

(i) A list of any merchandise or services that were sold or transferred with the burial rights, if any, including identification of any preneed contract that was transferred or sold.

(j) If the cemetery where the burial space is located requires a burial right transfer form, documentation that such a form has been filed, by whom, and on what date.

(k) If the cemetery where the burial space is located requires payment of a burial rights transfer fee, documentation that the burial rights transfer fee has been paid, by whom, and on what date.

(l) A copy of any written or printed agreement or agreements relating to the sale or transfer of the burial right.

(m) Copies of all correspondence to or from the burial rights broker regarding the sale or transfer of the burial right.

(n) The complaint log and related records required under Section 497.151, F.S.

(3)(a) The records required to be maintained by this rule shall be maintained at the burial rights broker's address identified on the most recent licensure application or renewal form under Section 497.281, F.S. The records shall be maintained in written or in electronic form. If the records are maintained in electronic form, the burial rights broker shall at all times have available at the same place where the records are maintained, all equipment and software needed to allow the immediate viewing of such records upon request by the Department's inspector.

(b) When a Person licensed under the provisions of Chapter 497, F.S., other than Section 497.281, F.S., engages in activity as a burial rights broker under Section 497.281, F.S., such Person shall maintain the records required by subsection (2) of this rule, at such Person's primary place of business in Florida.

(4) Records required to be maintained under this rule shall be kept until the later of the following dates:

(a) Five years after the date a final interment has occurred using the burial rights that were the subject of the sale or transfer;

(b) Twelve months after the most recent inspection of the records by the Department under this rule.

(5) The Department of Financial Services shall inspect the records of each burial rights broker at least once every two years.

Rulemaking Authority 497.103(5)(b), 497.281 FS. Law Implemented 497.103(2)(a), 497.281 FS. History—New \_\_\_\_\_.

NAME OF PERSON ORIGINATING PROPOSED RULE:  
Doug Shropshire, Director, Division of Funeral, Cemetery, and Consumer Services

NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: Alex Sink, Chief Financial Officer

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: March 10, 2009

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

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

**DEPARTMENT OF STATE**

**Division of Historical Resources**

RULE NOS.:	RULE TITLES:
1A-31.0015	Definitions
1A-31.0042	Diving on Historic Shipwreck Sites
1A-31.0045	Non-permittable Areas and Sites
1A-31.0052	Security
1A-31.0062	Types of Permit
1A-31.0082	Duration of Permit
1A-31.0092	Permit Area
1A-31.011	Boats to Carry Identification
1A-31.020	Inspection by Permitting Agency
1A-31.030	Project Archaeologist Qualifications
1A-31.036	Project Archaeologist Responsibilities
1A-31.040	Application Procedures
1A-31.046	Applicatin Review
1A-31.050	Permit Issuance
1A-31.055	Notice of Approval or Denial
1A-31.060	Requirements for All Permits
1A-31.065	Additional Requirements for Exploration Permits
1A-31.085	Permit Suspension and Revocation
1A-31.090	Transfer of Archaeological Materials, Title to Archaeological Materials Conveyed

**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. 39, September 26, 2008 issue of the Florida Administrative Weekly.

These changes respond to comments from interested parties and to suggestions made during public hearing held on October 21, 2008.

**PROCEDURES FOR CONDUCTING EXPLORATION AND RECOVERY OF HISTORIC SHIPWRECK SITES**

1A-31.0015 Definitions.

(1) through (5) No change.

(6) "Historic Shipwreck Site" means the remains of a sunken or abandoned ship or other watercraft on or below the seabed including but not limited to ships' structure and rigging, hardware, tools, utensils, cargo, personal items of crew and

passengers, and treasure trove, which is generally at least fifty years old. "Exploration agreement" means a contractual agreement between any person and the division that authorizes the conduct of certain exploration activities for archaeological materials on state-owned sovereignty submerged lands, imposes conditions on the conduct of those activities and does not create any interest in real property or in any state-owned sovereignty submerged lands.

(7) "Historical resource" means a building, structure, site, object or collection thereof (a prehistoric or historic district) which is generally at least fifty years old and of historical, architectural, or archaeological value. "Person" means any individual, firm, association, joint venture, partnership, estate, trust, syndicate, fiduciary, corporation, group, or governmental entity or officer.

(8) through (11) No change.

#### 1A-31.0042 Diving on Historic Shipwreck Sites Exempted Areas and Sites.

(4) Diving on historic shipwreck sites in Florida waters does not require a permit.

(2) This chapter does not apply to:

(a) Any abandoned shipwreck in or on the public lands of the United States or in or on Indian lands as set forth in the Abandoned Shipwreck Act of 1987, 43 U.S.C. sec. 2105(d), herein incorporated by reference;

(b) Any vessel for which a federal admiralty court has awarded title as against the State of Florida prior to April 28, 1988, the effective date of the Abandoned Shipwreck Act of 1987 (herein incorporated by reference), while such title remains valid; or

(c) Vessels entitled to sovereign immunity under federal law or international law, treaty, or agreement, including without limitation, United States or foreign military vessels as defined in the Sunken Military Craft Act (Public Law Number 108-375, Div. A, Title XIV, Sections 1401-1408, Oct. 28, 2004, 118 Stat. 2094), herein incorporated by reference.

1A-31.0045 Non-permittable Excluded Areas and Sites.

