

RULEMAKING AUTHORITY: 517.03(1), 517.12, 517.1201, 517.081(2), 517.082(4) FS.

LAW IMPLEMENTED: 120.60(1), 517.051, 517.075, 517.081, 517.082, 517.12, 517.161(5) 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: Pam Epting, Chief, Bureau of Regulatory Review, Division of Securities, Office of Financial Regulation, The Fletcher Building, 200 East Gaines Street, Tallahassee, Florida 32399-0375, (850)410-9500, pam.epting@flofr.com

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

Section II Proposed Rules

BOARD OF TRUSTEES OF THE INTERNAL IMPROVEMENT TRUST FUND

Notices for the Board of Trustees of the Internal Improvement Trust Fund between December 28, 2001 and June 30, 2006, go to <http://www.dep.state.fl.us/> under the link or button titled "Official Notices."

PUBLIC SERVICE COMMISSION

RULE NOS.:	RULE TITLES:
25-10.026	Location and Preservation of Records
25-10.111	Customer Billing

PURPOSE AND EFFECT: The purpose of both rule repeals is to eliminate redundant provisions which are no longer in use. These rules have been superseded by new sections in Chapter 25-30, F.A.C. Docket 100380-WS.

SUMMARY: Rule 25-10.026, F.A.C. requires water and wastewater utilities to maintain records in accordance with the NARUC system of accounts and to maintain those records in an office within the State of Florida. All provisions of this rule have been included within the newer Rule 25-30.115, F.A.C., Uniform System of Accounts for Water and Wastewater Utilities and Rule 25-30.110, F.A.C., Records and Reports; Annual Reports. Rule 25-10.111, F.A.C., requires water and wastewater utilities to bill customers at regular intervals; contains various provisions for pro-rating less than full bill amounts; and requires a minimum of 20 days before a bill is considered delinquent. All of the provisions of this rule have been subsumed by Rule 25-30.335, F.A.C., Customer Billing. Repeal of Rules 25-10.026 and 25-10.111, F.A.C., will prevent

confusion or conflict with the more detailed rules in Chapter 25-30, F.A.C., and will eliminate redundant provisions which are no longer in use.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS: The rule repeals will benefit the Commission and customers by decreasing the number of rules and eliminate any confusion over redundant rules. Small businesses and water and wastewater utilities will benefit by the elimination of confusion over redundant rules and from the reduction of costs due to complying with redundant rules and reviewing obsolete rules.

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

RULEMAKING AUTHORITY: 367.121 FS.

LAW IMPLEMENTED: 367.121(9) FS.

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

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 48 hours before the workshop/meeting by contacting: Office of Commission Clerk, 2540 Shumard Oak Blvd., Tallahassee, FL 32399-0850, (850)413-6770. If you are hearing or speech impaired, please contact the agency using the Florida Relay Service, 1(800)955-8771 (TDD) or 1(800)955-8770 (Voice).

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULES IS: Lorena A. Holley, Office of the General Counsel, 2540 Shumard Oak Blvd., Tallahassee, FL 32399-0850, (850)413-6197 or lholley@psc.state.fl.us

THE FULL TEXT OF THE PROPOSED RULES IS:

25-10.026 Location and Preservation of Records.

~~(1) All records that a utility is required to keep, by reason of these or other rules prescribed by the Commission, shall be kept at the office or offices of the utility within this State, unless otherwise authorized by the Commission. Such records shall be open for inspection by authorized representatives of the Commission at any and all reasonable hours.~~

~~(2) All records shall be preserved in accordance with the NARUC "Regulations to Govern the Preservation of Records of Electric, Gas and Water Utilities."~~

Rulemaking Specific Authority 367.121 FS. Law Implemented 367.121(9) FS. History--Amended 9-12-74, Formerly 25-10.26, Repealed _____.

25-10.111 Customer Billing.

~~(1) Bills shall be rendered at regular intervals and shall show at least the billing period covered; identification of the applicable rate schedule; the amount of the bill and, as~~

applicable, gross and/or net billing, and/or discount or penalty, and final discount or penalty date. When there is good reason for doing so, estimated bills may be submitted. If bill is estimated, it shall be so marked.

~~(2) Whenever for any reason the period of service for which a bill is rendered is less than fifty percent (50%) of the normal billing period, the charges applicable to such service, including minimum charges, shall be pro rated in the proportion that the actual number of service days bears to a thirty (30) day month, except that:~~

~~(a) Opening bills need not be rendered but may be carried over to and included in the next regular monthly billing.~~

~~(b) For service taken under flat rate schedules, fifty percent (50%) of the normal charges may be applied.~~

~~(c) The practices employed by the utility in this regard shall have uniform application to all customers.~~

~~(3) Bills shall not be considered delinquent prior to the expiration of twenty (20) days from the date of mailing or delivery by the utility.~~

Rulemaking Specific Authority 367.121(1) FS. Law Implemented 367.111(1), 367.121 FS. History—Amended 9-14-74, 5-21-79, Repealed _____.

NAME OF PERSON ORIGINATING PROPOSED RULE:
Lorena A. Holley, Office of the General Counsel, 2540 Shumard Oak Blvd., Tallahassee, FL 32399-0850

NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: Florida Public Service Commission

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: October 12, 2010

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: Vol. 35, No. 43, October 30, 2009

DEPARTMENT OF MANAGEMENT SERVICES

Personnel Management System

RULE NO.: RULE TITLE:
60L-34.0041 Annual Leave

PURPOSE AND EFFECT: The Department proposes a technical change to an erroneous date specified in the rule in order to comply with the statutory effective date of the legislation governing paragraph 60L-34.0041(6)(a), F.A.C.

SUMMARY: Revises the date used by agencies when determining lifetime maximum annual leave payouts for career service employees separating from the State Personnel System.

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

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

RULEMAKING AUTHORITY: 110.201, 110.219 FS.

LAW IMPLEMENTED: 110.219 FS.

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

DATE AND TIME: Tuesday, November 30, 2010, 1:00 p.m. – 3:00 p.m.

PLACE: 4050 Esplanade Way, Conference Room 101, Tallahassee, FL

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 48 hours before the workshop/meeting by contacting: Ms. Erin Thoresen, HR Consultant, 4050 Esplanade Way, Suite 235, Tallahassee, FL 32399-0950; (850)922-1274; erin.thoresen@dms.myflorida.com. If you are hearing or speech impaired, please contact the agency using the Florida Relay Service, 1(800)955-8771 (TDD) or 1(800)955-8770 (Voice).

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Ms. Erin Thoresen, HR Consultant, 4050 Esplanade Way, Suite 235, Tallahassee, FL 32399-0950; (850)922-1274; erin.thoresen@dms.myflorida.com

THE FULL TEXT OF THE PROPOSED RULE IS:

60L-34.0041 Annual Leave.

(1) through (5) No change.

(6)(a) A career service employee who separates from state government with twelve continuous months of service shall be paid for unused annual leave, up to a lifetime maximum of 240 hours. With respect to leave payments received at the time of separation, in calculating the lifetime maximum, agencies shall only include only payments for separations occurring after December 31, 2001 in the calculation of the lifetime maximum May 13, 2001. In case of death of an employee, the 240-hour limit shall not apply and all unused annual leave at the time of death shall be paid to the employee’s beneficiary, estate, or as provided by law.

(b) A senior management service or selected exempt service employee who separates from state government shall be paid for unused annual leave up to a maximum of 480 hours, with the current year’s accrual prorated. In case of death of an employee, the 480-hour limit shall not apply and all unused annual leave at the time of death shall be paid to the employee’s beneficiary, estate, or as provided by law.

(c) An employee with twelve months of service, who is being laid off, shall be paid for all unused annual leave in accordance with this section, unless the employee requests in writing that the annual leave be retained up to a maximum of one year, pending reemployment.

1. If the employee is not reemployed within one year, unused annual leave held in abeyance shall be paid for in accordance with this section.

2. If the employee is reemployed within one year, annual leave credits shall be restored if the employee so requests in writing and repays the full amount of any lump-sum payment received for accumulated annual leave credits.

(d) An employee electing to participate in DROP may request payment for accrued annual leave at the time of entry into DROP; alternatively, the employee may elect to defer payment until separation from service. If an employee elects immediate payment, then upon separation from service the employee shall be eligible for accrued annual leave payment only to the extent the employee has earned additional annual leave, which combined with the original payment does not exceed the applicable maximum amount specified in paragraphs (a) or (b) of this subsection 60L-34.0041(6), F.A.C.

Rulemaking Specific Authority 110.201, 110.219(5) FS. Law Implemented 110.219, 121.091(13) FS. History--New 1-22-02, Amended _____.

NAME OF PERSON ORIGINATING PROPOSED RULE: Ms. Sharon D. Larson, Director, Division of Human Resource Management, Department of Management Services
NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: Ms. Linda H. South, Secretary, Department of Management Services
DATE PROPOSED RULE APPROVED BY AGENCY HEAD: September 8, 2010
DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: September 24, 2010

DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION

Board of Landscape Architecture

RULE NO.: 61G10-12.001
RULE TITLE: Application and Examination Fees
PURPOSE AND EFFECT: The Board proposes the rule amendment to allow the fee for the exam to be set by and payable to the Council of Landscape Architectural Registration Boards (CLARB).

SUMMARY: The rule amendment will allow the fee for the exam to be set by and payable to the Council of Landscape Architectural Registration Boards (CLARB).

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS: No Statement of Estimated Regulatory Cost was prepared. The Board determined that small businesses would not be affected by this rule.

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

RULEMAKING AUTHORITY: 481.306, 481.307 FS.
LAW IMPLEMENTED: 481.307 FS.

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

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

THE FULL TEXT OF THE PROPOSED RULE IS:

61G10-12.001 Application and Examination Fees.

(1) No change.

(2) The following is the examination fee schedule for the Landscape Architectural Registration Examination and the Florida Section:

Section A through Section B No change.

Section C Fee is set by and payable to the Council of Landscape Architectural Registration Boards. The fee for each examination offering is as follows:
~~December 2007 and June 2008 — \$260.00.~~
~~December 2008 and June 2009 — \$270.00.~~
~~December 2009 and June 2010 — \$276.00.~~
~~payable to the Department.~~

Section D No change.

Section E Fee is set by and payable to the Council of Landscape Architectural Registration boards. December 2007 and June 2008 — \$260.00.
~~December 2008 and June 2009 — \$270.00.~~
~~December 2009 and June 2010 — \$276.00.~~
~~payable to the Department.~~

Florida Section No change.

(3) No change.

Rulemaking Specific Authority 481.306, 481.307 FS. Law Implemented 481.307 FS. History--New 2-4-80, Amended 3-9-84, 7-26-84, Formerly 21K-12.01, Amended 10-7-87, 11-12-89, 3-11-91, Formerly 21K-12.001, Amended 8-7-95, 1-13-99, 8-16-99, 8-27-00, 8-21-05, 4-13-08, _____.

NAME OF PERSON ORIGINATING PROPOSED RULE: Board of Landscape Architecture
NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: Board of Landscape Architecture
DATE PROPOSED RULE APPROVED BY AGENCY HEAD: July 22, 2010
DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: September 24, 2010

DEPARTMENT OF ENVIRONMENTAL PROTECTION

Notices for the Department of Environmental Protection between December 28, 2001 and June 30, 2006, go to <http://www.dep.state.fl.us/> under the link or button titled "Official Notices."

DEPARTMENT OF ENVIRONMENTAL PROTECTION

RULE NOS.:	RULE TITLES:
62-109.010	Definitions
62-109.020	Notification
62-109.030	Protests
62-109.040	Agency Action

PURPOSE AND EFFECT: To repeal Ch. 62-109, F.A.C., containing antiquated procedures for contract bidding notification and protests. The Department uses the procedures provided in Ch. 28-110, F.A.C., and no longer uses Ch. 62-109, F.A.C., for contract solicitation or award bid protests.

SUMMARY: The rules contained in Chapter 62-109, F.A.C., will be repealed.

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

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

RULEMAKING AUTHORITY: 120.53, 120.53(5), 403.061 FS.

LAW IMPLEMENTED: 120.53 FS.

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

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULES IS: Justin Wolfe, DEP, Office of General Counsel, 3900 Commonwealth Blvd., MS #35, Tallahassee, FL 32399, (850)245-2242, justin.g.wolfe@dep.state.fl.us

THE FULL TEXT OF THE PROPOSED RULES IS:

62-109.010 Definitions.

Rulemaking Specific Authority 120.53, 403.061 FS. Law Implemented 120.53 FS. History–New 6-30-86, Formerly 17-109.010, Repealed.

62-109.020 Notification.

Rulemaking Specific Authority 120.53(5), 403.061 FS. Law Implemented 120.53 FS. History–New 6-30-86, Formerly 17-109.020, Repealed.

62-109.030 Protests.

Rulemaking Specific Authority 120.53(5), 403.061 FS. Law Implemented 120.53 FS. History–New 6-30-86, Formerly 17-109.030, Repealed.

62-109.040 Agency Action.

Rulemaking Specific Authority 120.53(5), 403.061 FS. Law Implemented 120.53 FS. History–New 6-30-86, Formerly 17-109.040, Repealed.

