

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

domestic animals, ensuring the health, safety and welfare of the public, livestock and food production animals from illness and subsequent economic disaster.

SUMMARY: This rule modifies the list of diseases reportable to the State Veterinarian.

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

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

SPECIFIC AUTHORITY: 585.002(3), 585.15 FS.

LAW IMPLEMENTED: 585.15 FS.

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

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Dr. Thomas J. Holt, State Veterinarian, Director, Division Of Animal Industry, Room 330, 407 South Calhoun Street, Tallahassee, FL 32399-0800, (850)410-0900, Fax: (850)410-0915

THE FULL TEXT OF THE PROPOSED RULE IS:

5C-20.002 Declaration; Requirement to Report.

Each of the following pests or diseases is declared to be a dangerous, transmissible pest or disease of animals and to constitute an animal and/or public health risk. Any person who has knowledge of, or suspects, the existence of any of the following diseases or pests in the state shall immediately report suspicions or findings to the State Veterinarian (during office hours: (850)410-0900; fax: (850)410-0915; after hours: (800)342-5869; email: rad@doacs.state.fl.us).

- (1) African Horse Sickness.
- (2) African Swine Fever.
- (3) Anthrax.
- (4) Avian Influenza.
- (5) Bont Tick infestation (Amblyomma).
- (6) Bovine Piroplasmiasis (Cattle Tick Fever).
- (7) Bovine Spongiform Encephalopathy.
- (8) Brucellosis (B. abortus, B. suis).
- (9) Southern Cattle Tick Infestation (Boophilus).
- (10) Chlamydiosis (Psittacosis, Ornithosis).
- (11) Classical Swine Fever.
- (12) Chronic Wasting Disease.
- (13) Contagious Bovine or Caprine Pleuropneumonia.
- (14) Contagious Equine Metritis.
- (15) Dourine.
- (16) Equine Encephalitis (Eastern, Western, Venezuelan, or West Nile Virus).

- (17) Equine Herpes Virus (Neurological Disease) ~~Equine Infectious Anemia.~~
- (18) Equine Infectious Anemia. ~~Equine Piroplasmiasis (Horse Tick Fever).~~
- (19) Equine Piroplasmiasis (Horse Tick Fever) ~~Equine Viral Arteritis.~~
- (20) Equine Viral Arteritis ~~Exotic Newcastle Disease.~~
- (21) Exotic Newcastle Disease ~~Foot and Mouth Disease.~~
- (22) Foot and Mouth Disease ~~Glanders.~~
- (23) Glanders ~~Heartwater.~~
- (24) Heartwater ~~Infectious Bronchitis.~~
- (25) Infectious Bronchitis ~~Infectious Laryngotracheitis.~~
- (26) Infectious Laryngotracheitis ~~Lumpy Skin Disease.~~
- (27) Lumpy Skin Disease ~~Mycoplasmiasis (poultry).~~
- (28) Mycoplasmiasis (poultry) ~~Peste des Petits Ruminants.~~
- (29) Peste des Petits Ruminants ~~Pseudorabies (Aujeszky's Disease).~~
- (30) Pseudorabies (Aujeszky's Disease) ~~Pullorum Disease.~~
- (31) Pullorum Disease ~~Rabies.~~
- (32) Rabies ~~Rift Valley Fever.~~
- (33) Rift Valley Fever ~~Rinderpest.~~
- (34) Rinderpest ~~Salmonella Enteritidis.~~
- (35) Salmonella Enteritidis ~~Scabies (sheep or cattle).~~
- (36) Scabies (sheep or cattle) ~~Scrapie (sheep or goats).~~
- (37) Scrapie (sheep or goats) ~~Screwworm Infestation.~~
- (38) Screwworm Infestation ~~Sheep and Goat Pox.~~
- (39) Sheep and Goat Pox ~~Strangles (Equine).~~
- (40) Strangles (Equine) ~~Spring Viremia of Carp.~~
- (41) Spring Viremia of Carp ~~Swine Vesicular Disease.~~
- (42) Swine Vesicular Disease ~~Tropical Horse Tick Infestation (Demacentor nitens).~~
- (43) Tropical Horse Tick Infestation (Demacentor nitens) ~~Tuberculosis.~~
- (44) Tuberculosis ~~Vesicular Exanthema.~~
- (45) Vesicular Exanthema ~~Vesicular Stomatitis.~~
- (46) Vesicular Stomatitis.

Specific Authority 585.002(4), 585.15 FS. Law Implemented 585.14, 585.145(1), 585.15 FS. History—New 10-15-84, Formerly 5C-20.02, Amended 6-1-92, 5-15-95, 9-19-05,_____.

NAME OF PERSON ORIGINATING PROPOSED RULE: Dr. Thomas J. Holt, State Veterinarian, Director, Division of Animal Industry, Room 330, 407 South Calhoun Street, Tallahassee, FL 32399-0800, (850)410-0900; Fax: (850)410-0915

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Dr. Thomas J. Holt, State Veterinarian, Director, Division of Animal Industry, Room 330, 407 South Calhoun Street, Tallahassee, FL 32399-0800, (850)410-0900; Fax: (850)410-0915

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: January 11, 2008
 DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: December 14, 2007

DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES

Division of Agricultural Environmental Services

RULE NO.: 5E-14.149
 RULE TITLE: Enforcement and Penalties
 PURPOSE AND EFFECT: The purpose and effect of the proposed rule is to repeal a section of the subsection 5E-14.149(10), F.A.C., that provides for a mechanism of payment of investigative costs for certain violations.

SUMMARY: The section is being repealed because it is duplicative. Investigative costs are already a factor in the calculation of a monetary fine as provided in subsection 5E-14.149(15), F.A.C.

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

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

SPECIFIC AUTHORITY: 482.051, 482.161 FS.

LAW IMPLEMENTED: 482.051, 482.161 FS.

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

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Mr. Steve Dwinell, Assistant Director, Division of Agricultural Environmental Services, 3125 Conner Boulevard, Tallahassee, Florida 32399, (850)488-3731

THE FULL TEXT OF THE PROPOSED RULE IS:

5E-14.149 Enforcement and Penalties.

(1) through (9) No change.

~~(10) Investigative Costs. The Department will charge for investigative costs when investigations that document major violations require more than one inspection, more than one inspector, or the use of Department staff outside of the Division of Agricultural Environmental Services. Investigative costs are comprised of the following: Inspectors time, Bureau personnel time, travel expenses, and other incidental expenditures related to the case.~~

(11) through (15) renumbered (10) through (14) No change.

Specific Authority 482.051, 570.07(23) FS. Law Implemented 482.161, 482.163 FS. History—New 7-13-06, Amended 7-11-07, _____.

NAME OF PERSON ORIGINATING PROPOSED RULE: Mr. Steve Dwinell

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Ms. Terry Rhodes

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: December 5, 2007

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: November 16, 2007

DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES

Division of Marketing and Development

RULE NOS.:	RULE TITLES:
5H-26.001	Purpose
5H-26.002	Definitions
5H-26.003	General Requirements Relating to the Sale or Purchase of Horses
5H-26.004	Bill of Sale

PURPOSE AND EFFECT: The purpose and effect of these proposed rules is to prevent unfair or deceptive trade practices relating to the sale and purchase of horses in Florida.

SUMMARY: Section 1 of Section 535.16, Florida Statutes, requires rule adoption to prevent unfair or deceptive trade practices relating to the sale of horses. The proposed Rule was developed with the input of a variety of groups, and although there was an expressed interest in including those issues such as drug testing for use of steroids or other drugs; licensing of agents; enforcement of Rule, and penalties for violations. We did not include them in the Rule proposal as we believe they are beyond the scope of the legislation. The Legislature would need to appropriate funding for drug testing, chain of command of tests, costs of tests, staff and a laboratory to provide results of tests. Challenges to tests would also be expensive and time consuming and would require additional legal staff. We did provide a definition of horse, eliminate dual agents unless both the owner and buyer are made aware of the arrangement; require a bill of sale and provide a means to obtain medical information. We determined that ownership would not be required since it would not create a deceptive or unfair trade practices.

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

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

SPECIFIC AUTHORITY: 535.16 FS.

LAW IMPLEMENTED: 535.16 FS.

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

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: Kerry Flack. If you are hearing or speech impaired, please contact the agency using the Florida Relay Service, 1(800)955-8771 (TDD) or 1(800)955-8770 (Voice).

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULES IS: Kerry Flack, Assistant Division Director of Marketing and Development, 407 South Calhoun Street, M9, Tallahassee, FL 32399-0800

THE FULL TEXT OF THE PROPOSED RULES IS:

5H-26.001 Purpose.

The purpose of this rule chapter is to address unfair and deceptive trade practices surrounding the sale and purchase of horses in Florida. This rule enhances consumer protection by implementation of minimum requirements relating to the sale and purchase of horses in Florida.

Specific Authority 535.16 FS. Law Implemented 535.16 FS. History–New _____.

5H-26.002 Definitions.

As used in this rule, the following definitions shall apply:

(1) “Dual Agent” means a person who knowingly agrees with the Owner and the Purchaser of a horse, either individually or jointly, to act in a fiduciary capacity on behalf of both the Owner and the Purchaser in exchange for the promise of compensation. Auction companies or persons licensed to conduct public sales of thoroughbred horses under Chapter 535, F.S., shall not be deemed to be dual agents under this rule.

(2) “Horse” means an equine as defined in Section 773.01(2), F.S.

Specific Authority 535.16 FS. Law Implemented 535.16 FS. History–New _____.

5H-26.003 General Requirements Relating to the Sale or Purchase of Horses.

(1) Any sale or purchase of a horse or any interest therein in Florida shall be accompanied by a written bill of sale described in Rule 5H-26.004, F.A.C., except as provided in subsection (8).

(2) A person shall not act as a dual agent in a transaction involving the sale or purchase of an interest in a horse without:

(a) The prior knowledge of both the Purchaser and the Owner; and

(b) Written consent of both the Purchaser and the Owner.

(3) No person acting as an agent for a Purchaser or an Owner, or acting as a dual agent, in a transaction involving the sale or purchase of a horse or any interest therein, may receive consideration, compensation, fees, a gratuity, or any other item

of value in excess of five hundred dollars (\$500), related directly or indirectly to such transaction, from an individual or entity, including any consignor involved in the transaction, other than the agent’s principal, unless:

(a) The agent receiving, and the person or entity making, the payment disclose in writing the payment to both the Purchaser and Owner; and

(b) Each principal for whom the agent is acting consents in writing to the pay.

(4) Any person acting as an agent for a Purchaser or an Owner or acting as a dual agent in a transaction involving the sale or purchase of a horse or any interest therein shall, upon request by his or her principal or principals, furnish copies of all financial records and financial documents in the possession or control of the agent pertaining to the transaction to the principal or principals. For purposes of this section, financial records shall not include the agent’s or Owner’s work product used to internally evaluate the horse.

(5) A violation of any provision of Chapter 5H-26, F.A.C., resulting in actual damages to a person, shall be considered an unfair and deceptive trade practice pursuant to Chapter 501, Part II, F.S.

(6) Except as provided in subsection (4), nothing in this rule chapter shall require disclosure of compensation arrangements between a principal and an agent where no dual agency exists, where the agent is acting solely for the benefit of his or her principal, and where the agent is being compensated solely by his or her principal. Further, for any sale or purchase of a horse or any interest therein in Florida through a public auction or a public sale of thoroughbred horses licensed under Chapter 535, F.S., nothing in this rule chapter shall require disclosure of the reserves, the identity of the Owner or Purchaser, or the auctioneer’s commissions.

(7) No contract or agreement for payment of a commission, fee, gratuity, or any other form of compensation to a dual agent in connection with any sale or purchase of a horse or any interest therein shall be enforceable by way of an action or defense unless the contract or agreement is in writing and is signed by the party against whom enforcement is sought.

(8) For any sale or purchase of a horse or any interest therein in Florida through either a public auction or a public sale of thoroughbred horses licensed under Chapter 535, F.S., any bill of sale requirement contained in Chapter 5H-26, F.A.C., may be satisfied by the issuance of an auction receipt or acknowledgement of purchase, generated by the auction house or licensee, stating the date of purchase and the purchase price of the horse, signed by the Purchaser or the Purchaser’s agent. The auction receipt or acknowledgement of purchase shall expressly state or incorporate by reference all conditions of the sale, including the terms of any warranties.

Specific Authority 535.16 FS. Law Implemented 535.16 FS. History–New _____.

5H-26.004 Bill of Sale.

Except as provided in subsection 5H-26.003(8), F.A.C., the sale or purchase of a horse or any interest therein in Florida must be accompanied by a written bill of sale that must include at a minimum the following:

(1) The name, address, and signature of the Purchaser, the Owner, or their duly authorized agents. In a transaction solely relating to a stallion season, breeding right, or fractional interest in a horse, the syndicate manager or horse manager may serve as an acceptable agent in response to this requirement.

(2) The date of the sale.

(3) The purchase price of the horse.

(4) The following statement: "As the person signing below on behalf of the Owner, I hereby confirm that I am the lawful Owner of this horse or the Owner's duly authorized agent, and I am authorized to convey legal title to the horse pursuant to this bill of sale."

(5) The following statement: "As the person signing below on behalf of the Purchaser, I understand that any warranties or representations from the Owner or the Owner's agent that I am relying upon in acquiring this horse, including warranties or representations with respect to the horse's age, medical condition, prior medical treatments, and the existence of any liens or encumbrances, should be stated in writing as part of this bill of sale."

Specific Authority 535.16 FS. Law Implemented 535.16 FS. History--New _____.

NAME OF PERSON ORIGINATING PROPOSED RULE:
Kerry Flack

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Kerry Flack

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: January 15, 2008

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: November 30, 2007

DEPARTMENT OF EDUCATION

State Board of Education

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

PURPOSE AND EFFECT: The purpose of this rule amendment is to adopt a new rule to implement Section 1008.331, Florida Statutes, and provide provisions for implementing supplemental educational services in Title I schools identified as in need of improvement as authorized in the No Child Left Behind (NCLB) Act. The effect is a rule to provide consistency for both school districts and providers.

SUMMARY: This rule provides a process for applying to be a SES provider and includes provisions for monitoring, evaluating, and reporting as we as a complaint process.

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

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

SPECIFIC AUTHORITY: 1008.331 FS.

LAW IMPLEMENTED: 1008.331 FS.

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

DATE AND TIME: February 19, 2008, 8:30 a.m.

PLACE: 400 South Monroe Street, Room LL03, The Capitol, Tallahassee, Florida 32399

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Mary Jo Butler, Bureau Chief, Bureau of Public School Options, K-12 Public Schools, 325 West Gaines Street, Suite 316, Tallahassee, FL 32399, (850)245-0479

THE FULL TEXT OF THE PROPOSED RULE IS:

6A-1.039 Supplemental Educational Services in Title I Schools.

(1) Purpose. This rule implements supplemental educational services in Title I schools as authorized by Section 1008.331, Florida Statutes.

(2) Definitions. For the purpose of this rule, the following definitions shall be used:

(a) "District/provider contract" means the agreement each school district is required to enter into with state-approved supplemental educational services providers in the district for the provision of supplemental educational services.

(b) "Eligible school" is a Title I school that is in year two or beyond of school improvement, corrective action, or restructuring.

(c) "Eligible student" means students from low-income families, as determined by the school district consistent with 20 U.S.C. Section 6316, who are attending a Title I funded school that is in year two or beyond of school improvement, corrective action, or restructuring.

(d) "School district" for the purposes of this rule, refers to all local education agencies in the state of Florida.

(e) "State-approved supplemental educational services provider" means a provider that has been approved by the Florida Department of Education to provide supplemental educational services in one or more school districts.

(f) "Student learning plan" means the plan developed in consultation with the parent, school district, and state-approved provider, which is designed to improve academic achievement of a child receiving supplemental educational services.

(g) “Supplemental educational services” means academic instruction, such as tutoring, remediation, or other educational interventions, that is provided by state-approved supplemental educational services providers outside of the regular school day, on weekends, or in the summer, and that are designed to increase the academic achievement of students from low-income families who are attending Title I schools in their second year of school improvement, corrective action, or restructuring.

(h) “Increasing academic proficiency” means the provider has demonstrated increased academic proficiency as measured by sixty percent of students earning a minimum of one normal curve equivalency point learning gain in reading/language arts and seventy percent of students earning a minimum of one normal curve equivalency point learning gain in mathematics on assessments identified by the Department.

(3) Roles and Responsibilities.

(a) The Department shall:

1. Provide annual notice of the process for obtaining approval to provide supplemental educational services.

2. Approve supplemental educational services providers based upon the application requirements set forth in Form SES 100, Supplemental Educational Services Provider Application, which is hereby incorporated by reference to become effective upon the effective date of this rule. Form SES 100 may be obtained from the Florida Department of Education, Bureau of Public School Options, 325 West Gaines Street, Suite 316, Tallahassee, Florida 32399-0400 or on the Department’s website at www.fldoe.org/flbpo.

3. Maintain a list of state-approved providers.

(b) School districts providing supplemental educational services shall:

1. Identify eligible students and develop equitable procedures for prioritizing services if demand exceeds available funding.

2. Notify eligible families prior to and after the start of the school year regarding the availability of services and the process for obtaining supplemental educational services in an understandable and uniform format. This notice shall include:

a. Contact information for state-approved providers serving the school district, including providers accessible through technology, such as distance learning;

b. A description of services, tutor qualifications, and evidence of effectiveness as determined by the Department’s evaluation of academic proficiency of each provider;

c. A description of the procedures and timelines for selecting a provider and the commencement of services;

d. The enrollment form with clear instructions; and

e. An offer to assist parents in choosing a provider.

3. Unless a waiver is granted by the State Board of Education, pursuant to Section 1008.331(3)(a), Florida Statutes, hold open student enrollment for supplemental

educational services until the school district has obtained a written election to receive or reject services from the parents of at least a majority of eligible students or until the school district has expended all available funds.

4. Make available the supplemental educational services enrollment forms to the parents of eligible students and providers prior to and after the start of the school year.

5. Provide enrollment lists, parent contact information, and available student diagnostic data to supplemental educational services providers sufficiently in advance of October 15 so that eligible students may begin receiving supplemental educational services no later than October 15.

6. Enter into a district/provider contract with each approved supplemental educational services provider approved to serve the school district; the school district is responsible for ensuring services are consistent with the district/provider contract.

7. Enter into a student learning plan. The plan shall be consistent with the student’s individual education plan, English language learner plan, or the plan developed under Section 504 of the Rehabilitation Act. The plan shall include the following:

a. A statement of specific achievement goals for the student; these goals shall be aligned with the Sunshine State Standards as approved by the State Board of Education;

b. An explanation of how the student’s progress will be measured;

c. A timetable for improving achievement; and

d. An explanation describing how the student’s parents and teacher(s) will be regularly informed of the student’s progress.

8. Reassign students to another provider for the remainder of the student’s funding allocation if the provider’s services do not begin by the timelines established in this rule, or if the provider’s district/provider contract is terminated, or if the provider is removed from the state-approved list.

(c) State-approved supplemental educational services providers shall:

1. Be capable of delivering supplemental educational services in the school districts where approved by the Department.

2. Provide services that are secular, neutral, and nonideological.

3. Provide services outside of the regular school day, such as before or after school, on weekends, or in the summer.

4. Unless provided by the school district, conduct diagnostic assessments to determine student’s gaps in knowledge and skills prior to beginning services.

5. Use the results of the diagnostic assessments, student academic performance information provided by the district, and input from the parents to develop the student learning plan.

6. Provide educational services designed to enable the student to attain achievement goals specified on the student learning plan.

7. Measure the student's progress and regularly report progress to the student's parents and teachers.

8. Adhere to the timetable in the student learning plan for improving the student's achievement.

9. Provide services consistent with health, safety, and civil rights laws.

10. Abide by school district policies and procedures on criminal background checks and the provisions of Section 1012.465, Florida Statutes.

11. Refrain from altering, completing, or submitting enrollment forms on behalf of a parent.

12. Provide services to eligible students no later than October 15 of each school year contingent upon receipt of the district-approved student enrollment lists at least 20 days prior to the start date. In the event that a contract with a state-approved provider is signed fewer than 20 days prior to October 15, the provider shall have no fewer than 20 days from the date the contract is executed to begin delivering services.

(4) Supplemental Educational Provider Approval.

(a) Application for approval by the Department for the provision of supplemental educational services shall be made on Form SES 100, Supplemental Educational Services Provider Application.

(b) Except for that portion of the application documenting financial soundness and assurances, applications shall be submitted on-line at www.fldoe.org/flbpo. The financial soundness documentation and assurances of the application shall be delivered to the following address: Florida Department of Education, Bureau of Public School Options, 325 West Gaines Street, Suite 316, Tallahassee, Florida 32399-0400.

(c) Applications submitted by means other than those set forth above and applications received after the deadline for submission, set forth in Form SES 100, regardless of the cause or nature of the delay, will not be accepted or considered for approval by the Department.

(d) Approval requires the timely submission of all documents and meeting the requirements set forth in Form SES 100.

(e) Approval shall be for one year. Approval is non-transferable and valid only for the person or entity named by the Department in its notice of approval.

(5) Monitoring of Supplemental Educational Services. The Department is authorized to conduct announced and unannounced site visits of school districts and of approved providers to monitor compliance with the approved application, district/provider contract, student learning plan, and requirements of this rule.

(a) Monitoring shall be in compliance with Education Department General Administrative Regulation 34CFR 80.40(a) and consistent with the authority for oversight in Section 1008.32, Florida Statutes.

(b) Each district and provider shall maintain documentation to verify compliance with the requirements of law and rules applicable to supplemental educational services and comply with the Department's monitoring procedures, including on-site and desktop monitoring and self-evaluations.

(c) The Department shall annually develop a report of the results of the monitoring reviews.

(6) Evaluation of Supplemental Educational Services: The Department shall evaluate and report the quality and effectiveness of supplemental educational services provided by each state-approved provider. The evaluation will measure academic proficiency in reading/language arts and mathematics for all students participating in supplemental educational services.

(7) Complaint Process: The following process is established to allow for notification to the Department of a violation of the laws or rules related to supplemental educational services by providers or school districts.

(a) To initiate a complaint, a person must submit a written complaint to the Florida Department of Education using Form SES 200, Complaint Regarding Supplemental Educational Services, which is hereby incorporated by reference to become effective upon the effective date of this rule. This complaint form may be obtained by contacting the Florida Department of Education, Bureau of Public School Options at (850)245-0479, or 325 West Gaines Street, Suite 316, Tallahassee, Florida 32399-0400 or by downloading the form on the Department's web site at www.fldoe.org/flbpo.

(b) Upon receipt of a complaint, the Department shall review for sufficiency and shall close the complaint where it does not allege a violation of the laws regarding supplemental educational providers. Where the complaint alleges a violation of the laws regarding supplemental education providers, the Department shall cause the complaint to be investigated. The provider and school district shall cooperate fully in the investigation.

(c) The Department shall review the investigation and provide notice of its intended action, specifying the nature of the action, such as dismissal of the complaint, request for corrective action, referral to the district, removal from the approved provider list or enforcement under Section 1008.331, Florida Statutes. The notice shall state the grounds for the intended action. Nothing in this rule shall restrict the Department's authority to summarily suspend or remove a provider from the approved provider list where the Department finds that an immediate serious danger to the public health, safety, or welfare exists. Upon determination that there is a need for immediate action, the Commissioner or designee shall provide written notice of the immediate action.

(d) Unless the complaint is closed under the provisions of paragraph (6)(b) of this rule, or summary action is taken under the provisions of paragraph (6)(c) of this rule, the entity against

whom a complaint has been made shall be provided notice of the complaint and the opportunity to respond prior to the Department's intended action.

(8) Removal from the State-Approved Supplemental Educational Services Provider List. A provider shall be removed from the approved list, and the provider and any related organizations shall be ineligible to re-apply during the following two-year period, following the process established in subsection (6) of this rule, for the following reasons:

(a) The failure to deliver services as provided Section 1008.331(3)(b), Florida Statutes;

(b) The failure to contribute to increasing the academic proficiency of students for two consecutive years; or

(c) When the Department determines that the matter is of such magnitude that it cannot be addressed by the school district through its enforcement mechanisms, the failure to comply with provider responsibilities and assurances, the failure to meet and maintain the eligibility application requirements found in Form SES 100, the Supplemental Educational Services Providers Request for Applications, and the failure to comply with the requirements established for providers in this rule.

