

Specific Authority Art. IV, Sec. 9, Fla. Const. Law Implemented Art. IV, Sec. 9, Fla. Const. History—New 12-11-86, Amended 2-1-90, 3-1-94, 10-4-95, 7-15-96, 1-1-98, 12-31-98, 6-1-99, Formerly 46-14.005, Amended 1-1-03, 3-1-05, \_\_\_\_\_.

**DEPARTMENT OF FINANCIAL SERVICES**

**Division of State Fire Marshal**

RULE CHAPTER TITLE: Firefighter Death Benefits  
 RULE TITLE: Adjustments to Reflect Consumer Price Index  
 PURPOSE AND EFFECT: To adopt price level changes relating to firefighter death benefits in Section 112.191, Florida Statutes, for the year 2005-2006.  
 SUBJECT AREA TO BE ADDRESSED: Firefighter death benefits in Section 112.191, Florida Statutes.  
 SPECIFIC AUTHORITY: 112.191 FS.  
 LAW IMPLEMENTED: 112.191 FS.

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

TIME AND DATE: 9:00 a.m., May 16, 2005  
 PLACE: Room 116, Larson Building, 200 East Gaines, Street, Tallahassee, Florida

Pursuant to the provisions of the Americans with Disabilities Act and Section 286.26, Florida Statutes, any person requiring special accommodations to participate in this program, please advise the Department at least 48 hours before the program by contacting: Kimberly Riordan, (850)413-3170.

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT IS: Harriett Abrams, Assistant Director, Division of State Fire Marshal, 200 East Gaines Street, Tallahassee, Florida 32399-0340, (850)413-3170, Fax (850)922-1235

THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS:

69A-64.005 Adjustments to Reflect Consumer Price Index.

(1) Section 112.191, F.S., requires that the Division adjust the statutory amount payable based on the Consumer Price Index for all urban consumers published by the United States Department of Labor. The adjustment is to be effective on July 1 of each year using the most recent month for which data is available as of the time of the adjustment.

(2) The amounts payable for the period from July 1, 2005 ~~2004~~ through June 30, 2006 ~~2005~~, using the Consumer Price Index for all urban consumers published by the United States Department of Labor for March, 2005 ~~2004~~, which is the most recent month for which data is available as of the time of the adjustment, are:

(a) For those benefits paid or to be paid under paragraph (a) of subsection (2) of Section 112.191, F.S.: \$ \_\_\_\_\_ (to be inserted in the notice of hearing).

(b) For those benefits paid or to be paid under paragraph (b) of subsection (2) of Section 112.191, F.S.: \$ \_\_\_\_\_ (to be inserted in the notice of hearing).

(c) For those benefits paid or to be paid under paragraph (c) of subsection (2) of Section 112.191, F.S.: \$ \_\_\_\_\_ (to be inserted in the notice of hearing).

~~(2) On or before July 1, 2003, and each year thereafter, the Division shall adopt by rule the Consumer Price Index adjustment for the next annual period, in accordance with the most recent Consumer Price Index available at the time of such adoption.~~

Specific Authority 112.191 FS. Law Implemented 112.191 FS. History—New 3-13-03, Amended 7-10-03, Formerly 4A-64.005, Amended 7-13-04, \_\_\_\_\_.

**Section II  
 Proposed Rules**

**DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES**

**Division of Consumer Services**

RULE TITLE: Registration  
 RULE NO.: 5J-12.002

PURPOSE AND EFFECT: The purpose and effect of this rule change is to delete outdated language no longer applicable to the registration process.

SUMMARY: This rule deletes the language which established the biennial registration period.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COST: The proposed revisions do not incur any regulatory costs.

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: 559.2201, 570.07(23) FS.

LAW IMPLEMENTED: 559.904, 559.916 FS.

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

TIME AND DATE: 10:00 a.m., May 24, 2005  
 PLACE: Department of Agriculture and Consumer Services, Division of Consumer Services, Terry L. Rhodes Building, 2005 Apalachee Parkway, Tallahassee, Florida 32399-6500

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Dee Keck, Regulatory Program Administrator, Division of Consumer Services, Terry L. Rhodes Building, 2005 Apalachee Parkway, Tallahassee, Florida 32399-6500, (850)410-3679

THE FULL TEXT OF THE PROPOSED RULE IS:

5J-12.002 Registration

(1)(a) No change.

(b) If the motor vehicle repair shop is located in a municipality or county that has an ordinance containing standards that the Department has determined are at least equal to the requirements of the Florida Motor Vehicle Repair Act, the motor vehicle repair shop must register with the Department and provide a one of the following to evidence compliance with the local ordinance;

1. The registration number provided to the motor vehicle repair shop by the municipality or county in the appropriate space on from DACS 10900; or

2. A copy of the receipt of payment of the required fee for the municipality or county issued registration; or

3. A copy of the current actual registration issued by the municipality or county.

(c) through (d) No change.

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

~~(3) The Department will register motor vehicle repair shops whose current registration expires on or after September 1, 2003, and who have fully complied with Section 559.901-559.9221, Florida Statutes, and the Rules adopted thereunder in the following manner:~~

~~(a) All motor vehicle repair shops renewing their registration with the Department and whose name begins with a number or the letter A through J will be registered for a period of one year. All motor vehicle repair shops registering under this section will be required to pay a one year registration fee;~~

~~(b) All motor vehicle repair shops renewing their registration with the Department whose name begins with the letter K through Z will be registered for a period of two years. All motor vehicle repair shops registering under this section will be required to pay a two year registration fee;~~

~~(c) All motor vehicle repair shops registering with the Department for the first time will be required to be registered for a two year period and pay a two year registration fee;~~

~~(d) Subsection (3) will expire on July 1, 2004.~~

Specific Authority 559.2201, 570.07(23) FS. Law Implemented 559.904, 559.916 FS. History--New 1-18-95, Amended 5-24-95, 2-11-98, 1-20-03, 11-4-03, \_\_\_\_\_.

NAME OF PERSON ORIGINATING PROPOSED RULE: Dee Keck, Regulatory Program Administrator, Division of Consumer Services, Department of Agriculture and Consumer Services

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: James R. Kelly, Director, Division of Consumer Services, Department of Agriculture and Consumer Services

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

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: March 25, 2005

**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: Correctional Probation Officers

RULE NO.:

Carrying Firearms 33-302.104

PURPOSE AND EFFECT: The purpose and effect of the proposed rule is to clarify requirements for carrying firearms and reloading devices, update training and qualification requirements, and delete unnecessary and obsolete language.

SUMMARY: The proposed rule corrects titles and cross references; clarifies that only one weapon will be authorized; requires that the officer submit required information to the department before carrying a replacement weapon on duty; allows for annual qualification without attending training if circumstances beyond the employee's control prevent training attendance; clarifies that suspension of the weapon card removes the officer's authority to carry a firearm while on duty; deletes the provision allowing firearms to be carried in shoulder holsters; deletes the requirement that holsters, ammunition and reloading devices be stored in a locker while the officer is in the probation office; eliminates detail as to the type of weapons to be approved; provides for provision of ammunition by the Department; limits officers to carrying two reloading devices.

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, 790.06, 944.09 FS.

LAW IMPLEMENTED: 20.315, 790.06, 944.09 FS.

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

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

THE FULL TEXT OF THE PROPOSED RULE IS:

33-302.104 Correctional Probation Officers Carrying Firearms.

- (1) No change.
- (2) Definitions.

(a) "Field supervision and investigation" ~~refers to~~ means that professional activity performed by correctional probation officers, supervisors and administrators which involves a personal presence in the community during which personal contact is made or is attempted with offenders and citizens regarding official agency matters in accordance with their responsibilities pursuant to Section 943.10(3), F.S.

(b) "Correctional probation officer" ~~refers to~~ means a person who is employed full time by the Department of Corrections whose primary responsibility is the supervised custody, surveillance, and control of assigned offenders and includes supervisory personnel whose duties include the supervision, training and guidance of correctional probation officers. This term does not include personnel above the level of regional director of ~~community corrections probation and parole~~.

(c) "~~Weapon Firearm~~ card" ~~refers to~~ means the document issued by the department pursuant to this rule to a correctional probation officer who has been authorized by the department to carry a firearm while on duty.

(d) Reviewing authority, for the purpose of this rule, refers to staff who are authorized to review and approve requests to carry firearms, issue ~~weapon firearm~~ cards, maintain lists of staff under their supervision who have been authorized to carry a firearm, and permanently remove or temporarily suspend authorization for staff to carry a firearm.

~~1. Circuit Administrators are the reviewing authority for Correctional Probation Officers up to the level of Deputy Circuit Administrator.~~

~~2. Regional Directors of probation and parole are the reviewing authority for Circuit Administrators and Deputy Regional Directors of probation and parole.~~

~~3. The Director of Community Operations or the Assistant Secretary for probation and parole is the reviewing authority for the Regional Directors of probation and parole.~~

- (3) Authorization Procedures.

(a) In addition to the requirements of this rule, correctional probation officers who elect to carry firearms shall also be required to comply with ~~Chapter Rule 33-209-103~~, F.A.C.

(b) Any correctional probation officer who elects to carry a firearm while on duty shall obtain authorization through the circuit administrator. Any circuit administrator or deputy

regional director of ~~community corrections probation and parole~~ who elects to carry a firearm while on duty shall obtain authorization from the regional director of ~~community corrections probation and parole~~. A regional director of ~~community corrections probation and parole~~ who elects to carry a firearm while on duty shall obtain authorization from the ~~Assistant Secretary of Community Corrections director of community operations~~. A Deputy Assistant Secretary of Community Corrections who elects to carry a firearm while on duty shall obtain authorization from the Assistant Secretary of Community Corrections. The written request shall contain documentation that the individual has complied with the required training and qualification requirements provided in Chapter 33-209, F.A.C set forth in paragraph (e) below.

(c) Correctional probation officers who elect to carry firearms while on duty shall complete training and qualification requirements pursuant to Rule 33-209.103, F.A.C. Correctional probation officers shall not be allowed to carry a firearm on duty until firearms qualification is successfully completed and a ~~weapon the firearm~~ card has been issued. Initial qualification, annual re-qualification and training shall be completed using the specific weapon that the officer will be using on duty and any type of ammunition approved by the local training center. Documentation of the model, make, and serial number of the weapon used, proof of ownership, and firearm inspection by a certified gunsmith or law enforcement armorer shall be submitted along with the documentation of training and qualification in the request for authority to carry the firearm. Correctional probation officers shall not be authorized to carry more than one firearm at a time. This approved single weapon shall be the only weapon authorized to be carried by the correctional probation officer until the annual qualification or transition training has been completed with a different weapon.

(d) If an officer temporarily or permanently replaces the firearm used for qualification, before carrying the weapon on duty the officer shall notify the department of the replacement and provide the model, make and serial number of the replacement firearm and proof of ownership and inspection to the reviewing authority. If the officer chooses to replace a revolver with a ~~9 millimeter~~ semi-automatic firearm, the officer shall complete the department-approved semi-automatic firearm 9mm transition course. The officer shall ~~re-qualify~~ re-qualify with the replacement weapon and provide proof of ownership and inspection to the reviewing authority. ~~Correctional probation officers shall not be authorized to carry more than one firearm at a time.~~

(e) Prior to approving a request to carry a firearm, the reviewing authority shall review the request, the documentation of training and qualification pursuant to ~~Chapter Rule 33-209-103~~, F.A.C., and shall complete a Florida Crime Information Center/National Crime Information Center (FCIC/NCIC) check on the firearm by serial number, and an

FCIC/NCIC check on the applicant. Upon approval, the reviewing authority shall issue a weapon firearm card which establishes that the officer has been authorized to carry a specific firearm while on duty.

(f) The weapon firearm card shall expire twelve months after the date of the initial qualification the following year, on the last day of the month the firearms card was issued unless written documentation of annual re-qualification is submitted to the authorizing entity prior to the expiration of the weapon firearms card. The officer shall be required to successfully re-qualify within twelve months after the date of the initial qualification and every twelve months each year thereafter pursuant to Chapter Rule 33-209-103, F.A.C., and this rule in order to remain qualified to carry a firearm.

(g) Annual Re-qualification must occur prior to the employee's weapon firearm card expiration month date. The new weapon firearm card will be issued effective the date of the annual re-qualification. If the employee is unable to attend annual qualification training due to circumstances beyond the employee's control, the employee may, if approved by the reviewing authority, qualify by demonstrating proficiency with the weapon without being required to re-attend initial qualification training. The firearm card will expire the following year, on the last day of the month the firearms card was issued.

(h) The reviewing authority shall immediately suspend authorization to carry a firearm, except for firearm training purposes, and shall secure the weapon firearm card from any officer who has failed to re-qualify as of the card expiration month date. Suspension of the weapon card removes the officer's authority to carry a firearm while on duty. A correctional probation officer who attempts to re-qualify and fails shall be provided the opportunity to participate in remedial firearm training as specified in Chapter 33-209, F.A.C. at a time approved by the reviewing authority.

(i) No change.

(4) Carrying a Firearm While on Duty.

(a) Officers who elect to carry a firearm and who receive Department authorization to carry a firearm, are authorized to carry the firearm, in accordance with Department standards, shall be carried by the officer only while on duty conducting field supervision and investigation. The firearm shall be carried in a holster about the waist or under the shoulder. All holsters that secure the firearm about the waist or under the shoulder shall be of a type which secures the firearm with a thumb break retainer. Only the authorized firearm may be carried.

(b) No change.

(c) Each probation office shall have a designated secure space containing a secure locker for storage of firearms, ammunition, and reloading devices. Officers shall place their holstered firearms in the secure locker immediately upon

entering the office. The firearm shall be removed from the locker at the conclusion of the duty day. No firearm shall be left in the probation office overnight.

(d) Any officer authorized to carry a firearm while on duty shall carry a Department of Corrections identification card and weapon firearm authorization card while carrying the firearm on duty. If the officer is carrying a firearm on duty, he or she shall display the Department of Corrections issued badge in plain view.

(5) No change.

(6) Firearm Type and Ammunition.

(a) Correctional probation officers are authorized to carry a firearm shall only department approved firearms, ammunition and reloading devices be authorized to carry a five or six shot revolver of .38 or .357 caliber with a barrel length not to exceed four inches, or a 9 millimeter semi automatic pistol, with the exception of weapons specified in Federal Firearms Regulations, 921(a)(30), as semi automatic assault weapons.

(b) Each correctional probation officers who completes initial or annual qualification shall be issued one box of duty ammunition to be used in his or her weapon of choice while on duty. This ammunition will be utilized by the officer in the following year's qualification. A correctional probation officer who elects to no longer carry a weapon, changes the type of weapon, or is no longer employed by the department shall immediately return department issued ammunition shall only be authorized to carry ammunition approved by the department for each respective weapon. All ammunition used for training, qualification, or re-qualification, must be approved by the range facility for use.

(c) Correctional probation officers are authorized to carry no more than two department approved reloading devices while carrying a firearm. These reloading devices and all accompanying ammunition shall be stored in the same secure locker as the officer's firearm immediately upon entering the office. Only that ammunition stored in a firearm or reloading device may be brought into an office.

(7) through (8) No change.

(9) Removal of Authorization to Carry a Firearm.

(a) The reviewing authority shall permanently remove or temporarily suspend the authorization to carry a firearm for a correctional probation officer if:

1. The correctional probation officer has exhibited behavior that indicates that the carrying of a firearm by this officer could present a threat to the security of other staff, offenders, or the general public, or the correctional probation officer notifies the department of physical or pharmacological conditions that could affect his or her ability to carry a firearm safely;

2. The correctional probation officer has demonstrated an inability to properly care, maintain, handle or secure the firearm;-

3. The correctional probation officer is found to have been negligent by failure to comply with those standards and procedures provided in the training required by Chapter 33-209, F.A.C. ~~or and the standards set forth in this rule in the case of loss or theft of the firearm while on duty shall have the authorization to carry the firearm removed and shall be subject to disciplinary action in accordance with Chapter 33-208, F.A.C.~~

4. The correctional probation officer fails to complete ~~annual re-qualification, or~~

~~5. The correctional probation officer notifies the department of physical or pharmacological conditions that could affect his or her ability to carry a firearm or other weapon safely.~~

- (10) Care and Maintenance of Firearm.
  - (a) through (b) No change.
  - (c) If an officer finds that his or her firearm needs repair, it shall not be carried on duty or used for any reason. The officer shall advise his or her immediate supervisor of its condition and shall make arrangements to have it repaired.
  - (d) through (e) No change.
- (11) No change.

