

Section I

Notices of Development of Proposed Rules
and Negotiated Rulemaking**DEPARTMENT OF AGRICULTURE AND CONSUMER
SERVICES****Office of Agricultural Water Policy**

RULE CHAPTER TITLE: RULE CHAPTER NO.:

Best Management Practices (BMPs)

for Florida Vegetable and

Agronomic Crops

5M-8

PURPOSE AND EFFECT: The purpose of this notice is to initiate the development of a Best Management Practices manual for Florida Vegetable and Agronomic Crop operations to effect pollution reduction through the implementation of practices determined to have a positive impact on water quality. Subsequently, the Department will initiate the formal rule process in order to adopt these measures by rule.

SUBJECT AREA TO BE ADDRESSED: Eight statewide BMP manual workshops have already been held. The proposed rule will discuss the procedures for filing a Notice of Intent and the appropriate record keeping requirements necessary for landowners to receive a presumption of compliance with state water quality standards.

SPECIFIC AUTHORITY: 403.067(7)(c)2. FS.

LAW IMPLEMENTED: 403.067(7)(c)2. FS.

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

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT IS: Bill Bartnick, Environmental Administrator, Office of Agricultural Water Policy, 1203 Governor's Square Boulevard, Suite 200, Tallahassee, Florida 32301, (850)488-6249, Fax (850)921-2153

THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS AVAILABLE AT NO CHARGE FROM THE CONTACT PERSON LISTED ABOVE.

DEPARTMENT OF EDUCATION**State Board of Education**

RULE TITLE: RULE NO.:

Florida Comprehensive Assessment

Test Requirements

6A-1.09422

PURPOSE AND EFFECT: The purpose of the proposed rule amendment is to include the science grade-level scale scores for each achievement level for use in reporting student proficiency levels in science as part of the student achievement testing program known as the Florida Comprehensive Assessment Test (FCAT).

SUBJECT AREA TO BE ADDRESSED: Florida Comprehensive Assessment Test (FCAT) Science.

SPECIFIC AUTHORITY: 1001.02, 1008.22(10) FS.

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

TIME AND DATE: 4:00 p.m. – 6:00 p.m., November 9, 2005

PLACE: Department of Education, 325 West Gaines Street, Suite 1703/07, Tallahassee, Florida

Requests for the rule development workshop should be addressed to: Lynn Abbott, Agency Clerk, Department of Education, 325 West Gaines Street, Room 1514, Tallahassee, Florida 32399-0400

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT AND A COPY OF THE PRELIMINARY DRAFT, IF AVAILABLE, IS: Dr. Cornelia Orr, Director, Assessment and School Performance, 325 West Gaines Street, Room 414, Tallahassee, Florida, (850)245-0513

THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS NOT AVAILABLE.

DEPARTMENT OF TRANSPORTATION

RULE CHAPTER TITLE: RULE CHAPTER NO.:

Logo Sign Program

14-85

RULE TITLE:

RULE NO.:

Logo Sign Program

14-85.004

PURPOSE AND EFFECT: This rule is being amended to implement provisions of Section 479.261, F.S., as amended by Chapter 2005-141, Laws of Florida. The amendment is to incorporate the use of RV friendly markers on specific information logo signs for establishments that cater to the specific needs of persons driving recreational vehicles.

SUBJECT AREA TO BE ADDRESSED: This rule is being amended to Sections 479.261 and 681.1096, F.S., as amended by Chapter 2005-141, Laws of Florida, by including specific provisions regarding RV friendly markers on logo signs.

SPECIFIC AUTHORITY: 334.044(2), 479.261 FS.

LAW IMPLEMENTED: 334.044(28), 479.261 FS.

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

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

THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS:

14-85.004 Logo Sign Program.

(1) Definitions.

(a) through (t) No change.

(u) "RV friendly" means businesses that can accommodate over-sized recreational vehicles by satisfying the facility and access criteria set forth in paragraph (10)(d).

(v)(u) "Single Exit Interchange" means an interchange configuration where, for a given direction of travel on the mainline, one exit ramp provides access to the crossroad for both directions of travel on the crossroad.

(w)(v) "Traffic Control Signs" means all signs, signals, markings, and devices placed on, over, or adjacent to a street or highway by authority of a public body or official having jurisdiction to regulate, warn, or guide motorists.

(2) through (9) No change.

(10) Qualification of Businesses.

(a) To qualify for a business logo sign in any category, a business must meet all of the following conditions:

1. through 3. No change.

4. Fall within a category set forth in paragraphs (10)(d) through (i)(h), and meet the requirements applicable to that category, including distance from the qualifying interchange. The qualifying interchange will be measured from the point where the crossroad intersects with the centerline of the Interstate highway median, along the crossroad to the nearest entrance to the premises of the business.

5. through (c)4. No change.

(d) RV friendly.

1. Any participating businesses which provide the minimum facilities listed below will be granted a permit to display the RV friendly Symbol on their business logo.

a. Roadway access and egress must be hard surface, free of potholes, and at least 12 feet wide with a minimum swing radius of 50 feet to enter and exit the facility.

b. Roadway access, egress, and parking facilities must be free of any electrical wires, tree branches, or other obstructions up to 14 feet above the surface.

c. Facilities requiring short-term parking, such as restaurants or tourist attractions, are required to have 2 or more parking spaces that are 12 feet wide and 65 feet long with a swing radius of 50 feet to enter and exit the spaces.

d. Fueling facilities with canopies are required to have a 14-foot clearance, and those selling diesel fuel are required to have pumps with non-commercial nozzles.

e. Fueling facilities must allow for pull-through with a swing radius of 50 feet.

f. For campgrounds 2 or more spaces that are 18 feet wide and 45 feet long are required.

g. Businesses must post directional signing on their sites, as needed, to those RV friendly parking spaces and other on site RV friendly services, so that the motorist is given additional guidance upon leaving the public highway and entering the business establishment's property.

2. RV friendly symbol design and placement.

a. The design of the RV friendly symbol is a 12-inch diameter, yellow circle with a 1/2-inch approved non-reflective black border. The yellow background sheeting will be AASHTO Type III Sign Sheeting (High Intensity). The black upper case letters "RV" are inside the circle and are 8 inches in height and will be approved non-reflective black. If necessary for mounting, the sheeting may be attached to an aluminum circle.

b. When used, the RV friendly symbol is located in the lower right-hand corner of the business logo in a manner in which it touches both the business logo and the blue sign panel.

c. The RV friendly symbol shall not overlap other business logos.

3. RV friendly Participation.

a. Businesses interested in providing this service should contact the Program Administrator.

b. Businesses in all categories may apply to use the RV friendly symbol on their business logo signs any time during their permit period.

c. The Program Administrator will inspect the business to assure compliance with the "RV friendly" qualifying criteria.

d. If a business subsequently fails to satisfy the "RV friendly" criteria, the "RV friendly" symbol will be removed by the Program Administrator.

4. Fees. Upon application, the business will be charged a \$100.00 for each RV friendly symbol displayed.

(e)(d) Gas.

1. through 3.c. No change.

(f)(e) Food. To qualify for a business logo sign in the food category, a business must meet all of the following conditions:

1. through 5. No change.

(g)(f) Lodging. To qualify for a business logo sign in the lodging category, the business must meet both of the following conditions:

1. through 2. No change.

(h)(g) Camping. To qualify for a business logo sign in the camping category the business must hold a permit under the provisions of Chapter 513, Florida Statutes, and must be located within fifteen miles of the interchange.

(i)(h) Attraction. To qualify for a business logo sign in the attraction category, a business must meet all of the following conditions:

1. through 3. No change.

4. Be publicly recognized as a bona fide tourist destination. A bona fide tourist destination will have and keep current all legally required permits and licenses and comply

with laws concerning the provision of public accommodations pursuant to subparagraph (10)(a)1. and 2. of the rule; will advertise to the general public additional ways other than the Logo Sign Program; and will comply with the conditions expressed in paragraph (10)(i)(h) of this rule.

5. Provide adequate parking.

6. Not be advertised or displayed on any other existing traffic control device such as a supplemental guide sign or overhead sign in the direction being signed.

7. Be located within fifteen miles of the interchange.

(11) Permitting.

(a) through (b)4. No change.

5. Whenever space is not available on a logo structure for a business logo sign, the Program Administrator shall review the application for distance pursuant to paragraph (10)(b) above, and for operating hours pursuant to paragraph (10)(f)(e)4., and will place the business on a waiting list in the order of the dates on which they were received. A notice will be provided to the business indicating its position on the waiting list. When space becomes available, notice will be provided to the business with the highest priority allowing the business 30 days within which to submit an application in accordance with this section.

(c)6. through (13)(b) No change.

Specific Authority 479.261, 334.044(2) FS. Law Implemented 334.044(28), 479.261 FS. History—New 6-26-85, Formerly 14-85.04, Amended 3-20-91, 10-10-96, 12-31-96, 10-8-97, 5-25-99, 8-31-99, 7-15-02, 1-7-03, 11-30-04, 3-29-05.

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: RULE NO.:

Inmate Death Notification Process 33-602.112

PURPOSE AND EFFECT: The purpose and effect of the proposed rule is to clarify notification responsibilities in the event of an inmate death by natural or other causes.

SUBJECT AREA TO BE ADDRESSED: Notification of Inmate Death.

SPECIFIC AUTHORITY: 944.09 FS.

LAW IMPLEMENTED: 406.50-.54 FS., Article 37 of the Vienna Convention on Consulate Relations

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

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT AND A COPY OF THE PRELIMINARY DRAFT IS: Perri King Dale, 2601 Blair Stone Road, Tallahassee, Florida 32399-2500

THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS:

33-602.112 Inmate Death Notification Process.

(1) Notice of Death. Upon the death of an inmate while in the custody of the department:

(a) The institution shall immediately notify:

1. No change.

2. The Office of the Inspector General duty officer via emergency action center if the death occurred under suspicious circumstances or is the result of unnatural causes; ~~as well as~~

3. The local institution inspector;

3. through 4. renumbered 4. through 5. No change.

6.5. In the case of the death of a foreign national, the nearest consulate of that national's country; and

7. The district medical examiner of the district in which the death occurred if the death is the result of natural causes.

(b) The Office of the Inspector General shall immediately notify:

1. The district medical examiner of the district in which the death occurred if the death occurred under suspicious circumstances or is the result of unnatural causes;

2. through 3. No change.

(c) through (4) No change.

Specific Authority 944.09 FS. Law Implemented 406.50-.54 FS., Article 37 of the Vienna Convention on Consulate Relations. History—New 10-8-76, Amended 9-24-81, Formerly 33-3.09, Amended 6-2-88, 2-18-90, 2-12-97, Formerly 33-3.009, 33-401.301, Amended 3-25-02, 9-9-03.

DEPARTMENT OF CORRECTIONS

RULE TITLE: RULE NO.:

Use of Force 33-602.210

PURPOSE AND EFFECT: The purpose and effect of the proposed rule is to clarify the circumstances under which deadly force can be used to prevent escapes, and to update a form used in conjunction with use of force incidents.

SUBJECT AREA TO BE ADDRESSED: Use of force.

SPECIFIC AUTHORITY: 944.09 FS.

LAW IMPLEMENTED: 20.315, 776.07, 944.09, 944.35 FS.

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

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT AND A COPY OF THE PRELIMINARY DRAFT IS: Perri King Dale, 2601 Blair Stone Road, Tallahassee, Florida 32399-2500

THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS:

33-602.210 Use of Force.

(1) Employees are authorized to apply physical force, up to and including deadly force, only when and to the degree that it reasonably appears necessary in order:

(a) through (g) No change.

(h) To restrain the inmate when ordered to allow medical treatment in accordance with the provisions of subsection (11)(40) of this rule.

(2) Use of Deadly Force to Prevent Escape or to Recapture Escapee. Generally, correctional officers are authorized to use force, including deadly force, as necessary to prevent the escape of an inmate from a penal institution.

(a) Escape attempts from inside an institutional perimeter where armed perimeter staff are assigned:

1. In institutions that have a double fence, where time permits, a verbal warning to halt shall be given before the inmate touches the inner fence. Time permitting, a warning shot shall then be fired before the inmate begins to pass over, through or under the inner fence. The firearm shall not be fired at the inmate until he has begun to pass over, through or under the inner fence.

2. In institutions that have a single fence, and time permitting, a verbal warning will be given to halt and a warning shot will be fired before the inmate reaches the perimeter fence. The firearm shall not be fired at the inmate until he has begun to pass over, through or under the fence.

3. Warning shots are only authorized as provided in subparagraphs (2)(a)1. and 2. above. In all other instances where lethal force is authorized during inmate escape attempts, a verbal warning shall be issued if time and circumstances permit.

(b) Apprehension of escaped inmates once they are outside an institutional perimeter.

1. Correctional officers are considered to be in active pursuit of an inmate who has escaped from an institution or supervised work squad so long as the escape commander determines that the escape recovery efforts are active. When the inmate has refused a verbal order to stop, the correctional officer is authorized to use deadly force to stop the inmate, once the officer has clearly identified the individual as the escaped inmate and is sure of the target and what lies beyond.

2. Once the escape commander determines that immediate recapture efforts are over, recapture becomes a law enforcement agency function and department staff only provide assistance to local law enforcement. Correctional officers who are utilized to assist outside law enforcement agencies are authorized to use deadly force only in self defense or to defend others against deadly use of force.

3. When an inmate fails to return from a furlough or non-supervised outside assignment or escapes from a department work release facility, recapture is a law

enforcement agency function and department staff only provide assistance to local law enforcement. Correctional officers who are utilized to assist outside law enforcement agencies are authorized to use deadly force only in self defense or to defend others against deadly use of force.

(c) Escape attempts by inmates while being transported or escorted outside institutional perimeters, i.e., court appearances, hearings and medical visits, or while being supervised while in a hospital for treatment. Lethal force is only authorized in accordance with paragraph (1)(c), when the officers are in immediate active pursuit of the escapee. The escape commander will determine when the period of active pursuit has ended. At this point, involvement by correctional officers will be limited to assisting law enforcement officers and lethal force is only authorized for self defense or to defend others against deadly use of force.

(2) through (4) renumbered (3) through (5) No change.

(6)(5) The warden or, in his absence, the duty warden will be consulted and give her or his permission prior to use of physical force. In spontaneous use of force incidents when circumstances do not permit prior approval, the warden or, in his absence, the duty warden will be notified immediately following any use of force incident. Whenever force is authorized, the employee who was responsible for making the decision to use force pursuant to subsection (1) shall prepare, date and sign the Authorization for Use of Force Report, Form DC6-232 either during, or immediately after, the tour of duty when force was used. If the authorization for force is given after normal working hours, the person authorizing the force shall complete and sign Form DC6-232 within one working day (Monday through Friday) following the incident. Form DC6-232 is incorporated by reference in subsection (21)(20) of this rule.