NAME OF PERSON ORIGINATING PROPOSED RULE: Justin Wolfe

NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: Mimi Drew

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: September 21, 2010

DEPARTMENT OF JUVENILE JUSTICE

Residential Services

RULE NOS.:	RULE TITLES:
63E-6.001	Purpose and Scope
63E-6.002	Definitions
63E-6.003	Admission Criteria
63E-6.004	Admission Procedures
63E-6.005	Program Orientation
63E-6.006	Program Components
63E-6.007	Behavior Management
63E-6.008	Operational Inspections
63E-6.009	Program Administration
63E-6.010	Staff Training Requirements
63E-6.011	Youth Release or Transfer
63E-6.012	Residential Substance Abuse Treatment Overlay Services

PURPOSE AND EFFECT: The rule chapter governing Sheriff's Training and Respect (STAR) programs is being repealed. Section 985.4891, Florida Statutes, authorizing STAR programs, was repealed effective July 1, 2010.

SUMMARY: Repeal of the rule chapter governing STAR programs for committed youth.

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

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

RULEMAKING AUTHORITY: 985.4891, 985.645 FS.

LAW IMPLEMENTED: 985.4891 FS.

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

DATE AND TIME: Monday, November 22, 2010, 10:00 a.m.

PLACE: DJJ Headquarters, 2737 Centerview Drive, General Counsel's Conference Room 3223, Tallahassee, Florida

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULES IS: John Milla, 2737 Centerview Dr., Ste. 3200, Tallahassee, FL 32399-3100, e-mail: john.milla@djj.state.fl.us

THE FULL TEXT OF THE PROPOSED RULES IS:

63E-6.001 Purpose and Scope.

Rulemaking Specific Authority 985.3091, 985.405 FS. Law Implemented 985.3091 FS. History–New 11-19-06, Repealed.

63E-6.002 Definitions.

Rulemaking Specific Authority 985.4891, 985.645 FS. Law Implemented 985.4891 FS. History–New 11-19-06, Amended 12-24-07, Repealed.

63E-6.003 Admission Criteria.

Rulemaking Specific Authority 985.4891, 985.645 FS. Law Implemented 985.4891(2), (7)(a) FS. History–New 11-19-06, Amended 12-24-07, Repealed.

63E-6.004 Admission Procedures.

Rulemaking Specific Authority 985.3091, 985.405 FS. Law Implemented 985.3091(2), (7) FS. History–New 11-19-06, Repealed.

63E-6.005 Program Orientation.

Rulemaking Specific Authority 985.3091, 985.405 FS. Law Implemented 985.3091(3) FS. History–New 11-19-06, Repealed.

63E-6.006 Program Components.

Rulemaking Specific Authority 985.4891, 985.645 FS. Law Implemented 985.4891(3), (4) FS. History–New 11-19-06, Amended 12-24-07, Repealed.

63E-6.007 Behavior Management.

Rulemaking Specific Authority 985.3091, 985.405 FS. Law Implemented 985.3091(3), (7) FS. History–New 11-19-06, Repealed.

63E-6.008 Operational Inspections.

Rulemaking Specific Authority 985.3091, 985.405 FS. Law Implemented 985.3091(8) FS. History–New 11-19-06, Repealed.

63E-6.009 Program Administration.

Rulemaking Specific Authority 985.3091, 985.405 FS. Law Implemented 985.3091(3)-(5), (7), (9) FS. History–New 11-19-06, Repealed.

63E-6.010 Staff Training Requirements.

Rulemaking Specific Authority 985.3091, 985.405 FS. Law Implemented 985.3091(6), (9) FS. History–New 11-19-06, Repealed.

63E-6.011 Youth Release or Transfer.

Rulemaking Specific Authority 985.3091, 985.405 FS. Law Implemented 985.3091(7), (10) FS. History–New 11-19-06, Repealed.

63E-6.012 Residential Substance Abuse Treatment Overlay Services.

Rulemaking Specific Authority 985.4891, 985.645 FS. Law Implemented 985.4891(3) FS. History–New 12-24-07, Repealed.

NAME OF PERSON ORIGINATING PROPOSED RULE: Darryl Olson, Assistant Secretary for Residential Services

NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: Frank Peterman, Jr., Secretary

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: October 20, 2010

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: October 1, 2010

DEPARTMENT OF HEALTH

Board of Opticianry

RULE NO.: RULE TITLE:

64B12-11.003 Active Status Fee

PURPOSE AND EFFECT: The Board proposes the rule amendment to decrease the active status fee.

SUMMARY: The rule amendment will decrease the active status fee.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS: No Statement of Estimated Regulatory Cost was prepared. The Board determined that small businesses would not be affected by this rule.

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

RULEMAKING AUTHORITY: 484.005, 484.008(1) FS.

LAW IMPLEMENTED: 455.271, 484.008(1) FS.

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

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

THE FULL TEXT OF THE PROPOSED RULE IS:

64B12-11.003 Active Status Fee.

The fee for biennial renewal of an optician’s active status license shall be \$~~150.00~~ 125.00.

Rulemaking Specific Authority 484.005, 484.008(1) FS. Law Implemented 484.008(1), 455.271 FS. History–New 12-6-79, Amended 6-30-82, Formerly 21P-11.03, Amended 3-30-89, 7-10-89, 7-3-91, Formerly 21P-11.003, 61G13-11.003, Amended 10-24-94, Formerly 59U-11.003, Amended 1-4-98, 2-1-04, _____.

NAME OF PERSON ORIGINATING PROPOSED RULE:
Board of Opticianry
NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: Board of Opticianry
DATE PROPOSED RULE APPROVED BY AGENCY HEAD: August 2, 2010
DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: September 24, 2010

DEPARTMENT OF HEALTH

Board of Opticianry

RULE NO.: 64B12-15.001
RULE TITLE: Continuing Education for License Renewal

PURPOSE AND EFFECT: The Board proposes the rule amendment to delete unnecessary language and renumber the rest of the rule correctly.

SUMMARY: The rule amendment will delete unnecessary language and renumber the rest of the rule correctly.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS: No Statement of Estimated Regulatory Cost was prepared. The Board determined that small businesses would not be affected by this rule.

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

RULEMAKING AUTHORITY: 456.013(8), (9), 484.005, 484.008(3) FS.

LAW IMPLEMENTED: 456.013(8),(9), 484.008(3) FS.

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

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

THE FULL TEXT OF THE PROPOSED RULE IS:

64B12-15.001 Continuing Education for License Renewal.

(1) through (5) No change.

~~(6) Licensed opticians who serve as full-time instructors of opticianry at an educational institution accredited by an accrediting agency recognized and approved by the United States Department of Education or the Council on~~

~~Postsecondary Education shall not be required to complete continuing education courses in order to renew their licenses, so long as they were so employed during the entire biennium.~~

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

Rulemaking Specific Authority 456.013(8), (9), 484.005, 484.008(3) FS. Law Implemented 456.013(8), (9), 484.008(3) FS. History–New 10-12-80, Amended 6-30-82, 12-5-82, 9-5-83, 8-30-84, Formerly 21P-15.01, Amended 3-5-87, 9-17-87, 3-30-89, 12-23-90, 6-11-92, 2-18-93, 5-19-93, Formerly 21P-15.001, Amended 4-17-94, Formerly 61G13-15.001, Amended 8-8-94, 3-14-95, 4-18-96, Formerly 59U-15.001, Amended 8-6-97, 4-20-99, 7-27-08, _____.

NAME OF PERSON ORIGINATING PROPOSED RULE:
Board of Opticianry
NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: Board of Opticianry
DATE PROPOSED RULE APPROVED BY AGENCY HEAD: August 2, 2010
DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: October 8, 2010

DEPARTMENT OF HEALTH

Board of Respiratory Care

RULE NO.: 64B32-2.001
RULE TITLE: License by Endorsement

PURPOSE AND EFFECT: The Board proposes the rule amendment to modify the revision date of form DH-MQA 1145.

SUMMARY: The rule amendment will modify the revision date of form DH-MQA 1145.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS: No Statement of Estimated Regulatory Cost was prepared. The Board determined that small businesses would not be affected by this rule.

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

RULEMAKING AUTHORITY: 468.353(1), 468.358(3) FS.

LAW IMPLEMENTED: 468.358(2),(3), 468.365 FS.

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

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Allen Hall, Executive Director, Board of Respiratory Care Therapy/MQA, 4052 Bald Cypress Way, Bin #C05, Tallahassee, Florida 32399-3255

THE FULL TEXT OF THE PROPOSED RULE IS:

64B32-2.001 License by Endorsement.

(1) Applicants for licensure as a Registered Respiratory Therapist or Certified Respiratory Therapist in the state of Florida shall apply on Form DH-MQA 1145, Application by

Endorsement, Revised ~~10/10~~ ~~04/10~~, incorporated herein as this Board's application form and available on the web at <http://www.doh.state.fl.us/mqa/respiratory/index.html>.

(2) through (3) No change.

Rulemaking Authority 468.353(1), 468.358(3) FS. Law Implemented 468.358(2), (3), 468.365 FS. History—New 4-29-85, Formerly 21M-34.02, 21M-34.002, 61F6-34.002, 59R-71.002, 64B8-71.002, Amended 7-22-02, 8-28-05, 6-12-07, 5-15-08, 5-25-09, 5-10-10, 10-6-10, _____.

NAME OF PERSON ORIGINATING PROPOSED RULE:
Board of Respiratory Care

NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: Board of Respiratory Care

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: July 16, 2010

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: October 1, 2010

DEPARTMENT OF CHILDREN AND FAMILY SERVICES

Agency for Persons with Disabilities

RULE NOS.:	RULE TITLES:
65G-4.001	Definitions for Behavioral Services: Practice and Procedure
65G-4.0011	Recognized Certification Organizations for Certified Behavior Analysts
65G-4.002	Service Delivery
65G-4.003	Certification as a Behavior Analyst
65G-4.004	Certification as an Associate Behavior Analyst
65G-4.005	Renewal of Behavior Analysis Certification
65G-4.006	Approved Continuing Education
65G-4.007	Behavior Analysis Certification Fees
65G-4.008	Behavior Analysis Services Oversight System Organization
65G-4.009	Design, Implementation and Monitoring of Behavior Analysis Services
65G-4.010	Behavior Analysis Services Approval
65G-4.011	Determination of Mental Retardation in Capital Felony Cases: Intellectual and Adaptive Functioning; Tests to be Administered
65G-4.012	Determination of Mental Retardation: Intelligence Tests to be Administered

PURPOSE AND EFFECT: The purpose of the proposed rulemaking is to clarify existing language, to ensure effective program administration and reflect changes in provider practice.

SUMMARY: The purpose of the proposed rulemaking is to clarify and amend certain provisions regarding the provisions of behavior analysis services provided under Rules 65G-4.001, 65G-4.008, 65G-4.009, 65G-4.010, and 65G-4.012 F.A.C., create new Rules 65G-4.0011 and 65G-4.0012, F.A.C. This amendment includes the repeal of Rules 65G-4.003, 65G-4.004, 65G-4.005, 65G-4.006, 65G-4.007, F.A.C.

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

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

RULEMAKING AUTHORITY: 393.063, 393.125, 393.13(4)(g)3, 393.17, 393.501, 916.106 FS.

LAW IMPLEMENTED: 393.0651, 393.066, 393.067, 393.068, 393.125, 393.13, 393.17(2) FS.

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

DATE AND TIME: December 6, 2010, 1:00 p.m.

PLACE: Agency for Persons with Disabilities, 4030 Esplanade Way, Room 301, Tallahassee, Florida 32399

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 7 days before the workshop/meeting by contacting: Steve Coleman, PhD., Senior Behavior Analyst, Agency for Persons with Disabilities, Residential and Clinical Support, 4030 Esplanade Way, Suite 380, Tallahassee, Florida 32399, Email: steve_coleman@apd.state.fl.us, phone: (850)488-4257. If you are hearing or speech impaired, please contact the agency using the Florida Relay Service, 1(800)955-8771 (TDD) or 1(800)955-8770 (Voice).

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULES IS: Steve Coleman, PhD., Senior Behavior Analyst, Agency for Persons with Disabilities, Residential and Clinical Support, 4030 Esplanade Way, Suite 380, Tallahassee, Florida 32399, Email: steve_coleman@apd.state.fl.us, phone: (850)488-4257

THE FULL TEXT OF THE PROPOSED RULES IS:

BEHAVIORAL SERVICES: PRACTICE AND PROCEDURE SERVICE DELIVERY PRACTICE AND PROCEDURE

65G-4.001 Definitions for Behavioral Services: Practice and Procedure ~~Behavior Analysis Certification and Services Rules~~.

(1) Area Behavior Analyst means a behavior analyst employed by, or under contract with an area office of the Agency who holds a doctorate from an accredited university

program with behavior analysis as a primary focus, is a board certified behavior analyst, has completed a dissertation that had behavior analysis as its central focus and has at least one year of experience in the provision of behavior analysis services for persons with developmental disabilities. However, if no one with these qualifications is available, then the individual must be a certified behavior analyst with at least the education and experience requirements for taking the board's behavior analyst examination.

