

Specific Authority 327.04, 327.46 FS. Law Implemented 327.46 FS. History--New 12-11-97, Formerly 62N-24.155, Amended \_\_\_\_\_.

## Section II Proposed Rules

### DEPARTMENT OF INSURANCE

**RULE TITLES:** Complete Records Must be Maintained  
Binder or Receipt Must Set Forth

**RULE NOS.:** 4-184.004

Coverage and Cost 4-184.011

**PURPOSE AND EFFECT:** This rule is being amended to delete language not authorized as a result of Section 120.536(2)(b), F.S., review.

**SUMMARY:** The rules apply to insurance in connection with installment sales and are being amended to delete language not authorized.

**SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS:** 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 this notice.

**SPECIFIC AUTHORITY:** 624.308 FS.

**LAW IMPLEMENTED:** 626.425, 624.307(1), 627.413, 627.420, 627.730-.7405 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 (IF NOT REQUESTED THIS HEARING WILL NOT BE HELD):**

**TIME AND DATE:** 9:00 a.m., Tuesday August 7, 2001

**PLACE:** Room 142, Larson Building, 200 East Gaines Street, Tallahassee, Florida

**THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULES IS:** Wayne Johnson, Division of Insurer Services, Department of Insurance, 200 East Gaines Street, Tallahassee, Florida 32399-0329, (850)413-5252

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 at (850)413-4214.

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

4-184.004 Complete Records Must be Maintained.

The company must at all times maintain complete records of all policies issued, including name and address of all insureds, who are beneficiaries, and the coverage provided; and no plan should be used that fails to require the soliciting agent to report and send to the insurance company and issuing or

countersigning agent promptly all applications for insurance, or copy dailies of policies issued. If the policies are written in the home or regional office of the company, then a copy of said policy or daily report must be sent to the countersigning agent for his file. ~~If a policy covering personal property is issued by a mutual insurer or a participating stock insurer, the borrower or purchaser shall be entitled to the benefit of any dividend paid under an individual policy or certificate.~~

Specific Authority 624.308 FS. Law Implemented 624.307(1), 626.748 FS. History--Repromulgated 12-24-74, Formerly 4-4.04, 4-4.004, Amended \_\_\_\_\_.

4-184.011 Binder or Receipt Must Set Forth Coverage and Cost.

(1) through (3) No change.

~~(4) Any insurance agent who undertakes to place only insurance for accidental property damage to a motor vehicle as defined by the Florida Motor Vehicle No-Fault Law shall personally secure from the prospective insured or applicant a signed form acknowledging the requirement that security be maintained pursuant to the Florida Motor Vehicle No-Fault Law. The signed form shall be maintained by said insurance agent in his files and shall contain the following text:~~

~~The undersigned prospective insured hereby acknowledges that the Florida Motor Vehicle No-Fault Law requires owners of motor vehicles, defined by the Law, to maintain security to comply with said Law, and further understands that any motor vehicle policy not providing personal injury protection benefits does not comply with said Law.~~

~~FAILURE TO MAINTAIN SECURITY REQUIRED BY THE LAW WILL RESULT IN THE OWNER BEING HELD PERSONALLY LIABLE FOR ALL BENEFITS PROVIDED BY THE LAW, IN ADDITION TO REVOCATION OF HIS REGISTRATION AND OPERATOR'S LICENSE.~~

Signed \_\_\_\_\_

Licensed Agent

Signed \_\_\_\_\_

Prospective Insured

Specific Authority 624.308 FS. Law Implemented 624.307(1), 627.413, 627.420, 627.730-.7405 FS. History--Amended 2-19-72, Repromulgated 12-24-74, Formerly 4-4.10, 4-4.010, Amended 1-27-92, \_\_\_\_\_.

**NAME OF PERSON ORIGINATING PROPOSED RULE:** Wayne Johnson, Division of Insurer Services, Department of Insurance

**NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE:** Steve Roddenberry, Department of Insurance

**DATE PROPOSED RULE APPROVED BY AGENCY HEAD:** January 30, 2001

**DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW:** May 25, 2001

**DEPARTMENT OF INSURANCE**

RULE TITLE: Forms Incorporated By Reference  
 RULE NO.: 4-193.065

PURPOSE AND EFFECT: This rule is being amended to adopt and incorporate by reference Forms DI4-471, Application for Provisional Certificate of Authority, and DI4-473, Application for Certificate of Authority.

SUMMARY: To adopt and incorporate forms by reference.  
 SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS: 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 this notice.

SPECIFIC AUTHORITY: 624.308(1), 651.013, 651.015(1),(3) FS.

LAW IMPLEMENTED: 651.021, 651.022, 651.023, 651.024, 651.026, 651.033, 651.035 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: 9:00 a.m., July 31, 2001  
 PLACE: Room 142, Larson Building, 200 East Gaines Street, Tallahassee, Florida

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Raleigh Close, Sr. Management Analysis, Insurance Consumer Services, Department of Insurance

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)922-3100, Ext. 4214.

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

- 4-193.065 Forms Incorporated by Reference.  
 (1) The following forms are incorporated into this rule chapter by reference to implement the provisions of Chapter 651, Florida Statutes:
- | Title  | Form Number                            |
|--|--|
| (a) Application for Provisional Certificate of Authority | DI4-471 (rev. 8/00) <del>(03/92)</del> |
| (b) Application for Certificate of Authority             | DI4-473 (rev. 8/00) <del>(03/92)</del> |
| (c) through (q) No change.                               |  |
- (2) No change.

Specific Authority 624.308(1), 651.013, 651.015(1),(3) FS. Law Implemented 651.021, 651.022, 651.023, 651.024, 651.026, 651.033, 651.035 FS. History—New 6-25-90, Formerly 4-45.035, Amended 7-16-92, 11-29-98,\_\_\_\_\_.

NAME OF PERSON ORIGINATING PROPOSED RULE: Raleigh Close, Sr. Management Analysis, Insurance Consumer Services, Department of Insurance

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Marta Arrington, Director, Insurance Consumer Services, Department of Insurance

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: May 22, 2001

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: June 8, 2001

**DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES**

**Division of Standards**  
 RULE TITLE: Adoption of Uniform Packaging and Labeling Regulation  
 RULE NO.: 5F-3.001

PURPOSE AND EFFECT: The purpose of 5F-3.001 is to amend it to adopt the most recent national standards for packaging and labeling requirements as adopted by the National Conference on Weights and Measures and published in 2001 edition of National Institute of Standards and Technology Handbook 130. Adoption of the current national standards will make Florida’s requirements uniform with the national requirements and facilitate interstate commerce and trade.

SUMMARY: Updates Chapter 5F-3.001 to adopt the current national requirements for the packaging and labeling of commodities as adopted by the National Conference on Weights and Measures and published as the “Uniform Packaging and Labeling Regulation” in the 2001 edition of National Institute of Standards and Technology Handbook 130.

SUMMARY OF STATEMENT OF REGULATORY COSTS: None.

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 this notice.

SPECIFIC AUTHORITY: 531.41(3) FS.  
 LAW IMPLEMENTED: 531.41(13), 531.47, 531.49 FS.

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

TIME AND DATE: 2:00 p.m., Monday, July 30, 2001  
 PLACE: Division of Standards’ Conference Room, Suite E, Room 135, Doyle Conner Administration Building, 3125 Conner Boulevard, Tallahassee, Florida 32399-1650

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Max Gray, Bureau Chief, Bureau of Weights and Measures, 3125 Conner Blvd., Bldg. #2, Tallahassee, FL 32399-1650, (850)488-9140

THE FULL TEXT OF THE PROPOSED RULE IS:

5F-3.001 Adoption of Uniform Packaging and Labeling Regulation.

The Department of Agriculture and Consumer Services hereby adopts the Uniform Packaging and Labeling Regulation promulgated by the United States Department of Commerce, National Institute of Standards and Technology, NIST Handbook 130, 2001 2000 Edition, as the Rule for packaging and labeling of commodities and incorporates said uniform regulation herein by this reference. A copy of NIST Handbook 130, 2001 2000 Edition, may be obtained from the Superintendent of Documents, United States Government Printing Office, Washington, D.C. 20402, Phone: (202)512-1800 or <http://ts.nist.gov/ts/htdocs/230/235/h130-01.htm>. Copies of this uniform regulation are available from the Division of Standards, Bureau of Weights and Measures, 3125 Conner Boulevard, Lab #2, Tallahassee, Florida 32399-1650, Phone: (850)488-9140.

Specific Authority 531.41(3) FS. Law Implemented 531.41(4) FS. History—New 1-1-73, Formerly 5F-3.01, Amended 6-14-95, 8-27-98, 8-19-99, 7-3-00, \_\_\_\_\_.

NAME OF PERSON ORIGINATING PROPOSED RULE: Max Gray, Chief, Bureau of Weights and Measures

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Ben Faulk, Director, Division of Standards

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: June 21, 2001

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: May 25, 2001

**DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES**

**Division of Standards**

RULE TITLE: \_\_\_\_\_ RULE NO.:

Specifications, Tolerances and Other Technical Requirements for Commercial Weighing and Measuring Devices 5F-5.001

PURPOSE AND EFFECT: The purpose of this rule is to amend Rule 5F-5.001, F.A.C., to adopt the most recent national standards for weighing and measuring devices developed by the National Conference on Weights and Measures and published in the 2001 edition of National Institute of Standards and Technology Handbook 44. Adoption of the standards provides for uniformity of Florida's requirements with the national requirements to facilitate interstate commerce and trade.

SUMMARY: Rule 5F-5.001, F.A.C., adopts the current national standards for specifications, tolerances and other technical requirements for commercial weighing and measuring devices as published in the 2001 edition of National Institute of Standards and Technology Handbook 44.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COST: None.

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 this notice.

SPECIFIC AUTHORITY: 531.40, 531.41(3) FS.

LAWS IMPLEMENTED: 531.40 FS.

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

TIME AND DATE: 2:00 p.m., Monday, July 30, 2001

PLACE: Division of Standards' Conference Room, Suite E, Room 135, Doyle Conner Administration Building, 3125 Conner Boulevard, Tallahassee, Florida 32399-1650

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Max Gray, Bureau Chief, Bureau of Weights and Measures, 3125 Conner Blvd., Bldg. #2, Tallahassee, FL 32399-1650, (850)488-9140

THE FULL TEXT OF THE PROPOSED RULE IS:

5F-5.001 Specifications, Tolerances, and Other Technical Requirements for Commercial Weighing and Measuring Devices.

(1) The specifications, tolerances, and other technical requirements for commercial weighing and measuring devices adopted by the National Conference on Weights and Measures and contained in National Institute of Standards and Technology (NIST) Handbook 44, 2001 2000 Edition, are hereby adopted as rules for the requirements for commercial weighing and measuring devices of the Department of Agriculture and Consumer Services. A copy of NIST Handbook 44, 2001 2000 Edition, may be obtained from the Superintendent of Documents, United States Government Printing Office, Washington, D.C. 20402, Phone (202)512-1800 or at <http://ts.nist.gov/ts/htdocs/230/235/h442001.htm>.

(2) The violation of any of the provisions of these rules and regulations is subject to the penalties and remedies provided in the Weights, Measures, and Standards Law, Chapter 531, Florida Statutes.

Specific Authority 531.40, 531.41(3) FS. Law Implemented 531.40 FS. History—New 1-1-73, Amended 7-1-74, 4-18-75, 1-25-76, 1-17-77, 3-29-78, 2-15-79, 6-4-80, 4-5-81, 5-2-82, 6-30-83, 7-15-84, 8-11-85, Formerly 5F-5.01, Amended 7-7-86, 4-5-87, 4-27-88, 5-31-89, 8-21-90, 8-5-91, 12-10-92, 6-21-94, 8-16-95, 10-8-96, 8-27-98, 8-19-99, 7-3-00, \_\_\_\_\_.

NAME OF PERSON ORIGINATING PROPOSED RULE: Max Gray, Chief, Bureau of Weights and Measures

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Ben Faulk, Director, Division of Standards

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: June 21, 2001

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: May 25, 2001

**DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES**

**Division of Standards**

RULE TITLE: Adoption of Uniform Methods of Sale  
 RULE NO.: 5F-7.005

PURPOSE AND EFFECT: The purpose of this rule is to adopt the most recent national standards for the method of sale of commodities established by the National Conference on Weights and Measures and published in the 2001 edition of National Institute of Standards and Technology Handbook 130. Adoption of the national standards will make Florida's requirements for methods of sale uniform with the national standards and facilitate interstate commerce and trade.

SUMMARY: Adopts the current national model methods of sale of commodities being sold by weight, measure or count, as published in National Institute of Standards and Technology Handbook 130 to provide for interstate commerce, facilitate value comparison and provide adequate quantity information for consumers and purchasers.

SUMMARY OF STATEMENT ESTIMATED REGULATORY COST: None.

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 this notice.

SPECIFIC AUTHORITY: 531.41(3) FS.

LAWS IMPLEMENTED: 531.41(4), 531.45 FS.

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

TIME AND DATE: 2:00 p.m., Monday, July 30, 2001

PLACE: Division of Standards' Conference Room, Suite E, Room 135, Doyle Conner Administration Building, 3125 Conner Boulevard, Tallahassee, Florida 32399-1650

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Max Gray, Bureau Chief, Bureau of Weights and Measures, 3125 Conner Blvd., Bldg. #2, Tallahassee, FL 32399-1650, (850)488-9140

THE FULL TEXT OF THE PROPOSED RULE IS:

5F-7.005 Adoption of Uniform Methods of Sale.

The Florida Department of Agriculture and Consumer Services hereby adopts the Uniform Regulation for the Method of Sale of Commodities, as published by the United States Department of Commerce, National Institute of Standards and Technology, NIST Handbook 130, 2001 ~~2000~~ Edition, as the Rule for the method of sale for commodities, and incorporates said uniform regulation herein by this reference. A copy of NIST Handbook 130, 2001 ~~2000~~ Edition, may be obtained from the

Superintendent of Documents, United States Government Printing Office, Washington, D.C. 20402, Phone: (202)512-1800 or <http://ts.nist.gov/ts/htdocs/230/235/h130-01.htm>. Copies of this uniform regulation are available from the Division of Standards, Bureau of Weights and Measures, 3125 Conner Boulevard, Lab #2, Tallahassee, Florida 32399-1650, Phone: (850)488-9140.

Specific Authority 531.41(3),(4), 531.45 FS. Law Implemented 531.41(3),(4), 531.45 FS. History—New 1-8-90, Amended 6-14-95, 8-27-98, 8-19-99, 7-3-00, \_\_\_\_\_.

NAME OF PERSON ORIGINATING PROPOSED RULE: Max Gray, Chief, Bureau of Weights and Measures

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Ben Faulk, Director, Division of Standards

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: June 21, 2001

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: May 25, 2001

**DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES**

**Division of Food Safety**

RULE TITLE: Grading Services for Poultry  
 RULE NO.: 5K-5.014

PURPOSE AND EFFECT: The rule amendment changes the fee and cost schedule for grading services provided by Department graders and amends the definitions used in the rule.

SUMMARY: The State of Florida, Department of Agriculture and Consumer Services, provides grading services to food establishments that process poultry. The Department charges the poultry processor an hourly fee to recover the costs of this service. This rule amendment increases the hourly fees charged to a processor and requires the processor to reimburse the Department for any per diem travel costs incurred by a grader associated with this service.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COST: None.

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 this notice.

SPECIFIC AUTHORITY: 570.07(23), 583.04, 570.07(23) FS.

LAW IMPLEMENTED: 583.051, 583.052 FS.

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

TIME AND DATE: 10:00 a.m., July 30, 2001

PLACE: Florida Department of Agriculture and Consumer Services, Conner Complex, George Eyster Auditorium, 3125 Conner Boulevard, Tallahassee, FL, Telephone (850)488-3951

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Dr. John Fruin, Chief, Bureau of Food and Meat Inspection, 3125 Conner Boulevard, Tallahassee, Florida 32399-1650, Telephone (850)488-3951

THE FULL TEXT OF THE PROPOSED RULE IS:

5K-5.014 Grading Services for Poultry.

(1) Definitions. As used in this rule, the following definitions shall apply:

(a) Days not previously scheduled or non-specified days means days not scheduled in the application for service.

(b) Department means the Florida Department of Agriculture and Consumer Services.

(c) Non-resident location means a production site to which no full-time grader inspector has been assigned, but the site has been previously approved for grading inspection in accordance with an application for service.

(d) Full-time resident location means a production site to which a full-time grader inspector has been assigned in accordance with an application for service requesting 40 or more hours of grading services per week.

(e) Part-time resident location means a production site where a part-time grader has been assigned to the site in accordance with an application for service requesting less than 40 hours of grading services per week.

(2) Pursuant to its authority under Section 583.052, Florida Statutes, to cooperate with and enter into agreements with various state and federal agencies, the department has entered a Cooperative Agreement with the United States Department of Agriculture for the providing of a voluntary cooperative poultry grading service to Florida producers.

(3) Under that agreement and to offset the cost of providing the services to the producer who orders them, the department establishes the following schedule:

(a) Grader's time per hour for:

- 1. Resident location \$27.50 ~~24.05~~
- 2. Overtime \$31.00 ~~26.50~~
- 3. Non-resident location \$34.00 ~~28.50~~
- 4. Non-specified days \$34.00 ~~28.50~~

5. In addition to the charge for the grader's time per hour, an additional charge of \$1.40 per hour shall be charged to regular and overtime hours worked at a resident location on a shift beginning after 1:00 p.m.

(b) Travel time and costs to and from grader's headquarters:

1. Time for travel to and from the grader's headquarters for grading services at a non-resident or part-time resident location, or on non-specified days at a resident location shall be charged at the same rate as grading services provided.

Non-resident location 28.50

2. Mileage and per diem to and from the grader's headquarters for grading services at a non-resident or part-time resident location, or on non-specified days at a resident location shall be reimbursed at the prevailing rates provided in Section 112.061, Florida Statutes.

Non-specified days \$28.50

(e) Mileage and per diem to and from the grader's headquarters shall be reimbursed at the prevailing rates provided in Section 112.061, Florida Statutes.

(4) Moneys due to the department for grading services provided to a producer who orders said services must be received within 30 days of the date of invoice.

(5) USDA volume charge on a per pound of poultry basis will be identified separately on each billing statement on separate billing statements.

Specific Authority 570.07(23), 583.04 FS. Law Implemented 583.051, 583.052 FS. History--New 8-13-92, Formerly 5E-7.014, Amended 9-30-96,

NAME OF PERSON ORIGINATING PROPOSED RULE: Michael Bernhardt, Sanitation and Safety Administrator, State/Federal Programs

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Dr. Marion Fuller, Director, Division of Food Safety

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: July 26, 2001

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: June 8, 2001

**DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES**

**Division of Food Safety**

RULE TITLE: Grading Services for Shell Eggs RULE NO.: 5K-6.010

PURPOSE AND EFFECT: The rule amendment changes the fee and cost schedule for grading services provided by Department graders and amends the definitions used in the rule.

SUMMARY: The State of Florida, Department of Agriculture and Consumer Services, provides grading services to food establishments that process shell eggs. The Department charges the egg processor an hourly fee to recover the costs of this service. This rule amendment increases the hourly fees charged to a processor and requires the processor to reimburse the Department for any per diem travel costs incurred by a grader associated with this service.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COST: None.

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 this notice.

SPECIFIC AUTHORITY: 570.07(23), 583.04 FS.  
 LAW IMPLEMENTED: 583.051, 583.052 FS.  
 A HEARING WILL BE HELD AT THE TIME, DATE AND PLACE SHOWN BELOW:  
 TIME AND DATE: 10:00 a.m., July 30, 2001  
 PLACE: Florida Department of Agriculture and Consumer Services, Conner Complex, Training and Education Center, 3125 Conner Boulevard, Tallahassee, FL, telephone (850)488-3951  
 THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Dr. John Fruin, Chief, Bureau of Food and Meat Inspection, 3125 Conner Boulevard, Tallahassee, Florida 32399-1650, telephone (850)488-3951

THE FULL TEXT OF THE PROPOSED RULE IS:

- 5K-6.010 Grading Services for Shell Eggs.
- (1) Definitions. As used in this rule, the following definitions shall apply:
- (a) Days not previously scheduled or non-specified days means days not scheduled in the application for service.
- (b) Department means the Florida Department of Agriculture and Consumer Services.

(c) Non-resident location means a production site to which no full-time ~~grader inspector~~ has been assigned, but the site has been previously approved for grading inspection in accordance with the application for service.

(d) Full-time resident ~~Resident~~ location means a production site to which a full-time ~~grader inspector~~ has been assigned in accordance with an application for service requesting 40 or more hours of grading services per week.

(e) Part-time resident location means a production site where a part-time grader has been assigned to the site in accordance with an application for service requesting less than 40 hours of grading services per week.

(2) Pursuant to its authority under Section 583.052, Florida Statutes, to cooperate with and enter into agreements with various state and federal agencies, the department has entered a Cooperative Agreement with the United States Department of Agriculture for the providing of a voluntary cooperative shell egg grading service.

(3) Under that agreement and to offset the cost of providing the services to the producer who orders them, the department establishes the following schedule:

- (a) Grader's time per hour for:
- |                          |                                 |
|--------------------------|---------------------------------|
| 1. Resident location     | <del>\$27.50</del> <u>24.05</u> |
| 2. Overtime              | <del>\$31.00</del> <u>26.50</u> |
| 3. Non-resident location | <del>\$34.00</del> <u>28.50</u> |
| 4. Non-specified days    | <del>\$34.00</del> <u>28.50</u> |

5. In addition to the charge for the grader's time per hour, an additional charge of \$1.40 per hour shall be charged to regular and overtime hours worked at a resident location on a shift beginning after 1:00 p.m.

(b) ~~Travel time and costs time to and from grader's headquarters:~~

1. Time for travel to and from the grader's headquarters for grading services at a non-resident or part-time resident location, or on non-specified days at a resident location shall be charged at the same rate as grading services provided.

~~Non-resident location~~ 28.50

2. Mileage and per diem to and from the grader's headquarters for grading services at a non-resident or part-time resident location, or on non-specified days at a resident location shall be reimbursed at the prevailing rates provided in Section 112.061, Florida Statutes.

~~Non-specified days~~ \$28.50

~~(c) Mileage and per diem to and from the grader's headquarters shall be reimbursed at the prevailing rates provided in Section 112.061, Florida Statutes.~~

(4) Moneys due to the department for grading services provided to a producer who orders said services must be received within 30 days of the date of invoice.

(5) USDA volume charge on a per dozen basis will be identified separately on each billing statement ~~on separate billing statements.~~

Specific Authority 570.07(23), 583.04 FS. Law Implemented 583.051, 583.052 FS. History—New 8-13-92, Formerly 5E-7.014, Amended 9-30-96.

NAME OF PERSON ORIGINATING PROPOSED RULE: Michael Bernhardt, Sanitation and Safety Administrator, State/Federal Programs

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Dr. Marion Fuller, Director, Division of Food Safety

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: June 26, 2001

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: June 8, 2001

**DEPARTMENT OF REVENUE**

**Sales and Use Tax**

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

PURPOSE AND EFFECT: The First District Court of Appeal reversed the Department's conclusion that a sales tax exemption is not available for materials purchased by municipally owned utilities for use in the repair, replacement, or refurbishment of their existing electric energy transmission or distribution systems. (*Florida Municipal Power Agency and Florida Municipal Electric Association, Inc. v. Department of Revenue, Appellee, No. 1D99-3770*). On September 1, 2000, the court issued a mandate to initiate rulemaking proceedings to amend paragraph (9)(b) [currently (2)(a)] of Rule 12A-1.001, F.A.C., as it is currently in conflict with s. 212.08(6), F.S. The effect of these rule amendments will be

to comply with this mandate and to eliminate the unnecessary repetition of the exemption provided in s. 212.08(7)(u), F.S., for fire fighting and rescue service equipment and supplies purchased by volunteer fire departments.

SUMMARY: The proposed amendments to Rule 12A-1.001, F.A.C.: (1) remove the provisions of paragraph (2)(a) [formerly (9)(a)], in compliance with this court mandate; and (2) remove the provisions of paragraph (2)(b) [formerly (9)(b)], to eliminate the unnecessary repetition of the exemption provided in s. 212.08(7)(u), F.S., as mandated by s. 120.74(1), F.S.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COST: None.

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 this notice.

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

LAW IMPLEMENTED: 212.02(10),(12),(16),(20),(21), 212.05, 212.08(6),(7)(f),(h),(q),(v),(x),(cc), 213.12(2) FS.

