

Section I

Notices of Development of Proposed Rules and Negotiated Rulemaking

DEPARTMENT OF BANKING AND FINANCE

Division of Banking

RULE TITLE: RULE NO.:

Disapproval of Directors or 3C-100.03852
Executive Officers

PURPOSE AND EFFECT: This rule is being updated to incorporate changes made by Chapter 99-138, Laws of Florida; to refer to the current biographical form used elsewhere by the Division of Banking and its federal regulatory counterparts; and to otherwise update, clarify, correct, and simplify the rule.

SUBJECT AREA TO BE ADDRESSED: Disapproval of directors or executive officers.

SPECIFIC AUTHORITY: 655.0385 FS.

LAW IMPLEMENTED: 655.0385, 658.21, 658.33, 665.013 FS.

IF REQUESTED IN WRITING AND NOT DEEMED UNNECESSARY BY THE AGENCY HEAD, A RULE DEVELOPMENT WORKSHOP WILL BE HELD AT THE TIME, DATE AND PLACE SHOWN BELOW:

TIME AND DATE: 10:00 a.m., November 22, 1999

PLACE: Room 630, Fletcher Building, 101 East Gaines Street, Tallahassee, Florida

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT AND A COPY OF THE PRELIMINARY DRAFT IS: Linda Charity, Chief, Bureau of Research, Planning, and Staff Development, Division of Banking, 101 East Gaines Street, 614 Fletcher Building, Tallahassee, Florida 32399-0350, (850)410-9111

THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS:

3C-100.03852 Disapproval of Directors or Executive Officers.

(1) Section 655.0385, Florida Statutes, requires state financial institutions to notify the Department of the proposed appointment of any individual to the board of directors or the employment of any individual as an executive officer or equivalent position 60 ~~30~~ days before such appointment or employment becomes effective, if the applying financial institution:

- (a) Has been chartered for less than 2 years;
- (b) Has undergone a change in control or conversion within the preceding 2 years, and is not exempted under subsection (6) of this rule;
- (c) Is not in compliance with the minimum capital requirements applicable to such financial institution; or

(d) Is otherwise operating in an unsafe or unsound condition, as determined by the Department, on the basis of such financial institution's most recent report of condition or report of examination.

(2) Notice.

(a) A financial institution shall provide a ~~substantially~~ complete written notice to the Department at least 60 ~~30~~ days prior to the effective date of the appointment of a director or the employment of an executive officer or equivalent position. Each notice shall include a completed ~~Biographical Report Form DBF-C-10-B,~~ Interagency Biographical and Financial Report, revised 11/97, 12/93 ~~which is hereby incorporated by reference.~~ Notices shall be submitted to and Form DBF-C-10-B, effective date 12-14-93, which is incorporated by reference, may be obtained by request from the Department of Banking and Finance, Division of Banking, Suite 636, Fletcher Building, Tallahassee, Florida 32399-0350. Form DBF-C-10 may also be found at the Department's Internet website: <http://www.dbf.state.fl.us/banking.html> by using the icon "Download Department of Banking and Finance Application Forms" and by selecting the icon "DBF-C-10."

(b) A notice is not ~~deemed substantially~~ complete until the financial institution provides all the information requested in paragraph (2)(a), including complete explanations where material issues arise regarding the competence, experience, character, or integrity, or business acumen and judgment of the proposed director or executive officer or equivalent position, and any additional information that the Department requests following a determination that the financial institution's original submission of the notice was not ~~substantially~~ complete.

(c) Each proposed director or executive officer, or equivalent position, shall make certain that the notice submitted on his or her behalf is accurate.

(3) Processing.

(a) The Department shall have 60 ~~30~~ days after receipt of a ~~substantially~~ complete notice to issue a letter of disapproval. Such disapproval letter shall be mailed to the financial institution and the disapproval shall be effective upon notification. Any financial institution so notified shall immediately require the individual to disassociate himself or herself from the financial institution.

(b) A financial institution shall not allow an individual who ~~which~~ has been proposed to become a member of the board of directors or employed as an executive officer, or equivalent position, to serve in such capacity before the expiration of the 60 ~~30~~ day review period unless the Department notifies the financial institution of an intention not to disapprove the individual.

(c) The Department will conduct background investigations on individuals proposed to become ~~a~~ directors or executive officers, or equivalent positions. The investigations shall, in general, include contacts with the FBI, local law

enforcement and prosecutorial agencies, federal and state financial institution regulatory agencies, and other federal and state government agencies. Background investigations of proposed individuals who are not citizens of the United States will include appropriate foreign and international contacts.

(d) If the Department makes a request for additional information during the review of an incomplete notice, the financial institution must provide the information within 25 days of such a Departmental request or request in writing that the Department suspend processing of the notice.

~~(e) If the Department does not timely receive the information it requested pursuant to paragraphs (3)(e) or (3)(d) concerning an individual proposed by the financial institution, or if the Department requires additional time to fully review the notice or information requested pursuant to paragraphs (3)(e) or (3)(d), the Department shall suspend the processing of the notice for an additional 60 days.~~

~~(f) The processing of a substantially complete notice shall also be suspended for a period of up to 60 days or such longer period of time if such suspension is requested by the financial institution and the Department determines that such a delay will not be detrimental to the safety and soundness of the concerned institution or cause a risk of harm to the public interest.~~

(4) Requests For Interim Appointment.

(a) Any financial institution may file a written request with the Department to permit an individual proposed as a director or executive officer, or equivalent position, to assume his or her position on an interim basis prior to the expiration of the 60 ~~30~~ day prior notice period ~~or applicable period of suspension.~~

(b) The Department shall not consider a request for interim appointment or employment of a director or executive officer, or equivalent position, unless the Department has received a completed Form DBF-C-10 for the proposed individual.

(c) The Department shall only grant a request for the interim appointment or employment of a director or executive officer, or equivalent position, if the interim appointment or employment is not likely to cause a risk of harm to the financial institution or the public interest.

(d) The granting of a request for the interim appointment or employment of an individual to the position of director or executive officer, or equivalent position, shall not affect the Department's ability to subsequently issue a notice of disapproval within ~~or suspend~~ the 60 ~~30~~ day prior notice period.

(5) Regulatory Standards for Evaluating Requests for Proposed Directors or Executive Officers, or Equivalent Positions.

(a) The financial institution may appoint or employ an individual to begin service as a director or executive officer, or equivalent position, on a permanent basis if:

1. The Department notifies the financial institution of an intent not to disapprove the proposed director or executive officer, or equivalent position; or

2. The 60 ~~30~~ day review period expires ~~and was not extended or suspended, by the Department or the financial institution,~~ and during such review period the concerned individual was not disapproved.

(b) The Department shall issue a notice of disapproval if the competence, experience, character, or integrity, ~~or business acumen and judgment~~ of the proposed individual to be appointed or employed indicates that it is not in the best interests of the depositors, the members, or the public to permit the individual to be employed by or associated with the state financial institution.

(c) Unless the Department finds, in writing, that the proposed individual has shown rehabilitation, the proposed director or executive officer, or equivalent position, shall not be eligible for permanent or interim employment, if the individual:

1. Has been convicted of or has entered a plea of guilty or nolo contendere, regardless of adjudication, to a felony or of an offense involving moral turpitude, dishonesty, a breach of trust, a violation of state or federal financial institution law, the Florida Financial Institutions Codes, or fraud;

2. Has been removed by any regulatory agency as a director, officer, or employee of any financial institution;

3. Has performed acts of fraud or dishonesty, or has failed to perform duties, resulting in a loss to a financial institution; or

4. Has been convicted or found guilty, regardless of adjudication, of a violation of Section 655.50, Florida Statutes, relating to the Florida Control of Money Laundering in Financial Institutions Act; Chapter 896, relating to offenses related to financial transactions; or any similar state or federal law.

(d) If an individual proposed as a director or executive officer, or equivalent position, has demonstrated a lack of responsibility in relation to financial matters which is reflected by either the credit worthiness payment history and/or bankruptcy of the person or by such person's business history, it shall be permissible to consider such a conditions in evaluating the character and integrity of the individual ~~in managing one's personal financial affairs.~~

(e) Material errors or omissions in any information submitted to the Department regarding an individual shall be grounds for a finding by the Department that the individual fails to meet the requisite standards for service as a director or executive officer, or equivalent position, of a state financial institution.

(f) If an individual is proposed for the position of chief executive officer, president, or equivalent position, he or she shall have had at least 1 year of direct experience, ~~including policy making responsibilities,~~ as an executive officer,

financial institution regulator, or director of a financial institution within the last 3 years. A financial institution may request a waiver of this requirement by writing to the Director of the Division of Banking detailing why the proposed officer's overall experience and expertise compensates for the lack of recent, direct financial institution or financial institution regulator experience. The Department shall grant a request for a waiver only when it is clear that the proposed officer's overall experience and expertise suggests he or she will perform satisfactorily in office.

(g) If the proposed executive officer, president, or equivalent position is to be employed by a state financial institution that does not meet the minimum capital requirements or is otherwise operating in an unsafe or unsound condition, the Department shall, based on the unique needs of the financial institution, require more extensive financial institution experience.

(6) Pursuant to Section 655.0385(1)(b), Florida Statutes, the Department may exempt from the 60 day notice requirement a financial institution which has undergone a change of control or conversion within the preceding two years and which operates in a safe and sound manner.

(a) A financial institution with a composite rating of "1" or "2" in its most recent safety and soundness report of examination or, in the case of a trust company, its most recent trust report of examination, and which is not subject to a state or federal regulatory action shall be automatically exempted from the 60 day notice requirement. For purposes of this section "regulatory action" shall include cease and desist orders, written agreements, memoranda of understanding, documents of resolution, letters of understanding and agreement, resolutions adopted at the request of financial institution regulators, and any other equivalent action initiated by a financial institution regulator. (Examination ratings are based on the Federal Financial Institutions Examinations Council's Uniform Interagency Trust Rating System and Uniform Financial Institutions Rating System, often called the CAMELS rating system.)

(b) Other financial institutions may request an exemption by writing to the Director of the Division of Banking detailing why the institution believes it is operating in a safe and sound manner, and why an exemption is appropriate.

Specific Authority 655.012(3), 658.0385(4) ~~420.53(1)(b)~~ FS. Law Implemented 655.0385, 658.21, 658.33, 665.013 FS. History--New 12-14-93, Amended _____.

DEPARTMENT OF INSURANCE
Residual Markets and Special Risk Pools

RULE TITLE: FWUA Plan of Operation and Articles of Agreement Adopted

RULE NO.: 4J-1.001

PURPOSE AND EFFECT: To amend the FWUA Plan of Operation and Articles of Agreement to conform it to legislative changes which occurred subsequent to the adoption of the Plan, and to address various administrative matters relating to the day-to-day operation of the FWUA.

SUBJECT AREA TO BE ADDRESSED: The Florida Windstorm Underwriting Association Plan of Operation and Articles of Agreement.

SPECIFIC AUTHORITY: 624.308(1), 627.351(2) FS.

LAW IMPLEMENTED: 624.307(1), 627.351(2) FS.

IF REQUESTED IN WRITING AND NOT DEEMED UNNECESSARY BY THE AGENCY HEAD, A RULE DEVELOPMENT WORKSHOP WILL BE HELD AT THE TIME, DATE AND PLACE SHOWN BELOW:

TIME AND DATE: 10:00 a.m., November 29, 1999

PLACE: Room 116, Larson Building, 200 East Gaines Street, Tallahassee, Florida

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT AND A COPY OF THE PRELIMINARY DRAFT, IF AVAILABLE, IS: Steve Roddenberry, Chief, Bureau of Property and Casualty Forms and Rates, Department of Insurance, 200 East Gaines Street, Tallahassee, Florida 32399-0330, (850)413-5310

Pursuant to the provisions of the Americans with Disabilities Act, any person requiring special accommodations to participate in this program, please advise the Department at least 5 calendar days before the program by contacting Yvonne White, (850)413-4214.

THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS:

4J-1.001 Plan of Operation and Articles of Agreement Adopted.

The Florida Windstorm Underwriting Association Amended and Restated Plan of Operation and Restated Articles of Agreement, as revised June 2, 1999 ~~June 1997~~, is hereby adopted and incorporated by reference.

Specific Authority 624.308(1), 627.351(2) FS. Law Implemented 624.307(1), 627.351(2) FS. History--New 6-29-83, Formerly 4-49.01, Amended 9-7-88, 10-18-90, Formerly 4-49.001, Amended 11-20-95, 12-5-96, 11-19-97, _____.

DEPARTMENT OF REVENUE

RULE TITLE: Notification to Custodians; Custodial Responsibilities

RULE NO.: 12-21.203

PURPOSE AND EFFECT: The purpose of the proposed amendments to Rule 12-21.203, FAC., is to implement a 1999 legislative change. This change authorizes the Department to only freeze that portion of a taxpayer's assets which equal the taxpayer's unpaid liability, instead of the entire amount of a taxpayer's assets which are held by a custodian (financial institution). However, this partial freeze can not be used if the

taxpayer has a history of tax delinquencies. The effect of these proposed amendments is to reduce the amount of a taxpayer's assets the Department must freeze, when the agency is garnishing the assets to collect an unpaid tax liability.

SUBJECT AREA TO BE ADDRESSED: The subject of this rule development workshop is the procedures the Department uses to garnish a taxpayer's assets for the purpose of collecting unpaid taxes.

SPECIFIC AUTHORITY: 72.011(2), 213.06(1) FS.

LAW IMPLEMENTED: 213.67 FS.

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

TIME AND DATE: 10:00 a.m., November 22, 1999

PLACE: Room 435, Conference Room, Carlton Building, 501 S. Calhoun Street, Tallahassee, Florida 32399-0100

Copies of the agenda for the rule development workshop may be obtained from: Larry Green, Tax Law Specialist, Technical Assistance and Dispute Resolution, Department of Revenue, Post Office Box 7443, Tallahassee, Florida 32314-7443, or by telephone, (850)922-4830.

NOTICE UNDER THE AMERICANS WITH DISABILITIES ACT: Any person requiring special accommodations to participate in any proceeding before the Technical Assistance and Dispute Resolution Office is asked to advise the Department at least five (5) calendar days before such proceeding by contacting: Jamie Phillips, (850)488-0717. If you are hearing or speech impaired, please contact the Department by calling 1(800)DOR-TDD1 (1(800)367-8331).

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT WORKSHOP IS: Larry Green, Tax Law Specialist, Technical Assistance and Dispute Resolution, Department of Revenue, Post Office Box 7443, Tallahassee, Florida 32314-7443, (850)922-4830

THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS:

12-21.203 Notification to Custodians; Custodial Responsibilities.

(1) To initiate this garnishment procedure, the Department will prepare a Notice of Freeze (Form DR-44, incorporated herein by reference, dated 09/98). Defaced copies of this form may be obtained by written request to the Florida Department of Revenue, Forms Distribution Center, 168 Blountstown Highway, Tallahassee, Florida 32304. This Notice shall be sent by registered mail to custodians exercising control or possession of a noncompliant taxpayer's assets. The following employees of the Department are authorized to initiate this administrative garnishment procedure:

- (a) The Executive Director or the Deputy Executive Director;
- (b) The General Counsel or Deputy General Counsel;

(c) The Senior Program Director, General Tax Administration;

(d) The Program Director, General Tax Administration; and

(e) Any of the following positions within the Compliance Enforcement Process, General Tax Administration:

- 1. The Process Manager;
- 2. Regional Managers;
- 3. Service Center Managers; and
- 4. Process Group Managers.

(f) Any of the following positions within the Taxpayer Services Process, General Tax Administration:

- 1. The Process Manager;
- 2. Revenue Administrator III; and
- 3. Revenue Specialist Supervisor.

(2) The notice shall state the Department's authority to initiate the garnishment procedure; specifically identify the noncompliant taxpayer subject to garnishment; specify the amount of tax, penalty, or interest owed by the taxpayer; indicate the dates during which the freeze of assets is effective; specify the amount of the taxpayer's assets which must be frozen by the custodian; and fully describe the custodian's responsibilities pursuant to s. 213.67, F.S., and this Rule.

(3) The Notice of Freeze (Form DR-44) informs the custodian that:

(a) The custodian is prohibited from disposing, transferring, or returning to the noncompliant taxpayer or other party the specified partial amount or the entire amount ~~any~~ of such taxpayer's assets in the custodian's control or possession at the time of receipt of the Notice of Freeze, or any additional assets of which the custodian subsequently acquires control or possession during the time period prescribed by this Notice, unless authorized by the Department in writing;

(b) The Notice of Freeze is effective as of the date of its receipt, and remains in effect until the Department consents to a transfer, disposition, or return, or until sixty (60) consecutive calendar days have elapsed from the date of its receipt, whichever occurs first. However, if the noncompliant taxpayer contests the intended levy in circuit court or under Chapter 120, F.S., within the time period specified under s. 213.67, F.S., the Notice of Freeze will remain effective until final resolution of the contest;

(c) If, during the time period prescribed by this Notice, a custodian makes any transfer or disposition of the assets required to be withheld, the custodian will be liable for any indebtedness owed to the department by the noncompliant taxpayer to the extent of the value of such assets if the state is unable to recover the indebtedness, solely by reason of the transfer or disposition.

(4) Each custodian who receives a Notice issued pursuant to this Rule must:

(a) Inform the Department in writing, within 5 days of the receipt of the notice, of those specific assets and their value attributable to the noncompliant taxpayer which the custodian controls, possesses, or is owed;

(b) Inform the Department in writing, within 5 days after coming into subsequent possession or control of assets attributable to the noncompliant taxpayer; and

(c) Comply with the statutory prohibition against disposing, transferring, or releasing the amount any of the noncompliant taxpayer's assets which the Department specified in the Notice of Freeze.

(5) through (6) No change.

Specific Authority 72.011(2), 213.06(1) FS. Law Implemented 213.67 FS. History—New 6-16-93, Amended 3-31-99, _____.

DEPARTMENT OF REVENUE

RULE TITLES:	RULE NOS.:
Contract Auditor Prerequisites	12-25.004
Selection Procedures for Contract Auditors	12-25.005
Applicants Ranking Committee	12-25.0054
Applicant Ranking Process	12-25.0056
Dispute Resolution	12-25.0058

PURPOSE AND EFFECT: A) Rule 12-25.004, FAC., eliminates the requirements that an applicant be a certified public accountant in good standing in the state where the audit work will be done, and that the applicant file a sworn statement stating he or she has not been convicted of a public entity crime; B) Rule 12-25.005, FAC., transfers and revises statistical sampling procedures used to select applicants to rank for potential contracts when the applicant pool exceeds 75; provides that an applicant who is completing a contract audit is automatically included in the ranking process if the applicant meets specific criteria; explains how the “delivery date” for a submitted file or application will be determined when it is sent using an overnight delivery service; defines the term “completed” case file to mean that the contract audit file is ready for departmental review; provides criteria a firm may use to substitute team members originally identified in the Request For Information; and, clarifies the procedures used to determine if an application has been timely filed; C) Rule 12-25.0054, FAC., adjusts various provisions to conform to a recent reorganization of the Department; provides that all meetings of the Applicants Ranking Committee will be noticed in the Florida Administrative Weekly; eliminates a discussion of the procedures used to pull a statistical sample of applicants when an applicant pool exceeds 75, since this procedure is moved to Rule 12-25.005, FAC.; authorizes the chairperson of the Applicants Ranking Committee to designate an individual who will review the selection committee members’ completed ranking forms, resolve discrepancies, and enter ranking form scores into the database; establishes procedures for

determining how to handle selection scores which result in a tie among two or more applicants; D) Rule 12-25.0056, FAC., changes the scoring for the evaluation criterion which is based on “experience”; eliminates the requirement that applicants successfully pass tax courses and adds Certified Audit program courses as part of the evaluation criterion based on “knowledge of Florida tax law”; states that a general law degree (i.e., one without a concentration in tax law) does not qualify for advanced degree points within the evaluation criterion based on “Advanced Degrees in Taxation”; eliminates the “Superior Performance” rating; revises the method for scoring performance evaluations; adds an example explaining how the Department will calculate an applicant’s ranking; eliminates language concerning the exclusion of an applicant based on the existence of disciplinary actions by a Better Business Bureau; and, increases the weighted score granted to certified minority business enterprises; E) Rule 12-25.0058, FAC., adjusts a provision to conform to a recent reorganization of the Department.

SUBJECT AREA TO BE ADDRESSED: The subject of this rule development workshop is the proposed revision of rules governing the Contract Auditing program, which are being changed and clarified based on issues raised during the initial years in which the program has operated.

SPECIFIC AUTHORITY: 213.06(1), 213.28(4) FS.

LAW IMPLEMENTED: 213.28 FS.

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

TIME AND DATE: 10:00 a.m., November 22, 1999

PLACE: Room 435, Conference Room, Carlton Building, 501 S. Calhoun Street, Tallahassee, Florida 32399-0100

Copies of the agenda for the rule development workshop may be obtained from: Larry Green, Tax Law Specialist, Technical Assistance and Dispute Resolution, Department of Revenue, Post Office Box 7443, Tallahassee, Florida 32314-7443, or by telephone, (850)922-4830.

NOTICE UNDER THE AMERICANS WITH DISABILITIES ACT: Any person requiring special accommodations to participate in any proceeding before the Technical Assistance and Dispute Resolution Office is asked to advise the Department at least five (5) calendar days before such proceeding by contacting: Jamie Phillips, (850)488-0717. If you are hearing or speech impaired, please contact the Department by calling 1(800)DOR-TDD1 (1(800)367-8331).

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT WORKSHOP IS: Larry Green, Tax Law Specialist, Technical Assistance and Dispute Resolution, Department of Revenue, Post Office Box 7443, Tallahassee, Florida 32314-7443, (850)922-4830.

THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS:

12-25.004 Contract Auditor Prerequisites.

An applicant and the applicant’s firm, prior to being considered for a contract or renewal of a contract to provide auditing services pursuant to Section 213.28, F.S., shall comply with the following qualifying criteria:

- (1) Must be a certified public accountant in good standing under the laws of the state in which the applicant is licensed, ~~and under the laws of the state where the audit services will be performed;~~
- (2) through (4) No change.
- ~~(5) File a sworn statement with the Department that they have not been convicted of a public entity crime, as provided in Section 287.133, F.S.~~

~~(5)(6)~~ Comply with contractual requirements regarding the confidentiality of tax information, which acknowledges the applicant’s legal responsibility to not disclose any taxpayer or departmental records.

~~(6)(7)~~ Timely provide the information, as specified by the Request for Information (when applicable), required by the Department for use in the applicant ranking procedure. “Timely provide” means the information must either be hand-delivered to the Contract Manager’s Office or postmarked by the U. S. Postal Service by the deadline established in the Request for Information. Facsimile information will not be accepted.

~~(7)(8)~~ Shall not have any currently unpaid Florida state tax liability, and, to the best of the applicant’s knowledge, be in compliance with Florida revenue laws. This provision applies to any business entity owned or controlled by, or related to, the applicant, including a parent, subsidiary, brother or sister company or other affiliated entity.

Specific Authority 213.06(1), 213.28(4) FS. Law Implemented ~~212.10~~, 213.28 FS. History—New 5-11-92, Amended 3-20-94, 11-2-96, _____.

12-25.005 Selection Procedures for Contract Auditors.

- (1) No change.
- (2)(a)1. through 2. No change.

3. When the Department identifies the need to revise or replace the group of firms under contract, and the number of applicants exceeds 75, then the following statistical sampling techniques will be utilized to select applications to be ranked in that particular pool:

a. The population will be defined as the applications filed in a complete, timely manner (as determined by the Request for Information), for the subject contract size pool, exclusive of any applicant that has satisfactorily completed a contract at the time they submit an application and who meets all the criteria established in subsection (2) of this rule at the cut-off date established by the Contract Manager.

b. A random number generator software package will be used to select which applicants from the population will be ranked.

c. The size of this statistical sample will be of sufficient size to ensure that there are at least 2 firms competing for each available contract. The critical factor in determining the sample size will be the time available for the Applicant Ranking Committee to perform its function.

d. Any applicant that has completed a contract at the time they submit an application and who meets all the criteria established in subsection (2) of this rule at the cut-off date established by the Contract Manager will automatically be included in the ranking process.

(b) Until the Department identifies the need to revise or replace the group of firms under contract, the Contract Manager will develop a ranked list from those firms that have had contracts within the two immediately preceding program years for General Tax Administration (GTA) management approval. The approved ranked list will then be used by the Contract Manager to negotiate contracts, using the same procedure set forth in this rule section. The following method will be used to develop this ranked list, and the list discussed in paragraph (2)(a) of this rule:

1. Step A: The Contract Manager will establish a cut-off date prior to developing the ranked list. The Evaluation rating(s) and the Efficiency rating(s) for any individual audit submitted to the Department subsequent to the established cut-off date will not be considered in the current ranking process. ~~The cut-off date will be within six weeks of the date the ranked list is presented to GTA management for approval.~~ The Contract Manager will eliminate from the list of firms any firms that, at the cut-off date:

- a. No longer meet the prerequisites stated in Rule number 12-25.004, F.A.C.; or,
- b. Fail to comply with the requirements of Rule number 12-25.0056, F.A.C.; or,

c. Have not submitted for review and approval at least 40 percent of their assigned audit hours. "Submitted" is defined as the completed audit file(s) delivered to the Department for final review on or before the cut-off date. If the applicant elects to use an overnight mail service to deliver their completed files, the delivery date is the date the service actually provides it to the Department, not the date the completed files are provided to the overnight mail service, and not the date the overnight mail service is paid by the applicant. The U. S. Postal Service postmark date on the mailing envelope, which constitutes the mailing date, containing such completed file(s) will be used to determine if the file(s) were submitted on or before the cut-off date. The 40 percent will be calculated by dividing the sum of the budgets for the submitted audits by the sum of the total assigned hours for the subject program year. For the purposes of these rules, the term “completed” is defined as the case file being ready for final Department

review--the Notice of Intent to Make Audit Changes has been issued, the taxpayer response received, necessary adjustments have been made to the file and all required work papers have been prepared.

