

Section I

Notices of Development of Proposed Rules and Negotiated Rulemaking

DEPARTMENT OF STATE

Division of Library and Information Services

RULE NO.: 1B-31.001
 RULE TITLE: Real Property Electronic Recording

PURPOSE AND EFFECT: The purpose of this rule is to establish standards to implement the Uniform Real Property Electronic Recording Act (URPERA), Section 695.27, F.S. These standards were recommended by the Florida Electronic Recording Advisory Committee in their Final Report dated November 30, 2007 (available on the Florida Association of Court Clerks and Comptrollers Website at <http://www.flclerks.com/eRecording.html>), based on electronic recording standards issued by the Property Records Industry Association (PRIA).

SUBJECT AREA TO BE ADDRESSED: Standards for electronic recording of real property documents.

SPECIFIC AUTHORITY: 695.27(5)(a) FS.

LAW IMPLEMENTED: 695.27(5)(a) 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: Wednesday, February 14, 2008, 2:00 p.m.

PLACE: Conference Room 307, R. A. Gray Building, 500 S. Bronough Street, Tallahassee, FL 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 3 days before the workshop/meeting by contacting: Jim Berberich, Program Manager, Information Resources Management, Division of Library and Information Services, M.S. 9A, Tallahassee, FL 32399-0250; (850)245-6750, SUNCOM 205-6750. 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: Jim Berberich, Program Manager, Information Resources Management, Division of Library and Information Services, M.S. 9A, Tallahassee, FL 32399-0250; (850)245-6750, SUNCOM 205-6750

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

DEPARTMENT OF EDUCATION

State Board of Education

RULE NO.: 6A-4.0163
 RULE TITLE: Reading Endorsement Competencies

PURPOSE AND EFFECT: The purpose of this rule is to establish the six competencies that must be completed to earn the Reading Endorsement. The effect of this rule will be a clear description of the six Reading Endorsement competencies and their accompanying indicators.

SUBJECT AREA TO BE ADDRESSED: Reading Endorsement.

SPECIFIC AUTHORITY: 1001.02(2), 1012.55(1), 1001.215 FS.

LAW IMPLEMENTED: 1012.55(1), 1001.215 FS.

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

DATES AND TIMES: February 11, 2008, 3:00 p.m. – 5:00 p.m.; February 12, 2008, 3:00 p.m. – 5:00 p.m.; February 14, 2008, 3:00 p.m. – 5:00 p.m.

PLACES: February 11, 2008 – Florida Department of Education, 325 West Gaines Street, Turlington Building, Room 721/25, Tallahassee, Florida 32399; February 12, 2008 – University of Central Florida, 4000 Central Florida Boulevard, Teaching Academy, Room 117, Orlando, FL 32816; February 14, 2008 – Broward Community College, Central Campus, 3501 S.W. Davie Road, Davie, FL 33314

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT AND A COPY OF THE PRELIMINARY DRAFT, IF AVAILABLE, IS: Dr. Evan Lefsky, Executive Director, Just Read, Florida! Department of Education, 325 West Gaines Street, Tallahassee, FL 32399-0400, (850)245-9699

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

DEPARTMENT OF EDUCATION

State Board of Education

RULE NO.: 6A-5.090
 RULE TITLE: Content Area Reading Professional Development

PURPOSE AND EFFECT: The purpose of the rule is to delineate the professional development package designed to provide information that content area teachers need to become proficient in applying scientifically based reading strategies through their content areas, pursuant to Section 1003.413(4)(b), F.S. The effect of the rule will be the provision of professional development that will, upon its completion, allow content area teachers to effectively deliver reading intervention to students who are fluent readers in English and who scored at level 2 in reading on the Florida Comprehensive Assessment Test (FCAT).

SUBJECT AREA TO BE ADDRESSED: Reading Professional Development.

SPECIFIC AUTHORITY: 1001.02, 1003.413(3)(g), 1003.413(4)(b), 1001.215, 1003.4156, 1003.428 FS.

LAW IMPLEMENTED: 1003.413(3)(g), 1003.413(4)(b), 1001.215, 1003.4156, 1003.428 FS.

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

DATES AND TIMES: February 11, 2008, 3:00 p.m. – 5:00 p.m.; February 12, 2008, 3:00 p.m. – 5:00 p.m.; February 14, 2008, 3:00 p.m. – 5:00 p.m.

PLACES: February 11, 2008 – Florida Department of Education, 325 West Gaines Street, Turlington Building, Room 721/25, Tallahassee, Florida 32399; February 12, 2008 – University of Central Florida, 4000 Central Florida Boulevard, Teaching Academy, Room 117, Orlando, FL 32816; February 14, 2008 – Broward Community College, Central Campus, 3501 S. W. Davie Road, Davie, FL 33314

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT AND A COPY OF THE PRELIMINARY DRAFT, IF AVAILABLE, IS: Dr. Evan Lefsky, Executive Director, Just Read, Florida! Department of Education, 325 West Gaines Street, Tallahassee, Florida 32399-0400, (850)245-9699

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

DEPARTMENT OF EDUCATION

State Board of Education

RULE NO.:	RULE TITLE:
6A-6.05281	Educational Programs for Youth in Department of Juvenile Justice Detention, Commitment, Day Treatment, or Early Delinquency Intervention Programs

PURPOSE AND EFFECT: The purpose of this rule development is to incorporate the revisions required for educational programs in Department of Juvenile Justice by amendments to Florida Statutes. The effect of these revisions will be consistency with state requirements.

SUBJECT AREA TO BE ADDRESSED: State requirements for juvenile justice education programs to include student assessment, funding, academic plans, and teacher recruitment and retention.

SPECIFIC AUTHORITY: 1003.51(2)(e), 1003.51(2)(g), 1008.25, 1003.52(10) FS.

LAW IMPLEMENTED: 1001.03, 1003.51, 1003.52 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 IS: Bambi Lockman, Chief,

Bureau of Exceptional Education and Student Services, Florida Department of Education, 325 West Gaines Street, Room 614, Tallahassee, Florida 32399-0400, (850)245-0475

THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS:

6A-6.05281 Educational Programs for Youth in Department of Juvenile Justice Detention, Commitment, Day Treatment, or Early Delinquency Intervention Programs.

School districts must provide instruction to prepare all students to demonstrate proficiency in the skills necessary for successful grade-to-grade progression and high school graduation. For students placed in Department of Juvenile Justice (DJJ) programs, collaboration between the DJJ, the Department of Education, school districts, and private providers is essential in order for these students to attain this goal and become productive members of the community.

(1) Student Eligibility.

(a) Students who do not attend a local public school due to their placement in a DJJ detention, commitment, day treatment, or early delinquency intervention program shall be provided high quality and effective educational programs by the local school district in which the DJJ facility is located or by a Juvenile Justice provider through a contract with the local school district.

(b) If any student in these DJJ facilities has filed an intent to terminate school enrollment, the local school district shall notify these students of the option of enrolling in a program to attain a general education diploma (GED).

(c) Exceptional Student Education. All students placed in a DJJ program, who meet the eligibility criteria for exceptional student education, shall be provided a free appropriate public education consistent with the requirements of Chapter 6A-6, F.A.C. Students with disabilities, as defined by Section 504 of the Rehabilitation Act, shall be provided the necessary aids and services.

(d) Limited English Proficient Students. All limited English proficient students placed in a DJJ program shall have equal access to entitled services, including assessment and appropriate instructional strategies consistent with the requirements of Chapter 6A-6, F.A.C.

(2) Student Records.

(a) Content. Each school district shall maintain educational records for students in DJJ programs as required by Section 1003.25, Florida Statutes. The content of these records shall be as defined in subsections 6A-1.0955(2)-(5) and 6A-1.0014(2), F.A.C., Section 1003.51, Florida Statutes, and paragraph (5)(d) of this rule.

(b) Transfer of Educational Records. Each school district shall transfer records of students entering or exiting DJJ programs as provided in paragraph 6A-1.0955(7)(b) and subsection 6A-1.0014(2), F.A.C. Beginning with the 2000-2001 school year, each school district shall provide these

students' educational records no later than five (5) school days after the receipt of the request. Each school district shall make available a copy of the student's transcript record, including pertinent exceptional student education information, to designated DJJ staff for inclusion in the DJJ file when the student exits the program. DJJ staff shall provide this information to the receiving school district.

(c) Protection of Privacy. The requirements of Section 1002.22, Florida Statutes, and applicable rules of the State Board of Education apply to the Department of Juvenile Justice's maintenance and transfer of these records as described in paragraphs (2)(a) and (b) of this rule.

(3) Student Assessment.

(a) To ensure high quality and effective educational programs for youth in DJJ detention, commitment, day treatment, or early delinquency intervention programs, the school district shall provide for the review of the student's educational records and conduct assessments, consistent with the requirements of this subsection, in order to identify the students' functioning levels, provide appropriate educational programs, and report the learning gains of the student.

(b) All students in DJJ commitment, day treatment, or early delinquency intervention programs, who have not graduated from school, shall be assessed within ten (10) school days ~~seven (7) calendar~~ days of the student's commitment. The entry assessments shall include:

1. Academic measures that provide proficiency levels in:
 - a. Reading,
 - b. Mathematics,
 - c. Writing.
2. Vocational interest and/or aptitude measures.

(c) For the students referenced in paragraph (3)(b) of this rule, exit assessments shall include, at a minimum, the academic measures.

(d) Students placed in a detention center ~~and not transferring to a commitment program~~ shall be assessed only upon entry for academic measures. ~~Assessment information for students in detention centers, transferring to commitment programs, shall be sent directly to the commitment program with the transfer of the student.~~

(e) A common ~~e~~Entry and exit academic assessment measures shall be selected as required by Section 1003.52, Florida Statutes, that is ~~are~~ appropriate for the age, grade, and language proficiency, and program length of stay of the students and shall be non-discriminatory with respect to culture, disability, and socioeconomic status.

(f) All students in DJJ detention, commitment, day treatment, or early delinquency intervention programs shall also participate in the state and district-wide assessments required by Sections 1008.22, 1008.25, 1003.43, and 1003.438, Florida Statutes.

(g) The results of the academic measures, as required by paragraphs (3)(b)-(d) of this rule shall be reported in the format prescribed by Rule 6A-1.0014, F.A.C., to the Department of Education via the Automated Student Data System. The format for the reporting of the results of the academic measures shall ~~may~~ include standard scores for each academic area assessed.

- ~~1. Grade equivalent scores;~~
- ~~2. Percentiles;~~
- ~~3. Scaled scores.~~

(h) Beginning in the 2000-2001 school year, the Department of Education shall include the results of these assessments in applicable statewide and school reports.

(4) Individual Academic Plans.

(a) An individual plan for educational progress shall be developed within twenty-two (22) calendar days of student entry to DJJ detention programs and within fifteen (15) school days of entry to DJJ commitment, day treatment, or early delinquency intervention programs. This plan shall be based upon the student's entry assessments and past educational history and must address the areas of academic, literacy, and life skills. The plan shall include:

1. Specific and individualized long-term goals and short-term instructional academic and vocational/technical objectives;
2. Remedial strategies and/or tutorial instruction;
3. Evaluation procedures;
4. A schedule for determining progress toward meeting the goals and instructional and vocational/technical objectives.

(b) Progress monitoring ~~Academic improvement~~ plans, required by Section 1008.25, Florida Statutes, or individual educational plans (IEPs) developed for eligible exceptional students, 504 plans developed for eligible students with disabilities, or individual plans developed for limited English proficient students may incorporate the requirements of subsections (4) and (5) of this rule.

(5) Transition Services.

(a) For all students in DJJ commitment, day treatment, or early delinquency intervention programs, an individual transition plan based on the student's post-placement goals shall be developed cooperatively with the student, his/her parents, school district and/or contracted provider personnel and DJJ program staff. Re-entry counselors, probation officers, and personnel from the student's "home" school district shall be involved in the transition planning to the extent practicable.

(b) The transition plan must address, at a minimum:

1. Academic re-entry goals,
2. Career and employment goals,
3. The recommended educational placement for the student.

(c) Key personnel who must be involved in entry transition activities for students in juvenile justice programs shall include: appropriate personnel responsible for student

assessment, a guidance counselor from the school district and/or program personnel who are responsible for providing guidance services under the supervision of the school district's guidance counselor, a registrar or a designee of the school district who has access to the district's MIS system, and instructional personnel.

(d) Exit portfolios shall be created for each student prior to exit from a commitment, day treatment, or early delinquency intervention program and provided to DJJ personnel for inclusion in the DJJ file. DJJ shall provide this information to the home school district. The exit portfolio shall include the records required by Sections 1003.51, Florida Statutes, and include at a minimum:

1. Transition plan;
2. Results of district and state-wide assessments;
3. Individual academic plan, 504 plan, and/or individual educational plan for exceptional students;
4. Academic record or transcript; and
5. Work and/or project samples.

(6) Instructional Program and Academic Expectations.

(a) School Day and Year. The instructional program shall consist of 250 days of instruction, ten (10) of which may be used for teacher planning, distributed over twelve (12) months as required by Section 1003.01(11), Florida Statutes. Each school district shall collaborate with private providers and the DJJ, as appropriate, to develop a school calendar for these programs to be adopted by the local school board.

(b) Requirements. The instructional program shall meet the requirements of Sections 1003.42, 1003.43, 1003.438, 1003.52, 1008.23, and 1008.25, Florida Statutes, and include:

1. Curricular offerings, consistent with the Florida Course Code Directory and Instructional Personnel Assignments as adopted in Rule 6A-1.09441, F.A.C., that reflect the students' assessed educational needs and meet the students' needs as identified by the individual plan as required by paragraph (4)(a) of this rule. Students shall receive vocational/technical training, workplace readiness training, or career awareness and exploration instruction while in the juvenile justice program.

