

Section I
Notices of Development of Proposed Rules
and Negotiated Rulemaking

DEPARTMENT OF EDUCATION

State Board of Education

RULE NO.: 6A-1.039
RULE TITLE: Supplemental Educational Services
in Title I Schools

PURPOSE AND EFFECT: The purpose of the rule
development is to consider amending the supplemental
educational rule. Areas to be considered include, but are not
limited to, the approval, evaluation and removal of providers,
as well as amending the responsibilities of the agency,
providers and districts.

SUBJECT AREA TO BE ADDRESSED: Supplemental
Educational Services in Title I Schools.

SPECIFIC AUTHORITY: 1008.331 FS.

LAW IMPLEMENTED: 1008.331 FS.

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

DATE AND TIME: January 9, 2009, 9:00 a.m. – 11:00 a.m.

PLACE: Department of Education, Turlington Building, Suite
1721/25, 325 West Gaines Street, Tallahassee, FL 32399

THE PERSON TO BE CONTACTED REGARDING THE
PROPOSED RULE DEVELOPMENT AND A COPY OF
THE PRELIMINARY DRAFT, IF AVAILABLE, IS:
Samantha Love, Bureau of Student Assistance, 325 West
Gaines Street, Suite 348, Tallahassee, FL 32399;
(850)245-9947

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

DEPARTMENT OF COMMUNITY AFFAIRS

Division of Community Planning

RULE NO.: 9J-5.003, 9J-5.006, 9J-5.010, 9J-5.013, 9J-5.019
RULE TITLES: Definitions, Future Land Use Element,
Housing Element, Conservation Element,
Transportation Element

PURPOSE AND EFFECT: The purpose and effect are to
amend the rule to implement the new requirements established
by Chapter 2008-191, Laws of Florida (CS/HB 697).

SUBJECT AREA TO BE ADDRESSED: Chapter 9J-5,
F.A.C., is to be amended to establish minimum criteria to be
used in reviewing comprehensive plans to determine whether
they comply with the new requirements of Chapter 2008-191,
Laws of Florida, regarding energy efficient land use patterns

accounting for existing and future electric power generation
and transmission systems, greenhouse gas reduction strategies,
strategies to address reduction in greenhouse gas emissions
from the transportation sector, factors that affect energy
conservation, depicting energy conservation in the future land
use map series, energy efficiency in the design and
construction of new housing, and the use of renewable energy
resources.

SPECIFIC AUTHORITY: 163.3177(9) FS.

LAW IMPLEMENTED: 163.3177(6)(a), (b), (d), (f), (j) FS.
(only as those sections were amended by Chapter 2008-191,
Laws of Florida.)

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

DATE AND TIME: January 12, 2009, 10:00 a.m.

PLACE: Kelley Training Center, Department of Community
Affairs, 2555 Shumard Oak Boulevard, Tallahassee, Florida
32399-2100

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: Bobbe Pound, Department of Community Affairs,
2555 Shumard Oak Boulevard, Sadowski Building,
Tallahassee, Florida 32399-2100, (850)922-1696. If you are
hearing or speech impaired, please contact the agency using the
Florida Relay Service, 1(800)955-8771 (TDD) or
1(800)955-8770 (Voice).

THE PERSON TO BE CONTACTED REGARDING THE
PROPOSED RULE DEVELOPMENT AND A COPY OF
THE PRELIMINARY DRAFT, IF AVAILABLE, IS: Walker
Banning and Bernard Piawah, Department of Community
Affairs, 2555 Shumard Oak Boulevard, Tallahassee, Florida
32399-2100, (850)488-2356

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

DEPARTMENT OF REVENUE

Sales and Use Tax

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

PURPOSE AND EFFECT: The purpose of the creation of Rule
12A-19.021, F.A.C. (Communications Services Tax Brackets),
is to: (1) make available the tax amounts and brackets
applicable to each taxable sale of communications services, as
provided in Section 202.16(3), F.S.; and (2) provide that when
the amount of tax due results in a fraction of a cent, the tax due
must be rounded up to the next whole cent.

SUBJECT AREA TO BE ADDRESSED: The subject of the workshop is the calculation of the tax amounts and brackets applicable to each taxable sale of communications services in compliance with the provisions of Section 202.16(3), F.S.

SPECIFIC AUTHORITY: 202.26(3)(a) FS.

LAW IMPLEMENTED: 202.16(3) FS.

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

DATE AND TIME: January 15, 2009, 2:00 p.m.

PLACE: Room 118, Carlton Building, 501 S. Calhoun Street, Tallahassee, Florida

Pursuant to the provisions of the Americans with Disabilities Act, any person requiring special accommodations to participate in this workshop/meeting is asked to advise the agency at least 48 hours before the workshop/meeting by contacting: Larry Green at (850)922-4830. If you are hearing or speech impaired, please contact the agency using the Florida Relay Service, 1(800)955-8771 (TDD) or 1(800)955-8770 (Voice).

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT AND A COPY OF THE PRELIMINARY DRAFT, IF AVAILABLE, IS: Vince Aldridge, Deputy Director, Technical Assistance and Dispute Resolution, Department of Revenue, P. O. Box 7443, Tallahassee, Florida 32314-7443, telephone (850)922-4746

THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS PUBLISHED ON THE DEPARTMENT'S INTERNET SITE AT: myflorida.com/dor/rules.

DEPARTMENT OF REVENUE

Corporate, Estate and Intangible Tax

RULE NOS.:	RULE TITLES:
12C-1.0222	Returns; Time and Place for Filing
12C-1.032	Payments of Tentative Tax

PURPOSE AND EFFECT: The Internal Revenue Service recently reduced the extension period for filing a Florida partnership return from six months to five months (Bulletin IR-2008-084, June 30, 2008). The purpose of this rulemaking is to change the extension period for filing a Florida partnership return to five months. Changes are also being made to include the requirements for filing corporate tax returns with the Department electronically and to simplify all provisions on how to obtain an extension of time to file a Florida corporate income tax return or a Florida partnership return.

Specifically, the purpose of the proposed substantial rewording of Rule 12C-1.0222, F.A.C.: (1) changes the title to "Returns; Extensions of Time; Payments of Tentative Tax" to reflect the revised provisions of the rule; (2) provides when a return submitted to the Department by electronic means or by a paper return is timely filed; (3) provides that an extension of time will be valid until 15 days after the expiration of the federal extension or until six months after the due date, whichever

occurs earlier; (4) provides that a taxpayer who has not obtained a federal extension of time to file a return may obtain an extension of time to file a Florida return by establishing good cause as to why the return cannot be filed by the original due date; (5) requires that taxpayers who request an extension of time to file a return must submit Form-7004 (Florida Tentative Income/Franchise and Emergency Excise Tax Return and Application for Extension of Time to File Return) with the amount of tentative tax due to the Department; (6) provides the extended return due dates for the Florida corporate return and for the Florida partnership return; and (7) provides when the request for an extension of time to file will be invalidated for failure to pay the tentative tax due.

The purpose of the proposed repeal of Rule 12C-1.032, F.A.C. (Payment of Tentative Tax), is to remove provisions regarding when a tentative tax return will be considered timely filed with the Department. These provisions have been moved to the proposed substantial rewording of Rule 12C-1.0222, F.A.C.

SUBJECT AREA TO BE ADDRESSED: The subject area of the workshop is the requirements for obtaining an extension of time to file a Florida corporate income tax return or a Florida partnership return.

SPECIFIC AUTHORITY: 213.06(1), 220.51 FS.

LAW IMPLEMENTED: 220.222, 220.32, 220.801 FS.

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

DATE AND TIME: January 15, 2009, 11:00 a.m.

PLACE: Room 118, Carlton Building, 501 S. Calhoun Street, Tallahassee, Florida

Pursuant to the provisions of the Americans with Disabilities Act, any person requiring special accommodations to participate in this workshop/meeting is asked to advise the agency at least 48 hours before the workshop/meeting by contacting: Larry Green at (850)922-4830. If you are hearing or speech impaired, please contact the agency using the Florida Relay Service, 1(800)955-8771 (TDD) or 1(800)955-8770 (Voice).

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT AND A COPY OF THE PRELIMINARY DRAFT, IF AVAILABLE, IS: Robert DuCasse, Tax Law Specialist, Technical Assistance and Dispute Resolution, Department of Revenue, P. O. Box 7443, Tallahassee, Florida 32314-7443, telephone (850)922-4715

THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS PUBLISHED ON THE DEPARTMENT'S INTERNET SITE AT: myflorida.com/dor/rules

BOARD OF TRUSTEES OF THE INTERNAL IMPROVEMENT TRUST FUND

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

AGENCY FOR HEALTH CARE ADMINISTRATION

Medicaid

RULE NO.: 59G-13.083
RULE TITLE: Developmental Disabilities Waiver Services

PURPOSE AND EFFECT: The purpose of the rule amendment to Rule 59G-13.083, F.A.C., is to incorporate by reference the revised Florida Medicaid Developmental Disabilities Waiver Services Coverage and Limitations Handbook, (date incorporated by reference in rule) 2009. The handbook revisions include a comprehensive review of each service and the addition of tier waiver details. The effect will be to incorporate by reference the revised Florida Medicaid Developmental Disabilities Waiver Services Coverage and Limitations Handbook, (date incorporated by reference in rule) 2009.

SUBJECT AREA TO BE ADDRESSED: Developmental Disabilities Waiver Services.

SPECIFIC AUTHORITY: 409.919 FS.

LAW IMPLEMENTED: 409.906, 409.907, 409.908, 409.912 FS.

