

SPECIFIC AUTHORITY: 409.212(7) FS.
 LAW IMPLEMENTED: 409.212 FS.
 IF REQUESTED IN WRITING AND NOT DEEMED UNNECESSARY BY THE AGENCY HEAD, A RULE DEVELOPMENT WORKSHOP WILL BE HELD AT THE TIME, DATE AND PLACE SHOWN BELOW:
 TIME AND DATE: 10:00 a.m., December 10, 2001
 PLACE: Building 3, Room 100, 1317 Winewood Boulevard, Tallahassee, Florida 32399-0700
 THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT, IF AVAILABLE, IS: Audrey Mitchell, Program Administrator, 1317 Winewood Boulevard, Building 3, Room 421, Tallahassee, Florida 32399-0700, Telephone (850)488-3090
 THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS NOT AVAILABLE.

Section II Proposed Rules

DEPARTMENT OF REVENUE

RULE TITLES:	RULE NOS.:
Scope of Rules	12-24.001
Definitions	12-24.002
General Requirements	12-24.003
Payor Information	12-24.004
Methods of Electronic Funds Transfer	12-24.005
Means of Communication to Report	
Payment Information	12-24.006
Payment Transmission Errors	12-24.007
Procedures for Payment	12-24.008
Due Date; General Provisions	12-24.009
General Administrative Provisions	12-24.010
Scope	12-24.021
Recordkeeping Requirements – General	12-24.023
Recordkeeping Requirements –	
Machine-Sensible Records	12-24.024
Records Maintenance Requirements	12-24.025
Access to Machine-Sensible Records	12-24.026
Taxpayer Responsibility and Discretionary	
Authority	12-24.027
Alternative Storage Media	12-24.028
Effect of Hardcopy Recordkeeping	
Requirements	12-24.029
Records Retention – Time Period	12-24.030

PURPOSE AND EFFECT: The proposed amendments to these rules update the procedures taxpayers must use to remit tax payments by electronic funds transfer (EFT) and to submit returns using electronic data interchange (EDI) methods. They also clarify that dealers of communications services who are required to remit taxes and submit returns by Chapter 202, F.S., are subject to EFT and EDI procedures.

SUMMARY: A) The proposed amendments to Rule 12-24.001, F.A.C. (Scope) clarify that the Department’s rules concerning electronic funds transfer (EFT) and electronic data interchange (EDI) apply to the taxes imposed on dealers of communications services pursuant to chapter 202, F.S. B) The proposed changes to Rule 12-24.002, F.A.C. (Definitions) revise and update the taxes subject to EFT. C) The proposed revisions to Rule 12-24.003, F.A.C.(General Requirements) delete obsolete provisions concerning taxpayers subject to EFT requirements; and, specify the conditions under which dealers of communications services must file the taxes imposed by chapter 202, F.S., by EFT. D) The suggested amendments to Rule 12-24.004, F.A.C. (Payor Information) revise references to the forms used by taxpayers subject to EFT, eliminate references to the specific information to be provided on such forms, and clarify how forms can be obtained. E) The suggested changes to Rule 12-24.005, F.A.C. (Methods of Electronic Funds Transfer) update the name and address of the Department office responsible for EFT procedures and delete an unnecessary statement concerning the ACH credit method of EFT payment. F) The suggested revisions to Rule 12-24.006, F.A.C. (Means of Communication to Report Payment Information) ensure that new forms of technology can be employed for EFT purposes. G) The recommended amendments to Rule 12-24.007, F.A.C. (Payment Transmission Errors) make technical changes to conform this rule to the changes in other rules. H) The recommended changes to Rule 12-24.008, F.A.C. (Procedures for Payment) revise the payment information taxpayers must include when they initiate an EFT payment using the ACH debit method; clarify the examples used to illustrate how an EFT ACH debit transaction is correctly submitted; explain the information that must be submitted if the taxpayer is granted permission to use the ACH credit method; revise the example explaining how an EFT ACH credit method is submitted; and, explain how and under what circumstances a taxpayer may submit a tax payment by wire transfer. I) The recommended revisions to Rule 12-24.009, F.A.C. (Due Date; General Provisions) expand the discussion for the compromise or settlement of tax, interest, and penalties imposed for late EFT payments; require taxpayer to submit a written explanation of why an EFT payment is not timely; and explain that pursuant to ss. 202.28 and 202.30, failure by a dealer of communications services to properly remit the taxes imposed by chapter 202, F.S., to the Department are not authorized to claim the dealer collection allowance. J) The proposed amendments to Rule 12-24.010, F.A.C. (General Administrative Provisions) update the name and address of the Department office responsible for EFT procedures and removes a statement that the Department will accept certain faxes in lieu of an original, since this provision has been moved to Rule 12-24.004, F.A.C. K) The proposed changes to Rule 12-24.021, F.A.C. (Scope) are technical. L) Rule 12-24.023, F.A.C. (Recordkeeping Requirements – General) requires taxpayers to make records available upon the

Department's request, explains that these rules do not require a taxpayer to keep records in an electronic format, states that if a taxpayer keeps records in both hardcopy and electronic format, the Department can request the electronic version of such records, identifies the form to be used when a taxpayer and the Department agree to the electronic submission of taxpayer information, and explains that pursuant to ss. 202.28 and 202.30, dealers of communications services who fail to properly remit the tax returns required by chapter 202, F.S., to the Department by EDI are not authorized to claim the dealer collection allowance. M) Rule 12-24.024, F.A.C. (Recordkeeping Requirements – Machine-Sensible Records) contains requirements concerning the format and content of machine-sensible records maintained by taxpayers, clarifies that these rules do not require taxpayers to maintain machine-sensible records other than those kept in the ordinary course of business, states that a taxpayer's machine-sensible records must contain a level of detail equal to that contained for acceptable hardcopy records, states that taxpayers do not need to keep any original EDI transaction records if the Department can establish any necessary information from the records that were retained, and explains that, if requested by the Department, the taxpayer must provide a description of the business process that creates any specific retained record. N) Rule 12-24.025, F.A.C. (Records Maintenance Requirements) recommends that taxpayers be guided by the maintenance and storage provisions for electronic records contained in the National Archives and Records Administration standards, and states that the taxpayer's records must allow for the extraction and conversion of machine-sensible records. O) Rule 12-24.026, F.A.C. (Access to Machine-Sensible Records) explains that the method by which the Department will access a taxpayer's machine-sensible records will be determined by discussions with the taxpayer, and lists the general categories for such access methods. P) Rule 12-24.027, F.A.C. (Taxpayer Responsibility and Discretionary Authority) authorizes taxpayers to create specific files and records for the Department that meet the requirements of Rules 12-24.024, 12-24.025, and 12-24.026, F.A.C., and states that taxpayers may contract with a third party to manage or provide data access services to such records for the Department's use. Q) Rule 12-24.028, F.A.C. (Alternative Storage Media) explains that taxpayers may convert hardcopy records to microfilm, microfiche, or other storage-only imaging systems and discard the hardcopies, and specifies the requirements for the retention of records on microfilm, microfiche, or other storage-only imaging system. R) Rule 12-24.029, F.A.C. (Effect on Hardcopy Recordkeeping Requirements) states that the provisions of the rules in Part II of this rule chapter do not relieve taxpayers of the responsibility of keeping hardcopy records of transactions that are normally retained in the ordinary course of business, explains that this requirement includes records associated with credit or debit card transactions, and provides that the Department reserves the

right to request hardcopy printouts of taxpayer records for the purpose of conducting an examination. S) Rule 12-24.030, F.A.C. (Records Retention - Time Period) states that taxpayers must retain records for the length of time required by s. 213.35, F.S., unless the Department provides a written statement that such records no longer need to be retained.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COST: Since these proposed rule amendments do not impose any new procedures on taxpayers beyond those currently being utilized, no new regulatory costs have been created. Therefore, not statement of estimated regulatory cost has been prepared.

SPECIFIC AUTHORITY: 202.26(3)(a), 202.30(1), 212.06(1)(a), 213.06(1) FS.

LAW IMPLEMENTED: 202.30, 213.34, 213.35, 213.755 FS.

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

TIME AND DATE: 1:30 p.m., December 18, 2001

PLACE: Room 116, Larson Building, Tallahassee, Florida

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULES IS: Larry Green, Tax Law Specialist, Technical Assistance and Dispute Resolution, Department of Revenue, P. O. Box 7443, Tallahassee, Florida 32314-7443, telephone (850)922-4830

NOTICE UNDER THE AMERICANS WITH DISABILITIES ACT: Any person requiring special accommodations to participate in any proceeding before the Technical Assistance and Dispute Resolution Office is asked to advise the Department at least five (5) calendar days before such proceeding by contacting Jamie Phillips at (850)922-4726. 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:

12-24.001 Scope of Rules.

Part I of this rule chapter sets forth the rules to be used by the Department of Revenue in the administration of ss. 202.30 and 213.755, F.S., authorizing the Executive Director to require ~~certain~~ taxpayers specified by statute to remit taxes by electronic transfer of funds. If there is a conflict between these rules and any other rules applicable to taxes subject to electronic funds transfer, these rules shall govern.

Specific Authority 202.26(3)(a), 202.30(1), 213.06 FS. Law Implemented 202.30, 213.755 FS., s. 25, Ch. 89-356, L.O.F. History—New 12-19-89, Amended 10-24-96, _____.

12-24.002 Definitions.

For the purposes of Part I of this rule chapter, the terms and phrases used in these rules shall have the meanings prescribed in this section, unless a different meaning is clearly indicated by the context in which the term or phrase is used.

(1) through (15) No change.

(16) "Tax type" means a tax which is subject to EFT, each of which shall be considered a separate category of payment. The tax types for which taxpayers will be required to pay amounts due by EFT are as follows:

(a) Taxes administered under ~~Part I~~, Chapter 212, F.S., and those taxes and fees reported on the DR-15 form series, including sales and use tax, local option taxes, surcharges, ~~and~~ surtaxes, and solid waste fees;

(b) Corporate income/franchise tax (Chapter 220, F.S.) and emergency excise tax (Chapter 221, F.S.), reported on Form F-1120, including the required estimated tax payments (F-1120ES) and tentative tax payments (F-7004);

(c) Taxes on motor fuel, ~~diesel special~~ diesel special fuel, liquefied petroleum gas, aviation fuel, and pollutants, including local option ~~Part II, Chapter 212, F.S., all~~ taxes reported under Chapter 206, F.S., ~~and local option taxes collected pursuant to Chapter 336, F.S.~~ (Form ~~3096 DR-115~~ series, ~~DR-119~~ series, ~~DR-120, DR-121, or DR-904~~);

(d) Gross receipts tax (Chapter 203, F.S.) reported on Form DR-133;

(e) All taxes reported on Forms DR-907 and DR-908, including insurance premium taxes and regulatory assessments subject to the provisions of Chapter 624, F.S., the excise tax on property insurance (s. 175.101, F.S.), and the excise tax on casualty insurance (s. 185.08, F.S.), ~~and the insurance policy surcharge (s. 252.37, F.S.);~~

(f) Intangible personal property taxes (Chapter 199, F.S.) as reported on Form DR-601C; ~~or Form DR-601AC.~~

(g) Severance taxes (Chapter 211, F.S.) and the Miami-Dade Lake Belt Mitigation Fee (Chapter 373, F.S.) reported on Form DR-140 series;

(h) Documentary stamp tax (Chapter 201, F.S.) reported on Form DR-225 or DR-225B;

(i) Communication services tax (Chapter 202, F.S.) reported on Form DR-70016 and substitute communications system tax (Chapter 202, F.S.) reported on Form DR-70019.

(17) through (19) No change.

Specific Authority 202.26(3)(a), 202.30(1), 213.06(1) FS. Law Implemented 202.30, 213.755 FS., ~~s. 24, Ch. 90-203, L.O.F.~~ History--New 12-19-89, Amended 1-8-91, 10-24-96, _____.

12-24.003 General Requirements.

~~(1) Under the authority granted to the Executive Director of the Department under s. 213.755, F.S., a taxpayer who is subject to a tax and has paid that tax in the prior state fiscal year in an amount of \$50,000 or more can be required to remit current taxes by electronic funds transfer.~~

~~(1)(2) Any taxpayer~~ Effective January 1, 1990, the Department will implement an EFT program which will require certain taxpayers subject to the following taxes who has paid that tax in the prior state fiscal year in an amount of \$50,000 or more must ~~to~~ remit tax payments by electronic funds transfer:

(a) Sales and use tax, local option sales taxes, surcharges, ~~and~~ surtaxes, and solid waste fees;

(b) Corporate income/franchise tax and emergency excise tax;

(c) Motor fuel, ~~diesel special~~ diesel special fuel, liquefied petroleum gas, aviation fuel, oil and gas production, and pollutants taxes;

(d) Local option fuel tax;

(e) Insurance premium taxes and assessments; ~~and~~

(f) Gross receipts tax;-

(g) Intangible personal property tax;

(h) Severance taxes and Miami-Dade Lake Belt Mitigation Fee; and

(i) Documentary stamp tax.

(2) Any taxpayer who is required to pay the communications services tax or the substitute communications systems tax must remit tax payments by electronic funds transfer in the following manner:

(a)1. Any taxpayer who has paid taxes imposed under Chapter 212, F.S. (Sales and Use Tax), in an amount of \$50,000 or more for the state fiscal year July 1, 2000, through June 30, 2001, must remit tax payments by electronic funds transfer beginning with the communications services tax or substitute communications systems tax return due on February 1, 2002.

2. Any taxpayer who has paid taxes imposed under Chapter 203, F.S. (Gross Receipts Tax), in an amount of \$50,000 or more for the state fiscal year July 1, 2001, through June 30, 2002, must remit tax payments by electronic funds transfer in conjunction with the communications services tax or substitute communications systems tax return due on February 1, 2002.

(b) Any taxpayer who has paid a combined amount of taxes discussed in paragraph (a) of this subsection in an amount of \$50,000 or more for the state fiscal year July 1, 2000, through June 30, 2001, must remit tax payments by electronic funds transfer in conjunction with the communications services tax or substitute communications systems tax return due on February 1, 2002.

(c) Any taxpayer who pays communications services tax or substitute communications systems tax in the amount of \$50,000 or more for the state fiscal year ending June 30, 2002, or in any state fiscal year thereafter, must remit tax payments by electronic funds transfer for taxes due during the succeeding calendar year.

(3) Effective January 1, 1991, the Department will require certain persons subject to intangible personal property tax and required to file Form DR-601C or Form DR-601AC to remit tax payments by electronic funds transfer.

(4) The Department will make an annual determination of those taxpayers who will be required to pay a tax electronically based on prior year payment thresholds:

(a) Beginning January 1, 1990, taxpayers who are subject to a tax type enumerated in Rule 12-24.003(2), F.A.C., and who have paid that tax type in the amount of \$200,000 or more in calendar year 1988 shall be required to pay that tax type through electronic funds transfer.

(b) Beginning January 1, 1991, all taxpayers who are subject to a tax type enumerated in Rule 12-24.002(16), F.A.C., and who have paid that tax type in the amount of \$100,000 or more in the preceding state fiscal year (FY 89/90) shall be required to pay that tax type through electronic funds transfer.

(c) Effective January 1, 1992, all taxpayers who are subject to a tax type enumerated in Rule 12-24.002(16), F.A.C., and who have remitted that tax type in the preceding state fiscal year (FY 90/91) in the amount of \$50,000 or more shall be required to make payments of that tax type through electronic funds transfer.

(3)(5) All taxpayers required to participate in selected for the EFT program shall participate for a minimum of one calendar year. During this period, taxpayers shall not be added to the list of required participants. Persons selected on the basis of prior year tax payments will be contacted by the Department at their last address of record. Once selected for the EFT requirement, the taxpayer must electronically transmit all payments for that tax type as provided in this rule.

(a) Sales and use tax — Parts I and II, Chapter 212, F.S., including local option sales taxes, surcharges, and surtaxes reported on the DR-15 form series:

1. Taxpayers who are subject to the provisions of s. 212.11(6), F.S., are required to remit payments of estimated sales tax and actual sales tax due through EFT.

2. For taxpayers selected under the \$200,000 threshold, the first required payment using EFT is that tax payable on or before February 20, 1990, for the applied period ending January 31, 1990.

3. For taxpayers selected under the \$100,000 threshold, the first required payment using EFT is that tax payable on or before February 20, 1991, for the applied period ending January 31, 1991.

4. For taxpayers selected under the \$50,000 threshold, the first required payment using EFT is that tax payable on or before February 20, 1992, for the applied period ending January 31, 1992.

(b) Corporate income/franchise tax and emergency excise tax — Chapters 220 and 221, F.S.

1. For taxpayers selected under the \$200,000 threshold, the first payment which is required to be transmitted electronically is the tax due with the final return for the tax year ending on or after December 31, 1989. For example, for taxpayers with a taxable year ending December 31, 1989, the first required EFT payment is the balance of the tax or tentative

tax payable on or before April 1, 1990. All subsequent tax payments, including payments of estimated tax, shall be transmitted electronically.

2. For taxpayers selected under the \$100,000 threshold, the first payment which is required to be transmitted electronically is the tax due with the final return for the tax year ending on or after December 31, 1990. For example, for taxpayers with a taxable year ending December 31, 1990, the first required EFT payment is the balance of tax or tentative tax payable on or before April 1, 1991. All subsequent tax payments, including payments of estimated tax, shall be transmitted electronically.

