

(b) If an eligible reinsurer fails to comply on a timely basis with paragraph (a) of this subsection, the Commissioner shall withdraw the reinsurer’s eligibility under this rule, or take such other steps as necessary in the best interests of market stability and the solvency of the ceding insurers.

(14) The Commissioner may, by order, determine that credit shall not be allowed to any insurer for reinsured risk pursuant to this rule if it appears to the Commissioner that granting of the credit to the ceding insurer would not be in the public interest or serve the best interests of the ceding insurer’s solvency.

(15) Nothing in this rule prohibits a ceding insurer and a reinsurer from entering into agreements establishing collateral requirements in excess of those set forth in this rule.

Specific Authority 624.308, 624.610(14) FS. Law Implemented 624.307(1), 624.610 FS. History—New

Section IV Emergency Rules

DEPARTMENT OF STATE

Division of Elections

RULE NO.:	RULE TITLE:
1SER08-2	Constitutional Amendment Initiative Petition; Submission Deadline: Signature Verification

SPECIFIC REASONS FOR FINDING AN IMMEDIATE DANGER TO THE PUBLIC HEALTH, SAFETY OR WELFARE: Pursuant to Section 120.54(4)(b), Florida Statutes, this emergency rule pertains to the public health, safety, and welfare as it involves the interpretation and implementation of the requirements of Chapters 97-102 and 105 of the Florida Election Code.

During the 2008 Legislative session, Senate Bill 866 was enacted and signed into law by the Governor. Effective July 1, 2008, the new law deleted the requirement for supervisors of elections to record verified signatures on initiative petition in the statewide voter registration system. Instead, the law requires the supervisors of elections to record initiative petition data in a manner prescribed by the Secretary of State.

The statewide voter registration system was designed for recording voter registrations, not signatures on initiative petitions. In the past, discrepancies have existed in the numbers of signatures being verified in the statewide voter registration system for initiative petitions. These discrepancies seriously undermined the reliability of the number of signatures recorded in the statewide voter registration system. The Secretary of State lacks confidence in the accuracy of signature verification numbers reported in the statewide voter registration system. The Secretary of State believes paper certifications from the county supervisors of elections reflect the most accurate

accounting of verified signatures; therefore, this emergency rule requires the supervisors of elections to submit paper certifications to the Division of Elections. The verification process instituted by this emergency rule is very similar to the process that existed in rule prior to January 2007, which was the date that the Legislature initially mandated that the verified signatures be recorded in the statewide voter registration system.

The Emergency Rule is necessary to bring the existing rule in compliance with the new requirements of Section 100.371, Florida Statutes, as amended by Senate Bill 866. There is insufficient time to amend Rule 1S-2.0091 through the normal rulemaking process prior to the law’s July 1st deadline. Procedures must be in place on July 1st that will provide the supervisors of elections guidance for the proper recording and reporting of signature verifications on initiative petitions. This emergency rule is necessary to make the certification on initiative petitions proposing constitutional amendments comply with the amended statute. The rule helps to ensure and maintain the efficiency, integrity, and public confidence in the initiative process. Absent this emergency rule, there will be an adverse effect on the conduct of elections and the initiative process in the State of Florida. Based on the foregoing, the Department of State finds that the adoption of this rule is necessary to prevent an immediate danger to the public health, safety and welfare.

REASON FOR CONCLUDING THAT THE PROCEDURE IS FAIR UNDER THE CIRCUMSTANCES: The Division of Elections is aware of the rulemaking procedures prescribed by Section 120.54, Florida Statutes. That process requires advance notice to the general public of intended rules and the opportunity to submit comments on the intended rule, prior to the agency’s adoption of the rule. The time period for general rulemaking takes at least 60 days and the July 1, 2008 effective date of the amended statute will prevent the timely amendment and adoption of a rule needed to amend the method used by the supervisors of elections and the Secretary of State to record and verify the signatures on constitutional amendment initiative petitions. This emergency rule will permit the Secretary of State to make the most accurate determination whether the requisite number of signatures has been obtained. This emergency rule incorporates newly enacted amendments to Section 100.371, Florida Statutes, and represents a return to the way in which the Secretary of State determined by rule prior to January 2007 if the requisite number of signatures on initiatives has been obtained for ballot position. The Department of State will undergo the normal rulemaking process for this rule in the near future.

SUMMARY: Based upon statutory amendments, this emergency rule removes the requirement that the determination of the constitutionally requisite number of signatures verified by the supervisors of elections with respect to constitutional initiative petitions be based upon the number

of verified signatures recorded in the statewide voter registration system. The emergency rule establishes procedures for supervisors of elections to record and submit paper certifications of verified signatures on initiative petitions.

THE PERSON TO BE CONTACTED REGARDING THE EMERGENCY RULE IS: Gary J. Holland, Assistant General Counsel, Division of Elections, Department of State, R. A. Gray Building, 500 S. Bronough Street, Tallahassee, Florida 32399, (850)245-6536

THE FULL TEXT OF THE EMERGENCY RULE IS:

1SER08-2 (1S-2.0091) Constitutional Amendment Initiative Petition; Submission Deadline; Signature Verification.

(1) Submission. Signed initiative petition forms proposing amendments to the Florida Constitution shall be submitted solely by the sponsoring political committee to the Supervisor of Elections in the county in which the petition forms were circulated. It is the responsibility of the sponsoring political committee to ensure that the signed petition form is properly filed with, or if misfiled forwarded to, the Supervisor of Elections of the county in which the signee is a registered voter. In the case of a misfiled petition, the filing date of the petition is the date such petition is filed with the proper county.

(2) Signature Verification.

(a) In accordance with the signature verification fee provisions in Section 99.097(4), F.S., the Supervisor of Elections shall verify the signatures on each initiative petition form within 30 days of receipt of the form to ensure that each person signing the petition form:

1. Was, at the time of signing and verification of the petitions, a registered voter in the county in which the petition is submitted,
2. Had not previously revoked his or her signature on the petition,
3. Had not signed the petition form more than four years prior to the date the Supervisor verified the petition, and
4. Had not ever previously signed a petition form containing the identical initiative.

(b) The Supervisor shall not verify a signature on an initiative petition form unless all of the following information is contained on the petition form:

1. The voter's name,
2. The voter's residential street address (including city and county),
3. The voter's date of birth or voter registration number,
4. The voter's original signature, and
5. The date the voter signed the petition, as recorded by the voter.

(3) Random Sampling Not Permitted. Supervisors of Elections may not use random sampling as a method for verifying signatures on constitutional amendment initiative petitions.

(4) Recordation of Verification. ~~No later than 24 hours after verification of signatures on submitted initiative petition forms, the Supervisor of Elections shall directly record into the statewide voter registration system each valid and verified signature.~~ The appropriate supervisor of elections for each respective voter whose signature is verified as valid shall record the date the form was received, the date of the signature, the date the signature was verified, and the assigned serial number for the applicable initiative petition. Upon completion of the verifications as set forth in subsection (2), the Supervisors of Elections shall promptly submit to the Division of Elections a certificate indicating the total number of signatures verified and the distribution by congressional district. The Division will provide appropriate forms to the Supervisors of Elections to be used for transmission of the required information. In conjunction with each certificate submitted, each Supervisor shall submit a copy of one petition showing the text of the constitutional amendment to which the verified signatures relate. Certificates may be submitted by the Supervisor via facsimile in order to meet the filing deadline, followed by the original certificates sent by mail.

~~(5)(a) Filing Deadline. Determination of Constitutionally Requisite Number of Signatures. The Division shall determine from the verified petition signatures recorded in the statewide voter registration system whether the constitutionally requisite number of verified signatures has been obtained with respect to each constitutional amendment for each congressional district and the State as a whole. In order for the initiative petition to be timely filed for appearance on the ballot for the next general election, the constitutionally requisite number of verified signatures must be verified and reported to the Division recorded in the statewide voter registration system no later than 5:00 p.m. on February 1 of the year in which the general election is held.~~

~~(b) Effect of Revocation Petition. Prior to any determination that the constitutionally requisite number of signatures has been obtained for purposes of placing an amendment by initiative on the ballot, the Division shall determine in accordance with Rule 1S-2.0095, F.A.C., the number of verified petition revocations reported to the Division recorded no later than 5:00 p.m. on February 1 of the same year. The Division shall then deduct that number from the number of verified signatures reported recorded for the underlying applicable constitutional initiative amendment. Upon a determination that the constitutionally requisite number of signatures has been obtained, the Secretary of State shall issue a certificate of ballot position in accordance with Section 100.371, F.S., to the appropriate sponsoring political committee and assign a designating ballot number.~~

~~(e) For any constitutional amendment by initiative that obtained a certification of ballot position prior to the effective date of this rule, a determination shall be made whether the number of verified signatures for petition revocations recorded as of 5:00 p.m. on February 1 of the year in which the next general election is held is sufficient to reduce the number of verified signatures for the underlying initiative amendment below the constitutionally required number of signatures obtained for ballot placement. If the number of recorded verified petition revocations is sufficient, then the initiative amendment is removed or stricken from the ballot in accordance with subsection 1S-2.0011(3), F.A.C.~~

~~(6)(5) Limitation on Use of Verified Signatures.~~ Verified signatures used successfully to place a proposed amendment by initiative on the ballot that subsequently fails to be approved by the electors at the general election shall not be used again in support of any future initiative petition.

(7) Effective date. The effective date of this emergency rule is July 1, 2008.

Specific Authority 20.10(3), 97.012(1), 100.371(7) FS. Law Implemented 100.371 FS. History—New 1-6-80, Amended 12-20-83, Formerly 1C-7.091, 1C-7.0091, Amended 2-13-90, 3-5-96, 1-5-04, 3-16-06, 10-15-07, 7-1-08.