(2)(4) Behavior analysis refers to the use of scientific methods to produce socially significant improvements in behavior. This process entails gathering information to analyze or describe the link between behavior and environment. It includes assessment of the environment and consequences that are maintaining the behavior targeted for change. It also encompasses changing the situations in the environment that trigger problem behavior and arranging situations that will provide the opportunity for desirable behaviors to occur. Behavior Analysis interventions teach or increase occurrence of skills to replace the behavior targeted for change and arrange delivery of consequences for desirable and undesirable behavior. A behavior analytic intervention also includes strategies and approaches to maintain the gains of the intervention over time and in varied settings. Behavior change interventions are based on the principles and laws of behavior. Behavior analytic interventions require monitoring and evaluation for effectiveness through direct observation and quantification of the behavior targeted for change. Caregivers and family members are actively involved in the behavior analysis process and are taught how to implement specific techniques or changes in the environment. The design, implementation and evaluation of systematic environmental modifications for the purposes of producing socially significant improvements in and understanding of human behavior based on the principles of behavior identified through the experimental analysis of behavior. It includes the identification of functional relationships between behavior and environment. It uses direct observation and measurement of behavior and environment. Contextual factors, establishing operations, antecedent stimuli, positive reinforcers and other consequences are used, based on identified functional relationships between behavior and environment, in order to produce practical behavior change. Behavior analysis does not rely on cognitive therapies and expressly excludes psychological testing, neuropsychology, psychotherapy, sex therapy, psychoanalysis, hypnotherapy and long term counseling as treatment modalities.

(3)(2) Behavior analysis services – The use of behavior analysis to assist a person or persons to learn new behavior, to increase existing behavior, to reduce existing behavior, and to emit behavior under precise environmental conditions. The term “behavior analysis services” includes the terms “behavior analysis service plan,” “behavioral programming,” “behavioral supports,” “behavior modification programs,” “behavior

intervention plans,” “behavior plans” and “behavioral programs;” as well as those interventions designed to ameliorate dangerous behavior as described in subsection 65G-4.010(3), F.A.C., below. These services are supported in documentation showing that they are applied, behavioral, analytic, technological, conceptually systematic, and effective relative to the definitions of these terms found in “Some Current Dimensions of Applied Behavior Analysis” by D. M. Baer, M. M. Wolf, and T. R. Risley and available in the *Journal of Applied Behavior Analysis*, Volume 1, 1968. This article is incorporated by reference and may be found online at http://www.ncbi.nlm.nih.gov/pmc/articles/PMC1310980/pdf/jab_a00083-0089.pdf.

(4) Certification Body – A nonprofit corporation whose standards for certification of behavior analysts and assistant behavior analysts adheres to the national standards of boards that determine professional credentials to meet the needs of behavior analysts, state governments and consumers of behavior analysis services. The certification procedure of the nonprofit corporation must undergo regular psychometric review and validation pursuant to a job analysis survey of the profession and standards established by content experts in the field.

(5) Certified Behavior Analyst – A behavior analyst certified by a certification body, including a Board Certified Behavior Analyst – Doctoral, a Board Certified Behavior Analyst, a Board Certified Assistant Behavior Analyst and a Florida Certified Behavior Analyst.

(6)(3) Consultation – Monthly contacts between a Board Certified Assistant Behavior Analyst (BCaBA) applicant for certification and a consulting Board Certified Behavior Analyst (BCBA) certified behavior analyst or a person with the education and experience required for certification as a behavior analyst, during which the behavior analysis services provided by the BCaBA applicant are evaluated. At the time consultation is provided, the consulting BCBA behavior analyst shall not be the BCaBA's applicant's subordinate, employee, spouse or family member. The consulting BCBA behavior analyst shall not be considered an employee of the BCaBA applicant if the only compensation received by the consulting BCBA behavior analyst consists of payment for consultation. Monthly contacts may include the BCaBA's applicant's presentation of behavior analysis services designed by the BCaBA applicant, with a focus on graphic displays of data, at local review committee meetings, established in Rule 65G-4.008, F.A.C.

(4) Supervision – Face to face meetings for at least two hours every two weeks or two hours per 40 hours of the applicant's contact with clients, between the applicant and a certified behavior analyst or a person with the education and experience required for certification as a behavior analyst, during which the supervising behavior analyst directs and evaluates the behavior analysis services provided by the

applicant. The supervising behavior analyst shall not be, at the time supervision is provided, the applicant's subordinate or employee. The supervising behavior analyst shall not be considered an employee of the applicant if the only compensation received by the supervising behavior analyst consists of payment for supervision. The applicant's presentation of behavior analysis services designed and implemented by the applicant, with a focus on graphic displays of data, at local review committee meetings, established in Rule 65G-4.008, F.A.C., may be substituted for up to 25 percent of the total supervision time needed to be eligible to take the behavior analyst certification examination.

(7) Contingent exercise – Bodily exertion or effort that is not topographically related to the misbehavior, involving a repeated series of physical movements required as a consequence for inappropriate behavior.

(8) Desensitization – the gradual and systematic presentation of increasing levels of an aversive or feared stimulus or event and removal of it contingent upon calm behavior to teach a person to tolerate the stimulus or event.

(9) Dietary manipulations – Procedures involving the alteration of dietary variables including the quantity or type of food eaten and liquids consumed, the caloric density of the diet, the oral stimulation involved in eating, and the temporal distribution of the daily diet.

(10) Extinction – A procedure in which reinforcement of a previously reinforced behavior is discontinued.

(11) Facility – Can be a publicly or privately established residential operation serving individuals with behavioral service needs.

(12) Functional Communication Training (FCT) – a procedure in which a functional form of communication is taught and reinforcement is provided contingent upon communication and withheld for other behavior.

(13) Positive practice overcorrection – Activities that involve repeated performance of a desirable alternative behavior related to an inappropriate behavior.

(14) Provider – An enrolled professional authorized to provide behavior analysis services. Only individuals who are board certified behavior analysts – doctoral level, board certified behavior analysts (BCBA), board certified assistant behavior analysts (BCaBA), Florida certified behavior analysts or persons licensed in accordance with Chapter 490 or 491, F.S., on active status, and demonstrating supervision as required, may be providers of behavior analysis services. Only those providers holding a certificate on active status from a recognized certification organization for behavior analysis shall use the title, "certified behavior analyst." Individuals performing behavior analysis services shall limit their practice to areas of documented expertise and in accordance with their education, training, and certification or licensure, unless

otherwise demonstrating evidence of supervision by an individual meeting the requisite education, training, and certification.

(15) Regular psychometric review and validation – A certification process which complies with recognized national standards in the testing and certification industry to ensure the certification examinations are fair, valid and reliable and in conformance with recognized standards such as those of the International Organization for Standardization (ISO) or the National Commission for Certifying Agencies (NCCA).

(16) Response blocking – The use of physical intervention upon occurrence of an undesirable behavior in such a way as to interrupt the normal form of responding.

(17) Response cost – A procedure in which a specified amount of available reinforcers are removed from the client's reserve upon occurrence of a specified behavior.

(18) Restitutional overcorrection – Activities that involve correcting the effects of a specified behavior to a better condition than present prior to the occurrence of the specified behavior.

(19) Time-out – These procedures include the withdrawal of the opportunity to earn positive reinforcement or the loss of access to positive reinforcers for a specified period of time.

(20) Token Economy – A behavior change system in which identified behaviors are reinforced by a symbolic medium of exchange, or token, which is later used by a participant in the "purchase" of backup reinforcers, including objects or activities.

Rulemaking Specific Authority 393.13(4)(g)3., 393.17 FS. Law Implemented 393.13, 393.17 FS. History–New 9-23-96, Formerly 10F-4.023, 65B-4.023, Amended _____.

65G-4.0011 Recognized Certification Organizations for Certified Behavior Analysts.

All providers of behavior analysis services must either be licensed to practice in accordance with Chapter 490 or 491, F.S., or certified under a nonprofit corporation meeting the qualifications under Section 393.17(2), F.S. All providers of behavior analysis services must submit to the Agency for Persons With Disabilities proof of their active licensure or certification in order to provide behavior analysis services. Pursuant to Rule 65G-4.001, F.A.C., and as required by Section 393.17(2), F.S., the Agency recognizes the certification for behavior analysts awarded by the following organizations: Behavior Analyst Certification Board, Inc., 2888 Remington Green Lane, Suite C, Tallahassee, FL 32308.

Rulemaking Authority 393.17(2) FS. Law Implemented 393.17(2) FS. History–New _____.

65G-4.002 Service Delivery.

(1) The Agency shall provide all clients with appropriate supports and services in accordance with their support habilitation plan. Implementation of this policy, however, is subject to availability of funds.

(2) Clients of the Agency shall be integrated within local communities ~~the general population~~ to the greatest extent possible extent. To this end, generic and specialized community services rather than Agency services shall be used whenever this will serve the best interest of the client. For referral purposes, each area office shall have a current descriptive directory of community resources.

(3) Programs and services provided by or for the Agency shall adhere to the policies, standards and procedures specified and made reference to in this chapter. The Agency shall make every effort to ensure that services provided are of good quality and at least comparable to those provided to non-retarded persons in the community without disabilities.

(4) All contracts for programs and services provided to the Agency shall include any terms and requirements established in the Developmental Disabilities Waiver Services Coverage and Limitations Handbook (incorporated by reference in Rule 59G-13.083, F.A.C) and Rules 65G-4.008, 65G-4.009, 65G-4.010, F.A.C. any appropriate guidelines

Rulemaking Specific Authority 393.501(1) FS. Law Implemented 393.17 393.062, 393.066 FS. History—New 1-1-77, Formerly 10F-4.08, 10F-4.008, 65B-4.008-.654, Amended

65G-4.003 Certification as a Behavior Analyst.

~~(1) Applicants for certification as a behavior analyst who meet the eligibility requirements specified in paragraph (a), [(b) or (c)] and (d), below, and pay the certification fees prescribed by the Agency are eligible to take the behavior analyst examination administered by the Agency:~~

~~(a) Possession of a minimum of a master's degree from an institution of higher education fully accredited by a regional accrediting body; an institution that is accredited as a member in good standing of the Association of Universities and Colleges of Canada; an institution of higher education located outside the United States or Canada, which at the time the applicant was enrolled and at the time the applicant graduated maintained a standard of training equivalent to the standards of training of those institutions in the United States.~~

~~(b) Completion of graduate level instruction in the content areas and for the number of hours specified in subparagraphs 1.-5., below. Experience from one of the categories specified in paragraph (c) below shall be substituted for this requirement. One semester credit is equivalent to 15 hours of instruction and one quarter hour of credit is equivalent to 10 hours of instruction.~~

~~1. Basic behavior analytic principles—45 hours.~~

~~2. The application of behavior analytic principles and methods in applied settings—45 hours.~~

~~3. Single-subject research methods—20 hours.~~

~~4. Any other behavior analysis content area—70 hours.~~

~~5. Ethical and professional standards issues relevant to the practice of behavior analysis—10 hours.~~

~~(c) Experience in one of the following categories may be substituted for the required graduate level instruction. Experience substituted for course work under this rule shall not be used to meet the requirements specified in paragraph (d), below:~~

~~1. Completion of at least a one-year, full-time appointment in a tenure tract position on a college or university faculty during which the applicant taught classes on basic principles of behavior, single-subject methodology, applications of basic principles of behavior in applied settings and ethical issues and conducted and published research in behavior analysis.~~

~~2. Completion of no less than 35 hours of employment per week, for at least 24 months within a 30-month period, with consultation in an educational, health or human services setting during which the applicant was responsible for the following:~~

~~a. The design, implementation and monitoring of behavior analysis services.~~

~~b. Oversight of behavior analysis services designed, implemented and monitored by others.~~

~~c. Instruction of classes or college or university courses in basic principles of behavior and applications of basic principles in applied settings.~~

~~d. The applicant shall document that the services provided were applied, behavioral, analytic, technological, conceptually systematic, and effective relative to the definitions of these terms found in "Some Current Dimensions of Applied Behavior Analysis" by D. M. Baer, M. M. Wolf, and T. R. Risley and available in the *Journal of Applied Behavior Analysis*, Volume 1, 1968. Such documentation shall include a portfolio of the behavioral assessments, plans of service based on these assessments, data displays related to these plans, and service plan monitoring reports produced during the term of employment applied to this experience requirement. The applicant shall also submit a description of the organizational and personnel management systems used at the place of employment.~~

~~e. Teaching experience shall be documented by the submission of a letter, signed by the applicant, certifying the dates, locations and content of classes and courses taught by the applicant.~~

~~(d) Completion of the experience requirements specified in either subparagraph 1. or 2., below, in an educational, health or human services setting:~~

~~1. Completion of no less than 20 hours of employment per week, for 6 months, with supervision; followed by the completion of no less than 35 hours of employment per week, for 6 months, with consultation. The applicant's primary duties during both employment periods must have been the design, implementation and monitoring of behavior analysis services~~

and overseeing the implementation of behavior analysis services implemented by others. The employment with supervision requirement may be satisfied by completion of a practicum or field experience, with supervision, that included the design, implementation and monitoring of behavior analysis services, as part of a university or college degree program. Possession of a doctorate degree from an institution that meets the requirements specified in paragraph (a), above, with a dissertation that had behavior analysis as its central focus shall be substituted for the required hours of employment with consultation.

2. Completion of no less than 35 hours of employment per week for 18 months within a 21 month period, with consultation. The applicant's primary duties during the employment period must have been the design, implementation and monitoring of behavior analysis services and overseeing the implementation of behavior analysis services by others. Possession of a doctorate degree from an institution that meets the requirements specified in paragraph (a), above, with a dissertation that had behavior analysis as its central focus shall be substituted for 6 months of the required 18 months of employment.