3. For taxpayers selected under the \$50,000 threshold, the first payment which is required to be transmitted electronically is the tax due with the final return for the tax year ending on or after December 31, 1991. For example, for taxpayers with a taxable year ending December 31, 1991, the first required EFT payment is the balance of tentative tax payable on or before April 1, 1992. All subsequent tax payments, including payments of estimated tax, shall be transmitted electronically.

(c) Motor fuel, special fuel, aviation fuel and pollutants taxes — Chapter 206, F.S.

1. For taxpayers selected under the \$200,000 threshold, the first required payment using EFT is that tax payable on or before February 20, 1990, for the applied period ending January 31, 1990.

2. For taxpayers selected under \$100,000 threshold, the first required payment using EFT is that tax payable on or before February 20, 1991, for the applied period ending January 31, 1991.

3. For taxpayers selected under the \$50,000 threshold, the first required payment using EFT is that tax payable on or before February 20, 1992, for the applied period ending January 31, 1992.

(d) Local Option Fuel Tax — Chapter 336, F.S.

1. For taxpayers selected under the \$200,000 threshold, the first required payment using EFT is that tax payable on or before February 20, 1990, for the applied period ending January 31, 1990.

2. For taxpayers selected under the \$100,000 threshold, the first required payment using EFT is that tax payable on or before February 20, 1991, for the applied period ending January 31, 1991.

3. For taxpayers selected under the \$50,000 threshold, the first required payment using EFT is that tax payable on or before February 20, 1992, for the applied period ending January 31, 1992.

(e) Gross Receipts Tax — Chapter 203, F.S.

1. For taxpayers selected under the \$200,000 threshold, the first required payment using EFT is that tax payable on or before February 28, 1990, for the applied period ending January 31, 1990.

2. For taxpayers selected under the \$100,000 threshold, the first required payment using EFT is that tax payable on or before February 28, 1991, for the applied period ending January 31, 1991.

3. For taxpayers selected under the \$50,000 threshold, the first required payment using EFT is that tax payable on or before February 29, 1992, for the applied period ending January 31, 1992.

(f) Insurance premium taxes and assessments — Chapter 624, F.S., and ss. 175.101 and 185.08, F.S.

1. For taxpayers selected under the \$200,000 threshold, the first required payment using EFT is that tax payable on or before March 1, 1990, for the applied period ending December 31, 1989.

2. For taxpayers selected under the \$100,000 threshold, the first payment due using EFT is that tax payable on or before March 1, 1991, for the applied period ending December 31, 1990.

3. For taxpayers selected under the \$50,000 threshold, the first required payment using EFT is that tax payable on or before March 1, 1992, for the applied period ending December 31, 1991.

(g) Intangible personal property taxes — Chapter 199, F.S.

1. For certain persons selected under the \$100,000 threshold, the first required payment due using EFT is the annual tax assessed on January 1, 1991, due and payable on or before June 30, 1991.

2. For certain persons selected under the \$50,000 threshold, the first required payment due using EFT is the annual tax assessed on January 1, 1992, due and payable on or before June 30, 1992.

Specific Authority 202.26(3)(a), 202.30(1), 212.06(1)(a), 213.06(1) FS. Law Implemented 202.30, 213.755 FS., s. 24, Ch. 90-203, L.O.F. History—New 12-19-89, Amended 1-8-91, 11-17-93, _____.

12-24.004 Payor Information.

(1) The ACH debit system ~~is will~~ be the primary EFT method required of taxpayers selected to remit funds by electronic funds transfer. The ACH credit system is a payment method available only as an exception to taxpayers who qualify under the provisions of Rule 12-24.005, F.A.C. Wire transfer is an alternative method of EFT available to taxpayers only as an exception under the provisions of Rule 12-24.008(3), F.A.C.

(2)(a) On or before November 1st, the Department will notify every taxpayer required to remit a tax by EFT in the upcoming calendar year, and mail a written notice and shall include with such notification a Registration/Authorization Form-Florida EFT/EDI Program-Electronic Tax Payment System an Electronic Funds Transfer authorization Form (Form DR-600F DR-600) and a Florida EFT Program Electronic Tax Payment Calendar (Form DR-659) to all taxpayers required to remit a tax by EFT in the upcoming calendar year.

(b) A taxpayer who wishes to use the ACH credit method in lieu of the ACH debit method must file a written request with the Department for permission to use the ACH credit method prior to December 1, as provided in Rule 12-24.005, F.A.C.

(3) Upon receipt of the Registration/Authorization Form-Florida EFT/EDI Program-Electronic Tax Payment System (Form DR-600F) Electronic Funds Transfer Authorization Form, the taxpayer must complete the form and return it to the Department by December 1. Pertinent payor information provided with Form DR-600F Form DR-600 will be furnished to the State Treasurer's bank and the Data Collection Center. ~~The information required to be provided with Form DR-600 includes:~~

(a) Payor name;

(b) Payor address;

(c) Tax identification number;

(d) Tax type;

(e) Contact person (title and telephone number);

(f) Bank name;

(g) Bank address;

(h) Bank transit/routing number;

(i) Bank account number;

(j) Signature of person authorized to sign checks; and

(k) Verification of both the bank transit/routing number and bank account number by a bank representative.

(4) Upon receipt of payor information from the Department, the Data Collection Center shall assign a confidential payor identification number directly to the taxpayer to be used by the taxpayer when communicating payment information to the Data Collection Center. This number shall be provided to the taxpayer prior to the date the first required payment is due under the EFT program for all accounts who timely file the Form DR-600F Form DR-600 with the Department.

(5) A taxpayer must provide at least 30 days advance written notice of any change of information required with the electronic funds transfer authorization form by submitting a revised Form DR-600F DR-600 to the Department.

(6)(a) The Department prescribes Form DR-600F Form DR-600, Registration/Authorization Form-Florida EFT/EDI Program-Electronic Tax Payment System (r. 10/00), Form DR-659, Florida EFT Program Electronic Tax Payment Calendar (r. 10/00), and Form DR-653, Electronic Filing Agreement-Florida EFT/EDI Program Electronic Tax Filing System (r. 10/00) Funds Transfer Authorization Form, dated ~~December 1992~~, as the forms form to be used for the purposes of this chapter and hereby incorporates these forms this form by reference. Copies of these forms this form may be obtained, without cost, by one or more of the following methods: 1) writing the Florida written request to the Department of Revenue, Forms Distribution Center, 168 Blountstown

~~Highway Division of Taxpayer Assistance, Bureau of Tax Information and Media Services, P. O. Box 7443, 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 automated 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/>) 32399-7443. Persons with hearing or speech impairments may call the Department's TDD at 1-800-367-8331.~~

~~(b) The Department will accept facsimile transmissions of requests (form DR-600F) at telephone number (850)922-5088.~~

~~Specific Authority 202.26(3)(a), 202.30(1), 213.06(1) FS. Law Implemented 202.30, 213.755 FS., s. 24, Ch. 90-203, L.O.F. History—New 12-19-89, Amended 1-8-91, 11-17-93,_____.~~

12-24.005 Methods of Electronic Fund Transfer.

(1) The Department will utilize the ACH debit transfer as the method by which ~~certain large~~ taxpayers subject to EFT requirements shall remit taxes by electronic funds transfer.

~~(2) However, the~~ The Executive Director or the Executive Director's designee will grant taxpayers permission to use the ACH credit method on a case by case basis, as an exception to the required use of the ACH debit method.

(a) A taxpayer who requests permission to use the ACH credit method must submit a written request to the Department, by December 1, which demonstrates the existence of a valid business operational reason for using the ACH credit method in lieu of the ACH debit method. A taxpayer who is already using the ACH credit method is deemed to have a valid business reason for using the ACH credit method to remit payments of Florida taxes.

(b) The written request to use the ACH credit method shall be filed with the ~~E-Services Unit EFT Section, Division of Tax Processing, Florida Department of Revenue, P. O. Box 5885 Post Office Box 2096, Tallahassee, Florida 32314-5885 32316-2096~~, by December 1. The Department will accept facsimile transmissions of requests at telephone ~~number (850)(904)922-5088~~. Taxpayers will be notified of the Department's decision within the month of January.

~~(c) Use of the ACH credit method by a taxpayer will be conditioned upon the taxpayer's agreement to provide payment information to the Data Collection Center as provided in these rules.~~

~~(c)(d)~~ The Department reserves the right to revoke the ACH credit method payment privilege of any taxpayer who: does not consistently transmit error-free payments; or substantially varies from the requirements and specifications of

these rules; or repeatedly fails to make timely EFT payments or timely provide payment information; or, repeatedly fails to provide the required addenda record with the EFT payment.

~~Specific Authority 202.26(3)(a), 202.30(1), 213.06(1) FS. Law Implemented 202.30, 213.755 FS., s. 24, Ch. 90-203, L.O.F. History—New 12-19-89, Amended 1-8-91, 11-17-93,_____.~~

12-24.006 Means of Communication to Report Payment Information.

Taxpayers who participate in the electronic funds transfer program shall use one of two means of communicating payment information through the ACH debit method:

(1) Operator-assisted communication of payment information made orally by rotary or touch-tone telephone; or

(2) PC entry communication of payment information with ~~via~~ a computer or other communication device with a modem.

~~Specific Authority 202.26(3)(a), 202.30(1), 213.06 FS. Law Implemented 202.30, 213.755 FS., s. 25, Ch. 89-356, L.O.F. History—New 12-19-89, Amended 11-17-93,_____.~~

12-24.007 Payment Transmission Errors.

(1) If a taxpayer does not make a correct payment of tax for a particular period, such taxpayer shall, on the nearest business day ~~after to~~ the date on which the error is discovered, contact the ~~E-Services Unit EFT Section~~ at telephone ~~number (850)(904)487-7972~~ for specific instructions.

(a) If the taxpayer error involves an overpayment of tax, the taxpayer may either elect to have the overpayment applied against the liability for the next reporting period or apply for a refund under the provisions of the applicable tax statute.

(b) If the taxpayer error involves an underpayment of tax, the taxpayer must make appropriate arrangements to initiate payment for the amount of the underpayment.

(2) In the event a taxpayer using the ACH debit method communicates payment information to the Data Collection Center after 3:45 p.m., Eastern Time, on the business day before the due date, the payment shall be posted to the taxpayer's account on the next business day following the due date and shall constitute late payment.

(3) Except as provided in these rules or Rule Chapter 12-13, F.A.C., a failure to make a timely EFT payment because of other circumstances under the taxpayer's control, including but not limited to insufficiency of funds in the taxpayer's account or a direct payment to the Department using an unauthorized payment method, shall result in the loss of the taxpayer's collection allowance and assessment of the appropriate penalties and interest by the Department.

Cross Reference: Rule 12-24.009, F.A.C.

~~Specific Authority 202.26(3)(a), 202.30(1), 213.06(1) FS. Law Implemented 202.30, 213.755 FS., s. 24, Ch. 90-203, L.O.F. History—New 12-19-89, Amended 1-8-91, 11-17-93,_____.~~

12-24.008 Procedures for Payment.

(1) ACH Debit Method.

(a) The taxpayer must report payment information to the Data Collection Center, by the approved means of communication, no later than 3:45 p.m., Eastern Time, on the business day immediately preceding before the due date of the payment. The Data Collection Center must be contacted ~~called~~, ~~using the specified toll-free number~~, during the contact ~~call-in~~ period specified in the detailed instructions provided to EFT taxpayers, which include Form DR-659. The Department will bear the costs of processing EFT ACH debit payments through the Data Collection Center. Communication by the taxpayer during the contact ~~call-in~~ period is mandatory to assure the timely posting of the taxpayer's payment on the following business day.

(b) After establishing contact with the Data Collection Center, the taxpayer is allowed to ~~may~~ communicate payment information for more than one tax type or tax period. However, the taxpayer must initiate payment information for each tax type and for each tax period for which a payment is due. The following payment information is required from the taxpayer:

1. Company and ID number (Payment identification number) ~~Payor information number~~;
2. Tax payment amount type;
3. Tax period ~~Document type~~;
4. Payment type amount; and,
5. Verification code ~~Tax period~~; and
6. Due date.

(c) A confirmation code ~~trace number~~ will be issued at the conclusion of the communication of the payment information for each payment ~~tax~~ type and tax period. This number provides a means of verifying the accuracy of the recorded tax payment and serves as a receipt for the transaction.

(d) Shortly after the expiration of the contact ~~call-in~~ period, the Department will receive an electronic transmission from the Data Collection Center containing all the payment information that has been communicated to the Data Collection Center during that contact ~~call-in~~ period.

~~(e) The Data Collection Center will provide the State Treasury with summary information on projected cash flows in a mutually agreeable format and frequency.~~

~~(e)(f) Example. A taxpayer who uses the ACH debit method to remit the January, 1990 sales tax payment will first determine the total amount of tax due with respect to the sales and use tax return (DR-15, line 14, amount due with return) for the January, 1990 applied period. Prior to the end of the contact ~~call-in~~ period on February 19 (or the last business day prior to the 19th), 1990, the taxpayer must use the toll-free number to contact the Data Collection Center. After establishing contact, the taxpayer will identify the EFT account with the preassigned payment ~~payor~~ identification number and state the tax type (sales and use tax), the payment ~~document~~ type (monthly return), the payment amount (\$12,345), the tax period~~

(January, 1990), and the verification code ~~due date~~ (February 20, 1990). At the end of the communication, the taxpayer will receive a confirmation code ~~trace number~~ which will verify the accuracy of the recorded tax payment and serve as a receipt for the transaction. Payment information involving the ACH debit transfer will be electronically transmitted to the Department on February 19, 1990, shortly after the expiration of the contact ~~call-in~~ period. The actual tax payment of \$12,345, however, will not be posted as collected funds to the Treasurer's account until the following day, February 20, 1990. Taxpayers must file the required return as provided by law and rule. If applicable, in the normal manner, except that the taxpayer must check the box on the return to show payment by EFT.

(2)(a) ACH Credit Method. Taxpayers who have been granted permission to use the ACH credit method must contact their own financial institutions and make the arrangements to transfer the tax payment to the state Treasury account ~~using~~ ~~via~~ an ACH credit transfer. The Department will not bear the costs for taxpayers to use the ACH credit method.

(b) To assure the timely receipt of payment of tax, a taxpayer must initiate the payment transaction with its financial institution in time for the payment to be deposited as collected funds to the State Treasury account on or before the appropriate due date.

(c) All ACH credit transfers must be accompanied by a Cash Concentration or Disbursement (CCD) + addenda record, in the format specified by the Department, which includes the following information:

1. Record type code ~~Taxpayer's name~~;
2. Addenda type code ~~Taxpayer's identification number~~;
3. Taxpayer identification ~~Tax type~~;
4. Tax type code ~~Amount/payment type~~;
5. Tax period end date ~~Amount of payment~~;
6. Amount type code ~~Tax period~~;
7. Amount. ~~Name and account of correspondent bank~~;
8. ~~Name of receiving bank~~;
9. ~~State Treasury account number~~; and
10. ~~American Bank Association 9 digit number of receiving bank~~.

~~(d) If the taxpayer repeatedly fails more than three times in 12 consecutive calendar months, beginning January 1, 2002, to provide the Department with the required addenda record which conforms to the requirements of this rule ~~the Department~~, the taxpayer will be required to use the ACH debit method.~~

(e) Example. A taxpayer who uses the ACH credit method to remit the January, 1990 sales tax payment will first determine the total amount of tax due with respect to the sales and use tax return (DR-15, line 14, amount due with return) for the January, 1990 applied period. At a time arranged between the taxpayer and the taxpayer's financial institution, the taxpayer will provide the taxpayer's financial institution with

the information necessary to initiate a timely transfer of the January, ~~1990~~ tax payment and an accompanying CCD + addenda record. The timely initiated ACH credit transfer of \$12,345 will be posted as collected funds to the State Treasurer's account on February 20, ~~1990~~. To be timely, the ACH credit transfer of January, ~~1990~~ tax must be deposited to the state Treasury account as collected funds on or before February 20, ~~1990~~. Taxpayers must file the required return as provided by law and rule. If applicable, in the normal manner, except that the taxpayer must check the box on the return to show payment by EFT.

(3) Wire transfer. Taxpayers who, due to circumstances beyond their reasonable control, are unable to initiate a timely payment of tax through the ACH debit method or the ACH credit method may request the Department's permission, on an exception basis, to transmit a payment payments of tax to the State Treasurer's account via wire transfer.

(a) Prior to initiating the transmission, the taxpayer must contact the E-Services Unit Chief or the Assistant Chief of the Bureau of Revenue Processing, or their designee, through the E-Services EFT hotline at telephone number (850)904-487-7972. The taxpayer must fax a written explanation of present the emergency situation which prevents timely compliance under either the ACH debit method or ACH credit method and must request written approval to wire transfer the tax payment payments in question to the State Treasury account. The E-Services fax number is (850)922-5088.

(b) Taxpayers who are granted written approval to use wire transfer as an exception to either the ACH debit method or ACH credit method will be given specific instructions regarding the payment information that must accompany the wire transfer.

1. All wire transfers must be accompanied by payment information, in addition to an addenda record, in the format specified by the Department, which includes the following information:

- a. Taxpayer's name;
- b. Taxpayer's identification number;
- c. Tax type;
- d. Amount/payment type;
- e. Amount of payment;
- f. Tax period;
- g. Name and account of correspondent bank;
- h. Name of receiving bank;
- i. State treasury account number; and
- j. American Bank Association 9 digit number of receiving bank.

