

Section I

Notices of Development of Proposed Rules and Negotiated Rulemaking

DEPARTMENT OF REVENUE

Sales and Use Tax

RULE NOS.:

12A-1.096

RULE TITLES:

Industrial Machinery and Equipment
for Use in a New or Expanding
Business

12A-1.097

Public Use Forms

PURPOSE AND EFFECT: The purpose of the proposed amendments to Rule 12A-1.096, F.A.C. (Industrial Machinery and Equipment for Use in a New or Expanding Business), is to: (1) incorporate the provisions of Chapter 2006-56, L.O.F., which amends Section 212.08(5)(b), F.S. (Machinery and equipment used to increase productive output); and (2) revise the guidelines consistent with Section 212.08(5)(b), F.S., for the administration of the exemption provided for industrial machinery and equipment used in a new or expanding business.

Chapter 2006-56, L.O.F., deletes the \$50,000 tax threshold per calendar year on the purchase of industrial machinery and equipment used to increase productive output by certain industries. All industries will no longer be required to meet the \$50,000 tax threshold per calendar year. This law also revises the exemption for machinery and equipment used in mining operations by removing the requirement that the exemption is only available by taking a credit against severance taxes and the requirement that mining operations must show an increase in the creation of new jobs. The proposed amendments remove these requirements from the rule.

The proposed amendments clarify that a “fixed location” is a location or plant site that is used, or intended to be used, on a continuous basis for an extended or indefinite period of time for spaceport activities or for manufacturing, processing, compounding, or producing items of tangible personal property for sale. Examples are added to the definition of the term “physically comparable” for clarity. The term “production process” is clarified to mean that the production process may include quality control activities after the items have been packaged, such as good manufacturing practices as mandated by the Federal Food and Drug Administration to detect adulterated food or food that has been prepared, packaged, or held under insanitary conditions, and to incorporate provisions regarding equipment used for research and development activities and other pre-production activities. The proposed amendments define the terms “purchase,” and “purchase agreement” for purposes of the exemption.

The proposed amendments revise the provisions describing the terms “new business” and “expanding business.” Pursuant to the proposed amendments, businesses that purchase additional

machinery and equipment to begin manufacturing component parts for existing lines of products that were previously purchased from vendors will be classified as an “expanding business” and will be required to meet the statutory requirement to increase productive output. For these expanding businesses, that statutory requirement will be met when the first component part is manufactured for existing lines of products as the production of that first component part represents a 100 percent increase in productive output of that component part. In addition, the proposed amendments clarify that the physical productive output measurement must be based on physical production data that is directly relevant to the business and/or product(s) being produced.

The proposed amendments clarify that an application for refund must meet the requirements of Section 213.255(2) and (3), F.S., and Rule 12-26.003, F.A.C., to be considered complete.

The proposed amendments provide additional examples of types of industrial machinery and equipment to clarify whether post-production machinery and equipment used for refrigerated, frozen, or heated storage of finished good inventory qualifies for the exemption. Provisions are added to clarify that conveyors used to transport work-in-process within the production line at the fixed location will qualify for exemption. Additional examples are provided, and obsolete provisions are removed, to clarify whether computers and related equipment will be considered a part of the production process and qualify for exemption. Obsolete provisions regarding agricultural equipment, which became fully exempt under the provisions of Section 212.08(3), F.S., as amended in 2005, are removed. Additional provisions are included to clarify whether office equipment, security systems, motor vehicles, and locomotives or railroad cars will qualify for the exemption.

The purpose of the proposed amendments to Rule 12A-1.097, F.A.C. (Public Use Forms), is to adopt, by reference, changes to Form DR-1214, Application for Temporary Tax Exemption Permit.

SUBJECT AREA TO BE ADDRESSED: The subject area of the workshop is: (1) the proposed amendments to Rule 12A-1.096, F.A.C., that incorporate the provisions of s. 212.08(5)(b), F.S. (Machinery and equipment used to increase productive output), as amended by Chapter 2006-56, L.O.F.; (2) the proposed revisions to the guidelines provided in Rule 12A-1.096, F.A.C., regarding the exemption provided for industrial machinery and equipment used in a new or expanding business; and (3) the proposed changes to Form DR-1214, Application for Temporary Tax Exemption Permit.

SPECIFIC AUTHORITY: 201.11, 202.17(3)(a), 202.22(6), 202.26(3), 212.0515(7), 212.07(1)(b), 212.08(5)(b)4., (7), 212.11(5)(b), 212.12(1)(b)2., 212.17(6), 212.18(2), (3), 213.06(1), 376.70(6)(b), 376.75(9)(b), 403.718(3)(b), 403.7185(3)(b), 443.171(2), (7) FS.

LAW IMPLEMENTED: 92.525(1)(b), (3), 95.091, 125.0104, 125.0108, 201.01, 201.08(1)(a), 201.133, 201.17(1)-(5), 202.11(2), (3), (6), (16), (24), 202.17, 202.22(3)-(6), 202.28(1), 203.01, 212.02, 212.03, 212.0305, 212.031, 212.04, 212.05, 212.0501, 212.0515, 212.054, 212.055, 212.06, 212.0606, 212.07(1), (8), (9), 212.08, 212.084(3), 212.085, 212.09, 212.096, 212.11(1), (4), (5), 212.12(1), (2), (9), (13), 212.13, 212.14(5), 212.17, 212.18(2), (3), 213.235, 213.255(2), (3), 213.29, 213.37, 215.26, 219.07, 288.1258, 376.70, 376.75, 403.717, 403.718, 403.7185, 443.036, 443.121(1), (3), 443.131, 443.1315, 443.1316, 443.171(2), (7) FS.

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

DATE AND TIME: January 24, 2007, 10:00 a.m.

PLACE: Room 118, Carlton Building, 501 S. Calhoun Street, Tallahassee, Florida

Pursuant to the provisions of the Americans with Disabilities Act, any person requiring special accommodations to participate in this workshop/meeting is asked to advise the agency at least 5 days before the workshop/meeting by contacting: Larry Green at (850)922-4830. If you are hearing or speech impaired, please contact the agency using the Florida Relay Service, 1(800)955-8771 (TDD) or 1(800)955-8770 (Voice).

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

THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS:

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

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

(a) “Fixed location” means ~~a being permanently affixed to one (1) location or plant site~~ that is used, or intended to be used, on a continuous basis for an extended or indefinite period of time for spaceport activities or for manufacturing, processing, compounding, or producing items of tangible personal property for sale. The term also includes any portable plant ~~that which~~ is set up for a period of not less than six months in a stationary manner so as to perform the same industrial manufacturing, processing, compounding, or production process that could be performed at a permanent location or plant site. The geographical limits of the fixed location for purposes of this rule are limited to the immediate permanent location or plant site. Facilities or plant units that

are within the same building, or that are on the same parcel of land if not contained in a building, are considered to be one fixed location.

(b) “Industrial machinery and equipment” means tangible personal property or other property with a depreciable life of 3 years or more that is used as an integral part in the manufacturing, processing, compounding, or production of tangible personal property for sale or is exclusively used in spaceport activities. Buildings and their structural components are not industrial machinery and equipment unless the building or structural component is so closely related to the industrial machinery and equipment that it houses or supports that the building or structural component can be expected to be replaced when the machinery and equipment itself is replaced. Heating and air conditioning systems are not considered industrial machinery and equipment, unless the sole justification for their installation is to meet the requirements of the production process, even though the system may provide incidental comfort to employees, or serves, to an insubstantial degree, ~~nonproduction non-production~~ activities. For example, a dehumidifier installed for the sole purpose of conditioning air in a factory, where the manufacturing of electronic components requires a controlled-humidity environment, will be considered industrial machinery and equipment. (See subsection ~~(8)(9)~~ of this rule.)

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

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

~~(e) “Mining activities” means phosphate and other solid minerals severance, mining, or processing operations. Mining activities end at the point where the mineral is readily~~

identifiable as the final product of mining or where it is ready to be compounded or mixed with other materials to form a new material. (See subsection (4) of this rule.)

(e)(f) “Physically comparable” means the similarity or equivalency of the characteristics of the items of tangible personal property being manufactured, processed, compounded or produced. Physical comparability applies to the units used to measure the increase in productive output of an expanding business.

1. Example: All models of microwave ovens made by a manufacturer, regardless of specific features, would be physically comparable. However, if the manufacturer also made coffee makers, the coffee makers would not be physically comparable to microwave ovens, even though both items are generally considered small kitchen appliances.

2. Example: A beverage manufacturer produces a variety of soft drinks in various sized cans and bottles. The production of the various sized cans and bottles of soft drinks are not physically comparable. However, production is physically comparable when converted to a common physical unit, such as gallons of product.

(f)(g) “Production process” or “production line” means those industrial activities beginning when raw materials are delivered to the new or expanding business’ fixed location and generally ending when the items of tangible personal property have been packaged for sale, or are in saleable form if packaging is not done. However, the production process may include quality control activities after the items have been packaged (or are in saleable form if packaging is normally not done), such as if such quality control activities are required by good manufacturing practices as mandated by the Federal Food and Drug Administration to detect adulterated food or food that has been prepared, packaged, or held under insanitary conditions or mandated by state or federal government agencies.