(7)(6) Whenever force is used, a detailed written report of force used shall be prepared, dated and signed by the initial employee using force. Form DC6-230, Institutions Report of Force Used, shall be used for this purpose. If more than one employee was involved in the initial use of force, the highest ranking official involved or the most senior employee shall complete the report. Each additional employee involved in the use of force who agrees with the facts and circumstances as reported on Form DC6-230 Section I shall prepare an Institutions Report of Force Used Staff Supplement, Form DC6-231. The report shall describe in detail the type and amount of force used by him or her. Each Employee shall individually write his or her own report, then submit the completed report to the clerical personnel designated by the warden to type all the reports onto one form to be signed by each employee. Any additional employee who does not agree with the facts and circumstances as reported in Form DC6-230 Section I shall prepare a separate Form DC6-230, Institutions Report of Force Used. Forms DC6-230 and DC6-231 are incorporated by reference in subsection (21)(20) of this rule.

~~(8)(7)~~ No change.

~~(9)(8)~~ The warden or acting warden shall immediately conduct a preliminary review of the video tape(s) and all associated reports for signs of excessive force or procedural deviation. If signs of excessive force or procedural deviation are noted by the warden or assigned inspector, she or he will notify the Office of the Inspector General directly, so that there is no undue delay in initiating an investigation. The warden shall then appoint a staff member of equal or higher rank than those involved in the use of force to collect all pertinent information and required documentation. This information will include the reports of all involved staff and the statements of staff witnesses, inmate witnesses, the inmate subject, and the completed Use of Force File Checklist, Form DC1-813. All inmate statements (subject and witnesses) shall be made in writing using the Witness Statement, Form DC6-112C. Form DC6-112C is incorporated by reference in Rule 33-601.313, F.A.C. All employees who witness but do not participate in the use of force shall complete an Incident Report, Form DC6-210. Form DC6-210 is incorporated by reference in subsection ~~(21)(20)~~ of this rule. This process will be completed within 5 working days (Monday through Friday). The warden shall review the information and note any inappropriate actions. The warden shall review the Use of Force File Checklist, Form DC1-813, and shall forward the videotape(s) and associated reports on the use of force and the warden's review to the institutional inspector within five working days. Form DC1-813 is incorporated by reference in subsection ~~(21)(20)~~ of this rule. The institutional inspector will ensure that all documentation is complete and will forward all materials to the Use of Force Unit within the Office of the Inspector General (OIG) within 5 working days. The OIG, following its review, will either approve the use of force action or disapprove it. If necessary, it will be referred for investigation before final approval or disapproval. If disapproved, the OIG shall advise the warden in writing of the reason for the disapproval so that the warden can take any needed corrective action. If employee disciplinary action appears warranted, the warden shall forward the materials to the service center employee relations supervisor. Form DC6-296, Disapproved Use of Force/Disposition Report, shall be used for this purpose. Form DC6-296 is incorporated by reference in subsection ~~(21)(20)~~ of this rule. The warden shall document all corrective action taken. Copies of the employee's report, the warden's summary and the inspector general's review and determination shall be kept in the inmate's file. A Use of Force Log, Form DC2-802, shall be placed in every employee's personnel file. This form will be maintained by the servicing personnel office and shall contain a record of every report of use of force and staff supplement completed by the employee. The warden or his or her designee shall be responsible for submitting accurate information to the personnel office in order to maintain the

DC2-802. Any use of force reports completed prior to 4-15-98 shall also remain in the file. Form DC2-802, Use of Force Log, is incorporated by reference in subsection ~~(21)(20)~~ of this rule.

~~(10)(9)~~ Any employee who witnesses, or has reasonable cause to suspect, that an inmate has been unlawfully abused shall immediately prepare, date and sign an Incident Report, Form DC6-210, pursuant to Section 944.35(5), F.S., specifically describing the nature of the force used, the location and time of the incident and the persons involved. The report shall be delivered to the inspector general of the department with a copy delivered to the warden of the institution. The inspector general shall conduct an appropriate investigation and, if probable cause exists that a crime has been committed, notify the state attorney in the circuit in which the institution is located. Form DC6-210, Incident Report, is incorporated by reference in subsection ~~(21)(20)~~ of this rule.

~~(11)(10)~~ Force or restraint may be used to administer medical treatment when ordered by a physician or clinical associate, and only when treatment is necessary to protect the health of other persons, as in the case of contagious and venereal diseases, or when treatment is offered in satisfaction of a duty to protect the inmate against self-inflicted injury or death. The physician or clinical associate shall prepare a report documenting the reasons that force or restraint was authorized. Form DC6-232, Authorization for Use of Force Report, shall be used for this purpose. The physician's or clinical associate's report shall be attached to the Institutions Report of Force Used when actual force is used, or the Incident Report, Form DC6-210, in cases when restraints are applied without the use of force as described above. In each instance a DC4-701C, Emergency Room Record, shall be completed in its entirety with applicable data, or the letters N/A used to indicate not applicable. Form DC4-708, Diagram of Injury, shall also be completed in its entirety with applicable data, or the letters N/A used to indicate not applicable. In each case, the examination shall be complete and result in a clear statement by the medical provider that there is or is not an injury, and the record shall provide sufficient documentation to support that conclusion. In all cases where physical force is used to manage an inmate, the inmate and any employee who is involved will be required to receive a medical examination or will sign a Refusal of Health Services Affidavit, Form DC4-711A, declining the examination. In those cases where an injury is claimed but not substantiated by medical examination, the statement by the medical provider shall indicate this, and the documentation shall be sufficient to support that no injury was found upon examination. Forms DC4-711A, DC4-701C and DC4-708 are incorporated by reference in subsection ~~(21)(20)~~ of this rule. When the use of four-point or five-point psychiatric restraints is authorized and the inmate does not offer resistance to the application of the restraints, the completion of an Institutions Report of Force Used, Form DC6-230, or an Institutions Report of Force Used Staff Supplement, Form DC6-231, will not be required. In these

situations, where there is no resistance to the application of psychiatric restraints, the application of the restraints will be videotaped and an Incident Report, Form DC6-210, will be completed. The videotape, the completed incident report, and the completed Authorization for Use of Force Report, Form DC6-232, will be forwarded to the warden or acting warden for review within one working day. The warden will forward the videotape and associated reports to the institutional inspector within five working days. The institutional inspector will ensure that all documentation is complete and will forward all materials to the Office of the Inspector General, as outlined in subsection ~~(9)(8)~~ above, for review. If at any time prior to or during the application of the psychiatric restraints the inmate offers resistance to the application, the steps outlined in subsection ~~(7)(6)~~ above will be followed.

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

~~(14)(13)~~ Use of electronic immobilization devices.

(a) through (d) No change.

(e) When in a close management or confinement setting, prior to utilizing electronic immobilization devices, the officer shall review Form DC4-650B, Risk Assessment for the Use of Chemical Agents and Electronic Immobilization Devices, to determine whether the inmate has a medical condition which may be exacerbated by use of electronic immobilization devices. If no form is available, and where time and circumstances permit, medical staff shall be consulted to determine if the inmate has any medical condition that would make the use of an electronic immobilization device dangerous to that inmate's health. Form DC4-650B is incorporated by reference in subsection ~~(21)(20)~~ of this rule.

(f) No change.

(g) As soon as possible following each use of an electronic immobilization device the inmate shall be afforded medical examination and treatment. Medical staff shall, upon completing the medical examination, make a mental health referral for each inmate who is classified S-2 or S-3 on the health profile. The referral shall be made by completing Form DC4-529, Staff Request/Referral, and sending it to mental health staff. Form DC4-529 is incorporated by reference in subsection ~~(21)(20)~~ of this rule. Mental health staff shall evaluate the inmate not later than the next work day to determine whether a higher level of mental health care (isolation management, transitional, or crisis stabilization) is indicated. For the purposes of this rule, the following definitions shall apply:

1. through 2. No change.

(h) through (l) No change.

~~(15)(14)~~ Use of Chemical Agents.

(a) through (j) No change.

(k) Chemical agents shall be stored in the main arsenal. A small amount of chemical agents may be stored in secure locations such as the control room mini-arsenal or the officer's

station in confinement and close management units until its use is authorized. Each stored chemical agent dispenser will be numbered. The Chemical Agent Accountability Log, Form DC6-216, will be kept in all areas in which chemical agents are stored and will be utilized to record the weight of each numbered chemical agent dispenser prior to issue and again when it is returned to the secure inventory storage area. The weighing process will be conducted and a verifying entry will be made in the log, including the signature of the shift supervisor authorizing the use of the chemical agent. The chief of security shall monitor the canister weights following each use of chemical agents to ensure the amounts used are consistent with that expected by reviewing and initialing the Chemical Agent Accountability Log, Form DC6-216. Form DC6-216 is incorporated by reference in subsection ~~(21)(20)~~ of this rule. Staff designated by the Secretary of the Department shall be issued one three or four ounce dispenser of OC pepper spray, with marking dye, after being properly trained in chemical agent utilization. The chemical agent dispenser shall be securely encased and attached to the officer's belt. Each MK-4 chemical agent dispenser will be secured within a pouch by a numbered, breakable seal. Form DC6-213, Individual Chemical Agent Dispenser, will be utilized to document the name of the officer to whom each dispenser is assigned as well as the seal number on the dispenser she or he received. Upon receiving the dispenser and pouch, the officer will examine the safety seal to ensure that it is intact. If the seal is broken, the Shift Supervisor will be notified immediately and an Incident Report, Form DC6-210, will be written. Forms DC6-210 and DC6-213 are incorporated by reference in subsection ~~(21)(20)~~ of this rule. The arsenal sergeant shall maintain a mastery inventory of all individual chemical agent dispensers complete with the weight of the dispenser at the time the original seal is attached. Whenever a dispenser is returned with a broken seal, the arsenal sergeant shall document the weight of the dispenser on the Form DC6-216 and attach a new seal.

(l) through (m) No change.

(n) Medical Requirements. Once the inmate is compliant, he shall be showered as soon as possible but not later than 20 minutes after final application of chemical agents. The inmate shall be examined by medical staff immediately after showering. In each instance a Form DC4-701C, Emergency Room Record, shall be completed in its entirety with applicable data, or the letters N/A used to indicate not applicable. If an injury is claimed or found to exist, Form DC4-708, Diagram of Injury, shall also be completed in its entirety with applicable data, or the letters N/A used to indicate not applicable. In each case, the examination shall be complete and result in a clear statement by the medical provider that there is or is not an injury, and the record shall provide sufficient documentation to support that conclusion. In those cases where an injury is claimed but not substantiated by medical examination, the statement shall indicate that, and the documentation shall be sufficient to support that no injury was

found upon examination. Medical staff shall, upon completing the medical examination, make a mental health referral for each inmate who is classified S-2 or S-3 on the health profile. The referral shall be made by completing Form DC4-529, Staff Request/Referral, and sending it to mental health staff. Form DC4-529 is incorporated by reference in subsection ~~(21)(20)~~ of this rule. Mental health staff shall evaluate the inmate not later than the next working day, to determine whether a higher level of mental health care (isolation management, transitional or crisis stabilization) is indicated.

(o) No change.

(p) Inmates exposed to chemical agents shall be ordered by the shift supervisor to shower and change both inner and outer wear within 20 minutes after exposure for decontamination purposes.

1. through 4. No change.

5. If health services staff determine that a medical need requires the inmate to be showered, the provisions of subsection 33-602.210~~(11)(10)~~, F.A.C., shall be followed to shower the inmate and move him to a decontaminated cell.

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

~~(17)(16)~~ Use of Firearms. In order for all concerned to be aware of their responsibilities, the statewide procedures set forth in this rule shall be included in the appropriate Department of Corrections procedures, post orders and escape emergency plans at each institution.

(a) through (c) No change.

~~(d) Escapes from outside a secure perimeter: When the identified escaped inmate has refused a verbal order to stop, a warning shot shall be fired if circumstances permit. If a warning shot fails or circumstances do not permit one, the correctional employee is authorized to shoot to stop the inmate.~~

~~(e) Escape attempts from inside a secure perimeter:~~

~~1. In institutions that have a double fence, where time permits, a verbal warning to halt shall be given before the inmate touches the inner fence. Time permitting, a warning shot shall then be fired before the inmate begins to pass over, through or under the inner fence. The firearm shall not be fired at the inmate until he has begun to pass over, through or under the inner fence.~~

~~2. In institutions that have a single fence, and time permitting, a verbal warning will be given to halt and a warning shot will be fired before the inmate reaches the perimeter fence. The firearm shall not be fired at the inmate until he has begun to pass over, through or under the fence.~~

(f) through (k) renumbered (d) through (i) No change.

~~(18)(17)~~ Pepperball Launching System (PLS). The PLS shall be used primarily by restricted labor squad supervisors and exercise officers for designated confinement, close management and death row populations. The PLS is intended for the dispersal of chemical agents in situations where the use of aerosol type agents would not be effective due to weather

conditions or when their use could subject the officer or uninvolved inmates to injury. The PLS shall only be employed by officers trained in their use and effects.

(a) through (f) No change.

(g) All subsequent reports, medical requirements and reviews required for the use of chemical agents as outlined in subsection ~~(15)(14)~~ above shall be completed after the use of the PLS.

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

~~(21)(20)~~ The following forms are hereby incorporated by reference. Copies of these forms are available from the Forms Control Administrator, Research, Planning and Support Services, 2601 Blair Stone Road, Tallahassee, Florida 32399-2500.

(a) through (d) No change.

(e) DC4-708, Diagram of Injury, effective ~~2-7-00~~.

(f) through (n) No change.

Specific Authority 944.09 FS. Law Implemented 20.315, ~~776.07~~, 944.09, 944.35 FS. History—New 4-8-81, Amended 10-10-83, 9-28-85, Formerly 33-3.066, Amended 3-26-86, 11-21-86, 4-21-93, 7-26-93, 11-2-94, 2-12-97, 11-8-98, Formerly 33-3.0066, Amended 10-6-99, 2-7-00, 7-25-02, 8-25-03, 2-25-04, 11-7-04, 4-17-05, 8-1-05, _____.

DEPARTMENT OF CORRECTIONS

RULE TITLE:

Disciplinary Confinement

RULE NO.:

33-602.222

PURPOSE AND EFFECT: The purpose and effect of the proposed rule is to amend Form DC6-295, Special Housing Unit Rotation Review, to provide more detail as to the types of force used by the officer during the review period.

SUBJECT AREA TO BE ADDRESSED: Disciplinary Confinement – Staff Assignment.

SPECIFIC AUTHORITY: 944.09 FS.

LAW IMPLEMENTED: 20.315, 944.09 FS.

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

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT AND A COPY OF THE PRELIMINARY DRAFT IS: Perri King Dale, 2601 Blair Stone Road, Tallahassee, Florida 32399-2500

THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS:

33-602.222 Disciplinary Confinement.

(1) through (13) No change.

(14) Forms. Form DC6-295, Special Housing Unit Rotation Review, is hereby incorporated by reference. A copy of this form is available from the Forms Control Administrator, Research, Planning and Support Services, Department of

Corrections, 2601 Blair Stone Road, Tallahassee, Florida 32399-2500. The effective date of Form DC6-295 is 4-1-04.

Specific Authority 944.09 FS. Law Implemented 20.315, 944.09 FS. History--New 3-12-84, Formerly 33-3.084, Amended 7-10-90, 4-28-96, 12-7-97, 3-23-99, Formerly 33-3.0084, Amended 2-12-01, 2-15-02, 4-1-04, _____.

