

Section I
Notices of Development of Proposed Rules
and Negotiated Rulemaking

DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES

Division of Agricultural Environmental Services

RULE CHAPTER TITLE: Mosquito Control Program
RULE CHAPTER NO.: Administration 5E-13

RULE TITLE: Mosquito Control Aircraft Registration,
Inspection, Security, Storage, Transactions,
Recordkeeping, Area-of-Application
Information and Forms
RULE NO.: 5E-13.0371

PURPOSE AND EFFECT: The purpose of the rule development is to establish requirements governing aircraft used for the mosquito control aerial application of pesticides, including requirements for recordkeeping, annual aircraft registration, secure storage when not in use, area of application information, and reporting of any sale, lease, purchase, rental, or transfer of ownership.

SUBJECT AREA TO BE ADDRESSED: Requirements for mosquito control aerial application of pesticides.

SPECIFIC AUTHORITY: 570.07(23), 388.361(2)(b) FS.

LAW IMPLEMENTED: 388.361(2)(b) 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., September 6, 2002

PLACE: George Eyster Auditorium, 3125 Conner Blvd., Tallahassee, Florida 32399-1650

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT IS: Steven Rutz, Director, Department of Agriculture and Consumer Services, Room 130, 3125 Conner Blvd., Tallahassee, FL 32399-1650

THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS:

5E-13.0371 Mosquito Control Aircraft Registration, Inspection, Security, Storage, Transactions, Recordkeeping, Area-of-Application Information and Forms.

(1) Registration. Each mosquito control aircraft used for aerial pesticide application, must be annually registered with the department. Application for registration shall be on form DACS-13354, New 01/02, provided by the department. The completed registration form shall be submitted to the Pesticide Certification Office, 3125 Conner Blvd., Bldg. 8 (L29), Tallahassee, Florida 32399-1650. The registration shall be submitted to the Department on or before June 30 of each year.

(2) Inspection. Authorized department representatives may inspect mosquito control aircraft required to be registered with the department as to equipment relating to aerial pesticide application under this rule during normal working hours without prior notification or as determined necessary when an emergency has been declared as contained in paragraph (7) herein.

(3) Security. Each mosquito control aircraft used for aerial application of any pesticide shall be secured when not in use. Secured storage shall include the aircraft being: within a locked building, locked in place securely, mechanically disabled from flying, or any other reasonable method which would prevent or deter theft or unauthorized use.

(4) Storage. All pesticides on the premises owned or controlled by any mosquito control applicator or mosquito control district shall be stored and maintained in a manner such that they are not accessible to unauthorized persons. Secured storage shall include: fences with a minimum 6 feet height, door locks, valve locks, electronic security systems, disabling of mobile storage units, blocking of access, ingress or egress; or any other reasonable method to prevent or deter theft or unauthorized use. Buildings used to store pesticides must be of rigid construction so unauthorized entry can not be achieved without the use of heavy machinery or equipment. If a portable building is used for storage of pesticides, the building must be secured in place so it can not be towed or otherwise removed by unauthorized persons.

(5) Transactions. Any purchase, sale, rental, leasing, or transfer of ownership of a mosquito control aircraft required to be registered with the department pursuant to paragraph (1) above shall be transmitted to the department on (1) Florida Department of Revenue form DR-42 Rev-06/99 Ownership Declaration and Sales and Use Tax Report on Aircraft or (2) Aircraft Bill of Sale Form AC 8050-2 (09/92) or (3) Report of Aircraft Transaction Form DACS-13355, New 01/02 within 24 hours of the transaction.

(6) Recordkeeping. Aerial mosquito control applicators shall maintain records relating to each application of pesticide during a declared emergency. Such records generated during the emergency shall be retained for a period of two (2) years and shall be maintained in a manner that is accessible by the department upon request.

(a) Name and FAA license number of the licensee responsible for the pesticide application;

(b) Date and time of treatment;

(c) Location of treatment area, which may be recorded using any of the following designations:

1. County, range, township and section;

2. An identification system utilizing maps and/or written descriptions which accurately identify the location and distinguish the treatment area from other sites;

3. The legal property description; or

4. Global Positioning Satellite(GPS) coordinates or Longitude/Latitude points which delineate the treated area.

(d) Name of the person requesting or authorizing the application.

(e) Aircraft manufacturer, make and model.

(f) FAA aircraft registration number.

(g) Originating airport/airstrip.

(7) Area-of-Application Information. The information listed in (6)(a) through (6)(g) is required only when a declaration of an Executive Order pursuant to the emergency powers granted to the Governor or the Commissioner of Agriculture declaring an emergency in the State of Florida. Such information shall be provided and filed with the Department in a manner determined by the department.

(8) Forms. The following forms are hereby incorporated by reference. These forms may be obtained from the Florida Department of Agriculture and Consumer Services, Pesticide Certification Office, 3125 Conner Boulevard, Building 8 (L29), Tallahassee, Florida 32399-1650, telephone (850)488-3314.

(a) Application for Aircraft Registration (DACS-13354), New 01/02.

(b) Ownership Declaration and Sales and Use Tax Report on Aircraft (DR-42), Rev.06/99.

(c) Aircraft Bill of Sale AC Form 8050-2 (09/92).

(d) Report of Aircraft Transaction (DACS-13355), New 01/02.

Specific Authority 570.07(23) FS., Ch. 2001-360, Laws of Florida. Law Implemented 570.07(23), 388.361(2)(b) FS., Ch. 2001-360, Laws of Florida. History—New

DEPARTMENT OF EDUCATION

Commission for Independent Education

RULE TITLES:	RULE NOS.:
Introduction to the Rules	6E-1.001
Authority of the Board	6E-1.002
Definition of Terms	6E-1.003
Licensure Required; Exemptions from Licensure	6E-1.0031
Fair Consumer Practices	6E-1.0032
Diploma Programs	6E-1.0033
Fees and Expenses	6E-1.0034
Permission to Operate	6E-1.0035
Honorary Degrees	6E-1.0041
Minimum Standards for Use of the Term “College” or “University”	6E-1.0045

PURPOSE AND EFFECT: Substantive amendments to rules are required as a result of amendments to Chapter 246, Florida Statutes, which merged the State Board of Independent Colleges and Universities with the State Board of Nonpublic Career Education to create the Commission for Independent Education. The amended rules will implement the new Chapter 1005, Florida Statutes, and both will become effective at the same time, January 7, 2003.

SUBJECT AREA TO BE ADDRESSED: The subjects to be discussed in the Rule Development process are: updating the rules to reflect the new Commission instead of the two previous boards wherever the agency is referenced; adding definitions required to implement the new law; bringing rules from 6F, State Board of Nonpublic Career Education, to be combined into one title; rewriting the requirements for licensure for independent postsecondary education institutions to reflect the new statute; updating the fair consumer practices to fit all levels of institutions under the purview of the Commission; revising the fee schedule to reflect current and future costs of the new Commission; removing references to permission to operate, as that status is repealed in the new law, and institutions currently holding the status are given 90 days after the effective date to become licensed or cease operating in Florida; and updating the requirements for using the terms “college” and “university”.

SPECIFIC AUTHORITY: 1005.04(1)(f), 1005.22(1)(e)1., 1005.31, 1005.33(3), 1005.34 FS.

LAW IMPLEMENTED: 1005.01, 1005.02(7), 1005.03, 1005.04, 1005.05, 1005.06, 1005.21(1), 1005.22, 1005.31, 1005.33, 1005.34, 1005.35 FS.

A RULE DEVELOPMENT WORKSHOP WILL BE HELD AT THE TIMES, DATES AND PLACES SHOWN BELOW:

- TIME AND DATE: 10:00 a.m., Friday, August 23, 2002
- PLACE: National-Louis University, 4950 West Kennedy Blvd., Suite 300, Tampa, FL 33609
- TIME AND DATE: 10:00 a.m., Friday, September 13, 2002
- PLACE: Renaissance Hotel, 5445 Forbes Place, Orlando, FL 32812
- TIME AND DATE: 10:00 a.m., Friday, September 27, 2002
- PLACE: Jones College, 5353 Arlington Expressway, Jacksonville, FL 32211
- TIME AND DATE: 10:00 a.m., Friday, November 1, 2002
- PLACE: Carlos Albizu University, 2173 N. W. 99th Avenue, Miami, FL 33172

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT IS: Sandra Knight, Assistant Executive Director, Commission for Independent Education, 2650 Apalachee Parkway, Suite A, Tallahassee, FL 32301, (850)487-3673

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

DEPARTMENT OF EDUCATION

Commission for Independent Education

RULE TITLES:	RULE NOS.:
Temporary Licensure of Colleges	6E-2.001
Other Types of College Licensure	6E-2.002
Minimum Standards for Licensure	6E-2.004
Nontraditional College Programs	6E-2.0041

Medical Clinical Clerkship Programs 6E-2.0042
 Denial, Probation, or Revocation of Licensure
 or Other Status 6E-2.0061
 Amendments to Applications 6E-2.008
 Colleges which Discontinue Operation 6E-2.009
 Agents; License Required; Procedures
 for Licensure 6E-2.010
 Designating Resident Agent 6E-2.015

PURPOSE AND EFFECT: Substantive amendments to rules are required as a result of amendments to Chapter 246, Florida Statutes, which merged the State Board of Independent Colleges and Universities with the State Board of Nonpublic Career Education to create the Commission for Independent Education. The amended rules will implement the new Chapter 1005, Florida Statutes, and both will become effective at the same time, January 7, 2003.

SUBJECT AREA TO BE ADDRESSED: The subjects to be discussed in the Rule Development process are: updating the rules to reflect the new Commission instead of the two previous boards wherever the agency is referenced; bringing rules from 6F, State Board of Nonpublic Career Education, to be combined into one title; rewriting the standards for licensure for independent postsecondary education institutions to reflect the new statute; adding provisions implementing new types of licensure; revising the standards for distance learning to fit all levels of institutions under the purview of the Commission; updating the rule regarding medical clinical clerkship programs provided in Florida hospitals by foreign medical schools; revising the rule regarding actions against a licensee to reflect the provisions in the new law; combining the best parts of both former boards' rules regarding modifications to programs offered by institutions; specifying proper procedures for the orderly closing of an institution; revising the rules relating to recruiters; and updating the rule regarding designation of resident agents for out-of-state institutions or corporations operating in Florida.

SPECIFIC AUTHORITY: 1005.22(1)(e)1., 1005.31, 1005.32, 1005.33, 1005.38, 1005.39 FS.

LAW IMPLEMENTED: 1005.21(1), 1005.22(1)(e),(h), 1005.31, 1005.33, 1005.34, 1005.35, 1005.36, 1005.38, 1005.39 FS.

A RULE DEVELOPMENT WORKSHOP WILL BE HELD AT THE TIMES, DATES AND PLACES SHOWN BELOW:

TIME AND DATE: 10:00 a.m., Friday, August 23, 2002
PLACE: National-Louis University, 4950 West Kennedy Blvd., Suite 300, Tampa, FL 33609
TIME AND DATE: 10:00 a.m., Friday, September 13, 2002
PLACE: Renaissance Hotel, 5445 Forbes Place, Orlando, FL 32812
TIME AND DATE: 10:00 a.m., Friday, September 27, 2002
PLACE: Jones College, 5353 Arlington Expressway, Jacksonville, FL 32211

TIME AND DATE: 10:00 a.m., Friday, November 1, 2002
PLACE: Carlos Albizu University, 2173 N. W. 99th Avenue, Miami, FL 33172

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT IS: Sandra Knight, Assistant Executive Director, Commission for Independent Education, 2650 Apalachee Parkway, Suite A, Tallahassee, FL 32301, (850)487-3673

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

DEPARTMENT OF EDUCATION

Commission for Independent Education

RULE TITLE: Administration of the Board **RULE NO.:** 6E-3.002

PURPOSE AND EFFECT: Substantive amendments to rules are required as a result of amendments to Chapter 246, Florida Statutes, which merged the State Board of Independent Colleges and Universities with the State Board of Nonpublic Career Education to create the Commission for Independent Education. The amended rules will implement the new Chapter 1005, Florida Statutes, and both will become effective at the same time, January 7, 2003.

SUBJECT AREA TO BE ADDRESSED: The subjects to be discussed in the Rule Development process are the organization and administration of the new Commission for Independent Education, including officers and terms, committees, quorum and voting, agendas, rulemaking, and parliamentary procedures.

SPECIFIC AUTHORITY: 1005.22(1)(d) FS.

LAW IMPLEMENTED: 1005.22(1)(d) FS.