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

TIME AND DATE: 10:00 a.m., July 31, 2001

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

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Linda Bridges, Revenue Program Administrator I, Technical Assistance and Dispute Resolution, Department of Revenue, P. O. Box 7443, Tallahassee, Florida 32314-7443, telephone (850)488-7157

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 at (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 FULL TEXT OF THE PROPOSED RULE IS:

12A-1.001 Specific Exemptions.

(1) No change.

~~(2) GOVERNMENTAL UNITS.~~

~~(a) Sales of machines and equipment and parts and accessories therefor for generation, transmission, or distribution of electrical energy by systems owned and operated by a political subdivision or municipality in this state shall be subject to the tax except sales, rental, use, consumption, or storage for which bonds or revenue certificates are validated on or before January 1, 1973, for transmission or distribution expansion only. See s. 212.08(5)(e), F.S.~~

~~(b) Fire fighting and rescue service equipment and supplies purchased by volunteer fire departments, duly chartered under the Florida Statutes as corporations not for profit, are exempt.~~

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

Specific Authority 212.17(6), 212.18(2), 213.06(1) FS. Law Implemented 212.02(10),(12),(16),(20),(21), 212.05, 212.08(6), (7)(f),(h),(q),(v),(x),(cc), 213.12(2) FS. History—Revised 1-7-68, 1-7-70, Amended 1-17-71, Revised 6-16-72, Amended 7-19-72, 12-11-74, 5-27-75, 10-21-75, 9-7-78, 9-28-78, 10-18-78, 9-16-79, 2-3-80, 6-3-80, 7-7-80, 10-29-81, 12-3-81, 12-31-81, 7-20-82, 11-15-82, 10-13-83, 4-12-84, Formerly 12A-1.01, Amended 7-9-86, 1-2-89, 12-1-89, 7-7-92, 9-14-93, 5-18-94, 12-13-94, 3-20-96, 4-2-00, 6-28-00, 6-19-01.

NAME OF PERSONS ORIGINATING PROPOSED RULE: Janet L. Young, Tax Law Specialist, and Linda Bridges, Revenue Program Administrator I, Technical Assistance and Dispute Resolution, Department of Revenue, Post Office Box 7443, Tallahassee, Florida 32314-7443, or by telephone at (850)488-7157

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Charles Strausser, Revenue Program Administrator II, Technical Assistance and Dispute Resolution, P. O. Box 7443, Tallahassee, Florida 32314-7443, telephone number (850)922-4746

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: June 26, 2001

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: The proposed rule was noticed for a Rule Development Workshop in the Florida Administrative Weekly on December 22, 2000 (Vol. 26, No. 51, p. 5843). A rule development workshop was held on January 9, 2001. No one attended the workshop to provide comments on this proposed rule; and no written comments were received by the Department. Technical changes were made to reflect the changes to Rule 12A-1.001, F.A.C., effective June 19, 2001

**DEPARTMENT OF REVENUE**

**Sales and Use Tax**

RULE TITLE: Admissions RULE NO.: 12A-1.005

PURPOSE AND EFFECT: Section 212.04(2)(a)2.a., F.S., provides: “No tax shall be levied on dues, membership fees, and admission charges imposed by not-for-profit sponsoring organizations. To receive this exemption, the sponsoring organization must qualify as a not-for-profit entity under the provisions of s. 501(c)(3) of the Internal Revenue Code of 1954, as amended.” Rule 12A-1.005(2)(e), F.A.C., provides guidelines regarding what constitutes a “sponsoring organization” for purposes of this exemption.

The Department proposed these identical guidelines in its creation of Rule 12A-1.0011(5)(e), F.A.C. In response to comments received from the Joint Administrative Procedures Committee, prior to adoption of the rule, the Department withdrew the proposed guidelines. The purpose of the

proposed amendments to Rule 12A-1.005, F.A.C., is to remove from Rule 12A-1.005, F.A.C., guidelines identical to those proposed in Rule 12A-1.0011, F.A.C.

SUMMARY: The proposed amendments to Rule 12A-1.005, F.A.C., remove guidelines regarding what constitutes a "sponsoring organization" for purposes of the exemption provided in s. 212.04(2)(a)2.a., F.S.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COST: Since these proposed amendments only implement statutory provisions, no new regulatory costs are being created. Therefore, 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 this notice.

SPECIFIC AUTHORITY: 212.17(6), 212.18(2), 213.06(1) FS. LAW IMPLEMENTED: 212.02(1), 212.04, 212.08(6), (7), 616.260 FS.

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

TIME AND DATE: 10:00 a.m., July 31, 2001

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

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Linda Bridges, Revenue Program Administrator I, Technical Assistance and Dispute Resolution, Department of Revenue, P. O. Box 7443, Tallahassee, Florida 32314-7443, telephone (850)488-7157

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 at (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 FULL TEXT OF THE PROPOSED RULE IS:

12A-1.005 Admissions.

(1) No change.

(2) EXEMPT ADMISSIONS. The following admissions are exempt from the tax imposed under s. 212.04, F.S.:

(a) through (e) No change.

(f) Dues, membership fees, and admission charges imposed by not-for-profit sponsoring organizations are exempt. To receive this exemption, the organization making any such charges must qualify as a not-for-profit entity under the provisions of s. 501(c)(3) of the United States Internal Revenue Code of 1986, as amended. ~~For purposes of this exemption, sponsorship of an event or program will be determined by the following criteria:~~

~~1. Active participation by the entity in the planning and conduct of the event or program;~~

~~2. Assumption by it of responsibility for the safety and success of the event or program, such that it will be subject to a suit for damages for alleged negligence in its conduct;~~

~~3. Entitlement by it to the gross proceeds from the event or program and to the net proceeds after payment of its costs; and~~

~~4. Responsibility by it for payment of costs of the event or program and for bearing any net loss if the costs exceed gross proceeds.~~

(g) through (6) No change.

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

NAME OF PERSON ORIGINATING PROPOSED RULE: Janet L. Young, Tax Law Specialist, and Linda Bridges, Revenue Program Administrator I, Technical Assistance and Dispute Resolution, Department of Revenue, Post Office Box 7443, Tallahassee, Florida 32314-7443, or by telephone at (850)488-7157

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Charles Strausser, Revenue Program Administrator II, Technical Assistance and Dispute Resolution, P. O. Box 7443, Tallahassee, Florida 32314-7443; telephone number (850)922-4746

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: June 26, 2001

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: The proposed rule was noticed for a Rule Development Workshop in the Florida Administrative Weekly on May 4, 2001 (Vol. 27, No. 18, pp. 2204-2205). A rule development workshop was held on May 24, 2001, regarding the proposed amendments to Rule 12A-1.005, F.A.C. Comments were received at the workshop regarding subsections of Rule 12A-1.005, F.A.C., that are not currently being considered by the Department for revision. No written comments were received by the Department.

**DEPARTMENT OF REVENUE**

**Sales and Use Tax**

RULE TITLES:	RULE NOS.:
Specific Exemptions	12A-1.001
Sales; Installation Charges	12A-1.016
Telephone, Telegraph and Other Telecommunication Services	12A-1.046
Sales to or by Contractors Who Repair, Alter, Improve and Construct Real Property	12A-1.051
Registration	12A-1.060



Sales in Interstate and Foreign Commerce;

Sales to Nonresident Dealers;

Sales to Diplomats 12A-1.064

Self-Accrual Authorization 12A-1.0911

PURPOSE AND EFFECT: The purpose of the proposed amendments to Rules 12A-1.001, 12A-1.016, 12A-1.051, 12A-1.060, 12A-1.064, 12A-1.0911, F.A.C., and the proposed repeal of Rule 12A-1.046, F.A.C., is to implement the provisions of Chapter 2000-260, L.O.F., effective October 1, 2001, which removes the imposition of sales tax on charges for telecommunication services and for television system program services.

SUMMARY: The proposed amendments to Rule 12A-1.001, F.A.C. (Specific Exemptions), remove provisions regarding the exemption provided for services rendered by radio and television stations that are redundant of the exemption provided in s. 212.08(6), F.S., and remove provisions regarding the imposition of sales tax on charges for wired music service that will no longer be imposed.

The proposed amendments to Rule 12A-1.016, F.A.C. (Sales; Installation Charges), provide that the charge for installation of equipment used to provide communications services, as defined in s. 202.11(3), F.S., that is installed on a customer's premises, is subject to sales tax.

The proposed amendments to Rule 12A-1.051, F.A.C. (Sales to or by Contractors Who Repair, Alter, Improve and Construct Real Property), provide that the installation of equipment used to provide communications services, as defined in s. 202.11(3), F.S., that is installed on a customer's premises, is not considered to be a real property contract.

The proposed amendments to Rule 12A-1.060, F.A.C. (Registration), provide that businesses which provide telecommunications services will no longer be required to register with the Department as a sales tax dealer.

The proposed amendments to Rule 12A-1.064, F.A.C. (Sales in Interstate and Foreign Commerce; Sales to Nonresident Dealers; Sales to Diplomats), provide that the purchase of telecommunications services no longer qualify for the apportionment of sales tax provided to air carriers.

The proposed amendments to Rule 12A-1.0911, F.A.C. (Self-Accrual Authorization), provide that provisions for the self-accrual of sales tax on telecommunication services will no longer be applicable.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COST: Since these proposed amendments only implement statutory provisions, no new regulatory costs are being created. Therefore, 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 this notice.

SPECIFIC AUTHORITY: 212.17(6), 212.18(2), 212.183, 213.06(1) FS.

LAW IMPLEMENTED: 92.525, 212.02(4),(7),(10),(12),(14), (15),(16),(19),(20),(21), 212.03, 212.031, 212.04, 212.05, 212.0515, 212.054(2),(3), 212.0598, 212.06(1),(2), (9),(11),(14), 212.07(1),(8), 212.08(4), (5)(a),(e),(6),(7)(a),(b), (c),(d),(f),(g),(h),(i),(j),(k),(l),(m),(n), (o),(p),(q),(r),(s),(u),(v), (x),(bb),(cc),(dd),(8),(9), 212.085, 212.12(2),(5),(6), (8),(12),(13), 212.13(1), 212.14(5), 212.15(1),(4), 212.16, 212.17, 212.18, 212.183, 212.21(2),(3), 213.12(2), 213.37, 403.715 FS.

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

TIME AND DATE: 10:00 a.m., July 31, 2001

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

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULES IS: Janet L. Young, Tax Law Specialist, and Jennifer Silvery, Senior Attorney, Technical Assistance and Dispute Resolution, Department of Revenue, P. O. Box 7443, Tallahassee, Florida 32314-7443, telephone (850)922-4727

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 FULL TEXT OF THE PROPOSED RULES IS:

12A-1.001 Specific Exemptions.

(1) through (2) No change.

~~(3) RADIO AND TELEVISION STATIONS.~~

~~(a) All charges for services rendered by radio and television stations, including line charges, talent fees, or license fees, are exempt. All charges to radio and television stations for license fees and charges for raw and processed films, video tapes, and transcriptions for use in producing radio or television broadcasts, are exempt.~~

~~(b) Radio and television equipment, including expendable items, parts, accessories, and supplies are taxable.~~

~~(c) Effective July 1, 1990, the charge for wired music service is taxable. See Rule 12A-1.046, F.A.C.~~

(4) through (8) renumbered (3) through (7) No change.

Specific Authority 212.17(6), 212.18(2), 213.06(1) FS. Law Implemented 212.02(10),(12),(16),(20),(21), 212.05, 212.08(6),(7)(f),(h),(q),(v),(x),(cc), 213.12(2) FS. History-Revised 1-7-68, 1-7-70, Amended 1-17-71, Revised 6-16-72, Amended 7-19-72, 12-11-74, 5-27-75, 10-21-75, 9-7-78, 9-28-78, 10-18-78, 9-16-79, 2-3-80, 6-3-80, 7-7-80, 10-29-81, 12-3-81, 12-31-81, 7-20-82, 11-15-82, 10-13-83, 4-12-84, Formerly 12A-1.01, Amended 7-9-86, 1-2-89, 12-1-89, 7-7-92, 9-14-93, 5-18-94, 12-13-94, 3-20-96, 4-2-00, 6-28-00, 6-19-01,\_\_\_\_\_.

12A-1.016 Sales; Installation Charges.

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

(b) Contractors and manufacturers who furnish and install the following items are considered to be retail dealers and are required to charge sales tax on the full price, including installation and any other charges:

1. through 12. No change.

13. Telegraphic equipment (See Rule 12A-1.046.);

14. Telephonic equipment (See Rule 12A-1.046.);

15. Television satellite dishes;

13,16. Window air conditioning units; and

14,17. Equipment used to provide communications services, as defined in s. 202.11(3), F.S., that is installed on a customer's premises ~~Wired television (See Rule 12A-1.046).~~

Specific Authority 212.17(6), 212.18(2), 213.06(1) FS. Law Implemented 212.02(15)(a),(16), 212.05 FS. History—Revised 10-7-68, 6-16-72, Formerly 12A-1.16, Amended 12-13-88,\_\_\_\_\_.

12A-1.046 Telephone, Telegraph and Other Telecommunication Services.

(1)(a) ~~Charges for all telecommunication services, as defined in s. 203.012, F.S., and for those services described in s. 203.012(2)(a), F.S., are taxable unless expressly exempt.~~

(b) ~~The term telecommunication service as used in s. 203.012, F.S., includes, but is not limited to, services described or defined therein as local telephone service, toll telephone service, telegram or telegraph service, teletypewriter or computer exchange service, private communication service, cellular mobile telephone, specialized mobile radio, and paging services.~~

(c) ~~The word "charges" in this rule does not include any excise or similar taxes levied by the Federal Government, any political subdivision of the state, or any municipality upon the purchase or sale of telecommunication service or on cable television service, which are collected by the seller from the purchaser. The gross receipts tax (under Chapter 203, F.S.) and any fees imposed by a political subdivision are part of the charges subject to sales tax.~~

(2) ~~The following telecommunication charges are exempt from tax:~~

(a) ~~Charges for local service provided through a pay telephone.~~

(b) ~~Charges to residential households or owners of residential models in the state for local telephone service, long distance telephone calls, or telegraphic messages when the charges are made by utility companies which pay the gross receipts tax imposed under s. 203.01, F.S.~~

(3) ~~Telecommunication services which originate or terminate in this state and are billed to a customer, telephone number, or device located within this state are subject to sales tax. The tax on interstate private communication service is apportioned as explained in subsection (9) of this rule.~~

(4) ~~The renting, leasing, letting, or granting a license for the use of any public or private street or right-of-way occupied or used by a utility for utility purposes is exempt from tax.~~

(5) ~~Charges for cable or wired television service and its installation are taxable.~~

(6)(a) ~~The sale or rental of machines, equipment, parts and accessories therefor used directly in furnishing communication services are taxable.~~

(b)1. ~~Charges to customers or subscribers of telecommunication service, including charges to residential households, for the sale or rental of equipment used in providing such services are taxable.~~

2. ~~Charges for the installation of equipment used in providing telecommunication services are taxable.~~

(7) ~~A person who purchases, leases, installs, or rents, for his own use, a telecommunication system or telephone system which is a substitute for any telephone company switched service or a substitute for a dedicated facility used by the telephone company to provide a communication path, by acquisition and use of such equipment, exercises a taxable privilege and shall be required to remit a tax based upon the actual cost of operating such a system, as defined in s. 212.05(1)(h), F.S., notwithstanding the provision of s. 212.081(2)(b), F.S.~~

(8)(a) ~~Effective July 1, 1986, the tax on telecommunications services imposed pursuant to s. 212.05(1)(e), F.S., shall not exceed \$50,000 per calendar year on charges to any person for interstate telecommunications services, as defined in s. 203.012(4) and (7)(b), F.S., provided that more than 50% of such telecommunication services used by such person are for communications originating outside Florida and terminating in Florida.~~

(b) ~~This exemption shall only be granted to holders of a direct pay permit issued by this department pursuant to s. 212.05(1)(e), F.S., and the department will not authorize refunds for taxes paid prior to the purchaser receiving a direct pay permit.~~

(c) ~~To obtain a direct pay permit, the purchaser must make written application to the Florida Department of Revenue, Central Registration, P. O. Box 2096, Tallahassee, Florida 32316-2096, and the Department may issue the direct pay permit which will authorize the purchaser to purchase such telecommunications services tax exempt and remit the tax directly to the Department on a monthly basis.~~

(d) ~~For the year 1986, the term calendar year means the last 6 months of 1986.~~

(9) ~~The tax imposed under s. 212.05(1)(e), F.S., is computed on interstate private communication services as follows:~~

(a) ~~The total charge for each channel termination point within this state;~~

(b) The total charge for channel mileage between each channel termination point within this state; and

(c) The portion of the interstate interoffice channel mileage charge as determined by multiplying said charge times a fraction, the numerator of which is the air miles between the last channel termination point in this state and the vertical and horizontal coordinates, 7856 and 1756, respectively, and the denominator of which is the air miles between the last channel termination point in this state and the first channel termination point outside this state. The denominator of this fraction shall be adjusted, if necessary, by adding the numerator of said fraction to similarly determined air miles in the state in which the other channel termination point is located, so that the sum of the apportionment factor for this state and the apportionment factor for the other state is not greater than one, to ensure that no more than 100 percent of the interstate interoffice channel mileage charge can be taxed by this state and another state.

(10) The telecommunication services under s. 212.05(1)(e), F.S., may be purchased for resale in the same manner as provided in Rule 12A-1.038, F.A.C.

(11)(a) Every person deriving receipts from the sale of telecommunication services is subject to tax on any such sale, unless the sale is specifically exempt.

(b) Hotels, motels, and other persons or establishments not primarily engaged in the business of selling telecommunication services may use the following method to compute the amount of tax due:

1. Local Telephone Service.

a. Any person or establishment shall collect sales tax on all local telephone service charges separately billed to their customer.

b. If the establishment pays less sales tax to the telecommunication service provider than it collects from customers, the establishment must remit the sales tax collected, less the amount paid to the telecommunication service provider, directly to the state. If the amount of taxes paid to the telecommunication service provider is greater than the amount collected from the customers, no additional sales tax will be due to the state for the local service.

c. If the telecommunication service provider accepts a resale certificate in lieu of sales tax from the establishment for the local service charge, the establishment shall remit to the state the greater amount of the sales tax that would have been due to the telecommunication service provider or the amount of sales tax collected from the customers.

2. Long Distance Telephone Service.

a. Any person or establishment shall collect sales tax on each long distance toll call of any kind, billed to any customer. Sales tax shall also be collected on the minimum charge for the right to use long distance service.

b. If the long distance service provider accepts resale certificates in lieu of sales tax, then the establishment must remit all the taxes collected from its customers plus the taxes

for all toll calls made by the establishment for its own use. The establishment will remit the sales and use tax to the state for every toll call.

c. If the long distance service provider charges sales tax to the establishment for only the calls made by the establishment and not resold to its customers, the establishment will remit only the taxes collected from customers.

d. If sales tax is paid to the long distance service provider for all calls, the establishment may take a credit for the sales tax paid to the long distance service provider for only those calls that are resold to customers. The establishment will remit the sales tax on the difference between the amount paid to the long distance service provider for the calls that were resold and the amount charged to the customers.

e. If sales tax is paid to the long distance service provider for all calls and the establishment is unable to distinguish which calls are resold, the establishment must remit the total amount of sales tax collected from the customers. If the establishment cannot show which calls are resold, it may not take a credit for the sales tax paid to the long distance service provider regardless of the resale of some calls.

f. If the long distance service provider accepts resale certificates for all long distance calls and the establishment is unable to distinguish which calls are resold, then the establishment must remit the sales tax on the total amount billed by the long distance service provider, plus the total amount collected from the customers.

(12) The local government infrastructure surtax, as provided in ss. 212.054 and 212.055, F.S., applies only to local telephone charges made to an establishment or by the establishment located in a surtax county. However, the surtax does not apply to long distance toll charges.

(13) Charges for services rendered by radio and television stations, including line charges, talent fees, or license fees and charges for films, video tapes, and transcriptions used in producing radio and television broadcasts, are exempt.

Cross Reference — Rule 12A-1.088, F.A.C.

Specific Authority 212.17(6), 212.18(2), 213.06(1) FS. Law Implemented 212.02(14),(15), 212.031(1), 212.05(1)(e),(f),(h), 212.054(2),(3), 212.08(7)(j), 212.12(12), 212.15(1),(4), 212.21(2) FS. History—Revised 10-7-68, 1-7-70, 6-16-72, 12-11-74, Amended 4-1-79, 7-20-82, Formerly 12A-1.46, Amended 1-8-90, 4-2-00, Repealed \_\_\_\_\_.

12A-1.051 Sales to or by Contractors Who Repair, Alter, Improve and Construct Real Property.

(1) through (17) No change.

(18) Specific activities not classified as real property contracts. The sale, installation, maintenance, or repair of the following items is not considered to be a real property contract.

(a) through (n) No change.

(o) Equipment used to provide communications services, as defined in s. 202.11(3), F.S., that is installed on a customer's premises Telecommunications system components;

(p) Television satellite dishes;

(q) through (r) renumbered (p) through (q) No change.

(19) No change.

Specific Authority 212.17(6), 212.18(2), 213.06(1) FS. Law Implemented 212.02(4),(7),(16),(19),(21), 212.06(1),(14), 212.07(1),(8), 212.08(6), 212.14(5), 212.183 FS. History-Revised 10-7-68, 1-7-70, 6-16-72, Amended 2-3-80, 3-27-80, 6-3-80, 8-26-81, 11-15-82, 6-11-85, Formerly 12A-1.51, Amended 1-2-89, 8-10-92, 7-27-99, 3-30-00,\_\_\_\_\_.

12A-1.060 Registration.

(1)(a)1. Except as provided in paragraphs (f), (g), or (h), every person must file an Application to Collect and/or Report Tax in Florida (form DR-1, incorporated by reference in Rule 12A-1.097, F.A.C.) with the Department of Revenue for a dealer’s certificate of registration before engaging in any one of the following businesses:

a. sale of admissions or making of any charge for admission to any place of amusement, sport, or recreation or where there is any exhibition or entertainment;

b. sale, lease, let, rental, or granting a license to use tangible personal property;

c. lease, let, rental, or granting licenses for transient accommodations, as defined in Rule 12A-1.061, F.A.C.;

d. lease, let, rental, or granting a license in real property;

e. lease or rental of parking or storage space for motor vehicles in parking lots or garages;

f. lease or rental of docking or storage space in boat docks or marinas;

g. lease or rental of tie-down or storage space for aircraft;

or

~~h. sale of telecommunication services; or~~

h. sale of taxable services.

2. through 5. No change.

(b) through (3) No change.

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

12A-1.064 Sales in Interstate and Foreign Commerce; Sales to Nonresident Dealers; Sales to Diplomats.

(1) through (2) No change.

(3) Aircraft.

(a)1. Any air carrier utilizing mileage apportionment for corporate income tax purposes in this state pursuant to Chapter 220, F.S., may elect, upon the conditions prescribed in subparagraph (a)3., to be subject to the tax imposed by this part on tangible personal property, services, and in certain instances, the lease or rental of, or license in, real property according to the provisions of this subsection.

2. through 6. No change.

7. The following purchases of tangible personal property and services qualify for the apportionment provided in this paragraph.

a. through h. No change.

~~i. Telecommunication services.~~

j. through k. renumbered i. through j. No change.

8. through (12) No change.

Specific Authority 212.17(6), 212.18(2), 213.06(1) FS. Law Implemented 212.02(10)(g), 212.05(1), 212.0598, 212.06(2),(5), 212.08(4)(a),(8),(9), 212.12(8), 212.13(1), 212.16, 212.21(3) FS. History-Revised 10-7-68, 1-7-70, 6-16-72, Amended 12-11-74, 5-23-77, 9-26-77, 10-18-78, 3-30-79, 4-10-79, 3-27-80, 7-20-82, 10-13-83, 8-28-84, Formerly 12A-1.64, Amended 1-2-89, 10-16-89, 7-30-91, 3-20-96, 11-30-97, 7-1-99, 6-19-01,\_\_\_\_\_.

12A-1.0911 Self-Accrual Authorization.

(1) A dealer registered under Chapter 212, F.S., may, under particular circumstances, request in writing to the Department and obtain written consent from the Department to assume the obligation of self-accruing and remitting directly to the state, the use tax due on leases and purchases. Self-accrual authority may be used under the following circumstances:

(a) Where required under ~~s. 212.05(1)(e)3., F.S., for telecommunication services;~~ s. 212.0598, F.S., for apportionment by eligible air carriers, and s. 212.08(8) and (9), F.S., for vessels, railroads, and motor vehicles engaged in interstate and foreign commerce;

(b) through (g) No change.

(2) through (3) No change.

(4) The self-accrual authority does not cover and must not be used:

(a) through (d) No change.

~~(e) For purchases of telecommunication services except where required under s. 212.05(1)(e)4., F.S., for telecommunication services or s. 212.0598, F.S., for apportionment by eligible air carriers.~~

(5) No change.

