

Section I Notices of Development of Proposed Rules and Negotiated Rulemaking

DEPARTMENT OF STATE

Division of Elections

RULE TITLE: RULE NO.:

Style and Form for Filing Rules; Certification 1S-1.002
 Accompanying Materials

PURPOSE AND EFFECT: 1S-1.002 is being amended to add the requirement that, in addition to the original and two copies required to be submitted for rule adoption, the rule text must also be submitted on a diskette.

SUBJECT AREA TO BE ADDRESSED: Submission of adopted rules on diskette.

SPECIFIC AUTHORITY: 120.55(1)(c) FS.

LAW IMPLEMENTED: 120.54(2),(3)(e)4., 120.55(1)(c),(d),(3) FS.

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

THE PERSON TO BE CONTACTED REGARDING A DRAFT OF THE PROPOSED RULE DEVELOPMENT AND A COPY OF THE PRELIMINARY DRAFT, IF AVAILABLE, IS: Liz Cloud, Chief, Bureau of Administrative Code, 401 South Monroe Street, The Elliot Building, Tallahassee, FL 32399-0250, Telephone (850)488-8427

THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS:

1S-1.002 Style and Form for Filing Rules; Certification Accompanying Materials.

(1) In addition to the following requirements, the text of all rules filed for adoption shall be submitted on 3.5" diskette, and shall comply with the specifications listed in Rule 1S-1.003(2)(a), F.A.C.

(1) through (10) renumbered (2) through (11) No change.

Specific Authority 120.55(1)(c) FS. Law Implemented 120.54(3)(e)4.,(6), 120.55(1)(c),(d), 403.8055 FS. History--New 5-29-80, Formerly 1-1.02, Amended 12-30-81, 2-9-84, 10-1-84, 11-14-85, 10-19-86, 4-10-90, 6-17-92, 10-1-96, 9-13-98.

DEPARTMENT OF INSURANCE

Division of State Fire Marshal

RULE TITLES: RULE NOS.:

Transportation; Operation of Vehicles 4A-2.015

Transportation; Blasting Agents 4A-2.018

PURPOSE AND EFFECT: To amend the rules to conform to Section 552.12, Florida Statutes.

SUBJECT AREA TO BE ADDRESSED: These rules are being amended to conform with the requirements of Section 552.12, Florida Statutes.

SPECIFIC AUTHORITY: 552.13 FS.

LAW IMPLEMENTED: 552.12, 552.13 FS.

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

TIME AND DATE: 10:00 a.m., June 28, 1999

PLACE: Room 143, Larson Building, 200 East Gaines Street, Tallahassee, Florida

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT AND A COPY OF THE PRELIMINARY DRAFT, IF AVAILABLE, IS: Terry Barrow, State Fire Marshal, 200 East Gaines Street, Tallahassee, Florida 32399-0329

Pursuant to the provisions of the Americans with Disabilities Act, any person requiring special accommodations to participate in this program, please advise the Department at least five (5) calendar days before the program by contacting Yvonne White at (850)922-3110, ext. 4214.

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

DEPARTMENT OF REVENUE

Sales and Use Tax

RULE TITLE: RULE NO.:

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

PURPOSE AND EFFECT: The proposed amendment to Rule Chapter 12A-1.051, F.A.C., is needed to incorporate statutory changes to Chapter 212, F.S., made by the 1998 Legislature; to remove provisions that are inconsistent with those statutory changes; to reorganize and restructure the rule to make it easier for the reader to locate relevant provisions; to eliminate obsolete provisions; to address certain recurring issues that are not currently addressed in the rule; and to incorporate judicial interpretations of the relevant statutes and of the rule.

SUBJECT AREA TO BE ADDRESSED: The subject of this rule development workshop is the application of the sales and use tax law to the purchase, use, or sale of tangible personal property by real property contractors. Particular areas to be addressed include distinguishing real property from tangible personal property, contract pricing methods, treatment of mixed contracts that involve both real and personal property, and taxation of the cost of items fabricated by real property contractors.

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

LAW IMPLEMENTED: 212.02(4), (7), (16), (20), (21), 212.06(1), 212.06(14), 212.07(1), (8), 212.08(6), 212.14(5), 212.183 FS.

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

TIME AND DATE: 9:00 a.m., June 14, 1999

PLACE: Auditorium, R. A. Gray Building, 500 S. Bronough Street, Tallahassee, Florida

Copies of the agenda for the rule development workshop may be obtained from Linda W. Bridges, Tax Law Specialist, Sales and Use Tax Section II, Technical Assistance and Dispute Resolution, Department of Revenue, P. O. Box 7443, Tallahassee, Florida 32314-7443, telephone (850)922-9412

Pursuant to the provisions of the American with Disabilities Act, any persons requiring special accommodations to participate in this program are asked to advise the Department at least five (5) calendar days before the program by contacting Tracie Grantham at (850)488-2577. If you are hearing or speech impaired, please contact the Department by calling 1-800-DOR-TDD1 (1(800)367-8331).

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT IS: Linda W. Bridges, Tax Law Specialist, Sales and Use Tax Section II, Technical Assistance and Dispute Resolution, Department of Revenue, P. O. Box 7443, Tallahassee, Florida 32314-7443, telephone (850)922-9412

THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS:

(Substantial Rewording of Rule 12A-1.051 follows. See Florida Administrative Code for present Text.)

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

(1) Scope of the rule. This rule governs the taxability of the purchase, sale, or use of tangible personal property by contractors and subcontractors who purchase, acquire, or manufacture materials and supplies for use in the performance of real property contracts other than public works contracts performed for governmental entities, which are governed by the provisions of Rule 12A-1.094, F.A.C. If a real property project involves multiple subcontractors, each subcontractor is responsible for paying, accruing, collecting and remitting tax on his subcontract in accordance with this rule.

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

(a) "Fabricated cost" means the cost to a real property contractor of fabricated items, as defined in the following paragraph. The elements of cost included in fabricated cost are set forth in Rule 12A-1.043, F.A.C. Fabricated cost does not include the cost of transporting fabricated items from the contractor's plant to the job site or the cost of labor at the job site where the fabricated items are incorporated into the real property improvement.

(b) "Fabricated items" means items contractors manufacture, produce, process, compound, or fabricate for their own use in performing contracts for improvements to real property. The term applies only to items the contractor manufactures, produces, processes, compounds, or fabricates at a plant or shop maintained by the contractor. For this purpose, a temporary facility established at a job site that is used exclusively in connection with performing a contract for a real property improvement at that job site is not considered to be a plant or shop maintained by the contractor.

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

2. In order for an item to be considered a fixture, it is not necessary that the owner of the item also own the real property to which the item is attached. A retained title provision in a sales contract or in an agreement that is designated as a lease but is in substance a conditional sales contract is not determinative of whether the item involved is or is not a fixture. Similarly, the fact that a lessee or licensee of real property rather than the lessor/owner enters into a contract for an item to be permanently attached to the real property does not prevent that item from being classified as a fixture.

3. The determination whether an item is a fixture depends upon review of all the facts and circumstances of each situation. Among the relevant factors that determine whether a particular item is a fixture are the following:

a. The method of attachment. Items that are screwed or bolted in place, buried underground, installed behind walls, or joined directly to a structure's plumbing or wiring systems are likely to be classified as fixtures. Attachment in such a manner that removal is impossible without causing substantial damage to the underlying realty indicates that an item is a fixture.

b. Intent of the property holder in having the item attached. If the property holder who causes an item to be attached to realty intends that the item will remain in place for an extended or indefinite period of time, that item is more likely to be a fixture. That intent may be determined by reviewing all of the property holder's actions in regard to the item, including how the item is treated for purposes of ad valorem and income tax purposes. For example, if a property owner reports the value of the item for purposes of ad valorem taxation of the realty and depreciates the item for tax and financial accounting purposes as real property, that indicates an intent that the property is permanently attached as a fixture.

c. Real property law. If an interest in an item arises upon acquiring title to the land or building, the item is more likely to be considered a fixture. For example, if the seller of real property would be expected to leave an item behind when

vacating the premises for a new owner without the contract specifically requiring that it be left, that item is likely to be classified as a fixture.

d. Customization. If items are custom designed or custom assembled to be attached in a particular space, they are more likely to be classified as fixtures. Customization indicates intent that the items are to remain in place following installation.

e. Permits and licensing. If installation of an item requires a construction permit or licensing of the contractor under statutes or regulations governing the building trades, that item is more likely to be regarded as a fixture.

f. Legal agreements. The terms of any purchase agreement, deed, lease, or other legal document pertaining specifically to an item may be relevant in determining whether that item is a fixture of real property.

The foregoing list of factors relevant to determining whether an item is a fixture is intended to be illustrative only. Additional factors may exist in any particular case, and the weight to be given to the factors will also vary in each case.

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

a. Trade fixtures.

b. Titled property.

c. Machinery or equipment.

(d) "Improvement to real property" or "real property improvement" includes the activities of building, erecting, constructing, altering, improving, repairing, or maintaining of real property.

(e)1. "Machinery or equipment" means and includes property that:

a. is intended to be used in the production, manufacturing, processing, packaging, moving, or otherwise handling personal property for sale or other commercial use, in the performance of commercial services, or for other purposes not related to a building or other fixed real property improvement;

b. may, on account of its nature, be attached to the real property but which does not lose its identity as a particular piece of machinery and equipment; and

c. if attached, is removable without substantial damage to the real property or part thereof to which it is attached.