2. Step B: The Contract Manager will calculate at the cut-off date the overall evaluation rating provided in Rule number 12-25.0056, F.A.C., for each firm remaining after Step A is completed. The Contract Manager will eliminate from the list firms that do not have an overall weighted evaluation rating, as provided in Rule number 12-25.0056, F.A.C., of at least 1.50, ~~3.0~~.

3. Step C: The Contract Manager will calculate at the cut-off date the overall Efficiency rating provided in Rule number 12-25.0056, F.A.C., for each firm remaining after Step A is completed. The Efficiency rating will be taken to four decimal places.

4. Step D: The Contract Manager will ~~use weight~~ the ratings developed in Steps B and C, and ~~the Fee Proposals use these weights~~ to develop a ranked list of qualified applicants. A firm's points resulting from its overall Evaluation rating will be weighted 33 percent, the points resulting from its overall Efficiency rating will be weighted at 17 percent, and the points resulting from its Fee Proposal will be weighted at 50 percent.

~~(e) When the Department identifies the need to revise or replace the group of firms under contract, the following statistical sampling techniques shall apply:~~

~~1. The population will be defined as the applications filed in a complete, timely manner (as determined by the Request for Information), for the subject contract size pool.~~

~~2. A random number generator software package will be used to select which applicants from the population will be ranked.~~

(3) through (4) No change.

(5)(a) Applicants must submit their written application in response to the Department's Request For for Information to the address specified in the subject Request For Information.

~~Florida Department of Revenue~~

~~Contract Manager~~

~~Room 182, Building G, Capital Center Complex~~

~~Post Office Box 5139~~

~~Tallahassee, Florida 32314-5139.~~

(b) To be timely, an application in response to the Request for Information must be postmarked by the U. S. Postal Service or hand-delivered within 30 calendar days of the issue date of the Florida Administrative Weekly in which the Request for Information is published. If the applicant elects to use an overnight mail service to deliver the application, the delivery date is the date the service actually provides it to the Department, not the date the application is provided to the overnight mail service, and not the date the overnight mail service is paid by the applicant.

(6) The Department's Request for Information will solicit information which reflects, at a minimum, the qualifications of the team identified by the applicant in its application to perform tax audit services for the Department, as follows:

(a) through (i) No change.

(j) The names of the professional staff and the engagement partner (i.e. the team) who will work on the audits. Except as discussed next, all team members listed in the response to the Request For Information must work on the contract. Once a contract is awarded, the Department is authorized to approve firm member substitutions if:

1. The original firm member cannot work on the contract due to either health reasons or because the member is no longer employed by the firm; and,

~~2.1.~~ The substituted firm member has approximately at least the same number of months of professional experience, the same general educational background, and the same general position level within the firm; and

~~2. The original firm member cannot work on the contract due to either health reasons or because the member is no longer employed by the firm;~~

(k) through (l) No change.

(7) After reviewing those written responses to the Department's Request for Information that are selected for ranking, the Applicants Ranking Committee will ~~determine which applicants have the necessary qualifications to conduct tax compliance audits for the Department and~~ rank the applicants in order based on requested technical criteria and their fee proposal, for negotiation purposes.

(8) The Contract Audit Section will then enter into contract negotiations with the highest ranked applicants in order of their ranking. The negotiation process will continue until all the available contracts for the subject period are let.

Specific Authority 213.06(1), 213.28(4) FS. Law Implemented ~~212.10~~, 213.28 FS. History--New 5-11-92, Amended 3-20-94, 11-2-96, _____.

12-25.0054 Applicants Ranking Committee.

(1) Composition of the Committee.

(a) The Program Director of the General Tax Administration Program (GTA) Compliance and Education will appoint a seven-member committee, known as the "Applicants Ranking Committee", to perform the ranking function.

(b)1. This Committee will include the Contract Manager, who will serve as chairperson, and six voting members.

2. The chairperson is authorized to recommend candidates for Committee membership to the Program Director of GTA Compliance and Education, schedule meetings, prepare agendas and necessary materials, and chair the meetings.

3. The chairperson will not prepare any qualification ranking forms, and will not "vote" on ranking issues.

(c) No change.

(d) The Program Director of ~~GTA Compliance and Education~~ will use the following criteria in making appointments to the Committee:

1. through 5. No change.

(e) Each member, including the chairperson, must complete a conflict of interest disclosure statement. The member must either state the absence of any existing business or family relationship with applicants, or must list any such relationships. If relationships do exist for a particular Committee member, then the Program Director of ~~GTA Compliance and Education~~ will excuse the member from participating in ranking the particular firm(s) with which the member has a relationship. The statements will be completed at the beginning of each fiscal year, prior to the start of the ranking process.

(2)(a) No change.

(b) The Contract Manager will publicly notice the date, time, and location of any meeting held by the Applicants Ranking Committee. This notification will, at a minimum, be published in the Florida Administrative Weekly ~~mailed or publicly posted~~ at least 14 calendar days prior to any scheduled meeting of the Committee.

(c) through (d) No change.

(3) Committee Procedures.

~~(a)1. If the number of applicants exceeds 75, then statistical sampling techniques will be utilized to select applications to be ranked in that particular pool. The size of this statistical sample will be determined through professional judgment. The sample will be of sufficient size to ensure that there are at least 2 firms competing for each available contract. The critical factor in determining the sample size will be the time available for the Applicant Ranking Committee to perform their function.~~

~~2. Any applicant that has completed a contract at the time they submit an application and who meets all the criteria established in Rule number 12-25.005(2)(b) at the cut-off date established by the Contract Manager, will automatically be included in the ranking process.~~

~~(a)(b)~~ No change.

~~(b)(e)1.~~ At the meeting, the Committee will conduct an open discussion on each applicant's qualifications prior to completing their individual qualification ranking form.

2. After the open discussion, the members must independently complete their individual qualification ranking forms. ~~To ensure objective results, there must be no disclosure between members as to their respective scores.~~ The members must sign and date each ranking form.

3. When each member has completed, signed and dated a qualification ranking form for each applicant, the forms will be given to the chairperson. ~~The chairperson will then compile and distribute copies of all completed ranking forms to the Committee members.~~

4. The chairperson or the chairperson's designee will review the completed forms to verify that the supporting facts entered in the comments sections are consistent between members, and are accurate. The chairperson or the chairperson's designee will resolve any discrepancies through discussion with the involved members and review of the facts documented in the subject application.

~~(c)(d)~~ The chairperson or the chairperson's designee will enter the scores from each form into a database to determine the total of the six scores of each of the applicants evaluated by the Committee. If a Committee member is excused from ranking a particular applicant due to a potential conflict of interest, then an average of the other 5 members' scores will be used as the sixth score. A Ranking Report for each pool will be prepared based on the composite scores of the applicants in the pool. The Ranking Reports will reflect, at a minimum:

1. Composite scores for each applicant in total; and
2. A ranking of the applicants in numerical order.

(d) In the event of a tie(s) on a ranking report the following steps will be performed, in numeric order, until the tie(s) is broken:

1. The individual numeric calculations comprising the total score for each applicant will be recalculated to ten decimal places;

2. Then, if the tie(s) is not broken, the applicants will be ranked against each other based on the scores for the criteria specified in subparagraphs 1., 6., 7., 9., and 10. of subsection 12-25.0056(12), F.A.C.

3. Then, if the tie(s) is not broken, the applicants will be ranked against each other based on their scores for the criteria specified in subparagraph 9. of subsection 12-25.0056(12), F.A.C.

(4) No change.

Specific Authority 213.06(1), 213.28(4) FS. Law Implemented ~~212.10~~, 213.28 FS. History—New 3-20-94, Amended 11-2-96.

12-25.0056 Applicant Ranking Process.

The criteria and definitions established in this rule will be used by the Applicants Ranking Committee to evaluate and rank the qualifications of applicants.

(1) Experience in Florida tax law. This term means working directly with the Florida statutes (tax law), Department rules and the interpretative decisions, opinions, and rulings relevant to the subject tax. The type of experience can either be:

(a) No change.

(b) Preparation – assisting a taxpayer in, or preparing tax returns for, clients, or representing clients or others with respect to audit issues during the Department's tax compliance audit process.

(c) No change.

(d) Audit Experience	=	Score
1 to 4 2 years	=	2
5 3 to 8 4 years	=	3
9 5 or more years	=	5

Points awarded for experience are based on the sum of the experience of individual team members. For team members who have previously worked on Section 213.28, F.S., contracts, one year of audit experience is awarded for each contract worked on.

(e) through (f) No change.

(2) Knowledge of Florida tax law. This is textbook/academic knowledge of the application, concepts and issues concerning the statutes, Department rules, rulings and decisions in administrative and court cases relevant to the subject tax. It is the combined knowledge (i.e., courses attended ~~and successfully passed~~) of the firm members named in the application who will work on the audits. The methods by which the applicant may have gained this knowledge are:

(a) Attended and, where applicable, successfully passed a course ~~of the Florida Institute of Certified Public Accountants which is approved by the Department and~~ which is designed specifically to teach audit applications for the Florida revenue law.

(b) Successfully completed a Department course in the Florida revenue laws (each of the Department's contract audit program and certified audit program ~~one day "update" or "review" courses meet this criteria~~).

(c) No change.

(3) Experience in Federal tax law. This is experience in working directly with the Federal Statutes, Internal Revenue Service rules and court cases relevant to the subject tax. It is the combined experience of the firm members named in the application who will work on the audits. The type of experience can either be:

(a) No change.

(b) Preparation – assisting a taxpayer in or preparing Federal tax returns for clients or representing clients on audit issues during the I.R.S. tax compliance audit process in the practice of public accounting.

(c) through (4) No change.

(5) Advanced Degrees in Taxation.

(a) These are qualifications above those of an undergraduate accounting degree. Specifically, masters or doctoral degrees in taxation. Advanced business, accounting, or law degrees with a stated major in taxation will be scored as a master's degree in taxation. Possession of a law degree without a stated concentration in taxation does not qualify for receiving advanced degree points. The score will be based on the combined number of advanced degrees, if any, of the firm members named in the application who will work on the audits.

(b) through (6) No change.

(7) Performance Evaluation.

(a) The Contract Manager or his/her designee will complete a Performance Evaluation Form for each contract audit completed, excluding surveys, when the General Tax Administration program has completed the review of the subject audit. The contract C.P.A. firm will be evaluated in four areas:

1. through (b) No change.

(c) The Contract Manager is authorized to perform a special performance evaluation at any point, based on the contract firm's failure to comply with contract terms, Department policies and procedures, or the Contract Manager's express written instructions. The special performance evaluation will be weighted at 10 percent of the total hours used as the denominator in the calculation discussed in this subsection ~~assigned under the subject contract~~, and will be included in the ranking process.

(d)1. The Contract Manager or his/her designee will rate the subject firm on each of the line items for the four criteria discussed in this subsection (Communication, Knowledge of Florida Tax Law, Preparation of Audit File, and Professional Conduct) and then determine an overall score for each evaluation completed.

2. Each individual line item in the performance evaluation will be rated as "Below Performance Standards", "Achieves Performance Standards", or "Exceeds Performance Standards"; ~~or "Superior Performance"~~. The ratings will carry the following numerical ratings:

- a. "Below Performance Standards" equals ~~2.0~~;
- b. "Achieves Performance Standards" equals 3.0;
- c. "Exceeds Performance Standards" equals 5.0, ~~4.0~~;
- ~~d. "Superior Performance" equals 5.0;~~

The individual line item scores for each performance evaluation will be totaled and divided by the number of line items rated. The resulting average will be the overall rating for that performance evaluation.

3. The Contract Manager or his/her designee will provide supporting comments for any area rated anything other than "Achieves Performance Standards." All evaluations require Contract Manager approval prior to becoming final.

~~(e)(d)~~ The methodology for scoring this category is determined as follows:

Performance Evaluation		
Overall Weighted Rating	=	Ranking Equation Points
2.9 or less	=	0
3.0 to 3.5	=	2
3.6 to 4.5	=	4
4.6	=	5

~~(f)(e)~~1. The performance evaluation points awarded a firm will be determined using the weighted total of the overall ratings for performance evaluations.

2. For a performance evaluation to be considered in a ranking process, the associated audit # must have been:

a. Assigned and completed by the cut-off date provided in Rule number 12-25.005 (if applicable);

b. And the Performance Evaluation must be dated Dated no earlier than the two immediately preceding program funding years; and

c. Not included in any previous ranking process.

3. The weight assigned to each included performance evaluation will be the ratio which the incurred audit hours, up to the approved budget, in the subject audit bear to the total of the hours for all audits for all included performance evaluations.

4. An example of the calculation for any C.P.A. firm is as follows:

Step 1: For example – A firm has two Performance Evaluations eligible for the subject ranking process. The firm received two “Below Performance Standards”, 12 “Achieves Performance Standards” and four “Exceeds Performance Standards” on the Performance Evaluation for audit #1, which had a 900 hour budget. The overall rating for that Performance Evaluation would be 3.1 (56 total points divided by 18 line items). The firm received six “Achieves Performance Standards” and 12 “Exceeds Performance Standards” on the Performance Evaluation for audit #2, which had a 100 hour budget. The overall rating for the second Performance Evaluation would be 4.3 (78 total points divided by 18 line items.)

OVERALL SCORE	AUDIT HOURS	FACTOR X	WEIGHTED OVERALL SCORE
Audit # 1- 3.1 3-5	900	90% (900/1000)	2.8 3-15
Audit # 2- 4.3 2-7	100	10% (100/1000)	4.27
	1000	100%	3.2 3-42

Step 2: 3.2 points for Performance Evaluations would be used in the subject weighted ranking equation. 3-42 is between 3.0 to 3.5, which equates to 2 ranking equation points, as provided in this rule.

Any points resulting from performance evaluations accrue only to the legal entity with which the Department entered into the contract.

(8) through (10) No change.

(11) Exclusion from Ranking Process. An applicant will be excluded from the ranking process for the subject fiscal year if:

(a) The applicant has been found guilty in a Board of Accountancy disciplinary action within the last three years.

(b) There are two or more disciplinary actions taken by the Division of Consumer Services, Department of Agriculture and Consumer Services or similar agency in the applicant firm's state of domicile, ~~or by in-state or out-of-state Better Business Bureaus against the subject applicant.~~

(c) The applicant misrepresents any material fact affecting the applicant's weighted score.

(d) ~~The applicant or any business entity owned by, or related to, the applicant, including a parent, subsidiary, brother or sister company or other affiliated entity,~~ has any currently unpaid Florida state tax liability or has failed to comply with Florida revenue laws.

(12) Criteria and Weighted Equation.

(a) The criteria and associated weights provided in this section, in conjunction with the ~~provisions~~ provision of subsections (1) through (9) of this section, will be employed in the applicant ranking process whenever a Request for Information has been published. The information used in applying the described criteria will primarily be provided by the applicants' responses to the Request for Information. Other sources are described in this section.

(b) ~~(a)~~ Weighting is accomplished by multiplying the scores for each criteria by an assigned percentage, with the sum of the percentages equaling 100 percent, as follows:

CRITERIA	MAXIMUM POINTS	X	WEIGHT	=	SCORE
1. Experience in Florida tax law	5		15%		.75
2. Knowledge of Florida tax law	4		5%		.20
3. Experience in Federal tax law	5		5%		.25
4. Results of On-Site Quality Review or Peer Review	4		5%		.20
5. Advanced Degrees in Taxation	4		5%		.20
6. Certified Minority Business Enterprise	5		10 5 %		.50 .25
7. Performance Evaluation	5		15 20 %		.75 1.00
8. Other	5		5%		.25
9. Fee Proposal	5		25%		1.25
10. Efficiency Calculation	5		10%		.50

(13) The Committee is authorized to award a bonus score, ranging from .25 to 1.00 points, to any applicant who develops developing significant improvements in audit tools and techniques. The subject improvements must have been successfully used in a Department tax compliance audit file which was reviewed and approved by the Contract Audit Section. The Department is contractually authorized to take such improvements for use by its own audit staff. The Contract Manager is responsible for informing the Committee of any improvements so the Committee can evaluate awarding the bonus. Also, the Committee is authorized to award a bonus score of 1.00 to any applicant that lists on their response to the Request for Information experience that the contract manager has identified as beneficial for the subject program year. The bonus will be added to the total calculated weighted score. Accordingly, the maximum score a contract firm could receive is ~~6.85 5-80 (4.85 4-80 plus 1.00 plus 1.00 equals 6.85 5-80).~~

Specific Authority 213.06(1), 213.28(4) FS. Law Implemented ~~212-10~~, 213.28 FS. History—New 3-20-94, Amended 11-2-96, _____.

12-25.0058 Dispute Resolution.

(1) through (2)(d) No change.

(e) The Process Manager, Compliance Support Process process, will provide a written response within 45 calendar days of receipt of the request for reconsideration.

(f) No change.

Specific Authority 213.06(1), 213.28(4) FS. Law Implemented ~~212.10~~; 213.28 FS. History—New 3-20-94, Amended 11-2-96,_____.

DEPARTMENT OF REVENUE

Sales and Use Tax

RULE TITLES:	RULE NOS.:
Industrial Machinery and Equipment for Use in a New or Expanding Business	12A-1.096
Public Use Forms	12A-1.097

PURPOSE AND EFFECT: A) The proposed amendments to Rule 12A-1.096, FAC., are necessary to address significant changes made during the 1996, 1998, and 1999 legislative sessions to Section 212.08(5)(b), F.S., which provides an exemption from sales and use tax on purchases of machinery and equipment made by new and expanding businesses. The 1996 Legislature lowered the tax threshold for expanding businesses from \$100,000 to \$50,000 per calendar year, eliminated the express exclusion of printing firms and certain publishing firms from the exemption, and established the requirement that businesses seeking the exemption must register with the WAGES Program Business Registry. The 1998 Legislature exempted expanding printing businesses from the \$50,000 tax threshold requirement. The 1999 Legislature eliminated the express exclusion of phosphate or other solid minerals severance, mining or processing operations from the exemption. However, the 1999 Legislature further provided that those new and expanding mining-related businesses must demonstrate the creation of a certain number of new Florida jobs in order to qualify for the exemption and those businesses may only get the exemption by way of a prospective credit against severance taxes. The 1999 Legislature also provided that new and expanding businesses engaged in spaceport activities do not have to manufacture, process, compound, or produce tangible personal property for sale in order to qualify for the exemption.

B) The amendments to subsection (1) of Rule 12A-1.096, FAC., revise the existing definitions for the terms “fixed location,” “industrial machinery and equipment,” “physically comparable,” “production process,” and “productive output.” The amendments provide additional definitions for the terms “integral to,” “manufacture, process, compound, or produce,” “mining activities,” and “spaceport activities.” The existing separate definition of “process” is deleted, since that term is incorporated within the new definition of “manufacture, process, compound, or produce.”

C) The amendments to subsection (2) of Rule 12A-1.096, FAC., clarify that the labor necessary to install machinery and equipment at a new business is exempt; clarify that machinery and equipment must be purchased, or a purchase agreement made, before the start of production or the beginning of spaceport activities; provide guidance to the qualification for exemption of amendments, change orders, or substitutions to purchase agreements; provide guidance as to when production

or spaceport activities begin at a new business; clarify general examples of what represents a new business and eliminate specific examples of new businesses; and replace the concept that a new business means the production of an item of tangible personal property that is not physically comparable to an item or other items, which have been or are being produced by that business, with the concept that a new business means the production of an item of tangible personal property that represents a distinct and separate economic activity from other items that have been or are being produced by that business.

D) The amendments to subsection (3) of Rule 12A-1.096, FAC., clarify that the labor necessary to install machinery and equipment at an expanding business is exempt; reflect the lowering of the tax threshold for expanding businesses from \$100,000 to \$50,000 and provide that printing firms are not subject to the threshold; clarify that only purchases of qualifying machinery and equipment count toward the fulfillment of the tax threshold; update referenced years in examples for greater relevance; clarify general examples of what represents an expanding business and eliminate specific examples of expanding businesses; and provide that expanding spaceport activities are not subject to the productive output increase requirement, which is imposed upon other expanding businesses.

E) A new subsection (4) is added to Rule 12A-1.096, FAC., providing that new and expanding mining activities may only receive the exemption by way of a prospective credit against severance taxes; providing requirements for creating new Florida jobs; defining new Florida jobs; and providing that the exemption for mining activities may not be approved until such time as the Office of Tourism, Trade, and Economic Development has certified to the Department of Revenue that the required number of new Florida jobs have been created.

F) Existing subsection (4) of Rule 12A-1.096, FAC., which provides a flowchart illustrating whether purchases of machinery and equipment will or will not qualify for exemption, is eliminated as having historically shown no practical value in the actual administration of the exemption.

G) A new subsection (5) of Rule 12A-1.096, FAC., provides six classification factors to be considered by the Department of Revenue when determining whether an applicant business should be classified as new or expanding for the purposes of the exemption.

H) Existing subsection (5) of Rule 12A-1.096, FAC., is renumbered (6) and eliminates the requirement for applicant businesses to submit obsolete forms DR-1207 and DR-1208; provides that to receive the exemption for mining activities, a qualifying business entity must also submit form DR-1214; provides that a temporary tax exemption permit will not be issued to mining businesses, since those businesses may only receive the exemption by way of a prospective credit against severance taxes; provides that a certified statement is not needed where the business claiming a refund has self-accrued

and remitted the tax directly to the State of Florida; provides timing criteria for when new and expanding businesses engaged in spaceport activities may seek a refund of previously paid tax; provides timing criteria for when new and expanding businesses engaged in mining activities may seek a credit for previously paid tax; and deletes obsolete language concerning the statute of limitations for refund requests.

I) Existing subsection (6) of Rule 12A-1.096, FAC., is renumbered (7).

J) Existing subsection (7) of Rule 12A-1.096, FAC., is renumbered (8) and removes obsolete language that excludes phosphate or other solid minerals severance, mining or processing operations, printing firms, and certain publishing firms from the exemption; deletes the term "fabricate" from the subsection, since that term is not used in the exemption statute; and provides that where a publisher is also a printer, that business will be considered a printer for the purposes of the exemption.

K) Existing subsection (8) of Rule 12A-1.096, FAC., is renumbered (9) and provides additional examples of machinery and equipment that will or will not qualify for exemption; provides that parts and accessories purchased tax exempt pursuant to s. 212.08(7)(eee), F.S., for replacement, maintenance, or repair shall not be allowed an exemption for the same amount of tax pursuant to the exemption provided by s. 212.08(5)(b), F.S.; and eliminates verbose language within the enumerated examples.

L) Existing subsection (9) of Rule 12A-1.096, FAC., is renumbered (10) and clarifies that the exemption only applies to the original term of an operating lease and provides that a purchase option at the end of an operating lease is considered to be a purchase made after the start of production and is subject to tax.

M) Existing subsection (10) of Rule 12A-1.096, FAC., is renumbered (11) and eliminates verbose language referring to the Executive Director or designee in the responsible program.

N) Subsection (12) is added to Rule 12A-1.096, FAC., to provide that no machinery and equipment purchased or leased will be eligible for the exemption without the business seeking the exemption being registered with the WAGES Program Business Registry.

O) The proposed amendments to Rule 12A-1.097, FAC., eliminate forms DR-1207 (Florida Contract Data Form) and DR-1208 (Schedule of Contractors) as not necessary to the administration of the application process; and the reference to form DR-1214 (Application for Temporary Tax Exemption Permit) is updated to reflect the current version of the form.

SUBJECT AREA TO BE ADDRESSED: A) The subsections within Rule 12A-1.096, FAC., to be addressed concern: the definitions of terms; qualifying purchases by, the start of production by, and examples of, new businesses; threshold amounts for, examples of, and productive output requirements for, expanding businesses; requirements for mining activities

for the creation of new Florida jobs; the elimination of an unnecessary illustrative flowchart; the provision of factors for consideration by the Department of Revenue when determining whether an applicant business should be classified as new or expanding for the purposes of the exemption; the forms that must be filed by an applicant business in order to obtain the exemption; the provisions that mining businesses will not be issued a temporary tax exemption permit and may only receive the exemption by way of a credit against severance taxes; and the events that must occur before a refund may be issued or a credit authorized for a new or expanding business.

B) Existing subsections (28), (29), and (30) of Rule 12A-1.097, FAC., concerning the elimination of forms DR-1207 and DR-1208 and the current version of form DR-1214 will be affected by the amendments.

SPECIFIC AUTHORITY: 212.08(5)(b)4., 212.17(6), 212.18(2), 213.06(1) FS.

LAW IMPLEMENTED: 212.02(4),(14),(21),(22), 212.05, 212.06, 212.08(5)(b), 212.13(2), 212.17(6), 212.18(2), 215.26(2) FS., Section 2, Chapter 99-171, Laws of Florida.