(9) Reporting Requirements.

(a) School districts are required to report, through the Department's automated student information data base system, students who are served by supplemental educational services.

(b) Supplemental educational services providers must provide auditable documentation of services and contact hours provided to each student to the school district.

(c) School districts and state-approved providers shall cooperate with Department requests for information pertaining to supplemental educational services.

(10) Confidentiality. The identity of any student who is eligible for or receiving supplemental educational services shall not be disclosed to the public without prior written consent of the parents of the student. Providers shall abide by the procedures of the school district and the Department for the security, privacy and retention of student records in accordance with the requirements of Section 1002.22, Florida Statutes and 20 U.S.C. § 1232g.

Specific Authority 1008.331 FS. Law Implemented 1008.331 FS. History--New.

NAME OF PERSON ORIGINATING PROPOSED RULE:
Mary Jo Butler, Bureau Chief, Bureau of Public School Options, K-12 Public Schools

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Chancellor Frances Haithcock, K-12 Public Schools

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: January 4, 2008

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: September 14, 2007

DEPARTMENT OF REVENUE

Sales and Use Tax

RULE NO.: 12A-1.001
RULE TITLE: Specific Exemptions

PURPOSE AND EFFECT: The purpose of the proposed amendments to Rule 12A-1.001, Florida Administrative Code (F.A.C.) (Specific Exemptions), is provide current procedures and requirements used by the Department to administer the exemption for resource recovery machinery or equipment provided in Section 212.08(7)(q), Florida Statutes (F.S.), and to remove obsolete provisions. When in effect, Rule 12A-1.001, F.A.C., will provide the requirements currently used by the Department in the administration of this exemption.

SUMMARY: The proposed amendments to Rule 12A-1.001, F.A.C. (Specific Exemptions): (1) provide that resource recovery equipment is certified by the Department of Environmental Protection pursuant to Section 403.715, F.S., and Rule 62-704.420, F.A.C.; (2) clarify that an applicant may obtain a preliminary examination report, but must obtain a final examination and certification of resource recovery equipment from the Department of Environmental Protection to be qualified for the exemption; (3) remove the requirement that a taxpayer who receives a preliminary examination report of resource recovery equipment from the Department of Environmental Protection be registered with the Department; (4) provide how to purchase qualified resource recovery equipment tax-exempt using the suggested exemption certificate; (5) remove requirements to provide a cash bond, deposit, or other security to the Department for purposes of obtaining the exemption; (6) clarify that tax is due on equipment or machinery that fails to qualify for final certification by the Department of Environmental Protection; (7) provide how and when tax, plus any applicable penalty or interest, is due to the Department; and (8) provide how to obtain a refund of tax previously paid on certified resource recovery equipment or machinery.

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

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

SPECIFIC AUTHORITY: 212.08(7)(h)2., (cc)5., 212.17(6), 212.18(2), 213.06(1) FS.

LAW IMPLEMENTED: 212.02(10), (12), (16), (20), (21), 212.05, 212.08(6), (7)(f), (h), (q), (v), (x), (cc) FS.

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

DATE AND TIME: February 20, 2008, 9:00 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 IS: Chris Whittier, Tax Law Specialist, Technical Assistance and Dispute Resolution, Department of Revenue, P. O. Box 7443, Tallahassee, Florida 32314-7443, telephone (850)922-4802

THE FULL TEXT OF THE PROPOSED RULE IS:

12A-1.001 Specific Exemptions.

(1) through (4) No change.

(5) RESOURCE RECOVERY EQUIPMENT OR ~~AND~~ MACHINERY.

(a) Resource recovery equipment ~~or and~~ machinery used in a facility owned and operated exclusively by or on behalf of any county or municipality is exempt. To qualify for exemption, the resource recovery such equipment ~~or and~~ machinery must:

1. Be certified as resource recovery equipment or machinery by the Department of Environmental Protection under Section 403.715, F.S., and Rule Chapter 62-704, F.A.C., Certification of Resource Recovery Equipment; and

2. Be owned or operated exclusively by or on behalf of a county or municipality.

(b) To obtain certification of the resource recovery equipment or machinery, application must be made to the Department of Environmental Protection. The Department of Environmental Protection will issue a final examination and certification for qualifying resource recovery equipment or machinery after the equipment or machinery is installed and operational. Prior to the purchase and installation of qualifying resource recovery equipment or machinery, a preliminary examination report may be obtained from the Department of Environmental Protection. Persons who obtain a preliminary examination report must also obtain a final examination and certification after the equipment or machinery is installed and operational. Copies of preliminary examination reports and final examination and certifications issued by the Department of Environmental Protection are provided to the Department of Revenue.

(c) ~~1.(b)~~ Preliminary examination reports. A temporary exemption applies shall apply only to the resource recovery equipment or machinery specified in the ~~written~~ preliminary examination report ~~issued delivered to the Executive Director or the Executive Director's designee in the responsible program~~ by the Department of Environmental Protection. The temporary ~~This exemption is shall be final~~, contingent upon

final examination and certification of the resource recovery equipment or machinery by the Department of Environmental Protection. ~~In the event the Department of Environmental Protection does not issue a written decision granting or denying certification within 30 months from the date the preliminary examination report is received, the Executive Director or the Executive Director's designee in the responsible program shall determine an amount sufficient to secure payment of any tax, penalty, and interest which may be due or which may become due in the event the Department of Environmental Protection denies certification and shall require a cash deposit, bond, or other security be issued to the Executive Director in such amount, unless the county or municipality for which the facility is being constructed executes a guarantee in favor of the Executive Director, the effect of which is to secure payment of any tax, penalty, and interest which may become due by the party directly liable to the Department for the tax.~~

2. Applicants who have received a preliminary examination report may purchase the resource recovery equipment or machinery identified in the preliminary report tax-exempt. A county or municipality that has received a preliminary examination report may issue a copy of its Florida Consumer's Certificate of Exemption to make tax-exempt purchases of the identified resource recovery equipment or machinery. Prime contractors and subcontractors who have entered into a contractual agreement with a county or municipality to purchase the identified resource recovery equipment or machinery may purchase the equipment or machinery tax-exempt by issuing a written certification to the selling dealer. The prime contractor or subcontractor must certify that the equipment or machinery qualifies as resource recovery equipment or machinery that will be used exclusively by or on behalf of a county or municipality, as provided in Section 212.08(7)(q), F.S. The following is a suggested format of a written certification:

CERTIFICATION FOR RESOURCE RECOVERY EQUIPMENT OR MACHINERY

This is to certify that the resource recovery equipment or machinery, as described below, purchased on or after _____ (DATE) from _____ (VENDOR) is purchased for use as qualifying resource recovery equipment or machinery, pursuant to Section 212.08(7)(q), Florida Statutes, and will be used exclusively by or on behalf of a county or municipality.

Resource Recovery Equipment or Machinery:

I understand that if I use the equipment or machinery for any other purpose, I must pay tax on the purchase price of the taxable property directly to the Department of Revenue.

I understand that it is a criminal offense to fraudulently issue this certificate to evade the payment of sales tax and that I will be liable for payment of the sales tax plus a penalty of 200% of the tax and may be subject to conviction of a third degree felony.

Purchaser's Name _____

Purchaser's Address _____

Name and Title of Authorized Representative _____

By _____

(Signature of Purchaser)

(Date)

3.(e) Persons claiming exemption from payment of tax on resource recovery equipment shall submit a copy of the preliminary examination report issued by the Department of Environmental Protection with an Application for Sales and Use Tax Registration (Form DR-1, incorporated by reference in Rule 12A-1.097, F.A.C.), as provided in Rule 12A-1.060, F.A.C. to the Executive Director or the Executive Director's designee in the responsible program. Upon approval of the application the Executive Director or the Executive Director's designee in the responsible program shall issue a certificate of registration authorizing the tax exempt purchase of those items identified by the Department of Environmental Protection as possible resource recovery equipment. The purchaser is required to applicant shall file a monthly report with the Department of Revenue and pay tax at the time of purchase on any item items purchased tax exempt which have not been identified in the preliminary examination report by the Department of Environmental Protection that does not qualify as possible resource recovery equipment or machinery in the preliminary examination report, or have been determined not to be resource recovery equipment following final examination and certification by the Department of Environmental Protection. Upon completion of the project and final certification by the Department of Environmental Protection, the applicant shall forward to the Department of Revenue his Sales and Use Tax Certificate of Registration with any outstanding sales and use taxes due.

(d) Final examination and certification. Resource recovery equipment or machinery identified in a final examination and certification issued by the Department of Environmental Protection is exempt. Applicants, prime contractors, and subcontractors who obtained a preliminary examination report are entitled to an exemption for the resource recovery equipment or machinery identified in the final examination and certification. If it is determined by the Department of Environmental Protection that an item identified in the final examination and certification does not qualify as resource

recovery equipment or machinery, tax, plus the applicable penalty and interest computed from the date of purchase, is due to the Department immediately.

(e) Refunds.

1. If an applicant, prime contractor, or subcontractor did not obtain a temporary exemption from the Department to purchase resource recovery equipment or machinery identified in the final examination and certification tax-exempt, the exemption may be obtained through a refund of previously paid taxes. Refunds will not be allowed until information has been provided to the satisfaction of the Executive Director or the Executive Director's designee that the resource recovery equipment or machinery meets the requirements of Section 212.08(7)(q), F.S., and this rule. The purchaser of the qualified resource recovery equipment or machinery is entitled to a refund of Florida tax paid on the qualifying resource recovery equipment or machinery. The purchaser must obtain a certified statement from its supplier(s) certifying that the supplier(s) has remitted the tax to the Department. If the purchaser paid tax directly to the Department, the purchaser is required to provide documentation that the tax was remitted directly to the Department.

2. The following is a suggested format for a certified statement to be issued by the supplier that tax has been remitted to the Department: _____ (COMPANY), its undersigned officer who is duly authorized, hereby certifies to _____ (CONTRACTOR OR SUBCONTRACTOR) it has paid sales tax to the Florida Department of Revenue totaling the sum of \$ _____. The taxes were collected by COMPANY upon the sales of equipment or machinery as evidenced by the attached invoice(s).

The company further certifies the sales tax for the attached invoice(s) was paid to the Department of Revenue in the month following the date of sale under sales tax certificate number _____

SIGNATURE OF AUTHORIZED OFFICER OF COMPANY
BY: _____

TITLE: _____

DATE: _____

3. An Application for Refund-Sales and Use Tax (Form DR-26S, incorporated by reference in Rule 12-26.008, F.A.C.) must be filed within 3 years after the date the tax was paid in accordance with the timing provisions of Section 215.26(2), F.S. A copy of the final examination and certification issued by the Department of Environmental Protection, the documentation to evidence the payment of Florida tax, and the certified statement(s) from the supplier(s) that tax has been remitted to the Department must accompany the application for refund. An application for refund will not be considered complete pursuant to Section 213.255(2) and (3), F.S., and Rule 12-26.003, F.A.C., and a refund will not be approved, until the applicant can demonstrate that the resource recovery

equipment or machinery has been certified by the Department of Environmental Protection and that tax on the purchase of the equipment or machinery has been remitted to the Department.

(6) No change.

Specific Authority 212.08(7)(h)2., (cc)5., 212.17(6), 212.18(2), 213.06(1) FS. Law Implemented 212.02(10), (12), (16), (20), (21), 212.05, 212.08(6), (7)(f), (h), (q), (v), (x), (cc) FS. History—Revised 1-7-68, 1-7-70, Amended 1-17-71, Revised 6-16-72, Amended 7-19-72, 12-11-74, 5-27-75, 10-21-75, 9-7-78, 9-28-78, 10-18-78, 9-16-79, 2-3-80, 6-3-80, 7-7-80, 10-29-81, 12-3-81, 12-31-81, 7-20-82, 11-15-82, 10-13-83, 4-12-84, Formerly 12A-1.01, Amended 7-9-86, 1-2-89, 12-1-89, 7-7-92, 9-14-93, 5-18-94, 12-13-94, 3-20-96, 4-2-00, 6-28-00, 6-19-01, 10-2-01(1), (2), 10-2-01(2)-(7), 10-2-01(3)-(7), 8-1-02, _____.

NAME OF PERSON ORIGINATING PROPOSED RULE: Chris Whittier, Tax Law Specialist, Technical Assistance and Dispute Resolution, Department of Revenue, P. O. Box 7443, Tallahassee, Florida 32314-7443, telephone (850)922-4802

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Buzz McKown, Revenue Program Administrator II, Technical Assistance and Dispute Resolution, P. O. Box 7443, Tallahassee, Florida 32314-7443; telephone number (850)922-4721

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: January 15, 2008

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: The proposed amendments to Rule 12A-1.001, F.A.C. (Specific Exemptions), were noticed in the Florida Administrative Weekly on October 12, 2007 (Vol. 33, No. 41, pp. 4726-4729). A rule development workshop was held on October 30, 2007. No one appeared to provide comment regarding these proposed rule changes. No written comments have been received by the Department.

DEPARTMENT OF REVENUE

Sales and Use Tax

RULE NO.:	RULE TITLE:
12A-1.0142	Refund of Tax Paid on Purchases of Equipment, Machinery, and Other Materials for Renewable Energy Technologies

PURPOSE AND EFFECT: The purpose for creating Rule 12A-1.0142, Florida Administrative Code (F.A.C.) (Refund of Tax Paid on Purchases of Equipment, Machinery, and Other Materials for Renewable Energy Technologies), is to: (1) provide for the administration of the sales tax incentive program provided in Section 212.08(7)(ccc), Florida Statutes, created by s. 9, Chapter 2006-230, Laws of Florida, and (2) adopt, by reference, the application used by the Department of Environmental Protection to administer the program. When in effect, this rule will provide how to obtain a refund of sales tax paid on equipment, machinery, and other materials used for renewable energy technologies.

SUMMARY: The creation of Rule 12A-1.0142, F.A.C. (Refund of Tax Paid on Purchases of Equipment, Machinery, and Other Materials for Renewable Energy Technologies), provides: (1) a list of items for which the refund of sales tax paid is available; (2) the statutory limitation of the amount of refund available; (3) information on how to obtain and to file the application for certification of the items available for a refund of sales tax paid with the Department of Environmental Protection; (4) the procedures for claiming a refund of sales tax paid on eligible equipment, machinery, and materials used in renewable energy technologies from the Department of Revenue, including the necessary application form and documentation to support the claim for refund; and (5) for the adoption, by reference, of the application used by the Department of Environmental Protection in its administration of this exemption by refund.

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

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

SPECIFIC AUTHORITY: 212.08(7)(ccc), 212.17(6), 212.18(2), 213.06(1) FS.

LAW IMPLEMENTED: 212.08(7)(ccc), 377.801-377.806 FS.

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

DATE AND TIME: February 20, 2008, 9:00 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 IS: Jeffery Soff, Tax Law Specialist, Technical Assistance and Dispute Resolution, Department of Revenue, P. O. Box 7443, Tallahassee, Florida 32314-7443, telephone (850)922-4719

THE FULL TEXT OF THE PROPOSED RULE IS:

12A-1.0142 Refund of Tax Paid on Purchases of Equipment, Machinery, and Other Materials for Renewable Energy Technologies.

(1) Who May Claim the Refund. Any applicant who has received approval from the Department of Environmental Protection for purchases of equipment, machinery, and other

materials for renewable energy technologies will be allowed a refund of Florida sales and use taxes previously paid, not to exceed the statutory limitations provided in Section 212.08(7)(ccc), F.S.

(a) The refund of Florida sales and use tax previously paid is applicable to the following items:

1. Hydrogen-powered vehicles.
2. Materials incorporated into hydrogen-powered vehicles.
3. Hydrogen fueling stations.
4. Commercial stationary hydrogen fuel cells.

5. Materials used in the distribution of biodiesel (B10-B100) and ethanol (E10-E100), including fueling infrastructure, transportation, and storage for these fuels. Gasoline fueling station pump retrofits for ethanol (E10-E100) distribution also qualify.

(b) Section 212.08(7)(ccc), F.S., limits the total amount available for a refund of Florida sales and use tax paid to the following:

1. For tax paid on hydrogen-powered vehicles, materials incorporated into hydrogen-powered vehicles, and hydrogen-fueling stations, the total amount available for refund is limited to \$2 million in tax each state fiscal year.

2. For tax paid on commercial stationary hydrogen fuel cells, the total amount available for refund is limited to \$1 million in tax each state fiscal year.

3. For tax paid on materials used in the distribution of biodiesel and ethanol, including fueling infrastructure, transportation, and storage for these fuels, and for the retrofitting of gasoline station pumps for ethanol (E10-E100) distribution, the total amount available for refund is limited to \$1 million in tax each state fiscal year.

(2) Obtaining the Refund.

(a) Taxpayers claiming the refund must first file Form FEO-06-01, Florida Renewable Energy Technologies Sales Tax Program Application (Effective 11/07, hereby incorporated by reference). The application may be obtained, without cost, at www.dep.state.fl.us/energy or by telephone at (850)245-8002 or by writing to:

Florida Department of Environmental Protection
ATTN: Renewable Energy Technologies Sales Tax Program

Florida Energy Office
2600 Blair Stone Road, MS-19
Tallahassee, Florida 32399-2400.

(b) When the Department of Environmental Protection sends written certification to the applicant, approving the refund of Florida sales and use tax, the agency will send a copy of the written certification and all supporting documentation to the Department of Revenue. To obtain a refund of Florida sales and use tax previously paid on purchases of equipment, machinery, and other materials for renewable energy technologies, the applicant must file a completed Application

for Refund-Sales and Use Tax (Form DR-26S, incorporated by reference in Rule 12-26.008, F.A.C.), with a copy of the certification letter from the Department of Environmental Protection. Form DR-26S must be filed with the Department of Revenue within 6 months from the date of the written certification issued by the Department of Environmental Protection approving the refund. The refund claim is limited to the amount certified by the Florida Department of Environmental Protection. Form DR-26S, with a copy of the certification letter, should be mailed to:

Florida Department of Revenue
Refund Subprocess
P. O. Box 6490
Tallahassee, Florida 32314-6490.

Specific Authority 212.08(7)(ccc), 212.17(6), 212.18(2), 213.06(1) FS. Law Implemented 212.08(7)(ccc), 377.801-377.806 FS. History—New_____.

NAME OF PERSON ORIGINATING PROPOSED RULE: Jeffery Soff, Tax Law Specialist, Technical Assistance and Dispute Resolution, Department of Revenue, P. O. Box 7443, Tallahassee, Florida 32314-7443, telephone (850)922-4719

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Buzz McKown, Revenue Program Administrator II, Technical Assistance and Dispute Resolution, P. O. Box 7443, Tallahassee, Florida 32314-7443; telephone number (850)922-4721

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: January 15, 2008

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: The proposed creation of Rule 12A-1.0142, Florida Administrative Code (Refund of Tax Paid on Purchases of Equipment, Machinery, and Other Materials for Renewable Energy Technologies), was noticed in the Florida Administrative Weekly on September 21, 2007 (Vol. 33, No. 38, pp. 4319-4320). A rule development workshop was held on October 8, 2007. Comments received at the workshop were limited to comments regarding the numbering of the Department of Environmental Protection application form. No written comments have been received by the Department. After this workshop the Department added a provision including the retrofit of gasoline pumps within this exemption provision, to ensure it complies with the statute.

DEPARTMENT OF REVENUE

Sales and Use Tax

RULE NOS.:	RULE TITLES:
12A-1.057	Alcoholic and Malt Beverages
12A-1.060	Registration
12A-1.097	Public Use Forms

PURPOSE AND EFFECT: The purpose of the proposed amendment to Rule 12A-1.057, Florida Administrative Code (F.A.C.) (Alcoholic and Malt Beverages), is to delete an unnecessary reference to the Department's authority to require a surety bond or cash deposit.

The purpose of the proposed amendments to Rule 12A-1.060, F.A.C. (Registration), is to explain the requirements and procedures used by the Department when requiring security in the form of a cash deposit, surety bond, or irrevocable letter of credit as a condition for a person to obtain or retain a dealer's certificate of registration, under the authority of Section 212.14(4), F.S.

The purpose of the proposed amendments to Rule 12A-1.097, F.A.C. (Public Use Forms), is to adopt, by reference, forms used by the Department when requiring security to obtain or retain a dealer's certificate of registration.

SUMMARY: The proposed amendment to Rule 12A-1.057, F.A.C. (Alcoholic and Malt Beverages), removes provisions that reference the Department's authority to require a surety bond or cash deposit. These requirements are addressed in the amendments to Rule 12A-1.060, F.A.C. (Registration), which is part of this proposed rule package.

The proposed amendments to Rule 12A-1.060, F.A.C. (Registration): (1) define the terms "person," "security," and "tax or fee liability", to help the public understand the requirements in the rule; (2) specify the qualifying events on which the Department will base its determination that security is required for a person to obtain or retain a dealer's certificate of registration; (3) explain how the Department will determine the amount of security required; (4) require the Department to provide written notice of its intent to deny registration or to provide written notice of its intent to revoke registration, as applicable, unless security is posted by the person; (5) provide procedures for a person to request a conference regarding the Department's requirement to provide security, including procedures about informing persons of the right to request an administrative hearing; (6) explain that if the Department determines that the amount of an existing security is insufficient or that the amount of the security is reduced or released, the Department will provide written notification to the person of the revised amount of security required, and that the person notified must provide additional security or request a conference regarding the requirement to provide additional security; (7) provide that, if additional security is provided, the Department will cancel, surrender, or discharge the previous security; (8) specify that the duration of security required by the Department will not be less than 12 months; (9) provide that, if the person required to provide security ceases operations during the time the security is held, a written request to the Department is required for it to return a cash deposit or to release the surety bond or irrevocable letter of credit; (10) explain that the Department will offset any reimbursement against any outstanding liability of a dealer that

ceases business during the term of the security; and (11) provide that the Department will initiate an action to seek a release of moneys from the security held by the Department if a person is more than 30 days delinquent in the payment of its tax or fee liability.

The proposed amendments to Rule 12A-1.097, F.A.C. (Public Use Forms), adopt by reference Form DR-17A, Certificate of Cash Deposit/Cash Bond, and Form DR-29, Application for Release or Refund of Security.

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

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

SPECIFIC AUTHORITY: 201.11, 202.17(3)(a), 202.22(6), 202.26(3), 212.0515(7), 212.07(1)(b), 212.08(5)(b)4., (7), 212.11(5)(b), 212.12(1)(b)2., 212.17(6), 212.18(2), (3), 213.06(1), 376.70(6)(b), 376.75(9)(b), 403.718(3)(b), 403.7185(3)(b), 443.171(2), (7) FS.

LAW IMPLEMENTED: 92.525(1)(b), (3), 95.091, 125.0104, 125.0108, 201.01, 201.08(1)(a), 201.133, 201.17(1)-(5), 202.11(2), (3), (6), (16), (24), 202.17, 202.22(3)-(6), 202.28(1), 203.01, 212.02, 212.03, 212.0305, 212.031, 212.04, 212.05, 212.0501, 212.0515, 212.054, 212.055, 212.0596, 212.06, 212.0606, 212.07(1), (2), (4), (8), (9), 212.08, 212.084(3), 212.085, 212.09, 212.096, 212.11(1), (4), (5), 212.12(1), (2), (5), (6), (9), (13), 212.13, 212.14(4), (5), 212.16(1), 212.17, 212.18(2), (3), 212.19, 213.235, 213.29, 213.37, 219.07, 288.1258, 376.70, 376.75, 403.717, 403.718, 403.7185, 443.036, 443.121(1), (3), 443.131, 443.1315, 443.1316, 443.171(2), (7), 561.01 FS.

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

DATE AND TIME: February 20, 2008, 9:00 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 RULES IS: Thomas Butscher, Senior Counsel, Technical Assistance and Dispute Resolution, Department of Revenue, P. O. Box 7443, Tallahassee, Florida 32314-7443, telephone (850)922-4710

THE FULL TEXT OF THE PROPOSED RULES IS:

12A-1.057 Alcoholic and Malt Beverages.

(1) No change.

