

68B-14.0039 Recreational Grouper Season.

In all state waters of the Gulf of Mexico, the closed season for the recreational harvest and possession of gag grouper, red grouper, black grouper, yellowfin grouper, yellowmouth grouper, rock hind, red hind or scamp shall be from February 1 through March 31, each year.

PROPOSED EFFECTIVE DATE: As soon as possible following Commission action

Rulemaking Specific Authority Art. IV, Sec. 9, Fla. Const. Law Implemented Art. IV, Sec. 9, Fla. Const. History–New 1-6-09, Amended _____.

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

- (1) No change.
- (2) Season Closures.
 - (a) through (d) No change.
 - (e)1. No change.

2. Except as provided in Rule 68B-14.0046, F.A.C., beginning February 1 15 and continuing through March 31 14 of each year, the harvest, possession, or landing of in quantities greater than the recreational bag limits specified in Rule 68B-14.0036, F.A.C., and the purchase, sale, or exchange, of gag grouper, black grouper, or red grouper, yellowfin grouper, yellowmouth grouper, rock hind, red hind or scamp harvested from state waters of the Gulf of Mexico, except from all waters of Monroe County, is prohibited.

- (f) through (h) No change.
- (3) No change.

PROPOSED EFFECTIVE DATE: As soon as possible following Commission action.

Rulemaking Specific Authority Art. IV, Sec. 9, Fla. Const. Law Implemented Art. IV, Sec. 9, Fla. Const. History–New 2-1-90, Amended 12-31-92, 10-18-93, 3-1-94, 6-15-95, 1-1-96, 11-27-96, 12-31-98, 3-1-99, Formerly 46-14.0045, Amended 1-1-00, 3-6-00, 1-1-01, 3-1-01, 6-1-01, 1-1-03, 7-15-04, 5-20-05, 9-16-05, 3-10-06, 7-1-07, 4-1-08, _____.

68B-14.0046 Transit Through State Waters During Closed Seasons.

The season, possession and bag limit restrictions contained in Rule 68B-14.0045, F.A.C., shall not apply to lawful commercial harvest in federal waters when such harvest is transported directly through state waters of the Gulf of Mexico with gear appropriately stowed. Transit shall be direct, continuous and expeditious from the place where lawful harvest occurred to the place where the vessel is regularly docked, moored, or otherwise stored or to the place of the licensed wholesale dealer where the catch is to be sold. For the purpose of this section appropriately stowed means a longline may be left on the drum if all gangions and hooks are disconnected and stowed below deck. Hooks cannot be baited. All buoys must be disconnected from the gear; however buoys may remain on deck. A rod and reel must be removed from the

rod holder and stowed securely on or below deck. Terminal gear (i.e., hooks, leaders, sinkers, flashers, or baits) must be disconnected and stowed separately from the fishing apparatus. Sinkers must be disconnected from the down rigger and stowed separately.

PROPOSED EFFECTIVE DATE: As soon as possible following Commission action.

Rulemaking Authority Art. IV, Sec. 9, Fla. Const. Law Implemented Art. IV, Sec. 9, Fla. Const. History–New _____.

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

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

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

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: April 16, 2009

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: February 6, 2009

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

DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES

Division of Plant Industry

RULE NO.: 5B-57.012 RULE TITLE: *Casuarina Cunninghiana*
Windbreaks

NOTICE OF CHANGE

Notice is hereby given that the following changes have been made to the proposed rule in accordance with subparagraph 120.54(3)(d)1., F.S., published in Vol. 35, No. 18, May 8, 2009 issue of the Florida Administrative Weekly.

- 5B-57.012 *Casuarina Cunninghiana* Windbreaks.
 - (1) No change.
 - (2)(a) through (d) No change.
 - (e) Within 30 days of receipt of a complete permit application and signed compliance agreement that meet the requirements of this rule, the Department shall issue the

applicant a Special Permit for Propagation of *Casuarina cunninghamiana* (DACS 08455, Rev. 02/09). The form titled Special Permit For Propagation Of *Casuarina Cunninghamiana* (DACS-08455, Rev. 02/09) is hereby adopted and incorporated herein by reference. The form may be obtained from the Florida Department of Agriculture and Consumer Services; Division of Plant Industry, P. O. Box 147100, Gainesville, FL 32614-7100.