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

TIME AND DATE: 10:00 a.m., December 1, 1999

PLACE: Room B-12, Carlton Building, 501 South Calhoun Street, Tallahassee, Florida

Copies of the agenda for the rule development workshop may be obtained by contacting the person listed below.

NOTICE UNDER THE AMERICANS WITH DISABILITIES ACT: Any person requiring special accommodations to participate in any proceeding before the Technical Assistance and Dispute Resolution Office is asked to advise the Department at least five (5) calendar days before such proceeding by contacting: Jamie Phillips, (850)488-0717. If you are hearing or speech-impaired, please contact the Department by calling 1(800)DOR-TDD1 (1(800)367-8331).

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT IS: Jeffery L. Soff, Tax Law Specialist, Sales Tax Unit 3, Technical Assistance and Dispute Resolution, P. O. Box 7443, Tallahassee, Florida 32314-7443, telephone (850)922-4719

THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS:

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

(1) Definitions – The following terms and phrases when used in this rule shall have the meaning ascribed to them except where the context clearly indicates a different meaning:

(a) "Fixed location" means being permanently affixed to one location or plant site. The term also includes, ~~or~~ any portable plant which is set up for a period of not less than six

months in a stationary manner so as to perform the same industrial manufacturing, processing, compounding, or production process that could be performed at a permanent location or plant site. The geographical limits of the "fixed location" for purposes of this rule are limited to the immediate permanent location or plant site. Facilities or plant units that are within the same building, or that are on the same parcel of land if not contained in a building, are considered to be one fixed location.

(b) "Industrial machinery and equipment" means tangible personal property or other property with a depreciable life of 3 years or more that is used as an integral part in the manufacturing, processing, compounding, or production of tangible personal property for sale or is exclusively used in spaceport activities. Buildings and their structural components are not industrial machinery and equipment unless the building or structural component is so closely related to the industrial machinery and equipment that it houses or supports that the building or structural component can be expected to be replaced when the machinery and equipment itself is replaced. Heating and air conditioning systems are not considered industrial machinery and equipment, unless the sole justification for their installation is to meet the requirements of the production process, even though the system may provide incidental comfort to employees, or serves, to an insubstantial degree, non-production activities. For example, a dehumidifier installed for the sole purpose of conditioning air in a factory, where the manufacturing of electronic components requires a controlled-humidity environment, will be considered industrial machinery and equipment. (See subsection (9) of this rule.) ~~"Section 38 Property" as defined in Section 48(a)(1)(A) and (B)(i) of the United States Internal Revenue Code, as amended, and includes parts and accessories, essential to the manufacturing, processing, compounding or producing of tangible personal property for sale, or for exclusive use in spaceport activities as defined in s. 212.02, F.S. "Industrial machinery and equipment" also means pollution control equipment, or sanitizing and sterilizing equipment which is essential to manufacturing, processing, compounding or producing items of tangible personal property. "Industrial machinery and equipment" also means monitoring machinery and equipment which is essential to manufacturing, processing, compounding or producing items of tangible personal property. In determining what is essential to manufacturing, processing, compounding or producing items of tangible personal property, the examination will not turn on how vertically integrated the taxpayer is but rather on the specific activity that the taxpayer asserts is part of the production process. For example, if the activity is essentially one of transportation or storage, associated equipment and machinery will not qualify for exemption unless specifically exempted in subsection (8) of this rule.~~

(c) "Integral to" means that the machinery and equipment provides a significant function within the production process, such that the production process could not be complete without that machinery and equipment.

(d) "Manufacture, process, compound, or produce for sale" means the various industrial operations of a business where raw materials will be put through a series of steps to make an item of tangible personal property that will be sold. The industrial operations must bring about a change in the composition or physical nature of the raw materials. Where materials are merely repackaged or redistributed, those operations are not manufacturing, processing, compounding, or producing for sale. The item of tangible personal property may be sold to another manufacturer for further processing or for inclusion as a part in another item of tangible personal property that will be sold, or the item may be sold as a finished product to a wholesaler or an end consumer. The business performing the manufacturing, processing, compounding, or production process may or may not own the raw materials. However, the phrase "manufacture, process, compound, or produce for sale" does not include fabrication, alteration, modification, cleaning, or repair services performed on items of tangible personal property belonging to others where such items of tangible personal property are not for sale.

(e) "Mining activities" means phosphate and other solid minerals severance, mining, or processing operations. Mining activities end at the point where the mineral is readily identifiable as the final product of mining or where it is ready to be compounded or mixed with other materials to form a new material. (See subsection (4) of this rule.)

~~(f)(e) "Physically comparable" means the similarity or equivalency of the characteristics of the items of tangible personal property being manufactured, processed, compounded, or produced. Physical comparability applies to the units used to measure the increase in productive output of an expanding business. The taxpayer shall have the burden of demonstrating that items of tangible personal property are not physically comparable to other items which have been or are being produced at that particular fixed location. Such demonstration may require the submission of an independent engineer's report by the taxpayer if Department personnel are unable to determine if items are, or are not, physically comparable.~~

~~(d) "Process" means a series of operations conducting to an end which is an item of tangible personal property for sale or for exclusive use in spaceport activities as defined in s. 212.02, F.S.~~

~~(g)(e) "Production process" or "production line" means those industrial production activities beginning when raw materials are delivered to at the fixed location of the new or expanding business' fixed location facility and generally ending when the items of tangible personal property have been packaged for sale, or are in saleable form if packaging is not~~

done, or are for exclusive use in spaceport activities as defined in s. 212.02, F.S. However, the production process may include quality control activities for perishable ~~foods~~ ~~food goods~~ for human consumption after the food ~~items have~~ ~~good has~~ been packaged (or ~~are is~~ in saleable form if packaging is normally not done), if such quality control activities are required by good manufacturing practices mandated by state or federal government agencies. ~~The~~ ~~One~~ production process may encompass more than one fixed location if the ~~qualifying~~ business transfers work-in-process from ~~one~~ ~~the first~~ fixed location to ~~a~~ ~~the~~ second fixed location for further manufacturing, processing, compounding, or ~~production~~ ~~producing~~ of the items of tangible personal property for sale or for exclusive use in spaceport activities as defined in s. 212.02, F.S. For example, a company purchases machinery and equipment to produce raw orange juice at one fixed location, and this raw orange juice is transferred as work-in-process to a second fixed location where the company will use the raw orange juice to make five different products. ~~A production~~ ~~“Production process”~~ does not include natural processes occurring before raw material is delivered to the receiving operation or after the packaging operation ~~“production process”~~ (as defined in this paragraph, (1)(e), above) that ~~produces the items of tangible personal property~~. For example, the natural transformation of grass or feed into raw milk by cows is not part of the production process. In this case, the production process begins when the cows (i.e., raw materials) are brought into the milking parlor. Neither is the planting, growing, or harvesting of crops, nor the raising of livestock or poultry, part of the production process. ~~Furthermore,~~ ~~machinery and equipment qualifying for partial exemption under s. 212.08(3), F.S., is not eligible for the exemption under s. 212.08(5)(b), F.S.~~ Also, the natural aging or fermentation of alcoholic beverages or other food products, after they have been packaged, is not part of the production process. ~~There,~~ ~~Here~~ the production process ends when the alcoholic beverage or other food product has been packaged for sale. (See paragraph ~~(9)(8)~~(b) of this rule.)

(h)(~~f~~) “Productive output” ordinarily means the number of units actually produced by a single plant or operation in a single continuous 12 month period, ~~irrespective of sales~~. The increase in “productive output” shall be measured by the output for 12 continuous months immediately following the completion of the installation of machinery and equipment for the expansion project as compared to the “productive output” of 12 continuous months immediately preceding the beginning of the installation of machinery and equipment for the expansion project. However, if a different 12 month continuous period would more accurately reflect the increase in productive output as a result of a business expansion, the increase in productive output may be measured during an alternate 12 month continuous period provided that prior to the start of production by the expanded business the Executive Director or the Executive Director’s designee agrees to such

alternate measuring period. Such alternate continuous 12 month measuring period approved by the Executive Director or the Executive Director’s designee must begin within 24 months following the completion of installation of qualifying machinery and equipment. If an alternate 12 month measuring period is requested by the business entity and is agreed to by the Executive Director or the Executive Director’s designee, only the selected alternate 12 month period will be used to measure the increased productive output for the business expansion, even though some 12 month period other than the selected and approved 12 month period may show a production increase of 10 percent or more as a result of the expansion project. Productive output may not be measured by sales dollars or by production labor hours for the purposes of this exemption.

(i) “Spaceport activities” means those activities as defined in Section 212.02, Florida Statutes.

(2) New Business.

(a) The purchase ~~and installation~~ of industrial machinery and equipment, parts and accessories, and the ~~parts and~~ installation labor thereof, is exempt from tax when purchased by a new business which uses such machinery and equipment at a fixed location in this state for exclusive use in spaceport activities, or to manufacture, process, compound, or produce in manufacturing, processing, compounding or producing for sale, or for exclusive use in spaceport activities as defined in s. 212.02, F.S., items of tangible personal property for sale.

(b) Machinery ~~The purchase agreement for the machinery~~ and equipment must be purchased, or a purchase agreement made, before the new business begins spaceport activities or starts production, and delivery of the purchased items must be made within 12 twelve (12) months from the beginning of spaceport activities or the start of production.

(c) The date of purchase of the machinery and equipment is established by the date of the purchase agreement. If no purchase agreement was made, or in the absence of proof that a purchase agreement was made prior to the determined beginning of spaceport activities or the start of production date, the machinery and equipment vendor’s sales invoice will be the controlling document for determining whether the machinery and equipment qualifies for the an exemption. No exemption will be allowed even though delivery of machinery and equipment is made within 12 twelve (12) months from the beginning of spaceport activities or the start of production if the machinery and equipment was ordered after the beginning of spaceport activities or the start of production. Amendments or change orders to the original purchase agreement made after the start of production that increase the quantity of items purchased will not qualify for the exemption. Substitutions of like kind machinery and equipment will qualify for the exemption to the extent that the cost of the item is not increased. If the cost of the item is increased, the amount of the increase shall be subject to tax.

(d) ~~The start of production shall be the date that a product is manufactured, processed, compounded, or produced where such product will be inventoried for sale or will be immediately sold. However, if this date does not reflect the actual start of production, the date of the start of production shall be determined by the Executive Director or the Executive Director's designee on a case by case basis. In such cases, the business taxpayer shall maintain sufficient records to enable the Executive Director or the Executive Director's designee department to make a proper determination as to the initial production activities of the new facility. (See subsection (7)(6) of this rule.)~~

a. Initial test or trial runs necessary to calibrate or evaluate the operation of machinery and equipment, where the products made are scrapped or sold for salvage value, are not considered to be the start of production. The operation of machinery and equipment at less than full capacity, where the products made are inventoried or immediately sold, is considered to be the start of production.

b. Production is considered to have started even though the production line may not be complete, if any part(s) of the production process is subcontracted to others and a finished product can be inventoried or immediately sold.

2. The beginning of spaceport activities shall be the date that industrial machinery and equipment is first exclusively used for that purpose. However, if this does not reflect the actual beginning of spaceport activities, the date shall be determined by the Executive Director or the Executive Director's designee on a case by case basis. In such cases, the business shall maintain sufficient records to enable the Executive Director or the Executive Director's designee to make a proper determination as to the beginning of spaceport activities of the new facility. (See subsection (7) of this rule.)

(e) ~~The Executive Director or the Executive Director's designee shall determine if a business qualifies for the exemption as a new business, status based on the facts in each particular case, using the following guidelines, provided the requirements of paragraphs (2)(a), (b), (c), and (d) are complied with:~~

1. A new business means a newly-formed company that opens a new facility or plant, at a fixed location in this state, to manufacture, process, compound, or produce items of tangible personal property which manufactures, processes, compounds or produces for sale, or to exclusively use industrial machinery and equipment for exclusive use in spaceport activities as defined in s. 212.02, F.S., an item of tangible personal property at a fixed location in the state.

2. A new business means an addition to, or the enlargement of, an existing facility or plant, or the installation of additional machinery and equipment, for the purpose of manufacturing, processing, compounding, or producing items of tangible personal property for sale that represent a distinct and separate economic activity from other items that have been

or are being produced at that same fixed location, or to exclusively use industrial machinery and equipment in distinct and separate spaceport activities. (See subsection (5), of this rule.) for sale, or for exclusive use in spaceport activities as defined in s. 212.02, F.S., items of tangible personal property which are not physically comparable to other items which have been or are being produced at that particular fixed location. The taxpayer shall have the burden of demonstrating that items of tangible personal property are not physically comparable to other items which have been or are being produced at that particular fixed location. Such demonstration may require the submission of an independent engineer's report by the taxpayer if Department personnel are unable to determine if items are, or are not, physically comparable.

3. A new business means opening a new facility or plant, at a fixed location in this state, to manufacture, process, compound, or produce an item of tangible personal property which manufactures, processes, compounds or produces for sale, or to exclusively use industrial machinery and equipment for exclusive use in spaceport activities, as defined in s. 212.02, F.S., an item of tangible personal property provided no other facility or plant in this state that which manufactured, processed, compounded, or produced the same or a similar for sale, or for exclusive use in spaceport activities as defined in s. 212.02, F.S., a physically comparable item of tangible personal property, or performed the same or a similar spaceport activity, at a fixed location in this state, was closed to open the new facility or plant, or will be closed within 12 months.

4. A new business does not mean the change of ownership of an existing facility or plant, at a fixed location in this state, that which manufactures, processes, compounds, or produces items of tangible personal property for sale, or exclusively uses industrial machinery and equipment for exclusive use in spaceport activities, as defined in s. 212.02, F.S., an item of tangible personal property at a fixed location in this state by a purchase arrangement, merger, or some other similar means, unless such facility or plant ceased doing productive operations for a period of 12 months one year.

~~(f) Activities presumed to be a new business include, but are not limited to, assuming the requirements of paragraphs (2)(a), (b), (c), and (d) are complied with:~~

~~1. A company opens a new manufacturing plant in the State of Florida, without closing any existing manufacturing facilities within the state.~~

~~2. A company which manufactures leather baseball gloves purchases additional machinery and equipment which will be used to manufacture aluminum baseball bats in its existing facility.~~

~~3. A company which manufactures automobile parts and accessories purchases additional machinery and equipment which will be used to manufacture golf clubs in its existing facility.~~

4. ~~A company which manufactures automobile rubber heat shields purchases additional machinery and equipment which will be used to manufacture spark plug boots in its existing facility.~~

5. ~~A company which manufactures automobile engine manifolds enlarges its existing facility and purchases additional machinery and equipment which constitutes a new dedicated assembly line and which will be operated by the company as a separate cost center in order to manufacture automobile engines.~~

6. ~~A company purchases an existing manufacturing facility which had been closed for 12 months and retools the facility in order to manufacture the same product which was manufactured at the facility prior to its closing.~~

(3) Expanding Business.

(a) Industrial machinery and equipment, ~~and the parts and accessories, and the installation labor~~ thereof, purchased by a business for the purpose of expanding spaceport activities, or the operation of a plant which uses such machinery and equipment in manufacturing, processing, compounding or producing for sale, or for exclusive use in spaceport activities as defined in s. 212.02, F.S., an item of tangible personal property at an existing fixed location in this state to manufacture, process, compound, or produce items of tangible personal property for sale is exempt from any amount of taxes imposed ~~due~~ in excess of \$50,000 ~~\$100,000~~ per calendar year. The taxpayer may elect to pay the entire \$50,000 ~~\$100,000~~ in tax directly to the Department at the beginning of the expansion project or at the beginning of the calendar year, ~~whichever occurs first,~~ or accrue or pay the tax on each qualifying purchase until the \$50,000 ~~\$100,000~~ tax limitation is reached. The business entity may then obtain and extend a Temporary Tax Exemption Permit in lieu of paying any additional sales tax in excess of the \$50,000 ~~\$100,000~~ in tax for the remainder of the calendar year. For each subsequent year the project is ongoing, the taxpayer may again elect to pay the entire \$50,000 ~~\$100,000~~ in tax directly to the Department at the beginning of the calendar year, or accrue or pay the tax on each qualifying purchase until the \$50,000 ~~\$100,000~~ tax limitation is reached.

(b)1. Only the actual sales or use tax imposed on qualifying purchases for the calendar year shall apply to the \$50,000 ~~\$100,000~~ tax threshold limitation even though the tax may be paid in a subsequent calendar year.

2. EXAMPLE 1. Sales or use tax paid to the state in January ~~1999, 1991,~~ for the period ending December 31, ~~1998 1990,~~ would be allowed as part of the \$50,000 ~~\$100,000~~ tax threshold limitation for ~~1998 1990,~~ since the tax paid with the December ~~1998, 1990,~~ sales tax return would have been imposed in ~~1998 1990.~~

3. EXAMPLE 2. Sales or use tax paid to the state in January ~~1999, 1991,~~ for the period ending December 31, ~~1998 1990,~~ would not be allowed as part of the \$50,000 ~~\$100,000~~

tax threshold limitation for ~~1999 1991,~~ since the tax paid with the December ~~1998, 1990,~~ sales tax return would have been imposed in ~~1998 1990.~~

4. Expanding printing facilities or printing plant units are not subject to the \$50,000 tax threshold.

(c) The Executive Director or the Executive Director's designee shall determine whether ~~if~~ a business qualifies for the exemption as an expanding business, ~~status~~ based upon the facts of each case using the following guidelines, provided the requirements of paragraphs (3)(a) and ~~(d)(e)~~ are complied with:

1. a. An expanding business means an addition to, or the modernization or enlargement of, an existing facility or the installation of additional machinery and equipment to manufacture, process, compound, or produce which manufactures, processes, compounds or produces for sale, or for exclusive use in spaceport activities as defined in s. 212.02, F.S., an item of tangible personal property which is already being produced at that the fixed location in this state or which is similar physically comparable to an the item of tangible personal property which is already being produced at that the fixed location in this state.

b. An expanding business means an addition to, or the modernization or enlargement of, an existing facility or the installation of additional machinery and equipment to perform a spaceport activity that is already being performed, or is similar to an activity that is already being performed, at that fixed location.

2. An expanding business means closing an existing a plant or an operation in a plant in this state and moving it to a new location in this state within 12 months of the closing.

3. An expanding business means the purchase of an existing facility to manufacture, process, compound, or produce an item of tangible personal property which is already being produced at that facility, or which is similar to an item of tangible personal property which is already being produced at that facility.

~~(d) Activities that are presumed to be an expanding business include, but are not limited to, assuming the requirements of subsections (3)(a) and (c) are complied with:~~

~~1. A company opens a new manufacturing plant in the State of Florida, but closes an existing manufacturing facility in this state which produced the same or a physically comparable product.~~

~~2. A company which manufactures tennis shoes purchases additional machinery and equipment which will be used to manufacture track shoes in its existing facility.~~

~~3. A company which manufactures boats retools for a new model year.~~

~~4. A company which produces domestic sausage adds a smoked sausage line which will be produced on a dedicated production line at their existing facility where the smoked sausage line will be marketed under a different product logo.~~

5. A company purchases an existing manufacturing facility which had been closed for less than 12 months and retools the facility in order to manufacture the same product which was manufactured at the facility prior to its closing.

(d)(e) In order to qualify for an exemption as an expanding business, the taxpayer shall provide information to the satisfaction of the Executive Director or the Executive Director's designee Department that the items purchased shall be used to increase the productive output of the existing facility or specific product line(s) by not less than 10 percent. An expanding business is allowed to specify whether the 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 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. For example, if a company purchases machinery and equipment that increases its production of raw orange juice by 25 percent, and this raw orange juice is used by the company to make five different products, the increase in productive output would be determined by measuring the volume increase in the combined output of all five different products. Expanding spaceport activities are not subject to the increase in productive output requirement.

(4) Mining Activities.

(a) The exemption for new and expanding mining activities is available only by way of a prospective credit against severance taxes due under Chapter 211, Florida Statutes. In order to qualify for the exemption, businesses engaged in mining activities must demonstrate the following:

1. A new business must demonstrate the creation of at least 100 new Florida jobs.
2. An expanding business that has 2,500 or fewer Florida employees must create new Florida jobs in an amount equal to at least 5 percent of its Florida employees; or
3. For an expanding business that has more than 2,500 Florida employees, that business must create new Florida jobs in an amount equal to at least 3 percent of its Florida employees.
4. In addition to the requirements of subparagraph 2. or 3. above, expanding mining businesses must also meet the requirements of paragraphs (3)(a) and (d) above.

(b) "New Florida job" means a new position created and filled within 24 months after the completion of construction of the new or expanded facility. The term includes a transfer of a position from an existing Florida operation so long as the transfer is the result of the closure or reduction of the other Florida operation. For an expanding business, the number of existing Florida employees shall be determined as of the date on which the business commences construction of the expansion.

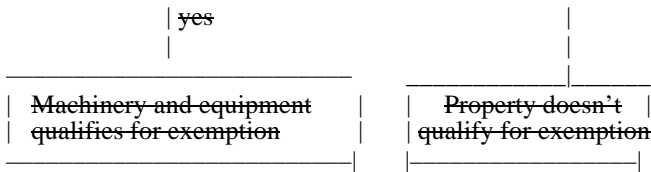
(c) The Office of Tourism, Trade, and Economic Development shall certify the creation of new Florida jobs to the Department of Revenue. The exemption to new and expanding businesses engaged in mining activities will not be approved until the Department of Revenue has received such certification.

(4) Decision Flow Chart.

(a) The following is a flow chart that graphically illustrates the analysis sequence that will assist the Department in determining if industrial equipment and machinery qualifies for sales tax exemption under s. 212.08(5)(b), F.S. Note that this analysis is subsequent to the analysis required to determine if there is a new or expanded business.

(b) Flow analysis of whether equipment or machinery qualifies for exemption:

Is equipment or machinery Section 38 property?	no
yes	
As defined in Section 48(a)(1)(A) or (B)(i) of IRC?	no
yes	
Used as an essential part of manufacturing, processing, compounding, or producing?	no
yes	
Items of Tangible Personal Property (TPP) produced?	no
yes	
At fixed locations?	no
yes	
TPP produced for sale or for exclusive use in Spaceport Activities?	no



(5) Manufacturing Business Classification Factors.

(a) When an additional product is made at an existing fixed location, the determination whether that business is classified for the exemption as a new business or as an expanding business will depend upon whether the additional product represents an economic activity that is distinct and separate from a product, or a group of products, that is already being manufactured, processed, compounded, or produced at that fixed location.

(b) The Executive Director or the Executive Director's designee will make a determination regarding the classification of a business' application for exemption on a case-by-case basis. The Department will be guided by the following factors when making a determination:

1. The general nature of the applicant's predominant existing business;
2. The Standard Industrial Classification (SIC) or North American Industry Classification System (NAICS) industry number of the existing product(s) versus the additional product;
3. The raw materials or components used to make the existing product(s) versus the additional product;
4. Whether the additional product is an alternative to, or represents a replacement for, the existing product(s);
5. The differences in machinery and equipment needed to make the existing product(s) versus the additional product; and
6. The units used to measure production of the existing product(s) versus the additional product.

(c) No single factor within paragraph (b) will decide whether the additional product represents a distinct and separate economic activity.

(d) Products that merely differ in size, color, flavor, style, packaging, or model line are not considered to be a distinct and separate economic activity.

(e) The business claiming an exemption as a new business shall have the burden of demonstrating that the additional product represents a distinct and separate economic activity from a product, or group of products, that is already being manufactured, processed, compounded, or produced at the fixed location.

(6)(5) Temporary Tax Exemption Permit – Refund or Credit.

(a)1. To receive the exemption provided by subsections (2) or (3), a qualifying business entity must apply to the Florida Department of Revenue, Technical Assistance and Dispute Resolution, Post Office Box 7443, Tallahassee, Florida

32314-7443, for a temporary tax exemption permit. (See subsection (12) for registration requirements with the WAGES Program Business Registry.) The business entity applying for the temporary tax exemption permit must file an form DR-1214, Application for Temporary Tax Exemption Permit, Form DR-1214, incorporated by reference in Rule 12A-1.097, F.A.C., 10/82, form DR-1207, Florida Contract Data, 1/82, and form DR-1208, Schedule of Contractors, 1/82, with the Department prior to purchasing machinery and equipment for starting the construction of the new or expanded business. These forms, adopted herein by reference, may be obtained at no cost from the above address or from a local Department of Revenue Taxpayer Service Center or by calling 1-800-FLA-DOR. Form DR-1214 must state that a temporary tax exemption permit number is being requested by either a new or an expanding business entity. The Upon a positive determination by the Executive Director or the Executive Director's designee will issue, a temporary tax exemption permit shall be issued to the principal business entity that meets the exemption requirements under s. 212.08(5)(b), F.S.

2. To receive the exemption provided by subsection (4) for mining activities, a qualifying business entity must also file an Application for Temporary Tax Exemption Permit (Form DR-1214). However, those businesses will not be issued a temporary tax exemption permit, since the exemption is only available to that industry by way of a prospective tax credit.

(b)1. A temporary tax exemption permit may be issued only to the qualified business entity which will use the qualifying machinery and equipment at a fixed location in this state in manufacturing, processing, compounding, or producing tangible personal property for sale, or for exclusive use in spaceport activities as defined in s. 212.02, F.S., items of tangible personal property. Such permit may be extended by the business entity to its vendor(s) or to its authorized contractor(s) operating under lump sum, cost plus, fixed fee, guaranteed price, or any other type of contract executed for the purpose of constructing a new or expanded business. The authorized contractor(s) may, likewise, extend the temporary tax exemption permit to its vendor(s) for use in purchasing qualifying machinery and equipment tax exempt. The business entity that extends the temporary tax exemption permit to a contractor or subcontractor for the purpose of authorizing that the contractor or subcontractor to purchase qualifying machinery and equipment tax exempt will be responsible for paying the sales and use tax on any nonqualified items purchased tax exempt by the contractor or subcontractor.