2. "Machinery or equipment" does not include junction boxes, switches, conduits, wiring, valves, pipes, and tubing incorporated into fixed works, buildings, or other structures, whether or not such items are used solely or partially in connection with the operation of machinery and equipment.

3. Machinery or equipment serves a particular commercial activity that is carried on at a location rather than serving general uses of land or a structure. Examples of machinery and equipment include conveyor systems, printing presses, drill presses, or lathes. Examples of items that are not machinery or

equipment because they are integrated into the structure or realty and retain their usefulness no matter what activity is carried on at the site include heating and air conditioning system components or water heaters. Any property that would qualify for exemption as machinery or equipment under section 212.08(5), Florida Statutes, or any other provision of Chapter 212, Florida Statutes, is considered to be machinery or equipment for purposes of this rule.

(f) "Manufacture, produce, compound, process, or fabricate" means:

1. to convert or condition tangible personal property by changing the form, composition, quality, or character of the property;

2. to make, build, create, produce, or assemble components or items of tangible personal property in a new or different manner;

3. to physically apply materials and labor necessary to modify or change the characteristics of tangible personal property.

The terms do not include activities that do not result in any change in the character or quality of tangible personal property. For example, a repair or restoration of property to return it to its original state and level of functionality is not included within the defined activities.

(g) "Real property" means land, improvements to land, and fixtures. It is synonymous with the terms "realty" and "real estate."

(h)1. "Real property contract" means an agreement, oral or written, whether on a lump sum, time and materials, cost plus, guaranteed price, or any other basis, to:

a. Erect, construct, alter, repair, or maintain any building, other structure, road, project, development or other real property improvement;

b. Excavate, grade, or perform site preparation for a building, other structure, road, project, development or other real property improvement; or

c. Furnish and install tangible personal property that becomes a part of or is directly wired or plumbed into the central heating system, central air conditioning system, electrical system, plumbing system, or other structural system that requires installation of wires, ducts, conduits, pipes, vents or similar components that are embedded in or securely affixed to the land or a structure thereon.

2. The term "real property contract" does not include:

a. A contract for the sale or for the sale and installation of tangible personal property such as machinery and equipment, or

b. A contract to furnish tangible personal property that will be installed or affixed in such a way as to become a fixture or improvement to real property if the person furnishing the property has not also contracted to affix or install it.

3. A contract is a real property contract if described in subparagraph 1. above whether or not such agreement also involves providing property or services that would not be considered improvements to real property.

4. A contract contains the terms of the agreement between the contractor and the owner (or other interest holder) of the real property and is entered into in advance of any work being undertaken. A proposal prepared by a contractor prior to entering an agreement is not a contract. Statements, invoices, or other billings submitted after work has begun are not contracts. For example, a developer solicits bids on the plumbing work for a project. A contractor prepares a proposal that lists all the materials anticipated to be necessary with unit pricing, labor costs, and a markup based on a percentage of the total material and labor costs. The developer accepts the proposal. The parties enter into an agreement that requires the contractor to provide all the materials and labor necessary to supply the plumbing system for the project for a single lump sum price. When the work is completed, the contractor sends an invoice for the lump sum amount that shows a breakdown into materials and labor. Neither the proposal nor the invoice is a contract under which the developer agrees to pay separately for materials and labor. They are documents prepared by the contractor to explain or justify the price. The contract is the agreement between the parties that an entire installed plumbing system will be provided for a single lump sum.

(i) "Titled property" means property that must be registered, licensed, titled, or documented by this state or by the United States, such as airplanes, boats, and motor vehicles. A houseboat, even if permanently docked and used as a primary residence, is not real property. Mobile homes are titled property unless they are assessed for ad valorem tax purposes as real property. Owners may report mobile homes as real property and have them assessed as such for ad valorem tax purposes. These mobile homes are issued special decals. Classification of a mobile home as personal property by a seller or a lender does not prohibit the owner of the mobile home from having the property assessed as a real property. A mobile home that is issued a real property decal is treated as real property for purposes of this rule.

(j) "Trade fixtures" means items that are attached to real property by the operator of a trade or business that occupies the premises, are useful solely in connection with or to facilitate that trade or business, and are removable without causing substantial damage to the underlying real property. For example, the operator of a bakery has a special glass display counter installed for displaying cookies and doughnuts. The counter would not be useful to a different type of retail business because of the shelving configuration and materials used. The counter is bolted to the floor but could be removed without causing substantial damage. The counter is a trade fixture and not a fixture of the realty. If the bakery has a sign installed to identify the location by name of the business, that

sign is a trade fixture unless it is attached in such manner that it cannot be removed without causing substantial damage to the building or land. If the same bakery operator has built-in storage shelving installed in a supply room or overhead lighting installed in the shop area, those items are not trade fixtures because the storage shelving and lighting are equally functional for any subsequent user of the premises.

(3) Classification of contracts by pricing. The taxability of purchases and sales by real property contractors is determined by the pricing arrangement in the contract. Contracts generally fall into one of the following categories:

(a) Lump sum contracts. These are contracts in which a contractor or subcontractor agrees to furnish materials and supplies and necessary services for a single stated lump sum price.

(b) Cost plus or fixed fee contracts. These are contracts in which the contractor or subcontractor agrees to furnish the materials and supplies and necessary services in exchange for reimbursement of costs plus a fee that is fixed in advance or calculated as a percentage of the costs.

(c) Upset or guaranteed price contracts. These are contracts in which the contractor or subcontractor agrees to furnish materials and supplies and necessary services based on costs plus fees but with an upset or guaranteed maximum price which may not be exceeded.

(d) Retail sale plus installation contracts. These are contracts for improvements to real property in which the contractor or subcontractor agrees to sell specifically described and itemized materials and supplies at an agreed price or at the regular retail price and to complete the work either for an additional agreed price or on the basis of time consumed. In order for a contract to fit in this category, all the materials that will be incorporated into the work must be itemized and priced in the contract before work begins. If a contract itemizes some materials but does not itemize other materials that will be incorporated into the work, the contract is not included in this category. Because the sale of the materials is a separable transaction from the installation, the purchaser must assume title to and risk of loss of the materials and supplies as they are delivered rather than accepting title only to the completed work. The contractor may remain liable for negligence in handling and installing the items.

(e) Time and materials contracts. These are contracts in which the contractor or subcontractor agrees to furnish materials and supplies and necessary services for a price that will be calculated as the sum of the contractor's cost or a marked up cost for materials to be used plus an amount for services to be based on the time spent performing the contract. These contracts are similar to cost plus or fixed fee contracts because the final price to the property holder will be determined based on the cost of performance. A time and materials contract may or may not also have a guaranteed or upset price clause. Time and materials contracts differ from

contracts described in paragraph (d) because the materials are not completely identified, itemized, and priced in the contract in advance and because the property owner is contracting for a finished job rather than the purchase of materials.

(4) General rule of taxability of real property contractors. Contractors are the ultimate consumers of materials and supplies they use to perform real property contracts and must pay tax on their costs of those materials and supplies, unless the contractor has entered a retail sale plus installation contract. Contractors performing only contracts described in paragraphs (3)(a), (b), (c), or (e) do not resell the tangible personal property used to the real property owner but instead use the property themselves to provide the completed real property improvement. Such contractors should pay tax to their suppliers on all purchases. They should also pay tax on all materials they fabricate for their own use in performing such contracts, as discussed in subsection (10). They should charge no tax to their customers, regardless of whether they itemize charges for materials and labor in their proposals or invoices, because they are not engaged in selling tangible personal property. Such contractors should not register as dealers unless they are required to remit tax on the fabricated cost of items they fabricate to use in performing contracts.

(5) Rule for (3)(d) contractors. Contractors who perform contracts described in paragraph (3)(d) do sell tangible personal property. They should register as dealers and provide resale certificates for materials that are itemized and resold under paragraph (3)(d) contracts. They should not provide resale certificates for items that they use themselves rather than reselling, such as hand tools, shop equipment, or office supplies. They must charge their customers tax on the price paid for tangible personal property, unless a valid exemption certificate is provided, but not on the charges for installation labor.

(6) Sales of tangible personal property. Contractors, manufacturers or dealers who sell and install items of tangible personal property, including those enumerated in Rule 12A-1.016, F.A.C., must collect tax on the full selling price, including any installation or other charges, even though such charges may be separately stated. The items listed in Rule 12A-1.016, F.A.C., are tangible personal property even after installation, and their sale with installation is not classified as a real property contract. Contractors, manufacturers, or dealers who sell property over-the-counter without performing installation services must collect tax on the full sales price of such items, even though those items will become improvements to real property upon installation by the purchaser. At the point at which they are sold in over-the-counter transactions, those items are tangible personal property.

(7) Repairs to machinery and equipment. Any owner or lessee that engages another to make repairs to or perform maintenance services on machinery and equipment that,

because of its size, configuration, method of attachment, or other characteristics, has the appearance of real property, must inform the service provider that the machinery or equipment is tangible personal property. The owner or lessee should pay sales tax on the full price of the repair or maintenance to any service provider that is a registered dealer. If the service provider ordinarily operates as a real property contractor and is not a registered dealer, the owner or lessee must remit tax on the full price of the repair or maintenance directly to the state.

(8) Mixed contracts. A real property contract may also include materials and labor that are not real property improvements. In such cases, taxability depends upon the predominate nature of the work performed under the contract and upon the contract terms.