2. The Department will not bear any costs associated with the wire transfer.

(c) Wire transfers which are not received in by the State Treasury account on or before the due date of the transmitted payments of tax will constitute late payment, and the applicable late filing penalties, interest, and loss of collection allowance shall apply.

Specific Authority 202.26(3)(a), 202.30(1), 213.06(1) FS. Law Implemented 202.30(1), 213.755 FS., s. 24, Ch. 90-203, L.O.F. History--New 12-19-89, Amended 1-8-91, 11-17-93.

12-24.009 Due Date; General Provisions.

(1) Taxpayers who are required to remit tax payments through EFT must initiate the transfer so that the amount due is deposited as collected funds to the State Treasurer's account on or before the due date under the appropriate revenue law. If a tax due date falls on a Saturday, a Sunday, a legal holiday as defined in s. 658.70(1), F.S., or on a legal holiday of the jurisdiction in which the taxpayer's financial institution is located, the deposit by electronic funds transfer is required on or before the first banking day thereafter. For the purposes of these rules, "banking day" has the meaning prescribed in s. 658.70(1), F.S. If the date on which the taxpayer is required to initiate either an ACH debit or an ACH credit transfer falls on a Saturday, Sunday, or a business or banking holiday, the taxpayer must either initiate the transaction on the preceding business day or wire transfer the funds pursuant to Rule 12-24.008(3), F.A.C.

(2) The EFT method of payment does not change any current filing requirements for tax returns. If the EFT payment is not timely made or the tax return required is not filed by the due date, the provisions for late filing penalties, interest, and loss of collection allowance or discount shall apply under the provisions of the appropriate revenue law, except as provided in these rules.

(3) The provisions of s. 213.21, F.S., shall govern the compromise and settlement of any tax, interest, or penalty assessed due to the late payment of an electronically filed payment, except as provided in these rules.

(a) For EFT purposes, "reasonable cause" for the compromise of penalty shall include, in addition to the provisions of s. 213.21, F.S., and Rule Chapter 12-13, F.A.C., the following:

1. The inability to access the EFT system on the required date because of a system failure beyond the reasonable control of the taxpayer;

2. The failure of the EFT system to properly apply a payment; or

3. The failure of the EFT system to issue proper verification of receipt of payment information.

(b) 1. A taxpayer who is required to remit payments under the EFT program and who is unable to make a timely payment because of system failures within the banking system/ACH interface which are beyond the taxpayer's control shall not be subject to penalty or interest for late payment or loss of collection allowance or discount. The taxpayer must provide a

written explanation and supporting documentation to the E-Services Unit concerning any system failure within the banking system/ACH interface.

2. Taxpayers must ensure that they use reasonable and prudent judgement when selecting a banking system or ACH interface to handle their EFT transactions.

(c) Errors made by the Data Collection Center, the State Treasury, or the Department shall not subject the taxpayer to loss of collection allowance or discount, or assessment of penalty or interest for late payment.

(4) During the first ~~3-month~~ 6-month period a taxpayer is required to remit tax by EFT, the Department will extend a reasonable grace period to taxpayers to resolve problems which arise when new administrative procedures, data systems changes and taxpayer operating procedures are implemented. To qualify for a grace period, the taxpayer must demonstrate in writing to the Department that a good faith effort to comply was made, or that circumstances beyond the taxpayer's reasonable control prevented compliance by the required date, or that a mistake or inadvertence prevented timely payment when the taxpayer attempted to correctly and timely initiate an EFT payment.

(5) Pursuant to s. 202.28(1), F.S., dealers of communications services who fail to properly remit the communications services taxes by EFT as required in s. 202.30(1), F.S., are not authorized to claim the collection allowance authorized by s. 202.28, F.S., for the proper remitting of taxes.

Specific Authority 202.26(3)(a), 202.30(1), 213.06 FS. Law Implemented 202.28, 202.30, 212.12, 213.755 FS., s. 25, Ch. 89-356, L.O.F. History-New 12-19-89, Amended _____.

12-24.010 General Administrative Provisions.

(1) Taxpayers who need general information concerning the EFT program can contact the E-Services Unit EFT hotline at telephone ~~(904)(850)487-7972, or the Department's Taxpayer Assistance Section at telephone (904)(850)488-6800~~ or Toll-Free 1-800-352-3671 (Florida only).

(2) Voluntary Inclusion in EFT. Those taxpayers who are required to participate in the EFT program due to a prior year tax liability for any a tax type subject to EFT may request permission to also remit other tax types by EFT. Written requests for voluntary inclusion in the EFT program must be filed with the E-Services Unit Department at least 60 days prior to the due date of the payment(s) in question. Taxpayers may terminate voluntary participation by filing a written notice of termination with the E-Services Unit Department at least 60 days prior to the due date of the last EFT payment.

(~~3~~) Requests for voluntary inclusion and termination notices must be directed to the E-Services Unit EFT Section, Division of Tax Processing, Florida Department of Revenue, P. O. Box 5885 Post Office Box 2096, Tallahassee, Florida 32314-5885 32316-2096.

(b) The Department will accept facsimile transmissions of requests at telephone (850)922-5088.

(3) A taxpayer who remits a tax type by EFT shall indicate this fact on the return when it is filed. Solely for the purposes of this rule, "return" means the form designated for filing the report of taxes due for a period, including forms for making installments of estimated tax and tentative tax returns.

(3)(4) The Data Collection Center and its employees shall be bound by the same confidentiality requirements as the Department under s. 213.053, F.S.

Specific Authority 202.26(3)(a), 202.30(1), 213.06(1) FS. Law Implemented 202.30, 213.755 FS., s. 24, Ch. 90-203, L.O.F. History-New 12-19-89, Amended 1-8-91, 11-17-93, _____.

PART II TAXPAYER RECORDKEEPING AND RETENTION REQUIREMENTS FOR ELECTRONIC DATA INTERCHANGE

12-24.021 Scope.

Rules 12-24.021 through – 12-24.030, F.A.C., define the requirements imposed on taxpayers for the maintenance and retention of books, records, and other sources of information under s. 213.35, F.S. These rules address such requirements where all or a part of the taxpayer's records are received, created, maintained or generated through ~~various~~ computer, electronic, and imaging processes and systems. Unless in conflict with the ~~various~~ specific requirements imposed by other rules of the Department, these rules shall govern the recordkeeping and retention requirements imposed by ~~for~~ the revenue laws administered by the Department.

Specific Authority 202.26(3)(a), 202.30(1), 213.06(1) FS. Law Implemented 202.30, 213.35 FS. History-New 10-24-96, Amended _____.

12-24.023 Recordkeeping Requirements – General.

(1) A taxpayer shall maintain all records that are necessary to make a determination of the correct tax liability under s. 213.35, F.S. All required records must be made available on request by the Department as provided ~~for~~ in s. 213.34, F.S. Such records shall include, but not be ~~necessarily~~ limited to: books of account, invoices, bills of lading, gross receipts from sales, resale certificates, consumer exemption certificates, and other pertinent records as ~~may be otherwise~~ required by statute or by rule of this state ~~the Department~~.

(2) If a taxpayer maintains ~~retains~~ records required to be retained under this Chapter Part in both machine-sensible and hardcopy formats, the taxpayer shall make the records available to the Department in machine-sensible format upon request of the Department.

(3) No change.

(4) The Department shall use Form DR-653 (Electronic Filing Agreement-Florida EFT/EDI Program Electronic Tax Filing System) to document an agreement with a taxpayer that such taxpayer will file tax reports and returns by electronic transmission.

(5) Pursuant to s. 202.28(1), F.S., taxpayers who fail to properly initiate a communications services tax return or a substitute communications systems tax return by electronic data interchange (EDI) as required in s. 202.30(2), F.S., are not authorized to claim the collection allowance authorized by s. 202.28, F.S., for the proper filing of tax returns.

Specific Authority 202.26(3)(a), 202.30(1), 213.06(1) FS. Law Implemented 202.30, 213.34, 213.35 FS. History--New 10-24-96, Amended _____.

12-24.024 Recordkeeping Requirements – Machine-Sensible Records.

(1) General Requirements.

(a) Machine-sensible records used to establish tax compliance shall contain sufficient transaction-level detail information so that the details underlying the machine-sensible records can be identified and made available to the Department upon request. A taxpayer has discretion to discard duplicated records and redundant information provided his or her responsibilities under these rules this rule are met.

(b) At the time of an examination by the Department, the taxpayer's retained records must be capable of being retrieved and converted to a standard record format.

(c) No change.

(2) Electronic Data Interchange Requirements.

(a) Where a taxpayer uses electronic data interchange processes and technology, the level of record detail, in combination with other records related to the transactions, must be equivalent to that contained in an acceptable paper record. For example, the retained records should contain such information including as vendor name, invoice date, product description, quantity purchased, price, amount of tax, indication of tax status, and shipping detail, etc. Codes may be used to identify some or all of the data elements, provided that the taxpayer provides a method which allows the Department to interpret the coded information.

(b) The taxpayer may capture the information necessary to satisfy these rules Rule 12-24.024(2)(a), F.A.C., at any level within the accounting system and need not retain the original EDI transaction records provided the audit trail, authenticity, and integrity of the retained records can be established. For example, a taxpayer using electronic data interchange technology receives electronic invoices from its suppliers. The taxpayer decides to retain the invoice data from completed and verified EDI transactions in its accounts payable system rather than to retain the EDI transactions themselves. Since neither the EDI transaction nor the accounts payable system captures capture information from the invoice pertaining to product description and vendor name (i.e., they contain only codes for that information), the taxpayer must retain also retains other records, such as his or her its vendor master file and product code description lists and make makes them available to the Department. In this example, the taxpayer need not retain its EDI transaction for tax purposes.

(3) Electronic Data Processing Systems Requirements. The requirements for an electronic data processing accounting system should be similar to those that of a manual accounting system, in that an adequately designed accounting system should incorporate methods and records that will satisfy the requirements of this chapter Part.

(4) Business Process Information.

(a) Upon the request of the Department, the taxpayer shall provide a description of the business process that created the retained records. Such description shall include the relationship between the records and the tax documents prepared by the taxpayer and the measures employed to ensure the integrity of the records.

(b) The taxpayer shall be capable of demonstrating:

1. The the functions being performed as they relate to the flow of data through the system;
2. The the internal controls used to ensure accurate and reliable processing; and
3. The the internal controls used to prevent unauthorized addition, alteration, or deletion of retained records.

(c) The following specific documentation is required for machine-sensible records retained pursuant to this Rule:

1. Record record formats or layouts;
2. Field field definitions (including the meaning of all codes used to represent information);
3. File file descriptions (e.g., data set name); and
4. Detailed detailed charts of accounts and account descriptions.

Specific Authority 202.26(3)(a), 202.30(1), 213.06(1) FS. Law Implemented 202.30, 213.34, 213.35 FS. History--New 10-24-96, Amended _____.

12-24.025 Records Maintenance Requirements.

(1) The Department recommends, but does not require, that taxpayers refer to the National Archives and Records Administration's (NARA) standards for guidance on the maintenance and storage of electronic records, including such as the labeling of records, the location and security of the storage environment, the creation of back-up copies, and the use of periodic testing to confirm the continued integrity of the records. The NARA standards may be found at 36 Code of Federal Regulations, Part 1234, July 1, 1995 edition.

(2) No change.

Specific Authority 202.26(3)(a), 202.30(1), 213.06(1) FS. Law Implemented 202.30, 213.35 FS. History--New 10-24-96, Amended _____.

12-24.026 Access to Machine-Sensible Records.

(1) The manner in which the Department is provided access to machine-sensible records as required in Rule 12-24.023(2), F.A.C., may be satisfied through a variety of means that shall take into account a taxpayer's specific facts and circumstances, as determined through consultation with the taxpayer.

(2) Departmental ~~Such~~ access will be provided in one or more of the following manners:

(a) through (d) No change.

Specific Authority 202.26(3)(a), 202.30(1), 213.06(1) FS. Law Implemented 202.30, 213.34, 213.35 FS. History–New 10-24-96, Amended.

12-24.027 Taxpayer Responsibility and Discretionary Authority.

(1) In conjunction with meeting the requirements of Rules ~~Rule~~ 12-24.024, 12-24.025, and 12-24.026, F.A.C., a taxpayer may create files solely for the use of the Department. For example, if a data base management system is used, it is consistent with the rule for the taxpayer to create and retain a file that contains the transaction-level detail from the data base management system and that meets the requirements of Rules ~~Rule~~ 12-24.024, 12-24.025, and 12-24.026, F.A.C. The taxpayer should document the process that created the separate file to show the relationship between that file and the original records.

(2) A taxpayer may contract with a third party to provide custodial or management services of the records. Such a contract shall not relieve the taxpayer of its responsibilities under this chapter Part.

Specific Authority 202.26(3)(a), 202.30(1), 213.06(1) FS. Law Implemented 202.30, 213.35 FS. History–New 10-24-96, Amended.

12-24.028 Alternative Storage Media.

(1) For purposes of storage and retention, taxpayers may convert hardcopy documents received or produced in the normal course of business and required to be retained under this chapter Part to microfilm, microfiche, or other storage-only imaging systems and may discard the original hardcopy documents, provided the conditions of this rule section are met. Documents which may be stored on these media include, but are not limited to general books of account, journals, voucher registers, general and subsidiary ledgers, and supporting records of details, such as sales invoices, purchase invoices, exemption certificates, and credit memoranda.

(2) No change.

Specific Authority 202.26(3)(a), 202.30(1), 213.06(1) FS. Law Implemented 202.30, 213.34, 213.35 FS. History–New 10-24-96, Amended.

12-24.029 Effect on Hardcopy Recordkeeping Requirements.

(1) Except as otherwise provided in this section, the provisions of this chapter Part do not relieve taxpayers of the responsibility to retain hardcopy records that are created or received in the ordinary course of business as required by existing statutes and rules. Hardcopy records may be retained on a recordkeeping medium as provided in Rule 12-24.028, F.A.C.

(2) If hardcopy records are not produced or received in the ordinary course of transacting business (e.g., when the taxpayer uses electronic data interchange technology), such hardcopy records need not be created for examination by the Department.

(3) Hardcopy records generated at the time of a transaction using a credit or debit card must be retained unless all the details necessary to determine correct tax liability relating to the transaction are subsequently received and retained by the taxpayer in accordance with this chapter Part. Such details include those listed in Rule 12-24.024~~(2)(a)~~, F.A.C.

(4) through (5) No change.

Specific Authority 202.26(3)(a), 202.30(1), 213.06(1) FS. Law Implemented 202.30, 213.34, 213.35 FS. History–New 10-24-96, Amended.

12-24.030 Records Retention – Time Period.

All records required to be retained under this chapter Part shall be preserved pursuant to s. 213.35, F.S., unless the Department has provided in writing that the records are no longer required.

Specific Authority 202.26(3)(a), 202.30(1), 213.06(1) FS. Law Implemented 202.30, 213.35 FS. History–New 10-24-96, Amended.

NAME OF PERSON ORIGINATING PROPOSED RULE: Larry Green, Tax Law Specialist, Technical Assistance and Dispute Resolution, Department of Revenue, P. O. Box 7443, Tallahassee, Florida 32314-7443, telephone (850)922-4830.

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

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: August 20, 2001

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: These proposed rules were noticed for a Rule Development Workshop in the Florida Administrative Weekly on June 1, 2001 (Vol. 27, No. 22, pp. 2597-2608). A rule development workshop was held on June 26, 2001, in the Auditorium of the R. A. Gray Building, 500 S. Bronough Street, Tallahassee, Florida, regarding these proposed rule changes. Comments were received prior to the workshop and at the workshop. Changes have been incorporated into the proposed rules based on these comments.

DEPARTMENT OF REVENUE

Sales and Use Tax

RULE TITLE: Industrial Machinery and Equipment for Use in a New or Expanding Business RULE NO.: 12A-1.096

PURPOSE AND EFFECT: The purpose of the proposed deletion of paragraph (8)(f) of Rule 12A-1.096, F.A.C., is to remove obsolete language rendered unnecessary by the enactment of section 3 of chapter 2000-310, Laws of Florida (see s. 212.08(7)(eee), F.S.). The effect of removing this

obsolete language is to ensure that taxpayers will be guided by the provisions of the general exemption for railroad roadway materials granted in s. 212.08(7)(eee), F.S.

SUMMARY: The rule language being proposed for deletion deals with a limited exemption granted to new and expanding businesses for specified railroad roadway materials. The enactment of the general exemption for railroad roadway materials in s. 212.08(7)(eee), F.S., renders the limited exemption in the rule unnecessary.

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

LAW IMPLEMENTED: 212.02(4),(14),(21),(22), 212.05, 212.06, 212.08(5)(b), 212.0805, 212.13(2), 215.26(2) FS.

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

TIME AND DATE: 1:30 p.m., December 18, 2001
PLACE: Room 116, Larson Building, 200 E. Gaines Street, Tallahassee, Florida

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

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 RULE IS:

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

(1) through (7) No change.

(8) Exclusions.

(a) through (e) No change.

~~(f) The materials used in the construction of a railroad spur that is on the property of a new or expanding business and belongs to such business for the purpose of transporting raw materials shall be exempt. If a railroad spur is used solely for~~

~~the purpose of transporting the finished product, tax will apply to the total cost of the materials used in the construction of that railroad spur.~~

(g) through (u) renumbered (f) through (t) No change.

