

Section I

Notices of Development of Proposed Rules and Negotiated Rulemaking

**DEPARTMENT OF LEGAL AFFAIRS**

**RULE TITLE:** Addition of Alphamethyltryptamine (AMT) to Schedule I, Subsection 893.03(1), F.S. **RULE NO.:** 2-40.006

**PURPOSE AND EFFECT:** The Department proposes the development of a rule to add Alphamethyltryptamine (AMT), to the list of Schedule I controlled substances.

**SUBJECT AREA TO BE ADDRESSED:** The addition of Alphamethyltryptamine (AMT), to the list of Schedule I controlled substances.

**SPECIFIC AUTHORITY:** 893.035 FS.

**LAW IMPLEMENTED:** 893.035 FS.

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

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT AND A COPY OF THE PRELIMINARY DRAFT IS: Edwin Bayó, Senior Assistant Attorney General, PL-01, The Capitol, Tallahassee, Florida 32399-1050

THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS:

2-40.006 Addition of Alphamethyltryptamine (AMT) to Schedule I, Subsection 893.03(1), F.S.

(1) Under the authority of Section 893.035 (2)(a), Florida Statutes, the substance Alphamethyltryptamine (AMT), including any of its isomers, esters, ethers, salts, and salts of isomers, esters and ethers, whenever the existence of such isomers, esters ethers, and salts is possible within the specific chemical designation of Alphamethyltryptamine (AMT), is hereby a controlled substance added to Schedule I, subsection 893.03(1), F.S.

(2) All provisions of Chapter 893, F.S., applicable to controlled substances listed in Schedule I, subsection 893.03(1), F.S., shall be applicable to Alphamethyltryptamine (AMT), including any of its isomers, esters, ethers, salts, and salts of isomers, esters and ethers, whenever the existence of such isomers, esters ethers, and salts is possible within the specific chemical designation of Alphamethyltryptamine (AMT).

Specific Authority 893.035 FS. Law Implemented 893.035 FS. History—New

**DEPARTMENT OF INSURANCE**

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**PURPOSE AND EFFECT:** The purpose is to update prima facie rates regarding credit life and credit disability insurance based on a current study of statewide experience as required by Section 627.67, Florida Statutes. The rule also adds definitions of certain types of new products, and details rate filing requirements. A previous workshop on the proposed rules was held on July 22, 2002.

**SUBJECT AREA TO BE ADDRESSED:** Credit Life and Credit Disability Insurance.

**SPECIFIC AUTHORITY:** 624.308(1), 627.678 FS.

**LAW IMPLEMENTED:** 624.307(1), 624.424(1)(6), 627.553, 627.558(1), 627.569, 627.575, 627.676, 627.677, 627.678, 627.678(2), 627.6785, 627.6785(3), 627.681, 627.681(3), 627.682 FS.

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

**TIME AND DATE:** 9:30 a.m., November 20, 2002

**PLACE:** Room 601B, Larson Building, 200 East Gaines Street, Tallahassee, Florida

Pursuant to the provisions of the Americans with Disabilities Act, any person requiring special accommodations to participate in this program, please advise the Department at least 5 calendar days before the program by contacting the person below.

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT AND A COPY OF THE PRELIMINARY DRAFT IS: Frank Dino, Bureau of L & H Forms & Rates, Department of Insurance, 200 East Gaines Street, Tallahassee, Florida 32399-0328, (850)413-5014

THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS:

4-163.0015 Applicability.

(1) Section 627.677, Florida Statutes, and this rule chapter apply to credit life insurance and credit accident and health insurance sold in conjunction with a credit transaction.

(2) A policy or certificate is deemed to be credit life insurance or credit accident and health insurance if it:

(a) References the lender or credit transaction within the form;

(b) Has the lender as a beneficiary or assignee of any of the proceeds of the policy; or

(c) Conditions the coverage upon the existence, term or coverage of a credit transaction.

Specific Authority 624.308(1), 627.678 FS. Law Implemented 624.307(1), 627.676, 627.677 FS. History—New

4-163.0017 Definitions.

As used in this rule chapter, the following terms have the following meaning:

(1) Accelerated Death Benefit. Benefit which is paid in advance of the death of the insured. The benefit may be adjusted to consider the time value of money. The requirements shall not necessitate more from the insured than a physician's signature indicating a life expectancy of less than 12 months. Definitions that are more or less restrictive shall cause an adjustment of the rate charged based on actuarial justification.

(2) Actual Net Debt. The amount necessary to liquidate the remaining debt in a single lump-sum payment, excluding all unearned interest and other unearned finance charges.

(3) Actuarial Assumptions. The value of a parameter, or other choice, having an impact on an estimate of a future cost or other actuarial item under evaluation.

(4) Actuarial Present Value. The value of an amount or series of amounts payable or receivable at various times, determined as of a given date with each value based on the same set of actuarial assumptions.

(5) Actuarially Equivalent. Producing equal actuarial present value, determined as of a given date with each value based on the same set of actuarial assumptions.

(6) Credibility. The statistical extent to which the past experience of a case can be expected to recur in the future.

(7) Decreasing Gross Coverages. Coverage where the amount of insurance is decreased by the amount of the payment as the debtor makes each monthly payment. This results in the amount of insurance being equal to the sum of the remaining payments during the policy term—principal and unearned interest included.

(8) Experience. Earned premium, incurred claims, incurred claims count, or number of life years insured, and average amount of insurance during the experience period.

(9) Joint Credit Life or Credit Health. Insurance on the life of the debtor and the spouse of the debtor, partners, or any other legal cosigner.

(10) Prima Facie Rate. Maximum allowable rate, without experience or justification, pursuant to Section 627.6785(2), Florida Statutes; shall be those contained in Rules 4-163.010 and 4-163.011, F.A.C., for coverage(s) which do not restrict for any pre-existing condition or which do not contain other restrictions.

Specific Authority 624.308(1), 627.678 FS. Law Implemented 624.307(1), 627.575, 627.677, 627.6785 FS. History—New

4-163.002 Premium Rates.

(1) Premium rates for Credit Life and Credit Disability Insurance shall be filed with the Department Insurance Commissioner, and

(2) The creditor (person, firm or corporation) shall not add any additional charge to the premium set by the insurance company and on file with the Department Insurance Commissioner.

~~(1) In the case of Group Credit Life insurance or Group Credit Disability insurance, the amounts paid by the insured borrowers or purchasers for the insurance shall be consistent with the premiums set by the insurance company. By consistent this Department understands a variation not exceeding two and one-half cents per hundred dollars of original indebtedness per year.~~

~~(2) In the case of Franchise Credit Life insurance, the premium paid by the insured borrower or purchaser for the insurance shall not exceed the premium rate filed by the insurance company with the Insurance Commissioner.~~

~~(3) In the case of Individual Credit Life insurance and Individual Credit Disability insurance, the premium paid by the insured borrower or purchaser shall not exceed the premium rate filed by the insurance company with the Insurance Commissioner.~~

Specific Authority 624.308(1), 627.678 FS. Law Implemented 627.307(1), 627.6785 FS. History—Repromulgated 12-24-74, Formerly 4-7.02, 4-7.002, Amended

4-163.003 Cancellation and Refund Requirements.

Cancellation and refunds shall be required in accordance with the following provisions applicable to each classification, in order to best protect the borrower from loss of funds by short-rate cancellation or termination of insurance, and to further avoid duplication or overlapping of insurance coverage when the loan is prepaid, refinanced or renewed.

(1) At the time the indebtedness is discharged, any remaining insurance coverage must be promptly terminated unless the insured requests in writing that the coverage be continued. Group Credit Life insurance and Group Credit Disability insurance — if through prepayment, renewal or refinancing, the indebtedness is discharged prior to its scheduled maturity date, and the insurance coverage is thereby

automatically terminated, the return of any unearned premium shall be paid promptly or credited to the person entitled thereto.

(2) Upon termination of the insurance coverage, the company shall promptly return the unearned premium to the payor. Franchise Credit Life insurance — if through prepayment, renewal or refinancing, the indebtedness is discharged prior to its scheduled maturity date, and the insurance coverage is thereby automatically terminated, the return of any unearned premium shall be paid promptly or credited to the person entitled thereto provided that, if Franchise Credit Life insurance is written on a plan under which the insurance coverage is not automatically terminated upon discharge of the indebtedness, cancellation of the insurance then in force shall be mandatory. Provided cancellation of insurance then in force shall not be mandatory if an indebtedness (a) is subject to Sections 516.01 to 516.26 or Sections 519.01 to 519.19, Florida Statutes, discharged by prepayment at any time; or (b) is discharged by prepayment one year or less prior to its scheduled maturity; or (c) is refinanced by the same creditor and no credit life insurance or credit disability insurance, as the case may be, is written in connection with the refinanced indebtedness.

(3) In addition to the above, a refund of 100% of any payment made in advance of a scheduled payment date subsequent to the date of termination shall be returned to the payor. Individual Credit Life insurance and Individual Credit Disability insurance — if through prepayment, renewal or refinancing, any indebtedness, other than those hereinafter provided for, is discharged prior to the scheduled maturity date, cancellation of the insurance then in force shall be mandatory. Provided, cancellation of the insurance then in force shall not be mandatory if an indebtedness (a) is subject to Sections 516.01 to 516.26 or Sections 519.01 to 519.19, Florida Statutes, is discharged by prepayment at any time; or (b) is discharged by prepayment one year or less prior to its scheduled maturity; or (c) is refinanced by the same creditor and no credit life insurance or credit disability insurance, as the case may be, is written in connection with the refinanced indebtedness. In the event of cancellation, the return of any unearned premium shall be paid promptly or credited to the person entitled thereto.

(4) In the event of Franchise Credit Life insurance or Individual Credit Life insurance, where retention of insurance is permitted, the option to cancel or to retain shall be set forth in writing either as part of the policy or certificate, or as a separate statement furnished to the debtor at the same time as the policy or certificate. NOTE: The following wording is acceptable to this Department for use in Franchise and Individual Credit Life Insurance policies and certificates and Individual Disability Insurance policies:

~~“This policy may be cancelled or continued by the insured in accordance with the laws and rules and regulations of the State of Florida. In the event of the cancellation of the credit insurance prior to the expiration date, the return premium (or any unearned premium due) shall be paid promptly or credited to the person entitled thereto.”~~

(4)(5) The formula to be used in computing return premiums (or unearned premiums) shall be filed with and approved by the Insurance Commissioner. The minimum basis adopted by any company shall not be less than the Rule of 78 for declining balance only and pro-rata for all other types of coverages, and its projections; however, if the refund or credit is less than \$1.00, no refund or credit is required.

Specific Authority 624.308(1), 627.678 FS. Law Implemented 624.307(1), 627.553, 627.569, 627.681, 627.678(2) FS. History—Repromulgated 12-24-74, Formerly 4-7.03, 4-7.003, Amended.

#### 4-163.0045 Filing Requirements.

(1) All forms of Credit Life and Credit Disability policies, certificates of insurance, statements of insurance, applications for insurance, enrollment forms, binders, endorsements and riders and the schedules of premium rates pertaining thereto, shall be filed for approval in accordance with Sections 627.6785 and 627.682, Florida Statutes. Filings shall be mailed to: Bureau of Life and Health Forms & Rates, Division of Insurer Services, Department of Insurance, Post Office Box 8040, Tallahassee, FL 32301-8040 or submitted electronically to <https://iportal.flDOI.com>. All filings sent to the Department by Federal Express or any other form of special delivery shall be delivered to: Bureau of Life and Health Forms and Rates, Division of Insurer Services, Department of Insurance, 1st Floor, Larson Building, 200 East Gaines Street, Tallahassee, FL 32399-0328.

(2) A standardized data letter, Form DI4-1507, Life and Health Forms and Rates Universal Standardized Data Letter, completed in accordance with Form DI4-1507A, Life and Health Forms and Rates Universal Standardized Data Letter Instructions, shall accompany each filing and annual rate filing or the filing shall be returned incomplete. Forms DI4-1507 and DI4-1507A are adopted in Rule 4-149.022, F.A.C.

(3) An actuarial memorandum, signed and dated by an actuary, shall be included in each rate and form filing. The memorandum shall identify the following:

(a) Types of coverage: gross, net, decreasing, level, single life, joint life, full term or truncated;

(b) Types of loans to be insured: open end credit, closed end credit;

(c) Durations of the loans and durations of the coverage. Refer to Rules 4-163.005, .006, and .007, F.A.C.;

(d) Methods of premium charge: single premium or monthly premium;

(e) Schedules of premium rates and formulas for each type of coverage and how the rates relate to prima facie rates;

(f) Methods of refund calculation and formulas for each type of coverage; and

(g) Reserve bases.

(4) Each filing, except prima facie rates, shall be accompanied by the development and justification, including experience and credibility, of the proposed rate together with an opinion by an actuary certifying to the reasonableness of the rate, compliance with applicable laws and this rule chapter, and disclosure of the methods and assumptions used to develop compliance with this rule chapter. Credibility shall be determined according to the standard table in Appendix A.

(5) An actuarial memorandum shall not be required of filings in which the insurer proposes to use the prima facie rates without any restrictions, exclusions, or exceptions other than those allowed by this Rule, except that a reserve statement signed by a qualified actuary (MAAA) shall be included in each filing.

Specific Authority 624.308(1), 627.678 FS. Law Implemented 624.307(1), 627.682, 627.6785 FS. History–New \_\_\_\_\_.

4-163.0055 Limits of Coverage: Credit Life.

(1) The amount of Credit Life insurance for decreasing gross coverage shall be within the limits in Section 627.679, Florida Statutes.

(2) If Credit Life Insurance coverage is written on the actual net debt, the amount of credit life insurance shall not exceed the amount of the loan, and the amount payable at the time of loss shall not be less than the actual net debt, less any payments more than 2 months overdue.

(3)(a) If a premium is assessed to the debtor on a monthly basis and is based on the actual net debt, then the amount of insurance payable at the time of loss shall be the actual net debt.

(b) When the premium for Credit Life insurance is computed on the basis of a balance which does not include accrued past due interest, then the amount payable at the time of loss shall not be less than the actual net debt less any accrued interest more than 2 months past due.

(4) Credit Life Insurance Coverage may, at the option of the insurer, be written for less than the net debt by the following methods:

(a) The amount of insurance may be the lesser of a stated level amount and the amount determined by subsection (2) of this rule; or

(b) The amount of insurance may be a constant percentage of the amount determined by subsection (2) of this rule.

Specific Authority 624.308(1), 627.678 FS. Law Implemented 624.307(1), 627.679, 627.681 FS. History–New \_\_\_\_\_.

4-163.0075 Term and Evidence of Insurance.

The term of insurance and evidence of insurance shall not exceed ten years subject to the following limitations:

(1) For credit life insurance, coverage may terminate upon the first loan anniversary following age 71;

(2) For credit disability insurance, coverage may terminate upon the first loan anniversary following age 66;

(3) Credit life insurance shall provide coverage for at least 5 years or the term of the loan if the loan is for less than 5 years; and

(4) Credit disability insurance shall provide for monthly payments which are the lesser of 60 monthly payments or the number of monthly payments for the full term of the loan.

Specific Authority 624.308(1), 627.678 FS. Law Implemented 624.307(1), 627.681, 627.6785(3), 627.681(3) FS. History–New \_\_\_\_\_.

4-163.0076 Provisions Required in Group Contracts.

All Group Credit Disability contracts shall conform to Section 627.558, Florida Statutes, and shall contain the substance of the following statutory provisions (as appropriate):

(1) 627.559 – Grace period.

(2) 627.560 – Incontestability.

(3) 627.561 – Application: statements deemed representations.

(4) 627.562 – Insurability.

(5) 627.563 – Misstatement of age.

Specific Authority 624.308(1), 627.678 FS. Law Implemented 624.307(1), 627.558(1) FS. History–New \_\_\_\_\_.

4-163.008 Rights and Treatment of Debtors.

(1) In the event of termination, an insurer may, at its option;

(a) R~~efund~~ unearned premium on a daily pro rata basis, or

(b) ~~may M~~make no charge for credit insurance for the first 15 days of a loan month and charge for a full month ~~may be charged~~ for 16 days or more of a loan month.

(2) Voluntary prepayment of indebtedness.

(a) If a debtor prepays the indebtedness other than as a result of death or through a lump sum disability payment, and if a disability claim under such coverage is in progress at the time of prepayment, the amount of refund ~~shall~~ ~~may~~ be determined as if the prepayment did not occur until the payment of benefits terminates.

(b) No refund ~~shall~~ ~~need~~ be paid during any period of disability for which credit accident and health benefits are payable. A refund shall be computed as if prepayment occurred at the end of the disability period.

(3) Involuntary prepayment of indebtedness. If an indebtedness is prepaid by the proceeds of a credit life insurance policy covering the debtor or by a lump sum payment of a disability claim under a credit insurance policy covering the debtor, then it shall be the responsibility of the insurer to ~~ensure~~ ~~see~~ that the following are paid to the insured debtor, if living, or the beneficiary, other than the creditor, named by the debtor, or to the debtor's estate:

(a) In the case of prepayment by the proceeds of a credit life insurance policy, or by the proceeds of a lump sum total and permanent disability benefit under credit life coverage, an appropriate refund of the credit ~~disability accident and health~~ insurance premium in accordance with Rule 4-163.003, F.A.C.

(b) In the case of prepayment by a lump sum disability claim, an appropriate refund of any credit life insurance premium in accordance with Rule 4-163.003, F.A.C.

(c) In ~~the either~~ case of (a) or (b), above, the amount of the benefits in excess of the amount required to repay the indebtedness after reducing the indebtedness by any unearned interest or finance charges.

(d)1. The refund of unearned premium shall be calculated from the date of the event repaying the indebtedness.

2. An accelerated death prepayment is considered to be a prepayment due to the credit life insurance benefit.

3. Refunds due for the premiums of the life benefit shall include the cost of the accelerated death benefit.

(4) Termination of group or franchise credit insurance policy.

(a) If a debtor is covered by a group or franchise credit insurance policy providing for the payment of single premiums to the insurer, ~~then~~ provision shall be made by the insurer that ~~if in the event of termination of the policy is terminated~~ for any reason, insurance coverage with respect to any debtor insured under ~~the such~~ policy shall be continued for the entire period for which the single premium has been paid.

(b)1. If a debtor is covered by a group or franchise credit insurance policy providing for the payment of premiums to the insurer on a monthly outstanding balance basis, ~~then~~ the policy shall provide that, ~~if the in the event of termination of such policy is terminated~~ for ~~any whatever~~ reason, termination notice ~~thereof~~ shall be given to the insured debtor at least 30 days prior to the effective date of termination, ~~except where~~ replacement of the coverage by the same or another insurer in the same or greater amount takes place without lapse of coverage.

2. The notice required to be given in this paragraph shall be the responsibility of the insurer, but may at the option of the insurer be provided through the creditor.

(5) Refinancing the Debt.

(a) If the debt is discharged due to refinancing prior to the scheduled maturity date, the insurance in force shall be terminated at the earlier of:

1. The issuance of any new insurance in connection with the refinanced debt; and

2. The date the debt is discharged.

(b)1. In all cases of termination prior to scheduled maturity, a refund of all unearned premium or unearned insurance charges paid by the debtor shall be paid or credited to the debtor.

2. In any refinancing of the debt, the effective date of the coverage provided by any policy or certificate shall be deemed to be the first date on which the debtor became insured under the policy with respect to the debt which was refinanced, at least to the extent of the amount and term of the debt outstanding at the time of refinancing the debt.

~~(6)(5)~~ Remittance of premiums. If the creditor adds identifiable insurance charges or premiums for credit insurance to the indebtedness, and any direct or indirect finance, carrying, credit, or service charge is made to the debtor on such insurance charges or premiums, the creditor must remit and the insurer shall collect such premium within sixty (60) days after it is added to the indebtedness.

(7) Maximum Aggregate Provisions. A provision in an individual policy or group certificate that sets a maximum limit on total claim payments shall apply only to that individual policy or group certificate.

Specific Authority 624.308(1), 627.678 FS. Law Implemented 624.307(1), 627.678, 627.6785, 627.682 FS. History—New 5-9-82, Formerly 4-7.08, 4-7.008, Amended.

4-163.009 Determination of Reasonableness of Benefits in Relation to Premium Charge.

~~(1) General Standard. Section 627.682, Florida Statutes, requires that Under the Credit Insurance Law,~~ benefits provided by credit insurance policies must be reasonable in relation to the premium charged. This requirement is satisfied if the premium rate charged develops or may be reasonably expected to develop a loss ratio of claims incurred to premiums earned of not less than:

(a) 55% for credit life insurance, and

(b) 50% for credit accident and health insurance.

~~(2) On the basis of relevant experience, Use of rates not greater than those contained in Rules 4-163.010 and 4-163.011, F.A.C. ("prima facie rates") shall be deemed currently reasonable~~ premium rates reasonably expected to develop the required loss ratio. An insurer may only file and use rates with such forms which are greater than prima facie rates upon a satisfactory showing to the Commissioner that the use of such rates will not result on a statewide basis for that insurer of a ratio of claims incurred to premiums earned of less than the required loss ratio. ~~Furthermore,~~

~~(3) If the extent to which~~ an actual rate is greater than the prima facie rates, that set forth the actual rate may not exceed the prima facie rates plus the difference between:

(a) Claims which may be reasonably expected, and

(b) The product of the required loss ratio and the prima facie rate set forth for the coverage being provided.

~~(2) The Commissioner shall, on a triennial basis, review the loss ratio standards set forth in subsection (1), above, and the prima facie rates set forth in Rules 4-163.010 and 4-163.011 and determine therefrom the rate of expected claims on a statewide basis, compare such rate of expected claims with the rate of claims for the preceding triennium determined~~

from the incurred claims and earned premiums at prima facie rates reported in the annual statement supplement, and adopt the adjusted actual statewide prima facie rates to be used by insurers during the next triennium.

(4) When some rates are based on subsection (1) above and others on the prima facie rate, the expected loss ratios of any business remaining at prima facie rates must meet the minimum loss ratio standard in subsection (1) above.

(5) Nonstandard Coverage. If any insurer files for approval of any form providing coverage more restrictive than that described in Rules 4-163.010 and 4-163.011, F.A.C., the insurer shall demonstrate to the satisfaction of the Commissioner that the premium rates to be charged for such restricted coverage comply with subsection (1) above or are less than or equal to rates which are actuarially equivalent to ~~consistent with~~ the prima facie rates.

Specific Authority 624.308(1), 627.678 FS. Law Implemented 624.307(1), 627.678, 627.682 FS. History—New 5-9-82, Formerly 4-7.09, Amended 6-11-91, Formerly 4-7.009, Amended 3-15-94, \_\_\_\_\_.

4-163.010 Credit Life Insurance Rates.

(1) ~~Premium Rate. Rates for decreasing gross coverage credit life insurance premium rates for the insured portion of an indebtedness repayable in equal monthly installments, where the insured portion of the indebtedness decreases uniformly by the amount of the monthly installment paid, shall not be greater than as set forth in paragraphs (a) and (b) below. Paragraph (c) refers to premium rates for other types of coverage, either alone or in combination with the type of coverages applicable to paragraphs (a) and (b).~~

(a) ~~If premiums are payable on a monthly outstanding balance basis, \$0.69 \$0.78 per month per \$1,000 of outstanding insured indebtedness if premiums are payable on a monthly outstanding balance basis.~~

(b) ~~If premiums are payable on a single premium basis, the following rates shall be deemed the actuarial equivalent of the above monthly outstanding balance rate.~~

	Single Premium	
	Rate per \$100	
	Per Year of	
	Initial Insured	
Coverage Type	Indebtedness	
Single Decreasing Life	\$0.44	<del>\$0.50</del>
Joint Decreasing Life	\$0.77	<del>\$0.87</del>

(c) ~~If premiums are payable on a single premium basis when the benefit provided is level term, the following rates shall be deemed the actuarial equivalent of the above outstanding balance rate.~~

	Single Premium	
	Rate per \$100	
	Per Year of	
	Initial Insured	
Coverage Type	Indebtedness	
Single Level Life	\$0.82	<del>\$0.93</del>
Joint Level Life	\$1.43	<del>\$1.62</del>

(d) Premiums charged for dismemberment insurance in the amount of life insurance in force shall not exceed 10% of the amounts specified above.

(e) If the coverages provided are other than those described in ~~s~~Subsection (1) above, rates for such coverages shall be actuarially equivalent ~~consistent~~ with the rates provided in subsection (1) paragraphs (a) (b) and (e).

(f) The prima facie rate for accelerated death benefit coverage is:

<u>1. For single premium, decreasing term coverage</u>	<u>\$0.03/\$100/year</u>
<u>2. For single premium, level term coverage</u>	<u>\$0.05/\$100/year</u>
<u>3. For single premium, decreasing term joint life coverage</u>	<u>\$0.06/\$100/year</u>
<u>4. For single premium level term joint life coverage</u>	<u>\$0.08/\$100/year</u>

(2) The premium rates in ~~s~~Subsection (1), above, shall apply to policies providing credit life insurance to be issued with or without evidence of insurability, to be offered to all debtors, and containing: ~~(a) No~~ no exclusions other than suicide within 6 ~~six~~ months of the incurred indebtedness; ~~and~~

~~(b) Either no age restrictions or age restrictions making ineligible for coverage debtors 71 or over at the time the indebtedness is incurred.~~

~~(c) However, the coverage shall be provided, at a minimum, until the earlier of the maturity date of the loan or the loan anniversary at age 71. Where loans are in the form of revolving credit arrangements, an insurer may terminate coverage when the debtor attains the age of 71.~~

Specific Authority 624.308(1), 627.678 FS. Law Implemented 624.307(1), 627.678, 627.682 FS. History—New 5-9-82, Formerly 4-7.10, Amended 6-11-91, Formerly 4-7.010, Amended \_\_\_\_\_.

4-163.011 Credit ~~Disability Accident and Health~~ Insurance Rates.

(1) ~~Premium Rate. Credit disability accident and health insurance premium rates for the insured portion of an indebtedness repayable in equal monthly installments, where the insured portion of the indebtedness decreases uniformly by the amount of the monthly installment paid, shall not be greater than as set forth in paragraphs (a) and (b). Paragraphs (c), (d), and (e) refer to premium rates for other types of coverages either alone or in combination with the type of coverages applicable to (a) and (b).~~

(a) As set forth in Table I, If premiums are payable on a single-premium basis for the duration of the coverage; or

TABLE I

No. of months in which indebtedness is repayable	14-Day Non-Retroactive	30-Day Non-Retroactive	7-Day Retroactive	14-Day Retroactive	30-Day Retroactive
6 or less	\$0.81	\$0.36	\$1.47	\$1.30	\$1.05
7-12	\$1.13	\$0.72	\$1.76	\$1.58	\$1.36
13-18	\$1.46	\$1.08	\$2.05	\$1.87	\$1.67
19-24	\$1.78	\$1.44	\$2.34	\$2.16	\$1.97
25-30	\$2.11	\$1.80	\$2.64	\$2.45	\$2.28
31-36	\$2.43	\$2.16	\$2.93	\$2.74	\$2.58
37-48	\$2.84	\$2.70	\$3.34	\$3.10	\$2.97
49-60	\$3.16	\$2.97	\$3.69	\$3.38	\$3.28
61-72*	\$3.43	\$3.27	\$3.97	\$3.62	\$3.53
73-84*	\$3.61	\$3.47	\$4.18	\$3.79	\$3.70
85-96*	\$3.76	\$3.64	\$4.34	\$3.92	\$3.84
97-108*	\$3.86	\$3.75	\$4.46	\$4.01	\$3.94
109-120*	\$3.95	\$3.85	\$4.55	\$4.09	\$4.02

\*Maximum benefit is 60 monthly payments.

TABLE I

No. of months in which indebtedness is repayable	14-Day Non-retroactive	30-Day Non-Retroactive	7-Day Retroactive	14-Day Retroactive	30-Day Retroactive
6 or less	\$0.90	\$0.40	\$1.63	\$1.44	\$1.17
7-12	\$1.26	\$0.80	\$1.95	\$1.76	\$1.51
13-18	\$1.62	\$1.20	\$2.28	\$2.08	\$1.85
19-24	\$1.98	\$1.60	\$2.60	\$2.40	\$2.19
25-30	\$2.34	\$2.00	\$2.93	\$2.72	\$2.53
31-36	\$2.70	\$2.40	\$3.25	\$3.04	\$2.87
37-48	\$3.15	\$3.00	\$3.71	\$3.44	\$3.30
49-60	\$3.51	\$3.30	\$4.10	\$3.76	\$3.64
61-72*	\$3.81	\$3.63	\$4.41	\$4.02	\$3.92
73-84*	\$4.01	\$3.86	\$4.64	\$4.21	\$4.11
85-96*	\$4.18	\$4.04	\$4.82	\$4.35	\$4.27
97-108*	\$4.29	\$4.17	\$4.95	\$4.46	\$4.38
109-120*	\$4.39	\$4.28	\$5.06	\$4.54	\$4.47

\*Maximum benefit period is 60 months.

(b) If premiums are paid on the basis of a premium rate per month per thousand of outstanding insured indebtedness, these premiums shall be computed according to the following formula:  $OP_n = (20 \times SP_n) / (n + 1)$  using a rate no less than the 24 month rate in table 1 above. or according to a formula approved by the Commissioner. A company may submit a different formula for approval which produces rates actuarially equivalent to the single premium rates in Table I:

$$OP_n = 20 SP_n / (n + 1)$$

Where  $SP_n$  = Single Premium Rate per \$100 of initial insured indebtedness repayable in equal monthly installments (Table I).  $OP_n$  = Monthly Outstanding Balance Premium Rate per \$1,000.

$n$  = Original repayment period, in months. If no repayment period is specified,  $n$  shall not be assumed to be less than 24.

(c) Coverage which provides a constant maximum indemnity for a given period of time shall use rates no greater than those rates which are actuarially equivalent to the rates in

paragraph (a) or (b). The actuarial equivalent of Paragraphs (a) and (b) shall be used if the coverage provided is a constant maximum indemnity for a given period of time.

(d) An appropriate combination of the premium rate for a constant maximum indemnity for a given period of time and the premium rate for a maximum indemnity which decreases in even amounts per month, if the coverage provided is a combination of a constant maximum indemnity for a given period of time after which the maximum begins to decrease in even amounts per month.

(d)(e) If the coverages provided are other than those described in this subsection (1) above, rates for such coverages shall be actuarially equivalent to the actuarially consistent with rates provided in paragraph (a), (b) or (c).

(e) Joint coverage rates shall be no greater than 175% of the specific rate for that type of coverage.

(f) The monthly outstanding balance rate for credit accident and health insurance may be either a term specified rate or may be a single composite term rate applicable to all insured loans.

(2) The premium rates in subsection (1) shall apply to policies providing credit accident and health insurance to be issued with or without evidence of insurability, to be offered to all eligible debtors, and containing:

(a) 1. No provision excluding or denying a claim for disability resulting from pre-existing conditions, except for those conditions for which the insured debtor received medical advice, diagnosis, or treatment within six months preceding the effective date of the debtor's coverage, and which caused loss within the 6 ~~six~~ months following the effective date of coverage;

2. provided, however, that Disability commencing after 6 months following the effective date of coverage thereafter resulting from the ~~such~~ condition shall be covered.

3. Coverage with no pre-existing provision limitation Waiver of this provision shall result in an additional premium of no greater than 10% of the amounts shown in subsection (1), above, unless actuarially justified and approved.

(b) No other provision which excludes or restricts liability in the event of disability caused in a specific manner, except that it may contain provisions excluding or restricting coverage for intentionally self-inflicted injuries and normal pregnancy.

(c) No provision which requires that the debtor be employed more than thirty (30) hours per week in order to be eligible for insurance coverage.

(d) No age restrictions, or only age restrictions making ineligible for coverage debtors 66 or over at the time the indebtedness is incurred.

(e) However, coverage shall be provided, at a minimum, until the earlier of the maturity date of the loan or the loan anniversary at age 66. Where loans are in the form of revolving credit arrangements, an insurer may terminate coverage when the debtor attains the age of 66.

(e)(f) A daily benefit equal in amount to one-thirtieth of the monthly benefit payable under the policy for the indebtedness.

(f)(g)1. A definition of "disability" which provides that during the first 12 months of disability the insured shall be unable to perform the duties of his occupation at the time the disability occurred, and thereafter the duties of any occupation for which the insured is reasonably fitted by education, training or experience.

2. This paragraph shall not apply to lump sum disability coverage.

Specific Authority 624.308(1), 627.678 FS. Law Implemented 624.307(1), 627.678, 627.6785, 627.682 FS. History--New 5-9-82, Formerly 4-7.11, Amended 6-11-91, Formerly 4-7.011, Amended.

4-163.012 Experience Reports.

Specific Authority 624.308(1), 627.678 FS. Law Implemented 624.307(1), 624.424(1),(6), 627.678, 627.682 FS. History--New 5-9-82, Formerly 4-7.12, 4-7.012, Repealed.

4-163.013 Effective Date.

Specific Authority 624.308(1), 627.678 FS. Law Implemented 624.307(1), 627.678, 627.682 FS. History--New 5-9-82, Amended 8-19-82, Formerly 4-7.13, 4-7.013, Repealed.

Appendix A:

Credit Life	Average Number of Life Years			Incurred Claim Count	Credibility Factor
	Credit Accident and Health Plans	Retroactive and Nonretroactive Waiting Periods			
	7 Day	14 Day	30 Day		
-	1	1	1	1	.00
1,800	95	141	209	9	.25
2,400	126	188	279	12	.30
3,000	158	234	349	15	.35
3,600	189	281	419	18	.40
4,600	242	359	535	23	.45
5,600	295	438	651	28	.50
6,600	347	516	767	33	.55
7,600	400	594	884	38	.60
9,600	505	750	1,116	48	.65
11,600	611	906	1,349	58	.70
14,600	768	1,141	1,698	73	.75
17,600	926	1,375	2,047	88	.80
20,600	1,084	1,609	2,395	103	.85
25,600	1,347	2,000	2,977	128	.90
30,600	1,611	2,391	3,558	153	.95
40,000	2,106	3,125	4,651	200	1.00

**DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES**

**Division of Agricultural Environmental Services**

RULE CHAPTER TITLE: Fertilizers  
 RULE CHAPTER NO.: 5E-1

RULE TITLE: Adulteration Levels for Metals in Fertilizers;  
 RULE NO.: 5E-1.026

Certificate of Analysis  
 PURPOSE AND EFFECT: The purpose of the rule is to establish parameters for metals in fertilizers offered for sale in the State of Florida.

SUBJECT AREA TO BE ADDRESSED: Rule 5E-1.026, F.A.C., establishes the level of metals used to determine when fertilizers containing guaranteed amounts of phosphates and/or micro nutrients are adulterated. When fertilizers contain metals greater than the levels of metals identified, they are deemed adulterated. This rule amendment changes the formula to utilize the higher, not the sum of the resulting values as the maximum allowable concentrations.

SPECIFIC AUTHORITY: 570.07(23), 576.181(1)(2) FS.

LAW IMPLEMENTED: 576.181 FS.

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

TIME AND DATE: 9:00 a.m., November 8, 2002

PLACE: AES Conference Room, 3125 Conner Blvd., Tallahassee, Florida 32399-1650

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Dale W. Dubberly, Chief, Bureau of Compliance Monitoring, 3125 Conner Boulevard, Tallahassee, Florida 32399-1650, (850)488-8731

THE FULL TEXT OF THE PROPOSED RULE IS:

5E-1.026 Adulteration Levels for Metals in Fertilizers; Certificate of Analysis.

(1) ADULTERATION LEVELS FOR METALS IN FERTILIZERS

(2) Fertilizers that contain guaranteed amounts of phosphates and/or micro nutrients are adulterated when they contain metals in amounts greater than the levels of metals established by the following table<sup>1</sup>:



Metals	ppm per 1% P <sub>2</sub> O <sub>5</sub>	ppm per 1% Micro nutrients <sup>2</sup>
1. Arsenic	13	112
2. Cadmium	10	83
3. Cobalt	3,100	23,000 <sup>3</sup>
4. Lead	61	463
5. Mercury	1	6
6. Molybdenum	42	300 <sup>3</sup>
7. Nickel	250	1,900
8. Selenium	26	180 <sup>3</sup>
9. Zinc	420	2,900 <sup>3</sup>

To use the Table:

Multiply the percent guaranteed P<sub>2</sub>O<sub>5</sub> or sum of the guaranteed percentages of all micro nutrients (Iron, Manganese, Zinc, etc...) in each product by the value in the appropriate column in the Table to obtain the maximum allowable concentration (ppm) of these metals. The minimum value for P<sub>2</sub>O<sub>5</sub> utilized as a multiplier shall be 6.0. The minimum value for micro nutrients utilized as a multiplier shall be 1. If a product contains both P<sub>2</sub>O<sub>5</sub> and micro nutrients multiply the guaranteed percent P<sub>2</sub>O<sub>5</sub> by the value in the appropriate column and multiply the sum of the guaranteed percentages of the micro nutrients by the value in the appropriate column. Utilize the higher sum of the two resulting values as the maximum allowable concentrations.

Biosolids, and all compost products<sup>4</sup>, shall be adulterated when they exceed the levels of metals permitted by the United States Environmental Protection Agency Code of Federal Regulations, 40 CFR Part 503. Dried biosolids and manure, as well as manipulated manure products not supplemented with chemical fertilizers shall also be deemed adulterated when they exceed the levels of metal permitted by the United States Environmental Protection Agency Code of Federal Regulations, 40 CFR Part 503. Hazardous waste derived fertilizers (as defined by EPA) shall be adulterated when they exceed the levels of metals permitted by the United States Environmental Protection Agency Code of Federal Regulations, 40 CFR Parts 261.2(c), 266.20(a) and 268.40(i), dated May 14, 2002.

<sup>1</sup> These guidelines are not intended, to be used, to evaluate horticultural growing media claiming nutrients but may be applied to the sources of the nutrients added to the growing media.

<sup>2</sup> Micro nutrients (also called minor elements) are essential for both plant growth and development and are added to certain fertilizers to improve crop production and/or quality. These micro nutrients are iron, manganese, zinc, copper, molybdenum and boron. In addition, cobalt and selenium can also be considered micro nutrients.

<sup>3</sup> Only applies when not guaranteed.

<sup>4</sup> Includes all compost products that are not supplemented with chemical fertilizers, even those registered as fertilizers (making nutrient claims).

Specific Authority 576.181 FS. Law Implemented 576.181 FS. History--New 7-29-02, Amended \_\_\_\_\_.

**DEPARTMENT OF EDUCATION**

**State Board of Education**

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

Florida Teacher Certification Examination 6A-4.0021

PURPOSE AND EFFECT: The purpose of this rule development is to review the examination application form and competencies and skills for professional teacher certification in Florida. The effect will be an updated application form and new and revised competencies and skills to be included on the Florida Teacher Certification Examinations.

SUBJECT AREA TO BE ADDRESSED: Florida Teacher Certification Examination application form and new and revised competencies and skills for teacher tests.

SPECIFIC AUTHORITY: 231.15(1), 231.17(4),(5),(8),(11), 231.30 FS.

LAW IMPLEMENTED: 231.145, 231.15, 231.17, 231.30 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.

Requests for the rule development workshop should be addressed to: Wayne V. Pierson, Agency Clerk, Department of Education, 325 West Gaines Street, Room 1214, Tallahassee, Florida 32399-0400.

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT IS: Ken Loewe, Bureau of Curriculum, Instruction, and Assessment, Division of Public Schools and Community Education, 325 West Gaines Street, Tallahassee, Florida 32399-0400, (850)488-8198

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

**DEPARTMENT OF EDUCATION**

**State Board of Education**

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

Florida Educational Leadership Examination 6A-4.00821

PURPOSE AND EFFECT: The purpose of this rule development is to review the examination application form and propose necessary changes. The effect will be an updated application form.

SUBJECT AREA TO BE ADDRESSED: Florida Teacher Certification Examination application form.

SPECIFIC AUTHORITY: 231.15(1), 231.0861(3) FS.

LAW IMPLEMENTED: 231.15, 231.0861 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.

Requests for the rule development workshop should be addressed to: Wayne V. Pierson, Agency Clerk, Department of Education, 325 West Gaines Street, Room 1214, Tallahassee, Florida 32399-0400.

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT IS: Ken Loewe, Bureau of Curriculum, Instruction, and Assessment, Division of Public Schools and Community Education, 325 West Gaines Street, Tallahassee, Florida 32399-0400, (850)488-8198

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

**DEPARTMENT OF COMMUNITY AFFAIRS**

**Division of Community Planning**

RULE CHAPTER TITLE: RULE CHAPTER NO.:  
 Rules of Procedure and Practice  
 Pertaining To Developments  
 of Regional Impact 9J-2

RULE TITLES: RULE NOS.:

**PART II PROCEDURES PERTAINING TO DEVELOPMENTS OF REGIONAL IMPACT**

Subpart A General Procedures  
 Forms 9J-2.010  
 Clearance Letters 9J-2.015  
 Binding Letters of Interpretation 9J-2.016  
 Preliminary Development Agreements 9J-2.0185  
 Regional Report and Recommendations 9J-2.024  
 Local Government Development Orders 9J-2.025  
 Abandonment of Development Orders 9J-2.0251  
 Monitoring and Enforcement 9J-2.027  
 Downtown Development of Regional Impact  
 Alternative Review Procedure 9J-2.029

**PART III DEVELOPMENT OF REGIONAL IMPACT UNIFORM STANDARD RULES**

Listed Plant and Wildlife Resources  
 Uniform Standard Rule 9J-2.041  
 Archaeological and Historical Resources  
 Uniform Standard Rule 9J-2.043  
 Hazardous Material Usage, Potable Water,  
 Wastewater, and Solid Waste Facilities  
 Uniform Standard Rule 9J-2.044  
 Transportation Uniform Standard Rule 9J-2.045  
 Air Quality Uniform Standard Rule 9J-2.046  
 Adequate Housing Uniform Standard Rule 9J-2.048

PURPOSE AND EFFECT: To revise Rule Chapter 9J-2, Fla. Admin. Code, to address statutory changes; provide for the submission of biennial rather than annual reports; remove 80% DRI threshold.

SUBJECT AREA TO BE ADDRESSED: Statutory changes to 9J-2, Fla. Admin. Code.

SPECIFIC AUTHORITY: 380.032(2),(a), 380.06(15)(c)4., (19)(f)1.,(23)(a),(b),(c)1.,2.,(26), 380.0651(4)(f) FS.

LAW IMPLEMENTED: 120.569, 380.021, 380.031, 380.031(13), 380.032, 380.032(2), 380.032(3), 380.06(1),(2), (c),(d),(e), (4)(i),(5)(a)1.,(8), (12),(15),(c)4., (17),(18), (19),(20),(23)(c)2.,(26), 380.065, 380.0651(4), 380.07, 380.11 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 (IF NOT REQUESTED, A WORKSHOP WILL NOT BE HELD):

TIME AND DATE: 10:00 a.m., November 7, 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 of physical impairment should contact Brenda Winningham, Principal Planner, Division of Community Planning, 2555 Shumard Oak Boulevard, Tallahassee, Florida, (850)922-1800, Suncom 292-1800, 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: Brenda Winningham, Principal Planner, Division of Community Planning, 2555 Shumard Oak Boulevard, Tallahassee, Florida, (850)922-1800

THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS:

9J-2.010 Forms.

(1) The following forms are prescribed for use with these rules and are incorporated by reference:

- (a) through (g) No change.
- (h) Form Number RPM-BSP-~~BIENNIAL-ANNUAL~~ REPORT-1, Biennial Annual Status Report, effective 11-20-90;
- (i) through (k) No change.
- (2) No change.

Specific Authority 380.032(2)(a), 380.06(15)(c)4.,(19)(f)1.,(23)(a),(c)2.,(26) FS. Law Implemented 380.031(13), 380.06(4)-(10),(15)(c)4., (18),(19),(23)(c)2.,(26) FS. History--New 4-12-81, Amended 5-4-83, Formerly 27F-1.31, 9B-16.17, 9J-2.017, Amended 11-20-90, 3-23-94, 2-21-01, \_\_\_\_\_.

9J-2.015 Clearance Letters.

(1) At the request of a developer, the Division may issue an informal determination in the form of a clearance letter as to whether development may be required to undergo DRI review. The Division will issue clearance letters in order to respond to inquiries when the answer is clear. For example, the Division has issued clearance letters in the following circumstances:

(a) When a developer is in doubt as to whether two or more developments are subject to aggregation pursuant to Subsection 380.0651(4), Florida Statutes, and Section 9J-2.0275, Florida Administrative Code; ~~or~~

(b) When a development is ~~at or~~ below 100 ~~80~~ percent of all applicable thresholds contained in Section 380.0651, Florida Statutes, and Chapter 28-24, Florida Administrative Code; ~~or~~

~~(c) When a development is between 80 and 100 percent of all applicable thresholds contained in Section 380.0651, Florida Statutes, and Chapter 28-24, Florida Administrative Code, and the developer is seeking a determination as to whether the Department will require the developer to obtain a binding letter pursuant to the requirements of subparagraph 380.06(4)(b)2., Florida Statutes.~~

(2) through (3) No change.

Specific Authority 380.032(2)(a), 380.06(23)(a), 380.0651(4)(f) FS. Law Implemented 380.032(2), 380.06(4)(i), 380.0651(4) FS. History--New 11-20-90, Amended \_\_\_\_\_.

9J-2.016 Binding Letters of Interpretation.

(1) No change.

(2)(a) The Division or the local government with jurisdiction over the land on which a development is proposed may require a developer to obtain a binding letter if: the 1. ~~The~~ development is at any presumptive numerical threshold or up to 20 percent above any numerical threshold in the guidelines and standards; ~~or~~

~~2. The development is between any presumptive numerical threshold and 20 percent below all numerical thresholds and the Division or the local government is in doubt as to whether the character, magnitude, or location of the development creates a likelihood that the development will have a substantial effect on the health, safety, or welfare of citizens of more than one county.~~

(b) No change.

(3) through (17) No change.

Specific Authority 380.032(2)(a), 380.06(23)(a) FS. Law Implemented 120.569, 380.031, 380.032, 380.06(1),(2)(c),(d),(e),(4),(20), 380.0651 FS. History--New 4-12-81, Amended 5-4-83, Formerly 27F-1.16, 9B-16.16, Amended 11-20-90, 2-21-01, \_\_\_\_\_.

9J-2.0185 Preliminary Development Agreements.

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

(3)(a) A PDA which authorizes development of less than 100 ~~80~~ percent ~~or less~~ of any applicable threshold pursuant to Subsection 380.06(2) and Section 380.0651, Florida Statutes, including thresholds in terms of acreage, may be entered into provided that:

1. through 3. No change.

(b) and (c) No change.

(4) No PDA may be entered into which authorizes development at or above 100 ~~80~~ percent of any applicable threshold in Subsection 380.06(2) and Section 380.0651, Florida Statutes, and Rule Chapter 28-24, Florida Administrative Code, including thresholds in terms of acreage, unless a developer satisfies the requirements of subsection (3) of this rule, and demonstrates one or more of the following:

(a) through (b) No change.

(5) No change.

(6)(a) No change.

1. through 3. No change.

4. Evidence of mitigation for the impacts of the development to date if a final development order has not been issued and the amount of development is less than 100 ~~80~~ percent of all applicable DRI thresholds;

5. through 7. No change.

(b) through (d) No change.

Specific Authority 380.032(2)(a), 380.06(23)(a) FS. Law Implemented 380.032(3), 380.06(8), 380.0651(4) FS. History--New 1-29-86, Amended 7-2-86, 11-20-90, 2-21-01, \_\_\_\_\_.

9J-2.024 Regional Report and Recommendations.

(1) through (5) No change.

(6)(a) When the proposed DRI lies within the review jurisdiction of two or more regional planning agencies, the state land planning agency shall designate a lead regional planning council. The lead regional planning council shall prepare the regional report. The regional planning agencies should designate a lead agency from among themselves. The regional planning agencies should discuss and determine the method for handling procedural matters involved in the review of the DRI, who will assume responsibility for determining the sufficiency of information contained in the application for development approval, and how the regional report and recommendations will be prepared. To the extent possible, a single joint report and recommendations should be prepared.

(b) through (c) No change.

Specific Authority 380.032(2)(a), 380.06(23)(a),(b) FS. Law Implemented 380.06(12) FS. History--New 7-7-76, Amended 5-4-83, Formerly 27F-1.22, 9B-16.24, Amended 11-20-90, 2-21-01, \_\_\_\_\_.

9J-2.025 Local Government Development Orders.

(1) through (2) No change.

(3) Requirements for a DRI development order:

(a) No change.

(b) The copy of any development order rendered to the Division, the regional planning agency, and the owner or developer shall contain the following:

1. through 13. No change.

14. Specification of the requirements for the biennial annual report designated under Subparagraph 380.06(15)(c)4. and Subsection (18), Florida Statutes, including the date of biennial annual submission, parties to whom the report is to be submitted, and contents of the report as specified by subsection 9J-2.025(7), Florida Administrative Code.

(c) No change.

(4) No change.

(5) Complete copies of all development orders issued pursuant to Section 380.06, Florida Statutes, including any amendments or modifications to previously issued development orders, shall be rendered by the local government to the Division of Community Bureau of State Planning, to the appropriate regional planning agency, and to the owner or developer of the property subject to such order. As used in this chapter, rendition of rendering means issuance of a written development order and transmittal of a certified completed copy of the order by the local government with jurisdiction, together with all pertinent attachments. The rendition shall be by first class certified U.S. Mail or other delivery service for which a receipt as proof of service is required to the Department of Community Affairs, Division of Community Bureau of State Planning, the regional planning agency, and the owner or developer. A certified return receipt for U.S. Mail shall be prima facie evidence of transmittal. A DRI development order will not be considered to have been rendered if it is transmitted by facsimile machine, or if all pages, exhibits, references, and attachments are not included or are not legible. A development order shall take effect upon transmittal to the parties specified in Subsection 380.07(2), Florida Statutes, unless a later effective date is specified in the order. The effectiveness of a development order shall be stayed by the filing of a notice of appeal pursuant to Section 380.07, Florida Statutes.

(6) No change.

(7) The development order shall specify the requirements for the biennial annual report as required in Subsections 380.06(15) and (18), Florida Statutes. The biennial annual report shall be submitted to the Division of Community Bureau of State Planning, the appropriate regional planning council and local government on Form RPM-BSP-BIENNIAL ANNUAL REPORT-1. Every development order shall require the biennial annual report to include the following:

(a) through (h) No change.

(i) A statement that all persons have been sent copies of the biennial annual report in conformance with subsections 380.06(15) and (18), Florida Statutes; and

(j) No change.

(k) If no additional development pursuant to the development order has occurred since the submission of the previous report, then a letter from the developer stating that no development has occurred shall satisfy the requirement for the biennial report.

(l)(k) The biennial annual report for an Areawide or a Downtown DRI shall only be required to include the information required in Paragraphs (a), (b), (e), (f), (g), (i), (j), and (j) (k) of this subsection, and any information requirements specified for biennial annual reports in Rule 9J-2.029(2)(d), Florida Administrative Code, or Chapter 9J-3, Florida Administrative Code, whichever is applicable.

(8) through (10) No change.

(11)(a) through (c) No change.

(d) Any change to a previously approved DRI which the developer believes meets the criteria of Subparagraphs 380.06(19)(e)1. and 2., Florida Statutes, shall be submitted to the Division, the local government, and the regional planning agency using Form RPM-BSP-PROCHANGE-1. Such changes are considered cumulatively with all other previous changes to the DRI in determining whether the conditions of Subparagraph 380.06(19)(e)1. and 2., Florida Statutes, are met. Any change which does meet these criteria is not subject to a public hearing to make a substantial deviation determination but is subject to any local government public hearing requirements that are necessary to amend the DRI development order.

(e) through (f) No change.

Specific Authority 380.032(2)(a), 380.06(19)(f)1.,(23)(a) FS. Law Implemented 380.06(5)(a)1.,(13),(14),(15),(17),(18),(19), 380.07(2) FS. History--New 7-7-76, Amended 5-4-83, 7-7-85, Formerly 22F-1.23, 27F-1.23, 9B-16.25, 9J-2.25, Amended 11-20-90, 2-21-01,\_\_\_\_\_.

9J-2.0251 Abandonment of Development Orders.

(1) No change.

(2) Procedures and Requirements for Abandonment. The following procedures and requirements shall be followed when seeking the abandonment of an approved DRI:

(a) Pursuant to Subsection 380.06(26), Florida Statutes, the developer shall submit a completed copy of an Application for Abandonment of a Development of Regional Impact to the local government(s) having jurisdiction. Copies of the application shall be simultaneously filed with the appropriate regional planning agency and the Division of Resource Planning and Management. The regional planning agency will distribute copies of the completed application to the appropriate commenting agencies normally involved in the DRI review. Copies of the Application for Abandonment of a Development of Regional Impact, FORM RPM-BSP-ABANDON-DRI-1, incorporated herein by

reference, effective 3/91, may be obtained from either the Division of Resource Planning and Management or the appropriate regional planning agency.

(b) Upon receipt of the application, the local government shall, at its next regularly scheduled meeting, schedule a public hearing to consider the application and provide 45 days notice of this hearing to the Division of Resource Planning and Management and the appropriate regional planning agency.

(c) through (e) No change.

(3) through (4) No change.

(5) Eligibility to Abandon.

(a) An approved DRI which is proposed after abandonment to be ~~at or below~~ 100 80 percent ~~(100%) (80%)~~ of any applicable guidelines and standards identified in Section 380.0651, Florida Statutes, or Rule 28-24, Florida Administrative Code, is eligible to abandon an approved DRI.

(b) An approved DRI which is proposed after abandonment to be at 100 percent or between 100 80 and 120 percent of any applicable guidelines and standards identified in Section 380.0651, Florida Statutes, or Rule 28-24, Florida Administrative Code, and upon which no development as defined in Section 380.04, Florida Statutes, has occurred, is eligible to request abandonment of an approved DRI if the Division of Resource Planning and Management has issued a binding letter which finds the proposed plan of development after abandonment not to be a DRI.

(c) An approved DRI which is proposed after abandonment to be at 100 percent or between 100 80 and 120 percent of any applicable guidelines and standards identified in Section 380.0651, Florida Statutes, or Rule 28-24, Florida Administrative Code, and upon which no development as defined in Section 380.04, Florida Statutes, has occurred, is not eligible to request to abandon an approved DRI if the Division of Resource Planning and Management has issued a binding letter which finds the proposed plan of development after abandonment to be a DRI. If the Division of Resource Planning and Management issues a binding letter which finds the proposed plan of development after abandonment to be a DRI, such a development shall be evaluated under the substantial deviation provisions of Subsection 380.06(19), Florida Statutes.

(d) An approved DRI which has commenced development as defined in Section 380.04, Florida Statutes, and which exceeds or is proposed after abandonment to be at or exceed 100 80 percent ~~(100%) (80%)~~ of any applicable guidelines and standards identified in Section 380.0651, Florida Statutes, or Rule 28-24, Florida Administrative Code, shall not be eligible to request abandonment of an approved DRI. Such a development shall be evaluated under the substantial deviation provisions of Subsection 380.06(19), Florida Statutes.

(e) No change.

(6) No change.

Specific Authority 380.032(2)(a), 380.06(23)(a),(26) FS. Law Implemented 380.06(2),(26) FS. History—New 3-10-91, Amended 2-21-01,\_\_\_\_\_.

9J-2.027 Monitoring and Enforcement.

(1) No change.

(2) The Division may monitor any development described in Chapter 28-24, Florida Administrative Code, which may be at or greater than 100 80 percent of any applicable numerical threshold in the guidelines and standards in Section 380.0651, Florida Statutes, and Chapter 28-24, Florida Administrative Code. As used above, the term “monitor” means to notify a developer in writing that a development may be a DRI and to request that the developer advise the Division as to his development plans and as to his understanding of the applicability of Chapter 380, Florida Statutes. This notice shall also include a copy of Chapter 380, Florida Statutes, and any other pertinent rules and regulations. Copies of binding letter application forms may also be included and shall be used by the developer if he requests a Binding Letter of Interpretation from the Division.

(3) The Department shall seek assistance from state agencies, regional agencies, and local governments in identifying, monitoring and enforcing the requirements of Chapter 380, Florida Statutes, any DRI development order issued by a local government, and any order contained in a binding letter of interpretation issued by the Department.

(a) through (b) No change.

(c) The regional planning agency shall review the biennial ~~annual~~ report required by Subsection 380.06(18), Florida Statutes, and other information available to the agency and, when appropriate, notify the local government and the Department of potential violations of Section 380.06, Florida Statutes.

(4) through (5) No change.

Specific Authority 380.032(2), 380.06(23) FS. Law Implemented 380.06(15),(17)-(19), 380.11 FS. History—New 5-4-83, Formerly 9B-16.27, Amended 11-20-90,\_\_\_\_\_.

9J-2.029 Downtown Development of Regional Impact Alternative Review Procedure.

(1) No change.

(2) In addition to the requirements specified in Subsection 380.06(22), Florida Statutes, the following shall apply:

(a) through (c) No change.

(d) In addition to the requirements for the biennial ~~annual~~ report pursuant to Paragraph 380.06(15)(c), Florida Statutes, and Subsection 9J-2.025(7), Florida Administrative Code, the biennial ~~annual~~ report for an approved downtown DRI shall include:

1. through 2. No change.

(e) By written agreement the Division, the local government with jurisdiction, the downtown development authority and the regional planning agency may agree to eliminate or modify the requirements for the biennial ~~annual~~

report established in subsection 9J-2.025(7), Florida Administrative Code, which are not appropriate for a downtown DRI application.

Specific Authority 380.032(2), 380.06(23) FS. Law Implemented 380.06(22) FS. History—New 5-4-83, Formerly 9B-16.29, Amended 11-20-90, \_\_\_\_\_.

**PART III DEVELOPMENT OF REGIONAL IMPACT UNIFORM STANDARD RULES**

9J-2.041 Listed Plant and Wildlife Resources Uniform Standard Rule.

(1) through (8) No change.

(9) Site Protection and Management Plans. Whenever site protection is required by subsections (6), (7) or (8), the development order shall require site protection by one of the following methods:

(a) No change.

(b) TRANSFER OF A CONSERVATION EASEMENT ONLY. The development order shall require the establishment of a conservation easement on the land to be preserved that meets all of the following criteria:

1. through 6. No change.

7. The conservation easement shall require that the maintenance and management of the preserved area shall be ~~biennially annually~~ reported by the grantee for inclusion in the grantor's ~~biennial annual~~ status report required by subsection 380.06(18), F.S.; and

8. No change.

(c) PROTECTION THROUGH DESIGNATION IN LOCAL COMPREHENSIVE PLAN AS CONSERVATION LANDS. The development order shall require that all lands to be preserved meet all of the following criteria:

1. through 5. No change.

6. The development order shall require that the maintenance and management of the preserved area shall be ~~biennially annually~~ reported in the ~~biennial annual~~ status report required by Subsection 380.06(18), F.S.; and

7. through 8. No change.

(10) through (12) No change.

Specific Authority 380.032(2), 380.06(23) FS. Law Implemented 380.021, 380.06, 380.065, 380.07 FS. History—New 4-25-94, Amended \_\_\_\_\_.

9J-2.043 Archaeological and Historical Resources Uniform Standard Rule.

(1) through (8) No change.

(9) Conservation Easements. Whenever a conservation easement is required by subsections (6), (7) or (8), the development order shall require the establishment of the conservation easement by either of the following methods:

(a) No change.

(b) TRANSFER OF A CONSERVATION EASEMENT ONLY. The development order shall require the establishment of a conservation easement on the land to be preserved that meets all of the following criteria:

1. through 6. No change.

7. The conservation easement shall require that the maintenance and management of the preserved area shall be ~~biennially annually~~ reported by the grantee for inclusion in the grantor's ~~biennial annual~~ status report required by subsection 380.06(18), F.S.; and

8. No change.

(10) through (11) No change.

Specific Authority 380.032(2)(a), 380.06(23)(a),(c)1. FS. Law Implemented 380.021, 380.06, 380.065, 380.07 FS. History—New 3-23-94, Amended 2-21-01, \_\_\_\_\_.

9J-2.044 Hazardous Material Usage, Potable Water, Wastewater, and Solid Waste Facilities Uniform Standard Rule.

(1) through (4) No change.

(5) Hazardous Material Usage.

(a) No change.

(b) MITIGATION OF SIGNIFICANT IMPACT. It is the intent of the Department to set forth in this rule onsite hazardous material usage conditions which, if included in a development order, would be deemed by the Department not to be the basis for the appeal of the development order by the Department on issues related to onsite hazardous material usage. Therefore, a development order shall be determined by the Department to make adequate provision for hazardous material usage and shall not be appealed by the Department on the basis of inadequate hazardous material usage conditions if it contains either set of conditions enumerated in subparagraph 1. or 2. below:

1. Restricted Hazardous Material Usage. The onsite usage of any hazardous material shall be restricted through legally binding instruments to amounts totaling less than those specified in (5)(a)1., and 2. above. The legally binding instrument shall be in the form of a restrictive covenant recorded with the land title for the development that meets all of the following criteria:

a. through d. No change.

e. The restrictive covenant shall contain a condition that the monitoring and continuance of the restrictive covenants shall be annually reported by the party responsible for enforcement to the local government of jurisdiction, the applicable regional planning council, the Department, and any other affected state agency in the ~~biennial annual~~ report required pursuant to Subsection 380.06(18), F.S.; and

f. No change.

2. No change.

a. Legal Requirements:

(I) through (III) No change.

(IV) A condition requiring that the monitoring of compliance with the HMMP shall be ~~biennially annually~~ reported by the party responsible for enforcement to the local government of jurisdiction, the applicable regional planning

council, the Department, and any other affected state agency in the ~~biennial annual~~ report required pursuant to subsection 380.06(18), F.S.; and

(V) through (VI) No change.

a. No change.

(6) Potable Water.

(a) through (c) No change.

1. Potable Water Facility Availability.

When the development involves an impact identified in (6)(b) above, then the development order shall contain all of the following:

a. No change.

b. A provision which states that on no less than an annual basis the status of the guaranteed improvements shall be assessed and reported in the required ~~biennial annual~~ status report, and the local government shall cause further issuance of building permits to cease immediately at the time the annual monitoring reveals that any needed potable water facility improvements guaranteed by development commitments 1.a.(I) through 1.a.(III) above is no longer scheduled or guaranteed, has been delayed in schedule such that it is no longer consistent with the timing criteria of sub-subparagraph 1.a. above, or is no longer being constructed and remains unoperational, unless the applicant is able to unequivocally demonstrate as part of the ~~biennial annual~~ status report that the needed potable water supply is either existing or is permitted and ensured to be supplied both to all existing permitted project development and to all project development likely to be permitted during the next year. The periodic assessment contemplated by this rule is a review of the actual status of guaranteed improvements scheduled for construction and operation. A change to the approved development schedule for the project, as opposed to a change to the schedule of needed improvements, will need to be addressed through the notification of proposed change provisions of subsection 380.06(19), F.S.

c. No change.

2. No change.

(7) Wastewater.

(a) through (c) No change.

1. Wastewater Facility Availability.

When the development involves an impact identified in (7)(b) above, then the development order shall contain:

a. No change.

b. A provision which states that on no less than an ~~biennial annual~~ basis the status of the guaranteed improvements shall be assessed and reported in the required ~~biennial annual~~ status report, and local government shall cause further issuance of building permits to cease immediately at the time the ~~biennial annual~~ monitoring reveals that any needed wastewater facility improvements guaranteed by development commitments 1.a.(I) through 1.a.(III) above is no longer scheduled or

guaranteed, has been delayed in schedule such that it is no longer consistent with the timing criteria of sub-subparagraph 1.a. above, or is no longer being constructed but remains unoperational, unless the applicant is able to unequivocally demonstrate as part of the ~~biennial annual~~ status report that the needed wastewater supply is either existing or is permitted and ensured to be supplied both to all existing permitted project development and to all project development likely to be permitted during the next year. The periodic assessment contemplated by this rule is a review of the actual status of guaranteed improvements scheduled for construction and operation. A change to the approved development schedule for the project, as opposed to a change to the schedule of needed improvements, will need to be addressed through the notification of proposed change provisions of subsection 380.06(19), F.S.

c. No change.

2. No change.

(8) Solid Waste Facilities.

(a) through (b) No change.

(c) MITIGATION OF SIGNIFICANT IMPACT. Pursuant to subsection 380.06(15), Florida Statutes, a development order issued by a local government must make adequate provision for the public solid waste facilities needed to accommodate the impacts of the development. Consistent with that mandate, it is the intent of the Department to set forth in this rule solid waste facility conditions which, if included in a development order, would be deemed by the Department to comply with the requirements of subsection 380.06(15), Florida Statutes, and would, therefore, not be the basis for the appeal of the development order by the Department on issues related to solid waste facilities. Where the solid waste facility impacts of the DRI-sized development are determined to occur in more than one local government jurisdiction, the development order shall ensure that any significant multi-jurisdictional solid waste impacts are mitigated pursuant to the requirements of Section 380.06, F.S.

A development order shall be determined by the Department to make adequate provision for solid waste facilities and shall not be appealed by the Department on the basis of inadequate solid waste facility conditions if, at a minimum, it contains all appropriate sets of conditions enumerated in subparagraphs 1. thru 2. below.

1. Solid Waste Facility Availability.

When the development involves an impact identified in (8)(b) above, then the development order shall contain:

a. No change.

b. A provision which states that on no less than an ~~biennial annual~~ basis the status of the guaranteed improvements shall be assessed and reported in the required ~~biennial annual~~ status report, and local government shall cause further issuance of building permits to cease immediately at the time the ~~biennial annual~~ monitoring reveals that any needed facility

improvements guaranteed by development commitments 1.a.(I) through 1.a.(III) above is no longer scheduled or guaranteed, has been delayed in schedule such that it is no longer consistent with the timing criteria of sub-subparagraph 1.a. above, or is no longer being constructed but remains unoperational, unless the applicant is able to unequivocally demonstrate as part of the biennial annual status report that the needed solid waste capacity is either existing or is permitted and ensured to be supplied both to all existing permitted project development and to all project development likely to be permitted during the next year. The periodic assessment contemplated by this rule is a review of the actual status of guaranteed improvements scheduled for construction and operation. A change to the approved development schedule for the project, as opposed to a change to the schedule of needed improvements, will need to be addressed through the notification of proposed change provisions of subsection 380.06(19), F.S.

- c. No change.
- 2. No change.
- (9) through (10) No change.

Specific Authority 380.032(2)(a), 380.06(23)(a),(c)1. FS. Law Implemented 380.021, 380.06, 380.065, 380.07 FS. History—New 4-25-94, Amended 2-21-01,\_\_\_\_\_.

9J-2.045 Transportation Uniform Standard Rule.

- (1) through (6) No change.
- (7) Mitigation of Transportation Facility Impacts.

(a) Pursuant to subsection 380.06(15), Florida Statutes, a development order issued by a local government must make adequate provision for the public transportation facilities needed to accommodate the impacts of the proposed development. Consistent with that mandate, it is the intent of the Department to set forth in this rule transportation conditions which, if included in a development order, would be deemed by the Department to comply with the requirements of Section 380.06, Florida Statutes, and would, therefore, not be the basis for the appeal of the development order by the Department on issues related to transportation facilities. Where the transportation impacts of the development are determined to occur in more than one local government jurisdiction, the development order shall ensure that any significant multi-jurisdictional facility impacts are mitigated pursuant to the requirements of Section 380.06, F.S., and the applicable level of service standards of the jurisdiction in which the impacts occur.

A development order shall be determined by the Department to make adequate provision for transportation roadway facilities and shall not be appealed by the Department on the basis of inadequate transportation conditions if, at a minimum, it contains one of the sets of conditions enumerated in subparagraphs 1., 2., 3., 4. or 5. below, and, when applicable, complies with paragraph (b) below.

1. SCHEDULING OF FACILITY IMPROVEMENTS.

a. A schedule which specifically provides for the mitigation of impacts from the proposed development on each significantly impacted roadway which will operate below the adopted level of service standard at the end of each project phase's buildout, or, alternatively, a subset stage of that phase. The schedule shall ensure that each and every roadway improvement which is necessary to achieve the adopted level of service standard for that project stage or phase shall be guaranteed to be in place and operational, or under actual construction for the entire improvement, at buildout of each project stage or phase that creates the significant impact. This guarantee shall be in the form of:

- (I) through (III) No change.
- (IV) A Florida Department of Transportation commitment in the current five years of the Adopted Work Program for FIHS facilities or in the first three years of the Adopted Work Program for all other facilities to provide all needed roadway improvements;
- (V) through (VI) No change.

b. A provision which states that on no less than an biennial annual basis the status of the guaranteed improvements shall be assessed and reported in a required biennial annual status report. The local government shall cause further issuance of building permits to cease immediately at the time the biennial annual monitoring reveals that any needed transportation improvements guaranteed by development commitments 1.a.(I) thru 1.a.(VI) above is no longer scheduled or guaranteed, or has been delayed in schedule such that it is no longer consistent with the timing criteria of Sub-subparagraph 1.a. above. The periodic assessment contemplated by this rule is not a monitoring of the actual level of service on a roadway, but is a review of the actual status of guaranteed improvements scheduled for construction. A change to the approved development schedule for the project, as opposed to a change to the schedule of needed improvements, will need to be addressed through the notification of proposed change provisions of subsection 380.06(19), F.S.

- c. No change.
- 2. through 5. No change.
- (8) through (9) No change.

Specific Authority 380.032(2)(a), 380.06(23)(a),(c)1. FS. Law Implemented 380.021, 380.06, 380.061, 380.065, 380.07 FS. History—New 3-23-94, Amended 2-21-01,\_\_\_\_\_.

9J-2.046 Air Quality Uniform Standard Rule.

- (1) No change.
- (2) Definitions. As used in this rule:
  - (a) through (f) No change.
  - (g) "Guaranteed roadway improvement" means a roadway construction or flow improvement that is ensured of being completed and operational when needed through:
    - 1. through 3. No change.



4. A Florida Department of Transportation commitment in the current five years of their Florida Transportation Improvement Program for FIHS facilities or in the first three years of their Florida Transportation Improvements Program for all other facilities; or

- 5. No change.
- (h) through (m) No change.
- (3) through (7) No change.

Specific Authority 380.032(2)(a), 380.06(23)(a),(c)1. FS. Law Implemented 380.021, 380.06, 380.065, 380.07 FS. History—New 3-23-94, Amended 2-21-01,\_\_\_\_\_.

9J-2.048 Adequate Housing Uniform Standard Rule.

- (1) through (2) No change.
- (3) Application.
- (a) through (b) No change.

(c) A development order shall be determined by the Department to make adequate provision for the adequate housing issues addressed by this rule, and shall not be appealed by the Department on the basis of inadequate mitigation of adequate housing impacts, if it contains the applicable mitigation standards and criteria set forth in this rule or if it is reviewed and provides applicable mitigation consistent with the East Central Florida Housing Methodology, developed April, 1996 and revised June, 1999.

If a development order does not contain the applicable mitigation standards and criteria set forth in this rule, the Department shall have discretion to appeal the development order, pursuant to the provisions of Section 380.07, F.S. However, nothing in this rule shall require the Department to undertake an appeal of the development order simply because it fails to comply with the provisions of this rule. A development order failing to comply with the provisions of this rule will be addressed on a case-by-case basis by the Department as to whether it otherwise complies with the intent and purposes of Chapter 380, Florida Statutes. The Department will take into consideration the balancing of this rule’s provisions with the protection of property rights, the encouragement of economic development, the promotion of other state planning goals by the development, the utilization of alternative, innovative solutions in the development order to provide equal or better protection than the rule, and the degree of harm created by non-compliance with this rule’s mitigation criteria and standards.

- (d) No change.
- (4) through (10) No change.

Specific Authority 380.032(2)(a), 380.06(23)(a),(c)1. FS. Law Implemented 380.021, 380.06, 380.065, 380.07 FS. History—New 3-23-94, Amended 2-21-01,\_\_\_\_\_.

**DEPARTMENT OF REVENUE**

RULE CHAPTER TITLE: Refunds  
 RULE CHAPTER NO.: 12-26

RULE TITLES: Application for Refund 12-26.003  
 Public Use Forms 12-26.008

PURPOSE AND EFFECT: The purpose of the proposed amendments to Rule 12-26.003, F.A.C. (Application for Refund), is to: (1) change the application form used by the Department in the administration of refunds for taxes administered under the provisions of Chapter 212, F.S., from form DR-26 to form DR-26S, Application for Refund-Sales and Use Tax; (2) provide that refund applications filed under the provisions of s. 212.08(5)(q), F.S. (community contribution tax credit for donations), also require the completion of forms, as provided in Rule 12A-1.107, F.A.C.; (3) remove obsolete form DR-29, Refund of Cash Bond, which is no longer used by the Department; (4) correct the title of form DR-160 to Application for Fuel Tax Refund; (5) provide that form DR-309640, Application for Refund of Tax Paid on Undyed Diesel Consumed by Motor Coaches During Idle Time in Florida, will be used by the Department in the administration of fuel tax refunds pursuant to s. 206.8745(8), F.S.; (6) provide that form DR-309660, Application for Pollutant Tax, will be used by the Department in the administration of pollutant tax refunds pursuant to s. 206.9942, F.S.; and (7) correct technical references.

The purpose of the proposed amendments to Rule 12-26.008, F.A.C. (Public Use Forms), is to incorporate by reference forms used by the Department in the administration of tax refunds and to make necessary technical changes.

SUBJECT AREA TO BE ADDRESSED: The subject of this workshop is: (1) the proposed requirements to complete the forms required in Rule 12A-1.107, F.A.C., to obtain a community contribution tax credit for donations under s. 212.08(5)(q), F.S.; and (2) the proposed adoption of forms used by the Department in the administration of tax refunds.

SPECIFIC AUTHORITY: 213.06(1) FS.

LAW IMPLEMENTED: 95.091(3), 213.235, 213.255, 213.34, 213.345, 215.26 FS.

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

TIME AND DATE: 1:30 p.m., November 20, 2002

PLACE: Room 116, Larson Building, 200 E. Gaines Street, Tallahassee, Florida 32399-0100

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 Nancy Purvis, (850)488-0712. 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 PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT WORKSHOP IS: Janet L. Young, Tax Law Specialist, Technical Assistance and Dispute Resolution, Department of Revenue, P. O. Box 7443, Tallahassee, Florida 32314-7443, telephone (850)922-9407, e-mail: youngj@dor.state.fl.us

The Department's proposed rules are available on the Department's web site: <http://www.myflorida.com/dor/rules>.

THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS:

12-26.003 Application for Refund.

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

(b) Refund applications filed under the provisions of s. 212.08(5)(g), (h), (n), ~~(o)~~ and ~~(q)~~ ~~(e)~~, F.S. Florida Statutes, also require, in addition to the ~~DR-26 or~~ DR-26S required by paragraph (a) of this subsection, the forms and other documentation specified in Rule 12A-1.107, F.A.C., in order to be deemed completed applications.

(3) For purposes of this rule, Form DR-26, Application for Refund ~~from the State of Florida Department of Revenue~~, (incorporated by reference in Rule 12-26.008, F.A.C.), is the approved refund application for all taxes collected by the Department, except those taxes and fees administered pursuant to Chapter 212, F.S., and as otherwise specified in subsections subsection (4) and (5) of this rule. However, taxpayers applying for a refund of any taxes paid pursuant to Chapter 212, F.S., can also use Form DR-26S, Application for Refund-Sales and Use Tax; (incorporated by reference in Rule 12-26.008, F.A.C.), is the approved application for taxes and fees administered pursuant to Chapter 212, F.S. Beginning January 1, 2002, Form DR-26S must be used to apply for a refund of taxes paid pursuant to Chapter 212, F.S.

(4) Tax refunds requiring a refund application other than form Form DR-26 or form DR-26S are listed below:

(a) No change.

~~(b) Sales and Use Tax Form DR-29, Refund of Cash Bond (incorporated by reference in Rule 12A-1.097, F.A.C.), is required where a bonded contractor or dealer applies for a refund of a cash bond held by the Department.~~

~~(b)(e) Motor Fuel and Diesel Fuel (Forms incorporated by reference in Rule 12B-5.150, F.A.C.)~~

1. No change.

2. Form DR-160, Application for Fuel Tax Refund-Mass Transit System Users Tax Refund, is required where motor fuel or diesel fuel is used in the operation of a mass public transportation system, and the taxes specified in s. 206.41(4)(b), F.S., previously paid pursuant to ss. 206.41 and 206.87, F.S., is refundable.

3. through 5. No change.

6. Form DR-309640, Application for Refund of Tax Paid on Undyed Diesel Consumed by Motor Coaches During Idle Time in Florida, is required where undyed, tax-paid diesel fuel purchased in this state and consumed by the engine of a qualified motor coach during idle time for the purpose of running climate control systems and maintaining electrical systems for the motor coach pursuant to s. 206.8745(8), F.S. The taxes previously paid pursuant to s. 206.87, F.S., are refundable.

7. Form DR-309660, Application for Pollutant Tax, is required where a refund of specific taxes paid pursuant to s. 206.9935, F.S., are subject to refund pursuant to s. 206.9942, F.S.

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

~~(d)(e)~~ An amended Insurance Premium Tax. Form DR-908, Insurance Premium Taxes and Fees Tax Return (incorporated by reference in Rule subsection 12B-8.003(d), F.A.C., is required in all instances where insurance companies wish to file for a refund, except as provided in subsection (5).

~~(e)(f)~~ No change.

(5) Notwithstanding the provisions of subsection ~~(4)(3)~~, Form DR-26 may be used to apply for those refunds of corporate income tax or insurance premium tax which constitute:

(a) through (b) No change.

(6) through (8) No change.

Specific Authority 213.06(1) FS. Law Implemented 95.091(3), 213.235, 213.255, 213.34, 213.345, 215.26 FS. History—New 11-14-91, Amended 4-18-93, 4-18-95, 4-2-00, 10-4-01, \_\_\_\_\_.

12-26.008 Public Use Forms.

(1)(a) The following public use forms are used by the Department in the processing of refunds and refund denials and are hereby incorporated by reference.

(b) These forms are available, without cost, by one or more of the following methods: 1) writing the Florida Department of Revenue, Distribution Center, 168A Blountstown Highway, Tallahassee, Florida 32304; or, 2) faxing the 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, (800)367-8331.

Form Number	Title	Effective Date
<del>(2)</del> (1) DR-26	Application for Refund from the State of Florida Department of Revenue (R. _____ <del>11-09/99</del> )	_____ <del>10/01</del>
<del>(3)</del> (2) DR-370026	Mutual Agreement to Audit or Verify Refund Claim (R. 07/02 <del>11-02/00</del> )	_____
<del>(4)</del> (3) DR-26S	Application for Refund-Sales and Use Tax (R. _____ <del>11-11/00</del> )	_____ <del>10/01</del>

Specific Authority 213.06(1) FS. Law Implemented 213.34, 215.26 FS., ss. 2, 3, 4, 5, 6, 7, 40, Ch. 91-112, L.O.F. History—New 11-14-91, Amended 4-18-93, 10-4-01, \_\_\_\_\_.

**DEPARTMENT OF REVENUE**

**Sales and Use Tax**

<b>RULE CHAPTER TITLE:</b>	<b>RULE CHAPTER NO.:</b>
Sales and Use Tax	12A-1
<b>RULE TITLES:</b>	<b>RULE NOS.:</b>
Admissions	12A-1.005
Aircraft, Boats, Mobile Homes, and Motor Vehicles	12A-1.007
Refunds and Credits for Sales Tax Erroneously Paid	12A-1.014
Equipment Used to Deploy Internet Related Broadband Technologies in a Florida Network Access Point; Refund Procedures	12A-1.0141
Promotional Materials Exported from this State	12A-1.034
Sales to or by Contractors Who Repair, Alter, Improve and Construct Real Property	12A-1.051
Mail Order Sales	12A-1.103
<b>PURPOSE AND EFFECT:</b> The purpose of the proposed amendments to Rule 12A-1.005, F.A.C. (Admissions), is to provide guidelines for the sale of vacation packages consistent with the provisions of s. 212.04(1)(d), F.S., as amended by s. 4, Chapter 98-140, L.O.F.	
The purpose of the proposed amendments to the following rule sections is to change the refund application used by the Department in the administration of refunds for taxes administered under the provisions of Chapter 212, F.S., to form DR-26S, Application for Refund-Sales and Use Tax:	
Rule 12A-1.007, F.A.C., Aircraft, Boats, Mobile Homes, and Motor Vehicles	
Rule 12A-1.014, F.A.C., Refunds and Credits for Sales Tax Erroneously Paid	
Rule 12A-1.0141, F.A.C., Equipment Used to Deploy Internet Related Broadband Technologies in a Florida Network Access Point; Refund Procedures	
Rule 12A-1.034, F.A.C., Promotional Materials Exported from this State; and	
Rule 12A-1.103, F.A.C., Mail Order Sales.	

In addition to changing to the use of form DR-26S, and the refund requirements, the purpose of the proposed amendments to Rule 12A-1.007, F.A.C. (Aircraft, Boats, Mobile Homes, and Motor Vehicles), is to provide that the documentation listed in form DR-26S is required to be submitted to the Department to obtain a refund of tax pursuant to s. 681.104, F.S.

The purpose of the proposed amendments to Rule 12A-1.051, F.A.C. (Sales to or by Contractors Who Repair, Alter, Improve, and Construct Real Property), is to implement the provisions of s. 13, Chapter 2002-218, L.O.F., which removes the definition of the term “trade fixtures” from s. 212.06(14)(b), F.S.

In addition to changing to the use of form DR-26S and other refund requirements, the purpose of the proposed amendments to Rule 12A-1.103, F.A.C. (Mail Order Sales), is to: (1) revise the provisions for obtaining a refund of tax paid consistent with the provisions of Rule 12A-1.014, F.A.C.; (2) revise the definition of the terms “mail order sale” and “dealer” consistent with the provisions of s. 212.0596, F.S.; (3) remove provisions redundant of the provisions of s. 212.0596(2), F.S.; and (4) remove unnecessary examples of mail-order sales.

**SUBJECT AREA TO BE ADDRESSED:** The subject of this workshop is: (1) the proposed guidelines for the sale of vacation packages; (2) the proposed adoption of form DR-26S, Application for Refund-Sales and Use Tax, used by the Department in the administration of refunds of taxes administered under the provisions of Chapter 212, F.S.; (3) the proposed guidelines on how to obtain refunds consistent with the provisions of ss. 213.255(2) and (3), Rule 12-26.003, F.A.C., and Rule 12A-1.014, F.A.C.; and (4) the proposed revisions to forms used by the Department in the administration of the sales and use tax.

**SPECIFIC AUTHORITY:** 72.011, 212.05(1), 212.08(5)(p), 212.17(6), 212.18(2), 213.06(1), 213.21, 213.255(11) FS.

**LAW IMPLEMENTED:** 95.091, 212.02(1),(2),(4),(7),(10),(14),(15),(16),(19),(20),(21), 212.03, 212.04, 212.05, 212.0596, 212.06(1),(2),(4),(5),(7),(8),(10)-(12),(14),(15)(a), 212.0601, 212.07(1),(2),(7),(8), 212.08(5)(g),(i),(p),(6),(7),(10),(11),(15), 212.085, 212.12(1),(2),(6),(12), 212.14(5), 212.17(1), 212.18(3), 212.183, 212.20(4), 213.255(1),(2),(3), 213.35, 215.26(2), 616.260 FS.

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

**TIME AND DATE:** 1:30 p.m., November 20, 2002

**PLACE:** Room 116, Larson Building, 200 E. Gaines Street, Tallahassee, Florida 32399-0100

**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 Nancy Purvis, (850)488-0712. If you

are hearing-impaired or speech-impaired, please contact the Department by using the Florida Relay Service, which may be reached at 1(800)955-8770 (Voice) or 1(800)955-8771 (TDD). THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT WORKSHOP IS: Janet L. Young, Tax Law Specialist, Technical Assistance and Dispute Resolution, Department of Revenue, P. O. Box 7443, Tallahassee, Florida 32314-7443, telephone (850)922-9407, e-mail: youngj@dor.state.fl.us

The Department's proposed rules are available on the Department's web site: <http://www.myflorida.com/dor/rules>.

THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS:

12A-1.005 Admissions.

(1) through (5) No change.

(6) SALES OF VACATION PACKAGES.

~~(a) A dealer owes tax on purchases of any taxable components of a vacation package which he or she sells.~~

~~(a)(b) No tax is due on the sale of a vacation package by a travel agent if the components are not separately itemized and if applicable tax has been paid on the initial purchase of the taxable components.~~ For purposes of this subsection, a "vacation package" means a bundle consisting of two or more components, such as admissions, transient rentals, transportation, or meals. Coupon books, maps, or other incidental items, that are provided free of charge as part of a vacation ~~package package~~ are not considered "components" for purposes of this subsection.

(b) Tax is due on the purchase of taxable components of a vacation package at the time of purchase. No additional tax is due on the components that are incorporated into a vacation package and sold by a travel agent, when all of the following conditions are met:

1. The vacation package sold by the travel agent includes two or more components;

2. There is no separate itemization of the sales price of the package for the admission, transient rental, transportation, meal, or any other component of the vacation package; and

3. All components of the vacation package were purchased by the travel agent from other parties and any sales tax due on such purchases was paid at the time of purchase.

(c) A travel agent who ~~if a travel agent~~ itemizes the sales price of the taxable components of a vacation package and sells the taxable components for more than was paid for them, he or she must register with the Department as a dealer and collect and remit tax on the itemized taxable components, and may take a credit for taxes previously paid. (See Rule 12A-1.060, F.A.C., Registration). Travel agents who itemize the sales price of the taxable components of a vacation package are required to collect tax from the purchaser as follows:

1.(d) When ~~if~~ the itemized components are sold for the same amount or less than was paid for each of them, the travel agent is not required to ~~seller of the package shall not~~ collect any additional tax, ~~and shall not take credit for taxes previously paid.~~ No credit is allowed for tax paid on the purchase of the taxable components.

2. When the itemized components are sold for more than the purchase price of each component, the travel agent is required to collect tax on the sales price of the taxable components. The travel agent may take a credit of tax previously paid for the taxable components that are separately itemized at a sales price greater than the purchase price of the component.

(d)(e) When the seller of components of a vacation package and the purchasing travel agent are members of the same controlled group of corporations for federal income tax purposes and the amount charged for the component ~~if the actual price charged for the admission by the dealer to a travel agent, which is a member of the same controlled group of corporations as the dealer,~~ is an amount less than the price charged to unrelated travel agents under normal industry practices, ~~then~~ the related travel agent ~~is will~~ be required to itemize the sales price of the components of the package to the purchaser and his customer, collect tax on the itemized taxable components, ~~and may take a credit for taxes previously paid.~~ The travel agent may take a credit of tax previously paid for the taxable components.

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

12A-1.007 Aircraft, Boats, Mobile Homes, and Motor Vehicles.

(1) through (23) No change.

(24) Lemon Law.

(a) The following provisions shall apply when a manufacturer, pursuant to the provisions of s. 681.104, F.S., replaces or repurchases a motor vehicle:

1. No change.

2.a. When the manufacturer repurchases the motor vehicle, the Department of Revenue shall refund to the manufacturer any Florida sales tax that the manufacturer refunded to the consumer, lienholder, or lessor under the provisions of s. 681.104, F.S. To receive the refund, an Application for Refund-Sales and Use Tax (Form DR-26S, incorporated by reference in Rule 12-26.008, F.A.C.) must be filed by the manufacturer within 3 years after the date the tax was paid in accordance with the timing provisions of s. 215.26(2), F.S. ~~The manufacturer must also submit, with its application for refund, the following documentation: 1) a copy of the written agreement signed by the consumer, lienholder, or lessor under which the manufacturer refunded the Florida sales tax to the consumer, lienholder, or lessor; 2) a copy of the~~

~~original sales invoice made out by the seller which affirmatively demonstrates payment of Florida sales tax on the purchase of the motor vehicle for which the refund is being sought; and 3) written documentation that the manufacturer refunded the Florida sales tax to the consumer, lienholder, or lessor. An application for refund shall not be considered complete pursuant to s. 213.255(2) and (3), F.S., and Rule 12-26.003, F.A.C., and a refund shall not be approved before the manufacturer provides the required ~~such~~ documentation listed in form DR-26S regarding the reimbursement of tax previously paid on a vehicle purchased in Florida by a motor vehicle manufacturer when the manufacturer agrees to replace or repurchase the vehicle.~~

b. Form DR-26S, Application for Refund-Sales and Use Tax, must be filed with the Department for tax paid on or after October 1, 1994, and prior to July 1, 1999, within 5 years after the date the tax was paid.

c. Form DR-26S, Application for Refund-Sales and Use Tax, must be filed with the Department for tax paid on or after July 1, 1999, within 3 years after the date the tax was paid.

~~d.~~ No change.

(b) No change.

(25) through (29) No change.

Specific Authority 212.05(1), 212.17(6), 212.18(2), 213.06(1) FS. Law Implemented 212.02(2),(4),(10),(14),(15),(16),(19),(20), 212.03, 212.05(1), 212.06(1),(2),(4),(5),(7),(8),(10),(12), 212.0601, 212.07(2),(7), 212.08(5)(i), (7)(0),(aa),(ee),(10),(11), 212.12(2),(12), 213.255(1),(2),(3), 215.26(2) FS. History-Revised 10-7-68, 1-7-70, Amended 1-17-71, Revised 6-16-72, 8-18-73, 12-11-74, 6-9-76, Amended 2-21-77, 5-10-77, 9-26-77, 9-28-78, 3-16-80, 12-31-81, 7-20-82, 10-13-83, Formerly 12A-1.07, Amended 1-2-89, 12-11-89, 3-17-93, 10-17-94, 3-20-96, 4-2-00, 6-19-01,\_\_\_\_\_.

12A-1.014 Refunds and Credits for Sales Tax Erroneously Paid.

(1) through (4) No change.

(5)(a) Any dealer entitled to a refund of tax paid to the Department of Revenue may seek a refund by filing an Application for Refund-Sales and Use Tax (Form DR-26S, incorporated by reference in Rule 12-26.008, F.A.C.) with the Department. Form DR-26S, ~~Application for Refund~~, must be filed ~~within 3 years after the date the tax was paid~~ in accordance with the timing provisions of s. 215.26(2), F.S., and must meet the requirements of s. 213.255(2) and (3), F.S., and Rule 12-26.003, F.A.C.

1. Form DR-26S, Application for Refund-Sales and Use Tax, must be filed with the Department for tax paid on or after October 1, 1994, and prior to July 1, 1999, within 5 years after the date the tax was paid.

2. Form DR-26S, Application for Refund-Sales and Use Tax, must be filed with the Department for tax paid on or after July 1, 1999, within 3 years after the date the tax was paid.

(b) through (6) No change.

Specific Authority 212.17(6), 212.18(2), 213.06(1), 213.255(11) FS. Law Implemented 95.091, 212.12(6), 212.17(1), 213.255(1),(2),(3) 213.35, 215.26(2) FS. History-Revised 10-7-68, Amended 1-17-71, Revised 6-17-72, Amended 10-21-75, 9-28-78, 11-15-82, 10-13-83, Formerly 12A-1.14, Amended 6-10-87, 1-2-89, 8-10-92, 3-17-93, 1-3-96, 3-20-96, 6-19-01,\_\_\_\_\_.

12A-1.0141 Equipment Used to Deploy Internet Related Broadband Technologies in a Florida Network Access Point; Refund Procedures.

(1) through (2) No change.

(3) To obtain a refund of tax imposed and paid pursuant to Chapter 212, F.S., on eligible equipment, an Application for Refund-Sales and Use Tax (form DR-26S, incorporated by reference in Rule 12-26.008, F.A.C.) must be filed with the Department within 6 months after the eligible property is purchased. An application for refund ~~Application for Refund~~ shall not be considered complete pursuant to s. 213.255(2) and (3), F.S., and a refund shall not be approved until the applicant provides the following information and documentation to the Department and certifies that the provided information and documentation are true and correct:

(a) through (d) No change.

(4) through (5) No change.

Specific Authority 212.08(5)(p), 212.17(6), 212.18(2), 213.06(1) FS. Law Implemented 212.08(5)(p), 212.085, 213.255(1),(2),(3), 215.26(2) FS. History-New 6-19-01, Amended\_\_\_\_\_.

12A-1.034 Promotional Materials Exported from this State.

(1) through (5) No change.

(6) To receive a refund of tax paid to the Department for promotional materials, the dealer must file an Application for Refund-Sales and Use Tax (form DR-26S, incorporated by reference in Rule 12-26.008, F.A.C.) ~~within 3 years after the date the tax was paid~~ in accordance with the timing provisions of s. 215.26(2), F.S. However, an application for refund shall not be considered complete pursuant to s. 213.255(2) and (3), F.S., and a refund shall not be approved, before the date the promotional materials are exported from this state.

1. Form DR-26S, Application for Refund-Sales and Use Tax, must be filed with the Department for tax paid on or after October 1, 1994, and prior to July 1, 1999, within 5 years after the date the tax was paid.

2. Form DR-26S, Application for Refund-Sales and Use Tax, must be filed with the Department for tax paid on or after July 1, 1999, within 3 years after the date the tax was paid.

(a) through (b) No change.

Specific Authority 212.17(6), 212.18(2), 213.06(1) FS. Law Implemented 95.091, 212.02(4),(14),(16),(20), 212.06(11), 212.183(6), 213.255(1),(2),(3), 215.26(2) FS. History-Revised 10-7-68, 6-16-72, Formerly 12A-1.34, Amended 5-19-93, 11-16-93, 6-19-01,\_\_\_\_\_.

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

(1) No change.

(2) Definitions. For purposes of this rule, the following terms have the following meanings:

(a) through (b) No change.

(c)1. "Fixture" means an item that is an accessory to a building, other structure, or to land, that retains its separate identity upon installation, but that is permanently attached to the realty. Fixtures include such items as wired lighting, kitchen or bathroom sinks, furnaces, central air conditioning units, elevators or escalators, or built-in cabinets, counters, or lockers.

2. through 3. No change.

4. The term "fixture" does not include the following items, whether or not such items are attached to real property in a permanent manner:

~~a. Trade fixtures.~~

~~a.b. Titled property.~~

~~b.e. Machinery or equipment.~~

(d) through (i) No change.

~~(j) "Trade fixtures" means items that are attached to real property by the operator of a trade or business that occupies the premises and are useful solely in connection with or to facilitate that trade or business, rather than serving functions integral to general use of land or a building. For example, the operator of a bakery has a special glass display counter installed for displaying cookies and doughnuts. The counter would not be useful to a different type of retail business because of the shelving configuration and materials used. The counter is bolted to the floor. The counter is a trade fixture and not a fixture of the realty. If the bakery has a sign installed to identify the location by name of the business, that sign is a trade fixture. If the same bakery operator has built-in storage shelving installed in a supply room or overhead lighting installed in the shop area, those items are not trade fixtures because the shelving and lighting are equally functional for any subsequent user of the premises.~~

(3) through (16) No change.

(17) Specific activities classified as real property contracts. Contractors who are engaged in the following activities are generally considered to be real property contractors, although any particular job may be determined not to involve an improvement to real property:

(a) through (gg) No change.

~~(hh) Signs that are permanently attached to realty and are not excluded as trade fixtures;~~

(ii) through (19) No change.

Specific Authority 212.17(6), 212.18(2), 213.06(1) FS. Law Implemented 212.02(4),(7),(16),(19),(21), 212.06(1),(14),(15)(a), 212.07(1),(8), 212.08(6), 212.14(5), 212.183 FS. History—Revised 10-7-68, 1-7-70, 6-16-72, Amended 2-3-80, 3-27-80, 6-3-80, 8-26-81,11-15-82, 6-11-85, Formerly 12A-1.51, Amended 1-2-89, 8-10-92, 7-27-99, 3-30-00, 10-2-01(18), 10-2-01(5),(8), (9),(13),\_\_\_\_\_.

12A-1.103 Mail Order Sales.

~~(1) Every dealer, as defined in s. 212.06(2)(c), F.S., Effective October 1, 1987, every person who engages in the business of making mail order sales and who meets the requirements of s. 212.0596(2), F.S., is exercising a taxable privilege in this state and is required to collect tax, when:~~

~~(a) The dealer is a corporation doing business under the laws of this state or a person domiciled in, a resident of, or a citizen of this state; or~~

~~(b) The dealer maintains retail establishments or offices in this state, whether or not the mail order sales result from or are related in any other way to the activities of such establishments or offices; or~~

~~(c) The dealer has agents in this state who solicit business or transact business on behalf of the dealer, whether or not the mail order sales result from or are related in any other way to such solicitation or transaction of business; or~~

~~(d) The property was delivered in this state in fulfillment of a sales contract that was entered into in this state, in accordance with applicable conflict of laws rules, when a person in this state accepted an offer by ordering the property; or~~

~~(e) The dealer, by purposefully or systematically exploiting the market provided by this state by any media assisted, media facilitated, or media solicited means, including, but not limited to, direct mail advertising, unsolicited distribution of catalogues, computer-assisted shopping, television, radio or other electronic media, or magazine or newspaper advertisements or other media, radio or other electronic media, or magazine or newspaper advertisements of other media, creates nexus with this state; or~~

~~(f) Through compact or reciprocity with another jurisdiction of the United States which jurisdiction sues its taxing power and its jurisdiction over the retailer in support of this state's taxing power; or~~

~~(g) The dealer consents, expressly or by implication, to the imposition of the tax imposed by Chapter 212, F.S.~~

~~(2) Definitions. The following terms and phrases when used in this section shall have the meaning ascribed to them except where the context clearly indicates a different meaning:~~

~~(a) "Dealer" means every person who sells at retail, or has in his possession for sale at retail, or for use, consumption, or distribution, or for storage to be used or consumed in this state, tangible personal property, including a retailer who transacts a mail order sale.~~

~~(b) A "final adjudication" means a decision of a court of competent jurisdiction from which no appeal can be taken or from which the official or officials of this state with authority to make such decisions has or have decided not to appeal.~~

~~(2)(e) A "mail order sale" is a sale of tangible personal property, ordered by mail, computer-assisted shopping, media assisted, media facilitated, or media solicited, or other means of communication (including, but not limited to direct~~

mail advertising, unsolicited distribution of catalogues, television, radio or other electronic media, telephone, or magazine or newspaper advertising), to a purchaser who is in this state at the time the order is remitted, from a dealer who receives the order in another state of the United States, or in a commonwealth, territory, or other area under the jurisdiction of the United States, and transports the property or causes the property to be transported, whether or not by mail, from any jurisdiction of the United States, including this state, to a person in this state, including the person who ordered the property. For purposes of this definition, there is presumption that every person who is a resident of this state who remits an order was in this state when the order was remitted.

1. Example: A multi-state company has stores located in Florida and a mail order division located in New York. The mail order division receives a customer telephone order for merchandise to be delivered to a Florida residence. The mail order division ships the item to the Florida residence. This is a mail order sale subject to Florida sales tax. The New York mail order division is required to collect Florida sales tax. A purchaser, who is a resident of Florida, receives in the mail a catalogue of the seller, who resides in another state and whose business facilities are all located in that state. The purchaser orders tangible personal property advertised in the catalogue by completing an order blank furnished with the catalogue, attaching his or her personal check in the amount required for the purchase, and mails the order from within this state to the seller. The seller, by mail or other means of transportation, transmits the property to the purchaser in Florida. If any of the provisions of subsection (1) are applicable, this is a taxable mail order sale.