Specific Authority 20.315, 790.06, 944.09 FS. Law Implemented 20.315, 790.06, 944.09 FS. History—New 5-28-86, Amended 7-7-92, 12-20-92, 03-30-94, 9-27-94, 12-19-94, 3-8-95, 2-15-98, Formerly 33-24.013, Amended 3-4-01, 12-5-01, 8-13-03, 6-24-04, \_\_\_\_\_.

NAME OF PERSON ORIGINATING PROPOSED RULE:  
Beth Atchison  
NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: James V. Crosby, Jr.  
DATE PROPOSED RULE APPROVED BY AGENCY HEAD: March 29, 2005  
DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: April 8, 2005

**WATER MANAGEMENT DISTRICTS**

**Southwest Florida Water Management District**  
 RULE CHAPTER TITLE: Individual Environmental Resource Permits  
 RULE CHAPTER NO.: 40D-4  
 RULE TITLES: Exemptions  
 RULE NOS.: 40D-4.051  
 Publications and Agreements  
 Incorporated by Reference 40D-4.091  
 Additional Conditions for Issuance of Permits 40D-4.302

PURPOSE AND EFFECT: The purpose and effect of this rulemaking is to amend Rules 40D-4.051, 40D-4.091, 40D-4.302, F.A.C. and section 3.2.2 of the Environmental Resource Permitting Basis of Review to conform to statutory changes and to be consistent with the Florida Department of Environmental Protection’s and the other water management districts environmental resource permitting rules.

SUMMARY: The amendments to paragraphs 40D-4.051(8)(b) and (c), F.A.C., add the word “pier” to the exemption, in conformance with the 1997 amendments to Section 403.813(2)(b), Florida Statutes (F.S.). The amendment to paragraph 40D-4.051(8)(d), F.A.C., modifies the rule exempting maintenance dredging in order to conform with the amendments to Section 403.813(2)(f), F.S. The modification describes the requirements for maintenance dredging in previously dredged natural water bodies.

Rule 40D-4.302, F.A.C., lists additional conditions for issuance of permits. The amendment to this rule removes the language “by the Department”, which is redundant because the rule references Chapter 62R-7, F.A.C., which is promulgated by DEP.

The amendment to Rule 3.2.2 of the Basis for Review addressing fish, wildlife, listed species and their habitats removes the language “[G]enerally, wildlife surveys will not be required.” DEP was directed to remove this language from DEP’s rules by the Environmental Regulatory Commission during a September 1994 rule adoption hearing. The language does not appear in the rules of any of the other water management districts.

The amendment to Rule 40D-4.091, F.A.C., incorporates the new date of the ERP Basis of Review including the modifications discussed above.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COST: A Statement of Estimated Regulatory Cost is not being prepared based on the District’s determination that the proposed revisions to Rules 40D-4.051, 40D-4.091 and 40D-4.302, F.A.C., will not result in a substantial increase in the costs to affected parties and there will not be significant adverse effects on competition, employment, investment or productivity.

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: 373.016, 373.044, 373.046, 373.113, 373.118, 373.171, 373.414 FS.

LAW IMPLEMENTED: 373.016, 373.042, 373.0361, 373.114, 373.171, 373.403, 373.406, 373.409, 373.413, 373.414, 373.414(9), 373.416, 373.426, 373.429, 373.441 FS.

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

The District does not discriminate on the basis of disability. Anyone requiring reasonable accommodation should contact: Dianne Lee, (352)796-7211, Ext. 4658, TDD only 1(800)231-6103.

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Karen E. West, Deputy General Counsel, Office of General Counsel, 2379 Broad Street, Brooksville, FL 34604-6899, (352)796-7211, Extension 4651

THE FULL TEXT OF THE PROPOSED RULE IS:

40D-4.051 Exemptions.

The following activities are exempt from permitting under this chapter:

(1) through (7) No change.

(8) In accordance with the provisions of Section 403.813(2), F.S., no permit shall be required under Chapter 40D-4, 40D-40 or 40D-400, F.A.C. for the following activities:

(a) No change.

(b) The installation, replacement or repair of mooring pilings and dolphins associated with private docking facilities or piers.

(c) The installation and repair of private docks, piers and recreational docking facilities, or piers and recreational docking facilities of local government entities when the local governmental entity's entity's activities will not take place in any manatee habitat, which structures have 1000 square feet or less of surface area over wetlands or other surface waters or 500 square feet or less of surface area over wetlands or other surface waters which are Outstanding Florida Waters. This exemption shall include the construction of structures above the dock or pier area, such as gazebos and boat shelters, provided such structures are not enclosed with walls and doors, are not used for living, commercial purposes, or storage of materials other than those associated with recreational use and provided the structures do not exceed, together with the docking facility or pier, the total area limitations above. To qualify for this exemption, any such structure:

1. through 3. No change.

4. Shall be the sole dock or pier constructed pursuant to this exemption as measured along the shoreline for a minimum distance of 65 feet, unless the parcel of land or individual lot as platted is less than 65 feet in length along the shoreline, in which case there may be one exempt dock allowed per parcel or lot. For the purposes of this rule, multi-family living complexes and other types of complexes or facilities associated with the proposed private dock shall be treated as one parcel of property regardless of the legal division of ownership or control of the associated property. Construction of a dock under this exemption does not obligate the District to issue a subsequent permit to construct a channel to provide navigational access to the dock. Activities associated with a dock shall include the construction of the structures attached to the dock which are only suitable for the mooring or storage of boats (i.e., boatlifts). Nothing in this paragraph shall prohibit the Department from taking appropriate enforcement action pursuant to Chapter 403, F.S., to abate or prohibit any activity otherwise exempt from permitting pursuant to this paragraph if the Department can demonstrate that the exempted activity has caused water pollution in violation of Chapter 403, F.S.

(d) The performance of maintenance dredging of existing manmade canals, channels, basins, berths, ~~and~~ intake and discharge structures, and previously dredged portions of natural water bodies within drainage rights-of-way or drainage easements which have been recorded in the public records of the county where the spoil material is to be removed and deposited on a self-contained, upland spoil site which will prevent the escape of the spoil material ~~and return water from the spoil site~~ into waters of the state wetlands or other surface waters, provided that no more dredging is performed than is necessary to restore the canals, channels, basins, berths, and intake and discharge structures, and previously dredged portions of natural water bodies, to original design specifications, ~~and~~ provided that the work is conducted in compliance with Section 370.12(2)(d), F.S., provided that no significant impacts occur to previously undisturbed natural areas, and provided that control devices for return flow and best management practices of erosion and sediment control are utilized to prevent bank erosion and scouring and are used at the dredge site to prevent turbidity, dredged material, and toxic or deleterious substances from discharging into adjacent waters during maintenance dredging. Further, for maintenance dredging of previously dredged portions of natural water bodies within recorded drainage rights-of-way or drainage easements, an entity that seeks an exemption must notify the department or water management district, as applicable, at least 30 days prior to dredging and provide documentation of original design specifications or configurations where such exist. This exemption shall apply to all canals and previously dredged portions of natural water bodies within recorded drainage rights-of-way or drainage easements constructed before April 3, 1970, and to those canals and previously dredged portions of natural water bodies constructed on or after April 3, 1970, pursuant to all necessary state permits. This exemption shall not apply to the removal of a natural or manmade barrier separating a canal or canal system from adjacent wetlands or other surface waters. Where no previous permit has been issued by the Board of Trustees of the Internal Improvement Trust Fund, the Department, the District or the United States Army Corps of Engineers for construction or maintenance dredging of the existing manmade canal, channel, basin, berth or intake or discharge structure, such maintenance dredging shall be limited to a depth of no more than 5 feet below mean low water.

(e) through (o) No change.

(9) through (12) No change.

Specific Authority 373.044, 373.118, 373.414(9) FS. Law Implemented 373.406, 373.413, 373.414(9) FS. History—Readopted 10-5-74, Formerly 16J-4.05, Amended 10-1-84, 10-1-86, 3-1-88, 1-24-90, 10-3-95, 4-18-01, 5-17-01, 4-9-02, 2-19-04, \_\_\_\_\_.

40D-4.091 Publications and Agreements Incorporated by Reference.

The following documents are hereby incorporated into this chapter and Chapters 40D-40 and 40D-400, F.A.C.:

(1) "Basis of Review for Environmental Resource Permit Applications with the Southwest Florida Water Management District, ~~February 1, 2005~~. This document is available from the District upon request.

(2) Operating Agreement Concerning Regulation Under Part IV, Chapter 373, F.S., and Aquaculture General Permits Under Section 403.814, F.S., between Southwest Florida Water Management District and Department of Environmental Protection, dated October 27, 1998. This document is available from the District upon request.

(3) Chapter 62-344, F.A.C., Delegation of Environmental Resource Program to Local Governments.

(4) Memorandum of Understanding Between the Southwest Florida Water Management District and the Florida Department of Agriculture and Consumer Services for the Non-Binding Review of Disputed Environmental Resource Permitting Exemption Claims Under Section 373.406(2), F.S., dated December 13, 2002. This document is available from the District upon request.

Specific Authority 373.044, 373.046, 373.113, 373.171, 373.414 FS. Law Implemented 373.0361, 373.114, 373.171, 373.403, 373.413, 373.414, 373.416, 373.429, 373.441 FS. History—New 4-2-87, Amended 3-1-88, 9-11-88, 10-1-88, 4-1-91, 11-16-92, 1-30-94, 10-3-95, 12-26-95, 5-26-96, 7-23-96, 4-17-97, 4-12-98, 7-2-98, 12-3-98, 7-28-99, 8-3-00, 9-20-00, 6-12-01, 10-11-01, 2-27-02, 7-29-02, 3-26-03, 7-23-03, 8-3-03, 3-11-04, 6-7-04, 2-1-05, \_\_\_\_\_.

40D-4.302 Additional Conditions for Issuance of Permits.

(1) In addition to the conditions set forth in Rule 40D-4.301, F.A.C., in order to obtain a general, individual, or conceptual permit under this chapter an applicant must provide reasonable assurance that the construction, alteration, operation, maintenance, removal, and abandonment of a system:

(a) through (b) No change.

(c) Located in, adjacent to or in close proximity to Class II waters or located in Class II waters or Class III waters classified ~~by the Department~~ as approved, restricted or conditionally restricted for shellfish harvesting pursuant to Chapter 62R-7, F.A.C., will comply with the additional criteria in subsection 3.2.5 of the Basis of Review for Environmental Resource Permit Applications adopted by reference in Rule 40D-4.091, F.A.C.

(d) through (2) No change.

Specific Authority 373.016, 373.044, 373.113, 373.171 FS. Law Implemented 373.016, 373.042, 373.409, 373.413, 373.414, 373.416, 373.426 FS. History—New 10-3-95, Amended 9-26-02, 2-19-04, \_\_\_\_\_.

ENVIRONMENTAL RESOURCE PERMITTING  
INFORMATION MANUAL

3.2.2 Fish, Wildlife, Listed Species and their Habitats

Pursuant to paragraph 3.1.1(a), an applicant must provide reasonable assurance that a regulated activity will not impact the values of wetlands, other surface waters and other water related resources of the District, so as to cause adverse impacts to:

(a) The abundance and diversity of fish, wildlife and listed species; and

(b) The habitat of fish, wildlife and listed species.

In evaluating whether an applicant has provided such reasonable assurance under subsection 3.2.2, B.O.R., the magnitude of the effect of the regulated activity shall be considered, and de minimis effects shall not be considered adverse.

As part of the assessment of the impacts of regulated activities upon fish and wildlife and their habitat, the District will provide a copy of all notices of application for standard general and individual permits, including conceptual permits, which propose regulated activities in, on or over wetlands or other surface waters to the Florida Fish and Wildlife Conservation Commission for review and comment. In addition, the District staff may solicit comments from the Florida Fish and Wildlife Conservation Commission regarding other applications to assist in the assessment of potential impacts to wildlife and their habitats, particularly with regard to listed wildlife species. Where proposed activities have a potential to impact listed marine species, the District will provide a copy of the above-referenced types of applications to the Department of Environmental Protection.

~~Generally, wildlife surveys will not be required.~~ The need for a wildlife survey will depend upon the likelihood that the site is used by listed species, considering site characteristics and the range and habitat needs of such species, and whether the proposed system will impact that use such that the criteria in subsection 3.2.2 through 3.2.2.3 and subsection 3.2.7 will not be met. Survey methodologies employed to inventory the site must provide reasonable assurance regarding the presence or absence of the subject listed species.

NAME OF PERSON ORIGINATING PROPOSED RULE:  
Karen E. West, Deputy General Counsel, Office of General Counsel, 2379 Broad Street, Brooksville, FL 34604-6899, (352)796-7211, Extension 4651

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

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

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: April 22, 2005

**DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION**

RULE TITLES: Issuance of Citations  
 RULE NOS.: 61-32.001  
 Guidelines for Issuing Citations for

Unlicensed Practice of a Profession 61-32.003

PURPOSE AND EFFECT: This rule amendment provides citation fines for first-offense unlicensed professional practice not involving consumer injury or financial harm.

SUMMARY: The proposed rules establish citation fines for unlicensed activity where there has been no prior violation and where there is no consumer injury. The rule specifies the appropriate citation based on whether unlicensed services are offered or are actually performed. The proposed rule also provides a remedy for unpaid citation final orders.

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 regulatory cost alternative must do so in writing within 21 days of this notice.

SPECIFIC AUTHORITY: 455.228(3)(a) FS.

LAW IMPLEMENTED: 455.224, 455.228 FS.

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

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULES IS: Jennifer M. Causseaux, Administrative Assistant I, Office of the General Counsel, Department of Business and Professional Regulation, 1940 North Monroe Street, Tallahassee, FL 32399-2202

THE FULL TEXT OF THE PROPOSED RULES IS:

61-32.001 Issuance of Citations.

(1) No change.

(2) Citations shall be issued by the Division of Regulation in accordance with the following procedures:

(a) Citations may be issued upon the initiative of the department based upon a citationable violation of Chapter 455, Florida Statutes, or the applicable practice act. Citations may also be issued in response to receipt of a completed ~~Upon completion of a DBPR Uniform Complaint Form (UCF) Form DBPR/REG 001, incorporated herein by reference and effective 7/93, This form can be obtained by writing the Department of Business and Professional Regulation, Division of Regulation, Office of Central Complaints Consumer Complaints, Northwood Centre, 1940 North Monroe Street, Tallahassee, Florida 32399-0782, describing the alleged violation. The complaint section shall serve the citation.~~

(b) The citation shall be served on the Subject by personal service or by U.S. Mail, certified with return receipt, and if initiated by a consumer complaint, the Complainant shall be notified by letter that a complaint has been opened.

(c) Citations shall be issued to the Subject and shall contain the subject's name and address, the subject's license number if licensed, a brief factual statement, the sections of the law allegedly violated, and the penalty imposed. The citation must clearly state that the subject may choose, in lieu of accepting the citation, to follow the procedure set forth in Section 455.225, F. S.

~~(d) Citations which are disputed shall be processed pursuant to Sec.455.225, Fla. Stat., as Level I (Central Office Investigation ("COI")) investigations.~~

(3) No change.

(4) Once a citation has become a Final Order, it shall be filed in accordance with procedures established for the filing of final orders by board rule or department rule, whichever is appropriate.

(a) Citations which have become final orders shall be closed ~~by the complaint section,~~ under the computer code "R 32" PL85.

(5) through (6) No change.

Specific Authority 455.201, 455.203(5), 455.224, 455.228 FS. Law Implemented 455.224, 455.228 FS. History--New 1-6-92, Formerly 21-32.001, Amended 6-19-95,\_\_\_\_\_.

61-32.003 Guidelines for Issuing Citations for Unlicensed Practice of a Profession.

(1) Citations imposing a designated fine may be issued to persons unlicensed by the Department for the violations listed below, under the following conditions:

(a) There has been no prior citation, final order, or Notice and Order to Cease and Desist issued to the subject; and

(b) There is no evidence of consumer harm in the current case; and

(c) The subject has not previously held a license to practice the activity at issue.

(2) Citations may be issued for the following unlicensed activities and impose the following penalties:

(a) Advertising or otherwise holding ones self out as available to practice a profession, provide a service, or engage in an activity that requires licensure by the department. CITATION PENALTY: A fine of \$1000 and costs of the investigation.

(b) Contracting to perform or performing a service, or offering a bid to engage or engaging in a practice, that requires licensure by the department. CITATION PENALTY: A fine of \$2500, and costs of investigation.