THIS RULE TAKES EFFECT UPON BEING FILED WITH THE DEPARTMENT OF STATE UNLESS A LATER TIME AND DATE IS SPECIFIED IN THE RULE.

EFFECTIVE DATE: July 1, 2008

DEPARTMENT OF STATE

Division of Elections

RULE NO.:	RULE TITLE:
1SER08-3	Constitutional Amendment Initiative Petition Revocation; Petition Approval; Submission Deadline; Signature Verification

SPECIFIC REASONS FOR FINDING AN IMMEDIATE DANGER TO THE PUBLIC HEALTH, SAFETY OR WELFARE: Pursuant to Section 120.54(4)(b), Florida Statutes, this emergency rule is a rule pertaining to the public health, safety, and welfare as it involves the interpretation and implementation of the requirements of Chapters 97-102 and 105 of the Florida Election Code.

During the 2008 Legislative session, Senate Bill 866 was enacted and signed into law by the Governor. Effective July 1, 2008, the new law deleted the requirement for supervisors of elections to record verified signatures on initiative revocation petitions in the statewide voter registration system. Instead, the law requires the supervisors of elections to record initiative petition revocation data in a manner prescribed by the Secretary of State. The law also directs that electors be able to use a standard petition-revocation form adopted by the

Division of Elections when no revocation form has been submitted and approved for revoking a signature on an underlying initiative petition.

The statewide voter registration system was designed for recording voter registrations, not signatures on initiative petitions. In the past, discrepancies have existed in the numbers of signatures being verified in the statewide voter registration system for initiative petitions. These discrepancies seriously undermined the integrity, accuracy, and reliability of the signatures recorded in the statewide voter registration system. The Secretary of State lacks confidence in the accuracy of signature verification numbers reported in the statewide voter registration system. The Secretary of State believes paper certifications from the county supervisors of elections reflect the most accurate accounting of verified signatures; therefore, this emergency rule requires the supervisors of elections to submit paper certifications of verified signatures on revocation petitions to the Division of Elections. Although revocation petition signature verifications did not come into existence until August 1, 2007, the verification process instituted by this emergency rule is very similar to the process that existed in rule prior to January 2007 and the system which currently is being reinstated for initiative petitions.

The Emergency Rule is necessary to bring the existing rule in compliance with the new requirements of Section 100.371, Florida Statutes, as amended by Senate Bill 866. There is insufficient time to amend Rule 1S-2.0095, F.A.C., through the normal rulemaking process prior to the law's July 1st deadline. Procedures must be in place on July 1st that will provide electors the ability to use a standard petition-revocation form and that will provide the supervisors of elections guidance for the proper recording and reporting of signature verifications on initiative revocation petitions. This emergency rule is also necessary to make the certification on initiative revocation petitions proposing constitutional amendments comply with the amended statute. The rule helps to ensure and maintain the efficiency, integrity, and public confidence in the initiative process. Absent this emergency rule, there will be an adverse effect on the conduct of elections and the initiative process in the State of Florida. Based on the foregoing, the Department of State finds that the adoption of this rule is necessary to prevent an immediate danger to the public health, safety and welfare.

REASON FOR CONCLUDING THAT THE PROCEDURE IS FAIR UNDER THE CIRCUMSTANCES: Pursuant to Section 120.54(4)(b), Florida Statutes, this emergency rule is a rule pertaining to the public health, safety, and welfare as it involves the interpretation and implementation of the requirements of Chapters 97-102 and 105 of the Florida Election Code.

During the 2008 Legislative session, Senate Bill 866 was enacted and signed into law by the Governor. Effective July 1, 2008, the new law deleted the requirement for supervisors of elections to record verified signatures on initiative revocation

petitions in the statewide voter registration system. Instead, the law requires the supervisors of elections to record initiative petition revocation data in a manner prescribed by the Secretary of State. The law also directs that electors be able to use a standard petition-revocation form adopted by the Division of Elections when no revocation form has been submitted and approved for revoking a signature on an underlying initiative petition.

The statewide voter registration system was designed for recording voter registrations, not signatures on initiative petitions. In the past, discrepancies have existed in the numbers of signatures being verified in the statewide voter registration system for initiative petitions. These discrepancies seriously undermined the reliability of the number of signatures recorded in the statewide voter registration system. The Secretary of State lacks confidence in the accuracy of signature verification numbers reported in the statewide voter registration system. The Secretary of State believes paper certifications from the county supervisors of elections reflect the most accurate accounting of verified signatures; therefore, this emergency rule requires the supervisors of elections to submit paper certifications of verified signatures on revocation petitions to the Division of Elections. Although revocation petition signature verifications did not come into existence until August 1, 2007, the verification process instituted by this emergency rule is very similar to the process that existed in rule prior to January 2007 and the system which currently is being reinstated for initiative petitions.

The Emergency Rule is necessary to bring the existing rule in compliance with the new requirements of Section 100.371, Florida Statutes, as amended by Senate Bill 866. There is insufficient time to amend Rule 1S-2.0095, F.A.C., through the normal rulemaking process prior to the law's July 1st deadline. Procedures must be in place on July 1st that will provide electors the ability to use a standard petition-revocation form and that will provide the supervisors of elections guidance for the proper recording and reporting of signature verifications on initiative revocation petitions. This emergency rule is also necessary to make the certification on initiative revocation petitions proposing constitutional amendments comply with the amended statute. The rule helps to ensure and maintain the efficiency, integrity, and public confidence in the initiative process. Absent this emergency rule, there will be an adverse effect on the conduct of elections and the initiative process in the State of Florida. Based on the foregoing, the Department of State finds that the adoption of this rule is necessary to prevent an immediate danger to the public health, safety and welfare.

SUMMARY: Based upon statutory amendments, this emergency rule removes the requirement that the determination of signatures verified by the supervisors of elections with respect to initiative revocation petitions be based upon the number of verified signatures recorded in the statewide voter registration system. The emergency rule

establishes procedures for supervisors of elections to record and submit paper certifications of verified signatures on initiative revocation petitions. The emergency rule also incorporates by reference and prescribes procedures regarding a statutorily mandated standard revocation form for use by electors when no political committee has submitted and obtained approval of a revocation form for an initiative petition.

THE PERSON TO BE CONTACTED REGARDING THE EMERGENCY RULE IS: Gary J. Holland, Assistant General Counsel, Division of Elections, Department of State, R. A. Gray Building, 500 S. Bronough Street, Tallahassee, Florida 32399, (850)245-6536

THE FULL TEXT OF THE EMERGENCY RULE IS:

1SER08-3 (1S-2.0095) Constitutional Amendment Initiative Petition Revocation; Petition Approval; Submission Deadline; Signature Verification.

(1) Submission of Petition Revocation Form. Prior to circulation of a petition revocation form, any person or group sponsoring the revocation effort must register as a political committee pursuant to Chapter 106, F.S., and must obtain approval of the petition revocation form from the Division of Elections. Submissions shall be in writing and shall include a copy or a facsimile of the proposed form to be circulated. No petition revocation form may be circulated unless approved by the Division of Elections.

(2) Requirements and Approval of Petition Revocation Form. The Division shall review the petition revocation form submitted by the sponsoring political committee solely for sufficiency of the format and shall render a decision within seven (7) days following receipt. The format of the petition revocation form is deemed sufficient only if the form:

(a) Is printed on separate cards or individual sheets of paper. The minimum size of such forms shall be 3 inches by 5 inches and the maximum shall be 8 1/2 inches by 11 inches.

(b) Is clearly and conspicuously entitled at the top of the form "Petition Revocation Form."

(c) Includes adequate space for the voter's: name; residential street address, city, and county at the time of signing the initiative petition for which the signature is being revoked; voter registration number; date of birth; signature; and date of signature.

(d) Contains the ballot title and ballot summary of the proposed amendment in the initiative petition for which the signature is being revoked.

(e) Conspicuously contains the full text of the amendment for which the signature is being revoked, as indicated in the initiative petition as approved in Rule 1S-2.009, F.A.C. If the text must be printed on both sides of the form, it shall be clearly indicated that the text is continued or begins on the other side.

(f) Contains space for only one voter's signature, to be located below the full text of the amendment for which the signature is being revoked.

(g) Contains instructions below the signature of the voter that provide:

1. The Supervisor of Elections may not accept the petition revocation form directly from the voter;
2. The voter shall return the form to the political committee sponsoring the revocation petition; and
3. The contact information for the political committee sponsoring the revocation petition, which at a minimum, shall include its name and mailing address.

(h) Is marked, in accordance with Section 106.143, F.S., with the appropriate disclaimer which identifies the name of the political committee sponsoring the revocation effort and the name of the entity paying for the petition, if different from the name of the committee sponsoring the revocation effort.

(i) Contains space for the name and address of a paid petition circulator in the event the petition revocation form is gathered by a paid petition circulator.

(3) Format of Petition Revocation Form.

1. The format of the initiative petition revocation form sponsored by a political committee and submitted for review and approval by the Division of Elections shall be substantially in accordance with Form DS-DE 19R (eff. 8/1/07), entitled "Petition Revocation Form." Form DS-DE 19R is hereby incorporated by reference and is available from the Division of Elections, Room 316, R. A. Gray Building, 500 South Bronough Street, Tallahassee, Florida 32399-0250; (850)245-6500; or by download from the Division of Elections' webpage at <http://election.dos.state.fl.us>.

