

Section I Notices of Development of Proposed Rules and Negotiated Rulemaking

DEPARTMENT OF INSURANCE

RULE TITLES:	RULE NOS.:
Reasonableness of Benefits in Relation to Premiums	4-149.005
Actuarial Memorandum and Definitions	4-149.006
Annual Rate Filing Procedures	4-149.007

PURPOSE, EFFECT, AND SUBJECT AREA TO BE ADDRESSED: The attached amendments to Rule 4-149 accomplish the following:

- Update the definition of Loss Ratio*N – Simplify the definition of loss ratio*N to make the test more efficient and effective. The amendments do not change the loss ratio test, but only the mechanism of demonstrating compliance.
- Technical corrections
- Clarify that rates do not have to be reduced if the loss ratio tests are not met within a 15% margin
- Add some definitions to help clarify the rules
- Enhance annual rate certification filings
- Add provision to allow an updating of the original duration loss ratio table

SPECIFIC AUTHORITY: 624.308(1), 627.410(6)(b),(d),(e) FS.

LAW IMPLEMENTED: 627.410, 627.410(1),(2),(6), 627.410(6)(d), (e), 627.411(1)(e), 627.9175 FS.

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

TIME AND DATE: 9:30 a.m., May 8, 2002

PLACE: Room 142, Larson Building, 200 East Gaines Street, Tallahassee, Florida

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT AND A COPY OF THE PRELIMINARY DRAFT IS: Frank Dino, Bureau of Life and Health Forms and Rates, Division of Insurer Services, Department of Insurance, 200 East Gaines Street, Tallahassee, Florida 32399-0328, (850)413-5014

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

THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS:

4-149.005 Reasonableness of Benefits in Relation to Premiums.

(1) No change.

(2) A premium schedule is not excessive if the following are true:

(a) For a new Policy Form, Group or Individual, the Anticipated Loss Ratio, as defined in Rule 4-149.006(3)(b)20., F.A.C., is not less than the ~~indicated~~ appropriate adjusted entry in the loss ratio tables, in subsection (4), below.

~~(b)1. For an individual forms, and group policy forms other than annually rated group policy forms approved on or after 2/1/94 or issued on or after 6/1/94, the Premium Schedule satisfies the following 1. through 3., below:~~

~~a.1. An Anticipated Loss Ratio test such that, the present value of projected claims is not less than the present value of expected claims over the entire future lifetime of the form, or equivalently, the present value of the future A/E ratio is not less than 1.0; The current Anticipated Loss Ratio is not less than the greater of the initial filed loss ratio and the weighted average of the Anticipated Loss Ratios * N, as defined in Rule 4-149.006(4)(b), where the weights are the present value of premiums over the entire future lifetime by policy year; and~~

~~b.2. The current Lifetime Loss Ratio, as defined in Rule 4-149.006(3)(b)24., F.A.C., is not less than the initial filed loss ratio for the form; and~~

~~2.3. A current rate schedule which is unable to demonstrate compliance with the above standards shall reduce rates, enhance benefits or do a combination of both to satisfy the standards, unless the past The Actual-to-Expected Claims Ratios, as defined in Rule 4-149.006(4)(a), F.A.C., for the Policy Form are, both in pattern and aggregate value, consistently at or in excess of .85.~~

(c) through (d) No change.

(3) through (4) No change.

(5) Group conversion insurance, other than long-term care and Medicare supplement insurance, issued on either a group or an individual basis, is exempt from the loss ratios required above. The loss ratio for group conversion insurance shall not be less than 120%. The insurer may charge the excess of the group conversion loss ratio over that required for group insurance on active lives to the experience for insurance on active lives. The premium to be charged for group conversion insurance subject to Section 627.6675, Florida Statutes, shall may not exceed the limits of Section 627.6675(3), Florida Statutes based on the standard risk rates as established in Part X of this Rule Chapter.

(6) No change.

(7) Anticipated loss ratios lower than those otherwise required by this Part shall not be permitted unless the insurer demonstrates that the proposed loss ratios are necessary due to unusual characteristics of the coverage to be provided, are in accordance with sound actuarial principles; will not result in

premium escalations that are not viable for the particular policyholder market at issue; do not result in unfair discrimination in sales practices; and are otherwise in substantial compliance with the requirements of this Part.

(8) No change.

(9) No change.

(10) Prohibitions. The Department has determined that certain rating activities are against the public policy of this state and are therefore prohibited because the activities may result in premium escalations which are not viable for the policyholder or in unfair discrimination in sales practices, an example of which is inappropriate risk selection criteria.

(a) For all long term care policy forms and other ~~p~~Policy ~~F~~Forms under which more than fifty percent (50%) of the policies/certificates are issued to persons age 65 or older, Attained Age Premium Structures, as defined in Rule 4-149.006(4)(c), F.A.C., are prohibited. Only premium structures which prefund the aging component of future claim costs are allowed.

(b) Select and Ultimate Premium Schedules, as defined in Rule 4-149.006(4)(~~t~~)(~~p~~), F.A.C., are prohibited.

(c) Attained age premium schedules where the slope by age is substantially different from the slope of the ultimate claim cost curve are prohibited.

~~(11) For each Individual Policy Form that has been actively offered for sale in the twelve (12) months immediately preceding October 1, 1993, a continuation decision must be provided to the Department on or before May 1, 1994. For existing Policy Forms that will continue to be made available for purchase and for all Policy Forms filed and approved after February 1, 1994, availability for purchase of the Policy Form shall not be discontinued at any future date without penalty. The penalty imposed is that a new Policy Form providing similar benefits cannot be filed for a period of five (5) years from the date of discontinuance, unless the Department determines that a shorter period is appropriate, as provided for in Section 627.410(6)(e), Florida Statutes.~~

Specific Authority 624.308(1), 627.410(6)(b),(d) FS. Law Implemented 627.410(6)(d),(e), 627.411(1)(e), 627.9175 FS. History—New 7-1-85, Formerly 4-58.05, 4-58.005, Amended 4-18-94, _____.

4-149.006 Actuarial Memorandum and Definitions.

(1) through (2) No change.

(3) Descriptions.

(a) For new filings, for rate revisions, and for justification of existing rates, the assumptions presented shall be those that are appropriate at the time of the filing.

(b) The descriptions, by item number, of the terms listed above in subsection (2) follow:

1. through 19. No change.

20. Anticipated Loss Ratio: ~~The~~ This loss ratio is defined as the present value of future benefits divided by the present value of future annual premiums computed over the Entire Future Lifetime of the Policy Form.

a. The requested rate revisions shall use assumptions as to persistency and interest ~~that used in the present values~~ must be justified and consistent with those used for pricing.

b. Projections shall assume future premium schedule increases consistent with benefit projections and medical trend. This section shall also include the Anticipated Loss Ratio ~~and the Anticipated Loss Ratio*N~~ for each policy year and the original, or subsequently approved, durational loss ratio table for the form.

(I) If the durational loss ratio table is proposed to be amended, the currently approval table and the proposed table shall be provided, together with an explanation of the reason for the change and a justification for the new table.

(II) If approved, the new table will be used in filings made subsequent to the one in which it is being proposed.

(III) A new table shall not be proposed unless the current table does not produce the least lifetime loss ratio standard for the form or the shape and pattern of the current table is determined to be in error.

21. through 22. No change.

23. Experience on the Form (Past and Future Anticipated): This section shall display the actual experience on the form and that expected for the future. Experience from inception (or the last three years for annually rated group coverages with no separation of experience data by issue year required) shall be displayed, although, with proper interest adjustment, the experience for calendar years more than five years in the past may be combined. For each calendar year and, where appropriate, each policy year or issue year, the following information shall be displayed:

- a. Year,
- b. Collected premium,
- c. Earned premium,
- d. Paid claims,
- e. Paid loss ratio (= (d)/(b)),
- f. Change in claim liability and reserve,
- g. Incurred claims (= (d) + (f)),
- h. Incurred loss ratio (= (g)/(c)),
- i. Expected incurred claims,
- j. Actual-to-expected claims ((g)/(i)).
- k. Active Life Reserves.

For future years, columns (c), (g), ~~and (h)~~, (i), and (j) shall be displayed. For periods where the actual claim runoff is complete, that data shall be displayed to replace (f). Past experience shall be presented on both an actual basis and a current constant premium rate basis.

24. Lifetime Loss Ratio: This is the loss ratio determined over the rating period for annually rated groups. For other forms, the loss ratio is derived by dividing A by B where:

a. A is the sum of the accumulated incurred claims from the original effective date of the Policy Form to the effective date of the revision, and the present value of future incurred claims over the Entire Future Lifetime of the Policy Form; and

b. B is the sum of the accumulated earned annual premiums from the original effective date of the Policy Form to the effective date of the revision, and the present value of future earned annual premiums over the Entire Future Lifetime of the Policy Form.

25. through 27. No change.

28. Actuarial Certification:

a. Certification by a qualified actuary that to the best of the actuary's knowledge and judgment;

(I) The entire rate filing is in compliance with the applicable laws of the State of Florida and with the rules of the Department of Insurance;

(II) and Complies with Actuarial Standard of Practice No. 8, "Regulatory Filings for Rates and Financial Projections for Health Plans," as adopted by the Actuarial Standards Board, January, 1989, which standard is hereby adopted and incorporated by reference;

(III) that The premiums charged in relationship to the benefits provided are not excessive, not inadequate, and not unfairly discriminatory reasonable in relation to the proposed premiums.

b. A copy of the standard may be obtained from the Bureau of Life and Health Forms and Rates, Division of Insurer Services, Department of Insurance, Larson Building, Tallahassee, FL 32399-0328.

c. A qualified actuary is one who is member of the Society of Actuaries or the American Academy of Actuaries and who is qualified in the area of health insurance.

d. If the actuary is unable to provide such certification, a detailed explanation shall be provided.

(4) Definitions.

(a) Actual-to-Expected (A/E) Claims ratio: The expected claims are the product of the anticipated loss ratio and the earned premium, both on a policy year or issue year basis. The ratio of actual incurred claims under the policy form divided by expected claims or equivalently, the actual or projected annual loss ratio divided by the original applicable durational loss ratio. Both the year-by-year pattern of these ratios and the inception-to-date total ratio shall be presented.

(b) Annually Rated Group Policies: Group policies, including major medical coverage, which meet all of the following criteria: Anticipated Loss Ratio* N : For each value of N , this is the anticipated loss ratio with the first ($N-1$) policy years removed and is read "the anticipated loss ratio star N ". The present value calculations use pricing assumptions. These values shall be provided for each policy year for each new

policy filing. These shall be updated for each rate filing to reflect any change in the minimum lifetime loss ratio for the policy form.

1. The policies are funded on a 1 year basis to satisfy loss ratio requirements.

2. The policies are expected to be repriced annually based on trend and demographic changes.

3. Effects of underwriting, if any, are part of the composite assumptions.

4. Claims experience is not durational.

5. Aging is not pre-funded, as in a Medicare supplement or long term care policy.

(c) through (d) No change.

(e) Credible Data: If a policy form has 2000 or more policies inforce, then full (100%) credibility is given to the experience; if fewer than 500 policies are inforce, then zero (0%) credibility is given. Linear interpolation is used for inforce amounts between 500 and 2000. For group policy forms, the numbers in this definition refer to group certificates, not policies. A combination of Florida and nationwide data shall be used only if Florida-only data is not fully credible. When the nationwide experience is less than fully credible, the indicated rate increase from the experience will be weighted with medical trend, for products subject to medical trend, or zero for products not subject to medical trend, for the complement of the experience credibility factor. Specific alternate credibility standards for particular lines of business shall be submitted to the Department by affected insurers no later than 4/1/94. The Department shall consider such alternate standards and commence formal rulemaking no later than 6/1/94. Prior to and ending on the effective date of such rules, alternate credibility standards advanced by any insurer for a particular line of business shall be considered by the Department. In order for those alternate standards to be acceptable, the insurer must demonstrate that the standards are based on sound actuarial principles and that the resulting loss ratios are in substantial compliance with the requirements of rules 4-149.003 and 4-149.006. For policy forms with low expected claims frequency, such as accident and long term care, at least 1,000 claims over not to exceed the most recent 5-year period shall be assigned 100% credibility, 200 claims shall be assigned 0% credibility with claims between 200 and 1,000 being linearly interpolated.

(f) Durational Loss Ratio Table: The table of annual loss ratios where:

1. A loss ratio is the ratio of incurred claims divided by earned premium for each policy duration, by policy duration determined from the original actuarial memorandum when the form was first approved or subsequently filed and approved under this chapter;

2. The durational loss ratio table is proportionally adjusted to reflect changes to the loss ratio standard for the form due to changes in average annual premium pursuant to the provisions of Rule 4-149.005(4), F.A.C., at the time of the filing; and

3. The present value, based on original pricing assumptions, produces the lifetime loss ratio standard for the form.

(g) Earned Premium: The portion of the total premium paid by the insured attributable to the period of coverage elapsed. This includes all modal loadings, fees, or charges that are required to be paid by the insured. Premium shall be earned uniformly over the period for which coverage is provided. Sections 627.6043(2) and 627.6645(4), Florida Statutes, provide for the company to have a short rate table approved. If approved, the short rate table is used in lieu of uniform earning (pro-rata) for determining refunds upon cancellation and shall not be incorporated for rate filing purposes.

(h)(f) Entire Future Lifetime: This is the maximum period over which the policy would be in effect if not terminated by action of the insurer or the insured. For individual policies, the minimum acceptable period for calculation purposes is the number of years before fewer than 5% of the original policyholders remain in force. This period is determined using the anticipated termination rates for the form. For annually rated group policies, the Entire Future Lifetime is the rating period. ~~Policy Forms which have had rate revisions prior to the effective date of this rule with a projection period shorter than the entire lifetime of the policy shall, for the purposes of computing loss ratios, continue to use the same number of years in the projection period for future rate revisions.~~

(i) Expected Claims: The actual earned premium, or for projected periods the projected premium, times the applicable policy durational loss ratio from the approved durational loss ratio table which was in effect at the time period covered by the premiums.

(g) through (i) renumbered (j) through (l) No change.

(m) Incurred Claims: Incurred claims are claims occurring within a fixed period, whether or not paid during the same period, under the terms of the policy form.

1. Claims include scheduled benefit payments, reimbursement benefit payments, or services provided by a provider or through a provider network for medical, dental, vision, disability, and similar health benefits.

2. Claims do not include state assessments, or any expense incurred by the company for the cost of adjusting and settling a claim, including the review, qualification, oversight, management or monitoring of a claim or incentives or compensation to providers for other than the providing of health care services.

3. A company may at its discretion include other costs that are demonstrated to reduce claims, such as a fraud intervention program or case management costs which are: Identified in

each filing, and are demonstrated to reduce claims costs and do not result in increasing the experience period loss ratio by more than 5%.

(j) through (n) renumbered (n) through (r) No change.

~~(s)(o)~~ Renewal Clauses:

1. through 2. No change.

3.a. Guaranteed Renewable means that renewal cannot be declined by the insurer for any reason other than fraud, misrepresentation, or failure to pay the premium when due or as defined by Section 627.6425 or 627.6571, Florida Statutes, but the insurer can revise rates on a class basis.

b. When an insurer discontinues offering a particular policy form for health insurance coverage offered in the individual market pursuant to Sections 627.6425(3)(a) or 627.6571(3)(a), Florida Statutes, the nonrenewal of coverage must occur on the policy anniversary, and the offer of new coverage pursuant to Sections 627.6425(3)(a)2. or 627.6571(3)(a)2., Florida Statutes, shall be considered a renewal of coverage and renewed on the original policy anniversary at the same class basis as the coverage being discontinued. If the forms do not have consistent class definitions, the class shall be determined based on the original application and underwriting status of the individual when the discontinued coverage was first issued.

4. through 5. No change.

(t)(p) Select and Ultimate Premium Schedule: This is any premium schedule which has premiums that vary based on the time elapsed since issuance of the policy. These do not include rate schedules that reduce over time due to temporary risk charges, nonrecurring fees, or reducing benefits.

~~(u)(q)~~ No change.

Specific Authority 624.308(1), 627.410(6)(b), (e) FS. Law Implemented 627.410(1), (2), (6), 627.411(1)(e) FS. History—New 7-1-85, Formerly 4-58.06, 4-58.006, Amended 4-18-94, 4-9-95, _____.

4-149.007 Annual Rate Filing Procedures.

(1) This rule applies to every insurer writing health insurance, defined as insurance of human beings against bodily injury, disablement, or death by accident or accidental means, or the expense thereof, or against disablement or expense resulting from sickness, and every insurance appertaining thereto but excluding workers' compensation coverages and noncancelable policies.

(2) Each insurer shall make an annual filing with the Department for each policy form or pooled block of forms no later than 12 months after the date of approval of its previous filing for the policy form, demonstrating the reasonableness of benefits in relation to premium rates.

~~(a) The first such filing for each policy form for each company shall be submitted on or after October 1, 1989, but in no event later than March 1, 1990, or 14 months after the date of its last rate filing approval date preceding October 1, 1989.~~

(b) Subsequent rate filings shall be submitted no later than 12 months after the previous filing approval date for each policy form.

(3) through (4) No change.

(5) Filing Preparation. Filings shall be prepared in accordance with Rule 4-149.003, F.A.C., and in accordance with either (a), ~~(b)~~, or (c) below.

~~(a) For significant blocks of business (defined as 500 or more policies or certificates in force nationwide), filings shall be in accordance with either 1., 2., or 3., below:~~

~~(a)1.~~ A rate filing shall be prepared under the direction of an actuary which contains documentation that the proposed benefits are reasonable in relation to the premium rates, pursuant to the applicable rating laws and rules adopted by the Department.

~~(b)1,2.~~ If no rate change is proposed and the form is other than Medicare supplement, a filing shall be prepared which consists of a cover letter indicating the nature of the filing and a certification by an actuary that benefits are reasonable in relation to premiums currently charged in accordance with the applicable rating laws and rules adopted by the Department.

2.The Such certification shall is to be attached to the applicable standardized data letter, Form DI4-1507 as adopted in Rule 4-149.022, F.A.C.

3. The certification shall comply with Rule 4-149.006(3)(b)28., F.A.C.

(c) For noncredible blocks of business, the company may request a waiver of the requirement. Such request must be accompanied by a letter indicating the nature of the filing, the type of product and the reason for the request.