(10) through (11) No change.

Specific Authority 212.08(5)(b)4., 212.17(6), 212.18(2), 213.06(1) FS. Law Implemented 212.02(4),(14),(21),(22), 212.05, 212.06, 212.08(5)(b), 212.0805, 212.13(2), 215.26(2) FS. History—New 5-11-92, Amended 7-1-99, 6-28-00, 6-19-01, _____.

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

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

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: October 29, 2001

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: September 7, 2001 (Vol. 27, No. 36, pp. 4101-4102)

DEPARTMENT OF REVENUE

Child Support Enforcement Program

RULE TITLES:	RULE NOS.:
Determination of Cooperation; Determination of Noncooperation; Determination of Good Cause	12E-1.008
Suspension of Driver License; Suspension of Motor Vehicle Registration	12E-1.023
Written Agreements for Payment of Past-Due Support	12E-1.027
Garnishment by Levy	12E-1.028

PURPOSE AND EFFECT: A) The purpose of the proposed amendments to Rule 12E-1.008, F.A.C., is to revise the department's policies and procedures concerning the determination of cooperation, noncooperation, and good cause for noncooperation. The effect of the proposed amendments is to establish: requirements for public assistance applicants and recipients to cooperate in good faith with the child support enforcement program; a methodology for determining cooperation and noncooperation; the requirement to give notice of a pending determination of noncooperation and an opportunity to request a review of the determination; provisions for claiming good cause for noncooperation; a methodology for determining good cause; procedures for notifying the Department of Children and Families of determinations of noncooperation and subsequent determinations of cooperation. B) The purpose of the proposed amendments to Rule 12E-1.023, F.A.C., is to conform the rule with the statutory provisions authorizing the department to

seek the suspension of an obligor's driver license and motor vehicle registration based upon delinquent support payments or failure of the obligor to comply with a subpoena or similar order to appear relating to paternity or support proceedings. The effect of the proposed amendments is to provide an explanation of the driver license and vehicle registration suspension process, including: the criteria for when the department may seek suspension; the exception criteria for when the department will not seek suspension; the procedures for giving notice of the intent to suspend; the conditions for terminating the suspension process; procedures for entering into written agreements with obligors; and the conditions and procedures for reinstating a suspended license. C) The purpose of proposed Rule 12E-1.027, F.A.C., is to establish procedures for settlement of enforcement actions by entering into written agreements with child support obligors for the payment of past-due support. The effect of the proposed rule is: to establish factors the department will consider in entering into written agreements, to require disclosure of information related to those factors, to require certain terms in written agreements, and to make requirements for the form and completion of written agreements. D) The purpose of proposed Rule 12E-1.028, F.A.C., is to implement the provisions of s. 409.25656, F.S., for levying upon a child support obligor's property in the possession of another person. The effect of the proposed rule is to establish: factors to be considered in selecting cases for levy; conditions when the department will not issue a notice of freeze or notice of levy; requirements for issuing a notice of freeze, notice of intent, and notice of levy; circumstances when the department will release a freeze; conditions when the department will accept an obligor's consent to a levy; requirements for levying in two or more of an obligor's cases; requirements for levying against jointly owned property; and limits on levying against earnings in an account at a financial institution.

SUMMARY: The proposed amendment to Rule 12E-1.008, F.A.C. defines terms used in the rule; requires applicants and recipients of public assistance to cooperate with the department to be eligible for assistance; establishes minimum information requirements to be considered cooperative; provides the alternative of an interview with department staff if the minimum information is not provided; provides for a recipient to allege a lack of information; requires continuing cooperation for a recipient to remain eligible for assistance; specifies information requirements to continue to be considered cooperative; requires the department to give notice of a determination of noncooperation; provides for requesting a review of a determination of noncooperation; explains the review procedures; establishes procedures for the department to determine claims of good cause for noncooperation, including giving notice of the right to claim good cause, documentation requirements in support of a claim, time allowed to document a claim, standards for approving a claim, categories of good cause determinations, and notice

requirements for determinations of claims; and, establishes the procedures for notifying the Department of Children and Families of determinations of noncooperation. The proposed amendment to Rule 12E-1.023, F.A.C., provides for the department to administratively seek the suspension of a driver license and motor vehicle registration of an obligor who is delinquent in support payments or has failed to comply with a subpoena or similar order to appear relating to a paternity or support proceeding; provides circumstances for not taking suspension action against an obligor; establishes notice requirements when seeking suspension action; establishes procedures for providing notice to the Department of Highway Safety and Motor Vehicles to suspend the license/registration; allows the obligor to stop the suspension process based upon specific case circumstances; establishes criteria for obligor's to enter into written agreements with the department; and, provides procedures for reinstatement of a license and registration. The proposed new Rule 12E-1.027, F.A.C., provides definitions for the terms "past-due support," "written agreement," and "authorized representative"; provides that the department may enter into written agreements for repayment of past-due support if it determines an obligor cannot satisfy a past-due amount in full; provides factors the department must consider in entering into or renegotiating written agreements; prescribes certain terms and information that must be included in repayment agreements, parties who must sign an agreement, and, how an agreement becomes effective. The proposed new Rule 12E-1.028, F.A.C.: provides definitions for certain terms used in the rule; provides procedures for selecting cases the department will levy against, including factors considered in determining whether to levy and conditions in which the department will not levy; provides for the department to give notice to the custodian of an obligor's assets that a freeze is imposed on the assets; provides for giving notice to the obligor and any joint owner of the assets of the intent to levy on the assets and how to contest the intent to levy; provides circumstances when the department shall release a freeze on assets; provides conditions for accepting an obligor's consent to levy; clarifies that if an obligor consents to a levy in accordance with s. 409.25656(7)(d), F.S., the department shall levy before the times prescribed for a levy in ss. 409.25656(3) and (7)(b), F.S.; provides for levying in two or more of an obligor's cases in the same action and for allocating the proceeds of the levy among the cases; clarifies that the department can levy against an obligor's jointly owned property; provides for giving a joint owner the same notice and opportunity for a hearing as is provided to an obligor; provides that the department shall assess claims that assets belong exclusively to a joint owner and shall not levy against assets proven to belong exclusively to a joint owner; provides that the department shall not levy upon earnings in an account at a financial institution that are exempt from garnishment under

the Consumer Credit Protection Act and provides for assessing claims that such funds are exempt; and, provides for the timing, method, and conditions for issuing a notice of levy.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COST: Because these proposed rules create no new regulatory costs, no statement of estimated regulatory cost has been prepared.

Any person who wants to provide information regarding a statement of estimated regulatory costs must do so in writing within 21 days of this notice.

SPECIFIC AUTHORITY: 409.2557(3)(f),(h),(i), 409.2564(14), 409.25656(11) FS.

LAW IMPLEMENTED: 61.13016, 322.058, 409.2557(3)(f), 409.2561(1), 409.2561(2)(b), 409.2561(3), 409.2564(4), 409.25656, 409.2572, 409.2598 FS.

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

TIME AND DATE: 8:00 a.m., December 17, 2001

PLACE: Room 301, 4070 Esplanade Way, Tallahassee, Florida 32399-3150

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULES IS: Mike Vergenz, Government Analyst II, Resource Management Process, Department of Revenue, P. O. Box 8030, Tallahassee, Florida 32314-8030, telephone (850)922-9568

NOTICE UNDER THE AMERICANS WITH DISABILITIES ACT: Any person requiring special accommodations to participate in any proceeding is asked to advise the Department at least five (5) calendar days before such proceeding by contacting Mike Vergenz, (850)922-9568. 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 12E-1.008 follows. See Florida Administrative Code for present text.)

12E-1.008 Determination of Cooperation; Determination of Noncooperation; Determination of Good Cause.

(1) Definitions and Federal and State Law.

(a) Definitions. As used in this section:

1. “Applicant or recipient” means an individual who has applied for or receives public assistance.

2. “Cooperation” means an applicant or recipient taking the actions identified in s. 409.2572, F.S., as requested by the child support enforcement program or legal service provider staff, to assist in identifying and locating the noncustodial parent, establishing paternity, establishing, modifying, and enforcing medical and financial support, and collecting support or other payments or property due from the noncustodial parent.

3. “Department” means the Department of Revenue.

4. “Good cause” means a legally and factually sufficient reason to excuse the applicant or recipient from cooperation requirements as determined by the department, after evaluating the applicant or recipient’s written good cause claim, and other evidence available to the department, in accordance with subsection (5) of this rule.

5. “Public assistance” means food stamps received on behalf of a child under 18 years of age who has an absent parent, money assistance paid on the basis of foster care or medicaid programs operating under Title IV-E and Title XIX of the Social Security Act, respectively, or temporary cash assistance.

(b) Federal and state laws. Cooperation provisions are located in 42 U.S.C. 608(a), 42 U.S.C. 654(29), 45 CFR 264.30 and s. 409.2572, 414.095(7) and 414.32(1)(a), F.S. Members of the public may obtain copies of the federal laws from the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402 or by accessing <http://uscode.house.gov/usc.htm> to obtain the above U.S.C. or <http://www.access.gpo.gov/nara/cfr/to> to obtain the above CFR on the Internet.

(2) Cooperation Requirements for Applicants or Recipients of Public Assistance. As a condition of eligibility for public assistance, an applicant or a recipient must cooperate in good faith with the child support enforcement program. An adult who applies for or receives Medicaid services for a child only is not required to cooperate as provided by this rule. The requirement for an applicant or a recipient to cooperate with the child support enforcement program will be excused only when good cause for refusing to do so is determined in accordance with subsection (5) of this rule.

(a) Cooperation Requirement for Applicants for Public Assistance.

1. If an applicant for public assistance provides to the department, either directly or via the Department of Children and Families, the following information concerning the noncustodial parent for each eligible child, the applicant shall be determined to have cooperated for purposes of eligibility for public assistance:

- a. Name (first and last).
- b. Gender.
- c. Race.
- d. Date of birth or social security number.

2. If an applicant fails to provide the four items listed in subparagraph 1 above, the applicant must be interviewed by the department prior to authorization of public assistance benefits. At this interview the applicant will have the opportunity to cooperate with the department by providing information concerning the noncustodial parent for each eligible child that will help the department to identify and locate the noncustodial parent, establish paternity, establish, modify, and enforce medical and financial support, and collect support and other payments or property due from the

noncustodial parent or claim good cause as provided by subsection (5). An applicant who alleges a lack of information regarding the location or identity of the putative or other parent(s), pursuant to paragraph (b), subparagraph 2., below, has demonstrated cooperation with the department.

3. An applicant shall not be eligible for public assistance benefits when the applicant fails to cooperate with the department in accordance with subparagraphs 1 and 2 above. The department shall notify the Department of Children and Families of the applicant's failure to cooperate, in accordance with subsection (6).

4. Once the applicant complies with subsection (2), paragraph (a), subparagraphs 1 or 2, and is determined eligible to receive public assistance, the recipient shall be required to further cooperate with the department in accordance with subsection (2), paragraph (b), of this rule and s. 409.2572, F.S.

(b) Continuous Cooperation Requirement.

1. A recipient of public assistance must continue to make a good faith effort to cooperate with the department in accordance with s. 409.2572, F.S., to assist the department in its efforts to identify and locate the noncustodial parent, establish paternity, establish, modify, and enforce medical and financial support, and collect support or other payments or property due from the noncustodial parent.

2. With respect to identifying and locating the noncustodial parent, the recipient must provide the following information regarding the noncustodial parent, when requested and if available:

- a. Social Security Number.
- b. Race.
- c. Date of birth.
- d. Current or former employer.
- e. Place of birth.
- f. Current or former address and phone number of the noncustodial parent.
- g. Schools attended and dates when attended.
- h. Driver license number and state where issued.
- i. Make, model and license number of vehicles owned by the noncustodial parent and state where vehicle is or was registered.
- j. Arrest or incarceration history.
- k. Banks or other financial institutions where the noncustodial parent conducts business.
- l. Places of social contact. This includes names, addresses or telephone numbers of parents, friends or relatives.
- m. First and last names of the noncustodial parent's parents.
- n. Other information, based upon individual case circumstances, that will assist the department in determining the noncustodial parent's identity and location.

3. A recipient who alleges a lack of information regarding the location or identity of the putative or other parent(s), pursuant to subsection (2), paragraph (b), subparagraph 2., above, has demonstrated cooperation with the department.

(3) Determination of Noncooperation. If the recipient of public assistance fails to cooperate with the department in accordance with s. 409.2572, F.S., and subsection (2), above, then the department shall determine the recipient noncooperative and take the following action.

(a) The department shall send notice of the recipient's noncooperation to the recipient at the last known address provided to the department.

(b) Failure of the recipient to take one of the following three actions within 10 business days from the mail date on the notice shall result in a determination of noncooperation and notification to the Department of Children and Families in accordance with subsection (6) of this rule:

1. Contact the department and make arrangements to cooperate. Noncooperation shall not be reported by the department if the recipient takes the requested action by the scheduled compliance date.

2. Respond within 10 days and claim to have a good cause reason to not cooperate. The recipient shall not be reported as uncooperative unless the good cause claim is denied by the department pursuant to subsection (5). Food stamp only recipients must request a good cause determination from the Department of Children and Families.

3. Request the department to conduct an informal review pursuant to subsection (4).

(4) Request for Review.

(a) The recipient may request a review of a pending determination of noncooperation. The department shall provide the recipient with the necessary documentation to request a review. The recipient must return the completed request to the department within 10 business days from the date the department mails the documentation to the recipient. If the recipient telephones the department and requests a review, the department shall mail the necessary documentation to the recipient within five business days of the telephone call. Failure of the recipient to return the request within the designated time shall result in the department notifying the Department of Children and Families that the recipient has failed to cooperate.

(b) Reviews of pending determinations of noncooperation requested pursuant to subsection (3), paragraph (b), subparagraph 3, shall be finalized within 20 business days of receipt of a completed request for review. Incomplete requests provided to the department shall be returned to the recipient, with an explanation of the additional information required. The recipient will have five additional business days to return the completed request for review. When a request for review is not returned within the five additional business days, the recipient shall be determined noncooperative and the department will

notify the Department of Children and Families. The department shall take the following actions when a completed request for review is received by the department.

1. Schedule a date to conduct the review.

2. Provide notice of the date, time and place of the review to the recipient, or their representative. Recipients shall be informed of their rights to have a representative present at the review, to provide information, to review the case file and to discuss the case.

3. Conduct the review. Reviews shall consist of an examination of the department's case file, interview with department staff and an evaluation of the recipient's statements. The record shall be reviewed to determine whether:

a. The recipient has cooperated with the department in good faith;

b. The department has complied with established time frames and notices; and

c. The facts of the case support a determination of noncooperation.

4. Notify the recipient in writing of the department's findings.

(5) Determination of Good Cause. The department is authorized in accordance with 42 U.S.C. 654(29), and s. 409.2572(4), F.S., to determine a recipient's claim of good cause for failure to cooperate with the department, except when the recipient is receiving only food stamps. Food stamp only recipients must seek a good cause determination from the Department of Children and Families. An approved good cause claim excuses the recipient from the requirement to cooperate with the department on the specific case against a specific noncustodial parent for which good cause is approved.

(a) The department shall provide the recipient with written notice of their right to make a claim for good cause, the basis for submitting a claim, and how to submit a claim.

(b) The recipient shall return documentation to the department to support the claim of good cause within 20 business days from the date the written notice is mailed by the department. If the recipient is unable to provide all the needed documentation within 20 business days, additional time can be requested by the recipient. The department shall approve requests for additional time when the recipient demonstrates that documentation exists but is not readily available and that the recipient is making a good faith effort to obtain the information.

(c) Good cause shall be determined when the recipient provides sufficient documentation, based upon the unique circumstances of the good cause claim, to justify the existence of one or more of the following circumstances.

1. A reasonable certainty that physical or emotional harm would come to the child or recipient, if they cooperated with the department.

2. The child was born as a result of rape or incest.

3. Legal proceedings for the adoption of the child are pending before a court.

4. The parent or caretaker relative is being assisted by a public or licensed private social agency to determine whether to place the child for adoption.

(d) Good cause claims which have been determined by the department are categorized as approved indefinitely, approved time-limited, or denied, based upon the unique factors of each claim and the documentation provided by the recipient. The department shall suspend child support enforcement case activities from the time a good cause claim is submitted until its final determination.

1. A claim is approved indefinitely when documentation is submitted to substantiate the claim and the circumstances of the claim will most likely continue.

2. A claim is approved time-limited when documentation is submitted to substantiate the claim and the circumstances of the claim are likely to change within a determinable period.

3. A claim is denied when documentation is insufficient to substantiate the claim.

(e) The department shall notify the recipient of the decision.

(f) A recipient whose claim has been denied pursuant to paragraph (d), subparagraph 3, above, must cooperate with the department in accordance with s. 409.2572, F.S., and subsection (2), above. If the recipient fails to cooperate, the process of determining noncooperation shall commence.

(6) Notification to the Department of Children and Families.

(a) In accordance with s. 409.2572(3), F.S., the department is responsible for determining and reporting to the Department of Children and Families, acts of noncooperation by applicants and recipients of public assistance.

(b) The Department of Children and Families is the agency responsible for imposing and removing sanctions, including providing the applicant or recipient with notice of the sanction and information about hearing requirements, including the applicant or recipient's right to request a hearing with the Department of Children and Families, Office of Appeal Hearings.