(2) Applicants for examination for certification as a behavior analyst shall submit to the Agency a completed application form entitled "Application for Certification as a Behavior Analyst," which is incorporated by reference, and pay the certification fees prescribed by the Agency no less than 45 days in advance of the date of the examination for which they are applying.

(3) Applicants who pass the behavior analyst examination and pay the certification fees shall be certified as behavior analysts. Only persons who are certified pursuant to this rule shall use the title of "certified behavior analyst."

(4) Notwithstanding the above provisions, persons certified as behavior analysts prior to the effective date of this rule will retain their certification.

(a) These persons may continue to approve the implementation of behavior analysis services that includes one or more of the following restricted behavior analysis procedures, regardless of the behavior or behaviors being addressed:

1. Time out from reinforcement of 20 minutes or less.
2. Contingent removal or restriction of potential reinforcers.
3. Contingent effort of 10 minutes or less.
4. Contingent manual restraint of five (5) minutes or less.

(b) However, these persons may not approve the implementation of other restricted procedures unless they apply to the Agency to have their implementation approval privileges expanded to those established in Rule 65G 4.010, F.A.C., by submitting to the Agency a completed application form entitled "Expansion of Approval Privileges," incorporated by reference. Expansion of privileges requires

that the applicant meet the education and experience requirements established above for eligibility to take the behavior analyst examination. Application for expansion of privileges may be submitted at any time after the effective date of these rules.

Rulemaking Specific Authority 393.13(4)(g)3., 393.17 FS. Law Implemented 393.13, 393.17 FS. History—New 9-23-96, Formerly 10F-4.024, 65B-4.024, Repealed _____.

65G-4.004 Certification as an Associate Behavior Analyst.

(1) Applicants for certification as an associate behavior analyst who meet the requirements specified in paragraphs (a)-(c), below, and pay the certification fees prescribed by the Agency are eligible to take the associate behavior analyst examination administered by the Agency:

(a) Possession of a minimum of a bachelor's degree from an institution that meets the requirements specified in Rule 65G 4.003, F.A.C.

(b) Completion of 90 hours of classroom instruction covering, at a minimum, basic principles of behavior analysis, the application of these basic principles, and ethical issues related to the delivery of behavior analysis services. Instruction shall be obtained through one of the following methods:

1. College or university courses in behavior analysis, that are taken from an institution that meets the requirements specified in Rule 65G 4.003, F.A.C. No more than three courses may be combined to meet the 90 hour requirement. One semester credit is equivalent to 15 hours of instruction and one quarter hour of credit is equivalent to 10 hours of instruction.

2. Non-college or university classes approved for this purpose by the Agency in accordance with Rule 65G 4.004, F.A.C.

3. A combination of college or university courses and approved classes.

4. However, credit shall be given only once for a course or class.

(c) Employment in one of the following categories in an educational, health or human services setting:

1. Completion, with consultation, of no less than 35 hours of employment per week, that included the design, implementation and monitoring of behavior analysis services, for 12 months within a 15 month period.

2. Completion, with supervision, of no less than 20 hours of employment per week, during which the applicant's primary duties were the design, implementation and monitoring of behavior analysis services, for six consecutive months. However, the employment requirement may be satisfied by completion of a practicum or field experience, with supervision, that included the design, implementation and monitoring of behavior analysis services, as part of a university or college degree program.

(2) Applicants for examination for certification as an associate behavior analyst shall submit a completed application form entitled "Application for Certification as an Associate Behavior Analyst," which is incorporated by reference, and pay the certification fees prescribed by the Agency no less than 45 days in advance of the date of the examination for which they are applying.

(3) Applicants who pass the associate behavior analyst examination and pay the certification fees shall be certified as associate behavior analysts. Only persons who are certified pursuant to this rule shall use the title of "certified associate behavior analyst."

(4) Approved Classes — Application for class approval shall be made by submitting a completed application form, entitled "Approval of Behavior Analysis Classes," incorporated by reference, 45 days in advance of the teaching of the class. Classes that meet the following criteria shall be approved by the Agency for a maximum of two years beginning on the approval date:

(a) The content of the class covers only behavior analysis and ethical issues related to the practice of behavior analysis.

(b) There are written learning objectives for the class.

(c) Student progress on each content area is evaluated during the class.

(d) The class is taught by a certified behavior analyst. The certified behavior analyst may be assisted by a certified associate behavior analyst.

Rulemaking Specific Authority 393.13(4)(g)3., 393.17 FS. Law Implemented 393.13, 393.17 FS. History—New 9-23-96, Formerly 10F-4.025, 65B-4.025, Repealed.

65G-4.005 Renewal of Behavior Analysis Certification.

(1) Certification in behavior analysis shall be renewed every two years from the date of certification under these rules, if the applicant for renewal meets the following requirements:

(a) Completion of 16 hours of continuing education for renewal of certification as an associate behavior analyst and 24 hours of continuing education for renewal of certification as a behavior analyst within the applicant's two year certification period. However, to be accepted, one hour of continuing education must be no less than 50 minutes of instruction in one hour.

(b) Submittal of a completed renewal application form, entitled "Behavior Analysis Certification Renewal," incorporated by reference, and payment of the certification renewal fee prescribed by the Agency at least 45 days in advance of the expiration of the applicant's two year certification period.

(2) The following shall be accepted toward fulfillment of the continuing education requirements:

(a) Completion of college or university courses, the content of which is entirely behavior analytic, taken from an institution that meets the requirements specified in Rule 65G-4.003, F.A.C.

(b) Completion of programs approved by the Agency under Rule 65G-4.007, F.A.C.

(c) Completion of programs not approved by the Agency provided such programs relate directly to the practice of behavior analysis or other topics pertinent to developmental disabilities.

(d) Attendance at local review committee meetings, established in Rule 65G-4.008, F.A.C., provided that the work of the applicant is discussed at the meeting with a focus on graphic displays of data.

(e) The combined total number of hours of continuing education from the categories defined in paragraphs (c) and (d), above, shall not exceed 25 percent of the total required hours of continuing education.

(f) Presentation or moderation by the applicant of approved continuing education programs on a one-time basis for each program. A maximum of 25 percent of the total required hours of continuing education may come from this category.

(g) Authorship or co-authorship of a research or review article on the application of behavior analysis that is published, during the two year certification period to which credit is to be applied, in a journal that requires that authors meet the American Psychological Association's ethical guidelines for authorship. A publication shall count towards a maximum of 25 percent of the total required hours of continuing education.

(3) Prior to the end of the two year certification period, an associate behavior analyst or behavior analyst may request in writing that the Agency place his or her certification on inactive status for a maximum period of four years. At the time of the request, the certificate holder shall pay the fee prescribed by the Agency for placing certification on inactive status. While certification is on inactive status, the person shall not exercise any privileges associated with certification.

(4) Inactive certification may be reactivated if the applicant:

(a) Submits the reactivation form entitled "Reactivation of Certification," which is incorporated by reference, and pays the certification renewal fee prescribed by the Agency. The applicant's two year certification period will begin on the date the Agency reactivates the applicant's certification.

(b) Completes the number of hours of continuing education required for the period beginning with the last renewal of certification and ending with the date of reactivation of certification.

(5) Once an inactive certificate expires, in order to be recertified, the person must meet the eligibility and examination requirements and pay the certification fees prescribed by these rules.

~~Rulemaking Specific Authority 393.13(4)(g)3., 393.17 FS. Law Implemented 393.13, 393.17 FS. History—New 9-23-96, Formerly 10F-4.026, 65B-4.026, Repealed _____.~~

65G-4.006 Approved Continuing Education.

~~An individual or agency may apply to the Agency to have a course, class, seminar, workshop or institute approved for continuing education by submitting a completed application, entitled “Application for Continuing Education (CE) Program Approval,” incorporated by reference. An approved continuing education program shall:~~

- ~~(1) Cover behavior analysis practice, theory or methods.~~
- ~~(2) Have stated learning objectives.~~
- ~~(3) Be for the purposes of furthering and maintaining the skills or knowledge of behavior analysis.~~
- ~~(4) Be of sufficient duration to accomplish the stated learning objectives.~~
- ~~(5) Be instructed by a person who meets the following criteria:~~
 - ~~(a) Is a certified behavior analyst or is a certified associate behavior analyst under the direction of a certified behavior analyst and~~
 - ~~(b) Has received training in the subject taught in the program or~~
 - ~~(c) Has experience of not less than one year of practical application or research in the subject taught in the program.~~

~~Rulemaking Specific Authority 393.13(4)(g)3., 393.17 FS. Law Implemented 393.13, 393.17 FS. History—New 9-23-96, Formerly 10F-4.027, 65B-4.028, Repealed _____.~~

65G-4.007 Behavior Analysis Certification Fees.

~~The following fees are prescribed by the Agency for associate behavior analyst and behavior analyst certification and certification renewal:~~

- ~~(1) The certification fee for an associate behavior analyst is \$125.00.~~
- ~~(2) The certification fee for a behavior analyst is \$175.00.~~
- ~~(3) The certification renewal fee for associate behavior analysts is \$75.00.~~
- ~~(4) The certification renewal fee for behavior analysts is \$100.00.~~
- ~~(5) The fee for placing a certificate on inactive status shall be \$50.00 for both categories of certification.~~

~~Rulemaking Specific Authority 393.13(4)(g)3., 393.17 FS. Law Implemented 393.17 FS. History—New 9-23-96, Formerly 10F-4.028, 65B-4.027, Repealed _____.~~

65G-4.008 Behavior Analysis Services Oversight System Organization.

~~(1) The Agency will establish and maintain a behavioral services program including a senior clinician, the Agency Senior Behavior Analyst (ASBA), to assume direction for standards of behavioral practice, develop and manage systems~~

of quality, utilization and cost containment for statewide behavioral practice. The ASBA holds a doctorate from an accredited university program with behavior analysis as a primary focus, is a board certified behavior analyst, has completed a dissertation that had behavior analysis as its central focus and has at least one year of experience in the provision of behavior analysis services for persons with developmental disabilities. However, if no one with these qualifications is available, then the ASBA must be a certified behavior analyst with at least the education and experience established by the designated certification board. The behavioral services program will also include the support of at least one master’s level board certified behavior analyst. The ASBA will direct:

(a) Area Behavior Analysts, who will be recruited, appointed, given clinical supervision and annually evaluated in conjunction with their functional supervisor in the area to which they are assigned.

(b) Committees.

1. The Local Review Committees (LRC) working in conjunction with the ASBA shall adopt the model LRC bylaws to establish guidelines for committee function, including the establishment of time frames for scheduling, reviewing, and approving, as well as tracking for efficient program review and approval, charter content, committee membership, meeting participants, confidentiality requirements and development of a process to resolve provider and LRC disputes.

2. The Peer Review Committee (PRC) working in conjunction with the ASBA shall adopt the model PRC bylaws to establish membership, as well as annual projects including, at minimum, review of behavioral practices in at least one Developmental Disability Center, at least one state operated forensic facility, at least one area community residential behavioral provider, at least one Local Review Committee, and other services as identified by the Agency.

3. Behavior Analysis Practices Committee (BAPC) shall be established to meet at least annually with membership from Area and Developmental Disabilities Centers Behavior Analysts, the PRC, providers of behavior analysis and behavior assistant solo service providers and agency providers, as well as behavioral residential services providers to assure that common operational requirements are implemented statewide, to address qualifications and processes for establishing individuals and agencies as behavior analysis providers, behavior analysis agencies and residential behavioral providers, establishing consensus standards for LRC operation, standards for behavioral assessment content and behavior analysis support plan program content, standards for graphic display of data, documentation, billing, as well as behavioral services practice and service sanctions to ensure service quality to meet the changing needs of service recipients and provider requirements.

~~(2)(4)~~ A statewide peer review committee (PRC) and local review committees (LRCs) shall be appointed by the Agency to provide oversight of behavior analysis services.

(a) ~~The Agency will establish the composition, function and procedures to be followed by the committees in the form of Model bylaws incorporated by reference in subsection (5) of this rule. Each committee shall operate in accordance with by laws written by the committee and approved by the Agency prior to their implementation by the committee.~~

(b) Each committee shall be chaired by a person who holds a doctorate from an accredited university program with behavior analysis as a primary focus, is a board certified behavior analyst, has completed a dissertation that had behavior analysis as its central focus and has at least one year of experience in the provision of behavior analysis services for persons with developmental disabilities. However, if no one with these qualifications is available, then the chairperson must be a certified behavior analyst with at least the education and experience requirements for taking the board's behavior analyst examination.