2. Example: A Florida resident, while in New York, places an order for merchandise with a New York store and requests that the store deliver the merchandise to his or her Florida residence. This is not a mail order sale because the order was placed in person at the out-of-state location. The provisions of s. 212.0596, F.S., for mail order sales are not applicable to this transaction. A purchaser, not a resident of Florida while outside this state, orders tangible personal property from a seller in another state to be sent to the purchaser's grandchild in Florida. This is not a "mail order sale", because the purchaser was not in Florida at the time the order was remitted.

3. Example: A Florida resident, while vacationing in another state, orders tangible personal property from a seller in another state, to be sent to the purchaser's home in Florida. Since the purchaser is a Florida resident, he or she is presumed to have been in Florida at the time the order was remitted. If this presumption is rebutted, this would not be a taxable "mail order sale."

(3) through (5) No change.

(6) Refund of taxes on mail order sales.

(a) When there has been a final adjudication, that any tax upon a mail order sales transaction was levied, collected, or both, contrary to the Constitution of the United States, or to the Constitution of Florida, or to ~~of~~ both, the Department will, ~~in accordance with paragraph (b)~~, refund the amount of tax to the person who paid the tax. A "final adjudication" means a decision of a court of competent jurisdiction from which no appeal can be taken or from which the official or officials of this state with authority to make such decisions has or have decided not to appeal.

(b) To receive a refund of tax, the person who paid the tax must file an Application for Refund-Sales and Use Tax from the State of Florida (DR-26S), incorporated by reference in Rule 12-26.008, F.A.C.), as provided in Rule 12A-1.014, F.A.C. Applications for Refund (DR-26) are available by: 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 at the address shown inside the parentheses (<http://sun6.dms.state.fl.us/dor/revenue.html>). Persons with hearing or speech impairments may call the Department's TDD at 1(800)367-8331. In addition to the Application for Refund, every person claiming a refund of tax shall submit to the Department in conjunction with the Application for Refund, the following:

1. A description of the tangible personal property purchased;
2. The date on which the purchase was made;
3. The purchase price of said item(s);
4. The amount of Florida sales tax paid for said item(s);
5. The name of the seller from which the purchase of the tangible personal property was made;
6. The cite of the court decision or decisions upon which the claim for refund is based;
7. A copy of the sales invoice made out by the seller of the tangible personal property; and
8. Any other information that is required by the Department in order to verify the authenticity of the refund application. The Department may refuse to grant a refund if the Application for Refund is incomplete or fails to contain the full information required in this paragraph.

(c) Upon formal approval of a complete Application for Refund the Department shall certify to the Comptroller such information necessary for issuance of a refund directly to the person entitled to the refund.

Cross Reference: Rule 12A-15.003, F.A.C.

Specific Authority 212.17(6), 212.18(2), 213.06(1) FS. Law Implemented 212.02(14),(21), 212.05, 212.0596, 212.06(2),(5), 212.12(1), 212.18(3), 212.20(4), 215.26(2) FS. History—New 12-8-87, Amended 8-10-92,\_\_\_\_\_.

**DEPARTMENT OF REVENUE**

**Sales and Use Tax**

RULE CHAPTER TITLE:	RULE CHAPTER NO.:
Sales and Use Tax	12A-1
RULE TITLES:	RULE NOS.:
Sales and Use Tax on Services;	
Sale for Resale	12A-1.0161
Tax Due at Time of Sale; Tax Returns	
and Regulations	12A-1.056
Waiver of Electronic Data Interchange Sales	
and Use Tax Return Filing Requirements	12A-1.0565
Registration	12A-1.060
Public Use Forms	12A-1.097

**PURPOSE AND EFFECT:** The purpose of the proposed amendments to Rule 12A-1.0161, F.A.C. (Sales and Use Tax on Services; Sale for Resale), is to: (1) change the title of form DR-15MO to “Out-of-State Purchases Return”; (2) remove the redundancy of the due dates for filing form DR-15MO that are provided in Rule 12A-1.091, F.A.C.; (3) remove provisions regarding the imposition of the discretionary sales surtax on services that are provided in Rule 12A-15.003, F.A.C.; and (4) remove provisions regarding the payment of tax that are redundant of s. 212.06(2)(g) and (7), and s. 212.07(8), F.S.

The purpose of the proposed amendments to Rule 12A-1.056, F.A.C. (Tax Due at Time of Sale; Tax Returns and Regulations) is to: (1) provide that payment of tax required to be made by electronic means, returns for taxes required to be submitted by electronic means, and returns when no tax is due must be submitted to the Department as provided in Rule Chapter 12-24, F.A.C.; (2) provide that the motor vehicle warranty fee is not to be included in the computation of estimated tax due; (3) remove the unnecessary recitation of statutory provisions for the late filing of returns and penalties imposed for failure to file a return or remit tax due; (4) clarify that failure to secure a return does not relieve the dealer of any tax liability or a filing requirement; and (5) clarify that the Department is not authorized to extend the time for any dealer to file a return or remit any tax due.

The purpose of the proposed repeal of Rule 12A-1.0565, F.A.C. (Waiver of Electronic Data Interchange Sales and Use Tax Return Filing Requirements), is to remove provisions for requesting a waiver from electronic filing that are provided in Rule Chapter 12-24, F.A.C.

The purpose of the proposed amendments to Rule 12A-1.060, F.A.C. (Registration), is to: (1) reorganize the rule for easier reading of the guidelines for registration with the Department; (2) provide guidelines for persons required to register with the department for purposes of sales and use tax and the methods by which persons may register; (3) clarify guidelines for

registration of each place of business for use as transient accommodations; (4) clarify provisions for exhibitors who are required to register for purposes of sales and use tax; and (5) consolidate the provisions for penalties imposed for failure or refusal to register into one subsection of the proposed rule.

The purpose of the proposed amendments to Rule 12A-1.097, F.A.C. (Public Use Forms), is to adopt changes to forms used by the Department in the administration of the sales and use tax.

**SUBJECT AREA TO BE ADDRESSED:** The subject of this workshop is: (1) the proposed registration requirements for registering with the Department for purposes of sales and use tax and the methods made available by the Department; (2) the proposed repeal of provisions regarding reporting and paying tax by electronic means that are provided in Rule Chapter 12-24, F.A.C.; (3) the proposed adoption of changes to forms used by the Department in the administration of the sales and use tax; and (4) the proposed removal of the unnecessary recitation of statutory provisions.

**SPECIFIC AUTHORITY:** 212.17(6), 212.18(2), 213.06(1) FS.  
**LAW IMPLEMENTED:** 125.0104(3)(g), 125.0108(2)(a), 212.02(14),(21), 212.03(1),(2), 212.0305(3)(c), 212.031(3), 212.04(3),(4), 212.05, 212.0506(4),(11), 212.055, 212.0596, 212.06(1)(a),(2),(5), 212.0606, 212.07(1)(b), 212.08(5)(f),(g), (h),(n),(o),(7)(v),(15), 212.096, 212.11, 212.12(1)-(6), 212.14(2), 212.15(1), 212.16(1),(2), 212.17(1),(6), 212.18(2),(3), 212.20(4), 213.755, 215.26(2), 288.1258, 376.30, 403.718, 403.7185, 681.117 FS.

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

**TIME AND DATE:** 1:30 p.m., November 20, 2002  
**PLACE:** Room 116, Larson Building, 200 E. Gaines Street, Tallahassee, Florida 32399-0100

**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 Nancy Purvis, (850)488-0712. If you are hearing-impaired or speech-impaired, please contact the Department by using the Florida Relay Service, which may be reached at 1(800)955-8770 (Voice) or 1(800)955-8771 (TDD).

The Department’s proposed rules are available on the Department’s web site: <http://www.myflorida.com/dor/rules>.

**THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT WORKSHOP IS:** Janet L. Young, Tax Law Specialist, Technical Assistance and Dispute Resolution, Department of Revenue, P. O. Box 7443, Tallahassee, Florida 32314-7443, telephone (850)922-9407, e-mail: [youngj@dor.state.fl.us](mailto:youngj@dor.state.fl.us)



THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS:

12A-1.0161 Sales and Use Tax on Services; Sale for Resale.

(1) through (7) No change.

~~(8) The local option sales surtaxes authorized by ss. 212.054 and 212.055, F.S., apply to sales or use of the services enumerated in this rule on or after January 1, 1994.~~

~~(9) The provisions of the Florida Sales and use Tax shall not apply to the use of a service in this state upon which a like tax equal to or greater than the amount due this state has been lawfully imposed and paid in another state, territory of the United States, or the District of Columbia before use tax payable to this state would otherwise have become due. If the amount of tax so lawfully imposed and paid in another state, territory of the United States, or the District of Columbia is not equal to or greater than the amount of tax imposed by Chapter 212, F.S., then the person from whom the use tax is due shall pay to the Department of Revenue an amount sufficient to make the tax paid in the other state, territory of the United States, or the District of Columbia and in this state equal to the amount imposed by Chapter 212, F.S.~~

~~(10) Every dealer who solicits business, either by direct representatives, indirect representatives, or agents and by reason thereof receives orders for services in this state, shall collect the tax from the purchaser, and no action either in law or in equity on a sale or transaction as provided by the terms of Chapter 212, F.S., may be had in this state by any such dealer unless it is affirmatively shown that the provisions of the law have been fully complied with.~~

~~(11) Any person who has purchased at retail or used taxable services, and cannot prove that the tax levied by Chapter 212, F.S., has been paid to the selling vendor or lessor shall be directly liable to the state for any tax, interest, or penalty due on any such taxable transactions.~~

~~(8)(12)(a) Any person, whether registered or unregistered, who has purchased services either in this state or from out-of-state for use in this state without having paid sales tax on such services if subject to tax, is required to remit use tax on the cost price of such service. If such person is registered, use tax is to be remitted with the dealer's sales and use tax return. If such person is unregistered, use tax is to be remitted on Form DR-15MO, Out-of-State Purchase DR-15-MO, Mail Order/Use Tax Return (incorporated by reference in Rule 12A-1.097, F.A.C.), on or before the 20th day of the first month after the end of the calendar quarter during which any such service was invoice by the seller. In those cases where the 20th day falls on Saturday, Sunday, or a federal holiday, payments accompanied with returns shall be accepted as timely if postmarked or delivered to the Department of Revenue on the next succeeding day which is not a Saturday, Sunday, or legal holiday. For this purpose, a legal holiday shall mean a holiday which is observed by federal or state agencies as a~~

legal holiday as this term is defined in Ch. 683, F.S., and Sec. 7503 of the Internal Revenue Code. Also, where the tax is required to be remitted by electronic funds transfer and the tax due date falls on a Saturday, a Sunday, or a legal holiday as defined in s. 655.89, F.S., or on a legal holiday of the jurisdiction in which the taxpayer's financial institution is located, the deposit by electronic funds transfer is required on or before the first banking day thereafter. For the purposes of these rules, "banking day" has the meaning prescribed in s. 655.89, F.S.

~~(b) Any person required to file and remit use tax on Form DR-15MO, Mail Order/Use Tax Return, is not considered, by virtue of that fact alone, as "engaged in or conducting business in this state as a dealer," within the meaning of section 212.18(3), F.S., and is not required to file an application for a certificate of registration.~~

~~(c) Any person required to file and remit use tax on Form DR-15MO, Mail Order/Use Tax Return, is not entitled to a collection allowance on account of keeping required records and accounting and remitting of taxes required.~~

Specific Authority 212.17(6), 212.18(2), 213.06(1) FS. Law Implemented 212.05(1)(b),(j), ~~212.054, 212.055, 212.0596(7), 212.06(1)(a),(2)(k), 212.07(1)(b),(8), 212.08(7)(v) FS. History—New 5-13-93, Amended 1-4-94, 10-17-94, 3-20-96, 4-2-00, 10-2-01, \_\_\_\_\_.~~

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

(1)(a) The total amount of tax on cash sales, credit sales, installment sales, or sales made on any kind of deferred payment plan shall be due at the moment of the transaction. Except as provided in Rule Chapter 12-24, F.A.C., Rules 12A-1.005 ~~and~~; 12A-1.070, F.A.C., and this rule, all taxes required under Chapter 212, F.S., to be collected or paid in any month by ~~Chapter 212, F.S.~~, are due to the Department of Revenue on the first day of the month following the date of sale or transaction. The payment and return must be delivered to either reach the office of the Department of Revenue or be postmarked on or before the 20th day of the month following the date of sale or transaction for a dealer to be entitled to the collection allowance and to avoid penalty and interest for late filing. ~~If When~~ the 20th day falls on Saturday, Sunday, or a legal holiday, payments accompanied by returns will be accepted as timely if postmarked or delivered to the Department of Revenue on the next succeeding day which is not a Saturday, Sunday, or legal holiday. For purposes of this rule, a legal holiday means a holiday that is observed by federal or state agencies as a legal holiday as this term is defined in Ch. 683, F.S., and s. See: 7503 of the Internal Revenue Code of 1986, as amended. A "legal holiday" pursuant to s. Section 7503 of the ~~1986~~ Internal Revenue Code of 1986, as amended, means a legal holiday in the District of Columbia or a statewide ~~Statewide~~ legal holiday at a location outside the District of Columbia but within an internal revenue district.

(b) through (c) No change.

(d) Payments and returns for reporting tax must be submitted to the Department, as provided in Rule Chapter 12-24, F.A.C., when:

1. Payment of the tax is required to be made by electronic means:

2. Any return for reporting taxes is required to be submitted by electronic means; or

3. No tax is due with a return for reporting taxes.

(2) No change.

(3) The state fiscal year covers the period from July 1 of one calendar year through June 30 of the following calendar year.

(3)(4) The following are not required to be included in computing the estimated tax liability due and payable:

(a) through (c) No change.

(d) The motor vehicle warranty fee levied under the authority of s. 681.117, F.S.

(5) through (6) renumbered (4) through (5) No change.

(7) A tax return on forms provided by the Department of Revenue shall be filed on or before the 20th day following the end of the period for which the return is filed, whether or not any taxes are due, by all persons required to file returns. For example, for a dealer who files on a monthly basis, the January return shall be filed on or before the 20th day of February; whereas a dealer who files on a quarterly basis shall file the January through March return on or before the 20th of April. The failure of any dealer to secure such forms shall not relieve the dealer from payment of said tax at the time and in the manner provided. Tax returns shall be filed and taxes paid to the Department of Revenue at Tallahassee or to designated offices of the Department throughout the state.

(6)(8) The failure of any dealer to secure a tax return for reporting tax due does not relieve the dealer from the requirement to file a return or to remit tax due to the Department. The Department Executive Director or the Executive Director's designee is not authorized to extend the time for any dealer under Chapter 212, F.S., to file make any return or pay any tax due or fee. Any dealer or other person who fails to make a return and pay the tax or fee due, on or before the due date, is liable for penalties, interest, and loss of collection allowance, regardless of any particular problems encountered in assembling the necessary data for filing a return and paying the tax.

(9)(a) In the event any dealer other person required to do so fails to make a report and pay the tax, or any person receiving rentals, or any dealer, owner, or person required to report fails to make a report, or makes a grossly incorrect report, or makes a report that is false or fraudulent, or fails or refuses to make his records available for inspection, the Executive Director or the Executive Director's designee in Compliance Enforcement shall make an assessment from an estimate for the taxable period and shall proceed to collect such

~~taxes on the basis of such assessment which shall be considered prima facie correct, and the burden to show the contrary shall rest upon the person charged with the responsibility of filing the report.~~

(10) through (11) renumbered (7) through (8) No change.

Specific Authority 212.17(6), 212.18(2), 213.06(1) FS. Law Implemented 125.0104(3)(g), 125.0108(2)(a), 212.03(2), 212.0305(3)(c), ~~(d)~~, 212.031(3), 212.04(3), (4), ~~(5)~~, 212.0506(4), ~~(11), (40), 212.054(4)~~, 212.055, 212.061(a), 212.0606, 212.11, 212.12(1), (2), (3), (4), (5), 212.14(2), 212.15(1), ~~213-235-213-29~~, 213.755, ~~376.70, 215.01, 376.11~~, 403.718, 403.7185, ~~681.117~~ FS. History—Revised 10-7-68, 6-16-72, Amended 10-21-75, 6-9-76, 11-8-76, 2-21-77, 4-2-78, 10-18-78, 12-23-80, 8-26-81, 9-24-81, 11-23-83, 5-28-85, Formerly 12A-1.56, Amended 3-12-86, 1-2-89, 12-19-89, 12-7-92, 10-20-93, 10-17-94, 3-20-96, 4-2-00, 6-19-01, \_\_\_\_\_.

12A-1.0565 Waiver of Electronic Data Interchange Sales and Use Tax Return Filing Requirements.

Specific Authority 212.18(2), 213.06(1) FS. Law Implemented 212.11(1)(f) FS. History—New 12-6-98, Amended 6-19-01, Repealed \_\_\_\_\_.

12A-1.060 Registration.

(1) PERSONS REQUIRED TO REGISTER AS DEALERS.

(a) ~~1. Every~~ Except as provided in paragraphs (f), (g), or (h), every person desiring to engage in or conduct any one of the following businesses in this state as a "dealer" must register file an Application to Collect and/or Report Tax in Florida (form DR-1, incorporated by reference in Rule 12A-1.097, F.A.C.) with the Department of Revenue and obtain for a separate certificate of registration for each place of business dealer's certificate of registration before engaging in any one of the following businesses:

1. ~~a.~~ Sale of admissions or making of any charge for admission to any place of amusement, sport, or recreation or where there is any exhibition or entertainment subject to tax under s. 212.04, F.S.;

2. ~~b.~~ Sale, lease, let, rental, or granting a license to use tangible personal property subject to tax under Chapter 212, F.S.;

3. Repairs or alterations of tangible personal property subject to tax under Chapter 212, F.S.;

4. Sales of electric power or energy subject to tax under s. 212.05(1)(e), F.S.;

5. Sales of services subject to tax under s. 212.05(1)(i), F.S.;

6. Sales of prepaid calling arrangements subject to tax under s. 212.05(1)(e), F.S.;

7. Operation of coin-operated amusement machines subject to tax under s. 212.05(1)(h), F.S.;

8. Operation of coin-operated vending machines subject to tax under s. 212.0515, F.S.;

9. ~~e.~~ Lease, let, rental, rental, or granting licenses to use any living quarters or sleeping or housekeeping accommodations subject to the transient rental tax imposed under s. 212.03, F.S. for transient accommodations, as defined in Rule 12A-1.061, F.A.C.;

~~10.d.~~ Lease, let, rental, or granting a license in real property;

~~11.e.~~ Lease or rental of parking or storage space for motor vehicles in parking lots or garages;

~~12.f.~~ Lease or rental of docking or storage space in boat docks or marinas;

~~13.g.~~ Lease or rental of tie-down or storage space for aircraft; ~~or~~

~~14. Soliciting, offering, providing, entering into, issuing, or delivering any service warranty subject to tax under s. 212.0506, F.S.; or~~

~~15. Engaging in any trade or business, as provided in s. 212.0501, F.S.;~~

~~h. Sales of taxable services:~~

~~(b)1. For purposes of this rule, a "dealer" means a dealer, as defined in s. 212.06(2), F.S., and a dealer who makes mail order sales, as provided in s. 212.0596, F.S.~~

~~2. The term "dealer" does not include a "nonresident print purchaser." A "nonresident print purchaser" is any person whose only owned or leased property in this state, including property owned or leased by an affiliate, is located at the premises of a printer with which the purchaser has contracted for printing. The property for which the purchaser has contracted for printing must be the final printed product or property from which the printed product is produced. Nonresident print purchasers are not required to register as dealers. For guidelines regarding sales made to nonresident print purchasers, see subsection (5) of Rule 12A-1.027, F.A.C.~~

~~(c) The Department will NOT issue a Certificate of Registration for the purpose of sales and use tax to any out-of-state applicant who requests a certificate for the sole purpose of making tax-exempt purchases of items for resale outside this state when:~~

~~1. The applicant has no permanent, licensed place of business in this state; and~~

~~2. The applicant does not make retail sales within this state.~~

~~2. A separate application must be filed to obtain a separate dealer's certificate of registration for each place of business. Each application must be accompanied by a \$5 registration fee, except as provided in subparagraphs 4. or 5.~~

~~(d)3. For purposes of this rules, a "place of business" is a location where a dealer engages in an activity or activities described in this subsection subparagraph 1. A place of business includes the entire contiguous area in which the dealer carries on an activity or activities that require registration. A dealer that engages in more than one activity requiring registration within a contiguous area generally is required to obtain only one registration certificate for that location. The Department department will, however, treat areas within a single contiguous location as separate places of business and require a dealer to obtain separate registration certificates if the activities carried on in those areas are subject to taxation under~~

different provisions of Chapter 212, F.S., the activities are not functionally related, and the efficient administration of the taxes imposed by Chapter 212, F.S., is facilitated by multiple registrations. The Department department will permit a dealer to obtain separate registrations for activities carried on at a single contiguous location at the dealer's request if the dealer keeps separate financial records for the activities and the activities are not functionally related. Under no circumstances will a dealer be subject to more than one penalty for failure or refusal to obtain a registration certificate for a single contiguous location, even if the dealer could be required or permitted to obtain separate registration certificates for multiple activities carried on at the location. The following examples illustrate the application of this rule in determining whether more than one place of business exists at a single contiguous location.

~~a. through g. renumbered 1. through 7. No change.~~

~~4. The Department is authorized to impose a \$100 registration fee for each place of business in lieu of the \$5 registration fee for the failure or refusal of any person to file an Application to Collect and/or Report Tax in Florida (form DR-1) prior to engaging in or conducting business in this state as hereinbefore provided in subparagraph 1. Persons who have failed or refused to register are those that the Department seeks to register as a result of information supplied by an informant under s. 213.30, F.S., or as a result of enforcement programs administered by the Department. In making the determination as to whether the \$100 registration fee shall be required in lieu of the \$5 registration fee, the Executive Director or the Executive Director's designee in the responsible process shall consider and be guided by:~~

~~a. The prior history, if any, of the applicant's compliance or noncompliance with the revenue laws administered by the Department of Revenue pursuant to s. 213.05, F.S.;~~

~~b. The applicant's ability to demonstrate the exercise of ordinary care and prudence through facts and circumstances presented to the Department indicating that a diligent attempt to meet the registration requirements of the law was made. An applicant with limited business knowledge, limited education, or limited experience with Florida tax matters may establish a basis for the existence of reasonable cause when there is reasonable doubt as to whether or not the applicant is required to register;~~

~~e. Reliance upon the erroneous advice of a competent advisor that the applicant did not meet the State's registration requirements. To establish a reasonable cause for noncompliance with the registration requirements, the applicant must demonstrate that advice was sought in a timely manner from the competent advisor, all necessary information was provided to the competent advisor, and that the applicant acted in good faith on the information received from the competent advisor;~~

d. ~~The applicant's ability to demonstrate that he relied upon another person to comply with the State's registration requirements on his behalf;~~

e. ~~Whether the applicant, his agent, or employee can demonstrate that he exercised ordinary care and prudence in meeting the registration requirements once he had actual or constructive knowledge of such requirements.~~

5. ~~No registration fee is required to accompany any application to engage in or conduct business or to make mail order sales. Additionally, no registration fee is required to accompany any application for out-of-state dealers who have no business location in Florida.~~

(2) HOW TO REGISTER AS A DEALER.

(a) Registration with the Department for the purposes of sales and use tax is available by using one of the following methods:

1. Registering through the Department's Internet site at the address shown in the parentheses (<http://www.myflorida.com/dor/>) using the Department's "e-Services" without payment of a registration fee; or

2. Filing an Application to Collect and/or Report Tax in Florida (form DR-1, incorporated by reference in Rule 12A-1.097, F.A.C.) with the Department, as indicated on the registration form, with the required \$5 registration fee.

(b) A separate application is required for each place of business.

(c) Each application submitted to the Department must contain sufficient information to facilitate the processing of the application.

(3) REGISTRATION OF TRANSIENT ACCOMMODATIONS.

(a) For purpose of this rule, a "transient accommodation" shall have the same meaning as that term is defined in paragraph (2)(f) of Rule 12A-1.061, F.A.C.

(b)1. Any person exercising a taxable privilege of engaging in the business of renting, leasing, letting, or granting licenses to others to use transient accommodations is required to register as a dealer and obtain a separate dealer's certificate of registration for each place of business where transient accommodations are provided. Owners of transient accommodations, as defined in Rule 12A-1.061, F.A.C., including owners of time shares whose time shares are not registered under the provisions of subparagraph 2. must file an Application to Collect and/or Report Tax in Florida (form DR-1) with the Department of Revenue for a separate dealer's certificate of registration for each property or time share period rented, leased, let, or in which a license to use has been granted to others, except as provided in paragraph (c).

2. The agent, representative, or management company for a time-share resort which rents, leases, lets, or grants licenses to others to use time-share periods under written agreement(s) with time-share period owners is presumed to be the dealer who is required to be registered register under the provisions of

~~subparagraph 1., above. The agent, representative, or management company may collectively register the all such time-share units under the provisions of paragraph (c), even if the agent, representative, or management company may not rent, lease, let, or grant licenses to use to the transient public for each and every time-share period at such resort.~~

(c)1. Any person who exclusively enters into a bona fide written lease, as provided in subsection (15) of Rule 12A-1.061, F.A.C., for continuous residence for periods longer than six months to lease, let, rent, or grant a license to others to use, occupy, or enter upon any transient accommodation is NOT required to register with the Department.

2. Any transient accommodation that is leased under the terms of a bona fide written agreement for continuous residence for longer than six months in duration is NOT required to be registered with the Department by the owner or the owner's representative.

~~(d)(e)1. Any agent, representative, or management company may collectively register transient accommodations, as defined in Rule 12A-1.061, F.A.C., including timeshare units, that are rented, leased, let, or for which a license to use has been granted to others for periods six months or less under the following conditions:~~

1.a. The agent, representative, or management company holds a valid has obtained a dealer's certificate of registration for each place of business certificate of registration as provided in subparagraph (a)1., above;

2.b. The agent, representative, or management company is authorized by means of a written agreement with the property owner to collect rental charges or room rates due on any transient accommodations, as defined in Rule 12A-1.061, F.A.C.; and

3.e. The written agreement contains the following provisions acknowledged by the property owner:

a.f. The property owner is ultimately liable for any sales tax due the State of Florida on rentals, leases, lets, or licenses to use the owner's property; and

b.h. In the event that the State is unable to collect any taxes, penalties, and interest due from the rental, lease, let, or license to use the owner's property, a warrant for such uncollected amount will be issued and will become a lien against the owner's property until satisfied.

~~(e)1.2. To The agent, representative, or management company may collectively register transient accommodations properties described in subparagraph 1., above, that are located in a single county, the agent, representative, or management company holding a dealer's certificate of registration may file by filing an Application for Collective Registration for Rental of Living or Sleeping Accommodations (form DR-1C) for each county. A separate form DR-1C is required for each county.~~

3. through 4. renumbered 2. through 3. No change.

~~4.5: In lieu of completing all required information on form Form DR-1C for each unregistered property or time-share unit, all the information required for each property or time-share unit may be submitted to the Department in a schedule attached to the completed "Agent's Sales Tax Registration Information" section of form Form DR-1C, containing the agent or management company's name, mailing address, federal identification number (if applicable), and sales tax registration number. The schedule must contain all the required information listed in subparagraph 2. or 3., as applicable, so that the processing of the information may be accomplished by the Division of Tax Processing.~~

~~5.6: A \$5 registration fee, except as provided in subparagraph (1)(a)2. of this rule, must accompany form DR-1C the application for each transient accommodation such property or time-share unit that which is not currently registered with the Department. A certificate of registration Sales and Use Tax Certificate of Registration (Form DR-11) will be issued to the property owner for each property that is not a time-share unit other than time-share units and mailed to the agent's address. For time-share units, a certificate of registration will be issued and mailed to the agent or management company. See Rule 12A-1.061(16), F.A.C.~~

~~7. When any agent or management company which has registered any property with the Department under the provisions of subparagraphs 1. and 2., or 1. and 3., enters into additional written agreements with owners of properties or time-share units authorizing the licensed dealer to collect the rental, lease, or license payments as agent for the property owner after filing the initial Form DR-1C (or schedule) with the Department, the agent or management company may file an additional form DR-1C (or schedule) to collectively register any additional such property or time-share unit which is rented, leased, let, or in which a license to use has been granted to others. Each additional Form DR-1C (or schedule) must contain the information required in subparagraph 2. or 3., as applicable; the agent or management company's name, mailing address, federal identification number (if applicable), and sales tax registration number; and must be accompanied by a \$5 registration fee, except as provided in subparagraph (1)(a)2. of this rule, for each property or each time-share unit which is not currently registered with the Department.~~

~~(d) The Department will issue a separate Sales and Use Tax Certificate of Registration (form DR-11) for each place of business for which it receives an application for registration. Engaging in a business listed in paragraph (a) of this subsection without first obtaining a Sales and Use Tax Certificate of Registration or after such certificate has been canceled by the Executive Director or the Executive Director's designee is prohibited. The failure or refusal of any person to register as a dealer is a misdemeanor of the first degree, punishable as provided in s. 775.082, F.S., or s. 775.083, F.S., or subject to injunctive proceeding as provided by law.~~

#### (4) REGISTRATION OF EXHIBITORS.

~~(a)(e)4. For purposes of this rule, the following definitions are provided As used in this paragraph:~~

~~1.a. An "exhibitor" means a person who enters into a written agreement authorizing the display by that person of tangible personal property or services at a convention or trade show.~~

~~2.b. A "trade show or convention" is a meeting of limited duration of individuals with organizational ties or similar interests, one of the purposes of which is the displaying of products or services or sharing information on them, without a major purpose of making retail sales of tangible personal property.~~

~~3.e. A "sale" is as defined in s. 212.02(15), F.S. subsection (16) of section 212.02, Florida Statutes.~~

~~4.d. A "retail sale" is as defined in s. 212.02(14), F.S. subsection (15) of section 212.02, Florida Statutes.~~

~~2. An exhibitor is **not** required to register as a dealer if the agreement provides that the exhibitor shall make only wholesale sales, provided the exhibitor receives from each purchaser a copy of its Annual Resale Certificate. If an exhibitor fails to comply with these conditions, the exhibitor is required to register as a dealer if the exhibitor is a dealer with the definition of "dealer," as provided in s. 212.06(2), F.S.~~

~~3. An exhibitor is **not** required to register as a dealer if the agreement prohibits the sale of tangible personal property or services that are subject to this state's sales or use tax.~~

~~(b) Any person who displays tangible personal property or services at a convention or trade show is required to register as a dealer and collect and remit tax on any taxable sales made in this state, whether the sales were made before, during, or after the convention or trade show, and whether or not the sales resulted from the activities at the convention or trade show when:~~

~~1.4. The written An exhibitor is required to register as a dealer if the agreement authorizes an the exhibitor to make retail sales in this state of taxable tangible personal property or services;~~

~~2.5. The written An exhibitor is required to register as a dealer if the agreement authorizes an the exhibitor to make mail order sales, pursuant to s. 212.0596, F.S.; or~~

~~3. The person is a dealer, as defined in s. 212.06(2), F.S., who displays tangible personal property or services at a convention or trade show without a written agreement as an exhibitor.~~

~~(d) An exhibitor who does not carry on any other activity in Florida that requires registration is NOT required to register as a dealer to collect sales tax when:~~

~~1. The written agreement prohibits the sale of taxable tangible personal property or taxable services; or~~

~~2. The written agreement provides that the exhibitor shall only make sales for the purposes of resale and the exhibitor obtains a copy of the purchaser's Annual Resale Certificate, as provided in Rule 12A-1.039, F.A.C.~~

~~6. Any person is required to register as a dealer if the person displays at a convention or trade show tangible personal property or services subject to this state's sales or use tax without a written agreement, if such person is a dealer with the definition of "dealer" in subsection (2) of section 212.06, F.S.~~

~~7. Any exhibitor or person required to register as a dealer is required to collect and remit sales tax on any taxable sales made in this state, whether the sales were made before, during, or after the convention or trade show, and whether the sales resulted from the activities at the convention or trade show.~~

~~8. Any person who conducts a convention or trade show is required to maintain and preserve copies of agreements as long as is required by s. 213.35, F.S., and to make agreements available, upon request, to the Department of Revenue for inspection and copying.~~

~~9. Each exhibitor is required to secure, maintain, and preserve as long as required by s. 213.35, F.S., a record of tangible personal property or services sold in this state, whether by retail sales or by wholesale sale, including, but not limited to, resale certificates, sales invoices, and related supporting documents, in accordance with generally accepted accounting standards.~~

~~(f) A person who is not a "dealer" under the provisions of paragraph (a) and whose only owned or leased property (including property owned or leased by an affiliate) in this state is located at the premises of a printer with which it has contracted for printing, if such property consists of the final printed product, or property from which the printed product is produced, is not required to obtain a dealer's certificate of registration from the Department. See Rule 12A-1.027, F.A.C.~~

~~(g)1. Any person who exclusively enters into a bona fide written agreement for continuous residence for longer than six months in duration to lease, let, rent, or grant a license to others to use, occupy, or enter upon any living quarter or sleeping or housekeeping accommodation in apartment houses (including duplex apartments), roominghouses, tourist camps, or trailer camps is not required to register with the Department. See subsection (5) below.~~

~~2. Any living quarter or sleeping or housekeeping accommodation in apartment houses (including duplex apartments), rooming houses, tourist camps, or trailer camps which is rented, leased, let, or in which a license has been granted to others to use, occupy, or enter upon such property under the terms of a bona fide written agreement for continuous residence for longer than six months in duration is not required to be registered with the Department.~~

~~(5) PENALTIES FOR FAILURE OR REFUSAL TO REGISTER.~~

~~(a)(2) No person shall be issued any license for any authority within the State of Florida to engage in any business activity required to be registered with the Department until business listed in paragraph (a) of subsection (1) of this rule unless such person is the holder of a valid certificate of registration Sales and Use Tax Certificate of Registration (form DR-11).~~

~~(3) Sales tax certificates of registration may be refused to out of state applicants who have no permanent, licensed place of business in this state who makes no sales here, and who request the certificates for the sole purpose of making tax free purchases of items which they claim they will resell in their home states. See Rule 12A-1.064(2)(b), F.A.C.~~

~~(b) The Department is authorized to impose a \$100 registration fee for each place of business for the failure or refusal of any person to register with the Department prior to engaging in or conducting business in this state as a dealer. Persons who have failed or refused to register are those that the Department seeks to register as a result of information supplied by an informant under s. 213.30, F.S., or as a result of enforcement programs administered by the Department. In making the determination whether the \$100 registration fee shall be imposed, the Executive Director or the Executive Director's designee in the responsible process shall consider and be guided by:~~

~~1. The prior history, if any, of the applicant's compliance or noncompliance with the revenue laws administered by the Department pursuant to s. 213.05, F.S.;~~

~~2. The applicant's ability to demonstrate the exercise of ordinary care and prudence through presenting to the Department facts and circumstances indicating that a diligent attempt to meet the registration requirements of the law was made. An applicant with limited business knowledge, limited education, or limited experience with Florida tax matters may establish a basis for the existence of reasonable cause when there is reasonable doubt whether the applicant is required to register;~~

~~3. Reliance upon the erroneous advice of a competent advisor that the applicant did not meet the registration requirements. To establish a reasonable cause for noncompliance with the registration requirements, the applicant must demonstrate that advice was sought in a timely manner from the competent advisor, that all necessary information was provided to the competent advisor, and that the applicant acted in good faith on the information received from the competent advisor;~~

~~4. The applicant's ability to demonstrate reliance upon another person to comply with the registration requirements on behalf of the applicant;~~

5. Whether the applicant, the applicant's agent, or the applicant's employee can demonstrate that the applicant exercised ordinary care and prudence in meeting the registration requirements once the applicant had actual or constructive knowledge of the requirements.

Specific Authority 212.17(6), 212.18(2), 213.06(1) FS. Law Implemented 212.03(1),(2), 212.04(4), 212.0596(1),(2), 212.06(2), 212.12(2),(5),(6), 212.16(1),(2), 212.18(3) FS. History—Revised 10-7-68, 1-7-70, 6-16-72, Amended 3-21-77, 5-10-77, 10-18-78, Formerly 12A-1.60, Amended 6-10-87, 1-2-89, 11-12-90, 3-17-94, 1-2-95, 3-20-96, 11-30-97, 4-2-00, 6-19-01, 10-2-01(1), 10-2-01(1), \_\_\_\_\_.

12A-1.097 Public Use Forms.

(1) The following public use forms and instructions are employed by the Department in its dealings with the public related to the administration of Chapter 212, F.S. These forms are hereby incorporated by reference in this rule.

(a) through (b) No change.

Form Number	Title	Effective Date
(2) DR-1	Application to Collect and/or Report Tax in Florida (R. <del>___ 08/04</del> )	<del>___ 08/02</del>
(3)	No change.	
(4)(a) DR-5	Application for Consumer's Certificate of Exemption (R. <del>___ 10/00</del> )	<del>___ 10/01</del>
(b) DR-5N	Information and Instructions for Completing Application for Consumer's Certificate of Exemption (R. <del>___ 10/00</del> )	<del>___ 10/01</del>
(5)(a) DR-7	Consolidated Sales and Use Tax Return (R. <u>01/03 01/02</u> )	<del>___ 08/02</del>
(b) DR-7N	Instructions for Consolidated Sales and Use Tax Return (R. <u>01/03 01/02</u> )	<del>___ 08/02</del>
(6)(a) DR-15	Sales and Use Tax Return (R. <u>01/03 01/02</u> )	<del>___ 08/02</del>
(b) DR-15CS	Sales and Use Tax Return (R. <u>01/03 01/02</u> )	<del>___ 08/02</del>
(c) DR-15CSN	DR-15 Sales and Use Tax Returns Instructions <u>2003 2002</u> (R. <u>01/03 01/02</u> )	<del>___ 08/02</del>
(d) through (g)	No change.	
(h) DR-15N	Instructions for <u>2003 2002</u> DR-15 Sales and Use Tax Returns (R. <u>01/03 01/02</u> )	<del>___ 08/02</del>
(i) DR-15SA	Sales and Use Tax Return [Semi-Annual] (R. <del>___ 06/01</del> )	<del>___ 08/02</del>
(j) DR-15SAN	Annual and Semiannual Sales and Use Tax Return Instructions (R. <u>01/03 01/02</u> )	<del>___ 08/02</del>

(k) through (n) No change.

(7) through (9) No change.

(10) DR-38 Tax Collector's Report-6% Sales Tax and/or Surtax (R. ~~\_\_\_ 01/99~~) ~~\_\_\_ 08/02~~

(11) through (20) No change.

Specific Authority 212.17(6), 212.18(2), 213.06(1) FS. Law Implemented 212.08(5)(f),(g),(h),(n),(o),(q),(15), 212.096, 212.17(6), 212.18(2),(3), 288.1258 FS. History—New 4-12-84, Formerly 12A-1.97, Amended 8-10-92, 11-30-97, 7-1-99, 4-2-00, 6-28-00, 6-19-01, 10-2-01, 10-21-01, 8-1-02, \_\_\_\_\_.

**DEPARTMENT OF REVENUE**

**Sales and Use Tax**

RULE CHAPTER TITLE:	RULE CHAPTER NO.:
Solid Waste Fees	12A-12
RULE TITLES:	RULE NOS.:
Registration	12A-12.003
Reporting and Remitting Fees	12A-12.004

PURPOSE AND EFFECT: The purpose of the proposed amendments to Rule 12A-12.003, F.A.C. (Registration), is to provide the methods and requirements to register with the Department for purposes of the solid waste fees.

The purpose of the proposed amendments to Rule 12A-12.004, F.A.C. (Reporting and Remitting Fees), is to: (1) clarify when payments and returns are due to the Department; (2) provide that payment of fees required to be made by electronic funds transfer, returns for fees required to be submitted by electronic means, and returns when no fee is due, must be submitted to the Department as provided in Rule Chapter 12-24, F.A.C.; (3) remove guidelines on how to obtain forms from the Department redundant of Rule 12A-16.008, F.A.C.; (4) remove the unnecessary recitation of statutory provisions regarding the collection allowance and the computation of estimated tax; (5) clarify that failure to secure a return does not relieve the dealer of any fee liability or filing requirement; (6) clarify that the Department is not authorized to extend the time for any dealer to file a return or remit any tax due; and (7) provide that the penalties imposed under s. 212.12(2), F.S., apply to solid waste fees for purposes of late payments and the filing of returns.

SUBJECT AREA TO BE ADDRESSED: The subject of this workshop is: (1) the proposed guidelines for registering with the Department for purposes of the solid waste fees imposed on tires and batteries; (2) the proposed guidelines for the reporting and the payment of the solid waste fees, including those required to be made by electronic means; (3) clarification of the application of penalties imposed under s. 212.12(2), F.S., for purposes of late payments and the filing of returns; and (4) the proposed removal of the recitation of statutory provisions and unnecessary provisions.

SPECIFIC AUTHORITY: 212.17(6), 212.18(2), 213.06(1), 403.718(3)(b), 403.7185(3)(b) FS.

LAW IMPLEMENTED: 212.18(3), 213.755, 403.718, 403.7185 FS.

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

TIME AND DATE: 1:30 p.m., November 20, 2002

PLACE: Room 116, Larson Building, 200 E. Gaines Street, Tallahassee, Florida 32399-0100

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 Nancy Purvis, (850)488-0712. If you are hearing-impaired or speech-impaired, please contact the Department by using the Florida Relay Service, which may be reached at 1(800)955-8770 (Voice) or 1(800)955-8771 (TDD). The Department's proposed rules are available on the Department's web site: <http://www.myflorida.com/dor/rules>.

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT WORKSHOP IS: Janet L. Young, Tax Law Specialist, Technical Assistance and Dispute Resolution, Department of Revenue, P. O. Box 7443, Tallahassee, Florida 32314-7443, telephone (850)922-9407, e-mail: [youngj@dor.state.fl.us](mailto:youngj@dor.state.fl.us)

THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS:

#### 12A-12.003 Registration.

(1)(a) Every person desiring to engage in or conduct business in this state of making retail sales of new motor vehicle tires engaged in or conducting business in this State of selling new tires at retail, as described in Rule 12A-12.001, F.A.C., or selling lead-acid batteries, as described in Rule 12A-12.0011, F.A.C., must register with the Department of Revenue and obtain a certificate of registration be registered in order to do so. No additional registration is required for dealers who hold a valid certificate of registration. However, such person's registration for sales tax purposes is sufficient registration for purposes of sales and use tax the fees described in those rules.

(b) Registration with the Department for purposes of making retail sales of new motor vehicle tires or lead-acid batteries is available by using one of the following methods:

1. Registering through the Department's Internet site at the address shown in the parentheses (<http://www.myflorida.com/dor/>) using the Department's "e-Services" without payment of a registration fee; or

2. Filing an Application to Collect and/or Report Tax in Florida (form DR-1, incorporated by reference in Rule 12A-1.097, F.A.C.) with the Department, as indicated on the registration form, with the required \$5 application fee.

(2) No change.

Specific Authority 212.17(6), 212.18(2), 213.06(1), 403.718(3)(b), 403.7185(3)(b) FS. Law Implemented 212.18(3), 403.718, 403.7185 FS. History—New 1-2-89, Amended 10-16-89, 12-16-91, 4-2-00.

#### 12A-12.004 Reporting and Remitting Fees.

~~(1) Except as state in this rule, the requirements of Rule 12A-1.056, F.A.C., are applicable to the reporting and remitting of the solid waste fees on new tires and new, used or remanufactured lead-acid batteries.~~

(1)(2)(a) A Solid Waste and Surcharge Return, (form DR-15SW, incorporated by reference in Rule 12A-16.008, F.A.C.), reporting new tires and lead-acid batteries sold at retail shall be filed with the Department. Except as provided in Rule Chapter 12-24, F.A.C., the The payment and the return must be delivered to either reach the office of the Department of Revenue or be postmarked on or before the 20th day of the month following the date of sale to avoid penalty and interest for late filing, as provided in Rule 12A-1.056(1), F.A.C. If the 20th day falls on Saturday, Sunday, or a legal holiday, payments accompanied by returns will be accepted as timely if postmarked or delivered to the Department on the next succeeding day which is not a Saturday, Sunday, or legal holiday. For purposes of this rule, a legal holiday means a holiday that is observed by federal or state agencies as a legal holiday as this term is defined in Chapter 683, F.S., and s. 7503 of the Internal Revenue Code of 1986, as amended. A "legal holiday" pursuant to s. 7503 of the Internal Revenue Code of 1986, as amended, means a legal holiday in the District of Columbia or a Statewide legal holiday at a location outside the District of Columbia but within an internal revenue district.

(b) When quarterly, semi-annual, or annual reporting is authorized by the Department pursuant to s. 212.11(1)(c), F.S., the fee is due the first day of the month following the authorized reporting period and becomes delinquent on the 21st day of that month. When a dealer is required to file the new tire fee and the lead-acid battery fee under a single account number on the same return, the dealer may not exceed the limitations provided in s. 212.11(1)(c), F.S., to be eligible to file on a quarterly, semi-annual, or annual basis.

(c) Payments and returns for reporting fees must be submitted to the Department, as provided in Rule Chapter 12-24, F.A.C., when:

1. Payment of the fee is required to be made by electronic means;

2. Any return for reporting fees is required to be submitted by electronic means; or

3. No fees are due with a return for reporting fees.

~~(b) The Solid Waste and Surcharge Return, form DR-15SW, is incorporated by reference in Rule 12A-16.008, F.A.C. Copies of this form are available, without cost, by 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 at the address show inside the parentheses (<http://www.myflorida.com/dor/>). Persons with hearing or speech impairments may call the Department's TDD at (800)367-8331.

~~(e) When a dealer is required to file the new tire fee and the lead-acid battery fee under a single account number on the same return, the dealer must not exceed the limitations, as provided in s. 212.11(1)(e), F.S. to be eligible to file on a quarterly or semiannual basis.~~

~~(3) The fees are not to be included in the computation of estimated taxes, as provided in s. 212.11(1)(a), F.S. No estimate of these fees is required to be filed.~~

~~(4) A dealer's collection allowance for remitting the fees is not allowed.~~

~~(2)(5) The failure of any dealer to secure a tax return for reporting new tire and lead-acid battery fees does not relieve the dealer from the requirement to file a return or to remit fees due to the Department. The Department As stated in subsection 12A-1.056(8), F.A.C., with reference to taxes, the department is not authorized to extend the time for any dealer to file make any return or to pay any fee due the fees; and the consequences described in that subsection are applicable to the fees.~~

~~(3)(6) No change.~~

~~(4)(7) Persons who are required to make a return or to pay fees imposed by ss. 403.718 and 403.7185, F.S., and administered under Chapter 212, F.S., and fail to do so will be subject to penalties, as provided in s. 212.12(2), F.S. Delinquency penalties pursuant to s. 212.12(2)(a), F.S., are applicable to the fees.~~

Specific Authority 212.17(6), 212.18(2), 213.06(1), 403.718(3)(b), 403.7185(3)(b) FS. Law Implemented 213.755, 403.718, 403.7185 FS. History—New 1-2-89, Amended 10-16-89, 12-16-91, 4-12-94, 3-21-95, 3-20-96, 4-2-00, 6-19-01, \_\_\_\_\_.

**DEPARTMENT OF REVENUE**

**Sales and Use Tax**

RULE CHAPTER TITLE:	RULE CHAPTER NO.:
Fee on the Sale or Lease of Motor Vehicles	12A-13
RULE TITLES:	RULE NOS.:
Scope of Rules	12A-13.001
Collection and Remittance of Fee	12A-13.002
Distribution of Fees Remitted to the Department of Revenue	12A-13.003
PURPOSE AND EFFECT: The purpose of the proposed amendments to Rule 12A-13.001, F.A.C. (Scope of Rules), is to remove reference to the distribution of the motor vehicle warranty fee from the provisions of Rule Chapter 12A-13, F.A.C.	

The purpose of the proposed amendments to Rule 12A-13.002, F.A.C., is to: (1) change the title to "Collection and Remittance of Fee"; (2) implement the provisions of s. 54, Chapter 2002-218, L.O.F., which provide that the \$2 motor vehicle warranty fee imposed on sales of motor vehicles that are titled and registered outside this state are to be remitted to the Department of Revenue; (3) provide guidelines on how to remit the fee to the Department; and (4) incorporate by reference the revisions to form DR-35, Motor Vehicle Warranty Remittance Fees.

The purpose of the proposed repeal of Rule 12A-13.003, F.A.C. (Distribution of Fees Remitted to the Department of Revenue), is to remove the unnecessary recitation of s. 681.117, F.S., regarding the distribution of motor vehicle warranty fees.

**SUBJECT AREA TO BE ADDRESSED:** The subject of this workshop is: (1) the proposed guidelines for the remittance of the motor vehicle warranty fee for new motor vehicles titled and registered outside this state, as required by s. 54, Chapter 2002-218, L.O.F.; (2) the removal of redundant language regarding the distribution of funds received from the fee; and (3) the incorporation by reference of changes to form DR-35, Motor Vehicle Warranty Remittance Fee.

**SPECIFIC AUTHORITY:** 213.06(1) FS.

**LAW IMPLEMENTED:** 681.117 FS.

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

**TIME AND DATE:** 1:30 p.m., November 20, 2002

**PLACE:** Room 116, Larson Building, 200 E. Gaines Street, Tallahassee, Florida 32399-0100

**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 Nancy Purvis, (850)488-0712. If you are hearing-impaired or speech-impaired, please contact the Department by using the Florida Relay Service, which may be reached at 1(800)955-8770 (Voice) or 1(800)955-8771 (TDD). The Department's proposed rules are available on the Department's web site: <http://www.myflorida.com/dor/rules>. **THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT WORKSHOP IS:** Gary Gray, Tax Law Specialist, Technical Assistance and Dispute Resolution, Department of Revenue, P. O. Box 7443, Tallahassee, Florida 32314-7443, telephone (850)922-4729, e-mail (grayg@dor.state.fl.us).

THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS:

12A-13.001 Scope of Rules.

These rules govern the remittance ~~and distribution~~ of the two dollar (\$2.00) fee which is to be collected by each motor vehicle dealer and by each person engaged in the business of leasing motor vehicles, from the consumer, including business entities, at the consummation of the sale of a new motor vehicle or at the time a lease agreement for a new motor vehicle is entered into pursuant to the provisions of s. Section 681.117, F.S., Florida Statutes.

Specific Authority 213.06(1) FS. Law Implemented 681.117 FS. History—New 4-5-89, Amended.

12A-13.002 Collection and Remittance of Fee.

(1) Each motor vehicle dealer licensed under s. Section 320.27, F.S., and each person engaged in the business of leasing motor vehicles, is required to collect a \$2 shall remit the fee collected from the consumer at the consummation of the sale of a new motor vehicle or at the time of entry into a lease agreement for a new motor vehicle to the county tax collector or private tag agency acting as agent for the Department of Revenue at the time of application for certificate of title.

(2) All fees collected for new motor vehicles that are titled and registered in this state must be remitted to the county tax collector or private tag agency acting as agent for the Department of Revenue.

(a) Each county tax collector is required to file form DR-35, Motor Vehicle Warranty Remittance Fee Report (R. 06/02, hereby incorporated by reference), and remit such fees to the Department at or within the time or times prescribed in s. 219.07, F.S.

(b) Each private tag agent is required to file form DR-35, Motor Vehicle Warranty Remittance Fee Report, and remit such fees to the Department not later than seven (7) working days from the close of the week in which the private tag agency received the fees.

(3) All fees collected for new motor vehicles sold or leased by motor vehicle dealers in this state for titling and registering outside this state must be remitted directly to the Department. Dealers are required to file form DR-35, Motor Vehicle Warranty Remittance Fee Report, with the Department and remit the collected fees monthly. Dealers who have not sold or leased a new motor vehicle for titling and registering outside this state during the monthly reporting period are not required to file form DR-35 for that reporting period.

~~(4)(2) Each county tax collector shall file a Motor Vehicle Warranty Remittance Fee (DR-35), dated January 1989, which is hereby incorporated in this rule and made part of the rule by reference, showing the amount of such fees received, and shall remit such fees to the Department of Revenue at or within the time or times prescribed in Section 219.07, Florida Statutes.~~

The ~~form entitled~~ Motor Vehicle Warranty Remittance Fee Report (form DR-35) is available, without cost, by one or more of the following methods: 1) writing the Florida Department of Revenue, ~~Forms~~ Distribution Center, 168~~A~~ 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 at the address show inside the parentheses (<http://www.myflorida.com/dor/>). Persons with hearing or speech impairments may call the Department’s TDD at (800)367-8331.

~~(3) Each private tag agent shall file a Motor Vehicle Warranty Remittance Fee (DR-35), showing the amount of such fees received, and shall remit such fees to the Department of Revenue not later than seven (7) working days from the close of the week in which the private tag agency received the fees.~~

Specific Authority 213.06(1) FS. Law Implemented 681.117 FS. History—New 4-5-89, Amended.

12A-13.003 Distribution of Fees Remitted to the Department of Revenue.

Specific Authority 213.06(1) FS. Law Implemented 681.117 FS. History—New 4-5-89, Repealed.

**DEPARTMENT OF REVENUE**

**Sales and Use Tax**

RULE CHAPTER TITLE:	RULE CHAPTER NO.:
Discretionary Sales Surtax	12A-15
RULE TITLES:	RULE NOS.:
Admissions; Tangible Personal Property; Services; Service Warranties; Real Property and Transient Accommodations; Use Tax	12A-15.003
Aircraft, Boats, Motor Vehicles, and Mobile Homes	12A-15.0035
Specific Limitations	12A-15.004
Construction Contractors Who Repair, Alter, Improve, and Construct Real Property; Refund of Surtax	12A-15.008
Occasional and Isolated Sales	12A-15.009
Interstate and Foreign Commerce	12A-15.013
Transition Rule	12A-15.014
Public Use Forms	12A-15.015

PURPOSE AND EFFECT: The purpose of the substantial rewording of Rule 12A-15.003, F.A.C.: is to: (1) change the title to “Admissions; Tangible Personal Property; Services; Service Warranties; Real Property and Transient Accommodations; Use Tax,” to reflect the changes to the

proposed rule: (2) provide that guidelines for the imposition of the surtax on the sale, lease, rental, and use of any aircraft, boat, motor vehicle, or mobile home are provided in Rule 12A-15.0035, F.S., as proposed; (3) define the term “surtax county”; (4) provide that charges for admissions are subject to the surtax imposed in the county where the event is held; (5) provide that dealers who sell taxable tangible personal property are required to collect surtax when the property is delivered to a location within a surtax county at that county’s rate; (6) provide that dealers are required to collect surtax when a mail-order is placed through a dealer’s location within a surtax county, the mail-order is received in another state, and the property is delivered to a location within a surtax county; (7) provide that dealers are required to collect surtax on taxable services when the delivery of the service, or the tangible personal property representing the service, is made to a location within a surtax county; (8) provide that any person located within a surtax county who receives consideration for issuance of a service warranty is required to collect surtax; (9) provide that dealers are required to collect surtax on sales of electricity or natural or manufactured gas to any customer located within a surtax county; (10) provide that surtax is imposed on the lease, rental, or license to use real property or transient accommodations located within a surtax county; (11) provide that any person who is not required to be registered as a dealer who owes Florida use tax is not required to pay surtax when paying the use tax due; (12) provide that no additional surtax is due when the applicable sales tax and surtax have been paid at the time of purchase and the item is later used in a surtax county imposing a rate of surtax greater than that paid at the time of purchase; and (13) provide that registered dealers are required to pay surtax when required to pay Florida use tax and the property is used in a surtax county. The effect of this substantial rewording will provide current guidelines regarding the imposition of discretionary sales surtaxes on admissions, sales and use of tangible personal property and services, leases, rentals, and licenses to use real property or transient accommodations, and other transactions subject to the surtaxes. The purpose of the proposed creation of Rule 12A-15.0035, F.A.C. (Aircraft, Boats, Motor Vehicles, and Mobile Homes), is to: (1) provide a single administrative rule regarding the imposition of the discretionary sales surtax on sales, purchases, and transfers of title on any aircraft, boat, mobile home, or motor vehicle required to be titled, licensed, or registered in this state; (2) define the terms “aircraft or boat,” “mobile home, motor vehicle, or other vehicle,” and “surtax county” for purposes of the rule; (3) provide that registered aircraft and boat dealers are required to collect surtax on sales of aircraft or boats that are delivered to a location within a surtax county; (4) provide that surtax is due by the owner of the aircraft or boat at the time of titling, registering, or documenting the aircraft or boat when it is imported to a location within a surtax county; (5) provide that surtax is due on a boat imported into Florida and subject to the saltwater fishing license fee required under

s. 372.57(7), F.S., and subject to use tax under s. 212.06(8)(b), F.S., when the boat is used within a surtax county; (6) provide that registered mobile home, motor vehicle, or other vehicle dealers are required to collect surtax on sales of mobile homes, motor vehicles, or other vehicles when the residence address of the purchaser identified on the registration or title document is located within a surtax county; (7) provide that surtax is due by the purchaser of any mobile home, motor vehicle, or other vehicle when the purchaser’s residential address appearing on the registration document is located within a surtax county; (8) provide guidelines on how credits for like taxes lawfully imposed and paid to another state, territory of the United States, or the District of Columbia apply to surtaxes due in Florida; and (9) provide examples to illustrate the imposition of the surtaxes imposed on aircraft, boats, mobile homes, motor vehicles, and other vehicles.

The purpose of the proposed amendments to Rule 12A-15.004, F.A.C., is to: (1) change the title to “Specific Limitations”; (2) provide guidelines regarding the limitation for the sales amount above \$5,000 for any item of tangible personal property subject to the surtaxes; (3) provide when the surtax applies without limitation to sales of admissions, services, service warranties, prepaid calling arrangements, real property or transient accommodations; to parking, storage, or tie-down spaces at boat docks and marinas or for aircraft; and to any other transaction; (4) provides when lease payments are subject to the limitation; (5) provide that the limitation applies when the sale or purchase is a single sale and it is a sale of items normally sold in bulk or items that comprise a working unit or part of a working unit; (6) define and describe a “single sale,” “items normally sold in bulk,” and “items that comprise a working unit”; (7) provide guidelines for when multiple items of tangible personal property will not be aggregated into a single sale for purposes of the limitation; and (8) provide illustrative examples for the application of the surtax limitation.

The purpose of the proposed amendments to Rule 12A-15.008, F.A.C. (Construction Contractors Who Repair, Alter, Improve, and Construct Real Property; Refund of Surtax), is to: (1) provide guidelines regarding the application of surtax to purchases of tangible personal property and the fabricated cost of items for use in a lump sum, cost plus, fixed fee, guaranteed price, or similar type of contract; (2) provide guidelines for when the surtax limitation applies to the fabricated cost of items; (3) provide that surtax is imposed on tangible personal property sold by contractors under retail sale plus installation type contracts when the item is delivered to a location within a surtax county; (4) change the refund application from form DR-26, Application for Refund, to the form currently used by the Department in the administration of refunds for taxes administered under the provisions of Chapter 212, F.S., form DR-26S, Application for Refund-Sales and Use Tax; and (5) remove instructions on how to obtain a form from the Department that are provided in Rule 12-26.008, F.A.C.

The purpose of the proposed repeal of Rule 12A-15.009, F.A.C. (Occasional and Isolated Sales), is to repeal provisions regarding the occasional or isolated sales of aircraft, boats, mobile homes, and motor vehicles that will be provided in proposed Rule 12A-15.0035, F.A.C.

The purpose of the proposed repeal of Rule 12A-15.013, F.A.C. (Interstate and Foreign Commerce), is to remove unnecessary guidelines for the application of the discretionary sales surtax under s. 212.054(2)(b)4., F.S., to sales of property subject to the partial exemption provided in s. 212.08(8) or (9), F.S.

The purpose of the proposed amendments to Rule 12A-15.014, F.A.C. (Transition Rule), is to: (1) remove provisions for aircraft, boat, mobile home, and motor vehicle dealers that will be provided in proposed Rule 12A-15.0035, F.A.C.; (2) remove provisions regarding the imposition of surtax on taxable services that will be provided in the substantial rewording of Rule 12A-15.003, F.A.C.; and (3) remove obsolete provisions regarding the collection of surtax within a county imposing a new surtax or revising the current rate of surtax.

The purpose of the proposed repeal of Rule 12A-15.015, F.A.C. (Public Use Forms), is to: (1) remove the incorporation by reference of form DR-37, a form no longer used by the Department; and (2) remove the incorporation by reference of form DR-38, which is incorporated by reference in Rule 12A-1.097, F.A.C.

**SUBJECT AREA TO BE ADDRESSED:** The subject of this workshop is the proposed changes to rule Chapter 12A-15, F.A.C., Discretionary Sales Surtax, regarding the imposition of discretionary sales surtaxes under s. 212.054, F.S., levied by a governing body of any county as authorized in s. 212.055, F.S. **SPECIFIC AUTHORITY:** 212.17(6), 212.18(2), 213.06(1) FS. **LAW IMPLEMENTED:** 212.02(2),(4),(15),(16),(19),(20), 212.05(1), 212.0506, 212.054, 212.055, 212.0596, 212.0598, 212.06(1),(2),(4),(6),(8)-(10), 212.07(8), 212.08(4)(a),(8),(9), 212.14(5), 212.18(3) FS.

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

**TIME AND DATE:** 1:30 p.m., November 20, 2002

**PLACE:** Room 116, Larson Building, 200 E. Gaines Street, Tallahassee, Florida 32399-0100

**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 Nancy Purvis, (850)488-0712. If you are hearing-impaired or speech-impaired, please contact the Department by using the Florida Relay Service, which may be reached at 1(800)955-8770 (Voice) or 1(800)955-8771 (TDD). The Department's proposed rules are available on the Department's web site: <http://www.myflorida.com/dor/rules>.

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT WORKSHOP IS: Janet L. Young, Tax Law Specialist, Technical Assistance and Dispute Resolution, Department of Revenue, P. O. Box 7443, Tallahassee, Florida 32314-7443, (850)922-9407, e-mail: [youngj@dor.state.fl.us](mailto:youngj@dor.state.fl.us)

THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS:

(Substantial Rewording of Rule 12A-15.003 follows. See Florida Administrative Code for present text.)

12A-15.003 Admissions; Tangible Personal Property; Services; Service Warranties; Real Property and Transient Accommodations; Use Tax Imposition and Payment of Tax.

(1) SCOPE.

(a) Section 212.054, F.S., provides for the imposition of discretionary sales surtaxes levied by a governing body of any county, as authorized in s. 212.055, F.S. This rule is intended to clarify the application of the surtaxes on admissions, sales and use of tangible personal property and services, leases, rentals, and licenses to use real property or transient accommodations, and other transactions.

(b) Rule 12A-15.0035, F.A.C. (Aircraft, Boats, Motor Vehicles, and Mobile Homes), governs the imposition of surtax on the sale, lease, rental, and use of any aircraft or boat that is required to be registered, licensed, titled, or documented in this state or by the United States Government and any motor vehicle or mobile home of a class or type that is required to be registered in this state.

(2) DEFINITION. For purposes of this rule, a "surtax county" means a county whose governing body levies a discretionary sales surtax pursuant to ss. 212.054 and 212.055, F.S.

(3) ADMISSIONS. When the event for which a taxable admission is charged is held within a surtax county, surtax is due at the rate imposed by the county where the event occurs. The seller of the admission to an event is required to collect surtax on the sales price or actual value of the admission, as provided in s. 212.04(1)(b), F.S., when the event is held within a surtax county.

(4) SALES OF TANGIBLE PERSONAL PROPERTY.

(a) A dealer who makes sales of tangible personal property is required to collect surtax when the taxable item of tangible personal property is delivered within a surtax county. The dealer is required to collect surtax at the rate imposed by the county where the delivery occurs, whether the delivery is made directly by the dealer or by a manufacturer or wholesaler who delivers the property to the purchaser on behalf of the dealer. When the item of tangible personal property is delivered within a county not imposing a surtax, the dealer is not required to collect surtax.

1. Example: A dealer in County A (a county not imposing a surtax) sells a washing machine to the purchaser, who takes possession of the washing machine at the dealer's location in County A. The purchaser then takes the washing machine to a location within County B (a county imposing a 1% surtax). The sales transaction occurs in County A. The selling dealer is required to collect sales tax on the sales price of the washing machine at the rate of 6% and is not required to collect surtax. No surtax is due by the purchaser or the seller when the washing machine is taken to County B.

2. Example: A dealer in County A (a county imposing a 1% surtax) sells a washing machine to a purchaser and delivers the washing machine to a location in County B (a surtax county imposing a 1/2% surtax). The sales transaction occurs in County B. The selling dealer is required to collect sales tax and surtax on the sales price of the washing machine at the rate of 6 1/2% (6% state sales tax and 1/2% surtax).

3. Example: A retail dealer of office equipment in County A (a county imposing a 1/2% surtax) sells office equipment to a customer in County B (a county imposing a 1% surtax). The retail dealer in County A has the out-of-state manufacturer of the office equipment deliver the equipment to the customer in County B. The transaction occurs in County B, where the delivery to the customer is made. The retail dealer in County A is required to collect and sales tax and surtax on the sales price of the office equipment at the rate of 7% (6% state sales tax and 1% surtax).

(b) When a florist who takes the original customer order to sell tangible personal property is located within a surtax county, the florist is required to collect surtax at the rate imposed where the florist is located. Florists are not required to collect surtax when they deliver tangible personal property to a location within a surtax county for another florist who received the original customer order.

(c) The sale of subscriptions to a newspaper, newsletter, magazine, or other periodical that is delivered to the customer by a carrier or by means other than by mail, such as home delivery, is subject to surtax when delivery of the publication is made to a location within a surtax county. The sales of subscriptions to periodicals that are delivered to a customer by mail are exempt. See Rule 12A-1.008, F.A.C., for the requirements to collect and remit sales tax on sales of periodicals and sales of subscriptions to periodicals.

#### (5) MAIL-ORDER SALES.

(a) A dealer who makes mail-order sales, as defined in Rule 12A-1.103, F.A.C., is required to collect surtax at the rate imposed by the surtax county where the taxable item of tangible personal property is delivered when:

1. The mail order is placed through a dealer's location within a surtax county and received by the dealer in another state; and

2. The item is delivered to a location within a surtax county.

(b)1. Example: A multi-state company has stores in Florida located in surtax counties and in counties that do not impose a surtax. A purchaser places a mail order with the company's mail-order division at the dealer's location in County A (a county imposing a 1% surtax). The out-of-state mail-order division ships the merchandise to purchaser's residence in County B (a county not imposing a surtax). Although the company has stores within a surtax county and the order is placed through the dealer's location within a surtax county, the item is not delivered within a surtax county. The selling dealer is not required to collect surtax.

2. Example: A multi-state company has stores in Florida located in surtax counties and in counties that do not impose a surtax. A purchaser places a mail order with the company's mail-order division at the dealer's location in County A (a county imposing a 1% surtax). The mail-order division ships the item to a residence in County B (a county imposing a 1/2% surtax). The transaction occurs in County B. The selling dealer is required to collect sales tax and surtax on the sales price of the merchandise at the rate of 6 1/2% (6% state tax and 1/2% surtax).

#### (6) SERVICES.

(a) When a dealer sells a taxable service, and delivery of the service, or tangible personal property representing a taxable service, is made to a location within a surtax county, the dealer is required to collect surtax at the rate imposed in the county where the services are provided or where the tangible personal property representing the services is delivered. If there is no reasonable evidence of delivery of a service, the sale of a service occurs in the county in which the purchaser accepts the invoice for services rendered.

(b)1. Example: A dealer in County A (a county not imposing a surtax) sells nonresidential cleaning services to a purchaser in County B (a surtax county imposing a 1% surtax) and performs those services at a location in County B. The service transaction occurs within County B. The selling dealer is required to collect sales tax and surtax on the sales price of the service at the rate of 7% (6% state sales tax and 1% surtax).

2. Example: A dealer in County A (a county imposing a 1/2% surtax) sells burglar monitoring services to a location in County B (a surtax county imposing a 1% surtax). The burglar monitoring service monitors the alarms at the purchaser's location in County B. The service transaction occurs within County B. The dealer is required to collect sales tax and surtax on the sales price of the service at the rate of 7% (6% state sales tax and 1% surtax).

3. Example: A dealer in County A (a county imposing a 1% surtax) sells armored car service to a bank in County B (a surtax county imposing a 1/2% surtax). The armored car service is provided to the bank's branches located in different counties and to the main bank. Under this example, the armored car service provider cannot reasonably allocate the service provided to each county. The main bank located in

County B receives the invoice for services rendered. Therefore, the service transaction occurs within County B. The dealer is required to collect sales tax and surtax on the sales price of the services at the rate of 6 1/2% (6% state sales tax and 1/2% surtax).

(7) SERVICE WARRANTIES.

(a) Any person who is located within a surtax county and who receives consideration for the issuance of a service warranty from the agreement holder is required to collect surtax at the rate imposed by the county where the consideration is received.

(b)1. Example: The person receiving consideration for the issuance of a service warranty is located in County A (a county imposing a 1% surtax). The service warranty covers a television located within County B (a county not imposing the surtax). The person receiving consideration for the service warranty is required to collect sales tax and surtax on the sales price of the service warranty at the rate of 7% (6% state sales tax and 1% surtax).

2. Example: The person receiving consideration for the issuance of a service warranty is located in County A (a county imposing a 1/2% surtax). The service warranty covers a motor vehicle, and the resident address of the owner identified on the title document is located in County B (a county imposing a 1% surtax). The person receiving consideration for the service warranty is required to collect sales tax and surtax on the sales price of the service warranty at the rate of 6 1/2% (6% state sales tax and 1/2% surtax).

(8) ELECTRIC AND GAS UTILITIES.

(a) When a dealer sells electricity or natural or manufactured gas to a consumer located within a surtax county, the dealer is required to collect surtax at the rate imposed by the county where the consumer is located. See Rule 12A-1.060, F.A.C.

(b) Any dealer who provides electricity or natural or manufactured gas to consumers located within a surtax county is required to register for sales tax purposes in each surtax county in which its consumers are located.

(9) REAL PROPERTY AND TRANSIENT ACCOMMODATIONS.

(a) When real property that is leased, rented, or upon which a license for use is granted is located within a surtax county, surtax on the rental or license payment is due at the rate imposed within the surtax county.

(b) When any transient accommodation is located within a surtax county, surtax is due at the rate imposed within the surtax county.

(c) The owner of real property or a transient accommodation that is leased, rented, or upon which a license for use is granted or the owner's representative is required to collect surtax at the rate imposed by the surtax county where the real property or transient accommodation is located.

(10) USE TAX.

(a) Any person who is not required to be a registered dealer but who owes use tax on tangible personal property purchased out-of-state, in another country, or through mail-order firms or the Internet is not required to pay surtax when paying the applicable use tax to the Department.

(b) Any person who purchases tangible personal property and pays the selling dealer the applicable sales tax and surtax due at the time of sale is not required to pay any additional surtax when the item of tangible personal property is later used within a surtax county imposing a surtax at a rate higher than the rate imposed at the time of sale.

(c) Any person, located within a surtax county, who owes use tax on newspapers, magazines, or other publications it produces for its own use or purchases without paying the applicable sales tax due is required to accrue and remit sales tax and surtax at the rate imposed by the surtax county where the publications are used. See Rule 12A-1.008, F.A.C.

(d) A dealer who is registered with the Department and who is required to pay use tax directly to the Department shall pay surtax in the following manner:

1. When tangible personal property is purchased, leased, or rented outside Florida for use in a surtax county, the dealer is required to pay surtax at the rate imposed by the surtax county where the tangible personal property is used.

2. When a dealer is authorized by the Department to accrue use tax on the lease, rental, or license to use real property located within a surtax county, the dealer is required to pay surtax at the rate imposed by the surtax county where the property is located.

3. When a dealer is required to pay use tax on services and when the primary benefit of the service is used or consumed within a surtax county, the dealer is required to pay surtax at the rate imposed by that surtax county, as provided in subsection 12A-1.0161(2), F.S.

4. For surtax due on the fabrication of items of tangible personal property by real property contractors for use in performing contracts, see Rule 12A-15.008, F.A.C.

(e)1. Example: A purchaser of tangible personal property in County A (a surtax county imposing a 1% surtax) has received authority from the Department to self-accrue and remit the state sales and use tax directly to the Department. The purchaser issues a copy of its direct pay permit to the seller of the property relieving the seller from the responsibility of collecting and remitting state sales tax on the transaction. The purchaser must self-accrue and pay sales tax and surtax at the rate of 7% (6% state use tax and 1% surtax).

2. Example: A dealer in County A (a surtax county imposing a 1% surtax) purchases office supplies from an out-of-state dealer that is not registered with Florida to collect sales tax. The purchasing dealer is required to pay use tax and surtax at the rate of 7% (6% state use tax and 1% surtax).

3. Example: A dealer purchases office supplies at the selling dealer's location in County A (a county not imposing a surtax) and takes possession of the supplies at the dealer's location. The dealer pays the applicable 6% sales tax to the selling dealer. The purchaser immediately transports the office supplies to the purchaser's business location in County B (a surtax imposing a 1% surtax). Florida sales tax has been properly collected on the office supplies, and no use tax is due; therefore, no additional surtax is due when the office supplies are used by the purchaser in the surtax county.

Specific Authority 212.17(6), 212.18(2), 213.06(1) FS. Law Implemented 212.05(1), 212.0506, 212.054, 212.055, 212.0596, 212.06(1),(4),(6),(7),(8),(10), 212.07(8), 212.18(3) FS. History—New 12-11-89, Amended 1-30-91, 5-12-92, 8-10-92, 11-16-93, 3-20-96, 6-19-01, 10-2-01, \_\_\_\_\_.

#### 12A-15.0035 Aircraft, Boats, Motor Vehicles, and Mobile Homes.

(1) SCOPE. This rule is intended to provide guidelines regarding the application of surtaxes imposed on the sale, purchase, or transfer of title of any aircraft, boat, mobile home, motor vehicle, or other vehicle subject to the discretionary sales surtax imposed under ss. 212.054 and 212.055, F.S.

#### (2) TITLE CERTIFICATE, LICENSE, OR REGISTRATION.

(a) No title certificate may be issued on any aircraft, boat, mobile home, motor vehicle, or other vehicle, or, if no title certificate is required by law, no license or registration may be issued for any aircraft, boat, mobile home, motor vehicle, or other vehicle by any state agency unless there is filed with the application for title certificate or license or registration a receipt evidencing the payment of the applicable surtax issued by:

1. Any authorized aircraft, boat, mobile home, or motor vehicle dealer;
2. Any County Tax Collector;
3. Any licensed Private Tag Agency;
4. The Department of Highway Safety and Motor Vehicles; or
5. The Department of Revenue or its designated agents.

(b) Sales, purchases, and transfers of title submitted by persons who are not required to be registered as a dealer to any County Tax Collector, licensed Private Tag Agency, or the Department of Highway Safety and Motor Vehicles are subject to the surtax on the first \$5,000 on all transfers submitted on or after the effective date of a county imposed surtax.

(3) DEFINITIONS. For purposes of this rule, the following definitions will be used:

(a) "Aircraft or boat" means an aircraft or boat of a class or type that is required to be registered, licensed, titled, or documented in this state or by the United States government.

(b) "Mobile home, motor vehicle, or other vehicle" means a mobile home, motor vehicle, or other vehicle of a class or type that is required to be registered in this state or in any other state.

(c) "Surtax county" means a county whose governing body levies a discretionary sales surtax pursuant to ss. 212.054 and 212.055, F.S.

#### (4) AIRCRAFT AND BOATS.

(a) A registered aircraft or boat dealer who makes a sale of an aircraft or boat is required to collect surtax when the aircraft or boat is delivered to a location within a surtax county. The dealer is required to collect surtax at the rate imposed by the county where the delivery occurs. When the aircraft or boat is delivered within a county not imposing a surtax, the selling dealer is not required to collect surtax.

(b)1. When the owner imports an aircraft or boat into a surtax county for use, consumption, distribution, or storage in that county, the aircraft or boat is subject to the surtax imposed by that county. The surtax shall be collected from the owner at the time of titling, registration, or documenting of the aircraft or boat, irrespective of whether such titling, registration, or documenting occurs in that surtax county.

2.a. A credit against any Florida use tax and surtax due on the use of an aircraft or boat is allowed to any purchaser who provides documentary evidence that a like tax has been lawfully imposed on the sale or use of the aircraft or boat and has been paid to another state, territory of the United States, or the District of Columbia. The credit allowed shall be the amount of legally imposed like tax paid to the other state, territory of the United States, or the District of Columbia. When the applicable tax credit is equal to or greater than the amount of tax or surtax due on the use of the aircraft or boat in a surtax county, no additional surtax is due. When the tax is paid to another state, territory of the United States, or District of Columbia is greater than the Florida sales tax and surtax due, no refund is due from the State of Florida.

b. No credit is allowed for any taxes paid to a foreign country.

3.a. No additional surtax is due on any aircraft or boat, except as provided in subparagraph b., used outside a surtax county for 6 months or longer before being imported into that surtax county. It is presumed that the aircraft or boat was not purchased for use in that surtax county, when the aircraft or boat is used outside that county for 6 months or longer before being imported into that county.

b. Any boat imported into Florida for which a saltwater fishing license fee is required to be paid pursuant to s. 372.57(7), F.S., for the boat or the captain, for the purpose of taking, attempting to take, or possessing any marine fish for noncommercial purposes, such as sport or pleasure fishing, is subject to use tax as provided in s. 212.06(8)(b), F.S. When the use of the boat is within a surtax county, the use of the boat is subject to the surtax rate imposed by that surtax county.

(c)1. Example: A dealer located in County A (a county imposing a 1% surtax) sells a boat to a purchaser who resides in County B (a county imposing a 1/2% surtax). The purchaser takes possession of the boat at the dealer's location in County A. The dealer is required to collect sales tax and surtax at the rate of 7% (6% state tax and 1% surtax). The purchaser immediately takes the boat to County B for storage and use in County B. No additional surtax is required to be paid when the boat is registered for use in County B, because a surtax greater than the rate imposed in County B has been paid.

2. Example: A purchaser who resides in County A (a county not imposing the surtax) purchases a boat in County A from an individual who is not a registered boat dealer. The purchaser takes possession of the boat in County A. The purchaser immediately takes the boat to County B (a county imposing a 1/2% surtax) to be used in County B. A use transaction occurs in County B. The purchaser is required to pay sales tax and surtax at the rate of 6 1/2% (6% state tax and 1/2% surtax) to any County Tax Collector or Licensed Private Tag Agent.

3. Example: A purchaser who resides in County A (a county imposing a 1/2% surtax) purchases a boat and uses the boat in County A. Nine months after the date of purchase, the purchaser moves the boat to County B (a county imposing a 1% surtax) for storage and to be used in County B. No additional surtax is due, because the boat was used in County A for 6 months or longer before being imported for use in County B.

#### (4) MOBILE HOME, MOTOR VEHICLE, OR OTHER VEHICLE.

(a) A registered mobile home, motor vehicle, or other vehicle dealer who makes sales of any mobile home or vehicle is required to collect surtax when the residence address of the purchaser identified on the registration or title document for the mobile home or vehicle is located within a surtax county. The dealer is required to collect surtax at the rate imposed by the county where the residence address of the purchaser is located. When the residence address of the purchaser is located within a county not imposing a surtax, the dealer is not required to collect a surtax.

(b) When the purchaser of any mobile home, motor vehicle, or other vehicle is a resident of a surtax county, surtax is due on the purchase at the rate imposed by the county of residence. The address appearing on, or to be recorded on, the registration document will determine the residence address of the purchaser. The surtax is required to be collected from the purchaser incident to the titling, registration, or documenting of the mobile home or vehicle, irrespective of whether such titling, registration, or documenting occurs in the surtax county.

(c)1. When mobile home, motor vehicle, or other vehicle that is required to be registered in this state is imported from another state into a surtax county for use, consumption,

distribution, or storage within the surtax county, the mobile home or vehicle is subject to surtax when the user resides within the surtax county. The surtax is required to be collected from the user incident to the titling, registration, or documenting of the mobile home or vehicle, irrespective of whether such titling, registration, or documenting occurs in the surtax county.

2.a. A credit against any Florida use tax and surtax due on the use of any mobile home, motor vehicle, or other vehicle is allowed to any purchaser who provides documentary evidence that a lawfully imposed tax on the sale or use of the mobile home or vehicle has been paid to another state, territory of the United States, or the District of Columbia. The credit allowed shall be the amount of legally imposed tax paid to the other state, territory of the United States, or the District of Columbia. When the applicable tax credit is equal to or greater than the amount of tax or surtax due on the use of the mobile home or vehicle in a surtax county, no additional surtax is due. When the tax paid to another state, territory of the United States, or District of Columbia is greater than the Florida sales tax and surtax due, no refund is due from the State of Florida.

b. No credit is allowed for any taxes paid to a foreign country.

3. No additional surtax is due on any mobile home, motor vehicle, or other vehicle used outside a surtax county for 6 months or longer before being imported into that county. It is presumed that the mobile home or vehicle was not purchased for use in that surtax county, when the mobile home or vehicle is used outside that county for 6 months or longer before being imported into that county.

(d)1. Example: A mobile home dealer in County A (a county not imposing a surtax), sells a mobile home for \$12,599. The residence address of the purchaser on the title document is in County B (a county imposing a 1/2% surtax). The transaction occurs in County B. The selling dealer is required to collect sales tax and surtax at the rate of 6 1/2% (6% state tax and 1/2% surtax) on the first \$5,000 of the sales price and sales tax at the rate of 6% on the amount of the sales price in excess of \$5,000.

2. Example: A person purchases a motor vehicle in Alabama for \$7,500, and pays \$150 state sales tax and \$75 local sales tax for a total tax of \$225 to the State of Alabama. Within 6 months from the date of purchase, the purchaser imports the vehicle into Florida for use in County A (a county imposing a 1/2% surtax). The purchaser's residential address on the registration document is located in County A. The use transaction occurs in County A. The amount of tax due prior to deducting the like tax paid in Alabama is \$475 [(\$7,500 x .06) + (\$5,000 x .005)]. Even though the local tax paid in Alabama exceeds the surtax due in County A, the total amount of like tax paid in Alabama will be allowed as a credit against the Florida use tax and surtax due in County A. A credit of \$225 tax paid in Alabama will be allowed. The purchaser is required



to pay \$250 in tax and surtax due [ \$475 Florida tax and surtax due – \$225] to any County Tax Collector or licensed Private Tag Agent when registering the vehicle in this state.

3. Example: A person purchases, titles, and registers a motor vehicle in Great Britain and pays the appropriate taxes imposed in Great Britain. One year later, the purchaser imports the vehicle into Florida for use in County A (a county imposing a 1% surtax). The purchaser's address on the registration document is located within County A. The use transaction occurs in County A. The purchaser must pay Florida use tax and surtax due on the first \$5,000 of the taxable amount and use tax at the rate of 6% on the taxable amount in excess of \$5000.

Specific Authority 212.17(6), 212.18(2), 213.06(1) FS. Law Implemented 212.05(1), 212.054, 212.055, 212.06(1),(4),(6),(7),(8),(10), 212.07(8), 212.18(3) FS. History—New.

#### 12A-15.004 Specific Limitations Exemptions.

(1) SCOPE. This rule is intended to provide guidelines regarding the limitation for the sales amount above \$5,000 provided for any item of tangible personal property subject to the discretionary sales surtax imposed under ss. 212.054 and 212.055, F.S. For the application of the limitation to the fabrication of items used in the performance of a real property contract, see Rule 12A-15.008, F.A.C. Except as provided in this section, any transaction subject to the state sales and use tax imposed on sales, use, rentals, admissions, and other transactions by Chapter 212, F.S., is subject to the surtax, if the transaction occurs in a taxing county. A transaction that is not subject to state sales and use tax is not subject to the surtax.

(2)(a) ~~The surtax does not apply to the sales amount above \$5,000 on any item of tangible personal property. However, the surtax does apply to the first \$5,000 of the sales amount on the sale, use, lease, rental, or license to use any item of tangible personal property, including electric power or energy and to all other transactions which are subject to the state tax imposed on sales, use, rentals, and other transactions by Chapter 212, F.S., without limitation, except as provided in (3) below. The surtax applies, without limitation, to sales of admissions; sales and uses of services; sales of service warranties; charges for prepaid calling arrangements; leases, rentals, and licenses to use real property or transient accommodations; leases or rentals of parking or storage space for motor vehicles in parking lots or garages, docking or storage space in boat docks and marinas, and tie-down or storage space for aircraft; and all other transactions subject to the discretionary sales surtax.~~

(b) Each lease or rental payment made, or contracted to be paid, for the lease or rental of tangible personal property by a lessee or renter represents one taxable transaction. The surtax applies to the first \$5,000 of the lease or rental payment when the lease or rental payment is due. Liability for the immediate

payment of the tax on all the payments required under the lease or rental does not arise at the time of the execution of the lease or rental.

(c) ~~1.2.a.~~ Example: A motor vehicle dealer in a county imposing the surtax sells a vehicle for \$12,000 to a purchaser whose ~~and the purchaser's~~ address on the registration or title document is in a county imposing the surtax. The first \$5,000 of the sales amount is subject to the surtax and the amount over \$5,000 (i.e., \$7,000) is not subject to the surtax.

~~2.b.~~ Example: A person leases real property subject to the state sales tax for \$10,000 a month. The entire monthly rental (i.e., \$10,000) is subject to the surtax, since the \$5,000 limitation only applies to items of tangible personal property.

~~3.e.~~ Example: ABC, Inc., a consumer of electric power, is located within a county imposing the surtax. The consumer (a commercial account) receives a bill in the amount of \$6,700. The first \$5,000 of the sales amount is subject to the surtax and the amount over \$5,000 (i.e., \$1,700) is not subject to the surtax.

~~4.d.~~ Example: A security company provides security services to a shopping mall located in a surtax county for \$8,000 a month. The entire monthly charge for security services (i.e., \$8,000) is subject to the surtax, since the \$5,000 limitation only applies to items of tangible personal property.

(3)(b) ~~1.~~ When multiple For purposes of administering the \$5,000 limitation on any item of tangible personal property, if two or more taxable items of tangible personal property are sold by a dealer to the same purchaser at the same time and, the \$5,000 limitation applies when the sale or purchase is a single sale that meets the requirements of paragraph (a) and is a sale of items normally sold in bulk or items that comprise a working unit, or a part of a working unit, that meets the requirements of paragraph (b) under generally accepted business practice or industry standards or usage, are normally sold in bulk or are items which, when assembled, comprise a working unit or part of a working unit, such items shall be considered a single item for purposes of the \$5,000 limitation when supported by a charge ticket, sales slip, invoice, or other tangible evidence of a single sale or rental.

(a) SINGLE SALE. The sale or purchase of multiple items of tangible personal property must be a single sale in which the purchaser buys all items of tangible personal property from the dealer at the same time.

1. There must be an invoice, sales slip, charge ticket, written purchase order or agreement, or other tangible evidence of sale that establishes the items were sold in a single sale.

2. A single sale of items of tangible personal property that is documented by a written purchase order or written agreement executed between a purchaser and the selling dealer must:

a. Provide for a specific quantity of tangible personal property; and

b. If delivery of all items does not occur at the same time, provide for a specific time period within which delivery of the tangible personal property to the purchaser must be made.

3. Each delivery of items of tangible personal property, under the provisions of a written purchase order or written agreement that does not specify the quantity and the time period during which delivery of the property will occur, will be a single sale.

4.a. Example: A developer and an appliance distributor enter an agreement pursuant to which the developer purchases 250 refrigerators for an apartment complex project. Delivery will be in 10 loads of 25 refrigerators, as buildings in the complex are completed, with invoicing to follow each delivery and final delivery to occur no later than 10 months after the contract is signed. The 250 refrigerators will be viewed as purchased in a single sale, because the agreement specified both the quantity to be purchased and the time period in which delivery will occur.

b. Example: A road contractor enters a contract to purchase all of the asphalt needed for a certain job from an asphalt dealer that is willing to guarantee delivery as needed over a six-month period for a set price per ton, with invoicing to follow each delivery. Each delivery is a separate sale, because the agreement does not specify the quantity of asphalt to be purchased.

(b) ITEMS NORMALLY SOLD IN BULK OR ITEMS THAT COMPRISE A WORKING UNIT. A single sale must be a sale of items of tangible personal property that meets at least one of the following conditions:

1. The items are multiple quantities of a single item that the dealer normally sells in multiple quantities in the normal course of the dealer's business or that the purchaser normally buys in multiple quantities in the normal course of the purchaser's business;

2. The items are normally sold as a set or a unit and the utility of each for its intended purposes is dependent on the set being complete;

3. The items are normally sold in single sale by the seller to the purchaser for use in the normal business practice of the purchaser as an integrated unit; or

4. The items are component parts that have no utility unless assembled with each other to form a working unit or part of a working unit.

(c) MULTIPLE ITEMS OF TANGIBLE PERSONAL PROPERTY IN A SINGLE SALE. Multiple items of tangible personal property sold or purchased under a single sales transaction that are not normally sold in bulk or that, when assembled, will not comprise a working unit, part of a working unit, or comprise an integrated unit to be used in the purchaser's normal business practice, cannot be aggregated into a single sale for purposes of the surtax limitation.

2.a. Example: An automobile dealer normally sells automobiles or trucks one at a time or one per invoice. Thus, if the dealer lists two or more automobiles or trucks on the same invoice, the surtax would apply to the first \$5,000 of the charge for each automobile or truck.

(d) EXAMPLES.

1.b. Example: ~~When~~ ~~Where~~ furniture dealers advertise, sell, and invoice furniture suites or sets for a certain amount, without itemization of individual pieces that make up the suite or set, the surtax applies to the first \$5,000 of each such suite or set of furniture. If the invoice contains other items not included in the suite or set, the surtax applies to the first \$5,000 of each of these items. When furniture dealers sell individual pieces of furniture and separately itemize each piece, the surtax applies to the first \$5,000 of each piece. Further, in the case of furniture dealers who sell and invoice furniture by the piece, each piece is subject to the surtax on the first \$5,000.

2.e. Example: When a heating and air conditioning contractor distributor/dealer, who normally purchases ~~makes~~ bulk sales ~~(that is, sells~~ several heating and air conditioning units at the same time, purchases several units from a selling dealer who bills for ~~the such~~ units on one invoice, the surtax applies to the first \$5,000 on the total amount of the invoice.

d. Example: In the case of heating and air conditioning dealers who do not normally make bulk sales, the surtax applies to the first \$5,000 on each unit, even though the dealer may sell and list several units on one invoice.

e. Example: Piping, duct material, wiring, and other similar items used to make up the heating and air conditioning system are normally sold in bulk. Thus, if the selling dealer sells and invoices that type of material on one invoice, the surtax applies to the first \$5,000 for the total of these materials.

3.f. Example: When a lumber and building supply dealer sells lumber of various kinds and sizes, nails of different sizes, rolls of felt, squares of shingles, and ~~or~~ other building materials that are used by the purchaser to comprise a working unit (e.g., a roof), normally sold in bulk and the sale is on one invoice, the sale will be considered to be a single item and the surtax applies to the first \$5,000 of the total amount of the single sale invoice. If, ~~the single sale or purchase however, the invoice~~ contains items that are not used to comprise the working unit (e.g., the roof), normally sold in bulk (e.g., hammers, saws, shovels, power drills, refrigerators, stoves, washing machines, dryers and other appliances, ceiling fans) the surtax applies will apply to the first \$5,000 of ~~for~~ each item separately itemized on the sales invoice or other evidence of sale ~~not usually sold in bulk.~~ Examples of such items that are used by the contractor to construct the roof, but do not become a part of the roof when completed are hammers, saws, shovels, and power tools.

(e) In the lease or rental of tangible personal property, each lease or rental payment made by a lessee or rentee, or contracted to be paid, by a lessee or rentee represents one

taxable transaction. Liability for the immediate payment of the tax on all the payments required under the lease or rental does not arise at the time of the execution of the lease or rental.

(d) Where a purchase order is issued by the purchaser to the selling dealer, or an agreement is made between the selling dealer and the purchaser which is reduced to writing, that provides for the purchase of a specific quantity of tangible personal property which, according to the terms and conditions set out in the purchase order or agreement, is to be delivered to the purchaser within a definite specified time, such transaction constitutes one sale for purposes of the \$5,000 limitation. Delivery of the tangible personal property so ordered within the time specified in the purchase order or agreement will constitute one sale notwithstanding that due to the nature of the property it must be delivered in installments or that multiple deliveries may be necessary to consummate delivery to the purchaser. In the absence of a written purchase order or written agreement reflecting the above conditions, each individual delivery of tangible personal property is to be considered one sale. Each individual delivery of tangible personal property on purchase orders for indefinite quantities or open-end purchase orders is considered to be one sale.

(e) Where a contractor fabricates an item of tangible personal property for his own consumption and use in the performance of contracts for the construction or improvement of real property the \$5,000 limitation is applicable only to those cases where the contract, or agreement which is reduced to writing, specifies the particular project on which the item of property is to be used.

Specific Authority 212.17(6), 212.18(2), 213.06(1) FS. Law Implemented 212.02(15),(19), 212.05(1), 212.054(2), 212.055 FS. History—New 12-11-89, Amended 5-12-92, 3-17-93, 11-16-93, 10-2-01, \_\_\_\_\_.

12A-15.008 Construction Contractors Who Repair, Alter, Improve, and Construct Real Property; Refund of Surtax.

(1) LUMP SUM, COST PLUS, FIXED FEE, OR GUARANTEED PRICE CONTRACTS.

(a) ~~Contractors or subcontractors purchasing tangible personal property from a dealer in a taxing county for use in a lump sum, cost plus, fixed fee, guaranteed price, or similar type any kind of contract, except one falling in paragraph (b) below, must pay the surtax to the selling dealer, when the property is delivered if delivery is made to a location within a county imposing the surtax. The surtax to be paid to the selling dealer is based on the rate imposed in the county where delivery of the tangible personal property is made. When the tangible personal property is delivered to a location within a county not imposing the surtax, no surtax is due.~~

~~2. Contractors or subcontractors purchasing tangible personal property from a dealer located in a county that does not impose the surtax for use in a lump sum, cost plus, fixed fee, guaranteed price, or any kind of contract, except one~~

~~falling in paragraph (b) below, must pay the surtax to the selling dealer if delivery is made by the selling dealer to a location within a county imposing the surtax.~~

~~(b) 3. A contractor or subcontractor who is not required to be a registered dealer and who owes use tax on If taxable items of tangible personal property purchased out-of-state, in another country, or through mail-order firms or the Internet for use in a lump sum, cost plus, fixed fee, guaranteed price, or similar type of contract is not required to pay surtax when paying the applicable use tax to the Department purchased in such manner that the state sales tax would not be applicable at the time of purchase, are imported into a taxing county for use, or consumption in the performance of any kind of contract, except one falling in paragraph (b) below, the surtax is not due on the tangible personal property unless the contractor or subcontractor is a registered dealer in the taxing county.~~

~~(c) 1.4. Contractors and subcontractors are required to pay use tax on the fabricated cost of items of tangible personal property they manufacture, produce, compound, process, or fabricate for their own use in performing contracts. When the contractor or subcontractor owes use tax on the fabricated cost of items manufactured, produced, compounded, processed, or fabricated for use at a manufacturing plant site located within a surtax county, the contractor or subcontractor is required to pay surtax on such fabrication cost. If the contractor or subcontractor purchases tangible personal property for use or consumption in the performance of a real property contract from a dealer located within or without a taxing county, and pays the applicable sales tax and surtax to the dealer, and further fabricates such property at a manufacturing plant site in a taxing county, such fabrication costs are subject to both sales tax and surtax. Labor Fabricated labor incurred at the job site where the item will be incorporated into a real property improvement or transportation from the plant where an item was fabricated to the job site is not subject to tax or surtax. For the purpose of this subsection "job site" means a temporary site where fabrication is performed for a specific job. The "job site" becomes a "manufacturing plant site" when fabrication is performed for any job other than the specific job for which the site was selected. See Rule 12A-1.043(4), F.A.C., for determining fabrication cost.~~

~~2. Contractors who pay sales tax to vendors for direct materials that are incorporated into fabricated items of tangible personal property are not required to pay use tax on the cost of those materials. Contractors who are registered as dealers may elect either to pay sales tax to their vendors on direct materials or to extend a copy of their Annual Resale Certificate and accrue use tax when the materials are used for fabrication. If sales tax is paid on the purchase of direct materials at the time of purchase, the county of delivery determines whether surtax is due. If use tax is accrued at the time of fabrication of the items, the surtax must also be accrued when the fabrication occurs within a county imposing a surtax.~~

3. Contractors and subcontractors who are located within a county imposing a surtax, and who have elected and have been authorized by the Department to use an alternate tax calculation method, must compute the surtax on the appropriate percentage of the contract price at the same time and in the same manner in which use tax is computed.

4. The \$5,000 limitation is applicable to the fabricated cost when the written contract or agreement specifies the particular project for which the fabricated item of tangible personal property is to be used.

5. Example: A contractor operates a roofing tile manufacturing plant in a surtax county. The contractor sells roofing tiles, as well as uses roofing tiles in performing real property contracts. The contractor is a registered dealer and purchases raw materials tax exempt by extending a copy of the dealer's Annual Resale Certificate. The contractor enters a contract to furnish materials and install a tile roof for \$15,000. The direct materials cost is \$5,000 and the other taxable fabrication costs are \$3,000, for a total of \$8,000 on which use tax must be accrued. The contractor must accrue sales tax and surtax, because the fabrication occurs at the plant located within a surtax county. If roofing contractors were permitted to accrue use tax on 40 percent of the contract price, use tax would be due on \$6,000, because the fabrication occurred at the plant located within a surtax county. Whether the contractor computes use tax on \$8,000 actual cost or on \$6,000 on a percent of contract price basis, surtax only needs to be accrued on \$5,000, because the fabricated tangible personal property is identified to the specific contract.

#### (2) RETAIL SALE PLUS INSTALLATION CONTRACTS.

(b) Contractors or subcontractors performing contracts where the contractor or subcontractor agrees to sell specifically described and itemized materials and supplies at an agreed price or at the regular retail price and to complete the work either for an additional agreed price or on the basis of time consumed, are required to register as dealers. They must collect the surtax from customers on the sales price of the materials when the materials are delivered to a county imposing the surtax at the rate imposed by that county if the contractor or subcontractor is in a taxing county and delivery is made within the taxing county or in another county imposing the surtax. Contractors or subcontractors must also collect the surtax if the contractor or subcontractor is located in a county that does not impose the surtax and delivery is made to another county imposing the surtax.

(c) Contractors and subcontractors in a taxing county performing any kind of contract, except one falling in paragraph (b) above, who have been authorized and elected to use an alternate tax compliance method, must compute the surtax on the appropriate percentage of the contract price at the same time and in the same manner in which sales and use tax is computed.

