

CONSTRUCTION INDUSTRY LICENSING BOARD

**Embassy Suites Jacksonville – Baymeadows
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**February 10th, 2017
8:30am**

Rules/Public/Legislative Committee Agenda

Members: Cobb/Evetts/Kane/Lenois/Moody/Sheehan

Committee Chair: Lenois

Counsel: Rachel Clark

Staff: Donald Shaw

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- I. RULES REPORT**
 - II. DRAFT OF PROPOSED LANGUAGE**
 - **Rule 61G4-12.011 Definitions**
 - **Rule 61G4-18.001 Continuing Education Requirements for Certificateholders and Registrants**
 - **Rule 61G4-16.005 Duration of Validity**
 - **Rule 61G4-15.041 Certification for Trenchless Technology Specialty Contractor**
 - III. ADJOURNMENT**

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RULES REPORT – FEBRUARY 2017**

Rule Number	Rule Title	Date Rule Language Approved by Board	Date Sent to OFARR	Rule Development Published	Notice Published	Adopted	Effective
61G4-12.011	Definitions		12/14/15 05/19/16 09/07/16	12/21/15 05/31/16 09/09/16			
61G4-15.0041	Certification for Trenchless Technology Specialty Contractors						
61G4-16.005	Duration of Validity	07/15/16	12/19/16	12/30/16	Rule comment received 01/19/17		

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Rule 61G4-12.011 Definitions

(1) For purposes of Section 489.105(3)(b), F.S., the term “story” is defined to mean that portion of a building included between the upper surface of a floor or average grade, finished or unfinished, open or enclosed, and the upper surface of the floor or roof next above and having a minimum clear height of seven (7) feet or more.

(2) For purposes of the exemption provided by Section 489.103(9), F.S., activities which are not casual, minor, or inconsequential, include, but are not limited to, any work affecting structural components, any work involving use of toxic or hazardous chemicals or substances, any work affecting access or egress to a structure, any work affecting accommodations for the physically disabled, any work for which a building permit is required and any work affecting life-safety matters as defined in the applicable building code.

(3) The terms “advertise” and “advertises” shall apply to business cards, business proposals, contracts, construction site signs, all newspapers, airwave transmission (other than internal company communications), any electronic media including Internet sites, phone directory, and other media including handbills, billboards, flyers, shopping and service guides (coupon offerings), magazines (including trade associations publications), classified advertisements, manufacturer’s “authorized dealer” listings, and signs on vehicles. They shall not apply to balloons, pencils, pens, hats, articles of clothing, shirts, or other promotional novelties. Neither shall the terms apply to any single line phone directory listing; nor to free phone directory listings (regardless of page color) of one, two or three lines, which display nothing more than the proper name, company name, address, and telephone numbers in whole and in part in an unbolded or unhighlighted print or without further textual or pictorial elaboration or touting in its overall display.

(4) Main Sanitary Sewer Collection System: That part of a sewer system starting at the end of the building sewer and extending through and including the treatment plant whether the system is public or private, including any conveyance of sewage under pressure, and pumping facilities. The only exception to this definition are one, two, three or four family structures; in these structures the Main Sanitary Sewer Collection System begins at the lot line and extends through and includes the sewer treatment facilities.

(5) Building Drain: That part of the lowest piping of a drainage system which receives the discharge from soil pipe, waste pipe and other drainage pipes inside the perimeter walls of the building and conveys it to the building sewer 5 feet outside the building’s exterior wall.

(6) Building Sewer: That part of the horizontal piping of a drainage system which extends from the end of the building drain and which receives the discharge of the building drain and conveys it to a public sewer, private sewer, individual sewage-disposal system or to any other point of disposal.

(7) Main Water Distribution System: The water service line, water distribution systems and all appurtenances on public or private property which shall terminate no closer than 5 feet from a building or at the secondary meter whichever is further from the building. For the purpose of this definition master site meters and backflow preventers shall not constitute the secondary meter nor shall they be the contractor’s point of work termination. One, two, three and four family structures shall have their Main Water Distribution System terminate at the meter.