~~(b) For insignificant blocks of business (defined as desired by the company but no greater than 500 policies in force nationwide):~~

~~1. By any of the methods described in paragraph (a), above.~~

~~2. The Department may waive the requirement for a certification of reasonableness so long as the insurer's solvency is not affected.~~

~~(c) As used in this rule, "actuary" means an individual who is a member of the Society of Actuaries or the American Academy of Actuaries and who is qualified in the area of health insurance.~~

~~(6) Requests for Extension. If a filing is under preparation on the date it is required to be filed, the insurer may apply to the Department for an extension for up to an additional 30 days in which to submit the filing. The request for an extension shall be received by the Department in Tallahassee prior to the date the filing is due.~~

~~(7) Filing Date. A filing is considered to be made with the Department on the date the filing is received by the Department.~~

Specific Authority 624.308 FS. Law Implemented 627.410 FS. History—New 5-14-92, Amended _____.

DEPARTMENT OF INSURANCE

Division of State Fire Marshal

RULE CHAPTER TITLE: Sparkler Registration

RULE CHAPTER NO.: 4A-50

RULE TITLE: Registration Requirements

RULE NO.: 4A-50.005

PURPOSE AND EFFECT: To adopt forms for use in conjunction with the registration of sparkler wholesalers, distributors, manufacturers, retailers, and seasonal retailers.

SUBJECT AREA TO BE ADDRESSED: Forms for registration of sparkler wholesalers, distributors, manufacturers, retailers, and seasonal retailers.

SPECIFIC AUTHORITY: 791.015(4) FS.

LAW IMPLEMENTED: 791.015(1)(2) FS.

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

TIME AND DATE: 9:00 a.m., May 6, 2002

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

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT IS: Terry Hawkins, Safety Program Manager, Licensing and Regulatory Section, Bureau of Fire Prevention, Division of State Fire Marshal, 200 East Gaines Street, Tallahassee, FL 32399-0342, (850)922-3171

Pursuant to the provisions of the Americans with Disabilities Act, any person requiring special accommodations to participate in this program, please advise the Department at least 5 calendar days before the program by contacting Millicent King, (850)413-3619.

THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS:

4A-50.005 Registration Requirements.

(1) through (10) No change.

(11) Registration forms.

(a) Each person, firm, copartnership, corporation, or other entity seeking to register as a seasonal retailer shall complete and file with the Regulatory and Licensing Section Form DI4-1233, entitled Certificate of Sparkler Registration – Seasonal Retailer, which is hereby adopted and incorporated by reference. Copies of Form DI4-1233 may be obtained from the Regulatory and Licensing Section, Bureau of Fire Prevention, Division of State Fire Marshal, 200 East Gaines Street, Tallahassee, Florida 32399-0342.

(b) Each person, firm, copartnership, or corporation, or other entity seeking to register as a manufacturer, distributor, or wholesaler shall complete and file with the Regulatory and Licensing Section Form DI4-1234, entitled Certificate of Sparkler Registration Manufacturer, Distributor, and

Wholesaler, which is hereby adopted and incorporated by reference. Copies of Form DI4-1234 may be obtained from the Regulatory and Licensing Section, Bureau of Fire Prevention, Division of State Fire Marshal, 200 East Gaines Street, Tallahassee, Florida 32399-0342.

(c) Each person, firm, copartnership, or corporation, or other entity seeking to register as a retailer shall complete and file with the Regulatory and Licensing Section Form DI4-xxxx, entitled, Certificate of Sparkler Registration-Retailer, which is hereby adopted and incorporated by reference. Copies of Form DI4-1233 may be obtained from the Regulatory and Licensing Section, Bureau of Fire Prevention, Division of State Fire Marshal, 200 East Gaines Street, Tallahassee, Florida 32399-0342.

Specific Authority 791.015(4) FS. Law Implemented 791.015(1)(2) FS. History-New _____.

DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES

Division of Standards

RULE TITLES: Standards
 RULE NOS.: 5F-2.001

Adoption of the General Code and the Codes of Liquid-Measuring Devices, Liquefied Petroleum Gas and Anhydrous Ammonia Liquid-Measuring Devices, Hydrocarbon Gas Vapor-Measuring Devices, Vehicle-Tank Meters, and Vehicle Tanks Used as Measures of National Institute of Standards and Technology (NIST) Handbook 44 5F-2.014

PURPOSE AND EFFECT: The purpose of Rule 5F-2.001, F.A.C., is to adopt the 2002 edition of the chemical and physical standards set forth in the American Society for Testing and Materials. These standards will be used for quality testing of regulated petroleum products. The effect will be that the Department will use the most recent nationally recognized standards for petroleum products developed by a consensus organization. The purpose of Rule 5F-2.014, F.A.C., is to adopt the 2002 edition of NIST Handbook 44 which contains specifications and testing criteria for liquid and vapor measuring devices. The effect will be the incorporation of the most recent specifications and testing criteria of measuring devices developed by a consensus organization.

SUBJECT AREA TO BE ADDRESSED: Proposed Rule 5F-2.001, F.A.C., will specify that the most recent Annual Book of ASTM Standards is the accepted standard for implementation of Chapter 525, F.S. Proposed Rule 5F-2.014, F.A.C., will specify that the 2002 version of NIST Handbook 44 is the accepted standard for implementation of Chapter 525, F.S.

SPECIFIC AUTHORITY: 525.037, 525.14, 531.40, 531.41(3) FS.

LAW IMPLEMENTED: 525.01, 525.037, 525.07, 525.14, 525.16, 531.40 FS.

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

TIME AND DATE: 10:00 a.m., Monday, May 6, 2002

PLACE: Division of Standards' Conference Room, Suite E, Room 135, Doyle Conner Administration Building, 3125 Conner Boulevard, Tallahassee, Florida 32399-1650

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT IS: Eric Hamilton, Bureau Chief, Bureau of Petroleum Inspection, 3125 Conner Blvd., Bldg. #1, Tallahassee, FL 32399-1650, phone: (850)488-9740

THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS:

5F-2.001 Standards.

(1) Gasoline. The following specifications apply to gasoline sold or offered for sale in Florida. Specific variations or exemptions may be made by the Department of Agriculture and Consumer Services for gasoline designed for special equipment or service.

(a) Standards. All gasoline shall conform to the chemical and physical standards for gasoline as set forth in the American Society for Testing and Materials designation D 4814-01a ~~D 4814-00a~~, "Standard Specification for Automotive Spark-Ignition Engine Fuel."

(b) Analysis. For purposes of inspection and testing, laboratory analyses shall be conducted using the methods recognized by the American Society for Testing and Materials designation D4814-01a ~~D-4814-00a~~, "Standard Specification for Automotive Spark-Ignition Engine Fuel."

(2) Kerosene (Kerosine). The following specifications apply to kerosene No. 1-K and No. 2-K sold or offered for sale in Florida.

(a) Standards. All kerosine No. 1-K and No. 2-K shall conform to the chemical and physical standards for kerosene No. 1-K and No. 2-K as set forth in the American Society for Testing and Materials designation D 3699-01 ~~D 3699-98~~, "Standard Specification for Kerosine."

(b) Analysis. For purposes of inspection and testing, laboratory analyses shall be conducted using the methods recognized by the American Society for Testing and Materials designation D 3699-01 ~~D 3699-98~~, "Standard Specification for Kerosine."

(3) Diesel Fuel Oils No. 1-D and No. 2-D. The following specifications apply to diesel fuel oils No. 1-D and No. 2-D sold or offered for sale in Florida.

(a) Standards. All diesel fuel oils No. 1-D and No. 2-D shall conform to the chemical and physical standards for diesel fuel oils No. 1-D and No. 2-D as set forth in the American Society for Testing and Materials designation D 975-01a ~~D975-00~~ "Standard Specification for Diesel Fuel Oils." Analysis. For purposes of inspection and testing, laboratory analyses shall be conducted using the methods recognized by the American Society for Testing and Materials designation D 975-01a ~~D-975-00~~, "Standard Specification for Diesel Fuel Oils."

(4) Fuel Oils No. 1 and No. 2. The following specifications apply to fuel oils No. 1 and No. 2 sold or offered for sale in Florida.

(a) Standards. All fuel oils No. 1 and No. 2 shall conform to the chemical and physical standards for fuel oils No. 1 and No. 2 as set forth in the American Society for Testing and Materials designation D 396-01 ~~D-396-98~~, "Standard Specification for Fuel Oils."

(b) Analysis. For purposes of inspection and testing, laboratory analyses shall be conducted using the methods recognized by the American Society for Testing and Materials designation D 396-01 ~~D-396-98~~, "Standard Specification for Fuel Oils."

(6) Materials. The following materials are hereby incorporated by reference. Copies of these publications may be obtained from the American Society for Testing and Materials, 100 Barr Harbor Drive, West Conshohocken, PA 19428, or <http://www.astm.org>.

(a) American Society for Testing and Materials D 4814-01a ~~D-4814-00a~~, "Standard Specification for Automotive Spark-Ignition Engine Fuel" (approved November 10, 2001 ~~December 10, 2000~~);

(b) American Society for Testing and Materials D 3699-01 ~~D-3699-98~~, "Standard Specification for Kerosine," (approved June 10, 2001 ~~April 1998~~);

(c) American Society for Testing and Materials D 975-01a ~~D-975-00~~, "Standard Specification for Diesel Fuel Oils" (approved June 10, 2001 ~~December 10, 2000~~);

(d) American Society for Testing and Materials D 396-01 ~~D-396-98~~, "Standard Specification for Fuel Oils" (approved June 10, 2001 ~~April 1998~~).

Specific Authority 525.037, 525.14 FS. Law Implemented 525.01, 525.037, 525.14 FS. History—Amended 1-15-68, 7-1-71, 7-1-73, 12-1-73, 11-16-74, 2-13-80, 5-3-83, Formerly 5F-2.01, Amended 5-3-90, 8-13-92, 11-29-94, 11-13-97, 12-9-98, 8-3-99, 7-31-00, 9-3-01, _____.

5F-2.014 Adoption of the General Code and the Codes of Liquid-Measuring Devices, Liquefied Petroleum Gas and Anhydrous Ammonia Liquid-Measuring Devices,

Hydrocarbon Gas Vapor-Measuring Devices, Vehicle-Tank Meters, and Vehicle Tanks Used as Measures of National Institute of Standards and Technology Handbook 44.

The general code and the codes of liquid-measuring devices, liquefied petroleum gas and anhydrous ammonia liquid-measuring devices, hydrocarbon gas vapor-measuring devices, vehicle-tank meters, and vehicle tanks used as measures relating to specifications, tolerances, and other technical requirements for commercial weighing and measuring devices, contained in National Institute of Standards and Technology Handbook 44, 2002 ~~2001~~ Edition issued November 2001 ~~2000~~, published by U.S. Department of Commerce are hereby adopted by reference as rules of the Department of Agriculture and Consumer Services. Copies may be obtained from the Superintendent of Documents, U. S. Government Printing Office, Washington, D. C. 20402 or at <http://ts.nist.gov/ts/htdocs/230/235/h442001.htm>.

Specific Authority 525.14, 531.40, 531.41(3) FS. Law Implemented 525.07, 531.40 FS. History—New 1-1-74, Amended 7-1-74, Repromulgated 12-31-74, Amended 4-18-75, 1-25-76, 1-17-77, 2-15-79, 6-4-80, 4-5-81, 5-2-82, 6-30-83, 7-15-84, 8-11-85, Formerly 5F-2.14, Amended 7-7-86, 4-5-87, 4-27-88, 5-31-89, 8-21-90, 8-5-91, 12-10-92, 11-29-94, 11-13-97, 12-9-98, 8-3-99, 7-31-00, 9-3-01, _____.

DEPARTMENT OF REVENUE

RULE TITLES:	RULE NOS.:
Definitions	12-25.031
Eligibility and Qualifications	12-25.033
Responsibility for Program Training, Certification Procedures, and Program Availability	12-25.035
Applying for Participation in the Program	12-25.037
Withdrawal from the Certified Audit Program	12-25.042
Development of Agreed Upon Procedures	12-25.047
Submission of the Certified Audit Report	12-25.048
Review of Certified Audit Reports	12-25.049

PURPOSE AND EFFECT: The purpose of the proposed amendments to Rule 12-25.031, F.A.C. (Definitions), is to revise the definition of the term "practitioner(s)" to include those individuals who have successfully completed a training course approved by the Department.

The purpose of the proposed amendments to Rule 12-25.033, F.A.C. (Eligibility and Qualifications) is to: (1) provide that a qualified practitioner will supervise the subject activities and will no longer be required to be physically on site where the activities are performed; and (2) require a qualified audit firm to receive a timely system review with an "Unqualified Opinion" dated prior to the Request to Participate in the Certified Audit program.

The purpose of the proposed amendments to Rule 12-25.035, F.A.C. (Responsibility for Program Training, Certification Procedures, and Program Availability), is to: (1) remove the limitation on the number of consecutive temporary

recertifications issued to a qualified practitioner; and (2) incorporate by reference changes to form DR-342000, Request to Participate in the Certified Audit Program.

The purpose of the proposed amendments to Rule 12-25.037, F.A.C. (Applying for Participation in the Program), is to: (1) provide that form DR-835, Power of Attorney, is incorporated by reference in Rule 12-6.0015, F.A.C.; (2) provide that the Department will notify the qualified practitioner when a Request to Participate in the certified Audit program is incomplete or requires clarification; (3) change the extension of time to resubmit a revised Request to Participate and/or supporting documentation from a 15-day period to a 30-day period; and (4) provide that the failure to register for, or file returns for, communications services tax is one of the grounds for Departmental denial of a Request to Participate.

The purpose of the proposed amendments to Rule 12-25.042, F.A.C. (Withdrawal from the Certified Audit Program), is to clarify that the Department will conduct an audit of a taxpayer for the same audit period and taxes addressed by the Agreed Upon Procedures when a Certified Audit report is not provided to the Department within 90 calendar days upon approval of the Agreed Upon Procedures.

The purpose of the proposed amendments to Rule 12-25.047, F.A.C. (Development of Agreed Upon Procedures), and Rule 12-25.048, F.A.C. (Submission of the Certified Audit Report), is to incorporate by reference the Statements on Standards for Attestation Engagements #10.

The purpose of the proposed amendments to Rule 12-25.049, F.A.C. (Review of Certified Audit Reports), is to provide that the criteria for selecting an approved certified audit report for review include: (1) reports that are protested by the taxpayer; (2) reports that are submitted by a qualified practitioner after a previous report that required changes or clarification; (3) reports for audits where the Agreed Upon Procedures for the report were not followed; and (4) reports that indicate an overpayment has been made.

SUBJECT AREA TO BE ADDRESSED: The subject of this workshop is the proposed changes to Rule Chapter 12-25, F.A.C., regarding the Department's administration of the Certified Audit Program.

SPECIFIC AUTHORITY: 213.06(1), 213.285(7) FS.

LAW IMPLEMENTED: Ch. 98-95, L.O.F., 213.285 FS.

A RULE DEVELOPMENT WORKSHOP WILL BE HELD AT THE TIME, DATE AND PLACE SHOWN BELOW:

TIME AND DATE: 9:30 a.m., May 7, 2002

PLACE: Room 116, Larson Building, 200 E. Gaines Street, Tallahassee, Florida 32399-0100

Copies of the agenda for the rule development workshop may be obtained from Janet L. Young, Tax Law Specialist, Technical Assistance and Dispute Resolution, Department of Revenue, P. O. Box 7443, Tallahassee, Florida 32314-7443, telephone (850)922-9407

NOTICE UNDER THE AMERICANS WITH DISABILITIES ACT: Any person requiring special accommodations to participate in any proceeding before the Technical Assistance and Dispute Resolution Office is asked to advise the Department at least five (5) calendar days before such proceeding by contacting Jamie Phillips at (850)488-0717. If you are hearing or speech impaired, please contact the Department by using the Florida Relay Service, which can be reached at (800)955-8770 (Voice) and (800)955-8771 (TDD).

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT WORKSHOP IS: Janet L. Young, Tax Law Specialist, Technical Assistance and Dispute Resolution, Department of Revenue, P. O. Box 7443, Tallahassee, Florida 32314-7443, telephone (850)922-9407

THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS:

12-25.031 Definitions.

(1) through (7) No change.

(8) "Practitioner(s)" means the individual(s) that are on the certified audit engagement team that are not qualified practitioners and who have successfully completed a training course approved by the Department prior to their performance of the subject activities, as described in Rule 12-25.033(1)(b), F.A.C.

(9) through (11) No change.

Specific Authority 213.06(1), 213.285(7) FS. Law Implemented Ch. 98-95, L.O.F., 213.285 FS. History—New 8-23-99, Amended.

12-25.033 Eligibility and Qualifications.

(1)(a) No change.

(b) Any practitioner employed by the qualified audit firm who performs audit analysis, who makes auditing decisions on source documents, taxpayer data, or sales transactions, or who performs agreed-upon procedures, except for the gathering of information for the planning work discussed in Rule rule 12-25.047(1)(b)1., 2., 4., 5., 6., and 7., scheduling, or reconciling, must successfully complete a training course approved by the Department prior to his or her ~~their~~ initial performance of the subject activities. The Department will approve the training, including instructional curriculum and materials, and testing, administered and delivered by the contract provider, if the provider meets all the conditions contained in pages 20 through 23 of the contract required to be established by both parties pursuant to Section 213.285(1), F.S., and Section 4 of Chapter 98-95, Laws of Florida. This contract is adopted and incorporated by reference. However, the Department shall grant a waiver of this requirement for a specific certified audit in circumstances where a practitioner working on the subject audit can not complete his or her work due to a documented medical reason or; a documented family emergency, or the practitioner has left the employment of the firm. The training course will, at a minimum, teach the basics

of Florida Sales and Use tax law, and it will include a required examination. The Department will be the final authority on the content of the training course and the nature, number, and type of questions on the examination. “Successfully complete” means the participant has met all the requirements for the course and achieved a scaled score of 70 percent. Further, any practitioner performing the subject activities shall be supervised by a qualified practitioner. ~~The subject qualified practitioner will be physically on site where the activities are performed.~~

(c) through (d) No change.

(e) ~~The In addition, The~~ qualified audit firm must have received a timely system review (on-site peer review) dated prior to the date of the Request to Participate and must have received an “Unqualified Opinion” on such system review (on-site peer review). Compliance with these requirements is based on the most recent system review (on-site peer review) received prior to the Request to Participate. If the qualified audit firm at the date of the Request to Participate has not received a system review (an on-site peer review) with an unqualified opinion, dated prior to the date of the Request to Participate, then the qualified audit firm is ineligible to participate in the certified audit program. The qualified audit firm can submit a new Request to Participate once the applicable requirements are met.

(2) No change.

Specific Authority 213.06(1), 213.285(7) FS. Law Implemented Ch. 98-95, L.O.F., 213.285 FS. History—New 8-23-99, Amended.

12-25.035 Responsibility for Program Training, Certification Procedures, and Program Availability.

(1) through (3)(a) No change.