A RULE DEVELOPMENT WORKSHOP WILL BE HELD AT THE DATES, TIMES AND PLACES SHOWN BELOW:

DATES AND TIMES: Pompano Beach, Florida, Tuesday, February 10, 2009, 10:00 a.m. – 12:00 Noon, EST.; Orlando, Florida, Wednesday, February 11, 2009, 10:00 a.m. – 12:00 Noon, EST.; Jacksonville, Florida, Thursday, February 12, 2009, 10:00 a.m. – 12:00 Noon, EST.; Tallahassee, Florida, Friday, February 13, 2009, 10:00 a.m. – 12:00 Noon, EST

PLACE: In Pompano Beach, Emma Lou Civic Center, 1801 N.E. 6th Street; Orlando, 400 W Robinson Street, Conference Rooms A & B, South Tower; Jacksonville, Department of Children and Families, 5920 Arlington Expressway; Tallahassee, Betty Easley Conference Center, Room 152, 4075 Esplanade Way, Tallahassee, Florida

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT AND A COPY OF THE PRELIMINARY DRAFT, IF AVAILABLE, IS: Pam Kyllonen, Medicaid Services, 2727 Mahan Drive, Mail Stop 20, Tallahassee, Florida 32308-5407, (850)414-9756, kyllolep@ahca.myflorida.com

THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS:

59G-13.083 Developmental Disabilities Waiver Services.

(1) No change.

(2) All developmental disabilities waiver services providers enrolled in the Medicaid program must be in compliance with the Florida Medicaid Developmental Disabilities Waiver Services Coverage and Limitations Handbook, (date incorporated by reference in rule) ~~2009~~ 2007, incorporated by reference, and the Florida Medicaid Provider Reimbursement Handbook, CMS-1500, which is incorporated by reference in Rule 59G-4.001, F.A.C. Both handbooks are available from the Medicaid fiscal agent's Web Portal at <http://mymedicaid-florida.com>. Click on Public Information for Providers, then on Provider Support, and then on Provider Handbooks. Paper copies of the handbooks may be obtained by calling the Provider Contact Center at 1(800)289-7799 and selecting Option 7.

Specific Authority 409.919 FS. Law Implemented 409.906, 409.907, 409.908, 409.912 FS. History--New 12-3-08, Amended.

DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION

Construction Industry Licensing Board

RULE NO.: 61G4-21.005
RULE TITLE: Payment of Claims

PURPOSE AND EFFECT: The Board proposes the amendment to the rule to delete unnecessary language and to add language to clarify procedures for payment of claims.

SUBJECT AREA TO BE ADDRESSED: Payment of claims.

SPECIFIC AUTHORITY: 489.108 FS.

LAW IMPLEMENTED: 489.141, 489.143 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: G. W. Harrell, Executive Director, Board of Construction Industry Licensing Board, 1940 North Monroe Street, Tallahassee, Florida 32399-0750

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

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

Division of Medical Quality Assurance

RULE NO.: RULE TITLE:
64B-9.001 Biennial Licensing

PURPOSE AND EFFECT: The purpose and effect would be to update the rule to include new professions established by the Legislature.

SUBJECT AREA TO BE ADDRESSED: Biennial Licensing.

SPECIFIC AUTHORITY: 456.004(1) FS.

LAW IMPLEMENTED: 456.004(1), 456.013, 456.036(5), 456.039, 456.0391, 456.077 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: Lola Pouncey, Bureau Chief, 4052 Bald Cypress Way, Bin #C10, Tallahassee, Florida 32399-3255

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

DEPARTMENT OF HEALTH

Board of Respiratory Care

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

PURPOSE AND EFFECT: The Board proposes the rule amendment to add new language to clarify the form name and number for licensure by endorsement for a registered respiratory therapist or certified respiratory therapist.

SUBJECT AREA TO BE ADDRESSED: The rule amendment will add new language to clarify the form name and number for licensure by endorsement for a registered respiratory therapist or certified respiratory therapist.

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

LAW IMPLEMENTED: 468.358(2), (3), 468.365 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: Allen Hall, Executive Director, Board of Respiratory Care Specialists/MQA, 4052 Bald Cypress Way, Bin #C05, Tallahassee, Florida 32399-3255

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

DEPARTMENT OF HEALTH

Division of Emergency Medical Operations

RULE NOS.: RULE TITLES:
64J-1.001 Definitions
64J-1.006 Neonatal Interfacility Transfers
64J-1.020 Training Programs

PURPOSE AND EFFECT: The purpose is to work with the EMS community and other stakeholders to develop language for staffing requirements during neonatal interfacility transfers and define standards for EMS instructors teaching courses within a Florida certified primary EMS training center.

The effect will be the development of new definitions and remove or add language in the appropriate rule sections listed above.

SUBJECT AREA TO BE ADDRESSED: Definitions, EMS instructor qualifications, EMS training programs, and neonatal interfacility transfers and staffing requirements.

SPECIFIC AUTHORITY: 381.0011, 381.0011(13), 383.19, 395.401, 395.4025(13), 395.405, 401.121, 401.251(6), 401.27, 401.2715, 401.35 FS.

LAW IMPLEMENTED: 381.001, 381.0011, 383.15, 395.4001, 395.401, 395.4015, 395.402, 395.4025, 395.403, 395.404, 395.4045, 395.405, 401.121, 401.211, 401.23, 401.24, 401.25, 401.251, 401.252, 401.26, 401.265, 401.27, 401.2715, 401.30, 401.31, 401.35, 401.41, 401.411, 401.414, 401.421, 401.435 FS.

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

DATE AND TIME: Tuesday, January 27, 2009, 1:00 p.m. – 4:00 p.m. EST

A conference line will be available for the workshop. We ask conference line participants from the same organization to only use one line to ensure others are able to call in. Conference Dial-In Number: (888)808-6959, Conference Code: 1454440.

PLACE: Plaza Resort & Spa, 600 North Atlantic Ave., Room Plaza B, Daytona Beach, FL 32118, (386)255-4471, (800)874-7420

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 24 hours before the workshop/meeting by contacting: Alexander Macy at (850)245-4440, ext. 2735. If you are hearing or speech impaired, please contact the agency using the Florida Relay Service, 1(800)955-8771 (TDD) or 1(800)955-8770 (Voice).

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT AND A COPY OF THE PRELIMINARY DRAFT, IF AVAILABLE, IS: Alexander Macy, Bureau of Emergency Medical Services, Department of Health, 4052 Bald Cypress Way, Bin C-18, Tallahassee, FL 32399-1738, (850)245-4440, ext. 2735; email: Alexander_Macy@doh.state.fl.us; Fax (850)488-9408

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

DEPARTMENT OF CHILDREN AND FAMILY SERVICES

Family Safety and Preservation Program

RULE NOS.:	RULE TITLES:
65C-28.001	Definitions
65C-28.002	Visitation
65C-28.003	Medical Treatment
65C-28.004	Placement Matching Requirements
65C-28.005	Changing Placements
65C-28.006	Permanency Staffings
65C-28.007	Voluntary Licensed Out-of-Home Care
65C-28.008	Relative Caregiver Program
65C-28.009	Adolescent Services
65C-28.010	Minor Parents in the Custody of the Department
65C-28.011	Criminal, Delinquency and Abuse/Neglect History Checks for Relative and Non-Relative Placements
65C-28.012	Home Studies for Relative and Non-Relative Placements
65C-28.013	Indian Child Welfare Act
65C-28.014	Behavioral Health Services
65C-28.015	Residential Mental Health Treatment
65C-28.016	Psychotropic Medications
65C-28.017	Exit Interviews

PURPOSE AND EFFECT: To align administrative rules with recent legislative and policy changes.

SUBJECT AREA TO BE ADDRESSED: Children in out of home care.

SPECIFIC AUTHORITY: 39.0121, 39.0137, 39.407(1), 39.5075(8), 39.5085(2)(a), 381.004(3)(e)11., 409.175(5)(a), 409.401 FS.

LAW IMPLEMENTED: 39.0138, 39.0139, 39.401, 39.402(9), 39.407, 39.506(6), 39.5085, 39.521, 39.6011, 39.621, 39.6221, 39.6231, 39.6241, 39.701, 39.811(7)(b), 381.004, 409.175, 409.401 FS.

A RULE DEVELOPMENT WORKSHOP WILL BE HELD AT THE DATES, TIMES AND PLACES SHOWN BELOW:

DATE AND TIME: Workshop 1 – Wednesday, January 14, 2009, 8:00 a.m. – 12:00 Noon

Workshop 2 – Friday, January 16, 2009, 8:00 a.m. – 12:00 Noon

Workshop 3 – Thursday, January 22, 2009, 8:00 a.m. – 12:00 Noon

PLACE: Workshop 1 – Department of Children and Families, 1400 West Commercial Boulevard, Room 195, Ft. Lauderdale, Florida 33309

Workshop 2 – Community Based Care of Seminole Service Center, 2921 South Orlando Drive, Sanford, Florida 32773

Workshop 3 – 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 7 days before the workshop/meeting by contacting: Julie Mayo, 1317 Winewood Boulevard, Building 6, Room 146, Tallahassee, Florida 32399 or julie_mayo@dcf.state.fl.us or (850)922-0375. If you are hearing or speech impaired, please contact the agency using the Florida Relay Service, 1(800)955-8771 (TDD) or 1(800)955-8770 (Voice).

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT AND A COPY OF THE PRELIMINARY DRAFT, IF AVAILABLE, IS: Julie Mayo, 1317 Winewood Boulevard, Building 6, Room 146, Tallahassee, Florida 32399 or julie_mayo@dcf.state.fl.us or (850)922-0375

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

DEPARTMENT OF CHILDREN AND FAMILY SERVICES

Family Safety and Preservation Program

RULE NOS.:	RULE TITLES:
65C-29.001	Definitions
65C-29.002	Reports of Child Abuse, Neglect or Abandonment
65C-29.003	Child Protective Investigations
65C-29.004	Institutional Child Protective Investigations
65C-29.005	Children Denied Shelter (Lockouts)
65C-29.006	Foster Care Referrals
65C-29.007	Child-on-Child Sexual Abuse
65C-29.008	Initial Health Care Assessment and Medical Examination of Children Alleged to be Abused, Neglect or Abandoned
65C-29.009	Criminal, Juvenile and Abuse/Neglect History Checks
65C-29.010	False Reports
65C-29.011	Out-of-Town Inquiries
65C-29.012	Transfer of Child Protective Investigations Within and Between Districts
65C-29.013	Reasonable Efforts to Locate
65C-29.014	High Risk Tracking and Review
65C-29.015	Pre-Arranged Private Interstate Placements Involving Drug-Exposed Newborns

PURPOSE AND EFFECT: To align administrative rules with recent legislative and policy changes.