(3) All citations issued under this part shall be accompanied by a Notice and Order to Cease and Desist, as provided by Section 455.228(1), F.S.



(4) Citations for unlicensed practice of a profession shall be either hand-served or served by certified mail and shall include the following information:

- (a) Subject's full name, age and date of birth.
- (b) Subject's driver's license number.
- (c) Subject's current residence address.
- (d) A brief factual statement of the activity engaged in, the provision of law requiring licensure, and the penalty imposed.
- (e) A statement that, in lieu of the citation, the subject may choose the administrative procedures in Section 455.225, F.S.

Specific Authority 455.228(3)(a) FS. Law Implemented 455.224, 455.228 FS. History-New \_\_\_\_\_.

NAME OF PERSON ORIGINATING PROPOSED RULE: Gail Scott-Hill, Assistant General Counsel, Office of the General Counsel, Florida Department of Business and Professional Regulation, 1940 North Monroe Street, Tallahassee, Florida 32399

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Diane Carr, Secretary, Florida Department of Business and Professional Regulation

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: April 13, 2005

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: March 25, 2005

**DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION**

**Division of Florida Land Sales, Condominiums and Mobile Homes**

RULE TITLES:	RULE NOS.:
Regular Elections; Vacancies Caused by Expiration of Term; Resignations; Death; Election Monitoring	61B-23.0021
Ombudsman; Election Monitoring; Monitor's Role; Scope and Extent	61B-23.00215

PURPOSE AND EFFECT: This rule amendment provides procedures and a petition form for condominium unit owners to request that the Condominium Ombudsman appoint a monitor for the condominium association's annual election. The rule addresses the scope and extent of the monitor's role in the election process.

SUMMARY: This rule addresses the appointment of election monitors by the Condominium Ombudsman.

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

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

SPECIFIC AUTHORITY: 718.5012(9) FS.

LAW IMPLEMENTED: 718.1255, 718.5012(9) FS.

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

TIME AND DATE: 9:00 a.m., May 23, 2005

PLACE: Warren Building, Conference Room #B03, 201 West Bloxham Street, Tallahassee, Florida

THOSE PERSONS WHO CANNOT ATTEND IN PERSON MAY SUBMIT THEIR COMMENTS IN WRITING TO SHARON A. ELZIE, SENIOR MANAGEMENT ANALYST II, DIVISION OF FLORIDA LAND SALES, CONDOMINIUMS AND MOBILE HOMES, 1940 NORTH MONROE STREET, TALLAHASSEE, FLORIDA 32399-1030, WITHIN 21 DAYS OF THIS NOTICE. WRITTEN COMMENTS RECEIVED AFTER THE HEARING MAY NOT BE CONSIDERED.

Pursuant to the provisions of the Americans with Disabilities Act, any person requiring special accommodations to participate in this workshop/hearing/meeting is asked to advise the agency at least 48 hours before the workshop/hearing/meeting by contacting: Sharon A. Elzie, Senior Management Analyst II, (850)488-1631. If you are hearing or speech impaired, please contact the agency by calling 1(800)955-8771.

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULES IS: Sharon A. Elzie, Senior Management Analyst II, Division of Florida Land Sales, Condominiums and Mobile Homes, 1940 North Monroe Street, Tallahassee, Florida 32399-1030, (850)488-1631

THE FULL TEXT OF THE PROPOSED RULES IS:

61B-23.0021 Regular Elections; Vacancies Caused by Expiration of Term, Resignations, Death; Election Monitors.

(1) through (13) No change.

(14) Election Monitors. As provided by Section 718.5012(9), F.S. (2004), fifteen percent of the total voting interests entitled to vote at the annual meeting of unit owners for the election of directors, or the owners of six units entitled to vote at the annual meeting of unit owners for the election of directors, whichever number is greater, may petition the ombudsman for the appointment of an election monitor. The procedures for filing a petition for the appointment of an election monitor are contained in Rule 61B-23.00215, F.A.C.

Specific Authority 718.112(2)(d)3., 718.501(1)(f), 718.5012(9) FS. Law Implemented 718.112, 718.301, 718.5012(9) FS. History-New 1-23-92, Amended 12-20-92, Formerly 7D-23.0021, Amended 8-24-94, 12-20-95, 1-19-97, 4-14-99, 2-19-01, 12-23-02, \_\_\_\_\_.

61B-23.00215 Ombudsman; Election Monitoring; Monitor's Role; Scope and Extent.

(1) Fifteen percent of the total voting interests entitled to vote at the annual meeting of unit owners for the election of directors, or the owners of six units entitled to vote at the annual meeting of unit owners for the election of directors,

whichever number is greater, may petition the ombudsman for the appointment of an election monitor to attend the annual meeting of unit owners for the election of directors and conduct the election of directors. No monitor shall be appointed for a special election, an interim election, a runoff election, an election to fill vacancies caused by a recall of one or more board members, or any election other than the annual meeting of unit owners for the election of directors.

(2)(a) Form of petition. In order to file a petition for the appointment of an election monitor, a unit owner must complete DBPR FORM CO 6000-9, PETITION FOR APPOINTMENT OF ELECTION MONITOR, incorporated by reference and effective \_\_\_\_\_, or shall use a substantial equivalent of the form which shall contain the following information. The form must:

1. State that the purpose of the petition is to seek signatures for the appointment of an election monitor by the ombudsman for the annual meeting of unit owners for the election of directors;

2. Contain a signature space for authorized unit owners or voting interests to sign and must provide a space for those signing the petition to provide his or her name;

3. Identify his or her unit number;

4. Supply the date that each unit owner signed the petition;

5. Provide the name of an individual who is authorized to represent the unit owners petitioning for the appointment of an election monitor, along with the mailing address, telephone number, fax number, and email address of the representative;

6. Indicate that if a monitor is appointed, the association and all its members shall be obligated to pay the costs and fees of the monitor; and

7. State the total number of voting interests in the association.

8. Briefly state the basis for having an election monitor appointed (optional).

(b) Only the signatures of those persons who are unit owners of record shall be counted in the calculation to determine whether the minimum number of votes have been cast in favor of requesting the appointment of a monitor.

(3) Time to File. The petition for appointment of an election monitor must be filed with the ombudsman not less than 14 days in advance of a planned election to provide sufficient time to process the petition, provide for verification of the signatures, and appoint a monitor. If insufficient time exists to perform these activities, the ombudsman may return the petition for appointment of election monitor and any supporting materials to the owners petitioning for a monitor.

(4) Once the ombudsman has received a timely filed petition for appointment of an election monitor, the ombudsman shall examine the petition to ensure that all required information is provided and that a sufficient number of voting interests have signed the petition.

(a) If the petition is deficient, the ombudsman shall provide the petitioners with notice of the deficiencies, and petitioners will have 5 calendar days from receipt of such notice to timely correct the petition, or if the deficiencies cannot be corrected, the petition shall be denied and the materials shall be returned to the unit owners petitioning for appointment of an election monitor.

(b) Within 5 calendar days of the determination that a petition is complete and sufficient, the ombudsman shall provide a copy of the petition to the association by certified mail, along with a notice that a petition for appointment of election monitor has been filed with the ombudsman. Where the determination that a petition is complete and sufficient is made within 5 days of a scheduled election, the ombudsman shall immediately provide a copy of the petition to the association upon making such determination of completeness.

(5) Once a petition has been found to be adequate, the ombudsman shall appoint an election monitor as provided by the provisions of Section 718.5012(9), Florida Statutes and this rule. Any appointment of a division employee shall be subject to the approval of the division director.

(6) The appointed monitor shall review any documents provided by the petitioners or by the association in advance of the scheduled election and shall attend and conduct the election in person.

(7) The monitor shall conduct the election, but where a division employee is appointed as monitor, the employee shall not provide direct advice or suggestions to the association or to individual owners in the course of the election. Each monitor shall submit a report regarding the election to the ombudsman, and to the parties, within 14 days following the date the election is concluded.

(8) Where a division employee has been approved to be appointed as the election monitor, the division shall prepare an itemized statement of costs and expenses and shall submit the statement and a request for reimbursement to the association along with the monitor's report. The association shall have 30 days in which to reimburse the division. It shall be considered a violation of this rule for an association not to timely reimburse the division for all costs and expenses associated with the election monitoring process.

(9) Where a monitor is appointed who is not a division employee, the division will not enforce the billing and collection of amounts owed to the monitor. Nothing in these rules prohibits a private monitor from requiring the association to pre-pay all or part of the reasonable fees and costs of the monitor.

Specific Authority 718.5012(9) FS. Law Implemented 718.1255, 718.5012(9) FS. History—New \_\_\_\_\_

NAME OF PERSON ORIGINATING PROPOSED RULE:  
Michael Cochran, Director of the Division of Florida Land Sales, Condominiums and Mobile Homes, 1940 North Monroe Street, Tallahassee, Florida 32399-1030

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: April 20, 2005  
 DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: December 10, 2004

**DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION**

**Board of Architecture and Interior Design**

RULE TITLE: Educational Advisory Committees  
 PURPOSE AND EFFECT: The proposed rule amendment creates a second educational advisory committee and clarifies the duties of the committees.

RULE NO.: 61G1-11.012

SUMMARY: The proposed rule amendment establishes both an architectural and an interior design educational advisory committee and clarifies the duties of those committees.  
 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: 489.507(3), 489.519 FS.  
 LAW IMPLEMENTED: 489.519 FS.  
 IF REQUESTED WITHIN 21 DAYS OF THE DATE OF THIS NOTICE, A HEARING WILL BE SCHEDULED AND ANNOUNCED IN THE FAW.

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Juanita Chastain, Executive Director, Board of Architecture and Interior Design, 1940 North Monroe Street, Tallahassee, Florida 32399-0783

THE FULL TEXT OF THE PROPOSED RULE IS:

61G1-11.012 Educational Advisory Committees.  
 The Board shall appoint both an Architecture Educational Advisory Committee and an Interior Design Education Advisory Committee which shall each be composed of not less than one (1) member of the Board. In addition, the ~~c~~ommittees shall be advised by expert staff retained by the Department of Business and Professional Regulation. Said staff shall be individuals who have knowledge and experience with curricula of architecture and interior design, respectively, and national accreditation standards for professional degrees in architectural and interior design programs either as a college faculty member or as a practicing architect and interior designer. The Educational Advisory Committees shall examine and review applications for examination or licensure by endorsement made to the Board, in respect to the following matters:

(1) Evaluation of whether the architectural or interior design curriculum of applicants' degree program meets the required standards of accreditation.

(2) Evaluations of whether criteria for issuance of a license from another jurisdiction were substantially equivalent to the licensure criteria that existed in Florida at the time the other license was issued. ~~Evaluations of educational qualifications of applicants for licensure by endorsement who claim "education and training which shall be found by the Board to be fully equivalent to such degree" as used in, Section 467.08(1)(b)5., F.S., (1974) so long as the applicants have received at least a four year degree in architecture from an accredited program prior to their licensure in another state or territory of the United States prior to July 1, 1979.~~

Specific Authority 120.53(1), 481.2055 FS. Law Implemented 481.209(2)(b), 481.213(3)(b) FS. History—New 12-23-79, Amended 1-20-85, Formerly 21B-11.12, Amended 5-14-86, 2-11-88, 11-12-89, Formerly 21B-11.012, Amended \_\_\_\_\_.

NAME OF PERSON ORIGINATING PROPOSED RULE: Board of Architecture and Interior Design  
 NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Board of Architecture and Interior Design  
 DATE PROPOSED RULE APPROVED BY AGENCY HEAD: March 30, 2005  
 DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: June 4, 2004

**DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION**

**Board of Architecture and Interior Design**

RULE TITLE: Examination Designated,  
 General Requirements

RULE NO.: 61G1-14.001

PURPOSE AND EFFECT: The Board has proposed to amend this rule to delete subsection (2).

SUMMARY: Subsection (2) will be deleted from this rule.  
 SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COST: No Statement of Estimated Regulatory Cost was prepared.

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

SPECIFIC AUTHORITY: 455.217 FS.  
 LAW IMPLEMENTED: 455.217(1)(b),(c), 481.209 FS.  
 IF REQUESTED WITHIN 21 DAYS OF THE DATE OF THIS NOTICE, A HEARING WILL BE SCHEDULED AND ANNOUNCED IN THE FAW.

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Juanita Chastain, Executive Director, Board of Architecture and Interior Design, 1940 North Monroe Street, Tallahassee, Florida 32399-0783

THE FULL TEXT OF THE PROPOSED RULE IS:

61G1-14.001 Examination Designated, General Requirements.

(+) No change.

~~(2) Applicants for licensure by examination shall be required to take and pass a professional architectural examination which shall consist of nine divisions as follows:~~

SUBJECT AREA	TYPE OF EXAMINATION
Pre-Design	Multiple Choice
Site Planning	Graphics
Building Planning	Graphics
Building Technology	Graphics
General Structures	Multiple Choice
Lateral Forces	Multiple Choice
Mechanical and Electrical Systems	Multiple Choice
Materials and Methods	Multiple Choice
Construction Documents and Services	Multiple Choice

Specific Authority 455.217 FS. Law Implemented 455.217(1)(b),(c), 481.209 FS. History—New 12-23-79, Amended 5-18-83, Formerly 21B-14.01, 21B-14.001, Amended 4-22-97, 3-8-04, \_\_\_\_\_.

NAME OF PERSON ORIGINATING PROPOSED RULE:

Board of Architecture and Interior Design

NAME OF SUPERVISOR OR PERSON WHO APPROVED

THE PROPOSED RULE: Board of Architecture and Interior Design

DATE PROPOSED RULE APPROVED BY AGENCY

HEAD: March 30, 2005

DATE NOTICE OF PROPOSED RULE DEVELOPMENT

PUBLISHED IN FAW: October 22, 2004

**DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION**

**Board of Architecture and Interior Design**

RULE TITLES:	RULE NOS.:
Content of Examination	61G1-14.002
Grading Criteria	61G1-14.003
Passing Grades	61G1-14.004
Grade Review Procedure	61G1-14.005
Transfer Credits from Previous Professional Examinations	61G1-14.0051
Reexamination	61G1-14.006
Foreign Licensure Examinations	61G1-14.007
Security on Examinations	61G1-14.008

PURPOSE AND EFFECT: The Board has voted to repeal these rules.

SUMMARY: These are repeals of rules.

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

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

SPECIFIC AUTHORITY: 120.54(8), 455.11(2), 455.217, 455.217(1),(2) FS.

LAW IMPLEMENTED: 455.11(2), 455.217(1)(b),(2), 481.209 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: Juanita Chastain, Executive Director, Board of Architecture and Interior Design, 1940 North Monroe Street, Tallahassee, Florida 32399-0783

THE FULL TEXT OF THE PROPOSED RULES IS:

61G1-14.002 Content of Examination.

Specific Authority 455.217 FS. Law Implemented 455.217(1)(b), 481.209 FS. History—New 12-23-79, Amended 5-18-83, Formerly 21B-14.02, Formerly 21B-14.002, Amended 4-22-97, Repealed \_\_\_\_\_.

61G1-14.003 Grading Criteria.

Specific Authority 455.217 FS. Law Implemented 455.217(1)(b), 481.209 FS. History—New 12-23-79, Amended 7-4-82, 5-18-83, Formerly 21B-14.03, 21B-14.003, Amended 4-22-97, Repealed \_\_\_\_\_.

61G1-14.004 Passing Grades.

Specific Authority 455.217 FS. Law Implemented 455.217(1)(b), 481.209 FS. History—New 12-23-79, Amended 9-16-80, 7-6-82, 5-18-83, Formerly 21B-14.04, Amended 7-16-89, 9-17-89, 6-13-90, Formerly 21B-14.004, Amended 4-22-97, Repealed \_\_\_\_\_.

61G1-14.005 Grade Review Procedure.

Specific Authority 455.217(2) FS. Law Implemented 455.217(2) FS. History—New 12-23-79, Formerly 21B-14.05, 21B-14.005, Repealed \_\_\_\_\_.

61G1-14.0051 Transfer Credits from Previous Professional Examinations.

Specific Authority 455.217 FS. Law Implemented 455.217(1)(b),(2), 481.209 FS. History—New 5-18-83, Formerly 21B-14.051, Amended 9-23-86, 12-10-86, Formerly 21B-14.0051, Amended 4-22-97, Repealed \_\_\_\_\_.

61G1-14.006 Reexamination.