2. GED preparation shall meet GED course requirements specified in Rules 6A-6.0571 and 6A-6.021, F.A.C., and adult education course descriptions and/or the school district's approved GED/HSCT Exit Option must meet the requirements specified by the Department of Education.

3. Tutorial activities that are based on the students' assessed academic needs. Such activities shall be designed to assist students in advancing to their age appropriate grade level or to assist students in meeting their goals for reentry into the public school system, alternative schools, adult education, vocational/technical education, employment, or post secondary education.

4. Instruction shall be individualized to address the academic and vocational/technical goals and objectives that are outlined in each student's individual academic plan.

5. Instruction shall be delivered through a variety of instructional techniques to address students' academic levels and learning styles, including access to the Florida Virtual School as required in Section 1003.52(4), Florida Statutes.

(7) Qualifications and Procedures for Selection of Instructional Staff.

(a) The school district shall ensure that only qualified instructional staff members, consistent with the requirements of Rules 6A-1.0502 and 6A-1.0503, F.A.C., are employed to provide instruction to students in DJJ programs. Any use of non-certificated instructional staff must be approved by the school board.

(b) School districts shall recruit and train teachers who are interested, qualified, and experienced in educating students in DJJ programs as required by Section 1003.52(10), Florida Statutes. Teachers assigned to educational programs, operated by local school districts, in DJJ facilities shall be selected by the school district in consultation with the director of the DJJ facility, as required by Section 1003.52(10), Florida Statutes.

(c) The school district's substitute teacher pool shall also be available for these educational programs.

(d) Full-time teachers working in juvenile justice schools, whether employed by a district school board or a provider, shall be eligible for the critical teacher shortage tuition reimbursement program as defined by Section 1009.58, Florida Statutes, and other teacher recruitment and retention programs.

(8) Funding.

(a) To implement the Full-Time Equivalent (FTE) funding for students in DJJ programs based on direct instructional time:

1. Student attendance shall be taken once per class period or during each course reported for FTE purposes.

2. Time students spend participating in school activities such as field trips, performances, or receiving school-based services such as counseling may be counted as direct instructional time.

3. Certain interruptions to the education program, over which the teacher and student have no control, do not have to be deducted from the direct instructional time reported for FTE. These include:

- a. Fire drills;
- b. Lockdowns of the classroom or program for security purposes;
- c. Bomb scares;
- d. Court hearings; and
- e. Meetings students have with law enforcement personnel during school hours.

4. Direct instructional time shall not be counted for students who choose not to attend class or who are not present at school due to illness, or other non-school related activity other than those listed above.

(b) As required by Sections 1003.51 and 1010.20, Florida Statutes, at least ~~ninety (90) eighty (80)~~ percent of the FEFP funds generated by students in DJJ programs must be spent on instructional costs for these students and one-hundred (100) percent of the formula-based categorical funds generated by these students must be spent on appropriate categoricals such as instructional materials and public school technology for these students.

(c) Compliance with the expenditure requirement in Section 1010.20, Florida Statutes, for programs provided directly by local school boards shall be verified by the Department of Education through the review of the district's cost report as required by Section 1010.20, Florida Statutes. If school districts enter into contracts with private providers for these educational programs, an accounting of the expenditures, as specified in paragraph (8)(b) of this rule shall be required by the local school board.

(9) Contracts with Private Providers.

(a) School districts may provide services directly or may enter into a contract with a private provider to provide educational services to these youth. Beginning in 2000-2001, such contracts with private providers shall address the responsibilities of the school district and the private provider for implementing the requirements of this rule. The private provider shall have, at a minimum:

1. Documented experience in providing high quality educational services or a detailed plan for providing high quality educational services that meets applicable state and federal requirements.

2. Sufficient financial stability and resources to hire an adequate number of certified or qualified instructional personnel.

(b) Prior to contracting with a private provider, the school district shall:

1. Review and consider the provider's past performance history, including the results of prior Quality Assurance Reviews.

2. Review the private provider's contract, if any, with DJJ for the care and custody of the youth in the commitment, detention, day treatment, or early delinquency intervention program to ensure that services and resources are coordinated and not duplicative.

(c) Contracts with private providers, as described above, shall be submitted to the Department of Education prior to the October FTE Reporting Survey for review to verify compliance with this rule.

(d) The provider(s) of workforce development programs in the district in which the DJJ facility is located shall be responsible for notifying the DJJ program of the requirements for enrollment and completion of these programs. The inclusion of DJJ students in the school district's workforce

development program may be included in the contract referenced above and the cooperative agreement required by Section 1003.52, Florida Statutes.

(10) Interventions and Sanctions.

(a) If the educational program in a DJJ detention, commitment, day treatment, or early delinquency intervention program has received an unsatisfactory rating on the educational component of the Quality Assurance Review, does not meet the minimum standards for a designated priority indicator of the Educational Quality Assurance Review, or has demonstrated noncompliance with state and federal requirements, the Department of Education shall initiate a series of interventions and graduated sanctions. Sanctions shall be initiated against programs that have not taken appropriate corrective actions within six months.

(b) Interventions shall include:

1. The provision of technical assistance to the program.

2. The development of a corrective action plan with verification of the implementation of the corrective actions within ninety (90) days.

3. A follow-up review of the educational program.

(c) Sanctions shall include:

1. Public release of the unsatisfactory findings, the interventions, and/or corrective actions proposed.

2. Assignment of a monitor, master, or management team to address identified deficiencies paid for by the local school board or private provider if included in the contract.

3. Reduction in payment or withholding of state and/or federal funds.

(d) If the sanctions proposed in paragraph (10)(c) of this rule are determined by the Department of Education and DJJ to be ineffective in correcting the deficiencies in the educational program and improving the quality of the program, the State Board of Education shall have the authority to require further actions, which shall include:

1. Requiring the school board to revoke the current contract with the private provider, if applicable;

2. Requiring the school board to contract with the private provider currently under contract with DJJ for the facility; or

3. Requiring the school board to transfer the responsibility and funding for the educational program to another school district.

(e) Each school district is responsible for ensuring that appropriate educational services are provided to students in the district's juvenile justice programs, regardless of whether the services are provided directly by the school district or through a contract with a private provider.

(11) Coordination. The cooperative agreement between the local school district and DJJ, required by Section 1003.51, Florida Statutes, shall be submitted to the Department of Education prior to the October, FTE Reporting Survey. The timelines and responsibilities, as required by Section 1013.53,

Florida Statutes, for the notification by DJJ to the local school board of the siting of new facilities and the awarding of a contract for the construction or operation of such a facility shall be included in the agreement.

Specific Authority 1003.51 FS. Law Implemented 1003.51, 1003.52 FS. History—New 4-16-00, Amended.

DEPARTMENT OF EDUCATION

State Board of Education

RULE NO.: 6A-6.053
 RULE TITLE: K-12 Comprehensive Reading Plan Implementation

PURPOSE AND EFFECT: The purpose of the rule is to provide criteria for the development and implementation of district plans for use of the research-based reading instruction allocation provided in Section 1011.62(9), F.S. The effect of the rule will be the establishment of criteria by which the K-12 Comprehensive Reading Plans will be evaluated and approved pursuant to Sections 1001.215(5) and (6), F.S.

SUBJECT AREA TO BE ADDRESSED: K-12 Comprehensive Reading Plan.

SPECIFIC AUTHORITY: 1001.215(5), 1001.215(6), 1011.62(9), 1011.02(2) FS.

LAW IMPLEMENTED: 1001.215, 1011.62, 1011.02 FS.

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

DATES AND TIMES: February 11, 2008, 3:00 p.m. – 5:00 p.m.; February 12, 2008, 3:00 p.m. – 5:00 p.m.; February 14, 2008, 3:00 p.m. – 5:00 p.m.

PLACES: February 11, 2008 – Florida Department of Education, 325 West Gaines Street, Turlington Building, Room 721/25, Tallahassee, Florida 32399; February 12, 2008 – University of Central Florida, 4000 Central Florida Boulevard, Teaching Academy, Room 117, Orlando, FL 32816; February 14, 2008 – Broward Community College, Central Campus, 3501 S. W. Davie Road, Davie, FL 33314

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT AND A COPY OF THE PRELIMINARY DRAFT, IF AVAILABLE, IS: Dr. Evan Lefsky, Executive Director, Just Read, Florida! Department of Education, 325 West Gaines Street, Tallahassee, FL 32399-0400, (850)245-9699

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

DEPARTMENT OF EDUCATION

State Board of Education

RULE NO.: 6A-6.054
 RULE TITLE: K-12 Student Reading Intervention Requirements

PURPOSE AND EFFECT: The purpose of the rule is to provide criteria for reading intervention for students in grades K-12 as required by Section 1008.25, F.S. The effect of the rule

is to establish criteria for diagnosing and meeting the varying instructional needs of students reading below grade level and for students who score below levels of performance on statewide assessments as defined by the Commissioner. The rule will also establish criteria for designing and offering reading courses for middle and high school students scoring at Levels 1 or 2 on the Florida Comprehensive Assessment Test in reading pursuant to the comprehensive reading plan required by Section 1011.62(9), F.S.

SUBJECT AREA TO BE ADDRESSED: Reading intervention.

SPECIFIC AUTHORITY: 1001.02(2), 1001.215(5),(6), 1003.4156(5)(b), 1003.428(2)(c), 1008.25(2)(b) FS.

LAW IMPLEMENTED: 1001.215, 1008.25, 1003.4156, 1003.428 FS.

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

DATES AND TIMES: February 11, 2008, 3:00 p.m. – 5:00 p.m.; February 12, 2008, 3:00 p.m. – 5:00 p.m.; February 14, 2008, 3:00 p.m. – 5:00 p.m.

PLACES: February 11, 2008 – Florida Department of Education, 325 West Gaines Street, Turlington Building, Room 721/25, Tallahassee, Florida 32399; February 12, 2008 – University of Central Florida, 4000 Central Florida Boulevard, Teaching Academy, Room 117, Orlando, FL 32816; February 14, 2008 – Broward Community College, Central Campus, 3501 S. W. Davie Road, Davie, FL 33314

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

DEPARTMENT OF EDUCATION

State Board of Education

RULE NOS.:	RULE TITLES:
6A-6.0902	Requirements for Identification, Eligibility, Programmatic, and Annual Assessments of English Language Learners and Standards for Exit from ESOL
6A-6.0903	Requirement for Classification, Reclassification, and Post Reclassification of English Language Learners

PURPOSE AND EFFECT: The purpose of the rule developments is to make technical changes, update terminology, to clarify the eligibility determination and assessment of limited English proficient students, and to

incorporate the standards for annual assessment to measure progress limited English proficiency students are making towards mastery of the English language.

SUBJECT AREA TO BE ADDRESSED: English for Speakers of Other Languages and Assessment of English language learners.

SPECIFIC AUTHORITY: 1001.02, 1003.56, 1008.25, 1003.4156, 1003.428 FS.

LAW IMPLEMENTED: 1003.56, 1011.62 FS.

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

DATES AND TIMES: February 12, 2008, 1:00 p.m. – 6:00 p.m. (EST); February 15, 2008, 1:00 p.m. – 6:00 p.m. (EST)

PLACE: February 12, 2008 – Orange County School District, Jones High School Auditorium, 801 S. Rio Grande Avenue, Orlando, Florida 32805; phone: (407)835-2300; Local Contact Person: Eli Santiago; February 15, 2008 – Miami-Dade College, InterAmerican Campus, 627 S. W. 27th Avenue, Room 31303, Miami, Florida 33135

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT AND A COPY OF THE PRELIMINARY DRAFT IS: Lisa C. Saavedra, Executive Director, Bureau of Academic Achievement through Language Acquisition, 325 West Gaines Street, Suite 501 C, Turlington Building, Tallahassee, Florida 323299, phone: (805)245-5074

THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS:

6A-6.0902 Requirements for Identification, Eligibility, Assessment and Programmatic, and Annual Assessments of English Language Learners and Standards for Exit from ESOL Limited English Proficient Students.

(1) Requirements for identification. ~~Beginning with the 1990-91 school year, each student shall be surveyed upon initial enrollment in a school district, with questions specified in this rule. Each student whose initial enrollment in the school district was prior to the 1990-91 school year shall be surveyed unless they have been surveyed previously with the questions provided in this rule. The survey shall contain the following questions:~~

(a) Is a language other than English used in the home?

(b) Did the student have a first language other than English?

(c) Does the student most frequently speak a language other than English?

The questions may appear on a school's registration form or a separate survey form. The home language and the national origin of each student shall also be collected and retained in the district's data system. Affirmative responses to

question (b) or (c), or both requires that the student be placed in the English for Speakers of Other Languages (ESOL) program until completion of the eligibility assessment.

(2) Assessment to determine eligibility for appropriate services and funding.

(a) Each student who responded "yes" to any question on the home language survey shall be assessed to determine if the student is limited English proficient based on one of the standards set forth in subsection (2) of this rule. Any student identified by the home language survey who also meets one of the standards in subparagraphs (2)(a)1., 2. and 3. of this rule shall be classified as an English Language Learner (ELL) determined to be limited English proficient and shall receive appropriate instruction and funding as specified in Section 1003.56, F.S., ~~as amended by Chapter 2002.387, Laws of Florida.~~

1. Any student who scores within the limited English proficient range as determined by the publisher's standards on a Department of Education approved approval aural and oral language proficiency test, or scores below the English proficient level on a Department of Education approved assessment in listening and speaking shall be classified as an English Language Learner determined limited English proficient and shall be provided appropriate services.