SUBJECT AREA TO BE ADDRESSED: Child Protective Investigations.

SPECIFIC AUTHORITY: 39.202, 39.205, 39.206, 39.301, 39.302, 39.304, 39.307 FS.

LAW IMPLEMENTED: 39.202, 39.205, 39.206, 39.301, 39.302, 39.304, 39.307 FS.

A RULE DEVELOPMENT WORKSHOP WILL BE HELD AT THE DATES, TIMES AND PLACES SHOWN BELOW:

DATE AND TIME: Workshop 1 – Tuesday, January 13, 2009, 8:00 a.m. – 12:00 Noon

Workshop 2 – Thursday, January 15, 2009, 8:00 a.m. – 12:00 Noon

Workshop 3 – Wednesday, January 21, 2009, 8:00 a.m. – 12:00 Noon

PLACE: Workshop 1 – Department of Children and Families, 1400 West Commercial Boulevard, Room 195, Ft. Lauderdale, Florida 33309

Workshop 2 – Community Based Care of Seminole Service Center, 2921 South Orlando Drive, Sanford, Florida 32773

Workshop 3 – 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 7 days before the workshop/meeting by contacting: Julie Mayo, 1317 Winewood Boulevard, Building 6, Room 146, Tallahassee, Florida 32399 or julie_mayo@dcf.state.fl.us or (850)922-0375. If you are hearing or speech impaired, please contact the agency using the Florida Relay Service, 1(800)955-8771 (TDD) or 1(800)955-8770 (Voice).

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT AND A COPY OF THE PRELIMINARY DRAFT, IF AVAILABLE, IS: Julie Mayo, 1317 Winewood Boulevard, Building 6, Room 146, Tallahassee, Florida 32399 or julie_mayo@dcf.state.fl.us or (850)922-0375

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

DEPARTMENT OF CHILDREN AND FAMILY SERVICES

Family Safety and Preservation Program

RULE NOS.:	RULE TITLES:
65C-30.001	Definitions
65C-30.002	Early Service Intervention and Case Transfer
65C-30.003	Diligent Search
65C-30.004	Identification of Children

65C-30.005	Family Assessment
65C-30.006	Case Planning
65C-30.007	Case Management Responsibilities
65C-30.008	Services Worker Responsibilities to Parents
65C-30.009	Tiered Services Protocol
65C-30.010	Voluntary Protective Services
65C-30.011	Placement Responsibilities of the Services Worker or Child Protective Investigator
65C-30.012	Permanency Goal Selection
65C-30.013	Judicial Reviews and Court Reports
65C-30.014	Post-Placement Supervision and Services
65C-30.015	New Reports Received, Removal, and Placement of Children
65C-30.016	New Children in Families under Supervision
65C-30.017	Coordination of Services for Youth Involved with the Department of Juvenile Justice
65C-30.018	Out-of-Country Services
65C-30.019	Missing Children
65C-30.020	Child Deaths
65C-30.021	Child Death Reviews
65C-30.022	Termination of Services

PURPOSE AND EFFECT: To align administrative rules with recent legislative and policy changes.

SUBJECT AREA TO BE ADDRESSED: General Provisions for Child Protection.

SPECIFIC AUTHORITY: 39.0121, 39.0137, 39.407(1), 39.5075(8), 39.5085(2)(a), 381.004(3)(e)11., 409.175(5)(a), 409.401 FS.

LAW IMPLEMENTED: 39.0138, 39.0139, 39.401, 39.402(9), 39.407, 39.506(6), 39.5085, 39.521, 39.6011, 39.621, 39.6221, 39.6231, 39.6241, 39.701, 39.811(7)(b), 381.004, 409.175, 409.401 FS.

A RULE DEVELOPMENT WORKSHOP WILL BE HELD AT THE DATES, TIMES AND PLACES SHOWN BELOW:

DATE AND TIME: Workshop 1 – Tuesday, January 13, 2009, 1:00 p.m. – 5:00 p.m.

Workshop 2 – Thursday, January 15, 2009, 1:00 p.m. – 5:00 p.m.

Workshop 3 – Wednesday, January 21, 2009, 1:00 p.m. – 5:00 p.m.

PLACE: Workshop 1 – Department of Children and Families, 1400 West Commercial Boulevard, Room 195, Ft. Lauderdale, Florida 33309

Workshop 2 – Community Based Care of Seminole Service Center, 2921 South Orlando Drive, Sanford, Florida 32773

Workshop 3 – 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 7 days before the workshop/meeting by contacting: Julie Mayo, 1317 Winewood Boulevard, Building 6, Room 146, Tallahassee, Florida 32399 or julie_mayo@dcf.state.fl.us or (850)922-0375. If you are hearing or speech impaired, please contact the agency using the Florida Relay Service, 1(800)955-8771 (TDD) or 1(800)955-8770 (Voice).

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT AND A COPY OF THE PRELIMINARY DRAFT, IF AVAILABLE, IS: Julie Mayo, 1317 Winewood Boulevard, Building 6, Room 146, Tallahassee, Florida 32399 or julie_mayo@dcf.state.fl.us or (850)922-0375

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

DEPARTMENT OF CHILDREN AND FAMILY SERVICES

Family Safety and Preservation Program

RULE NOS.:	RULE TITLES:
65C-31.001	Definitions
65C-31.002	Case Management for Young Adults Formerly in Foster Care
65C-31.003	Aftercare Support Services for Young Adults Formerly in Foster Care
65C-31.004	Road to Independence Scholarship
65C-31.005	Transitional Support Services for Young Adults Formerly in Foster Care
65C-31.006	Young Adult Services Documentation Requirements
65C-31.007	High School Needs Assessment
65C-31.008	Post Secondary Needs Assessment
65C-31.009	Independent Living Benefits Due Process Notification
65C-31.010	Jurisdictional and Service Requirements for Young Adults Formerly in the Custody of the Department
65C-31.011	Independent Living Program Budget Management

PURPOSE AND EFFECT: To align administrative rules with recent legislative and policy changes.

SUBJECT AREA TO BE ADDRESSED: Independent Living Services

SPECIFIC AUTHORITY: 409.1451,409.14511 FS.

LAW IMPLEMENTED: 409.1451,409.14511 FS.

A RULE DEVELOPMENT WORKSHOP WILL BE HELD AT THE DATES, TIMES AND PLACES SHOWN BELOW:

DATE AND TIME: Workshop 1 – Wednesday, January 14, 2009, 1:00 p.m. – 5:00 p.m.

Workshop 2 – Friday, January 16, 2009, 1:00 p.m. – 5:00 p.m.

Workshop 3 – Thursday, January 22, 2009, 1:00 p.m. – 5:00 p.m.

PLACES: Workshop 1 – Department of Children and Families, 1400 West Commercial Boulevard, Room 195, Ft. Lauderdale, Florida 33309

Workshop 2 – Community Based Care of Seminole Service Center, 2921 South Orlando Drive, Sanford, Florida 32773

Workshop 3 – 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 7 days before the workshop/meeting by contacting: Julie Mayo, 1317 Winewood Boulevard, Building 6, Room 146, Tallahassee, Florida 32399 or julie_mayo@dcf.state.fl.us or (850)922-0375. If you are hearing or speech impaired, please contact the agency using the Florida Relay Service, 1(800)955-8771 (TDD) or 1(800)955-8770 (Voice).

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT AND A COPY OF THE PRELIMINARY DRAFT, IF AVAILABLE, IS: Julie Mayo, 1317 Winewood Boulevard, Building 6, Room 146, Tallahassee, Florida 32399 or julie_mayo@dcf.state.fl.us or (850)922-0375

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

DEPARTMENT OF CHILDREN AND FAMILY SERVICES

Family Safety and Preservation Program

RULE NO.:	RULE TITLE:
65C-34.001	Definitions

PURPOSE AND EFFECT: To develop administrative rules relating to missing children as directed by Chapter 2008-245, Laws of Florida.

SUBJECT AREA TO BE ADDRESSED: Missing Children.

SPECIFIC AUTHORITY: 39.0141, 39.301, 39.604(4)3. FS.

LAW IMPLEMENTED: 39.0141, 39.301, 39.604(4)3. FS.

A RULE DEVELOPMENT WORKSHOP WILL BE HELD AT THE DATES, TIMES AND PLACES SHOWN BELOW:

DATE AND TIME: Workshop 1 – Wednesday, January 14, 2009, 1:00 p.m. – 5:00 p.m.

Workshop 2 – Friday, January 16, 2009, 1:00 p.m. – 5:00 p.m.

Workshop 3 – Thursday, January 22, 2009, 1:00 p.m. – 5:00 p.m.

PLACE: Workshop 1 – Department of Children and Families, 1400 West Commercial Boulevard, Room 203, Ft. Lauderdale, Florida 33309

Workshop 2 – Seminole County Sheriff's Office, 100 Bush Boulevard, Community Room, Sanford, Florida 32773

Workshop 3 – Betty Easley Conference Center, 4030 Esplanade Way, Room 301, Tallahassee, Florida 32399

Pursuant to the provisions of the Americans with Disabilities Act, any person requiring special accommodations to participate in this workshop/meeting is asked to advise the agency at least 7 days before the workshop/meeting by contacting: Julie Mayo, 1317 Winewood Boulevard, Building 6, Room 146, Tallahassee, Florida 32399 or julie_mayo@dcf.state.fl.us or (850)922-0375. If you are hearing or speech impaired, please contact the agency using the Florida Relay Service, 1(800)955-8771 (TDD) or 1(800)955-8770 (Voice).

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT AND A COPY OF THE PRELIMINARY DRAFT, IF AVAILABLE, IS: Julie Mayo, 1317 Winewood Boulevard, Building 6, Room 146, Tallahassee, Florida 32399 or julie_mayo@dcf.state.fl.us or (850)922-0375

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

DEPARTMENT OF CHILDREN AND FAMILY SERVICES

Mental Health Program

RULE NOS.:	RULE TITLES:
65E-20.002	Definitions
65E-20.003	The Right to Individual Dignity
65E-20.014	Seclusion and Restraint for Behavior Management Purposes

PURPOSE AND EFFECT: Chapter 65E-20, Florida Administrative Code, is being revised to comply with Section 916.1093(2), F.S., requiring forensic facilities to adopt rules governing the use of seclusion and restraint.