(a) If the predominate nature of a mixed contract is a contract for real property improvements, taxability will be determined as if the contract was entirely for real property. For example, a residential developer routinely provides some items of tangible personal property, such as free standing appliances, with new homes sold under cost-plus contracts. The predominate nature of the contract is for a dwelling. The developer should pay sales or use tax on the appliances. A contractor constructs a factory under a turnkey contract that includes providing and installing some manufacturing equipment. The contract is predominately for a factory, a real property improvement, and the contractor should pay use tax on the cost of the equipment. No tax is collected from the property owner in either case, even though some tangible personal property is included in the project.

(b) If the predominate nature of a mixed contract is a contract for tangible personal property, taxability of the contract will be determined as if the contract was entirely for tangible personal property. For example, a vendor of manufacturing equipment under a lump sum contract pours concrete footings and embeds steel plates in the concrete to permit installation of the equipment by bolting it to the plates. The contract is predominately for the sale of equipment. The contractor should buy the equipment, concrete, and steel plates using a resale certificate and charge tax on the full price charged to the customer.

(c) The determination of the predominate nature of a contract will depend upon the facts and circumstances of each case. Consideration will be given to the description of the project and the responsibilities of the contractor as set forth in the contract. Consideration will also be given to the relative cost of performance of the real property and tangible personal property components of the contract.

(d) If a mixed contract clearly allocates the contract price among the various elements of the contract, and such allocation is bona fide and reasonable in terms of the costs of materials and nature of the work to be performed, taxation will be in accordance with the allocation. For example, a residential developer builds and sells a home on a cost plus basis, but the

contract provides separately stated prices for the sale and installation of certain optional free standing appliances that are tangible personal property and are not classified as real property fixtures. The contractor may purchase those appliances using a resale certificate and charge sales tax on the price paid for the appliances, including installation, by the home buyer. The contractor is responsible for paying tax on all the materials that are included in the cost plus price of the home other than the separately itemized appliances. Similarly, a manufacturer who sells and installs industrial machinery, which is tangible personal property, could state a separate charge in the contract for providing concrete footers and embedded steel plates to support the machinery. The footings and plates would be considered a real property improvement. The contractor should pay tax on the materials used for the real property part of the contract and not charge tax to the customer on the related charge. The customer should pay tax on the rest of the contract price allocable to the machinery itself.

(9) Dual operators. Some contractors both use materials themselves in the performance of contracts and resell materials either in over-the-counter sales or under contracts described in paragraph (3)(d). Those contractors should register as dealers. When they purchase materials of a type that they may either use themselves or resell, they may issue a resale certificate. If those materials are subsequently resold, tax should be collected from the buyer and remitted to the state. If the materials are used by the contractor, use tax should be paid instead.

(10) Use tax on fabrication costs. Contractors may maintain plants where they manufacture, produce, compound, process, or fabricate items for their own use in performing contracts. Contractors are required to pay use tax on the fabricated cost of those items. The elements that must be included in the taxable cost of such items are set forth in Rule 12A-1.043, F.A.C. In the case of real property contractors, the taxable cost of an item manufactured, produced, compounded, processed, or fabricated for use in performing a contract does not include labor that occurs at the job site where the item will be incorporated into a real property improvement or transportation from the plant where an item was fabricated to the job site. Examples of real property contractors who are subject to tax under this subsection include cabinet contractors who build custom cabinets in their shops, roofing contractors who operate tile plants, or heating/air conditioning/ventilation contractors who maintain sheetmetal shops for making ductwork. Real property contractors that are required to remit use tax on fabricated items must register as dealers for purposes of remitting such tax if they are not already registered as dual operators.

(11) Percent of contract price method.

(a) The Department is authorized to adopt rules that establish an elective percent of contract price method for calculating use tax obligations of real property contractors that manufacture, produce, compound, process, or fabricate

tangible personal property for their own use in performing contracts. For example, a rule could be adopted to provide that cabinet makers that build cabinets at their own shops and install them could elect to pay use tax on a certain percentage of the contract price paid by the real property holder rather than keeping track of the elements of taxable cost of the fabricated cabinets.

(b) In order to initiate a rulemaking project to adopt the percent of contract price method for an industry group, the Department must receive a petition from the majority of the members of the group or from a statewide association representing the group. The petition must be accompanied by a proposal setting forth the percent of contract price the group believes should be adopted in the rule and by sufficient information and documentation to establish that the proposed percentage is based on a reasonable estimate of average taxable costs incurred by members of the petitioning group. The industry group may propose and the Department may in appropriate cases establish alternative percentages for members of the group who are registered dealers and do not pay tax on purchases of direct materials that are incorporated into fabricated items and for members of the group who pay sales tax on those purchases. The Department will consider the information supplied with the petition as well as any other relevant information that is available. Petitions should be submitted to Department of Revenue, Technical Assistance and Dispute Resolution, Post Office Box 7443, Tallahassee, Florida 32314-7443.

(c) The Department may review rules adopted at the petition of industry groups and amend them to adjust the percentage to insure it continues to reflect a reasonable estimate of taxable costs for that industry group. The percentage of contract price established in a rule described in this subsection can not be amended during the first five years after its adoption. After that time, the Department may review and amend the rule, but all such reviews must be at least five years apart. In conducting a review, the Department will consider any information submitted by the industry group affected as well as any other available information.

(d) If the Department adopts a percent of contract price rule for an industry group, members of that group may elect to apply the method on a contract-by-contract basis or to apply it to all contracts in any period by timely accruing and remitting tax using the method. Timely accrual and remittance means accrual as of the time invoices are issued based on applying the established percentage to the amount invoiced to calculate the taxable cost and remittance with a timely filed return filed in the reporting period immediately after the accrual (i.e., in the month following the issuance of the invoice and accrual of the tax for a contractor who is required to file on the regular monthly schedule). The contractor must maintain records to document the timely accrual and payment of the tax on each contract for which the method is used.

(e) Application of the established percentage to the contract price is intended to capture the taxable cost of fabricated items used in performing the contract. If the contractor pays sales tax on purchases of materials incorporated into the fabricated items, the use tax due on the fabricated cost under the percent of contract method should be reduced to reflect the tax already paid on those materials. For example, a real property contractor who fabricates some of the items used in performing contracts is entitled to use a 50% of contract price method to compute use tax on fabricated cost. The contractor agrees to fabricate and install items for a lump sum price of \$10,000. The contractor does not make any sales of tangible personal property. He can not issue a resale certificate and pays sales tax on all purchases of materials and supplies. The cost of materials incorporated into the fabricated items for the contract is \$3,000, on which the contractor has already paid \$180 ($\$3,000 \times 6\%$) in sales tax to the supplier. Those materials costs on which tax has already been paid are subtracted from the taxable percentage of the contract price before calculating the use tax due on the finished item. The use tax to be accrued and remitted under the percent of contract method is \$120 ($50\% \text{ of } \$10,000 = \$5,000 - \$3,000 = \$2,000 \times 6\% = \120).

(f) Use of the percent of contract price method applies only to the use tax owed on fabricated items. Other taxes may also be owed in connection with performance of a contract. For example, a real property contractor who fabricates some of the items used in performing contracts is entitled to use a 50% of contract price method to compute use tax on fabricated cost. The contractor agrees to fabricate items, install those items, and supply materials and labor for on-site work that does not require shop fabrication. The contract is for a lump sum price of \$10,000. The contractor also makes over-the-counter sales. He is therefore a registered dealer and buys all the materials involved using a resale certificate. The cost of materials used for the on-site work is \$1000. Use tax must be remitted on 50% of the contract price for the fabricated items and on \$1,000 for the on-site materials. The total tax owed is \$360 ($\$5,000 + \$1,000 = \$6,000 \times 6\% = \360).

(g) The percent of contract price method involves an alternative way to calculate the use tax owed and alternative timing for accrual and payment of tax. It does not change the nature of the tax liability. The tax involved is still a use tax on fabricated cost. It is not a tax on the income earned from contracts. Election of the method, therefore, does not affect the jurisdiction where the tax is owed. Tax is owed in the jurisdiction where fabrication occurs, not in the jurisdiction where the contract is performed. For example, if a real property contractor purchases materials and fabricates items in Florida for a contract, taxable fabrication has occurred in Florida and tax is owed to Florida. Subsequent transportation of the item to another state for installation does not make the fabrication exempt from Florida use tax.

(12) Asphalt contractors. Contractors that manufacture asphalt for their own use in the performance of improving real property must calculate the tax on that asphalt based on the sum of the following:

(a) the cost of materials which become a component part or which are an ingredient of the finished asphalt multiplied by 6 percent; plus

(b) the costs of transportation of such components and ingredients to the plant site multiplied by 6 percent; plus

(c) an indexed tax per ton representing all other costs associated with the manufacture of the asphalt.

If sales tax has been paid on the purchase of materials or transportation in (a) or (b) above, the cost of such materials or transportation is not included in computing the total use tax due. The indexed tax is computed based on the "materials and components for construction" series of the producer price index, as calculated and published by the United States Department of Labor, Bureau of Statistics. The indexed tax is revised annually effective each July 1. The Department is responsible for publishing the new rate each year in time to permit timely accruals and payment of use tax by asphalt contractors.

(13) Use tax on rock, shell, fill dirt, etc. A real property contractor is taxable on the cost of rock, shell, fill dirt, or similar materials the contractor uses to perform a real property contract for another person.