(3)(d) The For the purpose of determining the application of surtax to sales, fabrication, use, consumption, distribution, or storage of tangible personal property to or by contractors or subcontractors, it shall be determined on the basis of the date of each invoice for such sales, the date such fabrication occurred, or the date of importation for use, consumption, distribution, or storage. The, not on the date the written contract was entered into, the date of the oral contract, or the date of the purchase order does not determine the application of the surtax.

(4)(2)(a) In the case of written contracts executed (signed) prior to the effective date of any surtax, for the repair, alteration, improvement, remodeling, or construction of real property, the surtax shall be paid by the contractor responsible for the performance of the contract. However, the contractor responsible for the performance of the written contract signed prior to the effective date of any such surtax may apply for one refund per contract of any such surtax paid by the contractor responsible for the performance of the contract on materials necessary for the completion of the contract.

(b) To receive the refund, the contractor responsible for the performance of the contract must file an Application for Refund-Sales and Use Tax from the State of Florida (form DR-26S), incorporated by reference in Rule 12-26.008, F.A.C.), containing a sworn statement, signed by the applicant or its representative, attesting to the validity of the application for refund. Such application for refund shall be made no later than 15 months following the initial imposition of the surtax in the county in which the transaction subject to the initial imposition of the surtax occurred.

2. Applications for Refund from the State of Florida (DR-26) are available, without cost, by 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 at the address shown inside the parentheses (<http://www.myflorida.com/dor/>). Persons with hearing or speech impairments may call the Department's TDD at (800)367-8331.

(c) The contractor must submit the information as provided in subparagraphs shown in 1. through 5. below, with the Application for Refund-Sales and Use Tax from the State of Florida (form DR-26S). Upon approval of a completed application, the Department of Revenue shall, within 30 days, certify to the county or counties information necessary for issuance of a refund directly to the applicant of said taxes.

Counties are authorized to issue refunds for this purpose and shall set aside from the proceeds of the surtax a sum sufficient to pay any refund lawfully due.

1. through 5. No change.

(d) No change.

Specific Authority 212.17(6), 212.18(2), 213.06(1) FS. Law Implemented 212.02(4),(16),(20), 212.054, 212.055, 212.06(1), 212.14(5), ~~212.17~~ FS. History—New 12-11-89, Amended 5-12-92, 8-10-92, 11-16-93, 3-20-96, \_\_\_\_\_.

#### 12A-15.009 Occasional and Isolated Sales.

Specific Authority 212.17(6), 212.18(2), 213.06(1) FS. Law Implemented 212.02(2), 212.05(1), 212.054, 212.055, 212.06(1),(2),(10) FS. History—New 12-11-89, Amended 5-12-92, Repealed.

#### 12A-15.013 Interstate and Foreign Commerce.

Specific Authority 212.17(6), 212.18(2), 213.06(1) FS. Law Implemented 212.054, 212.055, 212.0598, 212.06(2)(d), 212.08(4)(a),(8),(9) FS. History—New 12-11-89, Amended 11-16-93, 3-20-96, Repealed.

#### 12A-15.014 Transition Rule.

(1) through (2) No change.

~~(3) Motor Vehicle, Mobile Home, Boat, and Aircraft Dealers.~~

~~(a)1. Dealers in motor vehicles, mobile homes, boats, and aircraft who issue sales invoices to their customers, dated before the effective date of any such surtax, shall charge the applicable 6% tax rate, even though delivery is not made until after the effective date of the surtax. To qualify for the 6% tax rate, the provisions established in subsection (1) must be met.~~

~~2. For sales and purchases, other than by dealers, and for all other transfers of title, the County Tax Collectors and the Department of Highway Safety and Motor Vehicles will require tax at the 6% rate, plus the surtax rate on the first \$5,000, on all transfers of title submitted on or after the effective date of any such surtax.~~

~~(3)(4) No change.~~

~~(5) Effective January 1, 1994, services, including detective, burglar protection, and other protection services, nonresidential cleaning and nonresidential pest control services which are subject to the state tax imposed by Chapter 212, F.S., are subject to the surtax.~~

~~(6)(a) A dealer located outside a county who sells tangible personal property or taxable services and delivers the tangible personal property or taxable services into a county imposing the surtax is liable for collection of the surtax as follows:~~

~~1. If the county into which the tangible personal property or services are delivered adopts or revises the surtax rate between January 1 and November 9 of any year, the dealer is not required to collect the surtax at the new or revised rate on taxable transactions until February 1 of the next year. For example: A county imposes a new surtax on October 1, 1994. Dealers located outside the county which sell and deliver tangible personal property or services into the county must begin collecting the surtax on February 1, 1995.~~

~~2. If the county adopts or revises the surtax between November 9 and December 31 of any year, dealers located outside the county are not required to collect the surtax at the new or revised rate until the 14th month following that year (beginning February 1 of the year following the year after the adoption or revision). For example: A county imposes a new surtax beginning December 1, 1994. Dealers located outside the county which sell and deliver tangible personal property or services into the county imposing the new surtax must begin collecting the surtax on February 1, 1996.~~

~~3. The surtax rates to be collected on or after February 1 of any year by a dealer who sells tangible personal property or taxable services and delivers tangible personal property or taxable services into counties imposing the surtax will be provided in the sales and use tax return coupon booklet mailed each year to all dealers by the Department of Revenue.~~

~~(b) Dealers located in a surtax county who sell and deliver tangible personal property or services within the county in which they are located are required to collect and remit the adopted or revised rate for that county upon the effective date of any such surtax.~~

~~(c) Dealers who collect surtax should indicate on the back of the Sales and Use Tax return (Form DR-15) sales and/or purchases that are exempt or subject to the surtax.~~

Specific Authority 212.17(6), 212.18(2), 213.06(1) FS. Law Implemented 212.05(1), 212.054, 212.055, 212.06(10) FS. History—New 12-11-89, Amended 11-16-93, 3-20-96, 10-2-01, \_\_\_\_\_.

#### 12A-15.015 Public Use Forms.

In addition to the forms prescribed in Chapter 12A-1, F.A.C., the following public use forms and instructions are employed by the Department of Revenue in its dealings with the public in administering the surtax. These forms are hereby incorporated by reference in this rule. Copies of these forms are available, without cost, by 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 at the address shown inside the parentheses (<http://www.myflorida.com/dor/>). Persons with hearing or speech impairments may call the Department's TDD at (800)367-8331.

Form Number	Title	Effective Date
(1) DR-37	Motor Vehicle/Mobile Home Dealers Proof of Payment of Discretionary Tax Return (N. 02/88)	02/88
(2) DR-38	Tax Collector's Report-6% Sales Tax and/or Surtax (r. 09/95)	02/96

Specific Authority 212.17(6), 212.18(2), 213.06(1) FS. Law Implemented 212.054, 212.055 FS. History—New 12-11-89, Amended 8-10-92, 9-14-93, 3-20-96, 6-19-01, Repealed.

**DEPARTMENT OF REVENUE**

**Sales and Use Tax**

RULE CHAPTER TITLE:	RULE CHAPTER NO.:
Rental Car Surcharge	12A-16
RULE TITLES:	RULE NOS.:
Registration	12A-16.004
Surcharge Returns and Filing Requirements	12A-16.006
Interstate and Foreign Commerce	12A-16.007
Public Use Forms	12A-16.008

**PURPOSE AND EFFECT:** The purpose of the proposed amendments to Rule 12A-16.004, F.A.C. (Registration), is to provide the methods and requirements to register with the Department for purposes of the rental car surcharge.

The purpose of the proposed amendments to Rule 12A-16.006, F.A.C., is to: (1) change the title to “Surcharge Returns and Filing Requirements”; (2) remove the unnecessary recitation of statutory provisions regarding the collection allowance and the computation of estimated taxes; (3) provide that payment of the rental car surcharge required to be made by electronic means, returns required to be submitted by electronic means, and returns when no surcharge is due must be submitted to the Department as provided in Rule Chapter 12-24, F.A.C.; and (4) provide that the penalties imposed under s. 212.12(2), F.S., for purposes of late payments and returns applies to the rental car surcharge.

The purpose of the proposed repeal of Rule 12A-16.007, F.A.C. (Interstate and Foreign Commerce) is to remove unnecessary guidelines for the application of the partial exemption in s. 212.08(9)(b), F.S., to the rental car surcharge imposed under s. 212.0606, F.S.

The purpose of the proposed amendments to Rule 12A-16.008, F.A.C. (Public Use Forms), is to adopt by reference changes to form DR-15SW, Solid Waste and Surcharge Return, and provide necessary technical changes.

**SUBJECT AREA TO BE ADDRESSED:** The subject of this workshop is: (1) the proposed guidelines and requirements for registering with the Department for purposes of the rental car surcharge; (2) the proposed guidelines for the reporting and the payment of the rental car surcharge, including those required to be made by electronic means; (3) clarification of the application of the penalties imposed under s. 212.12(2), F.S.,

for purposes of late payments and the filing of returns; and (4) the proposed removal of unnecessary recitation of statutory provisions and unnecessary provisions.

**SPECIFIC AUTHORITY:** 212.17(6), 212.18(2), 213.06(1) FS. **LAW IMPLEMENTED:** 212.0606, 212.07, 212.08(9), 212.11, 212.12(2),(3),(4), 212.13, 212.18(3), 213.235, 376.70, 403.717, 403.718, 403.7185 FS.

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

**TIME AND DATE:** 1:30 p.m., November 20, 2002

**PLACE:** Room 116, Larson Building, 200 E. Gaines Street, Tallahassee, Florida 32399-0100

**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 Nancy Purvis, (850)488-0712. If you are hearing-impaired or speech-impaired, please contact the Department by using the Florida Relay Service, which may be reached at 1(800)955-8770 (Voice) or 1(800)955-8771 (TDD). The Department’s proposed rules are available on the Department’s web site: <http://www.myflorida.com/dor/rules>.

**THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT WORKSHOP IS:** Janet L. Young, Tax Law Specialist, Technical Assistance and Dispute Resolution, Department of Revenue, P. O. Box 7443, Tallahassee, Florida 32314-7443, telephone (850)922-9407, e-mail: [youngj@dor.state.fl.us](mailto:youngj@dor.state.fl.us)

**THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS:**

12A-16.004 Registration.

(1) Before any person may engage in or conduct business in this state of leasing or renting any for hire passenger motor vehicle, that person must register with the Department for sales and use tax purposes and obtain a separate certificate of registration for each place of business first file an Application to Collect and/or Report Tax in Florida (form DR-1). Registration as a sales tax dealer is sufficient registration for purposes of the surcharge. ~~See Rule 12A-16.008, F.A.C., for information on how to obtain forms.~~

(2)(a) Registration with the Department for sales and use tax purposes is available by using one of the following methods:

1. Registering through the Department’s Internet site at the address shown in the parentheses (<http://www.myflorida.com/dor/>) using the Department’s “e-Services” without payment of a registration fee; or

2. Filing an Application to Collect and/or Report Tax in Florida (form DR-1, incorporated by reference in Rule 12A-1.097, F.A.C.) with the Department, as indicated on the form, with the required \$5 registration fee.

(b) A separate application is required for each place of business.

(c) Each application submitted to the Department must contain sufficient information to facilitate the processing of the application.

(3)(2) No change.

Specific Authority 212.17(6), 212.18(2), 213.06(1) FS. Law Implemented 212.0606, 212.18(3) FS. History—New 11-14-89, Amended 8-10-92, 3-21-95, 6-19-01, \_\_\_\_\_.

**12A-16.006 Surcharge Returns and Filing Requirements Regulations.**

(1)(a) Except as provided in Rule Chapter 12-24, F.A.C., the surcharge for each month shall be due to the Department of Revenue on the first day of the month following the date the lease or rental payments are to be made by the lessee or renter, under the terms of the lease or rental agreement, and shall be delinquent on the twenty-first of each month. The payment and return must be delivered to either reach the office of the Department of Revenue or be postmarked on or before the 20th day of the month following the date the lease or rental payments are to be made by the lessee or renter, under the terms of the lease or rental agreement, to avoid penalty and interest for late filing. If when the 20th day falls on Saturday, Sunday, or a legal holiday, payments accompanied by returns will be accepted as timely if postmarked or delivered to the Department on the next succeeding day which is not a Saturday, Sunday, or legal holiday. For this purpose, a legal holiday means a holiday which is observed by federal or state agencies as a legal holiday as this term is defined in Ch. 683, F.S., and s. 7503 of the Internal Revenue Code of 1986, as amended. A "legal holiday" pursuant to s. 7503 of the 1986 Internal Revenue Code of 1986, as amended, means a legal holiday in the District of Columbia or a statewide legal holiday at a location outside the District of Columbia but within an internal revenue district.

(b) The surcharge is not to be included in the computation of estimated taxes pursuant to s. 212.11, F.S.

(b)(e) No change.

(c) Payments and returns for reporting the rental car surcharge must be submitted to the Department, as provided in Rule Chapter 12-24, F.A.C., when:

1. Payment of the rental car surcharge is required to be made by electronic means;
2. Any return for reporting the rental car surcharge is required to be submitted by electronic means; or
3. No fees are due with a return for reporting the rental car surcharge.

~~(2) The dealer's collection allowance for timely remitting sales and use tax provided in s. 212.12, F.S., does not apply to the surcharge.~~

~~(3) through (4) renumbered (2) through (3) No change.~~

(4) Persons who are required to make a return or to pay fees imposed by s. 212.0606, F.S., and fail to do so will be subject to penalties, as provided in s. 212.12(2), F.S.

(b)(5) No change.

Specific Authority 212.17(6), 212.18(2), 213.06(1) FS. Law Implemented 212.0606, 212.11, 212.12(2),(3),(4),(5), 213.235, 213.755 213.29 FS. History—New 11-14-89, Amended 7-7-91, 8-10-92, 5-19-93, 3-20-95, 3-20-96, 4-2-00, \_\_\_\_\_.

**12A-16.007 Interstate and Foreign Commerce.**

Specific Authority 212.17(6), 212.18(2), 213.06(1) FS. Law Implemented 212.0606, 212.07, 212.08(9), 212.13 FS. History—New 11-14-89, Repealed \_\_\_\_\_.

**12A-16.008 Public Use Forms.**

(1)(a) In addition to the forms prescribed in Chapter 12A-1, F.A.C., the following public use forms and instructions are employed by the Department of Revenue in its dealings with the public in administering the surcharge.

(b) Copies of these forms are available, without cost, by one or more of the following methods: 1) writing the Florida Department of Revenue, Forms Distribution Center, 168A 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 at the address show inside the parentheses (http://www.myflorida.com/dor/). Persons with hearing or speech impairments may call the Department's TDD at (800)367-8331.

Form Number	Title	Effective Date
<del>(2)(4)</del>	DR-15SW Solid Waste and Surcharge Return (r. 04/02 r. 05/99)	<del>06/01</del>
<del>(3)(2)</del>	No change.	

Specific Authority 212.17(6), 212.18(2), 213.06(1) FS. Law Implemented 212.0606, 212.12(2), 213.235, 376.70, 403.717, 403.718, 403.7185 FS. History—New 11-14-89, Amended 7-7-91, 8-10-92, 3-21-95, 6-19-01, \_\_\_\_\_.

**DEPARTMENT OF REVENUE**

**Miscellaneous Tax**

RULE CHAPTER TITLE:	RULE CHAPTER NO.:
Tax on Gross Receipts on Dry-Cleaning	12B-11

RULE TITLES: Registration  
 Returns and Filing Requirements  
 Public Use Form

RULE NOS.: 12B-11.005  
 12B-11.006  
 12B-11.009

PURPOSE AND EFFECT: The purpose of the proposed amendments to Rule 12B-11.005, F.A.C. (Registration), is to: (1) remove the obsolete registration form DR-1DC; (2) incorporate form DR-1, Application to Collect and/or Report Tax in Florida, which is currently used by the Department to register dealers for purposes of the gross receipts tax imposed on dry-cleaning; (3) provide the methods and requirements to register with the Department; (4) provide that a \$30 registration fee is required with form DR-1 but is not required when registering through the Department's Internet site; and (5) remove the incorporation by reference of form DR-11, Certificate of Registration, which does not meet the definition of a "rule," as defined in s. 120.542(15), F.S.

The purpose of the proposed amendments to Rule 12B-11.006, F.A.C., is to: (1) change the title to "Returns and Filing Requirements"; (2) clarify when tax is due; (3) clarify the definition of the term "legal holiday"; (4) provide that payment of tax required to be made by electronic means, returns required to be submitted by electronic means, and returns when no tax is due must be submitted to the Department as provided in Rule Chapter 12-24, F.A.C.; (5) clarify that the Department is not authorized to extend the time for a dealer to file a return or remit tax due; (6) clarify that the penalties imposed under s. 212.12(2), F.S., apply to the gross receipts tax on dry-cleaning for purposes of late payments and the filing of returns; and (7) remove language regarding the collection allowance that is redundant of s. 376.70, F.S.

The purpose of the proposed repeal of Rule 12B-11.009, F.A.C. (Public Use Form), is to repeal the incorporation by reference of form DR-1DC, Application for Gross Receipts Tax on Dry-Cleaning, which is no longer used by the Department.

SUBJECT AREA TO BE ADDRESSED: The subject of this workshop is: (1) the proposed guidelines and requirements for registering with the Department for purposes of the tax on gross receipts on dry-cleaning; (2) the proposed guidelines for the reporting and payment of the gross receipts tax on dry-cleaning when required to be made by electronic means; (3) the clarification that the Department is not authorized to extend the time for a dealer to file a return or remit any tax due; (4) the proposed removal of the unnecessary recitation of statutory provisions; and (5) the removal of forms that are no longer used by the Department in the administration of the tax on gross receipts on dry-cleaning.

SPECIFIC AUTHORITY: 212.17(6), 212.18(2), 213.06(1), 376.70(6)(b) FS.

LAW IMPLEMENTED: 213.755, 376.70 FS.

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

TIME AND DATE: 1:30 p.m., November 20, 2002

PLACE: Room 116, Larson Building, 200 E. Gaines Street, Tallahassee, Florida 32399-0100

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 Nancy Purvis, (850)488-0712. If you are hearing-impaired or speech-impaired, please contact the Department by using the Florida Relay Service, which may be reached at 1(800)955-8770 (Voice) or 1(800)955-8771 (TDD). The Department's proposed rules are available on the Department's web site: <http://www.myflorida.com/dor/rules>.

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT WORKSHOP IS: Alan R. Fulton, Senior Tax Specialist, Technical Assistance and Dispute Resolution, Department of Revenue, P. O. Box 7443, Tallahassee, Florida 32314-7443, telephone (850)488-2577, e-mail: [fultona@dor.state.fl.us](mailto:fultona@dor.state.fl.us)

THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS:

12B-11.005 Registration.

(1) Every person desiring to engage in or conduct business in this state as a dry-cleaning facility must register with the Department and obtain a certificate of registration from the Department. Dry-cleaning facilities or drop-off facilities operating at more than one location are only required to obtain a single certificate from the Department. The registration for the tax is to be made on the Application for Gross Receipts Tax on Dry-cleaning (Form DR-1DC), incorporated by reference in Rule 12B-11.009, F.A.C.

(2)(a) Registration with the Department for purposes of the gross receipts tax on dry-cleaning facilities is available by using one of the following methods:

1. Registering through the Department's Internet site at the address shown in the parentheses (<http://www.myflorida.com/dor/>) using the Department's "e-Services" without payment of a registration fee; or

2. Filing an Application to Collect and/or Report Tax in Florida (form DR-1, incorporated by reference in Rule 12A-1.097, F.A.C.) with the Department, as indicated on the form, with the required \$30 registration fee.

(b) Each application submitted to the Department must contain sufficient information to facilitate the processing of the application.

(3)(2) ~~The Executive Director or the Executive Director's designee, upon receipt of such application, will grant the applicant a Certificate of Registration (Form DR-11), incorporated by reference in Rule 12A-1.097, F.A.C. Engaging in business as a dry-cleaning facility without first obtaining a certificate of registration Certificate of Registration or after such certificate has been cancelled by the Executive Director~~



or the Executive Director's designee is prohibited. The failure or refusal of any person to register is a misdemeanor of the first degree, punishable as provided in s. 775.082, F.S., or s. 775.083, F.S., or subject to injunctive proceeding as provided by law.

Specific Authority 212.17(6), 212.18(2), 213.06(1) FS. Law Implemented 376.70(2) FS. History--New 2-19-95, Amended 6-19-96, \_\_\_\_\_.

12B-11.006 Returns and ~~Filing Requirements~~ **Regulations**.

(1) Tax due on transactions:

(a) Businesses which maintain tax and accounting records on the basis of cash receipts may report this tax when payment is received. The tax is due on the first day of the month following the month that the consideration for the service is paid, if the accounting records are maintained on the basis of cash receipts.

(b) Businesses which maintain tax and accounting records on the accrual basis must report this tax in the month the receivable is recorded. The tax is due on the first day of the month following the month that the receivable for the service is recorded, if the accounting records are maintained on the accrual basis.

~~(c)(2)~~ The tax should be reported on the Solid Waste and Surcharge Return (~~form Form~~ DR-15SW), incorporated by reference in Rule 12A-16.008, F.A.C.

~~(2)(3)(a)~~ Except as provided in Rule Chapter 12-24, F.A.C., ~~the~~ The payment and the Solid Waste and Surcharge Return (Form DR-15SW); must be delivered to either reach the office of the Department or be postmarked ~~on or before the 20th day of the month following the month in which the consideration is received, if the accounting records are maintained on the basis of cash receipts, to avoid penalty and interest for late filing as follows; whether or not any taxes are due, by all persons required to file the returns.~~

1. On or before the 20th day of the month following the month in which the consideration is received, if the accounting records are maintained on the basis of cash receipts; or

~~2.(b) On~~ The payment and the Solid Waste and Surcharge Return (Form DR-15SW) must either reach the office of the Department or be postmarked on or before the 20th day of the month following the month in which the account receivable is posted, if the accounting records are maintained on the accrual basis, to avoid penalty and interest for late filing, whether or not any taxes are due, by all persons required to file the return.

~~3.(4)(a)~~ If the 20th day falls on a Saturday, Sunday, or a legal holiday, payments accompanied by returns will shall be accepted as timely if postmarked or delivered to the ~~Department department~~ on the next succeeding day which is not a Saturday, Sunday, or legal holiday.

~~(b)~~ For the purpose of this rule ~~section~~, a legal holiday means shall mean a holiday ~~that~~ which is observed by federal or state agencies as a legal holiday, as this term is defined in Chapter 683, F.S., and s. 7503, Internal Revenue Code; of

1986, as amended ~~and in effect on 1/1/95, which is incorporated by reference in this rule.~~ A "legal holiday" pursuant to s. 7503 of the Internal Revenue Code of 1986, as amended, means a legal holiday in the District of Columbia or a statewide legal holiday at a location outside the District of Columbia but within an internal revenue district.

(b) Payments and returns for reporting tax must be submitted to the Department, as provided in Rule Chapter 12-24, F.A.C., when:

1. Payment of the tax is required to be made by electronic means;

2. Any return for reporting tax is required to be submitted by electronic means; or,

3. No tax is due with a return for reporting taxes.

~~(3)(5)~~ The failure of any dealer to secure a tax return for reporting tax due does not relieve the dealer from the requirement to file a return or remit tax due to the Department. The Department is not authorized to extend the time for any dealer to file any return or pay any tax due. As stated in Rule 12A-1.056(12), F.A.C., with reference to taxes, the Department is not authorized to extend the time to make any returns or pay any fees; and the consequences for late filing described in Rule 12A-1.056, F.A.C., are applicable to this tax.

(4) Persons who are required to make a return or to pay tax on gross receipts on dry-cleaning imposed under s. 376.70, F.S., and administered under the provisions of Chapter 212, F.S., and fail to do so will be subject to penalties, as provided in s. 212.12(2), F.S.

~~(6)~~ Where payment by electronic funds transfer is required, the tax will be remitted as provided by Rule Chapter 12-24, F.A.C.

~~(7)~~ A collection allowance for timely remitting the tax due, provided in s. 212.12, F.S., ~~does not apply to the gross receipts tax.~~

Specific Authority 212.17(6), 212.18(2), 213.06(1), 376.70~~(6)(5)~~(b) FS. Law Implemented 213.755, 376.70 FS. History--New 2-19-95, Amended 6-19-96, \_\_\_\_\_.

12B-11.009 Public Use Form.

Specific Authority 212.17(6), 212.18(2), 213.06(1), 376.70~~(6)(5)~~(b) FS. Law Implemented 376.70(3) FS. History--New 2-19-95, Amended 6-19-96, Repealed \_\_\_\_\_.

**DEPARTMENT OF REVENUE**

**Miscellaneous Tax**

RULE CHAPTER TITLE:	RULE CHAPTER NO.:
Tax on Perchloroethylene	12B-12
RULE TITLES:	RULE NOS.:
Registration	12B-12.005
Returns and Filing Requirements	12B-12.006
Public Use Forms	12B-12.009
PURPOSE AND EFFECT: The purpose of the proposed amendments to Rule 12B-12.005, F.A.C. (Registration), is to:	
(1) to correctly title form DR-166, Florida Pollutant Tax	

Application; (2) provide that any person who produces, sells, or imports perchloroethylene ("perc") in Florida must obtain a Pollutants License; (3) provide that a \$30 registration fee is required for each application; and (4) remove the incorporation by reference of form DR-110, Pollutants License, which does not meet the definition of a "rule," as defined in s. 120.542(15), F.S.

The purpose of the proposed amendments to Rule 12B-12.006, F.A.C., is to: (1) change the title to "Returns and Filing Requirements"; (2) clarify the definition of the term "legal holiday"; (3) provide that payment of taxes required to be made by electronic means, returns required to be submitted by electronic means, and returns when no tax is due must be submitted to the Department as provided in Rule Chapter 12-24, F.A.C.; and (4) remove the recitation of penalties for late filing and payment of the tax imposed under ss. 376.75(9)(a) and 212.12(2), F.S.

The purpose of the proposed repeal of Rule 12B-12.009, F.A.C. (Public Use Forms) is to repeal an unnecessary rule which incorporates by reference forms that are incorporated by reference in Rules 12B-12.005 and 12B-12.006, F.A.C.

SUBJECT AREA TO BE ADDRESSED: The subject of this workshop is: (1) the proposed guidelines for tax payments and the filing of returns; (2) the proposed definition of the "legal holiday"; and (3) the incorporation by reference of forms used by the Department in the administration of the tax on perc.

SPECIFIC AUTHORITY: 212.17(6), 212.18(2), 213.06(1), 376.75(9)(b) FS.

LAW IMPLEMENTED: 212.11(1)(b),(d), 212.12(2)(a),(3),(4), 213.235, 213.755, 376.75 FS.

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

TIME AND DATE: 1:30 p.m., November 20, 2002

PLACE: Room 116, Larson Building, 200 E. Gaines Street, Tallahassee, Florida 32399-0100

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 Nancy Purvis, (850)488-0712. If you are hearing-impaired or speech-impaired, please contact the Department by using the Florida Relay Service, which may be reached at 1(800)955-8770 (Voice) or 1(800)955-8771 (TDD). The Department's proposed rules are available on the Department's web site: <http://www.myflorida.com/dor/rules>.

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT WORKSHOP IS: Alan R. Fulton, Senior Tax Specialist, Technical Assistance and Dispute Resolution, Department of Revenue, P. O. Box 7443, Tallahassee, Florida 32314-7443, telephone (850)488-2577, e-mail: [fultona@dor.state.fl.us](mailto:fultona@dor.state.fl.us)

THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS:

12B-12.005 Registration.

(1) ~~Every~~ Any person must file a Florida Pollutant Tax Application (form DR-166, incorporated by reference in Rule 12B-5.150, F.A.C.) with the Department for a pollutant license before producing, selling, importing, or causing perc who produces, sells, imports, or causes to be imported into pere in Florida and obtain a pollutant license from for any purpose is required to register and become licensed with the Department. A \$30 registration fee must accompany each application.

~~(2)(a) To apply for a license an applicant must submit to the Department Form DR-166, Application for Florida License to Produce or Import Taxable Pollutants, incorporated in Rule 12B-5.012, F.A.C., by reference.~~

~~(b)1. The Executive Director or the Executive Director's designee, upon receipt of such application, will grant to the applicant a Pollutants License (Form DR-110, incorporated in Rule 12B-5.012, F.A.C., by reference.~~

~~(2)2.~~ Producing in, importing into, selling in, or causing perc to be imported into Florida for any purpose without first obtaining a license or after such license has been canceled by the Executive Director or the Executive Director's designee is prohibited.

Specific Authority 212.17(6), 212.18(2), 213.06(1), 376.75(9)(b) FS. Law Implemented 376.75(2) FS. History—New 2-19-95, Amended 3-18-96, \_\_\_\_\_.

12B-12.006 Returns, ~~Regulations~~ and Filing Requirements.

(1)(a) When perc is sold in Florida, the tax is due to the Department on the first day of the month following the month of sale.

(b) When a person who has purchased perc for use in a dry-cleaning facility in Florida cannot document that the tax has been paid, the tax is due to the Department on the first day of the month following the month of purchase or importation.

~~(c)1.~~ The tax is required to ~~should~~ be reported on the Pollutant Tax Return (form ~~Form~~ DR-904), incorporated by reference in Rule ~~12B-5.012~~ 12B-5.150, F.A.C., by reference.

~~2. A return is required to be filed even if no tax is due.~~

~~3. There is no collection allowance for timely remitting the tax.~~

(2)(a) Except as provided in Rule Chapter 12-24, F.A.C., the ~~The~~ payment and the Pollutant Tax Return (form ~~Form~~ DR-904, incorporated by reference in Rule 12B-5.150, F.A.C.), must be delivered to either reach the office of the Department or be postmarked on or before the 20th day of the month following the month of the taxable transaction to avoid penalty and interest for late filing.

~~(b)1~~: If the 20th day falls on a Saturday, Sunday, or a legal holiday, payments accompanied by returns will ~~shall~~ be accepted as timely if postmarked or delivered to the Department ~~department~~ on the next succeeding day which is not a Saturday, Sunday, or legal holiday.

2. For this purpose, a legal holiday means ~~shall mean~~ a holiday that is observed by federal or state agencies as a legal holiday, as this term is defined in Chapter 683, F.S., and s. 7503, Internal Revenue Code of 1986, as amended ~~and in effect on January 1, 1995, which is incorporated by reference in this rule.~~ A "legal holiday" pursuant to s. 7503 of the Internal Revenue Code of 1986, as amended, means a legal holiday in the District of Columbia or a statewide legal holiday at a location outside the District of Columbia but within an internal revenue district.

(b) Payments and returns for reporting tax must be submitted to the Department, as provided in Rule Chapter 12-24, F.A.C., when:

1. Payment of the tax is required to be made by electronic means;

2. Any return for reporting tax is required to be submitted by electronic means; or

3. No tax is due with a return for reporting tax.

(3) No change.

~~(4)(a) When any person fails to make a return or remit the tax, or any portion thereof, on or before the day when such tax is required to be paid, a delinquent penalty will be added to the unpaid tax in the amount of 10 percent of any unpaid tax if the failure is not for more than 30 days. An additional delinquent penalty of 10 percent of any unpaid tax will be assessed for each additional 30 days, or fraction thereof, during the time the failure continues, not to exceed, however, a total delinquent penalty of 50 percent in the aggregate.~~

~~(b) A mandatory minimum delinquent penalty of \$10 applies to all delinquent returns.~~

Specific Authority 212.17(6), 212.18(2), 213.06(1), 376.75(9)(b) FS. Law Implemented 212.11(1)(b),(d), 212.12(2)(a),(3),(4), 213.235, 213.755, 376.75 FS. History—New 2-19-95, Amended 3-18-96, 4-2-00,\_\_\_\_\_.

12B-12.009 Public Use Forms.

Specific Authority 212.17(6), 212.18(2), 213.06(1), 376.75(9)(b) FS. Law Implemented 376.75(8) FS. History—New 2-19-95, Amended 3-18-96, Repealed\_\_\_\_\_.

**DEPARTMENT OF REVENUE**

**Miscellaneous Tax**

RULE CHAPTER TITLE: Tax on Perchloroethylene  
 RULE TITLE: Refunds and Credits; Recordkeeping

RULE CHAPTER NO.: 12B-12  
 RULE NO.: 12B-12.007

PURPOSE AND EFFECT: The purpose of the proposed amendments to Rule 12B-12.007, F.A.C., is to: (1) change the title to "Refunds and Credits; Recordkeeping Requirements";

and (2) provide the timing provisions of s. 215.26, F.S., and provide that an application for refund of tax must meet the requirements of s. 213.255(2) and (3), F.S., and Rule 12-26.003, F.A.C.

SUBJECT AREA TO BE ADDRESSED: The subject of this workshop is the proposed guidelines on how to obtain refunds of the tax on perchloroethylene consistent with the provisions of s. 213.255(2) and (3), F.S., and Rule 12-26.003, F.A.C.

SPECIFIC AUTHORITY: 212.17(6), 212.18(2), 213.06(1), 376.75(9)(b) FS.

LAW IMPLEMENTED: 376.75(11) FS.

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

TIME AND DATE: 1:30 p.m., November 20, 2002

PLACE: Room 116, Larson Building, 200 E. Gaines Street, Tallahassee, Florida 32399-0100

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 Nancy Purvis, (850)488-0712. If you are hearing-impaired or speech-impaired, please contact the Department by using the Florida Relay Service, which may be reached at 1(800)955-8770 (Voice) or 1(800)955-8771 (TDD). The Department's proposed rules are available on the Department's web site: <http://www.myflorida.com/dor/rules>.

THE PERSONS TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT WORKSHOP IS: Alan R. Fulton, Senior Tax Specialist, Technical Assistance and Dispute Resolution, Department of Revenue, P. O. Box 7443, Tallahassee, Florida 32314-7443, telephone (850)488-2577, e-mail: [fultona@dor.state.fl.us](mailto:fultona@dor.state.fl.us)

THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS:

12B-12.007 Refunds and Credits; **Required** Recordkeeping Requirements.

(1) No change.

(2)(a) Any person entitled to a refund of tax paid on perc must file form DR-26, Application for Refund (incorporated by reference in Rule 12-26.008, F.A.C.) in accordance with the timing provisions of s. 215.26(2), F.S. use Form DR-26 (Application for Refund from the State of Florida). An application for refund shall not be considered complete pursuant to s. 213.255(2) and (3), F.S., and Rule 12-26.003, F.A.C., and a refund shall not be approved until the documentation is provided to the Department.

1. Form DR-26, Application for Refund, must be filed with the Department for tax paid on or after October 1, 1994, and prior to July 1, 1999, within 5 years after the date the tax was paid.

2. Form DR-26, Application for Refund, must be filed with the Department for tax paid on or after July 1, 1999, within 3 years after the date the tax was paid.

(b) Form DR-26 (Application for Refund from the State of Florida), is incorporated in Rule 12-26.008, F.A.C., and made a part of this rule chapter by reference.

(b)(e) No change.

(3) through (4) No change.

Specific Authority 212.17(6), 212.18(2), 213.06(1), 376.75(9)(b) FS. Law Implemented 376.75(11) FS. History--New 2-19-95, Amended 3-18-96,

**DEPARTMENT OF REVENUE**

**Child Support Enforcement Program**

RULE TITLE: Overpayment Recovery  
 RULE NO.: 12E-1.022

PURPOSE AND EFFECT: The purpose of the proposed amendments to Rule Chapter 12E-1.022, F.A.C., is to update departmental policies and procedures concerning the method that is used to recover overpayments that are erroneously or fraudulently made to custodial parents in order to comply with federal directives. The proposed amendments provide a definition of overpayment; allow for custodial parents to agree in writing to withholding for overpayments; provide notice to the custodial parent of the overpayment; require the custodial parent to contact the department or withholding of 25% will occur automatically from current support collections; provide an agreement to withholding form with the notices; add a third notice provision; provide for automatic withholding for non-compliance with a written agreement; and provide that overpayments in public assistance cases will be reported to the Department of Children and Families. The effect of the rule change requires custodial parents to respond to notifications from the department or the department will presume permission to collect the overpayments from current support collections.

SUBJECT AREA TO BE ADDRESSED: The subject of this rule development workshop is to discuss the proposed changes to the departmental procedures specified above.

SPECIFIC AUTHORITY: 409.2557(3)(i), 409.2558(6),(7) FS.  
 LAW IMPLEMENTED: 409.2558(6),(7), 409.2564(13)(b) FS.

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

TIME AND DATE: 9:00 a.m., November 12, 2002  
 PLACE: Room 301, 4070 Esplanade Way, Tallahassee, Florida 32399-0350

Copies of the agenda for the rule development workshop may be obtained from: Lynn D. Chang, Government Analyst II, Department of Revenue, P. O. Box 8030, Tallahassee, Florida 32314-8030, (850)922-9573

NOTICE UNDER THE AMERICANS WITH DISABILITIES ACT: Any person requiring special accommodations to participate in any proceeding before the Child Support

Enforcement Program is asked to advise the Department at least five (5) calendar days before such proceeding by contacting: Lynn D. Chang, (850)922-9573. If you are hearing or speech-impaired, please contact the Department by calling 1(800)DOR-TDD1 (1(800)367-8331).

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT IS: Lynn D. Chang, Government Analyst II, Department of Revenue, P. O. Box 8030, Tallahassee, Florida 32314-8030, (850)922-9573 (The preliminary text of the proposed rule development is also available on the department website at <http://myflorida.com/dor>)

THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS:

(Substantial Rewording of Rule 12E-1.022 follows. See Florida Administrative Code for present text.)

12E-1.022 Overpayment Recovery.

(1) For purposes of this rule:

(a) "Department" means the Department of Revenue or a contractor or a subcontractor when authorized by the Department of Revenue.

(b) "Overpayment" means the amount of a disbursement that is received by a custodial parent in a Title IV-D case that the custodial parent is not entitled to receive. The term includes, but is not limited to, a disbursement resulting from fraud or mistake, a disbursement made based on a non-sufficient funds instrument or electronic funds transfer, and a disbursement made from a collection that was partially or fully reversed by the Internal Revenue Service.

(2) When a custodial parent receives an overpayment for a period during which the custodial parent was receiving temporary cash assistance, the department shall report the amount of the overpayment to the Department of Children and Families.

(3) When a custodial parent receives an overpayment for a period during which the custodial parent was not receiving temporary cash assistance, the following shall apply:

(a) If the custodial parent has previously agreed in writing to have overpayments withheld from future collections received by the department that would otherwise be disbursed to the custodial parent, a percentage of each future collection received shall be applied toward the overpayment until it is repaid. The remaining amount of each collection will be disbursed in accordance with federal and state laws.

1. The department shall send the custodial parent a written notice of overpayment by regular mail to the custodial parent's last known address advising of the overpayment and advising that the custodial parent had previously agreed in writing to withholding as the means of repayment.

2. The notice will advise the custodial parent that unless the custodial parent contacts the department within 60 days from the mailing date of the notice or repays the overpayment, 25% of future collections will be withheld to repay the overpayment.

3. A written agreement will be enclosed with the notice that the custodial parent can sign and return to the department within the 60 day period specifying the payment terms agreeable to the custodial parent and the department.

4. If the custodial parent does not repay the overpayment or sign a written agreement within the 60 day period, 25% of each future collection shall be applied toward the overpayment until it is repaid. The remaining amount of each collection will be disbursed in accordance with federal and state laws.

(b) When a custodial parent receives an overpayment and has not previously agreed in writing to allow the department to withhold from future collections to repay the overpayment, the department shall send the custodial parent a written first notice of overpayment by regular mail to the custodial parent's last known address. The notice must state:

1. The amount of the overpayment;

2. The date of the overpayment;

3. That the custodial parent is required to repay the overpayment;

4. That the custodial parent may repay the overpayment in one lump sum;

5. That the custodial parent may repay the overpayment by agreeing to have the department withhold a percentage from future collections until the overpayment is repaid;

6. That the custodial parent may enter into a written agreement to repay the overpayment in installments;

7. That a written agreement is enclosed that the custodial parent can sign and return to the department specifying the payment terms being requested;

8. That the custodial parent should respond to the department in writing within 20 days from the date of the notice either by signing and returning the written agreement or declining all payment options; and

9. The method by which the custodial parent can request a reconsideration as provided by Rule 12E-1.006, F.A.C., Request for Reconsideration.

(c) If the custodial parent does not respond to the first written notice of overpayment sent pursuant to paragraph (3)(b), the department will send a second written notice of overpayment by regular mail to the custodial parent's last known address. The second written notice must state:

1. The same information required by paragraph (3)(b) of this rule.

2. The date of the first written notice of overpayment.

3. That this is a second written notice of overpayment.

4. That further collection action will be taken if the custodial parent does not contact the department in writing within 20 days.

(d) If the custodial parent does not respond to the second written notice of overpayment sent pursuant to paragraph (3)(c), the department will send a third written notice of overpayment by regular mail to the custodial parent's last known address. The third written notice of overpayment must state:

1. The same information required by paragraph (3)(b) of this rule.

2. That this is the third and final written notification of overpayment that will be sent.

3. That if the custodial parent does not repay the overpayment in one lump sum, repay the overpayment by signing a written agreement to have the department deduct a percentage from future collections until the overpayment is repaid, sign a written agreement to repay the overpayment in installments, request a reconsideration, respond to the department in writing within 10 days after the date of mailing of the final written notice, or respond with an inquiry but take no further action, the department will withhold 25% of future collections received until the overpayment has been repaid;

4. That recovery of the overpayment will be pursued whether the custodial parent's child support case is open or closed;

5. That the department may pursue other collection actions or legal remedies to recover the overpayment;

6. That if the custodial parent makes a timely request for reconsideration, no further collection action will be taken until the reconsideration process is concluded; and

7. That if an overpayment is established when the reconsideration process is concluded, and the custodial parent does not enter into a repayment agreement with the department, the department will attempt to recover the overpayment by withholding from future collections or by pursuing other collection actions or legal remedies.

(4) A custodial parent who is not satisfied with a reconsideration decision may request an administrative hearing as provided by subsection 12E-1.006(10), F.A.C., Request for Reconsideration.

(5) A written agreement will be provided with each written notice that is sent to the custodial parent. No further written notices will be sent and no further collection action will be taken if the custodial parent returns a signed written agreement on the specific overpayment within the time frames allowed by the written notices and the department accepts the terms of the agreement.

(6) The custodial parent may request the department to enter into a written agreement to repay the overpayment in installments. Upon request and after full disclosure by the custodial parent of available income and resources, the

department shall enter into a written agreement that is reasonably related to the custodial parent's current ability to pay.

(7) The department shall withhold 25% of future collections received until an overpayment has been repaid if the custodial parent does not respond to the three written notices sent pursuant to paragraphs (3)(b) through (3)(d).

(8) If the overpayment has not been recovered from collections, the department may pursue other collection actions or legal remedies to recover the overpayment from the custodial parent.

Specific Authority 409.2557(3)(i),(j),(p), 409.2558(7) FS. Law Implemented 409.2558(6), 409.2564(13)(b) FS. History--New 6-17-92, Amended 7-20-94, Formerly 10C-25.019, Amended 10-22-00.

**DEPARTMENT OF CITRUS**

RULE CHAPTER TITLE: Equalization Tax on Non-Florida, United States Juice  
 RULE CHAPTER NO.: 20-15  
 RULE TITLES: Intent 20-15.001  
 Definitions 20-15.002  
 Collection 20-15.003

PURPOSE AND EFFECT: Proposed new rule to effectuate the collection of Equalization Taxes as required by Court order. Such taxes are owed by persons who, during the time period commencing on October 6, 1997, and ending on March 14, 2002, benefitted from the exemption for non-Florida, United States juice as set forth in the statutory provision which was ultimately severed by the Court from section 601.155(5), Florida Statutes, as unconstitutional.

SUBJECT AREA TO BE ADDRESSED: Effectuating the collection of Equalization Taxes as required by Court order.

SPECIFIC AUTHORITY: 601.02, 601.10, 601.15, 601.155 FS.

LAW IMPLEMENTED: 601.02, 601.10, 601.15, 601.155 FS.

IF REQUESTED AND NOT DEEMED UNNECESSARY BY THE AGENCY HEAD, A RULE DEVELOPMENT WORKSHOP WILL BE SCHEDULED AT A TIME, DATE AND PLACE TO BE ANNOUNCED.

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT IS: Alice P. Wiggins, Administrative Assistant, Legal Department, Florida Department of Citrus, P. O. Box 148, Lakeland, Florida 33802-0148

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

**WATER MANAGEMENT DISTRICTS**

**Southwest Florida Water Management District**

RULE CHAPTER TITLE: Procedural  
 RULE CHAPTER NO.: 40D-1  
 RULE TITLE: Timeframe for Providing Requested Information  
 RULE NO.: 40D-1.1020

PURPOSE AND EFFECT: This proposed rulemaking will amend Rule 40D-1.1020, F.A.C., to provide that applications will be deemed withdrawn, as opposed to being denied, if additional information is not supplied within 30 days after notice by the District.

SUBJECT AREA TO BE ADDRESSED: The procedural rule governing the time frame for applicants to submit requested information.

SPECIFIC AUTHORITY: 120.54(5), 373.044, 373.113, 373.118, 373.4135, 373.4136, 373.414 FS.

LAW IMPLEMENTED: 120.54(5), 120.60, 373.084, 373.085, 373.116, 373.118, 373.119, 373.171, 373.229, 373.2295, 373.308, 373.309, 373.323, 373.413, 373.4136, 373.414, 373.416, 373.418, 373.426 FS.

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

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT AND A COPY OF THE PRELIMINARY DRAFT IS: Jack R. Pepper, Senior Attorney, Office of General Counsel, 2379 Broad Street, Brooksville, FL 34604-6899, (352)796-7211, Extension 4651

THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS:

40D-1.1020 Timeframe for Providing Requested Information

Within 30 days after receipt of an application, the District shall notify the applicant if the application is incomplete and request the additional information required to make the application complete. If additional information is not supplied within 30 days after notice by the District, the application will be deemed withdrawn by the applicant ~~denied for lack of completeness~~. If the application is still incomplete after additional information is provided, the District shall so notify the applicant, who shall have an additional 30 days to render the application complete or be deemed withdrawn by the applicant ~~denied for lack of completeness~~. Upon request by the applicant, an extension of time may be granted by the District staff upon a showing by the applicant that a good faith effort is being made to provide the additional information and the additional time is required. The District may, within 30 days after receiving information from the applicant, request only clarifications of the information or request answers to new questions raised or directly related to

the information previously furnished. Denial of an application for lack of completeness is without prejudice to the applicant's right to file a new application on the same subject matter.

Specific Authority 120.54(5), 373.044, 373.113, 373.118, 373.4135, 373.4136, 373.414 FS. Law Implemented 120.54(5), 120.60, 373.084, 373.085, 373.116, 373.118, 373.119, 373.171, 373.229, 373.2295, 373.308, 373.309, 373.323, 373.413, 373.4136, 373.414, 373.416, 373.418, 373.426 FS. History—New 7-2-98, Amended \_\_\_\_\_.

**WATER MANAGEMENT DISTRICTS**

**Southwest Florida Water Management District**

RULE CHAPTER TITLE:    RULE CHAPTER NO.:

Procedural    40D-1

RULE TITLE:    RULE NO.:

Forms and Instructions    40D-1.659

**PURPOSE AND EFFECT:** Section H of the Environmental Resource Permit Application contains a reference to the exemption for normal and necessary farming and forestry operations previously found in Rule 40D-4.051(7), Florida Administrative Code (F.A.C.). Several of the District's exemptions from obtaining an Environmental Resource Permit (ERP) were invalidated by an Administrative Law Judge and subsequently removed from 40D-4.051, F.A.C. As a result, the exemption for normal and necessary farming and forestry operations has been renumbered as Rule 40D-4.051(3), F.A.C. Also, to conform with recent rule amendments to make references to general permits consistent, this proposed rulemaking will delete the term "standard" from references in the form to a General ERP for Minor Surface Water Systems.

**SUBJECT AREA TO BE ADDRESSED:** This proposed rulemaking corrects the rule reference in Section H, Part 2 of the Environmental Resource Permit Application. This application form is incorporated by reference into Rule 40D-1.659, F.A.C.

**SPECIFIC AUTHORITY:** 373.044, 373.046, 373.113, 373.149, 373.171, 373.414, 373.414(9) FS.

**LAW IMPLEMENTED:** 373.0361, 373.114, 373.171, 373.403, 373.406, 373.413, 373.414, 373.414(9), 373.416, 373.429, 373.441 FS.

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

**THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT AND A COPY OF THE PRELIMINARY DRAFT IS:** Jack R. Pepper, Senior Attorney, Office of General Counsel, 2379 Broad Street, Brooksville, FL 34604-6899, (352)796-7211, Extension 4651

THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS:

40D-1.659 Forms and Instructions.

The following forms and instructions have been approved by the Governing Board and are incorporated by reference into this Chapter. Copies of these forms may be obtained from the District.

**GROUND WATER**

(1) through (19) No change.

**SURFACE WATER**

Application for Permit – Used for Docks or Piers and Bulkheads

(1) JOINT APPLICATION FOR: ENVIRONMENTAL RESOURCE PERMIT/AUTHORIZATION TO USE STATE OWNED SUBMERGED LANDS/FEDERAL DREDGE AND FILL PERMIT FORM 547.27/ERP (\_\_\_\_/\_\_\_\_) ~~(8/94)~~.

(2) through (14) No change.

Specific Authority 373.044, 373.113, 373.149, 373.171 FS. Law Implemented 373.116, 373.206, 373.207, 373.209, 373.216, 373.219, 373.229, 373.239, 373.306, 373.308, 373.309, 373.313, 373.323, 373.324, 373.339, 373.413, 373.414, 373.416, 373.419, 373.421 FS. History—New 12-31-74, Amended 10-24-76, Formerly 16J-0.40, 40D-1.901, Amended 12-22-94, 5-10-95, 10-19-95, 5-26-95, 7-23-96, 2-16-99, 7-12-99, 7-15-99, 12-2-99, 5-31-00, 10-26-00, 6-26-01, 11-4-01, 6-12-02, \_\_\_\_\_.

**WATER MANAGEMENT DISTRICTS**

**Southwest Florida Water Management District**

RULE CHAPTER TITLE:    RULE CHAPTER NO.:

Consumptive Use of Water    40D-2

RULE TITLE:    RULE NO.:

Exemptions    40D-2.051

**PURPOSE AND EFFECT:** Rule 40D-2.051(1)(c), Florida Administrative Code (F.A.C.), exempts from water use permitting "certified uses defined in Chapter 62-23 entitled Industrial Siting." While there used to be an Industrial Waste Siting Act, it has been repealed and there is no Chapter 62-23 in the Florida Administrative Code. Therefore, the exemption contained in paragraph 40D-2.051(1)(c), F.A.C., is obsolete. The proposed rulemaking will delete this obsolete exemption.

**SUBJECT AREA TO BE ADDRESSED:** The deletion of an obsolete exemption from the District's water use permitting rules.

**SPECIFIC AUTHORITY:** 373.044, 373.113, 373.149, 373.171, 373.216, 373.249 FS.

**LAW IMPLEMENTED:** 373.219, 373.223, 373.224, 373.226 FS., 76-243, Laws of Florida.

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

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT AND A COPY OF THE PRELIMINARY DRAFT IS: Jack R. Pepper, Senior Attorney, Office of General Counsel, 2379 Broad Street, Brooksville, FL 34604-6899, (352)796-7211, Extension 4651.

THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS:

40D-2.051 Exemptions.

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

~~(c) Those certified uses defined in Chapter 62-23 entitled Industrial Siting effective January 3, 1980.~~

(d) through (f) renumbered (c) through (e) No change.

(2) No change.

Specific Authority 373.044, 373.113, 373.149, 373.171, 373.216, 373.249 FS. Law Implemented 373.219, 373.223, 373.224, 373.226 FS., Chapter 76-243, Laws of Florida. History--Readopted 10-5-74, Amended 12-31-74, 10-24-76, 9-4-77, 10-16-78, Formerly 16J-2.04(3), Amended 10-1-89.

**WATER MANAGEMENT DISTRICTS**

**South Florida Water Management District**

RULE CHAPTER TITLE: Consumptive Use  
 RULE CHAPTER NO.: 40E-2

PURPOSE AND EFFECT: The purpose and effect of the rule development is to create Year Round Water Conservation Measures for Lee, Collier and a portion of Charlotte counties.

SUBJECT AREA TO BE ADDRESSED: Proposed conservation measures include regulations, procedures, and specific day of the week and time of day irrigation restrictions for residential and commercial landscape irrigation uses, golf courses, and recreation areas.

SPECIFIC AUTHORITY: 120.54, 373.044, 373.113 FS.

LAW IMPLEMENTED: 120.54, 373.103, 373.117, 373.609 FS.

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

TIME AND DATE: 1:00 p.m. – 3:00 p.m., November 8, 2002

PLACE: South Florida Water Management District, Lower West Coast Regional Service Center, 2301 McGregor Boulevard, Fort Myers, FL 33901

Although Governing Board meetings, hearings and workshops are normally recorded, affected persons are advised that it may be necessary for them to ensure that a verbatim record of the proceeding is made, including the testimony and evidence upon which any appeal is to be based.

Persons with disabilities or handicaps who need assistance may contact the District Clerk, (561)682-6206, at least two business days in advance to make appropriate arrangements.

THE PERSONS TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT IS: For technical issues: Bruce Adams, South Florida Water Management District, Post Office Box 24680, West Palm Beach, FL 33416-4680, telephone 1(800)432-2045, Extension 6785, or

(561)682-6785 (badams@sfwmd.gov). For procedural issues: Julie Jennison, South Florida Water Management District, Post Office Box 24680, West Palm Beach, FL 33416-4680, telephone 1(800)432-2045, Extension 6294 or (561)682-6294 (jjenniso@sfwmd.gov).

THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS AVAILABLE ON THE DISTRICT'S WEBSITE OR BY CONTACTING NILENE PERRY, (561)682-6273.

**WATER MANAGEMENT DISTRICTS**

**South Florida Water Management District**

RULE CHAPTER TITLE: Year Round Water Conservation Measures  
 RULE CHAPTER NO.: 40E-24

PURPOSE AND EFFECT: The purpose and effect of the rule development is to create Year Round Water Conservation Measures for Lee, Collier and a portion of Charlotte counties.

SUBJECT AREA TO BE ADDRESSED: Proposed conservation measures include regulations, procedures, and specific day of the week and time of day irrigation restrictions for residential and commercial landscape irrigation uses, golf courses, and recreation areas.

SPECIFIC AUTHORITY: 120.54, 373.044, 373.113 FS.

LAW IMPLEMENTED: 120.54, 373.103, 373.117, 373.609 FS.

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

TIME AND DATE: 1:00 p.m. – 3:00 p.m., November 8, 2002

PLACE: South Florida Water Management District, Lower West Coast Regional Service Center, 2301 McGregor Boulevard, Fort Myers, FL 33901

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THE PERSONS TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT IS: For technical issues: Bruce Adams, South Florida Water Management District, Post Office Box 24680, West Palm Beach, FL 33416-4680, telephone 1(800)432-2045, Extension 6785, or (561)682-6785 (badams@sfwmd.gov). For procedural issues: Julie Jennison, South Florida Water Management District, Post Office Box 24680, West Palm Beach, FL 33416-4680, telephone 1(800)432-2045, Extension 6294 or (561)682-6294 (jjenniso@sfwmd.gov).



THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS AVAILABLE ON THE DISTRICT'S WEBSITE OR BY CONTACTING NILENE PERRY, (561)682-6273.

**DEPARTMENT OF ELDER AFFAIRS**

**Long-Term Care Ombudsman Program**

RULE TITLE: Confidentiality and Disclosure  
 RULE NO.: 58L-1.001

PURPOSE AND EFFECT: This rule is being considered for possible amendment to ensure adequate protection of confidential records and to provide for disclosure consistent with State and Federal law.

SUBJECT AREA TO BE ADDRESSED: Confidentiality and disclosure of records relating to the State Long-Term Care Ombudsman Program.

SPECIFIC AUTHORITY: 400.0077(5) FS.

LAW IMPLEMENTED: 400.0077 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. – 11:00 a.m., November 8, 2002

PLACE: Hilton Tampa Airport Westshore Hotel, 2225 Lois Avenue, Tampa, Florida 33607

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT, IF AVAILABLE, IS: Tom Thomas, General Counsel, 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**

**Long-Term Care Ombudsman Program**

RULE TITLES:	RULE NOS.:
Definitions	58L-2.001
Purpose	58L-2.003
Prohibitions	58L-2.005
Procedures	58L-2.007
Removal of Existing Conflicts	58L-2.009

PURPOSE AND EFFECT: These rules are being considered for possible amendment to provide adequate direction and procedures regarding conflicts of interest for individuals participating in the State Long-Term Care Ombudsman Program and to ensure compliance with State and Federal law.

SUBJECT AREA TO BE ADDRESSED: Conflicts of interest for individuals participating in the State Long-Term Care Ombudsman Program.

SPECIFIC AUTHORITY: 400.0065(3), 400.0067(5), 400.0069(10), 400.0087 FS.

LAW IMPLEMENTED: 400.0065(1)(a),(3), 400.0067(5), 400.0069(4),(10), 400.0087(1),(3) FS.

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

TIME AND DATE: 10:00 a.m. – 11:00 a.m., November 8, 2002

PLACE: Hilton Tampa Airport Westshore Hotel, 2225 Lois Avenue, Tampa, Florida 33607

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT, IF AVAILABLE, IS: Tom Thomas, General Counsel, 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**

**Long-Term Care Ombudsman Program**

RULE TITLE: Access  
 RULE NO.: 58L-3.001

PURPOSE AND EFFECT: This rule is being considered for possible amendment to provide adequate direction and procedures regarding access to long-term care facilities for individuals participating in the State Long-Term Care Ombudsman Program and to ensure compliance with State and Federal law.

SUBJECT AREA TO BE ADDRESSED: Access to long-term care facilities for individuals participating in the State Long-Term Care Ombudsman Program.

SPECIFIC AUTHORITY: 400.0081(3) FS.

LAW IMPLEMENTED: 400.0081 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. – 11:00 a.m., November 8, 2002

PLACE: Hilton Tampa Airport Westshore Hotel, 2225 Lois Avenue, Tampa, Florida 33607

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT, IF AVAILABLE, IS: Tom Thomas, General Counsel, 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.

**AGENCY FOR HEALTH CARE ADMINISTRATION****Certificate of Need**

RULE TITLE: Neonatal Intensive Care Services  
 RULE NO.: 59C-1.042

PURPOSE AND EFFECT: The agency is proposing to amend the rule currently used in certificate of need (CON) review of proposals to establish or expand Level II or Level III neonatal intensive care (NICU) services. At a minimum, the revised rule will project need for additional NICU providers rather than additional NICU beds, and will reduce some of the current occupancy standards and threshold numbers. These changes are intended to emphasize the CON review of service development proposals, making the NICU rule more like the rules for non-bed-based services; and to make the requirements respecting bed numbers less restrictive than the existing criteria. Additional changes will update or delete out-dated provisions in the rule; and there will be editorial changes to improve clarity. A preliminary partial draft of the rule amendments is included in this Notice. The agency also intends to delete subsections (14) through (16) of the current rule, which specify the original requirements for grandfathering and establishment of an inventory.

SUBJECT AREA TO BE ADDRESSED: Revisions in the current rule used in certificate of need review of neonatal intensive care unit proposals.

SPECIFIC AUTHORITY: 408.15(8), 408.034(6) FS.

LAW IMPLEMENTED: 408.034(3), 408.036(1)(a),(d),(f)-(h) FS.

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

TIME AND DATE: 2:00 p.m., November 12, 2002

PLACE: Agency for Health Care Administration, 2727 Mahan Drive, Building 3, Conference Room C, Tallahassee, Florida

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT IS: John Davis, Certificate of Need, 2727 Mahan Drive, Building 1, Tallahassee, Florida

THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS:

59C-1.042 Neonatal Intensive Care Services.

(1) Agency Intent. This rule implements the provisions of subsection 408.034(3) and paragraphs 408.036(1)(a), (d), (f), and (g), Florida Statutes, to regulate proposals subject to comparative review for the establishment of new neonatal intensive care services, the addition of new neonatal intensive care beds, and the conversion of licensed hospital beds to neonatal intensive care services beds. This rule implements the provisions of subsection 408.032 (20), 408.034(3), 408.034(4), and paragraphs 408.036(1)(a), (d) and (g), Florida Statutes. In addition, paragraph 408.036(1)(h)(k), specifically requires the agency to regulate the establishment of tertiary health services, which include neonatal intensive care services, under the

certificate of need program. It is the intent of the agency to regulate the establishment of Level II and Level III neonatal intensive care services as defined in this rule. This rule defines the minimum requirements for personnel, equipment, and support services for the two levels of neonatal intensive care services, ~~as defined in this rule. In addition, this rule includes need methodologies for determining the need for additional neonatal intensive care unit beds for each level of care. A separate inventory for each level of neonatal intensive care unit beds shall be established by the agency.~~ It is the intent of the agency to regulate the establishment of neonatal intensive care services which include ventilation to pre-term and severely ill neonates.

(2) Definitions.

(a) “Agency.” The Agency for Health Care Administration.

(b) ~~(a)~~ “Approved Neonatal Intensive Care Bed.” A proposed Level II bed or Level III bed for which a certificate of need, a letter of intent to grant a certificate of need, a signed stipulated agreement, or a final order granting a certificate of need was issued, consistent with the provisions of paragraph 59C-1.008(2)(b), Florida Administrative Code, as of the most recent published deadline for agency initial decisions prior to publication of the fixed need pool, as specified in paragraph 59C-1.008(1)(g), Florida Administrative Code.

(c) “Charity Care.” That portion of hospital charges reported to the agency for which there is no compensation for care provided to a patient whose family income for the 12 months preceding the determination is less than or equal to 200 percent of the federal poverty level, unless the amount of hospital charges due from the patient exceeds 25 percent of the annual family income. However, in no case shall the hospital charges for a patient whose family income exceeds four times the federal poverty level for a family of four be considered charity. Charity care does not include bad debt, which is the portion of health care provider charges for which there is no compensation for care provided to a patient who fails to qualify for charity care; and does not include administrative or courtesy discounts, contractual allowances to third-party payers, or failure of the hospital to collect full charges due to partial payment by government programs.

(d) ~~(b)~~ “Complex Neonatal Surgery.” Any surgical procedure performed upon a neonate by a surgically-credentialed practitioner licensed under the provisions of Chapter 458 or 459, F.S., which is associated with entry into or traversing a body cavity, such as the abdomen, thorax, or cranium, with a requirement for either general anesthesia or conscious sedation. Such procedures shall be performed only in hospitals licensed under the provisions of Chapter 395, F.S., which are also authorized to provide Level III neonatal services under the provisions of Chapter 59A-3.1200 to 3.231, Florida Administrative Code F.A.C.

~~(e)~~ “Department.” The Agency for Health Care Administration.

~~(e)(d)~~ “District.” A district of the agency as defined in subsection 408.032(5), Florida Statutes.

~~(f)(e)~~ “Fixed Bed Need Pool.” The numerical need for new providers of neonatal intensive care services for the applicable planning horizon, as established by the agency in accordance with this rule and subsection 59C-1.008(2) fixed bed + need pool defined in subsection 59C-1.002(20), Florida Administrative Code.

~~(g)(f)~~ “Local Health Councils.” The councils referenced in Section 408.033, Florida Statutes.

~~(h)(g)~~ “Neonatal Care Services.” The aspect of perinatal medicine pertaining to the care of neonates. Hospital units providing neonatal care are classified according to the intensity and specialization of the care which can be provided. The agency distinguishes three levels of neonatal care services:

1. “Level I Neonatal Services.” Well-baby care services which include sub-ventilation care, intravenous feedings, and gavage to neonates ~~are defined as Level I neonatal services.~~ Level I neonatal services do not include ventilator assistance except for resuscitation and stabilization. ~~Upon beginning ventilation, the hospital shall implement a patient treatment plan which shall include the transfer of the neonate to a Level II or Level III neonatal intensive care service at such time that it becomes apparent that ventilation assistance will be required beyond the neonate’s resuscitation and stabilization. The hospital shall establish a triage procedure to assess the need for transfer of obstetrical patients to facilities with Level II or Level III neonatal intensive care services prior to their delivery where there is an obstetrical indication that resuscitation will be required for their neonates. Facilities with Level I neonatal services may only perform Level I neonatal services.~~

2. “Level II Neonatal Intensive Care Services.” Services which include the provision of ventilator services, and at least 6 hours of nursing care per day, ~~shall be defined as Level II neonatal intensive care services.~~ Level II services shall be restricted to neonates of 1000 grams birth weight and over ~~with the following exception: except that v~~ventilation may be provided ~~in a facility with Level II neonatal intensive care services~~ for neonates of less than 1,000 grams birth weight ~~only~~ while waiting to transport the baby to a facility with Level III neonatal intensive care services. All neonates of 1,000 grams birth weight or less shall be transferred to a facility with Level III neonatal intensive care services. Neonates weighing more than 1,000 grams requiring one or more of the Level III services, as defined by this rule, shall also be transferred to a facility with Level III neonatal intensive care services. ~~If a facility with a Level III neonatal intensive care service refuses to accept the transfer patient, the facility with the Level II neonatal intensive care service will be found in compliance with this subparagraph upon a showing of continuous good faith effort to transfer the patient as documented in the patient’s~~

~~medical record.~~ Facilities with Level II neonatal intensive care services may perform only Level I neonatal services and Level II neonatal intensive care services as defined by this rule.

3. “Level III Neonatal Intensive Care Services.” Services which include the provision of continuous cardiopulmonary support services, 12 or more hours of nursing care per day, complex neonatal surgery, neonatal cardiovascular surgery, pediatric neurology and neurosurgery, and pediatric cardiac catheterization, ~~shall be classified as Level III neonatal intensive care services.~~ These services cannot be performed in a facility with Level II neonatal intensive care services only. Facilities with Level III neonatal intensive care services may perform all neonatal care services. A facility with a Level III neonatal intensive care service that does not provide treatment of complex major congenital anomalies that require the services of a pediatric surgeon, or pediatric cardiac catheterization and cardiovascular surgery shall enter into a written agreement with a facility providing Level III neonatal intensive care services in the same or nearest service area for the provision of these services. All other services shall be provided at each facility with Level III neonatal intensive care services. The provision of pediatric cardiac catheterization or pediatric open heart surgery each require a separate certificate of need.

~~(i)(h)~~ “Neonatal Intensive Care Unit Bed.” A patient care station within a Level II neonatal intensive care unit or Level III neonatal intensive care unit that includes, at a minimum, an incubator or other moveable or stationary devices which support the ill neonate. Beds in Level II or Level III neonatal intensive care units shall be separately listed in a hospital’s licensed bed inventory.

1. “Level II Bed.” A patient care station within a neonatal intensive care unit with the capability of providing neonatal intensive care services to ill neonates of 1,000 grams birth weight or over; ~~and~~ which is staffed to provide at least 6 hours of nursing care per neonate per day; ~~and~~ which has the capability of providing ventilator assistance; ~~and~~ the services as defined in subparagraph (2)~~(h)(e)~~2. of this rule.

2. “Level III Bed.” A patient care station within a neonatal intensive care unit with the capability of providing neonatal intensive care services to severely ill neonates regardless of birth weight; ~~and~~ which is staffed to provide 12 or more hours of nursing care per neonate per day; ~~and~~ can provide the services as defined in subparagraph (2)~~(h)(e)~~3. of this rule.

~~(j)(i)~~ “Neonatologist.” A physician who is certified, or is eligible for certification, by an appropriate board in the area of neonatal-perinatal medicine.

~~(k)(j)~~ “Planning Horizon.” The projected date by which a proposed new neonatal intensive care service would be licensed. For purposes of this rule, the planning horizon for applications submitted between January 1 and June 30 of each year is July of the year 2 years subsequent to the year the application is submitted; the planning horizon for applications

submitted between July 1 and December 31 of each year is January of the year 2 years subsequent to the year which follows the year the application is submitted. The planning horizon for applications submitted between January 1 and June 30 of each year shall be July 2 years into the future subsequent to the application submission deadline; the planning horizon for applications submitted between July 1 and December 31 of each year shall be January 2 years into the future subsequent to the application deadline.

~~(l)(4)~~ "Regional Perinatal Intensive Care Center Program (RPICC)." The program authorized by Sections 383.15 through 383.21 383.17, Florida Statutes.

~~(t)~~ "Specialty Beds." Specialty beds include comprehensive medical rehabilitation beds, psychiatric beds, substance abuse beds, as specified in subsection 59C-1.002(1), Florida Administrative Code, and neonatal intensive care services beds as specified by this rule.

~~(m)~~ "Specialty Children's Hospitals." Children's hospitals without maternity units on the same premises. The hospitals referenced in section 10C-7.0391, Florida Administrative Code, without maternity units in the same facility.

~~(n)~~ "Step-Down Neonatal Special Care Unit." The step-down neonatal special care units affiliated with the Regional Perinatal Intensive Care Center Program as referenced in section 10J-7.004, Florida Administrative Code.

### (3) Need Determination.

(a) Review Criteria. Applications for proposed new providers of Level II or Level III neonatal intensive care services shall be reviewed competitively within each district in accordance with the applicable review criteria in section 408.035, F.S., and the standards and need determination criteria set forth in this rule. Hospitals proposing to provide both Level II and Level III neonatal intensive care services shall require separate certificate of need approval for each level of care. A favorable need determination for Level II or Level III beds will not normally be made unless a numeric bed need exists according to the need methodology specified in paragraphs (c) and (e) of this subsection.

(b) Publication of Need for New Providers. The future need for new providers of Level II or and Level III neonatal intensive care services shall be determined twice a year and published by the agency as a fixed bed need pool by the agency for the applicable respective planning horizon.

(c) Projected Future Number of Births. The projected future number of births for each district shall be determined by multiplying the district's estimated population of females aged 15 to 44 for the applicable planning horizon times a 3-year average resident live-birth rate. The 3-year average resident live birth rate will be calculated using the sum of the resident live births for the 3 most recent calendar years available from the Department of Health, Office of Vital Statistics at least 3 months prior to the beginning date of the quarter of the publication of the fixed need pool. The population estimate used to compute the 3-year average resident live birth rate shall

be the sum of the July 1 estimates of the population of females aged 15 to 44 for the 3 years that are included in the 3-year total of resident live births. Population estimates for each year shall be the most recent population estimates published by the Office of the Governor at least 3 months prior to publication of the fixed need pool. Level II Bed Need. The net bed need for Level II neonatal intensive care unit beds shall be calculated as follows:

$$NN2 = ((PD2 \times PB/AB)/(365 \times .80)) - LB2 - AB2$$

Where:

1. NN2 equals the net need for Level II beds in a district.  
2. PD2 equals the number of patient days in Level II beds in a district for the most recent 12-month period ending 6 months prior to the beginning date of the quarter of the publication of the fixed bed need pool.

3. AB is the total number of resident live births in a district for the most recent calendar year available from the Department of Health and Rehabilitative Services' Office of Vital Statistics at least 3 months prior to the beginning date of the quarter of the publication of the fixed bed need pool.

4. PB is the projected number of resident live births for the applicable planning horizon. To determine the number of births projected for each district, a 3-year average resident live-birth rate for each district shall be calculated using the sum of the resident live births for the 3 most recent calendar years available from the Department of Health and Rehabilitative Services' Office of Vital Statistics at least 3 months prior to the beginning date of the quarter of the publication of the fixed bed need pool. The projected number of resident live births in each district shall be determined by multiplying the 3-year average resident live birth rate by the district's estimated population of females aged 15 to 44 for the applicable planning horizon. The population estimate used to compute the 3-year average resident live birth rate shall be the sum of the July 1 estimates of the population of females aged 15 to 44 for the 3 years that are included in the 3-year total of resident live births. Population estimates for each year shall be the most recent population estimates published by the Office of the Governor at least 3 months prior to publication of the fixed bed need pool.

5. (.80) equals the desired district average occupancy standard of 80 percent.

6. LB2 equals the number of licensed Level II beds as of the most recent published deadline for agency initial decisions prior to the publication of the fixed bed need pool.

7. AB2 equals the number of approved Level II beds as determined consistent with the provisions of paragraph (2)(a) of this rule.

(d) Level II Need. The district need for a new provider of Level II neonatal intensive care unit beds shall be calculated as follows: Regardless of whether bed need is shown under the need formula above, the establishment of new Level II neonatal intensive care unit beds within a district shall not normally be approved unless the average occupancy rate for

Level II beds in the district equals or exceeds 80 percent for the most recent 12-month period ending 6 months prior to the beginning date of the quarter of the publication of the fixed bed need pool:

$$NN2 = \{((UR2 \times PB)/(365 \times .70)) - LB2 - AB2\} \geq 10$$

where:

1. NN2 ≥ 10 indicates that one new provider of Level II beds may be approved for the district.

2. UR2 is a measure of current or estimated future utilization, used in projection of the future number of patient days in Level II units. UR2 equals DPD2/DB or SPD2/SB, whichever is greater, where:

a. DPD2 equals the district total number of patient days in Level II beds for the most recent 12-month period ending 6 months prior to the beginning date of the quarter of the publication of the fixed need pool.

b. DB is the total number of resident live births in a district for the most recent calendar year available from the Department of Health, Office of Vital Statistics at least 3 months prior to the beginning date of the quarter of the publication of the fixed need pool.

c. SPD2 is the statewide total of inpatient days in Level II beds for the 12-month period ending 6 months prior to the beginning date of the quarter of the publication of the fixed need pool.

d. SB is the statewide total of resident live births for the most recent calendar year available from the Department of Health Office of Vital Statistics at least 3 months prior to the beginning date of the quarter of the publication of the fixed need pool.

3. PB is the projected district total number of resident live births for the applicable planning horizon, as determined consistent with paragraph (c).

4. (.70) equals the desired annual average occupancy rate.

5. LB2 equals the district's number of licensed Level II beds as of the most recent published deadline for agency initial decisions prior to the publication of the fixed need pool.

6. AB2 equals the number of approved Level II beds, as determined consistent with the provisions of paragraph (2)(a) of this rule.

7. 10 equals the minimum value of NN2 necessary to allow approval of a new provider of Level II beds.

(e) Special Circumstances for Approval of a New Level II Provider. In the absence of need shown under the formula in paragraph (d), an applicant may demonstrate special circumstances which support the need for a new provider of Level II services in the district. Such special circumstances must include evidence of limited access to Level II services in the district, consistent with the health care access criteria in Rule 59C-1.030(2), Florida Administrative Code. Level III Need. The net bed need for Level III neonatal intensive care unit beds shall be calculated as follows:

$NN3 = ((PD3 \times PB/AB)/(365 \times .80)) - LB3 - AB3$   
where:

1. NN3 equals the net need for Level III beds in a district.

2. PD3 equals the number of patient days in Level III beds in a district for the most recent 12-month period ending 6 months prior to the beginning date of the quarter of the publication of the fixed bed need pool.

3. AB is the total number of resident live births in a district for the most recent calendar year available from the Department of Health and Rehabilitative Services' Office of Vital Statistics at least 3 months prior to the beginning date of the quarter of the publication of the fixed bed need pool.

4. PB is the projected number of resident live births for the applicable planning horizon. To determine the number of births projected for each district, a 3-year average resident live birth rate for each district shall be calculated using the sum of the resident live births for the 3 most recent calendar years available from the Department of Health and Rehabilitative Services' Office of Vital Statistics at least 3 months prior to the beginning date of the quarter of the publication of the fixed bed need pool. The projected number of resident live births in each district shall be determined by multiplying the 3-year average resident live birth rate by the district's estimated population of females aged 15 to 44 for the applicable planning horizon. The population estimate used to compute the 3 year average resident live birth rate shall be the sum of the July 1 estimates of the population of females aged 15 to 44 for the 3 years that are included in the 3-year total of resident live births. Population estimates for each year shall be the most recent population estimates published by the Office of the Governor at least 3 months prior to publication of the fixed bed need pool.

5. (.80) equals the desired district average occupancy standard of 80 percent.

6. LB3 equals the number of licensed Level III beds as of the most recent published deadline for agency initial decisions prior to the publication of the fixed bed need pool.

7. AB3 equals the number of approved Level III beds, as determined consistent with the provisions of paragraph (2)(a) of this rule.

(f) Need for Level II Services Based on Birth Volume. Regardless of whether bed need is shown under the need formula above, and in context with other applicable statutory and rule review criteria, need for establishment of Level II neonatal services is demonstrated for a hospital that documents 1,500 livebirths during the 12-month period ending one month prior to the letter of intent deadline. Regardless of whether bed need is shown under the need formula above, the establishment of new Level III neonatal intensive care unit beds within a district shall not normally be approved unless the average occupancy rate for Level III beds in the district equals or

exceeds 80 percent for the most recent 12-month period ending 6 months prior to the beginning date of the quarter of the publication of the fixed bed need pool.

(g) Additional Level II Beds at Existing Providers of Level II Services. Special Circumstances for the Approval of Additional Neonatal Intensive Care Unit Beds at Existing Providers. Need for additional Level II neonatal intensive care beds at hospitals with Level II neonatal intensive care services seeking additional Level II beds is demonstrated in the absence of need shown under the formula specified in paragraph (3)(e) of this rule if the occupancy rate for their Level II beds exceeded an average of 90 percent as computed by the agency for the same time period specified in subparagraph (3)(e)2. Need for additional Level III neonatal intensive care beds at hospitals with Level III neonatal intensive care services seeking additional Level III beds is demonstrated in the absence of need shown under the formula specified in paragraph (3)(e) of this rule if the occupancy rate for their Level III beds exceeded an average of 90 percent as computed by the agency for the same time period specified in subparagraph (3)(e)2.

1. Need for additional Level II neonatal intensive care beds at a hospital with Level II beds is demonstrated if the average occupancy rate of the hospital's Level II beds during the 12-month period ending one month prior to the letter of intent deadline was at least 75 percent.

2. For the purpose of calculating occupancy under this paragraph, the 12-month total of Level II patient days shall be divided by 365 to determine an average daily census, and the average daily census shall then be divided by the total of licensed and approved Level II beds located or to be located at the premises of the facility as of the end of the 12-month period.

(h) Level III Need. The district need for a new provider of Level III neonatal intensive care unit beds shall be calculated as follows: Consistency with Local Health Council and State Health Plans. Applicants shall provide evidence in their applications that the number of proposed Level II or Level III neonatal intensive care unit beds is consistent with the needs of the community as stated in Local Health Council Plans and the State Health Plan.

$NN3 = \{((UR3 \times PB)/(365 \times .80)) - LB3 - AB3\} \geq 10$

where:

1.  $NN3 \geq 10$  indicates that one new provider of Level III beds may be approved for the district.

2. UR3 is a measure of current or estimated future utilization, used in projection of the future number of patient days in Level III units. UR3 equals DPD3/DB or SPD3/SB, whichever is greater, where:

a. DPD3 equals the district total number of patient days in Level III beds for the most recent 12-month period ending 6 months prior to the beginning date of the quarter of the publication of the fixed need pool.

b. DB is the total number of resident live births in a district for the most recent calendar year available from the Department of Health, Office of Vital Statistics at least 3 months prior to the beginning date of the quarter of the publication of the fixed need pool.

c. SPD3 is the statewide total of inpatient days in Level III beds for the 12-month period ending 6 months prior to the beginning date of the quarter of the publication of the fixed need pool.

d. SB is the statewide total of resident live births for the most recent calendar year available from the Department of Health Office of Vital Statistics at least 3 months prior to the beginning date of the quarter of the publication of the fixed need pool.

3. PB is the projected district total number of resident live births for the applicable planning horizon, as determined consistent with paragraph (c).

4. (.80) equals the desired annual average occupancy rate.

5. LB3 equals the district's number of licensed Level III beds as of the most recent published deadline for agency initial decisions prior to the publication of the fixed need pool.

6. AB3 equals the number of approved Level III beds, as determined consistent with the provisions of paragraph (2)(a) of this rule.

7. 10 equals the minimum value of NN3 necessary to allow approval of a new provider of Level III beds.

(i) Special Circumstances for Approval of a New Level III Provider. In the absence of need shown under the formula in paragraph (h), an applicant may demonstrate special circumstances which support the need for a new provider of Level III services in the district. Such special circumstances must include evidence of limited access to Level III services in the district, consistent with the health care access criteria in subsection 59C-1.030(2), Florida Administrative Code. Regional Perinatal Intensive Care Centers and Step-Down Neonatal Special Care Units. Hospitals which are under contract with the Department of Health and Rehabilitative Services' Children's Medical Services Program for the provision of regional perinatal intensive care center or step-down neonatal special care unit care will be given priority over other applicants to expand or establish new neonatal intensive care services when a need is indicated for additional Level II or Level III neonatal intensive care unit beds.

(j) Additional Level III Beds at Existing Providers of Level III Services. Conversion of Under-utilized Acute Care Beds. New Level II or Level III neonatal intensive care unit beds for shall normally be approved only if the applicant converts a number of acute care beds as defined in Rule 59C-1.038, excluding specialty beds, which is equal to the number of Level II or Level III beds proposed, unless the applicant can reasonably project an occupancy rate of 75 percent for the applicable planning horizon, based on historical utilization patterns, for all acute care beds, excluding specialty

beds. If the conversion of the number of acute care beds which equals the number of proposed Level II or Level III beds would result in an acute care occupancy exceeding 75 percent for the applicable planning horizon, the applicant shall only be required to convert the number of beds necessary to achieve a projected 75 percent acute care occupancy for the applicable planning horizon, excluding specialty beds.

1. Need for additional Level III neonatal intensive care beds at a hospital with Level III beds is demonstrated if the average occupancy rate of the hospital's Level III beds during the 12-month period ending one month prior to the letter of intent deadline was at least 85 percent.

2. For the purpose of calculating occupancy under this paragraph, the 12-month total of Level III patient days shall be divided by 365 to determine an average daily census, and the average daily census shall then be divided by the total of licensed and approved Level III beds located or to be located at the premises of the facility as of the end of the 12-month period.

(k) Regardless of numeric need shown in paragraphs (d) or (h), a hospital with licensed Level II and Level III NICU beds may convert beds from one level of care to the other within its existing licensed total of all NICU beds, so that the proportional allocation of the total beds between the two levels of care better reflects, but does not exceed, the proportional allocation between the two levels of its most recent 12-month total of all NICU patient days. The 12-month period used shall be the 12 months ending one month prior to the letter of intent deadline. Services to Medically Indigent and Medicaid Patients. In a comparative review, preference shall be given to hospitals which propose to provide neonatal intensive care services to Children's Medical Services patients, Medicaid patients, and non-Children's Medical Services patients who are defined as charity care patients according to the Health Care Board, Florida Hospital Uniform Reporting System Manual, Chapter III, Section 3223. The applicant shall estimate, based on its historical patient data by type of payer, the percentage of neonatal intensive care services patient days that will be allocated to:

1. Charity Care Patients;
2. Medicaid patients;
3. Private pay patients, including self pay; and
4. Regional Perinatal Intensive Care Center Program and Step Down Neonatal Special Care Unit patients.

(4) Service Continuity Level II and Level III Service Continuity. To help assure the continuity of services provided to neonatal intensive care services patients:

(a) The establishment of Level III neonatal intensive care services shall not normally be approved unless the hospital also provides Level II neonatal intensive care services. Hospitals may be approved for Level II neonatal intensive care services without providing Level III services. ~~In a comparative review,~~

~~preference for the approval of Level II beds shall be given to hospitals which have both Level II neonatal intensive care unit beds and Level III neonatal intensive care unit beds.~~

(b) Applicants proposing to provide Level II or Level III neonatal intensive care services shall ensure developmental follow-up on patients after discharge to monitor the outcome of care and assure necessary referrals to community resources.

(5) Minimum Unit Size. Hospitals proposing the establishment of new Level III neonatal intensive care services shall propose a Level III neonatal intensive care unit of at least ~~10~~ 15 beds, and should have ~~10~~ 15 or more Level II neonatal intensive care unit beds. A provider shall not normally be approved for Level III neonatal intensive care services only. Hospitals proposing the establishment of new Level II neonatal intensive care services only shall propose a Level II neonatal intensive care unit with a minimum of 10 beds. Hospitals under contract with the Department of Health and ~~Rehabilitative Services~~ Children's Medical Services Program for the provision of regional perinatal intensive care center ~~services or step-down neonatal special care unit care~~ are exempt from these requirements.

(6) Minimum Birth Volume Requirement. A hospital shall not normally be approved ~~to establish for~~ Level III neonatal intensive care services unless the hospital had a minimum service volume of 1,500 live births for the most recent 12-month period ending 6 months prior to the beginning date of the quarter of the publication of the fixed bed need pool. Hospitals applying for Level II neonatal intensive care services shall not normally be approved ~~to establish Level II neonatal intensive care services~~ unless the hospital had a minimum service volume of 1,000 live births for the most recent 12-month period ending 6 months prior to the beginning date of the quarter of the publication of the fixed bed need pool. Specialty children's hospitals are exempt from these requirements.

(7) through (10) No change.

(11) Other Requirements for Applicants.

(a) Payment Sources. The applicant shall estimate, based on its historical patient data by type of payer, the percentage of neonatal intensive care services patient days that will be allocated to:

1. Charity care patients;
2. Medicaid patients;
3. Private pay patients, including self pay; and
4. Regional Perinatal Intensive Care Center Program patients.

(b) Consistency With Local Health Council Plans. The applicant shall provide evidence in its application that a proposed Level II or Level III neonatal intensive care service is consistent with the needs of the community as stated in Local Health Council Plans.

(c) Transfer Agreements. An applicant for Level II neonatal intensive care services shall provide documentation of a transfer agreement with a facility providing Level III neonatal intensive care services in the same or nearest service district for patients in need of Level III services. An applicant for Level II or Level III neonatal intensive care services shall include, as part of the application, a written protocol governing the transfer of neonatal intensive care services patients to other inpatient facilities.

(d) Emergency Transportation Services. Each hospital providing Level II or Level III neonatal intensive care services or Level III neonatal intensive care services shall have or participate in an emergency 24-hour patient transportation system.

1.(a) Provision of Emergency Transportation. Hospitals providing Level II or Level III neonatal intensive care services must operate a 24-hour emergency transportation system directly, or contract for this service, or participate through a written financial or non-financial agreement with a provider of emergency transportation services. Applicants shall indicate how they will meet this requirement.

2.(b) Requirements for Emergency Transportation System. Emergency transportation systems, as defined in paragraph (11)(a), shall conform to section ~~64E-2.006~~ ~~40D-66.52~~, Florida Administrative Code.

(12) Preferences Among Applicants for Neonatal Intensive Care Services. In weighing and balancing statutory and rule review criteria, the agency will give preference to: ~~Transfer Agreements.~~ A hospital providing only Level II neonatal intensive care services shall provide documentation of a transfer agreement with a facility providing Level III neonatal intensive care services in the same or nearest service district for patients in need of Level III services. Facilities providing Level III neonatal intensive care services shall not unreasonably withhold consent to transfer agreements which provide for transfers based upon availability of service in the Level III facility, and which will be applied uniformly to all patients requiring transfer to Level III, as defined in subparagraph (2)(c)2. An applicant for Level II or Level III neonatal intensive care services shall include, as part of the application, a written protocol governing the transfer of neonatal intensive care services patients to other inpatient facilities.

(a) An applicant who agrees that an awarded CON will be predicated on one or more of the following conditions that are subject to annual monitoring under Rule 59C-1.013(4), F.A.C.:

1. For Level II and Level II units:

a. All registered nurses providing direct patient care will have education or experience in neonatal nursing.

b. All nursing staff will have formal training in neonatal resuscitation.

c. Specified levels of neonatal intensive care services will be provided to Children's Medical Services patients, Medicaid patients, and non-Children's Medical Services patients who are defined as charity care patients.

d. Specified actions will occur to promote enhanced access to neonatal intensive care units in the district, if approval is based on special circumstances in the absence of numeric need.

2. For Level II units, there will be a minimum staffing ratio of one registered nurse to every four neonates, with additional staffing as required by the acuity level of the neonates.

3. For Level III units, there will be a minimum staffing ratio in Level III units of one registered nurse to every two neonates, with additional staffing as required by the acuity level of the neonates.

(b) An applicant that is a designated Regional Perinatal Intensive Care Center.

(c) An applicant that is a disproportionate share hospital as determined under the provisions of sections 409.911 through 409.9119, Florida Statutes.

(13) Quarterly Reports, Data Reporting Requirements. All hospitals with Level II or Level III neonatal intensive care services shall provide the agency or its designee, with patient utilization and fiscal reports which contain data relating to patient utilization of Level II and Level III neonatal intensive care services. The following data shall be provided to the agency or its designee: (a) Utilization Data. Level II or Level III neonatal intensive care services providers shall report the number of admissions and patient days by type of payer for Level II and Level III neonatal intensive care services. Payer types shall include Medicaid, Regional Perinatal Intensive Care Center Program, Insurance, Self-Pay, and Charity Care as defined by the Health Care Board, Florida Hospital Uniform Reporting Manual, Chapter III, Section 3223. These data shall be reported to the agency or its designee within 45 days after the end of each calendar quarter.

(a) Except as provided in paragraph (b), hospitals with Level II or Level III neonatal intensive care services shall report to the agency or its designee, within 45 days after the end of each calendar quarter, the number of admissions and patient days for Level II and Level III neonatal intensive care services.

(b) In the case of a hospital with both Level II and Level III services, the report of patient days required by paragraph (a) shall be by level of care rendered, rather than by type of bed used. Admissions shall be reported as single admissions to the NICU service at the hospital, rather than as admissions to specific levels of care.

(b) Patient Origin Data. Level II or Level III neonatal intensive care services providers shall report patient origin data for Level II and Level III neonatal intensive care services patients. The mother's county of residence shall be reported for patients born in the hospital and also for patients who were



transferred to the hospital from other hospitals. These data shall be reported to the agency or its designee within 45 days after the end of each calendar quarter.

Specific Authority 408.15(8), 408.034(6)(3),(5), ~~408.039(4)(a)~~ FS. Law Implemented 408.034(3), ~~408.035~~, 408.036(1)(a),(d),(f),(g),(h),(e),(c),(m), ~~408.039(4)(a)~~ FS. History—New 1-1-77, Amended 11-1-77, 6-5-79, 4-24-80, 2-1-81, 4-1-82, 11-9-82, 2-14-83, 4-7-83, 6-9-83, 6-10-83, 12-12-83, 3-5-84, 5-14-84, 7-16-84, 8-30-84, 10-15-84, 12-25-84, 4-9-85, Formerly 10-5.11, Amended 6-19-86, 11-24-86, 1-25-87, 3-2-87, 3-12-87, 8-11-87, 8-7-88, 8-28-88, 9-12-88, 4-19-89, 10-19-89, 5-30-90, 7-11-90, 8-6-90, 10-10-90, 12-23-90, Formerly 10-5.011(1)(v), Formerly 10-5.042, Amended 1-3-93, 8-24-93, 2-22-95, 4-10-96, \_\_\_\_\_.

**AGENCY FOR HEALTH CARE ADMINISTRATION**

**Medicaid**

RULE TITLE: Administration of Medication to DS Waiver Beneficiaries  
 RULE NO.: 59G-8.201

PURPOSE AND EFFECT: The purpose of this rule amendment is to provide to all unlicensed direct care staff who provide DS Waiver services to beneficiary's with developmental disabilities in adult day programs, foster homes, group homes, independent living and supported living arrangements with guidelines regarding: (1) when supervision of self-administration of medication is appropriate; (2) what may and may not be done in supervising the self-administration of medication; (3) when they may not administer medications; (4) when appropriate, how to safely administer oral, patch, inhaled and topical medications, and medication administered through inhalers; and (5) the safe handling of medications. This policy does not apply to family members who administer medication or who assist in self-administering medication for other family members, without compensation. The effect will be to permit the administration of medications to DS Wavier beneficiaries by unlicensed direct care staff that provides DS Waiver services to beneficiaries with developmental disabilities.

SUBJECT AREA TO BE ADDRESSED: Administration of Medication to DS Waiver Beneficiaries.

SPECIFIC AUTHORITY: 409.919 FS.

LAW IMPLEMENTED: 409.906, 409.908 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: Karen Henderson, Medicaid Health Systems Development, P. O. Box 12600, Tallahassee, Florida 32317-2600, (850)414-9756

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

**DEPARTMENT OF HEALTH**

**Board of Medicine**

RULE TITLES: Notice of Noncompliance  
 Citation Authority  
 RULE NOS.: 64B8-8.011  
 64B8-8.017

PURPOSE AND EFFECT: The Board proposes the development of rule amendments to address various violations with regard to responsibilities of medical directors of clinics.

SUBJECT AREA TO BE ADDRESSED: Notices of Noncompliance and the issuance of citations for various violations regarding the responsibilities of medical directors of clinics.

SPECIFIC AUTHORITY: 456.073(3), 456.077, 458.309 FS.

LAW IMPLEMENTED: 456.073(3), 456.072(2)(d), 456.077 FS.

IF REQUESTED IN WRITING AND NOT DEEMED UNNECESSARY BY THE AGENCY HEAD, A RULE DEVELOPMENT WORKSHOP WILL BE SCHEDULED AND ANNOUNCED IN THE FAW.

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT AND A COPY OF THE PRELIMINARY DRAFT IS: Larry G. McPherson, Jr., Executive Director, Board of Medicine/MQA, 4052 Bald Cypress Way, Bin #C03, Tallahassee, Florida 32399-3253

THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS:

64B8-8.011 Notice of Noncompliance.

(1) through (2) No change.

(3) The following violations are those for which the board authorizes the Department Agency to issue a notice of noncompliance.

(a) No change.

(b) Failure to perform one of the following statutory or legal obligations:

1. through 4. No change.

5. Dispensing medication without proper labeling ~~labelling~~, contrary to the provisions of Section 893.05(2), Florida Statutes, and Rule 64B16-28.108, Florida Administrative Code. This applies to dispensing practitioners only.

6. For a physician who is not required to register as a dispensing practitioner, failing to dispense drugs in the manufacturer's labeled ~~labeled~~ package with the practitioner's name, patient's name, and the date dispensed or, if such drugs are not dispensed in the manufacturer's labeled package, failing to dispense the medication in a container which bears the following information: practitioner's name; patient's name; date dispensed; name and strength of the drug; and directions for use, contrary to Section 465.0276, Florida Statutes.

7. through 8. No change.

9. Failing to have proper ~~labeled labelling~~ on all stock medications, contrary to Section 499.007(2), Florida Statutes.

10. through 17. No change.

(c) No change.

(d) Violation of the following medical director clinic responsibilities, as set forth in Section 458.0375(2) and (3), Florida Statutes:

1. Failure to file or renew clinic registration form.

2. Failure to display clinic registration certificate.

3. Failure to post signs identifying medical/clinical director in a conspicuous location.

4. Failure to ensure compliance with adverse incident reporting requirements.

Specific Authority 456.073(3), 458.309 FS. Law Implemented 456.073(3) FS. History--New 11-15-90, Formerly 21M-20.011, 61F6-20.011, 59R-8.011, Amended 1-27-00, 1-8-02, \_\_\_\_\_.

64B8-8.017 Citation Authority.

(1) through (2) No change.

(3) The following violations with accompanying penalty may be disposed of by citation with the specified penalty:

VIOLATIONS	PENALTY
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(a) through (1) No change.

(m) Failure to display a clinic registration certificate (after failure to comply with issuance of a notice of non-compliance.) \$ 500 fine.

(n) Failure to post signs identifying medical/clinical director of clinic in conspicuous location (after failure to comply with issuance of a notice of non-compliance.) \$500 fine.

(4) through (7) No change.

Specific Authority 456.073(3), 458.309 Law Implemented 456.072(2)(d), 456.077 FS. History--New 12-30-91, Formerly 21M-20.017, Amended 11-4-93, Formerly 61F6-20.017, Amended 8-23-95, Formerly 59R-8.017, Amended 4-7-99, 1-27-00, 1-31-02, \_\_\_\_\_.

**DEPARTMENT OF HEALTH**

**Board of Nursing Home Administrators**

RULE TITLE: Disciplinary Guidelines; Range of Penalties; Aggravating and Mitigating Circumstances 64B10-14.004

RULE NO.:

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

SUBJECT AREA TO BE ADDRESSED: Disciplinary guidelines; range of penalties; aggravating and mitigating circumstances.

SPECIFIC AUTHORITY: 456.079, 468.1685(1) FS.

LAW IMPLEMENTED: 456.072, 456.079, 468.1685(4), (5),(6), 468.1755(1)(a),(j) FS.

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

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT AND A COPY OF THE PRELIMINARY DRAFT 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 Opticianry**

RULE TITLE: Demonstrating Knowledge of Laws and Rules for Licensure 64B12-9.0016

RULE NO.:

PURPOSE AND EFFECT: The Board proposes to create a new rule that will require applicants for licensure to demonstrate knowledge of laws and rules associated with the profession of opticianry.

SUBJECT AREA TO BE ADDRESSED: Demonstrating Knowledge of Laws and Rules for Licensure.

SPECIFIC AUTHORITY: 484.005, 484.002(6) FS.

LAW IMPLEMENTED: 456.017(6) 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 TO BE ANNOUNCED.

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

THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS:

64B12-9.0016 Demonstrating Knowledge of Laws and Rules for Licensure.

An applicant for licensure as an optician shall demonstrate knowledge of the laws and rules for licensure in the following manner:

(1) An applicant shall complete an approved course consisting of a minimum of two hours which shall include the following subject areas:

- (a) Chapter 484, Part I, F.S.
- (b) Chapter 64B12, F.A.C.
- (c) Chapter 456, F.S.

(2) The laws and rules course must provide integration of the above subject areas into the competencies required for the practice of opticianry and interactive discussion of examples applying the laws and rules that govern opticianry.

(3) Upon completion of the course, the applicant shall receive a certificate of completion and submit the original certificate of completion to the Board.

(4) A laws and rules course offered by a Board approved laws and rules course provider shall qualify for continuing education credit even if the provider is not an approved continuing education provider pursuant to Rule 64B12-15.004, F.A.C.

(5) For purposes of this rule, an hour is defined as a 60-minute clock hour in which there is no less than 50 minutes of uninterrupted instruction.

Specific Authority 484.005, 484.002(6) FS. Law Implemented 456.017(6) FS. History--New

**DEPARTMENT OF HEALTH**

**Division Environmental Health**

RULE CHAPTER TITLE: Rural Health Networks  
 RULE CHAPTER NO.: 64E-26

PURPOSE AND EFFECT: Rural Health Networks – To establish rules for the creation, certification and establishment of outcome measures for networks.

Rural Health Cooperative Agreements – To establish a process for network providers to seek Department approval for consolidation of services and technologies or to establish cooperative agreements. To establish a process for the Department to review such agreements biennially.

SUBJECT AREA TO BE ADDRESSED: Rural Health Networks and Cooperative Agreements.

SPECIFIC AUTHORITY 381.0406(17), 381.04065(5) FS.

LAW IMPLEMENTED: 381.0406, 381.04065 FS.