A RULE DEVELOPMENT WORKSHOP WILL BE HELD AT THE TIMES, DATES AND PLACES SHOWN BELOW:

TIME AND DATE: 10:00 a.m., Friday, August 23, 2002
PLACE: National-Louis University, 4950 West Kennedy Blvd., Suite 300, Tampa, FL 33609
TIME AND DATE: 10:00 a.m., Friday, September 13, 2002
PLACE: Renaissance Hotel, 5445 Forbes Place, Orlando, FL 32812

TIME AND DATE: 10:00 a.m., Friday, September 27, 2002
PLACE: Jones College, 5353 Arlington Expressway, Jacksonville, FL 32211

TIME AND DATE: 10:00 a.m., Friday, November 1, 2002
PLACE: Carlos Albizu University, 2173 N. W. 99th Avenue, Miami, FL 33172

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT IS: Sandra Knight, Assistant Executive Director, Commission for Independent Education, 2650 Apalachee Parkway, Suite A, Tallahassee, FL 32301, Telephone (850)487-3673

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

DEPARTMENT OF EDUCATION

Commission for Independent Education

RULE CHAPTER TITLE:	RULE CHAPTER NO.:
Fiscal Matters	6E-4
RULE TITLES:	RULE NOS.:
Fees and Expenses	6E-4.001
Fines	6E-4.003
Student Protection Fund	6E-4.005
Institutional Assessment Trust Fund	6E-4.007

PURPOSE AND EFFECT: Substantive amendments to rules are required as a result of amendments to Chapter 246, Florida Statutes, which merged the State Board of Independent Colleges and Universities with the State Board of Nonpublic Career Education to create the Commission for Independent Education. The amended rules will implement the new Chapter 1005, Florida Statutes, and both will become effective at the same time, January 7, 2003.

SUBJECT AREA TO BE ADDRESSED: The subjects to be discussed in the Rule Development process are the fiscal considerations for the Commission, gathering into one new chapter all matters related to finances; setting a new fee schedule to cover the expenses of the Commission's operations, as no General Revenue funds are used in its budget; and reflecting the provisions of the new statute.

SPECIFIC AUTHORITY: 1005.22(1)(e)1., 1005.35, 1005.38(1) FS.

LAW IMPLEMENTED: 1005.22, 1005.35, 1005.37, 1005.38 FS.

A RULE DEVELOPMENT WORKSHOP WILL BE HELD AT THE TIMES, DATES AND PLACES SHOWN BELOW:

TIME AND DATE: 10:00 a.m., Friday, August 23, 2002

PLACE: National-Louis University, 4950 West Kennedy Blvd., Suite 300, Tampa, FL 33609

TIME AND DATE: 10:00 a.m., Friday, September 13, 2002

PLACE: Renaissance Hotel, 5445 Forbes Place, Orlando, FL 32812

TIME AND DATE: 10:00 a.m., Friday, September 27, 2002

PLACE: Jones College, 5353 Arlington Expressway, Jacksonville, FL 32211

TIME AND DATE: 10:00 a.m., Friday, November 1, 2002

PLACE: Carlos Albizu University, 2173 N. W. 99th Avenue, Miami, FL 33172

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT IS: Sandra Knight, Assistant Executive Director, Commission for Independent Education, 2650 Apalachee Parkway, Suite A, Tallahassee, FL 32301, (850)487-3673

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

DEPARTMENT OF COMMUNITY AFFAIRS

Division of Community Planning

RULE CHAPTER TITLE:	RULE CHAPTER NO.:
Local Government Comprehensive Planning Certification Program	9J-35

RULE TITLES:	RULE NOS.:
Purpose	9J-35.001
Definitions	9J-35.002
Application Period	9J-35.003
Application Submission	9J-35.004
Application Review	9J-35.005
Identification of Eligible Applicants	9J-35.006
Certification Agreement	9J-35.007

PURPOSE AND EFFECT: The proposed rule development implements requirements of Section 163.3246(6), Florida Statutes. The effect of the development is a proposed new rule chapter to set forth procedures governing local government applications for participation in the Local Government Comprehensive Planning Certification Program and the review and evaluation of those applications by the Department of Community Affairs, Division of Community Planning.

SUBJECT AREA TO BE ADDRESSED: Local Government Comprehensive Planning Certification Program.

SPECIFIC AUTHORITY: 163.3246(6) FS.

LAW IMPLEMENTED: 163.3246 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., August 27, 2002

PLACE: Department of Community Affairs, Kelley Training Center, Room 305, 2555 Shumard Oak Boulevard, Tallahassee, Florida 32399-2100

Any person requiring special accommodation at the hearing because of a disability or physical impairment should contact Beth Frost, Senior Analyst, Division of Community Planning, 2555 Shumard Oak Boulevard, (850)488-4925, Suncom 278-4925, at least seven days before the date of the hearing. If you are hearing or speech impaired, please contact the Department of Community Affairs using the Florida Dual Party Relay System which can be reached at 1(800)955-8770 (Voice) or 1(800)955-9771 (TDD).

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT IS: Jim Quinn, State Planning Administrator, Department of Community Affairs, 2555 Shumard Oak Boulevard, Tallahassee, Florida 32399-2100, (850)488-4925

THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS:

9J-35.001 Purpose.

This rule chapter sets forth procedures governing local government applications for participation in the Local Government Comprehensive Planning Certification Program and the review and evaluation of those applications by the Department of Community Affairs, Division of Community Planning.

Specific Authority 163.3246(6) FS. Law Implemented 163.3246 FS. History–New _____.

9J-35.002 Definitions.

(1) “Agreement” means a written instrument between the Department and one or more local governments that certifies all or part of the local government(s) and includes the components specified in section 163.3246(5), F.S.

(2) “Applicant” means one or more local governments that submit an application for certification pursuant to the Local Government Comprehensive Planning Certification Program.

(3) “Application” means a written request for certification in which one or more local governments provide information to demonstrate the area sought to be certified meets the criteria in sections 163.3246(2) and (5), F.S.

(4) “Certification” means the selection of local governments for participation in the Local Government Comprehensive Planning Certification Program by execution of a written Agreement.

(5) “Local Government Comprehensive Planning Certification Program” means the program established in section 163.3246, F.S.

Specific Authority 163.3246(6) FS. Law Implemented 163.3246 FS. History–New _____.

9J-35.003 Application Period.

Local governments may submit applications for certification only during the period beginning January 5 and ending February 4 each year. Applications received prior to 8:00 a.m. (EST) January 5 or after 5:00 p.m. (EST) February 4 will not be considered for certification in the subsequent state fiscal year and will be returned to the applicant local government(s), unless the application has been previously determined to be eligible for certification pursuant to subsection 9J-35.007(2), F.A.C.

Specific Authority 163.3246(6) FS. Law Implemented 163.3246 FS. History–New _____.

9J-35.004 Application Submission.

(1) Applications for certification shall be submitted in accordance with sections 163.3246(2) and (4), F.S., and must provide all information and address all eligibility criteria listed in those sections.

(2) Applications shall be mailed or delivered to: Plan Review and Processing Administrator, Florida Department of Community Affairs, Division of Community Planning, 2555 Shumard Oak Boulevard, Tallahassee, Florida 32399-2100. Facsimile transmissions will not be accepted.

(3) Applications must be transmitted by cover letter on the applicant’s letterhead. This cover letter must bear an original signature by the appropriate local government official, must affirm the accuracy of the information contained in the application, and must identify the employee or representative who will serve as the contact person for the applicant.

(4) Applicants must submit three complete sets of application materials, at least one of which must contain a cover letter with an original signature.

Specific Authority 163.3246(6) FS. Law Implemented 163.3246 FS. History–New _____.

9J-35.005 Application Review.

(1) Each application shall be time and date stamped when received by the Agency Clerk.

(2) The identified contact person for each applicant will be notified in writing of the receipt and timeliness of their application.

(3) Within ninety (90) days of receipt, the Division shall prepare a written assessment of each application. The assessment will state whether the application meets eligibility criteria in sections 163.3246(2) and (5), F.S., based solely upon information provided in the application. The assessment will describe the basis for finding that an application does or does not meet the eligibility criteria. Each applicant shall be provided a copy of the assessment.

(4) Within thirty (30) days of the date of an assessment indicating one or more eligibility criteria have not been satisfied, the applicant may submit written explanations of information contained in their application to demonstrate they meet the questioned criteria. Applications may only be supplemented in response to the Department’s assessment.

Specific Authority 163.3246(6) FS. Law Implemented 163.3246 FS. History–New _____.

9J-35.006 Identification of Eligible Applicants.

(1) Not later than forty-five (45) days after receipt of any information submitted pursuant to section 9J-35.006, F.A.C., or after expiration of the 30-day period to submit such information, whichever occurs first, the Director, Division of Community Planning, shall determine whether an application satisfies the eligibility criteria set forth in Sections 163.3246(2) and (5), F.S.

(2) The Division shall prioritize applications meeting eligibility criteria in the order received. Local governments submitting the first eight qualifying applications will be eligible to become certified in any fiscal year.

(3) The Division shall notify all applicants whether their application satisfies eligibility criteria and whether they are included among the eight applicants selected to become certified.

Specific Authority 163.3246(6) FS. Law Implemented 163.3246 FS. History–New

9J-35.007 Certification Agreement.

(1) Following the selection of applications described above, the Division shall certify all or part of each selected local government through a written agreement containing the components specified in section 163.3246(5), F.S.

(2) If an applicant selected for certification in subsection 9J-35.006(2), F.A.C., chooses not to become certified or is disqualified through a challenge filed under section 120.569, F.S., or the Division and a selected applicant fail to reach an agreement, the Division shall offer the next eligible applicant, as determined pursuant to subsection 9J-35.006(2), F.A.C., the opportunity to become certified through a written agreement.

(3) Local government applications that meet eligibility criteria but are not included in the first eight for which agreements are executed in a fiscal year will be given highest priority, in the order received, for certification in the subsequent fiscal year.

Specific Authority 163.3246(6) FS. Law Implemented 163.3246 FS. History–New

DEPARTMENT OF REVENUE

RULE TITLES:	RULE NOS.:
Application of Rules	12-6.001
Public Use Forms	12-6.0015
Conference Procedures for Notices of Intent to Make Audit Changes	12-6.002
Conference Procedures for Delinquency Notices or Billings	12-6.0023
Protest of Notices of Proposed Assessment Issued by the Department Which Result From an Audit	12-6.003
Protest of Assessments Issued by the Department Regarding Tax Returns, Other Required Filings, and Billings	12-6.0033
Final Assessments	12-6.004
Criteria for Qualified Representatives	12-6.005
Standards of Conduct for Qualified Representatives	12-6.006
Public Use Forms	12-6.007
Conference Procedures for Notices of Intent to Make Refund Claim Changes	12-6.030
Protest of Notices of Proposed Refund Denial	12-6.032

PURPOSE AND EFFECT: PART I – ADMINISTRATIVE ISSUES – A) Rule 12-6.001, F.A.C. (Application of Rules) – explains that these rules apply to all revenues collected by the Department of Revenue (DOR) as provided by s. 213.05, F.S.; states that all notices issued pursuant to this rule chapter will be

sent to the taxpayer, unless the taxpayer designates another recipient by filing form DR-835 (Power of Attorney); explains how the time periods stipulated in this rule chapter are handled if the period ends on a weekend or holiday; and, specifies that this rule chapter does not apply to formal proceedings discussed in ss. 120.569 and 120.57, F.S.

B) Rule 12-6.0015, F.A.C. (Public Use Forms) – describes the forms that DOR will use to implement the provisions of this rule chapter, and explains how to obtain a copy of these forms. PART II. PROTEST OF ASSESSMENTS – A) Rule 12-6.002, F.A.C. (Conference Procedures for Notices of Intent to Make Audit Changes) – clarifies that this rule deals with the procedures a taxpayer may use to request a conference after DOR issues a Notice of Intent to Make Audit Changes (NOI) or a revised NOI; grants the taxpayer 30 days after DOR’s issuance of the notice to request a conference; explains where the taxpayer should submit the request, and the time frame in which it must be submitted; discusses what happens if a taxpayer files the request late, and how a taxpayer can ask for an extension of time in which to file it; states that the conference must be held at the earliest convenience of both parties, which cannot be later than 90 days after the original issuance of the NOI, unless both parties agree to an extension of the 90 day limitation; clarifies that DOR and the taxpayer can jointly agree to not hold a conference, which allows the taxpayer to move to the next step in the protest process; enumerates the circumstances that will trigger DOR’s issuance of a Notice of Proposed Assessment (NOPA) based on the previous issuance of the NOI.

B) Rule 12-6.0023, F.A.C. (Conference Procedures for Delinquency Notices or Billings) – explains that this rule deals with the procedures a taxpayer may use to request a conference after DOR has issued a delinquency notice or billing; grants the taxpayer 20 days after DOR issues a delinquency notice or billing to request a conference with DOR; states where the taxpayer should submit the request for a conference, and the time frame in which the taxpayer must submit it; discusses what happens if a taxpayer files a request that is late, and specifies how a taxpayer can ask for an extension of time in which to request a conference; states that the conference must be held at the earliest convenience of both parties, which cannot be later than 40 days after the original issuance of the delinquency notice or billing, unless both parties agree to an extension of the 40 day limitation; enumerates the circumstances that will trigger DOR’s issuance of an assessment based on the previous issuance of a delinquency notice or billing;

C) Rule 12-6.003, F.A.C. (Protest of Notices of Proposed Assessment Issued by the Department Which Result From an Audit) – explains that a taxpayer can seek review of a NOPA by following this rule; states that the taxpayer must submit a written protest to DOR within 60 days of receiving the NOPA (150 days for taxpayers outside the United States); states that

the NOPA becomes a “final order” if the taxpayer fails to submit the request within the stipulated time, unless granted an extension of time; specifies how to request an extension or additional extensions; outlines what happens if the taxpayer fails to submit a written protest or request an extension; specifies how to file a protest, what information must be included, and how DOR will handle requests that do not have the required information; explains the procedures DOR will follow after it receives a timely, complete protest, including which offices review the protest, and how the agency will request additional information; states that DOR will issue a Notice of Decision (NOD) to the taxpayer in response to a written protest, and explains how the taxpayer can ask for a review of the NOD; explains that DOR will issue a Notice of Reconsideration (NOR) after considering a timely, complete request for such review; discusses the circumstances under which an NOD or NOR becomes a “final assessment” under Chapter 72, F.S.