2. Any student in grade 4 or above, who scores at or below 32nd percentile on reading comprehension and writing or language usage subtests reading and writing subparts of a nationally norm referenced test or scores below the English proficient level on a Department of Education approved assessment in reading and writing shall be determined to be limited English proficient and shall be classified as an English Language Learner and provided appropriate services.

3. Any student who is determined not to be limited English proficient as described in subparagraph (2)(a)1. or 2. of this rule or any student determined to be limited English proficient based solely on one reading or writing assessment standards as described in subparagraph (2)(a)2. of this rule may be referred to an ELL LEP Committee to determine eligibility for appropriate services ~~as a limited English proficient student~~ based upon a parent's or a teacher's request. The ELL LEP Committee may determine a student to be limited English proficient or not to be limited English proficient according to consideration of at least two of the following criteria in addition to the test results from subparagraph (2)(a)1. or 2. of this rule:

a. Extent and nature of prior educational or academic experience, and social experience, and a student interview;

b. Written recommendation and observation by current and previous instructional and supportive services staff;

c. Level of mastery of basic competencies or skills in English and heritage home language according to appropriate local, state or and national criterion-referenced standards;

d. Grades farom the current or previous years; or

e. Test results other than subparagraph (2)(a)1. or 2. of this rule.

(b) Any determinations by the ~~ELL LEP~~ Committee shall be contained in a written evaluation which shall be placed in the ELL Student Plan. ~~limited English proficient student's plan~~. Such evaluations shall further set forth a plan, which will be implemented, to address the student's English language needs.

(c) In lieu of the standards in subparagraph (2)(a)1. and 2. of this rule, a school district may use the test form of the Comprehensive English Language Learning Assessment (CELLA) approved for use as a placement tests ~~a district-developed or adapted test procedure~~ to assess a student's ~~limited~~ English proficiency. The procedure must be approved by the Department of Education prior to implementation. In reviewing the district's submission of the assessment procedure in lieu of (2)(a)1. and 2., the Department shall make ~~including~~ an affirmative determination that the instruments and standards proposed to be utilized by the school district are valid and reliable measures of whether or not a student is limited English proficient.

(d) Assessment of each student's aural and oral proficiency should be completed as soon as possible after the student's initial enrollment but not later than twenty (20) school days after the student's enrollment and shall be completed within four weeks unless documented in the following manner:

1. The documentation shall include the reason for the delay, evidence that the child is accorded the programming required for ELLs limited English proficient students pending the delay, and a specific timetable for completing the assessment.

2. This documentation shall be mailed to the parents in the language they understand, unless clearly not feasible their primary language no later than eight weeks after initial enrollment.

3. A copy shall be retained in the student's files for a minimum of one year.

(e) ~~For each student Assessment of each student's reading and writing proficiency shall be completed within one year after the date of enrollment for those students who is are not identified as limited English proficient but enrolled in the ESOL program under the provisions of subparagraph (2)(a)3., the assessment of reading and writing proficiency shall be completed within one year after the date of enrollment.~~ For students transferring into the school district, assessments completed within one year prior to the date of the student's transfer may be used. ~~For students enrolled in the district prior to 1990-91 who responded "yes" on the home language survey, assessments, completed within one year of the date the district administered the home language survey may be used.~~

(f) Assessment of a student's English proficiency as specified in subparagraphs (2)(a)1. and 2. of this rule shall be completed as rapidly as possible. The student shall receive services until assessment is completed. In the interim, from enrollment to eight weeks, the student shall be eligible for ESOL English for Speakers of Other Languages funded services based on a school district interim assessment procedure which shall be described in the school ~~D~~district ELL LEP Plan approved by the Department of Education.

(g) ~~An ELL A-LEP~~ Committee, after notification to the parent of the opportunity to participate in the meeting, shall conduct assessments referred to in subsections (2) and (3) of this rule and recommend an ELL limited English proficient Sstudent Pplan for such student.

(h) An eligible student shall be reported for ESOL funding as specified in Section 1011.62 ~~1003-56~~, Florida Statutes, as amended by Chapter 2007-216 90-288, Laws of Florida.

(3) Programmatic Assessment.

(a) Each student determined to be an ELL limited English proficient shall be further assessed in academic areas ~~basic subject areas~~ so as to aid the student's teacher in developing an appropriate instructional program.

(b) Each school district shall seek to document the prior schooling experience of ELLs limited English proficient students by means of school records, transcripts and other evidence of educational experiences, and take such experiences into account in planning and providing appropriate instruction to such students. The school district shall award equal credit for courses taken in another country or a language other than English, as they would the same courses taken in the United States or taken in English. For foreign-born students, the same district adopted policies regarding "age appropriate" placement at the elementary grades shall be followed as are followed for students born in the United States. Should a school district use a placement test for determining appropriate grade or course placement, such assessment may not be based in whole or in part on the student's English language proficiency.

(c) Any ~~limited English proficient student's~~ teacher, administrator, parent or parent's designee may request the convening of an ELL LEP Committee to review the student's progress in attaining necessary subject area competencies or in overcoming persistent deficiencies in overall student performance. The ELL LEP Committee may be reconvened at any time after a student has been served for a semester. The ELL LEP Committee shall make recommendations for appropriate modifications in the student's programming to address problems identified and shall document such modifications in the student's ELL Student Pplan.

(4) Annual assessment to determine progress towards English language proficiency

(a) All students classified as an ELL shall be assessed annually on the CELLA, including former English Language Learners that exited the ESOL program after the prior year's assessment.

(b) The CELLA shall be administered in accordance with standard written instructions appropriate for the examination. The written instructions will be issued by the Commissioner in the form of directions for administration and other written communications, as required, and provided to school districts in sufficient time prior to each test.

(c) Provisions shall be made by school districts to administer the test to students who are absent on the designated testing dates according to directions specified by the Commissioner. The directions will be issued in the form of test administration manuals and other written communications, as required, and provided to school districts in sufficient time prior to each test.

(d) Beginning with the effective date of this rule, until changes are recommended by the Commissioner to the State Board of Education, the English proficiency levels for Oral Skills, Reading and Writing shall be as shown in the following tables:

Grade Clusters	Beginning	Low Intermediate	High Intermediate	Proficient
K-2	495-632	633-649	650-672	673-755
3-5	560-675	676-697	698-719	720-805
6-8	565-680	681-712	713-732	733-830
9-12	580-681	682-713	714-738	739-835

Grade Clusters	Beginning	Low Intermediate	High Intermediate	Proficient
K-2	515-636	637-657	658-689	690-775
3-5	575-674	675-702	703-726	727-825
6-8	580-687	688-719	720-745	746-845
9-12	600-689	690-720	721-745	746-850

Grade Clusters	Beginning	Low Intermediate	High Intermediate	Proficient
K-2	345-545	546-628	629-689	690-800
3-5	590-689	690-714	715-733	734-810
6-8	600-713	714-741	742-758	759-815
9-12	605-743	744-761	762-777	778-820

(e) The Commissioner shall review annually the CELLA performance data and the CELLA English proficiency levels and recommend to the State Board of Education whether to maintain the existing proficiency level scores or make changes as may be necessary to the scores or other requirements of this rule.

(5) Standards for Student Exit from the ESOL Program.

(a) The standards for determining whether ELLs have attained sufficient English proficiency to exit the ESOL program shall be based on multiple measures as described below.

(b) CELLA shall be used as one of the measures for determining exit. Oral skills, reading, and writing scale scores for each grade cluster shall be added to determine the composite score. Scores equal to or greater than the CELLA composite scores in the following table shall be used to determine English proficiency:

Grade Cluster	CELLA English Proficient Composite Scores
K-2	2050 or greater
3-5	2150 or greater
6-8	2200 or greater
9-12	2250 or greater

(c) A student previously classified as an ELL shall be determined English proficient based on at least two of the following standards:

1. Minimum CELLA composite score for student's grade level and grade level scale score on CELLA Reading at the proficient level.

2. English proficiency determination by a majority decision of the ELL Committee based on the following:

a. Grade level mastery of basic competencies or skills in English according to applicable local, state or national criterion-referenced standards;

b. A passing grade in English language arts and reading subject area courses.

3. A score at or above the 33rd national percentile on the reading comprehension and writing or language usage subtests on a nationally norm referenced test.

4. A Florida Comprehensive Assessment Test (FCAT) achievement level of 3 or greater on the Reading test of the Sunshine State Standards pursuant to Rule 6A-1.09422, F.A.C.

5. A passing grade level developmental scale score in reading on the FCAT pursuant to Rule 6A-1.09422, F.A.C.

(d) School districts shall adopt the exit standards described in subsection (5) of this rule. In lieu of the standards described in subparagraphs (5)(c)1.-4. of this rule, a district may propose an alternative exit standard for use during the first full academic year after this rule is adopted. The district shall submit its proposed alternative exit standards as an amendment to the District's ELL Plan. The proposed alternative exit standards shall be approved by the Department of Education prior to implementation. Alternative exit standards may not be used if use will result in standards for students classified as ELL that are higher than those required of all other students in the school for determining grade promotion, minimum grade level achievement level, or graduation.

Specific Authority 1001.02 FS. Law Implemented 1003.56 FS., as amended by Section 150, Chapter 2002-387, Laws of Florida. History--New 10-30-90, Amended _____.

6A-6.0903 Requirement for Classification, Reclassification, and Post Reclassification of English Language Learners.

(1) Classification and reclassification for English Language Learners (ELLs) ~~limited English proficient students.~~

(a) Each student identified as an ELL ~~limited English proficient~~ shall continue to receive appropriate instruction and be reported for state funding until such time as the student is reclassified as English proficient. English proficiency shall be determined by reassessing the student utilizing the same or comparable assessment instruments, procedures and standards, adjusted for age and grade level, used to determine the student's eligibility assessment. Beginning with the effective date of this rule, the Comprehensive English Language Learning Assessment (CELLA) shall be one of assessments used to determine if the student has mastered sufficient English to exit the English for Speakers of Other Languages (ESOL) program. The Composite Score by grade levels shall be as specified in Rule 6A-6.0902, F.A.C.

(b) Upon the request of a student's teacher, counselor, administrator or parent, a ~~A~~ student who has been classified as an ELL ~~limited English proficient~~ and enrolled in an English for Speakers of Other Languages (ESOL) program may be reassessed ~~utilizing additional information upon the request of an English for speakers of other languages teacher, counselor, administrator or parent.~~ The ELL LEP Committee may use other assessment information to determine that the student should be exited from the ESOL program if the committee

determines that another instructional program or combination of instructional programs better meets the needs of the student. The documentation of the assessment instruments used and the justification for such action shall be retained in the student's records.

(c) An ELL ~~limited English proficient student~~ shall be enrolled in one or more programs other than ESOL ~~English for speakers of other languages~~ programs based on eligibility and need. The amount of time the student is assigned to such a program(s) shall be comparable to that assigned to non-limited English proficient students under similar conditions, provided; however, the student assigned full time to a program other than ESOL shall be provided English and basic subject area instruction as required by Rule 6A-6.0904, F.A.C., as soon as possible.

(d) An ELL ~~limited English proficient student~~ may only be reclassified as English proficient utilizing the procedures in paragraphs (1)(a) and (b) of this rule.

(e) Extension of time in the ESOL program for ELLs ~~limited English proficient students~~ shall be determined by applying the multiple criteria for entry as specified in Rule 6A-6.0902, F.A.C., and the ELL LEP Committee procedure. This extension of instruction shall be provided to all ELLs ~~limited English proficient students~~ not satisfying the standards in this subsection and to all ELLs ~~other limited English proficient students~~ on an individualized basis whose academic aural and oral proficiency testing and achievement is not on grade level due to lack of English language proficiency, including listening, speaking, reading, and writing in English results in English are not consistent. An ELL LEP Committee considering the extension of programming for such students shall refer the students as necessary, for appropriate remedial, compensatory, special and supportive services evaluations, and programs.

(f) English Language Learners ~~Limited English proficient students~~ provided ESOL or heritage home language instruction may be reported for funding in the Florida Educational Finance Program as specified in Section 1011.62, Florida Statutes F.S., as amended by Chapter 2003-391, Laws of Florida.

(2) Post Reclassification.

(a) The performance of former ELLs ~~limited English proficient students~~ shall be reviewed periodically to ensure parity of participation once they have been classified as English proficient. These reviews shall take place automatically at the student's first report card and semi-annually during the first year after exiting. Any consistent pattern of either under-performance on appropriate tests or failing grades shall result in the convening of a ELL LEP Committee, with parental participation, to assess the student's need for additional appropriate programming such as ESOL or other needed programs. Special consideration shall be given to any decline in grades and decline in test performance and to parent preference.

(b) The ~~ELL LEP~~ Committee shall recommend an appropriate ELL Student LEP Plan for students reclassified as ~~ELLs limited English proficient~~. The basis and nature of such recommendations shall be in writing and maintained in the student's file. Any such plan shall be reevaluated for continued appropriateness after one year, and each year thereafter as necessary.

(c) Any student who is reclassified as an ELL limited English proficient shall be provided appropriate instruction on the basis of an annual extension pursuant to a documented determination of the student's needs.

(d) A student who exits the program and is later reclassified as an ELL limited English proficient, may be reported in the ESOL program, as specified in Section 1003.56, F.S., as amended by Chapter 2003.391 ~~Chapter 2002-387~~, Laws of Florida.

(e) Lack of a students' ESOL funding eligibility does not relieve a school district of any obligation it may have under state or federal law to continue to provide appropriate services to ~~ELLs limited English proficient students~~ beyond the state ESOL program funding limits.