(a) If the contractor acquires the materials from a location the contractor owns or leases, the contractor must remit use tax based on one of the following methods:

1. the fair retail market value, which means either the price the contractor would have to pay on the open market or the price at which the contractor would sell the materials to third parties; or

2. the cost of the land plus all costs of clearing, excavating, and loading the materials, including labor, power, blasting, and similar costs.

(b) If the contractor purchases the materials and as part of the agreement excavates and removes them from the seller's land (including state-owned submerged land), the taxable cost is the purchase price paid to the seller plus all the costs incurred by the contractor in clearing, excavating, and removing the materials, including labor.

(c) A contractor on a road project owes no tax on borrow materials that are provided at no charge by the Department of Transportation, including materials extracted from pits that are provided at no charge by that department.

(14) Mobile homes. A contractor who makes improvements or repairs to a mobile home is required to ascertain the status of that home to determine how tax should be paid. If the mobile home has a real property decal, the contract should be treated as a real property contract. In that case, the contractor generally will be subject to tax on the materials used, and the customer will pay no tax. If the mobile

home does not have a real property decal, the job is a sale or repair of tangible personal property. The contractor should charge tax on the full price paid by the customer, including charges for installation labor. In that case, the contractor is not subject to tax on the materials that are incorporated into and become a part of the improvement or repair of the mobile home.

(15) Contracts performed for nongovernmental tax-exempt entities. Contractors who perform lump sum, cost-plus, guaranteed price, or time and materials contracts for nongovernmental entities that are exempt from sales taxes, such as private schools, hospitals, or churches, are taxable on materials the contractor purchases for use in performing those contracts. Such contractors are not permitted to use the consumer's certificate of exemption issued to the exempt entity in order to purchase materials for the contract exempt from taxes. The entity's exempt status is not relevant because it applies only to sales of tangible personal property to the entity, not to the contractor. The contractor, not the exempt entity, is the taxable consumer of the materials the contractor purchases to use in performing that contract. The fact that an exempt entity will bear the economic burden of the taxes paid by the contractor in the form of a higher contract price does not change the contractor's tax liabilities.

(16) Subdivision and similar improvements.

(a) Subdivision owners and developers or their contractors are subject to tax on purchases of materials for use in the construction of streets, roadways, water distribution systems, sewers, and similar improvements that the owner or developer subsequently transfers to a municipality or other governmental unit. These transfers are not donations or sales of tangible personal property to a governmental unit.

(b) If a municipality or other governmental unit purchases and installs water mains and distribution pipes for a property owner, including a subdivision developer, under an arrangement whereby the municipality retains ownership, possession, and control of the mains and pipes, but recovers all or part of its cost from the property owner through the collection of an installation charge, such installation charge is equivalent to an assessment for benefits. It is not taxable.

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

- (a) Awning installation;
- (b) Block, brick and stone masonry;
- (c) Bridge construction;
- (d) Burglar and fire alarm system installation;
- (e) Cabinetry (built-in only);
- (f) Carpentry;
- (g) Carpeting installed with tacks, glue, or other permanent means and serving as the finished floor;

- (h) Cement and concrete work;
- (i) Closet system installation;
- (j) Dock, pier, seawall, and similar construction, maintenance, or repair;
- (k) Door and window installation or on-site repair;
- (l) Driveway installation or repair;
- (m) Electrical system installation and repairs, including structural wiring and cabling, meter boxes, switches, receptacles, wall plates, and similar items;
- (n) Elevator and escalator installation and maintenance;
- (o) Fencing and gates installation intended for permanent use;
- (p) Flooring;
- (q) Foundations;
- (r) Glass and mirror installation if installed in a permanent manner;
- (s) Heating, ventilating, and air conditioning system work;
- (t) Insulation of structures or structural components;
- (u) Iron work, such as railings, banisters, and stairs incorporated into buildings;
- (v) Landscaping work, including walls, walkways, permanent structures such as greenhouses, arbors, or gazebos, and permanent plantings such as trees, perennial shrubs, and lawns;
- (w) Lathing;
- (x) Painting of buildings, decks, and other real property structures;
- (y) Paving and surfacing work, including driveways, parking lots, patios, roadwork, and sidewalks;
- (z) Plastering;
- (aa) Plumbing work;
- (bb) Radio and telephone transmission towers;
- (cc) Roofing work;
- (dd) Septic tank installation or maintenance;
- (ee) Sheetmetal/ductwork;
- (ff) Siding installation;
- (gg) Site work, including clearing, grading, demolition, and excavation;
- (hh) Signs that are permanently attached to realty and are not excluded as trade fixtures;
- (ii) Solar systems;
- (jj) Sprinkler system installation for lawn and garden irrigation or for fire prevention;
- (kk) Stucco;
- (ll) Structural steel and concrete installation;
- (mm) Swimming pool installation, including accessories and parts that are permanently attached or are plumbed or wired into plumbing or electrical systems;
- (nn) Tile work;
- (oo) Utility poles and lines installation and maintenance;
- (pp) Wallpaper installation;

- (qq) Water, sewer, and drainage systems;
- (rr) Waterproofing of structures, decks, driveways, and other real property components; and
- (ss) Well drilling and installation.
- (18) Specific activities not classified as real property contracts. The sale, installation, maintenance or repair of the following items is not considered to be a real property contract.
 - (a) Area rugs and carpets;
 - (b) Art work (paintings, statuary);
 - (c) Cabinets and shelving (freestanding);
 - (d) Computer system components;
 - (e) Drapes, curtains, blinds, shades, etc.;
 - (f) Entertainment system (e.g., stereo systems, home theater systems) components;
 - (g) Furniture;
 - (h) Household appliances;
 - (i) Lawn markers;
 - (j) Mail boxes;
 - (k) Mirrors (freestanding);
 - (l) Radio and television antennas;
 - (m) Sprinkler systems for lawns or gardens if made up of unburied hoses or tubing and movable sprinkler heads;
 - (n) Stepping stones;
 - (o) Telecommunications system components;
 - (p) Television satellite dishes;
 - (q) Temporary fencing and gates (e.g., for construction sites); and
 - (r) Window air conditioning units.

Specific Authority 212.17(6), 212.18(2), 213.06(1) FS. Law Implemented 212.02(4), (7), (16), (20), (21), 212.06(1), 212.06(14), 212.07(1),(8), 212.08(6), 212.14(5), 212.183 FS. History—Revised 10-7-68, 1-7-70, 6-16-72, Amended 2-3-80, 3-27-80, 6-3-80, 8-26-81, 11-15-82, 6-11-85, Formerly 12A-1.51, Amended 1-2-89, 8-10-92,_____.

WATER MANAGEMENT DISTRICTS

South Florida Water Management District

RULE CHAPTER TITLE: Environmental Resource Permits
RULE CHAPTER NO.: 40E-4
PURPOSE AND EFFECT: The purpose and effect of the proposed rule amendment is to amend the rules to indicate that a permit may be issued to a contractual buyer of property with certain restrictions. The proposed rule amendments will also correct citations and clarify language currently in the rule.
SUBJECT AREA TO BE ADDRESSED: The proposed rule amendment addresses issuance of permits to contractual buyers of property; content of permit applications; permits required; permit thresholds; modification of exempt projects; duration of permits; and conversion from construction phase to operation phase. This rule will also correct citations and clarify language currently in the rule.

SPECIFIC AUTHORITY: 373.016, 373.044, 373.113, 373.171 FS.
LAW IMPLEMENTED: 373.016, 373.117, 373.413, 373.416, 373.426 FS.
A RULE DEVELOPMENT WORKSHOP WILL BE HELD AT THE TIMES, DATES AND PLACES SHOWN BELOW:
TIME AND DATE: 1:00 p.m., June 14, 1999
PLACE: Lee County Extension Service, 3406 Palm Beach Boulevard, Ft. Myers, FL 33916
TIME AND DATE: 1:00 p.m., June 22, 1999
PLACE: Fletcher Recreation Center, 7960 Johnson Street, Pembroke Pines, FL 33024
TIME AND DATE: 1:00 p.m., June 25, 1999
PLACE: Osceola County Courthouse, 17 South Vernon Avenue, Room 155, Kissimmee, FL 34741
TIME AND DATE: 10:00 a.m., June 29, 1999
PLACE: South Florida Water Management District, 3301 Gun Club Road, West Palm Beach, FL 33406
THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT IS: Julie Jennison, Office of Counsel, South Florida Water Management District, Post Office Box 24680, West Palm Beach, FL 33416-4680, telephone 1(800)432-2045, Extension 6294 or (561)682-6294 (internet: jjenniso@sfwmd.gov). Although Governing Board meetings, hearings and workshops are normally recorded, affected persons are advised that it may be necessary for them to ensure that a verbatim record of the proceeding is made, including the testimony and evidence upon which any appeal is to be based. Persons with disabilities or handicaps who need assistance may contact Tony Burns, District Clerk, (561)682-6206 at least two business days in advance to make appropriate arrangements.