1. The production process may encompass more than one fixed location if the business transfers work-in-process from one fixed location to a second fixed location for further manufacturing, processing, compounding, or production. For example, a company purchases machinery and equipment to produce raw orange juice at one fixed location, and this raw orange juice is transferred as work-in-process to a second fixed location where the company will use the raw orange juice to make five different products.

2. A production process does not include natural processes occurring before raw material is delivered to the receiving operation or after the packaging operation. For example, the natural transformation of grass or feed into raw milk by dairy cows is not part of the production process. In this case, the production process begins with when the cows (i.e., raw materials) are brought into the milking parlor. The Neither is the planting, growing, or harvesting of crops, and nor the raising of livestock or poultry are not; part of the production

process. ~~The Also, the~~ natural aging or fermentation of alcoholic beverages or other food products, after they have been packaged, is also not part of the production process. ~~The There, the~~ production process ends when the alcoholic beverage or other food product has been packaged for sale.

3. The production process does not include research and development or product design activities. For example, the computer aided design of a product where the final design program or computer file for that product will be sent to or downloaded to industrial machinery and equipment for the physical creation of the product is not a part of the production process. Similarly, the production process for printed materials does not include the initial creation of the written matter. For example, the writing of a story by a reporter for subsequent printing in a newspaper is not a part of the production process. (See paragraph (8)(9)(b) of this rule.)

(g)(h) “Productive output” ordinarily means the number of units actually produced by a single plant or operation in a single continuous 12-month period. The increase in productive output shall be measured by the output for 12 continuous months immediately following the completion of the installation of machinery and equipment for the expansion project as compared to the productive output of 12 continuous months immediately preceding the beginning of the installation of machinery and equipment for the expansion project. However, if a different 12-month continuous period would more accurately reflect the increase in productive output as a result of a business expansion, the increase in productive output will be measured during that alternate 12-month continuous period, provided that prior to the start of production by the expanded business the Executive Director or the Executive Director’s designee agrees to such alternate measuring period. Such alternate continuous 12-month measuring period approved by the Executive Director or the Executive Director’s designee must begin within 24 months following the completion of installation of qualifying machinery and equipment. If an alternate 12-month measuring period is requested by the business entity and is agreed to by the Executive Director or the Executive Director’s designee, only the selected alternate 12-month period will be used to measure the increased productive output for the business expansion, even though some 12-month period other than the selected and approved 12-month period may show a production increase of 10 percent or more as a result of the expansion project. Productive output may not be measured by sales dollars or by production labor hours for the purposes of this exemption.

(h) “Purchase,” “purchases,” or “purchasing” means the transfer of title or possession, or both, of industrial machinery and equipment for a consideration. The terms “purchase,” “purchases,” or “purchasing” also include the acquisition of industrial machinery and equipment under a lease or rental agreement.

(i) “Purchase agreement” means a document in the form of a formal purchase order issued by the purchaser, a contract for purchase with a seller or vendor, a memorandum of understanding, or a lease or rental agreement with a lessor.

~~(j)(4)~~ “Spaceport activities” means those activities as defined in Section 212.02, Florida Statutes.

(2) New Business.

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

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

(c) The date of purchase of the machinery and equipment is established by the date of the purchase agreement. If no purchase agreement was made, or in the absence of proof that a purchase agreement was made prior to the determined beginning of spaceport activities or the start of production, the machinery and equipment vendor’s sales invoice will be the controlling document for determining whether the machinery and equipment qualifies for the exemption. No exemption will be allowed even though delivery of machinery and equipment is made within 12 months from the beginning of spaceport activities or the start of production if the machinery and equipment was ordered after the beginning of spaceport activities or the start of production. If a purchase agreement that was made prior to the start of production is amended or changed after the start of production, any amendments or changes that increase the quantity of an item of machinery or equipment will not qualify for the exemption. Any amendments or change orders to that purchase agreement that provide for the substitution of a like kind item of machinery or equipment will qualify for the exemption.

(d)1. The start of production shall be the date that a product is manufactured, processed, compounded, or produced where such product will be inventoried for sale or will be immediately sold. However, if this date does not reflect the actual start of production, the date of the start of production shall be determined by the Executive Director or the Executive Director’s designee on a case by case basis. In such cases, the business shall maintain sufficient records to enable the Executive Director or the Executive Director’s designee to make a proper determination as to the initial production activities of the new facility. (See subsection ~~(6)(7)~~ of this rule.)

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

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

2. The beginning of spaceport activities shall be the date that industrial machinery and equipment is first exclusively used for that purpose. However, if this does not reflect the actual beginning of spaceport activities, the date shall be determined by the Executive Director or the Executive Director’s designee on a case-by-case basis. In such cases, the business shall maintain sufficient records to enable the Executive Director or the Executive Director’s designee to make a proper determination as to the beginning of spaceport activities of the new facility. (See subsection ~~(6)(7)~~ of this rule.)

(e) The Executive Director or the Executive Director’s designee shall determine if a business qualifies for ~~the~~ exemption as a new business, based on the facts in each particular case.

1. A new business means a newly-formed company that opens a facility or plant, at a fixed location in this state, to manufacture, process, compound, or produce items of tangible personal property for sale, or to exclusively use industrial machinery and equipment in spaceport activities.

2. A new business means an addition to, or the enlargement of, an existing facility or plant, or the installation of additional machinery and equipment, for the purpose of manufacturing, processing, compounding, or producing items of tangible personal property for sale that represent a distinct and separate economic activity from other items that have been or are being produced at that same fixed location, or to exclusively use industrial machinery and equipment in distinct and separate spaceport activities. For example, a company that currently manufactures washing machines would be considered a new business for the purpose of installing a dedicated assembly line for the manufacturing of refrigerators. A new business does not mean an addition to, or the enlargement of, an existing facility or plant, or the installation of additional machinery and equipment at an existing facility or plant, for the purpose of manufacturing, processing, compounding, or producing component parts that were previously purchased from, or fabricated by, outside sources for inclusion in that business’ finished items of tangible personal property for sale. (See subsection ~~(4)(5)~~ of this rule.)

3. A new business means opening a new facility or plant, at a fixed location in this state, to manufacture, process, compound, or produce an item of tangible personal property for sale, or to exclusively use industrial machinery and equipment in spaceport activities, provided no other facility or plant in this state that manufactured, processed, compounded, or produced the same or a similar item of tangible personal property, or performed the same or a similar spaceport activity, at a fixed location in this state, was closed to open the new facility or plant, or will be closed within 12 months. However, this limitation concerning the closure of a facility or plant is not applicable to a mining activity when a mine is closed due to the exhaustion or depletion of the mined resource such that mining is no longer economically feasible at that location.

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

(3) Expanding Business.

(a) The purchase of industrial machinery and equipment, parts and accessories, and the installation thereof, is exempt from tax when purchased by an expanding business that uses such machinery and equipment at a fixed location in this state to increase the productive output of tangible personal property that is manufactured, processed, compounded, or produced for sale by not less than 10 percent, or for exclusive use in spaceport activities. Industrial machinery and equipment, parts and accessories, and the installation labor thereof, purchased by a business for the purpose of expanding spaceport activities, or the operation of a plant at an existing fixed location in this state to manufacture, process, compound, or produce items of tangible personal property for sale is exempt from any amount of taxes imposed in excess of \$50,000 per calendar year. The taxpayer may elect to pay the entire \$50,000 in tax directly to the Department at the beginning of the expansion project or at the beginning of the calendar year, or accrue or pay the tax on each qualifying purchase until the \$50,000 tax limitation is reached. The business entity may then extend a Temporary Tax Exemption Permit in lieu of paying any additional sales tax in excess of the \$50,000 in tax for the remainder of the calendar year. For each subsequent year the project is ongoing, the taxpayer may again elect to pay the entire \$50,000 in tax directly to the Department at the beginning of the calendar year, or accrue or pay the tax on each qualifying purchase until the \$50,000 tax limitation is reached.

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

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

~~3. EXAMPLE 2. Sales or use tax paid to the state in January 1999 for the period ending December 31, 1998, would not be allowed as part of the \$50,000 tax threshold for 1999, since the tax paid with the December 1998 sales tax return would have been imposed in 1998.~~

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

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

1.a. An expanding business means an addition to, or the modernization or enlargement of, an existing facility or the installation of additional machinery and equipment to manufacture, process, compound, or produce an item of tangible personal property ~~that which~~ is already being produced at that fixed location in this state or ~~which~~ is similar to an item of tangible personal property ~~that which~~ is already being produced at that fixed location.

b. An expanding business means an addition to, or the modernization or enlargement of, an existing facility or the installation of additional machinery and equipment to begin manufacturing, processing, compounding, or producing a component item of tangible personal property that will be incorporated into a finished item of tangible personal property for sale that is already being produced at that fixed location. When the component item of tangible personal property is manufactured, processed, compounded, or produced, the completion of the first component item meets the required productive output increase. When the business manufactures, processes, compounds, or produces that component for sale to others and incorporates that component in other items of tangible personal property for sale, the business would be classified as a new business.

c. For example, a washing machine manufacturer that previously purchased water pumps from an outside supplier as component parts for the washing machines would be considered an expanding business, rather than a new business, when it purchases machinery and equipment to begin manufacturing its own component water pumps and does not offer the water pumps for sale to others. When the first component water pump is produced, the manufacturer, as an expanding business, meets the required productive output increase.