Specific Authority 1001.02 FS. Law Implemented 1003.56 FS., as amended by Section 150, Chapter 2002-387, Laws of Florida. History--New 10-30-90, Amended.

DEPARTMENT OF EDUCATION

State Board of Education

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

PURPOSE AND EFFECT: The purpose of the rule development is to review the rule to make technical changes, update terminology and to specify and/or clarify the inservice requirements for teachers, administrators, and guidance counselors of limited English proficient students, and the timeframes necessary for fulfillment of these requirements.

SUBJECT AREA TO BE ADDRESSED: Inservice requirements for educators of limited English Proficient students.

SPECIFIC AUTHORITY: 1003.56 FS.

LAW IMPLEMENTED: 1003.56 FS.

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

DATES AND TIMES: February 12, 2008, 1:00 p.m. – 6:00 p.m. (EST); February 15, 2008, 1:00 p.m. – 6:00 p.m. (EST)

PLACES: February 12, 2008, Orange County School District, Jones High School Auditorium, 801 S. Rio Grande Avenue, Orlando, Florida 32805; phone: (407)835-2300; Local Contact Person: Eli Santiago; February 15, 2008, Miami-Dade College, InterAmerican Campus, 627 S. W. 27th Avenue, Room 31303, Miami, Florida 33135

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT AND A COPY OF THE PRELIMINARY DRAFT, IF AVAILABLE, IS: Lisa C. Saavedra, Executive Director, Bureau of Academic Achievement through Language Acquisition, 325 West Gaines Street, Suite 501 C, Turlington Building, Tallahassee, Florida 323299, phone: (805)245-5074

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

DEPARTMENT OF COMMUNITY AFFAIRS

Division of Housing and Community Development

RULE NO.: 9B-3.0475
RULE TITLE: Mitigation Retrofits Required

PURPOSE AND EFFECT: Modify, enhance and clarify cost effective means to incorporate mitigation related elements in existing buildings that are subject to permitted work.

SUBJECT AREA TO BE ADDRESSED: Requirements for integration of mitigation elements in existing buildings when subject to permitted work.

SPECIFIC AUTHORITY: 553.844(3) FS., as created by CS for House Bill 7057, First Enrolled (2007).

LAW IMPLEMENTED: 553.72, 553.73(2), (3), (7), (9), 553.844(3) FS., as created by CS for House Bill 7057, First Enrolled (2007)

A RULE DEVELOPMENT WORKSHOP WILL NOT BE HELD BASED ON THE IMMEDIATE PUBLIC NEED FOR THE RELIEF AFFORDED BY THE CLARIFICATIONS AND MODIFICATIONS, THE NATURE OF THE ACTION AS BEING ONE PRIMARILY CLARIFYING THE COMMISSION'S INTENT WITH REGARD TO THE INITIAL ADOPTION OF THE RULE, AND THE FACT THAT THE ACTION HAS BEEN DISCUSSED AT TWO NOTICED PUBLIC MEETINGS, THE COMMISSION'S TELEPHONIC MEETING OF JANUARY 8, 2008, AND THE MEETING OF THE HURRICANE MITIGATION WORK GROUP ON DECEMBER 12, 2007.

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: Mo Madani, Planning Manager, Department of Community Affairs, 2555 Shumard Oak Boulevard, Sadowski Building, Tallahassee, Florida 32399-2100, (850)921-2247. 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 IS: Mo Madani, Planning Manager, Department of Community Affairs, 2555 Shumard Oak Boulevard, Sadowski Building, Tallahassee, Florida 32399-2100, (850)921-2247

THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS:

9B-3.0475 Mitigation Retrofits Required.

The 2007 Manual of Hurricane Mitigation Retrofits for Existing Site-Built Single Family Residential Structures, Version 2, as approved by the Commission on January 8, 2008, is hereby adopted by reference. The manual provides requirements for construction in addition to those contained in the Florida Building Code as adopted by Rule 9B-3.047, F.A.C., that shall be enforced as provided in the manual and as required by Section 553.844, F.S. A copy of the manual may be obtained from the Florida Building Commission's website, www.floridabuilding.org. If any person encounters any difficulty utilizing the website, assistance is available by calling the Codes and Standards Unit at (850)4871824.

Specific Authority 553.844(3) FS. Law Implemented 553.72 FS. 553.73(2), (3), (7), (9), 553.844(3) FS. History--New 11-14-07, Amended.

DEPARTMENT OF REVENUE

Sales and Use Tax

RULE NOS.:	RULE TITLES:
12A-1.056	Tax Due at Time of Sale; Tax Returns and Regulations
12A-1.105	Service Warranties

PURPOSE AND EFFECT: The purpose of the proposed amendments to Rule 12A-1.056, Florida Administrative Code (F.A.C.) (Tax Due at Time of Sale; Tax Returns and Regulations) is to: (1) clarify instructions to dealers who cannot reasonably compile the information required for an accurate sales and use tax return on a calendar month basis on how to request to file and pay returns on an alternative-period basis; and (2) require dealers who have obtained authorization from the Department to file returns and pay tax on an alternative-period basis to provide the Department with a calendar of alternate-reporting periods each calendar year.

The purpose of the proposed amendments to Rule 12A-1.105, F.A.C. (Service Warranties), is to clarify that service warranties to repair, maintain, or replace tangible personal property are not subject to tax if the parts and labor to repair the property are exempt from sales and use tax, as provided in Section 21, Chapter 2007-106, Laws of Florida.

SUBJECT AREA TO BE ADDRESSED: The subject area of the workshop is: (1) the requirement for taxpayers who report on an alternate-reporting period to provide a calendar of the alternate reporting periods to the Department each calendar year; and (2) the clarification that service warranties to repair, maintain, or replace tangible personal property are not subject to sales tax if the parts and labor to repair the property are exempt from sales and use tax.

SPECIFIC AUTHORITY: 212.17(6), 212.18(2), 213.06(1) FS. **LAW IMPLEMENTED:** 125.0104(3)(g), 125.0108(2)(a), 212.02(4), (14)(a), (16), 212.03(2), 212.0305(3)(c), 212.031(3), 212.04(3), (4), 212.0506, 212.055, 212.06, 212.0606, 212.08(7)(v), 212.11, 212.12(1), (2), (3), (4), (5), 212.14(2), 212.15(1), 212.18(3), 213.235, 213.755, 370.07(3), 373.41492, 376.70, 376.75, 403.718, 403.7185, 634.011, 634.131, 634.401, 634.415, 681.117 FS.

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

DATE AND TIME: February 20, 2008, 10:00 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 IS: Janet L. Young, Tax Law Specialist, Technical Assistance and Dispute Resolution, Department of Revenue, P. O. Box 7443, Tallahassee, Florida 32314-7443, telephone (850)922-9407

THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS:

12A-1.056 Tax Due at Time of Sale; Tax Returns and Regulations.

(1) DUE DATES FOR PAYMENTS AND TAX RETURNS.

(a) The total amount of tax on cash sales, credit sales, installment sales, or sales made on any kind of deferred payment plan shall be due at the moment of the transaction. Except as provided in Rule Chapter 12-24, F.A.C., Rules 12A-1.005, and 12A-1.070, F.A.C., and this rule, all taxes required under Chapter 212, F.S., to be collected or paid in any month, are due to the Department on the first day of the month following the date of sale or transaction. The payment and return must be delivered to the Department or be postmarked on or before the 20th day of the month following the date of sale or transaction for a dealer to be entitled to the collection allowance and to avoid penalty and interest for late filing. If the 20th day falls on a Saturday, Sunday, or legal holiday, payments accompanied by returns will be accepted as timely if postmarked or delivered to the Department on the next succeeding day which is not a Saturday, Sunday, or legal holiday. For purposes of this rule, a legal holiday means a holiday that is observed by federal or state agencies as a legal holiday as this term is defined in Chapter 683, F.S., and s. 7503

of the Internal Revenue Code of 1986, as amended. A “legal holiday” pursuant to s. 7503 of the Internal Revenue Code of 1986, as amended, means a legal holiday in the District of Columbia or a statewide legal holiday at a location outside the District of Columbia but within an internal revenue district.

(b) through (c) No change.

(d)1. ~~If a A dealer cannot reasonably compile the information required for an accurate return on a calendar month basis, the dealer may who maintains records on a period other than a monthly basis can request to file returns and pay tax on an alternative-period basis a variation from monthly filing and remittance of the tax. The dealer’s request must be in writing and must be submitted by submitting a written request to the Florida Department of Revenue, Return Reconciliation, Building F-3, 5050 West Tennessee Street, Building F-3, Tallahassee, Florida 32399-0100. The request must contain:~~

a. The name of the business;

b. The business mailing address;

c. The business partner number;

d.e. The dealer’s certificate of registration number;

e.d. A detailed explanation why the dealer cannot reasonably file returns on a calendar month basis of the problems associated with filing on a monthly basis; and

f.e. The beginning and ending month and; day; and year of each requested alternative- reporting period for the current calendar year.

2. ~~When the Department Executive Director or the Executive Director’s designee determines that the dealer cannot reasonably compile the information required for the making of an accurate return cannot reasonably be compiled by a taxpayer on a calendar month basis, the Department the Executive Director or the Executive Director’s designee will notify the dealer in writing that the dealer may report as an alternative-period filer deviation from monthly filing of returns and remitting of tax is authorized. Alternative-period returns and payments Such payments and returns are due on the first day after succeeding the end of the designated alternative-reporting period and become delinquent on the twenty-first day after succeeding the end of the alternative-reporting period.~~

3. Each year, dealers who have been authorized to file on an alternative-reporting basis must provide a calendar of alternative-reporting dates for the upcoming year. The dealer must provide the calendar by December 15, and the calendar must include all alternative-reporting periods for the following calendar year. The annual calendars may be submitted to the Department by any one of the following means:

a. E-mailing the calendar to conssut@dor.state.fl.us;

b. Faxing the calendar to Returns Reconciliation/Sales Tax Unit at (850)922-9672;

c. Mailing the calendar to General Tax Administration, Returns Reconciliation/Sales and Use Tax Unit, 5050 West Tennessee Street, Building F-3, Tallahassee, Florida 32399-0100.

(e) through (i) No change.

(2) through (4) No change.

Specific Authority 212.17(6), 212.18(2), 213.06(1) FS. Law Implemented 125.0104(3)(g), 125.0108(2)(a), 212.03(2), 212.0305(3)(c), 212.031(3), 212.04(3), (4), 212.0506(4), (11), 212.055, 212.06(1)(a), 212.0606, 212.11, 212.12(1), (2), (3), (4), (5), 212.14(2), 212.15(1), 213.235, 213.755, 370.07(3), 373.41492, 376.70, 376.75, 403.718, 403.7185, 681.117 FS. History—Revised 10-7-68, 6-16-72, Amended 10-21-75, 6-9-76, 11-8-76, 2-21-77, 4-2-78, 10-18-78, 12-23-80, 8-26-81, 9-24-81, 11-23-83, 5-28-85, Formerly 12A-1.56, Amended 3-12-86, 1-2-89, 12-19-89, 12-7-92, 10-20-93, 10-17-94, 3-20-96, 4-2-00, 6-19-01, 8-1-02, 4-17-03, 9-28-04,_____.

12A-1.105 Service Warranties.

(1)(a) Every person who solicits, offers, provides, enters into, issues, or delivers any service warranty, or who receives, on behalf of another person, any consideration from a service warranty holder is exercising a taxable privilege and shall register as a dealer with the Department of Revenue before such person may engage in or conduct business in this state. See Rule 12A-1.060, F.A.C.

(b)1. The term “service warranty” means any contract or agreement which indemnifies the holder of the contract or agreement for the cost of maintaining, repairing, or replacing tangible personal property, whether or not the contract provides for the furnishing of parts. The term “service warranty” includes motor vehicle warranties issued under Part I of Chapter 634, F.S., and service warranties issued under Part III of Chapter 634, F.S.

a. through e. No change.

2. The term “service warranty” does not include contracts or agreements to repair, maintain, or replace tangible personal property if such property when sold at retail in this state would not be subject to sales tax or if the parts and labor to repair tangible personal property qualify for an exemption under Chapter 212, F.S.

a. through b. No change.

c. Example: A maintenance contract covering the cost of parts and labor that are exempt when used to repair industrial machinery and equipment, as provided in Section 212.08(7)(xx), F.S., is not considered a service warranty contract.

3. No change.

(c) through (d) No change.

(2) through (5) No change.

Specific Authority 212.17(6), 212.18(2), 213.06(1) FS. Law Implemented 212.02(4), (14)(a), (16), 212.0506, 212.06, 212.08(7)(v), 212.18(3), 634.011, 634.131, 634.401, 634.415 FS. History—New 1-2-89, Amended 12-11-89, 8-10-92, 1-4-94, 3-20-96, 4-2-00, 6-19-01, 5-1-06,_____.

DEPARTMENT OF TRANSPORTATION

RULE NOS.:	RULE TITLES:
14-20.0025	Definitions
14-20.003	Placement of Shelters
14-20.0032	Placement of Benches
14-20.0033	Competitive Public Bidding of Advertising
14-20.004	Public Transit Bus Stops
14-20.010	General Use Permit

PURPOSE AND EFFECT: Rule Chapter 14-20, F.A.C., is being restructured into a Part I and Part II, with the existing rules on bus stops, shelters, and benches remaining in Part I, and a new Part II General Use Permits. Three existing rules are being amended and one rule is to be repealed. The rule chapter title is being expanded to "Use of Department Right of Way" with the existing rules addressed in this amendment becoming Part I "Bus Stops, Benches, and Transit Shelters."