Specific Authority 212.17(6), 212.18(2),(3), 212.183, 213.06(1) FS. Law Implemented 212.05(1)(e)3.4., 212.0598, 212.06(11), 212.08(8),(9), 212.12(13), 212.18(3), 212.183 FS. History-New 4-7-92, Amended 5-19-93, 9-14-93, 11-16-93, 9-30-99,\_\_\_\_\_.

NAME OF PERSON ORIGINATING PROPOSED RULE: Janet L. Young, Tax Law Specialist, and Jennifer Silvey, Senior Attorney, Technical Assistance and Dispute Resolution, Department of Revenue, Post Office Box 7443, Tallahassee, Florida 32314-7443, or by telephone at (850)922-4727

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Charles Strausser, Revenue Program Administrator II, Technical Assistance and Dispute Resolution, P. O. Box 7443, Tallahassee, Florida 32314-7443; telephone number (850)922-4746

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: June 26, 2001

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: The proposed rule was noticed for a Rule Development Workshop in the Florida Administrative Weekly on April 20, 2001 (Vol. 27, No. 16, pp. 1828-1832). A rule development workshop was held on May 8, 2001, regarding these proposed amendments and proposed rule

repeal. No one attended the workshop to provide comments on these proposed rule changes; and no written comments were received by the Department. Technical changes were made to the proposed amendments to Rules 12A-1.001, 12A-1.060, and 12A-1.064, F.A.C., to reflect the changes to these rules, effective June 19, 2001. The proposed effective date of October 1, 2001, for all proposed rule changes to become effective has been removed.

## DEPARTMENT OF REVENUE

### Sales and Use Tax

RULE TITLES: RULE NOS.:

Exemption for Qualified Production Companies	12A-1.085
Public Use Forms	12A-1.097

**PURPOSE AND EFFECT:** The purpose of the proposed substantial rewording of Rule 12A-1.085, F.A.C., is to implement the changes to the exemption provided for certain production companies provided in Chapter 2000-182, L.O.F. The purpose of the proposed amendments to Rule 12A-1.097, F.A.C., Public Use Forms, is to incorporate and certify the forms created by the Department necessary to implement the provisions of Chapter 2000-182, L.O.F.

**SUMMARY:** The proposed substantial rewording of Rule 12A-1.085, F.A.C.: (1) incorporates the changes to the exemption provided for certain production companies provided in Chapter 2000-182, L.O.F.; (2) changes the title to "Exemption for Qualified Production Companies" to reflect the changes required by this law; and (3) removes provisions rendered obsolete by this law.

The proposed amendments to Rule 12A-1.097, F.A.C., Public Use Forms, incorporate by reference forms DR-230, DR-230N, DR-232, and DR-232N, created by the Department to implement the provisions of Chapter 2000-182, L.O.F.

**SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COST:** Since these proposed changes only implement statutory provisions, no new regulatory costs are being created. Therefore, 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 this notice.

**SPECIFIC AUTHORITY:** 212.17(6), 212.18(2), 213.06(1), 288.1258(4)(c) FS.

**LAW IMPLEMENTED:** 212.031(1)(a)9., 212.06(1)(b), 212.08(5)(f),(12), 212.17(6), 212.18(2),(3), 288.1258 FS.

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

**TIME AND DATE:** 10:00 a.m., July 31, 2001

**PLACE:** Room 116, Larson Building, 200 E. Gaines Street, Tallahassee, Florida

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULES IS: Karen Kugell, Senior Attorney, Technical Assistance and Dispute Resolution, Department of Revenue, P. O. Box 7443, Tallahassee, Florida 32314-7443, telephone (850)922-4834

**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 FULL TEXT OF THE PROPOSED RULES IS:

(Substantial rewording of Rule 12A-1.085 follows. See Florida Administrative Code for present text.)

12A-1.085 Exemption for Qualified Production Companies Recording, Motion Picture, or Television Studios.

(1) For purposes of this rule, a "qualified production company" means any company engaged in this state in the production of motion pictures, made-for-TV motion pictures, television series, commercial advertising, music videos, or sound recordings that has been approved by the Office of the Film Commissioner and has obtained a Certificate of Exemption for Entertainment Industry Qualified Production Company from the Department of Revenue.

(2)(a) Any production company conducting motion picture, television or sound recording business in this state desiring to obtain a Certificate of Exemption from Department must file with the Department of Revenue:

1. An Entertainment Industry Qualified Production Company Application for Certificate of Exemption (form DR-230, incorporated by reference in Rule 12A-1.097, F.A.C.); and

2. Documentation sufficient to substantiate the applicant's claim for qualification as a production company pursuant to s. 288.1258, F.S.

(b)1. The Department will issue a single Certificate of Exemption for Entertainment Industry Qualified Production Company for a period of 90 consecutive days to a qualified production company, as provided in s. 288.1258(3)(b), F.S. The certificate will expire 90 days after the effective date indicated on the certificate.

2. The Department will issue a Certificate of Exemption for Entertainment Industry Qualified Production Company for a period of 12 consecutive months to a qualified production company that has operated a business in Florida at a permanent address for a period of 12 consecutive months, as provided in s. 288.1258(3)(a), F.S.

(c) Qualified production companies that hold a Certificate of Exemption for Entertainment Industry Qualified Production Company issued for a period of 90 consecutive days may request an extension of their certificates. Qualified production companies that hold a Certificate of Exemption issued for 12 consecutive months may renew their certificates annually for up to five years. To request an extension or a renewal of a certificate, qualified production companies must file an Application for Renewal or Extension of Entertainment Industry Exemption Certificate (form DR-232, incorporated by reference in Rule 12A-1.097, F.A.C.) with the Office of the Film Commissioner. Upon approval by the Office of the Film Commissioner, an extension to the 90-day certificate or a renewal of the 12-month certificate will be issued by the Department.

(3)(a) A qualified production company that holds a valid Certificate of Exemption for Entertainment Industry Qualified Production Company may issue a copy of its certificate to the selling dealer or lessor to:

1. Lease, rent, or hold a license in real property used as an integral part of the performance of qualified production services, as provided in s. 212.031(1)(a)9., F.S., tax exempt;
2. Purchase or lease motion picture or video equipment and sound recording equipment, as provided in s. 212.08(5)(f), F.S., tax exempt; or
3. Purchase or lease master tapes, master records, master films, or master video tapes, as provided in s. 212.08(12), F.S., tax exempt.

(b) The selling dealer or lessor is only required to obtain one copy of the qualified production company's Certificate of Exemption for Entertainment Industry Qualified Production Company to make tax exempt sales, as indicated on the certificate, to the company during the effective period indicated on the certificate. A selling dealer or lessor who accepts in good faith the required certificate will not be held liable for any tax due on sales made to a qualified production company during the effective period indicated on the certificate. The selling dealer or lessor must maintain the required exemption certificates in its books and records until tax imposed by Chapter 212, F.S., may no longer be determined and assessed under s. 95.091(3), F.S.

(4) A qualified production company that holds a valid Certificate of Exemption for Entertainment Industry Qualified Production Company is not required to pay use tax on fabrication labor associated with the production of a qualified motion picture, as provided in s. 212.06(1)(b), F.S.

(5) Upon expiration of a Certificate of Exemption for Entertainment Industry Qualified Production Company, all certificate holders are required to return their expired certificates to the Department. All certificate holders that cease to do business are required to return their certificates to the Department. Certificates are to be returned to:

Florida Department of Revenue

Central Registration  
P. O. Box 6480  
Tallahassee, Florida 32314-6480.

(6) Copies of form DR-230 (Entertainment Industry Qualified Production Company Application for Certificate of Exemption), form DR-230N (Information and Instructions for Completing Entertainment Industry Qualified Production Company Application for Certificate of Exemption), form DR-232 (Application for Renewal or Extension of Entertainment Industry Exemption Certificate), and form DR-232N (Application for Renewal or Extension of Exemption Certificate Instructions) are available, without cost, by: 1) calling the Offices of the Film Commissioner at 877-352-3456; or 2) downloading selected forms from the Office of the Film Commissioner's Internet site at [www.filminflorida.com](http://www.filminflorida.com); or 3) from any local Film Commission offices throughout Florida. These forms are also available, without cost, by: 1) writing the Florida Department of Revenue, Forms Distribution Center, 1678 Blountstown Highway, Tallahassee, Florida 32304; or 2) faxing the Forms Distribution Center at 850-922-2208; or 3) using a fax machine telephone handset to call the Department's FAX on Demand System at 850-922-3676; or 4) visiting any local Department of Revenue Service Center to personally obtain a copy; or 5) calling the Forms Request Line during regular office hours at 800-352-3671 (in Florida only) or 850-488-6800; or 6) downloading selected forms from the Department's Internet site at the address shown inside the parentheses (<http://sun6.dms.state.fl.us/dor/>). Persons with hearing or speech impairments may call the Department's TDD at 1-800-367-8331.

Specific Authority 212.17(6), 212.18(2), 213.06(1), 288.1258(4)(c) FS. Law Implemented ~~212.02(4), (14), (15), (19), (20), (21), 212.031(1)(a)9, (9), 212.05(1)(b), 212.06(1)(b)(2)(a), 212.08(5)(f), (12), 288.1258 215.26(2)~~ FS. History—New 2-21-77, Amended 5-28-85, Formerly 12A-1.85, Amended 3-12-86, 12-13-88, \_\_\_\_\_.

12A-1.097 Public Use Forms.

(1) No change.

Form Number	Title	Effective Date
(1) through (17)	No change.	
(18)(a) DR-230	<u>Entertainment Industry Qualified Production Company Application for Certificate of Exemption (r. 03/01)</u>	_____
(b) DR-230N	<u>Information and Instructions for Completing Entertainment Industry Qualified Production Company Application for Certificate of Exemption (r. 03/01)</u>	_____
(c) DR-232	<u>Application for Renewal or Extension of Entertainment Industry Exemption Certificate (N. 03/01)</u>	_____
(c) DR-232N	<u>Application for Renewal or Extension of Exemption Certificate Instructions (Form DR-232) (N. 03/01)</u>	_____
(19)(18)	No change.	

Specific Authority 212.17(6), 212.18(2), 213.06(1) FS. Law Implemented 212.08(5)(g),(h),(n),(o),(15), 212.096, 212.17(6), 212.18(2),(3), ~~288.1258~~ FS. History—New 4-12-84, Formerly 12A-1.97, Amended 8-10-92, 11-30-97, 7-1-99, 4-2-00, 6-28-00, 6-19-01, \_\_\_\_\_.

NAME OF PERSON ORIGINATING PROPOSED RULE:  
Karen Kugell, Senior Attorney, Technical Assistance and Dispute Resolution, Department of Revenue, Post Office Box 7443, Tallahassee, Florida 32314-7443, or by telephone at (850)922-4834

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Charles Strausser, Revenue Program Administrator II, Technical Assistance and Dispute Resolution, P. O. Box 7443, Tallahassee, Florida 32314-7443, telephone number (850)922-4746

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: June 26, 2001

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: The proposed substantial rewording of Rule 12A-1.085, F.A.C., and the proposed amendments to Rule 12A-1.097, F.A.C., were noticed for a Rule Development Workshop in the Florida Administrative Weekly on December 22, 2000 (Vol. 26, No. 51, pp. 5843-5845). A rule development workshop was held on January 9, 2001, regarding these proposed rule changes. No one attended the workshop to provide comments on these proposed rules; and no written comments were received by the Department. Technical changes were made to Rule 12A-1.097, F.A.C., to incorporate amendments to that rule, effective June 19, 2001, and to correctly title the forms being incorporated by reference.

## DEPARTMENT OF REVENUE

### Sales and Use Tax

RULE TITLE: RULE NO.:  
Revocation of Sales Tax Exemption Certificates 12A-1.095  
PURPOSE AND EFFECT: The purpose of the proposed amendments to Rule 12A-1.095, F.A.C., Revocation of Sales Tax Exemption Certificates, is to: (1) remove the repetition of s. 212.084, F.S., from the administrative code, as mandated by s. 120.74(1), F.S.; and (2) remove the incorporation by reference of obsolete form DR-5AC.

SUMMARY: The proposed amendments to Rule 12A-1.095, F.A.C., Revocation of Sales Tax Exemption Certificates: (1) remove the repetition of s. 212.084, F.S., which requires the Department to review each sales tax consumer's certificate of exemption issued by the Department; and (2) remove the incorporation by reference of form DR-5AC, which is no longer used by the Department to initiate the revocation of a consumer's certificate of exemption through an administrative complaint.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COST: Since these proposed amendments only implement statutory provisions, no new regulatory costs are being created. Therefore, 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 this notice.

SPECIFIC AUTHORITY: 212.17(6), 212.18(2), 213.06(1), 213.21(1) FS.

LAW IMPLEMENTED: 120.569, 120.57(1), (2), 120.60(5), (7), 120.80(14), 212.084, 212.18(3), 213.06, 213.21(1) FS.

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

TIME AND DATE: 10:00 a.m., July 31, 2001

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

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Linda Bridges, Revenue Program Administrator I, Technical Assistance and Dispute Resolution, Department of Revenue, P. O. Box 7443, Tallahassee, Florida 32314-7443, telephone (850)488-7157

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 at (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 FULL TEXT OF THE PROPOSED RULE IS:

12A-1.095 Revocation of Sales Tax Exemption Certificates.

~~(1) The Department shall review each Consumer's Certificate of Exemption (hereinafter referred to as a sales tax exemption certificate) to ensure that the entity possessing a sales tax exemption certificate is actively engaged in a bona fide exempt endeavor. Each entity possessing a sales tax exemption certificate shall fully cooperate with the Department during the review process.~~

~~(a) The Department shall choose entities for review based on an alphabetical selection procedure within each county whenever feasible.~~

~~(b) During the review process an entity may be required to submit documentation and evidence of its organizational structure, federal tax status, program content, or any other materials deemed necessary by the Department during the review process.~~

~~(c) After the Department's review is completed and it has been determined that an entity is actively engaged in a bona fide exempt endeavor, the sales tax exemption certificate shall be reissued. Each sales tax exemption certificate which is reissued shall be valid for 5 consecutive years after the date of reissuance, at which time the sales tax exemption certificate shall again be subject to review and reassurance. If it is~~

determined that the entity no longer qualifies for an exemption, the sales tax exemption certificate shall be revoked, or not reissued.

~~(d) The Department shall revoke the sales tax exemption certificate of any entity which fails to respond to either of two written requests for information regarding the entity's taxable status. The two letters shall be mailed at least 4 weeks apart to the entity's last known address.~~

~~(e) Any entity may apply for reissuance of a revoked sales tax exemption certificate if the revocation occurred due to the entity's failure to respond to either of the two written requests sent by the department. The Department prescribes Form DR-5, Sales and Use Tax Application for Consumer's Certificate of Exemption, incorporated by reference in Rule 12A-1.097, F.A.C., as the form to be utilized in the application for reissuance of a revoked sales tax exemption certificate.~~

~~(f) Notwithstanding the provisions of Section 213.053, F.S., to the contrary, the Department shall furnish, upon request, the name and address of any institution, organization, individual, or other entity possessing a valid sales tax exemption certificate.~~

~~(1)(2) Pursuant to the requirements of s. 120.60(7), F.S., the Department shall commence the a revocation of a consumer's certificate of exemption ~~action~~ through an administrative complaint. The Administrative Complaint/Revocation of Consumer's Certificate of Exemption (Form DR-5AC, incorporated by reference in Rule 12A-1.097, F.A.C.) notifies the certificate holder of the Department's intended action and the facts and legal authority which support that intended action.~~

~~(2)(3)(a) In order to challenge a proposed revocation, the certificate holder receiving an Administrative Complaint/Revocation of Consumer's Certificate of Exemption (Form DR-5AC) must request an administrative hearing under the provisions of s. 120.57, F.S. The Request for Hearing must be delivered to the Department by hand delivery or mail within 21 days from the date of issuance on the administrative complaint. If the Request for Hearing is filed with the Department by mail, the date of the postmark will be the date of the Request for Hearing is deemed filed for purposes of the 21 day time computation. The Request for Hearing must be delivered to:~~

Office of General Counsel  
Department of Revenue  
Post Office Box 6668  
501 South Calhoun Street  
201 Carlton Building  
Tallahassee, Florida 32314-6668.

~~(b) The Request for Hearing must contain the following:~~

- ~~1. The name and address of the entity opposing the revocation of its consumer's certificate of exemption;~~
- ~~2. The case number of the administrative complaint;~~
- ~~3. A statement requesting an administrative hearing;~~

4. A statement specifying the factual allegations in the administrative complaint which the entity denies;

5. A statement setting forth any other factual or legal issues which the entity intends to raise in protest of the Department's intended action;

6. A statement that the entity will be substantially affected by the revocation of the consumer's certificate of exemption and why the entity will be so affected;

7. A request for relief;

8. The name and title of the person submitting the Request for Hearing;

9. The signature of the person submitting the Request for Hearing;

10. The date of the Request for Hearing.

~~(3)(4) In the event that a certificate holder fails to submit a Request for Hearing, or fails to submit a timely Request for Hearing which complies with all the requirements set forth in subsection (2)(3), the Department shall, without hearing, revoke the consumer's certificate of exemption.~~

Specific Authority 212.17(6), 212.18(2), 213.06(1), 213.21(1) FS. Law Implemented 120.569, 120.57(1),(2), 120.60(5),(7), 120.80(14), 212.084, 212.18(3), 213.06, 213.21(1) FS. History--New 7-8-82, Amended 11-6-85, Formerly 12A-1.95, Amended 8-10-92, 12-8-92, 12-31-94,\_\_\_\_\_.

NAME OF PERSON ORIGINATING PROPOSED RULE: Janet L. Young, Tax Law Specialist, and Linda Bridges, Revenue Program Administrator I, Technical Assistance and Dispute Resolution, Department of Revenue, Post Office Box 7443, Tallahassee, Florida 32314-7443, or by telephone at (850)488-7157

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Charles Strausser, Revenue Program Administrator II, Technical Assistance and Dispute Resolution, P. O. Box 7443, Tallahassee, Florida 32314-7443, telephone number (850)922-4746

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: June 26, 2001

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: The proposed rule was noticed for a Rule Development Workshop in the Florida Administrative Weekly on May 4, 2001 (Vol. 27, No. 18, pp. 2212-2213). A rule development workshop was held on May 24, 2001, regarding the proposed amendments to Rule 12A-1.095, F.A.C. No one attended the workshop to provide comments on this proposed rule; and no written comments were received by the Department.

**DEPARTMENT OF REVENUE**

**Sales and Use Tax**

RULE TITLES:	RULE NOS.:
Imposition and Payment of Tax	12A-15.003
Specific Exemptions	12A-15.004
Records	12A-15.007
Transition Rule	12A-15.014



**PURPOSE AND EFFECT:** The purpose of the proposed amendments to Rule 12A-15.003, F.A.C. (Imposition and Payment of Tax); Rule 12A-15.004, F.A.C. (Specific Exemptions); Rule 12A-15.007, F.A.C. (Records); and Rule 12A-15.014, F.A.C. (Transition Rule), is to: (1) implement the provisions of Chapter 2000-260, L.O.F., effective October 1, 2001, which removes the imposition of discretionary sales surtax on charges for telecommunication services and for television system program services.

**SUMMARY:** The proposed amendments to Rule 12A-15.003, F.A.C. (Imposition and Payment of Tax); Rule 12A-15.004, F.A.C. (Specific Exemptions); Rule 12A-15.007, F.A.C. (Records); and Rule 12A-15.014, F.A.C. (Transition Rule): (1) remove the imposition of discretionary sales surtax on charges for telecommunication services and for television system program services, effective October 1, 2001, to implement the provisions of Chapter 2000-260, L.O.F.; and (2) provide that the imposition of discretionary sales surtax applies to sales of electricity or natural or manufactured gas and does not apply to charges for telecommunication services or wired or cable television.

**SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COST:** Since these proposed amendments only implement statutory provisions, no new regulatory costs are being created. Therefore, 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 this notice.

**SPECIFIC AUTHORITY:** 212.17(6), 212.18(2), 213.06(1) FS.  
**LAW IMPLEMENTED:** 212.02(15),(19), 212.05(1), 212.0506, 212.054, 212.055, 212.06(1),(4),(7),(8),(10), 212.07(8), 212.13(2), 212.18(3) FS.

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

**TIME AND DATE:** 10:00 a.m., July 31, 2001

**PLACE:** Room 116, Larson Building, 200 E. Gaines Street, Tallahassee, Florida

**THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULES IS:** Jennifer Silvey, Senior Attorney, Technical Assistance and Dispute Resolution, Department of Revenue, P. O. Box 7443, Tallahassee, Florida 32314-7443, telephone (850)922-4727

**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 FULL TEXT OF THE PROPOSED RULES IS:

12A-15.003 Imposition and Payment of Tax.

(1) No change.

(2) For purposes of the surtax, a transaction, except for a transaction involving any motor vehicle or mobile home of a class or type which is required to be registered in this state or in any other state, shall be deemed to have occurred in a county imposing the surtax when:

(a) through (e) No change.

(f)1. The consumer of electricity or natural or manufactured gas utility, or ~~wired or cable television services~~ is located in a county imposing the surtax, ~~or the telecommunication services are provided to a location within a county imposing the surtax.~~

2. Each dealer that provides electricity or natural or manufactured gas utility services, ~~wired or cable television, or telecommunication services~~ in a county that imposes the surtax, shall register for sales tax purposes in the county in which the consumer of the electricity or natural or manufactured gas utility, ~~wired television, or telecommunication services~~ is located.

(g) through (l) No change.

(3) through (5) No change.

(6) Any person who has purchased at retail, used, consumed, distributed or stored for use or consumption in this state tangible personal property, admissions, a taxable service, electricity, or natural or manufactured gas utility services, ~~telecommunication services, television system program services~~, or leased tangible personal property or who has leased real property, and cannot prove that the state sales and use tax or county surtax levied by Chapter 212, F.S., has been paid to the vendor or lessor shall be directly liable to the state for any tax, interest, or penalty due on any such taxable transaction.

(a) through (b) No change.

Specific Authority 212.17(6), 212.18(2), 213.06(1) FS. Law Implemented 212.05(1), 212.0506, 212.054, 212.055, 212.06(1),(4),(7),(8),(10), 212.07(8), 212.18(3) FS. History--New 12-11-89, Amended 1-30-91, 5-12-92, 8-10-92, 11-16-93, 3-20-96, 6-19-01,\_\_\_\_\_.

12A-15.004 Specific Exemptions.

(1) through (2) No change.

(3) ~~The surtax does not apply to long distance telephone service. However, sales of telecommunication services which are subject to the surtax are fully taxable since the \$5,000 limitation only applies to items of tangible personal property.~~

Specific Authority 212.17(6), 212.18(2), 213.06(1) FS. Law Implemented 212.02(15),(19), 212.05(1), 212.054(2) FS. History--New 12-11-89, Amended 5-12-92, 3-17-93, 11-16-93,\_\_\_\_\_.

12A-15.007 Records.

Persons making sales and use of tangible personal property; charging admissions; furnishing electricity or natural or manufactured gas utility, ~~communication, or cable or wired television services~~; leasing or renting any real property; or

leasing or renting any transient rental accommodations subject to the surtax shall maintain adequate and sufficient books and records to indicate what sales and uses are subject to the surtax. The failure to maintain such records shall make the total sales amount subject to the surtax.

Specific Authority 212.17(6), 212.18(2), 213.06(1) FS. Law Implemented 212.054, 212.055, 212.13(2) FS. History--New 12-11-89, Amended \_\_\_\_\_.

12A-15.014 Transition Rule.

(1) through (3) No change.

(4) Electric Utilities; Natural or Manufactured Gas; Fuel Oil.

(a)1. Electric utilities and sellers of gas and fuel oil normally bill their customers after the period of service. The 7% tax rate plus the surtax rate will apply to billing cycles, which includes services billed for cycles ending on or after the effective date of any such surtax.

a. Example: If the effective date of the surtax is January 1, 1995, and the monthly service cycle is December 1, 1994, through December 31, 1994, and the service cycle billing is mailed to customer on January 5, 1995, the surtax does not apply.

b. Example: If the effective date of the surtax is January 1, 1995, and the monthly service cycle is December 10, 1994, through January 10, 1995, and the service cycle billing is mailed to customer on January 15, 1995, the surtax applies.