(2) Any person desiring to sell such beverages at retail must first qualify as a dealer under Chapter 212, F.S., before applying to the Division of Alcoholic Beverages and Tobacco, Department of Business and Professional Regulation, for a license. ~~Surety or cash bond to guarantee payment of taxes may be required by the Department of Revenue.~~

(3) through (4) No change.

Specific Authority 212.17(6), 212.18(2), 213.06(1) FS. Law Implemented 212.02(12), (14)(a), 212.05(1)(a)1.a., (b), (2), (3), (4), 212.06, 212.07(2), (4), 212.08(4)(b), (7)(s), ~~212.14(4)~~, 212.19, 561.01 FS. History—Revised 10-7-68, 6-16-72, Amended 1-10-78, 7-16-79, 7-20-82, Formerly 12A-1.57, Amended 12-13-88, _____.

12A-1.060 Registration.

(1) through (5) No change.

(6) CASH DEPOSITS, SURETY BONDS, OR LETTERS OF CREDIT. The Department will utilize the criteria in this subsection when it requires a cash deposit, surety bond, or irrevocable letter of credit as a condition to any person obtaining or retaining a dealer’s certificate of registration. Nothing in this subsection prohibits the Department from pursuing any other authorized means to collect a tax or fee liability. Nothing in this subsection requires the Department to permit the posting of a cash deposit, surety bond, or irrevocable letter of credit instead of revoking or refusing to issue a dealer’s certificate of registration. This subsection does not apply to a person currently in compliance with a written agreement with the Department regarding its tax or fee liabilities and obligations.

(a) Definitions. For the purposes of this subsection:

1. “Person” means any person, as defined in Section 212.02(12), F.S., and includes individuals owning a controlling interest in a person.

2. “Person” also includes any person with an existing certificate of registration or any person seeking to obtain a dealer’s certificate of registration:

a. Who has acquired ownership or controlling interest in a business that would be otherwise liable for posting security, if the person fails to provide evidence the business was acquired in an arm’s length transaction or for consideration; or

b. For a business that will be operated at an identical location of a previous business that would otherwise have been liable for posting security, if such person fails to provide evidence the business was acquired in an arm’s length transaction or for consideration.

3. The word “security” means cash deposits, surety bonds, or irrevocable letters of credit. Bonds required under this subsection must be issued by a surety company authorized to do business in this state as a surety. Irrevocable letters of credit

must be issued by a bank authorized to do business in the state as a bank and must be engaged by a bank as an agreement to honor demands for payment.

4. “Tax or fee liability” means any liability for any of the following taxes or fees, penalty, or interest:

a. Any sales or use tax, discretionary sales surtax, or local option tax imposed under Chapter 212, F.S.;

b. Any tourist development tax levied under Section 125.0104, F.S., or tourist impact tax levied under Section 125.0108, F.S.;

c. The rental car surcharge levied under Section 212.0606, F.S.;

d. Any solid waste fee, such as the new tire fee levied under Section 403.718, F.S., or the lead-acid battery fee levied under Section 403.7185, F.S.;

e. The motor vehicle warranty fee levied under Section 681.117, F.S.;

f. Any penalty or interest imposed under Sections 212.12(2) or 213.235, F.S.;

(b) Qualifying Events. Security will be required when the Department determines that any of the following qualifying events apply:

1. The person owns or manages a business that has no permanent business location in Florida and there is evidence that the person will fail to remit taxes to the state;

2. The person operates from a temporary location in Florida for less than six months in any consecutive twelve-month period, and there is evidence that the person will fail to remit taxes to the state;

3. The person has had a previous certificate of registration revoked;

4. The person failed to comply with the provisions of a judgment, settlement agreement, closing agreement, stipulated payment agreement, or consent agreement entered into with the Department;

5. A warrant is currently unsatisfied in whole or in part; or

6. The person is seeking an additional registration and has an outstanding liability of \$2500 or more.

(c) Security Amount Determination.

1. When the Department requires a person with an existing certificate of registration to post security, the required security will be equal to the person’s total estimated tax or fee liability, as determined by the Department, for the preceding twelve calendar months, plus the person’s outstanding tax or fee liability.

2. When the Department requires a person applying for a new certificate of registration to post security, the following criteria will be used to determine the amount required, unless the specific facts and circumstances warrant a higher amount not to exceed the sum of the person’s total estimated tax or fee liability, as determined by the Department, for twelve calendar months, plus the person’s outstanding tax or fee liability:

a. If the person is or will be:

(I) A monthly filer, security equal to six months' estimated tax or fee liability will be required.

(II) A quarterly filer, security equal to nine months' estimated tax or fee liability will be required.

(III) A semiannual or annual filer, security equal to one year of the estimated tax or fee liability will be required.

b. When considering specific facts and circumstances to determine if additional security will be required under this subparagraph, the Department will consider:

(I) The value of the person's real property holdings in Florida;

(II) The value of the person's assets in Florida, including the liquidity or mobility of the assets; or

(III) Outstanding money judgments against the person.

(d) Procedural Issues Regarding the Security Requirement.

1. When the Department determines that security is required as a condition to obtaining a dealer's certificate of registration, it will send written notice of intent to deny registration to the person at the person's last known address as it appears in the Department's records. When the Department determines that security is required as a condition to retaining a dealer's certificate of registration, it will send a notice of intent to revoke registration to the person at the person's last known address as it appears in the Department's records. The person must either post security or send a written request for a conference to the Department. The security or written request for a conference must be received by the Department within 30 consecutive calendar days after the date of the notice.

2.a. A request for a conference must be made directly to the office designated in the notice and must:

(i) state the reasons for objecting to the requirement to post security;

(ii) request an informal conference with the Department regarding the requirement to post security;

(iii) include a copy of the notice informing the person of the requirement to post security; and

(iv) be mailed, hand delivered, or faxed to the office address or fax number provided in the notice of the requirement to post security.

b. Requests postmarked, hand delivered, or faxed more than 30 consecutive calendar days after the date of issuance of the notice will be deemed late filed and shall result in the forfeiture of the person's right to such conference, unless the person has timely secured a written extension of time within which to file a request for a conference.

c. An extension of time in which to request a conference may be secured by mailing, hand delivering, or faxing a written request to the office designated in the notice. Each extension of time will be for 30 consecutive calendar days. Within a 30 consecutive calendar day extension period, the person may

submit a request in writing to the office designated in the notice for an additional 30 consecutive calendar day extension within which to request a conference.

d. Failure to mail, hand deliver, or fax a written request for a conference or a written request for an additional 30 consecutive calendar day extension within a pending extension period shall result in forfeiture of the right to such conference.

e. If a conference is requested, it will be held at the earliest convenience of both the person and the Department, but it will not be held more than 60 consecutive calendar days after the notice, unless specifically agreed to in writing by the Department.

f. If a request for a conference is not timely made, the right to seek a conference is waived.

g. The 30 consecutive calendar days provided for requesting a conference may be waived by the person to expedite resolution of the issue.

h. The person has the right to request an administrative hearing, to be conducted in accordance with Section 120.57, F.S., and Rule Chapter 28-106, F.A.C., if the notice of the requirement to post security becomes final. For this purpose, the Department's notice will become final if:

(i) An agreement is not reached after the informal conference;

(ii) A written request for a conference or a written request for an extension of time for requesting a conference is not timely filed; or

(iii) The right to an informal conference is waived.

3. If the person fails to post security or to secure review of the requirement to post security, the Department will deny the application for a certificate of registration, will revoke any existing certificate, and request that the Department of Legal Affairs proceed by injunction to prevent such person from doing business in the state until the appropriate security is posted.

4. Any security posted under this subsection must solely benefit the Florida Department of Revenue, and must be conditioned upon the timely compliance with the person's tax or fee liability and the terms and conditions of any compliance agreement entered into between the person and the Department.

5. Any person posting security in the form of a cash deposit must complete Form DR-17A, Certificate of Cash Deposit/Cash Bond (incorporated by reference in Rule 12A-1.097, F.A.C.). Suggested formats for the irrevocable letter of credit and the surety bond are available on the Department's website: www.myflorida.com/dor.

6. An irrevocable letter of credit must contain an expiration date that is at least eighteen months after the stated date of issuance.

7. An irrevocable letter of credit or surety bond must contain a provision that requires the issuing bank or surety company to notify the Department of the expiration or

termination of the irrevocable letter of credit or surety bond by certified mail at least 60 days prior to the expiration or termination.

8. If security is still required under this subsection and an irrevocable letter of credit or surety bond expires or is terminated without substitution, the Department will revoke the applicable person's existing certificate and request that the Department of Legal Affairs proceed by injunction to prevent such person from doing business in the state until substitute security is posted.

9. No interest will be paid by the state to any person for the deposit of any security under this subsection.

(e) Insufficiency of Security. If the Department determines that the amount of any existing security is insufficient to ensure payment of the amount of the tax or fee liability, penalties, and interest for which the person is or may become liable, or if the amount of the security is reduced or released whether by judgment rendered or by use of the security to pay the delinquent tax or fee liability, penalties, or interest, the Department will provide written notification to the person of the revised amount of security required. The person is required to file an additional security in the amount required by the Department, or request a conference within 30 consecutive calendar days, failing which the Department will revoke any existing registration. If a new security is furnished, the Department, as appropriate, will cancel, surrender, or discharge the previous security, for which the new security is substituted.

(f) Security Duration. If the person complies with its tax or fee liability for a period of twelve consecutive months, upon written request, the Department will release the surety bond or irrevocable letter of credit. A person requesting the return of a cash deposit must file Form DR-29, Application for Release or Refund of Security (incorporated by reference in Rule 12A-1.097, F.A.C.). If the person ceases operation of the business during the time the security is being held by the Department, a written request must be made within 90 days of ceasing operations, requesting the return of the deposit or release of the surety bond or irrevocable letter of credit. The Department will offset any reimbursements of security under this subsection against any outstanding tax or fee liability of the person.

(g) Delinquent Payments. If any person is delinquent more than 30 days in the payment of its tax or fee liability, the Department will initiate an action to seek release of moneys from the security held by the Department.

Specific Authority 212.17(6), 212.18(2), 213.06(1) FS. Law Implemented 212.03(1), (2), 212.04(4), 212.0596(1), (2), 212.06(2), 212.12(2), (5), (6), 212.14(4), 212.16(1), (2), 212.18(3) FS. History—Revised 10-7-68, 1-7-70, 6-16-72, Amended 3-21-77, 5-10-77, 10-18-78, Formerly 12A-1.60, Amended 6-10-87, 1-2-89, 11-12-90, 3-17-94, 1-2-95, 3-20-96, 11-30-97, 4-2-00, 6-19-01, 10-2-01(1), 10-2-01(1), 8-1-02, 4-17-03, 6-12-03,_____.

12A-1.097 Public Use Forms.

(1) The following public use forms and instructions are employed by the Department in its dealings with the public related to the administration of Chapter 212, F.S. These forms are hereby incorporated by reference in this rule.

(a) through (b) No change.

Form Number	Title	Effective Date
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(2) through (7) No change.

(8) DR-17A	Certificate of Cash Deposit/ Cash Bond (R. 06/07)	_____
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(8) through (10) renumbered (9) through (11) No change.

(12) DR- 29	Application for Release or Refund of Security (R. 06/07)	_____
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(11) through (23) renumbered (13) through (25) No change.

Specific Authority 201.11, 202.17(3)(a), 202.22(6), 202.26(3), 212.0515(7), 212.07(1)(b), 212.08(5)(b)4., (7), 212.11(5)(b), 212.12(1)(b)2., 212.17(6), 212.18(2), (3), 213.06(1), 376.70(6)(b), 376.75(9)(b), 403.718(3)(b), 403.7185(3)(b), 443.171(2), (7) FS. Law Implemented 92.525(1)(b), (3), 95.091, 125.0104, 125.0108, 201.01, 201.08(1)(a), 201.133, 201.17(1)-(5), 202.11(2), (3), (6), (16), (24), 202.17, 202.22(3)-(6), 202.28(1), 203.01, 212.02, 212.03, 212.0305, 212.031, 212.04, 212.05, 212.0501, 212.0515, 212.054, 212.055, 212.06, 212.0606, 212.07(1), (8), (9), 212.08, 212.084(3), 212.085, 212.09, 212.096, 212.11(1), (4), (5), 212.12(1), (2), (9), (13), 212.13, 212.14(4), (5), 212.17, 212.18(2), (3), 213.235, 213.29, 213.37, 219.07, 288.1258, 376.70, 376.75, 403.717, 403.718, 403.7185, 443.036, 443.121(1), (3), 443.131, 443.1315, 443.1316, 443.171(2), (7) FS. History—New 4-12-84, Formerly 12A-1.97, Amended 8-10-92, 11-30-97, 7-1-99, 4-2-00, 6-28-00, 6-19-01, 10-2-01, 10-21-01, 8-1-02, 4-17-03, 5-4-03, 6-12-03, 10-1-03, 9-28-04, 6-28-05, 5-1-06, 4-5-07, 1-1-08,_____.

NAME OF PERSON ORIGINATING PROPOSED RULE: Thomas Butscher, Senior Counsel, Technical Assistance and Dispute Resolution, Department of Revenue, P. O. Box 7443, Tallahassee, Florida 32314-7443, telephone (850)922-4710

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Buzz McKown, Revenue Program Administrator II, Technical Assistance and Dispute Resolution, P. O. Box 7443, Tallahassee, Florida 32314-7443, telephone number (850)922-4721

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: January 15, 2008

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: The proposed amendments to Rule Chapter 12A-1, Florida Administrative Code (Sales and Use Tax), were noticed in the Florida Administrative Weekly on October 26, 2007 (Vol. 33, No. 43, pp. 4982-4985). A rule development workshop was held on November 13, 2007. After the workshop several technical revisions were made to these proposed rule changes to clarify provisions.

DEPARTMENT OF REVENUE**Sales and Use Tax**

RULE NO.: 12A-19.060
 RULE TITLE: Sales for the Purpose of Resale

PURPOSE AND EFFECT: The purpose of the proposed amendments to Rule 12A-19.060, Florida Administrative Code (F.A.C.) (Sales for the Purpose of Resale), is to establish by administrative rule the requirements to document tax-exempt sales of communications services for resale by using the Department's electronic system to verify communications services tax dealers' registration numbers and resale certificate numbers, as required in Sections 8-10, Chapter 2007-106, Laws of Florida. This law requires the Department to establish a toll-free telephone number for the verification of valid communications services tax dealer registration numbers and resale certificates no later than January 1, 2008. In addition, the Department will provide an on-line certificate verification system to be used by selling dealers to verify communications services tax dealers' registration numbers and resale certificate/business partner numbers. When in effect, these new and amended rule provisions will establish the methods and requirements for dealers to document their tax-exempt sales of communications services for resale.

SUMMARY: The proposed amendments to Rule 12A-19.060, F.A.C. (Sales for the Purpose of Resale), explain the procedures on how to document tax-exempt sales of communications services for resale, using the Department's electronic system to verify communications services tax dealers' registration numbers and resale certificate numbers, effective January 1, 2008. These amendments provide the three methods by which dealers must document the exempt nature of sales for the purpose of resale – to obtain a copy of the purchaser's Communications Services Tax Annual Resale Certificate that is signed by the purchaser or the purchaser's representative; to obtain a Transaction Resale Authorization Number issued by the Department; or, to obtain a Vendor Resale Authorization Number issued by the Department.

The proposed amendments provide that selling dealers may make tax-exempt sales for resale to a purchaser whose current Communications Services Tax Annual Resale Certificate is on file without seeking a new certificate for each subsequent sale during that calendar year. For sales made to purchasers who purchase on account from a dealer on a continual basis, the selling dealer is not required to obtain a new certificate for each calendar year.

These amendments provide that selling dealers may document tax-exempt sales for resale by obtaining a Transaction Resale Authorization Number or a Vendor Resale Authorization Number from the Department, by using the Department's on-line Certificate Verification System or calling the Department's nationwide toll-free telephone verification system. The proposed amendments also explain the requirements for the selling dealer to obtain a transaction resale

authorization number for each and every resale transaction and to document each resale transaction. Selling dealers who document sales for resale by obtaining a Vendor Resale Authorization Number from the Department must also obtain a signed copy of the purchaser's Communications Services Tax Annual Resale Certificate.

These amendments specify how to obtain the Vendor Resale Authorization Number from the Department and the time periods during which the authorization number is valid.

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

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

SPECIFIC AUTHORITY: 202.16(2), 202.26(3)(c), (d) FS.

LAW IMPLEMENTED: 202.11(3), (10), (11), 202.13(2), 202.16(2), (4), 202.17(6), 202.34(3), (4)(c) FS.

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

DATE AND TIME: February 20, 2008, 9:00 a.m.

PLACE: Room 118, Carlton Building, 501 South 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 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 FULL TEXT OF THE PROPOSED RULE IS:

12A-19.060 Sales for the Purpose of Resale.

(1) A sale for the purpose of resale is excluded from the tax imposed by and administered under Chapter 202, F.S., only when the sale is made in strict compliance with the provisions of this rule.

(2) For purposes of this rule, the following terms are defined as:

(a) A "dealer" means a person registered with the Department as a provider of communications services in Florida.

(b) An “active registered dealer” means a person who is registered with the Department as a communications services tax dealer and who is required to file a communications services tax return at least once during each applicable reporting period, as provided in Section 202.17(6), F.S.

(c) A “purchaser” means the person paying for or obligated to pay for communications services.

(3) A “sale for the purpose of resale” occurs when a person purchases communications services from a dealer and then resells the communications services, uses the communications services as a component part of communications services that are offered for retail sale, or integrates the purchased communications services into communications services offered for retail sale.

(4) ANNUAL RESALE CERTIFICATES ISSUED BY THE DEPARTMENT.

(a) Each newly registered dealer will receive a Communications Services Tax Certificate of Registration (Form DR-700014) and a Communications Services Tax Annual Resale Certificate (Form DR-700015). For each calendar year, the Department will issue to each active registered dealer a Communications Services Tax Annual Resale Certificate that specifically identifies the valid period of the certificate.

(b) The business name and mailing address of the certificate holder, the certificate/business partner number, the registration effective date, and the expiration date of the certificate, ~~and the purposes for which the certificate may be provided~~ will be indicated on each Communications Services Tax Annual Resale Certificate.

(c) The effective date of a dealer’s initial Communications Services Tax Annual Resale Certificate will be the postmark date of the application or, when delivered by means other than the United States Postal Service, the date the application is received by the Department.

(d) In the event that a dealer’s original Communications Services Tax Annual Resale Certificate is lost or destroyed, a replacement may be requested by visiting any local Department of Revenue Service Center to personally obtain a copy or by contacting the Department at (800)352-3671 (~~in Florida only~~) or (850)488-6800. Persons with hearing or speech impairments may call the Department’s TDD, at (800)367-8331 or (850)922-1115. Written requests should be addressed to Account Management Central Registration, Florida Department of Revenue, P. O. Box 6480, Tallahassee, Florida 32314-6480.

(5) A Communications Services Tax Annual Resale Certificate is considered valid when a signed copy of the certificate is provided to the selling dealer in lieu of payment of the tax on any sale made on or after the registration effective date and on or prior to the certificate expiration date, as indicated on the certificate; and when a selling dealer receives a signed copy of the certificate in good faith.

(6) A dealer making a sale for resale is required to document the exempt sale by CHOOSING ONE of the following three methods: PROVISIONS APPLICABLE TO SELLING DEALERS.

(a) COPIES OF ANNUAL RESALE CERTIFICATES OBTAINED BY THE SELLING DEALER. A selling dealer who makes a sale for the purpose of resale must obtain and receives a signed copy of the purchaser’s current a valid Communications Services Tax Annual Resale Certificate or a Transaction Resale Authorization Number or Vendor Resale Authorization Number issued by the Department in lieu of tax will be in compliance with the requirements of this rule and is relieved from any liability for any tax due on that sale.

1. The copy of the Communications Services Tax Annual Resale Certificate must be signed by the purchaser or the purchaser’s authorized representative.

2. A selling dealer may make sales for resale to a purchaser whose current Communications Services Tax Annual Resale Certificate is on file without seeking a new certificate for each subsequent transaction during that calendar year. A new Communications Services Tax Annual Resale Certificate must be obtained each calendar year. Except for sales made to purchasers who purchase on account from the dealer on a continual basis, a selling dealer may only make exempt sales for resale to purchasers during the calendar year for which the purchaser’s Communications Services Tax Annual Resale Certificate appears valid on its face.

3. For sales made to purchasers who purchase on account from a dealer on a continual basis, the selling dealer may rely upon the Communications Services Tax Annual Resale Certificate beyond the expiration date of the certificate and is not required to obtain a new certificate each calendar year.

a. For purposes of this paragraph, the phrase “purchase on account from a dealer on a continual basis” means that the selling dealer has a continuing business relationship with a purchaser and makes recurring sales on account to that purchaser in the normal course of business.

b. For purposes of this paragraph, a sale “on account” refers to a sale where the dealer extends credit to the purchaser and records the debt as an account receivable, or where the dealer sells to a purchaser who has an established cash or cash on delivery (C.O.D.) account, similar to an “open credit account.”

c. For purposes of this paragraph, purchases are made from a selling dealer on a “continual basis” if the selling dealer makes sales to the purchaser no less frequently than once in every twelve-month period in the normal course of business.

(b) TRANSACTION RESALE AUTHORIZATION NUMBER ISSUED PRIOR TO OR AT THE POINT-OF-SALE – VALID FOR SINGLE TRANSACTION ONLY. In lieu of obtaining a signed copy of the purchaser’s Communications Services Tax Annual Resale Certificate for each tax-exempt sale made for the purposes of resale, the

selling dealer may obtain a Transaction Resale Authorization Number or a Vendor Resale Authorization Number from the Department.

1. A “transaction resale authorization number” must be obtained by the selling dealer prior to or at the point-of-sale by using the Department’s on-line Certificate Verification System at www.myflorida.com/dor/eservices or by calling the Department’s nationwide toll-free telephone verification system at (877)357-3725.

2. When using the Department’s on-line Certificate Verification System, the dealer may key up to five (5) purchaser’s communications services tax certificate/business partner numbers into the system. When using the Department’s automated nationwide toll-free verification system, the selling dealer is prompted to key in a single purchaser’s communications services tax certificate/business partner number. The system will either issue a 13-digit transaction resale authorization number or alert the selling dealer that the purchaser does not have a valid resale certificate. Selling dealers using the automated telephone verification system who do not have a touch-tone phone will be connected to a live operator during the hours of 8:00 a.m. to 7:00 p.m. (Eastern Time), Monday through Friday. Persons with hearing or speech impairments may call the Department’s TDD at (800)367-8331 or (850)922-1115.

3. A transaction resale authorization number is not valid to exempt subsequent resale purchases made by the same purchaser. A selling dealer must obtain a new transaction resale authorization number for each and every resale transaction.

4. The selling dealer must document the transaction resale authorization number on the sales invoice, purchase order, or a separate form that is prepared by either the purchaser or the selling dealer. The sales invoice, purchase order, or separate form must contain the following statement: “The purchaser hereby certifies that the communications services being purchased are for resale.” This statement must be followed by the signature of the purchaser. The signature may be obtained by the selling dealer through use of an electronic signature pad or other electronic method.

(c) VENDOR RESELL AUTHORIZATION NUMBER FOR REGULAR CUSTOMERS WHO HAVE PREVIOUSLY SUBMITTED DOCUMENTATION TO THE SELLING DEALER – VALID FOR CALENDAR YEAR ISSUED. In lieu of obtaining a Transaction Authorization Number or a signed copy of the purchaser’s valid Communications Services Tax Annual Resale Certificate for each tax-exempt sale made for the purposes of resale, the selling dealer may obtain a Vendor Resale Authorization Number from the Department. This option is available to selling dealers throughout the calendar year without limitation.

1. The “Vendor Resale Authorization Number” is a customer-specific authorization number that will be valid for all sales for resale made to a particular customer during the calendar year. When obtaining a Vendor Resale Authorization Number, the selling dealer must obtain a signed copy of the purchaser’s Communications Services Tax Annual Resale Certificate to document that the purchaser is authorized to make tax-exempt purchases for the purposes of resale. Once a Vendor Resale Authorization Number is obtained for that customer, the selling dealer is not required to obtain a Communications Services Tax Annual Resale Certificate from that customer each year.