SUBJECT AREA TO BE ADDRESSED: A new rule on General Use Permits is being adopted. The existing rules in the chapter will be in Part I with the new rule being in Part II. The overall rule chapter title is expanded to Use of Department Right of Way. Three existing rules related to bus stops, benches, and transit shelters are being amended and one rule is to be repealed. The rule chapter title is being expanded to "Use of Department Right of Way" with the existing rules addressed in this amendment becoming Part I "Bus Stops, Benches, and Transit Shelters."

SPECIFIC AUTHORITY: 334.044 (2), 337.408(4), (6) FS.

LAW IMPLEMENTED: 334.044(13), 335.02(1), 337.408 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 IS: James C. Myers, Clerk of Agency Proceedings, Florida Department of Transportation, Office of the General Counsel, 605 Suwannee Street, Mail Station 58, Tallahassee, Florida 32399-0458

THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS:

USE OF DEPARTMENT RIGHT OF WAY BUS STOPS, SHELTERS, AND BENCHES

PART II GENERAL USE PERMITS

14-20.0025 Definitions.

(1) "Bench" means a seat designed for seating two or more persons, which is placed along a regular transit bus route at or near recognized transit bus stops.

(2)(H) "Department" means the Florida Department of Transportation.

~~(3)(2) "School Bus" means as defined in Section 316.003, F.S. any motor vehicle that complies with the color and identification requirements of Chapter 234, F.S., and is used to transport children to or from school or in connection with school activities.~~

~~(3) "School Bus Shelter" means a structure or facility located at a site designated and approved by the local school board to protect awaiting school children from the elements.~~

~~(4) "School Bus Stop" means a site designated and approved by the local school board for the purpose of loading and unloading school children.~~

(4)(5) "Shelter" means a structure or facility located at a designated site to protect passengers from the elements. "Shelter" refers to both public transit bus shelters and school bus shelters.

~~(5)(6) "Transit Bus" means any motor vehicle designed for carrying more than ten passengers and used for the transportation of persons and any motor vehicle, other than a taxicab, designed and used for the transportation of persons for compensation.~~

~~(7) "Transit Bus Shelter" means a structure or facility located at a site designated and approved by the operating transit agency to protect passengers from the elements.~~

~~(8) "Transit Bus Stop" means a site designated and approved by the operating transit agency for the purpose of loading and unloading passengers.~~

~~(9) "Transit Bus Bench" means a seat designed for seating two or more persons, which is placed along a regular transit bus route at or near recognized transit bus stops.~~

Specific Authority 334.044(2), 337.408(4), (6) FS. Law Implemented 334.044(13), 335.02(1), 337.408 FS. History—New 12-26-90, Amended 5-15-97, _____.

14-20.003 Placement of ~~Transit and School Bus~~ Shelters.

The appropriate city or county government in whose jurisdiction a ~~transit or school bus~~ shelter is to be located may approve, by written authorization, the erection and placement of a shelter. ~~A shelter may be located~~ on the right of way of a road Federal Aid Highway or State Highway when it complies with the following:

~~(1) Shelters may be erected upon approval of proposed shelter locations and building plans, by the appropriate city or county government.~~

(1)(2) A ~~transit bus~~ shelter may be erected only at bus stops designated by a public transit agency or:

~~(3) A school bus shelter may be erected only~~ at bus stops designated by the local school board and identified as having service a minimum of ten times in a five-day period, excluding weekends and holidays.

(4) Transit bus shelters shall be located at a minimum of 12 feet from an intersection, as measured along the tangent line of the state road beginning at the point of the intersection of the radius of the connecting road and tangent of the state road.

(5) School bus shelters shall be located at a minimum of 50 feet from an intersection, as measured along the tangent line of the state road beginning at the point of the intersection of the radius of the connecting road and the tangent of the state road.

~~(2)(6)~~ School bus shelters erected outside of the urban limits shall be spaced so that no more than two shelters are erected per mile of two-lane highway and no more than four shelters are erected per mile on highways with four or more lanes having a minimum of five foot unpaved median or a physical barrier.

~~(3)(7)~~ Shelters are prohibited in medians and on limited access facilities.

~~(4)(8)~~ The shelter location must meet the set back and minimum clear recovery zone requirements as established detailed in the Department's Design Standards, Roadway and Traffic Design Standards for Design, Construction, Maintenance and Utility Operations on the State Highway System, Index Number 700, incorporated herein by reference entitled "Design Criteria Related to Highway Safety". Copies of Index Number 700 are available at: www.dot.state.fl.us/rddesign/designstandards/standards.htm. The Department's Roadway and Traffic Design Standards for Design, Construction, Maintenance and Utility Operations on the State Highway System is incorporated by reference in Rule 14-85.004, F.A.C.

~~(5)(9)~~ Shelters shall not be located within 15 feet of any fire hydrant or handicapped parking space.

~~(6)(10)~~ A shelter shall not obstruct any sidewalk, bike path, pedestrian path, driveway, drainage structure, or ditch, etc., and shall provide at least three feet of clearance for pedestrian traffic.

~~(7)(11)~~ Prior to the installation of the shelter, the impacted utility companies must be notified to determine location of utilities and prevent conflicts.

~~(8)(12)~~ All shelter utility connections shall comply with Rule 14-46.001, F.A.C., and must be approved by the appropriate city or county building department.

~~(9)(13)~~ The owner of abutting property shall be notified by certified mail of the proposed shelter location if there will be advertising. ~~Such owner of the abutting property shall be provided an opportunity to comment.~~

~~(10)(14)~~ Advertising on a shelter shall be no greater than 72 inches by 60 inches per side of the shelter including the roof. There shall be no more than one advertisement per side.

~~(11)(15)~~ Companies engaged in the business of outdoor advertising shall obtain and maintain a current license pursuant to Section 479.04, F.S., and Rule 14-10.003, F.A.C.

~~(12)(16)~~ Flashing lights on shelters are prohibited. All lights must be placed or shielded so they do not interfere with motorists on the roadway. Lights are not permitted for the sole purpose of illuminating advertising.

~~(13)(17)~~ Sides and internal dividers in shelters shall be constructed in a manner to provide visibility of waiting passengers to passing traffic and pedestrians. All transparent materials will be shatterproof. No shelter shall be located in such manner, or be constructed of such materials, so as to adversely affect sight distances at any intersection or to obstruct the view of traffic signs or other traffic control devices.

~~(14)(18)~~ The maximum height of a shelter cannot exceed ten feet.

~~(15)(19)~~ Shelters must be securely attached to their foundations and must provide for a clear opening between the structure and the ground or foundation to facilitate cleaning and to preclude the accumulation of debris.

~~(16)(20)~~ Shelters shall be properly maintained as to aesthetics, function, and safety. If the Department finds any shelter in violation of any portion of this rule, except those determined to be a safety hazard endanger life or property, the Department shall provide written notice of the violation to the appropriate city or county government, who shall correct the violation or remove the shelter within 30 days after receipt of the notice. If the Department finds any shelter to be a safety hazard danger to life or property, the Department will shall provide notice to the appropriate city or local government, who shall take immediate steps to make the shelter safe or remove the shelter. If the condition or location of a shelter is not corrected in accordance with the Department's notice, the Department will cause the shelter to be moved or removed and seek the cost of removal ~~from the appropriate city or county government~~.

~~(17)(21)~~ Whenever necessary for the construction, repair, improvement, maintenance, safe and efficient operation, alteration, or relocation of all, or any portion of a sState rRoad, ~~as determined by the Department~~, any bus shelter and appurtenances thereto, authorized by this rRule, shall be immediately removed from the said State Road rRight of wWay or shall be reset or relocated thereon as required by the Department, at the expense of the shelter owner ~~unless reimbursement is authorized by separate agreement~~. In the event the relocation of said shelters is scheduled to be done simultaneously with the Department's construction work, the shelter owner shall coordinate with the Department before proceeding. The shelter owner shall cooperate with the Department's contractor to arrange the sequence of work so as not to delay the work of the Department's contractor and shall defend any legal claims of the Department's contractor due to delays caused by the shelter owner's failure to comply with the approved schedule. The shelter owner shall not be responsible for delays for reasons beyond the shelter owner's reasonable control.

Specific Authority 334.044(2), 337.408(6) FS. Law Implemented 334.044(13), 335.02(1), 337.408 FS. History—New 12-11-79, Amended 6-24-81, Formerly 14-20.03, Amended 12-26-90, 5-15-97, 7-16-98, _____.

14-20.0032 Placement of ~~Transit Bus~~ Benches.

The Department allows placement and maintenance of ~~transit bus~~ benches on the right of way of a ~~Federal Aid highway or~~ state highway pursuant to written approval by the appropriate city or county government within whose jurisdiction the bench is to be located. All bus benches shall be subject to the following:

(1) ~~Transit bus~~ Benches placed on the right of way shall not exceed 74 inches in length, 28 inches in depth, and 44 inches in height.

(2) Any bench placed on any part of a sidewalk shall leave at least three feet clearance for pedestrian traffic between the bench and the nearest edge of the road.

(3) ~~Transit bus~~ Benches shall not be placed in the median of any divided highway or on limited access facilities.

(4) Unless otherwise herein provided, ~~transit bus~~ benches shall be placed only at recognized transit stops. However, only the minimum number of benches necessary to accommodate the comfort and convenience of the general public shall be erected or maintained.

~~(5) Benches may be placed at points of pedestrian convenience other than recognized transit bus stops, where, in the judgment of the appropriate city or county government, there exists a necessity for such seating or where such seating would otherwise serve the public interest and shall comply with all other requirements placed upon transit bus benches in Rule 14-20.0032, F.S. However, only the minimum number of benches necessary to accommodate the comfort and convenience of the general public shall be erected or maintained.~~

~~(5)(6) If the Department finds any bench in violation of any portion of this rule, except those determined to be a safety hazard endanger life or property, the Department shall provide written notice of the violation to the owner of the bench, or the appropriate city or county government, who shall correct the violation or remove the bench shelter within 30 days after receipt of the notice. If the Department finds any bench to be a safety hazard danger to life or property, the Department will shall provide notice to the owner of the bench, or the appropriate city or county government, who shall take immediate steps to make the bench safe or remove the bench. If the condition or location of a bench is not corrected in accordance with the Department's notice, the Department will cause the bench to be moved or removed and seek the cost of removal from the owner of the bench.~~

~~(6)(7) Commercial advertising shall be displayed upon a transit bus bench only on either the front or rear surface of the backrest area.~~

~~(7)(8) Advertising displayed on a transit bus bench shall not be greater than 72 inches in length nor greater than 24 inches in height, and no advertising displayed upon a bench shall be of a reflectorized material.~~

~~(8)(9) The transit bus bench location must meet the set back and minimum clear recovery zone requirements established as detailed in the Florida Department's Design Standards of Transportation's Roadway and Traffic Design Standards, Index Number 700, entitled "Design Criteria Related to Highway Safety" (incorporated herein by reference in Rule 14-85.004, F.A.C.). Copies of the Index Number 700 are available at: www.dot.state.fl.us/rddesign/designstandards/standards.htm.~~

~~(10) Any transit bus bench that was in service prior to April 1, 1992 may be replaced with a bus bench of the same size or smaller, if the bench is damaged or destroyed or otherwise becomes unusable.~~

~~(11) Any transit bus bench placed at points of public convenience which violates any portion of this rule shall be subject to removal upon 30 days notice if the violation is not corrected.~~

~~(9)(12) Whenever necessary for the construction, repair, improvement, maintenance, safe and efficient operation, alteration, or relocation of all, or any portion of a sState rRoad, as determined by the Department, any bus bench and appurtenances thereto, authorized by this Rule, shall be immediately removed from said sState rRoad rRight of wWay or shall be reset or relocated thereon as required by the Department, at the expense of the bench owner unless reimbursement is authorized by separate agreement. In the event the relocation of said benches is scheduled to be done simultaneously with the Department's construction work, the bench owner shall coordinate with the Department before proceeding. The bench owner shall cooperate with the Department's contractor to arrange the sequence of work so as not to delay the work of the Department's contractor and shall defend any legal claims of the Department's contractor due to delays caused by the bench owner's failure to comply with the approved schedule. The bench owner shall not be responsible for delays for reasons beyond the bench owner's reasonable control.~~

Specific Authority 334.044(2), 337.408(4) FS. Law Implemented 334.044(13), 335.024(1), 337.408 FS. History—New 12-26-90, Amended 8-11-92, 5-15-97, 7-16-98, _____.

14-20.0033 Competitive Public Bidding of Advertising.

Specific Authority 334.044(2) FS. Law Implemented 337.407, 337.408, 479.04 FS. History—New 12-26-90, Repealed _____.

14-20.004 Public Transit Bus Stops.

(1) The operator of a ~~public~~ transit ~~bus~~ system may designate a "Bus Stop" within the boundaries of the right of way of a ~~sState road~~ highway.

(2) The location of a transit bus stop site on a ~~sState road~~ highway right of way is dictated by the needs of the riding public and the route availability of the public transit system.

(3) The following restraints and controls are established to aid in identifying, mitigating and minimizing hazardous conditions at existing and proposed transit bus stop sites: The site selection and establishment of a transit bus stop shall provide the maximum safety to the users of the public transit system and vehicular and pedestrian traffic. If a transit bus stop is located at a site deemed to be unsafe by the Department, modification or removal shall be required by the Department and shall be at the expense of the transit bus system.