Specific Authority 455.217 FS. Law Implemented 455.217(2), 481.209 FS. History—New 12-23-79, Amended 5-18-83, Formerly 21B-14.06, 21B-14.006, Amended 4-22-97, Repealed \_\_\_\_\_.

61G1-14.007 Foreign Licensure Examinations.

Specific Authority 455.217(1), 455.11(2) FS. Law Implemented 455.217(1), 455.11(2) FS. History—New 11-26-80, Formerly 21B-14.07, 21B-14.007, Repealed \_\_\_\_\_.

61G1-14.008 Security on Examinations.

Specific Authority 455.217, 120.54(8) FS. Law Implemented 455.217 FS. History—New 12-19-82, Formerly 21B-14.08, 21B-14.008, Repealed \_\_\_\_\_.

NAME OF PERSON ORIGINATING PROPOSED RULE: Board of Architecture and Interior Design
NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Board of Architecture and Interior Design
DATE PROPOSED RULE APPROVED BY AGENCY HEAD: March 30, 2005
DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: October 22, 2004

DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION

Board of Architecture and Interior Design

Table with 2 columns: RULE TITLES and RULE NOS.
Content of Examination 61G1-20.002
Grading Criteria 61G1-20.003
Passing Grades 61G1-20.004
Grade Review Procedure 61G1-20.005
Transfer Credit 61G1-20.006
Reexamination 61G1-20.007

PURPOSE AND EFFECT: The Board has voted to repeal these rules.

SUMMARY: These are repeals of rules.

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

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

SPECIFIC AUTHORITY: 455.217 FS.

LAW IMPLEMENTED: 455.217(1)(b),(2), 481.209 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: Juanita Chastain, Executive Director, Board of Architecture and Interior Design, 1940 North Monroe Street, Tallahassee, Florida 32399-0783

THE FULL TEXT OF THE PROPOSED RULES IS:

61G1-20.002 Content of Examination.

Specific Authority 455.217 FS. Law Implemented 455.217(1)(b), 481.209 FS. History-New 7-4-90, Formerly 21B-20.002, Repealed

61G1-20.003 Grading Criteria.

Specific Authority 455.217 FS. Law Implemented 455.217(1)(b), 481.209 FS. History-New 7-4-90, Formerly 21B-20.003, Repealed

61G1-20.004 Passing Grades.

Specific Authority 455.217 FS. Law Implemented 455.217(1)(b), 481.209 FS. History-New 7-4-90, Formerly 21B-20.004, Repealed

61G1-20.005 Grade Review Procedure.

Specific Authority 455.217 FS. Law Implemented 455.217(2) FS. History-New 7-4-90, Formerly 21B-20.005, Repealed

61G1-20.006 Transfer Credit.

Specific Authority 455.217 FS. Law Implemented 455.217(1)(b),(2), 481.209 FS. History-New 7-4-90, Formerly 21B-20.006, Repealed

61G1-20.007 Reexamination.

Specific Authority 455.217 FS. Law Implemented 455.217(2), 481.209 FS. History-New 7-4-90, Formerly 21B-20.007, Amended 5-3-98, Repealed

NAME OF PERSON ORIGINATING PROPOSED RULE: Board of Architecture and Interior Design

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Board of Architecture and Interior Design

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: March 30, 2005

DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION

Board of Architecture and Interior Design

RULE TITLE: Continuing Education for Interior Designers RULE NO.: 61G1-21.001

PURPOSE AND EFFECT: The proposed rule amendment reorganizes existing language and clarifies the two ways an interior designer can meet continuing education requirements. Amendment also removes outdated language.

SUMMARY: The proposed rule amendment clarifies the two ways to meet continuing education requirements and that both ways require the licensee to acquire a minimum of 2 hours of the required 20 hours of continuing education, by completing an approved specialized or advanced course relating to their respective area of practice. Amendment also removes outdated language.

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: 481.2055 FS.

LAW IMPLEMENTED: 481.215(3),(4),(5),(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 RULE IS: Juanita Chastain, Executive Director, Board of Architecture and Interior Design, 1940 North Monroe Street, Tallahassee, Florida 32399-0783

THE FULL TEXT OF THE PROPOSED RULE IS:

61G1-21.001 Continuing Education for Interior Designers.

(1) Each interior designer in Florida shall be required to reestablish the interior designer's professional knowledge and competency in conformity with this rule by the completion of 20 contact hours of continuing professional education per biennium. This requirement shall be met through either:

~~(a) as secured through P~~ programs approved by the Board, provided that a minimum of two (2) of the 20 required contact hours must be obtained by completing an approved provider's specialized or advanced course, approved by the Florida Building Commission, on the Florida Building Code, relating to the interior designer's respective area of practice; or ~~by~~

~~(b) S~~ submission of proof of compliance with the continuing education requirements of another state in which the interior designer is licensed, provided that the requirements of the other state equal or exceed the completion of 20 contact hours in a two (2) year period, ~~and~~ be that the education build upon the basic knowledge of interior design, and require that a minimum of two (2) of the 20 required contact hours be obtained by completing an approved provider's specialized or advanced course, approved by the Florida Building Commission, on the Florida Building Code, relating to the interior designer's respective area of practice.

~~(2) Each interior designer whose license was in an active status on January 31, 1991, shall complete the first two-year reestablishment period on October 15, 1992.~~

~~(2)(3)~~ The initial and each succeeding reestablishment period shall begin on February 28 of the year that the interior designer is licensed if that year is an odd-numbered year or the next odd-numbered year if the interior designer is licensed in an even-numbered year, and end on February 28, two (2) years thereafter.

~~(4) A minimum of two (2) of the 20 required contact hours must be obtained by completing an approved provider's specialized or advanced course, approved by the Florida Building Commission, on the Florida Building Code, relating to the interior designer's respective area of practice.~~

Specific Authority 481.2055 FS. Law Implemented 481.215(3),(4),(5),(6) FS. History—New 11-29-90, Amended 9-2-92, Formerly 21B-21.001, Amended 5-4-97, 4-12-04, 12-13-04, \_\_\_\_\_.

NAME OF PERSON ORIGINATING PROPOSED RULE:  
Board of Architecture and Interior Design

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Board of Architecture and Interior Design

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: March 30, 2005

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: February 18, 2005

DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION

Board of Architecture and Interior Design

RULE TITLE: Continuing Education for Architects  
RULE NO.: 61G1-24.001

PURPOSE AND EFFECT: The proposed rule amendment reorganizes existing language and clarifies the two ways an architect can meet continuing education requirements. Amendment also removes outdated language.

SUMMARY: The proposed rule amendment clarifies the two ways to meet continuing education requirements and that both ways require the licensee to acquire a minimum of 2 hours of the required 20 hours of continuing education, by completing an approved specialized or advanced course relating to their respective area of practice. Amendment also removes outdated language.

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: 481.2055 FS.

LAW IMPLEMENTED: 481.215(3),(4),(5),(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 RULE IS: Juanita Chastain, Executive Director, Board of Architecture and Interior Design, 1940 North Monroe Street, Tallahassee, Florida 32399-0783

THE FULL TEXT OF THE PROPOSED RULE IS:

61G1-24.001 Continuing Education for Architects.

(1) Each architect in Florida shall be required to reestablish the architect's professional knowledge and competency in conformity with this rule by the completion of 20 contact hours of continuing professional education per biennium. This requirement shall be met through either:

~~(a) as secured through P~~ programs approved by the Board, provided that a minimum of two (2) of the 20 required contact hours must be obtained by completing an approved provider's specialized or advanced course, approved by the Florida Building Commission, on the Florida Building Code, relating to the architect's respective area of practice; or ~~by~~

~~(b) S~~ submission of proof of compliance with the continuing education requirements of another state in which the architect is licensed, provided that the requirements of the other state equal or exceed the completion of 20 contact hours in a two (2) year period, ~~be~~ and that the education build upon the basic knowledge of architecture, and require that a

minimum of two (2) of the 20 required contact hours be obtained by completing an approved provider's specialized or advanced course, approved by the Florida Building Commission, on the Florida Building Code, relating to the architect's respective area of practice.

~~(2) All architects licensed on or before February 28, 1995 will be required to complete their first two year establishment period on February 28, 1997. Succeeding establishment periods will begin on February 28 of every odd numbered year thereafter.~~

~~(2)(3) Architects licensed after February 28, 1995 will begin their first two-year establishment period on February 28 of the year that the architect is licensed if that year is an odd-numbered year or February 28 of the next odd-numbered year if the architect is licensed in an even-numbered year.~~

~~(4) A minimum of two (2) of the 20 required contact hours must be obtained by completing an approved provider's specialized or advanced course, approved by the Florida Building Commission, on the Florida Building Code, relating to the architect's respective area of practice.~~

Specific Authority 481.2055 FS. Law Implemented 481.215(3),(4),(5),(6) FS. History--New 1-17-96, Amended 4-12-04, 12-13-04,\_\_\_\_\_.

NAME OF PERSON ORIGINATING PROPOSED RULE:  
Board of Architecture and Interior Design  
NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Board of Architecture and Interior Design  
DATE PROPOSED RULE APPROVED BY AGENCY HEAD: March 30, 2005  
DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: February 18, 2005

**DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION**

**Florida Real Estate Commission**

RULE TITLES:	RULE NOS.:
Membership	61J2-25.001
Meetings	61J2-25.002
Chairperson	61J2-25.003
Minutes	61J2-25.004
Official Records	61J2-25.005
Principal Office	61J2-25.006
Committee Members Compensation	61J2-25.007

PURPOSE AND EFFECT: These rules are being repealed as they governed the internal organization and operation of the Education Research & Foundation Advisory Committee which was dissolved during the 2000 Legislative session. All duties and responsibilities were transferred to the Florida Real Estate Commission (FREC).

SUMMARY: These rules governed the Foundation Advisory Committee with regard to membership, meetings, chairperson, minutes, official records, principal offices, and committee members compensation.

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: 475.045 FS.

LAW IMPLEMENTED: 455.207(3), 475.045 FS.

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

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULES IS: Lori Crawford, Deputy Clerk, Division of Real Estate, 400 West Robinson Street, Hurston Building, Suite N801, Orlando, Florida 32801

THE FULL TEXT OF THE PROPOSED RULES IS:

61J2-25.001 Membership.

Specific Authority 475.045 FS. Law Implemented 455.207(3), 475.045 FS. History--New 11-17-87, Amended 3-1-89, 7-20-93, Formerly 21V-25.001, Amended 4-22-98, Repealed \_\_\_\_\_.

61J2-25.002 Meetings.

Specific Authority 475.045 FS. Law Implemented 475.045 FS. History--New 11-17-87, Amended 7-20-93, Formerly 21V-25.002, Repealed \_\_\_\_\_.

61J2-25.003 Chairperson.

Specific Authority 475.045 FS. Law Implemented 475.045 FS. History--New 11-17-87, Amended 6-28-93, Formerly 21V-25.003, Repealed \_\_\_\_\_.

61J2-25.004 Minutes.

Specific Authority 475.045 FS. Law Implemented 475.045 FS. History--New 11-17-87, Amended 7-20-93, Formerly 21V-25.004, Repealed \_\_\_\_\_.

61J2-25.005 Official Records.

Specific Authority 475.045 FS. Law Implemented 475.045 FS. History--New 11-17-87, Amended 6-28-93, Formerly 21V-25.005, Repealed \_\_\_\_\_.

61J2-25.006 Principal Office.

Specific Authority 475.045 FS. Law Implemented 475.045 FS. History--New 11-17-87, Amended 7-20-93, Formerly 21V-25.006, Repealed \_\_\_\_\_.

61J2-25.007 Committee Members Compensation.

Specific Authority 475.045 FS. Law Implemented 475.045 FS. History--New 11-17-87, Amended 7-20-93, Formerly 21V-25.007, Repealed \_\_\_\_\_.

NAME OF PERSON ORIGINATING PROPOSED RULE: Florida Real Estate Commission

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Florida Real Estate Commission

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: August 18, 2003

**DEPARTMENT OF ENVIRONMENTAL PROTECTION**

Pursuant to Chapter 2003-145, Laws of Florida, all notices for the Department of Environmental Protection are published on the Internet at the Department of Environmental Protection’s home page at <http://www.dep.state.fl.us/> under the link or button titled “Official Notices.”

Errors	Grade
>=4	0.0
3	0.5
2	2.0
1	3.5
0	5

**DEPARTMENT OF HEALTH**

**Board of Dentistry**

RULE TITLE: Dental Hygiene Examination

RULE NO.: 64B5-2.0135

PURPOSE AND EFFECT: The Board proposes the rule amendment to provide dental hygiene examination candidates the ability to assess board patients in order to assure that the patient presents the needed diagnosis according to the examination to be performed and also to screen for any significant health problems that might present potential risks during the clinical board examination.

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

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

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

SPECIFIC AUTHORITY: 456.017, 466.004(4), 466.007 FS.

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

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

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

THE FULL TEXT OF THE PROPOSED RULE IS:

64B5-2.0135 Dental Hygiene Examination.

(1) through (5) No change.

(6) The three parts of the clinical (or practical) portion of the examination shall be graded as follows:

(a) through (b) No change.

(c) For the root planing part, an applicant’s score will be based on the absence of or number of corroborated errors committed. Only four teeth will be evaluated and at least one of which shall be a multi-rooted molar. The four teeth will be identified by ~~to~~ the applicant and authorized by the examiner prior to the beginning of the clinical (or practical) part.

(7) through (8) No change.

(9) Candidates for the dental hygiene state clinical boards may assess patients for suitability as board patients at any dental office under the direct supervision of a dentist, or at any accredited dental hygiene program or accredited dental school under direct supervision of a program faculty member. A candidate that fails the prophylaxis shall retake the entire clinical examination. A candidate that fails only the root planing part shall retake that part, and shall be allowed 45 minutes.

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

NAME OF PERSON ORIGINATING PROPOSED RULE: Board of Dentistry

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

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: March 11, 2005

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: January 21, 2005

**DEPARTMENT OF HEALTH**

**Board of Pharmacy**

RULE TITLE: Standards of Practice – Drug

RULE NO.: 64B16-27.830

Therapy Management

64B16-27.830

PURPOSE AND EFFECT: The Board proposes the rule amendments to address practice requirements regarding formulary compliance approval. The amendments are the result of the Board’s comprehensive review of all rules in Chapter 64B16-27, F.A.C., and the consolidation of all pharmacist practice requirements into the rule chapter.

SUMMARY: The proposed rule amendments set forth the requirements for dispensing prescriptions from practitioners designated as “formulary compliance approval.”

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

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



SPECIFIC AUTHORITY: 465.005, 465.0155 FS.  
LAW IMPLEMENTED: 465.003(13), 465.0155,  
465.022(1)(b) FS.

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

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Danna Droz, Executive Director, Board of Pharmacy/MQA, 4052 Bald Cypress Way, Bin #C04, Tallahassee, Florida 32399-3254

THE FULL TEXT OF THE PROPOSED RULE IS:

64B16-27.830 Standards of Practice – Drug Therapy Management.

(1) through (3) No change.

(4) A pharmacist may dispense a drug pursuant to a prescription where the practitioner indicates on the prescription “formulary compliance approval” either in the practitioner’s own handwriting or preprinted with a box where the practitioner indicates approval by checking the box when:

(a) The pharmacist receives a formulary change as a consequence of the patient’s third party plan or Medicaid.

(b) The product that the third party formulary designates as its preferred product is a therapeutic equivalent for the prescribed product. A therapeutic equivalent is a product that is in the same therapeutic class as the prescribed drug.

(c) The pharmacist, within 24 hours of the formulary compliance substitution, shall provide to the practitioner either in writing or by facsimile a statement indicating that the pharmacist engaged in formulary compliance and the therapeutic equivalent that the pharmacist dispensed.

(d) The pharmacist has complied with the requirements of Rule 64B16-27.530, F.A.C., with regard to notification to the patient.

The pharmacist may make adjustments in the quantity and directions to provide for an equivalent dose of the preferred formulary therapeutic alternative.

~~(5)~~(4) No change.

Specific Authority 465.005, 465.0155 FS. Law Implemented 465.003(13), 465.0155, 465.022(1)(b) FS. History–New 4-4-00, Amended

NAME OF PERSON ORIGINATING PROPOSED RULE: Board of Pharmacy

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

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: April 13, 2005

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: October 22, 2004

**DEPARTMENT OF CHILDREN AND FAMILY SERVICES**

**Family Safety and Preservation Program**

RULE TITLE: Physical Environment  
RULE NO.: 65C-22.002

PURPOSE AND EFFECT: The modifications to the Physical Environment, General Requirements will clarify that the provision which prohibits firearms or weapons as defined in Section 790.001, F.S., in any building or conveyance, or upon any person located on the premises of a child care facility, does not apply to local, state or federal law enforcement officers.