2. To obtain vendor resale authorization numbers, the selling dealer must use the Department’s on-line Certificate Verification System at www.myflorida.com/dor/eservices. The system also allows the user to upload a batch file of up to 50,000 accounts for verification of a Communications Services Tax Annual Resale Certificate number and to, 24 hours later, retrieve the file containing the Vendor Authorization Numbers for sales made for the purposes of resale to each purchaser during the calendar year.

3. The selling dealer may make exempt sales for resale to a customer during the period in which the vendor resale authorization number for that customer is valid. Vendor resale authorization numbers are valid for the remainder of the calendar year during which they are issued. However, vendor resale authorization numbers issued by the Department in November or December shall be valid for the remainder of the current calendar year and for the next calendar year.

(7) BURDEN OF ESTABLISHING EXEMPT NATURE OF SALES FOR RESELL.

(a)(b) Copies of Communications Services Tax Annual Resale Certificates that are obtained after the sale from purchasers who were active registered dealers at the time of the sale and are submitted to the Department during an audit or subsequent informal protest period of the audit will be considered sufficient compliance with this rule.

(b)(e) A sale made to a person who was not an active registered dealer at the time of the sale is a retail sale, and the sale can never be considered a sale for resale. However, a selling dealer who accepts a signed copy of a Communications Services Tax Annual Resale Certificate that appears valid on its face will not be held liable for the tax on such transaction, if it is later determined that the purchaser was not an active registered dealer.

(d) A selling dealer may make sales for the purpose of resale to a purchaser who has previously provided a copy the purchaser’s current Communications Services Tax Annual Resale Certificate that is on file without seeking a new copy of the purchaser’s Communications Services Tax Annual Resale Certificate for each subsequent transaction during that calendar year. A selling dealer must obtain a new copy of the

~~purchaser's Communications Services Tax Annual Resale Certificate from its purchasers for sales made for the purpose of resale in subsequent calendar years.~~

~~(8)(7)~~ PROVISIONS APPLICABLE TO PURCHASING DEALERS.

(a) A signed copy of a Communications Services Tax Annual Resale Certificate may only be provided by an active registered dealer who holds a valid Communications Services Tax Certificate of Registration issued by the Department.

(b) A dealer whose Communications Services Tax Certificate of Registration has been revoked by the Department or whose registration has been inactivated or canceled is prohibited from providing copies of its Communications Services Tax Annual Resale Certificate in lieu of paying the tax due on its purchases of communications services. A dealer who provides a copy of its Communications Services Tax Annual Resale Certificate for any purchase after its Communications Services Tax Certificate of Registration has been revoked, inactivated, or canceled will be held liable for the tax, penalty, and interest on all such purchases.

(c) In the event that a purchasing dealer provides a copy of its Communications Services Tax Annual Resale Certificate to a selling dealer and subsequently consumes the communications services by not reselling the communications services, the purchasing dealer must pay all applicable communications services taxes directly to the Department with its first return due subsequent to the consumption of the communications services.

~~(9)(8)~~ REQUIRED RECORDS. A dealer is required to document the nature of sales made for the purpose of resale and is required to maintain copies of Communications Services Tax Annual Resale Certificates, Vendor Resale Authorization Numbers, Transaction Authorization Numbers, and receipts, invoices, billing statements, or other tangible evidence of such sales until the tax imposed by and administered under Chapter 202, F.S., may no longer be determined and assessed under Section 95.091(3), F.S. Electronic storage by a selling dealer of a signed copy of a purchaser's Communications Services Tax Annual Resale Certificate and other required documentation through use of imaging, microfiche, or other electronic storage media will be sufficient compliance with the provisions of this subsection.

Specific Authority 202.16(2), 202.26(3)(c), (d) FS. Law Implemented 202.11(3), (10), (11), 202.13(2), 202.16(2), (4), 202.17(6), 202.34(3), (4)(c) FS. History--New 1-31-02, Amended 7-16-06,_____.

NAME OF PERSON ORIGINATING PROPOSED RULE: 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

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Buzz McKown, Revenue Program Administrator II, Technical Assistance and Dispute Resolution, P. O. Box 7443, Tallahassee, Florida 32314-7443; telephone number (850)922-4721

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: January 15, 2008

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: The proposed amendments to Rule 12A-19.060, F.A.C. (Sales for the Purpose of Resale), were noticed in the Florida Administrative Weekly on October 12, 2007 (Vol. 33, No. 41, pp. 4729-4732). A rule development workshop was held on October 30, 2007. No one appeared to provide comment regarding these proposed rule changes. No written comments have been received by the Department.

DEPARTMENT OF REVENUE

Miscellaneous Tax

RULE NO.: 12B-4.014

RULE TITLE: Conveyances Not Subject to Tax

PURPOSE AND EFFECT: The purpose of the proposed amendments to Rule 12B-4.014, Florida Administrative Code (F.A.C.) (Conveyances Not Subject to Tax), is to remove the provision stating that a corrective deed is subject to minimum documentary stamp tax only if tax was paid on the original deed. This provision was determined by the circuit court in 46th Avenue Properties, Inc. v. Department of Revenue (6th Judicial Circuit, Case No. 01-9177 C1-19, Feb. 2, 2003) to be without authority. The effect of repealing this subsection is that when a corrective deed is filed, and tax was not correctly paid on the original deed, no additional tax is due on the corrective deed. Instead, tax remains due on the original deed.

SUMMARY: The amendments to Rule 12B-4.014, F.A.C. (Conveyances Not Subject to Tax), remove the provision stating that a deed filed to correct an error in a prior deed is subject to minimum documentary stamp tax only if the tax was paid on the original deed.

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

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

SPECIFIC AUTHORITY: 201.11, 213.06(1) FS.

LAW IMPLEMENTED: 201.022, 201.02 FS.

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

DATE AND TIME: February 20, 2008, 9:00 a.m.

PLACE: Room 118, Carlton Building, 501 South 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 IS: Tim Phillips, Tax Law Specialist, Technical Assistance and Dispute Resolution, Department of Revenue, P. O. Box 7443, Tallahassee, Florida 32314-7443, telephone (850)922-4724

THE FULL TEXT OF THE PROPOSED RULE IS:

12B-4.014 Conveyances Not Subject to Tax.

(1) through (2) No change.

~~(3) To Correct Error: Where a conveyance is made to correct a deficiency in a previous deed on which the tax has been paid, only minimum tax is required. (1933 Op. Att’y. Gen. Fla. 1933-34 Biennial Report, Page 50 (April 7, 1933); Letter from the Att’y. Gen. Fla. to State Comptroller (Dec. 10, 1962)).~~

(4) through (15) renumbered (3) through (14) No change.

Specific Authority 201.11, 213.06(1) FS. Law Implemented 201.01, 201.02 FS. History—Revised 8-18-73, Formerly 12A-4.14, Amended 2-21-77, 12-26-77, 12-23-80, Formerly 12B-4.14, Amended 12-5-89, 6-4-90, 2-13-91, 2-16-93, 10-18-94, 12-30-97, 1-4-01, _____.

NAME OF PERSON ORIGINATING PROPOSED RULE: Tim Phillips, Tax Law Specialist, Technical Assistance and Dispute Resolution, Department of Revenue, P. O. Box 7443, Tallahassee, Florida 32314-7443, telephone (850)922-4724

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Buzz McKown, Revenue Program Administrator II, Technical Assistance and Dispute Resolution, P. O. Box 7443, Tallahassee, Florida 32314-7443, telephone number (850)922-4721

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: January 15, 2008

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: The proposed amendments to Rule 12B-4.014, Florida Administrative Code (Conveyances Not Subject to Tax), were noticed in the Florida Administrative Weekly on September 21, 2007 (Vol. 33, No. 38, p. 4320). A rule development workshop was held on October 8, 2007. No one appeared to provide comment regarding these proposed rule changes. No written comments have been received by the Department.

BOARD OF TRUSTEES OF THE INTERNAL IMPROVEMENT TRUST FUND

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

DEPARTMENT OF CORRECTIONS

RULE NO.: 33-302.104
 RULE TITLE: Correctional Probation Officers Carrying Firearms

PURPOSE AND EFFECT: The purpose and effect of the proposed rule is to clarify deadlines for firearms training and qualification.

SUMMARY: The proposed rule provides for expiration of the weapon card on the last day of the month, one year from the date of issue, and requires that the officer successfully qualify annually thereafter in order to remain qualified to carry a firearm.

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

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

SPECIFIC AUTHORITY: 20.315, 790.06, 944.09 FS.

LAW IMPLEMENTED: 20.315, 790.06, 944.09 FS.

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

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Perri King Dale, Office of the General Counsel, Department of Corrections, 2601 Blair Stone Road, Tallahassee, Florida 32399-2500

THE FULL TEXT OF THE PROPOSED RULE IS:

33-302.104 Correctional Probation Officers Carrying Firearms.

(1) through (2) No change.

(3) Authorization Procedures.

(a) through (d) No change.

(e) The weapon card shall expire on the last day of the month, one year from the date of issue ~~twelve months after the date of the initial qualification unless written documentation of annual qualification is submitted to the authorizing entity prior to the expiration of the weapon card.~~ The officer shall be required to successfully qualify annually ~~within twelve months after the date of the initial qualification and every twelve months~~ thereafter in order to remain qualified to carry a firearm.

(f) ~~Annual qualification must occur prior to the employee's weapon card expiration month. The new weapon card will be issued effective the date of the annual qualification.~~ If the weapon card has expired and the officer has not attended annual training, the officer will need to reapply to carry a firearm and demonstrate proficiency by successfully qualifying with the specified firearm.

(g) through (11) No change.

Specific Authority 20.315, 790.06, 944.09 FS. Law Implemented 20.315, 790.06, 944.09 FS. History—New 5-28-86, Amended 7-7-92, 12-20-92, 3-30-94, 9-27-94, 12-19-94, 3-8-95, 2-15-98, Formerly 33-24.013, Amended 3-4-01, 12-4-01, 8-13-03, 6-24-04, 7-13-05,

NAME OF PERSON ORIGINATING PROPOSED RULE:

Bruce Grant, Assistant Secretary of Community Corrections

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE:

Laura E. Bedard, Ph.D., Deputy Secretary

DATE PROPOSED RULE APPROVED BY AGENCY HEAD:

November 26, 2007

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW:

December 21, 2007

DEPARTMENT OF CORRECTIONS

RULE NO.: 33-601.105
RULE TITLE: Restoration of Forfeited Gain Time
PURPOSE AND EFFECT: The purpose and effect of the proposed rules is to reflect disciplinary charges recently added to Rule 33-601.314, F.A.C.

SUMMARY: The rules are amended to include the disciplinary charges added to Rule 33-601.314, F.A.C.

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

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

SPECIFIC AUTHORITY: 944.09, 944.23, 944.275 FS.

LAW IMPLEMENTED: 20.315, 944.09, 944.23, 944.275, 944.28 FS.

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

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Jamie Leigh Jordan, Office of the General Counsel, Department of Corrections, 2601 Blair Stone Road, Tallahassee, Florida 32399-2500

THE FULL TEXT OF THE PROPOSED RULE IS:

33-601.105 Restoration of Forfeited Gain Time.
 Restoration of gain time as a positive management tool. Gain time that has been forfeited under the current commitment as a result of disciplinary action or revocation of parole, provisional release, supervised community release, conditional medical release, control release, or conditional release shall be subject to restoration when the restoration would produce the same or greater benefits as those derived from the forfeiture in the first place. Only those inmates whose adjustment and performance since their last disciplinary report or revocation of parole, provisional release, supervised community release, conditional medical release, control release, or conditional release has exceeded that which is required to comply with all the behavioral objectives are eligible for consideration. The restoration shall only be considered when the inmate has clearly performed positively over a period of time and it appears the inmate will continue this positive adjustment without further violating the rules of the department or the laws of the state and the inmate is serving that portion of the sentence which, but for the forfeiture of gain time, would have been completed.

(1) Eligibility.

(a) Restoration of gain time due to loss by disciplinary action:

1. through 3. No change.

4. The following groups of inmates shall not be eligible for restoration of forfeited gain time:

a. No change.

b. Inmates who have been found guilty of one of the following disciplinary offenses during their current commitment:

1-1 Assault or battery or attempted assault or battery with a deadly weapon;

1-2 Unarmed Assault, where a physical attack was made against department staff;

1-5 Sexual Battery;

1-7 Aggravated battery or attempted aggravated battery on a correctional officer;

1-8 Aggravated battery or attempted aggravated battery on staff other than correctional officer;

1-9 Aggravated battery or attempted aggravated battery on someone other than staff or inmates (vendor, etc.);

1-10 Aggravated battery or attempted aggravated battery on an inmate;

1-11 Aggravated assault or attempted aggravated assault on a correctional officer;

1-12 Aggravated assault or attempted aggravated assault on staff other than correctional officer;

1-13 Aggravated assault or attempted aggravated assault on someone other than staff or inmates (vendor, etc.);

1-14 Aggravated assault or attempted aggravated assault on an inmate;

- 1-15 Battery or attempted battery on a correctional officer;
- 1-16 Battery or attempted battery on staff other than correctional officer;
- 1-17 Battery or attempted battery on someone other than staff or inmates(vendor, etc.);
- 1-18 Battery or attempted battery on an inmate;
- 1-19 Assault or attempted assault on a correctional officer;
- 1-20 Assault or attempted assault on staff other than correctional officer;
- 1-21 Assault or attempted assault on someone other than staff or inmates(vendor, etc.);
- 1-22 Assault or attempted assault on an inmate;
- 2-1 Participating in riots, strikes, mutinous acts or disturbances;
- 3-1 Possession of weapons, ammunition, or explosives;
- 3-4 Trafficking in Drugs;
- 4-1 Escape or attempted escape.
- 5. through 6. No change.
- (b) No change.
- (2) No change.

Specific Authority 944.09, 944.275 FS. Law Implemented 944.09, 944.275, 944.28 FS. History—New 11-27-84, Formerly 33-11.15, Amended 10-12-89, 8-29-91, 10-13-93, Formerly 33-11.015, Amended 8-30-01, 4-30-02_____.

NAME OF PERSON ORIGINATING PROPOSED RULE:
John Hancock, Chief, Classification and Central Records
NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Laura E. Bedard, Ph.D., Deputy Secretary
DATE PROPOSED RULE APPROVED BY AGENCY HEAD: December 3, 2007
DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: December 14, 2007

DEPARTMENT OF CORRECTIONS

RULE NO.: 33-601.720
RULE TITLE: Sex Offender Visiting Restrictions
PURPOSE AND EFFECT: The purpose and effect of the proposed rules is to reflect disciplinary charges recently added to Rule 33-601.314, F.A.C.
SUMMARY: The rules are amended to include the disciplinary charges added to Rule 33-601.314, F.A.C.
SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS: No Statement of Estimated Regulatory Cost was prepared.
Any person who wishes to provide information regarding a statement of estimated regulatory costs, or provide a proposal for a lower cost regulatory alternative must do so in writing within 21 days of this notice.

SPECIFIC AUTHORITY: 944.09, 944.23, 944.275 FS.
LAW IMPLEMENTED: 20.315, 944.09, 944.23, 944.275, 944.28 FS.
IF REQUESTED WITHIN 21 DAYS OF THE DATE OF THIS NOTICE, A HEARING WILL BE SCHEDULED AND ANNOUNCED IN THE FAW.
THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Jamie Leigh Jordan, Office of the General Counsel, Department of Corrections, 2601 Blair Stone Road, Tallahassee, Florida 32399-2500

THE FULL TEXT OF THE PROPOSED RULE IS:

- 33-601.720 Sex Offender Visiting Restrictions.
- (1) through (2) No change.
- (3) The warden shall also consider the disciplinary history of the inmate when making the determination of whether to allow visitation. In order to be eligible to visit, an inmate must not have been found guilty of any of the following disciplinary charges in Rule 33-601.314, F.A.C., during the three months prior to the request for visitation:
 - (a) through (e) No change.
 - (f) 1-7 Aggravated battery or attempted aggravated battery on a correctional officer;
 - (g) 1-8 Aggravated battery or attempted aggravated battery on staff other than correctional officer;
 - (h) 1-9 Aggravated battery or attempted aggravated battery on someone other than staff or inmates (vendor, etc.);
 - (i) 1-10 Aggravated battery or attempted aggravated battery on an inmate;
 - (j) 1-11 Aggravated assault or attempted aggravated assault on a correctional officer;
 - (k) 1-12 Aggravated assault or attempted aggravated assault on staff other than correctional officer;
 - (l) 1-13 Aggravated assault or attempted aggravated assault on someone other than staff or inmates (vendor, etc.);
 - (m) 1-14 Aggravated assault or attempted aggravated assault on an inmate;
 - (n) 1-15 Battery or attempted battery on a correctional officer;
 - (o) 1-16 Battery or attempted battery on staff other than correctional officer;
 - (p) 1-17 Battery or attempted battery on someone other than staff or inmates (vendor, etc.);
 - (q) 1-18 Battery or attempted battery on an inmate;
 - (r) 1-19 Assault or attempted assault on a correctional officer;
 - (s) 1-20 Assault or attempted assault on staff other than correctional officer;
 - (t) 1-21 Assault or attempted assault on someone other than staff or inmates (vendor, etc.);

- (u) 1-22 Assault or attempted assault on an inmate;
- (f) through (q) renumbered (v) through (gg) No change.
- (4) through (6) No change.

Specific Authority 944.09, 944.23 FS. Law Implemented 20.315, 944.09, 944.23 FS. History--New 11-18-01, Amended 5-29-03, 9-29-03, 4-17-05,_____.

NAME OF PERSON ORIGINATING PROPOSED RULE:
John Hancock, Chief, Classification and Central Records
NAME OF SUPERVISOR OR PERSON WHO APPROVED
THE PROPOSED RULE: Laura E. Bedard, Ph.D., Deputy
Secretary
DATE PROPOSED RULE APPROVED BY AGENCY
HEAD: December 3, 2007
DATE NOTICE OF PROPOSED RULE DEVELOPMENT
PUBLISHED IN FAW: December 14, 2007

DEPARTMENT OF CORRECTIONS

RULE NO.: RULE TITLE:
33-602.220 Administrative Confinement
PURPOSE AND EFFECT: The purpose and effect of the
proposed rule is to amend form DC4-650, Observation
Checklist, to include Self Harm Observation Status and amend
the descriptive names of the items allowed or issued to inmates
in an observation status.

SUMMARY: Form DC4-650, Observation Checklist, is revised to include Self Harm Observation Status and amend the descriptive names of the items allowed or issued to inmates in an observation status.

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

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

SPECIFIC AUTHORITY: 944.09 FS.

LAW IMPLEMENTED: 944.09, 945.04 FS.

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

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Perri King Dale, Office of the General Counsel, Department of Corrections, 2601 Blair Stone Road, Tallahassee, Florida 32399-2500

THE FULL TEXT OF THE PROPOSED RULE IS:

- 33-602.220 Administrative Confinement.
- (1) through (10) No change.

(11) Forms. The following forms referenced in this rule are hereby incorporated by reference. A copy of any of these forms may be obtained from the Forms Control Administrator,

Office of Research, Planning and Support Services, Department of Corrections, 2601 Blair Stone Road, Tallahassee, Florida 32399-2500.

- (a) Form DC4-650, Observation Checklist, effective date _____ ~~3-5-06~~.

- (b) through (i) No change.

Specific Authority 944.09 FS. Law Implemented ~~20.315~~, 944.09, 945.04 FS. History--New 4-7-81, Amended 6-23-83, 3-12-84, Formerly 33-3.081, Amended 4-22-87, 8-27-87, 7-10-90, 12-4-90, 3-24-97, 4-26-98, 10-5-98, Formerly 33-3.0081, Amended 2-12-01, 2-5-02, 1-19-03, 4-1-04, 3-5-06, 10-31-06,_____.

NAME OF PERSON ORIGINATING PROPOSED RULE:
Dean Aufderheide, Ph.D., Mental Health Services Director
NAME OF SUPERVISOR OR PERSON WHO APPROVED
THE PROPOSED RULE: Laura E. Bedard, Ph.D., Deputy
Secretary
DATE PROPOSED RULE APPROVED BY AGENCY
HEAD: November 16, 2007
DATE NOTICE OF PROPOSED RULE DEVELOPMENT
PUBLISHED IN FAW: December 21, 2007

DEPARTMENT OF CORRECTIONS

RULE NO.: RULE TITLE:
33-603.201 Transfer of Inmates

PURPOSE AND EFFECT: The purpose and effect of the proposed rule is to delete unnecessary language from the rule concerning transport of inmates from one department facility to another.

SUMMARY: Unnecessary language concerning file transfer, search of transport vehicles, separate transport, restraints utilized during transport, use of trailing vehicles, vehicle supervision during stops, utilization of armed officers and security of firearms during transport is being removed from the rule as this information constitutes internal management memoranda and is more appropriately placed in non-rule internal staff instructions.

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

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

SPECIFIC AUTHORITY: 944.09 FS.

LAW IMPLEMENTED: 944.09 FS.

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

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Perri King Dale, Office of the General Counsel, Department of Corrections, 2601 Blair Stone Road, Tallahassee, Florida 32399-2500

THE FULL TEXT OF THE PROPOSED RULE IS:

33-603.201 Transfer of Inmates.

(1) For the purposes of this rule “transfer” shall mean the reassignment and movement of inmates from one institutional facility to another. “Transfer” does not include such movement as may be required for the normal operations of the Department such as outside trips sponsored by religious, Jaycee and Alcoholics Anonymous groups and trips by work and maintenance crews. ~~The institutional inmate record and all sub-files must accompany any inmate being routinely transferred between department facilities, except in emergency situations.~~ In emergency situations medical records will be transferred with the inmate except that in emergencies such as the evacuation of a facility, the medical records will be boxed together with all records going to one location and forwarded to the receiving institution(s) with the inmates or as soon as possible. In such emergencies, individual packaging of medical records is waived. ~~The institutional inmate record shall also accompany the inmate unless the inmate’s health and welfare would be jeopardized if the transfer were delayed for the amount of time required to obtain the record.~~ Local procedures shall be established to ensure that appropriate facility staff have access to the institutional inmate record during weekends, holidays, and after normal business hours. Such procedures shall ensure that the security of the record is not compromised and that accountability for the record is maintained in the event that access is required other than during normal working hours. Following an emergency transfer, all other sub-files, such as the visiting record, educational record, property record, etc., shall be forwarded by the sending facility within 72 hours following the transfer.

(2) through (5) No change.

~~(6) The vehicle shall be thoroughly searched and all security features inspected prior to boarding any inmates. Continuing checks shall be made periodically by transfer officer while en route. Vehicle inspection shall be conducted during the time the transfer vehicle is stopped prior to departing on or continuing a trip.~~

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

~~(8)(9) The Chief Health Officer may specify that an inmate who is mentally or physically ill be transferred separately from the general population inmates.~~ In addition, if there is any indication that an inmate who is to be transferred is not in good physical or mental condition, the transfer officer shall secure the advice of the institution physician before beginning the trip. Transfer of an inmate who is ill or injured shall be undertaken based on the advice of the Chief Health Officer on duty. The Chief Health Officer shall determine if medical staff are to accompany the inmate while being transferred. If he does decide that medical staff need to accompany the inmate, he must assign this staff.

