accident or convicted of any criminal boating violation must successfully complete any boating safety course approved by the National Association of State Boating Law Administrators and the State of Florida, as provided in subsection (1), and must also complete an approved safe boating course for violators. Violator courses must require approximately 4-hours to complete and must cover, at a minimum, the following topics:

- (a) Florida boating laws.
- (b) Causes and prevention of boating accidents.
- (c) The importance of wearing personal flotation devices.
- (d) The use of common sense and common courtesy.
- (e) Operating defensively.

The violator course may be taken through an approved electronic, on-line, or home-study program by violators residing in areas where classroom presentation of the course is not available.

(3) Until such time as proof of successful course completion has been filed with the Boating and Waterways Section of the Florida Fish and Wildlife Conservation Commission, the person's privilege to operate a vessel in Florida is suspended pursuant to Section 327.731, F.S., and it is unlawful for that person to operate any vessel on waters of the state.

(a) Proof of completion of a violator course required by (2) taken in a classroom setting must include the training facility's and instructor's names, the date of course completion, and the student's complete name, current mailing address, and date of birth.

(b) Proof of completion of a violator course required by (2) taken through an approved electronic, on-line, or home-study course must identify the course provider, the date of course completion, and include the student's complete name, current mailing address, and date of birth.

(c) Proof of successful completion of a violator course must be filed with the Commission on a Certification of Successful Completion of an Approved Boating Safety Course, Form FWC/DLE-238 (10-05).

1. Each instructor who teaches a violator course to a person mandated under Section 327.731, F.S., to successfully complete such a course, must execute a Certification of Successful Completion of an Approved Boating Safety Course, Form FWC 20-238 (Rev. 10/05), for each student who successfully completes the course. Prior revisions of the forms may be used until existing supplies are exhausted.

2. The instructor must place a copy with the student's records and give the original and one copy to the student.

3. The student must, within the 90 days first following the successful completion of the course, file the original with the Commission.

4. The form may be filed electronically, if provided for in an agreement between the Commission and the course provider, or by mail addressed to the Boating and Waterways Section, Division of Law Enforcement, Fish and Wildlife Conservation Commission, 620 S. Meridian Street, Tallahassee, Florida 32399-1600.

5. Form FWC 20-238 (Rev. 10/05) is hereby incorporated by reference and may be obtained from the Commission at the address specified in subparagraph 4.

(4) This rule section shall take effect October 1, 2005. Until that date, violators successfully completing courses meeting the requirements of Rule 68D-36.104, F.A.C., and filing proof of the same as provided in Rule 68D-36.105, F.A.C., shall be deemed to have satisfied the requirements of Section 327.731, F.S.

Specific Authority 327.04, 327.395, 327.731 FS. Law Implemented 327.395, 327.731 FS. History—New

68D-36.107 Minimum Training Requirements for Personal Watercraft Rentals.

(1) Any livery offering personal watercraft for lease, hire, or rent must ensure that all individuals intending to operate the personal watercraft have been properly trained in the following topics prior to operation:

(a) Operator responsibility (ethics), courtesy and good judgment on the water.

1. Avoiding careless, reckless, and negligent operation of vessels.

2. The effects of alcohol, controlled substances, and stressors.

(b) Navigation Rules.

1. Maintaining proper lookout.

2. Safe distance and speed.

3. Operating defensively.

4. Requirements to give way to other vessels.

(c) Aids to navigation; buoys and other waterway markers.

(d) Awareness of changes in weather or water conditions and proper responses to those changes.

(e) Waterskiing and similar activities, if applicable to the personal watercraft rented.

1. Must wear personal flotation devices.

2. Must have observer or wide-angle rearview mirror.

3. May not ski between 30 minutes past sunset and 30 minutes before sunrise.

(f) Boating accidents.

1. Causes and prevention of personal watercraft accidents.

2. Legal requirements – remaining on scene; rendering assistance; reporting accidents.

(g) Propulsion, steering, and stopping characteristics of jet-pump vessels.

(h) Location and content of manufacturer’s warning labels.

(i) Boarding, falling off, capsizing, and reboarding.