(c) The department shall notify the Department of Children and Families when the applicant or recipient cooperates with the department in accordance with s. 409.2572, F.S., or when the department determines that an applicant or recipient has failed to cooperate, or when the department determines that good cause exists for the applicant or recipient's noncooperation.

(d) The department shall notify the Department of Children and Families and the applicant or recipient within two business days of either:

1. The department's determination that the applicant or recipient is cooperating in good faith;

2. Upon the department's determination that cooperation by the applicant or recipient is not needed to take the next appropriate case action; or

3. The department's determination that good cause exists for the applicant or recipient's noncooperation.

Specific Authority 409.2557(3)(h) FS. Law Implemented 409.2572 FS. History—New 4-1-86, Amended 4-6-88, 7-20-94, Formerly 10C-25.006, Amended _____.

(Substantial rewording of Rule 12E-1.023 follows. See Florida Administrative Code for present text.)

12E-1.023 Suspension of Driver's License; ~~Suspension of Motor Driving Privilege and~~ Vehicle Registration.

(1) Suspension Criteria. The department is authorized pursuant to s. 61.13016, F.S., to request the suspension of an obligor's driver license and motor vehicle registration. Suspension of an obligor's driver license and the registration of all motor vehicles solely owned by the obligor shall occur when:

(a) The obligor is 15 days delinquent in making a payment in support; or

(b) The obligor fails to comply with a subpoena, order to appear, order to show cause, or similar order relating to paternity or support proceedings.

The department shall stop a suspension action when the obligor complies with one of the provisions stated in subsection (5) of this rule.

(2) Exception Criteria. The department shall not take suspension action when:

(a) The obligor is making full payments as required by the support order or is paying pursuant to an income deduction;

(b) The obligor is a recipient of temporary cash assistance or Supplemental Security Income (SSI); or

(c) The obligor has filed for bankruptcy under Chapter 11, 12 or 13.

(3) Notice to Obligor of Intent to Suspend Driver License; Notice to Suspend Motor Vehicle Registration. In accordance with s. 61.13016(1), F.S., the obligor must be provided notice of the department's intent to suspend the driver license and motor vehicle registration.

(a) When the department has a more current address than the Department of Highway Safety and Motor Vehicles (DHSMV), the department shall simultaneously send the notice to the obligor's last address of record with the Department of Highway Safety and Motor Vehicles and send a copy of the notice to the most current address listed by the department.

(b) Service of the notice is complete upon mailing to the obligor's last known address as stated in subsection (3), paragraph (a), above.

(4) Notice to the Department of Highway Safety and Motor Vehicles to Suspend Driver License; Notice to Suspend Vehicle Registration. In accordance with s. 61.13016(2), F.S.,

the department shall complete and send to the Department of Highway Safety and Motor Vehicles the notice to suspend obligor's driver license and vehicle registration(s).

(5) Termination of Driver License Suspension Process; Termination of Motor Vehicle Registration Suspension Process. The department shall stop a pending suspension action when the obligor complies with one of the provisions stated in s. 61.13016(1)(c)1., F.S. Additionally, the department shall stop the suspension process when:

(a) An income deduction notice is sent to the obligor's payor of income;

(b) The non-public assistance recipient of IV-D services requests case closure and the department no longer has the authority to enforce the support order;

(c) The department erroneously notified the Department of Highway Safety and Motor Vehicles to suspend the obligor's license/vehicle registration;

(d) The department verifies the obligor is receiving temporary cash assistance or Supplemental Security Income (SSI); or

(e) The department verifies the obligor has filed for bankruptcy under Chapter 11, 12 or 13.

(6) Written Agreements.

(a) When negotiating with the obligor under this subsection for a written agreement for payment, the department shall take into account the following factors:

1. The obligor's ongoing support obligation amount, delinquent amount and past due obligation(s); and

2. The obligor's ability to make a lump sum payment toward the delinquent amount or to comply with terms of the department's proposed payment agreement.

(b) A statement must be included in the written agreement indicating each of the following:

1. The obligor admits liability for the total amount of support past due;

2. The obligor agrees that the department will pursue, without further notice to the obligor, the suspension of the obligor's driver license and motor vehicle registration through direct notice to the Department of Highway Safety and Motor Vehicles should the obligor fail to comply with the written agreement; and

3. The obligor agrees to entry of a court order incorporating the terms of the agreement.

(c) If the obligor defaults on any payment required by the written agreement, the department shall, without further notice to the obligor, request the Department of Highway Safety and Motor Vehicles to suspend the obligor's license and registration, as provided by the terms of the written agreement, unless one of the circumstances listed in subsection (5) exists.

(7) Reinstatement of the Driver License: Reinstatement of Motor Vehicle Registration. The department shall authorize the reinstatement of the obligor's license and registration when the obligor complies with one of the provisions stated in s. 322.058(2), F.S., or when:

(a) The obligor complies with a subpoena or similar order to show cause relating to paternity or support proceedings;

(b) The department verifies the obligor has filed for bankruptcy under Chapter 11, 12 or 13;

(c) The non-public assistance recipient of services requests case closure and the department no longer has the authority to enforce the support order;

(d) The department has requested the suspension in error;
or

(e) The department verifies the obligor is receiving temporary cash assistance or Supplemental Security Income (SSI).

(8) Procedure for Reinstatement.

(a) When one of the circumstances cited in subsection (7), paragraph (a), (b) or (c) occurs, the department shall complete, sign and provide to the obligor an affidavit to reinstate driver license/privilege and motor vehicle registration. The obligor must present this affidavit to the driver license examining office before the obligor's license and registration can be reinstated. The affidavit to reinstate is valid up to 30 days from the date it is issued.

(b) When the circumstance cited in subsection (7), paragraph (d) occurs, the department shall notify, by facsimile, the Department of Highway Safety and Motor Vehicles to reinstate the obligor's license and registration.

(c) When the circumstance cited in subsection (7), paragraph (e) occurs, the department shall notify the obligor that the department is no longer pursuing suspension action at this time due to the obligor's temporary cash assistance or Supplemental Security Income (SSI) status.

Specific Authority 409.2557(3)(i) FS. Law Implemented 61.13016, 322.058 FS. History--New 7-20-94, Formerly 10C-25.020, Amended _____.

12E-1.027 Written Agreements for Payment of Past-Due Support.

(1) Scope. This rule establishes procedures for the department to settle enforcement actions in child support cases by entering into written agreements with support obligors for the payment of past-due support. The department may enter into such written agreements in accordance with this rule.

(2) Definitions.

(a) "Authorized representative" means a representative of the department's Child Support Enforcement Program authorized to complete and sign a written agreement.

(b) "Past-due support" means the amount of support determined under a support order established under state law for support and maintenance of a child, or of a child and the parent with whom the child is living, which has not been paid.

(c) "Written agreement" means an agreement entered into by the department and an obligor in a format prescribed by the department and suitable to be filed in court or administrative proceedings that sets the terms for payment of past-due support.

(3) Requirements for Entering into Written Agreements for Payment of Past-Due Support.

(a) The department may enter into an agreement with an obligor for payment of past-due support if, after considering the factors in paragraph (b), the department agrees that the obligor is currently unable to satisfy the past-due support by an immediate lump sum payment in full.

(b) The department shall consider the following factors in determining whether to enter into an agreement for payment of past due support, and shall require documentation when necessary:

1. The obligor's current income and assets;

2. The obligor's employment history, current employment and capacity for work;

3. The obligor's medically verifiable disability, if any;

4. The obligor's ability to borrow money;

5. The obligor's support payment history;

6. The obligor's ability to meet a payment schedule based on projected cash flow; and

7. The length of time required to pay off the past-due support under a payment schedule.

The department may consider other factors and circumstances based on the particular facts of a case.

(c) The department may renegotiate a written agreement for payment of past-due support. When renegotiating, the department shall consider the obligor's support payment history during the term of the initial agreement, and the factors in paragraph (b) above.

(4) Terms of Written Agreements for Payment of Past-Due Support.

(a) An obligor completing a written agreement for payment of past-due support shall admit liability for the total amount of past-due support determined by the department to be due in accordance with the records of the appropriate court depository established by s. 61.181, F.S., or other appropriate records in interstate cases.

(b) Written agreements for payment of past-due support must provide for payment(s) that will satisfy the total amount of past-due support, as follows:

1. A one-time payment of the total past-due support; or

2. Periodic payments in equal amounts, paid at the same frequency as the ongoing support obligation, if any; or

3. Another agreed upon payment schedule that satisfies the total past-due support.

(c) When the department agrees to suspend an enforcement remedy to accept a payment plan, the written agreement shall provide that, in the event the obligor does not pay as agreed:

1. The department shall resume the enforcement remedy without further notice, unless the debt is paid in full, enforcement is contrary to law, or a subsequent written agreement is entered into with the obligor;

2. The obligor consents to the department resuming the enforcement remedy; and

3. The obligor waives the right to further notice or hearing concerning the department resuming the enforcement remedy.

(5) Form and Completion of Written Agreements.

(a) A written agreement completed under this rule must specify the obligor's name, the obligee's name, and the civil circuit case number, if applicable.

(b) A written agreement must be signed on behalf of the department by an authorized representative.

(c) A written agreement must be signed by the obligor, or the obligor's attorney, or another representative authorized by law to enter into an agreement on behalf of the obligor.

(d) A written agreement becomes effective when completed and signed by both the department and the obligor, or the obligor's representative as described in paragraph (c) above. After execution of a written agreement, the department shall furnish the obligor, or the obligor's representative as described in paragraph (c) above, and the obligee with a copy of the agreement.

Specific Authority 409.2557(3)(f), 409.2564(14) FS, Law Implemented 61.13016, 409.2557(3)(f), 409.2561(1), 409.2561(2)(b), 409.2561(3), 409.2564(4), 409.2598 FS, History—New.

12E-1.028 Garnishment by Levy.

(1) Definitions. As used in this rule:

(a) "Account" means a demand deposit account, checking or negotiable withdrawal order account, savings account, time deposit account, or money-market mutual fund account.

(b) "Assets" means any credits or personal property, including wages, owned by an obligor, or debts owed to an obligor, which are in the possession or control of a custodian.

(c) "Current earnings" means earnings received by an obligor from any source:

1. Within 30 days prior to the date the freeze was placed on the obligor's assets; and

2. During the time period the freeze on the obligor's assets remains in effect.

(d) "Custodian" means any person other than the obligor, including any business entity, who has control or possession of any assets owned by, or owed to, an obligor.

(e) "Freeze" means a hold placed by a custodian on an obligor's assets pursuant to a Notice of Freeze that prevents transfer or other disposition of the assets from the time of receipt of the notice by the custodian until the freeze terminates.

(f) "Joint owner" means a person who co-owns an asset with the obligor.

(g) "Levy action" means the garnishment procedure authorized by s. 409.25656, F.S., beginning with the department's issuance of a Notice of Freeze, including the freeze defined in paragraph (e), and ending with either the termination of the freeze or the department's allocation of the proceeds from assets received from the custodian in the event the department issues a Notice of Levy.

(2) Case Selection.

(a) In determining whether to pursue levy actions against obligors who owe past due or overdue support and are identified in the quarterly data match system provided by s. 409.25657, F.S., the department shall consider factors including, but not limited to:

1. Maximizing the dollar amount collected from levies;

2. Minimizing the potential for adverse litigation from actions to contest a levy;

3. Maximizing the use of the department's resources; and

4. Specific facts of the obligor's case.

(b) Conditions When the Department Shall Not Issue a Notice of Freeze. The department shall not send a Notice of Freeze to a custodian of assets if the department determines that any of the following conditions exist:

1. The obligor is a recipient of temporary cash assistance, as defined by s. 414.0252(12), F.S.

2. The obligor is a recipient of Federal Supplemental Security Income (SSI) benefits.

3. The support obligation in the case is a public assistance debt repayment only order established after March 22, 1993 in which the order amount was based solely on the total amount of public assistance paid to the family.

4. The obligor has filed for bankruptcy under Chapter 11, 12, or 13.

5. The obligor's support obligation does not arise from a Florida support order or another state's support order that is registered for enforcement in a Florida court.

6. The amount of past due or overdue support owed in the case is equal to or less than:

a. \$600; or

b. Four times the monthly amount of the current support and arrearage repayment obligations.

(3) Notice of Freeze. If the conditions in paragraph (2)(b) above, do not exist, the department, after considering the factors in paragraph (2)(a) above, may send a Notice of Freeze to the custodian of assets by certified mail with return receipt requested. On receiving the notice, the custodian of assets shall not transfer or dispose of the obligor's assets, up to the amount of past due or overdue support stated in the notice, until the freeze is terminated as follows.

(a) If an action to contest the intended levy is filed, the department shall notify the custodian of assets of the contest. The freeze remains in effect until final disposition of the action to contest and the custodian shall not transfer or dispose of the assets until further notice from the department.

(b) If an action to contest is not filed, the freeze terminates at the earliest of the following:

1. 60 days after the custodian's receipt of the Notice of Freeze;

2. When the department consents to a transfer or disposition of the assets; or

3. When the custodian receives a notice of levy from the department.

(4) Notice to the Obligor of Intent to Levy. The department shall give notice of its intent to levy on the obligor's assets by sending a Notice of Intent to Levy by certified mail with return receipt requested to the obligor's most current address listed by the department. If the department has no current address for the obligor, the department shall send the notice to the obligor's address of record provided by the custodian of the assets, if one is provided. The notice shall inform the obligor and any joint owner of the right to contest the intended levy not later than 21 days after the date of receipt of the notice. If the obligor or joint owner meets in person with an employee of the department, the employee may hand deliver the notice in lieu of mailing it. The employee shall attest to hand delivery of the notice by completing an Affidavit of Service by Hand Delivery, which shall constitute good and sufficient proof of receipt of notice by the obligor or joint owner.

(5) Release of Freeze. In the following circumstances, the department shall release the freeze on the obligor's assets, in full or in part, as appropriate:

(a) The department determines in accordance with subsection (8) of this rule that all or part of the frozen assets belong exclusively to a joint owner.

(b) The department completes a written agreement with the obligor or the obligor and joint owner to release the freeze, in full or in part.

(c) The department determines that the freeze was in error or that the amount of past due or overdue support is less than the amount of the freeze.

(d) The department determines that all or part of the assets are current earnings that are exempt from the levy in accordance with subsection (9) of this rule.

(e) The department determines that a writ of attachment, writ of garnishment, or writ of execution issued through a judicial process involving the same asset was in effect at the time the freeze was implemented.

(f) The department determines that a bankruptcy stay has been entered on behalf of the obligor under Chapters 11, 12, or 13.

(g) The department determines that a prior superior interest in the asset exists.

(h) The obligor or joint owner prevails at a hearing on an action to contest the intended levy.

(6) Consent to Levy.

(a) In accordance with s. 409.25656(7)(d), F.S., if an obligor who received a Notice of Intent to Levy consents in writing to the levy, the department shall levy before the end of the time periods provided in paragraph (10)(a) of this rule. Upon request, the department shall provide an obligor or joint owner with a Consent to Levy form.

(b) The obligor's written consent to levy must meet all of the following conditions:

1. The consent to levy must be signed and dated by the obligor and, if the asset is jointly owned, by each joint owner.

2. The consent to levy must include a statement that each party signing the consent to levy has received the Notice of Intent to Levy.

3. If the obligor or a joint owner previously filed an action contesting the intended levy, the action to contest must be withdrawn or otherwise disposed of prior to the department's acceptance of the consent to levy.

4. A consent to levy must not impose conditions on the department's levy, unless such conditions reflect the terms of a written agreement the department has entered into with the obligor or the obligor and joint owner concerning the levy.

(c) Upon receiving a written consent to levy that meets all the conditions in paragraph (b) above, the department shall levy on the assets.

(d) Upon receiving a written consent to levy that does not meet all the conditions in paragraph (b) above, the department shall notify the obligor in person, in writing or by telephone that the department will not accept the obligor's consent to levy and shall explain the conditions that must be met for the department to accept the consent to levy.

(7) Levy Actions In Two or More Cases in Which an Obligor Owes Past Due or Overdue Support.

(a) If an obligor has two or more cases that meet the criteria in paragraph (2)(b) of this rule, the department shall include all of the cases in a single levy action. The past due or overdue support amount owed in each case shall be combined and listed as one amount on notices issued in accordance with this rule.

(b) Upon receipt from the custodian of the proceeds from the assets, the department shall allocate the proceeds among the cases pro rata in the same proportion as the total amount of past due or overdue support owed in each case as of the date the department issued a Notice of Levy.

(8) Levy Actions Against an Obligor's Jointly Owned Assets.

(a) When a levy action is against an obligor's jointly owned assets, the department shall provide the same notice and opportunity for a hearing to a joint owner as the department provides to the obligor, as follows:

1. A Notice of Intent to Levy given or sent to the obligor shall include a statement advising any joint owners that they have the same right to contest the levy as the obligor.

2. A joint owner may contest the department's intent to levy in the same manner as provided for an obligor by s. 409.25656(8), F.S., and within 21 days of receipt of the Notice of Intent to Levy.

(b) If the department is informed, orally or in writing, that the joint owner has not received the Notice of Intent to Levy given or sent to the obligor, the department shall give in person to the joint owner or send by certified mail with return receipt requested to the joint owner a Notice to Joint Owner of Intent to Levy, along with a copy of the Notice of Intent to Levy previously given to the obligor. The joint owner may contest the levy within 21 days after the date of receipt of the Notice to Joint Owner of Intent to Levy.