(f) through (h) No change.

(3) No change.

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

(g) Within 30 days of receipt of a complete application and signed compliance agreement that meets the requirements of this rule, the Department shall issue the applicant a Special Permit For *Casuarina cunninghamiana* Windbreak (DACS 08454, Rev. 02/09) or notify the applicant in writing of the reasons that the permit will not be issued and any corrective measures that applicant must take to obtain approval of the permit. The form titled Special Permit For *Casuarina Cunninghamiana* Windbreaks (DACS-08454, Rev. 02/09) is hereby adopted and incorporated herein by reference. The form may be obtained from the Florida Department of Agriculture and Consumer Services; Division of Plant Industry, P. O. Box 147100, Gainesville, FL 32614-7100.

(h) through (i) No change.

(5) through (6) No change.

(7)(a) No change.

(b) Within 60 days, ~~a time specified by the Department~~ if the Department determines that female flowers or cones have been produced on any *Casuarina cunninghamiana* plant within a windbreak.

(c) No change.

(d) In cases governed by subparagraphs 5B-57.012(7)(c)1.-3., above, the Department ~~shall~~ may issue an immediate final order, which shall be immediately appealable or enjoined as provided by Chapter 120, Florida Statutes, directing the permit holder to immediately remove and destroy the *Casuarina cunninghamiana* authorized to be planted under the special permit.

(e) The permit holder may make a written request to the Department for a 60 day ~~specified~~ extension of time to remove and destroy the *Casuarina cunninghamiana* as ordered in the immediate final order. The request must demonstrate specific facts showing why the *Casuarina cunninghamiana* could not reasonably be removed and destroyed in the applicable timeframe.

(f) Upon a showing that the permit holder has demonstrated the need for additional time to destroy the trees, the Department ~~shall~~ may specify a later date by which the trees subject to the special permit must be destroyed.

(g) If upon issuance by the Department of an immediate final order to the permit holder, the permit holder fails to remove and destroy the *Casuarina cunninghamiana* subject to

the special permit within 60 days after issuance of the order, such other extended time as granted by the Department, or such shorter period as is designated in the order as public health, safety, or welfare requires, the Department ~~shall~~ may remove and destroy the *Casuarina cunninghamiana* that are the subject of the special permit.

(h) No change.

(i) If the party to which the immediate final order has been issued fails to reimburse the state within 60 days, the Department ~~shall~~ may record a lien on the property. The lien shall be enforced by the Department.

(8) through (10) No change.

Rulemaking Authority 570.07(23), 581.031(1), (3), (8), 581.091 FS. Law Implemented 570.07(2), (13), 570.32(5), (6), 581.031(1), (17), 581.091 FS. History–New _____.

DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES

Division of Food Safety

RULE NOS.:

5K-4.027

5K-4.028

RULE TITLES:

Standard of Identity – Honey.

Adulteration and Misbranding –
Honey

NOTICE OF CHANGE

Notice is hereby given that the following changes have been made to the proposed rule in accordance with subparagraph 120.54(3)(d)1., F.S., published in Vol. 35, No. 10, March 13, 2009 issue of the Florida Administrative Weekly.

5K-4.027 Standard of Identity – Honey.

(1) through (3) No change.

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

(d) The styles of honey identified in subparagraphs (4)(e)2. and 3. shall be declared on packaging labeling as ‘Comb Honey’, ‘Cut Comb in Honey’, ‘Honey with Comb’ or ‘Chunk Honey’ as appropriate.

(e) No change.

Rulemaking Authority 500.09, 570.07(23), 586.10 FS. Law Implemented ~~500.02~~, 500.03, 500.04, 500.09, 500.10, 500.11, 570.07, 570.50, ~~586.02~~, ~~586.10~~ FS. History–New _____.

5K-4.028 Adulteration and Misbranding – Honey.

The following shall be *prima facie* evidence of adulteration under Section 500.10(2)(d) ~~and Section 586.10~~, F.S., or misbranding under Section 500.11(1)(g) ~~and Section 586.10~~, F.S., of any product sold or offered for sale as honey:

(1) through (5) No change.