(b) The Department shall issue temporary recertification if a previously certified qualified practitioner fails to timely apply for and receive a recertification. These temporary recertifications shall expire 90 consecutive calendar days after the date of issuance. ~~No more than two consecutive temporary recertifications shall be issued to a qualified practitioner.~~

(4) No change.

(5) Continuing professional education is required for practitioners and qualified practitioners as part of the training required pursuant to the directives in s. 213.285(1)(a), F.S., and Section 4 of Chapter 98-95, L.O.F. These laws require the training to be developed and delivered by the FICPA and approved by the Department pursuant to the contract signed by the Department and the FICPA. The Department shall approve the continuing professional education program if it meets all the criteria established in the contract.

(a) Practitioners must complete a continuing professional education program which will not exceed eight hours every two years.

(b) A qualified practitioner must complete a continuing professional education program, approved by the Department for recertification, which will not exceed sixteen hours every two years.

(6) through (8) No change.

Specific Authority 213.06(1), 213.285(7) FS. Law Implemented Ch. 98-95, L.O.F., 213.285 FS. History—New 8-23-99, Amended.

12-25.037 Applying for Participation in the Program.

(1) The following public use form is employed by the Department of Revenue in its dealings with the public, and is hereby incorporated in these rules by reference. Copies of this form are available by one or more of the following methods: 1) writing the Florida Department of Revenue, Forms Distribution Center, 168 Blountstown Highway, Tallahassee, Florida 32304; or 2) faxing the Forms Distribution Center at (850)922-2208; or, 3) using a fax machine telephone handset to call the Department’s automated FAX on Demand system at (850)922-3676; or, 4) visiting any local Department of Revenue Service Center to personally obtain a copy; or, 5) calling the Forms Request Line during regular office hours at (800)352-3671 (in Florida only) or (850)488-6800; or, 6) downloading selected forms from the Department’s Internet site at the address shown inside the parentheses (<http://myflorida.com/dor/>). Persons with hearing or speech impairments may call the Department’s TDD at (800)367-8331. When a qualified practitioner has a client who agrees to participate in the program, the qualified practitioner must complete a Request to Participate in the Certified Audit Program (form DR-342000), which includes a Power of Attorney (form DR-835, incorporated by reference in Rule 12-6.0015, F.A.C.), and submit the Request to Participate, including any required supporting information to the Department.

Form Number	Title	Effective Date
DR-342000	Request to Participate in the Certified Audit Program program (r. N. 8/99)	8/99

(2) through (3) No change.

(4)(a) If the Request to Participate in the Certified Audit ~~Program program~~ received by the Department is incomplete or requires clarification, ~~it will be returned to~~ the qualified practitioner will be notified. When the Department determines that a request is incomplete returns an incomplete Request and/or supporting documentation to a qualified practitioner, it will notify the qualified practitioner issue a letter, explaining how the Request and/or documentation must be revised, expanded, or clarified.

(b) The qualified practitioner will be given 30 calendar days from the date of notification ~~the letter is issued~~ by the Department to resubmit the revised Request to Participate and/or supporting documentation.

(c) No change.

(5) A qualified practitioner may submit a written request to the Department for a 30-day 15-day extension of the 30-day time period discussed in subsection (4) of this rule. The Department will not accept more than two consecutive written requests for a 30-day 15-day extension for the same Request to Participate.

(6) The Request to Participate is not, by definition, "proper and complete" if the Department requests clarification of submitted information or requests additional information. The Department will, within 10 ten working days of receiving a proper and complete Request to Participate in the Certified Audit program and application, issue written notification to the qualified practitioner:

(a) through (b) No change.

(7) Grounds for departmental denial of a Request to Participate include:

(a) through (b) No change.

(c) The taxpayer has failed to register for, or file the returns for, corporate income tax, intangible personal property tax, fuel taxes, documentary stamp tax, insurance premium tax, communications services tax, or gross receipts tax. The local option surtaxes and fees specific to the type of industry or location of the participating taxpayer will be included with the sales and use tax in the certified audit.

(d) through (f) No change.

(8) through (9) No change.

Specific Authority 213.06(1), 213.285(7) FS. Law Implemented Ch. 98-95, L.O.F., 213.285 FS. History--New 8-23-99, Amended.

12-25.042 Withdrawal from the Certified Audit Program.

(1) No change.

(2) If the taxpayer withdraws from the Certified Audit program subsequent to the Department approval of the Agreed Upon Procedures or if a Certified Audit report is not provided to the Department within 90 calendar days upon approval, of the Agreed Upon Procedures, and the Department denies an extension of time, then the Department will conduct an audit of the taxpayer for the same audit period and taxes addressed by the Agreed Upon Procedures.

(3) No change.

Specific Authority 213.06(1), 213.285(7) FS. Law Implemented Ch. 98-95, L.O.F., 213.285 FS. History--New 8-23-99, Amended.

12-25.047 Development of Agreed Upon Procedures.

(1)(a) Certified Audits conducted pursuant to the authority of s. 213.285, F.S., are attestation engagements that are conducted under Statements on Standards for Attestation Engagements, #10 #4 – Agreed Upon Procedures, which are adopted and incorporated by reference.

(b) No change.

(2) through (5) No change.

Specific Authority 213.06(1), 213.285(7) FS. Law Implemented Ch. 98-95, L.O.F., 213.285 FS. History--New 8-23-99, Amended.

12-25.048 Submission of the Certified Audit Report.

(1) The certified audit report must meet all the requirements established by Statements on Standards for Attestation Engagements #10 #4.

(2) through (5) No change.

Specific Authority 213.06(1), 213.285(7) FS. Law Implemented Ch. 98-95, L.O.F., 213.285 FS. History--New 8-23-99, Amended.

12-25.049 Review of Certified Audit Reports.

(1) through (2) No change.

(3) The criteria for selecting an approved certified audit report for review are is:

(a) through (d) No change.

(e) The certified audit report is protested by the taxpayer.

(f) The certified audit report is subsequent to the Department's review of a previous certified audit report submitted by the Qualified Practitioner, in which changes or clarification were required.

(g) The Agreed Upon Procedures for the certified audit report were not followed.

(h) The certified audit report indicates an overpayment has been made.

(4) When a qualified practitioner completes a certified audit and the Department approves the certified audit report, the qualified audit firm must request that the certified audit engagement be included as a part of its their next system review (on-site peer review).

Specific Authority 213.06(1), 213.285(7) FS. Law Implemented Ch. 98-95, L.O.F., 213.285 FS. History--New 8-23-99, Amended.

DEPARTMENT OF REVENUE

Sales and Used Tax

RULE TITLES:	RULE NOS.:
Registration	12A-19.010
Tax Due at Time of Sale; Tax Returns and Regulations	12A-19.020
Communications Services Tax Direct Pay Permits	12A-19.030
Notification of Local Communication Services Tax Rate Changes and Permit Fee Elections	12A-19.050
Public Use Forms	12A-19.100

PURPOSE AND EFFECT: The purpose of the proposed amendments to Rule 12A-19.010, F.A.C. (Registration), Rule 12A-19.020, F.A.C. (Tax Due at Time of Sale; Tax Returns and Regulations), Rule 12A-19.030, F.A.C. (Communications Services Tax Direct Pay Permits), and Rule 12A-19.050, F.A.C. (Notification of Local Communication Services Tax Rate Changes and Permit Fee Elections), and the proposed creation of Rule 12A-19.100, F.A.C. (Public Use Forms), is to incorporate by reference in Rule 12A-19.100, F.A.C., forms

currently used by the Department in the administration of the communications services tax. In addition, the proposed rule amendments to Rule 12A-19.050, F.A.C., will provide guidance on how to obtain current communications service tax rates for each local taxing jurisdiction.

SUBJECT AREA TO BE ADDRESSED: The subject of this workshop is the proposed incorporation by reference of forms used by the Department in the administration of the communications services tax and the proposed guidelines on how to obtain current communications service tax rates.

SPECIFIC AUTHORITY: 202.15, 202.16(2), 202.21, 202.26(3)(a), (c), (d), (e), (h), (i), 202.27(6), 202.28(1)(b)2. FS.

LAW IMPLEMENTED: 202.11(3), (4), (7), (9), (11), (12), (13), (14), (16), 202.12(1), (3), 202.13(2), 202.15, 202.16, 202.17(1), (3)(a), (4), (6), 202.19(1), (8), 202.20(2)(a), 202.21, 202.22(6), 202.27, 202.28(1), (2), 202.30, 202.33(2), 202.34(3), (4)(c), 202.35(1), 337.401(3)(c), (j) FS.

A RULE DEVELOPMENT WORKSHOP WILL BE HELD AT THE TIME, DATE AND PLACE SHOWN BELOW:

TIME AND DATE: 9:30 a.m., May 7, 2002

PLACE: Room 116, Larson Building, 200 E. Gaines Street, Tallahassee, Florida 32399-0100

Copies of the agenda for the rule development workshop may be obtained from Janet L. Young, Tax Law Specialist, Technical Assistance and Dispute Resolution, Department of Revenue, P. O. Box 7443, Tallahassee, Florida 32314-7443, telephone (850)922-9407

NOTICE UNDER THE AMERICANS WITH DISABILITIES ACT: Any person requiring special accommodations to participate in any proceeding before the Technical Assistance and Dispute Resolution Office is asked to advise the Department at least five (5) calendar days before such proceeding by contacting Jamie Phillips at (850)488-0717. If you are hearing or speech impaired, please contact the Department by using the Florida Relay System, which can be reached at (800)955-8770 (Voice) or (800)955-8771 (TDD).

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT IS: Jennifer Silvey, Senior Attorney, Technical Assistance and Dispute Resolution, Department of Revenue, P. O. Box 7443, Tallahassee, Florida 32314-7443, telephone (850)922-4727

THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS:

12A-19.010 Registration.

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

2. Except as provided herein, a person registering with the Department for the communications services tax must notify the Department of the method(s) that will be employed to determine the local taxing jurisdiction in which service addresses are located. The notification to the Department shall be made using form DR-700020, Notification of Method

Employed to Determine Taxing Jurisdiction (Communications Services Tax) ~~(11/01, hereby incorporated by reference in Rule 12A-19.100, F.A.C.)~~. The following persons are not required to file form DR-700020 with respect to the activities listed:

a. through f. No change.

(d) through (3) No change.

~~(4) Form DR-1, Application to Collect and/or Report Tax in Florida, and form DR-700020, Notification of Method Employed to Determine Taxing Jurisdiction, are available, without cost, by one or more of the following methods: 1) writing the Florida Department of Revenue, Distribution Center, 168 A Blountstown Highway, Tallahassee, Florida 32399-0100; or, 2) faxing the Distribution Center at (850)922-2208; or, 3) using a fax machine telephone handset to call the Department's automated FAX on Demand system at (850)922-3676; or, 4) visiting any local Department of Revenue Service Center to personally obtain a copy; or, 5) calling the Forms Request Line during regular office hours at (800)352-3671 (in Florida only) or (850)488-6800; or, 6) downloading the form from the Department's Internet site at the address shown inside the parentheses (<http://www.myflorida.com/dor/>). Persons with hearing or speech impairments may call the Department's TDD at (800)367-8331.~~

Specific Authority 202.26(3)(e),(h) FS. Law Implemented 202.11(3),(7),(9), (13),(14),(16), 202.12(1)(b), 202.15, 202.17(1),(3)(a),(4), 202.22(6)(a), 202.27(6) FS. History--New 1-31-02, Amended _____.

12A-19.020 Tax Due at Time of Sale; Tax Returns and Regulations.

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

(b) Except as provided herein, all communications services tax dealers must notify the Department of the method or methods the dealer will employ to determine local taxing jurisdictions in which service addresses are located. The notification to the Department shall be made using form DR-700020, Notification of Method Employed to Determine Taxing Jurisdiction (Communications Services Tax) (incorporated by reference in Rule ~~12A-19.100~~ 12A-19.010, F.A.C.). If a communications services tax dealer that is required to notify the Department of the method to be used to determine local taxing jurisdictions fails to notify the Department that the dealer will use a method described in subparagraph (a)1., the dealer will be assigned an initial collection allowance of .25 percent. If a dealer is assigned a collection allowance of .25 percent due to failure to notify the Department of use of a method described in subparagraph (a)1., the dealer will be assigned a .75 percent collection allowance upon subsequently providing a completed form DR-700020. The dealer will be entitled to a refund or credit of the difference between the .25 percent collection allowance initially assigned and the .75 percent collection allowance during any period the dealer was using an eligible method and

claiming the lower allowance prior to notifying the Department. The following persons are not responsible for collecting and remitting local communications services taxes and are not required to file form DR-700020:

a. through f. No change.

(c) No change.

(3)(a) Form DR-700016, Florida Communications Services Tax Return (~~r. 12/01, hereby~~ incorporated by reference in Rule 12A-19.100, F.A.C.), accompanied by the applicable payment, is due on the first day of the month subsequent to the sale of communications services. A return is required to be filed with the Department even when no tax is due with the return.

(b) through (6) No change.

~~(7) Communications services tax returns are available, without cost, by one or more of the following methods: 1) writing the Florida Department of Revenue, Forms Distribution Center, 168 Blountstown Highway, Tallahassee, Florida 32399-0100; or, 2) faxing the Forms Distribution Center at (850)922-2208; or, 3) using a fax machine telephone handset to call the Department's automated Fax on Demand system at (850)922-3676; or, 4) visiting any local Department of Revenue Service Center to personally obtain a copy; or, 5) calling the Forms Request Line during regular office hours at (800)352-3671 (in Florida only) or (850)488-6800; or, 6) downloading selected forms from the Department's Internet site at the address shown inside the parentheses (<http://www.myflorida.com/dor/>). Persons with hearing or speech impairments may call the Department's TDD at (800)367-8331.~~

(8) through (9) renumbered (7) through (8) No change.

Specific Authority 202.15, 202.26(3)(a) FS. Law Implemented 202.12(1), 202.15, 202.16, 202.19(1), 202.22(6), 202.27, 202.28(1),(2), 202.30(3), 202.33(2), 202.35(1) FS. History-New 1-31-02, Amended _____.

12A-19.030 Communications Services Tax Direct Pay Permits.

(1) through (2) No change.

(3)(a) To request a Communications Services Tax Direct Pay Permit, a person must file form DR-700030, Application for Self-Accrual Authority/Direct Pay Permit Communications Services Tax (~~r. 07/01, hereby~~ incorporated by reference in Rule 12A-1.100, F.A.C.), with the Department, in the manner provided on the form.

(b) Each permit holder must hold a valid dealer's Communications Services Tax Certificate of Registration (form DR-700014) issued by the Department. Persons that are not registered with the Department for the communications services tax must file an Application to Collect and/or Report Tax in Florida (form DR-1) with the Department. If form DR-700030, Application for Self-Accrual Authority/Direct Pay Permit Communications Services Tax accompanies form DR-1, then form DR-700020, Notification of Method Employed to Determine Taxing Jurisdiction (incorporated by

reference in Rule ~~12A-19.100~~ 12A-19.040, F.A.C.), is only required to be filed if an applicant will be responsible for collecting and remitting local communications services taxes on sales of communications services.

~~(c) These forms are available, without cost, by one or more of the following methods: 1) writing the Florida Department of Revenue, Distribution Center, 168-A Blountstown Highway, Tallahassee, Florida 32399-0100; or, 2) faxing the Distribution Center at (850)922-2208; or, 3) using a fax machine telephone handset to call the Department's automated FAX on Demand system at (850)922-3676; or, 4) visiting any local Department of Revenue Service Center to personally obtain a copy; or, 5) calling the Forms Request Line during regular office hours at (800)352-3671 (in Florida only) or (850)488-6800; or, 6) downloading the form from the Department's Internet site at the address shown inside the parentheses (<http://www.myflorida.com/dor/>). Persons with hearing or speech impairments may call the Department's TDD at (800)367-8331.~~

(4) through (9) No change.

Specific Authority 202.26(3)(e),(i), 202.27(6) FS. Law Implemented 202.12(3), 202.16(4), 202.19(8), 202.27(6)(b), 202.30, 202.34(3) FS. History-New 1-31-02, Amended _____.

12A-19.050 Notification of Local Communications Services Tax Rate Changes and Permit Fee Elections.

(1) Any municipality or county that adopts, repeals, or changes a local communications services tax rate or changes a permit fee election must notify the Department as provided in this rule.

(a) Notification of local communications services tax rate changes and changes in permit fee elections must be made on form DR-700021, Local Communications Services Tax Notification of Tax Rate Change (~~r. 12/01, hereby~~ incorporated by reference in Rule 12A-19.100, F.A.C.), and a copy of the applicable resolution or ordinance must be submitted with the notification.

(b) through (c) No change.

~~(2) Form DR-700021, Local Communications Services Tax Notification of Tax Rate Change, is available without cost by one or more of the following methods: 1) writing the Florida Department of Revenue, Forms Distribution Center, 168 Bluntest Highway, Tallahassee, Florida 32399-0100; or, 2) faxing the Forms Distribution Center at (850)922-2208; or, 3) using a fax machine telephone handset to call the Department's automated Fax on Demand system at (850)922-3676; or, 4) visiting any local Department of Revenue Service Center to personally obtain a copy; or, 5) calling the Forms Request Line during regular office hours at (800)352-3671 (in Florida only) or (850)488-6800; or, 6) downloading selected forms from the Department's Internet site at the address shown inside the parentheses (<http://www.myflorida.com/dor/>). Persons with hearing or speech impairments may call the Department's TDD at (800)367-8331.~~

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

(4) In addition to the methods used by the Department to notify dealers of changes in the tax rate pursuant to ss. 202.20(2) and 202.21, F.S., the Department provides the tax rates for each local taxing jurisdiction by listing the rates on the Department’s Internet site at the address shown inside the parentheses (<http://www.myflorida.com/dor/>) and on form DR-700016, Florida Communications Services Tax Return (incorporated by reference in Rule 12A-19.100, F.A.C.) The Department’s Internet site and form DR-700016 are revised when the tax rate in any local taxing jurisdiction changes.

Specific Authority 202.21, 202.28(1)(b)2, FS. Law Implemented 202.20(2)(a), 202.21, 337.401(3)(c), (j) FS. History–New 1-31-02, Amended _____.

12A-19.100 Public Use Forms.