WATER MANAGEMENT DISTRICTS

South Florida Water Management District

RULE TITLE: Publications, Rules and Interagency Agreements Incorporated by Reference
RULE NO.: 40E-4.091
PURPOSE AND EFFECT: The purpose and effect of this proposed rule amendment is to change the homeowners association documentation requirements, to change the certification required of a registered engineer, to correct citations, and clarify language currently in the rule.
SUBJECT AREA TO BE ADDRESSED: The proposed rule amendment addresses changes to the document entitled “Basis of Review for Environmental Resource Permit Applications Within the South Florida Water Management District – November 1996” incorporated by reference in Rule 40E-4.091, F.A.C. Additionally, the language regarding homeowners association documentation found in sections 9.2.3 and 9.2.4 will be modified to provide homeowners with notice of rights

already conveyed to the District by the permit. These rights include the right of District access to the property containing the surface water management system and the right to take enforcement action. Also, amendments to association documents, that require a modification of a District permit, may not be finalized until the permit modification is approved. Section 10.1 will be amended to require a registered engineer to certify that the surface water management system "is functioning" in substantial conformance with approved plans and specifications. Sections 4.2.1.2 and 4.3.7.4 will have language clarified.

SPECIFIC AUTHORITY: 373.044, 373.113, 373.171, 373.413 FS.

LAW IMPLEMENTED: 373.413, 373.4135, 373.416, 373.426 FS.

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

TIME AND DATE: 1:00 p.m., June 14, 1999

PLACE: Lee County Extension Service, 3406 Palm Beach Boulevard, Ft. Myers, FL 33916

TIME AND DATE: 1:00 p.m., June 22, 1999

PLACE: Fletcher Recreation Center, 7960 Johnson Street, Pembroke Pines, FL 33024

TIME AND DATE: 1:00 p.m., June 25, 1999

PLACE: Osceola County Courthouse, 17 South Vernon Avenue, Room 155, Kissimmee, FL 34741

TIME AND DATE: 10:00 a.m., June 29, 1999

PLACE: South Florida Water Management District, 3301 Gun Club Road, West Palm Beach, FL 33406

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT IS: Julie Jennison, Office of Counsel, South Florida Water Management District, Post Office Box 24680, West Palm Beach, FL 33416-4680, telephone 1(800)432-2045, Extension 6294 or (561)682-6294 (internet: jjenniso@sfwmd.gov). Although Governing Board meetings, hearings and workshops are normally recorded, affected persons are advised that it may be necessary for them to ensure that a verbatim record of the proceeding is made, including the testimony and evidence upon which any appeal is to be based. Persons with disabilities or handicaps who need assistance may contact Tony Burns, District Clerk, (561)682-6206 at least two business days in advance to make appropriate arrangements.

THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS:

40E-4.091 Publications, Rules and Interagency Agreements Incorporated by Reference.

(1) The following publications, rules and interagency agreements are incorporated by reference into this chapter, Chapters 40E-40, 40E-41 and 40E-400, F.A.C.:

(a) "Basis of Review for Environmental Resource Permit Applications within the South Florida Water Management District – ~~October 1999~~ ~~November 1996~~"

(b) through (j) No change.

(2) No change.

Specific Authority 373.044, 373.113, 373.171, 373.413 FS. Law Implemented 373.413, 373.4135, 373.416, 373.421, 373.426 FS. History–New 9-3-81, Amended 1-31-82, 12-1-82, Formerly 16K-4.035(1), Amended 5-1-86, 7-1-86, 3-24-87, 4-14-87, 4-21-88, 11-21-89, 11-15-92, 1-23-94, 4-20-94, 10-3-95, 1-1-97, 12-3-98.

WATER MANAGEMENT DISTRICTS

South Florida Water Management District

RULE TITLE: Publications, Rules and Interagency

RULE NO.: 40E-4.091

Agreements Incorporated by Reference

PURPOSE AND EFFECT: The purpose and effect of this proposed rule amendment is to change Section 7.4 of the document entitled "Basis of Review for Environmental Resource Permit Applications Within the South Florida Water Management District – November 1996" incorporated by reference in Rule 40E-4.091, F.A.C., specifically the language relating to side slope requirements for wet retention/detention and stormwater attenuation areas. This proposed rule amendment also adds a section on side slopes for conveyances. **SUBJECT AREA TO BE ADDRESSED:** The proposed rule amendment addresses wet retention/detention and stormwater attenuation area side slopes and adds a section on side slopes for conveyances.

SPECIFIC AUTHORITY: 373.044, 373.113, 373.171, 373.413 FS.

LAW IMPLEMENTED: 373.413, 373.4135, 373.414, 373.4142, 373.416, 373.418, 373.426 FS.

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

TIME AND DATE: 10:00 a.m., June 14, 1999

PLACE: Lee County Extension Service, 3406 Palm Beach Boulevard, Ft. Myers, FL 33916

TIME AND DATE: 10:00 a.m., June 22, 1999

PLACE: Fletcher Recreation Center, 7960 Johnson Street, Pembroke Pines, FL 33024

TIME AND DATE: 10:00 a.m., June 25, 1999

PLACE: Osceola County Courthouse, 17 South Vernon Avenue, Room 155, Kissimmee, FL 34741

TIME AND DATE: 10:00 a.m., June 28, 1999

PLACE: South Florida Water Management District, 3301 Gun Club Road, West Palm Beach, FL 33406

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT IS: Ken Todd, South Florida Water Management District, Post Office Box 24680, West Palm Beach, FL 33416-4680, telephone 1(800)432-2045, extension 6874 or (561)682-6874 (internet:

ktodd@sfwmd.gov). Although Governing Board meetings, hearings and workshops are normally recorded, affected persons are advised that it may be necessary for them to ensure that a verbatim record of the proceeding is made, including the testimony and evidence upon which any appeal is to be based. Persons with disabilities or handicaps who need assistance may contact Tony Burns, District Clerk, at (561)682-6206 at least two business days in advance to make appropriate arrangements.

THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS:

40E-4.091 Publications, Rules and Interagency Agreements Incorporated by Reference.

(1) The following publications, rules and interagency agreements are incorporated by reference into this chapter, Chapters 40E-40, 40E-41 and 40E-400, F.A.C.:

(a) “Basis of Review for Environmental Resource Permit Applications Within the South Florida Water Management District – ~~October 1999~~ November 1996.”

(b) through (j) No change.

(2) No change.

Specific Authority 373.044, 373.113, 373.171, 373.413 FS. Law Implemented 373.413, 373.4135, 373.414, 373.4142, 373.416, 373.418, 373.421, 373.426 FS. History–New 9-3-81, Amended 1-31-82, 12-1-82, Formerly 16K-4.035(1), Amended 5-1-86, 7-1-86, 3-24-87, 4-14-87, 4-21-88, 11-21-89, 11-15-92, 1-23-94, 4-20-94, 10-3-95, 1-1-97, 12-3-98, _____.

(The following represents proposed changes to section 7.4 of the document entitled “Basis of Review for Environmental Resource Permit Applications Within the South Florida Water Management District – November 1996” incorporated by reference in Rule 40E-4.091, F.A.C.)

7.4 Wet Retention/Detention Area Dimensional Criteria (As Measured at or from the Control Elevation) –

(a) through (c) No change.

(d) Side Slopes for Wet Retention/Detention and Attenuation Areas – for purposes of public safety, water quality enhancement and maintenance, all wet retention/detention and stormwater attenuation areas shall be designed with ~~have~~ side slopes no steeper than ~~5:1~~ ~~4:1~~ (horizontal:vertical) out to a depth of two feet below the control elevation, or an equivalent substitute. A one foot (horizontal:vertical) construction tolerance shall be accepted in the construction completion certification process. Side slopes shall be topsoiled and either nurtured or planted from 2 feet below to 1 foot above control elevation to promote vegetative growth. Littoral zone vegetative growth survival shall be a consideration of operation permit issuance. Side slope dimensional criteria for above ground impoundments are set forth in Appendix 6. The final constructed side slopes for tee boxes and/or greens in golf courses that are contiguous to wet retention/detention and stormwater attenuation areas shall be no steeper than 2:1 (horizontal:vertical) for the area above the permitted control

elevation. For purposes of this rule, the tee box is limited to an area specifically constructed and designated as the location from which a golfer makes his/her first shot toward a designated hole. The green is the area of shortest grass around the hole. Sand traps and bunkers contiguous to the green shall be considered part of the green for purposes of this rule. For those portions of the wet retention/detention and attenuation areas adjacent to tee boxes and/or greens with constructed side slopes steeper than 4:1 (horizontal:vertical), the side slopes below the control elevation shall be designed to a final constructed side slope of no steeper than 8:1 (horizontal:vertical) to a depth of two feet below the control elevation or equivalent substitute and shall be topsoiled and either nurtured or planted from 2 feet below to 1 foot above control elevation to promote vegetative growth. Littoral zone vegetation growth survival shall be a consideration of operation permit issuance. Side slopes above the control elevation that are steeper than 4:1 (horizontal:vertical) shall be planted with dense vegetation at minimum one foot centers to discourage access.

(e) Side Slopes for Conveyances – that are not designed for water quality treatment or stormwater attenuation and which are not incorporated into a residential community, shall be designed with slopes no steeper than 3:1 (horizontal:vertical). A one foot (horizontal:vertical) construction tolerance shall be accepted in the construction completion certification process. Side slopes shall be topsoiled and either nurtured or planted from above the control elevation to the top of the bank for erosion control purposes.

(f)(e) Bulkheads – Bulkheads shall be allowed for no more than 40 percent of the shoreline length, but compensating littoral zone must be provided based on appropriate maximum allowable side slope including local government requirements.