~~d.b.~~ An expanding business means an addition to, or the modernization or enlargement of, an existing facility or the installation of additional machinery and equipment to perform

a spaceport activity that is already being performed, or is similar to an activity that is already being performed, at that fixed location.

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

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

~~(c)1.(d)~~ In order to qualify for an exemption as an expanding business, the taxpayer shall provide information to the satisfaction of the Executive Director or the Executive Director's designee that the items purchased shall be or have been used to increase the productive output of the existing facility or specific product line(s) by not less than 10 percent. An expanding business is allowed to specify whether the 10 percent increase in productive output is for the entire plant or for specific product line(s). However, where the increase in productive output applies to a product that becomes part of different product lines, the increase in productive output will be determined by measuring the increase in the combined output of the different product lines. For example, if a company purchases machinery and equipment that increases its production of raw orange juice by 25 percent, and this raw orange juice is used by the company to make five different products, the increase in productive output would be determined by measuring the volume increase in the combined output of all five different products. Expanding spaceport activities are not subject to the increase in productive output requirement.

2. The physical productive output measurement must be based on physical production data, which is directly relevant to the business and/or product(s) being produced. A physical productive output measurement based on indirect or minor, variable components is not a relevant measurement. For example, a relevant measurement for a furniture manufacturer would be the number of pieces of furniture manufactured, not the amount of glue, paint, stain, or varnish used in the manufacturing of furniture.

~~(4) Mining Activities:~~

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

~~1. A new business must demonstrate the creation of at least 100 new Florida jobs.~~

~~2. An expanding business that has 2,500 or fewer Florida employees must demonstrate the creation of new Florida jobs in an amount equal to at least 5 percent of its Florida employees; or~~

~~3. For an expanding business that has more than 2,500 Florida employees, that business must demonstrate the creation of new Florida jobs in an amount equal to at least 3 percent of its Florida employees.~~

~~4. In addition to the requirements of subparagraph 2. or 3. above, expanding mining businesses must also meet the requirements of paragraphs (3)(a) and (d) above.~~

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

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

~~(4)(5) Manufacturing Business Classification Factors.~~

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

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

~~1. The general nature of the applicant's predominant existing business;~~

~~2. The Standard Industrial Classification (SIC) or North American Industry Classification System (NAICS) industry number of the existing product(s) versus the additional product;~~

~~3. The raw materials or components used to make the existing product(s) versus the additional product;~~

~~4. Whether the additional product is an alternative to, or represents a replacement for, the existing product(s);~~

~~5. The differences in machinery and equipment needed to make the existing product(s) versus the additional product; and~~

6. The units used to measure production of the existing product(s) versus the additional product.

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

(d) Products that merely differ in size, color, flavor, style, packaging, or model line, or products that merely incorporate newer technology, are not considered to be a distinct and separate economic activity. For example, the manufacturing of electronic products based on digital technology is not a distinct and separate economic activity from the manufacturing of electronic products based on analog technology.

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

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

~~(a)1-~~ To receive the exemption provided under subsection ~~subsections~~ (2) or (3), a qualifying business entity must apply to the Florida Department of Revenue, Technical Assistance and Dispute Resolution, Post Office Box 7443, Tallahassee, Florida 32314-7443, for a temporary tax exemption permit. The business entity seeking a temporary tax exemption must file an Application for Temporary Tax Exemption Permit (Form form DR-1214) with the Department prior to receiving a permit or refund for the new or expanded business. Upon a tentative affirmative determination of the business's qualification for exemption by the Executive Director or the Executive Director's designee, a temporary tax exemption permit shall be issued to, or a refund authorized for, the business entity.

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

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

entity that extends the temporary tax exemption permit to a contractor or subcontractor for the purpose of authorizing that contractor or subcontractor to purchase qualifying machinery and equipment tax exempt will be responsible for paying the sales and use tax on any nonqualified items purchased tax exempt by the contractor or subcontractor.

2. Upon completion of purchases of qualifying machinery and equipment, the temporary tax exemption permit shall be ~~hand~~ delivered to the Department or returned by certified or registered mail. If the permit is returned by mail, the permit shall be mailed to the Florida Department of Revenue, Technical Assistance and Dispute Resolution, P. O. Box 7443, Tallahassee, Florida 32314-7443.

(c)1. If a qualifying business entity fails to apply for a temporary tax exemption permit before purchasing qualifying machinery and equipment for a new or expanded business, or if the initial determination by the Executive Director or the Executive Director's designee is negative, the exemptions provided by subsections (2) and (3) above may be obtained only by a refund to the business entity of previously paid taxes. Refunds shall not be allowed until information has been provided to the satisfaction of the Executive Director or the Executive Director's designee that such machinery and equipment meets the requirements of this rule and is used as designated herein. Only the qualified business entity that ~~which~~ will use the qualifying machinery and equipment at a fixed location in this state in manufacturing, processing, compounding, or producing tangible personal property for sale, or for exclusive use in spaceport activities is entitled to request a refund of sales or use taxes paid on qualifying industrial machinery and equipment, or installation thereof. ~~A qualifying mining activity business under subsection (4) of this rule will receive the exemption by way of a credit against severance taxes instead of a refund of sales and use tax.~~

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

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

b. The prime contractor must obtain a certified statement from its supplier(s) and subcontractor(s) certifying that the supplier or subcontractor has remitted the tax to the State, or certifying that the prime contractor has remitted use tax directly to the State. The prime contractor must then extend the

statement(s) it has executed or obtained from its supplier(s) or subcontractor(s) to the qualifying new or expanded business entity to support the refund claim.

(d)1. The following is a suggested format for a certified statement that tax has been remitted to the State of Florida:

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

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

Dated at _____ County _____, Florida, this ___ day of ___ 20__.

AUTHORIZED OFFICER OF COMPANY

BY: _____

TITLE: _____

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

(e) The right to a refund of, or credit for, sales or use taxes.
~~1. New Businesses.~~

~~1.a.~~ An application for refund by a new business must be filed within 3 years after the date the tax was paid in accordance with the timing provisions of Section ~~¶~~ 215.26(2), F.S. However, an application for refund shall not be considered complete pursuant to Section ~~¶~~ 213.255(2) and (3), F.S., and Rule 12-26.003, F.A.C., and a refund shall not be approved, before the date the new manufacturing or printing business first places a product in inventory or immediately sells a product, or before the date a new business engaged in spaceport activities begins those activities.

~~b.~~ The right to a credit for sales or use taxes paid by a new business engaged in mining activities shall not be allowed before the date the Department of Revenue has received the certification of new Florida jobs. (See subsection (4) of this rule.)

~~2. Expanding Businesses.~~

~~2.a.~~ An application for refund by an expanding business must be filed within 3 years after the date the tax was paid in accordance with the timing provisions of Section ~~¶~~ 215.26(2), F.S. However, an application for refund shall not be considered complete pursuant to Section ~~¶~~ 213.255(2) and (3), F.S., and Rule 12-26.003, F.A.C., and a refund shall not be approved, before the date an expanding manufacturing or printing business can substantiate that the business expansion has

increased the productive output at the existing facility by not less than 10 percent, or for an expanding business engaged in spaceport activities, before the date of completion of the installation of the machinery and equipment.

~~b.~~ The right to a credit for sales or use taxes paid by an expanding business engaged in mining activities shall not be allowed before the date that business can substantiate that the business expansion has increased the productive output at the existing facility by not less than 10 percent, and the Department of Revenue has received the certification of new Florida jobs. (See subsection (4) of this rule.)

~~(6)(7)~~ Record Keeping Requirements. The applicant shall maintain all necessary books and records to support the exemption. All such books, invoices, certified statements, and other records shall be open for inspection by the Department at all reasonable hours at the qualifying business entity's location in this state. Any qualifying business entity ~~that which~~ maintains such books and records at a point outside this state shall make such books and records available for inspection by the Department where the general records are kept.

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

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

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

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

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

1. Special foundations required for the support of such qualifying machinery and equipment;
2. Electrical wiring from the nearest power panel or disconnect box to the qualifying machinery and equipment; and
3. Plumbing connections necessary to connect the machinery and equipment to the nearest water supply or drain line.

(b) The exemption for industrial machinery and equipment ends at that stage of the production process where the product produced is placed in a package (or is in salable ~~saleable~~ form

if packaging is normally not done) to be sold to the wholesaler, retailer, or other purchaser. Machinery and equipment for the refrigerated, frozen, heated, or otherwise temperature-controlled or acclimatized storage or warehousing of packaged finished goods inventory, solely for preservation purposes, prior to shipment or delivery to customers, is not a part of the production process. However, the production process may include quality control activities for perishable goods after the item of tangible personal property has been packaged (or is in saleable form if packaging is normally not done), if such quality control activities are required by good manufacturing practices mandated by state or federal government agencies.