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

TIME AND DATE: 10:00 a.m., EST, November 12, 2002

PLACE: Department of Health, Division of EMS and Community Health Services, Office of Rural Health, Southwood Office Complex, 4025 Esplanade Way, Room 301 A & B, Tallahassee, Florida

TIME AND DATE: 12:30 p.m., EST, November 13, 2002

PLACE: Tampa Airport Marriott Conference Center, Tampa International Airport, Tampa, Florida 33607, (813)874-6085

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT IS: Susan Gay, Director, Office of Rural Health, Department of Health, 4052 Bald Cypress Way, Bin #C15, Tallahassee, Florida 32399-1738, (850)245-4340, Ext. 2706, E-mail: Susan\_Gay@doh.state.fl.us

THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT MAY BE OBTAINED BY CONTACTING: DOROTHY JOWERS, (850)245-4340, Ext. 2710, E-mail: Dorothy\_Jowers@dosh.state.fl.us

**NAVIGATION DISTRICTS**

**Florida Inland Navigation District**

RULE TITLES:	RULE NOS.:
Definitions	66B-1.003
Application Process	66B-1.006
Project Eligibility	66B-1.008
Small-Scale Spoil Island Restoration and Enhancement Projects	66B-1.014

PURPOSE AND EFFECT: The purpose of the proposed rule development is to include the following provisions in the program rule: Add specific waterways essential to the Inland Waterway Navigation system to the definition of eligible waterways; Revise the application process to clarify a complete application; include additional language clarifying the property control requirement; and add a new section to include the small scale spoil-island restoration program for eligible state and regional governments.

The effect of the rule development is to implement changes in the administration of the District’s Cooperative Assistance Program that will assist the District and program applicants in the review and evaluation of applications submitted pursuant to the rule.

SUBJECT AREA TO BE ADDRESSED: Cooperative Assistance Program rule sections: Definitions, Application Process, Project Eligibility, and the addition of a Small-Scale Spoil Island Restoration and Enhancement Projects program.

SPECIFIC AUTHORITY: 374.976(2) FS.

LAW IMPLEMENTED: 374.976(1)-(3) 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: 11:00 a.m., November 13, 2002

PLACE: District Office, 1314 Marcinski Road, Jupiter, Florida  
 THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT AND A COPY OF THE PRELIMINARY DRAFT, IF AVAILABLE, IS: Mark Crosley, Assistant Executive Director, Florida Inland Navigation District, 1314 Marcinski Road, Jupiter, Florida 33477, (561)627-3386

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

NAVIGATION DISTRICTS

Florida Inland Navigation District

RULE CHAPTER TITLE:	RULE NOS.:
Definitions	66B-2.003
Application Process	66B-2.006
Project Eligibility	66B-2.008

PURPOSE AND EFFECT: The purpose of the proposed rule development is to include the following provisions in the program rule: Add specific waterways essential to the Inland Waterway Navigation system to the definition of eligible waterways; Revise the application process to clarify a complete application; and include additional language clarifying the property control requirement.

The effect of the rule development is to implement changes in the administration of the District's Waterways Assistance Program that will assist the District and program applicants in the review and evaluation of applications submitted pursuant to the rule.

SUBJECT AREA TO BE ADDRESSED: Waterways Assistance Program rule sections: Definitions, Application Process, Project Eligibility, and the addition of a Small-Scale Spoil Island Restoration and Enhancement Projects program.

SPECIFIC AUTHORITY: 374.976(2) FS.

LAW IMPLEMENTED: 374.976(1)-(3) 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: 11:00 a.m., November 13, 2002

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

Section II Proposed Rules

DEPARTMENT OF INSURANCE

RULE TITLES:	RULE NOS.:
Applicability and Scope	4-154.102
Guaranteed Availability of Individual Health Coverage to Eligible Individuals	4-154.112

PURPOSE, EFFECT AND SUMMARY: To amend Florida Administrative Code to reflect out-of state insurers obligation to comply with Chapter 4-154. Additionally, the amendment clarifies requirements for quoting insurance coverage.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS: None.

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

SPECIFIC AUTHORITY: 624.308, 627.643, 627.6487(4)(b) FS.

LAW IMPLEMENTED: 624.307(1), 627.642, 627.643, 627.6487 FS.

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

TIME AND DATE: 9:00 a.m., Thursday, December 12, 2002

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

Pursuant to the provisions of the Americans with Disabilities Act, any person requiring special accommodations to participate in this program, please advise the Department at least 5 calendar days before the program by contacting the person listed below.

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULES IS: Frank Dino, Actuary, Bureau of Life and Health Forms and Rates, Division of Insurer Services, Department of Insurance, 200 East Gaines Street, Tallahassee, Florida 32399-0328, (850)413-5014

THE FULL TEXT OF THE PROPOSED RULES IS:

4-154.102 Applicability and Scope.

(1) These rules shall apply to all individual and family accident and health insurance policies, subscriber contracts of medical, surgical, or health maintenance organizations and to franchise insurance policies issued or issued for delivery in this state on and after the effective date hereof (except for policies issued to employees or members who are being added to existing franchise plans). The requirements contained in these rules shall be in addition to any other applicable rules previously adopted.

(2) Rules 4-154.110 through 4-154.112 and Rules 4-154.114 through 4-154.116, F.A.C., shall also apply to insurance coverage subject to the provisions of Section 627.6487, Florida Statutes.

Specific Authority 624.308, 627.643 FS. Law Implemented 624.307(1), 627.642, ~~627.6425~~, 627.643, 627.6487 FS. History--New 1-1-75, Formerly 4-37.02, 4-37.002, Amended 9-19-00, \_\_\_\_\_.

4-154.112 Guaranteed Availability of Individual Health Coverage to Eligible Individuals.

(1) through (2) No change.

(3) ~~(a)~~ To enable the Department to monitor this coverage, the issuer shall file, no later than March 1 of each year, report the information in 1. through 5. on an annual (calendar year)

basis. Form D14-1386, (rev. 11/01), Individual Health Coverage Policy Forms Issued/Renewed in Florida, which is hereby adopted and incorporated by reference. Copies of the form may be obtained from and shall be submitted to the Bureau of Life and Health Forms and Rates, Division of Insurer Services, Department of Insurance, Tallahassee, FL 32399-0328, or submitted electronically through https://iportal.fldoi.com. Forms are also available and may be printed from the Department's website: www.doi.state.fl.us.

(b) ~~In determining the policy forms to be offered during calendar year 1998, first year earned premium volume for the period January 1, 1996 through June 30, 1997 shall be reported and used:~~

- ~~1. Issuer name and address;~~
  - ~~2. Contact person telephone number;~~
  - ~~3. Information on all products offered by the issuer in the individual market. Such information shall include:
 
    - ~~a. Policy name for each policy;~~
    - ~~b. Description of each policy;~~
    - ~~c. Total number of all individual policies in force; and~~
    - ~~d. Total first year earned premium volume of all individual policies in force;~~~~
  - ~~4. For the policies offered to eligible individuals, a health insurance issuer shall report for each policy:
 
    - ~~a. Policy name;~~
    - ~~b. Policy number;~~
    - ~~c. Date approved by the Department;~~
    - ~~d. Total number of policyholders covered by each of these policies; and~~
    - ~~e. Total premium first year earned volume;~~~~
  - ~~5. The issuer shall also provide:
 
    - ~~a. A copy of each policy;~~
    - ~~b. An explanation of how the issuer will inform eligible individuals of these policy forms; and~~
    - ~~c. Copies of all marketing materials;~~~~
- (4) through (5) No change.

(6) Each issuer offering health insurance coverage in the individual market must disclose, in writing, to all applicants at the time of application the availability of guarantee issue coverage for eligible individuals. Each issuer offering health insurance coverage in the individual market is responsible for obtaining at the time of application the information necessary to determining whether an applicant for coverage is an eligible individual as defined in Section 627.6487(3), Florida Statutes, as follows:

- (a) through (c) No change.
- (7) through (8) No change.

Specific Authority 624.308, 627.6487(4)(b) FS. Law Implemented 624.307(1), 627.6487 FS. History--New 9-19-00, Amended 9-30-01,\_\_\_\_\_.

NAME OF PERSON ORIGINATING PROPOSED RULE: Frank Dino, Bureau of Life and Health Form and Rates, Division of Insurer Services, Department of Insurance  
 NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Richard Robleto, Bureau Chief, Bureau of Life and Health Forms and Rates, Department of Insurance

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: October 9, 2002

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: March 29, 2002

**DEPARTMENT OF INSURANCE**

**Division of Workers' Compensation**

RULE TITLE: Confidentiality of Records Produced  
 RULE NO.: 4L-6.022

PURPOSE AND EFFECT: The purpose and effect of the rule is to facilitate compliance with the confidentiality requirements of Sections 440.185(11) and 440.125, F.S.

SUMMARY: The rule specifies what constitutes information that would identify an injured worker, which would be exempt from disclosure. The rule also provides a means for persons whose information is protected by the statutes to waive confidentiality of the information.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS: The impact of the rule is not expected to be significant, however businesses, which sell information from, state workers' compensation records, and law firms, which use such information to market their services, may be affected.

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

SPECIFIC AUTHORITY: 440.185(10), 440.591 FS.

LAW IMPLEMENTED: 440.125, 440.185(11) FS.

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

TIME AND DATE: 9:30 a.m. November 7, 2002

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

Pursuant to the provisions of the Americans with Disabilities Act, any person requiring special accommodations to participate in this program, please advise the Department at least 5 calendar days before the program by contacting the person listed below.

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Don Davis, Employee Assistance Office, Division of Workers' Compensation, Department of Insurance, 200 East Gaines Street, Tallahassee, Florida 32399-4228, (850)488-5201, Ext. 401

THE FULL TEXT OF THE PROPOSED RULE IS:

4L-6.022 Confidentiality of Records Produced by the Division.

(1) Section 440.185(11), F.S., provides that any information in a report of injury or illness filed with the Division pursuant to Section 440.185, Florida Statutes that would identify an ill or injured employee is confidential and exempt from the provisions of Section 119.07(1), Florida Statutes and Section 24(a), Article I of the Constitution of the State of Florida. Section 440.125, Florida Statutes, provides in part that any information identifying an injured employee in medical bills which are provided to the Division pursuant to Section 440.13, Florida Statutes is confidential and exempt from the provisions of Section 119.07(1), Florida Statutes and Section 24(a), Article I of the Constitution of the State of Florida.

(2) For purposes of maintaining the confidentiality of information as required pursuant to Sections 440.125 and 440.185(11), Florida Statutes, the following constitutes information that would identify an ill or injured employee: the ill or injured employee's

- (a) Name or signature;
- (b) Social security number;
- (c) Business, residence, and mailing addresses; and
- (d) Residence and business telephone number.

(3) In the Division's response to a public records request, information that would identify an ill or injured employee will be redacted from any report of injury or illness filed with the Division pursuant to Section 440.185, Florida Statutes, and from any medical bill provided to the Division pursuant to Section 440.13, Florida Statutes, unless the employee that would be identified in such records waives the confidentiality provisions of Sections 440.125 or 440.185(11), Florida Statutes and consents to the production of confidential information or records through submission to the Division of a completed Form DI4-1545 (DWC) (Rev. 9/02) Consent And Waiver For Release of Confidential Records, which is hereby adopted and incorporated herein by reference.

Specific Authority 440.185(10), 440.591 FS. Law Implemented 440.125, 440.185(11) FS. History—New \_\_\_\_\_.

NAME OF PERSON ORIGINATING PROPOSED RULE: Don Davis, Division of Workers' Compensation, Office of Data Quality and Collection, 200 East Gaines Street, Tallahassee, FL 32399-4228, (850)922-4480

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Tanner Holloman, Director, Division on Workers' Compensation, Department of Insurance  
 DATE PROPOSED RULE APPROVED BY AGENCY HEAD: October 2, 2002

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: October 18, 2002. Pursuant to §120.54(2)(c), F.S., the Department explains that a workshop is unnecessary because of the urgent need for the clarity that the rule provides, and the fact that the public hearing will provide ample opportunity for public comment on the proposed rule.

**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" and "University"	6E-1.0045

PURPOSE AND EFFECT: The purpose of the proposed new rules is to define terms used in the rules, clarify requirements for fair consumer practices, update the standards for offering honorary degrees, and repeal obsolete or redundant rules. The effect is that the Commission and the licensed institutions will have updated and consistent definitions and requirements to reflect the merging of two boards into one agency.

SUMMARY: The proposed new rules provide definitions of new terms introduced in the new law and other revised rules, and combine definitions from both former boards; provide updated fair consumer practices, taking into consideration the entire spectrum of nonpublic postsecondary education; and update the requirements for awarding honorary degrees; several obsolete or redundant rules are repealed.

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

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

SPECIFIC AUTHORITY: 1005.22(1)(e), 1005.31, 1005.34 FS.

LAW IMPLEMENTED: 1005.04, 1005.06, 1005.21, 1005.22, 1005.31, 1005.33, 1005.34, 1005.35 FS.

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

TIME AND DATE: 9:00 a.m., Friday, November 15, 2002

PLACE: Sheraton Suites Hotel, 4400 West Cypress Street, Tampa, FL

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULES IS: Sandra Knight, Assistant Executive Director, Commission for Independent Education, Department of Education, 2650 Apalachee Parkway, Suite A, Tallahassee, FL 32301, (850)488-8695

THE FULL TEXT OF THE PROPOSED RULES IS:

6E-1.001 Introduction to the Rules.

Specific Authority 246.041(1)(e), 246.051(1), 246.071 FS. Law Implemented 246.011, 246.041(1)(g),(n),(q),(r),(t), 246.051, 246.081, 246.085, 246.087, 246.095 FS. History—Repromulgated 12-5-74, Readopted 11-11-75, Formerly 6E-1.01, Amended 11-27-88, 10-19-93, Repealed.

6E-1.002 Authority of the Board.

Specific Authority 246.041(1)(e), 246.051(1), 246.071 FS. Law Implemented 246.041(1)(f), 246.051(2) FS. History—Repromulgated 12-5-74, Formerly 6E-5.01, Readopted 11-11-75, Amended 10-13-83, Formerly 6E-1.02, Amended 11-27-88, Repealed.

(Substantial rewording of Rule 6E-1.003 follows. See Florida Administrative Code for present text.)

6E-1.003 Definition of Terms.

Terms used in these rules are defined in Section 1005.02, Florida Statutes. In addition, as used in the rules of this Commission, unless the context clearly indicates otherwise:

(1) “Advertising” includes any form of public notice, however disseminated or utilized, offering training or education to the public or recruiting students to enroll in a school or college program. The term includes publications and promotional items which may be seen or encountered by prospective students, including catalogs and other institutional publications which contain institutional policies or disclosures; mailing pieces, such as bulletins, brochures, or flyers; classified advertisements; news releases; posters; electronic notices provided through Internet, radio or television; or any other form of public notice resulting from the institution’s recruiting and promotional efforts.

(2) “Chartered” means incorporated according to the requirements of the Florida Department of State, Division of Corporations or similar authority in another jurisdiction.

(3) “Collegiate” describes a college or university which is licensed by the Commission to offer degrees as defined in s. 1005.02(7), Florida Statutes, or the degree programs offered by such an institution.

(4) “Course” means one organized unit of study focusing on one subject or skill for a specified period of time; for example, English 101, Algebra II, or Introduction to Computers.

(5) “Curriculum” means the specific courses required for completion of a given program.

(6) “Enrollment” means registering a student to take courses in an institution, when such registration obligates the student to pay tuition to the institution and obligates the institution to provide instruction to the student.

(7) “Executive Director” means the chief executive officer of the Commission.

(8) “Fair consumer practices” means the honest, accurate and equitable conduct of business and academic relations between institutions and their students or prospective students.

(9) “General education courses” are those college-level courses designed to place emphasis on principles and theory rather than on practical applications associated with a vocational, occupational, or professional objective. General education courses may include, but is not limited to, English, history, philosophy, literature, religion, art, music, sociology, foreign languages, humanities, mathematics, chemistry, biology, and psychology, when such courses are not within the area of concentration of a vocational, occupational, or professional program. For example, English Composition is considered a general education course, but Business English is not. Courses designated as “applied,” “specialized,” “technical,” or similar designation do not meet this definition.

(10) “Noncollegiate” or “nondegree” describes a nonpublic career school licensed by the Commission to offer certificate or diploma programs as defined in s. 1005.02(16), Florida Statutes, or the certificate or diploma programs below the degree level offered by any institution under the jurisdiction of the Commission.

(11) “Program” means a prescribed group of courses, taken in the proper sequence to attain mastery of a body of knowledge or set of skills, and leading to a certificate, diploma, or degree.

(12) “Substantive change” means any change of control, level of credentials offered, purpose, financial soundness, or accreditation. A change of accreditation includes change of accrediting agency, level of accreditation, exceeding the scope of the grant of accreditation or recognition of the agency, or any final action taken by the accrediting agency which places the accreditation of the institution in jeopardy. A substantive change also includes any change which the Commission determines is serious enough to threaten the continued operation or stability of the institution, or the quality of the educational programs offered.

Specific Authority 1005.22(1)(e) 246.041(1)(e), 246.051(1), 246.071 FS. Law Implemented 1005.22, 1005.31 246.021, 246.041(1)(g), 246.051(2), 246.084, 246.093 FS. History—Repromulgated 12-5-74, Amended 7-28-75, Formerly 6E-4.01(8), Readopted 11-11-75, Amended 3-7-77, 10-13-83, Formerly 6E-1.03, Amended 2-22-89, 11-29-89, 10-19-93, 12-11-96, 4-11-00, \_\_\_\_\_.

6E-1.0031 Licensure Required; Exemptions from Licensure.

Specific Authority 246.041(1)(e), 246.051(1), 246.071, 246.081(2), 246.085(4),(5) FS. Law Implemented 246.011, 246.041(1)(n), 246.081(2), 246.084, 246.085, 246.087(1), 246.111 FS. History—New 10-13-83, Formerly 6E-1.031, Amended 11-27-88, 11-29-89, 12-10-90, 10-19-93, 4-11-00, Repealed \_\_\_\_\_.

(Substantial rewording of Rule 6E-1.0032 follows. See Florida Administrative Code for present text.)

6E-1.0032 Fair Consumer Practices.

(1) This rule implements the provisions of ss. 1005.04 and 1005.34, Florida Statutes, and establishes the regulations and standards of the Commission relative to fair consumer practices and the operation of independent postsecondary education institutions in Florida.

(2) This rule applies to those institutions as specified in s. 1005.04(1), Florida Statutes, unless expressly stated to apply only to licensed institutions. All such institutions and locations specified in s. 1005.04(1), Florida Statutes, shall demonstrate compliance with fair consumer practices.

(3) The definitions contained in s. 1005.02, Florida Statutes, and Rule 6E-1.003, F.A.C., apply equally herein unless expressly indicated otherwise.

(4) All advertising and promotional literature shall be accurate and not misleading to the public. The level of educational programs provided shall be disclosed. Compliance with subsection 6E-2.004(11), F.A.C., regarding publications, is required of all institutions operating or soliciting students in Florida. See paragraph (5)(j) of this rule for requirements for statements regarding job opportunities. Salaries shall not be used in advertising, unless a written disclosure is provided to each prospective student, to be signed by the student before collection of any tuition, stating that the advertised salary cannot be guaranteed. If any information is provided to students regarding salaries, such information shall be limited to accurate and unexaggerated representations of entry level salaries reflective of employees having the same skills, education, and experience as the students will have upon graduation. If advertising violations occur, the Commission may require a licensed institution to receive prior approval of future advertising copy before publication or broadcasting. Continued advertising violations by a licensed institution may result in probation with conditions and fines, or revocation of licensure pursuant to ss. 1005.34 and 1005.38, Florida Statutes.

(5) In order to demonstrate compliance with fair consumer practices, each institution must make certain disclosures, and must make those disclosures in certain publications of the institution, as determined by the Commission. All disclosures must be in writing, must be clear and accurate, and must not be misleading.

(6) Each prospective student shall be provided a written copy, or shall have access to an electronic copy, of the institution's catalog prior to enrollment or the collection of any tuition, fees or other charges. The catalog of a licensed institution shall contain the following required disclosures:

(a) Purpose of the institution: The purpose of the institution must be disclosed, and must be consistent with s. 1005.01, Florida Statutes.

(b) Educational programs and curricula: The curricula shall be published in the catalog and shall state objectives specific to each curriculum and the requirements to be met for successful completion of each curriculum or program. Information relating to course availability and prerequisites shall be available for students. The catalog shall also contain brief course descriptions for each course offered.

(c) Description of physical facilities: All licensed institutions must describe their physical facilities in Florida, which must meet the requirements as set forth in subsection 6E-2.004(9), F.A.C. Information showing compliance with relevant local safety and health standards, such as fire, building, and sanitation shall be disclosed to students.

(d) Licensure and accreditation status: The institution shall disclose its status regarding licensure by the Commission and its status as an accredited institution or program, as applicable. The level and scope of licensure or accreditation shall be disclosed, and any ramifications of accreditation or lack of accreditation (such as ability to sit for professional examinations, or transferability of credits) shall be disclosed. If an institution makes claims that it is accredited by an accrediting agency that is not recognized by the U.S. Department of Education, the following disclosure must be made in large bold type, all capital letters, and is to be inserted in the publications or advertising, as defined in subsection 6E-1.003(1), F.A.C., prior to identification of or mention of any unrecognized accrediting association or agency. The required statement is:

THE ACCREDITING AGENCY(S) OR ASSOCIATION(S) LISTED BELOW IS (ARE) NOT RECOGNIZED BY THE UNITED STATES DEPARTMENT OF EDUCATION AS AN APPROVED ACCREDITING AGENCY. THEREFORE, IF YOU ENROLL IN THIS INSTITUTION, YOU MAY NOT BE ELIGIBLE FOR TITLE IV FEDERAL FINANCIAL ASSISTANCE, STATE STUDENT FINANCIAL ASSISTANCE, OR PROFESSIONAL CERTIFICATION IN FLORIDA. IN ADDITION, CREDITS EARNED AT THIS INSTITUTION MAY NOT BE ACCEPTED FOR TRANSFER TO ANOTHER INSTITUTION, AND MAY NOT BE RECOGNIZED BY EMPLOYERS.

This disclosure statement must be inserted in all advertisements or publications wherever accreditation by an unrecognized accrediting agency is mentioned.



(e) Fee schedule: The institution must disclose all fees required to be paid by students (including tuition, laboratory fees, graduation fees, other required fees), and any nonrefundable fees must be so identified.

(f) Transferability of credits: The institution shall disclose information to the student regarding transferability of credits to other institutions and from other institutions. The institution shall disclose that transferability of credit is at the discretion of the accepting institution, and that it is the student's responsibility to confirm whether or not credits will be accepted by another institution of the student's choice. If the institution has entered into written articulation agreements with other institutions, a list of those other institutions may be provided to students, along with any conditions or limitations on the amount or kinds of credit that will be accepted. Such written agreements with other institutions must be valid and in effect at the time the information is disclosed to the student. The agreements shall be kept on file at all times and available for inspection by Commission representatives or students. Any change or termination of the agreements shall be disclosed promptly to all affected students. No representation shall be made by the institution that its credits can be transferred to another specific institution, unless the institution has a current, valid articulation agreement on file.

(g) Admissions: The institution shall disclose its method of assessing a student's ability to complete successfully the course of study for which he or she has applied. The method used must be reliable. If the practice of a career has special requirements or limitations, such as certain physical capabilities or lack of a criminal record, such requirements or limitations shall be disclosed to prospective students interested in training for that career. The requirements for admission (such as high school diploma or GED) and for graduation shall also be disclosed.

(h) Student financial assistance: Information about the availability of financial assistance shall be disclosed to prospective students. In addition, each institution shall make such disclosure in writing, to be signed and dated by each student applying for and receiving a student loan, to the effect that the student understands that he or she is obligated to repay the loan, the terms and amounts of repayments, and when repayments will begin. References to financial assistance availability in any school catalogs or advertising shall include the phrase, "for those who qualify."

(I) Student refund policies: This rule establishes the Commission's minimum refund guidelines. Refund policies which pertain to students who are receiving Title IV Federal Student Financial Assistance or veterans' benefits shall be in compliance with applicable federal regulations. All institutions shall have an equitable prorated refund policy for all students, which shall be disclosed in the catalog and in the enrollment agreement or application for admission, and must be uniformly administered. Any nonrefundable fees or charges shall also be

disclosed. The institution's refund policy shall provide a formula for proration of refunds based upon the length of time the student remains enrolled. The refund policy shall not consider that all or substantially all tuition for an entire program or term is earned when a student has been enrolled for only a minimal percentage of the program or term; nor shall an institution collect payment for a future program more than 3 months prior to the program start, without prior approval by the Commission. An institution shall not require payment in advance for more than one semester or quarter if a college, or for more than 4 months of instruction if a noncollegiate institution. The refund policy shall provide for cancellation of any obligation within 3 working days from the student's signing an enrollment agreement, contract, or similar document that legally obligates the student to pay tuition. Refunds shall be made within 30 days of the date that the institution determines that the student has withdrawn. Institutions need not keep attendance, but must adopt and publish an equitable policy by which withdrawal dates will be determined. This policy shall be approved by the Commission before publication. The requirements regarding refund policies as stated herein do not apply to dormitory or meal fees. Refund policies for those fees, if charged, shall be set by the institution and also disclosed in conjunction with the refund policy.

(j) Employment placement services: The extent of placement services shall be specifically described. No guarantee of placement shall be made or implied. The institution may disclose information relating to market and job availability, if verified through statistical research; however, the institution shall not promise or imply any specific market or job availability amounts. The institution shall disclose information regarding the relationship of the institution's programs of study to the state licensure standards for practicing related occupations and professions in Florida.

(k) A statement that additional information regarding the institution may be obtained by contacting the Commission for Independent Education, Department of Education, 2650 Apalachee Parkway, Suite A, Tallahassee, Florida 32301, toll-free telephone number 888-224-6684.

(6) If the Commission determines that ongoing complaints show a pattern of misinformation, lack of disclosure, or discrepancies between printed, electronic, and verbal information being given to prospective students, the Commission may require that institutions prepare additional documents, to be individually signed and dated by students, to address the problem. Significant deviations from fair consumer practices shall be grounds for probation, denial or revocation of licensure pursuant to Sections 1005.32(7), 1005.34(3), and 1005.38(1), Florida Statutes, and Rule 6E-2.0061, F.A.C.

(7) The institution shall develop, publish in its catalog or student handbook, and follow a procedure for handling complaints, disciplinary actions and appeals. The procedure shall ensure that complaints and disciplinary actions are not

handled in a capricious or arbitrary manner, but are given careful consideration by appropriate levels of administration. It is understood that the health and safety of students and staff are the institution's primary concern. In the event of extreme cases, it may be necessary for the institution to take immediate disciplinary action. If the institution has an emergency disciplinary procedure, this procedure shall be disclosed to prospective students, and grounds for such action shall be specified in as much detail as possible.

(8) Licensed colleges and universities shall adopt, publish in its catalog or student handbook, and uniformly enforce an anti-hazing policy as required by s. 1005.31(13), Florida Statutes, and provide a copy to the Commission.

(9) An institution is responsible for ensuring compliance with this rule by any person or company contracted with or employed by the institution to act on its behalf in matters of advertising, recruiting, or otherwise making representations which may be accessed by prospective students in Florida, whether verbally, electronically, or by other means of communication.

Specific Authority ~~1005.22(1)l., 1005.34 246.041(1)(e), 246.051(1), 246.071, 246.095(2), 246.111(2)~~ FS. Law Implemented 1005.04, 1005.22(1)(m), 1005.31(13), 1005.32(5), 1005.34 246.041(1)(n), 246.085, 246.095, 246.111 FS. History–New 10-19-93, Amended 4-2-96, 11-5-00, \_\_\_\_\_.

6E-1.0033 Diploma Programs.

Specific Authority 246.041(1)(e), 246.051(1), 246.071 FS. Law Implemented 246.011(3), 246.081(3), 246.085(3), 246.091(3) FS. History–New 12-10-90, Amended 10-19-93, Repealed \_\_\_\_\_.

6E-1.0034 Fees and Expenses.

Specific Authority 246.041(1)(e), 246.051(1), 246.071, 246.093(1), 246.101(1) FS. Law Implemented 246.041(1)(l),(n)7., 246.061, 246.084, 246.093, 246.101, 246.111, 246.31 FS. History–New 7-15-91, Amended 12-7-92, 10-19-93, 11-8-94, 12-11-96, 11-5-00, Repealed \_\_\_\_\_.

6E-1.0035 Permission to Operate.

Specific Authority 246.041(1)(e), 246.051(1), 246.071, 246.093(1) FS. Law Implemented 246.011(4), 246.021(1), 246.081(2), 246.087(2), 246.093, 246.101(5)(f) FS. History–New 5-13-87, Amended 11-27-88, 12-10-90, 10-19-93, 4-11-00, 11-5-00, Repealed \_\_\_\_\_. Cf. SBICU 600, Application for Authorization to Operate in Florida.

(Substantial rewording of Rule 6E-1.0041 follows. See Florida Administrative Code for present text.)

6E-1.0041 Honorary Degrees.

(1) Among nonpublic postsecondary institutions operating in Florida, only those which operate under Section 1005.06(1)(b), (c), (e), or (f), Florida Statutes, or which are licensed by the Commission as a college or university, may award honorary degrees.

(2) No honorary degree given by a nonpublic college subject to the jurisdiction of the Commission may have substantially the same name as any earned degree given by any institution in Florida authorized to grant degrees.

(3) Each honorary degree shall prominently bear on its face the words, "honorary degree."

Specific Authority ~~1005.22(1)(e) 246.041(1)(e), 246.051(1), 246.071~~ FS. Law Implemented 1005.02(7), 1005.21(1), 1005.33(2) 246.011(1),(2),(4), 246.021(5) FS. History–New 10-13-83, Formerly 6E-1.041, Amended 11-27-88, 10-19-93, \_\_\_\_\_.

6E-1.0045 Minimum Standards for Use of the Term "College" or "University".

Specific Authority 246.041(1)(e), 246.051(1), 246.071, 246.121(4) FS. Law Implemented 246.121 FS. History–New 11-24-83, Formerly 6E-1.045, Amended 11-27-88, 11-29-89, 12-10-90, 10-19-93, 12-11-96, 4-11-00, Repealed \_\_\_\_\_.

NAME OF PERSON ORIGINATING PROPOSED RULE: Sandra Knight, Assistant Executive Director, Commission for Independent Education

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Samuel L. Ferguson, Executive Director, Commission for Independent Education

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: August 14, 2002

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: July 19, 2002, p. 3038, Vol. 28, No. 29

**DEPARTMENT OF EDUCATION**

**Commission for Independent Education**

RULE TITLES:	RULE NOS.:
Approved Applicant Status	6E-2.001
Institutional License	6E-2.002
Minimum Standards for Licensure	6E-2.004
Delivery of Programs through Alternative Assessments, Modes and Methods	6E-2.0041
Medical Clinical Clerkship Programs	6E-2.0042
Actions Against a Licensee; Penalties	6E-2.0061
Approval of Modifications	6E-2.008
Change of Ownership or Control	6E-2.0081
Closing an Institution	6E-2.009
Agents	6E-2.010
Designating Resident Agent	6E-2.015

**PURPOSE AND EFFECT:** The purpose of the proposed new rules is to combine rules from both the former boards, the State Board of Independent Colleges and Universities and the State Board of Nonpublic Career Education, which have been combined into the Commission for Independent Education; and to add new rules or revisions as necessary to implement the new law, Ch. 1005, F.S. The effect is that the Commission will be able to function effectively with one set of rules reflecting the current situation.

**SUMMARY:** The proposed new rules provide procedures for receiving approved applicant status, provisional license, annual license, extension of annual license, license by means of accreditation, and agent's license; outline the standards for receiving licensure and the grounds for disciplinary action against licensees; provide standards for nontraditional delivery of educational programs; provide standards for licensure of foreign medical schools to offer clinical clerkships in Florida hospitals, and for case by case approval of occasional

clerkships done by students of other foreign medical schools; provide procedures for the approval of modifications to a licensed institution's programs, owners, services, and other aspects of operation; and repeal a redundant rule requiring out-of-state institutions to designate a resident agent for process of service.

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

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

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

LAW IMPLEMENTED: 1005.21(1), 1005.22(1)(h), 1005.31, 1005.32, 1005.33(2), 1005.36, 1005.38, 1005.39 FS.

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

TIME AND DATE: 9:00 a.m., Friday, November 15, 2002

PLACE: Sheraton Suites Hotel, 4400 West Cypress Street, Tampa, FL

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULES IS: Sandra Knight, Assistant Executive Director, Commission for Independent Education, Department of Education, 2650 Apalachee Parkway, Suite A, Tallahassee, FL 32301, (850)488-8695

THE FULL TEXT OF THE PROPOSED RULES IS:

(Substantial rewording of Rule 6E-2.001 follows. See Florida Administrative Code for present text.)

6E-2.001 Approved Applicant Status Temporary Licensure of Colleges.

All new or out-of-state institutions applying for initial licensure to operate in Florida, whether planning to offer degrees or nondegree programs, must file an application for a Provisional License. When the application is deemed complete, the institution will be placed on Approved Applicant status while final preparations are made.

(1) Definition. "Complete application" means an application which the Commission staff has reviewed and found to contain all required forms, supporting documentation addressing each standard, all required signatures, and evidence that all appropriate fees have been paid.

(2) Before filing-time frame. Before preparing and filing a formal application, representatives of a new institution seeking licensure in Florida for the first time should confer with Commission staff a minimum of six months prior to the desired opening date of the institution. This period allows time for staff to explain the application process, review the application when it is filed, notify the applicant of any omissions, receive any necessary additional items, write the report and

recommendation for the Commission to review, and schedule the review for the next agenda. The time frame also allows for the period of Approved Applicant status, when operation of the new institution is prohibited, to correct any deficiencies or conditions that must be corrected or fulfilled before the Commission permits operation to begin.

(3) Review and recommendation. If the initial application has omissions, staff will contact the applicant and request all omitted materials. When the application for a Provisional License is deemed complete by Commission staff, and the background checks required by law for appropriate personnel have been completed and grounds for ineligibility for licensure have not been found, the application will be presented to the Commission at its next meeting with a recommendation to grant Approved Applicant status.

(4) Deficiencies and conditions. Although an application may be complete, containing material addressing each requirement, there still may be deficiencies in fully meeting the standards for a Provisional License. Deficiencies will be itemized in the recommendation for Approved Applicant status presented by staff to the Commission, and the Commission may find that additional deficiencies exist. The Commission may also attach conditions which must be met before a Provisional License is granted, one of which shall be that a professionally printed and bound catalog will be prepared and submitted, containing all information required by Rule 6E-1.0032, F.A.C.

(5) Confirmation letter. An applicant granted Approved Applicant status will receive a letter confirming and explaining the status, noting what specific activities can be done during Approved Applicant status, and stating the length of time for which the status was granted. A listing of deficiencies to be corrected and conditions to be met shall be attached to the confirmation letter. No certificate or license will be provided. Any agency or member of the public requesting information from the applicant shall be provided a copy of the confirmation letter.

(6) Delegation to staff. Depending upon the significance of the deficiencies and conditions noted in the confirmation letter, the Commission may delegate to its Executive Director the responsibility for determining when the deficiencies are corrected and the conditions are met. If the Commission so directs, and the applicant has paid all required fees, the Executive Director may issue a Provisional License upon receipt of documentation that a site visit has occurred if required, that all deficiencies have been corrected, and that all requirements for a Provisional License have been met. However, if the Commission considers that the deficiencies and conditions are unusually complex or significant, it may specify that the application be reviewed by the full Commission before a Provisional License is approved.

(7) Time allowed for compliance. Approved Applicant status may be granted for a period up to six months, during which time the applicant institution shall correct any remaining deficiencies, meet all conditions, and demonstrate that it meets the standards for a Provisional License. If the Commission determines that the applicant is making a good faith effort to comply, but a delay occurs due to extraordinary circumstances, the Commission may grant one additional six-month extension of Approved Applicant status, for a maximum total of one year in this status. If the applicant has not complied with all standards for a Provisional License during the period specified, including any authorized extension, a new application reflecting the current situation must be submitted and all required fees paid to start the application process again.

(8) Prohibited activities. During the period of Approved Applicant status, a new institution shall not advertise, share information with the news media implying future operations, solicit or recruit students, collect fees or tuition from or on behalf of students, offer programs of study, or engage in any activity not specifically approved by the Commission and noted in the confirmation letter. The applicant shall not use the terms "licensed" or "authorized" or in any way indicate to the public or to other agencies that it has licensure or approval to operate from the Commission or the State of Florida. Any questions from the public or the news media shall be directed to the Commission staff. Any prohibited activities by or on behalf of the institution, including misrepresentation of the Approved Applicant status, may result in suspension or termination of the status for a length of time prescribed by the Commission.

(9) Misrepresentation of status. The granting of Approved Applicant status is not a guarantee that a Provisional License will be attained, and shall not be represented as such. An Approved Applicant status is a recognition that the proposed institution has submitted a complete application for a Provisional License, and does not imply that any current or future operation is or will be approved by the Commission.

Specific Authority 1005.31(2),(3) 246.041(1)(c), 246.051(1), 246.071 FS. Law Implemented 1005.31(2),(3),(4) 246.051(1), 246.081(2), 246.091(1), 246.101, 246.111, 246.141 FS. History—Repromulgated 12-5-74, Formerly 6E-4.01(1)(a)-(e), Readopted 11-11-75, Amended 5-7-79, 10-13-83, Formerly 6E-2.01, Amended 11-27-88, 11-29-89, 12-10-90, 10-19-93, 4-2-96, 4-11-00,

(Substantial rewording of Rule 6E-2.002 follows. See Florida Administrative Code for present text.)

6E-2.002 Institutional Licensure ~~Other Types of College Licensure.~~

(1) Provisional License.

(a) A new applicant for initial licensure who has received Approved Applicant status shall be granted a Provisional License for a period not to exceed one year when the Commission determines that the applicant is in substantial compliance with the standards for Annual Licensure and the appropriate fees have been paid.

(b) Delegation to staff. In granting initial Approved Applicant status to a new or out-of-state institution, the Commission will note any deficiencies in meeting the standards for a Provisional License and impose any conditions it deems appropriate. If the Commission considers that the deficiencies and conditions attached to the Approved Applicant status are unusually complex or significant, it may specify that the application be reviewed by the full Commission before a Provisional License is approved. Otherwise, the Commission may delegate to its Executive Director the responsibility for determining when the deficiencies are corrected and the conditions are met. If the Commission so directs, and the applicant has paid all required fees, the Executive Director may issue a Provisional License upon receipt of documentation that all deficiencies have been corrected, and that all conditions and all requirements for Provisional Licensure have been met.

(c) Substantive change. An institution which undergoes a substantive change, as defined in subsection 6E-1.003(12), F.A.C., while holding an Annual License or a License by Means of Accreditation, shall be granted a Provisional License for a period of time determined by the Commission. An institution may submit a written request for a return to its previous status or for a new status when conditions set by the Commission have been met. Any limitations on the operation of the institution during the period of provisional licensure will be determined by the Commission when granting the Provisional License. An institution holding a Provisional License shall not request approval of or implement a substantive change until it holds an Annual License or License by Means of Accreditation.

(d) Time allowed for compliance. A Provisional License may be granted for a period up to one year, during which time the institution shall meet all conditions and demonstrate that it meets the standards for an Annual License or a License by Means of Accreditation. If the Commission determines that the applicant is making a good faith effort to comply, but a delay occurs due to extraordinary circumstances caused by considerations such as requirements of an accrediting agency or of other governmental agencies, the Commission may grant an extension of the Provisional License up to one additional year and require payment of the appropriate fee. If the institution has not complied with all necessary standards and conditions within the period specified, including any authorized extension, a new application for licensure reflecting the current situation must be submitted and all required fees paid to start the application process again. Progress reports may be required by the Commission during the period of provisional licensure.

(e) Probable cause. An institution for which probable cause has been found pursuant to Rule 6E-2.0061, F.A.C., shall be issued a Provisional License until the conditions leading to the finding of probable cause have been corrected. Because of

the need for increased monitoring during this time, additional fees shall be assessed on a quarterly basis pursuant to Rule 6E-4.001, F.A.C.

(f) Permissible activities. While holding a Provisional License, an institution may advertise, recruit students, accept fees and tuition from or on behalf of students, and hold classes. A new institution seeking to offer degrees, a nondegree-granting institution seeking to add degree programs, or a new nondegree-granting institution whose credential requires one year or more to earn, shall not award the new degree or credential during provisional licensure. The Commission shall note in the granting of the Provisional License whether any short-term credentials can be awarded during that status, and what specific activities may occur. No programs may be advertised or offered which do not appear on the Provisional License. Fair consumer practices, as provided in ss. 1005.04 and 1005.34, Florida Statutes, and Rule 6E-1.0032, F.A.C., shall be followed by the institution in all aspects of its operation.

(g) Disciplinary actions. Grounds and procedures for disciplinary actions against a licensee are provided in Chapter 1005, Florida Statutes, and in Rule 6E-2.0061, F.A.C.

(2) Annual License.

(a) Granting. An institution that holds a Provisional License, or seeks renewal of an Annual License, shall be granted an Annual License for a period not to exceed one year when the Commission determines that the institution has demonstrated full compliance with all licensure standards and that all appropriate fees have been paid.

(b) Extensions.

1. An Annual License may be extended for up to one year if the institution meets the following requirements:

a. The institution has held an Annual License for a minimum of five consecutive years, and

b. The institution has no complaints pending whereupon probable cause has been found, and

c. The institution has complied with all appropriate rules and statutes, and

d. The institution has paid all appropriate fees.

e. Prior to the beginning of the extended year of the license, the institution shall submit reports to the Commission. The reports shall include the name, location, and license number of the institution; the name of the chief administrative officer; the number of students enrolled, withdrawn, and graduated; the percentage of placement of graduates; a copy of the institution's catalog, and enrollment agreement or application for admission; evidence of the institution's accreditation status if any; and reports fulfilling the Commission's financial reporting requirements. If the Commission has reason to believe that a problem may exist which could affect students, additional reports may be requested.

2. An institution which holds an Annual License or an extension thereof shall revert to a Provisional License if the institution undergoes a substantive change or if probable cause is found.

(c) Permissible Activities.

1. An Annual License shall permit full operation of an institution, including, if applicable, application to the Commission to add new programs or majors, or new locations, pursuant to Rule 6E-2.008, F.A.C.

2. Fair consumer practices, as provided in ss. 1005.04 and 1005.34, Florida Statutes, and Rule 6E-1.0032, F.A.C., shall be followed by the institution in all aspects of its operation.

(d) Disciplinary actions. Grounds and procedures for disciplinary actions against a licensee are provided in Chapter 1005, Florida Statutes, and in Rule 6E-2.0061, F.A.C.

(3) License by Means of Accreditation.

(a) Requirements. An institution may apply for a License by Means of Accreditation if appropriate fees have been paid and if the following requirements have been met:

1. The institution has operated legally in the state of Florida for a minimum of five consecutive years; and

2. The institution is a Florida corporation; and

3. The institution holds institutional accreditation granted by an accrediting agency as defined by s. 1005.02(1), Florida Statutes, which has been evaluated and approved by the Commission as having reporting, organizational, and operating standards substantially equivalent to the Commission's licensure standards. The Chair of the Commission shall appoint a 9-member accreditation review committee to evaluate the standards of accrediting agencies that have been submitted for approval to the Commission, accompanied by the appropriate fee. The evaluation shall be repeated as needed. Any member of the accreditation review committee whose institution is accredited by, or who is personally affiliated with, an accrediting agency being reviewed shall not vote on approval of that accrediting agency; and

4. The institution has consistently followed fair consumer practices, as provided in ss. 1005.04 and 1005.34, Florida Statutes, and Rule 6E-1.0032, F.A.C., in all aspects of its operations; and

5. The institution has had no unresolved complaints or other actions in the past 12 months; and

6. The institution meets minimum requirements for financial responsibility. The institution shall demonstrate compliance with this requirement by filing the institution's most recent annual independently audited financial statement, pursuant to subsection 6E-2.004(6), F.A.C. This audit shall cover a fiscal year which ended no earlier than twelve months prior to the application for licensure by means of accreditation.

7. An institution that was exempt from licensure in 2001 under s. 246.085(1)(a), Florida Statutes 2001, may retain the exemption until the Commission issues it a License by Means of Accreditation as provided in this rule.

(b) Annual review. At the time of annual review of a License by Means of Accreditation, the institution shall submit: a current institutional catalog; a copy of materials provided to its accrediting agency since the last license review, except in the case of a self-study, a copy of the executive summary thereof will suffice; a copy of any correspondence, including letters, motions, records of actions taken, and other similar documents provided by the accrediting agency to the institution since the last review, and the institution's response; a copy of the annual independent institutional audit, pursuant to subsection 6E-2.004(6), F.A.C.; materials documenting that fair consumer practices are followed by the institution; and, if requested by the Commission, materials documenting that the institution has in place procedures for following the Commission's requirements for orderly closing.

(c) Duration.

1. A License by Means of Accreditation is valid for the same period as the grant of accreditation, except as noted in subparagraph 3 of this paragraph.

2. At the conclusion of the period of the grant of accreditation for which the licensure was granted, the license will expire unless the institution has paid appropriate fees and submitted evidence that the institution continues to be eligible for a License by Means of Accreditation. In the event that the accrediting agency has deferred consideration of a renewal of the institution's accreditation, the Commission shall consider the circumstances in making a decision whether to extend the license.

3. An institution that holds a License by Means of Accreditation and undergoes a substantive change as defined in subsection 6E-1.003(12), F.A.C., or is found to be in substantial noncompliance with Commission standards or fair consumer practices, or is the object of a complaint whereupon probable cause has been found, shall revert to an Annual or Provisional License until the Commission determines that the institution is eligible for a License by Means of Accreditation or other type of license.

(d) Before offering a program that exceeds the scope or level of its grant of accreditation, an institution holding a License by Means of Accreditation must apply for and receive an Annual or Provisional License. Upon inclusion of the new program in the full grant of accreditation, the institution may apply to reinstate its License by Means of Accreditation.

(e) Disciplinary actions. Pursuant to s. 1005.32(7), Florida Statutes, repeated failure to comply with the statutory requirements for this status may lead to denial, probation, or revocation of the status as outlined in Rule 6E-2.0061, F.A.C. If the License by Means of Accreditation is revoked or denied, the institution must immediately seek an Annual License.

Specific Authority ~~1005.31(2),(3)~~ ~~246.041(1)(c)~~, ~~246.051(1)~~, ~~246.071~~ FS. Law Implemented ~~1005.22(1)(e),(2),(d)~~, ~~1005.31~~, ~~1005.32~~, ~~1005.33~~ ~~246.051(1)~~, ~~246.081(2)~~, ~~246.091(1)~~, ~~246.101~~, ~~246.111~~, ~~246.141~~ FS. History—Repromulgated 12-5-74, Formerly 6E-4.01(f)-(i), Readopted 11-11-75, Amended 2-6-78, 5-7-79, 10-13-83, Formerly 6E-2.02, Amended 11-27-88, 11-29-89, 10-19-93, 4-2-96, \_\_\_\_\_.

(Substantial rewording of Rule 6E-2.004 follows. See Florida Administrative Code for present text.)

6E-2.004 Minimum Standards for Licensure.

Each institution applying for a license, moving to a new level of licensure, or submitting an annual review of licensure shall provide to the Commission the following specific information, in English. All information and documentation submitted pursuant to the provisions of these rules shall be accompanied by certification signed by the chief administrative officer of the institution, affirming that the information and documentation submitted is accurate. Any application or review which is substantially incomplete or unorganized shall be returned to the institution with a request to complete, organize, and resubmit the material.

(1) Standard 1: Name.

(a) Noncollegiate Schools: A school's name must clearly indicate that the primary purpose of the institution is education. If an institution desires to include the occupation within its name, the name must clearly reflect the type of training offered by the institution. Noncollegiate schools may not use the words "college" or "university" in their names. No institution may use a name that may lead the student to believe that institution is a public institution, unless it is an institution provided, operated, or supported by the State of Florida or its political subdivisions, or the federal government. The license will be issued in the official corporate name, or an official fictitious name if the school provides documentation that such name is registered with the Secretary of State. If using a fictitious name, the school must disclose its official corporate name in its catalog.

(b) Use of the Term "College":

1. A college's name must clearly indicate that the primary purpose of the institution is education. If an institution desires to include an occupation within its name, the name must clearly reflect the type of training offered by the institution.

2. An institution may use the term "college" in its name if it offers, or if a new applicant for licensure proposes to offer, as the majority of its total offerings and student enrollments, an academic associate degree, a baccalaureate degree, or a graduate or professional degree.

3. If an out-of-state institution whose official name includes the term "college" seeks to operate in Florida and use the term "college" in its name in this state, it must minimally offer in its home state, as the majority of its total offerings and student enrollments, an academic associate degree, a baccalaureate degree, or a graduate or professional degree. If the institution does not meet these criteria in its home state, the Commission shall require the institution to use an appropriate modifying phrase in conjunction with its name in Florida.

4. The institution must lease or own facilities in Florida which meet or exceed the minimum standards specified in subsection 6E-2.004(9), F.A.C.

5. The institution must show evidence of continued operations as an educational institution at the college level.

(c) Use of the Term "University":

1. An institution may use the term "university" in its name if it offers, or if a new applicant for licensure proposes to offer, as the majority of its total offerings and student enrollments, a range of undergraduate degree programs and at least one graduate degree program, or if only graduate degrees are offered, a minimum of three graduate degree programs.

2. If an out-of-state institution whose official name includes "university" seeks to operate in Florida and use the term "university" in its name in this state, it must minimally offer in its home state, as the majority of its total offerings and student enrollments, a range of undergraduate degree programs and at least one graduate degree program, or if only graduate degrees are offered, a minimum of three graduate degree programs. If the institution does not meet these criteria in its home state, the Commission shall require the institution to use an appropriate modifying phrase in conjunction with its name in Florida.

3. The institution must lease or own physical facilities in Florida which meet or exceed the minimum standards specified in subsection 6E-2.004(9), F.A.C.

4. The institution must show evidence of continued operations as an educational institution at the university level.

(d) Change of Name: All institutions must notify the Commission at least 30 days prior to the institution's change of name. All institutions must receive approval of the Commission prior to using the new name in advertisements or promotions. Accredited institutions must document to the Commission that the accrediting agency has been notified of the change of name and does not object to the new name.

(2) Standard 2: Purpose.

(a) An institution must adopt a clearly defined purpose or mission statement appropriate to the offerings of the institution, as well as to its specific educational objectives. This statement must describe clearly the characteristics and components of the institution and its operations. The statement of purpose must be accurately stated in the institution's current catalog.

(b) The statement of purpose serves as a foundation for the institution's programs and activities. The practice and scope of the institution must be consistent with its statement of purpose. The statement of purpose must be approved by the governing body of the institution and reviewed periodically.

(3) Standard 3: Administrative Organization.

(a) Noncollegiate institutions:

1. Each school shall provide a qualified and competent administrative staff and such policies and procedures as are necessary to ensure the accomplishment of its purpose.

2. Each school shall have as its school director a person who has at least two years of supervisory experience in an executive or managerial position in a similar school or related business.

3. Each owner, director, and administrator of the school is subject to a criminal justice information investigation pursuant to s. 1005.38, Florida Statutes.

4. Each school shall have as its director of training a person who has completed at least four years of academic or job experience beyond high school, and who has a minimum of two years of practical experience in a supervisory, administrative, or teaching position related to the programs offered by the school. The director of training shall have sufficient educational background, experience, and administrative competence to properly plan and supervise the training program.

5. Pursuant to s. 1005.39, Florida Statutes, individuals holding the following positions in licensed schools shall complete at least eight continuing education contact hours of training related to their positions each year from the Commission or another provider approved by the Commission: school director, director of education or training, placement director, admissions director, and financial aid director. Each school shall provide, at the time of initial application or review of licensure, documentation that the required training was received. If an individual holds more than one of these positions, the documentation shall indicate for which position the training was appropriate. Compliance with this requirement is a condition of licensure or renewal of licensure.

6. Each school shall be a Florida corporation or registered as a foreign corporation, pursuant to the requirements of the Florida Secretary of State. Upon initial licensure and subsequent renewal the school must provide proof of active corporate status.

(b) Collegiate institutions. Colleges and universities shall address four elements of administration: organizational structure, qualifications of administrators, adoption and dissemination of administrative policies, and institutional effectiveness.

1. The organizational structure shall reflect the provisions contained in the articles of incorporation, bylaws, and other governing documents, and shall provide a clearly delineated chain of authority and responsibility. In addition to a narrative statement describing how the college meets this standard, the college shall submit the following documentation:

a. A statement describing the college's governing board, including the manner in which it is constituted and its operating procedures, together with a listing of the members of the governing board, their addresses and occupations.

b. A copy of the articles of incorporation, including all amendments, approved by the Florida Secretary of State or comparable official if incorporated in another state or

jurisdiction. If the college is incorporated in another jurisdiction, it shall also provide a copy of its registration with the Florida Secretary of State as a foreign corporation.

c. A chart showing the administrative organization of the college.

d. A chart showing the proposed college's relationship, if any, to any other corporate entities within or outside the state of Florida; and a copy of the articles of incorporation of each entity thus directly or indirectly related to the college.

2. The qualifications of the administrators of the proposed college shall include academic preparation and experience appropriate for the position held. Position descriptions and minimum qualifications for each administrative position shall be developed and submitted by the college. In addition to a narrative statement describing how the college meets this standard, the college shall submit the following documentation:

a. A copy of the position description and minimum qualifications for each administrative position in Florida, including the president or chief executive officer, vice presidents, chief financial officer or business manager, deans or program directors, and other individuals with supervisory responsibility for major operating units of the college.

b. A copy of the resumes of each Florida administrator currently employed by the college or involved in the planning and development process.

3. Adoption and dissemination of administrative policies shall be addressed in the plan. Policies shall be officially adopted and communicated to all appropriate personnel. These policies shall include such matters as responsibilities of administrative officers, faculty organization, evaluation and improvement of institutional effectiveness, and other such policies and regulations affecting the members of the college's faculty, staff, and students. In addition to a narrative statement describing how the college meets this standard, the college shall submit at least the following documentation:

a. A copy of the official minutes of meetings at which policies were officially adopted, or if an initial application for licensure, a schedule showing when such policies will be officially adopted and submitted to the Commission.

b. A copy of any and all documents, such as student or faculty handbooks, newsletters, and similar printed materials, which communicate applicable policies and procedures to affected groups, or if an initial application for licensure, a schedule showing when such documents will be prepared and submitted to the Commission.

4. From the developmental stages of the college through its lifetime, it shall have an ongoing program of institutional planning and evaluation to determine institutional effectiveness in meeting its purpose and goals. This program shall be a formal process, involving all constituencies of the college, and shall be evaluated periodically. In addition to a

narrative statement describing how the college meets this standard, the college shall submit at least the following documentation:

a. A copy of the officially adopted policy providing for an ongoing program to evaluate and improve institutional effectiveness.

b. A chart showing the process, the involvement of all college constituencies, and a schedule for related activities for the next two years of operation.

5. For review and renewal of licensure:

a. Any changes to the administrative organization of the college shall be reflected in an updated organizational chart which shall be submitted to the Commission, with the changes indicated.

b. A resume shall be submitted for each administrator employed by the college since the last review, showing compliance with the standard regarding qualifications of administrators. Any unfilled key administrative position shall be noted.

c. Any modifications to the administrative policies as previously reported shall be noted, and the college shall document that the modifications have been communicated to affected groups.

d. The institutional effectiveness plan shall be resubmitted if any modifications have been made since the last review. The college shall also submit reports of any institutional effectiveness meetings which have occurred since the last review, and any actions taken to improve the institution based upon concerns identified in the course of the institutional effectiveness process.

6. Pursuant to s. 1005.39, Florida Statutes, certain officials of licensed colleges shall complete at least eight continuing education contact hours of training related to their positions each year. Such training may be provided by the Commission or by another provider approved by the Commission. The Florida officials required to have such training include the Florida or regional director or chief executive officer, chief academic officer, placement director, admissions director, and financial aid director. Each college shall provide, at the time of initial application or review of licensure, documentation that the required training was received. If an individual holds more than one of these positions, the documentation shall indicate for which position the training was appropriate. Compliance with this requirement is a condition of licensure or renewal of licensure.

(4) Educational programs and curricula. The following standards shall apply to all institutions licensed by the Commission for Independent Education, except as expressly stated otherwise.

(a) Programs shall be related to the institution's purpose and organized to provide a sequence which leads to the attaining of competence in the respective area or field of study.



(b) Programs preparing the student for an occupation or professional certification shall conform to the standards and training practices generally acceptable by the occupational fields for which students are being prepared. If the practice of the occupation is regulated, licensed, or certified by a state or national agency, the institution must document to the Commission that successful completion of the program will qualify the graduate to take the licensing examination or to receive the appropriate certification.

(c) The amount of time scheduled for a program shall be appropriate to enable the student to acquire marketable and other skills to the degree claimed in the school's published documents, including the defined objectives and performance outcomes.

(d) Among the policies to be officially adopted by the administration and governing board of an institution offering programs 600 clock hours in length or longer shall be a policy giving faculty a significant role in the development and continual reassessment of all curricula. The policy shall be published in a faculty handbook, and shall be implemented as published.

(e) For each course to be offered, a course outline and a list of competencies required for successful completion of the course shall be adopted by qualified faculty and be provided in writing for all students no later than the first meeting of each class. A copy of these documents shall be kept in the institution's files and be made available for inspection by representatives of the Commission.

(f) Qualified faculty shall evaluate the competencies of students in each subject or course included in each curriculum, including independent study courses.

(g) It is the responsibility of the institution to demonstrate, upon request of the Commission, that the scope and sequence of a proposed or operating curriculum are consistent with appropriate criteria or standards in the subject matter involved, and of an appropriate level of difficulty for the program to be offered. The Commission may request assistance from other appropriate regulatory agencies as provided in s. 1005.22(2)(d), Florida Statutes, or appoint committees to review curricula.

(h) Evidence of faculty involvement in the development of curricula shall be demonstrated with copies of minutes of meetings in which curricular issues were discussed. These minutes must be retained by the institution for at least 3 calendar years.

(i) Educational programs of 600 clock hours in length or longer shall be periodically reviewed by a committee of faculty, administrators, employers, and advisors drawn from relevant community and alumni groups, in an ongoing formalized process of evaluation and revision. The aim of this process is to ensure that educational programs and curricula continue to provide students with relevant competencies required by employers, and continue to reflect current

knowledge and applications. The institution shall ensure that minutes of the meetings of such committees are drawn and retained by the institution for at least 3 calendar years. An institution offering programs of less than 600 clock hours in length shall adopt a schedule and process for reviewing each such program periodically to ensure that the instruction remains timely and appropriate for the current requirements to practice the career for which the student is being trained.

(j) A licensed institution making a substantive change, as defined in subsection 6E-1.003(12), F.A.C., shall receive a Provisional License pursuant to s. 1005.31(5), Florida Statutes, and paragraph 6E-2.002(1)(c), F.A.C.

(k) An institution holding an Annual License or extended Annual License, and that plans to add new programs or majors or make other changes not constituting a substantive change, shall follow the provisions of Rule 6E-2.008, F.A.C., Approval of Modifications, and receive approval from the Commission before publicizing or implementing the changes.

(l) A licensed institution wishing to offer all or part of its educational programs by distance education or other alternative methods shall follow the provisions of Rule 6E-2.0041, F.A.C., and receive approval from the Commission before publicizing or implementing such programs.

(m) At least 25 percent of the credits or hours required for a program must be earned through instruction taken at the institution awarding the credential, unless a different standard has been adopted by the recognized accrediting body accrediting the institution, or by a governmental agency whose policies apply to the institution. This standard shall not apply if any of the training was taken at accredited institutions as defined in s. 1005.02(1), Florida Statutes, while the student was a member of the U.S. armed services.

(n) Any clinical experience, internship, externship, practicum, and other such formal arrangement for which an institution offers credit toward completion of a program, shall be under the supervision of the institution. Written agreements shall be executed between the institution and the entity providing the experience, delineating each party's responsibilities, the number of hours to be worked by the student, the types of work to be done by the student, the supervision to be given the student, and the method of evaluating the student's work and certifying it to the institution as satisfactory. If such experiences are required for the completion of a program, it is the responsibility of the institution to make prior arrangements for each student enrolled in the program to participate in the necessary experience.

(o) Policies regarding course or program cancellations shall be adopted, published, and followed by the institution.

(p) The following instructional program standards apply to nondegree diplomas:

1. Program specifications: The credential offered shall be a diploma. The duration of the program shall be appropriate for mastery of the subject matter or skills needed to pursue the occupation for which the student is being trained. There are no general education requirements.

2. Each program must have clearly defined and published objectives and occupational performance outcomes. Institutions using occupational outcomes different from those specified in "Career and Technical Program Courses Standards", published by the Florida Department of Education, Division of Workforce Development, shall document their justification for using the outcomes selected.

3. Basic Skills. An institution offering a program of four hundred fifty (450) or more clock hours or the credit hour equivalent shall administer a basic skills examination to each student who enrolls, unless the student has provided evidence of a high school graduation diploma or general equivalency diploma. Institutions must maintain copies of students' high school graduation diplomas, general equivalency diplomas, official high school transcripts, or equivalent documentation or procedures that meet with the approval of the Commission, to qualify for this exception. Institutions must utilize a test approved by the United States Department of Education to determine if a student has the ability to benefit from a program of instruction, or obtain written approval from the Commission for a different basic skills test. If the test is not approved by the United States Department of Education and is submitted to the Commission for approval, the submission must include documentation that the test is nationally normed and validated and assesses a student's mastery of basic skills. The test must be administered by an independent tester. Students deemed to lack the required minimal level of basic skills as measured by an approved examination shall be provided with instruction specifically designed to correct the deficiencies. Upon completion of the instruction, students shall be retested by using an alternative form of the same examination that was used for initial testing, or another approved examination. Work intended to bring students' basic skills up to a postsecondary level of proficiency shall not be counted toward the completion of a course or program.

4. Acceptable admission scores must be in accordance with the standards of the individual examination as it relates to the student program. These minimum test scores must be published in the current school catalog.

(q) The following instructional program standards apply to occupational associate degrees:

1. Program specifications: The credential offered shall be the Associate of Applied Science, Occupational Associate, Associate of Specialized Business, or similar titles approved by the Commission. The duration of the program shall be a minimum of 1,200 clock hours of instruction, 60 semester hours, 90 quarter hours, or a number of hours or credits approved by the Commission. The required general education

component shall be at least 9 semester hours or 14 quarter hours, or the clock hour equivalent. All general education courses must meet the definition given in subsection 6E-1.003(8), F.A.C.

2. Programs must have clearly defined and published objectives and occupational performance outcomes. Institutions using occupational outcomes different from those specified in "Career and Technical Program Courses Standards", as referenced in subparagraph (2)(a)2. of this rule, shall document their justification for using the outcomes selected. For institutions participating in the Statewide Course Numbering System these objectives must be comparable to those found in the curriculum frameworks specified in the "Career and Technical Program Courses Standards."

3. Basic Skills. An institution offering a program of four hundred fifty (450) or more clock hours or the credit hour equivalent shall administer a basic skills examination to each student who enrolls, unless the student has provided evidence of a high school graduation diploma or general equivalency diploma. Institutions must maintain copies of students' high school graduation diplomas, general equivalency diplomas, official high school transcripts, or equivalent documentation or procedures that meet with the approval of the Commission, to qualify for this exception. Institutions must utilize a test approved by the United States Department of Education to determine if a student has the ability to benefit from a program of instruction, or obtain written approval from the Commission for a different basic skills test. If the test is not approved by the United States Department of Education and is submitted to the Commission for approval, the submission must include documentation that the test is nationally normed and validated and assesses a student's mastery of basic skills. The test must be administered by an independent tester. Students deemed to lack the required minimal level of basic skills as measured by an approved examination shall be provided with instruction specifically designed to correct the deficiencies. Upon completion of the instruction, the students shall be retested by using an alternative form of the same examination that was used for initial testing, or another approved examination. Work intended to bring students' basic skills up to a postsecondary level of proficiency shall not be counted toward the completion of a course or program.

4. Acceptable admission scores must be in accordance with the standards of the individual examination as it relates to the student program. These minimum test scores must be published in the current school catalog.

(r) The following instructional program standards apply to academic associate degrees:

1. Program specifications: The credential offered shall be the Associate in Science Degree, Associate of Arts Degree, or any associate degree of a different name that is approved by the commission as an academic associate degree. The duration of the program shall be shall be a minimum of 60 semester hours,

90 quarter hours, or the approved equivalent. The required general education component for the Associate in Science degree shall be a minimum of 15 semester hours, 22.5 quarter hours, or the approved equivalent. The required general education component for the Associate of Arts degree shall be a minimum of 36 semester, 54 quarter hours, or the approved equivalent. General education requirements for other academic associate degrees shall be individually approved by the Commission and appropriate to the specific degree. All general education courses must meet the definition given in subsection 6E-1.003(8), F.A.C.

2. Each program must have clearly defined and published objectives and performance outcomes.

3. Basic Skills. An institution offering academic associate degrees shall administer a basic skills examination to each student who enrolls, unless the student has provided evidence of a high school graduation diploma or general equivalency diploma. Institutions must maintain copies of students' high school graduation diplomas, general equivalency diplomas, official high school transcripts, or equivalent documentation or procedures that meet with the approval of the Commission, to qualify for this exception. Institutions must utilize a test approved by the United States Department of Education to determine if a student has the ability to benefit from a program of instruction, or obtain written approval from the Commission for a different basic skills test. If the test is not approved by the United States Department of Education and is submitted to the Commission for approval, the submission must include documentation that the test is nationally normed and validated and assesses a student's mastery of basic skills. The test must be administered by an independent tester. Students deemed to lack the required minimal level of basic skills as measured by an approved examination shall be provided with instruction specifically designed to correct the deficiencies. Upon completion of the basic skills instruction, the students shall be retested by using an alternative form of the same examination that was used for initial testing or another approved examination. Work intended to bring students' basic skills up to a postsecondary level of proficiency shall not be counted toward the completion of a course or program.

4. Acceptable admission scores must be in accordance with the standards of the individual examination as it relates to the student program. These minimum test scores must be published in the current school catalog.

(s) The following instructional program standards apply to bachelor's degrees:

1. Program specifications: The credential offered shall be the Bachelor of Science Degree, Bachelor of Arts Degree, or other baccalaureate degree title approved by the Commission. The duration of the program shall be a minimum of 120 semester hours, 180 quarter hours, or the approved equivalent. The required general education component for a Bachelor of Science degree shall be a minimum of 30 semester, 45 quarter

hours, or the approved equivalent. The required general education component for the Bachelor of Arts degree shall be a minimum of 45 semester hours, 67.5 quarter hours, or the approved equivalent. The general education requirements for other bachelor's degrees shall be approved by the Commission and appropriate to the specific degree. All general education courses must meet the definition given in subsection 6E-1.003(8), F.A.C.

2. Each program must have clearly defined and published objectives and performance outcomes.

3. Basic Skills. An institution offering bachelor's degrees shall administer a basic skills examination to each student who enrolls, unless the student has provided evidence of a high school graduation diploma or general equivalency diploma. Institutions must maintain copies of students' high school graduation diplomas, general equivalency diplomas, official high school transcripts, or equivalent documentation or procedures that meet with the approval of the Commission, to qualify for this exception. Institutions must utilize a test approved by the United States Department of Education to determine if a student has the ability to benefit from a program of instruction, or obtain written approval from the Commission for a different basic skills test. If the test is not approved by the United States Department of Education and is submitted to the Commission for approval, the submission must include documentation that the test is nationally normed and validated and assesses a student's mastery of basic skills. The test must be administered by an independent tester. Students deemed to lack the required minimal level of basic skills as measured by an approved examination shall be provided with instruction specifically designed to correct the deficiencies. Upon completion of the instruction, the students shall be retested by using an alternative form of the same examination that was used for initial testing, or another approved examination. Work intended to bring students' basic skills up to a postsecondary level of proficiency shall not be counted toward the completion of a course or program.

4. Acceptable admission scores must be in accordance with the standards of the individual examination as it relates to the student program. These minimum test scores must be published in the current school catalog.

(t) The following instructional program standards apply to master's degrees:

1. Program specifications: The credential offered shall be the Master of Arts Degree, Master of Science Degree, or other master's degree title approved by the Commission. The duration of the program shall be a minimum of 24 semester hours or 36 quarter hours, or approved equivalent, beyond the bachelor's degree.

2. A bachelor's degree will normally be a prerequisite to formal entrance to a master's degree program, unless the master's degree is a first professional degree.

“First professional degree” means the first degree signifying completion of the minimum academic requirements for practice of a profession. The degree may require four, five, or more academic years, depending on the profession and the particular institution. A first professional degree is most commonly a bachelor’s degree, but may be a master’s or doctor’s degree.

3. Programs must have clearly defined and published objectives and performance outcomes.

(u) The following instructional program standards apply to doctoral degrees:

1. Program specifications: The credential offered shall be the Doctor of Philosophy, Doctor of Medicine, Doctor of Osteopathy, or other doctoral degree term approved by the Commission. The duration of the program shall be a minimum of 60 semester hours, 90 quarter hours, or the recognized equivalent beyond the bachelor’s degree. The degree Doctor of Philosophy, usually abbreviated “Ph.D.,” shall require a stringent research component and a dissertation for completion, and shall require appropriate accreditation by a recognized accrediting agency.

2. A master’s degree will normally be a prerequisite to formal entrance to a doctoral degree program, unless the doctoral degree is a first professional degree.

A first professional degree is the first degree signifying completion of the minimum academic requirements for practice of a profession. The degree may require 4, 5, or more academic years, depending on the profession and the particular institution. A first professional degree is most commonly a bachelor’s degree, but may be a master’s or doctor’s degree.

3. Programs must have clearly defined and published objectives and performance outcomes.

(5) Standard 5: Recruitment and Admissions. In all admissions and recruitment-related activities, the institution shall comply with the fair consumer practices provisions of ss. 1005.04 and 1005.34, Florida Statutes, and Rule 6E-1.0032, F.A.C., and the rule regarding Agents, Rule 6E-2.010, F.A.C.

(a) An institution’s recruitment efforts must be designed to target students who are qualified and likely to complete and benefit from the training provided by the institution. Each institution must develop a reliable method to assess the student’s ability to complete the program successfully, before accepting the student into a program.

(b) Recruiting Practices. Each institution must observe ethical practices and procedures in the recruitment of its students. Ethical practices and procedures include, at a minimum, the following:

1. An institution shall use only its own employees, who are trained and licensed as agents pursuant to Rule 6E-2.010, F.A.C., to conduct student recruiting activities. Outside the United States, its territories, or its possessions, the institution may use third-party agents for recruiting; however, the

institution remains responsible for the accuracy of advertising and of representations made to prospective students regarding the institution, its programs and policies, financial aid eligibility, availability and procedures, and other pertinent information. Other institutional officials who are not licensed agents may participate in occasional College Week or Career Week programs at area high schools or community centers, or give speeches regarding the institution to groups when invited; but no misleading information shall be communicated.

2. An institution shall not use employment agencies to recruit prospective students, or place advertisements in help-wanted sections of classified advertisements, or otherwise lead prospective students to believe they are responding to a job opportunity.

3. An institution shall ensure that its recruiting agents and other personnel do not make false or misleading statements about the institution, its personnel, its programs, its services, its licensure status, its accreditation, or any other pertinent information.

4. An institution shall not permit its recruiting agents or other personnel to recruit prospective students in or near welfare offices, unemployment lines, food stamp centers, homeless shelters, nursing homes, or other circumstances or settings where such persons cannot reasonably be expected to make informed and considered enrollment decisions. Institutions may, however, recruit and enroll prospective students at one-stop centers operated under government auspices, provided that all other recruitment and admissions requirements are met.

5. An institution must inform each student accurately about financial assistance and obligations for repayment of loans.

6. An institution may not make explicit or implicit promises of employment or salary expectations to prospective students.

7. An institution shall not permit the payment of cash or other nonmonetary incentives, such as but not limited to travel or gift certificates, to any student or prospective student as an inducement to enroll. An institution shall not use the word “free” or its synonyms in reference to any equipment, tuition, books, or other items in conjunction with recruiting or advertising.

8. An institution must provide the applicant with a copy of the completed enrollment agreement, signed by both parties.

9. Ethical practices shall be followed in all aspects of the recruiting process. An institution shall ensure that its personnel do not discredit other institutions by falsely imputing to them dishonorable conduct, inability to perform contracts, or questionable credit standing; making other false representations; disparaging the character, nature, quality, value or scope of their program of instruction or services; or demeaning their students. An institution shall also ensure that its personnel do not knowingly influence any student to leave

another institution or encourage a student to change plans after signing an enrollment application and paying a registration fee to another institution.

(c) Admissions Acceptance Policies. The purpose of this section is to ensure that institutions admit only those students who are capable of successfully completing the training offered. Admission decisions are based on fair, effective, and consistently applied criteria that enable the institution to make an informed judgment as to an applicant's ability to achieve the program's objectives.

1. An institution shall determine with reasonable certainty that each applicant for enrollment is fully informed as to the nature of the training provided. The institution shall advise each applicant prior to admission to ensure that the applicant understands the program's responsibilities and demands.

2. An institution must consistently and fairly apply its admission standards. It must determine that applicants admitted meet such standards and are capable of benefitting from the training offered and that applicants rejected did not meet such standards. The institution must ensure that each applicant admitted has the proper qualifications to complete the training and must secure and maintain documentation to demonstrate that each applicant meets all admissions requirements.

3. If an institution enrolls a person who does not have a high school diploma or recognized equivalency certificate, the determination of the applicant's ability to benefit from the training offered must be confirmed as provided in subparagraph (4)(p)3. of this rule.

4. An institution shall not deny admission or discriminate against students enrolled at the institution on the basis of race, creed, color, sex, age, disability or national origin. Institutions must reasonably accommodate applicants and students with disabilities to the extent required by applicable law.

5. An institution shall not accept any enrollment from a person of compulsory school age, nor one attending a school at the secondary level, unless the institution has established through contact with properly responsible parties that pursuit of the training will not be detrimental to the student's regular schoolwork.

6. Prospective students who are denied admissions must be documented as to the reason for the denial. Records of denied applicants must be kept on file for at least one year.

(6) Standard 6: Finances.

(a) All institutions must demonstrate that the financial structure of the institution is sound, with resources sufficient for the proposed operations of the institution and the discharge of its obligations to the students. To demonstrate this, the school must provide the following:

1. Approved Applicant Status:

a. A plan setting forth the sources, kinds and amounts of both current and anticipated financial resources. The plan should include a budget for the institution's first year of operation, clearly identifying sources of revenue to ensure effective operations.

b. A pro forma balance sheet prepared in accordance with Generally Accepted Accounting Principles for the type of institution making application.

c. If the corporation that controls the institution is ongoing, the institution must provide a financial statement of the parent corporation, reviewed or audited in accordance with Generally Accepted Accounting Principles, prepared by an independent certified public accountant.

d. Institutions that are new and do not have a history of educational operations must provide financial statements of the controlling principals, compiled, reviewed, or audited by an independent certified public accountant. These statements must demonstrate sufficient resources to ensure appropriate institutional development.

2. Provisional License, Annual License, Extended Annual License, or Annual Review: Licensed nondegree schools must provide annually a review, and licensed colleges and universities shall provide annually an audit, prepared in accordance with Generally Accepted Accounting Principles by an independent certified public accountant. This annual financial statement shall demonstrate that the current assets of the institution exceed the current liabilities, and that there was a positive net working capital and a profit or surplus for the prior year. If an institution does not meet the above requirements, the Commission may request a financial improvement plan, teach-out plan, or form of surety guaranteeing that the resources are sufficient to protect the current students. If the Commission determines that the institution does not have sufficient resources, it may take actions up to and including revocation of licensure.

3. License by Means of Accreditation: All institutions must submit an annual audit prepared in accordance with Generally Accepted Accounting Principles by an independent certified public accountant. This audit shall demonstrate that the current assets of the institution exceed the current liabilities, and that there was a positive net working capital and a profit or surplus for the prior year. If the institution fails to meet the above requirements, the Commission may remove the institution from the status of License by Means of Accreditation and may take actions up to and including revocation of licensure.

(7) Standard 7: Faculty.

(a) Nondegree Diploma Programs:

1. Verification of Credentials. Institutions must maintain evidence of the credentials that qualify faculty members to teach their assigned courses. All faculty files must maintain a resume or detailed application clearly reflecting the instructor's educational and work experience. In addition,

official transcripts for all degrees held by all faculty members shall be on file. Institutions shall also maintain copies of other documents which reflect the instructor's qualifications to teach, such as copies of licenses and certifications.

2. Faculty Meetings. Institutions shall conduct regularly scheduled faculty meetings and such meetings shall be recorded.

3. Faculty Qualifications. These standards shall apply to all full-time, part-time and adjunct faculty:

a. Any general education and academic courses must be taught by instructors who possess a bachelor's degree and appropriate coursework in the assigned subject from an accredited college or university.

b. All other courses may be taught by instructors who possess a bachelor's degree and appropriate coursework in the assigned subject from an accredited college or university; or who have completed postsecondary training in either an accredited college or a state licensed school in the subject to be taught, plus two years of job experience related to the subjects to be taught; or who have completed a minimum of three years of successful job experience directly related to the subjects being taught. For all non-degreed faculty, the burden of proof is on the institution to demonstrate instructor competence in the subjects taught.

c. Institutions whose graduates must pass state, federal or other licensing examinations before being licensed to practice their vocation, technology, trade or business must provide evidence that each instructor holds a current and valid Florida occupational license in the occupation being taught.

4. Faculty Staffing. The number of faculty shall be sufficient to properly serve the number of students enrolled.

(b) Occupational Associate Degrees:

1. Verification of Credentials. Institutions must maintain evidence of the credentials that qualify faculty members to teach their assigned courses. All faculty files must maintain a resume or detailed application clearly reflecting the instructor's educational and work experience. In addition, official transcripts for all degrees held by all faculty members shall be on file. Institutions shall also maintain copies of other documents which reflect the instructor's qualifications to teach, such as copies of licenses and certifications.

2. Faculty Meetings. Institutions shall conduct regularly scheduled faculty meetings and such meeting shall be recorded.

3. Faculty Qualifications. These standards shall apply to all full-time, part-time and adjunct faculty:

a. All general education and academic courses shall be taught by instructors who possess a bachelor's degree and appropriate coursework in the assigned subject from an accredited college or university.

b. All other courses may be taught by instructors who possess a bachelor's degree and appropriate coursework in the assigned subject from an accredited college or university; or

who have completed postsecondary training in either an accredited college or a state licensed school with training in the subject to be taught, plus two years of job experience related to the subjects to be taught; or who have completed a minimum of three years of successful job experience directly related to the subjects being taught. For all non-degreed faculty, the burden of proof is on the institution to demonstrate instructor competence in the subjects taught.

c. Institutions whose graduates must pass state, federal or other licensing examinations before being licensed to practice their vocation, technology, trade or business must provide evidence that each instructor holds a current and valid Florida occupational license in the occupation being taught.

4. Faculty Staffing. The number of faculty shall be sufficient to properly serve the number of students enrolled.

(c) Academic Associate Degrees:

1. Verification of Credentials. Institutions must maintain evidence of the credentials that qualify faculty members to teach their assigned courses. All faculty files must maintain a resume or detailed application clearly reflecting the instructor's educational and work experience. In addition, official transcripts for all degrees held by all faculty members shall be on file. Institutions shall also maintain copies of other documents which reflect the instructor's qualifications to teach, such as copies of licenses and certifications.

2. Faculty Meetings. Institutions shall conduct regularly scheduled faculty meetings and such meetings shall be recorded.

3. Faculty Qualifications. These standards shall apply to all full-time, part-time and adjunct faculty:

a. All instructors shall hold bachelor's degrees, at a minimum.

b. Instructors teaching general education and other academic courses shall be assigned based on their major and minor academic preparation and related experience.

c. Institutions may justify to the Commission exceptions to the bachelor's degree requirement for instructors teaching technical or vocational subjects in fields in which bachelor's degrees are not generally available, if the institution demonstrates that the instructors have documented alternative expertise in the field or subject area to be taught, such as educational preparation at other than the bachelor's degree level, professional certification, or significant related work experience. For all faculty not holding a bachelor's degree, the burden of proof is on the institution to demonstrate instructor competence in the subjects taught.

d. Institutions whose graduates must pass state, federal or other licensing examinations before being licensed to practice their vocation, technology, trade or business must provide evidence that each instructor teaching in that field holds a current and valid Florida occupational license in the occupation taught.

4. Faculty Staffing. The number of faculty shall be sufficient to properly serve the number of students enrolled.

(d) Bachelor's Degrees:

1. Verification of Credentials. Institutions shall follow the provisions of subparagraph (7)(c)1. of this rule.

2. Faculty Meetings. Institutions shall conduct regularly scheduled faculty meetings and such meetings shall be recorded.

3. Faculty Qualifications. These standards shall apply to all full-time, part-time and adjunct faculty:

a. All instructors shall hold master's degrees, at a minimum, except as provided in sub-subparagraph c. below.

b. Instructors teaching general education and other academic courses shall be assigned based on their major and minor academic preparation and related experience.

c. Institutions may justify to the Commission exceptions to the master's degree requirement for instructors teaching technical or specialized subjects in fields in which master's degrees are not generally available, if the institution demonstrates that those instructors have documented alternative expertise in the field or subject area to be taught, such as educational preparation at other than the master's degree level, professional certification, or significant related work experience. For all faculty not holding a master's degree, the burden of proof is on the institution to demonstrate instructor competence in the subjects taught.

d. At least one-half of the lower division courses and all upper division courses, including any courses common to nonacademic degree or nondegree programs, shall be taught by faculty members holding graduate degrees, professional degrees such as J.D. or M.D., or bachelor's degrees plus professional certification.

4. Faculty Staffing. The number of faculty shall be sufficient to properly serve the number of students enrolled.

(e) Master's Degrees:

1. Verification of Credentials. Institutions shall comply with the provisions of subparagraph (7)(c)1. of this rule.

2. Faculty Meetings. Institutions shall conduct regularly scheduled faculty meetings and such meetings shall be recorded.

3. Faculty Qualifications. These standards shall apply to all full-time, part-time and adjunct faculty:

a. All instructors shall hold graduate degrees, at a minimum.

b. All instructors shall be assigned based on their major and minor areas of academic preparation and related experience.

c. Institutions may justify to the Commission exceptions to the graduate degree requirement for instructors if the institution demonstrates that the instructors have documented exceptional practical or professional experience in the assigned field or if the assigned field is one in which graduate degrees

are not widely available. For all faculty not holding graduate degrees, the burden of proof is on the institution to demonstrate instructor competence in the subjects taught.

d. At least one-half of all graduate-level courses shall be taught by faculty possessing terminal degrees. A Juris Doctor degree shall be considered a terminal degree for all law-related courses. Professional certification is not an acceptable substitute for the terminal degree requirement.

4. Faculty Staffing. The number of faculty shall be sufficient to properly serve the number of students enrolled.

(f) Doctoral Degrees:

1. Verification of Credentials. Institutions shall comply with the provisions of subparagraph (7)(c)1. of this rule.

2. Faculty Meetings. Institutions shall conduct regularly scheduled faculty meetings and such meetings shall be recorded.

3. Faculty Qualifications. These standards shall apply to all full-time, part-time and adjunct faculty:

a. All instructors shall hold terminal degrees, at a minimum. A JD shall be considered a terminal degree for all law-related courses. Professional certification is not a substitute for a terminal degree.

b. All instructors shall be assigned based on their major and minor areas of academic preparation and related experience.

c. Institutions may justify to the Commission occasional exceptions to the terminal degree requirement for instructors, if the institution demonstrates that the instructors have documented exceptional practical or professional experience in the assigned field, or that the assigned field is one in which terminal degrees are not widely available.

4. Faculty Staffing. The number of faculty shall be sufficient to properly serve the number of students enrolled.

(8) Standard 8: Library, Learning Resources and Information Services.

(a) Nondegree Diplomas:

1. General standard. Learning resources and information services shall be appropriate to the level and scope of program offerings. In providing learning resources, at a minimum, an institution must:

a. Develop an appropriate base of learning resources and information services;

b. Ensure access to the resources and services for all students;

c. Develop a continuous assessment and improvement strategy for learning resources and information services;

d. Provide adequate staff to support the learning resources and information services function; and

e. Ensure that students and instructors utilize the learning resources and information services as an integral part of the learning process.

2. Required learning resources. Learning resources, including on-line resources, shall include current titles, periodicals, and professional journals appropriate for the educational programs. At a minimum, institutions shall have available and easily accessible standard reference works such as a current unabridged dictionary, a thesaurus, and recent editions of handbooks appropriate to the curriculum.

3. Inventory. A current inventory of learning resources shall be maintained.

(b) Occupational Associate Degrees:

1. General standard. Learning resources and information services shall be appropriate to the level and scope of program offerings. In providing learning resources, at a minimum, an institution must comply with the provisions of subparagraph (8)(a)1. of this rule.

2. Required learning resources. The institution shall maintain a learning resource center or area supervised by a staff member who demonstrates competence to provide oversight. Learning resources shall include holdings appropriate to the educational programs, including current titles, relevant current periodicals, relevant reference materials and professional journals, and electronic resources in sufficient titles and numbers to adequately serve the students. At a minimum, institutions shall have available and easily accessible standard reference works such as a current unabridged dictionary, a thesaurus, and recent editions of handbooks appropriate to the curriculum.

3. Inventory. A current inventory of learning resources shall be maintained.

(c) Academic Associate Degrees:

1. General standard. Learning resources and information services shall be appropriate to the level and scope of program offerings. In providing learning resources, at a minimum, an institution must comply with the provisions of subparagraph (8)(a)1. of this rule.

2. Staff. The institution shall maintain a learning resource center/library. A professionally trained librarian shall supervise and manage the learning resources and information services, facilitate their integration into all phases of the institution's curricular and educational offerings, and assist students in their use. A professionally trained librarian is one who holds a bachelor's or master's degree in library or information sciences/studies or a comparable program accredited by the American Library Association, state certification, or other equivalent qualification to work as a librarian, where applicable. During scheduled library hours, there shall be a trained individual on duty to supervise the learning resource center/library and to assist students with library functions. This person shall be competent both to use and to aid in the use of the technologies and resources available in the library.

3. Budget. An annual library budget shall be developed with allocations expended appropriate to the size and scope of the institution and its program offerings, as determined by the institution and approved by the Commission.

4. Holdings. A collegiate library shall contain holdings appropriate to the size of the institution and the breadth of its educational programs, including current titles, relevant current periodicals, relevant reference materials and professional journals, and electronic resources in sufficient titles and numbers to adequately serve the students. On-site resources shall be classified using a recognized classification system such as the Dewey Decimal System or Library of Congress system. Records of circulation and inventory shall be current and accurate and must be maintained to assist in evaluating the adequacy and utilization of the holdings.

5. Use and accessibility. Learning resources and information services must be available at times consistent with the typical student's schedule. In the case of electronic resources, a sufficient number of terminals shall be provided for student use. If interlibrary agreements are utilized, provisions for such use must be practical and accessible and use must be documented.

6. Inventory. A current inventory of learning resources shall be maintained.

(d) Bachelor's Degrees:

1. General standard. Learning resources and information services shall be appropriate to the level and scope of program offerings. In providing learning resources, at a minimum, an institution must comply with the provisions of subparagraph (8)(a)1. of this rule.

2. Staff. The institution shall maintain a learning resource center/library. A full-time professionally trained librarian shall supervise and manage the learning resources and information services, facilitate their integration into all phases of the institution's curricular and educational offerings, and assist students in their use. A professionally trained librarian is one who holds a master's degree in library or information sciences/studies or comparable program accredited by the American Library Association, state certification, or other equivalent qualification to work as a librarian. During scheduled library hours, there shall be a trained individual on duty to supervise the learning resource center/library and to assist students with library functions. This person shall be competent both to use and to aid in the use of the technologies and resources available in the library.

3. Budget. An annual library budget shall be developed with allocations expended appropriate to the size and scope of the institution and its program offerings as determined by the institution and approved by the Commission.

4. Holdings. A collegiate library shall contain holdings appropriate to the size of the institution and the breadth of its educational programs, including current titles, relevant current periodicals, relevant reference materials and professional



journals, and electronic resources in sufficient titles and numbers to adequately serve the students. On-site resources shall be classified using a recognized classification system such as the Dewey Decimal System or Library of Congress. Records of circulation and inventory shall be current and accurate and must be maintained to assist in evaluating the adequacy and utilization of the holdings.

5. Use and accessibility. Institutions shall comply with the provisions of subparagraph (8)(c)5. of this rule.

6. Inventory. A current inventory of learning resources shall be maintained.

(g) Master's and Doctoral Degrees:

1. General standard. Learning resources and information services shall be appropriate to the level and scope of program offerings. In providing learning resources, at a minimum, an institution must comply with the provisions of subparagraph (8)(a)1. of this rule.

2. Staff. The institution shall maintain a learning resource center/library. A full-time professionally trained librarian shall supervise and manage the learning resources and information services, facilitate their integration into all phases of the institution's curricular and educational offerings, and assist students in their use. A professionally trained librarian is one who holds a master's degree in library or information sciences/studies or comparable program accredited by the American Library Association or state certification or other equivalent qualification to work as a librarian, where applicable. A librarian with special qualifications to aid in research shall be available. During scheduled library hours, there shall be a trained individual on duty to supervise the learning resource center/library and to assist students with library functions. This person shall be competent both to use and to aid in the use of the technologies and resources available in the library.

3. Budget. An annual library budget shall be developed with allocations expended appropriate to the size and scope of the institution and its program offerings as determined by the institution and approved by the Commission.

4. Holdings. Institutions offering master's or doctoral degree programs shall provide access to substantially different library resources in terms of their depth and breadth from those required for baccalaureate degree programs. These resources shall include bibliographic and monographic references, major professional journals and reference services, research and methodology materials and, as appropriate, information technologies. The depth and breadth of the accessible library holdings shall be such as to exceed the requirements of the average student in order to encourage the intellectual development of superior students and to enrich the professional development of the faculty. On-site resources shall be classified using a recognized classification system such as the Dewey Decimal System or Library of Congress system.

Records of circulation and inventory shall be current and accurate and must be maintained to assist in evaluating the adequacy and utilization of the holdings.

5. Use and accessibility. Learning resources and information services must be available at times consistent with the typical student's schedule. In the case of electronic resources, a sufficient number of terminals shall be provided for student use. If interlibrary agreements are utilized, provisions for such use must be practical and accessible and use must be documented.

6. Inventory. A current inventory of learning resources shall be maintained.

(9) Standard 9: Physical Facilities. All institutions, regardless of the level of credentials offered, shall comply with the following standards:

(a) Each institution shall provide an environment that is conducive to good instruction and learning and that supports the educational programs offered by the institution. The adequacy of the environment is assessed against the demands made upon it by the curricula, faculty and students.

(b) Each institution shall provide and maintain a physical plant with academic classrooms, laboratories, administrative offices, and service areas adequate for the educational programs and the anticipated number of faculty and students. Documentation for this shall include a site plan, annotated floor plan and a narrative description which describes completely the institution's physical plant.

(c) Each physical plant shall meet the general tests of safety, usefulness, cleanliness, maintenance, health, lighting, ventilation and any other requirements conducive to health, safety and comfort. Each institution shall provide evidence of compliance with zoning, fire, safety and sanitation standards issued by all applicable regulatory authorities for all instructional and student housing facilities.

(10) Standard 10: Student Services. All institutions, regardless of the level of credentials offered, shall comply with the following standards:

(a) Each institution shall designate a properly trained individual to provide each of the following student services: academic advisement, financial aid advisement, personal advisement, and placement services. The extent of these services and the personnel assigned to them shall be determined by the size of the institution and the type of program offerings.

(b) Placement services. Placement services shall be provided to all graduates without additional charge. No guarantee of placement shall be directly or indirectly implied. Records of initial employment of all graduate shall be maintained. Exceptions to this requirement may be made for those graduates who attended the institution on a student visa or other temporary immigration status, and who do not seek employment in this country.

(c) Placement Improvement Plans. An institution shall report its placement rate with each license review. If the rate falls below one standard deviation from the Florida average as computed for that year, the Commission shall place the institution on a placement improvement plan. This plan shall include actions to be taken to improve the placement rate, and shall be approved by the Commission. A progress report shall be filed with the Commission after a period designated by the Commission, and shall include information on placement personnel, placement activities, job development activities, and additional data as requested by the Commission to show the effectiveness of the plan in improving the placement rate.

(d) Retention Improvement Plans. An institution shall report its retention rate with each license review. If the rate falls below one standard deviation from the Florida average as computed for that year, the Commission shall place the institution on a retention improvement plan. This plan shall include actions to be taken to improve the retention rate, and shall be approved by the Commission. A progress report shall be filed with the Commission after a period designated by the Commission, and shall include information on retention personnel, retention activities, and additional data as requested by the Commission to show the effectiveness of the plan in improving the retention rate.

(11) Standard 11: Publications.

(a) General Standard. Each institution shall comply with these provisions, regardless of the level of credentials offered. Publications must be presented in a professional manner. Information published must be accurate and factual and reflect the current status of the institution.

(b) Catalog.

1. Pursuant to s. 1005.04(1)(a), Florida Statutes, certain disclosures are required to be made in writing to prospective students one week prior to enrollment or collection of tuition. If the institution uses its catalog as the sole source of those required disclosures, the institution shall ensure that each prospective student is provided a written copy, or has access to an electronic copy, of the catalog one week prior to enrollment or collection of tuition.

2. Each institution shall publish and provide to each enrolled student a catalog. Written catalogs shall be professionally printed and bound. If electronic catalogs are also used, the two versions shall contain the same information, except for updates that may be provided more quickly in electronic versions. The catalog shall constitute a contractual obligation of the school to the student and shall be the official statement of the school's policies, programs, services, and charges and fees. The catalog shall include, at a minimum, the following information:

a. Name, address and telephone number of the institution.

b. Identifying data such as volume number and effective dates of the catalog.

c. Table of contents or index. Pages of the catalog shall be numbered and included in the table of contents or index.

d. A statement of legal control which includes the names of the trustees, directors, and officers of the corporation.

e. If the institution is accredited as defined in s. 1005.02(1), Florida Statutes, a statement of accreditation. If an institution claims accreditation by an accrediting agency that is not recognized by the U. S. Department of Education, the following disclosure must be made in large bold type, all capital letters, and is to be inserted in the catalog and in all publications or advertising, as defined in subsection 6E-1.003(1), F.A.C., wherever the unrecognized accrediting association or agency is mentioned. The required statement is: **THE ACCREDITING AGENCY(S) OR ASSOCIATION(S) NAMED HERE IS (ARE) NOT RECOGNIZED BY THE UNITED STATES DEPARTMENT OF EDUCATION AS AN APPROVED ACCREDITING AGENCY. THEREFORE, IF YOU ENROLL IN THIS INSTITUTION, YOU MAY NOT BE ELIGIBLE FOR TITLE IV FEDERAL FINANCIAL ASSISTANCE, STATE STUDENT FINANCIAL ASSISTANCE, OR PROFESSIONAL CERTIFICATION IN FLORIDA. IN ADDITION, CREDITS EARNED AT THIS INSTITUTION MAY NOT BE ACCEPTED FOR TRANSFER TO ANOTHER INSTITUTION, AND MAY NOT BE RECOGNIZED BY EMPLOYERS.**

f. The following statement: "Licensed by the Commission for Independent Education, Florida Department of Education. Additional information regarding this institution may be obtained by contacting the Commission at 2650 Apalachee Parkway, Suite A, Tallahassee, FL 32301, toll-free telephone number (888)224-6684."

g. The names and titles of all full-time and part-time administrators.

h. A listing of all faculty indicating degrees held, if applicable, and institutions awarding the degrees.

i. A statement of the purpose of the institution.

j. An academic calendar showing beginning and ending dates of enrollment periods, programs, terms, quarters, or semesters; holidays; registration dates; and other significant dates and deadlines.

k. The institution's admission requirements, policies, and procedures, including the basis for admissions, and minimum test score requirements, if applicable, for each program offered. Admissions requirements shall be in compliance with the provisions of paragraph 6E-1.0032(6)(g), F.A.C.

l. Specific procedures for the granting of credit for prior learning or by examination, if offered, including the maximum amount of credit which can be obtained in this manner, pursuant to Rule 6E-2.0041, F.A.C.

m. A statement regarding the transfer of credit both to and from the institution, in compliance with the provisions of paragraph 6E-1.0032(6)(f), F.A.C.

n. A description of the curricula for all programs offered, including for each: a statement of the objective or purpose of the program; an accurate and complete listing of the courses included in each program, each with a unique identifying number and title; identification of courses that are general education courses, if applicable; the credit or clock hours awarded for each subject; the total credits or clock hours and grades required for satisfactory completion of the program; requirements for certification, licensing or registration in the program career field, as applicable; and any additional or special requirements for completion.

o. A description of each course offered, including identifying number, title, credit or clock hours awarded, a description of the contents of the course, and prerequisites, if any.

p. A description of the course numbering system, which shall not be based upon the Florida Statewide Course Numbering System (SCNS) unless the institution's courses have been approved and guaranteed for transfer by that system. If all of the institution's courses are not approved and guaranteed for transfer by that system, only those courses that are approved and guaranteed for transfer may use the SCNS number, and the institution shall clearly disclose in conjunction with any reference to the SCNS the limitations of its approval or participation.

q. An explanation of the grading or marking system, which is consistent with that appearing on the transcript.

r. A definition of the unit of credit. If credit hour, the institution shall clearly specify whether quarter or semester. For purposes of this rule, a clock hour is defined as comprising a period of sixty minutes which includes a minimum of fifty minutes of instruction in the presence of an instructor.

s. A complete explanation of the standards of satisfactory academic process. This policy shall include, at a minimum: Minimum grades and/or standards considered satisfactory; conditions for interruption due to unsatisfactory grades or progress; a description of the probationary period, if applicable; and conditions of re-entrance for those students suspended for unsatisfactory progress.

t. A description of all diplomas or degrees awarded, together with a statement of the requirements to be met for satisfactory completion of each.

u. A detailed description of the charges for tuition, fees, books, supplies, tools, equipment, student activities, service charges, rentals, deposits and any other applicable charges. All nonrefundable charges shall be clearly indicated as such.

v. A detailed description of all financial aid offered by the institution. This shall include, but is not limited to, scholarships, in-house loan and grant programs, third-party loan and grant programs, and federal or state financial aid. Any student eligibility standards and conditions shall be stated for

each type of financial aid offered. Obligations to repay loans shall be clearly disclosed and explained to students, along with anticipated repayment terms, dates and amounts.

w. A statement of the refund policy and procedures for the refund of the unused portion of tuition, fees and other charges in the event the student does not enter the program, withdraws from the program, or is discharged from the program. The refund policy shall comply with the provisions of subsection 6E-1.0032(6), F.A.C., and other applicable federal and state requirements.

x. A complete description of the institution's physical facilities and equipment.

y. A description of the nature and extent of student services offered.

z. A description of the institution's policy regarding absences, make-up work and tardiness.

aa. The institution's policy on student conduct and conditions of dismissal for unsatisfactory conduct.

bb. The institution's procedures for students to appeal academic or disciplinary actions.

cc. If required by law, the institution's anti-hazing policy.

dd. The procedures by which complaints will be considered and addressed by the institution.

ee. If the institution offers courses through distance education or other alternative means, the catalog must include the information specified in subsection 6E-2.0041(12), F.A.C.