WATER MANAGEMENT DISTRICTS

South Florida Water Management District

RULE CHAPTER TITLE: Miscellaneous Provisions
 RULE CHAPTER NO.: 40E-7

RULE TITLE: Scope and Applicability
 RULE NO.: 40E-7.520

PURPOSE AND EFFECT: This rule development concerns proposed revisions to the document entitled, “Public Use Guide for Designated Land Management Areas” (PUG). This document is incorporated by reference in Rule 40E-7.520, F.A.C. The proposed revisions provide that lands acquired by the District under the Save Our Rivers and Preservation 2000 programs are made available to the public for recreational use and enjoyment, while protecting natural resources and ecosystems. Regulations concerning the use of certain existing management areas are to be amended and new management areas are to be added, and others may be deleted.

SUBJECT AREA TO BE ADDRESSED: The proposed amendments are to provide additional public outdoor and recreational opportunities in the Lower Reedy Creek Management Area. The proposed amendments are to include a change to the restriction of access from 6:00 a.m. to 4:30 a.m. and allowing the use or possession of saddle animals only when in the possession of a Special Use License. Other changes to the rule and PUG may be considered based upon the Rule Development process, including public input and additional staff analysis.

SPECIFIC AUTHORITY: 279.101, 373.044, 373.113, 373.171 FS.

LAW IMPLEMENTED: 259.101, 373.016, 373.056, 373.103, 373.139, 373.1395, 373.1401, 373.59 FS.

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

TIME AND DATE: 6:30 p.m., June 15, 1999

PLACE: Kissimmee Civic Center, 201 E. Dakin Avenue, Kissimmee, FL 34741-5725, (407)935-1412

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT IS: Janetta Worth, South Florida Water Management District, Post Office Box 24680, West Palm Beach, FL 33416-4680, telephone 1(800)432-2045, Extension 6640 or (561)682-6640, internet: jworth@sfwmd.gov. Although Governing Board meetings, hearings and workshops are normally recorded, affected persons are advised that it may be necessary for them to ensure that a verbatim record of the proceeding is made, including the testimony and evidence upon which any appeal is to be based. Persons with disabilities or handicaps who need assistance may contact Tony Burns, District Clerk, at (561)682-6206 at least two business days in advance to make appropriate arrangements.

THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS:

40E-7.520 Scope and Applicability.

(5) The District shall publish and make available to the public, upon request, a "Public Use Guide for Designated Land Management Areas". The Public Use Guide will be considered by the Governing Board at a public meeting advertised in accordance with Chapter 120, F.S. Only rules adopted by the Governing Board shall be effective. Copies of the Public Use Guide are available during working hours from the District headquarters.

Specific Authority 373.044, 373.113 FS. Law Implemented 373.016, 373.056, 373.139, 373.1395, 373.1401, 373.59 FS. History--New 5-24-94, Amended 9-10-98,_____.

**LOWER REEDY CREEK MANAGEMENT AREA
SPECIAL PROVISIONS**

1. through 4. No change.

5. Notwithstanding provisions 1 through 4 above, public access is prohibited from February 15 through August 15 within the posted areas generally located above the divergence of Reedy Creek and the Dead River. Public access to this area is permitted only between the hours of ~~6:00~~ 4:30 a.m. to 9:00 p.m. from August 16 through February 14. Users of this area must be in possession of a Special Use License, which can be obtained from the District's Orlando Service Center at 1(800)250-4250 (see 40E-7.534 of the General Rules and Regulations).

6. The use of possession of saddle animals is allowed only when in the possession of a Special Use License.

WATER MANAGEMENT DISTRICTS

South Florida Water Management District

RULE CHAPTER TITLE: Environmental Resource Standard **RULE CHAPTER NO.:**

General Permits 40E-40

PURPOSE AND EFFECT: The purpose and effect of this proposed rule is to correct citations and clarify language currently in the rule.

SUBJECT AREA TO BE ADDRESSED: The proposed rule amendment addresses permit thresholds.

SPECIFIC AUTHORITY: 373.044, 373.113, 373.406(5) FS.

LAW IMPLEMENTED: 373.103, 373.118, 373.413, 373.416, 373.419, 373.426 FS.

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

TIME AND DATE: 1:00 p.m., June 14, 1999

PLACE: Lee County Extension Service, 3406 Palm Beach Boulevard, Ft. Myers, FL 33916

TIME AND DATE: 1:00 p.m., June 22, 1999

PLACE: Fletcher Recreation Center, 7960 Johnson Street, Pembroke Pines, FL 33024

TIME AND DATE: 1:00 p.m., June 25, 1999

PLACE: Osceola County Courthouse, 17 South Vernon Avenue, Room 155, Kissimmee, FL 34741

TIME AND DATE: 10:00 a.m., June 29, 1999

PLACE: South Florida Water Management District, 3301 Gun Club Road, West Palm Beach, FL 33406

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT IS: Julie Jennison, Office of Counsel, South Florida Water Management District, Post Office Box 24680, West Palm Beach, FL 33416-4680,

telephone 1(800)432-2045, Extension 6294 or (561)682-6294 (internet: jjenniso@sfwmd.gov). Although Governing Board meetings, hearings and workshops are normally recorded, affected persons are advised that it may be necessary for them to ensure that a verbatim record of the proceeding is made, including the testimony and evidence upon which any appeal is to be based. Persons with disabilities or handicaps who need assistance may contact Tony Burns, District Clerk, (561)682-6206 at least two business days in advance to make appropriate arrangements.

WATER MANAGEMENT DISTRICTS

South Florida Water Management District

RULE CHAPTER TITLE: No Notice and Notice of General

RULE CHAPTER NO.: 40E-400

Environmental Resource Permits

PURPOSE AND EFFECT: The purpose and effect of this proposed rule amendment is to correct citations, statutory time periods, and clarify language currently in the rule.

SUBJECT AREA TO BE ADDRESSED: The proposed rule amendment intends to amend the table of contents and addresses the processing procedures for noticed general permits. This rule will also correct citations, statutory time periods, and clarify language currently in the rule.

SPECIFIC AUTHORITY: 373.044, 373.113, 373.113, 373.118 FS.

LAW IMPLEMENTED: 373.109, 373.118, 373.413, 373.416, 373.426 FS.

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

TIME AND DATE: 1:00 p.m., June 14, 1999

PLACE: Lee County Extension Service, 3406 Palm Beach Boulevard, Ft. Myers, FL 33916

TIME AND DATE: 1:00 p.m., June 22, 1999

PLACE: Fletcher Recreation Center, 7960 Johnson Street, Pembroke Pines, FL 33024

TIME AND DATE: 1:00 p.m., June 25, 1999

PLACE: Osceola County Courthouse, 17 South Vernon Avenue, Room 155, Kissimmee, FL 34741

TIME AND DATE: 10:00 a.m., June 29, 1999

PLACE: South Florida Water Management District, 3301 Gun Club Road, West Palm Beach, FL 33406

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT IS: Julie Jennison, Office of Counsel, South Florida Water Management District, Post Office Box 24680, West Palm Beach, FL 33416-4680, telephone 1(800)432-2045, Extension 6294 or (561)682-6294 (internet: jjenniso@sfwmd.gov). Although Governing Board meetings, hearings and workshops are normally recorded, affected persons are advised that it may be necessary for them to ensure that a verbatim record of the proceeding is made, including the testimony and evidence upon which any appeal is

to be based. Persons with disabilities or handicaps who need assistance may contact Tony Burns, District Clerk, (561)682-6206 at least two business days in advance to make appropriate arrangements.

WATER MANAGEMENT DISTRICTS

South Florida Water Management District

RULE TITLE: Compliance and Enforcement of Individual Permits

RULE NO.: 40E-63.145

Basin Compliance Appendix 40E-63-3

PURPOSE AND EFFECT: The Everglades Forever Act mandates a 25 percent reduction in the total phosphorus load discharged from the Everglades Agricultural Area (EAA). The District is required to calculate this EAA basin compliance annually. Chapter 40E-63, F.A.C., established a formal procedure to calculate these phosphorus loads. Chapter 40E-63, F.A.C. anticipated that refinements to the EAA Basin phosphorus calculation procedures would be required over time to incorporate changes in the surface water management within the EAA, such as the construction of Stormwater Treatment Areas. The proposed amendments are in order to enable that the total phosphorus load discharged can be accurately measured.

SUBJECT AREA TO BE ADDRESSED: The proposed rule is to amend the FORTRAN code used to calculate basin compliance contained in Chapter 40E-63, F.A.C., Appendix 3 which is incorporated by reference in Rule 40E-63.145, F.A.C., Compliance and Enforcement of Individual Permits, to formally modify the basin phosphorus load calculation procedures by adding two inflow pump stations to Stormwater Treatment Area Five as new discharge points from the EAA, removing inflow pump station G-250 due to completion of STA-1W, and update associated phosphorus load calculation procedures.

SPECIFIC AUTHORITY: 373.044, 373.113 FS.

LAW IMPLEMENTED: 373.016, 373.085, 373.086, 373.119, 373.129, 373.136, 373.451, 373.453, 373.4592, 373.603 FS.

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

TIME AND DATE: 10:00 a.m., June 11, 1999

PLACE: South Florida Water Management District Headquarters, William V. Storch Conference Room, 3301 Gun Club Road, West Palm Beach, FL

NOTE: If no requests are received, this workshop will not be held.