2. Upon completion of purchases of qualifying machinery and equipment, the temporary tax exemption permit Temporary Tax Exemption Permit shall be hand delivered to the Department or returned to the Department by certified or registered mail. If the permit is returned by certified or

registered mail, the permit shall be mailed to the Florida Department of Revenue, Technical Assistance and Dispute Resolution, P.O. Box 7443, Tallahassee, Florida 32314-7443.

(c)l. If a qualifying business entity fails to apply for a temporary tax exemption permit before purchasing qualifying machinery and equipment for a new or expanded business, or if the initial determination by the Executive Director or the Executive Director's designee is negative, the exemptions provided by subsections (2) and (3) above may be obtained only by a refund to the business entity of previously paid taxes. Refunds shall not be allowed until information has been provided to the satisfaction of the Executive Director or the Executive Director's designee that such machinery and equipment meets the requirements of this rule and is used as designated herein. Only the qualified business entity which will use the qualifying machinery and equipment at a fixed location in this state in manufacturing, processing, compounding, or producing tangible personal property for sale, or for exclusive use in spaceport activities ~~as defined in s. 212.02, F.S., items of tangible personal property~~ is entitled to request a refund of sales or use taxes paid on qualifying industrial machinery and equipment, or installation thereof. A qualifying mining activity business under subsection (4) of this rule will receive the exemption by way of a credit against severance taxes instead of a refund of sales and use tax.

2. Before the owners of a qualifying new or expanded business under subsection (2) or (3) may request a refund of, or a qualifying mining business under subsection (4) may request a credit for, sales or use taxes paid by their contractors on qualifying industrial machinery, ~~and~~ equipment, or installation thereof, the following certified statement(s) must be executed:

a. If a subcontractor was involved, the subcontractor must obtain ~~have obtained~~ a certified statement from its ~~his~~ supplier(s) or other subcontractor(s) certifying that the supplier or other subcontractor has remitted the tax to the State, or certifying that the subcontractor has remitted use tax directly to the State. The subcontractor must then extend the statement(s) it ~~he~~ has executed or obtained from suppliers or other subcontractors to the prime contractor; and,

b. The prime contractor must obtain ~~have obtained~~ a certified statement from its ~~his~~ supplier(s) and subcontractor(s) certifying that the supplier or subcontractor has remitted the tax to the State, or certifying that the prime contractor has remitted use tax directly to the State. The prime contractor must then extend the statement(s) it ~~he~~ has executed or obtained from its ~~his~~ supplier(s) or subcontractor(s) to the qualifying new or expanded business entity to support the refund claim.

(d)l. The following is a suggested format for a certified statement that tax has been remitted to the State of Florida:

COMPANY, incorporated in the state of STATE, its undersigned officer who is duly authorized, hereby certifies to QUALIFYING NEW OR EXPANDING BUSINESS, OR CONTRACTOR, OR SUBCONTRACTOR it has paid sales tax to the Department of Revenue, State of Florida, totaling the sum of \$_____. Said taxes were collected by COMPANY upon the sales of tangible personal property as evidenced by the attached invoice(s).

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

Dated at _____ County _____, Florida, this _____ day of _____, 2019.

AUTHORIZED OFFICER OF COMPANY
BY: _____
TITLE: _____

2. The above certified statement will not be necessary where the business entity claiming the refund has self-accrued and remitted the tax directly to the State of Florida. However, documentation that the tax has been remitted to the State of Florida in a timely manner is required.

(e) The right to a refund of, or credit for, sales or use taxes.

1. New Businesses.

a. The right to a refund of sales or use taxes paid on qualifying industrial machinery and equipment, parts and accessories, and the ~~or~~ installation labor thereof, shall not be allowed before the date ~~accrue when~~ the new manufacturing or printing business first places a product in inventory or immediately sells a product.

b. The right to a refund of sales or use taxes paid on qualifying industrial machinery and equipment, parts and accessories, and the installation labor thereof, shall not be allowed before the date the new business engaged in spaceport activities begins those activities.

c. The right to a credit for sales or use taxes paid on qualifying industrial machinery and equipment, parts and accessories, and the installation labor thereof, shall not be allowed before the date the new business engaged in mining activities has been certified as having created the required number of new Florida jobs.

2. Expanding Businesses.

a. The right to a refund of sales or use taxes paid on qualifying industrial machinery and equipment, parts and accessories, and the installation labor thereof, for an expanding manufacturing or printing business shall not be allowed before the date ~~accrue when~~ the expanding business can substantiate that the business expansion has increased the productive output at the existing facility by not less than 10 percent ~~or more~~.

b. The right to a refund of sales or use taxes paid on qualifying industrial machinery and equipment, parts and accessories, and the installation labor thereof, for an expanding

business engaged in spaceport activities shall not be allowed before the date of completion of the installation of the machinery and equipment.

c. The right to a credit for sales or use taxes paid on qualifying industrial machinery and equipment, parts and accessories, and the installation labor thereof, for an expanding business engaged in mining activities shall not be allowed before the date that business can substantiate that the business expansion has increased the productive output at the existing facility by not less than 10 percent, and the Department of Revenue has received the certification of new Florida jobs.

~~3. Application for refunds shall be filed within 3 years after the right to refund accrues, or else such right shall be barred.~~

~~(7)(6)~~ Record Keeping Requirements.

The applicant shall maintain all necessary books and records to support the exemption. All such books, invoices, certified statements, and other records shall be open for inspection by the Department at all reasonable hours at the qualifying business entity's location in this state. Any qualifying business entity which maintains such books and records at a point outside this state shall make such books and records available for inspection by the Department where the general records are kept.

~~(8)(7)~~ Exclusions.

(a) The exemptions provided by subsections (2), (3), and (4) and (3) above shall not apply to machinery and equipment purchased or used by electric utility companies; communication companies; phosphate or other solid minerals severance, mining or processing operations; oil or gas exploration or production operations; printing or publishing firms that do not export at least 50 percent of their finished product out of the state; any firm subject to regulation by the Division of Hotels and Restaurants of the Department of Business and Professional Regulation; or any firm which does not manufacture, process, compound, fabricate or produce items of tangible personal property for sale, or exclusively use machinery and equipment for exclusive use in spaceport activities as defined in s. 212.02, F.S., items of tangible personal property.

(b) If a publishing firm is also the printer of the finished product, the Department will consider the business to be a printer for the purpose of the exemption. Therefore, the above indicated 50 percent requirement would not apply to such a business.

~~(9)(8)~~ Types of industrial machinery and equipment that will or will not qualify for the exemption.

(a) For the purpose of this exemption industrial machinery and equipment includes:

1. Special foundations required for the support of such qualifying machinery and equipment; ~~and~~

2. Electrical wiring from the nearest power panel or disconnect box to the qualifying machinery and equipment; ~~and-~~

3. Plumbing connections necessary to connect the machinery and equipment to the nearest water supply or drain line.

(b) The exemption for industrial machinery and equipment ends at that stage of the production process where at which point the product produced is placed in a package (or is in saleable form if packaging is normally not done) to be sold to the wholesaler, ~~or~~ retailer, or other purchaser. However, the production process may include quality control activities for perishable goods after the item of tangible personal property has been packaged (or is in saleable form if packaging is normally not done), if such quality control activities are required by good manufacturing practices mandated by state or federal government agencies.

(c) Quality control equipment installed within the production line ~~as a part of the production activity~~ and required to perform quality checks on each item, article, or batch produced before the item, article, or batch can be sold qualifies for the exemption.

(d) Preproduction, random, or postproduction quality control equipment shall qualify as industrial machinery and equipment, if it is an integral part of the production process.

(e) Industrial machinery and equipment which is an integral part of the production process, as well as in postproduction, such as a fork-lift, will qualify for the exemption.

(f) The materials used in the construction of a railroad spur that is on the property of a new or expanding business and belongs to such business for the purpose of transporting raw materials shall be exempt. If a railroad spur is used solely for the purpose of transporting the finished product, tax will apply to the total cost of the materials used in the construction of that railroad spur.

(g) Pollution control equipment, or sanitizing and sterilizing equipment that is an integral part of the production process essential to the "production process" as defined in subsection (1)(c), above, which is used in manufacturing, processing, compounding or producing items of tangible personal property for sale, or for exclusive use in spaceport activities as defined in s. 212.02, F.S., qualifies for exemption.

(h) Monitoring machinery and equipment that is an integral part of the production process essential to the "production process" as defined in subsection (1)(c), above, which is used in manufacturing, processing, compounding or producing items of tangible personal property for sale, or for exclusive use in spaceport activities as defined in s. 212.02, F.S., qualifies for exemption.

(i) Machinery and equipment used to remove waste materials away from industrial machinery and equipment, where the removal is required to maintain the operation of the

production process, will qualify for exemption. For example, equipment used to remove wood chips and sawdust from around a qualified industrial wood lathe will qualify for exemption.

(j) Parts and accessories for industrial machinery and equipment purchased for replacement, maintenance, or repair purposes do not qualify for this exemption unless purchased by:

1. A new business before production or spaceport activities begin ~~begins~~ and delivery is made within 12 months from the ~~start date~~ of production or spaceport activities; or

2. An expanding business before the completion of the expansion project production begins.

3. Parts and accessories purchased for replacement, maintenance, or repair that have already received an exemption pursuant to s. 212.08(7)(eee), F.S., shall not be allowed an exemption for the same amount of tax pursuant to this paragraph.

(k) Conveyers or related equipment used to transport raw materials from the storage area located at the fixed location to the production line will qualify for exemption.

(l) Computers used to direct and control the functions of exempt industrial machinery and equipment will qualify for exemption, even though such computers may also have non-production related applications or uses.

(m) Machines used to control exempt industrial machinery and equipment through the reading or sensing of a tape or some other similar means will qualify for exemption.

(n) ~~Masks, molds, jigs, or templates Machinery and equipment which is essential in the manufacture, production, processing or compounding of tangible personal property, such as masks or molds, where such property is integral essential to the production process manufacture, production, compounding or processing of an item of tangible personal property for sale will qualify for exemption. The machinery and equipment that which is integral to the creation or maintenance of those masks, molds, jigs, or templates essential to manufacture, produce, process or compound the tangible personal property, such as masks or molds, will also qualify for exemption even though such machinery and equipment is not a direct part of may be located at a point in the production process prior to the introduction of the raw materials which are used to manufacture, produce, compound or process an item of tangible personal property.~~

(o) Machinery and equipment used in the general repair or maintenance of the plant or production machinery and equipment, such as welders, gear-pullers, or bench grinders, does not qualify for the exemption. However, specialized machinery and equipment that is continuously required to keep production machinery and equipment calibrated or in optimum condition such as a sharpening machine in a sawmill, will qualify for the exemption.

(p) Machinery and equipment qualifying for a partial exemption from tax under Section 212.08(3), F.S., is not eligible for the exemption under Section 212.08(5)(b), F.S.

(q) Scales at the start of, or within, the production process that are necessary to weigh raw materials or ingredients, or finished goods at the time of packaging, will qualify for the exemption.

(r) Office equipment, such as telephones, copy machines, typewriters, or calculators, will not qualify for the exemption.

(s) Furniture items for office or production personnel will not qualify for the exemption.

(t) General or task lighting fixtures will not qualify for the exemption.

(u) Installation labor charges qualify for exemption. However, other installation costs, such as equipment rental or expendable supplies, which do not become a physical part of qualifying machinery and equipment, do not qualify for exemption.

~~(10)(9)~~ Operating Leases of Machinery and Equipment.

(a) The lease, letting, or rental of machinery and equipment, under the terms of an operating lease, shall be treated in the same way as a sale for the purpose of this exemption.

(b) When a qualifying new business entity leases industrial machinery, equipment, or parts thereof, in lieu of purchasing those items ~~them~~, the exemption from tax shall only apply to the original term of the lease agreement. Any subsequent renewal or extensions of the original term of the lease agreement shall be fully taxable.

(c) When a qualifying expanding business entity leases industrial machinery, equipment, or parts thereof, in lieu of purchasing those ~~these~~ items, the tax exemption limitation for the sales or use taxes paid on such industrial machinery, equipment, or parts thereof, shall only apply to each calendar year of the original term of the lease agreement. For example, an expanding business (non-printing) that enters into a 60-month operating lease will be subject to the \$50,000 tax threshold for each calendar year that the lease is in effect. Any subsequent renewals or extensions of the original term of the lease agreement shall be fully taxable.

(d) The exercise of a purchase option in an operating lease is considered to be a purchase made after the start of production and is subject to tax.

~~(11)(10)~~ Capital Leases of Machinery and Equipment.

(a) The lease, letting, or rental of machinery and equipment, under the terms of a capital lease, sales-type lease, or direct financing lease, shall be treated in the same way as a sale for the purpose of this exemption.

(b) In the case of a capital lease, sales-type lease, or direct financing lease, ~~the Executive Director or designee in the responsible program will consider~~ such leases will be considered to be sales and purchases ~~at~~ from their inception.

(12) WAGES Program Business Registry.

No machinery and equipment purchased, or lease payments made, by any new or expanding business will be eligible for the exemption without that business being registered with the WAGES Program Business Registry.

Specific Authority 212.08(5)(b)4., 212.17(6), 212.18(2), 213.06(1) FS. Law Implemented 212.02(4), (14), (21), ~~(22)~~, 212.05, 212.06, 212.08(5)(b), 212.13(2), 215.26(2) FS, Section 2, Chapter 99-171, Laws of Florida, History—New 5-11-92, Amended 7-1-99, _____.

12A-1.097 Public Use Forms.

(1) No change.

Form Number	Title	Effective Date
(2) through (27)	No change.	
(28) DR-1207	Florida Contract Data Form (N-01/82)	08/92
(29) DR-1208	Schedule of Contractors (N-01/82)	08/92
(28) (30) DR-1214	Application for Temporary Tax Exemption Permit (r. 09/99 05/92)	08/92

(31) renumbered (29) No change.

Specific Authority 212.17(6), 212.18(2), 213.06(1) FS. Law Implemented 212.17(6), 212.18(2) FS. History—New 4-12-84, Formerly 12A-1.97, Amended 8-10-92, 11-30-97, 7-1-99, _____.

DEPARTMENT OF TRANSPORTATION

RULE CHAPTER TITLE: Prompt Settlement or Legal Defense of Claims and Disqualification for Failure to Settle Claims
 RULE CHAPTER NO.: 14-24
 RULE TITLE: Provisions for Prompt Settlement or Legal Defense of Claims and Disqualification for Failure to Settle Claims
 RULE NO.: 14-24.001

PURPOSE AND EFFECT: The form, commonly referred to as "Form 21-A," is revised. This rule amendment is to update the reference to this form, which actually is incorporated by reference under Rule 14-79.006.

SUBJECT AREA TO BE ADDRESSED: This amendment updates a reference to a form which is incorporated by reference under another rule.

SPECIFIC AUTHORITY: 334.044(2) FS.

LAW IMPLEMENTED: 334.044(28), 337.141, 337.18 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 IS: James C. Myers, Administrative and Management Support Level IV, Florida

Department of Transportation, Office of the General Counsel, 605 Suwannee Street, Mail Station 58, Tallahassee, Florida 32399-0458

THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS:

14-24.001 Provisions for Prompt Settlement or Legal Defense of Claims and Disqualification for Failure to Settle Claims.

Any surety which does not settle or provide defense for claims or actions in connection with liabilities arising under a contract promptly and satisfactorily shall be disqualified from issuing bonds for future contracts by the Department in accordance with this rule.

(1) Failure on the part of the surety to furnish an affidavit to the effect that these requirements have been met on Contractor's Affidavit and Surety Consent (Form 21-A), Florida Department of Transportation Form 700-050-21 600-030-21, Rev. 10/99 ~~04/96~~, which is incorporated by reference under Rule 14-79.006, to the Department within 90 days of the Department's offer of final payment shall constitute grounds for disqualification. Preliminary Notice of disqualification will be furnished to the surety 30 days prior to disqualification. Qualification will be reinstated upon receipt by the Department of the properly executed Form Contractor's Affidavit and Surety Consent (Form 21-A).

(2) Notice of the Department's intended action will be provided in accordance with Rule 28-106.111, F.A.C. The Department's action will become final unless a timely petition for a hearing is filed in accordance with Rules 28-106.104, 28-106.201, and 28-106.301, F.A.C. In order to be timely, the petition must be filed with the Department's Clerk of Agency Proceedings within 21 days after receipt of the Department's notice, in accordance with Rule 28-106.111, F.A.C.

Specific Authority 334.044(2) FS. Law Implemented 334.044~~(28)~~ ~~(27)~~, 337.141, 337.18(1) FS. History—Formerly 14-10.01, F.A.C., Amended 3-21-64, 9-24-75, Formerly 14-24.01, Amended 10-30-96, 1-17-99, _____.

DEPARTMENT OF TRANSPORTATION

RULE CHAPTER TITLE: Construction Management Development Program and Bond Guarantee Program
 RULE CHAPTER NO.: 14-79
 RULE TITLE: Construction Management Development Program
 RULE NO.: 14-79.006

PURPOSE AND EFFECT: Form Number 600-030-21, commonly referred to as "Form 21-A," is revised and renumbered 700-050-2. This rule amendment is to update this form, which is incorporated by reference under Rule 14-79.006. A corresponding amendment to Rule 14-24.001 is being made to update a cross reference to this form as incorporated by reference in this rule.

SUBJECT AREA TO BE ADDRESSED: This amendment updates a reference to a form which is incorporated by reference under Rule 14-79.006. Specific amendments are to 14-79.006(10)(a)2. and 14-79.006(14). Section 334.044(28) is being added to Law Implemented because the form is an affidavit.

SPECIFIC AUTHORITY: 334.044(2), 339.0805(1)(b) FS.

LAW IMPLEMENTED: 334.044(28), 337.141, 339.0805(2) 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 IS: James C. Myers, Administrative and Management Support Level IV, Florida Department of Transportation, Office of the General Counsel, 605 Suwannee Street, Mail Station 58, Tallahassee, Florida 32399-0458

THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS:

14-79.006 Construction Management Development Program.

This rule implements a voluntary comprehensive Construction Management Development Program (CMDP) for Disadvantaged Business Enterprises and other small businesses and establishes a program for providing financial assistance to Disadvantaged Business Enterprises through a Bond Guarantee Program (BGP).

- (1) through (9) No change.
- (10) Bond Guarantee Program.
 - (a)1. No change.

2. As a condition of receiving a bond guarantee on a Department contract, the Department shall retain five percent of the total contract amount designated for the Disadvantaged Business Enterprise. This bond guarantee retainage shall be released upon final acceptance of the project and receipt of a Contractor's Affidavit and Surety Consent (Form 21-A), Florida Department of Transportation Form 700-050-21 ~~600-030-21~~, Rev. 10/99 ~~04/96~~, showing all subcontractors and suppliers have been paid.

- (b) through (13) No change.

(14) Forms. The following listed forms are hereby incorporated by reference and made a part of the rules of the Department:

Form Number	Form Title	Revision Date
275-030-070-a	Application for Construction Management Development Program (CMDP) and Bond Guarantee Program (BGP)	03/89
275-030-071-a	Application for Small Business Certification (SBC)	03/89
275-030-073-a	Technical Assistance Request	03/89
275-030-074-a	Justification for Bond Guarantee	03/89
<u>700-050-21</u> 600-030-21	<u>Contractor's Affidavit and Surety Consent (Form 21-A)</u>	<u>10/99</u> 04/96

Copies of these forms are to be obtained from the Florida Department of Transportation, Minority Programs Office, 605 Suwannee Street, Mail Station 65, Tallahassee, Florida 32399-0450.

Specific Authority 334.044(2), 339.0805(1)(b) ~~(5)~~ FS. Law Implemented 334.044(28), 337.141, 339.0805(2) FS. History--New 5-24-89, Amended 8-5-96, 10-30-96, 5-6-97, 1-17-99, _____.

DEPARTMENT OF CORRECTIONS

RULE TITLE: Offender Travel **RULE NO.:** 33-302.106

PURPOSE AND EFFECT: The purpose of the proposed rule is to set forth guidelines for approval of offender requests to travel. The effect of the proposed rule is to provide criteria which must be met for an offender to receive permission to travel and to provide instructions for officers related to offender travel requests.

SUBJECT AREA TO BE ADDRESSED: Offender travel.

SPECIFIC AUTHORITY: 944.09 FS.

LAW IMPLEMENTED: 944.09 FS.

IF REQUESTED IN WRITING AND NOT DEEMED UNNECESSARY BY THE AGENCY HEAD, A RULE DEVELOPMENT WORKSHOP WILL BE HELD AT THE TIME, DATE AND PLACE SHOWN BELOW:

TIME AND DATE: 9:00 a.m., December 3, 1999

PLACE: Law Library Conference Room, Room B-404, 2601 Blair Stone Road, Tallahassee, Florida

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT AND A COPY OF THE PRELIMINARY DRAFT, IF AVAILABLE, IS: Perri King Dale, 2601 Blair Stone Road, Tallahassee, Florida 32399-2500

THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS:

33-302.601 Offender Travel.

(1) Officers are required to instruct each offender under the officer's supervision not to change his or her residence, or leave the county of residence, without first procuring the consent of the officer. In order for an offender to obtain permission to travel, the following conditions must exist:

(a) The offender is not prohibited by the order of supervision from traveling to the desired location.

(b) The offender is not wanted or facing prosecution for criminal charges or violation of the order of supervision.

(c) The offender presents a plan of travel that is verifiable by providing a specific location name, telephone number, and contact person by which the information is to be verified, in advance, by the officer.

(d) The offender has provided the officer with reasonable advance notice of his or her request to travel and has provided the officer ample time to verify the travel plan and review any documentation prior to travel authorization.

(e) The travel does not interfere with condition compliance or treatment programming.

(f) Monetary obligations are current when the travel requested is purely recreational in nature. However, travel shall be denied for purely recreational purposes when there is any outstanding, court ordered victim restitution and the offender will expend monies in the course of travel.

(g) No extenuating circumstances exist which indicate that authorizing the offender to travel would constitute a lack of prudence. Such extenuating circumstances include those that would cause a reasonable person to believe that the offender may be likely to violate a condition of supervision if travel were authorized.

(2) An officer shall transfer the supervision of an offender who is travelling to a single judicial circuit in the state of Florida for more than 30 consecutive days. An officer shall transfer the supervision an offender who is travelling to a single other state or Puerto Rico for more than 45 consecutive days. The transfer of supervision involves the forwarding of all pertinent supervision documents to the receiving location and the formal assumption of supervision of the offender by a probation officer in the receiving location.

(3) Offender travel outside the United States or its territories shall not be approved by an officer or supervisor, without the written approval of the sentencing or releasing authority.

Specific Authority 944.09 FS. Law Implemented 944.09 FS. History—New

DEPARTMENT OF CORRECTIONS

RULE TITLES:

Care of Inmates
Inmate Property
Inmate Property – Forms

RULE NOS.:

33-602.101
33-602.201
33-602.202

PURPOSE AND EFFECT: The proposed rules are needed in order to reorganize provisions concerning inmate property for easier accessibility, to update staff titles and forms associated with inmate property issues, and to allow for possession of additional property items by female inmates.

SUBJECT AREA TO BE ADDRESSED: Inmate property.

SPECIFIC AUTHORITY: 944.09 FS.

LAW IMPLEMENTED: 944.09 FS.

IF REQUESTED IN WRITING AND NOT DEEMED UNNECESSARY BY THE AGENCY HEAD, A RULE DEVELOPMENT WORKSHOP WILL BE HELD AT THE TIME, DATE AND PLACE SHOWN BELOW:

TIME AND DATE: 2:00 p.m., November 30, 1999

PLACE: Law Library Conference Room, Room B-404, 2601 Blair Stone Road, Tallahassee, Florida

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT AND A COPY OF THE PRELIMINARY DRAFT, IF AVAILABLE, IS: Perri King Dale, 2601 Blair Stone Road, Tallahassee, Florida 32399-2500

THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS:

33-602.101 Care of Inmates.

(1) No change.

