

SUBJECT AREA TO BE ADDRESSED: Unaccompanied refugee minors.

RULEMAKING AUTHORITY: 402.86(2) FS.

LAW IMPLEMENTED: 402.86(1) FS.

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

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT AND A COPY OF THE PRELIMINARY DRAFT, IF AVAILABLE, IS: Danny Charles, Administrative Assistant, 401 N.W. 2nd Avenue, Suite N-812, Miami, Florida 33128, (305)377-5682; Danny\_Charles@dcf.state.fl.us

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

This proposed rulemaking will not have an adverse impact or effect regulatory costs in excess of \$1 million within five years as established in Sections 120.541(2)(a)1., 2., and 3., F.S.

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.

RULEMAKING AUTHORITY: 960.045(1)(b), 960.13(9)(b) FS.

LAW IMPLEMENTED: 960.065, 960.07, 960.12, 960.13, 960.15, 960.16, 960.17, 960.18, 960.195, 960.198, 960.199 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: Michelle Crum, Chief, Bureau of Victim Compensation, Department of Legal Affairs, PL-01, The Capitol, Tallahassee, Florida 32399-1050, (850)414-3300

## Section II Proposed Rules

### DEPARTMENT OF LEGAL AFFAIRS

#### Division of Victim Services and Criminal Justice Programs

RULE NOS.:	RULE TITLES:
2A-2.002	Victim Compensation Claims
2A-2.015	Sexual Battery Relocation Assistance

PURPOSE AND EFFECT: To clarify definitions, documentation, benefits and procedures for claims, filed pursuant to the Crimes Compensation Act, and add Sexual Battery Relocation Assistance to the program.

SUMMARY: This rule provides the definitions, eligibility, application and documentation requirements and processes for victims of crime, as well as the role of the program assistants assisting the victims in the process.

#### SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS AND LEGISLATIVE RATIFICATION:

The Agency has determined that this will not have an adverse impact on small business or likely increase directly or indirectly regulatory costs in excess of \$200,000 in the aggregate within one year after the implementation of the rule. A SERC has not been prepared by the agency.

The Agency has determined that the proposed rule is not expected to require legislative ratification based on the statement of estimated regulatory costs or if no SERC is required, the information expressly relied upon and described herein: During discussion of the economic impact of this rule the Department, based upon the expertise and experience of its members, determined that a Statement of Estimated Regulatory Cost (SERC) was not necessary and that these rule amendments will not require ratification by the Legislature.

THE FULL TEXT OF THE PROPOSED RULES IS:

2A-2.002 Victim Compensation Claims.

(1) Definitions.

(a) "Actual loss" means the total amount of treatment bills, medical/dental support services, lost wages, disability, funeral expenses, loss of support, and other related out-of-pocket losses, which are compensable by the Crimes Compensation Trust Fund.

(b) "Bureau" means the Bureau of Victim Compensation (BVC) within the Division of Victim Services and Criminal Justice Programs of the Office of the Attorney General.

(c) "Compensable crime" is an offense as defined in Section 960.03(3), F.S., which results in physical, psychological, ~~or~~ psychiatric, or mental injury, or death for which an eligible claimant seeks benefits for economic loss, medical/dental/mental health treatment, funeral or burial costs, or disability benefits that are not payable by another source.

(d) "Crime scene cleanup" means the removal and disposal of biohazardous and/or biochemical substances following a violent crime that occurs in the private residence or conveyance of the victim and must be performed by a government authorized facility.

(e) "Division" means the Division of Victim Services and Criminal Justice Programs within the Department of Legal Affairs.

(f) "Domestic violence" is defined in Section 741.28(2), F.S.

(g) "Economic loss" means wage loss, loss of support and disability.

(h) "Family or household member" is defined in Section 741.28(3), F.S.

(i) "Forcible felony" is defined in Section 776.08, F.S.

(j) "Guardian" means:

1. A person who has been appointed by the court to act on behalf of a ward's person or property, or both;

2. A court-appointed guardian of funds for a minor;

3. A relative who has temporary custody of a minor for treatment expenses; or

4. A personal representative on behalf of a mentally incompetent person with a durable power of attorney that preceded the incompetence.

(k) "Habitual felony offender" is defined in Section 775.084(1)(a), F.S.

(l) "Habitual violent felony offender" is defined in Section 775.084(1)(b), F.S.

(m) "Medical/Dental Support" means prescriptions, eyeglasses, contact lenses, dentures or any other prosthetic device which needs to be purchased or replaced as a result of the crime and which the claimant has already paid for with personal funds.

(n) "Occurrence" means the date the crime incident actually happened.

(o) "Physical injury" means bodily harm or hurt, excluding mental distress, fright, or emotional disturbance.

(p) "Proper authorities" includes child protection teams, law enforcement, state attorneys, and the Department of Children and Families.

(q) "Provider" means the entity that provides goods or services to or on behalf of the victim.

(r) "Psychiatric injury" and "psychological injury" mean emotional injury. These terms are used interchangeably.

(s) "Resident" means one who maintains his or her primary dwelling in Florida. Residency is governed by a person's intent, as evidenced by all surrounding facts and circumstances. Military personnel stationed in Florida and students shall be deemed residents.

(t) "Treatment" includes services rendered in accordance with a religious method of healing, e.g., religious practitioner and cultural healing practices that use herbal remedies.

(u) "Unjust enrichment" means the offender will benefit directly or indirectly from victim compensation assistance paid to the victim, or the victim's total payments from victim compensation and collateral sources will exceed the victim's compensable monetary losses due to the crime upon which the application is based.

(v) "Violent career criminal" is defined in Section 775.084(1), F.S.

(w) "Mental Injury" means an injury to the intellectual or psychological capacity of a child abuse victim as evidenced by a discernible and substantial impairment in the ability of the child to function within the normal range and behavior as testified to in criminal child abuse proceedings under oath by a psychologist licensed under Ch. 490, F.S., a physician who is licensed under Ch. 458 or 459, F.S., and has completed an

accredited residency in psychiatry, or a physician who has obtained expert witness certification pursuant to Section 458.3175, F.S.

(2) Application. An application for victim compensation should be mailed to the Office of the Attorney General, Bureau of Victim Compensation, PL-01, the Capitol, Tallahassee, FL 32399-1050 or faxed to (850)487-1595, (850)487-2625, or (850)414-5779. The application must include the following information:

(a) Name, date of birth, mailing address, telephone number where claimant can be reached during the day, and email address for the victim and applicant for the individual on whose behalf benefits are sought.

(b) Optional demographic data for statistical purposes, including race and gender.

(c) A statement indicating if victim is disabled or deceased as a result of the crime.

(d) Agency name, name of agency representative, mailing address, telephone number, and email address for the person or agency assisting the claimant with the victim compensation claim.

(e) Name, mailing address, telephone number, and email address for the victim's employer(s), if the victim was employed at the time of the crime.

(f) For loss of support, the name(s) and date(s) of birth of the deceased victim's.

1. Surviving spouse;

2. Dependent parent, sibling, or child(ren); and

3. Other person who was dependent on the decedent for his or her principal support.

(g) Insurance information, including the company (carrier) name, mailing address, telephone number, email address, and policy number, and explanation of benefits statements for the following:

1. State and federal programs (i.e., Medicare, Champus, Erisa, Medicaid);

2. Homeowner's, automobile, and major medical insurance;

3. Health maintenance organization;

4. Funeral or burial insurance, and

5. Disability and/or wage replacement coverage.

(h) Name, mailing address, telephone number, fax number, and email address of the attorney who is (or will be) handling civil litigation that has been (or will be) filed as a result of the crime.

(i) Crime information:

1. Date of occurrence, location and type of crime;

2. Date reported to law enforcement, the state attorney, or the Department of Children and Families;

3. Whether crime was reported within 72 hours after occurrence;

4. Official name of the agency to which crime was reported;

5. Law enforcement report number;

6. Name, email address, and telephone number of the law enforcement officer assigned to the case; and

7. Name of offender and status in the criminal justice system, including court case number.

(j) Statements asserting serious financial hardship, authorizing release of information, and acknowledging repayment requirements and subrogation obligations.

(k) Printed name and signature of the adult who is filing the claim.

(l) The following persons can file a claim:

1. Victim or intervenor;

2. Surviving spouse, parent, adult child or sibling of a deceased victim;

3. Guardian applying on behalf of a minor victim, incompetent person, surviving minor child of a deceased victim, or surviving minor sibling of a deceased victim.

4. Relative applying on behalf of a deceased victim when there is no other source for payment of funeral expenses;

5. Non-relative applying on behalf of a deceased victim when no family member is available to apply (for funeral expenses only); or

6. Other person who was dependent for his or her principal support upon a deceased victim or intervenor (loss of support benefit only).

(3) Documentation.

(a) The claimant has the ultimate responsibility to provide information and documentation needed to support eligibility and benefits payment.

(b) The claimant must provide updated address and contact information, which shall be considered the address of record. Failure to update this information will result in denial of the claim and a loss of appeal rights.

(c) When the claim is received, the claimant may be asked to provide specific medical and financial information.

(d) When an incomplete claim is received, the department will notify the claimant at their address of record of the information needed for eligibility determination and benefits.

(e) Required information:

1. Complete and signed claim form.

2. Report from law enforcement, state attorney, or Department of Children and Families documenting that:

a. A compensable crime occurred;

b. The victim did not contribute to the infliction of his or her injury or death; and

c. The victim did not act unlawfully.

3. Proof of crime-related expenses (includes itemized bills from treatment providers).

4. Proof of third-party payments such as insurance, restitution, judgments or settlements (i.e., copy of insurance explanation of benefits, settlement agreements, court documents for restitution and judgments).

5. Proof of time missed from work as verified in writing by the treating physician and the chief executive or chief financial officer of the victim's employer. The director of personnel or director of human resources may serve as designees for the chief executive officer or chief financial officer.

6. Proof of the disability incurred as a result of the crime as verified in writing by the treating physician or a copy of the victim's social security disability benefits approval document.

(4) Filing Time. When a claim is received later than one year after the crime and less than two years after the incident, the claimant must provide an explanation for the late filing.

(a) Good cause is demonstrated when the record shows the claimant was pursuing other means of recourse or when the claimant was not emotionally, mentally, or physically able to file the claim within one year after the date of the crime.

(b) No explanation is acceptable for an adult filing a claim more than two years after the occurrence of the crime, unless Section 960.07(2)(c), 960.07(4), or 960.197(1)(b), F.S., applies.

(5) Penalty Assessments.

(a) An assessment of non-cooperation must be based on information obtained from the highest jurisdiction at the time of the assessment. If an arrest has been made and the criminal case is at the prosecution stage, the assessment of non-cooperation must be based on information obtained from the assistant state attorney. If the case is open at the local law enforcement agency, the assessment of non-cooperation must be based on information obtained from the law enforcement agency.

(b) Non-cooperation is established when the law enforcement agency or assistant state attorney informs the department in writing that the victim:

1. Failed to appear when requested by law enforcement or after proper notice from the state attorney;

2. Failed to testify or assist in the investigation and prosecution;

3. Gave false or misleading information regarding the crime without recanting; or

4. Aided the offender in his or her defense.

(c) Contributory misconduct is based on a determination by law enforcement or the state attorney that the victim's conduct contributed to his or her injury or death. The direct causal relationship between the actions of the victim and the offender must be documented by the assistant state attorney or the law enforcement agency.

(d) Penalty assessments, if imposed, will be applied only to payments made directly to the victim or claimant at the rate of 25 percent of the amount otherwise payable.

(6) Benefits.

(a) Collateral sources must be exhausted before the amount of any compensable benefit is determined.

(b) Disability benefits are available for eligible victims who suffered a permanent disability as a result of the crime.

(c) A physician must provide a written statement documenting the disability rating in accordance with the Florida Uniform Guide to Permanent Impairment Rating Schedule or the American Medical Association Guide to the Evaluation of Permanent Impairment. The disability statement from the treating physician must include the following:

1. Victim/patient's full name, date of birth, and other identifying information (e.g., social security number, patient account number);

2. Type of injury, diagnostic code(s) for the injury, whether the victim suffered a permanent disability as a result of the crime, and the permanent impairment to the body as a whole expressed as a percentage.

3. Physician's name, mailing address, email address, telephone number, fax number, and federal identification number.

4. Physician's signature and date signed.

(d) The disability allowance is calculated at \$250 per percentage point for disability of one through ten percent, and \$500 per percentage point for disability ratings of eleven percent and above.

(e) Pre-existing disability is not compensable.

(f) Wage loss benefits are available to eligible victims or claimants who missed time from work because they are/were unable to work as a result of the injuries sustained as a result of the crime. Wage loss benefits are also available to the victim's parent, when he or she misses time from work to provide immediate care to the victim.

(g) Lost wages will be paid at 66.67 percent based on the claimant's actual gross average weekly wage or the minimum or maximum gross average weekly wage provided by the Department of Financial Services for workers' compensation benefits. In no case may the wage loss payment exceed the maximum gross average weekly wage established by the Department of Financial Services.

(h) The victim or claimant must have been gainfully employed at the time of the crime.

(i) The following is needed to calculate wage loss benefits:

1. Pay stub; earnings statement; official notice to the Bureau which specifies the rate of pay, number of hours worked each week, job title, and date of hire; or most recent federal income tax return, schedule C (if self-employed).

2. Statement from treating physician including:

a. Victim's full name, date of birth, and other identifying information (e.g., social security number, patient account number);

b. Type of injury, diagnostic code(s) for the injury;

c. Dates victim was not able to work as a result of the crime;

d. Whether victim requires future treatment directly related to the injury;

e. Physician's name, mailing address, email address, telephone number, fax number, and federal identification number; and

f. Physician's signature and date signed.

3. Employment report from the victim/claimant's employer(s) that includes:

a. Employee's name, job title, and social security number (or other identifier).

b. Date hired and date terminated (if applicable).

c. Dates claimant missed work as a result of the crime.

d. Average number of hours worked per week, hourly rate (including tips, commissions, etc.), and average weekly wage if amount varies by week.

e. Name(s) of employer(s), name of supervisor, business mailing address, email address, supervisor's telephone number and fax number.

f. Printed name and title of employer's chief executive or chief financial officer or authorized designee, signature and date.

(j) When the victim was not employed at the time of the crime but was receiving unemployment compensation benefits, and because of the crime injuries the victim is not able to work or actively seek employment and is thereby no longer eligible to receive unemployment compensation benefits, the payment for lost wages will be based on the victim's non-discounted unemployment compensation benefit amount.

(k) Oral or electronic confirmation shall be obtained for the first five days' wage loss. Subsequent loss is compensable only upon receipt of written document requested herein.

(l) Loss of support benefits are available to eligible dependents of a deceased victim who was employed, or had applied for and would have been eligible for unemployment compensation benefits, at the time of the crime. Persons eligible for this benefit include:

1. Surviving spouse;

2. Dependent parent, sibling, and child(ren); and

3. A person who was dependent for his or her principal support on the deceased victim.

(m) Proof of dependency is established based on:

1. The deceased victim's federal income tax return;

2. Marriage certificate;

3. Birth certificate;

4. Copy of approval for Social Security Administration survivor benefits; or

(n) Funeral/burial expenses are compensable and may be paid to the service provider or reimbursed to the claimant when the claimant has already paid the bill. The claimant must be shown to be the party who paid the funeral expenses or the party responsible for the unpaid funeral expense.5. When the claimant can provide actual documentation that joint expenses exceed the claimant's income and that the expenses had been paid by the deceased. Acceptable documentation includes certified copies of financial records, lease, mortgage or other forms of mutual indebtedness for a minimum of one year preceding the occurrence of the crime.

(o) Mental health treatment (inpatient and outpatient) expenses are compensable when the treatment is directly related to the crime and when such services are rendered by a person qualified to provide mental health counseling pursuant to Chapter 458, 490, or 491, F.S., and when such treatment is rendered within one year after the date of the crime.

(p) Inpatient mental health care is limited to acute, crisis stabilization up to seven days.

(q) Minors who saw or heard the crime incident and who suffered a psychological or psychiatric injury as a result of the crime, but were not physically injured, may receive mental health care, when the law enforcement report reflects that the minor was present at the crime scene.

(r) Persons who suffered a psychological or psychiatric injury as a direct result of a forcible felony may receive mental health care, when the law enforcement report identifies the individual as a victim of the crime. This is the only benefit available to adult victims who did not suffer a physical injury or death.

(s) A surviving minor child of a deceased victim, or a minor victim who was physically injured, may receive mental health care. When multiple applicants qualify for this benefit, payment is limited to \$7,500 per claim.

(t) A surviving spouse, parent, adult child or sibling of a deceased victim may receive mental health care, provided total treatment/mental health benefits do not exceed \$7,500 per claim.

(u) When a minor receiving mental health treatment care reaches the age of 18, the adult benefit level of \$2,500 per claim is applied to the entire claim. If that benefit amount has already been paid, no further benefits are available.

(v) Treatment (medical/dental/non-medical remedial care) costs are compensable.

(w) Treatment expenses include any financial obligation or monetary outlay for crime-related medical or non-medical remedial care and other services necessary as a result of the crime for which the claimant is responsible for payment.

(x) If the provider rejects payment in full from the department, the funds may be paid to the claimant, who is then responsible for the bill.

(y) Out-of-pocket reimbursement to the claimant for payments to providers is payable at 100 percent, not to exceed total benefit limits, except when the offender would be unjustly enriched directly or indirectly. In that event, reimbursement is not compensable.

(z) Crime-related medical expenses of a deceased adult victim incurred prior to his or her death are compensable only when an eligible claimant has (or has assumed) financial responsibility for the expense.

(aa) Other reimbursable costs are:

1. Costs for interpreter services for eligible victims with (foreign) language barriers and/or hearing impairment with regard to treatment services. These costs are included in the respective maximum benefit amounts and must be identified on an itemized bill. This does not apply to interpreter costs incurred for court-related activities.

2. Medically necessary equipment (e.g., wheelchairs, oxygen tanks) and prosthetics that are damaged during the crime. When the item was damaged during the crime, the law enforcement report must specifically identify what happened to the items.

3. Transportation costs to medical appointments. An itemized bill (receipt) for transportation is needed in order for the claimant to receive reimbursement. Rental car charges may be compensable for travel to another city for medical/dental treatment. A traveler who uses an indirect route for personal convenience must bear any extra costs; reimbursement for expenses shall be based only on such charges as would have been incurred by a usually-traveled route.

4. Crime scene cleanup costs for the removal and disposal of biohazardous and/or biochemical substances following a violent crime that occurs in the private residence or conveyance of the victim. These services must be performed by a government-authorized facility within seven days after the occurrence of the crime.

(bb) When the maximum benefit amount has been reached, no further benefits are available, regardless of whether that occurs prior to or after the effective date of these rules.

(cc) Minors younger than 18 years of age who were the victim of a felony or misdemeanor offense of child abuse that resulted in a mental injury, as defined in Section 827.03, F.S., but who were not physically injured, may be eligible for mental health treatment benefits.

(7) Documentation Requirements –

(a) The claimant shall provide documentation needed to support a determination of eligibility for benefits under this rule. Failure to provide the requested information shall result in denial of the claim.

(b) A claim for compensation must include the type of benefits requested and the following:

1. Personal identification information for claimant and victim, if different;
2. Full legal name, date of birth, social security or other government-issued identification number, and relationship to victim;
3. Mailing address, including city, state and zip code where department correspondence can be received, which shall be the address of record;
4. Email address and telephone number where claimant can be reached during the day; and
5. Indication of whether victim was disabled before the crime occurred.
6. Referral information, if applicable:
  - a. Name of person who assisted claimant in completing the application;
  - b. Name of organization assisting the claimant;
  - c. Organization's mailing address, including city, state and zip code;
  - d. Email address and telephone number for person assisting claimant.
7. Employment information, if applicable:
  - a. Supervisor's name and title;
  - b. Legal name of company or business;
  - c. Employer's mailing address, including city, state and zip code; and
  - d. Supervisor's email address and telephone number.
8. An individual federal income tax return with W-2 or schedule C attachments, as appropriate.
9. Insurance and other third party payer information:
  - a. Name of insured;
  - b. Type of policy and policy number;
  - c. Name of insurance company;
  - d. Insurance company's mailing address, including city, state and zip code;
  - e. Name of insurance company adjuster or claims representative; and
  - f. Email address and telephone number for contact person at insurance company.
10. Crime information:
  - a. Date and location (street address, city, county, state) of crime;
  - b. Date crime was reported to the law enforcement or other proper authority and report number;
  - c. Name of law enforcement agency where crime was reported;
  - d. Type of crime;
  - e. Name of law enforcement officer and badge/identification number;
  - f. Name of offender;
  - g. Offender's status;
  - h. Name of assistant state attorney handling case; and
  - i. Court case number.
11. Affirmative statement signed by claimant that the information provided is true and correct to the best of his or her knowledge.
12. A contractual agreement signed by the claimant or attorney to:
  - a. Reimburse the department according to the provisions of Section 960.16, F.S.;
  - b. Authorize release of information pursuant to Sections 960.05(2)(k), (l), (m) and (n), F.S.; and
  - c. Affirm whether the victim wants to invoke confidentiality pursuant to Section 119.071, F.S.
    - (c) Acceptable documentation for proof that a compensable crime occurred shall include:
      1. A law enforcement report that affirms a crime occurred, regardless of whether an offender can be identified;
      2. An affidavit charging an individual with a crime filed by law enforcement;
      3. An information charging an individual with a crime filed by a state attorney;
      4. An indictment by a grand jury;
      5. A child abuse investigation report completed by a Department of Children and Families or child protection team member;
      6. Or communication from the United States Federal Bureau of Investigations for victims of human trafficking.
    7. An OAG cybercrime investigator may certify a crime for purposes of Section 960.197, F.S.
      - (d) When there is an original law enforcement report showing a compensable crime occurred, the claim should be determined eligible, without regard to the offense to which the offender eventually pled or was convicted of, provided the remaining eligibility criteria are met.
      - (e) Itemized bills must be submitted before payment to a provider or reimbursement to the claimant can be considered pursuant to Sections 960.13, 960.197, and 960.28, F.S. The itemized bill (invoice) should be prepared using industry standard forms (e.g., CMS-1450, 1500, J400), or on the provider's letterhead and must include the following information:
        1. Service provider/facility's name, street address, city, state and zip code, email address, and telephone number (including area code);
        2. Organization/treatment facility's mailing address;
        3. Federal tax identification number;
        4. ~~Provider's W 9 form, if not available through the Department of Financial Services;~~
        - ~~4.5. Beginning and ending date(s) of service;~~
        - ~~6. Date of occurrence of incident for which services are provided;~~
        - ~~5.7. Name and address of individual being billed for services rendered;~~

~~6.8.~~ Revenue code, description of service, CPT or equivalent code, service date, service units, and total charges;

~~7.9.~~ Diagnosis code, diagnosis, or nature of injury; and

~~8.10.~~ First and last name of attending medical professional and license number.

(f) Acceptable documentation for crime-related wage loss include:

1. The claimant’s pay stub or individual earnings statement,
2. Unemployment compensation benefits statement,
3. Recent federal income tax return,
4. Quarterly federal income tax report, or
5. Document signed by the company’s chief executive or chief financial officer, on the employer’s letterhead; and
6. Document signed by a licensed physician or licensed mental health professional must be confirmed with the employer.

(g) Acceptable documentation for crime-related loss of support includes the following:

1. Deceased victim’s pay stub or individual earnings statement,
2. Unemployment compensation benefits statement,
3. Recent federal income tax return,
4. Verification of earnings from the employer on the employer’s letterhead and signed by the company’s financial or chief executive officer, or
5. Pension or retirement statement.

(h) Proof of dependency may be established by a copy of a court order for support, birth certificate, marriage certificate, or federal income tax return.

(i) Acceptable documentation for crime-related disability benefits includes an assessment in writing by a licensed physician and must be in accordance with the American Medical Association’s Guide to Evaluation of Permanent Impairment or the Florida Permanent Impairment Rating Guide.

(j) Acceptable documentation for crime scene cleanup services includes an itemized bill which provides the following:

1. Service provider/facility’s name, street address, city, state and zip code, email address, and telephone number (including area code);
2. Federal tax identification number;
3. Date(s) of service;
4. Date of occurrence of incident for which services are provided;
5. Name and address of individual being billed for services rendered; and
6. Description of service, service date, service units, and total charges.
7. Provider’s W-9 form for initial payment or when requested, if not available through the Department of Financial Services;

(k) The schedule of benefits for claims timely filed pursuant to the Crimes Compensation Act, except Sections 960.197 and 960.28, F.S., includes:

	Benefit	Maximum benefit amount	Timeframe within which loss must be incurred after the date of the crime
1.	Wage loss		
a.	Victim	\$15,000	one year
b.	Parent	\$15,000	one year
2.	Disability	\$15,000	n/a
3.	Loss of Support	\$25,000	n/a
4.	Catastrophic Injury	\$30,000	n/a
5.	Mental Health Treatment (per claim)	\$7,500	(varies)
a.	Minor (until age 18) when victim is deceased	\$7,500	n/a
b.	Adult when victim is deceased	\$2,500	one year
c.	Adult or minor, inpatient crisis stabilization (7 days)	\$7,500	one year
d.	Adult victim	\$2,500	one year
e.	Minor victim (until age 18)	\$7,500	n/a
f.	Minor witness	\$2,500	one year
g.	Victim of forcible felony	\$2,500	one year
h.	Victim of child pornography	\$7,500	n/a
i.	Minor victim mental injury	\$7,500	n/a

6.	Medical/Dental Treatment	\$7,500	one year
7.	Funeral/Burial	\$5,000	n/a
8.	Crime Scene Cleanup	\$500	seven days
9.	Property Loss	\$500	date of the crime

(1) Total benefits paid on a single claim or after July 1, 2010, cannot exceed the \$15,000 when the victim is not deceased, \$25,000 when the victim is deceased, or \$30,000 when the victim has sustained a catastrophic injury.

Rulemaking Authority 960.045(1), 960.13(9)(b) FS. Law Implemented 960.065, 960.07, 960.12, 960.13, 960.15, 960.16, 960.17, 960.18, 960.195, 960.198 FS. History--New 1-1-92, Amended 11-1-92, 9-13-94, 1-8-96, 6-25-96, 10-1-96, 9-24-97, 8-17-99, 2-3-00, 10-23-01, 5-13-03, 1-16-08, 7-1-10, \_\_\_\_\_.

2A-2.015 Sexual Battery Relocation Assistance.

(1) To be eligible for sexual battery relocation assistance, the victim must make an application through a rape crisis center in the State of Florida which has been certified by the Florida Counsel Against Sexual Violence.

(2) A certified rape crisis center representative is one who has completed specialized training provided by the department and is authorized to assist the victim in filing a claim for sexual battery relocation assistance.

(3) A certification worksheet from the rape crisis center must accompany the application for assistance. The certification worksheet can only be obtained from the certified rape crisis center. Failure to submit a properly completed certification worksheet will result in denial of benefits.

(4) The certification worksheet includes the certified rape crisis center's name, mailing address, telephone number, facsimile number; the printed name and signature of the individual who administered the application and the date the worksheet was signed; a checklist detailing victim/applicant acknowledgements and their printed name, signature, and date; and a brief summary detailing the victim's safety plan.

(5) By certifying the worksheet, the representative affirms that the victim reported the crime to the proper authorities and is in need of assistance for relocating based on the sexual battery crime; the cooperation of the victim with the state attorney, all law enforcement agencies, and the department; that the victim/applicant has provided personal identification; that a certified representative will be available to witness the victim's acceptance of payment and forward a signed Notification of Recoupment Form to the department; and that documentation is included which affirms that the victim has developed a safety plan.

(6) The claim and certification should be mailed to the Office of the Attorney General, Bureau of Victim Compensation, PL-01, The Capitol, Tallahassee, FL 32399-1050; transmitted by facsimile to (850)487-1595, (850)487-2625, (850)414-5779, (850)414-5405, or

(850)414-6197; or emailed to VCIntake@myfloridalegal.com. Failure to submit a properly completed certification will result in denial of benefits.

(7) When an application for relocation is received later than one year after the crime and less than two years after the incident, the claimant must provide an explanation for the late filing.

(a) Good cause for late filing is demonstrated when the record shows the claimant was pursuing other means of recourse, did not know about the program, or when the claimant was not emotionally, mentally, or physically able to file the claim within one year after the date of the crime.

(b) No explanation is acceptable for an adult filing a claim more than two years after the occurrence of the crime under this section.

(8) The incident must be reported to the proper authorities within 72 hours after the occurrence. Exceptions for good cause include:

(a) The victim was not emotionally, mentally, or physically able to report the crime within 72 hours;

(b) The victim was in fear of the offender and this fear has been communicated to the proper authorities;

(c) The victim is a child under the age of 18; or

(d) There was no knowledge that a crime was committed prior to reporting the incident to the proper authorities.

(9) Proper authority for purposes of Section 960.199, F.S., means a child protection team, law enforcement, state attorney, or the Department of Children and Families.

(10) The claimant/applicant must:

(a) Contact the proper authorities, report the crime, fully comply with the requests of law enforcement and this office, and cooperate with the prosecution of known offenders. Exceptions for not cooperating with both the investigating and prosecuting agencies are as follows:

(i) The victim has already moved outside the geographical vicinity where he or she resided with the offender and has no means of providing sworn testimony by phone or in person;

(ii) The victim is in fear of the offender and this fear has been communicated to law enforcement or the Assistant State Attorney from the outset;

(iii) A language barrier precludes effective communication with law enforcement; or

(iv) Child victims of sexual battery crimes whose guardian refuses to cooperate.

(b) Specify how the sexual battery relocation assistance funds will be used and use monies awarded for that purpose.



(c) Certify that he or she will comply with Section 960.199 F.S.;

(d) Affirm that he or she is not residing with and will not in the future reside with the offender;

(e) Certify that the request to the department for relocation assistance is a last resort that follows all other funding sources.

(f) Submit receipts to the department within 45 days of receipt of the funds;

(g) Verify that the sexual battery was committed in the victim's place of residence or in a location that would lead the victim to reasonably fear for his or her continued safety in the place of residence; and

(h) Accept the funds at the center within 30 days of issuance;

(i) Acknowledge that criminal prosecution for fraud under Section 960.18, F.S., may be pursued if he or she has made false representations to receive the money.

(11) Proof of a sexual battery crime must come from a proper authority. A BVC430 Law Enforcement Information Reporting Form may be used instead of a complete law enforcement report to prove a crime occurred. The BVC430 Law Enforcement Reporting Form contains a checklist of the eligibility criteria and shortened narrative detailing the incident, and is available only from this department.

(12) The law enforcement report, information from the Assistant State Attorney, report from the Child Protection Team or a report from the Department of Children and Families identifying a crime was committed that meets the definition of Section 794.011, F.S., is required for a claim to be found eligible. Only sexual battery crimes will be considered compensable for purposes of this benefit.

(13) It is the responsibility of the center to obtain and review personal identification documentation before certifying a victim's need for assistance. The center is not required to forward any personal identification documentation to the department.

(14) If approved, the award will be made payable to the victim as a reimbursement or advance based on a written estimate. Payments will be forwarded to the respective certified rape crisis center. Awards will be administered based on the availability of funds. The department shall determine how those funds are disbursed. Monies paid may be made in the form of a bank card, voucher, check, electronic transmittal, state warrant, or any other method approved by the department.

(15) A certified rape crisis center representative must witness the acceptance of payment. The certified representative will be responsible for having the victim acknowledge and sign a notification of possible recoupment before providing the award to the victim. Any attempt to spend funds for unauthorized goods or services will result in withdrawal of the award. Any expense not directly related to relocation is an unauthorized expenditure. If a recoupment notice is issued because receipts were not acceptable or were not submitted,

then additional benefits on any claim will be suspended for that individual by this department until the recouped amount has been satisfied.

(16) If the victim has not accepted the funds at the center within 30 days of issue, the center shall return the funds to the department and withdraw the certification. Upon receipt of the returned funds by the department, eligibility will be withdrawn. This action does not in any way create further appeal rights.

Rulemaking Authority 960.045(1)(b) FS. Law Implemented 960.199 FS. History--New \_\_\_\_\_.

NAME OF PERSON ORIGINATING PROPOSED RULE: Michelle Crum, Chief, Bureau of Victim Compensation  
 NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: Attorney General Pam Bondi  
 DATE PROPOSED RULE APPROVED BY AGENCY HEAD: September 18, 2012  
 DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: August 10, 2012

**DEPARTMENT OF REVENUE**

**Sales and Use Tax**

RULE NOS.:	RULE TITLES:
12A-1.005	Admissions
12A-1.0144	Refund of Tax Paid on Purchases of Equipment, Machinery, and Other Materials for Renewable Energy Technologies
12A-1.055	Sale or Discontinuation of Business
12A-1.056	Tax Due at Time of Sale; Tax Returns and Regulations
12A-1.087	Exemption for Power Farm Equipment; Electricity Used for Certain Agricultural Purposes; Suggested Exemption Certificate for Items Used for Agricultural Purposes
12A-1.096	Industrial Machinery and Equipment for Use in a New or Expanding Business
12A-1.097	Public Use Forms

PURPOSE AND EFFECT: The purpose of the proposed amendments to Rule 12A-1.005, F.A.C. (Admissions), is to provide that charges for individuals traveling in air commerce are not subject to the tax imposed on admissions.

Effective July 1, 2012, Section 212.08(7)(hhh), F.S., as created by Section 4, Chapter 2012-117, L.O.F., provides an exemption for purchases of equipment, machinery, and other materials for renewable energy technologies obtained by a refund of previously paid sales and use tax. The purpose of the proposed creation of Rule 12A-1.0144, F.A.C. (Refund of Tax Paid on Purchases of Equipment, Machinery, and Other Materials for

Renewable Energy Technologies), is to provide taxpayers information on how to obtain the refund of tax paid on such items used for renewable energy technologies.

Section 213.758, F.S., created by Section 8, Chapter 2010-166, L.O.F., and amended by Section 1, Chapter 2012-55, L.O.F., provides for the transfer of tax liability. Sections 3 and 4, Chapter 2012-55, L.O.F., repeal Sections 202.31 and 212.10, F.S., respectively, regarding the sale of a business and the transfer of liability for communications services tax and for sales and use tax. The proposed repeal of obsolete Rule 12A-1.055, F.A.C. (Sale or Discontinuation of Business), is necessary to remove obsolete provisions regarding the transfer of tax liability when a dealer sells or discontinues a business.

Section 2, Chapter 2012-145, L.O.F., provides that only those sales and use tax dealers who file electronic tax returns and remit the amounts due on the returns by electronic means will continue to be entitled to a collection allowance for sales tax returns due on or after July 1, 2012. The proposed amendments to Rule 12A-1.056, F.A.C. (Tax Due at Time of Sale; Tax Returns and Regulations), and to the sales and use tax returns adopted, by reference, in Rule 12A-1.097, F.A.C. (Public Use Forms), are necessary to incorporate this change.

The purpose of the proposed amendments to Rule 12A-1.087, F.A.C. (Exemption for Power Farm Equipment; Electricity Used for Certain Agricultural Purposes; Suggested Exemption Certificate for Items Use for Agricultural Purposes), is to include the amendments to Section 212.08(5)(e)2., F.S., as amended by Section 8, Chapter 2012-32, L.O.F., which, effective January 1, 2013: (1) provide an exemption for electricity used in packinghouses where fruits, vegetables, or meat from cattle or hogs are prepared for market or for shipment in fresh form for wholesale distribution; and (2) expand the exemption for production or processing agricultural farm products on the farm to include packing agricultural farm products on the farm.

Section 8, Chapter 2012-32, L.O.F., which, effective January 1, 2013, reduces from 10 percent to 5 percent the increase in productive output needed for expanding businesses to qualify for a sales tax exemption for machinery and equipment. Proposed amendments to Rule 12A-1.096, F.A.C. (Industrial Machinery and Equipment for Use in a New or Expanding Business), is necessary to incorporate this change.

SUMMARY: The proposed amendments to Rule 12A-1.005, F.A.C. (Admissions), provide that charges for individuals traveling in air commerce, such as skydiving, helicopter, or untethered hot air balloon rides, are not subject to the tax imposed on admissions.

The proposed creation of Rule 12A-1.0144, F.A.C. (Refund of Tax Paid on Purchases of Equipment, Machinery, and Other Materials for Renewable Energy Technologies), provides how to obtain a refund of previously paid sales and use tax on purchases of equipment, machinery, and other materials for

renewable energy technologies, as provided in Section 212.08(7)(hhh), F.S., as created by Section 4, Chapter 2012-117, L.O.F.

The proposed repeal of Rule 12A-1.055, F.A.C. (Sale or Discontinuation of Business), removes the rule containing obsolete provisions relating to the transfer of liability for sales and use tax when a person transfers or quits a business that are provided in Section 213.758, F.S., as amended by Section 1, Chapter 2012-55, L.O.F.

The proposed amendments to Rule 12A-1.056, F.A.C. (Tax Due at Time of Sale; Tax Returns and Regulations), incorporate the provisions of Section 2, Chapter 2012-145, L.O.F., which continues to allow a collection allowance for only those sales and use tax dealers who file electronic tax returns and remit the amounts due on the returns by electronic means for sales tax returns due on or after July 1, 2012.

The proposed amendments to Rule 12A-1.087, F.A.C. (Exemption for Power Farm Equipment; Electricity Used for Certain Agricultural Purposes; Suggested Exemption Certificate for Items Use for Agricultural Purposes), incorporate the provisions of Section 212.08(5)(e)2., F.S., as amended by Section 8, Chapter 2012-32, L.O.F., effective January 1, 2013, including: (1) changing the rule title of the rule to reflect the inclusion of the provisions regarding electricity used for certain agricultural purposes; (2) the exemption for electricity used in packinghouses where fruits, vegetables, or meat from cattle or hogs are prepared for market or for shipment in fresh form for wholesale distribution; and (3) expanding the exemption for production or processing agricultural farm products on the farm to include packing agricultural farm products on the farm.

The proposed amendments to Rule 12A-1.096, F.A.C. (Industrial Machinery and Equipment for Use in a New or Expanding Business), incorporate the provisions of Section 8, Chapter 2012-32, L.O.F., which, effective January 1, 2013, reduces from 10 percent to 5 percent the increase in productive output needed for expanding businesses to qualify for a sales tax exemption for machinery and equipment.