2. Any voter desiring to revoke his or her signature on an initiative petition when a political committee has not submitted and obtained approval of a petition-revocation form for the petition, shall use Form DS-DE 19R-SF (eff. 7/1/08), entitled "Petition Revocation Standard Form." Form DS-DE 19R-SF is hereby incorporated by reference and is available from the Division of Elections, Room 316, R. A. Gray Building, 500 South Bronough Street, Tallahassee, Florida 32399-0250; (850)245-6500; by download from the Division of Elections' webpage at <http://election.dos.state.fl.us>.

(4) Additional Information or Materials. Other than providing information or a method by which the petition revocation form may be returned by mail to the political committee, no additional information or materials that relate to the initiative petition or the petition revocation shall be printed directly on the form.

(5) Assignment of a Serial Number. The Division shall assign a serial number to each approved petition revocation form sponsored by a political committee. The number shall be the serial number of the initiative petition form followed by an "R". For example, the serial number of the petition-revocation

form on petition 06-1 would be 06-1R. The serial number assigned must be printed in the lower right hand corner of the petition revocation form.

(6) Bundling. No petition revocation form circulated for signature may be bundled with or attached to any other petition form or petition-revocation form.

(7) Reproduction.

(a) Petition-Revocation Forms Sponsored by a Political Committee. Blank pPetition-revocation forms sponsored by a political committee may be reproduced in newspapers, magazines, other forms of printed mass media or made available via the Internet for download or printing, provided such forms are reproduced in the same format as approved by the Division. The blank petition revocation form may be included within a larger advertisement, provided the forms are clearly defined by a solid or broken line border.

(b) Form DS-DE 19R-SF. Reproduction of a blank Forms DS-DE 19R-SF may be reproduced by downloading from the Internet or photocopying another blank form, provided such forms are reproduced in the same format as produced by the Division. Only an employee of the Division of Elections or a Supervisor of Elections' office, the voter who intends to sign the form, or someone at the voter's request may download or provide the voter with a copy of Form DS-DE-19R-SF for submission to a Supervisor of Elections.

(8) Submission of Signed Petition Revocation Forms. All signed petition revocation forms, except for those properly submitted on Form DS-DE 19R-SF, shall be returned to the political committee sponsoring the revocation effort. Only the political committee sponsoring the revocation effort shall submit the signed petition revocation forms to the Supervisors of Elections for verification of signatures. When there is no sponsoring political committee, a voter shall submit the Form DS-DE 19R-SF directly to the Supervisor of Elections' office in person, through a person acting on the voter's behalf, or by mail, along with the signature verification fee required by Section 99.097(4), F.S. It is the responsibility of the political committee sponsoring the revocation effort to ensure that the signed petition revocation form is properly filed with, or if misfiled forwarded to, the supervisor of elections of the county in which the signee was a registered voter at the time of signing the underlying original initiative petition. In the case of a misfiled petition revocation form, the filing date of the petition revocation form is the date such petition is filed with the proper county.

(9) Signature Verification.

(a) In accordance with the signature verification fee provisions in Section 99.097(4), F.S., the Supervisor of Elections shall verify the signatures on each petition revocation form within 30 days of receipt of the form and shall confirm that:

1. The underlying original initiative petition on which the signature is being revoked was verified;

2. The date the petition revocation form was signed by the voter is not more than 150 days from the date the underlying original initiative petition was signed; and

3. The voter is a registered voter in Florida at the time of verifying the signature on the petition revocation form.

(b) The Supervisor shall not verify a signature on a petition revocation form unless all of the following information is contained on the petition revocation form:

1. The voter's name;
2. The voter's residential street address (including city and county) that was recorded on the underlying original signature petition on which the voter desires to revoke his or her signature;
3. The voter's date of birth or voter registration number;
4. The voter's original signature; and
5. The date the voter signed the petition revocation form, as recorded by the voter.

(10) ~~Recordation of Verification. No later than 24 hours after verification of signatures on submitted petition revocation forms, the Supervisor of Elections shall record each valid and verified signature in the statewide voter registration system. The appropriate supervisor of elections for each respective voter whose signature is verified as valid shall record the date the petition revocation form was received, the date of signature, the date the signature was verified, and the assigned serial number for the applicable revocation petition. Upon completion of the verifications as set forth in subsection (9), the Supervisors of Elections shall submit to the Division of Elections a certificate indicating the number of verified revocations and the distribution by congressional district. The Division will provide appropriate forms to the Supervisors of Elections to be used for transmission of the required information. In conjunction with each certificate submitted, each Supervisor shall submit a copy of one revocation form to which the verified signatures relate. Certificates may be submitted by the Supervisor via facsimile in order to meet the deadline, followed by the original certificates sent by mail.~~

(11) Filing Deadline. In order for a petition revocation form to count against the number of signatures recorded as verified for the underlying original initiative petition for the next general election, the signed petition revocation must be verified and received by Division of Elections entered into the statewide voter registration system no later than 5:00 p.m. of February 1 preceding the next general election in which the initiative amendment is certified for ballot position.

(12) Availability of Forms. The sponsoring political committee for the petition revocation effort shall provide each supervisor of elections with petition revocation forms for distribution at the main and branch offices of the supervisor of elections.

(13) Irrevocable Effect of Revocation. A voter may sign only one petition revocation form for the underlying original petition. In accordance with Section 104.185, F.S., when a voter signs a petition revocation form, the voter may not again sign the initiative petition on which the voter is seeking to revoke his or her signature.

(14) ~~Effective date. The effective date of this emergency rule is July 1, 2008. Applicability. Revocation of a voter's signature on an initiative petition may occur only on or after August 1, 2007 for a petition revocation form filed with the supervisor of elections not more than 150 days from the date the voter signed the underlying original initiative petition.~~

Specific Authority 20.10(3), 97.012, 100.371(7), 101.161 FS. Law Implemented Art. XI, Fla. Const., 100.371, 101.161 FS. History--New 10-15-07, Amended 7-1-08.

THIS RULE TAKES EFFECT UPON BEING FILED WITH THE DEPARTMENT OF STATE UNLESS A LATER TIME AND DATE IS SPECIFIED IN THE RULE.

EFFECTIVE DATE: July 1, 2008

DEPARTMENT OF REVENUE

Miscellaneous Tax

<p>RULE NOS.:</p> <p>12BER08-14</p> <p>12BER08-15</p> <p>12BER08-16</p> <p>12BER08-17</p>	<p>RULE TITLES:</p> <p>Scope; Definitions; Index Price</p> <p>Imposition of the Gross Receipts Tax</p> <p>Registration for Gross Receipts Tax</p> <p>Purposes</p> <p>Payment of Gross Receipts Tax;</p> <p>Reports</p>
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SPECIFIC REASONS FOR FINDING AN IMMEDIATE DANGER TO THE PUBLIC HEALTH, SAFETY OR WELFARE: Chapter 2005-148, Laws of Florida, authorizes the Department of Revenue to promulgate emergency rules, and to renew such rules, to implement the provisions of that law. The promulgation of these emergency rules ensures that the appropriate procedures and forms are available for reporting and remitting gross receipts tax on utility service.

REASON FOR CONCLUDING THAT THE PROCEDURE IS FAIR UNDER THE CIRCUMSTANCES: The Legislature expressly authorized the promulgation of emergency rules, and the renewal of such rules, to ensure the prompt availability of procedures taxpayers can follow to comply with Chapter 203, F.S. (as amended by Chapters 2005-148 and 2007-60, Laws of Florida). The Department of Revenue previously sought comment on these emergency rules to the extent possible within the time restraints resulting from the statutory requirements. The preliminary text of proposed rules regarding the imposition of the gross receipts tax on utility services was posted on the Department of Revenue web site. Rule development workshops were held on November 16, 2005, and March 15, 2007, to receive public comments regarding the

preliminary text. The public comments received were considered by the Department in preparation of these emergency rules.

SUMMARY: Emergency Rule 12BER08-14 (Scope; Definitions; Index Price): (1) provides that Emergency Rules 12BER08-14 through 12BER08-17, apply to the tax imposed under Chapter 203, F.S., on utility services delivered to a retail consumer in Florida; (2) defines the terms “cost price,” “distribution company,” “Department,” “electricity index price,” “gas index price,” “gross receipts,” “utility services,” and “person” for purposes of Emergency Rules 12BER08-14 through 12BER08-17; (3) provides that the gross receipts tax imposed on certain utility services delivered to a retail consumer in Florida is based on an index price; (4) provides how the Department will announce the annual index prices for electricity and for natural and manufactured gas; (5) provides that the index price applies to electricity only if the transportation of the electricity is sold independent of the sale of the electricity itself; and (6) provides when the calculation of the tax requires the use of an index price, the distribution company must use a reasonable methodology to apply the residential, commercial, and industrial classifications to its existing rate structure.

