

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT AND A COPY OF THE PRELIMINARY DRAFT, IF AVAILABLE, IS: Juanita Chastain, Executive Director, Board of Landscape Architecture, 1940 North Monroe Street, Tallahassee, Florida 32399-0750

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

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 HEALTH

Board of Clinical Laboratory Personnel

RULE NO.: 64B3-6.001 RULE TITLE: Manner of Application

PURPOSE AND EFFECT: The Board proposes the rule amendment to incorporate an updated version of the application form.

SUBJECT AREA TO BE ADDRESSED: Manner of Application.

RULEMAKING AUTHORITY: 483.805(4) FS.

LAW IMPLEMENTED: 456.013, 483.815, 483.823 FS.

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

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT AND A COPY OF THE PRELIMINARY DRAFT, IF AVAILABLE, IS: Joe Baker, Jr., Executive Director, Board of Clinical Laboratory Personnel, 4052 Bald Cypress Way, Bin #C07, Tallahassee, Florida 32399-3257

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

DEPARTMENT OF HEALTH

Board of Optometry

RULE NO.: 64B13-4.004 RULE TITLE: Manner of Application

PURPOSE AND EFFECT: The Board proposes the rule amendment to modify and incorporate by reference an updated application form and to modify the initial licensure fee.

SUBJECT AREA TO BE ADDRESSED: Incorporate an updated licensure form.

RULEMAKING AUTHORITY: 456.033, 463.006(1)(b), (2) FS.

LAW IMPLEMENTED: 456.013(7), 456.033, 463.006(1)(b), (2) FS.

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

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT AND A COPY OF THE PRELIMINARY DRAFT, IF AVAILABLE, IS: Joe Baker, Jr., Executive Director, Board of Optometry/MQA, 4052 Bald Cypress Way, Bin #C07, Tallahassee, Florida 32399-3257

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

DEPARTMENT OF HEALTH

Board of Speech-Language Pathology and Audiology

RULE NO.: 64B20-3.007 RULE TITLE: Active Status License Fee

PURPOSE AND EFFECT: The Board proposes the rule amendment to reduce the renewal fee.

SUBJECT AREA TO BE ADDRESSED: Active Status License Fee.

RULEMAKING AUTHORITY: 468.1145(1) FS.

LAW IMPLEMENTED: 456.036, 468.1145(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, IF AVAILABLE, IS: Kaye Howerton, Executive Director, Board of Speech Language Pathology, 4052 Bald Cypress Way, Bin #C06, Tallahassee, Florida 32399-3256

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

Section II Proposed Rules

DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES

Division of Aquaculture

| | |
|------------|--|
| RULE NOS.: | RULE TITLES: |
| 5L-1.001 | General Requirements and Intent |
| 5L-1.007 | Container Identification, Terminal Sale Date; Prohibitions |
| 5L-1.008 | Shellfish Handling |
| 5L-1.013 | Plant Operation |

PURPOSE AND EFFECT: These amendments propose to further protect the health of oyster consumers and ensure the State of Florida meets the requirements of the National Shellfish Sanitation Program (NSSP) as it relates to *Vibrio vulnificus*. The proposed rule amendments significantly impact commercial harvesting and processing of oysters.

SUMMARY: These proposed amendments apply to commercial oyster harvesting and processing in Florida in order to protect the health of oyster consumers and to provide continued limited access to oyster resources during warmer months. Specifically, restrictions on oyster harvesting times are proposed from May through October. Additionally, these proposed amendments describe additional container identification requirements. To compensate for these restrictions, three different oyster cooling options for harvesters and processors are proposed by these amendments, provided written approval from the Department is obtained prior to implementing the certified dealer's HACCP plan. Furthermore, the Model Ordinance 2007 of the National Shellfish Sanitation Program, Guide for the Control of Molluscan Shellfish published by the U.S. Department of Health and Human Services, Public Health Service, Food and Drug Administration is adopted, thereby replacing the 1999 version adopted previously.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS: The agency has determined that this rule will have an impact on small businesses. A SERC has been prepared by the agency. A written comment received by an oysterman association representing approximately 20 fishermen and 3 wholesalers indicated the proposed rule amendments may reduce their landings by a minimum of 50%. The agency could not estimate the cost to any state or local government entities. No good faith written proposals were received for a lower cost regulatory alternative to the proposed rule which would have substantially accomplished the objectives and were supported by a majority of workshop participants.

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

RULEMAKING AUTHORITY: 597.020 FS.

LAW IMPLEMENTED: 597.020 FS.

A HEARING WILL BE HELD AT THE DATES, TIMES AND PLACES SHOWN BELOW:

Three hearings will be held. They are as follows:

DATE AND TIME: March 19, 2010, 4:00 p.m. EST

PLACE: Franklin County Courthouse Annex, Commission Meeting Room, 34 Forbes St., Apalachicola, FL 32320

DATE AND TIME: March 22, 2010, 4:00 p.m. EST

PLACE: South Ponte Vedra Civic Association, 2724 South Ponte Vedra Blvd, Ponte Vedra Beach, FL 32082

DATE AND TIME: March 23, 2010, 5:00 p.m. EST

PLACE: Senator George G. Kirkpatrick Marine Lab, 11350 S.W. 153rd Court, Cedar Key, FL 32625

Pursuant to the provisions of the Americans with Disabilities Act, any person requiring special accommodations to participate in this workshop/meeting is asked to advise the agency at least 7 days before the workshop/meeting by contacting: Chris Brooks, Division of Aquaculture, at (850)488-4033. If you are hearing or speech impaired, please contact the agency using the Florida Relay Service, 1(800)955-8771 (TDD) or 1(800)955-8770 (Voice).

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULES IS: Chris Brooks, Division of Aquaculture, 1203 Governor's Square Boulevard, 5th Floor, Tallahassee, Florida 32301, phone: (850)488-4033

THE FULL TEXT OF THE PROPOSED RULES IS:

5L-1.001 General Requirements and Intent.

(1) through (5) No change.

(6) Adoption of Federal Regulations and Standards – To the extent not inconsistent with the rules herein, the following are hereby adopted as rules under Section 597.020, F.S.:

(a) No change.

(b) The Purpose, the Definitions, and Chapters 1 through 13, and 15 through 16 of the "Model Ordinance 2007 ~~1999~~" of the National Shellfish Sanitation Program, Guide for the Control of Molluscan Shellfish published by the U.S. Department of Health and Human Services, Public Health Service, Food and Drug Administration 2007 ~~1999~~, except for:

1. Definition number (14)(d) Reshipper; and

2. Definition number (90)~~(84)~~ Reshipper.

Interested persons may obtain copies of the pertinent sections of the Codes of Federal Regulations referenced in paragraph (a) above by contacting the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402; www.gpo.gov. Copies of the Pertinent sections of the U.S. Department of Health and Human Services, Public Health Service, Food and Drug Administration, Guide For The Control Of Molluscan Shellfish referenced in paragraph (b) above may be obtained by contacting the U.S. Government Printing Office or at the website:

<http://www.fda.gov/Food/FoodSafety/Product-SpecificInformation/Seafood/FederalStatePrograms/NationalShellfishSanitationProgram/ucm046353.htm>.

Copies of all referenced documents are available for examination at the Florida Department of Agriculture and Consumer Services, Division of Aquaculture, 1203 Governors Square Boulevard, 5th Floor, Tallahassee, Florida 32301, www.FloridaAquaculture.com.

Rulemaking Specific Authority 597.020 FS. Law Implemented 597.020 FS. History--New 1-4-87, Amended 8-10-88, 7-9-89, 11-5-92, Formerly 16R-7.001, Amended 7-3-95, 2-6-97, 6-23-99, Formerly 62R-7.001, Amended 8-9-00, 5-29-02,_____.

5L-1.007 Container Identification, Terminal Sale Date; Prohibitions.

(1) Shucked shellfish container – The packer’s or repacker’s shellfish processing plant certification license number preceded by the state abbreviation must be embossed, imprinted, lithographed, or otherwise permanently and legibly recorded on the external body of containers or on the lid if the lid becomes an integral part of the container during the sealing process (Example: FL-872-SP). Containers shall permanently indicate type of product, quantity, and name and address of packer, repacker, or distributor. Containers of fresh shellfish, with a capacity of less than 64 ounces, shall further clearly and permanently bear the terminal sale date, by the numerical month, day, and last digit of the year. Containers of fresh shellfish with a capacity of 64 ounces or more, shall bear the actual shucking date by numerical month, day, and last digit of the year, in that order (Example: 01015). Reusable bulk storage containers shall be identified with state of origin, harvest date, and shuck date. Containers of frozen or previously frozen shellfish shall further clearly and permanently bear the date of shucking by numerical month, day, and last digit of the year, in that order (Example: 02097). Previously frozen shucked shellfish shall also have the freeze date and the thaw date following the same format. The terminal sale date for previously frozen shucked shellfish will be calculated by adding the day of shucking plus amount of time under refrigeration if not frozen, and adding the days that the product has been held thawed. Repacked shellfish containers shall also bear an appropriate code identifying the original packer. If oysters exceed the requirements time limit for refrigeration found in subsections 5L-1.008(5), ~~(6), (7), (8) or (9)~~, F.A.C., the shucked shellfish container may be identified with the language “FOR POST HARVEST PROCESSING COOKING ONLY”.

(2) No change.

(3) The commercial harvester’s tags shall contain legible waterproof indelible information arranged in the specific order as follows:

(a) through (b) No change.