WATER MANAGEMENT DISTRICTS

St. Johns River Water Management District

RULE TITLE: Minimum Surface Water Levels and Flows and Groundwater Levels

RULE NO.: 40C-8.031

PURPOSE AND EFFECT: The purpose and effect of the proposed rule amendment will be to amend established minimum water levels for the following lakes in the following counties: Lake Gore in Flagler County; Lake Charles in Marion County; and Lakes Ashby, Colby, Daugharty, and Dias in Volusia County.

SUBJECT AREA TO BE ADDRESSED: The proposed rule would amend established minimum water levels for the above listed lakes pursuant to the mandate of Section 373.042, Florida Statutes. Each of these levels have an associated hydroperiod category. The terms herein are already defined in Chapter 40C-8, F.A.C. As with all minimum levels established by the District, if adopted, the minimum levels in this rule amendment would be used as a basis for imposing limitations on withdrawals of groundwater and surface water in the

consumptive use permit regulatory process and for reviewing proposed surface water management systems in the environmental resource permit regulatory process.

SPECIFIC AUTHORITY: 373.044, 373.113 FS.

LAW IMPLEMENTED: 373.042, 373.0421 FS.

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

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT IS: Norma K. Messer, Rules Coordinator, St. Johns River Water Management District, Office of General Counsel, P. O. Box 1429, Palatka, Florida 32178-1429, (386)329-4459, Suncom 860-4459, e-mail: nmesser@sjrwmd.com

THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS:

40C-8.031 Minimum Surface Water Levels and Flows and Groundwater Levels.

(1) No change.

(2) The following minimum surface water levels are established:

LAKE NAME	COUNTY	HYDROPERIOD CATEGORY	MINIMUM INFREQUENT HIGH	MINIMUM FREQUENT HIGH	MINIMUM AVERAGE LEVEL	MINIMUM FREQUENT LOW	MINIMUM INFREQUENT LOW
(a) through (c) No change.							
(d) ASHBY	Volusia	Temporarily Seasonally Flooded Typically Saturated Semipermanently Flooded		12.3 13.8	42.4	11.1	
(e) through (o) No change.							
(p) CHARLES	Marion	Seasonally Flooded Typically Saturated Semipermanently Flooded		40.2 40.6	39.3	37.9	
(q) through (r) No change.							
(s) COLBY	Volusia	Seasonally Flooded Typically Saturated Semipermanently Flooded		27.7 28.3	25.1 26.6	23.0 25.2	
(t) through (y) No change.							
(z) DAUGHARTY	Volusia	Temporarily Seasonally Flooded Typically Saturated Semipermanently Flooded		44.8	42.6	41.2	
(aa) through (bb) No change.							
(cc) DIAS	Volusia	Seasonally Flooded Typically Saturated Semipermanently Flooded		34.6 34.5	33.5 34.1	32.2 32.8	
(dd) through (oo) No change.							
(pp) GORE	Flagler	Seasonally Flooded Typically Saturated Semipermanently Flooded		21.1 21.6	20.6 20.8	19.2 19.8	
(qq) through (ccccc) No change.							

(3) through (4) No change.

Specific Authority 373.044, 373.113 FS. Law Implemented 373.042, 272.0421 373.103, 373.415 FS. History--New 9-16-92, Amended 8-17-94, 6-8-95, 1-17-96, 8-20-96, 10-20-96, 11-4-98, 6-27-00, 2-13-01, 3-19-02, 5-11-03, 11-10-03, 1-12-04, _____.

AGENCY FOR HEALTH CARE ADMINISTRATION**Division of Health Quality Assurance**

RULE CHAPTER TITLE: Abortion Clinics
RULE CHAPTER NO.: 59A-9

PURPOSE AND EFFECT: The Agency proposes to revise Rule 59A-9, F.A.C., consistent with provisions of Chapter 2005-95, Laws of Florida. That law provides for adoption of rules for regulation of clinics providing abortions after the first trimester of pregnancy.

SUBJECT AREA TO BE ADDRESSED: The proposed rule revisions establish criteria for abortion clinic's physical facilities, supplies and equipment, clinic personnel, medical screening and evaluation, abortion procedures, recovery room standards, follow up care and incident reporting.

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

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

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

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT IS: M. Riley Gibson, Bureau of Health Facility Regulation, 2727 Mahan Drive, Tallahassee, Florida, (850)922-7752

THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS AVAILABLE AT NO CHARGE FROM THE CONTACT PERSON LISTED ABOVE.

AGENCY FOR HEALTH CARE ADMINISTRATION**Medicaid**

RULE TITLE: Medicaid Provider Reimbursement
RULE NO.: 59G-4.002

PURPOSE AND EFFECT: Rule 59G-4.002, F.A.C., incorporates by reference the Florida Medicaid Provider Reimbursement Schedule, January 2006. The reimbursement schedule contains the procedure codes and maximum fees that are effective January 2006 for the following provider types whose fees are based on a resource-based relative value scale: advanced registered nurse practitioner, birth center, chiropractic, dental, hearing, independent laboratory, licensed midwife, optometric, outpatient hospital laboratory, physician, physician assistant, podiatry, portable x-ray, registered nurse first assistant and visual.

SUBJECT AREA TO BE ADDRESSED: Medicaid Provider Reimbursement.

SPECIFIC AUTHORITY: 409.919 FS.

LAW IMPLEMENTED: 409.905, 409.906, 409.908 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.

TIME AND DATE: 2:00 p.m., Tuesday, November 8, 2005

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

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT IS: Jason Ottinger, Bureau of Medicaid Services, 2727 Mahan Drive, Mail Stop 20, Tallahassee, Florida 32308, (850)922-7314

THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS:

59G-4.002 Medicaid Provider Reimbursement.

Medicaid providers who provide the following services and their billing agents who submit claims on behalf of an enrolled Medicaid provider must be in compliance with the provisions of the Florida Medicaid Provider Reimbursement Schedule, January ~~2006~~ ~~2005~~, ~~updated April 2005~~: advanced registered nurse practitioner, birth center, chiropractic, dental, hearing, independent laboratory, licensed midwife, optometric, outpatient hospital laboratory, physician, physician assistant, podiatry, portable x-ray, registered nurse first assistant, and visual.

Specific Authority 409.919 FS. Law Implemented 409.905, 409.906, 409.908 FS. History—New 8-18-05, Amended.

DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION**Board of Veterinary Medicine**

RULE TITLE: Exemptions and Exceptions
RULE NO.: 61G18-17.001

PURPOSE AND EFFECT: The Board proposes to review the rule to determine whether amendments are necessary.

SUBJECT AREA TO BE ADDRESSED: Certain tasks involving herd animal and equine management which are deemed not to fall within the practice of veterinary medicine.

SPECIFIC AUTHORITY: 474.203, 474.206 FS.

LAW IMPLEMENTED: 474.203(4) FS.

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

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT AND A COPY OF THE PRELIMINARY DRAFT IS: Juanita Chastain, Executive Director, Board of Veterinary Medicine, Northwood Centre, 1940 N. Monroe Street, Tallahassee, Florida 32399-0750

THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS:

61G18-17.001 Exemptions and Exceptions.

(1) through (3) No change.

(4) A person hired on a part time or temporary basis by an owner to assist with traditional herd management and/or animal husbandry tasks is not deemed to be engaged in the practice of veterinary medicine. Such tasks are limited to herd animals raised for food/fiber, and equines. In the case of herd animals, this includes castration, dehorning, and parasite control. In equines, this includes routine, non-corrective shoeing and non-mechanical, hand floating of teeth.

Specific Authority 474.203, 474.206 FS. Law Implemented 474.203(4) FS. History—New 7-9-80, Formerly 21X-17.01, 21X-17.001, Amended 7-4-95, 1-5-98,_____.

DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION

Board of Veterinary Medicine

RULE TITLE: Disciplinary Guidelines

RULE NO.: 61G18-30.001

PURPOSE AND EFFECT: The Board proposes to review the rule to determine whether amendments are necessary.

SUBJECT AREA TO BE ADDRESSED: Disciplinary guidelines for violations and penalties.

SPECIFIC AUTHORITY: 455.2273(1), 474.206 FS.

LAW IMPLEMENTED: 455.2273, 455.2281, 474.213, 474.214 FS.

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

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT AND A COPY OF THE PRELIMINARY DRAFT, IF AVAILABLE, IS: Juanita Chastain, Executive Director, Board of Veterinary Medicine, Northwood Centre, 1940 N. Monroe Street, Tallahassee, Florida 32399-0750

THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS NOT AVAILABLE.

DEPARTMENT OF ENVIRONMENTAL PROTECTION

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

DEPARTMENT OF HEALTH

Board of Clinical Social Work, Marriage and Family Therapy and Mental Health Counseling

RULE TITLE: Demonstrating Knowledge of Laws

RULE NO.: 64B4-3.0035

and Rules for Licensure

PURPOSE AND EFFECT: The Board proposes to update course requirements for the registration of registered interns.

SUBJECT AREA TO BE ADDRESSED: Course requirements for registered intern registration.

SPECIFIC AUTHORITY: 491.004(5) FS.

LAW IMPLEMENTED: 491.005(1)(e) FS.

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

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT AND A COPY OF THE PRELIMINARY DRAFT, IF AVAILABLE, IS: Susan Foster, Executive Director, Board of Clinical Social Work, Marriage and Family Therapy and Mental Health Counseling, 4052 Bald Cypress Way, Bin #C08, Tallahassee, Florida 32399-3258

THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS NOT AVAILABLE.

DEPARTMENT OF HEALTH

Board of Clinical Social Work, Marriage and Family Therapy and Mental Health Counseling

RULE TITLE: Retired Status Fee

RULE NO.: 64B4-4.0053

PURPOSE AND EFFECT: The Board proposes to approve a retired status fee of \$50.00 to be consistent with all of the other professions in the department.

SUBJECT AREA TO BE ADDRESSED: Retired Status Fee.

SPECIFIC AUTHORITY: 456.036, 491.004(5) FS.

LAW IMPLEMENTED: 456.036 FS.

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

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT AND A COPY OF THE PRELIMINARY DRAFT, IF AVAILABLE, IS: Susan Foster, Executive Director, Board of Clinical Social Work, Marriage and Family Therapy and Mental Health Counseling, 4052 Bald Cypress Way, Bin #C08, Tallahassee, Florida 32399-3258

THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS NOT AVAILABLE.

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT AND A COPY OF THE PRELIMINARY DRAFT, IF AVAILABLE, IS: Kaye Howerton, Executive Director, Board of Medicine, Dietetics and Nutrition Practice Council/MQA, 4052 Bald Cypress Way, Bin #C05, Tallahassee, Florida 32399-3253

THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS NOT AVAILABLE.

DEPARTMENT OF HEALTH

Board of Medicine

RULE TITLES:	RULE NOS.:
Licensure by Endorsement	64B8-42.001
Licensure by Examination	64B8-42.002
Inactive and Retired Licensure Status;	
Reactivating of Licensure;	
Delinquent Renewal	64B8-42.006

PURPOSE AND EFFECT: The Board proposed to review the above-listed rules to determine if changes are necessary in light of recent statutory changes.

SUBJECT AREA TO BE ADDRESSED: Licensure by Endorsement; Licensure by Examination; and Inactive and Retired Licensure Status; Reactivating of Licensure; Delinquent Renewal.

SPECIFIC AUTHORITY: 456.017(1), 456.036(1),(10),(13), (15), 456.507, 456.508, 468.515 FS.

LAW IMPLEMENTED: 456.017, 456.027, 456.036(10), 456.507, 456.509, 468.513, 468.515 FS.

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

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT AND A COPY OF THE PRELIMINARY DRAFT, IF AVAILABLE, IS: Kaye Howerton, Executive Director, Board of Medicine, Dietetics and Nutrition Practice Council/MQA, 4052 Bald Cypress Way, Bin #C05, Tallahassee, Florida 32399-3253

THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS NOT AVAILABLE.

DEPARTMENT OF HEALTH

Board of Medicine

RULE TITLES:	RULE NOS.:
Disciplinary Guidelines	64B8-44.003
Citations	64B8-44.005

PURPOSE AND EFFECT: The Board proposed to review the above-listed rules to determine if changes are necessary in light of recent statutory changes.

SUBJECT AREA TO BE ADDRESSED: Disciplinary Guidelines and Citations.

SPECIFIC AUTHORITY: 456.036(15), 456.077, 456.079, 458.309, 468.507 FS.

LAW IMPLEMENTED: 456.036(1), 456.077, 456.517, 468.518 FS.

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

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT AND A COPY OF THE PRELIMINARY DRAFT, IF AVAILABLE, IS: Kaye Howerton, Executive Director, Board of Medicine, Dietetics and Nutrition Practice Council/MQA, 4052 Bald Cypress Way, Bin #C05, Tallahassee, Florida 32399-3253

THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS NOT AVAILABLE.

DEPARTMENT OF HEALTH

Board of Physical Therapy Practice

RULE TITLE:	RULE NO.:
Duplicate License or Wall Certificate Fee	64B17-2.006

PURPOSE AND EFFECT: The Board proposes to review the rule to determine whether amendments are necessary.

SUBJECT AREA TO BE ADDRESSED: Removing issuance of a wall certificate and fee.

SPECIFIC AUTHORITY: 456.025(2),(7), 486.025 FS.

LAW IMPLEMENTED: 456.025(2),(7) FS.

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

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT AND A COPY OF THE PRELIMINARY DRAFT, IF AVAILABLE, IS: Kaye Howerton, Executive Director, Board of Physical Therapy Practice/MQA, 4052 Bald Cypress Way, Bin #C05, Tallahassee, Florida 32399-3255

THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS NOT AVAILABLE.

DEPARTMENT OF HEALTH

Board of Physical Therapy Practice

RULE TITLES:	RULE NOS.:
Licensure as a Physical Therapist	
by Examination	64B17-3.001
Licensure Examination Subjects and Passing	
Score; Additional Requirements After	
Third Failure; Florida Jurisprudence	
Examination	64B17-3.002
Licensure by Endorsement	64B17-3.003

PURPOSE AND EFFECT: The Board proposes to review the rules to determine whether amendments are necessary.

SUBJECT AREA TO BE ADDRESSED: Requirements for licensure by examination and endorsement.

SPECIFIC AUTHORITY: 456.017, 486.025, 486.031(3), 486.051, 486.081 FS.

LAW IMPLEMENTED: 456.017, 486.031, 486.051, 486.081 FS.

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

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT AND A COPY OF THE PRELIMINARY DRAFT, IF AVAILABLE, IS: Kaye Howerton, Executive Director, Board of Physical Therapy Practice/MQA, 4052 Bald Cypress Way, Bin #C05, Tallahassee, Florida 32399-3255

THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS NOT AVAILABLE.

DEPARTMENT OF HEALTH

Board of Physical Therapy Practice

RULE TITLES: RULE NOS.:

Licensure as a Physical Therapist Assistant by Examination 64B17-4.001

Licensure Examination Subjects and Passing Score; Additional Requirements After Third Failure; Florida Jurisprudence Examination 64B17-4.002

Licensure by Endorsement 64B17-4.003

PURPOSE AND EFFECT: The Board proposes to review the rules to determine whether amendments are necessary.