~~(b) Telephone Companies normally bill their customers for past long distance services and future regular subscriber services. Where a bill is dated prior to the effective date of any such surtax, the 6% rate applies. For bills dated on or after the effective date of the surtax, the 6% rate plus the surtax rate applies. NOTE: The surtax does not apply to long distance telephone service.~~

~~(b)(e)1.a. Where in all other cases under paragraphs (a) and (b), above, where service periods or cycles are not noted on the bill to the customer, the invoice or billing date would determine the applicable tax rate.~~

~~2. In most cases, billing cycle means the period of service. In the case of electric, gas, and fuel oil, billing cycles are from the most current meter reading to the previous meter reading.~~

~~(5) Wired or Cable Television Services. Wired or cable television companies normally bill their customers in advance for services that are to be rendered. Where a bill is dated prior to the effective date of any such surtax, the 6% tax rate would apply even though the services are to be rendered on or after the effective date of the surtax. For bills or remittance notices dated on or after the effective date of the surtax, the 6% tax rate plus the surtax rate applies.~~

(6) through (7) renumbered (5) through (6) No change.

Specific Authority 212.17(6), 212.18(2), 213.06(1) FS. Law Implemented 212.05(1), 212.054, 212.055, 212.06(10) FS. History--New 12-11-89, Amended 11-16-93, 3-20-96, \_\_\_\_\_.

NAME OF PERSON ORIGINATING PROPOSED RULE: Janet L. Young, Tax Law Specialist, and Jennifer Silvey, Senior Attorney, Technical Assistance and Dispute Resolution, Department of Revenue, Post Office Box 7443, Tallahassee, Florida 32314-7443, or by telephone at (850)922-4727

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Charles Strausser, Revenue Program Administrator II, Technical Assistance and Dispute Resolution, P. O. Box 7443, Tallahassee, Florida 32314-7443; telephone number (850)922-4746

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: June 26, 2001

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: The proposed amendments to these rules were noticed for a Rule Development Workshop in the Florida Administrative Weekly on April 20, 2001 (Vol. 27, No. 16, pp. 1832-1834). A rule development workshop was held on May 8, 2001, regarding the proposed amendments to these rules. No one attended the workshop to provide comments on these proposed rules; and no written comments were received by the Department. A technical change to Rule 12A-15.003, F.A.C., has been made to reflect the changes to that rule, effective June 19, 2001. The proposed effective date of October 1, 2001, for all proposed rule changes to become effective has been removed.

**DEPARTMENT OF REVENUE**

**Miscellaneous Tax**

<b>RULE TITLES:</b>	<b>RULE NOS.:</b>
Premium Tax; Rate and Computation	12B-8.001
Tax Statement; Overpayments	12B-8.003
Retaliatory Provisions	12B-8.016

PURPOSE AND EFFECT: The purpose of the proposed amendments to Rules 12B-8.001, 12B-8.003, and 12B-8.016, F.A.C., is to: (1) remove references to the intangible personal property tax imposed under Chapter 199, F.S., as insurers are no longer subject to that tax; (2) clarify the application of tax paid on corporate income tax returns in the corporate income and emergency tax credit computation; (3) clarify the availability of tax paid on corporate income tax returns in the retaliatory tax computation; (4) remove obsolete provisions; and (5) adopt the changes to forms DR-907 and DR-908 used by the Department in administering the insurance premium tax.

SUMMARY: The proposed amendments to Rule 12B-8.001, F.A.C.: (1) remove references to the intangible personal property tax imposed under Chapter 199, F.S., as insurers are no longer subject to that tax; (2) clarify the application of tax paid on corporate income tax returns in the corporate income and emergency tax credit computation; and (3) remove obsolete provisions from the rule.

The proposed amendments to Rule 12B-8.003, F.A.C., adopt the changes to forms DR-907 and DR-908 used by the Department in administering the insurance premium tax.

The proposed amendments to Rule 12B-8.016, F.A.C., clarify the application of tax paid on Florida corporate income and emergency excise tax returns in the retaliatory tax computation.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COST: None.

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 this notice.

SPECIFIC AUTHORITY: 213.06(1), 220.183(6), 624.5105(6) FS.

LAW IMPLEMENTED: 175.101, 175.121, 175.141, 185.08(3), 185.10, 185.12, 213.05, 213.235, 213.37, 220.183(3), 624.4621, 624.475, 624.509, 624.5091, 624.5092, 624.510, 624.5105, 624.511, 624.518, 624.519, 624.520(2), 626.7451(11), 627.3512, 627.357(9), 628.6015, 629.5011, 634.131, 634.313(2), 634.415(2) FS.

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

TIME AND DATE: 10:00 a.m., July 31, 2001

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

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULES IS: Robert DuCasse, Tax Law Specialist, Technical Assistance and Dispute Resolution, Department of Revenue, P. O. Box 7443, Tallahassee, Florida 32314-7443, telephone (850)922-4700

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 FULL TEXT OF THE PROPOSED RULES IS:

12B-8.001 Premium Tax; Rate and Computation.

(1) through (2) No change.

(3) Credits Against the Tax.

(a)1. The ~~intangible personal property tax (IPPT) imposed under Chapter 199, F.S., the corporate~~ income tax imposed under Chapter 220, F.S., and the emergency excise tax imposed under Chapter 221, F.S., which are, or should have been, filed and paid by an insurer shall discharge the liability for the insurance premium tax (IPT) imposed under s. 624.509, F.S., for the annual period in which such tax payments are or should have been made, to the extent of the maximum allowed. Any insurer issuing policies insuring against loss or damage

from the risks of fire, tornado, and certain casualty lines may take a credit against gross premium receipts tax for the excise tax(es) imposed by s. 175.101, F.S., and s. 185.08, F.S.

2.a. When an insurer is required to file a corporate income tax return where the due date and extended due date are in difference calendar years, the due date, or the extended date when a valid extension of time is made of said Florida return, determines the annual period in which such tax payments should have been made. Since the intangible personal property tax (IPPT) credit offsets dollar for dollar any Insurance Premium Tax (IPT) liability, changes made in the amount of IPPT due the State will result in a change in the insurer's IPT liability and also may result in a change in the insurer's salary tax credit and retaliatory tax liability. The IPPT credit should be applied against IPT for the year in which the IPPT return would have been filed, had it been timely filed, even if it was not.

b. For example, a tax year ending August 31, 2000 Florida corporate income tax return, without extension, is due on December 1, 2000. Since the Florida corporate income tax return is due by December 31, 2000, the insurer should include the amount of tax due on the return in computation of the corporate income tax and emergency excise tax credit on its 2000 insurance premium tax return, the 2000 DR-908, which is due March 1, 2001. If, however, the insurer extended the due date of the Florida corporate income tax return to June 1, 2001, and did not file and pay the return on or before December 31, 2000, the amount of tax due on the return is included in the computation of the corporate income tax and emergency excise tax credit on its 2001 insurance premium tax return, the 2001 DR-908, which is due March 1, 2002. For example, if the insurer paid intangible personal property tax (IPPT) February 1, 1995, on intangible assets managed or controlled in Florida on January 1, 1995, the amount paid should be claimed as a credit against its 1995 insurance premium tax (IPT) which was due March 1, 1996. However, if the insurer paid IPPT February 1, 1995, on intangible assets managed or controlled in Florida on January 1, 1994, the amount paid should be claimed as a credit against its 1994 IPT which was due March 1, 1995. In this situation, an amended 1994 IPT return must be filed provided the insurer had previously filed its original 1994 IPT return.

(b) Salaries. Fifteen percent of the amount paid after June 30, 1988, in salaries by the insurer to employees located or based in Florida may be credited against the net tax imposed by s. 624.509, F.S.

1. Salaries include only amounts paid directly to employees and do not include commissions paid to employees located or based in Florida.

2. Employees are those covered under Chapter 443, F.S., Unemployment Compensation, by the insurer taking the credit, a service representative as defined in s. 626.081, F.S., a

supervising or managing general agent as defined in s. 626.091, F.S., and an adjuster or claims investigator as defined in s. 626.101, F.S.

3. Salary credit shall be allowed only to the extent that:

- a. The employees are not disqualified under s. 624.509(5), F.S.; and
- b. The employees are located or based in Florida; and
- c. The insurer claiming the credit is the employer, as defined in s. 443.036(17), F.S., of the claimed employees, and said insurer satisfies the Chapter 38B-2, F.A.C., filing requirements.

4. Employees do not include independent contractors or any persons whose duties require them to have a valid insurance license issued under the Florida Insurance Code.

5. The wages paid to an individual who is employed directly by an employment agency, such as a temporary agency or a leasing company, are not included.

6. Net tax is the tax imposed under s. 624.509(1), F.S., after deductions for the ~~intangible personal property tax imposed under Chapter 199, F.S.,~~ the corporate income tax imposed under Chapter 220, F.S., the emergency excise tax imposed under Chapter 221, F.S., and for gross premium receipts tax payable for firefighters' pension trust funds under s. 175.101, F.S., and police officers' retirement funds under s. 185.08, F.S.

(c) Assessments Credited Against the Tax.

1. Payments made by an insurance carrier, group self-insurer, or commercial self-insurance fund, for assessments made pursuant to s. 440.51, F.S., shall be allowed as a deduction against the amount of any other tax levied by the state upon the premiums, assessments, or deposits for workers' compensation insurance on contracts or policies of said insurance carrier, self-insurer, or commercial self-insurance fund.

2. Effective with the tax return filed for the 1997 taxable year, insurers who have paid an assessment to the Florida Life and Health Insurance Guaranty Association (FLHIGA) may claim a credit for part of such assessment as provided for in the Florida Statutes. Any credits not taken or utilized when available cannot be carried forward.

(d) Community Contribution Tax Credit.

1. Who May Claim the Credit. Any taxpayer who has received prior approval from the ~~Department of Community Affairs, through June 30, 1994, or the Governor's Office of Tourism, Trade, and Economic Development, subsequently,~~ for its community contribution to any revitalization project undertaken by an eligible sponsor, shall be allowed a credit of 50 percent of the contribution. The total annual credit under this section applied against the tax due under s. 624.509, F.S., or s. 624.510, F.S., for a calendar year, may not exceed \$200,000. The valuation of the contribution determined by the Governor's Office of Trade, Tourism, and Economic Development shall be used in the computation of the credit. In

instances of fraud, the Executive Director of the Department of Revenue has the authority to redetermine the value of the contribution.

~~a. The valuation of the contribution determined by the Department of Community Affairs through June 30, 1994, or the Governor's Office of Trade, Tourism, and Economic Development, subsequently, shall be used in the computation of the credit. In instances of fraud, the Director of the Department of Revenue has the authority to redetermine the value of the contribution.~~

~~b. To qualify for the credit under the program expiring June 30, 1994, the insurer must have its community contribution approved by the Department of Community Affairs, and have completed the transfer of the asset by that date.~~

~~e. Beginning July 1, 1995, the program is reinstated pursuant to s. 624.5105, F.S., as amended, and will be administered by the Governor's Office of Trade, Tourism, and Economic Development.~~

2. through 5. No change.

(4) through (5) No change.

(6) Credits and deductions against the tax imposed by ss. 624.509 and 624.510, F.S., shall be taken in the following order:

(a) Deductions for assessments under s. 440.51, F.S.

(b) Credits for taxes paid under ss. 175.101 and 185.08, F.S.

(c) Credits for corporate income taxes paid under Chapter 220, F.S.

(d) Credits for the ~~The~~ emergency excise tax paid under Chapter 221, F.S.

(e) Salary tax credit.

~~(f) Credits for intangible personal property taxes paid under Chapter 199, F.S.~~

~~(f)(g)~~ All other available credits and deductions.

~~(g)(h)~~ A refund will not be created by credits.

(7) through (9) No change.

Specific Authority 213.06(1), 220.183(6), 624.5105(6) FS. Law Implemented 175.101, 175.121, 175.141, 185.08(3), 185.10, 185.12, 213.05, 213.235, 220.183(3), 624.4621, 624.475, 624.509, 624.5092, 624.510, 624.5105, 624.519, 624.520(2), 626.7451(11), 627.3512, 627.357(9), 628.6015, 629.5011, 634.131, 634.313(2), 634.415(2) FS. History--New 2-3-80, Formerly 12B-8.01, Amended 3-25-90, 4-10-91, 2-18-93, 6-16-94, 10-19-94, 1-2-96, 12-9-97, 6-2-98, 4-2-00, \_\_\_\_\_.

12B-8.003 Tax Statement; Overpayments.

(1) Tax returns and reports shall be made by insurers on forms prescribed by the Department. The Department prescribes Form DR-907, Florida Department of Revenue Insurance Premium Installment Payment, dated January 2001 ~~1999~~, and Form DR-908, Florida Department of Revenue Insurance Premium Taxes and Fees Tax Return, dated January 2001 ~~1999~~, and accompanying instructions as the forms to be used for the purpose of this chapter and hereby incorporates these forms by reference.

(2) through (4) No change.

Specific Authority 213.06(1) FS. Law Implemented 213.05, 213.37, 624.5092, 624.511, 624.518 FS. History—New 2-3-80, Formerly 12B-8.03, Amended 3-25-90, 3-10-91, 2-18-93, 6-16-94, 12-9-97, 3-23-98, 7-1-99, \_\_\_\_\_.

12B-8.016 Retaliatory Provisions.

(1) through (4) No change.

(5) For purposes of this rule, the corporate income tax return (CIT) imposed under Chapter 220, F.S., and the emergency excise tax (EET) imposed under Chapter 221, F.S., is the amount of CIT and EET used to compute the corporate income and emergency excise tax credit in Rule 12B-8.001, F.A.C.

Specific Authority 213.06(1) FS. Law Implemented 213.05, 624.509, 624.5091, 624.5092 FS. History—New 3-25-90, Amended 4-10-91, 12-9-97, 3-23-98, \_\_\_\_\_.

NAME OF PERSON ORIGINATING PROPOSED RULE: Robert DuCasse, Tax Law Specialist, Technical Assistance and Dispute Resolution, Department of Revenue, P. O. Box 7443, Tallahassee, Florida 32314-7443, telephone (850)922-4700

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Rodney Felix, Revenue Program Administrator I, Technical Assistance and Dispute Resolution, P. O. Box 7443, Tallahassee, Florida 32314-7443, telephone number (850)922-4700

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: June 26, 2001

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: The proposed rule was noticed for a Rule Development Workshop in the Florida Administrative Weekly on April 6, 2001 (Vol. 27, No. 14, pp. 1562-1564 ). A rule development workshop was held on April 24, 2001, in Room 116, Larson Building, 200 E. Gaines Street, Tallahassee, Florida, regarding the proposed rule changes. In response to these changes, the proposed amendments in paragraphs (3)(a) and (c) of Rule 12B-8.001, F.A.C., and the proposed amendments to subsection (5) of Rule 12B-8.016, F.A.C., were modified to withdraw the issues at protest that are currently under litigation.

**DEPARTMENT OF REVENUE**  
**Corporate, Estate and Intangible Tax**

<b>RULE TITLES:</b>	<b>RULE NOS.:</b>
Adjusted Federal Income Defined	12C-1.013
Apportionment for Special Industries	12C-1.0151
Sales Factor for Apportionment	12C-1.0155
Returns; Filing Requirement	12C-1.022

**PURPOSE AND EFFECT:** The purpose of the proposed amendments to Rules 12C-1.013, 12C-1.0151, 12C-1.055, and 12C-1.022, F.A.C., is to: 1) reflect the federal changes in entity classification complementing s. 220.13(2)(j), F.S.; 2) explain or define terms and concepts used in the application and administration of the corporate income tax regarding the

apportionment formula for insurance companies; 3) clarify which items of interest on loans are subject to sales factor inclusion; and 4) conform the rule provisions regarding the filing of returns consistent with the provisions of s. 220.22, F.S.

**SUMMARY:** The proposed amendments to Rule 12C-1.013, F.A.C. (Adjusted Federal Income Defined), are amended to reflect federal changes in entity classification and to complement Section 220.13(2)(j), F.S.

The proposed amendments to Rule 12C-1.0151, F.A.C. (Apportionment for Special Industries), clarify that deposit-type funds are not direct premiums written, and therefore are not included in the apportionment factor calculation of an insurance company.

The proposed amendments to Rule 12C-1.0155, F.A.C. (Sales Factor for Apportionment), clarify which items of interest on loans are subject to sales factor inclusion. Further, the rule is amended to explain how sales of a partnership are to be included in the sales factor.

The proposed amendments to Rule 12C-1.022, F.A.C. (Returns; Filing Requirements), conform the rule text to s. 220.22, F.S.

**SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COST:** None.

Any person who wishes to provide informaiton 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 this notice.

**SPECIFIC AUTHORITY:** 213.06(1), 220.21, 220.51 FS.

**LAW IMPLEMENTED:** 220.02(3), 220.03(5), 220.12, 220.13, 220.131(1), 220.15, 220.151, 220.22, 220.43(1),(3), 220.44 FS.

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

**TIME AND DATE:** 10:00 a.m., July 31, 2001  
**PLACE:** Room 116, Larson Building, 200 E. Gaines Street, Tallahassee, Florida

**THE PERSONS TO BE CONTACTED REGARDING THE PROPOSED RULE ARE:** Robert DuCasse, Tax Law Specialist, and Suzanne C. Paul, Tax Law Specialist, Technical Assistance and Dispute Resolution, Department of Revenue, P. O. Box 7443, Tallahassee, Florida 32314-7443, telephone (850)922-4700

**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 FULL TEXT OF THE PROPOSED RULES IS:

12C-1.013 Adjusted Federal Income Defined.

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

(e) ~~For tax years ending on or after July 1, 1998, limited liability companies and foreign limited liability companies qualified to do business in Florida will be allowed to file in the same manner for Florida corporate income tax purposes as for federal tax purposes. Regardless of whether a limited liability company is treated for federal tax purposes as a corporation or a partnership, for Florida corporate income tax purposes the taxable income of a limited liability company is defined by s. 220.13(2)(j), F.S., as equal to the amount of taxable income determined as if a corporation under the Internal Revenue Code.~~

(2) through (13) No change.

(14) Net Operating Losses.

(a) Generally, ~~the~~ Florida law follows the Internal Revenue Code with respect to the computation and handling of a net operating loss (NOL). However, under s. 220.13(1)(b)1., F.S., a net operating loss may not be allowed as a carry back to years prior to the year of the loss. It may be allowed only as a carryover (NOLCO) and is treated in the same manner and for the same period of time as allowed in s. 172, I.R.C.

(b) through (i) No change.

(j) Under Treas. Reg. 1.1502-1(f)(2)(ii), the term “separate return limitation year” (SRLY) does not include a separate return year of any corporation which was a member of the affiliated group for each day of such year. The exception in Treas. Reg. 1.1502-1(f)(2)(ii), to the term “separate return limitation year” contemplates an affiliated group which remains in existence, and is, therefore, eligible to file a consolidated return for each year. If the affiliated group does not elect to file a consolidated return, each corporation must file a separate federal return. The Florida Corporate Income Tax Code generally embraces concepts of law which have been developed in connection with the income tax law of the United States. Subsection 220.43(1), F.S., provides that to the extent not inconsistent with the provisions of the Florida Income Tax Code or forms or regulations developed by the Department, a taxpayer will, for Florida tax purposes, take into account the items of income, deduction, and exclusion in the same manner as they are reflected for federal purposes. The requirements to file a Florida consolidated return, as well as the benefits and costs associated with filing a Florida consolidated return, are not the same as the requirements, benefits, and costs of filing a federal consolidated return. Florida allows federal net operating loss carry-overs as a subtraction pursuant to s. 220.13(1)(b)1., F.S. However, the underlying federal concepts must be applied in a manner consistent with Florida law. Where members of a federal affiliated group have not elected, or are not eligible to elect, under the provisions of s. 220.131, F.S., to file a Florida consolidated return, SRLY

concepts will be applied. SRLY concepts are applicable when a NOL carryover exists from a prior taxable year for which a Florida consolidated return was not filed and Florida corporate income tax returns were not filed for all members. The NOL carryover deduction from a subsidiary included in a consolidated NOL deduction is limited to that subsidiary’s taxable income included in the consolidated taxable income for that year. Where all members of the federal affiliated group filed Florida corporate income tax returns for all years from which a NOL carryover is available, SRLY concepts will not be imposed.

(k) through (o) No change.

(15) through (20) No change.

Specific Authority 213.06(1), 220.51 FS. Law Implemented 220.02(3), 220.03(5), 220.13, 220.131(1), 220.43(1),(3) FS., ~~s. 70, Ch. 94 353 Laws of Florida.~~ History–New 10-20-72, Amended 1-19-73, 10-20-73, 10-8-74, 4-21-75, 5-10-78, 11-13-78, 12-18-83, Formerly 12C-1.13, Amended 12-21-88, 12-7-92, 5-17-94, 10-19-94, 3-18-96,\_\_\_\_\_.

12C-1.0151 Apportionment for Special Industries.

(1) through (2) No change.

(3) Insurance companies.

(a)1. An insurance company shall may, at its election, determine the premium written for reinsurance accepted in respect to properties and risks in Florida on the basis of the proportion which premiums written for reinsurance accepted from companies resident in or having a regional home office in Florida bears to premiums written for reinsurance accepted from all sources. ~~Alternatively, the premiums written for reinsurance accepted for properties and risks in Florida can be determined on the basis of each ceding company’s ratio of direct premiums written in Florida to the sum of the total direct premiums written by each ceding company for the taxable year.~~

2. For purposes of this subsection, the “principal source of premiums” is defined as the majority (greater than 50 percent) of premium dollars received.

(b) If the principal source of premiums written by an insurance company is not for premiums for reinsurance accepted by it, the adjusted federal taxable income is apportioned to Florida by multiplying it by a fraction, the numerator of which is the direct premiums written for insurance upon properties and risks in Florida and the denominator of which is the direct premiums written for insurance upon properties and risks everywhere.

(c) Deposit-type funds, as separately listed on Schedule T of the Annual Statement filed with the Department of Insurance, are not direct premiums written and therefore are not included in the apportionment factor calculation of an insurance company.

(4) No change.

Specific Authority 213.06(1), 220.51 FS. Law Implemented 220.151 FS. History–New 5-17-94, Amended 3-18-96,\_\_\_\_\_.

12C-1.0155 Sales Factor for Apportionment.

(1) through (3) No change.

(4) Sales of a partnership are included in the denominator of a taxpayer's sales factor to the extent of the taxpayer's interest in the partnership. The amount of sales in Florida is also included in the numerator of the sales factor to the extent of the taxpayer's interest in the partnership. Partnership sales should be allocated to each partner based on each partner's interest in the partnership, or as designated in the partnership agreement, for inclusion in the Florida sales factor.

Specific Authority 213.06(1), 220.51 FS. Law Implemented 220.15, 220.44 FS. History—New 5-17-94, Amended 3-18-96, \_\_\_\_\_.

12C-1.022 Returns; Filing Requirement.

(1) No change.

(2) Foreign (out-of-state) corporations.

(a) through (c) No change.

(d) The determination of whether a foreign (out-of-state) corporation is required to file a Florida corporate income/franchise tax return is dependent only on the activities of the corporation during that tax year. However, there is a continuing ~~expectation presumption~~ that a foreign corporation that was required to file in a previous year has a filing requirement in subsequent years. Therefore, a foreign corporation should file a return with a statement clearly explaining why there is not a continuing filing requirement. A foreign corporation must respond in writing to inquiries of the Department clearly explaining why a Florida filing is not required.

(e) No change.

(3) Foreign (non-U.S.) corporations.

(a) No change.

(b) Foreign corporations which are not considered under the Internal Revenue Code to have income effectively connected with a U.S. trade or business, ~~but are~~ for which any tax ~~is due is withheld at the source~~ under the provisions of s. 1442, I.R.C., will ~~not~~ be required to file a Florida corporate income/franchise tax return.

(c) through (d) No change.

(4) through (6) No change.

Specific Authority 213.06(1), 220.21, 220.51 FS. Law Implemented 220.22 FS. History—New 10-20-72, Amended 10-20-73, Revised 10-8-74, Amended 3-5-80, Formerly 12C-1.22, Amended 12-21-88, 4-8-92, 12-7-92, 3-18-96, \_\_\_\_\_.

NAME OF PERSON ORIGINATING PROPOSED RULE:  
Robert DuCasse, Tax Law Specialist, and Suzanne C. Paul, Tax Law Specialist, Technical Assistance and Dispute Resolution, Department of Revenue, P. O. Box 7443, Tallahassee, Florida 32314-7443, telephone (850)922-4700

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Rodney Felix, Revenue Program Administrator I, Technical Assistance and Dispute Resolution, P. O. Box 7443, Tallahassee, Florida 32314-7443, telephone number (850)922-4700

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: June 26, 2001

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: The proposed rule was noticed for a Rule Development Workshop in the Florida Administrative Weekly on April 6, 2001 (Vol. 27, No. 14, pp. 1564-1566 ). A rule development workshop was held on April 24, 2001, in Room 116, Larson Building, 200 E. Gaines Street, Tallahassee, Florida, regarding the proposed rule changes. In response to these comments, the Department amended subparagraph (3)(a)1. of Rule 12C-1.0151, F.A.C., to clarify how an insurance company shall determine the premium written for reinsurance accepted in respect to properties and risks in Florida.