(c) The time of harvest (recorded as the time when the first shellfish is removed from the water for that specific bag or container);

(d) through (g) No change.

(h) The identification of the cooling option if used, including complete on-board cooling option (5L-1.008(7)), partial on-board cooling option (5L-1.008(8)), or rapid cooling option (5L-1.008(9)) for oysters harvested during the months of May through October.

(4) Bulk tagging is allowed for those aquaculturists operating with an aquaculture certificate. A bulk tag, containing the information required in paragraphs (3)(a)-(g) and (h), where applicable, along with the name of the certified shellfish dealer which the product is consigned to, shall be completed at each harvest location.

(5) Bulk tagging, by a certified shellfish dealer, while washing, packing, during depuration, wet storing, staging and intrastate transport of shellfish is permissible up to final packaging only when the lot container (i.e., pallet), contains shellfish which are harvested on the same day, from the same harvest area, and have the same intended use (i.e., for halfshell consumption, for shucking, or for further processing), and is tagged as follows:

(a) through (e) No change.

(f) The identification of the cooling option if used, including complete on-board cooling option (5L-1.008(7)), partial on-board cooling option (5L-1.008(8)), or rapid cooling option (5L-1.008(9)) for oysters harvested during the months of May through October.

(6) The dealer’s tag shall contain legible, waterproof, indelible information arranged in the specific order as follows:

(a) through (g) No change.

(h) If shellstock exceeds the requirements time limit for refrigeration found in subsections 5L-1.008(5), ~~and (6), (7), (8) or (9)~~, F.A.C., the shellstock dealer tag shall be identified with the language “FOR SHUCKING ONLY BY A CERTIFIED DEALER” or “FOR POST HARVEST PROCESSING COOKING ONLY”.

(i) through (j) No change.

(7) through (12) No change.

Rulemaking Specific Authority 597.020 FS. Law Implemented 597.020 FS. History--New 1-4-87, Amended 5-21-87, 8-10-88, 7-9-89, 8-30-89, 5-6-93, 9-14-93, 8-21-94, Formerly 16R-7.010, Amended 9-1-95, 5-8-96, 2-6-97, 10-12-97, 2-12-98, 2-25-98, 7-1-98, 11-13-98, 12-28-98, 3-18-99, 7-1-99, Formerly 62R-7.010, Amended 6-19-00, 8-9-00, 10-14-01, 5-29-02, 8-17-04, 9-28-04, 7-28-08, 7-29-08,_____.

5L-1.008 Shellfish Handling.

(1) through (4) No change.

(5) Throughout the year, it is harvester’s responsibility that shellfish shall be harvested between sunrise and sunset as established by the U.S. Weather Service. During the months of November, December, January, February, and March, the harvester shall assure that shellfish shall be delivered to a certified shellfish dealer by 10:00 p.m. of the same day as harvest. During the months of April, May, and October, harvesters shall assure that ~~oysters or~~ clams shall be delivered to a certified shellfish dealer within twelve (12) hours of the time of harvest. During the month of April, the harvester shall assure that oysters shall be delivered to a certified shellfish dealer within twelve (12) hours of the time of harvest. During the months of May, June, and July, ~~August, and September~~, the

harvesters shall assure that oysters shall be delivered to a certified shellfish dealer by 11:30 a.m. unless authorized in a certified dealer HACCP plan for the complete on-board cooling option detailed in subsection 5L-1.008(7), F.A.C. or authorized in a certified shellfish dealer HACCP plan for the partial on-board cooling option detailed in subsection 5L-1.008(8), F.A.C. or authorized in a certified shellfish dealer HACCP plan for the rapid cooling option detailed in subsection 5L-1.008(9), F.A.C. ~~within five (5) hours of the time of harvest.~~ During the months of August, September, and October, the harvesters shall assure that oysters shall be delivered to a certified shellfish dealer by 12:00 p.m. unless authorized by the Department as detailed in subsection 5L-1.008(7), F.A.C. for complete on-board cooling or authorized in a certified shellfish dealer HACCP plan for the partial on-board cooling option detailed in subsection 5L-1.008(8), F.A.C. or authorized in a certified shellfish dealer HACCP plan for the rapid cooling option detailed in subsection 5L-1.008(9), F.A.C. During the months of June, July, August, and September, the harvester shall assure that clams shall be delivered to a certified shellfish dealer within ten (10) hours of the time of harvest, or within the same day as harvest, whichever is earlier. All shellfish shall be delivered directly to a certified shellfish dealer possessing a shellfish processing plant certification license.

(6) Once received by a certified shellfish dealer, the shellstock lot shall be immediately processed and placed under temperature control and until sale to final consumer, the shellstock shall be maintained at an environmental temperature of 45° F or less and not be permitted to remain outside of temperature control for more than 2 hours cumulative at points of transfer within the processing plant such as loading docks or in the plant during processing except for the process described in paragraph 5L-1.013(3)(b), F.A.C. All certified shellfish dealers handling oysters must have a cooling system capable of reducing the internal temperature of shellstock oysters to 55 degrees F or less within 8-hours.

(7) Complete On-Board Cooling Option – On-board cooling equipment includes but is not limited to systems using ice, mechanical refrigeration or vacuum cooling. If a commercial oyster harvester is using on-board cooling, the maximum time oysters can remain outside the cooling system is 1 hour and the harvester must demonstrate to the department that the on-board cooling system is capable of reducing the internal temperature of oysters to 55 degrees F or less within 9 hours or less. Commercial harvesters using complete on-board cooling systems must deliver the oysters to a certified shellfish dealer no later than 4 p.m. Certified shellfish dealers electing to purchase oysters from harvesters using complete on-board cooling systems must develop and demonstrate in their HACCP plan that the cooling rates on-board a vessel and in the certified shellfish dealer cooling system provide a safety level equivalent to product meeting subsection 5L-1.008(5), F.A.C. in order to be labeled in compliance with subsection

5L-1.007(6), F.A.C. Certified shellfish dealers electing to purchase oysters from harvesters using such complete on-board cooling systems must list the harvester name, harvester license number, the maximum time oysters can be unrefrigerated on-board a vessel and the total number of hours required to reduce the internal temperature of oysters to 55 degrees F or less in their HACCP plan. Written approval must be received from the department prior to using such an on-board cooling system.

(8) Partial On-Board Cooling Option – Partial on-board cooling equipment includes but is not limited to systems using ice, mechanical refrigeration or vacuum cooling. If a commercial oyster harvester is using partial on-board cooling, the maximum time oysters can remain outside the cooling system is 1 hour and the harvester must demonstrate to the department that the on-board cooling system is capable of reducing the internal temperature of oysters to 65 degrees F or less within 7 hours or less. Commercial harvesters using partial on-board cooling systems must deliver the oysters to a certified shellfish dealer no later than 3 p.m. Certified shellfish dealers electing to purchase oysters from harvesters using on-board cooling systems must develop and demonstrate in their HACCP plan that the cooling rates on-board a vessel and in the certified shellfish dealer cooling system provide a safety level equivalent to product meeting subsection 5L-1.008(5), F.A.C. in order to be labeled in compliance with subsection 5L-1.007(6), F.A.C. Certified shellfish dealers electing to purchase oysters from harvesters using such on-board cooling systems must list the harvester name, harvester license number, the maximum time oysters can be unrefrigerated on-board a vessel and the total number of hours required to reduce the internal temperature of oysters to 55 degrees F or less in their HACCP plan. Prior to implementing the HACCP plan the certified shellfish dealer must have written approval from the Department.

(9) Rapid Cooling Option – Rapid cooling equipment includes but is not limited to systems using ice, mechanical refrigeration or vacuum cooling. If a certified shellfish dealer elects to rapidly cool oysters, the maximum cool down time to 55 degrees F or less must not exceed 2 hours. Commercial oyster harvesters working with certified shellfish dealers using the rapid cooling option must deliver oysters to the certified shellfish dealer no later than 2 p.m. The certified shellfish dealers must develop and demonstrate in their HACCP plan that the cooling rates in combination with extended harvest times assure a safety level equivalent to product meeting subsection 5L-1.008(5), F.A.C., in order to be labeled in compliance with subsection 5L-1.007(6), F.A.C. Certified shellfish dealers electing this option, must list the harvester name, harvester license number, the maximum time oysters can be unrefrigerated on-board vessel and the total number of hours required to reduce the internal temperature of oysters to

55 degrees F or less in their HACCP plan. Prior to implementing the HACCP plan the certified shellfish dealer must have written approval from the Department.

(10)(7) Shellfish leaving a certified shellfish dealer must be transported in an enclosed, refrigerated conveyance with doors closed securely. The refrigeration unit must be capable of maintaining an ambient temperature of 45 degrees F or less at all times.

Rulemaking Specific Authority 597.020 FS. Law Implemented 597.020 FS. History--New 1-4-87, Amended 5-21-87, 8-10-88, 7-9-89, Formerly 16R-7.011, Amended 7-3-95, 2-6-97, 3-18-99, 6-23-99, Formerly 62R-7.011, Amended 8-9-00, 5-29-02, 7-29-08,_____.

5L-1.013 Plant Operation.

(1) through (2) No change.

(3) Upon acceptance of shellstock from a licensed harvester, certified aquaculturist or certified shellfish dealer, the receiving certified shellfish dealer shall determine the appropriate use of the shellfish through examination of shellfish labeling as follows:

(a) Shellfish which fails to meet the requirements of subsection 5L-1.008(5), F.A.C., or is labeled in compliance with paragraph 5L-1.007(6)(h), F.A.C., shall only be used for shucking by a certified shellfish dealer, or labeled "For Post Harvest Processing Cooking Only", or shall undergo an alternative post harvest processing method to assure a safety level equivalent to product meeting subsection 5L-1.008(5), F.A.C.

