

(r) Failing to clearly and conspicuously disclose the fact that the product being sold is life insurance or an annuity contract.

(s) Failing to make, at the time of sale or offer to an individual known to be a service member, the written disclosures required by Section 10 of the "Military Personnel Financial Services Protection Act," Pub. L. No. 109-290, p.16, which are hereby incorporated by reference.

(t) When the sale is conducted in-person face-to-face with an individual known to be a service member, failing to provide the applicant at the time the application is taken:

1. An explanation of any free look period with instructions on how to cancel if a policy is issued; and

2. Either a copy of the application or a written disclosure. The copy of the application or the written disclosure shall clearly and concisely set out the type of life insurance or annuity contract, the death benefit applied for and its expected first year cost. A basic illustration that meets the requirements of Section 626.99, F.S., shall be deemed sufficient to meet this requirement for a written disclosure.

(u) Excluding individually issued annuities, recommending the purchase of any life insurance product which includes a side fund to a service member unless the insurer has reasonable grounds for believing that the life insurance death benefit, standing alone, is suitable.

(v) Offering for sale or selling a life insurance product which includes a side fund to a service member, who is currently enrolled in SGLI, is presumed unsuitable unless, after the completion of a needs assessment, the insurer demonstrates that the applicant's SGLI death benefit, together with any other military survivor benefits, savings and investments, survivor income, and other life insurance are insufficient to meet the applicant's insurable needs for life insurance.

1. "Insurable needs" are the risks associated with premature death, taking into consideration the financial obligations and immediate and future cash needs of the applicant's estate and/or survivors or dependents.

2. "Other military survivor benefits" include, but are not limited to: the Death Gratuity, Funeral Reimbursement, Transition Assistance, Survivor and Dependents' Educational Assistance, Dependency and Indemnity Compensation, TRICARE Healthcare benefits, Survivor Housing Benefits and Allowances, Federal Income Tax Forgiveness, and Social Security Survivor Benefits.

(w) Excluding individually issued annuities, offering for sale or selling any life insurance contract which includes a side fund:

1. Unless interest credited accrues from the date of deposit to the date of withdrawal and permits withdrawals without limit or penalty;

2. Unless the applicant has been provided with a schedule of effective rates of return based upon cash flows of the combined product. For this disclosure, the effective rate of

return will consider all premiums and cash contributions made by the policyholder and all cash accumulations and cash surrender values available to the policyholder in addition to life insurance coverage. This schedule will be provided for at least each policy year from one (1) to ten (10) and for every fifth policy year thereafter ending at age 100, policy maturity, or final expiration; and

3. Which by default diverts or transfers funds accumulated in the side fund to pay, reduce, or offset any premiums due.

(x) Excluding individually issued annuities, offering for sale or selling any life insurance contract which after considering all policy benefits, including but not limited to endowment, return of premium or persistency, does not comply with standard nonforfeiture law for life insurance.

(y) Selling any life insurance product to an individual known to be a service member that excludes coverage if the insured's death is related to war, declared or undeclared, or any act related to military service except for an accidental death coverage, e.g., double indemnity, which may be excluded.

(7) The department has authority to investigate the affairs of any person to whom this rule applies to determine whether such person has violated this rule. If such investigation demonstrates that a violation of this rule has occurred, the person in violation shall be subject to the procedures and penalties provided in Sections 626.9571, 626.9581, 626.9591, and 626.9601, F.S.

Specific Authority 624.308(1), 626.9541(1), 626.9611(2) FS. Law Implemented 626.307(1), 626.951, 626.9521, 626.9541(1), 626.9611 FS. History--New _____.

Section II Proposed Rules

DEPARTMENT OF REVENUE

Sales and Use Tax

RULE NOS.:	RULE TITLES:
12A-1.038	Consumer's Certificate of Exemption; Exemption Certificates
12A-1.039	Sales for Resale
12A-1.056	Tax Due at Time of Sale; Tax Returns and Regulations

PURPOSE AND EFFECT: The purpose of the proposed amendments to Rule 12A-1.038, F.A.C. (Consumer's Certificate of Exemption; Exemption Certificates), and Rule 12A-1.039, F.A.C. (Sales for Resale), is to: (1) provide instructions for the Department's on-line Certificate Verification System, which allows users to verify the validity of an entity's Florida Consumer's Certificate of Exemption number and the validity of a purchaser's sales tax certificate of registration number; (2) update information on where to contact the Department regarding the verification of an entity's Florida Consumer's Certificate of Exemption number or the

verification of a certificate of registration number; and (3) clarify that selling dealers are required to maintain copies of the Florida Consumer's Certificate of Exemption of each entity to which they make tax-exempt sales and are required to maintain a copy of the annual resale certificate of each customer to which they make tax-exempt sales.

The purpose of the proposed amendments to Rule 12A-1.056, F.A.C. (Tax Due at Time of Sale; Tax Returns and Regulations) is: (1) to provide instructions for the authority granted under Chapter 2006-52, L.O.F., which allows taxpayers to forego their authorized collection allowance and to direct the Department to transfer the foregone collection allowance to the Educational Enhancement Trust Fund; and (2) remove provisions regarding the Apalachicola Bay Oyster Surcharge, rendered obsolete by Chapter 2006-185, L.O.F.

SUMMARY: The proposed amendments to Rule 12A-1.038, F.A.C. (Consumer's Certificate of Exemption; Exemption Certificates): (1) provide instructions for use of the Department's on-line Certificate Verification System, which allows users to verify the validity of an entity's Florida Consumer's Certificate of Exemption number; (2) update information on where to contact the Department regarding the verification of an entity's Florida Consumer's Certificate of Exemption number; and (3) clarify that selling dealers are required to maintain copies of the Florida Consumer's Certificate of Exemption of each entity to which they make tax-exempt sales.

The proposed amendments to Rule 12A-1.039, F.A.C. (Sales for Resale): (1) provide instructions for use of the Department's on-line Certificate Verification System, which allows users to verify the validity of a purchaser's sales tax certificate of registration number; (2) update information on where to contact the Department regarding the verification of a certificate of registration number; and (3) clarify that selling dealers are required to maintain a copy of the annual resale certificate of each customer to which they make tax-exempt sales.

The proposed amendments to Rule 12A-1.056, F.A.C. (Tax Due at Time of Sale; Tax Returns and Regulations): (1) provide instructions regarding the authority granted under Chapter 2006-52, L.O.F., for taxpayers to forego their authorized collection allowance and direct the Department to transfer the amount of the foregone collection allowance to the Educational Enhancement Trust Fund; and (2) remove provisions regarding the Apalachicola Bay Oyster Surcharge, rendered obsolete by Chapter 2006-185, L.O.F.

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

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

SPECIFIC AUTHORITY: 212.07(1)(b), 212.17(6), 212.18(2), 213.06(1) FS.

LAW IMPLEMENTED: 95.091(3), 125.0104(3)(g), 125.0108(2)(a), 212.02(4), (14), 212.03(2), 212.0305(3)(c), 212.031(3), 212.04(3), (4), 212.05(1)(b), (i), (j), 212.0506(4), (11), 212.055, 212.06(1)(a), (c), (16), 212.0601, 212.0606, 212.07(1), 212.08(5)(m), (6), (7), 212.085, 212.11, 212.12(1), (2), (3), (4), (5), 212.13(5)(c), (d), 212.14(2), 212.15(1), 212.17(6), 212.18(2), (3), 212.21(2), 213.053(10), 213.235, 213.755, 373.41492, 376.70, 376.75, 403.718, 403.7185, 681.117 FS.

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

DATE AND TIME: September 5, 2007, 9:00 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 48 hours 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 RULES IS: Janet L. Young, Tax Law Specialist, Technical Assistance and Dispute Resolution, Department of Revenue, P. O. Box 7443, Tallahassee, Florida 32314-7443, telephone (850)922-9407

THE FULL TEXT OF THE PROPOSED RULES IS:

12A-1.038 Consumer's Certificate of Exemption; Exemption Certificates.

(1) through (2) No change.

(3) SALES MADE TO EXEMPT ENTITIES OTHER THAN GOVERNMENTAL UNITS.

(a) through (e) No change.

(f) The validity of a Florida Consumer's Certificate of Exemption may be verified by using the Department's on-line Certificate Verification System at www.myflorida.com/dor/eservices or by calling the Department's automated nationwide toll-free verification Department of Revenue's touch-tone telephone authorization system at 1(877)357-3725. Persons with hearing or speech impairments may call the Department's TDD; at 1(800)367-8331.

(g)1. TRANSACTION AUTHORIZATION NUMBER ISSUED AT POINT-OF-SALE – VALID FOR A SINGLE TRANSACTION ONLY. In lieu of obtaining a copy of the exempt entity's valid Consumer's Certificate of Exemption for each sale, the selling dealer may obtain a Transaction

Authorization Number or a Vendor Authorization Number from the Department when making a tax-exempt sale to the exempt entity or its authorized representative.

2. The selling dealer may obtain a transaction authorization number at the point-of-sale by using the Department's on-line Certificate Verification System at www.myflorida.com/dor/eservices or by calling the Department's automated nationwide toll-free verification system at 1(877)357-3725. When using the Department's on-line Certificate Verification System, the dealer may key up to five Florida Consumer's Certificate of Exemption numbers into the system. When using the Department's automated nationwide toll-free verification system, Using a touch tone telephone, the selling dealer is prompted to key in a single Florida the purchaser's Consumer's Certificate of Exemption number Number. Either verification The system will either issue a 13-digit transaction authorization number or alert the selling dealer that the purchaser does not have a valid Florida Consumer's Certificate of Exemption. Selling dealers using the automated telephone verification system who do not have a touch-tone telephone will be connected to a live operator during the hours of 8:00 a.m. to 7:00 p.m. (Eastern Time), Monday through Friday. Persons with hearing or speech impairments may call the Department's TDD at 1(800)367-8331.

3. The selling dealer must document the transaction authorization number on the sales invoice, purchase order, or other document that is prepared by the purchaser or the selling dealer to document the tax exempt purchase by the exempt entity.

4. A transaction authorization number is valid for a single sales transaction and is not valid to properly document subsequent sales made to the same entity. The selling dealer must obtain a new vendor authorization number for subsequent tax exempt transactions.

(h)1. VENDOR AUTHORIZATION NUMBER FOR REGULAR CUSTOMERS – VALID FOR CALENDAR YEAR ISSUE. In lieu of obtaining a copy of the exempt entity's valid Florida Consumer's Certificate of Exemption or a Transaction Authorization Number from the Department for each sale to the entity, the selling dealer may obtain a Vendor Authorization Number for that entity. This option is available to selling dealers throughout the calendar year without limitation. The selling dealer must maintain a copy of the exempt entity's Florida Consumer's Certificate of Exemption in its books and records.

2. The "vendor authorization number" is a customer-specific authorization number that will be valid for all sales made to an exempt entity during the calendar year.

3. To obtain vendor authorization numbers, the selling dealer may use the Department's on-line Certificate Verification System at www.myflorida.com/dor/eservices or send a written request must forward to the Department, using

an electronic medium, a list of the dealer's regular customers for which the dealer has a Consumer's Certificate of Exemption number. Dealers obtaining authorization numbers by submitting a written request to the Department may obtain the The electronic format for sending the customer data may be obtained from the Department's web site at www.myflorida.com/dor or call by calling the Department at (850)488-3516 to obtain the electronic format.

a. The written request should be forwarded to the Florida Department of Revenue, Production Control, G-18 Carlton Building, Tallahassee, Florida 32399-0100, along with an electronic file containing a list of the dealer's regular customers for which the dealer has a Florida Consumer's Certificate of Exemption number on file. In response to the request, the Department will issue to the selling dealer, using the same electronic medium, a list containing a unique vendor authorization number for each exempt entity who is a holder of a valid Florida Consumer's Certificate of Exemption.

b. The Department's on-line Certificate Verification System allows the user to verify up to five Florida Consumer's Certificate numbers and to obtain a transaction authorization number for single sales made to each exempt entity at once. The system also allows the user to upload a batch file of up to 50,000 accounts for verification of a Florida Consumer's Certificate of Exemption and, 24 hours later, retrieve the file containing the vendor authorization numbers for all sales made to an exempt entity during the calendar year.

4. The selling dealer may make tax-exempt sales to the exempt entity during the period in which the vendor authorization number for that entity is valid. Vendor authorization numbers are valid for the remainder of the calendar year during which they are issued. However, vendor authorization numbers issued by the Department in November or December are valid for the remainder of that calendar year and the next calendar year.

(4) through (6) No change.

Specific Authority 212.17(6), 212.18(2), 213.06(1) FS. Law Implemented 95.091(3), 212.02(4), (14)(c), 212.05(1)(j), 212.06(1)(c),(16), 212.0601, 212.07(1), 212.08(5)(m), (6), (7), 212.085, 212.18(2), (3), 212.21(2) FS. History—Revised 10-7-68, 6-16-72, Amended 9-28-78, 7-20-82, 4-29-85, Formerly 12A-1.38, Amended 8-10-92, 3-17-93, 9-14-93, 12-13-94, 10-2-01, 6-12-03, 7-31-03, 6-28-04,_____.

12A-1.039 Sales for Resale.

(1) through (2) No change.

(3) Except as provided in subsection (4), a dealer making a sale for resale is required to document the exempt sale by CHOOSING ONE of the following three methods:

(a) No change.

(b) TRANSACTION RESALE AUTHORIZATION NUMBER ISSUED AT POINT-OF-SALE – VALID FOR SINGLE TRANSACTION ONLY. In lieu of obtaining a copy of the purchaser's Annual Resale Certificate for each When

~~making a tax-exempt sale made for the purposes of resale, the selling dealer may obtain a Transaction Resale Authorization Number from the Department in lieu of obtaining a copy of an Annual Resale Certificate from the purchaser or a Vendor Resale Authorization Number from the Department.~~

1. A “transaction resale authorization number” must be obtained by the selling dealer at the point-of-sale by using the Department’s on-line Certificate Verification System at www.myflorida.com/dor/eservices or by calling the Department’s through use of an automated nationwide toll-free telephone verification system at ~~The nationwide toll-free number to access the system is 1(877)357-3725.~~

2. When using the Department’s on-line Certificate Verification System, the dealer may key up to five (5) purchaser’s sales tax certificate of registration numbers into the system. When using the Department’s automated nationwide toll-free verification system, the ~~The~~ selling dealer is prompted to ~~must~~ key in a single in the purchaser’s sales tax certificate of registration number through use of a touch-tone phone. The system will either issue a 13-digit thirteen (13) digit transaction resale authorization number or alert the selling dealer that the purchaser does not have a valid resale certificate. Selling dealers using the automated telephone verification system ~~Callers~~ who do not have a touch-tone phone will be connected to a live operator during the hours of 8:00 a.m. to 7:00 p.m. (Eastern Time), Monday through Friday. Persons with hearing or speech impairments may call the Department’s TDD; at 1(800)367-8331.

3. A transaction resale authorization number is not valid to exempt subsequent resale purchases or rentals made by the same purchaser. A selling dealer must obtain a new transaction resale authorization number for each and every resale transaction.

4. The selling dealer must document the transaction resale authorization number on the sales invoice, purchase order, or a separate form that is prepared by either the purchaser or the selling dealer. The sales invoice, purchase order, or separate form must contain the following statement: “The purchaser hereby certifies that the property or services being purchased or rented are for resale.” This statement must be followed by the signature of the purchaser. The signature may be obtained by the selling dealer through use of an electronic signature pad or other electronic method.

5. Alternatively, in lieu of meeting the requirements of subparagraph 4., the transaction resale authorization number may be documented on a properly completed Uniform Sales and Use Tax Certificate-Multijurisdiction, as provided in subsection (8) of this rule.

(c) VENDOR RESALE AUTHORIZATION NUMBER FOR REGULAR CUSTOMERS WHO HAVE PREVIOUSLY SUBMITTED DOCUMENTATION TO THE SELLING DEALER – VALID FOR CALENDAR YEAR ISSUED. In lieu of obtaining a Transaction Authorization Number or a

copy of the purchaser’s valid Annual Resale Certificate for each ~~When making a tax-exempt sale made for the purposes of resale, the selling dealer may obtain a Vendor Resale Authorization Number from the Department, in lieu of obtaining a Transaction Authorization Number or a copy of the purchaser’s Annual Resale Certificate.~~ This option is available to selling dealers throughout the calendar year without limitation. The selling dealer must maintain a copy of the purchaser’s Annual Resale Certificate, whether valid or outdated.

1. The “Vendor Resale Authorization Number” is a customer-specific authorization number that will be valid for all sales for resale made to a particular customer during the calendar year.

2. To obtain vendor resale authorization numbers, the selling dealer may use the Department’s on-line Certificate Verification System at www.myflorida.com/dor/eservices or send a written request ~~must send~~ to the Department, ~~using an electronic medium, a list of the dealer’s regular customers for which the dealer has a resale certificate number or an outdated Annual Resale Certificate on file.~~

a. The written request may be forwarded to the Department or may be submitted on Form form DR-600013, Request for Verification that Customers are Authorized to Purchase for Resale, or by providing the following information: date of request; name of the dealer’s business; return address; name and telephone number of a contact person. The written request, or completed Form form DR-600013, should be forwarded to: Florida Department of Revenue, Production Control, G-18 G30 Carlton Building, Tallahassee, Florida 32399-0100, along with a list of the dealer’s regular customers for which the dealer has a valid Annual Resale Certificate on file or an outdated Annual Resale Certificate on file. The electronic format for sending the customer data is provided in Form form DR-600013 and may be obtained from the Department’s web site at www.myflorida.com/dor or by calling the Department at 1(850)488-3516. In response to this request, the Department will issue to the selling dealer, using the same electronic medium, a list containing a unique vendor resale authorization number for each customer who is an active registered dealer.

b. The Department’s on-line Certificate Verification System allows the user to verify up to five purchasers’ sales tax certificate of registration numbers and to obtain a transaction authorization number for single sales made to each purchaser at once. The system also allows the user to upload a batch file of up to 50,000 accounts for verification of an Annual Resale Certificate number and, 24 hours later, retrieve the file containing the vendor authorization numbers for sales made for the purposes of resale to each purchaser during the calendar year.

3. The selling dealer may make exempt sales for resale to a customer during the period in which the vendor resale authorization number for that customer is valid. Vendor resale authorization numbers are valid for the remainder of the calendar year during which they are issued. However, vendor resale authorization numbers issued by the Department in November or December shall be valid for the remainder of the current calendar year and the next calendar year.

(4) through (8) No change.

Specific Authority 212.07(1)(b), 212.17(6), 212.18(2), 213.06(1) FS. Law Implemented 95.091(3), 212.02(14), 212.05(1)(b), (i), 212.07(1), 212.085, 212.13(5)(c), (d), 212.17(6), 212.18(2), (3), 212.21(2), 213.053(10) FS. History—Revised 10-7-68, 1-7-70, 6-16-72, 9-26-77, Amended 7-20-82, 4-12-84, Formerly 12A-1.39, Amended 1-2-89, 9-14-93, 12-13-94, 10-2-01, 6-12-03, _____.

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

(1) No change.

(2) COLLECTION ALLOWANCE.

(a) As compensation for the prescribed record keeping, accounting for, and remitting taxes or fees on the same documents utilized for sales and use tax, such seller, person, lessor, dealer, owner, and remitter shall be allowed a collection allowance.

(b) The collection allowance (except for dealers who make mail order sales, see subsection (5) of Rule 12A-1.103, F.A.C.) shall be computed at the rate of 2.5 percent on the first \$1,200 of tax due. There shall be no additional collection allowance authorized for tax collected in excess of \$1,200. Therefore, the maximum amount of collection allowance authorized for any filing period shall be \$30.

(c) Dealers operating more than one place of business and filing under a consolidated tax return, where the consolidated return provides the monthly business activity for each location, are allowed the collection allowance for each reporting and registered location. Dealers who report tax collected within each county using a county-control number are entitled to the collection allowance based upon the total amount reported on the county-control reporting number.

(d) The collection allowance will not be allowed when:

1. The tax reported on the return is delinquent at the time of payment;

2. The required tax return is delinquent; or

3. The required tax return filed is incomplete. An “incomplete return” is a return that lacks such uniformity, completeness, and arrangement that the physical handling, verification, or review of the return, or determination of other taxes and fees reported on the return, may not be readily accomplished.

(e)1. Any dealer who files a timely return may elect to donate the amount of collection allowance that is allowed on that return to the Educational Enhancement Trust Fund. The

revenues deposited into this trust fund will to go school districts that have adopted resolutions stating that the funds from this trust fund will be used to ensure that up-to-date technology is purchased for the classrooms in those districts and that teachers are trained in the use of the technology. Dealers who are located outside Florida or whose business is located in a county where the school district has not adopted the required resolution may also elect to donate the amount of collection allowance that is allowed on their return to the trust fund. Funds received from these dealers will be equally distributed to school districts that have adopted the required resolutions.

2. Dealers who elect to donate their collection allowance must make an election on each original return that is timely filed with the Department, as provided in subsection (1). The payment required with the return must include the amount of collection allowance to be donated and must be timely filed, as provided in subsection (1). Dealers making the election on their return should not enter the amount of collection allowance on the return. Dealers who operate two or more places of business and file a consolidated return, as provided in paragraph (1)(f), must make the election on the consolidated return (Form DR-15CON, Consolidated Summary-Sales and Use Tax Return) and should not enter the amount of collection allowance on the location returns (Form DR-7, Consolidated Sales and Use Tax Return). The amount of the collection allowance will not be transferred to the Educational Enhancement Trust Fund when a dealer makes an election to donate the amount of its allowed collection allowance but does not include that amount with its payment. Form DR-15CON, Consolidate Summary-Sales and Use Tax Return, and Form DR-7, Consolidated Sales and Use Tax Return, are incorporated by reference in Rule 12A-1.097, F.A.C.

3. When a dealer files a return and makes the payment required with the return timely, the election to donate the amount of the collection allowance to the Educational Enhancement Trust Fund may not be rescinded for that return. Dealers are not permitted to file an amended return to make an election to donate the amount of the collection allowance to the trust fund when the election was not made on the original return as filed.

4. The election to donate the collection allowance to the Educational Enhancement Trust Fund applies only when the dealer files a timely return. The amount of collection allowance transferred to the trust fund will be the amount remaining after resolution of any tax, interest, or penalty due when the dealer makes an election to transfer the amount of collection allowance on:

a. A return that is filed with the Department after the due date, as provided in subsection (1);

b. A return that is incomplete, as provided in this subsection; or

c. When the dealer underpays the amount of tax due with the return.

(3) ESTIMATED TAX.

(a) through (b) No change.

(c) The following are not required to be included in computing the estimated tax liability:

1. through 4. No change.

5. The Miami-Dade County Lake Belt mitigation fee or water treatment plant upgrade fee imposed under Section 373.41492, F.S.

(d) through (e) No change.

(4) PENALTIES AND INTEREST.

(a) The penalties and interest provided in this subsection apply to the following sales and use taxes, discretionary sales surtax, surcharges, or fees imposed by or administered under Chapter 212, F.S.:

~~1. Apalachicola Bay oyster surcharge;~~

2. through 4. renumbered 1. through 3. No change.

4.5. Miami-Dade County Lake Belt mitigation fee or water treatment plant upgrade fee;

6. through 13. renumbered 5. through 12. No change.

(b) through (g) No change.

Specific Authority 212.17(6), 212.18(2), 213.06(1) FS. Law Implemented 125.0104(3)(g), 125.0108(2)(a), 212.03(2), 212.0305(3)(c), 212.031(3), 212.04(3), (4), 212.0506(4), (11), 212.055, 212.06(1)(a), 212.0606, 212.11, 212.12(1), (2), (3), (4), (5), 212.14(2), 212.15(1), 213.235, 213.755, ~~370.07(3)~~, 373.41492, 376.70, 376.75, 403.718, 403.7185, 681.117 FS. History—Revised 10-7-68, 6-16-72, Amended 10-21-75, 6-9-76, 11-8-76, 2-21-77, 4-2-78, 10-18-78, 12-23-80, 8-26-81, 9-24-81, 11-23-83, 5-28-85, Formerly 12A-1.56, Amended 3-12-86, 1-2-89, 12-19-89, 12-7-92, 10-20-93, 10-17-94, 3-20-96, 4-2-00, 6-19-01, 8-1-02, 4-17-03, 9-28-04, _____.

NAME OF PERSON ORIGINATING PROPOSED RULE: Janet L. Young, Tax Law Specialist, Technical Assistance and Dispute Resolution, Department of Revenue, P. O. Box 7443, Tallahassee, Florida 32314-7443, telephone (850)922-9407

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Buzz McKown, Revenue Program Administrator II, Technical Assistance and Dispute Resolution, P. O. Box 7443, Tallahassee, Florida 32314-7443; telephone number (850)922-4721

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: July 30, 2007

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: The proposed amendments to Rule Chapter 12A-1, F.A.C. (Sales and Use Tax), were noticed in the Florida Administrative Weekly on February 2, 2007 (Vol. 33, No. 5, pp. 411-416). A rule development workshop was held on February 20, 2007. No one appeared to provide comment regarding these proposed rule changes. No written comments were received by the Department regarding these proposed rule changes. However, comments were received at

the rule development workshop regarding the proposed amendments to Rule 12A-1.027, F.A.C. (Printing of Tangible Personal Property), and Rule 12A-1.038, F.A.C. (Consumer’s Certificate of Exemption; Exemption Certificates), intended to provide administrative requirements for the exemption provided in Chapter 2006-144, L.O.F. This law creates s. 212.08(7)(ccc), F.S., providing an exemption for certain advertising materials distributed free of charge by mail in an envelope. The proposed amendments to implement this new exemption have been removed from this rulemaking to allow the Department to continue its dialogue with participants at the rule development workshop in development of the administrative requirements for this new exemption.

DEPARTMENT OF REVENUE

Sales and Use Tax

RULE NOS.:

12A-1.096

12A-1.097

RULE TITLES:

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

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 requirements for the administration of the exemption provided for industrial machinery and equipment used in a new or expanding business consistent with Section 212.08(5)(b), F.S., as amended.

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 removing the requirement that mining operations must show an increase in the creation of new jobs. The proposed amendments remove these obsolete requirements.

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

SUMMARY: The proposed amendments to Rule 12A-1.096, F.A.C. (Industrial Machinery and Equipment for Use in a New or Expanding Business), clarify that a “fixed location” is a location or plant site that is used, or intended to be used, 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 definition of “mining activities,” rendered obsolete by Chapter 2006-56,

L.O.F., is removed. 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. Additional provisions are added to clarify that the production process does not include product design 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 these 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. Examples are added to the provisions for a “new business” and for an “expanding business” to clarify this classification.

The proposed amendments revise the provisions describing the term “expanding business,” removing provisions regarding the \$50,000 tax threshold per calendar year on the purchase of industrial machinery and equipment used to increase the productive output of tangible personal property. This tax threshold requirement was repealed by Chapter 2006-56, L.O.F. The proposed amendments also remove provisions regarding mining activities rendered obsolete by Chapter 2006-56, L.O.F.

The proposed amendments provide that existing products that merely incorporate newer technology are not considered to be a distinct and separate economic activity.

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 goods 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 monitoring equipment, office equipment, security systems, motor vehicles, and locomotives or railroad cars will qualify for the exemption.

The proposed amendments consolidate and clarify provisions for the application of the exemption to leases of machinery and equipment for new and expanding businesses.

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

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

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

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

DATE AND TIME: September 5, 2007, 1:30 p.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 48 hours 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 RULES 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 FULL TEXT OF THE PROPOSED RULES 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, 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 a location where a any portable plant 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 is 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~~ salable 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 not 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 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 conception or 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 subsection (8) paragraph (9)(b) of this rule regarding machinery and equipment and the production process.)

~~(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 ~~is~~ 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 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 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, F.S. 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 ~~is 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 ~~will shall~~ be determined by the Executive Director or the Executive Director's designee on a case by case basis. In such cases, the business is required to 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 for record keeping requirements.)

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 ~~is 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 ~~will shall~~ be determined by the Executive Director or the Executive Director's designee on a case-by-case basis. In such cases, the business is required to 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 for record keeping requirements.)

(e) The Executive Director or the Executive Director's designee ~~will 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 regarding manufacturing business classification factors.)

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 will 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 is similar to an item of tangible personal property that which is already being produced at that facility.

(c)1.(d) To In order to qualify for an exemption as an expanding business, the taxpayer is required to shall provide information to the satisfaction of the Executive Director or the Executive Director's designee that the items purchased will 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 or component 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. Similarly, if the additional machinery and equipment affects the productive output of more than one product line, the increase in productive output must be measured by all of the product lines that have been affected.

a. Example: If 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.

b. Example: A beverage manufacturer that currently produces a variety of soft drinks in 12-ounce cans purchases machinery and equipment to begin making plastic bottles and also purchases additional mixing machinery and equipment to make more syrup for overall beverage production. Effectively, there are two separate expansion projects for this manufacturer. The plastic bottle expansion project will meet the required productive output increase requirement upon production of the first bottle. However, the productive output increase requirement for the additional mixing machinery and equipment must be measured by the amount of beverages produced at the plant.

c. Example: A manufacturer of coffeemakers, toasters, and microwave ovens purchases replacement machinery and equipment that is only used to make components for the coffeemakers. The productive output increase may be measured just on the production of coffeemakers.

2. The physical productive output measurement must be based on physical production data, which is directly relevant to the business and/or the 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.

3. Expanding spaceport activities are not subject to the increase in productive output requirement.

~~(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;

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) Additional products ~~Products~~ that merely differ in size, color, flavor, style, packaging, or model line, or existing 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 ~~has 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)~~4~~. 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 will 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 is required to shall be ~~hand~~ delivered to the Department or returned by

certified or registered mail. If the permit is returned by mail, the permit should 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 will 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-accrued 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 will 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 will 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 will 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 will 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 is required to shall maintain all necessary books and records to support the exemption. All such books, invoices, certified statements, and other records must 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 is required to 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) do, (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 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 the warehousing of 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: A manufacturer produces a product that must be frozen to be in a salable condition. The facility that performs the freezing function also stores the product prior to shipment. The freezing facility will qualify as a part of the production process.

3. 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.

4. 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.

5. 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.

6. 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.

7. 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.

(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 qualifies ~~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, such as computers, video, or other sensing systems or devices that are essential to 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., are not entitled to shall not be allowed an exemption as provided in this rule 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, such as computer aided manufacturing (CAM) systems 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, such as computer aided design (CAD) systems used in the conception or 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.

~~(4) 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.~~

~~(1)(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) Equipment used for communications purposes, 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 apply to the original term of the lease agreement. Any subsequent renewal or extensions of the original term of the lease agreement are subject to tax shall be fully taxable.~~

~~(e) 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), ~~(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
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(2) through (20) No change.

(21) DR-1214	Application for Temporary Tax Exemption Permit (R. 07/06 04/03)	10/03
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(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, 4-5-07,_____.

NAME OF PERSON ORIGINATING PROPOSED RULE: 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

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Buzz McKown, Revenue Program Administrator II, Technical Assistance and Dispute Resolution, P. O. Box 7443, Tallahassee, Florida 32314-7443; telephone number (850)922-4721

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: July 30, 2007

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: The proposed amendments to Rule Chapter 12A-1, F.A.C. (Sales and Use Tax), were noticed in the Florida Administrative Weekly on January 5, 2007 (Vol. 33, No. 1, pp. 1-11). A rule development workshop was held on January 24, 2007. In response to public comment, changes have been made to the proposed rule amendments.

DEPARTMENT OF REVENUE

Sales and Use Tax

RULE NO.: 12A-12.003
RULE TITLE: Registration

PURPOSE AND EFFECT: The purpose of the proposed amendments to Rule 12A-12.003, F.A.C. (Registration), is to clarify the registration requirements for businesses at which retail sales of new motor vehicle tires or lead-acid batteries are made.

SUMMARY: The proposed amendments to Rule 12A-12.003, F.A.C. (Registration): (1) provide that dealers are required to obtain a separate certificate of registration for each place of business at which retail sales of new motor vehicle tires or lead-acid batteries are made; and (2) clarify that registered sales and use tax dealers who were not engaged in making retail sales of new motor vehicle tires or lead-acid batteries at the time of registration are required to register their new

business activity with the Department for purposes of reporting the solid waste fee imposed on the sale of new motor vehicle tires or lead-acid batteries.

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

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

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

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

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

DATE AND TIME: September 5, 2007, 9:00 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 48 hours 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 IS: Janet L. Young, Tax Law Specialist, Technical Assistance and Dispute Resolution, Department of Revenue, P. O. Box 7443, Tallahassee, Florida 32314-7443, telephone (850)922-9407

THE FULL TEXT OF THE PROPOSED RULE IS:

12A-12.003 Registration.

(1)(a) Every person desiring to engage in or conduct business in this state of making retail sales of new motor vehicle tires or lead-acid batteries must register with the Department of Revenue and obtain a certificate of registration for each place of business. Dealers who hold a valid certificate of registration, who at the time ~~No additional registration is required for dealers who hold a valid certificate~~ of registration for purposes of sales and use tax were not engaged in or conducting such business, are required to change their registration with the Department and register their new tax obligation at each existing place of business.

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

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

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

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

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

(2) No change.

Specific Authority 212.17(6), 212.18(2), 213.06(1), 403.718(3)(b), 403.7185(3)(b) FS. Law Implemented 212.18(3), 403.718, 403.7185 FS. History--New 1-2-89, Amended 10-16-89, 12-16-91, 4-2-00, 4-17-03,_____.

NAME OF PERSON ORIGINATING PROPOSED RULE: Janet L. Young, Tax Law Specialist, Technical Assistance and Dispute Resolution, Department of Revenue, P. O. Box 7443, Tallahassee, Florida 32314-7443, telephone (850)922-9407

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Buzz McKown, Revenue Program Administrator II, Technical Assistance and Dispute Resolution, P. O. Box 7443, Tallahassee, Florida 32314-7443; telephone number (850)922-4721

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: July 30, 2007

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: The proposed amendments to Rule Chapter 12A-12, F.A.C. (Solid Waste Fees), were noticed in the Florida Administrative Weekly on February 2, 2007 (Vol. 33, No. 5, pp. 416-417). A rule development workshop was held on February 20, 2007. No one appeared to provide comment regarding these proposed rule changes. No written comments have been received by the Department.

DEPARTMENT OF REVENUE

Sales and Use Tax

RULE NOS.:	RULE TITLES:
12A-19.070	Assignment of Service Addresses to Local Taxing Jurisdictions; Liability for Errors; Avoidance of Liability Through Use of Specified Methods; Reduction in Collection Allowance for Failure to Use Specified Methods
12A-19.071	Department of Revenue Electronic Database
12A-19.100	Public Use Forms

PURPOSE AND EFFECT: The purpose of the proposed amendments to Rules 12A-19.070, 12A-19.071, and 12A-19.100, F.A.C., is to update provisions regarding the Department of Revenue's Address/Jurisdiction Database for purposes of determining the applicable communications

services tax rate to be applied to sales of communications services or for purposes of assigning insurance policies and premiums to local taxing jurisdictions.

SUMMARY: The proposed amendments to Rule 12A-19.070, F.A.C. (Assignment of Service Addresses to Local Taxing Jurisdictions; Liability for Errors; Avoidance of Liability Through Use of Specified Methods; Reduction in Collection Allowance for Failure to Use Specified Methods), clarify that the pending file containing approved address additions and the pending file containing approved address deletions are separate files maintained by the Department that may be used by dealers to update their databases more frequently than the statutory requirement to update their databases.

The proposed amendments to Rule 12A-19.071, F.A.C. (Department of Revenue Electronic Database): (1) clarify that when changes to the Department's Address/Jurisdiction Database have been approved, the approved address additions are stored in a pending file, and the approved address deletions are stored in a separate pending file; (2) specify the time periods during which requests for address changes are under review by the Department for inclusion in the next update to the database and the time periods during which the Department is unable to accept new submissions for address changes; (3) clarify that the list of authorized local government contact persons is available to those persons who have local government access; (4) adopt, by reference, updates to the on-line Guide for Address Change Requests used by local taxing jurisdictions in the maintenance of the Department's Address/Jurisdiction Database; (5) remove provisions regarding notification by the Department to requesting jurisdictions of file errors when submitting a change that is no longer necessary, because the local jurisdictions now upload their batch files through the Department's website and receive on-line notification whether the batch file contains formatting errors or has been accepted; (6) provide that an objection to the Address/Jurisdiction Database must be filed no later than August 3 for an assignment that became effective on July 1 or no later than February 1 for an assignment that became effective on January 1; and (7) provide technical changes to the Department's website address for the Address/Jurisdiction Database and to the titles of forms used to administer the database.

The proposed amendments to Rule 12A-19.100, F.A.C. (Public Use Forms), incorporate, by reference, changes to forms used by the Department in the administration of the Department's electronic Address/Jurisdiction Database.

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

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

SPECIFIC AUTHORITY: 175.1015(5), 185.085(5), 202.151, 202.16(2), 202.26(3)(a), (b), (c), (d), (f), (g), 202.28(1) FS.

LAW IMPLEMENTED: 175.1015, 185.085, 202.11(3), (10), (11), 202.12(1), 202.13(2), 202.151, 202.16(2), (4), 202.17(6), 202.19(1), 202.22(1), (2), (4)-(6), (8), 202.23, 202.27, 202.28, 202.30, 202.33, 202.34(1)(a), (3), (4)(c), 202.35(1), (2), (3) FS.

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

DATE AND TIME: September 5, 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 48 hours 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 RULES IS: Janet Young, Tax Law Specialist, Technical Assistance and Dispute Resolution, Department of Revenue, P. O. Box 7443, Tallahassee, Florida 32314-7443, telephone (850)922-9407

THE FULL TEXT OF THE PROPOSED RULES IS:

12A-19.070 Assignment of Service Addresses to Local Taxing Jurisdictions; Liability for Errors; Avoidance of Liability Through Use of Specified Methods; Reduction in Collection Allowance for Failure to Use Specified Methods.

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

(c) Due Diligence. In order to avoid liability for any additional local communications services tax, penalty, and interest resulting from errors in the assignment of customer service addresses to local taxing jurisdictions under paragraph (a), a dealer must exercise due diligence in employing one or more of the described methodologies. The dealer must exercise the care and attention that is expected from and ordinarily exercised by a reasonable and prudent person, under the circumstances, when ascertaining the correct local taxing jurisdiction to which the purchaser's service address should be assigned.

1. A dealer is exercising due diligence if that dealer expends reasonable resources to accurately and reliably implement one or more of the methods described in paragraph (a) and maintains adequate internal controls in the assignment of service addresses.

a. Internal controls in the assignment of service addresses are adequate if the dealer has in place and consistently follows procedures to obtain and incorporate accurate updates to its database at least once every six months and corrects errors in

assignments of service addresses within 120 days from discovering or being notified of such errors by any person. A dealer's internal controls must ensure that procedures are in place to prevent the recurrence of errors that the dealer was previously notified of and has previously corrected. A dealer may choose to update its database more frequently than once every six months, as long as the dealer has in place and consistently follows procedures to obtain and incorporate accurate updates. The file containing approved pending address additions and the file containing approved pending address deletions ~~auxiliary file~~ described in paragraph (1)(b) of Rule 12A-19.071, F.A.C., that are ~~is~~ maintained by the Department and available to dealers and local government users may be used by the dealer to update the dealer's database more frequently than the minimum of at least once every six months. However, the availability of the pending files ~~auxiliary file~~ on the Department's website does not constitute notice to a dealer of errors in the dealer's assignments of service addresses contained in the pending files ~~auxiliary file~~.

- b. No change.
- 2. through 3. No change.
- (d) through (e) No change.
- (3) No change.

Specific Authority 202.26(3)(b), (f), (g), 202.28(1) FS. Law Implemented 202.22(1), (4), (5), (6), (8), 202.23, 202.28(1), (2), 202.34(1)(a), 202.35(3) FS. History--New 11-14-05, Amended _____.

12A-19.071 Department of Revenue Electronic Database.

(1)(a) The Department maintains an electronic database that assigns service addresses to local taxing jurisdictions in a format that satisfies the requirements of Section 202.22(2)(a), F.S. The electronic database, referred to as the communications services tax Address/Jurisdiction Database, is maintained on the Department's website at <http://geotax.state.fl.us> ~~the address inside the parentheses (www.myflorida.com/dor)~~. An updated Address/Jurisdiction Database is posted to the Department's website 90 days prior to adoption of the Address/Jurisdiction Database. The updated Address/Jurisdiction Database is adopted and becomes effective every January 1 or July 1. References to the effective Address/Jurisdiction Database refer to the official database that is available on the website and conclusive for purposes of communications services tax, which was adopted the previous January 1 or July 1. The effective Address/Jurisdiction Database does not include the information contained in the pending files ~~auxiliary file~~ described in paragraph (b).

(b) When a change to the Address/Jurisdiction Database has been approved, the approved pending address additions and approved pending address deletions are it is stored in separate files until they are included an auxiliary file pending its inclusion ~~in the next scheduled update of the database to become effective the next January 1 or July 1. These pending files include corrections of any errors discovered since the last~~

preceding update, as well as changes in addresses or jurisdictional boundaries, that are based on information provided by local taxing jurisdictions and have been approved by the Department. These pending files contain The auxiliary file is maintained by the Department and contains the most recent service address local taxing jurisdictional assignment information. The individual address lookup feature searches the current database and the pending files and may reflect information that has not yet been incorporated into the database available for downloading and use by local taxing jurisdictions and insurers. Dealers may use the pending files auxiliary file to update their service address assignments between the January 1 and July 1 effective dates date of the Address/Jurisdiction Database even though such use of the pending files auxiliary file is not required to satisfy due diligence requirements. In such cases, the individual address lookup page carries a statement notifying the viewer that it reflects a pending change to the database.

(c) through (d) No change.

(e) The Department's website also has a single address lookup feature that permits any person to enter an address and ascertain to which local jurisdiction it is assigned. Use of the single address lookup feature does not require an access code or registration. The individual address lookup feature searches the pending files, auxiliary file as well as the effective database, and may therefore reflect information that has not yet been incorporated into the effective database available for downloading and use by local taxing jurisdictions and communications services dealers. In such cases, the individual address lookup page carries a statement notifying the viewer that it reflects a pending change to the database.

(f) through (g) No change.