SUMMARY: The modifications to the minimum physical environment standards will, clarify that the prohibition of firearms or weapons as defined in Section 790.001, F.S., does not apply to local, state or federal law enforcement officers.

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: 402.302, 402.305 FS.

LAW IMPLEMENTED: 402.302, 402.305 FS.

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

TIME AND DATE: 9:00 a.m., May 23, 2005

PLACE: Room 361A, Bldg. 6, 3rd Floor, Department of Children and Families, 1317 Winewood Blvd., Tallahassee, Florida 32399-0700

The purpose of this hearing, if held, will be to obtain public comments on proposed rule revisions in Chapter 65C-22, Florida Administrative Code, pertaining to the areas of the physical environment in child care facilities.

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Abbie Messer, Government Operations Consultant II, 1317 Winewood Blvd., Building 6, Room 388, Tallahassee, FL 32399, (850)488-4900

THE FULL TEXT OF THE PROPOSED RULE IS:

65C-22.002 Physical Environment.

(1) General Requirements.

(a) through (d) No change.

(e) No firearms or weapons as defined in Section 790.001, F.S., shall be allowed within any building or conveyance, or upon any person located on the premises, excluding federal state or local Law Enforcement Officers.

(f) No narcotics, alcohol, or other impairing drugs shall be present on the premises.

(g) through (h) No change.

Specific Authority 402.302, 402.305 FS. Law Implemented 402.305 FS. History—New 6-1-97, Amended 7-2-98, 3-17-99, 7-26-00, 10-10-01, 4-2-02, 7-13-03, 9-12-04, \_\_\_\_\_.

NAME OF PERSON ORIGINATING PROPOSED RULE: Abbie Messer, Government Operations Consultant II, 1317 Winewood Blvd., Building 6, Room 388, Tallahassee, FL 32399, (850)488-4900

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Deborah Russo, 1317 Winewood Blvd., Building 6, Room 389-A, Tallahassee, FL 32399

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

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: February 18, 2005

**DEPARTMENT OF CHILDREN AND FAMILY SERVICES**

**Family Safety and Preservation Program**

RULE TITLE: Training RULE NO.: 65C-22.003

PURPOSE AND EFFECT: The purpose and effect of these rule changes are to modify the minimum training standards for child care in Florida. The modifications to the minimum training standards in this document will, clarify the requirements for early literacy and language development training, including documentation of completion of this mandatory training, revise the child care facility staff credential requirements relating to employment history recognition exemptions, clarify the credentialed staff requirements during periods of transition and the methods of calculating the number of credentialed personnel necessary in a child care facility, and modify the Application to Provide the Florida School Age Certification Training Program.

The modifications will revise the Child Development Associate Equivalency (CDAE) credential renewal requirements, including documents and training required, extend the grace period for renewals of existing CDAE credentials, make the renewal of CDAE credentials mandatory and move the review and issuance of CDAE renewals from the CDAE program providers to the Department of Children and Family Services.

SUMMARY: The modifications to the minimum training standards will, clarify the requirements for early literacy and language development training, revise the child care facility staff credential requirements relating to employment history recognition exemptions, and periods of transition, modify the Application to Provide the Florida School Age Certification Training Program and modify the Child Development Associate Equivalency (CDAE) credential renewal requirements.

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: 402.302, 402.305 FS.

LAW IMPLEMENTED: 402.302, 402.305 FS.

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

TIME AND DATE: 9:00 a.m., May 23, 2005

PLACE: Room 361A, Bldg. 6, 3rd Floor, Department of Children and Families, 1317 Winewood Blvd., Tallahassee, Florida 32399-0700

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Abbie Messer, Government Operations Consultant II, 1317 Winewood Blvd., Building 6, Room 388, Tallahassee, FL 32399, (850)488-4900

The purpose of this hearing, if held, will be to obtain public comments on proposed rule revisions in Chapter 65C-22, Florida Administrative Code, pertaining to the areas of child care training requirements.

THE FULL TEXT OF THE PROPOSED RULE IS:

65C-22.003 Training.

(1) No change.

(2) Training Requirements.

(a)1. through 5. No change.

(b)1. through 6. No change.

7. Early Literacy for Children Age Birth to Three in the Child Care Environment (5 hours web based).

(c) No change.

(d) Pursuant to Section 402.305(2)(d)5., F.S., all child care personnel must complete 5-clock-hours or .5 continuing education units (CEU's) of training in early literacy and language development of children birth to 5 years of age. Literacy training must be a single class or course that is no less than 5 hours in duration and focuses on early literacy and language development of children from birth to 5 years of age.

1.(d) All child care personnel employed on or before December 31, 2004 shall complete 5-clock-hours or .5 documented continuing education units (CEU) of training in early literacy and language development of children from birth to 5 years of age, as documented on the certificate of course completion, classroom transcript, or diploma; by June 30, 2005.

2. All child care personnel hired on or after January 1, 2005, shall complete early literacy training ~~this training~~ within 12 months of the date of employment. ~~Literacy training must be a single class or course that is no less than 5 hours in duration.~~

3. In order to meet this requirement, child care personnel must complete one of the following: ~~select a~~

a. The department's online literacy course available at [www.myflorida.com/childcare/training](http://www.myflorida.com/childcare/training).

b. A training course from the Department of Children and Family Services' list of approved literacy training programs, which can be accessed by contacting the licensing authority or by going to [www.myflorida.com/childcare/training](http://www.myflorida.com/childcare/training). The Department of Children and Family Services will continue to approve literacy courses through May 31, 2005. After this date, no additional courses will be added to the list; or

c. One college level early literacy course if taken (for credit or non-credit) within the last 5 years.

4. Literacy training that was taken ~~within~~ between July 1, 1999 and July 1, 2004 will be accepted by the licensing authority ~~until January 1, 2005~~, if it meets all the required components stated above.

(e) No change.

1. through 2. No change.

3. A copy of the certificate or training transcript for the director and owner must be included in the department's official licensing file.

(3) through (6) No change.

(7) Staff Credentials.

(a) Every licensed child care facility must have one member of its child care personnel for every 20 children with one of the following qualifications:

1. An active National Child Development Associate (CDA) Credential.

2. Formal Educational Qualifications. Procedures for individuals with an associate level (2 year) degree or higher seeking the credentialing requirement are outlined on CF-FSP Form 5211, ~~April 05 Feb. 04~~, Child Care Personnel Education/Employment History Verification Form, which is incorporated by reference. CF-FSP Form 5211 may be obtained on by going to the Department of Children and Family Services' website at [www.myflorida.com/childcare/training](http://www.myflorida.com/childcare/training).

3. An active Graduate of a state approved Florida CDA eEquivalency (CDAE) credential training program.

a. Early Childhood Education Training Programs seeking equivalency to the CDA should submit a completed CF-FSP Form 5191, ~~April 05 Feb. 04~~, Application for Child Development Associate (CDA) Equivalency for Training Programs, which is incorporated by reference, to the Department of Children and Family Services for approval.

CF-FSP Form 5191 may be obtained on by going to the Department of Children and Family Services' website at [www.myflorida.com/childcare/training](http://www.myflorida.com/childcare/training).

b. The criterion for programs wishing to be recognized as a state approved CDA ~~e~~Equivalency is determined by the Department of Children and Family Services and is outlined on the Application for Child Development Associate (CDA) Equivalency ~~for~~ Training Programs, CF-FSP 5191.

c. The Department of Children and Family Services will only approve CDA Equivalency programs that are accredited by one of the national or regional accreditation organizations recognized by the United States Department of Education or licensed by the Florida Commission for Independent Education.

4. Employment History Recognition Exemption.

a. In addition to the requirements and time frames established in statute ~~(a person employed in a child care facility on July 1, 1995, who has a high school diploma or its equivalent and has at least 10 years of documented experience, as determined by the department, in child care between July 1, 1980 and July 1, 1995, or 10 years of teaching experience in early childhood education through grade 3 in a public or private school since July 1, 1980, meets the minimum staff credential requirement)~~, employment history experience must include a minimum of 15 hours per week or per year or 540 hours per year working with children in a licensed, registered or exempt child care program as defined in Section 402.301, F.S., or teaching experience in a public or private school.

b. No change.

5. An active Graduate of the approved Florida School-Age Certification Training Program.

a. ~~Early Childhood Education Training providers organizations seeking to offer provide~~ the Florida School-Age Certification Training Program must utilize the Florida School-Age Certification Training Program as approved by the Department of Children and Family Services ~~and Organizations seeking to provide the Florida School-Age Certification Training Program~~, must apply for approval on CF-FSP Form 5257, ~~April 05 July 02~~, Application to Provide the Florida School-Age Certification Training Program, which is incorporated by reference. The application CF-FSP Form 5257 may be obtained on by going to the Department of Children and Family Services' website at [www.myflorida.com/childcare/training](http://www.myflorida.com/childcare/training). Effective July 1, 2005, the Department of Children and Family Services will only approve Florida School-Age Certification Training Programs that are accredited by one of the national or regional accreditation organizations recognized by the United States Department of Education or licensed by the Florida Commission for Independent Education.

b. In order to receive the Florida School-Age Certification, a candidate must have completed the Department of Children and Family Services' Florida School-Age Certification Training Program, which consists of the following:

(I) A total of 120 hours of training consisting of the successful completion of the training for School-Age Child Care Personnel identified in paragraphs 65C-22.008(4)(a) and (b), F.A.C.; Part I of the Introductory Child Care Training, and the Department of Children and Family Services approved School Age Appropriate Practices Training module, as evidenced by passage of competency examinations with a score of seventy (70) or better; and a minimum of 80-clock hours of training using the Department of Children and Family Services' approved curriculum, which focuses on the following six competency areas:

(I)(A) through (F) No change.

(II) through (IV) No change.

c. through d. No change.

e. Early Childhood Education Training providers organizations that offer provide the Florida School-Age Certification Training Program must complete CF-FSP Form 5259, Oct. 01, Confirmation of Completion of the Florida School-Age Certification Training Program, which is incorporated by reference, for each graduate. The Early Childhood Education Training providers Organizations must submit the completed CF-FSP Form 5259 for each graduate, to the Department of Children and Family Services or its designated representative for processing upon completion of all components of the Florida School-Age Certification Training Program.

f. through g. No change.

(b) Periods of Transition. Child care personnel meeting the staff credentialing requirement in subparagraph (a)1.-5. of this section, must work at the facility a minimum of 20 hours per week. Nap time and lunch times are excluded from this calculation. A credentialed staff person must be on-site on a full time basis for those facilities that operate 20 hours or less per week.

(c) Calculation of Number of Personnel Necessary.

1. Child care facilities with 19 or less children or which operate less than (8) hours per week are not subject to the credentialing requirement.

2. For every 20 children, a child care facility must have one child care personnel who meets the credentialing requirement. Based on this formula, child care facilities with 20-39 children must have one credentialed staff member, facilities with 40-59 children must have 2 credentialed staff members, and so on.

3. Volunteers who meet the credentialing requirement will be included in calculating the credentialing ratio.

4. The licensing authority will calculate the number of credentialed personnel required based on daily attendance.

5. In addition to CF-FSP Form 5206, April 05, Child Care Personnel Professional Development Confirmation Form, child care facilities must have available written documentation of credentialed personnel's work schedules. Examples of written documentation are employee time sheets, personnel work schedules, and employment records.

6. Children who are five years old and above, when they are enrolled in and attending a kindergarten program or grades one and above, are excluded from the calculation for purposes of determining the number of personnel necessary to meet the credentialing ratio.

(d)(b) CDA or CDAE Renewal. A CDA or (CDAE) must Child Development Associate Equivalency may be renewed as specified in subparagraphs 1.-63. below. However, for the purpose of meeting the staff credentialing requirement for every 20 children in care, as mandated in Section 402.305(3), F.S., a renewal is not required, but is encouraged and appropriate if the individual chooses.

1. Florida CDAE Renewals. To maintain an active Florida CDAE, every 5 years a candidate must renew their Florida CDAE by completing complete and provide documentation of the following criteria, along with the Florida CDAE Renewal Application, CF-FSP 5273, April 05, Feb. 2004, which is incorporated by reference, and may which can be obtained on by going to the Department of Children and Family Services' website at [www.myflorida.com/childcare/training](http://www.myflorida.com/childcare/training); incorporated herein by reference. The Florida CDAE Renewal will be documented on CF-FSP 5270, Feb. 05, Florida CDA Equivalency Certificate of Renewal, which is incorporated by reference. Renewal applications may be submitted no earlier than one year prior to the expiration date of the active CDAE certificate. The completed renewal application must be submitted to the Department of Children and Family Services and include documentation of the following criteria:

a. No change.

b. Proof of 45 hours of professional education obtained within the past five years by meeting one of the following:

(I)b. Proof of Aat least 4.5 Continuing Education Units (CEUs); ~~or a~~

(II) ~~T~~three college credits ~~credit hour course~~ in early childhood education/child development, within the past 5 years that is in addition to the original 120 clock hours required for obtaining the CDA equivalency credential;

(III) Forty-five (45) clock hours of early childhood education/child development training completed at a Florida Career Education Center (public vocational or technical school), Florida Community Colleges, or an institution licensed by the Florida Commission for Independent Education.

4. Any combination of the professional education outlined in subparagraphs 65C-22.003(7)(d)1.b.(I)-(III), F.A.C., listed above.

c. through e. No change.

f. Copy of a CDA or CDAE credential. Three (3) completed Parent Opinion Questionnaires (within current year), documented on CF-FSP 5271, Feb. 2004, which can be obtained by going to the Department of Children and Family Services' website at [www.myflorida.com/childcare/training](http://www.myflorida.com/childcare/training), or an equivalent form that contains all the information required by the Department of Children and Family Services' Form.

g. The renewal fee for processing the Florida CDAE renewal application shall be \$25.00 \$65.00. Payment must be via a business check or a money order. No personal checks will be accepted.

2. Individuals with a Florida CDAE credential obtained before December 31, 2003 will have the opportunity to renew this credential by submitting a completed Florida CDAE Renewal Application, CF-FSP 5273, with the required documentation, by December 31, 2008. A Florida CDAE issued after December 31, 2003 will have a renewal date of 5 years from the date of issuance.

3. If a CDAE credential is not renewed prior to the expiration date, an individual with an expired CDAE credential may submit a renewal application for a period up to three (3) years after the CDAE credential expiration date. The application will be reviewed, and if approved, a certificate issued with a five-year expiration date based on the date the completed renewal application is processed. The State of Florida CDAE program will renew and issue a CDAE renewal to individuals holding an inactive National CDA upon submission of the renewal documents specified in paragraph 65C-22.003(7)(b), F.A.C., above. This renewal option will be available through June 30, 2005. The Florida CDAE renewal will be documented on CF-FSP 5270, Feb. 2004, Florida CDA Equivalency Certificate of Renewal. CF-FSP 5270 may be obtained by going to the Department of Children and Family Services' website at [www.myflorida.com/childcare/training](http://www.myflorida.com/childcare/training).

4.2. National CDA Renewals. To renew a National CDA, that is not current, individuals may must contact the Council for Early Childhood Professional Recognition, located in Washington, DC, at 1(800)424-4310, or follow the Florida CDAE renewal process outlined in subparagraphs 65C-22.003(7)(b)1.-4., F.A.C. and complete a waiver form which can be obtained by going to their website at <http://www.edacouncil.org>.

5. An individual with an expired CDA or CDAE is ineligible to be counted as a credentialed staff person pursuant to paragraph 65C-22.003(7)(a), F.A.C., until the CDA or CDAE credential is renewed or the individual meets one of the other qualifications listed in subparagraph 65C-22.003(7)(a)1.-4., F.A.C.

(e) Periods of Transition. Child care personnel meeting the credentialing requirement in (a)1.-5. of this section, must work at the facility a minimum of 20 hours per week. Nap time and

lunch times are excluded from this calculation. A credentialed staff person must be on-site on a full time basis for those facilities that operate 20 hours or less per week.

(e)(d) Verification of Education and Employment History.

1. Child care personnel seeking satisfaction of the staff credentialing requirement, in subparagraphs 65C-22.003(7)(a)1.-5., F.A.C., of this section, are responsible for completing and submitting to the Department of Children and Family Services or its designated representative CF-FSP Form 5211, April 05 Feb. 04, Child Care Personnel Education and Employment History Verification Form, including education and employment history documentation.