(b) No change.

(c) Post Harvest Processing, including but not limited to such processes as frozen storage, hydrostatic high pressure, mild pasteurization, and irradiation, shall consist of those methods which have demonstrated through validation studies that the process renders shellfish at least as safe as shellfish meeting the requirements of Chapter XVI of the National Shellfish Sanitation Program, Guide for the Control of Molluscan Shellfish, 2007 subsection 5L-1.008(5) and (6), F.A.C. Prior to initiating post harvest processing, a certified shellfish dealer shall provide validation and obtain written approval from the Department.

(4) Shellfish shall be segregated by the certified shellfish dealer in accordance with its intended use as determined in paragraphs (3)(a)-(c) ~~and (b)~~ above and identified per subsection 5L-1.007(5) or (6), F.A.C.

(5) through (14) No change.

Rulemaking Specific Authority 597.020 FS. Law Implemented 597.020 FS. History--New 1-4-87, Amended 5-21-87, 8-10-88, Formerly 16R-7.016, Amended 7-3-95, 5-8-96, 2-6-97, 6-23-99, Formerly 62R-7.016, Amended 8-9-00, 5-29-02, 7-29-08,_____.

NAME OF PERSON ORIGINATING PROPOSED RULE: Sherman Wilhelm, Director, Division of Aquaculture

NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: Charles Bronson, Commissioner, Department of Agriculture and Consumer Services

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: February 11, 2010

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: November 13, 2009

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.:

33-208.504

RULE TITLE:

Criteria for Assignment to Staff Housing

PURPOSE AND EFFECT: The purpose and effect of the proposed rule is to include in the list of priority positions staff members who are duty wardens and whose duty station is an institution.

SUMMARY: The proposed rule adds to the list of priority positions staff members who are duty wardens and whose duty station is an institution.

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

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

RULEMAKING AUTHORITY: 944.09, 945.025 FS.

LAW IMPLEMENTED: 20.315, 944.09, 944.10, 945.025 FS.

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

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Kendra Lee Jowers, 2601 Blair Stone Road, Tallahassee, Florida 32399-2500

THE FULL TEXT OF THE PROPOSED RULE IS:

33-208.504 Criteria for Assignment to Staff Housing.

The warden shall assign staff housing based upon the best interests of the institution and the following:

(1) Houses, Apartments and Mobile Homes.

(a) To the extent that houses, apartments and mobile homes are available, certain priority staff of a major institution shall be required to live at the institution of their assignment so that emergencies can be resolved with a minimum of delay. An institution with insufficient housing for its priority staff may be allocated such housing at a nearby institution by the Regional Director. The following priority staff are listed in the order of priority by which the assignment of at least one employee in each category shall be considered by the warden. The warden also has authority to recommend that these personnel live off the grounds. Only the Secretary may alter these priorities based upon proof of an employee's significant personal hardship or in the best interests of the Department.

1. through 4. No change.

5. A staff member who is a Duty Warden and whose duty station is an institution.

5. through 8. renumbered 6. through 9. No change.

(b) No change.

(2) Mobile Home Spaces.

(a) No change.

(b) Employees or occupants of personally owned mobile homes must provide proof of ownership by title or registration. Compliance with this requirement shall be noted on Form DC2-808A, Staff Housing Agreement ~~the staff housing agreement, Form DC2-808A.~~ Form DC2-808A is incorporated by reference in Rule 33-208.506, F.A.C.

(c) through (d) No change.

(3) Rooms in Officer Quarters.

(a) through (b) No change.

(c) The warden of a major institution shall designate one or more rooms in an officer quarters for use by department employees temporarily visiting the institution on official duty when so requested by the Secretary ~~secretary~~ to meet the housing needs of such employees.

(4) No change.

(5) Any occupant of staff housing, including officers quarters, state mobile homes and personally owned mobile homes, who is not on the priority or non-priority list shall be permitted to remain an occupant of staff housing provided that he or she abides by the provisions of this rule. This rule provision shall apply to all occupants who reside in any type of staff housing prior to and on the effective date of this amendment.

Rulemaking Specific Authority 944.09(4), 945.025(4) FS. Law Implemented 20.315, 944.09(4), 944.10, 945.025(4) FS. History—New 9-1-88, Amended 9-5-89, Formerly 33-26.004, 33-602.504, Amended 8-16-00, 4-8-02, 1-19-03, 3-30-05, 9-5-06, _____.

NAME OF PERSON ORIGINATING PROPOSED RULE:
George Sapp, Deputy Secretary of Institutions
NAME OF AGENCY HEAD WHO APPROVED THE
PROPOSED RULE: Richard Davison, Deputy Secretary

DATE PROPOSED RULE APPROVED BY AGENCY
HEAD: January 11, 2010

DATE NOTICE OF PROPOSED RULE DEVELOPMENT
PUBLISHED IN FAW: January 22, 2010

DEPARTMENT OF CORRECTIONS

RULE NO.: 33-501.301
RULE TITLE: Law Libraries

PURPOSE AND EFFECT: The purpose and effect of the proposed rule is to: clarify the grounds for suspension or revocation of an inmate law clerk certification; clarify the process for reinstating a law clerk certification that was suspended due to inactivity; specify that inmates identified as members or possible members of a security threat group shall not be assigned to work in a law library; and generally amend for grammatical accuracy.

SUMMARY: The proposed rule clarifies the grounds for suspension or revocation of an inmate law clerk certification, elucidates the process for reinstating a law clerk certification that was suspended due to inactivity, makes clear that inmates identified as members or possible members of a security threat group shall not be assigned to work in a law library, and generally amends for grammatical accuracy.

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

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

RULEMAKING AUTHORITY: 944.09, 944.11 FS.

LAW IMPLEMENTED: 20.315, 944.09, 944.11 FS.

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

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Kendra Lee Jowers, 2601 Blair Stone Road, Tallahassee, Florida 32399-2500

THE FULL TEXT OF THE PROPOSED RULE IS:

33-501.301 Law Libraries.

(1) No change.

(2) Definitions.

(a) Central office library services: the ~~refers to~~ library services section in the bureau of institutional programs in the department's central office headquarters.

(b) Deadline: ~~refers to~~ any requirement imposed by law, court rule, or court order that imposes a maximum time limit on the filing of legal documents with the court.

(c) Illiterate: ~~refers to inmates who demonstrate~~ academic competence below the 9th grade level, as measured by the Test of Adult Basic Education as provided in Rule 6A-6.014, F.A.C.

(d) Incompetence or incompetent: ~~refers to~~ oral or written statements or conduct that demonstrates to departmental staff that an inmate law clerk does not have ability or knowledge to research and use the law library collection, to provide inmates with accurate information on the law and civil or criminal procedure, or to assist inmates in the preparation of legal documents or legal mail.

(e) Inmate law clerk: ~~refers to~~ any inmate whom that an institution has assigned to work in a law library in departmental inmate work assignment code L04. Inmate law clerks have successfully completed the department's law clerk training program, or have equivalent legal training, and have "LEGAL" or "LAW" certificate entries recorded in the department's offender database.

(f) Inmate law clerk trainee: ~~refers to~~ any inmate whom that an institution has assigned to work in a law library in departmental inmate work assignment code L03. Inmates must meet all of the qualifications established in paragraph (7)(d) to be assigned as a law clerk trainee.

(g) Inmate library clerk: ~~refers to~~ any inmate whom that an institution has assigned to work in the law library in departmental work assignment code L01.

(h) Interstate Corrections Compact: ~~refers to~~ an interstate agreement that permits the state State of Florida to transfer custody of Florida inmates to other state correctional systems in accordance with Sections 941.55-.57, F.S.

(i) Law library collection: ~~refers to~~ print and digital/non-print publications that include the following information: the Florida Constitution and Florida Statutes; the U.S. Constitution and U.S. Code; Florida court decisions; U.S. Supreme Court, federal circuit court, and federal district court decisions; Florida and federal practice digests; forms manuals; and secondary source materials providing research guidance in the areas of federal habeas corpus, Florida post-conviction and post-sentence remedies, and prisoner's rights. Law library collection shall also include current copies of departmental rules and regulations as provided in paragraph (5)(b).

(j) Law library supervisor: ~~refers to~~ a library program specialist, librarian specialist, library technical assistant, and, whenever these positions are vacant, any other employee whom that the warden or designee appoints to oversee operation of the institution's law library program.

(k) Legal assistance: ~~refers to~~ those services that the law library program or inmate law clerks provide to the inmate population. They include: providing inmates access to law library materials; assisting inmates in conducting legal research; assisting inmates with the preparation of legal documents and legal mail and administrative actions filed with the Florida Parole Commission or the Florida Bar; assisting

inmates with the preparation of grievances filed with the Department of Corrections; providing inmates with access to grievance and court forms; providing indigent inmates with access to legal writing supplies pursuant to Rule 33-210.102, F.A.C.; and providing copying services to inmates pursuant to Rule 33-501.302, F.A.C.

(l) Library services administrator: the ~~refers to~~ departmental employee in the bureau of institutional programs who is responsible for statewide coordination of library and law library services.

(m) Official state holiday: ~~refers to~~ any day that the governor or the state legislature of the state of Florida designates a state holiday.