D) Rule 12-6.0033, F.A.C. (Protest of Assessments Issued by the Department Regarding Tax Returns, Other Required Filings, and Billings) – explains that a taxpayer can seek review of an assessment issued by DOR concerning a return, other required filing, or billing, by following this rule; clarifies that a taxpayer cannot use the procedures in this rule if a review has already been sought under Rules 12-6.002 or 12-6.003, F.A.C., or, if the taxpayer has failed to comply with those rules; specifies that a taxpayer utilizing these procedures is still subject to audit by DOR; states that the taxpayer must submit a written protest to DOR within 20 days of receiving the assessment (150 days for taxpayers outside the U.S.); explains that the assessment becomes a “final order” if the taxpayer fails to submit the request within the stipulated time, unless granted an extension of time; specifies how to request an extension or additional extensions; outlines what happens if the taxpayer fails to submit a written protest or request an extension; specifies how to file a protest, what information must be included, and how DOR will handle requests that do not contain the required information; explains the procedures DOR will follow after it receives a timely, complete protest, including which offices review the protest, and how the agency will request additional information; states that DOR will issue a Notice of Reconsideration (NOR) to the taxpayer in response to a written protest, and that the NOR becomes a final assessment when issued; explains that DOR can pursue an enforcement action at any time during these rule procedures, if collection of the assessment is in jeopardy.

E) Rule 12-6.004, F.A.C. (Final Assessments) – this rule is repealed, since the procedures originally contained in it have been relocated to the appropriate rule sections.

F) Rule 12-6.005, F.A.C. (Criteria for Qualified Representatives) – clarifies that the term “counsel” includes a law student certified under Chapter 11 of the Rules Regulating the Florida Bar; revises provisions concerning the power of

attorney form that a qualified representative must submit to DOR, and adopts the revised form; explains that representatives who wish to handle sales and use tax issues for taxpayers must demonstrate professional competence by successfully completing the Certified Audit training program.

G) Rule 12-6.006, F.A.C. (Standards of Conduct for Qualified Representatives) – clarifies that the provisions governing qualified representatives apply to individuals who appear in proceedings before the Executive Director or the Executive Director’s designee.

H) Rule 12-6.007, F.A.C. (Public Use Forms) – this rule is repealed, since the forms that need to be incorporated by reference have been moved to new Rule 12-6.0015, F.A.C.

PART III: REFUND PROTEST PROCEDURES – A) Rule 12-6.030, F.A.C. (Conference Procedures for Notices of Intent to Make Refund Claim Changes) – explains that DOR will issue a Notice of Intent to Make Refund Claim Changes if a refund is partially or completely denied; grants the taxpayer 30 days after the notice is issued to agree to the denial, or to request a conference to discuss it; states that DOR can issue a revised notice, and discusses the taxpayer’s rights to request a conference concerning the revision; explains where the taxpayer’s request must be submitted and what happens if it is submitted late; specifies procedures a taxpayer can use to request an extension of time in which to request a conference; states that the conference must be held at the earliest convenience of both parties (but no later than 40 days after issuing the notice), unless DOR agrees to another time; explains that a failure to timely request a conference does not prevent a taxpayer from protesting DOR’s denial of a refund; provides that if both parties mutually agree that an issue cannot be resolved at this stage, the taxpayer can waive the 30-day time period established by this rule; specifies the circumstances under which DOR will issue a notice.

B) Rule 12-6.032, F.A.C. (Protests of Notices of Proposed Refund Denial) – explains that taxpayers can use the provisions in this rule to seek review of a Notice of Proposed Refund Denial; provides that a taxpayer must submit a written protest to DOR within 60 days (150 for taxpayers outside the U.S.) of the date the notice was issued; states that protests received after this time period will be considered late filed, unless an extension has been granted; outlines how a taxpayer may request an extension, the length of an extension, and how to request additional extensions; specifies that failure to meet any of the time frames associated with the submission of a written protest or a request for an extension results in dismissal of the protest and forfeiture of the rights offered by this rule; discusses where to send the written protest and what information it should contain; explains how DOR will handle protests that do not contain all the required information, the time frame in which taxpayers must submit missing information, and how to request an extension of time in which to submit missing information; outlines the offices in DOR that

review the protest, and the procedures associated with the review; states that the taxpayer will be given an opportunity to attend a conference and to submit additional information; specifies that a notice denying the refund will be issued to the taxpayer at the conclusion of DOR's review; provides a procedure taxpayers can use to petition DOR to reconsider the denial of the refund, including the time frame in which the petition must be submitted, the information the petition must include, and how to request an extension of time to file the petition; requires DOR to issue a notice that discusses the reconsideration of the refund denial at the conclusion of a review of a taxpayer's petition for reconsideration.

(Note: The refund protest procedures in Rules 12-26.005, 12-26.006, and 12-26.007, F.A.C., will be repealed, since those procedures are being moved to Rule Chapter 12-6, F.A.C., as new rules 12-6.030 and 12-6.032, F.A.C.)

SUBJECT AREA TO BE ADDRESSED: The subject area addressed by these rule amendments and repeals is the procedures taxpayers can use to request a review of an assessment, billing, or delinquency notice issued by the Department.

SPECIFIC AUTHORITY: 72.011(2), 213.06(1), 213.21(1) FS.
LAW IMPLEMENTED: 72.011, 120.54(5), 120.569, 120.57, 213.053, 213.21, 213.34, 215.26 FS.

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

TIME AND DATE: 10:00 a.m., August 28, 2002

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

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

NOTICE UNDER THE AMERICANS WITH DISABILITIES ACT: Any person requiring special accommodations to participate in any proceeding before the Technical Assistance and Dispute Resolution Office is asked to advise the Department at least five (5) calendar days before such proceeding by contacting: Jamie Phillips, (850)488-0717. If you are hearing or speech impaired, please contact the Department by using the Florida Relay Service, which can be reached at 1(800)955-8770 (Voice) and 1(800)955-8771 (TDD).

THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS:

INFORMAL PROTEST AND APPEAL PROCEDURE;
INFORMAL DISPOSITION OF TAX CONTROVERSIES;
PROCEDURES FOR COMPROMISE OF TAX PENALTIES
PART I: ADMINISTRATIVE ISSUES

12-6.001 Application of ~~Rules~~ Rule.

(1) The rules set forth in this chapter are applicable to all revenues ~~taxes~~ assessed and collected by the Department pursuant to Section 213.05, F.S.

(2)(a) The Department of Revenue encourages taxpayers to attempt to resolve any notice, billing, assessment, or refund denial through discussions with the Department, whether in person, in writing, or by telephone, prior to initiating the informal protest procedures contained in this Rule Chapter. This will allow the Department and the taxpayer to address possible miscommunication, misunderstanding, or Department or taxpayer error.

(b) Notices issued by the Department pursuant to this Rule Chapter will be issued to the taxpayer, unless the taxpayer submits a completed Power of Attorney and Declaration of Representative (DR-835) which instructs the Department as to how the taxpayer wants these notices to be issued (see Rule 12-6.005(1)(d), F.A.C.).

(c) If this Rule Chapter provides for a specific number of consecutive calendar days within which a taxpayer or the Department must act, the expiration of such period will not occur on a Saturday, Sunday, or legal holiday. For purposes of this Rule Chapter, the term "legal holiday" shall mean a holiday that is observed by state agencies as a legal holiday as this term is defined in Section 110.117, F.S. Instead, such specific number of consecutive calendar days will expire on the next successive day that is not a Saturday, Sunday, or legal holiday.

(d) This Chapter does not apply to the formal proceedings governed by Sections 120.569 and 120.57, Florida Statutes.

Specific Authority ~~120.53(1), 120.54, 213.06(1), 213.21(1) FS., Ch. 81-178, Laws of Florida.~~ Law Implemented ~~213.21 120.53(1), 120.54 FS., Ch. 81-178, Laws of Florida.~~ History-New 10-8-81, Formerly 12-6.01, Amended _____.

12-6.0015 Public Use Forms.

The following forms are employed by the Department in its dealings with the public. These forms are hereby incorporated by reference in this rule. Copies of these forms are available by using one or more of the following methods: 1) writing the Florida Department of Revenue, Forms Distribution Center, 168 Blountstown Highway, Tallahassee, Florida 32304; or, 2) faxing the Forms Distribution Center at (850)922-2208; or, 3) using a fax machine telephone handset to call the Department's 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 stated in the parentheses (<http://www.myflorida.com/dor/>). Persons with hearing or speech impairments may call the Department's TDD at 1(800)367-8331.

Form Number	Title	Effective Date
(1) DR-835	Power of Attorney and Declaration of Representative (r. 01/00)	_____

Specific Authority 213.06(1), 213.21(1) FS. Law Implemented 72.011, 120.54(5), 120.569, 120.57, 213.21 FS. History—New _____.

PART II: PROTEST OF ASSESSMENTS

12-6.002 Conference Field Procedures for Notices of Intent to Make Audit Changes.

(1)(a) Except in cases of jeopardy assessments, or estimated assessments, refund denials, or where review of the taxpayer's books and records results in no liability due to the state or no refundable amount due to the taxpayer, the Department will, upon completion of an audit, issue a Notice of Intent to Make Audit Changes. ~~Each Notice of Intent to Make Audit Changes, and supplementary form(s), prescribed by the Department, are incorporated by reference in Rule 12-6.007, F.A.C.~~ The taxpayer shall have 30 consecutive calendar days after the date of issuance on the Notice of Intent to Make Audit Changes receipt of this notice to mail or fax a written request for a field conference to the office address or fax number on the Notice, with the Auditor, Audit Group Supervisor, or Senior Audit Supervisor, as the case may be.

(b) If the Department issues a Revised Notice of Intent to Make Audit Changes, the taxpayer shall have 30 consecutive calendar days after the date of issuance on the Revised Notice of Intent to Make Audit Changes to mail or fax a written request for a conference to the office address or fax number on the revised notice.

(c) A request for a field conference should be made directly to the local office designated on issuing the Notice of Intent to Make Audit Changes or the Revised Notice of Intent to Make Audit Changes. In order for the taxpayer's request to be considered timely, the request must be postmarked or faxed within 30 consecutive calendar days from the date of issuance on the Notice of Intent to Make Audit Changes or the Revised Notice of Intent to Make Audit Changes.

(d) Requests postmarked or faxed more than 30 consecutive calendar days after the date of issuance on the Notice of Intent to Make Audit Changes or the Revised Notice of Intent to Make Audit Changes will be deemed late filed and shall result in forfeiture of the taxpayer's rights to such conference, unless the taxpayer has timely secured a written extension of time within which to file a request for a conference.

(2)(a) A taxpayer may request an extension of time in which to request a conference by mailing or faxing a written request to the office address or fax number designated on the Notice of Intent to Make Audit Changes or Revised Notice of Intent to Make Audit Changes, prior to the expiration of the period within which a conference must be requested. An extension of time will be for 30 consecutive calendar days.

Within a 30 consecutive calendar day extension period, the taxpayer may submit a request in writing to the office address or fax number designated on the Notice of Intent to Make Audit Changes or Revised Notice of Intent to Make Audit Changes for an additional 30 consecutive calendar day extension within which to request a conference.

(b) Failure to mail or fax a written request for a conference within the 30 consecutive calendar day extension period, or to mail or fax a written request for an additional 30 consecutive calendar day extension within a pending extension period, shall result in forfeiture of the taxpayer's rights to such conference.

(3)(2) If a field conference is requested, it will be held at the earliest convenience of both the taxpayer and the Department, but it will not be held more than 90 consecutive calendar days after the date of issuance on of the Notice of Intent to Make Audit Changes or Revised Notice of Intent to Make Audit Changes, unless specifically agreed to authorized in writing by the Department. After the field conference, if no agreement is reached, a proposed assessment will be issued by the Compliance Support Process.

(4)(3) If a request for a field conference is not timely made, the right to seek a field conference is waived and a proposed assessment will be issued by the Department. Failure to request a field conference will not preclude instituting the protest procedures provided for in Rule 12-6.003, F.A.C.

(5)(4) If it is jointly determined by the Department's representative and the taxpayer that an issue(s) cannot be resolved at the local level, to expedite ultimate resolution of the issue(s), the 30 consecutive calendar days provided under subsection (1) of this rule the Field Protest Procedures may be waived by the taxpayer. The Department prescribes Form DR-829, Consent to Waive 30-Day Field Conference Period Allowed by Protest Procedures, Rule 12-6, F.A.C. (incorporated by reference in Rule 12-6.007, F.A.C.), to be utilized for this purpose. A waiver will result in the immediate issuance of a proposed assessment by the Compliance Support Process.