Emergency Rule 12BER08-15 (Imposition of the Gross Receipts Tax), provides: (1) that the 2.5 percent gross receipts tax is imposed on distribution companies’ gross receipts from the privilege of selling and transporting natural or manufactured gas to retail consumers in Florida; (2) how the tax is computed based on the index price; (3) that the sale or transportation of natural or manufactured gas to public or private utilities for use as a fuel in the generation of electricity or for resale is not subject to tax; (4) that the sale or transportation of natural or manufactured gas to persons eligible for an exemption under Section 212.08(7)(ff)2., F.S., for use as an energy source or a raw material is not subject to tax and how to document such sales; (5) that the 2.5 percent gross receipts tax is imposed on distribution companies’ gross receipts from the privilege of selling and transporting electricity to retail consumers in Florida and how the tax is to be calculated; (6) that the tax does not apply to receipts from customers for purposes of resale; (7) that receipts from separately itemized charges for the connection, disconnection, suspension, or restoration of utility services are not subject to tax; (8) that receipts from separately itemized fees for returned checks, late payments, and interest due on late payments are not subject to the gross receipts tax; (9) that receipts from separately itemized charges for the sale, lease, rental, repair, or maintenance of customer premises equipment are not subject to gross receipts tax; (10) that the gross receipts tax applies to charges for utility services separately itemized to customers as an amount for services based on a standard rate amount with a separate rate adjustment; (11) that each and every fee imposed by a political subdivision of the State of Florida that is passed on to the customer as a separately itemized charge is included

in the gross receipts subject to tax; (12) that any municipal public service tax and any sales tax separately itemized to the customer is not included in the gross receipts subject to tax; (13) that the sale or delivery of electricity as part of an electric interchange agreement or contract between utilities is not subject to tax and how to document such sale or delivery; (14) that wholesale sales of electric transmission services and the loss of electricity from the generation, transmission, or distribution of electricity are not subject to tax; (15) that separately itemized charges for gross receipts tax on a customer’s bill, invoice, statement, or other evidence of sale are a part of the gross receipts of a distribution company; (16) for the imposition of use tax on natural or manufactured gas imported into Florida for which the Florida gross receipts tax has not been paid; (17) the documentation requirements, including a suggested resale certificate for tax-exempt sales of utility services for purposes of resale; and (18) recordkeeping requirements for taxpayers who sell or deliver utility services.

Emergency Rule 12BER08-16 (Registration for Gross Receipts Tax Purposes), provides: (1) that prior to engaging in the business of selling, transporting, delivering, or importing utility services in Florida, every person is required to register with the Department; and (2) how to register with the Department.

Emergency Rule 12BER08-17 (Payment of Gross Receipts Tax; Reports), provides: (1) how to report and remit to the Department the gross receipts tax imposed on utility services; (2) when taxpayers may elect to pay the gross receipts tax on total billings for electricity each month or on the actual gross receipts for electricity received in that month; (3) adopt, by reference, Form DR-133, Gross Receipts Tax Return; and (4) that persons engaged in the transportation of natural or manufactured gas must provide the Department with a list of customers to whom transportation services were provided in the prior year or post such a list on a publicly-accessible Internet web site.

THE PERSON TO BE CONTACTED REGARDING THE EMERGENCY RULE IS: Robert Babin, Deputy Director, Technical Assistance and Dispute Resolution, Department of Revenue, P. O. Box 7443, Tallahassee, Florida 32314-7443, telephone (850)922-4842

THE FULL TEXT OF THE EMERGENCY RULE IS:

12BER08-14 Scope; Definitions; Index Price.

(1) SCOPE. Emergency Rules 12BER08-14 through 12BER08-17, apply to the tax imposed by Chapter 203, F.S., on utility services delivered to a retail consumer in Florida. Where any conflicting language exists between Emergency Rules 12BER08-14 through 12BER08-17, and Rules 12B-6.001, 12B-6.0021, and 12B-6.005, F.A.C., the provisions of these emergency rules are controlling.

(2) DEFINITIONS. For purposes of Rules 12BER08-14 through 12BER08-17:

(a) "Cost price" means the actual cost of articles of tangible personal property without any deductions therefrom on account of the cost of materials used, labor or service costs, transportation charges, or any expenses whatsoever.

(b) "Distribution company" means any person owning or operating local electric, or natural or manufactured gas, utility distribution facilities within this state for the transmission, delivery, and sale of electricity or natural or manufactured gas. The term does not include natural gas transmission companies that are subject to the jurisdiction of the Federal Energy Regulatory Commission.

(c) "Department" means the Florida Department of Revenue.

(d) "Electricity index price" means the applicable residential, industrial, or commercial price per kilowatt hour for retail consumers in Florida in the previous calendar year, as published in the United States Energy Information Administration Electric Power Monthly.

(e) "Gas index price" means the applicable residential, industrial, or commercial price per 1,000 cubic feet for retail consumers in Florida in the previous calendar year, as published in the United States Energy Information Administration Natural Gas Monthly.

(f) "Gross receipts" means the total payments received in money, goods, services, or other consideration.

(g) "Person" includes any individual, firm, copartnership, joint adventure, association, corporation, estate, trust, business trust, receiver, syndicate, or other group or combination acting as a unit and also includes any political subdivision, municipality, state agency, bureau, or department and includes the plural as well as the singular number.

(h) "Utility services" means electricity for light, heat, or power; and natural or manufactured gas for light, heat, or power, including transportation, delivery, transmission, and distribution of the electricity or natural or manufactured gas. This paragraph does not broaden the definition of utility service to include separately stated charges for tangible personal property or services which are not charges for the electricity or natural or manufactured gas or the transportation, delivery, transmission, or distribution of electricity or natural or manufactured gas. Liquefied petroleum gas is sold in liquid form and transformed into gas when released from the container to be used for fuel. The term "utility services" does not include liquefied petroleum gas.

(3) INDEX PRICE. The calculation of the tax imposed on certain utility services delivered to a retail consumer in Florida is based on an index price.

(a) The Department will announce the residential, commercial, and industrial index prices for electricity and for natural and manufactured gas on June 1 of each year through issuance of a Taxpayer Information Publication and by posting the rates on the Department's Internet web site located on the Internet at www.myflorida.com/dor/taxes. The index prices

announced by the Department on June 1 will be effective from the following July 1 through June 30, and will apply to any bill dated on or after July 1 in the year in which the change becomes effective. The index prices effective July 1, 2008, through June 30, 2009, have been announced by the Department in Tax Information Publication 08B06-01 and apply to any bill dated on or after July 1, 2008, until the new index prices become effective on July 1, 2009.

(b) The electricity index prices only apply if the transportation of electricity is sold independent of the sale of the electricity itself. If electricity is sold to a retail consumer in Florida for a price that includes both a charge for the electricity and a charge for the transportation of the electricity, the tax imposed by Chapter 203, F.S., is calculated by using the distribution company's gross receipts, rather than through use of an index price.

(c) When the calculation of the tax imposed on utility services delivered to a retail consumer in Florida requires the use of an index price, the distribution company must use a reasonable methodology to apply the residential, commercial, and industrial classifications to its existing rate structure. This rule shall take effect on July 1, 2008.

Specific Authority s. 3, Ch. 2005-148, L.O.F. Law Implemented 203.01, 203.012 FS. History—New 7-1-08.

12BER08-15 Imposition of the Gross Receipts Tax.

(1) NATURAL OR MANUFACTURED GAS.

(a) A tax is imposed at the rate of 2.5 percent on distribution companies' gross receipts from the privilege of selling or transporting natural or manufactured gas to a retail consumer in this state. The gross receipts tax on the sale or transportation of natural or manufactured gas is calculated as follows: $(\text{number of cubic feet of gas sold or transported}) \div 1,000 \times (\text{the applicable gas index price}) \times (2.5 \text{ percent})$.

(b) The tax implemented in paragraph (1)(a) does not apply to:

1. The sale or transportation of natural or manufactured gas to a public or private utility, including a municipal corporation, or agency thereof, or rural electric cooperative association for use as a fuel in the generation of electricity;

2. Subject to the documentation requirements outlined in subsection (5), the sale or transportation of natural or manufactured gas to a public or private utility, including a municipal corporation or agency thereof, or rural electric cooperative association for resale;

3. The sale or transportation to, or use of, natural or manufactured gas by any person eligible for an exemption under Section 212.08(7)(ff)2., F.S., for use as an energy source or a raw material. Possession by a seller of natural or manufactured gas or by any person providing transportation or delivery of natural or manufactured gas of a written certification by the purchaser, certifying the purchaser's entitlement to the exclusion permitted by this paragraph,

relieves the seller or person providing transportation or delivery from the responsibility of remitting tax on the nontaxable amounts. The Department shall look solely to the purchaser for recovery of such tax if the Department determines that the purchaser was not entitled to the exclusion. The certification must include an acknowledgment by the purchaser that it will be liable for tax pursuant to Section 203.01(1)(f), F.S., if the requirements for exclusion are not met. The following is a suggested format of an exemption certificate to be issued by a manufacturer to a natural or manufactured gas distribution company:

CERTIFICATION

NATURAL OR MANUFACTURED GAS PURCHASED BY A PERSON ELIGIBLE FOR EXEMPTION UNDER INDUSTRIAL CLASSIFICATIONS IN SECTION 212.08(7)(ff)2., F.S.

This is to certify that I have purchased natural or manufactured gas for use as an energy source or raw material that is excluded from tax pursuant to Section 203.01(3)(d), Florida Statutes.

I certify that the applicable purchases were made by a company whose four-digit SIC Industry Number, as listed below, is classified under SIC Industry Major Group Number 10, 12 through 14, 20, or 22 through 39 or Group Number 212 in the Standard Industrial Classification (SIC) Manual, 1987, published by the Office of Management and Budget.

I acknowledge that I will be liable for tax pursuant to Section 203.01(1)(f), Florida Statutes, if the requirements for exclusion pursuant to Section 203.01(3)(d), F.S., are not satisfied.

I understand that if such purchases of natural or manufactured gas do not qualify for the exclusion as indicated on this certification, I must pay the applicable tax directly to the Department of Revenue.

Under penalties of perjury, I declare that I have read the foregoing certificate and the facts stated herein are true.

Purchaser's Name (Print or Type) Date

Signature of Authorized Person Title

Federal Employer Identification Number (FEI No.)

(2) ELECTRICITY

(a) A tax is imposed at the rate of 2.5 percent on a distribution company's gross receipts from the privilege of selling electricity that is delivered to a retail consumer in this state when the charge to the consumer includes charges for both the electricity and the transportation of the electricity. Tax imposed pursuant to this subparagraph is calculated by multiplying the distribution company's gross receipts by 2.5 percent.