(j) Problems seeing other vessels and being seen by them.

(k) The dangers of wake or surf jumping and other reckless operations.

(l) Noise, nuisances, and other environmental concerns.

(m) Specific personal watercraft safety requirements (wearing personal flotation devices, using kill switch lanyard, location of whistle and fire extinguisher, age requirements for personal watercraft operation, and lawful hours of operation).

(n) Boating safety identification cards; age and engine requirements.

(o) Photographic identification.

(p) Florida divers-down flag requirements.

(q) Manatee awareness (if locally applicable).

(r) Ecosystem awareness based on local issues.

(2) In addition to the topics listed in subsection (1), any livery offering personal watercraft for lease, hire, or rent for off-site use or for daily or longer time periods must ensure that all individuals intending to operate the personal watercraft have been properly trained in the following topics:

(a) Fueling and ventilation.

(b) Trailering and transporting.

(c) Float plans; how and when to complete a float plan.

(d) Specific local hazards; such as large bodies of water, weather, dams, cold water, commercial vessel traffic, etc.

(3) A livery may not lease, hire, or rent a personal watercraft to any person unless the livery either shows a safe operation instructional video tape or displays and reviews both a safe operation instructional poster and brochure with each prospective operator prior to personal watercraft operation. The instructional materials shall contain information on the personal watercraft safety topics identified in subsection (1).

(4) Persons offering a personal watercraft for lease, hire or rent shall conduct an on-the-water demonstration and check ride to verify the prospective operator’s ability to safely operate the personal watercraft to be leased, hired, or rented.

Specific Authority 327.04, 327.395, 327.731 FS. Law Implemented 327.395, 327.731 FS. History—New

68D-36.108 Florida Boater Education Temporary Certificate Program.

(1) Any person administering the Florida Boater Education Temporary Certificate test under contract with the Florida Fish and Wildlife Conservation Commission must:

(a) Strictly comply with all contract provisions.

(b) Obtain from an insurance carrier licensed to do business in this state and carry in full force and effect an insurance policy insuring against any accident, loss, injury, property damage, or other casualty caused by or resulting from any error, omission, negligence, or other act in the performance of any duty under the contract and must have proof of such insurance available for inspection at the location where the Florida Boater Education Temporary Certificate test is administered.

1. The insurance policy must:

a. Provide coverage of at least \$500,000 per person and \$1 million per event.

b. Name the Commission as an additional insured.

c. Stipulate that it cannot be revoked, rescinded, or otherwise cancelled without at least 30 days notice to the Commission.

2. This insurance requirement shall not be construed as a waiver of sovereign immunity nor shall it be construed to modify or enlarge the limited waiver of sovereign immunity provided in Section 768.28, F.S.

3. This insurance requirement is separate from and in addition to the insurance required for personal watercraft liveries in Section 327.54(5), F.S.

(2) Providing Temporary Certificate tests to other companies – Temporary Certificate tests are assigned to individual companies and must not be transferred, sold, borrowed, loaned, or shared.

(3) Providing assistance to examinee during testing – The contractor is prohibited from providing any assistance of any kind to the examinee during the testing and must not allow, suffer, or permit any other person to assist the examinee during the examination. The term “assistance” does not include the provision of reasonable accommodations if required under the Americans with Disabilities Act or s. 501 of the Rehabilitation Act.

Specific Authority 327.04, 327.395, 327.731 FS. Law Implemented 327.395, 327.731 FS. History–New

NAME OF PERSON ORIGINATING PROPOSED RULE:  
Captain Alan Richard, Assistant General Counsel, 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: December 2, 2004

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

**DEPARTMENT OF FINANCIAL SERVICES**

**OIR Insurance Regulation**

RULE TITLES: RULE NOS.:

Adoption of 2001 Commissioners Standard Ordinary (CSO) Mortality Tables 690-162.201

Adoption of 2001 Commissioners Standard Ordinary (CSO) Ultimate Mortality Tables for Determining Reserve Liabilities for Credit Life Insurance 690-162.202

PURPOSE AND EFFECT: To adopt the 2001 Standard Ordinary Mortality Tables into these rules applicable to the Valuation of Life Insurance Policies.