3. Catalogs for Multiple Institutions. All institutions utilizing a common catalog must be of common ownership. Photographs of the physical facilities of any of the institutions must be captioned to identify the particular institution or campus depicted. The faculty and staff of each institution and the members of the administration for the group of institutions must be clearly identified with respect to each institution and to the overall administration. Any information contained in the catalog that is not common to all institutions in the group should be presented in such a manner that no confusion, misunderstanding or misrepresentation is possible.

(12) Standard 12: Disclosures. Each institution, regardless of the level of credentials offered, shall comply with the applicable provisions of Rule 6E-1.0032, F.A.C. Any additional disclosures required by the Commission or by other governmental agencies or accrediting agencies shall be made using the form and text required by the agency.

Specific Authority 1005.22(1)(e), 1005.31(2),(3), 1005.34, 1005.39 246.041(1)(e), 246.051(1), 246.071 FS. Law Implemented 1005.04, 1005.31, 1005.33(1), 1005.34, 1005.39 246.011, 246.041(2)(d), 246.051(1), 246.081(2), 246.087(1), 246.091(1), 246.095, 246.121 FS. History—Repromulgated 12-5-74, Formerly 6E-3.01(1), Readopted 11-11-75, Amended 3-7-77, 5-7-79, 10-13-83, Formerly 6E-2.04, Amended 11-27-88, 11-29-89, 12-10-90, 10-19-93, 4-2-96, 4-1-00, \_\_\_\_\_ . Cf. Forms incorporated in 6E-2.001, F.A.C.

(Substantial rewording of Rule 6E-2.0041 follows. See Florida Administrative Code for present text.)

6E-2.0041 Delivery of Programs through Alternative Assessments, Modes and Methods Nontraditional College Programs.

(1) Introduction. In addition to its responsibility for the maintenance of high standards of quality, the Commission also serves to encourage responsible innovation in postsecondary education to meet societal needs for creatively designed programs delivered in alternative ways. It is the intention of the Commission that its standards and procedures shall foster the development of quality innovative programs and emerging new fields of study, and shall not unreasonably hinder educational innovation and competition.

(a) Institutions offering nontraditional programs of study shall document that the instructional methods used will lead to the achievement of stated learning objectives, and that all nontraditional instruction shall be consistent with the abilities, educational skills, experience, and needs of the students enrolled in the programs.

(b) Institutions offering nontraditional programs of study that employ innovative delivery systems or innovative methods, or that carry on research and teaching in emerging fields of study, shall demonstrate that they will achieve the intent of each of the standards contained in Rule 6E-2.004, F.A.C., for the appropriate level of licensure and for annual reviews.

(c) In addition to providing to the Commission the documentation required for each standard contained in Rule 6E-2.004, F.A.C., showing how the intent of each standard will be met in the nontraditional program or delivery system, the institution shall also furnish for each course to be offered:

1. An inventory of equipment and materials to be provided to each student;

2. A detailed description of how each program will be conducted, including detailed course outlines or syllabi, procedures for distribution of materials, examination and evaluation of student work, timely response to students' questions and comments, record keeping, appropriate student services, and technical support.

(d) Institutions holding accreditation as defined in s. 1005.02(1), Florida Statutes, by an accrediting agency recognized by the U. S. Department of Education to deliver nontraditional education, may substitute proof of such accreditation, in good standing, for the above requirements.

(2) For purposes of this rule, the following definitions shall be used:

(a) "Asynchronous" means that students may access a prepared educational program electronically or by other means, at a time of their own choosing rather than at a specified time.

(b) "Compressed time period" means a significantly shorter period than those described in this section in the definitions of "Semester" and "Quarter".

(c) "Correspondence learning" means instruction through mail or e-mail requiring the institution to mail a syllabus, texts, lessons, and other materials to the student and to provide adequate educational services, responses, comments, and evaluations in a timely manner to the student.

(d) "Credit by examination" means credit awarded upon determining the level of students' competencies in a specific subject area through standardized tests or institutionally developed examinations.

(e) "Credit for prior learning" means credit for learning acquired outside the licensed institution, that has resulted in a level of knowledge and skills appropriate and comparable to the level and content of the program or credential offered. Such learning must be validated and documented by qualified instructors using consistent, educationally defensible procedures and standards.

(f) "Direct contact instruction" means the physical presence of one or more students and one or more instructors at the same physical location. Direct contact instruction includes instruction and learning that takes place in a seminar, workshop, lecture, colloquium, laboratory, or tutorial, in a setting consistent with the stated mission, purposes, and objectives of the institution and the specific program or course. A learning agreement or learning contract should be a central feature of direct contact instruction.

(g) "Distance education" means planned learning that normally occurs in a different place from teaching and as a result requires special techniques in course design, special instructional techniques, special methods of communication by electronic and other technology, and special organizational and administrative arrangements.

(h) "Distance learning" is a general term used to cover the broad range of teaching and learning events in which the student is separated (at a distance) from the instructor, or other fellow learners.

(i) "Emerging field of study" means a subject area not yet offered by traditional institutions as a discipline for study leading to a particular credential, but that is deemed worthy of exploration and development.

(j) "Indirect contact instruction" means a delivery method which does not require the physical presence of students and instructors at the same location, but provides for interaction between students and instructors by such means as telecommunications, electronic and computer-augmented educational services, correspondence, postal service, and facsimile transmission. Detailed course outlines or comprehensive syllabi are central to indirect contact instruction and learning, along with specified competencies to be mastered, details of interaction and feedback from the instructor, and specified procedures and timetables for evaluation.

(k) “Innovative method of instruction” means a new method of instruction not in use by traditional institutions, but one that provides effective and appropriate instruction in a way that ensures delivery, learning, evaluation, and timely communication with students.

(l) “Learning agreement or learning contract” means a document drawn up between the instructor or the institution and the student(s), describing in detail the planned learning experiences that must be completed, the specific competencies to be mastered, and the evaluation methods to be used. An important characteristic of a learning agreement or learning contract is that it may be individualized to fit the needs of the student.

(m) “Media and computer assisted learning” means instruction through electronic information transfer, data processing, facsimile transmission, or through other technology.

(n) “Nontraditional education” means any positive progress toward a credential that is earned through experiential means or distance education and approved by the faculty of the institution granting the credential, or other sources verified by the American Council on Education, or testing from recognized sources such as but not limited to the Defense Activity for Non-traditional Education Support (DANTES), Servicemembers Opportunity Colleges (SOC), or other sources approved by the Commission.

(o) “On-line courses” means courses taken by electronic means through the Internet or other similar delivery system.

(p) “Quarter” means, in a nontraditional program, at least ten weeks of instruction and learning, or its equivalent as described below:

1. “Quarter hour” means either:

a. A unit consisting of ten hours of instruction appropriate to the level of credential sought, during a quarter, plus a reasonable period of time outside of instruction which the institution requires a student to devote to preparation for learning experiences, such as preparation for instruction, study of course material, or completion of educational projects; or

b. Planned learning experiences equivalent to the learning and preparation described in sub-subparagraph a. above, as determined by duly qualified instructors responsible for evaluating learning outcomes for the award of credits.

(q) “Semester/Sessions” means, in a nontraditional program, at least fifteen weeks of instruction and learning, or its equivalent as described below:

1. “Semester hour” means either:

a. A unit consisting of fifteen hours of instruction appropriate to the level of credential sought, during a semester, plus a reasonable period of time outside of instruction which the institution requires a student to devote to preparation for learning experiences, such as preparation for instruction, study of course material, or completion of educational projects; or

b. Planned learning experiences equivalent to the learning and preparation described in sub-subparagraph a. above, as determined by duly qualified instructors responsible for evaluating learning outcomes for the award of credits.

(r) “Synchronous” means that students must participate, electronically or by other means, in a distance educational program simultaneously, regardless of time zones.

(3) Awarding of credit.

(a) Units or credits applied toward the award of a credential in nontraditional programs may be derived from a combination of any or all of the following:

1. Units or credits earned at and transferred from other postsecondary institutions, when congruent and applicable to the receiving institution’s program and when validated and confirmed by the receiving institution.

2. Successful completion of challenge examinations or standardized tests demonstrating learning at the credential level in specific subject matter areas.

3. Prior learning, as validated, evaluated, and confirmed by qualified instructors at the receiving institution.

(b) Graduation requirements for nontraditional degree programs shall always include provisions for general education appropriate to the type of degree, as specified in Rule 6E-2.004, F.A.C. The Doctor of Philosophy degree, commonly abbreviated Ph.D., shall not be offered or awarded through distance or nontraditional learning without appropriate recognized accreditation.

(c) At least 25 percent of the units required in a nontraditional degree program shall be given by the institution awarding the degree, and shall not be derived from transfer, examination, or experiential learning; however, active U.S. military members are excluded from this requirement due to the transient nature of the service.

(4) Direct contact instruction. Institutions licensed to operate in Florida and wishing to offer programs or courses through directed individual and group study using direct contact instruction shall describe the teaching-learning methodology to be used, and shall submit illustrative course outlines and competencies and all other documentation as required in Rule 6E-2.004, F.A.C., for the appropriate level of licensure or for subsequent annual reviews.

(5) Indirect contact instruction.

(a) Institutions licensed to operate in Florida and wishing to offer programs or courses through individual and group study mediated and assisted by telecommunications, computer augmented educational services, facsimile transmission, the postal service, or another technological method, shall describe the teaching-learning methodology to be used, and shall submit illustrative course outlines, competencies and all other documentation as required in Rule 6E-2.004, F.A.C., for the appropriate level of licensure or for subsequent annual reviews. For programs conducted through electronic or other technological means, the institution shall ensure prompt and

competent technological support to correct problems occurring with the technology, and shall communicate with students the procedures for reporting such problems. The institution shall allow for deviation from deadlines caused by documented technical interruptions in the delivery system.

(b) In addition to the other requirements of Rule 6E-2.004, F.A.C., and other applicable rules, an institution offering instruction by correspondence shall employ a sufficient number of qualified instructors to assure that:

1. The academic content is designed by qualified faculty;

2. Each student lesson is evaluated by qualified instructors, and the instructor's response to or evaluation of each student lesson is sent to the student within ten days after the lesson is received by the institution; and

3. Each student project, examination, or paper is evaluated by qualified instructors, and the instructor's response to or evaluation of each student project, examination, or paper is sent to the student within the time disclosed in the catalog.

(c) The institution shall maintain a record of the dates on which lessons, projects, examinations, and papers were received and responses were sent.

(d) For programs that require the development of a manual or technical skill, such as the use of equipment or tools, the institution must ensure that the student has the opportunity to gain practical hands-on experience appropriate to master the skill. This experience, wherever gained, shall be documented in the student's file and shall be done under proper supervision and with meaningful evaluation of the competency outcomes. The technical aspects must be designed by qualified technicians.

(6) Credit for prior learning. An institution may grant credit to a student for prior experiential learning only if all of the following apply:

(a) The prior learning is equivalent to the level of learning in which the student is enrolling.

(b) The prior learning is demonstrated to provide a balance between theory and practice, for academic programs; or a verifiable mastery of appropriate skills, for vocational courses or programs. For courses or programs requiring a combination of theory and skills, the prior learning is demonstrated to provide the appropriate combination.

(c) The credit awarded for the prior learning directly relates to the student's course or program and is applied in satisfaction of some of the credential requirements.

(d) College or university level learning for which credit is sought shall be documented by the student in writing, and validated, confirmed, and evaluated by faculty qualified in that specific subject area, who shall ascertain to what college or university level learning the student's prior learning is equivalent, and how many credits toward a degree may be granted for that prior learning. The faculty evaluating the prior learning shall prepare a written report indicating all of the

following, which report shall be retained by the college or university for review by visiting Commission representatives upon request:

1. The documents in the student's file on which the faculty relied in determining and confirming the nature of the student's prior learning;

2. The basis for determining that the prior learning is equivalent to college or university level learning, and demonstrates a balance between theory and practice; and

3. The basis for determining to what college or university level the prior learning is equivalent, and the proper number of credits to be awarded toward the degree, based upon that prior learning.

(f) No more than 25 percent of the units required and validated through the institution's internal review process for a degree shall be awarded for prior experiential learning. No degree shall be awarded entirely or substantially based on prior experiential learning.

(7) Credits earned in a compressed time period. Institutions licensed in Florida and wishing to offer courses or programs in a compressed time period shall show evidence to the Commission that the intent of all standards for licensure, as set forth in Rule 6E-2.004, F.A.C., shall be met. The institution shall also demonstrate that the delivery modes to be used in compressed time periods allow students adequate opportunity for study, reflection and analysis before and after the teaching/learning event, and for adequate hands-on practice if a technical skill is included in the learning program.

(8) Instructors. Institutions licensed to operate in Florida and wishing to offer nontraditional programs or courses shall employ or contract with appropriately qualified instructors sufficient in number to provide the instruction, student interaction, and learning outcomes evaluation necessary for the institution to document achievement of its stated purpose, and for students to achieve the specific learning objectives and competencies required for each program so offered. It shall be the responsibility of the licensed institution to validate each instructor's competence to use the interactive electronic media program or distance learning program effectively, and to provide training in the use of the delivery system if needed.

(9) Library and other learning resources.

(a) Institutions licensed to operate in Florida and wishing to offer nontraditional programs or courses shall document to the Commission how they provide, ensure, and maintain access for all students to the information resources and services appropriate to support each program or course.

(b) Institutions shall document how they provide, ensure, and maintain security of examinations and papers.

(c) Institutions shall collect and use student evaluations of content, delivery, and services.

(10) Laboratory experiences. In the case of courses in the experimental or clinical sciences, or other courses requiring hands-on experience, each licensed institution wishing to offer

nontraditional programs shall document to the Commission that arrangements have been made to ensure that the requisite laboratory, field, or equivalent experience is available to and used consistently by every enrolled student. Such experience shall be documented in the student's file, and shall occur under appropriate supervision and meaningful evaluation of the competency outcomes.

(11) Study groups. Each institution offering programs through distance learning shall assist its students to convene, electronically or otherwise, as a study group requirement.

(12) Catalog. Each institution licensed in Florida and wishing to offer nontraditional programs or courses shall comply with all requirements of Rules 6E-1.0032 and 2.004, F.A.C., and in addition shall publish information in the catalog, whether printed or electronic, pertaining to each of the following:

(a) The institution's policies and procedures for the award of credit for prior learning, including confirmation and validation, assessment policies and procedures, provisions for appeal of decisions, limitations on the number of credits that may be awarded in this manner, and all fees that a student may be required to pay.

(b) The institution's policies regarding the acceptance of credits earned by the student through successful completion of challenge examinations or standardized tests, acceptable scores for each, whether and how many times examinations may be repeated to achieve an acceptable score, limitations on the number of credits that may be awarded in this manner, and all fees that a student may be required to pay.

(c) If the institution offers instruction by correspondence, schedules for normal progress or completion of the course or program, and all fees that a student may be required to pay.

(d) A description of the institution's practices that are designed to foster student interaction for learning purposes in nontraditional programs, including policies for convening study groups.

(13) Student records.

(a) Institutions wishing to offer nontraditional programs or courses shall maintain a file for each student, conforming to the general requirements of Rule 6E-2.004, F.A.C., and contain the following:

1. All documents evidencing a student's prior learning upon which the instructors and the institution base the award of any credit or credential.

2. For directed individual or group contact instruction, copies of the learning agreements or learning contracts signed by the instructors and administrators who evaluated the agreements and contracts.

(b) An academic transcript shall be maintained, kept current, and retained permanently for each student. Institutions offering nontraditional courses and programs shall adopt a policy requiring that credits awarded for prior learning, including internal credit by challenge examination, shall be so

identified on the student's academic transcript. Institutions shall adopt a policy regarding the length of time for retention of records documenting evaluation, assessment and awarding of nontraditional credit. Retention time shall be sufficient for reasonable future review and confirmation of student work.

(14) Fair consumer practices, as described in ss. 1005.04 and 1005.34, Florida Statutes, and Rule 6E-1.0032, F.A.C., shall be followed by the institution in all aspects of its operation.

Specific Authority 1005.22(1)(e)1., 1005.31(2),(3) 246.041(1)(e), 246.051(1), 246.074 FS. Law Implemented 1005.31 246.011(2),(4), 246.087(1), 246.095 FS. History—New 10-13-83, Formerly 6E-2.041, Amended 11-27-88, 6-20-95,

(Substantial rewording of Rule 6E-2.0042 follows. See Florida Administrative Code for present text.)

6E-2.0042 Medical Clinical Clerkship Programs.

(1) Purpose. The purpose of this rule is to establish criteria for licensure by the Commission of qualified, accredited foreign medical schools to provide clinical clerkship training in Florida hospitals or approved facilities as defined in subsection (2) of this rule. Clinical clerkships are a required part of the foreign medical schools' education programs, which are not wholly located in Florida. This rule also establishes criteria for students of foreign medical schools who apply for individual approval for an occasional elective clerkship in Florida. This rule is intended to protect the health, safety and welfare of citizens of Florida by limiting participation in clinical clerkships to students of qualified, accredited foreign medical institutions who demonstrate the capacity to profit from such clinical instruction; to benefit the medical students by establishing standards which will promote the acquisition of a minimum satisfactory medical education; to protect the students from deceptive, fraudulent or substandard education; and to protect the integrity of medical degrees held by Florida citizens.

(2) Definitions.

(a) "Accredited foreign medical school" means an institution chartered outside the United States, in a nation whose accreditation standards have been determined by the U.S. Department of Education to be comparable to the accreditation standards applied to United States medical schools, when the foreign medical school has been evaluated and approved or accredited by its home nation using those comparable standards.

(b) "Board-certified," "board-eligible," and "board licensed" refer to the appropriate recognition by the State Board of Medicine or other recognized agency which regulates the practice of medicine in the jurisdiction where the foreign medical school operates and where clerkships are offered.

(c) "Clinical clerkship" means supervised instruction in medical disciplines with an opportunity to observe and to participate in the theory and practice of expert care of patients with a broad spectrum of traumatic conditions, psychiatric

disorders, disease, or other human ailments, in order for the students to achieve comprehensive knowledge in medical diagnosis and treatment as part of a course of instruction leading to a Doctor of Medicine (M.D.) or Doctor of Osteopathy (D.O.) degree or the equivalent.

(d) "Core clinical clerkship" means initial clinical training required of every medical student, generally taken in the third year of medical school, in such fields as internal medicine, pediatrics, surgery, obstetrics and gynecology, psychiatry, and family medicine.

(e) "Elective clinical clerkship" means additional specialized clinical training, chosen by the medical student from an approved list of electives published by the medical school, taken in the fourth year of medical school.

(f) "Occasional elective clinical clerkship" means an elective clinical course which does not exceed six weeks in length, provided during the fourth year of medical school. "Occasional" in this context means no more than five students from any one unlicensed accredited foreign medical school in any calendar year, with each of the five students doing no more than three elective clerkships in Florida in any calendar year.

(g) "Teaching hospital" means a hospital having a residency program in a medical discipline accredited by the Accreditation Council for Graduate Medical Education (ACGME) or the American Osteopathic Association (AOA), or which is part of such a program through an affiliation approved by the ACGME or the AOA, or which has a written affiliation with an accredited U.S. Medical School to provide clinical training to its students; or an ambulatory care setting which is affiliated with a teaching hospital or an accredited U.S. Medical School for clinical teaching purposes.

(3) Applications for licensure of clinical clerkship programs. In addition to submitting all the forms and documents, accurately, fully and satisfactorily completed as required for each step of licensure in accordance with these rules, for the applicant medical school to be found qualified for licensure it must:

(a) Document to the Commission that it has been determined by the U.S. Department of Education that the medical accreditation standards used by its chartering nation to evaluate and approve the applicant school were comparable to the standards used to evaluate programs leading to the M.D. or D.O. degree in the United States.

(b) Document that the applicant medical school has on staff a board-certified clinical chairperson for each core clerkship subject area.

(c) Document that the principal academic officer of the clinical clerkship program has been designated by the chief academic officer of the parent medical school and possesses academic and experiential qualifications appropriate to the assignment.

(d) Ensure that the application contains sufficiently detailed information showing that the educational program, faculty planning, teaching, budgeting and allocation of other educational resources, faculty appointments and student assignments are coordinated and integrated with the overall program of the parent medical school. Formal agreements shall be executed between the parent medical school and the teaching hospital or approved facility in which the students are to be engaged in clinical clerkships and shall be submitted to the Commission. The formal agreement between the parent medical school and the teaching hospital or approved facility shall vest responsibility and authority for the conduct and evaluation of the educational program in the parent medical school.

(e) Document that the faculty of the clinical clerkship program and of the parent medical school have joint responsibility for developing the curriculum for each clerkship. Evidence of such action may take the form of minutes of faculty meetings in which such involvement took place. Copies shall be filed with the Commission of officially adopted policies of the parent medical school, outlining procedures for such faculty involvement and the means of ensuring that such procedures are implemented, or similar documentation acceptable to the Commission. The parent medical school shall also describe how it will ensure that the curriculum developed for each clerkship will actually be adhered to at each teaching hospital or approved facility.

(f) Provide, for each clerkship at each teaching hospital or approved facility, a summary of the instructional program for the clerkship, which shall include the title of the clerkship, the sponsoring teaching hospital or approved facility, a description of the course objectives, resumes of faculty participants, a statement of the extent of each faculty member's duties in the clerkship, the meeting time, the meeting place, the length of the clerkship, the maximum number of students who will be enrolled in that clerkship at a given time, and the proportion of the student time which shall be spent in that clerkship (e.g. 100 percent of four weeks, 50 percent of eight weeks).

(g) Provide a copy of the faculty handbook or other medium of communication with the faculty, which shall contain procedures and requirements for involvement of faculty in curriculum development, in both basic sciences and clinical clerkship programs, and the means for ensuring that such procedures are implemented.

(h) Document that provisions have been made for continual reassessment and evaluation of the educational program, and for improvement of instruction. The application for licensure shall include a copy of policies adopted by the parent medical school regarding reassessment of clinical clerkship programs and improvement of instruction, and the means of ensuring that such policies are implemented.



(i) Document that the parent medical school provides an appropriate sequence of clinical rotations for students to attain those competencies that the clinical clerkship program is designed to impart. Qualified faculty shall evaluate the competencies of students in each clinical discipline.

(j) The application for licensure shall describe the procedures by which the parent medical school shall ensure that only students who meet the requirements of the following standard participate in clinical clerkship training in Florida and document that all students participating in core clinical clerkship programs have:

1. Completed at least three years of undergraduate education at a legitimate, recognized college or university consistent with a generally acceptable premedical curriculum.

2. Completed a basic science program totaling at least four semesters in length. This program shall include, but is not necessarily limited to, rigorous instruction in the major disciplines of the biological sciences (i.e., anatomy, biochemistry, pharmacology, physiology, pathology, and microbiology), the behavioral sciences, and an introduction to clinical diagnosis. Adequate laboratory facilities for this instruction must be provided.

3. Obtained a passing score on Step 1 of the United States Medical Licensing Examination within 12 weeks of commencing their third year of medical education.

(k) Fully disclose all payments made by the parent medical school to the teaching hospital or approved facility, or to any officer or employee thereof, attributable to participation in clinical clerkship programs by students of the parent medical school, either on a flat fee basis or on the basis of X dollars per student per term. In no event may any payment be made contingent on successful completion of a rotation by students, and neither shall any such contingency payment be a part of the ongoing budget of the teaching hospital or approved facility. This shall be demonstrated by the parent medical school's submitting evidence of the percentage of the total budget made up by these payments.

(l) Document that a core of teaching faculty of the parent medical school shall be appointed to the clinical clerkship program at each teaching hospital or approved facility, with the requisite time and appropriate skills required to supervise the students assigned. The core teaching faculties that are appointed to the basic science program of the parent medical school shall be sufficient in number and background. Regardless of geographic assignment, all faculty shall meet appropriate institutional standards for appointment, promotion, privileges and benefits. The relationship of the clinical program faculty to the parent medical school shall be clearly defined. Faculty in clinical clerkship programs in Florida shall possess requisite qualifications, including formal academic training and background experience to instruct and to supervise clinical experiences, and shall be licensed in Florida to practice medicine. The parent medical school shall demonstrate

adequate instruction by documenting to the Commission the appropriate number and adequacy of qualified faculty assigned to the teaching hospital or approved facility. Supervision provided by the parent medical school shall be by staff members who devote the requisite time necessary to careful supervision of the clinical students.

(m) Demonstrate that the hospital has adequate library facilities to support a medical education program leading to the M.D. or D.O. degree.

(n) Affirm that the medical school will conduct clinical clerkships only in either a teaching hospital as defined in this rule, or in an approved facility, which is defined as a residential developmental services institution licensed by the State of Florida, Department of Health and Rehabilitative Services, pursuant to Chapter 393, Florida Statutes, and approved by this Commission.

(4) An application for initial licensure of a clinical clerkship program shall be reviewed by an expert medical school review committee appointed by the chair of the Commission. The committee members shall be selected from licensed foreign medical schools in Florida, and shall have expertise in the governance of medical education and knowledge of, and experience in, complying with the standards stated above. The review committee shall submit to the Commission a written report addressing whether or not the applicant for licensure has met the standards contained in these rules. The committee report shall be advisory to the Commission, and shall supplement the regular staff review.

(5) The Commission may require an independent review or audit of any applicant medical school's submission from the school's original records to verify any or all information provided. Such review or audit shall be at the expense of the applicant school.

(6) Each licensed foreign medical school shall submit an annual report to the Commission, updating any information provided in its last submission. This report shall include a list the names of students who have studied in Florida, the Florida clinical programs in which they studied, the dates of attendance, and the subject or subjects studied. Any substantive change, as defined in subsection 6E-1.003(12), F.A.C., shall be approved by the Commission prior to implementation, and will result in the medical school receiving a Provisional License pursuant to the provisions of s. 1005.31(5), Florida Statutes, and subsection 6E-2.002(1), F.A.C. Other changes shall be approved in compliance with Rule 6E-2.008, F.A.C.

(7) Students of a licensed foreign medical school, when such license permits a clinical clerkship rotation in Florida, may participate in other clerkships in Florida teaching hospitals if the school documents the following conditions to the Commission:

(a) The teaching hospital provides ACGME or AOA approved residency programs.

(b) The licensed foreign medical school submits to the Commission a written affiliation agreement between the medical school and the teaching hospital specifying responsibility for planning, managing and supervising the clerkship in each discipline.

(c) The teaching hospital will provide the same facilities, learning opportunities, and supervision as are provided to U. S. medical schools' students participating in clinical training programs in the hospital.

(d) The licensed medical school's appointed faculty will be responsible for providing the same quality in the educational program to the licensed medical school's students as is provided to students of an accredited U.S. medical school.

(8) Application for individual approval of an occasional clerkship elective. An individual medical student may obtain approval for an occasional clerkship elective as defined in subsection (2) of this rule, provided they demonstrate compliance with paragraphs (3)(c), (f), (j) (k), and (m) of this rule. In addition to the requirements set forth in paragraph (3)(j), the student shall submit a transcript directly from his or her medical school indicating completion of all core rotations, and documentation that the student has obtained a passing score on Step 2 of the United States Medical Licensing Examination. The teaching hospital and the medical school shall sign a temporary written affiliation agreement detailing the responsibilities of both parties for the clinical teaching program. Such agreement shall include:

(a) The number of lecture hours, course content and reading assignments.

(b) The patient census for the subject being taught and number of rounds per week.

(c) A provision that the board-certified physicians delegated by the hospital to assume responsibility for the student's clinical training shall receive a temporary faculty appointment by the medical school covering the occasional clerkship elective.

(d) Certification that adequate malpractice insurance is being provided to cover the student during the elective rotation.

(e) The method of testing, scoring or evaluation of the student.

Upon completion of the occasional clinical clerkship, the hospital, the medical school and the student shall report their evaluations of the teaching program, which shall be kept on file at the foreign medical school and made available for inspection by Commission representatives and other students.

(9) Violations and Penalties. See s. 1005.38, Florida Statutes, and Rule 6E-2.0061, F.A.C., for grounds, penalties and due process procedures. In the event any violation of this rule poses an immediate threat to the health or safety of Florida patients, emergency action may be taken by the Commission to suspend the privileges permitted under the medical school's license until due process has been followed.

Specific Authority 1005.22(1)(e)1., 1005.31(2),(3),(11) 246.041(1)(e), 246.051(1), 246.074 FS. Law Implemented 1005.31(11) 246.084 FS. History--New 12-6-84, Formerly 6E-2.042, Amended 11-27-88, 11-29-89, 10-19-93, 12-11-96, \_\_\_\_\_.

(Substantial rewording of Rule 6E-2.0061 follows. See Florida Administrative Code for present text.)

6E-2.0061 Actions Against a Licensee: Penalties Denial, Probation, or Revocation of Licensure or Other Status.

(1) Denial. Any Provisional License, Annual License, License by Means of Accreditation, agent's license, approval to use the terms "college" or "university," approval of modifications, approval of occasional elective clinical clerkships, or other authorization under the Commission's jurisdiction shall be denied upon a determination by the Commission that the applicant does not meet the requirements of Chapter 1005, Florida Statutes, or the applicable standards in Chapters 6E-1 and 6E-2, F.A.C., or for specific grounds as stated in ss. 1005.32(7), 1005.34(3), and 1005.38, Florida Statutes.

(2) Probation.

(a) A Provisional License, Annual License, or License by Means of Accreditation, agent's license, or other authorization under the Commission's jurisdiction shall be placed on probation when the Commission finds an infraction of any of the grounds enumerated in subsection (4) of this rule, which in the Commission's judgment threatens the efficient operation of the institution or the quality of the educational programs or services offered, damages the reputation of another institution, or deceives the public.

(b) The Commission may impose conditions designed to correct the infractions identified or to overcome the effects of such infractions, and may require submission of periodic progress reports on the steps being taken to comply with the conditions and to correct the situation. Unannounced staff visits may be made to the institution to monitor its activities. institution or agent shall provide satisfactory documentation to the Commission that remedial action has been taken to correct the situation or activities leading to probation. When it is documented to the Commission that the situation or activities have been corrected, and policies have been adopted by the institution to prevent the recurrence of the infractions, the Commission shall remove the probation. If competent evidence is not presented showing that the situation or activities leading to probation have been corrected within the period of time specified by the Commission, or if similar infractions recur, procedures shall be initiated to revoke the license or other authorization.

(c) If the conditions set by the Commission in conjunction with the probation require oversight and monitoring by the Commission or its staff, the Commission may impose an administrative fine in an amount up to \$5,000 as provided in s. 1005.38(1), Florida Statutes.

(3) Revocation. Any Provisional License, Annual License, or License by Means of Accreditation, agent's license, or other authorization under the Commission's jurisdiction shall be revoked when the Commission finds:

(a) An infraction of any of the grounds enumerated in subsection (4) of this rule, which in the Commission's judgment is so serious as to threaten the continued operation of the institution, or the health, safety and welfare of its students or staff or of the general public; or

(b) That the institution or agent continues to engage in activities in noncompliance with applicable laws after directed by the Commission to cease and desist; or

(c) That the institution or agent has failed to correct, within the allotted period, the situation or activities for which probation has been imposed.

If a license is revoked, the college or agent affected shall cease operations in Florida. Any new application for licensure shall follow the procedures and requirements of the applicable statute and rules.

(4) Grounds for Imposing Disciplinary Actions.

(a) Attempting to obtain action from the Commission by fraudulent misrepresentation, bribery, or through an error of the Commission.

(b) Action against a license or operation imposed under the authority of another state, territory, or country.

(c) Delegating professional responsibilities to a person who is not qualified by training, experience, or licensure to perform the responsibilities.

(d) False, deceptive, or misleading advertising.

(e) Conspiring to coerce, intimidate, or preclude another licensee from lawfully advertising his or her services.

(f) Failure to maintain the licensure standards as set forth in ss. 1005.31 and 1005.32, Florida Statutes, and applicable rules.

(g) Failure to comply with fair consumer practices as set forth in ss. 1005.04 and 1005.34, Florida Statutes, and applicable rules.

(h) Previously operating an institution in a manner contrary to the health, education, or welfare of the public, as described in s. 1005.38(4), Florida Statutes.

(i) Failure of the licensee to comply with any conditions or limitations placed by the Commission upon its licensure or operation.

(5) Investigations. Investigations on behalf of the Commission may be carried out as provided in s. 1005.38, Florida Statutes.

(6) Probable cause. Determinations of probable cause may be made as provided in s. 1005.38, Florida Statutes. Probable cause panels may be appointed to consider suspected violations of law and to make findings, which shall be reported to the full Commission. If the probable cause panel makes a determination of probable cause, the Commission may issue an

administrative complaint or notice of denial of licensure, and may issue a cease and desist order as provided in s. 1005.38, Florida Statutes. Probable cause panels shall be appointed and shall serve as follows:

(a) The chair of the Commission shall appoint three people to a probable cause panel, and shall designate its chair. At least one panel member shall be a current member of the Commission. Other members may be current Commission members or previous members of the Commission for Independent Education, State Board of Independent Colleges and Universities, or State Board of Nonpublic Career Education. Each probable cause panel shall serve on an ad hoc basis to review specific cases referred to it by the Commission.

(b) Current commission members who serve on a probable cause panel cannot vote for final agency action on institutions whose current cases they have reviewed while serving on the panel.

(c) If a Commission member has reviewed a case as a member of the probable cause panel, that member, if available, shall be on the panel for reconsideration of that case if reconsideration is necessary.

(7) Cease and desist orders. Cease and desist orders may be issued by the Commission upon finding probable cause, and shall comply with s. 1005.38, Florida Statutes, and other applicable laws.

(8) Injunctions. The Commission may seek injunctive relief and other applicable civil penalties as provided by s. 1005.38, Florida Statutes, and other applicable laws, after conducting an investigation and confirming that a violation of Chapter 1005, Florida Statutes, has occurred.

(9) Due process procedures. The Commission shall notify the institution or agent by certified mail of any disciplinary action, giving the grounds for the action and an explanation of the institution's or agent's right to a hearing. The institution or agent shall have twenty (20) days to respond, by certified mail, indicating any request for a formal or informal hearing or concurring with the Commission's action.

(a) Failure on the part of the institution or agent to respond by certified mail within twenty (20) days shall constitute default. At its next regular or special meeting, the Commission shall then receive evidence in the case and enter its Final Order.

(b) The institution or agent may request an informal hearing by the Commission if no material facts are disputed, or if the institution or agent and the Commission agree to hold an informal hearing in lieu of a formal hearing. Procedures for informal hearings shall be in accordance with Section 120.57(2), Florida Statutes. After hearing the presentations of the representatives of the Commission and of the institution or agent, the Commission shall enter its Final Order.

(c) The institution or agent may request a formal hearing by an administrative judge of the Division of Administrative Hearings if material facts are in dispute. Procedures for formal

hearings shall be in accordance with Section 120.57(1), Florida Statutes. After receiving a Recommended Order from the hearing officer, the Commission shall enter its Final Order.

(d) An affected party who has been served with a cease and desist order by the Commission may request a formal or informal review of the order as set forth in this subsection above, and may request the Commission or the Division of Administrative Hearings to modify or abate the cease and desist order. If the affected party is aggrieved by the decision produced by this review, the party may seek interlocutory judicial review by the appropriate district court of appeal, as provided in s. 1005.38(7), Florida Statutes.

Specific Authority 1005.32(7), 1005.38 246.041(1)(c)7., 246.051(1), 246.071, 246.085(5), 246.111 FS. Law Implemented 1005.32(7), 1005.34(3), 1005.38 246.011(4), 246.041(1)(n), 246.081(4), 246.083(6), 246.085(5), 246.095(4), 246.111 FS. History—New 10-13-83, Formerly 6E-2.061, Amended 5-20-87, 11-27-88, 11-29-89, 12-10-90, 10-19-93,\_\_\_\_\_.

(Substantial rewording of Rule 6E-2.008 follows. See Florida Administrative Code for present text.)

#### 6E-2.008 Approval of Modifications Amendments to Applications.

(1) No licensed institution shall add new degrees, programs or majors to its offerings or alter any licensed program by more than 20%, change the title of a program or the credential awarded, or discontinue a program, unless it holds an Annual License or License by Means of Accreditation and first receives approval from the Commission. Such approval is contingent upon:

(a) A finding by the Commission that the licensee meets the standards contained in Rule 6E-2.004, FAC., for each proposed new degree, program or major;

(b) Documentation that the modifications are congruent with the guidelines of state or national professional licensing boards or accreditors;

(c) The licensee's filing the required documentation; and

(d) The licensee's paying the fee required by rule.

(2) In the event that it is deemed necessary by the Commission, a representative of the Commission or a visiting committee shall visit the institution prior to consideration of the modification and shall provide a written report to the Commission of its findings, to be used as one of the bases upon which the Commission will make a determination regarding the modification.

(3) Any other significant change in the information provided in the initial application for or last review of licensure, or in subsequent modifications approved by the Commission, including but not limited to change in corporate charter, purpose, administrative structure, finance, or physical facilities, shall be filed with the Commission at least 30 days prior to implementation.

(4) Additional locations, including classroom sites, shall be added only after the institution has attained an Annual License or License by Means of Accreditation and received

prior approval by the Commission. For colleges and universities, If the additional location or classroom site is more than 30 miles distant from the main Florida headquarters, separate licensure from the Commission is required before operations begin. For nondegree schools, each location shall be licensed separately. Information to be submitted to the Commission for prior approval of additional college locations or classroom sites less than 30 miles distant shall include the following:

(a) Address and description of the facilities;

(b) Description of the activities and programs to be offered at the location;

(c) A list of personnel (administrators and faculty) to be present at the location and their schedules, including availability to students outside class time;

(d) Anticipated number of students to be involved;

(e) Anticipated length of time that the location will be in use;

(f) Method of making library resources available to the students at the location, on a comparable accessibility basis to students at the main location in Florida;

(g) A budget of anticipated costs and income associated with the location;

(h) A copy of any written agreements involving the location; and

(i) A description of how student services will be provided at the location comparable to those provided at the main Florida headquarters.

(5) Any substantive change, as defined in subsection 6E-1.003(12), F.A.C., shall result in the institution's receiving a Provisional License pursuant to Section 1005.31(5), Florida Statutes, and subsection 6E-2.002(1), F.A.C.

(6) "Minor modifications" are defined as changes to programs and curricula intended to keep the educational material up to date and relevant to the changing needs of employers, when such modifications affect less than 20 percent of the program or curriculum and do not change the purpose or direction of the program. Such minor modifications may be reviewed and approved by Commission staff, if they are shown to be desirable improvements and are congruent with the guidelines of state or national professional licensing boards or accreditors, and do not increase tuition or length of time necessary for completion of the program. The license fee will include one such staff review of minor modifications per year, whether done at the time of licensure review or during the interim between reviews. However, minor modifications to the same program or curriculum requested more than once a year will be taken to the Commission for review and will incur a special review fee.

Specific Authority 1005.33(2) 246.041(1)(c), 246.051(1), 246.071, 246.091(3) FS. Law Implemented 1005.33(2) 246.051, 246.087(1), 246.091(2),(3) FS. History—Repromulgated 12-5-74, Formerly 6E-4.01(2)(c), Readopted 11-11-75, Amended 5-7-79, 10-13-83, Formerly 6E-2.08, Amended 5-13-87, 11-29-89, 10-19-93, 4-2-96, 4-11-00,\_\_\_\_\_.

6E-2.0081 Change of Ownership or Control.

(1) Pursuant to s. 1005.31(8), Florida Statutes, a licensed institution shall notify the Commission prior to a change of ownership or control. The notification shall be made in writing and shall include documentation of any changes that will result in the purpose, educational programs, administrators, student services, and other aspects of the institution. A license does not automatically transfer to a new owner or group of owners. The Commission must take affirmative action to issue a new license after receipt and evaluation of the appropriate documentation and payment of the required fee.

(2) If the Commission determines that a change of ownership will have no significant effect or a positive effect on the programs or services offered by the institution, the financial stability of the institution, or the students enrolled in the institution, a new license may be issued based on the information received.

(3) If the Commission determines that the anticipated effects of the change will meet the definition of "substantive change" in subsection 6E-1.0032(12), F.A.C., the institution will receive a Provisional License pursuant to s. 1005.31(5), Florida Statutes.

(4) If the Commission determines that the practical result of the changes will transform the licensed institution into a substantially different entity insofar as the majority of its programs and services are concerned, a new application for licensure is required. During the time that the new application is being prepared, submitted, and evaluated, the Commission shall not interrupt the progress of currently enrolled students solely because of the change of ownership or control.

(5) Each licensed institution shall be responsible for arranging and conducting a change in ownership or control in a manner and at a time so that there is no adverse impact on the opportunity of currently enrolled students to complete their training and receive counseling and placement services. In addition, the institution shall remain responsible for properly completing the training of the enrolled students and for providing the counseling and placement services, and shall be subject to disciplinary action for any violations of statutes and rules which may occur in that regard during the transition. A change of ownership or control of a institution, or the issuance of a new license, shall not in any manner release the institution from its legal obligations to enrolled students to provide education and services required under the student's enrollment agreement, Chapter 1005, Florida Statutes, or the rules of the Commission. The institution shall be under a continuing obligation to fulfill the terms of its contracts with the enrolled students.

(6) A change in control shall include: any change in the composition of a licensee's board of directors; any change of administrative officers; and any change in the personnel or organization of a institution which affects who has the authority to establish or modify institution policies, standards,

and procedures or who has the authority to make the effective decisions regarding the implementation or enforcement of institution policies, standards, and procedures.

(7) If a change of ownership or control occurs in the period between Commission meetings, and if it appears to meet the description in subsection (2) of this rule, interim executive approval of the change may be done by the Executive Director and reported to the Commission at its next meeting. However, if it appears that the change of ownership or control will result in substantial changes to the licensed institution, and the legalities of the change of ownership or control cannot be delayed until after the next regular Commission meeting, a special telephonic meeting may be scheduled and noticed.

Specific Authority 1005.31(8)(b) FS. Law Implemented 1005.31(5),(8) FS. History—New

(Substantial rewording of Rule 6E-2.009 follows. See Florida Administrative Code for present text.)

6E-2.009 Closing an Institution Colleges—Which Discontinue Operation.

At least 30 days prior to closing an institution, its officials shall notify the Commission in writing, and follow the provisions of s. 1005.36, Florida Statutes. Failure to comply with the statute shall be grounds for civil penalties as provided therein.

Specific Authority 1005.36 246.041(1)(c), 246.051(1), 246.071, 246.091(5) FS. Law Implemented 1005.36 246.051, 246.091(5) FS. History—Repromulgated 12-5-74, Formerly 6E-4.01(5), Readopted 11-11-75, Amended 3-7-77, 5-7-79, 10-13-83, Formerly 6E-2.09, Amended 11-29-89, 12-10-90, 10-19-93, 4-11-00.

(Substantial rewording of Rule 6E-2.010 follows. See Florida Administrative Code for present text.)

6E-2.010 Agents; License Required; Procedures for Licensure.

The following provisions shall apply to persons meeting the statutory definition of "agent" found in Section 1005.02(2), Florida Statutes.

(1) No agent shall recruit for an institution required to be licensed under Section 1005.31(1), Florida Statutes, unless the institution is so licensed.

(2) It shall be the responsibility of each institution to require a specific training program for its admissions director, who shall supervise and train all agents and admissions staff employed by the institution. This training shall include information to familiarize them with the Florida Statutes and rules regarding agents, and with the institution's programs, services, costs, terms of payment, financial aid available for qualified students, refund policy, transferability of credits to other institutions, reasonable employment projections and accurate placement data, status of the institution regarding licensure and accreditation, facts regarding the eligibility of graduates to sit for licensure examinations or fulfill other requirements to practice in Florida the career or profession for

which the prospective student wishes to be trained, and other relevant facts. The training program shall reflect the fair consumer practices outlined in Sections 1005.04 and 1005.34, Florida Statutes, and Rule 6E-1.0032, F.A.C. The training program shall be updated as necessary to reflect changes in applicable laws, rules, and institutional policies; and all agents and admissions staff shall be provided with updated training as necessary.

(3) Each agent applying for licensure shall file with the Commission the required documentation and the appropriate application fee, as well as a fee for the cost of an investigation of criminal justice information as provided in Section 1005.22(1)(h), Florida Statutes, and defined in Section 943.045(3), Florida Statutes.

(4) Persons seeking licensure as recruiting agents for institutions shall submit the following materials in conjunction with the application fee:

(a) Confirmation by the chief executive officer or president of the institution that the individual has been appointed as a recruiting agent for the institution;

(b) Documentation that the institution is authorized to operate by the appropriate state or other agency of jurisdiction where the main campus, corporate headquarters, and all other operations of the institution are located, if out of state;

(c) A statement of the institution's status regarding accreditation;

(d) A copy of the institution's current catalog; and

(e) An affirmation signed by the chief executive officer or president of the institution, stating that the institution shall be responsible for the correct and accurate representation of the institution by the agent in Florida; that the agent will not be compensated by commissions, bonuses, or nonmonetary rewards of value based upon the number of students recruited; and that all printed materials, advertisements, and verbal information disseminated in Florida by the agent regarding the institution shall conform to the applicable requirements of Florida law and rules, including: Chapter 501, Florida Statutes; Chapter 1005, Florida Statutes; and Chapters 6E-1 through 6E-4, F.A.C.

(5) Upon receipt of the required materials and results of the criminal justice information investigation required for new applicants by Section 1005.22(1)(h), Florida Statutes, showing that the applicant has not been found in violation of laws or rules governing recruiting practices or other relevant matters, the staff of the Commission shall review the materials and make a recommendation to the Executive Director regarding licensure of the applicant. The staff shall request additional information regarding the applicant or the institution to be represented, if the materials submitted do not contain the information necessary to determine eligibility. If the Executive Director finds that the applicant and the institution to be represented meet the standards set forth in this rule and in Chapter 1005, Florida Statutes, the agent's license shall be

issued or extended for one year. A report of agents issued licenses or extensions shall be provided to the Commission on a quarterly basis. If the criminal background investigation reveals relevant convictions or pleas, the application will be denied.

(6) The criteria for licensure of a recruiting agent are:

(a) Evidence of appointment by the institution to be a recruiting agent for the institution;

(b) Evidence that the institution to be represented is authorized to operate by the appropriate state or other agency of jurisdiction where the main campus, corporate headquarters, and all other operations of the institution are located, if out of state;

(c) Evidence that the agent has satisfactorily completed an approved training program and has demonstrated competent knowledge and mastery of the content;

(d) Affirmation that the agent has not had an agent's license or similar authorization revoked in Florida or in another state or other jurisdiction, and has not been found in violation of laws or rules governing recruiting practices;

(e) Affirmation that the agent will represent the institution correctly and accurately and will comply with all applicable laws and rules; and

(f) Affirmation that the agent will not be compensated based upon the number of students recruited, if the institution represented offers programs of 600 clock hours or more.

(7) Each agent's license shall be effective for a period of one year from the date of issuance, and is not transferable to another agent or to another institution to be represented. If an individual recruits students for more than one institution, that individual must receive a separate agent's license and receive and document separate agent's training for each institution represented.

(8) Each initial agent's license shall be issued for a maximum period of one year from the date of issuance. After receiving initial licensure, an agent may apply for annual renewal of the license by submitting the appropriate documentation and fee.

(9) Each institution employing recruiting agents shall notify the Commission in writing within ten days after the resignation or dismissal of an agent, together with the cause for dismissal. Every effort shall be made by the institution to return the agent's license to the Commission.

(10) An agent's license may be denied, placed on probation, or revoked as set forth in Section 1005.38, Florida Statutes, and Rule 6E-2.0061, F.A.C. Grounds shall include violation of applicable Florida law; misrepresentation of the institution, its programs, or other pertinent facts; obtaining an agent's license by fraudulent misrepresentation, bribery, or through an error of the Commission; failure to follow fair consumer practices; failure to comply with the provisions of this rule or of Chapter 1005, Florida Statutes; prior revocation or disciplinary action against the agent for violation of these or

similar standards; revocation of the represented institution's license in Florida or of its authorization to operate in the state or other jurisdiction where the main campus, corporate headquarters, and all other operations of the institution are located; or, in the case of an out-of-state institution not licensed by the Commission, any activity by or on behalf of the institution which would be grounds for denial or revocation of its licensure under the provisions of Rule 6E-2.0061, F.A.C., if it were subject to licensure in Florida. A person whose agent's application has been denied or revoked shall not solicit students, nor shall a person solicit students while his or her agent's license is under probation.

(11) Revocation of an agent's license may lead to an investigation of the licensed institution to determine whether the institution's license should be placed on probation or revoked for failing to train or supervise its agents adequately, or for allowing or encouraging its agents to violate the provisions of Florida Statutes and rules.

(12) All monies collected by an agent from or on behalf of students recruited shall be turned over to the institution represented. All checks received shall be made payable to the institution represented, and receipts for cash shall be given to the student in the name of the institution.

(13) The term "counselor" or "advisor" or modifications thereof shall not be used by anyone soliciting or enrolling students for institutions under the jurisdiction of the Commission. All persons who are employed by an institution for the primary purpose of inducing students to enroll in the institution shall be called "agent," "admissions representative," "sales representative," or "field representative." The term "academic" or "education" or forms thereof shall not be used in referring to these employees.

(14) It is the responsibility of each licensed agent, and the institution represented, to determine that the prospective student being recruited has a reasonable ability to complete successfully the course of study or training for which he or she is being recruited, prior to accepting any nonrefundable application or tuition fees. Agents shall not have the authority to enroll students without a complete review and approval by the admissions director or registrar of the institution of the student's application and documentation. If an applicant student is determined not to be eligible to enroll or not to possess the ability to complete the program successfully, all monies paid to an agent shall be refunded to the student within 30 days.

(15) It is the responsibility of the agent to explain clearly and accurately to each prospective student the institution's refund policy, transferability of credits earned at the institution to other institutions in the area, eligibility of graduates to sit for professional examinations or otherwise qualify to practice the profession or career for which the institution will train the student, the length of the program of study, entrance and graduation requirements, and other consumer protection

information. This information may be provided to the prospective student in writing, but in such cases, the agent shall give the prospective student time to read the information and shall answer any questions regarding it, prior to collecting any money, obtaining the prospective student's signature, or obligating the prospective student in any way. The agent shall not verbally or otherwise make misleading or inaccurate representations regarding job opportunities, future salaries, accreditation, or transferability or recognition of credits earned at the institution.

(16) An agent shall not offer a bonus or discount to the prospective student for signing up within a certain time period or for bringing in other new students, and shall not make statements indicating that the prospective student must make a decision immediately or within a short period of time. No reference shall be made, either verbally or in writing, that other inducements, including but not limited to travel, equipment or textbooks, will be provided "free" to the prospective student for signing up during a specific period of time or for bringing in other new students.

Specific Authority 1005.31(10) FS. Law Implemented 1005.04, 1005.22(1)(h), 1005.31(10), 1005.33, 1005.38(1), 1005.39 FS. History—Repromulgated 12-5-74, Formerly 6E-4.01(4), Readopted 11-11-75, Amended 2-6-78, Formerly 6E-2.10, 6E-2.11, Amended 5-13-87, 11-27-88, 11-29-89, 12-10-90, 10-19-93, 4-11-00, \_\_\_\_\_.

#### 6E-2.015 Designating Resident Agent.

Specific Authority 246.041(1)(e), 246.051(1), 246.071 FS. Law Implemented 246.051, 246.081 FS. History—New 5-7-79, Formerly 6E-2.15, Repealed \_\_\_\_\_.

NAME OF PERSON ORIGINATING PROPOSED RULE:  
Sandra Knight, Assistant Executive Director, Commission for Independent Education

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Samuel L. Ferguson, Executive Director, Commission for Independent Education

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: August 14, 2002

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: July 19, 2002, p. 3038, Vol. 28, No. 29

#### DEPARTMENT OF EDUCATION

##### Commission for Independent Education

RULE TITLE:

RULE NO.:

Administration of the Commission

6E-3.002

PURPOSE AND EFFECT: The purpose of the proposed new rule is to provide guidelines for the government and administration of the Commission. The effect is that the Commission will have policies to follow consistently in its activities.

SUMMARY: The proposed new rule provides for election of officers, appointment of the executive director, appointment of committees, quorum, voting, agenda, regular and special meetings, emergency meetings, rulemaking, and other administrative provisions.

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

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

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

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

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

TIME AND DATE: 9:00 a.m., Friday, November 15, 2002

PLACE: Sheraton Suites Hotel, 4400 West Cypress Street, Tampa, FL

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Sandra Knight, Assistant Executive Director, Commission for Independent Education, Department of Education, 2650 Apalachee Parkway, Suite A, Tallahassee, FL 32301, (850)488-8695

THE FULL TEXT OF THE PROPOSED RULE IS:

(Substantial rewording of Rule 6E-3.002 follows. See Florida Administrative Code for present text.)

6E-3.002 Administration of the Commission Board.

(1) The Commission shall maintain its office of record in the corporate limits of Tallahassee, Leon County, Florida.

(2) The Commission has designated its executive director as its agency clerk. The office is located at 2650 Apalachee Parkway, Suite A, Tallahassee, FL 32301. Office hours are 8:00 a.m. to 5:00 p.m., Monday through Friday. The office is closed on official state holidays. The telephone number of the office is (850)488-8695.

(3) The provisions for appointment of Commission members, the composition of the Commission, terms of office, and reimbursement are stated in Section 1005.21, Florida Statutes.

(4) The powers and duties of the Commission are stated in Section 1005.22, Florida Statutes.

(5) The officers of the Commission shall be the chairperson, the vice chairperson, and the executive director. The chairperson and vice chairperson shall be elected by the Commission members to terms of one (1) year. Election of officers shall be held annually at the last Commission meeting prior to the last day of June, and officers shall assume office on the first day of July each year. The chairperson and vice chairperson shall serve no more than three (3) consecutive terms as such officers. In the event of a vacancy, an election

may be held at the next regular or special Commission meeting, and the officer elected shall assume office immediately to serve the unexpired term. The chairperson or vice chairperson may be removed at any time by the affirmative vote of five (5) or more members of the Commission.

(a) The chairperson shall be selected from among the Commission members representing other than publicly-supported institutions. The chairperson shall appoint the members of, and shall serve as an ex officio member of, all committees of the Commission; shall execute all contracts on authority of and in the name of the Commission; shall transmit the annual report of the Commission to the Governor; shall preside over Commission meetings and hearings conducted by the Commission; and shall affix his or her signature to all licenses, certificates, and final orders issued by the Commission.

(b) The vice chairperson shall be selected from among all members of the Commission, and shall perform the duties of the chairperson with full authority during the absence or disability of the chairperson.

(c) In the absence of both the chairperson and vice chairperson, the third member of the executive committee shall preside at meetings.

(d) The executive director, who is the chief administrative officer of the Commission, shall serve on appointment by and at the pleasure of the Commission upon recommendation by the chairperson. During the absence or disability of the executive director, the chairperson may designate a member of the Commission's staff to function as the executive director in an acting capacity. The executive Director shall also be the secretary of the Commission and shall be responsible for all of the administrative operations of the Commission. The executive director shall make reports to the chairperson regarding the employment of all staff employees, and may make recommendations to the Commission regarding any of the Commission's activities. The Commission may agree to delegate to the executive director any routine matters under its jurisdiction, and may request written reports periodically regarding such matters.

(6) Committees of the Commission.

(a) The Executive Committee shall consist, ex officio, of the chairperson and vice chairperson, and a third member of the Commission appointed by the chairperson. The Executive Committee shall have the full authority of the Commission to act during the interim between Commission meetings, except in matters of licensure. The Commission may delegate specific duties to the executive committee, consistent with the provisions of Chapter 28-1, F.A.C. In cases of such delegation, the Commission shall review at its next meeting any action taken during the interim by the executive committee, and either



ratify or reverse the action of the executive committee. Minutes of executive committee meetings shall be presented to the Commission at its next meeting.

(b) The Commission may create such standing and special committees as it deems necessary for the discharge of its responsibilities. The chairperson shall appoint the members of such committees for terms not to extend beyond the following June 30.

(c) If the Commission, in regular or special session, authorizes a committee to act on a matter referred to it, the chairperson of the committee shall report to the Commission in writing the action taken; otherwise, the committee action shall be reported as a recommendation for consideration and action by the Commission at a regular or special meeting.

(7) The Commission shall hold regular meetings not less than four times in every fiscal year, and all meetings shall be open to the public. Persons interested in attending meetings or in providing information to the Commission for any meeting should consult the Commission's office staff or the Florida Administrative Weekly for specific meeting dates, times, and places.

(a) Special meetings may be called by the chairperson, in which case the notice of the meeting shall be distributed in writing to the Commission members at least fifteen (15) days in advance of the special meeting. Public notice of special meetings shall be published in the Florida Administrative Weekly. The business transacted at any special meeting shall be confined to such matters as have been specified in the notice of the meeting, except that if at least five (5) members are present, any internal administrative business not concerning licensure, rulemaking, or policymaking may be placed on the agenda by a unanimous vote of the members present. In this case, a majority vote of the members present is required to dispose of the business.

(b) Emergency meetings may be called by the chairperson if a situation under the Commission's purview represents an immediate danger to the public health, safety, or welfare. Such meetings and any decisions made as a result of them shall be conducted in compliance with Chapter 120, Florida Statutes.

(c) All meetings of the Commission, whether regular, special, committee or emergency meetings, are open to the public. Notice of regular and special meetings will be published in the Florida Administrative Weekly.

(8) Quorum and voting.

(a) Four (4) members of the Commission in actual attendance shall constitute a quorum for the transaction of business at all meetings of the full Commission, except as specified in paragraphs 6E-3.002(7)(a) and (8)(b), F.A.C.

(b) Action regarding election of Commission officers, and determination of regulatory policy, including adoption and amendment of rules, shall be transacted on the affirmative vote of five (5) or more members of the Commission.

(9) Agenda.

(a) The Executive director shall prepare the agenda for all meetings of the Commission.

(b) A copy of the draft agenda shall accompany the notice of meeting to all members of the Commission, and to others as requested. The draft agenda shall be ready for distribution at least seven (7) days prior to each meeting, and may be obtained through the Commission's office in Tallahassee or the Commission's web site.

(c) The regular order of business at meetings of the Commission shall include such items as the following, but not necessarily in this order:

1. Call to order.

2. Roll call.

3. Introduction of guests.

4. Consideration of minutes of previous meetings.

5. Appeals and hearings.

6. Reports of committees.

7. Reports and recommendations of staff regarding institutional licensure and related matters.

8. Special reports.

9. Other business.

(d) Matters on the agenda may be taken up out of stated order for good cause stated in the record, with the approval of the chairperson or presiding officer.

(10) Adoption and amendment of rules.

(a) New rules, or amendments to existing rules, may be suggested by members of the Commission or the Commission's staff; other interested persons may petition to initiate rule-making proceedings under Chapter 120, Florida Statutes, and Chapter 28-3, F.A.C. Proposed additions or changes to the rules shall be referred to the Rules Committee of the Commission, who shall consider the proposals and make recommendations to the Commission.

(b) The Commission shall consider the recommendations of the Rules Committee, in advertised public meeting, and shall afford the opportunity for any interested person to be heard in regard to proposed amendments or additions to the rules. Commission adoption of such amendments or additions to the rules shall be by affirmative vote of five (5) members of the Commission.

(c) Upon adoption by the Commission of amendments or additions to the rules, such changes will be forwarded to the State Board of Education for approval or disapproval within sixty (60) days, pursuant to Section 1005.22, Florida Statutes. Public hearings shall be provided during the process as specified by law.

(11) Records held in the Commission office are open for public inspection as specified in Chapter 119, Florida Statutes. The place of inspection is the Commission office, at the address given in subsection 6E-3.002(2), F.A.C. Appointments

may be made during the office hours specified in that section. Departmental policy authorizes charges to be made for the cost of photocopying materials.

(12) Roberts Rules of Order shall be followed in the conduct of all meetings of the Commission.

Specific Authority ~~120.53(1)(a), 1005.22(1)(d), 246.041(1)(d), (e), 246.051(1), 246.071~~ F.S. Law Implemented 20.052, 120.53(1)(b), 1005.22 ~~246.031, 246.041(1)(d), (n), 246.051~~ FS. History--New 10-13-83, Formerly 6E-3.02, Amended 11-27-88, 10-19-93, \_\_\_\_\_.

NAME OF PERSON ORIGINATING PROPOSED RULE: Sandra Knight, Assistant Executive Director, Commission for Independent Education

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Samuel L. Ferguson, Executive Director, Commission for Independent Education

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: October 14, 2002

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: July 19, 2002, p. 3038, Vol. 28, No. 29

**DEPARTMENT OF EDUCATION**

**Commission for Independent Education**

RULE TITLES:	RULE NOS.:
Fees and Expenses	6E-4.001
Institutional Assessment Trust Fund	6E-4.003
Student Protection Fund	6E-4.005

PURPOSE AND EFFECT: The purpose of the proposed new rule chapter is to place into one chapter all rules regarding fiscal matters related to the Commission. The effect is that public access to financial topics will be simplified and the information will be coordinated.

SUMMARY: The proposed new rule chapter provides for setting and collecting base fees and workload fees, depositing them into the Institutional Assessment Trust Fund; and clarifies the provisions for making claims to the Student Protection Fund.

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

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

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

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

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

TIME AND DATE: 9:00 a.m., Friday, November 15, 2002

PLACE: Sheraton Suites Hotel, 4400 West Cypress Street, Tampa, FL

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULES IS: Sandra Knight, Assistant Executive Director, Commission for Independent Education, Department of Education, 2650 Apalachee Parkway, Suite A, Tallahassee, FL 32301, telephone (850)488-8695

THE FULL TEXT OF THE PROPOSED RULES IS:

6E-4.001 Fees and Expenses.

(1) Base Fee. All nonpublic institutions and centers of out-of-state institutions under the jurisdiction of the Commission derive benefit from the services performed by the Commission. Such services include but are not limited to administration of the fair consumer practices program and the data collection and dissemination program. Each institution holding a provisional or annual license, or a license by means of accreditation, with an enrollment of less than 100, shall submit annually a base fee of \$400, and each such institution with an enrollment of 100 or more shall submit annually a base fee of \$1,200, payable no later than August 15 of each year. Base fees shall be prorated for new institutions. Enrollment shall be determined by the total student headcount in Florida, full-time and part-time, reported by each institution in its annual data report; or for a new institution, by its anticipated enrollment in Florida during its first year of operation.

(2) Workload Fees. Each Florida location of each institution receives technical assistance from the Commission, along with help in developing and implementing institutional articulation agreements and achieving candidacy status with accrediting agencies; and significant amounts of staff and administrative time are spent on evaluating applications, traveling to institutions for onsite visits, assisting institutions which are experiencing problems with financial aid or financial stability, and making reviews. The following workload fees are assessed in addition to the base fee, and must be received prior to Commission consideration of each action.

<u>Initial Application for Provisional License .....</u>	<u>\$5,000</u>
<u>Moving from nondegree to degree-granting .....</u>	<u>\$4,000</u>
<u>Special Review (Substantive changes, or resubmitting applications) .....</u>	<u>\$2,500</u>
<u>Annual Review of Annual License</u>	
<u>Main Florida Headquarters .....</u>	<u>\$2,500</u>
<u>Each Additional Florida Location .....</u>	<u>\$1,000</u>
<u>Annual Review of License by Means of Accreditation ..</u>	<u>\$1,000</u>
<u>Midcycle Review of Extended Annual License .....</u>	<u>\$1,000</u>
<u>Site Visits</u>	
<u>One visit per year .....</u>	<u>Included in licensure fee</u>
<u>Subsequent visits .....</u>	<u>Actual Expenses and</u>
<u>.....</u>	<u>Administrative Costs</u>
<u>Approval to Use "College" or "University".</u>	
<u>First time or special review .....</u>	<u>\$500</u>
<u>Annual Licensure of Recruiting Agents .....</u>	<u>\$350</u>
<u>Evaluation of Accrediting Agency .....</u>	<u>\$500</u>

Student Protection Fund (nondegree schools).....\$750  
 Fine for Probation Requiring Oversight..... Up to \$5,000  
 Continuing Activity after Cease and Desist  
 Letter, Per Day..... \$1,000  
 Criminal Justice Information Investigation..... \$50  
 Copy of Student Academic Transcript on File ..... \$10

(3) For purposes of fee assessment, “main Florida headquarters” means the location designated by the institution as its main administrative and academic center in Florida. “Additional Florida location” means any location away from the designated main Florida headquarters, but under the centralized administrative and academic control of the designated main Florida headquarters. This does not include temporary classroom sites used by the institution in close geographical proximity to the main Florida headquarters or an additional Florida location.

(4) Investigations and Resolution of Complaints. In cases where the Commission must investigate complaints pertaining to fair consumer practices, initiate Probable Cause proceedings, render findings of fact, and issue decisions, the institution shall be assessed a fee of no less than \$500 and no more than \$2,000, which is payable within fourteen (14) days of the official action being taken by the Commission.

(5) Failure to Submit Materials in a Timely Manner. In cases where the Commission has set a specific date for the filing of materials regarding licensure or other matters under its purview, and the institution has not filed said materials within fourteen (14) calendar days of the specified date, the Commission shall assess the college \$100 per working day until the materials are received by the Commission. The postal date on the envelope or package containing the materials shall serve as the date of receipt.

(6) All fees, and any fines imposed for probation or other violations shall be paid to the Chief Financial Officer of the Department of Education for deposit into the Institutional Assessment Trust Fund as established in s. 1010.83, Florida Statutes, and identified as a separate revenue account for the authorized expenses of the Commission under the provisions of s. 1010.83, Florida Statutes.

Specific Authority 1005.22(1)(e), 1005.35, 1005.37, 1005.38 FS. Law Implemented 1005.22, 1005.35, 1005.37, 1005.38 FS. History—New

6E-4.003 Institutional Assessment Trust Fund.

(1) To implement the Institutional Assessment Trust Fund as established by s. 1010.83, Florida Statutes, the Commission shall be responsible for authorizing the expenditure of funds consisting of the fees, fines, and other receipts of money collected from institutions under its jurisdiction. Such authorization shall be in the form of an operating budget establishing categories of expenditures consistent with the Department of Education accounting system. The operating budget shall be established by resolution of the Commission and enacted at its last regularly scheduled meeting of each

fiscal year. The Commission may transfer funds among and within budget categories as necessary and desirable for the efficient and effective administration of Chapter 1005, Florida Statutes.

(2) The Commission shall establish a fee schedule to generate the funds to cover its operating budget each year. Fees and other charges may be adjusted as necessary to meet the operating expenses, pursuant to s. 1005.35(2), Florida Statutes.

Specific Authority 1005.22(1)(e) FS. Law Implemented 1005.22(1)(e), 1005.35, 1010.83 FS. History—New

6E-4.005 Student Protection Fund.

(1) Establishment of fund. There is hereby established a fund to be known as the Student Protection Fund, pursuant to s. 1005.37, Florida Statutes.

(2) This rule shall apply to all licensed nonpublic nondegree schools which cease operations or terminate a program while students are enrolled, regardless of whether the cessation of the school’s operations or termination of the program is due to a decision by the school, an order from the Commission, an action by another governmental entity, or any other cause.

(3) Assessment paid by licensed nondegree schools. Each licensed school shall pay to the fund a specified amount for each student who enrolls and begins attending a program (new start), which amount is based on the length of the program as follows, and which is in addition to regular workload fees or base fees:

<u>Program Hours or Credit Hour Equivalent</u>	<u>Amount Per Student</u>
<u>1-300</u>	<u>\$1.00</u>
<u>301-600</u>	<u>2.00</u>
<u>601-900</u>	<u>3.00</u>
<u>901-1200</u>	<u>4.00</u>
<u>1201 and above</u>	<u>5.00</u>

(4) Computation and Payment of Assessment.

(a) The amount of the assessment due from each licensed school shall be computed by multiplying the “amount per student” which applies to each program offered by the school by the sum of the new starts which occurred in that program during the applicable counting period, and by summing the total amount due for each program.

(b) The counting period shall be the period of July 1 through June 30 which immediately precedes the date of expiration of the school’s current license. For schools that are granted initial licensure, the first counting period shall begin on the date the initial provisional license is issued.

(c) Each school shall remit the total assessment due with its review of licensure, except that a school holding an extended annual license shall also submit the total assessment due for each new start during the first counting period during its extended license period with the report submitted at the close of the first year of an extended license period.

(d) For programs offered by correspondence or distance education, and for programs offered as a combination of distance education and residential training, only Florida students shall be counted for purposes of computing the assessment. For purposes of this rule, a Florida student is a student whose mailing address for purposes of receiving distance education lessons and materials from the school is a Florida address, and who is a student who begins attendance in a residential portion of a combination program at a location within Florida. For purposes of determining the applicable "amount per student", the residential training portion of a combination program shall be treated separately from the distance education portion. If a student attending a residential portion of a combination program at a location within Florida is a resident of a state where the licensed school contributes to a student protection fund, the school will not be required to contribute for that student in Florida.

(e) The full and timely payment of the assessment is a condition of licensure. Failure to make such payment shall be grounds for disciplinary action against the school or for denial of an application for license renewal.

(5) Application for and granting of train-out awards.

(a) Any student who is enrolled in a licensed school but is unable to complete a program at such school because the school has ceased operations or terminated the program in which the student was enrolled, and who has paid tuition for such program from his or her own personal funds, may make application to the Commission for a train-out award from the fund in an amount not to exceed the personal funds expended, for which the student presents an official receipt. The Commission may, on its own initiative, identify students who may be eligible, notify them of the opportunity, and waive or modify the application requirement.

(b) An affected student may apply for the award by letter to the Commission office requesting a train-out award and identifying the school which ceased operations; the last known date the school was open, or the closing date, if known; the program in which the student was enrolled; the date the student's program was terminated; the student's Social Security number; and the approximate date on which the student began that program. The letter may also identify a school in which the student would like to complete the program. The student shall be eligible for an award if the Commission determines that there was a cessation of operations or termination of a program, the student was enrolled in the school that ceased operations or the program that was terminated, and the student had not yet successfully completed the program at the time operations ceased or the program was terminated.

(c) The Commission shall determine whether there is another licensed school or other educational institution that can complete the training (train-out school), the amount of tuition that would have been necessary for the student to complete the

program at the closed school or the terminated program, and the amount to be awarded for each eligible student. Where appropriate to the sound fiscal management of the fund, the Commission may determine that the amount of the train-out award will be less than the amount of the tuition required by the train-out school for its own similar program. The train-out award shall not exceed the amount of tuition which the student had paid from his or her own personal funds to the school which ceased operations or terminated the program. Amounts paid on behalf of the student by federal financial assistance will not be refunded from the Student Protection Fund; amounts paid by other lenders will be considered on a case-by-case basis.

(d) If the amount of the award is less than the amount of the necessary tuition and the train-out school will not waive the difference, the student shall be responsible for paying the difference. The Commission shall pay the award to the train-out school within 45 days of the time the student enrolls.

(6) Additional Provisions.

(a) A direct expense for the administration of the fund shall be charged to the fund.

(b) The school that ceased operations or terminated a program shall be liable to the Commission for the total amount of the train-out awards which were made because of the cessation of that school's operations or termination of the program. Failure to pay that liability to the Commission shall be grounds for disciplinary or civil action against the school. Improper closing of a school without meeting the obligations required by Ch. 1005, F.S., and these rules may result in actions as provided in ss. 1005.36 and 1005.38, Florida Statutes.

(c) Depending upon the actuarial soundness of the fund, the Commission may suspend the requirement that licensed schools pay assessments to the fund by issuing written notice of such suspension, and may reinstate the requirement by issuing written notice of such reinstatement. The notices shall be mailed to all licensed schools and shall specify the pertinent counting periods and other information to enable schools to comply. Likewise, the Commission may determine that a school will not be required to continue paying into the fund after a certain number of years without causing claims on the fund, or may determine that payments must be increased for all schools.

(d) The Commission may make exceptions to any provision in this rule on a case-by-case basis for good cause, by issuing an order which specifies the exception, the terms and conditions thereof, and the reasons for the exception.

(e) Moneys in the student protection fund may be used to retrieve student academic records from a closed school if the school has not forwarded the records to the Commission as required by s. 1005.36, Florida Statutes; and to store safely, sort, microfilm, and index copies of student academic records in the Commission's possession. The Commission may charge

a nominal fee to recover the costs of searching for, copying, and mailing to a student or the student's designee a copy of the student's academic record.

(f) The student protection fund shall exist until terminated by the Commission or the Legislature. Upon the dissolution of the fund or the cessation of its activities, and after the payment of all loans outstanding and expenses incurred, the remaining assets shall be paid, upon direction of the Commission, to licensed schools on a pro-rata basis determined by the amount each such institution initially contributed.

Specific Authority 1005.37 FS. Law Implemented 1005.35(4)(g), 1005.36(3), 1005.37 FS. History--New

NAME OF PERSON ORIGINATING PROPOSED RULE:  
Sandra Knight, Assistant Executive Director, Commission for Independent Education

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Samuel L. Ferguson, Executive Director, Commission for Independent Education

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: October 14, 2002

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: July 19, 2002, p. 3038, Vol. 28, No. 29

**PUBLIC SERVICE COMMISSION**

DOCKET NO. 020398-EQ

RULE TITLE: Selection of Generating Capacity

RULE NO.: 25-22.082

PURPOSE AND EFFECT: The purpose of the proposed rule amendments is to refine the Commission's requirement that utilities issue a Request for Proposals for all generating capacity additions that must receive certification under Florida's Power Plant Siting Act, Sections 403.501-518, Florida Statutes as an effective means to ensure the cost-effectiveness of the additional generating capacity.

SUMMARY: The proposed amendments to Rule 25-22.082, F.A.C.; 1) clarify the scope and intent of the rule, 2) clarify the definitions of "public utility" and "participant", 3) require additional information to be included by the public utilities in their Requests for Proposals (RFP), 4) require pre-RFP and post-RFP meetings with participants to answer questions about and explain the terms of the RFP, 5) provide for expedited consideration of objections to RFP terms, and provide that those objections must be filed within 10 days of issuance of the RFP, 6) require public utilities to fairly evaluate all proposals against the public utilities' next planned generating unit identified in the RFP, and 7) explicitly recognize existing regulatory processes and prudence limitations on cost-recovery of capacity additions.

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

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

SPECIFIC AUTHORITY: 350.127(2), 366.05(1), 366.06(2), 366.07, 366.051 FS.

LAW IMPLEMENTED: 403.519, 366.04(1), 366.04(2), 366.04(5), 366.06(1), 366.06(2), 366.07, 366.041, 366.051 FS.

WRITTEN COMMENTS OR SUGGESTIONS ON THE PROPOSED RULE MAY BE SUBMITTED TO THE FPSC, DIVISION OF THE COMMISSION CLERK AND ADMINISTRATIVE SERVICES, WITHIN 21 DAYS OF THE DATE OF THIS NOTICE FOR INCLUSION IN THE RECORD OF THE PROCEEDING.

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

TIME AND DATES: 9:30 a.m., December 5-6, 2002

PLACE: Room 148, Betty Easley Conference Center, 4075 Esplanade Way, Tallahassee, Florida

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Tom Ballinger, Florida Public Service Commission, 2540 Shumard Oak Blvd., Tallahassee, Florida 32399-0862, (850)413-6245

THE FULL TEXT OF THE PROPOSED RULE IS:

25-22.082 Selection of Generating Capacity.

(1) Scope and Intent. A Public Utility is required to provide reasonably sufficient, adequate, and efficient service to the public at fair and reasonable rates. In order to assure an adequate and reliable source of energy, a public utility must plan and construct or purchase sufficient generating capacity. To assure fair and reasonable rates and to avoid the further uneconomic duplication of generation, transmission, and distribution facilities in Florida, a public utility must select the most economical and cost-effective mix of supply-side and demand-side resources to meet the demand and energy requirements of its end-use consumers. The intent of this rule is to provide the Commission information to evaluate a public utility's decision regarding the addition of generating capacity pursuant to Chapter 403.519, Florida Statutes. The use of a Request for Proposals (RFP) process is an appropriate means to ensure that a public utility's selection of a proposed generation addition is the most cost-effective alternative available.

(2)(+) Definitions. For the purpose of this rule, the following terms shall have the following meaning:

(a) Public Utility: all electric utilities subject to the Florida Public Service Commission's ratemaking authority, as defined in Section 366.02(1), Florida Statutes.

(b)(+) No change.

~~(c)(b)~~ Request for Proposals (RFP): a document in which a public investor-owned utility publishes the price and non-price attributes of its next planned generating unit in order to solicit and screen, for potential subsequent contract negotiations, competitive proposals for supply-side alternatives to the public utility's next planned generating unit.

~~(d)(e)~~ Participant: a potential generation supplier who submits a proposal in compliance with both the schedule and informational requirements of a public utility's RFP. A participant may include, but is not limited to, utility and non-utility generators, Exempt Wholesale Generators (EWGs), Qualifying Facilities (QFs), marketers, and affiliates of public utilities, as well as providers of turnkey offerings, distributed generation, and other ~~utility~~ supply side alternatives.

~~(e)(d)~~ Finalist: one or more participants selected by the public utility with whom to conduct subsequent contract negotiations.

~~(3)(2)~~ No change.

~~(4)(3)~~ Each public investor-owned utility shall provide timely notification of its issuance of an RFP by publishing public notices in major newspapers, periodicals and trade publications to ensure statewide and national circulation. The public notice given shall include, at a minimum:

(a) No change.

(b) A general description of the public utility's next planned generating unit, including its planned in-service date, MW size, location, fuel type and technology; and

(c) No change.

~~(5)(4)~~ Each public utility's RFP shall include, at a minimum:

(a) A detailed technical description of the public utility's next planned generating unit or units on which the RFP is based, as well as the financial assumptions and parameters associated with it, including, at a minimum, the following information:

1. A description of the public utility's next planned generating unit(s) and its proposed location(s);

2. through 13. No change.

(b) Detailed information regarding the public utility's ten year historical and ten year projected net energy for load;

~~(c)(b)~~ A schedule of critical dates for solicitation, evaluation, screening of proposals, selection of finalists, and subsequent contract negotiations;

~~(d)(e)~~ A description of the price and non-price attributes to be addressed by each alternative generating proposal including, but not limited to:

1. through 6. No change.;

7. Performance criteria; and

8. Pricing structure; ~~and~~

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

(f) All criteria, including all weighting and ranking factors that will be applied to select the finalists. Such criteria may include price and non-price considerations, but no criterion shall be employed that is not expressly identified in the RFP absent a showing of good cause;

(g) Any application fees that will be required of a participant. Any such fees or deposits shall be cost-based;

(h) Any information regarding system-specific conditions which may include, but not be limited to, preferred locations proximate to load centers, transmission constraints, the need for voltage support in particular areas, and/or the public utility's need or desire for greater diversity of fuel sources.

~~(6)(5)~~ As part of its RFP, the public utility shall require each participant to publish a notice in a newspaper of general circulation in each county in which the participant's proposed ~~to build an electrical power plant generating facility would be located~~. The notice shall be at least one-quarter of a page and shall be published no later than 10 days after the date that proposals are due. The notice shall state that the participant has submitted a proposal to build an electrical power plant, and shall include the name and address of the participant submitting the proposal, the name and address of the public utility that solicited proposals, and a general description of the proposed power plant and its location.

~~(7)(6)~~ Within 30 days after the public utility has selected finalists, if any, from the participants who responded to the RFP, the public utility shall publish notice in a newspaper of general circulation in each county in which a finalist ~~has~~ proposed ~~to~~ build an electrical power plant. The notice shall include the name and address of each finalist, the name and address of the public utility, and a general description of each proposed electrical power plant, including its location, size, fuel type, and associated facilities.

~~(8)(7)~~ Each public electric utility shall file a copy of its RFP with the Commission upon issuance.

(9) The public utility shall allow participants to formulate creative responses to the RFP. The public utility shall evaluate all proposals.

(10) The public utility shall conduct a meeting prior to the release of the RFP with potential participants to discuss the requirements of the RFP. The public utility shall also conduct a meeting within two weeks after the issuance of the RFP and prior to the submission of any proposals. The Office of Public Counsel and the Commission staff shall be notified in a timely manner of the date, time, and location of such meetings.

(11) A potential participant who attended the public utility's post-issuance meeting may file with the Commission specific objections to any terms of the RFP within 10 days of the post-issuance meeting. Failure to file objections within 10 days shall constitute a waiver of those objections. The Commission will address any objections to the terms of the RFP on an expedited basis.

(12) A minimum of 60 days shall be provided between the issuance of the RFP, and the due date for proposals in response to the RFP.

(13) The public utility shall evaluate the proposals received in response to the RFP in a fair comparison with the public utility's next planned generating unit identified in the RFP.

(14) If the Commission approves a purchase power agreement as a result of the RFP, the public utility shall be authorized to recover the prudently incurred costs of the agreement through the public utility's capacity, and fuel and purchased power cost recovery clauses absent evidence of fraud, mistake, or similar grounds sufficient to disturb the finality of the approval under governing law. If the public utility selects a self-build option, any costs in addition to those identified in the need determination proceeding shall not be recoverable unless the utility can demonstrate that such costs were prudently incurred and unforeseen and beyond its control.

(8) through (9) renumbered (15) through (16) No change.

Specific Authority 350.127(2), 366.05(1), 366.06(2), 366.07, 366.051 FS. Law Implemented 403.519, 366.04(1),(2),(5), 366.06(1),(2), 366.07, 366.041, 366.051 FS. History--New 1-10-94, Amended.

NAME OF PERSON ORIGINATING PROPOSED RULE:  
Tom Ballinger

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Florida Public Service Commission  
DATE PROPOSED RULE APPROVED BY AGENCY HEAD: September 30, 2002

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: Vol. 28, No. 37, September 13, 2002

If any person decides to appeal any decision of the Commission with respect to any matter considered at the rulemaking hearing, if held, a record of the hearing is necessary. The appellant must ensure that a verbatim record, including testimony and evidence forming the basis of the appeal is made. The Commission usually makes a verbatim record of rulemaking hearings.

Any person requiring some accommodation at this hearing because of a physical impairment should call the Division of the Commission Clerk and Administrative Services at (850)413-6770 at least 48 hours prior to the hearing. Any person who is hearing or speech impaired should contact the Florida Public Service Commission by using the Florida Relay Service, which can be reached at: 1(800)955-8771 (TDD).

**DEPARTMENT OF CORRECTIONS**

<b>RULE TITLES:</b>	<b>RULE NOS.:</b>
Inmate Grievances – Terminology and Definitions	33-103.002
Inmate Grievances – Miscellaneous Provisions	33-103.015

PURPOSE AND EFFECT: The purpose and effect of the proposed rule is to clarify the definition of 'grievance of reprisal' and to clarify which reviewing authority is designated to respond to each type of grievance.

SUMMARY: The proposed rule clarifies the definition of 'grievance of reprisal' and clarifies which reviewing authority is designated to respond to each type of grievance.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COST: None.

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

SPECIFIC AUTHORITY: 20.315, 944.09 FS.

LAW IMPLEMENTED: 944.09 FS.

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

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULES IS: Perri King Dale, Office of the General Counsel, Department of Corrections, 2601 Blair Stone Road, Tallahassee, Florida 32399-2500

THE FULL TEXT OF THE PROPOSED RULES IS:

33-103.002 Inmate Grievances – Terminology and Definitions.

The following terms, as defined, shall be standard usage throughout the department:

(1) through (8) No change.

(9) Grievance of Reprisal: refers to a grievance submitted by an inmate alleging that staff have or are threatening to take retaliatory action against the inmate for good faith participation in the inmate grievance procedure ~~or for a particular incident.~~

(10) through (12) No change.

(13) Reviewing Authority: Staff who are authorized to sign grievances as the final authority for review, e.g., warden, assistant warden, deputy warden, or the Secretary's representative.

(a) through (d) No change.

(e) The warden is authorized to designate the assistant warden or deputy warden (deputy warden applicable to private facilities only) to grant and implement relief as approved by the warden, except as to grievances involving discipline, grievances alleging violation of the Americans With Disabilities Act, grievances challenging placement in close management, grievances of an emergency nature, grievances of reprisal or grievances of a sensitive nature.

(14) No change.

Specific Authority 20.315, 944.09 FS. Law Implemented 944.09 FS. History--New 10-12-89, Amended 1-15-92, 12-22-92, 4-10-95, 12-7-97, Formerly 33-29.002, Amended 10-11-00, \_\_\_\_\_.

33-103.015 Inmate Grievances – Miscellaneous Provisions.

(1) through (5) No change.

(6) At no time will an inmate who is alleging that he was physically abused as described in s. 944.35(3), Florida Statutes, or alleging reprisal by staff, as defined in subsection 33-103.002(9), F.A.C., be directed to submit his or her grievance to the staff person who is the subject of the complaint, nor will the grievance be referred to a staff person who is the subject of the complaint.

(7) through (11) No change.

Specific Authority 20.315, 944.09 FS. Law Implemented 944.09 FS. History—New 10-12-89, Amended 1-15-92, 1-29-92, 9-3-92, 12-22-92, 7-11-93, 5-3-94, 4-10-95, 9-23-96, 8-10-97, 12-7-97, 5-10-98, 2-17-99, Formerly 33-29.015, Amended 8-1-00, 10-11-00, 2-7-01, 5-27-02,\_\_\_\_\_.

NAME OF PERSON ORIGINATING PROPOSED RULE: Celeste Kemp  
 NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Michael W. Moore  
 DATE PROPOSED RULE APPROVED BY AGENCY HEAD: October 11, 2002  
 DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: September 27, 2002

**WATER MANAGEMENT DISTRICTS**

**South Florida Water Management District**

RULE TITLES:	RULE NOS.:
Policy	40E-7.214
Definitions	40E-7.215
Cure Notice	40E-7.216
Termination for Default Notice	40E-7.217
Factors to Determine Whether a Contracting Entity Should be Placed on the Temporary or Permanent Suspension List	40E-7.218
Administrative Hearings	40E-7.219

PURPOSE AND EFFECT: The District has legislative authority to temporarily or permanently suspend vendors and contractors who materially breach their contracts with the District from doing future business with the District.

SUMMARY: The rule will define material breach, as well as the process vendors and contractors must follow in order to be removed from the suspension list. Vendors and contractors who are notified that they will be placed on the suspension list will be entitled to an Administrative Hearing pursuant to Chapter 120, Fla. Stat.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COST: The proposed rule is anticipate to result in cost savings to the District by giving the District the ability to suspend, either temporarily or permanently, contractors from working with the district who materially breach contracts with the District. As contractors with a history of material contract breach are filtered out from those bidding on District contracts, the costs of procurement are expected to

decline. In addition to reductions in procurement costs, the District is expected to achieve cost savings through reduced re-procurement costs and the ability to recover re-procurement costs associated with materially breached contracts. These costs are expected to more than offset the cost of implementing this rule.

The cost to contractors is simply the cost associated with filling out a form indicating that neither their own company nor any of its subcontractors are on the suspension list.

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

SPECIFIC AUTHORITY: 373.610 FS.

LAW IMPLEMENTED: 373.610 FS.

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

TIME AND DATE: 8:30 a.m., December 12, 2002

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

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULES IS: Linda Engelbrecht, South Florida Water Management District, 3301 Gun Club Road, West Palm Beach, FL 33406, (561)682-6378

THE FULL TEXT OF THE PROPOSED RULES IS:

SUSPENSION OF DISTRICT CONTRACTORS FROM WORKING WITH THE DISTRICT FOR MATERIAL BREACH OF CONTRACT

40E-7.214 Policy.

(1) This rule establishes policies and procedures for suspending a contractor from working with the District, either temporarily or permanently, whenever a contractor materially breaches its contract with the District.

(2) The District’s objective in enacting this rule is to encourage good business practices by requiring contractors to materially perform in accordance with the terms and conditions of the District contract.

(3) The District Governing Board, upon recommendation by the Director of Procurement, shall be authorized to temporarily or permanently suspend a contractor from doing business with the District. Suspension must be based on adequate evidence indicating that the contractor has materially breached its contract with the District.

(4) Temporarily or permanently suspending a contractor from doing business with the District does not preclude the District from seeking any other legal or equitable remedies for breach of contract.

Specific Authority 373.610 FS. Law Implemented 373.610 FS. History—New \_\_\_\_\_.



40E-7.215 Definitions.

(1) “Contractor”: any individual or contracting entity with whom the District has entered into a legally binding agreement for performance of work at a mutually agreed upon price in accordance with agreed upon terms and conditions.

(2) “Contracting Entity”: an individual, partnership, corporation, joint venture, professional association, an obligor to a third party beneficiary contract, or any other legal entity doing business in the State of Florida which has entered into a contract with the District.

(3) “Cure Notice”: a letter citing the specific nature of the material breach, the corrective action required by the District and a thirty (30) day time frame for curing the breach – from receipt of the Cure Notice. The letter also shall state that if the contracting entity fails to cure the breach within the thirty (30) day period, the contracting entity will be found in default and may be placed on the District’s Temporary or Permanent Suspension List. The Cure Notice is Form No. 1111, “Cure Notice”, effective date \_\_\_\_\_, which is hereby incorporated by reference.

(4) “Material Breach”: any substantial, unexcused non-performance. The breach is either failing to perform an act that is an important part of the transaction or performing an act inconsistent with the terms and conditions of the contract.

(5) “Statement of No Suspension”: a document that all contracting entities shall sign at the time of bid or proposal submission to the District, affirming that the contracting entities and proposed subcontractors or subconsultants are not presently on the District’s Temporary or Permanent Suspension List and that the District shall be notified of any changed circumstances prior to contract award. The “Statement of No Suspension” is Form No. 1112, “Statement of No Suspension”, effective date \_\_\_\_\_, which is hereby incorporated by reference.

(6) “Obligor”: an entity that has promised or is otherwise legally obligated to perform an act or deed for the benefit of a third party beneficiary. Obligors to the District include but are not limited to insurance companies and surety companies.

(7) “Principal(s)”: for purposes of this rule, a sole proprietor, partner, owner, officer or director of the contracting entity that breached a District contract.

(8) “Re-Procurement Costs”: the total amount of additional expense, over and above the contract price, which may include attorney’s fees, that the District will incur in order to obtain substitute goods or services from another contracting entity to complete a requirement that can no longer be performed by the contracting entity that materially breached a District contract.

(9) “Suspension Notice”: a letter from the District to the contracting entity stating that the District will temporarily or permanently bar a contracting entity from doing business with the District because the contracting entity has materially breached its contract with the District. The letter also shall

inform the contracting entity that its principals shall not attempt to do business with the District under a different name or form a new legal entity in order to do business with the District while the principals of the contracting entity remain on the Suspension List. The “Temporary Suspension Notice” is Form No. 1113, “Temporary Suspension Notice”, effective date \_\_\_\_\_, and the “Permanent Suspension Notice” is Form No. 1114, “Permanent Suspension Notice,” effective date \_\_\_\_\_, which are hereby incorporated by reference.

(10) “Suspension List”: a list of contracting entities maintained by the District that are temporarily or permanently barred from doing business with the District.

(11) “Termination for Default Notice”: a letter from the District to the contracting entity stating that the contracting entity is in default for failing to cure the material breach within the thirty (30) day timeframe referenced in the Cure Notice. The letter also shall state that the District’s Governing Board shall determine whether the contracting entity should be placed on the District’s Temporary or Permanent Suspension List. The Termination for Default Notice is Form No. 1115, “Termination for Default Notice”, effective date \_\_\_\_\_, which is hereby incorporated by reference.

(12) “Third Party Beneficiary”: for purposes of this rule, whenever the District is the intended beneficiary of a contract but is not a party to the contract.

Specific Authority 373.610 FS. Law Implemented 373.610 FS. History–New \_\_\_\_\_.

40E-7.216 Cure Notice.

(1) The Director of Procurement shall establish whether a material breach as defined in subsection 40E-7.215(4), F.A.C., has occurred. If the Director of Procurement determines that a contracting entity materially breached its contract with the District, the Director of Procurement shall initiate termination for default and suspension procedures.

(2) The Director of Procurement shall notify the contracting entity of the material breach of its contract with the District by forwarding a Cure Notice sent Certified U.S. Mail, return receipt requested.

Specific Authority 373.610 FS. Law Implemented 373.610 FS. History–New \_\_\_\_\_.

40E-7.217 Termination for Default Notice.

In the event that the contracting entity fails to cure the material breach within the time specified in the Cure Notice, the District shall issue a Termination for Default Notice by Certified U.S. Mail, return receipt requested.

Specific Authority 373.610 FS. Law Implemented 373.610 FS. History–New \_\_\_\_\_.

40E-7.218 Factors to Determine Whether a Contracting Entity Should be Placed on the Temporary or Permanent Suspension List.

(1) Once the District has notified a contracting entity that it has materially breached its contract with the District by sending a Termination for Default Notice, the District's Governing Board shall determine whether the contracting entity should be suspended, and if so, whether it should be temporarily suspended and for what period of time, or permanently suspended from doing business with the District.

(2) In making such a determination, the District's Governing Board shall consider the following factors:

(a) The economic impact of the material breach to the District;

(b) Whether the breach caused or will cause delay in the completion of a District project;

(c) If the breach caused a delay in performance, whether it was a substantial delay;

(d) If the breach caused a delay in performance, whether the District will be impacted in attempting to meet legislative deadlines;

(e) Whether the breach involved willful or gross misconduct;

(f) Whether the breach involved the commission of fraud or a criminal offense in connection with the obtainment or performance of the District contract;

(g) Whether the breach was a violation of Federal or State antitrust statutes, including those proscribing price fixing between competitors, allocation of customers between competitors and bid rigging;

(h) Whether the breach involved the falsification or destruction of records;

(i) Whether the contracting entity was on the District's suspension list at the time it breached its current contract with the District;

(j) Whether the contracting entity has materially breached a contract with the District in the past, and if so, how many times since the effective date of this rule;

(k) Whether the contracting entity was on another Federal or State suspension or debarment list at the time it breached its current contract with the District;

(l) Whether the breach involved discrimination on the basis of race, color, creed, national origin, sex, age or handicap;

(m) Whether the breach involved the commission of embezzlement, theft, forgery or bribery; falsification of statements or claims; receipt of stolen property; or obstruction of justice;

(n) Whether the breach involved the commission of any other offense indicating a lack of business integrity or business honesty;

(o) Whether the breach involved knowingly doing business with a suspended contracting entity;

(p) Whether the breach involved a violation of the District's MBE Contracting Rule.

(q) Whether the contracting entity can pay re-procurement costs in a time manner.

(3) All contracting entities placed on the Temporary Suspension List shall pay the District re-procurement costs prior to being removed from the Suspension List.

(4) Contracting entities that are placed on the Permanent Suspension List will be permanently barred from doing business with the District.

Specific Authority 373.610 FS. Law Implemented 373.610 FS. History--New

40E-7.219 Administrative Hearings.

(1) Any contracting entity that believes it has been wrongly suspended either temporarily or permanently from doing business with the District may file a request for an administrative hearing pursuant to Sections 120.569 and 120.57, F.S., in the form of a petition in accordance with Rule 28-106, F.A.C., within 21 days of receipt of the Temporary or Permanent Suspension Notice. If no request for a hearing is filed by the entity within the timeframes prescribed by Chapter 120, F.S., the suspension shall become final agency action.

Specific Authority 373.610 FS. Law Implemented 373.610 FS. History--New

NAME OF PERSON ORIGINATING PROPOSED RULE:  
Linda Engelbrecht

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Frank Hayden

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: October 10, 2002

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: March 15, 2002

**LAND AND WATER ADJUDICATORY COMMISSION**

**Bellalago Community Development District**

RULE CHAPTER TITLE: Bellalago Community Development District

RULE CHAPTER NO.: 42II-1

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

PURPOSE, EFFECT AND SUMMARY: The purpose of this proposed rule is to establish a community development district (CDD), the Bellalago Community Development District ("District"), pursuant to Chapter 190, F.S. The petition to establish the District, filed by Avatar Properties, Inc., (Petitioner), requests that the Florida Land and Water Adjudicatory Commission establish by rule the Bellalago CDD. A Notice of Receipt of Petition for the Bellalago CDD

was published in the April 26, 2002, edition of the Florida Administrative Weekly. The land area proposed to be served by the District consists of approximately 1,313 acres located within the boundaries of Osceola County. The District is bounded on the east by Lake Tohopekaliga and undeveloped property; bounded on the west by Pleasant Hill Road; bounded on the north by Osceola County Regional Park; and bounded on the south by undeveloped property and a single-family residence, which is located in the southwest corner bordering the proposed District. The District is planned as a residential community of approximately 1,700 single-family and 600 multi-family residential dwelling units, passive recreational areas, parks, and a clubhouse. The land use designation on the Osceola County Comprehensive Plan Future Land Use Map for the District is "Rural/Agricultural" and "Suburban/Overlay." The Petitioner is pursuing approval of a Development of Regional Impact and related Comprehensive Plan amendment that would permit development of a total of approximately 2,300 units within the District. The District, if established, currently intends to fund off-site roadway improvements, stormwater management, drainage structures, mitigation creation, mitigation area acquisition, stormwater land acquisition, a potable water supply system, and a sanitary sewer system for the lands within the District.

SPECIFIC AUTHORITY: 120.53(1), 190.005 FS.

LAW IMPLEMENTED: 190.004, 190.005, 190.006(1) FS.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS: The statement of estimated regulatory costs (SERC) supports the petition to establish the District. The complete text of the SERC is contained as Exhibit 7 to the petition to establish the District. The scope of the SERC is limited to evaluating the regulatory costs consequences of approving the proposal to establish the District. The requirements for a SERC are found in Section 120.541(2), F.S. A SERC must contain (a) a good faith estimate of the number and types of individuals likely to be required to comply with the rule of who will be affected; (b) a good faith estimate of the costs to any state and local government entities of implementing and enforcing the proposed rule, and any anticipated effect on state and local revenues; (c) a good faith estimate of the transactional costs likely to be incurred by individuals and entities; (d) an analysis of the impact on small businesses, small counties, and small cities; (e) any additional information that the agency determines may be useful; and (f) any good faith written proposal submitted under paragraph (1)(a) and either a statement adopting the alternative or a statement rejecting the alternative in favor of the proposed rule. Addressing section (a), the principle entities that are likely to be required to comply with the rules include the District, the State of Florida, and Osceola County. In addition, future property owners will be affected by the establishment of the proposed District. Under section (b), the FLWAC and State of Florida will incur minimal administrative costs. Osceola County will also incur

one-time administrative costs which are offset by the required filing fee paid to Osceola County by the Petitioner. Adoption of the proposed rule to approve the formation of the District will not have adverse impact on State and local revenues. Addressing section (c), the District may levy non-ad valorem special assessments on properties within its boundaries to finance infrastructure that the District funds and to defray the costs of operating and maintaining the infrastructure and associated community facilities. The District may issue notes, bonds, or other indebtedness to fund its improvement program. Prospective future landowners would be required to pay off such indebtedness over time in the form of non-ad valorem special assessments or other rates, fees or charges. The District may also impose an annual levy for the operations and maintenance of the District. Under section (d), approval of the petition to establish the District will have only incidental or a positive impact on a small business and will not have any impact on small counties and cities. Osceola County is not a small county as defined. Under section (e), the analysis was based on the straightforward application of economic theory, with input received from the developer's engineer and other professionals associated with the developer.