(c) Local review committees may establish subcommittees within varied locations outside the area office or within large facilities, upon mutual agreement between an area office and a provider, ~~or between a primary facility campus and remote locations, and operate under the rules governing local review committees within a program or programs operated by the provider. Subcommittees shall ensure that at least two participating members are certified behavior analysts who are not employed or contracted by the facility, and who have no interest in the behavior programs produced by it. The LRC shall remain responsible for the decisions of the subcommittees.~~

1. ~~A sufficient number of LRCs shall be established to allow for the timely and thorough review of behavior analysis services.~~

2. ~~Programs developed, implemented and submitted by a BCBA to the LRC chairperson following implementation may proceed forward until a decision is rendered by the LRC chairperson.~~

3. ~~A provider submitting a behavior analysis services plan will be notified by the LRC chairperson within 21 days that the plan has been received with preliminary review completed.~~

4. ~~Within 30 days of receipt of a behavior analysis services plan the LRC chairperson will notify the provider of the date the plan will be reviewed by the committee, if needed.~~

5. ~~Behavior analysis services plans must be reviewed and a decision rendered within 90 days of receipt by the LRC chairperson.~~

6. ~~At the time of review by the LRC, a decision will be rendered.~~

a. ~~To "approve", and a review date established.~~

b. ~~To "approve with modifications", and a review date established. Behavior analysis services plans developed, implemented and submitted by a BCBA may proceed forward and modifications submitted by the provider to the LRC chairperson within 30 days without further LRC review, until the next established review date.~~

c. ~~To "not approve". Behavior analysis services plans that are not approved must be revised by the provider, and resubmitted within 14 working days. Based upon the modifications the LRC chairperson must render a decision orally and in writing within seven working days of receipt, in the language of the provider, and in English.~~

~~Subcommittees shall operate under the rules governing local review committees, however, the local review committees shall remain responsible for the decisions of the subcommittee.~~

2. ~~Each LRC will be chaired by an individual meeting the qualifications above who is either an employee of the Agency or under contract to provide this service. Under no circumstances may the chair participate in the LRC review of his or her own services, services provided by or to a family member, or related services. Each subcommittee that oversees behavior analysis services of a single provider of a statewide program must be approved by the Agency in advance of the committee making decisions authorized by these rules.~~

~~(3)(2)~~ The PRC statewide committee shall conduct on-site reviews of behavior analysis services including the operations of local review committees; provide training and technical assistance related to client and systemic behavior analysis services issues; ~~monitor the development of the behavior analysis certification examinations to ensure that they are consistent with practice and testing standards;~~ and provide recommendations regarding laws and regulations that affect behavior analysis services.

~~(4)(3)~~ Each area office, and each developmental disabilities center institution, hereafter referred to as "facility," institution shall have a local review committee that shall oversee behavior analysis services provided to clients in their area or facility institution as specified in paragraphs (a)-(c), below:

(a) The committee shall review behavior analysis services programs as required in Rule 65G-4.010, F.A.C., if warranted, and as necessary, to ensure that behavioral programs are implemented as required and with the intended improvement in target behaviors ~~these services are designed and approved in accordance with Florida Statutes and Agency Rules.~~

1. The person who designed the services or a certified or licensed designee, who has sufficient knowledge of the plan and its implementation, shall be present during the initial committee review. A person with primary responsibility for the ongoing implementation and monitoring of the services shall be present at all future meetings at which the services are reviewed by the committee.

2. ~~The LRC chairperson~~ Any person can request that bring a behavior analysis services plan be brought before the committee for its review to ensure compliance with Chapter 393, Florida Statutes, and Chapter 65G-4 or 65G-8, F.A.C., and the Developmental Disabilities Waiver Services Coverage and Limitations Handbook (incorporated by reference in Rule 59G-13.083, F.A.C.)

(b) ~~The committee shall monitor behavior analysis services in accordance with a monitoring schedule reviewed by the committee plan developed and approved by the committee to ensure that behavior analysis services are in compliance with Florida Statutes and the Agency rules. Approval of services includes the determination by the LRC chairperson that the individual designing and implementing the behavior analysis services is in compliance with subsection 65G-4.001(14), F.A.C., above, or is appropriately supervised.~~

(c) ~~If reactive strategies continue without the implementation of required behavioral programs or behavior analysis services requiring review are not presented to the LRC or are not found to be in accordance with Florida law, the committee chairperson shall request that the Agency notify the behavior analyst, and when appropriate, the residential provider and behavior analyst's supervisor, of the services, orally at the time of review and in writing within ten days of review in the language of the provider or supervisor, and in English, of each area of non-compliance. If behavior analysis services are found not to be in accordance with Florida law, the committee shall notify the provider of the services, in writing and orally in the language of the provider and in English, of each area of non-compliance.~~

1. Absent emergency circumstances that threaten public health, safety or welfare, the provider shall have twenty (20) days within which to demonstrate compliance or present to the committee chairperson in writing evidence showing that the services being provided are in compliance with Florida Statutes and the Agency rules. The provider may present whatever evidence the provider deems appropriate to demonstrate that the provider is in compliance with Chapter 393, Florida Statutes, Chapter 65G-4 or 65G-8, F.A.C., and the Developmental Disabilities Waiver Services Coverage and Limitations Handbook (incorporated by reference in Rule 59G-13.083, F.A.C.) and the Agency rules.

2. If emergency circumstances exist for the recipient of behavioral services the committee chairperson may give instruction to the provider in how to proceed with services or to cease and desist from continued behavior analysis services, with other recommendations for necessary safeguards and supports.

3. If, however, the committee determines that the behavior analyst, and when appropriate, the residential provider, is not in compliance with Chapter 393, Florida Statutes, or Chapter 65G-4 or Chapter 65G-8, F.A.C. the Agency rules, or the

Developmental Disabilities Waiver Services Coverage and Limitations Handbook (incorporated by reference in Rule 59G-13.083, F.A.C.), the committee chairperson shall report all facts and circumstances to the Agency in writing within five (5) days of the provider's response and request a final decision be made by the Agency.

4. Within twenty (20) days of such report, the Agency shall notify the committee, in writing, and the provider, in writing and orally in the language of the provider and in English, of its decision. In the event the Agency finds the provider is not in compliance with Florida Statutes or the Agency rules, the Agency shall allow the provider an additional ten (10) days to modify services to meet requirements revoke the provider's behavior analysis certification, require that the services being provided be discontinued and notify the provider of the provider's rights in accordance with Chapter 120, F.S. If modifications are not made within the time allotted, the Agency shall consider whether a recoupment action should be initiated, provider status should be revoked, supervision be required, complaint be submitted to the designated certification or licensing board, or the requirement that the services being provided be discontinued.

5. If modifications are not made within the time allotted in subparagraph 4. and the agency must take one of the actions in subparagraph 4., the agency shall consider whether any of the following occurred:

- a. Falsification of Documentation.
- b. Absence of documentation, such as graphs, behavioral assessments, behavior plans and required summaries.
- c. Lack of program monitoring as approved by the LRC.
- d. Failing to maintain a current behavior plan for an individual served.
- e. Failure to present behavior plan/s requiring LRC review.
- f. Failure to revise behavior plans based upon LRC recommendations or upon analysis of data and consistent with Chapter 65G-4, F.A.C.
- g. Failure to address behaviors related to health and safety.
- h. Failure to provide adequate supervision to behavior analysts and behavior assistants working under such service delivery arrangement.
- i. Failure to resubmit behavior plan revisions within time constraints established by the LRC.
- j. Repeated deficiencies that display lack of competence.
- k. Repeated use of restricted measures for problem behavior as itemized in subsection 65G-4.010(1), F.A.C., or use of reactive strategies without an LRC approved behavior analysis services plan.

l. Consistent pattern of failure to return phone calls or email, reply to any correspondence or show up for scheduled service visits and cannot be located.

m. Failure to report abuse of a minor, or adult with disabilities as mandated by Florida Law.

n. Failure to report immediately to law enforcement of potentially life threatening situations such as possession of explosives, fire arms, weapons, toxic material or illegal substances by individuals with impaired judgment and behavioral issues.

o. Felony or misdemeanor related to the practice of behavior analysis or the health and safety of an individual.

p. Failure to abide by ethical guidelines of their professional certification or licensing body.

q. Assessment Report past due 30 day limit.

r. Behavior plan past due 90 day limit.

s. Documentation not submitted to the waiver support coordinator.

t. Non-Compliance with standards of Behavior Focus and Intensive Behavior homes, including a current behavior plan developed or revised within the year and reporting of reactive strategies.

u. Falsifying billing or billing at a higher rate than the analyst's qualifications warrant.

v. Billing for services in school settings.

w. Billing under behavior analysis for other activities that do not meet this service definition as described in the Developmental Disabilities Waiver Services Coverage and Limitations Handbook (incorporated by reference in Rule 59G-13.083, F.A.C.).

x. Failure to comply with the Developmental Disabilities Waiver Services Coverage and Limitations Handbook (incorporated by reference in Rule 59G-13.083, F.A.C.), Rules 65G-4.008, 65G-4.009, 65G-4.010, F.A.C., or Chapter 393, F.S.

6. Following a committee report set forth above, the Agency, after consideration of the factors set forth in subparagraph 5. above, may require additional supervision of the provider's services. The requirement for additional supervision may be a prerequisite for allowing the provider to continue to serve as an authorized behavior analysis services provider. Such required supervision shall include the following conditions:

a. Supervision must be provided by a Board Certified Behavior Analyst – Doctoral level, or a Board Certified Behavior Analyst, or a person licensed under Chapter 490 or 491, F.S., (Psychologist, School Psychologist, Clinical Social Worker, Marriage and Family Therapist or Mental Health Counselor), with evidence (e.g. work samples) of at least three years of experience in the application of Applied Behavior Analysis procedures approved by a local review committee, to persons with exceptional needs post certification or licensure;

b. Face-to-face meetings for up to two hours every two weeks or two hours per 40 hours of the provider's contact with clients. These meetings shall be between the provider and a board certified behavior analyst or a person licensed under

Chapter 490 or 491, F.S., during which the supervisor directs and evaluates the behavior analysis services provided by the provider;

c. The supervisor shall not be, at the time supervision is provided, the provider's subordinate or employee, spouse or family member. The supervisor shall not be considered an employee of the provider if the only compensation received by the supervising behavior analyst consists of payment for supervision; and

d. The provider's presentation of behavior analysis services designed and implemented by the provider, with a focus on graphic displays of data, at local review committee meetings, established in Rule 65G-4.008, F.A.C., may be substituted for up to 25 percent of the total supervision time required.

(5) Forms incorporated by Reference.

(a) Model LRC Bylaws are hereby incorporated by reference as Form APD-CBA – 1 (10/10).

(b) Model PRC Bylaws are hereby incorporated by reference as Form APD-CBA – 2 (10/10).

Anyone may acquire a copy of the model bylaws by contacting the ASBA at the APD Central Office, 4030 Esplanade Way, Tallahassee, Florida 32399. Email: apd_info@apd.state.fl.us. Phone: (850)488-4257.

Rulemaking Specific Authority 393.125, 393.13(4)(g)3., 393.17 FS. Law Implemented 393.066, ~~393.067~~, 393.125, 393.13, 393.17 FS. History—New 9-23-96, Formerly 10F-4.029, 65B-4.029, Amended _____.

65G-4.009 Design, Implementation and Monitoring of Behavior Analysis Services.

(1) Providers of behavior analysis services shall provide services only as certified and as provided by law.

(2) All aspects of behavior analysis services shall be integrated by the provider with other relevant services and supports being provided to the client by the provider within the scope of authorized behavioral services.

(3) The selection of behavior analysis procedures and decisions by the provider to make environmental changes that obviate the need for the use of behavior change procedures shall be based upon information obtained through direct and indirect functional assessment or functional analysis ~~descriptive analysis or systematic environmental manipulations~~ designed to identify patterns of behavior and the functional relationships between the behavior or behaviors targeted for change and the environment. The assessment shall contain at minimum:

(a) Operational definitions of all behaviors targeted for change;

(b) Description of conditions under which the behavior is most likely and least likely to occur;

(c) Measures of current level of behavior targeted for change;

(d) Other relevant personal, social, medical, pharmacological or historical information that may impact on behavior targeted for change, if any;

(e) Putative functional relationships between targeted behavior and environment; and

(f) Recommendations for procedures to decrease maladaptive behavior and increase relevant appropriate alternative behavior.

(4) Behavior analysis services designed by the provider to decrease behavior shall include procedures for increasing functional replacement behavior, or acquisition of adaptive skills to serve as a functional alternative to the behaviors targeted for change.

(5) Behavior analysis procedures that are the least intrusive to the client and the most likely to be effective shall be used by the provider.

(6) Medical treatment to address purely medical etiologies or physical or occupational therapies to address behaviors that are related ~~are due~~ to physical limitations shall be provided concurrent with, or prior to, the implementation of behavior analysis services by the provider.

(7) Behavior analysis services shall not be provided continuously without appropriate considerations for maintenance and generalization of behavior change in relevant settings or a designation of criteria for termination of the interventions or services shall be addressed by the provider whenever behavior analysis services are provided.

(8) The provider shall ensure that persons responsible for implementing, monitoring and providing behavior analysis services receive performance-based training that prepares them to properly implement the behavior analysis procedures involved, within the circumstances under which the services will be provided.

(9) The provider shall take reasonable steps to ensure data collection that measurement for of behaviors targeted for increase change and decrease replacement behavior during the entire period services are in effect. Graphic displays of data on behaviors targeted for change shall be ~~kept~~ maintained and up-dated by the provider at least weekly, unless the local review committee determines that a less stringent requirement is acceptable for individual cases.

(10) The ~~LRC local review committee~~ shall approve the provider's behavior analysis services monitoring plan and specify the requirements for reporting of findings and data to the committee for behavior analysis services approved by the committee.

(a) Behavior analysis services plans are to be written as succinctly as is possible to effectively serve as a guide to those who will be implementing the plan.