The division will not issue permits for the following areas and sites:

(1) Any abandoned shipwreck in or on the public lands of the United States or in or on Indian lands as set forth in the Abandoned Shipwreck Act of 1987, 43 U.S.C. sec. 2105(d), herein incorporated by reference; The following categories of state-owned sovereignty submerged lands are not eligible for permits under this chapter:

(2) Any vessel for which a federal admiralty court has awarded title as against the State of Florida prior to April 28, 1988, the effective date of the Abandoned Shipwreck Act of 1987 (herein incorporated by reference), while such title remains valid;

(3) Vessels owned or operated by a government on military non-commercial service when they sank, which are entitled to sovereign immunity under federal law or international law, treaty, or agreement, including without limitation, United States or foreign military vessels, and as defined in the Sunken Military Craft Act (Public Law Number 108-375, Div. A, Title XIV, Sections 1401-1408, Oct. 28, 2004, 118 Stat. 2094), herein incorporated by reference;

~~(a) Inland fresh and brackish waters;~~

~~(4)(b) Areas of federal jurisdiction including but not limited to areas of the National Park System, National Marine Sanctuaries, National Wildlife Refuges, National Estuarine Research Reserves and US Military Reservations;~~

(5) Areas of the Florida Keys National Marine Sanctuary;

~~(6)(c) Areas of state jurisdiction such as including but not limited to State Parks, State Aquatic Preserves, Coastal and Aquatic Managed Areas, State Archaeological Landmarks, State Archaeological Landmark Zones, Underwater Archaeological Preserves, Underwater Archaeological Research Reserves; and~~

~~(d) Areas of legally defined and authorized local jurisdiction including but not limited to such uses as public recreation, resource conservation and resource management.~~

~~(7)(e) Areas of submerged lands conveyed to public or private entities;~~

~~(2) The following categories of shipwrecks are not eligible for permits under this chapter:~~

~~(8)(a) Vessels that are or have been under the jurisdiction of a federal admiralty court, when such jurisdiction was established prior to April 28, 1988, the effective date of the Abandoned Shipwreck Act of 1987, except where the applicant provides proof that the federal court's jurisdiction and any rights it may have awarded are permanently terminated; and~~

~~(9)(b) Historic shipwreck sites that are of such singular historical or archaeological significance that permitted activities would be incompatible with the division's responsibility to administer state-owned and state-controlled historic resources in a spirit of stewardship and trusteeship and to preserve archaeological sites and objects of antiquity for the public benefit. Significance shall be measured against the criteria established for National Historic Landmark designation, per 36 C.F.R. sec. 65.4 "National Historic Landmark criteria," herein incorporated by reference.~~

Rulemaking Specific Authority 267.031(1) FS. Law Implemented 267.031(2), 267.061(1), 267.11 FS. History-New \_\_\_\_\_.

1A-31.0052 Security.

(1) The division and the permittee will cooperate to protect the permit area if state-owned historic resources are at risk.

(2) The permittee is responsible for protecting all archaeological materials they have recovered from the permit area.

The permittee is responsible for securing the permit area including any historic resources within or recovered from the permit area. When the division determines that state owned historic resources are at risk, the division may require that the permittee institute specific security measures. The division may assist in securing the permit area and historic resources, to protect the public interest.

Rulemaking Specific Authority 267.031(1) FS. Law Implemented 267.031(2), 267.061(1)(b), 267.14 FS. History–New\_\_\_\_\_.

1A-31.0062 Types of Permit.

(1) The division may issue two types of permits:

(a) An exploration permit allows the permittee to collect remote sensing and visual information on potential historic shipwreck sites without excavation or bottom disturbance. The exploration permit may be modified in writing at a later stage to allow ~~such limited~~ disturbance and excavation for purposes of attempting to determine ~~determining~~ the presence or absence and the nature of potential historic shipwreck sites. The number, location, extent and type of such test excavations shall be specified in the permit modification.

(b) A recovery permit may be issued only after the existence and nature of a historic shipwreck site has been documented by exploration permit activities and mutually agreed upon ~~confirmed~~ by the division and the permittee. A recovery permit allows the permittee to conduct more extensive excavations and recover archaeological materials, and allows for the transfer of title to the permittee of objects recovered, per Rule 1A-31.090, F.A.C. The number, location, extent and type of such excavation and recovery operations shall be specified in the permit.

(2) The division shall not issue multiple permits for any active permit area or historic shipwreck site that is within an active permit area, ~~including its buffer area.~~

Rulemaking Specific Authority 267.031(1) FS. Law Implemented 267.031(2), 267.061(1) FS. History–New\_\_\_\_\_.

1A-31.0082 Duration of Permit.

A permit shall have a term of three ~~one~~ years.

Rulemaking Specific Authority 267.031(1) FS. Law Implemented 267.031(2) FS. History–New\_\_\_\_\_.

1A-31.0092 Permit Area.

(1) The maximum size of an exploration permit area is three ~~one~~ square statute miles.

(2) The ~~maximum~~ size of a recovery permit area is limited to the size required to encompass the archaeological remains from which recovery is permitted.

(3) Permit areas shall be separated by a buffer zone of 100 ~~500~~ yards width from:

- ~~(a) Other permit areas;~~
- ~~(b) Recognized admiralty arrest areas;~~
- ~~(c) Established navigation channels;~~

~~(d) Exempted areas and sites as defined in this chapter; and~~

~~(e) Excluded areas and sites as defined in this chapter.~~

Rulemaking Specific Authority 267.031(1) FS. Law Implemented 267.031(2) FS. History–New\_\_\_\_\_.

1A-31.011 Boats to Carry Identification.

Rulemaking Specific Authority 267.031(1) FS. Law Implemented 267.061(3)(i), (k) FS. History–New 5-7-68, Amended 1-1-75, 9-6-78, Formerly 1A-31.11, Amended 4-13-87, Repealed\_\_\_\_\_.