(c) Treatment of a Claim That All or Part of Assets Belong Exclusively to a Joint Owner. The department shall not levy upon that portion of the obligor's jointly owned assets that the department determines belongs exclusively to a joint owner of the assets. Upon determining that a portion of the assets belongs exclusively to the joint owner, the department shall release such portion of the assets from the freeze.

1. The obligor and joint owner shall have the burden of proving that frozen assets belong exclusively to the joint owner and must provide proof to the department, which may include the following:

a. Documentation of deposits made by the joint owner.

b. Documentation that deposits were exclusively from the joint owner's funds.

c. Account statements that correspond to the time period of the joint owner's deposits.

d. Any other documentation necessary to prove the assets belong exclusively to the joint owner.

2. If the obligor and joint owner fail to provide proof in accordance with subparagraph 1. above, the department shall reject the claim.

(d) An agreement between the department and the obligor and joint owner to partially release a freeze on joint assets shall be reduced to writing and executed by the parties.

(9) Limits on Levying Against Current Earnings.

(a) If the department determines the freeze on an obligor's account in a financial institution includes the obligor's current earnings, as defined in paragraph (1)(c) above, the department shall not levy from the current earnings an amount that is greater than the limits on garnishments provided by the Consumer Credit Protection Act (CCPA), 15 U.S.C. 1673(b), incorporated herein by reference.

(b) Funds in an account that are not current earnings are not subject to the limits in paragraph (a) above.

(c) A support payment paid from current earnings shall apply dollar for dollar to lower the limits in paragraph (a) above.

(d) An obligor who claims that the department has frozen current earnings that would be exempt from a levy under this subsection must provide the department with the following proof concerning the current earnings and the account:

1. The pay date or dates of the current earnings received by the obligor;

2. The gross amount of the current earnings;

3. The amount of mandatory deductions from current earnings for state, federal or local taxes; Social Security taxes; and Medicare taxes;

4. The net amount of the current earnings;

5. The pay interval for the current earnings, such as weekly, bi-weekly or monthly;

6. The amount of current earnings deposited in the account and the deposit date or dates;

7. The dates and amounts of all debits and withdrawals from the account, from the first date of deposit of current earnings until the date of the freeze.

8. If the amount of the freeze equals the amount requested to be frozen in the Notice of Freeze, the total balance of the account as of the close of business on the date of the freeze must be documented, including any amounts exceeding the freeze amount.

(e) Upon receipt of the proof required by paragraph (d) above, the department shall determine if the amount that has been frozen includes current earnings that are exempt from levy under this subsection. Upon determining that exempt current earnings have been frozen, the department shall notify the financial institution to release the exempt portion of current earnings from the freeze.

(10) Notice of Levy.

(a) Unless the obligor and each joint owner, if any, consents to a levy as provided in subsection (6) of this rule, the department shall not send a Notice of Levy to the custodian of the obligor's assets until after the latest of the following time periods:

1. Thirty days from the date the custodian of assets received the Notice of Freeze (the first day of this time period is the day after the date the custodian received the notice); or

2. Thirty days from the earlier of the dates the department sent or hand delivered the Notice of Intent to Levy to the obligor in accordance with subsection (4) of this rule (the first day of this time period is the day after the date the department sent or hand delivered the notice); or

3. If the intended levy is contested in accordance with s. 409.25656(8) and (9), F.S., the department shall not send the Notice of Levy to the custodian until after a final disposition occurs that is favorable to the department.

(b) The department shall send a Notice of Levy to the custodian by certified mail with return receipt requested.

(c) The department shall send a Notice of Levy only after determining, on the date of issuance of the notice, that none of the conditions in subparagraphs 1. through 5. of paragraph (2)(b) above exist. The department shall send a Notice of Levy if the conditions in subparagraph 6. of paragraph (2)(b) above exist, provided the past due or overdue support owed in the case is greater than zero.

Specific Authority 409.2557(3)(i), 409.25656(11) FS. Law Implemented 409.25656 FS. History--New

NAME OF PERSON ORIGINATING PROPOSED RULE: Phil Scruggs, Government Analyst II, (for Rule 12E-1.008, Determination of Cooperation; Determination of Noncooperation; Determination of Good Cause; and Rule 12E-1.023, Suspension of Driver’s License; Suspension of Motor Vehicle Registration); and Mike Vergenz, Government Analyst II, (for Rule 12E-1.027, Written Agreements for Payment of Past-Due Support; and Rule 12E-1.028, Garnishment by Levy), Resource Management Process, Department of Revenue, P. O. Box 8030, Tallahassee, FL 32314-8030, or by telephone at (850)922-9558, and (850)922-9568, respectively

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Thomas Mato, Chief Counsel, Child Support Enforcement Program Legal Section, Department of Revenue, P. O. Box 8030, Tallahassee, FL 32314-8030; telephone number (850)414-9966

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

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: These proposed rules were noticed for a Rule Development Workshop in the Florida Administrative Weekly on May 18, 2001 (Vol. 27, No. 20, pp. 2406-2414). The workshop was held on June 4, 2001. No one appeared at the workshop. No written comments on the proposed rule amendments were received by the department.

WATER MANAGEMENT DISTRICTS

Southwest Florida Water Management District

RULE CHAPTER TITLE: Individual Environmental Resource Permits
RULE CHAPTER NO.: 40D-4

RULE TITLES: Definitions 40D-4.021
Exemptions 40D-4.051
Publications and Agreements Incorporated by Reference 40D-4.091

PURPOSE AND EFFECT: The purpose of the proposed amendments is to incorporate into the District’s rules several revisions to the environmental resource permitting (ERP) rules regarding activities associated with mining. The proposed amendments will add to 40D-4, Florida Administrative Code (F.A.C.), a slightly modified version of the definition of prospecting that was previously found in Chapter 40D-45, F.A.C. The amendments will also exempt mining or mining related activities previously permitted or exempt pursuant to Chapter 40D-45, F.A.C., and revise a provision of Section 3.3.2.1 of the ERP Basis of Review (BOR) regarding wetland creation, restoration and enhancement as mitigation. The revised language in the BOR will track the statutory provisions of §373.414(6)(b), Florida Statutes (F.S.)

SUMMARY: The proposed amendments to Rule 40D-4.021, F.A.C., will add a slightly modified version of the definition of prospecting that was previously found in subsection 40D-45.021(11), F.A.C. The proposed definition differs from the prior definition of prospecting in that it adds the word “natural” before the word “deposits” at the end of the sentence. The definition is necessary to the implementation of the District’s proposed Noticed General Permit for Prospecting. The proposed amendment to Rule 40D-4.051, F.A.C., will create an exemption for mining or mining related activities that were previously permitted or determined to be exempt pursuant to Chapter 40D-45, F.A.C. Such mining or mining related activities will remain exempt from environmental resource permitting requirements so long as they are conducted in accordance with the terms and conditions approved in their permit or exemption confirmation letter. An alteration, as the term is defined in subsection 40D-4.021(7), F.A.C., of a system exempt pursuant to this provision will require an environmental resource permit. Finally, the proposed revision to Section 3.3.2.1 of the BOR will revise the language in paragraph (g) to more closely track the statutory language of subsection 373.414(6)(b), F.S., which provides that wetland reclamation activities for phosphate and heavy mineral mining conducted pursuant to Chapter 378, F.S., must be considered appropriate mitigation for wetland impacts if they maintain or improve water quality and the function of the biological systems present at the site prior to the commencement of mining activities.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COST: A Statement of Estimated Regulatory Cost is not being prepared based on the District’s determination that the proposed revisions to Rules 40D-4.021, 40D-4.051, 40D-4.091, F.A.C., will not result in a substantial

increase in the costs to affected parties and there will not be significant adverse effects on competition, employment, investment or productivity.

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: 373.044, 373.118, 373.414 FS.

LAW IMPLEMENTED: 373.413, 373.419 FS.

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

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

THE FULL TEXT OF THE PROPOSED RULES IS:

40D-4.021 Definitions.

When used in this Chapter and Chapters 40D-40 and 40D-400:

(1) through (20) No change.

(21) "Prospecting" means activities considered normal and reasonably necessary to retrieve samples of subsurface geologic sediments for the specific purpose of locating, mapping, and determining the quality and quantity of sedimentary strata or natural deposits.

Specific Authority 373.044, 373.118, 373.414 FS. Law Implemented 373.413, 373.419 FS. History—Readopted 10-5-74, Formerly 16J-4.02, Amended 10-1-84, 3-1-88, 9-11-88, 10-3-95, 7-23-96, _____.

40D-4.051 Exemptions.

The following activities are exempt from permitting under this chapter:

(1) through (5) No change.

(6) Any system for a mining or mining related activity which has a valid permit or exemption confirmation letter issued by the District or the Department pursuant to Rule 40D-45.041 or Rule 40D-45.051, F.A.C. This exemption shall be for the plans, terms and conditions approved in the permit or exemption confirmation letter issued pursuant to Chapter 40D-45, F.A.C. Proposed modifications to systems previously exempt under Rule 40D-45.051, F.A.C., may be subject to permitting under Chapter 40D-4, F.A.C. as provided in Rule 40D-4.054, F.A.C. If an operator of a system previously permitted under Chapter 40D-45, F.A.C. proposes an "alteration" as the term is defined in subsection 40D-4.021(7), F.A.C., such system shall be reviewed under the provisions of Chapter 40D-4, F.A.C.

(7) through (12) renumbered (8) through (13) No change.

Specific Authority 373.044, 373.118, 373.414(9) FS. Law Implemented 373.413, 373.419 FS. History—Readopted 10-5-74, Formerly 16J-4.05, Amended 10-1-84, 10-1-86, 3-1-88, 1-24-90, 10-3-95, 4-18-01, 5-17-01, _____.

40D-4.091 Publications and Agreements Incorporated by Reference.

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

(1) "Basis of Review for Environmental Resource Permit Applications within the Southwest Florida Water Management District, _____ ~~October 11, 2001.~~" This document is available from the District upon request.

(2) through (4) No change.

Specific Authority 373.044, 373.118, 373.414 FS. Law Implemented 373.413, 373.419 FS. History—New 4-2-87, Amended 3-1-88, 9-11-88, 10-1-88, 4-1-91, 11-16-92, 1-30-94, 10-3-95, 12-26-95, 5-26-96, 7-23-96, 4-17-97, 4-12-98, 7-2-98, 12-3-98, 7-28-99, 8-3-00, 9-20-00, 6-12-01, _____.

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

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

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

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: September 21, 2001

BASIS OF REVIEW
FOR ENVIRONMENTAL RESOURCE PERMIT
APPLICATIONS WITHIN THE
SOUTHWEST FLORIDA
WATER MANAGEMENT DISTRICT
CHAPTER THREE – ENVIRONMENTAL

3.3.2.1 Creation, Restoration and Enhancement

When considering creation, restoration and enhancement as mitigation, the following factors will be considered to determine whether the mitigation will offset the proposed impacts and to determine the appropriate mitigation ratio:

(a) through (f) No change.

(g) Wetlands reclamation activities for phosphate and heavy minerals mining undertaken pursuant to chapter 378 shall be considered appropriate mitigation for this part if they maintain or improve the water quality and the function of the biological systems present at the site prior to the commencement of mining activities. For mine reclamation activities subject to Chapter 211, F.S., Part II, whether the ratio is consistent with the mine reclamation plan submitted pursuant to Chapter 378, F.S.

WATER MANAGEMENT DISTRICTS

Southwest Florida Water Management District

RULE CHAPTER TITLE: Environmental Resource Permits RULE CHAPTER NO.: 40D-400

RULE TITLES: RULE NOS.:
 Noticed General Permit for Raising the Height of Existing Earthen Embankments for Impoundments at Facilities for Mining Sand and Limestone 40D-400.491

Noticed General Permit for Prospecting 40D-400.492

PURPOSE AND EFFECT: The effect of the proposed amendments will be to incorporate into the District’s rules two (2) new Noticed General Permits for mining related activities. The proposed Notice General Permits establish criteria for activities that were previously exempt from permitting pursuant to Chapter 40D-45, Florida Administrative Code (F.A.C.).

SUMMARY: Rules 40D-400.491 and 40D-400.492, F.A.C., will prescribe the criteria with which an applicant must comply in order to qualify for the new Noticed General Permits. Rule 40D-400.491, F.A.C., addresses the vertical expansion of existing earthen embankments at facilities for mining sand and limestone. The requirements of this rule are more extensive than the exemption previously found in paragraph 40D-45.051(1)(e), F.A.C., and include criteria that:

- (1) Provide for the certification of the system’s design;
- (2) Prevent impacts to certain wetlands;
- (3) Provide for the submission of certain documentation;
- (4) Provide for sediment control during and after construction; and
- (5) Establish a permit duration.

Rule 40D-400.492, F.A.C., addresses activities associated with prospecting. The requirements of this rule are similar to the exemption previously existing in paragraph 40D-45.501(1)(c) and Rule 40D-45.043, F.A.C. This new Noticed General Permit includes criteria that:

- (6) Specify the techniques used to conduct sampling;
- (7) Prevent prospecting below the ordinary or mean high water line in natural water bodies; and
- (8) Provide limitations on prospecting activities in wetlands.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COST: A Statement of Estimated Regulatory Cost is not being prepared based on the District’s determination that the adoption of Rules 40D-400.491 and 40D-400.492, F.A.C., will not result in a substantial increase in the costs to affected parties and there will not be significant adverse effects on competition, employment, investment or productivity.

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: 373.044, 373.118, 373.414 FS.

LAW IMPLEMENTED: 373.413, 373.419 FS.

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

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

THE FULL TEXT OF THE PROPOSED RULES IS:

40D-400.491 Noticed General Permit for Raising the Height of Existing Earthen Embankments for Impoundments at Facilities for Mining Sand and Limestone.

A general permit is hereby granted to increase the height of an existing earthen embankment used for the impoundment of water at sand and limestone mining facilities, provided:

(1) The applicant and a professional engineer registered in Florida certify that:

(a) The proposed vertical extension or “lift” is part of a previously permitted or exempt phased plan for vertical expansion of the impoundment, which plan was initially designed and certified by a professional engineer registered in Florida, and the completed dam with proposed vertical extension will protect the public health, safety or welfare, and the property of others; or

(b) The proposed vertical lift is designed, constructed, operated and maintained, or abandoned in accordance with the minimum requirements as set forth in the most recent edition of U. S. Army Corps of Engineers, Engineering Manual No. EM 1110-2-2300, “Earth and Rock-Fill Dams – General Design and Construction Standards.” 31 July 1994 (the Manual). The District shall consider other methods proposed by the applicant that utilize practices which will provide equivalent protection as compared to the criteria set forth in the Manual. If the applicant chooses to propose a design that does not address the specific criteria of the Manual, the applicant must provide the District reasonable assurance, based on plans, test results and other information specific to the design proposed that the construction, alteration or operation of the vertical lift will provide equivalent protection; or

(c) The vertical expansion of the impoundment and the associated system are located within the existing boundaries and topography of lands owned or controlled by the permittee such that failure of the impoundment will not adversely affect wetlands or other surface waters, will only affect upland property owned or controlled by the permittee, and the existing topography will prevent off-site discharge or release up to the 100 year flood event.

(2) No activities will be conducted within 50 feet of wetlands or other surface waters. This restriction does not apply to isolated wetlands that are less than one-half acre in size, unless:

(a) The wetland is used by the threatened or endangered species, or

(b) The wetland is located in an area of critical state concern designated pursuant to Chapter 380, F.S., or

(c) The wetland is connected by standing or flowing surface water at seasonal high water level to one or more wetlands, and the combined wetland acreage so connected is greater than one half acre, or

(d) The District establishes that the wetland to be impacted is, or several such wetlands to be impacted are, cumulatively of more than minimal value to fish and wildlife.

(3) The applicant provides boundary and topographic maps, aerial photogrammetric maps or other information showing the project location, and demonstrating that the vertical expansion of the impoundment and the associated system of the facilities are located within the existing boundaries of lands owned or controlled by the permittee.

(4) The activities are not otherwise part of a larger plan of new development or system expansion or sale within the permittee's land holdings or other contiguous land, except as authorized by a permit under Part IV of Chapter 373, Florida Statutes.

(5) Site specific measures are employed to prevent violations of state water quality standards and avoid downstream impacts by controlling discharges, erosion, and sediment transport during construction, and continuing after operation and maintenance are underway; using a construction phase water management and erosion control plan that is designed and implemented to function in accordance with technical standards and procedures for a stormwater pollution prevention plan as referenced in Part V of the Florida Department of Environmental Protection (FDEP) document, "Generic Permit for Stormwater Discharge from Construction Activities that Disturb Five or More Acres of Land," FDEP document number 62-621.300(4)(a), effective October 22, 2000. This document may be obtained by writing the FDEP, NPDES Stormwater Notices Center, Mail Station #2510, 2600 Blair Stone Road, Tallahassee, FL 32399-2400;

(6) All construction related site activities associated with the vertical lift will be completed within five years after this permit is authorized, and the effective operation and maintenance of the system will be perpetual; and

(7) Within 30 days after completion of construction of the permitted activity, the permittee submits a written notice of completion and certification by a registered professional engineer or other appropriate individual as authorized by law, to the permitting agency, in accordance with the Statement of Completion and Request for Transfer to Operation Entity form as adopted by reference in Section 40D-1.659, F.A.C.