SUBJECT AREA TO BE ADDRESSED: Requirements for licensure of physical therapist assistants by examination and endorsement.

SPECIFIC AUTHORITY: 456.017, 486.025, 486.102, 486.104, 486.107(1) FS.

LAW IMPLEMENTED: 456.017, 486.102(3), 486.104, 486.107(1) FS.

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

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT AND A COPY OF THE PRELIMINARY DRAFT, IF AVAILABLE, IS: Kaye Howerton, Executive Director, Board of Physical Therapy Practice/MQA, 4052 Bald Cypress Way, Bin #C05, Tallahassee, Florida 32399-3255

THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS NOT AVAILABLE.

DEPARTMENT OF HEALTH

Board of Physical Therapy Practice

RULE TITLE: RULE NO.:
Disciplinary Guidelines 64B17-7.001

PURPOSE AND EFFECT: The Board proposes to review the rule to determine whether amendments are necessary.

SUBJECT AREA TO BE ADDRESSED: Adding certain requirements when imposing appropriate penalties as part of a final order, penalties for failing to complete an impaired practitioner's treatment program.

SPECIFIC AUTHORITY: 456.072, 456.079, 486.025 FS.

LAW IMPLEMENTED: 456.072, 456.073, 456.079, 486.125 FS.

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

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT AND A COPY OF THE PRELIMINARY DRAFT, IF AVAILABLE, IS: Kaye Howerton, Executive Director, Board of Physical Therapy Practice/MQA, 4052 Bald Cypress Way, Bin #C05, Tallahassee, Florida 32399-3255

THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS NOT AVAILABLE.

DEPARTMENT OF HEALTH

Board of Physical Therapy Practice

RULE TITLE: RULE NO.:
Continuing Education 64B17-9.001

PURPOSE AND EFFECT: The Board proposes to review the rule to determine whether amendments are necessary.

SUBJECT AREA TO BE ADDRESSED: The Board proposes to delete references to the addresses for the American Physical Therapy Association and the Florida Physical Therapy Association.

SPECIFIC AUTHORITY: 486.025 FS.

LAW IMPLEMENTED: 456.013(6), 486.109(2) FS.

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

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT AND A COPY OF THE PRELIMINARY DRAFT, IF AVAILABLE, IS: Kaye

Howerton, Executive Director, Board of Physical Therapy Practice/MQA, 4052 Bald Cypress Way, Bin #C05, Tallahassee, Florida 32399-3255

THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS NOT AVAILABLE.

FISH AND WILDLIFE CONSERVATION COMMISSION

RULE CHAPTER TITLE: General Provisions

RULE TITLE:

RULE NO.:

Cooperative Advertising, Sponsorships and Partnerships

68-1.006

PURPOSE AND EFFECT: The purpose of this proposed new rule is to implement the provisions of Section 372.0222(6)(a), Florida Statutes, relating to Commission utilization of public and private partnerships to inform Floridians and visitors about Florida's unique and diverse fish and wildlife, and related recreation opportunities, and make such information available by means of commonly used media. The effect of this rule will be to establish a process for creation of partnerships and sponsorships.

SUBJECT AREA TO BE ADDRESSED: Commission partnerships and sponsorships.

SPECIFIC AUTHORITY: 372.0222(6)(a) FS., Art. IV, Sec. 9, Florida Constitution.

LAW IMPLEMENTED: 372.0222(6)(a) FS., Art. IV, Sec. 9, Florida Constitution.

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

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

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

THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS:

68-1.006 Cooperative Advertising, Sponsorships and Partnerships.

(1) Purpose; intent; references. The Commission currently engages in advertising, promotional, marketing and related activities in support of its fish, wildlife, public recreation and

other programs. The purpose of this rule is to implement the provisions of Section 372.0222(6)(a), Florida Statutes, relating to Commission utilization of public and private partnerships to inform Floridians and visitors about Florida's unique and diverse fish and wildlife, and related recreation opportunities, and make such information available by means of commonly used media. Commission sponsors and partners may also participate in other aspects of the Commission's advertising, promotional, marketing and related activities not addressed in this rule. For purposes of this rule, the terms "partner" and "partnership" shall include the terms "sponsor" and "sponsorship" respectively.

(2) Partnership selection.

(a) The Commission may seek a partnership proposal from a specific qualified partner, or set of potential partners. The Commission may also seek proposals more broadly from all qualified potential partners through publication of a notice or other means designed to provide notice to potential partners. Persons or entities proposing a partnership may submit a proposal to the Commission at any time. Creative proposals from the private sector are encouraged. Because of the diversity of Commission programs and activities, partnerships may be established for broad dissemination of information (national, international, regional, statewide), or for localized markets, or a combination.

(b) The Commission will consider the following in any selection of partners and potential partners:

1. Whether the mission, image and messages of the potential partner are consistent and compatible with the mission, programs and activities of the Commission;

2. Whether the proposed partnership would support a specific Commission program or programs;

3. The nature of the business in which the potential partner engages, and its consistency and compatibility with the mission, programs and activities of the Commission;

4. The potential for inconsistency between the public image or messages of the potential partner, and the public image or messages of the Commission;

5. The potential partner's record of compliance with wildlife-related laws and rules (statewide, nationally and internationally);

6. The potential partner's record of support for wildlife programs;

7. The potential for conflict of interest, or the appearance of conflict of interest; and

8. Whether the proposed partnership is consistent with the intent of Section 372.0222(6)(a), F.S.

(3) Requirements for partnerships. The following are requirements applicable to partnerships:

(a) The Commission shall retain the right to approve all elements of a partner's statements or representations (written or graphic) referring to the Commission name, the Commission logo, the partnership, or the affiliation.

(b) References to the Commission, Commission logo, or the partnership or the affiliation shall not be permitted in advertising of alcoholic beverages, tobacco, adult (sexually-oriented) businesses, or gambling. Such references shall not be permitted in materials that discriminate on the basis of age, sex, race or national origin, or which are deceiving, fraudulent or untruthful.

(c) All materials containing advertising (and references to the Commission, logo, the partnership or the affiliation) shall contain a statement that the inclusion of Commission logo or references in such materials does not constitute an endorsement by the state or Commission of the products or services of the partner.

(5) The Wildlife Foundation of Florida, Inc. The Commission may utilize the Wildlife Foundation of Florida (a Commission-approved citizen support organization created pursuant to Section 372.0215, F.S.) to assist in administering this partnership program.

Specific Authority 372.0222(6)(a) F.S., Art. IV, Sec. 9, Fla. Const. Law Implemented 372.0222(6)(a) F.S., Art. IV, Sec. 9, Fla. Const. History—New

FISH AND WILDLIFE CONSERVATION COMMISSION

Marine Fisheries

RULE CHAPTER TITLE: Reef Fish

RULE TITLES:

Definitions

Size Limits: Amberjacks, Black Sea Bass,

Gray Triggerfish, Grouper, Hogfish,

Red Porgy, Snapper

Size Limits for Importation and Sale

Recreational Bag Limits: Snapper, Grouper,

Hogfish, Black Sea Bass, Red Porgy,

Amberjacks, Exception, Wholesale/

Retail Purchase Exemption

PURPOSE AND EFFECT: The purpose of these rule amendments is to clarify the definition of total length in all reef fish rules that contain a total length measurement, in conjunction with related rule amendments in other rule chapters regulating the harvest of marine species. The minimum size of one species of reef fish, gray triggerfish, is amended to clarify that a fork length measurement applies to it. The effect of this rule would be to standardize the method for measuring total length of marine reef fish and thereby simplify compliance by commercial and recreational harvesters.

SUBJECT AREA TO BE ADDRESSED: Length measurement of reef fish.

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

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

RULE NOS.:

68B-14.002

68B-14.0035

68B-14.00355

68B-14.0036

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

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THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT IS: Mark Robson, Director, Division of Marine Fisheries Management, Fish and Wildlife Conservation Commission, 2590 Executive Center Circle, East, Suite 201, Tallahassee, Florida 32301, (850)487-0554

THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS:

68B-14.002 Definitions.

For purposes of this chapter, except where the context clearly requires otherwise:

(1) through (13) No change.

(14) “Total length” means the straight line distance from the most forward point of the head with the mouth closed, to the farthest tip of the tail with the tail compressed or squeezed, while the fish is lying on its side ~~length of a fish as measured from the tip of the snout to the tip of the tail.~~

(15) No change.

Specific Authority Art. IV, Sec. 9, Fla. Const. Law Implemented Art. IV, Sec. 9, Fla. Const. History—New 7-29-85, Amended 12-11-86, 2-1-90, 12-31-92, 3-1-94, 1-1-98, 12-31-98, Formerly 46-14.002, Amended 1-1-00, 1-1-03,

68B-14.0035 Size Limits: Amberjacks, Black Sea Bass, Gray Triggerfish, Grouper, Hogfish, Red Porgy, Snapper.

No person shall land, possess, unnecessarily destroy, purchase, exchange, sell or offer for sale any of the following species harvested in or from state waters, of a length less than set forth as follows:

(1) through (2) No change.

(3) Gray triggerfish 12 inches fork ~~total~~ length

(4) through (7) No change.

Specific Authority Art. IV, Sec. 9, Fla. Const. Law Implemented Art. IV, Sec. 9, Fla. Const. History—New 12-31-98, Amended 3-1-99, Formerly 46-14.0035, Amended 1-1-00, 1-1-01, 1-1-01, 1-1-03, 9-16-05,

68B-14.00355 Size Limits for Importation and Sale.

(1) No person shall possess for purposes of sale, purchase, sell, or exchange any of the following species of a length less than set forth as follows:

- (a) through (b) No change.
- (c) Gray triggerfish 12 inches ~~fork~~ total length.
- (d) through (f) No change.
- (2) through (4) No change.

Specific Authority Art. IV, Sec. 9, Fla. Const. Law Implemented Art. IV, Sec. 9, Fla. Const. History--New 1-1-03, Amended 9-16-05, _____.

68B-14.0036 Recreational Bag Limits: Snapper, Grouper, Hogfish, Black Sea Bass, Red Porgy, Amberjacks, Exception, Wholesale/Retail Purchase Exemption.

- (1) Snapper.
- (a) through (e) No change.
- (f) Cubera snapper.

1. Cubera snapper of a total length less than 30 inches shall be included in the aggregate snapper bag and possession limit established in paragraph (a), and the exception provided in a subsection (7).

2. No recreational harvester shall harvest in or from state waters, nor possess while in or on state waters, more than 2 cubera snapper 30 inches in total length or larger per day, and no more than 2 such cubera snapper shall be possessed aboard any vessel in or on state waters at any time. Such larger cubera snapper shall not be included in the aggregate snapper bag and possession limit prescribed in paragraph (a).

- (2) through (8) No change.

Specific Authority Art. IV, Sec. 9, Fla. Const. Law Implemented Art. IV, Sec. 9, Fla. Const. History--New 12-31-98, Amended 3-1-99, Formerly 46-14.0036, Amended 10-22-99, 1-1-00, 3-6-00, 3-1-01, 1-1-03, 1-3-05, 9-16-05, _____.

FISH AND WILDLIFE CONSERVATION COMMISSION

Marine Fisheries

RULE CHAPTER TITLE: Reef Fish

RULE TITLE:

RULE NO.:

Recreational Bag Limits: Snapper, Grouper, Hogfish, Black Sea Bass, Red Porgy, Amberjacks, Exception, Wholesale/Retail Purchase Exemption

68B-14.0036

PURPOSE AND EFFECT: The purpose of this rule is to reduce the recreational red grouper bag limit from two fish per person per day to one fish per person per day. The effect of the proposed rule will be to reduce fishing mortality on the red grouper resource and improve the species' health and abundance.

SUBJECT AREA TO BE ADDRESSED: Red grouper recreational bag limit.

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

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

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

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

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT IS: Mark Robson, Director, Division of Marine Fisheries Management, Fish and Wildlife Conservation Commission, 2590 Executive Center Circle, East, Suite 201, Tallahassee, Florida 32301, (850)487-0554

THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS:

68B-14.0036 Recreational Bag Limits: Snapper, Grouper, Hogfish, Black Sea Bass, Red Porgy, Amberjacks, Exception, Wholesale/Retail Purchase Exemption.

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

(a) Aggregate bag limit. Except as provided elsewhere in this rule, no recreational harvester shall harvest in or from state waters, nor possess while in or on state waters, more than a total of 5 grouper per day, in any combination of species.

(b) Red Grouper. Except as provided elsewhere in this rule, in all state waters of the Gulf of Mexico, within the aggregate bag and possession limit established in paragraph (a), no more than 1 ~~2~~ fish may be red grouper. No recreational harvester may harvest in or from state waters of the Gulf of Mexico, nor possess while in or on the waters of the Gulf of Mexico, more than 1 ~~2~~ red grouper.

- (c) through (e) No change.
- (3) through (8) No change.

Specific Authority Art. IV, Sec. 9, Fla. Const. Law Implemented Art. IV, Sec. 9, Fla. Const. History--New 12-31-98, Amended 3-1-99, Formerly 46-14.0036, Amended 10-22-99, 1-1-00, 3-6-00, 3-1-01, 1-1-03, 1-3-05, 9-16-05, _____.

FISH AND WILDLIFE CONSERVATION COMMISSION

Marine Fisheries

RULE CHAPTER TITLE: Snook

RULE TITLES:

RULE NOS.:

Definitions

68B-21.0015

Size Limits

68B-21.005

PURPOSE AND EFFECT: The purpose of these rule amendments is to clarify the definition of total length as it relates to snook, in conjunction with related rule amendments

in other rule chapters regulating the harvest of marine species. The effect of this rule would be to standardize the method for measuring total length of snook and thereby simplify compliance by recreational snook harvesters.

SUBJECT AREA TO BE ADDRESSED: Length measurement of snook.

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

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

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

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THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS:

68B-21.0015 Definitions.

(1) through (10) No change.

(11) “Total length” means the straight line distance from the most forward point of the head with the mouth closed, to the farthest tip of the tail with the tail compressed or squeezed, while the fish is lying on its side.

Specific Authority Art. IV, Sec. 9, Fla. Const. Law Implemented Art. IV, Sec. 9, Fla. Const. History—New 7-9-87, Amended 1-1-98, Formerly 46-21.0015, Amended 1-1-02, 5-13-02, _____.

68B-21.005 Size Limits.

(1) It is unlawful for any person, firm or corporation to kill, harvest or possess any snook that measures less than 26 inches or greater than 34 inches in total length ~~(measured from the most forward point of the lower jaw to the tip of the tail).~~

(2) No change.

Specific Authority Art. IV, Sec. 9, Fla. Const. Law Implemented Art. IV, Sec. 9, Fla. Const. History—New 7-23-85, Amended 7-9-87, 3-1-94, 12-31-98, Formerly 46-21.005, Amended _____.