(2)(a) Local taxing jurisdictions have a continuing obligation to provide the Department with information to update the Address/Jurisdiction Database, such as changes in service addresses or address ranges, annexations, incorporations, reorganizations, and any other changes to jurisdictional boundaries. Local taxing jurisdictions must inform the Department of the identity of the jurisdictions' officers or employees who are authorized to act as contact persons with the Department on database matters. Local taxing jurisdictions are limited to two ~~(2)~~ authorized contact persons; however, local taxing jurisdictions may provide updated contact person information as frequently as necessary to ensure that the appropriate contact person can be reached by the Department to administer database matters. The contact list of authorized local government contact persons for all local taxing jurisdictions is located on the Department's website and is available to those persons who have local government an access code.

(b) Local taxing jurisdictions must submit information requesting changes to the Address/Jurisdiction Database electronically following the on-line Guide for Address Change

Requests (February 7, 2007 ~~R-08/26/05~~, hereby incorporated by reference). Only local taxing jurisdictions that are registered users of the Department's electronic change submission process can access the Guide for Address Change Requests. Authorized local jurisdiction contact persons may access the login screen for registered users at <http://geotax.state.fl.us/dorPublic.jsp>. Local taxing jurisdictions that do not have access to computers with Internet access should contact the Department to request authorization to submit changes through alternative electronic media. The information must also be submitted on Form DR-700022, ~~Local Communications Services Tax~~ Notification of Jurisdiction Change for Local Communications Services and Local Insurance Premium Tax (incorporated by reference in Rule 12A-19.100, F.A.C.).

~~(e) In the event that a local taxing jurisdiction improperly formats its batch submission, the Department will notify the requesting jurisdiction of its error and designate the file as a pending submission until such time as a corrected submission is received. If the corrected submission is not received in time to be included in the next update, the pending submission will be denied and the local taxing jurisdiction should provide a new submission for those addresses or address ranges. Local taxing jurisdictions should not submit jurisdiction changes between the last date of submission for the next update and the posting of that update of the Address/Jurisdiction Database on the Department's website. Submissions initiated during this time frame will be denied, and a new submission will be necessary.~~

~~(c)(d)~~ The local taxing jurisdiction must specify the effective date of any information to be incorporated in the Address/Jurisdiction Database. The effective date must be the next January 1 or July 1 after the date of submission of the information to the Department. Changes must be submitted no later than the date that is 120 days prior to the January 1 or July 1 on which changes are to be effective. The Department will review the information provided in the requests for change and store the approved changes in the approved pending files. Local governments, including special fire districts, should not submit changes during the periods September 4 to October 3 and March 4 to April 2. The Department completes its review of pending submissions for the next database update during these periods and is unable to process new submissions. Submissions of information initiated during these time periods will be denied, and a new submission will be necessary.

(e) through (f) renumbered (d) through (e) No change.

(3)(a) Any substantially affected party may object to information contained in the Address/Jurisdiction Database by submitting Form DR-700025, Objection to ~~Communications Services Tax Electronic Database Service~~ Address/Jurisdiction Database for Local Communications Services Tax and Local Insurance Premium Tax Service Address Assignment (incorporated by reference in Rule 12A-19.100, F.A.C.), along with competent evidence to support the party's objection. Only

objections to the effective Address/Jurisdiction Database can be considered; those objections that are not objections to the effective Address/Jurisdiction Database will be denied. Before submitting an objection, a person should check the effective Address/Jurisdiction Database ~~and the auxiliary file~~ to determine whether the contemplated objection is necessary. Examples of substantially affected parties include purchasers of communications services who pay local communications services taxes, dealers who are required to collect local communications services taxes, the Department of Revenue, and local taxing jurisdictions. However, local taxing jurisdictions should use Form DR-700022 to create addresses in the Address/Jurisdiction Database or to request address assignment changes. Regardless of which form is used to request changes to the Address/Jurisdiction Database, the consent of an affected jurisdiction will be required.

(b) through (d) No change.

(e) When the Department believes that addresses or address ranges have been assigned to an incorrect local taxing jurisdiction, the Department will initiate the change by using Form DR-700025. The Department will use any information at its disposal, including enhanced 911 Master Street Address Guide MSAG database address information and information supplied by any dealer, as a basis for initiating an objection; however, in no event, will the Department change any address assignment without providing notice to the affected jurisdictions in the manner provided in paragraph (3)(f). If the change is approved, it would be included in the pending files auxiliary file with other approved changes for inclusion in the next update of the database.

(f) Upon receipt of an objection on a completed Form DR-700025, including competent evidence to support the objection, the Department will forward copies of the form, along with the associated documentation, to the database contact person in each affected taxing jurisdiction. The Department will provide to the affected local taxing jurisdictions Form DR-700026, Local Government Authorization for Address Changes Described on Form DR-700025 (incorporated by reference in Rule 12A-19.100, F.A.C.), to use to agree, disagree, or partially agree with the address jurisdiction changes proposed by the attached completed Form DR-700025. The Department will provide to the affected local taxing jurisdiction Form DR-700027, Local Government Authorization for Omission of Address or Range or Incorrect Address Identification (incorporated by reference in Rule 12A-19.100, F.A.C.), to use to agree or disagree with the inclusion of a service address or address range or with changing non-jurisdictional information about a service address or address range proposed by the attached completed Form DR-700025. In case the forms become separated, the Department will include on the bottom portion of each form the same tracking number and date to identify which forms belong together. The Department will, when practicable,

provide the information electronically for review by the local taxing jurisdictions. These forms will not be sent to the local taxing jurisdictions between February 1 and April 2 nor between August 4 and October 3 due to the inability of local taxing jurisdictions to make on-line changes during the updating and posting of the next effective Address/Jurisdiction Database. The local taxing jurisdictions should review the specific address(es) at issue as well as the address range(s) that will be impacted by the change to ensure that each local taxing jurisdiction retains all of the addresses that it believes are within its jurisdictional boundaries. The Department will instruct each local taxing jurisdiction to indicate in writing its determination in regard to the objection by completing utilizing the provided authorization form, ~~which will be~~ either Form DR-700026 or Form DR-700027, and filing the form with the Department. If the affected local taxing jurisdictions both indicate agreement with the objection, the Department will revise the electronic database accordingly. If a local taxing jurisdiction fails to respond within a reasonable time, which shall be no less than 30 days, such jurisdiction shall be deemed to have indicated agreement with the objection. If either local taxing jurisdiction notifies the Department in writing that it does not agree with the objection, the Department will immediately assign the address with a special designation that indicates that the jurisdictional assignment of the address is in dispute. The service address will be reassigned to a local taxing jurisdiction when one of the following events occurs:

1. through 3. No change.

(g) No communications services provider who relies on the assignment of a service address in the effective Address/Jurisdiction Database will be held liable for any additional local communications services tax, interest, or penalty in regard to that service address if the assignment is later determined to be erroneous under this subsection. All requests by a purchaser for a refund or credit must comply with the requirements of Section 202.23, F.S. When a substantially affected person files an objection to the Address/Jurisdiction Database no later than August ~~3~~ 31 for an assignment that became effective on July 1 or no later than February ~~1~~ 28 (~~February 29 in a leap year~~) for an assignment that became effective on January 1 that is approved, the substantially affected person's local taxing jurisdiction will be changed in the effective Address/Jurisdiction Database. Such a person would be entitled to a refund or credit of any local communications services taxes overcollected during the period of time that the incorrect assignment occurred in accordance with the documentation provided by the Department demonstrating approval of the objection and the date from which the change to the Address/Jurisdiction Database is effective, as long as the claim for refund or credit complies with the provisions of Section 202.23, F.S.

Specific Authority 202.26(3)(b), (g) FS. Law Implemented 202.22(2), 202.23 FS. History—New 11-14-05, Amended.

12A-19.100 Public Use Forms.

(1)(a) The Department employs the following public-use forms and instructions in the administration of Chapter 202, F.S., Communications Services Tax, and in the administration of the Department's electronic Address/Jurisdiction Database created pursuant to Sections 175.1015 and 185.085, F.S. These forms are hereby incorporated by reference in this rule.

(b) No change.

(2) No change.

Form Number	Title	Effective Date
(3) through (7)	No change.	
(8) DR-700022	Local Communications Services Tax Notification of Jurisdiction Change <u>for Local Communications Services and Local Insurance Premium Tax</u>	___ 11/05
(9) DR-700025	Objection to <u>Address/Jurisdiction Database for Local Communications Services Tax and Local Insurance Premium Tax</u> Electronic Database-Service Address Assignment. (R. 10/06 10/05)	___ 11/05
(10) DR-700026	Local Government Authorization for Address Changes Described on Form DR-700025 (R. 10/06 10/05)	___ 11/05
(11) DR-700027	Local Government Authorization for Omission of Address or Range or Incorrect Address Identification (R. 10/06 10/05)	___ 11/05

(12) No change.

Specific Authority 175.1015(5), 185.085(5), 202.151, 202.16(2), 202.26(3)(a), (c), (d) FS. Law Implemented 175.1015, 185.085, 202.11(3), (10), (11), 202.12(1), 202.13(2), 202.151, 202.16(2), (4), 202.17(6), 202.19(1), 202.22(6), 202.27, 202.28(1), (2), 202.30(3), 202.33, 202.34(3), (4)(c), 202.35(1), (2) FS. History--New 4-17-03, Amended 7-31-03, 10-1-03, 9-28-04, 6-28-05, 11-14-05, 7-16-06, _____.

NAME OF PERSON ORIGINATING PROPOSED RULE: Janet L. Young, Tax Law Specialist, Technical Assistance and Dispute Resolution, Department of Revenue, P. O. Box 7443, Tallahassee, Florida 32314-7443, telephone (850)922-9407

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Buzz McKown, Revenue Program Administrator II, Technical Assistance and Dispute Resolution, P. O. Box 7443, Tallahassee, Florida 32314-7443; telephone number (850)922-4721

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: July 30, 2007

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: The proposed amendments to Rule Chapter 12A-19, F.A.C. (Communications Services Tax), were noticed in the Florida Administrative Weekly on April 27, 2007 (Vol. 33, No. 17, pp. 1887-1891). A rule development workshop was held on May 15, 2007. The discussion at the workshop centered on questions regarding the process of making changes to an address situs within the Department's

Address/Jurisdiction Database. No written comments have been received by the Department. No changes have been made in response to the questions received from the workshop participants.

DEPARTMENT OF REVENUE

Sales and Use Tax

RULE NO.: 12A-19.100
 RULE TITLE: Public Use Forms

PURPOSE AND EFFECT: The purpose of the proposed amendments to Rule 12A-19.100, F.A.C. (Public Use Forms) is to: (1) provide which version of Form DR-700016, Florida Communications Services Tax Return, is to be used to report communications services tax on services billed during specified months; and (2) adopt, by reference, revisions to Form DR-700016, Communications Services Tax Return.

SUMMARY: The proposed amendments to Rule 12A-19.100, F.A.C. (Public Use Forms): (1) provide which version of Form DR-700016, Florida Communications Services Tax Return, is to be used to report communications services tax on services billed on or after January 1, 2006; and (2) adopt, by reference, those versions of Form DR-700016, Communications Services Tax Return, that are to be used to report the tax during the specified periods.

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

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

SPECIFIC AUTHORITY: 202.151, 202.16(2), 202.26(3)(a), (c), (d), (e), (j), 202.27(7) FS.

LAW IMPLEMENTED: 202.11(3), (10), (11), 202.12(1), (3), 202.13(2), 202.151, 202.16(2), (4), 202.17(6), 202.19(1), (7), 202.22(6), 202.27, 202.28(1), (2), 202.30, 202.33, 202.34(3), (4)(c), 202.35(1), (2) FS.

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

DATE AND TIME: September 5, 2007, 9:00 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 48 hours 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 IS: Janet Young, Tax Law Specialist, Technical Assistance and Dispute Resolution, Department of Revenue, P. O. Box 7443, Tallahassee, Florida 32314-7443, telephone (850)922-9407

THE FULL TEXT OF THE PROPOSED RULE IS:

12A-19.100 Public Use Forms.

(1)(a) The Department employs the following public-use forms and instructions in the administration of Chapter 202, F.S., Communications Services Tax. These forms are hereby incorporated by reference in this rule.

(b) No change.

(2) The following versions of Form DR-700016, Florida Communications Services Tax Return, are applicable to the reporting periods and service billing dates indicated:

REVISION DATE	REPORTING PERIODS	SERVICE BILLING DATES
<u>09/07</u>	<u>September 2007</u>	<u>September 1, 2007</u>
<u>06/07</u>	<u>June 2007 – August 2007</u>	<u>June 1, 2007 – August 31, 2007</u>
<u>02/07</u>	<u>February 2007 – May 2007</u>	<u>February 1, 2007 – May 31, 2007</u>
<u>01/07</u>	<u>January 2007</u>	<u>January 1, 2007 – January 31, 2007</u>
<u>06/06</u>	<u>June 2006 – December 2006</u>	<u>June 1, 2006 – December 31, 2006</u>
01/06	January 2006 – <u>May 2006</u>	January 1, 2006 – <u>May 31, 2006</u>
11/05	November 2005 – December 2005	November 1, 2005 – December 31, 2005
06/05	June 2005 – October 2005	June 1, 2005 – October 31, 2005
01/05	January 2005 – May 2005	January 1, 2005 – May 31, 2005
11/04	November 2004 – December 2004	November 1, 2004 – December 31, 2004
10/04	October 2004	October 1, 2004 – October 31, 2004
06/04	June 2004 – September 2004	June 1, 2004 – September 30, 2004
01/04	January 2004 – May 2004	January 1, 2004 – May 31, 2004
12/03	December 2003	December 1, 2003 – December 31, 2003
11/03	November 2003	November 1, 2003 – November 30, 2003
10/03	October 2003	October 1, 2003 – October 31, 2003
06/03	June 2003 – September 2003	June 1, 2003 – September 30, 2003
03/03	March 2003 – May 2003	March 1, 2003 – May 31, 2003
01/03	January 2003 – February 2003	January 1, 2003 – February 28, 2003
12/02	December 2002	December 1, 2002 – December 31, 2002
11/02	November 2002	November 1, 2002 – November 30, 2002
10/02	October 2002	October 1, 2002 – October 31, 2002
01/02	January 2002 – September 2002	January 1, 2002 – September 30, 2002
12/01	October 2001 – December 2001	October 1, 2001 – December 31, 2001

Form Number	Title	Effective Date	Specific Authority
(3) No change.			202.151, 202.16(2), 202.26(3)(a), (c), (d), <u>(e), (j), 202.27(7)</u> FS. Law Implemented 202.11(3), (10), (11), 202.12(1), <u>(3), 202.13(2), 202.151, 202.16(2), (4), 202.17(6), 202.19(1), <u>(7), 202.22(6), 202.27, 202.28(1), (2), 202.30(3), 202.33, 202.34(3), (4)(c), 202.35(1), (2)</u> FS. History—New 4-17-03, Amended 7-31-03, 10-1-03, 9-28-04, 6-28-05, 11-14-05, 7-16-05, 4-5-07, _____.</u>
<u>(4)(a) DR-700016</u>	<u>Florida Communications Services Tax Return</u> <u>(R. 09/07)</u>	_____	
<u>(b) DR-700016</u>	<u>Florida Communications Services Tax Return</u> <u>(R. 06/07)</u>	_____	NAME OF PERSON ORIGINATING PROPOSED RULE: Janet L. Young, Tax Law Specialist, Technical Assistance and Dispute Resolution, Department of Revenue, P. O. Box 7443, Tallahassee, Florida 32314-7443, telephone (850)922-9407
<u>(c) DR-700016</u>	<u>Florida Communications Services Tax Return</u> <u>(R. 02/07)</u>	_____	NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Buzz McKown, Revenue Program Administrator II, Technical Assistance and Dispute Resolution, P. O. Box 7443, Tallahassee, Florida 32314-7443; telephone number (850)922-4721
<u>(d) DR-700016</u>	<u>Florida Communications Services Tax Return</u> <u>(R. 01/07)</u>	_____	DATE PROPOSED RULE APPROVED BY AGENCY HEAD: July 30, 2007
<u>(e) DR-700016</u>	<u>Florida Communications Services Tax Return</u> <u>(R. 06/06)</u>	_____	DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: The proposed amendments to Rule Chapter 12A-19, F.A.C. (Communications Services Tax), were
(a) through (s) renumbered (f) through (x) No change.			
(5) through (12) No change.			

noticed in the Florida Administrative Weekly on February 2, 2007 (Vol. 33, No. 5, pp. 418-419). A rule development workshop was held on February 20, 2007. No one appeared to provide comment regarding these proposed rule changes. No written comments have been received by the Department.

DEPARTMENT OF REVENUE

Miscellaneous Tax

RULE NOS.:	RULE TITLES:
12B-7.008	Public Use Forms
12B-7.026	Public Use Forms
12B-7.030	Miami-Dade County Lake Belt Mitigation Fee and Water Treatment Plant Upgrade Fee
12B-7.031	Public Use Forms

PURPOSE AND EFFECT: The purpose of the proposed amendments to Rule Chapter 12B-7, F.A.C. (Severance Taxes and Fees), is to: (1) incorporate the provisions of Chapter 2006-13, L.O.F., which imposes a water treatment plant upgrade fee on each ton of lime rock and sand mined from the Miami-Dade County Lake Belt Area; (2) adopt, by reference, changes to expand the form used by the Department for reporting the Miami-Dade County Lake Belt Mitigation Fee to provide for the reporting of the water treatment plant upgrade fee; (3) adopt, by reference, changes to forms used by the Department for reporting the taxes imposed on the production of oil, gas, or sulfur and imposed on the severance of solid minerals, phosphate rock, or heavy minerals from the soils and waters of this state; and (4) update information on how to obtain forms used to report tax from the Department.

SUMMARY: The proposed amendments to Rule 12B-7.008, F.A.C. (Public Use Forms), update information on how to obtain a form for reporting tax on the production of oil, gas, or sulfur from the Department.

The proposed amendments to Rule 12B-7.026, F.A.C. (Public Use Forms): (1) incorporate, by reference, changes to forms used by the Department for reporting the taxes imposed on the severance of solid minerals, phosphate rock, or heavy minerals from the soils and waters of this state; and (2) update information on how to obtain a form for reporting the tax on solid minerals from the Department.

The proposed amendments to Rule 12B-7.030, F.A.C. (Miami-Dade County Lake Belt Mitigation Fee and Water Treatment Plant Upgrade Fee), incorporate the provisions of Chapter 2006-13, L.O.F., which imposes a water treatment plant upgrade fee on each ton of lime rock and sand mined from the Miami-Dade County Lake Belt Area.

The proposed amendments to Rule 12B-7.031, F.A.C. (Public Use Forms), adopt, by reference, changes to expand the form used by the Department for reporting the Miami-Dade County Lake Belt Mitigation Fee to provide for the reporting of the water treatment plant upgrade fee.

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

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

SPECIFIC AUTHORITY: 211.075(2), 211.125(1), 211.33(6), 213.06(1), 373.41492(4)(b) FS.

LAW IMPLEMENTED: 92.525(1)(b), (2), (3), (4), 211.026, 211.075, 211.076, 211.11(1)(b), 211.125, 211.30, 211.31, 211.3103, 211.3106, 211.33, 212.12(11)(b), 212.12(2), 212.17(1)(c), 213.235(2), 213.37, 213.755(1), 373.41492 FS.

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

DATE AND TIME: September 5, 2007, 9:00 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 48 hours 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 RULES IS: Joe Parramore, Revenue Program Administrator I, Technical Assistance and Dispute Resolution, Department of Revenue, P. O. Box 7443, Tallahassee, Florida 32314-7443, telephone (850)922-4709

THE FULL TEXT OF THE PROPOSED RULES IS:

12B-7.008 Public Use Forms.

(1)(a) The following forms and instructions are used by the Department in its administration of the taxes imposed on the production of oil, gas, and sulfur. These forms are hereby incorporated by reference in this rule.

(b) Copies of these forms are available, without cost, by one or more of the following methods: 1) downloading the form from the Department's Internet site at www.myflorida.com/dor/forms; or, 2) faxing a forms request to the Distribution Center at (850)922-2208; or, 3) calling the Distribution Center at (850)488-8422; or, 4) writing the Florida Department of Revenue, Distribution Center, 168A Blountstown Highway, Tallahassee, Florida 32304; or, 5) faxing the Distribution Center at (850)922-2208; or, 3) ~~using a fax machine telephone handset to call the Department's automated Fax on Demand system at (850)922-3676~~; or, 4) visiting any local Department of Revenue Service Center to personally obtain a copy; or, 5) calling the Forms Request Line during regular office hours at (800)352-3671 (in Florida only)

or (850)488-6800; or, 6) downloading selected forms from the Department's Internet site at the address shown inside the parentheses (www.myflorida.com/dor). Persons with hearing or speech impairments may call the Department's TDD at (800)367-8331.

(2) through (5) No change.

Specific Authority 211.075(2), 211.125(1), 213.06(1) FS. Law Implemented 92.525(1)(b), (2), (3), (4), 211.026, 211.075, 211.076, 211.125, 213.755(1) FS. History—New 12-28-78, Formerly 12B-7.08, Amended 12-18-94, 5-4-03, 10-1-03, _____.

PART II – SEVERANCE TAX ON SOLID MINERALS

12B-7.026 Public Use Forms.

(1)(a) The following forms and instructions are used by the Department in its administration of the taxes imposed on the severance of solid minerals, phosphate rock, or heavy minerals from the soils and waters of this state. These forms are hereby incorporated by reference in this rule.

(b) Copies of these forms are available, without cost, by one or more of the following methods: 1) downloading the form from the Department's Internet site at www.myflorida.com/dor/forms; or, 2) faxing a forms request to the Distribution Center at (850)922-2208; or, 3) calling the Distribution Center at (850)488-8422; or, 4) writing the Florida Department of Revenue, Distribution Center, 168A Blountstown Highway, Tallahassee, Florida 32304; or, 5) ~~2) faxing the Distribution Center at (850)922-2208; or, 3) using a fax machine telephone handset to call the Department's automated Fax on Demand system at (850)922-3676; or, 4) visiting any local Department of Revenue Service Center to personally obtain a copy; or, 5) calling the Forms Request Line during regular office hours at (800)352-3671 (in Florida only) or (850)488-6800; or, 6) downloading selected forms from the Department's Internet site at the address shown inside the parentheses (www.myflorida.com/dor)~~. Persons with hearing or speech impairments may call the Department's TDD at (800)367-8331.

Form Number	Title	Effective Date
(2) DR-142	Solid Mineral Severance Tax Return (R. 01/06 04/03)	___ 10/03
(3) DR-142ES	Declaration/Installment Payment of Estimated Solid Mineral Severance Tax (R. 01/06 04/03)	___ 05/03

Specific Authority 211.33(6), 213.06(1) FS. Law Implemented 92.525(2), 211.30, 211.31, 211.3103, 211.3106, 211.33, 213.755(1) FS. History—New 12-18-94, Amended 10-4-01, 5-4-03, 10-1-03, _____.

PART III MITIGATION FEES ~~SEE~~ ON MINING

12B-7.030 Miami-Dade County Lake Belt Mitigation Fee and Water Treatment Plant Upgrade Fee.

(1) The Miami-Dade County Lake Belt mitigation fee and the water treatment plant upgrade fee ~~are is~~ imposed on each ton of limerock and sand extracted by any person who engages in the business of extracting limerock or sand within the areas and sections provided in Section 373.41492, F.S. The per-ton mitigation fee and water treatment plant upgrade fee ~~are is~~ at the ~~rates rate~~ provided in Sections 373.41492(2) and (5), F.S.

(2) The ~~fees are tax is~~ to be reported to the Department on the Miami-Dade County Lake Belt Mitigation and Water Treatment Plant Upgrade Fees Tax Fee Monthly Return (Form ~~form~~ DR-146, incorporated by reference in Rule 12B-7.031, F.A.C.).

(3)(a) Except as provided in Rule Chapter 12-24, F.A.C., the payment and the Miami-Dade County Lake Belt Mitigation and Water Treatment Plan Upgrade Fees Tax Fee Monthly Return must be delivered to the Department or be postmarked on or before the 20th day of the month following the month of the taxable transaction to avoid penalty and interest for late filing. If the 20th day falls on a Saturday, Sunday, or a legal holiday, payments accompanied by returns will be accepted as timely if postmarked or delivered to the Department on the next succeeding day which is not a Saturday, Sunday, or legal holiday. For this purpose, a legal holiday means a holiday that is observed by federal or state agencies as a legal holiday, as this term is defined in Chapter 682, F.S., and Section 7503, Internal Revenue Code of 1986, as amended. A "legal holiday" pursuant to Section 7503 of the Internal Revenue Code of 1986, as amended, means a legal holiday in the District of Columbia or a statewide legal holiday at a location outside the District of Columbia but within an internal revenue district.

(b) Electronic filing of payments and returns must be submitted to the Department, as provided in Rule Chapter 12-24, F.A.C., when:

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

(4) Persons who are required to make a return or to pay the mitigation fee or the water treatment upgrade fee imposed under Section 373.41492, F.S., and administered under the provisions of Chapter 212, F.S., and fail to do so will be subject to penalties, as provided in Section 212.12(2), F.S., and to the interest imposed on deficiencies established under Section 213.235, F.S., and Rule 12-3.0015, F.A.C. Guidelines are provided in subsection (4) of Rule 12A-1.056, F.A.C.

Specific Authority 211.33(6), 213.06(1), 373.41492(4)(b) FS. Law Implemented 92.525(1)(b), (2), (3), (4), 211.30, 211.31, 211.3103, 211.3106, 211.33, 212.12(2), 212.17(1)(c), 213.235(2), 213.37, 213.755(1), 373.41492 FS. History—New 10-1-03, Amended 9-28-04, _____.

12B-7.031 Public Use Forms.

(1)(a) The following form and instructions are used by the Department in its dealings with the public in the administration of the Miami-Dade County Lake Belt mitigation fee and water treatment plant upgrade fee. This form and instructions are hereby incorporated by reference in this rule.

(b) No change.

Form Number	Title	Effective Date
(2) DR-146	Miami-Dade County Lake Belt Mitigation <u>and Water Treatment Upgrade Fees Tax Fee Monthly Return</u> (R. <u>11/07</u> 10/05)	___ <u>05/06</u>

Specific Authority 213.06(1), 373.41492(4)(b) FS. Law Implemented 92.525(1)(b), (2), (3), (4), 212.11(1)(b), 212.12(2), 212.17(1)(c), 213.235(2), 213.37, 213.755(1), 373.41492 FS. History—New 10-1-03, Amended 9-28-04, 6-28-05, 5-1-06, _____.

NAME OF PERSON ORIGINATING PROPOSED RULE: Joe Parramore, Revenue Program Administrator I, Technical Assistance and Dispute Resolution, Department of Revenue, P.O. Box 7443, Tallahassee, Florida 32314-7443, telephone (850)922-4709

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Buzz McKown, Revenue Program Administrator II, Technical Assistance and Dispute Resolution, P. O. Box 7443, Tallahassee, Florida 32314-7443; telephone number (850)922-4721

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: July 30, 2007

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: The proposed amendments to Rule Chapter 12B-7, F.A.C. (Severance Taxes and Fees), were noticed in the Florida Administrative Weekly on February 2, 2007 (Vol. 33, No. 5, pp. 419-421). A rule development workshop was held on February 20, 2007. No one appeared to provide comment regarding these proposed rule changes. No written comments have been received by the Department.

DEPARTMENT OF REVENUE

Miscellaneous Tax

RULE NO.: 12B-8.0016
 RULE TITLE: Department of Revenue Electronic Database

PURPOSE AND EFFECT: Chapter 2004-21, L.O.F., requires the Department of Revenue to create and maintain a database for use by insurers that report and remit an excise tax on

property insurance premiums or on casualty insurance premiums, and requires local governments to provide information for inclusion in the database. The promulgation of this rule will ensure that the procedures used by the Department and local governments to maintain the accuracy of the Insurance Premium Tax Address/Jurisdiction Database on an on-going basis are available, and that the applicable forms and on-line instructions that are used to maintain the database are made available to the local taxing jurisdictions and are incorporated into and made a part of this rule.

SUMMARY: The proposed creation of Rule 12B-8.0016, F.A.C. (Department of Revenue Electronic Database), provides procedures regarding: (1) the Department of Revenue’s electronic Insurance Premium Tax Address/Jurisdiction Database maintained by the Department of Revenue and used to assign insurance policies and premiums to local taxing jurisdictions; (2) requests by local taxing jurisdictions to make changes to the database; and (3) how any substantially affected person may object to the assignment of a customer service address in the database. The proposed amendments adopt, by reference, changes to the on-line Guide for Address Change Requests (February 7, 2007), which governs the submission of information by local taxing jurisdictions and changes to forms used by the Department in the maintenance of the database.

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

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

SPECIFIC AUTHORITY: 175.1015(5), 185.085(5) FS.

LAW IMPLEMENTED: 175.1015, 185.085 FS.

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

DATE AND TIME: September 5, 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 48 hours 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 IS: Robert DuCasse, Tax Law Specialist, Technical Assistance and Dispute Resolution, Department of Revenue, P. O. Box 7443, Tallahassee, Florida 32314-7443, telephone (850)922-4715

THE FULL TEXT OF THE PROPOSED RULE IS:

12B-8.0016 Department of Revenue Electronic Database.

(1)(a)1. The Department maintains an electronic database that is for use by insurers to assign insurance policies and premiums to local taxing jurisdictions. The electronic database, referred to as the Insurance Premium Tax Address/Jurisdiction Database ("database"), is maintained on the Department's website at <http://geotax.state.fl.us>. An updated database is posted to the Department's website by November 1 of each year to be used in assigning policies and premiums to the proper local taxing jurisdictions for the insurance premium tax return due for the tax year beginning on or after the January 1 following the posting of the database; however, insurers may use the updated database when it is posted to assign policies and premiums to the proper local taxing jurisdiction for the current tax year. The database available for downloading does not include the information contained in the pending changes described in paragraph (b).

2. The database also has a single address lookup feature that permits any person to enter an address and ascertain to which local taxing jurisdiction, if any, the address is assigned.

3. Local taxing jurisdictions are provided with access codes to permit them to register as users of the database and to request changes in address assignments. Local taxing jurisdictions may register on the Department's website at <http://geotax.state.fl.us>.

4. When the Department is notified by the Division of Retirement, Department of Management Services, that a local taxing jurisdiction is to be added or deleted, the Department will update the database based upon existing database addresses within that jurisdiction. However, for the addition of special fire control districts, as defined in Section 175.032(16), F.S., whose boundaries do not follow municipal or county lines, the special fire control district must identify the addresses within its local taxing jurisdiction.

(b) When a change to the database has been approved, the approved pending address additions and approved pending address deletions are stored in separate files maintained by the Department in the next scheduled update of the database. These pending files include corrections of any errors discovered since the last update, as well as changes in addresses or jurisdictional boundaries based on information provided by local taxing jurisdictions and approved by the Department. These pending files contain the most recent local taxing jurisdictional assignment information. The individual address lookup feature searches the current database and the pending files and may reflect information that has not yet been incorporated into the database available for downloading and use by local taxing jurisdictions and insurers. Insurers may use the information contained in the address look-up feature to assign policies and premiums to the proper local taxing jurisdictions. In such cases, the individual address lookup page carries a statement notifying the viewer that it reflects a pending change to the database.

(c) To fulfill its statutory responsibility to maintain the database, when the Department notices apparent errors, such as an address that is assigned to multiple jurisdictions, the Department will initiate an objection to the database in accordance with subsection (3) and will process the objection in the same manner as other objections.

(2)(a) Local taxing jurisdictions have a continuing obligation to provide the Department all information needed to update the database, such as changes in addresses or address ranges, annexations, incorporations, reorganizations, and any other changes to jurisdictional boundaries. Local taxing jurisdictions must inform the Department of the identity of the jurisdictions' officers or employees who are authorized to act as contact persons with the Department on database matters. Local taxing jurisdictions are limited to two authorized contact persons; however, local taxing jurisdictions may provide updated contact person information as frequently as necessary to ensure that the appropriate contact person can be reached by the Department. The contact list of authorized local government contact persons for all local taxing jurisdictions is located on the Department's website <http://dor.myflorida.com/dor/taxes/ipt.html>.

(b) Local taxing jurisdictions must submit information requesting changes to the database electronically following the on-line Guide for Address Change Requests (February 7, 2007, hereby incorporated by reference). Only local taxing jurisdictions that are registered users of the Department's electronic change submission process can access the Guide for Address Change Requests. Authorized local jurisdiction contact persons may access the login screen for registered users at <http://geotax.state.fl.us>. Local taxing jurisdictions that do not have access to computers with Internet access should contact the Department to submit changes through alternative electronic media. The information must also be submitted on Form DR-700022, Notification of Jurisdiction Change for Local Communications Services and Local Insurance Premium Tax (incorporated by reference in Rule 12A-19.100, F.A.C.), with the exception of Special Fire Control Districts, which must use Form DR-350907, Local Insurance Premium Tax Special Fire Control Districts Notification of Jurisdiction Change (R. 10/06, hereby incorporated by reference, effective _____).

(c) The local taxing jurisdiction must specify the effective date of any information to be incorporated in the database. Information must be submitted by September 3 of each year to be included in the next updated database posted to the Department's website by November 1 of each year. The Department will review the information provided in the requests for change and store the approved changes in the approved pending files. Local governments, including special fire districts, should not submit changes during the periods September 4 to October 3 and March 4 to April 2. The Department completes its review of pending submissions for

the next database update during these time periods and is unable to process new submissions. Submissions of information initiated during these time periods will be denied, and a new submission will be necessary.

(d)1. Any requested changes or additions to the database must be supported by competent evidence. Competent evidence to support a change to the database is documentation establishing that the addresses affected by the requested change or addition are located in the local taxing jurisdiction indicated on the request. Examples of competent evidence include annexation ordinances, articles of incorporation of a new municipality, the plat filed for a newly approved subdivision, or the enhanced 911 Master Street Address Guide database information relating to local law enforcement responders issued by the local jurisdiction coordinator's office. Competent evidence must clearly designate the addresses or address ranges that are affected.

2. If a requested change is to move an address from one local taxing jurisdiction to another, competent evidence includes the consent of the local taxing jurisdiction that did not request the change. To facilitate processing of the change, the local taxing jurisdiction requesting the change should obtain a written consent to the change signed by an authorized contact person of the nonrequesting jurisdiction. Forms DR-700022 and DR-350907 contain an authorization statement that will serve as the written consent of the nonrequesting local taxing jurisdiction when signed by that jurisdiction's authorized contact person. The Department will consider the receipt of Form DR-700022 or Form DR-350907 containing the signatures of the authorized contact persons of both the initiating and affected jurisdictions to be sufficient competent evidence. In such instances, the Department will make the change based upon the representations on the form. A local taxing jurisdiction that objects to this change should use Form DR-700022 or Form DR-350907 to change the address information and, unless the affected local taxing jurisdiction signs the form, the Department will treat the request as one that must be resolved by the local taxing jurisdictions involved as provided in this paragraph. Identification of the case number associated with the address changes is insufficient by itself to demonstrate competent evidence establishing that the service addresses are located in the local taxing jurisdiction indicated on the request.

3. If the requesting jurisdiction has not obtained the written consent of the nonrequesting jurisdiction, the Department will contact the nonrequesting jurisdiction before making the change. Based upon the response of the nonrequesting jurisdiction, the Department will take the following action in regard to the requested change:

a. If the nonrequesting jurisdiction consents in writing, the Department will accept and process the change.

b. If the nonrequesting jurisdiction objects in writing, the Department will treat the requested change as one that must be resolved by the local taxing jurisdictions involved as provided in subsection (3).

c. If the nonrequesting jurisdiction fails to either consent or object in writing within 20 days after the date on which the Department notified that jurisdiction of the requested change, the Department will accept and process the change. This does not preclude the nonrequesting jurisdiction from subsequently objecting to the new address assignments after they have been processed.

4. If a requested change affects only the requesting local taxing jurisdiction and does not affect another local taxing jurisdiction, the Department will consider receipt of an affidavit signed by the authorized contact person for that local taxing jurisdiction that identifies the addresses or address ranges and states that the change affects only the requesting local taxing jurisdiction to be sufficient competent evidence. The use of an affidavit is not required but, at the option of the requesting local taxing jurisdiction, may be used in lieu of providing other documentation such as subdivision plats. In such instances, the Department will make the change based upon the representations on the form and the affidavit. A local taxing jurisdiction that objects to the change should use Form DR-700022 to change the address information and, unless the affected local taxing jurisdiction signs the form, the Department will treat the request as one that must be resolved by the local taxing jurisdictions involved as provided in subsection (3).

(e) Examples.

1. A local taxing jurisdiction approves the plat and grants the permits necessary for development of a new subdivision on February 1, 2007. The plat indicates street names, but no address numbers have yet been assigned. In order for the addresses to be added to the next electronic database, the local taxing jurisdiction must file Form DR-700022 or Form DR-350907, as appropriate, with a copy of the approved subdivision plat or an affidavit indicating that the change affects only the requesting local taxing jurisdiction and submit on-line address change information by September 3, 2007. If that deadline is not met, the address cannot be added until the following year's database (database created by November 1, 2008). In order to meet the deadline and be certain that the actual address numbers are included, the contact person for the local taxing jurisdiction may request the addition of a range of numbers that is certain to include the actual numbers. Because the development of the subdivision affects only the requesting jurisdiction, no consent from any other jurisdiction is required.

2. A municipality annexes an area with 1500 addresses that were formerly in another incorporated area. The annexation will be effective November 1, 2006. The municipality's database contact person timely enters address change requests for 1525 addresses on-line and files a Form

DR-700022 on June 15, 2006. Included with the form are a copy of the annexation ordinance and a map with the annexed area outlined with street address ranges included in the annexed area noted. The other incorporated area database contact person has not signed the Form DR-700022 or otherwise given written consent to the changes. On July 15, 2006, the Department notifies the other incorporated area of the requested changes and provides copies of the municipality's Form DR-700022, annexation ordinance, and map. The other incorporated area does not respond with written consent or a written objection. On August 6, 2006, the Department processes the changes, and they are included in the database available by November 1, 2006. The other incorporated area's database contact person notifies the Department on September 1, 2006, that the other incorporated area believes the database now incorrectly assigns 25 service addresses to the municipality. The other incorporated area should submit Form DR-700022 to move the 25 services addresses to its incorporated area. The Department will handle this as a change to the database.

3. A municipality annexes an area with 1500 service addresses that was formerly in another incorporated area. The annexation will be effective November 1, 2006. The municipality's contact person timely enters address change requests for the 1500 addresses on-line and writes a letter to the other incorporated area's contact person requesting that consent be indicated by signing the Form DR-700022 that has been prepared by the municipality and enclosed with the letter. Also enclosed with the letter is a copy of the annexation ordinance and a street map on which the annexed area is outlined. The other incorporated area's contact person signs the Form DR-700022. The municipality submits the form to the Department on June 15, 2006. The Department will approve the changes and include them in the database available by November 1, 2006.

(3)(a)1. Any substantially affected party may object to information contained in the database by submitting Form DR-700025, Objection to Address/Jurisdiction Database for Local Communications Services Tax and Local Insurance Premium Tax (incorporated by reference in Rule 12A-19.100, F.A.C.), along with competent evidence to support the party's objection. Only objections to the current effective database can be considered; objections that do not relate to the current effective database will be denied. Before submitting an objection, a person should check the effective database to determine whether the contemplated objection is necessary. Examples of substantially affected parties include police officers and firefighters from local taxing jurisdictions that impose the excise taxes under Chapter 175 and/or Chapter 185, F.S., local taxing jurisdictions that impose the excise taxes under Chapter 175 and/or Chapter 185, F.S., insurers who are required to pay the excise taxes under Chapter 175 and/or Chapter 185, F.S., individuals whose policies are being assigned via the database, and local taxing jurisdictions.

2. Local taxing jurisdictions should use Form DR-700022, and special fire control districts should use Form DR-350907, to create addresses in the database or to request address assignment changes. The consent of any other jurisdiction affected by the requested change will be required.

3. Firefighters and police officers, including pension board members, who wish to object to information contained within the database, should do so through the appropriate official within their local taxing jurisdiction.

(b) Multiple address submissions affecting multiple jurisdictions should be segregated, based on the specific combinations of the affected jurisdictions. For example, changes from City A to City B should be segregated from changes from City B to City A.

(c) In the event that an insurer that is required to pay taxes under Chapter 175 and/or 185, F.S., elects to formally object to information contained in the database, the insurer must file Form DR-700025. This requirement is not intended to interfere with any procedures implemented by insurers to inform local taxing jurisdictions of errors in the database.

(d) Examples of competent evidence that supports an inquiry into a substantially affected party's objection include a voter registration card indicating that the voter residing at the address is entitled to vote in municipal elections or only in county elections, the enhanced 911 Master Street Address Guide database property tax bill showing assessment by local taxing jurisdiction, or a map that includes the boundaries of a local taxing jurisdiction and clearly places the address for the property that is being insured inside or outside those boundaries. For example, if a map shows that a street is entirely within the boundaries of a municipality, that map is competent evidence that an address on that street should be assigned to that municipality in the database. The Department will notify the substantially affected party of any deficiencies in the objection or competent evidence.

(e) When the Department believes that addresses or address ranges have been assigned to an incorrect local taxing jurisdiction, the Department will initiate a change by using Form DR-700025. The Department will use any information at its disposal, including enhanced 911 Master Street Address Guide database address information and information supplied by any insurer, as a basis for initiating an objection; however, the Department will not change an address assignment without providing notice to the affected jurisdiction(s) in the manner provided in paragraph (3)(f). If the change is approved, it will be included with other approved changes for inclusion in the next update of the database.