(6) A Notice of Proposed Assessment will be issued by the Department if:

(a) An agreement is not reached after the conference held pursuant to this section; or

(b) The taxpayer has not timely filed a written request for a conference; or

(c) The taxpayer has not timely filed a written request for an extension of time for requesting a conference; or

(d) The taxpayer has waived his or her right to a conference pursuant to this section.

Specific Authority 213.06(1), 213.21(1) FS. Law Implemented 213.21 FS. History—New 10-8-81, Amended 12-31-81, Formerly 12-6.02, Amended 8-10-92, _____.

12-6.0023 Field Conference Procedures for Delinquency Notices or Billings (Collection and Enforcement).

(1)(a) After issuance of receiving a delinquency notice or billing by the Department, from the Taxpayer Services Process, the taxpayer may request a conference with the collection supervisor, or section or area administrator if an no assessment has not been issued. Each delinquency notice or billing form, prescribed by the Department, is incorporated by reference in Rule 12-6.007, F.A.C. A request for a conference shall be made by mailing, telephoning, or faxing the request directly to the address, telephone number, or fax number of the office designated on the delinquency notice or billing Taxpayer Services Process, 1379 Blountstown Highway, Tallahassee, Florida 32304 or to the local office issuing the notice within 20 consecutive calendar days of the date of issuance on the delinquency notice or billing. (notices are filed under provisions of Chapters 206, 207, and 212, F.S.). In order for the taxpayer's request to be considered timely, the request must be postmarked, telephoned, or faxed within 20 consecutive calendar days from the date of issuance on the delinquency notice or billing.

(b) Requests postmarked, telephoned, or faxed more than 20 consecutive calendar days after the date of issuance on the delinquency notice or billing will be deemed late filed and shall result in forfeiture of the taxpayer's rights to such conference, unless the taxpayer has timely secured a written extension of time within which to file a request for a conference.

(2)(a) A taxpayer may request an extension of time in which to request a conference pursuant to subsection (1) if the request for an extension is received by the office designated on the delinquency notice or billing prior to the expiration of the period within which a conference must be requested. An extension of time will be for 30 consecutive calendar days. Within a 30 consecutive calendar day extension period, the taxpayer may submit a request in writing to the office address or fax number designated on the delinquency notice or billing for an additional 30 consecutive calendar day extension within which to request a conference.

(b) Failure to mail, telephone, or fax a request for a conference within the 30 consecutive calendar day extension period, or failure to contact the Department, or failure to request an additional 30 consecutive calendar day extension within a pending extension period, shall result in forfeiture of the taxpayer's rights to such conference.

(3)(2) If a conference is requested, it will be held at the earliest convenience of both the taxpayer and the Department, but it will not be held more than 40 consecutive calendar days after the date of issuance on of the delinquency notice or billing, unless specifically agreed to in writing by the Department.

(4)(3) If an no agreement is not reached as a result of after the field conference, or if no request is made for a conference, or if a request is not timely made for a conference, and if an assessment will be is issued, and the taxpayer may file a protest under the procedures provided for in Rule 12-6.0033, F.A.C.

Specific Authority 72.011(2), 213.06(1), 213.21(1) FS. Law Implemented 72.011, 213.21 FS. History—New 7-1-88, Amended 8-10-92, _____.

(Substantial rewording of Rule 12-6.003 follows. See Florida Administrative Code for present text.)

12-6.003 Protest of Notices of Proposed Assessment Issued by the Department Which Result From an Audit.

(1)(a) A taxpayer may secure review of a Notice of Proposed Assessment (Assessment) by implementing the provisions of this section.

(b) To secure review of an Assessment, a taxpayer must file a written protest postmarked or faxed within 60 consecutive calendar days (150 consecutive calendar days if the taxpayer is outside the United States) from the date of issuance on the Assessment.

(c) Protests postmarked or faxed more than 60 consecutive calendar days (150 consecutive calendar days for taxpayers not in the United States) after the date of issuance on the Assessment will be deemed late filed, and the Assessment becomes final for purposes of Chapter 72, F.S., upon the expiration of 60 consecutive calendar days (150 consecutive calendar days for taxpayers not in the United States) after the date of issuance on the Assessment, unless the taxpayer has timely secured a written extension of time within which to file a protest.

(d)1. A taxpayer may request an extension of time for filing a protest by mailing or faxing a written request to the address or fax number designated on the Assessment. In order for the taxpayer's request to be considered timely, the request must be postmarked or faxed within 60 consecutive calendar days (150 consecutive calendar days for taxpayers not in the United States) from the date of issuance on the Assessment. An extension of time will be for 30 consecutive calendar days. Within a 30 consecutive calendar day extension period, the taxpayer may submit a request in writing to the address or fax number designated on the Assessment for an additional 30 consecutive calendar day extension within which to submit a written protest.

2. Failure to mail or fax the written protest or failure to mail or fax a written request for an additional extension within a 30 consecutive calendar day extension period shall result in forfeiture of the taxpayer's rights to the proceedings provided by this rule and the proposed refund denial will become a final denial for purposes of Chapter 72, F.S., at the expiration of the extended filing period.

(2)(a) The protest shall be filed by mailing or faxing a written request to the address or fax number designated on the Assessment, and shall include:

1. The taxpayer's name, address, telephone number, federal taxpayer identifying number, and audit number.

2. The tax type, the periods, and the dollar amount of tax, interest, or penalty protested.

3. A list of the unagreed items.

4. A statement of facts and a description of any additional information not previously available that supports the list of unagreed items.

5. A statement explaining the law or other authority on which the taxpayer's position is based.

6. A copy of the Assessment.

7. A statement whether oral presentation and argument are requested.

(b)1. If the protest does not contain this required information, the taxpayer will be notified in writing by the Compliance Support Process that the required information must be submitted within 15 consecutive calendar days. Within this 15 consecutive calendar day period, the taxpayer may submit a request in writing to the Compliance Support Process at the address or fax number listed on the written notification from the Process for an additional 15 consecutive calendar days within which to submit this required information. Within a 15 consecutive calendar day extension period, the taxpayer may submit a request in writing to the Compliance Support Process at the address or fax number listed on the written notification from the Process for an additional 15 consecutive calendar day extension within which to submit this required information.

2. Failure to submit this information or to request an additional 15 consecutive calendar day extension within either the original 15 consecutive calendar day period or an additional 15 consecutive calendar day extension period shall result in issuance of a written dismissal of the protest and forfeiture of the taxpayer's right to the proceedings provided by this rule.

3. If the taxpayer either fails to submit the required information or fails to request an extension of time within which to submit the required information, the Assessment shall become a final Assessment for purposes of Chapter 72, F.S., on the later of:

a. The date a 15-consecutive calendar day period expires pursuant to this rule; or

b. The expiration of 60 consecutive calendar days after the date of issuance on the Assessment.

(3)(a)1. Upon receipt of a complete, timely filed written protest, the Compliance Support Process will review the protest and initiate an attempt to resolve the issues. The Compliance Support Process may require the office originating the Assessment to provide a written explanation, report, or narrative setting forth the basis for the Assessment.

2. If a resolution is not achieved, the protest will be forwarded to Technical Assistance and Dispute Resolution. Technical Assistance and Dispute Resolution will review the

protest and may require the office originating the Assessment to provide a written explanation, report, or narrative setting forth the basis for the Assessment. If requested by the taxpayer, an opportunity for submission of additional information and an oral conference will be provided. Conferences are conducted informally in Tallahassee, Florida, and no transcript of the proceedings will be made by the Department.

(b) If a protest is timely filed and the taxpayer and the Department are unable to resolve the disputed issues, a Notice of Decision (NOD) shall be issued. The Assessment will become a final Assessment for purposes of Chapter 72, F.S., as of the date of issuance on the NOD, unless the taxpayer timely files a petition for reconsideration of the NOD.

(4)(a)1. A taxpayer shall have 30 consecutive calendar days from the date of issuance on the NOD to file a petition for reconsideration.

2. Petitions for reconsideration must be in writing, postmarked or faxed to the address or fax number stated on the NOD, and must contain additional facts or arguments in support of the taxpayer's position.

3. The Department will not grant an extension of time for filing a petition for reconsideration.

(b)1. If the petition for reconsideration does not contain this required information, the taxpayer will be notified in writing by Technical Assistance and Dispute Resolution that the required facts or arguments must be submitted within 15 consecutive calendar days. Within this 15 consecutive calendar day period, the taxpayer may submit a request in writing to Technical Assistance and Dispute Resolution for an additional 15 consecutive calendar day extension within which to submit this required information. Within a 15 consecutive calendar day extension period, the taxpayer may submit a request in writing to Technical Assistance and Dispute Resolution for an additional 15 consecutive calendar day extension within which to submit this required information.

2. Failure to submit this information or to request an additional 15 consecutive calendar day extension within either the original 15 consecutive calendar day period or an additional 15 consecutive calendar day extension period shall result in issuance of a Notice of Reconsideration (NOR) that dismisses the petition for reconsideration and sustains the NOD. The Assessment will become a final Assessment for purposes of Chapter 72, F.S., as of the date of issuance on the NOR.

(c) If a petition for reconsideration is timely filed and the taxpayer and the Department are unable to resolve the disputed issues, a NOR shall be issued. The Assessment will become a final Assessment for purposes of Chapter 72, F.S., as of the date of issuance on the NOR.

(5) Procedures outlined in this section shall be for investigative purposes as specified in Section 120.57(5), F.S.

Specific Authority 72.011(2), 213.06(1), 213.21(1) FS. Law Implemented 72.011, 213.21 FS. History—New 12-31-81, Formerly 12-6.03, Amended 7-1-88.

(Substantial rewording of Rule 12-6.0033 follows. See Florida Administrative Code for present text.)

12-6.0033 Protest of Assessments Issued by the Department Regarding Tax Returns, Other Required Filings, and Billings.

(1)(a) A taxpayer may secure review of an assessment issued by the Department regarding tax returns, other required filings, and billings by implementing the provisions of this section. When a taxpayer has pursued review under the provisions of either Rule 12-6.002 or 12-6.003, F.A.C., or both, or has failed to comply with the time limitations or has exhausted the review rights in those rules, the taxpayer shall not have the right to pursue review under this section. The assessment procedure under this rule and review of such assessments regarding tax returns, other required filings, and departmental billings shall not preclude an audit of taxpayer books and records, and shall not preclude audit assessments or other assessments for tax deficiency.

(b) To secure review of an assessment regarding tax returns, other required filings, and billings a taxpayer must file a written protest postmarked or faxed within 20 consecutive calendar days (150 consecutive calendar days if the taxpayer is outside the United States) from the date of issuance on the assessment.

(c) Protests postmarked or faxed more than 20 consecutive calendar days (150 consecutive calendar days for taxpayers not in the United States) after the date of issuance on the assessment will be deemed late filed, and the assessment becomes final for purposes of Chapter 72, F.S., upon the expiration of 20 consecutive calendar days (150 consecutive calendar days for taxpayers not in the United States) after the date of issuance on the assessment, unless the taxpayer has timely secured a written extension of time within which to file a protest.

(d)1. A taxpayer may request an extension of time for filing a protest by mailing or faxing a written request to the address or fax number designated on the assessment. In order for the taxpayer's request to be considered timely, the request must be postmarked or faxed within 20 consecutive calendar days (150 consecutive calendar days for taxpayers not in the United States) from the date of issuance on the assessment. An extension of time will be for 15 consecutive calendar days. Within a 15 consecutive calendar day extension period, the taxpayer may submit a request in writing to the address or fax number designated on the assessment for an additional 15 consecutive calendar day extension within which to submit a written protest.

2. Failure to mail or fax the written protest or failure to mail or fax a written request for an additional extension within a 20 consecutive calendar day extension period shall result in

forfeiture of the taxpayer's rights to the proceedings provided by this rule and the proposed refund denial will become a final denial for purposes of Chapter 72, F.S., at the expiration of the extended filing period.

(2)(a) The protest shall be filed by mailing or faxing a written request to the address or fax number designated on the assessment, and shall include:

1. The taxpayer's name, address, telephone number, federal taxpayer identifying number, and account number or audit number (where appropriate);

2. The tax type, the periods, and dollar amount of tax, interest, or penalty protested;

3. A list of the unagreed items;

4. A statement of facts and a description of any additional information not previously available that supports the list of unagreed items;

5. A statement explaining the law or other authority on which the taxpayer's position is based;

6. A copy of the assessment;

7. A statement whether oral presentation and argument are requested.

(b)1. If the protest does not contain this required information, the taxpayer will be notified in writing by the office issuing the assessment that the required information must be submitted within 15 consecutive calendar days. Within this 15 consecutive calendar day period, the taxpayer may submit a request in writing to the office issuing the assessment for an additional 15 consecutive calendar days within which to submit this required information. Within a 15 consecutive calendar day extension period, the taxpayer may submit a request in writing to the office issuing the assessment for an additional 15 consecutive calendar day extension within which to submit this required information.

2. Failure to submit this information or to request an additional 15 consecutive calendar day extension within either the original 15 consecutive calendar day period or an additional 15 consecutive calendar day extension period shall result in issuance of a written dismissal of the protest and forfeiture of the taxpayer's right to the proceedings provided by this rule.