(4) ~~With the exception of Sections 14-20.004(8) and (9)(a) the operator of a public transit bus system shall indicate or mark the bus stop in accordance with the Manual on Uniform Traffic Control Devices, incorporated by reference under Rule 14-15.010, F.A.C.~~

~~(5) The identification of existing unsafe conditions at transit bus stop sites shall be brought to the attention of the Department by the respective operator of a transit system so that the Department can take corrective action. Verbal notification shall be followed up in writing within 24 hours.~~

~~(5)(6) Transit bus stops are prohibited in medians.~~

~~(6) Signs shall not be installed where such signing interferes with the functions or visibility of existing traffic control devices.~~

~~(7) The support for attaching transit bus stop signs shall be placed in accordance with the Department's Roadway and Traffic Design Standard Index Number 17302 (incorporated herein by reference in Rule 14-85.004, F.A.C.).~~

~~(7)(8) Transit bus stop signs may be attached to an existing sign support provided that there is no more than one other supplementary sign already in place.:~~

~~(a) It can be located in accordance with height and lateral placement requirements of the Department's Roadway and Traffic Design Standard Index Number 17302, entitled "Typical Sections for One Column Sign Placement" (incorporated by reference in Rule 14-85.004, F.A.C.).~~

~~(b) There is no more than one other supplementary sign already in place.~~

~~(8) Transit bus stop signs shall be attached to supports meeting the location, height, and lateral placement requirements established in the Department's Design Standards, Index Number 17302, incorporated herein by reference. Copies of Index Number 17302 are available at:~~

~~(9) Inspections will be conducted by the Department to assist in the implementation and administration of this rule chapter www.dot.state.fl.us/rddesign/designstandards/standard_s.htm.~~

Specific Authority 334.044(2), 341.041(3) FS. Law Implemented 334.044(13), 335.02(1), 337.408 FS. History—New 10-6-82, Formerly 14-20.04, Amended 12-26-90, 5-15-97, _____.

PART II GENERAL USE PERMITS

14-20.010 General Use Permit.

(1) Purpose. This rule is adopted to authorize use of and to control the right of way on the State Highway System, for purposes not addressed by other rules of the Department, a lease agreement of State owned property entered into pursuant to Section 337.25(5), F.S., or other agreements.

(2) Definitions. All terms in this rule shall have the same meaning as defined in Section 334.03, F.S. Additionally, the following terms are defined as:

(a) "Applicant" means the person or entity requesting a General Use Permit.

(b) "Department" means the Florida Department of Transportation.

(c) "General Use Permit" means a temporary use of the right of way of the State Highway System authorized by the Department and not prohibited by, nor authorized and regulated by other local, state, or federal laws, rules, or regulations. General use permits do not authorize possessory, exclusive, or permanent use of the right of way. General use permits shall not create contractual rights on behalf of an applicant or permittee. General use permits are revocable at any time by the Department.

(d) "Governmental Entity" means as defined in Section 11.45, F.S.

(e) "Modification" means relocation or alteration or cessation of a permitted general use.

(3) Prior to filing an application, all applicants can request a pre-application meeting to review the proposed general use with Department permits personnel. This review will be performed by the Department without a fee. The pre-application meeting is advisory only.

(4) General Criteria.

(a) A complete application shall consist of a General Use Permit Application, Form 850-040-05, Rev. 05/07, completed by the applicant, with original signatures, and any site plans, drawings, or other information required by this rule. Form 850-040-05, Rev. 05/07, is hereby incorporated by reference and made a part of this rule. The form is available from any local Area Operations Center/Maintenance Office, District Maintenance Office, Turnpike Office or Department website: www.dot.state.fl.us/proceduraldocuments. No use will be permitted which interferes with safety, operation, aesthetics, and maintenance of the State Highway System, utilities, or right of way.

(b) If the applicant desires to have a representative sign and submit the application, a notarized letter of authorization from the applicant designating the authorized representative shall be submitted with the application.

(c) If the applicant is an entity, the applicant shall furnish the name, title, address, telephone number, and other contact information if any, of the responsible officer or authorized agent.

(d) The application shall identify the location of the proposed activity, including the county, state road, section, and mile post numbers, and the location and type of existing utilities.

(e) The applicant shall provide a complete and detailed description of the proposed use and duration to be permitted.

(f) The applicant shall include all approvals and permits which are required by other governmental entities for the proposed use.

(g) An incomplete application will not be processed or considered for issuance of a general use permit. An application is incomplete until all completed forms and required information have been provided to the Department.

(5) Examples of situations where general use permits shall not be issued are the following:

- (a) Permanent construction in the right of way.
- (b) Traffic control devices or features.
- (c) Permanent signs.
- (d) Landscaping.
- (e) Utilities.
- (f) Parades or other events requiring temporary road closure.
- (g) Bus benches or shelters, modular news racks, or waste receptacles.
- (h) Connections to the State Highway System.
- (i) Overhanging encroachments.
- (j) Drainage connections.

(6) The issuance of a general use permit shall not restrict the Department's right to take immediate action authorized under Section 120.60(6), F.S.

Specific Authority 334.044(2), 337.405, 337.406 FS. Law Implemented 334.03, 334.044(13), (28), 334.187, 335.02(1), 337.405, 337.406 FS. History--New _____.

DEPARTMENT OF TRANSPORTATION

RULE NOS.:	RULE TITLES:
14-100.003	Variable Rate Tolls for Express Lanes
14-100.004	95 Express Toll Exemption Registration

PURPOSE AND EFFECT: The title of the rule chapter is being changed from "Toll Enforcement" to "Tolls" with the existing toll enforcement rules in "Part I Toll Enforcement" and new rules added under Part II "Variable Rate Tolls." The new rules establish standards for use of variable rate tolls for express lanes and a process for exemptions from tolls on the 95 Express Lanes Project.

SUBJECT AREA TO BE ADDRESSED: Two new rules on variable rate tolls are added and the rule chapter is restructured into two parts.

SPECIFIC AUTHORITY: 334.044(2), 316.0741 FS.

LAW IMPLEMENTED: 316.0741, 316.1001, 316.640(1), 334.044(16), 338.155(1), 338.165, 335.02(3), 338.231 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 IS: James C. Myers, Clerk of Agency Proceedings, Florida Department of Transportation, Office of the General Counsel, 605 Suwannee Street, Mail Station 58, Tallahassee, Florida 32399-0458

THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS:

TOLLS ENFORCEMENT

PART I Toll Enforcement

14-100.003 Variable Rate Tolls for Express Lanes.

(1) Purpose. Express lanes are used to relieve congestion and provide reliable, predictable travel alternatives. By controlling points of access and collecting tolls, express lanes manage demand, thereby optimizing facility capacity, improving operating speeds, and encouraging carpooling and other ride-sharing alternatives to single occupant vehicles. Toll collection is performed electronically and is intended primarily to keep the express lanes moving freely. Because operating conditions on the express lanes and the adjacent general use lanes change continuously throughout the day, effective traffic management within the express lanes cannot be accomplished through a fixed toll schedule.

(2) Definition. Express lanes are a set of lanes physically separated from the general use lanes within a roadway corridor in which operational strategies, including congestion-priced tolls are implemented in response to changing conditions. These lanes may be operated as reversible flow or bi-directional facilities. Specified classes of vehicles may be restricted from using these lanes, and toll exceptions may be granted as a way of encouraging specific transportation choices.

(3) Toll Rate Criteria. Variable toll rates will be used on express lanes. Under this program, toll charges will be set based on one or more of the following:

- (a) Traffic levels (volumes) in the express lanes;
- (b) Operating speeds and level of service in the express lanes; and
- (c) Operating speeds and level of service in the adjacent general use lanes.

(4) Toll Rates. Toll rates in express lanes will be varied based on a time-of-day variable rate schedule, or dynamically, based on continual monitoring of traffic and the criteria set forth in subsection (3) above. In addition to the variable toll rate criteria, the following specific conditions apply:

(a) The toll rate will be set to allow free flow conditions in the express lanes under typical anticipated traffic demand conditions while maximizing overall throughput for the entire facility.

(b) If time-of-day variable rates are used, such rates shall be established for each period of the day, hourly or less, by day of the week, and by travel direction.

(c) The time-of-day variable rates will be periodically reviewed and adjusted as needed. During the operation of the express lanes, traffic volumes will be collected and historic trend data will be used to review the settings for the current toll rate table. If trend data indicate that the express lanes are underutilized, the time-of-day toll rates will be reduced; if the toll rates do not allow for free flow conditions, toll rates will be increased.

(d) When traffic demand in the express lanes does not allow free flow conditions, the initial toll rates will be increased to improve traffic flow conditions. Once the traffic demand in the express toll lanes returns to a free flow condition, the toll rate will be reduced.

(e) The minimum toll rate charged will be:

1. Based on a minimum per-mile rate of \$0.03; and

2. Calculated for each trip between any entry and exit point of the express lanes as the base per-mile fee times the distance traveled on the express lanes, rounded to the nearest \$0.05; and

3. Be at least \$0.25 per segment (between points of entry and exit) at any given time.

(f) Toll rates at any time may be higher than the minimum rates based on traffic and operating conditions.

(5) Toll Rate Display.

(a) To the extent feasible, toll rates will be displayed on variable electronic message signs in advance of each point of entry. Users of the express lanes will have a reasonable opportunity to view the current toll rate before deciding to enter the express lanes. Variable toll rate signs in advance of each point of entry will provide information for up to two possible points of exit from the express lanes. If there are more than two possible points of exit, the toll rates for the most distant exit point plus one additional exit point shall be displayed.

(b) To the extent feasible, the users of the express lanes will pay the toll rate displayed on the variable electronic message sign made available for their view prior to entering the express lane. However, due to the inherent nature of variable pricing, some variation in the actual toll rate to be paid can be expected from time to time because the actual toll rate will be the variable rate in effect at the precise time the vehicle passes under the toll collection gantry.

Specific Authority 334.044(2), 316.0741 FS. Law Implemented 316.0741, 316.1001, 316.640(1), 334.044(16), 335.02(3), 338.155(1), 338.165, 338.231 FS. History—New _____.

14-100.004 95 Express Toll Exemption Registration.

The provisions of this section apply to the express lanes on I-95 in Miami-Dade and Broward Counties.

(1) Purpose. To address congestion and to offer travel-choice options to motorists in South Florida, the 95 Express project implements a combination of tolling, technology, travel demand management and transit elements into a single project along the Interstate 95 corridor from just south SR 112/I-195 in Miami-Dade County to just north of I-595 in Broward County. Tolls will be collected electronically. Toll exemptions are allowed for certain vehicle types as specified in this section. Both the tolls and toll exemptions are intended to provide incentives for increased vehicle occupancy, shift in travel demand, and overall congestion relief.

(2) Exemptions. Tolls shall be collected from all vehicles using the express lanes, unless a valid exemption applies. The following qualify for an exemption from payment of tolls on 95 Express:

(a) Carpools with three or more occupants, registered in the manner described in subsection (5) below;

(b) South Florida Vanpools, registered in the manner described in subsection (5) below;

(c) Inherently Low Emission Vehicles (ILEV) or Hybrid vehicles with valid Department of Motor Vehicles decals, registered in the manner described in subsection (5) below;

(d) School buses used by the Miami-Dade County Public School and the Broward County Public School systems, registered in the manner described in subsection (6) below;

(e) Buses used by the Miami-Dade Transit Agency and Broward County Transit Agency, registered in the manner described in subsection (6) below;

(f) Over-the-Road Buses, defined as vehicles operated by a for-hire company registered on the US Federal Motor Carrier Safety Administration (USFMCSA) registration system, characterized by an elevated passenger deck located over a baggage compartment and at least 35 feet in length with a capacity of 30 or more passengers, registered in the manner described in subsection (6) below; and

(g) Motorcycles.

(3) Registered South Florida Vanpools and registered carpools shall only be granted free passage if the vehicle has the minimum number of occupants specified in subsection (5) below; otherwise such user shall be required to pay the applicable tolls.

(4) South Florida Commuter Services (SFCS) along with SunPass are partnering to administer the fulfillment and registration process pertaining to the 95 Express Project. SFCS is the regional commuter assistance program funded by the Florida Department of Transportation. SunPass is the Florida Department of Transportation's Prepaid Toll Program. This rule sets forth the process to register for exemption from payment of tolls on the 95 Express project.

(5) Decals will be provided for the following vehicles eligible for an exemption from payment of tolls for use of the express lanes: registered 3+ passenger carpools, registered ILEV and hybrid vehicles and registered South Florida Vanpools. 3+ passenger carpools means at least three commuters traveling to and from work in one vehicle and properly registered by SFCS as a 3+ passenger carpool. An ILEV or a hybrid vehicle means a vehicle as defined in Section 316.0741, F.S. A South Florida Vanpool means a van meeting the registration requirements of the South Florida Vanpool Program. The South Florida Vanpool program is managed by the Miami-Dade County Metropolitan Organization with coordination from Broward County Metropolitan Planning Organization, and the Palm Beach Metropolitan County Planning Organization.

(a) 3+ Passenger Carpools:

1. All eligible 3+ passenger carpools must register with SFCS.
2. Registration will allow users to receive a “95 Express” decal that will allow them to use the express lanes without incurring tolls.
3. SFCS will provide the “95 Express” registration form. The registration form requests: name, home address, work address, employer, home/work phone numbers, work schedule, driver license number, and state of vehicle registration.
4. 3+ Passenger Carpool eligibility will be based on matching all of the following criteria:

Criteria	Configuration	Comments
Home Distance	3 mile radius	System will seek similar participants that live within a three-mile radius. If participant’s commute distance is less than three miles, search radius will be 2 of distance
Work Distance	1 mile radius	Matched participants must work within a one-mile radius to have a positive match
Start Time/End Time	30 minutes	Participants must have a start/end work time within this timeframe to have a positive match

The only exception that will be allowed to the above criteria will be for carpools whose participants meet at a specified location, parking lot, park-n-ride lot, or transit/multi-modal facility that is located between the origin and destination of all participants within the carpool.