1. Example: A manufacturer's cold storage facility that is used solely for processed and packaged foods is not a part of the production process regardless of the fact that custom palletized orders may be assembled within the cold storage facility for customers.

2. Example: Customer accessible refrigerated cases containing prepackaged meats in a butcher shop are not a part of the production process, regardless of the fact that a customer may request that a package of meat be recut, trimmed, or ground.

3. Example: Refrigerated cases containing meats or seafood that are only accessible by employees, where such meats or seafood may be further processed by packaging, cutting, grinding, or steaming or otherwise cooked, are a part of the production process.

4. Example: Bakery display cases where the baked goods are only accessible by bakery shop personnel for slicing or packaging are a part of the production process.

5. Example: Refrigerated or heated display cases or preparation units for deli items that are only accessible by deli personnel are a part of the production process.

6. Example: A citrus juice manufacturer is prohibited by federal regulations from selling its inventory of processed juice before required post-production microbial tests are performed. Accordingly, the refrigerated or frozen storage of processed juice is a part of the manufacturing process. (See paragraph (1)(f) of this rule.)

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

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

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

(f) Pollution control equipment, or sanitizing and sterilizing equipment, that is an integral part of the production process qualifies for exemption.

(g) Monitoring machinery and equipment that is an integral part of the production process qualifies for exemption.

(h) Machinery and equipment used to remove waste materials away from industrial machinery and equipment, where the removal is required to maintain the operation of the production process, will qualify for exemption. For example, equipment used to remove wood chips and sawdust from around a qualified industrial wood lathe will qualify for exemption.

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

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

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

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

(j) Conveyers or related equipment used to transport raw materials from the storage area located at the fixed location to the production line, or to transport work-in-process within the production line at the fixed location, will qualify for exemption.

(k) Computers and computer equipment.

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

2. Computers and computer equipment used in the design of a product and computers and computer equipment used to input original images or data into a publishing system are not a part of the production process and will not qualify for exemption.

3. Computers and computer equipment used in an ancillary function, such as data storage or backup, are not a part of the production process and will not qualify for exemption.

4. Portable computers, such as laptops and similar portable devices, including digital cameras, will not qualify for exemption unless such items are exclusively used at the fixed location.

5. The initial purchase of software for qualifying computers and computer equipment will qualify for exemption. However, software license renewals will not qualify for exemption.

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

~~(l)(m) Masks, molds, jigs, or templates, where such property is integral to the production process, will qualify for exemption. The machinery and equipment that is integral to the creation or maintenance of those masks, molds, jigs, or templates will also qualify for exemption, even though such machinery and equipment is not a direct part of the production process.~~

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

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

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

~~(o)(q) Office equipment, such as telephones, copy machines, typewriters, fax machines, desktop printers, or calculators, will not qualify for the exemption.~~

~~(p) Communications equipment, such as telephones, radios, intercom systems, video or television equipment, or public address systems, will not qualify for exemption.~~

~~(q) Security systems for surveillance or to prevent or restrict access to the fixed location or areas within the fixed location will not qualify for exemption.~~

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

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

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

~~(u) Motor vehicles, as defined in Section 320.01, F.S., do not qualify for exemption.~~

~~(v) Locomotives or railroad cars that do not remain at the fixed location will not qualify for exemption.~~

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

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

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

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

~~(b)(d) The exercise of a purchase option in an operating lease is considered to be a purchase made after the start of production for a new business, or a purchase made outside the expansion project period for an expanding business, and is subject to tax.~~

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

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

~~(c)(b) In the case of a capital lease, sales-type lease, or direct financing lease, such leases will be considered to be sales and purchases at their inception.~~

Specific Authority 212.08(5)(b)4., 212.17(6), 212.18(2), 213.06(1) FS. Law Implemented 212.02(4), ~~(10)(g)~~, (14), ~~(19)~~, (21), (22), 212.05, 212.06, 212.08(5)(b), ~~212.08(7)(xx)~~, ~~212.0805~~, 212.13(2), ~~213.255(2)~~, (3), 215.26(2) FS. History—New 5-11-92, Amended 7-1-99, 6-28-00, 6-19-01, 3-6-02, _____.

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) through (20)	No change.	
(21) DR-1214	Application for Temporary Tax Exemption Permit (R. 07/06 04/03)	___ 10/03

(22) through (23) No change.

Specific Authority 201.11, 202.17(3)(a), 202.22(6), 202.26(3), 212.0515(7), 212.07(1)(b), 212.08(5)(b)4., (7), 212.11(5)(b), 212.12(1)(b)2., 212.17(6), 212.18(2), (3), 213.06(1), 376.70(6)(b), 376.75(9)(b), 403.718(3)(b), 403.7185(3)(b), 443.171(2), (7) FS. Law Implemented 92.525(1)(b), (3), 95.091, 125.0104, 125.0108, 201.01, 201.08(1)(a), 201.133, 201.17(1)-(5), 202.11(2), (3), (6), (16), (24), 202.17, 202.22(3)-(6), 202.28(1), 203.01, 212.02, 212.03, 212.0305, 212.031, 212.04, 212.05, 212.0501, 212.0515, 212.054, 212.055, 212.06, 212.0606, 212.07(1), (8), (9), 212.08, 212.084(3), 212.085, 212.09, 212.096, 212.11(1), (4), (5), 212.12(1), (2), (9), (13), 212.13, 212.14(5), 212.17, 212.18(2), (3), 213.235, 213.29, 213.37, 219.07, 288.1258, 376.70, 376.75, 403.717, 403.718, 403.7185, 443.036, 443.121(1), (3), 443.131, 443.1315, 443.1316, 443.171(2), (7) 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, 4-17-03, 5-4-03, 6-12-03, 10-1-03, 9-28-04, 6-28-05, 5-1-06,

DEPARTMENT OF TRANSPORTATION

RULE NO.: 14-10.007
RULE TITLE: Nonconforming Signs
PURPOSE AND EFFECT: The scope of Rule 14-10.007, F.A.C., is expanded by the deletion of the words “Maintenance of” and the rule itself is substantially reworded.
SUBJECT AREA TO BE ADDRESSED: Rule 14-10.007, F.A.C., is substantially reworded.
SPECIFIC AUTHORITY: 334.044(2), 479.02(7) FS.
LAW IMPLEMENTED: 339.05, 479.02, 479.07(9) FS.
IF REQUESTED IN WRITING AND NOT DEEMED UNNECESSARY BY THE AGENCY HEAD, A RULE DEVELOPMENT WORKSHOP WILL BE HELD AT THE DATE, TIME AND PLACE SHOWN BELOW:
DATE AND TIME: January 23, 2006, 9:00 a.m.
PLACE: Department of Transportation, Haydon Burns Building Auditorium, 605 Suwannee Street, Tallahassee, Florida.
THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT IS: James C. Myers, Clerk of Agency Proceedings, Florida Department of Transportation, Office of the General Counsel, 605 Suwannee Street, Mail Station 58, Tallahassee, Florida 32399-0458

THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS:

(Substantial rewording of Rule 14-10.007 follows. See Florida Administrative Code for present text.)

14-10.007 ~~Maintenance~~ of Nonconforming Signs.

A nonconforming sign may continue so long as it is not improperly maintained, improperly modified, destroyed, abandoned, or discontinued. Any changes, modifications, or repairs done in violation of this rule will terminate the nonconforming status of the sign and cause it to become illegal. Once nonconforming status has terminated, it cannot be restored and the sign must be removed.

(1) Definitions. In addition to the definitions contained in Rule 14-10.0011, F.A.C., the following definitions apply to this rule.

(a) “Configuration” means the physical arrangement of a sign whether single-faced, V-type, back-to-back, side-to-side, or stacked.

(b) “Public service message” means one for which no charge is made and which promotes programs, activities, or services of Federal, State, or local governments or the programs, activities, or services of non-profit organizations.

(c) “Vertical support” means the poles or other members which elevate the sign message above the ground or other supporting surface.

(2) Maintenance of nonconforming signs. Reasonable repair and maintenance of nonconforming signs is permitted, including in-kind replacement of sign materials, with the following exceptions:

(a) Vertical supports may not be replaced. However, when a nonconforming sign has been damaged by a natural event which results in a declaration of disaster by the Governor of Florida or the President of the United States, the vertical supports may be repaired or replaced in-kind, provided the sign has not been destroyed;

(b) Materials, including bracing, guy wires or similar devices, may not be added to the sign, nor may additional vertical supports be added;

(c) No change may be made in the type of materials or configuration of the sign;

(d) Variable message capability may not be added either as part of the message or the entire facing, regardless of whether such capability is mechanical, electrical, or electronic.

(3) Modifications to nonconforming signs. Only the following modifications to nonconforming signs are allowed. All other modifications are prohibited.

(a) Change of advertising message;

(b) Replacement of, or repair to, the sign facing, provided the dimensions of the sign facing and the HAGL remain the same;

(c) Reduction in size of the sign facing where such reduction is required by a local governmental entity with jurisdiction over the sign;

(c) Addition of catwalks, provided that such addition does not add additional bracing or supports to the structure;

(d) Addition of embellishments, not to exceed 10% of the area of the existing sign facing.