(b)(*) The behavior analysis services plan Monitoring shall include, either in text or by reference to appropriate documents:

1. Identifying information for the individual affected by the plan. Documentation of when and by whom monitoring was done.

2. The name, signature and certification or licensure information of the individual who developed, supervises or approves the implementation of the procedures described in the plan. Examination and interpretation of data.

3. Objective statements of goals relative to behavior reduction and behavior acquisition resulting in program termination. Direct observations in the setting(s) where the plan is implemented, including the observation of the implementation of procedures or simulated implementation.

4. Rationale for intervention being warranted, and selection of proposed interventions, consistent with assessment results. Discussions with and observations of individuals who implement the behavior analysis procedures involved.

5. Medical, social and historical information including previous treatment programs relevant to the current problems being addressed. Determination that the services are in accordance with Florida Statutes and the Agency rules.

6. How and where behavioral services will be integrated with daily routines and other relevant services.

7. Identification of behaviors targeted for reduction.

8. Identification of behaviors targeted for acquisition or as replacement.

9. Data collection methods for behaviors targeted for reduction and acquisition.

10. Intervention procedures for behaviors targeted for reduction and acquisition.

11. Description of performance-based training for persons implementing procedures.

12. Techniques for maintaining and generalizing behavioral improvements, which could include the reduction and fading of behavioral services.

13. When employed, rationale for use of ancillary support staff, such as behavior assistants; a description of training, their routine or duties, performance monitoring and fading of services.

14. Methods of monitoring for programmatic fidelity and effectiveness, including but not limited to:

a. data analysis and interpretation.

b. Direct observation in the setting(s) where the plan is implemented, including the observation of the implementation of procedures or simulated implementation.

c. Discussions with supervisors, and observations of individuals who implement the behavior analysis procedures involved.

d. Schedule or frequency of monitoring, and who, by function or assignment, will conduct monitoring.

e. Determination that the services are in accordance with Florida Statutes and the Agency rules.

15. Signatures of informed participants as may be required by law and individuals authorized to approve the procedures.

~~(c)(b)~~ Modifications to the behavior analysis service plan which include procedures listed in Rule 65G-4.010, F.A.C., approved by the LRC committee shall be documented and submitted by the provider to the committee chairperson within one week after the changes are made, for determination of need for committee review. A summary of the effects of and modifications to behavior analysis services plan shall be written by the provider at least annually. This summary will include a graphical display of data collected over the year with appropriate annotation of program modifications.

Rulemaking Specific Authority 393.13(4) FS. Law Implemented 393.0651, 393.066, 393.067, 393.068, 393.13, 393.17 FS. History—New 9-23-96, Formerly 10F-4.030, 65B-4.030, Amended _____.

65G-4.010 Behavior Analysis Services Approval.

(1) All written plans describing behavior analysis services consistent with subsection 65G-4.009(10), F.A.C., shall be submitted to the local review committee chairperson within five working days following implementation. Behavior analysis services that include behavior analysis procedures that are designed to decrease the probability of the occurrence of a behavior by presenting, attenuating or removing a stimulus following each occurrence of the behavior to be reduced, behavioral contingencies designed to increase the probability of a behavior by removing or attenuating a stimulus following each occurrence of the behavior to be increased, and the use of satiation and deprivation procedures, hereafter referred to as restricted procedures, shall require the approval of one of the following practitioners prior to implementation.

(a) A certified behavior analyst who meets the education and experience requirements established in these rules for taking the behavior analyst certification examination.

(b) A person licensed pursuant to Chapter 490 or 491, F.S.

(2) All behavior analysis services designed to include restricted procedures or those services designed to address those actions of the individual which, without behavioral, physical, or chemical intervention can be expected to result in outcomes identified in subsection 65G-4.010(3), F.A.C., below and will be provided or supervised by a Certified Behavior Analyst as defined in subsection 65G-4.001(5), F.A.C., or a person licensed pursuant to Chapter 490 or 491, F.S: In those cases where it is unclear whether behavior analysis services meet either criteria, the provider must contact the LRC chairperson to determine the need for LRC review. Approval by a certified behavior analyst who meets the education and experience requirements specified in these rules for taking the behavior analyst certification examination or a person licensed pursuant to Chapter 490 or 491, F.S., shall also be required prior to implementation for behavior analysis services that are designed to address those actions of the individual which, without behavioral, physical, or chemical intervention:

~~(a) Have resulted in self-inflicted, detectable, external or internal damage requiring medical attention or are expected to increase in frequency, duration, or intensity resulting in self-inflicted, external or internal damage requiring medical attention.~~

~~(b) Have occurred or are expected to occur with sufficient frequency, duration or magnitude that a life threatening situation might result, including excessive eating or drinking, vomiting, ruminating, eating non-nutritive substances, refusing to eat, holding one's breath, or swallowing excessive amounts of air.~~

~~(c) Have resulted in external or internal damage to other persons that requires medical attention or are expected to increase in frequency, duration or intensity resulting in external or internal damage to other persons that requires medical attention.~~

~~(d) Have resulted or are expected to result in major property damage or destruction.~~

~~(e) Have resulted or are expected to result in arrest and confinement by law enforcement personnel.~~

(3) Written plans describing behavior analysis services must be submitted to the LRC chairperson, when: A written plan describing behavior analysis services approved for implementation pursuant to these rules shall be sent to the local review committee within five working days following implementation.

(a) Behavior analysis services include restricted procedures such as:

1. The contingent delivery or removal of events to reduce the probability of occurrence of a problem behavior, including but not limited to: extinction or withholding of reinforcement for those behaviors referenced in paragraph 65G-4.010(3)(b), F.A.C., response blocking for more than 15 seconds, contingent exercise, restitutional overcorrection, positive practice overcorrection, time-out and response cost.

2. The removal of an aversive event contingent upon the display of a behavior targeted for increase, including but not limited to, Functional Communication Training using removal of demands or noise as a reinforcer, and desensitization programs.

3. Access to abundant amounts of an event or stimulus so that it loses potency as a reinforcer, and severely restricted access to an event or stimulus to increase its potency as a reinforcer.

4. Behavioral protective devices, as defined in subsection 65G-8.001(4), F.A.C., and electronic devices for monitoring and signaling.

5. Dietary manipulations.

(b) Behavior analysis services address behaviors that:

1. Have resulted in self-inflicted, detectable damage, or resulted in external or internal damage requiring medical attention or are expected to increase in frequency, duration, or intensity resulting in self-inflicted, external or internal damage requiring medical attention.

2. Have occurred or are expected to occur with sufficient frequency, duration or magnitude that a life-threatening situation might result, including excessive eating or drinking, vomiting, ruminating, eating non-nutritive substances, refusing to eat, holding one's breath, or swallowing excessive amounts of air.

3. Have resulted in detectable damage, or external or internal damage to other persons that requires medical attention or are expected to increase in frequency, duration or intensity resulting in external or internal damage to other persons that requires medical attention.

4. Have resulted or are expected to result in major property damage or destruction.

5. Have resulted or are expected to result in arrest and confinement by law enforcement personnel.

6. Have resulted in the need or meet the characteristics for behavioral services in a Behavior Focused or Intensive Behavioral Residential Habilitation program.

7. Have resulted in the need for additional staffing or Behavior Assistant Services in one or more settings.

8. Have resulted in the repeated use of reactive strategies without a formal approved.

(c) Behavioral programs or manuals implemented as group contingencies or behavior change systems, including behavioral program manuals, level systems and token economies, are implemented. A written plan describing behavior analysis services approved for implementation pursuant to these rules shall be sent to the local review committee chairperson within five working days following implementation.

Rulemaking Specific Authority 393.13(4)(g)3, FS. Law Implemented 393.066, 393.067(14), 393.068, 393.13, 393.17 FS. History—New 9-23-96, Formerly 10F-4.031, 65B-4.030, Amended _____.

65G-4.011 Determination of Mental Retardation in Capital Felony Cases: Intellectual and Adaptive Functioning Intelligent; Tests to be Administered.

(1) When a defendant convicted of a capital felony is suspected of having or determined to have mental retardation, the standard criteria for determining mental retardation must be met. This means the defendant has significantly subaverage general intellectual functioning as determined by performance which is two or more standard deviations from the mean score on a standardized intelligence test, existing concurrently with deficits in at least two areas of adaptive behavior and manifested during the period from conception to age 18. Intelligence tests as well as tests of adaptive functioning to determine intellectual functioning as specified below shall be

administered by a qualified professional who is authorized in accordance with Florida Statutes to perform evaluations in Florida. The test shall consist of an individually administered evaluation, which is valid and reliable for the purpose of determining intelligence and adaptive functioning. In all cases, the test(s) used must be current at the time of assessment.

(a) The tests specified below shall be used for determining intelligence:

1. ~~(a)~~ The Stanford-Binet Intelligence Scale;

2. ~~(b)~~ Wechsler Intelligence Scale; or

3. If, given the condition of the individual to be tested, the Stanford-Binet Intelligence Scale or the Wechsler Intelligence Scales are not valid and reliable as determined by the person authorized to administer such tests as specified in subsection (1), an alternative test or evaluation procedure, administered and interpreted in conformance with instructions provided by the producer of the tests or evaluation materials, shall be used. The results of the testing or evaluation must include reference to published validity and reliability data for the specified test or evaluation procedure. Alternative tests shall include current versions of the:

a. Universal Nonverbal Intelligence Test;

b. Comprehensive Test of Nonverbal Intelligence; or

c. Wechsler Non-Verbal Test of Intelligence.

(b) Accepted tests for adaptive functioning include current versions of the following tests:

1. Vineland Adaptive Behavior Scales;

2. Adaptive Behavior Scale;

3. Adaptive Behavior Assessment System;

4. Adaptive Behavior Evaluation Scale; or

5. Scales of Independent Behavior.

(c) The psychologist completing the assessments should also:

1. Look for evidence of hospitalizations or treatments after age 18 based on conditions or injuries known to decrease cognitive and adaptive functioning;

2. Look for existence of a significant psychiatric diagnosis, history of psychiatric treatment, or the use of medicines or substances that decrease cognitive and adaptive function. Existence of such precludes a determination of eligibility unless it predates the applicant's 18th birthday;

3. Show validation of findings and make a recommendation to confirm diagnosis of retardation with onset prior to the age of 18; and

4. Look for academic and intellectual test results and records prior to the person's 18th birthday.

(2) Notwithstanding this rule, the court, pursuant to Section 921.137, F.S., is authorized to consider the findings of the court appointed experts or any other expert utilizing individually administered evaluation procedures which provide for the use of valid tests and evaluation materials, administered and interpreted by trained personnel, in conformance with

instructions provided by the producer of the tests or evaluation materials. The results of the evaluations submitted to the court shall be accompanied by the published validity and reliability data for the examination, and demonstrate whether the defendant meets all three criteria identified above for determining mental retardation.

Rulemaking Specific Authority 921.137(1) FS. Law Implemented 921.137(1) FS. History–New 1-13-04, Formerly 65B-4.032, Amended _____.

65G-4.012 Determination of Mental Retardation: ~~Intelligence:~~ Tests to be Administered.

(1) For the purposes of Chapters 393, 916, and Section 921.137, F.S., the Stanford-Binet Intelligence Scale or the Wechsler ~~Adult & Infant~~ Intelligence Scales, administered by or under the direct supervision of a psychologist or school psychologist licensed under Chapter 490, F.S., shall be used to establish determine mental retardation and the level of intellectual functioning, as one of the three criteria required for determining mental retardation. Significantly subaverage general intellectual functioning existing as determined by performance which is two or more standard deviations from the mean score on a standardized intelligence test, existing concurrently with deficits in adaptive behavior must also be present and both must be manifested during the period from conception to age 18. In all cases, the test(s) used must be current at the time of assessment.

(2) Notwithstanding subsection (1), if, given the condition of the individual to be tested, the Stanford-Binet Intelligence Scale or the Wechsler ~~Adult & Infant~~ Intelligence Scales are not valid and reliable as determined by the person authorized to administer such tests as specified in subsection (1), a current version of an alternative test or evaluation procedure, administered and interpreted in conformance with instructions provided by the producer of the tests or evaluation materials, may be used. The results of the testing or evaluation must include reference to published validity and reliability data for the specified test or evaluation procedure. Tests that shall be used in situations where the Stanford-Binet or Wechsler scales are invalid or unreliable include:

- (a) Differential Abilities Scales;
- (b) Bayley Scales of Infant and Toddler Development;
- (c) Leiter International Performance Scale;
- (d) Universal Nonverbal Intelligence Test;
- (e) Test of Nonverbal Intelligence;
- (f) Comprehensive Test of Nonverbal Intelligence; or
- (g) Wechsler Nonverbal Scale of Ability.

(3) Deficits in adaptive behavior are defined as either an overall score or scores in two or more areas of a standardized measure of adaptive behavior that fall more than two standard deviations below the mean of the test. In all cases, the test(s) used must be current at the time of assessment. Accepted tests for adaptive functioning include:

- (a) Vineland Adaptive Behavior Scales;
- (b) Adaptive Behavior Scale;
- (c) Adaptive Behavior Assessment System;
- (d) Adaptive Behavior Evaluation Scale; and
- (e) Scales of Independent Behavior.