~~(2) The reception center Correctional Officer Chief shall ensure that property files are established for all new inmates. The inmate property file shall become part of the inmate's institutional file. All forms and correspondence pertaining to inmate property shall be placed in this file in chronological order. The Correctional Officer Chief or his designee shall be responsible for the maintenance of the inmate property file.~~

~~(3)(a) When an inmate is initially received by the Department, the receiving or property officer shall take charge of the Inmate's personal property. The officer shall inventory all items in the inmate's possession at that time using Form DC3-001, Inmate Personal Property List.~~

~~(b) After final disposition is completed, the officer shall give one copy of the receipt to the inmate along with that property the inmate is authorized by the Department to keep. Personal property remaining in the possession of an inmate is the responsibility of that inmate and not of the institution. One copy of the receipt shall be placed with any property which is not authorized within the Department and which is to be stored. Final disposition of this property shall be in accordance with Rule 33-602.201. One copy of the receipt shall be placed in the package to be mailed to the inmate's home or to the person designated on the form; if the inmate chooses to forfeit the items, this copy of the receipt shall be given to the inmate. One copy of the receipt shall be placed in the inmate property file.~~

~~(4) Upon receipt at any facility of the department, a written receipt for money or other valuables that are in excess of that allowed shall be given to the inmate. When such monies or valuables are returned a receipt shall be obtained from the inmate. Inmates shall be given an opportunity to send money or valuables to their families or other persons of their choice at~~

no expense to the Department of Corrections. When it becomes necessary to confiscate and impound the authorized personal property of an inmate subsequent to his reception in the institution, it will be immediately inventoried by an officer in the presence of the inmate, and a written, signed receipt itemizing the property will be given to the inmate. If the inmate's behavior is such that the security and order of the institution is jeopardized by his presence during the inventory process, the inmate's presence shall not be required. In such cases a second officer shall witness the inventory process. Proper procedures will be taken to safeguard and store such property so as to prevent its loss, damage or theft. Upon release of the property, a signed receipt will be obtained from the inmate. Money in excess of the amount allowed by institutional policies found in the possession of an inmate will be handled in accordance with rule 33-602.203(5)(a) of these rules.

~~(5)(a) Whenever an inmate is Transferred from one institution to another, the inmate's personal property and personal property file shall be transferred with him. The sending institution shall have the responsibility of ensuring that the inmate being transferred has only that property which belongs to him and that such property is authorized. The inmate and the officer inspecting the property shall sign and date Form DC3-304, Receipt for Personal Property, at the time of the transfer. Any property that is left behind or missing shall be noted on the form.~~

~~(b) If an inmate is transferred without his personal property, the property shall be forwarded to the inmate by the sending institution within five working days. The property along with an itemized list shall be placed in a sealed container for transporting. A staff member at the receiving institution shall check the property against the property list to ensure that all property is accounted for. The inmate shall sign Form DC3-304, Receipt for Personal Property, when the property is given to the inmate. Any discrepancies shall be noted on the form. If the inmate refuses to sign Form DC3-304, Receipt for Personal Property, a notation to that effect shall be placed on the form and a second employee shall witness and sign the form.~~

~~(6) Any inmate transferring to an outside community hospital for treatment or to a court appearance shall take only items of personal clothing and hygiene items except in those cases in which the inmate is expected to be absent for a period of more than 30 days. If the inmate is to return within 30 days, remaining personal property as well as state issued property shall be inventoried and stored in accordance with Rule 33-602.201, Inmate Property.~~

~~(7) Any inmate being released by parole or expiration of sentence shall take all personal property with him and sign Form DC3-304, Receipt for Personal Property, at the time of release. Personal property left behind will be handled in~~

accordance with subsection (3)(i) of Rule 33-602.201, Inmate Property. Missing property will be handled in accordance with subsection (3)(l) of the above-referenced rule.

(8) through (17) renumbered (2) through (11) No change.

Specific Authority 944.09 FS. Law Implemented 944.09 FS. History—New 10-8-76, Formerly 33-3.02, Amended 4-19-79, 4-24-80, 1-9-85, 11-3-87, 9-16-88, 7-23-89, 8-27-91, 3-30-94, 11-14-95, 6-2-99, Formerly 33-3.002, Amended _____.

33-602.201 Inmate Property.

(1) The reception center Chief of Security shall ensure that property files are established for all new inmates. The inmate property file shall become part of the inmate's institutional file. All forms and correspondence pertaining to inmate property shall be placed in this file in chronological order. The Chief of Security or his designee shall be responsible for the maintenance of the inmate property file. An addendum will be made to the Inmate Personal Property List, Form DC6-224, any time the status of inmate personal property changes. Examples of changes include when an inmate receives additional property through an approved source or when the inmate chooses to dispose of a broken or worn out item.

(2)(a) When an inmate is initially received by the Department, the receiving or property officer shall take charge of the inmate's personal property. The officer shall inventory all items in the inmate's possession at that time using Form DC6-224, Inmate Personal Property List.

(b) After final disposition is completed, the officer shall give one copy of the receipt to the inmate along with that property the inmate is authorized by the Department to keep. Personal property remaining in the possession of an inmate is the responsibility of that inmate and not of the institution. One copy of the receipt shall be placed with any property which is not authorized within the Department and which is to be stored. One copy of the receipt shall be placed in the package to be mailed to the inmate's home or to the person designated on the form; if the inmate chooses to forfeit the items, this copy of the receipt shall be given to the inmate. One copy of the receipt shall be placed in the inmate property file. The unauthorized property will be held at the institution for 30 days. During this 30 day period, the inmate shall be given an opportunity to have the items picked up by an approved visitor, relative or friend, or to mail money or valuables to their families or other persons of their choice at no expense to the Department of Corrections. The 30 day time period will not include any time during which an appeal or grievance is pending.

(3) Upon receipt at any facility of the department, a written receipt for personal property that is in excess of that allowed shall be given to the inmate. When it becomes necessary to confiscate and impound the authorized personal property of an inmate subsequent to his reception in the institution, it will be immediately inventoried by an officer in the presence of the inmate, and a written, signed receipt, Form

DC6-220, Inmate Impounded Personal Property List, itemizing the property will be given to the inmate. If the inmate's behavior is such that the security and order of the institution is jeopardized by his presence during the inventory process, the inmate's presence shall not be required. In such cases a second officer shall witness the inventory process. Proper procedures will be taken to safeguard and store such property so as to prevent its loss, damage or theft. Upon release of the property, a signed receipt will be obtained from the inmate. Money in excess of the amount allowed by institutional policies found in the possession of an inmate will be handled in accordance with rule 33-602.203(5)(a).

(4)(4) No change.

(5)(2) Unauthorized Property. (Also see Control of Contraband, 33-602.203).

(a) through (b) No change.

(c) Property that is authorized for inmates in general population such as shaving powders, oils and lotions shall be unauthorized or restricted based upon an inmate's confinement status when that item presents a security risk. Further limits on personal items for inmates in confinement may be imposed as referenced in rules 33-602.220, 33-602.221, 33-602.222 and 33-601.811.

(6)(3) Impounded Property.

(a) No change.

(b) When personal property of an inmate is taken, it will be inventoried according to the following procedure on Form ~~DC6-220 DC3-009~~, Inmate Impounded Personal Property List, and, whenever practical, in the presence of the inmate. Exceptions may be made when the inmate's presence during this process jeopardizes institutional security or in times of an emergency such as a general disturbance creating security concerns. New inmates being processed into the department at one of the reception centers will have their property recorded on Form DC6-220 DC3-004 with a copy being given to the inmate. Unauthorized property will be stored pending final disposition as provided in this rule. At the time of receipt into the department each inmate will also sign an Authorization for Disposition of Mail and Property, Form DC6-226 DC3-003, which authorizes the department to dispose of the property should the inmate abandon it.

1. The inventory shall specifically list and identify each item or each group or package of personal items such as letters, legal papers, etc., as an assortment on Form DC6-220 DC3-009.

2. through 5. No change.

(c) through (d) No change.

(e) If it is appropriate to return part, but not all, of the impounded property to the inmate, the following procedure will be followed:

1. That part of the property being returned will be listed on the approved release Form DC6-225 DC3-002, Inmate Partial Property Return Receipt, and any property found to be missing

at that time will be noted on the form. The employee making the release and the inmate will date and sign the release form each in the presence of the other. One signed copy of the release form shall be given to the inmate. One copy shall be attached to the original inventory list and kept with the remaining impounded property until all property is returned to the inmate, and then to the inmate's property file.

2. The remaining unauthorized impounded property shall be held by the institution for 30 days. It shall be the responsibility of the inmate to make arrangements to have the property picked up by an approved visitor, relative or friend. In the alternative, the inmate may pay to have the property mailed sent to one of these approved individuals. The 30-day time period shall not include any time during which an appeal or grievance proceeding relating to the impounded property is pending. This paragraph does not apply to property that will be returned to the inmate pursuant to subsection (6) 3(d) after release from close management, administrative or disciplinary confinement.

3. No change.

(f) No change.

(g) When an inmate whose personal property has been taken and impounded is transferred to another facility, that property shall be transported with the inmate or as soon as possible thereafter. It is the responsibility of the sending location to ensure that only authorized property is transported and that the inmate has signed the proper receipt for the property, Form DC6-227, Receipt for Personal Property (DC3-304). The procedures for returning property listed in ~~(e)~~ and (f) shall be followed. When the inmate has excessive authorized property which cannot be transported with the inmate, the procedures for making a partial return listed in ~~(e)(f)~~ shall be followed.

(h) Whenever an inmate is transferred from one institution to another, the inmate's personal property and personal property file shall be transferred with him. The sending institution shall have the responsibility of ensuring that the inmate being transferred has only that property which belongs to him and that such property is authorized. The inmate and the officer inspecting the property shall sign and date Form DC6-227, Receipt for Personal Property, at the time of transfer. Any property that is left behind or missing shall be noted on the form.

(i) If an inmate is transferred without his personal property, the property shall be forwarded to the inmate by the sending institution within five working days. The property, along with an itemized list, shall be placed in a sealed container for transporting. A staff member at the receiving institution shall, in the presence of the inmate to whom the property belongs, check the property against the property list to ensure that all property is accounted for. The inmate shall sign Form DC6-227, Receipt for Personal Property, when the property is given to the inmate. Any discrepancies shall be

noted on the form. If the inmate refuses to sign Form DC6-227, Receipt for Personal Property, a notation to that effect shall be placed on the form and a second employee shall witness and sign the form.

(7) Any inmate transferring to an outside community hospital for treatment or to a court appearance shall take only items of personal clothing and hygiene items except in those cases in which the inmate is expected to be absent for a period of more than 30 days. If the inmate is to return within 30 days, remaining personal property shall be inventoried utilizing Form DC6-220, Inmate Impounded Personal Property List, and stored in a secure location.

(8) Any inmate being released by parole or expiration of sentence shall take all personal property with him and sign Form DC6-227, Receipt for Personal Property, at the time of release.

~~(9)(h)~~ No change.

(10)(i) When an inmate dies, escapes, or otherwise voluntarily abandons his or her property, that property will be inventoried and the procedures listed below will be followed:

(a) The property will be inventoried and stored in a secure area.

1. through 3. renumbered (b) through (d) No change.

(e) Abandoned property will be held by the institution for a period of 30 days to ensure sufficient time to incorporate the procedures outlined above.

(j)1. through 3. renumbered (11) (a) through (c) No change.

(12)(k) The warden or his designee is authorized to require an inmate to bring all of his personal property to the disciplinary hearing if he determines that this is necessary after evaluating the factors set out in paragraph (11)(j) above.

(13)(l) If items of impounded property cannot be located and are missing any time stored when the property is returned to an the inmate, a written report of this fact, listing the missing items and their possible value, with attached property records documenting ownership, shall be given to the Assistant warden or other designee of the warden ~~or Officer in Charge~~, who will conduct or initiate a thorough investigation of the loss.

1. through 3. renumbered (a) through (c) No change.

(d)4. If claims are substantiated, the warden shall forward a cover letter, along with a copy of the investigation and verification of ownership through inmate property records to the service center general services manager ~~Regional Safety/Loss Control Manager~~ outlining reasons for recommending reimbursement.

(e)5. The service center general services manager ~~Regional Safety/Loss Control Manager~~ shall:

1.a. Ensure that the claim has been properly investigated and contains all supporting documents.

2.b. Ensure that supporting documents provide evidence of ownership of lost or destroyed property.

3.e. Return the claim to the institution for further investigation or action if the claim is incomplete or if there is insufficient evidence available to support the claim.

~~d. Forward the claim and supporting documents to the Bureau of General Services Safety Office for processing if the claim is complete.~~

~~4.6. The Bureau of General Services Safety Office shall review and~~ Forward the claim to the Department of Insurance, Division of Risk Management, for review and reimbursement consideration. Form DC6-238, Report of Risk Management Claim for Inmate Property, shall be used for this purpose.

(4) through (5) renumbered (14) through (15) No change.

(16) Forms. The following forms referenced in this rule are hereby incorporated by reference. Copies of any of these forms are available from the Forms Control Administrator, Office of the General Counsel, 2601 Blair Stone Road, Tallahassee, Florida 32399-2500. Requests for forms to be mailed must be accompanied by a self-addressed stamped envelope.

(a) Form DC6-224, Inmate Personal Property List, effective date _____.

(b) Form DC6-220, Inmate Impounded Personal Property List, effective date _____.

(c) Form DC6-226, Authorization for Disposition of Mail and Property, effective date _____.

(d) Form DC6-225, Inmate Partial Property Return Receipt, effective date _____.

(e) DC6-227, Receipt for Personal Property, effective date _____.

(f) DC6-238, Report of Risk Management Claim for Inmate Property, effective date _____.

Specific 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 _____.

APPENDIX ONE

PROPERTY LIST

Introductory language – No change.

AUTHORIZED PROPERTY LIST

CLOTHING

Quantity	Unit	Value	Articles
4 2	Each		Bras (state issue – female only)
7 4	Each		Panties (state issue – female only)
1	Each		Robe (state issue – female only)
3 2	Each		Slips (state issue – female only)

PERSONAL ARTICLES

Quantity	Unit	Value	Articles
*			<u>Envelopes, self-addressed stamped – * the total in the inmate’s possession shall not exceed the limit of 1 pack of envelopes or 25 1-ounce 1st class stamps as set for thr individual items</u>
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.) <u>Contact lenses will only be provided if medically indicated</u>

33-602.202 Inmate Property – Forms.

Specific Authority 944.09 FS. Law Implemented 944.09 FS. History–New 11-3-87, Amended 11-14-95, Formerly 33-3.00275, Repealed

WATER MANAGEMENT DISTRICTS

South Florida Water Management District

RULE CHAPTER TITLE: Exceptions to Uniform Rules

of Procedure 40E-0

RULE TITLES: RULE NOS.:

Procedures for Processing Permit Applications 40E-0.103

Consideration of Intended Agency Decision on Permit Applications 40E-0.105

Emergency Authorization 40E-0.018

Point of Entry into Proceedings and Mediation 40E-0.109

Exemptions and Variances for Well Construction Permits 40E-0.111

Variances from Specified Review Criteria for Environmental Resource Permits 40E-0.113

Variances from Water Use Restrictions 40E-0.115

PURPOSE AND EFFECT: The purpose of the South Florida Water Management District’s proposed rule development is to address the comments raised by the Joint Administrative Procedures Committee to ensure that procedural rules are in compliance with §120.545, F.S., are consistent with §120.54(5), F.S., and the uniform rules of procedure (Chapter 28, F.A.C.).

SUBJECT AREA TO BE ADDRESSED: The proposed amendments: Provide that extensions of time to complete a permit application under §120.60, F.S., shall be granted upon a showing of good faith by the permit applicant; deletes language regarding the scope of an administrative hearing on an amended agency action; deletes language defining conditions for receiving emergency authorizations; amends language providing for a point of entry to challenge amended agency actions; deletes language regarding the right to waive a §120.57(1) formal hearing to request a §120.57(2) informal

hearing before the governing board; clarifies the circumstances under which a water well construction variance will be issued and conditions to be imposed on the variance; clarifies that the duration of a variance from specified review criteria for environmental resource permits is limited by law; clarifies conditions on variances from water use restrictions.

SPECIFIC AUTHORITY: 120.53, 120.54(5), 373.044, 373.113, 373.439 FS.

LAW IMPLEMENTED: 120.53(1), 120.54(5), 120.54(17), 120.57, 120.60, 373.107, 373.109, 373.113, 373.116, 373.439 FS.

IF REQUESTED IN WRITING AND NOT DEEMED UNNECESSARY BY THE AGENCY HEAD, PURSUANT TO §120.54, F.S. A RULE DEVELOPMENT WORKSHOP WILL BE ADVERTISED IN THE NEXT AVAILABLE FLORIDA ADMINISTRATIVE WEEKLY.

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT AND A COPY OF THE PROPOSED RULE IS: Cecile I. Ross, South Florida Water Management District, Post Office Box 24680, West Palm Beach, FL 33416-4680, telephone 1(800)432-2045, extension 6343, or (561)682-6343, (internet: cross@sfwmd.gov).

WATER MANAGEMENT DISTRICTS

South Florida Water Management District

RULE CHAPTER TITLE: General and Procedural

RULE CHAPTER NO.: 40E-1

RULE TITLES: DECISIONS DETERMING SUBSTANTIAL INTERESTS

PART V

Publication of Notice of Agency Decision or Intended Agency Decision 40E-1.5095

Point of Entry into Proceedings 40E-1.511

Initiation of Formal Proceedings 40E-1.521

Exceptions to Recommended Order 40E-1.564

Final Order 40E-1.565

PERMITS PART VI

Application Procedures for Conceptual Approval, Individual and General Permits 40E-1.603

Publication and Requests for Notification of Permit Applications or Notices of Intent 40E-1.6058

Consideration of Intended Agency Decision on Permit Applications 40E-1.6065

Denial of Permits 40E-1.608

Suspension, Revocation and Modification of Permits 40E-1.609

Permit Renewal 40E-1.610

Emergency Authorization 40E-1.6115

COMPLIANCE AND ENFORCEMENT PART VII

Administrative Enforcement Action 40E-1.705

PURPOSE AND EFFECT: The purpose of the South Florida Water Management District's proposed rule development is to address the comments raised by the Joint Administrative Procedures Committee to ensure that procedural rules are in compliance with §120.545, F.S., are consistent with §120.54(5), F.S., and the uniform rules of procedure (Chapter 28, F.A.C.).

SUBJECT AREA TO BE ADDRESSED: The proposed amendments: Delete reference to a form for notice of proposed agency action; incorporate reference to Rule 28-106.111, F.A.C., for uniform point of entry procedures; define standard for scope of point of entry for challenging amended governing board action; delete language regarding ability to waive right to formal hearing; and request an informal §120.57(2) hearing before the governing board; delete language regarding procedures to waive action on petition by governing board; delete procedure regarding deferral of governing board action on challenged proposed agency action; delete procedures for exceptions to recommended orders; delete procedures for governing board consideration of final orders; clarify procedures for granting extensions for completing permit applications; delete language defining scope of administrative hearing on amended agency action; delete requirements for permit denials; clarify that permit suspensions are temporary; delete definition of grounds for emergency authorization; delete rule regarding administrative enforcement actions.

SPECIFIC AUTHORITY: 120.53, 120.54(5), 373.044, 373.113, 373.413, 373.429, 373.439 FS.

LAW IMPLEMENTED: 120.53, 120.54(5), 120.54(17), 120.57, 120.59, 120.60, 120.60(2), 120.60(3), 120.68, 120.69, 373.107, 373.109, 373.113, 373.116, 373.119, 373.129, 373.136, 373.209, 373.216, 373.219, 373.323, 373.324, 373.229, 373.239, 373.243, 373.308, 373.309, 373.413, 373.417, 373.421, 373.422, 373.426, 373.429, 373.433, 373.439, 373.603 FS.

IF REQUESTED IN WRITING AND NOT DEEMED UNNECESSARY BY THE AGENCY HEAD, PURSUANT TO §120.54, F.S. A RULE DEVELOPMENT WORKSHOP WILL BE ADVERTISED IN THE NEXT AVAILABLE FLORIDA ADMINISTRATIVE WEEKLY.

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT AND A COPY OF THE PROPOSED RULE IS: Cecile I. Ross, South Florida Water Management District, Post Office Box 24680, West Palm Beach, FL 33416-4680, telephone 1(800)432-2045, extension 6343, or (561)682-6343, (internet: cross@sfwmd.gov).

WATER MANAGEMENT DISTRICTS

South Florida Water Management District

RULE CHAPTER TITLE: Water Well Construction Permits **RULE CHAPTER NO.:** 40E-3

RULE TITLE: Exemption and Variances **RULE NO.:** 40E-3.0511

PURPOSE AND EFFECT: The purpose of the South Florida Water Management District's proposed rule development is to address the comments raised by the Joint Administrative Procedures Committee to ensure that procedural rules are in compliance with §120.545, F.S., are consistent with §120.54(5), F.S., and the uniform rules of procedure (Chapter 28, FAC.).

SUBJECT AREA TO BE ADDRESSED: The proposed amendments: Clarify that a variance from water well construction requirements shall be granted in certain circumstances; delete provision allowing for oral variances.

SPECIFIC AUTHORITY: 373.044, 373.113, 373.171 FS.

LAW IMPLEMENTED: 373.303, 373.308, 373.313, 373.316, 373.326 FS.

IF REQUESTED IN WRITING AND NOT DEEMED UNNECESSARY BY THE AGENCY HEAD, PURSUANT TO §120.54, F.S. A RULE DEVELOPMENT WORKSHOP WILL BE ADVERTISED IN THE NEXT AVAILABLE FLORIDA ADMINISTRATIVE WEEKLY.

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT AND A COPY OF THE PROPOSED RULE IS: Cecile I. Ross, South Florida Water Management District, Post Office Box 24680, West Palm Beach, FL 33416-4680, telephone 1(800)432-2045, extension 6343 or (561)682-6343, (internet: cross@sfwmd.gov).

WATER MANAGEMENT DISTRICTS

South Florida Water Management District

RULE CHAPTER TITLE: Environmental Resource Permits **RULE CHAPTER NO.:** 40E-4

RULE TITLE: Variances from Specified Review Criteria for Environmental Resource Permits **RULE NO.:** 40E-4.311

PURPOSE AND EFFECT: The purpose of the South Florida Water Management District's proposed rule development is to address the comments raised by the Joint Administrative Procedures Committee to ensure that procedural rules are in compliance with §120.545, F.S., are consistent with §120.54(5), F.S., and the uniform rules of procedure (Chapter 28, FAC.).

SUBJECT AREA TO BE ADDRESSED: The proposed amendment clarifies that the duration for variances from specified review criteria for environmental resource permits is limited by law.

SPECIFIC AUTHORITY: 373.044, 373.113, 373.171, 373.414(17) FS.

LAW IMPLEMENTED: 403.201 FS.

IF REQUESTED IN WRITING AND NOT DEEMED UNNECESSARY BY THE AGENCY HEAD, PURSUANT TO §120.54, F.S. A RULE DEVELOPMENT WORKSHOP WILL BE ADVERTISED IN THE NEXT AVAILABLE FLORIDA ADMINISTRATIVE WEEKLY.

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT AND A COPY OF THE PROPOSED RULE IS: Cecile I. Ross, South Florida Water Management District, Post Office Box 24680, West Palm Beach, FL 33416-4680, telephone 1(800)432-2045, Ext. 6343, or (561)682-6343, internet: cross@sfwmd.gov

THE PRELIMINARY TEXT OF THE PROPOSED RULE IS NOT AVAILABLE.

WATER MANAGEMENT DISTRICTS

South Florida Water Management District

RULE CHAPTER TITLE: Water Shortage Plan RULE CHAPTER NO.: 40E-21

RULE TITLE: Variances from Water Shortage Restrictions RULE NO.: 40E-21.275

PURPOSE AND EFFECT: The purpose of the South Florida Water Management District's proposed rule development is to address the comments raised by the Joint Administrative Procedures Committee to ensure that procedural rules are in compliance with §120.545, F.S., are consistent with §120.54(5), F.S., and the uniform rules of procedure (Chapter 28, FAC).

SUBJECT AREA TO BE ADDRESSED: The proposed amendments: deletes language allowing the governing board to waive or modify limiting conditions for variances provided by rule.

SPECIFIC AUTHORITY: 373.044, 373.113 FS.

LAW IMPLEMENTED: 373.175, 373.246 FS.

IF REQUESTED IN WRITING AND NOT DEEMED UNNECESSARY BY THE AGENCY HEAD, PURSUANT TO §120.54, F.S. A RULE DEVELOPMENT WORKSHOP WILL BE ADVERTISED IN THE NEXT AVAILABLE FLORIDA ADMINISTRATIVE WEEKLY.

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT AND A COPY OF THE PROPOSED RULE IS: Cecile I. Ross, South Florida Water Management District, Post Office Box 24680, West Palm Beach, FL 33416-4680, telephone 1(800)432-2045, extension 6343 or (561)682-6343, (internet: cross@sfwmd.gov).

FLORIDA LAND AND WATER ADJUDICATORY COMMISSION

Fleming Island Plantation Community Development District

RULE CHAPTER TITLE: Fleming Island Plantation Community Development District RULE CHAPTER NO.: 42BB-1

RULE TITLES: Establishment 42BB-1.001
Boundary 42BB-1.002
Supervisors 42BB-1.003

PURPOSE, EFFECT AND SUMMARY: The purpose of this proposed rule is to establish a community development district (CDD), the Fleming Island Plantation Community Development District (District), pursuant to Chapter 190, F.S. The petition to establish the District, filed by Centrex Homes, (Petitioner), requests that the Florida Land and Water Adjudicatory Commission establish by rule the Fleming Island Plantation CDD. The land area proposed to be served by the District will be approximately 1,580 acres. All proposed lands in the District are within the unincorporated area of Clay County, generally located just south of County Road 220 and west of U.S. 17. The proposed community within the District has been approved as the Fleming Island Plantation Development of Regional Impact. The development plan for the District currently includes land-uses consisting of single and multi-family residential, retail, light industrial/office, in addition to various park and recreational facilities. The property has a projected development build-out date of December 31, 2012. The District, if established, intends to provide internal and external roads, irrigation system and landscaping, sanitary sewer, potable water, reuse water and storm sewer lines, fire station contribution, master drainage system, amenity center and community buildings, and certain other projects when expressly approved or required by a local government.