(1) The Department employs the following public-use forms and instructions in the administration of Chapter 202, F.S. These forms are hereby incorporated by reference in this rule. Copies of these forms are available, without cost, by one or more of the following methods: 1) writing the Florida Department of Revenue, Distribution Center, 168-A Blountstown Highway, Tallahassee, Florida 32399-0100; or, 2) faxing the Distribution Center at (850)922-2208; or, 3) using a fax machine telephone handset to call the Department’s automated FAX on Demand system at (850)922-3676; or, 4) visiting any local Department of Revenue Service Center to personally obtain a copy; or, 5) calling the Forms Request Line during regular office hours at (800)352-3671 (in Florida only) or (850)488-6800; or, 6) downloading the form from the Department’s Internet site at the address shown inside the parentheses (<http://www.myflorida.com/dor/>). Persons with hearing or speech impairments may call the Department’s TDD at (800)367-8331.

<u>Form Number</u>	<u>Title</u>	<u>Effective Date</u>
(2) DR-700012	Application for Certification of Communications Services Database (N. 04/02)	—
(3) DR-700016	Florida Communications Services Tax Return (r. 01/02)	—
(4) DR-700020	Notification of Method Employed to Determine Taxing Jurisdiction (Communications Services Tax) (r. 11/01)	—
(5) DR-700021	Local Communications Services Tax Notification of Tax Rate Change (r. 12/01)	—

(6) DR-700022	Local Communications Services Tax Notification of Jurisdiction Change (N. 04/02)	—
(7) DR-700025	Objection to Communications Services Tax Electronic Database Service Address Assignment (N. 04/02)	—
(8) DR-700030	Application for Self-Accrual Authority/Direct Pay Permit Communications Services Tax (r. 07/01)	—

Specific Authority 202.16(2), 202.26(3)(c),(d) FS. Law Implemented 202.11(4),(11),(12), 202.13(2), 202.16(2),(4), 202.17(6), 202.34(3),(4)(c) FS. History–New _____.

WATER MANAGEMENT DISTRICTS

St. Johns River Water Management District

RULE TITLE: Agreements
 RULE NO.: 40C-3.035

PURPOSE AND EFFECT: The purpose of the proposed rule amendments is to incorporate by reference the water well permitting delegation agreement between St. Johns River Water Management District and the Florida Department of Health, Putnam County Health Department.

SUBJECT AREAS TO BE ADDRESSED: The subject area to be addressed is the permitting of the construction of water wells less than six inches in diameter by the Florida Department of Health, Putnam County Health Department.

SPECIFIC AUTHORITY: 373.044, 373.113, 373.171 FS.

LAW IMPLEMENTED: 373.046, 373.083, 373.309 FS.

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

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

THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS:

40C-3.035 Agreements.

The Governing Board hereby incorporates by reference the following documents:

(1) through (11) No change.

(12) An agreement between Florida Department of Health, Putnam County Health Department and St. Johns River Water Management District regarding water well permitting dated (effective date).

Specific Authority 373.044, 373.113, 373.171 FS. Law Implemented 373.046, 373.083, 373.309 FS. History–New 10-14-84, Amended 12- 5-85, Formerly 40C-3.035, 40C-3.0035. Amended 1-8-96, 4-21-96, 7-21-96, 12-22-96, 3-10-97, 1-3-00, 9-6-01,_____.

WATER MANAGEMENT DISTRICTS

Southwest Florida Water Management District

RULE CHAPTER TITLE: Individual Environmental
 RULE CHAPTER NO.: 40D-4

RULE TITLES: Resource Permits
 RULE NOS.: 40D-4
 Formal Determination of Wetlands and Other Surface Waters 40D-4.042
 Publications and Agreements Incorporated by Reference 40D-4.091

PURPOSE AND EFFECT: The proposed amendment to Rule 40D-4.042, F.A.C., will change the delegation of authority for Formal Determination of Wetlands and Other Surface Waters from the Executive Director to the Regulation Department Directors. The proposed amendment to Basis of Review Section 3.2.2.2, will clarify that provisions relating to environmental impact assessment criteria and required mitigation for fish, wildlife, listed species, and their habitat do not apply to man-made ponds less than 1 acre in size that are constructed in uplands. Previously only livestock watering ponds were excluded from consideration under these criteria. The proposed amendment to Basis of Review Section 3.2.8, will incorporate language consistent with recent legislation declaring that adverse wetland impacts offset by mitigation within the same drainage basin will not result in unacceptable cumulative impacts.

SUBJECT AREA TO BE ADDRESSED: The proposed amendments will amend subsection (5) of Rule 40D-4.042, F.A.C., and Sections 3.2.2.2 and 3.2.8, of the Basis of Review for Environmental Resource Permit Applications which Rule 40D-4.091, F.A.C., incorporates into the District’s rules by reference.

SPECIFIC AUTHORITY: 373.044, 373.046, 373.113, 373.118, 373.149, 373.171, 373.421(2), 373.414 FS.

LAW IMPLEMENTED: 373.0361, 373.114, 373.171, 373.403, 373.413, 373.414, 373.416, 373.421(2), 373.429, 373.441 FS.

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

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT AND A COPY OF THE PRELIMINARY DRAFT IS: Jack Pepper, Senior Attorney, Office of General Counsel, 2379 Broad Street, Brooksville, FL 34604-6899, (352)796-7211, extension 4651

THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS:

40D-4.042 Formal Determination of Wetlands and Other Surface Waters.

(1) through (4) No change.

(5) The Regulation Department Executive Directors are is delegated the authority to take final action on petitions for formal determinations under this section. A formal determination shall be issued only if the petitioner has satisfied all the requirements of this section.

(6) through (8) No change.

Specific Authority 373.044, 373.113, 373.421(2) FS. Law Implemented 373.421(2) FS. History–New 10-3-95, Amended 7-2-98, 2-14-00, 5-28-00,_____.

40D-4.091 Publications and Agreements Incorporated by Reference.

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

(1) “Basis of Review for Environmental Resource Permit Applications” within the Southwest Florida Water Management District, February 27, 2002. This document is available from the District upon request.

(2) through (4) No change.

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

**ENVIRONMENTAL RESOURCE PERMITTING
 INFORMATION MANUAL**

PART B – BASIS OF REVIEW

CHAPTER THREE – ENVIRONMENTAL

3.2.2 Fish, Wildlife, Listed Species and their Habitats.

3.2.2.2 Alterations to wholly owned livestock watering ponds that were constructed entirely in uplands and which are less than one acre in area and alterations to drainage ditches that were constructed in uplands will not be required to comply with the provisions of subsections 3.2.2 through 3.2.2.3, 3.2.3 through 3.2.3.7 and 3.2.5 through 3.3.8, unless those ponds or ditches provide significant habitat for threatened or endangered species. This means that, except in cases where those ponds or ditches provide significant habitat for threatened or endangered species, the only environmental criteria that will apply to those ponds or ditches are those included in subsections 3.2.2.4, and 3.2.4 through 3.2.4.5. This provision shall only apply to those ponds and ditches which were constructed before a permit was

required under Part IV, Chapter 373, F.S. or were constructed pursuant to a permit under Part IV, Chapter 373, F.S. This provision does not apply to ditches constructed to divert natural stream flow.

3.2.8 Cumulative Impacts.

Pursuant to paragraph 3.1.1(g), an applicant must provide reasonable assurance that a regulated activity will not cause unacceptable cumulative impacts upon wetlands and other surface waters within the same drainage basin as the regulated activity for which a permit is sought. The impact on wetlands and other surface waters shall be reviewed by evaluating the impacts to water quality as set forth in subsection 3.1.1(c), and by evaluating the impacts to functions identified in subsection 3.2.2. If an applicant proposes to mitigate any adverse impacts within the same drainage basin as the impacts, and if the mitigation fully offsets these impacts, then the District will consider the regulated activity to have no unacceptable cumulative impacts upon wetlands and other surface waters, and the condition for issuance in paragraph 3.1.1(g), will be satisfied. The drainage basins within the District are identified on Appendix 6.

When adverse impacts to water quality or adverse impacts to the functions of wetlands and other surface waters, as referenced in the paragraph above, are not fully offset within the same drainage basin as the impacts, then An applicant must provide reasonable assurance that the proposed system, when considered with the following activities, will not result in unacceptable cumulative impacts to water quality or the functions of wetlands and other surface waters, within the same drainage basin:

- (a) through (b) No change.

COMMISSION FOR THE TRANSPORTATION DISADVANTAGED

RULE TITLES:	RULE NOS.:
Insurance, Safety Requirements and Standards	41-2.006
Coordinating Board Structure and Duties	41-2.012
Purchasing of Transportation Outside the Coordinated System	41-2.017

PURPOSE AND EFFECT: The purpose of the amendments to Rule 41-2.006, F.A.C., is to update and revisit the standards for the health, safety, and welfare of the public utilizing transportation service under Chapter 472, F.S. The Board proposes to clarify the rule text in Rule 41-2.012, F.A.C., with regard to the nature of the membership of local coordinating boards. The Board also proposes to promulgate a new rule, numbered Rule 41-2.017, F.A.C., which will establish a procedure for agencies to follow when purchasing transportation services outside the coordinated system.

SUBJECT AREA TO BE ADDRESSED: Insurance, safety requirements and standards, coordinating board structure and duties, and procedure for agencies to follow when purchasing transportation services outside the coordinated system.

SPECIFIC AUTHORITY: 427.013(9) FS.

LAW IMPLEMENTED: 287.0585, 427.011(11), 427.013, 427.0155, 427.0157, 768.28 FS.

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

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT AND A COPY OF THE PRELIMINARY DRAFT, IF AVAILABLE, IS: Jo Ann Hutchinson, Executive Director, Commission for Transportation Disadvantaged, Mail Station 49, 605 Suwannee Street, Tallahassee, Florida 32399-0450

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

DEPARTMENT OF ENVIRONMENTAL PROTECTION

DOCKET NO.: 02-01R

RULE CHAPTER TITLE:	RULE CHAPTER NO.:
Permits	62-4
RULE TITLES:	RULE NOS.:
Scope of Part I	62-4.001
Definitions	62-4.020
General Prohibition	62-4.030
Exemptions	62-4.040
Procedures to Obtain Permits and Other Authorizations	62-4.050
Permit Processing	62-4.055
Consultation	62-4.060
Standards of Issuing or Denying Permits; Issuance; Denial	62-4.070
Modification of Permit Conditions	62-4.080
Financial Responsibility	62-4.110
Transfer of Permits	62-4.120
Permit Conditions	62-4.160
Scope of Part II	62-4.200
Construction Permits	62-4.210
Antidegradation Permitting Requirements; Outstanding Florida Waters; Outstanding National Resource Waters; Equitable Abatement	62-4.242
Mixing Zones: Surface Waters	62-4.244
Scope of Part III	62-4.510
Definition	62-4.520
Procedures	62-4.530
General Conditions for All General Permits	62-4.540

PURPOSE, EFFECT AND SUBJECT AREA TO BE ADDRESSED: The proposed rule will amend one or more sections of Chapter 62-4 of the Florida Administrative Code to implement a new environmental resource permit program under Part IV of Chapter 373 of the Florida Statutes within the geographic limits of the Northwest Florida Water Management District. This rulemaking is needed because, under s. 373.4145, F.S., the ERP program under Part IV of Chapter 373, F.S., within the panhandle is limited to the dredge and fill and stormwater permit programs under Chapters 62-25 and 62-312 of the Florida Administrative Code, until July 1, 2003. Therefore, a need exists to have in place the new ERP rules to replace the existing dredge and fill and stormwater rules on July 1, 2003.

The full text of this notice is published on the Internet at the Department of Environmental Protection's home page at <http://www.dep.state.fl.us/> under the link or button titled "Official Notices."

CONTACT: Jeanese McCree, Florida Department of Environmental Protection, Bureau of Submerged Lands and Environmental Resources, 2600 Blair Stone Road, MS 2500, Tallahassee, FL 32399-2400; (850)921-9901; facsimile (850)488-6579; or e-mail: jeanese.mccree@dep.state.fl.us

DEPARTMENT OF ENVIRONMENTAL PROTECTION

DOCKET NO.: 02-02R

RULE CHAPTER TITLE: Permits **RULE CHAPTER NO.:** 62-25

RULE TITLES: Scope **RULE NOS.:** 62-25.001

Definitions 62-25.020

Design and Performance Standards 62-25.025

Legal Operation/Maintenance

Entity Requirements 62-25.027

Exemptions 62-25.030

Stormwater General Permits 62-25.035

Construction Permit Requirements for New

Stormwater Discharge Facilities 62-25.040

Permit Requirements for Wetlands

Stormwater Discharge Facilities 62-25.042

Delegation 62-25.050

Relationship to Other Permitting

Requirements 62-25.060

General Provisions 62-25.080

General Permit for New Stormwater

Discharge Facilities 62-25.801

Stormwater 62-25.900

PURPOSE, EFFECT AND SUBJECT AREA TO BE ADDRESSED: The proposed rule will amend or repeal one or more sections of Chapter 62-25 of the Florida Administrative Code to implement a new environmental resource permit (ERP) program under Part IV of Chapter 373 of the Florida Statutes within the geographic limits of the Northwest Florida

Water Management District. This rulemaking is needed because the ERP program in the Panhandle is limited to the dredge and fill and stormwater permit programs under Chapters 62-25 and 62-312 of the Florida Administrative Code, which will expire July 1, 2003. Therefore, the new ERP rules needed to be in place on that date.

This rulemaking is expected to involve replacing chapter 62-25 of the Florida Administrative Code, with new stormwater criteria modeled after those used the other water management districts that implement an ERP program.

The full text of this notice is published on the Internet at the Department of Environmental Protection's home page at <http://www.dep.state.fl.us/> under the link or button titled "Official Notices."

CONTACT: Jeanese McCree, Florida Department of Environmental Protection, Bureau of Submerged Lands and Environmental Resources, 2600 Blair Stone Road, MS 2500, Tallahassee, FL 32399-2400; (850)921-9901; facsimile (850)488-6579; or e-mail: jeanese.mccree@dep.state.fl.us

DEPARTMENT OF ENVIRONMENTAL PROTECTION

DOCKET NO.: 02-03R

RULE CHAPTER TITLE: Environmental Resource Permitting **RULE CHAPTER NO.:** 62-113

RULE TITLES: Purpose **RULE NOS.:** 62-113.100

Delegations of Authority by Secretary 62-113.200

PURPOSE, EFFECT AND SUBJECT AREA TO BE

ADDRESSED: The proposed rule will amend one or more

sections of Chapter 62-113 of the Florida Administrative Code

to adopt by reference a new Operating Agreement between the

Northwest Florida Water Management District (NFWFMD)

and the Department. This Agreement will specify divisions of

responsibility between the Department and the NFWFMD in

implementing a new environmental resource permit (ERP)

program under part IV of Chapter 373 of the Florida Statutes

within the geographic limits of the NFWFMD. This

rulemaking is needed because the ERP program in the

Panhandle, which currently is limited to the dredge and fill and

stormwater permit programs under Chapters 62-25 and 62-312

of the Florida Administrative Code, will expire on July 1,

2003. Therefore, new ERP rules needed to be in place on that

date.

The full text of this notice is published on the Internet at the

Department of Environmental Protection's home page at

<http://www.dep.state.fl.us/> under the link or button titled

"Official Notices."

CONTACT: Jeanese McCree, Florida Department of

Environmental Protection, Bureau of Submerged Lands and

Environmental Resources, 2600 Blair Stone Road, MS 2500,

Tallahassee, FL 32399-2400; (850)921-9901; facsimile

(850)488-6579; or e-mail: jeanese.mccree@dep.state.fl.us

DEPARTMENT OF ENVIRONMENTAL PROTECTION

DOCKET NO.: 02-04R

RULE CHAPTER TITLE: RULE CHAPTER NO.:

Dredge and Fill Activities 62-312

RULE TITLES: RULE NOS.:

Scope of Part I 62-312.010

Definitions 62-312.020

Jurisdiction 62-312.030

Jurisdictional Declaratory Statements 62-312.040

Jurisdictional Intent 62-312.045

Exemptions 62-312.050

Procedures to Obtain a Permit 62-312.060

Additional Requirements and Procedures
for Concurrent Review of
Related Applications 62-312.065

Short Form Applications for Certain
Dredging or Filling 62-312.070

Standards for Issuance or Denial of a Permit 62-312.080

Duration of Permits 62-312.082

Periodic Review of Permits 62-312.085

Emergency Classification and Procedures 62-312.090

Modification of Permits 62-312.100

Scope of Part II 62-312.200

Procedures to Obtain a Long-Term Permit 62-312.210

Standards for Issuance or Denial of a
Long-Term Permit 62-312.220

Intent 62-312.300

Definitions 62-312.310

Incorporation of Mitigation into the Permit
Application Process 62-312.320

Mitigation Proposals 62-312.330

Evaluation of Mitigation Proposals 62-312.340

Determination of Success for
Mitigation Projects 62-312.350

Pre-Construction Mitigation 62-312.360

Restrictions on Property Use 62-312.370

Release from Responsibility 62-312.380

Financial Responsibility 62-312.390

Intent 62-312.400

General Criteria 62-312.410

Permitting Requirements for Piers 62-312.420

Permitting Requirements for Marinas 62-312.430

Permitting Requirements for
Shoreline Stabilization 62-312.440

Mitigation 62-312.450

Special Consideration 62-312.460

Scope of Part V 62-312.800

General Permit to U.S. Forest Service for
Minor Works Within National Forests
in Florida 62-312.801

General Permit for Installation or
Maintenance of Boat Ramps 62-312.803

General Permit for Riprap 62-312.804

General Permit for Headwalls and
Culverts Associated with a Stormwater
Discharge Facility 62-312.805

General Permit to the Florida Department
of Transportation for Minor Works Within
FDOT Rights-of-Way or Easements 62-312.806

General Permit for the Construction of
Artificial Reefs 62-312.807

General Permit for Certain Piers and
Associated Structures 62-312.808

General Permit to the Florida Department
of Transportation for Minor
Bridge Construction 62-312.809

General Permit to Perform Prospecting
Activities for Phosphate Minerals 62-312.810

General Permit for Temporary Dragline
Crossings of Waterways 62-312.811

General Permit for Low Water Crossings 62-312.812

General Permit for the Installation of Fences 62-312.813

General Permit to Florida Game and Fresh
Water Fish Commission, U.S. Forest
Service, and County and Municipal
Governments for the Construction of
Freshwater Fish Attractors 62-312.814

General Permit for Ski Jumps and
Slalom Courses 62-312.815

General Permit for the Construction or
Maintenance of Culverted Driveway or
Roadway Crossings and Bridges of
Artificial Waterways 62-312.816

General Permit for the Construction of
Aerial Pipeline Crossings of
Certain Waters. 62-312.817

General Permit for Subaqueous Utility
Crossings of Artificial Waterways 62-312.818

General Permit for the Limited Dredging
of Sediment for Aquatic Plant
Management Purposes 62-312.819

General Permit for the Construction and
Maintenance of Electric Power Lines
by Electric Utilities 62-312.822

Wetland Resource Forms 62-312.900

**PURPOSE, EFFECT AND SUBJECT AREA TO BE
ADDRESSED:** The proposed rule will amend or repeal one or
more sections of Chapter 62-312 of the Florida Administrative
Code to implement a new environmental resource permit
(ERP) program under Part IV of Chapter 373 of the Florida
Statutes within the geographic limits of the Northwest Florida
Water Management District. This rulemaking is needed
because the ERP program, which currently in the Panhandle is
limited to the dredge and fill and stormwater permit programs
under Chapters 62-25 and 62-312 of the Florida Administrative
Code, will expire July 1, 2003. Therefore, new ERP rules need
to be in place on that date.