SUMMARY: Proposed Part III of Rule Chapter 690-162, F.A.C., implements the NAIC Model Regulation recognizing the 2001 CSO Mortality Tables for use in determining minimum reserve liabilities and nonforfeiture benefits. Creates Rule 690-162.201, F.A.C., providing definitions, incorporating by reference the 2001 CSO Mortality Tables and providing for applicability. Creates Rule 690-162.202, F.A.C., adopting the 2001 CSO Ultimate Mortality Tables for Determining Reserves for Credit Life Insurance, providing definitions and applicability.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS: None.

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

SPECIFIC AUTHORITY: 624.308(1), 625.121, 627.476 FS.

LAW IMPLEMENTED: 624.307(1), 625.121, 627.476 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., April 5, 2005

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

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

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULES IS: Kerry Krantz, Life and Health Financial Oversight, Office of Insurance Regulation, e-mail: kerry.krantz@fldfs.com

THE FULL TEXT OF THE PROPOSED RULES IS:

PART III Commissioners Standard Ordinary Mortality Tables

690-162.201 Adoption of 2001 Commissioners Standard Ordinary (CSO) Mortality Tables.

(1) Scope. This rule shall govern mortality tables for use in reserves as set forth in Section 625.121, F.S.

(2) Purpose. The purpose of this rule is to recognize, permit, and prescribe the use of the 2001 Commissioners Standard Ordinary (CSO) Mortality Table in accordance with Sections 625.121(5)(a)3. and 627.476(9)(h)6., F.S., and paragraphs 690-164.020(5)(a) and (b), F.A.C.

(3) Definitions.

(a) “2001 CSO Mortality Table” means the mortality table, consisting of separate rates of mortality for male and female lives, developed by the American Academy of Actuaries CSO Task Force from the Valuation Basic Mortality Table developed by the Society of Actuaries Individual Life Insurance Valuation Mortality Task Force, and adopted by the NAIC in December 2002. The 2001 CSO Mortality Table is included in the Proceedings of the NAIC (2nd Quarter 2002), which is adopted herein and incorporated by reference. Unless the context indicates otherwise, the “2001 CSO Mortality Table” includes both the ultimate form of that table and the select and ultimate form of that table and includes both the smoker and nonsmoker mortality tables and the composite mortality tables. It also includes both the age-nearest-birthday and age-last-birthday bases of the mortality tables.

(b) “2001 CSO Mortality Table (F)” means the mortality table consisting of the rates of mortality for female lives from the 2001 CSO Mortality Table.

(c) “2001 CSO Mortality Table (M)” means the mortality table consisting of the rates of mortality for male lives from the 2001 CSO Mortality Table.

(d) "Composite mortality tables" means mortality tables with rates of mortality that do not distinguish between smokers and nonsmokers.

(e) "Smoker and nonsmoker mortality tables" means mortality tables with separate rates of mortality for smokers and nonsmokers.

(4) CSO Mortality Table.

(a)1. For policies not issued in this state, the 2001 CSO Mortality Table may be used as the minimum standard for valuation purposes on valuation dates on or after the date this rule becomes effective for policies issued on or after January 1, 2005, if that is the basis for nonforfeiture purposes and that is the basis permitted or required for the sale of policies in that state.

2. For policies issued in this state, the 2001 CSO Mortality Table may be used as the minimum standard for valuation and nonforfeiture purposes for policies issued on or after the date this rule becomes effective.

(b) Subject to the conditions stated in this rule, the 2001 CSO Mortality Table shall be used in determining minimum standards for policies issued on and after January 1, 2009, to which Sections 625.121(5)(a)3. and 627.476(9)(h)6., F.S. and paragraphs 690-164.020(5)(a) and (b), F.A.C., are applicable.

(c)1. For policies not issued in this state, the 2001 CSO Mortality Table may be substituted for the 1980 Commissioners Extended Term (CET) Tables for use as the minimum standard for valuation purposes on valuation dates on or after the date this rule becomes effective for policies issued on or after January 1, 2005 if that is the basis for nonforfeiture purposes and that is the basis permitted or required for the sale of policies in that state.