The proposed amendments to Rule 12A-1.097, F.A.C. (Public Use Forms), adopt, by reference, updates and changes to sales and use tax returns necessary to incorporate the provisions of Section 2, Chapter 2012-145, L.O.F., which continues to allow only those sales and use tax dealers who file electronic tax returns and remit the amounts due on the returns by electronic means to claim a collection allowance for sales tax returns due on or after July 1, 2012.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS AND LEGISLATIVE RATIFICATION:

The Agency has determined that this will not have an adverse impact on small business or likely increase directly or indirectly regulatory costs in excess of \$200,000 in the aggregate within one year after the implementation of the rule. A SERC has not been prepared by the agency.

The Agency has determined that the proposed rule is not expected to require legislative ratification based on the statement of estimated regulatory costs or if no SERC is required, the information expressly relied upon and described herein: 1) no requirement for the Statement of Economic Regulatory Costs (SERC) was triggered under Section 120.541(1), F.S.; and 2) based on past experiences with activities for providing the public with tax information and rules of this nature, the adverse impact or regulatory cost, if any, do not exceed nor would exceed any one of the economic analysis criteria in a SERC, as set forth in Section 120.541(2)(a), F.S.

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.

RULEMAKING AUTHORITY: 201.11, 202.17(3)(a), 202.22(6), 202.26(3), 212.04(4), 212.0515(7), 212.07(1)(b), 212.08(5)(b)4., (n)4., (o)4., (7), 212.11(5)(b), 212.12(1)(a)2., 212.17(6), 212.18(2), (3), 212.183, 213.06(1), 288.1258(4)(c), 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, 119.071(5), 125.0104, 125.0108, 201.01, 201.08(1)(a), 201.133, 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, 212.0506(4), (11), 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, 212.10(1), (2), (4), 212.11, 212.12(1), - (5), (9), (13), 212.13, 212.14(2), (4), (5), 212.15(1), 212.17, 212.18(2), (3), 212.183, 213.053, 213.235, 213.255, 213.29, 213.37, 213.755, 215.26(2), 219.07, 288.1258, 373.41492, 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), 616.260, 681.117, 823.14(3) FS.

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

DATE AND TIME: October 24, 2012, 10:00 a.m.

PLACE: 2450 Shumard Oak Boulevard, Building One, Room 1820, 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: Tammy Miller at (850)617-8347. 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)717-7610

THE FULL TEXT OF THE PROPOSED RULE IS:

12A-1.005 Admissions.

(1) through (2) No change.

(3) TAXABLE ADMISSIONS AND PARTICIPATION FEES. The following paragraphs contain examples of admission charges that are subject to tax, unless such admissions are specifically exempt under the provisions of Section 212.04(2), F.S. This list is not intended to be an exhaustive list.

(a) through (k) No change.

(l) Charges measured on an admission or entrance or length of stay for rides on ~~helicopters~~, sightseeing trolley cars, sightseeing buses or trains, or any sightseeing or amusement ride where the participant is normally returned to the origination point are taxable. This does not apply to:

1. Charter or regularly scheduled aircraft, bus, taxi, trolley, or train travel where the passengers may disembark for shopping, dining, or other activities at points other than the origination point; or

2. Individuals traveling in air commerce, such as skydiving, helicopter, or untethered hot air balloon rides.

(m) Charges made for tethered hot air balloon rides are taxable.

(4) through (6) No change.

Rulemaking Authority 212.04(4), 212.17(6), 212.18(2), 213.06(1) FS. Law Implemented 212.02(1), 212.04, 212.08(6), (7), 616.260 FS. History—Revised 10-7-68, 1-7-70, 6-16-72, Amended 7-19-72, 12-11-74, 9-28-78, 7-3-79, 12-3-81, 7-20-82, Formerly 12A-1.05, Amended 1-2-89, 12-16-91, 10-17-94, 3-20-96, 3-4-01, 10-2-01, 4-17-03, 6-28-05, 4-26-10, 1-12-11, \_\_\_\_\_.

12A-1.0144 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 obtained a written certification issued by the Department of Agriculture and Consumer Services is eligible for a refund. The refund is based on Florida sales and use taxes previously paid on:

(a) Materials used in the distribution of biodiesel (B10-B100) and ethanol (E10-E100), and other renewable fuels, including fueling infrastructure, transportation, and storage for these fuels; and

(b) Gasoline fueling station pump retrofits for biodiesel (B10-B100), ethanol (E10-E100), and other renewable fuel distributions.

(2) Applying for the refund.

(a) To receive a refund of Florida sales and use taxes previously paid on eligible items, taxpayers must first file an application with the Department of Agriculture and Consumer Services.

(b) The required application may be obtained, without cost, at [www.freshfromflorida.com](http://www.freshfromflorida.com) or by telephone at (850)617-7470.

(3) Obtaining the refund.

(a) To obtain a refund of Florida sales and use tax previously paid on eligible items, 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.), along with a copy of the written certification, with the Department of Revenue. Form DR-26S must be filed within 6 months from the date of the written certification issued by the Department of Agriculture and Consumer Services. Form DR-26S, with a copy of the certification letter, should be mailed to:

Florida Department of Revenue  
Refunds Process  
P. O. Box 6490  
Tallahassee, Florida 32314-6490.

(b) The amount of a refund claim is limited to the amount approved and certified by the Florida Department of Agriculture and Consumer Services.

(c) A refund will be issued within 30 days after the refund application is determined to be complete and the amount of the refund due is approved by the Department of Revenue.

Rulemaking Authority 212.17(6), 212.18(2), 213.06(1) FS. Law Implemented 212.08(7)(hhh), 213.255 FS. History—New \_\_\_\_\_.

12A-1.055 Sale or Discontinuation of Business.

Rulemaking Authority 212.17(6), 212.18(2), 213.06(1) FS. Law Implemented 212.02(2), (14)(a), 212.04(6), 212.06(1), 212.07(1)(b), 212.10(1), (2), (4), 212.18(3), 213.053 FS. History—Revised 10-7-68, 6-16-72, Formerly 12A-1.55, Amended 2-16-93, 1-4-94, Repealed \_\_\_\_\_.

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

(1) No change.

(2) COLLECTION ALLOWANCE.

(a) A collection allowance is authorized as compensation for the prescribed record keeping, accounting for, and ~~for the timely reporting and remitting of taxes or fees on the same documents utilized for~~ sales and use tax and discretionary sales surtax by electronic means such seller, person, lessor, dealer, owner, and remitter shall be allowed a collection allowance.

(b)1. The collection allowance (except for dealers who make mail order sales, see subsection (5) of Rule 12A-1.103, F.A.C.) ~~is shall be~~ computed at the rate of 2.5 percent on the first \$1,200 of tax due. ~~No There shall be no additional~~

collection allowance is authorized for tax collected in excess of \$1,200. ~~The Therefore, the~~ maximum amount of collection allowance authorized for any filing period for any electronic sales and use tax return is shall be \$30.

2. Dealers reporting and remitting tax by electronic means on the following returns are entitled to the collection allowance only when the electronic return is timely submitted and the amount due on the return is timely paid by electronic means:

a. Form DR-15EZ, Sales and Use Tax Return;

b. Form DR-15, Sales and Use Tax Return; or,

c. Form DR-15CON, Consolidated Summary-Sales and Use Tax Return, and Form(s) DR-7, Consolidated Sales and Use Tax Return.

3. A collection allowance is not authorized for use tax reported on Form DR-15MO, Florida Tax on Purchases.

4. Forms DR-7, DR-15, DR-15CON, DR-15EZ, and DR-15MO are incorporated by reference in Rule 12A-1.097, F.A.C.

(c) Dealers operating more than one place of business and filing ~~under~~ a consolidated tax return by electronic means, where the consolidated return provides the monthly business activity for each location, are allowed the collection allowance for each reporting and registered location. Dealers who report tax collected within each county by electronic means using a county-control number are entitled to the collection allowance based upon the total amount reported on the county-control reporting number.

(d) The collection allowance will not be allowed when:

1. The tax reported on ~~an electronic the~~ return is not timely paid by electronic means or is delinquent at the time of payment;

2. The required tax return is not submitted by electronic means or is delinquent; or

3. The required electronic tax return filed is incomplete. An “incomplete return” is a return that lacks such uniformity, completeness, and arrangement that the physical handling, verification, or review of the return, or determination of other taxes and fees reported on the return, may not be readily accomplished.

(e)1. Any dealer who files a timely return by electronic means and timely pays the amount due on the return by electronic means may elect to donate the amount of collection allowance that is allowed on that return to the Educational Enhancement Trust Fund. The revenues deposited into this trust fund will go to school districts that have adopted resolutions stating that the funds from this trust fund will be used to ensure that up-to-date technology is purchased for the classrooms in those districts and that teachers are trained in the use of the technology. Dealers who are located outside Florida or whose business is located in a county where the school district has not adopted the required resolution may also elect to donate the amount of collection allowance that is allowed on

their return to the trust fund. Funds received from these dealers will be equally distributed to school districts that have adopted the required resolutions.

2. Dealers who elect to donate their collection allowance must make an election on each electronic original return that is timely filed with the Department, ~~as provided in subsection (1).~~ The electronic payment required with the return must include the amount of collection allowance to be donated and must be timely paid filed, ~~as provided in subsection (1).~~ Dealers making the election on their electronic return should not enter the amount of collection allowance on the return. Dealers who operate two or more places of business and file an electronic a consolidated return, ~~as provided in paragraph (1)(f),~~ must make the election on the consolidated return (Form DR-15CON, Consolidated Summary-Sales and Use Tax Return) and should not enter the amount of collection allowance on the location returns (Form DR-7, Consolidated Sales and Use Tax Return). The amount of the collection allowance will not be transferred to the Educational Enhancement Trust Fund when a dealer makes an election to donate the amount of its allowed collection allowance but does not include that amount with its payment. ~~Form DR-15CON, Consolidate Summary Sales and Use Tax Return, and Form DR-7, Consolidated Sales and Use Tax Return, are incorporated by reference in Rule 12A-1.097, F.A.C.~~

3. When a dealer files an electronic a return and timely pays the amount due ~~makes the payment required~~ with the return by electronic means ~~timely~~, the election to donate the amount of the collection allowance to the Educational Enhancement Trust Fund may not be rescinded for that return. Dealers are not permitted to file an amended return to make an election to donate the amount of the collection allowance to the trust fund when the election was not made on the original return as filed.

4. ~~When a dealer elects to transfer the~~ The election to donate the collection allowance to the Educational Enhancement Trust Fund applies only when the dealer files a timely return. The amount of collection allowance transferred to the Educational Enhancement Trust Fund, the amount transferred trust fund will be the amount remaining after resolution of any tax, interest, or penalty due, ~~when the dealer makes an election to transfer the amount of collection allowance on-~~

- ~~a. A return that is filed with the Department after the due date, as provided in subsection (1);~~
- ~~b. A return that is incomplete, as provided in this subsection; or~~
- ~~c. When the dealer underpays the amount of tax due with the return.~~

(3) through (4) No change.

Rulemaking Authority 212.17(6), 212.18(2), 213.06(1) FS. Law Implemented 125.0104(3)(g), 125.0108(2)(a), 212.03(2), 212.0305(3)(c), 212.031(3), 212.04(3), (4), 212.0506(4), (11), 212.055, 212.06(1)(a), 212.0606, 212.11, 212.12(1), (2), (3), (4), (5), 212.14(2), 212.15(1), 213.235, 213.755, 373.41492, 376.70, 376.75, 403.718, 403.7185, 443.036, 443.121(1), (3), 443.131, 443.1315, 443.1316, 443.171(2), (7), 681.117 FS. History—Revised 10-7-68, 6-16-72, Amended 10-21-75, 6-9-76, 11-8-76, 2-21-77, 4-2-78, 10-18-78, 12-23-80, 8-26-81, 9-24-81, 11-23-83, 5-28-85, Formerly 12A-1.56, Amended 3-12-86, 1-2-89, 12-19-89, 12-7-92, 10-20-93, 10-17-94, 3-20-96, 4-2-00, 6-19-01, 8-1-02, 4-17-03, 9-28-04, 11-6-07, 9-15-08, \_\_\_\_\_.

12A-1.087 Exemption for Power Farm Equipment; Electricity Used for Certain Agricultural Purposes; Suggested Exemption Certificate for Items Used for Agricultural Purposes.

(1) through (8) No change.

(9)(a) Electricity used for the production, packing, or processing of agricultural ~~farm~~ products on a farm or in a packinghouse is exempt. The exemption does not apply to electricity used in buildings or structures where agricultural products are sold at retail. "Packinghouse" means any building or structure where fruits, vegetables, or meat from cattle or hogs are packed or otherwise prepared for market or shipment in fresh form for wholesale distribution. The exemption only applies if the electricity is separately metered from the electricity used for ~~nonexempt nonproduction—~~ or nonprocessing purposes. If the electricity is centrally metered and is used for both tax-exempt and taxable purposes, the purchase of the electricity is subject to tax. The indirect use of electricity, such as in employee break rooms or restrooms, repair facilities ~~sheds where farm equipment is repaired,~~ or administrative offices located on a farm or in a packinghouse, qualifies for the exemption. However, when a retail establishment is located on a farm and the electricity is not separately metered from the electricity used elsewhere on the farm, the electricity is subject to tax.

(b) No change.

(c) The exemption will not be allowed unless the purchaser furnishes its utility a written certificate stating that the electricity is used on a farm for the production, packing, or processing of agricultural ~~farm~~ products, or in a packinghouse, and qualifies for the exemption under Section 212.08(5)(e)2., F.S. The following is a suggested format of an a purchaser's exemption certificate to be issued to a utility company to make tax-exempt purchases of electricity used for this purpose:

SUGGESTED PURCHASER'S EXEMPTION  
CERTIFICATE ELECTRICITY USED FOR THE  
PRODUCTION, PACKING, OR PROCESSING OF  
AGRICULTURAL PRODUCTS ON A FARM  
OR USED IN A PACKINGHOUSE

I certify that the electricity used on or after \_\_\_\_\_ (DATE) from \_\_\_\_\_ (UTILITY COMPANY) consumed through the following meter(s) is exempt from sales tax pursuant to Section 212.08(5)(e)2., Florida Statutes (F.S.), and will be:

(Check the appropriate box)

~~Used~~ used in the production, packing, or processing of agricultural ~~farm~~ products on a farm ~~and is exempt from sales tax pursuant to Section 212.08(5)(e)2., F.S.~~

Used in a packinghouse for packing or otherwise preparing for market, or for shipment in fresh form, for wholesale distribution fruits and vegetables, or meat from cattle or hogs.

I certify that the electricity will not be used in a building or structure where agricultural products are sold at retail.

Meter Number(s):

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

I understand that if the electricity purchased does not qualify for exemption under Section 212.08(5)(e)2., F.S., then I must pay the tax on the purchase directly to the Department of Revenue.

I understand that if I fraudulently issue this certificate to evade the payment of sales tax, I will be liable for payment of the sales tax, plus a mandatory penalty of 200% of the tax, and will be liable for fine and punishment provided by law for conviction of a felony of the third degree, as provided in Section 775.082, 775.083, or 775.084, F.S.

Under penalties of perjury, I declare that I have read the foregoing document and that the facts stated in it are true.

\_\_\_\_\_  
Purchaser's Name and Title (Print or Type)

\_\_\_\_\_  
Purchaser's Address

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Date

(10) No change.

Rulemaking Authority 212.17(6), 212.18(2), 213.06(1) FS. Law Implemented 212.02(14)(c), (30), (31), (32), 212.05(1), 212.0501, 212.06(1), 212.07(5), 212.08(3), (5)(a), (e), 212.085, 823.14(3) FS. History—Revised 10-7-68, 1-7-70, 6-16-72, Amended 10-18-78, 7-20-82, 4-12-84, Formerly 12A-1.87, Amended 12-13-88, 3-1-00, 6-19-01, 9-15-08, \_\_\_\_\_.

12A-1.096 Industrial Machinery and Equipment for Use in a New or Expanding Business.

- (1) through (2) No change.
- (3) Expanding Business.

(a) The purchase of industrial machinery and equipment, parts and accessories, and the installation thereof, is exempt from tax when purchased by an expanding business that uses such machinery and equipment at a fixed location in this state to increase the productive output of tangible personal property that is manufactured, processed, compounded, or produced for sale by not less than 5 ~~10~~ percent, or for exclusive use in spaceport activities.

(b) No change.

(c)1. To qualify for exemption as an expanding business, the taxpayer is required to provide information to the satisfaction of the Executive Director or the Executive Director's designee that the items purchased will be or have been used to increase the productive output of the existing facility or specific product line(s) by not less than 5 ~~10~~ percent. An expanding business is allowed to specify whether the 5 ~~10~~ percent increase in productive output is for the entire plant or for specific product line(s). However, where the increase in productive output applies to a product or component that becomes part of different product lines, the increase in productive output will be determined by measuring the increase in the combined output of the different product lines. Similarly, if the additional machinery and equipment affects the productive output of more than one product line, the increase in productive output must be measured by all of the product lines that have been affected.

a. through c. No change.

2. through 3. No change.

(4) No change.

(5)(a) through (d) No change.

(e)1. No change.

2. An application for refund by an expanding business 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. However, an application for refund will not be considered complete pursuant to Sections 213.255(2) and (3), F.S., and Rule 12-26.003, F.A.C., and a refund will not be approved, before the date an expanding business can substantiate that the business expansion has increased the productive output at the existing facility by not less than 5 ~~10~~ percent, or for an expanding business engaged in spaceport activities, before the date of completion of the installation of the machinery and equipment.

(6) through (9) No change.

Rulemaking Authority 212.08(5)(b)4., 212.17(6), 212.18(2), 213.06(1) FS. Law Implemented 212.02(4), (10)(g), (14), (19), (21), (22), 212.05, 212.06, 212.08(5)(b), (7)(xx), 212.13(2), 213.255(2), (3), 215.26(2) FS. History—New 5-11-92, Amended 7-1-99, 6-28-00, 6-19-01, 3-6-02, 4-1-08, 1-12-11, \_\_\_\_\_.

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
- (2) through (4) No change.
- (5)(a) DR-7 Consolidated Sales and Use Tax Return (R. ~~07/12 01/12~~) 01/12  
(<http://www.flrules.org/Gateway/reference.asp?No=Ref-00848>)
- (b) DR-7N Instructions for Consolidated Sales and Use Tax Return (R. ~~07/12 01/12~~) 01/12  
(<http://www.flrules.org/Gateway/reference.asp?No=Ref-00850>)
- (c) DR-15CON Consolidated Summary – Sales and Use Tax Return (R. ~~07/12 01/12~~) 01/12  
(<http://www.flrules.org/Gateway/reference.asp?No=Ref-00848>)
- (6)(a) DR-15 Sales and Use Tax Return (R. ~~07/12 01/12~~) 01/12  
(<http://www.flrules.org/Gateway/reference.asp?No=Ref-00849>)
- (b) DR-15N Instructions for DR-15 Sales and Use Tax Returns (R. ~~07/12 01/12~~) 01/12  
(<http://www.flrules.org/Gateway/reference.asp?No=Ref-00851>)
- (c) DR-15EZ Sales and Use Tax Return (R. ~~07/12 01/12~~) 01/12  
(<http://www.flrules.org/Gateway/reference.asp?No=Ref-00852>)
- (d) DR-15EZN Instructions for DR-15EZ Sales and Use Tax Returns (R. ~~01/13 01/12~~) 01/12  
(<http://www.flrules.org/Gateway/reference.asp?No=Ref-00940>)
- (e) through (j) No change.
- (7)(a) No change.
- (b) DR-16P\* Sales and Use Tax Direct Pay Permit (R. ~~10/12 09/11~~) 01/12  
(<http://www.flrules.org/Gateway/reference.asp?No=Ref-00939>)
- (c) No change.
- (8) through (23) No change.

Rulemaking 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., (n)4., (o)4., (7), 212.11(5)(b), 212.12(1)(a)2., 212.17(6), 212.18(2), (3), 212.183, 213.06(1), 288.1258(4)(c), 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, 119.071(5), 125.0104, 125.0108, 201.01, 201.08(1)(a), 201.133, 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(2), (4), (5), 212.17, 212.18(2), (3), 212.183, 213.235, 213.29, 213.37, 213.755, 215.26(2), 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, 4-1-08, 6-4-08, 1-27-09, 9-1-09, 11-3-09, 1-11-10, 4-26-10, 6-28-10, 7-12-10, 1-12-11, 1-25-12, \_\_\_\_\_

NAME OF PERSON ORIGINATING PROPOSED RULE: Richard Parsons, Jeff Soff, or Janet Young, Tax Law Specialists, Technical Assistance and Dispute Resolution, Department of Revenue, P. O. Box 7443, Tallahassee, Florida 32314-7443, telephone (850)717-7610  
 NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: Governor and Cabinet  
 DATE PROPOSED RULE APPROVED BY AGENCY HEAD: September 18, 2012  
 DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: A Notice of Proposed Rule Development was published in the Florida Administrative Weekly on July 20, 2012 (Vol. 38, No. 29, pp. 2898-2899), to advise the public of the proposed amendments to Rule Chapter 12A-1, F.A.C. (Sales and Use Tax), and to provide that, if requested in writing, a rule development workshop would be held on August 8, 2012. No request was received by the Department. No written comments were received by the Department.

**DEPARTMENT OF REVENUE**

**Sales and Use Tax**

RULE NOS.:	RULE TITLES:
12A-17.001	Scope of Rules
12A-17.003	Registration
12A-17.005	Public Use Forms

PURPOSE AND EFFECT: To meet the requirements of Sections 538.09(2) and 538.25(1), F.S., and provide the information necessary for the Florida Department of Law Enforcement to complete a state and federal criminal history record check, fingerprints are now required to be submitted electronically. In addition, effective July 1, 2012, Section 1, Chapter 2012-179, L.O.F., requires any person purchasing, consigning, or trading secondhand goods at a flea market to register as a secondhand dealer and limits the exemption from the registration requirement for auction businesses to only those businesses engaged in buying and selling estates, business inventory, surplus merchandise, or liquidations.

The purpose of the proposed amendments to Rule Chapter 12A-17, F.A.C. (Registration as Secondhand Dealer or Secondary Metals Recycler), is to update the registration requirements for secondhand dealers and secondary metals recyclers.

SUMMARY: The proposed repeal of Rule 12A-17.001, F.A.C. (Scope of Rules), removes an unnecessary rule regarding the administration, enforcement, and recordkeeping requirements imposed on secondhand dealers and secondary metals recyclers that is redundant of the provisions in Section 538.11, F.S.

The proposed amendments to Rule 12A-17.003, F.A.C. (Registration), and Rule 12A-17.005, F.A.C. (Public Use Forms): (1) update procedures for secondhand dealers and secondary metals recyclers regarding fingerprinting

requirements when applying for a secondhand dealer's or secondary metals recycler's certificate of registration; and (2) include in the Registration Application for Secondhand Dealers and/or Secondary Metals Recyclers (Form DR-1S) the registration requirements for persons purchasing, consigning, or trading secondhand goods at a flea market and for auction businesses engaged in buying and selling estates, business inventory, surplus merchandise, or liquidations.

**SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS AND LEGISLATIVE RATIFICATION:**

The Agency has determined that this will not have an adverse impact on small business or likely increase directly or indirectly regulatory costs in excess of \$200,000 in the aggregate within one year after the implementation of the rule. A SERC has not been prepared by the agency.

The Agency has determined that the proposed rule is not expected to require legislative ratification based on the statement of estimated regulatory costs or if no SERC is required, the information expressly relied upon and described herein: 1) no requirement for the Statement of Economic Regulatory Costs (SERC) was triggered under Section 120.541(1), F.S.; and 2) based on past experiences with activities for providing the public information on how to comply with statutory registration requirements and rules of this nature, the adverse impact or regulatory cost, if any, do not exceed nor would exceed any one of the economic analysis criteria in a SERC, as set forth in Section 120.541(2)(a), F.S.

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.

**RULEMAKING AUTHORITY:** 213.06(1), 538.11, 538.37 FS.  
**LAW IMPLEMENTED:** 213.053(9), (11), 538.09, 538.25, 538.31, 538.32, 539.002 FS.

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

**DATE AND TIME:** October 24, 2012, 10:00 a.m.

**PLACE:** 2450 Shumard Oak Boulevard, Building One, Room 1820, 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: Tammy Miller at (850)617-8347. 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:** Ronald Gay, Tax Law Specialist, Technical Assistance and Dispute Resolution, Department of Revenue, P. O. Box 7443, Tallahassee, Florida 32314-7443, telephone (850)717-6745

THE FULL TEXT OF THE PROPOSED RULES IS:

**12A-17.001 Scope of Rules.**

~~Rulemaking Specific Authority 213.06(1), 538.11, 538.37 FS. Law Implemented 538.03, 538.09, 538.32, 538.11, 538.15, 538.18, 538.22, 538.25, 538.26 FS. History--New 3-15-90, Amended 11-14-91, 8-1-02, Repealed \_\_\_\_\_.~~

**12A-17.003 Registration.**

(1)(a) Any person, corporation, or other business entity must file a completed application package for registration as a secondhand dealer, mail-in secondhand precious metals dealer, or secondary metals recycler and obtain a certificate of registration before engaging in business as a secondhand dealer or secondary metals recycler. One application package is required for each dealer. If a dealer is engaged in business as a secondhand dealer or a mail-in secondhand precious metals dealer and a secondary metals recycler, a separate application package must be filed for each type of business. If a secondhand dealer, mail-in secondhand precious metals dealer, or secondary metals recycler is the owner of more than one business location, the application package must list each location owned by the same legal entity. The Department will issue a certificate of registration to the applicant business for each location.

(b) To apply for registration as a secondhand dealer, mail-in secondhand precious metals dealer, or secondary metals recycler, a business entity is required to provide a completed registration package to:

Account Management Secondhand Dealer Unit  
Florida Department of Revenue  
P. O. Box 6480  
Tallahassee, Florida 32314-6480.

~~(c) A completed registration package contains the following:~~

1. A completed Application for Secondhand Dealer or Secondary Metals Recycler Registration (Form DR-1S, incorporated by reference in Rule 12A-17.005, F.A.C.) for each business location.

2. A state and federal criminal history record check (background check) A Federal Bureau of Investigation (United States Department of Justice) fingerprint card completed by a local law enforcement official for each corporate officer, owner, general partner, stockholder and/or director with a controlling interest. The completed fingerprint card is necessary for a state and federal criminal history record check (background check) to be performed by the Florida Department of Law Enforcement. Form GT-200403, Electronic Fingerprint Procedures for Secondhand Dealer and Secondary Metals Recycler Applicants (incorporated by reference in Rule 12A-17.005, F.A.C.) provides instructions for meeting completing the record check requirements fingerprint card.

~~3. A full face photograph for each corporate officer, owner, general partner, stockholder and/or director with a controlling interest.~~



3.4. A check, payable to the Florida Department of Revenue, which includes payment of the fee:

a. ~~The \$6 application fee required for each business location owned or leased by the applicant; and~~

b. ~~The fee imposed by the Florida Department of Law Enforcement for processing each completed fingerprint card for a state and federal criminal history record check (background check). The amount of this fee is provided at <http://www.fdle.state.fl.us>.~~

(d) ~~A registration package containing the forms required by the Federal Bureau of Investigation, the Florida Department of Law Enforcement, and the Florida Department of Revenue may be obtained, without cost, by: 1) ordering the registration package at [www.myflorida.com/dor/forms](http://www.myflorida.com/dor/forms) to be mailed to you; or, 2) calling the Florida Department of Revenue at (800)352-3671, Monday through Friday, 8:00 a.m. to 7:00 p.m., Eastern Time; or, 3) writing the Florida Department of Revenue, Taxpayer Services, Mail Stop 3-2000, 5050 West Tennessee Street, Tallahassee, Florida 32399-0112. Persons with hearing or speech impairments may call the Department's TDD at 1(800)367-8331 or (850)922-1115.~~

(2) through (3) No change.

(4)(a) No change.

(b) When there is a change in a general partner of a partnership, in the members of an association, joint venture, limited liability company, or other noncorporate entity, or in the corporate officers/directors who hold a controlling interest in a corporation, the new partner, new member, or new corporate officer/director must submit a state and federal criminal history record check (background check) as provided in Form GT-200403, submit:

1. ~~A Federal Bureau of Investigation fingerprint card completed by a local law enforcement official;~~

2. ~~A full face photograph; and~~

3. ~~A check, payable to the Florida Department of Revenue, for the fee imposed by the Florida Department of Law Enforcement for processing the state and federal criminal history record check (background check).~~

(5) through (6) No change.

Rulemaking Authority 213.06(1), 538.11, 538.37 FS. Law Implemented 213.053(9), (11), 538.09, ~~538.11~~, 538.25, 538.32 ~~538.26~~ FS. History-New 3-15-90, Amended 11-14-91, 4-18-93, 10-18-93, 10-17-94, 3-20-96, 8-1-02, 9-15-08, 6-1-09, \_\_\_\_\_.

12A-17.005 Public Use Forms.

(1)(a) No change.

(b) Renewal applications specifically denoted by an asterisk (\*) are issued by the Department to holders of current certificates of registration as a secondhand dealer or a secondary metals recycler. A copy of a renewal application may be obtained by written request directed to:

Florida Department of Revenue  
Taxpayer Services

5050 W. Tennessee St., Mail Stop 3-2000 Bldg. 1  
Tallahassee, Florida 32399-0112

Form Number	Title	Effective Date
(2) DR-1S	Registration Application for Secondhand Dealers and/or Secondary Metals Recyclers	(R. <del>07/12 07/09</del> ) <u>01/10</u>
(3) *DR-1SR	Renewal Application for Secondhand Dealers and/or Secondary Metals Recyclers	(R. <del>07/12 07/09</del> ) <u>01/10</u>
(4) GT-200403	<u>Electronic Secondhand Dealers and/or Secondary Metals Recyclers Fingerprint Procedures for Secondhand Dealer and Secondary Metals Recycler Applicants Card Instructions</u>	(R. <del>03/12 07/09</del> ) <u>01/10</u>

Rulemaking Authority 213.06(1), 538.11, 538.37 FS. Law Implemented 538.09, ~~538.11~~, 538.25, 538.31, 538.32, ~~538.36, 538.37~~, 539.002 FS. History-New 3-15-90, Amended 11-14-91, 4-18-93, 10-17-94, 8-1-02, 9-28-04, 6-28-05, 9-15-08, 1-11-10, \_\_\_\_\_.

NAME OF PERSON ORIGINATING PROPOSED RULE: Ronald Gay, Tax Law Specialist, Technical Assistance and Dispute Resolution, Department of Revenue, P. O. Box 7443, Tallahassee, Florida 32314-7443, telephone (850)717-6745

NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: Governor and Cabinet

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: September 18, 2012

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: A Notice of Proposed Rule Development was published in the Florida Administrative Weekly on July 20, 2012 (Vol. 38, No. 29, pp. 2903-2904), to advise the public of the proposed changes to Rule Chapter 12A-17, F.A.C. (Registration as Secondhand Dealer or Secondary Metals Recycler), and to provide that, if requested in writing, a rule development workshop would be held on August 8, 2012. No request was received by the Department. No written comments were received by the Department.

**DEPARTMENT OF REVENUE**

**Sales and Use Tax**

RULE NOS.:	RULE TITLES:
12A-19.010	Registration
12A-19.041	Sales of Communications Services to a Residential Household

12A-19.070 Assignment of Service Addresses to Local Taxing Jurisdictions; Liability for Errors; Avoidance of Liability Through Use of Specified Methods; Reduction in Collection Allowance for Failure to Use Specified Methods

12A-19.100 Public Use Forms  
 PURPOSE AND EFFECT: Effective July 1, 2012, sections 2 and 6, Chapter 2012-70, L.O.F.: (1) redefine “cable service” as “video service”; (2) provide that communications services dealers who utilize one of the approved methods for assigning service addresses to a local jurisdiction cannot be denied the dealer’s collection allowance solely as a result of incorrect address assignments; and (3) provide when communications services dealers may be held liable for the net aggregate underpayment of tax and associated interest and penalties for incorrectly assigning a service address to a local taxing jurisdiction.

Sales of communications services to transient public lodging establishments, as defined by Section 509.013, F.S., are subject to tax. Effective October 1, 2012, Chapter 2012-165, L.O.F., revises the definition of “public lodging establishments” in Section 509.013, F.S., to remove roominghouses, boardinghouses, or other living or sleeping facility not otherwise classified as a hotel, motel, vacation rental, nontransient apartment, bed and breakfast inn, or transient apartment under Section 509.242, F.S.

The purpose of the proposed amendments to Rule Chapter 12A-19, F.A.C. (Communications Services Tax), is to update the communications services tax rules to reflect the changes made by Chapters 2012-70 and 2012-165, L.O.F., and to adopt, by reference, updates to the local jurisdiction tax rates on the communications services tax return.

SUMMARY: The proposed amendments to Rule 12A-19.010, F.A.C. (Registration), and Rule 12A-19.041, F.A.C. (Sales of Communications Services to a Residential Household), update the references from “cable service” to “video service.”

The proposed amendments to Rule 12A-19.041, F.A.C. (Sales of Communications Services to a Residential Household), update the references from “cable service” to “video service” and to remove “roominghouses” as an example of a transient public lodging establishment.

The proposed amendments to Rule 12A-19.070, F.A.C. (Assignment of Service Addresses to Local Taxing Jurisdictions; Liability for Errors; Avoidance of Liability Through Use of Specified Methods; Reduction in Collection Allowance for Failure to Use Specified Methods), incorporate the provisions of Chapter 2012-70, L.O.F.

The proposed amendments to Rule 12A-19.100, F.A.C. (Public Use Forms), incorporate the provisions of Chapter 2012-70, L.O.F., and adopt, by reference, updates to the tax returns to include local communications services tax rates that will become effective January 1, 2013.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS AND LEGISLATIVE RATIFICATION:

The Agency has determined that this will not have an adverse impact on small business or likely increase directly or indirectly regulatory costs in excess of \$200,000 in the aggregate within one year after the implementation of the rule. A SERC has not been prepared by the agency.

The Agency has determined that the proposed rule is not expected to require legislative ratification based on the statement of estimated regulatory costs or if no SERC is required, the information expressly relied upon and described herein: 1) no requirement for the Statement of Economic Regulatory Costs (SERC) was triggered under Section 120.541(1), F.S.; and 2) based on past experiences with activities for providing for the collection allowance and locally-imposed tax rates for the communications services tax, and rules of this nature, the adverse impact or regulatory cost, if any, do not exceed nor would exceed any one of the economic analysis criteria in a SERC, as set forth in Section 120.541(2)(a), F.S.

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.

RULEMAKING AUTHORITY: 175.1015(5), 185.085(5), 202.151, 202.16(2), 202.17(3)(a), 202.22(6)(a), 202.26(3), 202.27(1), (7), 202.28(1) FS.

LAW IMPLEMENTED: 119.071(5), 175.1015, 185.085, 202.11(1), (3), (5), (8), (10)-(13), 202.12(1), (3), 202.125(1)-(4), 202.13(2), 202.151, 202.16(2), (4), 202.17(1)-(4), (6), 202.19(1), (7), (10), 202.22(1), (4)- 6), (8), 202.23, 202.26(2), 202.27, 202.28, (2), 202.29, 202.30(3), 202.33, 202.34(1)(a), (3), (4)(c), 202.35(1)-(4) FS.

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

DATE AND TIME: October 24, 2012, 10:00 a.m.

PLACE: 2450 Shumard Oak Boulevard, Building One, Room 1820, 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: Tammy Miller at (850)617-8347. 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: Heather Miller, Tax Law Specialist, Technical Assistance and Dispute Resolution, Department of Revenue, P. O. Box 7443, Tallahassee, Florida 32314-7443, telephone (850)717-7104

THE FULL TEXT OF THE PROPOSED RULE IS:

12A-19.010 Registration.

(1) through (2) No change.

(3)(a) No change.

(b) Persons who must register for the communications services tax include persons who provide the transmission, conveyance, or routing of voice, data, audio, video, or any other information or signals, including video enable services, to a point, or between or among points, by or through any electronic, radio, satellite, cable, optical, microwave, or other medium or method now in existence or hereafter devised, regardless of the protocol used for such transmission or conveyance, for a consideration, except as provided in paragraph (c).

(c) through (d) No change.

(4) No change.

Rulemaking Authority 202.17(3)(a), 202.22(6)(a), 202.26(3)(e), (h) FS. Law Implemented 202.11(1), (5) ~~(2), (6)~~, (8), (12), (13), 202.12(1)(b), 202.17(1)-(4), 202.22(6)(a), 202.27(6) FS. History—New 1-31-02, Amended 4-17-03, 7-16-06, \_\_\_\_\_.

12A-19.041 Sales of Communications Services to a Residential Household.

(1) No change.

(2) APPLICATION OF TAX.

(a) through (b) No change.

(c) The partial exemption for sales to a residential household does not apply to:

1. Sales of any video enable service, as defined in Section 202.11(24)(+), F.S.;

2. Sales of any direct-to-home satellite service, as defined in Section 202.11(4)(5), F.S.; and

3. Sales of mobile communications services, as defined in Section 202.11(7), F.S.

(3) TRANSIENT PUBLIC LODGING ESTABLISHMENTS. The partial exemption for sales to residential households does not apply to sales to any residence that constitutes all or part of a transient public lodging establishment, as defined by Section 509.013, F.S.

(a) through (c) No change.

(d) Transient public lodging establishments are rented to guests whose occupancy is intended to be temporary. Examples of transient public lodging establishments include hotels, motels, bed and breakfast inns, transient apartments, ~~transient rooming houses~~, and vacation rentals.

(4) through (5) No change.

Rulemaking Authority 202.26(3)(c) FS. Law Implemented 202.125(1), 202.13(2), 202.16(4), 202.19(10), 202.34(3), 202.35(4) FS. History—New 1-31-02, Amended 2-7-11, 1-25-12, \_\_\_\_\_.

12A-19.070 Assignment of Service Addresses to Local Taxing Jurisdictions; Liability for Errors; Avoidance of Liability Through Use of Specified Methods; Reduction in Collection Allowance for Failure to Use Specified Methods.