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

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

TIME AND DATE: 10:00 a.m. – Noon, Tuesday, November 19, 2002

PLACE: Room 1703G, The Capitol, Tallahassee, Florida

Any person requiring a special accommodation to participate in the workshop because of a disability should contact Barbara Leighty, (850)487-1884, at least 2 business days in advance to make appropriate arrangements.

COPIES OF THE PROPOSED RULE AND ESTIMATED REGULATORY COSTS STATEMENT MAY BE OBTAINED BY CONTACTING: Julie Kendig-Schrader, Greenberg Traurig, P.A., 450 South Orange Avenue, Sixth Floor, Orlando, Florida 32801, telephone (407)420-1000 or Barbara Leighty, Senior Governmental Analyst, Florida Land and Water Adjudicatory Commission, The Capitol, Room 1801, Tallahassee, Florida 32399-0001, telephone (850)487-1884

THE FULL TEXT OF THE PROPOSED RULES IS:

**BELLALAGO COMMUNITY DEVELOPMENT DISTRICT**

**42II-1.001 Establishment.**

**The Bellalago Community Development District is hereby established.**

**Specific Authority 120.53(1), 190.005 FS. Law Implemented 190.005 FS. History—New.**

42II-1.002 Boundary.

The boundaries of the District are as follows:

ALL OF GOVERNMENT LOT 4 AND THAT PORTION OF GOVERNMENT LOT 3 LYING SOUTH OF THE OSCEOLA COUNTY PROPERTY AS DESCRIBED IN DEED BOOK 1174, PAGE 1288, LYING ABOVE THE HIGH WATER MARK OF LAKE TOHOPEKALIGA, IN SECTION 28, TOWNSHIP 26 SOUTH, RANGE 29 EAST, OSCEOLA COUNTY, FLORIDA.

AND

FROM THE SOUTHEAST CORNER OF THE SOUTHWEST 1/4 OF SECTION 29, TOWNSHIP 26 SOUTH, RANGE 29 EAST, OSCEOLA COUNTY, FLORIDA, RUN WEST ALONG THE SOUTH LINE OF SAID SOUTHWEST 1/4, 1545.3 FEET TO THE POINT OF BEGINNING; RUN THENCE NORTH AT RIGHT ANGLES TO SAID SOUTH LINE, 500.0 FEET; RUN THENCE WEST, PARALLEL TO SAID SOUTH LINE, 347 FEET MORE OR LESS TO THE EAST RIGHT OF WAY LINE OF PLEASANT HILL ROAD; RUN THENCE SOUTHERLY ALONG THE EAST RIGHT OF WAY OF SAID ROAD, TO THE SOUTH LINE OF SAID SOUTHWEST 1/4; RUN THENCE EAST, 441.41 FEET MORE OR LESS TO THE POINT OF BEGINNING.

AND

ALL OF THE EAST 1/2, AND THE NORTHEAST 1/4 OF THE SOUTHWEST 1/4 OF SECTION 32, TOWNSHIP 26 SOUTH, RANGE 29 EAST.

AND

ALL OF THE WEST 1/2, AND GOVERNMENT LOTS 1 AND 2 ABOVE THE ORDINARY HIGH WATER LINE OF LAKE TOHOPEKALIGA, OF SECTION 33, TOWNSHIP 26 SOUTH, RANGE 29 EAST.

LESS THE DIPPING VAT AT EDGEWATER PROPERTY BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCE AT THE NORTHWEST CORNER OF SECTION 33, TOWNSHIP 26 SOUTH, RANGE 29 EAST, OSCEOLA COUNTY, FLORIDA; THENCE RUN SOUTH 67°08'14" EAST, A DISTANCE OF 1190.53 FEET TO THE POINT OF BEGINNING; THENCE RUN EAST, A DISTANCE OF 450.00 FEET; THENCE RUN SOUTH, A DISTANCE OF 550.00 FEET; THENCE RUN WEST, A DISTANCE OF 450.00 FEET; THENCE RUN NORTH, A DISTANCE OF 550.00 FEET TO THE POINT OF BEGINNING.

AND

A PARCEL OF LAND LOCATED IN SECTION 29, TOWNSHIP 26 SOUTH, RANGE 29 EAST, IN OSCEOLA COUNTY, FLORIDA; BEING DESCRIBED AS FOLLOWS: COMMENCE AT THE NORTHWEST CORNER OF THE NORTHWEST ONE-QUARTER OF SECTION 29, TOWNSHIP 26 SOUTH, RANGE 29 EAST; THENCE

NORTH 89°43'56" EAST ALONG THE NORTH LINE OF THE NORTHWEST ONE-QUARTER OF SAID SECTION 29, A DISTANCE OF 110.00 FEET TO A POINT ON THE EASTERLY RIGHT OF WAY LINE OF PLEASANT HILL ROAD (CR-531); THENCE DEPART SAID NORTH LINE ON A BEARING OF SOUTH 01°02'01" EAST ALONG SAID RIGHT OF WAY LINE, A DISTANCE OF 642.58 FEET; THENCE SOUTH 00°59'19" EAST, ALONG SAID RIGHT OF WAY LINE A DISTANCE OF 646.44 FEET; THENCE SOUTH 00°07'22" EAST ALONG SAID RIGHT OF WAY LINE, A DISTANCE OF 835.64 FEET TO THE POINT OF CURVATURE OF A CURVE CONCAVE NORTHEASTERLY, SAID CURVE HAVING A RADIUS OF 2220.00 FEET; THENCE SOUTHEASTERLY ALONG SAID CURVE AND SAID RIGHT OF WAY LINE, A DISTANCE OF 731.56 FEET THROUGH A CENTRAL ANGLE OF 18°52'51" (CHORD DISTANCE 728.26 FEET; CHORD BEARING SOUTH 09°33'47" EAST) TO THE POINT OF TANGENCY; THENCE SOUTH 19°00'13" EAST ALONG SAID RIGHT OF WAY LINE, A DISTANCE OF 416.25 FEET TO THE POINT OF BEGINNING; THENCE CONTINUE SOUTH 19°00'13" EAST ALONG SAID RIGHT OF WAY LINE, A DISTANCE OF 400.20 FEET; THENCE DEPART SAID RIGHT OF WAY LINE ON A BEARING OF NORTH 75°13'36" EAST, A DISTANCE OF 1002.89 FEET; THENCE NORTH 18°35'45" WEST, A DISTANCE OF 400.00 FEET; THENCE SOUTH 75°13'36" WEST, A DISTANCE OF 1005.75 FEET TO THE POINT OF BEGINNING.

AND

THAT PORTION OF THE NORTHWEST 1/4 AND THE NORTHWEST 1/4 OF THE SOUTHWEST 1/4, SECTION 32, TOWNSHIP 26 SOUTH, RANGE 29 EAST, OSCEOLA COUNTY, FLORIDA, LYING EAST OF PLEASANT HILL ROAD; LESS AND EXCEPT: BEGINNING AT THE NORTHWEST CORNER OF SAID NORTHWEST 1/4, OF THE SOUTHWEST 1/4 OF SECTION 32, THENCE N 89°59'51" E, ALONG THE NORTH LINE OF SAID NORTHWEST 1/4 OF THE SOUTHWEST 1/4, A DISTANCE OF 420.00 FEET; THENCE S 00°10'19" E, PARALLEL WITH THE WEST LINE OF SAID NORTHWEST 1/4 OF THE SOUTHWEST 1/4, A DISTANCE OF 420.00 FEET; THENCE S 89°59'51" W, PARALLEL WITH THE NORTH LINE OF SAID NORTHWEST 1/4 OF THE SOUTHWEST 1/4, A DISTANCE OF 420.00 FEET TO THE WEST LINE OF SAID NORTHWEST 1/4 OF THE SOUTHWEST 1/4; THENCE N 00°10'19" WEST, ALONG SAID WEST LINE, A DISTANCE OF 420.00 FEET TO THE POINT OF BEGINNING, LESS THE WEST 60.00 FEET THEREOF FOR RIGHT OF WAY OF PLEASANT HILL ROAD.

ALSO LESS AND EXCEPT: (CEMETERY ENCROACHMENT AREA)

COMMENCE AT THE NORTHWEST CORNER OF THE NORTHWEST 1/4 OF THE SOUTHWEST 1/4 OF SECTION 32, TOWNSHIP 26 SOUTH RANGE 29 EAST, OSCEOLA COUNTY, FLORIDA, THENCE N 89°59'51" E, ALONG THE NORTH LINE OF SAID NORTHWEST 1/4 OF THE SOUTHWEST 1/4, A DISTANCE OF 420.00 FEET TO THE POINT OF BEGINNING; THENCE CONTINUE N 89°59'51" E, ALONG SAID NORTH LINE, 34.16 FEET; THENCE S 00°06'59" W, A DISTANCE OF 437.29 FEET; THENCE S 89°39'03" W, A DISTANCE OF 391.96 FEET TO THE EAST RIGHT OF WAY LINE OF PLEASANT HILL ROAD; THENCE N 00°10'19" W, ALONG SAID EAST RIGHT OF WAY LINE 19.66 FEET; THENCE N 89°59'51" E, PARALLEL WITH THE NORTH LINE OF SAID NORTHWEST 1/4 OF THE SOUTHWEST 1/4, A DISTANCE OF 360.00 FEET; THENCE N 00°10'19" W, PARALLEL WITH THE WEST LINE OF SAID NORTHWEST 1/4 OF THE SOUTHWEST 1/4, A DISTANCE OF 420.00 FEET TO THE POINT OF BEGINNING.

(LESS PROPERTY TO BE DEEDED TO CEMETERY)

LEGAL DESCRIPTION:

COMMENCE AT THE NORTHWEST CORNER OF THE NORTHWEST 1/4 OF THE SOUTHWEST 1/4 OF SECTION 32, TOWNSHIP 26 SOUTH, RANGE 29 EAST, OSCEOLA COUNTY, FLORIDA; THENCE N 89°59'51" E, ALONG THE NORTH LINE OF SAID NORTHWEST 1/4 OF THE SOUTHWEST 1/4, A DISTANCE OF 454.16 FEET TO THE POINT OF BEGINNING; THENCE CONTINUE N 89°59'51" E, ALONG SAID NORTH LINE, 80.00 FEET; THENCE S 00°06'59" W A DISTANCE OF 456.64 FEET; THENCE S 89°39'03" W, A DISTANCE OF 471.79 FEET TO THE EAST RIGHT OF WAY LINE OF PLEASANT HILL ROAD; THENCE N 00°10'19" W, ALONG SAID EAST RIGHT OF WAY LINE, 20.00 FEET; THENCE N 89°39'03" E, A DISTANCE OF 391.96 FEET; THENCE N 00°06'59" E, A DISTANCE OF 437.29 FEET TO THE POINT OF BEGINNING.

Specific Authority 120.53(1), 190.005 FS. Law Implemented 190.004, 190.005 FS. History—New

42II-1.003 Supervisors.

The following five persons are designated as the initial members of the Board of Supervisors: Anthony S. Iorio, Dennis J. Getman, William Cowart, Charles L. McNairy, and Jeffrey S. Mitchem.

Specific Authority 120.53(1), 190.005 FS. Law Implemented 190.006(1) FS. History—New

NAME OF PERSON ORIGINATING PROPOSED RULE:  
Teresa Tinker, Florida Land and Water Adjudicatory Commission, Room 1801, The Capitol, Tallahassee, Florida, 32399-0001

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Teresa Tinker, Florida Land and Water Adjudicatory Commission

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: October 16, 2002

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: October 4, 2002

**AGENCY FOR HEALTH CARE ADMINISTRATION**

**Health Facility and Agency Licensing**

RULE TITLES:	RULE NOS.:
Definitions	59A-12.002
Administration, Forms, Fees	59A-12.003
Governing Body	59A-12.004
Quality of Care	59A-12.006
Quality Assurance	59A-12.007
Accreditation	59A-12.0071
Accreditation Organizations	59A-12.0072
Subscriber Grievance Procedure	59A-12.010

PURPOSE AND EFFECT: The Agency for Health Care Administration (AHCA) is proposing to amend rules 59A-12.002, 59A-12.003, 59A-12.004, 59A-12.006, 59A-12.07, 59A-12.0071, 59A-12.0072, 59A-12.010, and 59A-12.012, F.A.C. to implement section 641.56, Florida Statutes. The effect of the purposed changes will establish and clarify application procedures for a Health Care Provider Certificate, determine the governing body responsibility, specify quality improvement requirements including information to subscribers, and identify the department that establishes financial viability.

SUMMARY: Health Maintenance Organizations (HMO) and Prepaid Health Clinics (PHP). These proposed changes will specify: (a) Clarification of the definition of an HMO and PCP medical staff; (b) Requirements to submit an application for a Health Care Provider Certificate and identify a form to submit for an annual regulatory assessment; (c) Governing Body's responsibility for risk management programs; (d) Quality of care guidelines and subscribers rights; (e) Quality assurance requirements; (f) Identification of the department that determines organizations' financial viability; and (g) Reporting requirements for accreditation organizations;

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

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

SPECIFIC AUTHORITY: 641.56 FS.

LAW IMPLEMENTED: 641, Part III 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: 8:30 a.m. – 12:30 p.m., November 19, 2002

PLACE: 2727 Mahan Drive, Building 3, Room A, 1st Floor Conference Room, Tallahassee, Florida 32308

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULES IS: Betty Jean Cettie, Medical/HealthCare Program Analyst, Bureau of Managed Health Care, Agency for Health Care Administration, (850)414-8971

THE FULL TEXT OF THE PROPOSED RULES IS:

59A-12.002 Definitions.

(1) through (3) No change.

(4) PCP. Primary Care Provider shall be abbreviated as PCP in these rules.

(5)(4) No change.

(6)(5) Medical Staff of the HMO or PHC. A formal organization of employed physicians or a contracted network of providers in an HMO or PHC with the delegated responsibility to maintain acceptable standards in the delivery of health care and to plan for continued betterment of that care.

(7)(6) Minimum Services. Minimum services include the following:

(a) Emergency Care. Emergency inpatient, outpatient and physician services shall be available on a 24-hour, 7-day a week basis, either by the HMO or PHC through its own facilities or through arrangements with providers. Emergency resuscitation supplies shall be available. In addition, emergency services, as defined in these rules, shall be covered by the HMO or PHC;:-

(b) Inpatient Hospital Services. Inpatient hospital services shall be available on a 24-hour, 7-day a week basis either through the HMO's own facility or through arrangements with hospitals. Inpatient hospital services shall include, for example: room and board, general nursing care, meals and special diets when medically necessary, use of operating room and related facilities, use of intensive care unit and services, x-ray services, laboratory and other diagnostic tests, drugs, medications, biologicals, anesthesia and oxygen services, radiation therapy, inhalation therapy, and administration of whole blood and blood plasma;:- ~~220~~

(c) Physician Care. Physician care, provided or supervised by physicians licensed under Chapter 458, 459, 460 or 461, F.S., to include PCPs and specialists of sufficient type and number to adequately provide for the contracted services. Physician care shall include consultant and referral services by a physician;:-

(d) Ambulatory Diagnostic Treatment. Outpatient diagnostic treatment services with an emphasis directed toward primary care. Ambulatory diagnostic treatment shall include diagnostic laboratory and diagnostic radiological services;:- and

(e) Preventive Health Care Services. A program of health evaluation, education and immunizations which is designed to prevent illness and disease and to improve the general health of HMO or PHC subscribers. This program shall include at least the following:

1. Well-child care from birth;
2. Periodic health evaluations for adults;
3. Eye and ear screenings by a physician for children through age 21 ~~17~~ to determine the need for vision or hearing correction; and
4. Pediatric and adult immunizations, in accord with accepted medical practice.

(7) through (10) renumbered (8) through (11) No change.

(12)(11) Second medical opinion. A consultation by a physician other than the member's primary care physician, whose specialty ~~speciality~~ is appropriate to the need, and whose services are obtained when the member disputes the appropriateness or necessity of a surgical procedure, is subject to a serious injury or illness, including failure to respond to the current treatment plan.

(13)(12) No change.

Specific Authority 641.56 FS. Law Implemented 641.51 FS. History—New 1-28-88, Amended 3-11-92, Formerly 10D-100.002, Amended.

59A-12.003 Administration, Forms, Fees.

(1) Application. "Application for Health Care Provider Certificate", AHCA Form 3002, Feb. 1998, HRS Form 1710, Nov. 87 obtained from the Agency for Health Care Administration, 2727 Mahan Drive, Mail Stop 26, Tallahassee, Florida 32308, which forms are incorporated herein by reference, must be completed in the manner specified within the application in order for each individual item to be considered complete for the purpose of determining that a properly completed application has been filed. The application shall be accompanied by a filing fee of \$1,000.00 payable to ~~the~~ AHCA and shall be completed by each entity desiring to obtain a Health Care Provider Certificate as an HMO or PHC. The application shall specify the contact person or persons for the HMO or PHC. During the review investigation of the entity only contact persons specified within the application shall be allowed access to the application materials submitted.

(2) Application Review Process for Health Care Provider Certificate. Upon receipt of the Application for Health Care Provider Certificate from a proposed HMO or PHC, ~~the~~ AHCA shall review the application within 30 days of receipt. ~~The~~ AHCA shall provide notification to the proposed HMO or PHC of deficiencies in the application within this 30-day period. The applicant has 90 days from the date of the filing of the application to file any additional information requested by ~~the~~

AHCA. By the end of the 90-day period if the additional information has not been received the application will be denied in accordance with Chapter 120, F.S. Within 90 days after the application has been completed the AHCA shall approve or deny the application.

(3) Certificate of Authority. The application for a Health Care Provider Certificate must include a copy of the letter from the Department of Insurance accepting the receipt of an application for a Certificate of Authority submitted by the organization.

(4)(3) Geographic Area Expansions. The HMO or PHC may not change its geographic area unless it follows the applicable requirements set forth in Section 641.495(2), F.S. Each HMO or PHC shall submit the required notarized "Affidavit by HMO for Expansion of Service Area", AHCA Form 3160-1005, April 2002 HRS Form 1693, Feb. 87, which is hereby adopted and incorporated by reference. Copies may be obtained by writing the AHCA, 2727 Mahan Drive, Mail Stop 26, Tallahassee, Florida 32308.

(5)(4) Annual Assessment. The Agency for Health Care Administration shall determine the regulatory assessment percentage necessary to be imposed for each calendar year. AHCA Form "Regulatory Assessment Worksheet for Health Maintenance Organizations, Prepaid Health Clinics, and Exclusive Provider Organizations", AHCA Form 3160-1004, July 1995, which is hereby adopted and incorporated by reference, will be provided to the organization for calculating the annual regulatory assessment percentage and premium volume. Copies may be obtained by writing the Agency for Health Care Administration, 2727 Mahan Drive, Mail Stop 26, Tallahassee, Florida 32308. The annual regulatory assessment shall not exceed the statutory limitations and must be paid by the date specified in the Administrative Assessment Order. Assessments. The AHCA shall determine on or before December 1 of each year the regulatory assessment percentage necessary to be imposed for that calendar year which will be payable on or before the following April 1. HRS Form 1711, Nov. 87, "Health Maintenance Organizations or Prepaid Health Clinics Regulatory Assessment Work Sheet", which is hereby adopted and incorporated by reference, will be provided to the organization for calculating the annual regulatory assessment based on assessment percentage and premium volume. The annual regulatory assessment shall not exceed the statutory limitations.

Specific Authority 641.56, 641.36, 641.41, 641.58 FS. Law Implemented 641.21, 641.47, 120.60(2), 641.22, 641.495 FS. History—New 1-28-88, Formerly 10D-100.003, Amended.

#### 59A-12.004 Governing Body.

(1) Each HMO or PHC shall have a governing body that sets policy and has overall responsibility for the organization including the following:

(a) Adopting organizational bylaws, rules and regulations or similar form of document which provides a clear concise statement of the mission, goals, and objectives of the organization;

(b) Adopting a quality assurance program that monitors the key areas of health care delivery to identify problems and insure the early recognition of opportunities to improve the delivery of quality health care services; and

(c) Maintaining ultimate responsibility for ongoing quality assurance, risk management programs and credentialing programs.

(2) No change.

Specific Authority 641.56 FS. Law Implemented 641.49(3), 641.22, 641.49 FS. History—New 1-28-88, Formerly 10D-100.004, Amended.

#### 59A-12.006 Quality of Care.

Each HMO or PHC shall:

(1) Make available to each member an appropriate health assessment in accordance with preventive health guidelines and professional standards in the community.

(2) Provide for or arrange the following services as a minimum:

(a) Coordination of all necessary care contracted for with the subscriber;

(b) Acute episodic care, with appropriate ancillary services necessary for proper evaluation and treatment, for example:

1. Laboratory studies;
2. Diagnostic radiology;
3. Treatment plan;
4. Specialty consultation referrals.

(c) Chronic disease screening, and follow-up treatment for prevention of complications, for example:

1. Periodic update of history and physical examination;
2. Hypertension follow-up; and
3. Diabetes follow-up.

(d) Health risk appraisal and prevention measures, for example:

1. Dietary counseling ~~eounseling~~;
2. Smoking cessation education;
3. Stress reduction counseling; ~~eounseling~~ and
4. Substance abuse education;

(e) Family planning services.

(3) Ensure that the health care services it provides or arranges for are accessible to the subscriber with reasonable promptness.

Such services shall include, at a minimum:

(a) Establishment of an appointment system;

(b) A method to distinguish among emergency, urgent, and routine cases.

1. Emergencies will be seen immediately;
2. Urgent cases will be seen within 24 hours;

3. Routine symptomatic cases will be seen within two weeks;

4. Routine non-symptomatic cases will be seen as soon as possible;

(c) A provision that patients with appointments should have a professional evaluation within one hour of scheduled appointment time. If a delay is unavoidable, patient shall be informed and provided an alternative;

(d) Average travel time from the HMO geographic services area boundary to the nearest primary care delivery site and to the nearest general hospital under arrangement with the HMO to provide health care services of no longer than 30 minutes under normal circumstances. Average travel time from the HMO geographic services area boundary to the nearest provider of specialty physician services, ancillary services, specialty inpatient hospital services and all other health services of no longer than 60 minutes under normal circumstances. ~~The AHCA shall waive this requirement if the HMO provides sufficient justification as to why the average travel time requirement is not feasible or necessary in a particular geographic service area;~~

(e) Provision of accessible hours of operation and after hours emergency services;

(f) Maintenance of staffing patterns within generally accepted HMO or PHC industry norms for meeting projected subscriber needs and for expeditiously satisfying the requirements of the benefit package as offered by the HMO or PHC; and

(g) Maintenance of a professional staff or arrangements with providers, duly licensed as required to practice in Florida.

(4) Make grievance files available during normal business hours for inspection by the agency. ~~Department together with~~ The files shall contain a written summary of the actions taken by the HMO or PHC: including actions taken through the review by the quality improvement process.

(5) through (7) No change.

(8) Inform subscribers of their rights and responsibilities set forth in Section 381.026, F.S., as well as the rights and responsibilities of the managed care organization incorporated in the member's handbook. Assure that physicians and hospitals treat all HMO and PHC patients with equal dignity and consideration as their non HMO and non PHC patients. If the department determines that a physician or hospital is not treating HMO and PHC patients with equal dignity and consideration, the AHCA shall notify the HMO or PHC immediately.

Specific Authority 641.56 FS. Law Implemented 641.49, 641.54, 641.495(3), 641.515 FS. History—New 1-28-88, Amended 3-11-92, Formerly 10D-100.006, Amended.

59A-12.007 Quality Assurance.

(1) through (2) No change.

(3) The scope of the program shall include, at a minimum, the following:

- (a) Evaluation of clinical performance (peer review);
- (b) Review of medication usage;
- (c) Evaluation as to appropriate use of tests and studies, for example: lab, x-ray and EKG;

(d) Evaluation of subscriber grievances;

(e) A utilization review process;

~~(f)(e)~~ Evaluation of outcomes of care using criteria developed by physicians and other health professionals to evaluate patient care patterns and clinical performance for health services provided; and

~~(g)(f)~~ Written procedures for taking appropriate remedial action whenever, as determined under the quality assurance program, inappropriate or substandard services have been provided or services which should have been provided were not.

(4) No change.

Specific Authority 641.56 FS. Law Implemented 641.49(3)(o), 641.495, 641.51 FS. History—New 1-28-88, Amended 3-11-92, Formerly 10D-100.007, Amended.

59A-12.0071 Accreditation.

As a condition of doing business in the state, each HMO or PHC shall apply for accreditation within 1 year and be accredited within 2 years of the organization's receipt of its Certificate of Authority. HMOs and PHCs with existing Certificates of Authority must apply for accreditation within 1 year and be accredited within 2 years of the effective date of this rule. All HMOs and PHCs must undergo reaccreditations not less than once every 3 years. Accreditation and reaccreditation must be awarded by an accreditation organization approved by the agency pursuant to Rule 59A-12.0072, F.A.C.

(1) The agency will provide technical assistance, upon request by an HMO or PHC, in order to assist new or existing organizations to develop and maintain quality assurance systems ~~and for the purpose of complying with the accreditation requirement.~~

(2) through (5) No change.

(6) For those HMOs and PHCs failing an accreditation survey the agency shall assess the need to mitigate the penalties specified under subsection(5) based upon:

(a) The potential threat to subscribers' health, safety, and welfare as determined by assessing compliance with standards specified in Rule 59A-12, F.A.C. The agency shall also assess the findings of the accreditation survey;

(b) The financial viability of the organization as determined by the Department of Insurance; and

(c) The extent of the organization's efforts to initiate corrective action.

(7) through (10) No change.



~~(11) The Agency shall conduct annual validation surveys on accredited HMOs and PHCs to ensure ongoing compliance with accreditation standards. Selection of the organizations to be surveyed shall be based on the following information:~~

~~(a) Reports received from the accreditation organization, Department of Insurance, or other state or federal regulatory agency regarding the quality of care provided by the organization;~~

~~(b) Quality of care grievance reports received pursuant to s. 641.511, F.S.;~~

~~(c) Performance data submitted by the HMO pursuant to ss. 408.704(4), F.S.;~~

~~(d) Quality of care complaints received from subscribers or providers by the agency.~~

Specific Authority 641.56 FS. Law Implemented 641.495, 641.512, 641.515(1), 641.52(1)(e), 641.52(1)(g) FS. History—New 3-11-92, Formerly 10D-100.0071, Amended 11-21-94, \_\_\_\_\_.

59A-12.0072 Accreditation Organizations.

The accreditation organization must have nationally recognized experience in HMO accreditation activities and in the appraisal of medical practice and quality assurance in an HMO setting. As a minimum requirement for approval of the accreditation organization, the following criteria must be met:

(1) The accreditation organization must allow representatives from the agency department to accompany the accreditation organization throughout the accreditation process, but the agency department representatives shall not participate in the final accreditation or assessment determination.

(2) through (7) No change.

(8) The accreditation organization shall be required to submit its standards for HMO accreditation to the agency department every 3 years for approval.

(9) through (12) No change.

Specific Authority 641.56 FS. Law Implemented 641.512 FS. History—New 3-11-92, Formerly 10D-100.0072, Amended \_\_\_\_\_.

59A-12.010 Subscriber Grievance Procedure.

Each HMO or PHC shall establish a subscriber grievance procedure as specified under Section 641.511, Florida Statutes provided for by the Department of Insurance rule, Rule 4-31.078, F.A.C.

Specific Authority 641.56 FS. Law Implemented 641.511, 495(8), 641.311 FS. History—New 1-28-88, Formerly 10D-100.010, Amended \_\_\_\_\_.

NAME OF PERSON ORIGINATING PROPOSED RULE: Ann-Marie Brattain, Bureau of Managed Health Care, Unit Manager

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Rhonda M. Meadows

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: October 14, 2002

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: Vol. 28, No. 29, Pages 12-19, July 19, 2002

**DEPARTMENT OF HEALTH**

**Board of Pharmacy**

RULE TITLE: Continuing Education Credits  
 RULE NO.: 64B16-26.103

PURPOSE AND EFFECT: The Board proposes to update the rule to conform to Section 465.009, Florida Statutes, as amended by Chapter 2002-184, Laws of Florida.

SUMMARY: The Board proposes the rule amendment to address the number of required continuing education hours per biennial period pursuant to Section 465.009, Florida Statutes.

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

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

SPECIFIC AUTHORITY: 456.033, 465.009 FS.

LAW IMPLEMENTED: 456.013(7), 456.033, 465.009 FS.

IF REQUESTED WITHIN 21 DAYS OF THE DATE OF THIS NOTICE, A HEARING WILL BE SCHEDULED AT THE BOARD'S NEXT MEETING TO BE HELD ON DECEMBER 3, 2002 IN MIAMI, FLORIDA.

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: John Taylor, Executive Director, Board of Pharmacy/MQA, 4052 Bald Cypress Way, Bin #C04, Tallahassee, Florida 32399-3254

THE FULL TEXT OF THE PROPOSED RULE IS:

64B16-26.103 Continuing Education Credits.

(1) No biennial renewal certificate shall be issued by the Board until the applicant submits proof satisfactory to the Board that during ~~each year of~~ the biennial period preceeding the renewal period the applicant ~~that he~~ has participated in not less than 30 ~~45~~ hours of approved courses of continued professional pharmaceutical education ~~for a total of not less than 30 hours in the biennial period preceeding the renewal period.~~

(2) through (8) No change.

Specific Authority 456.033, 465.009 FS. Law Implemented 456.013(7), 456.033, 465.009 FS. History—New 3-19-79, Formerly 21S-6.07, Amended 1-7-87, Formerly 21S-6.007, Amended 7-31-91, 10-14-91, Formerly 21S-26.103, 61F10-26.103, Amended 7-1-97, Formerly 59X-26.103, Amended 7-11-00, 10-15-01, 1-2-02, \_\_\_\_\_.

NAME OF PERSON ORIGINATING PROPOSED RULE: Board of Pharmacy

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Board of Pharmacy

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: October 8, 2002  
DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: July 12, 2002

**DEPARTMENT OF HEALTH**

**Board of Pharmacy**

RULE TITLE: Manner of Application – Examination  
RULE NO.: 64B16-26.203

PURPOSE AND EFFECT: The rule amendment is proposed to provide for approval of certain educational courses upon application for licensure.

SUMMARY: The rule amendment provides for the approval of certain academic course work in medication errors when application for licensure is within one (1) year of receipt of pharmacy degree.

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

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

SPECIFIC AUTHORITY: 456.033, 465.005 FS.

LAW IMPLEMENTED: 456.013(1),(7), 456.033, 465.007, 465.022 FS.

IF REQUESTED WITHIN 21 DAYS OF THE DATE OF THIS NOTICE, A HEARING WILL BE SCHEDULED AT THE BOARD'S NEXT MEETING TO BE HELD ON DECEMBER 3, 2002 IN MIAMI, FLORIDA.

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: John Taylor, Executive Director, Board of Pharmacy/MQA, 4052 Bald Cypress Way, Bin #C04, Tallahassee, Florida 32399-3254

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

64B16-26.203 Manner of Application – Examination.

All applicants for licensure shall complete a course on HIV/AIDS prior to licensure. The course shall be no less than 3 contact hours and shall cover the subjects listed in subsection 64B16-26.103(3), F.A.C. For those applicants who apply within one year following receipt of their pharmacy degree, completed academic course work on HIV/AIDS will be accepted by the Board as an educational course under this section, provided such course work is no less than 3 contact hours and that it covers the subjects listed in subsection 64B16-26.103(3), F.A.C., as evidenced by a letter attesting to subject matter covered from the Dean of the University. All applicants for licensure shall complete a course on medication errors prior to licensure. The course shall be no less than 2 contact hours and shall cover the subjects listed in subsection 64B16-26.103(4), F.A.C. For those applicants who apply

within one year following receipt of their pharmacy degree, completed academic course work on medication errors will be accepted by the Board as an educational course under this section, provided such course work is no less than 2 contact hours and that it covers the subjects listed in subsection 64B16-26.103(4), F.A.C., as evidenced by a letter attesting to subject matter covered from the Dean of the University.

(1) through (3) No change.

Specific Authority 456.033, 465.005 FS. Law Implemented 456.013(1),(7), 456.033, 465.007, 465.022 FS. History--New 10-17-79, Formerly 21S-12.04, 21S-12.004, Amended 7-31-91, 10-14-91, Formerly 21S-26.203, 61F10-26.203, Amended 7-1-97, Formerly 59X-26.203, Amended 8-17-99, 10-15-01, 1-2-02,\_\_\_\_\_.

NAME OF PERSON ORIGINATING PROPOSED RULE: Board of Pharmacy

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Board of Pharmacy

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: October 8, 2002

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: July 12, 2002

**DEPARTMENT OF HEALTH**

**Board of Pharmacy**

RULE TITLE: Continuing Education – Ordering  
RULE NO.: 64B16-26.320

PURPOSE AND EFFECT: The Board proposes to update the rule to conform to Section 465.009, Florida Statutes, as amended by Chapter 2002-184, Laws of Florida.

SUMMARY: The Board proposes the rule amendment to address the number of required continuing education hours per biennial period pursuant to Section 465.009, Florida Statutes.

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

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

SPECIFIC AUTHORITY: 465.0125(3), 465.009 FS.

LAW IMPLEMENTED: 465.0125(2), 465.009 FS.

IF REQUESTED WITHIN 21 DAYS OF THE DATE OF THIS NOTICE, A HEARING WILL BE SCHEDULED AT THE BOARD'S NEXT MEETING TO BE HELD ON DECEMBER 3, 2002 IN MIAMI, FLORIDA.

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: John Taylor, Executive Director, Board of Pharmacy/MQA, 4052 Bald Cypress Way, Bin #C04, Tallahassee, Florida 32399-3254

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

64B16-26.320 Continuing Education – Ordering and Evaluation of Laboratory Tests.

(1) through (2) No change.

(3) A consultant pharmacist may apply the three (3) hour initial certification course and the one (1) hour recertification course toward the requirement that a consultant pharmacist biennially ~~annually~~ complete twenty-four (24) ~~twelve (12)~~ hours of continuing education for renewal of a consultant pharmacist license under Rule 64B16-26.300, or may apply such continuing education hours toward the requirement that a pharmacist biennially ~~annually~~ complete thirty (30) ~~fifteen (15)~~ hours of continuing education for renewal of a pharmacist license under Rules 64B16-26.103 and 64B16-26.606, but may not use the same continuing education hours to satisfy both requirements. A Doctor of Pharmacy who is not a consultant pharmacist may apply the three (3) hour initial certification course and the one (1) hour recertification course toward the requirement that a pharmacist biennially ~~annually~~ complete thirty (30) ~~fifteen (15)~~ hours of continuing education for renewal of a pharmacist license under Rules 64B16-26.103 and 64B16-26.606.

Specific Authority 465.0125(3), 465.009 FS. Law Implemented 465.0125(2), 465.009 FS. History—New 2-23-98, Amended 6-15-98, \_\_\_\_\_.

NAME OF PERSON ORIGINATING PROPOSED RULE:  
Board of Pharmacy

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Board of Pharmacy

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: October 8, 2002

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: July 12, 2002

**DEPARTMENT OF HEALTH**

**Board of Pharmacy**

RULE TITLE: Standards for Approval of Courses and Providers

RULE NO.: 64B16-26.601

PURPOSE AND EFFECT: The Board proposes to amend the rule to update and address standards and fees for providers of continuing education.

SUMMARY: The rule amendment addresses the standards and fees for providers of continuing education.

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

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

SPECIFIC AUTHORITY: 465.004, 465.009 FS.

LAW IMPLEMENTED: 465.009 FS.

IF REQUESTED WITHIN 21 DAYS OF THE DATE OF THIS NOTICE, A HEARING WILL BE SCHEDULED AT THE BOARD'S NEXT MEETING TO BE HELD ON DECEMBER 3, 2002 IN MIAMI, FLORIDA.

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: John Taylor, Executive Director, Board of Pharmacy/MQA, 4052 Bald Cypress Way, Bin #C04, Tallahassee, Florida 32399-3254

THE FULL TEXT OF THE PROPOSED RULE IS:

64B16-26.601 Standards for Approval of Courses and Providers.

(1) through (4) No change.

(5) Entities or individuals who wish to become approved providers of continuing education must submit an initial approval fee of \$150 and provide information to demonstrate compliance with the requirements of this rule. A provider seeking to renew approved provider status shall pay a renewal fee of \$150.

(6) Entities or individuals applying for approval of an individual program shall submit a fee of \$50 and provide information to demonstrate compliance with this rule.

Specific Authority 465.005, 465.009 FS. Law Implemented 465.009 FS. History—New 10-17-79, Amended 7-29-81, Formerly 21S-13.02, 21S-13.002, Amended 1-10-93, Formerly 21S-26.601, 61F10-26.601, 59X-26.601, Amended \_\_\_\_\_.

NAME OF PERSON ORIGINATING PROPOSED RULE:  
Board of Pharmacy

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Board of Pharmacy

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: October 8, 2002

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: July 5, 2002

**DEPARTMENT OF HEALTH**

**Board of Pharmacy**

RULE TITLE: Number of Required Hours

RULE NO.: 64B16-26.606

PURPOSE AND EFFECT: The Board proposes to update the rule to conform to Section 465.009, Florida Statutes, as amended by Chapter 2002-184, Laws of Florida.

SUMMARY: The Board proposes the rule amendment to address the number of required continuing education hours per biennial period pursuant to Section 465.009, Florida Statutes.

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

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

SPECIFIC AUTHORITY: 465.005 FS.

LAW IMPLEMENTED: 465.009 FS.

IF REQUESTED WITHIN 21 DAYS OF THE DATE OF THIS NOTICE, A HEARING WILL BE SCHEDULED AT THE BOARD'S NEXT MEETING TO BE HELD ON DECEMBER 3, 2002 IN MIAMI, FLORIDA.

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: John Taylor, Executive Director, Board of Pharmacy/MQA, 4052 Bald Cypress Way, Bin #C04, Tallahassee, Florida 32399-3254

THE FULL TEXT OF THE PROPOSED RULE IS:

64B16-26.606 Number of Required Hours.

As a condition of the biennial renewal of his license a registered pharmacist must submit proof in the form of certification to the Board the completion of not less than thirty (30) fifteen (15) hours per year of continuing professional education during the preceding biennium which fulfills the requirements of this rule. A pharmacist, upon request by the Board office, shall provide additional proof of the required continued pharmaceutical education credits as provided by Rule 64B16-26.603, F.A.C. At least ten (10) five (5) of the required thirty (30) fifteen (15) hours per year must be obtained either at a live seminar, a live video teleconference, or through an interactive computer based application.

Specific Authority 465.005 FS. Law Implemented 465.009 FS. History--New 10-17-79, Formerly 21S-13.07, 21S-13.007, Amended 7-31-91, Formerly 21S-26.606, 61F10-26.606, 59X-26.606, Amended 2-23-98.

NAME OF PERSON ORIGINATING PROPOSED RULE: Board of Pharmacy

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Board of Pharmacy

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: October 8, 2002

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: July 12, 2002

**DEPARTMENT OF HEALTH**

**Board of Pharmacy**

RULE TITLE: Sterile Products and Special Parenteral/Enteral Compounding  
RULE NO.: 64B16-28.820

PURPOSE AND EFFECT: The Board proposes to update the rule to conform with a recent rule amendment addressing sterile products.

SUMMARY: The rule addresses the preparation of sterile products by community pharmacy permittees.

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

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

SPECIFIC AUTHORITY: 465.005, 465.007, 465.022 FS.

LAW IMPLEMENTED: 465.007, 465.018, 465.0196 FS.

IF REQUESTED WITHIN 21 DAYS OF THE DATE OF THIS NOTICE, A HEARING WILL BE SCHEDULED AT THE BOARD'S NEXT MEETING TO BE HELD ON DECEMBER 3, 2002 IN MIAMI, FLORIDA.

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: John Taylor, Executive Director, Board of Pharmacy/MQA, 4052 Bald Cypress Way, Bin #C04, Tallahassee, Florida 32399-3254

THE FULL TEXT OF THE PROPOSED RULE IS:

64B16-28.820 Sterile Products and Special Parenteral/Enteral Compounding.

(1) through (5) No change.

(6) A community pharmacy permittee may perform parenteral/enteral compounding or prepare sterile products without obtaining an additional permit under this section, so long as prior to entering into such activities, the community pharmacy meets the requirements of (1)-(5) above and is inspected for compliance by the Department of Health. A community pharmacy permittee that was engaged in the preparation of sterile products other than parenteral/enteral products as of June 1, 2002 shall have until June 1, 2003 to meet the requirements of (1)-(5) above for the preparation of sterile products other than parenteral/enteral products.

Specific Authority 465.005, 465.007, 465.022 FS. Law Implemented 465.007, 465.018, 465.0196 FS. History--New 4-26-84, Formerly 21S-1.40, Amended 7-27-86, Formerly 21S-1.040, Amended 7-31-91, 10-14-91, Formerly 21S-28.820, 61F10-28.820, Amended 3-10-96, 6-4-97, Formerly 59X-28.820, Amended 7-1-02.

NAME OF PERSON ORIGINATING PROPOSED RULE: Board of Pharmacy

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Board of Pharmacy

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: October 8, 2002

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: July 5, 2002

**DEPARTMENT OF HEALTH**

**Board of Pharmacy**

RULE TITLE: Nuclear Pharmacist – Continuing Education  
RULE NO.: 64B16-28.904

PURPOSE AND EFFECT: The Board proposes to update the rule to conform to Section 465.009, Florida Statutes, as amended by Chapter 2002-184, Laws of Florida.

SUMMARY: The Board proposes the rule amendment to address the number of required continuing education hours per biennial period pursuant to Section 465.009, Florida Statutes.

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

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

SPECIFIC AUTHORITY: 465.0126, 465.022, 465.009 FS.

LAW IMPLEMENTED: 465.0126, 465.009 FS.

IF REQUESTED WITHIN 21 DAYS OF THE DATE OF THIS NOTICE, A HEARING WILL BE SCHEDULED AT THE BOARD'S NEXT MEETING TO BE HELD ON DECEMBER 3, 2002 IN MIAMI, FLORIDA.

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: John Taylor, Executive Director, Board of Pharmacy/MQA, 4052 Bald Cypress Way, Bin #C04, Tallahassee, Florida 32399-3254

THE FULL TEXT OF THE PROPOSED RULE IS:

64B16-28.904 Nuclear Pharmacist – Continuing Education.

(1) Proof satisfactory that a nuclear pharmacist licensed pursuant to this section has met the requirements necessary for biennial renewal of this license shall be constituted by the following:

(a) The licensee has completed no less than twenty-four (24) additional hours per biennium (~~12 hours per year~~) of coursework each two year period by or through a Committee-approved provider, instructionally designed to provide in-depth treatment of nuclear pharmacy practice with suggested matter set out in (2).

(b) No change.

(2) No change.

Specific Authority 465.0126, 465.022, 465.009 FS. Law Implemented 465.0126, 465.009 FS. History—New 10-28-91, Formerly 21S-28.904, 61F10-28.904, 59X-28.904, Amended.

NAME OF PERSON ORIGINATING PROPOSED RULE: Board of Pharmacy

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Board of Pharmacy

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: October 8, 2002

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: July 12, 2002

**FISH AND WILDLIFE CONSERVATION COMMISSION**

**Vessel Registration and Boating Safety**

RULE TITLE: Lee County Boating Restricted Areas  
 RULE NO.: 68D-24.136

PURPOSE AND EFFECT: The purpose of this rulemaking is to protect vessel traffic safety on the waters of the Caloosahatchee River between markers 93 and 99, in the vicinity of Shell Point, Lee County, Florida. The effect of this rule is to limit vessel speed to “Slow Speed Minimum Wake” on weekends and holidays from 9:00 a.m. to 7:00 p.m. Lee County will be authorized to install and maintain appropriate regulatory markers as directed by the Division of Law Enforcement within the boating restricted area.

SUMMARY: This rule will create a “Slow Speed Minimum Wake In Channel, Weekends and Holidays 9:00 a.m. – 7:00 p.m.; 25 MPH All Other Times” boating restricted area.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS: A statement of estimated regulatory costs has not been prepared.

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

SPECIFIC AUTHORITY: 327.04, 327.46 FS.

LAW IMPLEMENTED: 327.46 FS.

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

TIME AND DATE: 8:30 a.m., November 22, 2002

PLACE: Hawks’ Cay Resort, Overseas Conference Center, Flagler Ballroom, 61 Hawks Cay Boulevard, Duck Key, Florida

This hearing will be held in conjunction with the regularly scheduled meeting of the Florida Fish and Wildlife Conservation Commission.

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Ms. Tara Alford, Division of Law Enforcement, Office of Boating Safety and Waterway Management, 620 South Meridian Street, Tallahassee, Florida 32399-1600, (850)488-0656, Extension 169

THE FULL TEXT OF THE PROPOSED RULE IS:

68D-24.136 Lee County Boating Restricted Areas.

(1) For the purpose of regulating the speed and operation of vessel traffic on and adjacent to the Florida Intracoastal Waterway within Lee County, the following Boating Restricted Areas ~~are~~ established:

(a) Caloosahatchee River at the Alva Bridge – No change.

(b) Shell Point (Marker 93-99) – A “Slow Speed Minimum Wake In Channel, Weekends and Holidays 9:00 a.m. – 7:00 p.m.; 25 MPH All Other Times” from Shell Point (26°31.5"/81°59.9") generally northeasterly for approximately

1,050 feet to green daymark 93 (26°31.6"/81°59.7") continuing generally southwesterly for approximately 6,000 feet to green daymark 99 (26°31.0"/82°00.9")

(2) Lee County is authorized to install and maintain appropriate regulatory markers as directed by the Division of Law Enforcement within such the boating restricted areas ~~and~~

~~shall install and maintain "Idle Speed No Wake" and "Resume Normal Safe Operation" markers at the east and western boundaries of the boating restricted area.~~

(3) The boating restricted areas ~~is~~ are depicted in the following drawings:

Drawing A – No change

INSERT DRAWING B

Specific Authority 327.04 FS. Law Implemented 327.46 FS. History--New 11-25-96, Amended \_\_\_\_\_.

NAME OF PERSON ORIGINATING PROPOSED RULE:  
Ms. Tara Alford, Division of Law Enforcement, Boating Safety and Waterway Management Section, Fish and Wildlife Conservation Commission, 620 South Meridian Street, Tallahassee, Florida 32399-1600

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Captain Alan S. Richard, Boating Safety and Waterway Management Section, Division of Law Enforcement, Fish and Wildlife Conservation Commission, 620 South Meridian Street, Tallahassee, Florida 32399-1600

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: September 11, 2002

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: September 20, 2002

### Section III Notices of Changes, Corrections and Withdrawals

**AGENCY FOR HEALTH CARE ADMINISTRATION**

**Medicaid**

RULE NO.:	RULE TITLE:
59G-11.003	Agency Certification Process and Requirements

NOTICE OF CHANGE

Notice is hereby given that the following changes have been made to the proposed rule in accordance with subparagraph 120.54 (3)(d)1., F.S., published in Vol. 28, No. 38, September 20, 2002, issue of the Florida Administrative Weekly.

The requirement that a candidate shall sign an affidavit certifying and notarizing information provided as correct is hereby deleted from AHCA Form 5700-001, September 02. The following language is added to AHCA FORM 5700-001, September 02, page one. Written statements and supportive documentation provided by a candidate are subject to the provisions in 837.06, F.S.

**DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION**

**Florida Real Estate Appraisal Board**

RULE NO.:	RULE TITLE:
61J1-2.005	Inactive Registration

NOTICE OF CHANGE

Notice is hereby given that the following changes have been made to the proposed rules referenced above in accordance with subparagraph 120.54(3)(d)1., F.S., originally published in Vol. 28, No. 41, October 11, 2002, issue of the Florida Administrative Weekly. The changes are for the purpose of publishing the entire text of the rules as amended and proposed by the Florida Real Estate Appraisal Board.

61J1-2.005 Inactive Registration.

(1) An applicant for registration as an appraiser, who has otherwise met the registration requirements, may obtain the registration without the necessity of having designated a licensed or certified appraiser as a primary supervisor. The registration shall automatically be designated inactive upon being issued.

(2) At any time after obtaining registration as an appraiser, the registrant may request inactive status whenever the registrant has no primary supervising licensed or certified appraiser. ~~Forms may be obtained from the Department. The request may be made on Form 501.5, Request for Appraiser Status Change, effective July 1991 and incorporated herein by reference. The form may be obtained through the Department of Business and Professional Regulation at 400 W. Robinson St., Orlando, FL. 32801.~~

(3) At any time after obtaining registration as an appraiser the registrant does not have on record with the Department of Business and Professional Regulation the name of a licensed or certified appraiser as a primary supervisor, the registration shall automatically be designated inactive.

(4) Pursuant to s. 475.618(3), F.S., any registration not renewed at the end of the registration period shall automatically be designated inactive.

(5) A registered appraiser, whose registration is designated inactive pursuant to Paragraphs 1, 2 or 3, may request an active registration in such manner as provided by the Department ~~on Form 501.5~~. If the inactive duration is less than 2 years and does not extend beyond 1 biennial renewal cycle (registration period), no additional education or fee is required.

(6) A registered appraiser, whose registration is designated inactive pursuant to Paragraph 4, or whose inactive status extends beyond the biennial renewal cycle, shall comply with the education and fee requirements of Rule 61J1-4.007 in order to request an active registration.

(7) Any registration which exceeds 4 years in the inactive status shall automatically expire, and the person must meet all the then applicable requirements for initial registration.

Specific Authority 475.614, 475.619 FS. Law Implemented 475.613(2), 475.618, 475.619 FS. History--New 9-22-93, Amended 7-5-94, \_\_\_\_\_.

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Florida Real Estate Appraisal Board  
DATE PROPOSED RULE APPROVED BY AGENCY HEAD: August 6, 2002

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: July 19, 2002, Section VI





(1) Applicants must submit, with the application for registration, licensure or certification a grade report as proof to the Department that they have satisfactorily completed the applicable course(s) prescribed in Rule 61J1-4.001 or 4.002, Florida Administrative Code.

(2) An application for renewal of an existing designation shall contain an affirmation by the individual of having satisfactorily completed the applicable Florida Real Estate Appraisal Board prescribed, conducted or board approved course(s). The Department may perform random audits of at least 10% of the registrants, licensees, certificate holders and instructors to verify compliance with continuing education requirements. Each registrant, licensee, certificate holder and instructor shall retain the grade report as proof of successful completion of continuing education requirements for at least two years following the end of the renewal period for which the education is claimed. Failing to provide evidence of compliance with continuing education requirements as prescribed in Rules 61J1-4.003, 61J1-4.007 and 61J1-4.008, Florida Administrative Code, or the furnishing of false or misleading information regarding compliance with said requirements shall be grounds for disciplinary action against the registrant, licensee, certificate holder or instructor.

(3) The grade report must be typed or printed in ink and must be completely filled out by the institution, school or entity certifying successful course completion. The grade report must also include the authorized signature of the school permit holder, chief administrative person or entity.

(4) The grade reports shall contain the following information for the type of course being completed:

(a) Preregistration, Prelicensing or Precertification Course For Appraiser

- Name of School, Institution or Entity
- Address of School, Institution or Entity
- Course Title
- Course Hours
- Start Date
- Finish Date
- Exam Date
- Student's Name
- Student's Address
- Authorized Signature for the School, Institution or Entity

(b) Appraisers Continuing Education

- Name of School, Institution or Entity
- Address of School, Institution or Entity
- Course Title
- Course Hours
- Start Date
- Finish Date
- Registration, License or Certificate Number
- Student's Name
- Student's Address
- Authorized Signature for the School, Institution or Entity

- (c) Instructor Continuing Education
- Name of School, Institution or Entity
- Address of School, Institution or Entity
- Course Title
- Course Hours
- Start Date
- Finish Date
- Permit Number
- Student's Name
- Student's Address
- Authorized Signature for the School, Institution or Entity

(5) Each grade report shall state:

The student named in this report has completed the referenced course in accordance with the requirements of the Florida Real Estate Appraisal Board.

(6) The original grade report is to be given to the student and a copy retained by the school.

Specific Authority 475.614 FS. Law Implemented 475.613, 475.615, 475.617, 475.618 FS. History—New 10-15-91, Formerly 21VV-4.005, Amended 7-19-95, 4-6-98, \_\_\_\_\_.

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Florida Real Estate Appraisal Board  
DATE PROPOSED RULE APPROVED BY AGENCY HEAD: August 6, 2002

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: July 19, 2002, Section VI

**DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION**

**Florida Real Estate Appraisal Board**

RULE NOS.:	RULE TITLES:
61J1-7.004	Office
61J1-7.005	Temporary Practice

**NOTICE OF CHANGE**

Notice is hereby given that the following changes have been made to the proposed rules referenced above in accordance with subparagraph 120.54(3)(d)1., F.S., originally published in Vol. 28, No. 41, October 11, 2002, issue of the Florida Administrative Weekly. The changes are for the purpose of publishing the entire text of the rules as amended and proposed by the Florida Real Estate Appraisal Board.

61J1-7.004 Office.

(1) All appraisers who have an active registration, license or certification pursuant to Part II, Chapter 475, Florida Statutes, shall furnish in writing to the Department of Business and Professional Regulation each business address from which he operates in the performance of appraisal services.

(2) Each such appraiser must notify the department of any change of address within 10 days of the change of address in such a manner as provided by the Department on form 501-5, Request For Appraiser Status Change, effective July, 1991, and

~~incorporated herein by reference, which may be obtained through the department at 400 West Robinson Street, Orlando, Florida 32801.~~

Specific Authority 475.614 FS. Law Implemented 475.623 FS. History--New 10-15-91, Formerly 21VV-7.004, Amended \_\_\_\_\_.

61J1-7.005 Temporary Practice.

(1) Pursuant to the provisions of Section 475.630, Florida Statutes, the ~~B~~board shall recognize, on a temporary basis, the license or certification of an appraiser issued by another state, if:

(a) The property to be appraised is part of a federally related transaction, as that term is defined in Section 475.611(1)(j), Florida Statutes.

(b) The appraiser's business is of a temporary nature. Temporary nature shall be defined to mean a single appraisal assignment for the time necessary to perform the appraisal assignment.

~~(c) The appraiser registers with the Bboard. Registration shall be in such manner as provided by the Department on form 501.6, Application For Non-Resident Temporary Practice Permit, effective August, 1991, and incorporated by reference, which may be obtained through the department at 400 West Robinson Street, Orlando, Florida 32801.~~

(d) The person requesting recognition of a license or certification as an appraiser issued by another state is a nonresident of Florida.

(2) In order to register with the ~~B~~board, the appraiser must:

(a) Pay the fee as established in Rule 61J1-2.001, Florida Administrative Code.

(b) Provide certified copies of proof of licensure or certification in another state and certified copies of the records of any disciplinary action taken against the appraiser's license or certification in that or any other jurisdiction. If no disciplinary action has taken place, then a certification of no action must be provided.

(c) Agree in writing to cooperate with any investigation initiated under Part II, Chapter 475, Florida Statutes, as provided in Section 475.630(2)(c), Florida Statutes.

(d) Sign a notarized statement that the appraiser has read Part II, Chapter 475, Florida Statutes and Rules 61J1, Florida Administrative Code, and agrees to abide by these provisions in all appraisal activities.

(3) The ~~D~~department shall issue a numbered temporary permit and the number shall be used in the appraisal report performed under the permit.

Specific Authority 475.614 FS. Law Implemented 475.630 FS. History--New 10-15-91, Formerly 21VV-7.005, Amended \_\_\_\_\_.

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Florida Real Estate Appraisal Board  
 DATE PROPOSED RULE APPROVED BY AGENCY HEAD: August 6, 2002

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: July 19, 2002, Section VI

**DEPARTMENT OF ENVIRONMENTAL PROTECTION**

DOCKET NO.: 01-57R

RULE CHAPTER NO.: 62-4  
 RULE CHAPTER TITLE: Permits

RULE NO.: 62-4.050  
 RULE TITLE: Procedure to Obtain Permits and Other Authorizations, Application

**NOTICE OF WITHDRAWAL**

Notice is hereby given that the above referenced rule amendment published on July 26, 2002 in Vol. 28, No. 30, of the Florida Administrative Weekly, and on the Department's official notice internet site, www.dep.state.fl.us, under the link entitled "official notices", has been withdrawn.

**DEPARTMENT OF HEALTH**

**Board of Medicine**

RULE NO.: 64B8-8.001  
 RULE TITLE: Disciplinary Guidelines

**NOTICE OF CHANGE**

Notice is hereby given that the following changes have been made to the proposed rule in accordance with subparagraph 120.54(3)(d)1., F.S., published in Vol. 28, No. 20, of the May 17, 2002, issue of the Florida Administrative Weekly. The changes are in response to written comments submitted by the staff of the Joint Administrative Procedures Committee. The Board, at its meeting on October 5, 2002, approve the recommendations made by the Fraud Committee, to reword subsection (2)(pp) of the rule. When changed, subsection (2) shall read as follows:

**RECOMMENDED RANGE OF PENALTY**

VIOLATION	FIRST OFFENSE	SECOND OFFENSE
(a) through (oo) No change.		
(pp) Violation of medical director clinic responsibilities (456.0375(4)(c), F.S.	(pp) Based upon the severity of the offense and the potential for patient harm, from a letter of concern to revocation and an administrative fine from \$1,000 to \$10,000.00	(pp) Restricted from serving as the medical director of any registered clinic and based upon the severity of the offense and the potential for patient harm, from a reprimand to revocation and an administrative fine from \$5,000 to \$10,000.00

1. Failure to file or renew registration form.	Notice of Non-Compliance if filed or renewed within 90 days. (See Rule 64B8-8.011, F.A.C.)	From a reprimand and a fine of \$500 for each day the licensee served as director while the clinic was not registered, to permanent restriction on serving as a medical director.	9. Failure to ensure compliance with office surgery requirements.	From probation to revocation, and an administrative fine from \$1,000.00 to \$10,000.00.	From suspension to revocation, and an administrative fine from \$5,000.00 to \$10,000.00.
2. Failure to display registration certificate.	Notice of Non-Compliance. (See Rule 64B8-8.011, F.A.C.)	Citation or a \$2000.00 fine. (See Rule 64B8-8.017, F.A.C.)	10. Failure to ensure compliance with adverse incident reporting requirements.	Notice of Non-Compliance if filed within 90 days. (See Rule 64B8-8.011, F.A.C.)	From a reprimand and a fine of \$500 for each day the licensee served as director while the clinic was not registered, to permanent restriction on serving as a medical director.
3. Failure to post signs identifying medical/clinical director in conspicuous location.	Notice of Non-Compliance. (See Rule 64B8-8.011, F.A.C.)	Citation. (See Rule 64B8-8.017, F.A.C.)	11. Failure to conduct systematic reviews of clinic billings.	From a reprimand to two (2) years suspension followed by probation, and an administrative fine from \$1,000.00 to \$10,000.00.	From probation to suspension followed by probation, and an administrative fine from \$5,000.00 to \$10,000.00.
4. Failure to ensure that all health care practitioners employed at clinic have active, unencumbered license.	From probation to revocation, and an administrative fine from \$1,000.00 to \$10,000.00.	From suspension to revocation, and an administrative fine from \$5,000.00 to \$10,000.00.	12. Failure to take immediate corrective action upon discovery of unlawful billing.	A refund of fees paid by or on behalf of the patient and from six (6) months suspension to revocation, and an administrative fine from \$1,000.00 to \$10,000.00.	A refund of fees paid by or on behalf of the patient and from a two (2) year suspension to revocation, and an administrative fine from \$5,000.00 to \$10,000.00.
5. Failure to review patient referral contracts or agreements executed by clinic.	A refund of fees paid by or on behalf of the patient and from an administrative fine of \$1,000.00 to a reprimand and an administrative fine of \$5,000.00.	A refund of fees paid by or on behalf of the patient and from restriction of practice and an administrative fine of \$5,000.00 to a reprimand and an administrative fine of \$10,000.00.	13. Serving as medical/clinical director for more registered clinics than provided by Department rule.	From probation to two (2) years suspension followed by probation, and an administrative fine from \$1,000.00 to \$5,000.00.	From one (1) year suspension to revocation, and an administrative fine from \$5,000.00 to \$10,000.00.
6. Failure to ensure that all health care practitioners employed at clinic have active appropriate certification or licensure for the level of care being provided.	From probation to revocation, and an administrative fine from \$1,000.00 to \$10,000.00.	From suspension to revocation, and an administrative fine from \$5,000.00 to \$10,000.00.			
7. Failure to comply with §456.057, F.S., with regard to clinic records.	From a letter of concern to two (2) years suspension followed by probation and an administrative fine from \$1,000.00 to \$5,000.00.	From a reprimand to two (2) years suspension followed by probation and an administrative fine from \$5,000.00 to \$10,000.00.			
8. Failure to ensure compliance with recordkeeping requirements.	From a letter of concern to two (2) years suspension followed by probation and an administrative fine from \$1,000.00 to \$5,000.00.	From a reprimand to two (2) years suspension followed by probation and an administrative fine from \$5,000.00 to \$10,000.00.			

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Larry G. McPherson, Jr., Executive Director, Board of Medicine, 4052 Bald Cypress Way, Bin #C03, Tallahassee, Florida 32399-3253

**DEPARTMENT OF HEALTH**

**Optical Establishments**

RULE NO.: 64B29-1.002

RULE TITLE: Optical Establishment Inspections

**NOTICE OF CHANGE**

Notice is hereby given that the following changes have been made to the proposed rule in accordance with subparagraph 120.54(3)(d)1., F.S., published in Vol. 28, No. 38, September 20, 2002, issue of the Florida Administrative Weekly. The changes are in response to comments received from the Joint Administrative Procedures Committee.

Subsection (2)(h) of the rule shall now read as follows:

(h) Verify that the establishment is permitted pursuant to s. 484.007, F.S.

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Wayne McDaniel, Deputy Secretary, Department of Health, c/o General Counsel's Office, 4052 Bald Cypress Way, Bin #A02, Tallahassee, Florida 32399-1703

**DEPARTMENT OF HEALTH**

**Division of Environmental Health**

RULE NO.: 64E-2.001  
RULE TITLE: Emergency Medical Services

**NOTICE OF WITHDRAWAL**

Notice is hereby given that a proposed amendment to 64E-2.001, Florida Administrative Code, "Definitions" as noticed in Vol. 28, No. 35, August 30, 2002, Florida Administrative Weekly has been withdrawn.

64E-2.001(11) – Withdraw the definition of Lead Crew Member. Reinsert original numbering of existing definitions.

P.O. B00829

**Section IV  
Emergency Rules**

**DEPARTMENT OF THE LOTTERY**

RULE TITLE: Instant Game Number 451, "HOLIDAY BINGO"  
RULE NO.: 53ER02-54

SUMMARY OF THE RULE: This emergency rule relates to the Instant Game Number 451, "HOLIDAY BINGO" for which the Department of the Lottery will start selling tickets on a date to be determined by the Secretary of the Department. The rule sets forth the specifics of the game; determination of prizewinners; and the estimated odds of winning, value, and number and size of prizes in the game.

THE PERSON TO BE CONTACTED REGARDING THE EMERGENCY RULE IS: Diane D. Schmidt, Legal Analyst, Department of the Lottery, 250 Marriott Drive, Tallahassee, Florida 32399-4011

THE FULL TEXT OF THE EMERGENCY RULE IS:

53ER02-54 Instant Game Number 451, "HOLIDAY BINGO."

(1) Name of Game. Instant Game Number 451, "HOLIDAY BINGO."

(2) Price. HOLIDAY BINGO lottery tickets sell for \$2.00 per ticket.

(3) HOLIDAY BINGO lottery tickets shall have a series of numbers in Machine Readable Code (or bar code) on the back of the ticket, along with a Void If Removed Number under the latex area on the ticket. To be a valid winning HOLIDAY BINGO lottery ticket, a combination of essential elements sufficient to validate the ticket must be present as set forth in paragraph 53ER92-63(1)(a), Florida Administrative Code. In

the event a dispute arises as to the validity of any HOLIDAY BINGO lottery ticket, or as to the prize amount, the Void if Removed Number under the latex shall prevail over the bar code.

(4) The "CALLER'S CARD" play symbols are as follows:

INSERT SYMBOLS

(5) The player's cards play symbols are as follows:

INSERT SYMBOLS

(6) Determination of Prize Winners.

(a) There are four player's cards numbered 1 through 4 and one Caller's Card on each HOLIDAY BINGO ticket. A "FREE" space will appear in the center of each player's card. A "FREE" space can substitute as a number in a pattern of which it is a part.

(b) A ticket whose numbers on one of the player's cards match the Caller's Card numbers in one of the following patterns shall entitle the claimant to the prize shown for that pattern on that card:

- 1. Horizontal line of five numbers (or four numbers and one "FREE" space).
- 2. Vertical line of five numbers (or four numbers and one "FREE" space).
- 3. Diagonal line of four numbers and one "FREE" space.
- 4. Four corners (consisting of four numbers).
- 5. "X" (consisting of eight numbers and one "FREE" space).

Prizes that appear in the player's cards area are: FREE TICKET, \$3, \$10, \$25, \$50, \$100, \$150, \$200, \$250, \$500, \$10,000. Prize amounts for a particular pattern are different on each player's card.

(7) Players may win on one or more player's cards per ticket; however, players may not win more than one prize on each player's card.

(8) A claimant who is entitled to a prize of a "FREE TICKET" shall be entitled to a prize of a \$2.00 instant ticket or any combination of instant and on-line tickets that totals \$2.00, except as follows. A person who submits by mail a HOLIDAY

BINGO lottery ticket which entitles the claimant to a prize of a \$2.00 ticket and whose mailing address is outside the state of Florida will receive a check for \$2.00 in lieu of an actual ticket.

(9) The estimated odds of winning, value, and number of prizes in Instant Game Number 451 are as follows:

		ODDS OF	NUMBER OF WINNERS IN 63 POOLS OF TICKETS PER POOL
GET BINGO WITH	WIN	1 IN	
LINE – CARD 1	\$2 Ticket	37.50	201,600
LINE – CARD 2	\$3	10.00	756,000
LINES – CARD 1, 2	\$3 + \$2 Ticket	50.00	151,200
LINE – CARD 3	\$10	18.75	403,200
LINES – CARD 1, 3	\$10 + \$2 Ticket	150.00	50,400
4 CORNERS – CARD 1	\$25	300.00	25,200
LINE – CARD 4	\$25	300.00	25,200
LINES – CARD 1, 2, 4	\$28 + \$2 Ticket	7,500.00	1,008
LINES – CARD 1, 2, 3, 4	\$38 + \$2 Ticket	7,500.00	1,008
4 CORNERS – CARD 2	\$50	406.78	18,585
4 CORNERS – CARD 3	\$100	47,250.00	160
“X” – CARD 1	\$150	252,000.00	30
4 CORNERS – CARDS 1, 3 + LINE-CARD 4	\$150	252,000.00	30
4 CORNERS – CARD 2 + “X”-CARD 1	\$200	756,000.00	10
4 CORNERS – CARD 4	\$200	756,000.00	10
4 CORNERS & CARDS 1, 2, 3 + LINE-CARD 4	\$200	756,000.00	10
“X” – CARD 2	\$250	472,500.00	16
“X” – CARD 3	\$500	756,000.00	10
“X” – CARD 4	\$10,000	1,890,000.00	4

(10) The estimated overall odds of winning some prize in Instant Game Number 451 are 1 in 4.63. Some prizes, including the top prizes, may be sold out at time of ticket purchase.

(11) For reorders of Instant Game Number 451, the estimated odds of winning, value, and number of prizes shall be proportionate to the number of tickets reordered.

(12) By purchasing a HOLIDAY BINGO lottery ticket the player agrees to comply with and abide by all rules and regulations of the Florida Lottery.

(13) Payment of prizes for HOLIDAY BINGO lottery tickets shall be made in accordance with rules of the Florida Lottery governing procedures for awarding prizes. A copy of the current rule can be obtained from the Florida Lottery, Office of the General Counsel, 250 Marriott Drive, Tallahassee, Florida 32399-4011.

Specific Authority Section 24.105(9)(a),(b),(c), 24.109(1), 24.115(1) FS. Law Implemented Section 24.105(9)(a),(b),(c), 24.115(1) FS. History—New 10-11-02.

THIS EMERGENCY RULE TAKES EFFECT IMMEDIATELY UPON BEING FILED WITH THE DEPARTMENT OF STATE.

EFFECTIVE DATE: October 11, 2002

**DEPARTMENT OF THE LOTTERY**

RULE TITLE: Instant Game Number 460, “HIGH ROLLER”      RULE NO.: 53ER02-55

SUMMARY OF THE RULE: This emergency rule describes Instant Game Number 460, “HIGH ROLLER,” for which the Department of the Lottery will start selling tickets on a date to be determined by the Secretary of the Department. The rule sets forth the specifics of the game; determination of prizewinners; and the estimated odds of winning, value, and number and size of prizes in the game.

THE PERSON TO BE CONTACTED REGARDING THE EMERGENCY RULE IS: Diane D. Schmidt, Legal Analyst, Department of the Lottery, 250 Marriott Drive, Tallahassee, Florida 32399-4011

THE FULL TEXT OF THE EMERGENCY RULE IS:

53ER02-55 Instant Game Number 460, “HIGH ROLLER”.

(1) Name of Game. Instant Game Number 460, “HIGH ROLLER.”

(2) Price. HIGH ROLLER lottery tickets sell for \$5.00 per ticket.

(3) HIGH ROLLER lottery tickets shall have a series of numbers in Machine Readable Code (or bar code) on the back of the ticket, along with a Void If Removed Number under the latex area on the ticket. To be a valid winning HIGH ROLLER lottery ticket, a combination of essential elements sufficient to validate the ticket must be present as set forth in paragraph 53ER92-63(1)(a), Florida Administrative Code. In the event a dispute arises as to the validity of any HIGH ROLLER lottery ticket, or as to the prize amount, the Void If Removed Number under the latex shall prevail over the bar code.

(4) Design of Ticket. There are 5 different games in Instant Game Number 460, HIGH ROLLER.

(5) The “YOUR NUMBERS” symbols and play symbol captions in Game 1 are as follows:

INSERT SYMBOLS

(6) The “WINNING NUMBER” symbols and play symbol captions in Game 1 are as follows:

INSERT SYMBOLS

(7) The prize symbols and prize symbol captions in Game 1 are as follows:

INSERT SYMBOLS

(8) The legends in Game 1 are as follows:

INSERT SYMBOLS

(9) The “YOUR NUMBER” play symbols and play symbol captions in Game 2 are as follows:

INSERT SYMBOLS

(10) The “WHEEL” number play symbols and play symbol captions in Game 2 are as follows:

INSERT SYMBOLS

(11) The prize symbols and prize symbol captions in Game 2 are as follows:

INSERT SYMBOLS

(12) The legends in Game 2 are as follows:

INSERT SYMBOLS

(13) The “BONUS” symbols in Game 3 are as follows:

INSERT SYMBOLS

(14) The legend in Game 3 is as follows:

INSERT SYMBOLS

(15) The play symbols and play symbol captions in Game 4 are as follows:

INSERT SYMBOLS

(16) The prize symbols and prize symbol captions in Game 4 are as follows:

INSERT SYMBOLS

(17) The legends in Game 4 are as follows:

INSERT SYMBOLS

(18) The play symbols and play symbol captions in Game 5 are as follows:

INSERT SYMBOLS

(19) The prize symbols and prize symbol captions in Game 5 are as follows:

INSERT SYMBOLS

(20) The legends in Game 5 are as follows:

INSERT SYMBOLS

(21) Determination of Prize Winners. Each of the five games in Instant Game Number 460, HIGH ROLLER, uses a different play methodology. The determination of prizewinners for each game is as follows:

(a) In Game 1, a ticket having a number in the “YOUR NUMBERS” play area that matches the number in the “WINNING NUMBER” play area shall entitle the claimant to the corresponding prize shown for that number. In Game 1, a ticket having the number “7” or “11” in the “YOUR NUMBERS” play area shall entitle the claimant to the corresponding prize shown for that number. The prizes are: \$1.00, \$2.00, \$5.00, \$10.00, \$25.00, \$50.00, \$100, \$250, \$500, and \$25,000.

(b) In Game 2, there are two wheels. A ticket having a number in the play area of a wheel that matches the number in the “YOUR NUMBER” play area of the same wheel shall entitle the claimant to the corresponding prize amount shown for that number. The prizes are: \$1.00, \$2.00, \$3.00, \$5.00, \$10.00, \$25.00, \$50.00, \$75.00, \$100, \$250, \$500, and \$100,000.

(c) In Game 3, a ticket having two matching cards shall entitle the claimant to a prize of \$50.

(d) In Game 4, there are four hands. A ticket having two matching cards within a hand, shall entitle the claimant to the corresponding prize shown for that hand. The prizes are: \$1.00, \$2.00, \$3.00, \$5.00, \$10.00, \$25.00, \$50.00, \$100, \$250, \$1,000, \$5,000, \$25,000, and \$100,000.

(e) In Game 5, there are four rolls. A ticket having two dice within a roll, the total of which is 7 or 11, shall entitle the claimant to the corresponding prize shown for that roll. The prizes are \$5.00, \$10.00, \$25.00, \$50.00, \$100, \$250, \$1,000, \$5,000, \$25,000, and \$50,000.

(22) The estimated odds of winning, value, and number of prizes in Instant Game Number 460 are as follows:

GAME PLAY	WIN	ODDS OF 1 IN	NUMBER OF WINNERS IN 42 POOLS OF 120,000 TICKETS PER POOL
G1- (\$1 x 2) + G2- \$2 + G4- \$1	\$5	10.00	504.000
G1- \$1 + G2- \$2 + G4- \$2	\$5	15.00	336.000
G1- \$1 + G4- (\$2 x 2)	\$5	20.00	252.000
G5- \$5	\$5	60.00	84.000
G1- \$2 + G2- (\$2 x 2) + G4- (\$1 x 4)	\$10	30.00	168.000
G1- \$1 + G2- (\$2 x 3) + G4- \$3	\$10	120.00	42.000
G1- (\$1 x 2) + G2- (\$3 x 2) + G4- (\$1 x 2)	\$10	120.00	42.000
G1- \$1 + G2- \$2 + G4- (\$1 x 2) + G5- \$5	\$10	120.00	42.000
G1- \$1 + G4- (\$1 x 4) + G5- \$5	\$10	120.00	42.000
G1- \$1 + G2- \$5 + G4- (\$2 x 2) + G5- \$5	\$15	60.00	84.000
G1- (\$2 x 2) + G4- (\$2 x 3) + G5- \$5	\$15	120.00	42.000
G1- \$1 + G4- (\$2 x 2) + G5- \$10	\$15	120.00	42.000
G1- \$5 + G2- (\$2 x 6) + G4- (\$2 x 4)	\$25	120.00	42.000
G1- \$5 + G2- (\$2 x 3) + G4- (\$1 x 4) + G5- \$10	\$25	240.00	21.000
G1- \$5 + G2- \$1 + (\$2 x 3) + G4- (\$2 x 4) + G5- \$5	\$25	480.00	10.500
G1- (\$2 x 2) + G4- (\$2 x 3) + G5- (\$5 x 3)	\$25	480.00	10.500
G1- \$2 + G2- (\$5 x 2) + G4- (\$1 x 3) + G5- \$10	\$25	600.00	8.400
G2- (\$5 x 2) + G4- (\$5 x 2) + G5- \$5	\$25	600.00	8.400
G1- (\$1 x 2) + G2- (\$5 x 4) + G4- (\$2 x 4) + G5- (\$5 x 4)	\$50	600.00	8.400
G3- BONUS	\$50	200.00	25.200
G1- \$2 + \$5 + G2- (\$5 x 2) + (\$2 x 4) + G4- (\$5 x 4) + G5- (\$5 x 2) + (\$10 x 2)	\$75	12,000.00	420
G1- (\$5 x 2) + G2- (\$25 x 2) + G4- (\$5 x 2) + G5- \$5	\$75	12,000.00	420
G1- (\$5 x 2) + G2- (\$5 x 4) + G4- (\$5 x 4) + G5- \$5 + (\$10 x 2)	\$75	12,000.00	420
G1- (\$5 x 2) + G2- \$25 + G4- (\$5 x 3) + G5- \$25	\$75	12,000.00	420
G1- (\$10 x 2) + G2- \$10 + G4- (\$10 x 2) + G5- \$25	\$75	12,000.00	420
G3- BONUS + G5- \$25	\$75	12,000.00	420
G1- \$10 + G2- (\$25 x 2) + G4- \$10 + G5- (\$10 x 3)	\$100	12,000.00	420
G1- \$25 + G2- \$10 + G4- \$25 + G5- (\$10 x 4)	\$100	12,000.00	420
G1- (\$5 x 2) + G2- (\$10 x 3) + G4- \$50 + G5- (\$5 x 2)	\$100	12,000.00	420
G1- \$25 + G2- (\$10 x 4) + G4- (\$5 x 4) + G5- (\$5 x 3)	\$100	12,000.00	420
G1- \$25 + G2- (\$10 x 2) + G4- \$5 + \$10 + G5- (\$10 x 4)	\$100	24,000.00	210
G3- BONUS + G5- \$50	\$100	24,000.00	210

NUMBER OF WINNERS IN 42 POOLS OF 120,000 TICKETS PER POOL	ODDS OF 1 IN	WIN	GAME PLAY
500	252.000.00	20	G1- (\$10 x 2) + G2- \$50 + \$100 + G4- (\$50 x 4) + G5- \$5 + \$25 + \$100
500	252.000.00	20	G1- \$50 + G2- (\$25 x 2) + \$50 + \$75 + G4- \$25 + \$50 + G5- (\$50 x 4)
500	252.000.00	20	G1- (\$2 x 5) + G2- (\$25 x 8) + G3- BONUS + G4- (\$10 x 4) + G5- (\$50 x 4)
1,000	504.000.00	10	G1- (\$25 x 2) + G2- (\$50 x 4) + G3- BONUS + G4- (\$250 x 2) + G5- (\$50 x 4)
1,000	504.000.00	10	G1- (\$50 x 2) + G2- (\$50 x 4) + G4- (\$250 x 2) + G5- (\$50 x 4)
1,000	1,008.000.00	5	G1- (\$100 x 2) + G2- \$100 + G4- \$50 + (\$100 x 2) + \$250 + G5- (\$50 x 4)
1,000	1,008.000.00	5	G5- (\$250 x 4)
1,000	1,008.000.00	5	G1- (\$250 x 2) + G2- (\$100 x 5)
2,000	1,008.000.00	5	G1- \$100 + G2- (\$250 x 2) + G4- \$1,000 + G5- (\$100 x 4)
10,000	2,520.000.00	2	G1- (\$500 x 2) + G2- (\$500 x 6) + G4- (\$1,000 x 2) + G5- (\$1,000 x 4)
10,000	2,520.000.00	2	G2- (\$250 x 8) + G4- (\$1,000 x 4) + G5- (\$1,000 x 4)
10,000	2,520.000.00	2	G5- (\$5,000 x 2)
25,000	2,520.000.00	2	G5- \$25,000
25,000	2,520.000.00	2	G4- (\$5,000 x 4) + G5- \$5,000
100,000	5,040.000.00	1	G1- \$25,000 + G4- \$25,000 + G5- \$50,000
100,000	5,040.000.00	1	G2- \$100,000
100,000	5,040.000.00	1	G4- \$100,000

(23) The overall odds of winning some prize in Instant Game Number 460 are 1 in 2.77. Some prizes, including the top prizes, may be sold out at time of ticket purchase.

(24) For reorders of Instant Game Number 460, the estimated odds of winning, value, and number of prizes shall be proportionate to the number of tickets reordered.

(25) By purchasing a HIGH ROLLER lottery ticket the player agrees to comply with and abide by all rules and regulations of the Florida Lottery.

(26) Payment of prizes for HIGH ROLLER lottery tickets shall be made in accordance with rules of the Florida Lottery governing procedures for awarding prizes. A copy of the current rule can be obtained from the Florida Lottery, Office of the General Counsel, 250 Marriott Drive, Tallahassee, Florida 32399-4011.

Specific Authority 24.105(9)(a),(b),(c), 24.109(1), 24.115(1) FS. Law Implemented 24.105(9)(a),(b),(c), 24.115(1) FS. History—New 10-11-02.

THIS EMERGENCY RULE TAKES EFFECT IMMEDIATELY UPON BEING FILED WITH THE DEPARTMENT OF STATE.

EFFECTIVE DATE: October 11, 2002

## Section V Petitions and Dispositions Regarding Rule Variance or Waiver

### DEPARTMENT OF LAW ENFORCEMENT

Notice is hereby given that the Officer Professionalism Program, Florida Department of Law Enforcement has received from Michael B. Austin on October 7, 2002, a petition for Waiver of paragraph 11B-35.003(5)(a), F.A.C., pursuant to Section 120.542, F.S. Petitioner has requested that the Department waive certain course requirements for Medical First Responder training and that the Commission recognize the Petitioner's expertise and training in the medical profession as fulfilling the rule requirements.

Comments on this Petition should be filed with the Office of General Counsel, Florida Department of Law Enforcement, P. O. Box 1489, Tallahassee, Florida 32302, Attention: Assistant General Counsel Grace A. Jaye.

A copy of the petition may be obtained by contacting Assistant General Counsel Grace A. Jaye at the above address or by calling (850)410-7676.

### WATER MANAGEMENT DISTRICTS

NOTICE IS HEREBY GIVEN that on September 17, 2002, South Florida Water Management District (District) received a petition for waiver from John Keller, Application No. 02-0423-1, for utilization of Works or Lands of the District known as the C-14 Canal, Broward County, for an existing fence enclosure. The petition seeks relief from subsections 40E-6.011(4),(6) and (7), paragraph 40E-6.221(2)(j), Fla. Admin. Code, and the Basis of Review for Use or Occupancy of the Works or Lands of the District Permit Applications within the South Florida Water Management District, incorporated by reference in subsection 40E-6.091(1), Fla. Admin. Code, which provide that a 40 foot wide strip of right of way, measured from the top of the canal bank landward, shall be unencumbered by permanent and/or semi-permanent above ground structures within Works or Lands of the District, to enable the District to perform its required routine and emergency operations and maintenance activities necessary to insure flood protection to the entire community.

A copy of the petition may be obtained from: Jan Sluth, (561)682-6299 or e-mail: jsluth@sfwmd.gov.

The District will accept comments concerning the petition for 14 days from the date of publication of this notice. To be considered, comments must be received by the end of business on the 14th day at the South Florida Water Management District, 3301 Gun Club Road, MSC 1410, West Palm Beach, FL 33406, Attn: Jan Sluth, Office of Counsel.

NOTICE IS HEREBY GIVEN that on September 30, 2002, the South Florida Water Management District (SFWMD) received a petition for waiver from Palm Beach Hounds, Inc. (PBH) for the use of SFWMD lands known as the Dupuis Management Area. PBH would like to engage in an equestrian laid scent activity in the Dupuis Management Area. This is a petition for a temporary waiver commencing on October 16, 2002 through March 26, 2003, during the hours of 6:00 a.m. to 11:00 a.m. on specified Wednesdays. This waiver would allow PBH to engage in a laid scent chasing activity with horses off of designated trails and dogs other than the breed specified during the small game season for the area. The petition seeks relief from subsection 40E-7.538(13), Fla. Admin. Code, "Public Use Guide", which prohibits equestrian activities off of designated equestrian trails and named or numbered roads, and prohibits dogs, other than those breeds specified during the small game season, as applied to the Dupuis Management Area.

A copy of the petition may be obtained from: Charron A. Follins, (561)682-6293, e-mail: cfollins@sfwmd.gov.

The SFWMD will accept comments concerning the petition for 14 days from the date of publication of this notice. To be considered, comments must be received by the end of business on the 14th day at the South Florida Water Management District, 3301 Gun Club Road, West Palm Beach, FL 33406, Attn: Charron Follins, Office of Counsel.

### DEPARTMENT OF ENVIRONMENTAL PROTECTION

NOTICE IS HEREBY GIVEN that on October 3, 2002, the Florida Department of Environmental Protection received a petition from Florida Tile Industries, Inc. seeking a variance under Sections 120.542 and 403.201, Florida Statutes, from certain land disposal restrictions under Rule 62-730.183, Florida Administrative Code. The variance has been requested in the context of remediation of lead-contaminated soil. The petition has been assigned File No.: 02-1736.

Copies may be received from, and written comments submitted to: Department of Environmental Protection, Hazardous Waste Regulation Section, 2600 Blair Stone Road, MS 4560, Tallahassee, Florida 32399-2400, Attention: Shelton Graves. Comments must be received no later than 14 days from the date of publication of this notice.

This notice is also published on the Internet at the Department of Environmental Protection's home page at <http://www.dep.state.fl.us/> under the link or button titled "Official Notices."

On September 20, 2002, the Petitioner Ms. Alvira McIntosh (Facility Id No. 018500009), withdrew the petition seeking a waiver pursuant to Section 120.542, F.S. (2001) of the \$500 ATRP deductible required by Rule 62-769.800, F.A.C.



The full text of this notice is published on the Internet at the Department of Environmental Protection's home page at <http://www.dep.state.fl.us/> under the link or button titled "Official Notices."

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**DEPARTMENT OF HEALTH**

NOTICE IS HEREBY GIVEN THAT ON April 18, 2002, the Department of Health received a Petition for Variance from Rule 64E-5.217, F.A.C., from Eastern Isotopes. The Petitioner requests a variance from the requirement for a Florida establishment to issue a bond.

Comments on this Petition should be filed with: Sam Power, Agency Clerk, Department of Health, Office of the General Counsel, 4052 Bald Cypress Way, Bin #A02, Tallahassee, FL 32399-1703.

A copy of the Petition may be obtained from: Sam Power, Agency Clerk, Department of Health, Office of the General Counsel, 4052 Bald Cypress Way, Bin #A02, Tallahassee, FL 32399-1703.

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The Board of Psychology hereby gives notice that the petition filed on behalf of Angela M. Glazer, Ph.D., on September 24, 2002, seeking a variance from paragraphs 64B19-11.001(4)(b) and (c), F.A.C., has been withdrawn. The Notice of Petition was published in Vol. 28, No. 41 of the October 11, 2002 issue of the Florida Administrative Weekly.

The person to be contacted regarding this matter is: Kaye Howerton, Executive Director, Board of Psychology, 4052 Bald Cypress Way, Bin #C05, Tallahassee, Florida 32399-3255.

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The Board of Psychology hereby gives notice that it has issued an Order on the Petition for Waiver filed on behalf of Leila T. Saavedra, Psy.D. The Notice of Petition for Waiver was published on September 20, 2002 in Vol. 28, No. 38 of the Florida Administrative Weekly. The Board considered the Petition at its meeting held by telephone conference call on October 10, 2002. The Board's Order, filed October 14, 2002, grants the petition for waiver, finding that the underlying purpose of the statute, as implemented by paragraph 64B19-11.001(4)(c), F.A.C., has been met and that the Petitioner has demonstrated substantial hardship.

A copy of the Board's Order may be obtained by contacting: Board of Psychology, 4052 Bald Cypress Way, Bin #C05, Tallahassee, Florida 32399-3253.

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The Board of Psychology hereby gives notice that it has received a petition from Laurie Lynn Kidd, Psy.D. on October 14, 2002 seeking a waiver or variance of paragraph 64B-11.0035(5)(g), F.A.C. Comments on this petition should

be filed with Board of Psychology, Northwood Centre, 1940 N. Monroe Street, Tallahassee, FL 32399-0750, within 14 days of publication of this notice.

For additional information or a copy of the petition, contact: Kaye Howerton, Executive Director, Board of Psychology, 4052 Bald Cypress Way, Bin #C05, Tallahassee, FL 32399-3253, at above address or telephone (850)245-4374.

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The Board of Psychology hereby gives notice that it has received a petition from Jodi Stoner Moskowitz, Ph.D. on October 14, 2002 seeking a waiver or variance of Rule 64B19-11.001, F.A.C.

Comments on this petition should be filed with Board of Psychology, Northwood Centre, 1940 N. Monroe Street, Tallahassee, FL 32399-0750, within 14 days of publication of this notice.

For additional information or a copy of the petition, contact: Kaye Howerton, 4052 Bald Cypress Way, Bin #C05, Tallahassee, FL 32399-3253, at above address or telephone (850)245-4374.

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The Board of Psychology hereby gives notice that it has issued an Order on the Petition for Waiver filed on behalf of Cherry Lynn Greenling. The Notice of Petition for Waiver was published on August 30, 2002, in Vol. 28, No. 35 of the Florida Administrative Weekly.

The Board considered the Petition at its meeting held via telephone conference on October 10, 2002. The Board's Order, filed October 14, 2002, grants the petition for waiver in part and denies in part, finding that the underlying purpose of the statute, as implemented by paragraphs 64B19-11.001(4)(b) and (c), F.A.C., has been met and that the Petitioner has demonstrated substantial hardship.

A copy of the Board's Order may be obtained by contacting: Board of Psychology, 4052 Bald Cypress Way, Bin #C05, Tallahassee, Florida 32399-3253.

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The Board of Psychology hereby gives notice that it has issued an Order on the Petition for Waiver filed on behalf of Denise Crammer, Psy.D. The Notice of Petition for Waiver was published on July 26, 2002 in Vol. 28, No. 32 of the Florida Administrative Weekly.

The Board considered the Petition at its meeting held on August 16, 2002, and again on October 10, 2002 in Orlando, Florida. The Board's Order, filed October 14, 2002, grants the petition for waiver, finding that the underlying purpose of the statute, as implemented by paragraphs 64B19-11.001(4)(b) and (c), F.A.C., has been met and that the Petitioner has demonstrated substantial hardship.

A copy of the Board's Order may be obtained by contacting the Board of Psychology, 4052 Bald Cypress Way, Bin #C05, Tallahassee, Florida 32399-3253.

NOTICE IS HEREBY GIVEN that the Department of Health, Bureau of Statewide Pharmaceutical Services, received a Petition for Variance from paragraph 64F-12.023(3)(b), F.A.C., on October 10, 2002, from Excess Management Systems. This rule specifies that an establishment, which receives adulterated prescription drugs from a reverse distributor, must be authorized to receive adulterated prescription drugs for reverse distribution or destruction purposes.

A copy of the petition can be obtained from: The Bureau of Statewide Pharmaceutical Services, Department of Health, 2818-A Mahan Drive, Tallahassee, Florida 32308 or (850)922-5190.

**FLORIDA HOUSING FINANCE CORPORATION**

FLORIDA HOUSING FINANCE CORPORATION gives notice of the entry of an Order Granting Petition for Waiver from paragraph 67-48.090(3)(a), F.A.C.

NAME OF THE PETITIONER: Deer Creek

DATE PETITION WAS FILED: August 14, 2002

RULE NUMBER AND NATURE OF THE RULE FROM WHICH THE WAIVER OR VARIANCE IS SOUGHT: Florida Admin. Code, paragraph 67-47.090(3)(a), which establishes the maximum purchase price of a unit to be \$121,296 (2000).

REFERENCE TO THE PLACE AND DATE OF THE PUBLICATION OF THE NOTICE OF PETITION: Florida Administrative Weekly, August 30, 2002, Vol. 28, No. 35.

THE DATE THE BOARD OF DIRECTORS OF FLORIDA HOUSING FINANCE CORPORATION ORDER APPROVED THE VARIANCE OR WAIVER: October 10, 2002.

THE GENERAL BASIS FOR THE DECISION: The purpose of the underlying statute is to make loans to Eligible Housing Providers and Eligible Home Buyers for the construction of affordable housing. The waiver will further this purpose.

EXPLANATION OF HOW A COPY OF THE ORDER CAN BE OBTAINED: A copy of the Order is available for public inspection during normal business hours, 8:00 a.m. to 5:00 p.m., Monday through Friday, except legal holidays, at Florida Housing Finance Corporation, 227 N. Bronough St., Suite 5000, Tallahassee, FL 32301-1329. Requests for copies or inspections should be made to Sherry Green, Public Records Coordinator, at the above address, telephone (850)488-4198 or e-mail: sherry.green@floridahousing.org.

FLORIDA HOUSING FINANCE CORPORATION gives notice of the entry of an Order Granting Petition for Waiver from paragraphs 67-47.090(3)(a) and 67-48.100(2)(d), F.A.C.

NAME OF THE PETITIONER: City of Gainesville

DATE PETITION WAS FILED: September 6, 2002

RULE NUMBER AND NATURE OF THE RULE FROM WHICH THE WAIVER OR VARIANCE IS SOUGHT: Florida Admin. Code, paragraph 67-47.090(3)(a) (1998), which establishes the maximum purchase price of a unit, and Fla. Admin. Code, paragraph 67-47.100(2)(d) (1998), which states once the application has been received by the Corporation, no additions, deletions, or changes will be accepted.

REFERENCE TO THE PLACE AND DATE OF THE PUBLICATION OF THE NOTICE OF PETITION: Florida Administrative Weekly, September 20, 2002, Vol. 28, No. 38.

THE DATE THE BOARD OF DIRECTORS OF FLORIDA HOUSING FINANCE CORPORATION ORDER APPROVED THE VARIANCE OR WAIVER: October 10, 2002.

THE GENERAL BASIS FOR THE DECISION: The purpose of the underlying statute is to make loans to Eligible Housing Providers and Eligible Home Buyers for the construction of affordable housing. The waiver will further this purpose.

EXPLANATION OF HOW A COPY OF THE ORDER CAN BE OBTAINED: A copy of the Order is available for public inspection during normal business hours, 8:00 a.m. to 5:00 p.m., Monday through Friday, except legal holidays, at Florida Housing Finance Corporation, 227 N. Bronough St., Suite 5000, Tallahassee, FL 32301-1329. Requests for copies or inspections should be made to Sherry Green, Public Records Coordinator, at the above address, telephone (850)488-4198 or e-mail: sherry.green@floridahousing.org.

**Section VI**

**Notices of Meetings, Workshops and Public Hearings**

The following state governmental agencies, boards and commissions announce a public meeting to which all persons are invited:

- State Board of Administration
- Department of Veterans' Affairs
- Department of Highway Safety and Motor Vehicles
- Department of Law Enforcement
- Department of Revenue
- Department of Education
- Administration Commission
- Florida Land and Water Adjudicatory Commission
- Board of Trustees of the Internal Improvement Trust Fund
- Department of Environmental Protection

DATE AND TIME: November 13, 2002, 9:00 a.m.

PLACE: Cabinet Meeting Room, Lower Level, The Capitol, Tallahassee, Florida

PURPOSE: Regular scheduled meeting of the Governor and Cabinet

The State Board of Administration will take action on matters duly presented on its agenda, which may include such matters as Executive Director's reports; approval of fiscal sufficiency of state bond issues; approval of sale of local bonds at an interest rate in excess of statutory interest rate limitation; report on investment performance; designation of banks as depositories for state funds; adoption of rules and regulations; investment of state funds pursuant to Chapter 215, F.S.; and consideration of other matters within its authority pursuant to Chapters 215 and 344, F.S., and Section 16 of Article IX of the Florida Constitution of 1885, as continued by subsection 9(c) of Article XII of the Florida Constitution of 1968. The Division of Bond Finance of the State Board of Administration will take action on matters duly presented on its agenda, which will deal with the issuance of State bonds, arbitrage compliance and related matters.

The Department of Veterans' Affairs will take action on matters duly presented on its agenda which may include the administration of the Department as well as actions taken to further the Department's mission of providing assistance to veterans and their dependents, pursuant to Section 292.05, F.S.

The Information Resource Commission will take action on matters duly presented on its agenda, which may include administrative procedures matters, adoption of rules, approval of agency plans for the use of information technology resources, adoption of policies for the use of such resources, and other matters under the commission's authority pursuant to law.

The Department of Highway Safety and Motor Vehicles will take action on matters duly presented on its agenda, which may include such matters as approval of agency policies, taking agency action with regard to administrative procedure matters, and considering other matters within its authority pursuant to Florida Statutes.

The Department of Law Enforcement will take action on matters duly presented on its agenda which may include but not be limited to such matters as transfer of agency funds or positions, formulation of Departmental Rules, administrative procedure matters, submittal of reports as required, enter into contracts as authorized and to consider other matters within its authority pursuant to Chapters 20, 23, 120 and 943, F.S.

The Department of Revenue will act on matters duly presented on its agenda which may include approval of rules, legislative concept proposals, contracts over \$100,000, Departmental budgets, taking final action on formal and informal hearings under Chapter 120, F.S., and consideration of other matters within its authority.

The Department of Education will finalize agency action on the business of the Florida Department of Education.

The Administration Commission will take action on matters duly presented on its agenda which may include such matters as to create or transfer agency funds or positions, approve Career Service rules, administrative procedure matters, environmental matters arising under Chapter 380, F.S., comprehensive planning issues pursuant to Section 163.3184, F.S., determine sheriffs' budget matters, and consider other matters within its authority pursuant to Chapters 110, 215 and 216, F.S.

The Florida Land and Water Adjudicatory Commission will take action on matters duly presented on its agenda including appeals of local government development orders in areas of critical state concern or of developments of regional impact under Section 380.07, F.S.; and review of water management matters under Chapter 373, F.S. The Commission will also review Department of Environmental Protection's rules and orders which, prior to July 1, 1993, the Governor and Cabinet, sitting as the head of the Department of Natural Resources, had authority to issue or promulgate.

The Board of Trustees of the Internal Improvement Trust Fund will take action on matters duly presented on its agenda which may include such matters as mineral leases or sales, state or sovereign land leases, sales, exchanges, dedications, and easements, Conservation And Recreation Lands (CARL) and other land purchases; land planning matters and other matters within its authority. Additionally, the Board will take action on matters presented by the Marine Fisheries Commission as set forth in Sections 370.025, 370.026 and 370.027, F.S., and matters pertaining to the Office of Greenways Management, the Office responsible for the management of lands which formerly fell within the Cross Florida Barge Canal project corridor.

The Department of Environmental Protection, while not a Cabinet agency, will present for consideration on its agenda those matters required by law to be reviewed by the Governor and Cabinet and those pertaining to the siting of power plants, electric and natural gas transmission lines and hazardous waste facilities; coastal zone management consistency and standards adopted by the Environmental Regulation Commission.

A copy of any of the above agendas (when applicable) may be obtained by contacting each agency.

Accommodations can be made for persons with disabilities provided several days' notification is received. Please notify the Governor's Cabinet Office, (850)488-5152.

The Governor and Cabinet will proceed through each agenda, item by item, in the order given above.

**CABINET AIDES BRIEFING:** On the Wednesday of the week prior to the above meeting, there will be a meeting of the aides to the Governor and Cabinet Members at 9:00 a.m., Cabinet Meeting Room, Lower Level, The Capitol, Tallahassee,

Florida. The purpose of this briefing is to review and gather information regarding each agenda to be considered by the Governor and Cabinet.

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#### DEPARTMENT OF STATE

The **Florida Historical Commission** announces three public meetings to which all persons are invited.