(8) Storm Sewer System: The collection, conveyance and disposal of rain water from public or private property to the storm sewer system at a structure or other point of connection.

(9) “Services incidental thereto” shall for the purpose of Section 489.103(1), F.S., only, mean all work on bridges, roads, streets, highways, and railroads except building construction and those subcontractor categories, defined in Section 489.105(3)(d)-(q), F.S. However, notwithstanding the previous provision, services incidental thereto specifically includes storm drainage and excavation work necessary for the

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construction of bridges, roads, streets, highways, and railroads; and includes directly contracting with a governmental entity for work on bridges, roads, street, highways, and railroads when any building construction included in the contract is subcontracted to a contractor appropriately licensed under Chapter 489, Part I, F.S., to perform building construction or those subcontractor categories defined in Section 489.105(3)(d)-(q), F.S., and such building construction does not constitute more than fifty (50) percent of the total contract amount.

(10) “Incidental to their business” shall for the purposes of Section 489.103(5), F.S., only, mean work performed exclusively on the supply side of the end use metering device and shall specifically exclude all work described in Section 489.105(3), F.S., on the commercial side, house side, or customer side of the end use metering device except that specifically provided for below. Those tasks considered “incidental to their business” which occur on the commercial side, house side, or customer side of the end use metering device are inspections for leaks and the repair thereof, testing of water quality, ignition of pilot lights, and termination of or activation of natural gas flow.

(11) A “credit report from a nationally recognized credit agency that reflects the financial responsibility of the applicant, certificateholder or registrant” shall, for the purposes of Section 489.115(6), F.S., mean a current consumer credit report that provides a current consumer credit score derived from the Fair Isaac Corporation’s (FICO) scoring method and:

- (a) Payment history;
- (b) Credit rating;
- (c) Public filings in county, state and federal courts;
- (d) Bankruptcies, business history, suits, liens, and judgments, all on a nationwide basis;

(12) A “nationally recognized credit agency” shall mean a credit agency that:

- (a) Obtains credit information both within and outside the State of Florida;
- (b) Validates, updates, and maintains the accuracy of credit information obtained; and
- (c) Obtains credit reports from at least two (2) credit bureaus.

(13) “Current mailing address” and “current address of record” shall mean the address at which the United States Postal Service delivers mail to the licensee.

(14) System: As it pertains to central air conditioning, refrigerating, heating and ventilating systems, pursuant to Section 489.105(3)(f)(g)(h), F.S., the term “system” is defined as starting at the distribution and return air grills and ending at the HVAC (heating, ventilating, or air conditioning) unit, including all duct work in connection therewith. The replacement of filters shall not constitute the partial disassembly of the system.

(15) “Services” for purposes of sanitary sewer collection systems, main water distribution systems, storm sewer collection systems and utility lines as defined in Section 489.105(3)(n), F.S., shall include, the construction, installation, and repair of vertical improvements above grade, such as headwalls, end-walls, and retaining walls. Vertical improvements shall not exceed twenty feet in elevation above grade and vertical improvements below grade shall not be restricted. In addition, vertical improvements above grade shall also include structures designed to house pumps, lift stations, or other related equipment. In no case should said structures exceed 500 square feet.

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(16) Installation or repair: Pursuant to section 489.105(3)(j)(k)(l), F.S., the term “installation or repair” of pool/spa equipment, as it pertains to swimming pool and spa electrical work, is defined as inclusive of installation, replacement, disconnection or reconnection of power wiring on the load side of the dedicated existing electrical disconnecting means. If installation, removal, replacement, or upgrading of this circuit is necessary, the work shall be performed by a licensed electrical contractor only. Nothing in this paragraph shall be deemed to restrict or limit in any manner the scope of work authorized by law of other contractor classifications, or other professions.