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT IS: Paul Whalen, Director, Everglades Regulation Division, South Florida Water Management District, Post Office Box 24680, West Palm Beach, FL 33416-4680, Telephone 1(800)432-2045, extension

6719 or (561)682-6719 (internet: pwhalen@sfwmd.gov). Although Governing Board meetings, hearings and workshops are normally recorded, affected persons are advised that it may be necessary for them to ensure that a verbatim record of the proceeding is made, including the testimony and evidence upon which any appeal is to be based. Persons with disabilities or handicaps who need assistance may contact Tony Burns, District Clerk, at (561)682-6206 at least two business days in advance to make appropriate arrangements.

THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS:

40E-63.145 Compliance and Enforcement of Individual Permits.

(3)(a) The District shall begin collecting monitoring data from the EAA Basin on January 1, 1995, for the purpose of determining compliance with the phosphorus load reduction requirement calculated in accordance with Appendix 40E-63-3 (Basin Compliance) (Amended October, 1999) which is incorporated by reference to this Chapter. Copies of Appendix 40E-63-3 are available from the South Florida Water Management District, Regulation Department, Everglades Regulation Division, 3301 Gun Club Road, West Palm Beach, FL 33406-3089.

Specific Authority 373.044, 373.113 FS. Law Implemented 373.016, 373.085, 373.086, 373.119, 373.129, 373.136, 373.451, 373.453, 373.4592, 373.603 FS. History—New 1-22-92, Amended 7-7-92, 8-25-96, 10-1-98, 6-3-99.

DEPARTMENT OF ELDER AFFAIRS

Federal Aging Programs

RULE TITLE: Area Agency on Aging Functions and Responsibilities **RULE NO.:** 58A-1.007

PURPOSE AND EFFECT: This notice is in addition to four previous notices regarding amending 58A-1.007 which incorporates by reference the Department of Elder Affairs (DOEA) Client Services Manual. DOEA Forms 701A and 701B, Risk Assessment and Comprehensive Assessment, will be revised as originally noticed. A prioritization methodology for serving clients on waiting lists for service will also be considered for development.

SUBJECT AREA TO BE ADDRESSED: Revision of risk and comprehensive assessment forms and the development of a waiting list prioritization of service methodology.

SPECIFIC AUTHORITY: 430.08, 430.101 FS.

LAW IMPLEMENTED: 20.41, 430.101 FS.

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

TIME AND DATE: 10:00 a.m., Friday, June 11, 1999; 10:00 a.m., Friday, June 18, 1999; 10:00 a.m., Friday, June 25, 1999
PLACE: Department of Elder Affairs, Conf. Room 225F, 4040 Esplanade Way, Tallahassee, Florida

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT IS: Pat Dunn, Office of the General Counsel, Department of Elder Affairs, 4040 Esplanade Way, Tallahassee, FL 32399-7000, Telephone (904)414-2000

THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS AVAILABLE BY CONTACTING: Horatio Soberon-Ferrer, Department of Elder Affairs, 4040 Esplanade Way, Tallahassee, FL 32399-7000, Telephone (904)414-2000

DEPARTMENT OF ELDER AFFAIRS

Community Care for the Elderly

RULE TITLE: Administration **RULE NO.:** 58C-1.003

PURPOSE AND EFFECT: This notice is in addition to four previous notices regarding amending 58C-1.003 which incorporates by reference the Department of Elder Affairs (DOEA) Client Services Manual. DOEA Forms 701A and 701B, Risk Assessment and Comprehensive Assessment, will be revised as originally noticed. A prioritization methodology for serving clients on waiting lists for service will also be considered for development.

SUBJECT AREA TO BE ADDRESSED: Revision of risk and comprehensive assessment forms and the development of a waiting list prioritization of service methodology.

SPECIFIC AUTHORITY: 430.08, 430.203-.205 FS.

LAW IMPLEMENTED: 430.201-.207 FS.

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

TIMES AND DATES: 10:00 a.m., Friday, June 11, 1999; 10:00 a.m., Friday, June 18, 1999; 10:00 a.m., Friday, June 25, 1999

PLACE: Department of Elder Affairs, Conf. Room 225F, 4040 Esplanade Way, Tallahassee, Florida

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT IS: Pat Dunn, Office of the General Counsel, Department of Elder Affairs, 4040 Esplanade Way, Tallahassee, FL 32399-7000, Telephone (904)414-2000

THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS AVAILABLE BY CONTACTING: Horatio Soberon-Ferrer, Department of Elder Affairs, 4040 Esplanade Way, Tallahassee, FL 32399-7000, Telephone (850)414-2000

DEPARTMENT OF ELDER AFFAIRS

Alzheimer's Disease Initiative

RULE TITLE: Program Administration
 RULE NO.: 58D-1.005

PURPOSE AND EFFECT: This notice is in addition to four previous notices regarding amending 58D-1.005 which incorporates by reference the Department of Elder Affairs (DOEA) Client Services Manual. DOEA Forms 701A and 701B, Risk Assessment and Comprehensive Assessment, will be revised as originally noticed. A prioritization methodology for serving clients on waiting lists for service will also be considered for development.

SUBJECT AREA TO BE ADDRESSED: Revision of risk and comprehensive assessment forms and the development of a waiting list prioritization of service methodology.

SPECIFIC AUTHORITY: 430.08, 430.501-.503 FS.

LAW IMPLEMENTED: 430.501-.504 FS.

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

TIMES AND DATES: 10:00 a.m., Friday, June 11, 1999; 10:00 a.m., Friday, June 18, 1999; 10:00 a.m., Friday, June 25, 1999

PLACE: Department of Elder Affairs, Conf. Room 225F, 4040 Esplanade Way, Tallahassee, Florida

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT IS: Pat Dunn, Office of the General Counsel, Department of Elder Affairs, 4040 Esplanade Way, Tallahassee, FL 32399-7000, Telephone (904)414-2000

THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS AVAILABLE BY CONTACTING: Horatio Soberon-Ferrer, Department of Elder Affairs, 4040 Esplanade Way, Tallahassee, FL 32399-7000, Telephone (850)414-2000

DEPARTMENT OF ELDER AFFAIRS

Home Care for the Elderly

RULE TITLE: Administration
 RULE NO.: 58H-1.003

PURPOSE AND EFFECT: This notice is in addition to four previous notices regarding amending 58H-1.003 which incorporates by reference the Department of Elder Affairs (DOEA) Client Services Manual. DOEA Forms 701A and 701B, Risk Assessment and Comprehensive Assessment, will be revised as originally noticed. A prioritization methodology for serving clients on waiting lists for service will also be considered for development.

SUBJECT AREA TO BE ADDRESSED: Revision of risk and comprehensive assessment forms and the development of a waiting list prioritization of service methodology.

SPECIFIC AUTHORITY: 430.08, 430.603 FS.

LAW IMPLEMENTED: 430.601-.608 FS.

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

TIME AND DATE: 10:00 a.m., Friday, June 11, 1999; 10:00 a.m., Friday, June 18, 1999; 10:00 a.m., Friday, June 25, 1999

PLACE: Department of Elder Affairs, Conf. Room 225F, 4040 Esplanade Way, Tallahassee, Florida

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT IS: Pat Dunn, Office of the General Counsel, Department of Elder Affairs, 4040 Esplanade Way, Tallahassee, FL 32399-7000, Telephone (904)414-2000

THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS AVAILABLE BY CONTACTING: Horatio Soberon-Ferrer, Department of Elder Affairs, 4040 Esplanade Way, Tallahassee, FL 32399-7000, Telephone (850)414-2000

DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION

Construction Industry Licensing Board

RULE TITLE: Definitions
 RULE NO.: 61G4-12.011

PURPOSE AND EFFECT: Rule 61G4-12.001 is being amended within subsection (3) to include any electronic media, including Internet sites, to the list of tools used under the definition of "advertise" or "advertises."

SUBJECT AREA TO BE ADDRESSED: Organization and Purpose.

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

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT AND A COPY OF THE PRELIMINARY DRAFT, IF AVAILABLE, IS: Rodney Hurst, Executive Director, Construction Industry Licensing Board, 7960 Arlington Expressway, Suite 300, Jacksonville, Florida 32211-7467

THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS:

61G4-12.011 Definitions.

(1) through (2) No change.

(3) The terms "advertise" and "advertises" shall apply to business cards, business proposals, contracts, construction site signs, all newspapers, airwave transmission (other than internal company communications), any electronic media including Internet sites, phone directory, and other media including handbills, billboards, flyers, shopping and service guides (coupon offerings), magazines (including trade association publications), classified advertisements, manufacturer's "authorized dealer" listings, and signs on vehicles. They shall not apply to balloons, pencils, pens, hats, shirts, articles of clothing, or other promotional novelties. Neither shall the terms apply to any single line phone directory listing; nor to free phone directory listings (regardless of page color) of one, two or three lines, which display nothing more than the proper name, company name, address, and telephone numbers in whole and in part in an unbolded or unhighlighted print or without further textual or pictorial elaboration or touting in its overall display.

(4) through (13) 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.

DEPARTMENT OF HEALTH

Board of Nursing

RULE TITLE: FUNCTIONS FOR THE ADVANCED REGISTERED NURSE RULE NO.: 64B9-4.009

PURPOSE AND EFFECT: The purpose of the rule development will be to implement the decision of the joint committee appointed pursuant to Section 464.003(3)(c), F.S., regarding prescriptive authority for controlled substances.

SUBJECT AREA TO BE ADDRESSED: Functions for the Advanced Registered Nurse.

SPECIFIC AUTHORITY: 464.006, 464.012 FS.

LAW IMPLEMENTED: 464.012 FS.