(1)(a) Dealers of communications services that are required to collect local communications services taxes must assign each customer service address to a specific local taxing jurisdiction for purposes of determining the appropriate local communications services tax rate to be applied to sales made to that address. Local communications services taxes must be collected and remitted for each service address in accordance with the service address assignments in the effective communications services tax Address/Jurisdiction Database, which is the official electronic database maintained by the Department that is posted 90 days prior to its adoption and becomes effective every January 1 and July 1, as discussed in Rule 12A-19.071, F.A.C. ~~Except as otherwise provided in subsection (2), a dealer is liable for any additional local communications services taxes, interest, and penalties that are due as a result of assigning service addresses to incorrect local taxing jurisdictions when the correct local taxing jurisdiction's tax rate exceeds the incorrectly assigned local taxing jurisdiction's tax rate.~~

(b) 1. In determining the liability for any additional local communications services taxes, interest, and penalties of a dealer who does not use a method as described in paragraph (2)(a) and has failed to assign one or more a service addresses address to the correct local taxing jurisdiction, the Department will take into account all underpayments and overpayments of the local tax any amount of local communications services tax that was collected and erroneously assigned by the dealer to another local taxing jurisdiction. The Department will reallocate and redistribute such amounts between the local taxing jurisdictions involved to apply the payment of any additional local communications services taxes to the correct local taxing jurisdiction. Interest and penalties will be applied only to the additional local communications services taxes due on the sale after crediting the dealer with the amount of local communications services tax collected that was erroneously based on an assignment to an incorrect local taxing jurisdiction.

2. The dealer will be held liable for the net aggregate underpayment of tax and associated interest and penalties for incorrectly assigning one or more service addresses when:

a. The dealer does not use or employ one or more of the methodologies described in paragraph (2)(a) for assigning service addresses to local taxing jurisdictions;

b. The Department determines that there are misallocations of the local communications services taxes collected by the dealer between local taxing jurisdictions during the tax period(s) examined; and

c. The dealer’s assignment of service addresses to local taxing jurisdictions results in a combined net aggregate underpayment of local communications services tax during the tax period(s) examined.

3. In addition, a specific penalty of 10 percent of any tax collected but reported to an incorrect jurisdiction as a result of an incorrect address assignment, not to exceed \$10,000 per return, will be imposed on any dealer that does not use a database described in paragraph (2)(a).

(c) No change.

(2)(a) A dealer will not be liable for any additional local communications services taxes, interest, or penalty due solely because of an error in assigning a service address to a local taxing jurisdiction if the dealer exercised due diligence in employing one or more of the following methodologies in assigning that service address:

1. The Address/Jurisdiction Database;
2. A database that has been certified by the Department, as provided in Rule 12A-19.072, F.A.C.;
3. An enhanced zip code method, as discussed in Rule 12A-19.073, F.A.C.; or
4. A database that, upon audit by the Department, is determined to have met the accuracy rate criterion required for certification under Rule 12A-19.072, F.A.C.

(b) through (e) No change.

(3) Collection Allowance.

(a) Any communications services dealer that employs one or more of the methodologies described in subparagraph (2)(a)1., (2)(a)2., or (2)(a)3. for assigning service addresses to local taxing jurisdictions is entitled to a collection allowance of .75 percent on taxes collected on service addresses assigned using the described methodologies and will not be denied the collection allowance solely because the dealer assigned one or

more addresses to an incorrect local taxing jurisdiction. Any communications services dealer that employs any methodology that is not described in subparagraph (2)(a)1., (2)(a)2., or (2)(a)3. for assigning service addresses to local taxing jurisdictions is entitled to a collection allowance of .25 percent on taxes collected on service addresses assigned using such other methodology. A communications services dealer who is not liable for an assessment of additional local communications services taxes, interest, and penalties by reason of employing a database that is found upon audit to meet the accuracy criteria for certification, as described in subparagraph (2)(a)4., is entitled to a collection allowance of .25 percent until such time as an application for certification of the database is made and approved.

(b) through (c) No change.

Rulemaking Authority 202.26(3)(b), (f), (g), 202.28(1) FS. Law Implemented 202.22(1), (4), (5), (6), (8), 202.23, 202.28, 202.34(1)(a), 202.35(3) FS. History—New 11-14-05, Amended 12-20-07, \_\_\_\_\_.

12A-19.100 Public Use Forms.

(1)(a) The Department employs the following public-use forms and instructions in the administration of Chapter 202, F.S., Communications Services Tax, and in the administration of the Department’s electronic Address/Jurisdiction Database created pursuant to Sections 175.1015 and 185.085, F.S. These forms are hereby incorporated by reference in this rule.

(b) No change.

(2) The following versions of Form DR-700016, Florida Communications Services Tax Return, are applicable to the reporting periods and service billing dates indicated:

REVISION DATE	REPORTING PERIODS	SERVICE BILLING DATES
01/13	<u>January 2013 –</u>	<u>January 1, 2013 –</u>
07/12	<u>July 2012 – December 2012</u>	<u>July 1, 2012 – December 31, 2012</u>
01/12	January 2012 – <u>June 2012</u>	January 1, 2012 – <u>June 30, 2012</u>
07/11	July 2011 – December 2011	July 1, 2011 – December 31, 2011
01/11	January 2011 – June 2011	January 1, 2011 – June 30, 2011
08/10	August 2010 – December 2010	August 1, 2010 – December 31, 2010
01/10	January 2010 – July 2010	January 1, 2010 – July 31, 2010
06/09	June 2009 – December 2009	June 1, 2009 – December 31, 2009
01/09	January 2009 – May 2009	January 1, 2009 – May 31, 2009
09/08	September 2008 – December 2008	September 1, 2008 – December 31, 2008
06/08	June 2008 – August 2008	June 1, 2008 – August 31, 2008
05/08	May 2008	May 1, 2008 – May 31, 2008
01/08	January 2008 – April 2008	January 1, 2008 – April 30, 2008
09/07	September 2007 – December 2007	September 1, 2007 – December 31, 2007
06/07	June 2007 – August 2007	June 1, 2007 – August 31, 2007
02/07	February 2007 – May 2007	February 1, 2007 – May 31, 2007
01/07	January 2007	January 1, 2007 – January 31, 2007
06/06	June 2006 – December 2006	June 1, 2006 – December 31, 2006
01/06	January 2006 – May 2006	January 1, 2006 – May 31, 2006
11/05	November 2005 – December 2005	November 1, 2005 – December 31, 2005
06/05	June 2005 – October 2005	June 1, 2005 – October 31, 2005
01/05	January 2005 – May 2005	January 1, 2005 – May 31, 2005
11/04	November 2004 – December 2004	November 1, 2004 – December 31, 2004

10/04	October 2004	October 1, 2004 – October 31, 2004
06/04	June 2004 – September 2004	June 1, 2004 – September 30, 2004
01/04	January 2004 – May 2004	January 1, 2004 – May 31, 2004
12/03	December 2003	December 1, 2003 – December 31, 2003
11/03	November 2003	November 1, 2003 – November 30, 2003
10/03	October 2003	October 1, 2003 – October 31, 2003
06/03	June 2003 – September 2003	June 1, 2003 – September 30, 2003
03/03	March 2003 – May 2003	March 1, 2003 – May 31, 2003
01/03	January 2003 – February 2003	January 1, 2003 – February 28, 2003
12/02	December 2002	December 1, 2002 – December 31, 2002
11/02	November 2002	November 1, 2002 – November 30, 2002
10/02	October 2002	October 1, 2002 – October 31, 2002
01/02	January 2002 – September 2002	January 1, 2002 – September 30, 2002
12/01	October 2001 – December 2001	October 1, 2001 – December 31, 2001

Form Number Title Effective Date

(3) No change.

(4)(a) DR-700016 Florida Communications Services Tax Return (R. 01/13) \_\_\_\_\_

(b) DR-700016 Florida Communications Services Tax Return (R. 07/12) \_\_\_\_\_

(a) through (ii) renumbered (c) through (kk) No change.

(5) DR-700019 Communications Services Use Tax Return (R. 07/12 08/10) 02/11

[http://www.flrules.org/Gateway/reference.asp?No=Ref-\\_\\_\\_00089](http://www.flrules.org/Gateway/reference.asp?No=Ref-___00089)

(6) through (12) No change.

Rulemaking Authority 175.1015(5), 185.085(5), 202.151, 202.16(2), 202.22(6)(a), 202.26(3)(a), (c), (d), (e), (j), 202.27(1), (7) FS. Law Implemented 119.071(5), 175.1015, 185.085, 202.11(3), (10), (11), 202.12(1), (3), 202.13(2), 202.151, 202.16(2), (4), 202.17(6), 202.19(1), (7), 202.22(6), 202.27, 202.28(1), (2), 202.29, 202.30(3), 202.33, 202.34(3), (4)(c), 202.35(1), (2) FS. History—New 4-17-03, Amended 7-31-03, 10-1-03, 9-28-04, 6-28-05, 11-14-05, 7-16-06, 4-5-07, 11-6-07, 12-20-07, 1-28-08, 1-27-09, 1-11-10, 6-28-10 (3), 6-28-10 (5), 2-7-11, 1-25-12, \_\_\_\_\_.

NAME OF PERSON ORIGINATING PROPOSED RULE: Heather Miller, Tax Law Specialist, Technical Assistance and Dispute Resolution, Department of Revenue, P. O. Box 7443, Tallahassee, Florida 32314-7443, telephone (850)717-7104

NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: Governor and Cabinet

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: September 18, 2012

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: A Notice of Proposed Rule Development was published in the Florida Administrative Weekly on July 20, 2012 (Vol. 38, No. 29, pp. 2904-2905), to advise the public of the proposed changes to Rule Chapter 12A-19, F.A.C. (Communications Services Tax), and to provide that, if requested in writing, a rule development workshop would be held on August 8, 2012. No request was received by the Department. No written comments were received by the Department.

**DEPARTMENT OF REVENUE**

**Miscellaneous Tax**

RULE NOS.: RULE TITLES:

12B-5.020 Definitions; Specific Exemptions

12B-5.130 Refunds

12B-5.150 Public Use Forms

PURPOSE AND EFFECT: Section 13, Chapter 2012-117, L.O.F., effective July 1, 2012, defines the term “alternative fuel.” The purpose of the proposed amendments to Rule Chapter 12B-5, F.A.C. (Tax on Motor Fuels, Diesel Fuels, Alternative Fuels, Aviation Fuels, and Pollutants), is to: (1) update the definitions that define the term “alternative fuel,” as amended by section 13, Chapter 2012-117, L.O.F.; (2) clarify that motor fuel used in motor vehicles licensed as goats qualifies for a refund of the highway fuel taxes paid; and (3) update changes to forms used by the Department in the administration of the taxes imposed on fuels and pollutants.

SUMMARY: The proposed amendments to Rule 12B-5.020, F.A.C. (Definitions; Specific Exemptions), update the definition of “gasohol” to be consistent with the definition of alternative fuel.

The proposed amendments to Rule 12B-5.130, F.A.C. (Refunds), clarify that, consistent with the provisions of Section 206.41(4)(c)2., F.S., motor fuel used in motor vehicles licensed as goats qualifies for a refund of the highway fuel taxes paid.

The proposed amendments to Rule 12B-5.150, F.A.C. (Public Use Forms), adopt, by reference, changes to forms used by the Department in the administration of taxes imposed on fuels and pollutants.

**SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS AND LEGISLATIVE RATIFICATION:**

The Agency has determined that this will not have an adverse impact on small business or likely increase directly or indirectly regulatory costs in excess of \$200,000 in the aggregate within one year after the implementation of the rule. A SERC has not been prepared by the agency.

The Agency has determined that the proposed rule is not expected to require legislative ratification based on the statement of estimated regulatory costs or if no SERC is

required, the information expressly relied upon and described herein: 1) no requirement for the Statement of Economic Regulatory Costs (SERC) was triggered under Section 120.541(1), F.S.; and 2) based on past experiences with activities for updating administrative rules to reflect statutory definitions and to update tax returns relating to fuels and pollutants tax, and rules of this nature, the adverse impact or regulatory cost, if any, do not exceed nor would exceed any one of the economic analysis criteria in a SERC, as set forth in Section 120.541(2)(a), F.S.

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.

RULEMAKING AUTHORITY: 206.14(1), 206.485(1), 206.59(1), 206.62(10), 206.87(1)(e)2., 213.06(1), 213.755(8), 526.206 FS.

LAW IMPLEMENTED: 119.071(5), 206.02, 206.021, 206.022, 206.025, 206.026, 206.027, 206.028, 206.05, 206.055, 206.06, 206.095, 206.11, 206.404, 206.41, 206.43, 206.44, 206.485, 206.62, 206.64, 206.86, 206.874, 206.8745, 206.877, 206.90, 206.91, 206.92, 206.97, 206.9835, 206.9865, 206.9931, 206.9942, 206.9943, 212.0501, 213.255, 213.755, 215.26, 526.203 FS.

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

DATE AND TIME: October 24, 2012, 10:00 a.m.

PLACE: 2450 Shumard Oak Boulevard, Building One, Room 1820, 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: Tammy Miller at (850)617-8347. 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: Ronald Gay, Tax Law Specialist, Technical Assistance and Dispute Resolution, Department of Revenue, P. O. Box 7443, Tallahassee, Florida 32314-7443, telephone (850)717-6745

THE FULL TEXT OF THE PROPOSED RULE IS:

12B-5.020 Definitions; Specific Exemptions.

(1) DEFINITIONS.

(a) through (e) No change.

(f) "Gasohol" means a mixture of gasoline blended with ethanol or gasoline blended with an alternative fuel, as defined in Section 526.203, F.S. and includes what is commonly known and sold as ethanol blended fuel, which contains not

more than 91 percent gasoline by volume, and the ethanol or alternative fuel content must not be less than nine percent by volume.

(g) through (k) No change.

(2) No change.

Rulemaking Authority 206.14(1), 206.59(1), 206.62(10), 206.87(1)(e)2., 213.06(1), 526.206 FS. Law Implemented 206.41(4)(b), 206.62, 206.874, 206.97, 526.203 FS. History—New 7-1-96, Amended 11-21-96, 10-27-98, 5-1-06, 6-1-09, \_\_\_\_\_.

12B-5.130 Refunds.

(1) FUEL USED FOR AGRICULTURAL, AQUACULTURAL, COMMERCIAL FISHING, AND COMMERCIAL AVIATION PURPOSES.

(a)1. Any person who purchases motor fuel used in any tractor, vehicle, or other equipment that is used exclusively on a farm for planting, cultivating, harvesting, or processing farm products for sale, may obtain a refund of local option, state comprehensive enhanced transportation system, and fuel sales taxes paid under Sections 206.41(1)(e), (f), and (g), F.S. This provision includes motor vehicles licensed as a "goat," as provided in Section 320.08(3)(d), F.S.

2. through 3. No change.

(b) through (c) No change.

(2) through (5) No change.

Rulemaking Authority 206.14(1), 206.59(1), 213.06(1) FS. Law Implemented 206.41(4), (5), 206.43(5), (6), 206.64, 206.8745, 206.97, 213.255(2), (3), 215.26 FS. History—New 7-1-96, Amended 11-21-96, 10-27-98, 5-1-06, 1-27-09, 6-1-09, 7-20-11, 1-25-12, \_\_\_\_\_.

12B-5.150 Public Use Forms.

(1)(a) The following public use forms and instructions are utilized by the Department and are hereby incorporated by reference in this rule.

(b) No change.

Form Number	Title	Effective Date
(2) DR-138	Application for Fuel Tax Refund – <del>Agricultural Agriculture,</del> Aquacultural, Commercial Fishing or Commercial Aviation Purposes (R. <del>01/13 01/12</del> )	____ 01/12

([http://www.flrules.org/Gateway/reference.asp?No=Ref-\\_\\_\\_\\_00853](http://www.flrules.org/Gateway/reference.asp?No=Ref-____00853))

(3) through (9) No change.

(10) DR-160	Application for Fuel Tax Refund – Mass Transit System Users (R. <del>01/13 01/12</del> )	____ 01/12
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([http://www.flrules.org/Gateway/reference.asp?No=Ref-\\_\\_\\_\\_00855](http://www.flrules.org/Gateway/reference.asp?No=Ref-____00855))

(11) through (13) No change.

(14) DR-182	Florida Air Carrier Fuel Tax Return (R. <u>01/13 01/12</u> ) ___ 01/12 (http://www.flrules.org/Gateway/reference.asp?No=Ref-___ 00856)	(27) DR-309634	Local Government User of Diesel Fuel Tax Return (R. <u>01/13 01/12</u> ) ___ 01/12 (http://www.flrules.org/Gateway/reference.asp?No=Ref-___ 00879)
(15) No change.		(28) DR-309634N	Instructions for Filing Local Government User of Diesel Fuel Tax Return (R. <u>01/13 01/12</u> ) ___ 01/12 (http://www.flrules.org/Gateway/reference.asp?No=Ref-___ 00865)
(16) DR-189	Application for Fuel Tax Refund – Municipalities, Counties and School Districts (R. <u>01/13 01/12</u> ) ___ 01/12 (http://www.flrules.org/Gateway/reference.asp?No=Ref-___ 00857)	(29) DR-309635	Blender/Retailer of Alternative Fuel Tax Return (R. <u>01/13 01/12</u> ) ___ 01/12 (http://www.flrules.org/Gateway/reference.asp?No=Ref-___ 00880)
(17) DR-190	Application for Fuel Tax Refund – Non-Public Schools (R. <u>01/13 01/12</u> ) ___ 01/12 (http://www.flrules.org/Gateway/reference.asp?No=Ref-___ 00858)	(30) DR-309635N	Instructions for Filing Blender/Retailer of Alternative Fuel Tax Return (R. <u>01/13 01/12</u> ) ___ 01/12 (http://www.flrules.org/Gateway/reference.asp?No=Ref-___ 00866)
(18) DR-191	Application for Aviation Fuel Refund – Air Carriers (R. <u>01/13 01/12</u> ) ___ 01/12 (http://www.flrules.org/Gateway/reference.asp?No=Ref-___ 00859)	(31) DR-309636	Terminal Operator Information Return (R. <u>01/13 01/12</u> ) ___ 01/12 (http://www.flrules.org/Gateway/reference.asp?No=Ref-___ 00867)
(19) DR-248	<del>2012</del> Alternative Fuel Use Permit Application, Renewal, and Decal Order Form (R. <u>11/12 11/11</u> ) ___ 01/12 (http://www.flrules.org/Gateway/reference.asp?No=Ref-___ 00941)	(32) DR-309636N	Instructions for Filing Terminal Operator Information Return (R. <u>01/13 01/12</u> ) ___ 01/12 (http://www.flrules.org/Gateway/reference.asp?No=Ref-___ 00868)
(20) DR-904	Pollutants Tax Return (R. <u>01/13 01/12</u> ) ___ 01/12 (http://www.flrules.org/Gateway/reference.asp?No=Ref-___ 00860)	(33) DR-309637	Petroleum Carrier Information Return (R. <u>01/13 01/12</u> ) ___ 01/12 (http://www.flrules.org/Gateway/reference.asp?No=Ref-___ 00869)
(21) DR-309631	Terminal Supplier Fuel Tax Return (R. <u>01/13 01/12</u> ) ___ 01/12 (http://www.flrules.org/Gateway/reference.asp?No=Ref-___ 00861)	(34) DR-309637N	Instructions for Filing Petroleum Carrier Information Return (R. <u>01/13 01/12</u> ) ___ 01/12 (http://www.flrules.org/Gateway/reference.asp?No=Ref-___ 00870)
(22) DR-309631N	Instructions for Filing Terminal Supplier Fuel Tax Return (R. <u>01/13 01/12</u> ) ___ 01/12 (http://www.flrules.org/Gateway/reference.asp?No=Ref-___ 00862)	(35) DR-309638	Exporter Fuel Tax Return (R. <u>01/13 01/12</u> ) ___ 01/12 (http://www.flrules.org/Gateway/reference.asp?No=Ref-___ 00871)
(23) DR-309632	Wholesaler/Importer Fuel Tax Return (R. <u>01/13 01/12</u> ) ___ 01/12 (http://www.flrules.org/Gateway/reference.asp?No=Ref-___ 00877)	(36) DR-309638N	Instructions for Filing Exporter Fuel Tax Return (R. <u>01/13 01/12</u> ) ___ 01/12 (http://www.flrules.org/Gateway/reference.asp?No=Ref-___ 00872)
(24) DR-309632N	Instructions for Filing Wholesaler/Importer Fuel Tax Return (R. <u>01/13 01/12</u> ) ___ 01/12 (http://www.flrules.org/Gateway/reference.asp?No=Ref-___ 00863)	(37) DR-309639	Application for Refund of Tax Paid on Undyed Diesel Used for Off-Road or Other Exempt Purposes (with Instructions) (R. <u>01/13 01/12</u> ) ___ 01/12 (http://www.flrules.org/Gateway/reference.asp?No=Ref-___ 00873)
(25) DR-309633	Mass Transit System Provider Fuel Tax Return (R. <u>01/13 01/12</u> ) ___ 01/12 (http://www.flrules.org/Gateway/reference.asp?No=Ref-___ 00878)	(38) DR-309640	Application for Refund of Tax Paid on Undyed Diesel Consumed by Motor Coaches During Idle Time in Florida (R. <u>01/13 01/12</u> ) ___ 01/12 (http://www.flrules.org/Gateway/reference.asp?No=Ref-___ 00874)
(26) DR-309633N	Instructions for Filing Mass Transit System Provider Fuel Tax Return (R. <u>01/13 01/12</u> ) ___ 01/12 (http://www.flrules.org/Gateway/reference.asp?No=Ref-___ 00864)		

(39) DR-309645 2012 Refundable Portion of Local Option and State Comprehensive Enhanced Transportation System (SCETS) Tax (R. 01/12) 01/12

(http://www.flrules.org/Gateway/reference.asp?No=Ref-\_\_\_00875)

(39)(40) DR-309660 Application for Pollutants Tax Refund (R. 01/13 01/12) \_\_\_ 01/12

(http://www.flrules.org/Gateway/reference.asp?No=Ref-\_\_\_00876)

(40)(41) No change.

Rulemaking Authority 206.14(1), 206.485(1), 206.59(1), 213.06(1), 213.755(8), 526.206 FS. Law Implemented 119.071(5), 206.02, 206.021, 206.022, 206.025, 206.026, 206.027, 206.028, 206.05, 206.055, 206.06, 206.095, 206.11, 206.404, 206.41, 206.43, 206.44, 206.485, 206.86, 206.874, 206.8745, 206.877, 206.90, 206.91, 206.92, 206.9835, 206.9865, 206.9931, 206.9942, 206.9943, 212.0501, 213.255, 213.755, 526.203 FS. History--New 11-21-96, Amended 10-27-98, 5-1-06, 4-16-07, 1-1-08, 1-27-09, 4-14-09, 6-1-09, 6-1-09(5), 1-11-10, 7-28-10, 1-12-11, 7-20-11, 1-25-12,\_\_\_\_\_.

NAME OF PERSON ORIGINATING PROPOSED RULE: Ronald Gay, Tax Law Specialist, Technical Assistance and Dispute Resolution, Department of Revenue, P. O. Box 7443, Tallahassee, Florida 32314-7443, telephone (850)717-6745

NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: Governor and Cabinet

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: September 18, 2012

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: A Notice of Proposed Rule Development was published in the Florida Administrative Weekly on July 20, 2012 (Vol. 38, No. 29, pp. 2906-2907), to advise the public of the proposed changes to Rule Chapter 12B-5, F.A.C. (Tax on Motor Fuels, Diesel Fuels, Alternative Fuels, Aviation Fuels, and Pollutants), and to provide that, if requested in writing, a rule development workshop would be held on August 8, 2012. No request was received by the Department. No written comments were received by the Department.

DEPARTMENT OF REVENUE

Miscellaneous Tax

RULE NOS.: 12B-8.002 12B-8.003 RULE TITLES: Tax on Wet Marine and Transportation Insurance Tax Statement; Overpayments

PURPOSE AND EFFECT: The purpose of the proposed changes to Rule Chapter 12B-8, F.A.C. (Insurance Premium Taxes, Fees and Surcharges), is to repeal a rule redundant of Section 624.510, F.S., and to adopt, by reference, changes to forms used by the Department in the administration of the insurance premium taxes, fees, and surcharges.

SUMMARY: The proposed repeal of Rule 12B-8.002, F.A.C. (Tax on Wet Marine and Transportation Insurance), removes an unnecessary rule that is redundant of Section 624.510, F.S.

The proposed amendments to Rule 12B-8.003, F.A.C. (Tax Statement; Overpayments), adopts, by reference, changes to forms used by the Department in the administration of the insurance premium taxes, fees, and surcharges.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS AND LEGISLATIVE RATIFICATION:

The Agency has determined that this will not have an adverse impact on small business or likely increase directly or indirectly regulatory costs in excess of \$200,000 in the aggregate within one year after the implementation of the rule. A SERC has not been prepared by the agency.

The Agency has determined that the proposed rule is not expected to require legislative ratification based on the statement of estimated regulatory costs or if no SERC is required, the information expressly relied upon and described herein: 1) no requirement for the Statement of Economic Regulatory Costs (SERC) was triggered under Section 120.541(1), F.S.; and 2) based on past experiences with activities for updating forms relating to the administration of insurance premium tax, and rules of this nature, the adverse impact or regulatory cost, if any, do not exceed nor would exceed any one of the economic analysis criteria in a SERC, as set forth in Section 120.541(2)(a), F.S.

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.

RULEMAKING AUTHORITY: 213.06(1) FS.

LAW IMPLEMENTED: 92.525, 175.041, 175.101, 175.1015, 175.111, 175.121, 175.141, 175.151, 185.02, 185.03, 185.08, 185.085, 185.09, 185.10, 185.12, 185.13, 213.05, 213.053, 213.235, 213.37, 220.183, 220.19, 220.191, 252.372, 288.99 (2010), 440.51, 443.1216, 624.11, 624.402, 624.4094, 624.4621, 624.4625, 624.475, 624.501, 624.509, 624.5091, 624.5092, 624.50921, 624.5094, 624.510, 624.5105, 624.51055, 624.5107, 624.511, 624.515, 624.516, 624.518, 624.519, 624.520, 624.521, 624.601, 624.610, 626.7451(11), 627.311, 627.351, 627.3512, 627.357(9), 627.7711, 627.943, 628.6015, 629.401, 629.5011, 632.626, 634.131, 634.313(2), 634.415(2), 636.066, 642.0301, 642.032 FS.

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

DATE AND TIME: October 24, 2012, 10:00 a.m.

PLACE: 2450 Shumard Oak Boulevard, Building One, Room 1820, 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: Tammy Miller at (850)617-8347. 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: Terrence Branch, Tax Law Specialist, Technical Assistance and Dispute Resolution, Department of Revenue, P. O. Box 7443, Tallahassee, Florida 32314-7443, telephone (850)717-6196

THE FULL TEXT OF THE PROPOSED RULES IS:

12B-8.002 Tax on Wet Marine and Transportation Insurance.

~~Rulemaking Specific Authority 213.06(1) FS. Law Implemented 624.510 213.05, 624.509, 511, 624.5092 FS. History–New 2-3-80, Formerly 12B-8.02, Amended 3-25-90, 12-9-97, Repealed \_\_\_\_\_.~~

12B-8.003 Tax Statement; Overpayments.

(1) Tax returns and reports shall be made by insurers on forms prescribed by the Department. These forms are hereby incorporated by reference in this rule.

(2) through (3) No change.

Form Number	Title	Effective Date
(4)(a) DR-907	Florida Insurance Premium Installment Payment	(R. <del>01/13 01/12</del> ) <u>    </u> 01/12

([http://www.flrules.org/Gateway/reference.asp?No=Ref-\\_\\_\\_00826](http://www.flrules.org/Gateway/reference.asp?No=Ref-___00826))

(b) DR-907N	Instructions for Filing Insurance Premium Installment Payment (Form DR-907)	(R. <del>01/13 01/12</del> ) <u>    </u> 01/12
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([http://www.flrules.org/Gateway/reference.asp?No=Ref-\\_\\_\\_00826](http://www.flrules.org/Gateway/reference.asp?No=Ref-___00826))

(5)(a) DR-908	Insurance Premium Taxes and Fees Return for Calendar Year <del>2012 2011</del>	(R. <del>01/13 01/12</del> ) <u>    </u> 01/12
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([http://www.flrules.org/Gateway/reference.asp?No=Ref-\\_\\_\\_00827](http://www.flrules.org/Gateway/reference.asp?No=Ref-___00827))

(b) DR-908N	Instructions for Preparing Form DR-908 Florida Insurance Premium Taxes and Fees Return	(R. <del>01/13 01/12</del> ) <u>    </u> 01/12
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([http://www.flrules.org/Gateway/reference.asp?No=Ref-\\_\\_\\_00828](http://www.flrules.org/Gateway/reference.asp?No=Ref-___00828))

(6) DR-350900	<del>2012 2011</del> Insurance Premium Tax Information for Schedules XII and XIII, DR-908	(R. <del>01/13 01/12</del> ) <u>    </u> 01/12
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([http://www.flrules.org/Gateway/reference.asp?No=Ref-\\_\\_\\_00829](http://www.flrules.org/Gateway/reference.asp?No=Ref-___00829))

Rulemaking Authority 213.06(1) FS. Law Implemented 92.525, 175.041, 175.101, 175.1015, 175.111, 175.121, 175.141, 175.151, 185.02, 185.03, 185.08, 185.085, 185.09, 185.10, 185.12, 185.13, 213.05, 213.053, 213.235, 213.37, 220.183, 220.19, 220.191, 252.372, 288.99 (2010), 440.51, 443.1216, 624.11, 624.402, 624.4094, 624.4621, 624.4625, 624.475, 624.501, 624.509, 624.5091, 624.5092, 624.50921, 624.510, 624.5105, 624.5107, 624.511, 624.515, 624.516, 624.518, 624.519, 624.520, 624.521, 624.601, 624.610, 626.7451(11), 627.311, 627.351, 627.3512, 627.357(9), 627.7711, 627.943, 628.6015, 629.401, 629.5011, 632.626, 634.131, 634.313(2), 634.415(2), 636.066, 642.0301, 642.032 FS. History–New 2-3-80, Formerly 12B-8.03, Amended 3-25-90, 3-10-91, 2-18-93, 6-16-94, 12-9-97, 3-23-98, 7-1-99, 10-15-01, 8-1-02, 5-4-03, 9-28-04, 6-28-05, 6-20-06, 4-5-07, 1-1-08, 1-27-09, 1-11-10, 1-12-11, 1-25-12, \_\_\_\_\_.

NAME OF PERSON ORIGINATING PROPOSED RULE: Terrence Branch, Tax Law Specialist, Technical Assistance and Dispute Resolution, Department of Revenue, P. O. Box 7443, Tallahassee, Florida 32314-7443, telephone (850)717-6196

NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: Governor and Cabinet

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: September 18, 2012

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: A Notice of Proposed Rule Development was published in the Florida Administrative Weekly on July 20, 2012 (Vol. 38, No. 29, p. 2908), to advise the public of the proposed changes to Rule Chapter 12B-8, F.A.C. (Insurance Premium Taxes, Fees and Surcharges), and to provide that, if requested in writing, a rule development workshop would be held on August 8, 2012. No request was received by the Department. No written comments were received by the Department.

**DEPARTMENT OF REVENUE**

**Corporate, Estate and Intangible Tax**

RULE NOS.:	RULE TITLES:
12C-1.0191	Capital Investment Tax Credit Program
12C-1.0193	Florida Renewable Energy Production Credit
12C-1.0221	Returns, Notices, and Elections; Signing and Verification
12C-1.051	Forms

PURPOSE AND EFFECT: Section 1, Chapter 2011-223, L.O.F., allows certain unused capital investment tax credits to be carried forward through the 30th tax year after commencement of operations. The proposed amendments to Rule 12C-1.0191, F.A.C. (Capital Investment Tax Credit Program), are necessary to include this provision in the rule.

Section 7, Chapter 2012-117, L.O.F., effective July 1, 2012, requires an application to be filed with the Department of Agriculture and Consumer Services for an allocation of an annual tax credit against corporate income tax based on the

taxpayer's production and sale of electricity from a Florida renewable energy facility. The proposed amendments to Rule 12C-1.0193, F.A.C. (Florida Renewable Energy Production Credit), and to Rule 12C-1.051, F.A.C. (Forms), are necessary to: (1) update the Department's rules to include the provisions of Section 7, Chapter 2012-117, L.O.F., and provide that applications for the credit will be filed with the Department of Agriculture and Consumer Services; and (2) remove the obsolete application for the tax credit previously submitted to the Department of Revenue.

The proposed amendments to Rule 12C-1.0221, F.A.C. (Returns, Notices, and Elections; Signing and Verification), are necessary to adopt, by reference, updates to Treasury Department Circular Number 230.

**SUMMARY:** The proposed amendments to Rule 12C-1.0191, F.A.C. (Capital Investment Tax Credit Program), provide when unused capital investment tax credits may be carried forward through the 30th tax year after commencement of operations.

The proposed amendments to Rule 12C-1.0193, F.A.C. (Florida Renewable Energy Production Credit): (1) update the Department's rules to reflect the changes provided in Section 7, Chapter 2012-117, L.O.F., which require that applications for the credit be filed with the Department of Agriculture and Consumer Services; and (2) remove the obsolete application for the tax credit previously submitted to the Department of Revenue.

The proposed amendments to Rule 12C-1.0221, F.A.C. (Returns, Notices, and Elections; Signing and Verification), adopt, by reference, updated Treasury Department Circular Number 230.

The proposed amendments to Rule 12C-1.051, F.A.C. (Forms): (1) remove the obsolete application for the Florida Renewable Energy Production Credit; (2) adopt, by reference, updates to the form used for notifying the Department of Revenue of a transfer of a Florida Energy Tax Credit; and (3) adopt, by reference, updates to Florida corporate income tax returns and instructions.

**SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS AND LEGISLATIVE RATIFICATION:**

The Agency has determined that this will not have an adverse impact on small business or likely increase directly or indirectly regulatory costs in excess of \$200,000 in the aggregate within one year after the implementation of the rule. A SERC has not been prepared by the agency.

The Agency has determined that the proposed rule is not expected to require legislative ratification based on the statement of estimated regulatory costs or if no SERC is required, the information expressly relied upon and described herein: 1) no requirement for the Statement of Economic Regulatory Costs (SERC) was triggered under Section 120.541(1), F.S.; and 2) based on past experiences with activities for the administration of the corporate income tax

credits, and rules of this nature, the adverse impact or regulatory cost, if any, do not exceed nor would exceed any one of the economic analysis criteria in a SERC, as set forth in Section 120.541(2)(a), F.S.

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.

**RULEMAKING AUTHORITY:** 213.06(1), 220.191(8), 220.192(5), (7), 220.193, 220.196(4), 220.51, 1002.395(13) FS.

**LAW IMPLEMENTED:** 119.071(5), 212.08(5)(p), 213.35, 213.755, 220.02(3), (8), 220.03(1), 220.11, 220.12, 220.13(1), (2), 220.131, 220.14, 220.15, 220.16, 220.181, 220.182, 220.183, 220.184, 220.1845, 220.185, 220.186, 220.1875, 220.1895, 220.1896, 220.19, 220.191, 220.192, 220.193, 220.196, 220.21, 220.211, 220.22, 220.221, 220.222, 220.23, 220.24, 220.241, 220.31, 220.32, 220.33, 220.34, 220.41, 220.42, 220.43, 220.44, 220.51, 220.721, 220.723, 220.725, 220.737, 220.801, 220.803, 220.805, 220.807, 220.809, 221.04, 624.5105, 624.51055, 1002.395 FS.

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

**DATE AND TIME:** October 24, 2012, 10:00 a.m.

**PLACE:** 2450 Shumard Oak Boulevard, Building One, Room 1820, 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: Tammy Miller at (850)617-8347. 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:** Jennifer Ensley, Tax Law Specialist, Technical Assistance and Dispute Resolution, Department of Revenue, P. O. Box 7443, Tallahassee, Florida 32314-7443, telephone (850)717-7659

**THE FULL TEXT OF THE PROPOSED RULES IS:**

12C-1.0191 Capital Investment Tax Credit Program.

(1)(a) No change.

(b)1. The maximum annual amount of Capital Investment Tax Credit is limited to 5 percent of the certified eligible capital costs of the qualifying project, for a period not to exceed 20 years, beginning with the commencement of the project's operations. The tax credit may not be carried forward or backward, except as noted in subparagraph 2. The sum of all capital investment tax credits cannot exceed 100 percent of the eligible capital costs of the project.

2. A carryover of credit is available for a qualifying business that invested at least \$100 million and is eligible to claim the credit against 100 percent of its corporate income tax liability pursuant to Section 220.191(2)(a)1., F.S. Unused credits from the 20-year credit period may be claimed in the 21st through 30th tax years after commencement of operations of such qualifying business, as long as the unused amount results from an insufficient tax liability on the part of the qualifying business.

(2) through (6) No change.

Rulemaking Authority 213.06(1), 220.191(8), 220.51 FS. Law Implemented 220.191 FS. History—New 8-4-05, Amended 4-5-07, 4-26-10, \_\_\_\_\_.

12C-1.0193 Florida Renewable Energy Production Credit.