FISH AND WILDLIFE CONSERVATION COMMISSION

Marine Fisheries

RULE CHAPTER TITLE: Red Drum (Redfish)

RULE TITLE:

RULE NO.:

Definitions

68B-22.002

PURPOSE AND EFFECT: The purpose of this rule amendment is to clarify the definition of total length with respect to redfish, in conjunction with related rule amendments in other rule chapters regulating the harvest of marine species. The effect of this rule amendment would be to standardize the method for measuring total length of red drum and thereby simplify compliance by recreational harvesters.

SUBJECT AREA TO BE ADDRESSED: Length measurement of red drum.

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

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

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

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THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT IS: Mark Robson, Director, Division of Marine Fisheries Management, Fish and Wildlife Conservation Commission, 2590 Executive Center Circle, East, Suite 201, Tallahassee, Florida 32301, (850)487-0554

THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS:

68B-22.002 Definitions.

(1) through (9) No change.

(10) “Total length” means the straight line distance from the most forward point of the head with the mouth closed, to the farthest tip of the tail with the tail compressed or squeezed, while the fish is lying on its side ~~length of a fish as measured from the most forward point of the head to the hindmost point of the tail.~~

(11) No change.

Specific Authority Art. IV, Sec. 9, Fla. Const. Law Implemented Art. IV, Sec. 9, Fla. Const. History—New 9-12-85, Amended 2-12-87, 1-1-89, 1-1-96, 1-1-98, Formerly 46-22.002, Amended 3-17-04, _____.

**FISH AND WILDLIFE CONSERVATION
COMMISSION****Marine Fisheries**

RULE CHAPTER TITLE: Bonefish

RULE TITLE: Definitions
RULE NO.: 68B-34.002

PURPOSE AND EFFECT: The purpose of this rule amendment is to clarify the definition of total length with respect to bonefish, in conjunction with related rule amendments in other rule chapters regulating the harvest of marine species. The effect of this rule amendment would be to standardize the method for measuring total length of bonefish and thereby simplify compliance by recreational harvesters.

SUBJECT AREA TO BE ADDRESSED: Length measurement of bonefish.

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

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

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

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THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT IS: Mark Robson, Director, Division of Marine Fisheries Management, Fish and Wildlife Conservation Commission, 2590 Executive Center Circle, East, Suite 201, Tallahassee, Florida 32301, (850)487-0554

THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS:

68B-34.002 Definitions.

(1) through (3) No change.

(4) “Total length” means the straight line distance from the most forward point of the head with the mouth closed, to the farthest tip of the tail with the tail compressed or squeezed, while the fish is lying on its side.

Specific Authority Art. IV, Sec. 9, Fla. Const. Law Implemented Art. IV, Sec. 9, Fla. Const. History—New 3-1-88, Amended 1-1-98, Formerly 46-34.002, Amended 3-1-05, _____.

**FISH AND WILDLIFE CONSERVATION
COMMISSION****Marine Fisheries**

RULE CHAPTER TITLE: Black Drum

RULE TITLE: Definitions
RULE NO.: 68B-36.002

PURPOSE AND EFFECT: The purpose of this rule amendment is to clarify the definition of total length with respect to black drum, in conjunction with related rule amendments in other rule chapters regulating the harvest of marine species. The effect of this rule amendment would be to standardize the method for measuring total length of black drum and thereby simplify compliance by commercial and recreational harvesters.

SUBJECT AREA TO BE ADDRESSED: Length measurement of black drum.

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

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

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

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THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT IS: Mark Robson, Director, Division of Marine Fisheries Management, Fish and Wildlife Conservation Commission, 2590 Executive Center Circle, East, Suite 201, Tallahassee, Florida 32301, (850)487-0554

THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS:

68B-36.002 Definitions.

As used in this chapter:

(1) through (4) No change.

(5) “Total length” means the straight line distance from the most forward point of the head with the mouth closed, to the farthest tip of the tail with the tail compressed or squeezed, while the fish is lying on its side ~~length of a fish as measured from the tip of the snout to the tip of the tail.~~

(6) No change.

Specific Authority Art. IV, Sec. 9, Fla. Const. Law Implemented Art. IV, Sec. 9, Fla. Const. History—New 7-1-89, Amended 7-15-96, 9-30-96, Formerly 46-36.002, Amended _____.

FISH AND WILDLIFE CONSERVATION COMMISSION

Marine Fisheries

RULE CHAPTER TITLE: Spotted Seatrout

RULE TITLE: Definitions
RULE NO.: 68B-37.002

PURPOSE AND EFFECT: The purpose of this rule amendment is to clarify the definition of total length with respect to spotted seatrout, in conjunction with related rule amendments in other rule chapters regulating the harvest of marine species. The effect of this rule amendment would be to standardize the method for measuring total length of spotted seatrout and thereby simplify compliance by commercial and recreational harvesters.

SUBJECT AREA TO BE ADDRESSED: Length measurement of spotted seatrout.

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

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

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

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THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT IS: Mark Robson, Director, Division of Marine Fisheries Management, Fish and Wildlife Conservation Commission, 2590 Executive Center Circle, East, Suite 201, Tallahassee, Florida 32301, (850)487-0554

THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS:

68B-37.002 Definitions.

As used in this rule chapter:

(1) through (8) No change.

(9) "Total length" means the straight line distance from the most forward point of the head with the mouth closed, to the farthest tip of the tail with the tail compressed or squeezed, while the fish is lying on its side ~~length of a fish as measured from the most forward point of the head to the hindmost point of the tail.~~

Specific Authority Art. IV, Sec. 9, Fla. Const. Law Implemented Art. IV, Sec. 9, Fla. Const. History—New 11-1-89, Amended 1-1-96, 8-1-96, Formerly 46-37.002, Amended 7-1-00, _____.

FISH AND WILDLIFE CONSERVATION COMMISSION

Marine Fisheries

RULE CHAPTER TITLE: Marine Life

RULE TITLE: Definitions
RULE NO.: 68B-42.002

PURPOSE AND EFFECT: The purpose of this rule amendment is to clarify the definition of total length with respect to tropical fishes in Florida's marine life fishery, in conjunction with related rule amendments in other rule chapters regulating the harvest of marine species. The effect of this rule would be to standardize the method for measuring total length of tropical fishes in the marine life fishery and thereby simplify compliance by commercial and recreational harvesters.

SUBJECT AREA TO BE ADDRESSED: Length measurement of tropical fishes in the marine life fishery.

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

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

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

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THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT IS: Mark Robson, Director, Division of Marine Fisheries Management, Fish and Wildlife Conservation Commission, 2590 Executive Center Circle, East, Suite 201, Tallahassee, Florida 32301, (850)487-0554

THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS:

68B-42.002 Definitions.

As used in this rule chapter:

(1) through (12) No change.

(13) "Total length" means the straight line distance from the most forward point of the head with the mouth closed, to the farthest tip of the tail with the tail compressed or squeezed, while the fish is lying on its side ~~length of a fish as measured from the tip of the snout to the tip of the tail.~~

(14) through (17) No change.

Specific Authority Art. IV, Sec. 9, Fla. Const. Law Implemented Art. IV, Sec. 9, Fla. Const. History—New 1-1-91, Amended 7-1-92, 1-1-95, 7-15-96, Formerly 46-42.002, Amended 2-1-05, _____.

**FISH AND WILDLIFE CONSERVATION
COMMISSION****Marine Fisheries**

RULE CHAPTER TITLE: Blue Crab

RULE TITLES:

Regulation and Prohibition of Certain

Harvesting Gear

Blue Crab Limited Entry

Endorsement Program

RULE NOS.:

68B-45.004

68B-45.007

PURPOSE AND EFFECT: The purpose of these rule amendments is: 1) to incorporate language into Rule 68B-45.004, F.A.C., that will allow a blue crab a harvester to obtain permission from the Division of Law Enforcement to allow another person to transport, deploy, pull, or retrieve his or her traps, and 2) to amend Rule 68B-45.007, F.A.C., to create a non-transferable Blue Crab Limited Entry Endorsement. The effect of these proposed rule amendments will be to provide more flexibility to blue crab harvesters who experience health or mechanical emergencies to receive assistance in working their traps and to establish a nontransferable endorsement for certain classes of commercial fishers to allow them to legally harvest blue crab.

SUBJECT AREA TO BE ADDRESSED: Blue crab commercial harvest.

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

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

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

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

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT AND A COPY OF THE PRELIMINARY TEXT, IF AVAILABLE, IS: Mark Robson, Director, Division of Marine Fisheries Management, Fish and Wildlife Conservation Commission, 2590 Executive Center Circle, East, Suite 201, Tallahassee, Florida 32301, (850)487-0554

THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS NOT AVAILABLE.

**FISH AND WILDLIFE CONSERVATION
COMMISSION****Marine Fisheries**

RULE CHAPTER TITLE: Weakfish

RULE TITLE:

Definitions

RULE NO.:

68B-47.001

PURPOSE AND EFFECT: The purpose of this rule amendment is to clarify the definition of total length with respect to weakfish, in conjunction with related rule amendments in other rule chapters regulating the harvest of marine species. The effect of this rule would be to standardize the method for measuring total length of weakfish and thereby simplify compliance by commercial and recreational harvesters.

SUBJECT AREA TO BE ADDRESSED: Length measurement of weakfish.

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

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

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

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THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT IS: Mark Robson, Director, Division of Marine Fisheries Management, Fish and Wildlife Conservation Commission, 2590 Executive Center Circle, East, Suite 201, Tallahassee, Florida 32301, (850)487-0554

THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS:

68B-47.001 Definitions.

As used in this chapter:

(1) through (3) No change.

(4) "Total length" means the straight line distance from the most forward point of the head with the mouth closed, to the farthest tip of the tail with the tail compressed or squeezed, while the fish is lying on its side ~~length of a fish as measured from the tip of the snout to the tip of the tail.~~

(5) No change.

Specific Authority Art. IV, Sec. 9, Fla. Const. Law Implemented Art. IV, Sec. 9, Fla. Const. History—New 7-17-95, Amended 1-1-98, Formerly 46-47.001, Amended _____.

FISH AND WILDLIFE CONSERVATION COMMISSION

Marine Fisheries

RULE CHAPTER TITLE: Flounder and Sheepshead

RULE TITLE: Definitions RULE NO.: 68B-48.002

PURPOSE AND EFFECT: The purpose of this rule amendment is to clarify the definition of total length with respect to flounder and sheepshead, in conjunction with related rule amendments in other rule chapters regulating the harvest of marine species. The effect of this rule amendment would be to standardize the method for measuring total length of flounder and sheepshead and thereby simplify compliance by commercial and recreational harvesters.

SUBJECT AREA TO BE ADDRESSED: Length measurement of flounder and sheepshead.

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

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

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

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THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT IS: Mark Robson, Director, Division of Marine Fisheries Management, Fish and Wildlife Conservation Commission, 2590 Executive Center Circle, East, Suite 201, Tallahassee, Florida 32301, (850)487-0554

THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS:

68B-48.002 Definitions.

As used in this chapter:

(1) through (4) No change.

~~(5) "Length" means the length of a fish as measured from the most forward point of the head to the rear center edge of the tail.~~

~~(5)(6)~~ "Sheepshead" means any fish of the species *Archosargus probatocephalus*.

~~(6)(7)~~ No change.

(7) "Total length" means the straight line distance from the most forward point of the head with the mouth closed, to the farthest tip of the tail with the tail compressed or squeezed, while the fish is lying on its side.

Specific Authority Art. IV, Sec. 9, Fla. Const. Law Implemented Art. IV, Sec. 9, Fla. Const. History—New 1-1-96, Amended 1-1-98, Formerly 46-48.002, Amended _____.

FISH AND WILDLIFE CONSERVATION COMMISSION

Marine Fisheries

RULE CHAPTER TITLE: Tripletail

RULE TITLE: Definitions RULE NO.: 68B-49.001

PURPOSE AND EFFECT: The purpose of this rule amendment is to clarify the definition of total length with respect to tripletail, in conjunction with related rule amendments in other rule chapters regulating the harvest of marine species. The effect of this rule amendment would be to standardize the method for measuring total length of tripletail and thereby simplify compliance by commercial and recreational harvesters.

SUBJECT AREA TO BE ADDRESSED: Length measurement of tripletail.

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

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

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

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

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT IS: Mark Robson, Director, Division of Marine Fisheries Management, Fish and Wildlife Conservation Commission, 2590 Executive Center Circle, East, Suite 201, Tallahassee, Florida 32301, (850)487-0554

THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS:

68B-49.001 Definitions.

As used in this chapter:

(1) through (5) No change.

(6) "Total length" means the straight line distance from the most forward point of the head with the mouth closed, to the farthest tip of the tail with the tail compressed or squeezed, while the fish is lying on its side.
~~length of a fish as measured from the most forward point of the head to the rear center edge of the tail.~~

Specific Authority Art. IV, Sec. 9, Fla. Const. Law Implemented Art. IV, Sec. 9, Fla. Const. History—New 1-1-96, Amended 1-1-98, Formerly 46-49.001, Amended _____.

DEPARTMENT OF FINANCIAL SERVICES

Division of State Fire Marshal

RULE CHAPTER TITLE: RULE CHAPTER NO.:

Florida Fire Incident Reporting
System

69A-66

RULE TITLES:

RULE NOS.:

Florida Fire Incident Reporting System

(FFIRS), In General 69A-66.001

Definitions 69A-66.002

Training 69A-66.003

Submission of Fire Incident Data 69A-66.004

Submission Deadlines of Fire Incident Data 69A-66.005

Reporting 69A-66.006

Fire Department Identification

(FDID) Number 69A-66.007

Forms 69A-66.008

PURPOSE AND EFFECT: The purpose of this rule development is to adopt procedures and standards for the Florida Fire Incident Reporting System, as mandated by Section 633.115, F.S. (2005). The effect of this rule development will be to provide notice and guidance to the fire departments throughout the state of Florida relating to the procedures and standards associated with fire incident reporting.

SUBJECT AREA TO BE ADDRESSED: Fire incident reporting by local fire departments.

SPECIFIC AUTHORITY: 633.115 FS.

LAW IMPLEMENTED: 633.115 FS.

IF REQUESTED 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., November 15, 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, F.S., any person requiring special accommodations to participate in this program, please advise the Department at least 5 calendar days before the program by contacting Liz Kelley, (850)413-3171, or at the address shown above.

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT IS: Keith McCarthy, Statistician Supervisor II, Division of State Fire Marshal, 200 East Gaines Street, Tallahassee, Florida 32399-0340, (850)413-3171, e-mail: Keith.McCarthy@fldfs.com

THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS:

69A-66.001 Florida Fire Incident Reporting System (FFIRS), In General.

(1) The purpose of these rules is to establish standards and procedures for fire department reporting of fire incidents to the Division of State Fire Marshal.

(2) The standards and procedures contained in these rules apply to the Division of State Fire Marshal and to each fire department in the State of Florida participating in the Florida Fire Incident Reporting System (FFIRS) program.

(3) The Division of State Fire Marshal manages FFIRS, which is a means for fire departments to report and maintain computerized records of fires and other fire department incidents in a uniform manner. FFIRS is operated in conjunction with the National Fire Incident Reporting System (NFIRS). By participating in the FFIRS program, fire departments become a part of the cooperative effort among fire organizations to make Florida a safer state.