1A-31.020 Inspection by Permitting Agency.

Prior to or after issuance of any permit, the division may, without notice, inspect the permit area to perform any or all of the following:

(1) through (2) No change.

~~(3) Determine the state of the submerged lands as a baseline for cleanup and restoration;~~

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

~~(5)(6) Make a determination of compliance with Chapter 267, Florida Statutes, the terms of the permit, and the conditions specified in this rule, and all other applicable laws and rules;~~

~~(7) Determine the status of historical resources and submerged lands in order to require protection or restoration of such resources.~~

Rulemaking Specific Authority 267.031(1) FS. Law Implemented 267.031(2) FS. History–New\_\_\_\_\_.

1A-31.030 Project Archaeologist Qualifications.

Any permit issued under this rule shall require the participation of a professional underwater archaeologist who shall serve as the project archaeologist. The project archaeologist must meet, at a minimum, the Secretary of Interior’s Standards for Professional Qualifications, as set forth in Federal Register Vol. 48, No. 190, p. 44739, or subsequent official version, herein incorporated by reference, and the following minimum qualifications of training, knowledge, experience and skills with an emphasis on underwater sites, water-saturated archaeological materials, and preservation methods, as evidenced by the project archaeologist’s resume submitted with the permit application:

(1) At least 12 ~~24~~ weeks of supervised underwater archaeological fieldwork and 10 ~~20~~ weeks of supervisory underwater archaeological fieldwork;

(2) through (4) No change.

(5) For exploration permits, at least one ~~three~~ months of experience in the operation of remote sensing devices in a marine environment for the purpose of discovery and evaluation of archaeological resources supervised by a specialist in the use of such devices;

(6) through (7) No change.

## 1A-31.036 Project Archaeologist Responsibilities.

The project archaeologist shall:

(1) through (3) No change.

~~(4) Be present when excavation work is conducted;~~

~~(5) Personally visually inspect the excavation;~~

(4)(6) Personally be present and visually inspect excavations when significant archaeological material clusters and/or areas of articulated ship's structure are being excavated, and at such times as may be necessary to properly interpret the historic shipwreck site, as may be determined by the project archaeologist supervise excavation work and all recoveries in the permit area;

~~(5)(7) Ensure that adequate records are maintained during all remote sensing, testing, excavation, recovery, and conservation and stabilization of recovered artifacts laboratory procedures; and~~

(8) No change.

Rulemaking Specific Authority 267.031(1) FS. Law Implemented 267.031(2), 267.031(5)(i), (k), (o), 267.061(1) FS. History–New\_\_\_\_\_.

Note: Proposed as 1A-31.035.

## 1A-31.040 Application Procedures.

(1) through (5) No change.

(6) Renewals shall have a term of three one years.

Rulemaking Specific Authority 267.031(1) FS. Law Implemented 267.031(2) FS. History–New\_\_\_\_\_.

1A-31.046 Application Review ~~Criteria for Issuing a Permit.~~

The division shall consider the following criteria in its decision to approve or deny a permit application, and may consider other relevant information:

(1) No change.

~~(2) Conflicts with other permit areas and non-permittable areas and sites, per Rule 1A-31.0045, F.A.C., exempted areas, exempted sites, excluded areas, excluded sites or navigation channels;~~

(3) Date of receiving the application in relation to other applications for the same location. A duplicate application for the same area shall not be entertained until the initial application for that area has been fully processed and made subject to a final order by the division;

(4) No change.

~~(5) Experience, ability and plans to restore submerged lands as demonstrated in the application;~~

(5) No change.

(7) through (8) renumbered (6) through (7) No change.

~~(8)(9) Financial ability to conduct complete the permitted activities as described demonstrated in the application;~~

(10) through (11) renumbered (9) through (10) No change.

~~(11)(12) Experience, ability and plans for data collection, security, inventory, and curation of recovered archaeological materials and records as demonstrated in the application;~~

(12)(13) Qualifications, experience and ability of the applicant to complete the proposed activities;

(14) through (16) renumbered (13) through (15) No change.

Rulemaking Specific Authority 267.031(1) FS. Law Implemented 267.031(2), 267.031(5)(i), (k), (o), 267.061(1) FS. History–New\_\_\_\_\_.

Note: Proposed as 1A-31.045.

## 1A-31.050 Permit Issuance.

The division shall only issue a permit when:

(1) The applicant has supplied evidence of sufficient financial ability to conduct complete the permitted activities operation as permitted;

(2) through (3) No change.

(4) The applicant has demonstrated that proposed project activities will utilize professionally accepted techniques for exploration, identification, reconnaissance, recovery, recording, conservation and/or stabilization, preservation, and analysis of archaeological materials recovered;

(5) The applicant has supplied an adequate plan for the conservation and/or stabilization, analysis, and curation of all archaeological materials recovered, records, and other materials resulting from the permitted activities proposed operation, including facilities if appropriate; and

(6) The division has determined that activities allowed under the permit are consistent not inconsistent with the requirements of this rule.

Rulemaking Specific Authority 267.031(1) FS. Law Implemented 267.031(2), 267.031(5)(i), (k), (o), 267.061(1) FS. History–New\_\_\_\_\_.