The new rules are expected to be based on existing ERP rules currently in place in the St. Johns River and Suwannee River Water management Districts. This rulemaking may also include the adoption of an associated “Applicant’s Handbook/Basis of Review” similar to what exists in the other water management districts.

The full text of this notice is published on the Internet at the Department of Environmental Protection’s home page at <http://www.dep.state.fl.us/> under the link or button titled “Official Notices.”

CONTACT: Jeanese McCree, Florida Department of Environmental Protection, Bureau of Submerged Lands and Environmental Resources, 2600 Blair Stone Road, MS 2500, Tallahassee, FL 32399-2400; (850)921-9901; facsimile (850)488-6579; or e-mail: jeanese.mccree@dep.state.fl.us

DEPARTMENT OF ENVIRONMENTAL PROTECTION

DOCKET NO.: 02-05R

RULE CHAPTER TITLE:	RULE CHAPTER NO.:
Environmental Resource Permitting	62-330
RULE TITLES:	RULE NOS.:
Purpose and Intent	62-330.100
Rules Adopted by Reference	62-330.200

PURPOSE, EFFECT AND SUBJECT AREA TO BE ADDRESSED: The proposed rule will amend one or more sections of Chapter 62-330 of the Florida Administrative Code to implement a new environmental resource permit (ERP) program under Part IV of Chapter 373 of the Florida Statutes within the geographic limits of the Northwest Florida Water Management District. This rulemaking is needed because the ERP program, which currently in the panhandle is limited to the dredge and fill and stormwater permit programs under Chapters 62-25 and 62-312 of the Florida Administrative Code, will expire July 1, 2003. Therefore, new ERP rules need to be in place on that date.

The proposed rules will be based on existing ERP rules that are currently in effect in the other water management districts. This rulemaking may also include the adoption of an associated “Applicant’s Handbook/Basis of Review” similar to what exists in the other water management districts and may adopt by reference some of the rules of the Northwest Florida Water Management District.

The full text of this notice is published on the Internet at the Department of Environmental Protection’s home page at <http://www.dep.state.fl.us/> under the link or button titled “Official Notices.”

CONTACT: Jeanese McCree, Florida Department of Environmental Protection, Bureau of Submerged Lands and Environmental Resources, 2600 Blair Stone Road, MS 2500, Tallahassee, FL 32399-2400; (850)921-9901; facsimile (850)488-6579; or e-mail: jeanese.mccree@dep.state.fl.us

DEPARTMENT OF ENVIRONMENTAL PROTECTION

DOCKET NO.: 02-06R

RULE CHAPTER TITLE:	RULE CHAPTER NO.:
Environmental Resource Permitting	62-341
RULE TITLES:	RULE NOS.:
Definitions	62-341.021
Policy and Purpose	62-341.201
General Conditions for All Noticed	
General Permits	62-341.215
General Permit for Construction, Alteration or Maintenance of Boat Ramps and Associated Accessory Docks	62-341.417
General Permit for Certain Piers and Associated Structures	62-341.427
General Permit for Installation of Riprap	62-341.431
General Permit for the Installation of Fences	62-341.437
General Permit for the Construction or Maintenance of Culverted Driveway or Roadway Crossings, and Bridges of Artificial Waterways	62-341.439
General Permit to the Florida Department of Transportation, Counties and Municipalities for Minor Bridge Alteration, Replacement, Maintenance and Operation	62-341.443
General Permit to the Florida Department of Transportation, Counties, and Municipalities for Minor Activities Within Existing Rights-of-Way or Easements	62-341.447
General Permit for Installation, Maintenance, Repair, and Removal of Underground Cable, Conduit, or Pipeline	62-341.453
General Permit for the Construction of Aerial Pipeline, Cable, and Conduit Crossings of Certain Waters	62-341.455
General Permit for Subaqueous Utility Crossings of Artificial Waterways	62-341.457
General Permit for the Construction and Operation of Culverts and Associated Water Control Structures in Mosquito Control Impoundments by Governmental Mosquito Control Agencies	62-341.463
General Permit for Breaching Mosquito Control Impoundments by Governmental Mosquito Control Agencies	62-341.467
General Permit for Minor Activities	62-341.475
General Permit to Water Management Districts to Conduct Minor Activities	62-341.483
General Permit to Water Management Districts for Environmental Restoration or Enhancement	62-341.485

General Permit to Water Management Districts to Change Operating Schedules for District Water Control Structures	62-341.487
General Permit to the U.S. Forest Service for Minor Works within National Forests	62-341.495
General Permit for the Construction of Artificial Reefs	62-341.600
General Permit for Clam and Oyster Culture on Sovereignty Submerged Lands Aquaculture Leases	62-341.601
General Permit for Installation and Maintenance of Intake and Discharge Pipes Associated with Marine Bivalve Facilities	62-341.602
General Permit for Non-nursery Cultivation and Wild Collection of Aquatic Plants	62-341.603
General Permit to Perform Prospecting Activities for Phosphate Minerals	62-341.610
General Permit for Temporary Dragline Crossings of Waterways	62-341.611
General Permit for Low Water Crossings	62-341.612
General Permit for the Construction and Maintenance of Electric Power Lines by Electric Utilities	62-341.620
General Permit for Relocation of Aerial Electric and Communication Lines Associated with Road Improvement Projects	62-341.621

PURPOSE, EFFECT AND SUBJECT AREA TO BE ADDRESSED: The proposed rule will amend one or more sections of Chapter 62-341 of the Florida Administrative Code to implement a new environmental resource permit (ERP) program under Part IV of Chapter 373 of the Florida Statutes within the geographic limits of the Northwest Florida Water Management District (hereinafter referred to as “the Panhandle”). This rulemaking is needed because, under section 373.4145, the ERP program under part IV of chapter 373 within the Panhandle is limited to the dredge and fill and stormwater permit programs under Chapters 62-25 and 62-312 of the Florida Administrative Code until July 1, 2003. Therefore, a need exists to have in place the new ERP rules to replace the existing dredge and fill and stormwater rules on July 1, 2003.

It is envisioned that most or all of the ERP noticed general permits currently in effect in the other water management districts will be adopted for use under the ERP program in the Panhandle. It is possible one or more new noticed general permits will be adopted for use and that one or more of the existing noticed general permits in Chapter 62-341 will need to be amended to reflect conditions or activities that are unique to the Panhandle.

The full text of this notice is published on the Internet at the Department of Environmental Protection’s home page at <http://www.dep.state.fl.us/> under the link or button titled “Official Notices.”

CONTACT: Jeanese McCree, Florida Department of Environmental Protection, Bureau of Submerged Lands and Environmental Resources, 2600 Blair Stone Road, MS 2500, Tallahassee, FL 32399-2400; (850)921-9901; facsimile (850)488-6579; or e-mail: jeanese.mccree@dep.state.fl.us

DEPARTMENT OF ENVIRONMENTAL PROTECTION

DOCKET NO.: 02-07R	
RULE CHAPTER TITLE:	RULE CHAPTER NO.:
Environmental Resource Permitting	62-343
RULE TITLES:	RULE NOS.:
Policy and Purpose	62-343.010
General Provisions	62-343.020
Transferability of Definitions	62-343.030
Formal Determinations of the Landward Extent of Wetlands and Surface Waters	62-343.040
Permits Required	62-343.050
Conceptual Approval Permits	62-343.060
Procedures to Obtain a Permit	62-343.070
Additional Requirements and Procedures for Concurrent Review of Related Applications	62-343.075
Applications Processed by District and Division Offices of the Department	62-343.080
Processing of Notices and Applications	62-343.090
Modification of Permits	62-343.100
Duration of Permits	62-343.110
Permit Extensions	62-343.120
Transfer of Ownership or Permit	62-343.130
Suspension and Revocation	62-343.140

PART II FORMS

Environmental Resource Permit Forms 62-343.900
PURPOSE, EFFECT AND SUBJECT AREA TO BE ADDRESSED: The proposed rule will amend or repeal one or more sections of Chapter 62-343 of the Florida Administrative Code to implement a new environmental resource permit (ERP) program under Part IV of Chapter 373 of the Florida Statutes within the geographic limits of the Northwest Florida Water Management District. This rulemaking is needed because the ERP program, which currently in the panhandle is limited to the dredge and fill and stormwater permit programs under Chapters 62-25 and 62-312 of the Florida Administrative Code, will expire July 1, 2003. Therefore, new ERP rules to be in place on that date.

This rulemaking will be based on the existing ERP rule procedures currently in place in the other water management districts, and may also include the adoption of an associated “Applicant’s Handbook/Basis of Review” similar to what exists in the other water management districts. These rules will be amended as needed to reflect conditions and activities unique to the panhandle.

The full text of this notice is published on the Internet at the Department of Environmental Protection's home page at <http://www.dep.state.fl.us/> under the link or button titled "Official Notices."

CONTACT: Jeanese McCree, Florida Department of Environmental Protection, Bureau of Submerged Lands and Environmental Resources, 2600 Blair Stone Road, MS 2500, Tallahassee, FL 32399-2400; (850)921-9901; facsimile (850)488-6579; or e-mail: jeanese.mccree@dep.state.fl.us

DEPARTMENT OF HEALTH

Board of Dentistry

RULE TITLE: Advertising and Soliciting by Dentists

RULE NO.: 64B5-4.002

PURPOSE AND EFFECT: The purpose of the rule amendment is to update the rule text in subsection (3).

SUBJECT AREA TO BE ADDRESSED: Advertising and soliciting by dentists.

SPECIFIC AUTHORITY: 466.004(4), 466.019 FS.

LAW IMPLEMENTED: 466.019, 466.028(1)(d) FS.

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

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

THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS:

- 64B5-4.002 Advertising and Soliciting by Dentists.
- (1) through (2) No change.
- (3) No dentist shall disseminate or cause the dissemination of any advertisement or advertising which is in any way fraudulent, false, deceptive, or misleading in form or content. Additionally, no dentist shall disseminate or cause the dissemination of any advertisement or advertising which:
 - (a) through (f) No change.
 - (g) Is intended or is likely to appeal primarily to a layperson's fears.
 - (4) through (6) No change.

Specific Authority 466.004(4), 466.019 FS. Law Implemented 466.019, 466.028(1)(d) FS. History--New 7-7-87, Amended 1-11-89, 10-29-90, 4-24-91, 7-14-92, Formerly 21G-4.002, Amended 3-30-94, Formerly 61F5-4.002, 59Q-4.002, Amended 5-20-01,_____.

DEPARTMENT OF HEALTH

Board of Dentistry

RULE TITLES:	RULE NOS.:
Definitions	64B5-14.001
Prohibitions	64B5-14.002
Training, Education, Certification, and Requirements for Issuance of Permit	64B5-14.003
Additional Requirements	64B5-14.004
Application for Permit	64B5-14.005
Reporting Adverse Occurrences	64B5-14.006
Inspection of Facilities	64B5-14.007
Conscious Sedation	64B5-14.009

PURPOSE AND EFFECT: The purpose of the rule amendments is to include enteral forms of sedation within the requirements imposed by these rules.

SUBJECT AREA TO BE ADDRESSED: Definitions, prohibitions, training, education, certification, and requirements for issuance of permits, additional requirements, application for permit, reporting adverse occurrences, inspection of facilities and conscious sedation.

SPECIFIC AUTHORITY: 466.004, 466.017 FS.

LAW IMPLEMENTED: 120.60(8), 466.017 FS.

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

TIME AND DATE: 9:00 a.m., or shortly thereafter on May 3, 2002

PLACE: The Crowne Plaza, 5555 Hazeltine National Drive, Orlando Florida

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

THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS:

- 64B5-14.001 Definitions.
- (1) Anesthesia – No change.
- (2) General anesthesia – A controlled state of unconsciousness, produced by a pharmacologic agent, accompanied by a partial or complete loss of protective reflexes, including inability to independently maintain an airway and respond purposefully to physical stimulation or verbal command. This modality includes administration of medications via parenteral routes; that is: intravenous, intramuscular, subcutaneous, submucosal, or inhalation, as well as enteral routes, that is oral, rectal, or transmucosal.

(3) Deep Sedation – A controlled state of depressed consciousness accompanied by partial loss of protective reflexes, including either or both the inability to continually maintain an airway independently or to respond appropriately to physical stimulation or verbal command, produced by pharmacologic or non-pharmacologic method or combination thereof. Deep sedation includes administration of medications via parenteral routes; that is intravenous, intra muscular, subcutaneous, submucosal, or inhalation, as well as enteral routes, that is oral, rectal or transmucosal.

(4) ~~Conscious Parenteral conscious~~ sedation – A depressed level of consciousness produced by the ~~parenteral~~ administration of pharmacologic substances, that retains the patient's ability to independently and continuously maintain an airway and respond appropriately to physical stimulation and ~~or~~ verbal command. This modality includes administration of medications via all parenteral routes: that is, intravenous, intramuscular, subcutaneous, submucosal, or inhalation, as well as enteral routes; that is oral, rectal, or transmucosal. The drugs, and techniques used should carry a margin of safety wide enough to render unintended loss of consciousness unlikely.

(5) through (8) No change.

(9) Office team approach – A methodology employed by a dentist in the administration of general anesthesia, deep sedation, ~~parenteral~~ conscious sedation, and pediatric sedation whereby the dentist uses one or more qualified assistants/dental hygienists who, working under the direct supervision of the dentist, assist the dentist, and assist in emergency care of the patient.

(10) Anxiolysis – The preoperative use of medication to relieve anxiety before or during a dental procedure which does not produce a depressed level of consciousness and maintains the patient's ability to continually maintain an airway independently or to respond appropriately to physical stimulation and verbal command. The requirements contained in these rules are not applicable to the use of medication for the purpose of providing anxiolysis but not intended to induce sedation.

Specific Authority 466.004(4), 466.017(3) FS. Law Implemented 466.017(3) FS. History–New 1-31-80, Amended 4-7-86, Formerly 21G-14.01, Amended 12-31-86, 6-1-87, 9-1-87, 2-1-93, Formerly 21G-14.001, Amended 12-20-93, Formerly 61F5-14.001, Amended 8-8-96, Formerly 59Q-14.001, Amended.

64B5-14.002 Prohibitions.

(1) No change.

(2) ~~Conscious Parenteral conscious~~ sedation. Beginning November 1, 1986, no dentists licensed in this State, including those authorized to administer ~~parenteral~~ conscious sedation subsequent to January 31, 1982, shall administer ~~parenteral~~ conscious sedation in the practice of dentistry until they have obtained a permit as required by the provisions of this rule chapter.

(3) through (6) No change.

Specific Authority 466.004(4), 466.017(3) FS. Law Implemented 466.017(3) FS. History–New 1-31-80, Amended 4-20-81, 2-13-86, Formerly 21G-14.02, 21G-14.002, Amended 12-20-93, Formerly 61F5-14.002, Amended 8-8-96, Formerly 59Q-14.002, Amended.

64B5-14.003 Training, Education, Certification, and Requirements for Issuance of Permits.

(1) General Anesthesia Permit.

(a) A permit shall be issued to an actively licensed dentist authorizing the use of general anesthesia or deep sedation at a specified practice location or locations on an outpatient basis for dental patients provided the dentist:

1. through 5. No change.

(b) through (c) No change.

(d) A dentist permitted to administer general anesthesia or deep sedation under this rule may administer ~~parenteral~~ conscious sedation and nitrous-oxide inhalation conscious sedation.

(e) No change.

(2) ~~Parenteral~~ Conscious Sedation Permit.

(a) A permit shall be issued to a dentist authorizing the use of ~~parenteral~~ conscious sedation at a specified practice location or locations on an outpatient basis for dental patients provided such dentist:

1. Has received formal training in the use of ~~parenteral~~ conscious sedation; and

2. Is certified by the institution where the training was received to be competent in the administration of ~~parenteral~~ conscious sedation; and

3. Is competent to handle all emergencies relating to ~~parenteral~~ conscious sedation.

(b) through (c) No change.

(d) A dentist utilizing ~~parenteral~~ conscious sedation shall maintain a properly equipped facility for the administration of ~~parenteral~~ conscious sedation, staffed with supervised assistant/dental hygienist personnel, capable of reasonably handling procedures, problems, and emergencies incident thereto. The facility must have the equipment capability of delivering positive pressure oxygen ventilation. Administration of ~~parenteral~~ conscious sedation requires at least two individuals: a dentist, and an auxiliary trained in basic cardiac life support. It shall be incumbent upon the operating dentist to insure that the patient is appropriately monitored.

(e) A dentist utilizing ~~parenteral~~ conscious sedation and his assistant/dental hygienist personnel shall be certified in an American Heart Association or American Red Cross or equivalent agency sponsored cardiopulmonary resuscitation course at the basic life support level to include one man CPR, two man CPR, infant resuscitation, and obstructed airway with a periodic update not to exceed two years. Starting with the licensure biennium commencing on March of 2000, a dentist and all assistant/dental hygienist personnel shall also be trained in the use of either an Automated External Defibrillator or a defibrillator and electrocardiograph as part of their

cardiopulmonary resuscitation course at the basic life support level. In addition to CPR certification, a dentist utilizing ~~parenteral~~ conscious sedation must be currently trained in ACLS (Advanced Cardiac Life Support) or ATLS (Advanced Trauma Life Support).

(f) Dentists permitted to administer ~~parenteral~~ conscious sedation may administer nitrous-oxide inhalation conscious sedation.

(g) Dentists permitted to administer ~~parenteral~~ conscious sedation may administer pediatric conscious sedation in compliance with Rule 64B5-14.010, F.A.C.

(3) Pediatric Conscious Sedation Permit.

(a) A permit shall be issued to a dentist authorizing the use of pediatric conscious sedation at a specified practice location or locations on an outpatient basis for dental patients provided such dentist:

1. through 3. No change.

(b) through (c) No change.

(d) Dentists permitted to administer ~~parenteral~~ conscious sedation may administer pediatric conscious sedation.

(4) Nitrous-Oxide Inhalation Analgesia.

(a) A dentist may employ or use nitrous-oxide inhalation analgesia on an outpatient basis for dental patients provided such dentist:

1. through 3. No change.