(4) In cases where there is a statistically significant difference between scores on an intelligence test, variability in subtest scores, or variability in scores obtained in different assessments, individual scores may not indicate mental retardation and should not be relied upon as a valid score. In these cases the following factors should also be considered:

- (a) The overall pattern of scores;
- (b) School records;
- (c) School placement;
- (d) Achievement scores;
- (e) Behavior during testing; and
- (f) The psychosocial situation at the time of testing.

(5) In cases where there are no test scores available prior to the age of 18, determination may be based on test scores after the age of 18 combined with the following:

(a) A social history obtained from a family member or someone who has known the applicant since childhood indicating:

1. Developmental milestones and age of onset of problems of concern;
2. Reason why services were not previously requested; and
3. Schools or training facilities person attended and types of placement and services received.

(b) The psychologist or other Agency for Persons with Disabilities staff should:

1. Look for evidence of hospitalizations or treatments after age 18 based on conditions or injuries known to decrease cognitive and adaptive functioning;
2. Look for existence of a significant psychiatric diagnosis, history of psychiatric treatment, or the use of medicines or substances that decrease cognitive and adaptive function. Existence of such precludes a determination of eligibility unless it predates the applicant's 18th birthday; and
3. Show validation of findings and make a recommendation to confirm diagnosis of retardation with onset prior to the age of 18.

Rulemaking Specific Authority 921.137, 393.063(38), 916.106, 393.501(1) FS. Law Implemented 921.137, 393.063(38), 916.106 FS. History–New 6-13-06, Amended _____.

NAME OF PERSON ORIGINATING PROPOSED RULE:
Steve Coleman, PhD., Senior Behavior Analyst, Agency for Persons with Disabilities, Residential and Clinical Support, 4030 Esplanade Way, Suite 380, Tallahassee, Florida 32399, Email: steve_coleman@apd.state.fl.us, phone: (850)488-4257

NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: Jim DeBeaugrine, Director
DATE PROPOSED RULE APPROVED BY AGENCY HEAD: March 9, 2010
DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: October 23, 2009

FISH AND WILDLIFE CONSERVATION COMMISSION

Freshwater Fish and Wildlife

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

PURPOSE AND EFFECT: The purpose of the proposed rule change is to establish bag limits for taking ducks in conformance with federal regulations. Rule wording would be changed to increase the bag limit for pintails to two.

SUMMARY: The rule amends migratory bird hunting regulations to establish duck, goose, and coot season dates and bag limits.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS: The agency has determined that this rule will ___ or will not X have an impact on small business. A SERC has ___ or has not X been prepared by the agency.

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

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

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

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

DATES AND TIME: During the regular meeting of the Commission, December 1-2, 2010, 8:30 a.m. – 5:00 p.m., each day

PLACE: Hyatt Regency Bonaventure Conference Center, 250 Racquet Club Road, Weston, FL

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 days before the workshop/meeting by contacting: The ADA Coordinator, at (850)488-6411. If you are hearing or speech impaired, please contact the agency using the Florida Relay Service, 1(800)955-8771 (TDD) or 1(800)955-8770 (Voice).

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Diane R. Eggeman, Director, Division of Hunting and Game Management, Fish and Wildlife Conservation Commission, 620 South Meridian Street, Tallahassee, Florida 32399-1600

THE FULL TEXT OF THE PROPOSED RULE IS:

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

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

(1) Duck, light goose, and coot season:

(a) through (e) No change.

(f) Limits: The possession limit for ducks and coots shall be two days’ bag limit. There shall be no possession limit for light geese. Light geese include only snow (including blue) and Ross’ geese.

1. Ducks: The daily bag limit for ducks is six, including no more than four mallards, of which only two can be females, two scaup, four scoters, three wood ducks, two redheads, ~~two~~ one pintails, one canvasback, one black duck, one Florida duck (mottled duck), and one fulvous whistling-duck. In addition to the daily bag limit for ducks, the daily bag limit for mergansers is five, only two of which may be hooded mergansers.

2. through 3. No change.

(2) through (5) No change.

PROPOSED EFFECTIVE DATE: As soon as possible after adoption by the Commission.

Rulemaking Authority Art. IV, Sec. 9, Fla. Const. Law Implemented Art. IV, Sec. 9, Fla. Const. History–New 8-1-79, Amended 10-23-79, 8-19-80, 9-29-81, 8-30-82, 7-27-83, 8-13-84, 8-13-85, 10-1-85, Formerly 39-13.03, Amended 8-5-86, 8-24-87, 8-18-88, 12-12-88, 8-17-89, 10-30-89, 8-9-90, 10-31-90, 8-22-91, 10-31-91, 8-23-92, 10-22-92, 9-2-93, 10-28-93, 11-6-94, 10-23-95, 10-20-96, 8-7-97, 10-28-97, 11-12-98, 6-23-99, Formerly 39-13.003, Amended 11-7-00, 5-13-02, 5-1-03, 7-1-04, 7-1-05, 2-1-06, 7-1-06, 1-9-07, 1-8-08, 7-1-08, 1-6-09, 1-19-10, 7-1-10,_____.

BE ADVISED THAT THESE PROPOSED RULES MAY BE FILED FOR ADOPTION AS SOON AS POSSIBLE FOLLOWING THE COMMISSION MEETING AT WHICH THEY ARE CONSIDERED IF THE RULES ARE NOT CHANGED. IF CHANGED, THE RULES MAY BE FILED AS SOON AS POSSIBLE AFTER PUBLICATION OF A NOTICE OF CHANGE IN THE F.A.W.

NAME OF PERSON ORIGINATING PROPOSED RULE: Diane R. Eggeman, Director, Division of Hunting and Game Management, Fish and Wildlife Conservation Commission, 620 South Meridian Street, Tallahassee, Florida 32399-1600

NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: Florida Fish and Wildlife Conservation Commission

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: September 1, 2010

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: December 11, 2009

FISH AND WILDLIFE CONSERVATION COMMISSION

Marine Fisheries

RULE NOS.:	RULE TITLES:
68B-45.004	Regulation and Prohibition of Certain Harvesting Gear
68B-45.0045	Closed Seasons
68B-45.007	Blue Crab Effort Management Program

PURPOSE AND EFFECT: The purpose of these rule amendments is to modify the Commission’s Blue Crab Rule in order to improve the commercial effort management program and to modify the closed seasons to the harvest of blue crabs from traps in order to lessen their impact on the commercial fishery and improve the removal of lost and abandoned blue crab traps from state waters. Most of these rule amendments were discussed and recommended by the Blue Crab Advisory Board, which is a board that considers and advises the Commission on the blue crab effort management program and issues in the commercial fishery. The purpose of modifying Rule 68B-45.004, F.A.C., is to widen the scope of the commercial trap pulling petition to allow the use of a harvester’s own vessel in the case of equipment failure. The purpose of modifying Rule 68B-45.0045, F.A.C., is to lessen the impact of the trap harvest closures on commercial crabbers and concentrate the effort in each region by holding the closures every other year. Finally, the purpose of modifying Rule 68B-45.007, F.A.C., is to allow commercial harvesters to transfer their endorsements for a longer period throughout the year, to allow trap tags to be ordered at any time and to clarify confusing rule language regarding holding multiple soft shell endorsements.

SUMMARY: Rule 68B-45.004, F.A.C., (Regulation and Prohibition of Certain Harvesting Gear) would be amended by changing the language regarding the commercial trap pulling petition, which allows a harvester to designate another individual to pull their traps on a short, temporary basis, due to illness or equipment failure. The rule would be amended to allow a commercial harvester to designate another of their own vessels from which their traps may be pulled. Rule 68B-45.0045, F.A.C., (Closed Seasons) would be amended by modifying the frequency of the blue crab 10-day trap harvest closures so they occur every other year by coast versus holding all closures statewide annually. Rule 68B-45.007, F.A.C., (Blue Crab Effort Management Program) would be amended by creating a transfer window where blue crab license endorsements may be transferred, from May 1 through the end of February each year. Additionally, the section would be amended by rewording the language regarding ordering tags by stating an endorsement holder could order trap tags at any time of the year and that only up to two soft shell blue crab endorsements can be held at one time.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS: The agency has determined that this rule will ___or will not X have an impact on small business. A SERC has ___ or has not X been prepared by the agency.

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

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

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

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

DATES AND TIME: During the regular meeting of the Commission, December 1-2, 2010, 8:30 a.m. – 5:00 p.m., each day

PLACE: Hyatt Regency Bonaventure Conference Center, 250 Racquet Club Road, Weston, FL

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 days before the workshop/meeting by contacting: The ADA Coordinator, at (850)488-6411. If you are hearing or speech impaired, please contact the agency using the Florida Relay Service, 1(800)955-8771 (TDD) or 1(800)955-8770 (Voice).

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

THE FULL TEXT OF THE PROPOSED RULES IS:

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

(1) through (9) No change.

(10) During any time of the year when it is legal to transport blue crab traps, a harvester may seek permission from the Division of Law Enforcement to allow the use of another vessel owned by the same harvester or another person to transport, deploy, pull, or retrieve his or her traps. Permission will be granted upon receipt of a written statement signed by ~~both~~ the commercial harvester seeking to have his or her traps pulled and by the person designated to pull the traps, if applicable, which statement also shall contain the following:

(a) The reason the harvester needs to have his or her traps pulled;

(b) The numbers of the saltwater products license and blue crab endorsement of both the harvester seeking to have the traps pulled and the person or other vessel who will be pulling the traps;

(c) The buoy colors of the harvester seeking such permission;

(d) The name and number of the vessel to be used by the person who will be pulling the traps;

(e) The general locations of the pulling activity of the vessel to be engaged in pulling the traps; and

(f) The dates the other person or vessel will be transporting, deploying, pulling or retrieving the traps.

Permission to pull traps in this manner shall be obtained daily by telephone from the Division of Law Enforcement for a maximum of 5 days without renewal or extension of the request. Permission to have traps pulled using another vessel owned by the same harvester or by another person for a longer period of time must be based on extraordinary circumstances such as severe personal or family illness or accident or major equipment problem, and shall be obtained through petition to the Division of Law Enforcement on Commission Form DMF-SL4590 (01-11) (01-06) (Blue Crab Trap Pulling Petition), herein incorporated by reference, and will be granted upon such conditions as the Division deems appropriate for the protection of the resource. It shall be the responsibility of the commercial harvester, or a member of the harvester's immediate family, to petition the Division. The petition shall include a complete description of the extraordinary circumstances with corroborating documentation, the amount of additional time requested, the number of traps to be pulled, and if designating another person a signed statement from the other person, attesting to his/her willingness and ability to pull these traps during this time period as well as an awareness of all rules governing the blue crab fishery. If the person designated to pull the petitioner's traps does not possess a saltwater products license with restricted species and a blue crab endorsement, the petitioner, as the license holder of record must possess a vessel saltwater products license and shall be held accountable for the designee's compliance with all regulations governing the blue crab fishery.

(g) If designating another vessel, the vessel must be commercially registered and the following vessel marking requirements apply: The buoy color and license number shall be conspicuously displayed on the vessel used for setting the traps and buoys, so as to be readily identifiable from the air and water, in the following manner:

1. From the Air – The buoy design shall be displayed on the uppermost structural portion of the vessel and displayed horizontally, unobstructed, with the painted design up on a circle 20 inches in diameter, outlined in a contrasting color, together with the permit numbers beneath the circle in numerals no smaller than 10 inches in height.

2. From the Water – The buoy design shall be displayed and affixed vertically to both the starboard and port sides of the vessel near amidship. The display shall exhibit the buoy design, unobstructed, on a circle 8 inches in diameter, outlined in a contrasting color, together with the permit numbers beneath the circle in numerals no smaller than 4 inches in height.

PROPOSED EFFECTIVE DATE: January 26, 2011.

Rulemaking Specific Authority Art. IV, Sec. 9, Fla. Const. Law Implemented Art. IV, Sec. 9, Fla. Const. History–New 12-14-93, Amended 6-1-94, 1-1-95, 10-4-95, 9-30-96, 1-1-98, 6-1-99, Formerly 46-45.004, Amended 2-28-02, 10-21-04, 3-1-05, 3-30-06, 9-21-06, 10-15-07, 1-26-11.

68B-45.0045 Closed Seasons.

(1) In order to facilitate the identification and removal of lost and abandoned traps the following restrictions shall apply.

(a) The use of traps to harvest blue crabs is prohibited for a period of up to ten days ~~annually~~ in the following regions:

1. All waters of the St. Johns River, its associated lakes and tributaries from west of the St. Johns River's intersection with the Intracoastal Canal through and including Lake Hellen Blazes from January 16 through January 25 of even numbered years;

2. All waters of Nassau, Duval, Clay, St. Johns, Putnam, Flagler, and Volusia counties from August 20 through August 29 of even numbered years, however, not including waters listed in subparagraph (1)(a)1. of this paragraph;

3. All waters of Brevard, Indian River, St. Lucie, Martin, and Palm Beach counties from August 10 through August 19 of even numbered years, however, not including waters listed in subparagraph (1)(a)1. of this paragraph;

4. All waters of Broward, Miami-Dade, Monroe, Collier, Lee, Charlotte, DeSoto, Sarasota, Manatee, Hillsborough, Pinellas, and Pasco counties from July 10 through July 19 of odd numbered years;

5. All waters of Wakulla, Jefferson, Taylor, Dixie, Levy, Citrus, and Hernando counties and including all waters of the Ochlockonee River and Ochlockonee Bay from July 20 through July 29 of odd numbered years;

6. All waters of Escambia, Santa Rosa, Okaloosa, Walton, Bay, Gulf, and Franklin counties from January 5 through January 14 of odd numbered years, however, excluding all waters of the Ochlockonee River and Ochlockonee Bay.