(f) Upon receipt of an objection on a completed Form DR-700025, including competent evidence to support the objection, the Department will forward copies of the form, along with the associated documentation, to the database contact person in each affected taxing jurisdiction. The Department will provide to the affected local taxing

jurisdictions Form DR-700026, Local Government Authorization for Address Changes Described on Form DR-700025 (incorporated by reference in Rule 12A-19.100, F.A.C.), to use to agree, disagree, or partially agree with the address jurisdiction changes proposed by the attached Form DR-700025. The Department will provide the affected local taxing jurisdiction a Form DR-700027, Local Government Authorization for Omission of Address or Range or Incorrect Address Identification (incorporated by reference in Rule 12A-19.100, F.A.C.), to use to agree or disagree with the inclusion of an address or address range or with changing nonjurisdictional information about an address or address range proposed by the attached Form DR-700025. The Department will include a tracking number and date on the bottom portion of each form to identify which forms belong together. The Department will, when practicable, provide the information electronically for review by the local taxing jurisdictions. The local taxing jurisdictions should review the specific address(es) at issue, as well as the address range(s) that will be impacted by the change, to ensure that each local taxing jurisdiction retains all of the addresses that it believes are within its jurisdictional boundaries. The Department will instruct each local taxing jurisdiction to indicate its determination in regard to the objection by utilizing the provided authorization form, Form DR-700026 or Form DR-700027, as applicable. If the affected local taxing jurisdictions indicate agreement with the objection, the Department will revise the electronic database accordingly. If a local taxing jurisdiction fails to respond within a reasonable time, which shall be no less than 30 days, such jurisdiction shall be deemed to have indicated agreement with the objection. If either local taxing jurisdiction notifies the Department in writing that it does not agree with the objection, the Department will immediately assign the address a special designation that indicates that the jurisdictional assignment of the address is in dispute. The service address will be reassigned to a local taxing jurisdiction when one of the following events occurs:

1. The Department receives written notification from the local taxing jurisdiction that did not agree with the change requested in the objection that such local taxing jurisdiction has subsequently determined that the change should be made;
 2. The Department receives written notification from the party that filed the Form DR-700025 that the objection was erroneous and the assignment in the database was correct; or
 3. The Department is provided with a copy of a final order, judgment, or other binding written determination resolving the jurisdictional assignment of the contested address.
- (4) All forms referenced in this rule are available, without cost, by one or more of the following methods: 1) downloading the form from the Department's Internet site at www.myflorida.com/dor/forms; or, 2) faxing a forms request to the Distribution Center at (850)922-2208; or, 3) calling the

Distribution Center at (850)488-8422; or, 4) writing the Florida Department of Revenue, Distribution Center, 168A Blountstown Highway, Tallahassee, Florida 32304; or, 5) visiting any local Department of Revenue Service Center to personally obtain a copy. Persons with hearing or speech impairments may call the Department's TDD at (800)367-8331.

Specific Authority 175.1015(5), 185.085(5) FS. Law Implemented 175.1015, 185.085 FS. History—New _____.

NAME OF PERSON ORIGINATING PROPOSED RULE: Robert DuCasse, Tax Law Specialist, Technical Assistance and Dispute Resolution, Department of Revenue, P. O. Box 7443, Tallahassee, Florida 32314-7443, telephone (850)922-4715

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Buzz McKown, Revenue Program Administrator II, Technical Assistance and Dispute Resolution, P.O. Box 7443, Tallahassee, Florida 32314-7443; telephone number (850)922-4721

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: July 30, 2007

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: The proposed creation of Rule 12B-8.0016, F.A.C. (Department of Revenue Electronic Database), was noticed in the Florida Administrative Weekly on April 27, 2007 (Vol. 33, No. 17, pp. 1891-1895). A rule development workshop was held on May 15, 2007. Questions and comments were received at rule development workshop. No changes have been made to the proposed new rule in response to these questions and comments.

DEPARTMENT OF REVENUE

Corporate, Estate and Intangible Tax

RULE NO.: 12C-3.008
 RULE TITLE: Public Use Forms

PURPOSE AND EFFECT: The purpose of the proposed amendments to Rule 12C-3.008, F.A.C., is to: (1) require, pursuant to Section 198.32(2), F.S., that Form DR-312 (Affidavit of No Florida Estate Tax Due), be executed by the personal representative of a nontaxable estate and be sworn to before a notary; (2) remove the request for the decedent's social security number in compliance with the Department's requirements regarding confidentiality of taxpayer information required under Section 213.053, F.S.; and (3) include the 2007 federal filing thresholds for filing the federal estate tax form (Form 706). The effect of this rulemaking will be to adopt, by reference, the necessary revisions to Form DR-312.

SUMMARY: The proposed amendments to Rule 12C-3.008, F.A.C., adopt by reference, changes to Form DR-312 (Affidavit of No Florida Estate Tax Due), which include: (1) the requirement pursuant to Section 198.32(2), F.S., that the affidavit be executed by the personal representative of a nontaxable estate and be sworn to before a notary; (2) the

removal of the request for the decedent's social security number from the form; and (3) the 2007 federal filing thresholds for filing the federal estate tax return (Form 706).

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

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

SPECIFIC AUTHORITY: 198.08, 198.32(2), 213.06(1) FS.

LAW IMPLEMENTED: 92.525(1)(b), 198.08, 198.13, 198.22, 198.26, 198.32(2), 198.33(1), 198.38, 198.39, 213.37, 837.06 FS.

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

DATE AND TIME: September 5, 2007, 9:00 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 48 hours 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 IS: Joe Parramore, Revenue Program Administrator I, Technical Assistance and Dispute Resolution, Department of Revenue, P. O. Box 7443, Tallahassee, Florida 32314-7443, telephone (850)922-4709

THE FULL TEXT OF THE PROPOSED RULE IS:

12C-3.008 Public Use Forms.

(1)(a) The following public-use forms and instructions are employed by the Department in its dealings with the public and are hereby adopted by reference.

(b) No change.

Form Number	Title	Effective Date

(2) through (4) No change.

(5) DR-312	Affidavit of No Florida Estate Tax Due (R. 07/07 08/06)	10/06
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(6) No change.

Specific Authority 198.08, 198.32(2), 213.06(1) FS. Law Implemented 92.525(1)(b), 198.08, 198.13, 198.22, 198.26, 198.32(2), 198.33(1), 198.38, 198.39, 213.37, 837.06 FS. History—New 9-26-77, Formerly 12C-3.08, Amended 1-11-93, 8-25-94, 1-22-01, 5-4-03, 10-30-06,_____.

NAME OF PERSON ORIGINATING PROPOSED RULE: Joe Parramore, Revenue Program Administrator I, Technical Assistance and Dispute Resolution, Department of Revenue, P. O. Box 7443, Tallahassee, Florida 32314-7443, telephone (850)922-4709

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Buzz McKown, Revenue Program Administrator II, Technical Assistance and Dispute Resolution, P. O. Box 7443, Tallahassee, Florida 32314-7443; telephone number (850)922-4721

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: July 30, 2007

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: The proposed amendments to Rule Chapter 12C-3, F.A.C. (Estate Tax), were noticed in the Florida Administrative Weekly on February 2, 2007 (Vol. 33, No. 5, p. 421). A rule development workshop was held on February 20, 2007. No one appeared to provide comment regarding these proposed rule changes. No written comments have been received by the Department. Changes to Form DR-312, Affidavit of No Florida Estate Tax Due, have been made by the Department to include the 2007 federal filing thresholds for filing the federal estate tax form and the removal of the request for the decedent's social security number from the form in compliance with the confidentiality requirements imposed on the Department under Section 213.053, F.S.

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."

STATE BOARD OF ADMINISTRATION

RULE NOS.:	RULE TITLES:
19-11.002	Beneficiary Designation for FRS Investment Plan
19-11.003	Distributions from FRS Investment Plan Accounts
19-11.004	Excessive Trading in the FRS Investment Plan
19-11.005	FRS Investment Plan Complaint Procedures
19-11.006	Enrollment Procedures for New Hires
19-11.007	Second Election Enrollment Procedures for the FRS Retirement Programs
19-11.008	Forfeitures
19-11.009	Reemployment with an FRS-covered Employer after Retirement
19-11.010	FRS Investment Plan: Privacy

PURPOSE AND EFFECT: These rules are promulgated to implement recently adopted policies and to reflect legislative changes in the FRS Investment Plan.

SUMMARY: Proposed amended Rule 19-11.002, F.A.C., replaces "participant" with "member" and sets out policies to deal with situations in which the member is married but does not name his spouse as a primary beneficiary or the spouse refuses to sign the acknowledgment, as required by Section 121.4501(20), F.S. Amended Rule 19-11.003, F.A.C., provides procedures if a member dies before retirement; provides procedures for distributions to beneficiaries who are not spouses, discussing the IRS' "required minimum distribution;" provides procedures for distributions to minors; and for "invalid distributions," those to members who are not entitled to the payout. All information relating to re-employment after retirement is deleted and moved to new Rule 19-11.009, F.A.C. Amended Rule 19-11.004, F.A.C., adds clarifying information about the new United States Securities and Exchange Commission Rule 22c-2, regarding excessive trading for open-end mutual funds. Amended Rule 19-11.005, F.A.C., deletes the first step of the complaint process because of non-use and combines the notice of proceeding with the initial order of proceedings to simplify the process for members, but leaves everything else the same. Amended Rule 19-11.006, F.A.C., makes editorial changes, primarily to point out that the FRS Investment Plan Hybrid Option is part of the FRS Investment Plan. Amended Rule 19-11.007, F.A.C., makes editorial changes similar to Rule 19-11.006, F.A.C., and adopts a revised version of the 2nd Election form. New Rule 19-11.008, F.A.C., establishes procedures for Investment Plan members who have forfeited their retirement benefits. New Rule 19-11.009, F.A.C., clarifies the provisions regarding reemployment after retirement for Investment Plan members. These provisions were originally part of Rule 19-11.003, F.A.C. New Rule 19-11.010, F.A.C. discusses the scope and the limitations on the FRS Investment Plan's privacy policy and use of a member's social security number.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS: The Board has prepared a statement and found the cost to be minimal.

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

SPECIFIC AUTHORITY: 121.4501(3)(c)4., (8)(a), 215.52 FS.

LAW IMPLEMENTED: 119.071, 120.569, 120.57, 120.573, 121.021(29), (39), 121.051, 121.055, 121.35, 121.091(5), (8), (9)(b)(c), (29), (39), 121.4501(2)(j), (3), (4), (5), (6), (8), (9)(f)3., (13), (14), (15)(b), (19), (20), 121.591(1)(a)4., (3), 121.74, 121.78, 215.44(8)(b), 744.301, 1012.875(3) FS.

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

DATE AND TIME: Tuesday, September 4, 2007, 2:00 p.m. – 4:30 p.m.

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

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULES IS: Cindy Gokel, Assistant General Counsel, State Board of Administration, P. O. Drawer 13300, Tallahassee, FL 32317-3300; telephone: (850)413-1199

THE FULL TEXT OF THE PROPOSED RULES IS:

19-11.002 Beneficiary Designation for FRS Investment Plan

(1) A FRS Investment Plan ~~member participant~~ may name designate a beneficiary to receive the benefits which may be payable in the event of the member's participant's death. If the member does not name a beneficiary(ies) then the member's beneficiary(ies) will be those as described ~~A participant may designate a beneficiary at any time, both before and after retirement. An FRS Investment Plan participant must make an active beneficiary designation once he becomes an Investment Plan member. the~~ Otherwise, beneficiaries will be described in Section 121.4501(20), F.S., which are: first, the spouse if he or she is still living after the member's death; second, living children, if the spouse is dead; third, the member's father or mother, if living; fourth, to the member's estate. This means that the spouse will receive the member's account balance if living; but if not, the children will receive the account balance, if living; but if not, the father or mother will receive the account balance, and if none of the people mentioned in this section are still living, the account balance will be paid to the member's estate.

(2) ~~A No~~ designation of beneficiary shall only be effective after unless it has been received by filed with the FRS Investment Plan Administrator. The most recent designation of beneficiary filed with the FRS Investment Plan Administrator shall replace any previous designation, whether made before or after the member's participant's termination of employment or retirement. The member should determine after the designation has been mailed that the form has arrived in the offices of the FRS Investment Plan Administrator. It is the responsibility of the member to ensure the beneficiary designation has been made. Beneficiary information can be reviewed every quarter on the member's quarterly statement.

(3) If the FRS Investment Plan ~~member participant~~ enrolls in the FRS Investment Plan using ~~either~~ the EZ Retirement Plan Enrollment Form for Regular, Special Risk and Special Risk Administrative Support Class Employees, Form ELE-1-EZ, rev. 06-06, 8-05 the General Retirement Plan Enrollment Form for Regular, Special Risk and Special Risk Administrative Support Class Employees, Form ELE-1, rev. 10-06, which are is adopted and incorporated by reference in subsection 19-11.006(4), F.A.C., or the 2nd Election EZ Retirement Plan Enrollment Form, Form ELE-2EZ, rev 12-06,

~~8-05~~ or the 2nd Election Retirement Plan Enrollment Form, Form ELE-2, rev 12-06 ~~8-05~~, which are adopted and incorporated by reference in Rule 19-11.007, F.A.C., the ~~member participant~~ has chosen the beneficiary designation contained in Section 121.4501(20), F.S. (See subsection (1), above.) Note that the statutory section provides that the ~~member's participant's~~ spouse at the time of death shall be the ~~member's participant's~~ beneficiary unless the deceased ~~member participant~~ had designated a different beneficiary after his or her most recent marriage. Therefore, if the member marries again, he or she must file another beneficiary designation form to ensure that the person he or she wants to be the beneficiary is named. Example: John is married to Betty and has named her as his beneficiary. John divorces Betty and marries Carol. Carol will be John's beneficiary unless he files another beneficiary form and names, for example, his son, Bob. Pursuant to subsection (1), ~~above, however~~ once the ~~member participant~~ is enrolled in the FRS Investment Plan, the ~~member participant~~ may change his beneficiary designation at any time.

(4) A ~~member participant~~ may ~~name designate~~ a beneficiary or beneficiaries at any time, as follows:

(a) A ~~member participant~~ may ~~name designate~~ a beneficiary or beneficiaries to receive the assets of the ~~member's participant's~~ FRS Investment Plan account, either sequentially or jointly.

(b) A ~~member participant~~ may ~~name designate~~ as beneficiary any person, organization, trust, or his estate.

(c) A primary beneficiary is someone who will receive the member's funds from the FRS Investment Plan account, if that person is living at the death of the member. If there are more than one primary beneficiary, named with percentages of the funds, they will each receive their member-designated percentages if they are still living at the death of the member. Example: if the member names his four sons, in equal shares (25% each), but two of the four sons die before their father, the other two living sons split the funds two ways, 50% each.

(d) A contingent beneficiary is one or more persons who are named, in case all primary beneficiaries die before the member. Naming a contingent beneficiary is optional. The member does not have to name anyone as a contingent beneficiary.

(e)(~~e~~) Any such beneficiary designation shall be made on Form IPBEN-1, rev. 09-03, which is hereby adopted and incorporated by reference. This form is available in paper form and may be obtained by calling the toll-free MyFRS Financial Guidance Line at 1(866)446-9377, Monday through Friday, except holidays, 9:00 a.m. to 8:00 p.m. or by accessing the MyFRS.com website. The beneficiary designation may be made online by logging onto MyFRS.com and clicking on "Resources" and then "Forms." The beneficiary designation form must be completed and received by the FRS Investment Plan Administrator before it becomes effective.

(f)(~~d~~) A ~~member participant~~ may change his beneficiary designation at any time by filing a new beneficiary designation form. There is no separate form for changes of beneficiary designation.

(5) If a member is married and names his spouse as a primary beneficiary, regardless of whether the percentage allocated to the spouse on the form is less than 100%, the member is not required to notify the spouse. However, if a member participant is married and names a primary beneficiary(ies) and the person(s) named is not the spouse of the member only participant, then the member participant is required to notify the spouse that he or she is not a primary the beneficiary of the member's participant's FRS Investment Plan account(s). The spouse must acknowledge that he or she understands that he or she is not a primary the beneficiary of the member's FRS Investment Plan account(s) by signing the beneficiary designation form, Form IPBEN-1, rev. 09-03, in the appropriate place. Alternatively, the member may provide the FRS Investment Plan Administrator with documentation reflecting the understanding of the member's spouse that the spouse is not a primary beneficiary of the member's FRS Investment Plan account(s). The documentation could include a legal document which reasonably reflects the spouse's acknowledgement, for example, a pre-nuptial agreement. Alternatively, the member may provide a notarized document providing the member's name, member's SSN, spouse's name, spouse's SSN, address and a statement that the member's spouse has been notified that the spouse has not been named a primary beneficiary and the spouse has refused to sign the beneficiary designation form.

~~No distribution will be made of any FRS Investment Plan account(s) in the absence of a declaration of the spouse of his or her understanding that he or she is not the beneficiary of the participant's FRS Investment Plan account(s).~~

Specific Authority 121.4501(8) FS. Law Implemented 121.091(8), 121.4501(20), 121.591(3) FS. History—New 10-21-04, Amended 3-9-06, _____.

19-11.003 Distributions from FRS Investment Plan Accounts and Reemployment with an FRS-covered Employer.

(1) Purpose. The purpose of this rule is to clarify the provisions regarding distributions from FRS Investment Plan accounts ~~and how that interacts with reemployment provisions for FRS-covered employers.~~ Distributions from FRS Investment Plan accounts are made either after the account-holder terminates employment or at the account-holder's death.

(2) Forms. All forms identified in this rule may be obtained by calling the (toll-free) MyFRS Financial Guidance Line at 1(866)446-9377, or by accessing the MyFRS website at www.MyFRS.com, ~~clicking—Click~~ on Resources, and then on Forms.

(3) Distributions available after when the member participant terminates FRS-covered employment.

(a) An FRS Investment Plan member participant shall not be entitled to a distribution from his account unless he has been terminated from all FRS-covered employment, including temporary, part-time, Other Personnel Services (OPS) and any regularly established position with an FRS employer, for three calendar months following the month of termination. Example: If a member participant terminates on May 15, the three calendar months are June, July, and August. Therefore, the member cannot request he shall not receive a distribution until September.

(b) Upon the expiration of the three calendar months after termination, the member participant may request apply for a distribution from the FRS Investment Plan Administrator by calling the toll free MyFRS Financial Guidance Line at 1(866)446-9377, Option 4, either using Form ETF-2, "Employment Termination Form/FRS Investment Plan," rev. 08-05, which is hereby adopted and incorporated by reference, or an equivalent form. An equivalent form shall mean that all of the information required in the blank spaces on Form ETF-2 for both the participant and the employer shall be on the equivalent form. In addition, the five items in the "Termination Agreement" section shall be reproduced and signed and dated.

(c) If a member participant has terminated employment from all FRS-covered employment for one calendar month and he has reached his normal retirement date age, in accordance with Section 121.021(29), F.S., he may request apply for a one-time distribution of up to 10 percent of his account balance. For example, if a member terminates on May 15, the one calendar month is June. Therefore, the member can request a one-time distribution of up to 10 percent in August.

~~(4) Reemployment by an FRS covered employer after termination.~~

~~(a) A participant who has terminated FRS-covered employment and taken a distribution is a retiree, in accordance with Section 121.4501(2)(j), F.S. As a retiree, the former participant shall not be reemployed with an FRS-covered employer until he has been retired for three calendar months, pursuant to Section 121.021(39)(c), F.S. Example: A participant who terminates on May 15 cannot receive a distribution until September and cannot return to FRS-covered employment until January.~~

~~(b) Examples: This paragraph contains examples only. This paragraph does not contain an exhaustive list of all possible situations. Participants who are not in exactly the same circumstances as described in these examples should call the toll-free number set out in subsection (2), above, to have their situations properly analyzed.~~

~~1. A participant who has reached normal retirement age, in accordance with Section 121.021(29), F.S., may get up to ten percent of his account after a one month calendar break, and he~~

~~may get the balance after a total of three calendar months, unless he returns to FRS-covered employment, during any time in that three-month period.~~

~~2. If the participant in subparagraph 1., above, takes a partial distribution and then returns to work, he will not be eligible for any further distributions until terminating work or after the first 12 months of retirement are completed.~~

~~3. Any participant may return to employment with an FRS-covered employer after 12 months of retirement and may take distributions, even while reemployed.~~

~~4. A participant who has reached normal retirement age, in accordance with Section 121.021(29), F.S., can return to work in one of the excepted positions identified in Section 121.091(9)(b), F.S., after one calendar month off FRS-covered payrolls.~~

~~5. A participant who has not reached normal retirement age, in accordance with Section 121.021(29), F.S., can return to work in one of the excepted positions identified in Section 121.091(9)(b), F.S., after having been retired for three calendar months.~~

~~(4)(5) Distributions to beneficiaries on the death of a member participant.~~

~~(a) If a member participant dies before his effective date of retirement, the member's participant's spouse at the time of his or her death shall be the member's participant's beneficiary, unless the member participant has designated another a different beneficiary after the member's participant's most recent marriage. If the member did name another beneficiary after his or her most recent marriage, the named beneficiary will receive the member's account balance.~~

~~(b) A participant's spouse must acknowledge on Form IPBEN 1, "Beneficiary Designation Form/FRS Investment Plan," rev. 09-03, which is hereby adopted and incorporated by reference, that he or she is not the beneficiary if the participant chooses another person or an entity.~~

~~(b)(e) Procedures for beneficiary designations are addressed in Rule 19-11.002, F.A.C.~~

~~(c)(d) On the death of a member participant, the beneficiary must file the "Death Benefit Distribution Claim Form," Form IPDB, rev. 07 10-05, which is hereby adopted and incorporated by reference, with the FRS Investment Plan Administrator, to receive benefits.~~

~~(5) Distributions to beneficiaries who are not spouses.~~

~~(a) In accordance with Internal Revenue Service (IRS) rules, non-spousal beneficiary accounts cannot be held indefinitely in the FRS Investment Plan. The amount of time a non-spousal beneficiary has before benefits must commence are more restrictive than for a spousal beneficiary. The "required minimum distribution" is required by the Internal Revenue Service and spelled out in IRS Code Section 401(a)(9), requiring that if the beneficiary is not a spouse, the Investment Plan can hold the distribution for no more than 5 years.~~

(b) For a non-spousal beneficiary, there are two possibilities, depending upon whether payments from the account had commenced to the member before his or her death:

1. Where distributions have already begun to the member, but the member dies before his or her entire account has been distributed, the remaining portion of the account must be distributed at least as rapidly as under the method of distribution being used as of the date of the member's death.

2. If a member dies before the distribution of the member's account has begun, the entire account of the member must be distributed within 5 years after the death of the member, unless.

a. The member's account will be distributed over the life of the designated beneficiary (or over a period not extending beyond the life expectancy of such beneficiary), and

b. Such distributions begin not later than 1 year after the date of the member's death.

(c) The non-spousal beneficiary must decide within 1 year if he or she wants to take lifetime installment or annuity payouts; otherwise, the entire account balance must be distributed within 5 years.

(d) If the whole amount is not paid out during the required 5-year period, the remaining funds in the account will be paid in a lump sum to the non-spousal beneficiary.

(6) Beneficiaries who are minors.

(a) A minor is a child under the age of 18. Section 744.301, F.S., allows for the natural guardian (surviving parent) to handle benefits to a minor child where that amount does not exceed \$15,000, without court appointment, authority or bond.

(b) In all cases where a minor child or children are the beneficiary(ies) of the member, a copy of the birth certificate of all minor children shall be sent to the FRS Investment Plan Administrator, and shall be received prior to any payout, regardless of the amount. The purpose is to provide proof that the surviving parent is the natural guardian of the children. The FRS Investment Plan Administrator shall confirm that the surviving parent is providing the instructions for any payment arrangements being made.

(c) In all cases in which a minor is a beneficiary of an account balance which is greater than \$15,000, the FRS Investment Plan Administrator shall place a hold on the account and advise the SBA of the situation and the SBA shall send instructions to the FRS Investment Plan Administrator for any additional action.

(d) If the individual responding to the correspondence sent by the Administrator and providing instructions for payout is not the surviving parent, the Administrator shall request the individual to provide a Court Order wherein a guardian has been appointed for the minor, prior to payout of any balance and the Administrator shall take directions only from the named guardian.

(e) If no instructions for payout are received, the Administrator shall notify the SBA and the SBA will contact the probate court with jurisdiction over the estate of the member to request direction on the disposition of the minor's interest in the account. Expenses shall be deducted from the member's account.

(7) Invalid distributions.

(a) An "invalid distribution" is a distribution given to a member to which the member is not entitled.

(b) If a member or a former member of the FRS Investment Plan receives an invalid distribution, the member or former member shall repay the entire invalid distribution within 90 days of the member's receipt of a final notification.

1. If a member repays the entire distribution, the member's repayment will be deposited in his FRS Investment Plan account; he will be returned to the Investment Plan; and all future employer contributions will be deposited in the funds he has chosen.

2. If the employer repays the entire distribution, the repayment will be deposited in the Investment Plan Trust Fund and allocated to the Investment Plan's forfeiture account to offset plan expenses. The member will be returned to the Investment Plan; and all future employer contributions will be deposited in the funds the member has chosen.

3. If the member fails to repay the invalid distribution, the SBA has the option to declare the member a "retiree" or pursue the repayment of the invalid distribution. As a "retiree," the member is subject to the restrictions of Section 121.122, F.S., which means that if the member is reemployed in the future with an FRS-covered employer, the member is not eligible for Special Risk membership, or for the Deferred Retirement Option Program, nor for disability benefits. Section 121.122, F.S., has other restrictions and should be read by the member with his or her particular situation in mind.

(c) The following are examples of scenarios that could result in invalid distributions. They are only examples and are not inclusive of all possible situations. Members and employers are encouraged to contact the FRS Investment Plan Administrator to discuss the particular situation.

1. Example 1: A member joined the FRS Investment Plan effective September 1, 2002. He terminated all employment from his FRS-covered employer on August 24, 2006. On December 15, 2006, he took a partial distribution from his Investment Plan account. However, he returned to FRS-covered employment on December 1, 2006. The member took an invalid distribution because he was working for an FRS-covered employer at the time he received the distribution. His payroll record reflected the August 24, 2006, termination date but did not yet reflect his rehire date. Therefore, because the payroll report is not required from the employer to the Division of Retirement until the 5th business day of the month following the end of the work-month, the FRS Investment Plan Administrator, which receives its information from the

Division of Retirement, had no knowledge of his return to work in the middle of December, since the information would not have arrived until at least January 6. The member is asked at the time of the distribution whether he is employed or pending employment with an FRS covered employer. If it is determined that the member knew or reasonably knew the answer to this question was yes, the member has taken an invalid distribution.

2. Example 2: A member joined the FRS Investment Plan effective April 1, 2004. He terminated all FRS-covered employment on November 12, 2006. The member has not reached his normal retirement date. On March 1, 2007, the member took a total distribution from his Investment Plan account. The member returned to FRS-covered employment on April 15, 2007. The March 1, 2007 distribution is invalid since the member returned to work within 3 calendar months of his retirement date.

3. Example 3: A member joined the FRS Investment Plan effective May 1, 2005. He terminated all FRS-covered employment on November 12, 2006. The member has reached his normal retirement date. On January 5, 2007, the member received his one-time distribution of up to 10 percent from his Investment Plan account. The member returned to FRS-covered employment on February 15, 2007. The January 5, 2007 distribution is invalid since the member returned to work within 1 calendar month of his retirement date.

Specific Authority 121.4501(8)(a) FS. Law Implemented 121.021(29), (39), 121.4501(20), 121.591 FS. History—New 3-9-06, Amended _____.

19-11.004 Excessive Trading in the FRS Investment Plan.

(1) Purpose.

(a) The purpose of this rule is to mitigate the negative impact on members participants in the FRS Investment Plan from excessive trading and to establish limitations on such excessive trading. The Trustees of the State Board of Administration of Florida (SBA) have a fiduciary duty to make decisions about the FRS Investment Plan in the best interests of all members participants and beneficiaries.

(b) Excessive trading by just a few of a fund's investors can disrupt fund operations, increase expenses and harm fund performance for all investors. In particular, some members participants have shown a high proclivity to make numerous short-term trades in foreign stock funds in an attempt to exploit funds' pricing conventions and other technical factors. Therefore, this rule establishes limitations so that excessive trading between approved investment funds shall be prevented, without materially inhibiting all members' participants' opportunities to direct contributions and account balances between investment funds with a frequency that is appropriate in light of the market volatility of the funds.

(c) The Executive Director of the SBA is directed to establish a policy on excessive trading in Section V of the Investment Policy Statement, adopted and incorporated by reference in Rule 19-9.001, Florida Administrative Code. This rule establishes that policy.

(d) The United States Securities and Exchange Commission has adopted Rule 22c-2.(17CFR270.22c-2.) regarding excessive trading for open-end mutual funds. This rule does not apply to institutional funds nor to mutual funds for which the FRS has received exemptions. This rule gives mutual funds the right to ask the FRS Investment Plan Administrator for information about members and their trading. If the mutual funds determine that the member has engaged in excessive trading under the mutual funds' standards, the mutual funds are entitled to impose redemption fees or block trading. The fees will be deducted from the members' accounts. All approved mutual funds in the FRS Investment Plan have agreed to let the SBA continue with its excessive trading policy as outlined in this rule except the following four funds: Fidelity Growth Company, T. Rowe Price Small Cap Stock, PIMCO High Yield, and PIMCO Total Return. This investigation is scheduled to begin on October 16, 2007. When this list changes, members will be notified. Note that the restrictions in the SEC Rule 22C-2 are in addition to the restrictions in this Rule 19-11.004, F.A.C.

(2) Definitions.

(a) A "member" "participant" is a person who has an account established in the FRS Investment Plan as a result of current or previous employment with an FRS-covered employer, or being designated as an alternate payee due to a qualified domestic relations order ("QDRO") or being a designated beneficiary when a member participant is deceased.

(b) A "Roundtrip Trade" occurs when a member participant conducts a series of at least two non-exempt transactions that include one or more transfers into an authorized investment fund AND one or more transfers out of the same authorized investment fund in either order (i.e. in/out or out/in), regardless of any multiple transfers from or to other different authorized investment funds during the roundtrip.

(c) An "exempt transaction" is any transaction that is initiated for purposes of: depositing employer payroll contributions; processing a distribution; processing a QDRO; or mapping funds from terminated products. Exempt transactions are not included in any calculations for the purposes of this rule.

(d) "Excessive trading" involves multiple occurrences of Market Timing Trades by a participant over time.

(e) A "Market Timing Trade" is a member- participant-directed series of trades with the following two characteristics:

1. One Roundtrip Trade within a 30-day period, and
2. The trade amount for all Roundtrip Trades is an aggregate amount of \$75,000 or more.

(f) "Aggregate amount of \$75,000 or more" means the total of the amounts transferred out of a fund and into the same fund, in either order (i.e., in/out or out/in) during any rolling 30-calendar day period, regardless of the number of Round Trips.

(3) Limitations.

(a) Regarding authorized foreign or global stock funds: After making a non-exempt transaction by transferring any portion of their account balance into an authorized foreign or global or stock fund, ~~members participants~~ are prohibited from completing a Roundtrip Trade in that fund for a minimum of 7 calendar days, using the convention of last-dollar-in and first-dollar-out for the roundtrip calculation.

(b) Regarding all authorized funds, except for money market funds:

1. ~~Members Participants~~ who engage in Market Timing Trades in authorized funds will receive a warning letter sent by U.S. mail, certified/return receipt requested. The warning letter shall notify the ~~member participant~~ that excessive trades have been identified in his/her accounts and any additional violations will result in a direction letter.

2. ~~Members Participants~~ who engage in Market Timing Trades in authorized funds and who have previously received a warning letter described in subparagraph 1., above, will be sent a certified/return-receipt direction letter. The direction letter shall require that the ~~member participant~~ shall not have access to automated online or telephonic trade instructions for at least one full calendar month following the date of the direction letter.

~~a. A member who receives a warning letter and then has another Market Timing Trade more than twelve full calendar months from the date of the original warning letter will receive another warning letter.~~

~~b. Participants engaging in Market Timing Trades who receive more than two warning letters will be sent a certified, return receipt direction letter, as described in this subparagraph 2.~~

3. ~~Members Participants~~ who engage in Market Timing Trades and who have previously received a direction letter, as described in subparagraph 2., above, will be sent another certified/return-receipt direction letter. This direction letter shall require that the ~~member participant~~ shall not have access to automated or telephonic trade instructions for at least three full calendar months following the date of the direction letter.

4. ~~Members Participants~~ who engage in Market Timing Trades and who have previously received a direction letter as described in subparagraph 3., above, will be sent another certified/return-receipt direction letter. The direction letter shall require that the ~~member participant~~ shall be required to conduct trades via paper trading forms for at least three full calendar months following the date of the direction letter.

5. ~~Members Participants~~ who engage in Market Timing Trades and who have previously received a direction letter as described in subparagraph 4., above, will be sent another certified/return-receipt direction letter. The direction letter shall require that the ~~member participant~~ shall be required to conduct trades via paper trading forms for at least twelve full calendar months following the date of the direction letter.

6. ~~Members Participants~~ who engage in Market Timing Trades and who have previously received a direction letter as described in subparagraphs 5., above, will be sent another certified/return-receipt direction letter. The direction letter shall require that the ~~member participant~~ shall be required to conduct trades via paper trading forms for the remainder of any time that any balance exists in the participant's Investment Plan account following the date of the direction letter.

(c) If ~~Member Participant~~ A receives a direction letter as described in subparagraph (3)(b)2., above, on November 15, ~~Member Participant~~ A's access to automated online or telephonic trade instructions shall be denied until January 1. "One full calendar month," in this context, means the full calendar month following the month in which the direction letter is received. The direction letter, in this example, was received in November. The "one full calendar month" is December. Therefore, access will not be resumed until January.

~~(4) Examples. (a)~~ This subsection contains examples only. This subsection does not contain an exhaustive list of all possible transactions. ~~Members Participants~~ avoiding these examples will not necessarily avoid the impact of this rule since other transactions will meet the definitions of Market Timing Trades or Excessive Trading.

~~(a)(b)~~ If ~~Member Participant~~ A transfers \$50,000 out of Fund A and into Fund B on Monday and then transfers \$20,000 out of Fund B on Tuesday, the transaction is a Roundtrip Trade but is not a Market Timing Trade because the aggregate amount of \$75,000 specified in subsection (2)(e)2., above, has not been met.

~~(b)(e)~~ If ~~Member Participant~~ A transfers \$50,000 out of Fund A and into Fund B on Monday and then transfers \$55,000 out of Fund B on the following Monday, the transaction is a Roundtrip Trade and a Market Timing Trade because the aggregate amount of all trades in and out of Fund B has exceeded \$75,000 ($\$50,000 + \$55,000 = \$105,000$) within a 30 day period.

~~(c)(d)~~ If ~~Member Participant~~ A transfers \$5,000 out of Fund A and into Fund B on November 1 and then transfers \$25,000 out of Fund A and into Fund B on November 3 and then transfers \$10,000 out of Fund A and into Fund B on November 5 and then transfers \$40,000 out of Fund B and into Fund A on November 15, the entire series of transactions constitutes a Roundtrip Trade and is a Market Timing Trade because the aggregate amount of all trades into and out of Funds A and B each exceeded \$75,000 within a 30 day period.

(d)(e) If ~~Member Participant~~ A transfers \$5,000 out of Fund A and puts \$2,500 into Fund B and \$2,500 into Fund C on December 1 and then transfers \$25,000 out of Fund A and puts \$20,000 into Fund B and \$5,000 into Fund C on December 5, and then transfers \$10,000 out of Fund A and puts \$10,000 into Fund C on December 6 and then transfers \$23,000 out of Fund B into Fund A and \$20,000 out of Fund C into Fund A on December 16, the entire series of transactions constitutes a Roundtrip Trade and is a Market Timing Trade because the aggregate amount of all trades into and out of Fund A exceeded \$75,000 within a 30 day period. It is irrelevant that money has come out of one fund and been transferred into two funds because the money has been returned to the original fund.

(e)(f) ~~Member Participant~~ A transfers \$50,000 out of Fund A and into a foreign stock fund, which already contains \$100,000, on October 1, so that on October 1, the foreign stock fund contains \$150,000. ~~Member Participant~~ A must wait until October 9 to transfer any or all of the \$150,000 in funds out of the foreign stock fund.

(f)(g) A ~~Member Participant~~ has \$250,000 in his FRS Investment Plan account and is the subject of a QDRO with the result that the ~~Member's Participant's~~ spouse becomes entitled to half of the ~~Member's Participant's~~ FRS Investment Plan account. A total of \$125,000 is transferred from the ~~Member's Participant's~~ account to a newly-established account for the ~~Member's Participant's~~ spouse and the funds are put into a foreign stock fund on December 1. On December 5, the ~~Member's Participant's~~ spouse rolls over the entire \$125,000 into an IRA. This is neither a Roundtrip Trade nor a Market Timing Trade because the transfer is an exempt transaction, as described in paragraph (2)(c), above.

(g)(h) A ~~member participant~~ transfers \$32,000 into Fund A on August 5 and then transfers \$32,000 out of Fund A on August 11 and then transfers \$31,000 into Fund A on August 17 and finally transfers \$31,000 out of Fund A on August 18. The entire series of trades are Round Trip trades and the trades are also a Market Timing Trade because the aggregate amount of all trades exceeded \$75,000 within a 30 day period.

(5) For all ~~members participants~~, Roundtrip and Market Timing Trades are calculated using a rolling 30-calendar day time period. If a trade occurs on May 15 and the following 30-calendar day period, from May 15 through June 13, includes a sufficient number of trades to fit the definition of a Market Timing Trade, this rule shall apply.

Specific Authority 121.4501(8) FS. Law Implemented 121.4501(13), (14), (15) FS. History—New 10-21-04, Amended 3-9-06,_____.

19-11.005 FRS Investment Plan Complaint Procedures.

(1) Purpose. Section 121.4501(9)(f)3., F.S., requires that the State Board of Administration “. . . develop procedures to receive and resolve participant complaints against a provider or approved provider personnel, and, when appropriate, refer such

complaints to the appropriate agency.” The following procedures outline the SBA’s policy in handling complaints filed against Investment Plan providers, including the third party administrator, education providers, and investment providers.

(2) Definitions.

(a) “Complaint” shall mean a participant’s written or verbal expression of dissatisfaction with an Investment Plan provider or one of its representatives.

(b) “Investment Plan” shall mean the Public Employee Optional Retirement Program as defined in Section 121.4501(2)(g), F.S.

(c) “Investment Plan providers” are:

1. Third Party Administrator, the FRS Investment Plan Administrator;
2. Companies providing Investment Plan education;
3. Investment managers providing investment services supporting mutual funds or institutional funds offered in the FRS Investment Plan;
4. Marketing companies providing marketing and educational support for their investment products or providing individual counseling; and
5. Any other company or state agency providing Investment Plan services (including the State Board of Administration of Florida).

(d) “~~Member~~” “~~participant~~” means an employee who elects to participate in the FRS Investment Plan and enrolls in such program as provided in Section 121.4501(4), F.S. For purposes of this rule, “~~member~~” “~~participant~~” also includes FRS employees who have not elected the FRS Investment Plan but who claim that they intended to join but were prevented for various reasons.

(e) “SBA” means the State Board of Administration of Florida, the plan sponsor for the FRS Investment Plan.

(3) Procedures.

~~(a) First Step: Intervention; by the FRS Investment Plan Administrator.~~

~~1. Any Participant with a complaint regarding an Investment Plan provider shall communicate his complaint to the Third Party Administrator [i.e., the FRS Investment Plan Administrator] within 2 business days.~~

~~2. Both parties shall attempt to reach a satisfactory resolution of the problem.~~

~~3. If a solution cannot be reached timely, the FRS Investment Plan Administrator will provide the Participant with a written or verbal update on the status of his complaint and the anticipated timeline for resolution.~~

~~(b) Second Step: Intervention by the SBA.~~

~~1. If an acceptable resolution is not reached in the first step, Tthe Member Participant may send a written Request for Intervention to the SBA for intervention and resolution. The written Request for Intervention shall may be sent:~~

a. By regular US mail service to:
 Investment Plan Complaint Resolution
 Office of Defined Contribution Programs
 Florida State Board of Administration
 P. O. Box 13300
 Tallahassee, FL 32317-3300

b. By e-mail: DefinedContributionPrograms@sbafla.com
~~DefinedContributionPrograms@fsba.state.fl.us~~; or

c. By fax: (850)413-1489

2. The ~~Member Participant~~ shall use “FRS Investment Plan Request for Intervention,” Form SBA-RFI ~~08/2006 RF06/04~~, which is hereby adopted and incorporated by reference. The form may be obtained by using the toll free number at (866)446-9377 and requesting that it be mailed to the ~~Member Participant~~ or by accessing the MyFRS.com website, clicking on Resources, and then clicking on Forms. By using this form, the ~~Member Participant~~ grants permission to the SBA to obtain any personally identifiable information shared with or generated by any service provider to the FRS, including the MyFRS Financial Guidance Program.

3. The ~~Member Participant~~ must provide all information. If all information is not provided, the form shall be returned to the ~~Member Participant~~ so that the missing information can be added.

4. Upon receipt of the complete Request for Intervention, an acknowledgment will be sent by regular US mail or emailed to the ~~Member Participant~~.

5. The SBA will conduct an investigation and prepare and send to the ~~Member Participant~~ an agency action letter detailing the SBA’s findings; any proposed resolution; and information on the next steps in the dispute resolution process.

~~(b)(e)~~ Second ~~Third~~ Step: Hearing Request.

1. If the ~~Member Participant~~ is not satisfied with the proposed resolution as set out in the agency action letter, the ~~Member Participant~~ may file a Petition for Hearing, “FRS Investment Plan Petition for Hearing,” Form SBA-PFH ~~08/2006 06/04~~, which is hereby adopted and incorporated by reference, with the SBA. The Petition for Hearing is routinely attached to the agency action letter and may also be obtained by calling the toll free number at 1(866)446-9377 and requesting that it be sent to the ~~Member Participant~~ or by accessing the MyFRS.com website, and clicking on Resources and then clicking on Forms. The Petition for Hearing must be received within 21 days of the ~~Member’s Participant’s~~ receipt of the agency action letter or it will be rejected as untimely and the ~~Member Participant~~ will have waived his right to a hearing.

2. The ~~Member Participant~~ shall use “FRS Investment Plan Petition for Hearing,” Form SBA-PFH ~~08/2006 06/04~~. By using this form, the ~~Member Participant~~ grants permission to the SBA to obtain any personally identifiable information shared with or generated by any services provider to the FRS, including the MyFRS Financial Guidance Program.

3. Upon receipt of the Petition for Hearing, the SBA has 15 days to respond to the petition, in accordance with Section 120.569(2)(a), F.S.

4. If the hearing request contains a disputed issue of material fact, the SBA shall, within the required 15 days, forward the hearing request to the Division of Administrative Hearings, requesting that an administrative law judge be assigned to conduct the hearing and so notify the Participant.