~~(9)(10) In transferring any death row, close management, or disciplinary confinement inmate, or any inmate determined by the Chief of Security to be a high-risk inmate, the following shall be required:~~

~~(a) The inmate shall be restrained with handcuffs, waist chains with a C and S handcuff cover (black box), and leg irons and transferred in a secure caged vehicle. The driver shall be unarmed in order to handle inmates en route if necessary.~~

~~(b) The transfer vehicle shall be accompanied by a trailing escort vehicle driven by a well-armed officer. “Well-armed” shall mean possession of a semiautomatic rifle or shotgun.~~

~~(c) If several inmates are being transferred, the transfer vehicle shall have a second armed officer in attendance.~~

~~(a)(d) Communication between the two vehicles is essential and is required between both vehicles and the home station.~~

~~(e) The Chief of Security or shift supervisor is authorized to make individual exceptions to the assignment of a trailing escort vehicle for close management III and disciplinary confinement inmates.~~

~~(f) The reception centers shall be authorized to transport close management I, II, and III inmates in the secure caged area within a specially designed secure transfer bus without the necessity of a trailing escort vehicle.~~

~~(b)(g) Protective management inmates shall not be routinely transported on reception center transfer buses. Specific written instructions will be provided from the transportation section of the Bureau of Sentence Structure and Transportation.~~

~~(10)(11) No change.~~

~~(11)(12) If more than one officer is assigned to the transfer trip, at least one officer shall remain with the vehicle to provide supervision during stops. When there is only one officer, the vehicle must be parked in such a way that supervision can be provided for the vehicle and all inmates departing the vehicle. If stops occur within the secure confines of an institution and inmates remain on board the vehicle, the vehicle shall be parked so that the institution can provide proper supervision before the transfer officer leaves the vehicle.~~

~~(12)(13) Manpower requirements shall vary depending upon the mode of transfer, the distance to be traveled and the type and number of inmates. Each situation must be thoroughly evaluated by the Chief of Security or shift supervisor prior to departure and appropriate personnel assigned. A minimum of one armed correctional officer shall be assigned when there are close custody inmates to transfer except when special approval is received from the Director of Institutions. At all times there must be at least one officer of the same sex as that of the inmate present during the transferring of medium, close, or maximum custody inmates. There shall be no gender restrictions regarding the transfer of community or minimum custody inmates. Community or minimum custody inmates do not require restraints unless they are being transferred with~~

close custody inmates or pose a security risk; however, there shall be an adequate number of officer escorts to provide appropriate supervision.

(14) Standard restraint equipment for the normal situation will be handcuffs and a restraint chain. Except as specifically outlined below, additional restraints, such as waist chains with a C and S handcuff cover (black box) and leg irons, shall be necessary when transferring death row and close custody inmates, inmates who are extreme escape risks, inmates with serious assaultive tendencies, or any inmate determined by the Chief of Security to be a high security risk. Being legally responsible for the custody of inmates, the transfer officer in charge has the authority to apply restraints to community custody inmates and additional restraints to medium or minimum custody inmates when he or she determines that such is necessary to ensure security.

(a) When inmates are transferred within the state from one secure perimeter to another secure perimeter and a specially designed secure transfer bus is used, inmates may be restrained with leg irons only. Death row, closed management, and high-risk inmates will require restraints as noted in subsection (10) above during any transport.

(b) Each medium custody inmate who is not being transferred from one secure perimeter to another secure perimeter in a specially designed secure transfer bus shall be restrained with a minimum of handcuffs. Close custody inmates will require a waist chain with a C and S handcuff cover (black box) and leg irons under these circumstances. The restraints shall be applied prior to leaving the secure perimeter. The restraints shall not be removed until the inmate is returned to a secure perimeter unless circumstances require their removal, that is, federal appearances or medical visits.

(c) Use of restraint equipment, except for death row inmates, will not be required at Reception Centers for any transport on state property provided that a specially designed secure transfer bus is used; i.e., from a Reception Center Main Unit to a Reception Center annex that is not separated by property not belonging to the Department of Corrections.

(d) During any transport, the level of restraints applied will be commensurate with the highest custody grade being transported.

(e) During prenatal and postpartum periods, female inmates will not be restrained with their hands behind the back nor will leg irons be utilized due to the possibility of a fall. Waist chains with the C and S handcuff cover (black box) will not be worn when there is any danger of causing harm to the inmate or fetus.

(13)(f) Female inmates, when being transferred on the same vehicle as male inmates, shall be physically separated from the male inmates by security screens and other security measures.

(g) All restraint equipment shall be double-locked.

(h) An inmate shall not be handcuffed behind his or her back or handcuffed to a stationary object in a moving vehicle.

(14)(i) A reasonable number of stops shall be made in order for inmates to utilize toilet facilities. Proper security shall be provided inmates when utilizing toilet facilities on or off the transfer vehicle.

(15) An Electronic Restraint Belt may be used in cases involving high profile transports outside the secure perimeter of an institution where in the judgment of the security staff the use of the belt is warranted. Prior to usage of the Electronic Restraint Belt, written, signed approval must be obtained from the Office of Institutions, Bureau Chief of Security Operations.

(15)(16) Because the carrying of firearms in the transferring of inmates is extremely hazardous, in those instances where it is advisable for firearms to be carried, such equipment must be kept in a secure place or on the person of an officer who will not come in direct contact with an inmate during the entire trip. Firearms shall not be carried by any of the escorting officers while in a car, plane or train unless the inmate is securely restrained and positive precautionary measures have been taken that will preclude contact between inmates and the armed officer. Use of firearms shall be in accordance with Rule 33-602.210, F.A.C.

(17) through (19) renumbered (16) through (18) No change.

Specific Authority 944.09 FS. Law Implemented 944.09 FS. History—New 7-12-86, Amended 5-21-92, 1-6-94, 2-12-97, 11-8-98, Formerly 33-7.009, Amended 8-28-01, _____.

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

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Laura E. Bedard, Ph.D., Deputy Secretary

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: December 12, 2007

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: December 28, 2007

WATER MANAGEMENT DISTRICTS

Southwest Florida Water Management District

RULE NO.: 40D-1.603 RULE TITLE: Permit Application Procedures

PURPOSE AND EFFECT: The purpose of this rule amendment is to clarify that in order to be considered as timely, an application to renew a permit must be received by the District not later than the expiration date of the permit to be renewed. The effect will be to clarify when permit renewal applications must be received in order to avoid having a permit expire.

SUMMARY: Rule 40D-1.603, F.A.C., is amended to establish a uniform procedure for addressing late filings of applications to renew water use permits. Similar amendments are also being

made to Rule 40D-2.361, F.A.C., and Section 1.11 of the District's Water Use Permit Information Manual Part B, "Basis of Review" (BOR). The amendment clarifies that, in order to be considered as timely filed, an application to renew a water use permit must be received by the District not later than the expiration date of the existing permit. Minor additional amendments are also proposed to correct typographical errors.

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

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

SPECIFIC AUTHORITY: 373.044, 373.113, 373.118 FS.

LAW IMPLEMENTED: 373.116, 373.118, 373.229, 373.413, 120.60(4) FS.

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

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Martha A. Moore, Senior Attorney, Office of General Counsel, 2379 Broad Street, Brooksville, FL 34604-6899, (352)796-7211, extension 4651

THE FULL TEXT OF THE PROPOSED RULE IS:

40D-1.603 Permit Application Procedures.

(1) No change.

(2) No later than 30 days after receipt of an initial application or modification of an application for modification of an individual surface water management permit, an individual Environmental Resource Permit or an initial application or application for renewal or modification of an individual water use permit ~~application~~ for withdrawals of 500,000 gpd annual average daily or greater pursuant to Chapter 40D-2, F.A.C., the District shall publish notice thereof in a newspaper having general circulation as defined in Chapter 50, F.S. Upon receipt of an application for an initial or modification of a general Environmental Resource Permit pursuant to Chapter 40D-40, F.A.C., a general surface water management permit pursuant to Chapter 40D-40, F.A.C., (January 11, 1993) or a noticed general surface water management permit pursuant to Chapter 40D-400, F.A.C., or for an initial application or application for renewal or modification of a general water use permit for less than 500,000 gpd annual average daily pursuant to Chapter 40D-2, F.A.C., the District shall post notice thereof in the District's headquarters and in each of the District's service offices. In the event that after posting of notice an application for a general permit is modified such that it is an application for an individual permit, notice of the application shall be published in a newspaper as provided above. In addition, the District shall provide a letter giving notice of receipt of the application

to any person who has filed a written request within the immediately preceding six months for notification of any pending applications affecting the particular designated area. Each notice and letter shall state that interested persons shall have the opportunity to inspect a copy of the application and submit written comments concerning the application. The District may request persons submitting objections or comments to furnish additional information. In addition, each notice and letter will advise that if notice of agency action or opportunity to request an administrative hearing pursuant to Chapter 120, F.S., regarding a permit application is desired, a written request referencing the permit application number must be filed with and received by the Processing and Records Section by the date specified in the letter, newspaper notice or the posted notice as applicable pursuant to this subsection. The date specified in such notice or letter to obtain notice of agency action or to request a hearing shall be no less than ~~that~~ 14 days from the date of mailing, publication or posting as applicable. Upon request, the District will provide the applicant with a copy of all objections and comments received.

(3) through (7) No change.

(8) Applicants who seek to renew a permit must submit a timely and sufficient application for renewal in order to avoid expiration of the permit. Application for renewal of a permit is timely only if actually received by the District not later than the expiration date of the existing permit. Mailing the application does not constitute receipt by the District. When timely and sufficient application for renewal is made, the existing permit shall not expire until the application for renewal has been finally acted upon by the District, or if the permit is denied or the terms of the permit are limited, until the last day for seeking review of the District action or a later date fixed by order of the reviewing court.

Specific Authority 373.044, 373.113, 373.118 FS. Law Implemented 373.116, 373.118, 373.229, 373.413, 120.60(4) FS. History—New 10-1-84, Amended 5-10-88, 12-22-94, 10-19-95, 3-31-96, 12-16-97, 7-2-98, 7-22-99, 11-8-00, 9-26-02, 12-24-07, _____.

NAME OF PERSON ORIGINATING PROPOSED RULE: Martha A. Moore, Senior Attorney, Office of General Counsel, 2379 Broad Street, Brooksville, FL 34604-6899, (352)796-7211, extension 4651

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Southwest Florida Water Management District Governing Board

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: November 26, 2007

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: December 7, 2007

WATER MANAGEMENT DISTRICTS

Southwest Florida Water Management District

RULE NOS.: RULE TITLES:
 40D-1.607 Permit Processing Fee
 40D-1.659 Forms and Instructions

PURPOSE AND EFFECT: The purpose of this rulemaking is to incorporate by reference a new Environmental Resource Permit (ERP) Modification Short Form application form to be used instead of a letter for applicants seeking certain minor modifications to ERPs. The effect will be to standardize the application process for certain minor ERP modifications. Additional amendments are made to Rule 40D-1.607, F.A.C., to replace the term “renewal” with the term “extension.”

SUMMARY: The District is adopting a new Modification Short Form application form to be used in requesting certain minor modifications to Environmental Resource Permits, which modifications were previously made by submittal of a letter explaining the desired modification. The new form will standardize the minor modification process. Minor amendments are also made to Rule 40D-1.607, F.A.C., to reference the Modification Short Form and to replace the term “renewal” with the term “extension” when reference is made to applications seeking a permit “extension.”

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

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

SPECIFIC AUTHORITY: 373.044, 373.113, 373.149, 373.171, 373.337 FS.

LAW IMPLEMENTED: 373.109, 373.116, 373.206, 373.207, 373.209, 373.216, 373.219, 373.229, 373.239, 373.306, 373.308, 373.309, 373.313, 373.323, 373.324, 373.413, 373.414, 373.416, 373.419, 373.421, 373.421(2) FS.

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

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULES IS: Martha A. Moore, Senior Attorney, Office of General Counsel, 2379 Broad Street, Brooksville, FL 34604-6899, (352)796-7211, extension 4651

THE FULL TEXT OF THE PROPOSED RULES IS:

40D-1.607 Permit Processing Fee.

A permit application processing fee is required and shall be paid to the District when certain applications are filed pursuant to District rules. These fees are assessed in order to defray the cost of evaluating, processing, advertising, mailing, compliance monitoring and inspection, required in connection with consideration of such applications. Fees are

non-refundable in whole or part unless the activity for which an application is filed is determined by the District to qualify for a permit with a lower fee or not require a permit. Failure to pay the application fees established herein is grounds for the denial of an application or revocation of a permit. The District’s permit application processing fees are as follows:

- (1) through (2) No change.
- (3) The following types of applications are exempt from the fees identified in subsection (1):
 - (a) No change.
 - (b) ~~LETTER PERMIT MODIFICATIONS USING MODIFICATION SHORT FORM~~: Applications for ~~letter~~ permit modifications using the Modification Short Form authorized pursuant to paragraph 40D-4.331(2)(b) or subsection 40D-40.331(2), F.A.C.
 - (c) through (f) No change.
 - (4) through (7) No change.

(8) The following types of applications are exempt from the fees identified in subsection (7):

- (a) ~~LETTER PERMIT MODIFICATIONS USING MODIFICATION SHORT FORM~~: Applications for ~~letter~~ permit modifications using the Modification Short Form authorized pursuant to paragraph 40D-2.331(2)(b), F.A.C.
- (9) through (10) No change.

(11) Chapter 40D-40, F.A.C., general site conditions assessment permit:

- (a) through (b) No change.
- (c) Application for formal modification of an existing site conditions assessment permit by adjustment, expansion, transfer, extension ~~renewal~~, or conversion to a Chapter 40D-4 or 40D-40, F.A.C., construction and operation permit:

1. For adjustment, expansion, transfer or extension ~~renewal~~ of contiguous project area and permitting of the same or additional site condition boundaries, one-half the basic fee applicable to a new application;

2. No change.

Specific Authority 373.044, 373.113, 373.149, 373.171 FS. Law Implemented 373.109, 373.421(2) FS. History—Readopted 10-5-74, Amended 12-31-74, 10-24-76, 7-21-77, Formerly 16J-0.111, Amended 10-1-88, 1-22-90, 12-27-90, 11-16-92, 1-11-93, 3-23-94, Formerly 40D-0.201, Amended 12-22-94, 10-19-95, 3-31-96, 7-23-96, 10-16-96, 10-26-00, 3-15-01, 9-26-02, 8-7-03, 6-5-05, 2-6-07,_____.

40D-1.659 Forms and Instructions.

The following forms and instructions have been approved by the Governing Board and are incorporated by reference into this chapter. Copies of these forms may be obtained from the District.

GROUND WATER

- (1) through (25) No change.

SURFACE WATER

Application for Permit — Used for Docks or Piers and Bulkheads

(1) through (14) No change.

(15) ENVIRONMENTAL RESOURCE PERMIT MODIFICATION SHORT FORM, FORM NO. LEG-R.013.00

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Specific Authority 373.044, 373.113, 373.149, 373.171, 373.337 FS. Law Implemented 373.116, 373.206, 373.207, 373.209, 373.216, 373.219, 373.229, 373.239, 373.306, 373.308, 373.309, 373.313, 373.323, 373.324, 373.413, 373.414, 373.416, 373.419, 373.421 FS. History—New 12-31-74, Amended 10-24-76, Formerly 16J-0.40, 40D-1.901, 40D-1.1.901, Amended 12-22-94, 5-10-95, 10-19-95, 5-26-96, 7-23-96, 2-16-99, 7-12-99, 7-15-99, 12-2-99, 5-31-00, 9-3-00, 10-26-00, 6-26-01, 11-4-01, 6-12-02, 8-25-02, 2-26-03, 9-14-03, 9-30-04, 2-1-05, 6-5-05, 10-19-05, 2-6-07, 2-26-07, 9-27-07, 1-11-07, 11-25-07, 1-8-08,_____.

NAME OF PERSON ORIGINATING PROPOSED RULE: Martha A. Moore, Senior Attorney, Office of General Counsel, 2379 Broad Street, Brooksville, FL 34604-6899, (352)796-7211, extension 4651

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Martha A. Moore, Senior Attorney, Office of General Counsel, 2379 Broad Street, Brooksville, FL 34604-6899, (352)796-7211, extension 4651

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: November 26, 2007

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: December 14, 2007

WATER MANAGEMENT DISTRICTS

Southwest Florida Water Management District

RULE NO.: 40D-1.659
 RULE TITLE: Forms and Instructions

PURPOSE AND EFFECT: The purpose of this rulemaking is to incorporate by reference a revised Supplemental Form that is submitted as part of a Water Use Permit application for withdrawals located within the Southern Water Use Caution Area of the District. The effect will be to eliminate the requirement to attach an Alternative Water Supply Feasibility Report as part of the documentation submittal requirements for completing applications to renew or modify small general water use permits (withdrawals of less than 100,000 gallons per day on an annual average basis), provided the applicant certifies that use of alternative water supplies is not feasible.

SUMMARY: Rule 40D-1.659, F.A.C., incorporates by reference a revised Supplemental Form to be used for all Water Use Permit applications for water withdrawals located or to be located within the Southern Water Use Caution Area of the District. The revised form eliminates the requirement to attach an Alternative Water Supply Feasibility Report for those applicants seeking to modify or renew existing small general water use permits (withdrawals of less than 100,000 gallons

per day on an annual average basis). Instead, such applicants will be required to certify that consideration has been given to using alternative water supplies, and that specific types of alternative water supplies are not technically, economically or environmentally feasible as a source of water for the intended use.

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

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

SPECIFIC AUTHORITY: 373.044, 373.113, 373.149, 373.171, 373.337 FS.

LAW IMPLEMENTED: 373.116, 373.206, 373.207, 373.209, 373.216, 373.219, 373.229, 373.239, 373.306, 373.308, 373.309, 373.313, 373.323, 373.324, 373.413, 373.414, 373.416, 373.419, 373.421 FS.

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

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Martha A. Moore, Senior Attorney, Office of General Counsel, 2379 Broad Street, Brooksville, FL 34604-6899, (352)796-7211, extension 4651

THE FULL TEXT OF THE PROPOSED RULE IS:

40D-1.659 Forms and Instructions.

The following forms and instructions have been approved by the Governing Board and are incorporated by reference into this chapter. Copies of these forms may be obtained from the District.

GROUND WATER

(1) through (20) No change.

(21) SUPPLEMENTAL FORM – SOUTHERN WATER USE CAUTION AREA, FORM NO. LEG-R.007.010 (11/07) (09/07)

(22) through (25) No change.

SURFACE WATER

Application for Permit — Used for Docks or Piers and Bulkheads

(1) through (14) No change.

Specific Authority 373.044, 373.113, 373.149, 373.171, 373.337 FS. Law Implemented 373.116, 373.206, 373.207, 373.209, 373.216, 373.219, 373.229, 373.239, 373.306, 373.308, 373.309, 373.313, 373.323, 373.324, 373.413, 373.414, 373.416, 373.419, 373.421 FS. History—New 12-31-74, Amended 10-24-76, Formerly 16J-0.40, 40D-1.901, 40D-1.1.901, Amended 12-22-94, 5-10-95, 10-19-95, 5-26-96, 7-23-96, 2-16-99, 7-12-99, 7-15-99, 12-2-99, 5-31-00, 9-3-00, 10-26-00, 6-26-01, 11-4-01, 6-12-02, 8-25-02, 2-26-03, 9-14-03, 9-30-04, 2-1-05, 6-5-05, 10-19-05, 2-6-07, 2-26-07, 9-27-07, 11-11-07, 11-25-07, 1-8-08,_____.

NAME OF PERSON ORIGINATING PROPOSED RULE: Martha A. Moore, Senior Attorney, Office of General Counsel, 2379 Broad Street, Brooksville, FL 34604-6899, (352)796-7211, extension 4651
NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Southwest Florida Water Management District Governing Board
DATE PROPOSED RULE APPROVED BY AGENCY HEAD: November 26, 2007
DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: December 14, 2007

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Martha A. Moore, Senior Attorney, Office of General Counsel, 2379 Broad Street, Brooksville, FL 34604-6899, (352)796-7211, extension 4651

THE FULL TEXT OF THE PROPOSED RULE IS:

40D-1.659 Forms and Instructions.

The following forms and instructions have been approved by the Governing Board and are incorporated by reference into this chapter. Copies of these forms may be obtained from the District.

GROUNDWATER

(1) through (25) No change.

SURFACE WATER

(1) through (14) No change.

OTHER

(1) ELECTRONIC TRANSACTION AGREEMENT FORM LEG-R.014.00 ()

Specific Authority 373.044, 373.113, 373.149, 373.171, 373.337 FS. Law Implemented 373.116, 373.206, 373.207, 373.209, 373.216, 373.219, 373.229, 373.239, 373.306, 373.308, 373.309, 373.313, 373.323, 373.324, 373.413, 373.414, 373.416, 373.419, 373.421, 668.50 FS. History--New 12-31-74, Amended 10-24-76, Formerly 16J-0.40, 40D-1.901, 40D-1.1.901, Amended 12-22-94, 5-10-95, 10-19-95, 5-26-96, 7-23-96, 2-16-99, 7-12-99, 7-15-99, 12-2-99, 5-31-00, 9-3-00, 10-26-00, 6-26-01, 11-4-01, 6-12-02, 8-25-02, 2-26-03, 9-14-03, 9-30-04, 2-1-05, 6-5-05, 10-19-05, 2-6-07, 2-26-07, 9-27-07, 11-11-07, 11-25-07, 1-8-08.

WATER MANAGEMENT DISTRICTS

Southwest Florida Water Management District

RULE NO.: 40D-1.659
RULE TITLE: Forms and Instructions

PURPOSE AND EFFECT: The purpose of this rule amendment is to incorporate by reference an Electronic Transaction Agreement form approved by the District Governing Board. The effect will be to establish the standard procedures to be used by persons who wish to communicate electronically with the District.

SUMMARY: As the District expands its electronic permitting capability, it becomes necessary to establish standard procedures for persons who wish to submit permit applications electronically and to communicate electronically concerning their applications and permits once issued. The Electronic Transaction Agreement adopted by the District sets forth the basic procedures for conducting electronic communications with the District. These procedures address what constitutes an electronic signature, how payments are made electronically, when a transmittal is considered "received" by the District, responsibilities for transmission errors and e-mail addresses, and when notices will be sent by e-mail. Rule 40D-1.659, F.A.C., is amended to incorporate by reference the Electronic Transaction Agreement.

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

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

SPECIFIC AUTHORITY: 373.044, 373.113, 373.149, 373.171, 373.337 FS.

LAW IMPLEMENTED: 373.116, 373.206, 373.207, 373.209, 373.216, 373.219, 373.229, 373.239, 373.306, 373.308, 373.309, 373.313, 373.323, 373.324, 373.413, 373.414, 373.416, 373.419, 373.421, 668.50 FS.

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

NAME OF PERSON ORIGINATING PROPOSED RULE: Martha A. Moore, Senior Attorney, Office of General Counsel, 2379 Broad Street, Brooksville, FL 34604-6899, (352)796-7211, extension 4651

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Southwest Florida Water Management District Governing Board

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: November 26, 2007

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: December 7, 2007

WATER MANAGEMENT DISTRICTS

Southwest Florida Water Management District

RULE NO.: 40D-2.091
RULE TITLE: Publications Incorporated by Reference

PURPOSE AND EFFECT: The purpose of this rule amendment is to incorporate by reference a revised Water Use Permit Information Manual, Part B, "Basis of Review" (BOR). The effect will be to delete former BOR subsection 1.14 Permit Compliance, which describes an outdated permit compliance process.

SUMMARY: The District’s Water Use Permit Information Manual Part B, Basis of Review (BOR), sets forth the guidelines by which the District issues and administers water use permits. Section 1.14 of the BOR describes an outdated compliance process as it existed when the BOR was first developed. Current compliance procedures are more adaptable to specific circumstances and allow District staff to respond to the specialized needs of permittees and changing climatic conditions. The District is proposing to delete Section 1.14 from the BOR. Rule 40D-2.091, F.A.C. is amended to incorporate by reference the revised BOR.

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

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

SPECIFIC AUTHORITY: 373.044, 373.113, 373.118, 373.171 FS.

LAW IMPLEMENTED: 373.036, 373.0361, 373.042, 373.0421, 373.0831, 373.116, 373.117, 373.118, 373.149, 373.171, 373.1963, 373.216, 373.219, 373.223, 373.229, 373.239, 373.243 FS.

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

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Martha A. Moore, Senior Attorney, Office of General Counsel, 2379 Broad Street, Brooksville, FL 34604-6899, (352)796-7211, extension 4651

THE FULL TEXT OF THE PROPOSED RULE IS:

40D-2.091 Publications Incorporated by Reference.

The following publications are hereby incorporated by reference into this Chapter, and are available from the District upon request:

(1) Water Use Permit Information Manual Part B, “Basis of Review” (_____) (~~10/07~~) and Part D, “Requirements for the Estimation of Permanent and Temporal Service Area Populations in the Southern Water Use Caution Area” (1/07);

(2) through (5) No change.

Specific Authority 373.044, 373.113, 373.118, 373.171 FS. Law Implemented 373.036, 373.0361, 373.042, 373.0421, 373.0831, 373.116, 373.117, 373.118, 373.149, 373.171, 373.1963, 373.216, 373.219, 373.223, 373.229, 373.239, 373.243 FS. History—New 10-1-89, Amended 11-15-90, 2-10-93, 3-30-93, 7-29-93, 4-11-94, 7-15-98, 7-28-98, 7-22-99, 12-2-99, 8-3-00, 9-3-00, 4-18-01, 4-14-02, 9-26-02, 1-1-03, 2-1-05, 10-19-05, 1-1-07, 8-23-07, 10-1-07, 10-22-07, 11-25-07, _____.