## 1A-31.055 Notice of Approval or Denial.

(1) The division shall notify the applicant of approval or intended denial of the application at the address provided in the application or as specified in any notice of change, per Rule 1A-31.080, F.A.C., within 90 days after receipt by the division of a completed application for a permit or a permit renewal. If the application is approved, the division shall furnish a permit document for signature by the applicant certifying agreement with its terms and conditions. The applicant shall return the signed permit to the division for signature by the division's authorized representative. The permit shall be executed by the division and returned to the permittee within 15 days of receipt. The permit is effective when it is signed by the applicant and the division.

(2) If the division intends to deny the application, the division shall list those criteria from Rule 1A-31.045, F.A.C., on which the intended denial is based and inform the applicant of the options available within the 90 days as cited above.

Rulemaking Specific Authority 267.031(1) FS. Law Implemented 267.031(2) FS. History–New\_\_\_\_\_.

#### 1A-31.060 Requirements for All Permits.

Each permit must include:

(1) through (4) No change.

(5) Registration numbers of all boats participating in the permitted activities, including a notice that registration numbers may be updated by the permittee as needed;

(6) through (8) No change.

~~(9) Description of the expected types of activity which must be undertaken by the permittee to restore the submerged lands following completion of the permitted activities;~~

~~(9)(10) Minimum standards of diligence, expressed as a projected schedule of specific work activities and dates by which such activities shall to be initiated or conducted completed;~~

~~(10)(11) Notice that the permit requires submittal of a final or interim an annual report meeting the guidelines established in subsection 1A-46.001(3), F.A.C. National Oceanic and Atmospheric Administration 1:80,000 nautical charts should be substituted for U.S. Geological Survey (1:24,000) 7.5 minute series topographic quadrangle maps as required in subsection 1A-46.001(3), F.A.C., as appropriate;~~

~~(11)(12) No change.~~

~~(13) Notice that no guarantee of being granted a renewal or new permit is stated or implied;~~

~~(12)(14) Notice that the permittee must notify the division in writing within 72 hours and immediately of any change affecting the ability or plans to conduct the complete permitted activities as set forth in the application and the permit, including changes in boats and boat registration numbers used in the permitted activities;~~

~~(13)(15) Notice that the use of clamshell dredges, cutterhead dredges, explosives and suction dredges greater than 10 6 inches in diameter is prohibited; and~~

~~(14)(16) Notice of the conditions under which that the use of propwash deflectors is allowed prohibited unless specifically authorized in the permit.~~

(15) Notice that all vessels used in exploration or recovery activities or operations shall carry copies of the executed permit issued by the division.

Rulemaking Specific Authority 267.031(1) FS. Law Implemented 267.031(2), 267.031(5)(i), (k), (o), 267.061(1) FS. History–New\_\_\_\_\_.

#### 1A-31.065 Additional Requirements for Exploration Permits.

(1) No excavation or displacement of archaeological materials shall be conducted unless approved in writing by the division in the form of an amendment to the Exploration Permit. No archaeological materials shall be recovered unless approved in writing by the division in the form of an amendment to the Exploration Permit. All archaeological materials recovered under an Exploration Permit shall be included in the pool of artifacts considered for transfer to the permittee if a recovery permit is issued, per Rule 1A-31.090, F.A.C remain state property.

(2) With a minimum of disturbance to the permit area the permittee shall:

(a) Conduct such remote sensing of the entire permit area as may be required to locate the specific historic shipwreck site or sites as referenced in the permittee's exploration application and permit;

(b) Identify the source of any anomalies as may be required, with an emphasis on locating the historic shipwreck site or sites as referenced in the permittee's exploration application and permit;

(c) Delineate the extent of historic shipwreck sites, with an emphasis on locating the historic shipwreck site or sites as referenced in the permittee's exploration application and permit; and

(d) Evaluate the potential characteristics and significance of any historic shipwreck site in consultation with the division, with an emphasis on locating the historic shipwreck site or sites as referenced in the permittee's exploration application and permit.

Rulemaking Specific Authority 267.031(1) FS. Law Implemented 267.031(2), 267.031(5)(i), (k), (o), 267.061(1) FS. History–New\_\_\_\_\_.

#### 1A-31.085 Permit Suspension and Revocation.

(1) When the division has reason to believe that a permittee may have violated one or more of the criteria for suspension or revocation of a permit, the division shall contact the permittee in writing and take other appropriate actions to make a determination of facts. If the division determines a violation has occurred, the division may suspend the permit by notifying the permittee of the violation and specifying corrective actions and dates by which such actions must be completed for the permit to be reinstated. If the stated corrective actions are not completed by the specified dates, the division may revoke the permit by notifying the permittee of the intent to revoke and informing the permittee of the available options. The division may suspend operations under a permit at any time for reasons, including but not limited to:

(a) Violation of the law or of this chapter;

(b) Violation of terms or conditions of the permit;

~~(c) Obtaining the permit by misrepresentation or failure to disclose all relevant facts;~~

~~(d) Making false statements in an application, report or other document submitted to the division under this chapter;~~

~~(e) Failure to meet minimum standards of diligence as specified in the permit; or~~

~~(f) Activity that jeopardizes archaeological materials.~~

~~(2) Criteria for suspension or revocation of a permit include: If the division intends to revoke the permit, then the permit shall remain suspended until the matter is resolved. The division may revoke a permit for any or all of the following:~~

~~(a) Violation of Chapter 267, Florida Statutes or this rule chapter Making false statements in an application, report or other document submitted to the division under this rule;~~

~~(b) Violation of terms or conditions of the permit Failure to meet minimum standards of diligence as specified in the permit;~~

~~(c) Obtaining the permit by misrepresentation or failure to disclose all relevant facts Violation of any of the terms or conditions of the permit;~~

~~(d) Knowingly making false statements in an application, report or other document submitted to the division under this rule chapter Violation of this chapter or any other applicable law or regulation;~~

~~(e) Failure to meet minimum standards of diligence as specified in the permit Obtaining the permit by misrepresentation or failure to disclose all relevant facts;~~

~~(f) Issuance based upon incorrect information, mistaken belief, or clerical error, or any other just cause as provided by this rule chapter; or~~

~~(g) Non-permitted activities that jeopardize archaeological materials.~~

(3) Suspension or revocation of a permit does not relieve the permittee of any obligations concerning ~~restoration of submerged lands~~; protecting exposed archaeological materials exposed and/or recovered by the permittee ~~remains~~ or providing reports and information to the division as required by the permit.