5. If there is no disputed issue of material fact, then the SBA shall assign the matter to a presiding officer, who will send out a “Notice of Proceeding and Initial Order of Instructions” to the Petitioner and to Respondent’s counsel. ~~send a Notice of Proceeding in conformance with Rule 28-106.302, F.A.C., and include a decision with regard to mediation under Section 120.573, F.S., and Part IV of Rule Chapter 28-106, F.A.C. The Participant has 14 days from the date of the Notice of Proceeding to submit written evidence or to ask to submit oral evidence. If the Participant asks to submit oral evidence, the SBA will schedule a hearing no sooner than 14 days from the date of the request. A Notice of Proceeding will include a reference to Rule 28-109.006, F.A.C., regarding communications media technology and the responsibility of the Participant to provide someone to swear him in if he decides to use a conference telephone.~~

6. The balance of the hearing process shall conform to the requirements of Chapter 120, F.S.

Specific Authority 121.4501(8)(a) FS. Law Implemented 120.569, 120.57, 120.573, 121.4501(9)(f)3. FS. History–New 10-21-04, Amended 3-9-06,_____.

19-11.006 Enrollment Procedures for New Hires.

(1) Purpose. This rule adopts procedures and forms for enrollment in the Florida Retirement System Investment Plan for employees who become employed in a regularly established position with a state employer commencing after April 1, 2002; or with a district school board employer commencing after July 1, 2002; or with a local employer commencing after October 1, 2002.

(2) Definitions.

(a) “ABO,” which is the acronym for the “accumulated benefit obligation,” means the present value of a member’s benefit in the FRS Pension Plan, which is the defined benefit program of the Florida Retirement System, to which the member would be entitled if the member retired from the FRS Pension Plan. This present value shall be calculated in accordance with the formula set out in Section 121.4501(3)(c)2., F.S. by the Division of Retirement within the Department of Management Services. The ABO changes on a monthly basis based on the monthly basis based on the following factors: age, service, salary level, and membership class.

(b) “Division” means the Division of Retirement within the Department of Management Services.

(c) “Administrator” means the entity hired by the SBA, pursuant to Section 121.4501(8)(b)1., F.S., to provide administrative services to the FRS Investment Plan and is responsible for processing enrollment forms received from employees making a retirement plan choice either by form, by telephone, or on the MyFRS.com website.

~~(d)(e)~~ “Effective date of enrollment or effective enrollment in the FRS Investment Plan” means that the employee has completed enrollment by filing the enrollment form for his membership class or by filing a separate document for his membership class with the Administrator; that the Administrator TPA has entered the employee into its recordkeeping system; and that the Administrator TPA has informed the Division and the employee’s employer of the employee’s effective date of enrollment in either the FRS Pension Plan or in the FRS Investment Plan. For purposes of this rule, the term “enrollment form” or “form” shall also refer to the separate document described in paragraph 19-11.006(4)(b), F.A.C., below.

~~(d)~~ “Effective enrollment in the FRS Investment Plan” means that the employee has completed enrollment; that the TPA has entered the employee into its recordkeeping system; and that the TPA has informed the division and the employee’s employer of the employee’s effective date of enrollment in the FRS Investment Plan.

(e) “Employee” means an eligible employee as defined in Section 121.4501(2)(d), F.S.

(f) “Employer” means an employer as defined in Section 121.4501(2)(e), F.S. For purposes of the FRS Investment Plan, there are three general categories of employers: state agencies; school districts; and local employers.

(g) “FRS Investment Plan” means the defined contribution retirement program of the Florida Retirement System, established in Parts II and III of Chapter 121, F.S. Although established in Parts II and III, certain parts of Part I of Chapter 121 also apply to the FRS Investment Plan. The FRS Investment Plan has two parts: the FRS Investment Plan and the FRS Investment Plan Hybrid Option, also known as the FRS Hybrid Option.

(h) “FRS Pension Plan” means the defined benefit retirement program of the Florida Retirement System, established in Part I of Chapter 121, F.S.

(i) “Florida Retirement System Trust Fund” or “FRSTF” shall mean the trust fund holding the assets of the FRS Pension Plan, which is the defined benefit plan of the Florida Retirement System.

(j) “Grace Period” means that procedure described in subsection (6), below, which permits, under certain circumstances, the voiding of a retirement plan election.

(k) “Member” ~~“Participant”~~ means an employee who elects to join the FRS Investment Plan or the FRS Investment Plan Hybrid Option.

(l) “Public Employee Optional Retirement Program” or “PEORP” means the defined contribution retirement program of the Florida Retirement System established by Section 121.4501, F.S., more commonly known as the FRS Investment Plan.

(m) “SBA” means the State Board of Administration of Florida.

~~(n)~~ “TPA” means the third party administrator hired by the SBA, pursuant to Section 121.4501(8)(b)1., Florida Statutes, to provide administrative services to the FRS Investment Plan.

~~(n)(e)~~ “True-up Amount” means the difference between the ABO calculated by using the member’s participant’s actual creditable service and the actual final average compensation as of the member’s participant’s effective date in the FRS Investment Plan and the ABO initially transferred.

(3) General Enrollment Procedures.

(a) All newly-hired employees are initially enrolled in the FRS Pension Plan. If a newly-hired employee chooses, within the statutory election period, to enroll in the FRS Investment Plan or the FRS Investment Plan Hybrid Option, the effective date of enrollment in the FRS Investment Plan or the FRS Investment Plan Hybrid Option is the date of hire of the employee. However, the employer contributions received by an employee prior to effective enrollment in the FRS Investment Plan or the FRS Investment Plan Hybrid Option will be transferred into the employee’s FRS Investment Plan or FRS Investment Plan Hybrid Option account at the rate the employer was required to contribute for that employee. Only after effective enrollment in the FRS Investment Plan or the FRS Investment Plan Hybrid Option will the employee receive the employer contribution at the FRS Investment Plan or FRS Investment Plan Hybrid Option rate appropriate to that employee’s class of membership service, as specified in Section 121.4501(4)(a)2.b; (b)2.b., and (c)2.b., F.S.

(b) Enrollment forms are available in the enrollment package which is sent to an employee’s address of record or by accessing may be accessed online at: www.MyFRS.com, and clicking on Resources and then on Forms; or by calling toll-free 1(866)446-9377 or for the hearing impaired 1(888)429-2160, ~~which is a toll-free line.~~

(4) Specific Enrollment Procedures.

(a) All newly-hired employees may enroll in the FRS Investment Plan no later than the last business day of the 5th month following the employee’s month of hire or may elect to remain in the FRS Pension Plan. Example: If an employee is hired on January 15, he must elect the FRS Investment Plan no later than the last business day of June.

(b) The SBA has designed the following forms for ease of use for employees in the several membership classes of the Florida Retirement System. As an alternative, an employee not wishing to use the forms may provide the information outlined in this Rule 19-11.006, F.A.C., for his membership class in a separate document. Employees may determine their

membership class by inquiry of their human resources office at their agency. The forms available are: an EZ Retirement Plan Enrollment form which is only for regular, special risk, and special risk administrative support class employees; a General Retirement Plan Enrollment form for regular, special risk, and special risk administrative support class employees; an Elected Officers' Class Retirement Plan form; a Community College Optional Retirement Program Retirement Plan Choice form; a State University System ORP-Eligible Employee Retirement Plan form; a State Senior Management Service Employees Retirement Plan form; and a Local Senior Management Service Employees Retirement Plan form.

1. All enrollment forms can be obtained at the sources listed in paragraph (3)(b), above.

2. Only members of the regular, special risk, and special risk administrative support classes of employees may use the EZ form, "EZ Retirement Plan Enrollment Form for Regular, Special Risk and Special Risk Administrative Support Class Employees," Form ELE-1-EZ, rev. 05-07 ~~02-04~~, which is hereby adopted and incorporated by reference. If an employee chooses to use the EZ form, only limited information is required and the FRS Select Moderate Balanced Fund is the initial investment option (although that investment option may be changed by the Member Participant once the account is funded) and no beneficiary identifying information is required. However, beneficiary designations must be made on forms for that purpose or funds will be distributed, at the Member's Participant's death, in accordance with Florida law and Rule 19-11-002, F.A.C. Beneficiary designation forms may be obtained from the same sources listed in paragraph (3)(b), above.

(c) If one of the other forms is used, consistent with the employee's membership class, or if the employee chooses to submit a separate document, consistent with the employee's membership class, the employee shall provide the following information:

1. Employee's name and social security number;

2.a. For an employee who is not a member of any of the retirement plan options detailed in sub-subparagraphs b. through f., below, a selection as to whether the employee decides to stay in the FRS Pension Plan, or transfer his ABO, if any, to the FRS Investment Plan, or transfer to the FRS Investment Plan Hybrid Option and leave his ABO, if any, in the FRS Pension Plan; or

b. For a state employee who is eligible for membership in the State Senior Management Service Class, a selection as to whether the employee wishes to elect:

i. The FRS Pension Plan; or

ii. The FRS Investment Plan and have future employer contributions sent to the FRS Investment Plan account; or

iii. To retain any accrued benefit in the FRS Pension Plan benefit and switch prospectively into the FRS Investment Plan Hybrid Option, which requires that the employee must have at least 5 years of previous Pension Plan service to select this option iii; or

iv. To switch prospectively to the Senior Management Service Optional Annuity Program (SMSOAP) and retain any accrued benefit in the FRS Pension Plan, which requires that the choice form must be received no later than 4 PM Eastern Time on the 90th day from the employee's date of hire, in accordance with Section 121.055(6)(c)2., F.S.;

c. For a local employee who is eligible for the Senior Management Service Class, a selection as to whether the employee wishes to elect:

i. The FRS Pension Plan; or

ii. The FRS Investment Plan and have all future employer contributions sent to the FRS Investment Plan account; or

iii. To retain any FRS Pension Plan benefit and switch prospectively into the FRS Investment Plan Hybrid Option, which requires that the employee must have at least 5 years of previous Pension Plan service to select this option iii; or

iv. To withdraw from the Florida Retirement System, which requires contacting the employee's employer and submitting the appropriate form to that employer;

d. For an employee who is eligible for the State University System Optional Retirement Program (SUSORP), a selection as to whether the employee wishes to elect:

i. To join SUSORP and retain any accrued benefit in the FRS Pension Plan, which requires making such election no later than the 90th day after the date of hire by executing a contract with a SUSORP provider company and which also requires that eligible clinical faculty members employed at a state university with a faculty practice plan ~~J. Hillis Miller Center at the University of Florida or the Medical Center at the University of South Florida~~ shall elect this option, which requires the selection to be made no later than 4 PM Eastern Time on the 90th day from the employee's date of hire, in accordance with Section 121.35(3), F.S.; or

ii. To join the FRS Pension Plan which must be completed no later than the last business day of the 5th month after the month of hire; or

iii. To join the FRS Investment Plan and to transfer the present value, if any, of the FRS Pension Plan benefit to the FRS Investment Plan and to have future contributions sent to the FRS Investment Plan account; or

iv. To switch prospectively to the FRS Investment Plan Hybrid Option and retain any accrued benefit in the FRS Pension Plan, which requires that the eligible employee must have 5 years of previous Pension Plan service to select this option iv;

e. For an employee who is eligible for the Community College Optional Retirement Program, a selection as to whether the employee wishes to elect:

- i. To join the FRS Pension Plan; or
- ii. To join the FRS Investment Plan and to transfer any accrued benefit from the FRS Pension Plan to the FRS Investment Plan and to have future employer contributions sent to the FRS Investment Plan account; or
- iii. To join the FRS Investment Plan Hybrid Option and to retain any accrued benefit in the FRS Pension Plan which requires that the eligible employee must have 5 years of previous Pension Plan service to select this option iii; or
- iv. To withdraw from the Florida Retirement System and participate in the Community College Optional Retirement Program (CCORP) which requires that the selection must be completed within 90 days of commencing CCORP qualifying employment, in accordance with Section 1012.875(3), Florida Statutes;
- f. For an employee who is eligible for the Elected Officers' Class, a selection as to whether the employee wishes to elect:
 - i. To join the FRS Pension Plan; or
 - ii. To join the FRS Investment Plan and to transfer any accrued benefit from the FRS Pension Plan to the FRS Investment Plan and to have future employer contributions sent to the FRS Investment Plan account; or
 - iii. To join the FRS Investment Plan Hybrid Option and to retain any accrued benefit in the FRS Pension Plan which requires that the eligible employee must have 5 years of previous Pension Plan service to select this option iii; or
 - iv. To join the Senior Management Service Class of the FRS Pension Plan and retain any accrued benefit in the FRS Investment Plan, which requires the eligible employee to make the choice no later than the last day of the 6th month after assuming his elected office, in accordance with Section 121.052(3)(a), Florida Statutes; or
 - v. To switch prospectively to the State Senior Management Service Optional Annuity Program and retain any accrued benefit in the FRS Pension Plan, which selection must be made no later than the last business day of the 6th month after assuming elected office and that the employee must be a state elected officer to select this option v; or
 - vi. To withdraw from the Florida Retirement System and participate in a local government Optional Annuity Program, which decision is irrevocable so long as the employee holds a position which is eligible for the Senior Management Service Class and which election must be made no later than the last business day of the 6th month after assuming elected office and that the employee must be a local elected officer to select this option vi; or
 - vii. To withdraw from the Florida Retirement System altogether, which means that the employee will not participate in the Florida Retirement System or any retirement plan offered by his employer; that the effective date of the election will be the date he assumed elected office; that the employee can rejoin the Elected Officers Class upon written request; that the employee's decision must be made no later than the last

business day of the 6th month after assuming elected office; and that this option vii is not available to any member who has already retired from a State of Florida administered retirement plan.

3. understand that benefits will be distributed in accordance with Section 121.091(8), Florida Statutes, in the absence of the ~~member's participant's~~ filing a beneficiary designation form, which is available from the sources listed in subsection (3)(b), above;

4. Select any combination of investment funds from among any of the balanced funds and other investment funds shown, provided, however, that the percentage of the employee's contributions for all of the funds selected must equal 100 percent. Any ~~member participant~~ who does not select investment options will be defaulted into the FRS Select Moderate Balanced Fund. Any ~~member participant~~ so defaulted retains the option at any time once the account is activated to make other investment selections. Both the accumulated benefit obligation and all future contributions will be invested in the FRS Select Moderate Balanced Fund unless and until the ~~member participant~~ chooses other investment options;

5. ~~I understand section~~ sign and date a section indicating that, depending on which options were selected as described in Section 1 of the form and in subparagraph 2., above:

a. the employee understands that he can obtain a description of his rights and responsibilities under the FRS Pension Plan and the FRS Investment Plan by calling a toll-free number or accessing an internet website;

b. The employee understands the elections he has made by choosing among the various options available to him as described in Section 1 of the form and in subparagraph 2., above;

c. The employee understands that if he has elected the FRS Investment Plan, the initial ABO is an estimate which will be reconciled within 60 days and that if the employee is a member of the FRS Investment Plan Hybrid Option, he cannot make this choice unless he has at least 5 years of previous Pension Plan service and that if he is currently a member of the FRS Pension Plan, the election may constitute his second choice as provided under Section 121.4501(4)(e), Florida Statutes;

d. The employee understands that he should review the fund profiles and the Investment Fund Summary before choosing investment funds and that information will be available electronically unless the employee requests hard copies and that if the employee does not choose specific funds, his assets will be invested in the FRS Select Moderate Balanced Fund;

e. The employee understands that investment management fees may change and that funds may be added or terminated and that if funds are terminated, the employee has the choice of moving his assets into other investment options or, if the employee does not make an affirmative decision, his assets will

be moved to the FRS Select fund with the most similar risk characteristics or into a replacement fund designated by the Plan's Trustees;

f. The Florida Statutes incorporate federal law concepts of participant control so that if the employee exercises control over his assets in accordance with section 404(c) of the federal Employee Retirement Income Security Act of 1974, no program fiduciary shall be liable for any loss to his account which results from the employee's control;

g. The employee understands that he has a one time opportunity to switch plans and that to switch to the Pension Plan there will be a buy-in cost for doing so;

h. the employee understands that he can change his fund allocations at any time after the account is activated;

i. The employee understands that his account will be available by the last business day ~~end~~ of the month following the date of his election;

j. The employee understands that by not selecting any investment options, he is authorizing that his assets be invested in the FRS Select Moderate Balanced Fund;

k. The employee understands that the FRS Investment Plan is not designed to facilitate short-term excessive trading; that foreign and international funds are subject to a 7-day holding period and that the excessive trading policy in Rule 19-11.004, F.A.C., applies to all members ~~participants~~;

l. The employee understands that he cannot file a second election using the initial enrollment form;

m. The employee understands that if he has chosen the Senior Management Service Optional Annuity Program, he must contact the plan marketing companies to receive information about investment funds; that his participation in any other state-administered retirement plan is inactivated once enrolled in SMSOAP; that he is not eligible for disability benefits; that his SMSOAP election is irrevocable so long as he is employed in a SMSOAP position; that the State of Florida does not guarantee or insure SMSOAP benefits; and that any employee contributions to SMSOAP are after-tax deductions that are not tax-deferred;

n. The employee understands that if he has chosen to withdraw from the Florida Retirement System, that his participation in any other state-administered retirement plan is inactivated once the withdrawal is complete; that he is not eligible for disability benefits; that his withdrawal decision is irrevocable so long as he is employed in a position eligible for participation in the Senior Management Service Class;

o. The employee understands that if he has chosen the State University System Optional Retirement Program (SUSORP), he must contact the plan marketing companies to receive information about investment funds; that his participation in any other state-administered retirement plan is inactivated once enrolled in SUSORP; that he cannot participate in SUSORP if he is a retiree or receiving an annuity payment from the SUSORP; that he is not eligible for disability

benefits; that his SUSORP election is irrevocable so long as he is employed in a SUSORP position; that the State of Florida does not guarantee or insure SUSORP benefits; and that any employee can contribute up to the statutory amount of his gross salary as an employee contribution and that these contributions to SUSORP shall be tax-deferred;

p. The employee understands that if he has chosen to withdraw from the Florida Retirement System and participate in the Community College Optional Retirement Program (CCORP), he must contract with the individual provider company(ies) for CCORP within 90 days of his employment; that failure to join CCORP will make him a compulsory member of the FRS Pension Plan; that by electing to withdraw from the Florida Retirement System, he must become a program participant in the CCORP's lifetime monthly annuity program; that his participation in any other state-administered retirement plan is inactivated once enrolled in CCORP; that he is not eligible for disability benefits; and that he has one opportunity to join either the FRS Pension Plan or the FRS Investment Plan;

q. The elected employee understands that if he has chosen to join the SMSOAP, he must be an elected officer; and that he must contact the marketing company(ies) to receive information about the plan; that his participation in any other state-administered retirement plan is inactivated; that the State of Florida does not guarantee or insure any benefits paid under the program; and that any employee contributions he makes are not tax-deferred;

r. The elected employee understands that if he has chosen to withdraw from the Florida Retirement System and participate in a local government annuity program, his effective date will be the first day of the month following the receipt of his written election to the FRS Plan Choice Administrator; and

s. The elected employee understands that if he has chosen to withdraw from the Florida Retirement System altogether, he may rejoin upon written request and that this option is not available to members who have already retired from a State of Florida administered retirement plan.

6. For employees who have chosen to participate in the Senior Management Service Optional Annuity Program, fill out a section designating marketing companies and contribution amounts for that option and check a statement that the employee has reviewed the investment fund options offered by the marketing companies and has signed the necessary contract(s) with the company(ies) for the deposit of the employees contributions as authorized in the section.

7. For employees who have chosen to participate in the State University System Optional Retirement Program, fill out a section designating marketing companies and contribution amounts for that option and check a statement that the employee has reviewed the investment fund options offered by

the marketing companies and has signed the necessary contract(s) with the company(ies) for the deposit of the employees contributions as authorized in the section.

(d)1. The enrollment form shall be complete and the election shall be final if all the required information is clearly indicated and if the enrollment form is received by the Administrator TPA by 4 PM Eastern Time. The form shall be transmitted via the U.S. mail ~~or shall be submitted online in accordance with instructions accompanying the form.~~

2. The Administrator TPA shall determine that the employee's enrollment in the FRS Investment Plan is within the prescribed time period, the form in toto is complete, and the employee's election is clearly indicated. If the Administrator TPA determines that the form is incomplete, the form shall be returned to the employee and resubmitted when complete. An incomplete form is a form which is missing the name and address and form numbers of the member participant, social security numbers, plan selection, signatures, or dates. If the form is incomplete only because the member participant has made no investment selection, the form will be processed and the member participant will be defaulted into the FRS Select Moderate Balanced Fund for investing his accumulated benefit obligation and all future contributions. Note that this default selection may be changed by the member participant at any time once the transfer has been made.

(e) Upon receipt of the completed enrollment form by the Administrator TPA, the Administrator TPA shall enroll the employee in the FRS Investment Plan. Upon completion of the enrollment, but no later than two working days after enrollment, the Administrator TPA shall send confirmation of the effective enrollment to the employee at the employee's home address, to the employee's employer, and to the division to inform the division that the employee is no longer in the FRS Pension Plan.

(f) Employers shall pay retirement contributions monthly for their FRS Investment Plan employees or the FRS Investment Plan Hybrid Option and those contributions are due to the division by the 5th working day of the month following the month for which the contributions are made. The employer shall change its employee records to reflect that the contribution rates effective on the effective date of enrollment are applicable to those of its employees who have elected to enroll in the FRS Investment Plan or the FRS Investment Plan Hybrid Option.

(5) Asset Transfer and True-Up Procedures for Newly-hired Employees with Previous FRS Service.

(a) For employees with previous FRS service who elect to enroll in the FRS Investment Plan with a transfer of his or her ABO, the division shall determine the amount of the employee's ABO. This amount shall be transferred to the employee's FRS Investment Plan account and shall be allocated to each investment product selected by the participant on his or her enrollment form.

(b) 1. The Division shall determine the employee's ABO as of the last day of the month prior to the employee's effective date of enrollment in the FRS Investment Plan.

2. Example: If the Division receives the enrollment during the month of June, the effective date of enrollment for the employee in the FRS Investment Plan is July 1. The Division shall determine the employee's ABO, if any, through June 30.

(c) By the 15th day of the month, the Division shall notify the Administrator TPA of the ABO for each employee whose effective date of enrollment is the first day of the month and the Administrator TPA shall notify the SBA of the aggregate ABO of employees whose effective date of enrollment is the first day of the month.

(d) On the last business day of the effective month of enrollment in the FRS Investment Plan, the SBA shall transfer the aggregate ABO amount to the FRS Investment Plan custodian for distribution to the FRS Investment Plan participant accounts. Such distribution shall be directed by the Administrator TPA and shall be based on the percentage of the total investment allocated to each investment option designated by the participant on the enrollment form.

(e) The total amount initially credited to each FRS Investment Plan member's participant's account who chooses to move his or her ABO out of the FRS Pension Plan is an estimate of the participant's ABO as calculated by the Division. Thereafter, pursuant to Section 121.4501(3)(c)3., F.S., the Division shall recompute the ABO not later than 60 days after the initial transfer of funds and, if the recomputed amount differs from the transferred ABO amount by \$10 or more, the Division shall cause an adjustment of the transfer of assets between FRS Investment Plan account(s) of the affected member(s) participant(s) through a true-up transfer in accordance with that statutory section.

(f) If the recomputed ABO is greater than the initial amount transferred by \$10 or more, the amount to be transferred to the member's participant's FRS Investment Plan account from the FRS Trust Fund will equal the excess of the recomputed ABO over the amount initially transferred plus interest. The amount transferred to each investment product shall be based on the percentage of the total investment allocated to each investment product by the member participant on his or her enrollment form.

(g) If the recomputed ABO is less than the original amount transferred by \$10 or more, the Administrator TPA shall cause to be transferred from the member's participant's FRS Investment Plan account to the FRSTF an amount equal to the excess of the initial amount transferred over the recomputed ABO plus interest. The amount transferred from each investment product shall be based on the percentage of the total investment allocated to each investment product by the member participant on his or her enrollment form.

(h) The ~~D~~ivision shall notify the SBA of the aggregate true-up amount plus interest within 45 days of the initial transfer. The ~~D~~ivision shall notify the Administrator TPA of the true-up amounts plus interest by member participant account within 45 days of the initial transfer. The true-up transfer shall include the true-up amount determined by the ~~D~~ivision plus interest at the rates specified in Section 121.4501(3)(c)3., F.S., from the date of the initial transfer to the date of the true-up transfer. The transfer of the true-up amount plus interest shall occur on the 60th day following the initial transfer. In the event the 60th day following the initial transfer falls on a Saturday, Sunday, or a legal holiday, the true-up transfer shall occur on the last business day of the month preceding the Saturday, Sunday, or legal holiday.

(i) The ~~D~~ivision shall calculate the interest owed on true-up amounts. If the recomputed ABO is greater than the original amount transferred by \$10 or more, the member participant will be owed a true-up amount plus interest. Interest will be calculated using the rate of 8% effective annual interest, compounded annually, and the number of days from the date of the initial transfer to the date of the true-up transfer, as specified in paragraph (h), above. If the recomputed ABO is less than the original amount transferred by \$10 or more, the member participant will owe a true-up amount plus interest. Interest will be calculated on the amount owed based upon 6% effective annual interest, compounded annually, and the number of days from the date of the initial transfer to the date of the true-up transfer.

(6) Grace Period.

(a) If an employee files an election with the Administrator TPA and the employee realizes that the election was made in error, the SBA will consider, on a case-by-case basis, whether the election will be voided, subject to the following requirements:

1. Member Elects the FRS Investment Plan. The employee must notify the SBA, by a telephone call to the toll free number: 1(866)446-9377, or by e-mail, or by written correspondence directly to the SBA, to the Administrator TPA, or to the ~~Division of Retirement~~, before assets are transferred from the FRS Pension Plan to the member's FRS Investment Plan account. This transfer occurs no later than the last business day of the month following the election month.

2. Member Actively Elects the FRS Pension Plan. The employee must notify the SBA no later than the last business day of the month following the election month.

(b) If the request to void the election is made timely and the SBA agrees the election will be voided, the member will be required to sign a release and return it to the SBA prior to the election's being officially voided. The member will acknowledge that failure to make a new election within one calendar month will result in the original election's being

reinstated, and that once the revised election is made it cannot be changed (unless the member uses his second election, if available).

(c) Upon receipt of the release, the ~~Division of Retirement~~ and the Administrator TPA will be directed to do the following:

1. the ~~Division of Retirement~~ will revise its database to reflect the member's plan change and extend the member's election period by one calendar month.

2. the Administrator TPA will contact the member via telephone or email and tell him or her that the election has been voided.

3. the member will make a new election via telephone, or using the website at MyFRS.com or using a form prior to the newly-established deadline.

(d) Nothing contained in this subsection will interfere with a member's right to file a complaint, as permitted by Section 121.4501(9)(f)3., F.S.

(7) Costs associated with the liquidation or transfer of assets from the FRS Trust Fund to the FRS Investment Plan will be deducted from the FRS Trust Fund. The FRS Trust Fund will not be responsible for any transaction costs associated with the purchase of FRS Investment Plan assets. Those costs will be deducted from FRS Investment Plan accounts or otherwise charged to FRS Investment Plan members participants.

(8) The amount transferred to each investment product shall be based on the percentage of the total investment allocated to each fund by the member participant on his or her enrollment form as described in subsection (3)(b), above. However, pursuant to Section 121.4501(4)(d), F.S., amounts not specified will be invested in the default option designated in the Investment Policy Statement, as approved by the Trustees and adopted and incorporated by reference in Rule 19-9.001, F.A.C.

(9) In order to effectively and efficiently administer the investment programs of the SBA and in accordance with Section 215.44(8)(b), F.S., the records and other information relating to investments made by the SBA will be confidential and exempt from Chapter 119, F.S., until 30 days after completion of each investment transaction.

Specific Authority 121.4501(3)(c)4, (8)(a) FS. Law Implemented 121.051, 121.055, 121.35, 121.4501(2),(3),(4),(5),(6),(8),(15), 121.73, 121.74, 121.78, 215.44(8)(b), 1012.875(3) FS. History--New 10-21-04, Amended 3-9-06,_____.

19-11.007 Second Election Enrollment Procedures for the FRS Retirement Programs.

(1) Purpose. The purpose of this rule is to establish procedures for making the second election permitted by Section 121.4501(4)(e), Florida Statutes. This rule includes procedures for members participants who initially chose the FRS Investment Plan or the FRS Investment Plan Hybrid Option to use their 2nd election to transfer to the FRS Pension

Plan; for ~~members participants~~ who chose or defaulted into the FRS Pension Plan to use their 2nd election to transfer to the FRS Investment Plan or the FRS Investment Plan Hybrid Option; ~~and for participants who chose or defaulted into the FRS Pension Plan to use their 2nd election to transfer to the FRS Investment Plan Hybrid Option.~~

(2) Definitions.

(a) "FRS Investment Plan" means the optional defined contribution retirement plan within the Florida Retirement System, established in Parts II and III of Chapter 121, F.S., in which a participant chooses to transfer his accrued service benefit in the FRS Pension Plan, if any, to the FRS Investment Plan or the FRS Investment Plan Hybrid Option and further chooses that all future employer contributions be deposited in his FRS Investment Plan account. Although established in Parts II and III, certain parts of Part I of Chapter 121, F.S., also apply to the FRS Investment Plan.

(b) "FRS Investment Plan Hybrid Option" or "FRS Hybrid Option" means the optional defined contribution retirement plan within the Florida Retirement System, established in Parts II and III of Chapter 121, F.S., in which a ~~member participant~~ chooses to retain his accrued service benefit in the FRS Pension Plan, in accordance with Section 121.4501(3)(c)1., Florida Statutes, and further chooses that all future employer contributions be deposited in his FRS Investment Plan Hybrid Option account. Although established in Parts II and III, certain parts of Part I of Chapter 121, F.S., also apply to the FRS Investment Plan Hybrid Option.

(c) "FRS Pension Plan" means the defined benefit retirement plan within the Florida Retirement System, established in Part I of Chapter 121, Florida Statutes.

(d) "I," "you," or "your:" these references are to the ~~member participant~~ in the context of relevant parts of the two enrollment forms described in this rule.

(e) "ABO," "Accrued service benefit" or "accumulated benefit obligation" means the present value amount already earned by a ~~member participant~~ in the FRS Pension Plan which, if the participant uses the 2nd election, will be transferred to his or her account in the FRS Investment Plan.

(3) General Procedures.

(a) All ~~members participants~~ who wish to change their FRS retirement plan using their second election must use a 2nd election enrollment form. There are two types of forms. The "2nd Election Retirement Plan Enrollment Form" requires the ~~member participant~~ to choose the investment options he wishes to use if he is choosing to move to either the FRS Investment Plan or the FRS Investment Plan Hybrid Option. Alternatively, by using the "2nd Election EZ Retirement Plan Enrollment Form," the ~~member participant~~ is choosing to have his employer contributions and any transfers from the FRS Pension Plan invested in the FRS Select Moderate Balanced

Fund. The ~~member participant~~ may change his investment selection at any time after he is transferred to the FRS Investment Plan or the FRS Investment Plan Hybrid Option.

(b) Both forms are available by calling the toll-free number for the MyFRS Financial Guidance Line: 1(866)446-9377, or for the hearing-impaired: 1(888)429-2160; or by using the MyFRS.com website and clicking on Resources and then on Forms.

(c) The form must be mailed to the FRS Plan Choice Administrator, CitiStreet, FRS Investment Plan Administrator, P. O. Box 56290, Jacksonville, Florida 32241-6290.

~~(d) The form must be received by the FRS Plan Choice Administrator before 4 PM Eastern Time on the last day of the month in which the participant wishes to make the change from one retirement plan to the other.~~ The ~~member participant~~ may elect to move between the Florida Retirement System retirement programs only if the ~~member participant~~ is earning service credit in an employer-employee relationship consistent with the requirements under Section 121.021(17)(b), F.S., excluding unpaid leaves of absence. The form must be received and processed by the FRS Plan Choice Administrator before employment is terminated. If the last day of the month is a Saturday, Sunday, or legal holiday, the deadline is the last business day of the month.

1. Example: if a ~~member participant~~ submits the 2nd Election Retirement Plan Enrollment Form in the month of November, the effective date of the plan change will be December.

2. Example: if a ~~member participant~~ intends to terminate his FRS-covered employment, he must ensure that the form is received by the FRS Plan Choice Administrator before he terminates his employment. Therefore, if a ~~member participant~~ wishes to terminate on November 27, he must ensure that the form is received and processed by the FRS Plan Choice Administrator before that date.

3. Example: the last day of February, 2004, was Sunday, February 29. Therefore, the last business day was the preceding Friday, February 27. For a 2nd Election to have been effective as of March 1, 2004, the form must have been received by the FRS Plan Choice Administrator before 4 PM Eastern Time on Friday, February 27.

(4) Specific Procedures for the "2nd Election Retirement Plan Enrollment Form."

(a) All ~~members participants~~ are required to fill out Section 1 of the form by providing the ~~member's participant's~~ name and Social Security number and checking only one of three boxes, indicating which choice the ~~member participant~~ is making. These boxes contain the following information:

1. Change from the FRS Investment Plan or FRS Investment Plan Hybrid Option to the FRS Pension Plan (Please complete Section 4, as described in paragraph (d) below.) I understand I am using my existing FRS Investment Plan account balance to "buy" into the FRS Pension Plan. I

understand that if my account balance is not sufficient to cover the cost of the “buy in”, I must pay the balance due from my personal funds before being allowed into the FRS Pension Plan. The Division of Retirement is responsible for calculating the buyback amount for those wishing to use their second elections to transfer to the FRS Pension Plan. The actuarial calculation is a forward-looking projection based on the employee’s salary and service and increases as additional creditable service and salary are earned. I understand that I may move my FRS Investment Plan account balance into more conservative, less risky investment options within the FRS Investment Plan in order to potentially reduce the volatility of my account balance prior to liquidation and movement to the FRS Pension Plan.

2. Change from the FRS Pension Plan to the FRS Investment Plan, (Please complete Sections 3 and 4, as described in paragraphs (c) and (d), below.) I understand I am transferring the present value, if any, of my FRS Pension Plan benefit to the FRS Investment Plan. I understand that I will have future employer contributions deposited in my Investment Plan account.

3. Change from the FRS Pension Plan to the FRS Investment Plan Hybrid Option, (Please complete Sections 3 and 4, as described in paragraphs (c) and (d) below.) I am retaining any accrued benefit in the FRS Pension Plan with future employer contributions deposited in my FRS Investment Plan Hybrid Option account. I understand that I must have 5 years of Pension Plan service to select this option.

(b) The second section on the form discusses the beneficiary designation. The designation cannot be made on the enrollment form. This section contains the following information:

1. A beneficiary designation can be completed after you qualify for a retirement benefit (i.e., become “vested”). If you do not designate a beneficiary after you are vested, your benefit will be distributed in accordance with Section 121.091(8) or 121.4501(20), Florida Statutes, as applicable.

2. You may designate a beneficiary by completing a Beneficiary Designation Form (BEN-001 Pension Plan or IPBEN-1 Investment Plan). Both forms are available online at MyFRS.com or by calling the MyFRS Financial Guidance Line.

(c)1. The third section on the form discusses and describes the FRS Investment Plan Fund Selections. A member participant who has checked the first box in the first section of the form, indicating a change to the FRS Pension Plan, must not complete this section. Members Participants who have checked either the second or the third boxes in the first section of the form must complete this section by choosing their investment fund options.

2. The investment fund selection must be indicated by:

a. Writing the percentage you wish to allocate to each investment option. Use whole percentages only.

b. Choosing your investment funds from the balanced funds, the other investment funds OR from a combination of the two.

c. Ensuring that the total of all your selections equals 100%.

d. Any member participant who does not select any investment options will be defaulted into the FRS Select Moderate Balanced Fund. Any member participant so defaulted retains the option at any time to make other investment selections. Both the accumulated benefit obligation and all future contributions will be invested in the FRS Select Moderate Balanced Fund unless and until the member participant chooses other investment options.

(d) The fourth section on the form is an authorization section which will ensure that all members participants understand the information described. All members participants must read the information in the fourth section before signing the form. The information which follows is applicable as indicated depending on the choice the member participant has made.

1. For all members participants: I understand that I can find a description of my rights and responsibilities under the FRS Pension Plan and the FRS Investment Plan in the respective Summary Plan Descriptions, Florida Statutes, and Administrative Rules available through the MyFRS Financial Guidance Line at 1(866)44-MyFRS 1(866)446-9377; or TTY: 1(888)429-2160) or at MyFRS.com.

2. For members participants choosing to transfer to the FRS Pension Plan:

a. I understand that I have elected to change retirement plans to the FRS Pension Plan.

b. I understand that this election will constitute my one-time second election as provided under the FRS and that I must remain in this retirement plan until my retirement.

c. I understand that there may be a cost to change to the FRS Pension Plan, which I can get by calling the MyFRS Financial Guidance Line and connecting to the Division of Retirement, and that such cost may require that I pay some amount greater than my current FRS Investment Plan account balance. Such payment, if necessary, must be received by the date determined by the Division of Retirement. If the required amount is not received by the Division of Retirement by the due date, the election will be voided. The member participant will receive notification and proper instructions from the Division of Retirement detailing where and in what form to send personal payments. The Division of Retirement is responsible for calculating the amount for those wishing to use their second elections to transfer to the FRS Pension Plan. The actuarial calculation is a forward-looking projection based on the employee’s salary and service and increases as additional creditable service and salary are earned.

d. I understand that I have the ability to move my FRS Investment Plan account balance into conservative investment options within the FRS Investment Plan in order to potentially reduce the volatility of my account balance prior to liquidation and movement to the FRS Pension Plan.

e. I understand that my one-time second election is irrevocable.

3. For ~~members~~ participants choosing to transfer to the FRS Investment Plan:

a. I understand that I have elected to change retirement plans to the FRS Investment Plan, and that any accrued value I may have in the FRS Pension Plan will be transferred to the FRS Investment Plan.

b. I understand that this election will constitute my one-time second election as provided under the FRS and that I must remain in this retirement plan until my retirement.

c. I understand the initial transfer amount (the accrued benefit value or the accumulated benefit obligation) is an estimate and that within 60 days of that transfer, there will be a reconciliation pursuant to Florida law, which will use my actual FRS membership record. The amount could be more or less than the estimate I received.

d. I understand that I can get the amount of my accrued benefit value by calling the MyFRS Financial Guidance Line and connecting to the Division of Retirement.

e. I understand that if I am currently a member of the FRS Investment Plan Hybrid Option, I cannot make this election.

f. I understand my one-time second election is irrevocable and I understand that I must remain in this plan until my retirement.

4. For ~~members~~ participants choosing to transfer to the FRS Investment Plan Hybrid Option:

I understand that I have elected to change retirement plans to the FRS Investment Plan Hybrid Option and that my FRS Pension Plan benefit already accrued will remain with the FRS Pension Plan and that a FRS Investment Plan Hybrid Option account will be established to receive all future employer contributions.

5. For participants choosing to transfer either to the FRS Investment Plan or to the FRS Investment Plan Hybrid Option:

a. I understand that I should review the Fund Profiles and the Investment Fund Summary at MyFRS.com before making any changes to my investment fund selections. I understand that information on investment funds will be provided in electronic format, unless I request hard copies. I understand that I can change my fund allocations at any time after my account is activated by accessing MyFRS.com or by calling the toll-free MyFRS Financial Guidance Line. I understand that my account will be available by the end of the month following the effective date of this election. If I do not choose specific investment funds, I authorize the FRS Plan Choice Administrator to invest my accumulated benefit obligation and future contributions in the FRS Select Moderate Balanced

Fund. I understand that the FRS Investment Plan is not designed to facilitate short-term excessive fund trading. Foreign and global investment funds are subject to a minimum holding period of 7-calendar days following any non-exempt transfers into such funds and I may be subject to trading controls on other funds in the event I trade excessively ~~or an equity wash is in effect for a stable value fund.~~

b. I understand that investment management fees will be deducted from my FRS Investment Plan account or the FRS Investment Plan Hybrid Option account. I also understand that these fees may change in the future and that funds may be added or terminated. I understand that if any of the funds I select in the FRS Investment Plan or the FRS Investment Plan Hybrid Option account are terminated in the future, I will be able to move my assets into other investment funds prior to termination. Otherwise, my assets in the terminated fund(s) will be automatically moved into a replacement fund designated at that time.

c. I understand that Sections 121.4501(8)(b)4. and 121.4501(15)(b) of Florida law incorporate the federal law concept of participant control, established by regulations of the U.S. Department of Labor under section 404(c) of the Employee Retirement Income Security Act of 1974. If I exercise control over the assets in my FRS Investment Plan account, pursuant to section 404(c) regulations and all applicable laws governing the operation of the FRS Investment Plan, no program fiduciary shall be liable for any loss to my account which results from my exercise of control.

(e) The form must be signed and dated by the member participant and must include a daytime telephone number. Inclusion of an e-mail address or the name of the member's participant's employing agency is optional on the member's participant's part.

(f) The form must be mailed to the address set out in subsection (2)(c), above.

(g) The member participant must put his Social Security number at the bottom of each page of the form so that if the pages become separated, they can be properly reassembled.

(h) For ~~members~~ participants transferring to the FRS Pension Plan, the election may require a personal payment if the member's participant's account balance was less than the calculated amount required to buy back into the FRS Pension Plan. Such payment, if necessary, must be received by the date determined by the Division ~~of Retirement~~. If the required amount is not received by the Division ~~of Retirement~~ by the date due, the election will be voided. The member participant will receive notification and proper instructions from the Division ~~of Retirement~~ detailing where and in what form to send any personal payments.

(i) A confirmation statement will be mailed to the member's participant's address of record once the completed form is received and processed.

(j) The ~~member participant~~ should carefully review the form and be sure that it is signed and dated. The ~~member participant~~ should keep a copy for his records.

(k) If the ~~member participant~~ submits a form that is incomplete, it will not be processed. An incomplete form is a form which is missing the name and address and phone numbers of the member participant, social security numbers, plan selection, signatures, or dates. The incomplete form will be returned to the ~~member participant~~ to add any missing information. If the form is incomplete only because the ~~member participant~~ has made no investment selection, the form will be processed and the ~~member participant~~ will be defaulted into the FRS Select Moderate Balanced Fund for investing his accumulated benefit obligation and all future contributions. Note that this default selection may be changed by the ~~member participant~~ at any time once the transfer has been made.

(5) Specific Procedures for the “2nd Election EZ Retirement Plan Enrollment Form.”

(a) Form ELE-2, “2nd Election EZ Retirement Plan Enrollment Form,” ~~Rev. 05-07 v. 08-05~~, is hereby adopted and incorporated by reference.

(b) All ~~members participants~~ choosing to use this form are required to fill out Section 1 of the form by providing the ~~member’s participant’s~~ name and Social Security number and checking only one of three boxes, indicating which choice the ~~member participant~~ is making.

(c) The form must be signed and dated by the ~~member participant~~ and must include a daytime telephone number. Inclusion of an e-mail address or the name of the ~~member’s participant’s~~ employing agency is optional on the ~~member’s participant’s~~ part.