2. For policies issued in this state, the 2001 CSO Mortality Table may be substituted for the 1980 Commissioners Extended Term (CET) Tables for use as the minimum standard for valuation and nonforfeiture purposes for policies issued on or after the date this rule becomes effective if the same election is made with respect to paragraph (a) above.

(5) Conditions.

(a) For each plan of insurance with separate rates for smokers and nonsmokers an insurer may use:

1. Composite mortality tables to determine minimum reserve liabilities and minimum cash surrender values and amounts of paid-up nonforfeiture benefits;

2. Smoker and nonsmoker mortality tables to determine the valuation net premiums and additional minimum reserves, if any, required by Section 625.121(11), F.S., and use composite mortality tables to determine the basic minimum reserves, minimum cash surrender values and amounts of paid-up nonforfeiture benefits; or

3. Smoker and nonsmoker mortality to determine minimum reserve liabilities and minimum cash surrender values and amounts of paid-up nonforfeiture benefits.

(b) For plans of insurance without separate rates for smokers and nonsmokers the composite mortality tables shall be used.

(c) For the purpose of determining minimum reserve liabilities and minimum cash surrender values and amounts of paid-up nonforfeiture benefits, the 2001 CSO Mortality Table may, at the option of the company for each plan of insurance, be used in its ultimate or select and ultimate form, subject to the restrictions of subsection (6) of this rule and Rule 690-164.020, F.A.C., relative to use of the select and ultimate form.

(6) Applicability of the 2001 CSO Mortality Table to Rule 690-164.020, F.A.C.

(a) The 2001 CSO Mortality Table may be used in applying Rule 690-164.020, F.A.C., in the following manner, subject to the transition dates for use of the 2001 CSO Mortality Table in subsection (4) of this rule. Unless otherwise noted, the references in this section are to Rule 690-164.020, F.A.C.:

1. Sub-subparagraph 690-164.020(3)(a)2.b., F.A.C.: The net level reserve premium is based on the ultimate mortality rates in the 2001 CSO Mortality Table.

2. Paragraph 690-164.020(4)(b), F.A.C.: All calculations are made using the 2001 CSO Mortality Rate, and, if elected, the optional minimum mortality standard for deficiency reserves stipulated in subparagraph (6)(a)4. The value of " $q_{x+k+t-1}$ " is the valuation mortality rate for deficiency reserves in policy year  $k+t$ , but using the unmodified select mortality rates if modified select mortality rates are used in the computation of deficiency reserves.

3. Paragraph 690-164.020(5)(a), F.A.C.: The 2001 CSO Mortality Table is the minimum standard for basic reserves.

4. Paragraph 690-164.020(5)(b), F.A.C.: The 2001 CSO Mortality Table is the minimum standard for deficiency reserves. If select mortality rates are used, they may be multiplied by X percent for durations in the first segment, subject to the conditions specified in sub-sub-subparagraphs 690-164.020(5)(b)2.c.(I)-(IX), F.A.C. In demonstrating compliance with those conditions, the demonstrations may not combine the results of tests that utilize the 1980 CSO Mortality Table with those tests that utilize the 2001 CSO Mortality Table, unless the combination is explicitly required by rule or necessary to be in compliance with relevant Actuarial Standards of Practice.

5. Paragraph 690-164.020(6)(c), F.A.C.: The valuation mortality table used in determining the tabular cost of insurance shall be the ultimate mortality rates in the 2001 CSO Mortality Table.

6. Subparagraph 690-164.020(6)(e)4., F.A.C.: The calculations specified in paragraph 690-164.020(6)(e), F.A.C., shall use the ultimate mortality rates in the 2001 CSO Mortality Table.

7. Subparagraph 69O-164.020(6)(f)4., F.A.C.: The calculations specified in paragraph 69O-164.020(6)(f), F.A.C., shall use the ultimate mortality rates in the 2001 CSO Mortality Table.