(4) ~~The division shall not unreasonably suspend or revoke a permit and shall take into consideration the unknown variables that are inherent in the exploration and recovery of historic shipwreck sites prior to the revocation or suspension of any permit. The division shall serve written notice of intent to revoke a permit, specifying the criteria from Rule 1A-31.045, F.A.C., on which the intended revocation is based and inform the applicant of the available options.~~

~~Rulemaking Specific Authority 267.031(1) FS. Law Implemented 267.031(2), 267.031(5)(i), (k), (o), 267.061(1) FS. History–New\_\_\_\_\_.~~

1A-31.090 Transfer Disposition of Archaeological Materials, Title to Archaeological Materials Conveyed.

The division may transfer archaeological materials to which it holds title to the permittee in consideration of recovery services provided to the state under the terms of a recovery permit. Specific provisions for transfer of archaeological materials will be specified in each recovery permit.

(1) The division may not transfer more than 80% of recovered archaeological materials to the permittee;

(2) Distribution of the recovered archaeological materials will be negotiated by the division and the permittee based on the historical value of recovered materials;

(3) Current holdings in the division collection shall be considered in the distribution of recovered archaeological materials;

(4) Artifacts recovered under an Exploration Permit for the same area or historic shipwreck site will be included in the pool of artifacts considered for transfer to the permittee, per subsection 1A-31.065(1), F.A.C.; and

(5) Each transfer of archaeological materials will include a written statement from the division to the permittee conveying title to the transferred materials.

~~Rulemaking Specific Authority 267.031(1), 267.115(6) FS. Law Implemented 267.031(2), 267.031(5)(i), (k), (o), 267.061(1) FS. History–New\_\_\_\_\_.~~

**DEPARTMENT OF STATE**

**Division of Historical Resources**

RULE NO.:                      RULE TITLE:  
1A-31.0027                    No Interest Conveyed  
  NOTICE OF WITHDRAWAL

Notice is hereby given that the above rule, as noticed in Vol. 34, No. 39, September 26, 2008 issue of the Florida Administrative Weekly has been withdrawn.

**DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES**

**Division of Food Safety**

RULE NOS.:                    RULE TITLES:  
5K-4.027                      Standard of Identity – Honey  
5K-4.028                      Adulteration and Misbranding –  
  Honey

**NOTICE OF CORRECTION**

Notice is hereby given that the following correction has been made to the proposed rule in Vol. 35, No. 10, March 13, 2009 issue of the Florida Administrative Weekly. The date for a public hearing, if requested, is Tuesday, April 7, 2009. The time and location remain as originally published.

**DEPARTMENT OF EDUCATION**

**State Board of Education**

RULE NO.:                   RULE TITLE:  
6A-6.0901                   Definitions Which Apply to  
                                  Programs for Limited English  
                                  Proficient Students

**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. 5, February 6, 2009 issue of the Florida Administrative Weekly.

Subsection (8) has been amended to read:

6A-6.0901 Definitions Which Apply to Programs for English Language Learners.

(8) In accordance with Section 1003.56(3)(d), Florida Statutes, ~~b~~Basic subject areas means instruction in reading, computer literacy, mathematics, science and social studies.

Specific Authority 1001.02 FS. Law Implemented 1003.56 FS. History--New 10-30-90, Amended\_\_\_\_\_.

**DEPARTMENT OF EDUCATION**

**State Board of Education**

RULE NO.:                   RULE TITLE:  
6A-6.0904                   Equal Access to Appropriate  
                                  Programming for Limited English  
                                  Proficient Students

**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. 5, February 6, 2009 issue of the Florida Administrative Weekly.

Subparagraph (6)(b)4. was amended to read:

4. A plan of interim measures which must include inservice training programs, utilization of native speaking aides, native ~~active~~ language materials and other elements designed to assure that each student’s English language barrier is addressed in an instructionally sound manner.

**DEPARTMENT OF EDUCATION**

**State Board of Education**

RULE NO.:                   RULE TITLE:  
6A-6.0907                   Inservice Requirements for  
                                  Personnel of Limited English  
                                  Proficient Students

**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. 5, February 6, 2009 issue of the Florida Administrative Weekly.

Paragraphs (2)(a) and (3)(a), Subsection (5), and Subparagraph (6)(b)2., are amended to read:

(2)(a) Any teachers using home language strategies to teach mathematics, science, social studies or computer literacy assigned to instruct English Language Learners on September 15, 1990, or for the first time in any given school year thereafter shall complete at least sixty points of inservice training or three semester hours of college credit in methods of teaching home language, home language curriculum and materials development, and ~~or~~ testing and evaluation in the home language by September 15 of the following year.