SUBJECT AREA TO BE ADDRESSED: Establishment of the Fleming Island Plantation Community Development District.

SPECIFIC AUTHORITY: 190.005 FS.

LAW IMPLEMENTED: 190.004, 190.005 FS.

IF REQUESTED AND NOT DEEMED UNNECESSARY BY THE AGENCY HEAD, A RULE DEVELOPMENT WORKSHOP WILL BE HELD AT THE TIME, DATE AND PLACE SHOWN BELOW:

TIME AND DATE: 10:00 a.m. – 12:00 Noon, Wednesday, December 1, 1999

PLACE: Room 2106, The Capitol, Tallahassee, Florida

Any person requiring a special accommodation to participate in the workshop because of a disability should contact Barbara Leighty, (850)488-7793, at least 5 business days in advance to make appropriate arrangements

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT AND A COPY OF THE PRELIMINARY DRAFT, IF AVAILABLE, IS: Susan C. McDonald, Rogers, Towers, Bailey, Jones & Gay, P. A., 1301 Riverplace Boulevard, Suite 1500, Jacksonville, Florida 32207, telephone (904)346-5587 or Barbara Leighty, Governmental Analyst, Florida Land and Water Adjudicatory Commission, The Capitol, Room 2105, Tallahassee, Florida 32399-0001, telephone (850)488-7793

THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS:

42BB-1.001 Establishment.

The Fleming Island Plantation Community Development District is hereby established.

Specific Authority 190.005 FS. Law Implemented 190.004, 190.005 FS. History—New.

42BB-1.002 Boundary.

The boundaries of the district are as follows:

EAST PARCEL:

A PART OF THE GEORGE FLEMING GRANT, SECTION 38, TOWNSHIP 5 SOUTH, RANGE 26 EAST, CLAY COUNTY, FLORIDA BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS: FOR A POINT OF BEGINNING COMMENCE AT THE INTERSECTION OF THE SOUTHWESTERLY LINE OF FLEMING ISLAND ESTATES AS RECORDED IN PLAT BOOK 4, PAGE 61 OF THE PUBLIC RECORDS OF SAID COUNTY WITH THE EASTERLY RIGHT OF WAY LINE OF U.S. HIGHWAY NO. 17 STATE ROAD NO. 15 AS NOW ESTABLISHED BY THE STATE OF FLORIDA, STATE ROAD DEPARTMENT, RIGHT OF WAY SECTION NO. 71020 2508 RIGHT OF WAY MAP; THENCE SOUTH 60°31'53" EAST, ALONG SAID SOUTHWESTERLY LINE OF FLEMING ISLAND ESTATES, A DISTANCE OF 2,342.36 FEET; THENCE SOUTH 29°28'07" WEST, ALONG THE NORTHWESTERLY OF THOSE LANDS AS DESCRIBED IN OFFICIAL RECORDS BOOK 208, PAGE 701, A DISTANCE OF 100.00 FEET TO REFERENCE POINT "A"; THENCE FROM THE AFOREMENTIONED POINT OF BEGINNING OF SAID PARCEL BEING DESCRIBED RUN SOUTH 02°51'40" WEST, ALONG THE AFOREMENTIONED EASTERLY RIGHT OF WAY LINE OF U.S. HIGHWAY NO. 17 STATE ROAD NO. 15, A DISTANCE OF 1,134.95 FEET TO AN ANGLE POINT IN SAID EASTERLY RIGHT OF WAY LINE; THENCE SOUTH 02°54'42" WEST, ALONG SAID EASTERLY RIGHT OF WAY LINE, A DISTANCE OF 988.87 FEET; THENCE SOUTH 87°05'18" EAST, ALONG THE NORTHERLY LINE OF THOSE LANDS AS DESCRIBED IN DEED BOOK 69, PAGE 351 OF SAID PUBLIC RECORDS, A DISTANCE OF 165.00 FEET; THENCE

SOUTH 02°54'42" WEST, ALONG THE EASTERLY LINE OF SAID LANDS, A DISTANCE OF 200.00 FEET; THENCE NORTH 87°05'18" WEST, ALONG THE SOUTHERLY LINE OF SAID LANDS, A DISTANCE OF 165.00 FEET TO THE AFOREMENTIONED EASTERLY RIGHT OF WAY LINE OF U.S. HIGHWAY NO. 17 STATE ROAD NO. 15; THENCE SOUTH 02°54'42" WEST, ALONG SAID EASTERLY RIGHT OF WAY LINE, A DISTANCE OF 278.27 FEET TO A POINT OF CURVE OF A CURVE CONCAVE WESTERLY HAVING A RADIUS OF 23,125.73 FEET; THENCE SOUTHERLY, ALONG AND WITH THE ARC OF SAID CURVE AND ALONG SAID EASTERLY RIGHT OF WAY LINE, A CHORD BEARING OF SOUTH 04°09'37" WEST AND A CHORD DISTANCE OF 1,007.86 FEET TO A POINT OF REVERSE CURVE, SAID CURVE BEING CONCAVE EASTERLY HAVING A RADIUS OF 22,996.74 FEET; THENCE SOUTHERLY, ALONG AND WITH THE ARC OF SAID CURVE AND ALONG SAID EASTERLY RIGHT OF WAY LINE, A CHORD BEARING OF SOUTH 04°57'41" WEST AND A CHORD DISTANCE OF 359.01 FEET TO THE POINT OF TANGENCY OF SAID CURVE; THENCE SOUTH 02°54'42" WEST, ALONG SAID EASTERLY RIGHT OF WAY LINE, A DISTANCE OF 293.16 FEET; THENCE SOUTH 87°05'18" EAST, ALONG THE NORTHERLY LINE OF THE STATE OF FLORIDA DEPARTMENT OF TRANSPORTATION PARK, A DISTANCE OF 272 FEET, MORE OR LESS TO ITS INTERSECTION WITH THE APPROXIMATE MEAN HIGH WATERLINE OF THE ST. JOHNS RIVER; THENCE NORTHEASTERLY ALONG AND WITH SAID APPROXIMATE MEAN HIGH WATER LINE, A DISTANCE OF 3,800 FEET, MORE OR LESS TO ITS INTERSECTION WITH A LINE WHICH BEARS SOUTH 60°31'53" EAST FROM AFOREMENTIONED REFERENCE POINT "A"; THENCE NORTH 60°31'53" WEST, ALONG THE SOUTHWESTERLY LINE OF THOSE AFOREMENTIONED LANDS AS RECORDED IN OFFICIAL RECORDS BOOK 208, PAGE 701, A DISTANCE OF 70 FEET, MORE OR LESS TO THE NORTHEASTERLY CORNER OF THOSE LANDS AS DESCRIBED IN OFFICIAL RECORDS BOOK 1196, PAGE 394 OF SAID CURRENT PUBLIC RECORDS, SAID CORNER LYING SOUTH 6°31'53" EAST, A DISTANCE OF 190.00 FEET FROM REFERENCE POINT "A"; THENCE SOUTH 29°28'07" WEST, ALONG THE SOUTHEASTERLY LINE OF SAID LANDS, A DISTANCE OF 20.00 FEET; THENCE NORTH 60°31'53" WEST, ALONG THE SOUTHWESTERLY LINE OF LANDS, A DISTANCE OF 90.00 FEET; THENCE NORTH 29°28'07" EAST, ALONG THE NORTHWESTERLY LINE OF SAID LANDS, A DISTANCE OF 20.00 FEET; THENCE NORTH 60°31'53" WEST, ALONG THE AFOREMENTIONED SOUTHWESTERLY LINE OF THOSE LANDS AS

DESCRIBED IN OFFICIAL RECORDS BOOK 208, PAGE 701, A DISTANCE OF 100.00 FEET TO REFERENCE POINT "A"; THENCE NORTH 29°28'07" EAST, ALONG THE AFOREMENTIONED NORTHWESTERLY LINE OF THOSE LANDS, A DISTANCE OF 100.00 FEET; THENCE NORTH 60°31'53" WEST, ALONG THE AFOREMENTIONED SOUTHWESTERLY LINE OF FLEMING ISLAND ESTATES, A DISTANCE OF 2,342.38 FEET TO THE POINT OF BEGINNING.

AND, WEST PARCEL:

A PART OF SECTIONS 4, 5, 6, 8, 9, 16, 17, AND ALSO A PART OF THE GEORGE FLEMING GRANT, SECTION 8, ALL LYING IN TOWNSHIP 5 SOUTH, RANGE 26 EAST, CLAY COUNTY, FLORIDA AND ALL BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS: FOR A POINT OF BEGINNING COMMENCE AT THE CORNER COMMON TO SAID SECTIONS 5 AND 8 WITH SECTIONS 6 AND 7, SAID TOWNSHIP AND RANGE; THENCE SOUTH 06°25'27" WEST, ALONG THE LINE DIVIDING SAID SECTION 7 FROM SAID SECTION 8, A DISTANCE OF 2,029.71 FEET; THENCE NORTH 88°34'03" EAST A DISTANCE OF 1,519.07 FEET TO THE SOUTHWEST CORNER OF LANDS RECORDED IN THE OFFICIAL RECORDS OF SAID COUNTY IN BOOK 1285, PAGE 079; RUN THENCE THE FOLLOWING SEVEN (7) COURSES AND DISTANCES ALONG THE WEST LINE OF SAID OFFICIAL RECORDS BOOK 1285, PAGE 079: 1ST COURSE, NORTH 01°25'57" WEST, 1,200.00 FEET; 2ND COURSE, NORTH 67°09'17" EAST, 369.74 FEET; 3RD COURSE, NORTH 03°05'06" WEST, 100.0 FEET; 4TH COURSE, NORTH 56°54'54" EAST, 100.0 FEET; 5TH COURSE, NORTH 03°05'06" WEST, 150.0 FEET; 6TH COURSE, NORTH 63°05'06" WEST, 100.0 FEET; 7TH COURSE, NORTH 03°05'06" WEST, 200.0 FEET TO A POINT ON A CURVE; RUN THENCE IN AN EASTERLY DIRECTION ALONG THE ARC OF A CURVE IN THE NORTH LINE OF LAST MENTIONED DEED, SAID CURVE BEING CONCAVE NORTHERLY AND HAVING A RADIUS OF 1,880.0 FEET, AN ARC DISTANCE OF 438.16 FEET TO THE NORTHEAST CORNER OF SAID DEED, SAID ARC BEING SUBTENDED BY A CHORD BEARING AND DISTANCE OF NORTH 80°14'19" EAST, 437.17 FEET; CONTINUE IN AN EASTERLY DIRECTION ALONG THE ARC OF LAST MENTIONED CURVE, (ALSO BEING THE NORTH LINE OF OFFICIAL RECORDS BOOK 1286, PAGE 691), AN ARC DISTANCE OF 493.74 FEET TO A POINT OF REVERSE CURVE, SAID ARC BEING SUBTENDED BY A CHORD BEARING AND DISTANCE OF NORTH 66°02'17" EAST, 492.32 FEET; RUN THENCE IN AN EASTERLY DIRECTION ALONG THE ARC OF A CURVE, SAID CURVE BEING CONCAVE TO THE SOUTHWEST, AND HAVING A RADIUS OF 50.0 FEET, AN ARC DISTANCE OF 85.08 FEET TO THE POINT OF TANGENCY OF SAID CURVE, SAID ARC

BEING SUBTENDED BY A CHORD BEARING AND DISTANCE OF SOUTH 72°44'25" EAST, 75.18 FEET; THENCE SOUTH 23°59'42" EAST, ALONG THE EAST LINE OF SAID OFFICIAL RECORDS BOOK 1286, PAGE 691, A DISTANCE OF 570.05 FEET TO A POINT OF CURVATURE; RUN THENCE IN A SOUTHERLY DIRECTION ALONG THE ARC OF A CURVE IN LAST MENTIONED EAST DEED LINE, SAID CURVE BEING CONCAVE WESTERLY AND HAVING A RADIUS OF 2,000.0 FEET, AN ARC DISTANCE OF 1,105.49 FEET TO THE SOUTHEAST CORNER OF LAST SAID DEED, SAID ARC BEING SUBTENDED BY A CHORD BEARING AND DISTANCE OF SOUTH 08°09'36" EAST, 1,091.47 FEET; THENCE SOUTH 88°34'03" WEST, ALONG THE SOUTH LINE OF SAID OFFICIAL RECORDS BOOK 1286, PAGE 691, A DISTANCE OF 977.56 FEET TO A POINT ON THE EAST LINE OF PREVIOUSLY MENTIONED OFFICIAL RECORDS BOOK 1285, PAGE 079; THENCE SOUTH 02°43'18" WEST, ALONG LAST SAID EAST DEED LINE, 503.58 FEET TO THE SOUTHEAST CORNER OF SAID DEED; THENCE SOUTH 88°34'03" WEST, ALONG THE SOUTH LINE OF SAID OFFICIAL RECORDS BOOK 1285, PAGE 079, A DISTANCE OF 139.42 FEET; THENCE SOUTH 06°21'04" WEST, 3,365.62 FEET; THENCE SOUTH 00°31'34" EAST, 1,154.82 FEET; THENCE SOUTH 38°12'02" EAST, 775.11 FEET; THENCE SOUTH 0°00'14" WEST, 828.48 FEET; THENCE SOUTH 58°24'54" EAST, 1,127.18 FEET; THENCE DUE SOUTH 400.00 FEET; THENCE SOUTH 40°48'54" WEST, 893.07 FEET; THENCE SOUTH 0°07'41" EAST, 243.40 FEET; THENCE NORTH 3°50'56" EAST, 117.83 FEET; THENCE NORTH 43°58'16" EAST, 851.76 FEET; THENCE NORTH 85°07'48" EAST, 328.12 FEET; THENCE SOUTH 60°31'53" EAST, 523.89 FEET; THENCE SOUTH 21°54'37" WEST, 307.10 FEET; THENCE DUE SOUTH, 1,251.12 FEET; THENCE DUE WEST, 219.20 FEET; THENCE SOUTH 52°37'30" EAST, 3,778.12 FEET; THENCE NORTH 29°27'01" EAST, 392.64 FEET; THENCE NORTH 27°02'49" WEST, 937.20 FEET; THENCE NORTH 02°51'40" EAST, 414.11 FEET; THENCE NORTH 60°07'34" WEST, 489.56 FEET; THENCE NORTH 29°52'26" EAST, 522.13 FEET; THENCE SOUTH 60°07'34" EAST, 870.96 FEET; THENCE SOUTH 87°08'20" EAST, 200.00 FEET; THENCE NORTH 02°51'40" EAST, ALONG THE WEST RIGHT OF WAY LINE OF U.S. HIGHWAY NO. 17 STATE ROAD NO. 15 (A VARIABLE WIDTH RIGHT OF WAY), 651.23 FEET; THENCE NORTH 60°31'53" WEST, ALONG THE SOUTHWESTERLY LINE OF FLEMING ISLAND ESTATES AS RECORDED IN PLAT BOOK 4, PAGE 63 OF THE PUBLIC RECORDS OF SAID COUNTY, A DISTANCE OF 2,718.29 FEET; THENCE NORTH 46°57'35" EAST, ALONG THE NORTHWESTERLY LINE OF SAID FLEMING ISLAND ESTATES AND ITS NORTHEASTERLY PROLONGATION, THE SAME BEING THE

NORTHWESTERLY LINE OF THE AFOREMENTIONED GEORGE FLEMING GRANT, SECTION 38, A DISTANCE OF 2,191.22 FEET; THENCE SOUTH 89°10'36" WEST, ALONG THE SOUTHERLY LINE OF THOSE LANDS AS DESCRIBED IN DEED BOOK "H", PAGE 242 AND DEED BOOK 38, PAGE 44, BOTH OF SAID PUBLIC RECORDS, A DISTANCE OF 701.41 FEET; THENCE NORTH 00°48'52" WEST, ALONG THE WESTERLY LINE OF SAID LANDS, A DISTANCE OF 795.34 FEET; THENCE NORTH 89°07'16" EAST, ALONG THE NORTHERLY LINE OF SAID LANDS AND ALONG THE NORTHERLY LINE OF DEED BOOK 99, PAGE 268 OF SAID PUBLIC RECORDS, A DISTANCE OF 1,579.58 FEET TO ITS INTERSECTION WITH SAID NORTHWESTERLY LINE OF THE GEORGE FLEMING GRANT, SECTION 8; THENCE NORTH 46°57'35" EAST, ALONG SAID NORTHWESTERLY LINE, A DISTANCE OF 115.13 FEET TO ITS INTERSECTION WITH THE AFOREMENTIONED WESTERLY RIGHT OF WAY LINE OF U.S. HIGHWAY NO. 17 – STATE ROAD NO. 15; THENCE NORTH 02°51'23" EAST, ALONG SAID WESTERLY RIGHT OF WAY LINE, 8,066.26 FEET; THENCE SOUTH 89°33'25" WEST, ALONG THE SOUTHERLY LINE OF OFFICIAL RECORDS VOLUME 722, PAGE 625 OF SAID PUBLIC RECORDS, A DISTANCE OF 1,370.09 FEET; THENCE NORTH 0°51'23" EAST, PARALLEL WITH SAID WESTERLY RIGHT OF WAY LINE OF U.S. HIGHWAY NO. 17 – STATE ROAD NO.15, A DISTANCE OF 780.29 FEET; THENCE SOUTH 89°33'25" WEST, A DISTANCE OF 201.60 FEET; THENCE NORTH 00°26'35" WEST, 300.00 FEET; THENCE NORTH 89°33'25" EAST, ALONG THE NORTHERLY LINE OF THOSE LANDS AS DESCRIBED IN OFFICIAL RECORDS VOLUME 122, PAGE 625 OF SAID PUBLIC RECORDS AND ITS WESTERLY PROLONGATION, A DISTANCE OF 1,588.98 FEET TO SAID WESTERLY RIGHT OF WAY LINE OF U.S. HIGHWAY NO. 17 – STATE ROAD NO. 15; THENCE NORTH 02°51'23" EAST, ALONG SAID WESTERLY RIGHT OF WAY LINE, A DISTANCE OF 100.17 FEET; THENCE SOUTH 89°33'25" WEST, 2,147.52 FEET; THENCE SOUTH 89°28'17" WEST, 3,849.63 FEET; THENCE SOUTH 19°01'41" EAST, 1,153.59 FEET; THENCE SOUTH 89°02'15" WEST 69.42 FEET; RUN THENCE THE FOLLOWING THREE (3) COURSES ALONG THE EAST, SOUTH AND WEST LINES OF OFFICIAL RECORDS BOOK 1482, PAGE 0012: 1ST COURSE, SOUTH 19°01'41" EAST, 425.0 FEET; 2ND COURSE, SOUTH 89°02'15" WEST, 350.0 FEET; 3RD COURSE, NORTH 19°01'41" WEST, 425.0 FEET; THENCE SOUTH 89°02'15" WEST, 1,535.63 FEET; THENCE SOUTH 04°09'45" WEST, ALONG THE LINE DIVIDING AFOREMENTIONED SECTION 5 FROM AFOREMENTIONED SECTION 6, A DISTANCE OF 990.44 FEET; THENCE SOUTH 89°17'23" WEST, ALONG THE NORTHERLY LINE OF THOSE LANDS AS

DESCRIBED IN OFFICIAL RECORDS VOLUME 585, PAGE 506 OF SAID CURRENT PUBLIC RECORDS, A DISTANCE OF 3,296.55 FEET; THENCE SOUTH 63°37'27" WEST, ALONG THE NORTHWESTERLY LINE OF SAID LANDS, THE SAME BEING THE SOUTHEASTERLY LINE OF THE E. A., FERGUSON GRANT AND THE NORTHWESTERLY LINE OF AFOREMENTIONED SECTION 6, A DISTANCE OF 230.88 FEET; THENCE NORTH 89°17'23" EAST, ALONG THE SOUTHERLY LINE OF SAID LANDS AS DESCRIBED IN OFFICIAL RECORDS VOLUME 585, PAGE 506, A DISTANCE OF 3,496.12 FEET TO THE AFOREMENTIONED LINE DIVIDING SECTION 5 FROM SECTION 6; THENCE SOUTH 04°09'45" WEST, ALONG SAID DIVIDING LINE A DISTANCE OF 22.71 FEET TO THE POINT OF BEGINNING.

Specific Authority 190.005 FS. Law Implemented 190.004, 190.005 FS. History–New _____.

42BB-1.003 Supervisors.

The following five persons are designated as the initial members of the Board of Supervisors: David Bishop, Doug Smith, Art Lancaster, Candice Paulsen, and Clint Smith.

Specific Authority 190.005 FS. Law Implemented 190.004, 190.005 FS. History–New _____.

AGENCY FOR HEALTH CARE ADMINISTRATION

Health Facility and Agency Licensing

RULE CHAPTER TITLE: Drug-Free Workplace Standards
 RULE CHAPTER NO.: 59A-24

RULE TITLES: Collection Site and Specimen
 RULE NOS.:

Collection Procedures 59A-24.005
 Drug Testing Laboratories 59A-24.006

PURPOSE AND EFFECT: Chapter 59A-24, Florida Administrative Code, is being amended to make the rule consistent with legislative changes made to section 112.0455, F.S. The initial screening and confirmation cut-off levels for opiates and alcohol are being changed to be consistent with the cut-off levels adopted by the Health and Human Services Guidelines for federal workplace drug testing programs and the U.S. Department of Transportation.

SUBJECT AREA TO BE ADDRESSED: Licensure for drug-free workplace toxicology laboratories.

SPECIFIC AUTHORITY: 112.0455 FS.

LAW IMPLEMENTED: 112.0455 FS.

IF REQUESTED WITHIN 21 DAYS OF THE DATE OF THIS NOTICE, A HEARING WILL BE HELD AT THE TIME, DATE AND PLACE SHOWN BELOW:

TIME AND DATE: 10:00 a.m., December 6, 1999

PLACE: 2727 Mahan Drive, Fort Knox Building 3, Room C, Tallahassee, FL

SPECIFIC AUTHORITY: 121.031 FS.
 LAW IMPLEMENTED: 121.081(1), 121.121 FS.
 IF REQUESTED IN WRITING AND NOT DEEMED UNNECESSARY BY THE AGENCY HEAD, A RULE DEVELOPMENT WORKSHOP WILL BE HELD AT THE TIME, DATE AND PLACE SHOWN BELOW:
 TIME AND DATE: 10:00 a.m., November 15, 1999
 PLACE: 2nd Floor Conference Room, Cedars Executive Center, Building C, 2639 North Monroe Street, Tallahassee, Florida
 THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT AND TO OBTAIN A COPY OF THE PRELIMINARY RULE TEXT IS: Mary Beth Brewer, Senior Benefits Analyst, Division of Retirement, Cedars Executive Center, Building C, 2639 North Monroe Street, Tallahassee, Florida 32399-1560
 THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS NOT AVAILABLE.

DEPARTMENT OF MANAGEMENT SERVICES

Division of Retirement

RULE CHAPTER TITLE: Contributions
 RULE CHAPTER NO.: 60S-3
 RULE TITLE: Payment of Contributions
 RULE NO.: 60S-3.011
 PURPOSE AND EFFECT: To change the required receipt date of employer retirement contributions to accommodate the implementation of new technology.
 SUBJECT AREA TO BE ADDRESSED: Effective January 1, 2000, retirement contributions will be required to be received at the Division on or before the due date instead of postmarked on or before the due date.
 SPECIFIC AUTHORITY: 121.031 FS.
 LAW IMPLEMENTED: 121.071(5) FS.
 IF REQUESTED AND NOT DEEMED UNNECESSARY BY THE AGENCY HEAD, A RULE DEVELOPMENT WORKSHOP WILL BE HELD ON THE TIME, DATE AND PLACE SHOWN BELOW:
 TIME AND DATE: 10:00 a.m., November 15, 1999
 PLACE: 2nd Floor Conference Room, Cedars Executive Center, Building C, 2639 North Monroe Street, Tallahassee, Florida
 THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT AND TO OBTAIN A COPY OF THE PRELIMINARY RULE TEXT IS: Mary Beth Brewer, Senior Benefit Analyst, Division of Retirement, Cedars Executive Center, Building C, 2639 North Monroe Street, Tallahassee, Florida 32399-1560
 THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS NOT AVAILABLE.

DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION

Board of Architecture and Interior Design

RULE TITLE: Notice of Non-compliance
 RULE NO.: 61G1-12.007
 PURPOSE AND EFFECT: The Board proposes to delete certain rule text because there is no statutory authority.
 SUBJECT AREA TO BE ADDRESSED: Deletion of Subsection (1)(f).
 SPECIFIC AUTHORITY: 120.695, 455.225(3), 481.2055 FS.
 LAW IMPLEMENTED: 120.695, 455.225(3) 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: Dee O'Connor, Executive Director, Board of Architecture and Interior Design, Northwood Centre, 1940 N. Monroe Street, Tallahassee, Florida 32399-0750

THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS:

61G1-12.007 Notice of Non-compliance.

(1) In accordance with Section 455.225(3), Florida Statutes, when a complaint is received, the Department shall provide a licensee with a notice of non-compliance for an initial offense only of a minor violation. Failure of a licensee to take action in correcting the violation within 15 days after the notice shall result in the institution of regular disciplinary proceedings by the Department. "Minor violation" as used in Section 455.225(3), Florida Statutes, is defined as follows:

(a) through (e) No change.

~~(f) practicing without a certificate of authorization in violation of §481.219, F.S.,~~

~~(f)(g) No change.~~

(2) No change.