(4) Lighting. Lighting may not be added to a previously unlighted sign, nor may existing lighting be increased to enhance the visibility of the sign facing or the period of time the sign is visible. Prohibited lighting includes any which illuminates the sign facing whether or not such lighting is physically part of the sign.

(5) A nonconforming sign is “destroyed” when 50% or more of the vertical supports are physically damaged such that, in order for the structure to be maintained in the same configuration as existed prior to occurrence of the damage, either or both of the following applies:

(a) Wooden vertical supports must be replaced or have bracing added, or;

(b) Metal supports require replacement of at least 25% of the length above ground of the broken, bent, or twisted supports.

If the Department determines that destruction was caused by vandalism or other tortious act, the sign may be restored to the same size and configuration and with the same type of materials as existed in the sign immediately prior to destruction.

(6) A nonconforming sign is “abandoned” when it fails to display advertising copy on the sign facing for a period of 12 months or more. Signs displaying a public service message are not considered abandoned within the meaning of this section. The following conditions shall be considered failure to display advertising copy:

(a) Signs displaying only an “available for lease” or similar message;

(b) Signs displaying advertising for a product, service, or facility which is no longer available;

(c) Signs which are blank or do not identify a particular product, service, or facility.

(7) A nonconforming sign is “discontinued” when 50% or more of the vertical supports have been detached from the structure and the ground or other supporting surface.

Specific Authority 334.044(2), 479.02(7) FS. Law Implemented 339.05, 479.02, 479.07(9) FS. History–New 3-28-77, Amended 12-10-77, 1-1-86, Formerly 14-10.07, Amended 6-28-98, 8-10-99, 8-19-01,_____.

DEPARTMENT OF TRANSPORTATION

RULE CHAPTER NO.: 14-15
 RULE NO.: 14-15.017
 RULE CHAPTER TITLE: Incorporation by Reference
 RULE TITLE: Safety and Security Oversight Program Standards Manual for Fixed Guideway Transportation Systems

PURPOSE AND EFFECT: This rule, which incorporates by reference the *Safety and Security Oversight Program Standards Manual for Fixed Guideway Transportation Systems*, is being amended to incorporate a revised version of the manual. The proposed amendments are necessary to address findings resulting from a Federal Transit Administration June 2006, audit of the Safety Oversight Program required under 49 C.F.R., Part 659.

SUBJECT AREA TO BE ADDRESSED: The *Safety and Security Oversight Program Standards Manual for Fixed Guideway Transportation Systems*, April 2007, edition, is being incorporated by reference within this rule. This revised edition replaces the February 2006, edition previously incorporated by reference.

SPECIFIC AUTHORITY: 341.061 FS.

LAW IMPLEMENTED: 341.041, 341.061 FS.

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

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT IS: James C. Myers, Clerk of Agency Proceedings, Florida Department of Transportation, Office of the General Counsel, 605 Suwannee Street, Mail Station 58, Tallahassee, Florida 32399-0458

THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS:

14-15.017 Safety and Security Oversight Program Standards Manual for Fixed Guideway Transportation Systems.

The *Safety and Security Oversight Program Standards Manual for Fixed Guideway Transportation Systems*, April 2007 February 2006, edition, is hereby incorporated by this rule and made a part of the rules of the Department of Transportation. Copies of this Department manual and any amendments thereto are available from the Department of Transportation, Public Transit Office, 605 Suwannee Street, Mail Station 12, Tallahassee, Florida 32399-0450, or on line at <http://www.dot.state.fl.us/transit>.

Specific Authority 341.061 FS. Law Implemented 341.041, 341.061 FS. History–New 3-7-06, Amended _____.

DEPARTMENT OF TRANSPORTATION

RULE CHAPTER NO.: 14-33
 RULE NO.: 14-33.002
 RULE CHAPTER TITLE: Florida Road Numbering Plan
 RULE TITLE: Florida Road Numbering Plan

PURPOSE AND EFFECT: The rule for the Florida Road Numbering Plan is being amended for clarification and updating of statutory citations. References have been changed from “Florida Road Numbering System” to “Florida Road Numbering Plan.”

SUBJECT AREA TO BE ADDRESSED: The rule for the Florida Road Numbering Plan is being amended.

SPECIFIC AUTHORITY: 334.044(2) FS.

LAW IMPLEMENTED: 334.03, 334.044(11), 335.01, 335.01, 335.08 FS.

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

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT IS: James C. Myers, Clerk of Agency Proceedings, Florida Department of Transportation, Office of the General Counsel, 605 Suwannee Street, Mail Station 58, Tallahassee, Florida 32399-0458

THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS:

14-33.002 Florida Road Numbering Plan System.

(1) Numbering Plan System. The Florida systematic road numbering plan ~~for Florida~~ will generally prescribe numbers in accordance with road orientation and geographic location within the state. Extended roads of state-wide or inter-regional

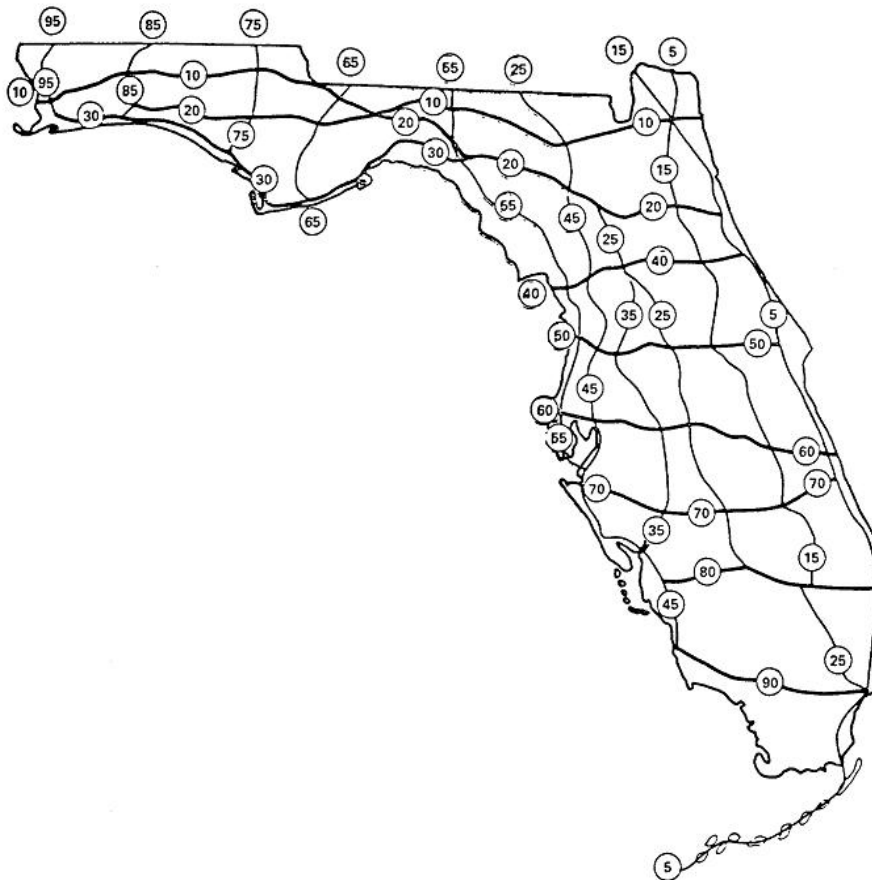
significance will maintain one-digit or two-digit road numbers. Roads of regional significance will be assigned three-digit road numbers. ~~Short length roads and R~~roads of generally local significance may be assigned four-digit numbers.

(a) All roads leading from north to south bear odd numbers with the number 1 assigned to the extreme easterly road. All roads leading from east to west bear even numbers with the number 2 assigned to the extreme northerly road.

(b) Certain control roads have been selected for the purpose of dividing the state into segments. The north-south control roads are one and two-digit numbers ending in 5; the east-west control roads are two-digit numbers ending in zero. (See figure 1.)

FIGURE 1

FLORIDA STATE HIGHWAY NUMBERING SYSTEM



(c) ~~Major Main~~ connecting roads are assigned two-digit numbers between the control routes. For example, Road 77 is a north-south route located between control routes 75 and 85 and is found near the westernmost portion of the state. Minor connecting routes are assigned three-digit 3 or 4 four-digit numbers between the control routes. For example, Road 510 is an east-west route located between control routes 50 and 60 and would be found near the central portion of the state.

(d) Connecting roads which cross control routes will not be required to change numbers, but will retain the number assigned at the beginning of the route to insure route continuity.

(2) Assignment of Numbers and Signing Responsibility for Signs.

(a) ~~Category I, State Highway System. The Department will assign numbers and erect and maintain corresponding signs. Category I roads will be numbered and signed by the Department.~~

(b) Category II, roads on the county road system and city street system functionally classified as collector roads and arterial roads. The Department will assign numbers for Category II roads; however, the jurisdictions maintaining these roads will have the responsibility for erecting and maintaining corresponding signs.