Water Use Permit Information Manual
Part B, Basis of Review

~~1.14 PERMIT COMPLIANCE~~

~~Pumpage in excess of the amount permitted is a violation of the permit. The District generally addresses this violation according to the following procedures.~~

~~If over pumpage is reported, District staff will request that the Permittee provide written explanation of the over pumpage, which will be placed in the permit file. If the Permittee demonstrates that the recurrence of over pumpage is unlikely and no adverse impacts have occurred, no action will be taken.~~

~~If the District determines that the Permittee is likely to need an increase in the quantity permitted, the Permittee must submit an application for modification of the permit. If the Permittee continues to exceed the quantities permitted without obtaining a modification, the District may then take appropriate enforcement action. If the permit is due for renewal within 1 year of the violation, and no adverse impacts are expected as a result of the over pumpage, the modification may be addressed at renewal. Agricultural water use quantities are determined using the District’s agricultural water use model. The permitted quantities derived from this model are based on a 2-in-10 year drought occurrence. It is therefore anticipated that, because of varying climatic conditions and other factors, an agricultural permittee’s water use may vary both below, and occasionally above, the permitted quantity. These factors will be taken into consideration when comparing actual use with permitted quantities.~~

~~Repealed _____.~~

NAME OF PERSON ORIGINATING PROPOSED RULE: Martha A. Moore, Senior Attorney, Office of General Counsel, 2379 Broad Street, Brooksville, FL 34604-6899, (352)796-7211, extension 4651

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Southwest Florida Water Management District Governing Board

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: November 26, 2007

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: December 7, 2007

WATER MANAGEMENT DISTRICTS

Southwest Florida Water Management District

RULE NO.:	RULE TITLE:
40D-2.091	Publications Incorporated by Reference

PURPOSE AND EFFECT: The purpose of these rule amendments is to incorporate by reference a revised Water Use Permit Information Manual Part B, “Basis of Review” (BOR). The effect of the amendments made to the BOR will be to reduce the documentation required to be submitted in support of water use permit renewal and modification applications

involving small general permits (withdrawals of less than 100,000 gallons per day on an annual average basis), where the documentation has previously been submitted or is documented in District records and all conditions for issuance as established for the previously issued permit or permit revision continue to be met.

SUMMARY: As part of the District's effort to expand electronic permitting capabilities for Water Use Permits, application forms are being streamlined to facilitate electronic application processing. Based upon a review of existing permitting requirements and procedures, much of the information necessary to process applications to modify or renew small general (withdrawals of less than 100,000 gallons per day on an annual average basis) water use permits is already contained in District files and is accessible through the new electronic recordkeeping systems. Therefore, amendments are proposed to Sections 2.1, 3.0 and 4.0 of the District's Water Use Permit Information Manual Part B, "Basis of Review" (BOR), to provide that permittees seeking to modify or renew a small general water use permit need not submit with their application certain documentation, provided that the documentation has previously been submitted or is documented in District records and the applicant's water use needs have not changed or the information has not changed since the previously issued permit. Rule 40D-2.091, F.A.C., is amended to incorporate by reference the revised BOR. The adoption of these amendments will help streamline the permitting process for the renewal or modification of small general water use permits, which have minimal adverse impact on the water resources of the District, and will facilitate electronic processing for such permit applications.

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

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

SPECIFIC AUTHORITY: 373.044, 373.113, 373.118, 373.171 FS.

LAW IMPLEMENTED: 373.036, 373.0361, 373.042, 373.0421, 373.0831, 373.116, 373.117, 373.118, 373.149, 373.171, 373.1963, 373.216, 373.219, 373.223, 373.229, 373.239, 373.243 FS.

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

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Martha A. Moore, Senior Attorney, Office of General Counsel, 2379 Broad Street, Brooksville, FL 34604-6899, (352)796-7211, extension 4651

THE FULL TEXT OF THE PROPOSED RULE IS:

40D-2.091 Publications Incorporated by Reference.

The following publications are hereby incorporated by reference into this Chapter, and are available from the District upon request:

(1) Water Use Permit Information Manual Part B, "Basis of Review" (_____) (~~10/07~~) and Part D, "Requirements for the Estimation of Permanent and Temporal Service Area Populations in the Southern Water Use Caution Area" (1/07);

(2) through (5) No change.

Specific Authority 373.044, 373.113, 373.118, 373.171 FS. Law Implemented 373.036, 373.0361, 373.042, 373.0421, 373.0831, 373.116, 373.117, 373.118, 373.149, 373.171, 373.1963, 373.216, 373.219, 373.223, 373.229, 373.239, 373.243 FS. History—New 10-1-89, Amended 11-15-90, 2-10-93, 3-30-93, 7-29-93, 4-11-94, 7-15-98, 7-28-98, 7-22-99, 12-2-99, 8-3-00, 9-3-00, 4-18-01, 4-14-02, 9-26-02, 1-1-03, 2-1-05, 10-19-05, 1-1-07, 8-23-07, 10-1-07, 10-22-07, 11-25-07, 12-24-07, _____.

WATER USE PERMIT INFORMATION MANUAL PART B, BASIS OF REVIEW

1.4.1 SWUCA APPLICATION FORMS

All Permit Applicants in the SWUCA shall submit the "Supplemental Form – Southern Water Use Caution Area," Form No. LEG-R.007.01 (11/07) ~~LEG-R.007.00(06/07)~~ in addition to the appropriate application and supplemental form(s) described in section 1.4, above. Applicants for public supply quantities of 100,000 gallons per day or more, including water imported wholesale, shall submit the "Public Supply Supplemental Form – Southern Water Use Caution Area," Form No. LEG-R.012.00 (06/07). Permit Applicants in the SWUCA shall also submit the following application and supplemental forms appropriate for their situation and intended water use type as described in Chapters 3 and 4 of Part B of this "Basis of Review for Water User Permit Applications" (_____), of the Water Use Permitting Manual:

1. through 3. No change.

New 6-26-07, Amended (_____)

2.1 APPLICANT CONTROL OF PROPERTY AND ACTIVITIES

1. Applicants must demonstrate ownership or legal control of all property on which pumps, wells, diversions or other water withdrawal facilities are or will be located. Applicants seeking renewal or modification of a water use permit authorizing withdrawals of less than 100,000 gpd on an annual average basis will not be required to demonstrate continued ownership or legal control, provided current property appraiser records confirm that there is no change in property ownership or control from what is documented in District records for the permit to be renewed or modified. Except for Self-Relocations as described below, applications for leased property, except property leased from the District, must be either a joint application in the name of the lessee and the property owner(s) or be only in the name of the property owner(s). If there are multiple property owners, all owners must sign the permit

application form or sign an attachment to the permit application form indicating their joinder in the permit application, and all property owners will be permittees on the water use permit, when issued. In the case of an application for Self-Relocation, a permit may be issued solely to the lessee if the lessee and the permittee on the permit to be Self-Relocated are identical. For related rules on this issue, see Rules 40D-1.6105, 40D-2.351, and 40D-2.381(3)(p) and (q), F.A.C., and Section 1.10 and 6.1, Basis of Review for Water Use Permit Applications.

2. through 5. No change.

Amended 1-1-07, (_____).

3.0 REASONABLE WATER NEEDS

This section describes the factors involved in determining appropriate permit quantities for a particular water use. The quantity of water needed is a function of demand for water, efficiency of the water treatment and distribution systems, water acquired from other sources, water sold or transferred to other entities, and conservation practices employed. Section 3.1 describes the factors to consider in determining the appropriate quantities. Section 3.2 describes the units in which the quantities are identified on the permit. The remaining sections (3.3 through 3.7) describe the procedures for estimating water needs using the components of demand for each water use type. The information to be provided by permit applicants as described in this Chapter is required for all new water use permits and for renewal or modification of all existing water use permits, with the exception that applicants seeking to renew or modify water use permits authorizing withdrawal quantities of less than 100,000 gallons per day on an annual average basis will not be required to submit documentation with their application if the documentation requested has previously been submitted or the information is documented in District records and the applicant’s water use needs have not changed since the previously issued permit or permit revision.

4.0 CONDITIONS FOR ISSUANCE – TECHNICAL CRITERIA

Section 373.223, Florida Statutes (F.S.), provides a three-prong test for evaluating each proposed water use: the use must be reasonable and beneficial, must not interfere with any existing legal use of water, and must be consistent with the public interest. Reasonable assurances that water use on both an individual and cumulative basis meets this three-prong test is provided by the Applicant’s compliance with the Conditions for Issuance, set forth in Rule 40D-2.301, Florida Administrative Code (F.A.C.).

This Chapter provides guidelines for determining whether a water use meets the Conditions for Issuance set forth in Rule 40D-2.301, F.A.C. If the criteria described in this Chapter are not met, Applicants may consider reduction of withdrawal quantities, a pumpage rotation schedule, mitigation, or other means to bring a proposed use into compliance with the

Conditions For Issuance. For some criteria, presumptions have been developed to facilitate evaluation. If site-specific information is provided which demonstrates that the presumption is incorrect, this information will be used to evaluate compliance with the performance standards. For projects within the SWUCA with the purpose of restoration or enhancement of impaired or impacted water bodies, the existing condition referred to in the performance standards is considered to be the natural condition unaffected by withdrawals, structural alterations or changes rather than the impaired or impacted condition that exists currently. The information to be provided by permit applicants as described in this chapter is required for all new water use permits and for renewal or modification of all existing water use permits, with the exception that applicants seeking to renew or modify water use permits authorizing withdrawal quantities of less than 100,000 gallons per day on an annual average basis will not be required to submit documentation with their application if the documentation requested has previously been submitted or the information is documented in District records and all conditions for issuance as established for the previously issued permit or permit revision continue to be met.

Amended (_____)

NAME OF PERSON ORIGINATING PROPOSED RULE: Martha A. Moore, Senior Attorney, Office of General Counsel, 2379 Broad Street, Brooksville, FL 34604-6899, (352)796-7211, extension 4651

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Southwest Florida Water Management District Governing Board

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: November 26, 2007

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: December 14, 2007

WATER MANAGEMENT DISTRICTS

Southwest Florida Water Management District

RULE NOS.:	RULE TITLES:
40D-2.091	Publications Incorporated by Reference
40D-2.361	Renewal of Permits

PURPOSE AND EFFECT: The purpose of this rulemaking is to clarify that, in order to be considered as timely filed, an application for renewal of a water use permit must be received by the District no later than the expiration date of the permit to be renewed. The effect is to establish a uniform procedure for addressing when a renewal application must be received in order to avoid having an existing permit expire.

SUMMARY: subsection 40D-2.361(1), F.A.C., and Section 1.11 of the District’s Water Use Permitting Manual Part B, “Basis of Review” (BOR) are amended to provide that applications to renew a water use permit must be received by the District not later than the expiration date of the existing

permit. A similar amendment is being made to Rule 40D-1.603, F.A.C., which addresses permit applications. Additional minor amendments are proposed for Rule 40D-2.361, F.A.C., to correct typographical errors and to BOR Section 1.11, to correct typographical errors and conform the language to subsection 120.60(4), F.S., Rule 40D-2.091, F.A.C., is amended to incorporate by reference the revised BOR.

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

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

SPECIFIC AUTHORITY: 373.044, 373.103, 373.113, 373.118, 373.149, 373.171, 373.216, 373.249 FS.

LAW IMPLEMENTED: 373.036, 373.0361, 373.042, 373.0421, 373.0831, 373.103, 373.116, 373.117, 373.118, 373.149, 373.171, 373.1963, 373.216, 373.219, 373.223, 373.229, 373.239, 373.243 FS.

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

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULES IS: Martha A. Moore, Senior Attorney, Office of General Counsel, 2379 Broad Street, Brooksville, FL 34604-6899, (352)796-7211, extension 4651

THE FULL TEXT OF THE PROPOSED RULES IS:

40D-2.091 Publications Incorporated by Reference.

The following publications are hereby incorporated by reference into this Chapter, and are available from the District upon request:

(1) Water Use Permit Information Manual Part B, "Basis of Review" (_____) (~~10/07~~) and Part D, "Requirements for the Estimation of Permanent and Temporal Service Area Populations in the Southern Water Use Caution Area" (1/07);

(2) through (5) No change.

Specific Authority 373.044, 373.113, 373.118, 373.171 FS. Law Implemented 373.036, 373.0361, 373.042, 373.0421, 373.0831, 373.116, 373.117, 373.118, 373.149, 373.171, 373.1963, 373.216, 373.219, 373.223, 373.229, 373.239, 373.243 FS. History--New 10-1-89, Amended 11-15-90, 2-10-93, 3-30-93, 7-29-93, 4-11-94, 7-15-98, 7-28-98, 7-22-99, 12-2-99, 8-3-00, 9-3-00, 4-18-01, 4-14-02, 9-26-02, 1-1-03, 2-1-05, 10-19-05, 1-1-07, 8-23-07, 10-1-07, 10-22-07, 11-25-07, 12-24-07, _____.

40D-2.361 Renewal of Permits.

(1) Applications for renewal of permits shall be made no earlier than 1 year and should be made no later than that 90 days prior to the expiration date of the permit. Application for a permit renewal is timely only if actually received by the

District not later than the expiration date of the existing permit. Mailing the application does not constitute receipt by the District.

(2)(a) Subsection (1) above shall be applicable to those permits which are not extended pursuant to subsection 40D-2.321(~~6~~)(~~5~~), F.A.C., based on the expiration date on the face of the permit.

(b) Subsection (1) above shall be applicable to those permits which are extended pursuant to subsection 40D-2.321(~~6~~)(~~5~~), F.A.C., based on the revised expiration date assigned to the permit.

Specific Authority 373.044, 373.103, 373.113, 373.118, 373.149, 373.171, 373.216, 373.249 FS. Law Implemented 373.103, 373.239 FS. History--Readopted 10-5-74, Formerly 16J-2.14(2), Amended 9-1-84, 10-1-89, 7-2-98, 7-28-98, _____.

WATER USE PERMIT INFORMATION MANUAL PART B,
BASIS OF REVIEW

1.0 PERMITTING PROCEDURES

1.11 RENEWAL OF PERMITS

1. Applications for permit renewal may be made at any time within 1 year prior to permit expiration, except as provided in Basis of Review Section 1.12. Permittees are encouraged to apply for renewal at least 90 days prior to the expiration date. Permits for which renewal applications have been timely submitted consistent with the provisions of subsection 40D-1.603(8), F.A.C., and that are under evaluation by the District shall remain in force past the expiration date until final action is taken by the District, or if the permit is denied or the terms of the permit limited, until the last day for seeking review of the District action or a later date fixed by order of the reviewing court.

2. Subsection 1. above shall be applicable to those permits which are not extended pursuant to subsection 40D-2.321(~~6~~)(~~5~~), F.A.C., and Section 1.9 above, based on the expiration date on the face of the permit.

3. Subsection 1. above shall be applicable to those permits which are extended pursuant to subsection 40D-2.321(~~6~~)(~~5~~), F.A.C., and Section 1.9 above, based on the revised expiration date assigned to the permit.

Amended 1-1-07, Revised 8-23-07, _____.

NAME OF PERSON ORIGINATING PROPOSED RULE: Martha A. Moore, Senior Attorney, Office of General Counsel, 2379 Broad Street, Brooksville, FL 34604-6899, (352)796-7211, extension 4651

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Southwest Florida Water Management District Governing Board

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: November 26, 2007

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: December 7, 2007

WATER MANAGEMENT DISTRICTS

Southwest Florida Water Management District

RULE NOS.: RULE TITLES:
 40D-2.091 Publications Incorporated by Reference

40D-2.801 Water-Use Caution Areas

PURPOSE AND EFFECT: The purpose of these rule amendments is to correct the legal description of the Northern Tampa Bay Water Use Caution Area (NTBWUCA) appearing in subsection 40D-2.801(3), F.A.C., and incorporate by reference a revised Water Use Permit Information Manual Part B, Basis of Review (BOR). Section 7.3 of the BOR is revised to delete an unnecessary sentence in the lead paragraph describing the NTBWUCA. The effect will be to correctly include that portion of Section 24, Township 29, Range 19 north of State Road 60 within the legal description of the NTBWUCA, and eliminate a potentially unclear sentence.

SUMMARY: The legal description of the Northern Tampa Bay Water Use Caution Area (NTBWUCA) set forth in Rule 40D-2.801(3), F.A.C. is corrected. That portion of Section 24 North of State Road 60 which lies within Township 29 and Range 19 was inadvertently omitted from the legal description. Those Sections of Township 29, Range 19 that are not included within the NTBWUCA are also specifically stated. An unnecessary and potentially unclear sentence contained in BOR Section 7.3, which discusses the NTBWUCA, is deleted. Rule 40D-2.091, F.A.C., is amended to incorporate by reference the revised BOR.

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

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

SPECIFIC AUTHORITY: 373.044, 373.113, 373.118, 373.171 FS.

LAW IMPLEMENTED: 373.036, 373.0361, 373.042, 373.0421, 373.0831, 373.116, 373.117, 373.118, 373.149, 373.171, 373.1963, 373.216, 373.219, 373.223, 373.229, 373.239, 373.243 FS.

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

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULES IS: Martha A. Moore, Senior Attorney, Office of General Counsel, 2379 Broad Street, Brooksville, FL 34604-6899, (352)796-7211, extension 4651

THE FULL TEXT OF THE PROPOSED RULES IS:

40D-2.091 Publications Incorporated by Reference.

The following publications are hereby incorporated by reference into this Chapter, and are available from the District upon request:

(1) Water Use Permit Information Manual Part B, “Basis of Review” (~~(10/07)~~) and Part D, “Requirements for the Estimation of Permanent and Temporal Service Area Populations in the Southern Water Use Caution Area” (1/07);

(2) through (5) No change.

Specific Authority 373.044, 373.113, 373.118, 373.171 FS. Law Implemented 373.036, 373.0361, 373.042, 373.0421, 373.0831, 373.116, 373.117, 373.118, 373.149, 373.171, 373.1963, 373.216, 373.219, 373.223, 373.229, 373.239, 373.243 FS. History—New 10-1-89, Amended 11-15-90, 2-10-93, 3-30-93, 7-29-93, 4-11-94, 7-15-98, 7-28-98, 7-22-99, 12-2-99, 8-3-00, 9-3-00, 4-18-01, 4-14-02, 9-26-02, 1-1-03, 2-1-05, 10-19-05, 1-1-07, 8-23-07, 10-1-07, 10-22-07, 11-25-07, 12-24-07, _____.

40D-2.801 Water-Use Caution Areas.

(1) through (2) No change.

(3) The regions described in this Rule have been declared Water Use Caution Areas by the District Governing Board. The Rule reaffirms the declaration of Water Use Caution Areas and creates conditions applied to water users in those areas.

(a) Northern Tampa Bay Water Use Caution Area. To address ground water withdrawals that have resulted in lowering of lake levels, destruction or deterioration of wetlands, reduction in streamflow, and salt water intrusion, the Governing Board declared portions of northern Hillsborough County, southwestern Pasco County, and all of Pinellas County a Water Use Caution Area on June 28, 1989, pursuant to Resolution Number 934. The Governing Board approved expansion of the boundaries of the Water Use Caution Area in June 2007.

1. The boundary for the Northern Tampa Bay Water Use Caution Area is as follows:

All of Pinellas County;

All of Pasco County;

That portion of Hillsborough County within the following sections (all Townships are South; all Ranges are East):

Township 27, Range 17: All Sections;

Township 27, Range 18: All Sections;

Township 27, Range 19: All Sections;

Township 27, Range 20: All Sections;

Township 27, Range 21: All Sections;

Township 27, Range 22: All Sections;

Township 28, Range 17: All Sections;

Township 28, Range 18: All Sections;

Township 28, Range 19: All Sections;

Township 28, Range 20: All Sections;

Township 28, Range 21: All Sections;

Township 28, Range 22: All Sections;

Township 29, Range 17: All Sections;

Township 29, Range 18: All Sections;
 Township 30, Range 17: All Sections;
 Township 30, Range 18: All Sections;
 Township 29, Range 22: All Sections North of State Road 60;
 Township 29, Range 21: All Sections North of State Road 60;
 Township 29, Range 20: All Sections North of State Road 60;
 Township 29, Range 19: Section 24 North of State Road 60 and all remaining Sections except 22, 23, 25, 26, 27 and 34 through -36.

- 2. through 3. No change.
- (b) No change.

Specific Authority 373.044, 373.113, 373.171 FS. Law Implemented 373.095, 373.042, 373.0421, 373.171, 373.216, 373.219, 373.223 FS. History—Readopted 10-5-74. Formerly 16J-3.30, Amended 10-1-89, 11-15-90, 3-1-91, 7-29-93, 1-1-03, 1-1-07, 10-1-07, _____.

**WATER USE PERMIT INFORMATION MANUAL, PART B
 BASIS OF REVIEW**

7.0 WATER USE CAUTION AREAS

7.3 NORTHERN TAMPA BAY WATER USE CAUTION AREA

The Governing Board originally declared portions of Hillsborough and Pasco Counties, and all of Pinellas County a Water Use Caution Area (WUCA) on June 28, 1989. The Governing Board approved expansion of the boundaries of the Water Use Caution Area in June 2007. The area designated is shown in Figure 7.3-1; the legal description is provided in paragraph 40D-2.801(3)(a), F.A.C. As of the effective date of this rule, all existing water use permits within the Water Use Caution Area are modified to incorporate the applicable measures and conditions described below. Valid permits, legally in effect as of the effective date of this rule, are hereafter referred to as existing permits. Existing permits within those portions of the Water use Caution Area added in 2007 shall have until July 1, 2008 to comply with the provisions of this rule. Applicable permit conditions, as specified below, are incorporated into all existing water use permits in the Water Use Caution Area and shall be placed on new permits issued for withdrawals located within the Area. ~~However, both the language and the application of any permit conditions listed may be modified when appropriate.~~

These portions of the Basis of Review for the Northern Tampa Bay Water Use Caution Area are intended to supplement the other provisions of the Basis of Review and are not intended to supersede or replace them. If there is a conflict between requirements, the more stringent provision shall prevail.

- 1. through 8. No change.

NAME OF PERSON ORIGINATING PROPOSED RULE: Martha A. Moore, Senior Attorney, Office of General Counsel, 2379 Broad Street, Brooksville, FL 34604-6899, (352)796-7211, extension 4651

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Southwest Florida Water Management District Governing Board

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: November 26, 2007

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: December 7, 2007

WATER MANAGEMENT DISTRICTS

Southwest Florida Water Management District

RULE NO.: 40D-4.091
 RULE TITLE: Publications and Agreements
 Incorporated by Reference

PURPOSE AND EFFECT: The purpose and effect of the proposed rule is to allow a mitigation banker to request the District to require additional signatures, such as the representative of a financial institution providing funding for the mitigation bank, to authorize the withdrawal of mitigation credits.

SUMMARY: Appendix 4 of the ERP Basis of Review established criteria for the establishment and use of mitigation banks. Section 6 of Appendix 4 provides criteria regarding the withdrawal of mitigation credits from a mitigation bank. These criteria require the mitigation banker to demonstrate that mitigation credits have been reserved, sold, or transferred to a permit applicant and to request that the District withdraw these credits from the bank’s credit ledger. In many cases, the banker is not a single individual but a partnership comprised of multiple parties. In such cases, it is sometimes desirable from the banker’s perspective to require the approval of all partners prior to withdrawal of mitigation credits. Additionally, there may be a financial lending institution requesting the opportunity to approve credit withdrawals in support of a loan to the mitigation banker. In these cases, a process requiring approval by multiple entities prior to credit withdrawal may be in the best interest of the mitigation bank. The specific rule revision proposed to accomplish this purpose is the insertion of a single sentence in Section 6 of Appendix 4 stating “At the request of the banker, the District shall require additional signatures to authorize the withdrawal of mitigation credits.” Rule 40D-4.091, F.A.C., incorporates by reference those documents and agreements cited within ERP rules. Coincident with the proposed revision to Section 6 of Appendix 4, this section must also be revised to indicate the effective date of the proposed revisions to the Basis of Review.