2. through 3. No change.

(e) Calculation of Number of Personnel Necessary.

1. Child care facilities with 19 or less children or which operate less than (8) hours per week are not subject to the credentialing requirement.

2. For every 20 children, a child care facility must have one child care personnel who meets the credentialing requirement. Based on this formula, child care facilities with 20-39 children must have one credentialed staff member, facilities with 40-59 children must have 2 credentialed staff members, and so on.

3. Volunteers who meet the credentialing requirement will be included in calculating the credentialing ratio.

4. The licensing authority will calculate the number of credentialed personnel required based on daily attendance.

5. In addition to CF-FSP Form 5206, Feb. 04, Child Care Personnel Professional Development Confirmation Form, child care facilities must have available written documentation of credentialed personnel's work schedules. Examples of written documentation are employee time sheets, personnel work schedules, and employment records.

6. Children who are five years old and above, when they are enrolled in and attending a kindergarten program or grades one and above, are excluded from the calculation for purposes of determining the number of personnel necessary to meet the credentialing ratio.

(8) Director Credential.

(a) through (g) No change.

(h) Renewal.

1. To maintain an active valid temporary Director Credential or Director Credential at either level, every 5 years, candidates must have an active staff credential documented on CF-FSP 5206, Child Care Personnel Professional Development Confirmation Form, and complete and document 4.5 Continuing Education Units (CEUs), or three college credit hours one hour course in any one of the curriculum areas listed in subparagraph 65C-22.003(8)(c)5., F.A.C. Coursework must be in addition to the original coursework required for the credential. Coursework completed to renew a State of Florida Teaching Certificate also satisfies this coursework requirement

for renewal of a Director Credential. Candidates must also demonstrate professional contributions in the field through any one of the following:

a. Serve as an officer or committee member in a professional organization related to the field of early childhood or school age programs;

b. through h. No change.

i. Participate in a creative activity, outside of the candidate's child care program, relating production that relates to the field of early childhood or school-age programs.

2. A Director Credential issued prior to January 1, 2004 will have an initial renewal date of January 1, 2009 and every 5 years thereafter. A Director Credential issued after January 1, 2004 will have an initial renewal date after 5 years and every 5 years thereafter. The completed application, including all required documentation, must be submitted to the Department of Children and Family Services for review and issuance of a Director Credential certificate no earlier than one year prior to the expiration date of the active Director Credential. The renewal date will be determined by the active Director Credential expiration date.

3. If a renewal application is received after the Director Credential expiration date, the Director Credential renewal application will be reviewed, and if approved, a certificate issued with a five-year expiration date based on the date the completed renewal application is processed.

4. An individual with an inactive Director Credential is ineligible to be the director of a child care facility.

(i) No change.

(j) Before-school and after school sites.

1. A director holding a foundational or advanced Director Credential may supervise multiple before-school and after-school sites for a single organization as follows:

a. through b. No change.

c. In counties where the public school district has included 4-year-old children in public before-school and after-school programs, the school district may participate in the multi-site supervision option. Public school districts which serve 4-year old children in the before-school and after-school programs are required to have a credentialed staff person pursuant to the credentialing requirements in subparagraphs 65C-22.003(7)(6)(a)1.-5., F.A.C., in order to accommodate the 4-year old children.

2.a. through d. No change.

Specific Authority 402.302, 402.305 FS. Law Implemented 402.302, 402.305 FS. History--New 6-1-97, Amended 7-2-98, 3-17-99, 7-26-00, 10-10-01, 4-2-02, 7-13-03, 9-12-04, \_\_\_\_\_.

NAME OF PERSON ORIGINATING PROPOSED RULE:  
Abbie Messer, Government Operations Consultant II, 1317 Winewood Blvd., Building 6, Room 388, Tallahassee, FL 32399, (850)488-4900

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Deborah Russo, 1317 Winewood Blvd., Building 6, Room 389-A, Tallahassee, FL 32399

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: March 10, 2005

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

**FLORIDA HOUSING FINANCE CORPORATION**

RULE TITLES:	RULE NOS.:
Purpose and Intent	67-50.001
Definitions	67-50.005
Fees	67-50.010
General Program Eligible Activities	67-50.030
General Program Restrictions	67-50.040
Scattered Site Developments	67-50.045
HAP Restrictions	67-50.050
HOME Restrictions	67-50.060
Application and Selection Procedures	67-50.070
Credit Underwriting Procedures	67-50.080

PURPOSE, EFFECT AND SUMMARY: This rule establishes the procedures by which the Florida Housing Finance Corporation shall administer the Homeownership Loan Program which provides funds to assist Developers with the construction of affordable housing and provides purchase assistance to Eligible Homebuyers. Revisions to the Rule are required to implement technical and clarifying changes. The adoption of these revisions will increase the efficiency and effectiveness of the program.

SPECIFIC AUTHORITY: 420.507(12),(14),(23) FS.

LAW IMPLEMENTED: 420.507(23), 420.5088, 420.5089 FS.

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

DATE AND TIME: Tuesday, May 24, 2005, 2:00 p.m. – 4:00 p.m.

PLACE: Florida Housing Finance Corporation, Seltzer Conference Room, 227 North Bronough Street, Tallahassee, Florida 32301

Any person requiring special accommodation at this hearing because of a disability or physical impairment should contact Nicole Gibson at the above address. If you are hearing or speech impaired, please use the Florida Dual Party Relay System, 1(800)955-8770 (Voice) or 1(800)955-9771 (TDD).

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULES IS: Bridget Warring, Homeownership Loan Program Manager, Florida Housing Finance Corporation, 227 North Bronough Street, Tallahassee, Florida 32301, (850)488-4197

## THE FULL TEXT OF THE PROPOSED RULES IS:

## 67-50.001 Purpose and Intent.

The purpose of this rule chapter is to establish the Homeownership Loan Program procedures by which the Corporation shall:

(1) Administer the Application process, determine loan amounts, and service loans to Developers for the construction of affordable housing and provide purchase assistance to Eligible Homebuyers under the Florida Homeownership Assistance Program (HAP)/Construction Loan Program ~~and provide purchase assistance to Eligible Homebuyers under the HAP Permanent Loan Program~~ as authorized by Sections 420.507 and 420.5088, Florida Statutes (F.S.); and

(2) Administer the Application process, determine loan amounts, and service loans to Developers for the construction of affordable housing and provide purchase assistance to Eligible Homebuyers under the HOME Investment Partnerships (HOME) Homeownership Program as authorized by Section 420.5089, F.S. and HUD regulations, 24 CFR § 92, which is adopted and incorporated into this rule chapter by reference and which is available on the HUD website at [www.hud.gov](http://www.hud.gov).

Specific Authority 420.507(12),(14) FS. Law Implemented 420.507(23), 420.5088, 420.5089(2) FS. History—New 9-5-02, Amended 12-28-04,

## 67-50.005 Definitions.

As used in this rule chapter, the following definitions shall apply:

(1) through (2) No change.

(3) “Adjusted Income” means the gross income from wages or assets, cash or non-cash contributions, and any other resources and benefits determined to be income by the U.S. Department of Housing and Urban Development (HUD), adjusted for household size, as defined in 24 CFR § 5.609, formerly known as Section 8, which is adopted and incorporated herein by reference and which is available on the HUD website at [www.hud.gov](http://www.hud.gov). For HAP, the 4-person income limit will be utilized for households of 1 to 4 persons with adjustments made for additional household members.

(4) through (14) No change.

(15) “CHDO” or “Community Housing Development Organization” means an Community Housing Development Organization as defined in Section 420.503, F.S., and organized pursuant to HUD Notice CPD 97-11, which is adopted and incorporated herein by reference and which is available on the HUD website at [www.hud.gov](http://www.hud.gov).

(16) No change.

(17) “Community Land Trust” means a community housing development organization which acquires or develops parcels of land for the primary purpose of providing affordable housing in perpetuity through conveyance of the structural improvement subject to a long term ground lease which retains

a preemptive option to purchase any such structural improvement at a price determined by a formula designed to ensure the improvement remains affordable in perpetuity.

(17) through (19) renumbered (18) through (20) No change.

~~(21)(20)~~ “Contractor” or “General Contractor” means a person or entity duly licensed by the State of Florida who provides services in accordance with Chapter 489, F.S.

(21) through (48) renumbered (22) through (49) No change.

~~(49) “General Contractor” means a person or entity duly licensed by the State of Florida who provides services in accordance with Chapter 489, F.S.~~

(50) “HAP” or “HAP Program” “Florida Home Ownership Assistance Program” means the Florida Homeownership Home Ownership Assistance Program created under Section 420.5088, F.S.

(51) No change.

(52) “HLP” or “Homeownership Loan Program” means the combined rule and Application; that incorporates incorporating the HAP Construction, HAP Permanent, and HOME Homeownership Loan Programs. These programs provide funding for either construction or purchase assistance.

(53) through (67) No change.

(68) “Non-Profit” means a qualified non-profit entity as defined in Section 42(h)(5)(C), subsection 501(c)(3) or 501(c)(4) of the Code, and organized under Chapter 617, F.S., if a Florida Corporation, or under similar state law if organized in a jurisdiction other than Florida, to provide low-income housing and other services on a not-for-profit basis, which owns at least fifty one percent (51%) of the ownership interest in the Development held by the general partner entity and which entity is acceptable to federal and state agencies and financial institutions as a Sponsor for housing.

(69) through (76) No change.

(77) “QCT” or “Qualified Census Tract” means any census tract that is designated by the Secretary of HUD as having either fifty percent (50%) or more of the households at an income that is less than sixty percent (60%) AMI or a poverty rate of at least twenty five percent (25%), in accordance with Section 42(d)(5)(C) of the Code.

(78) through (82) No change.

(83) “Scattered Sites” means an individual action on a project of five (5) or more housing units developed on scattered sites when the sites are more than 2,000 feet apart and there are not more than four (4) housing units on any one site Development consisting of five or more single family residential units, where no more than four single family residential units are located on any one site and any additional site or sites must not share a common boundary.

(84) "Second Mortgage" means the recorded mortgage securing the HAP or HOME Construction Loan or the HAP or HOME Purchase Assistance Loan; which is subordinate only to the First Mortgage unless otherwise approved by the Board.

(85) through (98) No change.

Specific Authority 420.507(12),(23) FS. Law Implemented 420.507(23), 420.5088, 420.5089 FS. History--New 9-5-02, Amended 5-4-03, 12-28-04, \_\_\_\_\_.

67-50.010 Fees.

(1) No change.

(2) Upon acceptance of the invitation to enter credit underwriting, the Applicant will be required to pay a commitment fee.

(3)(2) No change.

(4)(3) With respect to HOME, the fees referenced in subsection (3)(2) above are paid directly by the HOME Program.

(5)(4) Penalty Fees: Applicants will be charged a penalty fee of \$100 for each extension request, pursuant to Section 420.507(4), F.S., payable at the time of the request, for the following:

(a) Deadline to submit information to the Credit Underwriter;

(b) Loan Closing Date;

(c) Commencement of construction; and

~~(d) Construction completion; and~~

~~(d)(e) Commitment expiration.~~

(6)(5) Failure to pay any fee shall cause any ~~the loan~~ commitment of funds to be terminated or shall constitute a default on the respective loan documents.

Specific Authority 420.507(12),(23) FS. Law Implemented 420.507(19), 420.5088, 420.5089 FS. History--New 9-5-02, Amended 5-4-03, 12-28-04, \_\_\_\_\_.

67-50.030 General Program Eligible Activities.

(1) No change.

(2) Funds may be used for the following eligible costs:

(a) No change.

(b) Soft costs as they relate to the identified assisted units must be reasonable and necessary, as determined by the Corporation and Credit Underwriter, and associated with the financing, development, or both, including:

1. through 2. No change.

3. Developer Fees, including administrative overhead, are limited to sixteen percent (16%) of the Total Development Cost and Contractor fees are limited to fourteen percent (14%) of the actual construction cost; The Developer Fee cannot increase over the life of the Development;

4. through 6. No change.

7. Temporary relocation costs, as required for the HOME Program.

(3) through (4) No change.

(5) The Corporation shall make individual homebuyer Permanent Loans under the SFMRB Program utilizing HAP or and HOME funding available to participating lenders in the SFMRB Program for eligible homebuyers, in accordance with the SFMRB documents and Rule Chapters 67-25 and 67-45, F.A.C. If HAP or HOME funding is used in conjunction with the SFMRB Program, the homebuyer may not utilize more than one down payment assistance program sponsored by the Corporation.

Specific Authority 420.507(12),(23) FS. Law Implemented 420.5088, 420.5089 FS. History--New 9-5-02, Amended 5-4-03, 12-28-04, \_\_\_\_\_.

67-50.040 General Program Restrictions.

(1) through (4) No change.

(5) ~~The term of the HLP funding must be expended within Construction Loan shall be for a period of three (3) years of,~~ beginning on the Loan Closing Date unless otherwise approved by the Board.

(6) through (8) No change.

(9) Prior to disbursing any funds, there must be a written agreement with the Applicant ensuring compliance with the requirements of ~~the HLP Program,~~ pursuant to this rule chapter, Florida Statutes, and HUD Regulations.

(10) through (13) No change.

(14) The unpaid principal balance of the Construction Loan shall be due and payable upon the sale or transfer of the secured property.

(15) through (16) No change.

(17) Applicants that choose to withdraw from the program ~~after the receipt of a firm commitment and~~ prior to developing any units shall be responsible for repayment of any expenses paid by the Corporation, including credit underwriting, environmental review, and monitoring services fees.

(18) through (25) No change.

~~(26) Scattered Sites Developments. Applicants will have 60 days from the date of the invitation to enter in credit underwriting to submit site control information to the underwriter for analysis. Failure to submit the required documentation for all sites identified in the Application will result in the underwriter adjusting the funding request proportionate to the number of units for which site control was secured. If the site control information submitted to the underwriter is less than 50% of the total units committed to in the initial Application, the Corporation will require the Applicant to withdraw and relinquish the allocation.~~

Specific Authority 420.507(12) FS. Law Implemented 420.5089(2) FS. History--New 9-5-02, Amended 5-4-03, 12-28-04, \_\_\_\_\_.

67-50.045 Scattered Site Developments.

(1) A Scattered Site Development must meet the definition in subsection 67-50.005(83), F.A.C., under this rule chapter. Information in this section is meant to clarify the credit underwriting and environmental review process. All other requirements of HLP still apply.



(2) Applicants will not be required to demonstrate site control during the application cycle or credit underwriting unless construction financing is requested. However, each Applicant will be required to submit supporting information for the general areas in which funding will be used during the credit underwriting process for the proposed number of homes. This option is available to Applicants applying for purchase assistance funds only.

(3) Florida Housing's Credit Underwriter will perform an underwriting analysis of the Developer to determine experience, financial capacity and the economic feasibility of the proposed Development and make a recommendation to the Board.

(4) Upon completion of credit underwriting and approval from the Board, the Developer must identify suitable lots in groups of a minimum of four (4), demonstrate site control for those lots, and provide the appropriate information to all service providers for further analyses relating to environmental impacts, suitability and affordability.

(5) All Scattered Site Developments will be required to undergo an environmental analysis in accordance with ASTM E1528-00 standards. The analysis must be completed prior to the submission of the group of four (4) or more lots to the Corporation.

(6) For HOME developments only, as an additional HUD requirement, Florida Housing's environmental specialist, or designee, will perform the environmental analysis pursuant to 24 CFR § 92.352.

Specific Authority 420.507(12),(23) FS. Law Implemented 420.507(23), 420.5088 FS. History--New \_\_\_\_\_.

67-50.050 HAP Restrictions.

(1) HAP ~~funding Construction Loans~~ shall be made available for either the construction of affordable housing Developments or purchase assistance to Eligible Homebuyers. Funding shall also be made available for land acquisition, predevelopment expenses and infrastructure; however, in no event shall the funds be used solely for these purposes.

(2) through (5) No change.

(6) ~~HAP Purchase Assistance Loan~~. The terms of the HAP Purchase Assistance Loan made to an Eligible Homebuyer are as follows:

(a) A HAP Purchase Assistance Loan shall be made available to an Eligible Homebuyer who purchases a home built by a Developer participating in ~~the HLP Program~~, under HAP.

(b) No change.

(c) A HAP Purchase Assistance Loan is limited to the lesser of twenty five percent (25%) of the purchase price of the house or \$30,000 and may not exceed the initial amount of per home assistance as stated in the Application.

(d) No change.