Specific Authority 633.01, 633.115 FS. Law Implemented 633.115 FS. History—New _____.

69A-66.002 Definitions.

For purposes of these rules unless the context clearly requires otherwise, the following word or term has the following meaning:

(1) “Florida Fire Incident Reporting System,” or “FFIRS,” means the Florida statewide fire data information system that resides within the Division of State Fire Marshal, Department of Financial Services. FFIRS works in collaboration with NFIRS to report and analyze fire incidents.

(2) “National Fire Incident Reporting System,” or “NFIRS,” means an information system initiated and supported by the United States Fire Administration (USFA). NFIRS was developed as a means to gather and analyze information on the magnitude of the nation’s fire problem, as well as its detailed characteristics and trends.

(3) “Codes” means a series of basic phrases with code numbers used to describe fire incidents in the NFIRS/FFIRS program. The descriptive phrases were developed and made available by the National Fire Protection Association (NFPA) Standard 901, the *Uniform Coding for Fire Protection*, 1976 edition, the 1981 codes for Fire Service Casualty Reporting, and the 1990 codes for Hazardous Materials Reporting.

(4) “Codes Training” means instruction on the series of basic phrases with code numbers that are used to describe fire-related incidents in NFIRS/FFIRS.

(5) “USFA NFIRS 5.0 Software” means software provided free to fire departments throughout the United States to manage fire data. The USFA, in partnership with the National Fire Information Council (NFIC), developed the software.

(6) “3rd Party Vendor Software” is NFIRS/FFIRS compatible software that is marketed and sold to fire departments by private vendors.

(7) “Fire Protection Agency” means any local, state, state agency, or special fire department in the state responsible for municipal or county fire protection as recognized by the appropriate municipal, county, or special fire control district or the state. A fire protection agency has the same intent and purpose as a fire department as defined in subsection 69A-62.001(4), F.A.C., or fire district, which is of carrying out the duties, functions, powers, and responsibilities normally associated with a fire department. These duties, functions, powers, and responsibilities include but are not limited to the protection and saving of life and property against fire, explosions, and other hazards, the prevention and extinguishment of fires, and the enforcement of municipal, county, and state fire prevention codes, as well as of any law pertaining to the prevention and control of fires and hazardous materials incident mitigation.

Specific Authority 633.01, 633.115 FS. Law Implemented 633.115 FS. History—New _____.

69A-66.003 Training.

(1) USFA NFIRS 5.0 Software Training is instruction on data entry, reporting, analysis, maintenance, and the submission of fire incident information. The training is coordinated and presented by the FFIRS Section to fire department personnel.

(2) Fire Departments may contact the FFIRS Section at FFIRS@fldfs.com or call the FFIRS Section at (850)413-3171 to request a training class.

Specific Authority 633.01, 633.115 FS. Law Implemented 633.115 FS. History—New _____.

69A-66.004 Submission of Fire Incident Data.

Data may be submitted to the FFIRS Section using the following methods:

(1) Fire departments using the Federal Client Tool in an on-line capacity must enter and save their data from their department’s personal computers directly into the NFIRS database. Fire departments using the Federal Client Tool in an off-line capacity must enter and save their data on their department’s personal computers but must forward it to the FFIRS Section by emailing the report as an attachment to ffirs@FLDFS.COM, or saving it to a CD or diskette and mailing it to the FFIRS Section for the data to be imported into the NFIRS database.

(2) Fire departments using 3rd party vendor software must enter the data directly into their department’s computers using this software. For the data to be imported to the NFIRS database, the reports must be either emailed as an attachment to FFIRS@fldfs.com, or saved to a CD or diskette and mailed to the FFIRS Section.

(3) Fire departments using the Federally Contracted 4.1 software, or software compatible to that program, must enter and save the data on their department’s computer and forward the reports to the FFIRS Section either by emailing the reports as an attachment to FFIRS@fldfs.com, or saving the reports to a CD or diskette and mailing it to the FFIRS Section.

(4) Fire departments without capability to submit under (1), (2), or (3) are permitted to submit paper reports to the FFIRS Section for those reports to be keyed by FFIRS staff for uploading to the NFIRS database. These reports are to be mailed to the FFIRS Section, Division of State Fire Marshal, 200 East Gaines Street, Tallahassee, Florida 32399-0340.

(5) Annual Summaries are a standardized form which may be completed and forwarded to the FFIRS section by Fire Departments. The use of Summaries is discouraged because the summary does not give specific fire related data and also because it does not comply with Federal Grant responsibilities or allow for entry into the NFIRS database.

Specific Authority 633.01, 633.115 FS. Law Implemented 633.115 FS. History—New _____.

69A-66.005 Submission Deadlines of Fire Incident Data.

(1) Each department shall submit their data on a monthly basis. Fire incident data is due by the 15th of the following month. For example, January fire incident data is due by February 15.

(2) To be included in the annual report of fire and non-fire incidents, yearly data must be submitted from fire departments by April 30 of each year.

Specific Authority 633.01, 633.115 FS. Law Implemented 633.115 FS. History—New _____.

69A-66.006 Reporting.

(1) The State Fire Marshal’s Annual Report, “*Florida Fires*,” is developed from the compiled fire data submitted by Florida fire departments. It is available via the Internet at www.fldfs.com/State Fire Marshal/, or it may be obtained by contacting the FFIRS section in care of the Division of State Fire Marshal, 200 East Gaines Street, Tallahassee, Florida 32399-0340.

(2) Web Based Reports. All Florida fire departments participating in the FFIRS program are able to generate statistical reports via the internet at www.nfirs.fema.gov.

(3) Requested Reports. Florida fire departments are permitted to request statistical reports from the FFIRS Section.

Specific Authority 633.01, 633.115 FS. Law Implemented 633.115 FS. History—New _____.

69A-66.007 Fire Department Identification (FDID) Number.

(1) The Fire Department Identification Number, or FDID number, is a unique five-digit identifier assigned by the FFIRS Section to identify a particular fire department within the state. This identifier may also identify the county, fire district, or other jurisdiction in which the fire department is located.

(2) The purpose of the FDID number is to identify incident data collected and reported by individual departments. Feedback on local or regional incident experience can then be prepared and sent to an individual agency or a specific fire department.

Specific Authority 633.01, 633.115 FS. Law Implemented 633.115 FS. History—New _____.

69A-66.008 Forms.

(1) The Division hereby adopts and incorporates by reference the following forms:

(a) Form DFS-KO-1078 (Rev. 7/05), "Florida Fire Incident Report."

(b) Form DFS-KO-xxxx (Rev. 8/05), "Florida Fire Service Casualty Report 902G NFIRS-3."

(c) Form DFS-KO-xxxx (Rev. 8/05), "Florida Casualty Report 902G 1/80 Layout 2."

(2) The forms adopted in subsection (1) can be viewed or obtained by contacting the FFIRS Section, Division of State Fire Marshal, 200 East Gaines Street, Tallahassee, Florida 32399-0340, phone: (850)413-3171.

Specific Authority 633.01, 633.115 FS. Law Implemented 633.115 FS. History—New _____.

DEPARTMENT OF FINANCIAL SERVICES**Division of Agent and Agency Services**

RULE TITLES: RULE NOS.:

Pre-qualification and Licensure of Emergency Adjusters	69B-220.001
Conduct of Public Adjusters	69B-220.051
Ethical Requirements	69B-220.201

PURPOSE AND EFFECT: The purpose of the proposed rule development is to eliminate the licensing of emergency public adjusters, to make the licensing process for emergency company and independent adjusters faster and more economical by utilization of the Department's website and to change Office of Insurance Regulation to Department of Financial Services to reflect legislation that changed jurisdiction over adjusters. The purpose of a new rule that applies to public adjusters after the Governor issues an executive order that a state of emergency exists is to protect consumers who hire public adjusters after disasters. The purpose of other changes is to clarify the rules.

SUBJECT AREA TO BE ADDRESSED: Rule 69B-220.001, F.A.C., is amended to repeal rules that provide for the licensing of emergency public adjusters and to require that adjuster license applications be submitted electronically through the

Department's website instead of by submission of paper applications. All three rules are amended to change Office of Insurance Regulation to Department of Financial Services to reflect legislation adopted in 2004 that made the same changes in the statutes that regulate adjusters. Rule 69B-220.201, F.A.C., is amended to provide new ethical requirements for public adjusters to follow after a disaster creates a state of emergency.

SPECIFIC AUTHORITY: 624.308(1), 626.878, 626.9611 FS.

LAW IMPLEMENTED: 624.307(1), 626.112(1), 626.611, 626.621, 626.865(2), 626.8732, 626.8734, 626.874, 626.878, 626.9541(1)(b),(i) 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:

TIME AND DATE: 1:30 p.m. – 4:30 p.m., November 22, 2005

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

Pursuant to the provisions of the Americans with Disabilities Act, any person requiring special accommodations to participate in this program, please advise the Department at least 5 calendar days before the program by contacting: Serica Johnson, (850)413-4241.

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT IS: Hazel Muhammad, Chief, Bureau of Licensing, Department of Financial Services, 200 E. Gaines Street, Room 412, Larson Building, Tallahassee, FL 32399-0319, (850)413-5460

THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS:

69B-220.001 Pre-Qualification and Licensure of Emergency Adjusters.

(1) Purpose. This rule sets forth department office policy and procedure for licensure of emergency company adjusters and emergency independent adjusters under Section 626.874, Florida Statutes.

(2) No change.

(3) Definitions. For purposes of this rule, the following definitions shall apply.

(a) Department – means the Department of Financial Services ~~"Office" means the Office of Insurance Regulation.~~

(b) "Licensed adjuster" and similar terms, refer to and include only persons ~~actually~~ currently licensed in good standing by the department office as a ~~public adjuster~~, company adjuster, or independent adjuster, whether the licensure be permanent resident licensure, permanent nonresident licensure or emergency licensure pursuant to this rule, and whether limited licensure or unlimited licensure. The terms do not include persons licensed as public adjusters by the department or persons licensed as any type of an adjuster or public adjuster by states other than the State of Florida.

(c) "Emergency" and "Catastrophe." These two terms as used in Section 626.874, Florida Statutes are synonymous, and no separate treatment is afforded catastrophe over emergency adjusters.

(d) "Emergency adjuster" when used in this rule without further specification, includes emergency company adjusters ~~and~~ emergency independent adjusters, ~~and emergency public adjusters.~~

~~(e) "Public adjuster" when used in this rule without further specification, includes both permanent resident licensed public adjusters and emergency public adjusters.~~

~~(e)(f) "Unlicensed persons" as used in this rule means and refers to persons who are not actually currently licensed in good standing by the department office as an adjuster, whether the licensure be permanent resident licensure, or emergency licensure pursuant to this rule.~~

(4) General Provisions Applicable to All Emergency Adjusters.

(a) Declaration of Emergency; Determination that Emergency Exists.

1. The ~~department office~~ does not issue proclamations or other formal declarations of emergency. Instead, any person believing that an emergency exists and desiring licensure under Section 626.874, Florida Statutes, shall apply or cause application to be made to the ~~department office~~ for such licensure.

2. For purposes of Section 626.874, Florida Statutes, an emergency exists when, due to a specific, infrequent, and sudden natural or manmade disaster or phenomenon, there have arisen losses to property in Florida that are covered by insurance, and the losses are so numerous and severe that resolution of claims related to such covered property losses will not occur expeditiously without the licensing of emergency adjusters due to the magnitude of the catastrophic damage.

3. A failure of claims to be resolved expeditiously shall exist upon an insurer's filing with the ~~department Office~~ a written statement that one of the following conditions exists:

a. The insurer expects to incur at least 500 claims as a result of the event; or

b. The magnitude of the event is expected to generate twice the mean number of claims for one month for the affected area.

~~(b)4. Requests for emergency adjuster licensure as an independent adjuster must be accompanied by a statement from an insurer, an independent adjusting firm, a licensed independent resident adjuster, or a licensed general lines agent certifying that the applicant is qualified to act as an adjuster the same statement from an insurer who requires such services.~~

5. If the Office determines that an emergency exists, public adjusters seeking emergency licensure shall upon request be granted licensure pursuant to the provisions of this rule.

(5) Procedures for Licensing and Appointment of Emergency Adjusters; Responsibilities of Appointing Entity.

(a) All Florida-licensed insurers, independent adjusting firms, independent adjusters, and general lines agents, shall use the following procedures to utilize emergency company or independent adjusters. The entities or persons listed in the preceding sentence may immediately and without advance paperwork to this department, engage and cause commencement of catastrophe adjusting work for themselves, by any persons, whether on their staff, or hired by them, or engaged by them as independent contractors or as employees of a contractor engaged by them, although the person is not currently licensed as an adjuster in Florida, if the Florida-licensed insurer, independent adjusting firm, independent adjuster or general lines agent utilizing these persons as emergency or catastrophe adjusters determine that these persons are qualified to do such adjusting work. A person is not qualified to adjust claims, for any entity or person who utilizes computer software program(s) in the adjusting process, unless the person has received training in and is capable of correctly utilizing the program(s). Within 3 calendar days after adjusting work has begun, the appropriate official must submit an online application to the department. Applications shall be submitted on the Department's website at www.fldfs.com. Applicable fees shall be submitted by electronic payment at the time of submission of an application.

1. The insurance company representative, independent adjusting firm, independent adjuster or general lines agent who submits the online application certifies that the applicant is qualified, thereby appoints the applicant to represent that company, independent adjusting firm, independent adjuster or general lines agent; and once the license is issued, the appointing person or entity is bound by the acts of the applicant as in the case of any regular licensed (non-Temporary or non-Catastrophic) adjuster licensed pursuant to Chapter 626, Florida Statutes, appointed by that company, independent adjusting firm, independent adjuster or general lines agent. This responsibility continues until the appointing entity, appointing person or licensee notifies the department through the online appointment system or the licensee notifies the department through the online application process that the appointing entity, appointing person or licensee desires to terminate the appointment.

2. The insurance company, independent adjusting firm, independent adjuster or general lines agent who certifies to the department that the applicant is qualified, is responsible for assuring, by due diligence inquiry, that the applicant is in fact qualified to adjust claims, has received training in and is capable of correctly utilizing any computer software program(s) utilized by the appointing entity or person to adjust claims and is of good and honest character.

(e) There is an affirmative duty on the insurance company, independent adjusting firm, independent adjuster or general lines agent who certifies to the department that the applicant is qualified, to provide continuing and significant supervision of the applicant after licensure.

(b) Licenses Valid for 180 Days.

1. Emergency adjuster licenses are valid for 180 days from the date of issuance of the emergency license, unless a shorter period of time is specified in the license as issued. Because emergency licensure is an extraordinary deviation from regular licensing procedures, it is department office policy to specify, as the duration of emergency licensure, the shortest possible time in each particular emergency.

(6) Procedures for Extension of an Emergency Adjuster License.

~~2.~~ The department office shall grant an extension of emergency licensure if the conditions set forth in subparagraph (4)(a)2. of this rule still exist. Each extension will last for a period of up to an additional 180 days.