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

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT AND A COPY OF THE PRELIMINARY DRAFT, IF AVAILABLE, IS: Dr. Ruth R. Stiehl, Executive Director, Board of Nursing, 4080 Woodcock Drive, Suite 202, Jacksonville, FL 32207

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

DEPARTMENT OF HEALTH

Board of Nursing

RULE TITLES: OBTAINING INACTIVE STATUS; DELINQUENT STATUS; REACTIVATION OF INACTIVE OR DELINQUENT LICENSE RULE NOS.: 64B9-6.001, 64B9-6.003

PURPOSE AND EFFECT: The board will be amending the rules in order to separate the requirements for delinquent licenses and inactive licenses, and to establish the conditions for reactivation necessary to ensure that a licensee who has been on inactive status for more than two biennia can practice with care and skill sufficient to protect the public.

SUBJECT AREA TO BE ADDRESSED: Obtaining Inactive Status; Delinquent Status; Reactivation of Inactive or Delinquent License.

SPECIFIC AUTHORITY: 464.006, 464.014 FS.

LAW IMPLEMENTED: 455.271, 464.014, 464.016 FS.

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

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT AND A COPY OF THE PRELIMINARY DRAFT, IF AVAILABLE, IS: Dr. Ruth R. Stiehl, Executive Director, Board of Nursing, 4080 Woodcock Drive, Suite 202, Jacksonville, FL 32207

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

DEPARTMENT OF HEALTH

Board of Nursing

RULE TITLE: FEES RULE NO.: 64B9-7.001

PURPOSE AND EFFECT: The purpose of the amendment will be to increase the initial licensure fee for persons applying through endorsement, and to clarify renewal fees and eliminate redundant provisions.

SUBJECT AREA TO BE ADDRESSED: Fees.

SPECIFIC AUTHORITY: 455.564(2), 455.574, 455.587, 455.711, 464.006, 464.0141(1) FS.

LAW IMPLEMENTED: 119.071(1)(a), 455.564(2), 455.574(1)(c), 455.587, 455.711, 464.008, 464.009, 464.012, 464.013, 464.014 FS.

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

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT AND A COPY OF THE PRELIMINARY DRAFT, IF AVAILABLE, IS: Dr. Ruth R. Stiehl, Executive Director, Board of Nursing, 4080 Woodcock Drive, Suite 202, Jacksonville, FL 32207
 THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS NOT AVAILABLE.

DEPARTMENT OF HEALTH

Board of Occupational Therapy

RULE TITLE: RULE NO.:

Exemption of Spouse of Member of 64B11-5.0065
 Armed Forces from License Renewal
 Requirements

PURPOSE AND EFFECT: The Board proposes to promulgate a new rule which will set forth the requirements regarding a spouse's exemption from license renewal.

SUBJECT AREA TO BE ADDRESSED: Exemption of spouse of member of armed forces from license renewal requirements.

SPECIFIC AUTHORITY: 455.507(2), 468.204 FS.

LAW IMPLEMENTED: 455.507(2) FS.

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

TIME AND DATE: 9:00 a.m., or shortly thereafter on June 14, 1999

PLACE: The Nova Southeastern University, Health Professions Division, Hall Auditorium, 3200 S. University Drive, Ft. Lauderdale, Florida

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT AND A COPY OF THE PRELIMINARY DRAFT, IF AVAILABLE, IS: Kaye Howerton, Executive Director, Board of Occupational Therapy/MQA, 2020 Capital Circle, S. E., Bin #C05, Tallahassee, Florida 32399-3255

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

DEPARTMENT OF HEALTH

Board of Optometry

RULE TITLE: RULE NO.:

Delinquent Status License 64B13-11.004

PURPOSE AND EFFECT: The Board proposes the development of an amendment to the rule to clarify the criteria for changing from delinquent status to active status.

SUBJECT AREA TO BE ADDRESSED: Change to active status from delinquent status.

SPECIFIC AUTHORITY: 455.711, 463.005(1) FS.

LAW IMPLEMENTED: 455.711 FS.

IF REQUESTED IN WRITING AND NOT DEEMED UNNECESSARY BY THE AGENCY HEAD, A RULE DEVELOPMENT WORKSHOP WILL BE SCHEDULED AND ANNOUNCED IN THE FAW.

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT AND A COPY OF THE PRELIMINARY DRAFT, IF AVAILABLE, IS: Joe Baker, Jr., Executive Director, Board of Optometry/MQA, 2020 Capital Circle, S. E., Bin #C07, Tallahassee, Florida 32399-3257

THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS:

64B13-11.004 Delinquent Status License.

(1) through (2) No change.

(3) The delinquent status licensee who applies for active or inactive license status shall:

(a) No change.

(b) pay to the board either the active status fee of rule 64B13-6.001(4) or the inactive status license fee of rule 64B13-6.001(8), the delinquent status license fee of rule 64B13-6.001(15), and, if applicable, the change of status fee of rule 64B13-6.001(14); ~~and~~

(4) The delinquent status licensee who applies for active status license shall, in addition to complying with (3) immediately above, affirm (e) demonstrate compliance with the continuing education requirements of rule 64B13-11.001(2).

Specific Authority 455.711, 463.005(1) FS. Law Implemented 455.711 FS. History--New 12-22-94, Formerly 59V-11.004, Amended.

DEPARTMENT OF CHILDREN AND FAMILY SERVICES

Family Safety and Preservation

RULE TITLE: RULE NO.:

Case Supervision Responsibilities 65C-12.008

PURPOSE AND EFFECT: This rule modification will ensure that parents, legal custodians and other caregivers are aware of how they may maintain telephone and letter contact with children placed into shelter. It will also ensure the confidentiality of the shelter location.

SUBJECT AREA TO BE ADDRESSED: Emergency Shelter Care.

SPECIFIC AUTHORITY: 39.0121, 409.026(8) FS.

LAW IMPLEMENTED: 39.402, 409.145(1)(d),(2)(a), 409.165(1) FS.

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

TIME AND DATE: 9:00 a.m., June 18, 1999
 PLACE: 1317 Winewood Blvd., Building 8, Room 232, Tallahassee, Florida 32399
 THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT AND A COPY OF THE PRELIMINARY DRAFT, IF AVAILABLE, IS: John Perry, Adm., 1317 Winewood Blvd. Building 8, Room 221, Tallahassee, Florida 32399

THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS:

65C-12.008 Case Supervision Responsibilities.

When a child who is not already under supervision is placed into shelter care by a child protective investigator, case supervision responsibilities remain with the child protective investigator until the case is referred and accepted for early service intervention. The primary supervision of the child is then transferred to the service counselor, but the child protective investigator will maintain overall case management responsibility until case disposition. For cases that are already under supervision at the time of placement, the service counselor maintains primary responsibility for case supervision and for overall case management.

- (1) Notification of Parent.
- (a) through (c) No change.

(d) Telephone calls and letters are a way to maintain contact between the parent, legal custodian or other caregiver and the child. The department will not give the telephone number or address where the child is located without the written permission of the shelter parent. The child's counselor will arrange for telephone calls at a Family Safety and Preservation office or some other appropriate location. Letters from a parent, legal custodian or other caregiver must be sent to the district Family Safety and Preservation office to be delivered, unopened, to the child. If circumstances arise which appear to warrant monitoring of calls or prior review of letters by the counselor, the court must be requested to authorize such monitoring or prior review before the counselor can take such an action.

- (2) through (10) No change.

Specific Authority 39.0121, 409.026(8) FS. Law Implemented 39.402, 409.145(1)(d), (2)(a), 409.165(1) FS. History—New 5-26-92, Amended 12-25-96, Formerly 10M-41.015, Amended _____.

Section II Proposed Rules

DEPARTMENT OF TRANSPORTATION

RULE CHAPTER TITLE: Outdoor Advertising Sign Regulation and Highway Beautification
 RULE CHAPTER NO.: 14-10
 RULE TITLES: Permits 14-10.004
 Maintenance of Nonconforming Signs 14-10.007
 PURPOSE AND EFFECT: The amendment to 14-10.007(1)(d)3. is an editorial correction of a cross reference. The amendment to 14-10.004(1)(a) is to increase the annual permit fee for each sign facing from \$35.00 to \$41.00 for 200 square feet or less, and from \$55.00 to \$61.00 for more than 200 square feet. The increase is based upon increases in program costs. Comparisons between Fiscal Years 1997-98 and 1996-97 showed increased costs for administering the program compared to the revenue generated by the fees.

Fiscal Year	1997-98	1996-97
Total Costs	\$1,536,401.69	\$1,542,265.09
Total Revenue	\$1,443,031.04	\$1,430,509.05
Deficit	\$93,370.65	\$111,756.04

SUMMARY: The amendment to 14-10.007(1)(d)3. is an editorial correction of a cross reference. The amendment to 14-10.004(1)(a) is to increase the annual permit fee for each sign facing from \$35.00 to \$41.00 for 200 square feet or less, and from \$55.00 to \$61.00 for more than 200 square feet. The increase is based upon increases in program costs. Comparisons between Fiscal Years 1997-98 and 1996-97 showed increased costs for administering the program compared to the revenue generated by the fees.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COST: Statement of Estimated Regulatory Cost has been prepared.

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

SPECIFIC AUTHORITY: 334.044(2), 479.02(7) FS.

LAW IMPLEMENTED: 339.05, 479.01(14), 479.02, 479.07, 479.24 FS.