- ~~1. Urban Minor Arterial Roads on the County Road System.~~
- ~~2. Collector Roads on the County Road System.~~
- ~~3. Collector Roads on the City Street System.~~

~~Category II roads will be numbered by the Department; however, signing of the roads will be the responsibility of other jurisdictions.~~

(c) Category III, the state park roads system and county roads or streets not functionally classified as collector or arterial roads. The Department will number a Category III road upon request by the entity having jurisdiction over the road; however that jurisdiction would have responsibility for erecting and maintaining corresponding signs.

- ~~1. State Park Roads.~~
- ~~2. Significant County Roads.~~
- ~~3. Significant City Streets~~
- ~~4. Significant Private or Toll Roads~~

~~Category III roads may be numbered by the Department upon request by other jurisdictions, and will be signed by other jurisdictions.~~

(3) Signs and Symbols. Signs and symbols to be utilized in the uniform state numbering plan will be in accordance with the standards of the American Association of State Highway and Transportation Officials (AASHTO), the Florida Department of Transportation, and the National Association of Counties as referenced in the Manual of Uniform Traffic Control Devices, which is incorporated by reference under

Rule 14-15.010, F.A.C. Appropriate symbols will be employed with the road numbers for usage on the Official State Highway Map and the County General Highway Map series.

(4) Renumbering of Roads. The Florida Road Numbering Plan will generally utilize existing state road numbers. However, changes in existing road numbers will be instituted where such numbers have caused public confusion, e.g., multiple usage of the same road number in a region, or where the road numbering plan in a region might be improved by a general revision of the existing numbering scheme. In such instances, when revisions to the existing state road numbers are proposed, it shall be the policy of the Department to conduct a public hearing in accordance with ~~the intent of~~ Section 335.02, F.S. Florida Statutes.

Specific Authority 334.044(2) FS. Law Implemented 334.03, 334.044(11), 335.01, 335.02, 335.08 FS. History–New 3-18-76, Formerly 14-33.02, Amended 8-5-96,_____.

BOARD OF TRUSTEES OF THE INTERNAL IMPROVEMENT TRUST FUND

Notices for the Board of Trustees of the Internal Improvement Trust Fund between December 28, 2001 and June 30, 2006, go to <http://www.dep.state.fl.us/> under the link or button titled “Official Notices.”

BOARD OF TRUSTEES OF INTERNAL IMPROVEMENT TRUST FUND

RULE CHAPTER NO.:	RULE CHAPTER TITLE:
18-1	State Land Acquisition Procedures (Formerly 16Q-3)
RULE NOS.:	RULE TITLES:
18-1.002	Definitions
18-1.003	General Requirements
18-1.005	Appraisal Map and Survey
18-1.006	Appraisal Procedures, Report Requirements and Determining Maximum Amounts
18-1.007	Designated Appraisal Organizations and Appraiser Selection
18-1.008	Negotiations

PURPOSE AND EFFECT: The Division of State Lands operates its land acquisition and appraisal processes through statute, rule, and internal department guidelines, through delegations from and approvals by the Board of Trustees. Recent changes in statutes, and Board of Trustees’ policies and guidelines, which were adopted at lawfully advertised public meetings, have not been adopted by rule. Rule amendments are needed to clarify and implement statutes and policies adopted by the Board for land acquisition and appraisal procedures. These rule amendments will implement recommendations of the Auditor General’s Office in a June 2005 operational audit.

SUBJECT AREA TO BE ADDRESSED: The rule amendments will do the following: clarify appraisal-related terms by adding or amending definitions; clarify the use of federal procedures, including when it is acceptable or required; add references to Chapter 259, Florida Statutes; incorporate by reference the “Supplemental Appraisal Standards for Board of Trustees Land,” and reduce redundancy and inconsistency between it and the current rule; update the rule to conform, to the extent practicable, to technical changes of the Appraisal Foundation, as published annually in the “Uniform Standards of Professional Appraisal Practice”; clarify the meaning of “approved appraiser organization”; and update the appraiser selection procedures to reflect current practice for land acquisitions.

SPECIFIC AUTHORITY: 253.025(6), 253.025(7), 253.025(12), 253.03(7), 253.034(6), 259.041(2), 259.041(7) FS.

LAW IMPLEMENTED: 253.025, 259.041 FS.

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

DATE AND TIME: Friday January 26, 2007, 10:00 a.m. EST
PLACE: Marjory Stoneman Douglas Building, Conference Room A, 3900 Commonwealth Blvd., Tallahassee, Florida

Pursuant to the provisions of the Americans with Disabilities Act, any person requiring special accommodations to participate in this workshop/meeting is asked to advise the agency at least 48 hours before the workshop/meeting by contacting: Kerry Drakes, Division of State Lands, MS 110, 3900 Commonwealth Blvd., Tallahassee, FL 32399-3000, (850)245-2658, e-mail Kerry.Drakes@dep.state.fl.us. If you are hearing or speech impaired, please contact the agency using the Florida Relay Service, 1(800)955-8771 (TDD) or 1(800)955-8770 (Voice).

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT AND A COPY OF THE PRELIMINARY DRAFT, IF AVAILABLE, IS: Draft rule changes can be found on the Internet at www.dep.state.fl.us/lands or contact Kerry Drakes at the address or phone number above

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

BOARD OF TRUSTEES OF INTERNAL IMPROVEMENT TRUST FUND

RULE CHAPTER NO.:	RULE CHAPTER TITLE:
18-2	Management of Uplands Vested in the Board of Trustees
RULE NOS.:	RULE TITLES:
18-2.017	Definitions
18-2.018	Policies, Standards, and Criteria for Evaluating, Approving or Denying Requests to Use Uplands
18-2.020	Payments and Consideration

PURPOSE AND EFFECT: The Division of State Lands operates its land acquisition, land management, and appraisal processes through statute, rule, and internal department guidelines, through delegations from and approvals by the Board of Trustees. Recent changes in statutes, and Board of Trustees' policies and guidelines, which were adopted at lawfully advertised public meetings, have not been adopted by rule. Rule amendments are needed to clarify and implement statutes and policies adopted by the Board for state land appraisal procedures. These rule amendments will implement recommendations of the Auditor General's Office in a June 2005 operational audit. They will improve consistency, adequacy and clarity pertaining to the disposition and management of state land. The changes will also protect the Board of Trustees against loss of revenue related to oil and gas lease terminations.

SUBJECT AREA TO BE ADDRESSED: Revisions to the rule will do the following: clarify appraisal-related terms by adding definitions; clarify the term “appraisal” to include appraisal services, including appraisal reviews; add appraiser selection procedures; incorporate by reference the “Supplemental Appraisal Standards for Board of Trustees Land” for leases, easements, and disposal of uplands; eliminate the use of acreage in determination of whether a parcel should be competitively bid or not, and consider dollar value only; eliminate the requirement that the value of private land for exchange purposes shall be no more than 100% of the average if two appraisals are used, in order to be consistent with acquisition rules; delete provisions that require submittal of appraisals with bids; provide financial security against loss of revenue resulting from an oil and gas lessee's failure to comply with the terms and conditions of a lease; clarify reporting requirements and provide procedures for late payments and reports for oil and gas leases; remove the necessity for a full legal description and listing of land use restrictions when noticing surplus land sales. To differentiate this rulemaking from another concurrent rulemaking in this chapter, this rulemaking will be called “Appraisal Rules.”

SPECIFIC AUTHORITY: 253.03(7), (11), 253.034(6) FS.

LAW IMPLEMENTED: 253.03, 253.034, 253.0341, 253.111, 253.115, 253.42, 253.421, 253.47-.60 FS.

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

DATE AND TIME: Friday, January 26, 2007, 10:00 a.m.
PLACE: Marjory Stoneman Douglas Building Conference Room A, 3900 Commonwealth Blvd., Tallahassee, Florida

Pursuant to the provisions of the Americans with Disabilities Act, any person requiring special accommodations to participate in this workshop/meeting is asked to advise the agency at least 48 hours before the workshop/meeting by contacting: Kerry Drakes, Division of State Lands, MS 110, 3900 Commonwealth Blvd., Tallahassee, FL 32399-3000, (850)245-2658, e-mail Kerry.Drakes@dep.state.fl.us If you are

hearing or speech impaired, please contact the agency using the Florida Relay Service, 1(800)955-8771 (TDD) or 1(800)955-8770 (Voice).

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT AND A COPY OF THE PRELIMINARY DRAFT, IF AVAILABLE, IS: Draft rule changes can be found on the Internet at www.dep.state.fl.us/lands or contact Kerry Drakes at the address or phone number above

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

BOARD OF TRUSTEES OF INTERNAL IMPROVEMENT TRUST FUND

RULE CHAPTER NO.: RULE CHAPTER TITLE:
 18-21 Sovereignty Submerged Lands Management

RULE NOS.: RULE TITLES:
 18-21.003 Definitions
 18-21.010 Applications for Private Easement
 18-21.011 Payments and Fees
 18-21.013 Applications to Purchase Lands Riparian to Uplands

PURPOSE AND EFFECT: The rule amendments are needed to clarify and implement statutes and policies adopted by the Board of Trustees for submerged land management and appraisal procedures. These rule amendments will also implement recommendations of the Auditor General’s Office in a June 2005 operational audit.