Rulemaking Authority 500.09, 570.07(23), 586.10 FS. Law Implemented ~~500.02~~, 500.03, 500.04, 500.09, 500.10, 500.11, 570.07, 570.50, ~~586.02~~, ~~586.10~~ FS. History–New _____.

BOARD OF TRUSTEES OF THE INTERNAL IMPROVEMENT TRUST FUND

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

DEPARTMENT OF CORRECTIONS

RULE NO.: 33-210.101
 RULE TITLE: Routine Mail

NOTICE OF CHANGE

Notice is hereby given that the following changes have been made to the proposed rule in accordance with subparagraph 120.54(3)(d)1., F.S., published in Vol. 34, No. 48, November 26, 2008 issue of the Florida Administrative Weekly.

33-210.101 Routine Mail.

(1) No change.

(2) Inmates will be permitted to receive only the following types of materials through routine mail:

(a) Written correspondence (no limit as to number of pages). Correspondence shall be written in either English or Spanish. Inmates who cannot read and write in English or Spanish shall request approval from the warden to correspond and receive correspondence in the language which the inmate can read and write using Form DC6-236, Inmate Request. The warden shall approve such requests when there are department staff who can translate the correspondence or when it is otherwise possible to obtain translation services at de minimus cost to the Department. Correspondence may be written on greeting cards, but cards containing electronic or other non-paper parts, cards which are constructed in such a way as to permit concealment of contraband, or which are larger than 8"x10" will not be permitted. Form DC6-236 is incorporated by reference in Rule 33-103.019, F.A.C.

(b) through (d) No change.

(e) Blank greeting cards (no larger than 8"x10"), stationery or other blank writing paper (lined or unlined), or envelopes. Such items may only be white, off-white, or yellow and may not include borders or graphics. ~~Card stock, sketch paper, and other types of craft paper may not be included.~~ These items do not count toward the 15 page limitation for additional materials, but cannot exceed 10 each in number, with a total possession limit of 15 of each item. Card stock, sketch paper, and other types of craft paper may not be included.

(f) No change.

(3) through (22) No change.

Rulemaking Specific Authority 944.09 FS. Law Implemented 20.315, 944.09 FS. History–New 10-8-76, Amended 10-11-77, 4-19-79, 11-19-81, 3-12-84, 10-15-84, Formerly 33-3.04, Amended 7-8-86, 9-4-88, 3-9-89, 9-1-93, 9-30-96, 5-25-97, 6-1-97, 10-7-97, 5-10-98, Formerly 33-3.004, Amended 12-20-99, Formerly 33-602.401, Amended 12-4-02, 8-5-03, 10-27-03, 9-20-04, 3-23-08, _____.

DEPARTMENT OF CORRECTIONS

RULE NO.: 33-601.101
 RULE TITLE: Incentive Gain Time

NOTICE OF CHANGE

Notice is hereby given that the following changes have been made to the proposed rule in accordance with subparagraph 120.54(3)(d)1., F.S., published in Vol. 35, No. 7, February 20, 2009 issue of the Florida Administrative Weekly.

33-601.101 Incentive Gain Time.

(1) through (5) No change.

(6) Inmates in disciplinary confinement status are not eligible for a work/program rating even if assigned to work or programs while in disciplinary confinement. Inmates in disciplinary confinement are eligible for a security rating award which can be modified by the correctional probation officer in accordance with paragraph 33-601.101(3)(b), F.A.C.

(a) No change.

(b) Inmates who are out of the department's custody during the month on escape, out to court status, or on furlough shall not be eligible to receive incentive gain time for that period of the month, except inmates in out to court status for a full month shall be eligible to receive incentive gain time as noted below unless otherwise ineligible:

1. Inmates sentenced for offenses committed on or between April 17, 1994 and September 30, 1995 and which fall within levels 1 through 7 of the sentencing guidelines offense severity ranking chart located in Section 921.0012, F.S., shall receive 11 days incentive gain time for each month in out to court status.

2. Inmates sentenced for offenses committed on or between April 17, 1994 and September 30, 1995 and which fall within levels 8 through 10 of the sentencing guidelines offense severity ranking chart located in Section 921.0012, F.S., shall receive 8 days incentive gain time for each month in out to court status.