**DEPARTMENT OF LABOR AND EMPLOYMENT SECURITY**

**Division of Workers' Compensation**

RULE TITLE: RULE NO.:

Notice of Election to be Exempt and Revocation of Election to be Exempt by Sole Proprietors, Partners or Corporate Officers 38F-6.012

PURPOSE AND EFFECT: Currently, a sole proprietor or partner of a business entity that has not been in operation long enough to have filed or be required to file its first annual Federal Income Tax Return can receive a workers' compensation construction exemption without having to provide the required Internal Revenue Service documentation. This change removes that exception and requires all applicants for the construction industry exemption to provide the required Internal Revenue Service returns or purchase workers' compensation insurance until they can provide it. In subsections 38F-6.012(2)(a) and (b), F.A.C. a typographical error of the term "actually" engaged in the construction industry was changed to "actively" engaged in the construction industry.

SUMMARY: In subsections 38F-6.012(a) and (b), F.A.C., the Division corrected a typographical error. In subsection 38F-6.012(2)(c), F.A.C., the Division removed the exception for new businesses regarding attachment of documentation to Notices of Election to be Exempt.

STATEMENT OF ESTIMATED REGULATORY COST: Section 440.05(3), F.S., enables sole proprietors, partners and corporate officers to elect to be exempt from the Workers' Compensation Law. Applicants for exemption are required to submit "a copy of relevant documentation as to employment status filed with the Internal Revenue Service as specified by the division."

Rule 38F-6.012(2)(c), F.A.C. allows an exception for sole proprietors and partners of new businesses owners who have not been in business long enough to have filed a federal income tax return with the Internal Revenue Service. Those applicants need not attach IRS documentation as required in s. 440.05(3), F.S.

After promulgating Rule 38F-6.012(2)(c), F.A.C., it became evident to the Division that this exception allows for abuse in the Construction Industry Exemption process by employers who urge ineligible workers to claim the "New Business" status in order to obtain the construction industry exemption. The Division wishes to amend the rule to eliminate the new business exception. The amendment will alleviate such abuse by requiring all sole proprietors or partners actively engaged in the construction industry and any corporate officer of a construction or non-construction industry corporation to provide the required Internal Revenue Service documentation. This revision will enable the Division to verify that applicants for exemptions are, in fact, bona fide business owners entitled to exemption.

From July 1, 2000 through June 20, 2001, the Division processed 17,558 applications for exemptions from sole proprietors and partners engaged in the construction industry that did not have any federal income tax documentation attached. The only reason an exemption would be processed from a sole proprietor or partner engaged in the construction industry without tax documents attached is if the applicant had claimed his business was a new business. It is these applicants who will be affected by this rule. The estimated fiscal impact of excluding these applicants from being granted an exemption is \$877,900; or 17,558 applicants times \$50 in processing fees. However the elimination of the exception to the rule is expected to generate an estimated \$13,168,500 in additional workers' compensation insurance premiums, based upon the minimum premium policy cost of \$750, or 17,558 applicants times \$750.

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 this notice.

SPECIFIC AUTHORITY: 440.05(3),(6),(9), 440.103 FS.

LAW IMPLEMENTED: 440.05(3),(4),(6), 440.103, 440.38 FS.

IF REQUESTED WITHIN 21 DAYS OF THE DATE OF THIS NOTICE, A HEARING WILL BE HELD AT A TIME, DATE AND PLACE TO BE NOTICED IN A FUTURE ISSUE OF THE FAW.

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Lee Pease, Acting Chief, Bureau of Compliance, (850)922-8939

THE FULL TEXT OF THE PROPOSED RULE IS:

38F-6.012 Notice of Election to be Exempt and Revocation of Election to be Exempt by Sole Proprietors, Partners or Corporate Officers.

(1) No change.

(2) The following documentation shall be attached by the applicant to every Notice of Election to be Exempt (LES Form BCM-250):

(a) Each sole proprietor actively ~~actually~~ engaged in the construction industry shall attach a copy of the sole proprietor's Federal Income Tax Form 1040 and its accompanying Schedule C as filed by the applicant with the Internal Revenue Service (IRS) for the most recent tax year.

(b) Each partner of a partnership actively ~~actually~~ engaged in the construction industry shall attach a copy of the partner's Federal Income Tax Schedule K-1 (Form 1065), and Form 1040 and its accompanying Schedule E as filed by the applicant with the IRS for the most recent tax year.

~~(c) EXCEPTION FOR NEW BUSINESSES: A sole proprietor or partner of a business entity that has not been in operation long enough to have filed or be required to file by the Internal Revenue Service its first annual Federal Income Tax return does not need to attach tax documents to an application for exemption.~~

~~(c)(d)~~ Each corporate officer shall attach, if the applicant is not listed as an officer of the corporation on the current records of the Florida Secretary of State, Division of Corporations, a notarized affidavit stating that the applicant is a bona fide officer of the corporation and stating the date such appointment or election became or shall become effective.

(3) through (8) No change.

Specific Authority 440.05(3),(6),(9), 440.103 FS. Law Implemented 440.05(3),(4),(6), 440.103, 440.33 FS. History--New 5-28-91, Amended 2-15-94, 12-28-97, 2-2-00, \_\_\_\_\_.

NAME OF PERSON ORIGINATING PROPOSED RULE: Philip Wilcox, Operations & Management Consultant Manger, Bureau of Compliance

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Lee Pease, Acting Chief, Bureau of Compliance

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: December 21, 2000

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: February 2, 2001, Vol. 27, No. 5, pages 444 and 445

**WATER MANAGEMENT DISTRICTS**

**St. Johns River Water Management District**

RULE TITLE:  
Agreements

RULE NO.:  
40C-3.035



PURPOSE AND EFFECT: The purpose of the proposed rule amendments is to incorporate by reference changes to the District's water well permitting delegation agreements with the Florida Department of Health for Clay, Flagler, Nassau, and St. Johns Counties.

SUMMARY: The proposed rule amendment would incorporate by reference changes to the District's water well permitting delegation agreements with the Florida Department of Health for Clay, Flagler, Nassau, and St. Johns Counties. The proposed changes are the same for all four of these identical agreements. The changes seek to update the terms of the agreements based on implementation experience and to increase the fees to accurately reflect the costs of administering this program at the county level.

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

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

SPECIFIC AUTHORITY: 344.044, 373.113, 373.171 FS.

LAW IMPLEMENTED: 373.046, 373.083, 373.309 FS.

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

TIME AND DATE: Following the regularly scheduled Governing Board Meeting, which begins at 9:00 a.m., August 8, 2001

PLACE: St. Johns River Water Management District Headquarters, 4049 Reid Street, Palatka, Florida 32177

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT IS: Norma Messer, Rules Coordinator, Office of General Counsel, St. Johns River Water Management District, P. O. Box 1429, Palatka, Florida 32178-1429, (386)329-4450 or Suncom 860-4459

THE FULL TEXT OF THE PROPOSED RULE IS:

40C-3.035 Agreements.

The Governing Board hereby incorporates by reference the following documents:

(1) through (4) No change.

(4) An agreement between Indian River County Health Department and St. Johns River Water Management District regarding water well permitting, dated November 8, 1995.

(5) An agreement between the Florida Department of Health, Clay County Health Department and the St. Johns River Water Management District entitled Amended Water Well Permitting Delegation Agreement regarding water well permitting dated November 8, 1995, amended December 22, 1996 (effective date) 2001.

(6) No change

(7) An agreement between the Florida Department of Health, St. Johns County Health Department Unit and the St. Johns River Water Management District entitled Water Well Permitting Delegation Agreement regarding water well permitting dated July 21, 1996 (effective date) 2001.

(8) An agreement between the Florida Department of Health, Nassau County Public Health Department Unit and the St. Johns River Water Management District entitled Water Well Permitting Delegation Agreement regarding water well permitting dated July 21, 1996 (effective date) 2001.

(9) An agreement between the Florida Department of Health, Flagler County Public Health Department Unit and the St. Johns River Water Management District entitled Water Well Permitting Delegation Agreement regarding water well permitting dated January 8, 1997 (effective date) 2001.

(10) through (11) No change.

Specific Authority 373.044, 373.113, 373.171 FS. Law Implemented 373.046, 373.083, 373.309 FS. History--New 10-14-84, Amended 12-5-85, Formerly 40C-3.035, 40C-3.0035, Amended 1-8-96, 4-21-96, 7-21-96, 12-22-96, 3-10-97, 1-2-00,\_\_\_\_\_.

NAME OF PERSON ORIGINATING PROPOSED RULE: Jennifer Springfield, Attorney, Office of General Counsel, St. Johns River Water Management District, P.O. Box 1429, Palatka, Florida 32178-1429, (386)329-4199

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Governing Board of the St. Johns River Water Management District

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: June 13, 2001

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: June 29, 2001

If any person decides to appeal any decision with respect to any matter considered at the above listed public hearing, such person may need to ensure that a verbatim record of the proceeding is made to include testimony and evidence upon which the appeal is to be based.

Anyone requiring special accommodation to participate in this meeting is requested to advise the District at least 5 work days before the meeting by contacting Linda Lorenzen at (386)329-4262 or (386)329-4450 (TDD).

**WATER MANAGEMENT DISTRICTS**

**South Florida Water Management District**

RULE CHAPTER TITLE: Surface Water Management Basin and Related Criteria

RULE CHAPTER NO.: 40E-41

RULE TITLES: Policy and Purpose

RULE NOS.: 40E-41.011

Scope, Policy, and Implementation of Part IV

40E-41.320

Definitions

40E-41.321

Water Preserve Area & Water Preserve Area

Basin Boundaries

40E-41.323

Implementation

40E-41.333

Application of Part IV 40E-41.343  
 Permit Thresholds 40E-41.360  
 Conditions for Issuance of Environmental  
 Resource Permits and Surface Water  
 Management Permits in the Water Preserve  
 Area, Water Preserve Area Basin, or  
 Adjacent to the Protective Levees 40E-41.363

PURPOSE AND EFFECT: The Governor and Cabinet sitting as the Florida Land and Water Adjudicatory Commission entered a Final Order directing the South Florida Water Management District (SFWMD) to initiate rulemaking to develop Environmental Resource Permit (ERP) criteria specific to projects proposing construction in and adjacent to the SFWMD's Water Preserve Areas (WPAs) for the protection of wetlands and other surface waters and the water resources of the SFWMD. The subject WPAs are located in identified basins which contribute stormwater to the Everglades Protection Area. Therefore, pursuant to the Everglades Forever Act, codified at Section 373.4592, F.S., and the SFWMD's regulatory authority derived from Part IV, Chapter 373, F.S., proposed developments in and adjacent to the WPAs located in Broward and Palm Beach Counties that require an ERP will be subject to enhanced permit criteria for water quantity, water quality, and environmental impacts.

Rule 40E-41.011, F.A.C., is being amended to update terms and incorporate the purpose and intent of the proposed new Part IV Water Preserve Area Rules.

SUMMARY: The proposed rule sets forth specific supplemental environmental resource permit criteria for construction projects located within and adjacent to the Water Preserve Area. The criterion include limits on excavation depths adjacent to the WPA components, restrictions on dredging and filling wetlands within the WPA, additional water quality treatment requirements and changes to the mitigation criteria for wetland impacts.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS: A Statement of Estimated Regulatory Costs (SERC) is prepared. For a copy of the SERC, contact Penelope Bell, South Florida Water Management District, 3301 Gun Club Road, MSC 1410, West Palm Beach, FL 33406, telephone 1-800-432-2045, extension 6320, Suncom 229-6320 or (561) 682-6320 or via email at [pbell@sfwmd.gov](mailto:pbell@sfwmd.gov).

SPECIFIC AUTHORITY: 373.044, 373.113 FS.

LAW IMPLEMENTED: 373.413, 373.416, 373.4592 FS.

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

TIME AND DATE: 8:30 a.m., August 9, 2001

PLACE: South Florida Water Management District Headquarters, Auditorium, 3301 Gun Club Road, West Palm Beach, FL 33406

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULES IS: Penelope Bell, South Florida Water Management District, 3301 Gun Club Road, MSC 1410, West Palm Beach, FL 33406, telephone 1(800)432-2045, Extension 6320, Suncom 229-6320 or (561)682-6320 or via email at [pbell@sfwmd.gov](mailto:pbell@sfwmd.gov). Although Governing Board meetings, hearings and workshops are normally recorded, affected persons are advised that it may be necessary for them to ensure that a verbatim record of the proceeding is made, including testimony and evidence upon which any appeal is to be based. Persons with disabilities or handicaps who need assistance may contact Tony Burns, District Clerk, at (561)682-6206 at least two business days in advance to make appropriate arrangements.

THE FULL TEXT OF THE PROPOSED RULES IS:

40E-41.011 Policy and Purpose.

The rules in this part establish supplemental additional Environmental Resource Permit surface water management criteria for specified basins which insure that development within named basins incorporates the appropriate environmental, water quantity and water quality control measures necessary to protect the integrity of the public investments in the basin and ~~which~~ minimizes adverse impacts to the water resources of the District. Criteria delineated in this chapter are in addition to criteria specified in Chapter 40E-4, 40E-40 or 40E-400, F.A.C. The criteria, exemptions and additional requirements specified in this part are not intended to supersede or rescind the terms and conditions of any valid Environmental Resource Conceptual Approval, Construction or Operation Permit or Surface Water Management Conceptual Approval, Construction or Operation Permit, or certification order issued pursuant to ss. 403.501-.518 and 403.52-.5365, F.S. issued by the District prior to the effective date of this part. In addition, the rules establish additional criteria for the named basins which insure that the use of the District's works or land is consistent with the policies of the District.

Specific Authority 373.044, 373.113 FS. Law Implemented 373.413, 373.416 FS. History--New 9-3-81, Formerly 16K-34.01, Amended 4-11-85, 4-20-94.

Part IV Water Preserve Area Basins in Palm Beach & Broward Counties

40E-41.320 Scope, Policy, and Implementation of Part IV.

The purpose of these rules is to protect areas that are necessary for water supply, water storage, water quality improvement, and ecological restoration. Further, it is an objective of the District to reduce the loss of groundwater through seepage or discharge to coastal receiving waters. The protection of lands within and adjacent to the Water Preserve Areas is crucial to the success of Everglades restoration, flood protection and water supply enhancement efforts. Because of their hydrological and biological relationships to the Everglades, the

region's water supply and other unique natural areas and resources, the lands within and adjacent to the Water Preserve Area require supplemental Environmental Resource Permit criteria. The purpose of such criteria is to protect the current and future functions of aquifer recharge, water storage, flood attenuation, water quality enhancement and wildlife habitat provided by lands within and adjacent to the Water Preserve Area. The purpose of this rule is also to limit seepage from the water conservation areas across the protective levees and ultimately to tide.

Specific Authority 373.044, 373.113, 373.114 FS. Law Implemented 373.413, 373.416, 373.4592 FS. History—New \_\_\_\_\_.

40E-41.321 Definitions.

(1) "Water Preserve Area" or "WPA" means: those component areas identified in Figures 1, 2, 3, 4, 5 and 6.

(2) "Water Preserve Area Basin" or "WPAB" means: the WPA and all or a portion of those drainage basins located adjacent to, or planned to discharge into, the WPA as identified in Figures 1, 2, 3, 4, 5 and 6.

(3) "Protective Levees" means: for the purposes of this rule, those portions of levees L-33, L-35, L-35A, L-36, L-37, L-38 and L-40 adjacent to Water Conservation Areas 1, 2A, 2B, 3A and 3B as identified in Figure 3.

(4) "Overburden" means: for the purposes of this rule, the layer of existing natural soil material as shown in Figures 1, 2, 4, 5 and 6.

Specific Authority 373.044, 373.113 FS. Law Implemented 373.085, 373.413, 373.416 FS. History—New \_\_\_\_\_.

40E-41.323 Water Preserve Area & Water Preserve Area Basin Boundaries.

(1) The WPA boundaries are shown in Figures 1, 2, 3, 4, 5 and 6.

(2) The WPAB includes all or a portion of the following drainage basins as shown in Figures 1, 2, 3, 4, 5, and 6.

- (a) Palm Beach County: Acme Basin B  
C-51 East (west of SR 7)  
C-16 (west of the Florida Turnpike)  
C-15 (west of the Florida Turnpike)  
Hillsboro Canal (west of the Florida Turnpike)

- (b) Broward County: C-11 West  
C-9 West  
Hillsboro Canal (west of the Florida Turnpike)

Specific Authority 373.044, 373.113 FS. Law Implemented 373.413, 373.416 FS. History—New \_\_\_\_\_.

40E-41.333 Implementation.

(1) The effective date of this part is \_\_\_\_\_.

(2) The rules contained in this part will be applied to all projects which do not have complete applications, as evidenced by a letter of completeness under Rule 40E-1.603(1)(a), F.A.C., on the effective date of the rule. An application deemed complete prior to the effective date of a rule shall be governed by the rule in effect at the time the application became complete.

(3) Permit applications submitted pursuant to a valid conceptual approval shall be evaluated in accordance with Rule 40E-4.305, F.A.C. (Conceptual Approvals).

Specific Authority 373.044, 373.113 FS. Law Implemented 373.413, 373.416 FS. History—New \_\_\_\_\_.

40E-41.343 Application of Part IV.

All projects located within the WPA, WPAB, or adjacent to the Protective Levees which require permits pursuant to Rule 40E-4.041, F.A.C. shall be constructed, altered, operated, maintained and abandoned in accordance with the criteria specified in Rules 40E-4.301 and 40E-4.302, and/or Rule 40E-40.302, F.A.C., as applicable, (Environmental Resource Permits Conditions for Issuance) and 40E-41.363 (Conditions for Issuance of Environmental Resource Permits and Surface Water Management Permits in the Water Preserve Area, Water Preserve Area Basin, or Adjacent to the Protective Levees).

Specific Authority 373.044, 373.113 FS. Law Implemented 373.413, 373.416 FS. History—New \_\_\_\_\_.

40E-41.360 Permit Thresholds.

(1) All systems proposed within the boundaries of the WPA shall require an individual permit.

(2) As provided for in Rule 40E-40.011(2), F.A.C., the District shall require an individual permit application for any system proposed within the WPAB or adjacent to the Protective Levees that does not comply with the provisions of this part; is harmful to the water resources of the District; is not consistent with the overall objectives of the District; is contrary to the provisions of Chapter 373, F.S.; or which is of heightened public concern.

Specific Authority 373.044, 373.113 FS. Law Implemented 373.413, 373.416 FS. History—New \_\_\_\_\_.

40E-41.363 Conditions for Issuance of Environmental Resource Permits and Surface Water Management Permits in the Water Preserve Area, Water Preserve Area Basin, or Adjacent to the Protective Levees.

(1) In order to obtain a permit under this part, an applicant must provide reasonable assurance that the proposed activities will meet the requirements of this section; not be harmful to the water resources; not be inconsistent with the objectives of the District; or otherwise restrict, interfere with, or limit accomplishment of the Water Preserve Area objectives.

(2) Projects located within one mile of existing or proposed WPA components, or the Protective Levees, shall leave sufficient overburden in place to prevent seepage increases eastward into surface water bodies, such as surface water management lakes, canals, ditches or ponds, in accordance with the following design criteria:

(3) Proposed excavations located within one-quarter mile of the existing or proposed WPA components or the Protective Levees shall maintain an overburden thickness of at least three-quarters of the existing overburden.

(a) Proposed excavations located from one-quarter mile to one-half mile from existing or proposed WPA components or the Protective Levees shall maintain an overburden thickness of at least half of the existing overburden.

(b) Proposed excavations located from one-half mile to one-mile from existing or proposed WPA components or the Protective Levees shall maintain an overburden thickness of at least one-quarter of the existing overburden.

(c) Figures 1, 2, 4, 5 and 6 show the thickness of existing overburden within the WPA, WPAB and adjacent to the Protective Levees.

(3) Notwithstanding (2)(a)-(d) above, applicants can:

(a) Provide site-specific technical information documenting the presence of sufficient overburden above the production zone of the surficial aquifer system to demonstrate that a proposed excavation will not cause adverse seepage or hydrologic impacts to the WPA or Water Conservation Areas; or,

(b) Propose an alternative engineering design, such as installation of a synthetic liner, muck back-filled trench or other seepage barrier, with site-specific technical information to demonstrate that a proposed excavation will not cause adverse seepage or hydrologic impacts to the WPA or Water Conservation Areas.

(4) Proposed projects within the WPA, WPAB or adjacent to the Protective Levees shall not lower existing water table elevations.

(5) In addition to the water quality treatment volumes required in section 5.2.1. of the Basis of Review, projects within the WPA or WPAB shall provide an additional fifty (50) percent retention / detention water quality treatment.

(6) No dredging or filling of wetlands shall be permitted in the WPA, except where necessary to provide access to upland sites; allow an economically viable use of private property; facilitate relocation or installation of essential public services such as electricity, transportation, telecommunications and water supply in locations compatible with the WPA objectives when it has been demonstrated that such services cannot be located outside the WPA; or to facilitate the objectives of the WPA or Comprehensive Everglades Restoration Plan.

(7) Reduced mitigation ratios set forth in sections 4.3.2.4 and 4.3.9 (Melaleuca Rule) of the Basis of Review shall not apply in the WPA.

(8) In order to qualify for the reduced mitigation ratios set forth in section 4.3.2.4 and 4.3.9 (Melaleuca Rule) of the Basis of Review, projects located within the WPAB shall:

(a) Provide a management plan for the control of exotic and nuisance species;

(b) Maximize the spatial extent and connectivity of wetlands, wetland mitigation areas and open space; and

(c) Incorporate a minimum of 50% native trees, shrubs and ground cover in the project landscape plan.

(9) The exotic and nuisance species management plan referenced in (7)(a) shall include as a minimum the following. All invasive exotic plants defined by the Florida Exotic Pest Plant Council (EPPC) as Category I plants will be removed or killed in-place during initial wetland construction, restoration and enhancement phase of the mitigation project or onsite natural area clearing. Subsequent regrowth of the invasive exotic and undesirable vegetation will be maintained at or below five (5) percent of coverage of the wetland mitigation area. During the construction restoration and enhancement phases of the mitigation project and as part of the perpetual maintenance of the mitigation areas, every effort will be taken to attain zero percent coverage of exotic/nuisance plant species immediately following maintenance activities.

(10) Mitigation for proposed impacts incurred in the WPA or WPAB must be provided within the WPAB, or at a mitigation bank or Regional Offsite Mitigation Area with an approved mitigation service area that includes the impact site, provided all other applicable criteria are met.

Specific Authority 373.044, 373.113 FS. Law Implemented 373.413, 373.416 FS. History—New

NAME OF PERSON ORIGINATING PROPOSED RULE:  
Terrie Bates, Director, Environmental Resource Regulation Division

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

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: June 14, 2001

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: Notice of Rule Development for the April 30 and May 3, 1999 workshops was published in Vol. 25, No. 15, April 16, 1999 edition of this publication. Notice of Rule Development for the June 19, 2000 workshop was published in Vol. 26, No. 22, June 2, 2000 edition of this publication.

#### **DEPARTMENT OF THE LOTTERY**

RULE TITLE:  
How to Play CASH 3

RULE NO.:  
53-30.001

PURPOSE AND EFFECT: The purpose of the proposed rule is to establish a liability limit for CASH 3.

SUMMARY: The proposed rule establishes a liability limit of \$10 million for CASH 3.

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

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

SPECIFIC AUTHORITY: 24.105(10)(a),(b),(c),(j) FS.

LAW IMPLEMENTED: 24.105(10)(a),(b),(c),(j), 24.115 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 (IF NOT REQUESTED, THIS HEARING WILL NOT BE HELD):

TIME AND DATE: 9:00 a.m., August 7, 2001

PLACE: Department of the Lottery, Office of the General Counsel, 250 Marriott Drive, Tallahassee, Florida 32399-4011

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Diane D. Schmidt, Office of the General Counsel, Capitol Complex, Tallahassee, Florida 32399-4011, (850)487-7724

THE FULL TEXT OF THE PROPOSED RULE IS:

53-30.001 How to Play CASH 3.

(1) through (4) No change.

(5) A liability limit of \$10 million is established for CASH 3. When the play of a particular three digit number for a drawing reaches the Lottery's CASH 3 liability limit of \$10 million, no further ticket sales for any type of play that would involve that three digit number will be allowed for that drawing. In addition, no Front Pair or Back Pair play that involves the first two or last two digits, respectively, of the three digit number will be allowed for that drawing.