**DATES AND TIME:** Monday, November 18, 2002; Tuesday, November 19, 2002; Wednesday, November 20, 2002, 9:00 a.m.

**PLACE:** R. A. Gray Building, Auditorium, 500 South Bronough Street, Tallahassee, Florida

**GENERAL SUBJECT MATTER TO BE CONSIDERED:** To conduct a general business meeting of the Florida Historical Commission and to conduct a town meeting and receive public input and review of National Register Nomination Proposals.

A copy of the agenda may be obtained by writing: Mr. Robert C. Taylor, Historic Preservationist Supervisor, Bureau of Historic Preservation, Department of State, R. A. Gray Building, 500 South Bronough, Tallahassee, Florida 32399-0250 or calling (850)245-6333.

Should any person wish to appeal any decision made with respect to the above referenced meeting, he may need to ensure verbatim recording of the proceedings in order to provide a record for judicial review.

Pursuant to Section 286.26, Florida Statutes, people with disabilities wishing to attend this meeting should contact the agency at least 48 hours prior to the meeting in order to request any special assistance. Please contact the Bureau of Historic Preservation by telephone (850)245-6333 or by Fax (850)245-6437.

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The **Department of State, Division of Cultural Affairs** announces the following public meeting to which all persons are invited.

**COMMITTEE:** Art Selection Committee

**DATE AND TIME:** Wednesday, November 6, 2002, 9:00 a.m.

**PLACE:** Corporate Park of Miami, Conference Room Suite 150, 7755 Northwest 48th Street, Miami, Florida 33166, (786)845-0110

**GENERAL SUBJECT MATTER TO BE CONSIDERED:** To hold a Proposal Meeting to review and discuss final proposals for Art in State Buildings Project No. DOH 9813-7300, Miami-Dade County Health Department, West Perrine.

For more information or to obtain a copy of the agenda, please contact: Lee Modica, Arts Administrator, Division of Cultural Affairs, The Capitol, Tallahassee, Florida 32399-0250, (850)487-2980, Ext. 116.

Should any person wish to appeal any decision made with respect to any matter considered at the above-referenced proceeding to provide a record for judicial review. This meeting will not be taped by the Division of Cultural Affairs.

Pursuant to the provisions of the Americans with Disabilities Act, any person requiring special accommodations to participate in this meeting is asked to advise the agency at least 48 hours before the meeting by contacting: Valerie Ohlsson, (850)487-2980, Ext. 117. If you are hearing or speech impaired, please contact the agency by calling TT: (850)488-5779.

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The **Department of State, Division of Cultural Affairs**, Florida Arts Council announces public meetings to which all persons are invited.

**DATES AND TIMES:** Tuesday, November 12, 2002, 1:00 p.m. – conclusion; Wednesday, November 13, 2002, 8:30 a.m. – conclusion; Thursday, November 14, 2002, 8:30 a.m. – conclusion; Friday, November 15, 2002, 9:00 a.m. – conclusion

**PLACES:** Philharmonic Center, 5883 Pelican Bay Boulevard, Naples, FL (11/12 and 11/14); Hilton Naples and Towers, 5111 Tamiami Trail, North, Naples, FL (11/13 and 11/14); The von Liebig Arts Center, 585 Park Street, Naples, FL (11/15)

**GENERAL SUBJECT MATTER TO BE CONSIDERED:** Committee, grant panel and general session meetings of the Council.

A copy of the agenda may be obtained by writing: Division of Cultural Affairs, 1001 DeSoto Park Drive, Tallahassee, Florida 32301 or by calling Dianne Alborn, Administrative Assistant, (850)487-2980.

Should any person wish to appeal any decision made with respect to any matter considered at the above-referenced meeting, he/she may need to ensure verbatim recording of the proceeding in order to provide a record for judicial review. The Division of Cultural Affairs will not record these meetings.

Pursuant to the provisions of the Americans with Disabilities Act, persons with disabilities are asked to contact the Division office by November 6, 2002, if you need an accommodation. Please contact Valerie Ohlsson, Arts Consultant, Division of Cultural Affairs, (850)487-2980 or (850)488-5779 (TDD) or by Fax (850)922-5259.

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The **Department of State, Division of Cultural Affairs** announces the following public meeting to which all persons are invited.

**COMMITTEE:** Art Selection Committee

**DATE AND TIME:** Tuesday, November 26, 2002, 2:00 p.m.

**PLACE:** University of South Florida, Contemporary Art Museum, Conference Room, Tampa, FL

**GENERAL SUBJECT MATTER TO BE CONSIDERED:** Art in State Buildings Meeting, Initial meeting for USF Public Art Project #549 for the Natural and Environmental Science facility.

For more information, please contact: Vincent Ahern, Coordinator of Public Art, University of South Florida Contemporary Art Museum, 4202 E. Fowler Avenue, CAM101, Tampa, FL 33620, (813)974-4333.

Should any person wish to appeal any decision made with respect to any matter considered in the above-referenced meeting, he/she may need to ensure verbatim recording of the proceedings to provide a record for judicial review. This meeting will not be taped by the Division of Cultural Affairs.

Pursuant to the provisions of the Americans With Disabilities Act, any person requiring special accommodation to participate in this meeting is asked to advise the agency at least 48 hours before the meeting by contacting Vincent Ahern at the above listed phone number. If you are hearing or speech impaired, please contact the agency.

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#### DEPARTMENT OF INSURANCE

The **Governor's Commission on Workers' Compensation Reform** announces the following public meeting to which all persons are invited.

DATE AND TIME: November 12, 2002, 9:00 a.m. – 5:00 p.m.

PLACE: Florida International University, Koven's Conference Center, Room 214A, 3000 N. E. 151st Street, North Miami, Florida 33181, (305)919-5000, Fax (305)919-5001

GENERAL SUBJECT MATTER TO BE CONSIDERED: Workers' Compensation Reform.

Any person requiring special accommodations to participate in this meeting is asked to advise staff at least 48 hours prior to the meeting by contacting: Jacki Lawhon, (850)922-8062.

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#### DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES

The **Endangered Plant Advisory Council** announces a public meeting to which all persons are invited.

DATES AND TIMES: Thursday, November 7, 2002, 8:30 a.m. through Friday, November 8, 2002, 12:00 Noon

PLACE: The Enchanted Forest, Environmental Education Center, 444 Columbia Boulevard, Titusville, Florida 32780

GENERAL SUBJECT MATTER TO BE CONSIDERED: To consider the following agenda items:

November 7, 2002 (8:30 a.m. – 5:00 p.m.)

1. Welcome and Opening Remarks.
2. Thanks to Nancy Coile (FDACS/DPI, Botanist-Retired).
3. Approval of Agenda.
4. Review and Approve Minutes of Spring Meeting.
5. Evaluate and Rank Grant Proposals for Fiscal Year 2003 – 2004.
6. Current Status of *Andropogon arctatus* and *Acacia angustissima*.
7. Ranking and Proposed Listing of *Liatris gholsonii*.
8. Ranking and Proposed Listing of *Silene caroliniana*.

9. Ranking and Proposed Listing of *Stachys hyssopifolia* var. *lythroides*.
10. Ranking and Proposed Listing of *Linum macrocarpum*.
11. Ranking and Proposed Listing of *Schoenolirion croceum*.
12. Ranking and Proposed Listing of *Stenanthium gramineum*.
13. Discussion on Future EPAC Listings of any *Isoetes* species.
14. Other New Plant Listings for Regulated Plant Index.
15. Field Trip (Itinerary to be Announced).

November 8, 2002 (8:30 a.m. – 12:00 Noon)

1. Comments or Concerns from Interested Parties.
2. Schedule Next Meeting.
3. Field Trip (Itinerary to be Announced).

If you need a special accommodation in order to attend this meeting because of a disability, please let us know by November 1, 2002.

A copy of the agenda may be obtained by writing: Mr. Danny Phelps, Secretary, Endangered Plant Advisory Council, Division of Plant Industry, Post Office Box 147100, Gainesville, Florida 32614-7100, (352)372-3505.

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The Florida **Department of Agriculture and Consumer Services, Division of Forestry** announces a meeting of the Silviculture Best Management Practices Technical Advisory Committee Working Group to which all persons are invited.

DATE AND TIME: November 8, 2002, 10:00 a.m.

PLACE: Division of Forestry, State Office Headquarters, Eyster Auditorium, 3125 Conner Blvd., Tallahassee, Florida

GENERAL SUBJECT MATTER TO BE CONSIDERED: Meeting of the Silviculture Best Management Practices Technical Advisory Committee Working Group.

For more information about the meeting, for a copy of the agenda, or if special accommodations are needed to attend this meeting because of a disability, please contact: Jeff Vowell, Division of Forestry, 3125 Conner Boulevard, Tallahassee, Florida 32399-1650, (850)414-9935.

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#### DEPARTMENT OF EDUCATION

The **Florida Center for Advising and Academic Support (FCAAS)** announces a public meeting to which all persons are invited.

DATE AND TIME: November 8, 2002, 10:00 a.m. – 3:00 p.m.

PLACE: Tampa Marriott Hotel, Tampa International Airport, Tampa, FL

GENERAL SUBJECT MATTER TO BE CONSIDERED: The quarterly meeting of the FCAAS Board will be held to discuss ongoing development and administration of the FACTS project.

A copy of the agenda may be obtained by writing: FCAAS, 325 West Gaines Street, Suite 1414, Tallahassee, Florida 32399-0400.

Any persons requiring special accommodations to attend this meeting because of a disability or physical impairment may contact Yvette Hargreaves, FCAAS, (850)201-7363, at least seven days in advance so that their needs can be accommodated.

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The **Florida Atlantic University**, Florida's Art in State Buildings Program announces the following public meeting to which all persons are invited.

COMMITTEE: Art Selection Committee

DATE AND TIME: November 4, 2002, 11:00 a.m. – 12:00 Noon

PLACE: Florida Atlantic University, Florida's Art in State Buildings Program, FAU/IRCC Treasure Coast Campus at Port St. Lucie, Classroom Office Building, Room 229, 500 Northwest California Boulevard, Port St. Lucie, FL 34986

GENERAL SUBJECT MATTER TO BE CONSIDERED: To hold an Orientation Meeting regarding Florida's Art in State Buildings Program for BR-608 FAU/IRCC.

For more information or to obtain a copy of the agenda, please contact: Patty Singer, Program Administrator for Florida's Art in State Buildings Program, Florida Atlantic University, 777 Glades Road, ADM Bldg., Room 392, Boca Raton, Florida 33431, (561)297-1064, (561)297-2539.

Should any person wish to appeal any decision made with respect to any matter considered at the above referenced meeting, he/she may need to ensure verbatim recording of the proceeding to provide a record for judicial review. This meeting will not be taped by the Florida's Art in State Buildings Program.

Pursuant to the provisions of the Americans with Disabilities Act, any person requiring special accommodations to participate in this meeting is asked to advise the agency at least 48 hours before the meeting by contacting: Patty Singer, (561)297-1064, (561)297-2539. If you are hearing or speech impaired, please contact the agency by calling TT: 1(800)955-8770.

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The **State University Presidents Association** announces a meeting to which all persons are invited.

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

PLACE: Hyatt Regency Orlando International Airport, 4th Floor, Tegel Room, 9300 Airport Boulevard, Orlando, FL 32827

GENERAL SUBJECT MATTER TO BE CONSIDERED: Budget; Legislation; Organizational Issues.

A copy of the agenda may be obtained by contacting: University of Central Florida, President's Office, (407)823-2484.

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Pursuant to the provisions of the Americans with Disabilities Act, any person requiring special accommodations to participate in this meeting is asked to advise the agency as soon as possible and at least 48 hours before the meeting by contacting Ms. Sandra Cherepow, (407)823-2484.

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The **Commission For Independent Education** announces a public meeting on Proposed Rules, to which all persons are invited.

DATE AND TIME: November 14, 2002, 9:00 a.m.

PLACE: Sheraton Suites Tampa Airport, 4400 West Cypress Street, Tampa, Florida 33607

GENERAL SUBJECT MATTER TO BE CONSIDERED: Consider licenses for appropriate institutions, cases for licensure as specified in the agenda, Commission Committee meetings, report of discussions from Rules Committee, Rules Committee meetings and other general Commission business. Any person who decides to appeal a decision of the Commission with respect to any matter considered at this meeting or hearing may need to ensure that a verbatim record of the proceedings is made, which record will include the testimony and evidence upon which the appeal is to be based.

A copy of the agenda may be obtained by writing: Commission For Independent Education, Department of Education, Florida Education Center, Tallahassee, Florida 32399.

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The **Florida Community College System** announces a conference call of the Foundation for Florida's Community Colleges, Inc., to which all persons are invited.

DATE AND TIME: November 7, 2002, 3:00 p.m. – 4:00 p.m.

PLACE: Call (850)488-5776 or Suncom 278-5776

GENERAL SUBJECT MATTER TO BE CONSIDERED: Meeting of the Foundation for Florida's Community Colleges, Inc., Board of Directors.

NOTE: If you need special services to attend the meeting or need additional information write: Division of Community Colleges, 325 West Gaines Street, Suite 1314, Tallahassee, Florida 32399-0400.

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The **Florida Institute of Phosphate Research** announces a conference call to which the public is invited to attend.

DATE AND TIME: November 7, 2002, 10:00 a.m.

PLACE: Telephone conference. The Institute's Office, 1855 W. Main St., Bartow, FL

GENERAL SUBJECT MATTER TO BE CONSIDERED: A telephone conference between Dr. Paul Clifford, Executive Director, and the members of the Board of Directors of the Florida Institute of Phosphate Research will be held to consider funding of research proposals and other business pertaining to the operation of the Institute.

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**DEPARTMENT OF COMMUNITY AFFAIRS**

The **Department of Community Affairs** announces a meeting of the Affordable Housing Study Commission to which all interested persons are invited.

**DATES AND TIMES:** November 13, 2002, 1:30 p.m. – 5:30 p.m.; November 14, 2002, 8:00 a.m. – 1:00 p.m. (Times are subject to change)

**PLACE:** Sheraton Suites Orlando Airport, 7550 Augusta National Drive, Orlando, Florida

**GENERAL SUBJECT MATTER TO BE CONSIDERED:** The Commission is charged with developing recommendations to the Governor and Legislature to address the state's acute need for housing for very low-, low-, and moderate-income households. At this meeting the Commission will continue its discussion of the work topic for the 2002-2003 Agenda, which is Manufactured Housing.

Any person requiring special accommodations due to disability or physical impairment should contact Melba Hawkins, (850)922-1460, at least five calendar days prior to the meeting. People who are hearing impaired should contact Ms. Hawkins using the Florida Dual Party Relay System, 1(800)955-8770 (Voice) and 1(800)955-8771 (TDD).

A copy of the agenda may be obtained from: Melba Hawkins, The Affordable Housing Study Commission, 2555 Shumard Oak Boulevard, Tallahassee, Florida 32399-2100, (850)922-1460.

The **Department of Community Affairs** announces a public meeting of the Wekiva Basin Area Task Force to which all persons are invited.

**DATE AND TIME:** October 30, 2002, 9:00 a.m. – until conclusion

**PLACE:** Orlando-Sanford Airport, Vigilante Room, 1 Red Cleveland Boulevard, Sanford, FL

**GENERAL SUBJECT MATTER TO BE CONSIDERED:** Organizational meeting of the task force created by Executive Order 2002-259 and other business that the task force deems necessary.

**ACTION TO BE TAKEN:** Consideration of above-stated business. To obtain a copy of the agenda, go to <http://www.dca.state.fl.us/fdcp/DCP/wekiva/wekivariver.htm> or call Tracy Suber, (850)922-1819.

Persons requiring a special accommodation for a disability or physical impairment should contact Nancy Blum, East Central Florida Regional Planning Council, (407)626-1075, at least five days prior to the meeting. If hearing or speech impaired, contact Nancy Blum, East Central Florida Regional Planning Council using the Florida Dual Party Relay System at 1(800)955-8770 (Voice) and 1(800)955-8771 (TDD).

**DEPARTMENT OF LAW ENFORCEMENT**

The **Department of Law Enforcement, Medical Examiners Commission** announces a Medical Examiners Commission Meeting.

**DATE AND TIME:** Wednesday, November 13, 2002, 1:00 p.m.

**PLACE:** Hilton Cocoa Beach Oceanfront Hotel, 1550 North Atlantic Avenue, Cocoa Beach, Florida 32931, (321)799-0003

**GENERAL SUBJECT MATTER TO BE CONSIDERED:** Medical Examiners Commission Meeting.

Any person requiring a special accommodation at this meeting because of disability or physical impairment should contact the Medical Examiners Commission Office, (850)410-8600, at least five (5) working days prior to the meeting.

If a person decides to appeal any decision made by the Commission with respect to any matter considered at this meeting, such person is responsible for ensuring that a verbatim record of the proceedings is made, which record includes the testimony and evidence upon which the appeal is to be based.

Additional information or a copy of the agenda may be obtained by contacting: Mrs. Victoria G. Marsey, Program and Policy Administrator, Criminal Justice Professionalism Services, Medical Examiners Commission, Post Office Box 1489, Tallahassee, Florida 32302, (850)410-8600.

**DEPARTMENT OF TRANSPORTATION**

District Five Tentative Work Program Fiscal  
Years 2003/2004 – 2007/2008

The Florida **Department of Transportation**, District Five announces public hearings to which all interested persons are invited. Specific notice is provided to the Brevard, Volusia, Ocala and Orlando Metropolitan Planning Organizations (MPOs) and the County Commissioners for Brevard, Volusia, Marion, Orange, Seminole, Osceola, Lake, Flagler and Sumter Counties.

1. Brevard County:

**DATE AND TIMES:** November 12, 2002, 5:30 p.m., Documents/Information available for review; 6:00 p.m., Public Hearing

**PLACE:** Rockledge City Hall, 1600 Huntington Lane, Rockledge, Florida

2. Volusia and Flagler Counties:

**DATE AND TIMES:** November 14, 2002, 5:30 p.m., Documents/Information available for review; 6:00 p.m., Public Hearing

**PLACE:** Volusia County Mobility Management Center (VOTRAN), 950 Big Tree Road, South Daytona, Florida

3. Lake, Orange, Osceola and Seminole Counties:

**DATE AND TIMES:** November 21, 2002, 5:30 p.m., Documents/Information available for review; 6:00 p.m., Public Hearing

PLACE: Florida Department of Transportation, Orlando Urban Office, Lake Apopka Conference Room, 133 South Semoran Boulevard, Orlando, Florida

4. Marion and Sumter Counties:

DATE AND TIME: November 26, 2002, 5:30 p.m., Documents/Information available for review; 6:00 p.m., Public Hearing

PLACE: Belleview City Hall, 5343 S. E. Abshier Boulevard, (U.S. Highway 27/441), Belleview, Florida

**GENERAL SUBJECT MATTER TO BE CONSIDERED:** These public hearings are being conducted pursuant to Section 339.135(4), Florida Statutes, as amended. The purpose of these public hearings is to consider the Department's Tentative Five Year Work Program for Fiscal Years 2003/2004 – 2007/2008, and to consider making any changes to the Program.

Prior to each hearing, the public is invited to review and discuss with Department staff, the District's Tentative Five Year Work Program and other exhibits. Court reporters will also be available to accept public comments for entry into the public hearing records.

These hearings also will include consideration of proposed projects for Florida's Turnpike Enterprise as applicable in Lake, Marion, Orange, Osceola, Seminole and Sumter Counties. The proposed projects have been developed in accordance with the Civil Rights Act of 1964 and the Civil Rights Act of 1968. Under Title VI and Title VIII of the United States Civil Rights Act, any person(s) or beneficiary who believes they have been subjected to discrimination because of race, color, religion, sex, age, national origin, disability or familial status may file a written complaint to the Florida Department of Transportation's Minority Programs Office in Tallahassee or contact the District's Title VI and Title VIII Coordinator as shown below:

Central Office: Florida Department of Transportation, Minority Programs Office, 605 Suwannee Street, M.S. 65, Tallahassee, Florida 32399-0450.

District Five: Florida Department of Transportation, District Five, Morris Scott, 719 South Woodland Boulevard, DeLand, Florida 32720.

In compliance with the Americans with Disabilities Act, the Department, if requested, will provide special assistance at the public hearings for those persons who are disabled. Those persons requiring special assistance must notify the Department at least ten days prior to the public hearing, by contacting Michael Szunyog, Florida Department of Transportation, 133 South Semoran Boulevard, Orlando, Florida 32807, (407)482-7800.

Written comments from all interested parties will be accepted by the Department at the public hearing and within ten days after the Public Hearing.

Comments should be addressed to: Michael Snyder, District Secretary, Florida Department of Transportation, 719 South Woodland Boulevard, DeLand, Florida 32720.

A copy of the agenda may be obtained from: Ms. A. Lennon Moore, District Planning and Public Transportation Manager, Florida Department of Transportation, 133 South Semoran Boulevard, Orlando, Florida 32807.

The Florida **Department of Transportation**, Florida **Department of Community Affairs** and Monroe County announces a meeting of the Habitat Conservation Plan (HCP) Coordinating Committee, to which all persons are invited.

DATE AND TIME: November 14, 2002, 9:00 a.m.

PLACE: National Key Deer Refuge Office, Big Pine Key, FL

**GENERAL SUBJECT MATTER TO BE CONSIDERED:** The Florida Department of Transportation, Florida Department of Community Affairs and Monroe County are jointly funding the development of a Habitat Conservation Plan for the Key deer and other protected species on Big Pine and No Name Keys. Representatives of these three agencies, the U.S. Fish and Wildlife Service, the Florida Fish and Wildlife Conservation Commission, and local citizen representatives serve on an HCP Coordinating Committee. The Committee meets regularly to review and provide input on the HCP consultant's progress and findings.

A copy of the agenda may be obtained by calling: Catherine B. Owen, Florida Department of Transportation, (305)470-5399.

Pursuant to the provisions of the Americans with Disabilities Act, any person requiring special accommodation to participate in this meeting is asked to advise the agency at least 48 hours before the meeting by contacting Jeff Dodge, (305)470-5349. If you are hearing or speech impaired, please contact the agency by calling 1(800)648-6084.

The Florida **Department of Transportation**, District One and the Turnpike Enterprise announces their public hearings to which all interested persons are invited. Specific notice is provided to the Polk, Lee, Sarasota/Manatee, Charlotte and Collier Metropolitan Planning Organizations (MPO's) and the County Commission Chairpersons for Polk, Manatee, Sarasota, Charlotte, Lee, Collier, Hendry, Glades, Okeechobee, Highlands, Hardee and DeSoto Counties.

DATE AND TIME: November 21, 2002, 9:30 a.m.

PLACE: Southwest Florida Regional Planning Council, Council Offices, 4890 Bayline Drive, North Fort Myers, Florida

DATE AND TIME: December 4, 2002, 9:30 a.m.

PLACE: Central Florida Regional Planning Council, Bob Crawford Agricultural Center, 605 East Main Street, Bartow, Florida

**GENERAL SUBJECT MATTER TO BE CONSIDERED:** This hearing will consist of presentations by the Department on the Tentative Five Year Work Program for Fiscal Years 2003/2004 – 2007/2008 followed by a public testimony period. These public hearings are being conducted pursuant to Section 339.135(4)(c), Florida Statutes, as amended. At each hearing,



the public is invited to review the District One Tentative Five Year Work Program. Department staff will be available prior to and immediately following for informal discussion and assistance. A Court reporter will be available to accept public comments, if desired, for entry into the public records.

The proposed projects have been developed in accordance with the Civil Rights Act of 1964 and the Civil Rights Act of 1968. Under Title VI and Title VIII of the United States Civil Rights Act any person(s) or beneficiary who believes he or she has been subjected to discrimination because of race, color, religion, sex, age, national origin, disability or familial status may file a written complaint to the Florida Department of Transportation Equal Opportunity Office in Tallahassee or contact the District's Title VI and Title VIII Coordinator as shown below:

**CENTRAL OFFICE:** Florida Department of Transportation, Equal Opportunity Office, 605 Suwannee Street, MS #65, Tallahassee, Florida 32399-0450

**DISTRICT 1:** Florida Department of Transportation, District 1, 801 North Broadway, Bartow, Florida 33830, Attention: Cora Mitchell

If requested and in compliance with the Americans with Disabilities Act, the Department will provide special assistance at the public hearings for those persons who are disabled. Those persons requiring special assistance must send written notification to the Department at least 10 days prior to the public hearing to: Lori Carlton, Florida Department of Transportation, 801 North Broadway, Bartow, Florida 33830.

A copy of the agenda may be obtained from Lori Carlton at the same address, or by calling (863)519-2358.

Written comments from all interested parties will be accepted by the Department at the public hearing and within ten days after the public hearing. Comments should be mailed to: Ricky A. Langley, P.E., District Secretary, Florida Department of Transportation, Post Office Box 1249, Bartow, Florida 33831.

The following are meetings concerning the Department's Tentative Five Year Work Program for Fiscal Years 2003/2004 – 2007/2008 but are not public hearings.

**DATE AND TIME:** November 8, 2002, 10:00 a.m.

**PLACE:** Collier County Government Center, Bldg. F, 3301 East Tamiami Trail, Naples Florida

**DATE AND TIME:** November 12, 2002, 9:00 a.m.

**PLACE:** DeSoto County Administration Building, 115 E. Oak Street, Arcadia, Florida

**DATE AND TIME:** November 12, 2002, 6:30 p.m.

**PLACE:** Clewiston City Hall, 115 West Ventura Avenue, Clewiston, Florida

**DATE AND TIME:** November 14, 2002, 8:30 a.m.

**PLACE:** Hardee County Health Department, 115 K. D. Revell Road, Wauchula, Florida

**DATE AND TIME:** November 18, 2002, 9:30 a.m.

**PLACE:** Sudakoff Center, 5700 North Tamiami Trail, Sarasota, Florida

**DATE AND TIME:** November 19, 2002, 9:00 a.m.

**PLACE:** Highlands County Administration Building, 600 South Commerce Avenue, Sebring, Florida

**DATE AND TIME:** November 21, 2002, 9:00 a.m.

**PLACE:** Okeechobee County Courthouse, 304 N. W. 2nd Street, Okeechobee, Florida

**DATE AND TIME:** November 22, 2002, 9:00 a.m.

**PLACE:** Fort Myers City Hall, 2200 2nd Street, Fort Myers, Florida

**DATE AND TIME:** November 25, 2002, 7:00 p.m.

**PLACE:** Glades County Courthouse, 500 Avenue J, Moore Haven, Florida

**DATE AND TIME:** December 9, 2002, 2:00 p.m.

**PLACE:** Charlotte County Airport, 28000 Airport Road, Punta Gorda, Florida

**DATE AND TIME:** December 12, 2002, 9:00 a.m.

**PLACE:** Polk County Administration Building, 300 West Church Street, Bartow, Florida

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## DEPARTMENT OF CITRUS

The **Department of Citrus** announces a public meeting of the Fresh Orange and Specialty Advisory Council to which all persons are invited.

**DATE AND TIME:** Tuesday, November 5, 2002, 1:00 p.m.

**PLACE:** Florida Department of Citrus, 1115 East Memorial Blvd., Lakeland, Florida

**GENERAL SUBJECT MATTER TO BE CONSIDERED:** The Committee will give an update on current, approved programs, discuss next steps and details of new program opportunities and other business that might come before the council for consideration.

In accordance with the Americans with Disabilities Act, any person requiring special accommodations to participate in this meeting is asked to advise the Department at least 48 hours before the meeting by contacting Mr. Art Johnson at the above address or by telephone at (863)499-2510.

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## PUBLIC SERVICE COMMISSION

**NOTICE OF AMENDMENT** – The Florida **Public Service Commission** will consider the Agenda Conference, Docket No.: 021012-EI, Application of Tampa Electric Company for authority to issue and sell securities pursuant to Section 366.04, Florida Statutes, and Chapter 25-8, Florida Administrative Code. The Company seeks PSC approval pursuant to Section 366.04, Florida Statutes, to issue, sell and/or exchange equity securities and issue, sell, exchange and/or assume long-term debt securities and/or to assume liabilities or obligations as guarantor, endorser, or surety in an

aggregate amount not to exceed \$400 million, during the twelve month period, ending December 31, 2003. The Company also seeks approval pursuant to Section 366.04, Florida Statutes, to issue, sell, exchange and/or assume short-term debt securities with the maximum amount of short-term debt outstanding at any one time being \$400 million, during the twelve month period, ending December 31, 2003. Additionally, the Company seeks authority to enter into interest rates swaps or other derivative instruments related to debt securities.

DATE AND TIME: Tuesday, November 5, 2002, 9:30 a.m., although the time at which this item will be heard cannot be determined at this time.

PLACE: The Betty Easley Conference Center, Commission Hearing Room 148, 4075 Esplanade Way, Tallahassee, Florida 32301

GENERAL SUBJECT MATTER TO BE CONSIDERED: To take final action in Docket No.: 021012-EI.

Any person requiring some accommodation at this hearing because of a physical impairment should call the Division of the Commission Clerk and Administrative Services, (850)413-6770, at least 48 hours prior to the hearing. Any person who is hearing or speech impaired should contact the Florida Public Service Commission by using the Florida Relay Service, which can be reached at 1(800)955-8771 (TDD).

For additional information, please contact: Katherine Echternacht, Office of the General Counsel, (850)413-6218.

The Florida **Public Service Commission** will consider the Agenda Conference, Docket No.: 021018-GU, Application by Chesapeake Utilities Corporation (Chesapeake or Company) for Authorization to Issue Common Stock, Preferred Stock, and Secured and/or Unsecured Debt, and to Enter into Agreements for Interest Swap Products, and to Exceed Limitation Placed on Short-Term Borrowings in 2003. The Company seeks PSC approval, pursuant to Section 366.04, Florida Statutes, to issue up to 6,000,000 shares of Chesapeake common stock, up to 1,000,000 shares of Chesapeake preferred stock, up to \$80,000,000 of secured and/or unsecured debt, to enter into agreements for Interest Rate Swap Products, and to obtain authorization to exceed the limitation placed on short-term borrowings by Section 366.04, Florida Statutes, so as to issue short-term obligations in an amount up to \$40,000,000.

DATE AND TIME: Tuesday, November 5, 2002, 9:30 a.m., although the time at which this item will be heard cannot be determined at this time.

PLACE: The Betty Easley Conference Center, Commission Hearing Room 148, 4075 Esplanade Way, Tallahassee, Florida 32301

GENERAL SUBJECT MATTER TO BE CONSIDERED: To take final action in Docket No.: 021018-GU.

Any person requiring some accommodation at this hearing because of a physical impairment should call the Division of the Commission Clerk and Administrative Services, (850)413-6770, at least 48 hours prior to the hearing. Any person who is hearing or speech impaired should contact the Florida Public Service Commission by using the Florida Relay Service, which can be reached at 1(800)955-8771 (TDD).

The Florida **Public Service Commission** will consider the Agenda Conference, Docket No.: 021029-EI, Application of Florida Power Corporation for authority to issue and sell securities pursuant to Section 366.04, Florida Statutes, and Chapter 25-8, Florida Administrative Code. The Company seeks PSC approval pursuant to Section 366.04, Florida Statutes, to issue, sell, or otherwise incur during 2003 any combination of additional equity securities and long-term debt securities and obligations, consisting of (i) up to \$400 million outstanding at any time of commercial paper backed by, or borrowings under, the Company's long-term credit agreements, and (ii) \$1.54 billion of any combination of equity securities and other long-term debt securities and obligations. In addition, the Company seeks approval to issue, sell and have outstanding at any given time during 2003 short-term unsecured securities and debt obligations, including commercial paper, in an aggregate amount not in excess of \$470 million, which amount shall be in addition to and in excess of the authority conferred on the Company by Section 366.04, Florida Statutes, to issue short-term securities aggregating to more than five percent of the par value of the Company's other outstanding securities.

DATE AND TIME: November 5, 2002, 9:30 a.m., although the time at which this item will be heard cannot be determined at this time.

PLACE: The Betty Easley Conference Center, Commission Hearing Room 148, 4075 Esplanade Way, Tallahassee, Florida 32301

GENERAL SUBJECT MATTER TO BE CONSIDERED: To take final action on Docket No.: 021029-EI.

Any person requiring some accommodation at this hearing because of a physical impairment should call the Division of the Commission Clerk and Administrative Services, (850)413-6770, at least 48 hours prior to the hearing. Any person who is hearing or speech impaired should contact the Florida Public Service Commission by using the Florida Relay Service, which can be reached at 1(800)955-8771 (TDD).

For additional information, please contact: Katherine Echternacht, Office of the General Counsel, (850)413-6218.

NOTICE OF RESCHEDULING – The Florida **Public Service Commission** announces the rescheduling of a prehearing to be held in the following docket, to which all interested persons are invited.

Docket No.: 020953-EI – Petition to Determine Need for Hines Unit 3 in Polk County by Florida Power Corporation.

DATE AND TIME: Wednesday, November 20, 2002, 8:30 a.m.

PLACE: The Betty Easley Conference Center, Hearing Room 152, 4075 Esplanade Way, Tallahassee, Florida

GENERAL SUBJECT MATTER TO BE CONSIDERED: To consider (1) the simplification of the issues; (2) the identification of the positions of the parties on the issues; (3) the possibility of obtaining admissions of fact and of documents which will avoid unnecessary proof; (4) the identification of the exhibits; (5) the establishment of an order of witnesses; and (6) such other matters as may aid in the disposition of the action.

Any person requiring some accommodation at this prehearing because of a physical impairment should call the Division of the Commission Clerk and Administrative Services, (850)413-6770, at least 48 hours prior to the prehearing. Any person who is hearing or speech impaired should contact the Commission by using the Florida Relay Service, which can be reached at 1(800)955-8771 (TDD).

**NOTICE OF RESCHEDULING** – The Florida **Public Service Commission** announces the rescheduling of a hearing to be held in the following docket, to which all interested persons are invited.

Docket No.: 020953-EI – Petition to Determine Need for Hines Unit 3 in Polk County by Florida Power Corporation.

DATES AND TIME: Tuesday, December 3, 2002, 9:30 a.m.; Wednesday, December 4, 2002, The starting time of the next day's session will be announced at the conclusion of the prior day. The hearing may be adjourned early if all testimony is concluded.

PLACE: The Betty Easley Conference Center, Room 148, 4075 Esplanade Way, Tallahassee, Florida

GENERAL SUBJECT MATTER TO BE CONSIDERED: The purpose of this hearing will be for the Commission to take final action to determine the need, pursuant to Sections 403.501-.519, Florida Statutes, for the construction of an electric power plant and related facilities in Polk County, Florida. This proceeding shall allow Florida Power Corporation to present evidence and testimony in support of its petition for a determination of need for its proposed plants and related facilities in Polk County, Florida; to permit any intervenors to present testimony and exhibits concerning this matter; to permit members of the public who are not parties to the need determination proceeding the opportunity to present testimony concerning this matter; and for such other purposes as the Commission may deem appropriate. Any member of the public who wishes to offer testimony should be present at the beginning of the hearing. By providing public testimony, a person does not become a party to the proceeding. To become an official party of record, you must file a Petition for

Intervention at least five days before the final hearing, pursuant to the requirements contained in Rule 25-22.039, Florida Administrative Code. All witnesses shall be subject to cross-examination at the conclusion of their testimony. The hearing will be governed by the provisions of Chapter 120, Florida Statutes, Section 403.519, Florida Statutes, and Chapters 25-22 and 28-106, Florida Administrative Code.

Only issues relating to the need for the power plants and their associated facilities will be heard at the December 4-5, 2002, hearing. Separate public hearings will be held before the Division of Administrative Hearings to consider environmental and other impacts of the proposed plants and associated facilities as required by the "Florida Electrical Power Plant Siting Act," Sections 403.501-.518, Florida Statutes.

Any person requiring some accommodation at the hearing because of a physical impairment should call the Division of Records and Reporting, (850)413-6770, at least 48 hours prior to the hearing. If you are hearing or speech impaired, please contact the Florida Public Service Commission by using the Florida Relay Service, which can be reached at 1(800)955-8771 (TDD).

#### **EXECUTIVE OFFICE OF THE GOVERNOR**

The Florida **Commission on Tourism** announces a public meeting of the Visit Florida, Board of Directors and the Florida Commission on Tourism as follows:

MEETING: CEO Search Committee

DATE AND TIME: Thursday, October 31, 2002, 10:00 a.m.

PLACE: Hyatt Regency Orlando International Airport, 9300 Airport Boulevard, Orlando, FL 32827, (407)825-1234

GENERAL SUBJECT MATTER TO BE CONSIDERED: Discussion on Executive Search Companies.

For further information contact: Susan Gale, Visit Florida, Post Office Box 1100, Tallahassee, Florida 32302-1100 or (850)488-5607, Ext. 334.

Any person requiring special accommodations at this meeting because of a disability should contact Visit Florida, at least five business days prior to the meeting. Persons who are hearing or speech impaired can contact Visit Florida by using the Florida Relay Service at 1(800)955-8770 (Voice) or 1(800)955-8771 (TDD).

The **Governor's Select Task Force on Healthcare Professional Liability Insurance** announces telephone conference meetings to which all persons are invited. The calls will be on an as needed basis. Please call for verification that the Task Force is meeting.

DATE AND TIME: Friday, November 1, 2002, 9:00 a.m. – 10:00 a.m.

PLACE: Call Toll Free 1(888)816-1123, 921-5230, Suncom 291-5230

DATE AND TIME: Wednesday, November 6, 2002, 9:00 a.m. – 10:00 a.m.

PLACE: Call Toll Free 1(800)416-4254, 922-2903, Suncom 292-2903

DATE AND TIME: Friday, November 8, 2002, 9:00 a.m. – 10:00 a.m.

PLACE: Call Toll Free 1(888)816-1123, 921-5230, Suncom 291-5230

DATE AND TIME: Monday, November 11, 2002, 9:00 a.m. – 10:00 a.m.

PLACE: Call Toll Free 1(800)416-4254, 922-2903, Suncom 292-2903

DATE AND TIME: Wednesday, November 13, 2002, 9:00 a.m. – 10:00 a.m.

PLACE: Call Toll Free 1(800)416-4254, 922-2903, Suncom 292-2903

DATE AND TIME: Friday, November 15, 2002, 9:00 a.m. – 10:00 a.m.

PLACE: Call Toll Free 1(888)816-1123, 921-5230, Suncom 291-5230

DATE AND TIME: Monday, November 18, 2002, 9:00 a.m. – 10:00 a.m.

PLACE: Call Toll Free 1(888)816-1123, 921-5230, Suncom 291-5230

DATE AND TIME: Wednesday, November 20, 2002, 9:00 a.m. – 10:00 a.m.

PLACE: Call Toll Free 1(800)416-5254, 922-2903, Suncom 292-2903

DATE AND TIME: Monday, November 25, 2002, 9:00 a.m. – 10:00 a.m.

PLACE: Call Toll Free 1(888)816-1123, 921-5230, Suncom 291-5230

GENERAL SUBJECT MATTER TO BE CONSIDERED: Task Force issues.

Pursuant to the provisions of the Americans with Disabilities Act, any person requiring a special accommodation at this hearing because of a disability or physical impairment should contact Mary Pater or Faith Schneider, Florida Department of Health, General Counsel's Office, (850)245-4444, at least five (5) calendar days prior to the hearing. If you are hearing or speech impaired, please contact Ms. Pater or Ms. Schneider using the Florida Dual Party Relay System which can be reached at 1(800)955-8770 (Voice) and 1(800)955-8771 (TDD).

The **Governor's Select Task Force on Healthcare Professional Liability Insurance** announces a Conference to which all persons are invited.

DATE AND TIME: Monday, November 4, 2002, 9:00 a.m. – 5:00 p.m.

PLACE: Lois Pope Life Center, APEX Center, 7th Floor, 1095 Northwest 14th Terrace, Miami, Florida 33136, (305)284-5155

GENERAL SUBJECT MATTER TO BE CONSIDERED: The work of the Governor's Select Task Force will make recommendations to protect Floridians' access to high-quality and affordable healthcare. The Governor's Select Task Force shall study the relevant issues and make written recommendations and/or propose legislation. The work product of the Governor's Select Task Force should include, but need not be limited to, the following: (1) findings from an examination of the Florida healthcare liability insurance market, pertinent tort laws, claims and premium data compared to other states of similar size and diversity; (2) an assessment of the impact of the cost, accessibility and availability of healthcare liability insurance on the cost, accessibility and availability of high quality healthcare in this state; and (3) specific strategies to ease the healthcare liability insurance crisis faced by physicians, hospitals and other healthcare providers in the state. A report of such recommendations and/or proposed legislation shall be submitted by January 31, 2003, to the Governor, the President of the Florida Senate and the Speaker of the House of Representatives.

To aid its study of the issues and the development of its recommendations, the Governor's Select Task Force shall take public testimony from experts and stakeholders. In addition, the Governor's Select Task Force is encouraged to take whatever other steps are necessary to gain a full understanding of the medical, Legal, insurance and other issues involved.

Pursuant to the provisions of the Americans with Disabilities Act, any person requiring a special accommodation at this hearing because of a disability or physical impairment should contact Mary Pater or Faith Schneider, Florida Department of Health, General Counsel's Office, (850)245-4444, at least five (5) calendar days prior to the hearing. If you are hearing or speech impaired, please contact Ms. Pater or Ms. Schneider using the Florida Dual Party Relay System which can be reached at 1(800)955-8770 (Voice) and 1(800)955-8771 (TDD).

**REGIONAL TRANSPORTATION AUTHORITIES**

The **Hillsborough Area Regional Transit Authority (HART)** announces the following public meetings of the Governing Board of the Authority to which all persons are invited.

**PUBLIC HEARING**

DATE AND TIME: November 4, 2002, 8:30 a.m.

PLACE: County Center, 18th Floor, Planning Commission Board Room, 601 E Kennedy Boulevard, Tampa, FL

PURPOSE: Regularly Scheduled Board Meeting

AGENDA/GENERAL SUBJECT MATTER TO BE CONSIDERED:

1. Call to order.
2. Approval of Minutes.
3. Introductions, Recognition and Awards.
4. Consumer Advisory Committee Report.

5. Public Comment on Action Items.
6. Consent Action Items.
7. Other Action Items.
8. Chairman's Report.
9. Reports from HART Representatives.
10. HART Committee Reports.
11. Other Board Member's Report.
12. Executive Director's Report.
13. Employee Comment.
14. General Public Comment.
15. Discussion and Presentations.
16. Monthly Information Reports.
17. Other Information Items.
18. Other Business.

A copy of the detailed agenda may be obtained by contacting: Mary Staples, Administrative Assistant II, Hillsborough Area Regional Transit Authority, 201 E. Kennedy Boulevard, Suite 900, Tampa, FL 33602, (813)223-6831, Ext. 2111.

Section 286.0105, Florida Statutes, states that if a person decided to appeal any decision made by a board, agency or commission with respect to any matter considered at a meeting or hearing, he will need a record of the proceedings, and that for such purpose, he may need to ensure that a verbatim record of the proceedings is made, which record includes the testimony and evidence upon which the appeal is to be based.

In accordance with the Americans with Disabilities Act of 1990, persons needing a special accommodation at this meeting because of a disability or physical impairment should contact Lauren Skiver, (813)623-5835, at least 48 hours before the meeting. If the caller is hearing impaired, contact the Authority, (813)626-9158 (TTD).

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#### DEPARTMENT OF CORRECTIONS

The **Florida Corrections Commission** announces the following public meeting to which all interested persons are invited.

DATE AND TIME: Thursday, November 7, 2002, 9:00 a.m. – 3:00 p.m.

PLACE: Florida Corrections Commission, Room 109, William D. Bloxham, Tallahassee, Florida 32301

GENERAL SUBJECT MATTER TO BE CONSIDERED: The Commission will meet to discuss issues to be included in the 2002 Annual Report.

A copy of the agenda may be obtained by writing: Mr. John Fuller, Executive Director, Florida Corrections Commission, 2601 Blair Stone Road, Tallahassee, Florida 32399-2500 or call (850)413-9330.

Pursuant to Section 286.26, Florida Statutes, any handicapped person wishing to attend this meeting should contact staff at least 48 hours prior to the meeting in order to request any special assistance.

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#### WATER MANAGEMENT DISTRICTS

The **St. Johns River Water Management District** announces the following public meetings and hearings, which may be conducted by means of or in conjunction with communications technology. All persons are invited.

##### MEETING OF GOVERNING BOARD CHAIR AND COMMITTEE CHAIRS

DATE AND TIME: Tuesday, November 12, 2002, 9:30 a.m.

PLACE: District Headquarters, Highway 100, West, Palatka, Florida 32177

GENERAL SUBJECT MATTER TO BE CONSIDERED: Discussion and consideration of District business including regulatory and non-regulatory matters.

##### FINANCE AND ADMINISTRATION COMMITTEE MEETING

DATE AND TIME: Tuesday, November 12, 2002, 10:00 a.m.

PLACE: District Headquarters, Highway 100, West, Palatka, FL 32177

GENERAL SUBJECT MATTER TO BE CONSIDERED: Discussion of Finance, Facilities/Planning/Construction, Information Technology and Personnel agenda items followed by committee recommendations to be approved by the full Governing Board. Staff will recommend approval of external budget amendments which affect the adopted FY 2002-2003 budget.

##### REGULATORY COMMITTEE MEETING

DATE AND TIME: Tuesday, November 12, 2002, 10:00 a.m.

PLACE: District Headquarters, Highway 100, West, Palatka, FL 32177

GENERAL SUBJECT MATTER TO BE CONSIDERED: Discussion of Regulatory agenda items followed by committee recommendations to be approved by the full Governing Board.

##### GOVERNING BOARD/REGULATORY MEETING AND PUBLIC HEARING ON LAND ACQUISITION

DATE AND TIME: Tuesday, November 12, 2002, 1:00 p.m.

PLACE: District Headquarters, Highway 100, West, Palatka, Florida 32177

GENERAL SUBJECT MATTER TO BE CONSIDERED: Discussion and consideration of District business including regulatory and non-regulatory matters.

##### TENTH ANNUAL DISTRICT REUNION

DATE AND TIME: Tuesday, November 12, 2002, 6:00 p.m.

PLACE: District Headquarters, Highway 100, West, Palatka, FL 32177

GENERAL SUBJECT MATTER TO BE CONSIDERED: The Tenth Annual District Reunion is a dinner social held to express the District's appreciation of its current and former Governing Board members, current and former employees, and other District employees. Two or more Governing Board members may attend the reunion.

GOVERNING BOARD MEETING

DATE AND TIME: Wednesday, November 13, 2002, 9:00 a.m.

PLACE: District Headquarters, Highway 100, West, Palatka, FL 32177

GENERAL SUBJECT MATTER TO BE CONSIDERED: Discussion and consideration of other District business including regulatory and non-regulatory matters.

NOTE: In the event of a declared emergency or emergency conditions due to an imminent tropical storm or hurricane, all or part of these meetings may be conducted as a teleconference in order to permit maximum participation of Governing Board members.

A copy of the agenda may be obtained by writing: St. Johns River Water Management District, P. O. Box 1429, Palatka, Florida 32178-1429.

Any item which appears on the agenda for the Governing Board, Regulatory, and/or Committee meetings may be considered on day one or day two. The order of items appearing on the agenda is subject to change during the meetings.

Pursuant to the provisions of the Americans with Disabilities Act, any person requiring special accommodations to participate in these meetings and hearings is requested to advise the District at least 48 hours before the meeting or hearing by contacting Ann Freeman, (386)329-4101. If you are hearing or speech impaired, please contact the District by calling (386)329-4450 (TDD).

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

The **St. Johns River Water Management District** announces a Central Region Recreation Advisory Council Meeting to which all persons are invited.

MEETING: Central Region Recreation Advisory Council

DATE AND TIME: Wednesday, November 6, 2002, 9:30 a.m. – 12:00 Noon

PLACE: Gemini Springs Park, 37 Dirkson Drive, DeBary, FL

GENERAL SUBJECT MATTER TO BE CONSIDERED: To review land management and land acquisition activities in the Central Region.

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

Pursuant to the provisions of the Americans with Disabilities Act, any person requiring special accommodations to participate in the meeting is asked to advise Linda Lorenzen, (386)329-4262 or (386)329-4450 (TDD), at least five work days before the date of the meeting.

The **Southwest Florida Water Management District** announces the following public hearing to which all interested persons are invited.

DATES AND TIMES: November 19, 2002, 9:00 a.m. and may be continued; November 20, 2002, 9:00 a.m.

PLACE: Southwest Florida Water Management District, Governing Board Room, 2379 Broad Street, Brooksville, Florida 34604-6899

GENERAL SUBJECT MATTER TO BE CONSIDERED: The acquisition of certain lands eligible to be considered for funding from the Florida Forever Trust Fund which lands are further described as follows:

Part of the Lake Panasoffkee project comprised of one parcel referred to SWF Parcel No. 19-528-135 consisting of approximately 6,078 acres lying in Sections 16, 19, 20, 21, 28, 29, 30, 31 and 32, Township 20 South, Range 22 East; Sections 25 and 36, Township 20 South, Range 21 East; Sections 5 and 6, Township 21 South, Range 22 East and Section 1, Township 21 South, Range 21 East. Subject property located on the west side of Interstate 75, south of County Road 470 in Sumter County, Florida.

Any person deciding to appeal any decision made by the District Governing Board concerning the above-referenced hearing will need a record of the proceedings and for such purpose may need to ensure that a verbatim record of the proceedings is made, which record includes the testimony and evidence upon which the appeal may be based.

A copy of the agenda or a more specific legal description of the lands proposed for acquisition may be obtained by contacting Fritz H. Musselmann, Land Resources Director, Southwest Florida Water Management District, at the above address.

The District does not discriminate based on disability status. Anyone requiring reasonable accommodations under the ADA should call 1(800)423-1476 (Florida only), Extension 4452, Fax (352)754-6877, TTD only 1(800)231-6103.

NOTICE OF CHANGE – The **South Florida Water Management District** announces a change of date for the previously advertised November 7, 2002, Water Resources Advisory Commission (WRAC) meeting. All interested parties are invited.

DATE AND TIME: Monday, November 4, 2002, 8:30 a.m.

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

GENERAL SUBJECT MATTER TO BE CONSIDERED: Water Resources Advisory Commission Meeting.

A copy of the agenda may be obtained at the District Website seven (7) days prior to the meeting at <http://www.sfwmd.gov/gover/wrac/agendas.html> or by writing: South Florida Water Management District, Mail Stop 6115, P. O. Box 24680, West Palm Beach, Florida 33416-4680.

Although Water Resources Advisory Commission meetings are normally recorded, affected persons are advised that it may be necessary for them to ensure that a verbatim record of the proceeding is made.

Persons with disabilities who need assistance may contact Paula Moree, Deputy District Clerk, (561)682-6447, at least two business days in advance of the meeting to make appropriate arrangements.

Those who desire more information, please contact: Julio Fanjul, (561)682-2769 or Paula Moree, (561)682-6447 in the Governing Board Operations Division, District Headquarters, 3301 Gun Club Road, West Palm Beach, Florida 33406.

The **South Florida Water Management District** announces the following public meetings and hearings, which may be conducted by means of or in conjunction with communications technology, to which all persons are invited.

DATE AND TIME: Wednesday, November 13, 2002, 9:00 a.m. – Until completed

PLACE: Indian River Community College, St. Lucie West Campus, Room E-114, 500 N. W. California Blvd., Port St. Lucie, FL 34986.

GENERAL SUBJECT MATTER TO BE CONSIDERED: Regular Governing Board Workshop/Meeting to discuss and consider District business including regulatory and non-regulatory matters.

A copy of the agenda may be obtained by writing: South Florida Water Management District, Mail Stop 6260, P. O. Box 24680, West Palm Beach, Florida 33416-4680.

DATE AND TIME: Thursday, November 14, 2002, 8:30 a.m. – Until completed (Human Resources Committee Meeting, 8:00 a.m.)

PLACE: South Florida Water Management District, Headquarters, Building B-1, Auditorium, 3301 Gun Club Road, West Palm Beach, FL 33406

GENERAL SUBJECT MATTER TO BE CONSIDERED: Regular Governing Board meeting for consideration of regulatory and non-regulatory matters, including public hearings.

NOTE: Except for public hearings, any item which appears on the agenda for any of the Governing Board meetings that appear in this notice may be discussed and considered at any of

the Governing Board Meetings that appear in this notice. The order of items appearing on the agendas is subject to change during the meetings.

A copy of the agenda may be obtained by writing: South Florida Water Management District, P. O. Box 24680, West Palm Beach, Florida 33416-4680, or may be acquired via the SFWMD Web Site at <http://www.sfwmd.gov/agenda.html>.

Appeals from any South Florida Water Management District Board decision require a record of the proceedings. Although Governing Board meetings and hearings are normally recorded, affected persons are advised that it may be necessary for them to ensure that a verbatim record of the proceeding is made, including testimony and evidence upon which the appeal is to be based.

Persons with disabilities who need assistance may contact Paula Moree, Deputy District Clerk, (561)682-6447, at least two business days in advance to make appropriate arrangements.

NOTE: All or part of this meeting may be conducted as a teleconference in order to permit maximum participation of Governing Board Members.

Any item which appears on the agenda for the Governing Board Workshop/Meeting or Regular Meeting may be considered at the November 13, 2002, Workshop Meeting or November 14, 2002, Regular Meeting of the Governing Board. The order of items appearing on the Agenda is subject to change during the meeting and is at the discretion of the Chair(s) and Governing Board(s). Except for Governing Board hearings that involve the issuance of final orders based on recommended orders received from the Florida Division of Administrative Hearings, public comment will be taken after each presentation and before any Governing Board action(s).

### **COMMISSION FOR THE TRANSPORTATION DISADVANTAGED**

The Florida **Commission for the Transportation Disadvantaged** announces a planning session to which all persons are invited.

DATES AND TIMES: Wednesday, November 6, 2002, 1:00 p.m. – until completion; Thursday, November 7, 2002, 8:30 a.m. – until completion

PLACE: Hyatt Regency Coconut Point, 5001Coconut Road, Bonita Springs, FL 34134, (239) 444-1234

GENERAL SUBJECT MATTER TO BE CONSIDERED: To discuss individual commission perspectives and goals and objectives of the 5 and 20 Year Transportation Disadvantaged Plan of the Commission for the Transportation Disadvantaged. In accordance with the Americans with Disabilities Act, persons in need of special accommodation to participate in the meeting or an agenda should contact Tiffany McNabb at the following address and telephone number: Commission for the

Transportation Disadvantaged, 605 Suwannee Street, MS #49, Tallahassee, Florida 32399-0450, (850)410-5700 or 1(800)983-2435 or 1(800)648-6084 (TDD only).

The meeting is subject to change upon chairperson's request.

The Florida **Commission for the Transportation Disadvantaged** announces a tour of the local CTC's facilities to which all persons are invited.

DATE AND TIME: Thursday, November 7, 2002, 1:00 p.m. – 4:00 p.m.

PLACE: ATC/Intelitran, North River Center, Unit 12, 13240 North Cleveland Avenue, North Ft. Myers, FL 33903, (239)656-5530

GENERAL SUBJECT MATTER TO BE CONSIDERED: To tour the local CTC facilities and receive information on the local transportation disadvantaged services being provided.

In accordance with the Americans with Disabilities Act, persons in need of special accommodation to participate in the meeting or an agenda should contact Tiffany McNabb at the following address and telephone number: Commission for the Transportation Disadvantaged, 605 Suwannee Street, MS #49, Tallahassee, Florida 32399-0450, (850)410-5700 or 1(800)983-2435 or 1(800)648-6084 (TDD only).

The hearing is subject to change upon chairperson's request.

The Florida **Commission for the Transportation Disadvantaged** announces a Public Hearing to which all persons are invited.

DATE AND TIME: Thursday, November 7, 2002, 5:30 p.m. – until completion

PLACE: Hyatt Regency Coconut Point, 5001 Coconut Road, Bonita Springs, FL 34134, (239)444-1234

GENERAL SUBJECT MATTER TO BE CONSIDERED: To receive public comments or concerns on transportation disadvantaged services.

In accordance with the Americans with Disabilities Act, persons in need of special accommodation to participate in the meeting or an agenda should contact Tiffany McNabb at the following address and telephone number: Commission for the Transportation Disadvantaged, 605 Suwannee Street, MS #49, Tallahassee, Florida 32399-0450, (850)410-5711 or 1(800)983-2435 or 1(800)648-6084 (TDD only).

The hearing is subject to change upon chairperson's request.

The Florida **Commission for the Transportation Disadvantaged** announces a Full Commission Meeting to which all persons are invited.

DATE AND TIME: Friday, November 8, 2002, 8:30 a.m. – until completion

PLACE: Hyatt Regency Coconut Point, 5001 Coconut Road, Bonita Springs, FL 34134, (239)444-1234

GENERAL SUBJECT MATTER TO BE CONSIDERED: To discuss the regular business of the Commission for the Transportation Disadvantaged.

In accordance with the Americans with Disabilities Act, persons in need of special accommodation to participate in the meeting or an agenda should contact Tiffany McNabb at the following address and telephone number: Commission for the Transportation Disadvantaged, 605 Suwannee Street, MS #49, Tallahassee, Florida 32399-0450, (850)410-5700 or 1(800)983-2435 or 1(800)648-6084 (TDD only).

The meeting is subject to change upon chairperson's request.

**REGIONAL UTILITY AUTHORITIES**

The **Peace River/Manasota Regional Water Supply Authority** announces the following meeting to which the public is invited.

DATE AND TIME: Wednesday, November 6, 2002, 10:00 a.m.

PLACE: Sarasota County Administration Center, 1660 Ringling Boulevard, Sarasota, FL

GENERAL SUBJECT MATTER TO BE CONSIDERED: Conduct regular business of the Authority.

A copy of the agenda may be obtained by writing: Peace River/Manasota Regional Water Supply Authority, 1645 Barber Road, Suite A, Sarasota, Florida 34240.

Although Authority board meetings are normally recorded, affected persons are advised it may be necessary for them to ensure a verbatim record of the meeting is made, including testimony and evidence upon which an appeal is to be based.

Persons with disabilities who need assistance may call (941)316-1776, at least two business days in advance to make appropriate arrangements.

**DEPARTMENT OF MANAGEMENT SERVICES**

The Florida **Commission on Human Relations** announces a public meeting to which all persons are invited. The meeting is being conducted by communications media technology (CMT), i.e., by utilizing a telephone conference hookup.

DATE AND TIME: Tuesday, November 12, 2002, 8:00 a.m. – 5:00 p.m.

PLACE: Meet-me telephone number: 1(800)416-4132 or (850)922-7892, Local (Tallahassee)

GENERAL SUBJECT MATTER TO BE CONSIDERED: This meeting will be held to discuss the daily functions and activities of the Commission.

NOTICE IS HEREBY GIVEN that the **Digital Divide Council** will hold a one-day meeting to which all persons are invited.

DATE AND TIME: Monday, October 28, 2002, 11:00 a.m. – 3:00 p.m.



PLACE: Stetson University Center, 800 Celebration Avenue, Celebration, Florida 34747. Conference call capability will be available. The dial up number is: (850)414-1711.

**GENERAL SUBJECT MATTER TO BE CONSIDERED:** The primary purpose of the meeting will be to continue work on the statutory mandates set for the Council in Section 445.049, Florida Statutes. This will include a formal discussion on the next steps of the Council in its implementation of its 6 pilot projects, a clearinghouse for technology resources, and its marketing efforts.

Any additional information as to this meeting will be provided on the Digital Divide website at [http://www.myflorida.com/myflorida/sciencetechnology/tech\\_pte/digital\\_divide/index.html](http://www.myflorida.com/myflorida/sciencetechnology/tech_pte/digital_divide/index.html) or contact Stacey McMillian, State Technology Office, 4030 Esplanade Way, Suite 180, Tallahassee, Florida 32399, (850)410-4777.

Pursuant to the provisions of the Americans with Disabilities Act, any person requiring special accommodations to participate in this meeting is asked to advise the Council at least 48 hours before the meeting by contacting Stacey McMillian, at the above stated number.

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The **Department of Management Services, State Technology Office** announces a public meeting of the Board of Directors of the Joint Task Force on State Agency Law Enforcement Communications to which all persons are invited.

DATE AND TIME: November 21, 2002, 10:00 a.m.

PLACE: Betty Easley Building, Room 182, 4075 Esplanade Way, Tallahassee, FL 32399

**GENERAL SUBJECT MATTER TO BE CONSIDERED:** To discuss and take action on the items included in the meeting agenda.

A copy of the agenda may be obtained by writing: Linda Fuchs, Department of Management Services, State Technology Office, 4030 Esplanade Way, Suite 235, Tallahassee, Florida 32399-0950 or [Linda.Fuchs@myflorida.com](mailto:Linda.Fuchs@myflorida.com).

If a person decides to appeal any decision made by the Board with respect to any matter considered at the meeting, he/she will need a record of the proceedings and may need to ensure a verbatim record of the proceedings is made, which record includes the testimony and evidence upon which the appeal is to be based.

Any person requiring some accommodation at this hearing because of a physical impairment should call the State Technology Office, (850)922-7435, at least five calendar days prior to the meeting. If you are hearing- or speech-impaired, please contact the State Technology Office by using the Florida Relay Service which can be reached at 1(800)955-8771 (TDD). The conference call number is (850)921-2470 or Suncom 291-2470.

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## DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION

The **Division of Hotels and Restaurants** announces a meeting of the Hotels and Restaurants Industry Stakeholders to which all persons are invited.

DATE AND TIME: November 1, 2002, 10:30 a.m. – 1:00 p.m.

PLACE: The Johns Building, The Secretary's Conference Room 259, 725 South Bronough Street, Tallahassee, Florida

**GENERAL SUBJECT MATTER TO BE CONSIDERED:** Industry stakeholder update on department reengineering project.

Pursuant to the provisions of the Americans with Disabilities Act, any person requiring special accommodations to participate in this workshop is asked to advise the agency at least 48 hours before the workshop by contacting Lee M. Cornman, Management Review Specialist, (850)410-1491. If you are hearing or speech impaired, please contact the agency by calling 1(800)955-8771 (TDD).

The person to be contacted regarding the workshop is: Lee M. Cornman, Management Review Specialist, Department of Business and Professional Regulation, Division of Hotels and Restaurants, 1940 North Monroe Street, Tallahassee, Florida 32399-1012, (850)410-1491; The Johns Building, 725 South Bronough Street, Tallahassee, Florida.

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The **Board of Auctioneers** announces the following general business meeting to which all persons are invited.

DATE AND TIME: Monday, November 4, 2002, 9:00 a.m. (EST), to be held as a telephone conference call. The number to call at 9:00 a.m.: (850)488-2854, Suncom 278-2854

**GENERAL SUBJECT MATTER TO BE CONSIDERED:** General meeting of the Board to conduct regular Board business.

A copy of the agenda may be obtained by writing: Board of Auctioneers, 1940 North Monroe Street, Tallahassee, Florida 32399-0762 or by calling Krista Woodard, (850)922-6096.

Pursuant to the provisions of the Americans with Disabilities Act, any person requiring special accommodations to participate in this meeting is asked to advise the agency at least forty-eight (48) hours before the meeting by contacting Krista Woodard, (850)922-6096. If you are hearing or speech impaired, please contact the agency by calling 1(800)955-8771 (TDD).

If any person decides to appeal any decision made by the Board with respect to any matter considered at this meeting, they will need a record of the proceedings, and for such purpose they may need to ensure that a verbatim record of the proceedings is made, which record will include the testimony and evidence upon which the appeal is to be based.

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The **Department of Business and Professional Regulation** announces a public meeting of the Florida Barber's Board to which are persons are invited to participate.

DATES AND TIMES: Sunday, November 17, 2002, 6:00 p.m.; Monday, November 18, 2002, 9:00 a.m.

PLACE: Ramada Inn Gulfview, 521 South Gulfview Boulevard, Clearwater Beach, Florida 33767

GENERAL SUBJECT MATTER TO BE CONSIDERED: General meeting of the board to conduct regular board business.

A copy of the agenda may be obtained by writing: Florida Barbers' Board, 1940 North Monroe Street, Suite 60, Tallahassee, Florida 32399.

If a person decides to appeal any decision made by the board with respect to any matter considered at this meeting or hearing, they will need a record of the proceedings, and for such purpose they may need to ensure that a verbatim record of the proceedings is made, which record includes the testimony and evidence upon which the appeal is to be based.

Any person requiring a special accommodation at this meeting because of a disability or physical impairment should contact the Area of Critical State Concern, (850)488-4925, at least five calendar days prior to the meeting being held. If you are hearing or speech impaired please contact the Area of Critical State Concern using the Florida Dual Party Relay System which can be reached at 1(800)955-8770 (Voice) and 1(800)955-8771 (TDD).

The Probable Cause Panel of the **Construction Industry Licensing Board** announces a meeting.

DATE AND TIMES: October 29, 2002, 9:00 a.m. and 10:00 a.m., or soon thereafter

PLACE: Department of Business and Professional Regulation, 725 South Bronough Street, Tallahassee, Florida 32301, (850)488-0062

GENERAL SUBJECT MATTER TO BE CONSIDERED: To review complaints in which a determination of the existence of probable cause has already been made.

A copy of the public portion of the agenda may be obtained by writing: Patrick Creehan, Chief Construction Attorney, Department of Business and Professional Regulation, Office of the General Counsel, 1940 N. Monroe Street, Suite 60, Tallahassee, Florida 32399-2202 or by phone, (850)488-0062.

NOTE: In accordance with the Americans with Disabilities Act, persons needing a special accommodation to participate in this proceeding should contact the Construction Prosecution Section no later than seven (7) days prior to the proceeding or meeting at which such special accommodation is required. The Construction Prosecution Section may be contacted at the address and phone number listed above.

The **Construction Industry Licensing Board**, Construction Industries Recovery Fund announces a telephonic hearing to which all interested persons are invited.

DATE AND TIME: October 30, 2002, 9:00 a.m., or soon thereafter

PLACE: Department of Business and Professional Regulation, 2202 West Bloxham Street, Tallahassee, Florida 32301, (850)921-6798

GENERAL SUBJECT MATTER TO BE CONSIDERED: To review claims under consideration by the Construction Industry Recovery Fund.

A copy of the agenda may be obtained by writing: Elise Matthes, Recovery Fund Attorney, Department of Business and Professional Regulation, Office of the General Counsel, 1940 N. Monroe Street, Suite 60, Tallahassee, Florida 32399-2202 or by phone, (850)921-6798.

NOTE: In accordance with the Americans with Disabilities Act, persons needing a special accommodation to participate in this proceeding should contact the Construction Industries Recovery Fund Section no later than 48 hours prior to the proceeding or meeting at which such special accommodation is required. The Construction Industries Recovery Fund Section may be contacted at the address and phone number listed above.

The Florida **Board of Professional Engineers** announces a public meeting of the Educational Advisory and Application Review Committees to which all persons are invited.

DATE AND TIME: Wednesday, November 13, 2002, 9:00 a.m.

PLACE: Florida Board of Professional Engineers, Suite 200, 2507 Callaway Road, Tallahassee, Florida 32303

GENERAL SUBJECT MATTER TO BE CONSIDERED: Review of applications for examination and/or licensure by endorsement and to review applications of foreign educated applicants.

A copy of the agenda may be obtained by writing: Board of Professional Engineers, 2507 Callaway Road, Suite 200, Tallahassee, Florida 32303.

If any person decides to appeal any decision made by the Board with respect to any matter considered at this meeting, they will need a record of the proceedings, and for such purposes they may need to ensure that a verbatim record of the proceedings is made, which record will include the testimony and evidence upon which the appeal is to be made.

Pursuant to the provisions of the Americans with Disabilities Act, any person requiring special accommodations to participate in this meeting is asked to advise the Board at least forty-eight (48) hours before the meeting by contacting Natalie Lowe, (850)521-0500.

The Florida **Board of Professional Engineers** announces a public telephone conference call which all persons are invited.  
DATE AND TIME: Wednesday, November 20, 2002, 2:00 p.m.

PLACE: Conference Call: 1(800)473-8493. Florida Board of Professional Engineers, Suite 200, 2507 Callaway Road, Tallahassee, Florida 32303

GENERAL SUBJECT MATTER TO BE CONSIDERED: To act on recommendations from the Educational Advisory and Application Review Committees to approve or deny applications for licensure and any old or new business of the Florida Board of Professional Engineers.

A copy of the agenda may be obtained by writing: Board of Professional Engineers, 2507 Callaway Road, Suite 200, Tallahassee, Florida 32303.

If any person decides to appeal any decision made by the Board with respect to any matter considered at this meeting, they will need a record of the proceedings, and for such purposes they may need to ensure that a verbatim record of the proceedings is made, which record will include the testimony and evidence upon which the appeal is to be made.

Pursuant to the provisions of the Americans with Disabilities Act, any person requiring special accommodations to participate in this meeting is asked to advise the Board at least forty-eight (48) hours before the meeting by contacting Natalie Lowe, (850)521-0500.

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The Florida **Board of Professional Engineers** announces a Probable Cause Panel meeting. Although this meeting is open to the public, portions of the Probable Cause Panel meeting may be closed consistent with law.

DATE AND TIME: Monday, December 2, 2002, 10:00 a.m. – Until conclusion

PLACE: Wingate Inn, 2516 West Lakeshore Drive, Tallahassee, Florida 32303

GENERAL SUBJECT MATTER TO BE CONSIDERED: Probable Cause Panel meeting.

If any person decides to appeal any decision made by the Board with respect to any matter considered at this meeting, they will need a record of the proceedings, and for such purposes they may need to ensure that a verbatim record of the proceedings is made, which record will include the testimony and evidence upon which the appeal is to be made.

Pursuant to the provisions of the Americans with Disabilities Act, any person requiring special accommodations to participate in this meeting is asked to advise the Board at least forty-eight (48) hours before the meeting by contacting Natalie Lowe, (850)521-0500.

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The **Florida Engineers Management Corporation** announces a public meeting to conduct the business of the Corporation, to which all persons are invited.

DATE AND TIME: Monday, December 2, 2002, 1:00 p.m. – Until conclusion

PLACE: Florida Board of Professional Engineers Office, Suite 200, 2507 Callaway Road, Tallahassee, Florida 32303

GENERAL SUBJECT MATTER TO BE CONSIDERED: General Business of the Corporation.

A copy of the agenda may be obtained by writing: Florida Board of Professional Engineers, 2507 Callaway Road, Suite 200, Tallahassee, Florida 32303.

If any person decides to appeal a decision made by the Corporation with respect to any matter considered at this meeting, they will need a record of the proceedings, and for such purposes they may need to ensure that a verbatim record of the proceedings is made, which record will include the testimony and evidence upon which the appeal is to be made.

Pursuant to the provisions of the Americans with Disabilities Act, any person requiring special accommodations to participate in this meeting is asked to advise the Board at least forty-eight (48) hours before the meeting by contacting Natalie Lowe, (850)521-0500.

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The Florida **Board of Professional Engineers** announces a public meeting to conduct the business of the Board, including committee business which all persons are invited.

DATE AND TIME: Tuesday, December 3, 2002, 8:30 a.m.

PLACE: Florida Board of Professional Engineers Office, Suite 200, 2507 Callaway Road, Tallahassee, Florida 32303

DATE AND TIME: Wednesday, December 4, 2002, 8:30 a.m., if the business of the Boards is not concluded

PLACE: Ramada Inn North, 2900 N. Monroe Street, Tallahassee, Florida 32303

GENERAL SUBJECT MATTER TO BE CONSIDERED: General Business of the Board.

A copy of the agenda may be obtained by writing: Board of Professional Engineers, 2507 Callaway Road, Suite 200, Tallahassee, FL 32303.

If any person decides to appeal and decision made by the Board with respect to any matter considered at this meeting, they will need a record of the proceedings, and for such purposes they may need to ensure that a verbatim record of the proceedings is made, which record will include the testimony and evidence upon which the appeal is to be made.

Pursuant to the provisions of the Americans with Disabilities Act, any person requiring special accommodations to participate in this meeting is asked to advise the Board at least forty-eight (48) hours before the meeting by contacting Natalie Lowe, (850)521-0500.

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**DEPARTMENT OF ENVIRONMENTAL PROTECTION**

The **Department of Environmental Protection**, Office of Intergovernmental Programs, announces a meeting of the Florida Coastal Management Program Subgrant Evaluation Committee on November 7, 2002, to consider applications to receive funds for 2003-2004. All interested parties are invited. The full text of this notice is published on the Internet at the Department of Environmental Protection's home page at <http://www.dep.state.fl.us/> under the link or button titled "Official Notices."

For further information or to obtain a copy of the agenda, contact: Susan Goggin, Office of Intergovernmental Programs, 3900 Commonwealth Boulevard, MS #47, Tallahassee, Florida 32399-3000, (850)245-2161.

The **Department of Environmental Protection** announces a public hearing of the Governor and Cabinet, sitting as the Power Plant Siting Board.

DATE AND TIME: November 13, 2002, 9:00 a.m.

PLACE: State Capitol, Lower Level, Cabinet Hearing Room, Tallahassee, Florida

GENERAL SUBJECT MATTER TO BE CONSIDERED: To consider the Administrative Law Judge's Recommended Order in the case of Florida Power & Light Company's Manatee Unit 3 project pursuant to the Florida Electrical Power Plant Siting Act, Section 403.501, et seq., Florida Statutes.

The full text of this notice is published on the Internet at the Department of Environmental Protection's home page at <http://www.dep.state.fl.us/> under the link or button titled "Official Notices."

The Florida **Department of Environmental Protection, Division of Recreation and Parks** announces a public workshop to which all persons are invited.

DATE AND TIME: Wednesday, November 6, 2002, 7:00 p.m. (EST)

PLACE: Heckscher Drive Community Club, 9364 Heckscher Drive, Jacksonville, Florida 32225

GENERAL SUBJECT MATTER TO BE CONSIDERED: To present the proposed land management plan for Ft. George Island Cultural State Park to the public.

The full text of this notice is published on the Internet at the Department of Environmental Protection's homepage at <http://www.dep.state.fl.us/> under the link or button titled "Official Notices."

The Florida **Department of Environmental Protection, Division of Recreation and Parks** announces an Advisory Group meeting.

DATE AND TIME: Thursday, November 7, 2002, 9:00 a.m. (EST)

PLACE: Sarabay Center, Reid House, 11945 Houston Avenue, Jacksonville, Florida 32226

GENERAL SUBJECT MATTER TO BE CONSIDERED: To review the proposed land management plan for Ft. George Island Cultural State Park with the Advisory Group.

The full text of this notice is published on the Internet at the Department of Environmental Protection's homepage at <http://www.dep.state.fl.us/> under the link or button titled "Official Notices."

The **Acquisition and Restoration Council (ARC)**, as defined in Section 259.035, Florida Statutes, announces the following public hearing to which all interested parties are invited for the purposes of conducting business of the Council. The Council considers public testimony when approving new projects to be added to the list and prior to ranking projects. There are nine new land acquisition proposals: Devil's Garden (Hendry and Collier Counties), Upper Yellow River (Okaloosa County), Battle of Wahoo Swamp (Sumter County), Baldwin Bay/ St. Mary's River (Nassau and Duval Counties), Escribano Point (Santa Rosa County), Heather Island/Oklawaha River (Marion County), St. Johns River Blueway (St. Johns County), Otter Mound (Collier County), Starkey-Booker Creek Wildlife Corridor (Pasco County). All projects will be considered for placement on the Florida Forever acquisition list on December 5, 2002. All interested parties are invited to attend this hearing.

MEETING: Public Hearing

DATE AND TIME: November 7, 2002, 6:00 p.m.

PLACE: County Administration Building, 1st Floor, 330 W. Church Street, Bartow, Florida 33830

To obtain additional information, please contact: Office of Environmental Services, Department of Environmental Protection, 3900 Commonwealth Boulevard, Mail Station 140, Tallahassee, Florida 32399-3000, (850)245-2784.

The full text of this notice is published on the internet at the Department of Environmental Protection's home page at <http://www.dep.state.fl.us/> under the button titled "Official Notices."

**DEPARTMENT OF HEALTH**

The Florida **Board of Medicine** announces a telephone conference call to be held via meet me number.

DATE AND TIME: Wednesday, November 6, 2002, 12:00 Noon

PLACE: Contact: Florida Board of Medicine, (850)245-4131 for the meet me number

GENERAL SUBJECT MATTER TO BE CONSIDERED: To conduct general business of the Board.

Any person requiring a special accommodation at this meeting because of a disability or physical impairment should contact the Florida Board of Medicine, (850)245-4131, at least five (5) calendar days prior to the meeting. If you are hearing or speech

impaired, please call the Florida Board of Medicine using the Florida Dual Party Relay System which can be reached at 1(800)955-8770 (Voice) and 1(800)955-8771 (TDD).

A copy of the agenda may be obtained by writing: Larry McPherson, Board Director, Medical Quality Assurance, 4052 Bald Cypress Way, BIN #C03, Tallahassee, Florida 32399-3253.

Please note that if a person decides to appeal any decision made by the Board with respect to any matter considered at the above cited meeting or hearing, he will need a record of the proceedings, and for such purpose, may need to ensure that a verbatim record of the proceeding is made, which record includes the testimony and evidence upon which the appeal is to be based. A verbatim tape record of the proceeding may be obtained from a court reporter, if present or an audio record from the Board Director.

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The Florida **Board of Medicine**, Rules/Legislative Committee announces a joint meeting with the Electrolysis Council to which all persons are invited.

DATE AND TIME: November 15, 2002, 10:00 a.m.

PLACE: Sheraton Ft. Lauderdale Airport, 1825 Griffin Road, Dania, Florida 33044, (954)920-3500

GENERAL SUBJECT MATTER TO BE CONSIDERED: To conduct general business of the Committee.

Any person requiring a special accommodation at this meeting because of a disability or physical impairment should contact the Florida Board of Medicine, (850)245-4131, at least five (5) calendar days prior to the meeting. If you are hearing or speech impaired, please call the Florida Board of Medicine using the Florida Dual Party Relay System which can be reached at 1(800)955-8770 (Voice) and 1(800)955-8771 (TDD).

A copy of the agenda may be obtained by writing: Larry McPherson, Board Director, Medical Quality Assurance, 4052 Bald Cypress Way, BIN #C03, Tallahassee, Florida 32399-3253.

Please note that if a person decides to appeal any decision made by the committee with respect to any matter considered at the above cited meeting or hearing, he will need a record of the proceedings, and for such purpose, he may need to ensure that a verbatim record of the proceeding is made, which record includes the testimony and evidence upon which the appeal is to be based.

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The **Board of Optometry** will hold a duly noticed rules workshop, to which all persons are invited to attend.

DATE AND TIME: Wednesday, November 6, 2002, 2:30 p.m.

PLACE: Double Tree Guest Suites, 3050 North Rocky Point Drive, Tampa, Florida 33607, (813)888-8800

GENERAL SUBJECT MATTER TO BE CONSIDERED: Discussion of Rule Chapter 64B13-5, Florida Administrative Code.

Any person requiring special accommodations at this meeting because of a disability or physical impairment should contact the Board of Optometry, (850)245-4355, at least 48 hours prior to the meeting. If you are a hearing or speech impaired, please contact the Board Office using the Dual Party Relay System at 1(800)955-8770 (Voice) and 1(800)955-8771 (TDD).

If any person decides to appeal any decision made by the Board with respect to any matter considered at this meeting or hearing, he/she will need to ensure that a verbatim record of the proceeding is made, which record includes the testimony and evidence from which the appeal is to be issued.

A copy of the agenda item may be obtained by writing: Joe Baker, Jr., Board of Optometry, Executive Director, 4052 Bald Cypress Way, BIN #C07, Tallahassee, FL 32399-3257.

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The **Board of Optometry** will hold a duly noticed meeting to which all persons are invited to attend.

DATE AND TIME: Thursday, November 7, 2002, 9:00 a.m.

PLACE: Double Tree Guest Suites, 3050 North Rocky Point Drive, Tampa, Florida 33607, (813)888-8800

GENERAL SUBJECT MATTER TO BE CONSIDERED: General board business.

Any person requiring special accommodations at this meeting because of a disability or physical impairment should contact the Board of Optometry, (850)245-4355, at least 48 hours prior to the meeting. If you are a hearing or speech impaired, please contact the Board Office using the Dual Party Relay System at 1(800)955-8770 (Voice) and 1(800)955-8771 (TDD).

If any person decides to appeal any decision made by the Board with respect to any matter considered at this meeting or hearing, he/she will need to ensure that a verbatim record of the proceeding is made, which record includes the testimony and evidence from which the appeal is to be issued.

A copy of the agenda item may be obtained by writing: Joe Baker, Jr., Board of Optometry, Executive Director, 4052 Bald Cypress Way, BIN #C07, Tallahassee, FL 32399-3257.

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The **Department of Health, Board of Pharmacy** announces a public meeting to which all persons are invited.

DATES AND TIME: December 2-3, 2002, 8:00 a.m.

PLACE: Embassy Suites, 3974 N. W. South River Drive, Miami, FL 33142, (305)634-5000

GENERAL SUBJECT MATTER TO BE CONSIDERED: The Board will conduct disciplinary proceedings, general board business and rules review.

Cases where probable cause was previously found are to be reconsidered at 4:00 p.m., December 2, 2002.

A copy of the board agenda materials, which are open to the public, may be obtained by writing: John D. Taylor, Executive Director, Board of Pharmacy, 4052 Bald Cypress Way, BIN #C04, Tallahassee, Florida 32399-3254.

Any person requiring a special accommodation at this meeting because of a disability or physical impairment should contact the Board of Pharmacy, Page Merkison, (850)245-4292, Ext. 3600, at least five calendar days prior to the meeting. If you are hearing or speech impaired, please contact the Agency using the Florida Dual Party Relay System which can be reached at 1(800)955-8770 (Voice) and 1(800)955-8771 (TDD).

If a person decides to appeal any decision made by the Board with respect to any matter considered at this meeting he will need to ensure that a verbatim record of the proceeding is made, which record includes the testimony and evidence upon which the appeal is to be based.

The **Department of Health, Board of Pharmacy** announces a public meeting to which all persons are invited.

DATE AND TIME: December 3, 2002, 8:00 a.m. – 12:00 Noon

PLACE: Embassy Suites, 3974 N. W. South River Drive, Miami, FL 33142, (305)634-5000

GENERAL SUBJECT MATTER TO BE CONSIDERED: The Rules Committee will meet to consider the establishment or revision of Board rules and additional comments/suggestions.

A copy of the board agenda may be obtained by writing: John D. Taylor, Executive Director, Board of Pharmacy, 4052 Bald Cypress Way, BIN #C04, Tallahassee, Florida 32399-3254.

Any person requiring a special accommodation at this meeting because of a disability or physical impairment should contact the Board of Pharmacy, Page Merkison, (850)245-4292, Ext. 3600, at least five calendar days prior to the meeting. If you are hearing or speech impaired, please contact the Agency using the Florida Dual Party Relay System which can be reached at 1(800)955-8770 (Voice) and 1(800)955-8771 (TDD).

If a person decides to appeal any decision made by the Board with respect to any matter considered at this meeting he will need to ensure that a verbatim record of the proceeding is made, which record includes the testimony and evidence upon which the appeal is to be based.

The Florida **Department of Health** announces a meeting of the Florida KidCare Coordinating Council to which all persons are invited.

DATE AND TIME: Monday, December 9, 2002, 1:00 p.m. – 4:00 p.m.

PLACE: Betty Easley Conference Center, Room 166, 4075 Esplanade Way, Tallahassee, FL 32399

GENERAL SUBJECT MATTER TO BE CONSIDERED: The Florida KidCare Coordinating Council, an advisory body appointed by the Secretary of the Florida Department of Health, will meet to discuss Florida KidCare, the state children's health insurance program. The Council is charged with making recommendations to the Department, the Governor and the Legislature, as well as other state government groups about possible changes and adjustments to

the Florida KidCare Program which may result in recommendations for legislative action, state agency rule change, federal agency rule or policy change, or Congressional action.

A copy of the agenda may be obtained from: Gail Vail, The Chiles Center, (850)487-0037, gvail@hsc.usf.edu.

The **Community Hospital Education Council** and the Graduate Medical Education Committee announces the following telephone conference call to which all persons are invited.

DATE AND TIME: November 1, 2002, 2:00 p.m. – 4:00 p.m. (EST)

PLACE: Call: 1(800)647-7427

GENERAL SUBJECT MATTER TO BE CONSIDERED: General business of the council and committee.

A copy of the agenda may be obtained by writing: Winona Dallis, Office of Community Health Resources, 4052 Bald Cypress Way, BIN #C15, Tallahassee, Florida 32399-1735, (850)245-4440, Ext. 3504.

Any person requiring a special accommodation during this call because of a disability or physical impairment should contact the Office of Community Health Resources, (850)245-4440, Ext. 3504, at least 48 hours prior to the meeting. If you are hearing or speech impaired, please call the Office of Community Health Resources using the Florida Dual Party Relay System which can be reached at 1(800)955-8770 (Voice) and 1(800)955-8771 (TDD).

**DEPARTMENT OF CHILDREN AND FAMILY SERVICES**

The Florida **Department of Children and Family Services** announces that District Eight will have an information session on dependency and system of care. All persons are invited.

DATE AND TIME: November 1, 2002, 9:00 a.m. – 12:30 p.m.

PLACE: Regional Service Center, Room 123, 2295 Victoria Avenue, Fort Myers, Florida

GENERAL SUBJECT MATTER TO BE CONSIDERED: To benefit the District 8, Evaluation Team members and other interest parties.

For further information, call: Nadereh Salim, Community-Based Care Coordinator, (239)338-1343.

If an accommodation is needed for a disability or physical impairment, please call Nadereh Salim, one week prior to the session.

The Florida **Department of Children and Family Services** announces a meeting of the Marion County Children's Alliance Steering Committee to which all persons are invited.

DATE AND TIME: Wednesday, November 6, 2002, 12:00 Noon

PLACE: Marion County Sheriff's Office, 692 N. W. 30th Ave., Ocala, FL

GENERAL SUBJECT MATTER TO BE CONSIDERED: To provide participation and governance of community based services, Section 20.19(6), F.S.

A copy of the agenda may be obtained by writing: Mona Terry, Box 80-O, 1601 W. Gulf-Atlantic Hwy., Wildwood, FL 34785. Persons needing special accommodations to participate in this proceeding should contact the agency no later than five working days prior to the meeting, telephone (352)330-2177.

The **Department of Children and Family Services**, District 14, Health and Human Services Board announces the following meetings to which all persons are invited.

CEO Roundtable of Central Florida

DATE AND TIME: Wednesday, November 20, 2002, 3:00 p.m.

PLACE: Polk County Board of County Commissioners, 4th Floor, Board Members Conference Room 413, 330 West Church Street, Bartow, FL

GENERAL SUBJECT MATTER TO BE CONSIDERED: Regular meeting of the CEO Roundtable of Central Florida.

For copies of the agenda, further information or persons needing accommodation to participate in this meeting please contact: Patty Harrison, (863)619-4157, 1(800)342-0825 or TDD (863)648-3337.

The **Department of Children and Family Services**, District 12, Community Alliance Nominating Committee announces the following public meeting to which all persons are invited.

DATE AND TIME: November 4, 2002, 10:00 a.m.

PLACE: Via Conference Call – Daytona Beach Regional Service Center, Room 440, 210 N. Palmetto Avenue, Daytona Beach, Florida

GENERAL SUBJECT MATTER TO BE CONSIDERED: Meeting.

A copy of the agenda may be obtained by writing: Department of Children and Family Services, 210 N. Palmetto Avenue, Daytona Beach, FL 32114-3284 (Attn: Denise Kelly).

If you need special accommodations (i.e. assisted listening devices, sign language interpreter, etc.) please notify Denise Kelly, (904)238-4648, at least 48 hours in advance of the meeting. If you are hearing or speech impaired, please use Florida Relay Service for TDD or TTY at 1(800)955-8771.

The **Department of Children and Family Services**, District 12, Community Alliance CBC Workgroup announces the following public meeting to which all persons are invited.

DATE AND TIME: November 4, 2002, 2:00 p.m.

PLACE: Daytona Beach Regional Service Center, Conference Room 148, 210 N. Palmetto Avenue, Daytona Beach, Florida

A copy of the agenda may be obtained by writing: Department of Children and Family Services, 210 N. Palmetto Avenue, Daytona Beach, FL 32114-3284 (Attn: Denise Kelly).

If you need special accommodations (i.e. assisted listening devices, sign language interpreter, etc.) please notify Denise Kelly, (904)238-4648, at least 48 hours in advance of the meeting.

If you are hearing or speech impaired, please use Florida Relay Service for TDD or TTY at 1(800)955-8771.

The **Department of Children and Family Services**, District 12, Community Alliance announces the following change. The November 13 meeting has been changed on its meeting calendar. This is a public meeting to which all persons are invited.

DATE AND TIME: November 6, 2002, 1:30 p.m.

PLACE: Daytona Beach Regional Service Center, Conference Room 148, 210 N. Palmetto Avenue, Daytona Beach, Florida

A copy of the agenda may be obtained by writing: Department of Children and Family Services, 210 N. Palmetto Avenue, Daytona Beach, FL 32114-3284 (Attn: Denise Kelly).

If you need special accommodations (i.e. assisted listening devices, sign language interpreter, etc.) please notify Denise Kelly, (904)238-4648, at least 48 hours in advance of the meeting. If you are hearing or speech impaired, please use Florida Relay Service for TDD or TTY at 1(800)955-8771.

The Orange County Alliance for Children and Families and the **Department of Children and Family Services** announces its public meeting change. The previously scheduled meeting for November 13th has been changed.

DATE AND TIME: November 20, 2002, 9:00 a.m. – 10:30 a.m.

PLACE: The Mable Butler Family Services Building, 2nd Floor, 2100 East Michigan Street, Orlando, FL

Please refer inquires to: Kevin Egan, (407)245-0400.

The Seminole County Alliance and the **Department of Children and Family Services** announces two public meetings being held:

DATES AND TIME: November 20, 2002; December 18, 2002, 11:30 a.m. – 1:00 p.m.

PLACE: The Seminole County Sheriff's Office, Operation Center, 1st Floor, Child Protective Services Conference Room, 100 Bush Boulevard, Sanford, FL

Please refer inquires to: Dr. Joan Vermillion, (407)245-0400.

The **Department of Children and Family Services**, District 12, Community Alliance announces the following public meeting to which all persons are invited.

DATES AND TIME: January 8, 2003; February 12, 2003; March 12, 2003; April 12, 2003; May 14, 2003; June 11, 2003, 1:30 p.m.

PLACE: Daytona Beach Regional Service Center, Conference Room 148, 210 N. Palmetto Avenue, Daytona Beach, Florida

A copy of the agenda may be obtained by writing: Department of Children and Family Services, 210 N. Palmetto Avenue, Daytona Beach, FL 32114-3284 (Attn: Denise Kelly).

If you need special accommodations (i.e. assisted listening devices, sign language interpreter, etc.) please notify Denise Kelly, (904)238-4648, at least 48 hours in advance of the meeting. If you are hearing or speech impaired, please use Florida Relay Service for TDD or TTY at 1(800)955-8771.

**FLORIDA HOUSING FINANCE CORPORATION**

The **Florida Housing Finance Corporation** announces the following Review Committee meeting to which all persons are invited to attend.

DATE AND TIME: Thursday, November 7, 2002, 10:00 a.m.

PLACE: Florida Housing Finance Corporation, 6th Floor, Rick Seltzer Conference Room, 227 North Bronough Street, Tallahassee, FL 32301-1329

GENERAL SUBJECT MATTER TO BE CONSIDERED: To discuss the evaluation of responses submitted for Florida Housing Finance Corporation's Request for Proposals #2002/07 for Investment Manager services.

Any person requiring a special accommodation at this meeting because of a disability or physical impairment should contact Laurie Camp, Human Resources Administrator, at Florida Housing Finance Corporation, (850)488-4197, at least five (5) calendar days prior to the meeting. If you are hearing impaired, please contact Florida Housing Finance Corporation using the Florida Dual Party Relay System, which can be reached at 1(800)955-8770 (Voice) and 1(800)955-8771 (TDD).

If any person decides to appeal any decision made by Florida Housing Finance Corporation with respect to any matter considered at this meeting, he or she will need a record of the proceedings, and for such purpose, may need to ensure that a verbatim record of the proceedings be made, which record shall include the testimony and evidence upon which the appeal is to be based.

The **Florida Housing Finance Corporation** announces a workshop and meeting of the Board of Directors to which all interested parties are invited.

Fiscal Committee

Guarantee Committee

Combined Cycle Committee

Multifamily Revenue Bond Committee

Board Meeting

DATE AND TIME: December 6, 2002, 9:00 a.m. – until adjourned

PLACE: Orlando Airport, Embassy Suites Hotel, 5835 T. G. Lee Blvd., Orlando, FL 32822, (407)856-9339

GENERAL SUBJECT MATTER TO BE CONSIDERED:

1. Consider, review, and take action on matters brought to the Fiscal Committee and to consider recommendations made by the Fiscal Committee to the Board.
2. Consider, review, and take action on matters brought to the Guarantee Committee and to consider recommendations made by the Guarantee Program Committee to the Board.
3. Consider, review, and take action on matters brought to the Combined Cycle Committee and to consider recommendations made by the Combined Cycle Committee to the Board.
4. Consider, review, and take action on matters brought to the Multifamily Revenue Bond Committee and to consider recommendations made by the Multifamily Revenue Bond Committee to the Board.
5. Authorize the Corporation Staff to proceed with all actions necessary for the sale of bonds of pending multifamily issues, which have satisfied the requirements for funding.
6. Consider financing and acknowledgement resolutions for various multifamily developments, under any multifamily program, including the ranking of developments.
7. Consider appointment of professionals including but not limited to trustee and/or originator/servicer for upcoming and/or past multifamily programs and single-family programs.
8. Consider approval of all bond documents for and terms of all upcoming single-family and multifamily bond sales, including those secured by third-party guarantors, letters-of-credit, insurance or other mechanisms.
9. Consider adopting resolutions authorizing negotiated or competitive sale of bonds on various single-family and multifamily issues.
10. Consider directing Staff to submit summaries of various TEFRA/Public Hearings to the Governor.
11. Consideration of policy issues concerning ongoing and upcoming single-family bond issues including initiation of request for proposals on an emergency basis, and structuring new issues.
12. Consideration of all necessary actions with regard to the Multifamily Bond Program.
13. Consideration of approval of underwriters for inclusion on approved master list and teams.
14. Consideration of all necessary actions with regard to the HOME Rental Program.
15. Consideration of all necessary actions with regard to the HC (Housing Credits) Program.
16. Consideration of all necessary actions with regard to the SAIL (State Apartment Incentive Loan) Program.
17. Consideration of all necessary actions with regard to the SHIP (State Housing Initiatives Partnership) Program.



18. Consideration of all necessary actions with regard to the PLP (Predevelopment Loan) Program.
19. Consideration of all necessary actions with regard to the Home Ownership Programs.
20. Consideration of all necessary actions, for initiating new rules or rule amendments on an emergency or non-emergency basis.
21. Consideration of Appeals from Combined Cycle ranking and grading with entry of final orders.
22. Consideration of workouts or modifications for existing projects funded by the Corporation.
23. Consideration of matters relating to the stated purpose of the Corporation to provide safe and sanitary housing that is affordable for the residents of Florida.
24. Consideration of funding additional reserves for the Guarantee Fund.
25. Consideration of audit issues.
26. Evaluation of Professional and Consultant performance.
27. Such other matters as may be included on the Agenda for the December 6, 2002, Board Workshop and Meeting.

A copy of the agenda may be obtained by contacting: Sheila Freaney, Board Liaison, Florida Housing Finance Corporation, 227 North Bronough Street, Suite 5000, Tallahassee, Florida 32301-1329, (850)488-4197.

Any person requiring a special accommodation at this meeting because of a disability or physical impairment should contact Sheila Freaney, Florida Housing Finance Corporation, (850)488-4197, at least five calendar days prior to the meeting. If you are hearing or speech impaired, please contact the Corporation using the Florida Dual Party Relay System, which can be reached at 1(800)955-8770 (Voice) and 1(800)955-8771 (TDD).

If any person decides to appeal any decision made by the Corporation with respect to any matter considered at this meeting, he or she will need a record of the proceedings, and that, for such purpose he or she may need to ensure that a verbatim record of the proceedings be made, which record includes the testimony and evidence upon which the appeal is to be based.

**TRAINING COUNCIL AND ASSESSMENT CENTER**

The Region XII, **Training Council and Assessment Center**, Board of Directors announces a public meeting to which all interested persons are invited.

DATE AND TIME: Tuesday, November 5, 2002, 10:00 a.m.  
 PLACE: Palm Beach Community College, Criminal Justice Room 101, 4200 Congress Avenue, Lake Worth, FL 33461  
 GENERAL SUBJECT MATTER TO BE CONSIDERED: The agenda will include but is not limited to: F.D.L.E./C.J.S.T.C. updates; Palm Beach Community College/Criminal Justice Institute Assessment Center update; Region XII, Budget Approval and any other business.

A copy of the agenda may be obtained by contacting: Sue Voccola, Secretary of the Criminal Justice Institute at Palm Beach Community College, 4200 Congress Avenue, Lake Worth, FL 33461, (561)868-3403.

**COUNCIL FOR EDUCATION POLICY, RESEARCH AND IMPROVEMENT**

The **Council for Education Policy, Research and Improvement** announces a meeting to which all interested persons are invited.

DATE AND TIME: Wednesday, November 6, 2002, 8:30 a.m. – 5:00 p.m.

PLACE: New College, Sarasota, Florida

GENERAL SUBJECT MATTER TO BE CONSIDERED: The Council and its committees will discuss development of the Master Plan, its study of centers and institutes, and other ongoing assignments.

For further information, contact the Council Office, (850)488-7894.

**ORANGE COUNTY RESEARCH AND DEVELOPMENT AUTHORITY**

The **Orange County Research And Development Authority** announces a public meeting to which all persons are invited.

DATE AND TIME: November 13, 2002, 8:00 a.m.

PLACE: Lowndes, Drosdick, Doster, Kantor & Reed, 215 North Eola, Orlando, Florida

GENERAL SUBJECT MATTER TO BE CONSIDERED: General Business Meeting.

**Section VII**  
**Notices of Petitions and Dispositions**  
**Regarding Declaratory Statements**

**DEPARTMENT OF MANAGEMENT SERVICES**

NOTICE IS HEREBY GIVEN THAT the Public Employees Relations Commission has received and will consider the following Petition for Declaratory Statement:

Case No.: DS-2002-002

In Re: Petition for Declaratory Statement of The United Faculty of Florida.

The United Faculty of Florida seeks a declaratory statement on the impact of the change in public employers for the employees represented by Petitioner mandated by Section 1006 of Chapter 2002-387, Laws of Florida, which becomes effective on January 7, 2003. This provision amends Section 447.203(2), Florida Statutes (2001), to specifically designate the university of college boards of trustees as the public employer with respect to all public employees of the respective state universities or colleges and amends Section 447.203(10),

Florida Statutes (2001), to specifically designate the board of trustees as the legislative body of all such employees for purposes of Section 447.403, Florida Statutes (2001).

A copy of the petition may be obtained by writing: Clerk, Public Employees Relations Commission, 4050 Esplanade Way, Tallahassee, Florida 32399-0950. Any person desiring to submit a statement regarding the petition may do so by filing such statement at the above address with 20 days of the date of this publication.