(e) The combined loan-to-value ratio cannot exceed one hundred five percent (105%) of the appraised value of the home. In the one hundred five percent (105%) loan-to-value calculation, the Corporation will not include any subsidy that contains forgivable terms within a five (5) year period or any portion of a subsidy that is forgivable within a five (5) year period.

(f) through (g) No change.

Specific Authority 420.507(12),(23) FS. Law Implemented 420.507(23), 420.5088 FS. History--New 9-5-02, Amended 5-4-03, 12-28-04, \_\_\_\_\_.

67-50.060 HOME Restrictions.

(1) No change.

(2) The maximum per-unit subsidy of HOME funding is limited to the lesser of twenty five percent (25%) of the purchase price of the house or \$70,000, with the exception of Eligible Homebuyers with disabilities and Eligible Homebuyers at fifty percent (50%) AMI or below. For these exceptions, assistance shall not exceed thirty five percent (35%) of the purchase price and may not exceed the initial amount of per home assistance as stated in the Application.

(3) through (7) No change.

(8) All contracts for the construction of a Development with 12 or more HOME-Assisted Units must contain a provision requiring that the wages paid to all laborers and mechanics employed for the construction of the Development will not be less than the wages prevailing in the locality, as predetermined by the U.S. Secretary of Labor pursuant to the Davis-Bacon Act, 40 U.S.C. § 276a-265-a-5 (1994), 24 CFR § 92.354, 24 CRF § 70 (volunteers) and 40 U.S.C. 276c, which are adopted and incorporated herein by reference and which are available on the HUD website at www.hud.gov. Such contracts shall also be subject to the overtime provisions of the Contract Work Hours and Safety Standards Act, 40 U.S.C. 327-333 (1994), and the Copeland Act (Anti-Kickback Act) 40 U.S.C. § 276c (1994) and the Fair Labor Standards Act of 1938 (29 U.S.C. 201 et seq.), which are adopted and incorporated herein by reference and which are available on the HUD website at www.hud.gov.

(9) No change.

(10) If the Development contains 12 or more HOME-Assisted Units, Davis Bacon shall apply to all units in the Development. The Corporation requires attendance at a FHFC-sponsored preconstruction conference prior to the commencement of any physical construction activities regardless of the use of HOME funds. No waivers for this conference will be granted.

(10) through (11) renumbered (11) through (12) No change.

(13)(12) All HOME Developments must conform to the following federal requirements:

(a) Equal Opportunity and Fair Housing as enumerated in 24 CFR § 92.202 and 92.250, 42 U.S.C. 2000d et seq., 42 U.S.C. 3601-3620, 42 U.S.C. 6101, and 24 CFR § 5.105(a), which are adopted and incorporated herein by reference and are available on the HUD website at [www.hud.gov](http://www.hud.gov).

(b) Affirmative Marketing as enumerated in 24 CFR § 92.351, which is adopted and incorporated herein by reference and is available on the HUD website at [www.hud.gov](http://www.hud.gov).

(c) Environmental Review as enumerated in 24 CFR § 92.352, 24 CFR § 58 and National Environmental Policy Act of 1969, which are adopted and incorporated herein by reference and are available on the HUD website at [www.hud.gov](http://www.hud.gov). The Corporation requires HUD Environmental Review clearance prior to commencing any physical construction activities, regardless of the use of HOME funding.

(d) Displacement, Relocation, and Acquisition as enumerated in 24 CFR § 92.353, 42 U.S.C. 4201-4655, 49 CFR § 24, 24 CFR § 42 (Subpart B), and Chapter 104(d) "Barney Frank Amendments", which are adopted and incorporated herein by reference and are available on the HUD website at [www.hud.gov](http://www.hud.gov).

(e) Labor Standards as enumerated in 24 CFR § 92.354, 40 U.S.C. 276a-276a-5, 24 CFR § 70 (volunteers), and 40 U.S.C. 276c, which are adopted and incorporated herein by reference and are available on the HUD website at [www.hud.gov](http://www.hud.gov).

(f) Lead-based Paint as enumerated in 24 CFR § 92.355, 42 U.S.C. 4821 et seq., 24 CFR § 35 and 24 CFR § 982.401(j) (except paragraph 982.401(j)(1)(i)), which are adopted and incorporated herein by reference and are available on the HUD website at [www.hud.gov](http://www.hud.gov).

(g) Conflict of Interest as enumerated in 24 CFR § 92.356, 24 CFR § 85.36 and 24 CFR § 84.42, which are adopted and incorporated herein by reference and are available on the HUD website at [www.hud.gov](http://www.hud.gov).

(h) Debarment and Suspension as enumerated in 24 CFR § 5, which is adopted and incorporated herein by reference and is available on the HUD website at [www.hud.gov](http://www.hud.gov).

(i) Flood Insurance as enumerated in Section 202 of the Flood Disaster Protection Act of 1973 (42 U.S.C. 4106), which is adopted and incorporated herein by reference and is available on the HUD website at [www.hud.gov](http://www.hud.gov).

(j) Handicapped Accessibility as enumerated in 24 CFR § 8 and 24 CFR § 100.205, which are adopted and incorporated herein by reference and are available on the HUD website at [www.hud.gov](http://www.hud.gov).

(k) Equal Opportunity Employment as enumerated in 41 CFR § 60, which is adopted and incorporated herein by reference and is available on the HUD website at [www.hud.gov](http://www.hud.gov).

(l) Economic Opportunity as enumerated in 24 CFR § 13.5, which is adopted and incorporated herein by reference and is available on the HUD website at [www.hud.gov](http://www.hud.gov).

(m) Minority/Women Employment as enumerated in 24 CFR § 85.36(e), which is adopted and incorporated herein by reference and is available on the HUD website at [www.hud.gov](http://www.hud.gov).

~~(14)~~~~(13)~~ No change.

~~(15)~~~~(14)~~ A HOME-Assisted Unit shall qualify as affordable housing if:

(a) The value or initial purchase price of the property after construction does not exceed ninety-five percent (95%) of the median purchase price for the area, pursuant to 24 CFR § 92;

(b) The combined loan-to-value ratio cannot exceed one hundred five percent (105%) of the after construction or appraised value of the HOME-Assisted Unit, with the exception of Eligible Homebuyers with disabilities for which the ratio cannot exceed one hundred twenty percent (120%). In the loan-to-value calculation, the Corporation will not include any subsidy that contains forgivable terms within a five (5) year period or any portion of a subsidy that is forgivable within a five (5) year period;

(c) through (e) No change.

~~(16)~~~~(15)~~ No change.

~~(17)~~~~(16)~~ The Eligible Homebuyer shall adhere to the following terms and conditions:

(a) No change.

(b) Repayment of Principal on the HOME Purchase Assistance Loan shall be deferred until the homebuyer sells, transfers or disposes of the home either voluntarily or involuntarily, or ceases to occupy the home as a principal residence during the affordability period, pursuant to 24 CFR § 92.254(4). In the case of Community Land Trusts, loans may be assumed by Eligible Homebuyers.

~~(18)~~~~(17)~~ No change.

~~(19)~~~~(18)~~ Any borrower requesting subordination is subject to a one time processing fee not to exceed \$50. In the event it is determined that the borrower is not eligible for subordination, fifty percent (50%) of the processing fee will be returned to the borrower. Failure to submit the appropriate documentation and fees may result in a delay in receiving the subordination agreement.

Specific Authority 420.507(12),(23) FS. Law Implemented 420.507(23), 420.5088 FS. History--New 9-5-02, Amended 5-4-03, 12-28-04, \_\_\_\_\_.

67-50.070 Application and Selection Procedures.

(1) All Applicants must submit a completed HLP Application Package: HOMEOWN-0530 (Rev. 8/1/05 ~~12/9/04~~), which is adopted and incorporated herein by reference, and which can be obtained from the Corporation, at 227 North Bronough Street, Suite 5000, Tallahassee, Florida 32301-1329 and is available on the Corporation's Website. All Applications must:

(a) through (c) No change.

(2) through (8) No change.

(9) Notwithstanding any other provisions of these rules, there are certain items that must be included in the Application and cannot be revised, corrected or supplemented after the Application Deadline. Failure to submit these items in the Application at the time of the Application Deadline shall result in rejection of the Application without opportunity to submit additional information. Any attempted changes to these items will not be accepted. ~~The These~~ items are as follows:

- (a) Name of Applicant;
- (b) Identity of each Name of the Developer, including all co-Developers;
- (c) Funding applied for (HAP or HOME);
- (d) Total nNumber of units;
- (e) Site for the Development (except for scattered site developments);
- (f) Type of Development category;
- (g) County;
- (h) Demographic or target demographic area;
- (i) Designation of Applicant (Non-Profit, for-profit, Local Government, Public Housing Authority, CBO, or CHDO); ~~and~~
- (j) Funding request amount;-
- (k) Submission of one original hard copy with the required number of photocopies of the Application by the Application Deadline; and
- (l) Payment of the required Application fee by the Application Deadline.

Specific Authority 420.507(12),(23) FS. Law Implemented 420.507(23), 420.5088, 420.5089 FS. History—New 9-5-02, Amended 5-4-03, 12-28-04, \_\_\_\_\_.

- 67-50.080 Credit Underwriting Procedures.
- (1) through (5) No change.
  - (6) The Credit Underwriters shall request the following information:
    - (a) For Principals and guarantors, audited financial statements or financial statements compiled or reviewed in accordance with Statement on Standards for Accounting and Review Services (SSARS) No. 1, which is adopted and incorporated herein by reference and which can be obtained from the Corporation, at 227 North Bronough Street, Suite 5000, Tallahassee, Florida 32301-1329, for the most recent fiscal year ended, credit check, banking and trade references, and deposit verifications. If audited financial statements or financial statement compiled or reviewed in accordance with SSARS No. 1 are not available, unaudited financial statements prepared within the last 90 days and reviewed by the Credit Underwriter and the two most recent year’s tax returns.
    - (b) No change.
    - (7) through (20) No change.

Specific Authority 420.507(12), (23) FS. Law Implemented 420.507(23), 420.5088, 420.5089 FS. History—New 9-5-02, Amended 5-4-03, 12-28-04, \_\_\_\_\_.

NAME OF PERSON ORIGINATING PROPOSED RULE: Bridget Warring, Homeownership Loan Program Manager, Florida Housing Finance Corporation, 227 North Bronough Street, Suite 5000, Tallahassee, Florida 32301-1329, (850)488-4197

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Esrone McDaniels, Deputy Development Officer, Homeownership, Florida Housing Finance Corporation, 227 North Bronough Street, Suite 5000, Tallahassee, Florida 32301-1329, (850)488-4197

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

DATE NOTICE PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: Vol. 31, No. 5, February 4, 2005

**FISH AND WILDLIFE CONSERVATION COMMISSION**

**Marine Fisheries**

RULE CHAPTER TITLE: Reef Fish

RULE TITLE: Commercial Harvest Requirements; Licenses, Season Closures, Bag and Trip Limits

RULE NO.:

68B-14.0045

PURPOSE AND EFFECT: On February 17, 2005, the National Marine Fisheries Service published an emergency rule establishing trip limits for the commercial shallow-water grouper (black grouper, gag, red grouper, yellow-fin grouper, scamp, yellowmouth grouper, rock hind, and red hind) and deep-water grouper (misty grouper, snowy grouper, yellowedge grouper, warsaw grouper, and speckled hind) fisheries in the federal exclusive economic zone (EEZ) of the Gulf of Mexico adjacent to Florida. The federal emergency rule was effective on March 3, 2005. The purpose of this rule amendment pursuant to the expedited provisions of Section 120.54(6), Florida Statutes, is to conform state rules governing harvest of groupers in Florida waters of the Gulf of Mexico to these new federal trip limits. The effect of the rule amendment will be to assure enforcement of both state and federal rules and protect the health and abundance of Gulf grouper stocks.

SUMMARY: A new subparagraph 3. Is added to paragraph (3)(b) of Rule 68B-14.0045, F.A.C., to set commercial vessel trip limits for grouper harvest in state waters, to conform with a federal emergency regulation. The trip limits are based on vessel limit season segments corresponding to harvest levels under federal quotas.

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

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

THIS RULEMAKING IS UNDERTAKEN PURSUANT TO SECTION 120.54(6), FLORIDA STATUTES.

WRITTEN COMMENTS MAY BE SUBMITTED WITHIN 14 DAYS OF THE DATE OF THIS NOTICE TO: James V. Antista, General Counsel, Fish and Wildlife Conservation Commission, 620 South Meridian Street, Tallahassee, Florida 32399-1600

SUBSTANTIALLY AFFECTED PERSONS MAY, WITHIN 14 DAYS OF THE DATE OF THIS NOTICE, FILE AN OBJECTION TO THIS RULEMAKING WITH THE AGENCY. THE OBJECTION SHALL SPECIFY THE PORTIONS OF THE PROPOSED RULE TO WHICH THE PERSON OBJECTS AND THE SPECIFIC REASONS FOR THE OBJECTION.

THE FULL TEXT OF THE PROPOSED RULE IS:

68B-14.0045 Commercial Harvest Requirements; Licenses, Season Closures, Bag and Trip Limits.

- (1) through (2) No change.
- (3) Bag and Trip Limits.
  - (a) No change.
  - (b) Grouper.

1. Nassau grouper and goliath grouper. No person harvesting for commercial purposes shall harvest in or from state waters, nor possess while in or on the waters of the state, or land, any Nassau grouper, or goliath grouper. The purchase, sale, or exchange of any Nassau grouper or goliath grouper is prohibited.

2. Speckled hind and Warsaw grouper. No person shall harvest in or from state waters any speckled hind or Warsaw grouper for commercial purposes and the purchase, sale, or exchange of such fish is prohibited.

3. Vessels harvesting commercially in the state waters of the Gulf of Mexico as specified in subparagraph 68B-14.0045(1)(a)2., F.A.C., are subject to a grouper vessel trip limit. Groupers are all species listed in paragraph 68B-14.001(2)(b), F.A.C., except bank sea bass and black sea bass. The grouper vessel trip limit shall be 10,000 pounds from January 1 until such time as the National Marine Fisheries Service reduces the vessel trip limit in adjacent federal (EEZ) waters to 7,500 pounds or 5,500 pounds, in which case the Director of the Division of Marine Fisheries Management shall order a consistent reduction in the vessel trip limit in state waters of the Gulf of Mexico. The grouper vessel limit shall be restored to 10,000 pounds on January 1 of the following year.

- (c) through (d) No change.

Specific Authority Art. IV, Sec. 9, Fla. Const. Law Implemented Art. IV, Sec. 9, Fla. Const. History—New 2-1-90, Amended 12-31-92, 10-18-93, 3-1-94, 6-15-95, 1-1-96, 11-27-96, 12-31-98, 3-1-99, Formerly 46-14.0045, Amended 1-1-00, 3-6-00, 1-1-01, 3-1-01, 6-1-01, 1-1-03, 7-15-04, \_\_\_\_\_.

**FINANCIAL SERVICES COMMISSION**

**OIR Insurance Regulation**

RULE TITLE: Forms Adopted  
 RULE NO.: 69O-149.022

PURPOSE, EFFECT AND SUMMARY: To update existing forms and to adopt new form checklists to be used in the review of life and health form filings.

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 FS.

LAW IMPLEMENTED: 624.424(1)(c), 627.410, 636.216 FS.

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

TIME AND DATE: 9:30 a.m., May 25, 2005

PLACE: Room 142, 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: Frank Dino, Life and Health Product Review, Office of Insurance Regulation, e-mail: frank.dino@fldfs.com

THE FULL TEXT OF THE PROPOSED RULE IS:

69O-149.022 Forms Adopted.

(1) The forms adopted in subsection (2), below, shall be used, as applicable, by insurers making form filings for life and accident insurance, annuities, and health insurance. All the forms in subsection (2), below, are hereby adopted and incorporated by reference. All forms ~~may be obtained from the Document Processing Section, Division of Administration, Office of Insurance Regulation, Larson Building, Tallahassee, FL 32399-0311.~~ Forms are also available and may be printed from the Office’s website: www.fldfs.state.fl.us. ~~All forms may be reproduced at will.~~

(2)(a) Form OIR-B2-1507, “Office of Insurance Regulation, Life and Health Forms and Rates Universal Standardized Data Letter”, Rrev. 9/04 9/02.

(b) Form OIR-B2-1507 A, “Office of Insurance Regulation, Life and Health Forms and Rates Universal Standardized Data Letter Instruction Sheet”, Rrev. 9/04 9/02.

(c) Health Checklists.