SUBJECT AREA TO BE ADDRESSED: The rule amendments will do the following: clarify appraisal-related terms by adding or amending definitions; clarify the term of a private easement; create exceptions to costly appraisal requirements for single-family residential property owners and allow valuation of private easements by alternative methods; clarify the cost of private easements; adopt appraiser selection procedures for submerged lands easements; incorporate by reference the “Supplemental Appraisal Standards for Board of Trustees Land”; and make minor revisions to correct errors, update and clarify existing rules. Any rule section in chapter 18-21 may be opened if necessary to implement the objectives of this rulemaking.

SPECIFIC AUTHORITY: 253.03(7), 253.03(11) FS.
 LAW IMPLEMENTED: 253.03, 253.77 FS.

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

DATE AND TIME: Friday January 26, 2007, 10:00 a.m.
 PLACE: Marjory Stoneman Douglas Building, Conference Room A, 3900 Commonwealth Blvd., Tallahassee, Florida
 Pursuant to the provisions of the Americans with Disabilities Act, any person requiring special accommodations to participate in this workshop/meeting is asked to advise the

agency at least 48 hours before the workshop/meeting by contacting: Vicki Thompson, Division of State Lands, MS 130, 3900 Commonwealth Blvd., Tallahassee, FL 32399-3000, (850)245-2720; e-mail Vicki.Thompson@dep.state.fl.us. If you are hearing or speech impaired, please contact the agency using the Florida Relay Service, 1(800)955-8771 (TDD) or 1(800)955-8770 (Voice).

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT AND A COPY OF THE PRELIMINARY DRAFT, IF AVAILABLE, IS: Vicki Thompson at the address or phone number above.

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

STATE BOARD OF ADMINISTRATION

RULE NOS.: RULE TITLES:
 19-8.010 Reimbursement Contract
 19-8.028 Reimbursement Premium
 19-8.029 Insurer Reporting Requirements
 19-8.030 Insurer Responsibilities

PURPOSE AND EFFECT: To discuss proposed amendments to the following rules: Rule 19-8.010, F.A.C., the annual Reimbursement Contract, Rule 19-8.028, F.A.C., the annual Reimbursement Premium Formula, Rule 19-8.029, F.A.C., the Insurer Reporting Requirements, and Rule 19-8.030, F.A.C., Insurer Responsibilities.

SUBJECT AREA TO BE ADDRESSED: Contract requirements, premium formula requirements, insurer reporting requirements for the 2007-2008 contract year, and insurer responsibilities.

SPECIFIC AUTHORITY: 215.555(3) FS.
 LAW IMPLEMENTED: 215.555 FS.

REGARDLESS OF WHETHER OR NOT REQUESTED, A RULE DEVELOPMENT WORKSHOP WILL BE HELD AT THE DATE, TIME AND PLACE SHOWN BELOW:

DATE AND TIME: January 31, 2007, 9:00 a.m. – 12:00 Noon (ET)

PLACE: Room 116 (Hermitage Conference Room), 1801 Hermitage Blvd., Tallahassee, Florida 32308

TELEPHONE: The conference call number for those who wish to participate by telephone is (850)410-0968 or Suncom 210-0968.

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT, IF AVAILABLE, IS: Jack E. Nicholson, Senior FHCF Officer, State Board of Administration, P. O. Box 13300, Tallahassee, Florida 32317-3300; telephone (850)413-1340

Copies of the proposed amended rules and the agenda for the workshop may be obtained from: Tracy Allen, State Board of Administration, P. O. Box 13300, Tallahassee, FL 32317-3300; (850)413-1341. Any person requiring special accommodations to participate in this proceeding is asked to advise Tracy Allen at least five (5) calendar days before such proceeding.

DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION

Division of Pari-Mutuel Wagering

RULE NOS.:	RULE TITLES:
61D-7.020	Pari-Mutuels
61D-7.025	Totalisator Performance Bond or Insurance Contract Requirement

PURPOSE AND EFFECT: The purpose and effect of the proposed rule will be to amend the Division’s rules regarding foreign wagers and to create a new rule regarding totalisator performance bond or insurance contract requirements.

SUBJECT AREA TO BE ADDRESSED: The subject areas to be addressed in this rule are: Conversion to United States Dollars of foreign wagers that are commingled with Florida on-track pari-mutuel pools; and the format of the surety bonds required of all totalisator companies.

SPECIFIC AUTHORITY 550.0251(3), (7), 550.105(2)(b), 550.155(1), 550.3551(10), 550.495(2), (4), 550.6305(5) FS.

LAW IMPLEMENTED 550.0251, 550.0425, 550.105, 550.155, 550.495, 550.70 FS.

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

DATE AND TIME: January 23, 2007, 10:00 a.m. – Noon
PLACE: Florida Department of Business and Professional Regulation, Northwood Centre, Board Room, 1940 N. Monroe Street, Tallahassee, Florida 32399

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT AND A COPY OF THE PRELIMINARY DRAFT, IF AVAILABLE, IS: Mary Polombo, Clerk, Division of Pari-Mutuel Wagering, 1940 North Monroe Street, Tallahassee, Florida 32399-1035

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 Mary Polombo at (850)413-0750. If you are hearing or speech impaired, please contact the agency using the Florida Dual Party Relay System by calling (800)955-8770 (Voice) or (800)955-8771 (TDD).

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

DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION

Division of Pari-Mutuel Wagering

RULE NOS.:	RULE TITLES:
61D-8.002	Financial Reporting Requirements
61D-8.006	Purse Requirements, Greyhound Racing

PURPOSE AND EFFECT: The purpose and effect of the proposed rule will be to amend the Division’s rules regarding the annual financial reporting requirements of pari-mutuel permitholders and greyhound purse deductions and kennel owner’s expenses.

SUBJECT AREA TO BE ADDRESSED: The subject areas to be addressed in this rule are: Annual financial reporting requirements of pari-mutuel permitholders; greyhound purse payment deductions for fees allowed by Section 550.09514(2)(h), F.S.; and related costs deducted by the permitholder.

SPECIFIC AUTHORITY: 550.0251(3), (7), (9), 550.125(2)(b), 550.155(1), 550.3551(10), 550.6305(5) FS.

LAW IMPLEMENTED: 550.0251, 550.0951(5), 550.09514(2)(d), 550.125, 550.155, 550.3551, 550.615, 550.6305, 550.6335 FS.

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

DATE AND TIME: January 23, 2007, 10:00 a.m. – Noon
PLACE: Florida Department of Business and Professional Regulation, Northwood Centre, Board Room, 1940 N. Monroe Street, Tallahassee, Florida 32399

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT AND A COPY OF THE PRELIMINARY DRAFT, IF AVAILABLE, IS: Mary Polombo, Clerk, Division of Pari-Mutuel Wagering, 1940 North Monroe Street, Tallahassee, Florida 32399-1035

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 Mary Polombo at (850)413-0750. If you are hearing or speech impaired, please contact the agency using the Florida Dual Party Relay System by calling (800)955-8770 (Voice) or (800)955-8771 (TDD).

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

DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION

Division of Pari-Mutuel Wagering

RULE NO.: 61D-9.006
 RULE TITLE: Totalisator Operations and Hub Systems Located Outside Florida

PURPOSE AND EFFECT: The purpose and effect of the proposed rule will be to write a new rule to address relocation of Florida totalisator hubs outside the state of Florida.

SUBJECT AREA TO BE ADDRESSED: The subject areas to be addressed in this rule are: Relocation of Florida totalisator hubs outside the state of Florida.

SPECIFIC AUTHORITY: 550.0251(3), (7), 550.155(1), 550.495(4) FS.

LAW IMPLEMENTED: 550.0251, 550.155, 550.495 FS.

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

DATE AND TIME: January 23, 2007, 10:00 a.m. – Noon

PLACE: Florida Department of Business and Professional Regulation, Northwood Centre, Board Room, 1940 N. Monroe Street, Tallahassee, Florida 32399

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT AND A COPY OF THE PRELIMINARY DRAFT, IF AVAILABLE, IS: Mary Polombo, Clerk, Division of Pari-Mutuel Wagering, 1940 North Monroe Street, Tallahassee, Florida 32399-1035

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 Mary Polombo at (850)413-0750. If you are hearing or speech impaired, please contact the agency using the Florida Dual Party Relay System by calling (800)955-8770 (Voice) or (800)955-8771 (TDD).

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

DEPARTMENT OF ENVIRONMENTAL PROTECTION

Notices for the Department of Environmental Protection between December 28, 2001 and June 30, 2006, go to <http://www.dep.state.fl.us/> under the link or button titled "Official Notices."

DEPARTMENT OF HEALTH

Board of Clinical Laboratory Personnel

RULE NO.: 64B3-11.001
 RULE TITLE: Continuing Education

PURPOSE AND EFFECT: The Board proposes to review the entirety of this Rule to ensure that all it conforms with existing statutory requirements and to determine if amendments and/or new rule language is necessary pertaining to all matters concerning the clinical laboratory personnel profession or other mandatory requisites, pursuant to Section 120.74, F.S.