SUBJECT AREA TO BE ADDRESSED: Development of a rule to comply with the statutory requirements of Section 916.1093(2). The revisions specifically address seclusion and restraint use in forensic state mental health treatment facilities.

SPECIFIC AUTHORITY: 916.20(1), 916.1093(2) FS.

LAW IMPLEMENTED: 916.105(4), 916.106, 916.106(14), 916.106(16), 916.107(1), 916.107(4)(b) FS.

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

DATE AND TIME: January 22, 2009, 1:30 p.m.
 PLACE: 1317 Winewood Blvd., Bldg. 6, Second Floor, Conference Room A, Tallahassee, FL 32399-0700

Pursuant to the provisions of the Americans with Disabilities Act, any person requiring special accommodations to participate in this workshop/meeting is asked to advise the agency at least 5 days before the workshop/meeting by contacting: Wendy Scott, 1317 Winewood Blvd., Bldg. 6, Room 227, Tallahassee, FL 32399-0700, (850)413-7282, email: wendy_scott@dcf.state.fl.us. If you are hearing or speech impaired, please contact the agency using the Florida Relay Service, 1(800)955-8771 (TDD) or 1(800)955-8770 (Voice).

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT AND A COPY OF THE PRELIMINARY DRAFT, IF AVAILABLE, IS: Wendy Scott, 1317 Winewood Blvd., Bldg. 6, Room 227, Tallahassee, FL 32399-0700, email: wendy_scott@dcf.state.fl.us, (850)413-7282

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

FISH AND WILDLIFE CONSERVATION COMMISSION

Marine Fisheries

RULE NOS.:	RULE TITLES:
68B-8.002	Definitions
68B-8.003	General Conditions and Restrictions
68B-8.006	Scientific Research Special Activity License
68B-8.007	Education/Exhibition Special Activity License
68B-8.008	Florida Marine Science Educators Certification
68B-8.009	Prohibited Species Collection Criteria
68B-8.010	Stock Collection and Release Special Activity License
68B-8.011	Aquaculture Broodstock Collection Special Activity License
68B-8.012	Snook Special Activity License
68B-8.013	Non-Conforming Gear Special Activity Licenses and Exemptions
68B-8.014	Marine Chemical Special Activity License
68B-8.016	Commission Activities and Agreements

PURPOSE AND EFFECT: The purpose of these rule amendments are to define or re-define terms that are used throughout the rules, clarify activities that require licensing, address new issues identified by stakeholders and FWC staff, and update or add agency policies and remove obsolete rule language. The purpose of the amendments to Rule 68B-8.002, F.A.C., is to define or re-define terms that are used throughout the rule. The purpose of the amendments to Rule 68B-8.003,

F.A.C., is to improve customer service by increasing application windows, incorporating other agencies within the application review process, reduction of documentation requirements, and clarification of activities that require licensing. The purpose of the amendments to Rule 68B-8.006, F.A.C., is to expand the types of activities that may be conducted pursuant to a Scientific Research Special Activity License. The purpose of the amendments to Rule 68B-8.007, F.A.C., is to modify display requirements for the benefit of marine animals collected for education or exhibition purposes. The purpose of the amendments to Rule 68B-8.008, F.A.C., is to clarify that the Florida Marine Science Educators Certification is not limited to marine species. The purpose of the amendments to Rule 68B-8.009, F.A.C., is to provide applicants with more concise criteria regarding how requests to collect prohibited species are evaluated through the adoption of standards currently established through agency policy. The purpose of the amendments to Rule 68B-8.010, F.A.C., is to provide clarification of activities that involve releases of marine organisms and require licensing, update genetic standards for release activities including incorporation by reference of the genetic risk assessment flow chart, and modify health certification requirements based on recommendations made by participants of a Marine Animal Health workshop held by the agency in January 2008. The purpose of the amendments to Rule 68B-8.011, F.A.C., is to provide for clarification on the requirements for receiving an aquaculture broodstock collection Special Activity License. The purpose of the amendments to Rule 68B-8.012, F.A.C., is to address the exchange of aquacultured snook that are transferred and not sold. The purpose of the amendments to Rule 68B-8.013, F.A.C., is to allow for scientific researchers to apply for and receive a Gear Innovation Special Activity License which is currently only restricted to commercial fishers. The purpose of the amendments to Rule 68B-8.014, F.A.C., is to provide consistency with recent changes to the agency's licensing requirements for the Marine Life Fishery. The purpose of the amendments to Rule 68B-8.016, F.A.C., is to clarify that a Special Activity License is not required for activities conducted by the staff of the Keys Marine Laboratory. These proposed amendments reflect the Marine Special Activity License Program's progress and development within the agency.

SUBJECT AREA TO BE ADDRESSED: Marine Special Activity License Program.

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

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

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: Lisa Gregg, Division of Marine Fisheries Management, Marine Fisheries Services, Fish and Wildlife Conservation Commission, Mail Code 4B3, 620 South Meridian Street, Tallahassee, Florida 32399-1600, (850)487-0580
 THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS NOT AVAILABLE.

FISH AND WILDLIFE CONSERVATION COMMISSION

Marine Fisheries

RULE NO.: 68B-14.0038 **RULE TITLE:** Recreational Red Snapper Season

PURPOSE AND EFFECT: The purpose of these rule amendments is to modify the Commission's Reef Fish Rule to become consistent with federal reef fish regulations for red snapper in the Gulf of Mexico. Based on federally established benchmarks, the red snapper stocks in the Gulf of Mexico are overfished and have been undergoing overfishing since the late 1980's. The most recent red snapper stock assessment (2005) indicates continued overfishing is compromising the objectives of the Gulf of Mexico Fishery Management Council's red snapper rebuilding plan, which is designed to end overfishing of red snapper by 2009 and to rebuild the red snapper stock to sustainable levels by 2032. The Gulf of Mexico Fishery Management Council developed regulatory actions in Amendment 27 to their Reef Fish Fishery Management Plan, and Amendment 14 to their Shrimp Fishery Management Plan. Amendment 27/14 addresses recreational and commercial harvest of red snapper, and establishes bag limits, size limits, and seasons. The success of the red snapper rebuilding plan depends not only upon consistency with the bag limit, size limit, and the fishing season regulations in federal waters, but also with the five states in the Gulf of Mexico adopting rules that are consistent with the federal rules in Gulf state waters.

Florida plays a particularly important role in the success of the red snapper rebuilding plan because Florida's recreational fishery accounts for a large proportion of the recreational red snapper catch, which is the primary source of red snapper fishing mortality in the eastern Gulf of Mexico. Not doing so will not only directly affect the rebuilding plan, but may affect Florida's recreational red snapper fishery to a greater extent if it results in further restrictions on harvest in federal waters in the future, as the majority of the state's recreational fishery occurs in federal waters. The effect of these rule amendments is that federal and state regulations will be consistently applied. Where practicable, this minimizes confusion with the public and aids enforceability.

SUBJECT AREA TO BE ADDRESSED: Reef fish, and more specifically, red snapper.

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

LAW IMPLEMENTED: Art. IV, Sec. 9, Florida Constitution.
 IF REQUESTED IN WRITING AND NOT DEEMED UNNECESSARY BY THE AGENCY HEAD, A RULE DEVELOPMENT WORKSHOP WILL BE NOTICED IN THE NEXT AVAILABLE FLORIDA ADMINISTRATIVE WEEKLY.

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

THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS:

68B-14.0038 Recreational Red Snapper Season.

In all state waters of the Gulf of Mexico, the season for the recreational harvest and possession of red snapper shall be from June 1 ~~April 15~~ through September 30 ~~October 31~~, each year. Except for persons harvesting red snapper for commercial purposes pursuant to Rule 68B-14.0045, F.A.C., from October ~~November 1~~ through May 31 ~~April 14~~, no person shall harvest in or from state waters of the Gulf of Mexico, nor possess while in or on state waters of the Gulf of Mexico, any red snapper.

PROPOSED EFFECTIVE DATE March 1, 2009.

Specific Authority Art. IV, Sec. 9, Fla. Const. Law Implemented Art. IV, Sec. 9, Fla. Const. History--New 10-20-98, Formerly 46-14.0038, Amended 12-30-99, 3-1-09.

FISH AND WILDLIFE CONSERVATION COMMISSION

Marine Fisheries

RULE NO.: 68B-24.009
 RULE TITLE: Trap Reduction Schedule

PURPOSE AND EFFECT: The purpose of this rule amendment is to modify the Commission’s Spiny Lobster Rule regarding the reduction in the number of lobster trap certificates. The lobster trap certificate reduction was initiated to reduce overcapitalization in the commercial spiny lobster fishery and to address concerns about excessive mortality of undersized lobsters, declining yield per trap, and public concerns over debris pollution from existing traps. The reduction process has been under moratorium since 2003. The effect of this rule amendment will be to end the moratorium and implement a trap certificate reduction schedule whereby upon the sale or transfer of certificates outside the immediate family of the certificate holder, the number of certificates received by the purchaser shall be reduced by 10 percent. Once the number of lobster trap certificates is reduced to 400,000, there shall be no further reduction in the number of lobster trap certificates issued each year thorough this mechanism. Reducing the number of traps will maintain fishing effort in the

spiny lobster fishery at a level to maintain the fishery’s yield while maximizing economic efficiency, reducing ecological impacts, and preserving the general aesthetics of the coastal environment.

SUBJECT AREA TO BE ADDRESSED: Spiny Lobster.

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

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

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

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

THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS:

68B-24.009 Trap Reduction Schedule.