Specific Authority 373.044, 373.118, 373.414 FS, Law Implemented 373.413, 373.419 FS. History--New

40D-400.492 Noticed General Permit for Prospecting.

A general permit is hereby granted for prospecting for limestone, sand, and peat provided that all of the following conditions for are met.

(1) Prospecting is conducted by coring, augering, impact boring or other techniques designed to remove samples from an excavated opening less than one foot in diameter.

(2) No prospecting is conducted below the ordinary or mean high water line of natural water bodies such as natural lakes, ponds, streams, rivers, estuaries or lagoons.

(3) Prospecting in wetlands must meet the following conditions:

(a) No activities shall be conducted in Outstanding Florida Waters, Aquatic Preserves, Class I waters, Class II waters, waters which are classified by the Florida Department of Environmental Protection as approved, restricted, conditionally approved or conditionally restricted for shellfish harvesting, or wetlands used by endangered or threatened species designated in Rules 39-27.003 and 39-27.004, F.A.C., or 50 Code of Federal Regulations, Section 17.12. For purposes of this permit, a wetland is used by endangered or threatened species if reasonable scientific judgment indicates that the wetland provides habitat in which endangered or threatened species engage in activities such as resting, feeding, breeding, nesting or denning.

(b) No above-grade roads shall be constructed. Vehicles used for prospecting in wetlands shall be of a type generating minimum ground pressure to minimize rutting and other environmental impacts. Disturbed areas along each prospecting line shall be restored to original contours upon completion of prospecting activities along that specific alignment.

(c) Disturbances within wetlands shall be no wider than 15 feet along any portion of the prospect line, except at the immediate site of the drill hole. At the immediate site of the drill hole the disturbance shall not exceed 25 feet. No debris or spoil shall be placed outside these limits.

(d) Prospecting lines shall be aligned to minimize wetland impacts and avoid the destruction of mature wetland trees to the greatest extent practicable.

(e) All drill tailings shall be returned to the drill hole and the excess removed so that no spoil material is left above grade in a wetland.

(f) If the removal or cutting of vegetation is required, there shall be a minimum interval of 300 feet between individual parallel prospecting lines. The removal of vegetation shall not include grubbing, or the pulling or pushing up of root systems.

(g) Any wetland disturbed by prospecting activities shall be restored by replanting native indigenous vegetation of the same species as were displaced. Exotic species such as *Schinus terebinthifolius*, *Melaleuca quinquenervia*, and *Casuarina* spp., and nuisance species *Typha* spp., and *Ludwigia peruviana* shall be controlled at densities not exceeding the densities of these species in undisturbed portions of the wetland.

(h) Turbidity and erosion control measures such as earthen berms; hay bales, temporary swales, filter cloth, turbidity screens, and temporary seeding, sodding, and mulching shall be utilized, as necessary, to prevent violation of state water quality standards beyond the limits of the prospecting line.

Specific Authority 373.044, 373.118, 373.414 FS. Law Implemented 373.413, 373.419 FS. History—New

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

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

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

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: September 21, 2001

DEPARTMENT OF MANAGEMENT SERVICES

Division of Retirement

RULE CHAPTER TITLE: Approved Forms
RULE CHAPTER NO.: 60S-9

RULE TITLE: Approved Forms
RULE NO.: 60S-9.001

PURPOSE AND EFFECT: Form DP-TEOC is a new Deferred Retirement Option Program (DROP) form to be used by elected officers with membership in the Elected Officers' Class (EOC) of the Florida Retirement System (FRS) who terminate their DROP participation, implementing the provisions of Section 121.053(1), F.S. The member's name and social security number will be electronically printed on the form prior to mailing. Form FST-11so2 is a new form to be used by a contingent beneficiary to apply for benefits from a deceased FRS member's account. It was created to accommodate workflow recommendations of the Division of Retirement's Reengineering, Improvement and Modernization (RIM) project. Form HIS-1 is being revised to reflect a change in the minimum monthly Health Insurance Subsidy (HIS) payment as provided in Section 112.363(3)(e), F.S. Form SB-13b is being revised to clarify the definition of joint annuitant as provided in Section 121.021(28)(b), F.S. Forms FRS-402 and FRS-405 are being revised to implement a change of membership in the Special Risk Class, as provided in Chapter 01-235, Laws of Florida. Form EOC-1 is being revised to add a section for the member's class code. Form FRS-M81 is being revised to reflect a change in the vesting law to implement Chapter 00-169, Laws of Florida and to include the IRS rule regarding after-tax contributions. Form DP-TERM is being revised to clarify a statement regarding contractual services. The Rollover Form is being revised so that members who elect to rollover a refund of their retirement contributions may use it. Forms DP-11, DP-ELE and DT-11 are being revised to reflect

changes in the DROP provisions for elected officers in the EOC and instructional personnel as provided in Chapters 01-235 and 01-47, Laws of Florida, respectively. Form FR-9 is being revised to implement a change in the DROP provisions for instructional personnel as provided in Chapter 01-47, Florida Statutes. Form FC-1 is being revised to indicate a change in fax number. Form FR-13 is being revised to eliminate wording that refers to "the reverse side of the form", which is obsolete as a result of the Division of Retirement's RIM project. Form DP-PAYT is being revised to include new rollover options as provided in the recently passed federal legislation, the Economic Growth and Tax Reconciliation Act of 2001 - "EGTRRA".

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 within 21 days of this notice.

SPECIFIC AUTHORITY: 121.031 FS.

LAW IMPLEMENTED: 121.021, 121.0515, 121.053, 121.091, 121.363 FS.

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

TIME AND DATE: 10:00 a.m., December 17, 2001

PLACE: 2nd Floor Conference Room, Cedars Executive Center, Building C, 2639 North Monroe Street, Tallahassee, Florida

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Fred Springer, Department of Management Services, 4050 Esplanade Way, Tallahassee, Florida 32399-0950, (850)487-1898, springf@dms.state.fl.us.

THE FULL TEXT OF THE PROPOSED RULE IS:

60S-9.001 Approved Forms.

The following is a list of the forms utilized by the Division of Retirement in its dealings with the public, which are hereby incorporated by reference into these rules. A copy of these forms may be obtained by writing to the Division of Retirement, Cedars Executive Center, Bldg. C, 2639 N. Monroe Street, Tallahassee, Florida 32399-1560.

(1) Bureau of Enrollment and Contributions	
FORM NO./REVISION DATE	TITLE
(a) through (c) No change.	
(d) FRS-402 (Rev. <u>10/01 8/99</u>)	Application for Special Risk Equivalent Credit
(e) No change.	
(f) FRS-405 (Rev. <u>10/01 8/00</u>)	Application for Special Risk Membership Firefighters/ Paramedics/EMTs

(g) through (j) No change.		(gg) No change.	
(k) EOC-1 (Rev. 8/01 8/99)	Ballot Form for Employees of Elected Officers' Class	(hh) Rollover (Rev. 7/01 7/00)	Florida Retirement System Direct Rollover Election Form
(1) No change.		(ii) No change.	
(2) Bureau of Retirement Calculations		(jj) SB-13b (3/01 5/00)	Physician's Report
FORM NO./REVISION DATE	TITLE	(kk) <u>FST-11so2 (2/00)</u>	<u>Florida Retirement System Application for Survivor Benefits</u>
(a) FR-9 (Rev. 9/01 7/00)	Information Request	(ll) <u>DP-TEOC (9/01)</u>	<u>Florida Retirement System Deferred Retirement Option Program (DROP) Elected Officers' Termination Notification</u>
(b) through (i) No change.			
(j) FC-1 (Rev. 3/00 7/99)	Salary Certification		
(k) through (q) No change.			
(r) DP-ELE (Rev. 9/01 7/99)	Florida Retirement System Notice of Election to Participate in the Deferred Retirement Option Program (DROP) and Resignation of Employment		
(s) DP-11 (Rev. 9/01 7/99)	Florida Retirement System Application for Service Retirement and the Deferred Retirement Option Program (DROP)	(4) No change.	
(t) DT-11 (Rev. 9/01 8/00)	Teachers' Retirement System Application for Service Retirement and the Deferred Retirement Option Program (DROP)		Specific Authority 121.031 FS. Law Implemented 112.361, 112.363, 120.55, 121.011, 121.031(2), 121.051, 121.0515, 121.081, 121.091, 121.111, 121.121, 121.125, 122.08, 122.09, 215.28, 238.05, 238.06, 238.07 FS. History--New 9-9-82, Amended 2-6-84, 11-6-84, 4-17-85, Formerly 22B-9.01, Amended 6-4-86, 12-5-90, Formerly 22B-9.001, Amended 1-4-93, 1-18-94, 4-26-94, 1-10-95, 11-2-95, 12-28-95, 3-12-96, 12-16-97, 10-14-98, 4-26-99, 1-24-00, 12-19-00, 2-6-01, _____.
(u) No change.			NAME OF PERSON ORIGINATING PROPOSED RULE: Erin B. Sjostrom, Director, Division of Retirement
(3) Bureau of Benefit Payments			NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Garrett Blanton, Deputy Secretary, Department of Management Services
FORM NO./REVISION DATE	TITLE		DATE PROPOSED RULE APPROVED BY AGENCY HEAD: November 14, 2001
(a) FR-13 (Rev. 8/00 7/00)	FRS Application for Disability Retirement		DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: October 26, 2001
(b) through (o) No change.			
(p) FRS-M81 (Rev. 7/01 7/00)	Request for Refund		
(q) HIS-1 (Rev. 7/01 7/00)	Florida Retirement System Health Insurance Subsidy Certification Form		
(r) through (dd) No change.			
(ee) DP-TERM (Rev. 8/01 7/00)	Deferred Retirement Option Program (DROP) Termination Notification		
(ff) DP-PAYT (Rev. 10/01 7/00)	Deferred Retirement Option Program (DROP) Selected Payout Method		

DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION
Board of Funeral Directors and Embalmers
 RULE TITLE: Inspection Criteria (Funeral Establishments) RULE NO.: 61G8-21.003
 PURPOSE AND EFFECT: The Board proposes to update the rule text by clarifying the areas of inspection criteria.
 SUMMARY: The rule amendment is for the purpose of updating inspection criteria for funeral establishments.
 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: 470.005 FS.
 LAW IMPLEMENTED: 470.024 FS.

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

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Sherry Landrum, Executive Director, Board of Funeral Directors and Embalmers, Northwood Centre, 1940 N. Monroe Street, Tallahassee, Florida 32399-0750

THE FULL TEXT OF THE PROPOSED RULE IS:

61G8-21.003 Inspection Criteria (Funeral Establishments).

The Department shall inspect funeral establishments on the basis of the following:

(1) There shall be either a refrigeration room for the storage of dead human bodies, or written arrangements for the refrigeration and storage of dead human bodies, or a preparation room equipped as follows:

(a) Adequate ventilation, including an exhaust fan with proper screening adequate to exchange the air in the room with outside air at least twelve (12) times per hour;

(b) Operating table with non-porous surface;

(c) Sanitary floors with non-porous surface;

(d) Sanitary waste receptacles;

(e) A hand sink with hot and cold water and a service sink and a floor drain or sanitary drain for the removal of body fluids connected to central sewage system or septic tank. The floor drain may be replaced by an alternative method of removal of body fluids which meet the sanitation requirements of 61G8-21.003(1)(c) and (h);

(f) The following instruments properly maintained:

1. 1 machine for embalming or gravity equipment
2. 1 aspirator
3. 1 master trocar
4. 1 aneurism needle
5. 1 scalpel
6. 1 drain tube
7. 1 arterial tube
8. 1 scissor
9. Surgical needles
10. Eye caps
11. Surgeon's thread
12. 1 head rest
13. Razor and blades
14. Absorbent cotton
15. Antiseptic soap
16. Sheet(s)
17. Towel(s)

18. Disinfectant

19. Tubing

20. Disposable surgical gloves

(g) The following minimum supplies for embalming dead human bodies:

1. 2 bottles arterial fluid per body

2. 1 bottle cavity fluid per body

3. Supply of hardening compound for autopsies

~~(h) Room shall be maintained in a clean and sanitary condition.~~

(2) through (3) No change.

(4) Preparation room shall meet the requirements of the Department of Health Rule 64E16, F.A.C., which prescribes minimum sanitary practices relating to the management of biomedical waste, including segregation, handling, labeling, storage, transport and treatment. Room shall be maintained in a clean and sanitary manner.

~~(5)~~(4) The funeral establishment shall have on site or immediately available sufficient sealed containers of a type required for the transportation of bodies which is adequate to prevent the seepage or emission of offensive fluids or odors.

~~(6)~~(5) Where caskets are displayed, the prices shall be conspicuously marked on or in the casket.

~~(7)~~(6) Each funeral establishment shall display at the public entrance the name of the establishment and the name of the full time funeral director in charge.

Specific Authority 470.005 FS. Law Implemented 470.024 FS. History—New 2-13-80, Amended 5-21-81, 9-28-83, 3-26-84, Formerly 21J-21.03, Amended 12-11-88, Formerly 21J-21.003, Amended 3-30-94, 2-20-95, 3-24-98, 6-14-00, _____.

NAME OF PERSON ORIGINATING PROPOSED RULE:
Board of Funeral Directors and Embalmers

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Board of Funeral Directors and Embalmers

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: November 6, 2001

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: October 26, 2001

DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION

Board of Funeral Directors and Embalmers

RULE TITLE: Criteria

RULE NO.: 61G8-24.042

PURPOSE AND EFFECT: The Board proposes to update the rule text by clarifying the areas of inspection criteria.

SUMMARY: The purpose of the rule amendments is to update the rule text by clarifying the areas of inspection criteria.

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: 470.005, 470.024(10), 470.0301 FS.

LAW IMPLEMENTED: 470.024(10), 470.0301 FS.

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

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Sherry Landrum, Executive Director, Board of Funeral Directors and Embalmers, Northwood Centre, 1940 N. Monroe Street, Tallahassee, Florida 32399-0750

THE FULL TEXT OF THE PROPOSED RULE IS:

61G8-24.042 Criteria.

The Department shall inspect centralized embalming facilities on the basis of the following:

(1) There shall be a refrigeration equipment large enough to store all dead human bodies found in the facility at any given time; and

(2) A preparation room equipped as follows:

(a) An exhaust fan with proper screening to exchange the air in the room with outside air at least twelve (12) times per hour;

(b) Operating table with non-porous surface;

(c) Sanitary floors with non-porous surface;

(d) Sanitary waste receptacles;

(e) A hand sink with hot and cold water and a service sink and a floor drain or sanitary drain for the removal of body fluids connected to central sewage system or septic tank. The floor drain may be replaced by an alternative method of removal of body fluids which meet the sanitation requirements of 61G8-21.003(1)(c) and (h);

(f) The following instruments properly maintained:

1. 1 machine for embalming or gravity equipment
2. 1 aspirator
3. 1 master trocar
4. 1 aneurism needle
5. 1 scalpel
6. 1 drain tube
7. 1 arterial tube
8. 1 scissor
9. Surgical needles

10. Eye caps

11. Surgeon's thread

12. 1 head rest

13. Razor and blades

14. Absorbent cotton

15. Antiseptic soap

16. Sheet(s)

17. Towel(s)

18. Disinfectant

19. Tubing

20. Disposable surgical gloves

(g) The following minimum supplies for embalming dead human bodies:

1. 2 bottles arterial fluid per body

2. 1 bottle cavity fluid per body

3. Supply of hardening compound for autopsies

~~(h) Room shall be maintained in a clean and sanitary condition.~~

(3) through (4) No change.

(5) Preparation room shall meet the requirements of the Department of Health Chapter 64E16, F.A.C., which prescribes minimum sanitary practices relating to the management of biomedical waste, including segregation, handling, labeling, storage, transport and treatment. Centralized embalming facilities shall be maintained in a clean and sanitary manner.

Specific Authority 470.005, 470.0301 FS. Law Implemented 470.0301 FS. History—New 5-26-99, Amended.

NAME OF PERSON ORIGINATING PROPOSED RULE:
Board of Funeral Directors and Embalmers

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Board of Funeral Directors and Embalmers

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: November 6, 2001

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: October 26, 2001

DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION

Building Code Administrators and Inspectors Board

RULE TITLE: Continuing Education for Biennial Renewal RULE NO.: 61G19-9.001

PURPOSE AND EFFECT: The Board proposes to update the existing rule text.

SUMMARY: The purpose of the rule amendments is to update the rule text with regard to internet Continuing Education for Biennial Renewal.

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: 455.2124, 468.606, 468.627 FS.

LAW IMPLEMENTED: 455.2124, 468.627 FS.

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

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Anthony Spivey, Executive Director, Building Code Administrators and Inspectors Board, Northwood Centre, 1940 N. Monroe Street, Tallahassee, Florida 32399-0750

THE FULL TEXT OF THE PROPOSED RULE IS:

61G19-9.001 Continuing Education for Biennial Renewal.

(1) Except as noted below, prior to the end of each biennial certification period, all certificate holders shall complete a minimum of fourteen (14) classroom or interactive distance learning hours of continuing education courses, which shall include a minimum of two (2) classroom hours in the area of accessibility, as a condition of the biennial renewal of all certifications held by the certificate holder.