(n) Open population inmates: ~~refers to~~ inmates housed in general population at an a institution or unit with a law library and any inmates housed at satellite correctional facilities if law libraries are not located there.

(o) Personal legal papers: ~~refers to~~ legal documents, legal correspondence, research notes, and transcripts relating to ongoing civil or criminal litigation where the inmate is a named plaintiff or defendant.

(p) Primary source material: ~~refers to~~ legal research materials that constitute the law or have the force of law. These include constitutions, statutes, treaties, administrative rules, court rules, and court decisions.

(q) Priority access: ~~refers to~~ the act of providing an inmate with exceptional access to the law library collection, inmate law clerks, interlibrary loan services, or to copying services.

(r) Research items: ~~refers to~~ photocopies of cases, and statutes, and tables of contents, sections, or chapters from other reference titles in the institution's law library collection; that ~~which~~ are loaned to inmates for legal research purposes. These do not include the inmate's personal legal papers, pleadings, or transcripts.

(s) Satellite correctional facilities: ~~refers to~~ a medium or minimum custody correctional facility, such as an annex, work camp, road prison, forestry camp, or drug treatment center. Satellite correctional facilities do not include work release centers.

(t) Working day: ~~refers to~~ any weekday, i.e., Monday to Friday, except when the day is an official state holiday.

(3) Law Library Access – General.

(a) Hours of Operation. Law libraries shall be open for inmate use a minimum of 25 hours per week, except weeks that ~~which~~ include official state holidays. Only times that inmates have access to the law library collection and inmate law clerks, or when inmate law clerks are providing research assistance to close management, death row, other special status populations, shall be counted. The law library's operating schedule shall be designed to permit inmates access to legal materials consistent with:

1. Inmates' ~~The inmate's~~ security classification and housing assignments ~~assignment~~;

2. through 4. No change.

(b) Inmates at satellite correctional facilities without law libraries shall be provided access to the law library and inmate law clerks by means of correspondence, except as otherwise provided in paragraphs (3)(d), (e), and (f).

(c) Inmates who are temporarily transferred to correctional or medical facilities outside the department may secure legal assistance and/or access to legal research materials by submitting a written request to the library services administrator in the central office, or the law library supervisor at the institution from which they were transferred. Inmates who are serving sentences imposed by the Florida courts by virtue of the Interstate Corrections Compact may secure legal assistance and access to legal research materials by writing the library services administrator in the central office. Correspondence should be directed to the Florida Department of Corrections, Attention: Library Services, 2601 Blair Stone Road, Tallahassee, Florida 32399-2500.

(d) Law libraries shall provide interpreters for any language, other than English, ~~that is~~ native to 5 percent or more of the statewide inmate population. ~~Inmates~~ Inmates ~~Such inmates~~ at satellite correctional facilities who require an interpreter shall be provided an opportunity to visit the law library within 1 week of submitting an oral request or Form DC6-236, Inmate Request, for legal assistance to the law library supervisor or other facility staff. Form DC6-236 is incorporated by reference in Rule 33-103.019, F.A.C.

(e) No change.

(f) Inmates who must meet deadlines imposed by law, court rule, or court order shall be given priority in the use of the law library and related legal services. However, the inmate shall be responsible for notifying the department of the deadline in a timely manner. Department staff shall respond to a request for special access to meet a deadline within 3 working days of receipt of the request, not including the day of receipt. This period shall not be shortened due to the failure of the inmate to give timely notice of the deadline.

1. through 4. No change.

(g) No change.

(h) Inmates who mutilate, deface, or pilfer law library materials shall be subject to formal disciplinary action as provided in Rules 33-601.301-.314, F.A.C., and penalties for infraction may include a temporary suspension of the inmate's privilege of on-site use of the law library of up to 30 days. The disciplinary team ~~that which~~ presides over the disciplinary hearing shall determine the length of the suspension after considering the inmate's past record of rule infractions while in the law library, assessing the material damage to the legal research collection, and determining whether the damage to the collection was intentional or inadvertent. Inmates who have been suspended from the law library shall conduct business through correspondence or through inmate law clerks rather

than through personal visits to the law library. However, steps shall be taken to ensure that the inmate is not denied access to legal material during this suspension.

(4) Law Library Access for Inmates in Administrative Confinement, Disciplinary Confinement, Close Management, Protective Management, on Death Row, and in Medical or Mental Health Units.

(a) Inmates in administrative confinement, disciplinary confinement, ~~and~~ close management, and maximum management shall be permitted to have access to their personal legal papers and law books, to correspond with the law library, to have the law library deliver legal materials to their cells, and, as provided in paragraphs (3)(e) and (f), to visit with inmate law clerks. Efforts shall be made to accommodate the research needs of inmates who have filing deadlines imposed by law, court rule, or court order.

1. through 2. No change.

(b) through (e) No change.

(f) Inmates shall be limited to possession of no more than 15 research items from the law library. Research items shall be loaned for a maximum of 21 days. Inmates who fail to return research items within 21 days shall be subject to disciplinary action as provided in Rules 33-601.301-.314, F.A.C. Institutions shall also limit the accumulation of research materials when possession of same in an inmate's cell creates a safety, sanitation, or security hazard.

(5) Law Library Collections.

(a) through (e) No change.

(f) Requests for the addition or deletion of titles in law library collections shall be submitted in writing to the library services administrator in the central office. The library services administrator shall review all requests and make a recommendation to the chief of the bureau of institutional programs. Requests shall be reviewed according to the material's primary research value and whether it substantively provides additional information, or merely duplicates what is in the current collection. If the recommendation is approved, the materials shall be ordered and placed in law library collections.

(g) through (h) No change.

(6) Interlibrary Loan Services.

(a) Inmates at satellite correctional facilities without law libraries; who need access to legal materials in law library collections; shall submit Form DC5-152, Law Library Interlibrary Loan Request, or Form DC6-236, Inmate Request, to the law library supervisor at the main unit of the institution. Form DC5-152 is incorporated by reference in subsection (11) of this rule.

1. through 3. No change.

(b) through (c) No change.

1. Inmates needing such materials are to submit Form DC5-152, Law Library Interlibrary Loan Request, to the institution's law library supervisor. Form DC5-152, ~~Law~~

~~Library Interlibrary Loan Request~~, is to include the full and complete citation of the material needed; and a written justification on why the material is needed. If any deadlines apply, the date of the deadline is to be noted on Form DC5-152; ~~Law Library Interlibrary Loan Request~~. The law library supervisor is then to forward the request to the library services administrator in the central office. The correct mailing address is: Department of Corrections, Attention: Library Services, 2601 Blair Stone Road, Tallahassee, FL 32399-2500.

2. The library services administrator or designee shall review the request and either approve it or disapprove it. If the request is disapproved, the reason for disapproval will be noted on the request and the request shall be returned to the requesting law library. The law library supervisor will provide a copy of Form DC5-152, ~~Law Library Interlibrary Loan Request~~, to the inmate. If the request is approved, the request shall be forwarded to the Florida State University law library for completion. When the completed work is received from the Florida State University law library, it shall be mailed to the requesting law library. The law library supervisor will provide a copy of Form DC5-152, ~~Law Library Interlibrary Loan Request~~, and the requested material to the inmate.

(d) Inmates with deadlines imposed by law, court rule, or court order shall be given priority in the handling of interlibrary loan requests, and such requests shall be submitted separately from requests not involving deadlines.

(e) through (f) No change.

(7) Use of Inmates as Clerks in Law Libraries.

(a) Inmate library clerks: law libraries shall be assigned inmates as library clerks to perform work of a clerical nature. Duties of library clerks include circulating legal materials, maintaining law library files, keeping the law library clean and orderly, and assisting the law library supervisor in collecting statistics, preparing reports and correspondence, and other job tasks related to program operations. Library clerks who are assigned only such work shall not be required to complete the law clerk training program. Inmates assigned as library clerks shall not assist inmates in the preparation of legal documents and legal mail; and shall not be assigned to conduct confinement visits unless accompanied by an inmate law clerk.

(b) Inmate law clerk trainees: inmates who have no formal training in legal research and who wish to work as inmate law clerks in law libraries shall be assigned as law clerk trainees; and shall be required to attend and successfully complete the law clerk training program. Inmates assigned as law clerk trainees shall not assist inmates in the preparation of legal documents and legal mail; and shall not be assigned to conduct confinement visits unless accompanied by an inmate law clerk.

(c) Inmate law clerks: law libraries shall be assigned inmates as inmate law clerks to assist inmates in the research and use of print and digital or non-print resources in the law library collection; and in the drafting of legal documents, legal mail, administrative actions filed with the Florida Parole

Commission, the Florida Bar, and other administrative bodies, and inmate grievances filed with the Department of Corrections. A minimum of 2 inmate law clerks shall be assigned to law libraries in adult institutions, and a minimum of 1 inmate law clerk shall be assigned to law libraries in youthful offender institutions. Institutions shall assign additional inmate law clerks to the law library as needed to ensure that illiterate and impaired inmates are provided research assistance.

(d) Qualifications. Inmate law clerks shall:

1. Have a high school diploma, general educational development, or Test of Adult Basic Education (TABE) subtest ~~total battery~~ scores of grade 9.0 or higher in reading and language; or otherwise demonstrate that he or she possesses the reading and language skills necessary to read and understand the law, to conduct legal research, and to assist other inmates in legal research and the preparation of legal documents.

2. through 3. No change.

4. Display a willingness to work and cooperate with others and the ability to perform the general duties of an inmate law clerk, including good oral and written communication skills, good comprehension, and intelligence.