(1) ~~Except as otherwise provided in this rule, Upon the sale or transfer of lobster trap certificates outside the immediate family of the certificate holder, the number of certificates received by the purchaser shall be reduced by 10 percent, beginning with the 2001-2002 license year, the maximum number of lobster trap certificates issued each season by the Commission pursuant to Section 370.142, Florida Statutes, shall be reduced each season by 4 percent from the total issued for the immediately previous season. These reductions shall be achieved through passive reductions pursuant to subsection (2). If in any year such passive reduction does not amount to 4 percent of available certificates, an active reduction shall be applied pursuant to subsection (3) to all lobster trap certificate holders to achieve the 4 percent target. If in any year, passive reductions pursuant to subsection (2) exceed 4 percent of available certificates, the number of certificates in excess of 4 percent shall be applied to meet the 4 percent reduction target for the following year. Once the number of lobster trap certificates is reduced through this passive/active mechanism to 400,000, there shall be no further reduction in the number of lobster trap certificates issued each year except those forfeited pursuant to Section 379.3671(2)(c)3. or Section 379.3671(2)(c)7., Florida Statutes.~~

~~(2) Passive Reduction — Upon the sale or transfer of certificates outside the immediate family of the certificate holder, the number of certificates received by the purchaser shall be reduced by 25 percent. Additionally, certificates forfeited due to conviction for theft from a spiny lobster trap pursuant to Section 370.142(2)(c)3., Florida Statutes, or~~

reverting to the Commission for nonpayment of certificate fees pursuant to Section 370.142(2)(c)7., Florida Statutes, shall be included as trap certificates passively reduced in a license year.

~~(3) Active Reduction — If the total passive reduction in lobster trap certificates pursuant to subsection (2) in any license year does not total 4 percent of the certificates available during that season, an additional reduction in the number of available certificates shall be made at the end of the season in the appropriate percentage to achieve the 4 percent target reduction for that year. This reduction shall be applied on a pro rata basis to all lobster trap certificate accounts.~~

~~(4) Notwithstanding the provisions of subsections (1)-(3) of this rule, no trap reductions shall take place in the license years beginning with the 2004-2005 license year and continuing through the 2006-2007 license year.~~

PROPOSED EFFECTIVE DATE July 1, 2009.

Specific Authority Art. IV, Sec. 9, Fla. Const. Law Implemented Art. IV, Sec. 9, Fla. Const. History—New 3-1-92, Amended 6-1-94, 6-3-96, 3-5-97, Formerly 46-24.009, Amended 6-29-00, 7-1-01, 4-1-04, 7-1-09.

FISH AND WILDLIFE CONSERVATION COMMISSION

Marine Fisheries

RULE NOS.:	RULE TITLES:
68B-42.001	Purpose and Intent; Designation of Restricted Species; Definition of “Marine Life Species”
68B-42.002	Definitions
68B-42.004	Size Limits
68B-42.005	Recreational Bag Limit
68B-42.006	Commercial Season, Harvest Limits
68B-42.0065	Commercial Requirements; Endorsements; Requalifying; Appeals; Leasing; Transferability
68B-42.007	Gear Specifications and Prohibited Gear
68B-42.009	Prohibition on the Taking, Destruction, or Sale of Marine Corals and Sea Fans; Exception; Repeal of Section 370.114, Florida Statutes

PURPOSE AND EFFECT: The purpose of these rule amendments is to modify the Commission’s Marine Life Rule in order to ensure the long-term sustainability of this fishery. These rule amendments were discussed by a Marine Life Workgroup composed of industry representatives over a three year time-frame and taken to public workshops.

Language will be added to the rule chapter that will authorize the issuance of Special Activity Licenses for activities that are otherwise prohibited in this rule chapter. Additionally, new fish and invertebrate species would be added to the rule, which would require a marine life endorsement for commercial

harvest. These additions are: porcupine fish, spotted burrfish, black brotula, key brotula, yellow stingray, blackbar soldierfish, red mithrax crab, emerald crab, red ridged clinging crab, the snail Lithopoma tectum, all hermit crabs (except land hermits), and nassarius snails. Misspellings in this section will also be corrected. A definition of fork length will be added for the measurement of tangs. The size limits of several fish species will be modified for commercial and recreational harvesters, including establishing maximum size limits for parrotfish and tangs, and widening the slot limit on butterflyfish. The recreational bag limit will be modified to allow no more than 5 of any one species within the 20 organism daily bag limit and create a 2-day possession limit for recreationally harvested organisms. The rule amendment would also establish a vessel maximum limit for dwarf seahorses and emerald crabs, and establish personal possession and vessel possession limits for zoanthid polyps, corallimorph polyps, and scarlet hermit crabs. The amendments will decrease the vessel maximum limit on condylactis anemones and add the snail Lithopoma tectum to the current star snail personal and vessel maximums. The rule would also establish a personal possession limit and vessel possession limit for butterflyfish instead of the current vessel maximum. Tools for the taking of corallimorph and zoanthid polyps will be specified for both recreational and commercial harvest in the amendments. Updates will also be made to existing commercial harvest restriction wording to make it more consistent with the endorsement program. The amendment would also allow the harvest of ornamental sponges north of Egmont Key in the Gulf of Mexico to be taken with a 1 inch amount of substrate beyond the holdfast and a 1 inch thick piece of substrate below the holdfast of the sponge. Taking ornamental sponges with substrate would not be allowed in waters south of Egmont Key. The amendment would modify the requalification criteria for the Marine Life Transferable Dive endorsement to allow live rock landings, because they were allowed for the initial qualification. The regulation regarding the use of quinaldine would be amended so it can only be used with the Marine Life Transferable Dive endorsement and the Marine Life Non-transferable Dive endorsement. Portions of the Rules in 68B-42.006 and 68B-42.009, F.A.C., are being removed because they are no longer necessary and outdated references to Marine Patrol and the Department of Environmental Protection will also be amended.

The effect of these rule amendments is that more species will be given greater resource protection. Newly-added species will have their potential commercial exploitation reduced by limiting their harvest to only those that possess a marine life endorsement and limit their recreational harvest. The addition of size and bag limits will further reduce their harvest by collectors. Amending the language governing the issuance of Special Activity Licenses will allow holders so permitted under the License to conduct the activities within the Florida

Keys National Marine Sanctuary (FKNMS). This is in conjunction with a Memorandum of Understanding that is already in place between the FKNMS and the FWC. The definition of fork length will clarify this measurement technique for fishermen and law enforcement. In addition, specifying the allowable tools for the harvest of corallimorphs and zoanthids will reduce the amount of substrate removed in order to reduce impacts upon the surrounding habitat and aid the enforcement of this rule within the FKNMS. The specification of an allowable substrate amount for ornamental sponges North of Egmont Key will help protect the resource and clarify language for marine life harvesters and law enforcement. Changing the requalification criteria to include live rock sales will make it consistent with the original qualifying criteria. Restricting the use of quinaldine will ensure its use only by endorsement holders permitted to harvest by diving, which was the original intent of the rule. Removing outdated sections, correcting misspellings, and clarifying language regarding commercial harvest restrictions are intended to aid understanding and adherence to the rule chapter.

SUBJECT AREA TO BE ADDRESSED: Marine Life.
 SPECIFIC AUTHORITY: Art. IV, Sec. 9, Florida Constitution.
 LAW IMPLEMENTED: Art. IV, Sec. 9, Florida Constitution.
 IF REQUESTED IN WRITING AND NOT DEEMED UNNECESSARY BY THE AGENCY HEAD, A RULE DEVELOPMENT WORKSHOP WILL BE NOTICED IN THE NEXT AVAILABLE FLORIDA ADMINISTRATIVE WEEKLY.

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

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

FISH AND WILDLIFE CONSERVATION COMMISSION

Marine Fisheries

RULE NOS.:	RULE TITLES:
68B-45.0045	Closed Seasons
68B-45.006	Other Prohibitions

PURPOSE AND EFFECT: The purpose of these rule amendments is to modify the Commission’s Blue Crab Rule in order to establish closed seasons to the harvest of blue crabs from traps. The purpose of creating Rule 68B-45.0045, F.A.C., is to facilitate the identification and retrieval of lost and abandoned blue crab traps. This has been identified as an issue of importance by both the fishing industry and the public. The proposed draft rule amendment would create five regional closures along Florida’s coast and one closure in waters of the

St. Johns River system. Each closure would last up to ten days and would occur annually. The duration of the closures within the ten days specified in the rule would be based on conditions in the specific regions and would be at the discretion of the Executive Director of the Commission. The purpose of modifying Rule 68B-45.006, F.A.C., is to transfer the current Gulf of Mexico Regional Closure into the new section, Rule 68B-45.0045, F.A.C., so that all blue crab season closures are in the same section of the rule.

SUBJECT AREA TO BE ADDRESSED: Blue Crab.
 SPECIFIC AUTHORITY: Art. IV, Sec. 9, Florida Constitution.
 LAW IMPLEMENTED: Art. IV, Sec. 9, Florida Constitution.
 IF REQUESTED IN WRITING AND NOT DEEMED UNNECESSARY BY THE AGENCY HEAD, A RULE DEVELOPMENT WORKSHOP WILL BE NOTICED IN THE NEXT AVAILABLE FLORIDA ADMINISTRATIVE WEEKLY.

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

THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS:

68B-45.0045 Closed Seasons.

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

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

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

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

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

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

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

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

(b) All traps must be removed from the water before 12:01 a.m. local time on the first day of each regional closure. Traps found in state waters during the closures are declared to be a public nuisance and shall be disposed of in the manner approved by the Commission. Traps may be returned to the water after 12:01 a.m. local time on the day following each regional closure.

(c) Closures listed in subparagraph (1)(a)2., 3., 4., 5., and 6. extend to three nautical miles offshore.

(d) Closures listed in paragraph (1)(a) may be reduced in duration if it is determined by the Executive Director of the Commission that the number of lost and abandoned traps in the region will take less time to remove than the time listed in paragraph (1)(a).

(e) Closures do not apply to traps secured to private property, such as a dock, or to authorized gear listed in paragraphs 68B-45.004(1)(b)-(g), F.A.C.

(2) In the Gulf Seasonal Closure Region, no blue crab trap, including any trap used to harvest peeler crabs, may be placed in the water, fished, or soaked during the period beginning September 20 and continuing through October 4 each year.