Specific Authority 24.105(10)(a),(b),(c),(j) FS. Law Implemented 24.105(10)(a),(b),(c),(j), 24.115 FS. History--New 11-22-93, Amended

NAME OF PERSON ORIGINATING PROPOSED RULE: Diane D. Schmidt, Office of the General Counsel

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Kenneth H. Hart, Jr. General Counsel

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: June 18, 2001

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: May 11, 2001

**DEPARTMENT OF THE LOTTERY**

RULE TITLE:  
CASH 3 Rules and Prohibitions

RULE NO.:  
53-30.004

PURPOSE AND EFFECT: The purpose of this rule amendment is to reflect an increase in the ticket cancellation period and to clarify other provisions in this section.

SUMMARY: The rule amends the ticket cancellation period and clarifies other provisions in section 53-30.004.

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

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

SPECIFIC AUTHORITY: 24.105(2), 24.105(10) FS.

LAW IMPLEMENTED: 24.105(2), 24.105(10), 24.117(2) 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 (IF NOT REQUESTED, THIS HEARING WILL NOT BE HELD):

TIME AND DATE: 9:00 a.m., August 7, 2001

PLACE: Department of the Lottery, Office of the General Counsel, 250 Marriott Drive, Tallahassee, Florida 32399-4011

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Diane D. Schmidt, Office of the General Counsel, Capitol Complex, Tallahassee, Florida 32399-4011, (850)487-7724

THE FULL TEXT OF THE PROPOSED RULE IS:

53-30.004 CASH 3 Rules and Prohibitions.

(1) ~~By~~ ~~When~~ purchasing a CASH 3 ticket the player agrees to comply with and abide by all rules and regulations of the Florida Lottery.

(2) CASH 3 prize payments shall be made in accordance with rules of the Florida Lottery governing procedures for awarding prizes. A copy of the current rule can be obtained from the Florida Lottery, Office of the General Counsel, 250 Marriott Drive, Tallahassee, Florida 32399-4011. ~~The CASH 3 ticket is the only valid receipt.~~

(3) Tickets shall not be purchased by or sold to persons ~~minors~~ under the age of eighteen (~~18~~).

(4) Subject to a retailer's hours of operation and on-line system availability, CASH 3 lottery tickets are available for purchase daily between the hours of 6:00 a.m. and midnight, Eastern Time (ET). ~~A CASH 3 ticket shall not be purchased any later than approximately ten (10) minutes prior to the scheduled nightly drawing.~~

(5) The scheduled time for the daily CASH 3 drawing is approximately 7:57 p.m., ET. Ticket sales for a specific CASH 3 drawing will close approximately ten minutes prior to that drawing. Any ticket sold after the close of game will be printed with the next CASH 3 draw date unless the player specifies another CASH 3 draw date within the selection parameters. ~~It is the responsibility of the player to determine the accuracy of~~

the tickets. In the event that the ticket(s) given to the player by the retailer are not consistent with the player's selections, the player should immediately advise the retailer of that fact. In such event and upon request of the player within the time period specified herein, the retailer shall make a good faith effort to cancel a ticket. A retailer is not required to cancel a ticket which is produced upon request of the player by the "quick pick" method of number selection.

(6) Retailer cancellations of CASH 3 tickets can only be performed by the retailer who sold the ticket, using the selling terminal's optical mark reader, and within two hours after printing, except that no CASH 3 ticket can be cancelled after game close for the related drawing. The two-hour ticket cancellation period may be reduced due to the selling retailer's hours of business operation, the hours of on-line system availability, or the time of the related CASH 3 close of game. A CASH 3 ticket can be cancelled within twenty (20) minutes after printing at the same retail location, except that no CASH 3 ticket can be cancelled within ten (10) minutes of the scheduled drawing relative to that ticket or after on-line sales are concluded each evening at midnight.

(7) It is the responsibility of the player to determine the accuracy of the selected panels of numbers, draw dates(s) and play types on tickets. In the event that a ticket given to the player by the retailer contains selections which are not consistent with the player's selections, it shall be the responsibility of the player to immediately advise the retailer of that fact. In such event and upon request of a player, the retailer shall make a good faith effort to cancel the ticket. A retailer is not required to cancel a ticket produced upon request of a player by the "quick pick" method of number selection.

Specific Authority ~~24.105(2)(b)2., 24.105(10)~~ FS. Law Implemented ~~24.105(2)(b)2., 24.117(2), 24.105(10)~~ FS. History—New 11-22-93, Amended \_\_\_\_\_.

NAME OF PERSON ORIGINATING PROPOSED RULE:  
Diane D. Schmidt, Office of the General Counsel

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Kenneth H. Hart, Jr., General Counsel

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: June 19, 2001

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: April 20, 2001

**DEPARTMENT OF THE LOTTERY**

RULE TITLE: How to Play PLAY 4  
PURPOSE AND EFFECT: The purpose of the proposed rule amendment is to clarify the liability limit provisions for PLAY 4.

RULE NO.: 53-31.001

SUMMARY: The proposed rule amendment clarifies the liability limit provisions for PLAY 4.

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

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

SPECIFIC AUTHORITY: 24.105(10)(a),(b),(c),(j) FS.

LAW IMPLEMENTED: 24.105(10)(a),(b),(c),(j), 24.115 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 (IF NOT REQUESTED, THIS HEARING WILL NOT BE HELD):

TIME AND DATE: 9:00 a.m., August 7, 2001

PLACE: Department of the Lottery, Office of the General Counsel, 250 Marriott Drive, Tallahassee, Florida 32399-4011

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Diane D. Schmidt, Office of the General Counsel, Capitol Complex, Tallahassee, Florida 32399-4011, (850)487-7724

THE FULL TEXT OF THE PROPOSED RULE IS:

53-31.001 How to Play PLAY 4.

(1) through (4) No change.

(5) A liability limit of \$5 million is established for PLAY 4. When the play of a particular four digit number for a drawing reaches the Lottery's PLAY 4 liability limit of \$5 million, no further ticket sales for any type of play that would involve that four digit number will be allowed for that drawing. A liability limit of \$5 million is established by the Lottery which can result in one (1) or more number combinations being unavailable for further transactions for a particular draw. When the liability of the Lottery for a "straight" play of a particular four (4) digit number reaches \$5 million, no further "straight" play ticket sales for that four (4) digit number will be allowed for that draw.

Specific Authority 24.105(10)(a),(b),(c),(j) FS. Law Implemented 24.105(10)(a),(b),(c),(j), 24.115 FS. History—New 11-22-93, Amended \_\_\_\_\_.

NAME OF PERSON ORIGINATING PROPOSED RULE:  
Diane D. Schmidt, Office of the General Counsel

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Kenneth H. Hart, Jr., General Counsel

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: June 18, 2001

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: May 11, 2001

**DEPARTMENT OF THE LOTTERY**

RULE TITLE: PLAY 4 Rules and Prohibitions  
RULE NO.: 53-31.004

PURPOSE AND EFFECT: The purpose of the rule amendment is to reflect an increase in the ticket cancellation period and to clarify other provisions in the section.

SUMMARY: The rule amends the ticket cancellation period and clarifies other provisions in section 53-31.004.

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

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

SPECIFIC AUTHORITY: 24.105(2),(10) FS.

LAW IMPLEMENTED: 24.105(2),(10), 24.117(2) 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 (IF NOT REQUESTED, THIS HEARING WILL NOT BE HELD):

TIME AND DATE: 9:00 a.m., August 7, 2001

PLACE: Department of the Lottery, Office of the General Counsel, 250 Marriott Drive, Tallahassee, Florida 32399-4011  
 THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Diane D. Schmidt, Office of the General Counsel, Capitol Complex, Tallahassee, Florida 32399-4011, (850)487-7724

THE FULL TEXT OF THE PROPOSED RULE IS:

53-31.004 PLAY 4 Rules and Prohibitions.

(1) ~~By~~ ~~When~~ purchasing a PLAY 4 ticket ~~a~~ the player agrees to comply with and abide by all rules and regulations of the Florida Lottery.

(2) PLAY 4 prize payments shall be made in accordance with rules of the Florida Lottery governing procedures for awarding prizes. A copy of the current rule can be obtained from the Florida Lottery, Office of the General Counsel, 250 Marriott Drive, Tallahassee, Florida 32399-4011. The PLAY 4 ticket is the only valid receipt.

(3) Tickets ~~shall~~ ~~may~~ not be purchased by or sold to persons under the age of eighteen ~~(18)~~.

(4) Subject to a retailer's hours of operation and on-line system availability, PLAY 4 lottery tickets are available for purchase daily between the hours of 6:00 a.m. and midnight, Eastern Time (ET). A PLAY 4 ticket shall not be purchased any later than approximately ten (10) minutes prior to the scheduled nightly drawing.

(5) The scheduled time for the daily PLAY 4 drawing is approximately 7:57 p.m., ET. Ticket sales for a specific PLAY 4 drawing will close approximately ten minutes prior to that drawing. Any ticket sold after the close of game will be printed with the next PLAY 4 draw date unless the player specifies another PLAY 4 draw date within the selection parameters. It is the responsibility of the player to determine the accuracy of

the tickets. In the event that the ticket(s) given to the player by the retailer are not consistent with the player's selections, the player should immediately advise the retailer of that fact. In such event and upon request of a player, the retailer shall make a good faith effort to cancel a ticket. A retailer is not required to cancel a ticket which is produced upon request of a player by the "quick pick" method of number selection.

(6) Retailer cancellations of PLAY 4 tickets can only be performed by the retailer who sold the ticket, using the selling terminal's optical mark reader, and within two hours after printing, except that no PLAY 4 ticket shall be cancelled after close of game for the related drawing. The two-hour ticket cancellation period may be reduced due to the selling retailer's hours of business operation, the hours of on-line system availability, or the time of the related PLAY 4 close of game. A PLAY 4 ticket may be cancelled within twenty (20) minutes after printing, except that no PLAY 4 ticket may be cancelled within ten (10) minutes of the scheduled drawing relative to that ticket or after on-line sales are concluded each evening at midnight.

(7) It is the responsibility of the player to determine the accuracy of the selected panels of numbers, draw date(s) and play types on tickets. In the event that a ticket given to the player by the retailer contains selections which are not consistent with the player's selections, it shall be the responsibility of the player to immediately advise the retailer of that fact. In such event and upon request of a player, the retailer shall make a good faith effort to cancel the ticket. A retailer is not required to cancel a ticket produced upon request of a player by the "quick pick" method of number selection. Ticket sales for a PLAY 4 drawing will be closed approximately ten (10) minutes prior to the time of the scheduled drawing.

Specific Authority 24.105(2)(b)2,(10) FS. Law Implemented 24.105(2)(b)2,(10) 24.117(2) FS. History--New 11-22-93, Amended \_\_\_\_\_.

NAME OF PERSON ORIGINATING PROPOSED RULE: Diane D. Schmidt, Office of the General Counsel

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Kenneth H. Hart, Jr., General Counsel

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: June 18, 2001

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: April 20, 2001

**DEPARTMENT OF THE LOTTERY**

RULE TITLE: MEGA MONEY Rules and Prohibitions

RULE NO.: 53-32.006

PURPOSE AND EFFECT: The purpose of this rule amendment is to reflect an increase in the ticket cancellation period and to clarify other provisions in this section.

SUMMARY: The rule amends the ticket cancellation period and clarifies other provisions in section 53-32.006, F.A.C.

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

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

SPECIFIC AUTHORITY: 24.105(2),(10) FS.

LAW IMPLEMENTED: 24.105(2),(10), 24.117(2) 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 (IF NOT REQUESTED, THIS HEARING WILL NOT BE HELD):

TIME AND DATE: 9:00 a.m., August 7, 2001

PLACE: Department of the Lottery, Office of the General Counsel, 250 Marriott Drive, Tallahassee, Florida 32399-4011

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Diane D. Schmidt, Office of the General Counsel, Capitol Complex, Tallahassee, Florida 32399-4011, (850)487-7724

THE FULL TEXT OF THE PROPOSED RULE IS:

53-32.006 MEGA MONEY Rules and Prohibitions.

(1) ~~By~~ ~~When~~ purchasing a MEGA MONEY ticket to ~~play the MEGA MONEY game,~~ a the player agrees to comply with and abide by all rules and regulations of the Florida Lottery.

(2) MEGA MONEY prize payments shall be made in accordance with rules of the Florida Lottery governing procedures for awarding prizes. A copy of the current rule can be obtained from the Florida Lottery, Office of the General Counsel, 250 Marriott Drive, Tallahassee, Florida 32399-4011. ~~The play slip is not a valid receipt.~~

(3) Tickets shall not be purchased by or sold to persons under the age of eighteen.

(4) Subject to a retailer's hours of operation and on-line system availability, MEGA MONEY lottery tickets are available for purchase daily between the hours of 6:00 a.m. and midnight, Eastern Time (ET). MEGA MONEY tickets can be cancelled only through the retailer terminal which sold the ticket and within twenty minutes after printing, except that no MEGA MONEY ticket can be cancelled after game close for that drawing. No MEGA MONEY ticket may be cancelled except through the optical mark reader.

(5) The scheduled time for the Tuesday and Friday MEGA MONEY drawings is approximately 11:00 p.m., ET. Ticket sales for a specific MEGA MONEY drawing will close approximately twenty minutes prior to that drawing. Any ticket sold after the close of game will be printed with the next MEGA MONEY draw date. A MEGA MONEY ticket cannot be purchased after game close for that drawing.

(6) Retailer cancellations of MEGA MONEY tickets can only be performed by the retailer who sold the ticket, using the selling terminal's optical mark reader, and within two hours after printing, except that no MEGA MONEY ticket can be cancelled after game close for the related drawing. The two-hour ticket cancellation period may be reduced due to the selling retailer's hours of business operation, the hours of on-line system availability, or the time of the related MEGA MONEY close of game. It is the responsibility of the player to determine the accuracy of selected panels of numbers on ticket(s). In the event that ticket(s) sold to the player by the retailer contain selections which are not consistent with the player's selections, the player should immediately advise the retailer of that fact. In such event and upon request of the player within the time period specified herein, the retailer shall make a good faith effort to cancel a ticket. A retailer is not required to cancel a ticket which is produced upon request of the player by the "quick pick" method of number selection.

(7) It is the responsibility of the player to determine the accuracy of selected panels of numbers and date(s) on tickets. In the event that a ticket given to the player by the retailer contains selections which are not consistent with the player's selections, it shall be the responsibility of the player to immediately advise the retailer of that fact. In such event and upon request of the player within the time period specified herein, the retailer shall make a good faith effort to cancel the ticket. A retailer is not required to cancel a ticket produced upon request of the player by the "quick pick" method of number selection.

Specific Authority 24.105(2)(~~a~~),(10)(~~b~~) FS. Law Implemented 24.105(2)(~~a~~),(10)(~~b~~), 24.117(2) FS. History--New 2-20-00, Amended

NAME OF PERSON ORIGINATING PROPOSED RULE: Diane D. Schmidt, Office of the General Counsel

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Kenneth H. Hart, Jr., General Counsel

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: June 18, 2001

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: April 20, 2001

**AGENCY FOR HEALTH CARE ADMINISTRATION**

**Division of Managed Care and Health Quality**

RULE TITLES:	RULE NOS.:
Definitions	59A-23.002
Quality Assurance	59A-23.004
Medical Records and Case Files	59A-23.005
Grievance Procedures	59A-23.006
Education Procedures	59A-23.009

PURPOSE AND EFFECT: The Agency for Health Care Administration is proposing to amend rules 59A-23.002, Definitions; 59A-23.004, Quality Assurance; 59A-23.005,



Medical Records and Case Files; 59A-23.006, Grievance Procedures, Florida Administrative Code; and propose rule 59A-23.009 Education Procedures, and to implement subsection (25) of section 440.134, Florida Statutes. The effect of the proposed changes will be to establish and clarify the procedures for case management, utilization management, peer review, quality assurance, medical records, case files, grievances and dispute resolution, employee and provider education, reporting data regarding grievances, and workers' compensation managed care arrangement definitions.

SUMMARY: Section 440.134(25), Florida Statutes, mandates that the Agency for Health Care Administration adopt rules specifying procedures for: requirements and procedures for case management, utilization management, and peer review; requirements and procedures for quality assurance and medical records; requirements and procedures for dispute resolution; requirements and procedures for employee and provider education; requirements and procedures for reporting data regarding grievances, and provider networks; and clarification of workers' compensation managed care arrangement definitions.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COST: No statement of estimated regulatory cost 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 this notice.

SPECIFIC AUTHORITY: 440.134(25) FS.

LAW IMPLEMENTED: 440.134 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 (IF NOT REQUESTED, THIS HEARING WILL NOT BE HELD.)

TIME AND DATE: 10:00 a.m. (EST), August 14, 2001

PLACE: Agency for Health Care Administration, 2727 Mahan Drive, Building 3, Room A, Tallahassee, Florida 32308-5403

THE PERSON TO BE CONTACTED REGARDING THE REGARDING THE PROPOSED RULES IS: Robert Pannel, Unit Administrator, Agency for Health Care Administration, 2727 Mahan Drive, Building 1, Mail Stop 45, Tallahassee, Florida 32308, (850)922-6481

THE FULL TEXT OF THE PROPOSED RULES IS:

59A-23.002 Definitions.

(1) "Agency" means the Agency for Health Care Administration.

(2) "Case files" means a system for managing medical information and return to work information regarding the injured employee, whether in electronic or paper format.

(3) "Complaint" means any dissatisfaction expressed by an injured worker as defined in Section 440.134(1)(b), F.S. An initial request for services, such as a request for medical services, second opinions, or a change in providers, is not considered a complaint.

(4) "Credentialing" means the process for validating and evaluating the qualifications of a licensed health care provider to participate in a workers' compensation managed care arrangement provider network.

(5) "Division" means the Division of Workers' Compensation of the Florida Department of Labor and Employment Security.

(6) "External case management" means face-to-face medical care coordination performed by a qualified rehabilitation provider pursuant to Section 440.491, F.S.

(7) "Grievance" means a written expression of dissatisfaction with medical care by an injured worker as defined in Section 440.134(1)(d), F.S. Initial written requests for medical services, second opinions, or changes in providers are not grievances.

(8)(2) "Insurer" means an entity which contracts to provide workers' compensation insurance coverage as defined under Section 440.134(1)(e), F.S.

(9) "Internal case management" means a process for telephonically coordinating, facilitating, and monitoring all aspects of the medical care coordination of the injured employee in consultation with the treating physician and the medical care coordinator.

(10)(3) "Medical care services coordination" means active case management and coordination of the health care services for an injured employee worker involving a medical care coordinator medical oversight to ensure the delivery of necessary services in a manner which will return the individual to work as soon as feasible.

(11) "Peer review" means the evaluation of the treatment plan or clinical performance of providers by one or more licensed professionals with the same authority or similar specialty when potential quality of care issues have been identified through case management or quality assurance processes.

(12) "Quality assurance" means a formal set of activities, which review and safeguard the quality of medical services provided to the injured employee. Quality assurance includes assessment and implementation of corrective actions to address any deficiencies identified in the quality of care and services provided to the injured employee.

(13) "Second medical opinion" means a consultation by a health care provider authorized by the medical care coordinator that requires at a minimum a history, an examination, and a straightforward medical decision to confirm or offer alternatives.

~~(14)(4)~~ “Service area” means a geographic area consisting of a county or group of counties, which shall not be subdivided for purposes of authorizing a workers’ compensation managed care arrangement.

(15) “Utilization management” means the examination and evaluation of health care services to determine the appropriate use of the resources and components available within the workers’ compensation managed care arrangement including, retrospective, concurrent, and prospective care reviews.

(16) “Urgent” means that in the judgment of the primary care physician or medical care coordinator, the injured employee’s clinical condition requires a response within 72 hours, and the clinical condition is at significant risk of deterioration if a response is not made within that timeframe.

(17) “Written agreement” means an express, legally executed, written contract between two or more parties which specifies the following: the parties to the contract; the effective date of the contract; duties of the respective parties; reporting and or oversight of the responsibilities to be performed; performance standards; termination and expiration terms of the contract.

~~(18)(5)~~ “Workers’ compensation managed care arrangement” means those arrangements as defined under Section 440.134(1)(g), F.S.

Specific Authority ~~440.134(2)(a)~~ FS. Law Implemented ~~440.134(1)(e),(5), (a),(6)(b),(c),4,6-9,(9),(10), (14)(b),(d),(16), (17),(25)(b),(c),(d),(g)~~ FS. History–New 9-12-94, Amended \_\_\_\_\_.

(Substantial rewording of Rule 59A-23.004 follows. See Florida Administrative Code for present text.)

59A-23.004 Quality Assurance.

Each insurer or delegated entity shall have an ongoing quality assurance program designed to objectively and systematically monitor and evaluate the quality of patient care, based upon the prevailing standards of medical practice in the community.

(1) The scope of the quality assurance program shall include the following:

- (a) Peer review;
- (b) Satisfaction survey;
- (c) Utilization management;
- (d) Case management;
- (e) Complaints and grievances;
- (f) Credentialing and recredentialing;
- (g) Medical records;
- (h) Return to work;
- (i) Cost analysis;
- (j) Data collection;
- (k) Outcome studies;
- (l) Education; and
- (m) Provider dispute resolution.

(2) The quality assurance plan shall be in writing, updated annually, and shall describe the program’s objectives, organization and problem-solving activities for improvement of medical services. The plan shall specify:

(a) Those specific activities under subsection (1) that will be conducted;

(b) The timeframes and the responsible individual for each quality assurance activity; and

(c) The follow-up activities including written procedures for taking remedial action.

(3) The insurer or delegated entity shall have a quality assurance committee that meets quarterly to review the progress of quality assurance activities, completion of the written work plan, findings, and to develop recommendations for corrective action and follow-up. The committee shall keep minutes of meetings to document the committee’s activities. Activities of the committee shall include:

(a) Identification of data to be collected;

(b) Evaluation of data collected;

(c) Recommendation of improvements utilizing data collected;

(d) Communication of the committee’s findings to accountable authorities for implementation of improvements; and

(e) Evaluation and documentation of the results of the implementation of improvements.

(4) The insurer or delegated entity shall perform a quality assurance review of the processes and outcomes of care, at least annually, using current state and nationally recognized practice guidelines.

(5) All findings, conclusions, recommendations, actions taken and results of actions taken shall be documented, shared with contracted entities and reported through organizational channels that have been established within the workers’ compensation managed care arrangement.

(6) The insurer or delegated entity shall provide, as part of the quality assurance program, an ongoing peer review process which:

(a) Resolves issues regarding provision of medical services; and

(b) Evaluates clinical performance at least annually. The evaluation process shall include: medical record audits of a representative sample of providers to evaluate medical necessity; provision of medical service(s) appropriate to the diagnosis; use of current state and nationally accepted practice parameters; timeliness and access to treatment; and the development and use of a plan of care. The insurer or delegated entity shall have a written methodology for determining the size and scope of the medical record audits that shall reflect the volume and complexity of services provided by the provider network.

(7) Utilization Management. The insurer or delegated entity shall have written policies and procedures for approving or denying requests for care in accordance with the agency's practice parameters where applicable, and with nationally recognized standards based on medical necessity. The program shall evaluate quality of care and services, and provide review prospectively, concurrently, and retrospectively including pre-certification mechanisms for elective admissions and non-emergency surgeries.

(a) The utilization management program shall ensure that:

1. All elective admissions and non-emergency services must be precertified;

2. Utilization management policies and procedures are clearly defined in writing and any advisory responsibilities are assigned to individuals with training and education in a health care field sufficient to evaluate the consistency of the proposed treatment with the relevant standards;

3. The utilization management program uses nationally recognized written criteria based on clinical evidence to determine medical necessity. Treating providers shall have access to the criteria used for determining medical necessity upon request;

4. The medical care coordinator is involved in the decision process and consultation regarding decisions with the treating physician. Any decision to deny a request for treatment shall be made by a licensed medical or osteopathic physician. A physician not involved in the initial decision shall review any denial based on medical necessity;

5. Decisions are made in a timely manner to accommodate the clinical urgency of the situation. There are policies and procedures and a process for making timely decisions including those involving urgent care;

6. The utilization management program documents and communicates the reasons for each denial of requested medical services to treating providers and the injured employees;

7. The information obtained through the quality assurance program is considered in evaluating the timeliness and necessity of medical services;

8. There is a procedure for handling requests for experimental procedures;

9. There is a procedure for resolution of provider disputes regarding reimbursement and utilization review;

10. There is a procedure for ensuring that referrals are made to network providers who are available and accessible within the service area. The insurer or delegated entity shall monitor the utilization of network and out-of-network services to improve network access; and

11. There is a procedure for authorization of out-of-network services.

(b) Utilization management is responsible for:

1. Selection and application of nationally recognized review criteria and protocols;

2. Recommendation of general utilization management program policies;

3. Overall program monitoring; and

4. Review of all appeals of denials of requests for treatment or referrals.

(8) Case Management. The insurer or delegated entity shall develop and implement policies and procedures for aggressive medical care coordination, which may be provided via internal and external case management services in association with utilization management activities. The insurer or delegated entity shall specify the types and severity of injuries which require internal and external case management.