(3)(a) Any teacher assigned to instruct English Language Learners in subjects other than English, reading, mathematics, science, social studies or computer literacy on September 15, 1990, for the first time in any given school year thereafter shall complete at least eighteen points of inservice training or three semester hours of college credit methods of teaching English to speakers of other languages, ESOL curriculum and materials development, cross-cultural communications and understanding, and ~~or~~ testing and evaluation of ESOL by September 15 of the following year. Inservice training shall be provided during three full planning days or by other means approved in the district’s ELL plan.

(5) School administrators and guidance counselors shall complete sixty (60) points of inservice training or three (3) semester hours of college credit in English for Speakers of Other Languages, ESOL Curriculum and Materials Development, Cross-cultural Communications and Understanding, and ~~or~~ Testing and Evaluation of ESOL within three (3) years of their hiring date or assignment as a school administrator or guidance counselor. ESOL inservice training or college credit in ESOL taken prior to the hiring date or assignment may be used to meet this requirement.

(6)(b)2. A teacher required to have an ESOL endorsement on a certificate ~~pursuant to this rule~~ shall complete course work required for such endorsement in accordance with Rule 6A-1.0503, F.A.C.

**DEPARTMENT OF EDUCATION**

**State Board of Education**

RULE NO.:                   RULE TITLE:  
6A-22.001                   Definitions

**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. 6, February 13, 2009 issue of the Florida Administrative Weekly.

Subsection (6) is amended to read:

(6) “Labor market” means an area not to exceed a fifty (50) mile radius of the injured employee’s customary residence ~~vicinity~~.

**DEPARTMENT OF EDUCATION**

**State Board of Education**

RULE NO.: 6A-22.003                      RULE TITLE: Reemployment Status Review  
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. 6, February 13, 2009 issue of the Florida Administrative Weekly.

Paragraph (2)(e) was added to read:

(2)(e) Electronic submission of Form DWC-22 shall be required beginning eighteen (18) months after the effective date of this rule.

**DEPARTMENT OF EDUCATION**

**State Board of Education**

RULE NO.: 6A-22.010                      RULE TITLE: Reporting Services and Costs: Qualified Rehabilitation Provider and Employer or Carrier Responsibilities  
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. 6, February 13, 2009 issue of the Florida Administrative Weekly.

Subsection (13) is added to read:

(13) Electronic submission of Form DWC-21 shall be required beginning eighteen (18) months after the effective date of this rule.

**DEPARTMENT OF COMMUNITY AFFAIRS**

**Division of Housing and Community Development**

RULE NO.: 9B-72.090                      RULE TITLE: Product Approval by the Commission  
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. 3, January 23, 2009 issue of the Florida Administrative Weekly.

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

(e) When a new edition of the Code does not require a material or substantive change for an approved product, the manufacturer of the approved product shall affirm that his or her approved product meets the new edition of the Code. As part of application for self-affirmation, if the evaluation report refers to the previous edition of the Code, the manufacturer of the approved product shall submit a statement from the an approved original evaluation or validation entity necessary to certify that the product complies with the subsequent code

version via an attachment uploaded and submitted through the BCIS. Self-affirmation is subject to review and verification by the Program Administrator.

- (f) through (g) No change.
- (2) through (3) No change.

Rulemaking Specific 553.77(1)(i), 553.842(1) FS. Law Implemented 553.842(1) FS. History—New 5-5-02, Amended 9-4-03, 11-22-06,\_\_\_\_\_.

**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.: 33-601.820                      RULE TITLE: Maximum Management  
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.

33-601.820 Maximum Management.

- (1) through (2) No change.
- (3) Initial Placement in Maximum Management Housing.
- (a) through (b) No change.
- (c) Within 24 hours after an inmate is placed in maximum management housing, the Warden or Duty Warden shall review the Shift Supervisor's referral for maximum management and document a decision, based on the criteria set forth in subsection (2), as to whether the inmate's conduct was severe enough to warrant placement it is necessary to keep the inmate in maximum management housing pending completion of the hearing process in subsection (4). If the Warden or Duty warden determines that it is unnecessary to keep the inmate in maximum management housing pending completion of the hearing process, the inmate shall be placed in administrative confinement and the procedure for placement in close management outlined in Rule 33-601.800, F.A.C., shall be followed if the inmate is not already in close management. If the inmate was already in close management or death row status, the inmate shall be returned to that status. If the behavior for which the inmate was referred for maximum management ~~inmate's recent~~ warrants consideration of an upward modification of his close management level, that action shall take place after his return to close management in accordance with Rule 33-601.800, F.A.C. If the Warden or Duty Warden determines that maximum management placement is appropriate, the inmate will immediately be given a written notice including the reason for the placement referral and





The correction is as follows:

Due to the repeal of Rule 64B4-3.007, F.A.C., the rule number shall be changed to 64B4-3.0075.

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Sue Foster, Executive Director, Board of Clinical Social Work, Marriage and Family Therapy and Mental Health Counseling/MQA, 4052 Bald Cypress Way, Bin #C08, Tallahassee, Florida 32399-3258

**DEPARTMENT OF HEALTH**

**Board of Opticianry**

RULE NO.: 64B12-16.003  
 RULE TITLE: Apprenticeship Requirements and Training Program  
 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. 2, January 16, 2009 issue of the Florida Administrative Weekly.

The change is in response to concerns by the Joint Administrative Committee in a letter dated February 27, 2009, regarding sponsor information, and to modify two applicant history questions on form DH-MQA 1180.

The rule shall read as:

64B12-16.003 Apprenticeship Requirements and Training Program.