1. OIR-B2-1616, "Blanket Application Checklist", Rev. 1/05. Form OIR B2 520, "Florida Individual Health Application Checklist," rev. 4/91.

2. OIR-B2-535, "Blanket Health Contract Checklist", Rev. 1/04. (d) Form OIR B2 521, "Florida Individual Health Contract Outline of Coverage Checklist," rev. 4/91.

3. OIR-B2-527, "Debtor Group Application Checklist", Rev. 1/04. (e) Form OIR B2 523, "Florida Individual Health Contract Checklist," rev. 4/91.

4. OIR-B2-529, "Debtor Group Contract Checklist", Rev. 1/04. (f) Form OIR B2 524, "Florida Out of State Group Health Checklist," rev. 4/91.

5. OIR-B2-528, "Florida Additional Information Checklist for Debtor Group", Rev. 08/03. (g) Form OIR B2 525, "Florida Group Health Application Checklist for Employees, Labor Union and Association Groups," rev. 4/91.

6. OIR-B2-1607, "Discount Medical Plan Organization (DMPO) Contract and Application Checklist", 09/04. (h) Form OIR B2 526, "Florida Group Health Checklist for Employees, Labor Unions and Association Groups," rev. 4/91.

7. OIR-B2-539, "Excess-Specific and Aggregate Checklist", Rev. 1/04. (i) Form OIR B2 527, "Florida Health Application Checklist for Debtor Groups," rev. 4/91.

8. OIR-B2-540, "Informational Memorandum Checklist – Florida Excess Specific and Aggregate – F.S. 624.406", Rev. 1/04. (j) Form OIR B2 528, "Florida Additional Information Checklist for Debtor Groups," rev. 4/91.

9. OIR-B2-1356, "Florida HMO Contract Checklist", Rev. 1/04. (k) Form OIR B2 529, "Florida Group Health Contract Checklist for Debtor Groups," rev. 4/91.

10. OIR-B2-1617, "Florida HMO Individual Application Checklist", 1/05. (l) Form OIR B2 535, "Checklist for Blanket Health Contracts/Section 627.659, F.S.," rev. 4/91.

11. OIR-B2-1618, "Florida HMO Master Group Application Checklist", 1/05. (m) Form OIR B2 536, "Florida Franchise Health Application Checklist," rev. 4/91.

12. OIR-B2-536, "Franchise Health Application Checklist", Rev. 1/04. (n) Form OIR B2 537, "Florida Franchise Health Contract Outline of Coverage Checklist," rev. 4/91.

13. OIR-B2-538, "Franchise Health Contract Checklist", Rev. 1/04. (o) Form OIR B2 538, "Florida Franchise Health Contract Checklist," rev. 4/91.

14. OIR-B2-537, "Franchise Health Outline of Coverage Checklist", Rev. 1/04. (p) Form OIR B2 539, "Florida Excess – Specific and Aggregate Checklist/Section 624.406, F.S.," rev. 4/91.

15. OIR-B2-525, "Group Health Application Checklist – Employers, Labor Unions, Association Groups and Additional Groups", Rev. 1/04. (q) Form OIR B2 540, "Informational Memorandum Checklist/Florida Excess Specific and Aggregate/Section 624.406, F.S.," rev. 4/91.

16. OIR-B2-526, "Group Health Contract Checklist – Employers, Labor Unions, Association Groups and Additional Groups", Rev. 1/04. (r) Form OIR B2 541, "Florida Health Application Checklist for Long Term Care Groups," rev. 4/91.

17. OIR-B2-1623, "Health Flex Plan and Enrollment Form Checklist", 1/05. (s) Form OIR B2 542, "Florida Long Term Care Checklist/Outline of Coverage," rev. 4/91.

18. OIR-B2-520, "Individual Health Application Checklist", Rev. 1/04. (t) Form OIR B2 1353, "Florida Pre-Paid Limited Health Services Contract Checklist," 7/00.

19. OIR-B2-523, "Individual Health Contract Checklist", Rev. 1/04. (u) Form OIR B2 1354, "Florida Individual Medicare Supplement Health Application Checklist," 7/00.

20. OIR-B2-521, "Individual Health Outline of Coverage Checklist", Rev. 1/04. (v) Form OIR B2 1355, "Florida Medicare Supplement Contract Checklist," 7/00.

21. OIR-B2-1619, "Long Term Care Advertisement Checklist", 1/05. (w) Form OIR B2 1356, "Florida HMO Contract Checklist (Includes Individual, Large, and Small Group)," 7/00.

22. OIR-B2-541, "Long Term Care Application Checklist", Rev. 1/04. (x) Form OIR B2 1357, "Florida Small Group Health Checklist for Indemnity Plans Other Than Standard and Basic," 7/00.

23. OIR-B2-543, "Long Term Care Contract Checklist", Rev. 1/04. (y) Form OIR B2 1358, "Florida Pre-Paid Limited Health Services Group Application," 7/00.

24. OIR-B2-542, "Long Term Care Outline of Coverage Checklist", Rev. 1/04. (z) Form OIR B2 1359, "Florida Pre-Paid Limited Health Services Conversion Application," 7/00.

25. OIR-B2-1620, "Medicare Supplement Advertisement Checklist", 1/05. (aa) Form OIR B2 1360, "Florida Pre-Paid Limited Health Services Individual Application," 7/00.

26. OIR-B2-1354, "Medicare Supplement Application Checklist", Rev. 1/04.

27. OIR-B2-1355, "Medicare Supplement Contract Checklist", Rev. 1/04.

28. OIR-B2-1621, "Medicare Supplement Outline of Coverage", 1/05.

29. OIR-B2-524, "Out-of-State Group Health Checklist", Rev. 1/04.

30. OIR-B2-1353, "Pre-Paid Limited Benefit Contract Checklist", Rev. 1/04.

31. OIR-B2-1359, "Pre-Paid Limited Benefit Conversion Application Checklist", Rev. 1/04.

32. OIR-B2-1358, "Pre-Paid Limited Benefit Group Application Checklist", Rev. 1/04.

33. OIR-B2-1360, "Pre-Paid Limited Benefit Individual Application Checklist", Rev. 1/04.

34. OIR-B2-1622, "Small Group Advertisement Checklist", 1/05.

35. OIR-B2-1357, "Florida Small Group Health Checklist For Indemnity Plans Other Than Standard and Basic", Rev. 1/04.

(d) Life Checklists.

1. OIR-B2-1624, "Credit Disability Policy Checklist", 1/05. (bb) Form OIR-B2-1314, "Individual Fraternal Whole Life," 7/00.

2. OIR-B2-1625, "Credit Life or Disability Application Checklist", 1/05. (cc) Form OIR-B2-1328, "Out of State Group Term Life," 7/00.

3. OIR-B2-1626, "Credit Life Policy Checklist", 1/05. (dd) Form OIR-B2-1329, "Out of State Group Whole Life," 7/00.

4. OIR-B2-1367, "Endorsements, Amendments & Riders Checklist", Rev. 1/04. (ee) Form OIR-B2-1330, "Out of State Group Universal Life," 7/00.

5. OIR-B2-1627, "Group Annuity Enrollment Application Checklist", 1/05. (ff) Form OIR-B2-1342, "Group Enrollment Application Variable Annuity," 7/00.

6. OIR-B2-1628, "Group Life Enrollment Application Checklist", 1/05. (gg) Form OIR-B2-1343, "Out of State Group Variable Life," 7/00.

7. OIR-B2-1363, "Group Non-Variable Annuity Contract Checklist", Rev. 1/04. (hh) Form OIR-B2-1345, "Group Universal Life," 7/00.

8. OIR-B2-1349, "Group Non-Variable Annuity Enrollment Application Checklist", Rev. 1/04. (ii) Form OIR-B2-1346, "Individual Life Application," 7/00.

9. OIR-B2-1488, "Group Term Life Policy Checklist", Rev. 1/04. (jj) Form OIR-B2-1347, "Individual Fixed Annuity Life Application," 7/00.

10. OIR-B2-1345, "Group Universal Life Policy Checklist", Rev. 1/04. (kk) Form OIR-B2-1348, "Individual Variable Annuity Application," 7/00.

11. OIR-B2-1365, "Group Variable Annuity Contract Checklist", Rev. 1/04. (ll) Form OIR-B2-1349, "Group Enrollment Application (non variable annuity)," 7/00.

12. OIR-B2-1342, "Group Variable Annuity Enrollment Application Checklist", Rev. 1/04. (mm) Form OIR-B2-1350, "Master Group Application," 7/00.

13. OIR-B2-1629, "Group Variable Life Enrollment Application Checklist", 1/05. (nn) Form OIR-B2-1351, "Industrial Life Policy," 7/00.

14. OIR-B2-1489, "Group Variable Life Policy Checklist", Rev. 1/04. (oo) Form OIR-B2-1352, "Individual Non-Variable Annuity Policy," 7/00.

15. OIR-B2-1490, "Group Whole Life Policy Checklist", Rev. 1/04. (pp) Form OIR-B2-1363, "Group Non-Variable Annuity Policy," 7/00.

16. OIR-B2-1630, "Individual Fraternal Life Application Checklist", 1/05. (qq) Form OIR-B2-1364, "Individual Variable Annuity Policy," 7/00.

17. OIR-B2-1631, "Individual Fraternal Non-Variable Annuity Application Checklist", 1/05. (rr) Form OIR-B2-1365, "Group Variable Annuity Policy," 7/00.

18. OIR-B2-1632, "Individual Fraternal Non-Variable Annuity Contract Checklist", 1/05. (ss) Form OIR-B2-1366, "Out of State Group Annuity Policy," 7/00.

19. OIR-B2-1382, "Individual Fraternal Term Life Policy Checklist", Rev. 1/04. (tt) Form OIR-B2-1367, "Endorsement, Amendments, Riders," 7/00.

20. OIR-B2-1491, "Individual Fraternal Universal Life Policy Checklist", Rev. 1/05. (uu) Form OIR-B2-1368, "Accelerated Death Benefit Rider," 7/00.

21. OIR-B2-1633, "Individual Fraternal Variable Annuity Application Checklist", 1/05. (vv) Form OIR-B2-1369, "Credit Life and Disability," 7/00.

22. OIR-B2-1634, "Individual Fraternal Variable Annuity Contract Checklist", 1/05. (ww) Form OIR-B2-1382, "Individual Fraternal Term Life," 7/00.

23. OIR-B2-1635, "Individual Fraternal Variable Life Application Checklist", 1/05. (xx) Form OIR-B2-1383, "Group Fraternal Variable Life," 7/00.

24. OIR-B2-1636, "Individual Fraternal Variable Life Policy Checklist", 1/05. (yy) Form OIR-B2-1384, "Individual Variable Life," 7/00.

25. OIR-B2-1314, "Individual Fraternal Whole Life Policy Checklist", Rev. 1/04. (zz) Form OIR-B2-1485, "Group Fraternal Term Life," 7/00.

26. OIR-B2-1346, "Individual Life Application Checklist", Rev. 1/04. (aaa) Form OIR-B2-1486, "Group Fraternal Whole Life," 7/00.

27. OIR-B2-1637, "Individual Non-Variable Annuity Application Checklist", 1/05. (bbb) Form OIR-B2-1487, "Group Fraternal Universal Life," 7/00.

28. OIR-B2-1352, "Individual Non-Variable Annuity Contract Checklist", Rev. 1/04. (ccc) Form OIR-B2-1488, "Group Term Life," 7/00.

29. OIR-B2-1493, "Individual Term Life Policy Checklist", Rev. 1/04. (ddd) Form OIR-B2-1489, "Group Variable Life," 7/00.

30. OIR-B2-1494, "Individual Universal Life Policy Checklist", Rev. 1/04. (eee) Form OIR-B2-1490, "Group Whole Life," 7/00.

31. OIR-B2-1348, "Individual Variable Annuity Application Checklist", Rev. 1/04. (fff) Form OIR-B2-1491, "Individual Fraternal Universal Life," 7/00.

32. OIR-B2-1364, "Individual Variable Annuity Contract Checklist", Rev. 1/04. (ggg) Form OIR-B2-1492, "Individual Fraternal Variable Life," 7/00.

33. OIR-B2-1638, "Individual Variable Life Application Checklist", 1/05. (hhh) Form OIR-B2-1493, "Individual Term Life," 7/00.

34. OIR-B2-1384, "Individual Variable Life Policy Checklist", Rev. 1/04. (iii) Form OIR-B2-1494, "Individual Universal Life," 7/00.

35. OIR-B2-1496, "Individual Whole Life Policy Checklist", Rev. 1/04. (jii) Form OIR-B2-1496, "Individual Whole Life," 7/00.

36. OIR-B2-1350, "Master Group Application Checklist", Rev. 1/04. (kkk) Form OIR-B2-1607, "Discount Medical Plan Organization (DMPO) Contract and Application Checklist", 09/04.

37. OIR-B2-1639, "Out-of-State Group Life Enrollment Application Checklist", 1/05.

38. OIR-B2-1640, "Out-of-State Group Non-Variable Annuity Contract Checklist", 1/05.

39. OIR-B2-1641, "Out-of-State Group Non-Variable Annuity Enrollment Application Checklist", 1/05.

40. OIR-B2-1328, "Out-of-State Group Term Life Policy Checklist", Rev. 1/05.

41. OIR-B2-1330, "Out-of-State Group Universal Life Policy Checklist", Rev. 1/05.

42. OIR-B2-1642, "Out-of-State Group Variable Annuity Contract Checklist", 1/05.

43. OIR-B2-1644, "Out-of-State Group Variable Annuity Enrollment Application Checklist", 1/05.

44. OIR-B2-1643, "Out-of-State Group Variable Life Enrollment Application Checklist", 1/05.

45. OIR-B2-1343, "Out-of-State Group Variable Life Policy Checklist", Rev. 1/05.

46. OIR-B2-1329, "Out-of-State Group Whole Life Policy Checklist", Rev. 1/05.

47. OIR-B2-1646, "Viatical Contract Checklist", 3/05.

48. OIR-B2-1647, "Viatical Settlement Escrow Form Checklist", 3/05.

49. OIR-B2-1648, "Viatical Settlement Purchase Agreement Checklist", 3/05.

50. OIR-B2-1649, "Viatical Settlement Related Form Checklist", 3/05.

Specific Authority 624.308 FS. Law Implemented 624.424(1)(c), 627.410, 636.216 FS. History--New 10-29-91, Amended 5-15-96, 4-4-02, 5-2-02, 6-19-03, Formerly 4-149.022, Amended \_\_\_\_\_.

NAME OF PERSON ORIGINATING PROPOSED RULE:  
Frank Dino, Actuary, Life and Health Product Review, Office of Insurance Regulation

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Rich Robleto, Deputy Commissioner, Office of Insurance Regulation

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: April 12, 2005

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: February 18, 2005

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

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

Pursuant to Chapter 2003-145, Laws of Florida, all notices for the Board of Trustees of the Internal Improvement Trust Fund are published on the Internet at the Department of Environmental Protection's home page at <http://www.dep.state.fl.us/> under the link or button titled "Official Notices."

#### DEPARTMENT OF ELDER AFFAIRS

##### Federal Aging Programs

RULE NO.:	RULE TITLE:
58A-5.0191	Staff Training Requirements and Training Fees
	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. 31, No. 11, March 18, 2005, issue of the Florida Administrative Weekly.

#### TEXT OF PROPOSED RULE CHANGES:

58A-5.0191 Staff Training Requirements and Competency Test.

(9) ALZHEIMER'S DISEASE AND RELATED DISORDERS ("ADRD") TRAINING REQUIREMENTS. Facilities which advertise that they provide special care for persons with ADRD Alzheimer's disease and related disorders, or who maintain secured areas as described in Rule 58A-5.023, F.A.C., must ensure that facility staff receive the following training.

(a) Facility staff who have regular contact with or provide direct care to residents with ADRD Alzheimer's disease and related disorders, shall obtain 4 hours of initial training within 3 months of employment. Completion of the core training program between April 20, 1998 and July 1, 2003 shall satisfy this requirement. Facility staff who meet the requirements for ADRD Alzheimer's disease and related disorders training providers under paragraph (g) of this subsection will be considered as having met this requirement. "Staff who have regular contact" means staff who interact on a daily basis with residents but do not provide direct care to residents. Initial training, entitled, "Alzheimer's Disease and Related Disorders Level I Training," must address the following subject areas:

1. through 6. No change.

(b) Staff who have received both the initial one hour and continuing three hours of ADRD Alzheimer's disease and related disorders training pursuant to Sections 400.1755,