1. The tax implemented in paragraph (2)(a) does not apply to:

a. Receipts from customers for separately itemized charges for the connection, disconnection, suspension, or restoration of electricity;

b. Receipts from customers for separately itemized charges for returned checks or other forms of payment, late payments, or interest due on late payments; or

c. Receipts from customers for separately itemized charges for the sale, lease, rental, repair, or maintenance of customer premises equipment.

2.a. When charges for utility services are separately itemized as an amount for services based on a standard rate amount with a separate rate adjustment on the same billing, invoice, statement, or other evidence of sale for services, gross receipts tax is due on the receipts for utility services after the application of the rate adjustment.

b. Example: A customer purchases electricity from an electric utility under an energy management program. The customer is billed the standard residential rate. In addition, the customer receives load management monthly credits for allowing specified electrical equipment to be interrupted at the option of the electric utility. The charge for electric service after the load management credits are applied against the charge at the standard residential rate is the amount subject to the gross receipts tax.

c. Example: A customer purchases electricity from an electric utility at the standard residential service rate. The electric utility charges each residential customer in this rate class an additional energy cost recovery factor, called "energy charges," on a per kilowatt hour basis. The customer is billed for electricity at the standard residential rate, plus the applicable energy charges. The amount charged to the customer at the standard residential rate, plus the amount of the energy charges, is the amount subject to the gross receipts tax.

3. Each and every fee imposed by a political subdivision of the State of Florida on the distribution company, such as a franchise fee, is included in the charge upon which the gross receipts tax is computed, when the fees are passed on to the customer and separately itemized on a customer's bill, invoice, statement, or other evidence of sale.

4. Any municipal public service tax imposed under Section 166.231 or 166.232, F.S., or any sales tax imposed under Chapter 212, F.S., on the sale or purchase of electric power or energy is not included in the charge upon which the gross receipts tax is computed when the municipal tax or sales tax is separately itemized on a customer's bill, invoice, statement, or other evidence of sale.

(b) Each distribution company that receives payment for the delivery of electricity to a retail consumer in this state is subject to tax on the exercise of this privilege as provided by this paragraph, unless the payment is subject to tax under paragraph (a). Under this paragraph, the gross receipts tax on

the delivery of electricity is calculated as follows: (number of kilowatt hours delivered) × (the applicable electricity index price) × (2.5 percent).

(c) The tax implemented in paragraphs (2)(a) and (b) does not apply to:

1. The sale or delivery of electricity to a public or private utility, including a municipal corporation or agency thereof, or rural electric cooperative association, for resale subject to the documentation requirements outlined in subsection (5);

a. The electric utility is required to maintain a copy of the agreement or contract in its books and records and is not required to meet the provisions of this rule regarding sales for resale. 2. The sale or delivery of electricity to a public or private utility, including a municipal corporation or agency thereof, or rural electric cooperative association, as part of an electric interchange agreement or contract between such utilities for the purpose of transferring more economically generated power.

b. The internal use, including interdepartmental transfers, of the purchased power is not subject to tax.

3. Wholesale sales of electric transmission service.

4. The loss of electricity resulting from the generation, transmission, or distribution of electricity, including line losses, generation losses, and any other losses for which charges are not made to the electric utility's customers.

(3) SEPARATELY ITEMIZED CHARGES. A distribution company may wholly or partially separately itemize the gross receipts tax on the customer's bill, invoice, statement, or other evidence of sale. However, the gross receipts tax is imposed on the privilege of doing business, and it is an item of cost to the distribution company. The distribution company remains fully and completely liable for the payment of the tax, even when the tax is wholly or partially separately itemized on the customer's bill, invoice, statement, or other evidence of sale. When the tax is wholly or partially separately itemized, every person, including governmental units and charitable and religious organizations, is liable for the payment of the tax to the distribution company.

(4) USE TAX.

(a) Gross receipts tax is levied upon a person's cost price of electricity, or natural or manufactured gas, imported into this state or severed within this state for the person's own use or consumption as a substitute for purchasing utility, transportation, or delivery services taxable under Chapter 203, F.S., and who cannot demonstrate payment of the tax imposed by Chapter 203, F.S. The tax implemented pursuant to this paragraph is calculated by multiplying the cost price of the utility service by 2.5 percent.

(b) The tax implemented pursuant to paragraph (4)(a) does not apply to:

1. The use of natural gas in the production of oil or gas, or the use of natural or manufactured gas by a person transporting natural or manufactured gas, when used and consumed in providing such services;

2. The use of natural gas or manufactured gas by a person eligible for an exemption under Section 212.08(7)(ff)2., F.S., for use as an energy source or a raw material;

3. The use of natural gas or manufactured gas by a public or private utility as fuel in the generation of electricity; or

4. The loss of electricity resulting from the generation, transmission, or distribution of electricity, including line losses, generation losses, and any other losses for which charges are not made to the electric utility's customers.

(5) SALES FOR RESALE. The sale, transportation, or delivery of utility services for resale is only exempt from the tax imposed under Chapter 203, F.S., if the sale, transportation, or delivery is documented in strict compliance with this rule. Distribution companies must document sales for resale by obtaining resale certificates from customers who purchase transportation, delivery, or utility services for the purposes of resale. The distribution company is only required to obtain one certificate for sales made for the purposes of resale from each customer making purchases for the purposes of resale. The certificate must contain the purchaser's name and address, the purchaser's gross receipts tax registration number and its effective date, a statement that the purchases are for the purpose of resale, the signature of the purchaser or an authorized representative of the purchaser, and the date of issuance. The following is a suggested format of a resale certificate:

RESALE CERTIFICATE FOR GROSS RECEIPTS TAX ON UTILITY SERVICES

This is to certify that the electricity for light, heat, or power or the natural or manufactured gas for light, heat, or power purchased after _____ (date) from _____ (seller's name) is purchased for the purpose of resale pursuant to Chapter 203, F.S.

I understand that if I fraudulently issue this certificate to evade the payment of gross receipts tax I will be liable for payment of the tax directly to the Department of Revenue and subject to the penalties imposed under Section 203.03(2), F.S.

I understand that I must disclose to the seller, or remit tax on, any purchase not for resale when tax was not paid to the seller and/or distribution company.

Under penalties of perjury, I declare that I have read the foregoing certificate and the facts stated herein are true.

Purchaser's Name _____

Purchaser's Address _____

Name and Title of Purchaser's Authorized Signature _____

Certificate of Registration Number _____

Effective Date Registration _____

By _____
 (authorized signature)
 Date _____

(6) RECORDKEEPING REQUIREMENTS. Distribution companies that sell, transport, or deliver utility services to retail consumers in Florida and taxpayers that import utility services into Florida for their own use must maintain electrical interchange agreements or contracts, resale certificates, exemption certificates, and other documentation required under the provisions of this rule chapter in their books and records until tax imposed under Chapter 203, F.S., may no longer be determined and assessed under Section 95.091, F.S. Electronic storage of required documentation through the use of imaging, microfiche, or other electric storage media will satisfy compliance with recordkeeping requirements. This rule shall take effect on July 1, 2008.

Specific Authority s. 3, Ch. 2005-148, L.O.F. Law Implemented 203.01, 203.012, 213.37 FS. History—New 7-1-08.

12BER08-16 Registration for Gross Receipts Tax Purposes.

(1) Prior to engaging in the business of selling, transporting, delivering, or importing utility services, every person, distribution company, or other entity upon which the gross receipts tax is imposed is required to register with the Department.

(2) Registration with the Department for gross receipts tax purposes is available by using one of the following methods:

(a) Registering through the Department’s “e-Services” system located on the Department’s Internet site at www.myflorida.com/dor; or

(b) Filing an Application to Collect and/or Report Tax in Florida (R. 01/06) (Form DR-1, incorporated by reference in Rule 12A-1.097, F.A.C.), with the Department as indicated on the form. Copies of this form are available, without cost, by one or more of the following methods: 1) downloading forms from the Department’s Internet site at www.myflorida.com/dor; or, 2) calling the Department at (800)352-3671, Monday through Friday, 8 a.m. to 7 p.m., Eastern Time; or, 3) visiting any local Department of Revenue Service Center; or, 4) writing the Florida Department of Revenue, Distribution Center, 168A Blountstown Highway, Tallahassee, Florida 32304; or, 5) visiting any local Department of Revenue Service Center to personally obtain a copy. Persons with hearing or speech impairments may call the Department’s TDD at (800)367-8331 or (850)922-1115.

This rule shall take effect on July 1, 2008.

Specific Authority s. 3, Ch. 2005-148, L.O.F. Law Implemented 203.01 FS. History—New 7-1-08.

12BER08-17 Payment of Gross Receipts Tax; Reports.

(1)(a) Except as provided in Rule Chapter 12-24, F.A.C., and paragraph (c) below, all taxes imposed on utility services are due to the Department on or before the 20th day of the month following the date of the sale or transaction. The payment and return must either reach the Department or be postmarked on or before the 20th day of the month for receipts for utility services received in the preceding calendar month for a taxpayer to avoid penalty and interest for late filing. When the 20th day of the month falls on a Saturday, Sunday, or a legal holiday, payments accompanied by returns will be accepted as timely if postmarked or delivered to the Department on the next succeeding day that is not a Saturday, a Sunday, or a legal holiday. A tax return is required to be filed on or before the 20th day of each month even when no tax is due. The report is required to be signed by an officer or a representative duly authorized to act by the taxpayer. For this purpose, a legal holiday means a holiday that is observed by federal or state agencies as a legal holiday as this term is defined in Chapter 683, F.S., and Section 7503 of the 1986 Internal Revenue Code, as amended. A “legal holiday” pursuant to Section 7503 of the Internal Revenue Code of 1986, as amended, means a legal holiday in the District of Columbia or a statewide legal holiday at a location outside the District of Columbia but within an internal revenue district.