5. If a driver of a vehicle with a registered 3+ passenger carpool decal receives two or more citations for failure to pay a required 95 Express toll under Section 316.1001, F.S., which

results in a withhold of adjudication or an adjudication of guilt, when operating a vehicle with less than three passengers, the 3+ passenger decal will be revoked. Further, the driver, and the owner of the 3+ passenger carpool decal (if different), will not be eligible to apply for a 3+ passenger carpool decal for a period of one year from the revocation of the decal.

(b) ILEV and Hybrid Vehicles:

1. ILEV and hybrid vehicle owners in Miami-Dade and Broward counties with valid Florida DHSMV decals are eligible to register for toll exemption on 95 Express. Eligible ILEV and hybrid vehicle owners who complete registration with SFCS will receive a decal for toll-free use of the 95 Express lanes.

2. ILEV and hybrid vehicle owners will be required to renew 95 Express registration annually based upon the anniversary date of the initial request.

(c) Registered South Florida Vanpools:

1. One decal will be sent to the primary driver of the vanpool.
2. One decal will be provided per van.
3. The 95 Express lanes are only to be used by South Florida Vanpools for commuting purposes only.
4. The “95 Express” decal will remain active as long as the South Florida Vanpool continues to be part of the South Florida Vanpool program.

(6) Miami-Dade County Public School, Broward County Public School, Miami-Dade Transit Agency, and Broward County Transit Agency buses are eligible to use the 95 Express and are exempt from paying tolls on 95 Express if their license plates have been registered with SFCS. The respective agencies shall provide and maintain current a license plate list of buses and school buses that may utilize the 95 Express and SFCS. Over-the Road-Buses (OTRB) registered with USFMCSA are eligible to be exempt from paying tolls on 95 Express. OTRB owners or operators shall provide a copy of valid USFMCSA registration to SFCS in order to register to utilize the 95 Express. ORTB owner information, name, address, and license plate information shall be provided to SFCS and shall be updated annually by OTRB vehicle owners or operator.

Specific Authority 334.044(2), 316.0741 FS. Law Implemented 316.0741, 316.1001, 316.640(1), 334.044(16), 335.02(3), 338.155(1), 338.165(7), 338.231 FS. History—New _____.

BOARD OF TRUSTEES OF THE INTERNAL IMPROVEMENT TRUST FUND

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

EXECUTIVE OFFICE OF THE GOVERNOR

Office of Tourism, Trade and Economic Development

RULE NOS.:	RULE TITLES:
27M-3.001	Definition and Forms
27M-3.002	Competitive Application Process
27M-3.003	Certification Decision and Allocation Policy

PURPOSE AND EFFECT: This rule implements the Black Business Loan Program established in the Office of Tourism, Trade, and Economic Development by Section 288.7102, F.S.

SUBJECT AREA TO BE ADDRESSED: This rule establishes (1) an open and competitive application and annual certification process for eligible recipients who seek funds to provide loans, loan guarantees, or investments in black business enterprises and (2) the process governing the management and requirements of the contracts under which the funds appropriated are disbursed.

SPECIFIC AUTHORITY: 288.7102(6)(1) FS.

LAW IMPLEMENTED: 288.7094(2), 288.7102 FS.

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

DATE AND TIME: February 11, 2008, 10:00 a.m. – 12:00 p.m. (noon)

PLACE: Room 2103, The Capitol, 402 S. Monroe Street, Tallahassee, Florida 32399-0001

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT AND A COPY OF THE PRELIMINARY DRAFT IS: Michelle Ramsey, Office of Tourism, Trade, and Economic Development, Suite 1902, The Capitol, 402 S. Monroe Street, Tallahassee, Florida 32399-0001, (850)487-2568

THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS:

27M-3.001 Definitions and Forms.

As used in this Rule Chapter 27M-3, the following capitalized terms have the meanings indicated. All referenced forms are available on the internet at http://www.flgov.com/ottd_home or may be obtained from the Office.

(1) “Act” means the Florida Black Business Investment Act, Sections 288.7065 to 288.714, F.S.

(2) “Agreement” means the standard “Black Business Loan Program Recipient Agreement” form OTTED 7102-5 (3/08), which is hereby incorporated by reference.

(3) “Applicant” means a corporation that seeks certification under Section 288.7102, F.S., as a Recipient of funds to provide loans, loan guarantees, or investments in black business enterprises pursuant to the Act.

(4) “Application” means the standard “Application for Certification as Eligible Recipient of Funds under the Black Business Loan Program” form OTTED 7102-1 (3/08), which is hereby incorporated by reference.

(5) “Application Period” means the annual period during which Applicants may submit Applications, which shall be July 1 through July 31 (or the next business day) of each year in which there is a legislative appropriation to fund the Program; provided, however, that during calendar year 2008 there shall be an additional application period pertaining to certification for fiscal year 2007-2008, which shall begin the day after the effective date of this rule and run for ten (10) days thereafter, and with respect to which the Board shall review all submitted Applications and deliver its recommendations to the Office within ten (10) days after the close of the Application Period.

(6) “Board” means the Florida Black Business Investment Board, Inc., created by Section 288.707, F.S., whose address is 2019 Centre Pointe Boulevard, Suite 101, Tallahassee, Florida 32308.

(7) “Certification Decision Form” means the standard “Black Business Loan Program Certification Decision” form OTTED 7102-4 (3/08), which is hereby incorporated by reference.

(8) “Eligible” means that an Applicant has demonstrated satisfaction of each of the requirements specified in Section 288.7102(3), F.S.

(9) “Evaluation and Recommendation Form” means the standard “Black Business Loan Program Evaluation and Recommendation” form OTTED 7102-2 (3/08), which is hereby incorporated by reference.

(10) “Office” means the Office of Tourism, Trade and Economic Development, whose address is Suite 1902, The Capitol, 402 S. Monroe Street, Tallahassee, Florida 32399.

(11) “Program” means the Black Business Loan Program established by Section 288.7102, F.S.

(12) “Recipient” means an Applicant that, after a competitive certification process, the Office certifies to receive Program funds and that enters into an Agreement with the Office.

(13) “Summary Ranking and Recommendation Form” means standard “Black Business Loan Program Summary Ranking” form OTTED 7102-3 (3/08), which is hereby incorporated by reference.

Specific Authority 288.7102(6)(a) FS. Law Implemented 288.7094(2), 288.7102 FS. History–New _____.

27M-3.002 Competitive Application Process.

(1) An Applicant shall submit the original and three copies of its completed Application to the Board during the Application Period.

(2) The Board shall date and time stamp all Applications upon receipt, and thereafter take reasonable steps to preserve the integrity of the Application and any revisions.

(3) Upon the close of the Application Period, the Board shall have five (5) business days to review each Application for completeness and to notify any Applicant in writing if the

Board determines that its Application is incomplete. The Board's notice shall specify the reasons for its determination, and the Applicant shall have ten (10) business days after receipt of such notice to submit a revised Application to the Board. If the Applicant fails to submit a revised Application within the required time, the Board shall notify the Applicant in writing that it is removed from further consideration and send a copy of the notice to the Office.

(4) The Board shall evaluate each complete Application and document its evaluation using the Evaluation and Recommendation Form. To conduct the evaluation, the Board shall assign a person or persons who individually or collectively have experience in the following areas: financing small or minority business; economic development; community development; and business management. No officer, director, employee, or agent of any Applicant shall participate in the evaluation process.

(5) Within thirty (30) days after the close of the Application Period, the Board shall deliver to the Office the completed Summary Ranking and Recommendation Form along with (a) the original and one copy of each Application and its related Evaluation and Recommendation Form and (b) the names and organizational affiliations of all persons who participated in the evaluation process.

Specific Authority 288.7102(6)(a) FS. Law Implemented 288.7094(2), 288.7102 FS. History--New _____.

27M-3.003 Certification Decision and Allocation Policy.

(1) Within ten (10) business days after receiving the Summary Ranking and Recommendation Form and supporting materials, the Office shall decide which Applicants to certify as Recipients. The Office shall consider the following factors: the Board's competitive rankings and recommendations, which shall not be binding; the amount of funds requested in each Application; the amount of documented match raised; an Applicant's past performance; and the equitable disbursement of services provided under the Act in accordance with the allocation policy outlined in subsection 27M-3.003(3), F.A.C. The Office shall document its certification decision(s) using the Certification Decision Form.

(2) The Office shall transmit its completed Certification Decision Form to the Board, and explain any differences with the Board's recommendations. The Office shall also issue a letter to each Applicant certified as a Recipient of program funds. Receipt of Program funds shall be conditioned upon their appropriation and availability, and upon the Recipient's execution of the Agreement. The Office shall notify in writing each Applicant whose Application is denied. The Office's certification decisions shall be subject to review under Chapter 120 of the Florida Statutes.

(3) To ensure that services provided under the Act are disbursed equitably throughout the state, in deciding which Applicants to certify as Recipients the Office shall consider the

distribution of Florida's black population among Applicants' proposed service areas, as reported at www.fedstats.gov. The Office shall document application of this allocation policy on the Certification Decision Form, along with its application of the competitive factors the Office considers.

Specific Authority 288.7102(6)(a) FS. Law Implemented 288.7094(2), 288.7102 FS. History--New _____.

DEPARTMENT OF MANAGEMENT SERVICES

Division of Retirement

RULE NO.: 60S-9.001
 RULE TITLE: Approved Forms

PURPOSE AND EFFECT: The purpose of this rule development is to propose the adoption of three (3) new Division forms, four (4) revised Division forms, update the revision dates of five (5) State Board of Administration forms incorporated by reference, and to incorporate by reference six (6) State Board of Administration Forms.

SUBJECT AREA TO BE ADDRESSED: Forms.

SPECIFIC AUTHORITY: 121.031 FS.

LAW IMPLEMENTED: 121.051(1)(a), 121.35 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: February 15, 2008, 9:00 a.m. (Eastern)

PLACE: Division of Retirement, 1317 Winewood Blvd., Bldg. 8, Room 208, Tallahassee, FL 32399-1560

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: Richard Clifford at (850)488-5706, or Toll Free (877)377-1737. If you are hearing or speech impaired, please contact the agency by calling (800)877-1113. 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: Garry Green, Operations and Management Consultant Manager, Department of Management Services, Division of Retirement, 1317 Winewood Blvd., Bldg. 8, Tallahassee FL 32399-1560, (850)488-5706

THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS:

60S-9.001 Approved Forms.

The following is a list of the forms utilized by the Division of Retirement in its dealings with the public, which are hereby incorporated by reference into these rules. A copy of these

forms may be obtained from the Division’s website (http://frs.myflorida.com) or by writing to the Division of Retirement, P. O. Box 9000, Tallahassee, Florida 32315-9000. You may also call the Division to request a copy of these forms

by calling (850)488-5706. If calling from outside the Tallahassee calling area, you may call the Division toll-free at (877)377-1737.

(1)(a) Bureau of Enrollment and Contributions.

FORM NO./ REVISION DATE	TITLE/DESCRIPTION
1. – 10	No change.
<u>11. FR-SUSORP (08/07)</u>	<u>Florida Retirement System Verification of State University Optional Retirement System Service (SUSORP) Service Dates – a one-page form</u>

(b) State Board of Administration – Enrollment and Election forms.

FORM NO./ REVISION DATE	TITLE/DESCRIPTION
1. OCC-1 (Rev. 7/07 07/06)	Community College Optional Retirement Program (CCORP) <u>Enrollment Form Retirement Plan Choice Form for Eligible Employees.</u>
2. OCC-2 (Rev. 7/07 07/06)	Retirement Plan Conversion Form for Community College Optional Retirement Program (CCORP) <u>Retirement Plan Conversion Form. Members.</u>
3. SMS-1 (Rev. 7/07 07/06)	State Senior Management Service Employees Retirement Plan Enrollment Form.
4. SMS-3 (Rev. 7/07 07/06)	Local Senior Management Service Employees Retirement Plan Enrollment Form.
5. EOC-1 (Rev. 7/07 07/06)	Elected Officers’ Class Employees Retirement Plan Enrollment Form.
6. ELE-1 (Rev. 7/07)	<u>GENERAL Retirement Plan Enrollment Form for Regular, Special Risk, and Special Risk Administrative Support Class Employees.</u>
<u>7. ELE-1-EZ (Rev. 7/07)</u>	<u>EZ Retirement Plan Enrollment Form for Regular, Special Risk, and Special Risk Administrative Support Class Employees.</u>
<u>8. ELE-2 (Rev. 7/07)</u>	<u>2nd Election Retirement Plan Enrollment Form.</u>
<u>9. ELE-2-EZ (Rev. 7/07)</u>	<u>2nd Election EZ Retirement Plan Enrollment Form.</u>
<u>10. ORP-16 (Rev. 7/07)</u>	<u>State University System Optional Retirement Program (SUSORP) Retirement Plan Enrollment Form.</u>
<u>11. SMS-4 (11/05)</u>	<u>Retirement Plan CONVERSION Form for Local Employer Senior Management Service Class (SMSC) Members.</u>

(2) Bureau of Retirement Calculations.

FORM NO./ REVISION DATE	TITLE/DESCRIPTION
(a) – (b) No change.	
(c) SR-11 (Rev. 9/07) (Rev. 5/87)	State and County Officers’ and Employees’ Retirement System Application for Service Retirement – a two-page document consisting of one page of instruction and a one-page form.
(d) TR-11 (Rev. 9/07) (Rev. 7/99)	Teachers’ Retirement System Application for Service Retirement – a two-page document consisting of one page of instruction and a one-page form.
(e) – (u) No change.	
(v) DP-EXT (Rev. 7/07) (5/05)	Florida Retirement System Pension Plan Extension of Deferred Retirement Option Program (DROP) for Specified K-12 Instructional Personnel – a one-page form.
(w) PRO-1 (Rev. 10/07) (Rev. 7/06)	Florida Retirement System Pension Plan (401(a) Plan) Pretax Direct Rollover/ Transfer Form – a one-page form.
(x) – (z) No change.	