(b) through (c) No change.

(d) Nitrous oxide may not be used in combination with oral sedative drugs to achieve a depressed level of consciousness unless the administering dentist holds a ~~parenteral~~ conscious sedation permit issued in accordance with subsection 64B5-14.003(2), F.A.C., or a pediatric conscious sedation permit issued in accordance with subsection 64B5-14.010, F.A.C.

Specific Authority 466.004(4), 466.017(3) FS. Law Implemented 466.017(3) FS. History—New 1-31-80, Amended 4-20-81, 2-13-86, Formerly 21G-14.03, Amended 12-31-86, 11-8-90, 2-1-93, Formerly 21G-14.003, Amended 12-20-93, Formerly 61F5-14.003, Amended 8-8-96, 10-1-96, Formerly 59Q-14.003, Amended 2-17-98, 12-20-98, 5-31-00, 6-7-01, _____.

64B5-14.004 Additional Requirements.

(1) Office Team – A dentist licensed by the Board and practicing dentistry in Florida and who is permitted by these rules to induce and administer general anesthesia, deep sedation, ~~parenteral~~ conscious sedation, pediatric conscious sedation or nitrous-oxide inhalation analgesia may employ the office team approach.

(2) Dental Assistants, Dental Hygienists – Dental assistants and dental hygienists may monitor nitrous-oxide inhalation analgesia under the direct supervision of a dentist who is permitted by rule to use general anesthesia, ~~parenteral~~ conscious sedation, pediatric conscious sedation, or nitrous-oxide inhalation analgesia, while rendering dental services allowed by Chapter 466, Florida Statutes, and under the following conditions:

(a) through (b) No change.

(3) through (4) No change.

(5) A dentist utilizing ~~parenteral~~ conscious sedation in the dental office may induce only one patient at a time. A second patient shall not be induced until the first patient is awake, alert, conscious, spontaneously breathing, has stable vital signs, is ambulatory with assistance, is under the care of a responsible adult, and that portion of the procedure requiring the participation of the dentist is complete. In an office setting where two or more permit holders are present simultaneously, each may sedate one patient provided that the office has the necessary staff and equipment, as set forth in paragraph 64B5-14.003(2)(d), F.A.C., for each sedated patient.

Specific Authority 466.004(4), 466.017(3) FS. Law Implemented 466.017(3) FS. History—New 1-31-80, Amended 2-13-86, Formerly 21G-14.04, Amended 12-31-86, 12-28-92, Formerly 21G-14.004, Amended 12-20-93, Formerly 61F5-14.004, Amended 8-8-96, Formerly 59Q-14.004, Amended _____.

64B5-14.005 Application for Permit.

(1) No dentist shall administer, supervise or permit another health care practitioner, as defined in subsection 456.001, F.S., to perform the administration of general anesthesia, deep sedation, ~~parenteral~~ conscious sedation or pediatric conscious sedation in a dental office for dental patients, unless such dentist possesses a permit issued by the Board. A permit is required even when another health care practitioner, as defined in subsection 456.001, F.S., administers general anesthesia, deep sedation, ~~parenteral~~ conscious sedation, or pediatric conscious sedation in a dental office for a dental patient. The dentist holding such a permit shall be subject to review and such permit must be renewed biennially. Nothing herein shall be read to authorize the administration of any anesthesia by a health care practitioner who is permitted to administer anesthesia pursuant to their own professional license. All dentists in a practice who perform the administration of general anesthesia, deep sedation, ~~parenteral~~ conscious sedation or pediatric conscious sedation shall each possess an individual permit.

(2) through (3) No change.

(4) An application for a ~~parenteral~~ conscious sedation permit must include the application fee specified in Rule 64B5-15.017, F.A.C, which is non-refundable; the permit fee specified in Rule 64B5-15.018, F.A.C., which may be refunded if the application is denied without inspection of the applicant's facilities; evidence indicating compliance with all the provisions of this chapter; and identification of the location or locations at which the licensee desires to be authorized to use or employ ~~parenteral~~ conscious sedation.

(5) through (6) No change.

(7) The holder of any general anesthesia, ~~parenteral~~ conscious sedation, or pediatric conscious sedation permit is authorized to practice pursuant to such permit only at the location or locations previously reported to the Board office.

Specific Authority 466.004, 466.017 FS. Law Implemented 466.017 FS. History—New 4-7-86, Amended 1-29-89, 11-16-89, 11-8-90, 4-24-91, Formerly 21G-14.005, Amended 12-20-93, Formerly 61F5-14.005, Amended 8-8-96, Formerly 59Q-14.005, Amended 12-12-00, _____.

64B5-14.006 Reporting Adverse Occurrences.

(1) Any dentist practicing in the State of Florida must notify the Board in writing by registered mail, postmarked within 48 hours of any mortality or other incident occurring in the dentist’s outpatient facilities. A complete written report shall be filed with the Board within 30 days of the mortality or other incident. Incidents which shall be reported are those which result in temporary or permanent physical or mental injury requiring hospital emergency room treatment and/or hospitalization of a patient during, or as a direct result of the use of general anesthesia, deep sedation, ~~parenteral~~ conscious sedation, pediatric conscious sedation, oral sedation, nitrous oxide, or local anesthesia during or related to a dental procedure. The report shall include at minimum, responses to the following:

- (a) through (e) No change.
 - 1. through 3. No change.
- (f) No change.
- (2) No change.

Specific Authority 466.004(4), 466.017(3) FS. Law Implemented 466.017(3) FS. History—New 2-12-86, Amended 3-27-90, Formerly 21G-14.006, Amended 12-20-93, Formerly 61F5-14.006, Amended 8-8-96, Formerly 59Q-14.006, Amended _____.

64B5-14.007 Inspection of Facilities.

(1) The Chairman of the Board or the Board by majority vote shall appoint consultants who are Florida licensed dentists to inspect facilities where general anesthesia, deep sedation, ~~parenteral~~ conscious sedation, or pediatric conscious sedation is performed. Consultants shall receive instruction in inspection procedures from the Board prior to initiating an inspection.

(2) Any dentist who has applied for or received a general anesthesia permit, ~~parenteral~~ conscious sedation permit, or pediatric conscious sedation permit shall be subject to announced or unannounced on-site inspection and evaluation by an inspection consultant. This inspection and evaluation shall be required prior to issuance of an anesthesia permit. However, if the Agency cannot complete the required inspection prior to licensure, such inspection shall be waived until such time that it can be completed following licensure.

- (3) No change.
- (4) Any applicant who receives a failing grade as a result of the on-site inspection shall be denied a permit for general anesthesia and ~~parenteral~~ conscious sedation.
- (5) Any permit holder who fails the inspection shall be so notified by the anesthesia inspection consultant and shall be given a written statement at the time of inspection which specifies the deficiencies which resulted in a failing grade. The inspection consultant shall give the permit holder 20 days from

the date of inspection to correct any documented deficiencies. Upon notification by the permit holder to the inspection consultant that the deficiencies have been corrected, the inspector shall reinspect to insure that the deficiencies have been corrected. If the deficiencies have been corrected, a passing grade shall be assigned. No permit holder who has received a failing grade shall be permitted 20 days to correct deficiencies unless he voluntarily agrees in writing that no general anesthesia or deep sedation or ~~parenteral~~ conscious sedation will be performed until such deficiencies have been corrected and such corrections are verified by the anesthesia inspection consultant and a passing grade has been assigned.

- (6) through (7) No change.
- (8) The holder of any general anesthesia, ~~parenteral~~ conscious sedation, or pediatric conscious sedation permit shall inform the Board office in writing of any change in authorized locations for the use of such permits prior to accomplishing such changes. Written notice shall be required prior to the addition of any location or the closure of any previously identified location.
- (9) No change.

Specific Authority 466.017(3) FS. Law Implemented 120.60(8), 466.017(3) FS. History—New 10-24-88, Amended 3-27-90, 11-8-90, 4-24-91, 2-1-93, Formerly 21G-14.007, Amended 12-20-93, Formerly 61F5-14.007, Amended 8-8-96, Formerly 59Q-14.007, Amended _____.

64B5-14.009 ~~Parenteral~~ Conscious Sedation.

~~Parenteral~~ Conscious Sedation Permit applicants or permit holders shall comply with the following requirements at each location where anesthesia procedures are performed. The requirements shall be met and equipment permanently maintained and available at each location.

- (1) through (6) No change.
- (7) The following records are required when ~~parenteral~~ conscious sedation is administered.
 - (a) through (d) No change.
 - 1. through 6. No change.

Specific Authority 466.004, 466.017 FS. Law Implemented 466.017 FS. History—New 10-24-88, Amended 11-16-89, 4-24-91, Formerly 21G-14.009, 61F5-14.009, Amended 8-8-96, 10-1-96, Formerly 59Q-14.009, Amended 8-2-00, _____.

DEPARTMENT OF HEALTH

Board of Massage Therapy

RULE TITLE: Examination Requirements RULE NO.: 64B7-25.001
 PURPOSE AND EFFECT: The Board proposes to update the existing rule text.
 SUBJECT AREA TO BE ADDRESSED: Examination requirements.
 SPECIFIC AUTHORITY: 456.013(7), 456.017(1)(c), 456.034, 480.035(7), 480.041(2), 480.042(1) FS.
 LAW IMPLEMENTED: 456.013(7), 456.017(1)(c), 456.034, 480.041, 480.042 FS.

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

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT AND A COPY OF THE PRELIMINARY DRAFT IS: Karen Eaton, Executive Director, Board of Massage Therapy, 4052 Bald Cypress Way, Bin #C06, Tallahassee, Florida 32399-3256

THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS:

64B7-25.001 Examination Requirements.

- (1) No change.
- (a) through (d) No change.

(2) The Board approves ~~the national examination developed by the Psychological Corporation working in conjunction with~~ the National Certification Board for Therapeutic Massage and Bodywork examination.

Specific Authority 456.013(7), 456.017(1)(c), 456.034, 480.035(7), 480.041(2), 480.042(1) FS. Law Implemented 456.013(7), 456.017(1)(c), 456.034, 480.041, 480.042 FS. History–New 11-27-79, Amended 9-2-80, 10-9-85, Formerly 21L-25.01, Amended 12-22-92, 3-24-93, 5-20-93, Formerly 21L-25.001, Amended 8-12-93, 6-28-94, 8-18-96, Formerly 61G11-25.001, Amended 5-20-98, _____.

DEPARTMENT OF HEALTH

Board of Massage Therapy

RULE TITLE: Definitions
RULE NO.: 64B7-26.001

PURPOSE AND EFFECT: The Board proposes to update the existing rule text.

SUBJECT AREA TO BE ADDRESSED: Definitions.

SPECIFIC AUTHORITY: 480.035(7) FS.

LAW IMPLEMENTED: 480.043(7) FS.

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

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT AND A COPY OF THE PRELIMINARY DRAFT IS: Karen Eaton, Executive Director, Board of Massage Therapy, 4052 Bald Cypress Way, Bin #C06, Tallahassee, Florida 32399-3256

THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS:

64B7-26.001 Definitions.

(1) The term “owner” means the sole proprietor, partnership, limited partnership, school of massage therapy, or corporation that operates the licensed massage establishment.

(2) The term “establishment” means the physical location of the massage ~~facility, establishment~~ whether the location is owned or leased by the “owner” or is otherwise used by the owner for the practice of massage therapy. The term includes teaching facilities which provide massages to non-students for a fee. The term “establishment” does not include the office of a physician licensed under Chapter 458, Florida Statutes or 459, Florida Statutes, a chiropractic physician licensed under Chapter 460, Florida Statutes, an acupuncturist licensed under Chapter 457, Florida Statutes, a podiatrist licensed under Chapter 461, Florida Statutes, a dentist licensed under Chapter 466, Florida Statutes, or a physical therapist licensed under Chapter 486, Florida Statutes, if massage therapy is provided by the persons licensed under Chapter 480, Florida Statutes only to patients of the licensed physician, chiropractic physician, acupuncturist, podiatrist, dentist, or physical therapist, are exempt from the requirement for a massage establishment license.

- (3) No change.

Specific Authority 480.035(7) FS. Law Implemented 480.043(7) FS. History–New 7-16-98, Amended _____.

DEPARTMENT OF HEALTH

Board of Massage Therapy

RULE TITLE: Massage Establishment
RULE NO.: 64B7-27.003

PURPOSE AND EFFECT: The Board proposes to update the existing rule text.

SUBJECT AREA TO BE ADDRESSED: Massage Establishment.

SPECIFIC AUTHORITY: 480.035(7), 480.044(1) FS.

LAW IMPLEMENTED: 480.043(7), 480.044(1)(c) FS.

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

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT AND A COPY OF THE PRELIMINARY DRAFT IS: Karen Eaton, Executive Director, Board of Massage Therapy, 4052 Bald Cypress Way, Bin #C06, Tallahassee, Florida 32399-3256

THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS:

64B7-27.003 Massage Establishment.

(1) The application fee for licensure of an establishment shall be ~~\$150.00~~ 100.00.

- (2) No change.

(3) The application and inspection fee for transfer of an establishment from one location to another shall be \$125.00 ~~100~~.

Specific Authority 480.035(7), 480.044(1) FS. Law Implemented 480.043(7), 480.044(1)(c) FS. History—New 11-27-79, Amended 7-9-80, 11-20-84, Formerly 21L-27.03, Amended 1-7-86, Formerly 21L-27.003, Amended 1-9-95, Formerly 61G11-27.003, Amended 6-15-98, _____.

DEPARTMENT OF HEALTH

Board of Massage Therapy

RULE TITLE: Re-examination
RULE NO.: 64B7-27.004
PURPOSE AND EFFECT: The Board proposes to repeal the existing rule text.

SUBJECT AREA TO BE ADDRESSED: Re-examination.
SPECIFIC AUTHORITY: 480.035(7), 480.044(1) FS.
LAW IMPLEMENTED: 480.044(1)(g) FS.

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

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT AND A COPY OF THE PRELIMINARY DRAFT IS: Karen Eaton, Executive Director, Board of Massage Therapy, 4052 Bald Cypress Way, Bin #C06, Tallahassee, Florida 32399-3256

THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS:

64B7-27.004 Re-examination.

~~The re-examination fees shall be:~~

~~(1) \$190 to retake the Board approved national examination which includes a \$25 non-refundable application fee.~~

~~(2) \$75 to retake the colonics examination which includes a \$25 non-refundable application fee.~~

Specific Authority 480.035(7), 480.044(1) FS. Law Implemented 480.044(1)(g) FS. History—New 11-27-79, Formerly 21L-27.04, Amended 6-17-86, 5-17-90, Formerly 21L-27.004, Amended 12-12-94, 9-18-95, 9-9-96, Formerly 61G11-27.004, Repealed _____.

DEPARTMENT OF HEALTH

Board of Massage Therapy

RULE TITLE: Biennial Renewal Fee for Massage Therapist
RULE NO.: 64B7-27.006
PURPOSE AND EFFECT: The Board proposes to update the existing rule text.

SUBJECT AREA TO BE ADDRESSED: Biennial Renewal Fee for Massage Therapist.
SPECIFIC AUTHORITY: 480.035(7), 480.044(1) FS.
LAW IMPLEMENTED: 480.044(1), (1)(f) FS.

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

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT AND A COPY OF THE PRELIMINARY DRAFT IS: Karen Eaton, Executive Director, Board of Massage Therapy, 4052 Bald Cypress Way, Bin #C06, Tallahassee, Florida 32399-3256

THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS:

64B7-27.006 Biennial Renewal Fee for Massage Therapist.

The fee for biennial renewal of a massage therapist’s license shall be \$150.00 ~~one hundred dollars (\$100)~~.

Specific Authority 480.035(7), 480.044(1) FS. Law Implemented 480.044(1)(f) FS. History—New 11-27-79, Amended 11-20-84, Formerly 21L-27.06, Amended 12-18-88, Formerly 21L-27.006, 61G11-27.006, Amended _____.

DEPARTMENT OF HEALTH

Board of Massage Therapy

RULE TITLE: Biennial Renewal Fee for Massage Establishments
RULE NO.: 64B7-27.007

PURPOSE AND EFFECT: The Board proposes to update the existing rule text.

SUBJECT AREA TO BE ADDRESSED: Biennial Renewal Fee for Massage Establishments.

SPECIFIC AUTHORITY: 480.035(7), 480.044(1) FS.

LAW IMPLEMENTED: 480.044(1)(e) FS.

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

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT AND A COPY OF THE PRELIMINARY DRAFT IS: Karen Eaton, Executive Director, Board of Massage Therapy, 4052 Bald Cypress Way, Bin #C06, Tallahassee, Florida 32399-3256

THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS:

64B7-27.007 Biennial Renewal Fee for Massage Establishments.

The fee for biennial renewal of a massage establishment license shall be \$150.00 ~~one hundred dollars (\$100)~~.

Specific Authority 480.035(7), 480.044(1) FS. Law Implemented 480.044(1)(e) FS. History—New 11-27-79, Amended 7-9-80, Formerly 21L-27.07, Amended 12-18-88, Formerly 21L-27.007, 61G11-27.007, Amended _____.

DEPARTMENT OF HEALTH

Board of Massage Therapy

RULE TITLE: RULE NO.:

Initial Fee for Licensure 64B7-27.008

PURPOSE AND EFFECT: The Board proposes to update the existing rule text.

SUBJECT AREA TO BE ADDRESSED: Initial Fee for Licensure.

SPECIFIC AUTHORITY: 456.013(2), 456.025(1), 480.035(7), 480.044(1) FS.

LAW IMPLEMENTED: 456.013(2), 456.025(1), 480.044(1) FS.

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

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT AND A COPY OF THE PRELIMINARY DRAFT IS: Karen Eaton, Executive Director, Board of Massage Therapy, 4052 Bald Cypress Way, Bin #C06, Tallahassee, Florida 32399-3256

THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS:

64B7-27.008 Initial Fee for Licensure.

(1) Any person who is initially licensed pursuant to Rule 64B7-25.001, F.A.C. shall pay a fee of \$150.00 ~~400~~.

(2) No change.

Specific Authority 456.013(2), 456.025(1), 480.035(7), 480.044(1) FS. Law Implemented 456.013(2), 456.025(1), 480.044(1) FS. History—New 5-13-82, Amended 11-11-82, 1-7-86, Formerly 21L-27.08, Amended 12-18-88, Formerly 21L-27.008, Amended 1-29-97, Formerly 61G11-27.008, Amended _____.

DEPARTMENT OF HEALTH

Board of Massage Therapy

RULE TITLE: RULE NO.:

Renewal Fee for Inactive License 64B7-27.010

PURPOSE AND EFFECT: The Board proposes to update the existing rule text.