(b) Form DR-133, Gross Receipts Tax Return (R. 07/07, hereby incorporated by reference), is the return to be used to report the gross receipts tax imposed on utility services. Copies of this form are available, without cost, by one or more of the following methods: 1) downloading selected forms from the Department’s Internet site at www.myflorida.com/dor; or, 2) calling the Department at (800)352-3671, Monday through Friday, 8 a.m. to 7 p.m., Eastern Time; or, 3) visiting any local Department of Revenue Service Center; or, 4) writing the Florida Department of Revenue, Distribution Center, 168A Blountstown Highway, Tallahassee, Florida 32304; or, 5) visiting any local Department of Revenue Service Center to personally obtain a copy. Persons with hearing or speech impairments may call the Department’s TDD at (800)367-8331 or (850)922-1115.

(c) When quarterly, semiannual, or annual reporting is authorized by the Department pursuant to Section 203.01(1)(j), F.S., the tax is due on or before the 20th day of the month following the authorized reporting period and becomes delinquent on the next succeeding day that is not a Saturday, a Sunday, or a legal holiday.

(d) Payments and returns for reporting tax must be submitted to the Department, as provided in Rule Chapter 12-24, F.A.C., when:

1. Payment of the tax is required to be made by electronic means;
2. Any return for reporting tax is required to be submitted by electronic means; or

3. No tax is due with a return for reporting tax.

(e)1. For taxes implemented pursuant to paragraph (2)(a) of Rule 12BER08-15, the taxpayer may elect to pay the gross receipts tax on total billings for electricity for each month or on the actual gross receipts for electricity received in that month.

2. When the taxpayer elects to pay gross receipts tax on total billings for electricity, the taxpayer may take a credit for net uncollectibles for which gross receipts tax has been previously paid to the Department. The credit must be reported on the taxpayer's return in accordance with the timing provisions of Section 215.26(2), F.S.

3. Instead of taking a credit for net uncollectibles, the taxpayer may seek a refund of tax previously paid by filing an Application for Refund (R. 07/06) (Form DR-26, hereby incorporated by reference) with the Department. The application for refund must be filed in accordance with the timing provisions of Section 215.26(2), F.S., and must meet the requirements of Sections 213.255(2) and (3), F.S., and Rule 12-26.003, F.A.C.

4. Form DR-26, Application for Refund, must be filed with the Department within 3 years after the date the tax was paid. Credits for tax paid must be reported on the taxpayer's return within 3 years after the date the tax was paid.

(2) Persons who engage in the transportation of natural or manufactured gas must provide the Department with a list of customers to whom transportation services were provided in the prior year. A person may satisfy the customer-reporting requirement by: 1) providing a written list of customers to the Department; or 2) maintaining a publicly-accessible customer list on the person's Internet web site. The person must provide the written list of customers or the Internet address of the publicly-accessible Internet web site by January 31 of each year to GTA Miscellaneous Tax Coordinator, c/o GTA Program Director, Florida Department of Revenue, 5050 W. Tennessee Street, Bldg D-1, Tallahassee, Florida 32399-0100. Persons who choose to satisfy the customer-reporting requirement by posting a list of customers on a publicly-accessible Internet web site must update the list by January 31 of each year. This reporting requirement does not apply to distribution companies. Any person required to furnish such a list may elect to identify only those customers who take direct delivery without purchasing interconnection services from a distribution company.

This rule shall take effect on July 1, 2008.

Specific Authority s. 3, Ch. 2005-148, L.O.F. Law Implemented 203.01, 203.06, 213.235(1), (2), (3), 213.37, 213.755, 215.26 FS. History—New 7-1-08.

THIS RULE TAKES EFFECT UPON BEING FILED WITH THE DEPARTMENT OF STATE UNLESS A LATER TIME AND DATE IS SPECIFIED IN THE RULE.

EFFECTIVE DATE: July 1, 2008

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 THE LOTTERY

RULE NO.: 53ER08-38
 RULE TITLE: Instant Game Number 754, EASY MONEY

SUMMARY: This emergency rule describes Instant Game Number 754, "EASY MONEY," for which the Department of the Lottery will start selling tickets on a date to be determined by the Secretary of the Department. The rule sets forth the specifics of the game; determination of prizewinners; estimated odds of winning, value and number of prizes in the game.

THE PERSON TO BE CONTACTED REGARDING THE EMERGENCY RULE IS: Faith L. Schneider, Legal Analyst, Department of the Lottery, 250 Marriott Drive, Tallahassee, Florida 32399-4011

THE FULL TEXT OF THE EMERGENCY RULE IS:

53ER08-38 Instant Game Number 754, EASY MONEY.

(1) Name of Game. Instant Game Number 754, "EASY MONEY."

(2) Price. EASY MONEY lottery tickets sell for \$1.00 per ticket.

(3) EASY MONEY lottery tickets shall have a series of numbers in machine readable code (or bar code) on the back of the ticket, along with a validation number under the latex area on the ticket. To be a valid winning EASY MONEY lottery ticket, the ticket must meet the applicable requirements of Rule 53ER08-20, F.A.C.

(4) The prize symbols and prize symbol captions are as follows:



(5) Determination of Prizewinners.

(a) A ticket having three like amounts and corresponding amount captions in the play area shall entitle the claimant to a

prize of that amount. A ticket having a "HUN" symbol in the play area shall entitle the claimant to \$25.

(b) The prizes are: TICKET, \$1.00, \$2.00, \$4.00, \$5.00, \$10.00, \$15.00, \$50.00, \$100 and \$500. A claimant who is entitled to a prize of a "TICKET" shall be entitled to a prize of a \$1.00 instant ticket, except as follows. A person who submits by mail an EASY MONEY lottery ticket which entitles the

claimant to a prize of a \$1.00 instant ticket and whose mailing address is outside the state of Florida will receive a check for \$1.00 in lieu of an actual ticket.

(6) The estimated odds of winning, value and number of prizes in Instant Game Number 754 are as follows:

GAME PLAY	WIN	ESTIMATED ODDS OF	NUMBER OF WINNERS IN 56 POOLS OF 180,000 TICKETS PER POOL
TICKET	\$1 TICKET	10.00	1,008,000
\$1	\$1	25.00	403,200
\$2	\$2	18.75	537,600
\$4	\$4	50.00	201,600
\$5	\$5	60.00	168,000
\$10	\$10	300.00	33,600
\$15	\$15	300.00	33,600
\$25	\$25	300.00	33,600
(MONEYBAG)			
\$50	\$50	1,800.00	5,600
\$100	\$100	15,000.00	672
\$500	\$500	45,000.00	224

(7) The estimated overall odds of winning some prize in Instant Game Number 754 are 1 in 4.16. Prizes, including the top prizes, are subject to availability at the time of ticket purchase. Prizes may be unavailable due to prior sale or other causes occurring in the normal course of business including, but not limited to, ticket damage, defect, theft, or loss.

(8) For reorders of Instant Game Number 754, the estimated odds of winning, value, and number of prizes shall be proportionate to the number of tickets reordered.

(9) By purchasing an EASY MONEY lottery ticket the player agrees to comply with and abide by all prize payment rules of the Florida Lottery.

(10) Payment of prizes for EASY MONEY lottery tickets shall be made in accordance with rules of the Florida Lottery governing payment of prizes.

A copy of the current rule can be obtained from the Florida Lottery, Office of the General Counsel, 250 Marriott Drive, Tallahassee, Florida 32399-4011.

Specific Authority 24.105(9)(a), (b), (c), 24.109(1), 24.115(1) FS. Law Implemented 24.105(9)(a), (b), (c), 24.115(1) FS. History--New 6-13-08.

THIS RULE TAKES EFFECT UPON BEING FILED WITH THE DEPARTMENT OF STATE UNLESS A LATER TIME AND DATE IS SPECIFIED IN THE RULE.

EFFECTIVE DATE: June 13, 2008

DEPARTMENT OF THE LOTTERY

RULE NO.: 53ER08-39
 RULE TITLE: Instant Game Number 758, HOT \$100's

SUMMARY: This emergency rule describes Instant Game Number 758, "HOT \$100's," for which the Department of the Lottery will start selling tickets on a date to be determined by the Secretary of the Department. The rule sets forth the specifics of the game; determination of prizewinners; estimated odds of winning, value and number of prizes in the game.

THE PERSON TO BE CONTACTED REGARDING THE EMERGENCY RULE IS: Faith L. Schneider, Legal Analyst, Department of the Lottery, 250 Marriott Drive, Tallahassee, Florida 32399-4011

THE FULL TEXT OF THE EMERGENCY RULE IS:

53ER08-39 Instant Game Number 758, HOT \$100's.

(1) Name of Game. Instant Game Number 758, "HOT \$100's."

(2) Price. HOT \$100's lottery tickets sell for \$2.00 per ticket.

(3) HOT \$100's lottery tickets shall have a series of numbers in machine readable code (or bar code) on the back of the ticket, along with a validation number under the latex area on the ticket. To be a valid winning HOT \$100's lottery ticket, the ticket must meet the applicable requirements of Rule 53ER08-20, F.A.C.