(3) In the 2009/2010 fishing season, no trap retrieval fees will be assessed for blue crab traps collected through the Commission's Trap Retrieval Program.

PROPOSED EFFECTIVE DATE July 1, 2009.

Specific Authority Art. IV, Sec. 9, Fla. Const. Law Implemented Art. IV, Sec. 9, Fla. Const. History—New 7-1-09.

68B-45.006 Other Prohibitions.

(1) through (2) No change.

~~(3) In the Gulf Seasonal Closure Region, no blue crab trap, including any trap used to harvest peeler crabs, may be placed in the water, fished, or soaked during the period beginning September 20 and continuing through October 4 each year.~~

~~PROPOSED EFFECTIVE DATE July 1, 2009.~~

~~Specific Authority Art. IV, Sec. 9, Fla. Const. Law Implemented Art. IV, Sec. 9, Fla. Const. History—New 12-14-93, Formerly 46-45.006, Amended 7-1-03, 7-15-04, 7-1-09.~~

DEPARTMENT OF FINANCIAL SERVICES

Division of Consumer Services

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

PURPOSE AND EFFECT: Mediation of claims for the 2004 and 2005 hurricanes have been governed by Rule 69J-2.003, F.A.C. There are few claims left to be mediated and therefore

the need for a special process to mediate those claims is no longer needed. This amendment will modify Rule 69J-166.031, F.A.C. to handle those claims.

SUBJECT AREA TO BE ADDRESSED: Mediation of Residential Property Insurance Claims.

SPECIFIC AUTHORITY: 624.308(1), 626.9611, 627.7015(4) FS.

LAW IMPLEMENTED: 624.307(1), (2) (4), (5), 626.9541(1)(a), (e), (i), (u), 626.9561, 626.9581(1), 626.9641(1)(g), 627.7015 FS.

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

DATE AND TIME: Monday, January 12, 2009, 9:30 a.m.

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

Pursuant to the provisions of the Americans with Disabilities Act, any person requiring special accommodations to participate in this workshop/meeting is asked to advise the agency at least 5 days before the workshop/meeting by contacting: Ellen Simon, (850)413-4270 or Ellen.Simon@myfloridacfo.com. If you are hearing or speech impaired, please contact the agency using the Florida Relay Service, 1(800)955-8771 (TDD) or 1(800)955-8770 (Voice).

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT AND A COPY OF THE PRELIMINARY DRAFT IS: Ellen Simon, Chief Counsel, Department of Financial Services 200 East Gaines Street, Tallahassee, Florida 32399, (850)413-4270

THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS:

69J-166.031 Mediation of Residential Property Insurance Claims.

(1) Purpose and Scope. This rule implements Section 627.7015, F.S. The program established under this rule is prompted by the critical need for effective, fair, and timely handling of residential property claims. This program is available to all first-party claimants and insurers prior to commencing the appraisal process set forth in their policies or commencing litigation. The program is also available to litigants referred to the Department from Circuit or County court. For claims which have not previously already been mediated under any Department mediation program Rule ~~69B-166.030, F.A.C.~~, the mediation procedures described in this rule are available to all residential property claims for property which arise from damage occurring in Dade or Monroe Counties as a result of Hurricane Andrew, as well as the unnamed March 13, 1993, storm wherever the property is located in the State of Florida. This rule does not apply program applies to personal lines claims but not to commercial insurance coverages, or to private passenger motor vehicle

insurance coverages, or to ~~disputes relating to~~ liability coverages contained in property insurance policies. This program does not apply to policies issued under the National Flood Insurance Program established under the National Flood Insurance Act of 1968. Commercial residential insurance claims can be mediated pursuant to a separate rule. Before resorting to these procedures, insureds and insurers are encouraged to resolve claims as quickly and fairly as possible.

(2) Definitions. The following definitions shall apply for purposes of this rule:

(a) “Administrator” means the Department or its designee. “Approved”, as used in this rule with regard to approval of a mediator, means to designate based upon successfully meeting of the criteria set forth in Section 44.106, F.S., and the Florida Rules of Certified and Court Appointed Mediators which is incorporated by reference in paragraph (6)(a) of this rule, or Section 627.745(3)(b), F.S. Only approved mediators may mediate disputes under this rule.

(b) “Mediator” means an individual selected by the Department pursuant to paragraph (7)(a) below.

(c) “Claim”.

1. “Claim”, when in quotations, refers to any dispute between the insurer and insured relating to a material issue of fact other than:

a. A dispute as to which the insurer has reported allegations of a reasonable basis to suspect fraud, based on an investigation by the insurer’s special investigative unit, to the Department’s Division of Insurance Fraud; or

b. A dispute where, based upon agreed facts as to the cause of loss, there is no coverage under the policy.

2. Unless the parties agree to mediate a claim involving a lesser amount, a “claim” involves the insured requesting \$500 or more to settle the dispute, or the difference between the positions of the parties is \$500 or more, either of which is notwithstanding of any applicable deductible.

3. A policy must have been in effect at the time of the loss to qualify as a “claim.”

~~(d)~~(e) “Complainant” refers to the party requesting mediation.

~~(e)~~(d) “Department” means the Department of Financial Services.

(f) “Department office” means a designated office of the Division of Consumer Services, Department of Financial Services.

(g) “Party” or “Parties” means the insured and his or her insurer, including Citizens Property Insurance Corporation, when applicable.

~~(h)~~(e) “Respondent” refers to the party not first requesting mediation.

(f) “Service office” means a designated office of the Bureau of Consumer Outreach and Education, Division of Consumer Services, Department of Financial Services.

(3) Computation of Time. In computing any period of time described by this rule, the day of the act or event from which the designated period of time begins to run shall not be included. The last day of the period so computed shall be included, unless it is a Saturday, a Sunday, or a legal holiday. All time periods specified in this rule refer to the number of calendar days, not business days, unless otherwise specified in this rule.

~~(4) Service Offices. For disposition of mediation conferences, the State of Florida shall be divided among the following designated service offices:~~

~~(a) Daytona Beach Service Office shall be composed of the following counties: Flagler, Marion, Putnam, and Volusia.~~

~~(b) Fort Lauderdale Service Office shall be composed of Broward county.~~

~~(c) Fort Myers Service Office shall be composed of the following counties: Charlotte, Collier, DeSoto, Glades, Hendry, Highlands, and Lee.~~

~~(d) Jacksonville Service Office shall be composed of the following counties: Alachua, Baker, Bradford, Clay, Columbia, Dixie, Duval, Gilchrist, Hamilton, Lafayette, Levy, Nassau, St. Johns, Suwannee, and Union.~~

~~(e) Miami Service Office shall be composed of Dade and Monroe counties.~~

~~(f) Orlando Service Office shall be composed of the following counties: Brevard, Citrus, Lake, Orange, Osceola, Seminole, and Sumter.~~

~~(g) Pensacola Service Office shall be composed of the following counties: Bay, Calhoun, Escambia, Gulf, Holmes, Jackson, Okaloosa, Santa Rosa, Walton, and Washington.~~

~~(h) Largo Service Office shall be composed of the following counties: Manatee, Pinellas, and Sarasota.~~

~~(i) Tallahassee Bureau of Consumer Assistance Service Office shall be composed of the following counties: Gadsden, Franklin, Jefferson, Leon, Liberty, Madison, Taylor, and Wakulla.~~

~~(j) Tampa Service Office shall be composed of the following counties: Hardee, Hernando, Hillsborough, Pasco, and Polk.~~

~~(k) West Palm Beach Service Office shall be composed of the following counties: Indian River, Martin, Okeechobee, Palm Beach, and St. Lucie.~~

~~(4)~~(5) Claim Settlement.

(a) Notification of the right to mediate.

1. Within five days of the insured filing ~~At the time an insured files~~ a first-party “claim” which falls within the scope of this rule, the insurer shall notify the insured of their right to participate in this program. If the insurer has not been notified of a disputed claim prior to the time an insurer notifies the insured that a claim has been denied in whole or in part, the insurer shall mail a notice of the right to mediate disputed claims to the insured in the same mailing as a notice of denial.

An insurer is not required to send a notice of the right to mediate disputed claims if a claim is denied because the amount of the claim is less than the insured's deductible.

2. The mailing that contains the notice of the right to mediate may include the Department's consumer brochure on mediation but no other materials, forms, or documents may be included. Notification shall be in writing and shall be legible, conspicuous, printed in at least 12-point type, and printed in typeface no smaller than any other text contained in the notice. The first paragraph of the notice shall contain the following statement: "The Chief Financial Officer for the State of Florida, has adopted a rule to facilitate the fair and timely handling of residential property insurance claims. The rule gives you the right to attend a mediation conference with your insurer in order to settle any dispute you have with your insurer about your claim. An independent mediator, who has no connection with your insurer, will be in charge of the mediation conference. You can start the mediation process after receipt of this notice by calling the Department of Financial Services at 1(877)693-5236. The parties will have 21 days from the date of the notice to otherwise resolve the dispute before a mediation hearing can be scheduled."

3. The notice shall also:

a. Include ~~include~~ detailed instructions on how the insured is to request mediation, including address, phone number, and fax number for requesting mediation through the Department;

b. State and ~~indicate~~ that the parties have 21 days from the date of the notice within which to settle the claim before the Department will schedule the mediation; ~~otherwise resolve the dispute.~~

c. Include ~~The notice shall include~~ the insurer's address and phone number for requesting additional information; and mediation.

d. State that the Administrator will select the mediator. ~~The notice shall describe the mediator selection process and shall state that if either of the parties so desires the Department will select the mediator.~~

e. Refer ~~The notice shall refer~~ to the parties' right to disqualify a mediator for good cause and paraphrase the definition of good cause as set forth in paragraph (7)(e) of this rule.

f. Indicate ~~The notice shall also indicate~~ that the insured is to notify the mediator 7 days ~~insurer~~ before the mediation conference if the insured will bring counsel to the conference, unless the insurer waives the right to the notice of counsel. ~~After the 21 days, a request for mediation by the insured may be made either in writing to the insurer or by telephone call to the insurer. The date of request shall be documented in the insurer's claim file. Every 6 months the insurer shall request from the Department a list of mediators qualified to mediate disputes under this program. For a copy of the current list, the~~

~~Department may be contacted at its Mediation Section, Bureau of Consumer Assistance, 200 East Gaines Street, Tallahassee, Florida 32399-0322 or at telephone number (850)922-3132.~~

(b) Request for Mediation.