~~(a).~~ To apply for an extension of licensure as an emergency company or independent adjuster, the entity requesting a license extension shall submit an application for the extension on the department's website at www.fldfs.com ~~licensee shall execute Form OIR-396E, "Application for Extension of License and Appointment as an Emergency Adjuster," rev. 10/95, which is hereby adopted and incorporated by reference, and shall submit to the office the applicable fee, as specified in Form OIR-396E, for each extension. Applicable fees shall be submitted by electronic payment at the time of submission of an application for the extension.~~

~~b.~~ To apply for an extension of licensure as an emergency public adjuster the licensee shall execute Form OIR-AAS-1E, "Application for Extension of License and Appointment as an Emergency Public Adjuster," rev. 10/95, which is hereby adopted and incorporated by reference, and shall submit the fee specified in Form OIR-AAS-1E, for each extension.

~~c.~~ These forms may be obtained at the Bureau of Licensing, 200 East Gaines Street, Tallahassee, Florida 32399-0319.

~~(b)d.~~ Only the licensure type and class that ~~which~~ the licensee holds at the time of application for extension may be extended.

(c) through (d) No change.

(e) Natural Persons Only. The department office issues emergency adjuster licenses only to natural persons.

(f) Address and Website for the Department ~~For Office.~~ Unless a different address is specified herein, any notice or other item to be provided to the department office, shall be addressed as follows: Bureau of Agent/Adjuster Licensing, Department of Financial Services ~~Office of Insurance Regulation~~, 200 East Gaines Street, Tallahassee, FL 32399-0319. ~~If the communication is from or on behalf of a~~

~~licensee, it shall not be deemed effectively received unless it shows the licensee's full name, license number, address, and phone number. The department's website address is www.fldfs.com.~~

(g) Administrative and Civil Jurisdiction. By obtaining a license applying for pre-qualification determination or licensure as an emergency adjuster the licensee applicant agrees that:

1. The licensee applicant is subject to all the disciplinary provisions and penalties of the Florida Insurance Code and the administrative procedures set forth in the Florida Statutes for the routine processing of such charges;

2. The licensee is subject to the jurisdiction of the courts of Florida concerning civil liability for all acts in any way related to the licensee's activities under licensure in Florida;

~~3.2.~~ Jurisdiction for acts committed prior to licensure or while licensed continues after the emergency licensure expires or is terminated;

~~4.3.~~ If after the licensure expires or is terminated, the department office has reason to believe there was a violation of any provision of the Florida Insurance Code or these rules by the former licensee while licensed, the department office is not precluded from filing administrative action against the former licensee, and from serving the charges by certified mail to the licensee, or by publication of notice of action in the legal notices section of a newspaper of general circulation in or near the city or county of permanent residence or place of business as shown on the licensee's application for emergency licensure if certified mail service is unsuccessful;

~~5.4.~~ The licensee or former licensee will respond to and defend the charges in Florida, or be defaulted;

~~6.5.~~ The licensee or former licensee will not assert lack of jurisdiction; and

~~7.6.~~ The licensee or former licensee believes that the preceding provisions satisfy minimum due process requirements of all state and federal constitutions.

~~(h) Civil Jurisdiction; Service of Process. By the act of applying for pre-qualification determination or licensure as emergency public adjuster, the applicant irrevocably:~~

~~1. Agrees and submits to the jurisdiction of the courts of Florida concerning civil liability for all acts in any way related to the licensee's activities under licensure in Florida;~~

~~2. Designates the Chief Financial Officer as the applicant's agent for service of all process in any way related to the applicant's activities licensed as an emergency public adjuster; and~~

~~3. Agrees that these provisions shall survive the expiration or termination of pre-qualification or licensure.~~

(h) By the act of obtaining licensure as an emergency adjuster, a nonresident licensee irrevocably designates the Chief Financial Officer as the licensee's agent for service of all process in any way related to the licensee's activities as an emergency adjuster.

(5) Emergency Company and Independent Adjusters. The provisions of this subsection apply only to emergency company and emergency independent adjusters, and not to licensure of emergency public adjusters.

(a) All Florida licensed insurers, independent adjusters, and general lines agents, shall use the following procedures to utilize emergency company or independent adjusters. The entities or persons listed in the preceding sentence may immediately and without advance paperwork to this department, engage and cause commencement of catastrophe adjusting work for themselves, by any persons, whether on their staff, or hired by them, or engaged by them as independent contractors or as employees of a contractor engaged by them, which persons they determine to be qualified to do such adjusting work, and even though the person is not currently licensed as an adjuster in Florida. Within 30 calendar days after adjusting work has begun, the appropriate entity official must execute and submit office Form OIR 396, "Application for License and Appointment as a Catastrophe or Emergency Adjuster," rev. 7/94, which is hereby adopted and incorporated by reference, and shall attach a check for applicable fee per applicant, as specified in Form OIR 396, payable to the Office of Insurance Regulation. Form OIR 396 is available at all office consumer service offices or from the office headquarters. The application and check shall be submitted to: Bureau of Licensing, P. O. Box 6000, Tallahassee, FL 32314-6000, or by overnight courier to: Bureau of Licensing, 200 East Gaines Street, Tallahassee, FL 32399-0319. One check may be used to pay the fees for multiple applications submitted together.

(b) Within 3 days of when an emergency adjuster begins work, the insurance company, independent adjuster, or general lines agent that is using the emergency adjuster must fax to the Bureau of Licensing the name of the emergency adjuster and his/her social security number. The fax must be on the letterhead of the insurance company, general lines agent, or independent adjuster/firm, and shall include the name and phone number of the contact person regarding emergency adjuster licensing. Contact should be made with the office for the appropriate fax numbers.

(c) The insurance company representative, general lines agent, or independent adjuster who signs Form OIR 396 to certify that the applicant is qualified (referred to herein as the "certifier"), thereby appoints the applicant to represent that company, agent, or independent adjuster; and once the license is issued, the certifier is bound by the acts of the applicant as in the case of any regular licensed (non-Temporary or non-Catastrophic) adjuster licensed pursuant to Chapter 626, Florida Statutes, appointed by that company, agent, or independent adjuster. Such responsibility continues until such time as said certifier shall notify the office in writing that the

certifier desires to terminate the certification, at which time the emergency license is cancelled automatically, until such time as the applicant can obtain another certifier.

(d) The insurer, general lines agent, or independent adjuster who certifies to the office that the applicant is qualified, is responsible for assuring, by due diligence inquiry, that the applicant is in fact qualified to adjust claims and is of good and honest character.

(e) There is an affirmative duty on the insurance company, general lines agent, or independent adjuster, to provide continuing and significant supervision to the applicant after licensure.

(f) Nonresident Company Adjusters. Persons employed by insurers and licensed by the office as non-resident company adjusters may temporarily come into Florida and work out of Florida offices as emergency adjusters for their employing insurance company without further licensure from the office, for 180 days or such shorter time as the office may by emergency rule specify as the maximum duration of emergency licensure for that particular emergency, and will not be deemed to have a Florida office such as would disqualify them from holding non-resident licensure or be held violative of their non-resident license status; provided, their employing insurance company shall before allowing such persons to adjust emergency losses while physically in Florida, provide the office with a listing of the names and adjuster license numbers of all such persons, and shall obtain from the office written acknowledgment that an emergency exists, specifying the emergency.

(g) Application for Emergency Adjuster Licensure as a Company or Independent Adjuster. Application for licensure as an Emergency Adjuster shall be made on Form OIR 396, "Application for Licensure and Appointment as Emergency Adjuster," rev. 10/95, which is hereby adopted and incorporated by reference.

(6) Emergency Public Adjusters: General Provisions. This subsection pertains only to licensure of emergency public adjusters.

(a) Advance Approval Required.

1. No person may commence work as an emergency public adjuster until notified in writing by the office that the office:

a. Has received an application and made an affirmative pre-qualification determination and issued a letter so indicating; or

b. Has been approved for licensure if no pre-qualification determination was requested in advance.

2. If the pre-qualification method is used, the subject of the pre-qualification must request licensure pursuant to paragraph (7)(b) of this rule in order to commence work.

(b) Background Checking; Grounds for Denial. As to all applications for licensure as an emergency public adjuster, the office shall conduct such background inquiry as is necessary to

determine the applicant's fitness and character. Adverse information noted in any area will be grounds for denial of application. The inquiry is limited to:

1. Inquiry of state or federal regulatory authorities in other states where the applicant has resided or done business;
2. Checking references provided;
3. Inquiry of criminal databases and law enforcement authorities; and
4. Checking for judgments and other adverse credit references.

(c) ~~Bond Required.~~ No person will be licensed as an emergency public adjuster unless the applicant has supplied to the office the \$5,000 bond required by Section 626.865(2), Florida Statutes. Applications for licensure will be received and preliminarily processed without the bond, but no licensure shall be issued until the bond is received in good and proper form.

(d) ~~Policy Regarding Licensing Threshold.~~ It is office policy and finding that a substantially higher threshold of certainty regarding fitness and character is appropriate and required for licensure as an emergency public adjuster, as compared to licensure as an emergency company or independent adjuster. This is because if a company or independent adjuster proves dishonest or incompetent, there is generally a regulated insurance company that may be required to make good that adjuster's misconduct. However, regarding a public adjuster, there is no such safeguard for consumers.

(e) ~~Records to be Kept.~~

1. All emergency public adjusters shall at all times while licensed and for 30 days thereafter maintain in Florida an office and keep their records or copies of all records relating to all Florida losses being adjusted or previously adjusted under said emergency licensure. All emergency public adjusters licensed under this rule shall designate their Florida office location to the office within 72 hours after becoming licensed, and shall notify the office in writing within 24 hours of any change in said office location. Failure to designate such an office or to timely update the office as to its location is grounds for immediate termination of licensure. The address of this office shall appear on all contracts, literature, etc., used by the public adjuster. This office shall be open and staffed at least six hours of every day, between the hours of 8 a.m. and 5 p.m., Monday through Friday, public holidays excluded.

2. The records and offices of all emergency public adjusters shall be subject to inspection by the office without notice at any time.

(f) ~~Advertising.~~ All emergency public adjusters are strictly prohibited from advertising. Advertising means promotions, statements of availability, qualifications, and other similar statements, appearing on or in television, radio, newspapers, or magazines; and flyers, brochures, adhesive stickers affixed to any structure showing the adjusters name, address, phone number, and other similar information. Emergency public

adjusters shall not use the services of any person or firm, who advertises for the emergency public adjuster, or who is directly or indirectly compensated for referring potential clients to the emergency public adjuster. The following do not constitute prohibited advertising:

1. The emergency public adjuster personally handing to any claimant or potential claimant brochures or other descriptive materials as to the public adjusting function, the public adjuster's qualifications, fees, and other similar information.

2. Solicitation (as defined herein) of work, by the emergency public adjuster in person, wherein the solicitation is made to the loss claimant, and subject to other limitations in this rule concerning solicitation; provided, limited emergency public adjusters may not solicit work on any premises which are not clearly commercial premises.

(g) ~~Advising Claimants and Others.~~ The advising of insureds, claimants, potential claimants, or other persons as to the role, value, or usefulness of public adjusters is deemed to be a material part of the business of public adjusting, and therefore requires licensure as a public adjuster under the laws of Florida and this rule, and may be engaged in only by persons licensed by the office as permanent or emergency public adjusters. Unlicensed persons may not engage in such activity even under the supervision of a licensed public adjuster.

(h) ~~Certain Contracts Unenforceable.~~ It is office policy that contracts engaging the services of a public adjuster, entered into in violation of any provisions of this rule or any emergency rule, shall be declared unenforceable on the part of any public adjuster, as violative of public policy.

(i) ~~Photo ID Required.~~ No emergency public adjuster, once approved for licensure by the office, shall be licensed or commence work, until obtaining from the office a photo identification card, paying in connection therewith the applicable fee as specified in Forms OIR AAS-1 and OIR AAS-3.

(7) ~~Emergency Public Adjuster Applicants.~~

(a) To apply for licensure as an emergency public adjuster, the applicant shall execute Form OIR AAS-1, "Application for License and Appointment as an Emergency Public Adjuster," rev. 3/96 which is hereby adopted and incorporated by reference, and shall submit the fee specified in Form OIR AAS-1.

(b) To apply for pre-qualification determination for licensure as an emergency public adjuster, the applicant shall execute Form OIR-1199 "Application for Pre-qualification for Licensure as An Emergency Public Adjuster" Rev. 6/96 which is hereby adopted and incorporated by reference, and shall submit the fee specified in Form OIR-1199.

(c) 1. Pre-Qualification Determination is not required for licensure as an Emergency Public Adjuster. However, persons are urged to pre-qualify prior to a disaster in order to expedite the emergency licensure process.

~~2. Pre-Qualification Determination requests will be considered between January 1 and April 30 of each year.~~

~~3. Any Pre Qualification Determination made will be valid for a period of two years.~~

~~(d)1. Persons may apply for pre-qualification determination or licensure as an emergency public adjuster if they are currently licensed as a public adjuster in their home state for the type or kinds of insurance for which they intend to adjust claims in this state.~~

~~2. Applicants must be in good standing in all states where so licensed.~~

~~3. Evidence of good standing must be in the form of a current original Letter of Certification from the applicable state insurance department(s). The letter shall not be older than 90 days when submitted in connection with the application for licensure or pre-qualification determination.~~

~~(e) The application form must be signed by three persons:~~

~~1. The person to receive emergency licensure;~~

~~2. A regularly licensed (non Temporary, non Catastrophic) public adjuster who will supervise the emergency public adjuster (the supervising public adjuster); and~~

~~3. One of the following persons (the certifying person):~~

~~a. An officer of a Florida licensed or admitted insurance company; or~~

~~b. A Florida licensed independent adjuster in good standing; or~~

~~c. A Florida licensed resident general lines insurance agent in good standing.~~

~~(f) The application forms may be obtained at all office consumer service offices or from office headquarters in Tallahassee and must be sent, with a check for the applicable fee, as specified in Form OIR-AAS-1 or OIR-1199, to: Office of Insurance Regulation, P. O. Box 6000, Tallahassee, FL 32314-6000; or the applicant may contact the office for an address for use of overnight courier service.~~

~~(g) Supervising Public Adjuster. Licensees who are licensed under this subsection must be supervised by a regularly licensed (non Temporary, non Catastrophic) resident public adjuster in good standing while they are performing work under their emergency public adjuster licensure. The emergency licensure automatically terminates if the supervising public adjuster ceases to supervise the emergency adjuster. The emergency adjuster will be deemed to be an appointee of the supervising public adjuster. The supervising public adjuster is under an affirmative duty to provide continuing, significant supervision to the emergency public adjuster whose application he/she signed. The supervising public adjuster may prospectively terminate this duty at any time by notifying the office by certified mail, return receipt requested, or by overnight courier, that he/she will no longer be~~

~~supervising the emergency public adjuster as of a date specified in said letter. Such a notice is not effective until actually received by the office.~~

~~(8) Non Resident Public and Independent Adjusters. Non Resident Public and Independent Adjusters are required to annually execute Form OIR 1297, "Affidavit of Insurance For Non Resident Public and Independent Adjusters", rev. 10/02 which is hereby adopted and incorporated by reference. A copy of Form OIR 1297 may be obtained from the State of Florida, Office of Insurance Regulation, 200 East Gaines Street, Tallahassee, Florida 32399-0319, phone (850)413-3137.~~

~~Specific Authority 624.308(1) FS. Law Implemented 624.307(1), 626.8732, 626.8734 FS. History--New 2-25-93, Amended 8-18-94, 1-7-97, 10-20-97, 1-9-03, Formerly 4-220.001, Amended _____.~~

69B-220.051 Conduct of Public Adjusters.