(4) The "YOUR SYMBOLS" play symbols and play symbol captions are as follows:



(5) The "WINNING SYMBOLS" play symbols and play symbol captions are as follows:



(6) The prize symbols and prize symbol captions are as follows:


TICKET	\$2.00	\$5.00	\$10.00
TWO	TWO	FIVE	TEN
\$50.00	\$100	\$500	\$10,000
FIFTY	ONE HUND	FIVE HUND	TEN THOU

(7) The legends are as follows:

YOUR SYMBOLS WINNING SYMBOLS

(8) Determination of Prizewinners.

(a) A ticket having a play symbol and corresponding play symbol caption in the "YOUR SYMBOLS" play area that matches a play symbol and corresponding play symbol caption in the "WINNING SYMBOLS" play area shall entitle the

claimant to the corresponding prize shown for that symbol. A ticket having a “” symbol in the “YOUR SYMBOLS” play area shall entitle the claimant to double the prize shown.

(b) The prizes are: TICKET, \$2.00, \$5.00, \$10.00, \$50.00, \$100, \$500 and \$10,000. A claimant who is entitled to a prize of a “TICKET” shall be entitled to a prize of a \$2.00 instant ticket or combination of instant tickets with a total value of \$2.00, except as follows. A person who submits by mail a HOT \$100’s lottery ticket which entitles the claimant to a prize of a \$2.00 instant ticket and whose mailing address is outside the state of Florida will receive a check for \$2.00 in lieu of an actual ticket.

(9) The estimated odds of winning, value, and number of prizes in Instant Game Number 758 are as follows:

GAME PLAY	WIN	ODDS OF	NUMBER OF
TICKET	\$2 TICKET	1 IN	WINNERS IN
			42 POOLS OF
			180,000 TICKETS
		PER POOL	
		12.50	604.800
\$2	\$2	15.00	504.000
\$2 x 2	\$4	37.50	201.600
\$5	\$5	18.75	403.200
\$2 x 5	\$10	150.00	50.400
\$10	\$10	75.00	100.800
\$5 x 5	\$25	150.00	50.400
\$5 x 10	\$50	1,200.00	6.300
\$10 x 5	\$50	600.00	12.600
\$50	\$50	1,200.00	6.300
\$100 (\$)	\$100	1,000.00	7.560
\$100 x 2	\$200	15,000.00	504
\$100 x 5	\$500	45,000.00	168
\$500	\$500	90,000.00	84
\$10,000	\$10,000	378,000.00	20

(10) The estimated overall odds of winning some prize in Instant Game Number 758 are 1 in 3.88. Prizes, including the top prizes, are subject to availability at the time of ticket purchase. Prizes may be unavailable due to prior sale or other causes occurring in the normal course of business including, but not limited to, ticket damage, defect, theft, or loss.

(11) For reorders of Instant Game Number 758, the estimated odds of winning, value, and number of prizes shall be proportionate to the number of tickets reordered.

(12) By purchasing a HOT \$100’s lottery ticket the player agrees to comply with and abide by all prize payment rules of the Florida Lottery.

(13) Payment of prizes for HOT \$100’s lottery tickets shall be made in accordance with rules of the Florida Lottery governing payment of prizes.

A copy of the current rule can be obtained from the Florida Lottery, Office of the General Counsel, 250 Marriott Drive, Tallahassee, Florida 32399-4011.

Specific Authority 24.105(9)(a), (b), (c), 24.109(1), 24.115(1) FS. Law Implemented 24.105(9)(a), (b), (c), 24.115(1) FS. History—New 6-13-08.

THIS RULE TAKES EFFECT UPON BEING FILED WITH THE DEPARTMENT OF STATE UNLESS A LATER TIME AND DATE IS SPECIFIED IN THE RULE.

EFFECTIVE DATE: June 13, 2008

AGENCY FOR HEALTH CARE ADMINISTRATION

Medicaid

RULE NOS.:	RULE TITLES:
59GER08-2	Developmental Disabilities Waiver Provider Rate Table
59GER08-3	Developmental Disabilities Residential Habilitation Services in a Licensed Facility Provider Rate Table

SPECIFIC REASONS FOR FINDING AN IMMEDIATE DANGER TO THE PUBLIC HEALTH, SAFETY OR WELFARE: These rules implement legislatively mandated reductions of provider rates. Proviso language following Specific Appropriation 263 of the 2008-2009 General Appropriations Act requires the Agency for Persons with Disabilities to cut provider rates by \$43,544,549 effective July 1, 2008. The Legislature’s required rate reduction will result in a shortfall of funds available to continue critical services without full implementation of the rate reduction, as mandated, on July 1, 2008. In order to provide for the greatest possibility for continuation of all services and to avoid the danger to health, safety and welfare resulting from service disruption due to budget shortfalls, the Agency for Persons with Disabilities and the Agency for Health Care Administration have determined that there is an emergency as defined in Section 120.54, F.S., that supports adoption of Emergency Rules.

The Emergency Rules are necessary to ensure that funds are available for the continuation of critical, life sustaining services to persons with developmental disabilities who are among Florida’s most vulnerable. The purpose of the emergency rules is to manage the legislatively mandated rate reduction and appropriation for the protection of the public health, safety and welfare so that budget shortfalls do not force service disruptions.

The Agency for Persons with Disabilities (APD) administers the State of Florida’s Medicaid waiver programs for persons with developmental disabilities and advises the Agency for Health Care Administration (AHCA) on appropriate rates for waiver services. AHCA is designated as the “single state agency” for Medicaid with legislatively delegated authority to adopt the rates for Medicaid waiver services.

The Agency for Persons with Disabilities (APD) serves people diagnosed with mental retardation, cerebral palsy, autism, spina bifida, or Prader-Willi syndrome that manifest before the age of 18. Many of these individuals have complex medical problems. Many require assistance with eating, supervision during waking hours, enteral nutrition, and multiple medications. APD's Medicaid waiver programs serve over 30,000 developmentally disabled persons. In addition, the Medicaid Developmental Disabilities Home and Community-Based Services Waiver has a waiting list of over 15,000 persons with disabilities who seek services that cannot be provided due to lack of available funds.

The proviso to the 2008 General Appropriations Act provides: Funds in Specific Appropriations 263 and 266 reflect a reduction of \$19,394,742 from the General Revenue Fund and \$24,149,807 from the Operations and Maintenance Trust Fund as a result of reducing provider rates, effective July 1, 2008. Personal Care Assistance is specifically excluded from this reduction target. The agency shall amend provider contracts, cost plans and rules as necessary to achieve this recurring reduction.

No reasonable rate reduction for any single provider group can generate the savings that rate reductions spread across most services will generate. Rates for some services are not governed by rule or rate schedule. Instead the rate is determined at the time of purchase depending on each situation. Consequently this rule does not reduce those rates. Rates for some other services have been recently reduced. The rate reduction in these rules for those services is 3 percent. The rates for the remaining services are reduced by 7.21 percent.

No one will be removed from the Medicaid Developmental Disabilities Home and Community-Based Services Waiver Program as a result of the Emergency Rules. Instead, effective July 1, 2008, the Emergency Rules reduce the rates paid to providers of Case Management Services (Limited Support Coordination), Daily Habilitation Services (Residential Habilitation Behavior Focus), Monthly Residential Care (Residential Habilitation Standard), Waiver Support Coordination, and Residential Habilitation services by 3 percent from the current rates. These rules do not change rates for Adult Dental Services, Consumable Medical Supplies, Durable Medical Equipment, and Environmental Modifications. All other rates for services are reduced by 7.21 percent.

The Agency for Persons with Disabilities (APD) and the Agency for Health Care Administration (AHCA) have determined that these rate reductions are necessary to meet the legislative requirement to reduce rates by amounts sufficient to achieve savings of \$43,544,549, while providing funds to maintain services necessary to protect health, safety and welfare.

Without the savings achieved by the immediate implementation of the legislatively mandated rate reductions, APD will sustain a budget deficit of approximately \$3.6 million for each month the rate reductions are delayed. The potential for this deficit creates an immediate danger to the public health, safety and welfare.

The danger results from future service disruptions that may be required in order for APD to remain within its approved budget. The potential service disruptions create an immediate and continuing danger to the persons with disabilities that APD serves. Thousands of Florida's most vulnerable would lose vital, ongoing services as a result.

Halting enrollment would affect individuals deemed to be in crisis. Clients in crisis are the most vulnerable of persons with disabilities. Rules 65G-1.046 and 65G-1.047, Florida Administrative Code, establish the process and criteria for determining crisis eligibility and prioritizing those in crisis. The criteria included in the first priority classification are individuals who are currently homeless, living in a homeless shelter, or living with relatives in an unsafe environment whose health and safety are at risk without immediate provision of waiver services.

There is insufficient time to promulgate a rule through the regular rulemaking process as the amount reduced from the APD's budget due to legislatively mandated rate reductions was calculated assuming July 1, 2008 implementation. Since the \$43.5 million savings is a constant, anything less than full implementation over the entire fiscal year will require a larger percentage reduction to meet the Legislature's requirements in the proviso.

The Florida Constitution (Article VII, subsection 1[c]) prohibits expenditure of state funds except pursuant to Legislative appropriation. Section 216.221, Florida Statutes further provides that appropriations are the maximum amounts that an agency is authorized to expend. In order to remain within appropriations as required by law, APD is mandated to develop a plan and is authorized to use any means available to cure a projected deficit in its waiver programs.

More specifically, subsection 393.0661(4), F.S. (2007), states as follows: Nothing in this section or in any administrative rule shall be construed to prevent or limit the Agency for Health Care Administration, in consultation with the Agency for Persons with Disabilities, from adjusting fees, reimbursement rates, lengths of stay, number of visits or number of services, or from limiting enrollment, or making any other adjustment necessary to comply with the availability of moneys and any limitations or direction provided for in the General Appropriations Act.