SUBJECT AREA TO BE ADDRESSED: Renewal Fee for Inactive License.

SPECIFIC AUTHORITY: 480.0425, 480.044(1) FS.

LAW IMPLEMENTED: 480.044(1), (1)(l) FS.

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

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT AND A COPY OF THE PRELIMINARY DRAFT IS: Karen Eaton, Executive Director, Board of Massage Therapy, 4052 Bald Cypress Way, Bin #C06, Tallahassee, Florida 32399-3256

THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS:

64B7-27.010 Renewal Fee for Inactive License.

The fee for renewal of an inactive license shall be \$150.00 ~~fifty dollars (\$50.00)~~.

Specific Authority 480.0425, 480.044(1) FS. Law Implemented 480.044(1), (1)(l) FS. History—New 12-18-84, Formerly 21L-27.10, 21L-27.010, 61G11-27.010, Amended _____.

DEPARTMENT OF HEALTH

Board of Massage Therapy

RULE TITLE: RULE NO.:

Licensure of Establishment Fee 64B7-27.012

PURPOSE AND EFFECT: The Board proposes to update the existing rule text.

SUBJECT AREA TO BE ADDRESSED: Licensure of Establishment Fee.

SPECIFIC AUTHORITY: 456.013(2), 480.035(7), 480.044(1) FS.

LAW IMPLEMENTED: 456.013(2), 480.044(1)(d) FS.

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

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT AND A COPY OF THE PRELIMINARY DRAFT IS: Karen Eaton, Executive Director, Board of Massage Therapy, 4052 Bald Cypress Way, Bin #C06, Tallahassee, Florida 32399-3256

THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS:

64B7-27.012 Licensure of Establishment Fee.

The fee for licensure of an establishment shall be \$150.00 ~~50.00~~.

Specific Authority 456.013(2), 480.035(7), 480.044(1) FS. Law Implemented 456.013(2), 480.044(1)(d) FS. History—New 2-6-85, Formerly 21L-27.12, 21L-27.012, 61G11-27.012, Amended 8-16-98, _____.

DEPARTMENT OF HEALTH

Board of Massage Therapy

RULE TITLE: RULE NO.:

Delinquency Fee 64B7-27.015

PURPOSE AND EFFECT: The Board proposes to update the existing rule text.

SUBJECT AREA TO BE ADDRESSED: Delinquency Fee.

SPECIFIC AUTHORITY: 456.036(7) FS.
 LAW IMPLEMENTED: 456.036(7) FS.
 IF REQUESTED IN WRITING AND NOT DEEMED UNNECESSARY BY THE AGENCY HEAD, A RULE DEVELOPMENT WORKSHOP WILL BE NOTICED IN THE NEXT AVAILABLE FLORIDA ADMINISTRATIVE WEEKLY.

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT AND A COPY OF THE PRELIMINARY DRAFT IS: Karen Eaton, Executive Director, Board of Massage Therapy, 4052 Bald Cypress Way, Bin #C06, Tallahassee, Florida 32399-3256

THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS:

64B7-27.015 Delinquency Fee.

The delinquency fee shall be \$150.00 ~~one hundred dollars (\$100)~~.

Specific Authority 456.036(7) FS. Law Implemented 456.036(7) FS. History—New 12-12-94, Formerly 61G11-27.015, Amended.

DEPARTMENT OF HEALTH
Board of Massage Therapy

RULE TITLE: Change in Status Fee
 RULE NO.: 64B7-27.016
 PURPOSE AND EFFECT: The Board proposes to update the existing rule text.

SUBJECT AREA TO BE ADDRESSED: Change in Status Fee.

SPECIFIC AUTHORITY: 456.036(8) FS.
 LAW IMPLEMENTED: 456.036(8) FS.

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

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT AND A COPY OF THE PRELIMINARY DRAFT IS: Karen Eaton, Executive Director, Board of Massage Therapy, 4052 Bald Cypress Way, Bin #C06, Tallahassee, Florida 32399-3256

THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS:

64B7-27.016 Change in Status Fee.

The change in status fee shall be \$50.00 ~~five dollars (\$5.00)~~.

Specific Authority 456.036(8) FS. Law Implemented 456.036(8) FS. History—New 12-12-94, Formerly 61G11-27.016, Amended.

DEPARTMENT OF HEALTH

Board of Massage Therapy

RULE TITLE: Unlicensed Activity Fee
 RULE NO.: 64B7-27.017

PURPOSE AND EFFECT: The Board proposes to add a rule with regards to unlicensed activity fee.

SUBJECT AREA TO BE ADDRESSED: Unlicensed Activity Fee.

SPECIFIC AUTHORITY: 456.065(3) FS.
 LAW IMPLEMENTED: 456.065(3) FS.

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

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT AND A COPY OF THE PRELIMINARY DRAFT IS: Karen Eaton, Executive Director, Board of Massage Therapy, 4052 Bald Cypress Way, Bin #C06, Tallahassee, Florida 32399-3256

THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS:

64B7-27.017 Unlicensed Activity Fee.

In addition to the initial license fee and in addition to the license renewal fee, a fee of \$5.00 shall be collected from each applicant or licensee as applicable to fund efforts to combat unlicensed activity.

Specific Authority 456.065(3) FS. Law Implemented 456.065(3) FS. History—New

DEPARTMENT OF HEALTH

Board of Massage Therapy

RULE TITLE: Biennial Renewal of Massage Therapist’s License
 RULE NO.: 64B7-28.001

PURPOSE AND EFFECT: The Board proposes to update the existing rule text.

SUBJECT AREA TO BE ADDRESSED: Biennial Renewal of Massage Therapist’s License.

SPECIFIC AUTHORITY: 456.013(7), 456.034, 480.035(7), 480.0415, 480.044 FS.

LAW IMPLEMENTED: 456.013(7), 456.034, 480.0415, 480.044(1)(f), (m) FS.

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

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT AND A COPY OF THE PRELIMINARY DRAFT IS: Karen Eaton, Executive Director, Board of Massage Therapy, 4052 Bald Cypress Way, Bin #C06, Tallahassee, Florida 32399-3256

THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS:

64B7-28.001 Biennial Renewal of Massage Therapist’s License.

(1) All license renewals of massage therapists shall met the requirements as set forth in Chapter 456 and 480, F.S., these rules and the rules of the Department of Health. All massage therapists shall renew their licenses on or before August 31 ~~January 31~~, of each biennial year, according to the fee schedule as set forth in Rule Chapter 64B7-27.006, F.A.C.

(2) No change.

(3) No license shall be renewed unless the licensee submits confirmation in writing to the Florida Board of Massage Therapy that the licensee has completed an education course of at least 2 hours relating to prevention of medical errors as part of the licensure and renewal process. The course must include a study of root-cause analysis, error reduction and prevention, and patient safety. The 2-hour course shall count toward the total number of continuing education hours required for renewal.

Specific Authority 456.013(7), 456.034, 480.035(7), 480.0415, 480.044 FS. Law Implemented 456.013(7), 456.034, 480.0415, 480.044(1)(f), (m) FS. History–New 11-27-79, Amended 12-18-84, Formerly 21L-28.01, Amended 3-12-90, 1-3-91, Formerly 21L-28.001, Amended 9-30-93, 6-12-95, 9-25-95, 7-17-97, Formerly 61G11-28.001, Amended 4-28-99, _____.

DEPARTMENT OF HEALTH

Board of Massage Therapy

RULE TITLE: Biennial Period, Year Defined

RULE NO.: 64B7-28.003

PURPOSE AND EFFECT: The Board proposes to update the existing rule text.

SUBJECT AREA TO BE ADDRESSED: Biennial Period, Year Defined.

SPECIFIC AUTHORITY: 480.035(7), 480.0415, 480.043(8) FS.

LAW IMPLEMENTED: 480.0415, 480.043(8) FS.

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

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT AND A COPY OF THE PRELIMINARY DRAFT IS: Karen Eaton, Executive Director, Board of Massage Therapy, 4052 Bald Cypress Way, Bin #C06, Tallahassee, Florida 32399-3256

THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS:

64B7-28.003 Biennial Period, Year Defined.

Biennial period shall mean September 1 ~~February 1~~ of each odd-numbered year and ending August 31 ~~January 31~~ of each odd-numbered year. Biennial year shall mean every odd-numbered year.

Specific Authority 480.035(7), 480.0415, 480.043(8) FS. Law Implemented 480.0415, 480.043(8) FS. History–New 11-27-79, Formerly 21L-28.03, Amended 1-7-86, 1-3-91, Formerly 21L-28.003, 61G11-28.003, Amended _____.

DEPARTMENT OF HEALTH

Board of Massage Therapy

RULE TITLE: Display of Licenses

RULE NO.: 64B7-28.008

PURPOSE AND EFFECT: The Board proposes to update the existing rule text.

SUBJECT AREA TO BE ADDRESSED: Display of Licenses.

SPECIFIC AUTHORITY: 480.035(7), 480.043(1), (2) FS.

LAW IMPLEMENTED: 480.043(1), (2) FS.

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

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT AND A COPY OF THE PRELIMINARY DRAFT IS: Karen Eaton, Executive Director, Board of Massage Therapy, 4052 Bald Cypress Way, Bin # C06, Tallahassee, Florida 32399-3256

THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS:

64B7-28.008 Display of Licenses.

(1) Each licensed practitioner shall conspicuously display his or her ~~a~~ current license issued by the Department, or photo copy thereof, at each location at which he or she practices.

(2) No change.

(3) The owner of each massage establishment shall conspicuously display a current establishment license and a current massage therapist license issued by the Department for each massage therapist providing massage therapy on the premises. For the purpose of complying with this rule, a photocopy of the massage therapist’s license is acceptable.

(4) For the purpose of this rule conspicuously means displayed in a location within the massage establishment in such a manner that it can be open to the view of the public and is accessible to the public so that the public may view the licenses.

Specific Authority 480.035(7), 480.043(1),(2) FS. Law Implemented 480.043(1),(2) FS. History–New 4-21-86, Formerly 21L-28.008, 61G11-28.008, Amended 1-26-00,_____.

DEPARTMENT OF HEALTH

Board of Massage Therapy

RULE TITLE: Continuing Education RULE NO.: 64B7-28.009

PURPOSE AND EFFECT: The Board proposes to update the existing rule text.

SUBJECT AREA TO BE ADDRESSED: Continuing Education.

SPECIFIC AUTHORITY: 456.013(7),(8), 480.035(7), 480.0415 FS.

LAW IMPLEMENTED: 456.013(7),(8), 480.0415 FS.

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

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT AND A COPY OF THE PRELIMINARY DRAFT IS: Karen Eaton, Executive Director, Board of Massage Therapy, 4052 Bald Cypress Way, Bin #C06, Tallahassee, Florida 32399-3256

THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS:

64B7-28.009 Continuing Education.

(1) Every massage practitioner licensed pursuant to Chapter 480, F.S., shall be required for renewal to complete one continuing education hour for each month or part of a month that shall have elapsed since the issuance of the license for which renewal is sought ~~20 contact hours of continuing education each biennium, except, when the initial license is issued in the last six months of any biennium, the licensee is required for renewal to complete 6 hours of continuing education in any approved category.~~ Such courses shall have been approved for continuing education credit administered by providers approved by the Board pursuant to Rule 64B7-28.010, F.A.C., and shall have been completed within the 24 months preceding the date renewal is due.

(2) No change.

(3) Effective for biennium beginning September 1, 2003, ~~February 1, 1999~~ the continuing education contact hours shall be in the following areas:

(a) At least 12 continuing education contact hours shall be relevant to and focus on massage therapy techniques, which may include history of massage therapy, human anatomy, physiology, kinesiology, and/or pathology.

(b) Two hours must cover instruction in professional ethics, two hours must in a course relating to the prevention of medical errors, and two hours must cover instruction in Chapter 480 and 456, ~~Part II~~, Florida Statutes, and Rule Chapter 64B7, F.A.C.

(c) No change.

(4) No change.

(5) At the end of each biennium, the Board will audit a number of randomly selected licensees to assure that the continuing education requirements have been met. Within 21 days of a request from the Board or Department, the licensee must provide written documentation that the continuing education requirements have been met, ~~evidence of completion of the continuing education requirements by submission of certificates which meet the requirements of Rule 64B7-28.010(1)(b)3., F.A.C. verifying the licensee's attendance at programs given by providers who had a valid provider number at the time of attendance.~~

Specific Authority 456.013(7),(8), 480.035(7), 480.0415 FS. Law Implemented 456.013(7),(8), 480.0415 FS. History–New 4-21-86, Amended 2-25-88, 8-29-88, 1-30-90, 10-2-90, Formerly 21L-28.009, Amended 8-16-94, 6-5-95, 2-12-97, Formerly 61G11-28.009, Amended 8-16-98, 3-15-99, 9-20-99,_____.

DEPARTMENT OF HEALTH

Board of Massage Therapy

RULE TITLE: Apprenticeship Training Program RULE NO.: 64B7-29.003

PURPOSE AND EFFECT: The Board proposes to update the existing rule text.

SUBJECT AREA TO BE ADDRESSED: Apprenticeship Training Program.

SPECIFIC AUTHORITY: 480.035(7), 480.041(5)(a) FS.

LAW IMPLEMENTED: 480.041(1)(b),(4),(5)(a) FS.

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

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT AND A COPY OF THE PRELIMINARY DRAFT IS: Karen Eaton, Executive Director, Board of Massage Therapy, 4052 Bald Cypress Way, Bin #C06, Tallahassee, Florida 32399-3256

THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS:

64B7-29.003 Apprenticeship Training Program.

(1) through (4) No change.

(5) The sponsoring massage therapist shall submit to the Department, quarterly, on a form furnished by the Department, the number of hours of each subject listed above taught to his apprentice. A copy of the Massage Apprenticeship Quarterly Report Hours of Training Completed Form prepared and

furnished by the Department of Health can be obtained by writing to: Department of Health, Board of Massage, 4052 Bald Cypress Way, 2020 SE Capital Circle, BIN C06, Tallahassee, FL 32399-3256. If quarterly reports are not submitted to the Department as required herein, the Board will review the apprenticeship and the apprenticeship is subject to termination.

(6) No change.

Specific Authority 480.035(7), ~~480.041(1)(b),(4), 480.041(5)(a)~~ FS. Law Implemented 480.041(1)(b),(4), ~~(5)(a)~~ FS. History—New 11-27-79, Amended 11-25-80, 12-18-84, Formerly 21L-29.03, Amended 4-7-86, 11-4-86, 12-22-92, Formerly 21L-29.003, Amended 6-5-95, Formerly 61G11-29.003, Amended _____.

DEPARTMENT OF HEALTH

Board of Massage Therapy

RULE TITLE: Termination
RULE NO.: 64B7-29.004

PURPOSE AND EFFECT: The Board proposes to update the existing rule text.

SUBJECT AREA TO BE ADDRESSED: Termination.

SPECIFIC AUTHORITY: 480.035(7), 480.041(1)(b),(4), (5)(a) FS.

LAW IMPLEMENTED: 480.041(1)(b),(4),(5)(a) FS.

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

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT AND A COPY OF THE PRELIMINARY DRAFT IS: Karen Eaton, Executive Director, Board of Massage Therapy, 4052 Bald Cypress Way, Bin #C06, Tallahassee, Florida 32399-3256

THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS:

64B7-29.004 Termination.

(1) If an apprentice terminates his apprenticeship, the sponsoring massage therapist shall so notify the Department, on a form furnished by the Department, within ten (10) days.

(2) If any violation of Chapter 480 or 456, F.S., or rules set forth in 64B7, F.A.C., is found subsequent to department inspection of the “qualified massage establishment” as defined under 64B7-29.001, F.A.C., the apprenticeship shall be tolled until such time the violation(s) is corrected or disposition in the case is made. If the disposition of the case resulted in disciplinary action by the Board the Board may require that the “sponsor” and the “apprentice” appear before the Board for the purpose of determining if the apprenticeship may continue or be terminated.

Specific Authority 480.035(7), 480.041(1)(b),(4), ~~(5)(a)~~ FS. Law Implemented 480.041(1)(b),(4), ~~(5)(a)~~ FS. History—New 11-27-79, Formerly 21L-29.04, 21L-29.004, 61G11-29.004, Amended _____.

DEPARTMENT OF HEALTH

Board of Massage Therapy

RULE TITLE: Probationary Conditions and Definitions
RULE NO.: 64B7-30.008

PURPOSE AND EFFECT: The Board proposes to add rule text with regards to probationary conditions and definitions.

SUBJECT AREA TO BE ADDRESSED: Probationary Conditions and Definitions.

SPECIFIC AUTHORITY: 480.035(7), 480.046, 456.072(3), FS.

LAW IMPLEMENTED: 480.046, 456.072(3) FS.

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

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT AND A COPY OF THE PRELIMINARY DRAFT IS: Karen Eaton, Executive Director, Board of Massage Therapy, 4052 Bald Cypress Way, Bin #C06, Tallahassee, Florida 32399-3256

THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS:

64B7-30.008 Probationary Conditions and Definitions.

(1) Indirect Supervision. Whenever a license is placed on probation or otherwise restricted in such a manner as to require the respondent to practice under indirect supervision, the term indirect supervision does not require that the monitoring practitioner, practice on the same premises as the respondent; however the monitor shall practice within a reasonable geographic proximity to the respondent, which shall be within 20 miles unless otherwise authorized by the Board, and shall be readily available for consultation.

(2) Direct Supervision. Whenever a license is placed on probation or otherwise restricted in such a manner as to require the respondent to practice under direct supervision, the term direct supervision requires that the respondent practice only if the supervisor is on the premises.

(3) Provisions governing all supervised or monitored practitioners.

(a) The supervisor/monitor shall be furnished with copies of the Administrative Complaint, Final Order, Stipulation (if applicable), and other relevant orders.

(b) The respondent shall not practice without a supervisor/monitor unless otherwise ordered. The respondent shall appear at the next meeting of the Board with his proposed supervisor/monitor unless otherwise ordered.

(c) After the next meeting of the Board, the respondent shall only practice under the supervision of the supervisor/monitor. If for any reason the approved supervisor/monitor is unwilling or unable to serve, the

respondent and the supervisor/monitor shall immediately notify the Executive Director of the Board, and the respondent shall cease practice until a temporary supervisor/monitor is approved. The Chairman of the Board may approve a temporary supervisor/monitor who may serve in that capacity until the next meeting of the Board at which time the Board shall accept or reject a new proposed supervisor/monitor. If the Board rejects the proposed supervisor, the respondent shall cease practice until the Board approves a new supervisor/monitor.