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

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

SPECIFIC AUTHORITY: 373.046, 373.113, 373.171, 373.414 FS.

LAW IMPLEMENTED: 373.114, 373.171, 373.403, 373.413, 373.414, 373.416, 373.429, 373.441 FS.

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

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Karen E. West, Deputy General Counsel, Office of General Counsel, 2379 Broad Street, Brooksville, FL 34604-6899, (352)796-7211, extension 4651

THE FULL TEXT OF THE PROPOSED RULE IS:

40D-4.091 Publications and Agreements Incorporated by Reference.

The following documents are hereby incorporated into this chapter and Chapters 40D-40 and 40D-400, F.A.C.:

(1) Environmental Resource Permitting Information Manual Part B, "Basis of Review, Environmental Resource Permit Applications within the Southwest Florida Water Management District, ~~September 25, 2007~~". This document is available from the District upon request.

(2) through (4) No change.

Specific Authority 373.044, 373.046, 373.113, 373.171, 373.414 FS. Law Implemented 373.0361, 373.114, 373.171, 373.403, 373.413, 373.414, 373.416, 373.429, 373.441 FS. History—New 4-2-87, Amended 3-1-88, 9-11-88, 10-1-88, 4-1-91, 11-16-92, 1-30-94, 10-3-95, 12-26-95, 5-26-96, 7-23-96, 4-17-97, 4-12-98, 7-2-98, 12-3-98, 7-28-99, 8-3-00, 9-20-00, 6-12-01, 10-11-01, 2-27-02, 7-29-02, 3-26-03, 7-23-03, 8-3-03, 3-11-04, 6-7-04, 2-1-05, 6-30-05, 10-19-05, 2-8-06, 5-2-06, 7-1-07, 9-25-07, 11-26-07.

Environmental Resource Permitting Information Manual
Part B, Basis of Review

APPENDIX 4 – Basis of Review For The Establishment And Use of Mitigation Banks

(1) through (5) No change.

(6) Establishment of Mitigation Credits.

(a) through (f) No change.

(g) The District shall maintain a ledger of the mitigation credits available in each mitigation bank. Mitigation credits shall be withdrawn as a minor modification of the mitigation bank permit.

(1) through (2) No change.

(3) At the request of the banker, the District shall require additional signatures to authorize the withdrawal of mitigation credits.

NAME OF PERSON ORIGINATING PROPOSED RULE: Karen E. West, Deputy General Counsel, Office of General Counsel, 2379 Broad Street, Brooksville, FL 34604-6899, (352)796-7211, extension 4651

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Southwest Florida Water Management District Governing Board

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: October 30, 2007

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: December 21, 2007

WATER MANAGEMENT DISTRICTS

Southwest Florida Water Management District

RULE NO.:	RULE TITLE:
40D-4.091	Publications and Agreements Incorporated by Reference

PURPOSE AND EFFECT: The purpose of the proposed rulemaking is to adopt by reference an operating agreement between the U.S. Army Corps of Engineers (ACOE) and the District. The operating agreement outlines the procedures to be followed by the ACOE and the District to implement the ACOE's Programmatic General Permit – PGP-SAJ-95. PGP-SAJ-95 addresses multi-phase projects that are being developed pursuant to a conceptual environmental resource permit. Currently such projects require construction permits from both the ACOE and the District prior to each phase of construction. The effect of implementing PGP-SAJ-95 will streamline permitting of such projects by eliminating the need for a separate approval from the ACOE once it has approved the conceptual design.

SUMMARY: The rule revision incorporates our operating agreement between the ACOE and the District to implement the ACOE's Programmatic General Permit PGP-SAJ-95. The operating agreement describes the processes for the application by the ACOE of its general permit to projects being implemented through a conceptual environmental resource permit issued by the District. The operating agreement also specifies modification, notification, and compliance responsibilities of both the ACOE and the District regarding projects that quality for PGP-SAJ-95.

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

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

SPECIFIC AUTHORITY: 373.044, 373.046, 373.113, 373.171, 373.414 FS.

LAW IMPLEMENTED: 373.0361, 373.114, 373.171, 373.403, 373.413, 373.414, 373.416, 373.429, 373.441 FS.

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

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Karen E. West, Deputy General Counsel, Office of General Counsel, 2379 Broad Street, Brooksville, FL 34604-6899, (352)796-7211, extension 4651

THE FULL TEXT OF THE PROPOSED RULE IS:

40D-4.091 Publications and Agreements Incorporated by Reference.

The following documents are hereby incorporated into this chapter and Chapters 40D-40 and 40D-400, F.A.C.:

(1) through (4) No change.

(5) Operating Agreement Between the U.S. Army Corps of Engineers and the Southwest Florida Water Management District (SWFWMD) Located within the Geographical Limits of the SWFWMD in Florida, Pursuant to Programmatic General Permit (PGP) PGP-SAJ-95.

Specific Authority 373.044, 373.046, 373.113, 373.171, 373.414 FS. Law Implemented 373.0361, 373.114, 373.171, 373.403, 373.413, 373.414, 373.416, 373.429, 373.441 FS. History—New 4-2-87, Amended 3-1-88, 9-11-88, 10-1-88, 4-1-91, 11-16-92, 1-30-94, 10-3-95, 12-26-95, 5-26-96, 7-23-96, 4-17-97, 4-12-98, 7-2-98, 12-3-98, 7-28-99, 8-3-00, 9-20-00, 6-12-01, 10-11-01, 2-27-02, 7-29-02, 3-26-03, 7-23-03, 8-3-03, 3-11-04, 6-7-04, 2-1-05, 6-30-05, 10-19-05, 2-8-06, 5-2-06, 7-1-07, 9-25-07, 11-26-07.

NAME OF PERSON ORIGINATING PROPOSED RULE: Karen E. West, Deputy General Counsel, Office of General Counsel, 2379 Broad Street, Brooksville, FL 34604-6899, (352) 796-7211, extension 4651

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Southwest Florida Water Management District Governing Board

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: November 26, 2007

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: December 14, 2007

WATER MANAGEMENT DISTRICTS

Southwest Florida Water Management District

RULE NO.: 40D-4.331
 RULE TITLE: Modification of Permits

PURPOSE AND EFFECT: The purpose of this rulemaking is to require use of a new Environmental Resource Permit (ERP) Modification Short Form application form instead of a letter when permittees apply for certain minor modifications of ERPs, and to allow applications to extend the duration of an ERP to be made using this new form. Rule amendments also eliminate the requirement to determine that completed construction complies with a currently valid permit when a permittee applies to extend the duration of a permit.

Amendments also replace the term “renewal” with the term “extension.” The effect of these amendments will be to standardize the process for seeking minor modifications of ERPs.

SUMMARY: The District allows certain minor modifications of Environmental Resource Permits (ERPs) to be made without completing a full ERP application form and without payment of an application fee. Rule 40D-4.331, F.A.C., is amended to require use of a new Modification Short Form instead of a letter to request these minor modifications, to allow applications to extend the duration of an ERP to be made using the Modification Short Form, and to clarify that permits may be extended in duration, as opposed to being “renewed.” Applications to extend the duration of an ERP will be granted if the construction proposed to take place during the extended permit duration will comply with the District’s rules in effect at the time the application is filed.

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

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

SPECIFIC AUTHORITY: 373.044, 373.113, 373.149, 373.171 FS.

LAW IMPLEMENTED: 373.413, 373.416(1), 373.429, 373.805 FS.

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

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Martha A. Moore, Senior Attorney, Office of General Counsel, 2379 Broad Street, Brooksville, FL 34604-6899, (352)796-7211, extension 4651

THE FULL TEXT OF THE PROPOSED RULE IS:

40D-4.331 Modification of Permits.

An application for modification of an Environmental Resource Permit shall be processed in accordance with this rule, unless the permit is revoked or expired.

- (1) No change.
- (2) Applications to modify a construction permit shall be made by formal or Short Form ~~letter~~ modification:
 - (a) Formal modifications

1. Except for those projects meeting the criteria for Short Form ~~letter~~ modifications in subsection (b), an alteration of the design of the surface water management system shall be reviewed in accordance with the same criteria as new applications pursuant to Rules 40D-4.101, 40D-4.301 and 40D-4.302, F.A.C.

- 2. through 3. No change.

(b) Except for projects identified in subsection (2)(a), applications to modify a permit may be made by submittal of a Modification Short Form application letter, provided the requested modification does not:

- 1. through 4. No change.
- 5. Decrease the required flood control elevations for roads or buildings, or
- 6. Decrease pollution removal efficiency, ~~or~~
- 7. ~~Renew or extend the existing permit duration.~~

(3) Applications for modification of a site conditions assessment permit shall be made by formal application and reviewed using the same criteria as new applications:

- (a) through (b) No change.
- (c) For any ~~renewal or~~ extension of a current permit, or
- (d) No change.

(4) Application for permit modification to extend the existing permit duration of a construction permit or conceptual permit should be made using the "Environmental Resource Permit Modification Short Form," adopted by reference in Rule 40D-1.659, F.A.C., shall occur by formal application and review, and ~~Such requests shall be submitted no sooner than 180 days prior to the permit expiration date.~~

(a) A modification seeking extension of a construction permit will be granted if it is reasonably assured by the applicant and determined that ~~any completed construction is in compliance with a currently valid permit, and~~ the proposed construction will be in compliance with the District's rules in effect at the time the application for modification to extend is filed.

(b) No change.

(c) Each modification to extend will ~~can~~ be granted for a duration as needed, up to five years.

Specific Authority 373.044, 373.113, 373.149, 373.171 FS. Law Implemented 373.413, 373.416(1), 373.429, 373.805 FS. History—Readopted 10-5-74, Formerly 16J-4.13, Amended 10-1-84, 3-1-88, 10-1-88, 6-29-93, 10-3-95, 7-23-96, 2-1-05, 2-6-07, 12-24-07, 1-8-08, _____.

NAME OF PERSON ORIGINATING PROPOSED RULE:
Martha A. Moore, Senior Attorney, Office of General Counsel,
2379 Broad Street, Brooksville, FL 34604-6899,
(352)796-7211, extension 4651

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Southwest Florida Water Management District Governing Board

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: November 26, 2007

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: December 14, 2007

WATER MANAGEMENT DISTRICTS

Southwest Florida Water Management District

RULE NO.: 40D-40.331
RULE TITLE: Modification of Permits

PURPOSE AND EFFECT: The purpose of this rulemaking is to amend Rule 40D-40-331, F.A.C., to require use of a new Environmental Resource Permit (ERP) Modification Short Form application form instead of a letter when permittees apply for certain minor modifications of a General ERP. The effect is to standardize permit modification applications for minor modifications.

SUMMARY: This rule amendment is one of several rule amendments proposed by the District to implement a new Modification Short Form for requesting certain types of minor modifications of an Environmental Resource Permit (ERP). Rule 40D-40.331, F.A.C., is amended to require use of the newly adopted Modification Short Form in lieu of a letter when requesting certain minor modifications of Standard and Minor General ERPs.

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

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

SPECIFIC AUTHORITY: 373.044, 373.113, 373.118 FS.

LAW IMPLEMENTED: 373.413, 373.416(1), 373.429 FS.

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

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Martha A. Moore, Senior Attorney, Office of General Counsel, 2379 Broad Street, Brooksville, FL 34604-6899, (352)796-7211, extension 4651

THE FULL TEXT OF THE PROPOSED RULE IS:

40D-40.331 Modification of Permits.

A request for modification to ~~renew or~~ extend a permit issued under this chapter shall be made in accordance with this rule. Requests to modify permits shall be made:

(1) No change.

(2) By submittal of a Modification Short Form application letter for general construction and operation permits provided the requested modification does not exceed the conditions of paragraph 40D-4.331(2)(b), F.A.C.

Specific Authority 373.044, 373.113, 373.118 FS. Law Implemented 373.413, 373.416(1), 373.429 FS. History—New 10-1-84, Amended 3-1-88, 10-3-95, 7-23-96, 4-17-97, 9-26-02, _____.

NAME OF PERSON ORIGINATING PROPOSED RULE:
 Martha A. Moore, Senior Attorney, Office of General Counsel,
 2379 Broad Street, Brooksville, FL 34604-6899,
 (352)796-7211, extension 4651
 NAME OF SUPERVISOR OR PERSON WHO APPROVED
 THE PROPOSED RULE: Southwest Florida Water
 Management District Governing Board
 DATE PROPOSED RULE APPROVED BY AGENCY
 HEAD: November 26, 2007
 DATE NOTICE OF PROPOSED RULE DEVELOPMENT
 PUBLISHED IN FAW: December 14, 2007

Please Note: The following notice was inadvertently omitted from the January 18, 2008, Vol. 34, No. 3 issue of the FAW.

DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION

Division of Alcoholic Beverages and Tobacco

RULE NO.: 61A-1.0102
 RULE TITLE: Point of Sale Advertising Items
 PURPOSE AND EFFECT: The purpose and effect of the proposed rule is to clarify how and what point of sale advertising items manufacturers and distributors may provide to vendors.

SUMMARY: This rule is part of a large set being promulgated to implement statutory provisions relating to approved advertising and promotional gifts, including coupons, as they pertain to the sales of alcoholic beverages.

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

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

SPECIFIC AUTHORITY: 561.11, 561.42 FS.

LAW IMPLEMENTED: 561.08, 561.42 FS.

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

DATE AND TIME: Wednesday, February 13, 2008, 9:00 a.m. – 5:00 p.m. or until completion of business, whichever is earlier, at which time the record will close

PLACE: Professions Boardroom, Northwood Centre, 1940 N. Monroe 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 5 days before the workshop/meeting by contacting: DeeAnna Owens, Administrative Assistant, (850)414-8125. 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 IS: Lisa Livezey Comingore, Assistant General Counsel, Department of Business and Professional Regulation, Office of the General Counsel, 1940 North Monroe Street, Suite 42, Tallahassee, Florida 32399, (850)487-9677

THE FULL TEXT OF THE PROPOSED RULE IS:

61A-1.0102 Point of Sale Advertising Items.

(1) Manufacturers and distributors of wine and spirits may give or sell, and manufacturers and distributors of malt beverages may sell, at a cost not less than the actual cost of the industry member who purchased them, expendable advertising items including coasters, cups, mats, menu cards, meal checks, paper napkins, trays, thermometers, and alcoholic beverage lists or menus. Alcoholic beverage lists or menus shall not contain any information other than alcoholic beverages and prices. Any manufacturer or distributor may sell glasses at a cost not less than the actual cost of the industry member who purchased them.

(2) Manufacturers and distributors of wine and spirits may give or sell, and manufacturers and distributors of malt beverages may rent, loan without charge for an indefinite duration, or sell durable retailer advertising specialties including pool table lights, foam scrapers, back bar mats, clocks, calendars, and umbrellas.

(3) The vendor's name, business name, and address may be printed on these items, which shall be intended for use by the vendor.

Specific Authority 561.11, 561.42 FS. Law Implemented 561.08, 561.42 FS. History—New

NAME OF PERSON ORIGINATING PROPOSED RULE:
 Cynthia Hill, Director, Division of Alcoholic Beverages and Tobacco.

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Ralf Michels, Chief Attorney, Department of Business and Professional Regulation, Division of Alcoholic Beverages and Tobacco, Office of the General Counsel, 1940 North Monroe Street, Suite 42, Tallahassee, Florida 32399, (850)488-0062

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: November 28, 2007

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: August 17, 2007

DEPARTMENT OF ENVIRONMENTAL PROTECTION

Notices for the Department of Environmental Protection between December 28, 2001 and June 30, 2006, go to <http://www.dep.state.fl.us/> under the link or button titled "Official Notices."

DEPARTMENT OF HEALTH**Division of Medical Quality Assurance**

RULE NO.: 64B-1.003
 RULE TITLE: Examination Administration

PURPOSE AND EFFECT: It is the purpose of this rule to implement the changes made to Chapter 456, F.S., and to adopt "General Administration Manual for Examinations", 2008.

SUMMARY: The proposed amendments will affect and clarify procedures for candidates who arrive late for an examination administration. The proposed amendments will affect the time frame that a candidate can re-examine after failure of an examination. The proposed amendments will also adopt the 2008 version of the "General Administration Manual for Examinations".

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

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

SPECIFIC AUTHORITY: 456.004(5), 456.017(1)(a),(d),(f) FS.

LAW IMPLEMENTED: 456.017(1)(a),(d) FS.

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

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Jennifer Wenhold, Manager of Testing Services, Division of Medical Quality Assurance, Bureau of Operations, 4052 Bald Cypress Way, Mail Bin C-90, Tallahassee, Florida 32399

THE FULL TEXT OF THE PROPOSED RULE IS:

64B-1.003 Examination Administration.

Unless the national examination requires a different set of administration procedures, the following procedures shall be followed for any examination administered by the department or its contract provider.

(1) All examinations will be administered in accordance with the department's "General Administration Manual for Examinations," 2008 ~~2007~~, incorporated herein by reference, and can be obtained from the Division of Medical Quality Assurance, Bureau of Operations, Testing Services, 4052 Bald Cypress Way, Bin C-90, Tallahassee, Florida 32399-3290.

(2) During the examination, the candidates will follow the instructions given by the examination administrator. The instructions shall be provided to the candidates in either written or oral form by the examination administrator.

(3) The department's valid admission slip for the specified examination and a government-issued photo identification such as a valid driver's license or passport, shall be presented

in order to gain admission to the examination. A government-issued photo identification shall be acceptable in the absence of the admission slip provided the candidate's name appears on the examination admission roster that has been prepared for the specific examination. Department contracted vendors may require additional forms of identification for security purposes.

(4) If the candidate arrives at the designated testing location after the designated starting time, the candidate shall not be permitted to take the examination. However, if the examination has not begun, the examination administrator may ~~will~~ attempt reasonable accommodations.

~~(a) Candidates sitting for paper and pencil examinations will be permitted to take the examination only after signing a statement indicating the candidate's late arrival time and the candidate's agreement that he/she will have only the remaining designated time in the examination to complete the examination. No late arriving candidate for paper and pencil examinations will be permitted to take that examination if:~~

- ~~1. The candidate refuses to sign such a statement, or~~
- ~~2. At the time the late candidate arrives, any other candidate has already finished the examination and left the examination room.~~

~~In either case, if the late candidate wants to take the examination, he or she shall apply to the department for scheduling for the next available examination.~~

~~(b) For candidates sitting for computer-based testing examinations, reasonable accommodation will be the re-scheduling of the examination by the examination administrator.~~

~~(c) Candidates sitting for practical or clinical examinations will not be allowed to take the examination at their scheduled time. If reasonable accommodation is not available at a later time during the scheduled examination and the late candidate wants to take the examination, he or she shall apply to the department for scheduling for the next available examination.~~

(5) If through some mechanical or clerical error of the department or the contract provider, the candidate does not receive the allotted time to complete the examination, additional time shall be allowed upon approval of the examination administrator.

(6) All examination questions, booklets, answer sheets, electronic files and other examination papers and materials, in any form, are the sole property of the department or the national provider. No candidate shall take any part of the examination questions, booklets, ~~portions thereof,~~ answers sheets, electronic files and/or other examination papers and materials, in any form, from the examination room, or retain, reproduce or compromise the examination in whole or in part by any means or method whatsoever.

(7) Candidates must wait at least 30 days after an examination before they can re-examine.

Specific Authority 456.004(5), 456.017(1)(a),(d),(f) FS. Law Implemented 456.017(1)(a),(d) FS. History--New 9-7-98, Amended 7-20-03, 3-26-07,_____.

NAME OF PERSON ORIGINATING PROPOSED RULE:
Jennifer Wenhold

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Jennifer Wenhold

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: November 30, 2007

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: December 14, 2007

DEPARTMENT OF HEALTH

Division of Medical Quality Assurance

RULE NO.: 64B-1.005 RULE TITLE: Special Testing Accommodations

PURPOSE AND EFFECT: It is the purpose of this rule to clarify changes made to Chapter 456, F.S. regarding special testing accomodations.

SUMMARY: The proposed amendments will clarify the department’s procedures for special testing accommodations related to national examinations. The proposed amendments will affect and clarify the time frame that a candidate may request special testing accomodations based on religious beliefs.

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

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

SPECIFIC AUTHORITY: 456.004(5), 456.017(1) FS.

LAW IMPLEMENTED: 456.017(1) FS.

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

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Jennifer Wenhold, Manager of Testing Services, Division of Medical Quality Assurance, Bureau of Operations, 4052 Bald Cypress Way, Mail Bin C-90, Tallahassee, Florida 32399

THE FULL TEXT OF THE PROPOSED RULE IS:

64B-1.005 Special Testing Accommodations Licensure Examination Format; Examination Procedures for Candidates with Disabilities

(1) Definitions.

(a) The term “disability” means, with respect to an individual:

1. A physical or mental impairment that substantially limits one or more of the major life activities of such individual;

2. A record of such an impairment; or

3. Being regarded as having such an impairment.

(b) A physical or mental impairment means:

1. Any physiological disorder, or condition, cosmetic disfigurement, or anatomical loss affecting one or more of the following body systems: neurological, musculoskeletal, special sense organs, respiratory (including speech organs), cardiovascular, reproductive, digestive, genito-urinary, hematic and lymphatic, skin, and endocrine; or

2. Any mental or psychological disorder, such as mental retardation, organic brain syndrome, emotional or mental illness, and specific learning disabilities. The term does not include learning problems that are primarily the result of visual, hearing or motor disabilities, mental retardation, emotional disturbance, english as a second foreign language, or of environmental, cultural or economical disadvantage.

(c) Major life activities are activities that an average person can perform with little or no difficulty which include: walking, talking, hearing, seeing, speaking, breathing, learning, working, caring for one’s self and performing manual tasks.

(2)(a) The department will provide reasonable and appropriate accommodations to candidates with physical, mental, or specific learning disabilities to the extent permitted by cost, administration restraints, security considerations and availability of resources. Accommodations made will vary depending upon the nature and the severity of the impairment.

(b) For national examinations the national vendor will determine the what accommodations are available to candidates who demonstrate to the department the necessity of such accommodations due to disability.

(3)(a) Candidates requesting special testing accommodation due to a disability shall file a request for special testing accommodation no later than sixty (60) days prior to the first day of the examination on form DH 1307, Application For Candidates Requesting Special Testing Accommodation in Accordance with the Americans with Disabilities Act, for which special testing accommodation is requested. Form DH 1307 is hereby incorporated by reference, and can be obtained from the Division of Medical Quality Assurance, Bureau of Operations, Testing Services, 4052 Bald Cypress Way, Bin C-90, Tallahassee, Florida 32399-3290. If a candidate becomes disabled after the sixty-day deadline has passed and that candidate has not requested special accommodation, the department will provide any such requested accommodation that can be made available without posing undue burden or jeopardizing the security and integrity of the examination. However, in no event will accommodation be provided to exam candidates requesting special accommodation ten (10) days or less; before the examination.

64B-1.009 ~~Requesting a~~ Pre-hearing Review Request.

After the candidate's petition for a hearing, pursuant to Section 120.57, Florida Statutes, and Rule 28-106.201, Florida Administrative Code, has been filed, ~~either the candidate, and the candidate's attorney or both~~ shall be permitted ~~a one~~ (1) pre-hearing review pursuant to Rule 28-106.209, Florida Administrative Code of the disputed examination questions and answers at the department's headquarters in Tallahassee to prepare for the purpose of preparing for the administrative hearing under the following conditions:

(1) Pre-hearing reviews will not be conducted during the ~~thirty~~ (30) days period immediately prior to the next examination.

(2) The candidate shall submit a written request for such review ~~shall be submitted~~ to the department's attorney at least ~~fourteen~~ (14) days prior to the hearing date or other time as directed by the presiding officer.

(3) The candidate ~~must will be required to~~ pay a pre-hearing review fee as established by the department in order to receive a pre-hearing review.

(4) The department will not respond to any oral or written comments made about the examination during the pre-hearing review.

(5) All procedures outlined in Rules 64B-1.004 and 64B-1.013, Florida Administrative Code, shall apply to pre-hearing reviews. Rule 64B-1.013, Florida Administrative Code, shall apply to the candidate and the candidate's attorney, if present, for the pre-hearing review.