8. Subparagraph 69O-164.020(6)(g)2., F.A.C.: The calculations specified in paragraph 69O-164.020(6)(g), F.A.C., shall use the ultimate mortality rates in the 2001 CSO Mortality Table.

9. Sub-subparagraph 69O-164.020(7)(a)1.b., F.A.C.: The one-year valuation premium shall be calculated using the ultimate mortality rates in the 2001 CSO Mortality Table.

(b) Nothing in this subsection shall be construed to expand the applicability of Rule 69O-164.020, F.A.C., to include life insurance policies exempted under paragraph 69O-164.020(3)(a), F.A.C.

(7) Gender-Blended Tables.

(a) For any ordinary life insurance policy delivered or issued for delivery in this state on and after January 1, 2005, subject to the condition stated in sub-subparagraph 627.476(9)(h)5.c., F.S., a mortality table that is a blend of the 2001 CSO Mortality Table (M) and the 2001 CSO Mortality Table (F) may be substituted, at the option of the company for each plan of insurance, for the 2001 CSO Mortality Table for use in determining minimum cash surrender values and amounts of paid-up nonforfeiture benefits. No change in minimum valuation standards is implied by this subsection of the rule.

(b) The company may choose from among the blended tables developed by the American Academy of Actuaries CSO Task Force and adopted by the NAIC in December 2002.

(c) It shall not, in and of itself, be a violation of Section 626.9541, F.S., for an insurer to issue the same kind of policy of life insurance on both a sex-distinct and sex-neutral basis.

Specific Authority 624.308(1), 625.121, 627.476 FS. Law implemented 624.307(1), 625.121, 627.476 FS. History—New \_\_\_\_\_.

69O-162.202 Adoption of 2001 Commissioners Standard Ordinary (CSO) Ultimate Mortality Tables for Determining Reserve Liabilities for Credit Life Insurance.

(1) This rule is adopted to implement Section 625.121(13), F.S.

(2) This rule applies to credit life insurance policies and certificates, and those similar policies and certificates where there is no identifiable charge made to the debtor.

(3) The purpose of this rule is to:

(a) Recognize the 2001 CSO Male Composite Ultimate Mortality Table for use in determining the minimum standard of valuation.

(b) Specify the interest rate and method to be used in determining the minimum standard of valuation.

(4) Definitions.

(a) “2001 CSO Mortality Table” means that mortality table, consisting of separate rates of mortality for male and female lives, developed by the American Academy of

Actuaries CSO Task Force from the Valuation Basic Mortality Table developed by the Society of Actuaries Individual Life Insurance Valuation Mortality Task Force, and adopted by the NAIC in December 2002. The 2001 CSO Mortality Table is included in the Proceedings of the NAIC (2nd Quarter 2002), which is adopted and incorporated herein by reference. Unless the context indicates otherwise, the “2001 CSO Mortality Table” includes both the ultimate form of that table and the select and ultimate form of that table and includes both the smoker and nonsmoker mortality tables and the composite mortality tables. It also includes both the age-nearest-birthday and age-last-birthday bases of the mortality tables.

(b) “Composite mortality tables” means mortality tables with rates of mortality that do not distinguish between smokers and nonsmokers.

(c) “Credit Life Insurance” means life insurance as defined in Section 627.677, F.S.

(5) 2001 CSO Male Composite Ultimate Mortality Table.

(a) The minimum standard for both male and female insureds shall be 2001 CSO Male Composite Ultimate Mortality Table.

(b) Where the credit life insurance policy or certificate insures two lives, the minimum standard shall be twice the mortality in the 2001 CSO Male Composite Ultimate Mortality Table based on the age of the older insured.

(6) Minimum Standards.

(a) Rule 69O-164.020, F.A.C., shall not apply to credit life insurance.

(b) The interest rates used in determining the minimum standard for valuation shall be the calendar year statutory valuation interest rates as defined in Section 625.121(6), F.S.

(c) The method used in determining the minimum standard for valuation shall be the commissioners’ reserve valuation method as defined in Section 625.121(7), F.S.

(7) Effective Date.