Specific Authority 120.695, 455.225(3), ~~481.2055~~ ~~468.522~~ FS. Law Implemented 120.695, 455.225(3) FS. History—New 2-29-96, Amended 2-25-98,_____.

DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION

Board of Architecture and Interior Design

RULE TITLE: When Seal May Be Affixed
 RULE NO.: 61G1-16.003
 PURPOSE AND EFFECT: The Board proposes to amend this rule to update the rule text.
 SUBJECT AREA TO BE ADDRESSED: When seals may be affixed.

SPECIFIC AUTHORITY: 481.2055, 481.221 FS.
 LAW IMPLEMENTED: 481.221, 481.225(1)(e),(g),(j), 481.2251(1)(g),(h),(i) 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: Dee O'Connor, Executive Director, Board of Architecture and Interior Design, Northwood Centre, 1940 N. Monroe Street, Tallahassee, Florida 32399-0750

THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS:

61G1-16.003 When Seal May Be Affixed.

The personal seal, signature and date of the architect or interior designer shall appear on all architectural or interior design documents to be filed for public record and shall be construed to obligate his partners or his corporation. A corporate seal alone is insufficient. Documents shall be signed personally and sealed by the responsible architect or interior designer. Final official record documents (not tracings, etc.) shall be so signed. The signing and sealing of the specification index sheets sheet or sheets ~~(if it identifies all parts) of drawings and specifications~~ shall be considered adequate. ~~Without such index all sheets and pages shall be so signed and sealed. All drawing sheets and pages shall be so signed and sealed.~~ An architect or interior designer shall not affix, or permit to be affixed, his seal or name to any plan, specifications, drawings, or other related document which was not prepared by him or under his responsible supervising control as provided in Rule Chapter 61G1-23, F.A.C. An architect or interior designer shall not use his seal or do any other act as an architect or interior designer unless holding at the time a certificate of registration and all required renewals thereof.

Specific Authority 481.2055, 481.221 FS. Law Implemented 481.221, 481.225(1)(e),(g),(j), 481.2251(1)(g),(h),(i) FS. History—New 12-23-79, Formerly 21B-16.03, Amended 7-27-89, Formerly 21B-16.003, Amended 11-21-94, _____.

DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION

Board of Architecture and Interior Design

RULE TITLE: Title Block
 RULE NO.: 61G1-16.004
 PURPOSE AND EFFECT: The Board proposes to promulgate a new rule entitled "Title Block" to clarify to the public the professional who is actually providing the professional services. In addition, since this new rule is being added to chapter 61G1-16, the Board has determined that the chapter

title should be amended to reflect the contents of the whole chapter; therefore, the chapter title will be amended to read "Seals and Plans".

SUBJECT AREA TO BE ADDRESSED: Seals and plans.

SPECIFIC AUTHORITY: 481.2055 FS.

LAW IMPLEMENTED: 481.203(6), 481.203(8), 481.2131(1), 481.219(3), 481.219(4), 481.219(5), 481.221, 481.225(1)(e), 481.225(1)(g), 481.2251(1)(h) 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: Dee O'Connor, Executive Director, Board of Architecture and Interior Design, Northwood Centre, 1940 N. Monroe Street, Tallahassee, Florida 32399-0750

THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS:

61G1-16.004 Title Block.

A title block must appear on all architectural or interior design drawings and specification identification sheets. The title block must, at a minimum, contain the following information:

- (1) firm name, address, and telephone number
- (2) firm license number
- (3) name or identification of project
- (4) date prepared
- (5) a space for the signature and dated seal
- (6) a space for the printed name of the person sealing the document

Specific Authority 481.2055 FS. Law Implemented 481.203(6), 481.203(8), 481.2131(1), 481.219(3), 481.219(4), 481.219(5), 481.221, 481.225(1)(e), 481.225(1)(g), 481.2251(1)(h) FS. History—New _____.

DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION

Board of Architecture and Interior Design

RULE TITLE: Responsibility for Businesses
 RULE NO.: 61G1-23.070
 PURPOSE AND EFFECT: The Board proposes to promulgate a new rule entitled "Responsibility for Businesses."
 SUBJECT AREA TO BE ADDRESSED: Responsibilities for businesses.
 SPECIFIC AUTHORITY: 481.2055 FS.
 LAW IMPLEMENTED: 481.219, 481.221(4),(5), 481.225(1)(e),(f),(g),(i),(j),(k), 481.2251(1)(f),(g),(h),(i),(j) 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: Dee O'Connor, Executive Director, Board of Architecture and Interior Design, Northwood Centre, 1940 N. Monroe Street, Tallahassee, Florida 32399-0750

THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS:

61G1-23.070 Responsibility for Businesses.

An architect or interior designer can only qualify one entity as defined by Section 481.219(2) or (3), Florida Statutes, unless multiple entities exist with the same officers or out of the same location. The qualifier must demonstrate responsible supervisory control on all projects in Florida.

Specific Authority 481.2055 FS. Law Implemented 481.219, 481.221(4),(5), 481.225(1)(e),(f),(g),(i),(j),(k), 481.2251(1)(f),(g),(h),(i),(j) FS. History--New _____.

DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION

Board of Electrical Contractors' Licensing Board

RULE TITLES: RULE NOS.:

Required Records Maintained by Course Sponsors 61G6-9.009
Audit of Certifications of Completion 61G6-9.011

PURPOSE AND EFFECT: The Board proposes to amend 61G6-9.009 by updating the rule text. In 61G6-9.011, the Board proposes to repeal this rule because it is no longer needed.

SUBJECT AREA TO BE ADDRESSED: Course Sponsors Maintaining Records; repeal of rule 61G6-9.011.

SPECIFIC AUTHORITY: 455.225, 455.227, 489.507(3), 489.517 FS.

LAW IMPLEMENTED: 489.507(3), 489.517, 489.531(1)(f), 489.533(1)(b),(e) FS.

IF REQUESTED WITHIN 21 DAYS OF THE DATE OF THIS NOTICE, A HEARING WILL BE NOTICED IN THE NEXT AVAILABLE ISSUE OF THE FLORIDA ADMINISTRATIVE WEEKLY.

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT AND A COPY OF THE PRELIMINARY DRAFT, IF AVAILABLE, IS: George Ayrish, Executive Director, Electrical Contractors' Licensing Board, Northwood Centre, 1940 N. Monroe Street, Tallahassee, Florida 32399-0750

THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS:

61G6-9.009 Required Records Maintained by Course Sponsors.

(1) through (7) No change.

(8) The records must be maintained for at least four ~~three~~ years following the date the course is completed.

(9) Each course sponsor shall electronically provide the ~~board with copies of any of these required records, upon request by the board department with such information no later than 5 business days after a licensee completes the course.~~

Specific Authority 489.507(3) FS. Law Implemented 489.517 FS. History--New 11-30-94, Amended 6-13-96, 12-25-96, 3-24-99, _____.

61G6-9.011 Audit of Certifications of Completion.

Specific Authority 455.225, 455.227, 489.507(3) FS. Law Implemented 489.517, 489.531(1)(f), 489.533(1)(b),(e),(f) FS. History--New 11-30-94, Amended 3-24-99, Repealed _____.

DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION

Board of Pilot Commissioners

RULE TITLE: RULE NO.:

Unexcused Absences 61G14-10.0015

PURPOSE AND EFFECT: The Board proposes to adopt this rule to define the terms and conditions of unexcused absences.

SUBJECT AREA TO BE ADDRESSED: Unexcused absences from Board Meetings.

SPECIFIC AUTHORITY: 310.185, 455.207(3) FS.

LAW IMPLEMENTED: 455.207(3) FS.

IF REQUESTED IN WRITING AND NOT DEEMED UNNECESSARY BY THE AGENCY HEAD, A RULE DEVELOPMENT WORKSHOP WILL BE HELD AT THE TIME, DATE AND PLACE SHOWN BELOW:

TIME AND DATE: 10:00 a.m., November 29, 1999

PLACE: The Department of Legal Affairs, The Collins Building, 107 West Gaines Street, Tallahassee, FL 32399-1050

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT AND A COPY OF THE PRELIMINARY DRAFT, IF AVAILABLE, IS: E. Madeline Smith, Executive Director, Board of Pilot Commissioners, Northwood Centre, 2639 North Monroe Street, Tallahassee, Florida

THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS:

61G14-10.0015 Unexcused Absences.

(1) As used in this rule:

(a) "Immediate family" consists of a spouse, child, child-in-law, parent, parent-in-law, sibling, grandchild, or grandparent.

(b) "Family" consists of immediate family, nieces, nephews, cousins, and in-laws.

(2) As contemplated by section 455.207(3), Florida Statutes, an unexcused absence is any absence from a regularly scheduled Board meeting which absence does not result from a court order, subpoena, business with a court which has the sole prerogative of setting the date of such business, conflict with other scheduled business of the Board, conflicting business previously authorized by the Board or the Board Chair, death of a member of the member's family, illness of the Board member, hospitalization of a member of the member's immediate family, or absence due to unavoidable travel delays or cancellations.

(3) Three consecutive unexcused absences or absences from 50 percent or more of the Board's meetings within a twelve month period shall cause that member's position on the Board to become vacant. An otherwise excused absence shall be unexcused if the Board member fails to notify the Board office of the impending absence prior to the regularly scheduled Board meeting at which the absence will occur unless the failure to notify the Board office is the result of circumstances surrounding the reason for the absence.

Specific Authority 310.185, 455.207(3) FS. Law Implemented 455.207(3) FS. History--New _____.

DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION

Board of Professional Engineers

RULE TITLES:	RULE NOS.:
Citations	61G15-19.005
Notice of Noncompliance	61G15-19.0051
Mediation	61G15-19.006
Notice of Noncompliance	61G19-19.007
Citations	61G19-19.0071

PURPOSE AND EFFECT: The Board proposes to repeal Rules 61G15-19.005 and 19.007 and replace them with new rules which Rule 61G15-19.007 will be renumbered 61G19-19.0051 and Rule 61G15-19.005 will be renumbered 61G15-19.0071. The Board proposes to amend Rule 61G15-19.006 to reflect the areas appropriate for mediation for a first time offense.

SUBJECT AREA TO BE ADDRESSED: Repeal of Rules 61G15-19.005 and 19.007, promulgation of Rules 61G15-19.0051 and 61G19-19.0071, and mediation.

SPECIFIC AUTHORITY: 455.224, 455.225, 455.2235 FS.

LAW IMPLEMENTED: 455.224, 455.2235, 471.023, 471.033 FS.

IF REQUESTED IN WRITING AND NOT DEEMED UNNECESSARY BY THE AGENCY HEAD, A RULE DEVELOPMENT WORKSHOP WILL BE HELD AT THE TIME, DATE AND PLACE SHOWN BELOW:

TIME AND DATE: 8:30 a.m. or shortly thereafter, December 8, 1999

PLACE: The Radisson Hotel, 415 N. Monroe Street, Tallahassee, Florida

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT AND A COPY OF THE PRELIMINARY DRAFT, IF AVAILABLE, IS: Dennis Barton, Executive Director, Board of Professional Engineers, 1208 Hays Street, Tallahassee, Florida 32301

THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS:

61G15-19.005 Citations.

Specific Authority 455.224, 455.225 FS. Law Implemented 455.224 FS. History--New 2-2-92, Amended 8-31-92, Formerly 21H-19.005, Amended 10-19-97, Repealed _____.

61G15-19.0051 Notice of Noncompliance.

(1) As an alternative to investigation and prosecution, when a complaint is received, FEMC shall provide a licensee with a notice of noncompliance for an initial offense for the following violations:

(a) Failure to date documents when affixing signature and seal.

(b) Practice with an inactive or delinquent license less than one month.

(c) Firm practicing without a current certificate of authorization less than one month.

(2) A second offense shall result in issuance of a citation pursuant to Rule 61G15-19.0071.

Specific Authority 455.225 FS. Law Implemented 455.224 FS. History--New _____.

61G15-19.006 Mediation.

Pursuant to § 455.2235, the Board designates the following areas as appropriate for mediation for a first offense:

(1) Practice with an improper seal. (See Rule 61G15-23.001, F.A.C. or offer to practice engineering through a corporation, partnership, or fictitious name which has not been duly certified.

(2) No change.

(3) Practice with an inactive license less than six months.

Specific Authority 455.2235 FS. Law Implemented 455.2235 FS. History--New 2-20-95, Amended 10-20-96, _____.

61G15-19.007 Notice of Noncompliance.

Specific Authority 455.225 FS. Law Implemented 455.224 FS. History--New 2-5-96, Amended 10-20-96, Repealed _____.

61G15-19.0071 Citations.

(1) As used in this rule, "citation" means an instrument which meets the requirements set forth in Section 455.224, F.S., and which is served upon a licensee or certificateholder for the purpose of assessing a penalty in an amount established by this rule.

(2) In lieu of the disciplinary procedures contained in Section 455.225, F.S., FEMC is hereby authorized to dispose of any violation designated herein by issuing a citation to the

subject within six months after the filing of the complaint that is the basis for the citation. If a violation for which a citation may be issued is discovered during the course of an investigation for an unrelated violation, the citation must be issued within 6 months from the discovery of the violation and filing of the uniform complaint form by the investigator.

(3) The following violations with accompanying fines may be disposed of by citation:

(a) An engineer who has practiced or offered to practice engineering through a corporation, partnership, or fictitious name which has not been duly certified. The fine shall be \$100 for each month or fraction thereof of said activity, up to a maximum of \$1,000. (See Sections 455.227(1)(j), 471.023, and 471.033(1)(a), F.S.)

(b) Practice with an inactive or delinquent license more than one month or if a Notice of Noncompliance has previously been issued for the same offense. The fine shall be \$100 for each month or fraction thereof. (See Section 471.033(1)(i), F.S.)

(c) Firm practicing without a current certificate of authorization more than one month or if a Notice of Noncompliance has previously been issued for the same offense. The fine shall be \$100 for each month or fraction thereof. (See Section 471.023, F.S.)

(d) Failure to notify the Board of a change in the principal officer of the corporation or partner in a partnership who is the qualifying professional engineer for said corporation or partnership within one month of such change. The fine shall be \$500. (See Section 471.023(4), F.S.)

(4) If the subject does not dispute the matter in the citation in writing within 30 days after the citation is served by personal service or within 30 days after receipt by certified mail, the citation shall become a final order of the Board of Professional Engineers. The subject has 30 days from the date the citation becomes a final order to pay the fine and costs. Failure to pay the fine and costs within the prescribed time period constitutes a violation of Section 471.033(1)(k), F.S., which will result in further disciplinary action. All fines and costs are to be made payable to "Florida Engineers Management Corporation – Citation."

(5) Prior to issuance of the citation, the investigator must confirm that the violation has been corrected or is in the process of being corrected.

(6) Once the citation becomes a final order, the citation and complaint become a public record pursuant to Chapter 119, F.S., unless otherwise exempt from the provisions of Chapter 119, F.S. The citation and complaint may be considered as aggravating circumstances in future disciplinary actions pursuant to Rule 61G15-19.004, F.A.C.

(7) Subsequent violation(s) of the same rule or statute shall require the procedure of Section 455.225, F.S., to be followed. In addition, should the offense for which a citation could be

issued occur in conjunction with violations not described herein, then the procedures of Section 455.255, F.S., shall apply.

Specific Authority 455.224, 455.225 FS. Law Implemented 455.224, 455.227, 471.023, 471.033 FS. History—New

DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION

Board of Professional Engineers

RULE TITLES:	RULE NOS.:
Definitions	61G15-32.002
Common Requirements to All Fire Protection Engineering Documents	61G15-32.003
Design of Water Based Fire Protection Systems	61G15-32.004
Design of Fire Water Spray (Mist) Fire Suppression and Control Systems	61G15-32.009

PURPOSE AND EFFECT: The Board proposes to amend Rule 61G15-32.002 to update the rule text to further clarify the definitions for Engineer of Record for the Fire Protection System(s), and for Fire Protection Engineering Documents. Rule 61G15-32.003 is being amended to expand the common requirements for certain fire protection engineering documents. The Board proposes to update the rule text to Rule 61G15-32.004 to further clarify the design of water based fire protection systems. Rule 61G15-32.009 is a new rule the Board proposes to promulgate, which will provide language for the design of fine water spray (mist) fire suppression and control systems.

SUBJECT AREA TO BE ADDRESSED: Definitions; Common Requirements to All Fire Protection Engineering Documents; Design of Water Based Fire Protection Systems; and Design of Fine Water Spray (Mist) Fire Suppression and Control Systems.

SPECIFIC AUTHORITY: 471.008, 471.033(2) FS.

LAW IMPLEMENTED: 471.033 FS.

IF REQUESTED IN WRITING AND NOT DEEMED UNNECESSARY BY THE AGENCY HEAD, A RULE DEVELOPMENT WORKSHOP WILL BE HELD AT THE TIME, DATE AND PLACE SHOWN BELOW:

TIME AND DATE: 8:30 a.m. or shortly thereafter, December 8, 1999

PLACE: The Radisson Hotel, 415 N. Monroe Street, Tallahassee, Florida

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT AND A COPY OF THE PRELIMINARY DRAFT, IF AVAILABLE, IS: Dennis Barton, Executive Director, Board of Professional Engineers, 1208 Hays Street, Tallahassee, Florida 32301

THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS:

61G15-32.002 Definitions.

(1) Engineer of Record for the Fire Protection System(s): The Florida Registered Professional Engineer who develops the Fire Protection System(s) design criteria; performs analysis as required; and is responsible for the preparation of the Fire Protection Engineering Construction Documents.

(2) through (4) No change.

(5) Fire Protection Engineering Documents: The fire protection engineering drawings, specifications, design calculations and other materials or representations that set forth the overall design requirements for the construction, alteration, demolition, renovation, repair, modification, permitting and such, for any public or private fire protection system(s), which are prepared, signed, dated and sealed by the Engineer of Record for the Fire Protection System(s).

(6) through (7) No change.

Specific Authority 471.008, 471.033(2) FS. Law Implemented 471.033 FS. History—New 5-19-93, Formerly 21H-32.002, Amended.

61G15-32.003 Common Requirements to All Fire Protection Engineering Documents.

(1) The Fire Protection Engineering Documents shall provide the construction requirements to indicate the nature and scope of the work, and to describe, detail, dimension, label and define as required to adequately communicate the design concept for the Fire Protection Components, System(s), materials, assemblies, equipment and its structural and utility support system(s), insofar as they involve the safeguarding of life, health or property.

(2) The Fire Protection Engineering Design Documents shall specify the applicable requirements for the acceptance testing of the fire protection system and components, which shall be based upon applicable codes and standards, where available.

(3) No change.

(4) The applicable code and standard used in the preparation of the Fire Protection shall be shown on the Fire Protection Engineering Design Documents. When applicable codes and standards are not available or applicable, and said documents are based on engineering judgment, which constitutes a deviation from applicable codes and standards, any reasons and assumptions made to develop the fire protection concept shall be identified on the documents.

(5) through (8) No change.

Specific Authority 471.008, 471.033(2) FS. Law Implemented 471.033 FS. History—New 5-19-93, Formerly 21H-32.003, Amended.

61G15-32.004 Design of Water Based Fire Protection Systems.

(1) Water Based Fire Protection Systems include, but are not limited to, automatic sprinkler systems of wet, dry, fine water spray (mist), manual, and deluge valve controlled types, pumping systems, standpipes, fire water mains and dedicated fire protection water sources.

(2) To ensure minimum design quality in Fire Protection Engineering Documents, said documents shall include as a minimum the following information when applicable:

(a) No change.

(b) The Point of Service for the fire protection water supply as defined by 633.021(17)(46), F.S.

(c) In storage occupancies the Engineer of Record shall determine the commodity classification as determined by applicable standards or on alternate sources as provided in the definition of codes and standards. The NFPA commodity classification shall be provided on the Fire Protection Engineering Documents for all storage occupancies. In cases where applicable hazard classification is not identified in NFPA codes or standards, or a higher hazard classification is required for insurance purposes, the engineer or record shall provide the basis for the design decisions.

(d) All required hydraulic calculations conducted for the system(s) shall be completed in accordance with the minimum standards for detail and information as required by NFPA 13. The source and location of water supply test results shall be indicated on the documents.

Specific Authority 471.008, 471.033(2) FS. Law Implemented 471.033 FS. History—New 5-19-93, Formerly 21H-32.004, Amended.

61G15-32.009 Design of Fine Water Spray (Mist) Fire Suppression and Control Systems.

(1) Fine water spray (mist) systems include water based fire suppression and control systems based on NFPA 750.

(2) The fire protection system(s) shall be based on applicable NFPA standards when available or on alternative engineering sources including full scale fire testing and good engineering practice when no applicable standard exists.

(3) Design of fine water spray systems requires specific knowledge of hazards, physical containment and fire dynamics. A “pre-engineered” listed system shall be installed only after the engineer or record has evaluated the project specific protected hazard.

Specific Authority 471.008, 471.033(2) FS. Law Implemented 471.033 FS. History—New

DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION

Board of Professional Engineers

RULE TITLES:	RULE NOS.:
General Responsibility	61G15-35.001
Definitions	61G15-35.002
Common Requirements to all Engineers	
Providing Threshold Building Inspection Services	61G15-35.003

PURPOSE AND EFFECT: The Board proposes to create a new Chapter entitled "Responsibility Rule of Professional Engineers Providing Threshold Building Inspection", numbered 61G15-35. Within this chapter, three proposed rules will be created which will provide language for general responsibilities, definitions, and the common requirements for all engineers providing threshold building inspection services.

SUBJECT AREA TO BE ADDRESSED: General Responsibility; Definitions; Common Requirements to All Engineers Providing Threshold Building Inspection Services.

SPECIFIC AUTHORITY: 471.008, 471.033(2) FS.

LAW IMPLEMENTED: 471.033 FS.

IF REQUESTED IN WRITING AND NOT DEEMED UNNECESSARY BY THE AGENCY HEAD, A RULE DEVELOPMENT WORKSHOP WILL BE HELD AT THE TIME, DATE AND PLACE SHOWN BELOW:

TIME AND DATE: 8:30 a.m. or shortly thereafter, December 8, 1999

PLACE: The Radisson Hotel, 415 N. Monroe Street, Tallahassee, Florida

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT AND A COPY OF THE PRELIMINARY DRAFT, IF AVAILABLE, IS: Dennis Barton, Executive Director, Board of Professional Engineers, 1208 Hays Street, Tallahassee, Florida 32301

THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS:

61G15-35.001 General Responsibility.

Professional Engineers offering Threshold Building Inspection services pursuant to Chapter 553.79(5)(a)-(d) shall provide inspections in accordance with the structural inspection plan provided by the engineer or architect of record to insure compliance with permitted documents. In addition to inspections in accordance with the structural inspection plan, the engineer will inspect the shoring and reshoring for conformance with shoring and reshoring plans submitted to the enforcing agency.

Specific Authority 471.008, 471.033(2), 553.79(5)(a)-(d) FS. Law Implemented 471.033 FS. History-New

61G15-35.002 Definitions.

(1) Threshold Building Inspector: A registered professional engineer who meets the qualifications and standards set by the Florida Building Commission.

(2) Authorized Representative: A representative of the Threshold Building Inspector.

(3) Structural Inspection Plan: The plan submitted by the engineer or architect of record to provide specific inspection procedures and schedules.

Specific Authority 471.008, 471.033(2), 553.79(5)(a)-(d) FS. Law Implemented 471.033 FS. History-New

61G15-35.003 Common Requirements to all Engineers Providing Threshold Building Inspection Services.

(1) Threshold Building Inspectors utilizing Authorized Representatives will insure the Authorized Representative is qualified to perform the duties assigned by the Threshold Building Inspector. Such qualifications may include but not be limited to: licensure as a professional engineer; licensure as an architect or graduation from an architectural education program; graduation from an engineering education program in civil or structural engineering; successful completion of the NCEES Fundamentals Examination; registration as building inspector or general contractor.

(2) Threshold Building Inspectors will insure adequate performance of the work of the Authorized Representative by providing supervision of the Authorized Representative through such means that includes but is not limited to reviewing reports and spot checks.

(3) Threshold Building Inspectors will institute quality assurance procedures to include but not be limited to such procedures requiring unscheduled visits, utilization or relevant check lists, use of a Daily Inspection Report and insuring that the Inspector or the Authorized Representative is at the project when key concrete pours are made.

Specific Authority 471.008, 471.033(2), 553.79(5)(a)-(d) FS. Law Implemented 471.033 FS. History-New

DEPARTMENT OF HEALTH

Board of Medicine

RULE TITLES:	RULE NOS.:
Licensure by Examination	64B8-51.002
Rule Governing Licensure and Inspection of Electrology Facilities	64B8-51.006

PURPOSE AND EFFECT: The Board proposes that every applicant for licensure as an electrologist by examination may rely upon possession of a college, university or technical school diploma, provided that the institution required a high school or graduate equivalency diploma for admission. The purpose of rule 64B8-51.006 is to clarify the procedure for the renewal of a delinquent facility license.

SUBJECT AREA TO BE ADDRESSED: Licensure by Examination; Rule Governing Licensure and Inspection of Electrology Facilities.

SPECIFIC AUTHORITY: 478.43(1), 455.711, 478.43(1), (4), 478.51(3) FS.

LAW IMPLEMENTED: 455.574, 478.45, 455.711, 478.49, 478.51 FS.