(1) Purpose and Scope. This rule sets forth department ~~Office~~ policy as to certain matters generally affecting public adjusters. Procedures regarding application for licensure are not dealt with in this rule. Ethical provisions are not dealt with in this rule.

(2) Definitions. The following definitions shall apply for purposes of this rule.

(a) through (c) No change.

(d) "Licensed public adjuster" and "public adjuster" refer to and include only persons ~~actually~~ currently licensed in good standing by the department ~~Office~~ as public adjusters, whether the licensure is resident licensure under Section 626.865, Florida Statutes, or nonresident licensure under Section 626.8732, Florida Statutes ~~emergency licensure under Section 626.874, Florida Statutes, and whether the licensure is limited or unlimited.~~ The phrase does not include persons licensed as public adjusters by other states but not by the State of Florida.

~~(e) "Resident public adjuster" and references thereto refers to a public adjuster not licensed on an emergency basis as contemplated by Section 626.874, Florida Statutes, and Rule 69B-220.001, F.A.C., and who is a bona fide resident of this state.~~

~~(e)(f) "Unlicensed persons," as used in this rule, means and refers to persons who are not actually currently licensed and appointed in good standing by the department Office as resident or nonresident emergency public adjusters.~~

(3) Communications Concerning Public Adjuster Services.

(a) Solicitation. The solicitation of public adjusting business for compensation is deemed to be a material part of the business of public adjusting and, therefore, requires licensure as a public adjuster under the laws of Florida and the rules of the department ~~Office~~, and shall be engaged in only by persons licensed by the department ~~Office~~ as public adjusters. Unlicensed persons shall not engage in such activity even under the supervision of a licensed public adjuster. The phrase "solicitation of public adjusting business" and similar phrases as used in this rule means, for compensation, initiating contact

with any person, whether in person, by mail, by telephone, or otherwise, and therein seeking, causing, urging, advising, or attempting:

1. To have any person enter into any agreement engaging the services of a public adjuster in any capacity; or

2. To have any person subsequently speak or meet with a licensed public adjuster for the purpose of engaging the services of a public adjuster in any capacity or for the purpose of being advised by a public adjuster in any regard.

(b) No change.

(4) Advertising.

(a) As with all forms of advertising concerning the business of insurance, public adjusters shall not falsely inform or advertise as set forth in Section 626.9541(1)(b), Florida Statutes, as well as any other section within the Insurance Code ~~that which~~ relates to advertising.

(b) Only Licensed Adjusters to Advertise. No person or entity shall in any way advertise services as a public adjuster in this state, unless such person or entity is licensed as a ~~resident~~ public adjuster or is a member of the Florida Bar.

(c) Advertisements to Show Licensee's Full Name. Any advertisement by a ~~resident~~ public adjuster shall state the full name as specified in ~~department~~ Office records of the public adjuster who has caused the advertisement to appear. Where a firm containing multiple licensed public adjusters is causing the advertisement to appear, the firm shall designate one of said licensees whose full name as specified in ~~department~~ Office records shall appear in the advertisement.

1. Print and Website Advertisements. In print and website advertisements the public adjuster's full name as specified in ~~department~~ Office records shall be in typeface no smaller than the typeface of the main body of text in the advertisement. Print advertisements include newspapers, magazines, flyers, brochures, business cards, adhesive and magnetic publication, and similar printed materials. If the material is already printed when this rule takes effect, the required public adjuster's full name shall be added by means of rubber stamp, adhesive label, or other means.

2. Television Advertisements. In television advertisements the public adjuster's full name as specified in ~~department~~ Office records shall be made to appear on the screen for a period reasonably calculated to allow a viewer to write the name down.

3. Radio Advertisements. In radio advertisements, the public adjuster's full name as specified in ~~department~~ Office records shall be read during the advertisement, and at a speed reasonably calculated to allow an average listener to note the name of the licensee as it appears on his or her licensure.

(d) Responsibility of Advertising Licensee. The licensed adjuster whose name appears in the advertisement is responsible for personally reviewing the content of the advertisement and assuring that the advertisement complies

with the rules of the ~~department~~ Office and the Insurance Code and is in all regards fair, accurate, and in no way deceptive or misleading.

(5) It is the affirmative duty of every ~~resident~~ public adjuster to supervise their business affairs and their staff to ensure to the extent it is within the public adjuster's power that the Florida Insurance Code and Rule Chapter 69B-220, F.A.C., are ~~rule is~~ not violated.

(6) No change.

(7) All contracts for public adjuster services must be in writing. The contract must be signed by the public adjuster who solicited the contract. ~~If the public adjuster is licensed by the Department as an emergency public adjuster, the contract shall show the public adjuster's permanent home address and home phone number, and permanent home state business address and phone number and Florida Department license number.~~

(8) No change.

Specific Authority 624.308(1), 626.9611 FS. Law Implemented 624.307(1), 626.112(1), 626.865(2), 626.874, 626.9541(1)(b),(i) FS. History--New 4-26-94, Amended 12-18-01, Formerly 4-220.051, Amended _____.

69B-220.201 Ethical Requirements.

(1) Definitions. The following definitions shall apply for purposes of this rule.

(a) through (b) No change.

(c) Department – means the Florida Department of Financial Services. ~~“Office” refers to the Florida Office of Insurance Regulation.~~

(d) No change.

(2) No change.

(3) Code of Ethics. The work of adjusting insurance claims engages the public trust. An adjuster shall put the duty for fair and honest treatment of the claimant above the adjuster's own interests in every instance. The following are standards of conduct that define ethical behavior, and shall constitute a code of ethics ~~that which~~ shall be binding on all adjusters:

(a) through (h) No change.

(i) ~~1.~~ An adjuster shall not negotiate or effect settlement directly or indirectly with any third-party claimant represented by an attorney, if the adjuster has knowledge of such representation, except with the consent of the attorney.

~~2.~~ For purposes of this subsection, the term “third-party claimant” does not include the insured or the insured's resident relatives.

(j) ~~1.~~ An adjuster is permitted to interview any witness, or prospective witness, without the consent of opposing counsel or party. In doing so, however, the adjuster shall scrupulously avoid any suggestion calculated to induce a witness to suppress or deviate from the truth, or in any degree affect the witness's appearance or testimony during deposition or at the trial.

2- If any witness making or giving a signed or recorded statement so requests, the witness shall be given a copy of the statement.

(k) No change.

(l)~~1-~~ An adjuster shall not attempt to negotiate with or obtain any statement from a claimant or witness at a time that the claimant or witness is, or would reasonably be expected to be, in shock or serious mental or emotional distress as a result of physical, mental, or emotional trauma associated with a loss.

2- The adjuster shall not conclude a settlement when the settlement would be disadvantageous to, or to the detriment of, a claimant who is in the traumatic or distressed state described above ~~in subparagraph (l)1.~~

(m)~~1-~~ An adjuster shall not knowingly fail to advise a claimant of the claimant's claim rights in accordance with the terms and conditions of the contract and of the applicable laws of this state.

2- An adjuster shall exercise care not to engage in the unlicensed practice of law as prescribed by the Florida Bar.

(n)~~1-~~ A company or independent adjuster shall not draft special releases called for by the unusual circumstances of any settlement or otherwise draft any form of release, unless advance written approval by the insurer can be demonstrated to the Department.

2- Except as provided above, a company or independent adjuster is permitted only to fill in the blanks in a release form approved by the insurer they represent.

(o) No change.

(p)~~1-~~ No person shall, as a public adjuster, represent any person or entity whose claim the adjuster has previously adjusted while acting as an adjuster representing any insurer or independent adjusting firm.

2- No person shall, as a company or independent adjuster, represent him- or herself or any insurer or independent adjusting firm against any person or entity that the adjuster previously represented as a public adjuster.

(q)~~1-~~ A public adjuster shall not represent or imply to any client or potential client that insurers, company adjusters, or independent adjusters routinely attempt to, or do in fact, deprive claimants of their full rights under an insurance policy.

2- No insurer, independent adjuster, or company adjuster shall represent or imply to any claimant that public adjusters are unscrupulous, or that engaging a public adjuster will delay or have other adverse effect upon the settlement of a claim.

(r)~~1-~~ No public adjuster, while so licensed in the Department's records, may represent or act as a company adjuster, independent adjuster, or general lines agent.

~~2- No independent adjuster or company adjuster, while so licensed in the Department's records, may represent or act as a public adjuster.~~

(4) Public Adjusters, Other Ethical Constraints. In addition to considerations set out above for adjusters, the following ethical considerations are specific to public adjusters and shall be binding upon public adjusters:

(a) No change.

(b)~~1-~~ The public adjuster shall notify the insured or claimant in advance of the name and location of any proposed contractor, architect, engineer, or similar professional, before any bid or proposal by any of these persons may be used by the public adjuster in estimating the loss or negotiating settlement.

2- The insured or claimant may exercise veto power of any of these persons, in which case that person shall not be used in estimating costs.

(c) through (e) No change.

(f)~~1-~~ A public adjuster shall not accept referrals of business from any person with whom the public adjuster may conduct business where there is any form or manner of agreement to compensate the person, whether directly or indirectly, for referring business to the public adjuster.

2- Except as between licensed public adjusters, no public adjuster shall compensate any person, whether directly or indirectly, for the principal purpose of referring business to the public adjuster.

(g)~~1-~~ A public adjuster's contract with a client shall be revocable or cancelable by the insured or claimant, without penalty or obligation, for at least 3 business days after the contract is executed.

2- The public adjuster shall disclose to the insured that the insured has the right to cancel with prompt notice within the revocation period.

3- If the insured elects to cancel the contract, prompt notice shall be provided to the adjuster.

4- Nothing in the provision shall be construed to prevent an insured from pursuing any civil remedy after the 3-day cancellation period.

(h) through (i) No change.

(j) A public adjuster shall not restrict or prevent an insurer, company adjuster, independent adjuster, attorney, investigator, or other person acting on behalf of the insurer from having reasonable access at reasonable times to an insured or claimant or to the insured property that is the subject of a claim.

(5) Public Adjusters, Ethical Constraints During State of Emergency. In addition to considerations set forth above, the following ethical considerations shall apply to public adjusters in the event that the Governor of the State of Florida issues an Executive Order, by virtue of the authority vested in Article IV, Section 1(a) of the Florida Constitution and by the Florida Emergency Management Act, as amended, and all other applicable laws, declaring that a state of emergency exists in the State of Florida:

(a) No public adjuster shall require, demand, charge or accept any fee, retainer, compensation, commission, deposit, or other thing of value, prior to settlement of a claim.

(b) As to any one insured or claimant, no public adjuster shall charge, agree to, or accept as compensation or reimbursement any payment, commission, fee, or other thing of value equal to more than ten percent of the amount of any insurance settlement or proceeds.

(c) No public adjuster shall enter into any contract, agreement or other arrangement with any person, including an attorney, building contractor, architect, appraiser or repairman, by which the person would enter into an agreement to assist a claimant or insured on an insurance claim, utilize the services of the adjuster to carry out the agreement and pay the adjuster an amount that would exceed the limitation of the adjuster's compensation or reimbursement as provided in paragraph (b) above.

(d) This subsection applies to all claims that arise out of the events that created the State of Emergency, whether or not the adjusting contract was entered into while the State of Emergency was in effect and whether or not a claim is settled while the State of Emergency is in effect.

Specific Authority 624.308, 626.878, 626.9611 FS. Law Implemented 624.307(1), 626.611, 626.621, 626.865(2), 626.878, 626.9541(1)(i) FS. History-New 6-2-93, Amended 12-18-01, 3-27-05, Formerly 4-220.201, Amended _____.

Section II Proposed Rules

DEPARTMENT OF STATE

Division of Elections

RULE TITLE:

Polling Place Procedures Manual

RULE NO.:

1S-2.034

PURPOSE AND EFFECT: The purpose of the proposed rule amendments is to revise the polling place procedures manual, that is incorporated by reference, to reflect changes regarding election procedures at the polls as set forth in Chapters 2005-277 and 2005-278, Laws of Florida. The proposed manual provides guidance to election officials and pollworkers on voting activities and will now be applicable to such activities on election day and during the early voting period. The proposed manual expands on procedures for handling provisional ballot voters, revises instructions on ballot accounting, and reflects changes to the solicitation restriction from 50-feet to 100-feet of the entrance to the polling place or early voting site. The proposed manual also addresses problems encountered by voters and pollworkers during the 2004 General Election.

SUMMARY: The proposed rule incorporates by reference Form DS-DE #11, entitled "The Polling Place Procedures Manual," that is used by election officials and pollworkers for guidance to govern election procedures at the polls on election day and during the early voting period.

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

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

SPECIFIC AUTHORITY: 102.014(5) FS.

LAW IMPLEMENTED: 102.014(5) FS.

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

TIME AND DATE: 10:30 a.m., Monday, November 14, 2005

PLACE: Florida Heritage Hall, Plaza Level, R. A. Gray Building, 500 S. Bronough Street, Tallahassee, Florida

NOTICE UNDER THE AMERICANS WITH DISABILITIES ACT: Any person needing special accommodations to participate in this proposed rule workshop should contact the Department of State, (850)245-6536, no later than November 10, 2005. Any person who is hearing or speech impaired may contact the Department by using the Florida Relay Service with the following toll free numbers: 1(800)955-8770 (Voice) or 1(800)955-8771.

Copies of the proposed rule and the draft Form DS-DE #11, incorporated by reference, may be obtained from: Division of Elections, Department of State, 3rd Floor, R. A. Gray Building, 500 S. Bronough Street, Tallahassee, Florida 32399, Division of Elections' website: <http://election.dos.state.fl.us/index.html> or from the contact person.

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Maria I. Matthews, Assistant General Counsel, Office of the General Counsel, Division of Elections, Department of State, 500 S. Bronough Street, Tallahassee, Florida 32399-0250, (850)245-6536

THE FULL TEXT OF THE PROPOSED RULE IS:

1S-2.034 Polling Place Procedures Manual.

The Department of State, Division of Elections, is required to establish a polling place procedures manual to guide election officials and pollworkers in the proper implementation of election procedures and laws. Form DS-DE 11 (rev. 01/06 4/04), entitled "Polling Place Procedures Manual," which is hereby incorporated by reference and available from the Division of Elections, R. A. Gray Building, Room 316, 500 South Bronough Street, Tallahassee, Florida 32399-0250, by contact at (850)245-6200, or by download from the Division of Elections' rules webpage at: <http://election.dos.state.fl.us/index.html>.

Specific Authority 102.014(5) FS. Law Implemented 102.014(5) FS. History-New 7-4-02, Amended 1-25-04, _____.