(3) Bureau of Benefit Payments.

FORM NO./ REVISION DATE	TITLE/DESCRIPTION
(a) – (ss) No change.	
<u>(tt) DP-TEOC-2</u>	<u>Florida Retirement System Pension Plan Deferred Retirement Option Program (DROP) Elected Officer DROP Termination Notification – a one page form.</u>

(uu) DP-TEOC-3

Florida Retirement System Pension Plan Deferred Retirement Option Program (DROP) Elected Officer Employment Termination Notification – a one page form.

(4) Administration.

FORM NO./ REVISION DATE TITLE
 (a) No change.

Specific Authority 121.031 FS. Law Implemented 1.01, 112.215, 112.361, 112.363, 120.55, 121.011, 121.015, 122.021, 121.031(2), 121.051, 121.0515, 121.081, 121.091, 121.111, 121.115, 121.1122, 121.121, 121.125, 121.4501, 121.591, 122.08, 122.09, 215.28, 238.05, 238.06, 238.07, 689.21, 1012.01 FS. History–New 9-9-82, Amended 2-6-84, 11-6-84, 4-17-85, Formerly 22B-9.01, Amended 6-4-86, 12-5-90, Formerly 22B-9.001, Amended 1-4-93, 1-18-94, 4-26-94, 1-10-95, 11-2-95, 12-28-95, 3-12-96, 12-16-97, 10-14-98, 4-26-99, 1-24-00, 12-19-00, 2-6-01, 3-18-02, 10-23-05, 9-18-07,_____.

DEPARTMENT OF MANAGEMENT SERVICES

Division of Retirement – Optional Retirement Program

RULE NO.: 60U-1.006
 RULE TITLE: Approved Forms
 PURPOSE AND EFFECT: The purpose of this rule development is to propose the adoption of 1 revised Division form and the incorporation by reference of one (1) revised State Board of Administration form.
 SUBJECT AREA TO BE ADDRESSED: Forms.
 SPECIFIC AUTHORITY: 121.031 FS.
 LAW IMPLEMENTED: 121.051(1)(a), 121.35 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: February 15, 2008, 9:00 a.m. (Eastern)
 PLACE: Division of Retirement, 1317 Winewood Blvd., Bldg. 8, Room 208, Tallahassee, FL 32399-1560
 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 days before the workshop/meeting by contacting: Richard Clifford at (850)488-5706, or Toll Free (877)377-1737. If you are hearing or speech impaired, please

contact the agency by calling (800)877-1113. 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: Garry Green, Operations and Management Consultant Manager, Department of Management Services, Division of Retirement, 1317 Winewood Blvd., Bldg. 8, Tallahassee, FL 32399-1560, (850)488-5706

THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS:

60U-1.006 Approved Forms.

The following is a list of the forms utilized by the Division of Retirement in its dealings with the public in administering the State University System Optional Retirement Program, which are hereby incorporated by reference into these rules. A copy of these forms may be obtained through the Board of Governors and State University System Personnel Offices or by writing to the Division of Retirement, P. O. Box 9000, Tallahassee, FL 32315-9000. These forms may also be printed or downloaded from the Division’s website (<http://frs.myflorida.com>) or from the cooperative website of the Division and the State Board of Administration (www.myfrs.com). A copy of these forms may also be obtained by calling the Division at (850)488-5706. If calling from outside the Tallahassee calling area you may call the Division toll-free at (877)377-1737.

(1)(a) Division Forms.

FORM NO./REVISION DATE	TITLE
1. ORP-16A (Rev 12/02)	Florida Retirement System State University Optional Retirement Program (SUSORP) Change Form- a one-page form
2. ORP- ETF <u>EFF</u> (Rev. 07/07) (11/05)	Florida Retirement System State University System Optional Retirement Program <u>(SUSORP) Employee Termination Form Supplemental Statement for Distributions – a one page form</u>

(b) State Board of Administration Forms.

1. ORP-16 (Rev. 07/07) (Rev. 07/06)	State University System <u>Optional Retirement Program (SUSORP) ReORP-Eligible Employees Retirement Plan Enrollment Form – a four-page form.</u>
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Specific Authority 121.031 FS. Law Implemented 121.051(1)(a), 121.35 FS. History—New 2-28-84, Amended 9-5-84, Formerly 22U-1.06, Amended 12-5-90, Formerly 22U-1.006, Amended 1-4-93, 10-20-93, 1-10-95, 5-14-95, 9-18-96, 10-14-98, 1-24-00, 12-19-00, _____.

DEPARTMENT OF MANAGEMENT SERVICES
Senior Management Service Optional Annuity Program

RULE NO.: 60V-1.007
RULE TITLE: Approved Forms

PURPOSE AND EFFECT: The purpose of this rule development is to propose the adoption of one (1) revised Division form and the incorporation by reference of one (1) revised State Board of Administration form.

SUBJECT AREA TO BE ADDRESSED: Forms.

SPECIFIC AUTHORITY: 121.031 FS.

LAW IMPLEMENTED: 121.051(1)(a), 121.35 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: February 15, 2008, 9:00 a.m., (Eastern)
PLACE: Division of Retirement, 1317 Winewood Blvd., Bldg 8, Room 208, Tallahassee, FL 32399-1560

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 days before the workshop/meeting by contacting: Richard Clifford at (850)488-5706, or Toll Free (877)377-1737. If you are hearing or speech impaired, please contact the agency by calling (800)877-1113. If you are

- FORM NO./ REVISION DATE
1. OAP-ETF ~~EFF~~ (Rev. 07/07)(11/05)

(b) State Board of Administration Forms

- FORM NO./REVISION DATE
1. SMS-1 (Rev. 07/07) (~~Rev. 07/06~~)
2. Form SMS-4 (11/05)

Specific Authority 121.031 FS. Law Implemented 121.055 FS. History—New 1-4-93, Amended 1-10-95, 5-14-95, 9-18-96, 10-14-98, 1-24-00, 12-19-00, 9-18-07, _____.

DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION

Division of Hotels and Restaurants

RULE NOS.: 61C-1.001
61C-1.004
RULE TITLES: Definitions
General Sanitation and Safety Requirements

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: Garry Green, Operations and Management Consultant Manager, Department of Management Services, Division of Retirement, 1317 Winewood Blvd., Bldg. 8, Tallahassee, FL 32399-1560, (850)488-5706

THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS:

60V-1.007 Approved Forms.

The following is a list of the forms utilized by the Division of Retirement in its dealings with the participants in the Senior Management Service Optional Annuity Program, which are hereby incorporated by reference into these rules. A copy of these forms may be obtained by calling the Division at (850)488-5706. If calling from outside the Tallahassee calling area, you may call the Division toll-free at (877)377-1737 or by writing to the Division of Retirement at, P. O. Box 9000, Tallahassee, FL 32315-9000. These forms may also be printed or downloaded from the Division's website (<http://frs.myflorida.com>) or from the cooperative website of the Division and the State Board of Administration (www.myfrs.com).

(1)(a) Division Forms.

TITLE/DESCRIPTION
Florida Retirement System State Senior Management Service Optional Annuity Program (SMOAP) Employee Termination Form – Class (SMSC) Supplemental Statement for Distributions – a one-page form

TITLE
State Senior Management Service Employees Retirement Plan Enrollment Form
Retirement Plan Conversion Form for Local Employer Senior Management Service Class (SMSC) Members

PURPOSE AND EFFECT: The purpose and effect of the proposed rule development is to simplify adoption of the Food Code by adopting all applicable parts of the 2001 Food Code under the definition. The proposed rule development also removes adoption of specific chapters throughout the rule and references the Food Code as adopted in the definition.

SUBJECT AREA TO BE ADDRESSED: The proposed rule development addresses adoption of the 2001 Food Code.

SPECIFIC AUTHORITY: 509.032 FS.

LAW IMPLEMENTED: 509.032, 509.215, 509.221 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: Michelle Comingore, Operations Review Specialist, Division of Hotels and Restaurants, Department of Business and Professional Regulation, 1940 N. Monroe St., Tallahassee, FL 32303-1012, telephone: (850)488-1133

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

DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION

Division of Hotels and Restaurants

RULE NO.: 61C-3.001
 RULE TITLE: Sanitation and Safety Requirements
 PURPOSE AND EFFECT: The purpose and effect of the proposed rule development is to remove adoption of specific chapters throughout the rule and reference the Food Code as adopted in the definition found in Rule 61C-1.001, F.A.C.

SUBJECT AREA TO BE ADDRESSED: The proposed rule development addresses adoption of the 2001 Food Code.

SPECIFIC AUTHORITY: 509.032 FS.
 LAW IMPLEMENTED: 509.032, 509.211, 509.2112, 509.221 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: Michelle Comingore, Operations Review Specialist, Division of Hotels and Restaurants, Department of Business and Professional Regulation, 1940 N. Monroe St., Tallahassee, FL 32303-1012, telephone: (850)488-1133

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

DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION

Division of Hotels and Restaurants

RULE NOS.:	RULE TITLES:
61C-4.010	Sanitation and Safety Requirements
61C-4.0161	Mobile Food Dispensing Vehicles and Theme Park Food Carts
61C-4.023	Food Protection Manager Certification and Public Food Service Employee Training

PURPOSE AND EFFECT: The purpose and effect of the proposed rule development is to remove adoption of specific chapters throughout the rule and reference the Food Code as adopted in the definition found in Rule 61C-1.001, F.A.C.

SUBJECT AREA TO BE ADDRESSED: The proposed rule development addresses adoption of the 2001 Food Code.

SPECIFIC AUTHORITY: 509.032, 509.039, 509.049 FS.
 LAW IMPLEMENTED: 509.032, 509.035, 509.039, 509.049, 509.221 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: Michelle Comingore, Operations Review Specialist, Division of Hotels and Restaurants, Department of Business and Professional Regulation, 1940 N. Monroe St., Tallahassee, FL 32303-1012, telephone: (850)488-1133

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 ENVIRONMENTAL PROTECTION

RULE NO.: 62-304.415
 RULE TITLE: Lower St. Johns River Basin TMDLs
 PURPOSE AND EFFECT: The Department is initiating rulemaking to revise the nutrient Total Maximum Daily Loads (TMDLs) for the Lower St. Johns River.

SUBJECT AREA TO BE ADDRESSED: The nutrient TMDLs for the marine and fresh water portions of the LSJR are being revised to implement the Site-Specific Alternative Criteria for Dissolved Oxygen that was adopted for the marine portion of

the river and to address changes to the allocation that were made during development of the Basin Management Action Plan (BMAP) for the TMDL.

SPECIFIC AUTHORITY: 403.061, 403.067 FS.

LAW IMPLEMENTED: 403.062, 403.067 FS.

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

DATE AND TIME: Wednesday, February 13, 2008, 3:00 p.m.

PLACE: Florida Department of Environmental Protection, Northeast District Office, Conference Rooms A & B, 7825 Baymeadows Way, Suite B200, Jacksonville, 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: Ms. Pat Waters at (850)245-8449. 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: Mr. Daryll Joyner, who may be contacted at (850)245-8431, or via e-mail at daryll.joyner@dep.state.fl.us

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

Economic Self-Sufficiency Program

RULE NOS.:	RULE TITLES:
65A-1.705	Family-Related Medicaid General Eligibility Criteria
65A-1.711	SSI-Related Medicaid Non-Financial Eligibility Criteria

PURPOSE AND EFFECT: The proposed amendments to the rules clarify residency policy to provide Medicaid for citizen children born to noncitizen parents. Technical and non-substantive changes in the rule are included.

SUBJECT AREA TO BE ADDRESSED: The proposed amendments clarify residency requirements for Medicaid.

SPECIFIC AUTHORITY: 409.918, 409.919 FS.

LAW IMPLEMENTED: 409.902, 409.903, 409.904, 409.818, 409.906, 409.919 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: February 18, 2008, 1:30 p.m.

PLACE: 1317 Winewood Boulevard, Building 3, Room 455, Tallahassee, FL 32399

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT AND A COPY OF THE PRELIMINARY DRAFT, IF AVAILABLE, IS: Pat Whitford, Economic Self-Sufficiency Services, Telephone (850)410-3479

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

DEPARTMENT OF CHILDREN AND FAMILY SERVICES

Economic Self-Sufficiency Program

RULE NO.:	RULE TITLE:
65A-4.208	Need

PURPOSE AND EFFECT: The proposed amendments to the rule clarify residency policy to provide Temporary Cash Assistance (TCA) for citizen children born to noncitizen parents. Technical and non-substantive changes in the rule are included.

SUBJECT AREA TO BE ADDRESSED: The proposed amendments clarify residency requirements for TCA.

SPECIFIC AUTHORITY: 414.095(18), 414.45 FS.

LAW IMPLEMENTED: 414.095(2)(a), (b), (5), (15) 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: February 18, 2008, 1:30 p.m.

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

**Section II
Proposed Rules**

DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES

Division of Animal Industry

RULE NO.:	RULE TITLE:
5C-20.002	Declaration; Requirement to Report

PURPOSE AND EFFECT: The purpose and effect of the rule change is to include Equine Herpes Virus (Neurological Disease) to the list of diseases reportable to the State Veterinarian in order to prevent, control and eradicate certain infectious or communicable diseases of livestock and other