(b) through (e) No change.

(2) through (3) No change.

PROPOSED EFFECTIVE DATE: January 26, 2011.

Rulemaking Specific Authority Art. IV, Sec. 9, Fla. Const. Law Implemented Art. IV, Sec. 9, Fla. Const. History–New 7-1-09, Amended 1-26-11.

68B-45.007 Blue Crab Effort Management Program.

(1) through (4) No change.

(5)(a) through (e) No change.

(f) No single V-S endorsement number holder may hold more than two V-S endorsement numbers at any one time.

(6) No change.

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

(d) Each person who possesses a blue crab effort management endorsement number shall ~~must~~ annually submit a blue crab effort management endorsement trap tag order application form ~~(DMF-SL4520 (05-05), incorporated herein by reference)~~ within the time frame specified in paragraph (e) stating the number of tags they wish to receive, up to the maximum specified in subsection (4) or (5) from February 1 through March 15 to ensure receipt of tags before the beginning of the next license year. However, tags ordered after this time period may not be available prior to the beginning of the next license year.

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

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

(g) through (i) renumbered (f) through (h) No change.

(8) through (14) No change.

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

(c) A person who wishes to transfer an endorsement number shall submit a notarized statement of intent within 72 hours of the final notarized signature, that has been signed by both parties to the transaction, hand delivered, or sent by United States Postal Service certified mail, return receipt requested, to the Commission between May 1 and the end of February. Requests received by the Commission before May 1 or postmarked after the end of February of the current license year will not be processed. The statement of intent (Form DMF-SL 4560 (09-06), incorporated herein by reference), shall include the following information:

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

(d) No change.

(16) through (18) No change.

PROPOSED EFFECTIVE DATE: January 26, 2011.

Rulemaking Specific Authority Art. IV, Sec. 9, Fla. Const. Law Implemented Art. IV, Sec. 9, Fla. Const. History—New 5-26-05, Amended 3-30-06, 9-21-06, 7-31-07, 1-26-11.

BE ADVISED THAT THESE PROPOSED RULES MAY BE FILED FOR ADOPTION AS SOON AS POSSIBLE FOLLOWING THE COMMISSION MEETING AT WHICH THEY ARE CONSIDERED IF THE RULES ARE NOT CHANGED. IF CHANGED, THE RULES MAY BE FILED AS SOON AS POSSIBLE AFTER PUBLICATION OF A NOTICE OF CHANGE IN THE F.A.W.

NAME OF PERSON ORIGINATING PROPOSED RULE: Mark Robson, Director, Division of Marine Fisheries Management, 2590 Executive Center Circle East, Suite 201, Tallahassee, Florida 32301, (850)487-0554

NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: Florida Fish and Wildlife Conservation Commission

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: September 2, 2010

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: February 5, 2010

DEPARTMENT OF FINANCIAL SERVICES

Division of State Fire Marshal

RULE NOS.:	RULE TITLES:
69A-47.011	Adoption of the Florida Elevator Safety Code
69A-47.012	Uniform Elevator Keys
69A-47.019	Lockboxes

PURPOSE AND EFFECT: The purposes of the rule amendments are to clarify the effective date of Rule Chapter 61C-5, F.A.C., adopted by reference, and conform the rules to recent legislative changes. The effect of the rule amendments is to authorize the use of an elevator key lockbox in lieu of requiring a uniform regional elevator key, when the lockbox and its placement meet the requirements of the rule.

SUMMARY: Rule Chapter 69A-47, F.A.C., establishes uniform standards for elevator fire safety. The rules require elevator accessibility by emergency responders using a regional universal key. Rule 69A-47.011, F.A.C., adopts a rule promulgated by the Department of Business and Professional Regulations by reference, but does not designate a version of the rule. The amendment clarifies that the rule in effect on the date of adoption is the version adopted. Rules 69A-47.012 and 69A-47.019, F.A.C., allow building owners to install lockboxes accessible by a regional key in lieu of rekeying the elevators to fit the regional key. Previously, the building owner needed the express permission of the local authority having jurisdiction. The amendments conform the rules to new legislation which allows lockboxes without the approval of the authority having jurisdiction, when the configuration meets the requirements of the rules.

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

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

RULEMAKING AUTHORITY: 399.15, 633.01 FS.

LAW IMPLEMENTED: 633.01, 633.022, 399.15 FS.

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

DATE AND TIME: November 22, 2010, 10:00 a.m.

PLACE: Third Floor Conference Room, Atrium Building, 325 John Knox Road, Tallahassee, Florida

Pursuant to the provisions of the Americans with Disabilities Act, any person requiring special accommodations to participate in this workshop/meeting is asked to advise the agency at least 5 days before the workshop/meeting by contacting: Jim Goodloe, Chief, Bureau of Fire Prevention, (850)413-3620; Jim.Goodloe@myfloridacfo.com If you are hearing or speech impaired, please contact the agency using the Florida Relay Service, 1(800)955-8771 (TDD) or 1(800)955-8770 (Voice).

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULES IS: Jim Goodloe, Chief, Bureau of Fire Prevention, (850)413-3620; Jim.Goodloe@myfloridacfo.com

THE FULL TEXT OF THE PROPOSED RULES IS:

69A-47.011 Adoption of the Florida Elevator Safety Code.

(1) The following shall be in compliance with those standards adopted in Chapter 61C-5, F.A.C., Florida Elevator Safety Code, the iteration effective as of 4-2-09, which is hereby adopted and incorporated by reference:

- (a) Enclosures of elevator hoistways, machine rooms, and machine spaces;
- (b) Automatic smoke detectors and heat detectors; and
- (c) Automatic sprinklers in hydraulic and non-hydraulic elevators.

(2) Chapter 61C-5, F.A.C., Florida Elevator Safety Code may be obtained by writing to the Department of Financial Services, Division of State Fire Marshal, Bureau of Fire Prevention, 200 East Gaines Street, Tallahassee, Florida, 32399-0342, or on the web at <https://www.flrules.org/gateway/ChapterHome.asp?Chapter=61C-5>.

Rulemaking Specific Authority 633.01 FS. Law Implemented 633.01, 633.022 FS. History–New 8-16-01, Formerly 4A-47.011, Amended _____.

69A-47.012 Uniform Elevator Keys.

(1) As used in Rules 69A-47.012 through 69A-47.019, F.A.C., “these rules” refers to Rules 69A-47.012 through 69A-47.019, F.A.C.

(2) Each lock for all elevators in each region of the seven emergency response regions in this state that permits public access must be keyed for one master elevator key as required in these rules, unless an alternative as authorized by Rule 69A-47.019, F.A.C., has been implemented.

(3) The purpose of these rules is to implement Section 399.15, F.S., to allow all elevators within each of the seven state emergency response regions to be operated by firefighters in a fire emergency.

Rulemaking Specific Authority 399.15 FS. Law Implemented 399.15 FS. History–New 6-6-06, Amended _____.

69A-47.019 Lockboxes.

(1) As an alternative to compliance with Rule 69A-47.012, F.A.C., a building owner may provide for ~~If the local fire official determines that it is technically, financially, or physically impossible to bring a building’s elevators into compliance with this rule, the local fire official may accept as an alternative~~ the installation of a keyed lock box that accepts the uniform key for that specific region. The lock box shall be installed in accordance with this section.

~~(2) The local fire official’s decision regarding the alternative measure may be appealed to the State Fire Marshal whose decision shall constitute final agency action for purposes of Chapter 120, F.S. An appeal may be instituted by the appellant writing a letter to the Division of State Fire Marshal, Bureau of Fire Prevention, 200 East Gaines Street, Tallahassee, Florida 32399-0342.~~

~~(2)(3) Alternative installation of Lock Boxes.~~

(a) The lock box shall ~~is permitted to~~ be installed flush or recessed mounted.

(b) The lock box’s front cover shall be hinged on the right side and shall be engraved or painted with the words “Fire Department Use Only – Elevator keys.”

(c) The lock box shall be mounted at each elevator bank at the lobby nearest to the lowest level of fire department access.

(d) Only keys used for the operation of the elevator or an elevator component shall be placed inside the lock box.

~~(3)(4)~~(a) In buildings subject to these alternative lock box provisions which house two or more different elevator banks, a single lock box may be used when such banks are separated by not more than 30 feet.

(b) In the buildings specified in paragraph (a) with elevators or elevator banks separated by more than 30 feet, separate lock boxes must be used for each elevator or elevator bank so separated.

Rulemaking Specific Authority 399.15 FS. Law Implemented 399.15 FS. History–New 6-6-06, Amended _____.

NAME OF PERSON ORIGINATING PROPOSED RULE:
Jim Goodloe, Chief, Bureau of Fire Prevention, 850-413-3620;
Jim.Goodloe@myfloridacfo.com

NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: Alex Sink
 DATE PROPOSED RULE APPROVED BY AGENCY HEAD: August 26, 2010
 DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: October 1, 2010

Section III
Notices of Changes, Corrections and Withdrawals

DEPARTMENT OF REVENUE

Sales and Use Tax

RULE NO.: RULE TITLE:
 12A-19.021 Communications Services Tax Brackets

NOTICE OF CHANGE

Notice is hereby given that the following changes have been made to the proposed rule in accordance with subparagraph 120.54(3)(d)1., F.S., published in Vol. 36, No. 21, May 28, 2010 issue of the Florida Administrative Weekly.

A Notice of Change published in Vol. 36, No. 31, p. 3586, August 6, 2010, edition of the Florida Administrative Weekly.

In response to public written comments received by the Department and made a part of the public hearing held September 27, 2010, the "Instructions" for the Communications Services Tax Bracket Rate Card, incorporated by reference in Rule 12A-19.021, F.A.C., has been changed, so that when adopted, those instructions will read:

Instructions: 1) Enter the CST rate.* 2) Press Enter. 3) Print.

* To find the total local tax rate, use the Jurisdiction Rate Table worksheet.

DEPARTMENT OF HIGHWAY SAFETY AND MOTOR VEHICLES

RULE NO.: RULE TITLE:
 15-1.012 Delegation of Authority

NOTICE OF CHANGE

Notice is hereby given that the following changes have been made to the proposed rule in accordance with subparagraph 120.54(3)(d)1., F.S., published in Vol. 36, No. 33, August 20, 2010 issue of the Florida Administrative Weekly.

15-1.012 shall have the following paragraph (20) deleted:

~~(20) The Executive Director shall report to the Governor and Cabinet at least quarterly actions taken under sub-sections (5), (8), (9), (11), (12), (13), (14) and (18).~~

DEPARTMENT OF HIGHWAY SAFETY AND MOTOR VEHICLES

Division of Driver Licenses

RULE NOS.:	RULE TITLES:
15A-12.001	Purpose
15A-12.002	Definitions and Course Curriculum
15A-12.003	Exemptions
15A-12.004	Application to Become a Sponsor
15A-12.005	Additional Program Requirements
15A-12.006	Regulation of Authorized Program
15A-12.007	RiderCoaches
15A-12.008	Program Compliance

NOTICE OF CHANGE

Notice is hereby given that the following changes have been made to the proposed rule in accordance with subparagraph 120.54(3)(d)1., F.S., published in Vol. 36, No. 33, August 20, 2010 issue of the Florida Administrative Weekly.

15A-12.001 Purpose.

The Florida Motorcycle Safety Education Program shall be known as the Florida Rider Training Program (FRTTP). Its purpose is to provide motorcycle safety training, course curriculum and the certification of instructors.

Rulemaking Authority 322.02(6), ~~322.025~~, 322.0255(4), (6) ~~and (7)~~, ~~and 322.12(5)(a)~~ FS. Law Implemented 322.0255, 322.12(5)(a) FS. History–New_____.

15A-12.002 Definitions and Course Curriculum.

(1) Basic Rider Course (BRC) – Standard beginner 15 hour motorcycle rider course as adopted by the Motorcycle Safety Foundation (MSF) and required for licensure to operate a motorcycle. The course curriculum shall be that prescribed by the Motorcycle Safety Foundation (MSF) and will include the Basic Rider Course RiderCoach Guide, the Basic Rider Course Handbook and Basic Rider Course Range Cards, copies of which can be obtained by contacting the Motorcycle Safety Foundation, 2 Jennifer Street, Suite 150, Irvine, CA 92618, (949)727-3227, or from its website, www.msf-usa.org.

(2) Basic Rider Course – 2 (BRC-2) – Advanced motorcycle rider course as adopted by the Motorcycle Safety Foundation (MSF), designed as a skill enhancement course. The student shall use their own motorcycle. This course is not required for licensure. The curriculum shall consist of the Basic Rider Course RiderCoach Guide as adopted by the Motorcycle Safety Foundation (MSF) for RiderCoaches covering advanced rider course materials and administration, facilities and equipment, instructional planning, course teaching, classroom units, range exercises, and RiderCoach training, including the Basic Rider Course Suite (Rider Classroom Cards and RiderCoach Range and Classroom Cards), copies of which can be obtained by contacting the