Rulemaking Authority 489.103(1), 489.103(5), 489.105(3), 489.108, 489.113(3) FS. Law Implemented 489.103(1), 489.103(5), 489.105(3), 489.113(3), 489.115(6), 489.119(5) FS. History--New 9-16-80, Formerly 21E-12.11, Amended 1-1-89, 4-18-89, 7-4-89, 4-22-90, 7-3-91, 12-21-92, Formerly 21E-12.011, Amended 11-4-93, 11-22-94, 10-10-95, 4-29-96, 9-18-96, 12-3-96, 11-25-97, Amended 10-4-99, 2-12-08, 11-9-08, 4-4-13, _____.

Proposed rule language acceptable? Yes No

Will the proposed rule amendment cause a negative impact to small business or a regulatory impact in excess of \$200,000 to any entity, including government, within one year of implementation of the rule? Yes No **Why or why not?**

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Rule 61G4-18.001

61G4-18.001 Continuing Education Requirements for Certificateholders and Registrants.

(1) Each person who is certified or registered by the Board must, as a condition of each renewal of the certificate or registration, obtain at least 14 classroom or interactive distance learning hours of continuing education in one or more courses from a continuing education provider approved by the Board. Of the required 14 hours of continuing education, up to four (4) hours of credit may be earned by attending a meeting of the Board wherein disciplinary cases are considered. The first complete hour of attendance will satisfy the requirement for continuing education in laws and rules regulating the construction industry, pursuant to paragraph (2)(e), below. At least seven (7) days advance notice of the intent to attend the disciplinary case session must be given to the Board, and the licensee must check in with Board staff prior to the beginning of the disciplinary proceedings. The licensee must sign in and out at breaks and at lunchtime. After the conclusion of the meeting, Board staff will issue a certificate of attendance to the licensee. The licensee must submit documentation of such participation to the Department within five (5) days of the date of issuance of the certificate of attendance. A maximum of four (4) hours will be allowed during a renewal cycle. Credit hours shall be awarded on an hour for hour basis up to a maximum of four hours. Credit hours may not be earned when the licensee attends a disciplinary case session as a party to a disciplinary action.

(2) All registered contractors and certified contractors are required to complete fourteen (14) hours of continuing education each renewal cycle. Of the fourteen (14) hours, one (1) hour shall be required in each of the following topics:

- (a) Specialized or advanced module course approved by the Florida Building Commission, or the Board;
- (b) Workplace safety;
- (c) Business practices;
- (d) Workers' compensation; and
- (e) Laws and rules regulating the construction industry;
- (f) Wind mitigation methodologies, if license is held in the following category: General, Building, Residential, Roofing, Speciality Structure, or Glass and Glazing;

(g) Pool electrical requirements, if license is held in the following category: Commercial pool/spa, Residential pool/spa, Swimming pool/spa servicing, or Residential pool/spa servicing specialty.

The remaining hours may include any of the aforementioned subject matter or general topics as defined hereinafter.

(3) The content of Board approved courses must be business, trade, workers' compensation, laws and rules related to the construction industry, or safety topics relevant to the construction industry. For purposes of this rule:

(a) Business practice topics include bookkeeping and accounting practices; managing cash flow; estimating and bidding jobs; negotiating and interpreting contracts and agreements; processing change orders; controlling purchasing; scheduling; controlling expenses; insurance and bonding related to construction; complying with payroll and sales tax laws; interpreting financial statements and reports related to construction; complying with Florida laws and rules related to construction, and Chapter 682, F.S., Arbitration Code, Chapter 713, F.S., Florida Construction Lien Law, and Chapter 553, F.S., Building Construction Standards.

(b) Trade related courses may be used to satisfy the "general" requirements. These courses may include topics considered as contract administration and project management activities, including management and operation of the day-to-day activities of a construction contracting

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firm and advanced knowledge of the trade in which the contractor is licensed. Examples include, but are not limited to: preconstruction activities, including design and structural loading; project contracts; permits; plan and specification approvals; construction procedures and operations; methods, materials, tools and equipment as codified in the CSI 16 Division Format or ASTM; maintenance and service; reading plans and specifications; code updates pursuant to Chapter 553, F.S., and related statutes.