3. If the taxpayer either fails to submit the required information or fails to request an extension of time within which to submit the required information, the assessment shall become a final assessment for purposes of Chapter 72, F.S., on the later of:

a. The date a 15-consecutive calendar day period expires pursuant to this rule; or

b. The expiration of 20 consecutive calendar days after the date of issuance on the assessment.

(3)(a)1. Upon receipt of a complete, timely filed written protest, the office that issued the assessment will review the protest and initiate an attempt to resolve the issues. The office

that issued the assessment may require the office originating the assessment to provide a written explanation, report, or narrative setting forth the basis for the assessment.

2. If a resolution is not achieved, the protest will be forwarded to Technical Assistance and Dispute Resolution. Technical Assistance and Dispute Resolution will review the protest and may require the office originating the assessment to provide a written explanation, report, or narrative setting forth the basis for the assessment. If requested by the taxpayer, an opportunity for submission of additional information and an oral conference will be provided. Conferences are conducted informally in Tallahassee, Florida, and no transcript of the proceedings will be made by the Department.

(b) If a protest is timely filed and the taxpayer and the Department are unable to resolve the disputed issues, a Notice of Reconsideration (NOR) shall be issued. The assessment will become a final assessment for purposes of Chapter 72, F.S., as of the date of issuance on the NOR.

(4) If at any time jeopardy conditions exist, the Department may initiate enforcement action under the Department's jeopardy procedures to enforce an assessment.

(5) Procedures outlined in this section shall be for investigative purposes as specified in Section 120.57(5), F.S.

Specific Authority 72.011(2), 213.06(1), 213.21(1) FS. Law Implemented 72.011, 213.21, 213.732 FS. History—New 7-1-88, Amended 8-10-92, _____.

12-6.004 Final Assessments.

Specific Authority 72.011, ~~120.53(1), 120.54~~, 213.06(1), 213.21 FS. Law Implemented 72.011, ~~120.53(1), 120.54~~, 213.21 FS. History—New 12-31-81, Formerly 12-6.04, Repealed.

12-6.005 Criteria for Qualified Representatives.

(1)(a) Any person who appears before the Department in any proceeding has the right, at his or her own expense, to be accompanied, represented, and advised by counsel or by other qualified representatives. For the purposes of this rule, "counsel" shall mean a member of the Florida Bar or a law student certified pursuant to Chapter 11 of the Rules Regulating Article XVIII of the Integration Rule of The Florida Bar.

(b) through (c) No change.

(d)1. Any individual ~~person~~ qualified as a representative under this rule shall file a Power of Attorney and Declaration of Representative ~~power of attorney in a form acceptable to the Department~~, signed under penalty of perjury by the qualified representative and ~~sworn to~~ by the party being represented.

2. The ~~suggested form of a power of attorney is the Power of Attorney and Declaration of Representative (form DR-835), adopted and incorporated by reference in Rule 12-6.0015 that used by the Internal Revenue Service.~~

(e) Other individuals ~~persons~~ chosen by a taxpayer to represent the taxpayer may be qualified to appear before the Department, the Executive Director, or the Executive

Director's ~~designees~~ ~~appointees~~ if the presiding officer of the proceeding is satisfied as to the qualifications of the individual ~~person~~ seeking to qualify as a representative. In determining qualification to represent, the presiding officer shall satisfy himself or herself by reference to the provisions in the ~~of~~ Uniform Rules of Procedure, Rule 28-106.106, F.A.C. (Who May Appear; Criteria for Other Qualified Representatives), F.A.C., that, if the issue in question is a sales and use tax issue, the representative has demonstrated professional competency by successfully completing the Certified Audit training program administered by the Florida Institute of Certified Public Accountants as it is in effect on the date of the adoption of this rule.

Specific Authority 213.06(1), 213.21(1) FS. Law Implemented 213.053, 213.21 FS. History—New 5-27-82, Formerly 12-6.05, Amended.

12-6.006 Standards of Conduct for Qualified Representatives.

In all proceedings before the Department, the Executive Director, or the Executive Director's designees under this chapter ~~plan~~, all individuals ~~persons~~ qualified as a taxpayer's representative shall comply with the provisions ~~Standards of conduct~~ set forth in Uniform Rules of Procedure, Rule 28-106.107, F.A.C., as it is in effect on the date of the adoption of this rule.

Specific Authority 213.06(1), 213.21(1) FS. Law Implemented 213.21 FS. History—New 5-27-82, Formerly 12-6.06, Amended.

12-6.007 Public Use Forms.

Specific Authority 213.06(1), 213.21(1) FS. Law Implemented 72.011, 120.54(5), 120.569, 120.57, 213.21 FS. History—New 8-10-92, Repealed.

PART III. REFUND PROTEST PROCEDURES

12-6.030 Conference Procedures for Notices of Intent to Make Refund Claim Changes.

(1)(a) The Department, upon determining that a refund should be wholly or partially denied, except in the case of a mathematical error, will issue a notice to the address provided by the taxpayer with his or her application for refund. The notice shall include a clear explanation of the reason for denial. No such notice will be issued by the Department if the only change made by the Department results from a mathematical error made by the taxpayer. Examples of mathematical errors include those resulting from the taxpayer's improper computation of collection allowances or discounts. The taxpayer shall have 30 consecutive calendar days after the date of issuance on the notice to sign the notice agreeing to the proposed changes or to mail or fax a written request for a conference to the address or fax number designated on the notice.

(b) If the Department issues a revised notice, the taxpayer shall have 30 consecutive calendar days after the date of issuance on the revised notice to mail or fax a written request for a conference to the office address or fax number on the revised notice.

(c) A request for a conference should be made directly to the address or fax number designated on the notice or the revised notice. In order for the taxpayer's request for a conference to be considered timely, the request must be postmarked or faxed within 30 consecutive calendar days from the date of issuance on the notice or on the revised notice.

(d) Requests postmarked or faxed more than 30 consecutive calendar days after the date of issuance on the notice or the revised notice will be deemed late filed and shall result in forfeiture of the taxpayer's rights to such conference, unless the taxpayer has timely secured a written extension of time within which to file a request for a conference.

(2)(a) A taxpayer may request an extension of time in which to request a conference by mailing or faxing a written request to the address or fax number designated on the notice or the revised notice, prior to the expiration of the period within which a conference must be requested. An extension of time will be for 30 consecutive calendar days. Within a 30 consecutive calendar day extension period, the taxpayer may submit a request in writing to the address or fax number designated on the notice or the revised notice for an additional 30 consecutive calendar day extension within which to request a conference.

(b) Failure to mail or fax a written request for a conference within the 30 consecutive calendar day extension period, or to mail or fax a written request for an additional 30 consecutive calendar day extension within a pending extension period, shall result in forfeiture of the taxpayer's rights to a conference.

(3) If a conference is requested, it will be held at the earliest convenience of both the taxpayer and the Department, but it will not be held more than 40 consecutive calendar days after the date of issuance on the notice or revised notice, unless specifically agreed to in writing by the Department.

(4) Failure to request a conference will not preclude instituting the protest procedures provided in Rule 12-6.032, F.A.C.

(5) If it is jointly determined by the Department's representative and the taxpayer that an issue(s) cannot be resolved, to expedite ultimate resolution of the issue(s), the 30 consecutive calendar days provided under subsection (1) of this rule may be waived by the taxpayer.

(6) A Notice of Proposed Refund Denial (form DR-832R) will be issued by the Department if:

(a) An agreement is not reached after the conference held pursuant to Rule 12-6.032, F.A.C.; or

(b) The taxpayer has not timely filed a written request for a conference; or

(c) The taxpayer has not timely filed a written request for an extension of time for requesting a conference; or

(d) The taxpayer has waived his or her right to a conference pursuant to this section.

(7) When an amount to be refunded is determined, the Department shall voucher a request for warrant for the amount approved and submit it to the Comptroller.

Specific Authority 213.06(1) FS, Law Implemented 213.34, 215.26 FS, History--New

12-6.032 Protest of Notices of Proposed Refund Denial.

(1)(a) A taxpayer may secure review of a Notice of Proposed Refund Denial (Form DR-832R), by implementing the provisions of this section.

(b) To secure review of a Notice of Proposed Refund Denial (NPRD), a taxpayer must file a written protest, postmarked or faxed within 60 consecutive calendar days (150 consecutive calendar days for taxpayers not in the United States) from the date of issuance on the NPRD.

(c) Protests postmarked or faxed more than 60 consecutive calendar days (150 consecutive calendar days for taxpayers not in the United States) after the date of issuance on the NPRD will be deemed late filed, and the proposed refund denial becomes final for purposes of Chapter 72, F.S., upon the expiration of 60 consecutive calendar days (150 consecutive calendar days for taxpayers not in the United States) after the date of issuance on the NPRD, unless the taxpayer has timely secured a written extension of time within which to file a protest.

(d)1. A taxpayer may request an extension of time for filing a protest by mailing or faxing a written request to the address or fax number designated on the NPRD. In order for the taxpayer's request to be considered timely, the request must be postmarked or faxed within 60 consecutive calendar days (150 consecutive calendar days for taxpayers not in the United States) from the date of issuance on the NPRD. An extension of time will be for 30 consecutive calendar days. Within a 30 consecutive calendar day extension period, the taxpayer may submit a request in writing to the address or fax number designated on the NPRD for an additional 30 consecutive calendar day extension within which to submit a written protest.

2. Failure to mail or fax the written protest or failure to mail or fax a written request for an additional extension within a 30 consecutive calendar day extension period shall result in forfeiture of the taxpayer's rights to the proceedings provided by this rule and the proposed refund denial will become a final denial for purposes of Chapter 72, F.S., at the expiration of the extended filing period.

(2) The procedures for obtaining review of a proposed refund denial are as follows:

(a) The protest shall be filed by mailing or faxing a written request to the address or fax number designated on the NPRD and shall include:

1. The taxpayer's name, address, telephone number, account number, federal taxpayer identifying number, and audit number or refund control number;

2. The type of tax and the dollar amount of the proposed refund denial that is being protested;

3. The refund period covered by the denial;

4. A copy of the Notice of Proposed Refund Denial;

5. A concise statement of facts including a statement of all disputed issues of material fact and a description of any additional information not previously available that supports the taxpayer's position. If there are no disputed issues of material fact, the petition must so indicate;

6. A statement supporting the taxpayer's position as to any contested issue;

7. A statement explaining the law or other authority upon which the taxpayer is relying;

8. A statement explaining the relief the taxpayer seeks from the Department;

9. Whether the taxpayer desires oral presentation and argument; and

10. Other information the taxpayer contends is material to the refund.

(b)1. If the protest does not contain this required information, the taxpayer will be notified in writing by the Department that the required information must be submitted within 15 consecutive calendar days. Within this 15 consecutive calendar day period the taxpayer may submit a request in writing to the address or fax number designated on the NPRD for an additional 15 consecutive calendar days within which to submit this required information. Within a 15 consecutive calendar day extension period the taxpayer may submit a request in writing to the Department for an additional 15 consecutive calendar day extension within which to submit this required information.

2. Failure to submit this information or to request an additional 15 consecutive calendar day extension within either the original 15 consecutive calendar day period or an additional 15 consecutive calendar day extension period shall result in issuance of a written dismissal of the protest and forfeiture of the taxpayer's right to the proceedings provided by this rule.

3. If the taxpayer either fails to submit the required information or fails to request an extension of time within which to submit the required information, the proposed refund denial shall become a final refund denial for purposes of Chapter 72, F.S., on the later of:

a. The date a 15-consecutive calendar day period expires pursuant to this rule; or

b. The expiration of 60 consecutive calendar days after the date of issuance on the NPRD.

(3)(a)1. Upon receipt of a complete, timely filed written protest, the Refunds and Distribution Process will review the protest and initiate an attempt to resolve the issues. The Refunds and Distribution Process may require the field office that reviewed the Notice of Proposed Refund Denial to provide a written explanation, report, or narrative setting forth the basis for the denial.

2. If a resolution is not achieved, the protest will be forwarded to Technical Assistance and Dispute Resolution. Technical Assistance and Dispute Resolution will review the protest and may require the office originating the Notice of Proposed Refund Denial to provide a written explanation, report, or narrative setting forth the basis for the refund denial. If requested by the taxpayer, an opportunity for submission of additional information and an oral conference will be provided. Conferences are conducted informally in Tallahassee, Florida, and no transcript of the proceedings will be made by the Department.

(b) If a protest is timely filed and the taxpayer and the Department are unable to resolve the disputed issues, the protest will be denied. The proposed refund denial will become a final refund denial for purposes of Chapter 72, F.S., as of the date of issuance on the denial, unless the taxpayer timely files a petition for reconsideration of the denial.

(4)(a)1. A taxpayer shall have 30 consecutive calendar days from the date of issuance on the denial to file a petition for reconsideration.

2. Petitions for reconsideration must be in writing, postmarked or faxed to the address or fax number designated on the denial, no later than 30 consecutive calendar days after the date of issuance on the denial, and must contain additional facts or arguments in support of the taxpayer's position.