(1) Any persons seeking to be registered as an apprentice optician shall submit to the Board an Apprentice Optician Application (Form DH-MQA 1180, revised 3/09), hereby adopted and incorporated by reference, which can be obtained from the Board's website at [www.doh.state.fl.us/mqa/opticianry](http://www.doh.state.fl.us/mqa/opticianry). All apprenticeship training must be conducted by the sponsor(s) with whom the apprentice is currently registered with the Agency. Credits shall be granted to apprentices if the training is properly documented according to this rule. An apprentice shall not receive credit for any training received from a person other than the properly registered sponsor(s). However, an apprentice can receive credit for attending continuing education courses by a board-approved provider pursuant to this rule.

(2) An apprentice shall have no more than two sponsors at any given time. If an apprentice has two sponsors, one sponsor shall be the primary sponsor responsible for the secondary sponsor and the apprentice. The primary sponsor shall be responsible for the completion, filing, signature and verification of the Apprenticeship Sponsor ~~Attestation~~ Form (DH-MQA 1063, revised 11/08 4/02) which is hereby adopted and incorporated by reference, which can be obtained from the Board's website at [www.doh.state.fl.us/mqa/opticianry](http://www.doh.state.fl.us/mqa/opticianry) and is available from the Board office at Department of Health, Board of Opticianry, 4052 Bald Cypress Way, Bin #C08, Tallahassee, Florida 32399-3258. The secondary sponsor may work with

the apprentice in a store or office other than the primary store or office as long as the apprentice works under the apprenticeship requirements and training program.

(3) through (6) No change.

Rulemaking Specific Authority 484.005 FS. Law Implemented 484.002, 484.007(1)(d)4. FS. History--New 10-12-80, Amended 8-31-83, 8-30-84, Formerly 21P-16.03, Amended 3-5-87, 7-15-87, 1-26-88, 3-30-89, 10-17-90, 5-27-92, 9-30-92, 1-27-93, Formerly 21P-16.003, Amended 9-14-93, 5-2-94, Formerly 61G13-16.003, Amended 2-21-96, 4-23-97, Formerly 59U-16.003, Amended 10-1-97, 2-16-99, 6-25-02, 4-11-06, 9-27-06, 4-19-07, 11-20-07, \_\_\_\_\_.

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

**DEPARTMENT OF HEALTH**

**Board of Pharmacy**

RULE NO.: 64B16-26.2031  
 RULE TITLE: Licensure by Examination; Foreign Pharmacy Graduates  
 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. 36, September 5, 2008 issue of the Florida Administrative Weekly.

The change is to reference the correct form number. The purpose of the Third Notice of Change is to make updated changes to subsections (1) and (5). All other changes made in the rule in the Notice of Change published on December 24, 2008 in Vol. 34, No. 52, of the F.A.W. are still valid. The change is in response to written comments submitted by the staff of the Joint Administrative Procedures Committee. The updated changes are as follows:

1. Subsection (1) shall now read as follows:

(1) Submit an application for licensure by examination on form DOH-MQA PH103 (Rev. 02/09), Foreign Graduate Pharmacist Examination Application and Instructions, which is hereby incorporated by reference, and which can be obtained from the Board of Pharmacy, 4052 Bald Cypress Way, Bin #C04, Tallahassee, Florida 32399-3254, and must be accompanied with a non-refundable examination fee and an initial license fee set forth in Rules 64B16-26.1001 and 64B16-26.1002, F.A.C.

2. Subsection (5) shall now read as follows:

(5) Complete 2080 hours of supervised work activity, of which a minimum of 500 hours must be completed within the State of Florida. Such experience must be equivalent to that required in the internship program as set forth in Rule 64B16-26.2032, F.A.C. The work experience program including both the preceptor and the permittee must be approved by the Board of Pharmacy. The work experience

shall be documented on form DOH-MQA PH1153 (Rev. 03/09), Foreign Graduate Intern Work Activity Manual, which is hereby incorporated by reference, and which can be obtained from the Board of Pharmacy, 4052 Bald Cypress Way, Bin #C04, Tallahassee, Florida 32399-3254. Further, no program of supervised work activity shall be approved for any applicant until said applicant has obtained the specified passing scores on the TOEFL or the TOEFL ibt.

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

**DEPARTMENT OF CHILDREN AND FAMILY SERVICES**

**Economic Self-Sufficiency Program**

RULE NOS.:	RULE TITLES:
65A-1.303	Assets
65A-1.707	Family-Related Medicaid Income and Resource Criteria
65A-1.712	SSI-Related Medicaid Resource Eligibility Criteria

**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. 53, December 31, 2008 issue of the Florida Administrative Weekly.

IF REQUESTED WITHIN 14 DAYS OF THE DATE OF THIS NOTICE, A HEARING WILL BE HELD AT THE DATE, TIME AND PLACE SHOWN BELOW (IF NOT REQUESTED, THIS HEARING WILL NOT BE HELD):

DATE AND TIME: April 13, 2009, 1:30 p.m.  
 PLACE: 1317 Winewood Boulevard, Building 3, Room 455, Tallahassee, FL 32399

**TEXT OF THE PROPOSED RULE CHANGES:**

65A-1.712 SSI-Related Medicaid Resource Eligibility Criteria.

(2) Exclusions. The department follows SSI policy prescribed in 20 C.F.R. § 416.1210 (2008) and 20 C.F.R. § 416.1218 Part 416 (2008), incorporated by reference, in determining what is counted as a resource with the following exceptions, as mandated by federal Medicaid policies, or additional exclusions, as adopted by the department under section 42 U.S.C. § 1396a(r)(2) (2006), incorporated by reference. SSI policy requires resources in a blocked account to be countable resources. This applies regardless of whether the individual or their representative is required to petition the court to withdraw funds for the individual’s care. A blocked account is one in which state law protects an individual’s funds by specifically requiring that the funds be made available for the care and maintenance of the individual.