(1) ~~A Florida Renewable Energy Production Credit is provided in Section 220.193, F.S., for the sale of electricity from a new Florida renewable energy facility operationally placed in service after May 1, 2006, and for increases of more than five percent (5%) in the production and sale of electricity from renewable energy sources at an existing Florida renewable energy facility. The terms “sale” and “sold” include the use of electricity by the producer of such electricity from renewable sources if such use reduces the amount of electricity that the producer would otherwise have to purchase. To claim the credit, An application an Application for Florida Renewable Energy Production Credit Allocation (Form F-1193, incorporated by reference in Rule 12C-1.051, F.A.C.), must be filed with the Department of Agriculture and Consumer Services on or before February 1 of each year for an allocation of credit. The allocation of credit is based upon the applicant’s increased production and sales of electricity and the increased production and sales of all applicants. On or before March 1 of each year, the Department of Agriculture and Consumer Services will notify eligible taxpayers by letter of the certified amount of credit that is allocated to them and the tax year in which the taxpayer may claim the credit on its Florida corporate income tax return. A copy of the certification ~~this letter~~ must be attached to the taxpayer’s Florida corporate income tax return on which the credit is taken.~~

~~(2) Taxpayers that increase both production and sales of renewable electrical energy by more than five percent (5%) over the 2005 calendar year for each expanded Florida renewable energy facility may submit one application each year for each qualifying facility. For a new Florida renewable energy facility, the credit is based on the taxpayer’s sale of the facility’s entire electrical production. A taxpayer may not transfer its right to apply for a credit to another taxpayer. Florida Renewable Energy Production credits may only be taken once against the Florida corporate income tax, may not be carried back to an earlier tax year, and must be taken in the order prescribed in Section 220.02(8), F.S. A taxpayer claiming the credit on its Florida corporate income tax return must add back the amount of the credit to its Florida net~~

~~income. Credit amounts that are not granted in full or in part due to the annual \$5 million limitation are not eligible for a Florida Renewable Energy Production credit in later years.~~

~~(2)(3) The Florida Renewable Energy Production Credit may be transferred in a merger or acquisition. In addition, unused credits may be transferred one time (outside a merger or acquisition) to another taxpayer in whole or in increments of not less than 25 percent of the remaining credit. Taxpayers are required to file a Notice of Intent to Transfer A Florida Energy Tax Credit (Form F-1193T, incorporated by reference in Rule 12C-1.051, F.A.C.) to transfer the unused renewable energy production credits available for transfer. The transfer must be verified by the Department prior to the transferee claiming the credit. Within 15 days of receipt of a completed Form F-1193T, the Department will notify the transferor and the transferee by letter of the amount of tax credit authorized for transfer. A copy of the letter from the Department allowing the transfer must be attached by the transferee to the Florida Corporate Income/Franchise and Emergency Excise Tax Return (Form F-1120, incorporated by reference in Rule 12C-1.051, F.A.C.) on which the credit is claimed. The transfer of a credit does not affect the time for taking the credit, and the credit is subject to the same limitations imposed on the transferor.~~

~~(3)(4) Every taxpayer claiming a Florida Renewable Energy Production Credit must retain documentation that substantiates and supports the credit, a copy of the certification letter received from the Department of Agriculture and Consumer Services certifying the amount of granting the credit, a schedule reconciling all credit carryovers, transfers, and sales, a schedule tracking the credit amounts allocated and the use of such credits, and, if applicable a copy of the letter from the Department allowing the transfer until tax imposed by Chapter 220, F.S., may no longer be determined and assessed under Section 95.091(3), F.S. Documentation to substantiate and support the credit includes: production records or other evidence of the amount of electricity produced; evidence of the increase in production and sales of electricity over the 2011 2005 calendar year by an expanded facility; and evidence establishing that the electricity was produced from renewable energy.~~

Rulemaking Authority 213.06(1), 220.193, 220.51 FS. Law Implemented 213.35, 220.02(8), 220.03(1), 220.131, 220.193, 220.21 FS. History—New 4-26-10, Amended \_\_\_\_\_.

12C-1.0221 Returns, Notices, and Elections; Signing and Verification.

(1)(a) through (b) No change.

(c) Form F-7004 shall be signed by a person authorized by the taxpayer to request such extension. Such person must be an individual authorized under paragraph (a) or (b) to sign the taxpayer’s return; a person currently enrolled as an agent under Treasury Department Circular Number 230 (Rev. 8-2011 6-2005, herein incorporated by reference, Effective \_\_\_ 01/08) to practice before the Internal Revenue Service; an attorney

who is a member in good standing of the bar of the highest court of any state, possession, territory, commonwealth, or the District of Columbia; or any certified public accountant who is duly qualified to practice in any state, possession, territory, commonwealth, or the District of Columbia.

- (d) through (e) No change.
- (2) through (5) No change.

Rulemaking Authority 213.06(1), 220.51 FS. Law Implemented 213.755, 220.221, 220.23(2)(a) FS. History—New 3-5-80, Amended 12-18-83, Formerly 12C-1.221, Amended 12-21-88, 4-8-92, 1-28-08, 4-26-10,\_\_\_\_\_.

12C-1.051 Forms.

(1)(a) The following forms and instructions are used by the Department in its administration of the corporate income tax and franchise tax. These forms are hereby incorporated by reference in this rule.

- (b) No change.

Form Number	Title	Effective Date
(2) F-851	Corporate Income/Franchise <del>and Emergency Excise</del> Tax Affiliations Schedule (R. <del>01/13 01/10</del> )	___ 01/10
(3)(a) F-1065	Florida Partnership Information Return (R. <del>01/13 01/12</del> )	___ 01/12
<a href="http://www.flrules.org/Gateway/reference.asp?No=Ref-___00831">http://www.flrules.org/Gateway/reference.asp?No=Ref-___00831</a>		
(b) F-1065N	Instructions for Preparing Form F-1065 Florida Partnership Information Return (R. <del>01/13 01/12</del> )	___ 01/12
<a href="http://www.flrules.org/Gateway/reference.asp?No=Ref-___00832">http://www.flrules.org/Gateway/reference.asp?No=Ref-___00832</a>		
(4) F-1120A	Florida Corporate Short Form Income Tax Return (R. <del>01/13 01/12</del> )	___ 01/12
<a href="http://www.flrules.org/Gateway/reference.asp?No=Ref-___00833">http://www.flrules.org/Gateway/reference.asp?No=Ref-___00833</a>		
(5)(a) F-1120	Florida Corporate Income/Franchise <del>and Emergency Excise</del> Tax Return (R. <del>01/13 01/12</del> )	___ 01/12
<a href="http://www.flrules.org/Gateway/reference.asp?No=Ref-___00834">http://www.flrules.org/Gateway/reference.asp?No=Ref-___00834</a>		
(b) F-1120N	F-1120 Instructions – Corporate Income/Franchise <del>and Emergency Excise</del> Tax Return for taxable years beginning on or after January 1, <del>2012 2011</del> (R. <del>01/13 01/12</del> )	___ 01/12
<a href="http://www.flrules.org/Gateway/reference.asp?No=Ref-___00835">http://www.flrules.org/Gateway/reference.asp?No=Ref-___00835</a>		
(6) F-1120ES	Declaration/Installment of Florida Estimated Income/Franchise Tax For Taxable Year Beginning on or after January 1, <del>2013 2012</del> (R. <del>01/13 01/12</del> )	___ 01/12
<a href="http://www.flrules.org/Gateway/reference.asp?No=Ref-___00836">http://www.flrules.org/Gateway/reference.asp?No=Ref-___00836</a>		

(7)(a) F-1120X	Amended Florida Corporate Income/Franchise <del>and Emergency Excise</del> Tax Return (R. <del>01/13 01/10</del> )	___ 01/10
(b) F-1120XN	Instructions for Preparing Form F-1120X Amended Florida Corporate Income/Franchise <del>and Emergency Excise</del> Tax Return (R. <del>01/13 01/10</del> )	___ 01/10
(8) F-1122	Authorization and Consent of Subsidiary Corporation to be Included in a Consolidated Income <del>and Emergency Excise</del> Tax Return (R. <del>01/13 01/09</del> )	___ 01/09
(9) through (10)	No change.	
(11)(a) F-1193	Application for Florida Renewable Energy Production Credit Allocation (R. <del>01/11</del> )	01/11
(b) F-1193T	Notice of Intent to Transfer A Florida Energy Tax Credit (R. <del>07/12 01/12</del> )	___ 01/12
<a href="http://www.flrules.org/Gateway/reference.asp?No=Ref-___00837">http://www.flrules.org/Gateway/reference.asp?No=Ref-___00837</a>		
(12) F-2220	Underpayment of Estimated Tax on Florida Corporate Income/Franchise <del>and Emergency Excise</del> Tax (R. <del>01/13 01/09</del> )	___ 01/09
(13) F-7004	Florida Tentative Income/Franchise <del>and Emergency Excise</del> Tax Return and Application for Extension of Time to File Return (R. <del>01/13 01/12</del> )	___ 01/12
<a href="http://www.flrules.org/Gateway/reference.asp?No=Ref-___00838">http://www.flrules.org/Gateway/reference.asp?No=Ref-___00838</a>		

Rulemaking Authority 213.06(1), 220.192(7), 220.193(4), ~~220.196(4)~~, 220.51, 1002.395(13) FS. Law Implemented 119.071(5), 212.08(5)(p), 213.755(1), 220.11, 220.12, 220.13(1), (2), 220.14, 220.15, 220.16, 220.181, 220.182, 220.183, 220.184, 220.1845, 220.185, 220.186, 220.1875, 220.1895, 220.1896, ~~220.1899~~, 220.19, 220.191, 220.192, 220.193, ~~220.194, 220.195, 220.196~~, 220.21, 220.211, 220.22, 220.221, 220.222, 220.23, 220.24, 220.241, 220.31, 220.32, 220.33, 220.34, 220.41, 220.42, 220.43, 220.44, 220.51, 220.721, 220.723, 220.725, 220.737, 220.801, 220.803, 220.805, 220.807, 220.809, 221.04, 624.5105, 624.51055, 1002.395 FS. History—New 9-26-77, Amended 12-18-83, Formerly 12C-1.51, Amended 12-21-88, 12-31-89, 1-31-91, 4-8-92, 12-7-92, 1-3-96, 3-18-96, 3-13-00, 6-19-01, 8-1-02, 6-19-03, 3-15-04, 9-24-04, 6-28-05, 5-1-06, 4-5-07, 1-1-08, 1-27-09, 1-11-10, 4-26-10(12)(a),(b), 4-26-10(13)(a),(b), 6-28-10, 1-12-11, 6-6-11, 1-25-12,\_\_\_\_\_.

NAME OF PERSON ORIGINATING PROPOSED RULE:  
Jennifer Ensley, Tax Law Specialist, Technical Assistance and Dispute Resolution, Department of Revenue, P. O. Box 7443, Tallahassee, Florida 32314-7443, telephone (850)717-7659  
NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: Governor and Cabinet

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: September 18, 2012

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: A Notice of Proposed Rule Development was published in the Florida Administrative Weekly on July 20, 2012 (Vol. 38, No. 29, p. 2910), to advise the public of the proposed changes to Rule Chapter 12C-1, F.A.C. (Corporate Income Tax), and to provide that, if requested in writing, a rule development workshop would be held on August 8, 2012. No request was received by the Department. No written comments were received by the Department.

**DEPARTMENT OF REVENUE**

**Corporate, Estate and Intangible Tax**

RULE NOS.:	RULE TITLES:
12C-2.004	Property Subject to Tax – Government Leasehold Estates and Nonrecurring
12C-2.010	Valuations
12C-2.0115	Public Use Forms

PURPOSE AND EFFECT: Sections 1 and 2, Chapter 2012-32, L.O.F., expanded the public purpose exemption from ad valorem taxes to the governmental leasehold intangible tax. The exemption applies retroactively to all governmental leaseholds in existence on January 1, 2011. The purpose of the proposed amendments to Rule Chapter 12C-2, F.A.C. (Intangible Personal Property Tax), is to include the provisions of Sections 1 and 2, Chapter 2012-32, L.O.F., and to adopt, by reference, changes to the tax return used to report the annual tax on governmental leasehold estates.

SUMMARY: The proposed amendments to Rule 12C-2.004, F.A.C. (Property Subject to Tax – Governmental Leasehold Estates and Nonrecurring), Rule 12C-2.010, F.A.C. (Valuations), and to Rule 12C-2.0115, F.A.C. (Public Use Forms): (1) include the provisions of Sections 1 and 2, Chapter 2012-32, L.O.F.; (2) provide that the Valuation Factor Tables used to calculate the annual tax on governmental leasehold estates will be published annually in Taxpayer Information Publications and posted to the Department’s Internet site; and (3) adopt, by reference, updates to the tax return used to report the annual tax on governmental leasehold estates that reflect law changes and remove provisions that limit the tax return to a single tax year.

**SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS AND LEGISLATIVE RATIFICATION:**

The Agency has determined that this will not have an adverse impact on small business or likely increase directly or indirectly regulatory costs in excess of \$200,000 in the aggregate within one year after the implementation of the rule. A SERC has not been prepared by the agency.

The Agency has determined that the proposed rule is not expected to require legislative ratification based on the statement of estimated regulatory costs or if no SERC is required, the information expressly relied upon and described herein: 1) no requirement for the Statement of Economic Regulatory Costs (SERC) was triggered under Section 120.541(1), F.S.; and 2) based on past experiences with activities with the administration of the governmental leasehold estates, and rules of this nature, the adverse impact or regulatory cost, if any, do not exceed nor would exceed any one of the economic analysis criteria in a SERC, as set forth in Section 120.541(2)(a), F.S.

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.

RULEMAKING AUTHORITY: 199.202, 213.06(1) FS.

LAW IMPLEMENTED: 119.071(5), 196.199(2), 199.032 (2005), 199.042 (2005), 199.103(7), 199.133, 199.135 (2005), 199.143, 199.145, 199.155, 199.183, 199.202, 199.232, 199.282 (2005), 199.292, 213.24(3), 215.26 FS.

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

DATE AND TIME: October 24, 2012, 10:00 a.m.

PLACE: 2450 Shumard Oak Boulevard, Building One, Room 1820, 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: Tammy Miller at (850)617-8347. 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: Robert DuCasse, Revenue Program Administrator I, Technical Assistance and Dispute Resolution, Department of Revenue, P. O. Box 7443, Tallahassee, Florida 32314-7443, telephone (850)717-6476

THE FULL TEXT OF THE PROPOSED RULES IS:

12C-2.004 Property Subject to Tax – Governmental Leasehold Estates and Nonrecurring.

(1) Tax on Governmental Leasehold Estates – All leases of government-owned property are subject to an annual tax if rental payments are due as consideration for the lease, unless the lessee serves or performs a governmental, municipal, or public purpose or function as defined in Section 196.012, F.S. ~~(The tax is imposed every year.)~~

(2) through (4) No change.

Rulemaking Authority 199.202, 213.06(1) FS. Law Implemented 196.199(2)(a), (b), 199.133, 199.135 (2005), 199.143, 199.145, 199.155, 199.183 FS. History—New 4-17-72, Revised 12-20-73, Amended 5-8-79, Formerly 12C-2.04, Amended 11-21-91, 5-18-93, 10-9-01, 1-28-08,\_\_\_\_\_.

12C-2.010 Valuations.

(1) Leases of Governmental Property.

(a) The value of a lease of governmental property described in subsection 12D-3.003(3), F.A.C., is determined by valuing the lease payments for the remaining term of the lease on January 1 of the tax year, subject to the following provisions:

1. The lease payments to be valued do not include any amount for taxes, interest, insurance, repairs, maintenance, exclusive franchise or concession fees, costs of utilities, or similar charges required to be paid the lessor, and include only the amount paid by the lessee for the use of real or tangible property provided or owned by the governmental lessor, whether designated as a fixed sum, a percentage, or a variable amount.

2. If lease payments are nominal amounts, such as \$1 or \$10 per year, or the payments are significantly less than a fair market rental for the property, the annual fair market rent which would be paid by the lessee in the open market for comparable property under similar terms and circumstances will be the lease payment to be valued.

3. If payments required by the lease are based on some factor other than the passage of time, such as a percentage of sales or profits, the lease payment to be valued will be based on the average annual rent actually paid by the lessee in prior years, providing the amount so determined is not nominal or significantly less than the fair market rental for the property. The average annual rental used will be determined from the amounts paid by the lessee for a period not to exceed the previous five years. If the average so determined is nominal or is significantly less than fair market value for the property, the lease payment to be discounted will be the annual fair market rental for the property.

4. Otherwise, the ~~annualized~~ ~~analyzed~~ lease payment required under the lease is the amount to be valued. The valuation factors to be used ~~are shall be~~ based on the Federal Reserve discount rate – Atlanta – on the last business day of the preceding year, plus one percent. Valuation Factor Tables determined by the Department based on that discount rate, plus one percent, are annually published in a Taxpayer Information Publication and posted to the Department’s Revenue Law Library at [www.myflorida.com/dor](http://www.myflorida.com/dor).

5. The period for which the lease payments are to be valued ~~is shall be~~ the number of years remaining under the lease, exclusive of renewal options, as of January 1 of the tax year. The year in which the lease will expire ~~is to shall~~ be considered a full year for the purpose of this rule.

6. If the final period for which the lease payment is to be valued is less than a year, the lease payment ~~is to shall~~ be valued using the 1 year value factor and the tax apportioned based on the number of months during the year that the lease is in effect.

(b) through (c) No change.

(2) No change.

Rulemaking ~~Specific~~ Authority 199.202, 213.06(1) FS. Law Implemented 196.199(2)(b), 199.155 FS. History—New 4-17-72, Revised 12-20-73, Amended 9-27-76, 8-8-78, 12-31-80, Formerly 12C-2.10, Amended 11-21-91, 5-18-93, 10-9-01, 1-28-08,\_\_\_\_\_.

12C-2.0115 Public Use Forms.

(1)(a) The following public use forms and instructions are employed by the Department in its dealings with the public related to administration of the intangible tax. These forms are hereby incorporated and made a part of this rule by reference.

(b) No change.

Form Number	Title	Effective Date
(2) DR-601G	Governmental Leasehold Intangible Personal Property Tax Return <del>for 2012 Tax Year</del>	(R. <u>01/13</u> <del>01/12</del> ) <u>01/12</u>

([http://www.flrules.org/Gateway/reference.asp?No=Ref-\\_\\_\\_00947](http://www.flrules.org/Gateway/reference.asp?No=Ref-___00947))

(3) through (5) No change.

Rulemaking Authority 199.202(2), 213.06(1) FS. Law Implemented 119.071(5), 196.199(2), 199.032 (2005), 199.042 (2005), 199.052 (2005), 199.103(7)(2005), 199.135 (2005), 199.202, 199.232, 199.282 (2005), 199.292, 213.24(3), 215.26 FS. History—New 11-21-91, Amended 1-5-94, 10-9-01, 5-4-03, 9-28-04, 6-28-05, 10-30-06, 1-28-08, 1-27-09, 1-31-10, 2-7-11, 1-29-12,\_\_\_\_\_.

NAME OF PERSON ORIGINATING PROPOSED RULE: Robert DuCasse, Revenue Program Administrator I, Technical Assistance and Dispute Resolution, Department of Revenue, P.O. Box 7443, Tallahassee, Florida 32314-7443, telephone (850)717-6476.

NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: Governor and Cabinet

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: September 18, 2012

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: A Notice of Proposed Rule Development was published in the Florida Administrative Weekly on July 20, 2012 (Vol. 38, No. 29, pp. 2911-2912), to advise the public of the proposed changes to Rule Chapter 12C-2, F.A.C. (Intangible Personal Property Tax), and to provide that, if requested in writing, a rule development workshop would be held on August 8, 2012. No request was received by the Department. No written comments were received by the Department.

**DEPARTMENT OF TRANSPORTATION**

<b>RULE NOS.:</b>	<b>RULE TITLES:</b>
14-26.0041	Definitions and Terms
14-26.00411	Procedure for Issuance of Permits
14-26.00425	Criteria for Issuance of Permits
14-26.008	Schedule of Fees
14-26.009	Exemptions from Fee Requirement
14-26.0091	Tire Requirements
14-26.012	Movement Conditions and Restrictions
14-26.01311	Permits to Move Sealed Containerized Loads
14-26.015	Penalties

**PURPOSE AND EFFECT:** Rule Chapter 14-26, F.A.C., is being amended to increase the maximum loads for containerized cargo, reduce the number or types of escorts required, and clarify the requirements for permit applications.

**SUMMARY:** The requirements and conditions for permits are being revised.

**SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS AND LEGISLATIVE RATIFICATION:**

The Agency has determined that this will not have an adverse impact on small business or likely increase directly or indirectly regulatory costs in excess of \$200,000 in the aggregate within one year after the implementation of the rule. A SERC has not been prepared by the agency.

The Agency has determined that the proposed rule is not expected to require legislative ratification based on the statement of estimated regulatory costs or if no SERC is required, the information expressly relied upon and described herein: Based upon the Department’s economic impact analysis, the agency has determined that this rule chapter does not require a SERC. In addition, the agency has determined that the rule(s) will not require legislative ratification pursuant to Section 120.541(3), Florida Statutes.

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.

**RULEMAKING AUTHORITY:** 316.550, 334.044(2) FS.

**LAW IMPLEMENTED:** 316.515, 316.535, 316.550 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:** Monday, October 29, 2012, 8:30 a.m.

**PLACE:** Department of Transportation, Haydon Burns Building Auditorium, 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 7 days before the workshop/meeting by

contacting: Deanna R. Hurt, Assistant General Counsel, Florida Department of Transportation, Office of the General Counsel, 605 Suwannee Street, Mail Station 58, Tallahassee, Florida 32399-0458, (850)414-5382, deanna.hurt@dot.state.fl.us. If you are hearing or speech impaired, please contact the agency using the Florida Relay Service, 1(800)955-8771 (TDD) or 1(800)955-8770 (Voice).

**THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULES IS:** Deanna R. Hurt, Assistant General Counsel, Florida Department of Transportation, Office of the General Counsel, 605 Suwannee Street, Mail Station 58, Tallahassee, Florida 32399-0458, (850)414-5382, deanna.hurt@dot.state.fl.us

**THE FULL TEXT OF THE PROPOSED RULES IS:**

14-26.0041 Definitions and Terms.

All terms in this rule chapter shall have the same meaning as defined in Section 316.003, F.S., except that “Department” shall refer to the Department of Transportation. Additionally, the following terms are defined:

(1) “Applicant” means a person or entity requesting a permit.

(2) “Axle Spacing” means the measurement between the centers of the axles as measured from center-to-center of wheel hubs.

(3) “Escort” means a person authorized in the manner prescribed in subsection 14-26.012(3), F.A.C., to perform accompanying duties for overweight or overdimensional vehicles.

(4) “Escort Vehicles” means a vehicle independent of the permitted vehicle, equipped with a working, amber warning light located on top of the escort vehicle, and operated by a qualified escort, law enforcement escort, or any combination shown in Rule 14-26.012, F.A.C.

(5) “Excluding Weekends and Holidays” means movement on Saturday and Sunday is limited to the period of time beginning one-half hour before sunrise and ending at 12:00 Noon, and is prohibited all day on New Year’s Day, Memorial Day, Independence Day, Labor Day, Thanksgiving, the day after Thanksgiving, and Christmas. If any of these holidays fall on Saturday, the preceding Friday shall also be observed as a holiday. If any of these holidays fall on a Sunday, the following Monday shall also be observed as a holiday.

(6) “External Bridge” or “outer bridge” means the distance from the center of the front steering axle of the vehicle (or combination of vehicles) to the center of the last axle of the vehicle (or combination of vehicles).

(7) “Fifth Wheel” means a device mounted on a truck tractor or similar towing vehicle (e.g., converter dolly) which interfaces with and couples to the upper coupler assembly of a semitrailer.

(8) “Flag” means a red or florescent orange device used to warn approaching traffic of a safety hazard.

(9) “Governmental Entity” means as defined in Section 334.03, F.S.

(10) “Inner-Bridge” means the distance between the centers of any two or more consecutive axles on a vehicle (or combination of vehicles) traveling on the interstate system only, exclusive of the external bridge.

(11) “Kingpin Setting” means the distance between the kingpin or other peg which locks into the fifth wheel and the center of the rear axle or the center of the rear axle grouping (whichever applies).

(12) “Law Enforcement Escort” means any police officer as defined in Section 316.003(32), F.S., operating any vehicle owned by a law enforcement agency using blue or red and blue warning lights to accompany an oversize/overweight vehicle.

(13) “Local Moves” means hauling not more than a 50 mile radius from the point of origin.

(14) “Manufactured Building” or “modular building” means a closed structure, building assembly, or system of subassemblies, which may include structural, electrical, plumbing, heating, ventilating, or other service systems made for installation or erection as a finished building or part of a finished building, which shall include, but not be limited to residential, commercial, institutional, storage, and industrial structures. The term includes buildings not intended for human habitation such as lawn storage buildings and storage sheds made and assembled offsite by a manufacturer certified in conformance with Section 553.381, F.S.

(15) “Manufactured Home” means as defined in Section 320.01(2)(b), F.S.

(16) “Mobile Home” means as defined in Section 320.01(2)(a), F.S.

(17) “Multiple Loading” means the placing of more than one item on a vehicle so as to cause the overall measurements to exceed the maximum length, width, height, and weight limitations established in Sections 316.515 and 316.535, F.S.

(18) “Multi-Trip Permit” or “blanket” or “annual permit” means authorization issued to allow multiple trips for a period not to exceed 12 months.

(19) “Non-Routine Permit” means authorization issued with a structural evaluation or override authorization.

(20) “Overdimensional” or “oversize” means any vehicle configuration, including the load, which exceeds the limitations provided in Section 316.515, F.S.

(21) “Overhang” means that portion of a load or vehicle attachment that projects beyond the front or rear wheels of a vehicle or the front or rear bumper of a vehicle if it is equipped with a front or rear bumper.

(22) “Overweight” means any vehicle configuration, including the load, which exceeds the limitations provided in Section 316.535, F.S.

(23) “Permit Office” means the Permit Section of the Office of Maintenance, Florida Department of Transportation, with offices located in Tallahassee, Florida. Website: [www.fdotmaint.com/permit/](http://www.fdotmaint.com/permit/).

(24) “Permittee” means the applicant to whom an oversize/overweight permit is issued.

(25) “Routine Permit” means authorization issued by the Department for an overweight or overdimensional load that did not require a structural evaluation, local movement restrictions, or override authorization.

(26) “Self-Propelled Equipment” means a single rigid frame unit propelled with its own power source which does not transport a divisible load, and includes equipment such as earth handling equipment, cranes (which may include a dolly attachment), derricks and fire trucks.

(27) “Trip Permit” means authorization issued to allow a single hauling of a load from point of origin to destination.

(28) “Truck Crane” means any vehicle (which may include a dolly attachment) designed and constructed to be used primarily for lifting, lowering, or traversing while operating from either a secure stationary position, or in a rolling position, if specifically designed for rolling operation.

(29) “Valid Permit” means authorization pursuant to Section 316.550, F.S., by the Department that has not been altered, changed, or otherwise modified, unless in writing by the Department, accompanied by the original permit.

(30) “Warning Light” means a class 2 electrical lighting device located on a permitted vehicle and/or escort vehicles, used to warn all approaching traffic of a possible safety hazard. The device shall be any one or combination of the following:

- (a) Rotating;
- (b) Strobe;
- (c) Flashing.

(31) “Warning Sign” means a sign device, located on permitted vehicle and escort vehicles, used to warn all approaching traffic of a possible safety hazard.

(32) “Wrecker Permit” means authorization issued for the operation of a wrecker where the combined weight of the wrecker plus towed disabled vehicle exceeds the maximum weight established by Section 316.535, F.S.

Rulemaking Authority 316.550(5), 334.044(2) FS. Law Implemented 316.515, 316.550 FS. History—New 9-15-87, Amended 7-21-91, 6-23-96, 11-10-98, 2-1-10, 10-4-10, \_\_\_\_\_.

#### 14-26.00411 Procedure for Issuance of Permits.

(1) Purpose. The purpose of this rule chapter is to protect the public safety, to reduce interference with traffic flow on state owned highways and structures, and to preserve the state’s transportation facilities by providing standards and procedures to govern issuance of permits for overweight and overdimensional vehicles and loads operating over state owned roadways and structures. The rules of this rule chapter apply to all persons or entities operating overweight and



overdimensional vehicles and loads over state maintained roads, which are not specifically exempt under Chapter 316, F.S.

(2) Intent. It is the intent of the Department to require that all reasonable steps be taken to reduce the vehicle load to legal limits of weight and dimensions. Permits for overweight and overdimensional vehicles and loads are intended for a single item load which cannot reasonably be dismantled or disassembled and which cannot reasonably be shipped by rail, water, or air.

(3) The administration of these rules is assigned to the Department's Permit Office, located in Tallahassee, Florida, whose mailing address is:

Florida Department of Transportation  
Permit Section  
605 Suwannee Street, M.S. 62  
Tallahassee, Florida 32399-0450

Travel authorization and/or permits for travel on local roadways and structures must be obtained from local authorities.

(4) Permitting Process. Payment for permits shall be in cash, by cashier's check, personal or company check, money order, credit card, or bond/escrow account. Permit requests must be received at least ten business days before scheduled movement for non-routine permits. The applicant must complete all ~~required~~ fields on Form 850-040-02, Request for Special Road Use Oversize/Overweight Permit Application or complete an online Application at [www.fdotmaint.com/permit](http://www.fdotmaint.com/permit) and, rev. 07/10, incorporated herein by reference and provide the following:

(a) Total gross weight of vehicle/vehicle combination to include permitted load if over legal weight. Otherwise, the applicant must state that the gross weight is legal.

(b) External bridge and individual axle spacings of vehicle/vehicle combination (center of hub to center of hub) if over legal weight.

(c) Total number of axles and total weight on each axle of vehicle/vehicle combination if over legal weight. Otherwise, the applicant must state that the axle weights are legal.

(d) Total width of vehicle and/or load at widest point.

(e) Total length of the vehicle/vehicle combination and/or load from front to rear to include front and rear overhang. If there is any overhang, separate measurements are to be provided in addition to the total length.

(f) Total height of the vehicle and/or load from the pavement to the highest point of the vehicle and/or load.

(g) Description of load to be transported.

(h) Requested route(s) of travel containing detailed information including origin, destination, physical addresses, mile markers, or intersections. This applies to trip permit applications only. Non-Routine Permit Trip Applications must

also include detailed routing information, such as stops for rest areas, exit ramps, etc., such as state highway and interstate route numbers.

(5) ~~No movement shall be made under any permit will be issued until the route has been surveyed to verify it has been verified that the route can accommodate the vehicle and load. The Department is responsible for verifying the load carrying capacity of the route. The applicant is responsible for verifying adequate vertical (height) and horizontal (length and width) clearance. Vehicles and loads with Permit applications requesting a height greater than 15 feet and/or a width greater than 22 feet shall be surveyed by a qualified escort, as described in this rule chapter prior to any movement. Surveying a route prior to movement of the load does not exempt the hauler from being required to obtain a permit prior to any movement. Applications for vehicles and loads with a height greater than 18 feet and/or width greater than 22 feet shall be supported by a survey letter from the hauler supported by an affidavit from the applicant. The survey letter affidavit must be on the hauler's provided by the applicant on the applicant's letterhead and include a the signature of the applicant, a statement verifying that the route has been surveyed, and that clearances exceed the requested permitted dimension by a minimum of 6 inches for height and 2 feet on each side for width. The surveyed route and the route shown on the application must be identical. The survey must be completed by a qualified escort as described in this rule or a driver with a valid Commercial Driver's License.~~

(6) Structural Evaluation. In addition to the information required for issuance of a permit, a schematic of the vehicle showing all longitudinal and transverse spacings, axle weights and dimensions must be provided at least ten business days before a proposed move when the vehicle's gross weight exceeds 199,000 pounds so that a structural analysis can be performed. Applicants, whose vehicles have a gross weight of less than 199,000 pounds, will be required to provide a schematic as well when an Engineer of the Office of Maintenance, Bridge Section, determines that a structural analysis is needed.

Rulemaking Authority 316.550, 334.044(2) FS. Law Implemented 316.515, 316.535, 316.550 FS. History—New 8-26-82, Formerly 14-26.06, Amended 9-15-87, 7-21-91, 6-23-96, 11-10-98, Formerly 14-26.006, Amended 2-1-10, 10-4-10, \_\_\_\_\_.

14-26.00425 Criteria for Issuance of Permits.

(1) The Department shall consider the following criteria when evaluating permit requests and prescribing conditions limiting the use of said permit:

(a) Whether the load can be reasonably dismantled or disassembled;

(b) Protection of the motoring public from traffic hazards created by the movement of overweight and overdimensional vehicles or loads on state owned highways and structures;

- (c) Prevention of undue delays in the normal flow of traffic;
  - (d) Prevention of damage to the highway pavement, facilities, and structures;
  - (e) Assistance needed for transportation problems involving excess size or weight;
  - (f) Whether vehicle(s) meet the Department’s established axle load and axle spacing requirements based upon structural analysis of the bridge structures to be crossed;
  - (g) The number of lanes, width of lanes, and the condition of the pavement to be traversed;
  - (h) The number, adequacy, and availability of access routes;
  - (i) The number and types of accidents and fatalities occurring on the roads of the proposed route;
  - (j) The shoulder conditions and widths on the proposed route;
  - (k) The average daily volume of traffic;
  - (l) The volume of traffic during peak periods;
  - (m) The number of traffic signals per mile;
  - (n) The frequency of necessary vehicular lane changes;
  - (o) The availability of emergency lanes;
  - (p) Temporary conditions such as construction or impending adverse weather;
  - (q) The applicant’s survey letter indicating certification of available vertical clearance on the proposed route for all loads/vehicles over ~~18~~ 15 feet high;
  - (r) The applicant’s survey letter indicating certification of available horizontal clearance on the proposed route for all loads/vehicles over 22 feet wide;
  - (s) The applicant’s previous permit compliance history;
  - (t) Other items which affect traffic flow or safety;
  - (u) All details relevant to the proposed move as presented by the applicant and as requested by the Department.
- (2) Override Authority. Authority to override Sections 316.550 and 316.535, F.S., and Rule Chapter 14-26, F.A.C.

(a) Pursuant to Section 316.550, F.S., the Governor, Secretary of the Department of Transportation, Assistant Secretary for Engineering and Operations, and the State Highway Engineer have powers by which they, in extenuating circumstances, may authorize the Department’s Permit Office to issue permits for vehicles or loads not specifically authorized by statute or rule, thereby exceeding the normal daily operational safety standards and procedures of Sections 316.515 and 316.535, F.S. and Rule Chapter 14-26, F.A.C.

(c) The applications, supporting documentation, authorizations, and permits will be documented and maintained by the Department.(b) To obtain a permit for vehicles or loads not specifically authorized in this rule chapter, an applicant must include, with the permit application, a letter of essentiality from a government entity or the ultimate recipient of an essential service, providing justification for issuance of a non-routine permit. A letter from the hauler, distributor, or manufacturer will not be accepted. The letter must verify that the load has been reduced to the smallest size possible, cannot be shipped by any other means of transportation, and state why the move is essential in the interest of public safety, national defense or other extenuating circumstances.

(d) Emergencies. Upon a Governor’s Declaration of Emergency, in order to allow response to the emergency, and after safety considerations, the Department may temporarily suspend certain permit restrictions by issuing an emergency permit letter.

Rulemaking Authority 316.550, 334.044(2) FS. Law Implemented 316.515, 316.550, 316.565, 334.044(27) FS. History–New 9-15-87, Amended 6-23-96, 11-10-98, Formerly 14-26.0051, Amended 2-1-10,\_\_\_\_\_.

14-26.008 Schedule of Fees.

The following schedule of fees shall be charged by the Department for permits for overweight and/or overdimensional vehicles operating on state owned roadways and bridges:

TABLE 1A – SCHEDULE OF FEES FOR OVERDIMENSION PERMITS		
	TRIP PERMIT 7 5 Days	MULTI-TRIP 12 Months
<b>(1) OVERDIMENSION</b>		
<b>(a) Straight trucks and semi-truck-tractor-trailer.</b>		
Up to 12 feet wide, or up to 13 feet 6 inches high or up to 85 feet long.	\$5.00	\$20.00
Up to 14 feet wide or up to 14 feet 6 inches high or up to 95 feet long.	\$15.00	\$150.00
Up to 14 feet wide or up to 18 feet high or up to 120 feet long.	\$25.00	\$250.00
Over 14 feet wide or over 18 feet high or over 120 feet long.	\$25.00	NOT ISSUED
<b>(b) Overlength semi-trailers of legal width, height, and weight, which exceed 53 feet in length up to 57 feet 6 inches in length or overlength semi-trailer with kingpin setting greater than 41 feet.</b>	\$10.00	\$30.00
<b>(c) Truck crane or earth handling equipment moving under own power, up to 12 feet wide or 14 feet 6 inches high, or 85 feet long.</b>	\$15.00	\$150.00
<b>(d) Trailers or equipment towed with ball or pintle.</b>		

Up to 10 feet wide or up to 13 feet 6 inches high or up to 80 feet long.	\$5.00	\$20.00
*Up to 12 feet wide or up to 13 feet 6 inches high or up to 105 feet long.	\$5.00	\$330.00
*Up to 14 feet wide or up to 14 feet 6 inches high or up to 105 feet long.	\$15.00	\$500.00
*Over 14 feet wide or over 14 feet 6 inches high or over 105 feet long.	\$25.00	NOT ISSUED
NOTE: All permitted dimensions (length, height, width) must be within limits shown for permit fee.		
TABLE 1B – SCHEDULE OF FEES FOR OVERWEIGHT VEHICLES		
	TRIP PERMIT 7 ½ Days	MULTI-TRIP 12 Months
(2) OVERWEIGHT		
*(a) Up to 95,000 pounds.	\$0.27 Per Mile	**\$240.00
*(b) Up to 112,000 pounds.	\$0.32 Per Mile	**\$280.00
*(c) Up to 122,000 pounds.	\$0.36 Per Mile	**\$310.00
*(d) Up to 132,000 pounds.	\$0.38 Per Mile	**\$330.00
*(e) Up to 142,000 pounds.	\$0.42 Per Mile	**\$360.00
*(f) Up to 152,000 pounds.	\$0.45 Per Mile	**\$380.00
*(g) Up to 162,000 pounds.	\$0.47 Per Mile	**\$400.00
(h) Up to 199,000 pounds.	\$0.003 Per 1,000 Pounds Per Mile	\$500.00
(i) Over 199,000 pounds.	\$0.003 Per 1,000 Pounds Per Mile	NOT ISSUED
(j) Containerized Cargo Unit.	\$0.27 Per Mile	\$500.00
(k) Overall Wheel Base (Inner Bridge/External Bridge).	\$10.00	\$35.00
(l) Implements of husbandry, farm equipment, agricultural trailers/products and forestry equipment (Local Moves Only).	\$5.00	\$17.00
(3) SPECIAL PERMIT FEES		
Transmission Fee	\$5.00	NOT APPLICABLE
*Dimensions greater than 12 feet wide or 13 feet 6 inches high or 85 feet long will have an additional dimension fee with a combined fee of not to exceed \$500.00.		
NOTE: For weights over 80,000 pounds [Items (2)(a) through (h) above], add an administrative cost of \$3.33 for issuance of permit, which does not include the costs charged by wire services for their services. Permit fees shall be based on 25 mile increments rounded up to the nearest dollar. Example: A 112,000 pound load traveling 67.5 miles would cost (75 miles X \$0.32) plus \$3.33 = \$27.33 rounded up to \$28.00 in addition to the \$5.00 transmission fee when applicable.		