3. The Department will not grant an extension of time for filing a petition for reconsideration.

(b)1. If the petition for reconsideration does not contain this required information, the taxpayer will be notified in writing by Technical Assistance and Dispute Resolution that the required facts or arguments must be submitted within 15 consecutive calendar days. Within this 15 consecutive calendar day period, the taxpayer may submit a request in writing to Technical Assistance and Dispute Resolution for an additional 15 consecutive calendar day extension within which to submit this required information. Within a 15 consecutive calendar day extension period, the taxpayer may submit a request in writing to Technical Assistance and Dispute Resolution for an additional 15 consecutive calendar extension within which to submit this required information.

2. Upon failure to submit this information or to request an additional 15 consecutive calendar day extension within either the original 15 consecutive calendar day period or an additional 15 consecutive calendar day extension period, the

petition for reconsideration will be dismissed and the denial of the protest will be sustained. The proposed refund denial will become a final refund denial for purposes of Chapter 72, F.S., upon expiration of the original 15-consecutive calendar day period or the last extension period.

(c) If a petition for reconsideration is timely filed and the taxpayer and the Department are unable to resolve the disputed issues, the petition shall be denied. The proposed refund denial will become a final refund denial for purposes of Chapter 72, F.S., as of the date the petition is denied.

(5) Procedures outlined in this section shall be for investigative purposes as specified in Section 120.57(5), F.S.

Specific Authority 213.06(1) FS. Law Implemented 72.011, 213.34, 215.26 FS. History--New _____.

DEPARTMENT OF CORRECTIONS

RULE TITLE: Placement of Inmates into Community Release Programs

RULE NO.: 33-601.606

PURPOSE AND EFFECT: The purpose and effect of the proposed rule is to clarify ineligibility criteria for community release programs and to delete unnecessary language from the rule.

SUBJECT AREA TO BE ADDRESSED: Community release programs.

SPECIFIC AUTHORITY: 945.091 FS.

LAW IMPLEMENTED: 945.091 FS.

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

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT IS: Perri King Dale, 2601 Blair Stone Road, Tallahassee, Florida 32399-2500

THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS:

33-601.606 Placement of Inmates into Community Release Programs.

(1) Definitions.

(a) through (b) No change.

~~(c) Pre-Work Release Transition Program refers to the department's 100-hour transitional skills program which prepares inmates for employment and re-entry into society prior to an inmate being assigned to work release. The program covers thirteen modules including goal setting, problem solving, social situations, emotional control, job hunting, pre-employment skills, keeping a job, money management, wellness, sexual responsibility and parenting, domestic violence, continuing education, special needs issues and~~

~~community re-entry support. The program is provided by an OPS teacher position in conjunction with a local community college.~~

~~(c)(d)~~ No change.

~~(d)(e)~~ No change.

(2) Eligibility and Ineligibility Criteria.

(a) An inmate is ineligible for community release programs if he has:

1. No change.

2. A disciplinary report for escape within the last five years or ~~Current or prior convictions for escape covered by s. 945.092, F.S. or had a disciplinary report for escape within the last five years.~~

3. through 7. No change.

(b) through (3) No change.

(4) Process for Removal from CWA, Work Release and Community-Based Residential Substance Abuse Programs.

(a) When an inmate is removed from CWA, work release or a community-based residential substance abuse program and placed in a secure facility, the inmate shall be terminated from the program.

(b) Upon the termination of an inmate from CWA, work release, or a community-based residential substance abuse program, the Termination Report, Form EF6-009 will be given to the ICT who shall approve or disapprove the termination. Form EF6-009 is hereby incorporated by reference. Copies of this form are available from the Forms Control Administrator, Office of the General Counsel, 2601 Blair Stone Road, Tallahassee, Florida 32399-2500. The effective date of this form is March 14, 2001.

(c) ~~If the ICT disapproves the termination~~ ~~disapproved~~, the inmate shall be reinstated to his previous work release status by the ICT. If the ICT determines that there is a need to transfer the inmate to a different work release facility, the ICT shall forward the request to the SCO for approval.

(d) ~~If approved by the ICT~~ approves the termination, the termination shall be forwarded to the SCO who shall approve or disapprove the termination.

(e) ~~If disapproved by the SCO~~ disapproves the termination, the SCO shall ensure that the inmate is returned to his or her previous work release status.

(5) No change.

Specific Authority 945.091 FS. Law Implemented 945.091 FS. History--New 3-14-01, Amended 9-2-01, 3-19-02, _____.

DEPARTMENT OF ELDER AFFAIRS

Federal Aging Programs

RULE CHAPTER TITLE: Administration of Federal

RULE CHAPTER NO.:

Aging Programs

58A-1

RULE TITLES:

RULE NOS.:

Definitions

58A-1.001

Responsibilities of the Department of Elder Affairs as the State Agency on Aging 58A-1.004
 Designation of Area Agencies on Aging 58A-1.006
 Area Agency on Aging Functions and Responsibilities 58A-1.007

PURPOSE AND EFFECT: The purpose of the amendments to Rules 58A-1.001, .004, .006, and .007, F.A.C., will be to delete all references to the Department of Elder Affairs Programs and Service Manual and incorporation thereof, from Chapter 58A-1, F.A.C.

SUBJECT AREA TO BE ADDRESSED: Department of Elder Affairs Programs and Service Manual.

SPECIFIC AUTHORITY: 20.41(2), 410.016(2)(k), 430.08 FS., ch. 91-115, s. 10, Laws of Fla.

LAW IMPLEMENTED: 20.41(2), 410.011, 410.016, 430.03(6) FS., ch. 91-115, Laws of Fla.

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 SHOW BELOW.

TIME AND DATE: 10:00 a.m. – 12:00 p.m., August 28, 2002

PLACE: Department of Elder Affairs, 4040 Esplanade Way, Conf. Rm. 225F, Tallahassee, FL

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT IS: Linda Macdonald, Office of Legal Affairs, Department of Elder Affairs, 4040 Esplanade Way, Tallahassee, Florida 32399-7000, (850)414-2000

THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS NOT AVAILABLE.

DEPARTMENT OF ELDER AFFAIRS

Community Care for the Elderly

RULE CHAPTER TITLE:	RULE CHAPTER NO.:
Community Care for the Elderly	58C-1
RULE TITLES:	RULE NOS.:
Administration	58C-1.003
Provider Requirements	58C-1.005
Contributions and Donations	58C-1.007

PURPOSE AND EFFECT: The purpose of the amendments to Rules 58C-2.003, .005, and .007, F.A.C., will be to delete all references to the Department of Elder Affairs Programs and Service Manual and incorporation thereof, from Chapter 58A-1, F.A.C.

SUBJECT AREA TO BE ADDRESSED: Department of Elder Affairs Programs and Service Manual.

SPECIFIC AUTHORITY: 410.021-.029, 430.08 FS., ch. 80-101, s. 10, ch. 91-115, s. 10, Laws of Fla.

LAW IMPLEMENTED: 410.021-.029, 430.03(6) FS., ch. 91-115, s. 10, Laws of Fla.

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 SHOW BELOW.

TIME AND DATE: 10:00 a.m. – 12:00 p.m., August 28, 2002

PLACE: Department of Elder Affairs, 4040 Esplanade Way, Conf. Rm. 225F, Tallahassee, FL

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT IS: Linda Macdonald, Office of Legal Affairs, Department of Elder Affairs, 4040 Esplanade Way, Tallahassee, Florida 32399-7000, (850)414-2000

THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS NOT AVAILABLE.

DEPARTMENT OF ELDER AFFAIRS

Alzheimer’s Disease Initiative

RULE CHAPTER TITLE:	RULE CHAPTER NO.:
Administration of the Alzheimer’s Disease Initiative	58D-1
RULE TITLES:	RULE NOS.:
Definitions	58D-1.002
Program Administration	58D-1.005
Service Provider Responsibilities	58D-1.006

PURPOSE AND EFFECT: The purpose of the amendments to Rules 58D-1.002, .005, and .006, F.A.C., will be to delete all references to the Department of Elder Affairs Programs and Service Manual and incorporation thereof, from Chapter 58D-1, F.A.C.

SUBJECT AREA TO BE ADDRESSED: Department of Elder Affairs Programs and Service Manual.

SPECIFIC AUTHORITY: 410.401(3), 430.08 FS.

LAW IMPLEMENTED: 410.401-.403, 430.04(6) FS., Ch. 91-115, Laws of Florida, s.10.

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. – 12:00 p.m., August 28, 2002

PLACE: Department of Elder Affairs, 4040 Esplanade Way, Conf. Rm. 225F, Tallahassee, FL

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT IS: Linda Macdonald, Office of Legal Affairs, Department of Elder Affairs, 4040 Esplanade Way, Tallahassee, Florida 32399-7000, (850)414-2000

THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS NOT AVAILABLE.

DEPARTMENT OF ELDER AFFAIRS

Home Care for the Elderly

RULE CHAPTER TITLE:	RULE CHAPTER NO.:
Home Care for the Elderly	58H-1
RULE TITLES:	RULE NOS.:
Administration	58H-1.003
Access to the Program	58H-1.004
Caregiver Requirements	58H-1.006
Dwelling Requirements	58H-1.007

PURPOSE AND EFFECT: The purpose of the amendments to rules 58H-1.003, .004, .006, and .007, F.A.C., will be to delete all references to the Department of Elder Affairs Programs and Service Manual and incorporation thereof, from Chapter 58H-1, F.A.C.

SUBJECT AREA TO BE ADDRESSED: Department of Elder Affairs Programs and Service Manual.

SPECIFIC AUTHORITY: 430.603 FS.

LAW IMPLEMENTED: 430.601-.606 FS.

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

TIME AND DATE: 10:00 a.m. – 12:00 p.m., August 28, 2002

PLACE: Department of Elder Affairs, 4040 Esplanade Way, Conf. Rm. 225F, Tallahassee, FL

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT IS: Linda Macdonald, Office of Legal Affairs, Department of Elder Affairs, 4040 Esplanade Way, Tallahassee, Florida 32399-7000, (850)414-2000

THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS NOT AVAILABLE.

DEPARTMENT OF ELDER AFFAIRS

Statewide Public Guardianship Office

RULE TITLE:	RULE NO.:
Professional Guardian Registration	58M-2.001

PURPOSE AND EFFECT: This is a rule development notice to establish the form that will be used by professional guardians to register with the Statewide Public Guardianship Office pursuant to Section 744.1083, F.S. Professional guardian registration will make important information available to all judicial circuits and will provide an accurate account of the number of professional guardians in the state.

SUBJECT AREA TO BE ADDRESSED: Registration of professional guardians.

SPECIFIC AUTHORITY: 744.1083(2),(4) FS.

LAW IMPLEMENTED: 744.1083(2),(4) FS.

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

TIME AND DATE: 10:00 a.m., August 29, 2002

PLACE: MHF 104, University of South Florida Campus, 13301 Bruce B. Downs Blvd., Tampa, FL 33612

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT IS: Karen P. Campbell, Office of the Public Guardian, 1923B Capital Circle, N. E., Tallahassee, FL 32308, (850)487-4609, Ext. 103

THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS:

CHAPTER 58M-2 – STATEWIDE PUBLIC GUARDIANSHIP OFFICE

58M-2.001 Professional Guardian Registration.

(1) A person seeking to register with the Statewide Professional Guardianship Office as a professional guardian must complete the Statewide Public Guardianship Office Guardian Registration Form, Form No. 100-1, with all requested information provided as specified in Section 744.1083, F.S., which is incorporated herein by reference and available at the Statewide Public Guardianship Office, MHF 104, University of South Florida Campus, 13301 Bruce B. Downs Blvd., Tampa, FL 33612.

(a) The Statewide Public Guardianship Office Guardian Registration Form shall be signed, under oath, by the professional guardian (or corporate officer if the professional guardian is a corporation) or an individual designated in writing by the professional guardian or corporate officer, who is least 18 years old.

(b) The completed registration form shall be delivered to the Statewide Public Guardianship Office by hand-delivery or mail. No facsimile submissions will be accepted. The completed registration form shall be delivered to MHF 104, University of South Florida Campus, 13301 Bruce B. Downs Blvd., Tampa, FL 33612.

(c) The following documentation shall be attached to and delivered with the completed registration form:

1. Credit History for Guardian and Employees with Fiduciary Responsibilities.

2. Criminal History for Guardian and Employees with Fiduciary Responsibilities.

3. Documentation of Bonding.

4. Documentation that Educational Requirements have been met.

5. List of Employees with Fiduciary Responsibilities. An employee with Fiduciary Responsibilities means an individual who holds a position of trust and confidence to the ward and who is obligated by virtue of the guardianship relationship to protect and preserve the wards assets, property and who has access to the ward’s personal identifiable information.

(2) The Statewide Public Guardianship Office Guardian Registration Form, Form No. 100-1, shall be submitted to the Statewide Public Guardianship Office with a \$25.00

registration fee. The registration fee shall be in the form of a money order or cashier's check made payable to the Statewide Public Guardianship Office.

(3) The Statewide Public Guardianship Office will respond in writing within 30 days of receiving a completed Statewide Public Guardianship Office Guardian Registration Form, any supporting documentation and the registration fee. The Statewide Public Guardianship Office may request additional information and/or documentation prior to registering a professional guardian. The Statewide Public Guardianship Office will issue a certificate of registration to the professional guardian within 30 days of the receipt of the Statewide Public Guardianship Office Guardian Registration Form, registration fee, and all registration materials.