(d) The form must be mailed to the address set out in subsection (3)(c), above.

(e) The ~~member participant~~ must put his Social Security number at the bottom of each page of the form so that if the pages become separated, they can be properly reassembled.

(f) For ~~members participants~~ transferring to the FRS Pension Plan, the election may require a personal payment if the ~~member’s participant’s~~ account balance was less than the calculated amount required to buy back into the FRS Pension Plan. Such payment, if necessary, must be received by the date determined by the Division of Retirement. If the required amount is not received by the Division of Retirement by the date due, the election will be voided. The ~~member participant~~ will receive notification and proper instructions from the Division of Retirement detailing where and in what form to send any personal payments. The Division of Retirement is responsible for calculating the amount for those wishing to use their second elections to transfer to the FRS Pension Plan. The actuarial calculation is a forward-looking projection based on the employee’s salary and service and increases as additional creditable service and salary are earned.

(g) A confirmation statement will be mailed to the ~~member’s participant’s~~ address of record once the completed form is received and processed.

(h) The ~~member participant~~ should carefully review the form and be sure that it is signed and dated. The ~~member participant~~ should keep a copy for his records.

(i) If the ~~member participant~~ submits a form that is incomplete, it will not be processed. The incomplete form will be returned to the ~~member participant~~ to add any missing information. An incomplete form is a form which is missing the name and address and phone numbers of the ~~member participant~~, social security numbers, plan selection, signatures, or dates.

(a) If a member files an election with the Administrator TPA and the employee realizes that the election was made in error, the SBA will consider, on a case-by-case basis, whether the election will be voided, subject to the following requirements:

1. Member Elects the FRS Investment Plan. The SBA must be notified, by a telephone call to the toll free number: (866)446-9377, or by e-mail, or by written correspondence directly to the SBA, to the Administrator TPA, or to the Division of Retirement, before assets are transferred from the FRS Pension Plan to the member’s FRS Investment Plan account. This transfer occurs no later than the last business day of the month following the election month.

2. Member Elects the FRS Pension Plan. The SBA must be notified no later than the last business day of the month following the election month.

(b) If the request to void the election is made timely and the SBA agrees the election will be voided, the Division of Retirement and the Administrator TPA will be directed to do the following:

1. The Division of Retirement will revise its database to reflect the ~~election has been voided member’s plan change and extend the member’s election period by one calendar month.~~

2. The Administrator TPA will contact the member via telephone or email and tell him or her that the election has been voided.

3. The member will make a new election ~~via telephone, or using the website at MyFRS.com or using a form consistent with subsection (4), above, prior to the newly established deadline.~~

(c) Nothing contained in this subsection will interfere with a member’s right to file a complaint, as permitted by Section 121.4501(9)(f)3., Florida Statutes.

Specific Authority 121.4501(8)(a) FS. Law Implemented 121.4501(3), (4), (8)(b)4, (15)(b) FS. History–New 10-21-04, Amended 3-9-06,_____.

19-11.008 Forfeitures.

(1) Purpose. The purpose of this rule is to clarify the provisions regarding forfeitures of account balances.

(2) Forfeitures after Separation or Retirement from FRS Employment.

(a) If a member terminates FRS-covered employment before vesting in his Investment Plan benefit, he will not be entitled to any benefit. The account balance will be placed in a suspense account. The suspense account is invested in the FRS Select U.S. Treasury Inflation-Protected Securities (TIPS) Fund, where it will accrue actual investment earnings. If the member returns to work for an FRS employer within five (5) years from the date of termination, the member's account balance, plus any earnings while invested in the TIPS Fund, will be returned to the member's account. The service credit for the restored service, combined with any future service credit, will be applied towards vesting of the member's account. If the member never returns to work for an FRS employer or if the member returns to FRS covered employment 5 years after the date of termination, the member will forfeit the unvested account balance and the associated service.

(b) If the member leaves FRS-covered employment after vesting in his Investment Plan account, but before the member vests in any transferred Pension Plan benefit, the member shall only receive the vested Investment Plan benefit. However, if the member takes any distribution from his vested Investment Plan account, the unvested Pension Plan benefit transferred into the Investment Plan will be forfeited. If the member does not take a distribution from his Investment Plan account, the unvested Pension Plan benefit will be transferred to a suspense account. The suspense account is invested in the FRS Select U.S. Treasury Inflation-Protected Securities (TIPS) Fund, where it will accrue actual investment earnings. If the member returns to work for an FRS employer within five (5) years from the date of termination, the member's account balance, plus any earnings while invested in the TIPS Fund, will be returned to the member's account. The service credit for the restored service, combined with any future service credit, will be applied towards vesting of the member's account.

(c) If a member's benefit and service are forfeited, but the member returns to FRS-covered employment after the forfeiture has occurred, the member will be returned to the plan in which he or she was participating at the time of the forfeiture.

(3) Forfeitures of FRS Investment Plan accounts Due to Criminal Activity.

(a) The Florida Constitution (Section 8, Article II) and Florida statutes provide that any member of the Florida Retirement System who commits certain crimes and is found guilty by a jury or by the court hearing the case without a jury shall forfeit all rights and benefits under Chapter 121, F.S. These crimes include embezzlement or theft from his or her employer, bribery in connection with the employment, engaging in strikes as a public employee, or killing the member to receive the member's benefits. Please see Sections 112.3173

and 121.091(5), F.S., and the other statutory sections mentioned therein, since these may be changed by the Legislature.

(b) When the SBA, on behalf of the FRS Investment Plan, becomes aware of any accusation against any employee who is a member of the FRS Investment Plan, the SBA will put a hold on the member's account to preclude the member from removing his or her money from the account.

(c) If the charges against the member are not pursued and are dropped by law enforcement officials, the hold on the member's account will be released.

(d) If the member is indicted and convicted or pleads guilty, the SBA will acquire a certified copy of the judgment and will contact the member to advise the member that his account is forfeited and, if he wants to contest the forfeiture, he has the right to a hearing. The hold on the member's account will remain in place until.

1. The time to request a hearing has passed and no request for a hearing is made, or

2. The conclusion of the hearing and any appeal of the final order issued after the conclusion of the hearing.

(e) At the conclusion of either subparagraph (d)1. above, or (d)2. above, if the member's hearing and/or appeal is unsuccessful, the SBA will direct the Investment Plan Administrator to transfer the member's account balance to the Investment Plan Forfeiture Account.

Specific Authority 121.4501(8)(a) FS. Law implemented 121.021(29), (39), 121.091(5), 121.4501(20), 121.591, 744.301 FS. History—New _____.

19-11.009 Reemployment With an FRS-covered Employer After Retirement.

(1) Purpose: The purpose of this rule is to clarify the provisions regarding reemployment after retirement for FRS Investment Plan members.

(2)(a) A member who has terminated FRS-covered employment and has taken a distribution from his Investment Plan account is a retiree, as of the date of the distribution, in accordance with Section 121.4501(2)(j), F.S. As a retiree, the former member shall not be reemployed with an FRS-covered employer until he has been retired for 12 months. Any member may return to employment with an FRS-covered employer after 12 months of retirement and may take distributions from prior career benefits, even while reemployed.

(b) There are exceptions to paragraph (2)(a) above. This paragraph does not contain an exhaustive list of all possible situations. Members who are not in exactly the same circumstances as described in this paragraph should call the toll-free MyFRS Financial Guidance Line at 1(866)446-9377, Option 1, to have their situations properly analyzed.

1. A member who has reached his normal retirement date, in accordance with Section 121.021(29), F.S., may get up to ten percent of his account balance one calendar month following

his month of termination, and he may get the balance after a total of three calendar months following his month of termination, unless he returns to FRS-covered employment, during this three-calendar-month period.

2. If the member in subparagraph 1, above, takes a partial distribution and then returns to work, the member will not be eligible for any further distributions until the member terminates employment from all FRS covered employers, or suspends further benefits for the remainder of the 12 months, or the first 12 months of retirement are completed.

3. A member who has reached his normal retirement date, in accordance with Section 121.021(29), F.S., can return to work in one of the excepted positions identified in Section 121.091(9)(b), F.S., one calendar month after taking a distribution.

4. A member who has not reached his normal retirement date, in accordance with Section 121.021(29), F.S., can return to work in one of the excepted positions identified in Section 121.091(9)(b), F.S., three calendar months after taking a distribution.

Specific Authority 121.4501(8)(a) FS. Law Implemented 121.021(29), (39), 121.091(9)(b),(c), 121.4501(2)(j), 121.591(1)(a)4. FS. History--New _____.

19-11.010 FRS Investment Plan: Privacy.

(1) The State Board of Administration (SBA), as the Plan Sponsor of the FRS Investment Plan, provides for the collection of personal identifying information from each of its members and beneficiaries, including the federally-issued social security number. This information is collected by the Investment Plan's Recordkeeper and Plan Choice Administrator. This information is collected so that each member can be properly and definitively identified to ensure that he or she is correctly identified for the day-to-day administration of the FRS Investment Plan and that he or she is the actual person who is in fact a member of the FRS Investment Plan and so that unauthorized persons are prevented from having personal, familial, medical, and financial information. Each of the vendors under contract with the SBA has its own privacy policy which the SBA has approved.

(2) Section 121.4501(19), F.S., prevents the SBA from sharing "[a]ll personal identifying information" under Chapter 119, the Public Records Law. The section does permit the SBA to use this information in an administrative or legal proceeding.

(3) A member of the FRS Investment Plan is allowed to authorize a particular person to receive personal identifying information. Such a person is often the member's spouse or financial advisor. To allow the FRS Investment Plan Administrator or Plan Choice Administrator to reveal personal

identifying information, the member must provide authorization in advance of any discussion, naming the person and identifying that person in a way that can be verified.

(4) When an Investment Plan member submits a beneficiary designation form and then dies, the person or persons named as beneficiaries must provide personal identifying information to the SBA before any information regarding the member may be released by the SBA. This information is letters of administration issued by the relevant probate court; certified copies of the death certificate; copies of marriage certificates; the member's social security number; and any other requested information that can be verified with a governmental agency.

Specific Authority 121.4501(8)(a) FS. Law Implemented 119.071, 121.4501(19) FS. History--New _____.

NAME OF PERSON ORIGINATING PROPOSED RULE:
Ron Poppell, Senior Investment Officer-Office of Defined Contribution Programs, State Board of Administration

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Trustees of the State Board of Administration

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: July 31, 2007

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: June 22, 2007

STATE BOARD OF ADMINISTRATION

RULE NO.: 19-12.007
RULE TITLE: Acceptance of Rollovers

PURPOSE AND EFFECT: These rules are promulgated to implement recently adopted policies and to reflect legislative changes in the FRS Investment Plan.

SUMMARY: Rule 19-12.007, F.A.C., provides procedures for accepting rollovers into the plan from former FRS Investment Plan members.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COST: The Board has prepared a statement and found the cost to be minimal.

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

SPECIFIC AUTHORITY: 121.4501(5)(c) FS.

LAW IMPLEMENTED: 119.071, 121.4501 (5)(c), (21) FS.

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

DATE AND TIME: Tuesday, September 4, 2007, 2:00 p.m. – 4:30 p.m.

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

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Cindy Gokel, Assistant General Counsel, State Board of Administration, P. O. Drawer 13300, Tallahassee, FL 32317-3300; telephone: (850)413-1199

THE FULL TEXT OF THE PROPOSED RULE IS:

19-12.007 Acceptance of Rollovers.

(1) Notwithstanding the definitions of Rule 19-12.001, F.A.C., for purposes of this section the following words and terms have the following meanings:

(a) "Rollover" means either a direct rollover from another eligible retirement plan or a deposit of an eligible rollover distribution to the Investment Plan for the benefit of the participant that satisfies the time period requirement and other requirements of Code s. 402(c).

(b) A "direct rollover" means an eligible rollover that is made directly to the Investment Plan from another eligible retirement plan for the benefit of the participant.

(c) An "eligible rollover distribution" means any distribution of all or any portion of another eligible retirement account to the credit of the participant from an eligible retirement plan. Except for that portion of a distribution not includible in gross income which is transferred directly to the Plan in accordance with Code s. 402(c)(2), an eligible rollover distribution does not include any of the distributions described in the second sentence of the definition of "eligible rollover distribution" in Rule 19-12.001, F.A.C.

(d) An "eligible retirement plan" means any of the types of plans included in the definition of "eligible retirement plan" in Rule 19-12.001, F.A.C., that provides the participant's eligible rollover distribution to the Investment Plan.

(2) It is intended that the Plan accept rollovers in accordance with the requirements of this rule. Except as otherwise provided below, before accepting a rollover to the Plan, the Investment Plan Administrator evaluating the rollover shall first obtain sufficient evidence to support a reasonable conclusion that the rollover is valid under the Code and shall determine that such rollover meets the requirements of this rule.

(3) The Plan Administrator shall accept that portion of a rollover in a direct trustee-to-trustee transfer which has been identified by the eligible retirement plan making the distribution as not includible in gross income if such portion is otherwise eligible for rollover. Such amount shall be accounted for separately, including separately accounting for the portion of such distribution which is includible in gross income and the portion of such distribution which is not so includible. The Plan Administrator may accept rollovers from a former Investment Plan member who has taken a distribution of all of his or her account balances. Such member shall use Form IPRO-1, as described in subsection (5), below. The Plan Administrator may not accept rollovers from a former spouse or former beneficiary of an Investment Plan member who had

an account in the Investment Plan, established by terms of a qualified domestic relations order or by the Investment Plan Beneficiary Designation Form, and then removed all of the funds from the account. All rollovers from former Investment Plan members must be more than \$1,000.00. The Plan Administrator may accept rollovers from participants in the Deferred Retirement Option Program (DROP), after the conclusion of such DROP participation. Members of the Teacher's Retirement System and the State & County Officers & Employees Retirement System are eligible to roll over their DROP proceeds after their conclusion in the DROP.

(4) Payment to the Plan must be in cash in the form of a check. In a direct rollover the check should be made payable to the "FRS Investment Plan-FBO (the participant's name)."

(5) Instructions regarding check delivery and other information relating to the processing of rollovers may be obtained by calling the MyFRS Financial Guidance Line, which is a toll free line: (866)446-9377 or accessing the website at www.MyFRS.com. Participants shall use Form IPRO-1, rev. 09-05, "Employee Rollover Deposit Instructions and Form," which is hereby adopted and incorporated by reference, to effect rollovers described in this rule. Former DROP members shall use form IP-DROP-RO-1, "DROP Direct Rollover Form for Former DROP Members," rev. 07-05, and current DROP members planning to roll over their DROP accumulation shall use Form IP-DROP-AD-1, "DROP Accumulation Direct Rollover Form for Current DROP Members," rev. 07-05, both of which are adopted and incorporated by reference, to effect rollovers described in this rule.

(6) Rollovers to the Plan shall be accounted for separately on the recordkeeping system of the Investment Plan Administrator.

Specific Authority 121.4501(5)(c) FS. Law Implemented 121.4501(5)(c), (21) FS. History—New 12-8-02, Amended 10-21-04, 3-9-06,_____.

NAME OF PERSON ORIGINATING PROPOSED RULE: Ron Poppell, Senior Investment Officer-Office of Defined Contribution Programs, State Board of Administration

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Trustees of the State Board of Administration

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: July 31, 2007

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: June 22, 2007

STATE BOARD OF ADMINISTRATION

RULE NO.: 19-13.002
RULE TITLE: Role and Responsibilities of the Division of Retirement within the Department of Management Services

PURPOSE AND EFFECT: These rules are promulgated to implement recently adopted policies and to reflect legislative amendments in the FRS Investment Plan,

SUMMARY: Rule 19-13.002, F.A.C., provides that the Division of Retirement within the Department of Management Services is responsible for notifying the SBA of any members who may be subject to the forfeiture of their retirement benefits.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS: The Board has prepared a statement and found the cost to be minimal.

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

SPECIFIC AUTHORITY: 121.4501(8)(a) FS.
LAW IMPLEMENTED: 112.3173, 121.091(5), 121.4501(8), (10) FS.

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

DATE AND TIME: Tuesday, September 4, 2007, 2:00 p.m. - 4:30 p.m.

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

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Cindy Gokel, Assistant General Counsel, State Board of Administration, P. O. Drawer 13300, Tallahassee, FL 32317-3300; telephone: (850)413-1199

THE FULL TEXT OF THE PROPOSED RULE IS:

19-13.002 Role and Responsibilities of the Division of Retirement within the Department of Management Services.

(1) The Division of Retirement (Division) within the Department of Management Services has entered into a contract with the State Board of Administration of Florida (SBA) to provide certain administrative services, in accordance with Section 121.4501(8)(b)1., Florida Statutes.

(2) The administrative services referenced in subsection (1), above, are to:

(a) Determine membership eligibility and employer participation eligibility;

(b) Collect and process employer payroll contributions and payroll-related data;

(c) Forward employer payroll contributions and payroll-related data to the Investment Plan third party administrator, including date of termination and leave of absence indicators, if available;

(d) Calculate participants' Pension Plan defined benefit plan benefit, calculate the accumulated benefit obligation and calculate any buy-back amount for those participants who elected the Investment Plan PEORP but subsequently elect wish to return to the Pension Plan defined benefit plan;

(e) Maintain and provide access to the Florida Retirement System database;

(f) Provide telephone support regarding employee or employer questions on the Pension Plan defined benefit plan and contribution processing, but transfer general retirement plan choice, enrollment and financial planning telephone calls to other education and administration third party contractors;

(g) Administer the disability benefits for the Florida Retirement System;

(h) Administer the health insurance subsidy;

(i) Determine employee vesting requirements in the Florida Retirement System, as required by law;

(j) Administer qualified domestic relations orders for the Florida Retirement System; and

(k) Notify the State Board of Administration of any employees who may be subject to forfeiture of benefits, in accordance with Sections 112.3173 and 121.091(5), F.S. Administer forfeiture of benefits procedures, in accordance with Section 121.091(5), Florida Statutes.

Specific Authority 121.4501(8)(a) FS. Law Implemented 112.3173, 121.091(5), 121.4501(8),(10) FS. History--New 10-21-04, Amended

NAME OF PERSON ORIGINATING PROPOSED RULE: Ron Poppell, Senior Investment Officer-Office of Defined Contribution Programs, State Board of Administration

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Trustees of the State Board of Administration

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: July 31, 2007

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: June 22, 2007

DEPARTMENT OF CORRECTIONS

RULE NO.: 33-208.101
RULE TITLE: Employee Grooming, Uniform and Clothing Requirements

PURPOSE AND EFFECT: The purpose and effect of the proposed rule is to amend Form DC2-816, Individual Clothing Record, to add ties and polo shirts to the list of department issued uniform items.

SUMMARY: Form DC2-816, Individual Clothing Record, is amended to add ties and polo shirts to the list of department issued uniform items.

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

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

SPECIFIC AUTHORITY: 944.09 FS.

LAW IMPLEMENTED: 944.09 FS.

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

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Perri King Dale, Office of the General Counsel, Department of Corrections, 2601 Blair Stone Road, Tallahassee, Florida 32399-2500

THE FULL TEXT OF THE PROPOSED RULE IS:

33-208.101 Employee Grooming, Uniform and Clothing Requirements.

(1) through (7) No change.

(8) Forms. The following forms used in implementing the provisions of this rule are hereby incorporated by reference:

(a) Individual Clothing Record, DC2-816, effective 9-11-06.

(b) No change.

Specific Authority 944.09 FS. Law Implemented 944.09 FS. History—New 2-27-85, Amended 6-19-85, Formerly 33-4.07, Amended 3-6-88, 8-15-89, 2-12-91, 10-13-91, 4-19-98, 12-7-98, Formerly 33-4.007, Amended 10-5-99, 3-21-00, 12-18-00, 4-30-02, 2-20-03, 6-26-03, 10-27-03, 12-28-03, 12-12-04, 9-11-06, 2-6-07, _____.

NAME OF PERSON ORIGINATING PROPOSED RULE: Gail Thompson, Chief, Bureau of Personnel

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Laura E. Bedard, Ph.D., Deputy Secretary

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: June 26, 2007

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: July 13, 2007

AGENCY FOR HEALTH CARE ADMINISTRATION

Medicaid

RULE NO.: 59G-4.230
 RULE TITLE: Physician Services

PURPOSE AND EFFECT: The purpose of this rule amendment is to incorporate by reference Errata January 2007 to the Florida Medicaid Physician Services Coverage and

Limitations Handbook. The errata includes minor corrections and the following substantive corrections: removal of Synagis® from the list of drugs requiring prior authorization; the requirement that the National Drug Code must be entered on the claim when billing for injectable medications; Medicaid coverage for neonatal consults and twin-to-twin transfusion syndrome; Medicaid coverage for lacrimal punctum plugs; and removal of the requirement that the recipient had to have a Medicaid-paid pregnancy service to be eligible for family planning waiver services. The effect will be to incorporate by reference in rule Errata January 2007 to Florida Medicaid Physician Services Coverage and Limitations Handbook.

SUMMARY: The purpose of this rule amendment is to incorporate by reference Errata January 2007 to the Florida Medicaid Physician Services Coverage and Limitations Handbook. The effect will be to incorporate by reference in rule Errata January 2007 to Florida Medicaid Physician Services Coverage and Limitations Handbook.

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

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

SPECIFIC AUTHORITY: 409.919 FS.

LAW IMPLEMENTED: 409.905, 409.907, 409.908, 409.9081 FS.

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

DATE AND TIME: Tuesday, September 4, 2007, 1:00 p.m.

PLACE: Agency for Health Care Administration, 2727 Mahan Drive, Building #3, Conference Room D, Tallahassee, Florida

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Eleanor Cofer, Bureau of Medicaid Services, 2727 Mahan Drive, Mail Stop 20, Tallahassee, Florida 32308, (850)922-7331, cofere@ahca.myflorida.com

THE FULL TEXT OF THE PROPOSED RULE IS:

59G-4.230 Physician Services.

(1) No change.

(2) All physician services providers enrolled in the Medicaid program must be in compliance with the Florida Medicaid Physician Services Coverage and Limitations Handbook, January 2007, errata January 2007, updated January 2007 and May 2007, which is incorporated by reference, and the Florida Medicaid Provider Reimbursement Handbook, CMS-1500, which is incorporated by reference in Rule 59G-4.001, F.A.C. Both handbooks are available from the Medicaid fiscal agent's website at <http://floridamedicaid>.

acs-inc.com. Click on Provider Support, and then on Handbooks. Paper copies of the handbooks may be obtained by calling Provider Enrollment at (800)377-8216.

(3) through (5) No change.

Specific Authority 409.919 FS. Law Implemented 409.905, 409.907, 409.908, 409.9081 FS. History--New 1-1-77, Revised 2-1-78, 4-1-78, 1-2-79, 1-1-80, Amended 2-8-82, 3-11-84, Formerly 10C-7.38, Amended 1-10-91, 11-5-92, 1-7-93, Formerly 10C-7.038, Amended 6-29-93, 9-6-93, Formerly 10P-4.230, Amended 6-13-94, 2-9-95, 3-10-96, 5-28-96, 3-18-98, 9-22-98, 8-25-99, 4-23-00, 8-5-01, 2-20-03, 8-5-03, 8-3-04, 8-18-05, 8-31-05, 10-26-06, 2-11-07, 5-7-07, 7-2-07,_____.

NAME OF PERSON ORIGINATING PROPOSED RULE: Eleanor Cofer
NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Andrew Agwunobi, M.D., Secretary
DATE PROPOSED RULE APPROVED BY AGENCY HEAD: July 25, 2007
DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: June 15, 2007

DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION

Construction Industry Licensing Board

RULE NO.: 61G4-12.011 RULE TITLE: Definitions
PURPOSE AND EFFECT: The Board proposes the rule amendment to add additional definitions.

SUMMARY: The rule amendment is for the purpose of amending the definition of a credit report.
SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS: No Statement of Estimated Regulatory Cost was prepared.

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

SPECIFIC AUTHORITY: 489.103(5), 489.105(3), 489.108, 489.113(3) FS.
LAW IMPLEMENTED: 489.103(5), 489.105(3), 489.113(3), 489.115(6), 489.119(5) FS.

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

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: G. W. Harrell, Executive Director, Construction Industry Licensing Board, 1940 North Monroe Street, Tallahassee, Florida 32399-0750

THE FULL TEXT OF THE PROPOSED RULE IS:

61G4-12.011 Definitions.
(1) through (10) No change.

(11) A "credit report from a nationally recognized credit agency that reflects the financial responsibility of the applicant, certificateholder or registrant", shall for the purposes of Section 489.115(6), F.S., mean a credit report that provides a full, accurate, current, and complete consumer credit score derived from the Fair Isaac Corporation's (FICO) scoring method and provided by at least two (2) credit bureaus; ~~information on the following items in a manner which allows the Board to determine the credit worthiness of the applicant:~~

- ~~(a) Payment history;~~
- ~~(b) Credit ratings;~~
- ~~(c) Public filings in county, state and federal courts;~~
- ~~(d) Bankruptcies, business history, suits, liens and judgments, all on a nationwide basis;~~
- ~~(e) Location of business, number of years in business;~~
- ~~(f) Social security numbers, if available, of all corporate officers, owners and partners, and all federal employer identification numbers, if available, held by the applicant or any business entity that he currently qualifies or is applying to qualify; and~~
- ~~(g) UCC filings.~~

(12) through (14) No change.

Specific Authority 489.103(5), 489.105(3), 489.108, 489.113(3) FS. Law Implemented 489.103(5), 489.105(3), 489.113(3), 489.115(6), 489.119(5) FS. History--New 9-16-80, Formerly 21E-12.11, Amended 1-1-89, 4-18-89, 7-4-89, 4-22-90, 7-3-91, 12-21-92, Formerly 21E-12.011, Amended 11-4-93, 11-22-94, 10-10-95, 4-29-96, 9-18-96, 12-3-96, 11-25-97, 10-4-99,_____.

NAME OF PERSON ORIGINATING PROPOSED RULE: Construction Industry Licensing Board
NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Construction Industry Licensing Board
DATE PROPOSED RULE APPROVED BY AGENCY HEAD: June 13, 2007
DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: July 20, 2007

DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION

Board of Cosmetology

RULE NO.: 61G5-20.003 RULE TITLE: Inspections
PURPOSE AND EFFECT: To address inspections.

SUMMARY: Changes the minimum frequency of inspections.
SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS: No Statement of Estimated Regulatory Cost was prepared.

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

SPECIFIC AUTHORITY: 477.016 FS.

LAW IMPLEMENTED: 477.025(4), (9) FS.

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

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Robyn Barineau, Executive Director, Board of Cosmetology, 1940 North Monroe Street, Tallahassee, Florida 32399-0750

THE FULL TEXT OF THE PROPOSED RULE IS:

61G5-20.003 Inspections.

The Department of Business and Professional Regulation shall cause an inspection of all proposed salons to determine if all the requirement have been met. Each licensed salon shall be inspected at least ~~biennially~~ ~~annually~~ by the Department. No person shall, for any reason intentionally, or directly inhibit an authorized representative of the Department from performing said inspections.

Specific Authority 477.016 FS. Law Implemented 477.025(4), (9) FS. History--New 4-22-81, Amended 9-11-81, 5-3-82, 10-6-85, Formerly 21F-20.03, Amended 10-18-87, Formerly 21F-20.003, Amended _____.

NAME OF PERSON ORIGINATING PROPOSED RULE:
Board of Cosmetology

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Board of Cosmetology

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: June 3, 2007

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: June 29, 2007

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 ENVIRONMENTAL PROTECTION

RULE NOS.:	RULE TITLES:
62-4.050	Procedures to Obtain Permits and Other Authorizations; Applications
62-4.052	Regulatory Program and Surveillance Fees for Wastewater Facilities or Activities Discharging to Surface Waters

PURPOSE AND EFFECT: In October 2000, the Environmental Protection Agency authorized the Florida Department of Environmental Protection (Department) to implement the National Pollutant Discharge Elimination System (NPDES) Stormwater permitting program in the State of Florida. Costs to implement the Program have increased.

Section 403.0885, Florida Statutes (F.S.), requires that fees collected by the Department are adequate to cover the entire cost to the Department for program management, for reviewing and acting upon any permit application, and to cover the cost of surveillance and other field services of any permits issued. To comply with this statute, it is necessary to increase NPDES Stormwater permitting and annual surveillance fees at this time. The rule, as amended, increases the following fees:

Generic Permit for Stormwater Discharge from Large and Small Construction Activities

No Exposure Certification for Exclusion from NPDES Stormwater Permitting

Generic Permit for Discharge of Stormwater from Phase II Municipal Separate Storm Sewer Systems (MS4s)

Phase I Municipal Separate Storm Sewer System (MS4) annual surveillance fees

OGC #: 07-0440

SUMMARY: The proposed rule amendment will increase certain NPDES Stormwater permitting fees in paragraph 62-4.050(4)(d) and Phase I MS4 annual surveillance fees in subsection 62-4.052(10), F.A.C.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS: A Statement of Estimated Regulatory Cost was prepared.

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

SPECIFIC AUTHORITY: 403.061, 403.087(6) FS.

LAW IMPLEMENTED: 403.087(6), 403.0885 FS.

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

DATE AND TIME: September 3, 2007, 1:00 p.m. EST

PLACE: Bob Martinez Center, 2600 Blair Stone Road, Tallahassee, FL 32399

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 hours before the workshop/meeting by contacting: Robin Babin, Florida Department of Environmental Protection, NPDES Stormwater Section, 2600 Blair Stone Road, MS #2500, Tallahassee, Florida 32399; telephone (850)245-7522; email Robin.Babin@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 RULES IS: Steven Kelly, Florida Department of Environmental Protection, NPDES Stormwater Section, 2600 Blair Stone Road, MS #2500, Tallahassee, FL 32399-2400; (850)245-7518; email Steven.Kelly@dep.state.fl.us

62-4.050 Procedures to Obtain Permits and Other Authorizations; Applications
 (1) through (4)(c) No change.
 (d) Stormwater facilities or activities regulated under Section 403.0885, F.S.

THE FULL TEXT OF THE PROPOSED RULES IS:

- 1. Generic Permit for Stormwater Discharge from Large and Small Construction Activities.
 - a. Activities disturbing 5 or more acres (large) \$400 ~~300~~
 - b. Activities disturbing 1 acre of land or greater and less than 5 acres (small) \$250 ~~150~~
- 2. Multi-Sector Generic Permit for Stormwater Discharge Associated with Industrial Activity \$500
- 3. No Exposure Certification for Exclusion from NPDES Stormwater Permitting \$200 ~~100~~
- 4. Stormwater discharge associated with industrial activity permitted under Chapter 62-620, F.A.C. \$1,000
- 5. Generic Permit for Discharge of Stormwater from Phase II Municipal Separate Storm Sewer System (MS4s):
 - a. Phase II MS4s in a jurisdiction with a population of 50,000 or greater as determined by the latest Decennial Census by the U.S. Bureau of Census 2000 Federal Census \$11,700 ~~7,800~~
 - b. Phase II MS4s in a jurisdiction with a population of greater than 10,000 but less than 50,000 as determined by the latest Decennial Census by the U.S. Bureau of Census 2000 Federal Census \$7,988 ~~5,325~~
 - c. Phase II MS4s in a jurisdiction with a population of 10,000 or less as determined by the latest Decennial Census by the U.S. Bureau of Census 2000 Federal Census \$5,625 ~~3,750~~

Specific Authority 373.026, 373.043, 373.414, 373.418, 373.421, 403.061, 403.087, 403.704(30), 403.805 FS. Law Implemented 373.109, 373.309, 373.409, 373.413, 373.4135, 373.414, 373.4145, 373.418, 373.421, 403.061, 403.087, 403.0877, 403.088, 403.722, 403.861(7) FS. History—New 5-17-72, Amended 6-19-74, 7-8-82, Formerly 17-4.05, Amended 11-15-87, 8-31-88, 10-3-88, 4-4-89, 3-19-90, 6-11-90, 3-7-91, 3-18-91, 5-30-91, 10-30-91, 11-16-92, 12-21-92, 7-11-93, 2-2-94, Formerly 17-4.050, Amended 11-23-94, 4-30-95, 7-4-95, 12-15-98, 10-22-00, 6-1-01, 1-30-03, 2-19-03, 4-3-03, 5-1-03, 2-7-06,_____.

(a) Fees for each Municipal Separate Storm Sewer System (MS4) permit shall cover the cost of surveillance and the regulatory program, including processing of annual reports, revisions, and permit applications and re-applications. Annual fees for MS4s shall be based on the total MS4 permit population. The total MS4 permit population is equal to the sum of the populations of each of the named co-permittees to a MS4 permit. Populations used for all MS4 fee determinations shall be the 2005 ~~1998~~ estimates as listed in the 2006 ~~1999~~ edition of the Florida Statistical Abstract, published by the Bureau of Economic and Business Research, University of Florida. Fees are calculated using the formulas established in paragraph 62-4.052(10)(d), F.A.C. Total permit populations and associated fees are indicated for each permit below:

62-4.052 Regulatory Program and Surveillance Fees for Wastewater Facilities or Activities Discharging to Surface Waters.

(1) through (9) No change.

(10) The annual fee for Phase I municipal stormwater facilities, and Phase II facilities subject to an individual permit, as regulated under Chapter 62-624, F.A.C., shall be as follows:

Permit	Total Population	Fee
1. Bradenton	<u>54,303</u>	<u>\$4,340</u>
2. Broward	<u>1,410,561</u>	<u>\$48,264</u>
3. Dade	1,435,909	\$41,990
3.4. Escambia	<u>303,623</u>	<u>\$20,591</u>
4. 5. Ft. Lauderdale	<u>171,344</u>	<u>\$17,284</u>
5. 6. Hialeah	<u>230,407</u>	<u>\$18,760</u>
6. 7. Hillsborough	<u>783,007</u>	<u>\$32,575</u>
7. 8. Hollywood	<u>143,025</u>	<u>\$16,576</u>
8. 9. Jacksonville	<u>837,983</u>	<u>\$33,950</u>
9. 10. Jacksonville Beach	<u>21,531</u>	<u>\$2,702</u>
10. 11. Lee	<u>549,442</u>	<u>\$26,736</u>

11.12.	Leon	<u>96,330</u>	89,995	<u>\$6,442</u>	4,900
12.13.	Manatee	<u>247,471</u>	196,343	<u>\$19,187</u>	14,720
13.14.	Miami	<u>386,882</u>	364,765	<u>\$22,672</u>	18,425
15.	Neptune Beach*		7,477		\$949
14.	<u>Miami-Dade County</u>	<u>1,720,800</u>		<u>\$56,020</u>	
15.16.	Orange	<u>821,519</u>	640,992	<u>\$33,538</u>	24,502
16.17.	Orlando	<u>217,567</u>	180,462	<u>\$18,439</u>	14,370
17.18.	Palm Beach County	<u>1,262,520</u>	989,707	<u>\$44,563</u>	32,174
18.19.	Pasco	<u>404,930</u>	321,074	<u>\$23,123</u>	17,464
19.20.	Pinellas	<u>691,971</u>	649,028	<u>\$30,299</u>	24,679
20.21.	Polk	<u>541,840</u>	465,858	<u>\$26,546</u>	20,649
21.22.	Reedy Creek District	<u>82,300</u>	73,000	<u>\$5,740</u>	4,147
22.23.	St. Petersburg	<u>253,902</u>	241,625	<u>\$19,348</u>	15,716
23.24.	Sarasota	<u>367,867</u>	316,023	<u>\$22,197</u>	17,353
24.25.	Seminole	<u>411,744</u>	345,166	<u>\$23,294</u>	17,994
25.26.	Tallahassee	<u>174,781</u>	143,237	<u>\$17,370</u>	13,551
26.27.	Tampa	<u>326,519</u>	293,390	<u>\$21,163</u>	16,855
27.28.	Temple Terrace	<u>22,020</u>	20,370	<u>\$2,726</u>	2,115

(b) Except as provided in paragraph 62-4.052(10)(c), F.A.C., permittees and co-permittees to each permit will be invoiced individually for their respective share of the annual fee. The individual fee shall be pro-rated based on the percentage of each co-permittee's population as compared to the total permit population listed above. Additional fees apply as follows:

1. Invoices under this subsection shall be a minimum of \$100 to cover processing costs.

2. For co-permittees that do not have associated populations, such as Florida Department of Transportation Districts and Drainage Districts, other than existing state water management districts, the fee shall be \$1,875 ~~1,500~~.

(c) For convenience, co-permittees of any one permit may choose to receive only one invoice to cover the entire annual fee. In order to receive one invoice, co-permittees to any one permit shall:

1. Mutually agree to share the cost of the annual fee and be party to an executed interlocal agreement for cost sharing among all co-permittees.

2. Designate a specific co-permittee to act as representative for all co-permittees regarding the annual fee. The fee designee shall notify the Department in writing, not less than 120 days prior to the end of a calendar year, that only one invoice will be required for the annual fee for the forthcoming calendar year.

3. The above notification shall identify the co-permittee responsible for the fee transaction and shall specify the name and address of the contact person for invoicing. The identified co-permittee is responsible for paying the entire annual fee to the Department.

4. After the initial annual fee billing cycle, one invoice shall continue to be sent to the fee designee established by the above process until a change is requested in accordance with subparagraph 62-4.052(10)(c)5., F.A.C., below.

5. To effect a change regarding the fee designee, the Department must be notified in writing, not less than 120 days prior to the end of a calendar year, that the co-permittee responsible for the fee transaction has changed, or that fees should be invoiced individually in accordance with paragraph 62-4.052(10)(b), F.A.C. Notification of such changes shall be in accordance with the requirements of this subsection.

(d) Annual fees for Phase I MS4s and Phase II MS4s permitted individually and not under a generic permit, that have an initial permit issuance occurring after October 1, 2000, shall be based on the following formulas:

1. For MS4 permits with total populations less than 19,999: \$800 ~~650~~ plus \$0.05 ~~0.04~~ times the total permitted population.

2. For MS4 permits with total populations greater than 20,000 but less than 99,999: \$1,625 ~~1,300~~ plus \$0.05 ~~0.04~~ times the total permitted population.

3. For MS4 permits with total populations greater than 100,000: \$13,000 ~~10,400~~ plus \$0.025 ~~0.022~~ times the total permitted population.

(11) through (13) No change.

Specific Authority 403.061, 403.087(6) FS. Law Implemented 403.087(6), 403.0885 FS. History—New 4-30-95, Amended 10-22-00, 7-8-02,_____.

NAME OF PERSON ORIGINATING PROPOSED RULE: Steven Kelly, Program Administrator, NPDES Stormwater Section

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Janet G. Llewellyn, Director, Division of Water Resource Management

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: March 21, 2007

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: April 20, 2007

DEPARTMENT OF HEALTH

Board of Dentistry

RULE NO.: RULE TITLE:

64B5-15.030 One Time Fee

PURPOSE AND EFFECT: To assess fee due to deficit.

SUMMARY: Assessment of a one time fee of \$250.00 to all dentists licensed under Chapter 466, Florida Statutes.

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

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

SPECIFIC AUTHORITY: 456.025(4), 466.004(4) FS.

LAW IMPLEMENTED: 456.025(4) FS.

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

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Sue Foster, Executive Director, Board of Dentistry/MQA, 4052 Bald Cypress Way, Bin #8, Tallahassee, Florida 32399-3258

THE FULL TEXT FOR THE PROPOSED RULE IS:

64B5-15.030 One Time Fee.

(1) Each dentist licensed by the Department pursuant to Chapter 466, Florida Statutes on or before March 1, 2008, and still holding such a license, whether active or inactive, on March 1, 2008, shall pay a one-time fee of \$250.00 to the Board of Dentistry. Payment on the one-time fee must be postmarked to the Board no later than February 28, 2008.

(a) The one-time fee applies to all licensed dentists including those whose licenses have been suspended or placed on probation by the Board.

(b) Failure to timely pay the one-time fee shall be considered a violation of Section 466.028(1)(II), Florida Statutes and this rule.

(c) The Department shall mail written notice of the one-time fee requirement to each licensed dentist's address of record by no later than November 1, 2007.

(2) The Department shall mail written notice of the one-time fee requirement to each licensed dentist's address of record by no later than November 1, 2007.

Specific Authority 456.025(4), 466.004(4) FS. Law Implemented 456.025(4) FS. History--New _____.

NAME OF PERSON ORIGINATING PROPOSED RULE: Board of Dentistry

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Board of Dentistry

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: June 22, 2007

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: July 13, 2007

DEPARTMENT OF HEALTH

Board of Massage

RULE NO.: RULE TITLE:

64B7-32.003 Minimum Requirements for Board of Massage Therapy Approval

PURPOSE AND EFFECT: To update the rule text.

SUMMARY: Reflects statutory revision.

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

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

SPECIFIC AUTHORITY: 480.035(7) FS.

LAW IMPLEMENTED: 480.033(9), 480.033(9), 480.041(1)(b) FS.

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

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Pamela E. King, Executive Director, Board of Massage Therapy, 4052 Bald Cypress Way, Bin C06, Tallahassee, Florida 32399

THE FULL TEXT OF THE PROPOSED RULE IS:

64B7-32.003 Minimum Requirements for Board of Massage Therapy Approval.

(1) In order to receive and maintain Board of Massage Therapy approval, a massage school, and any satellite location of a previously approved school, must:

(a) Meet the requirements of and be licensed by the Department of Education pursuant to Chapter 1005 246, Florida Statutes, or the equivalent licensing authority of another state or county, or be within the public school system of the State of Florida; and

(b) through (5) No change.

Specific Authority 480.035(7) FS. Law Implemented 480.041(1)(b) FS. History—New 3-25-86, Amended 8-15-89, 12-22-92, Formerly 21L-32.003, Amended 10-20-96, Formerly 61G11-32.003, Amended 8-16-98,_____.

NAME OF PERSON ORIGINATING PROPOSED RULE:
Board of Massage Therapy
NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Board of Massage Therapy
DATE PROPOSED RULE APPROVED BY AGENCY HEAD: April 25, 2007
DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: June 29, 2007

DEPARTMENT OF HEALTH

Board of Respiratory Care

RULE NO.: 64B32-6.004
RULE TITLE: Procedures for Approval of Attendance at Continuing Education Courses

PURPOSE AND EFFECT: The Board proposes the rule amendment to add language to clarify what is required in continuing education courses for emergency preparedness.

SUMMARY: The rule amendment will add language to clarify what is required in continuing education courses for emergency preparedness.

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

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

SPECIFIC AUTHORITY: 468.353(1), 468.361(2) FS.