Rulemaking Authority 316.550, 334.044(2) FS. Law Implemented 316.550 FS. History—New 8-26-82, Formerly 14-26.01, Amended 12-6-83, Formerly 14-26.08, Amended 9-15-87, 7-21-91, 4-22-92, 3-1-94, 6-23-96, 11-10-98, 2-1-10, 10-4-10\_\_\_\_\_.

14-26.009 Exemptions from Fee Requirement.

The following entities are exempt from the fee requirements specified in Rule 14-26.008, F.A.C., above:

- (1) Governmental Entities.
- (2) Special taxing districts.
- (3) Seminole Tribe as defined in Chapter 285, F.S.
- (4) Any person or entity moving portable public school buildings.
- (5) Implement of husbandry, farm equipment, agricultural trailers and forestry equipment (oversize only).
- (6) Movement of loads in response to a Governor’s Declaration of Emergency.

~~The above entities are exempt from the fee requirements only when being operated for non-commercial purposes. These vehicles must obtain an overweight and/or overdimensional permit to operate on state owned roadways.~~

Rulemaking Authority 316.550 FS. Law Implemented 316.550, 316.565 FS. History—New 8-26-82, Formerly 14-26.09, Amended 6-23-96, 11-10-98, 2-1-10, 10-4-10\_\_\_\_\_.

14-26.0091 Tire Requirements.

(1) Each axle must have tires of the same size and construction. Tires must be properly inflated for the load to be carried. In no event shall any tire, wheel or rim exceed the manufacturer’s maximum load-carrying limit. Tires and tire usage must be consistent with the requirements of 49 C.F.R., Section 393.75, F.S., rev. 10/08, as required by Section 316.302(1), F.S.

(2) A vehicle equipped with dual tires may have the dual tires replaced by a single tire so long as the vehicle, axle, and tire load ratings are not exceeded.

(3) No tire may exceed 550 pounds per inch of tire section width (plus scale tolerance) as defined by the rating molded in the tire sidewall. For example, a designation of 445/50R22.5 designates a tire section width of 445 mm (17.5 inches).

Rulemaking Authority 316.302(1), 334.044(2) FS. Law Implemented 316.302(1), 316.535(6) FS. History—New 2-1-10, Amended.

#### 14-26.012 Movement Conditions and Restrictions.

(1) Operational use of permits. The configuration and weight(s) of a vehicle and its load traveling under permit must match the configuration and weight(s) described on the permit and any authorized amendments to that permit. For vehicles traveling under a trip permit, the vehicle or load must match either the truck tag number, trailer tag number, vehicle identification number, the bill of lading number, or the load identification number identified in the permit. An electronic version of a trip permit may be presented, if the trip permit is readily available and legible. Vehicles traveling under a multi-trip permit, the vehicle type and load must match the vehicle type and load described in the permit. Under both types of permits, the permitted vehicle's size, weight, number of axles, axle spacings, and any unique characteristics must comply with the limits for that item if addressed in the permit or any amendment to that permit. Trip permits are valid only for those routes specified in the permit. Multi-trip permit vehicles are not allowed to travel on any restricted bridges or any restricted roadways identified in the permit or its attachments. No vehicle may cross any posted bridge when the vehicle exceeds the prescribed limits of the bridge.

(2) Escorts accompanying overdimensional loads as required by permit or pursuant to subsection 14-26.012(6), (7), or (8), F.A.C., are limited to:

(a) Law enforcement escorts.

(b) Escorts qualified by another state, provided that the other state has equal or more stringent standards as those required by Florida for qualified escorts and the escort has been qualified or re-qualified within the past four years.

(c) Qualified escorts:

1. Must be at least 18 years of age and must possess a valid driver's license in the state or jurisdiction in which he or she is a resident.

2. Must have successfully completed a minimum eight hour defensive driving course as provided by a National Safety Council qualified instructor or hold a currently valid Commercial Driver's License (Class A, B, or C). The instructor shall not be an employee of the employing escort service.

3. Must have successfully completed a minimum eight hour pilot/escort flagging course. The qualification must be current and must be from an entity approved by the Department based upon that entity's course content, methods of instruction, and familiarity with state and federal standards.

4. Shall maintain in his or her possession, for prompt presentation upon request by a law enforcement person or Department representative, a copy or copies of the qualification document or documents verifying completion of the required qualification courses.

5. Shall be requalified every four years by successfully completing a four hour Department approved refresher course.

(3) Escort Vehicle and Equipment Requirements for Qualified Escorts.

(a) Escort Vehicles.

1. Escort vehicle(s) must be a single unit vehicle with a gross vehicle weight rating of at least 2,000 pounds and less than 26,000 pounds. The vehicle must be properly licensed, registered, and operated by a qualified escort.

2. Identification signs or placards showing the name of the company or the owner or driver of the escort vehicle must be in a conspicuous place on both the right and left sides of the escort vehicle. The signs or placards shall be at least 8 inches × 12 inches, or contain the equivalent square inches, and shall also contain the telephone number of the owner or driver plainly legible and visible to the motoring public.

3. All escort vehicles must be equipped with high visibility rotating, strobe or flashing class 2 amber warning lights mounted so as to be seen by all approaching traffic at a distance of at least 500 feet.

4. Escort vehicles shall display either a bumper mounted or a roof mounted yellow sign (or may display both) reading "OVERSIZE LOAD" with black letters with a minimum brush stroke of 10 inches high and 1 1/2 inches wide, which must be visible from front and rear.

5. Two flags, either red or fluorescent orange in color, which must be at least 18 inches × 18 inches, shall be mounted at approximately a 40 to 70 degree angle on the escort vehicle's roof rack.

(b) On Board Equipment. During escort operations, all escort vehicles shall have on board the following equipment and such equipment shall be in working order:

1. Operable two-way electronic communications. Qualified escorts must be in radio contact with load drivers at all times during movements.

2. Two fire extinguishers (minimum five pounds each).

3. "STOP" and "GO" or "STOP" and "SLOW" paddles a minimum 18 inches in diameter with 6 inch high letters.

4. A high visibility, fluorescent class 2 safety vest for flagging during daytime hours or a high visibility, fluorescent class 3 safety vest when flagging at night.

5. One hand-held flag, either red or fluorescent orange in color, which must be at least 12 inches × 12 inches.

6. Two warning signs (yellow with black lettering) with a minimum brush stroke of 12 inches high and 1 1/2 inches wide. Each warning sign shall have a total dimension of not less than 7 feet long by 18 inches high. These signs shall be used in the event the permitted vehicle or load loses its sign(s).

7. Three 36 inch traffic cones. Traffic cones must be reflective if used at night.

8. For over height loads, the lead vehicle must have a height indicator, i.e., height pole, used to determine vertical clearance. This device must be manufactured of non-conductive and non-destructive material and must be positioned at a height of at least 6 inches above the height of the load being escorted.

(4) Escort Functions. Escorts are required to watch and direct traffic or the load to ensure public safety. Escorts may, when actively escorting permitted loads, perform necessary traffic control functions as defined in Section 316.079(2), F.S. No escort or escort vehicle may be used to perform any other function that could distract from the escort responsibilities. The total number of escorts required will be determined based upon safety considerations. If one escort is required for an over width load, the escort shall precede the load on two lane highways or follow the load on four lane divided highways. If two escorts are required, one must precede the load and one must follow. If the load is over length only, the escort vehicle shall be in the rear of the load at all times. Escorts shall operate no more than 300 feet in front of or behind the load unless road conditions or permit stipulations dictate otherwise. Escort vehicles in the process of escorting a permitted vehicle or load must proceed through weigh stations and must not bypass such stations.

(5) Safety Requirements and Restrictions for Permitted Load and Vehicle.

(a) Flags. Flags shall be clean, have high visibility, and be at least 18 inches × 18 inches. They shall be displayed so as to wave freely on all four corners of the vehicle and at the extreme ends of all protrusions, projections, or overhangs.

(b) Warning Lights.

Required Display. Vehicles or loads exceeding 10 feet in width, 80 feet in length (or over 3 feet of front overhang for self-propelled equipment), or 14 feet 6 inches in height shall have warning lights which shall:

1. Be class 2 high visibility rotating, strobe or flashing amber warning lights; and
2. Be mounted so as to be seen by all approaching traffic at a distance of at least 500 feet.

(c) Warning Signs.

1. Required Display. Vehicles or loads exceeding 10 feet in width, 80 feet in length, or 14 feet 6 inches in height.

2. Each warning sign shall:

a. Consist of black letters 12 inches high with a brush stroke of not less than 1 1/2 inches wide on a yellow background.

b. State "OVERSIZE LOAD."

c. Have a total dimension of not less than 7 feet long by 18 inches high.

d. Be either bumper mounted or roof mounted. If one of the signs is roof mounted then, the other sign must be at the rear of the towed unit or at the rear of the load. Voids (holes) may be cut in warning signs as signs must not cover any vehicle light or reflector.

(d) Movement During Periods of Poor Visibility. No travel is allowed when horizontal visibility is less than 1,000 feet. Vehicles which are underway when inclement weather occurs must exit the road at the first available location and park until the weather clears or until road conditions improve.

(e) Movements on Weekends and Holidays. Unless otherwise noted on the permit, movements are prohibited on weekends and holidays. A government entity, meeting the criteria of Rule 14-26.00425, F.A.C., shall be allowed to travel all days, all hours with a valid permit.

(f) Nighttime movement. When the criteria of Rule 14-26.00425 and 14-26.012, F.A.C., are met, trip or multi-trip permits shall be issued providing:

1. Nighttime travel is recommended by the Department's District Traffic Engineering Office(s) or determined to be a requirement of the permit by the Office of Maintenance.

2. Law enforcement escort(s) are used.

3. Warning lights shall delineate the shape and size of the load.

4. The sides and rear of trailers and loads shall be lighted in the manner prescribed in 49 C.F.R. Sections 393.11 through 393.26, as required by Section 316.302(1)(a), F.S.

(6) All vehicles, including vehicles equipped with an automatic vehicle identification system, must stop at open weigh stations.

(7) Width Limitations.

(a) Vehicles up to 10 Feet. When the criteria of Rule 14-26.00425, F.A.C., are met, trip or multi-trip permits shall be issued. Movement is permitted all days, during daytime hours only. Flags are required.

(b) Vehicles over 10 Feet up to 12 Feet. When the criteria of Rule 14-26.00425, F.A.C., are met, trip or multi-trip permits shall be issued. Movement permitted daytime hours only, excluding weekends and holidays. Flags, warning signs, and warning lights are required. Except for local moves, this is the maximum width allowed on a straight truck.

(c) Vehicles over 12 Feet up to 14 Feet. When the criteria of Rule 14-26.00425, F.A.C., are met, trip or multi-trip permits shall be issued. Movement is permitted during daytime hours only, excluding weekends and holidays. Flags, warning signs, and warning lights are required. Except for local moves, minimum 26,001 pound registered GVW vehicle is required. A minimum of one escort vehicle, with escort, is required at all times.

1. All manufactured buildings, manufactured homes, mobile homes, modular buildings, sheds, and swimming pools shall use a minimum of four warning lights mounted, with two on the front and two on the rear at each corner of the towed or hauled unit.

2. All other loads shall have a minimum of two warning lights mounted with one on the front and one on the rear of the load.

3. On roadway lanes less than 12 feet wide, bridges with less than 30 feet curb to curb, and in rural areas with traffic volume greater than 12,000 Average Daily Traffic (ADT) per lane or in urbanized areas (more than 50,000 population) with ADT greater than 8,000 vehicles per lane, two qualified escorts are required except on loads with a minimum of four warning lights mounted two in front and two in the rear of the towed or hauled unit.

4. No movement will be allowed in congested areas during peak traffic hours.

(d) Vehicles over 14 Feet up to 16 Feet. When the criteria of Rule 14-26.00425, F.A.C., are met, trip permits only shall be issued. Movement is permitted daytime hours only, excluding weekends and holidays. Flags, warning signs, and warning lights are required. Except for local moves, minimum 26,001 pound registered GVW vehicle is required. Two qualified escort vehicles, with escorts are required at all times during the move, one in the front and one in the rear of the load.

1. All loads consisting of manufactured buildings, manufactured homes, mobile homes, modular buildings, sheds, and swimming pools shall use a minimum of four warning lights mounted with two on the front and two on the rear at each corner of the towed or hauled unit.

2. All other loads shall have a minimum of two warning lights mounted with one on the front and one on the rear of the load.

3. Two lane roadways shall not be used as a connector route whenever viable four lane routes are available. Requests for two lane roadways as connector routes may require justification from the customer and ultimate approval from the Department. No movement will be allowed in congested areas during peak traffic hours.

4. The maximum width for manufactured buildings is 16 feet.

(e) Vehicles over 16 Feet. When the criteria of Rule 14-26.00425, F.A.C., are met, only trip permits shall be issued. Same as criteria for "Vehicles over 14 Feet up to 16 Feet" except movement will be restricted to local moves. Applications for permits over 16 feet wide are subject to review by the Department's District Traffic Engineering Office(s).

1. Two qualified escorts are required when travelling on a limited access facility during daytime hours only Law enforcement escort(s) shall be required for all moves.

2. One law enforcement escort and one qualified escort are required when travelling on a limited access facility during nighttime hours.

3. Two law enforcement escorts are required at all times when travelling on state maintained roadways (excluding limited access facilities).

~~4.2.~~ Items must be moved by rail, air, or water when possible.

~~5.3.~~ Trip permit requests for vehicles over 22 feet wide will require an affidavit verifying that the proposed route has adequate horizontal clearance to accommodate the requested width in addition to two feet on each side.

(8) Height Limitations.

(a) Vehicles up to 14 Feet 6 Inches. When the criteria of Rule 14-26.00425, F.A.C., are met, trip or multi-trip permits shall be issued. Movement is permitted all days and all hours. Except for local moves, this is the maximum height for loads hauled on straight trucks.

(b) Vehicles over 14 Feet 6 Inches up to 16 Feet. When the criteria of Rule 14-26.00425, F.A.C., are met, trip or multi-trip permits shall be issued. Movement is permitted daytime hours only, excluding weekends and holidays. Flags, warning signs, and warning lights are required. A minimum of two warning lights are required; one mounted on the front and one on the rear of the load. An escort vehicle with a vertical height indicator is required to precede the load. Trip permit requests for movement of vehicles over 15 feet high will require an affidavit verifying the proposed route has clearance to accommodate the request height plus six inches.

(c) Vehicles over 16 Feet. When the criteria of Rule 14-26.00425, F.A.C., are met, trip or multi-trip permits shall be issued. Multi-trip permits shall be limited to vehicles up to 18 feet. Movement is permitted during daytime hours only, excluding weekends and holidays. Flags, warning signs, and warning lights are required. A minimum of two warning lights are required with one mounted on the front and one on the rear of the load. In addition, movement is restricted to local moves only.

1. One qualified escort with a vertical height indicator must precede the load when travelling on a limited access facility.

~~2.1.~~ One law enforcement escort in addition to one qualified escort is required when travelling on state maintained roadways (excluding limited access facilities). The qualified ~~One~~ escort must precede the load with a vertical height indicator.

~~3.2.~~ Appropriate utility personnel will also be required whenever the load will encounter low barriers such as overhead structures, traffic signals, and low wires.

(9) Length Limitations.

(a) Vehicles up to 80 Feet. When the criteria of Rule 14-26.00425, F.A.C., are met, trip or multi-trip permits shall be issued. Movement is permitted all days and all hours.

1. Rear overhang is limited to a maximum of 10 feet during nighttime movement unless otherwise stated on the permit.

2. When overhang exceeds 4 feet, a warning light is required on the top of the vehicle. At the extreme rear of the load there must be two red lamps and two red reflectors on each side of the load. Each required warning lamp shall be visible from a distance of at least 500 feet.

(b) Vehicles over 80 Feet. When the criteria of Rule 14-26.00425, F.A.C., are met, trip or multi-trip permits shall be issued. Movement is permitted during daytime hours only, excluding weekends and holidays. Flags, warning signs, and warning lights are required. A minimum of two warning lights are required to be mounted: one on the front and one on the rear of load.

1. No movement will be allowed in congested areas during peak traffic hours for vehicles over 85 feet in length.

~~2. An escort is required when the length exceeds 95 feet.~~

~~2.3.~~ Truck tractor semi-trailers with three points of articulation are allowed up to 105 feet in length without an escort.

~~4. Maximum length for a manufactured home, tractor combination is 105 feet provided the length of the towed housing does not exceed 81 feet, including all overhangs and tongue.~~

3. One qualified escort is required when the length exceeds 95 feet.

~~4.5.~~ Two qualified escorts are required when the length exceeds 150 feet unless the vehicle is traveling on a limited access facility, then only one qualified escort is required.

~~5.6.~~ One law enforcement escort and one qualified escort are required when the length exceeds 250 feet.

6. Maximum length for a manufactured home, tractor combination is 105 feet provided the length of the towed housing does not exceed 81 feet, including all overhangs and tongue.

1. Total length up to 60 Feet.(c) Self-Propelled Equipment Length Limitations. When the criteria of Rule 14-26.00425, F.A.C., are met, trip or multi-trip permits shall be issued. For all self-propelled equipment, the boom must be fully retracted. Nighttime movement requires that the front overhang has a minimum of 80 inches clearance above the roadway. In addition, no movement is allowed on limited access facilities with units designed for off road use. Flags and one warning light are required. In addition the following restrictions will apply:

a. Front Overhang over 3 Feet up to 9 Feet. Movement is permitted on all days, all hours. A warning light is required to be mounted at the extreme end of the protrusion in such a way as to be seen by all approaching traffic.

b. Front Overhang over 9 Feet. Movement is permitted all days, during daytime hours only. A warning light is required to be mounted at the extreme end of the protrusion in such a way as to be seen by all approaching traffic.

2. Total Length over 60 Feet up to 85 Foot Maximum. Movement is permitted daytime hours only, excluding weekends and holidays. A warning light is required to be mounted at the extreme end of the protrusion in such a way as to be seen by all approaching traffic.

(10) Multiple Loading. When the criteria of Rule 14-26.00425, F.A.C., are met, trip or multi-trip permits shall be issued providing:

(a) Multiple loading does not cause the dimensions of the load to exceed those limits established in Section 316.515, F.S., and

(b) Multiple loading does not cause the gross vehicle weight to exceed those limits established in Section 316.535, F.S.

(c) Vehicles will only be allowed to exceed the gross vehicle weight limits established in Section 316.535, F.S., when:

1. Attachments (e.g. blade, rake, bucket, counterweights) that are a normal part of the equipment have been removed to reduce the size of the load for safety reasons. Multiple attachments may be transported if they are attachable to the equipment and necessary for operation.

2. The gross vehicle weight does not exceed 100,000 pounds and no more than two overlength items are being hauled.

(11) Designated Permits.

(a) "Implements of Husbandry," farm equipment, agricultural trailers, and forestry equipment are exempt pursuant to Section 316.515, F.S., from certain size requirements. However, these vehicles are not exempt from any overweight limitations set forth in Section 316.535, F.S. When the vehicle configurations exceed any of the weight limits described in Section 316.535, F.S., an overweight permit must be obtained from the Department.

(b) Movement of an empty truck tractor semi-trailer up to 11 feet in width and not over 105 feet in length, traveling on or within five miles of limited access roadways, when operating with an existing valid permit will be allowed to travel during nighttime hours. Warning lights are required to be mounted in such a way as to be seen by all approaching traffic. Extra axles and stingers may be hauled on the trailer to reduce overall dimensions for safety purposes.

(c) Semi-trailers greater than 53 feet up to 57 feet 6 inches in length may haul a divisible load when operating in a truck tractor semi-trailer combination with a valid trip or multi-trip permit.

(d) Truck tractor semi-trailer combinations hauling automobiles/boats may obtain a trip or multi-trip permit when the semi-trailer is greater than 50 feet up to 53 feet with an overall length not to exceed 80 feet inclusive of any overhang. This applies to both stinger and non-stinger steered vehicles.

(e) Straight truck and trailer combinations hauling automobiles/boat may obtain a trip or multi-trip permit when the trailer exceeds 28 feet with an overall length not to exceed 80 feet. No overhang is allowed.

(f) Trip or multi-trip permits will be issued to truck tractor semi-trailer combinations to deviate from inner-bridge requirements when traveling on interstate highways and when the criteria of Rule 14-26.00425, F.A.C., are met. These vehicles are not allowed to exceed the external bridge or axle weight limitations described in Section 316.535, F.S.

(12) Wrecker Permits.

(a) When the combined weight of the wrecker and disabled vehicle being towed exceeds the maximum weight limits established by Section 316.535, F.S., trip or multi-trip permits shall be issued if all the criteria of Rule 14-26.00425, F.A.C., are met.

(b) Escort requirements for towing disabled permitted vehicles shall be as prescribed in the original permit or amendment thereto for the towed vehicle.

(c) It is the responsibility of the wrecker operator to secure permits necessary to cover the attached load.

(d) In all instances where legal weight is exceeded, all available brakes on the towed vehicle will be functional and in operation at all times while being towed.

(e) An illegally loaded vehicle shall not become legal by being attached to a permitted wrecker.

(f) The combined gross vehicle weight of the wrecker and towed vehicle shall not exceed 140,000 pounds.

(g) The combined length of the wrecker and the towed vehicle shall not exceed 135 feet.

(h) The permitted vehicle combination must be operated with attached map(s) showing acceptable routes for specific axle and vehicle configurations.

Rulemaking Authority 316.515, 316.550, 334.044(2) FS. Law Implemented 316.550, 334.044(27) FS. History—New 8-26-82, Amended 12-6-83, Formerly 14-26.12, Amended 9-15-87, 5-2-90, 7-21-91, 6-23-96, 11-10-98, 2-1-10, 10-4-10\_\_\_\_\_.

14-26.01311 Permits to Move Sealed Containerized Loads.

(1) Definitions. For the purposes of this rule:

(a) In accordance with Section 316.302(4), F.S., “Hazardous waste” or “hazardous materials” means as defined in Title 49 C.F.R., Part 171, Subpart A, Sec 171.8.

(b) A “Sealed Containerized Load” means a freight container with or without wheels, as defined by the International Standards Organization, Series 1, Freight Containers – Classification, dimensions and ratings, ISO668-1988 [E].

(c) “Destination point” means the location where the packer’s seal or U.S. Customs’ seal is broken.

(d) “Point of origin” means the location where the packer’s seal is affixed.

(2) General. Sealed containerized loads being moved via a truck or trucks and rail in conjunction with a maritime shipment will be considered a “nondivisible” load, eligible for an overweight or overdimensional permit, when the following conditions are met:

(a) The sealed containerized load does not transport hazardous waste or hazardous materials which require placarding per Title 49, C.F.R., Part 172, Subpart F, as required by Section 316.302, F.S.;

(b) The sealed containerized load is being moved by a vehicle qualified to do so under the provisions of this rule:

1. From a maritime port to the destination point; or
2. From a maritime port to a railroad facility for movement to the destination point; or
3. From the point of origin to a maritime port; or
4. From the point of origin to a railroad facility for movement to a maritime port; and

(c) The sealed containerized load retains the original unbroken seal or a replacement U.S. Customs’ seal throughout its transit until reaching its destination point.

(3) Required On-Board Documents.

(a) The operators of vehicles transporting sealed containerized loads by permits issued pursuant to this rule shall at all times have on board at least one of the following documents under their control and available for inspection:

1. A short form master bill of lading;
2. A copy of an electronically transmitted way bill; or
3. A completed U.S. Customs Service Authority to move (Form 75-12) valid for the permitted load.

(b) The document(s) in paragraph (a) shall include the following readily identifiable information:

1. Consignor;
2. Point of origin;
3. Consignee;
4. Point of destination;
5. Either the number of the packer’s cargo seal or the number of the U.S. Customs seal; and
6. A statement that the load being transported does not contain any hazardous waste or hazardous materials which require placarding per Title 49, C.F.R. Part 172, Subpart F.

(c) The document(s) in paragraph (a) shall be in the form of a hard copy.

(4) No Straight Trucks. Because of the nature of the load to be carried and the potential for increased wear to the highway from vehicles so loaded, no straight truck, as defined in Section 316.003(70), F.S., shall be eligible for a permit to haul sealed containerized loads.

(5) Trip or Multi-Trip Permits. When applying for a trip or multi-trip permit to transport sealed containerized loads, the hauler must furnish all relevant details on the proposed move to the Department’s Permit Office. At a minimum, this shall include:



- (a) Maximum gross weight;
- (b) Axle spacing (center to center of each axle);
- (c) The total number of axles and total weight on each axle of the vehicle/vehicle combination;
- (d) The origin and destination of the highway move (for trip permits);
- (e) Either the number of the packer's cargo seal or the number of the U.S. Customs' seal;
- (f) The State highway(s) requested to be traveled (for trip permits); and
- ~~(g) A reasonable description of the contents of the sealed containerized load to be moved.~~

(6) Overall Gross Vehicle Weight. Vehicles operating under a permit issued pursuant to this rule shall not exceed an overall gross vehicle weight of 100,000 ~~95,000~~ pounds.

(7) Axle Spacings. All vehicles operating under a permit issued pursuant to this rule shall meet the minimum axle spacing requirements described in the permit.

(8) Number of Axles. All vehicles operating under a permit issued pursuant to this rule shall have a minimum of five load-bearing axles in operation at all times during movement.

(9) Outer Bridge Length. All vehicles operating under a permit issued pursuant to this rule shall have an outer bridge length of 51 feet or greater.

Rulemaking Authority 316.550, 334.044(2) FS. Law Implemented 316.535, 316.550, 334.044(27) FS. History—New 9-14-93, Amended 6-23-96, 2-1-10, 10-4-10, \_\_\_\_\_.

#### 14-26.015 Penalties.

(1) Any vehicle in violation of any permit criteria, or operating without a permit where one is required, will be required to correct all offending irregularities or obtain a new permit based on the vehicle's actual load prior to release of the vehicle. Additionally, the following penalties for violation of permit requirements will apply:

(a) An oversize or overweight vehicle being operated without a permit will have penalties assessed in accordance with Sections 316.545 and 316.516, F.S.

(b) A vehicle operated with a valid permit which exceeds the weight criteria contained in the permit, will be assessed a penalty for every pound or portion thereof exceeding the permitted weight as provided in Section 316.545, F.S.

(c) A vehicle operated with a valid permit which exceeds the dimensional criteria contained in the permit, will be assessed a penalty for every foot or portion thereof exceeding the permitted dimension, as provided in Section 316.516, F.S., except that the total penalty for the vehicle shall not exceed \$1,000.00, as provided in Section 316.550(9)(b), F.S.

(d) A vehicle operated with a valid permit which vehicle violates and operational or safety provision contained in the permit, will be assessed a penalty of \$100.00 per safety

violation (lights, flags, signs, etc.) and \$250.00 per absent escort, except that the total penalty for the vehicle shall not exceed 1,000.00.

(e) A vehicle operated with a valid permit which violates daytime, nighttime, or restricted hours of travel restrictions shown on the permit, which violates weekend and holiday travel restrictions shown on the permit, or which violates the restrictions against movement during periods of poor visibility, will be assessed a penalty of \$1,000.00 and the vehicle will be parked at owner's expense and responsibility until the next authorized travel period.

(f) Any vehicle which bypasses an open weigh station will be assessed a penalty of \$1,000.00.

(2) Null and Void Criteria. Any vehicle found to be operating under one or more of the following conditions shall be determined to be out of conformity with the provisions of the permit, in which case the vehicle is considered to be in non-compliance and the permit will be declared to be null and void for that vehicle for that trip. Penalties will be assessed as provided in Sections 316.516 and 316.545, F.S., and the vehicle must remain until the load is brought into compliance or a valid permit is obtained.

(a) The vehicle does not have the required number of axles. Penalty to be assessed for the weight only.

(b) The vehicle has an expired permit. Penalty to be assessed for both weight and size.

(c) The vehicle is not on the route designated on the permit or on an approved route on the multi-trip permit attachments. Penalty to be assessed for both weight and size.

(d) The vehicle is a self-propelled truck crane towing a motor vehicle that exceeds the 5,000 pound limit allowed in Section 316.550, F.S. Penalty to be assessed for weight only.

(e) The vehicle is operating with a permit which has been altered or forged. Penalty to be assessed for both weight and size.

(f) The vehicle is not as represented by the facts on the permit. Penalty to be assessed for both weight and size. This violation will not be applicable if it duplicates another violation noted in a specific citation.

(g) The vehicle contains multiple loading (except as allowed per this rule). Penalty to be assessed based upon the nature of the violation (weight or size).

~~(h) The vehicle was operating during nighttime hours when not allowed by the permit or its attachments. Penalty to be assessed for size only.~~

(i) The tires on the vehicle are smaller than those specified on the permit. Penalty to be assessed for size only.

(j) The vehicle has an outer-bridge dimension which is less than the minimum specified on the permit. Penalty to be assessed for weight only.

(k) The vehicle is being operated under a multi-trip permit and the permit is not accompanied by the attachments described in the permit. Penalty to be assessed based upon the nature of the violation (weight or size).

Rulemaking Authority 316.516(4), 334.044(2) FS. Law Implemented 316.516(4), 316.550(6), (8) FS. History—New 6-23-96, Amended 11-10-98, 2-1-10, 10-4-10, \_\_\_\_\_.

NAME OF PERSON ORIGINATING PROPOSED RULE:  
Tim Lattner, Director, Office of Maintenance  
NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: Ananth Prasad, P.E., Secretary  
DATE PROPOSED RULE APPROVED BY AGENCY HEAD: September 6, 2012  
DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: April 20, 2012

**STATE BOARD OF ADMINISTRATION**

RULE NO.: 19-8.010  
RULE TITLE: Reimbursement Contract  
PURPOSE AND EFFECT: The State Board of Administration of Florida, Florida Hurricane Catastrophe Fund, seeks to amend the rule listed above to implement Section 215.555, F.S.  
SUMMARY: The rule is being amended to adopt the 2013-2014 Reimbursement Contract, including Addenda and Optional Amendment. In addition, obsolete material is being removed.

**SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS AND LEGISLATIVE RATIFICATION:**

The Agency has determined that this will not have an adverse impact on small business or likely increase directly or indirectly regulatory costs in excess of \$200,000 in the aggregate within one year after the implementation of the rule. A SERC has not been prepared by the agency.

The Agency has determined that the proposed rule is not expected to require legislative ratification based on the statement of estimated regulatory costs or if no SERC is required, the information expressly relied upon and described herein: A Reimbursement Contract meeting the requirements set forth in Section 215.555, F.S., must be adopted annually pursuant to Section 215.555(4) and (18)(b), F.S. Upon review of the proposed changes to the upcoming Contract Year’s Reimbursement Contract, which is incorporated into Rule 19-8.010, F.A.C., Reimbursement Contract, the State Board of Administration of Florida has determined that the preparation of a Statement of Estimated Regulatory Costs is not necessary and that this rule does not meet the statutory threshold for ratification by the Legislature. The changes to this rule also do not directly or indirectly have an adverse impact on economic growth, private sector job creation or employment, or private sector investment, business competitiveness, or innovation or

increase regulatory costs, including any transactional costs, in excess of \$1 million in the aggregate within 5 years after the implementation of the rule.

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.

RULEMAKING AUTHORITY: 215.555(3) FS.  
LAW IMPLEMENTED: 215.555(2), (3), (4), (5), (6), (7), (10), (17), (18) 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:

DATE AND TIME: October 22, 2012, 9:00 a.m. – 12:00 Noon (ET)

PLACE: FHCF Conference Room, 1801 Hermitage Blvd., Tallahassee, Florida 32308

Pursuant to the provisions of the Americans with Disabilities Act, any person requiring special accommodations to participate in this workshop/meeting is asked to advise the agency at least 7 days before the workshop/meeting by contacting: Tracy Allen, 1801 Hermitage Blvd., Tallahassee, FL 32308, (850)413-1341, tracy.allen@sbafla.com. If you are hearing or speech impaired, please contact the agency using the Florida Relay Service, 1(800)955-8771 (TDD) or 1(800)955-8770 (Voice).

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Tracy Allen at the number or email listed above.

**THE FULL TEXT OF THE PROPOSED RULE IS:**

19-8.010 Reimbursement Contract.

~~(1) The reimbursement contract for the 1995-1996 contract year required by Section 215.555(4), F.S., which is called Form FHCF 1995K—“Reimbursement Agreement (“Agreement”) between (name of insurer) (the “Company”) NAIC # ( ) and The State Board of Administration of the State of Florida (“SBA”) which administers the Florida Hurricane Catastrophe Fund (“Fund”); rev. 07/95, is hereby adopted and incorporated by reference into this rule.~~

~~(2) The reimbursement contract for the 1996-1997 contract year required by Section 215.555(4), F.S., which is called Form FHCF 1996K—“Reimbursement Agreement (“Agreement”) between (name of insurer) (the “Company”) NAIC # ( ) and The State Board of Administration of the State of Florida (“SBA”) which administers the Florida Hurricane Catastrophe Fund (“Fund”); rev. 05/96, is hereby adopted and incorporated by reference into this rule.~~

~~(3) The reimbursement contract for the 1997-1998 contract year required by Section 215.555(4), F.S., which is called Form FHCF 1997K—“Reimbursement Contract~~

~~(“Contract”) between (name of insurer) (the “Company”)/NAIC # ( ) and The State Board of Administration of the State of Florida (“SBA”) which administers the Florida Hurricane Catastrophe Fund (“Fund”), rev. 05/97, is hereby adopted and incorporated by reference into this rule.~~

~~(4) The reimbursement contract for the 1998 1999 contract year required by Section 215.555(4), F.S., which is called Form FHCF 1998K — “Reimbursement Contract (“Contract”) between (name of insurer) (the “Company”)/NAIC # ( ) and The State Board of Administration of the State of Florida (“SBA”) which administers the Florida Hurricane Catastrophe Fund (“Fund”), rev. 05/98, is hereby adopted and incorporated by reference into this rule.~~

~~(5) The reimbursement contract for the 1999-2000 contract year required by Section 215.555(4), F.S., which is called Form FHCF-1999K — “Reimbursement Contract (“Contract”) between (name of insurer) (the “Company”)/NAIC#( ) and The State Board of Administration of the State of Florida (“SBA”) which administers the Florida Hurricane Catastrophe Fund (“FHCF”), rev. 05/99, is hereby adopted and incorporated by reference into this rule. Addendum No. 1 to the 1999-2000 reimbursement contract, which is called Form FHCF-1999K-1 — “Reimbursement Contract (“Contract”) between (name of insurer) (the “Company”)/NAIC # ( ) and The State Board of Administration of the State of Florida (“SBA”) which administers the Florida Hurricane Catastrophe Fund (“FHCF”), rev. 08/99, is hereby adopted and incorporated by reference into this rule.~~

~~(6) The reimbursement contract for the 2000-2001 contract year required by Section 215.555(4), F.S., which is called Form FHCF 2000K — “Reimbursement Contract (“Contract”) between (name of insurer) (the “Company”)/NAIC #( ) and The State Board of Administration of the State of Florida (“SBA”) which administers the Florida Hurricane Catastrophe Fund (“FHCF”), rev. 05/00, is hereby adopted and incorporated by reference into this rule.~~

~~(7) The reimbursement contract for the 2001 2002 contract year required by Section 215.555(4), F.S., which is called Form FHCF 2001K — “Reimbursement Contract” or “Contract” between (name of insurer) (the “Company”)/NAIC #( ) and The State Board of Administration of the State of Florida (“SBA”) which administers the Florida Hurricane Catastrophe Fund (“FHCF”), rev. 05/01, is hereby adopted and incorporated by reference into this rule.~~

~~(8) The amended reimbursement contract for the 2002-2003 contract year required by Section 215.555(4), F.S., which is called Form FHCF-2002K — “Reimbursement Contract” or “Contract” between (name of insurer) (the “Company”)/NAIC #( ) and The State Board of Administration of the State of Florida (“SBA”) which administers the Florida~~

~~Hurricane Catastrophe Fund (“FHCF”), rev. 05/02, is hereby adopted and incorporated by reference into this rule. This contract is effective from June 1, 2002 through May 31, 2003.~~

~~(9) The reimbursement contract for the 2003 2004 contract year required by Section 215.555(4), F.S., which is called Form FHCF 2003K — “Reimbursement Contract” or “Contract” between (name of insurer) (the “Company”)/NAIC #( ) and The State Board of Administration of the State of Florida (“SBA”) which administers the Florida Hurricane Catastrophe Fund (“FHCF”), rev. 05/03, is hereby adopted and incorporated by reference into this rule. This contract is effective from June 1, 2003 through May 31, 2004.~~

~~(1)(10) The amended reimbursement contract for the 2004-2005 contract year required by Section 215.555(4), F.S., which is called Form FHCF-2004K – “Reimbursement Contract” or “Contract” between (name of insurer) (the “Company”)/NAIC #( ) and The State Board of Administration of the State of Florida (“SBA”) which administers the Florida Hurricane Catastrophe Fund (“FHCF”), rev. 05/04, is hereby adopted and incorporated by reference into this rule. This contract is effective from June 1, 2004 through May 31, 2005.~~

~~(2)(11) The reimbursement contract for the 2005-2006 contract year required by Section 215.555(4), F.S., which is called Form FHCF-2005K – “Reimbursement Contract” or “Contract” between (name of insurer) (the “Company”)/NAIC #( ) and the State Board of Administration of the State of Florida (“SBA”) which administers the Florida Hurricane Catastrophe Fund (“FHCF”), rev. 05/05, is hereby adopted and incorporated by reference into this rule. This contract is effective from June 1, 2005 through May 31, 2006. Addendum No. 1 to the 2005-2006 Reimbursement Contract, which is called Form FHCF-2005K-1 – “Reimbursement Contract (Contract) between (name of insurer) (the Company) / NAIC # ( ) and the State Board of Administration of the State of Florida (SBA) which administers the Florida Hurricane Catastrophe Fund (FHCF), rev. 06/05, is hereby adopted and incorporated by reference into this rule.~~

~~(3)(12) The reimbursement contract for the 2006-2007 contract year, as amended by Addendums 1., 2., and 3., required by Section 215.555(4), F.S., which is called Form FHCF-2006K – “Reimbursement Contract” or “Contract” between (name of insurer) (the “Company”)/NAIC #( ) and the State Board of Administration of the State of Florida (“SBA”) which administers the Florida Hurricane Catastrophe Fund (“FHCF”), rev. 05/06, is hereby adopted and incorporated by reference into this rule. This contract is effective from June 1, 2006 through May 31, 2007.~~

~~(4)(13) The reimbursement contract for the 2007-2008 contract year, including Addendum required by Section 215.555(4), F.S., which is called Form FHCF-2007K – “Reimbursement Contract” or “Contract” between (name of insurer) (the “Company”)/NAIC #( ) and the State Board of Administration of the State of Florida (“SBA”) which~~

administers the Florida Hurricane Catastrophe Fund (“FHCF”), rev. 05/07, is hereby adopted and incorporated by reference into this rule. This contract is effective from June 1, 2007 through May 31, 2008.