(a) For policies not issued in this state, the 2001 CSO Mortality Table may be used as the minimum standard for valuation purposes on valuation dates on or after the date this rule becomes effective for policies issued on or after January 1, 2005, and prior to the date this rule becomes effective.

(b) Subject to the conditions stated in this rule, the 2001 CSO Mortality Table shall be used in determining minimum standards for policies issued on and after the date this rule becomes effective.

Specific Authority 624.308(1), 625.121 FS. Law implemented 624.307(1), 625.121 FS. History—New \_\_\_\_\_.

NAME OF PERSON ORIGINATING PROPOSED RULE:  
Kerry Krantz, Life and Health Financial Oversight, Office of Insurance Regulation

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Jovita Ashton, Director, Life and Health Financial Oversight, Office of Insurance Regulation

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: February 28, 2005  
 DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: October 8, 2004

**DEPARTMENT OF FINANCIAL SERVICES**

**OIR Insurance Regulation**

RULE TITLE: Valuation of Life Insurance Policies  
 RULE NO.: 690-164.020

PURPOSE AND EFFECT: To adopt the 2001 Standard Ordinary Mortality Tables into these rules applicable to the Valuation of Life Insurance Policies.

SUMMARY: Existing Rule 690-164.020, F.A.C., is amended to cross reference Rule Chapter 690-162, F.A.C., which adopts by reference the 2001 CSO Mortality Tables for use in determining minimum reserve liabilities and nonforfeiture benefits.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS: None.

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

SPECIFIC AUTHORITY: 624.308(1), 625.121(5)(j) FS.

LAW IMPLEMENTED: 624.307(1), 625.121(5)(j) 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., April 5, 2005

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

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

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Kerry Krantz, Life and Health Financial Oversight, Office of Insurance Regulation, e-mail: kerry.krantz@fldfs.com

THE FULL TEXT OF THE PROPOSED RULE IS:

690-164.020 Valuation of Life Insurance Policies.

(1) through (2) No change.

(3) Applicability. This rule shall apply to all life insurance policies, with or without nonforfeiture values, issued on or after January 1, 2000, subject to the following exceptions and conditions:

(a) Exceptions.

1. No change.

2.a. No change.

b. Specified premium for the secondary guarantee period is not less than the net level reserve premium for the secondary guarantee period based on the CSO valuation tables as defined in paragraph (4)(f), or the ultimate mortality tables specified in subsection 690-162.201(6), F.A.C., and the applicable valuation interest rate; and

c. through (b) No change.

(4)(a) No change.

(b)1. "Contract segmentation method" means the method of dividing the period from issue to mandatory expiration of a policy into successive segments, with the length of each segment being defined as the period from the end of the prior segment (from policy inception for the first segment) to the end of the latest policy year as determined below. All calculations are made using the 1980 CSO valuation tables, as defined in paragraph (f), or the mortality tables specified in subsection 690-162.201(6), F.A.C., and, if elected, the optional minimum mortality standard for deficiency reserves stipulated in paragraph (5)(b) of this rule.

2. through (k) No change.

(5) General Calculation Requirements for Basic Reserves and Premium Deficiency Reserves.

(a) At the election of the ~~insurer company~~ for any one or more specified plans of life insurance, the minimum mortality standard for basic reserves may be calculated using the 1980 CSO valuation tables with select mortality factors or the mortality tables specified in subsection 690-162.201(6), F.A.C. If select mortality factors are elected for use with the 1980 CSO valuation tables, they may be:

1. The 10 year select mortality factors incorporated into the 1980 amendments to the NAIC Standard Valuation Law; or

2. The select mortality factors in the Appendix.

(b)1. No change.

2. At the election of the ~~insurer company~~ for any one or more specified plans of insurance, the quantity A and the corresponding net premiums used in the determination of quantity A may be based upon the 1980 CSO valuation tables with select mortality factors or the mortality tables specified in subsection 690-162.201(6), F.A.C. If select mortality factors are elected for use with the 1980 CSO valuation tables, they may be:

a. through c. No change.

(c) through (f) No change.

(6) through (c)3. No change.