**DEPARTMENT OF HEALTH**

The Board of Medicine hereby gives notice that it has received a Petition for Declaratory Statement filed by Mark Rabinowitz, M.D. The Petitioner, an obstetrician, seeks the Board's interpretation of whether the arrangement outlined in the Petition, whereby Petitioner provides delivery services to patients referred by the local community health center, which continues to provide pre-natal care to the patient, is an appropriate arrangement. The Board will consider this petition at its meeting scheduled for December 6-7, 2002, in Tampa, Florida.

Copies of the petition may be obtained by writing: Larry G. McPherson, Jr., Executive Director, Board of Medicine, 4052 Bald Cypress Way, BIN #C03, Tallahassee, Florida 32399-3253.

**Section VIII  
Notices of Petitions and Dispositions  
Regarding the Validity of Rules**

**Notice of Petition for Administrative Determination has been filed with the Division of Administrative Hearings on the following rules:**

**NONE**

**Notice of Disposition of Petition for Administrative Determination have been filed by the Division of Administrative Hearings on the following rules:**

**NONE**

**Section IX  
Notices of Petitions and Dispositions  
Regarding Non-rule Policy Challenges**

**NONE**

**Section X  
Announcements and Objection Reports of  
the Joint Administrative Procedures  
Committee**

**NONE**

**Section XI  
Notices Regarding Bids, Proposals and  
Purchasing**

**DEPARTMENT OF EDUCATION**

**REQUEST FOR COMPETITIVE SOLICITATION**

Sealed solicitations shall be received by the Florida State University Purchasing Department until the dates and times shown for the following projects. Solicitations may be brought to the solicitation opening or sent to:

Purchasing Department  
Suite A1400, University Center  
Florida State University  
Tallahassee, FL 32306-2370

prior to solicitation opening. Responder must reference solicitation number, opening date and time on outside of solicitation package to insure proper acceptance. Solicitations submitted by facsimile are acceptable. For information relating to the Competitive Solicitation(s) to contact the Purchasing Agent identified in the Solicitation.

K 4576-5	Engineered Construction
	Documents & Power Interface
	Installation 5MW Electrical
	Test Facility
Public Solicitation Opening:	2:00 p.m., Wednesday,
	November 6, 2002
	Suite A1400, University Center

Competitive Solicitation	
Documents:	Purchasing Department
	Florida State University

**NOTICE TO PROFESSIONAL CONSULTANTS**

The Florida State University, State of Florida, announces that professional services in the discipline of PLANS REVIEW AND CONSTRUCTION INSPECTIONS FOR CODE COMPLIANCE will be required during the University's implementation of its Capital Improvement Program.

DESCRIPTION: These services are for plans review for code compliance and/or inspection of construction contract projects in accordance with the requirements of Florida Statue 553 and the current edition of the FBC. These services will support the University's construction program for new, remodeled,

renovated and altered buildings. Specific services will include building permitting, plans review for code compliance and inspection of construction activities per each discipline of the FBC.

**LOCATION:** The primary service area will be Sarasota County. The contract for this project will also be available to other FSU properties in Leon, Franklin, Gulf, and Marion counties, local public schools, area community colleges and other State University System (SUS) institutions.

**PROFESSIONAL QUALIFICATIONS:** Employees of consultants providing code plan review and inspection services must possess appropriate State of Florida licenses in accordance with Chapter 468, Florida Statutes.

**TERM OF CONTRACT:** Any contract resulting from the selection of a professional consultant (or consultants) to provide these services shall require the consultant to be available on an as-needed basis through June 30, 2003, with the option to extend the agreement for an additional year.

**INSTRUCTIONS:** Firms desiring to provide professional services shall apply by letter specifying their area of specialty and their intent to provide all necessary plan review and code inspections including structural, electrical, mechanical, gas, plumbing, ADA, and Fire/Life Safety. Proximity of location will be a prime factor in the selection of the firm.

Design ability will not be considered for this selection. Blanket professional liability insurance will be required for this project in the amount of \$500,000, and will be provided as a part of Basic Services.

Attach to each letter of application:

1. A completed Florida State University "Professional Qualifications Supplement" Version 06/02. Applications on any other form will not be considered.
2. A copy of the applicant's current Professional Registration Certificate from the appropriate governing board. An applicant must be properly registered at the time of application to practice its profession in the State of Florida. If the applicant is a corporation, it must be properly chartered with the Department of State to operate in the State of Florida.

Submit four (4) copies of the above requested data bound in the order listed above.

Applications which do not comply with the above instructions may be disqualified. Application materials will not be returned.

As required by Section 287.133, Florida Statutes, a consultant may not submit a proposal for this project if it is on the convicted vendor list for a public entity crime committed within the past 36 months. The selected consultant must warrant that it will neither utilize the services of, nor contract with, any supplier, subcontractor, or consultant in excess of \$15,000.00 in connection with this project for a period of 36 months from the date of their being placed on the convicted vendor list.

Professional Qualification Supplements, descriptive information, and selection criteria may be obtained through our website: [www.safety.fsu.edu/building.html](http://www.safety.fsu.edu/building.html) or contacting: Tom Deckert, Building Code Administration, Environmental Health and Safety, Florida State University, 124 Mendenhall, Bldg. A, Tallahassee, Florida 32306-4154, (850)644-7686.

Submittals must be received in the Office of Building Code Administration by 2:00 p.m. (Local Time), November 22, 2002. Facsimile (fax) submittals are not acceptable and will not be considered.

**NOTICE TO CONSTRUCTION MANAGERS**

Florida State University announces that construction management services will be required for the projects listed below:

Project No.	Project Name
BR-253	Campus Wide Projects (Utilities/Infrastructure/Capital Renewal/Roofs)
BR-272	Asolo Theater/Visitor Services Center (North Addition/Entry Galleries/Asolo Renovation and Support Facilities)

Location: Ringling Cultural Center, Florida State University, Sarasota, Florida

The project will initially include two major undertakings, leading toward the build-out of the campus master plan. The first project will construct various site engineering/utility infrastructure improvements necessary to accommodate the new facilities planned for Ringling. The Lawson Group, Inc. of Sarasota is the Architect for this project. The second project will construct a new Visitor Services Center building that includes space for ticketing, gift shop, and food service operations. In addition, the historic Asolo Theater will be relocated into this facility and restored with new, upgraded lighting and sound systems for live performances. Overall the Visitor Services Center and Asolo Theater will encompass 33,572 gsf. HOK, Inc. of Tampa is the Architect for this project. The University anticipates selection of a single firm to provide continuous construction management services for these projects.

The estimated construction cost is \$6,000,000 for the site engineering/utility infrastructure improvements and \$8,500,000 for the new Visitor Services Center and Asolo Theater Restoration for a total cost estimated to be \$14,500,000. Two additional projects involving the Ringling site are being planned and could be added if construction funding becomes available and CM performance/value is exceptional. The projects are BR-282, Main Galleries Expansion and BR-283, Conservation/Curatorial/Collections Facility. The combined construction value of these two projects is estimated to be \$19,000,000 for a potential construction value of \$33,500,000 for all projects at this site.

The contract for construction management services will consist of two phases. Phase one is pre-construction services, for which the construction manager will be paid a fixed fee. Phase one services include value engineering, constructability analyses, development of a cost model, estimating, and the development of a Guaranteed Maximum Price (GMP) at 50% Construction Document phase. If the GMP is accepted, phase two, the construction phase, will be implemented. In phase two of the contract, the construction manager becomes the single point of responsibility for performance of the construction of the project and shall publicly bid trade contracts, ensuring the inclusion of Minority Business Enterprises (MBEs). Failure to negotiate an acceptable fixed fee for phase one of the contract, or to arrive at an acceptable GMP within the time provided in the agreement may result in the termination of the construction manager's contract.

Selection of finalists for interviews will be made on the basis of construction manager qualifications, including experience and ability; past experience; bonding capacity; record-keeping/administrative ability, critical path scheduling expertise; cost estimating; cost control ability; quality control capability; qualification of the firm's personnel, staff and consultants; and ability to meet the minority business enterprise participation requirements. Finalists will be provided with a copy of the building program and the latest documentation prepared by the project architect/engineer, a description of the final interview requirements and a copy of the standard State University System's construction management agreement. The Selection Committee may reject all proposals and stop the selection process at any time. The construction manager shall have no ownership, entrepreneurial or financial affiliation with the selected architect/engineer involved with this project.

#### INSTRUCTIONS:

Firms desiring to provide construction management services for the project shall submit a letter of application and the completed Board of Regents "Construction Manager Qualifications Supplement." Proposals must not exceed 80 pages, including the Construction Manager Qualifications Supplement and letter of application. Pages must be numbered consecutively. Submittals which do not comply with these requirements or do not include the requested data will not be considered. No submittal material will be returned.

All applicants must be licensed to practice as general contractors in the State of Florida at the time of application. Corporations must be registered to operate in the State of Florida by the Department of State, Division of Corporations, at the time of application. As required by Section 287.133, Florida Statutes, a construction management firm may not submit a proposal for this project if it is on the convicted vendor list for a public entity crime committed within the past 36 months. The selected construction management firm must warrant that it will neither utilize the services of, nor contract

with, any supplier, subcontractor, or consultant in excess of \$25,000.00 in connection with this project for a period of 36 months from the date of their being placed on the convicted vendor list.

The Florida State University Construction Manager Qualifications Supplement forms and the Project Fact Sheet may be obtained on line at [www.fpc.fsu.edu](http://www.fpc.fsu.edu) or by contacting: Lynetta Mills, Facilities Planning and Construction, 109 Mendenhall Maintenance, Building A, Florida State University, Tallahassee, Florida 32306-4152, Telephone (850)644-2843, Facsimile (850)644-8351.

For further information on the project, contact: John Schanbacher, Project Manager, at the address and phone listed above.

Six bound copies of the required proposal data shall be submitted. Submittals must be received in the FSU Facilities Planning and Construction Office by 2:00 p.m. (Local Time), Wednesday, December 4, 2002. Facsimile (FAX) submittals are not acceptable and will not be considered.

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#### NOTICE OF CORRECTION

ITEM NUMBER 6 UNDER INSTRUCTIONS SHOULD READ: Current State General Contractor License Certification or Registration as required under Florida Statutes.

#### NOTICE TO CONSTRUCTION MANAGEMENT FIRMS Request for Proposal (RFP)

For Construction Management Services (MBE Exclusive)

The Office of Facilities Planning and Construction announces that Construction Management services are required for the following project:

Project Number: C-90130

Project Title: Additions, Remodeling, Renovations and Site Improvements at Paxon School for Advanced Studies No. 75

Project Location: 3239 Norman Thagard Blvd.  
Jacksonville, FL 32254

RFP's ARE DUE ON OR BEFORE November 12, 2002

AND WILL BE ACCEPTED UNTIL 4:30 p.m.

The selected Construction Manager will provide pre-construction services including value engineering, constructability analysis, development of a cost model, and estimating and will develop a Guaranteed Maximum Price at the applicable Construction Document phase.

Project scope includes a new six laboratory (three chemistry and three physics) building addition; renovation of six existing laboratories and site improvements with an estimated construction cost is \$3,387,250.

Selection of finalists for interviews will be made on the basis of construction manager qualifications, including experience and ability, financial capability, record keeping/administrative ability, critical path scheduling expertise, cost estimating, cost

control ability, quality control ability, qualifications of firm's personnel, staff and consultants, and distance from the construction site.

To receive application information and instruction booklet or for additional information contact the Project Manager listed below or visit [www.educationcentral.org/facilities](http://www.educationcentral.org/facilities).

Applications are to be sent to:

Facilities Planning and  
Construction  
1701 Prudential Drive, 5th Floor  
Jacksonville, FL 32207-8182

PROJECT MANAGER: James Scott

PHONE NO.: (904)390-2279

RESPONSE DUE DATE: November 12, 2002

MBE GOALS: Sheltered

#### INSTRUCTIONS

Submit an original, and four (4) copies of the following:

1. Letter of Interest indicating the firm's qualifications, related experience, ability to do the work and other pertinent data.
2. Completed Experience Questionnaire and Contractor's Financial Statement. (Forms may be obtained by calling (904)390-2279.) Audited or reviewed financial statements for last three years and letter from bonding company stating single and aggregate bonding capacity.
3. Resumes of proposed staff and staff organizations.
4. Any examples of project reporting manuals, schedules, and cost reports.
5. The firm's past experience, with examples of renovations, refurbishment, repairs and new construction projects completed by the firm.
6. Current State General Contractor License Certification or Registration as required under Florida Statutes.
7. Corporations must be registered to operate in the state of Florida by the Department of State, Division of Corporations.
8. A description of the applicant's plan for Minority Business Enterprise and Women-Owned Business Enterprise.
9. Reference from prior clients received within the last five (5) years.

Facsimile (FAX) submittals are not acceptable and will not be considered. Applications that do not comply with these instructions or those that do not include the requested data will not be considered. Representative samples of related work may be submitted in a separate binder. All information received will be maintained with the project file and will not be returned. Selections will be made in accordance with Florida Statutes.

Information on the selection process can be found at [www.educationcentral.org/facilities](http://www.educationcentral.org/facilities) under Forms and Standards.

## EXPRESSWAY AUTHORITIES

### NOTICE TO PROJECT DEVELOPMENT AND ENVIRONMENTAL (PD&E) FIRMS REQUEST FOR STATEMENT OF QUALIFICATIONS (RSOQ) MDX PROJECT NO. CPK-001

The Miami-Dade Expressway Authority (MDX) is seeking the services of a qualified firm (the "Firm") to perform a State Environmental Impact Report (SEIR) in accordance with the Florida Department of Transportation's Project Development and Environment (PD&E) Manual for a new 8-mile limited access roadway facility that would connect SR 836 (East-West Expressway), SR 112 (Airport Expressway) and SR 924 (Gratigny Parkway) in North-Central Miami Dade County, Florida (the "Project"). MDX, in its Work Program, has named the proposed roadway facility the Central Parkway.

**FEDERAL AND STATE DEBARMENT:** By signing and submitting a Statement of Qualifications (SOQ), the Firm certifies that no principal (which includes shareholders, partners, officers, directors, or executives) is presently suspended, proposed for debarment, declared ineligible or voluntarily excluded from participation in this transaction by any federal, state or local department or agency.

**SYSTEM:** The Miami-Dade Expressway System is comprised of State Road (SR) 112, SR 836, SR 874, SR 878 and SR 924.

**DESCRIPTION OF WORK:** The selected Firm will be required to provide services to develop and complete a State Environmental Impact Report (SEIR) for a new 8-mile limited access roadway facility that would connect SR 836 (East-West Expressway), SR 112 (Airport Expressway) and SR 924 (Gratigny Parkway) in North-Central Miami-Dade County, Florida. The Project will be financed through non-federal funding sources. Therefore, the Firm shall be required to develop and complete the SEIR, pursuant to the Florida Department of Transportation's Project Development & Environment (PD&E) Manual. MDX has developed a Project Concept Report for the Central Parkway and will be available on MDX's website after September 30, 2002: [www.mdx-way.com](http://www.mdx-way.com).

**SELECTION PROCEDURE:** A minimum of three firms will be shortlisted using the Evaluation Criteria detailed below. The shortlisted Firms will be requested to provide a written Technical Proposal based on the information and criteria requirements contained in the Request for Proposals ("RFP") to be issued by MDX. Oral interviews with the shortlisted Firms will be required. **FIRMS THAT DO NOT PROVIDE THE INFORMATION AND/OR DOCUMENTATION NECESSARY TO ADDRESS THE PREREQUISITE CRITERIA DESCRIBED BELOW SHALL BE DEEMED NON-RESPONSIVE.**

**RESPONSE PROCEDURE:** Qualified firms are encouraged to submit an SOQ package to MDX. One (1) original (unbound) SOQ, and nine (9) copies (ten (10) in total), **MUST** be received by the Miami-Dade Expressway Authority, 3790 N. W. 21

Street, Miami, Florida 33142, Attn: Ms. Helen M. Cordero, MDX Procurement Officer, by, Monday, December 16, 2002 by 12:00 Noon, Eastern Time (the "Deadline Date"). SOQs submitted past the Deadline Date and time will be deemed non-responsive.

After reviewing the documentation submitted, evaluating the SOQs using the Evaluation Criteria shown herein, and ranking the Firms, MDX will notify all Firms in writing if they have been shortlisted, and will distribute one (1) copy of the RFP package to each shortlisted Firm.

The deadline to submit questions in reference to this Request for Statements of Qualifications (RSOQ) is Friday, November 22, 2002, by 5:00 p.m. Questions should be submitted in compliance with the Communication Provision below. The responses to questions received will be posted on MDX's website [www.mdx-way.com](http://www.mdx-way.com) as an extension of this advertisement, or may be obtained by contacting MDX's Procurement Officer pursuant to the Communication Provision below. It is the Firm's responsibility to check the website or with MDX's Procurement Officer for these responses.

**RESPONSIVENESS OF SOQ'S AND CONDITIONS CAUSING DISQUALIFICATIONS OF FIRMS:** A responsive SOQ is one that conforms, in all material respects, to the requirements and instructions of the RSOQ.

SOQs will be rejected if found to be irregular, conditional or not in conformance with the requirements and instructions contained herein.

An SOQ will be found to be irregular or non-responsive for reasons including, but not limited to, violation of the Cone of Silence (as defined below), failure to strictly comply with and satisfactorily address the Prerequisite Criteria, failure to submit the information needed to evaluate the SOQ based on the Evaluation Criteria, incomplete SOQs, failure to provide or complete required forms, improper signatures, submittal of more than one SOQ by the same Firm, evidence of collusion among Firms or evidence that a Firm has a financial interest in another Firm submitting an SOQ for this engagement.

SOQs will be rejected if more than one SOQ is received from an individual, firm, partnership, or corporation, or combination thereof (furnished as the prime proposer), under the same or different names. Such duplicate interest will cause the rejection of all SOQs in which such Firm has participated. A Firm or any of the entities comprising the Firm shall not appear as a Proposer in any other SOQ for the Projects.

MDX, at its sole and absolute discretion, reserves the right to reject any and all SOQs or part of any and all SOQs, re-advertise the RSOQ, postpone or cancel, at any time, this procurement process for the Project, waive irregularities in the SOQs or to withdraw the RSOQ, if it is in the best interest of MDX. All expenses involved with the preparation and submission of an SOQ to MDX, or any work performed in connection therewith, shall be solely the Firm's responsibility.

**SUBMITTAL OF STATEMENT OF QUALIFICATIONS:** The SOQ shall be in writing, submitted on the Firm's letterhead. The SOQ must not exceed twenty (20) pages. Resumes, MDX forms, and certificates/licenses are not included in the 20-page limit. The SOQ MUST include at a minimum, the documentation and/or information required in the Prerequisite Criteria and Evaluation Criteria.

**PREREQUISITE CRITERIA:** SOQs will not be considered from Firms that do not satisfy, at a minimum, the following Prerequisite Criteria. All requested documentation and/or information must be provided in the SOQ to confirm that the Firm has satisfied all Prerequisite Criteria.

1. Firm shall have a minimum of five (5) years specific experience in providing Project Development & Environment (PD&E) services as described herein.
2. As required by Section 287.133, Florida Statutes, a firm may not submit a proposal for the Project if it is on the convicted vendor list for a public entity crime committed within the past 36 months. At a minimum, an affirmative statement shall be made by the Firm confirming that it is not on such list.
3. Firm must have a full service operational office located in Miami-Dade, Broward, or Palm Beach County. Information must also be provided as to the location of the Firm's office(s) in any of these counties. If the Firm does not have an office in any of these counties, an affirmative statement shall be made by the Firm confirming that, if selected, it will establish such an office in one of these counties.
4. Firms must submit documentation acceptable to MDX (including FDOT "L. Odom" letters) that the Firm is pre-qualified under Rule 14-75 of the Florida Administrative Code in the following types of work: Group 2, Project Development and Environmental (PD&E) Studies; Group 3.3, Complex Highway Design; Group 4.2 Major Bridge Design; Group 6.1 Traffic Engineering Studies; Group 6.3, Intelligent Transportation Systems Analysis, Design and Implementation; Group 8.1, Control Surveying Group 9.1, Soil Exploration. The Firm shall be pre-qualified in all Groups at time of submission of SOQ. If the Firm shall subcontract for some of the types of work, the Firm shall identify those types of work that will be subcontracted and provide acceptable documentation that the subcontractor(s) are pre-qualified.
5. Certificates of Good Standing evidencing that the Firm is qualified to do business in the State of Florida. Certificates must be current to be deemed acceptable by MDX.
6. Execution of a Commitment Letter (a copy of this form may be obtained from MDX's website) stating that the Firm shall satisfy the 10% Small Business Participation Goal for the Project, in compliance with MDX's Small Business Participation Policy (a copy of this Policy may be obtained

from MDX's website). Further documentation addressing this requirement shall be required of the shortlisted Firms, pursuant to requirements in the RFP.

**REQUIRED INFORMATION:** The SOQ shall contain the following Required Information:

1. Project Name and number.
2. Firm's name and address.
3. Name of contact person, phone number, fax number and Internet e-mail address. Please only identify one contact person per Firm. MDX will only send communications to the identified contact person. It is the Firm's responsibility to keep all members of its team informed.
4. An executed Vendor's Certificate (a copy of this form may be obtained from MDX's website).

**EVALUATION CRITERIA:** The SOQ will be reviewed, evaluated and ranked by the MDX Technical Evaluation Committee using the following Evaluation Criteria:

- Qualifications and experience of the Firm as it relates to the required services. Depth and breadth of the Firm's experience as a whole in the performance of similar engagements. A total of 45 points.
- Proposed key personnel of the Firm, their qualifications, experience and their roles in similar projects (including resumes). A total of 30 points.
- An estimate of the Firm's current workload and available resources. The Firm should specifically address this criterion with respect to the proposed key personnel for this engagement. A total of 20 points.
- A list of similar engagements, in particular, representation of governmental entities, completed NOT EARLIER THAN January 1, 1997, with references and phone numbers, including a general description of the role of the Firm and the services provided. A total of 5 points.

**COMMUNICATION:** Communications between any respondent and any MDX Board member, MDX consultants and/or staff is strictly prohibited from the date of publication of the RSOQ through the date of final MDX action with respect to the selection of the successful Firm for this engagement (this communication prohibition is also referred to herein as the Cone of Silence). The only exceptions to this are communications at a pre-proposal conference, oral interview, or a publicly noticed meeting of MDX and/or its Operations Committee, and written communications regarding questions about the RSOQ. Such written communication should be directed to: Helen M. Cordero, MDX Procurement Officer, via e-mail [hcordero@mdx-way.com](mailto:hcordero@mdx-way.com) or facsimile (305)637-3298. Any violation of the requirements set forth in this paragraph shall constitute grounds for immediate and permanent disqualification of the offending respondent.

**PROTEST RIGHTS:**

1. Any Firm must file a written protest with the Secretary of the MDX Board after the MDX Operations Committee's decision on the shortlist for the Project, if the protest is directed towards any part of the procurement process that has occurred as of the time of that decision.

It is intended that this provision be utilized to address any issues concerning the manner or process by which Firms are identified as qualified to receive the Request for Proposal for the Project. Should issues arise after the time period for filing a protest has passed pursuant to this provision, which issues are determined by MDX to be covered by this provision, the protesting party shall be deemed to have waived any right to protest same.

2. A protest bond in the amount of \$20,000.00 will be required for any protest.
3. After the MDX Operations Committee renders its decision regarding the firms to be shortlisted, a copy of the final shortlist of firms invited to submit proposals in response to the Request for Proposals ("Final Shortlist") shall be sent to all firms who submitted a Statement of Qualifications for the Project by MDX's Chief Purchasing Officer or his designee. To be considered, a protest must be in writing and filed with the Secretary of the MDX Board within seventy-two (72) hours, excluding Saturdays, Sunday and legal holidays, after receipt of the Final Shortlist.
4. Within five (5) calendar days from the date of filing of the protest, the protesting party shall provide MDX with the grounds for its protest.
5. Upon receipt of a timely filed written protest, MDX and the protesting party shall attempt to resolve the protest by mutual agreement within ten (10) business days from the date of filing of the protest.
6. If the protest is not resolved by mutual agreement within ten (10) business days from the date of filing, MDX and the protesting party shall select a mutually agreed-upon mediator and participate in mediation within thirty (30) calendar days after the failure to reach a mutual agreement. All costs of mediation shall be borne by the protesting party, unless otherwise agreed upon by MDX. No court proceedings regarding any protest may be filed until the parties have first participated in mediation.
7. In the event mediation is unsuccessful, the party filing a protest pursuant to this provision shall file and serve the requisite legal action within fifteen (15) calendar days of the date of mediation.
8. In the event that a party serving a protest in accordance with this provision fails to: (1) resolve the protest by mutual agreement within ten (10) business days from the date of filing of the protest; (2) work with MDX to select an agreed-upon mediator and participate in mediation within thirty (30) calendar days after the failure to reach a mutual agreement; or (3) file and serve the requisite legal

proceeding within fifteen (15) calendar days after the termination of an unsuccessful mediation, the protest shall be deemed withdrawn and have no further force and effect. Any waiver of this provision must be in writing and signed by MDX's Executive Director.

9. Failure to file a protest in accordance with the requirements set forth herein with respect to any decisions made prior to the issuance of the Final Shortlist in accordance with this provision shall constitute a waiver of any right to initiate any protest proceedings regarding those decisions.

**EQUAL EMPLOYMENT OPPORTUNITIES AND SMALL BUSINESS ENTERPRISES PROGRAM:** MDX, in accordance with the provisions of Title VII of the Civil Rights Act of 1964, as amended, 42 U.S.C. §200c et seq., the Florida Civil Rights Act of 1992, as amended, §760.10 et. seq., Fla. Stat. (1996) and other federal and state discrimination statutes, prohibits discrimination on the basis of race, color, sex, age, national origin, religion and disability or handicap. MDX notifies all bidders and individuals that it requires and encourages equal employment opportunities for minorities and women as employees in the work force.

MDX strongly encourages small, minority and women-owned business to have full opportunity to submit bids and proposals in response to solicitation documents issued by MDX, and commits that bidders and proposers will not be discriminated against on the basis of sex, race, color, national origin, religion or disability, or other protected status. The overall goal of MDX is to obtain an M/WBE participation of twenty-five percent (25%) for the aggregate of its projects. However, compliance with MDX's overall goal is not a pre-requisite for bidders or proposers on MDX projects. Please be advised that MDX has adopted a Small Business Enterprise Policy, and a 10% Small Business Goal shall be required for the Project (see Prerequisite Criteria above.)

**MDX RESERVES THE RIGHT TO REJECT ANY OR ALL STATEMENTS OF QUALIFICATIONS RECEIVED.**

**DEPARTMENT OF MANAGEMENT SERVICES**

**NOTICE REGARDING ELECTRONIC POSTING**

Pursuant to Section 287.042(3)(b)2., Florida Statutes, the Department of Management Services hereby provides notice of the following URL for the centralized website that will be used for electronically posting solicitations, decisions or intended decisions, and other matters relating to procurement: [http://fcn.state.fl.us/owa\\_vbs/owa/vbs\\_www.main\\_menu](http://fcn.state.fl.us/owa_vbs/owa/vbs_www.main_menu).

**PUBLIC ANNOUNCEMENT FOR CONSTRUCTION MANAGEMENT SERVICES FOR CONTINUING AREA CONTRACTS AREA 8**

The State of Florida, Department of Management Services, requests qualifications from firms to provide Construction Management Services in Area 8, counties of Martin, Palm

Beach, Indian River, Okeechobee, St. Lucie, and other counties as may be determined necessary by the owner. The Department of Management Services will enter into a contract with up to two construction management firms with responsibility for performance of construction contracts that will vary in size up to \$500,000. This will be a multiple award contract for an initial period of two years with an option to renew for two additional one-year periods.

Selection of finalists for interview will be made on the basis of construction manager qualifications including experience and ability, bondability, record-keeping/administrative ability, scheduling expertise, cost estimating and cost control ability, quality control capability, qualifications of involved management staff and ability to involve Minority Business Enterprises.

Applicant must be licensed in the State of Florida at the time of application. Further, if a corporation, the applicant must be registered by the Department of State, Division of Corporations, to operate in the State of Florida at the time of application. The selection will be made in accordance with Section 255.29(3), F.S., and the procedures and criteria of Building Construction.

**INSTRUCTIONS**

Firms interested in being considered for this project must submit four (4) copies of their application with a table of contents and tabbed sections in the following order:

1. A letter of interest detailing the firm's qualifications to meet the above referenced selection criteria.
2. A current Experience Questionnaire and Contractor's Financial Statement, Form DBC5085 dated 3/00. (Financial statements will be for confidential review by the Selection Committee members only).
3. Copies of the firm's current Florida Professional Registration License Renewals.
4. For Corporations only: If the firm offering services is a corporation, it must be properly chartered with the Department of State to operate in Florida and must provide a copy of the firm's current Florida Corporate Charter.
5. Resumes of proposed staff and staff organizations.
6. Any examples of project reporting manuals, schedules, past experience and examples of similar projects completed by the firm.
7. A description of the applicant's plan for Minority Business Enterprise and Women-Owned Business Enterprise.
8. References from prior clients received within the last five years.

**RESPONSE DUE DATE:** November 21, 2002, by 4:00 p.m. (Local Time)

Applications are to be sent to Carole Nichols, Department of Management Services, Division of Facilities Management and Building Construction, 4050 Esplanade Way, Building 4030, Suite 360B, Tallahassee, Florida 32399-0950, (850)487-2824 e-mail: [nicholc@dms.state.fl.us](mailto:nicholc@dms.state.fl.us). Facsimile (FAX) submittals



are not acceptable and will not be considered. Applicants that do not comply with these instructions or those that do not include the requested data will not be considered.

DATE AND LOCATION OF SHORTLIST: December 3, 2002, Department of Management Services, Division of Facilities Management and Building Construction, 4050 Esplanade Way, Building 4030, Suite 360L, Tallahassee, Florida 32399-0950.

DATE AND LOCATION OF INTERVIEWS: Tuesday, December 17, 2002, Department of Management Services, Division of Facilities Management and Building Construction, 4050 Esplanade Way, Building 4030, Suite 360L, Tallahassee, Florida 32399-0950.

Any person requiring a special accommodation at the meetings because of a disability or physical impairment should contact Ms. Betty Stevens, Department of Community Affairs, (850)487-1824, at least ten days before the meetings. If you are hearing or speech impaired, please contact the Department of Community Affairs using the Florida Dual Party Relay System, 1(800)955-8770 (Voice) and 1(800)955-8771 (TDD).

Any changes to the above dates will be published on our web site, <http://fcn.state.fl.us/dms/dbc/opportun/index.html>.

The selected firms will be given official notice of selection results by Fax and/or mail. Please include one stamped, self-addressed envelope. Failure to file a protest within 72 hours (not including Saturday, Sunday or a legal holiday) after receipt of notice shall constitute a waiver of proceedings under Chapter 120, Florida Statutes.

**FLORIDA HOUSING FINANCE CORPORATION**

**NOTICE OF CANCELLATION**

The Florida Housing Finance Corporation, Review Committee meeting to discuss the evaluation of responses submitted for the Request for Proposals #2002/07 for Management Company Services scheduled for Thursday, October 24, 2002 in the Rick Seltzer Conference Room at Florida Housing was cancelled.

If you have questions, please contact: Ms. Robin Grantham, Senior Contracts Analyst, (850)488-4197 or by e-mail [robin.grantham@floridahousing.org](mailto:robin.grantham@floridahousing.org).

**HILLSBOROUGH COUNTY AVIATION AUTHORITY**

**NOTICE TO PROFESSIONAL CONSULTANTS**

The Hillsborough County Aviation Authority hereby requests, pursuant to the Consultants Competitive Negotiation Act, Section 287.055, Florida Statutes, Letters of Interest from Engineering firms or individuals desiring to render Professional Services for the following project at Tampa International Airport, Tampa, Florida:

**AIRSIDE "C" APRON MODIFICATIONS AND HYDRANT FUEL SYSTEM AND RELATED WORK  
TAMPA INTERNATIONAL AIRPORT  
HCAA PROJECT NO. 3805**

Services to be furnished shall include, but not be limited to, engineering design and surveys related to civil, environmental, air carrier aprons, and aircraft hydrant fueling; geotechnical testing; assistance during the advertising, bid and award phase; and basic engineering services and resident inspection during construction. A more detailed Scope of Services will be included in the formal Request for Proposals.

Qualified Consultants desiring consideration for this Project must give written notification in the form of a Letter of Interest to:

William J. Connors, Jr.  
Senior Director of Planning and Development  
Hillsborough County Aviation Authority  
Post Office Box 22287  
Tampa, Florida 33622

Interested parties may inquire as to project description, details, and required data submissions, to William J. Connors, Jr., Senior Director of Planning and Development, (813)870-8704. **ONLY A LETTER EXPRESSING INTEREST IN RECEIVING THE FORMAL REQUEST FOR PROPOSALS IS REQUIRED AT THIS TIME.**

The Letters of Interest (Only) must be received on or before 5:00 p.m. (Local Time), Tuesday, November 12, 2002. Subsequent to receiving Letters of Interest, a Request for Proposals will be sent to all respondents and adequate response time set forth in that package.

A MANDATORY Pre-Proposal Conference will be held on Tuesday, December 3, 2002, 10:00 a.m. (Local Time), at the office of Hillsborough County Aviation Authority, the Landside Terminal Building, Third Floor, Blue Side at Tampa International Airport. Details of this conference will be included in the Request for Proposals. Subsequent to receiving Letters of Interest, a Request for Proposals will be sent to all respondents and adequate response time set forth in that package.

**HILLSBOROUGH COUNTY AVIATION AUTHORITY**

By: /s/ Louis E. Miller  
Louis E. Miller, Executive Director

**NOTICE TO PROFESSIONAL CONSULTANTS**

The Hillsborough County Aviation Authority hereby requests, pursuant to the Consultants Competitive Negotiation Act, Section 287.055, Florida Statutes, Letters of Interest from Architectural, Engineering, and Graphic Design firms or individuals desiring to render Professional Services for the following project at Tampa International Airport, Tampa, Florida:

EXTERIOR DYNAMIC SIGNAGE  
HCAA PROJECT NO. 4530

Services to be furnished shall include, but not be limited to, all architectural, engineering, and graphic design related to civil, geotechnical, utilities, surveying, permitting, structural, mechanical, graphics, electrical, electronic information technology systems and fiber optics; assistance during the advertising, bid and award phase; and basic engineering services and inspection during construction. A more detailed Scope of Services will be included in the formal Request for Proposals.

Qualified Consultants desiring consideration for this Project must give written notification in the form of a Letter of Interest to:

William J. Connors, Jr.  
Senior Director of Planning and Development  
Hillsborough County Aviation Authority  
Post Office Box 22287  
Tampa, Florida 33622

Interested parties may inquire as to project descriptions, details, and required data submission to William J. Connors, Jr., Senior Director of Planning and Development, telephone number (813)870-8704. ONLY A LETTER EXPRESSING INTEREST IN RECEIVING THE FORMAL REQUEST FOR PROPOSALS IS REQUIRED AT THIS TIME.

The Letters of Interest (Only) must be received at or before 5:00 p.m. (Local Time), Tuesday, November 12, 2002. Subsequent to receiving Letters of Interest, a Request for Proposals will be sent to all respondents and adequate response time set forth in that package.

A MANDATORY Pre-Proposal Conference will then be held on Wednesday, December 4, 2002, 2:00 p.m. (Local Time), in the Hillsborough County Aviation Authority Board Room, Landside Terminal Building, Third Floor, Blue Side at Tampa International Airport. Details of this conference will be included in the Request for Proposals.

HILLSBOROUGH COUNTY AVIATION AUTHORITY  
By: /s/ Louis E. Miller  
Louis E. Miller, Executive Director

**SENIOR FIRST**

NOTICE OF INVITATION TO BID

NOTICE IS HEREBY GIVEN by Seniors First, Inc., 5395 L. B. McLeod Road, Orlando, Florida 32811, that the agency will receive sealed bids from interested food service vendors to contract for the purchase of meals for the elderly of Orange County no later than November 13, 2002, 3:00 p.m., at which time and place all bids properly received and in proper form shall be opened publicly and read aloud at 3:05 p.m.

All bidders will be required to certify that they are not on the Comptroller General's List of Ineligible Contractors. Vendor on said list will be considered ineligible.

The successful bidder will be required to comply with all applicable equal employment laws and regulations.

Any proposed changes must be submitted to the purchaser for its prior concurrence in accordance with instructions and procedures contained in the bid package.

THE PURCHASER RESERVES THE RIGHT TO REJECT ANY AND ALL BIDS AND TO RE-ADVERTISE FOR BIDS.

**Section XII  
Miscellaneous**

**DEPARTMENT OF BANKING AND FINANCE**

NOTICE OF FILINGS

Notice is hereby given that the Department of Banking and Finance has received a request by a credit union to expand it's field of membership. Specific information regarding the expansion can be found at <http://www.dbf.state.fl.us/banking.html>. Comments may be submitted to the Director, Division of Banking, 101 East Gaines Street, Suite 636, Tallahassee, Florida 32399-0350, for inclusion in the official record without requesting a hearing; however, any person may request a public hearing by filing a petition with the Clerk, Legal Division, Department of Banking and Finance, 101 East Gaines Street, Suite 526, Tallahassee, Florida 32399-0350, pursuant to provisions specified in Rule 3C-105.100, Florida Administrative Code. Petition must be received by the Clerk within twenty-one (21) days of publication of this notice (by 5:00 p.m., November 15, 2002):

Name and Address of Applicant: Coast to Coast Credit Union, 8916 Sabal Industrial Boulevard, Tampa, Florida 33619-1326  
Expansion Includes: Persons living or working within the 34470 and 34471 zip codes in the City of Ocala, Florida.  
Received: October 8, 2002

**DEPARTMENT OF INSURANCE**

DEPARTMENT OF INSURANCE  
OFFICE OF THE TREASURER

BUREAU OF COLLATERAL MANAGEMENT  
PUBLIC DEPOSITS SECTION

\*\*\*\*\*  
FOR PUBLIC DEPOSITORS TO RECEIVE THE PROTECTION FROM LOSS PROVIDED IN CHAPTER 280, FLORIDA STATUTES, THEY SHALL COMPLY WITH THE FOLLOWING ON EACH PUBLIC DEPOSIT ACCOUNT IN ADDITION TO ANY OTHER REQUIREMENTS SPECIFIED IN CHAPTER 280: (1) EXECUTE THE PUBLIC DEPOSIT IDENTIFICATION AND ACKNOWLEDGMENT FORM DI4-1295 WITH THE QUALIFIED PUBLIC DEPOSITORY (QPD), MAINTAIN IT AS A VALUABLE RECORD, AND CONFIRM THE

ACCOUNT ANNUALLY; (2) EXECUTE A REPLACEMENT FORM DI4-1295 WHEN THERE IS A MERGER, ACQUISITION, NAME CHANGE, OR OTHER EVENT WHICH CHANGES THE ACCOUNT NAME, ACCOUNT NUMBER, OR NAME OF THE QPD.

THE FOLLOWING QPDS ARE AUTHORIZED TO HOLD PUBLIC DEPOSITS. THEY ARE LISTED UNDER THE STATE OF HOME OFFICE LOCATION. INSTITUTIONS MARKED WITH AN ASTERISK HAVE LIMITED THE AMOUNT OF PUBLIC DEPOSITS THEY WILL ADMINISTER AND ARE NOT ACCEPTING NEW PUBLIC DEPOSIT ACCOUNTS. DEPOSITORIES HAVING A DATE BESIDE THEIR NAME ARE IN THE PROCESS OF WITHDRAWING FROM THE PROGRAM AND SHALL NOT RECEIVE OR RETAIN PUBLIC DEPOSITS AFTER THE DATE SHOWN. THEY MAY, HOWEVER, HAVE CERTAIN OBLIGATIONS TO THE PROGRAM AFTER THAT DATE WITH WHICH THEY MUST COMPLY BEFORE CONCLUDING THE WITHDRAWAL PROCESS.

\*\*\*\*\*

**ALABAMA**

**BIRMINGHAM**

AMSOUTH BANK  
COMPASS BANK  
REGIONS BANK  
SOUTHTRUST BANK

**MONTGOMERY**

COLONIAL BANK

**WARRIOR**

THE BANK  
BRANCHES OF THIS QPD CONDUCT BUSINESS IN FLORIDA UNDER THE NAMES THE BANK AND EMERALD COAST BANK

**CALIFORNIA**

**SAN FRANCISCO**

CITIBANK, F.S.B.

**FLORIDA**

**ALACHUA**

FIRST NATIONAL BANK OF ALACHUA

**APALACHICOLA**

APALACHICOLA STATE BANK

**ARCADIA**

FIRST STATE BANK OF ARCADIA

**AVENTURA**

TURNBERRY BANK

**BARTOW**

CITRUS & CHEMICAL BANK  
COMMUNITY NATIONAL BANK AT BARTOW

**BELLE GLADE**

BANK OF BELLE GLADE

**BOCA RATON**

FIRST SOUTHERN BANK

**BONIFAY**

BANK OF BONIFAY

**BRADENTON**

AMERICAN BANK  
COAST BANK OF FLORIDA  
FIRST BRADENTON BANK  
FIRST NATIONAL BANK & TRUST  
FLAGSHIP NATIONAL BANK

**BRANDON**

PLATINUM BANK

**BROOKSVILLE**

HERNANDO COUNTY BANK

**CANTONMENT**

CITIZENS & PEOPLES BANK, N.A.

**CAPE CORAL**

RIVERSIDE BANK OF THE GULF COAST

**CARRABELLE**

GULF STATE COMMUNITY BANK

**CHIEFLAND**

DRUMMOND COMMUNITY BANK

**CLEWISTON**

FIRST BANK OF CLEWISTON  
FIRST FEDERAL SAVINGS BANK OF THE GLADES

**COOPER CITY**

FIRST WESTERN BANK

**CORAL GABLES**

BANKUNITED, F.S.B.  
GIBRALTAR BANK, F.S.B.  
METRO BANK OF DADE COUNTY

**CRAWFORDVILLE**

CITIZENS BANK - WAKULLA  
WAKULLA BANK

**CRESTVIEW**

FIRST NATIONAL BANK OF CRESTVIEW

**CRYSTAL RIVER**

CRYSTAL RIVER BANK

**DADE CITY**

FIRST NATIONAL BANK OF PASCO

**DANIA BEACH**

COMMUNITY BANK OF BROWARD

**DAVIE**

REGENT BANK

**DEBARY**

FIRST COMMUNITY BANK

**DESTIN**

DESTIN BANK

**DUNNELLON**

DUNNELLON STATE BANK

**ENGLEWOOD**

ENGLEWOOD BANK  
PENINSULA BANK

**FERNANDINA BEACH**

FIRST COAST COMMUNITY BANK  
FIRST NATIONAL BANK OF NASSAU COUNTY

**FORT LAUDERDALE**

BANKATLANTIC  
EQUITABLE BANK  
LANDMARK BANK, N.A.

**FORT MYERS**

BUSEY BANK FLORIDA  
EDISON NATIONAL BANK

**FORT PIERCE**

HARBOR FEDERAL SAVINGS BANK  
RIVERSIDE NATIONAL BANK OF FLORIDA

**FORT WALTON BEACH**

BEACH COMMUNITY BANK  
FIRST CITY BANK OF FLORIDA  
FIRST NATIONAL BANK & TRUST

**FROSTPROOF**

CITIZENS BANK OF FROSTPROOF

**GAINESVILLE**

MERCHANTS & SOUTHERN BANK  
MILLENNIUM BANK

**GRACEVILLE**

\*BANK OF JACKSON COUNTY  
PEOPLES BANK OF GRACEVILLE

**GROVELAND**

PEOPLES STATE BANK OF GROVELAND

**HAINES CITY**

FIRST NATIONAL BANK OF POLK COUNTY

**HALLANDALE**

DESJARDINS FEDERAL SAVINGS BANK

**HOMESTEAD**

COMMUNITY BANK OF FLORIDA  
FIRST NATIONAL BANK OF SOUTH FLORIDA

**HOMOSASSA SPRINGS**

HOMOSASSA SPRINGS BANK

**IMMOKALEE**

FLORIDA COMMUNITY BANK

**INDIANTOWN**

FIRST BANK OF INDIANTOWN

**INVERNESS**

BANK OF INVERNESS

**JACKSONVILLE**

FIRST ALLIANCE BANK

**JACKSONVILLE BEACH**

OCEANSIDE BANK

**KEY LARGO**

TIB BANK OF THE KEYS

**KEY WEST**

FIRST STATE BANK OF THE FLORIDA KEYS

**KISSIMMEE**

FIRST NATIONAL BANK OF OSCEOLA COUNTY

**LADY LAKE**

CITIZENS FIRST BANK

**LAKE CITY**

CNB NATIONAL BANK  
COLUMBIA COUNTY BANK  
PEOPLES STATE BANK

**LAKELAND**

FLORIDAFIRST BANK

**LAKE MARY**

COMMUNITY NATIONAL BANK OF MID FLORIDA

**LAKE WALES**

AMERICAN BANK & TRUST OF POLK COUNTY

**LARGO**

Premier Community Bank of Florida

**LAUDERHILL**

UNION BANK OF FLORIDA

**LEESBURG**

FIRST FEDERAL SAVINGS BANK OF LAKE COUNTY

**LIVE OAK**

FIRST FEDERAL SAVINGS BANK OF FLORIDA

**LONGWOOD**

LIBERTY NATIONAL BANK

**MADISON**

MADISON COUNTY COMMUNITY BANK

**MALONE**

PCB, THE COMMUNITY BANK

**MARATHON**

MARINE BANK OF THE FLORIDA KEYS

**MAYO**

LAFAYETTE STATE BANK

**MIAMI**

BAC FLORIDA BANK  
CITY NATIONAL BANK OF FLORIDA  
COCONUT GROVE BANK  
COMMERCIAL BANK OF FLORIDA  
CONTINENTAL NATIONAL BANK OF MIAMI  
EAGLE NATIONAL BANK OF MIAMI  
EASTERN NATIONAL BANK  
ESPIRITO SANTO BANK  
EXECUTIVE NATIONAL BANK  
GULF BANK  
HEMISPHERE NATIONAL BANK 09/16/2002  
INTERAMERICAN BANK, F.S.B.  
INTERNATIONAL BANK OF MIAMI, N.A.  
MELLON UNITED NATIONAL BANK  
NORTHERN TRUST BANK OF FLORIDA, N.A.  
OCEAN BANK  
SOFISA BANK OF FLORIDA  
TOTALBANK  
TRANSATLANTIC BANK

**MILTON**

FIRST NATIONAL BANK OF FLORIDA

**MONTICELLO**

FARMERS & MERCHANTS BANK

**MOUNT DORA**

FIRST NATIONAL BANK OF MOUNT DORA  
FLORIDA CHOICE BANK

**NAPLES**

BANK OF NAPLES  
COMMUNITY BANK OF NAPLES, N.A.  
FIFTH THIRD BANK, FLORIDA  
FIRST NATIONAL BANK OF FLORIDA  
ORION BANK

**NEW SMYRNA BEACH**

FRIENDS BANK

**NICEVILLE**

PEOPLES NATIONAL BANK

**NORTH LAUDERDALE**

\*SECURITY BANK, N.A.

**NORTH MIAMI**

KISLAK NATIONAL BANK

**NORTH PALM BEACH**

ENTERPRISE NATIONAL BANK OF PALM BEACH

**OAKLAND PARK**

AMERICAN NATIONAL BANK

**OCALA**

FLORIDA CITIZENS BANK

**OKEECHOBEE**

BIG LAKE NATIONAL BANK

**ORANGE PARK**

FIRST NATIONAL BANK

HERITAGE BANK OF NORTH FLORIDA

**ORLANDO**

CENTURY NATIONAL BANK

MERCANTILE BANK

SOUTHERN COMMUNITY BANK

UNITED HERITAGE BANK

**ORMOND BEACH**

COQUINA BANK

**OVIEDO**

CITIZENS BANK OF OVIEDO

**PAHOKEE**

FIRST COMMUNITY BANK OF PALM BEACH COUNTY

**PALATKA**

FIRST FEDERAL BANK OF NORTH FLORIDA

PUTNAM STATE BANK

**PALM BEACH**

DEUTSCHE BANK FLORIDA, N.A.

**PALM BEACH GARDENS**

ADMIRALTY BANK

**PALM COAST**

CYPRESS BANK

**PALM HARBOR**

PEOPLES BANK

**PANAMA CITY**

BAY BANK & TRUST COMPANY

FIRST NATIONAL BANK NORTHWEST FLORIDA

PEOPLES FIRST COMMUNITY BANK

**PEMBROKE PINES**

POINTE BANK

**PENSACOLA**

BANK OF PENSACOLA

BANK OF THE SOUTH

**PERRY**

CITIZENS BANK OF PERRY

**PORT RICHEY**

GULFSTREAM COMMUNITY BANK

**PORT ST. LUCIE**

FIRST PEOPLES BANK

**QUINCY**

QUINCY STATE BANK

**ST. AUGUSTINE**

BANK OF ST. AUGUSTINE

PROSPERITY BANK

**ST. CLOUD**

PUBLIC BANK

**ST. PETERSBURG**

FIRST COMMUNITY BANK OF AMERICA

REPUBLIC BANK

UNITED BANK & TRUST COMPANY

**SANTA ROSA BEACH**

FIRST AMERICAN BANK OF WALTON COUNTY

**SEBRING**

HEARTLAND NATIONAL BANK

HIGHLANDS INDEPENDENT BANK

**SOUTH MIAMI**

FIRST NATIONAL BANK OF SOUTH MIAMI

**SPRING HILL**

FIRST KENSINGTON BANK

**STARKE**

COMMUNITY STATE BANK OF STARKE

**STUART**

FIRST NATIONAL BANK & TRUST OF THE TREASURE  
COAST

GULFSTREAM BUSINESS BANK

**TALLAHASSEE**

CAPITAL CITY BANK

FIRST SOUTH BANK

TALLAHASSEE STATE BANK

**TAMPA**

FIRST CITRUS BANK

FLORIDA BANK, N.A.

SOUTHERN EXCHANGE BANK

**TEQUESTA**

INDEPENDENT COMMUNITY BANK

**TRENTON**

TRI-COUNTY BANK

**UMATILLA**

UNITED SOUTHERN BANK

**VALPARAISO**

VANGUARD BANK & TRUST COMPANY

**VERO BEACH**

INDIAN RIVER NATIONAL BANK

**WAUCHULA**

FIRST NATIONAL BANK OF WAUCHULA

WAUCHULA STATE BANK

**WEST PALM BEACH**

FIDELITY FEDERAL BANK & TRUST

GRAND BANK & TRUST OF FLORIDA

**WEWAHITCHKA**

\*WEWAHITCHKA STATE BANK

**WILLISTON**

PERKINS STATE BANK

**WINTER PARK**

BANKFIRST

**ZEPHYRHILLS**

COMMUNITY NATIONAL BANK OF PASCO COUNTY

**GEORGIA**

**ATLANTA**

SUNTRUST BANK

**DARIEN**

SOUTHEASTERN BANK

**LOUISIANA**

**NEW ORLEANS**

WHITNEY NATIONAL BANK

**MASSACHUSETTS**

**BOSTON**

BOSTON BANK OF COMMERCE

BRANCHES OF THIS QPD CONDUCT BUSINESS IN  
FLORIDA UNDER THE NAME PEOPLES BANK OF  
COMMERCE

**MINNESOTA**

**EDINA**

INTER SAVINGS BANK, F.S.B.

**NEW YORK**

**NEW YORK CITY**

INTERVEST NATIONAL BANK

**NORTH CAROLINA**

**CHARLOTTE**

BANK OF AMERICA, N.A.

WACHOVIA BANK, N.A.

**OHIO**

**CINCINNATI**

PROVIDENT BANK

**TENNESSEE**

**MEMPHIS**

UNION PLANTERS BANK, N.A.

\*\*\*\*\*  
THE FOLLOWING IS A LIST OF INSTITUTIONS THAT  
HAD A CHANGE SINCE THE LAST PUBLICATION OF  
THIS REPORT.  
\*\*\*\*\*

**BANKATLANTIC, F.S.B.**  
FORT LAUDERDALE  
CHANGED ITS NAME TO BANKATLANTIC.

**CITRUS BANK**  
ORLANDO  
CHANGED ITS NAME TO MERCANTILE BANK. HOME  
OFFICE WILL REMAIN IN ORLANDO.

**MERCANTILE BANK**  
ST. PETERSBURG  
MERGED INTO CITRUS BANK (ORLANDO) WHO THEN  
CHANGED THEIR NAME TO MERCANTILE BANK.

**PALM BEACH NATIONAL BANK & TRUST  
COMPANY**  
NORTH PALM BEACH  
MERGED INTO COLONIAL BANK (MONTGOMERY,  
ALABAMA).

**DEPARTMENT OF COMMUNITY AFFAIRS**

NOTICE OF APPROVAL  
FOR FLORIDA FOREVER FUNDS

The Florida Communities Trust ("Trust") reviewed and approved project plans for land acquisition projects submitted under the Trust Florida Forever Program, Series FF1 funding cycle. The project plan listed below was approved by the Executive Director under authority delegated from the governing body. The Executive Director is authorized to execute the agreements for acquisition of the project sites and all other documents necessary to close the project and that funds be released as follows:

Project: 01-058-FF1/North Village Neighborhood Park  
Grantee: Village of Islamorada  
Amount of Approved Funds: the lesser of 100.00% of the final total project costs or \$521,150.00

**NOTICE OF ADMINISTRATIVE HEARING RIGHTS**

Any person with substantial interests that are or may be determined by the approval of funds for projects by the Trust has a right to an informal administrative proceeding pursuant to Section 120.57(2), F.S., if the person does not dispute issues of material fact raised by this decision. If an informal proceeding is held, the petitioner will have the opportunity to be represented by counsel, to present to the agency written or

oral evidence in opposition to the Trust action, or to present a written statement challenging the legal grounds upon which the Trust is justifying its actions.

Alternatively, any person with substantial interests that are or may be determined by the approval of funds for projects by the Trust has a right to a formal administrative hearing pursuant to Section 120.57(1), F.S., if the person disputes any issues of material fact stated in this decision. At a formal hearing the petitioner may be represented by counsel, and will have the opportunity to present evidence and argument on all the issues involved, to conduct cross-examination and submit rebuttal evidence, to submit proposed findings of fact and orders, and to file exceptions to any order or hearing officer's recommended order.

If a person with a substantial interest desires either an informal proceeding or a formal hearing, the person must file with the Trust Clerk a written response or pleading entitled "Petition for Administrative Proceedings" within 21 calendar days of the publication date of this notice of final agency action. The petition must be in the form required by Rule 18-106.201, F.A.C. A petition is filed when it is received by the Trust Clerk at 2555 Shumard Oak Boulevard, Tallahassee, FL 32399-2100. A petition must specifically request an informal proceeding or a formal hearing, it must admit or deny each material fact contained in this decision, and it must state any defenses upon which the petitioner relies. If the petitioner lacks knowledge of a particular allegation of fact, it must so state and that statement will operate as a denial.

Any person with substantial interests that are or may be determined by the approval of funds for projects by the Trust waives the right to an informal proceeding or a formal hearing if a Petition for Administrative Proceeding is not filed with the Trust Clerk within 21 days of the date of publication of the notice of final agency action.

NOTICE IS HEREBY GIVEN that the Division of Community Planning, Department of Community Affairs, received the following petitions for binding letters of Development of Regional Impact, Vested Rights and Modification Determinations, pursuant to subsection 380.06(4)(a), Florida Statutes.

FILE NO.: BLID-1003-006  
DATE RECEIVED: October 3, 2002  
DEVELOPMENT NAME: AIRPORT CENTER  
DEVELOPER/AGENT: Palm Beach County  
Dennis Campbell  
DEVELOPMENT TYPE: 28-24.020, 28-24.026, F.A.C.  
LOCAL GOVERNMENT: Palm Beach County  
FILE NO.: BLIVR-903-002  
DATE RECEIVED: October 7, 2002  
DEVELOPMENT NAME: MAINSAIL MARINA



DEVELOPER/AGENT: Mainsail Marina, Inc.  
 John C. Pegg  
 DEVELOPMENT TYPE: 28-24.036, F.A.C.  
 LOCAL GOVERNMENT: Lee County  
 FILE NO.: BLIVR-1103-003  
 DATE RECEIVED: October 9, 2002  
 DEVELOPMENT NAME: RADISSON BAHIA MAR  
 BEACH RESORT  
 DEVELOPER/AGENT: Rahn Bahia Mar, Ltd.  
 Edwin J. Stacker  
 DEVELOPMENT TYPE: 28-24.036, 28-24.026, F.A.C.  
 LOCAL GOVERNMENT: City of Fort Lauderdale  
 FILE NO.: BLID-703-007  
 DATE RECEIVED: October 10, 2002  
 DEVELOPMENT NAME: ARLINGTON RIDGE  
 DEVELOPER/AGENT: Community Investment Corp.  
 David Mechanik  
 DEVELOPMENT TYPE: 28-24.23, F.A.C.  
 LOCAL GOVERNMENT: City of Leesburg

**DEPARTMENT OF HIGHWAY SAFETY AND MOTOR VEHICLES**

Notice of Publication for a New Point  
 Franchise Motor Vehicle Dealer in a County of More  
 than 300,000 Population

Pursuant to Section 320.642, Florida Statutes, Bajaj USA LLC, intends to allow the establishment of It International, Inc. d/b/a Classic Scooter, as a dealership for the sale of Bajaj motorscooters, at 13188 East Colonial Drive, Suite B4E, Orlando (Orange County), Florida 32828, on or after October 4, 2002.

The name and address of the dealer operator(s) and principal investor(s) of It International, Inc. d/b/a Classic Scooter are dealer operator(s) and principal investor(s): John Martinez, 800 Celebration Ave., Celebration, FL 34747.

The notice indicates intent to establish the new point location in a county of more than 300,000 population, according to the latest population estimates of the University of Florida, Bureau of Economic and Business Research.

Certain dealerships of the same line-make may have standing, pursuant to Section 320.642, Florida Statutes, to file a petition or complaint protesting the application.

Written petitions or complaints must be received by the Department of Highway Safety and Motor Vehicles within 30 days of the date of publication of this notice and must be submitted to: Mr. Ronald D. Reynolds, Administrator, Dealer License Section, Department of Highway Safety and Motor Vehicles, Room A-312, Neil Kirkman Building, 2900 Apalachee Parkway, Tallahassee, Florida 32399-0635.

A copy of such petition or complaint must also be sent by US Mail to: Albert Kolvites, Managing Member, Bajaj USA LLC, 526 Eccles Avenue, South San Francisco, CA 94080-1905.

If no petitions or complaints are received within 30 days of the date of publication, a final order will be issued by the Department of Highway Safety and Motor Vehicles approving the establishment of the dealership, subject to the applicant's compliance with the provisions of Chapter 320, Florida Statutes.

Notice of Publication for a New Point  
 Franchise Motor Vehicle Dealer in a County of More  
 than 300,000 Population

Pursuant to section 320.642, Florida Statutes, BMW of North America, intends to allow the establishment of Gulf Coast Motorcycles, LLC d/b/a BMW Motorcycles of Ft. Myers as a dealership for the sale of BMW motorcycles, at 16090 South Tamiami Trail, Fort Myers (Lee County), Florida 33908, on or after October 8, 2002.

The name and address of the dealer operator(s) and principal investor(s) Gulf Coast Motorcycles, LLC d/b/a BMW Motorcycles of Ft. Myers are dealer operator: Edward B. Gallo, 1118 Camelot Circle, Naples, Florida 34119; principal investor(s): Edward B. Gallo, 1118 Camelot Circle, Naples, Florida 34119.

The notice indicates intent to establish the new point location in a county of more than 300,000 population, according to the latest population estimates of the University of Florida, Bureau of Economic and Business Research.

Certain dealerships of the same line-make may have standing, pursuant to Section 320.642, Florida Statutes, to file a petition or complaint protesting the application.

Written petitions or complaints must be received by the Department of Highway Safety and Motor Vehicles within 30 days of the date of publication of this notice and must be submitted to: Mr. Ronald D. Reynolds, Administrator, Dealer License Section, Department of Highway Safety and Motor Vehicles, Room A-312, Neil Kirkman Building, 2900 Apalachee Parkway, Tallahassee, Florida 32399-0635.

A copy of such petition or complaint must also be sent by US Mail to: Ms. Barbara L. Kuhns, Administrative Coordinator, BMW of North America, P. O. Box 1227, Westwood, NJ 07675-1227.

If no petitions or complaints are received within 30 days of the date of publication, a final order will be issued by the Department of Highway Safety and Motor Vehicles approving the establishment of the dealership, subject to the applicant's compliance with the provisions of Chapter 320, Florida Statutes.

Notice of Publication for a New Point Franchise Motor Vehicle Dealer in a County of Less than 300,000 Population

Pursuant to Section 320.642, Florida Statutes, notice is given that American Suzuki Motor Corporation, intends to allow the establishment of Executive Cars, Inc. d/b/a Executive Suzuki, as a dealership for the sale of motor vehicles, at 9023 US Highway 441, Leesburg (Lake County), Florida 34788, on or after November 1, 2002.

The name and address of the dealer operator(s) and principal investor(s) of Executive Cars, Inc. d/b/a Executive Suzuki are dealer operator John A. Darrow, Sr., 9023 US Highway 441, Leesburg, Florida 34788; principal investor(s): John A. Darrow, Sr., 9023 US Highway 441, Leesburg, Florida 34788.

The notice indicates intent to establish the new point location in a county of less than 300,000 population, according to the latest population estimates of the University of Florida, Bureau of Economic and Business Research.

Certain dealerships of the same line-make may have standing, pursuant to Section 320.642, Florida Statutes, as amended by Chapter 88-395, Laws of Florida, to file a petition or complaint protesting the application.

Written petitions or complaints must be received by the Department of Highway Safety and Motor Vehicles within 30 days of the date of publication of this notice and must be submitted to: Mr. Ronald D. Reynolds, Administrator, Dealer License Section, Department of Highway Safety and Motor Vehicles, Room A-312, Neil Kirkman Building, 2900 Apalachee Parkway, Tallahassee, Florida 32399-0635.

A copy of such petition or complaint must also be sent by US Mail to: Mr. Chris White, National Dealer Development Manager, American Suzuki Motor Corporation, P. O. Box 1100, Brea, California 92822-1100.

If no petitions or complaints are received within 30 days of the date of publication, a final order will be issued by the Department of Highway Safety and Motor Vehicles approving the establishment of the dealership, subject to the applicant's compliance with the provisions of Chapter 320, Florida Statutes.

Notice of Publication for a New Point Franchise Motor Vehicle Dealer in a County of More than 300,000 Population

Pursuant to Section 320.642, Florida Statutes, American Suzuki Motor Corporation, intends to allow the establishment of Deland Motorsports, Inc., d/b/a Deland Suzuki, as a dealership for the sale of Suzuki motorcycles, 2610 South Woodland Boulevard, Deland (Volusia County), Florida 33312, on or after November 7, 2002.

The name and address of the dealer operator(s) and principal investor(s) of Deland Motorsports, Inc., d/b/a Deland Suzuki are dealer operators: Kurt E. Dye, 951 Dove Hunter Road, Deland, Florida 32724 and Karen R. Dye, 951 Dove Hunter Road, Deland, Florida 32724; principal investor(s): Kurt E. Dye, 951 Dove Hunter Road, Deland, Florida 32724 and Karen R. Dye, 951 Dove Hunter Road, Deland, Florida 32724.

The notice indicates intent to establish the new point location in a county of more than 300,000 population, according to the latest population estimates of the University of Florida, Bureau of Economic and Business Research.

Certain dealerships of the same line-make may have standing, pursuant to Section 320.642, Florida Statutes, to file a petition or complaint protesting the application.

Written petitions or complaints must be received by the Department of Highway Safety and Motor Vehicles within 30 days of the date of publication of this notice and must be submitted to: Mr. Ronald D. Reynolds, Administrator, Dealer License Section, Department of Highway Safety and Motor Vehicles, Room A-312, Neil Kirkman Building, 2900 Apalachee Parkway, Tallahassee, Florida 32399-0635.

A copy of such petition or complaint must also be sent by US Mail to: Mr. Steve Bortolamedi, Dealer Network Manager, American Suzuki Motor Corporation, P. O. Box 1100, Brea California 92822-1100.

If no petitions or complaints are received within 30 days of the date of publication, a final order will be issued by the Department of Highway Safety and Motor Vehicles approving the establishment of the dealership, subject to the applicant's compliance with the provisions of Chapter 320, Florida Statutes.

Notice of Publication for a New Point Franchise Motor Vehicle Dealer in a County of More than 300,000 Population

Pursuant to Section 320.642, Florida Statutes, Lexus, a Division of Toyota Motor Sales, U.S.A., Inc., intends to allow the establishment of G.F.B. Enterprises, LLC d/b/a Lexus of Kendall, as a dealership for the sale of Lexus automobiles, at the Northeast corner of S. W. 137th Avenue and S. W. 136th Street, Miami (Dade County), Florida 33186, on or after January 1, 2004.

The name and address of the dealer operator(s) and principal investor(s) of G.F.B. Enterprises, LLC d/b/a Lexus of Kendall are dealer operator(s) and principal investor(s): Gerald F. Bean, 10943 South Dixie Highway, Miami, FL 33156.

The notice indicates intent to establish the new point location in a county of more than 300,000 population, according to the latest population estimates of the University of Florida, Bureau of Economic and Business Research.

Certain dealerships of the same line-make may have standing, pursuant to Section 320.642, Florida Statutes, to file a petition or complaint protesting the application.

Written petitions or complaints must be received by the Department of Highway Safety and Motor Vehicles within 30 days of the date of publication of this notice and must be submitted to: Mr. Ronald D. Reynolds, Administrator, Dealer License Section, Department of Highway Safety and Motor Vehicles, Room A-312, Neil Kirkman Building, 2900 Apalachee Parkway, Tallahassee, Florida 32399-0635.

A copy of such petition or complaint must also be sent by US Mail to: Edward J. Laukes, Lexus, a Division of Toyota Motor Sales, U.S.A., Inc., 11540 Great Oaks Way, Alpharetta, GA 30022.

If no petitions or complaints are received within 30 days of the date of publication, a final order will be issued by the Department of Highway Safety and Motor Vehicles approving the establishment of the dealership, subject to the applicant's compliance with the provisions of Chapter 320, Florida Statutes.

**STATE BOARD OF ADMINISTRATION**

Notice of 2002-2003 Florida Prepaid College Plan  
Advance Payment Contract Prices

The Florida Prepaid College Board hereby gives notice of the adoption at a duly called meeting on September 19, 2002 of the 2002-2003 advance payment contract prices for the Florida Prepaid College Plan.

Prepaid Plan Tuition Contract  
Four-Year State University  
Price Schedule

Current Grade/Age	Projected Enrollment Year	Single Payment Plan	Monthly Payment Plan	5-Year (55 month) Installment Plan
12	2003	\$8,245.56	\$1,197.41	
11	2004	\$8,245.30	\$455.72	
10	2005	\$8,245.04	\$288.43	
9	2006	\$8,244.78	\$214.65	
8	2007	\$8,244.52	\$173.17	\$173.17
7	2008	\$8,244.27	\$146.64	\$173.17
6	2009	\$8,244.01	\$128.24	\$173.16
5	2010	\$8,243.75	\$114.76	\$173.15
4	2011	\$8,243.49	\$104.47	\$173.15
3	2012	\$8,243.23	\$96.38	\$173.14
2	2013	\$8,242.97	\$89.87	\$173.14
1	2014	\$8,242.71	\$84.52	\$173.13
K	2015	\$8,242.45	\$80.06	\$173.13
Age 4	2016	\$8,242.19	\$76.28	\$173.12
Age 3	2017	\$8,241.93	\$73.06	\$173.12
Age 2	2018	\$8,241.67	\$70.28	\$173.11
Age 1	2019	\$8,241.42	\$67.86	\$173.11
Infant	2020	\$8,241.16	\$65.74	\$173.10
Newborn	2021	\$8,240.90	\$63.88	\$173.09

Prepaid Plan Tuition Contract  
Two-Year Community College  
Price Schedule

Prepaid Plan Tuition Contract  
Two-Year Community College  
Foundation Scholarship Price Schedule

Prepaid Plan Tuition Contract Two-Year Community College Price Schedule					Prepaid Plan Tuition Contract Two-Year Community College Foundation Scholarship Price Schedule				
Current Grade/Age	Projected Enrollment Year	Single Payment Plan	Monthly Payment Plan	5-Year (55 month) Installment Plan	Current Grade/Age	Projected Enrollment Year	Single Payment Plan	Monthly Payment Plan	5-Year (55 month) Installment Plan
12	2003	\$2,908.89	\$422.98		12	2003	\$3,490.67	\$507.58	
11	2004	\$2,855.70	\$158.45		11	2004	\$3,426.84	\$190.14	
10	2005	\$2,803.71	\$98.71		10	2005	\$3,364.45	\$118.45	
9	2006	\$2,752.89	\$72.30		9	2006	\$3,303.47	\$86.76	
8	2007	\$2,703.22	\$57.41	\$57.41	8	2007	\$3,243.87	\$68.89	\$68.89
7	2008	\$2,654.67	\$47.84	\$56.37	7	2008	\$3,185.60	\$57.41	\$67.65
6	2009	\$2,607.20	\$41.18	\$55.36	6	2009	\$3,128.64	\$49.42	\$66.43
5	2010	\$2,560.80	\$36.27	\$54.37	5	2010	\$3,072.96	\$43.52	\$65.24
4	2011	\$2,515.43	\$32.50	\$53.40	4	2011	\$3,018.52	\$39.00	\$64.08
3	2012	\$2,471.08	\$29.51	\$52.46	3	2012	\$2,965.29	\$35.41	\$62.95
2	2013	\$2,427.71	\$27.08	\$51.53	2	2013	\$2,913.25	\$32.49	\$61.84
1	2014	\$2,385.30	\$25.06	\$50.63	1	2014	\$2,862.36	\$30.08	\$60.75
K	2015	\$2,343.83	\$23.37	\$49.74	K	2015	\$2,812.59	\$28.04	\$59.69
Age 4	2016	\$2,303.27	\$21.91	\$48.88	Age 4	2016	\$2,763.92	\$26.30	\$58.65
Age 3	2017	\$2,263.61	\$20.66	\$48.03	Age 3	2017	\$2,716.33	\$24.79	\$57.64
Age 2	2018	\$2,224.82	\$19.56	\$47.20	Age 2	2018	\$2,669.78	\$23.47	\$56.64
Age 1	2019	\$2,186.87	\$18.59	\$46.39	Age 1	2019	\$2,624.25	\$22.30	\$55.67
Infant	2020	\$2,149.76	\$17.72	\$45.60	Infant	2020	\$2,579.71	\$21.27	\$54.72
Newborn	2021	\$2,113.46	\$16.95	\$44.83	Newborn	2021	\$2,536.15	\$20.34	\$53.79

Prepaid Plan Tuition Contract  
Two-Year Community College Plus Two-Year State  
University  
Price Schedule

Prepaid Plan Dormitory Contract  
One-Year  
Price Schedule

Current Grade/Age	Projected Enrollment Year	Single Payment Plan	Monthly Payment Plan	5-Year (55 month) Installment Plan	Current Grade/Age	Projected Enrollment Year	Single Payment Plan	Monthly Payment Plan	5-Year (55 month) Installment Plan
					12	2003	\$3,282.99	\$477.39	
12	2003	\$6,993.14	\$1,016.88		11	2004	\$3,240.91	\$179.83	
11	2004	\$6,933.95	\$384.74		10	2005	\$3,199.43	\$112.65	
10	2005	\$6,875.98	\$242.09		9	2006	\$3,158.54	\$82.97	
9	2006	\$6,819.19	\$179.11		8	2007	\$3,118.23	\$66.24	\$66.24
8	2007	\$6,763.56	\$143.67	\$143.67	7	2008	\$3,078.50	\$55.50	\$65.39
7	2008	\$6,709.06	\$120.95	\$142.50	6	2009	\$3,039.33	\$48.03	\$64.56
6	2009	\$6,655.67	\$105.17	\$141.36	5	2010	\$3,000.72	\$42.53	\$63.74
5	2010	\$6,603.35	\$93.58	\$140.25	4	2011	\$2,962.66	\$38.31	\$62.92
4	2011	\$6,552.09	\$84.71	\$139.15	3	2012	\$2,925.14	\$34.96	\$62.12
3	2012	\$6,501.84	\$77.71	\$138.08	2	2013	\$2,888.15	\$32.25	\$61.34
2	2013	\$6,452.60	\$72.05	\$137.03	1	2014	\$2,851.68	\$30.01	\$60.56
1	2014	\$6,404.33	\$67.38	\$136.00	K	2015	\$2,815.73	\$28.11	\$59.79
K	2015	\$6,357.02	\$63.47	\$134.99	Age 4	2016	\$2,780.28	\$26.50	\$59.04
Age 4	2016	\$6,310.64	\$60.14	\$134.00	Age 3	2017	\$2,745.34	\$25.10	\$58.29
Age 3	2017	\$6,265.16	\$57.28	\$133.03	Age 2	2018	\$2,710.89	\$23.88	\$57.56
Age 2	2018	\$6,220.57	\$54.80	\$132.08	Age 1	2019	\$2,676.92	\$22.81	\$56.84
Age 1	2019	\$6,176.84	\$52.63	\$131.15	Infant	2020	\$2,643.43	\$21.85	\$56.12
Infant	2020	\$6,133.95	\$50.71	\$130.23	Newborn	2021	\$2,610.41	\$21.00	\$55.42
Newborn	2021	\$6,091.89	\$49.00	\$129.33					

Prepaid Plan Dormitory Contract Two-Years Price Schedule					Prepaid Plan Dormitory Contract Three-Years Price Schedule				
Current Grade/Age	Projected Enrollment Year	Single Payment Plan	Monthly Payment Plan	5-Year (55 month) Installment Plan	Current Grade/Age	Projected Enrollment Year	Single Payment Plan	Monthly Payment Plan	5-Year (55 month) Installment Plan
12	2003	\$6,514.32	\$947.26		12	2003	\$9,694.93	\$1,409.75	
11	2004	\$6,430.91	\$356.83		11	2004	\$9,570.94	\$531.06	
10	2005	\$6,348.69	\$223.53		10	2005	\$9,448.72	\$332.67	
9	2006	\$6,267.65	\$164.63		9	2006	\$9,328.24	\$245.02	
8	2007	\$6,187.76	\$131.44	\$131.44	8	2007	\$9,209.48	\$195.62	\$195.62
7	2008	\$6,109.01	\$110.14	\$129.76	7	2008	\$9,092.41	\$163.92	\$193.13
6	2009	\$6,031.37	\$95.31	\$128.11	6	2009	\$8,976.99	\$141.85	\$190.67
5	2010	\$5,954.84	\$84.39	\$126.48	5	2010	\$8,863.22	\$125.60	\$188.24
4	2011	\$5,879.40	\$76.01	\$124.87	4	2011	\$8,751.06	\$113.14	\$185.85
3	2012	\$5,805.02	\$69.38	\$123.28	3	2012	\$8,640.48	\$103.27	\$183.50
2	2013	\$5,731.70	\$64.00	\$121.72	2	2013	\$8,531.47	\$95.26	\$181.17
1	2014	\$5,659.41	\$59.54	\$120.18	1	2014	\$8,424.00	\$88.62	\$178.88
K	2015	\$5,588.14	\$55.79	\$118.66	K	2015	\$8,318.05	\$83.04	\$176.63
Age 4	2016	\$5,517.88	\$52.59	\$117.17	Age 4	2016	\$8,213.59	\$78.27	\$174.40
Age 3	2017	\$5,448.61	\$49.82	\$115.69	Age 3	2017	\$8,110.60	\$74.15	\$172.21
Age 2	2018	\$5,380.32	\$47.40	\$114.24	Age 2	2018	\$8,009.06	\$70.55	\$170.04
Age 1	2019	\$5,312.99	\$45.26	\$112.80	Age 1	2019	\$7,908.95	\$67.37	\$167.91
Infant	2020	\$5,246.60	\$43.37	\$111.39	Infant	2020	\$7,810.24	\$64.55	\$165.81
Newborn	2021	\$5,181.14	\$41.67	\$109.99	Newborn	2021	\$7,712.92	\$62.02	\$163.74

Prepaid Plan Dormitory Contract Four-Years Price Schedule					Prepaid Plan Dormitory Contract Five-Years Price Schedule				
Current Grade/Age	Projected Enrollment Year	Single Payment Plan	Monthly Payment Plan	5-Year (55 month) Installment Plan	Current Grade/Age	Projected Enrollment Year	Single Payment Plan	Monthly Payment Plan	5-Year (55 month) Installment Plan
12	2003	\$12,825.78	\$1,865.00		12	2003	\$15,907.79	\$2,313.15	
11	2004	\$12,661.94	\$702.56		11	2004	\$15,704.80	\$871.39	
10	2005	\$12,500.43	\$440.10		10	2005	\$15,504.71	\$545.86	
9	2006	\$12,341.22	\$324.15		9	2006	\$15,307.47	\$402.05	
8	2007	\$12,184.28	\$258.80	\$258.80	8	2007	\$15,113.03	\$321.00	\$321.00
7	2008	\$12,029.57	\$216.87	\$255.50	7	2008	\$14,921.35	\$268.99	\$316.92
6	2009	\$11,877.05	\$187.67	\$252.25	6	2009	\$14,732.38	\$232.78	\$312.89
5	2010	\$11,726.69	\$166.17	\$249.05	5	2010	\$14,546.10	\$206.12	\$308.92
4	2011	\$11,578.47	\$149.68	\$245.89	4	2011	\$14,362.45	\$185.66	\$305.01
3	2012	\$11,432.34	\$136.62	\$242.78	3	2012	\$14,181.39	\$169.47	\$301.15
2	2013	\$11,288.27	\$126.03	\$239.71	2	2013	\$14,002.89	\$156.33	\$297.35
1	2014	\$11,146.24	\$117.26	\$236.68	1	2014	\$13,826.91	\$145.44	\$293.60
K	2015	\$11,006.22	\$109.87	\$233.70	K	2015	\$13,653.41	\$136.28	\$289.90
Age 4	2016	\$10,868.16	\$103.56	\$230.76	Age 4	2016	\$13,482.36	\$128.46	\$286.26
Age 3	2017	\$10,732.05	\$98.11	\$227.86	Age 3	2017	\$13,313.70	\$121.69	\$282.66
Age 2	2018	\$10,597.85	\$93.34	\$225.00	Age 2	2018	\$13,147.42	\$115.79	\$279.12
Age 1	2019	\$10,465.54	\$89.14	\$222.18	Age 1	2019	\$12,983.47	\$110.58	\$275.63
Infant	2020	\$10,335.0	\$85.41	\$219.40	Infant	2020	\$12,821.82	\$105.95	\$272.19
Newborn	2021	\$10,206.45	\$82.07	\$216.66	Newborn	2021	\$12,662.43	\$101.80	\$268.79

Prepaid Plan Local Fee Contract  
Four-Year State University  
Price Schedule

Prepaid Plan Local Fee Contract  
Two-Year Community College  
Price Schedule

Current Grade/Age	Projected Enrollment Year	Single Payment Plan	Monthly Payment Plan	5-Year (55 month) Installment Plan	Current Grade/Age	Projected Enrollment Year	Single Payment Plan	Monthly Payment Plan	5-Year (55 month) Installment Plan
12	2003	\$2,490.46	\$362.14		12	2003	\$303.94	\$44.20	
11	2004	\$2,458.65	\$136.42		11	2004	\$314.20	\$17.43	
10	2005	\$2,427.29	\$85.46		10	2005	\$324.82	\$11.44	
9	2006	\$2,396.37	\$62.94		9	2006	\$335.80	\$8.82	
8	2007	\$2,365.90	\$50.25	\$50.25	8	2007	\$347.15	\$7.37	\$7.37
7	2008	\$2,335.86	\$42.11	\$49.61	7	2008	\$358.90	\$6.47	\$7.62
6	2009	\$2,306.24	\$36.44	\$48.98	6	2009	\$371.06	\$5.86	\$7.88
5	2010	\$2,277.05	\$32.27	\$48.36	5	2010	\$383.63	\$5.44	\$8.15
4	2011	\$2,248.26	\$29.06	\$47.75	4	2011	\$396.63	\$5.13	\$8.42
3	2012	\$2,219.89	\$26.53	\$47.14	3	2012	\$410.09	\$4.90	\$8.71
2	2013	\$2,191.92	\$24.47	\$46.55	2	2013	\$424.01	\$4.73	\$9.00
1	2014	\$2,164.34	\$22.77	\$45.96	1	2014	\$438.41	\$4.61	\$9.31
K	2015	\$2,137.15	\$21.33	\$45.38	K	2015	\$453.31	\$4.53	\$9.63
Age 4	2016	\$2,110.34	\$20.11	\$44.81	Age 4	2016	\$468.72	\$4.47	\$9.95
Age 3	2017	\$2,083.91	\$19.05	\$44.25	Age 3	2017	\$484.67	\$4.43	\$10.29
Age 2	2018	\$2,057.85	\$18.12	\$43.69	Age 2	2018	\$501.17	\$4.41	\$10.64
Age 1	2019	\$2,032.16	\$17.31	\$43.14	Age 1	2019	\$518.24	\$4.42	\$11.00
Infant	2020	\$2,006.83	\$16.58	\$42.60	Infant	2020	\$535.91	\$4.43	\$11.38
Newborn	2021	\$1,981.85	\$15.94	\$42.07	Newborn	2021	\$554.19	\$4.46	\$11.77



Prepaid Plan Local Fee Contract  
Two-Year Community College Plus Two-Year State  
University  
Price Schedule

Prepaid Plan Local Fee Contract  
Two-Year Community College  
Foundation Scholarship Price Schedule

Current Grade/Age	Projected Enrollment Year	Single Payment Plan	Monthly Payment Plan	5-Year (55 month) Installment Plan	Current Grade/Age	Projected Enrollment Year	Single Payment Plan	Monthly Payment Plan	5-Year (55 month) Installment Plan
					12	2003	\$364.73	\$53.04	
					11	2004	\$377.04	\$20.92	
					10	2005	\$389.78	\$13.72	
					9	2006	\$402.95	\$10.58	
					8	2007	\$416.58	\$8.85	\$8.85
					7	2008	\$430.68	\$7.76	\$9.15
					6	2009	\$445.27	\$7.04	\$9.46
					5	2010	\$460.35	\$6.52	\$9.78
					4	2011	\$475.96	\$6.15	\$10.11
					3	2012	\$492.11	\$5.88	\$10.45
					2	2013	\$508.81	\$5.68	\$10.81
					1	2014	\$526.09	\$5.54	\$11.17
					K	2015	\$543.97	\$5.43	\$11.55
					Age 4	2016	\$562.47	\$5.36	\$11.94
					Age 3	2017	\$581.60	\$5.32	\$12.35
					Age 2	2018	\$601.41	\$5.30	\$12.77
					Age 1	2019	\$621.89	\$5.30	\$13.20
					Infant	2020	\$643.09	\$5.32	\$13.65
					Newborn	2021	\$665.02	\$5.35	\$14.12
12	2003	\$1,529.48	\$222.40						
11	2004	\$1,524.12	\$84.57						
10	2005	\$1,519.34	\$53.49						
9	2006	\$1,515.14	\$39.79						
8	2007	\$1,511.54	\$32.10	\$32.10					
7	2008	\$1,508.53	\$27.19	\$32.04					
6	2009	\$1,506.15	\$23.80	\$31.99					
5	2010	\$1,504.38	\$21.32	\$31.95					
4	2011	\$1,503.26	\$19.43	\$31.92					
3	2012	\$1,502.78	\$17.96	\$31.91					
2	2013	\$1,502.96	\$16.78	\$31.91					
1	2014	\$1,503.82	\$15.82	\$31.93					
K	2015	\$1,505.37	\$15.03	\$31.96					
Age 4	2016	\$1,507.62	\$14.36	\$32.01					
Age 3	2017	\$1,510.59	\$13.81	\$32.07					
Age 2	2018	\$1,514.29	\$13.34	\$32.15					
Age 1	2019	\$1,518.75	\$12.94	\$32.24					
Infant	2020	\$1,523.97	\$12.59	\$32.35					
Newborn	2021	\$1,529.98	\$12.30	\$32.48					

Notice of 2002-2003 Contract Filing  
and Payment Due Dates

The Florida Prepaid College Board hereby gives notice that the enrollment period and contract filing dates for the 2002-2003 year are as follows for the Florida Prepaid College Plan:

November 18, 2002 – Beginning of 2002-2003 enrollment period.

January 31, 2003 – Last day of 2002-2003 enrollment period.

March 14, 2003 – Last day of contract change period.

Purchasers of Florida Prepaid College Plan advance payment contracts must have their application postmarked on or before January 31, 2003. All applications must be submitted to the following address: Florida Prepaid College Board, P. O. Box 6448, Tallahassee, Florida 32314-6448.

Applications for the Florida Prepaid College Plan must include one of the following non-refundable application fees:

- \$80, if the application is for the Florida Prepaid College Plan and the Florida College Investment Plan.
- \$50, if the application is only for the Florida Prepaid College Plan.
- \$30, if the purchaser named on the application has a Florida College Investment Plan for the same beneficiary.

Payments for the Florida Prepaid College Plan

For Florida Prepaid College Plan applications received during the 2002-2003 enrollment period, payments may be made under any one of the following schedules:

- (a) Lump-sum payments due in full on April 20, 2003;
- (b) Monthly payments, beginning on April 20, 2003, and due on the 20th of each and every month thereafter until October of the anticipated enrollment year of the qualified beneficiary, as indicated on the application; or
- (c) Fifty-five (55) month payment option beginning on April 20, 2003, and due on the 20th of each and every month thereafter for 55 continuous months.

An implied interest rate of 6.6 percent for the purchasers of the Florida Prepaid College Plan advance payment contracts during the 2002-2003 enrollment period has been calculated for the installment payment plans indicated above.

Persons whose substantial interests are affected by the 2002-2003 notice on contract filing and payment due dates may request an administrative hearing within 21 days of publication of this notice pursuant to Chapter 120, F.S.

Notice of 2002-2003 Maximum Contributions

Pursuant to Rule 19B-4.005(1), Florida Administrative Code, the Florida Prepaid College Board hereby gives notice that the maximum account balance limit for the Florida Prepaid College Plan is \$283,000 for the period November 18, 2002 until November 17, 2003, or until subsequently revised by the Board. The redemption value of an advance payment contract under the Florida Prepaid College Plan plus the account

balance of an account in the Florida College Investment Plan, for the same beneficiary shall not exceed the maximum account balance limit.

Pursuant to Rule 19B-16.005(1), Florida Administrative Code, the Florida Prepaid College Board hereby gives notice that the maximum account balance limit for the Florida College Investment Plan is \$283,000 for the period from November 18, 2002 until November 17, 2003, or until subsequently revised by the Board. The account balance for a designated beneficiary under the Florida College Investment Plan, plus the redemption value of an advance payment contract under the Florida Prepaid College Plan for the same beneficiary shall not exceed the maximum account balance limit.

NOTICE IS HEREBY GIVEN by the State Board of Administration (“the Board”) of its estimate of the borrowing capacity and the projected year-end (as of December 31, 2002) fund balance for the Florida Hurricane Catastrophe Fund (“the Fund”), in compliance with the requirements of Section 215.555(4)(c)2., Florida Statutes. This estimate is as of October 2, 2002. The projected year-end balance on December 31, 2002, is estimated to be \$4,921,000,000, assuming no losses to be reimbursed. The Fund’s estimated borrowing capacity, defined as the maximum amount which the Board is able to raise through the issuance of revenue bonds under Section 215.555(6), Florida Statutes, pursuant to the upper limitation of \$11 billion in Section 215.555(4), Florida Statutes, is \$6,079,000,000. This estimate is for tax-exempt debt. During the 1999 legislative session, the Legislature enacted changes to Section 215.555, Florida Statutes, and provided an upper limit of \$11 billion on the Board’s potential liability to reimburse participating insurers for losses sustained by hurricane damage. Therefore, the Board’s obligation is to try to raise \$6,079,000,000, rather than the total capacity determined by using all of the available 4 percent emergency assessment capability.

This estimate is based on the Board’s good faith assessment of the current global market conditions and is net of required debt service reserve funds and the costs of issuing the bonds. These conditions may or may not be the same if and when the Board determines that it is necessary to seek the issuance of revenue bonds. The Board’s estimate is also based upon projected year-end reimbursement premiums. Emergency assessments are based on data available as of this estimate. This estimate is provided to comply with the requirements of Section 215.555(4)(c)2., Florida Statutes, and should only be relied upon after careful consideration of all relevant assumptions and reservations, including those set forth below.

Assumptions:

1. The Board assumes that both the annual reimbursement premiums and the 4% emergency assessment described in Section 215.555(6)(a)3., Florida Statutes, will be used as

the revenue source to service the debt and to provide debt service coverage. Although Section 215.555(6)(a)3., Florida Statutes, also provides for a 2% assessment, any hurricane requiring the Board to issue bonds will necessarily have to be of such a magnitude that it is highly likely that the Governor will have declared a state of emergency and therefore the maximum 4% assessment will be applicable. Further, receipt of federal assistance is dependent upon a declaration of a state emergency.

2. The debt service coverage ratio is assumed to be 2.13. This means that the revenue stream available to service the debt is 2.13 times the amount actually needed to service the debt. The debt service coverage ratio is sensitive to actual reimbursement premiums collected during the year. Changes in deductible distributions and other factors which impact actual reimbursement premiums may impact the coverage ratio.
3. The Board has assumed interest rates reflecting market conditions on September 30, 2002. Many factors will impact the interest rates that will ultimately be used when the Board determines that bonds must be issued. It is impossible to predict with any certainty what those rates will be.
4. In accordance with the requirements of Section 215.555(6)(a)2., Florida Statutes, the Board has completed the bond validation process. The circuit court hearing held on November 12, 1996, resulted in a favorable ruling. The validation was then immediately appealed to the Florida Supreme Court. The Florida Supreme Court ruled on September 18, 1997, that the bonds are valid.
5. In response to the private letter ruling request filed in early June, 1997, the Internal Revenue Service ruled that interest on the bonds issued under Section 215.555(6), Florida Statutes, is exempt from federal taxation.

Reservations:

1. Since no bonds have ever been issued on behalf of the Fund, there are a number of uncertainties. Among these are the following: the financial condition of the insurance industry at the time of a catastrophic loss, the stability of the revenue stream and potential litigation.
2. A more general uncertainty is the condition of the financial markets at the time the bonds are issued and the degree of familiarity of potential investors with the Fund.
3. Another general uncertainty is the ability of the capital markets to absorb a bond issue of this magnitude at the time of the bond issuance.

As of October 2, 2002, the Board's good faith estimate of its bonding capacity is \$6,079,000,000, to reach the current statutory upper limit of \$11 billion. The Board recognizes the

importance of this estimate and is committed to make every effort to assure its ability to issue up to \$6,079,000,000, in bonds if and when the necessity arises.

**AGENCY FOR HEALTH CARE ADMINISTRATION**

**CERTIFICATE OF NEED  
EXEMPTIONS**

The Agency For Health Care Administration authorized the following exemptions pursuant to Section 408.036(3), Florida Statutes:

County: Duval District: 4  
 ID #: 0200019 Decision: A Issue Date: 10/4/2002  
 Facility/Project: Life Care Health Resources, Inc.  
 Applicant: Life Care Health Resources, Inc.  
 Project Description: Combine CON Numbers 9363, 9364 and 9367

Proposed Project Cost: \$7,596,102  
 County: Santa Rosa District: 1  
 ID #: 0200020 Decision: A Issue Date: 10/8/2002  
 Facility/Project: Santa Rosa Medical Center  
 Applicant: HMA Santa Rosa Medical Center, Inc.  
 Project Description: Establish an adult inpatient cardiac catheterization program

Proposed Project Cost: \$0  
 County: Seminole District: 7  
 ID #: 0200021 Decision: A Issue Date: 10/8/2002  
 Facility/Project: Florida Hospital Altamonte  
 Applicant: Adventist Health System/Sunbelt, Inc.  
 Project Description: Delicense 20 adult psychiatric beds  
 Proposed Project Cost: \$0

**CERTIFICATE OF NEED  
DECISIONS ON EXPEDITED APPLICATIONS**

The Agency For Health Care Administration made the following decisions on Certificate of Need applications for expedited review:

County: Palm Beach Service District: 9  
 CON #: 9594 Decision Date: 10/11/2002 Decision: A  
 Facility/Project: Willowbrooke Court  
 Applicant: ACTS Retirement-Life Communities, Inc.  
 Project Description: Add 40 sheltered skilled nursing beds  
 Approved Cost: \$118,218

A request for administrative hearing, if any, must be made in writing and must be actually received by this department within 21 days of the first day of publication of this notice in the Florida Administrative Weekly pursuant to Chapter 120, Florida Statutes, and Chapter 59C-1, Florida Administrative Code.

**DEPARTMENT OF MANAGEMENT SERVICES**

**PUBLIC ANNOUNCEMENT OF CONSTRUCTION  
MANAGEMENT SELECTION RESULTS**

The Department of Management Services, Facilities Management and Building Construction announces that on the date listed below, authority was issued to negotiate and enter into a contract for Construction Management Services in accordance with Chapter 60D-5, F.A.C., with two firms; number 1 and number 2 listed below:

DATE: October 3, 2002

PROJECT NAME: Continuing Area Contracts for Construction Management Services, Area 4

1. Allstate Construction, Inc. – Jacksonville
2. Hashman Construction, Inc. – Jacksonville
3. C. C. Borden Construction, Inc. – Jacksonville
4. S. L. Construction & Remodeling, Inc. – Gainesville
5. Warden Construction Corp. – Austin, TX (Jacksonville and Gainesville)

**DEPARTMENT OF ENVIRONMENTAL PROTECTION**

**NOTICE OF PUBLIC OPPORTUNITY TO COMMENT  
ON A PLAN OF EXPLORATION PROPOSED  
IN THE EASTERN GULF OF MEXICO**

On October 7, 2002, the DEP Office of Intergovernmental Programs received a proposed Initial Plan of Exploration for Lloyd Ridge Blocks 5, 6, 49 and 50, by Anadarko Petroleum Corporation, pursuant to the state consistency requirements of 15 CFR 930.

The full text of this notice is published on the Internet at the Department of Environmental Protection's home page at <http://www.dep.state.fl.us/> under the link or button titled "Official Notices".

**FLORIDA CATEGORICAL EXCLUSION NOTIFICATION**

The Florida Department of Environmental Protection has determined that the project involving wastewater transmission main extensions will not adversely affect the environment.

The full text of this notice is published on the Internet at the Department of Environmental Protection's home page at <http://www.dep.state.fl.us/> under the link or button titled "Official Notices".

For more information regarding the Categorical Exclusion Notification, please call Troy Mullis, (850)245-8358.

**DEPARTMENT OF HEALTH**

On August 15, 2002, John O. Agwunobi, M.D. Secretary of the Department of Health, issued an Order of Emergency Suspension, with regard to the license of Brenda Perea, R. N. Perea holds license number RN 1430972. Perea's last known address is 8645 Boca Ciega Drive, St. Petersburg, Florida. This Emergency Order was predicated upon the Secretary's findings of an immediate and serious danger to the public health, safety and welfare pursuant to Sections 456.073(8) and 120.60(8), Florida Statutes. The Secretary determined that this summary procedure was fair under the circumstances, in that there was no other method available to adequately protect the public.

On October 15, 2002, John O. Agwunobi, M.D. Secretary of the Department of Health, issued an Order of Emergency Suspension, with regard to the license of Debra Lynn Hoya, R.N. Miller holds license number RN 1512802. Hoya's last known address is 1431 Canterfield Parkway, West, West Dundee, Illinois 60118. This Emergency Order was predicated upon the Secretary's findings of an immediate and serious danger to the public health, safety and welfare pursuant to Sections 456.073(8) and 120.60(8), Florida Statutes. The Secretary determined that this summary procedure was fair under the circumstances, in that there was no other method available to adequately protect the public.

**Section XIII**  
**Index to Rules Filed During Preceding Week**

RULES FILED BETWEEN October 7, 2002  
 and October 11, 2002

Rule No.	File Date	Effective Date	Proposed Vol./No.	Amended Vol./No.
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**DEPARTMENT OF INSURANCE**

4-149.001	10/7/02	10/27/02	28/33	
4-149.002	10/7/02	10/27/02	28/33	
4-149.003	10/7/02	10/27/02	28/33	

**ADMINISTRATION COMMISSION**

28-18.100	10/9/02	10/29/02	27/44	
28-18.200	10/9/02	10/29/02	27/44	28/8
28-20.100	10/9/02	10/29/02	27/44	28/8

**REGIONAL PLANNING COUNCILS**

**Central Florida Regional Planning Council**

29G-1.001	10/9/02	10/29/02	28/35	
29G-1.002	10/9/02	10/29/02	28/35	
29G-1.003	10/9/02	10/29/02	28/35	
29G-1.004	10/9/02	10/29/02	28/35	
29G-1.005	10/9/02	10/29/02	28/35	
29G-1.006	10/9/02	10/29/02	28/35	
29G-1.007	10/9/02	10/29/02	28/35	
29G-1.008	10/9/02	10/29/02	28/35	
29G-1.009	10/9/02	10/29/02	28/35	
29G-1.010	10/9/02	10/29/02	28/35	
29G-1.011	10/9/02	10/29/02	28/35	

**DEPARTMENT OF CORRECTIONS**

33-104.101	10/10/02	10/30/02	28/33	
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Rule No.	File Date	Effective Date	Proposed Vol./No.	Amended Vol./No.
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**AGENCY FOR HEALTH CARE ADMINISTRATION**  
**Medicaid Program Office**

59G-4.035	10/11/02	10/31/02	28/31	
59G-8.200	10/7/02	10/27/02	28/18	28/36

**DEPARTMENT OF HEALTH**

**Board of Clinical Laboratory Personnel**

64B3-1.006	10/9/02	10/29/02	28/29	28/37
64B3-1.015	10/9/02	10/29/02	28/29	28/37
64B3-2.003	10/10/02	10/30/02	28/37	
64B3-3.003	10/10/02	10/30/02	28/37	
64B3-5.003	10/9/02	10/29/02	28/33	28/37
64B3-5.004	10/9/02	10/29/02	28/33	28/37
64B3-10.005	10/10/02	10/30/02	28/29	

**Board of Nursing**

64B9-15.009	10/8/02	10/28/02	28/27	28/36
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**Board of Occupational Therapy**

64B11-2.012	10/9/02	10/29/02	28/35	
64B11-3.009	10/9/02	10/29/02	28/35	
64B11-6.001	10/9/02	10/29/02	28/35	

**Board of Opticianry**

64B12-11.017	10/9/02	10/29/02	28/36	
64B12-15.003	10/9/02	10/29/02	28/36	

**Council of Licensed Midwifery**

64B24-2.001	10/9/02	10/29/02	28/24	28/37
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**Division of Family Health Services**

64F-12.015	10/9/02	10/29/02	28/26	28/35
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