1. By the Insured. An insured may request mediation by contacting the Department at 1(877)693-5236; by faxing a request to the Department at (850)488-6372; or by writing to the Department of Financial Services, Mediation Section, Bureau of Education, Advocacy, and Research, 200 East Gaines Street, Tallahassee, Florida 32399-4212. If an insured requests mediation prior to receipt of the notice of the right to mediation, the insurer shall be notified by the Department of the existence of the dispute 21 days prior to the Administrator processing the insured's request for mediation. If an insurer receives a request for mediation, the insurer shall fax the request to the Mediation Section within 48 hours of receipt of the request. The Administrator shall notify the insurer within 72 hours of receipt of requests filed with the Department. The insured should provide the following information, if known:

a. Name, address, e-mail address, and daytime telephone number of the insured and location of the property if different from the address given;

b. The claim and policy number for the insured;

c. A brief description of the nature of the dispute;

d. The full name of the insurer and the name, address, e-mail address, and phone number of the contact person for scheduling mediation; and

e. Information with respect to any other policies of insurance that may provide coverage of the insured property for named perils such as flood or windstorm.

2. By an Insurer. An insurer may request mediation by faxing a written request to the Department at (850)488-6372. The insurer shall provide a copy of its written mediation request to the insured at the same time it submits the request to the Department. The written request should contain the information set forth in subparagraph (4)(b)1. Mediation requests by insurers will be processed by the Administrator in the same manner as mediation requests by insureds.

(c) Upon receiving a request for mediation, the Administrator ~~insurer~~ shall randomly select from the Department's list a mediator to conduct the mediation conference. The Administrator ~~insurer~~ shall ~~immediately~~ notify the mediator ~~in writing~~ of his or her selection and indicate the names and addresses of the parties and their known representatives, their phone numbers (if known), the Department's file number, the date of the request for mediation, and that the mediation is to occur within 45 days of the request. The mediator will have three business days from the date of notification by the Administrator to accept or reject the selection. If the mediation rejects the selection or fails to accept the selection within three business days, or if the ~~H~~ a mediator is disqualified pursuant to paragraph (7)(e), then the Administrator ~~insurer~~ shall randomly select another mediator.

For all mediation requests under this rule, the time limits in this section shall not be applicable for two years following the declaration of a disaster. Failure of an insurer to abide by this procedure and to notify the insured as required above shall subject the insurer to revocation, suspension, or fine as set forth in sub-subparagraph (9)(a)2.b. of this rule.

~~(5)~~(6) Rejection of Mediation. An insurer may elect to reject mediation in situations where the dispute does not meet the definition of a "claim." If the insurer desires to reject mediation, the insurer shall reference this mediation process and specify in writing to the insured and the administrator the reason(s) for the rejection. ~~The insurer shall also notify the insured of the insured's right to contest the rejection. To contest the rejection, the insured or the insured's representative must write to the Department at its Mediation Section, Bureau of Consumer Assistance, 200 East Gaines Street, Tallahassee, Florida 32399-0322, within 60 days of the date of the insurer's rejection notification. In the insured's letter contesting the rejection, the insured must specifically state the reasons why the rejection is asserted to be improper. The insurer shall also indicate that the insured should include a copy of the insurer's rejection letter with the insured's letter to the Department.~~ The Department shall determine whether the claim shall be mediated. The parties may elect to voluntarily mediate any dispute regardless of whether the cause of loss or policy status may be in question. In the event that a "claim" falls within the scope of this rule, the insurer shall follow the process set forth in paragraph ~~(4)(5)(b)~~ above.

(6) Mediation Costs. Pursuant to Section 627.7015(3), F.S., the insurer shall bear all of the cost of conducting mediation conferences.

(a) The total cost for residential mediation shall be \$350, with \$300 paid as the mediator's fee and \$50 as a fee of the Administrator.

(b) For two years following the declaration of a disaster, the amounts allocated to the mediator and the Administrator may be modified by the Department, but in no event will the total cost for mediation exceed those listed in paragraph (6)(a) above.

(c) Fees are payable within 7 days of billing by the Administrator. The Administrator will bill insurers separately for mediator fees and administrator fees for all mediations. The mediator's fee will be payable directly to the mediator by the insurer and the administrative fee paid to the Administrator by the insurer. All administrative fees received by the Department shall be placed in the Insurance Regulatory Trust Fund.

(d) Should a residential mediation conference be cancelled for any reason by the insured or the insurer after it has been scheduled, the mediator shall be paid 50% of the mediator's fee and the Administrator shall be paid the entire administrative fee.

(7) Mediators.

(a) Mediator Approval. The Bureau of Agent and Agency Licensing, Department of Financial Services, shall approve as mediators those persons who meet the qualifications set forth in Section 627.745(3)(b), F.S. Persons wishing to be approved as mediators shall submit their qualifications to the Bureau of Agent and Agency Licensing, Department of Financial Services, 200 East Gaines Street, Tallahassee, FL 32399-0319, on Form DI4-591, "Application for Appointment as a Mediator", which is adopted and incorporated by reference in subsection 69B-211.002(30), F.A.C. For two years following the declaration of a disaster, this program may additionally utilize mediators selected from a panel of circuit court – civil certified mediators approved by the Florida Supreme Court pursuant to the Florida Rules of Certified and Court-Appointed Mediators.

(b) List of Approved Mediators. The Bureau of Agent & Agency Licensing, Department of Financial Services, shall maintain a list of all approved mediators, which list shall include the mediator's name, address, telephone number, ~~social security number~~, a listing of counties in which each mediator is willing to mediate, and date of entry to the list.

(c) Grouping of Assignments. Requests for mediation will, if feasible, be grouped together and assigned to a single mediator. A mediator will be assigned a maximum of four mediation conferences under a single assignment.

(d) Procedure and Conduct. All mediation conferences shall be conducted in accordance with this rule, the Florida Rules for Certified and Court-Appointed Mediators as set forth in Rules 10.020-10.290, Florida Rules of Civil Procedure, as incorporated above, and other consistent rules of conduct as promulgated by the Supreme Court of Florida. Mediators shall have the same responsibilities to the Department as they have to the courts under the Florida Rules for Certified and Court-Appointed Mediators. The Florida Rules for Certified and Court-Appointed Mediators shall be read in a manner consistent with this rule and any conflict between this rule and the Florida Rules for Certified and Court-Appointed Mediators shall be resolved in favor of this rule. The mediator may meet with the parties separately, encourage meaningful communications and negotiations, and otherwise assist the parties to arrive at a settlement. For purposes of this mediation program, mediators shall have the immunity from suit provided to mediators in Section 44.107, F.S. All communications with the mediator shall be confidential. All statements made and documents produced at a settlement conference constitute settlement negotiations in anticipation of litigation. The mediation proceedings are confidential and inadmissible in any subsequent adversary proceeding.

(e) Complaints; Discipline. At any time a party may move to disqualify a mediator for good cause. Good cause consists of conflict of interest between a party and the mediator, that the mediator is unable to handle the conference competently, or other reasons which would reasonably be expected to impair

the conference. Complaints concerning a mediator shall be written and submitted to the Department of Financial Services, Mediation Section, Bureau of Education, Advocacy and Education, Consumer Assistance, Department of Financial Services, 200 East Gaines Street, Tallahassee, Florida 32399-4212 ~~0322~~. The Department shall review the following grounds for discipline:

1. Alleged instances of dishonest, incompetent, fraudulent, or unethical behavior on the part of a mediator;
2. Instances in which the mediator allegedly failed to promptly and completely respond to requests from the Department and instances in which the actions or failure to act on the part of the mediator violate this rule, including the standards set forth in this subsection or are counter to the intent and purpose of this mediation program or this rule;
3. Administrative action by any other agency or body against the mediator, regardless of whether the agency or body's regulation relates to mediation;
4. The mediator has been found guilty of or pled guilty or nolo contendere to a felony or a crime punishable by imprisonment of 1 year or more under the law of the United States of America or of any state thereof or under the law of any other country, without regard to whether a judgment of conviction has been entered by the court having jurisdiction of such cases.

If the Department determines that any of the above grounds exist, the Department shall institute proceedings in accordance with Chapter 120, F.S., to rescind the approval of the mediator to handle any mediation or arbitration program sponsored by the Department.

(8) Mediation Conference.

(a) Location.

1. The mediation conference shall be held at a reasonable location specified by the mediator within a reasonable proximity of the insured property, unless all parties agree otherwise. In times of declared disaster, the Administrator shall assign the mediation location and notify the mediator of same, if the Administrator determines such action is necessary to facilitate and expedite the mediation process.

2. The Administrator shall ~~Department will~~ make available various conference locations ~~rooms~~ at its various service offices throughout the state for possible use, if the Administrator determines such action is necessary to facilitate and expedite the mediation process.

3. Before scheduling a mediation conference, the mediator may contact the Division of Consumer Services ~~service office administrator~~ to determine the availability of ~~service office~~ facilities to accommodate the mediation conference.

4. ~~If no facilities are available at the service office for the particular mediation conference then the service office administrator will designate an alternative location, if available, for the mediation conference.~~

~~4.5:~~ If the parties determine that the assigned conference location is inconvenient or impractical, the parties and mediator may agree to conduct the mediation conference at an alternative location. If the Administrator has assigned a location, the Administrator must also agree to the alternate location.

~~5.6:~~ The mediator will notify the insured, insurer and the Administrator ~~parties~~ in writing of the exact time, date, and location of the conference. In times of declared disaster, the Administrator shall require additional methods of communication with the insured, if the Administrator determines such action is necessary to facilitate and expedite the mediation process.