4. Mortality tables specified in subsection 690-162.201(6), F.A.C., may be used.

5.4- However, if select mortality factors are used with the 1980 CSO valuation tables, they shall be the 10 year select factors incorporated into the 1980 amendments of the NAIC Standard Valuation Law.

6.5- Renumbered and no other change.

(d) No change.

(e)1. through 3. No change.

4. For purposes of this subsection, the calculations use the maximum valuation interest rate and the 1980 CSO mortality tables with or without 10 year select mortality factors or the mortality tables specified in subsection 69O-162.201(6), F.A.C.

5. through (6) No change.

(f)1. through 3. No change.

4. For purposes of this subsection, the calculations use the maximum valuation interest rate and the 1980 CSO valuation tables with or without 10 year select mortality factors or the mortality tables specified in subsection 69O-162.201(6), F.A.C.

5. through 7. No change.

(g) through 1. No change.

2. The guaranteed gross premiums in all n-year periods are not less than the corresponding net premiums based upon the 1980 CSO Table with or without the 10 year select mortality factors or the mortality tables specified in subsection 69O-162.201(6), F.A.C.; and

3. No change.

(h) No change.

(7) through (a) No change.

1. through a. No change.

b. A policy in which the minimum premium at any duration is less than the corresponding 1 year valuation premium, calculated using the maximum valuation interest rate and the 1980 CSO valuation tables with or without 10 year select mortality factors or the mortality tables specified in subsection 69O-162.201(6), F.A.C.; or

c. through d. No change.

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

Specific Authority 624.308(1), 625.121(5)(j) FS. Law Implemented 624.307(1), 625.121(5)(j) FS. History--New 12-24-03, Formerly 4-164.020, Amended \_\_\_\_\_.

NAME OF PERSON ORIGINATING PROPOSED RULE: Kerry Krantz, Life and Health Financial Oversight, Office of Insurance Regulation

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Jovita Ashton, Director, Life and Health Financial Oversight, Office of Insurance Regulation

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: February 28, 2005

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: October 8, 2004

**DEPARTMENT OF FINANCIAL SERVICES**

**Division of Finance**

RULE TITLE: Application Procedure for Mortgage Broker License  
RULE NO.: 69V-40.031

PURPOSE AND EFFECT: The rule is being amended to update reference to a newly revised Mortgage Broker application and instructions, revision date of 03/2005. The revised Mortgage Broker application, attached for reference, is being revised as to form only. There is no change to the information applicants are required to complete.

SUMMARY: The rule is being amended to update reference to a newly revised Mortgage Broker application and instructions, revision date of 03/2005. The revised Mortgage Broker application, attached for reference, is being revised as to form only. There is no change to the information applicants are required to complete.

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

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

SPECIFIC AUTHORITY: 215.405, 494.0011(2) FS.

LAW IMPLEMENTED: 120.60(1), 494.0033 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: 3:00 p.m., Monday, April 4, 2005

PLACE: Room 547, Fletcher Building, 101 East Gaines Street, Tallahassee, Florida

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

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Pamela Epting, Bureau Chief, Bureau of Regulatory Review, 200 East Gaines Street, Fletcher Building, Tallahassee, Florida 32399-0375, (850)410-9805

THE FULL TEXT OF THE PROPOSED RULES IS:

69V-40.031 Application Procedure for Mortgage Broker License.

(1) Each person desiring to obtain licensure as a mortgage broker shall apply to the Office of Financial Regulation by submitting the following:

(a) A completed Application for Licensure as a Mortgage Broker, Form OFR-MB-101, revised 03/2005 ~~10/99~~, which is hereby incorporated by reference and available by mail from the Office of Financial Regulation, 200 East Gaines Street, Tallahassee, Florida 32399-0375. The application must be completed and signed within thirty (30) days prior to receipt by the Office;



(b) The statutory nonrefundable application fee required by Section 494.0033, F.S., which shall be the fee for the biennial period beginning September 1 of each odd-numbered year or any part thereof;

(c) A completed fingerprint card accompanied by a \$23 nonrefundable processing fee; and

(d) Evidence that the applicant has completed the mortgage broker education requirements of subsection 494.0033(3), F.S.