~~(5)(14)~~ The reimbursement contract for the 2008-2009 contract year, including all Addenda, required by Section 215.555(4), F.S., which is called Form FHCF-2008K – “Reimbursement Contract” or “Contract” between (name of insurer) (the “Company”)/NAIC #( ) and The State Board of Administration of the State of Florida (“SBA”) which administers the Florida Hurricane Catastrophe Fund (“FHCF”), rev. 05/08, is hereby adopted and incorporated by reference into this rule. This contract is effective from June 1, 2008 through May 31, 2009.

~~(6)(15)~~ The reimbursement contract for the 2009-2010 contract year, including all Addenda, required by Section 215.555(4), F.S., which is called Form FHCF-2009K-“Reimbursement Contract” or “Contract” between (name of insurer) (the “Company”)/NAIC #( ) and The State Board of Administration of the State of Florida (“SBA”) which administers the Florida Hurricane Catastrophe Fund (“FHCF”), rev. 05/09, as amended, is hereby adopted and incorporated by reference into this rule. This contract is effective from June 1, 2009 through May 31, 2010.

~~(7)(16)~~ The reimbursement contract for the 2010-2011 contract year, including all Addenda, required by Section 215.555(4), F.S., which is called Form FHCF-2010K-“Reimbursement Contract” or “Contract” between (name of insurer) (the “Company”)/NAIC #( ) and The State Board of Administration of the State of Florida (“SBA”) which administers the Florida Hurricane Catastrophe Fund (“FHCF”), rev. 05/10, as amended, is hereby adopted and incorporated by reference into this rule. This contract is effective from June 1, 2010 through May 31, 2011.

~~(8)(17)~~ The reimbursement contract for the 2011-2012 contract year, <http://www.flrules.org/Gateway/reference.asp?No=Ref-00518>, including all Amendments and Addenda, <http://www.flrules.org/Gateway/reference.asp?No=Ref-00519>, required by Section 215.555(4), F.S., which is called Form FHCF-2011K-“Reimbursement Contract” or “Contract” between (name of insurer) (the “Company”)/NAIC #( ) and The State Board of Administration of the State of Florida (“SBA”) which administers the Florida Hurricane Catastrophe Fund (“FHCF”), rev. 06/11, is hereby adopted and incorporated by reference into this rule. This contract is effective from June 1, 2011 through May 31, 2012.

~~(9)(18)~~ The reimbursement contract for the 2012-2013 contract year, <http://www.flrules.org/Gateway/reference.asp?No=ref-00777>, including all Amendments and Addenda, required by Section 215.555(4), F.S., which is called Form FHCF-2012K-“Reimbursement Contract” or “Contract” between (name of insurer) (the “Company”)/NAIC #( ) and The State Board of Administration of the State of Florida

(“SBA”) which administers the Florida Hurricane Catastrophe Fund (“FHCF”), rev. 12/11 is hereby adopted and incorporated by reference into this rule. This contract is effective from June 1, 2012 through May 31, 2013.

(10) The reimbursement contract for the 2013-2014 contract year, <http://www.flrules.org/Gateway/reference.asp?No=ref-XXXXX>, including all Amendments and Addenda, required by Section 215.555(4), F.S., which is called Form FHCF-2013K-“Reimbursement Contract” or “Contract” between (name of insurer) (the “Company”)/NAIC #( ) and The State Board of Administration of the State of Florida (“SBA”) which administers the Florida Hurricane Catastrophe Fund (“FHCF”), rev. 12/XX is hereby adopted and incorporated by reference into this rule. This contract is effective from June 1, 2013 through May 31, 2014.

~~(11)(19)~~ Copies of the reimbursement contract may be obtained from the FHCF website, [www.sbafla.com/fhcf](http://www.sbafla.com/fhcf) or by contacting the State Board of Administration. The mailing address is P. O. Box 13300, Tallahassee, Florida 32317-3300. The street address is 1801 Hermitage Blvd., Tallahassee, Florida 32308 and the telephone number is (850)413-1341.

Rulemaking Authority 215.555(3) FS. Law Implemented 215.555 FS. History—New 5-31-94, Amended 8-29-95, 5-19-96, 6-19-97, 5-28-98, 5-17-99, 9-13-99, 6-19-00, 6-3-01, 6-2-02, 11-12-02, 5-13-03, 5-19-04, 8-29-04, 5-29-05, 11-13-05, 5-10-06, 9-5-06, 5-8-07, 8-13-07, 6-8-08, 9-2-08, 3-30-09, 8-23-09, 3-29-10, 8-8-10, 12-12-10, 9-11-11, 12-19-11,\_\_\_\_\_.

NAME OF PERSON ORIGINATING PROPOSED RULE: Jack E. Nicholson, FHCF Chief Operating Officer, State Board of Administration of Florida

NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: The Trustees of the State Board of Administration of Florida

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: September 18, 2012

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: August 10, 2012

**ADMINISTRATION COMMISSION**

RULE NOS.:	RULE TITLES:
28-103.001	Advance Notice of Agency Rulemaking Proceedings
28-103.002	Rule Development Workshops
28-103.003	Negotiated Rulemaking
28-103.004	Public Hearing
28-103.005	Evidentiary Proceeding During Rulemaking
28-103.006	Petitions to Initiate Rulemaking

PURPOSE AND EFFECT: The purpose and effect of the proposed rule amendment is to repeal rules identified during the comprehensive rule review required by Executive Order 11-01 as duplicative, unnecessarily burdensome and no longer necessary.

SUMMARY: The proposed rules are a restatement of statutory language and therefore are duplicative and unnecessary.

**SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS AND LEGISLATIVE RATIFICATION:**

The Agency has determined that this will not have an adverse impact on small business or likely increase directly or indirectly regulatory costs in excess of \$200,000 in the aggregate within one year after the implementation of the rule. A SERC has not been prepared by the agency.

The Administration Commission has determined that the proposed rule repeal is not expected to require legislative ratification based on the fact that the rules are restatement of statutory language and are duplicative and unnecessary.

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.

RULEMAKING AUTHORITY: 120.54(5) FS.

LAW IMPLEMENTED: 120.54(2)(a), 120.54(2)(c), 120.54(2)(d), 120.54(3)(a), 120.54(3)(c), 120.54(3)(c)2., 120.54(5), 120.54(7), 120.525 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: Barbara Leighty, Office of the Governor, Room 1801, The Capitol, Tallahassee, Florida, (850)717-9513

**THE FULL TEXT OF THE PROPOSED RULES IS:**

28-103.001 Advance Notice of Agency Rulemaking Proceedings.

Rulemaking Specific Authority 120.54(5) FS. Law Implemented 120.54(2)(a), (3)(a) FS. History–New 4-1-97, Repealed.

28-103.002 Rule Development Workshops.

Rulemaking Specific Authority 120.54(5) FS. Law Implemented 120.54(2)(c), (5) FS. History–New 4-1-97, Amended 1-15-07, Repealed.

28-103.003 Negotiated Rulemaking.

Rulemaking Specific Authority 120.54(5) FS. Law Implemented 120.54(2)(d) FS. History–New 4-1-97, Repealed.

28-103.004 Public Hearing.

Rulemaking Specific Authority 120.54(5) FS. Law Implemented 120.525, 120.54(3)(c) FS. History–New 4-1-97, Repealed.

28-103.005 Evidentiary Proceeding During Rulemaking.

Rulemaking Specific Authority 120.54(5) FS. Law Implemented 120.54(3)(c)2. FS. History–New 4-1-97, Amended 3-18-98, Repealed.

28-103.006 Petitions to Initiate Rulemaking.

Rulemaking Specific Authority 120.54(5) FS. Law Implemented 120.54(7) FS. History–New 4-1-97, Repealed.

NAME OF PERSON ORIGINATING PROPOSED RULE: Administration Commission

NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: Administration Commission

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: September 18, 2012

**DEPARTMENT OF CORRECTIONS**

RULE NO.: 33-104.101  
 RULE TITLE: News Media Visitors

PURPOSE AND EFFECT: The purpose and effect of the rule amendment is to revise the rules related to news media visitors. The Office of Communications is replacing the Office of Public Affairs in the rule text and in Form DC1-406. Form DC1-406 is also being updated to clarify that a news media visitor can only photograph and record in the interview room while in a correctional facility.

SUMMARY: The Office of Communications is replacing the Office of Public Affairs in the rule text and in Form DC1-406. Form DC1-406 is updated to clarify where a news media visitor may photograph and record when visiting a correctional facility.

**SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS AND LEGISLATIVE RATIFICATION:**

The Agency has determined that this will not have an adverse impact on small business or likely increase directly or indirectly regulatory costs in excess of \$200,000 in the aggregate within one year after the implementation of the rule. A SERC has not been prepared by the agency.

The Agency has determined that the proposed rule is not expected to require legislative ratification based on the statement of estimated regulatory costs or if no SERC is required, the information expressly relied upon and described herein: upon review of the proposed changes to these rules and incorporated forms, the department has determined that the amendments will not exceed any one of the economic analysis criteria in a SERC as set forth in Section 120.541(2)(a), FS.

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.

RULEMAKING AUTHORITY: 944.09 FS.

LAW IMPLEMENTED: 922.11, 944.09, 944.23 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: LaDawna Fleckenstein, 501 South Calhoun Street, Tallahassee, Florida 32399-2500

THE FULL TEXT OF THE PROPOSED RULE IS:

33-104.101 News Media Visitors.

(1) Permission for visits by bona fide news media representatives shall not be unreasonably withheld. This shall apply for visits to inmates other than death sentence inmates with an active death warrant. Rules 33-104.201-.204, F.A.C., shall govern procedures for media interviews with inmates under sentence of death once an execution date has been set. It shall be the responsibility of the news media representatives requesting the visitation to present to the Office of Communications ~~Public Affairs~~ evidence sufficient to establish that such person is a bona fide news media representative and to provide the information sufficiently in advance that it may be verified.

(2) No change.

(3) News media visits to correctional facilities shall be pre-arranged with the Office of Communications ~~Public Affairs~~. There are two (2) types of media visits allowed under this rule: Inmate Interviews and Program Visits. The following conditions apply to both types of visits:

(a) through (f) No change.

(g) Each member of a media crew must fill out Form DC1-406, Media Access Background Form, and pass an NCIC/FCIC background check. Form DC1-406 is hereby incorporated by reference. Copies of the form are available from the Forms Control Administrator, 501 South Calhoun Street, Tallahassee, Florida 32399-2500. The effective date of this form is \_\_\_\_\_ ~~3-9-10~~. Form DC1-406 remains valid for six months from the date of signature.

(h) through (j) No change.

(k) Interviews and photographs of on-duty staff shall be permitted only with prior authorization of the Office of Communications ~~Public Affairs~~ and the staff member.

(4) Inmate Interviews. Media representatives wishing to conduct in-person inmate interviews must:

(a) No change.

(b) Fax the inmate's consent as well as the contact information required by paragraph (3)(a) of this rule to the Office of Communications ~~Public Affairs~~. Media representatives should allow at least two weeks for the interview clearance process. In addition to the provisions of subsection (3) of this rule, the following conditions apply to all inmate interviews:

1. Phone interviews. Phone interviews are not coordinated through the Office of Communications ~~Public Affairs~~. To obtain a phone interview, news media representatives must write the inmate and request to be added to his phone list. The inmate will call you collect at his discretion once you have been added. This process can take several months.

2. through 5. No change.

6. All inmate interviews must be conducted for the purpose of gathering information for a media event. The Office of Communications ~~Public Affairs~~ strives to accommodate as broad a definition of media as possible.

7. through 13. No change.

(5) No change.

Rulemaking Authority 944.09 FS. Law Implemented 922.11, 944.09, 944.23 FS. History—New 10-16-83, Amended 6-20-85, Formerly 33-5.14, 33-5.014, Amended 10-30-02, 3-9-10, \_\_\_\_\_.

NAME OF PERSON ORIGINATING PROPOSED RULE: Ann Howard, Director, Office of Communications  
 NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: Kenneth S. Tucker, Secretary  
 DATE PROPOSED RULE APPROVED BY AGENCY HEAD: September 4, 2012  
 DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: September 7, 2012

**DEPARTMENT OF CORRECTIONS**

RULE NO.: 33-601.240  
 RULE TITLE: Basic Training Program – Inmate Conduct

PURPOSE AND EFFECT: The purpose and effect of the proposed rule is, for a limited purpose, to permit basic training inmates and general population inmates to participate in apprenticeship training.

SUMMARY: To allow communication between basic training inmates and general population inmates during program participation.

**SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS AND LEGISLATIVE RATIFICATION:**

The Agency has determined that this will not have an adverse impact on small business or likely increase directly or indirectly regulatory costs in excess of \$200,000 in the aggregate within one year after the implementation of the rule. A SERC has not been prepared by the agency.

The Agency has determined that the proposed rule is not expected to require legislative ratification based on the statement of estimated regulatory costs or if no SERC is required, the information expressly relied upon and described herein: Upon review of the proposed changes to these rules and incorporated forms, the department has determined that the amendments will not exceed any one of the economic analysis criteria in a SERC as set forth in Section 120.541(2)(a), F.S.

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.

RULEMAKING AUTHORITY: 944.09, 958.045 FS.

LAW IMPLEMENTED: 944.09, 958.045 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: LaDawna Fleckenstein, 501 South Calhoun Street, Tallahassee, Florida 32399-2500

THE FULL TEXT OF THE PROPOSED RULE IS:

33-601.240 Basic Training Program – Inmate Conduct.

(1) Basic training program inmates shall not talk to general population inmates, except as required for program participation.

(2) through (3) No change.

Rulemaking Specific Authority 944.09, 958.045 FS. Law Implemented 944.09, 958.045 FS. History–New 2-26-89, Formerly 33-27.011, 33-506.210, Amended\_\_\_\_\_.

NAME OF PERSON ORIGINATING PROPOSED RULE: James Upchurch, Director, Office of Institutions

NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: Kenneth S. Tucker, Secretary

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: August 17, 2012

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: August 31, 2012

**DEPARTMENT OF CORRECTIONS**

RULE NO.: 33-602.201 RULE TITLE: Inmate Property

PURPOSE AND EFFECT: The purpose and effect of the rule amendment is to revise the rules related to inmate property. The words no mineral oils and no vaseline after moisturizer on the authorized property list were deleted from the rule.

SUMMARY: The words no mineral oils and no vaseline after moisturizer on the authorized property list were deleted.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS AND LEGISLATIVE RATIFICATION:

The Agency has determined that this will not have an adverse impact on small business or likely increase directly or indirectly regulatory costs in excess of \$200,000 in the aggregate within one year after the implementation of the rule. A SERC has not been prepared by the agency.

The Agency has determined that the proposed rule is not expected to require legislative ratification based on the statement of estimated regulatory costs or if no SERC is required, the information expressly relied upon and described herein: upon review of the proposed changes to these rules and incorporated forms, the department has determined that the amendments will not exceed any one of the economic analysis criteria in a SERC as set forth in Section 120.541(2)(a), F.S.

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.

RULEMAKING 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: LaDawna Fleckenstein, 501 South Calhoun Street, Tallahassee, Florida 32399-2500

THE FULL TEXT OF THE PROPOSED RULE IS:

33-602.201 Inmate Property.

(1) through (17) No change.

APPENDIX ONE  
PROPERTY LIST

This list incorporates all property authorized to be possessed by inmates in all department institutions and facilities except community correctional centers. Except for items specified below as “exemptions,” property received must be in compliance with this list. Inmates in possession of property previously approved by the Department of Corrections which meets the description of property on the list shall be allowed to retain the property. Inmates transferring to department facilities from private correctional facilities shall be allowed to retain only those items that are in compliance with the list of authorized property. As items sold in canteens at private facilities may differ from those sold in department canteens, items purchased in canteens at private facilities will not always be admissible in department facilities.

Definitions.

The “quantity” establishes a maximum possession limit. This does not mean that all state issue items will be issued to each inmate, or that the maximum number of items will be issued. All canteen items are subject to availability and may not be available for purchase. Items found in the possession of an inmate that are in excess of the established “quantity” shall be treated as contraband in accordance with Rule 33-602.203, F.A.C. Where there is a “value” indicated, the authorized item shall not exceed that value. The terms “canteen” and “state issue” refer to the sources from which property can be obtained after January 1, 1996. All items with the “canteen” designation shall be available in all institutional canteens or through canteen order. All canteen items are transferable between department institutions. “State issue” means that the institution has the authority to issue this item to inmates based upon the character of the institution, the location of the institution, the housing or work assignment of the inmate, or other factors related to institution or inmate needs. Institutions housing

death row inmates shall make adjustments to this property list when possession of listed items by death row inmates would create a threat to the security of the institution.

Exemptions.

Inmates already in possession of the following previously approved items shall be allowed to retain the items until they are no longer serviceable, but shall not be allowed to replace them with like items.

- Clothing items of a different color than specified on the property list.
- Locks other than V68 series
- Plastic bowls, tumblers, cups and lids
- Pantyhose
- Nail clippers larger than 2-1/2"

CLOTHING			AUTHORIZED PROPERTY LIST	
Quantity	Unit	Value	Articles	
1	each		Athletic Bra (canteen – female only)	
1	each		Belt (state issue)	
4	each		Bras (state issue or canteen – female only)	
1	each		Coat (state issue)	
1	pair		Gloves, work (state issue)	
4	each		Handkerchief, cotton, white only (canteen)	
1	each		Hats (state issue)	
2	pair		Pajamas – long (state issue or canteen)	
			Light blue or white – female only	
			Light blue – male	
7	each		Panties (state issue or canteen – female only)	
3	each		Pants (state issue)	
1	each		Raincoat or Poncho – clear (state issue or canteen)	
1	each		Robe (state issue – female only)	
3	each		Shirt, outer (state issue)	
4	each		Shirt, T-Shirt (state issue or canteen order – gray for female, white for male) *inmates may possess both state-issue and canteen-purchased shirts, but the total combined number cannot exceed 4.	
1	pair		Shoes, Athletic (canteen)	
1	pair		Shoes, Work (canteen or state issue)	
2	each		Shorts, athletic (navy blue) (canteen)	
1	each		Shower cap, clear only (female only) (canteen)	
1	pair		Shower slides (canteen)	
6	pair		Socks (state issue or canteen)	
1	each		Supporter, athletic (male only) (canteen)	
2	each		Sweatshirts (gray only) (canteen order)	
4	each		Undershorts (male only) (state issue or canteen)	
2	each		Underwear, thermal (state issue or canteen)	
PERSONAL ARTICLES				
Quantity	Unit	Value	Articles	
Number in use			Batteries (canteen)	
25	each		Roller clips – plastic only (females only), (canteen)	
*			Books (legal, educational, religious, fiction) – *	
			Quantity as specified by Rule 33-501.401, F.A.C.	
1	each		Bowl – plastic (canteen)	
1	package		Breath tablets (canteen)	
1	each		Calendar, as specified by Rule 33-501.401, F.A.C.	
*			Canteen purchases – * limited by approved storage space;	
1	each		Canteen bag (canteen)	
1	set		Checkers (light wood or plastic, standard checkers only) (canteen order)	
1	set		Chess (light wood or plastic, 2 inches max. height) (canteen order)	
1	each		Coffee mug – plastic (canteen)	
1	each		Comb-pocket type, no handles (non-metal) (state issue or canteen)	
*			Correspondence – * limited by storage space limitations	
1	pack		Cotton swabs (plastic or paper stems only) (canteen)	
2	each		Crème rinse and conditioner (canteen)	



1	each	Cup, drinking – plastic (canteen)
1	package	Dental floss, (floss loops only), unwaxed (canteen)
1	each	Denture adhesive (state issue or canteen)
1	each	Denture cup (canteen order)
2	each	Deodorant and antiperspirant (no aerosols) (canteen)
1	set	Domino (light wood or plastic, standard size) (canteen order)
1	Set	Earbuds (canteen)
1	pair	Earphone pads (replacement) (canteen order)
1	pair	Ear rings, post type (female only) (canteen order)
*		Educational supplies (items must be pre-approved for vocational education or correspondence study programs. Items are authorized only for the duration of the course)
1	pack	Emery board – cardboard (canteen)
25	each	Envelopes – legal (#10 size) (canteen)
5	each	Envelopes – oversized (10" x 13") (canteen)
*		Envelopes, self-addressed stamped – * the total in the inmate’s possession shall not exceed the limit of 1 pack.
2	each	Eyeglasses, case, contact lens and solutions (state issue or personal; “personal” means that inmates already in possession of these items will be allowed to retain them, but any future items will be provided by the institution if needed.) Contact lenses will only be provided if medically indicated
1	each	Eye shadow, eyeliner, mascara, eyebrow pencil, blemish preparation, lipstick, blemish and spot cover-up, lip coloring (female only) (canteen)
1	box	Feminine hygiene products (internal and external) (female only) (state issue or canteen)
*		File folders (*limited by storage space)
20		Greeting cards and accompanying envelopes
1	each	Hairbrush – nonmetal, handles for females only (canteen)
2	each	Hairdressing (styling gel, pink oil, cholesterol, perm kit – female only) (no aerosols) (canteen)
1	each	Hair net (female only) (canteen)
25	each	Hair rollers (female only) (canteen)
2	each	Handballs or racketballs (canteen)
1	each	Headphones for use with radio (canteen)
Maximum weekly dosage		Health aids – headache and cold remedies, antacids, antifungal preparations, cough drops, nasal spray, etc. No imidazoline, tetrahydrozoline, or hydrochloride compounds (canteen – as approved by health services)
2	each	Hearing aid (state issue or personal)
*		Hobby craft – at locations where program exists and subject to storage space limitations
1	each	Insect repellent (canteen)
1	each	Jigsaw puzzle (canteen order)
1	Each	Keyboard (canteen)
1	each	Laundry bag (state issue or canteen)
1	each	Lip balm (canteen)
1	each	Locks, combination (V68 series) (canteen)
1	each	Make-up bag, clear only (female only) (canteen)
1	each	Mirror – plastic, nonbreakable, 5" x 7" max. (canteen)
1	each	Moisturizer – <del>no mineral oils, no vaseline</del> (canteen)
1	each	Mouthwash (canteen)
1	each	MP3 Player (canteen)
1	Each	MP3 Player arm band holder (canteen)
1	each	Nail clippers, not to exceed 2 1/2" (canteen)
2	pack	Notebook paper (canteen)

4	each		Pens, ballpoint, flair-type, pencils with erasers, or security pens,
			no markers (canteen)
*			Periodicals – * as specified by Rule 33-501.401, F.A.C., and storage space limitations
1	each		Photo album, non-metal (canteen)
50	each		Photographs (personal)
2	decks		Playing cards (standard) (canteen)
5	each		Pony tail holder (fabric) or hair claws (plastic) (female only)
1	each		P.R.I.D.E. service pin (issued to inmate from P.R.I.D.E.)
*			Prosthesis – * as approved by health services
1	each	50.00	Radio, DC/AM/FM only, “Walkman” type, maximum 4" × 5" (canteen)
1	each		Razor, disposable (state issue)
1	each	50.00	Razor, battery operated, non-rechargeable (canteen order)
*			Religious requirements – as approved by chaplaincy services, (examples: head covering, prayer rug)
1	each	50.00	Religious medallion with chain (personal or provided by Chaplain)
1	each	100.00	Ring, engagement (personal, female only)
1	each	100.00	Ring, wedding (personal)
1	each		Roller cap, clear only (female only) (canteen)
1	set		Scrabble (canteen order)
1	each		Screen protector (canteen)
2	each		Shampoo (canteen)
1	each		Shaving cream (canteen)
1	each		Shaving powder (canteen)
1	pair		Shoe laces (canteen)
1	each		Shoe wax (Liquid only, non flammable, no nitrobenzene; canteen)
2	each		Soap, bath (state issue or canteen)
1	each		Soap dish (canteen)
1	each		Soap, laundry (female only) (canteen)
*			Special needs – * special devices as approved for compliance with medical needs
1	each		Spoon, plastic (canteen)
40	each		Stamps (the equivalent of 40 1-ounce 1st class) (canteen)
1	each		Sunglasses, no mirror type (canteen)
1	each		Sunscreen lotion (canteen)
1	each		Talcum powder (canteen)
1	each		Toilet Paper (state issue or canteen)
1	each		Toothbrush (state issue or canteen)
1	each		Toothbrush holder (canteen)
2	each		Toothpaste and Toothpaste with mouthwash (state issue or canteen)
2	each		Towels (state issue)
1	each		Wallet (canteen)
1	each	50.00	Watch (personal or canteen)
1	each		Watch band (nylon and Velcro only) (canteen)
2	each		Washcloths (state issue or canteen)

Rulemaking Authority 944.09 FS. Law Implemented 944.09 FS. History—New 6-4-81, Formerly 33-3.025, Amended 11-3-87, 11-13-95, 5-20-96, 1-8-97, 6-1-97, 7-6-97, 10-15-97, 2-15-98, 3-16-98, 8-4-98, 12-7-98, Formerly 33-3.0025, Amended 11-21-00, 9-12-01, 5-16-02, 7-8-03, 8-18-04, 1-25-05, 10-23-06, 2-27-08, 12-25-08, 1-25-10, 7-4-10, 10-26-11, 8-19-12, \_\_\_\_\_.

NAME OF PERSON ORIGINATING PROPOSED RULE:  
James Upchurch, Deputy Assistant Secretary, Office of Institutions

NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: Kenneth S. Tucker, Secretary  
DATE PROPOSED RULE APPROVED BY AGENCY HEAD: August 17, 2012  
DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: August 31, 2012

**WATER MANAGEMENT DISTRICTS**

**Southwest Florida Water Management District**

RULE NOS.:	RULE TITLES:
40D-3.037	Rules, Publications and Agreements Incorporated by Reference
40D-3.507	Casing and Liner Pipe Standards
40D-3.517	Grouting and Sealing

PURPOSE AND EFFECT: The purpose of this rulemaking is to amend Rule 40D-3.037, F.A.C., to incorporate Chapters 62-528 (Underground Injection Control) and 62-532 (Water Well Permitting and Construction), F.A.C., which were recently amended by the Florida Department of Environmental Protection (Department). The rulemaking will also amend Rules 40D-3.507 and 40D-3.517, F.A.C., to reference those sections of Chapters 62-528 and 62-532, F.A.C., that were renumbered as a result of the amendments undertaken by the Department. The rulemaking will ensure consistency between the rules of the District and the Department governing well construction.

SUMMARY: Modification of District Rules Requiring Well Construction Permits.

**SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS AND LEGISLATIVE RATIFICATION:**

The Agency has determined that this will not have an adverse impact on small business or likely increase directly or indirectly regulatory costs in excess of \$200,000 in the aggregate within one year after the implementation of the rule. A SERC has not been prepared by the agency.

The Agency has determined that the proposed rule is not expected to require legislative ratification based on the statement of estimated regulatory costs or if no SERC is required, the information expressly relied upon and described herein: This rulemaking will not result in increased costs to small businesses or other regulated entities as a result of the proposed amendments. Therefore, this rulemaking will not result in any adverse economic impacts or regulatory cost increases that require a Statement of Estimated Regulatory Costs or legislative ratification.

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.

RULEMAKING AUTHORITY: 373.044, 373.113, 373.171, 373.309, 373.337 FS.

LAW IMPLEMENTED: 373.046, 373.103, 373.306, 373.308, 373.309, 373.323, 373.324, 373.333 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: The Southwest Florida Water Management District Human Resources Director, 2379 Broad Street, Brooksville, Florida 34604-6899; telephone (352)796-7211, ext. 4702 or 1(800)423-1476 (FL only), ext. 4702; TDD (FL only) 1(800)231-6103 or email to ADACoordinator@swfwmd.state.fl.us. If you are hearing or speech impaired, please contact the agency using the Florida Relay Service, 1(800)955-8771 (TDD) or 1(800)955-8770 (Voice).

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULES IS: Sonya White, Office of General Counsel, Southwest Florida Water Management District, 7601 U.S. Highway 301 North, Tampa, FL 33637-6759, (813)985-7481 Ext. 4660. (OGC File No. 2012020).

**THE FULL TEXT OF THE PROPOSED RULES IS:**

40D-3.037 Rules, Publications and Agreements Incorporated by Reference.

(1) The regulations promulgated by the Department governing Underground Injection Control as set forth in Chapter 62-528, F.A.C. (2-16-12), the construction of water wells as set forth in Chapter 62-532, F.A.C. ~~(2-16-12)~~ ~~(3-28-02)~~, the construction of water wells in delineated areas as set forth in Chapter 62-524, F.A.C. (6-27-00), the licensing requirements for Water Well Contractors as set forth in Chapter 62-531, F.A.C. (11-25-07), and the construction of public supply water wells as set forth in Chapter 62-555, F.A.C. (1-17-05), are hereby incorporated by reference and made a part of this rule and shall apply to all water wells constructed, repaired, modified or abandoned in the District. The regulations can be obtained from the Department's Division of Water Resource Management, 2600 Blair Stone Road, Tallahassee, Florida 32399-2400.

(2) through (5) No change.

Rulemaking Authority 373.044, 373.113, 373.309 FS. Law Implemented 373.046, 373.103, 373.308, 373.309, 373.323, 373.324, 373.333 FS. History—New 7-1-90, Amended 12-31-92, 4-11-94, 6-27-94, 9-22-94, 7-5-95, 10-19-95, 7-15-99, 6-23-03, 1-8-04, 8-19-08, 1-5-09, 8-30-09, 11-2-09, 6-7-10,\_\_\_\_\_.

40D-3.507 Casing and Liner Pipe Standards.

(1) through (2) No change.

(3) Telescoped casings may be used provided that casings of different diameters are joined with an appropriate overlap and any annular space including the overlapped section shall be grouted in accordance with subparagraph 62-532.500~~(3)(i)(2)(f)~~4., F.A.C. To prevent interchanges of water when multiple aquifers or zones are penetrated, grout shall extend from the bottom of the casing to the top of the innermost casing. The use of lead packers for this purpose is prohibited.

(a) through (b) No change.

(4) through (5) No change.

Rulemaking Specific Authority 373.044, 373.113, 373.171, 373.309, 373.337 FS. Law Implemented 373.306, 373.308, 373.309 FS. History—New 7-1-90, Amended 9-30-91, 12-31-92, 2-19-04,\_\_\_\_\_.

40D-3.517 Grouting and Sealing.

Wells shall be grouted and sealed in accordance with paragraph 62-532.500(3)(i)(2)(f), F.A.C., and this section, to protect the water resource from degradation caused by movement of waters along the well annulus either from the surface to the aquifer or between aquifers, and to prevent loss of artesian pressure in artesian aquifers.

(1) All wells that are constructed in a manner which creates an annular space between the casing and the naturally occurring geologic formations shall be grouted and sealed in accordance with the methodologies listed in subparagraph 62-532.500(3)(i)(2)(d)4, F.A.C., and this section. The use of lead packers for this purpose is prohibited.

(2) through (3) No change.

Rulemaking Authority 373.044, 373.113, 373.171, 373.309, 373.337 FS. Law Implemented 373.306, 373.308, 373.309 FS. History—New 7-1-90, Amended 9-30-91, 12-31-92, 12-12-11,\_\_\_\_\_.

NAME OF PERSON ORIGINATING PROPOSED RULE: Christopher Pettit, Staff Attorney, Southwest Florida Water Management District

NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: Southwest Florida Water Management District Governing Board

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: August 28, 2012

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: September 21, 2012

**WATER MANAGEMENT DISTRICTS**

**Southwest Florida Water Management District**

RULE NO.: 40D-3.041 RULE TITLE: Permits Required

PURPOSE AND EFFECT: The purpose of this rulemaking is to amend Rule 40D-3.041, F.A.C., to incorporate the statutory exemptions established in Section 373.326, F.S., by Chapter 2012-205, Laws of Florida. The effect of this rulemaking will be that the District will require permits for only those wells identified as Class V, Group 1, pursuant to subsection 62-528.600(2)(a), F.A.C.

SUMMARY: Chapter 2012-205, Laws of Florida, amended Section 373.326, F.S., to exempt from the permitting requirements of Part III of Chapter 373, F.S., those wells identified in Chapter 62-528, F.A.C., as Class I, II, III, IV, or Class V Groups 2-9. Rule 40D-3.041, F.A.C., previously required well construction permits for all injection wells. The proposed rule changes will amend Rule 40D-3.041, F.A.C., to require permits for those wells not exempted in Section 373.326, F.S.

**SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS AND LEGISLATIVE RATIFICATION:**

The Agency has determined that this will not have an adverse impact on small business or likely increase directly or indirectly regulatory costs in excess of \$200,000 in the aggregate within one year after the implementation of the rule. A SERC has not been prepared by the agency.

The Agency has determined that the proposed rule is not expected to require legislative ratification based on the statement of estimated regulatory costs or if no SERC is required, the information expressly relied upon and described herein: This rulemaking will not result in increased costs to small businesses or other regulated entities as a result of the proposed amendments. Therefore, this rulemaking will not result in any adverse economic impacts or regulatory cost increases that require a Statement of Estimated Regulatory Costs or legislative ratification.

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.

RULEMAKING AUTHORITY: 373.044, 373.113, 373.171, 373.309, 373.337 FS.

LAW IMPLEMENTED: 373.106, 373.306, 373.308, 373.309, 373.313, 373.316 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: The Southwest Florida Water Management District Human Resources Director, 2379 Broad Street, Brooksville, Florida 34604-6899, telephone (352)796-7211, ext. 4702 or 1(800)423-1476 (FL only), ext. 4702; TDD (FL only) 1(800)231-6103 or email to ADACoordinator@swfwmd.state.fl.us. If you are hearing or speech impaired, please contact the agency using the Florida Relay Service, 1(800)955-8771 (TDD) or 1(800)955-8770 (Voice).

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Sonya White, Office of General Counsel, Southwest Florida Water Management District, 7601 Highway 301 North, Tampa, FL 33637-6759, (813)985-7481 (4660) (OGC #2012021)

**THE FULL TEXT OF THE PROPOSED RULE IS:**

40D-3.041 Permits Required.

(1) Unless expressly exempted by statute or District rule, a permit must be obtained from the District prior to construction, repair, modification or abandonment of any water well, including:

- (a) through (f) No change.
- (g) Injection wells identified as Class V, Group 1, pursuant to subsection 62-528.600(2)(a), F.A.C.
- (h) through (i) No change.
- (2) No change.

Rulemaking Specific Authority 373.044, 373.113, 373.171, 373.309, 373.337 FS. Law Implemented 373.106, 373.306, 373.308, 373.309, 373.313, 373.316 FS. History—Readopted 10-5-74, Amended 12-31-74, 12-1-77, 2-4-79, 11-8-82, Formerly 16J-3.06(2)-(5), 16J-3.10, Amended 7-1-90, 9-30-91, 12-31-92, \_\_\_\_\_.

NAME OF PERSON ORIGINATING PROPOSED RULE: Christopher Pettit, Staff Attorney, Southwest Florida Water Management District  
 NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: Southwest Florida Water Management District Governing Board  
 DATE PROPOSED RULE APPROVED BY AGENCY HEAD: August 28, 2012  
 DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: September 21, 2012

**WATER MANAGEMENT DISTRICTS**

**Southwest Florida Water Management District**  
 RULE NO.: 40D-3.341  
 RULE TITLE: Suspension, Revocation and Cancellation of Permits

PURPOSE AND EFFECT: The purpose and effect of this rulemaking is to amend Rule 40D-3.341, F.A.C., to allow a property owner or party in legal control of a property to request the District to administratively cancel a well construction permit, provided that no activity has taken place under the permit.

SUMMARY: The District requires applicants for well construction permits to have a current and valid Water Well Contractor’s License prior to issuance of a well construction permit. Rule 40D-3.341, F.A.C., provides that the District may administratively cancel a well construction permit upon the request of the permittee or the permittee’s authorized agent, provided no activity has taken place under the permit. As a result, property owners or parties in legal control of a property currently do not have the ability to request that the District administratively cancel a well construction permit. The proposed rule changes will amend Rule 40D-3.341, F.A.C., to allow a property owner or party in legal control of a property to request that the District administratively cancel a well construction permit, provided that no activity has taken place under the permit.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS AND LEGISLATIVE RATIFICATION:

The Agency has determined that this will not have an adverse impact on small business or likely increase directly or indirectly regulatory costs in excess of \$200,000 in the aggregate within one year after the implementation of the rule. A SERC has not been prepared by the agency.

The Agency has determined that the proposed rule is not expected to require legislative ratification based on the statement of estimated regulatory costs or if no SERC is required, the information expressly relied upon and described herein: This rulemaking will not result in increased costs to small businesses or other regulated entities as a result of the proposed amendments. Therefore, this rulemaking will not result in any adverse economic impacts or regulatory cost increases that require a Statement of Estimated Regulatory Costs or legislative ratification.

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.

RULEMAKING AUTHORITY: 373.044, 373.113, 373.171, 373.309, 373.337 FS.

LAW IMPLEMENTED: 373.306, 373.309, 373.313 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: The Southwest Florida Water Management District Human Resources Director, 2379 Broad Street, Brooksville, Florida 34604-6899; telephone (352)796-7211, ext. 4702 or 1(800)423-1476 (FL only), ext. 4702; TDD (FL only) 1(800)231-6103 or email to ADACoordinator@swfwmd.state.fl.us. If you are hearing or speech impaired, please contact the agency using the Florida Relay Service, 1(800)955-8771 (TDD) or 1(800)955-8770 (Voice).