(2) "Interactive Distance Learning" means the delivery of educational offerings or courses via the internet and/or other interactive electronic media. Such offerings or courses shall be interactive, provide for the registration, evaluation, monitoring, and verification of continuing education. The courses shall be accessible at locations and times determined by the student. Applicants who are first certified when there is more than one-half of their initial biennial certification period remaining, shall only be required to complete a minimum of seven (7) classroom hours of continuing education courses, which shall include a minimum of one (1) classroom hour in the area of accessibility, prior to the end of their initial biennial certification period as a condition of the initial renewal of all certifications held by the certificate holder.

(3) "Interactive Distance Learning Hour" means fifty minutes of instruction presented in an alternative nonclassroom interactive distance learning setting, exclusive of any breaks, recesses, or other time not spent in instruction. Applicants who are first certified when there is one-half or less of their initial biennial certification period remaining, shall not be required to complete any hours of continuing education courses as a condition of the initial renewal of all certifications held by the certificate holder.

(4) No change.

Specific Authority 455.2124, 468.606, 468.627 FS. Law Implemented 455.2124, 468.627 FS. History—New 5-23-94, Amended 5-21-95, 11-28-95, 6-9-97, 1-4-00, 4-23-01.

NAME OF PERSON ORIGINATING PROPOSED RULE: Building Code Administrators and Inspectors Board

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Building Code Administrators and Inspectors Board

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: August 2, 2001

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: October 5, 2001

DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION

Building Code Administrators and Inspectors Board

RULE TITLE: Approval of Proctored Telecourses and Interactive Distance Learning Courses

RULE NO.: 61G19-9.0045

PURPOSE AND EFFECT: The Board proposes to update the existing rule text.

SUMMARY: The purpose of the rule amendments is to update the rule text with regard to the approval of proctored telecourses and interactive distance learning (internet) courses.

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: 468.606 FS.

LAW IMPLEMENTED: 468.627 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: Anthony Spivey, Executive Director, Building Code Administrators and Inspectors Board, Northwood Centre, 1940 N. Monroe Street, Tallahassee, Florida 32399-0750

THE FULL TEXT OF THE PROPOSED RULE IS:

61G19-9.0045 Approval of Proctored Telecourses and Interactive Distance Learning Courses.

(1) Telecourses which are proctored shall be subject to the same conditions of approval as a classroom or seminar course wherein the course completion is measured by attendance and credits provided in the form of contact hours.

(2) An interactive distance learning continuing education activity offered by a provider registered under this rule chapter must meet the standards for approved courses outlined in this rule chapter and, furthermore, must include a testing mechanism on which a passing score must be attained by the licensee prior to the issuing of credit.

(3) An application for approval of an interactive distance leaning continuing education activity shall include the total number of interactive distance learning hours, the course syllabus, a detailed outline of the contents of the course, and the name and qualifications of all instructors.

Specific Authority 468.606 FS. Law Implemented 468.627 FS. History--New 11-21-95, Amended _____.

NAME OF PERSON ORIGINATING PROPOSED RULE:
Building Code Administrators and Inspectors Board
NAME OF SUPERVISOR OR PERSON WHO APPROVED
THE PROPOSED RULE: Building Code Administrators and
Inspectors Board
DATE PROPOSED RULE APPROVED BY AGENCY
HEAD: August 2, 2001
DATE NOTICE OF PROPOSED RULE DEVELOPMENT
PUBLISHED IN FAW: October 5, 2001

**DEPARTMENT OF BUSINESS AND PROFESSIONAL
REGULATION**

Building Code Administrators and Inspectors Board

RULE TITLE: Records Required to be Maintained by
Course Providers

RULE NO.: 61G19-9.007

PURPOSE AND EFFECT: The Board proposes to update the existing rule text.

SUMMARY: The rule amendment establishes procedures for internet continuing education course providers to maintain records.

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: 468.606 FS.

LAW IMPLEMENTED: 468.627 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: Anthony Spivey, Executive Director, Building Code Administrators and Inspectors Board, Northwood Centre, 1940 N. Monroe Street, Tallahassee, Florida 32399-0750

THE FULL TEXT OF THE PROPOSED RULE IS:

61G19-9.007 Records Required to be Maintained by Course Providers.

(1) through (3) No change.

(4) For interactive distance learning courses, in lieu of the original sign-in sheet required in (1)(d) above, the course provider shall maintain and provide a record of the registration, login, course access log, and course completion. In lieu of providing a document bearing the contractor's signature, the course provider shall provide the student's identity verification data, which shall include the student's password and the student's mother's maiden name.

Specific Authority 468.606 FS. Law Implemented 468.627 FS. History--New 5-23-94, Amended 11-2-00, 4-23-01, _____.

NAME OF PERSON ORIGINATING PROPOSED RULE:
Building Code Administrators and Inspectors Board
NAME OF SUPERVISOR OR PERSON WHO APPROVED
THE PROPOSED RULE: Building Code Administrators and
Inspectors Board
DATE PROPOSED RULE APPROVED BY AGENCY
HEAD: August 2, 2001
DATE NOTICE OF PROPOSED RULE DEVELOPMENT
PUBLISHED IN FAW: October 5, 2001

DEPARTMENT OF HEALTH

Division of Environmental Health and Statewide Programs

RULE TITLES:	RULE NOS.:
Application	64E-23.001
Renewal	64E-23.002
Payment	64E-23.003
Match Site Facilities Payment Requirement	64E-23.004

PURPOSE AND EFFECT: To implement 2001 statutory amendments requiring rules and forms to administer the Nursing Student Loan Forgiveness Program.

SUMMARY: The rule establishes a process for nurses to initially apply for enrollment into the Nursing Student Loan Forgiveness Program; a renewal application process to continue participation in the program; rules governing criteria for transmitting funds to lenders; and, establishes procedures to administer the Nursing Student Loan Forgiveness Program.

SUMMARY OF STATEMENT OF ESTIMATED 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: 240.4075 FS.

LAW IMPLEMENTED: 240.4075 FS.

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

TIME AND DATE: 1:00 p.m., December 17, 2001

PLACE: Division of Emergency Medical Services and Community Health Resources, 4025 Esplanade Way, Room 301 A & B, Tallahassee, Florida 32311-7829

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULES IS: David Fairweather, Senior Management Analyst Supervisor, Division of Emergency Medical Services and Community Health Resources, 4052 Bald Cypress Way, Bin C-15, Tallahassee, Florida 32399-1735, (850)245-4440, Ext. 2707, or Fax (850)922-6296

THE FULL TEXT OF THE PROPOSED RULES IS:

64E-23.001 Application.

(1) In accordance with Nursing Student Loan Forgiveness Program Application Package, October 2001, in order to apply for enrollment into the Nursing Student Loan Forgiveness Program, applicants must submit: a completed Application, DH Form 1932, 10/01; a completed Employment Verification, DH Form 1935, 10/01; a completed Loan Certification, DH Form 1936, 10/01; a photocopy of the applicant's current nursing license, and a photocopy of the applicant's nursing school diploma. The Nursing Student Loan Forgiveness Program Application Package and forms are incorporated by reference and available from the Department of Health, Division of Emergency Medical Services and Community Health Resources, 4052 Bald Cypress Way, Bin C-15, Tallahassee, Florida 32399-1735.

(2) The entire application, including a photocopy of the applicant's current nursing license and a photocopy of the applicant's nursing school diploma, must be received by the deadline date for each quarterly enrollment. Deadline dates are: December 1 for January 1 enrollment; March 1 for April 1 enrollment; June 1 for July 1 enrollment; September 1 for October 1 enrollment. Applications received after the deadline date will be processed for the following quarters.

Specific Authority 240.4075 FS. Law Implemented 240.4075 FS. History—New _____.

64E-23.002 Renewal.

(1) In order to continue in the Nursing Student Loan Forgiveness Program, program participants must renew. The Renewal Application, DH 1933, 10/01, which is incorporated by reference and available from the department, will be mailed to program participants, by the department, within 30 days before the ending date, each year, of the program participant's employment years.

(2) The program participant's Renewal Application must be received by the department, each year, no later than 30 days after the start of the program participant's next employment year, in order to continue as a participant in the program.

Specific Authority 240.4075 FS. Law Implemented 240.4075 FS. History—New _____.

64E-23.003 Payment.

(1) The department will provide for the delivery of funds directly to the federal or state program, or commercial lending institution, or holder of the program participant's loan, on behalf of the program participant, by use of the Loan Repayment Invoice, DH 1934, 10/01, which is incorporated by reference and available from the department, requesting the State Comptroller to issue warrants made payable to the federal or state program, or commercial lending institution, or holder of the program participant's loan and forwarded to the federal or state program, commercial lending institution, or holder of the program participant's loan.

(a) The Loan Repayment Invoice will be mailed to program participants, by the department, within 30 days before the ending date, each year, of the program participant's employment years.

(b) The program participant's Loan Repayment Invoice must be received by the department, each year, no later than 30 days after the start of the program participant's next employment year, in order for payment to be made.

(2) Program participants must maintain the payment schedule agreed upon with the federal or state program, commercial lending institution, or holder of the program participant's loan, while enrolled in the program.

Specific Authority 240.4075 FS. Law Implemented 240.4075 FS. History—New _____.

64E-23.004 Match Site Facilities Payment Requirement.

(1) Florida licensed hospitals, birth centers and nursing homes, considered to be match site facilities, that employ program participants, must match funds awarded from the program on a dollar-for-dollar basis, by contributions from the employing facility.

(2) Florida licensed hospitals, birth centers and nursing homes, considered to be match site facilities, must annually pay 50% of the amount to be forwarded to the federal or state program, commercial lending institution, or holder of the program participant's loan. The maximum amount a match site facility is required to pay is \$2,000 per year, per program participant employee.

(3) The department will notify those Florida licensed hospitals, birth centers and nursing homes, considered to be match site facilities, of the amount due from that facility, as the match portion of the annual payment, for each program participant employed at that facility, within 30 days before the ending date, each year, of the program participant's employment years.

(4) Matching funds payments from Florida licensed hospitals, birth centers and nursing homes, considered to be match site facilities, must be received by the department, no later than 30 days after notification by the department, each year, that the match payment is due.

(5) The department will not authorize a payment to a federal or state program, commercial lending institution or holder of the program participant's loan, on behalf of the program participant employee of Florida licensed hospitals, birth centers and nursing homes, considered to be match site facilities, until the matching funds payment is received by the department.

(6) Program participants, employed at Florida licensed hospitals, birth centers and nursing homes, considered to be match site facilities, whose employing facility does not provide the matching funds payment, will not have a payment forwarded to the federal or state program, commercial lending institution or holder of the program participant's loan, can not renew participation in the program and the program participant's agreement will be terminated.

(7) Affected program participants will be notified by the department of their program status.

Specific Authority 240.4075 FS. Law Implemented 240.4075 FS. History--New

NAME OF PERSON ORIGINATING PROPOSED RULE:
David Fairweather, Senior Management Analyst Supervisor
NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Art Clawson, Division Director
DATE PROPOSED RULE APPROVED BY AGENCY HEAD: November 7, 2001
DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: September 21, 2001
P.O. G10454

DEPARTMENT OF HEALTH

Division of Environmental Health and Statewide Programs

RULE TITLES:	RULE NOS.:
Application	64E-24.001
Scholarship Repayment	64E-24.002
Penalties for Defaulting	64E-24.003

PURPOSE AND EFFECT: To implement 2001 statutory amendments requiring rules and forms to administer the Nursing Scholarship Program.

SUMMARY: The rule establishes a process for nursing students to apply for and receive scholarship assistance for a nursing education and establishes procedures to administer the Nursing Scholarship Program.

STATEMENT OF ESTIMATED 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: 240.4076 FS.

LAW IMPLEMENTED: 240.4076 FS.

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

TIME AND DATE: 10:00 a.m., December 17, 2001

PLACE: Division of Emergency Medical Services and Community Health Resources, 4025 Esplanade Way, Room 301 A & B, Tallahassee, Florida 32311-7829

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULES IS: David Fairweather, Senior Management Analyst Supervisor, Division of Emergency Medical Services and Community Health Resources, 4052 Bald Cypress Way, Bin #C15, Tallahassee, Florida 32399-1735, (850)245-4440, Ext. 2707 or Fax (850)922-6296

THE FULL TEXT OF THE PROPOSED RULES IS:

64E-24.001 Application.

In accordance with the Nursing Scholarship Program Application Package, October 2001, a scholarship award shall be made to an eligible nursing student who submits:

(1) A completed Nursing Scholarship Application, DH 1931, 10/01, no later than 30 days after enrolling for the first semester or quarter of nursing school attendance. The Nursing Scholarship Program Application Package and Application are incorporated by reference and are available from the Department of Health, Division of Emergency Medical Services and Community Health Resources, 4052 Bald Cypress Way, Bin C-15, Tallahassee, Florida 32399-1735.

(2) A signed, dated and notarized Nursing Scholarship Program Promissory Note and Agreement, DH 1930, 10/01, which is incorporated by reference and available from the department. The department must receive the Nursing Scholarship Program Promissory Note and Agreement, no later than 60 days after enrollment in the first semester or quarter of nursing school attendance. The Nursing Scholarship Program Promissory Note and Agreement will be mailed to approved scholarship recipients, by the department.

Specific Authority 240.4076(6) FS. Law Implemented 240.4076 FS. History--New

64E-24.002 Scholarship Repayment.

(1) Scholarship recipients must begin the full-time employment service obligation no later than 12 months after graduating from nursing school, or, no later than 3 months after receiving Florida licensure or certification.

(2) The department shall provide additional time to enroll in a nursing program, if it finds extraordinary circumstances prevented a recipient from enrolling in nursing school for the semester or quarter indicated on the application. Extraordinary circumstances are: recipient chronic illness, injury or disease, supported by attending physician's statement; chronic illness, injury, disease or death of a recipient's immediate family

member, supported by attending physician's statement. Immediate family members of recipient include: spouse, children, parents, brother, sister.

Specific Authority 240.4076 FS. Law Implemented 240.4076 FS. History--New _____.

64E-24.003 Penalties for Defaulting.

The department shall provide additional time for repayment if the department determines that circumstances beyond the control of the recipient caused or contributed to the default. Circumstances that will be considered beyond the control of the recipient are: recipient chronic illness, injury or disease, supported by attending physician's statement; recipient dismemberment or death, supported by attending physician's statement or certified copy of death certificate; chronic illness, injury disease or death of a recipient's immediate family member, supported by attending physician's statement. Immediate family members of recipient include: spouse, children, parents, brother, sister. In the case of the death of a recipient, the recipient's surviving family or estate will not be responsible for the scholarship repayment.

Specific Authority 240.4076 FS. Law Implemented 240.4076 FS. History--New _____.

NAME OF PERSON ORIGINATING PROPOSED RULE:
David Fairweather, Senior Management Analyst Supervisor
NAME OF SUPERVISOR OR PERSON WHO APPROVED
THE PROPOSED RULE: Art Clawson, Division Director
DATE PROPOSED RULE APPROVED BY AGENCY
HEAD: November 7, 2001
DATE NOTICE OF PROPOSED RULE DEVELOPMENT
PUBLISHED IN FAW: September 21, 2001
P.O. G10454

Section III

Notices of Changes, Corrections and Withdrawals

DEPARTMENT OF LEGAL AFFAIRS

Florida Elections Commission

RULE CHAPTER NO.: RULE CHAPTER TITLE:
2B-1 Practice and Procedure
RULE NO.: RULE TITLE:
2B-1.0025 Complaints

NOTICE OF CHANGE

Notice is given that changes have been made to the proposed rules published in the August 31, 2001 edition of the Florida Administrative Weekly. The changes are technical in nature or are made in response to written comments received from the Florida Legislature Joint Administrative Procedure Committee. The rule changes were approved by the Florida Elections Commission at its November 7 and 8, 2001 meeting in Tallahassee.

When changed, Rule 2B-1.0025, F.A.C., shall read as follows:

(1) Any complaint of alleged violations of the Florida Election Code over which the Florida Elections Commission has jurisdiction shall be filed with the Commission. A complaint form, Complaint Form, FEC 001, effective _____, which is hereby adopted and incorporated by reference may be obtained by calling the Commission office during normal business hours or by writing to the Commission. The complaint form may also be obtained from the Commission's website www.fec.state.fl.us.

(2) through (3) No change.

(4) A complaint is legally sufficient if it meets the following criteria.

(a) The complaint alleges a violation of Chapter 104 or 106 or Section 105.071, Florida Statutes;

(b) The complaint was made under oath in the presence of a notary public or other person authorized by law to administer oaths;

(c) The complaint contains specific facts upon which the complainant bases the allegation of a violation of law; and

(d) The complaint alleges a violation that occurred within two years of the date the complaint is filed with the Commission.

(5) No change.

(6) In determining the legal sufficiency of a complaint, the executive director shall consider any document referred to in the complaint. In determining the legal sufficiency of a complaint alleging a violation of the campaign finance laws, the executive director shall also consider campaign treasurer's reports on file with the filing officer.

(7) through (9) No change.

Specific Authority 106.26(1) FS. Law Implemented 105.071, 106.25 FS. History--New 2-17-91, Amended 11-14-93, 3-19-96, 8-19-96, Formerly 1D-1.0025, Amended _____.

DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES

Division of Standards

RULE NOS.:	RULE TITLES:
5F-11.060	Documentation of Training, General
5F-11.061	Master Qualifier Examinations; Applicant Qualifications
5F-11.062	Approved Courses of Continuing Education
5F-11.063	Approval of Outside Vendor Training Programs
5F-11.064	Renewal of Qualifier and Master Qualifier Certificates
5F-11.065	Examination Procedures