(c) Safety courses include courses related to job site safety in the following topics: OSHA safety; workplace safety programs; safety manuals; procedure of testing and use of tools and equipment.

(d) Workers' compensation courses include: Compliance with Chapter 440, F.S.; drug free workplace; calculating and assigning workers' compensation costs; premium modification and adjustments.

(e) Laws and rules related to the construction industry found in Chapter 489, Part I, F.S., Chapter 455, F.S., Chapter 61G4, F.A.C.

(f) Wind mitigation methodology, as limited to those topics listed in Section 553.844(2)(b)1.-5., F.S. (2007).

(g) Pursuant to Section 489.115(4)(b)2., F.S., specialized continuing education courses approved for the purpose of allowing Division I certificateholders or registrants to certify plans and specifications on compliance with the wind resistance provisions for one and two family dwellings contained in the Florida Building Code and alternate methodologies approved by the Florida Building Commission are required to comply with Florida Building Code 2010 Section 1609.1.1 Exceptions: 1.-3., hereby incorporated by reference into the rule, and available at <http://www.flrules.org/Gateway/reference.asp?No=Ref-02332>, and must require the demonstration of proficiency at the completion of such course.

(4) A person who holds more than one certificate or registration issued by the Board is required to complete the continuing education requirements only once during each biennial certification renewal period and only once during each biennial registration period, providing all applicable license numbers to the course provider at the time of registration to ensure proper reporting of CE hours. Workers' compensation, work place safety and business practice courses approved for the continuing education requirements for persons certified or registered under Chapter 489, Part II, F.S., shall be accepted for continuing education for renewal under this rule.

(5) Any course approved for the continuing education requirements for persons certified under Chapter 468, Part XII, F.S., which meet the criteria for course content approved by this Board, shall be accepted for continuing education for renewal under this rule, for persons who are certified under Part XII or who are certified or registered under this part.

(6) The Board shall grant a maximum of four (4) hours of continuing education credit, on an hour for hour basis, to any licensee who participates as a member of any technical advisory committee to the Florida Building Code Commission within the Department of Business and Professional Regulation. The licensee must submit documentation of such participation to the Department within five (5) days of the date of completion.

(7) Continuing education credit shall be granted to instructors, teachers, lecturers, panelists and discussion leaders of a specific continuing education course, on an hour for hour basis, for the first presentation each renewal cycle.

(8) Continuing education credit for a specific course will be awarded only once for each renewal cycle.

(9) A person is not required to complete any continuing education requirements for the year in which a certificate or a registration is initially issued. Any person who obtains a certificate or a registration more than 12 months prior to the end of a biennial period is required to complete seven hours of approved continuing education as a condition of the first renewal of the certificate or registration.

(10) Credit may be earned for assisting in exam development. (See Rule 61G4-18.013, F.A.C.)

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(11) A person is not required to complete any of the above continuing education requirements while his or her license is in an inactive status. However, registrants and certificateholders who change licensure status from inactive to active must show proof of completion of fourteen (14) hours of continuing education as required for active renewal for the biennium previous to the requested license activation.

(12) Any course approved for the continuing education requirements for persons certified under Chapter 489, Parts I and II, F.S., shall be accepted for continuing education for renewal under this rule.

Rulemaking Authority 455.213(6), 455.2177, 455.2178, 455.2179, 489.108, 489.115 FS. Law Implemented 455.2123, 455.213(6), 455.2177, 455.2178, 455.2179, 455.271(6), 489.115, 489.116 FS. History—New 12-2-93, Amended 5-19-94, 8-16-94, 10-12-94, 1-18-95, 2-4-98, 5-11-99, 7-12-99, 1-23-00, 2-1-00, 12-27-00, 3-25-01, 7-26-04, 9-1-05, 9-27-06, 9-1-07, 11-15-07, 11-17-08, 10-23-12, 3-31-13.