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Sonya White, Office of General Counsel, Southwest Florida Water Management District, 7601 Highway 301 North, Tampa, FL 33637-6759, (813)985-7481 (4660) (OGC #2012022)

THE FULL TEXT OF THE PROPOSED RULE IS:

- 40D-3.341 Suspension, Revocation and Cancellation of Permits.
  - (1) No change.
  - (2) The District may administratively cancel a permit:
    - (a) Upon the request of the permittee or permittee’s authorized agent, and confirmation by the District that no activity has taken place under the permit; or-

(b) Upon the written request of the property owner or party in legal control of the subject property and confirmation by the District that no activity has taken place under the permit.

Rulemaking Specific Authority 373.044, 373.113, 373.171, 373.309, 373.337 FS. Law Implemented 373.306, 373.309, 373.313 FS. History—Readopted 10-5-74, Formerly 16J-3.11(4), Amended 7-1-90, 7-2-98, 2-1-05, \_\_\_\_\_.

NAME OF PERSON ORIGINATING PROPOSED RULE: Christopher Pettit, Staff Attorney, Southwest Florida Water Management District

NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: Southwest Florida Water Management District Governing Board

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: August 28, 2012

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: September 21, 2012

**WATER MANAGEMENT DISTRICTS**

**Southwest Florida Water Management District**

RULE NO.: 40D-8.624  
 RULE TITLE: Guidance and Minimum Levels for Lakes

PURPOSE AND EFFECT: The purpose and effect of this rulemaking is to amend Rule 40D-8.624, F.A.C., to establish minimum and guidance levels for Lake Hooker in Hillsborough County, FL pursuant to Section 373.042, Florida Statutes.

SUMMARY: Section 373.042, F.S., requires the District to establish minimum flows and levels for water bodies located within the District. The District is required to maintain and submit a priority list of water bodies to the DEP indicating the schedule for the establishment of minimum flows and levels. This rulemaking will establish minimum and guidance levels for Lake Hooker in Hillsborough County, Florida, one of the District’s listed priority waters. A minimum level is the level of surface water at which further water withdrawals would be significantly harmful to the water resources of the area.

**SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS AND LEGISLATIVE RATIFICATION:**

The Agency has determined that this will not have an adverse impact on small business or likely increase directly or indirectly regulatory costs in excess of \$200,000 in the aggregate within one year after the implementation of the rule. A SERC has not been prepared by the agency.

The Agency has determined that the proposed rule is not expected to require legislative ratification based on the statement of estimated regulatory costs or if no SERC is required, the information expressly relied upon and described herein: This rulemaking will not result in increased costs to small businesses or other regulated entities as a result of the

proposed amendments. Therefore, this rulemaking will not result in any adverse economic impacts or regulatory cost increases that require a Statement of Estimated Regulatory Costs or legislative ratification.

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.

RULEMAKING AUTHORITY: 373.044, 373.113, 373.171 FS.

LAW IMPLEMENTED: 373.036, 373.042, 373.0421, 373.086, 373.709 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: The Southwest Florida Water Management District Human Resources Director, 2379 Broad Street, Brooksville, Florida 34604-6899, telephone (352)796-7211, ext. 4702 or 1(800)423-1476 (FL only), ext. 4702; TDD (FL only) 1(800)231-6103 or email to ADACoordinator@swfwmd.state.fl.us. If you are hearing or speech impaired, please contact the agency using the Florida Relay Service, 1(800)955-8771 (TDD) or 1(800)955-8770 (Voice).

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Christina Uranowski, Southwest Florida Water Management District, 2379 Broad Street, Brooksville, FL 34604-6899, (352)796-7211, extension 4271. (OGC File No. 2012013)

**THE FULL TEXT OF THE PROPOSED RULE IS:**

- 40D-8.624 Guidance and Minimum Levels for Lakes.
- (1) through (11) No change.
- (12) Levels for lakes established during or after August 7, 2000, are set forth in the following table. After the High Minimum Lake Level and Minimum Lake Level elevation for each lake is a designation indicating the Method used, as described in subsection 40D-8.624(8), F.A.C., to establish the level. Compliance with the High Minimum and Minimum Lake Levels is determined pursuant to paragraphs (6)(b) and (7)(b) above. Guidance Levels established prior to August 7, 2000, are set forth in Table 8-3 in subsection 40D-8.624(13), F.A.C., below.

Table 8-2 Minimum and Guidance Levels Established During or After August 7, 2000. Levels are elevations, in feet above the National Geodetic Vertical Datum of 1929.

Location by County and Basin	Name of Lake and Section, Township and Range Information	High Guidance Level	High Minimum Lake Level	Minimum Lake Level	Low Guidance Level
(a) – (j) No change.					
(k) In Hillsborough County Within the Northwest Hillsborough River Basin	Hooker, Lake S-1,12, T-29, R-20	43.9'	43.7' (CAT 3)	42.1' (CAT 3)	40.8
	Stemper, Lake S-13, T-27, R-18 (Levels in feet NGVD)	61.2'	60.8' (CAT 1)	59.4' (CAT 1)	59.1'
(l) – (cc) No change.					

(13) Guidance Levels established for lakes prior to August 7, 2000, are set forth in the following table:

Table 8-3 Guidance Water Levels adopted prior to August 7, 2000

Location of Impoundment by County and Basin	High Level in Feet Above Mean Sea Level (msl)	Low Level in Feet Above Mean Sea Level (msl)	Extreme Low Level in Feet Above Mean Sea Level (msl)
(a)-(j) No change.			
(k) In Hillsborough County Within the Hillsborough River Basin LAKES			
Bellows, Lake (East Lake)	23.75'	21.50'	19.00'
Burrell, Lake	50.00'	47.50'	45.00'
Commiston, Lake	63.00'	60.50'	59.00'
Eckles, Lake	32.50'	30.00'	28.00'
Egypt, Lake	37.50'	35.00'	32.50'
Gornito, Lake	38.50'	36.00'	34.00'
Hanna, Lake	62.50'	59.50'	58.25'
Hart, Lake	66.00'	64.00'	63.00'
Hog Island, Lake	66.00'	64.00'	61.00'
Hooker, Lake	45.00'	43.00'	42.00'
Kathy, Lake	43.50'	42.50'	42.00'
Keene, Lake	63.00'	60.50'	59.00'
Kell, Lake	66.00'	63.50'	62.50'
Long, Lake	50.25'	48.00'	46.00'
Long Pond	46.50'	44.00'	42.00'
Mud, Lake (Lake Walden)	115.00'	112.50'	110.50'
Thonotosassa, Lake	37.00'	34.50'	33.00'
Unnamed Lake	63.00'	60.50'	59.00'
Unnamed Lake	61.00'	58.50'	57.00'
Valrico, Lake	45.00'	42.50'	41.00'
Weeks, Lake	43.25'	41.00'	39.50'
(l) – (cc) No change.			

Rulemaking Authority 373.044, 373.113, 373.171 FS. Law Implemented 373.036, 373.042, 373.0421, 373.086, 373.709 FS. History—New 6-7-78, Amended 1-22-79, 4-27-80, 10-21-80, 12-22-80, 3-23-81, 4-14-81, 6-4-81, 10-15-81, 11-23-81, 1-5-82, 3-11-82, 5-10-82, 7-4-82, 9-2-82, 11-8-82, 1-10-83, 4-3-83, 7-5-83, 9-5-83, 10-16-83, 12-12-83, 5-8-84, 7-8-84, 12-16-84, 2-7-85, 5-13-85, 6-26-85, 11-3-85, 3-5-86, 6-16-86, Formerly 16J-8.678, Amended 9-7-86, 2-12-87, 9-2-87, 2-18-88, 6-27-88, 2-22-89, 3-23-89, 9-26-89, 7-26-90, 10-30-90, 3-3-91, 9-30-91, 10-7-91, 7-26-92, 3-1-93, 5-11-94, 6-6-96, 2-23-97, 8-7-00, 1-8-04, 12-21-04 (13), 12-21-04 (13), 6-5-05, 5-2-06, 1-1-07, 2-12-07, 1-10-08, 2-18-08, 4-7-08, 5-20-08, 5-10-09, 4-13-11\_\_\_\_\_.

NAME OF PERSON ORIGINATING PROPOSED RULE: Christopher Pettit, Staff Attorney, Southwest Florida Water Management District

NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: Southwest Florida Water Management District Governing Board

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: August 28, 2012

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: September 21, 2012

**DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION**

**Board of Architecture and Interior Design**

RULE NO.: 61G1-13.002                      RULE TITLE: Credit for Experience

PURPOSE AND EFFECT: The Board proposes the rule repeal based on changes to Section 481.211, F.S., effective July 1, 2012.

SUMMARY: Based on changes to Section 481.211, F.S., effective July 1, 2012, the rule will be repealed.

**SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS AND LEGISLATIVE RATIFICATION:**

The Agency has determined that this will not have an adverse impact on small business or likely increase directly or indirectly regulatory costs in excess of \$200,000 in the aggregate within one year after the implementation of the rule. A SERC has not been prepared by the agency.

The Agency has determined that the proposed rule is not expected to require legislative ratification based on the statement of estimated regulatory costs or if no SERC is required, the information expressly relied upon and described herein: During discussion of the economic impact of this rule at its Board meeting, the Board, based upon the expertise and experience of its members, determined that a Statement of Estimated Regulatory Costs (SERC) was not necessary and that the rule will not require ratification by the Legislature. No person or interested party submitted additional information regarding the economic impact at that time.

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.

RULEMAKING AUTHORITY: 481.2055, 481.211, 481.213(6) FS.

LAW IMPLEMENTED: 481.211 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: Anthony Spivey, Executive Director, Board of Architecture and Interior Design, 1940 North Monroe Street, Tallahassee, Florida 32399-0750

THE FULL TEXT OF THE PROPOSED RULE IS:

61G1-13.002 Credit for Experience.

Rulemaking Authority 481.2055, 481.211, 481.213(6) Law Implemented 481.211 History—New 12-23-79, Formerly 21B-13.02, 21B-13.002, Repealed\_\_\_\_\_.

NAME OF PERSON ORIGINATING PROPOSED RULE: Board of Architecture and Interior Design

NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: Board of Architecture and Interior Design

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: July 17, 2012

**DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION**

**Board of Architecture and Interior Design**

RULE NO.: 61G1-13.0021                      RULE TITLE: Intern Development Program

PURPOSE AND EFFECT: The Board proposes the rule repeal based on changes to Section 481.211, F.S., effective July 1, 2012, and the changes to Rule 61G1-13.001, F.A.C.

SUMMARY: Based on new legislation, the rule will be repealed.

**SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS AND LEGISLATIVE RATIFICATION:**

The Agency has determined that this will not have an adverse impact on small business or likely increase directly or indirectly regulatory costs in excess of \$200,000 in the aggregate within one year after the implementation of the rule. A SERC has not been prepared by the agency.

The Agency has determined that the proposed rule is not expected to require legislative ratification based on the statement of estimated regulatory costs or if no SERC is required, the information expressly relied upon and described herein: During discussion of the economic impact of this rule at its Board meeting, the Board, based upon the expertise and experience of its members, determined that a Statement of



Estimated Regulatory Costs (SERC) was not necessary and that the rule will not require ratification by the Legislature. No person or interested party submitted additional information regarding the economic impact at that time.

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.

RULEMAKING AUTHORITY: 481.211, 481.213(6) FS.

LAW IMPLEMENTED: 481.211, 481.213(3)(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: Anthony Spivey, Executive Director, Board of Architecture and Interior Design, 1940 North Monroe Street, Tallahassee, Florida 32399-0750

THE FULL TEXT OF THE PROPOSED RULE IS:

61G1-13.0021 Intern Development Program.

Rulemaking Authority 481.211, 481.213(6) FS. Law Implemented 481.211, 481.213(3)(c) FS. History—New 2-1-82, Amended 7-30-85, Formerly 21B-13.021, 21B-13.0021, Amended 1-10-99, 8-9-99, Repealed.

NAME OF PERSON ORIGINATING PROPOSED RULE: Board of Architecture and Interior Design

NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: Board of Architecture and Interior Design  
DATE PROPOSED RULE APPROVED BY AGENCY HEAD: July 17, 2012

**DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION**

**Board of Architecture and Interior Design**

RULE NO.: 61G1-13.003  
RULE TITLE: Educational Requirements

PURPOSE AND EFFECT: The Board proposes the rule repeal in that there is no longer statutory authority for the rule based upon changes to Section 481.209, F.S., effective July 1, 2012.

SUMMARY: Based on changes to Section 481.209, F.S., effective July 1, 2012, the rule will be repealed.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS AND LEGISLATIVE RATIFICATION:

The Agency has determined that this will not have an adverse impact on small business or likely increase directly or indirectly regulatory costs in excess of \$200,000 in the aggregate within one year after the implementation of the rule. A SERC has not been prepared by the agency.

The Agency has determined that the proposed rule is not expected to require legislative ratification based on the statement of estimated regulatory costs or if no SERC is required, the information expressly relied upon and described herein: During discussion of the economic impact of this rule at its Board meeting, the Board, based upon the expertise and experience of its members, determined that a Statement of Estimated Regulatory Costs (SERC) was not necessary and that the rule will not require ratification by the Legislature. No person or interested party submitted additional information regarding the economic impact at that time.

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.

RULEMAKING AUTHORITY: 481.209(1)(b), 481.2055 FS.

LAW IMPLEMENTED: 481.209(1)(b), 481.203(6) 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: Anthony Spivey, Executive Director, Board of Architecture and Interior Design, 1940 North Monroe Street, Tallahassee, Florida 32399-0750

THE FULL TEXT OF THE PROPOSED RULE IS:

61G1-13.003 Educational Requirements.

Rulemaking Authority 481.209(1)(b), 481.2055 FS. Law Implemented 481.209(1)(b), 481.203(6) FS. History—New 12-23-79, Amended 11-26-80, 6-12-84, 1-20-85, Formerly 21B-13.03, Amended 4-16-87, 4-21-88, 6-13-90, 1-3-93, Formerly 21B-13.003, Repealed.

NAME OF PERSON ORIGINATING PROPOSED RULE: Board of Architecture and Interior Design

NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: Board of Architecture and Interior Design  
DATE PROPOSED RULE APPROVED BY AGENCY HEAD: July 17, 2012

**DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION**

**Board of Architecture and Interior Design**

RULE NO.: 61G1-21.002  
RULE TITLE: Organization and Administration

PURPOSE AND EFFECT: The Board proposes the rule repeal based upon changes to Section 455.2179, F.S., effective July 1, 2012.

SUMMARY: Based upon changes to Section 455.2179, effective July 1, 2012, the rule will be repealed.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS AND LEGISLATIVE RATIFICATION:

The Agency has determined that this will not have an adverse impact on small business or likely increase directly or indirectly regulatory costs in excess of \$200,000 in the aggregate within one year after the implementation of the rule. A SERC has not been prepared by the agency.

The Agency has determined that the proposed rule is not expected to require legislative ratification based on the statement of estimated regulatory costs or if no SERC is required, the information expressly relied upon and described herein: During discussion of the economic impact of this rule at its Board meeting, the Board, based upon the expertise and experience of its members, determined that a Statement of Estimated Regulatory Costs (SERC) was not necessary and that the rule will not require ratification by the Legislature. No person or interested party submitted additional information regarding the economic impact at that time.

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.

RULEMAKING AUTHORITY: 481.215(4), 481.2055 FS.

LAW IMPLEMENTED: 481.215(5) 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: Anthony Spivey, Executive Director, Board of Architecture and Interior Design, 1940 North Monroe Street, Tallahassee, Florida 32399-0750

THE FULL TEXT OF THE PROPOSED RULE IS:

61G1-21.002 Organization and Administration.

Rulemaking Authority 481.215(4), 481.2055 FS. Law Implemented 481.215(5) FS. History—New 11-29-90, Formerly 21B-21.002, Amended 5-28-12, Repealed.

NAME OF PERSON ORIGINATING PROPOSED RULE: Board of Architecture and Interior Design

NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: Board of Architecture and Interior Design

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: July 17, 2012

**DEPARTMENT OF ENVIRONMENTAL PROTECTION**

RULE NO.: 62-304.900                      RULE TITLE: Statewide TMDLs

PURPOSE AND EFFECT: The purpose of the rule is to adopt a Total Maximum Daily Load (TMDL), and its allocations, for mercury in all fresh and marine waters in Florida.

SUMMARY: The TMDL addresses impairments identified in fresh and marine surface waters within the state of Florida due to mercury in fish tissue. Specifically, the TMDL rule being

proposed for adoption addresses more than 1100 waterbody segments verified as impaired using the methodology established in Chapter 62-303, F.A.C., Identification of Impaired Surface Waters. The methodology used to develop the TMDL was the percent reduction method. This rulemaking has been given OGC case number 12-1034.

**SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS AND LEGISLATIVE RATIFICATION:**

The Agency has determined that this will have an adverse impact on small business or likely increase directly or indirectly regulatory costs in excess of \$200,000 in the aggregate within one year after the implementation of the rule. A SERC has been prepared by the agency.

Costs associated with monitoring effluent for mercury and the potential need to develop mercury minimization plans (MMPs) were estimated for 427 industrial and domestic wastewater National Pollutant Discharge Elimination System permittees in the state of Florida. The costs to implement mercury reductions can not be estimated until the outcomes of the monitoring and any needed MMPs are known. The initial costs have been estimated to exceed one million dollars.

The Agency has determined that the proposed rule is expected to require legislative ratification based on the statement of estimated regulatory costs.

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.

RULEMAKING AUTHORITY: 403.061, 403.067 FS.

LAW IMPLEMENTED: 403.061, 403.062, 403.067 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: October 30, 2012, 1:30 p.m.

PLACE: Florida Department of Environmental Protection, Bob Martinez Center, 2600 Blair Stone Road, Room 609, 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: 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 IS: Jan Mandrup-Poulsen, Division of Environmental Assessment and Restoration, Bureau of Watershed Restoration, Mail Station 3555, Florida Department of Environmental Protection, 2600 Blair Stone Road, Tallahassee, Florida 32399-2400, telephone (850)245-8448

THE FULL TEXT OF THE PROPOSED RULE IS:

62-304.900 Statewide TMDLs.

The statewide mercury (total) TMDL for all fresh and marine waters in Florida is allocated as follows:

(1) The Wasteload Allocation (WLA) for all industrial and domestic wastewater sources holding NPDES permits in Florida, other than those sources covered under subsection 62-304.900(2), F.A.C., is 23 kg/yr mercury (total). Pursuant to paragraph 62-620.100(3)(m), F.A.C., domestic wastewater facilities with a permitted capacity of greater than one million gallons per day and all industrial discharges, other than once-through cooling waters at industrial wastewater facilities and those sources covered under subsection 62-304.900(2), F.A.C., that demonstrate quantifiable mercury (total) levels in their effluent (using clean techniques, such as EPA Method 1631e) will be required to prepare and implement a mercury minimization plan addressing sources of mercury (total) within their jurisdiction.

(2) The WLA for discharges subject to the Department's NPDES Municipal Stormwater Permitting Program or for other discharges primarily treating stormwater and not expected to add mercury (total) to their discharge, is generally not applicable; however, a permittee or co-permittee may be required to reduce mercury loads if sources of mercury (total) under the direct control of that permittee or co-permittee are found to exist.

(3) The Load Allocation (LA) for nonpoint sources is to address anthropogenic sources in the basin is an 86% reduction of mercury (total) from atmospheric sources, and

(4) The Margin of Safety is implicit.

(5) While the LA for mercury has been expressed as the percent reduction needed to attain the applicable narrative criteria, it is the combined reductions from both anthropogenic point and nonpoint sources that will result in the required reductions. However, it is not the intent of the TMDL to abate natural background conditions.

Rulemaking Authority 403.061, 403.067 FS. Law Implemented 403.061, 403.062, 403.067 FS. History—New \_\_\_\_\_.

NAME OF PERSON ORIGINATING PROPOSED RULE:  
Drew Bartlett, Director, Division of Environmental Assessment and Restoration

NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: Herschel Vinyard Jr., Secretary

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: September 12, 2012

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: April 27, 2012

**DEPARTMENT OF HEALTH**

**Board of Dentistry**

RULE NO.: 64B5-7.003  
RULE TITLE: Permit Requirements for Dental Interns and Residents

PURPOSE AND EFFECT: The Board proposes this rule amendment to incorporate by reference the application necessary to be completed.

SUMMARY: The proposed rule amendment incorporates the necessary application to be completed regarding Permit Requirements for Dental Interns and Residents.

**SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS AND LEGISLATIVE RATIFICATION:**

The Agency has determined that this will not have an adverse impact on small business or likely increase directly or indirectly regulatory costs in excess of \$200,000 in the aggregate within one year after the implementation of the rule. A SERC has not been prepared by the agency.

The Agency has determined that the proposed rule is not expected to require legislative ratification based on the statement of estimated regulatory costs or if no SERC is required, the information expressly relied upon and described herein: During discussion of the economic impact of this rule at its Board meeting, the Board, based upon the expertise and experience of its members, determined that a Statement of Estimated Regulatory Costs (SERC) was not necessary and that the rule will not require ratification by the Legislature. No person or interested party submitted additional information regarding the economic impact at that time.

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.

RULEMAKING AUTHORITY: 466.004(4), 466.025 FS.

LAW IMPLEMENTED: 466.025 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: Susan Foster, Executive Director, Board of Dentistry, 4052 Bald Cypress Way, Bin #C08, Tallahassee, Florida 32399-3258

THE FULL TEXT OF THE PROPOSED RULE IS:

64B5-7.003 Permit Requirements for Dental Interns and Residents.

(1) Any person wishing to be issued a permit as a dental intern or resident, pursuant to ~~shall apply to the Department as required in~~ Section 466.025(1), F.S., shall apply on form DH-MQA 1224, (8/12), available at \_\_\_\_\_ or on the Board of Dentistry website at <http://www.doh.state.fl.us/Mqa/dentistry>, and provide proof of the following:

- (a) Applicant’s name and age;:-
- (b) Applicant’s graduation from a dental college or school or verification that the applicant is expected to graduate within the next sixty days (The proof submitted shall include either a true and correct copy of a diploma awarded by the dental school or college or a letter from the dean of the dental school or college.);:-
- (c) Applicant’s licensure status in other jurisdictions, including disciplinary action and pending disciplinary action;:-
- (d) The status of any dental malpractice actions that have been noticed or filed in any jurisdiction;:-
- (e) The name and address of the internship or residency program at which the applicant will be practicing dentistry;:- and
- (2) through (5) No change.
- (6) Dental intern and resident permits are subject to cancellation, revocation or other discipline by the Board for failure to comply with Chapters 456 ~~455~~ and 466, F.S., and Chapter 64B5, F.A.C.

Rulemaking Specific Authority 466.004(4), 466.025 FS. Law Implemented 466.025 FS. History—Repromulgated 1-1-75, Amended 1-9-77, Formerly 21G-7.03, Amended 1-29-89, Formerly 21G-7.003, Amended 8-12-93, 3-30-94, 7-18-94, Formerly 61F5-7.003, Amended 7-12-95, Formerly 59Q-7.003, Amended 11-10-98, 3-28-99,\_\_\_\_\_.

NAME OF PERSON ORIGINATING PROPOSED RULE:  
Board of Dentistry  
NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: Board of Dentistry  
DATE PROPOSED RULE APPROVED BY AGENCY HEAD: August 17, 2012  
DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: May 11, 2012

**DEPARTMENT OF HEALTH**

**Board of Dentistry**

RULE NO.:                      RULE TITLE:  
64B5-7.005                      Teaching Permits  
PURPOSE AND EFFECT: The Board proposes this rule amendment to incorporate by reference the application necessary to be completed.  
SUMMARY: The proposed rule amendment incorporates the new form into the Board’s rule regarding teaching permits.  
SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS AND LEGISLATIVE RATIFICATION:  
The Agency has determined that this will not have an adverse impact on small business or likely increase directly or indirectly regulatory costs in excess of \$200,000 in the aggregate within one year after the implementation of the rule. A SERC has not been prepared by the agency.

The Agency has determined that the proposed rule is not expected to require legislative ratification based on the statement of estimated regulatory costs or if no SERC is required, the information expressly relied upon and described herein: During discussion of the economic impact of this rule at its Board meeting, the Board, based upon the expertise and experience of its members, determined that a Statement of Estimated Regulatory Costs (SERC) was not necessary and that the rule will not require ratification by the Legislature. No person or interested party submitted additional information regarding the economic impact at that time.

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.

RULEMAKING AUTHORITY: 466.002(6), 466.004(4) FS.  
LAW IMPLEMENTED: 466.002(6) 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: Susan Foster, Executive Director, Board of Dentistry, 4052 Bald Cypress Way, Bin #C08, Tallahassee, Florida 32399-3258

THE FULL TEXT OF THE PROPOSED RULE IS:

- 64B5-7.005 Teaching Permits.
- (1) through (4) No change.
- (5) An applicant for a teaching permit shall submit form DH-MQA 225 (8/12), available at \_\_\_\_\_ or on the Board of Dentistry website at <http://www.doh.state.fl.us/Mqa/dentistry>.

Rulemaking Specific Authority 466.002(6), 466.004(4) FS. Law Implemented 466.002(6), 466.017(4) FS. History—New 4-30-80, Amended 1-13-81, Formerly 21G-7.05, Amended 1-29-89, Formerly 21G-7.005, 61F5-7.005, Amended 10-16-96, 3-16-97, Formerly 59Q-7.005, Amended 11-10-98, 8-3-00, 1-12-04, 9-11-06,\_\_\_\_\_.

NAME OF PERSON ORIGINATING PROPOSED RULE:  
Board of Dentistry  
NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: Board of Dentistry  
DATE PROPOSED RULE APPROVED BY AGENCY HEAD: August 17, 2012  
DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: May 11, 2012

**DEPARTMENT OF HEALTH**

**Board of Dentistry**

RULE NO.:                      RULE TITLE:  
64B5-7.007                      Limited License as Allowed in Section 456.015, F.S.

PURPOSE AND EFFECT: The Board proposes this rule amendment to incorporate the application fee and update the form revision date.

SUMMARY: The proposed rule amendment incorporates the revised application form into the forms rule.

**SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS AND LEGISLATIVE RATIFICATION:**

The Agency has determined that this will not have an adverse impact on small business or likely increase directly or indirectly regulatory costs in excess of \$200,000 in the aggregate within one year after the implementation of the rule. A SERC has not been prepared by the agency.

The Agency has determined that the proposed rule is not expected to require legislative ratification based on the statement of estimated regulatory costs or if no SERC is required, the information expressly relied upon and described herein: During discussion of the economic impact of this rule at its Board meeting, the Board, based upon the expertise and experience of its members, determined that a Statement of Estimated Regulatory Costs (SERC) was not necessary and that the rule will not require ratification by the Legislature. No person or interested party submitted additional information regarding the economic impact at that time.

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.

RULEMAKING AUTHORITY: 466.015, 466.004 FS.

LAW IMPLEMENTED: 456.015, 466.006, 466.007, 466.011 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: Susan Foster, Executive Director, Board of Dentistry, 4052 Bald Cypress Way, Bin #C08, Tallahassee, Florida 32399-3258

THE FULL TEXT OF THE PROPOSED RULE IS:

64B5-7.007 Limited License as Allowed in Section 456.015, F.S.

(1) A limited license shall be issued by the Board of Dentistry to an applicant who has retired or intends to retire from the practice of dentistry or dental hygiene and intends to practice only pursuant to the restrictions of the limited license granted pursuant to Section 456.015, F.S., if the applicant:

(a) through (d) No change.

(e) ~~Pays a fee of \$300.~~ If the applicant for a limited license submits a notarized statement from the employer stating the applicant will not receive monetary compensation for any service involving the practice of dentistry or dental hygiene, the application fee and all licensure fees shall be waived.

(f) Submits DOH Form MQA 1201, Application for Limited Licensure Dentist/Dental Hygienist (Rev. 8/12), incorporated herein by reference and available at [http://\\_\\_\\_\\_\\_](http://_____) or available on the Board of Dentistry website at <http://www.doh.state.fl.us/Mqa/dentistry>.

(2) No change.

Rulemaking Specific Authority 456.015, 466.004 FS. Law Implemented 456.015, 466.006, 466.007, 466.011 FS. History—New 7-19-01, Amended 6-22-05,\_\_\_\_\_.

NAME OF PERSON ORIGINATING PROPOSED RULE: Board of Dentistry

NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: Board of Dentistry

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: August 17, 2012

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: May 11, 2012

**DEPARTMENT OF HEALTH**

**Board of Dentistry**

RULE NO.: RULE TITLE:

64B5-14.0032 Use of Physician Anesthesiologist

PURPOSE AND EFFECT: The proposed rule amendment allows pediatric dentists to transfer conscious sedation permits to a pediatric conscious sedation permits at the next biennial renewal.

SUMMARY: The proposed rule amendment sets forth the criteria for pediatric dentists to transfer conscious sedation permits to a pediatric conscious sedation permits at the next biennial renewal.

**SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS AND LEGISLATIVE RATIFICATION:**

The Agency has determined that this will not have an adverse impact on small business or likely increase directly or indirectly regulatory costs in excess of \$200,000 in the aggregate within one year after the implementation of the rule. A SERC has not been prepared by the agency.

The Agency has determined that the proposed rule is not expected to require legislative ratification based on the statement of estimated regulatory costs or if no SERC is required, the information expressly relied upon and described herein: During discussion of the economic impact of this rule at its Board meeting, the Board, based upon the expertise and experience of its members, determined that a Statement of Estimated Regulatory Costs (SERC) was not necessary and that the rule will not require ratification by the Legislature. No person or interested party submitted additional information regarding the economic impact at that time.

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.

RULEMAKING AUTHORITY: 466.004(4), 466.017(3) FS.

LAW IMPLEMENTED: 466.017(3) 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: Susan Foster, Executive Director, Board of Dentistry, 4052 Bald Cypress Way, Bin #C08, Tallahassee, Florida 32399-3258

THE FULL TEXT OF THE PROPOSED RULE IS:

64B5-14.0032 Use of Physician Anesthesiologist.

(1) No change.

(2) *Pediatric Conscious Sedation Permit Holders:*

Pursuant to this rule section and notwithstanding any other rule provisions to the contrary, a pediatric dentist, as recognized by the American Dental Association, who has an active pediatric conscious sedation permit may perform dental treatment on pediatric patients in their respective outpatient dental office under any level of sedation when the anesthesia is performed and administered by a physician anesthesiologist. Until the end of the next biennial renewal cycle, following the effective date of this rule, pediatric dentists who hold a pediatric sedation permit or a conscious sedation permit are deemed to have met the permit requirement of this subsection. Pediatric dentists who hold a conscious sedation permit only, may transfer their conscious sedation permit to a pediatric conscious sedation permit for no additional costs beyond the biennial renewal fee at the next biennial renewal cycle following the effective date of this rule. All of the following conditions shall be met:

(a) through (e) No change.

(3) through (4) No change.

Rulemaking Authority 466.004(4), 466.017(3) FS. Law Implemented 466.017(3) FS. History--New 8-20-12, Amended.

NAME OF PERSON ORIGINATING PROPOSED RULE: Council on Dental Hygiene & Anesthesia Committee

NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: Board of Dentistry

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: August 17, 2012

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: August 31, 2012

**DEPARTMENT OF HEALTH**

**Board of Medicine**

RULE NO.: RULE TITLE:

64B8-11.001 Advertising

PURPOSE AND EFFECT: The proposed rule amendments clarify the rule and set forth the criteria for triennial review of entities holding themselves out as board certified in dermatology.

SUMMARY: The proposed rule amendments clarify requirements with regard to advertising and set forth the criteria for triennial review of entities holding themselves out as board certified in dermatology.

**SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS AND LEGISLATIVE RATIFICATION:**

The Agency has determined that this will not have an adverse impact on small business or likely increase directly or indirectly regulatory costs in excess of \$200,000 in the aggregate within one year after the implementation of the rule. A SERC has not been prepared by the agency.

The Agency has determined that the proposed rule is not expected to require legislative ratification based on the statement of estimated regulatory costs or if no SERC is required, the information expressly relied upon and described herein: During discussion of the economic impact of this rule at its Board meeting, the Board, based upon the expertise and experience of its members, determined that a Statement of Estimated Regulatory Costs (SERC) was not necessary and that the rule will not require ratification by the Legislature. No person or interested party submitted additional information regarding the economic impact at that time.

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.

RULEMAKING AUTHORITY: 458.309 FS.

LAW IMPLEMENTED: 456.072(1)(t), 458.331(1)(d), (l), (n), (o), 458.3312 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: Joy A. Tootle, Executive Director, Board of Medicine/MQA, 4052 Bald Cypress Way, Bin #C03, Tallahassee, Florida 32399-3253

THE FULL TEXT OF THE PROPOSED RULE IS:

64B8-11.001 Advertising.

(1) No change.

(2) No physician shall disseminate or cause the dissemination of any advertisement or advertising which is in any way false, deceptive, or misleading. Any advertisement or advertising shall be deemed by the Board to be false, deceptive, or misleading if it:

(a) through (e) No change.

(f) States or implies that the physician has received formal recognition as a specialist in any aspect of the practice of medicine unless the physician has in fact received such recognition and such recognizing agency is approved by the Board. However, a physician may use on letterhead or in advertising a reference to the physician's specialty recognition received from a recognizing agency that has not been approved by the Board only if the letterhead or advertising also contains in the same print size or volume the statement that "The specialty recognition identified herein has been received from a private organization not affiliated with or recognized by the Florida Board of Medicine." For purposes of this rule, the Board approves the specialty boards of the American Board of Medical Specialties (ABMS) as recognizing agencies, and such other recognizing agencies as may request and receive future approval by the Board based upon the following criteria:

1. through 3. No change.

~~4. The recognizing agency, if it is not an ABMS board, must require as part of its certification requirement that each member receiving certification be currently certified by a specialty board of the ABMS.~~

~~4.5. No change.~~

~~5.6. No change.~~

~~6.7. No change.~~

(g) through (k) No change.

(3) through (7) No change.

(8) The recognizing agencies currently approved by the Board of Medicine include:

(a) through (b) No change.

(c) American Association of Physician Specialists, Inc./American Board of Physician Specialties (Approved February 2002).

(d) No change.

(9) No person licensed pursuant to Chapter 458, F.S., shall hold himself or herself out as a board-certified specialist in dermatology unless the recognizing agency is one of the specialty organizations recognized in Section 458.3312, F.S. or subsection (8) above and has been triennially reviewed and re-authorized by the Board of Medicine. In order to be re-authorized, the specialty organization must demonstrate that throughout the period of triennial renewal it has complied with the following criteria:

(a) The recognizing agency must be an independent body that certifies members as having advanced qualifications in a particular allopathic medical specialty through peer-reviewed demonstrations of competence in dermatology.

(b) Each specialty recognition awarded to an allopathic physician during the triennial review period must have required completion of an allopathic medical residency program approved by either the Accreditation Council of Graduate Medical Education (ACGME) or the Royal College of Physicians and Surgeons of Canada in dermatology.

(c) Specialty recognition must require successful completion of a comprehensive examination administered by the recognizing agency pursuant to written procedures that ensure security and grading standards.

(d) The recognizing agency must have been determined by the Internal Revenue Service of the United States to be a legitimate not for profit entity pursuant to Section 501(c) of the Internal Revenue Code.

(e) The recognizing agency must have full time administrative staff, housed in dedicated office space which is appropriate for the agency's program and sufficient for responding to consumer or regulatory inquiries.

(f) The recognizing agency must have written by-laws, and a code of ethics to guide the practice of its members and an internal review and control process including budgetary practices, to ensure effective utilization of resources.

(g) Any recognizing agency seeking to submit to triennial review and to obtain reauthorization from the Board of Medicine shall submit to the Board of Medicine documentation of compliance with the criteria set forth in paragraphs (a) through (f) above in a format that is readable and easily understood. Such submission shall be made during the last six months of a triennial period and no less than 90 days prior to the end of a triennial period. Based upon review of the documentation submitted, the Board of Medicine will either grant or deny the request for reauthorization in writing prior to the expiration of the triennial period in which the documentation is submitted. The recognizing agency or any Florida licensed physician holding specialty certification from the recognizing entity shall have the right to challenge a written denial of reauthorization as provided in Section 120.57, F.S. and during the time it takes to complete such a challenge the provisions of Section 120.60(4), F.S. shall apply.

Rulemaking Authority 458.309 FS. Law Implemented 456.072(1)(t), 458.331(1)(d), (l), (n), (o), 458.3312 FS. History—New 3-31-80, Formerly 21M-24.01, Amended 11-15-88, Formerly 21M-24.001, Amended 12-5-93, Formerly 61F6-24.001, Amended 4-3-95, 4-16-96, 5-29-97, 5-7-97, Formerly 59R-11.001, Amended 1-31-01, 9-1-02, 1-16-07, 10-17-10.

NAME OF PERSON ORIGINATING PROPOSED RULE:  
Rules Committee, Board of Medicine

NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: Board of Medicine

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: August 3, 2012

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: August 31, 2012

**DEPARTMENT OF HEALTH**

**Division of Disease Control**

RULE NOS.:	RULE TITLES:
64D-2.002	Definitions
64D-2.003	Confidentiality
64D-2.004	Testing Requirements
64D-2.006	Registration of HIV Testing Programs

**PURPOSE AND EFFECT:** The purpose is to revise rules to comply with updated statutes and streamline the HIV testing process in county health department clinic sites.

**SUMMARY:** The rules describe activities regarding: the requirements for persons conducting HIV testing in any setting, the receiving of consent from the person being tested, registering as a testing site, and the confidentiality of the persons tested.

**SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS AND LEGISLATIVE RATIFICATION:**

The Agency has determined that this will not have an adverse impact on small business or likely increase directly or indirectly regulatory costs in excess of \$200,000 in the aggregate within one year after the implementation of the rule. A SERC has not been prepared by the agency.

The Agency has determined that the proposed rule is not expected to require legislative ratification based on the statement of estimated regulatory costs or if no SERC is required, the information expressly relied upon and described herein: This rulemaking will not have an adverse impact or regulatory costs in excess of \$1 million within five years as established in Section 120.541(2)(a), F.S.

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.

**RULEMAKING AUTHORITY:** 381.0011, 381.003, 381.004, 381.0041(10), 384.33 FS.

**LAW IMPLEMENTED:** 381.0011, 381.003, 381.004, 381.0031, 381.0041, 384.31, 456.061 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:** Marlene LaLota, HIV/AIDS and Hepatitis Program, Florida Department of Health, Bin #A09, 4052 Bald Cypress Way, Tallahassee, FL 32399-1715, telephone number (850)245-4423

**THE FULL TEXT OF THE PROPOSED RULES IS:**

64D-2.002 Definitions.