Specific Authority 744.1083(2).(4) FS. Law Implemented 744.1083(2).(4) FS. History—New

AGENCY FOR HEALTH CARE ADMINISTRATION

Health Facility and Agency Licensing

RULE TITLE: Statewide Provider and Health Plan Claim Dispute Resolution Program

RULE NO.: 59A-12.030

PURPOSE AND EFFECT: The purpose of this rule amendment workshop is to discuss the amendment to rule 59A-12.030, F.A.C., Statewide Provider and Managed Care Organization Claim Dispute Resolution Program. The proposed amendment reflects the statutory changes to the program contained in Senate Bill 46 E, Section 3.

SUBJECT AREA TO BE ADDRESSED: The agency is proposing an amendment to rule 59A-12.030, based on legislative changes to the law. Senate Bill 46 E, Section 3, changed the title of the program, added carriers of major medical expense health insurance policies as defined in s. 627.643(2)(e), F.S., individual health insurers licensed pursuant to Chapter 624, F.S., and preferred provider organizations licensed under Section 627.6471, F.S., to the listing of insurers that may access the dispute resolution program. In addition, the legislation specified timeframes for submission of documentation to the dispute resolution program, and authorizes the dispute resolution program to enter a default decision if the requested information is not provided.

SPECIFIC AUTHORITY: 408.7057(7) FS.

LAW IMPLEMENTED: 408.7057 FS.

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

TIME AND DATE: 10:00 a.m., August 23, 2002

PLACE: Agency for Health Care Administration, Building 1, Conference Room 311, 2727 Mahan Drive, Tallahassee, Florida 32308

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT WORKSHOP IS: Elfie Stamm, Senior Management Analyst, Bureau of Managed Health Care, Building 1, Mailstop 26, 2727 Mahan Drive, Tallahassee, Florida 32308

THE FULL TEXT OF THE PROPOSED RULE IS:

59A-12.030 Statewide Provider and ~~Health Plan Managed Care Organization~~ Claim Dispute Resolution Program.

(1) Definitions.

(a) "Disputed Claim" means a claim that has been submitted by a provider to the ~~health plan managed care organization~~ or by a ~~health plan managed care organization~~ to a provider for payment and has been denied in full or in part, or is presumed to have been underpaid or overpaid.

(b) "Disputed Claim Amount" means the difference between the expected reimbursement amount and the reimbursement received.

(c) "~~Health Plan Managed care organization~~" means for the purpose of this section only, a health maintenance organization or a prepaid health clinic certified under chapter 641, Florida Statutes, a prepaid health plan authorized under s. 409.912, Florida Statutes, or an exclusive provider organization certified under s. 627.6472, Florida Statutes, or a major medical expense health insurance policy, as defined in s. 627.643(2)(e), offered by a group or an individual health insurer licensed pursuant to chapter 624, including a preferred provider organization under s. 627.6471, F.S.

(d) "Provider" as defined in Section 641.19(15), Florida Statutes, means any physician, hospital, or institution, organization, or persons that services and is licensed or otherwise authorized to practice in the state.

(e) "Resolution organization" means a qualified independent third-party claim-dispute resolution entity selected by and contracted with the Agency for Health Care Administration.

(2) Jurisdictional amounts and methods of aggregation for claim disputes.

(a) claims submitted for dispute resolution shall be submitted separately by the following claim categories:

1. Hospital inpatient services claims.
2. Hospital outpatient services claims.
3. Professional services claims.

(b) Entities filing a request for dispute resolution shall be permitted to aggregate claims. The minimum disputed claim amounts for claims submitted to the resolution organization shall be as follows:

1. Hospital inpatient services. Disputed individual claim amounts must be aggregated to a total amount of \$25,000 for HMO contracted hospitals and \$10,000 for non-contracted hospitals.

2. Hospital outpatient services. Disputed individual claim amounts must be aggregated to a total amount of \$10,000 for HMO contracted hospitals, and \$3,000 for non-contracted hospitals.

3. Professional services. Disputed individual claim amounts shall be aggregated to a minimum amount of \$500.

(c) Rural hospitals as defined in Chapter 395.602(2)(e), Florida Statutes, filing requests for claim dispute resolution, are exempt from the minimum disputed claim amounts specified in subparagraphs (b)1. and 2., of this rule.

(3) Application process.

(a) The resolution organization shall review claim disputes filed by either contracted and noncontracted providers, or ~~health plans managed care organizations~~. A request for dispute resolution and supporting documentation must be submitted in hard copy or electronically to the resolution organization in a format prescribed by the resolution organization.

(b) A complete copy of the request, including all supporting documentation, must be submitted to the adverse party at the same time.

(c) The resolution organization must review all requests for claim dispute resolution within 10 days after receipt to determine whether the request meets the statutory and rule criteria for submission to the resolution organization as specified in subparagraphs 408.7057(2)(b)1. through 7., and (d), Florida Statutes.

(d) If the resolution organization determines that the dispute resolution request does not meet the statutory and rule criteria, the request shall be returned to the entity filing the request.

(4) Review Process.

(a) Once the resolution organization determines that the application meets statutory and rule criteria, it must review the documentation submitted. The resolution organization must notify the entity requesting the dispute resolution and the adverse party electronically or by mail that the request for dispute resolution has been accepted for review.

(b) If the resolution organization determines that the documentation provided with the initial application is not sufficient, it may request additional documents from the entity filing the request for dispute resolution. The resolution organization shall require the health plan or provider submitting the claim dispute to submit any supporting documentation to the resolution organization within 15 days after receipt by the health plan or provider of a request from the resolution organization for documentation in support of the claim dispute. The resolution organization may extend the time if appropriate. Failure to submit the supporting documentation within such time period shall result in the dismissal of the submitted claim dispute within the timeframes specified by the resolution organization. Any additional documentation submitted to the resolution organization must be submitted to the adverse party at the same time.

(c) The resolution organization shall require the respondent in the claim dispute to submit all documentation in support of its position within 15 days after receiving a request from the resolution organization for supporting documentation. The resolution organization may extend the time if appropriate. Failure to submit the supporting documentation within such time period shall result in a default against the health plan or provider. In the event of such a default, the resolution organization shall issue its written recommendation to the agency that a default be entered against the defaulting entity. The written recommendation shall include a recommendation to the agency that the defaulting entity shall pay the entity submitting the claim dispute the full amount of the claim dispute, plus all accrued interest, and shall be considered a nonprevailing party for the purposes of this section. The adverse party may submit a response and documentation related to the disputed claim within timeframes specified by the resolution organization. If the documentation is submitted in a timely manner, it must be considered by the dispute resolution organization. The dispute resolution organization may request additional documentation from the adverse party within specified timeframes. Any additional information submitted by the adverse party to the resolution organization must be submitted to the entity filing the request for dispute resolution at the same time.

(d) The resolution organization shall issue a written recommendation, based on findings of fact, within 60 days after the requested information is received within the timeframes specified by the resolution organization receipt of the request as specified in subsection 408.7057(3), Florida Statutes. In no event shall the review time exceed 90 days following receipt of the initial claim dispute submission by the resolution organization as specified in subsection 408.7057(3), F.S.

(e) The agency shall issue a final order within 30 days after receipt of the recommendations issued by the resolution organization. The agency shall enforce the final order as authorized under subsection 641.52(1)(e), Florida Statutes.

(5) Review Cost.

(a) The agency shall approve the review cost fee schedule proposed by the resolution organization.

(b) The entity that does not prevail in the agency's final order must pay the review costs.

(c) In the event that both parties prevail in part, the review fee shall be apportioned in proportion to the final judgement. The apportionment shall be based on the claim amount.

(d) If the non-prevailing party or parties fail to pay the ordered review costs within 35 days after the agency's final order, the non-paying party or parties are subject to a penalty of \$500 per day.

Specific Authority 408.7057(7) FS. Law Implemented 408.7057 FS. History—New 10-23-00, Amended 3-28-01, _____.

AGENCY FOR HEALTH CARE ADMINISTRATION

Medicaid

RULE TITLE: Lease Bonds
 RULE NO.: 59E-4.010

PURPOSE AND EFFECT: The purpose of the proposed Rule development is to create Rule Number 59E-4.010 to incorporate the following changes based on Section 400.179, F.S. (2002) and House Bill 59E, Section 16, 2002-03, Laws of Florida. A leasehold licensee may meet the requirements of subparagraph 1, 400.179, Sale or transfer of ownership of a nursing facility; liability for Medicaid underpayments and overpayments, by payment of a nonrefundable fee, paid at initial licensure, paid at the time of any subsequent change of ownership, and paid at the time of any subsequent annual license renewal, in the amount of 2 percent of the total of 3 months' Medicaid payments to the facility computed on the basis of the preceding 12-month average Medicaid payments to the facility. If a preceding 12-month average is not available, projected Medicaid payments may be used. The fee shall be deposited into the Health Care Trust Fund and shall be accounted for separately as a Medicaid nursing home overpayment account. These fees shall be used at the sole discretion of the agency to repay nursing home Medicaid overpayments. Payment of this fee shall not release the licensee from any liability for any Medicaid overpayments, nor shall payment bar the agency from seeking to recoup overpayments from the licensee and any other liable party. As a condition of exercising this lease bond alternative, licensees paying this fee must maintain an existing lease bond through the end of the 30-month term period of that bond. The agency is herein granted specific authority to promulgate all rules pertaining to the administration and management of this account, including withdrawals from the account, subject to federal review and approval. This subparagraph is repealed on June 30, 2003. This provision shall take effect upon becoming law and shall apply to any leasehold license application.

- a. The financial viability of the Medicaid nursing home overpayment account shall be determined by the agency through annual review of the account balance and the amount of total outstanding, unpaid Medicaid overpayments owing from leasehold licensees to the agency as determined by final agency audits.
- b. The agency, in consultation with the Florida Health Care Association and the Florida Association of Homes for the Aging, shall study and make recommendations on the minimum amount to be held in reserve to protect against Medicaid overpayments to leasehold licensees and on the issue of successor liability for Medicaid overpayments upon sale or transfer of ownership of a nursing facility. The agency shall submit the findings and recommendations of the study to the Governor, the President of the Senate, and the Speaker of the House of Representatives by January 1, 2003. The leasehold licensee operator may meet the bond requirement through

other arrangements acceptable to the agency Department. The agency is herein granted specific authority to promulgate rules pertaining to lease bond arrangements.

The effect of the proposed amendment will be the creation of Rule Number 59E-4.010, Lease Bonds. Pursuant to 400.179, F.S., Sale or transfer of ownership of a nursing facility; liability for Medicaid underpayments and overpayments, by payment of a nonrefundable fee, paid at initial licensure, paid at the time of any subsequent change of ownership, and paid at the time of any subsequent annual license renewal, in the amount of 2 percent of the total of 3 months' Medicaid payments to the facility computed on the basis of the preceding 12-month average Medicaid payments to the facility.

SUBJECT AREA TO BE ADDRESSED: Nursing home lease bonds.

SPECIFIC AUTHORITY: 400.179 FS.

LAW IMPLEMENTED: 408.061 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., August 28, 2002

PLACE: 2727 Mahan Drive, Conference Room C, Building 3, Tallahassee, Florida

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT AND A COPY OF THE PRELIMINARY DRAFT, IF AVAILABLE, IS: Denise Lasko, Medicaid Cost Reimbursement, Agency for Health Care Administration, 2727 Mahan Drive, Building 3, Room 2101, Tallahassee, Florida 32308, (850)414-2759

THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS NOT AVAILABLE.

DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION

Florida Real Estate Commission

RULE TITLE: Pre-licensing Education for Broker and
 RULE NO.: 61J2-3.008

Salesperson Applicants
 PURPOSE AND EFFECT: The purpose of the proposed rule development is to bring the rule into compliance with statutory changes taking effect July 1, 2002.

SUBJECT AREA TO BE ADDRESSED: The proposed rule development affects rule provisions relating to the method of providing pre-licensure education for real estate licensure.

SPECIFIC AUTHORITY: 475.05 FS.

LAW IMPLEMENTED: 475.04, 475.17, 475.182, 475.183, 475.451 FS.

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

TIME AND DATE: 8:30 a.m. or as soon thereafter as possible, August 21, 2002

PLACE: Division of Real Estate, Commission Meeting Room 301, North Tower, 400 West Robinson Street, Orlando, Florida 32801

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT AND A COPY OF THE PRELIMINARY DRAFT, IF AVAILABLE, IS: Lori Crawford, Deputy Clerk, Division of Real Estate, 400 West Robinson Street, Hurston Building, North Tower, Suite N308, Orlando, Florida 32801

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

DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION

Florida Real Estate Commission

RULE TITLE: Continuing Education for Active and Inactive Broker and Salesperson Licensees

RULE NO.: 61J2-3.009

PURPOSE AND EFFECT: The purpose of the proposed rule development is to bring the rule into compliance with statutory changes relating to distance education.

SUBJECT AREA TO BE ADDRESSED: The proposed rule development affects rule provisions relating to continuing education courses.

SPECIFIC AUTHORITY: 455.2123, 475.01(1)(d),(e),(2), 475.05, 475.42(1)(c) FS.

LAW IMPLEMENTED: 455.2123, 475.04, 475.17, 475.182, 475.183, 475.451 FS.