(e) Law clerk training program. Central office library services shall develop a training program to provide inmates who work in law libraries with knowledge of legal research and writing, use of specific legal research materials to include digital or non-print resources in the law library collection, the law and rules of criminal law and post-conviction remedies, prisoners' civil rights, and other subject matter identified as necessary for an inmate law clerk to provide meaningful assistance to inmates. Central office library services will document an inmate's successful completion of the law clerk training program in the department's offender database. Central office library services shall revoke or suspend certification for commission of acts prohibited by this section or for failure to satisfactorily perform the duties assigned to an inmate law clerk.

(f) Inmates; who have prior educational or work experience in the law ~~and, or~~ who possess current knowledge of the law, knowledge of legal research materials, and knowledge of how to use them; may be certified by the office of library services without having to complete the law clerk training program. Admissible educational achievements or work experiences include:

1. Receipt of an associate or bachelor's degree in paralegal research or pre-law;

2. Receipt of a juris doctorate degree; or

3. One or more years of verifiable work experience as a paralegal working under the direct supervision of an attorney; ~~or~~

~~4. Successful completion of a written examination developed by the office of library services that verifies that an inmate possesses current knowledge of the law, knowledge of legal research materials and how to use them, and can communicate effectively in writing.~~

(g) At the time of an inmate's assignment to work in the law library, the law library supervisor shall advise the inmate that he or she is not to disclose any information about an inmate's legal case to other inmates.

(h) Incompetence. The law library supervisor shall immediately remove an inmate law clerk from his or her work assignment in the law library upon demonstration that the inmate law clerk is incompetent. When a law library supervisor removes an inmate law clerk for incompetence, he or she will immediately inform the library services administrator, to include providing a report detailing the reason(s) for removal. The library services administrator will review the matter to determine whether the removal should be temporary, as when a performance deficiency can be corrected through completion of additional training, or should be permanent. If the library services administrator determines that the performance deficiencies cannot be corrected through additional training, he or she will revoke the inmate's law clerk certification. Central office library services shall also have the authority to order the removal of an inmate law clerk from his or her work assignment in the law library for incompetence.

(i) ~~Prohibited conduct: inmate law clerks.~~ Violation of any of the provisions of this section shall result in the immediate removal of the inmate law clerk from his or her work assignment in the law library; and disciplinary action pursuant to Rules 33-601.301-.314, F.A.C. The library services administrator will be informed whenever an institution removes an inmate law clerk from the law library for the clerk's violation ~~any of any of~~ the following rules of conduct reasons:

1. through 7. No change.

8. Inmate law clerks shall not display an unwillingness to work and cooperate with others or refuse or fail to perform the general duties of that work assignment. ~~Such conduct shall be defined as a failure to follow departmental rules and procedures relating to law library program operations, or violation of the rules of prohibited conduct, Rule 33-601.314, F.A.C., while in the law library or performing work-related tasks.~~

(j) Upon receipt of notice that an inmate law clerk has been found guilty of a disciplinary report ~~infraction concerning violation of any of the provisions of subsection (7),~~ the library services administrator will review the matter to determine whether the inmate's law clerk certificate should be revoked. The determination as to whether the inmate's certificate shall be revoked shall be based on a consideration of the following factors:

1. The findings of the disciplinary report;

2. Discussions with institution staff about the infraction;

3. A record of prior counseling or disciplinary action ~~for violation of the provisions of subsection (7);~~

4. A record of multiple violations; and

5. A determination that the violations were intentional rather than inadvertent.

If the library services administrator determines that revocation is warranted, the inmate's law clerk training certificate shall be revoked and his or her certificate entry will be deleted from the offender database.

(o) Central office library services shall suspend the law clerk certificate of an inmate when 4 years have passed since he or she worked in a law library as an inmate law clerk. Central office library services shall reinstate the law clerk certificate once an inmate recompletes training pursuant to paragraph (7)(e) or otherwise demonstrates, pursuant to paragraph (7)(f), that he or she has the requisite educational experience to continue as a law clerk if the inmate demonstrates, through successful completion of a written examination, that he or she still possesses current knowledge of the law, knowledge of legal research materials and how to use them, and can communicate effectively in writing.

(p) Inmate law clerks must secure prior-written approval from the law library supervisor, on Form DC5-153, Personal Legal Papers Authorization, to retain their own or another inmate's personal legal papers in the law library. Form DC5-153 is incorporated by reference in subsection (11) of this rule. At a minimum, the following information shall be documented on Form DC5-153: the committed name and DC number of the inmate who owns the papers; a list of all documents and papers to be retained in the law library and the number of pages for each; and, the committed name and DC number of the inmate law clerk who is assisting the inmate. The inmate shall then sign and date the form and submit it to the law library supervisor for approval. If the law library supervisor approves the request, he or she shall sign the form and enter the date when the personal legal papers must be removed from the law library. Inmates who do not remove their personal legal papers from the law library by that date shall be subject to formal disciplinary action as provided in Rules 33-601.301-.314, F.A.C.

1. Only those personal legal papers that are specifically needed for research; or to prepare the necessary legal documents or mail; shall be stored in the law library. The personal legal papers may be retained in the law library for only as long as it takes to prepare the needed legal documents or legal mail or for 20 calendar days, whichever is shorter.

2. No change.

(q) Inmate law clerks shall not be permitted to conduct legal research or prepare legal documents and legal mail on personal legal matters during work hours unless:

1. through 2. No change.

(8) No change.

(9) Grievance and Court Forms.

(a) Law libraries shall provide inmates access to Form DC6-236, Inmate Request, and Form DC1-303, Request for Administrative Remedy or Appeal. Form DC1-303 is incorporated by reference in Rule 33-103.019, F.A.C. Inmates shall not be required to submit a Form DC6-236, ~~Inmate Request~~, in order to secure grievance forms. Inmates who request more than 5 grievance forms at a time may be required to explain how the forms will be used.

(b) No change.

(10) No change.

(11) Forms. The following forms are hereby incorporated by reference. A copy of any of these forms is available from the Forms Control Administrator, ~~Office of Research, Planning and Support Services~~, 2601 Blair Stone Road, Tallahassee, Florida 32399-2500.

(a) through (b) No change.

Rulemaking Authority 944.09, 944.11 FS. Law Implemented 20.315, 944.09, 944.11 FS. History—New 4-6-93, Amended 7-3-94, 11-2-94, 4-28-96, 9-30-96, 12-7-97, Formerly 33-3.0055, Amended 2-15-01, 11-4-01, 12-23-03, 1-7-07, 1-6-09, 6-16-09, _____.

NAME OF PERSON ORIGINATING PROPOSED RULE:
George Sapp, Deputy Secretary of Institutions

NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: Richard Davison, Deputy Secretary

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: January 11, 2010

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: January 22, 2010

DEPARTMENT OF CORRECTIONS

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

PURPOSE AND EFFECT: Rule amended to clarify that only inmates who are found guilty of disciplinary reports on or after July 15, 2009 are eligible for the shortened ineligibility periods that were promulgated on that date. The change is necessary to clarify that the reduced periods of ineligibility are not, and were not intended to be, retroactive from the date of their promulgation. Language in the rule stating that “[a]ny inmate who is found guilty of a disciplinary report on or after April 21, 1996... shall be eligible to earn incentive gain time as follows” was placed in the rule only to ensure prospective application of a prior rule change in accordance with *Britt v. Chiles*, 704 So. 2d 1046 (Fla. 1997); this language is no longer necessary and will be amended to state that inmates found guilty of a disciplinary report on or after July 15, 2009 shall be eligible to earn incentive gain time pursuant to the provisions of the rule. SUMMARY: The proposed rule clarifies that only inmates who are found guilty of disciplinary reports on or after July 15, 2009 are eligible for the shortened ineligibility periods that were promulgated on that date. The change is necessary to

clarify that the reduced periods of ineligibility are not, and were not intended to be, retroactive from the date of their promulgation. Language in the rule stating that “[a]ny inmate who is found guilty of a disciplinary report on or after April 21, 1996... shall be eligible to earn incentive gain time as follows” was placed in the rule only to ensure prospective application of a prior rule change in accordance with *Britt v. Chiles*, 704 So. 2d 1046 (Fla. 1997); this language is no longer necessary and will be amended to state that inmates found guilty of a disciplinary report on or after July 15, 2009 shall be eligible to earn incentive gain time pursuant to the provisions of the rule.

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

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

RULEMAKING AUTHORITY: 944.09, 944.275, 944.281 FS. LAW IMPLEMENTED: 944.09, 944.275, 944.281, 944.801(3)(i)5. FS.

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

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Kendra Lee Jowers, 2601 Blair Stone Road, Tallahassee, Florida 32399-2500

THE FULL TEXT OF THE PROPOSED RULE IS:

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) Disciplinary or court action. An inmate is not eligible to receive incentive gain time for the month in which there is an infraction of the rules of the Department or the laws of the State for which he is found guilty. Additionally, those inmates on escape status and detained by other agencies may not be awarded incentive gain time for the period of time out of custody even though lodged in another confinement facility. Any inmate who is found guilty of a disciplinary report on or after July 15, 2009 ~~April 21, 1996~~ and who is serving a sentence imposed for an offense committed on or after October 1, 1995 shall be eligible to earn incentive gain time as follows:

1. through (8) No change.

Rulemaking 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 33-11.0065, Amended 7-15-09.