(3) No change.

(a) The department follows the policy for transfer of assets mandated by 42 U.S.C. §§ 1396p (2006) and 1396r-5 (2006), incorporated by reference. Transfer policies apply to the transfer of income and resources.

**DEPARTMENT OF FINANCIAL SERVICES**

**Division of Consumer Services**

RULE NO.:	RULE TITLE:
69J-2.003	Mediation Procedures for Resolution of Disputed Personal Lines Insurance Claims Arising from the 2004 and 2005 Hurricanes and Tropical Storms

**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. 11, March 20, 2009 issue of the Florida Administrative Weekly.

IF REQUESTED WITHIN 21 DAYS OF THE DATE OF THIS NOTICE, A HEARING

WILL BE HELD AT THE DATE, TIME AND PLACE SHOWN BELOW (IF NOT REQUESTED, THIS HEARING WILL NOT BE HELD):

DATE AND TIME: April 13, 2009, 3:00 p.m.  
 PLACE: Room 116, Larson Building, 200 East Gaines Street, Tallahassee, Florida

**DEPARTMENT OF FINANCIAL SERVICES**

**Division of Consumer Services**

RULE NO.:	RULE TITLE:
69J-166.031	Mediation of Property Insurance Claims

**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. 11, March 20, 2009 issue of the Florida Administrative Weekly.

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

DATE AND TIME: April 13, 2009, 3:00 p.m.  
 PLACE: Room 116, Larson Building, 200 East Gaines Street, Tallahassee, Florida

**FINANCIAL SERVICES COMMISSION**

**OIR – Insurance Regulation**

RULE NOS.: 69O-163.0075 69O-163.009  69O-163.011	RULE TITLES: Term and Evidence of Insurance Determination of Reasonableness of Benefits in Relation to Premium Charge  Credit Disability Insurance Rates
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**NOTICE OF WITHDRAWAL**

Notice is hereby given that the above rule, as noticed in Vol. 34, No. 46, November 14, 2008 issue of the Florida Administrative Weekly has been withdrawn.

**FINANCIAL SERVICES COMMISSION**

**OIR – Insurance Regulation**

RULE NO.: 69O-164.040	RULE TITLE: Determining Reserve Liabilities for Preneed Life Insurance
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**NOTICE OF WITHDRAWAL**

Notice is hereby given that the above rule, as noticed in Vol. 34, No. 40, October 3, 2008 issue of the Florida Administrative Weekly has been withdrawn.

**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."

**FLORIDA HOUSING FINANCE CORPORATION**

RULE NOS.: 67ER09-1 67ER09-2 67ER09-3 67ER09-4  67ER09-5	RULE TITLES: Purpose and Intent Definitions Implementation Community Workforce Housing Innovation Pilot Program State Apartment Incentive Loan Program
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**SUMMARY:** These rules provide the procedures by which the Corporation shall return unexpended funds held by the Corporation to the State Treasury as directed by Ch. 2009-2, L.O.F.

THE PERSON TO BE CONTACTED REGARDING THE EMERGENCY RULE IS: Stephen P. Auger, Executive Director, Florida Housing Finance Corporation, 227 North Bronough Street, Suite 5000, Tallahassee, FL 32301, (850)488-4197

THE FULL TEXT OF THE EMERGENCY RULE IS:

67ER09-1 Purpose and Intent.

The purpose of this rule chapter is to establish the procedures by which the Corporation shall de-obligate the unexpended balance of funds appropriated by the Legislature in Specific Appropriation 1616 of Chapter 2008-152, Laws of Florida, Chapter 2006-69, section 31, Laws of Florida, and Specific Appropriation 1694 of Chapter 2007-72, Laws of Florida, as directed by Chapter 2009-2, Laws of Florida.

Rulemaking Authority ch. 2009-2, s. 12, L.O.F. Law Implemented ch. 2009-1, s. 5, 44, 45, 46, and 47, L.O.F. History–New 3-16-09.

67ER09-2 Definitions.

(1) "Applicant" means any person or legally formed entity that (i) has received a funding award or (ii) is seeking a loan or funding from the Corporation by submitting an application or responding to a request for proposal for one or more of the Corporation's programs.

(2) "Balance of the Unexpended Funding to be De-obligated" means the remaining amount of Unexpended Funding that must be de-obligated to meet the requirements of Chapter 2009-1, section 47, Laws of Florida.

(3) "Board of Directors" or "Board" means the Board of Directors of the Corporation.

(4) "Calendar Days" means the seven (7) days of the week. For computing any period of time allowed by this rule chapter, the day of the event from which the designated period of time begins to run shall not be included. The last day of the period so computed shall be included unless it is a Saturday, Sunday or legal holiday, in which event the period shall run until the end of the next day which is neither a Saturday, Sunday or legal holiday.

(5) "Commercial Fishing Worker" means Commercial fishing worker as defined in Section 420.503, F.S.

(6) "Corporation" means the Florida Housing Finance Corporation as defined in Section 420.503, F.S.

(7) "Credit Underwriter" means the independent contractor under contract with the Corporation having the responsibility for providing stated credit underwriting services.

(8) "CWHIP" or "CWHIP Program" means the Community Workforce Housing Innovation Pilot Program created pursuant to Chapter 2006-69, section 27, Laws of Florida, and as defined in Section 420.5095, F.S.

(9) "Development" means Project as defined in Section 420.503, F.S.