Should the Board decide to update this rule:

Open rule for development **Yes** **No**

Proposed rule language acceptable? **Yes** **No**

Will the proposed rule amendment cause a negative impact to small business or a regulatory impact in excess of \$200,000 to any entity, including government, within one year of implementation of the rule? **Yes** **No** **Why or why not?**

Notes on fiscal issues as drafted

Number of Individuals impacted

Certified and registered pool contractors-	3,580
CE providers	330

61G4-12.011

The proposal as written is alleged to reflect the status quo. If so, additional costs to pool contractors, regulatory agencies, or the public are not anticipated. The clearly stated intention is that this rule will not impact the scope of practice for other contractors.

61G4- 18.001

The proposal for specialized credit will need to be effective on a future cycle. It will take the place of general credit, so most costs might be absorbed by the providers who choose to offer a specialized course hour and possible will not exceed the cost of designing any other courses by a significant amount. Presumably some individuals will end up with an additional unnecessary hour of general credit as a result of taking the traditional amount of hours in one sitting.

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Rule 61G4-16.005

FLRules.com comment:

Name: Kevin Trim

Email: ktrim@plsflorida.net

Title: Rule 61G4-16.005(1)

Comment: This rule has no basis in statutes. The statutory authority cited, 455.217(2), FS, only allows the agency to adopt a rule that sets forth the re-examination deadline for failed portions of an examination. It does not address the "duration of validity" of a passed examination. IT IS AN UNAUTHORIZED RULE WHICH SHOULD BE REPEALED. See citation below:

455.217 Examinations.—This section shall be read in conjunction with the appropriate practice act associated with each regulated profession under this chapter. (2) For each examination developed by the department or a contracted vendor, the board or the department when there is no board, shall make rules providing for reexamination of any applicants who fail an examination developed by the department or a contracted vendor. If both a written and a practical examination are given, an applicant shall be required to retake only the portion of the examination for which he or she failed to achieve a passing grade, if the applicant successfully passes that portion within a reasonable time, as determined by rule of the board, or department when there is no board, of his or her passing the other portion.

Rulemaking authority: s. 455.217(2)

Law implemented: s. 455.217(2), 489.113(1)

489.113(1) Any person who desires to engage in contracting on a statewide basis shall, as a prerequisite thereto, establish his or her competency and qualifications to be certified pursuant to this part. To establish competency, a person shall pass the appropriate examination approved by the board and certified by the department. Any person who desires to engage in contracting on other than a statewide basis shall, as a prerequisite thereto, be registered pursuant to this part, unless exempted by this part.

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Rule 61G4-15.041 will be discussed at the March 2017 meeting.

NEW RULE – PROPOSED DRAFT

61G4-15.041 Certification for Trenchless Technology Specialty Contractors

(1) Scope of Rule. The purpose of this rule is to provide for certification of trenchless technology specialty contractors.

(2) Definition. A trenchless technology specialty contractor is a contractor who is qualified and certified by the board to perform any work involving the construction, installation, and repair, on public or private property, accomplished through trenchless technologies, including but not limited to, directional drilling, auger boring, jacking and boring and slip lining. A trenchless technology specialty contractor shall be unlimited in his or her ability to enter contracts for the scope of work described herein who may perform work permitted under this rule, except as otherwise expressly provided in Section 489.113, F.S.

(3) Certification Procedures and Fees. Certification procedures and fees for trenchless technology contractors shall be the same as those provided for the certification of other contractors as set forth in Sections 489.109, 489.111, 489.113, 489.114, 489.115 and 489.116, F.S., and related rules.

(4) An applicant for a trenchless technology specialty contractor certification shall pass the Underground Utility & Excavation examination and shall demonstrate experience in the construction, repair, and alterations of trenchless technologies.

(5) Nothing in this rule shall be deemed to restrict or limit in any manner the scope of work authorized by law of other contractor classifications, or other professions.