Specific Authority 456.004(5), 456.014, 456.017(2) FS. Law Implemented 456.014, 456.017 FS. History—New 9-7-98, Amended 2-21-00, 7-20-03, _____.

NAME OF PERSON ORIGINATING PROPOSED RULE:
Jennifer Wenhold
NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Jennifer Wenhold
DATE PROPOSED RULE APPROVED BY AGENCY HEAD: November 30, 2007
DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: December 14, 2007

DEPARTMENT OF HEALTH

Division of Medical Quality Assurance

RULE NO.: 64B-1.011 RULE TITLE: Requirements and Standards of a National Examination

PURPOSE AND EFFECT: It is the purpose of this rule to implement a recertification requirement for National examinations.

SUMMARY: The proposed amendments will reflect the department's current business processes as it relates to recertification of National examinations.

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

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

SPECIFIC AUTHORITY: 456.004(5), 456.017(1)(c) FS.

LAW IMPLEMENTED: 456.017(1)(c) FS.

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

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Jennifer Wenhold, Manager of Testing Services, Division of Medical Quality Assurance, Bureau of Operations, 4052 Bald Cypress Way, Mail Bin C-90, Tallahassee, Florida 32399

THE FULL TEXT OF THE PROPOSED RULE IS:

64B-1.011 Requirements and Standards of a National Examination.

(1) National examinations will be certified by the department according to the criteria established in this rule. National examinations shall be recertified during contract renewal periods as established by the department.

(a) The national examination shall be developed either by or for a national or multi-state professional association, board, council or society (hereinafter referred to as national organization). The national organization providing the examination shall either:

1. Be recognized by state regulatory boards as a national organization, or
2. Be recognized by a substantial number of that profession's licensed practitioners as a national organization, or
3. Have a substantial number of the nation's practitioners licensed or certified through an examination provided by or for the national organization.

(b) Examinations prepared by or for a national organization shall meet the following requirements:

1. The examinations shall be administered for the purpose of assessing entry-level skills necessary to protect the health, safety and welfare of the public from incompetent practice,
2. The national organization or its test provider shall be the responsible body for overseeing the development and scoring of the national examination, and
3. The national organization or its test provider shall provide security guidelines for the development, administration and scoring of the national examination and shall oversee the enforcement of these guidelines.

(c) A national examination shall meet the following generally accepted testing standards:

1. The examination tests the scope of practice and entry-level knowledge, skills and abilities defined by a national or multi-state job/task analysis or similar study with a representative sample of licensed practitioners and professional practices.

2. The examination is justified in terms of the protection of the health, safety and welfare of the patient or client.

3. The scores, sub-scores or combinations of scores are statistically reliable.

4. The examination uses psychometrically sound methods to determine the passing score.

5. There are standardized procedures for administering and scoring the examination.

6. There are standardized procedures to ensure the security of the examination.

(2) If an organization makes a request to the department to certify a national examination, the organization shall submit to the Division of Medical Quality Assurance, Bureau of Operations, Testing Services, 4052 Bald Cypress Way, Bin C-90, Tallahassee, Florida 32399-3290, documentation establishing that it meets the requirements established in subsection (1) of this rule, and a non-refundable fee of:

- (a) \$1,700 for a written examination,
- (b) \$3,000 for a clinical examination, or
- (c) \$4,200 for an examination consisting of both a written and clinical component.

(3) No fee shall be charged for certifying an examination if the request for certification is initiated by the department or the respective board.

Specific Authority 456.004(5), 456.017(1)(c) FS. Law Implemented 456.017(1)(c) FS. History—New 9-7-98, Amended 7-20-03.

NAME OF PERSON ORIGINATING PROPOSED RULE:
Jennifer Wenhold

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Jennifer Wenhold

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: November 30, 2007

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: December 14, 2007

DEPARTMENT OF HEALTH

Division of Medical Quality Assurance

RULE NO.: 64B-1.013 RULE TITLE: Post-Examination Review

PURPOSE AND EFFECT: This rule revision will implement changes necessary to clarify the post examination review process.

SUMMARY: The proposed amendments will clarify the department's current business processes as it relates to post-examination review.

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

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

SPECIFIC AUTHORITY: 456.004(5), 456.017(2) FS.

LAW IMPLEMENTED: 456.017(2) FS.

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

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Jennifer Wenhold, Manager of Testing Services, Division of Medical Quality Assurance, Bureau of Operations, 4052 Bald Cypress Way, Mail Bin C-90, Tallahassee, Florida 32399

THE FULL TEXT OF THE PROPOSED RULE IS:

64B-1.013 Post-Examination Review.

(1) When review of a national examination administered by the department is permitted, the review shall be conducted in accordance with national examination security procedures.

(2) A candidate who has taken and failed a department-developed practical or clinical examination or a department-developed electronically administered examination shall have the right to one (1) post-examination review of those examination questions answered incorrectly, the answers to those examination questions answered incorrectly, and to materials, grades and grading keys related thereto.

(a) A ~~The~~ candidate who has taken and failed a department-developed practical or clinical examination or a (written) paper and pencil examination shall request a post-examination review in writing to the department. The request shall be received by the department within twenty-one (21) days from the date of notification of the failing grade. If the official grade report is sent by regular U.S. mail, the department will allow an additional five (5) days for mailing. If the official grade is posted on the department's website, the candidate's request for post-examination review shall be post-marked within twenty-one (21) days from the date the official grades are posted as indicated on the department's website.

(b) Post-examination reviews shall be completed no later than sixty (60) days following the date on which the grades for the examination are released.

(c) Post-examination reviews will not be conducted during the thirty (30) day period immediately prior to the next administration of the examination.

(d) The provisions outlined in Rule 64B-1.004, Florida Administrative Code, shall apply to all review sessions. Violation of such provisions by a candidate shall result in

termination of the review session and the candidate shall be subject to other sanctions as determined by the appropriate board pursuant to the board's disciplinary guidelines.

(e) Post-examination reviews shall be conducted in the presence of a representative of the department at its Tallahassee headquarters during regular working hours which are defined as 8:00 a.m. through 4:30 p.m., Monday through Friday, excluding official state holidays. For opticianry neutralization and computer-based testing examinations, post-examination reviews may be conducted at another location.

(f) A representative from the department shall remain with all candidates throughout all post-examination reviews. The representative shall inform candidates that he or she cannot defend the examination or attempt to answer any examination questions during the review.

(g) For electronically administered or written examinations, the candidate will be provided one-half the time given for the examination administration for completion of a post-examination review. For clinical examinations, the time provided will be determined for each specific profession.

(h) Prior to a post-examination review, candidates shall be provided written instructions and shall acknowledge in writing at that time, receipt of such instructions and affirm that they will abide by the following instructions:

1. Only the candidate will be allowed to enter the review area;
2. No extraneous materials of any type may be brought into the review room;
3. The candidate will be provided with a duplicate of the answer sheets, a copy of the questions missed, and if applicable, other examination materials;
4. No additional time beyond the scheduled time will be provided for examination review;
5. No talking is allowed between the candidates when in the review room;
6. All examination materials are to be given to the Review Coordinator prior to departing the review room; and
7. Any observation or evidence of a candidate attempting to copy, remove or modify any testing materials shall result in the termination of the review session and shall be reported to the board, or the department where there is no board.

(i) Upon completion of a post-examination review, candidates shall acknowledge in writing: the start and end time of the review, all materials that have been reviewed and any other relevant review information.

(j) In addition to the other provisions of this rule, candidates shall be prohibited from leaving a post-examination review with written notes, grade sheets, or any other examination materials.

(3) A candidate who has taken and failed a department-developed practical or clinical examination or a department-developed electronically administered

examination, completed a post-examination review and wishes to challenge the examination shall file a request/petition for administrative hearing with the department within 21 days after the date on which he/she completes his/her post-examination review.

Specific Authority 456.004(5), 456.017(2)(4) FS. Law Implemented 456.017(2)(4) FS. History—New 9-7-98, Amended 7-20-03, _____.

NAME OF PERSON ORIGINATING PROPOSED RULE:
Jennifer Wenhold

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Jennifer Wenhold

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: November 30, 2007

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: December 14, 2007

DEPARTMENT OF HEALTH

Division of Medical Quality Assurance

RULE NO.: 64B-1.016
RULE TITLE: Fees: Examination and Post-Examination Review

PURPOSE AND EFFECT: It is the purpose of this rule to implement the changes made to specific examination fees.

SUMMARY: The proposed amendments will affect the examination fees based on the requirement that the department adjust examination fees periodically to cover the actual cost of the examination.

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

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

SPECIFIC AUTHORITY: 456.004(10), 456.017(1)(b) FS.

LAW IMPLEMENTED: 456.004(10), 456.017(1), (2) FS.

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

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Jennifer Wenhold, Manager of Testing Services, Division of Medical Quality Assurance, Bureau of Operations, 4052 Bald Cypress Way, Mail Bin C-90, Tallahassee, Florida 32399

THE FULL TEXT OF THE PROPOSED RULE IS:

64B-1.016 Fees: Examination and Post-Examination Review.

(1)(a) The following fees shall be assessed by the department to cover administrative costs, actual per-applicant

costs, and costs incurred to develop, purchase, validate, administer, and defend the following department developed, administered, or managed examinations:

Exam Fees		
Profession	Exam	Exam Fee
Chiropractic Medicine	Physical Diagnosis	\$450.00
	Technique	\$450.00
	X-Ray	\$450.00
Dental	Laws & Rules	\$170.00
	Clinical	\$300.00 675.00
Dental Hygiene	Laws & Rules	\$55.00
	Clinical	\$120.00 470.00
Electrolysis	Laws & Rules	\$30.00
	National	\$150.00
Hearing Aid Specialist	National	\$300.00
Massage	Colonics	\$150.00
Nursing Home Administrator	Laws & Rules	\$150.00
	National	\$20.00
Opticianry	Practical	\$580.00
	Neutralization	\$170.00
Optometry	Clinical	\$900.00
	Pharmacology	\$550.00
Osteopathic Medicine	Laws & Rules	\$25.00
	National	\$995.00 2,750.00
Physical Therapy	Laws & Rules	\$20.00
	National	\$5.00
Physical Therapist Assistant	Laws & Rules	\$20.00
	National	\$5.00
Psychology	National	\$20.00
	Laws & Rules	\$75.00

(b) For those examinations administered by the computer based testing vendor, the candidate will be assessed a fee by the vendor.

(c) For those National examinations managed by the department, the candidate shall be assessed an additional fee to be determined by the National organization administering the examination.

(2) The department shall assess the following non-refundable post examination review fees to cover the actual cost to the department to provide the examination review:

Review Fees		
Profession	Exam	Review Fee
Chiropractic Medicine	Physical Diagnosis	\$100.00
	Technique	\$100.00
Dental	Clinical	\$125.00
Dental Hygiene	Clinical	\$100.00
Hearing Aid Specialist	National Clinical	\$150.00
Opticianry	Practical	\$75.00
	Neutralization	\$100.00
Optometry	Clinical	\$100.00
Physical Therapy	Laws & Rules	\$100.00
Physical Therapy Assistant	Laws & Rules	\$100.00

For those examinations administered through the department's computer based testing vendor, the candidate will be assessed a fee by the vendor to conduct the post-examination review.

Specific Authority 456.004(10), 456.017(1)(b) FS. Law Implemented 456.004(10), 456.017(1)(2) FS. History--New 3-14-02, Amended 7-20-03, 7-12-05, 1-23-07, _____.

NAME OF PERSON ORIGINATING PROPOSED RULE: Jennifer Wenhold
 NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Jennifer Wenhold
 DATE PROPOSED RULE APPROVED BY AGENCY HEAD: November 30, 2007
 DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: December 14, 2007

DEPARTMENT OF HEALTH

Board of Nursing

RULE NO.: RULE TITLE:

64B9-8.003 Citations

PURPOSE AND EFFECT: The purpose and effect is to add a citation for failure to update practitioner profiles.

SUMMARY: A citation for failure to update practitioner profiles is added.

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

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

SPECIFIC AUTHORITY: 456.077, 464.006 FS.

LAW IMPLEMENTED: 456.077 FS.

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

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Rick Garcia, Executive Director, Board of Nursing, 4052 Bald Cypress Way, Bin C07, Tallahassee, Florida 32399-3259

THE FULL TEXT OF THE PROPOSED RULE IS:

64B9-8.003 Citations.

(1) through (2) No change.

(3) The Board designates the following as citation violations, which shall result in a penalty of (\$100.00):

(a) through (h) No change.

(i) Failure to submit updates of required information in practitioner profile within 15 days after the final activity that renders such information a fact, as required by Section 456.042, F.S.

(4) through (5) No change.

Specific Authority 456.077, 464.006 FS. Law Implemented 456.077 FS. History--New 1-1-92, Amended 7-6-92, Formerly 21O-10.015, Amended 12-5-93, 5-24-94, Formerly 61F7-8.003, 59S-8.003, Amended 2-18-98, 3-23-00, 2-22-04, 7-5-06, 12-11-06, _____.

NAME OF PERSON ORIGINATING PROPOSED RULE:
Board of Nursing
NAME OF SUPERVISOR OR PERSON WHO APPROVED
THE PROPOSED RULE: Board of Nursing
DATE PROPOSED RULE APPROVED BY AGENCY
HEAD: December 6, 2007
DATE NOTICE OF PROPOSED RULE DEVELOPMENT
PUBLISHED IN FAW: November 9, 2007

hearing or speech impaired, please contact the agency using the Florida Relay Service, 1(800)955-8771 (TDD) or 1(800)955-8770 (Voice).

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULES IS: Jim Goodloe, Chief, Bureau of Fire Prevention, 200 E. Gaines Street, Tallahassee, Florida 32399-0342, telephone: (850)413-3620; fax: (850)414-6119

THE FULL TEXT OF THE PROPOSED RULES IS:

DEPARTMENT OF FINANCIAL SERVICES

Division of State Fire Marshal

RULE NOS.: RULE TITLES:
69A-58.004 Firesafety Inspections
69A-58.0081 Means of Egress
69A-58.0082 Relocatable Buildings

PURPOSE AND EFFECT: These rules were either amended or new on November 26, 2006. The Department received comments to the Proposed Rules after the expiration of the comment period. The attached proposed amendments adopt some of those comments.

SUMMARY: The proposed amendments are based on untimely comments received when a major amendment to the rule was adopted on November 26, 2006. The Department received comments to the proposed rules after the expiration of the comment period. The attached proposed amendments adopt some of those comments which clarify the original intent. The amendments also add Section 633.022, Florida Statutes, as legislative authority and law implemented.

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

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

SPECIFIC AUTHORITY: 1013.12, 633.022 FS.

LAW IMPLEMENTED: 1013.12, 633.022 FS.

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

DATE AND TIME: February 15, 2008, 10:00 a.m.

PLACE: Third Floor Conference Room, the Atrium Building, 325 John Knox Road, Tallahassee, Florida 32303

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: Jim Goodloe, Chief, Bureau of Fire Prevention, 200 E. Gaines Street, Tallahassee, Florida 32399-0342, Telephone: (850)413-3620; Fax: (850)414-6119. If you are

- 69A-58.004 Firesafety Inspections.
- (1) through (4) No change.
- (5) Each inspection report and plan of correction shall contain, at a minimum, the following information:
 - (a) The name of the school district or community college;
 - (b) The name of the board and the local fire official (i.e., municipality, county, or special district);
 - (c) The name of the facility inspected;
 - (d) The type of facility inspected (i.e., K-5, 6-9, 10-12, CC, other);
 - (e) The facility address;
 - (f) The number of the facility as listed in the Florida Inventory of School Houses ~~florida inventory of school houses~~ (FISH #);
 - (g) through (i) No change.
 - (6) through (7) No change.

Specific Authority 1013.12, 633.022 FS. Law Implemented 1013.12, 633.022 FS. History--New 2-18-03, Formerly 4A-58.004, Amended 11-26-06,_____.

- 69A-58.0081 Means of Egress.
- (1) No change.
- (2) Existing smoke stop doors shall meet the requirements of subdivision 8.3.4 of NFPA 101, the edition as adopted in Rule 69A-3.012, F.A.C.
 - (a) Smoke stop doors may be used to create a secondary means of egress from interior instructional spaces;
 - ~~1. Create a secondary means of egress from interior instructional spaces; or~~
 - ~~2. Divide corridors into segments not to exceed 300 feet in aggregate length.~~
 - (b) through (e) No change.
 - (3) through (13) No change.
 - (14) Corridors and hallways.
 - (a) Corridors shall be arranged so that each end leads to an exit and shall be without pockets or deadends more than 20 feet in length.
 - (b) Hallway widths in office and service areas shall be a minimum of 44 inches in width.
 - ~~(c) Interior corridors, including contiguous dead-end cross corridors, shall be divided by smoke stop doors in sections not to exceed 300 feet in length.~~

~~(c)(4)~~ Child Care. Areas designated for children’s sleeping mats, cots, or cribs shall include a clearly marked exit passageway.

(15) through (16) No change.

(17) Boiler Rooms.

(a) through (b) No change.

(c) Each boiler room door shall:

1. ~~Open Each boiler room door shall open~~ directly to the outside and, if opening toward a building or path of egress, shall have opening protection in accordance with section 8.3.4 of NFPA 101 or

2. When a door ~~If an additional door serving a boiler room~~ opens into the interior of the building, the door shall swing into the boiler room and have opening protection in accordance with section 8.3.4 of NFPA 101.

(18) through (20) No change.

Specific Authority 1013.12, 633.022 FS. Law Implemented 1013.12, 633.022 FS. History–New 11-26-06, Amended _____.

69A-58.0082 Relocatable Buildings.

(1) Relocatable buildings: Relocatable buildings sited after March 1, 2002, shall be separated as required by the Florida Building Code.

(a) No change.

(b) Relocatable buildings sited within a cluster in accordance with this section are permitted to achieve emergency vehicle access by providing vehicular access to within 200 feet of the entrance of the most remote relocatable unit and shall be provided with an independent fire alarm system with a manual pull station within 100 feet of each egress door.

Exception: When required by the board, a cluster shall be protected by a fire zone extended from the main educational facility’s fire alarm control panel.

In addition, all of the following requirements shall be met:

1. through 4. No change.

~~5. The minimum setback for non-combustible relocatable buildings shall be as permitted by local zoning requirements.~~

(2) Each multi-classroom relocatable building of non-combustible construction shall ~~Egress doors in relocatable buildings shall be provided as follows:~~

~~(a) Classroom units of combustible construction shall have 2 remotely located doors opening directly to the outside.~~

~~(b) Multi-classroom units of non-combustible construction shall~~ have a primary exit door opening directly to the exterior or, if served by interior corridors, shall have a primary exit door and an emergency rescue opening in each space designed to be occupied by 6 or more students.

~~(a)1-~~ This requirement applies to spaces occupied by 10 or more persons for buildings designed prior to October 18, 1994.

~~(b)2-~~ An emergency rescue opening is not required when a door opens directly to the outside.

(3) No change.

Specific Authority 1013.12, 633.022 FS. Law Implemented 1013.12, 633.022 FS. History–New 11-26-06, Amended _____.

NAME OF PERSON ORIGINATING PROPOSED RULE:
Jim Goodloe, Chief, Bureau of Fire Prevention, 200 E. Gaines Street, Tallahassee, Florida 32399-0342, Telephone: (850)413-3620, Fax: (850)414-6119

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Jim Goodloe

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: October 18, 2007

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: January 18, 2008

DEPARTMENT OF FINANCIAL SERVICES

Division of Worker’s Compensation

RULE NO.:	RULE TITLE:
69L-24.0231	Benefits and Administration Trust Fund Penalties Improper Filing Practices

PURPOSE AND EFFECT: The purpose of the proposed rule amendment, and its effect, is to provide a thirty day time period within which a Claims Administrator will not receive a late filing penalty for any First Reports of Injury or Illness accepted by the Division of Workers’ Compensation after the Claims Administrator is first approved by the Division to electronically submit such reports to the Division.

SUMMARY: Amendment provides a thirty day time period within which a Claims Administrator will not receive a late filing penalty for any First Report of Injury or Illness accepted by the Division of Workers’ Compensation after the Claims Administrator is first approved by the Division to electronically submit such reports to the Division.

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

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

SPECIFIC AUTHORITY: 440.13(11)(b), 440.185, 440.591, 440.593(5) FS.

LAW IMPLEMENTED: 440.13(11)(b), 440.185(9), 440.20(8)(a) FS.

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

DATE AND TIME: Wednesday, February 20, 2008, 10:00 a.m.

PLACE: 104 J Hartman Bldg., 2012 Capital Circle Southeast, Tallahassee, Florida

Pursuant to the provisions of the Americans with Disabilities Act, any person requiring special accommodations to participate in this workshop/meeting is asked to advise the agency at least 5 days before the workshop/meeting by contacting: Robin Ippolito. 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 IS: Robin Ippolito, Bureau Chief, Bureau of Monitoring and Audit, Division of Workers' Compensation, Department of Financial Services, 200 East Gaines Street, Tallahassee, Florida 32399-4224, phone (850)413-1775

THE FULL TEXT OF THE PROPOSED RULE IS:

69L-24.0231 Benefits and Administration Trust Fund Penalties Improper Filing Practices.

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

(d) If the electronic First Report of Injury or Illness is assigned an Application Acknowledgement Code of Transaction Accepted (TA) within 30 days after the Claim Administrator, as defined in Rule 69L-56.002, F.A.C., is first approved and required by the Division to send electronic First Reports of Injury or Illness to the Division pursuant to paragraph 69L-56.300(1)(d), F.A.C., the Insurer, as defined in Rule 69L-56.002, F.A.C., shall not be assessed a filing penalty pursuant to paragraph 69L-24.0231(1)(c), F.A.C., based on the filing requirements established in subsections 69L-56.301(1) and (2), F.A.C. After the completion of the 30 day period referenced above, all electronic First Reports of Injury or Illness must be assigned an Application Acknowledgement Code of Transaction Accepted (TA) by the Division within the required filing timeframes established in subsections 69L-56.301(1) and (2), F.A.C., to be considered timely filed.

(2) through (6) No change.

Specific Authority 440.13(11)(b), 440.185, 440.591, 440.593(5) FS. Law Implemented 440.13(11)(b), 440.185(9), 440.20(8)(a) FS. History--New 8-29-94, Amended 5-14-95, 6-4-97, 11-28-01, Formerly 38F-24.0231, 4L-24.0231, Amended 1-8-04, _____.

NAME OF PERSON ORIGINATING PROPOSED RULE: Robin Ippolito, Bureau Chief, Bureau of Monitoring and Audit, Division of Workers' Compensation

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Andrew Sabolic, Assistant Division Director, Division of Workers' Compensation

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: January 16, 2008

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: December 7, 2007

Section III
 Notices of Changes, Corrections and Withdrawals

DEPARTMENT OF REVENUE

RULE NO.: 12-26.008
 RULE TITLE: Public Use Forms

NOTICE OF WITHDRAWAL

Notice is hereby given that the above rule, as noticed in Vol. 32, No. 52, pp. 6117-6118, December 29, 2006, issue of the Florida Administrative Weekly has been withdrawn. In response to public comments, Notices of Change were published in Vol. 33, No. 15, pp. 1716-1717, April 13, 2007, and in Vol. 33, No. 12, pp. 1411-1412, March 23, 2007, editions of the Florida Administrative Weekly. The Department will notice a rule development workshop to receive public comment regarding the development of changes to forms used by the Department in the administration of applications for a refund of tax.

DEPARTMENT OF REVENUE

Sales and Use Tax

RULE NOS.: 12A-1.096
 RULE TITLES: Industrial Machinery and Equipment for Use in a New or Expanding Business
 12A-1.097
 Public Use Forms

NOTICE OF WITHDRAWAL

Notice is hereby given that the above rules, as noticed in Vol. 33, No. 32, pp. 3595-3606, August 10, 2007, issue of the Florida Administrative Weekly has been withdrawn. Due to a clerical error, these rules were not included in the Notice of Public Hearing at the November 14, 2007, Cabinet meeting, as noticed in Vol. 33, No. 44, p. 5173, November 2, 2007, issue of the Florida Administrative Weekly. A second Notice of Proposed Rulemaking for the above rules, identical to the first notice, was noticed in Vol. 33, No. 49, pp. 5715-5726, December 7, 2007, issue of the Florida Administrative Weekly to restart the rule adoption process.

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."