NAME OF PERSON ORIGINATING PROPOSED RULE:
George Sapp, Deputy Secretary of Institutions

NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: Richard Davison, Deputy Secretary

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: January 8, 2010

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: January 22, 2010

AGENCY FOR HEALTH CARE ADMINISTRATION

Certificate of Need

RULE NO.: 59C-1.0355
RULE TITLE: Hospice Programs

PURPOSE AND EFFECT: Proposed rule updated to reflect changes to the hospice rule as currently defined in Chapter 59C-1, F.A.C.

SUMMARY: Changes are to the dates of material incorporated by reference in the rule as adopted July 21, 2009, and the clarification of the web site of the publications.

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

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

RULEMAKING AUTHORITY: 408.034(3), (5), 408.15(8) FS.

LAW IMPLEMENTED: 408.034(3), 408.035, 408.036(1)(d), 408.043(2), 400.606(4), (5) FS.

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

DATE AND TIME: March 22, 2010, 1:30 p.m.

PLACE: Agency for Health Care Administration, 2727 Mahan Drive, Building 3, Conference Room B, Tallahassee, Florida 32308

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Calvin J. Vice, Sr., PhD, Certificate of Need, (850)488-8672

THE FULL TEXT OF THE PROPOSED RULE IS:

59C-1.0355 Hospice Programs.

(1) through (3) No change.

(4) Criteria for Determination of Need for a New Hospice Program.

(a) Numeric Need for a New Hospice Program. Numeric need for an additional hospice program is demonstrated if the projected number of unserved patients who would elect a hospice program is 350 or greater. The net need for a new hospice program in a service area is calculated as follows:

$$(HPH) - (HP) > 350$$

where:

(HPH) is the projected number of patients electing a hospice program in the service area during the 12 month period beginning at the planning horizon. (HPH) is the sum of $(U65C \times P1) + (65C \times P2) + (U65NC \times P3) + (65NC \times P4)$

where:

U65C is the projected number of service area resident cancer deaths under age 65, and P1 is the projected proportion of U65C electing a hospice program.

65C is the projected number of service area resident cancer deaths age 65 and over, and P2 is the projected proportion of 65C electing a hospice program.

U65NC is the projected number of service area resident deaths under age 65 from all causes except cancer, and P3 is the projected proportion of U65NC electing a hospice program.

65NC is the projected number of service area resident deaths age 65 and over from all causes except cancer, and P4 is the projected proportion of 65NC electing a hospice program.

The projections of U65C, 65C, U65NC, and 65NC for a service area are calculated as follows:

| | | | | |
|-------|---|------------|---|----|
| U65C | = | (u65c/CT) | × | PT |
| 65C | = | (65c/CT) | × | PT |
| U65NC | = | (u65nc/CT) | × | PT |
| 65NC | = | (65nc/CT) | × | PT |

where:

u65c, 65c, u65nc, and 65nc are the service area's current number of resident cancer deaths under age 65, cancer deaths age 65 and over, deaths under age 65 from all causes except cancer, and deaths age 65 and over from all causes except cancer.

CT is the service area's current total of resident deaths, excluding deaths with age unknown, and is the sum of u65c, 65c, u65nc, and 65nc.

PT is the service area's projected total of resident deaths for the 12-month period beginning at the planning horizon.

"Current" deaths means the number of deaths during the most recent calendar year for which data are available from the Department of Health Office of Vital Statistics at least 3 months prior to publication of the fixed need pool.

"Projected" deaths means the number derived by first calculating a 3-year average resident death rate, which is the sum of the service area resident deaths for the three most recent

calendar years available from the Department of Health Office of Vital Statistics at least 3 months prior to publication of the fixed need pool, divided by the sum of the July 1 estimates of the service area population for the same 3 years. The resulting average death rate is then multiplied by the projected total population for the service area at the mid-point of the 12-month period which begins with the applicable planning horizon. Population estimates for each year will be the most recent population estimates from the Office of the Governor at least 3 months prior to publication of the fixed need pool. The following materials are incorporated by reference within this rule; Department of Health Office of Vital Statistics Florida Vital Statistics Annual Report ~~2008~~ ~~2007~~, Deaths, and the Office of the Governor Florida Population Estimates And Projections by AHCA District 2000 To 2020, released September, ~~2009~~ ~~2008~~. These publications are available on the Agency website at http://ahca.myflorida.com/MCHQ/CON_FA/Publications/index.shtml. ~~http://ahca.myflorida.com/MCHQ/CON_FA/index.shtml~~.

The projected values of P1, P2, P3, and P4 are equal to current statewide proportions calculated as follows:

$$P1 = (Hu65c/Tu65c)$$

$$P2 = (H65c/T65c)$$

$$P3 = (Hu65nc/Tu65nc)$$

$$P4 = (H65nc/T65nc)$$

where:

Hu65c, H65c, Hu65nc, and H65nc are the current 12-month statewide total admissions of hospice cancer patients under age 65, hospice cancer patients age 65 and over, hospice patients under age 65 admitted with all other diagnoses, and hospice patients age 65 and over admitted with all other diagnoses. The current totals are derived from reports submitted under subsection (8) of this rule.

Tu65c, T65c, Tu65nc, and T65nc are the current 12-month statewide total resident deaths for the four categories used above.

(HP) is the number of patients admitted to hospice programs serving an area during the most recent 12-month period ending on June 30 or December 31. The number is derived from reports submitted under subsection (8) of this rule.

350 is the targeted minimum 12-month total of patients admitted to a hospice program.

(b) through (9) No change.

Rulemaking Authority 408.034(3), (5), 408.15(8) FS. Law Implemented 408.034(3), 408.035, 408.036(1)(d), 408.043(2), 400.606(4), (5) FS. History—New 4-17-95, Amended 7-30-95, 7-21-09, _____.

NAME OF PERSON ORIGINATING PROPOSED RULE:
Calvin J. Vice, Sr., PhD

NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: Thomas W. Arnold

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: February 10, 2010

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: January 8, 2010

DEPARTMENT OF MANAGEMENT SERVICES

Division of Building Construction

RULE NOS.:

RULE TITLES:

60D-15.001

Definitions and Incidental Policies

60D-15.002

Agencies Procedures for Contracting with Continuing Contract Entities

PURPOSE AND EFFECT: The purpose of these new rules is: (1) to establish rules in conformity with statute changes in Chapter 2009-227, Laws of Florida (2) to adopt standards and requirements for state agencies use of construction management entities under continuing contract with the Department of Management Services.

SUMMARY: New administrative procedures for state agency's use of construction management entities that are under continuing contract with the Department of Management Services. This includes definition; standards for state agency's contracting with construction management entities; requirements for project management and reporting contracting activity. New administrative procedures for state agency's use of construction management entities that are under continuing contract with the Department of Management Services. This includes definition; standards for state agency's contracting with construction management entities; requirements for project management and reporting contracting activity. This proposed rule change does impact state agencies procedures when using a construction management entity under contract with the Department of Management Services. The Division of Real Estate Development and Management has consulted with the Small Business Regulatory Advisory Council and has determined that this rulemaking has no impact on small business as defined in Section 288.703, Florida Statutes, nor on small counties or small cities as defined in Section 120.52, Florida Statutes, since the rule by its own terms only applies to state agencies.

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

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

RULEMAKING AUTHORITY: 255.32 FS.

LAW IMPLEMENTED: 255.32 FS.

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

DATE AND TIME: March 31, 2010, 1:30 p.m. – 4:30 p.m.

PLACE: Betty Easley Conference Center, 4075 Esplanade Way, Room 152, Tallahassee, Florida 32399

Pursuant to the provisions of the Americans with Disabilities Act, any person requiring special accommodations to participate in this workshop/meeting is asked to advise the agency at least 48 hours before the workshop/meeting by contacting: Tom Berger, Department of Management Services, 4050 Esplanade Way, Tallahassee, Florida 32399-0950, phone: (850)487-9921. If you are hearing or speech impaired, please contact the agency using the Florida Relay Service, 1(800)955-8771 (TDD) or 1(800)955-8770 (Voice).

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULES IS: Tom Berger, Deputy Director, Division of Real Estate Development and Management, phone: (850)487-9921, Email: Tom.Berger@dms.myflorida.com

THE FULL TEXT OF THE PROPOSED RULES IS:

UTILIZATION OF CONSTRUCTION MANAGEMENT ENTITIES

60D-15.001 Definitions and Incidental Policies.

(1) “Activation” means an agency negotiation for a specific project with a construction management entity under continuing contract with the Department, which results in an agency contract.

(2) “Agency contract” means a proprietary construction project contract between a state agency and a construction management entity under continuing contract with the Department.

(3) “Agency Project Manager” means a full-time-equivalent state employee who is currently licensed by the Florida Department of Business and Professional Regulation as an architect, engineer, or a general contractor (as defined in Section 489.105(3)(a), Florida Statutes).

(4) “Competitive negotiation standards” means the methodology established in Rule 60D-5.0091, Florida Administrative Code, for determining fair, competitive and reasonable costs and the process of secession negotiations with the next most qualified continuing contract entity.

(5) “Continuing contract entity” means a construction management entity under a Department contract.

(6) “Continuing contract type” means any general, distinctive or specialized construction, renovation or repair activity identified by the Department as a state need.

(7) “Department” means the Department of Management Services.

(8) “Department contract” means a continuing contract between the Department and a construction management entity established under Section 255.32, Florida Statutes.

Rulemaking Authority 255.32 FS. Law Implemented 255.32 FS. History—New _____.

60D-15.002 Agencies Procedures for Contracting with Continuing Contract Entities.