Subsection 393.0661(5), F.S. further requires (APD) to develop a plan to eliminate any projected deficit in a waiver program. A budget deficit created by delayed implementation of the rate reduction required by the FY 2008-09, General Appropriations Act would be subject to this requirement.

Implementation of such a plan would likely result in greater rate reductions than currently contemplated in these emergency rules, service limitations, halting all new enrollment or some combination of these.

The Legislature specifically commanded (APD) to reduce provider rates to achieve a savings of \$43,544,549.00. These emergency rules fulfill that requirement.

REASON FOR CONCLUDING THAT THE PROCEDURE IS FAIR UNDER THE CIRCUMSTANCES: The procedure for adoption of these emergency rules is "fair under the circumstances" as required by Section 120.54(4), F.S., and provides the procedural protection required for adoption of emergency rules. Section 393.0661(4), F.S. (2007), mandated APD to reduce the deficit by all means including limiting services, reducing rates, or limiting the number of people provided services. The Conference Report on House Bill 5001, General Appropriations Act for Fiscal Year 2008-2009 specifically required APD to reduce services rates by \$43,544,549.00.

The Agency for Persons with Disabilities (APD) gave the provider community timely advance notice that the APD was considering rate adjustments to meet the Legislature's mandate. APD hosted an open meeting for providers of services on Friday May 9, 2008 for the purpose of identifying means of achieving the required reduction in rates. Along with staff from APD and AHCA, participants in the process included providers and provider associations, waiver support coordinators, representatives from advocacy groups including Florida Association for Rehabilitation Facilities (FARF), the Family Care Council, Arc of Florida, Florida Association of Support Coordinators, Sunrise (a provider agency), and Mentor (a provider agency).

After the initial introduction summarizing the legislative requirement to reduce rates, APD received comments and suggestions from all who chose to speak or provide written information. (APD) also distributed information about rates and the effects of alternative rate reduction approaches. In developing these emergency rules, (AHCA) and (APD) have considered, and in some cases incorporated, suggestions from the provider community.

Constitutional and statutory due process requirements are met as an opportunity for judicial review of the emergency rules is provided by Section 120.54(4)(a)3., F.S., and an opportunity to contest the emergency rules is provided by Section 120.5615, F.S.

SUMMARY: The emergency rules implement the mandate of the Florida Legislature in the budget proviso requirements of the 2008 General Appropriations Act. They supersede any prior inconsistent rules. Funds in Specific Appropriations 263 and 266 reflect a reduction of \$19,394,742 from the General Revenue Fund and \$24,149,807 from the Operations and Maintenance Trust Fund as a result of reducing provider rates, effective July 1, 2008. Personal Care Assistance is specifically

excluded from this reduction target. The agency shall amend provider contracts, cost plans and rules as necessary to achieve this recurring reduction.

The Emergency Rules establish the rates paid to providers for services provided to developmentally disabled individuals enrolled in Medicaid waiver programs. The purpose of Rules 59GER08-2 and 59GER08-3 is to achieve the legislatively mandated reduction in rates to achieve the required total savings of \$43,544,549.00.

THE PERSON TO BE CONTACTED REGARDING THE EMERGENCY RULE IS: Pamela Kyllonen, Medicaid Services, 2727 Mahan Drive, Mail Stop 20, Tallahassee, Florida 32308-5407, (850)414-9756, Kyllonep@ahca.myflorida.com

THE FULL TEXT OF THE EMERGENCY RULE IS:

59GER08-2 (59G-13.081) Developmental Disabilities Waiver Provider Rate Table.

(1) No change.

(2) All developmental disabilities waiver services providers enrolled in the Medicaid program must be in compliance with the Developmental Disabilities Home and Community-Based Services Waiver Provider Rate Table, July 1, 2008 January 1, 2007, which is incorporated by reference. The rate table is available from the Medicaid fiscal agent's Web Portal website at <http://mymedicaid-florida.com>, <http://floridamedicaid.aes-inc.com>. Click on Provider Support, and then on Fees Schedules. Paper copies of the rate table may be obtained from the Agency for Health Care Administration, Bureau of Medicaid Services, 2727 Mahan Drive, M.S. 20, Tallahassee, Florida 32308.

Specific Authority 409.919 FS. Law Implemented 393.0661, 409.906, 409.908 FS. History—New 5-29-06, Amended 11-15-07, _____.

59GER08-3 Developmental Disabilities Residential Habilitation Services in a Licensed Facility Provider Rate Table.

(1) This rule applies to all developmental disabilities waiver services providers enrolled in the Medicaid program.

(2) All developmental disabilities waiver services providers enrolled in the Medicaid program must be in compliance with the Developmental Disabilities Waiver Residential Habilitation Services in a Licensed Facility Provider Rate Table, July 1, 2008, which is incorporated by reference. The Developmental Disabilities Waiver Residential Habilitation Services in a Licensed Facility Provider Rate Table is available from the Medicaid fiscal agent Web Portal at <http://mymedicaid-florida.com>. Click on Provider Support, and then on Fee Schedules. Paper copies of the rate table may be obtained from the Agency for Health Care Administration, Bureau of Medicaid Services, 2727 Mahan Drive, M.S. 20, Tallahassee, Florida 32308.

Specific Authority 409.919 FS. Law Implemented 393.0661, 409.906, 409.908 FS. History—New 6-30-08.

THIS RULE TAKES EFFECT UPON BEING FILED WITH THE DEPARTMENT OF STATE UNLESS A LATER TIME AND DATE IS SPECIFIED IN THE RULE.

EFFECTIVE DATE: June 30, 2008

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."

Section V
Petitions and Dispositions Regarding Rule
Variance or Waiver

DEPARTMENT OF COMMUNITY AFFAIRS

NOTICE IS HEREBY GIVEN THAT on June 11, 2008, the Department of Community Affairs, Division of Housing and Community Development, received a petition for waiver from the Village of Islamorada. The Petition has been assigned the number DCA08-WAI-170. The Petitioner seeks a permanent waiver of that portion of paragraph 9B-43.0051(7)(a), Florida Administrative Code, that states, "A penalty of five points per housing unit, up to a maximum of 50 points, for failure to address the number of housing units scored in the original Housing category application". Petitioner's request for a waiver is based upon the Petitioner only providing sewer service to 56 housing units instead of the 84 units promised in Petitioner's application. Petitioner alleges that it could not complete all the sewer connections because the Department did not allow an extension of the sub-grant agreement. The petition for waiver is being applied for under Section 120.542, F.S.

A copy of the Petition for Variance or Waiver may be obtained by contacting: Paula P. Ford, Agency Clerk, Department of Community Affairs, 2555 Shumard Oak Boulevard, Tallahassee, Florida 32399-2100.

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."

WATER MANAGEMENT DISTRICTS

NOTICE IS HEREBY GIVEN THAT on June 10, 2008, the Governing Board of the Suwannee River Water Management District has issued an order.

This Order (2008-0003) denied variance under Section 120.542, F.S., to Stephen Buckles for a Work of the District existing non-permitted residence (ERP06-0661M). The petition for variance was received by SRWMD on January 23, 2008. Notice of the receipt of petition requesting variance was published in the F.A.W., Vol. 34, No. 6, on February 8, 2008. No public comment was received. This Order denies a variance of SRWMDs criteria for paragraph 40B-4.3030(12)(b), F.A.C., to the 75-foot setback requirements and subsection 40B-4.3030(9), F.A.C., to the zero-rise certification requirements within Township 4 South, Range 11 East, Section 36, Lafayette County. SRWMD denied the petition because the petitioner did not demonstrate that the underlying statute will be or has been achieved by other means.

A copy of the Order may be obtained by contacting: Robin Lamm, Administrative Assistant, SRWMD, 9225 CR 49, Live Oak, FL 32060, (386)362-1001 or 1(800)226-1066 in Florida only.

NOTICE IS HEREBY GIVEN THAT on June 12, 2008, the Suwannee River Water Management District, received a petition for variance from Florida Department of Environmental Protection, 3540 Thomasville Road, Tallahassee, FL 32309, pursuant to Section 120.542, F.S. Petitioner is seeking a variance from subsection 40B-4.3030(5), F.A.C., as to the requirements for unobstructions to the area below the first floor of elevated buildings. The permit applicant proposes to construct an elevator shaft to be below the lowest horizontal structural member to meet ADA criteria for handicap access in Township 4 South, Range 11 East, Section 21, Lafayette County. Comments on this petition should be filed with Jon Dinges, District Clerk, SRWMD, 9225 CR 49, Live Oak, FL 32060, within 14 days of publication of this notice. This petition has been assigned ERP Number 01-0131M.

A copy of the Petition for Variance or Waiver may be obtained by contacting: Robin Lamm, Administrative Assistant, Suwannee River Water Management District, 9225 CR 49, Live Oak, FL 32060, (386)362-1001 or 1(800)226-1066 in Florida only.

NOTICE IS HEREBY GIVEN THAT on June 12, 2008, the South Florida Water Management District has issued an order. South Florida Water Management District (SFWMD) Governing Board issued Order No. SFWMD 2008-265-DAO-ERP Granting Temporary Variance under Section 120.542(2), Florida Statutes (Order), dated June 12, 2008 to Riviera HFAH, LLC (Petitioner) for a project known as the Riviera Marina, located in Lee County, Section 13, Township 44 South, Range 24 East. The Petition for Temporary Variance (Application 080402-21) was received by the SFWMD on April 2, 2008. Notice of Receipt of the Petition requesting the temporary variance was published in the Florida