(d) The supervisor/monitor must be a licensee under Chapter 480 Florida Statutes, in good standing and without restriction or limitation on his license. In addition, the Board may reject any proposed supervisor/monitor on the basis that he or she has previously been subject to any disciplinary action against his/her license. The supervisor/monitor must be actively engaged in the same or similar specialty areas area unless otherwise provided by the Board. The Board may also reject any proposed supervisor/monitor for good cause shown.

(4) For purpose of determining the dates when reports are due, the date the Final Order is filed shall constitute the beginning of the quarter.

(a) All quarterly reports shall be provided to the Board office no later than three months from the filing date of the Final Order.

(b) All semiannual reports shall be provided to the Board office no later than six months from the filing date of the Final Order

(c) All annual reports shall be provided to the Board office no later than twelve months from the filing date of the Final Order.

Specific Authority 480.035(7), 480.046, 456.072(3) FS. Law Implemented 480.046, 456.072(3) FS. History—New

DEPARTMENT OF HEALTH

Board of Massage Therapy

RULE TITLE: Advertisement
 RULE NO.: 64B7-33.001

PURPOSE AND EFFECT: The Board proposes to update the existing rule text.

SUBJECT AREA TO BE ADDRESSED: Advertisement.

SPECIFIC AUTHORITY: 480.035(7) FS.

LAW IMPLEMENTED: 480.046(1)(d),(f), 480.0465 FS.

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

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT AND A COPY OF THE PRELIMINARY DRAFT IS: Karen Eaton, Executive Director, Board of Massage Therapy, 4052 Bald Cypress Way, Bin #C06, Tallahassee, Florida 32399-3256

THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS:

64B7-33.001 Advertisement.

(1) No change.

(2) For purposes of this rule, “advertising medium” means: any newspaper, airwave, ~~wave~~ or computer transmission, telephone directory listing other than a listing for which no additional advertising charge is made, business card, handbill, flier, sign other than a building directory listing all building tenants and their room or suite numbers, or other form of written advertising.

Specific Authority 480.035(7) FS. Law Implemented 480.046(1)(d),(f), 480.0465 FS. History—New 12-7-92, Formerly 21L-33.001, Amended 2-13-95, 7-13-97, Formerly 61G11-33.001, Amended.

FISH AND WILDLIFE CONSERVATION COMMISSION

Marine Fisheries

RULE CHAPTER TITLE: Spiny Lobster (Crawfish) and
 RULE CHAPTER NO.: 68B-24

Slipper Lobster
 RULE TITLES: 68B-24.003

Minimum Size Limits
 RULE NOS.: 68B-24.004

Bag Limit
 68B-24.004

Gear: Traps, Buoys, Identification

Requirements, Prohibited Devices
 68B-24.006

PURPOSE AND EFFECT: The purpose of this rule development effort is to increase the number of undersize spiny lobster that may be possessed aboard a commercial trapping vessel for use as attractants, clarify the vessel possession limit applicable to special recreational harvesters, and specify slat spacing in wood traps allowed to be armored with wire on vertical surfaces. The effect of these changes will be to allow commercial spiny lobster trappers more flexibility in moving and baiting trap lines, assure that special recreational harvesters cannot possess more spiny lobster aboard a vessel than was originally intended, and clarify that armored wood traps must be capable of harvesting spiny lobster prior to wire being attached on the vertical surfaces.

SUBJECT AREA TO BE ADDRESSED: Spiny lobster.

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

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

IF REQUESTED AND NOT DEEMED UNNECESSARY BY THE AGENCY HEAD, A RULE DEVELOPMENT WORKSHOP WILL BE HELD AT A TIME, DATE AND PLACE TO BE LATER ANNOUNCED IN THIS PUBLICATION.

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

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

THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS:

68B-24.003 Minimum Size Limits.

(1) through (2) No change.

(3) The holder of a valid crawfish license or trap number, lobster trap certificates, and a valid saltwater products license issued by the Fish and Wildlife Conservation Commission may harvest and possess, while on the water, undersized spiny lobster not exceeding 50 per boat ~~or~~ and 1 per trap aboard each boat, ~~whichever is greater~~, if used exclusively for luring, decoying, or otherwise attracting noncaptive spiny lobster into traps. Such undersized spiny lobster shall be kept alive, while in possession, in a shaded continuously circulating live well with pump capacity to totally replace the water at least every 8 minutes and large enough to provide at least 3/4 gallon of seawater per lobster. All undersized lobster so maintained shall be released to the water alive and unharmed immediately upon leaving the trap lines and prior to 1 hour after official sunset.

Specific Authority Art IV, Sec. 9, Fla. Const. Law Implemented Art IV, Sec. 9, Fla. Const. History--New 7-2-87, Amended 7-2-90, 3-1-92, 6-1-94, Formerly 46-24.003, Amended.

68B-24.004 Bag Limit.

(1) through (2) No change.

(3) Special Recreational Crawfish (Spiny Lobster) Bag Limit. No person who possesses a valid special recreational crawfish license issued by the Fish and Wildlife Conservation Commission pursuant to Section 370.063, Florida Statutes, shall harvest in any one day during the regular season specified in subsection 68B-24.005(1), F.A.C., more than 50 spiny lobster; provided, however, when one two or more persons possessing a valid special recreational crawfish license such harvesters are aboard a single vessel in or on state waters, together with any number of regular recreational harvesters, no more than 50 spiny lobster shall be possessed aboard such vessel, ~~irrespective of the number of regular recreational harvesters also aboard.~~

Specific Authority Art IV, Sec. 9, Fla. Const. Law Implemented Art IV, Sec. 9, Fla. Const. History--New 7-2-87, Amended 7-2-90, 7-1-92, 6-1-94, 10-4-95, Formerly 46-24.004, Amended.

68B-24.006 Gear: Traps, Buoys, Identification Requirements, Prohibited Devices.

(1) No change.

(2) No person shall, in state waters, fish with, set, place, or cause to be fished with, set, or placed, any trap except a wood trap or plastic trap meeting the following specifications:

(a) Wood slat traps shall be no larger in dimension than 3 feet, by 2 feet, by 2 feet, or the volume equivalent. Such traps may be reinforced with wire mesh no heavier than 9 gauge, which shall only be affixed to the wood slats constituting the vertical surfaces of such traps. Beginning August 1, 2003, wire-reinforced wooden slat traps shall be constructed with wood slats that are a minimum of 1 1/4 inches wide, with a maximum spacing between slats of 2 1/4 inches.

(b) Plastic traps shall be no larger in dimension than 3 feet, by two feet, by 2 feet, or the volume equivalent, and shall have a degradable panel no smaller than 6 inches in length and 4 inches in width located on the top horizontal section of the trap. The panel shall only be considered degradable if it is constructed of cypress or untreated pine slats no thicker than 3/4 inch.

(c) The throats or entrances to all traps used to harvest spiny lobster shall be located on the top horizontal section of the trap, and shall be measured using the inside dimensions of the throat. If the throat is longer in one dimension, the throat size in the longer dimension shall not be smaller than 6 inches and in the shorter dimension shall not be smaller than 3 1/2 inches. If the throat is round or square, the throat size shall not be smaller than 5 1/2 inches in diameter or per side, respectively.

Specific Authority Art IV, Sec. 9, Fla. Const. Law Implemented Art IV, Sec. 9, Fla. Const. History--New 7-2-87, Amended 7-2-90, 3-1-92, 7-1-92, 6-1-94, 10-4-95, 9-30-96, 6-1-99, 7-1-01, Formerly 46-24.006, Amended.

FISH AND WILDLIFE CONSERVATION COMMISSION

Marine Fisheries

RULE CHAPTER TITLE: Shrimp

RULE TITLE:

RULE NO.:

Big Bend Region Closed Areas;

Seasonal Closures

68B-31.017

PURPOSE AND EFFECT: The purpose of this rule development effort is to adjust the Big Bend Region closure line in Dixie County to allow shrimping on 5,900 acres of bottom previously closed. The adjustment gives relief to the county's live bait shrimp harvesters, while continuing to protect the area's shallowest nursery waters. The effect will be to make waters closer to shore available for shrimpers and reduce their transportation costs.

SUBJECT AREA TO BE ADDRESSED: Shrimping in Dixie County.

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

LAW IMPLEMENTED: Art. IV, Sec. 9, Florida Constitution.
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THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT IS: James V. Antista, General Counsel, Fish and Wildlife Conservation Commission, 620 South Meridian Street, Tallahassee, Florida 32399-1600, (850)487-1764

THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS:

68B-31.017 Big Bend Region Closed Areas; Seasonal Closures.

(1) Beginning January 1, 1994, no person shall harvest shrimp in the areas of Wakulla, Jefferson, Taylor, Dixie, Levy, Citrus, Hernando, and Pasco Counties landward of the line described as:

Beginning at Bailey's Bluff in Pasco County (Point A); thence northerly to Point B; thence northeasterly to Point C; thence northerly to Point D; thence northeasterly to Point E; thence northerly to Point F; thence northwesterly to Point G; thence northerly to Point H; thence northwesterly to Point I; thence northerly to Point J; thence northwesterly to Point K; thence southwesterly to Point L; thence northwesterly to Point M; thence northerly to Point N; thence northwesterly to Point O; thence northerly to Point P; thence northwesterly to Point Q; thence northerly to Point R; thence northwesterly to Point S; thence southwesterly to flashing channel marker #1 in St. Marks Channel; thence northerly to the St. Marks Lighthouse. Points B, C, D, E, F, G, H, I, J, K, L, M, N, O, P, Q, R, and S are expressed as follows by longitude and latitude and Loran notations (Loran notations are unofficial and are included only for the convenience of fishers.):

Point	Loran Chain W X Y Z	North Latitude	West Longitude
B	44930-62920	28° 16.68'	82° 47.21'
C	44930-62910	28° 18.28'	82° 45.68'
D	45000-62910	28° 26.93'	82° 45.95'
E	45000-62900	28° 28.43'	82° 44.49'
F	14375-62900	28° 43.53'	82° 45.22'

G	14375-62910	28° 44.38'	82° 46.71'
H	14410-62910	28° 57.91'	82° 47.53'
I	14410-62930	28° 59.41'	82° 50.41'
J	14420-62930	29° 03.28'	82° 50.66'
K	14420-45420	29° 06.91'	82° 57.81'
L	14405-45420	29° 03.38'	83° 01.42'
M	14405-63060	29° 07.30'	83° 08.78'
N	14440-63110	29° 22.98'	83° 15.89'
O	14440-63190	29° 29.58'	83° 26.72'
		29° 28.22'	83° 26.58'
P	14470-63190	29° 38.25'	83° 26.66'
Q	14475-63250	29° 43.36'	83° 34.39'
R	14495-63295	29° 52.40'	83° 40.11'
S	14495-46450	30° 00.04'	84° 07.63'

(2) No person shall harvest shrimp in the Big Bend Region as a food shrimp producer during the period beginning July 1 and continuing through August 31 of each year.

Specific Authority Art. IV, Sec. 9, Fla. Const. Law Implemented Art. IV, Sec. 9, Fla. Const. History—New 11-29-93, Formerly 46-31.017, Amended

FISH AND WILDLIFE CONSERVATION COMMISSION

Marine Fisheries

RULE CHAPTER TITLE: Horseshoe Crabs

RULE TITLE:

RULE NO.:

Horseshoe Crabs Harvest Restrictions:

License Requirements, Gear Specifications,

Daily Bag and Possession Limits

68B-46.002

PURPOSE AND EFFECT: The purpose of this rule development effort is to implement a permitting system for the collection of horseshoe crabs for biomedical purposes. Secondly, horseshoe crabs are declared to be saltwater products for purposes of reporting landings of the animals. The effect of this effort will be to provide the information necessary to fully assess the biological health of horseshoe crab populations and the impact of biomedical collection and release.

SUBJECT AREA TO BE ADDRESSED: Horseshoe Crabs.

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

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

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

THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS:

68B-46.002 Horseshoe Crabs Harvest Restrictions: License Requirements, Gear Specifications, Daily Bag and Possession Limits.

(1) No person shall harvest, possess, or sell any horseshoe crab unless that person possesses a valid saltwater products license. Horseshoe crabs shall be considered saltwater products for purposes of Section 370.07(6), Florida Statutes.

(2) The harvest or attempted harvest of any horseshoe crab by or with the use of any means or gear other than by hand or gig is prohibited.

(3)(a) Except as provided in paragraph (b), no person shall harvest in any day, within or without the waters of the state, land, or possess while in or on the waters of the state more than 25 horseshoe crabs. No such person shall possess more than 25 horseshoe crabs while in, on, or above the waters of the state or on any dock, pier, bridge, beach, or other fishing site adjacent to such waters.

(b)1. The following bag and possession limits apply to a person with a valid saltwater products license with a marine life endorsement:

a. No such person shall harvest in any one day, within or without the waters of the state, land, or possess while in or on the waters of the state more than 100 horseshoe crabs.

b. No such person shall possess more than 100 horseshoe crabs while in, on, or above the waters of the state or on any dock, pier, bridge, beach, or other fishing site adjacent to such waters.

2. The following bag and possession limits apply to a person with a valid saltwater products license and a valid permit to harvest eels commercially in the freshwaters of the state:

a. No such person shall harvest in any one day, within or without the waters of the state, land, or possess while in or on the saltwaters of the state more than 100 horseshoe crabs.

b. No such person shall possess more than 100 horseshoe crabs while in, on, or above the saltwaters of the state or on any dock, pier, bridge, beach, or other fishing site adjacent to such waters.

3. The following provisions apply to each person collecting horseshoe crabs for biomedical purposes:

a. No person shall collect horseshoe crabs for biomedical purposes without possessing a valid Horseshoe Crab Biomedical Collecting Permit. This is not a harvesting permit, but rather, allows the holder to temporarily possess horseshoe crabs for the purpose of collecting the blood of the animal.

b. Horseshoe crabs collected for biomedical purposes shall be handled so as to minimize injury, maintained alive, and released alive in the area where collected.

c. Persons possessing a valid Horseshoe Crab Biomedical Collecting Permit are exempted from bag and possession limits specified in paragraph (a) of this subsection, if the horseshoe crabs collected are maintained and released alive.

d. The Horseshoe Crab Biomedical Collection Permit shall be renewed each year if the holder files the report required in subparagraph e.

e. Each person holding a Horseshoe Crab Biomedical Collection Permit shall file with the Division of Marine Fisheries by May 1 each year a report detailing the use of horseshoe crabs. Such reports will be filed on forms provided by the Division (Form DMF-HSC001 (7-02)) and will include, a monthly account of the number of crabs collected, areas where horseshoe crabs were collected, statement of percent mortality up to the point of release, and a certification that collected horseshoe crabs are solely used by the biomedical facility for biomedical purposes and not for other purposes.

Specific Authority Art. IV, Sec. 9, Fla. Const. Law Implemented Art. IV, Sec. 9, Fla. Const. History—New 3-30-00, Amended _____.

FISH AND WILDLIFE CONSERVATION COMMISSION

Marine Resources

RULE CHAPTER TITLE: Spiny Lobster Trap Certificate Program

RULE CHAPTER NO.: 68E-18

RULE TITLE: Commission Policy Regarding the Assessment of Administrative Penalties

RULE NO.: 68E-18.010

PURPOSE AND EFFECT: The purpose of this rule development effort is to establish the policy of the Fish and Wildlife Conservation Commission regarding the assessment of administrative penalties against those who fish spiny lobster traps without trap tags required by law and rule. The effect of this effort will be to place violators on notice how the Commission will mete out penalties within the maximums establish by law for this serious offense.

SUBJECT AREA TO BE ADDRESSED: Administrative penalties for use of spiny lobster traps without current year trap tags.

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

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

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

THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS:

68E-18.010 Commission Policy Regarding the Assessment of Administrative Penalties.

It shall be the policy of the Commission to assess administrative penalties pursuant to s. 370.142(2)(c)4., F.S., for a violation involving use of spiny lobster traps without current year trap tags as required by s. 370.142(2)(b), F.S.

(1) For a first violation of the referenced regulation, a penalty of up to \$1000 shall be assessed and the crawfish trap number (also known as the crawfish endorsement) issued pursuant to s. 370.142(2), F.S., may be suspended for the remainder of the current license year. The Commission shall assess these penalties as follows:

(a) \$25 per untagged trap for the possession or use of up to and including 20 untagged lobster traps;

(b) \$1000 and suspension of the crawfish endorsement for the remainder of the current license year for possession or use of 21 or more untagged lobster traps.

(2) For a second violation of the referenced regulation occurring within 24 months of any previous such violation, an administrative penalty of up to \$2000 shall be assessed and the crawfish endorsement may be suspended for the remainder of the current license year. The Commission shall assess these penalties as follows:

(a) \$50 per untagged trap for the possession or use of nine (9) or fewer such traps plus suspension of the crawfish endorsement for the remainder of the current license year;

(b) \$75 per untagged trap for possession or use of 10 up to and including 20 such traps plus suspension of the crawfish endorsement for the remainder of the current license year;

(c) \$2000 and suspension of the crawfish endorsement for the remainder of the current license year for possession or use of 21 or more untagged spiny lobster traps.

(3) For a third or subsequent violation within 36 months of any previous two such violations, an administrative penalty of up to \$5000 shall be assessed and the crawfish endorsement may be suspended for up to 24 months or permanently revoked or the Commission may proceed against the saltwater products license pursuant to s. 370.021(2)(e), F.S. The Commission shall assess these penalties as follows:

(a) \$100 per untagged spiny lobster trap and suspension of the crawfish endorsement for 12 months for possession or use of one (1) to nine (9) untagged traps;

(b) \$250 per untagged spiny lobster trap and suspension of the crawfish endorsement for 24 months for possession or use of 10 to 19 untagged traps;

(c) \$5000 and revocation of the crawfish endorsement and saltwater products license for possession or use of 20 or more untagged spiny lobster traps.

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

Section II Proposed Rules

DEPARTMENT OF STATE

Division of Elections

RULE TITLE:

Polling Place Procedures Manual

RULE NO.:

1S-2.034

PURPOSE AND EFFECT: The purpose of proposed rule is to provide for a polling place procedures manual that is incorporated by reference.

SUMMARY: This rule provides for a polling place procedures manual.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COST: None prepared.

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

SPECIFIC AUTHORITY: 102.014(5) FS.

LAW IMPLEMENTED: 102.014(5) FS.

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

TIME AND DATE: 3:00 p.m. – 5:00 p.m., Friday, May 10, 2002

PLACE: Room 112, 107 West Gaines Street, The Collins Building, Tallahassee, Florida 32399

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Sarah Jane Bradshaw, Room 100, 107 West Gaines Street, Tallahassee, Florida 32399, (850)245-6200 or sbradshaw@mail.dos.state.fl.us.