(1) All state agencies serving as the managing agency of a state-owned facilities or a state construction site are authorized to utilize the services of any current Department contract through activation.

(2) All agency activations shall be implemented through an agency contract that is exclusive between the agency and a continuing contract entity.

(3) All agency activations shall be executed in compliance with any terms and conditions within the Department’s contract with each individual continuing contract entity.

(4) All activations shall be determined by the contracting agency. Determination shall be based on the needs of the individual project and any qualifications and performance data of the continuing contract entity on file with the activating agency.

(5) All agencies shall negotiate individual project fees with the selected continuing contract entity in accordance with competitive negotiation standards established in Rule 60D-5.0091, Florida Administrative Code. After negotiating with a continuing contract entity an agency pursuant to Section 255.32(4), Florida Statutes can require the construction management entity to offer a guaranteed maximum price and a guaranteed completion date. The agency shall require the construction management entity to secure an appropriate surety bond in conformity with Section 255.05, Florida Statutes. The agency shall require the construction management entity to hold all construction subcontracts for the project. Under no circumstance shall an agency contract with a continuing contract entity when the estimated construction costs per individual project exceed \$2 million.

(6) All agency contracts shall have an assigned Agency Project Manager for administering project funds and providing project management oversight, from the identification of a project through its final completion. Agency Project Managers assigned to a project are required to monitor the construction management entity for:

(a) Compliance with state regulations governing the advertisement and competitive bidding of all the subcontracted parts of the project established in Chapter 60D-5, Florida Administrative Code; and

(b) Compliance with the agency contract at the construction site.

(7) All agencies shall report quarterly to the Department on form number FP-01 “Agency Continuing Contract Activity Quarterly Report”, which is hereby incorporated by reference and is available at the address below in subsection (11) or website http://dms.myflorida.com/business_operations/real_estate_development_management/building_construction/forms_and_documents.

(8) All agencies shall submit to the Department on July 1 of each year any needs identified for the establishment of a continuing contract type.

(9) Before contracting with a continuing contract entity, an agency shall first submit a list of employees qualified to serve as Agency Project Managers as defined by Rule 60D-15.001, Florida Administrative Code. All submitted list shall be accompanied by a copy of each employee's active license that qualifies them as a Agency Project Manager. An agency cannot contract with a continuing contract entity unless the agency employs a Department approved Agency Project Manager.

(10) The Department shall consider Agency Project Managers for continuing contract selection committees only upon notification of an Agency Project Manager's availability to serve on a selection committee.

(11) All correspondence with the Department shall be directed to the following address:

Department of Management Services
Division of Real Estate Development and Management
Building Construction Contracts Administrator
4050 Esplanade Way
Tallahassee, Florida 32399-0950

Rulemaking Authority 255.32 FS. Law Implemented 255.32 FS. History--New _____.

NAME OF PERSON ORIGINATING PROPOSED RULE:
Mr. Tom Berger, Deputy Director, Division of Real Estate Development and Management.

NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: Ms. Linda H. South, Secretary, Department of Management Services

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

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: December 31, 2009

DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION

Board of Architecture and Interior Design

RULE NO.: 61G1-12.004
RULE TITLE: Disciplinary Guidelines; Range of Penalties; Aggravating and Mitigating Circumstances

PURPOSE AND EFFECT: The Board proposes the rule amendment to add a penalty for failure to timely report conviction and to remove core course reference.

SUMMARY: A penalty for failure to timely report a conviction will be added to the rule; a core course reference will be deleted from the rule.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS: No Statement of Estimated Regulatory Cost was prepared. The Board determined the proposed rule will not have an impact on small business.

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

RULEMAKING AUTHORITY: 455.2273 FS.

LAW IMPLEMENTED: 455.227(1), 455.2273 FS.

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

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Anthony Spivey, Executive Director, Board of Architecture and Interior Design, 1940 North Monroe Street, Tallahassee, Florida 32399-0750

THE FULL TEXT OF THE PROPOSED RULE IS:

61G1-12.004 Disciplinary Guidelines; Range of Penalties; Aggravating and Mitigating Circumstances.

(1) No change.

(2) The following disciplinary guidelines shall be followed by the board in imposing disciplinary penalties upon licensees for violation of the below mentioned statutes and rules:

(a) through (aa) No change.

| VIOLATION | PENALTY RANGE | |
|---|--|---|
| | MINIMUM | MAXIMUM |
| (bb) Failure to timely report criminal conviction (more than 30 days late) (455.227(1)(t)), F.S. provide proof of completion of the core courses or passing the equivalency test of the Building Code Training Program (481.215(5); F.S.) | Reprimand Fine-based on length of time since proof was to have been submitted with a \$500 minimum plus \$100/month to \$5000 maximum with suspension until proof of compliance is submitted | \$5000 fine and one (1) year suspension |

(3) No change.

Rulemaking Specific Authority 455.2273 FS. Law Implemented 455.227(1), 455.2273 FS. History--New 12-11-86, Formerly 21B-12.004, Amended 5-16-94, 10-20-96, 10-7-99, 6-8-00, 9-10-03, 12-12-04, _____.

NAME OF PERSON ORIGINATING PROPOSED RULE:
Board of Architecture and Interior Design

NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: Board of Architecture and Interior Design

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: January 29, 2010

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: November 25, 2009

DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION

Board of Architecture and Interior Design

RULE NO.: 61G1-12.005
RULE TITLE: Citations

PURPOSE AND EFFECT: The Board proposes the rule amendment to add a penalty for failure to timely report conviction and to remove core course reference.

SUMMARY: A penalty for failure to timely report a conviction will be added to the rule; a core course reference will be deleted from the rule.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS: No Statement of Estimated Regulatory Cost was prepared. The Board determined the proposed rule will not have an impact on small business.

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

RULEMAKING AUTHORITY: 455.224, 455.225 FS.

LAW IMPLEMENTED: 455.224 FS.

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

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Anthony Spivey, Executive Director, Board of Architecture and Interior Design, 1940 North Monroe Street, Tallahassee, Florida 32399-0750

THE FULL TEXT OF THE PROPOSED RULE IS:

61G1-12.005 Citations.

(1) through (2) No change.

(3) The following violations with accompanying fines may be disposed of by citation:

(a) through (c) No change.

| | |
|---|---|
| (d) Failure to timely report criminal conviction (up to 30 days late) (455.227(1)(t), F.S.) provide proof of completion of the core courses or passing the equivalency test of the Building Code Training Program | \$250 fine \$500 fine and suspension until proof of compliance is submitted. |
|---|---|

(e) No change.

(4) through (5) No change.

Rulemaking Specific Authority 455.224, 455.225 FS. Law Implemented 455.224 FS. History—New 12-22-91, Amended 1-3-93, 3-28-93, Formerly 21B-12.005, Amended 11-16-93, 5-4-97, 2-25-98, 12-3-98, 6-30-99, 12-12-04, 1-16-07, _____.

NAME OF PERSON ORIGINATING PROPOSED RULE: Board of Architecture and Interior Design

NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: Board of Architecture and Interior Design

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: January 29, 2010

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: November 25, 2009

DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION

Board of Architecture and Interior Design

RULE NO.: 61G1-21.003
RULE TITLE: Continuing Education – Approval of Subjects and Providers

PURPOSE AND EFFECT: The Board proposes the rule amendment in order to incorporate a revised handbook.

SUMMARY: A revised handbook will be incorporated into the rule.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS: No Statement of Estimated Regulatory Cost was prepared. The Board determined the proposed rule will not have an impact on small business.

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

RULEMAKING AUTHORITY: 455.217(3), 455.2179, 481.215(4) FS.

LAW IMPLEMENTED: 481.215(4) FS.

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

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Anthony Spivey, Executive Director, Board of Architecture and Interior Design, 1940 North Monroe Street, Tallahassee, Florida 32399-0750

THE FULL TEXT OF THE PROPOSED RULE IS:

61G1-21.003 Continuing Education – Approval of Subjects and Providers.

The approval of continuing education courses and providers is covered in-depth by the Board's publication "Interior Design Continuing Education Handbook Instructions, Applications and General Information for Interior Design Continuing Education Providers and Courses" ("the Handbook") (2010 2007), which is hereby incorporated by reference, effective January, 2010 June, 2007, a copy of which may be obtained from the Board office. The Handbook contains three forms for use with the handbook. The applicant shall submit the applicable form, (DBPR ID 4002/Revised 6/07), Interior Design Continuing Education Provider and Course

Application, (DBPR ID 4002-Part A/Revised 6/07), Interior Design Education Course Evaluation Summary Form, or (DBPR ID 4002-Part B/Revised 6/07), Provider Course Evaluation Summary Form, which are hereby incorporated by reference, effective June, 2007, copies of which may be obtained from the Board office. The Board office is located at 1940 North Monroe Street, Tallahassee, FL 32399-0751.

Rulemaking Specific Authority 4558.2177(3), 455.2179, 481.215(4) FS. Law Implemented 481.215(4) FS. History—New 11-29-90, Formerly 21B-21.003, Amended 9-14-93, 6-22-95, 10-8-96, 10-16-08,_____.