(a) Internal case management activities shall include:

1. Coordinating, facilitating, and monitoring all aspects of the ongoing medical care of the injured employee;

2. Communicating utilization management decisions to the medical care coordinator and treating providers;

3. Assisting the injured employee in resolving complaints and obtaining medically necessary services;

4. Educating injured employees regarding their rights, responsibilities, and limitations of the workers' compensation managed care arrangement;

5. Coordinating, facilitating, and monitoring the injured employee's return to work status including communicating to the claims representative the services required pursuant to Section 440.491, F.S.; and

6. Communicating the injured employee's status to the employer and to the injured employee.

(b) Internal case management activities shall be performed in consultation with the treating physician and the medical care coordinator.

(c) Internal case management services shall be provided by individuals with the experience and training required to perform their assigned responsibilities.

(d) External case management shall be provided for catastrophic injuries as defined under Section 440.02(37), F.S., and for such other injuries as determined by the insurer or delegated entity. External case management services shall be performed by certified rehabilitation providers approved pursuant to Section 440.491, F.S.

(e) The insurer or delegated entity shall develop and implement procedures for communication of information regarding medical services and return to work between internal and external case management, the medical care coordinator, claims administration, the employer, and injured employee.

Specific Authority 440.134(25)(2)(a) FS. Law Implemented 440.134(6)(c)1.-8.,11.,(7),(9),(10)(d),(11),(14)(a),(d),(15) FS. History--New 9-12-94, Amended.

59A-23.005 Medical Records and Case Files.

The insurer or delegated entity shall implement a system for managing electronic and paper medical information necessary to promote the prompt delivery of medical services in order to return the injured employee to work as soon as medically feasible.

(1) Provider Medical Records. The insurer or delegated entity shall ~~organization~~ maintain or assure that its providers maintain a medical records system which is consistent with professional standards, pursuant to Section 455.667, F.S. The insurer or delegated entity shall develop and implement policies and procedures that ~~and which~~:

(a) Permits prompt retrieval of legible and timely information, which is accurately documented and readily available if requested by a health care practitioner with written authorization and consent from the patient ~~when required by statute~~;

(b) Protects the confidentiality ~~and security~~ of paper and electronic patient records; ~~including~~:

1. Transfer, storage, and faxing of records; and

2. Handling of records containing information on HIV, substance abuse, and mental health, in accordance with statutory requirements;

(c) Provide for the training and education of administrative staff and providers on medical record documentation, policies and procedures, storage and confidentiality of patient records;

(d)~~(e)~~ Documents in the medical record a summary, related to work injury or illness, of significant procedures, past and current diagnoses or problems and allergies and ~~adverse~~ ~~untoward~~ reactions to current medications;

(e)~~(d)~~ Identifies the patient as follows:

1. Name;

2. Social Security, alien identification number, or other identification ~~n~~Number (if applicable);

3. Date of Birth; Employer; home and work telephone numbers;

4. Sex; ~~and~~

5. Date of work injury or illness.

(f)~~(e)~~ Indicates in the medical record for each visit the following information:

1. Date;

2. Chief complaint, ~~unresolved problems or complaints from prior interventions~~ and ~~or~~ purpose of visit;

3. Objective findings of practitioner;

4. Diagnosis or medical impression;

5. Studies ordered, for example: lab, x-ray, EKG, and referral reports;

6. Therapies administered and prescribed;

7. Name and profession of practitioner rendering services, for example: M.D., D.O., D.C., D.P.M., R.N., O.D., etc., including signature or initials of practitioner;

8. Disposition, recommendations, instructions, ~~and~~ ~~and~~ ~~Evidence~~ of whether there was follow-up and the specific time of return is noted in weeks, months or as needed; ~~and~~

9. Outcome of services-;

10. Work status, release for return to work, work restrictions; ~~and~~

11. Evidence of coordination of care and any injured employee non-compliance with treatment.

(g)~~(2)~~ Require the ~~The~~ insurer or delegated entity to ~~organization is responsible for~~ requesting written consent of patients for release of medical records that are subject to the limitations in Sections 381.044 and 455.241, F.S., and for obtaining ~~and sharing~~ all documents and medical records from ~~contracted~~ providers necessary to carry out the provisions of Section 440.134, F.S.; ~~and~~

(h) Address transfer and retrieval of records, and provision of copies when requested by the patient, designated representative, or the Agency pursuant to Section 440.13(4)(c), F.S. The insurer or delegated entity shall communicate its policy to providers via provider educational materials.

(2) Case Files. The insurer or delegated entity shall maintain electronic or paper medical information necessary to ensure the efficient functioning of the care coordination process. The insurer or delegated entity shall develop and implement a policy and procedure that protects the confidentiality and security of case file information including the transfer and storage of paper and electronic information, and the handling of information on HIV, substance abuse, and mental health. Case files shall contain necessary information for the coordination of quality patient care between providers, insurers, employees, and employers including:

(a) The information from the notice of injury required by Section 440.13(4)(a), F.S.;

(b) The current primary care physician, primary care physician changes and the designated medical care coordinator;

(c) The treating physician's plan of care;

(d) Medical reports and information necessary to support the coordination of medical care;

(e) The injured employee's work status, work restrictions, date of maximum medical improvement, and permanent impairment ratings; ~~and~~

(f) Efforts toward rehabilitation and reemployment of the injured employee, when applicable.

(3) Audits of provider records. The insurer or delegated entity shall implement an ongoing process for conducting medical record audits to determine compliance with the medical record standards specified under paragraphs (1)(d), (e), and (f). The insurer or delegated entity shall have a written methodology for determining the size and scope of the medical record audits that shall reflect the volume and complexity of services provided by the provider network. The insurer or

delegated entity shall develop and implement an annual work plan for the medical record audits. The results of the audits shall be reported quarterly to the quality assurance committee and shall include the following:

- (a) Number of physicians reviewed by county and by specialty;
- (b) Areas where specific improvements in record keeping are indicated;
- (c) Results from implementing improvements recommended in prior audits;
- (d) Recommendations for education and feedback to providers; and
- (e) Extent to which the physician's treatment plan was implemented.

Specific Authority 440.134(25)(2)(a) FS. Law Implemented 440.134(5)(c),(6)(c)1.-4.,8.,(7),(8)-(2)(a) FS. History—New 9-12-94, Amended

59A-23.006 Grievance Procedures.

(1) Each insurer or delegated entity workers' compensation managed care arrangement shall develop and implement have a grievance procedure to resolve complaints formal and written informal grievances by employees and providers.

(2) A detailed description of the employee complaint and grievance procedure shall be provided by the insurer or delegated entity included in all contracts between the insurer and to employees pursuant to Rule 59A-23.009, F.A.C. to provide workers' compensation coverage through a managed care arrangement as well as A detailed description of the employee complaint and written grievance procedures shall be included in educational informational materials provided to injured employees. A detailed description of the provider complaint and grievance procedure shall be included in educational materials given to providers all contracts with providers to provide health services through a managed care arrangement and.

(3) A copy of the grievance procedure and forms for filing a written grievance shall be made available to providers, employees, or their designated representative within seven calendar days of receipt of a upon request. Copies of the form required for filing a grievance shall also be available at the same location as the compensation notice required under Rule 38F-6.007, F.A.C. The insurer or delegated entity shall not charge the employer, employee, or provider for administering the grievance process.

(4) The grievance procedure shall be administered at no cost to the employer, employee, or provider and shall include the following:

- (a) Requests for services. The insurer or delegated entity shall implement a procedure to address initial requests for services. Initial requests for services, such as a request for medical services, second opinions, or a change in providers, are not considered a complaint or grievance. The insurer or

delegated entity shall evaluate requests for medical services within seven calendar days of receipt and shall notify the injured employee of the decision to grant the request, to deny it, or to request additional information. When the insurer or delegated entity denies a request it shall notify the injured employee in writing of the denial and the right to file a grievance. If the insurer or delegated entity fails to respond within seven calendar days of receipt of the request, the request shall be deemed denied and the insurer or delegated entity shall notify the injured employee in writing of the right to make a complaint or file a written grievance. The insurer or delegated entity shall provide the employee with a copy of AHCA form No. 3160-0019 (November 2000) which is incorporated by reference;

(b) Complaint Procedure. The insurer or delegated entity shall implement a procedure to address complaints about medical issues and employees' rights under Section 440.134, F.S., in a timely manner in order to expedite the resolution of issues of providers and injured employees.

1. The insurer or delegated entity shall investigate and resolve a complaint within ten calendar days of receipt unless the parties and the insurer or delegated entity mutually agree to an extension. The ten days shall commence upon receipt of a personal or telephone contact by the insurer or delegated entity from the injured employee, provider, designated representative, the Agency, or the Division.

2. If a complaint is denied, or remains unresolved after ten days of receipt, the insurer or delegated entity shall notify the affected parties in writing of the right to file a written grievance. If the insurer or delegated entity denies a complaint, it shall notify the injured employee of the reason for the denial. The written notification shall include the name, title, address, and telephone number of the grievance coordinator. In addition, the insurer or delegated entity shall advise the injured employee of the right to contact the Division's Employee Assistance Office for additional information on rights and responsibilities and the dispute resolution process under Chapter 440, F.S., and related administrative rules; and

(c) Written Grievance. The procedure for written grievances shall commence upon receipt of a signed grievance form AHCA Form No. 3160-0019 (November 2000) by the insurer or delegated entity, from the injured employee, provider, or their designated representative. A written grievance may be submitted or withdrawn at any time. The injured employee or provider is not required to make a complaint prior to filing a written grievance. The procedure shall include notice to the employer when a grievance has been filed. The insurer or delegated entity shall notify the injured employee and employer in writing of the resolution of the written grievance, and the reasons therefore within seven days of the final determination.

1. The insurer or delegated entity shall implement an expedited procedure for urgent grievances to render a determination and notify the injured employee within three calendar days of receipt. If the insurer or delegated entity has initiated an expedited grievance procedure, the injured employee shall be considered to have exhausted all managed care grievance procedures after three days from receipt.

2. Upon receipt of a written grievance, the grievance coordinator shall gather and review medical and related information pertaining to the issues being grieved. The grievance coordinator shall consult with appropriate parties and shall render a determination on the grievance within 14 calendar days of receipt. If the determination is not in favor of the aggrieved party the grievance coordinator shall notify the aggrieved party that the grievance is being forwarded to the grievance committee for further consideration unless withdrawn in writing by the employee or provider.

3. The grievance committee shall consist of not less than three individuals, of whom at least one must be a physician other than the injured employee's treating physician, who is licensed under Chapter 458 or 459, F.S., and has professional expertise relevant to the issue. The committee shall review information pertaining to the issues being grieved and render a determination within 30 calendar days of receipt of the grievance by the committee unless the grieving party and the committee mutually agree to an extension that is documented in writing. If the grievance involves the collection of additional information from outside the service area, the insurer or delegated entity will have 14 additional calendar days to render a determination. The insurer or delegated entity shall notify the employee in writing within seven days of receipt of the grievance by the committee if additional information is required to complete the review of the grievance. A maximum of 58 calendar days will be allowed for the resolution of the written grievance.

4. The insurer or delegated entity may allow but may not require arbitration as part of the grievance process. A grievance which is arbitrated pursuant to Chapter 682, F.S., is permitted an additional time limitation not to exceed 210 calendar days from the date the insurer or delegated entity receives a written request for arbitration from the injured employee. Arbitration provisions in a workers' compensation managed care arrangement shall not preclude the employee from filing a request for assistance with the Division of Workers' Compensation relating to non-medical issues.

5. An injured employee or provider grievance shall be submitted on AHCA Form 3160-0019, November 2000. The insurer or delegated entity shall provide assistance to an injured employee unable to complete the grievance form and to those persons who have improperly filed a grievance.

6. The grievance process shall not address issues relating to indemnity benefits, vocational benefits, maximum medical improvement, impairment, medical mileage reimbursement, provider payments, attorney's costs and fees, compensability, and causation.

7. The claimant or provider shall be considered to have exhausted all managed care grievance procedures if a determination on a grievance has not been rendered within the required timeframe specified in this section or other timeframe, as mutually agreed to in writing by the grieving party and the insurer or delegated entity.

8. Upon completion of the grievance procedure, the insurer or delegated entity shall provide written notice to the employee of the right to file a petition for benefits with the Division pursuant to Section 440.192, F.S.

~~(1) The availability of both informal and formal steps to resolve the grievance. An employee or provider grievance is not considered to be a formal grievance until a written complaint by the employee or provider has been received by the managed care arrangement on such forms as prescribed by the insurer;~~

~~(5)(2) The insurer or delegated entity shall designate designation of at least one grievance coordinator who is responsible for the implementation of the grievance procedure;~~ The insurer or delegated entity shall ensure that the grievance coordinator's role in the grievance procedure is identified in the grievance coordinator's job description.

~~(6)(3) The insurer or delegated entity shall provide sSpecified phone numbers in the provider and employee educational materials for the employee or provider to call to present an informal grievance or to contact the grievance coordinator. Each phone number shall be toll free within the injured employee's or provider's geographic service area and shall provide reasonable access without undue delays. There must be an adequate number of phone lines to handle incoming complaint grievance calls.~~

~~(7)(4) The insurer or delegated entity shall provide An current mailing address for in employee and provider educational materials that indicate where to file a written grievances;~~

~~(5) A specified person with problem solving authority at each level of the grievance procedure;~~

~~(6) A time frame for processing the formal written grievance. Grievances shall be processed within 60 days of receipt by the managed care arrangement unless the employee or provider and the managed care arrangement mutually agree to an extension. If the grievance involves the collection of information outside the service area, the managed care arrangement will have 30 days in addition to the 60 days set forth in this section, to process the grievance through all steps of the grievance procedure. The managed care arrangement shall notify the employee in writing that additional information is required to complete review of the grievance and that a~~

maximum of 90 days will be allowed for this review. A grievance which is arbitrated pursuant to Chapter 682, F.S., is permitted additional time not to exceed 210 days from receipt of the written request for arbitration from the employee or provider.

(7) ~~The right to file a request for grievance validation with the Department of Labor and Employment Security, Division of Workers' Compensation. The managed care arrangement shall provide written notice to its employees and providers of the right to file a request for grievance validation with the Division of Workers' Compensation upon completion of the full grievance procedure or while the grievance is in arbitration. Requests for validation shall be filed with the Division of Workers' Compensation, 2728 Centerview, 354 Forrest Building, Tallahassee, Florida 32399-0680. The managed care arrangement will furnish a copy of the final decision letter from the managed care arrangement regarding the grievance to the Division of Workers' Compensation upon request;~~

(8) Physician involvement in reviewing medically related grievances. This involvement shall not be limited to the injured employee's primary care physician, but shall include at least one other physician;

(9) A meeting between the insurer or delegated entity ~~managed care arrangement~~ and the injured employee or provider during the written formal grievance process if requested ~~desired~~ by the injured employee or provider. The insurer or delegated entity ~~managed care arrangement~~ shall offer to meet with the injured employee or provider at a location ~~its administrative offices~~ within the service area convenient to the injured employee or provider;

(10) ~~A time frame in which to file a grievance. The employee or provider is allowed up to one year from the date of occurrence to file a formal grievance;~~

(10)(11) A record of each written formal grievance. The insurer or delegated entity ~~managed care arrangement~~ will maintain a record of each written formal grievance to include the following:

(a) A ~~complete~~ description of the grievance, the injured employee's or provider's name and address, the ~~employee's healthcare providers' names and addresses of any treating workers' compensation providers~~ relevant to the grievance, and the managed care arrangement name and address;

(b) A complete description of the ~~managed care arrangement~~ findings, including supportive documentation, conclusions and final disposition of the grievance; and

(c) A statement as to the current status of the grievance. ~~level at which the grievance has been processed and the levels remaining before completion of the entire grievance process;~~

(11) The insurer or delegated entity shall maintain a list of all grievance files that contains the identity of the injured employee, the individual filing the grievance, the date filed, the nature of the grievance, the resolution, and the resolution date.

(12) ~~The insurer or delegated entity~~ managed care arrangement shall be responsible for regular and systematic review and analysis of all written formal grievances for the purpose of identifying trends or patterns, and, upon emergence of any pattern, shall develop and implement recommendations for appropriate corrective action.

(13) An annual report of all grievances filed by employees and providers shall be submitted to the Agency pursuant to paragraph 440.134(15)(g), F.S. The report shall list the number, nature, and resolution of all written formal employee and provider grievances. This report shall be submitted no later than March 31 for grievances filed during the previous calendar year in a format prescribed by the Agency.

Specific Authority ~~440.134(25)(2)(a)~~ FS. Law Implemented 440.134(1)(b),(d),(5)(c),(e),(6)(b),(c),(7),(8),(10)(c),(14)(d),(15) FS. History—New 9-12-94, Amended \_\_\_\_\_.

### 59A-23.009 Education Procedures.

#### (1) Employee Education.

(a) The insurer or delegated entity in conjunction with the employer, shall develop and implement procedures for the education of employees about the managed care process and requirements. The education procedures shall include:

1. Orientation of all existing and new employees to the requirements and limitations of the workers' compensation managed care arrangement. The employer shall display a telephone number for obtaining information about the workers' compensation managed care arrangement in a prominent location in the workplace;

2. Provision of detailed employee education materials about the requirements and limitations of the workers' compensation managed care arrangement to the injured employees; and

3. Ongoing education of employees about changes in the workers' compensation managed care arrangement.

(b) The insurer or delegated entity shall provide, either directly or indirectly, employee educational materials written in language common to the workforce in the geographic service area. Whether or not the employer has provided educational materials previously, the educational material shall be provided to an injured employee within three calendar days of the date that the notice of injury is filed by the insurance carrier or the employer. The content of the employee educational material shall include:

1. The rights and responsibilities of the injured employee;

2. A description of the process for accessing medical care including the use of network providers, the primary care provider, medical care coordinator, case management, and the procedure to request a referral to a specialist;

3. The possible effect to the injured employee's health and benefits for failure to use network providers or obtaining authorization for specialty care;

4. A description of the process for changing primary care and other specialty providers once within the same specialty as the authorized treating physician during the course of treatment for a work-related injury;

5. A description of the procedure for obtaining a second opinion;

6. A description of the complaint and grievance process including the procedure to file a complaint or grievance, timeframes for completion of a complaint or grievance, and the availability of a grievance form.

7. The toll free telephone number of the grievance coordinator; and

8. The telephone number of the Division of Workers' Compensation, Employee Assistance Office toll free hotline.

(c) The insurer or delegated entity shall ensure that all injured employees are provided a current list of network providers within the service area in which the individual is employed. The insurer or delegated entity shall provide a copy of the list to the employee or designated representative within five calendar days of receipt of a request.

(2) Provider Education. The insurer or delegated entity shall ensure that the health care providers within the provider network have received training and education on the provisions of Chapter 440, F.S., and related administrative rules. This shall be accomplished by a provider education program or verification that providers have previously received certification from the Division pursuant to Section 440.13, F.S..

(a) The provider education program shall address the following:

1. The mission and goals of workers' compensation managed care;

2. Roles, rights, and responsibilities;

3. Provider network procedures;

4. Case management procedures;

5. Practice guidelines;

6. Utilization management procedures;

7. Peer review procedures;

8. Dispute resolution and grievance procedures;

9. Communication procedures between managed care components;

10. Medical records and case file procedures;

11. Workers' compensation managed care statutes and regulations relating to remedial treatment; and

12. The health care provider's role in successful return to work.

(b) The insurer or delegated entity shall identify those ancillary providers who require training on the provisions of workers' compensation medical services and shall provide and document the staff training and education program.

(c) The insurer or delegated entity shall provide such ongoing provider education at least annually to keep providers informed of changes in the processes of the workers' compensation managed care arrangement and to correct problems and implement recommendations of the quality assurance program. The insurer or delegated entity shall document the provision of training.

(3) Administrative Staff Education. The insurer or delegated entity shall develop and implement a policy and procedure, and implement a process, to identify and train those administrative staff who require training on the provisions of Chapter 440, F.S., and related administrative rules. Administrative staff shall include case managers, the grievance coordinator, and claims representatives. The insurer or delegated entity shall document the staff training and education program. The program content shall address the following:

(a) The mission and goals of workers' compensation managed care;

(b) Roles, rights, and responsibilities;

(c) Provider network procedures;

(d) Case management procedures;

(e) Practice guidelines;

(f) Utilization management procedures;

(g) Peer review procedures;

(h) Dispute resolution and grievance procedures;

(i) Communication procedures between managed care components; and

(j) Medical records and case files procedures.

Specific	Authority	440.134(25)	FS.	Law	Implemented
440.134(1)(b),(d),(g),(i),(j),(k),(3),(5)(a),(c),(e),(6)(b),(c)2,3,4,6-10,(7),(8),(10)(a)-(d),(11),(12),(14)(a)-(d),(15)(a)-(f),(17)					FS. History-New

NAME OF PERSON ORIGINATING PROPOSED RULE:  
Robert Pannell

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Laura Branker

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: June 27, 2001

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: The notice of Rule Development for 59A-23.002, Definitions; 59A-23.004, Quality Assurance; 59A-23.005, Medical Records and Case Files; 59A-23.006, Grievance Procedures; and 59A-23.009, Education Procedures was published in Vol. 27, No. 7, Florida Administrative Weekly, February 16, 2001 Edition.

**AGENCY FOR HEALTH CARE ADMINISTRATION**

**Medicaid**

RULE TITLE:  
Intermediate Care Facility for the Developmental Disabled Services, ICF/DD

RULE NO.:  
59G-4.170



**PURPOSE AND EFFECT:** The purpose of this rule amendment is to incorporate by reference the Florida Medicaid Intermediate Care Facility for the Developmentally Disabled (ICF/DD) Services Coverage and Limitations Handbook, as revised July 2000, and to repeal portions of the rule that are duplicated in the Medicaid handbooks, other Medicaid rules of general applicability, Florida Statutes, or federal regulations. The effect will be to incorporate by reference in the rule the revised, most current Florida Medicaid Intermediate Care Facility for the Developmentally Disabled (ICF/DD) Services Coverage and Limitations Handbook and to eliminate duplication.

**SUMMARY:** The purpose of this proposed rule is to incorporate by reference the revised Florida Medicaid Intermediate Care Facility for the Developmentally Disabled Coverage and Limitations Handbook, ICF/DD Handbook.

**SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COST:** No statement of estimated regulatory cost 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 this notice.

**SPECIFIC AUTHORITY:** 409.919 FS.

**LAW IMPLEMENTED:** 409.906, 409.908 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. IF NOT REQUESTED, THIS HEARING WILL NOT BE HELD.**

**TIME AND DATE:** 10:00 a.m. – 12:00 Noon, August 1, 2001

**PLACE:** 2727 Ft. Knox Blvd., Building 3, Conference Room E, Tallahassee, FL

**THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS:** Elsa Kellberg, Medicaid Program Development, P. O. Box 12600, Tallahassee, Florida 32317-2600, (850)487-2618

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

59G-4.170 Intermediate Care Facility for the ~~Developmental Disabled Mentally Retarded~~ Developmentally Disabled Services, ICF/DD ICF/MR.

(1) This rule applies to all Intermediate Care Facility for the Developmentally Disabled (ICF/DD) Services providers enrolled in the Medicaid program.

(2) All Intermediate Care Facility for the Developmentally Disabled (ICF/DD) services providers enrolled in the Medicaid program must comply with the Florida Medicaid Intermediate Care Facility for the Developmentally Disabled (ICF/DD) Services Coverage and Limitations Handbook, July 2000, incorporated by reference, and the Florida Medicaid Provider

Reimbursement Handbook, Institutional 021, September 1996, which is incorporated by reference. Both handbooks are available from the Medicaid fiscal agent.

(1) through (9) renumbered (3) through (11) No change.

Specific Authority 409.919 FS. Law Implemented 409.906(13), 409.908, 409.913(5)(e), 409.913 FS. History—New 8-13-76, Amended 1-1-77, 10-16-77, 10-16-77, 7-7-81, 4-12-83, 1-12-84, 7-2-84, 7-1-85, Formerly 10C-7.49, Amended 7-19-88, 6-4-92, 5-11-93, Formerly 10C-7.049, Amended 11-27-95.