LAW IMPLEMENTED: 468.361(2) FS.

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

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Susan Love, Executive Director, Board of Respiratory Care/MQA, 4052 Bald Cypress Way, Bin #C05, Tallahassee, Florida 32399-3255

THE FULL TEXT OF THE PROPOSED RULE IS:

64B32-6.004 Procedures for Approval of Attendance at Continuing Education Courses.

(1) through (2) No change.

(3) A minimum of 16 hours each biennium must be obtained by each licensee in approved offerings related to the direct delivery of respiratory care services. No more than 8 hours of appropriate continuing education in the areas of management, risk management, personal growth, and

educational techniques will be acceptable for the purpose of biennial renewal of a license. Up to 12 hours per biennium may be home study courses.

(a) With the biennium ending May 31, 2009, each licensee will be required to have taken a continuing education course in emergency preparedness. This course shall count as two (2) hours of direct patient care credit. This course shall be taken each biennium thereafter and the two (2) hours credit shall count towards the minimum sixteen (16) hours needed to renew the license.

(b) Each continuing education course in emergency preparedness, at a minimum, must cover the following topics: natural disasters, manmade disasters and bioterrorism, pandemic flu, and respiratory care disaster response.

(4) No change.

Specific Authority 468.353(1), 468.361(2) FS. Law Implemented 468.361(2) FS. History—New 4-29-85, Formerly 21M-38.04, Amended 9-29-86, 11-29-88, 9-24-92, 10-15-92, Formerly 21M-38.004, Amended 1-2-94, 7-10-94, Formerly 61F6-38.004, Amended 11-1-94, 3-14-95, 7-18-95, 4-24-96, 8-27-96, Formerly 59R-75.004, 64B8-75.004, Amended 6-8-00, 5-7-01, 1-22-03, 7-29-03, 5-31-04, 4-19-07,_____.

NAME OF PERSON ORIGINATING PROPOSED RULE: Board of Respiratory Care
NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Board of Respiratory Care
DATE PROPOSED RULE APPROVED BY AGENCY HEAD: April 7, 2007
DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: May 4, 2007

FISH AND WILDLIFE CONSERVATION COMMISSION

Freshwater Fish and Wildlife

RULE NO.: 68A-6.0024
RULE TITLE: Commercialization of Wildlife; Public Contact; Bonding or Financial Responsibility Guarantee

PURPOSE AND EFFECT: The purpose and effect of this rule is to address bonding requirements for the exhibition of venomous reptiles and Class I wildlife as required by statute. The proposed rule will provide the mechanisms by which an exhibitor of Class I wildlife may meet the financial responsibility guarantee in the amount of \$10,000 or comply with the comprehensive general liability insurance requirement, and define the circumstances under which the bond or financial responsibility guarantee will be forfeited. Rule 68A-6.0024, F.A.C., is a new rule that should have the effect of assuring that exhibitors of Class I wildlife maintain minimal financial responsibility.

SUMMARY: The proposed rule addresses bond requirements for the exhibition of venomous reptiles or Class I wildlife. It establishes the terms of the bond and requires notification upon

termination of the bond. The proposed rule provides methods that exhibitors of Class I wildlife may demonstrate the financial responsibility guarantee in the sum of \$10,000 in lieu of the bond, or requires the maintenance of general comprehensive liability insurance. The proposed rule addresses when the bond or financial responsibility guarantee will be forfeited. This rule prohibits the exhibition of venomous reptiles without a bond, or in the instance of Class I wildlife without a bond or without meeting the financial responsibility guarantee or without general comprehensive liability insurance as required.

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

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

SPECIFIC AUTHORITY: Article IV, Section 9, Florida Constitution, 372.88, 372.92, 372.921 FS.

LAW IMPLEMENTED: Article IV, Section 9, Florida Constitution, 372.86, 372.87, 372.88, 372.92, 372.921 FS.

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

DATES AND TIME: During the regular meeting of the Commission, September 12-14, 2007, 8:30 a.m. – 5:00 p.m., each day

PLACE: St. Petersburg Hilton, 333 First Street South, St. Petersburg, 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: The ADA Coordinator, at (850)488-6411. 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 IS: Captain Linda Harrison, Division of Law Enforcement, Investigations Section, Fish and Wildlife Conservation Commission, 620 South Meridian Street, Tallahassee, Florida 32399-1600, (850)488-6253

THE FULL TEXT OF THE PROPOSED RULE IS:

68A-6.0024 Commercialization of Wildlife: Public Contact: Bonding or Financial Responsibility Guarantee.

(1) It is unlawful to exhibit venomous reptiles to the public without having posted a performance bond as listed below.

(a) A valid performance bond payable to the Florida Fish and Wildlife Conservation Commission shall be submitted at the time of initial license application and upon renewal. The licensee shall notify the Florida Fish and Wildlife Conservation

Commission in writing within 5 calendar days if the performance bond expires, is cancelled or revoked, or for any other reason becomes invalid. The notification in writing may be delivered by fax at (850)414-8212, or by mail or hand delivery to Florida Fish and Wildlife Conservation Commission, Office of Licensing and Permitting, 2590 Executive Center Circle, Suite 200-Berkley Building, Tallahassee, Florida 32301. The terms of the performance bond shall include the following:

1. The exhibitor shall indemnify and save harmless the injured party if an injury occurs or other damages results from exhibited reptiles.

2. The exhibitor shall fully comply with all laws of the state and rules of the commission governing the capturing, keeping, possessing or exhibiting of venomous reptiles.

3. The performance bond shall be for the duration of not less than the duration of the licensing period.

(b) In lieu of a surety bond, a person may submit a cash bond to the Florida Fish and Wildlife Conservation Commission to satisfy the performance bond requirement. Such payment shall be in the sum of \$10,000 and may be in the form of cash, cashier's check, or certified check. In the instance of a check, such instrument shall be made payable to the Florida Fish and Wildlife Conservation Commission. Such cash bond shall be refunded to the exhibitor in instances of non-issuance or denial of the initial license application; or the exhibitor has submitted a request for refund to include a notarized statement that they no longer exhibit venomous reptiles.

(c) The performance bond will be forfeited to the Florida Fish and Wildlife Conservation Commission if:

1. An injury occurs or other damage results from exhibited reptiles and the exhibitor fails to indemnify and save harmless the injured party; or

2. The exhibitor fails to fully comply with all laws of the state and rules of the commission governing the capturing, keeping, possessing or exhibiting of venomous reptiles.

(d) The exhibition of venomous reptiles in the absence of a current and valid performance bond, payable to the Florida Fish and Wildlife Conservation Commission, in the sum of \$10,000 is prohibited.

(2) It is unlawful to exhibit Class I wildlife without having guaranteed financial responsibility. The following methods of payment will satisfy the financial responsibility requirement:

(a) A valid performance bond payable to the Florida Fish and Wildlife Conservation Commission in the sum of \$10,000, in compliance with and as noted in paragraph 68A-6.0024(1)(a), F.A.C., above. The terms of the performance bond shall include the following:

1. The exhibitor shall indemnify and save harmless the injured party if an injury to the public occurs, including accidental death, or other property damage occurs from the exhibited Class I wildlife.

2. The exhibitor shall indemnify and save harmless the Florida Fish and Wildlife Conservation Commission for payment of all expenses relative to the capture, transport, boarding, veterinary care, or other costs associated with or incurred due to seizure or custody of Class I wildlife.

3. The performance bond shall be for the duration of not less than the duration of the licensing period.

(b) Cash, cashier's check, or certified check in the sum of \$10,000. In the instance of a check such instrument shall be made payable to the Florida Fish and Wildlife Conservation Commission. Such cash bond shall be refunded to the exhibitor in instances of non-issuance or denial of the initial license application; or the exhibitor has submitted a request for refund to include a notarized statement that they no longer exhibit Class I wildlife.

(c) Irrevocable letter of credit issued by a bank, savings and loan, credit union or other similar state or federally chartered financial institution, payable to the Florida Fish and Wildlife Conservation Commission in the sum of \$10,000.

(d) In lieu of the \$10,000 financial responsibility guarantee any person exhibiting Class I wildlife may maintain comprehensive general liability insurance with minimum limits of \$2 million per occurrence and \$2 million annual aggregate as shall protect the exhibitor from claims for damage for personal injury, including accidental death, as well as claims for property damage which may arise. The insurance policy shall be for a duration of not less than the duration of the licensing period. A current Certificate of Insurance evidencing proof of insurance maintained by the exhibitor in such amounts as required by this section, including terms, coverage and expiration date, shall be submitted at the time of initial application and upon renewal. The licensee shall notify the Florida Fish and Wildlife Conservation Commission in writing within 5 calendar days if the insurance policy expires, is cancelled or revoked, or for any other reason becomes invalid. The notification in writing may be delivered by fax at (850)414-8212, or by mail or hand delivery to Florida Fish and Wildlife Conservation Commission, Office of Licensing and Permitting, 2590 Executive Center Circle, Suite 200-Berkley Building, Tallahassee, Florida 32301.

(e) The performance bond or financial responsibility guarantee in the sum of \$10,000, or any portion thereof, will be forfeited to the Florida Fish and Wildlife Conservation Commission if:

1. An injury to the public, including accidental death, or other property damage results from exhibited Class I wildlife and the exhibitor fails to indemnify and save harmless the injured party; or

2. Class I wildlife is taken into custody or seized by commission personnel. In instances where Class I wildlife is seized or taken into custody by the Commission the permittee shall be responsible for payment of all expenses relative to the

capture, transport, boarding, veterinary care, or other costs associated with or incurred due to seizure or custody of the wildlife.

(f) The exhibition of Class I wildlife in the absence of a current and valid performance bond, payable to the Florida Fish and Wildlife Conservation Commission, in the sum of \$10,000, or a financial responsibility guarantee in the sum of \$10,000, or a current and valid comprehensive general liability insurance with minimum limits of \$2 million per occurrence and \$2 million annual aggregate is prohibited.

Specific Authority Art. IV, Sec. 9, Fla. Const., 372.88, 372.92, 372.921 FS. Law Implemented Art. IV, Sec. 9, Fla. Const., 372.86, 372.87, 372.88, 372.92, 372.921 FS. History—New _____.

NAME OF PERSON ORIGINATING PROPOSED RULE:
Colonel Julie Jones, Director, Division of Law Enforcement
NAME OF SUPERVISOR OR PERSON WHO APPROVED
THE PROPOSED RULE: Mr. Kenneth D. Haddad, Executive
Director

DATE PROPOSED RULE APPROVED BY AGENCY
HEAD: June 13, 2007

DATE NOTICE OF PROPOSED RULE DEVELOPMENT
PUBLISHED IN FAW: May 4, 2007

**FISH AND WILDLIFE CONSERVATION
COMMISSION**

Freshwater Fish and Wildlife

RULE NO.:	RULE TITLE:
68A-27.003	Designation of Endangered Species; Prohibitions; Permits

PURPOSE AND EFFECT: The purpose of this proposed revised rule is to remove the Florida manatee from the State of Florida Endangered Species list.

SUMMARY: The Fish and Wildlife Conservation Commission reclassified the Florida manatee from an endangered species to a threatened species. The proposed rule change removes the Florida manatee from the state list of endangered species.

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

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

SPECIFIC AUTHORITY: Article IV, Section 9, Florida Constitution.

LAW IMPLEMENTED: Article IV, Section 9, Florida Constitution, 372.121 FS.

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

DATES AND TIME: During the Commission's regular meeting September 12-14, 2007, 8:30 a.m. – 5:00 p.m., each day

PLACE: Hilton Hotel, 333 First Street South, St. Petersburg, Florida 33701

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: The ADA Coordinator, at (850)488-6411. If you are hearing or speech impaired, please contact the agency using the Florida Relay Service, (800)955-8771 (TDD) or (800)955-8770 (Voice).

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Mr. Tim Breault, Director, Division of Habitat and Species Conservation, Fish and Wildlife Conservation Commission, 620 South Meridian Street, Tallahassee, Florida 32399-1600

THE FULL TEXT OF THE PROPOSED RULE IS:

68A-27.003 Designation of Endangered Species; Prohibitions; Permits.

(1) The following species, listed prior to June 23, 1999, are hereby declared to be endangered and shall be afforded the protective provisions specified. No person shall pursue, molest, harm, harass, capture, possess, or sell any of the endangered species included in this subsection, or parts thereof or their nests or eggs except as authorized by specific permit, permits being issued only when the permitted activity will clearly enhance the survival potential of the species.

- (a) Pillar coral (*Dendrogyra cylindrus*)
- (b) Blackmouth shiner (*Notropis melanostomus*)
- (c) Okaloosa darter (*Etheostoma okaloosae*)
- (d) Shortnose sturgeon (*Acipenser brevirostrum*)
- (e) American crocodile (*Crocodylus acutus*)
- (f) Green sea turtle (*Chelonia mydas*)
- (g) Hawksbill sea turtle (*Eretmochelys imbricata*)
- (h) Kemp's ridley sea turtle (*Lepidochelys kempii*)
- (i) Leatherback sea turtle (*Dermochelys coriacea*)
- (j) Striped mud turtle (*Kinosternon bauri*) (lower keys population only)
- (k) Wood stork (*Mycteria americana*)
- (l) Snail kite (*Rostrhamus sociabilis plumbeus*)
- (m) Peregrine falcon (*Falco peregrinus*)
- (n) Ivory-billed woodpecker (*Campephilus principalis*)
- (o) Bachman's warbler (*Vermivora bachmanii*)
- (p) Kirtland's warbler (*Dendroica kirtlandii*)
- (q) Florida grasshopper sparrow (*Ammodramus savannarum floridanus*)
- (r) Cape Sable seaside sparrow (*Ammodramus maritimus mirabilis*)
- (s) Gray bat (*Myotis grisescens*)
- (t) Indiana bat (*Myotis sodalis*)
- (u) Florida mastiff bat (*Eumops glaucinus floridanus*)

- (v) Silver rice rat (*Oryzomys argentatus*)
 - (w) Choctawhatchee beach mouse (*Peromyscus polionotus allophrys*)
 - (x) Perdido Key beach mouse (*Peromyscus polionotus trissyllepsis*)
 - (y) St. Andrews beach mouse (*Peromyscus polionotus peninsularis*)
 - (z) Anastasia Island beach mouse (*Peromyscus polionotus phasma*)
 - (aa) Key Largo cotton mouse (*Peromyscus gossypinus allapaticola*)
 - (bb) Key Largo woodrat (*Neotoma floridana smalli*)
 - (cc) Florida saltmarsh vole (*Microtus pennsylvanicus dukecampbelli*)
 - (dd) Lower Keys marsh rabbit (*Sylvilagus palustris hefneri*)
 - ~~(ee) Florida manatee (*Trichechus manatus latirostris*)~~
 - ~~(ee)(ff)~~ Florida panther (*Puma concolor coryi*)
 - ~~(ff)(gg)~~ Key deer (*Odocoileus virginianus clavium*). No person shall feed Key deer (*Odocoileus virginianus clavium*) by hand or by placing any food that serves to attract such species.
 - ~~(gg)(hh)~~ North Atlantic right whale (*Eubalaena glacialis*)
 - ~~(hh)(ii)~~ Fin whale (*Balaenoptera physalus*)
 - ~~(ii)(jj)~~ Sei whale (*Balaenoptera borealis*)
 - ~~(jj)(kk)~~ Humpback whale (*Megaptera novaeangliae*)
 - ~~(kk)(ll)~~ Sperm whale (*Physeter macrocephalus*)
 - ~~(ll)(mm)~~ Schaus' swallowtail butterfly (*Heraclides aristodemus ponceanus*)
 - ~~(mm)(nn)~~ Stock Island tree snail (*Orthalicus reses*)
 - (2) The Miami blue butterfly (*Cyclargus [= Hemiargus] thomasi bethunebakeri*), listed after June 23, 1999, is hereby declared to be endangered, and shall be afforded the protective provisions specified in this subsection. No person shall take, harm, harass, possess, sell, or transport any Miami blue butterfly (*Cyclargus [= Hemiargus] thomasi bethunebakeri*), or parts thereof or their eggs, larvae or pupae except as authorized by permit from the executive director. Permits will be issued based upon whether issuance would further management plan goals and objectives.
- Specific Authority Art. IV, Sec. 9, Fla. Const. Law Implemented Art. IV, Sec. 9, Fla. Const. History--New 8-1-79, Amended 6-22-80, 7-1-83, 7-1-84, 7-1-85, Formerly 39-27.03, Amended 6-1-86, 5-10-87, 4-27-89, 9-14-93, 6-23-99, Formerly 39-27.003, Amended 12-16-03,_____.
- NAME OF PERSON ORIGINATING PROPOSED RULE: Mr. Tim Breault, Division of Habitat and Species Conservation
 NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Mr. Kenneth D. Haddad, Executive Director

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: June 13, 2007

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: May 4, 2007

FISH AND WILDLIFE CONSERVATION COMMISSION

Freshwater Fish and Wildlife

RULE NO.: 68A-27.004
 RULE TITLE: Designation of Threatened Species; Prohibitions; Permits

PURPOSE AND EFFECT: The purpose of this proposed revised rule is to add the Florida manatee and the gopher tortoise to the state list of threatened species.

SUMMARY: The Fish and Wildlife Conservation Commission reclassified the Florida manatee from an endangered species to a threatened species. The Commission also reclassified the gopher tortoise from a species of special concern to a threatened species. The proposed rule change adds these species to the state list of threatened species.

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

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

SPECIFIC AUTHORITY: Article IV, Section 9, Florida Constitution.

LAW IMPLEMENTED: Article IV, Section 9, Florida Constitution, 372.121 FS.

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

DATES AND TIME: During the Commission's regular meeting September 12-14, 2007, 8:30 a.m. – 5:00 p.m., each day

PLACE: Hilton Hotel, 333 First Street South, St. Petersburg, Florida 33701

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: The ADA Coordinator, at (850)488-6411. If you are hearing or speech impaired, please contact the agency using the Florida Relay Service, (800)955-8771 (TDD) or (800)955-8770 (Voice)

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Mr. Tim Breault, Director, Division of Habitat and Species Conservation, Fish and Wildlife Conservation Commission, 620 South Meridian Street, Tallahassee, Florida 32399-1600

THE FULL TEXT OF THE PROPOSED RULE IS:

68A-27.004 Designation of Threatened Species; Prohibitions; Permits.

(1) The following species, listed prior to June 23, 1999, are hereby declared to be threatened, and shall be afforded the protective provisions specified.

(a) No person shall take, possess, transport, molest, harass or sell any of the threatened species included in this subsection or parts thereof or their nests or eggs except as authorized by specific permit from the Executive Director, permits being issued only for scientific or conservation purposes and only upon a showing by the applicant that the permitted activity will not have a negative impact on the survival potential of the species.

1. Crystal darter (*Crystallaria asprella*)
2. Key silverside (*Menidia conchorum*)
3. Loggerhead seaturtle (*Caretta caretta*)
4. Bluetail mole skink (*Eumeces egregius lividus*)
5. Sand skink (*Neoseps reynoldsi*)
6. Key ringneck snake (*Diadophis punctatus acricus*)
7. Rim rock crowned snake (*Tantilla oolitica*)
8. Short-tailed snake (*Stilosoma extenuatum*)
9. Florida brown snake (*Storeria dekayi victa*) (lower keys population only)
10. Florida ribbon snake (*Thamnophis sauritus sackeni*) (lower keys population only)
11. Eastern Indigo snake (*Drymarchon corais couperi*)
12. Atlantic salt marsh water snake (*Nerodia clarkii taeniata*)
13. Bald eagle (*Haliaeetus leucocephalus*)
14. Southeastern American kestrel (*Falco sparverius paulus*)
15. Crested caracara (Caracara cheriway)
16. Florida sandhill crane (*Grus canadensis pratensis*)
17. Roseate tern (*Sterna dougalli*)
18. Least tern (*Sterna antillarum*)
19. White-crowned pigeon (*Columba leucocephala*)
20. Florida scrub jay (*Aphelocoma coerulescens*)
21. Snowy plover (*Charadrius alexandrinus*)
22. Piping plover (*Charadrius melodus*)
23. Big Cypress fox squirrel (*Sciurus niger avicennia*)
24. Florida black bear (*Ursus americanus floridanus*) (other than those found in Baker and Columbia counties or in Apalachicola National Forest or which are held in captivity under permit)
25. Everglades mink (*Mustela vison evergladensis*)
26. Southeastern beach mouse (*Peromyscus polionotus niveiventris*)

(2) The following species are hereby declared to be threatened, and shall be afforded the protective provisions specified.

(a) The Florida manatee (*Trichechus manatus latirostris*) is hereby declared to be threatened and shall be afforded the protective provisions specified in this paragraph. It is unlawful for any person at any time, by any means, or in any manner intentionally or negligently to annoy, molest, harass, or disturb or attempt to molest, harass, or disturb any manatee; injure or harm or attempt to injure or harm any manatee; capture or collect or attempt to capture or collect any manatee; pursue, hunt, wound, or kill or attempt to pursue, hunt, wound, or kill any manatee; or possess, literally or constructively, any manatee or any part of any manatee. Permits to possess manatees for scientific or enhancement purposes may be issued by the U. S. Department of the Interior.

(b) The Gopher tortoise (*Gopherus polyphemus*) is hereby declared to be threatened, and shall be afforded the protective provisions specified in this paragraph. No person shall take, attempt to take, pursue, hunt, harass, capture, possess, sell or transport any gopher tortoise or parts thereof or their eggs, or molest, damage, or destroy gopher tortoise burrows, except as authorized by Commission permit or when complying with Commission approved guidelines for specific actions which may impact gopher tortoises and their burrows. A gopher tortoise burrow is a tunnel with a cross-section that closely approximates the shape of a gopher tortoise. Permits will be issued based upon whether issuance would further management plan goals and objectives.

Specific Authority Art. IV, Sec. 9, Fla. Const. Law Implemented Art. IV, Sec. 9, Fla. Const. History--New 8-1-79, Amended 6-22-80, 7-1-83, 7-1-85, Formerly 39-27.04, Amended 6-1-86, 5-10-87, 4-27-89, 6-23-99, Formerly 39-27.004, Amended 9-29-03,_____.

NAME OF PERSON ORIGINATING PROPOSED RULE: Mr. Tim Breault, Division of Habitat and Species Conservation
 NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Mr. Kenneth D. Haddad, Executive Director
 DATE PROPOSED RULE APPROVED BY AGENCY HEAD: June 13, 2007
 DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: May 4, 2007

FISH AND WILDLIFE CONSERVATION COMMISSION

Freshwater Fish and Wildlife

RULE NO.: 68A-27.005
 RULE TITLE: Designation of Species of Special Concern; Prohibitions; Permits

PURPOSE AND EFFECT: The purpose of this proposed revised rule is to remove the gopher tortoise from the list of species of special concern.

SUMMARY: The Fish and Wildlife Conservation Commission reclassified the gopher tortoise from a species of special concern to a threatened species. The proposed rule change removes the gopher tortoise from the state list of species of special concern.

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

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

SPECIFIC AUTHORITY: Article IV, Section 9, Florida Constitution.

LAW IMPLEMENTED: Article IV, Section 9, Florida Constitution., 372.121 FS.

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

DATES AND TIME: During the Commission’s regular meeting September 12-14, 2007, 8:30 a.m. – 5:00 p.m., each day

PLACE: Hilton Hotel, 333 First Street South, St. Petersburg, Florida 33701

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: The ADA Coordinator, at (850)488-6411. If you are hearing or speech impaired, please contact the agency using the Florida Relay Service, (800)955-8771 (TDD) or (800)955-8770 (Voice).

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Mr. Tim Breault, Director, Division of Habitat and Species Conservation, Fish and Wildlife Conservation Commission, 620 South Meridian Street, Tallahassee, Florida 32399-1600

THE FULL TEXT OF THE PROPOSED RULE IS:

68A-27.005 Designation of Species of Special Concern; Prohibitions; Permits.

(1) The following species are hereby declared to be of special concern, and shall be afforded the protective provisions specified.

(a) No person shall take, possess, transport, or sell any species of special concern included in this paragraph or parts thereof or their nests or eggs except as authorized by Commission regulations or by permit from the executive director or by statute or regulation of any other state agency, permits being issued upon reasonable conclusion that the permitted activity will not be detrimental to the survival potential of the species.

(b) The following species were listed prior to January 1, 2001, and have been further categorized by the numbers in parentheses under the following criteria: (1) has a significant vulnerability to habitat modification, environmental alteration, human disturbance, or human exploitation which, in the foreseeable future, may result in its becoming a threatened species unless appropriate protective or management techniques are initiated or maintained; (2) may already meet certain criteria for designation as a threatened species but for which conclusive data are limited or lacking; (3) may occupy such an unusually vital or essential ecological niche that should it decline significantly in numbers or distribution other species would be adversely affected to a significant degree; (4) has not sufficiently recovered from past population depletion, and (5) occurs as a population either intentionally introduced or being experimentally managed to attain specific objectives, and the species of special concern prohibitions in Rule 68A-27.002, F.A.C., shall not apply to species so designated, provided that the intentional killing, attempting to kill, possession or sale of such species is prohibited.

1. Atlantic sturgeon (*Acipenser oxyrinchus*) (1)
2. Lake Eustis pupfish (*Cyprinodon variegatus hubbsi*) (1)
3. Saltmarsh topminnow (*Fundulus jenkinsi*) (1)
4. Rivulus (*Rivulus marmoratus*) (1)
5. Southern tessellated darter (*Etheostoma olmstedii maculaceps*) (1)
6. Harlequin darter (*Etheostoma histrio*) (1)
7. Shoal bass (*Micropterus cataractae*) (1, 2)
8. Suwannee bass (*Micropterus notius*) (1)
9. Key blenny (*Starksia starcki*) (1)
10. Gopher frog (*Rana capito*) (1, 2)
11. Pine Barrens treefrog (*Hyla andersonii*) (1)
12. Florida bog frog (*Rana okaloosae*) (2)
13. Georgia blind salamander (*Haideotriton wallacei*) (1, 2)
14. Alligator snapping turtle (*Macrolemys temminckii*) (1)
15. Suwannee cooter (*Pseudemys concinna suwanniensis*) (1, 2)
16. Barbour's map turtle (*Graptemys barbouri*) (1, 2)
17. Gopher tortoise (*Gopherus polyphemus*) (1, 2, 3). The definition of take set forth in subsection (3) of this rule shall apply to gopher tortoises.
- 17.18. American alligator (*Alligator mississippiensis*) (1, 3)
- 18.19. Florida key mole skink (*Eumeces egregius egregius*) (1)
- 19.20. Red rat snake (*Elaphe guttata*) (lower keys population only) (1)
- 20.24. Brown pelican (*Pelecanus occidentalis*) (1)
- 21.22. Florida pine snake (*Pituophis melanoleucus mugitus*) (2)

- 22.23. Little blue heron (*Egretta caerulea*) (1, 4)
- 23.24. Osprey (*Pandion haliaetus*) (Monroe County population only) (1, 2)
- 24.25. Black skimmer (*Rynchops niger*) (1)
- 25.26. White ibis (*Eudocimus albus*) (2)
- 26.27. Snowy egret (*Egretta thula*) (1)
- 27.28. Reddish egret (*Egretta rufescens*) (1, 4)
- 28.29. Tricolored heron (*Egretta tricolor*) (1, 4)
- 29.30. Roseate spoonbill (*Platalea ajaja*) (1, 4)
- 30.34. Whooping crane (*Grus americana*) (5)
- 31.32. Limpkin (*Aramus guarauna*) (1)
- 32.33. American oystercatcher (*Haematopus palliatus*) (1, 2)
- 33.34. Burrowing owl (*Athene cunicularia*) (1)
- 34.35. Marian's marsh wren (*Cistothorus palustris marianae*) (1)
- 35.36. Worthington's marsh wren (*Cistothorus palustris griseus*) (1)
- 36.37. Scott's seaside sparrow (*Ammodramus maritimus peninsulae*) (1)
- 37.38. Wakulla seaside sparrow (*Ammodramus maritimus juncicolus*) (1)
- 38.39. Sherman's fox squirrel (*Sciurus niger shermani*) (1, 2)
- 39.40. Eastern chipmunk (*Tamias striatus*) (1)
- 40.41. Florida mouse (*Podomys floridanus*) (1)
- 41.42. Sherman's short-tailed shrew (*Blarina carolinensis [= brevicauda] shermani*) (2)
- 42.43. Homosassa shrew (*Sorex longirostris eionis*) (2)
- 43.44. Sanibel Island rice rat (*Oryzomys palustris sanibeli*) (1, 2)
- 44.45. Florida tree snail (*Liguus fasciatus*) (1)
- 45.46. Bluenose shiner (*Pteronotropis welaka*) (1, 2)
- 46.47. Black Creek crayfish (*Procambarus pictus*) (1)
- 47.48. Panama City crayfish (*Procambarus econfinae*) (1)
- 48.49. Sims Sink crayfish (*Procambarus erythrops*) (1)

(2) The following species, listed after January 1, 2001, are hereby declared to be of special concern, and shall be afforded the protective provisions specified.

(a) Flatwoods salamander (*Ambystoma cingulatum*). No person shall directly take any flatwoods salamander or parts thereof or their eggs except as authorized by Commission rule or by permit from the executive director.

(b) Red-cockaded woodpecker (*Picoides borealis*). No person shall take, harass, possess, sell, or transport any red-cockaded woodpecker or parts thereof or their eggs or their nests or dens except as authorized by permit from the executive director. Permits will be issued based upon whether issuance would further management plan goals and objectives.

~~(3) No person shall take, attempt to take, pursue, hunt, harass, capture, possess, sell or transport any gopher tortoise (Gopherus polyphemus) or parts thereof or their eggs, or take or attempt to take gopher tortoise burrows, except as authorized by Commission permit. For the purpose of this definition of take, a gopher tortoise burrow is a tunnel with a cross section that closely approximates the shape of a gopher tortoise.~~

Specific Authority Art. IV, Sec. 9, Fla. Const. Law Implemented Art. IV, Sec. 9, Fla. Const. History—New 8-1-79, Amended 6-22-80, 6-21-82, 7-1-84, 7-1-85, Formerly 39-27.05, Amended 6-1-86, 5-10-87, 4-27-89, 10-22-92, 5-26-94, 6-23-99, Formerly 39-27.005, Amended 2-27-01, 5-1-01, 9-29-03, 6-1-06,_____.

NAME OF PERSON ORIGINATING PROPOSED RULE: Mr. Tim Breault, Division of Habitat and Species Conservation
NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Mr. Kenneth D. Haddad, Executive Director

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: June 13, 2007

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: May 4, 2007

FISH AND WILDLIFE CONSERVATION COMMISSION

Marine Fisheries

RULE NOS.:	RULE TITLES:
68B-44.004	Practice of Finning Prohibited; Removal of Fins from Sharks Harvested in State Waters Prohibited; Compliance with Federal Requirements; Filletting Prohibited
68B-44.005	Commercial Harvest of Sharks: Federal Permit Required

PURPOSE AND EFFECT: The purpose of these rule amendments is to update references to federal regulations. The effect should be to more accurately give public notice of the extensive requirements imposed by the National Marine Fisheries Service (NMFS) on shark harvest in the Code of Federal Regulations (C.F.R.).

SUMMARY: Rule 68B-44.004, F.A.C. is amended to update references to federal regulations regarding the harvest and landing of sharks and shark fins. Rule 68B-44.005, F.A.C. is amended to update references to federal regulations regarding the federal vessel permit required for the harvest of sharks in state waters.

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

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

SPECIFIC AUTHORITY: Article IV, Section 9, Florida Constitution.

LAW IMPLEMENTED: Article IV, Section 9, Florida Constitution.

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

DATES AND TIME: During the regular meeting of the Commission, September 12-14, 2007, 8:30 a.m. – 5:00 p.m., each day

PLACE: St. Petersburg Hilton, 333 First Street South, St. Petersburg, 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: The ADA Coordinator, at (850)488-6411. If you are hearing or speech impaired, please contact the agency using the Florida Relay Service, (800)955-8771 (TDD) or (800)955-8770 (Voice).

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULES IS: Mark Robson, Director, Division of Marine Fisheries Management, 2590 Executive Center Circle East, Suite 201, Tallahassee, Florida 32301, (850)487-0554

THE FULL TEXT OF THE PROPOSED RULES IS:

68B-44.004 Practice of Finning Prohibited; Removal of Fins from Sharks Harvested in State Waters Prohibited; Compliance with Federal Requirements; Filletting Prohibited.

- (1) No person shall engage in the practice of finning.
- (2) No person shall remove any fin of any shark harvested in state waters while in or on such waters or prior to the shark being landed.
- (3) Persons returning from federal Exclusive Economic Zone (EEZ) waters adjacent to state waters with sharks or shark fins harvested there shall not stop in state waters to fish and shall land any shark or shark fins in the proportion specified in 50 C.F.R. § ~~678.21(a)(2)~~ 635.30(c).
- (4) No person shall fillet any shark while in or on state waters. The possession while in or on state waters of any shark that has been sliced, divided, filleted, ground, skinned, scaled, or deboned, is prohibited. Mere evisceration or “gutting” of such fish, mere removal of gills, or removal of the heads and tails, is not prohibited.

Specific Authority Art. IV, Sec. 9, Fla. Const. Law Implemented Art. IV, Sec. 9, Fla. Const. History—New 4-8-92, Amended 2-14-94, 1-1-98, Formerly 46-44.004, Amended_____.

68B-44.005 Commercial Harvest of Sharks: Federal Permit Required.

No person shall harvest sharks in or from the waters of the state for commercial purposes or sell any shark harvested from such waters unless such person is in possession of a valid federal annual vessel permit for sharks issued pursuant to 50 C.F.R. § ~~635.4~~ ~~678.4~~ or written authorization of such harvest or sale from the Regional Director of the National Marine Fisheries Service pursuant to 50 C.F.R. § 635.32 ~~678.27~~.

Specific Authority Art. IV, Sec. 9, Fla. Const. Law Implemented Art. IV, Sec. 9, Fla. Const. History—New 4-8-92, Amended 2-14-94, Formerly 46-44.005, Amended _____.

BE ADVISED THAT THESE PROPOSED RULES MAY BE FILED FOR ADOPTION AS SOON AS POSSIBLE FOLLOWING THE COMMISSION MEETING AT WHICH THEY ARE CONSIDERED IF THE RULES ARE NOT CHANGED. IF CHANGED, THE RULES MAY BE FILED AS SOON AS POSSIBLE AFTER PUBLICATION OF A NOTICE OF CHANGE IN THE FAW.

NAME OF PERSON ORIGINATING PROPOSED RULE: Mark Robson, Director, Division of Marine Fisheries Management

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Mr. Kenneth D. Haddad, Executive Director

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: July 18, 2007

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: July 27, 2007

FISH AND WILDLIFE CONSERVATION COMMISSION

Marine Fisheries

RULE NOS.:	RULE TITLE:
68B-45.002	Definitions
68B-45.004	Regulation and Prohibition of Certain Harvesting Gear

PURPOSE AND EFFECT: The purpose of these rule amendments is to allow for a less narrowly-defined configuration for the fold up traps typically used in the recreational harvest of harvest blue crabs. The effect will be to allow the legal use of fold-up traps up to 1 cubic foot in volume that are not necessarily pyramid-shaped.

SUMMARY: Subsection (5) of Rule 68B-45.002, F.A.C., is amended to broaden the definition of the term "fold up trap" to include such traps that are not shaped like a pyramid. Paragraph (1)(d) of Rule 68B-45.004, F.A.C., is amended to delete the one square foot limitation on the base panel of a fold up trap.

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

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

SPECIFIC AUTHORITY: Article IV, Section 9, Florida Constitution.

LAW IMPLEMENTED: Article IV, Section 9, Florida Constitution.

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

DATES AND TIME: During the regular meeting of the Commission, September 12-14, 2007, 8:30 a.m. – 5:00 p.m., each day

PLACE: St Petersburg Hilton, 333 First Street South, St. Petersburg, 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: The ADA Coordinator, at (850)488-6411. 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 RULES IS: Mark Robson, Director, Division of Marine Fisheries Management, 2590 Executive Center Circle East, Suite 201, Tallahassee, Florida 32301, (850)487-0554

THE FULL TEXT OF THE PROPOSED RULES IS:

68B-45.002 Definitions.

(1) through (4) No change.

(5) "Fold up trap" means a ~~pyramid-shaped~~ plastic or wire meshed collapsing trap, ~~with a square base panel and triangular-shaped side panels,~~ that opens outward to occupy a single plane when placed on the water bottom. It is baited in the center of the base panel and encloses crabs when retrieved by means of a cord drawing together ~~the topmost points of the side panels~~ ~~triangles~~.

(6) through (17) No change.

Specific Authority Art. IV, Sec. 9, Fla. Const. Law Implemented Art. IV, Sec. 9, Fla. Const. History—New 12-14-93, Amended 6-1-94, 10-4-95, Formerly 46-45.002, Amended 7-1-03, 7-15-04, 5-26-05, _____.

68B-45.004 Regulation and Prohibition of Certain Harvesting Gear.

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

(d) Fold-up trap ~~with a square base panel no larger than one foot square.~~

(e) through (g) No change.

(2) through (10) No change.

Specific Authority Art. IV, Sec. 9, Fla. Const. Law Implemented Art. IV, Sec. 9, Fla. Const. History—New 12-14-93, Amended 6-1-94, 1-1-95,10-4-95, 9-30-96, 1-1-98, 6-1-99, Formerly 46-45.004, Amended 2-28-02, 10-21-04, 3-1-05, 3-30-06, 9-21-06,_____.

BE ADVISED THAT THESE PROPOSED RULES MAY BE FILED FOR ADOPTION AS SOON AS POSSIBLE FOLLOWING THE COMMISSION MEETING AT WHICH THEY ARE CONSIDERED IF THE RULES ARE NOT CHANGED. IF CHANGED, THE RULES MAY BE FILED AS SOON AS POSSIBLE AFTER PUBLICATION OF A NOTICE OF CHANGE IN THE FAW.

NAME OF PERSON ORIGINATING PROPOSED RULE: Mark Robson, Director, Division of Marine Fisheries Management

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Mr. Kenneth D. Haddad, Executive Director

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: June 14, 2007

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: July 27, 2007

FISH AND WILDLIFE CONSERVATION COMMISSION

Marine Fisheries

RULE NOS.:	RULE TITLES:
68B-55.001	Definitions
68B-55.002	Retrieval of Trap Debris
68B-55.004	Retrieval of Derelict Traps and Traps Located in Areas Permanently Closed to Trapping
68B-55.005	Recovery of Traps in Area of Major Natural Disaster

PURPOSE AND EFFECT: The purpose of these rule amendments is three-fold. The amendment to rule 68B-55.01 modifies the definition of derelict trap to account for the fact that blue crab traps are now required to be marked with Commission-supplied trap tags. The amendments to Rules 68B-55.002 and 68B-55.004, F.A.C., exempt federal, state, or local government employees from acquiring authorization from the Florida Fish and Wildlife Conservation Commission in order to retrieve trap debris and traps that are located within areas where trapping is prohibited all year-round. The effect of these rule amendments will expedite the removal of these traps and reduce their impact to the environment. Rule 68B-55.005, F.A.C., is a new rule that will allow possession of a blue crab, stone crab, or lobster trap by someone other than its owner in the aftermath of a major storm for the purpose of returning it to its owner. The effect will be to aid fishers in recovering their traps in the aftermath of a major storm and allow them to resume normal fishing operations. This will also reduce damage to the environment and the unintended mortality to marine life caused by lost traps.

SUMMARY: The proposed amendment to Rule 68B-55.001, F.A.C. would modify the language that defines a derelict blue crab trap to account for the fact they are now required to be marked with Commission-supplied trap tags. The proposed amendment to Rules 68B-55.002 and 68B-55.004, F.A.C., would exempt federal, state, or local government employees from acquiring authorization from the Florida Fish and Wildlife Conservation Commission in order to retrieve trap debris and traps that are located within areas where trapping is prohibited year-round. Proposed new Rule 68B-55.005, F.A.C., would create a mechanism that allows the legal possession of blue crab, stone crab, or lobster traps by someone other than their owner in the aftermath of a catastrophic storm event for the purpose of returning them to their owner.

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

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

SPECIFIC AUTHORITY: Article IV, Section 9, Florida Constitution.

LAW IMPLEMENTED: Article IV, Section 9, Florida Constitution.

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

DATES AND TIME: During the regular meeting of the Commission, September 12-14, 2007, 8:30 a.m. – 5:00 p.m., each day

PLACE: St. Petersburg Hilton, 333 First Street South, St. Petersburg, 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: The ADA Coordinator, at (850)488-6411. If you are hearing or speech impaired, please contact the agency using the Florida Relay Service, (800)955-8771 (TDD) or (800)955-8770 (Voice)

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULES IS: Mark Robson, Director, Division of Marine Fisheries Management, 2590 Executive Center Circle East, Suite 201, Tallahassee, Florida 32301, (850)487-0554

THE FULL TEXT OF THE PROPOSED RULES IS:

- 68B-55.001 Definitions.
- (1) through (2) No change.
- (3) “Derelict trap” means any trap during any closed season for the species, or any fishable trap during the open season that lacks more than two of the following elements:
 - (a) through (b) No change.

(c) Current Commission-issued trap tag (if required) (~~spiny lobster or stone crab~~) or identification (~~blue crabs~~).

(d) No change.

(4) "Fishable trap" means a trap that has 6 intact sides and at least two of the following elements:

(a) through (b) No change.

(c) Current Commission-issued trap tag (if required).

(d) No change.

(5) through (6) No change.

Specific Authority Art. IV, Sec. 9, Fla. Const. Law Implemented Art. IV, Sec. 9, Fla. Const. History—New 7-1-03, Amended 3-1-05, _____.

68B-55.002 Retrieval of Trap Debris.

(1) Local, state, or federal governmental entities, nonprofit nongovernmental organizations, fishery participant organizations, or other community or citizens groups are hereby authorized to remove trap debris from shoreline areas landward of mean low water, and from mangroves or other shoreline vegetation when they organize, promote, and participate in coastal cleanup events for the purpose of removing marine debris.

(2) Except as provided in subsection (3), other coastal cleanup events for the purpose of removing trap debris from all other areas of state waters shall only be undertaken with prior authorization from the Commission, to assure that such removal is adequately supervised.

(3) Local, state, or federal government personnel may remove trap debris located in areas that are permanently closed to trapping without prior authorization from the Commission.

Specific Authority Art. IV, Sec. 9, Fla. Const. Law Implemented Art. IV, Sec. 9, Fla. Const. History—New 7-1-03, Amended _____.