IF REQUESTED 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 IS: Kaye Howerton, Executive Director, Electrolysis Council, 2020 Capital Circle, Southeast, BIN #C05, Tallahassee, Florida 32399-3255

THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS:

64B8-51.002 Licensure by Examination.

(1) Every applicant for licensure as an electrologist by examination shall demonstrate to the Council that the applicant:

(a) through (b) No change.

(c) Possess a high school diploma, ~~or~~ a graduate equivalency diploma, ~~or a college diploma, university diploma, or technical school diploma if such college, university, or technical school required a high school or graduate equivalency diploma for admission.~~

(d) through (g) No change.

(2) through (4) No change.

Specific Authority 478.43(1), (4) FS. Law Implemented 455.574, 478.45 FS. History—New 5-31-93, Formerly 21M-76.002, 61F6-76.002, Amended 7-11-95, Formerly 59R-51.002, Amended 11-13-97,_____.

64B8-51.006 Rule Governing Licensure and Inspection of Electrology Facilities.

(1) through (5) No change.

(6) Renewal of Facility Licensure. Facility licensure shall be renewed at the end of each biennium prescribed by the Department. The licensee shall receive ninety (90) days notice of the need to renew the facility license. The notice shall be sent to the licensee at the last known address of the facility. Failure to receive the notice will not excuse the licensee from the requirement to renew the facility license, and failure to renew shall result in the ~~termination of the license becoming delinquent. If the delinquent licensee does not apply for renewal of the license within six months of the license becoming delinquent, the license shall become null and any subsequent licensure shall be as a result of applying and meeting all, requirements for new licensure.~~ A facility may not operate without a license. To timely renew the facility license, including the six month “grace period” provided for, the licensee must pay the renewal fee of \$100 and the inspection fee of \$100. ~~If a facility license has been terminated for failure~~

~~to timely renew the license, the former licensee must file a new application for facility licensure if the former licensee wishes to obtain a facility license.~~

(7) No change.

Specific Authority 455.711, 455.712, 478.43(1),(4), 478.51(3) FS. Law Implemented 455.711, 478.49, 455.712(2),(3),(5), 478.51 FS. History—New 11-16-93, Formerly 61F6-76.006, Amended 5-11-95, 6-26-96, Formerly 59R-51.006, Amended 12-23-97, 12-22-98,_____.

DEPARTMENT OF HEALTH

Board of Medicine

RULE TITLE: RULE NO.:

Procedure for Approval of Attendance at Continuing Education Courses 64B8-52.003

PURPOSE AND EFFECT: The proposed change to the current Rule will specify that each biennium no more than two hours must be obtained by each licensee in approved offerings on blood-borne diseases, including one hour on HIV/AIDS education. Further, up to 2 hours may be obtained each biennium in risk management by attending a Board meeting or serving as a voluntary expert witness.

SUBJECT AREA TO BE ADDRESSED: Procedure for Approval of Attendance at Continuing Education Courses.

SPECIFIC AUTHORITY: 478.43(4), 478.50(2),(4)(a),(b) FS.

LAW IMPLEMENTED: 455.604, 478.50(2),(4)(a),(b) FS.

IF REQUESTED 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 IS: Kaye Howerton, Executive Director, Electrolysis Council, 2020 Capital Circle, Southeast, BIN #C05, Tallahassee, Florida 32399-3255

THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS:

64B8-52.003 Procedure for Approval of Attendance at Continuing Education Courses.

(1) through (2) No change.

(3) Two hours each biennium must be obtained by each licensee in approved offerings on blood-borne diseases including 1 2 hours on HIV/AIDS education. Approved offerings in HIV/AIDS are those that meet the requirements of Section 455.604(1), F.S. Courses approved by any Board within the Division of Medical Quality Assurance of the Department of Health pursuant to Section 455.604, F.S., are approved by this council.

(4) No change.

(5) Up to 2 hours each biennium may be obtained in the area of risk management by a licensee by attending a Board meeting in which another licensee is being disciplined, or by serving as volunteer expert witness in a disciplinary case.

Specific Authority 478.43(4), 478.50(2),(4)(a),(b) FS. Law Implemented 455.604, 478.50(2),(4)(a),(b), 455.564(6) FS. History–New 6-1-93, Formerly 21M-77.003, 61F6-77.003, Amended 5-11-95, Formerly 59R-52.003, Amended 2-9-98, 2-16-99, _____.

DEPARTMENT OF HEALTH

Board of Medicine

RULE TITLE: Exemption of Spouse of Armed Forces Member
 RULE NO.: 64B8-54.0021

PURPOSE AND EFFECT: The Board proposes to exempt the spouses of Armed Forces members from license renewal requirements, provided that the licensee was in good standing and was absent from the State because of the spouse’s military duties.

SUBJECT AREA TO BE ADDRESSED: Exemption of Spouse of Armed Forces Member from License Renewal Requirements.

SPECIFIC AUTHORITY: 455.507 FS.

LAW IMPLEMENTED: 455.507 FS.

IF REQUESTED 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 IS: Kaye Howerton, Executive Director, Electrolysis Council, 2020 Capital Circle, Southeast, BIN #C05, Tallahassee, Florida 32399-3255

THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS:

64B8-54.0021 Exemption of Spouse of Armed Forces Member from License Renewal Requirements.

A licensee who is the spouse of a member of the Armed Forces of the United States and was caused to be absent from the State of Florida because of the spouse’s duties with the armed forces and, who at the time the absence became necessary, was in good standing with the Board and entitled to practice as an electrologist in Florida shall be exempt from all licensure renewal provisions during such absence. The licensee must document the absence and the spouse’s military status to the Board.

Specific Authority 455.507 FS. Law Implemented 455.507 FS. History–New _____.

DEPARTMENT OF HEALTH

Board of Medicine

RULE TITLE: Fees
 RULE NO.: 64B8-54.004

PURPOSE AND EFFECT: The Board proposes to amend this rule by setting a fee of \$25 for a wall certificate of licensure.

SUBJECT AREA TO BE ADDRESSED: Fees.

SPECIFIC AUTHORITY: 478.43(1),(4), 478.50, 478.55 FS.

LAW IMPLEMENTED: 455.711, 478.50, 478.55 FS.

IF REQUESTED 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 IS: Kaye Howerton, Executive Director, Electrolysis Council, 2020 Capital Circle, Southeast, BIN #C05, Tallahassee, Florida 32399-3255

THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS:

64B8-54.004 Fees.

(1) through (7) No change.

(8) The fee for a wall certificate of licensure shall be \$25.

Specific Authority 455.564(2), 478.43(1), (4), 478.50, 478.55 FS. Law Implemented 455.587(2), 455.711, 478.50, 478.55 FS. History–New 9-29-93, Formerly 61F6-79.004, Amended 6-29-95, Formerly 59R-54.004, Amended _____.

DEPARTMENT OF HEALTH

Board of Medicine

RULE TITLES: Disciplinary Guidelines
 RULE NOS.: 64B8-55.001

Discipline of Electrolysis Facilities 64B8-55.0021

PURPOSE AND EFFECT: In rule 64B8-55.001, the Board proposes to update the definition of sexual misconduct in the delivery of electrolysis services and to clarify the penalties for certain offenses. Rule 64B8-55.0021, will set forth the requirements for discipline of electrolysis facilities.

SUBJECT AREA TO BE ADDRESSED: Disciplinary Guidelines.

SPECIFIC AUTHORITY: 455.627, 478.52(4) FS.

LAW IMPLEMENTED: 455.627, 478.52(4) FS.

IF REQUESTED 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 IS: Kaye Howerton, Executive Director, Electrolysis Council, 2020 Capital Circle, Southeast, BIN #C05, Tallahassee, Florida 32399-3255

THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS:

64B8-55.001 Disciplinary Guidelines.

(1) No change.

(2) Sexual misconduct in the delivery of electrolysis services is sexual behavior or involvement with a client, or an immediate family member of a client, including verbal or physical behavior, which may reasonably be interpreted as intended for the sexual arousal or gratification of the Electrologist, the client, an immediate family member of the client, or any third party.

(3) No change.
VIOLATION
 (a) through (v) No change.
 (w) Sexual Misconduct
 (455.567, F.S.)
 (x) through (ii) No change.
(jj) failure to report, within 30 days a conviction, finding of guilt, or plea fine of \$500 to of nolo contendere, regardless of adjudication, to a crime, to the Board. 455.624(w), F.S.
(kk) using information from accident reports, or from news sources that use such information for the solicitation of the people involved in such accidents. 455.624(x), F.S.
 (4) through (7) No change.

Specific Authority 455.624, 455.627, 478.52(4) FS. Law Implemented 455.624, 455.627, 478.52(4) FS. History—New 11-16-93, Formerly 61F6-80.001, Amended 1-2-95, Formerly 59R-55.001, Amended 2-9-98, 10-12-98.

64B8-55.0021 Discipline of Electrolysis Facilities.

Any business establishment that provides electrolysis services must have an active status license in order to provide such services. Failure to obtain and maintain an active status license as a licensed electrolysis facility pursuant to Rule 64B8-51.006, F.A.C., shall be subject to discipline as follows:

- (1) A business establishment offering electrolysis services without an active status license shall:
 - (a) cease and desist offering such services;
 - (b) make application for a current status license pursuant to Rule 64B8-51.006, F.A.C. if the business establishment wishes to offer electrolysis services;
 - (c) pay a fine equal to all licensure and renewal fees that would have been due for the time of operation without an active status license up to a maximum of \$5,000.
- (2) Any electrolysis facility with an active status license that employs or permits an unlicensed person to deliver electrolysis services shall be subject to discipline as follows:
 - (a) cause the unlicensed person to cease and desist from the delivery of electrolysis services;
 - (b) the facility licensure shall be suspended for up to one year;
 - (c) the facility shall be subject to a fine of up to \$1,000.

Specific Authority 478.43(1), 455.712 FS. Law Implemented 478.712 FS. History—New _____.

**DEPARTMENT OF HEALTH
 Council of Licensed Midwifery**

RULE TITLE: Criteria for Continuing Education Programs
RULE NO.: 64B24-6.005
PURPOSE AND EFFECT: To allow the licensed midwives to obtain their continuing education through self-study programs and to give them credit for attending a Council meeting to meet the required continuing education credit for the law and rules.
SUBJECT AREA TO BE ADDRESSED: Continuing education for licensed midwives.
SPECIFIC AUTHORITY: 467.012(3), 467.005 FS.
LAW IMPLEMENTED: 467.012(3) FS.
IF REQUESTED IN WRITING AND NOT DEEMED UNNECESSARY BY THE AGENCY HEAD, A RULE DEVELOPMENT WORKSHOP WILL BE HELD AT THE TIME, DATE AND PLACE SHOWN BELOW:
TIME AND DATE: 8:30 a.m., November 30, 1999
PLACE: 1940 North Monroe Street, Suite 60, Tallahassee, FL 32399
THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT IS: William H. Buckhalt, Executive Director, Department of Health, Council of Licensed Midwifery, 2020 Capital Circle, Southeast, BIN #C06, Tallahassee, Florida 32399-3256
THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS AVAILABLE AT NO CHARGE FROM THE CONTACT PERSON.

**DEPARTMENT OF HEALTH
 Board of Pharmacy**

RULE TITLE: Practice of Pharmacy
RULE NO.: 64B16-27.400
PURPOSE AND EFFECT: The Board proposes to amend this rule to update the rule text.
SUBJECT AREA TO BE ADDRESSED: Meal break.
SPECIFIC AUTHORITY: 465.005 FS.
LAW IMPLEMENTED: 465.003(12), 465.026 FS.
IF REQUESTED IN WRITING AND NOT DEEMED UNNECESSARY BY THE AGENCY HEAD, A RULE DEVELOPMENT WORKSHOP WILL BE HELD AT THE TIME, DATE AND PLACE SHOWN BELOW:
TIME AND DATE: 10:00 a.m., or shortly thereafter on December 7, 1999
PLACE: The Embassy Suites, 3974 N.W. South River Drive, Miami, Florida 33142
THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT AND A COPY OF THE PRELIMINARY DRAFT, IF AVAILABLE, IS: John

Taylor, Executive Director, Board of Pharmacy/MQA, 2020 Capital Circle, S. E., Bin #C04, Tallahassee, Florida 32399-3254

THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS:

64B16-27.400 Practice of Pharmacy.

Those functions within the definition of the practice of the profession of pharmacy as defined by Section 465.003(12), F.S., are specifically reserved to a licensed pharmacist or a duly registered intern in this state acting under the direct and immediate personal supervision of a licensed pharmacist. The following subjects come solely within the purview of the licensed pharmacist.

(1) through (5) No change.

(6) A pharmacist may take a meal break, not to exceed thirty minutes in length, during which the pharmacy department of a permittee shall not be considered closed, under the following conditions:

(a) the pharmacist shall be considered present and on duty during any such meal break if a sign has been prominently posted in the pharmacy indicating the specific hours of the day during which meal breaks may be taken by the pharmacist and assuring patients that a pharmacist is available for emergency consultation during a meal break;

(b) the pharmacist shall be considered directly and immediately available to patients during such meal breaks if patients to whom medications are delivered during the meal break are verbally informed that they may request that a pharmacist contact them at the pharmacist's earliest convenience after the meal break, and if a pharmacist is available during the meal break for consultation regarding emergency matters;

(c) the activities of pharmacy technicians during such a meal break shall be considered to be under the direct and immediate personal supervision of a pharmacist if the pharmacist is available during the meal break to respond to questions by the technicians, and if at the end of the meal break the pharmacist certifies all prescriptions prepared by pharmacy technicians during the meal break.

Specific Authority 465.005 FS. Law Implemented 465.003(12), 465.026 FS. History-New 2-14-77, Formerly 21S-4.01, 21S-4.001, Amended 7-30-91, Formerly 21S-27.400, 61F10-27.400, Amended 1-30-96, 10-1-96, Formerly 59X-27.400, Amended _____.

DEPARTMENT OF HEALTH

Board of Pharmacy

RULE TITLE: Change in Ownership
 RULE NO.: 64B16-28.1135
 PURPOSE AND EFFECT: The Board proposes to promulgate a new rule which will provide language for the change of ownership.
 SUBJECT AREA TO BE ADDRESSED: Change in ownership.

SPECIFIC AUTHORITY: 465.005, 465.022 FS.

LAW IMPLEMENTED: 465.003(11)(a), 465.018, 465.019, 465.0193, 465.0196 FS.

IF REQUESTED IN WRITING AND NOT DEEMED UNNECESSARY BY THE AGENCY HEAD, A RULE DEVELOPMENT WORKSHOP WILL BE HELD AT THE TIME, DATE AND PLACE SHOWN BELOW:

TIME AND DATE: 10:00 a.m. or shortly thereafter, December 7, 1999

PLACE: The Embassy Suites, 3974 N.W. South River Drive, Miami, Florida 33142

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT AND A COPY OF THE PRELIMINARY DRAFT, IF AVAILABLE, IS: John Taylor, Executive Director, Board of Pharmacy/MQA, 2020 Capital Circle, S. E., Bin #C04, Tallahassee, Florida 32399-3254

THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS:

64B16-28.1135 Change of Ownership.

A pharmacy permit is not transferable. Upon the sale of an existing pharmacy, a new application must be filed. In those cases where the permit is held by a corporation, the transfer of all the stock of said corporation to another person or entity does not constitute a change of ownership, provided that the corporation holding the permit continues to exist, and that a new Federal DEA number registration is not required.

Specific Authority 465.005, 465.022 FS. Law Implemented 465.003(11)(a), 465.018, 465.019, 465.0193, 465.0196 FS. History-New _____.

FLORIDA HOUSING FINANCE CORPORATION

RULE TITLE: Credit Underwriting Procedures
 RULE NO.: 67-21.014
 PURPOSE AND EFFECT: The purpose of Rule Chapter 67-21, Florida Administrative Code (FAC), is to establish the procedures by which the Florida Housing Finance Corporation shall administer the application process, determine loan amounts and issue multifamily mortgage revenue bonds for new construction or substantial rehabilitation of affordable rental units under the Multifamily Mortgage Revenue Bond Program. The purpose of the proposed revision to the above listed rule is to provide consistency throughout the rule.
 SUBJECT AREA TO BE ADDRESSED: The Rule Development workshop (if requested) will be held to receive comments and suggestions from interested persons relative to the development of the above listed rule for the Multifamily Bond Program.
 SPECIFIC AUTHORITY: 420.507(12), 420.508(3)(c) FS.
 LAW IMPLEMENTED: 420.507, 420.508, 420.509 FS.
 IF REQUESTED, A RULE DEVELOPMENT WORKSHOP WILL BE HELD AT THE DATE, TIME AND PLACE SHOWN BELOW:

TIME AND DATE: 2:00 p.m., November 29, 1999
 PLACE: Florida Housing Finance Corporation, Sixth Floor Seltzer Room, 227 North Bronough Street, Tallahassee, FL 32301

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT IS: Joyce Martinez, Multifamily Bond Manager, or Don Stuart, Administrator, Multifamily Bond Program, Florida Housing Finance Corporation, 227 North Bronough Street, Suite 5000, Tallahassee, FL 32301-1329

Any person requiring special accommodation at this workshop because of a disability or physical impairment should contact Linda Hawthorne at the above address. If you are hearing or speech impaired, please use the Florida Dual Party Relay system which can be reached at 1(800)955-8771 (TDD).

THE PRELIMINARY TEXT OF THE PROPOSED RULE IS NOT AVAILABLE.

FISH AND WILDLIFE CONSERVATION COMMISSION

RULE CHAPTER TITLE:	RULE NO.:
Stone Crabs	68B-13
RULE TITLES:	RULE NOS.:
Definitions	68B-13.0015
Stone Crabs, Regulation	68B-13.002
Designation as Restricted Species, Season Licenses, Endorsements, Permits of	68B-13.005
Experimental Scientific and Exhibitional Purposes	68B-13.006
Restrictions on Size, and on Transport and Possession of Stone Crabs and Stone Crab Claws	68B-13.007
Gear, Trap Construction, Commercial Trap Marking	68B-13.008
Requirements, Trap-Working Regulations, Trap Transfer Recreational Stone Crab Harvest: Bag Limit, Trap Limit	68B-13.009
Trap Marking Requirements, Trap Pulling Stone Crab Trap Limitation Program	68B-13.010
Prohibitions	68B-13.011

PURPOSE AND EFFECT: Rapid growth of Florida's stone crab industry has created problems in the stone crab fishery, and associated problems in the state's marine resources. Continuously increasing trap numbers have reduced efficiency without producing additional yield. The excessive number of traps in the water also has increased conflicts between crabbers and shrimp trawlers, led to detrimental harvesting practices, and damaged live coral bottoms and grass beds. In addition, the large number of buoys and ropes associated with traps creates shoreline debris when lost, impedes navigation, and results in unnecessary entanglement and mortality of threatened and endangered sea turtles and manatees. In an attempt to create a more efficient fishery and minimize natural

resource damage, the Fish and Wildlife Conservation Commission is proposing to manage the effort associated with the stone crab fishery by implementing a passive reduction, trap limitation program. The program seeks to reduce the number of traps as participants leave the fishery. The effect will be to allow existing fishers to continue their present level of operation and maintain overall catch levels, while simultaneously reducing the number of traps in Florida's waters.

In addition, with the recent creation of the Fish and Wildlife Conservation Commission as the state agency vested with full constitutional rulemaking authority over marine life, this rulemaking proposes to incorporate substantive provisions presently existing in s. 370.13, F.S., into the commission's stone crab rule chapter. Accordingly, language is added to establish an open season for the harvest and sale of stone crab claws, designate stone crabs as a restricted species, extend the moratorium on endorsements until July 1, 2001, and provide prohibitions relating to traps and the trap limitation program. All of this is done against the backdrop of a reorganized rule chapter. As substantive provisions have been added over time, it was felt that, in particular, Rule 68B-13.002, F.A.C., grew too large in size, incorporating the regulation of too many diverse aspects of the fishery. Thus, the rule chapter has been made more readily understandable for the public through greater organization of the subject matter into more clearly delineated rules. The effect of these proposed amendments will be to provide greater protection for Florida's stone crab fishery while organizing all stone crab regulations into one comprehensive rule chapter.

SUBJECT AREA TO BE ADDRESSED: The harvest and possession of stone crabs in Florida state waters.

SPECIFIC AUTHORITY: Article IV, Section 9, Florida Constitution.

LAW IMPLEMENTED: Article IV, Section 9, Florida Constitution.

THE FISH AND WILDLIFE CONSERVATION COMMISSION WILL CONDUCT RULE DEVELOPMENT WORKSHOPS AT THE TIMES, DATES AND PLACES SHOWN BELOW:

DATES:	TIMES:	PLACES:
11/16/99	7:00 p.m. – 10:00 p.m.	Marathon Government Center, 2798 Overseas Highway, Marathon, Florida
11/17/99	6:30 p.m. – 8:30 p.m.	County Government Complex, 3301 Tamiami Trail, Naples, Florida
11/18/99	7:00 p.m. – 9:00 p.m.	Manatee County Department of Agriculture and Natural Resources, Kendrick Auditorium, 1303 17th Street West, Palmetto, Florida
11/29/99	7:00 p.m. – 10:00 p.m.	Crystal River City Hall, 123 N.W. Highway 19, Crystal River, Florida
11/30/99	7:00 p.m. – 10:00 p.m.	Steinhatchee Community Center, 1013 Riverside Drive S. E., Steinhatchee, Florida

Pursuant to the provisions of the Americans with Disabilities Act, any person requiring special accommodations to participate in this workshop, is asked to advise the agency at

least 5 calendar days before the workshop by contacting Andrena Knicely at (850)487-1406. If you are hearing or speech impaired, please contact the agency by calling (850)488-9542.

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT IS: James Antista, General Counsel, Fish and Wildlife Conservation Commission, 620 South Meridian Street, Tallahassee, Florida 32399-1600

Section II Proposed Rules

DEPARTMENT OF BANKING AND FINANCE

Division of Finance

RULE TITLE: Procedures for Filing Claim

RULE NO.: 3D-20.0021

PURPOSE AND EFFECT: The purpose of the proposed amendment is to adopt new claim forms that can be downloaded from the Department's website and used to submit claims for unclaimed property.

SUMMARY: Three new claim forms for unclaimed property are being adopted.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COST: No statement of estimated regulatory costs has been prepared.

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

SPECIFIC AUTHORITY: 717.138 FS.

LAW IMPLEMENTED: 92.525, 717.1201, 717.124, 717.125, 717.126 FS.

IF WITHIN 21 DAYS OF THE DATE OF THIS NOTICE, A HEARING WILL BE HELD AT THE TIME, DATE AND PLACE SHOWN BELOW:

TIME AND DATE: 10:00 a.m., November 29, 1999

PLACE: Room 330, Fletcher Building, 101 East Gaines Street, Tallahassee, Florida

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Pete DeVries, Chief, Unclaimed Property Section, Room 326, Fletcher Building, 101 East Gaines Street, Tallahassee, Florida 32399-0350 (850)410-9544

THE FULL TEXT OF THE PROPOSED RULE IS:

3D-20.0021 Procedures for Filing Claim.

(1) All claims for unclaimed property in the custody of the Department pursuant to Chapter 717, Florida Statutes, shall be submitted to the Department on the form(s) prescribed and supplied by the Department, together with documentation supporting the claim. The Department will only accept and review claims that are complete. A complete claim shall

include the appropriate claim form, manually signed by all claimants, and all supporting documentation as described and required by Sections 3D-20.0021(2)-(6), F.A.C., and Rule 3D-20.0022, F.A.C. Incomplete claims delivered to the Department will be returned to the claimant with a letter advising the reason the claim is being returned. All forms referenced in this rule are available from and shall be submitted to: The Department of Banking and Finance, Division of Finance, Abandoned Property Section, Suite 330, Fletcher Building, Tallahassee, Florida 32399-0350.

(1) through (7) renumbered (2) through (8) No change.

(9) The following forms, which are hereby incorporated by reference, can be downloaded from the Department's website at www.dbf.state.fl.us and used to submit claims for unclaimed property:

(a) Form DBF-AP 106EZ (effective 6/99) to be used for claims filed by an apparent owner:

(b) Form DBF-AP 107EZ (effective 6/99) to be used for claims filed by other than an apparent owner; and

(c) Form DBF-AP 108EZ (effective 6/99) to be used for claims filed by a legal representative or private investigator.

Specific Authority 717.138 FS. Law Implemented 92.525, 717.1201, 717.124, 717.125, 717.126 FS. History--New 3-20-91, Amended 3-13-96, 3-18-96, 1-18-99,_____.

NAME OF PERSON ORIGINATING PROPOSED RULE: Pete DeVries, Chief, Abandoned Property Section

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Bill Monroe, Deputy Comptroller

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: July 14, 1999

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: July 23, 1999

DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES

Division of Plant Industry

RULE TITLES: RULE NOS.:

Citrus Budwood Protection Procedure	
Manual, Citrus Budwood Testing Manual, and Graft-transmissible Diseases of Citrus: Handbook for detection and diagnosis	5B-60.004
Citrus Nursery Stock Propagation and Planting Parent Trees	5B-60.006
Scion Trees	5B-60.007
Increase Trees	5B-60.009
Validated Trees	5B-60.010
Source Tree Registration Certificate	5B-60.011
Procedure for Identifying and Recording Citrus Nursery Stock	5B-60.012
Stop-Sale Notice or Hold Order (DACS-08016)	5B-60.013
Fees	5B-60.014
Exemptions	5B-60.015