NAME OF PERSON ORIGINATING PROPOSED RULE:
Board of Architecture and Interior Design
NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: Board of Architecture and Interior Design
DATE PROPOSED RULE APPROVED BY AGENCY HEAD: January 29, 2010
DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: November 25, 2009

DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION

Electrical Contractors' Licensing Board

RULE NO.: 61G6-8.002
RULE TITLE: Special Assessment Fee
PURPOSE AND EFFECT: The Board proposes to impose an assessment to reduce budgetary deficit.
SUMMARY: An assessment will reduce the budgetary deficit.
SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS: A Statement of Estimated Regulatory Cost has been prepared and is available by contacting Juanita Chastain, Executive Director, at the address listed below.
• The estimated number of individuals likely to be required to comply with this rule amendment is approximately 12,000 licensed electrical contractors.
• There will be no additional costs incurred by the agency for enforcing the proposed change to the rule.
• No small county or small city will be impacted by the proposed rule.
• More than 5,000 small businesses will be affected by the proposed rule.
• Licensees will be required to pay a one-time assessment of \$75.00.

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

RULEMAKING AUTHORITY: 455.219(2), 489.507(3) FS.

LAW IMPLEMENTED: 455.219(2) FS.

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

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Juanita Chastain, Executive Director, Electrical Contractors' Licensing Board, 1940 North Monroe Street, Tallahassee, Florida 32399-0750

THE FULL TEXT OF THE PROPOSED RULE IS:

61G6-8.002 Special Assessment Fee.

(1) In order to eliminate the current cash deficit in the operating funds of the Board and to maintain the Board's financial integrity, each active and voluntary inactive license, including all certified or registered electrical contractors, who received their initial license or registration prior to the effective date of this rule shall pay a one-time special assessment fee of ~~seventy-five~~ ~~twenty-five~~ dollars (\$~~75.00~~ ~~25.00~~) no later than 5:00 p.m. on August 31, ~~2010~~ ~~2006~~.

(2) No change.

Rulemaking Specific Authority 455.219(2), 489.507(3) FS. Law Implemented 455.219(2) FS. History—New 6-29-06, Amended_____.

NAME OF PERSON ORIGINATING PROPOSED RULE:
Electrical Contractors' Licensing Board
NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: Electrical Contractors' Licensing Board
DATE PROPOSED RULE APPROVED BY AGENCY HEAD: January 22, 2010
DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: February 5, 2010

DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION

Board of Landscape Architecture

RULE NO.: 61G10-18.001
RULE TITLE: Continuing Education Credit Requirements
PURPOSE AND EFFECT: The Board proposes to amend the rule to conform language to core curriculum requirements.
SUMMARY: The rule will conform to core curriculum requirements.
SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS: No Statement of Estimated Regulatory Cost was prepared. The Board determined the proposed rule will not have an impact on small business.
Any person who wishes to provide information regarding a statement of estimated regulatory costs, or provide a proposal for a lower cost regulatory alternative must do so in writing within 21 days of this notice.
RULEMAKING AUTHORITY: 455.2124, 489.306, 481.313 FS.
LAW IMPLEMENTED: 481.313, 553.841 FS.
IF REQUESTED WITHIN 21 DAYS OF THE DATE OF THIS NOTICE, A HEARING WILL BE SCHEDULED AND ANNOUNCED IN THE FAW.

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Juanita Chastain, Executive Director, Board of Landscape Architecture, 1940 North Monroe Street, Tallahassee, Florida 32399-0750

THE FULL TEXT OF THE PROPOSED RULE IS:

61G10-18.001 Continuing Education Credit Requirements.

Every person licensed pursuant to Chapter 481, Part II, F.S., must obtain at least sixteen (16) continuing education credits per biennium. There shall be no carryover of hours permitted from one licensure renewal biennium to the next.

(1) Upon renewal ~~after a licensee has completed the core curriculum course on the Uniform Building Code or passed the equivalency test of the Building Code Training Program~~, the licensee shall take the following continuing education courses per biennium:

(a) through (c) No change.

1. through 4. No change.

(2) A first time Florida license; licensed 12 to 24 months prior to the end of a biennial period, shall ~~take the core curriculum courses or pass the equivalency test of the Building Code Training Program established by Section 553.841, F.S., within two (2) years of initial licensure and shall~~ complete the following eight (8) hours of continuing education as a condition of renewal.

(a) through (c) No change.

1. through 3. No change.

(3) through (7) No change.

Rulemaking Authority 455.2124, 481.306, 481.313 FS. Law Implemented 481.313, 553.841 FS. History—New 9-19-01, Amended 7-3-03, 3-1-05, 11-12-07, 9-6-09, 12-28-09, _____.

NAME OF PERSON ORIGINATING PROPOSED RULE:
Board of Landscape Architecture

NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: Board of Landscape Architecture

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

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

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 HEALTH

Board of Clinical Laboratory Personnel

RULE NOS.: RULE TITLES:

64B3-9.001 Application Fees

64B3-9.002 Initial Licensure Fees

64B3-9.004 Active Status Renewal Licensure Fee

PURPOSE AND EFFECT: The Board proposes the rule amendment to clarify the application fees.

SUMMARY: The fees for the applications will be clarified.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS: No Statement of Estimated Regulatory Costs was prepared. The Board determined the proposed rule will not have an impact on small business.

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

RULEMAKING AUTHORITY: 456.025, 456.036, 483.805(4), 483.807(1) FS.

LAW IMPLEMENTED: 456.025, 456.036, 483.807, 483.815 FS.

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

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULES IS: Joe Baker, Jr., Executive Director, Board of Clinical Laboratory Personnel, 4052 Bald Cypress Way, Bin #C07, Tallahassee, Florida 32399-3257

THE FULL TEXT OF THE PROPOSED RULES IS:

64B3-9.001 Application Fees.

(1) No change.

(2) Licensure application – ~~\$100~~.

(a) Director – \$90

(b) Supervisor – \$70

(c) Technologist – \$50

(d) Technician – \$25

(3) through (5) No change.

~~Rulemaking Specific~~ Authority 456.025, 483.807(1) FS. Law Implemented 456.025, 483.807, 483.815 FS. History—New 12-7-93, Formerly 61F3-9.001, 59O-9.001, Amended 5-26-98, 5-13-99, 6-10-99, 3-9-00, 4-29-02, 9-15-05, _____.

64B3-9.002 Initial Licensure Fees.

(1)(a) Director – \$65

(b) Supervisor – \$55

(c) Technologists – \$45

(d) Technician – \$25

(e) Public Health Technician – \$100

~~For all clinical laboratory personnel licenses – \$100.~~

(2) through (3) No change.

Rulemaking Specific Authority 456.025, 483.805(4), 483.807(1) FS. Law Implemented 456.025, 483.807 FS. History—New 12-7-93, Formerly 61F3-9.002, 59O-9.002, Amended 6-10-99, 4-7-02, _____.

64B3-9.004 Active Status Renewal Licensure Fee.

- (1) Director – ~~\$130~~ 150.
- (2) Supervisor – ~~\$110~~ 130.
- (3) Technologist – ~~\$90~~ 110.
- (4) Technician – ~~\$50~~ 75.
- (5) through (6) No change.

Rulemaking Specific Authority 456.025(4), 456.036, 483.807(1) FS. Law Implemented 456.025(4), 456.036, 483.807 FS. History—New 12-7-93, Formerly 61F3-9.004, Amended 12-26-94, Formerly 59O-9.004, Amended 5-26-98, 3-9-00, 5-16-02, 5-25-06, _____.

NAME OF PERSON ORIGINATING PROPOSED RULE:
Board of Clinical Laboratory Personnel

NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: Board of Clinical Laboratory Personnel

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: February 9, 2010

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: December 31, 2009

DEPARTMENT OF HEALTH

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

| | |
|------------|--|
| RULE NO.: | RULE TITLE: |
| 64B4-3.006 | Security and Monitoring Procedures for Licensure Examination |

PURPOSE AND EFFECT: The Board proposes the rule repeal due to the fact that the department no longer conducts the licensing exam.

SUMMARY: The Department no longer conducts the licensing exam, causing the rule to be repealed.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS: No Statement of Estimated Regulatory Cost was prepared. The Board determined the proposed rules will not have an impact on small business.

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

RULEMAKING AUTHORITY: 456.017, 491.004(5) FS.

LAW IMPLEMENTED: 456.017 FS.

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

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: 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

THE FULL TEXT OF THE PROPOSED RULE IS:

64B4-3.006 Security and Monitoring Procedures for Licensure Examination.

~~The Board adopts by reference Rule 64B 1.010, F.A.C., of the Department of Health as its rule governing licensure examination security and monitoring.~~

Rulemaking Specific Authority 456.017, 491.004(5) FS. Law Implemented 456.017 FS. History—New 8-18-93, Formerly 61F4-3.006, 59P-3.006, Repealed _____.

NAME OF PERSON ORIGINATING PROPOSED RULE:
Board of Clinical Social Work, Marriage and Family Therapy and Mental Health Counseling

NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: Board of Clinical Social Work, Marriage and Family Therapy and Mental Health Counseling

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: February 9, 2010

Section III Notices of Changes, Corrections and Withdrawals

DEPARTMENT OF EDUCATION

State Board of Education

| | |
|-------------|--|
| RULE NO.: | RULE TITLE: |
| 6A-6.030121 | Exceptional Education Eligibility for Students with Language Impairments |

NOTICE OF CHANGE

Notice is hereby given that the following changes have been made to the proposed rule in accordance with subparagraph 120.54(3)(d)1., F.S., published in Vol. 36, No. 6, February 12, 2010 issue of the Florida Administrative Weekly.

Subparagraph (6)(a)2. of Rule 6A-6.030121 has been amended to read:

2. Prior to obtaining consent for evaluation, intensive interventions are demonstrated to be effective but require sustained and substantial effort that may include the provision of exceptional student education; or ~~and~~