68B-55.004 Retrieval of Derelict Traps and Traps Located in Areas Permanently Closed to Trapping.

(1) During the closed season for the harvest of any species for which traps are allowable gear, and after any authorized trap retrieval period together with any extensions, traps are considered to be derelict and may be retrieved as part of coastal cleanup events conducted by local, state, or federal government entities, nonprofit nongovernmental organizations, fishery participant organizations, or other community or citizens groups. Except as provided in subsection (3), such events shall only be undertaken with prior authorization from the Commission, to assure that such removal is adequately supervised but without the mandatory reporting required in Rule 68B-55.003, F.A.C.

(2) During the open season for harvest of any species for which traps are allowable gear, retrieval of derelict traps may occur at any time deemed appropriate by the Commission. Commission employees, local, state, or federal personnel, or members of a fishery participant organization may retrieve derelict traps. Except as provided in subsection (3), retrieval

other than by Commission personnel shall only be pursuant to a Commission approved plan. The plan shall include the operational area and time period proposed, authorized personnel, the number of vessels, methods of disposition, and number and qualifications of supervisory personnel. An approved plan shall also include notification of the Commission's Division of Law Enforcement no less than 24 hours prior to commencement of retrieval under this program with final float plan information including contact information, vessel registration numbers, trip times, and number of days.

(3) Local, state, or federal government personnel may retrieve traps located in areas that are permanently closed to trapping without prior authorization from the Commission.

Specific Authority Art. IV, Sec. 9, Fla. Const. Law Implemented Art. IV, Sec. 9, Fla. Const. History—New 7-1-03, Amended _____.

68B-55.005 Recovery of Traps in Area of Major Natural Disaster.

(1) In the event of an executive order issued by the Governor of the State of Florida declaring an emergency resulting from a major natural disaster such as a hurricane, tropical storm, or similar weather occurrence, upon a finding that the disaster has caused massive trap losses in any fishery regulated by the Commission, the Executive Director of the Fish and Wildlife Conservation Commission will issue an order declaring a trap emergency in the affected area or in a specified part thereof. Such order shall serve to activate the following provisions of this rule.

(2) The trap emergency will be in the area and during the period specified in the activation order.

(3) Each harvester in the affected trap fishery may designate persons authorized to recover and possess traps of the harvester. Such designation shall be on an Emergency Trap Recovery Designation Affidavit (FWC Form DMF- SL5500), which form is hereby incorporated by reference. The original of the affidavit shall be retained by the harvester. A copy of the affidavit will be filed with the nearest office of the Commission's Division of Law Enforcement and also provided to each person authorized to recover and possess traps of the harvester. The affidavit shall be valid from the date the notarized form is received by the Commission's Division of Law Enforcement until the end of that license year.

(4) Persons authorized to recover and possess traps of a harvester will be allowed to do so only in the area and during the period specified in the activation order. Each such person shall possess and maintain available for inspection a copy of the affidavit while the person is engaged in recovering or possessing the harvester's traps.

Specific Authority Art. IV, Sec. 9, Fla. Const. Law Implemented Art. IV, Sec. 9, Fla. Const. History—New _____.

BE ADVISED THAT THESE PROPOSED RULES MAY BE FILED FOR ADOPTION AS SOON AS POSSIBLE FOLLOWING THE COMMISSION MEETING AT WHICH THEY ARE CONSIDERED IF THE RULES ARE NOT CHANGED. IF CHANGED, THE RULES MAY BE FILED AS SOON AS POSSIBLE AFTER PUBLICATION OF A NOTICE OF CHANGE IN THE FAW.

NAME OF PERSON ORIGINATING PROPOSED RULE: Mark Robson, Director, Division of Marine Fisheries Management

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Mr. Kenneth D. Haddad, Executive Director

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: June 14, 2007

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: July 27, 2007

FISH AND WILDLIFE CONSERVATION COMMISSION

Division of Law Enforcement

RULE NO.: 68D-24.109
RULE TITLE: Withlacoochee River Boating Restricted Areas

PURPOSE AND EFFECT: Annual spring rains routinely cause the Withlacoochee River to rise. This condition creates a danger to vessels transiting the area. Objects previously well above the water and objects previously on dry land become wholly or partially submerged and create hazards to navigation. These objects include without limitation: Waterway markers, bollards and piles, docks and wharves, electrical and telephone wires, utility poles, trees and stumps, fences, dwellings, boat houses, and sheds. The turbulent and muddy waters cause boats to allide dangerously upon submerged objects without warning. Restricting operation to steerageway speed will mitigate the dangers and damages associated with such allisions. Limiting vessel operation to speeds no greater than Idle Speed No Wake is necessary to allow vessels additional opportunity to assess the situation and to avoid dangers.

Vessel operation at speeds greater than IDLE SPEED NO WAKE also endangers persons in or near the river. Floodwaters submerge accustomed footpaths and handholds. These submerged areas could cause persons to slip and fall, perhaps into the river. Under these circumstances, there is a substantial likelihood of injury or death.

There is general concurrence from Citrus, Hernando, Marion and Sumter Counties, the Florida Fish and Wildlife Conservation Commission in Lake City and Ocala, Florida, the Boating and Waterways Section, the United States Coast Guard, and the United States Army Corps of Engineers to proceed with this rulemaking.

SUMMARY: This amendment will expand the existing Idle Speed No Wake zone along the Withlacoochee River at Camp Izzard Boat Ramp, Sherwood Forest, Turner Camp, the Citrus/Hernando County line, Silver Lake and the CSX railway trestle. This amendment will also provide for using a newly established monitoring device which will greatly enhance the turnaround associated with flooding conditions on the river.

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

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

SPECIFIC AUTHORITY: 327.04, 327.46 FS.

LAW IMPLEMENTED: 327.46 FS.

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

DATES AND TIME: During the Commission’s regular meeting, September 13, 2007, 8:30 a.m. – 5:00 p.m.

PLACE: Hilton Hotel, 333 First Street South, St. Petersburg, FL 33701

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 five (5) days before the workshop/meeting by contacting: The ADA Coordinator, at (850)488-6411. If you are hearing or speech impaired, please contact the agency using the Florida Relay Service, (800)955-8771 (TDD) or (800)955-8770 (Voice).

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Captain Alan Richard, Assistant General Counsel, Florida Fish and Wildlife Conservation Commission, General Counsel, (850)410-0656, extension 17172, 620 South Meridian Street, Tallahassee, Florida 32399

THE FULL TEXT OF THE PROPOSED RULE IS:

(Substantial rewording of Rule 68D-24.109 follows. See Florida Administrative Code for present text.)

68D-24.109 Withlacoochee River Boating Restricted Areas.

For the purpose of regulating the speed and operation of vessel traffic during flood conditions on and adjacent to the Withlacoochee River within Citrus, Hernando, Marion, and Sumter Counties, the following boating restricted areas are established:

(1) Idle Speed No Wake and River Closure Restriction Segments.

(a) Big Flat Rock at Mile Marker 9 to Camp Izzard Boat Ramp Segment at Mile Marker 24:

1. All waters in and adjacent to the Withlacoochee River from shoreline to shoreline, from the Big Flat Rock (29.00.920N / 082.24.658W) south to Mile Marker 24, located at Camp Izzard Boat Ramp for a distance of 4.5 miles. This idle speed no wake restriction shall be active and enforceable only when the water level of the Withlacoochee River is measured at the USGS Holder gauge number (02313000) at 7.0 feet and will remain in effect until the river recedes below 7.0 feet.

2. When the Withlacoochee River is measured at the Holder gauge number (02313000) at 10.0 feet, the river in this area will be closed to all vessel traffic except emergency, law enforcement, firefighting, or rescue vessel owned or operated by a governmental entity, as depicted in Drawing A.

3. As river levels recede below 10.0 feet, the river will reopen to all vessel traffic at idle speed no wake. When the river recedes below 7.0 feet, the speed will be Resume Normal Safe Operation.

(b) Camp Izzard Boat Ramp at Mile Marker 24 to Mile Marker 30 Segment:

1. All waters in and adjacent to the Withlacoochee River, from shoreline to shoreline, from Mile Marker 24 located at Camp Izzard Boat Ramp south to Mile Marker 30 for a distance of 6.0 miles. This Idle Speed No Wake restriction shall be active and enforceable only when the water level of the Withlacoochee River is measured at the USGS Holder gauge number (02313000) at 6.0 feet and will remain in effect until the river recedes below 6.0 feet.

2. When the Withlacoochee River is measured at the Holder gauge number (02313000) at 9.0 feet, the river in this area will be closed to all vessel traffic except emergency, law enforcement, firefighting, or rescue vessel owned or operated by a governmental entity, as depicted in Drawing B.

3. As river levels recede below 9.0 feet, the river will reopen to all vessel traffic at Idle Speed No Wake. When the river recedes below 6.0 feet, vessel speed will be Resume Normal Safe Operation.

(c) Turner Camp at Mile Marker 34 to Mile Marker 35A Segment:

1. All waters in and adjacent to the Withlacoochee River shoreline to shoreline, from Mile Marker 34 to Mile Marker 35A (28.53.722N / 082.16.231W) for a distance of 1.35 miles. This Idle Speed No Wake restriction shall be active and enforceable only when the water level of the Withlacoochee River is measured at the USGS SR 44 gauge (02312722) at 38 feet and will remain in effect until the river recedes to below 38 feet.

2. When the Withlacoochee River is measured at the USGS SR 44 gauge (02312722) at 41 feet, the river in this area will be closed to all vessel traffic except emergency, law enforcement, firefighting, or rescue vessel owned or operated by a governmental entity, as depicted in drawing C and D.

3. As river levels recede below 41 feet, the river will reopen to all vessel traffic at Idle Speed No Wake. When the river recedes to below 38 feet, the speed will be Resume Normal Safe Operation.

(d) Squire Court at Mile Marker 38 to Mile Marker 41 at Shawnee Trail Segment:

1. All waters in and adjacent to the Withlacoochee River from shoreline to shoreline, from Mile Marker 38 at Squire Court, south to Mile Marker 41 at Shawnee Trail for a distance of 3.4 miles. This Idle Speed No Wake restriction shall be active and enforceable only when the water level of the Withlacoochee River is measured at the USGS SR 44 gauge (02312722) at 38 feet and will remain in effect until the river recedes to below 38 feet.

2. When the Withlacoochee River is measured at the USGS SR 44 gauge (02312722) at 41 feet, the river in this area will be closed to all vessel traffic except emergency, law enforcement, firefighting, or rescue vessel owned or operated by a governmental entity, as depicted in Drawing C and D. As river levels recede below 41 feet, the river will reopen to all vessel traffic at Idle Speed No Wake.

3. As river levels recede below 41 feet, the river will reopen to all vessel traffic at Idle Speed No Wake. When the river recedes to below 38 feet, the speed will be Resume Normal Safe Operation.

(e) Citrus/Hernando County Line to Mile Marker 61 Segment:

1. All waters in and adjacent to the Withlacoochee River, from shoreline to shoreline, from the Citrus/Hernando County line south to Mile Marker 61. This Idle Speed No Wake restriction shall be active and enforceable only when the water level of the Withlacoochee River is measured at the USGS Croom gauge (02312500) and will remain in effect until the river recedes to below 9.0 feet.

2. When the Withlacoochee River is measured at the USGS Croom gauge (02312500) at 11.0 feet, the river in this area will be closed to all vessel traffic except emergency, law enforcement, firefighting, or rescue vessel owned or operated by a governmental entity, as depicted in Drawing E. As river levels recede below 11.0 feet, the river will reopen to all vessel traffic at Idle Speed No Wake.

3. When the river recedes to below 9.0 feet, vessel speed will be Resume Normal Safe Operation.

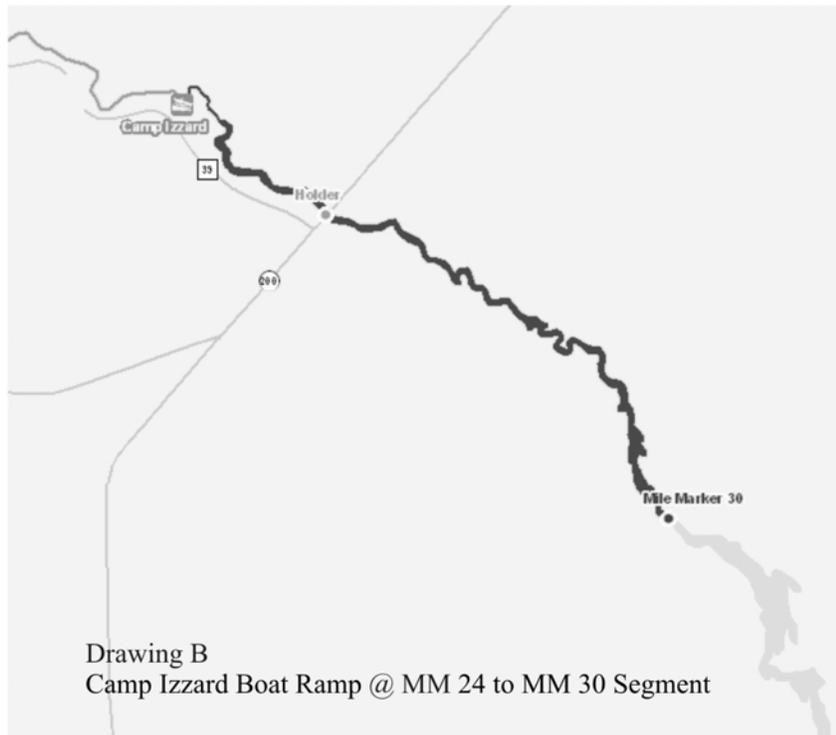
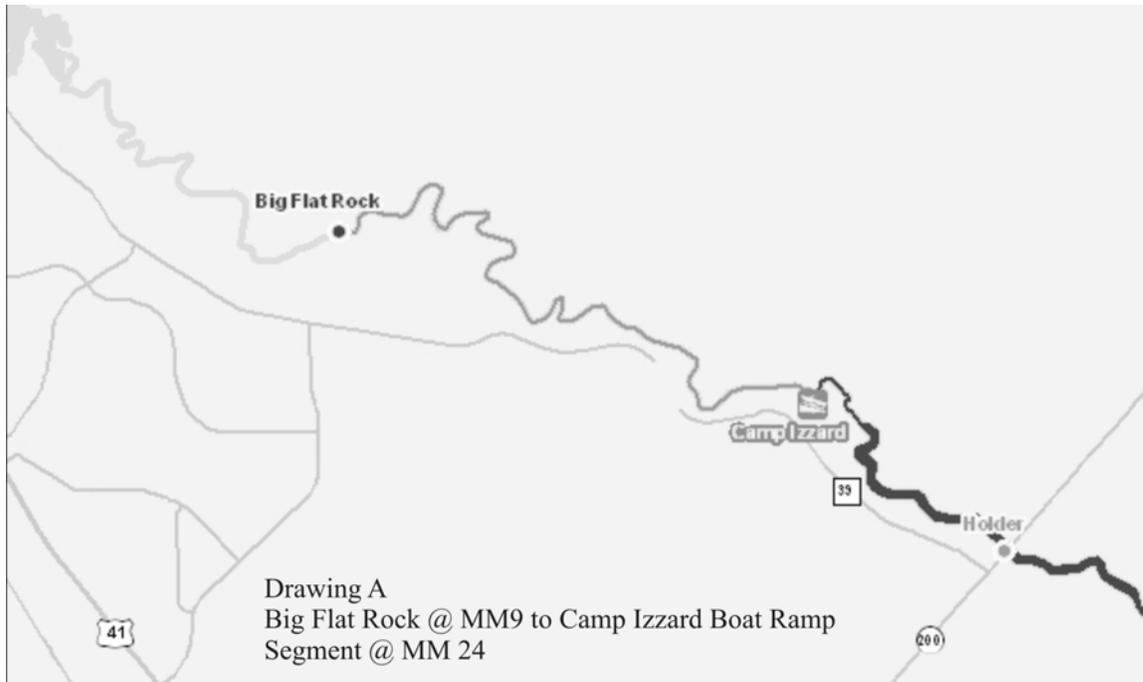
(f) Silver Lake at Mile Marker 64 to CSX Railway Trestle at Mile Marker 67 Segment:

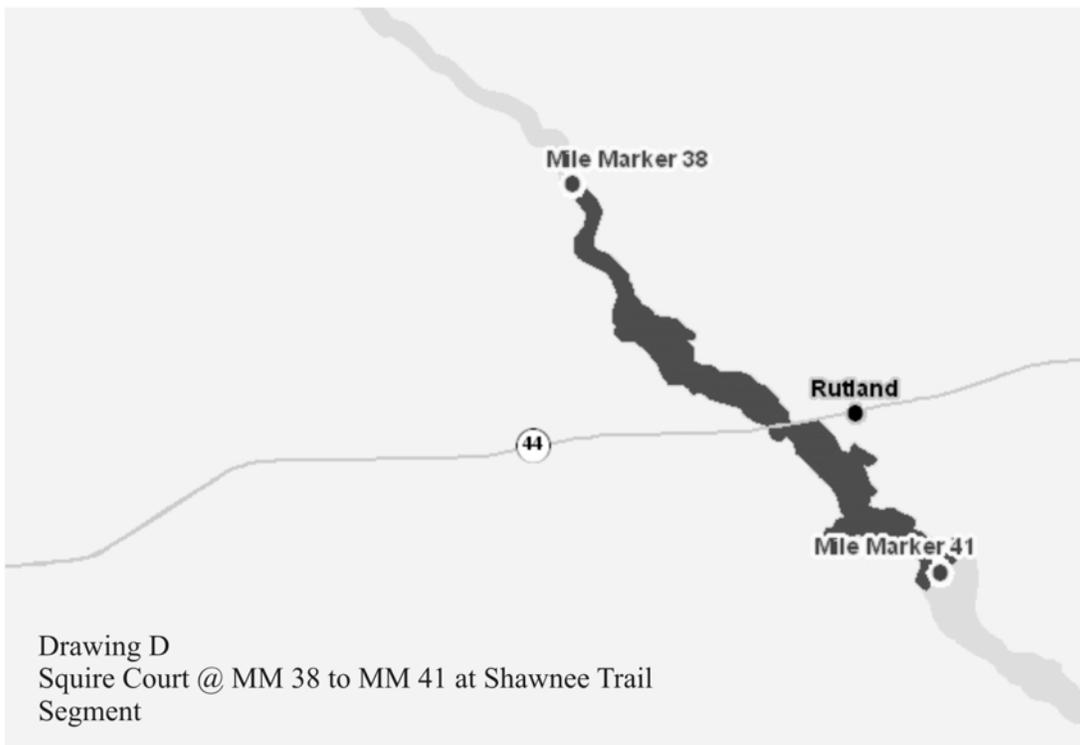
1. All waters in and adjacent to the Withlacoochee River, from shoreline to shoreline, from the Silver Lake Park boundary line, at Mile Marker 64, south to 500 feet north of the fender system of the CSX railway trestle at Mile Marker 70, for a distance of 7.0 miles. This Idle Speed No Wake restriction shall be active and enforceable only when the water level of the Withlacoochee River is measured at the USGS Trilby gauge (02312000) at 12.0 feet and will remain in effect until the river recedes to below 12.0 feet.

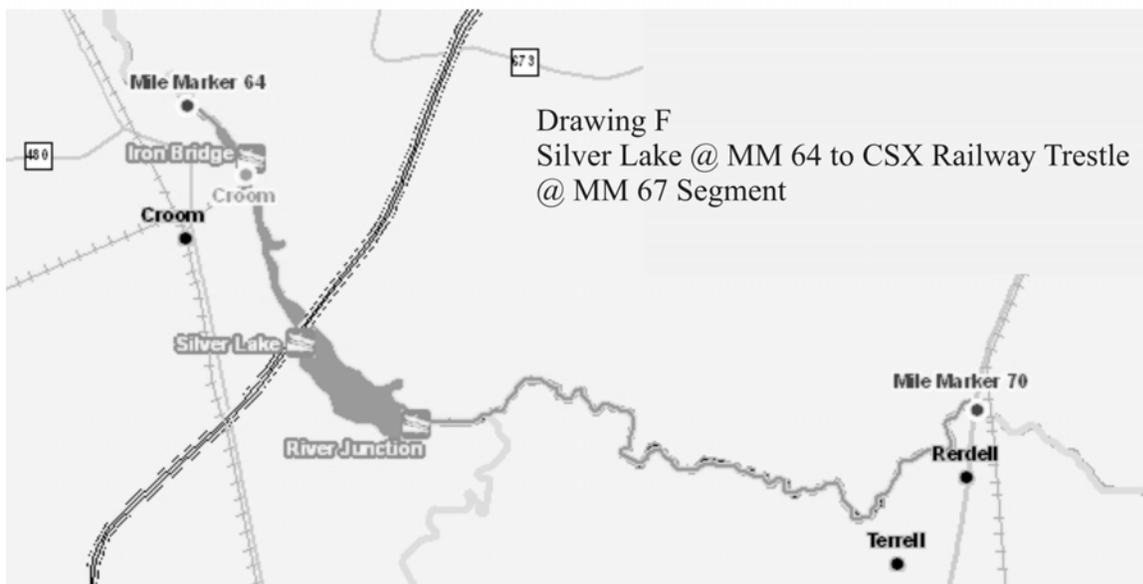
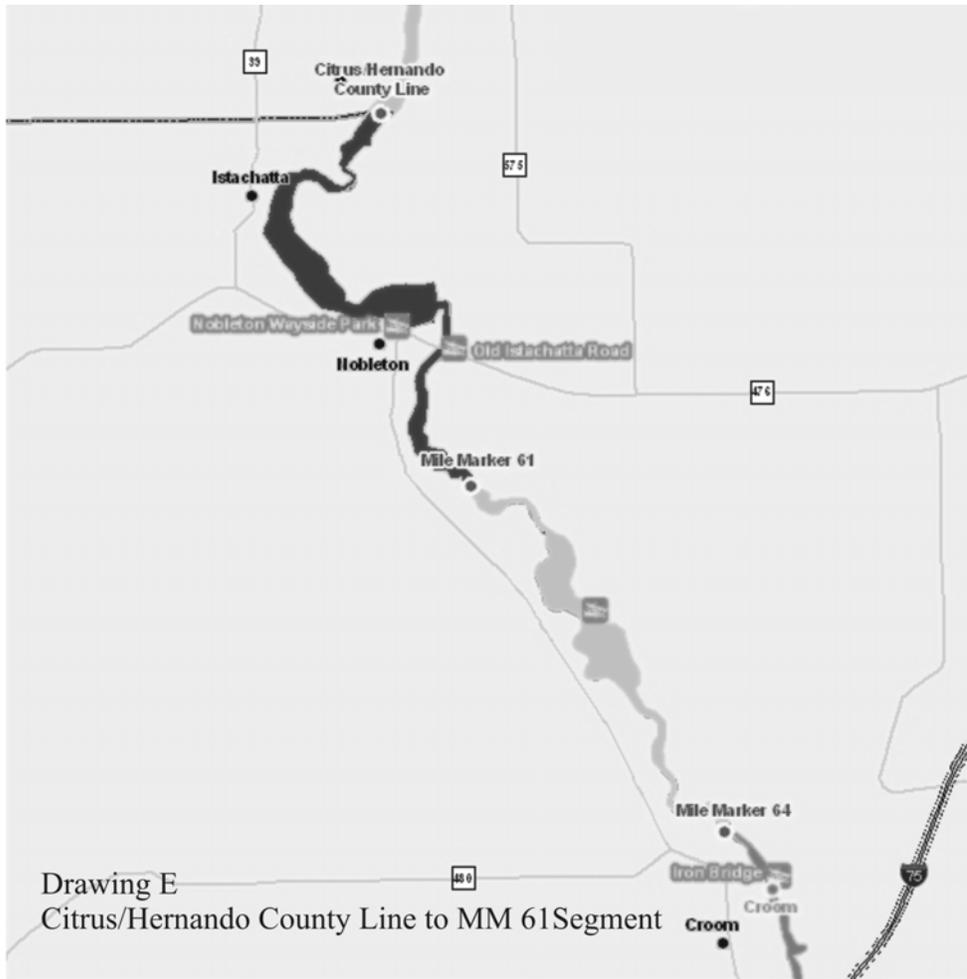
2. When the Withlacoochee River is measured at the Trilby gauge (02312000) at 15.0 feet, the River in this area will be closed to all vessel traffic except emergency, law enforcement, firefighting, or rescue vessel owned or operated by a governmental entity, as depicted in Drawing F. As river levels recede below 15.0 feet, the river will reopen to all vessel traffic at Idle Speed No Wake.

3. When the river recedes below 12.0 feet, vessel speed will be Resume Normal Safe Operation.

(2) The boating restricted areas are depicted in the following drawings:







Specific Authority 327.04, 327.46 FS. Law Implemented 327.46 FS. History--New 2-10-97, Amended.

NAME OF PERSON ORIGINATING PROPOSED RULE: Ms. Tara Alford, Management Analyst, Boating and Waterways Section, Division of Law Enforcement, 620 South Meridian Street, Tallahassee, Florida 32399-1600

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Colonel Julie Jones, Director, Division of Law Enforcement

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: June 13, 2007

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: May 18, 2007

DEPARTMENT OF FINANCIAL SERVICES

Finance

RULE NOS.:	RULE TITLES:
69V-50.055	Application Procedure for Motor Vehicle Retail Installment Seller License
69V-50.058	Motor Vehicle Retail Installment Seller Branch Office License
69V-50.070	Motor Vehicle Retail Installment Seller and Motor Vehicle Retail Installment Seller Branch Office License Renewal and Reactivation

PURPOSE AND EFFECT: Rules 69V-50.055, 69V-50.058, and 69V-50.070, F.A.C., pertaining to the licensure and renewal process for motor vehicle retail installment sellers are repealed. New rules pertaining to the licensure and renewal process for these persons are being proposed under Rule Chapter 69V-85, F.A.C. The new rules will reflect and implement the changes to The Motor Vehicle Retail Sales Finance Act (Part I, Chapter 520, Fla. Stat.) that are contained in Chapter 2006-213, Laws of Florida. The Commission is consolidating its rules for clarity. Rules that are applicable to all of the various license types are being consolidated under the Rule Chapter 69V-85, F.A.C. Rules specific to individual license types will remain under the individual rule chapters.

SUMMARY: Rules 69V-50.055, 69V-50.058, and 69V-50.070, F.A.C., pertaining to the licensure and renewal process for motor vehicle retail installment sellers are repealed. New rules pertaining to the licensure and renewal process for these persons are being proposed under Rule Chapter 69V-85, F.A.C. The new rules will reflect and implement the changes to The Motor Vehicle Retail Sales Finance Act (Part I, Chapter 520, Fla. Stat.) that are contained in Chapter 2006-213, Laws of Florida. The Financial Services Commission is consolidating its rules for clarity. Rules that are applicable to all of the various license types are being consolidated under the Rule Chapter 69V-85, F.A.C. Rules specific to individual license types will remain under the individual rule chapters.

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

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

SPECIFIC AUTHORITY: 520.03, 520.994 FS.

LAW IMPLEMENTED: 120.60, 520.03, 520.994 FS.

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

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULES IS: Gregory C. Oaks, Bureau Chief, 200 East Gaines Street, The Fletcher Building, Tallahassee, Florida 32399-0375, (850)410-9805

THE FULL TEXT OF THE PROPOSED RULES IS:

69V-50.055 Application Procedure for Motor Vehicle Retail Installment Seller License.

~~(1) Each person desiring to obtain licensure as a motor vehicle retail installment seller shall apply to the Office of Financial Regulation by submitting the following:~~

~~(a) A completed Application for Motor Vehicle Retail Installment Seller License, Form OFR HV 1, revised 10/99, which is hereby incorporated by reference and available from the Office of Financial Regulation, 200 East Gaines Street, Tallahassee, Florida 32399-0375; and~~

~~(b) The statutory, non-refundable application fee required by Section 520.03, F.S., which shall be the fee for the biennial period beginning January 1 of each odd-numbered year or any part thereof.~~

~~(2) Request for Additional Information. Any request for additional information will be made by the Office of Financial Regulation within thirty (30) calendar days after receipt of the application by the Office of Financial Regulation. The additional information must be received by the Office of Financial Regulation within forty-five (45) calendar days from the date of the request. Failure to respond to the request within forty-five (45) calendar days from the date of request shall be construed by the Office of Financial Regulation as grounds for denial for failure to complete the application, and the application shall be denied pursuant to Section 120.60(1), F.S.~~

~~(3) Withdrawal of Application. An applicant may request withdrawal of an application prior to a determination of the application being made by the Office of Financial Regulation by submitting a written request that the application be withdrawn.~~

~~(4) Refunds. If the application is withdrawn or denied, the license fee is non-refundable.~~

~~(5) Upon approval of an application, a license will be issued for the remainder of the biennial licensure period.~~

~~(6) Restoration of Civil Rights.~~

~~(a) If one's civil rights have been restored and the conviction did not directly relate to the operation of a retail installment business, the applicant shall provide evidence of restoration of civil rights.~~

~~(b) If one's civil rights have been restored and the conviction is directly related to the operation of a retail installment business, the applicant shall provide evidence of restoration of rights and rehabilitation. Evidence of rehabilitation should include, but is not limited to, employment history and letters from probation officers and employers.~~

Specific Authority 520.03(2), 520.994(5) FS. Law Implemented 120.60(1), 520.03(2) FS. History--New 11-5-87, Amended 5-9-90, 11-11-90, 9-28-94, 8-9-95, 7-10-96, 9-29-96, 12-8-99, Formerly 3D-50.055, Repealed.

69V-50.058 Motor Vehicle Retail Installment Seller Branch Office License.

~~(1) Every motor vehicle retail installment seller which conducts business in a branch office shall apply for a license to operate a branch office on Form OFR-HV-2, Application for Motor Vehicle Retail Installment Seller Branch Office License, revised 10/99, which is hereby incorporated by reference and available from the Office of Financial Regulation, 200 East Gaines Street, Tallahassee, Florida 32399-0375. Any office or location shall be deemed to be a branch office if the name or advertising of a motor vehicle retail installment seller shall be displayed in such a manner as to reasonably lead the public to believe that such business may be conducted at such office, location, or advertised address. If a motor vehicle retail installment seller has more than one location in the same county, only one license is required for that county.~~

~~(2) The statutory, non-refundable application fee for an initial branch office license required by Section 520.03, F.S., shall be the fee for the biennial period beginning January 1 of each odd-numbered year or any part thereof.~~

~~(3) Request for Additional Information. Any request for additional information will be made by the Office of Financial Regulation within thirty (30) calendar days after receipt of the application by the Office of Financial Regulation. The additional information must be received by the Office of Financial Regulation within forty five (45) calendar days from the date of the request. Failure to respond to the request within forty five (45) calendar days from the date of request shall be construed by the Office of Financial Regulation as grounds for denial for failure to complete the application and the application shall be denied pursuant to Section 120.60(1), F.S.~~

~~(4) Withdrawal of Application. An applicant may request withdrawal of an application prior to a determination of the application being made by the Office of Financial Regulation by submitting a written request that the application be withdrawn.~~

~~(5) Refunds. If the application is withdrawn or denied, the license fee is non-refundable.~~

~~(6) Upon approval of an application, a license will be issued for the remainder of the biennial licensure period.~~

Specific Authority 520.03(2), 520.994(5) FS. Law Implemented 120.60(1), 520.03(2) FS. History--New 11-11-90, Amended 8-9-95, 7-10-96, 9-29-96, 12-8-99, Formerly 3D-50.058, Repealed.

69V-50.070 Motor Vehicle Retail Installment Seller and Motor Vehicle Retail Installment Seller Branch Office License Renewal and Reactivation.

~~(1) Each active motor vehicle retail installment seller and motor vehicle retail installment seller branch office license shall be renewed for the biennial period beginning January 1 of each odd-numbered year upon receipt of the statutory renewal fee required by Section 520.03, F.S., and the renewal/reactivation notice, Form OFR-MV-3, revised 10/99, which is hereby incorporated by reference and available by mail from the Office of Financial Regulation, 200 East Gaines Street, Tallahassee, Florida 32399-0375.~~

~~(2) If the Office of Financial Regulation has not received the renewal notice and renewal fee prior to January 1 of the renewal year, the license shall revert from active to inactive status. The inactive license may be reactivated within six (6) months after becoming inactive upon submission of the statutory renewal fee, a reactivation fee equal to the renewal fee, and the reactivation notice. A license that is not reactivated within six (6) months after becoming inactive automatically expires.~~

~~(3) A renewal notice and fee shall be considered submitted when received in the Office of Financial Regulation's cashier office in Tallahassee, Florida.~~

~~(4) The received date shall be the date stamped on the notice when received by the Office of Financial Regulation's cashier's office in Tallahassee, Florida.~~

~~(5) Engaging in a retail installment transaction as defined in Section 520.02(15), F.S., with an inactive or expired license is a violation of Chapter 520, F.S., and subjects the person to disciplinary action.~~

~~(6) Renewal via the Internet. In lieu of filing the paper version of the renewal form, a licensee may renew its license electronically by following the applicable instructions on the Office of Financial Regulation's website (www.dbf.state.fl.us) on the Internet.~~

~~(7) If December 31 of the year is on a Saturday, Sunday or legal holiday pursuant to Section 110.117, F.S., then the renewals received on the next business day will be considered timely received.~~

Specific Authority 520.03(2), (3), 520.994(5) FS. Law Implemented 520.03(2), (3), 520.994(5) FS. History--New 11-5-87, Amended 11-11-90, 12-18-93, 9-29-96, 12-8-99, 12-25-00, Formerly 3D-50.070, Repealed.

NAME OF PERSON ORIGINATING PROPOSED RULE:
 Gregory C. Oaks, Bureau Chief, 200 East Gaines Street, The
 Fletcher Building, Tallahassee, Florida 32399-0375,
 (850)410-9805

NAME OF SUPERVISOR OR PERSON WHO APPROVED
 THE PROPOSED RULE: Financial Services Commission

DATE PROPOSED RULE APPROVED BY AGENCY
 HEAD: July 31, 2007

DATE NOTICE OF PROPOSED RULE DEVELOPMENT
 PUBLISHED IN FAW: March 16, 2007

DEPARTMENT OF FINANCIAL SERVICES

Finance

RULE NOS.:	RULE TITLES:
69V-60.060	Application Procedure for Retail Installment Seller License
69V-60.065	Retail Installment Seller Branch Office License
69V-60.070	Retail Installment Seller and Retail Installment Seller Branch Office License Renewal and Reactivation

PURPOSE AND EFFECT: Rules 69V-60.060, 69V-60.065, and 69V-60.070, F.A.C., pertaining to the licensure and renewal process for retail installment sellers are repealed. New rules pertaining to the licensure and renewal process for these persons are being proposed under Rule Chapter 69V-85, F.A.C. The new rules will reflect and implement the changes to The Retail Installment Sales Finance Act (Part II, Chapter 520, Fla. Stat.) that are contained in Chapter 2006-213, Laws of Florida. The Financial Services Commission is consolidating its rules for clarity. Rules that are applicable to all of the various license types are being consolidated under the Rule Chapter 69V-85, F.A.C. Rules specific to individual license types will remain under the individual rule chapters.

SUMMARY: Rules 69V-60.060, 69V-60.065, and 69V-60.070, F.A.C., pertaining to the licensure and renewal process for retail installment sellers are repealed. New rules pertaining to the licensure and renewal process for these persons are being proposed under Rule Chapter 69V-85, F.A.C. The new rules will reflect and implement the changes to The Retail Installment Sales Finance Act (Part II, Chapter 520, Fla. Stat.) that are contained in Chapter 2006-213, Laws of Florida. The Financial Services Commission is consolidating its rules for clarity. Rules that are applicable to all of the various license types are being consolidated under the Rule Chapter 69V-85, F.A.C. Rules specific to individual license types will remain under the individual rule chapters.

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

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

SPECIFIC AUTHORITY: 520.32, 520.994 FS.

LAW IMPLEMENTED: 520.32, 520.994 FS.

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

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULES IS: Gregory C. Oaks, Bureau Chief, 200 East Gaines Street, The Fletcher Building, Tallahassee, Florida 32399-0375, (850)410-9805

THE FULL TEXT OF THE PROPOSED RULES IS:

69V-60.060 Application Procedure for Retail Installment Seller License.

~~(1) Each person desiring to obtain licensure as a retail installment seller shall apply to the Office of Financial Regulation by submitting the following:~~

~~(a) A completed Application for Retail Installment Seller License, Form OFR-HR-1, revised 10/99, which is hereby incorporated by reference and available from the Office of Financial Regulation, 200 East Gaines Street, Tallahassee, Florida 32399-0375; and~~

~~(b) The statutory, non refundable application fee required by Section 520.32, F.S., which shall be the fee for the biennial period beginning January 1 of each odd numbered year or any part thereof.~~

~~(2) Request for Additional Information. Any request for additional information will be made by the Office of Financial Regulation within thirty (30) calendar days after receipt of the application by the Office of Financial Regulation. The additional information must be received by the Office of Financial Regulation within forty five (45) calendar days from the date of the request. Failure to respond to the request within forty five (45) calendar days from the date of request shall be construed by the Office of Financial Regulation as grounds for denial for failure to complete the application and the application shall be denied pursuant to Section 120.60(1), F.S.~~

~~(3) Withdrawal of Application. An applicant may request withdrawal of an application prior to a determination of the application being made by the Office of Financial Regulation by submitting a written request that the application be withdrawn.~~

~~(4) Refunds. If the application is withdrawn or denied, the license fee is non refundable.~~

~~(5) Upon approval of an application, a license will be issued for the remainder of the biennial licensure period.~~

~~(6) Restoration of Civil Rights.~~

~~(a) If one's civil rights have been restored and the conviction did not directly relate to the operation of a retail installment business, the applicant shall provide evidence of restoration of civil rights.~~

~~(b) If one's civil rights have been restored and the conviction directly related to the operation of a retail installment business, the applicant shall provide evidence of restoration of rights and rehabilitation. Evidence of rehabilitation should include, but is not limited to, employment history and letters from probation officers and employers.~~

Specific Authority 520.32(2), 520.994(5) FS. Law Implemented 520.32(2) FS. History—New 11-5-87, Amended 5-9-90, 11-11-90, 9-28-94, 8-9-95, 7-10-96, 9-29-96, 12-8-99, Formerly 3D-60.060, Repealed _____.

69V-60.065 Retail Installment Seller Branch Office License.

~~(1) Every retail installment seller which conducts business in a branch office shall apply for a license to operate a branch office on Form OFR HR 2, Application for Retail Installment Seller Branch Office License, revised 10/99, which is hereby incorporated by reference and available from the Office of Financial Regulation, 200 East Gaines Street, Tallahassee, Florida 32399-0375. Any office or location shall be deemed to be a branch office if the name or advertising of a retail installment seller shall be displayed in such a manner as to reasonably lead the public to believe that such business may be conducted at such office, location or advertised address.~~

~~(2) The statutory, non-refundable application fee required by Section 520.32, F.S., for an initial branch office license shall be for the biennial period beginning January 1 of each odd-numbered year or any part thereof.~~

~~(3) Request for Additional Information. Any request for additional information will be made by the Office of Financial Regulation within thirty (30) calendar days after receipt of the application by the Office of Financial Regulation. The additional information must be received by the Office of Financial Regulation within forty-five (45) calendar days from the date of the request. Failure to respond to the request within forty-five (45) calendar days from the date of request shall be construed by the Office of Financial Regulation as grounds for denial for failure to complete the application and the application shall be denied pursuant to Section 120.60(1), F.S.~~

~~(4) Withdrawal of Application. An applicant may request withdrawal of an application prior to a determination of the application being made by the Office of Financial Regulation by submitting a written request that the application be withdrawn.~~

~~(5) Refunds. If the application is withdrawn or denied, the license fee is non-refundable.~~

~~(6) Upon approval of an application, a license will be issued for the remainder of the biennial licensure period.~~

Specific Authority 520.32(2), 520.994(5) FS. Law Implemented 520.32(2) FS. History—New 11-11-90, Amended 8-9-95, 7-10-96, 9-29-96, 12-8-99, Formerly 3D-60.065, Repealed _____.

69V-60.070 Retail Installment Seller and Retail Installment Seller Branch Office License Renewal and Reactivation.

~~(1) Each active retail installment seller and retail installment seller branch office license shall be renewed for the biennial period beginning January 1 of each odd-numbered year, upon receipt of the statutory renewal fee required by Section 520.32, F.S., and the renewal/reactivation notice, Form OFR-RS-3, revised 10/99, which is hereby incorporated by reference and available by mail from the Office of Financial Regulation, 200 East Gaines Street, Tallahassee, Florida 32399-0375.~~

~~(2) If the Office of Financial Regulation has not received the renewal notice and renewal fee prior to January 1 of the renewal year, the license shall revert from active to inactive status. The inactive license may be reactivated within six (6) months after becoming inactive upon submission of the statutory renewal fee, a reactivation fee equal to the renewal fee, and the reactivation notice. A license that is not reactivated within six (6) months after becoming inactive automatically expires.~~

~~(3) A renewal notice and fee shall be considered submitted when received in the Office of Financial Regulation's cashier's office in Tallahassee, Florida.~~

~~(4) The received date shall be the date stamped on the notice when received by the Office of Financial Regulation's cashier's office in Tallahassee, Florida.~~

~~(5) Engaging in a retail installment transaction as defined in Section 520.31(13), F.S., with an inactive or expired license is a violation of Chapter 520, F.S., and subjects the person to disciplinary action.~~

~~(6) Renewal via the Internet. In lieu of filing the paper version of the renewal form, a licensee may renew its license electronically by following the applicable instructions on the Office of Financial Regulation's website (www.dbf.state.fl.us) on the Internet.~~

~~(7) If December 31 of the year is on a Saturday, Sunday, or legal holiday pursuant to Section 110.117, F.S., then the renewals received on the next business day will be considered timely received.~~

Specific Authority 520.32(2), (3), 520.994(5) FS. Law Implemented 520.32(2), (3), 520.994(5) FS. History—New 11-5-87, Amended 11-11-90, 12-18-93, 9-29-96, 12-8-99, 12-25-00, Formerly 3D-60.070, Repealed _____.