**NAME OF PERSON ORIGINATING PROPOSED RULE:** Elsa Kellberg

**NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE:** Laura Branker, Acting Secretary

**DATE PROPOSED RULE APPROVED BY AGENCY HEAD:** June 21, 2001

**DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW:** July 6, 2001

**AGENCY FOR HEALTH CARE ADMINISTRATION**

**Medicaid**

**RULE TITLE:** Nursing Facility Services **RULE NO.:** 59G-4.200

**PURPOSE AND EFFECT:** The purpose of this rule amendment is to incorporate by reference the revised bed hold policy, April 2001, into the Florida Medicaid Nursing Facility Services Coverage and Limitations Handbook, April 2001.

**SUMMARY:** This rule amendment is to incorporate the revised bed hold policy into rule, Nursing Facility Services Coverage and Limitations Handbook, April 2001. The first paragraph of Chapter 2-22 is changed to read “Medicaid will not pay for bed hold when a resident goes to the hospital or on home leave if 20 percent or more of certified Medicaid beds are available. The percent occupancy of Medicaid beds is determined based on the nursing facility’s occupancy rate for the previous quarter of the year”.

**SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COST:** No statement of estimated regulatory cost 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 this notice.

**SPECIFIC AUTHORITY:** 409.919 FS.

**LAW IMPLEMENTED** 400 Part II, 409.905, 409.908 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 (IF NOT REQUESTED IN WRITING, THIS HEARING WILL NOT BE HELD.)**

**TIME AND DATE:** 1:00 p.m. – 3:00 p.m., August 1, 2001

**PLACE:** 2728 Ft. Knox Blvd., Building 3, Conference Room E, Tallahassee, FL

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Elsa Kellberg, Medicaid Program Development, P. O. Box 12600, Tallahassee, Florida 32317-2600, (850)922-7353

THE FULL TEXT OF THE PROPOSED RULE IS:

59G-4.200 Nursing Facility Services.

(1) This rule applies to all nursing facilities licensed under Chapter 400, Part II, ~~rural hospital swing beds and district part skilled nursing facilities located in hospitals licensed under Chapter 395, Florida Statutes~~, certified by the Agency for Health Care Administration for participation in the Medicaid program for nursing facility care under Section 409.902, F.S.

(2) All participating nursing facility providers must comply with the provisions of the Florida Medicaid Nursing Facility Services Coverage and Limitations Handbook, April 2001 ~~August 2000~~, and the corresponding Florida Medicaid Provider Reimbursement Handbook, Institutional 021, September 1996, which are incorporated by reference. Both handbooks are available from the Medicaid fiscal agent.

Specific Authority ~~395.602~~, 409.919 FS. Law Implemented 400 Part II, 409.905, 409.908, ~~395.602~~ FS. History—New 1-1-77, Amended 6-13-77, 10-1-77, 1-1-78, 2-1-78, 12-28-78, 2-14-80, 4-5-83, 1-1-84, 8-29-84, 9-1-84, 9-5-84, 7-1-85, Formerly 10C-7.48, Amended 8-19-86, 6-1-89, 7-2-90, 6-4-92, 8-5-92, 11-2-92, 7-20-93, Formerly 10C-7.048, Amended 11-28-95, 5-9-99, \_\_\_\_\_.

NAME OF PERSON ORIGINATING PROPOSED RULE: Elsa Kellberg

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Laura Branker, Acting AHCA Secretary

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: June 21, 2001

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: July 6, 2001

**DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION**

**Board of Professional Engineers**

RULE TITLES:	RULE NOS.:
General Responsibility	61G15-36.001
Definitions	61G15-36.002
Common Requirements to all Product Evaluation Documents	61G15-36.003

PURPOSE AND EFFECT: The Board proposes to add this rule chapter regarding product evaluation to set forth general responsibilities, relevant definitions, and common requirements.

SUMMARY: Rule 61G15-36.001 establishes the parameters for general responsibility when the engineering services provided involve product evaluation. Rule 61G15-36.002

provides definitions for relevant terms used in product evaluation. Rule 61G15-36.003 creates minimum requirements for the content of all product evaluation documents.

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

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

SPECIFIC AUTHORITY: 471.008, 471.033(2) FS.

LAW IMPLEMENTED: 472.033, 553.842(5)(b) FS.

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

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULES IS: Natalie Lowe, Administrator, Florida Board of Professional Engineers, 1208 Hays Street, Tallahassee, Florida 32301

THE FULL TEXT OF THE PROPOSED RULES IS:

61G15-36.001 General Responsibility.

Product evaluation documents define procedures, materials, devices, fabrication, and methods of construction and installation of a product or standardized group of products. The product(s) that are the subject of the product evaluation will comply with the building codes listed in the documents when used in accordance with the product evaluation documents. The evaluation shall be based upon an engineering analysis of the assembly or system using tested, listed, or approved components. The engineer of record and delegated engineer, if utilized, shall comply with the requirements of the general responsibility rules and the requirements of the more specific structural responsibility rules.

Specific Authority 471.008, 471.033(2) FS. Law Implemented 553.842(5)(b), 472.033 FS. History—New \_\_\_\_\_.

61G15-36.002 Definitions.

(1) Product. A manufactured product or system required to be approved and certified as complying with the standards specified by the Florida Building Code or by a local authority having jurisdiction.

(2) Product Evaluation Documents. Engineering documents that define procedures, materials, devices, fabrication, and methods of construction and installation of a product, or standardized group of products, through product evaluation or rational analysis, with the objective of obtaining approval from the authority having jurisdiction of that product for installation. Product evaluation documents shall be generic and do not include documents prepared for a site specific project.

(3) Contractor. The Florida licensed contractor who pulls the permit for construction of a project into which the product is to be incorporated. The contractor is responsible for the selection, purchase and installation of the product.

Specific Authority 471.008, 471.033(2) FS. Law Implemented 553.842(5)(b), 472.033 FS. History—New \_\_\_\_\_.

61G15-36.003 Common Requirements to all Product Evaluation Documents.

(1) The product evaluation for various sizes and design capacities shall be specific for each size and design capacity listed.

(2) The documents shall include engineering data presented in a manner that facilitates the application of the product at the project site. The documents shall be annotated to the effect that alterations or additions to the document are not permitted.

(3) The documents shall state under which conditions the product evaluation is suitable to be applied by the Contractor, or under which conditions the product evaluation is only for use by a licensed engineer or architect acting as a Delegated Engineer. The requirements for submission of delegated engineering documents found in Rule 61G15-30.005(2), F.A.C., may be waived at the option of the engineer who prepares the product evaluation documents.

(4) The documents shall comply with Chapter 61G15-23, F.A.C., regarding seals, and shall bear the original seal, signature and date, or shall meet the procedure for signing and sealing electronically transmitted plans, specifications, reports or other documents.

Specific Authority 471.008, 471.033(2) FS. Law Implemented 553.842(5)(b), 472.033 FS. History—New \_\_\_\_\_.

NAME OF PERSON ORIGINATING PROPOSED RULE: Board of Professional Engineers

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Board of Professional Engineers

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: June 20, 2001

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: May 18, 2001

DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION

Board of Professional Surveyors and Mappers

RULE TITLE: RULE NO.:

Seals Acceptable to the Board 61G17-7.001

PURPOSE AND EFFECT: The proposed amendment to this rule is to establish a new metal-type impression seal design, and to reduce the number of acceptable seals from three to one.

SUMMARY: The Board has determined to establish one seal for all registrants.

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

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

SPECIFIC AUTHORITY: 472.008, 472.025 FS.

LAW IMPLEMENTED: 472.025 FS.

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

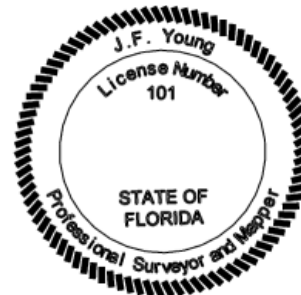
THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Sherry Landrum, Executive Director, Board of Professional Surveyors and Mappers, Northwood Centre, 1940 N. Monroe Street, Tallahassee, Florida 32399-0750

THE FULL TEXT OF THE PROPOSED RULE IS:

61G17-7.001 Seals Acceptable to the Board.

(1) through (5) No change.

(6) Effective June 30, 2002 the seal set forth below shall be the only metal-type impression seal acceptable to the Board:



Specific Authority 472.008, 472.025 FS. Law Implemented 472.025 FS. History—New 1-3-80, Amended 6-9-80, Formerly 21HH-7.01, 21HH-7.001, Amended 5-30-95, 10-25-95, 12-13-99, \_\_\_\_\_.

NAME OF PERSON ORIGINATING PROPOSED RULE: Board of Professional Surveyors and Mappers

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Board of Professional Surveyors and Mappers

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: May 31, 2001

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: May 25, 2001

**DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION**

**Florida Real Estate Appraisal Board**

RULE TITLE: Continuing Education  
RULE NO.: 61J1-4.003

PURPOSE AND EFFECT: The Board has determined it necessary to amend the rule regarding continuing education hours granted to registered, licensed, and certified appraisers, who attend a Board meeting wherein disciplinary matters are heard.

SUMMARY: The Board seeks to clarify language regarding continuing education credits granted for attendance at Board meetings.

SUMMARY OF STATEMENT OF ESTIMATE OF REGULATORY COSTS: No Statement of Estimated Regulatory Costs was 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 this Notice.

SPECIFIC AUTHORITY: 475.614 FS.

LAW IMPLEMENTED: 475.613, 475.618 FS.

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

TIME AND DATE: 9:00 a.m. or as soon thereafter as possible, August 7, 2001

PLACE: Office of the Florida Real Estate Appraisal Board, Division of Real Estate, Room 301, North Tower, 400 West Robinson Street, Orlando, Florida 32801

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Charlotte Hattaway, Regulatory Program Administrator, Appraisal Section, Division of Real Estate, 400 W. Robinson St., Suite 308, North Tower, Orlando, FL 32801, (407)245-0800

THE FULL TEXT OF THE PROPOSED RULE IS:

61J1-4.003 Continuing Education.

(1) through (6) No change.

(7) A registrant, licensee, or certificate holder, including a board member, may earn five (5) classroom hours by attending an entire meeting where the board considers disciplinary cases, for a maximum of ten (10) of the required thirty (30) hours; provided that, the individual is not appearing as a party to a disciplinary action and notifies the Division of Real Estate, Education Section, of the intent to attend at least seven (7) days prior to the meeting. Of the required 30 classroom hours, 5 hours may be earned by attending a meeting of the board wherein disciplinary cases are considered. Attendance must be for the entire day that the board is in session. At least 7 days advance notice of the intent to attend the board meeting must be given to the Education Section of the Division of Real

~~Estate so attendance may be monitored. Failure to give advance notice will result in no credit hours. A maximum of 10 hours will be allowed during a renewal cycle. Credit hours may not be earned when the registrant, licensee or certificate holder attends a disciplinary case session as a party to a disciplinary action.~~

~~(8) Any current member of the Florida Real Estate Appraisal Board who attends at least 8 meetings of the board in a renewal period where disciplinary cases involving violations of the USPAP, amendments to the USPAP and revisions to Chapter 475, Part II, are discussed shall receive 30 hours of continuing education.~~

(8)(9) Credit towards the classroom hour requirement of this rule may also be satisfied by teaching board approved appraisal courses. Credit shall be awarded on an hour-for-hour basis. Individuals claiming such credit must teach the appraisal course during the renewal cycle in which credit is claimed and may not claim the course more than once in the renewal cycle. The board may request supportive documentation to ascertain course content and to verify the date(s), time, place and hours taught.

Specific Authority 475.614 FS. Law Implemented 475.613, 475.618 FS. History—New 10-15-91, Amended 4-21-92, 6-7-92, Formerly 21VV-4.003, Amended 11-3-94, 9-5-96, 9-6-98,\_\_\_\_\_.

NAME OF PERSON ORIGINATING PROPOSED RULE: Florida Real Estate Appraisal Board

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Florida Real Estate Appraisal Board

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: June 5, 2001

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: May 11, 2001

**DEPARTMENT OF HEALTH**

**Board of Acupuncture**

RULE TITLE: English Proficiency Requirement  
RULE NO.: 64B1-4.0012

PURPOSE AND EFFECT: The proposed rule will set forth the procedures for applicants for licensure as an acupuncturist to demonstrate their ability to communicate in English.

SUMMARY: The proposed rule will specify that applicants for licensure as an acupuncturist who either did not pass the national written licensure examination in English, or who indicate on their application for licensure that they wish to take the national written licensure examination in a language other than English must demonstrate their ability to communicate in English by passing either of two test specified in the proposed rule, and specifies the acceptable passing grade for each test.

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

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

SPECIFIC AUTHORITY: 457.104, 457.105(2)(a) FS.

LAW IMPLEMENTED: 457.105(2)(a) 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: 9:00 a.m., August 3, 2001

PLACE: Tampa Airport Marriott, Tampa International Airport, Tampa, FL 33607

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Karen Eaton, Executive Director, Board of Acupuncture, 4052 Bald Cypress Way, Bin #C06, Tallahassee, Florida 32399-3256

THE FULL TEXT OF THE PROPOSED RULE IS:

64B1-4.0012 English Proficiency Requirement for Licensure.

(1) Applicants who have passed the national written examination in any language other than English shall also demonstrate their ability to communicate in English by passing either the Test of English as a Foreign Language examination or the Test of Spoken English examination, as administered by the Educational Testing Services, with a total score greater than or equal to 70% of the total range of scores available for the particular test taken. It shall be the individual responsibility of such applicants to apply for and schedule either the Test of English as a Foreign Language examination or the Test of Spoken English examination, and to obtain their official score report from the testing services prior to applying for licensure. These applicants shall submit a copy of their official score report with their application.

(2) Applicants applying for licensure by examination who indicate on their application that they wish to take the national written examination for licensure in Florida in any language other than English shall also at the time of their application submit a copy of their official score report indicating that they have passed either the Test of English as a Foreign Language examination or the Test of Spoken English examination with a total score greater than or equal to 70% of the total range of scores available for the particular test taken.

Specific Authority 457.104, 457.105(2)(a) FS. Law Implemented 457.105(2)(a) FS. History—New.

NAME OF PERSON ORIGINATING PROPOSED RULE: Board of Acupuncture

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Board of Acupuncture

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: April 27, 2001

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: September 1, 2000

**DEPARTMENT OF HEALTH**

**Division of Family Health Services**

RULE TITLE: RULE NO.:

Objection to Prenatal and Infant (Postnatal) 64C-7.008  
 Risk Screening

PURPOSE AND EFFECT: The purpose of these proposed rule changes is to incorporate by reference new versions of the prenatal and infant screening forms.

SUMMARY: Rule 64C-7.008, F.A.C., outlines the process by which a pregnant woman can object to prenatal risk screening, and the process by which a parent or guardian can object to infant risk screening. Proposed changes to Rule 64C-7.008, F.A.C., reflect incorporation of new risk screening instruments.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS: There are no regulatory costs.

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 this notice.

SPECIFIC AUTHORITY: 383.14(2) FS.

LAW IMPLEMENTED: 383.14 FS.

IF REQUESTED WITHIN 21 DAYS OF THIS NOTICE, A HEARING WILL BE HELD AT THE TIME, DATE AND PLACE SHOWN BELOW (IF NOT REQUESTED, THIS HEARING WILL NOT BE HELD):

TIME AND DATE: 10:00 a.m., July 30, 2001

PLACE: Department of Health, 4025 Esplanade Way, Room 125-N, Tallahassee, FL

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Bob Peck, Bin A-13 (HSFFM), 4052 Bald Cypress Way, Tallahassee, FL 32399-1723, Telephone (850)245-4444, Ext. 2965

THE FULL TEXT OF THE PROPOSED RULE IS:

64C-7.008 Objection to Prenatal and Infant (Postnatal) Risk Screening.

(1) The provider shall request any pregnant woman who objects to prenatal risk screening, after the purpose of the screening has been fully explained, to indicate her objection in writing on the screening instrument, and to sign the instrument. The screening instrument to be used is the Healthy Start Prenatal Risk Screening Instrument, DOH Form 3134, 2/01 ~~6/00~~ (English version), or DOH Form 3134 H, 2/01 ~~6/00~~ (Creole version), or DOH Form 3134 S, 2/01 ~~6/00~~ (Spanish version), which are incorporated by reference. Copies of the Healthy Start Prenatal Risk Screening Instrument can be obtained by writing to: the Office of Maternal and Child Health, Bin A-13 (HSFFM), 4052 Bald Cypress Way, Tallahassee, FL 32399-1723. If the woman refuses to sign the

instrument, this refusal shall be indicated on the patient's signature line. The provider is to complete the demographic items (name, address, phone number and type of provider) in the provider section and sign and date the form.

(2) The provider shall request any parent or guardian who objects to infant (postnatal) risk screening of their child or ward, after the purpose of the screening has been fully explained, to indicate the objection in writing on the screening instrument, and to sign the instrument. The screening instrument to be used is the Healthy Start Infant (Postnatal) Risk Screening Instrument, DOH Form 3135, 2/01 ~~6/00~~ (English version), or DOH Form 3135 H, 2/01 ~~6/00~~ (Creole version), or DOH Form 3135 S, 2/01 ~~6/00~~ (Spanish version), which are incorporated by reference. Copies of the Healthy Start Infant (Postnatal) Risk Screening Instrument can be obtained by writing to: the Office of Maternal and Child Health, Bin A-13 (HSFFM), 4052 Bald Cypress Way, Tallahassee, FL 32399-1723. If the parent or guardian refuses to sign the instrument, this refusal shall be indicated on the patient's signature line. The provider is to complete the demographic items (name, address, phone number and type of provider) in the provider section and sign and date the form.

(3) Prenatal and infant (postnatal) risk screening shall not be conducted if the affected pregnant woman, parent, or guardian objects to the screening.

Specific Authority 383.14(2) FS. Law Implemented 383.14 FS. History--New 3-29-92, Amended 8-14-95, 3-28-96, Formerly 10J-8.009, Amended 5-2-01, \_\_\_\_\_.

NAME OF PERSON ORIGINATING PROPOSED RULE:  
Bob Peck, Bin A-13 (HSFFM), 4052 Bald Cypress Way, Tallahassee, FL 32399-1723, Telephone (850)245-4444, Ext. 2965

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Annette Phelps, A.R.N.P., M.S.N., Chief, Bureau of Family and Community Health

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: May 21, 2001

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: June 1, 2001

**DEPARTMENT OF CHILDREN AND FAMILY SERVICES**

**Economic Self-Sufficiency Program**

RULE TITLES:	RULE NOS.:
Special Provisions	65A-1.702
Family-Related Medicaid General Eligibility Criteria	65A-1.705

PURPOSE AND EFFECT: These rule amendments implement a policy change in Medicaid child-only cases to eliminate the requirement for parental cooperation with Child Support Enforcement (CSE) in establishing paternity as a condition of

eligibility, add limits of coverage for the QI1 and QI2 Medicare premium coverage groups and clarify citizenship and residence requirements for the Medicaid program.

SUMMARY: The department is adopting a policy that excludes Medicaid child-only cases from the requirement that a parent cooperate with CSE in establishing paternity as a condition of eligibility. Additionally, QI1 coverage limits for full Part B Medicare premium coverage and QI2 coverage limits for partial Medicare premium coverage are specified. The QI1 and QI2 coverage groups are not new; their limits are being defined in rule for the first time. Statements regarding citizenship and residence requirements are clarified by removing unnecessary language and changing a statutory citation.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COST: An estimate of the regulatory cost was not prepared for this rule.

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 this notice.

SPECIFIC AUTHORITY: 409.919 FS.

LAW IMPLEMENTED: 409.903, 409.904, 409.919 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 (IF NOT REQUESTED THIS HEARING WILL NOT BE HELD):

TIME AND DATE: 2:00 p.m., July 30, 2001

PLACE: Building 3, Room 455, 1317 Winewood Boulevard, Tallahassee, FL 32399-0700

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULES IS: Audrey Mitchell, Program Administrator, 1317 Winewood Boulevard, Building 3, Room 421, Tallahassee, FL 32399-0700, Telephone (850)488-3090

THE FULL TEXT OF THE PROPOSED RULES IS:

65A-1.702 Special Provisions.

(1) through (5) No change.

(6) Child Support Enforcement Cooperation – Child-Only Cases. The applicant is not required to cooperate with Child Support Enforcement as a condition of eligibility in establishing paternity or obtaining medical support for a child-only Medicaid case.

(6) through (10) renumbered (7) through (11) No change.

(12)(11) Limits of Coverage.

(a) through (c) No change.

(d) Part B Medicare Only Beneficiary (QI1). Under QI1 coverage, individuals are only entitled to payment of their Medicare Part B premium. (This is coverage for individuals who would be eligible for QMB or SLMB coverage except their income exceeds limits for those programs.)

(e) Qualified Medicare Reimbursement Only (QI2). Under QI2 coverage, individuals are only entitled to a one-time, annual payment of a small part of their Medicare premium. (This is a federally funded program and funding is limited to the amount of an annual allocation.)

(12) through (14) renumbered (13) through (15) No change.

Specific Authority 409.919 FS. Law Implemented 409.903, 409.904, 409.919 FS. History—New 10-8-97, Amended 4-22-98, 2-15-01,\_\_\_\_\_.

65A-1.705 Family-Related Medicaid General Eligibility Criteria.

(1) through (4) No change.

~~(5) Refer to paragraphs (6) and (7) of this rule for residence and citizenship criteria.~~

~~(5)(6) The individual must be a resident of Florida as provided by s. 1902(b) of the Social Security Act shown by living in the state with the intent to remain, either permanently or indefinitely, or living in the state for employment purposes.~~

~~(6)(7) The individual must be a citizen of the United States or a qualified alien as defined in 8 USC s. 1641(b) Section 431, Public Law 104-193.~~

~~(7)(8) No change.~~

~~(8)(9) Medicaid Applications Due to KidCare.~~

(a) through (c) No change.

~~(d) The parent or other responsible adult caretaker relative applying for child only Medicaid is not required to cooperate with child support enforcement as a condition of eligibility regarding absent parents in order for the child to receive Medicaid. The custodial parent or other responsible adult will be informed of the availability of child support enforcement services. The department will request voluntary child support enforcement participation. If absent parent information is not provided and the KidCare Application is not marked indicating the applicant does not want to provide this information, the applicant will be provided the Child Support Enforcement Information form, CF-ES 2084, Jul 99 (incorporated by reference). The Child Support Enforcement Information form will provide the parent or caretaker applicant another opportunity to request child support enforcement services; application processing will continue. No processing delay and no penalty will be applied for the children's Medicaid benefit if the parent or caretaker making application does not cooperate.~~

(e) through (i) No change.

Specific Authority 409.818, 409.919 FS. Law Implemented 409.903, 409.904, 409.818, 409.919 FS. History—New 10-8-97, Amended 9-28-98, 4-5-99, 11-23-99, 2-18-01,\_\_\_\_\_.

NAME OF PERSON ORIGINATING PROPOSED RULE:  
Rodney McInnis, Management Review Specialist

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Audrey Mitchell, Program Administrator, Policy Bureau, Public Assistance Policy – Policy Support Unit

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: June 16, 2001

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: April 20, 2001

### Section III Notices of Changes, Corrections and Withdrawals

#### DEPARTMENT OF INSURANCE

##### Division of State Fire Marshal

RULE CHAPTER NO.:	RULE CHAPTER TITLE
4A-42	Uniform Fire Safety Standards for Mobile Home Parks and Recreational Parks
RULE NO.:	RULE TITLE:
4A-42.005	Standards of the National Fire Protection

#### NOTICE OF CHANGE

Notice is hereby given that the following changes have been made to the proposed rules in accordance with subparagraph 120.54(3)(d)1., F.S., published in Vol. 27, No. 12, March 23, 2001, edition of the Florida Administrative Weekly.

4A-42.005(1) will be changed to read... “The standards of the National Fire Protection Association, Standards for Fire Safety Criteria for Manufactured Homes Installations, Sites and Communities, NFPA 501A, the edition as adopted in Section 4A-3.012, Florida Administrative Code, and Standards for Fire Safety Criteria for Recreational Vehicle Parks and Campgrounds, NFPA 1194 the edition as adopted in Rule Chapter 4A-3, NFPA 501D, 1996 edition, which is hereby adopted and incorporated by reference shall be the “Uniform Fire Safety Standards for Mobile Home Parks and Recreational Vehicle Parks as adopted more fully in Rule 4A-3.012, Florida Administrative Code.”...

The remainder of the rule reads as previously published.

#### DEPARTMENT OF INSURANCE

##### Division of State Fire Marshal

RULE CHAPTER NO.:	RULE CHAPTER TITLE:
4A-43	Uniform Fire Safety Standards for Transient Public Lodging Establishes, Timeshare Plans, and Timeshare Unit Facilities
RULE NOS.:	RULE TITLES:
4A-43.003	Scope
4A-43.009	Automatic Smoke Detection Requirements
4A-43.015	Historic Hotel Structures