SUBJECT AREA TO BE ADDRESSED: Education for clinical laboratory personnel.

SPECIFIC AUTHORITY: 456.013, 483.821 FS.

LAW IMPLEMENTED: 456.013, 483.821 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: Joe Baker, Jr., Executive Director, Board of Clinical Laboratory Personnel, 4052 Bald Cypress Way, Bin #C07, Tallahassee, Florida 32399-3257

THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS:

64B3-11.001 Continuing Education.

(1) In order to renew a clinical laboratory personnel license, a minimum of 24 contact hours of continuing education shall be earned during each biennium including a minimum of one contact hour for each of the categories in which the individual is licensed, ~~and one contact hour of continuing education on HIV/AIDS.~~ Also, as a part of the 24 continuing education hours, each licensee shall take a Board approved 2-hour course relating to the prevention of medical errors, which shall include root-cause analysis, error reduction and prevention, and patient safety. Directors and supervisors are required to obtain one contact hour of continuing education in administration and supervision. As part of the minimum of 24 contact hours of continuing education, each licensee shall be required to take a one hour course on Florida laws and rules governing clinical laboratory personnel or attend a public meeting of the full Board at which disciplinary actions are addressed. A telephone conference call meeting of the Board will not satisfy this requirement.

(2) through (9) No change.

Specific Authority 456.013, 483.821 FS. Law Implemented 456.013, 483.821 FS. History–New 2-22-94, Amended 7-13-94, Formerly, 61F3-11.001, Amended 12-11-94, 3-28-95, 12-4-95, 7-1-97, Formerly 59O-11.001, Amended 3-19-98, 12-13-99, 3-20-01, 10-13-02, 3-18-03, 2-24-04,_____.

DEPARTMENT OF HEALTH

Board of Clinical Laboratory Personnel

RULE NO.: RULE TITLE:
64B3-11.005 Mandatory HIV/AIDS Education for Initial Licensure and Renewal

PURPOSE AND EFFECT: The purpose of the rule amendment is to add language to conform with new statutory language.

SUBJECT AREA TO BE ADDRESSED: Mandatory HIV/AIDS Education for first Initial Licensure Renewal.

SPECIFIC AUTHORITY: 483.823 FS.

LAW IMPLEMENTED: 456.033(6), 483.823 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: Joe Baker, Jr., Executive Director, Board of Clinical Laboratory Personnel, 4052 Bald Cypress Way, Bin #C07, Tallahassee, Florida 32399-3257

THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS:

64B3-11.005 Mandatory HIV/AIDS Education for Initial Licensure and Renewal.

Applicants for initial licensure and first renewal shall complete a one hour HIV/AIDS continuing education course pursuant to Section 381.0034, and Chapter 456, F.S., which shall:

- (1) through (2) No change.

Specific Authority 483.823 FS. Law Implemented 456.033(6), 483.823 FS. History–New 12-6-94, Amended 12-4-95, 7-1-97, Formerly 59O-11.005, Amended 10-12-03, 9-15-05,_____.

DEPARTMENT OF HEALTH

Board of Clinical Laboratory Personnel

RULE NO.: RULE TITLE:
64B3-12.002 Citations

PURPOSE AND EFFECT: The purpose of rule amendment is to clarify the penalty for failure to comply with CE requirements.

SUBJECT AREA TO BE ADDRESSED: Citations.

SPECIFIC AUTHORITY: 483.805(4), 483.827 FS.

LAW IMPLEMENTED: 456.077(1), (2), 483.827 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: Joe Baker, Jr., Executive Director, Board of Clinical Laboratory Personnel, 4052 Bald Cypress Way, Bin #C07, Tallahassee, Florida 32399-3257

THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS:

64B3-12.002 Citations.

- (1) through (3)(e) No change.

~~(f)(g)~~ Failure to report to the Board in writing within 30 days after the licensee has been convicted or found guilty of, or entered a plea of nolo contendere to, regardless of adjudication, a crime in any jurisdiction as required by Section 456.072(1)(w), F.S.

~~(f)~~ Failure to comply with continuing education requirements pursuant to Rule 64B3-11.001, F.A.C.

~~(g)(h)~~ Failure to report to the Board in writing within 30 days of action taken against a license to practice by another jurisdiction as required by Section 483.825(1)(k), F.S.

~~(h)(i)~~ Failure to comply with a portion of a Final Order of the Board due to negligence pursuant to Section 483.825(1)(n), F.S.

~~(4) Failure to comply with and document continuing education requirements shall result in a fine of \$50.00 per hour missing or incomplete, pursuant to Rule 64B3-11.001, F.A.C.~~

~~(5)(4)~~ In addition to the penalties established in this rule, the Department shall recover the costs of investigation. The penalty specified in the citation shall be the sum of the penalty established by this rule plus the Department’s cost of investigation.

~~(6)(5)~~ If the subject disputes any matter contained in the citation, within thirty days after service, the Department shall follow the procedure set forth in Section 456.073, F.S. Otherwise, the citation shall become a final order of the Board.

~~(7)(6)~~ The Department shall report to the Board regarding the number of citations issued and the nature of the offenses for which they were issued.

Specific Authority 456.077(1), (2), 483.805(4), 483.827 FS. Law Implemented 456.077(1), (2), 483.827 FS. History–New 8-3-93, Formerly 61F3-12.002, 59O-12.002, Amended 4-10-01, 9-9-02, 2-24-04,_____.

DEPARTMENT OF HEALTH

Board of Clinical Laboratory Personnel

RULE NO.: RULE TITLE:
64B3-13.001 Responsibilities of Directors

PURPOSE AND EFFECT: The purpose of the rule amendments is to clarify the responsibilities of a licensed supervisor.

SUBJECT AREA TO BE ADDRESSED: Directors Responsibilities.

SPECIFIC AUTHORITY: 483.805(4) FS.
 LAW IMPLEMENTED: 483.800, 483.813, 483.823, 483.825 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: Joe Baker, Jr., Executive Director, Board of Clinical Laboratory Personnel, 4052 Bald Cypress Way, Bin #C07, Tallahassee, Florida 32399-3257

THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS:

- 64B3-13.001 Responsibilities of Directors.
 - (1) through (4) No change.
 - (5) The director can delegate performance of responsibilities to licensed supervisors, with the exception of the approval, signing and dating of procedures. However, the director remains responsible for ensuring that all duties are properly performed. The delegation of responsibilities must be written and specific.
 - (6) through (r) No change.
 - (s) Ensure that a procedure manual approved, signed, and dated by the clinical laboratory director both initially and biennially thereafter is available to all personnel responsible for any aspect of the testing process.
 - (t) through (y) No change.
 - (7) No change.

Specific Authority 483.805(4) FS. Law Implemented 483.800, 483.813, 483.823, 483.825 FS. History—New 12-6-94, Amended 3-28-95, Formerly 59O-13.001, Amended 4-7-02,_____.

FINANCIAL SERVICES COMMISSION

OIR – Insurance Regulation

RULE NO.:	RULE TITLE:
69O-138.002	Financial, Rate, and Market Conduct Examination Reimbursement Expenses

PURPOSE AND EFFECT: The amendment establishes the rates for reimbursement for examinations conducted by Office of Insurance Regulation employees.

SUBJECT AREA TO BE ADDRESSED: Examination Reimbursement.

SPECIFIC AUTHORITY: 624.308(1) FS.
 LAW IMPLEMENTED: 624.307(1), 624.316, 624.3161, 624.320 FS.

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

DATE AND TIME: January 29, 2007, 1:30 p.m.
 PLACE: Room 116, Larson Building, 200 East Gaines Street, Tallahassee, Florida

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT AND A COPY OF THE PRELIMINARY DRAFT, IF AVAILABLE, IS: Claude Mueller, Director, Property and Casualty Financial Oversight, Office of Insurance Regulation, E-mail: Claude.Mueller@fldfs.com (Financial Exams); and Sam Binnun, Director, Market Investigations, Office of Insurance Regulation, E-mail: Sam Binnun@fldfs.com (Market Conduct Exams).

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

THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS AVAILABLE AT NO CHANGE FROM THE CONTACT PERSON OR ON THE OFFICE’S WEBSITE AT: www.floir.com.

**Section II
 Proposed Rules**

BOARD OF TRUSTEES OF THE INTERNAL IMPROVEMENT TRUST FUND

Notices for the Board of Trustees of the Internal Improvement Trust Fund between December 28, 2001 and June 30, 2006, go to <http://www.dep.state.fl.us/> under the link or button titled “Official Notices.”

PUBLIC SERVICE COMMISSION

DOCKET NO. 050108-OT	
RULE NO.:	RULE TITLE:
25-40.001	Exceptions to the Uniform Rules of Procedure

PURPOSE AND EFFECT: To revise the list of Commission rules that are exceptions from the Uniform Rules of Procedure.

SUMMARY: Rule 25-40.001, F.A.C., Exceptions to the Uniform Rules of Procedure, is being amended to reflect the new exception for Rule 25-22.0022, F.A.C., Oral Argument, and to reflect the repeal of an existing exception, Rule 25-22.058, F.A.C., Oral Argument.

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