As used in this chapter, “HIV test,” “HIV test result,” “preliminary HIV test,” “Significant exposure,” and “Test subject” have the same meaning as in Section: 381.004(1)(2), F.S., and the following words and phrases shall have the following meanings:

(1) “Blood” – Whole human blood or components of human blood, including plasma.

(2) “Blood Establishment Bank” – Any facility in Florida where blood or blood components are collected, processed, stored, tested, or distributed, or other eligible activities authorized by Title 21 Parts 211 and 600-640, Code of Federal Regulations (effective 2011), that is required to operate in a manner consistent with Title 21 Parts 211 and 600-640, C.F.R., and as defined in Section 381.06014, F.S. licensed under Chapter 483, Part I, F.S., including plasma centers, where blood or plasma is procured, donated, processed, stored or distributed. Title 21 Parts 211 and 600-640, C.F.R., are incorporated by reference and may be obtained from the Department of Health, HIV/AIDS and Hepatitis Program, 4052 Bald Cypress Way, Bin A09, Tallahassee, Florida 32399-1715, or may be found online at \_\_\_\_\_.

(3) “Confirmatory test” – A corroborative or supplemental HIV test, such as a Western Blot, licensed by the United States Food and Drug Administration (FDA) to validate a positive preliminary HIV test; or other supplemental or corroborative tests authorized by the State HIV/AIDS and Hepatitis Program in consultation with the Centers for Disease Control and Prevention (CDC), the Association of State and Territorial Public Health Laboratory Directors, or the FDA, e.g., the immunofluorescent assay (IFA) or Multispot.

(4) “Department” – Florida Department of Health.

~~(5)(4)~~ “Health care facility” – A hospital, nursing home, clinic, blood bank, plasma center, sperm bank, clinical laboratory, intermediate care facility, ambulatory surgical center, public health facility licensed under Chapter 154, F.S., mental health facility licensed under Chapter 394, F.S., or drug treatment or rehabilitation facility licensed under Chapter 397, F.S., emergency center, walk-in emergency clinic, birthing center, or health maintenance organization.

~~(6)(5)~~ “Health care provider” – Any licensed physician, dentist, podiatrist, naturopath, nurse, advanced registered nurse practitioner (ARNP), physician assistant, dental assistant, dental hygienist, paramedic, emergency medical technician, psychologist, mental health professional, lay midwife, any person licensed under the Division of Medical Quality Assurance at the DOH, an administrator, employee or agent of a health care facility or other person providing medical, nursing, psychological, or other health care services or medical or other students receiving training as health care professionals at a health care facility.

~~(7)(6)~~ “Laboratory” – Any facility licensed under Chapter 483, F.S., where HIV tests are performed. This definition does not include blood establishment banks or plasma centers.



~~(8)(7)~~ “Medical personnel” – An authorized agent or employee of a health care facility, health care provider, health care professional, blood ~~establishment bank or plasma center~~; a licensed or certified health care professional; a medical or other student receiving training as a health care professional at a health care facility; a paramedic or emergency medical technician certified by the Department to perform life support procedures pursuant to the provisions of Section. 401.23, F.S.

~~(9)(8)~~ “Reasonable attempt” – A documented effort to locate an individual, for example: contact by last known phone number, relative’s phone number, agency contacts, or certified mail.

(10) “Residential facility” - A facility providing room and board and personal care for people in their care.

Rulemaking Specific Authority 381.0011~~(13)~~, 381.003(2), 381.004~~(9)(10)~~, 381.0041~~(10)~~ FS. Law Implemented 381.0011, 381.003, 381.004 FS. History—New 11-6-85, Formerly 10D-93.62, Amended 7-12-89, 5-30-90, 1-20-92, 5-1-96, Formerly 10D-93.062, Amended 8-24-99, \_\_\_\_\_.

64D-2.003 Confidentiality.

(1) Any person, including employees of the department, ~~and~~ any county health department, contract provider, testing program authorized by the department or health care facility, and health care provider ~~or health care facility~~ shall comply with the confidentiality provisions of Section 381.004~~(2)(3)(e)~~, (f), F.S., and this rule in administering the HIV test, protecting the identity of the test subject, and managing records which contain laboratory reports of HIV test results or any report or notation of a laboratory report of an HIV test.

(2) No person, including employees of health care facilities and health care providers as defined in subsections 64D-2.002(4) and (5), F.A.C., shall disclose or be compelled to disclose the identity of a test subject or his or her HIV test results, except to the following persons:

- (a) The subject of the test.
- (b) Any person designated in a legally effective release executed by the test subject prior to or after the performance of the HIV test. The following releases are legally effective:

1. A specific release that states the test subject’s HIV test results can be disclosed to a named third party, except that third party payers ~~payers~~ need not be specifically identified.

2. A general release that states the test subject’s medical record can be disclosed to a named third party, except that third party payers ~~payers~~ need not be specifically identified, provided the general release is preceded by the test subject’s express written authorization.

a. The prior written authorization shall state that the test subject’s HIV test results can be disclosed to third party payers ~~payers~~, who need not be specifically identified, and to other persons to whom the test subject subsequently issues a general release of medical information.

b. Health care providers and health care facilities shall not honor a general release without this express prior written authorization if the material to be released would disclose the identity of a test subject or his or her HIV test result.

3. A hospital can honor a general release without prior written authorization, provided the hospital first obtains the test subject’s written informed consent in accordance with Rule 64D-2.004, F.A.C., and releases the information in accordance with Section 395.3025, F.S. The informed consent shall include a statement to the effect that the test subject’s HIV test results can be released to anyone to whom the test subject gives written permission to see or to copy his or her medical record.

(c) Any medical personnel who experience a significant exposure during the course of employment or in the performance of professional duties, or non-medical personnel who experience a significant exposure while providing emergency assistance.

(d) An authorized agent or employee of a health care facility or health care provider if:

1. The health care facility or health care provider itself is authorized to know or obtain the identity of a test subject or his or her HIV test result; and

2. The agent or employee has a “need to know” as defined in subparagraph 64D-2.003(2)(d)3., F.A.C., and performs one of the following functions:

- a. Participates in or administers the business operations of a health care provider or health care facility;
- b. Provides or participates in providing patient care; or
- c. Handles or processes specimens of body fluids, blood, blood components, organs, skin, semen, or other human tissue or body part ~~or tissues~~.

3. An agent or employee has a need to know the identity of a test subject or his or her HIV test result if:

a. The agent or employee has a need to know ~~the identity of a test subject or his or her HIV test result~~ to discharge properly his or her duties in the ordinary course of participating in or administering the business operations of a health care facility or health care provider. Examples of these agents or employees are:

- (I) Financial staff who compile or review patient records as part of routine billing activities.
- (II) Transcribers who enter medical information into computers or records.
- (III) Personnel involved in utilization review, risk management or peer review activities in which patient records are normally shared among reviewers.

(IV) Supervisors responsible for the activities described in sub-subparagraph 64D-2.003(2)(d)3.b., F.A.C.

- b. through c. No change.
- (e) through (f) No change.
- (g) A health care facility or health care provider which procures, processes, distributes, or uses:

1. A human body part from a deceased person, with respect to medical information regarding the person; or

2. Semen provided prior to July 6, 1988, for the purpose of artificial insemination.

(h) Health care facility staff committees for the purposes of conducting program monitoring, program evaluation or service reviews. Health care facility staff committees include medical review committees as defined in Section 766.101, F.S.

(i) through (j) No change.

(k) Pursuant to Sections 960.003(2)-(5), F.S., and Section 775.0877(2), F.S., the victim of a criminal offense involving the transmission of body fluids from one person to another shall, upon request, obtain the HIV test results of the person charged with or convicted of the criminal offense. The test results shall be disclosed in accordance with Section 381.004(2)(e)(3)(e), F.S. The test results shall not be disclosed to any other person except as expressly authorized by law or court order.

(l) In accordance with specific circumstances established in Section 456.061 455-674, F.S., a practitioner regulated through the Division of Medical Quality Assurance within the Department of Health can disclose the identity of an HIV positive patient to the patient’s sex or needle-sharing partner. Any notification of a sex or needle-sharing partner pursuant to this section shall be done in accordance with the “Partner Notification Protocol for Practitioners”, dated April 2012 March 1999, incorporated by reference in this rule. This protocol can be obtained from the Department of Health, Bureau of HIV/AIDS and Hepatitis Program, 4052 Bald Cypress Way, Bin A09, Tallahassee, Florida 32399-1715, or online at the program’s website at http://www.doh.state.fl.us/disease\_ctrl/aids/legal/protocols.html or at \_\_\_\_\_.

(m) Employees of the Department of Children and Families, child placing or child-caring agencies, or of family foster homes licensed pursuant to Section 409.175, F.S., who are directly involved in the placement, care, control, or custody of a test subject and have a need to know such information pursuant to subsection 65C-28.004(9) 10M-6-120, F.A.C. (effective 5/4/2006); the adoptive parents of the test subject pursuant to Rule 65C-16.011, F.A.C. (effective 11/30/2008); or the adult custodian, adult relative or other person who is responsible for the child’s welfare, if the test subject was not tested pursuant to Section 384.30, F.S., and if, after a reasonable attempt, the parent or legal guardian cannot be located and informed of the test result. The details of the reasonable attempt must be documented in the medical record of the child. The Rules of the Department of Children and Families are incorporated by reference and can be obtained from the Department or online at \_\_\_\_\_ or \_\_\_\_\_.

(n) No change.

(o) A person allowed access by a court order which is issued in compliance with Section 381.004(2)(3)(e)9., F.S.

(p) No change.

(3) All patient records, client records or medical records containing HIV test results are recommended to be kept in the following manner:

(a) through (d) No change.

~~(4)(e)~~ A subpoena for medical records containing HIV test results is not sufficient to release such records, except for HIV testing performed in hospitals as provided in Section 381.004(3)(g), F.S.

~~(5)(4)~~ Pursuant to Section 381.004(3)(f), F.S., oral disclosure of HIV test results shall be accompanied by oral notice and followed by a written notice within 10 days. This written notice shall include the following statement: “This information has been disclosed to you from records whose confidentiality is protected by state law. State law prohibits you from making any further disclosure of such information without the specific written consent of the person to whom such information pertains, or as otherwise permitted by state law. A general authorization for the release of medical or other information is NOT sufficient for this purpose.” This written statement shall not be required for disclosures made in accordance with Sections 381.004(3)(e)3., and 4., F.S.

~~(6)(5)~~ The anonymity of individuals tested for HIV in county health department anonymous test sites or other testing programs approved through the department registration process to conduct anonymous testing, shall be ensured as follows:

(a) through (d) No change.

Rulemaking Specific Authority 381.0011, 381.004(10), 381.0041(9)(40), 384.33 FS. Law Implemented 381.0011, 381.0031(4), 381.004, 381.0041, 456.061 455-674 FS. History—New 11-6-85, Formerly 10D-93.64, Amended 7-12-89, 5-30-90, 1-20-92, Formerly 10D-93.064, Amended 8-24-99, \_\_\_\_\_.

64D-2.004 Testing Requirements.

(1) Pursuant to Section 381.004(2)(3)(a), F.S., informed consent shall be obtained prior to testing for HIV except in the limited situations outlined in Section 381.004(2)(3)(h), F.S. Informed consent shall include an explanation that the information identifying the test subject and the results of the test are confidential and protected against further disclosure to the extent provided by law. Information shall also be included on the fact that persons who test positive will be reported to the local county health department, that anonymous testing is available and the locations of anonymous testing sites.

~~(2) In addition to the information on confidentiality, reporting and anonymous testing listed above, an explanation of the following information constitutes sound and reasonable practice in providing information sufficient to secure informed consent:~~

~~(a) An HIV test is a test to determine if an individual is infected with the virus which causes AIDS;~~

~~(b) The potential uses and limitations of the test;~~

~~(c) The procedures to be followed; and~~

~~(d) HIV testing is voluntary and consent to be tested can be withdrawn at any time prior to testing.~~

~~(2)(3)~~ Informed consent to perform a test for HIV need not be in writing, except in the situations listed below in subsection 64D-2.004(3)(4), F.A.C., if there is documentation in the medical record that the test has been explained and consent has been obtained.

~~(3)(4)~~ Informed consent to perform a test for HIV shall be in writing for the following:

(a) From the potential donor or from the donor's legal representative prior to the first donation of blood, blood components plasma, organs, skin, semen, or other human tissue or body part. The consent form must specify that the donor is consenting to repeated HIV testing of each of his donations for the subsequent year. The consent form must be signed annually prior to transfusion or other use;

(b) through (c) No change.

~~(4)(5)~~ The following minors can be tested for HIV without parental consent provided the minor gives informed consent:

(a) through (c) No change.

~~(5)(6)~~ Any health care provider attending a pregnant woman for conditions related to her pregnancy shall cause the woman to be tested for HIV ~~counsel the woman on the potential benefits, potential risks and limitations of treatment to reduce the risk of transmission from infected women to their babies and offer HIV testing~~ in accordance with Section 384.31, F.S., and Rule 64D-3.042, F.A.C.

~~(6)(7)~~ Pursuant to Section 381.004(7)(8), F.S., the Department of Health developed the Model Protocol for HIV Counseling and Testing In Health Care Settings for County Health Departments and Registered Testing Programs, dated July 20, 2012 ~~March 29, 1999~~, and the Model Protocol for HIV Counseling and Testing In Non-Health Care Settings Conducted Outside County Health Departments and Registered Testing Programs, dated July 20, 2012 ~~March 29, 1999~~, consistent with the provisions of this section and incorporates these documents by reference in this rule. The model protocols can be obtained from the Department of Health, Bureau of HIV/AIDS and Hepatitis Program, 4052 Bald Cypress Way 2020 Capital Circle, S. E., Bin #A09, Tallahassee, Florida 32399-1715, or online at the program's website at: [http://www.doh.state.fl.us/disease\\_ctrl/aids/legal/ctforonchd.htm](http://www.doh.state.fl.us/disease_ctrl/aids/legal/ctforonchd.htm) and [http://www.doh.state.fl.us/disease\\_ctrl/aids/legal/ctforchd.htm](http://www.doh.state.fl.us/disease_ctrl/aids/legal/ctforchd.htm), or at \_\_\_\_\_ or \_\_\_\_\_.

~~(7)(8)~~ Persons ordering an HIV test must ensure that all reasonable efforts are made to notify the test subject of the test result and relate certain information to the test subject in accordance with Section 381.004(2)(3)(c), F.S., and the applicable Model Protocol for HIV Counseling and Testing specified in subsection 64D-2.004(6)(7), F.A.C. If the test subject was tested in a facility, such as a jail or hospital emergency department, and was released before being notified of a positive HIV test result, the facility may inform the county

health department to notify the test subject. Blood establishments banks and persons who collect blood, organs, skin, semen, or other human tissue or body parts shall comply with Rule 64D-2.005, F.A.C., and Sections 381.0041(5), (6), F.S.

Rulemaking Specific Authority 381.0011, 381.004(9)(10), 381.0041(40), 384.33 FS. Law Implemented 381.0011, 381.0031(4), 381.004, 381.0041, 384.31 FS. History--New 11-6-85, Formerly 10D-93.67, Amended 7-12-89, 1-20-92, 5-1-96, Formerly 10D-93.067, Amended 8-24-99, \_\_\_\_\_.

#### 64D-2.006 Registration of HIV Testing Programs.

(1)(a) All county health departments and persons who conduct or make any personal, telephone or mail contact or other communication to a person, or make any announcement, solicitation, display, or advertisement to inform the general public that they are conducting a testing program as defined in Rule 64D-2.006(1)(b), F.A.C., below, must first register with the Department of Health, Bureau of HIV/ AIDS and Hepatitis Program, and must reregister annually. Initial registration and subsequent reregistration shall be approved by the department based upon compliance with Section 381.004(4)(5), F.S.

(b) No change.

(c) When the testing program satisfactorily completes the registration or reregistration requirements, the department shall send via electronic or regular mail a certificate of registration to the program.

(2) An application for initial registration to conduct an HIV testing program shall be made to the department on DH Form 1781, 2/05 11/98, Application for Registration and Reregistration of HIV Testing Programs, incorporated by reference in this rule. The application can be obtained from the Department of Health, Bureau of HIV/AIDS and Hepatitis Program, 4052 Bald Cypress Way, S. E., Bin A09, Tallahassee, Florida 32399-1715, or online at \_\_\_\_\_. A completed application shall be mailed to the Department of Health, Bureau of HIV/AIDS and Hepatitis Program, Attention: Counseling and Testing Program Registration at the same address and shall be accompanied by the \$100.00 initial registration fee in accordance with Sections 381.004(8)(a)-(b), F.S. No fee is required for reregistration.

(3) No change.

(4) Persons or facilities receiving funding pursuant to Section 381.004(3)(4), F.S., shall be exempt from payment of the initial registration fee.

~~(5) Effective October 1, 1998~~, HIV testing programs must reregister with the department annually. The application form for reregistration, DH Form 1781, 2/05 11/98, will be mailed by the Department of Health, Bureau of HIV/AIDS and Hepatitis Program, to the registered testing program 60 days prior to the program's reregistration date. ~~Reregistration dates have been established as follows:~~

~~(a) Testing programs registered with the department prior to October 1, 1998, will be notified in writing of their reregistration date by January 31, 1999.~~

~~(b) Testing programs who register with the department on or after October 1, 1998, will be sent a certificate of registration with a designated reregistration date.~~

(6) through (9) No change.

(10) The department shall deny, suspend, or revoke the registration of a person or agency which:

(a) fails to comply with Section 381.004(4)(5), F.S., or the rules in implementation thereof; or

(b) causes to happen an intentional or negligent act which physically or materially affects the health, safety, or welfare of the person receiving services.

(11) Pursuant to Section 381.004(4)(5)(a), F.S., the program shall be directed by a person with a minimum of 15 contact hours of experience in counseling persons with human immunodeficiency virus. Examples of counseling include: informing a test subject of an HIV-positive test result; providing case management services to HIV-infected persons; facilitating a support group for HIV-infected persons; and providing medical care.

(12) Each person providing post-test counseling to a patient with a positive test result shall have received specialized training which shall be equivalent to the Department of Health specialized training in providing post-test counseling to HIV-positive clients. Specialized training must include information on the following:

(a) Confidentiality, the meaning of a positive test result and the importance of not donating blood, blood components ~~products~~, human tissues, organs, body parts, or sperm;

(b) Early intervention, referrals and linkages to care/services;

(c) Prevention of secondary HIV transmission;

(d) Partner ~~counseling and referral~~ services;

(e) HIV infection reporting; and

(f) Documentation of test results.

Rulemaking Specific Authority 381.004 FS. Law Implemented 381.004 FS. History—New 11-29-89, Amended 5-1-96, Formerly 10D-93.076, Amended 8-24-99, \_\_\_\_\_.

NAME OF PERSON ORIGINATING PROPOSED RULE: Marlene LaLota

NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: John H. Armstrong, M.D., State Surgeon General

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: August 24, 2012

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: July 6, 2012

**FISH AND WILDLIFE CONSERVATION COMMISSION**

**Marine Fisheries**

RULE NO.:  
68B-2.006

RULE TITLE:  
Restricted Species License  
Exemption

PURPOSE AND EFFECT: The purpose of this new rule is to create an exemption from the income requirements associated with a restricted species endorsement for honorably discharged veterans. This rule would assist Florida’s veterans wishing to enter the commercial fishing industry.

The primary effect of this rule would be to allow a one-time exception to the restricted species endorsement income requirement for resident veterans under specific circumstances. This rule will affect resident veterans honorably discharged between September 11, 2001 and June 30, 2014, and future veterans. Normally, to qualify for a restricted species endorsement one must possess a Florida Saltwater Products License as well as prove that \$5,000 or 25% of their total income during one of the past three years has been attributable to reported landings and sales of saltwater products to a Florida wholesale dealer. Additionally, veterans with at least a 10% disability will only have to prove \$2500 in income from the sales of saltwater products yearly.

SUMMARY: Rule 68B-2.006, F.A.C., (Restricted Species License Exemption) would be added to allow an income exemption from the restricted species endorsement qualification requirements for honorably discharged veterans. The income requirements would be waived for resident veterans honorably discharged between September 11, 2001, and June 30, 2014, who apply for an SPL with an RS endorsement between implementation of the rule and June 30, 2014. After June 30, 2014, the draft rule provides a one year waiver for the income requirement for resident veterans who apply for an SPL and an RS within four years of honorable discharge. The draft rule would also waive the income requirements for one year for any honorably discharged military veteran certified to be at least 10% permanently disabled from service related disabilities. In all subsequent years, a veteran with disabilities will only be required to provide proof of \$2,500 in income from the sale of saltwater products instead of the current requirement of \$5,000 or 25% of income.

**SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS AND LEGISLATIVE RATIFICATION:**

The Agency has determined that this will not have an adverse impact on small business or likely increase directly or indirectly regulatory costs in excess of \$200,000 in the aggregate within one year after the implementation of the rule. A SERC has not been prepared by the agency.

The Agency has determined that the proposed rule is not expected to require legislative ratification based on the statement of estimated regulatory costs or if no SERC is

required, the information expressly relied upon and described herein: the nature of the rule and the preliminary analysis conducted to determine whether a SERC was required.

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.

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

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

IF REQUESTED WITHIN 21 DAYS OF THE DATE OF THIS NOTICE, A HEARING WILL BE HELD AT THE DATES, TIME AND PLACE SHOWN BELOW:

DATES AND TIME: During the Commission’s regular meeting December 5-6, 8:30 a.m. – 5:00 p.m., each day

PLACE: Franklin County Courthouse, 33 Market Street, Apalachicola, FL 32320

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: The ADA Coordinator, at (850)488-6411. 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: Jessica McCawley, Director, Division of Marine Fisheries Management, 2590 Executive Center Circle East, Suite 201, Tallahassee, Florida 32301, (850)487-0554

THE FULL TEXT OF THE PROPOSED RULE IS:

68B-2.006 Restricted Species License Exemption.

(1) An honorably discharged resident military veteran certified by the United States Department of Veterans Affairs or its predecessor or by any branch of the United States Armed Forces to be at least 10% permanently service-connected disabled, upon proof of the same, shall not be required to provide documentation of the income requirement with the initial application for a restricted species endorsement. Documentation of the income requirement shall be required beginning with the renewal of the restricted species endorsement after such veteran has possessed a valid restricted species endorsement for a complete license year. This exemption may only be issued on an individual saltwater products license and is a one-time exemption. A restricted species endorsement may be issued on an individual saltwater products license thereafter where such disabled resident veteran documents that at least \$2500 of such person’s income is attributable to the sale of saltwater products.

(2) Beginning July 1, 2014, a resident military veteran who applies to the Commission within 48 months after an honorable discharge from any branch of the United States Armed Forces, the Reserves, the Florida National Guard, or the U.S. Coast Guard shall not be required to provide documentation of the income requirement with the initial application for a restricted species endorsement. Documentation of the income requirement shall be required beginning with the renewal of the restricted species endorsement after such veteran has possessed a valid restricted species endorsement for a complete license year. This exemption may only be issued on an individual saltwater products license and is a one-time exemption per military enlistment.

(3) Until June 30, 2014, a resident military veteran who applies to the Commission and who received an honorable discharge from any branch of the United States Armed Forces, the Reserves, the Florida National Guard, or the U.S. Coast Guard between September 11, 2001, and June 30, 2014, shall not be required to provide documentation of the income requirement with the initial application for a restricted species endorsement. Documentation of the income requirement shall be required beginning with the renewal of the restricted species endorsement after such veteran has possessed a valid restricted species endorsement for a complete license year. This exemption may only be issued on an individual saltwater products license.

Rulemaking Authority Article IV, Section 9, Florida Constitution. Law Implemented Article IV, Section 9, Florida Constitution. History—New \_\_\_\_\_.

NAME OF PERSON ORIGINATING PROPOSED RULE: Jessica McCawley, Director, Division of Marine Fisheries Management, 2590 Executive Center Circle East, Suite 201, Tallahassee, Florida 32301, (850)487-0554

NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: Florida Fish and Wildlife Conservation Commission

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: September 6, 2012

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: July 27, 2012

**FISH AND WILDLIFE CONSERVATION COMMISSION**

**Marine Fisheries**

<p>RULE NOS.:</p> <p>68B-35.003</p> <p>68B-35.0035</p> <p>68B-35.004</p>	<p>RULE TITLES:</p> <p>Size Limits; Prohibition of Sale; Landing in Whole Condition</p> <p>Bag Limits</p> <p>Gear Specifications and Prohibited Gear</p>
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68B-35.005 Pompano Endorsement Regulations  
 68B-35.006 Closed Season

**PURPOSE AND EFFECT:** The purpose of this rule amendment is to implement the original intent of previous rule changes, correct rule language errors, and eliminate sources of confusion in the Florida Fish and Wildlife Conservation Commission’s (Commission) pompano, African pompano, and permit rule. The Commission implemented new regulations for permit, Florida pompano and African pompano in August of 2011. These regulatory changes extended Florida’s regulations for permit and Florida pompano into federal waters, where they were previously unregulated. They also reduced the commercial permit fishery and divided the state into two separate permit management zones, reflecting differences in the recreational fishery around the state. Several technical issues have been discovered with the new rule language since it was implemented. Because of these errors, portions of the current rule do not reflect the Commission’s intent. When initially proposed, the new Special Permit Zone (SPZ) in the Keys overlapped with the existing Pompano Endorsement Zone (PEZ). Commercial harvest of permit was prohibited in the SPZ, but several exceptions were made in order to allow Pompano Endorsement (PE) holders to harvest, possess, and land permit taken as bycatch when targeting Florida pompano in areas where the SPZ and PEZ overlapped. However, the boundaries of the SPZ were modified prior to implementation and the overlap with the PEZ was eliminated, making these exceptions to the SPZ regulations unnecessary. Additionally, the Florida pompano daily sale limit would be modified by applying the limit to all commercial harvesters except those fishing in the PEZ under a PE, as originally intended. The current rule language incorrectly applies the 250-fish limit to PE holders, who do not have a daily bag limit for Florida pompano when fishing in the PEZ. Rule language changes would also clarify that the harvest of permit as bycatch with a gill net is only legal in federal waters.

The primary effect of this rule amendment is to eliminate confusion regarding the fact that commercial harvest and possession of permit in the SPZ is prohibited. The amendment would also eliminate potential confusion about the application of permit gear rules and allow all commercial harvesters of Florida pompano to sell their entire legal catch daily, as intended.

**SUMMARY:** Rule 68B-35.003, F.A.C., (Size Limits; Prohibition of Sale; Landing in Whole Condition) would be amended to remove the unnecessary exception to the recreational size limit for permit harvested from the Special Permit Zone (SPZ). Rule 68B-35.0035, F.A.C., (Bag Limits) would be modified to remove unnecessary exceptions to the one-permit bag limit for the SPZ. The daily sale limit of 250 Florida pompano would also be moved to this section of the rule. This daily sale limit would be modified by applying the limit to all commercial harvesters except those fishing in the Pompano Endorsement Zone under a Pompano Endorsement,

as originally intended. Rule 68B-35.004, F.A.C., (Gear Specifications and Prohibited Gear) would be modified to correctly reflect that the harvest of permit as bycatch with a gill net is only legal in federal waters. Rule 68B-35.005, F.A.C., (Pompano Endorsement Regulations) would be modified by removing the daily sale limit for Florida pompano from this section and replacing it with a corrected version of the provision in Rule 68B-35.0035, F.A.C. Rule 68B-35.006, F.A.C., (Closed Season) would be amended to remove an unnecessary exception to the closed season for harvest of permit from the SPZ.

**SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS AND LEGISLATIVE RATIFICATION:**

The Agency has determined that this will not have an adverse impact on small business or likely increase directly or indirectly regulatory costs in excess of \$200,000 in the aggregate within one year after the implementation of the rule. A SERC has not been prepared by the agency.

The Agency has determined that the proposed rule is not expected to require legislative ratification based on the statement of estimated regulatory costs or if no SERC is required, the information expressly relied upon and described herein: the nature of the rule and the preliminary analysis conducted to determine whether a SERC was required.

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.

**RULEMAKING AUTHORITY:** Article IV, Section 9, Florida Constitution.

**LAW IMPLEMENTED:** Article IV, Section 9, Florida Constitution.

**IF REQUESTED WITHIN 21 DAYS OF THE DATE OF THIS NOTICE, A HEARING WILL BE HELD AT THE DATES, TIME AND PLACE SHOWN BELOW:**

**DATES AND TIME:** During the Commission’s regular meeting December 5-6, 8:30 a.m. – 5:00 p.m., each day

**PLACE:** Franklin County Courthouse, 33 Market Street, Apalachicola, FL 32320

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: The ADA Coordinator, at (850)488-6411. 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:** Jessica McCawley, Director, Division of Marine Fisheries Management, 2590 Executive Center Circle East, Suite 201, Tallahassee, Florida 32301, (850)487-0554

THE FULL TEXT OF THE PROPOSED RULES IS:

68B-35.003 Size Limits; Prohibition of Sale; Landing in Whole Condition.

- (1) Permit Size Limits –
- (a) Recreational Size Limits

1. Within the Special Permit Zone, no person shall harvest, possess, or land within or without state waters, any permit with a fork length less than 22 inches, ~~except as provided in paragraph 68B-35.0035(1)(d), F.A.C.~~

- 2. No change.
- (b) No change.
- (2) through (4) No change.

Rulemaking Authority Art. IV, Sec. 9, Fla. Const. Law Implemented Art. IV, Sec. 9, Fla. Const. History–New 7-1-89, Amended 1-1-96, Formerly 46-35.003, Amended 11-1-01, 1-1-04, 3-1-05, 8-29-11,\_\_\_\_\_.

68B-35.0035 Bag Limits.

- (1) Permit Bag Limits –
- (a) Recreational Bag Limit

1. Within the Special Permit Zone, no person shall recreationally harvest or possess at any time within or without state waters or on any dock, pier, bridge, beach, or other fishing site adjacent to such waters more than one (1) permit per person per day, provided that no more than two (2) permit shall be possessed aboard any vessel at any time. The possession of any permit on a vessel that is harvesting for commercial purposes within the Special Permit Zone is prohibited, ~~except as provided in subparagraph 68B-35.0035(1)(b)2., F.A.C.~~ On any vessel licensed to carry customers wherein a fee is paid, either directly or indirectly, for the purpose of taking or attempting to take marine fish within or without state waters, the applicable bag and possession limit specified in this rule shall not extend to the operator of such vessel or any person employed as a crew person of such vessel.

- 2. No change.
- (b) Commercial Bag Limit.
- 1. No change.

2. Persons harvesting permit as incidental bycatch pursuant to paragraph 68B-35.004(5)(a), F.A.C., shall be subject to a daily harvest, landing, and possession limit of 100 permit. Possession of commercial incidental bycatch quantities of permit is prohibited within the Special Permit Zone, ~~except for Pompano Endorsement holders within the Pompano Endorsement Zone harvesting pursuant to Rule 68B-35.005, F.A.C.~~

- (2) Pompano Bag Limits –
- (a) No change.
- (b) Pompano Commercial Daily Harvest Limits –
- 1. through 2. No change.

3. Purchase and Sale – At the initial sale, no wholesale dealer shall purchase more than 250 individual pompano per day from any person who does not possess and present to the

dealer a valid Pompano Endorsement, in addition to a saltwater products license with a restricted species endorsement. Except for Pompano Endorsement holders harvesting within the Pompano Endorsement Zone pursuant to Rule 68B-35.005, F.A.C., no person harvesting for commercial purposes shall sell more than 250 individual pompano per day.

- (3) No change.

Rulemaking Authority Art. IV, Sec. 9, Fla. Const. Law Implemented Art. IV, Sec. 9, Fla. Const., Art. X, Sec. 16, Fla. Const., 379.407 FS. History–New 8-29-11, Amended\_\_\_\_\_.

68B-35.004 Gear Specifications and Prohibited Gear.

- (1) through (2) No change.

(3) Permit Gear – ~~The Except as provided in paragraph 68B-35.004(5)(a), F.A.C., the harvest or attempted harvest of any permit in or from state waters by or with the use of any gear other than hook and line gear is prohibited. Except as provided in paragraph 68B-35.004(5)(a), F.A.C., the~~ ~~The~~ harvest or attempted harvest of any permit in adjacent federal EEZ waters by or with the use of any gear other than hook and line and spearing gear is prohibited.

- (4) through (5) No change.

Rulemaking Authority Art. IV, Sec. 9, Fla. Const. Law Implemented Art. IV, Sec. 9, Fla. Const., Art. X, Sec. 16, Fla. Const., 379.40 FS. History–New 7-1-89, Amended 1-1-96, Formerly 46-35.004, Amended 11-1-01, 1-1-04, 8-29-11,\_\_\_\_\_.

68B-35.005 Pompano Endorsement Regulations.

- (1) No change.
- (2) Pompano Endorsement Zone
- (a) through (b) No change.

~~(c) Sale – At the initial sale, no wholesale dealer shall purchase more than 250 individual pompano per day from any person who does not possess and present to the dealer a valid Pompano Endorsement, in addition to a saltwater products license with a restricted species endorsement. No person harvesting for commercial purposes pursuant to a valid Pompano Endorsement, in addition to a saltwater products license with a restricted species endorsement shall sell more than 250 individual pompano.~~

- (d) through (e) renumbered (c) through (d) No change.
- (3) No change.

Rulemaking Authority Art. IV, Sec. 9, Fla. Const. Law Implemented Art. IV, Sec. 9, Fla. Const., Art. X, Sec. 16, Fla. Const., 379.407 FS. History–New 11-1-01, Amended 1-1-04, 8-29-11,\_\_\_\_\_.

68B-35.006 Closed Season.

Inside the Special Permit Zone, no person shall harvest, possess, purchase, sell or exchange any permit within or without state waters during the months of May, June, and July of each year ~~except as provided in paragraph 68B-35.0035(1)(d), F.A.C.~~ During this closed season, the

possession of permit while in or on the waters of the Special Permit Zone, including any dock, pier, bridge, beach, or other fishing site adjacent to such waters is prohibited.

Rulemaking Authority Art. IV, Sec. 9, Fla. Const. Law Implemented Art. IV, Sec. 9, Fla. Const., Art. X, Sec. 16, Fla. Const., 379.407 FS. History—New 8-29-11, Amended.

PROPOSED EFFECTIVE DATE: As soon as possible after filing

BE ADVISED THAT THESE PROPOSED RULES MAY BE FILED FOR ADOPTION AS SOON AS POSSIBLE FOLLOWING THE COMMISSION MEETING AT WHICH THEY ARE CONSIDERED IF THE RULES ARE NOT CHANGED. IF CHANGED, THE RULES MAY BE FILED AS SOON AS POSSIBLE AFTER PUBLICATION OF A NOTICE OF CHANGE IN THE F.A.W.

NAME OF PERSON ORIGINATING PROPOSED RULE: Jessica McCawley, Director, Division of Marine Fisheries Management, 2590 Executive Center Circle East, Suite 201, Tallahassee, Florida 32301, (850)487-0554

NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: Florida Fish and Wildlife Conservation Commission

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: September 6, 2012

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: December 22, 2011

### Section III Notices of Changes, Corrections and Withdrawals

**DEPARTMENT OF EDUCATION**

**Florida’s Office of Early Learning**

RULE NO.:	RULE TITLE:
6M-4.610	Statewide Provider Contract for the School Readiness Program

NOTICE OF PUBLIC HEARING

The Florida’s Office of Early Learning announces an additional hearing regarding the above rule, as noticed in Vol. 38, No. 27, July 6, 2012, Florida Administrative Weekly.

DATE AND TIME: October 24, 2012, 3:00 p.m. – 4:30 p.m. or until business is concluded

PLACE: Florida’s Office of Early Learning, 250 Marriott Drive, Tallahassee, FL 32301, or via WebEx which may be accessed at the following website:

[http://www.floridaearlylearning.com/EarlyLearning/OEL\\_Program\\_ProposedRulesNotices.html](http://www.floridaearlylearning.com/EarlyLearning/OEL_Program_ProposedRulesNotices.html)

GENERAL SUBJECT MATTER TO BE CONSIDERED: Revisions to the text of the proposed rule and Form OEL-SR 20.

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: Ed Hoover at (850)717-8550. 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).

**DEPARTMENT OF EDUCATION**

**Florida’s Office of Early Learning**

RULE NO.:	RULE TITLE:
6M-4.610	Statewide Provider Contract for the School Readiness Program

NOTICE OF CHANGE

Notice is hereby given that the following changes have been made to the proposed rule in accordance with subparagraph 120.54(3)(d)1., F.S., published in Vol. 38, No. 27, July 6, 2012 issue of the Florida Administrative Weekly.

The full text of the proposed rule, as revised, is:

6M-4.610 Statewide Provider Contract for the School Readiness Program.

(1) The Statewide School Readiness Provider Contract (Form OEL-SR 20, dated ~~September~~ August 2012) is hereby incorporated by reference, and may be obtained from Florida’s Office of Early Learning at the following address: 250 Marriott Drive, Tallahassee, Florida 32399, (866)357-3239, TTY/Florida Relay 711, and at the Internet website: <http://www.floridaearlylearning.com>.

(2) An early learning coalition may not pay a School Readiness (SR) provider ~~after January 31, 2013, which registers to offer the SR program on or after October 1, 2012,~~ except under the Statewide School Readiness Provider Contract ~~executed~~ adopted herein with the coalition. A coalition must be a party to a Statewide School Readiness Provider Contract.

(3) The Statewide School Readiness Provider Contract may be in effect for a term of up to three (3) years, at the discretion of the coalition, after which point the Statewide School Readiness Provider Contract must be executed again. A school district may sign a single Statewide School Readiness Provider Contract on behalf of all public schools in the district offering the SR program. ~~The authorized representative owner or manager~~ of multiple private child care providers sites may sign a single Statewide School Readiness Provider Contract on behalf of all of his or her private providers sites within an early learning coalition service area ~~in which it operates.~~

(4) To request participation in the SR program, a provider must complete and execute a copy of the Statewide School Readiness Provider Contract and submit all required documentation as indicated in the Statewide School Readiness Provider Contract to the early learning coalition under which the provider will operate. Upon determination that a provider is