3. Inmates sentenced for offenses committed on or after October 1, 1995 shall receive 4 days incentive gain time for each month in out to court status.

(c) No change.

(7) through (8) No change.

Rulemaking Specific Authority 944.09, 944.275, 944.281 FS. Law Implemented 944.09, 944.275, 944.281, 944.801(3)(i)5. FS. History–New 2-26-80, Amended 1-12-83, 1-31-85, 10-7-85, Formerly 33-11.065, Amended 4-28-87, 7-12-89, 7-17-90, 10-16-90, 10-14-91, 2-17-93, 4-17-94, 7-17-94, 4-21-96, 6-1-97, 10-7-97, 3-11-98, 5-12-98, 7-9-98, 9-17-98, Formerly 33-11.065, Amended _____.

DEPARTMENT OF CORRECTIONS

RULE NO.: 33-601.105
 RULE TITLE: Restoration of Forfeited Gain Time

NOTICE OF CHANGE

Notice is hereby given that the following changes have been made to the proposed rule in accordance with subparagraph 120.54(3)(d)1., F.S., published in Vol. 35, No. 7, February 20, 2009 issue of the Florida Administrative Weekly.

33-601.105 Restoration of Forfeited Gain Time.

(1) through (2) No change.

(3) How processed.

(a) Restoration of gain time will be considered only when the inmate has met the criteria specified in subsections (1) and (2) of this rule.

(b) There is no entitlement for consideration based upon an inmate's request.

(c) The inmate must submit the request to his or her classification officer. Requests submitted to other department staff will not be processed.

(d) If the inmate meets the criteria in subsection (2), the classification officer shall forward the request to the institutional classification team (ICT) with a recommendation either for or against restoration. If the inmate does not meet the criteria in subsection (2), the classification officer shall return the request to the inmate, indicating in writing which criteria is not met.

(e) The ICT shall consider the request based upon the criteria in subsections (1) and (2). If the ICT recommends restoration of forfeited gain time, the recommendation shall be forwarded to the final approving authority for final action. If the ICT does not make a recommendation for restoration to the final approving authority, the request shall be returned to the inmate along with the basis for the denial.

(f) The final approving authority for restoration of forfeited gain time will be the Assistant Secretary of Institutions or designee. Upon receipt of the recommendation from the ICT, the final approving authority shall approve or deny the recommendation based upon the criteria in subsections (1) and (2).

(g) The institution where the inmate is assigned will be notified and the facility staff will notify the inmate of the decision and the basis for the decision.

Rulemaking Specific Authority 944.09, 944.275 FS. Law Implemented 944.09, 944.275, 944.28 FS. History--New 11-27-84, Formerly 33-11.15, Amended 10-12-89, 8-29-91, 10-13-93, Formerly 33-11.015, Amended 8-30-01, 4-30-02, 4-10-08,_____.

WATER MANAGEMENT DISTRICTS

Suwannee River Water Management District

RULE NOS.:	RULE TITLES:
40B-3.101	Content of Application
40B-3.411	Completion Report

NOTICE OF CORRECTION

Notice is hereby given that the following correction has been made to the proposed rule in Vol. 35, No. 11, March 20, 2009 issue of the Florida Administrative Weekly.

The Statement of Estimated Regulatory Costs (SERC) has been revised for each of these rules. The SERC has been amended to include the number of licensed water well contractors in SRWMD.

A copy of the SERC is available at SRWMD headquarters by contacting: Linda Welch, Rules Coordinator, SRWMD, 9225 CR 49, Live Oak, FL 32060, (386)362-1001, or toll free in Florida at (800)226-1066.

WATER MANAGEMENT DISTRICTS

Southwest Florida Water Management District

RULE NOS.:	RULE TITLES:
40D-1.002	Delegation of Authority
40D-1.1020	Timeframe for Providing Requested Information (Transferred to 40D-1.6051)
40D-1.600	Permit Applications – General and Noticed General Permits
40D-1.6051	Timeframe for Providing Requested Information for Permit Applications and Denial of Incomplete Applications

NOTICE OF WITHDRAWAL

Notice is hereby given that the above rule, as noticed in Vol. 35, No. 6, February 13, 2009 issue of the Florida Administrative Weekly has been withdrawn.