(2) through (7) No change.

Specific Authority 215.405, 494.0011(2) FS. Law Implemented 120.60(1), 494.0033 FS. History—New 10-30-86, Amended 1-30-89, 5-23-89, 11-28-89, 10-1-91, 6-8-92, 6-3-93, 6-6-93, 4-25-94, 5-14-95, 9-3-95, 11-24-97, 8-22-99, 12-12-99, 12-11-03, Formerly 3D-40.031, Amended \_\_\_\_\_.

NAME OF PERSON ORIGINATING PROPOSED RULE: Pamela Epting, Bureau Chief, Bureau of Regulatory Review, 200 East Gaines Street, Fletcher Building, Tallahassee, Florida 32399-0375, (850)410-9805

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

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: February 1, 2005

DATE NOTICE OR PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: February 11, 2005

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

#### DEPARTMENT OF LEGAL AFFAIRS

##### Florida Elections Commission

RULE NOS.:	RULE TITLES:
2B-1.0025	Complaints
2B-1.0027	Investigation of Complaints; Staff Recommendations; and Probable Cause Determinations
2B-1.003	Minor Violations
2B-1.004	Hearing Before the Commission
2B-1.0045	Award of Attorney's Fees
2B-1.005	Appeal of Fines Imposed by Filing Officers

#### NOTICE OF CHANGE

Notice is hereby given that the following changes have been made to the proposed rule in accordance with subparagraph 120.54(3)(d)1., F.S., published in Vol. 30, No. 48 (Nov. 24, 2004) issue of the F.A.W. Form 001, Confidential Complaint, was also changed to obtain more information about the person named in the complaint and to make the form consistent with the rule changes.

#### 2B-1.0025 Complaints.

(8) When the executive director determines that a complaint is legally insufficient, the complainant and the respondent shall be notified. The notice shall include the reason the complaint is legally insufficient and notify the complainant that he has 14 days to correct the stated ground of insufficiency. If the complainant ~~complaint~~ does not respond within 14 days, the executive director shall close the case. If the complainant responds but does not provide information that corrects the stated ground of insufficiency, the complainant and the respondent shall be notified of complainant's right to seek the Commission's review of the executive director's finding that the complaint is legally insufficient.

Specific Authority 106.26(1) FS. Law Implemented 105.071, 106.25 FS. History—New 2-17-91, Amended 11-14-93, 3-19-96, 8-19-96, Formerly 1D-1.0025, Amended 1-11-98, 1-2-02, 2-16-04, \_\_\_\_\_.

#### 2B-1.0027 Investigation of Complaints; Staff Recommendations ~~Statements of Findings~~; and Probable Cause Determinations.

(1) If a complaint is legally sufficient, it shall be investigated by Commission staff. The staff shall ~~may~~ investigate all violations specifically alleged in the sworn complaint, ~~including the alleged violations listed on the complaint form and the alleged violations that arise from the facts set forth in the complaint.~~

(4) The staff of the Commission shall make a recommendation of whether ~~Considering the report of investigation and relevant documents or other evidence gathered during the investigation, the general counsel or an assistant general counsel, shall prepare a statement of findings. The statement of findings shall set forth sufficient facts revealed during the investigation to support a recommendation to the Commission that there is probable cause or no probable cause in each case to believe that the respondent violated a provision of The Florida Election Code over which the Commission has jurisdiction.~~

(5) All staff recommendations ~~statements of findings~~ shall be reviewed ~~and signed~~ by the executive director ~~and scheduled for review by the Commission.~~

(8) At the probable cause hearing, The the Commission's determination of probable cause Commission shall be based upon review ~~the complaint, report of investigation, staff recommendations statements of findings submitted by the executive director, any written statements submitted by the respondent, and any oral statements made at the probable cause hearing. After the hearing, the The Commission shall then:~~

(c) Return the matter to Commission staff for additional investigation ~~or legal analysis.~~

(9) The Commission clerk shall send a copy of the Commission's ~~order determining probable cause or no probable cause, along with a copy of the statement of findings~~ to the complainant and the respondent.