NAME OF PERSON ORIGINATING PROPOSED RULE:
Gregory C. Oaks, Bureau Chief, 200 East Gaines Street, The Fletcher Building, Tallahassee, Florida 32399-0375, (850)410-9805

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Financial Services Commission
 DATE PROPOSED RULE APPROVED BY AGENCY HEAD: July 31, 2007
 DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: March 16, 2007

DEPARTMENT OF FINANCIAL SERVICES

Finance

RULE NOS.:	RULE TITLES:
69V-70.050	Application Procedure for Sales Finance Company License
69V-70.055	Sales Finance Company Branch Office License
69V-70.060	Sales Finance Company and Sales Finance Company Branch Office License Renewal and Reactivation

PURPOSE AND EFFECT: Rules 69V-70.050, 69V-70.055, and 69V-70.060, F.A.C., pertaining to the licensure and renewal process for sales finance companies are repealed. New rules pertaining to the licensure and renewal process for these persons are being proposed under Rule Chapter 69V-85, F.A.C. The new rules will reflect and implement the changes to The Installment Sales Finance Act (Part III, Chapter 520, Fla. Stat.) that are contained in Chapter 2006-213, Laws of Florida. The Financial Services Commission is consolidating its rules for clarity. Rules that are applicable to all of the various license types are being consolidated under the Rule Chapter 69V-85, F.A.C. Rules specific to individual license types will remain under the individual rule chapters.

SUMMARY: Rules 69V-70.050, 69V-70.055, and 69V-70.060, F.A.C., pertaining to the licensure and renewal process for sales finance companies are repealed. New rules pertaining to the licensure and renewal process for these persons are being proposed under Rule Chapter 69V-85, F.A.C. The new rules will reflect and implement the changes to The Installment Sales Finance Act (Part III, Chapter 520, F.S.) that are contained in Chapter 2006-213, Laws of Florida. The Financial Services Commission is consolidating its rules for clarity. Rules that are applicable to all of the various license types are being consolidated under the Rule Chapter 69V-85, F.A.C. Rules specific to individual license types will remain under the individual rule chapters.

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

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

SPECIFIC AUTHORITY: 520.52, 520.994 FS.

LAW IMPLEMENTED: 520.52, 520.994 FS.

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

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULES IS: Gregory C. Oaks, Bureau Chief, 200 East Gaines Street, 6th Floor, The Fletcher Building, Tallahassee, Florida 32399-0375, (850)410-9805

THE FULL TEXT OF THE PROPOSED RULES IS:

69V-70.050 Application Procedure for Sales Finance Company License.

~~(1) Each person desiring to obtain licensure as a sales finance company shall apply to the Office of Financial Regulation by submitting the following:~~

~~(a) A completed Application for Sales Finance Company License, Form OFR III 1, revised 10/99, which is hereby incorporated by reference and available from the Office of Financial Regulation, 200 East Gaines Street, Tallahassee, Florida 32399-0375; and~~

~~(b) The statutory, non-refundable application fee required by Section 520.52, F.S., which shall be the fee for the biennial period beginning January 1 of each odd numbered year or any part thereof.~~

~~(2) Request for Additional Information. Any request for additional information will be made by the Office of Financial Regulation within thirty (30) calendar days after receipt of the application by the Office of Financial Regulation. The additional information must be received by the Office of Financial Regulation within forty-five (45) calendar days from the date of the request. Failure to respond to the request within forty-five (45) calendar days from the date of request shall be construed by the Office of Financial Regulation as grounds for denial for failure to complete the application and the application shall be denied pursuant to Section 120.60(1), F.S.~~

~~(3) Withdrawal of Application. An applicant may request withdrawal of an application prior to a determination of the application being made by the Office of Financial Regulation by submitting a written request that the application be withdrawn.~~

~~(4) Refunds. If the application is withdrawn or denied, the license fee is non-refundable.~~

~~(5) Upon approval of an application, a license will be issued for the remainder of the biennial licensure period.~~

~~(6) Restoration of Civil Rights.~~

~~(a) If one's civil rights have been restored and the conviction did not directly relate to the operation of a retail installment business, the applicant shall provide evidence of restoration of civil rights.~~

~~(b) If one's civil rights have been restored and the conviction directly related to operating a retail installment business, the applicant shall provide evidence of restoration of~~

rights and rehabilitation. Evidence of rehabilitation should include, but is not limited to, employment history and letters from probation officers and employers.

Specific Authority 520.52(2), 520.994(5) FS. Law Implemented 520.52(2) FS. History–New 11-5-87, Amended 5-9-90, 11-11-90, 9-28-94, 8-9-95, 7-10-96, 9-29-96, 12-8-99, Formerly 3D-70.050, Repealed.

69V-70.055 Sales Finance Company Branch Office License.

~~(1) Every sales finance company which conducts business in a branch office shall apply for a license to operate a branch office on Form OFR III 2, Application for Sales Finance Company Branch Office License, revised 10/99, which is hereby incorporated by reference and available from the Office of Financial Regulation, 200 East Gaines Street, Tallahassee, Florida 32399-0375. Any office or location shall be deemed to be a branch if the name or advertising of a sales finance company shall be displayed in such a manner as to reasonably lead the public to believe that such business may be conducted at such office, location, or advertised address.~~

~~(2) The statutory, non refundable application fee for an initial branch office license required by Section 520.52, F.S., shall be the fee for the biennial period beginning January 1 of each odd numbered year or any part thereof.~~

~~(3) Request for Additional Information. Any request for additional information will be made by the Office of Financial Regulation within thirty (30) calendar days after receipt of the application by the Office of Financial Regulation. The additional information must be received by the Office of Financial Regulation within forty five (45) calendar days from the date of the request. Failure to respond to the request within forty five (45) calendar days from the date of request shall be construed by the Office of Financial Regulation as grounds for denial for failure to complete the application and the application shall be denied pursuant to Section 120.60(1), F.S.~~

~~(4) Withdrawal of Application. An applicant may request withdrawal of an application prior to a determination of the application being made by the Office of Financial Regulation by submitting a written request that the application be withdrawn.~~

~~(5) Refunds. If the application is withdrawn or denied, the license fee is non refundable.~~

~~(6) Upon approval of an application, a license will be issued for the remainder of the biennial licensure period.~~

Specific Authority 520.52(2), 520.994(5) FS. Law Implemented 520.52(2) FS. History–New 11-11-90, Amended 8-9-95, 7-10-96, 9-29-96, 12-8-99, Formerly 3D-70.055, Repealed.

69V-70.060 Sales Finance Company and Sales Finance Company Branch Office License Renewal and Reactivation.

~~(1) Each active sales finance company and sales finance company branch office license shall be renewed for the biennial period beginning January 1 of each odd numbered~~

~~year, upon receipt of the statutory renewal fee required by Section 520.52, F.S., and the renewal/reactivation notice, Form OFR-SF 3, revised 10/99, which is hereby incorporated by reference and available by mail from the Office of Financial Regulation, 200 East Gaines Street, Tallahassee, Florida 32399-0375.~~

~~(2) If the Office of Financial Regulation has not received the renewal notice and renewal fee prior to January 1 of the renewal year, the license shall revert from active to inactive status. The inactive license may be reactivated within six (6) months after becoming inactive upon submission of the statutory renewal fee, a reactivation fee equal to the renewal fee, and the reactivation notice. A license that is not reactivated within six (6) months after becoming inactive automatically expires.~~

~~(3) A renewal notice and fee shall be considered submitted when received in the Office of Financial Regulation's cashier's office in Tallahassee, Florida.~~

~~(4) The received date shall be the date stamped on the notice when received by the Office of Financial Regulation's cashier office in Tallahassee, Florida.~~

~~(5) Engaging in a business as a sales finance company as defined in Section 520.31(16), F.S., with an inactive or expired license is a violation of Chapter 520, F.S., and subjects the person to disciplinary action.~~

~~(6) Renewal via the Internet. In lieu of filing the paper version of the renewal form, a licensee may renew its license electronically by following the applicable instructions on the Office of Financial Regulation's website (www.dbf.state.fl.us) on the Internet.~~

~~(7) If December 31 of the year is on a Saturday, Sunday or legal holiday pursuant to Section 110.117, F.S., then the renewals received on the next business day will be considered timely received.~~

Specific Authority 520.52(2), (3), 520.994(5) FS. Law Implemented 520.52(2), (3), 520.994(5) FS. History–New 11-5-87, Amended 11-11-90, 12-18-93, 9-29-96, 12-8-99, 12-25-00, Formerly 3D-70.060, Repealed.

NAME OF PERSON ORIGINATING PROPOSED RULE:
Gregory C. Oaks, Bureau Chief, 200 East Gaines Street, 6th Floor, The Fletcher Building, Tallahassee, Florida 32399-0375, (850)410-9805

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Financial Services Commission

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: July 31, 2007

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: March 16, 2007

DEPARTMENT OF FINANCIAL SERVICES

Finance

<p>RULE NOS.:</p> <p>69V-80.003</p> <p>69V-80.015</p> <p>69V-80.050</p> <p>69V-80.060</p>	<p>RULE TITLES:</p> <p>Completion Certificates</p> <p>Application Procedure for Home Improvement Finance Seller License</p> <p>Home Improvement Finance Seller and Home Improvement Finance Seller Branch Office License Renewal and Reactivation</p> <p>Home Improvement Finance Seller Branch Office License</p>
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PURPOSE AND EFFECT: Rules 69V-80.015, 69V-80.050, and 69V-80.060, F.A.C., pertaining to the licensure and renewal process for home improvement finance sellers are repealed. New rules pertaining to the licensure and renewal process for these persons are being proposed under Rule Chapter 69V-85, F.A.C. The new rules will reflect and implement the changes to The Home Improvement Sales and Finance Act (Part IV, Chapter 520, F.S.) that are contained in Chapter 2006-213, Laws of Florida. A new rule is created to implement the completion certificate required by Section 520.81, Florida Statutes.

SUMMARY: Rules 69V-80.015, 69V-80.050, and 69V-80.060, F.A.C., pertaining to the licensure and renewal process for home improvement finance sellers are repealed. New rules pertaining to the licensure and renewal process for these persons are being proposed under Rule Chapter 69V-85, F.A.C. The new rules will reflect and implement the changes to The Home Improvement Sales and Finance Act (Part IV, Chapter 520, F.S.) that are contained in Chapter 2006-213, Laws of Florida. A new rule is created to implement the completion certificate required by Section 520.81, Florida Statutes.

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

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

SPECIFIC AUTHORITY: 520.81, 520.994, 520.63 FS.

LAW IMPLEMENTED: 520.81, 520.994, 520.63 FS.

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

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULES IS: Gregory C. Oaks, Bureau Chief, 200 East Gaines Street, 6th Floor, The Fletcher Building, Tallahassee, Florida 32399-0375, (850)410-9805

THE FULL TEXT OF THE PROPOSED RULES IS:

69V-80.003 Completion Certificates.

The completion certificate required by Section 520.81, F.S., Form OFR-520-03, is hereby incorporated by reference and available on the Office’s website at www.flofr.com and by mail from the Office of Financial Regulation, 200 East Gaines Street, Tallahassee, Florida 32399-0376.

Specific Authority 520.81(2), 520.994(5) FS. Law Implemented 520.81 FS. History–New _____.

69V-80.015 Application Procedure for Home Improvement Finance Seller License.

~~(1) Each person desiring to obtain licensure as a home improvement finance seller shall apply to the Office of Financial Regulation by submitting the following:~~

~~(a) A completed Application for Home Improvement Finance Seller License, Form OFR-HC-1, revised 10/99, which is hereby incorporated by reference and available from the Office of Financial Regulation, 200 East Gaines Street, Tallahassee, Florida 32399-0375; and~~

~~(b) The statutory non refundable application fee required by Section 520.63, F.S., which shall be the fee for the biennial period beginning January 1 of each odd numbered year or any part thereof.~~

~~(2) Request for Additional Information. Any request for additional information will be made by the Office of Financial Regulation within thirty (30) calendar days after receipt of the application by the Office of Financial Regulation. The additional information must be received by the Office of Financial Regulation within forty five (45) calendar days from the date of the request. Failure to respond to the request within forty five (45) calendar days from the date of request shall be construed by the Office of Financial Regulation as grounds for denial for failure to complete the application and the application shall be denied pursuant to Section 120.60(1), F.S.~~

~~(3) Withdrawal of Application. An applicant may request withdrawal of an application prior to a determination of the application being made by the Office of Financial Regulation by submitting a written request that the application be withdrawn.~~

~~(4) Refunds. If the application is withdrawn or denied, the license fee is non refundable.~~

~~(5) Upon approval of an application, a license will be issued for the remainder of the biennial licensure period.~~

~~(6) Restoration of Civil Rights.~~

~~(a) If one’s civil rights have been restored and the conviction did not directly relate to the operation of a retail installment business, the applicant shall provide evidence of restoration of civil rights.~~

~~(b) If one’s civil rights have been restored and the conviction directly related to the operation of a retail installment business, the applicant shall provide evidence of~~

~~restoration of rights and rehabilitation. Evidence of rehabilitation should include, but is not limited to, employment history and letters from probation officers and employers.~~

~~Specific Authority 520.63(2), (3), 520.994(5) FS. Law Implemented 520.63(2) FS. History—New 4-13-88, Amended 5-9-90, 11-11-90, 9-28-94, 8-9-95, 7-10-96, 9-29-96, 12-8-99, Formerly 3D-80.015, Repealed _____.~~

69V-80.050 Home Improvement Finance Seller and Home Improvement Finance Seller Branch Office License Renewal and Reactivation.

~~(1) Each active home improvement finance seller and home improvement finance seller branch office license shall be renewed for the biennial period beginning January 1 of each odd-numbered year, upon receipt of the statutory renewal fee required by Section 520.63, F.S., and the renewal/reactivation notice, Form OFR-HI-3, effective 10/99, which is hereby incorporated by reference and available by mail from the Office of Financial Regulation, 200 East Gaines Street, Tallahassee, Florida 32399-0375.~~

~~(2) If the Office of Financial Regulation has not received the renewal notice and renewal fee prior to January 1 of the renewal year, the license shall revert from active to inactive status. The inactive license may be reactivated within six (6) months after becoming inactive upon submission of the statutory renewal fee, a reactivation fee equal to the renewal fee, and the reactivation notice. A license that is not reactivated within six (6) months after becoming inactive automatically expires.~~

~~(3) A renewal notice and fee shall be considered submitted when received in the Office of Financial Regulation's cashier's office in Tallahassee, Florida.~~

~~(4) The received date shall be the date stamped on the notice when received by the Office of Financial Regulation's cashier's office in Tallahassee, Florida.~~

~~(5) Acting as "home improvement finance seller" as defined in Section 520.61(13), F.S., with an inactive or expired license is a violation of Chapter 520, F.S., and subjects the person to disciplinary action.~~

~~(6) Renewal via the Internet. In lieu of filing the paper version of the renewal form, a licensee may renew its license electronically by following the applicable instructions on the Office of Financial Regulation's website (www.dbf.state.fl.us) on the Internet.~~

~~(7) If December 31 of the year is on a Saturday, Sunday or legal holiday pursuant to Section 110.117, F.S., then the renewals received on the next business day will be considered timely received.~~

~~Specific Authority 520.63(2), (3), 520.994(5) FS. Law Implemented 520.63(2), (3), 520.994(5) FS. History—New 4-13-88, Amended 11-11-90, 12-18-93, 9-29-96, 12-8-99, 12-25-00, Formerly 3D-80.050, Repealed _____.~~

69V-80.060 Home Improvement Finance Seller Branch Office License.

~~(1) Every home improvement finance seller which conducts home improvement business in a branch office shall apply for a license to operate a branch office on Form OFR-HC-2, Application for Home Improvement Finance Seller Branch Office License, revised 10/99, which is hereby incorporated by reference and available from the Office of Financial Regulation, 200 East Gaines Street, Tallahassee, Florida 32399-0375. Any office or location shall be deemed to be a branch office if the name or advertising of a home improvement finance seller shall be displayed in such a manner as to reasonably lead the public to believe that such business may be conducted at such office, location, or advertised address.~~

~~(2) The statutory, non-refundable applicant fee for an initial branch office license required by Section 520.63, F.S., shall be for the biennial period beginning January 1 of each odd-numbered year or any part thereof.~~

~~(3) Request for Additional Information. Any request for additional information will be made by the Office of Financial Regulation within thirty (30) calendar days after receipt of the application by the Office of Financial Regulation. The additional information must be received by the Office of Financial Regulation within forty-five (45) calendar days from the date of the request. Failure to respond to the request within forty-five (45) calendar days from the date of request shall be construed by the Office of Financial Regulation as grounds for denial for failure to complete the application and the application shall be denied pursuant to Section 120.60(1), F.S.~~

~~(4) Withdrawal of Application. An applicant may request withdrawal of an application prior to a determination of the application being made by the Office of Financial Regulation by submitting a written request that the application be withdrawn.~~

~~(5) Refunds. If the application is withdrawn or denied, the license fee is non-refundable.~~

~~(6) Upon approval of an application, a license will be issued for the remainder of the biennial licensure period.~~

~~Specific Authority 520.63(2), 520.994(5) FS. Law Implemented 520.63(2) FS. History—New 4-13-88, Amended 5-9-90, 11-11-90, 8-9-95, 7-10-96, 9-29-96, 12-8-99, Formerly 3D-80.060, Repealed _____.~~

NAME OF PERSON ORIGINATING PROPOSED RULE:
Gregory C. Oaks, Bureau Chief, 200 East Gaines Street, 6th Floor, The Fletcher Building, Tallahassee, Florida 32399-0375, (850)410-9805

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Financial Services Commission
DATE PROPOSED RULE APPROVED BY AGENCY HEAD: July 31, 2007

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: March 16, 2007

DEPARTMENT OF FINANCIAL SERVICES

Finance

RULE NOS.:	RULE TITLES:
69V-85.002	Application Forms, Fees, Procedures and Requirements
69V-85.003	Branch Application Forms, Fees, Procedures and Requirements
69V-85.004	Renewal Fees, Deadlines and Requirements
69V-85.005	Amendments, Change of Name, Change of Entity and Change in Control or Ownership
69V-85.200	Definition of Moral Turpitude

PURPOSE AND EFFECT: Chapter 2006-213, Laws of Florida, contains amendments to Chapter 520, Florida Statutes, relating to retail installment sales. The proposed rules implement and reflect the statutory changes, which pertain to the licensing and regulation of persons under The Motor Vehicle Retail Sales Finance Act, The Retail Installment Sales Act, The Installment Sales Finance Act, and The Home Improvement Sales and Finance Act. In conjunction with this notice, several rules under Rule Chapters 69V-50, 69V-60, 69V-70, and 69V-80, F.A.C., which are set forth in separate rule notices, are being proposed for repeal. The Financial Services Commission is consolidating its rules for clarity. Rules that are applicable to all license types under chapter 520, F.S., are being consolidated under the Rule Chapter 69V-85, F.A.C. Rules specific to individual license types will remain under the individual rule chapters.

SUMMARY: The proposed rules streamline and update the licensing process regarding licensure under Chapter 520, Florida Statutes, relating to Retail Installment Sales. The proposed rules set forth the licensing process and renewal process for persons required to be licensed under chapter 520, F.S.; mandate the electronic filing of renewal fees; specify the process to be followed when a person or group of persons proposes to acquire a controlling interest in a licensee; require certain persons associated with the applicant or licensee to submit biographical information to the Office of Financial Regulation; provide that if an application is withdrawn or denied, all fees are nonrefundable; provide that if the information contained in any application form, or in any amendment thereto, becomes inaccurate for any reason, the applicant/licensee shall file an amendment correcting such information within thirty (30) days; and specify other provisions relating to the licensing process.

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

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

SPECIFIC AUTHORITY: 520.03, 520.32, 520.999, 520.52, 520.63, 520.994 FS.

LAW IMPLEMENTED: 520.02, 520.03, 520.31, 520.32, 520.999, 520.52, 520.61, 520.63, 520.994 FS.

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

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULES IS: Gregory C. Oaks, Bureau Chief, Office of Financial Regulation, 200 East Gaines Street, The Fletcher Building, Tallahassee, Florida 32399-0375, (850)410-9805

THE FULL TEXT OF THE PROPOSED RULES IS:

69V-85.002 Application Forms, Fees, Procedures and Requirements.

(1) Each person desiring to obtain licensure under Chapter 520, F.S., shall apply to the Office of Financial Regulation by submitting the following:

(a) A completed Application for License under Chapter 520, Florida Statutes, Form OFR-520-01, revised _____, which is hereby incorporated by reference and available on the Office's website at www.flofr.com and by mail from the Office of Financial Regulation, 200 East Gaines Street, Tallahassee, Florida 32399-0376; and

(b) The statutory, non-refundable application fee required by Sections 520.03, 520.32, 520.52, and 520.63, F.S., as applicable, which shall be the fee for the biennial period beginning January 1 of each odd-numbered year or any part thereof.

(2) Each ultimate equitable owner of 10% or greater interest, each chief executive officer, each chief financial officer, chief operations officer, chief legal officer, chief compliance officer, control person, member, partner, joint venturer, and each director of an entity applying for licensure, shall submit a completed Biographical Summary from Form OFR-520-01, to the Office of Financial Regulation. Form OFR-520-01 is incorporated by reference in subsection 69V-85.002(1), F.A.C.

(3) Request for Additional Information. Any request for additional information will be made by the Office of Financial Regulation within thirty (30) calendar days after receipt of the application by the Office of Financial Regulation. The additional information must be received by the Office of Financial Regulation within forty-five (45) calendar days after the date of the request. Failure to respond to the request within forty-five (45) calendar days after the date of request shall be construed by the Office of Financial Regulation as grounds for denial for failure to complete the application, and the application shall be denied pursuant to Section 120.60(1), F.S., unless the Office has received a written request prior to the original 45-day deadline from the applicant to extend the

original 45-day period. However, no request for extension shall be granted for a period exceeding an additional forty-five (45) days.

(4) Amendments to Pending Applications. If the information contained in any application form for a licensure under Chapter 520, F.S., or any amendment thereto, becomes inaccurate for any reason, the applicant shall file an amendment correcting such information within thirty (30) days after the change on Form OFR-520-01. An applicant may amend the application as to those factors generally within the control or selection of the applicant once, as a matter of course, at any time within thirty (30) days after receipt of the application by the Office. Otherwise, the application may be amended only with prior written permission from the Office of Financial Regulation. Requests to make changes which are material to the application may be deemed by the Office of Financial Regulation to be grounds for denial, and a new application, accompanied by the appropriate filing fee, may be required. Form OFR-520-01 is incorporated by reference in subsection 69V-85.002(1), F.A.C.

(5) Withdrawal of Application. An applicant may request withdrawal of an application prior to a determination of the application being made by the Office of Financial Regulation by submitting a written request that the application be withdrawn. Withdrawals will be deemed effective upon receipt by the Office.

(6) Refunds. If the application is withdrawn or denied, all fees are non-refundable.

(7) Upon approval of an application, a license will be issued for the remainder of the biennial licensure period.

Specific Authority 520.03(2), 520.32(2), 520.52(2), 520.63(2), 520.994(5) FS. Law Implemented 520.03(2), 520.32(2), 520.52(2), 520.63(2) FS. History—New _____.

69V-85.003 Branch Application Forms, Fees, Procedures and Requirements.

(1) Every licensee under Chapter 520, F.S., that conducts business in a branch office shall apply for a license to operate a branch office using Form OFR-520-02, Application for Branch Office License, revised XX/XX/2007, which is hereby incorporated by reference and available on the Office's website at www.flofr.com and by mail from the Office of Financial Regulation, 200 East Gaines Street, Tallahassee, Florida 32399-0376. Any office or location shall be deemed to be a branch office if the name or advertising of a licensee is displayed in such a manner as to reasonably lead the public to believe that such business may be conducted at such office, location, or advertised address. If a motor vehicle retail installment seller licensed under Section 520.03, F.S., has more than one location in the same county, only one license is required for that county.

(2) The statutory, non-refundable application fee for an initial branch office license required by Sections 520.03, 520.32, 520.52, and 520.63, F.S., as applicable, shall be the fee for the biennial period beginning January 1 of each odd-numbered year or any part thereof.

(3) Request for Additional Information. Any request for additional information will be made by the Office of Financial Regulation within thirty (30) calendar days after receipt of the application by the Office of Financial Regulation. The additional information must be received by the Office of Financial Regulation within forty-five (45) calendar days after the date of the request. Failure to respond to the request within forty-five (45) calendar days after the date of request shall be construed by the Office of Financial Regulation as grounds for denial for failure to complete the application and the application shall be denied pursuant to Section 120.60(1), F.S., unless the applicant has made a good faith effort to comply with the statutory requirements of Chapter 520, F.S., and the rules of this chapter.

(4) Amendments to Pending Applications. If the information contained in any application form for branch office license, or any amendment thereto, becomes inaccurate for any reason, the applicant shall file an amendment correcting such information within thirty (30) days after the change on Form OFR-520-02. An applicant may amend the application as to those factors generally within the control or selection of the applicant once, as a matter of course, at any time within thirty (30) days from receipt of the application by the Office. Otherwise, the application may be amended only with prior written permission from the Office of Financial Regulation. Requests to make changes which are material to the application may be deemed by the Office of Financial Regulation to be grounds for denial, and a new application, accompanied by the appropriate filing fee, may be required. Form OFR-520-02 is incorporated by reference in subsection 69V-85.003(1), F.A.C.

(5) Withdrawal of Application. An applicant may request withdrawal of an application prior to a determination of the application being made by the Office of Financial Regulation by submitting a written request that the application be withdrawn. Withdrawals will be deemed effective upon receipt by the Office.

(6) Refunds. If the application is withdrawn or denied, all fees are non-refundable.

(7) Upon approval of an application, a license will be issued for the remainder of the biennial licensure period.

Specific Authority 520.03(2), 520.32(2), 520.52(2), 520.63(2), 520.994(5) FS. Law Implemented 520.03(2), 520.32(2), 520.52(2), 520.63(2) FS. History—New _____.

69V-85.004 Renewal Fees, Deadlines and Requirements.

(1) Each active license and each active branch office license issued under Chapter 520, F.S., shall be renewed for the biennial period beginning January 1 of each odd-numbered year upon receipt of the statutory renewal fee required by Sections 520.03, 520.32, 520.52, and 520.63, F.S., as applicable.

(2) If the Office of Financial Regulation has not received the renewal fee prior to January 1 of the renewal year, the license shall revert from active to inactive status. The inactive license may be reactivated within six (6) months after becoming inactive upon submission of the statutory renewal fee and reactivation fee equal to the renewal fee. A license that is not reactivated within six (6) months after becoming inactive automatically expires.

(3) A renewal fee submitted electronically on the Office's website shall be considered received on the date the Office issues a confirmation of payment to the licensee via the Office's website. A confirmation is issued by the Office upon successful submission of your renewal payment.

(4) If the payment is received in a paper format, the received date shall be the date stamped on the payment when received by the Department of Financial Services' Cashier's Office in Tallahassee, Florida.

(5) All fees required to be filed under this rule shall be filed electronically at www.flofr.com.

(6) Any person may petition for waiver of the requirement of electronic submission of fees by filing a petition pursuant to Rule 28-106.301, Florida Administrative Code. Such petition shall demonstrate a technological or financial hardship that entitles the person to file the application, fees, data or form in a paper format.

(7) If December 31 of the year is on a Saturday, Sunday or legal holiday pursuant to Section 110.117, F.S., then the renewals received on the next business day will be considered timely received.

Specific Authority 520.03(3), 520.32(3), 520.52(3), 520.63(2), 520.994(3) FS. Law Implemented 520.02(17), 520.03(1), 520.03(3), 520.31(15), 520.31(18), 520.32(1), 520.32(3), 520.52(1), 520.52(3), 520.61(18), 520.61(1), 520.63(3) FS. History—New _____.

69V-85.005 Amendments, Change of Name, Change of Entity and Change in Control or Ownership.

(1) Each person licensed under Chapter 520, F.S., which proposes to change its name, form of business organization, or any other information contained in any initial application form or any amendment thereto, must file an amendment pursuant to Section 520.999, F.S., not later than thirty-days (30) after the effective date of the change on: Application for Installment Seller or Sales Finance License, Form OFR-520-01 and Application for Branch Office License, Form OFR-520-02. The forms are available on the Office's website at www.flofr.com and by mail from the Office of Financial

Regulation, 200 East Gaines Street, Tallahassee, Florida 32399-0376. Name changes pursuant to this subsection shall not involve any change in controlling interest of the licensed entity:

(2) Each licensee under Chapter 520, F.S., that proposes to change any personnel described in Sections 520.03, 520.32, 520.52, and 520.63, F.S., listed in any initial application or any amendment thereto must file an amendment not later than thirty-days (30) prior to the effective date of the change or within two (2) business days after the date the licensee first received notice of the change on Application for Installment Seller or Sales Finance License, Form OFR-520-01 and Application for Branch Office License, Form OFR-520-02. In the event the change in personnel in Section 520.999, F.S., listed in any initial application or any amendment thereto results in the addition of anyone referenced in this subsection, such persons must comply with Section 520.999, F.S. unless such person has previously complied with Section 520.999, F.S., with an entity currently licensed under this chapter.

(3) Applications for licensure under Chapter 520 required as a result of an acquisition of a controlling interest in a licensee pursuant to subsection 520.999(2), F.S., must be filed in a timely manner as to allow the Office to complete its review of the application prior to the effective date of the acquisition, but not later than thirty (30) days prior to the date of such acquisition. Such applications must be filed in accordance with Sections 520.03, 520.32, 520.52, and 520.63, F.S.

(4) The office shall waive the requirement for a licensee to file a new application pursuant to Subsection 520.999(2), F.S. when:

(a) A person or group of persons proposing to purchase or acquire a controlling interest in a Chapter 520 licensee has previously filed the information with the Office required in Sections 520.03, 520.32, 520.52, and 520.63, F.S., with a licensee to the office, provided that such person is currently affiliated with the licensee; or

(b) The acquirer is currently licensed with the office under Chapter 520, F.S.

(5) If the requirement to file a new application for a change in controlling interest is waived pursuant to subsection (4) of this rule, the licensee must file an amendment as prescribed in subsection (2) of this rule to report the change in controlling interest.

(6) Forms OFR-520-01 and OFR-520-02 are incorporated by reference in subsections 69V-85.002(1) and 69V-85.003(1), F.A.C., respectively.

Specific Authority 520.999, 520.994(5) FS. Law Implemented 520.999 FS. History—New _____.

69V-85.200 Definition of Moral Turpitude.

The following definition of "moral turpitude" shall apply in all licensing and enforcement actions under Chapter 520, F.S. This definition shall serve as the Office of Financial Regulation's interpretation of the term "moral turpitude" as used in paragraphs 520.995(3)(b) and (c), F.S.:

"Moral turpitude" shall be defined as follows: "Moral turpitude involves duties owed by persons to society as well as acts contrary to justice, honesty, principle or good morals." This includes, but is not limited to, theft, extortion, use of the mail to obtain property under false pretenses, tax evasion, and the sale of (or intent to sell) controlled substances."

Specific Authority 520.994(5) FS. Law Implemented 520.995(3)(b), (c) FS. History—New 8-9-95, Formerly 3D-85.200, Repealed

NAME OF PERSON ORIGINATING PROPOSED RULE: Gregory C. Oaks, Bureau Chief, Office of Financial Regulation, 200 East Gaines Street, The Fletcher Building, Tallahassee, Florida 32399-0375, (850)410-9805
 NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Financial Services Commission
 DATE PROPOSED RULE APPROVED BY AGENCY HEAD: July 31, 2007
 DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: March 16, 2007

DEPARTMENT OF FINANCIAL SERVICES

Finance

RULE NOS.:	RULE TITLES:
69V-160.024	Names and Addresses of Corporate Officers
69V-160.030	Application Procedure for Consumer Finance License
69V-160.031	Consumer Finance License Renewal and Reactivation
69V-160.032	Amendments, Change of Name, Change of Entity, and Change in Control or Ownership

PURPOSE AND EFFECT: Chapter 2006-213, Laws of Florida, contains amendments to Chapter 516, Florida Statutes, the Florida Consumer Finance Act. Among other things, Chapter 2006-213, Laws of Florida, amends provisions concerning the licensing and regulation of consumer finance companies. The proposed rules implement and reflect the statutory changes regarding consumer finance companies.

SUMMARY: The proposed rules update the licensing process for consumer finance companies required to be licensed under Chapter 516, Florida Statutes. The proposed rules set forth the licensing process and renewal process; mandate electronic filing of renewal fees; specify the process to be followed when a person or group of persons proposes to acquire a controlling interest in a licensee; require certain persons associated with

the applicant or licensee to submit biographical information to the Office of Financial Regulation; provide that if an application is withdrawn or denied, all fees are nonrefundable; provide that if the information contained in any application form, or in any amendment thereto, becomes inaccurate for any reason, the applicant/licensee shall file an amendment correcting such information within thirty (30) days; and streamline and specify other provisions relating to the licensing process.

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

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

SPECIFIC AUTHORITY: 516.22(1), 516.23(3), 516.031, 516.03(1), 516.05, 516.23(3) FS.

LAW IMPLEMENTED: 516.03(1), 516.05, 516.07, 516.01, 516.02(1), 516.05(4), 516.05(5) FS.

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

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULES IS: Gregory C. Oaks, Bureau Chief, 200 East Gaines Street, The Fletcher Building, Tallahassee, Florida 32399-0375, (850)410-9805

THE FULL TEXT OF THE PROPOSED RULES IS:

69V-160.024 Names and Addresses of Corporate Officers. ~~A licensee constituted in the corporate form shall furnish the Office of Financial Regulation the name and address of each officer of its corporation and when any officer of the corporation is changed, the Office of Financial Regulation shall immediately be notified of the change and the name and address of any new officer or officers.~~

Specific Authority 20.05(5), 516.22(1) FS. Law Implemented 516.12(1)(2), 516.05(2)(a), 516.07(1)(c) FS. History—Amended 10-20-73, Renumbered 3-2.24 to 3D-160.24 on 8-11-75, Readopted 9-1-75, Formerly 3D-160.24, 3D-160.024, Repealed

69V-160.030 Application Procedure for Consumer Finance License.

(1) Each person desiring to apply for licensure as a consumer finance company shall submit the following to the Office of Financial Regulation:

(a) A completed Application for Consumer Finance License, Form ~~OFR-516-01 CF-301~~, revised ~~XX/XX/2007~~ 10/09, which is hereby incorporated by reference and available on the Office's website at www.flofr.com and by mail from the Office of Financial Regulation, 200 East Gaines Street, Tallahassee, Florida ~~32399-0376~~ 32399-0375;

(b) The statutory, non-refundable investigation fee required by Section 516.03, F.S.;

(c) The statutory, non-refundable biennial license fee required by Section 516.03, F.S., ~~which is refundable upon denial of licensure~~; and

(d) ~~Evidence Documentation~~ that the applicant has liquid assets of at least \$25,000.00 for the operation of the consumer finance company. For the purposes of this rule "Evidence" means documentation from an insured financial institution that the liquid assets are on deposit with the institution.

(2) Each ultimate equitable owner of 10% or greater interest, each chief executive officer, each chief financial officer, chief operations officer, chief legal officer, chief compliance officer, control person, member, partner, joint venturer, and each director of an entity applying for licensure as a consumer finance company, shall submit a completed Biographical Summary from Form OFR-516-01 to the Office of Financial Regulation.

~~(3)(2)~~ Request for Additional Information. Any request for additional information will be made by the Office of Financial Regulation within thirty (30) days after receipt of the application by the Office of Financial Regulation. The additional information must be received by the Office of Financial Regulation within forty-five (45) days from the date of the request. Failure to respond to the request within forty-five (45) days from the date of request shall be construed by the Office of Financial Regulation as grounds for denial for failure to complete the application, and the application shall be denied pursuant to Section 120.60(1), F.S., unless the Office has received a written request prior to the original 45-day deadline from the applicant to extend the original 45-day period. However, no request for extension shall be granted for a period exceeding an additional forty-five (45) days.

(4) Amendments to Pending Applications. If the information contained in any application form for licensure as a consumer finance company, or in any amendment thereto, becomes inaccurate for any reason, the applicant shall file an amendment correcting such information within thirty (30) days after the change on Form OFR-516-01, Application for Consumer Finance License. An applicant may amend the application as to those factors generally within the control or selection of the applicant once, as a matter of course, at any time within thirty (30) days after receipt of the application by the Office. Otherwise, the application may be amended only with prior written permission from the Office of Financial Regulation. Requests to make changes which are material to the application may be deemed by the Office of Financial Regulation to be grounds for denial, and a new application, accompanied by the appropriate filing fees, may be required.

~~(5)(3)~~ Withdrawal of Application. An applicant may request withdrawal of an application prior to a determination of the application being made by the Office of Financial

Regulation by submitting a written request that the application be withdrawn. Withdrawals will be deemed effective upon receipt by the Office.

~~(6)(4)~~ Refunds. If the application is withdrawn or denied, all fees are non-refundable ~~the investigation fee is non-refundable. If the application is withdrawn or denied, the license fee is refundable.~~

~~(5) If one's civil rights have been restored and the conviction did not directly relate to the consumer finance industry, the applicant shall provide evidence of restoration of civil rights. If one's civil rights have been restored and the conviction is directly related to the consumer finance industry, the applicant shall provide evidence of restoration of civil rights and rehabilitation. Evidence of rehabilitation should include, but is not limited to, employment history and letters from probation officers and employers.~~

(7) Upon approval of an application, a license will be issued for the remainder of the biennial licensure period.

Specific Authority 516.22(1), 516.23(3), 516.031 FS. Law Implemented 516.03(1), 516.05(1), 516.07 FS. History—New 12-18-88, Amended 5-9-90, 10-1-95, 1-5-00, Formerly 3D-160.030, Amended _____.

69V-160.031 Consumer Finance License Renewal and Reactivation.

(1) Each active consumer finance license will be renewed for the biennial period beginning January 1 of every odd-numbered year, upon submission of the statutory renewal fee ~~and renewal notice to the Office of Financial Regulation. Form OFR-CF 3 (effective 10/99), Consumer Finance License Renewal, is hereby incorporated by reference and available by mail from the Office of Financial Regulation, 200 East Gaines Street, Tallahassee, Florida 32399-0375.~~

(2) If the Office of Financial Regulation has not received the renewal fee prior to January 1 of the renewal year, the license shall revert from active to inactive status. Failure to return the renewal notice and fee prior to January 1 of the renewal year shall automatically result in the license becoming inactive. The inactive license may be reactivated within six (6) months after becoming inactive upon payment of the biennial license fee; and payment of the reactivation fee which is a fee equal to the biennial license fee; ~~and return of the reactivation notice.~~

(3) A renewal fee submitted electronically on the Office's website shall be considered received on the date the Office issues a confirmation of payment to the licensee via the Office's website. A confirmation is issued by the Office upon successful submission of a renewal payment. Renewal via the Internet. In lieu of filing the paper version of the renewal form, a licensee may renew its license electronically by following the applicable instructions on the Office of Financial Regulation's website (www.dbf.state.fl.us) on the Internet.

(4) If the payment is received in a paper format, the received date shall be the date stamped on the payment when received by the Department of Financial Services' Cashier's Office in Tallahassee, Florida.

(5) All renewal fees required to be filed under this rule shall be filed electronically at www.flofr.com.

(6) Any person may petition for waiver of the requirement of electronic submission of fees by filing a petition pursuant to Rule 28-106.301, Florida Administrative Code. Such petition shall demonstrate a technological or financial hardship that entitles the person to file the application, fees, data or form in a paper format.

(7)(4) If December 31 of the year is on a Saturday, Sunday, or legal holiday pursuant to Section 110.117, F.S., then the renewals received on the next business day will be considered timely received.

Specific Authority 516.03(1), 516.22(1), 516.23(3) FS. Law Implemented 516.03(1), 516.05(1), (2) FS. History--New 12-13-88, Amended 1-5-00, 12-25-00, Formerly 3D-160.031, Amended _____.

69V-160.032 Amendments, Change of Name, Change of Entity and Change in Control or Ownership.

(1) Each person licensed under Chapter 516, F.S., that proposes to change its name, form of business organization, or any other information contained in any initial application form or any amendment thereto, must file an amendment pursuant to Section 516.05, F.S., not later than thirty-days (30) after the effective date of the change on Application for Consumer Finance License, Form OFR-516-01. Name changes pursuant to this subsection shall not involve any change in controlling interest of the licensed entity.

(2) Each licensee under Chapter 516, F.S., that proposes to change any personnel described in Section 516.03, F.S., listed in any initial application or any amendment thereto must file an amendment not later than thirty-days (30) prior to the effective date of the change or within two (2) business days after the date the licensee first received notice of the change on Application for Consumer Finance License, Form OFR-516-01. In the event the change in personnel in Section 516.03, F.S., listed in any initial application or any amendment thereto results in the addition of anyone referenced in this subsection, such persons must comply with Section 516.03, F.S. unless such person has previously complied Section 516.03 with an entity currently licensed under this chapter.

(3) Applications for licensure under Chapter 516, F.S., required as a result of an acquisition of a controlling interest in a licensee pursuant to Section 516.05(5), F.S., must be filed in a timely manner as to allow the Office to complete its review of the application prior to the effective date of the acquisition, but not later than thirty (30) days prior to the date of such acquisition. Such applications must be filed in accordance with Section 516.03, F.S.

(4) The office shall waive the requirement for a licensee to file a new application pursuant to Section 516.05(5), F.S., when:

(a) A person or group of persons proposing to purchase or acquire a controlling interest in a Chapter 516, F.S., licensee has previously filed with the Office the information required in Section 516.03, F.S., with the licensee to the office, provided that such person is currently affiliated with the licensee; or

(b) The acquirer is currently licensed with the office under Chapter 516, F.S.

(5) If the requirement to file a new application for a change in controlling interest is waived pursuant to subsection 4 of this rule, the licensee must file an amendment as prescribed in subsection 2 of this rule to report the change in controlling interest.

(6) Form OFR-516-01 is incorporated by reference in subsection 69V-160.030(1), F.A.C.

Specific Authority 516.05(4), 516.05(5), 516.23(3) FS. Law Implemented 516.01, 516.02(1), 516.05(4), 516.05(5) FS. History--New _____.

NAME OF PERSON ORIGINATING PROPOSED RULE: Gregory C. Oaks, Bureau Chief, 200 East Gaines Street, The Fletcher Building, Tallahassee, Florida 32399-0375, (850)410-9805

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Financial Services Commission
DATE PROPOSED RULE APPROVED BY AGENCY HEAD: July 31, 2007

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: March 16, 2007

**Section III
Notices of Changes, Corrections and
Withdrawals**

**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."

AGENCY FOR HEALTH CARE ADMINISTRATION

Medicaid

RULE NO.:
59G-4.003

RULE TITLE:
Medicaid Providers Who Bill on the
UB-04