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

TIME AND DATE: 8:30 a.m. or as soon thereafter as possible, August 21, 2002

PLACE: Division of Real Estate, Commission Meeting Room 301, North Tower, 400 West Robinson Street, Orlando, Florida 32801

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT AND A COPY OF THE PRELIMINARY DRAFT, IF AVAILABLE, IS: Lori Crawford, Deputy Clerk, Division of Real Estate, 400 West Robinson Street, Hurston Building, North Tower, Suite N308, Orlando, Florida 32801

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

DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION

Florida Real Estate Commission

RULE TITLE: Post-licensing Education for Active and Inactive Broker and Salesperson Licensees

RULE NO.: 61J2-3.020

PURPOSE AND EFFECT: The purpose of the proposed rule development is to bring the rule into compliance with statutory changes taking effect July 1, 2002, relating to distance education.

SUBJECT AREA TO BE ADDRESSED: The proposed rule development affects rule provisions relating to the method of providing post-licensure education for real estate licensees.

SPECIFIC AUTHORITY: 475.05, 475.17 FS.

LAW IMPLEMENTED: 475.04, 475.17, 475.182 FS.

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

TIME AND DATE: 8:30 a.m. or as soon thereafter as possible, August 21, 2002

PLACE: Division of Real Estate, Commission Meeting Room 301, North Tower, 400 West Robinson Street, Orlando, Florida 32801

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT AND A COPY OF THE PRELIMINARY DRAFT, IF AVAILABLE, IS: Lori Crawford, Deputy Clerk, Division of Real Estate, 400 West Robinson Street, Hurston Building, North Tower, Suite N308, Orlando, Florida 32801

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

DEPARTMENT OF HEALTH

Board of Dentistry

RULE TITLE: Written Dental Records; Minimum Content; Retention

RULE NO.: 64B5-17.002

PURPOSE AND EFFECT: The Board proposes this rule amendment to allow for advances in office automation procedures while safekeeping patient records.

SUBJECT AREA TO BE ADDRESSED: Patient records to be recorded and stored electronically.

SPECIFIC AUTHORITY: 466.004(4) FS.

LAW IMPLEMENTED: 456.058, 466.028(1)(m),(o) FS.

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

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT AND A COPY OF THE PRELIMINARY DRAFT, IF AVAILABLE, IS: Sue Foster, Executive Director, Board of Dentistry/MQA, 4052 Bald Cypress Way, Bin #C08, Tallahassee, Florida 32399-3258

THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS:

64B5-17.002 Written Dental Records; Minimum Content; Retention.

(1) through (5) No change.

(6) Patient records may be kept in an electronic data format, provided that the dentist maintains a back-up copy of information stored in the data processing system using disk, tape or other electronic back-up system and that said back-up is updated on a regular basis, at least weekly, to assure that data is not lost due to system failure. Any electronic data system must be capable of producing a hard copy on demand.

Specific Authority 466.004(4)(~~g~~) FS. Law Implemented 456.058, 466.028(1)(m),(o) FS. History—New 10-8-85, Formerly 21G-17.02, Amended 10-28-91, Formerly 21G-17.002, Amended 11-22-93, Formerly 61F5-17.002, 59Q-17.002, Amended 11-15-99.

DEPARTMENT OF HEALTH

Board of Dentistry

RULE TITLE: Ownership of Dental Equipment by a Dental Hygienist

RULE NO.: 64B5-17.0105

PURPOSE AND EFFECT: The Board proposes a new rule to address the use of dental hygiene equipment owned and used by dental hygienists in the provision of their dental hygiene services under the authority of a supervising dentist.

SUBJECT AREA TO BE ADDRESSED: Use of equipment owned by dental hygienists under the authority of a supervising dentist.

SPECIFIC AUTHORITY: 466.004(4) FS.

LAW IMPLEMENTED: 466.0285(1)(b) FS.

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

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT IS: Sue Foster, Executive Director, Board of Dentistry/MQA, 4052 Bald Cypress Way, Bin #C08, Tallahassee, Florida 32399-3258

THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS:

64B5-17.0105 Ownership of Dental Equipment by a Dental Hygienist.

For purposes of interpreting Section 466.0285(1)(b), Florida Statutes, a Dental Hygienist is not precluded from owning dental equipment used by her or him in the provision of dental hygiene services, so long as the final authority on the suitability and/or manner in which said equipment will be used in the provision of dental hygiene services remains with the supervising dentist.

Specific Authority 466.004(4) FS. Law Implemented 456.058, 466.028(1)(m) FS. History—New

DEPARTMENT OF HEALTH

Board of Nursing Home Administrators

RULE TITLES:	RULE NOS.:
Application for Examination	64B10-11.001
Examination for Licensure	64B10-11.002
Reexamination	64B10-11.003
Notification of Change of Address or Employing Facility	64B10-11.012

PURPOSE AND EFFECT: The Board proposes to review these rules to determine if amendments are necessary.

SUBJECT AREA TO BE ADDRESSED: Application for examination, examination for licensure, reexamination, notification of change of address or employing facility.

SPECIFIC AUTHORITY: 456.017, 456.033(7), 456.035, 468.1685(1),(2),(5),(7),(8), 468.1695(1) FS.

LAW IMPLEMENTED: 456.017, 456.033(6), 456.035, 468.1685(2), 468.1695(1),(5),(7),(8) FS.

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

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT AND A COPY OF THE PRELIMINARY DRAFT, IF AVAILABLE, IS: John Taylor, Executive Director, Board of Nursing Home Administrators, 4052 Bald Cypress Way, Bin #C04, Tallahassee, Florida 32399-1753

THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS NOT AVAILABLE.

DEPARTMENT OF HEALTH

Board of Nursing Home Administrators

RULE TITLE: Change of Status Fee
 RULE NO.: 64B10-12.0105

PURPOSE AND EFFECT: The Board proposes to review this rule to determine if amendments are necessary.

SUBJECT AREA TO BE ADDRESSED: Change of status fee.

SPECIFIC AUTHORITY: 456.036(7),(8), 468.1685(1) FS.

LAW IMPLEMENTED: 456.036(7),(8) FS.

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

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT AND A COPY OF THE PRELIMINARY DRAFT, IF AVAILABLE, IS: John Taylor, Executive Director, Board of Nursing Home Administrators, 4052 Bald Cypress Way, Bin C04, Tallahassee, Florida 32399-1753

THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS NOT AVAILABLE.

DEPARTMENT OF HEALTH

Board of Physical Therapy Practice

RULE TITLE: Continuing Education
 RULE NO.: 64B17-9.001

PURPOSE AND EFFECT: The Board proposes to add to current rule text.

SUBJECT AREA TO BE ADDRESSED: Continuing Education.

SPECIFIC AUTHORITY: 486.025 FS.

LAW IMPLEMENTED: 486.109(2) FS.

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

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT IS: Kaye Howerton, Board Executive Director, Board of Physical Therapy Practice, 4052 Bald Cypress Way, Bin #C05, Tallahassee, Florida 32399-3255

THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS:

64B17-9.001 Continuing Education.

(1) through (2) No change.

(3) Acceptable subject areas for physical therapy continuing education include professional ethics, clinical education, clinical practice, clinical research, clinical management, clinical science, Florida law relating to physical

therapy, basic sciences, risk management, and HIV/AIDS. No more than five contact hours of courses in risk management shall be accepted within a biennium. Up to three contact hours in HIV/AIDS education pursuant to Rule Chapter 64B17-8, F.A.C., may be included in the twenty-four contact hours. Up to three contact hours in prevention of medical errors education pursuant to Rule Chapter 64B17-8, F.A.C., may be included in the twenty-four contact hours.

(4) through (7) No change.

Specific Authority 486.025 FS. Law Implemented 486.109(2) FS. History—New 4-6-92, Formerly 21MM-9.001, Amended 3-7-94, Formerly 61F11-9.001, Amended 12-5-95, Formerly 59Y-9.001, Amended 2-14-02, 4-21-02, _____.

DEPARTMENT OF CHILDREN AND FAMILY SERVICES

Developmental Services Program

RULE TITLE: Intelligence Tests to be Administered
 RULE NO.: 65B-4.032

PURPOSE AND EFFECT: This rule specifies the intelligence tests to be used in the determination of Mental Retardation for the purpose of imposition of the sentence in felony cases.

SUBJECT AREA TO BE ADDRESSED: Intelligence tests for use in sentencing for capital crimes.

SPECIFIC AUTHORITY: 921.137 FS.

LAW IMPLEMENTED: 921.137 FS.

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

TIME AND DATE: August 29, 2002, 10:00 a.m. – 12:00 Noon
 PLACE: 1317 Winewood Blvd., Building 3, Room 313, Tallahassee, FL 32399

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT IS: Charles Ball or Michael Hemingway, Developmental Disabilities Program Office, 1317 Winewood Blvd., Building 3, Room 303, Tallahassee, Florida 32399, (850)488-4257

THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS:

65B-4.032 Intelligence Tests to be Administered.

(1) When a defendant convicted of a capital felony is suspected of having or determined to have mental retardation, intelligence tests to determine intellectual functioning as specified in (2) below shall be administered by a qualified professional licensed pursuant to Chapter 490, 491, 458 or 459, Florida Statutes. Further, the examiner shall have two or more years of verifiable experience in the administration of intelligence tests. The evaluation shall consist of an individually administered test, which is valid and reliable for the purpose of determining intelligence. If in the opinion of the evaluator, these tests are not appropriate, then said professional

shall select an appropriate alternative instrument and the evaluator shall state in writing the reason the instruments specified in (2) below were inappropriate and the justification for the alternative instrument or instruments selected.

(2) Unless determined to be inappropriate in accordance with (1) above, one of the following tests shall be used in capital felony cases.

(a) The Stanford-Binet intelligence scale.

(b) Wechsler Intelligence Scale.

Specific Authority 921.137 FS. Law Implemented 921.137 FS. History--New

Section II Proposed Rules

DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES

Division of Standards

RULE TITLE: Requests for Inspections, Reinspections
PURPOSE AND EFFECT: Applicable law, § 616.242(7), Florida Statutes, requires amusement rides must receive an inspection certificate each time the ride is set up or moved to a new location in the state, with certain exceptions. The Legislature added to the exceptions a kiddie ride used at a public event, provided there are no more than three amusement rides at the event, none of the kiddie rides at the event exceed a capacity of 12 persons, and the ride has an inspection certificate that was issued within the preceding 6 months. The purpose of the rule is to give the Department's inspectors guideline to use when determining if a rides capacity meets or exceeds the exception when it is not clearly specified by the manufacturer.

SUMMARY: This amendment of Rule 5F-8.005, Florida Administrative Code, removes the set-up inspections required of kiddie rides provided there are no more than three amusement rides at the event, none of the kiddie rides at the event exceed a capacity of 12 persons, and the ride has an inspection certificate that was issued within the preceding 6 months. The purpose of the rule is to give guidelines on how the Department's Inspectors will determine ride capacity if it is not clearly specified by the manufacturer.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COST: No statement of estimated regulatory costs has been prepared as costs are anticipated to be negligible.

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

SPECIFIC AUTHORITY: 616.241, 616.242 FS.

LAWS IMPLEMENTED: 616.241, 616.242 FS.

IF REQUESTED WITHIN 21 DAYS OF THE DATE OF THIS NOTICE, A HEARING WILL BE HELD AT THE TIME, DATE AND PLACE SHOWN BELOW (IF NOT REQUESTED, THIS HEARING WILL NOT BE HELD).

TIME AND DATE: 10:00 a.m., August 28, 2002

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

THE FULL TEXT OF THE PROPOSED RULE IS:

5F-8.005 Request for Inspections, Reinspections.

(1) through (8) No change.

(9) Where a manufacturer has not determined nor specified the capacity of a kiddie ride the Department will determine the capacity as follows:

(a) A Department Inspector will count the number of carrier units or tubs per ride. The number of carrier units or tubs per ride is based on the manufacturer's intended configuration of the ride in order to make it fully operational. Lacking the manufacturer's guidance on proper configuration of carrier units or tubs, the department's inspector will evaluate the ride and make a recommendation to the Bureau for final determination. Arbitrary reduction of carrier units by operators are not permitted.

(b) Having determined the number of carrier units or tubs per ride, the Department inspector will count the number of passenger positions per carrier unit, or individual tub, i.e. the number of seat belts, pre-formed seating spots or other identifiable seating arrangements. With no identifiable passenger positions, the inspectors will determine the number of positions based on the number of 12 year old passengers that can be positioned safely in the carrier unit, i.e. each passenger must have a separate position and meet the required height and/or weight requirements for that ride. Sitting on laps to qualify as one position will not be permitted.

Specific Authority 616.241, 616.242 FS. Law Implemented 616.241, 616.242 FS. History--New 9-15-92, Amended 2-23-94, 5-27-96, 9-23-97, 2-15-99, 3-21-00, _____.

NAME OF PERSON ORIGINATING PROPOSED RULE: Michael W. Rinehart, Operations & Management Consultant II, Bureau of Fair Rides Inspection, 3125 Conner Blvd., Suite N, Tallahassee, FL 32399-1650, (850)488-9790

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

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: July 30, 2002

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: June 21, 2002