WATER MANAGEMENT DISTRICTS

Southwest Florida Water Management District

RULE NOS.:	RULE TITLES:
40D-2.041	Permits Required
40D-2.091	Publications Incorporated by Reference

NOTICE OF WITHDRAWAL

Notice is hereby given that the above rule, as noticed in Vol. 35, No. 6, February 13, 2009 issue of the Florida Administrative Weekly has been withdrawn.

WATER MANAGEMENT DISTRICTS

Southwest Florida Water Management District

RULE NOS.:	RULE TITLES:
40D-4.021	Definitions
40D-4.041	Permits Required
40D-4.091	Publications and Agreements Incorporated by Reference

NOTICE OF WITHDRAWAL

Notice is hereby given that the above rule, as noticed in Vol. 35, No. 6, February 13, 2009 issue of the Florida Administrative Weekly has been withdrawn.

WATER MANAGEMENT DISTRICTS

Southwest Florida Water Management District

RULE NO.: RULE TITLE:
 40D-40.302 Conditions for Issuance of General Permits

NOTICE OF WITHDRAWAL

Notice is hereby given that the above rule, as noticed in Vol. 35, No. 6, February 13, 2009 issue of the Florida Administrative Weekly has been withdrawn.

DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION

Board of Cosmetology

RULE NO.: RULE TITLE:
 61G5-22.006 Facials (Including Skin Care and Hair Removal)

NOTICE OF CHANGE

Notice is hereby given that the following change has been made to the proposed rule in accordance with subparagraph 120.54(3)(d)1., F.S., published in Vol. 35, No. 8, of the February 27, 2009, issue of the Florida Administrative Weekly. The change is in response to concerns by the Board in that incorrect text was published in the February 27, 2009. The change is as follows:

The paragraph 61G5-22.006(6)(j) shall read as:

(j) Skin Theory, Disease and Disorders of the Skin.

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Robyn Barineau, Executive Director, Board of Cosmetology, P. O. Box 5377, Tallahassee, Florida 32399-5377

DEPARTMENT OF ENVIRONMENTAL PROTECTION

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

DEPARTMENT OF ENVIRONMENTAL PROTECTION

RULE NO.: RULE TITLE:
 62-520.600 Ground Water Monitoring Requirements and Exemptions

NOTICE OF CHANGE

Notice is hereby given that the following changes have been made to the proposed rule in accordance with subparagraph 120.54(3)(d)1., F.S., published in Vol. 34, No. 26, June 27, 2008 issue of the Florida Administrative Weekly.

The Department inadvertently omitted a change from its April 24, 2009, Notice of Change, that had been discussed at the rule adoption public hearing on July 25, 2008.

62-520.600 Ground Water Monitoring Requirements and Exemptions.

(1) through (6) No change.

(a) through (h) No change.

(i) Within ~~60~~ 30 days after installation of any monitoring well, a properly scaled figure depicting monitoring well locations (active and abandoned) with identification numbers shall be submitted to the appropriate permitting program at the Department's District office that issued the permit. The figure also shall include the monitoring well, top of casing, and ground water surface elevations referenced to the National Geodetic Vertical Datum (NGVD) of 1929 or to the North American Vertical Datum (NAVD 1988) and measured to the nearest 0.01 foot, along with monitoring well location latitude and longitude to the nearest 0.1 seconds;

(j) through (l) No change.

(7) through (11) No change.

**Section IV
 Emergency Rules**

BOARD OF TRUSTEES OF THE INTERNAL IMPROVEMENT TRUST FUND

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

DEPARTMENT OF ENVIRONMENTAL PROTECTION

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

**Section V
 Petitions and Dispositions Regarding Rule Variance or Waiver**

BOARD OF TRUSTEES OF THE INTERNAL IMPROVEMENT TRUST FUND

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

WATER MANAGEMENT DISTRICTS

NOTICE IS HEREBY GIVEN THAT on April 29, 2009, the South Florida Water Management District (District), received a petition for waiver from Lisa Strader, Application No. 09-0422-1, for utilization of Works or Lands of the District known as the C-10 Spur Canal for the proposed installation of a retaining wall and for existing fence and lights to remain within the north right of way of the C-10 Spur, located adjacent