(b) Timing and Continuances. The mediation conference shall be held as scheduled by the mediator. Upon application by any party to the mediator for a continuance, the mediator shall, for good cause shown or if neither party objects, grant a continuance and shall notify all parties of the date and place of the rescheduled conference. Good cause includes severe illness, injury, or other emergency which could not be controlled by the party and could not reasonably be remedied by the party prior to the conference by providing a replacement representative or otherwise. Also, good cause includes ~~the necessity of obtaining additional information~~, securing the attendance of a necessary professional or the avoidance of significant financial hardship. If the insured demonstrates to the mediator the need for an expedited mediation conference due to an undue hardship, the conference shall be conducted at the earliest date convenient to all of the parties and the mediator. Undue hardship will be demonstrated when holding the conference on a non-expedited basis would interfere with or contradict the treatment of a severe illness or injury, substantially impair a party's ability to assert their position at the conference, result in significant financial hardship, or other reasonably justified grounds.

(c) Attendance.

1. The complainant or their designated representative and respondent shall attend the mediation conference and be fully authorized to make an agreement to completely resolve the claim. All corporate parties who are complainants or respondents shall be represented at the conference by ~~attend the conference in the person of~~ a corporate representative who has full knowledge of the facts of the dispute and is fully authorized to make an agreement to completely resolve the dispute. An insurer will be deemed to have failed to appear if the insurer's representative lacks authority to settle the full value of the claim. The authority to settle the claim includes the ability to disburse the full settlement amount within 10 ~~7~~ days of the conclusion of the conference. The insurer will produce at the conference a copy of the policy. The insurer will bring the entire claims file to the conference.

2. The mediation conference also may be attended by persons who may assist a party in presenting his claim or defense in the conference, such as contractors, adjusters, engineers, and interpreters. The parties may not have separate counsel in the mediation conference unless requested by the insured or the parties agree otherwise. If the insured elects to have an attorney participate in the conference, the insured shall notify the ~~mediator insurer~~ of such participation 7 days before the conference, unless the parties agree otherwise. A party will be determined to have not negotiated in good faith if they or a person participating on their behalf continuously disrupts or otherwise inhibits the negotiations as determined by the mediator.

(d) Good Faith Negotiation. The participants are to negotiate in good faith to attempt to resolve the dispute, however, there is no requirement that the dispute must be resolved in mediation.

(e) Disposition. ~~Mediators or insurance companies~~ shall report to the Department on the status of property insurance ~~(other than commercial)~~ mediation conferences by submitting Form ~~DA-1159~~ DFS-15-1971, "Disposition of Property Insurance Mediation Conference and Company Remittance Form" (rev. 10/08 8/94), which is hereby adopted herein and incorporated by reference. If the claim is settled prior to the mediation conference being held, the insurer shall report the outcome of the issue to the mediator prior to the scheduled hearing and the mediator will submit Form DFS-15-1971 indicating the settlement. A mediation conference will not be considered complete and the Administrator will not bill the insurer until this form is submitted.

(9) Disbursement of Costs.

(a) The insurer shall pay the mediator's fee and the Administrator's fee which shall not exceed \$225. The Department reserves the right to reduce fees based on consumer surveys and cost analysis. All funds due the Department shall be remitted to the Department of Financial Services, Mediation Section, Bureau of Education, Advocacy and Research, 200 East Gaines Street, Tallahassee, Florida 32399-4212, along with a reference to the Department's file number, the claim number, identification of the parties, date of the mediation, and name of the mediator. These funds will be deposited in the Insurance Regulatory Trust Fund to defer Department costs.

1. Completed Mediation Conference. A mediation conference is considered complete once the date of the scheduled mediation has passed and disposition Form DFS-15-1971 has been received by the Administrator. A mediation conference will not be considered complete and will not be billed if it is rescheduled with the agreement of all parties as specified in paragraph (8)(b) of this rule, or if Form DFS-15-1971 is not received by the Administrator. If the mediation conference is held, the mediator shall receive the mediator's fee. Upon conclusion of the conference, the insurer

~~shall remit \$25 to the Department at the Department of Financial Services, Mediation Section, Bureau of Consumer Assistance, Tallahassee, Florida 32314-6100, along with reference to the claim number, identification of the parties, date of the mediation, and name of the mediator. These funds will be deposited in the Insurance Regulatory Trust Fund to defer Department costs.~~

2. Cancellation Due To Absence. Failure of a party to arrive at the mediation conference within 30 minutes of the conference's starting time shall be considered an absence. Payment shall be as follows:

a. If the insured fails to appear at the conference, the conference shall be considered to have been held and the insurer must make payment in accordance with subsection (6) of this rule. If the insured wishes to schedule a new conference after failing to appear, the total cost of mediation for the new conference will be borne by the insured. The new conference shall be rescheduled only upon the insured's payment of the total cost of the mediation at the rate specified in subsection (6) of this rule rescheduled upon the insured's payment of the mediator's fee for the conference scheduled to take the place of the conference at which the insured failed to appear.

b. If the insurer fails to appear at the conference, the insurer shall make payment for the conference in accordance with subsection (6) of this rule. If the insurer fails to appear at the conference without good cause, the insurer shall pay the insured's actual cash expenses incurred in attending the conference and shall pay a second total cost of mediation the mediator's fee for the rescheduled conference. Good cause here includes severe illness, injury, or other emergency which could not be controlled by the insurer and could not reasonably be remedied by the insurer prior to the conference by providing a replacement representative or otherwise. If an insurer fails to appear at conferences with such frequency as to evidence a general business practice of failure to appear, the Department will report the failure to appear to the Florida Office of Insurance Regulation as a potential violation of Florida law. The Florida Office of Insurance Regulation may take such further action as it deems appropriate the insurer shall be subject to penalty, including revocation, suspension, or fine, for violation of Section 626.9541(1)(i), F.S. Such suspension of an insurer's certificate of authority shall be for a period of 2 years. An administrative fine shall be in the amount of \$2,500 per violation in cases of non-willful violation, and \$20,000 per violation in cases of a knowing and willful violation. The Department will mitigate these penalties based upon the following factors: Solvency of the insurer, best interests of or potential harm to insureds, and willfulness of the violation.

(b) Any disputes regarding the amount of disbursement of funds shall be resolved by the Department.

(c) Except as provided in subparagraph (8)(a)3., any expenses associated with the mediation conference, such as travel, telephone, postage, meals, lodging, facilities, and other related expenses, shall be borne by the party, mediator or other person incurring the expense.

(10) Post-Mediation.

(a) At the conclusion of the mediation conference, the mediator will file with the Department the "Disposition of Property Insurance Mediation Conference" Form DFS-I5-1971 a mediator's status report indicating whether or not the parties reached a settlement. If the parties reached any settlement, then the mediator shall include a copy of the settlement agreement with Form DFS-I5-1971 the status report. In the event a settlement is reached, the insured shall have 3 business days from the date of the written settlement within which he or she may rescind the settlement provided that the insured has not cashed or deposited any check or draft disbursed to him or her for the disputed matters as a result of the conference. If a settlement agreement is reached and not rescinded, it shall act as a release of specific issues that were presented at the conference.

(b) Any additional claims under the policy shall be presented as separate claims. However, the release shall not constitute a final waiver of rights of the insured with respect to claims for damages or expenses if circumstances that are reasonably unforeseen arise resulting in additional costs which would have been covered under the policy but for the release.

~~(c) If the insured decides not to participate in this program or if the parties are unsuccessful at resolving the claim, the insured may choose to proceed under the appraisal process set forth in the insured's insurance policy, or by litigation, or by any other dispute resolution procedure available under Florida law.~~

(11) The Department is authorized to designate an entity or person as its Administrator to carry out any of the Department's duties under this rule.

(12) If a court holds any subsection or portion of a subsection of this rule or the applicability thereof to any person or circumstance invalid, the remainder of the rule shall not be affected thereby.

Specific Authority 624.308(1), 626.9611, 627.7015(4) FS. Law Implemented 624.307(1), ~~(2), (4), (5), 624.418(2)(a), 624.421(1)(a), 624.421(1)(3), 626.9541(1)(a), (e), (i), (u), 626.9561~~, 626.9581(1), 626.9641(1)(g), 627.7015 FS. History—New 8-18-94, Amended 5-1-96, 4-6-00, Formerly 4J-166.031, 69B-166.031, Amended

Section II Proposed Rules

BOARD OF TRUSTEES OF THE INTERNAL IMPROVEMENT TRUST FUND

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

AGENCY FOR HEALTH CARE ADMINISTRATION

Medicaid

RULE NO.:
59G-6.045

RULE TITLE:

Payment Methodology for Services in Facilities Not Publicly Owned and Publicly Operated (Facilities Formerly Known as ICF/DD Facilities)

PURPOSE AND EFFECT: The purpose and effect of the proposed rule is to incorporate changes to the Florida Title XIX Intermediate Care Facilities (ICF) for the Mentally Retarded and the Developmentally Disabled Facilities not Publicly Owned and not Publicly Operated Reimbursement Plan (the Plan) payment methodology in accordance with the 2008-09 General Appropriations Act, House Bill 5001, Specific Appropriation 235 and House Bill 5085, Section 5, which amended Section 409.908, Florida Statutes.

1. Effective October 1, 2008, as a result of modifying the reimbursement for intermediate care facilities for the developmentally disabled, the Agency shall implement a recurring methodology in the Title XIX Intermediate Care Facility for the Mentally Retarded and Developmentally Disabled for Community Owned and Operated Facilities Reimbursement Plan to achieve a \$6,160,256 reduction. In establishing rates through the normal process, prior to including this reduction, if the unit cost is equal to or less than the unit cost used in establishing the budget, then no additional reduction in rates is necessary. In establishing rates through the normal process, prior to including this reduction, if the unit cost is greater than the unit cost used in establishing the budget, then rates shall be reduced by an amount required to achieve this reduction, but shall not be reduced below the unit cost used in establishing the budget.

2. The Agency shall establish rates at a level that ensures no increase in statewide expenditures resulting from a change in unit costs for two fiscal years effective July 1, 2009.

Reimbursement rates for the two fiscal years shall be as provided in the General Appropriations Act.

3. In Section V A., the initial use of the term "prospective" has been deleted.