

Section I Notices of Development of Proposed Rules and Negotiated Rulemaking

DEPARTMENT OF REVENUE

Sales and Use Tax

RULE TITLES:	RULE NOS.:
Sales and Use Tax on Services;	
Sale for Resale	12A-1.0161
Exemption Certificates	12A-1.038
Sales for Resale	12A-1.039
Public Use Forms	12A-1.097

PURPOSE AND EFFECT: The proposed amendments to Rules 12A-1.0161, 12A-1.038, 12A-1.039 and 12A-1.097, Florida Administrative Code, implement sections 18, 19, 20, 21, 22, 23 and 24, Chapter 99-208, L.O.F., which change the way the Department of Revenue, sellers, and purchasers handle exempt sale for resale transactions.

A.) Proposed Rule 12A-1.0161, FAC., which deals with sales of taxable services, is amended. Subsection (4), which deals with the sale of services to exempt organizations, is deleted, since the provisions related to sales to exempt organizations will be adequately covered by proposed Rule 12A-1.038, FAC., as discussed below. Subsection (5), which deals with the resale of services, is amended to remove the suggested format for a resale certificate, and instead refers to Rule 12A-1.039, FAC., which will cover documenting sales for resale.

B.) Proposed Rule 12A-1.038, FAC., provides guidance regarding the use of exemption certificates for exempt transactions (other than sales for resale.) These transactions include: 1.) purchases or rentals of property or services by holders of a Consumer's Certificate of Exemption, and 2.) purchases or rentals of property or services that are specifically exempt from sales tax under a specific provision in Chapter 212, F.S. A suggested format for exemption certificates has been created in the rule.

C) Proposed Rule 12A-1.039, FAC., provides specific guidance as to exactly how the new sale for resale provisions in Chapter 99-208, L.O.F., will be implemented. Based on the law requiring the Department to issue an official "Annual Resale Certificate," there will no longer be a suggested "resale certificate" provided in the Rule. Additionally, the rule provides for three methods for a selling dealer to document an exempt sale for resale: 1.) Obtain a copy of the purchaser's Annual Resale Certificate; 2.) Obtain a transaction resale authorization number provided by the Department telephonically; or 3.) Obtain a vendor resale authorization number provided by the Department electronically. The rule also provides additional guidance regarding policies and procedures with respect to sales for resale. It is a substantial rewording of the Rule, and thus there are no strikethroughs of the current rule language.

D) Proposed Rule 12A-1.097, FAC., incorporates the new Annual Resale Certificate (Form DR-13) into Chapter 12A-1, FAC.

SUBJECT AREA TO BE ADDRESSED: The subject of this workshop is to discuss the proposed changes to the Department's rules regarding claiming exemptions from sales tax.

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

LAW IMPLEMENTED: 95.091(3), 120.57(1),(2), 120.60(3), 120.80(14), 212.02(14), 212.05(1)(b),(j), 212.054, 212.055, 212.0596(7), 212.06(1)(a),(2)(k), 212.07(1),(8), 212.08, 212.084, 212.085, 212.13(4),(5)(c), 212.17(6), 212.18(2),(3), 212.21(2),(3), 213.053(7)(b),(10) FS., Sections 21, 22, 23, 24, Chapter 99-208, Laws of Florida.

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

TIME AND DATE: 10:00 a.m., January 13, 2000

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

Copies of the agenda for the rule development workshop may be obtained by contacting the person listed below.

Any person requiring special accommodations to participate in any proceeding before the Technical Assistance and Dispute Resolution Office is asked to advise the Department at least five (5) calendar days before such proceeding by contacting: Jamie Phillips, (850)488-0717. If you are hearing or speech-impaired, please contact the Department by calling 1(800)DOR-TDD1 (1(800)367-8331).

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT WORKSHOP IS: Ralph Pepe, Tax Law Specialist, Technical Assistance and Dispute Resolution, Department of Revenue, P. O. Box 7443, Tallahassee, Florida 32314-7443, telephone (850)922-4802

THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS:

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

(1) through (3) No change.

~~(4)(a) Sales of services made directly to the United States Government, a state, any county, municipality, or political subdivision of a state, or any qualifying nonprofit religious, nonprofit charitable, nonprofit educational, nonprofit veterans', or nonprofit scientific organization or institution, are exempt from tax.~~

~~(b) Also exempt are sales made to nonprofit corporations who hold a current federal exemption under section 501(c)(3) of the Internal Revenue Code, if the corporation's primary purpose is:~~

~~1. to raise funds for military museums;~~

~~2. to operate homes for the aged pursuant to s. 196.1975(2), Florida Statutes;~~

~~3. to operate nursing homes licensed under Chapter 400, Florida Statutes;~~

~~4. to provide special educational, cultural, recreational, and social benefits to minors; or~~

~~5. to operate a facility which has been designated as a State Theater Program facility by s. 265.287, Florida Statutes.~~

~~(c) Sales made to these governmental entities, nonprofit organizations, institutions, or corporations will be considered exempt only if the governmental entity, nonprofit organization, institution, or corporation holds a consumer's certificate of exemption and presents it to the service provider at the time of sale, except that such sales made to the United State Government are exempt with or without a consumer's certificate of exemption.~~

~~(d) The following is a suggested format for an exemption certificate to be used when making sales of services to governmental units or other exempt entities:~~

~~This is to certify that the service(s) purchased on or after _____ (date) from _____ (name) pursuant to _____ (contract number or other form of agreement) is purchased by a governmental entity, nonprofit organization, institution, or corporation which holds a consumer's certificate of exemption:~~

~~Purchaser _____
Address _____
By _____

(Signature)
Date _____
Consumer's Certificate of Exemption No. _____~~

~~Effective Date of Certificate _____
Expiration Date of Certificate _____~~

~~(4)(5)(a) A sale of a service is a sale for resale and is exempt from sales tax when the service is later sold under the following conditions:~~

~~(a)1. The service provides a direct and identifiable benefit to a single client or customer of the purchaser; and~~

~~(b)2. The purchaser of the service buys the service pursuant to a written contract (or other evidence sufficient for audit purposes) with the seller which specifically designates the client or customer on whose behalf the purchaser is buying the service; and~~

~~(c)3. The purchaser of the service separately states the value of the service in the charge for the service when it is subsequently sold to the purchaser's client or customer; and~~

~~4. The selling dealer obtains a resale certificate from a purchasing dealer who is primarily engaged in the business of selling taxable services. In order to purchase a service tax exempt as a sale for resale, the purchaser's sales tax number must end in digits 92 or 93.~~

~~(d)5. The selling dealer complies with the provisions of Rule 12A-1.039, F.A.C., with regard to documenting sales for resale. When a sale of a service is made to a person who claims to be entitled to purchase services for resale, the seller of the service being a duly registered dealer pursuant to Chapter 212, F.S., shall obtain from the purchaser of the service a resale certificate. The resale certificate, executed by the purchaser of the service, shall contain a statement to the effect that the service is being purchased exclusively for resale and the statement shall include the following information:~~

- ~~a. The name of the person selling the service;~~
- ~~b. The purchaser's Certificate of Registration Number;~~
- ~~c. The effective date of the purchaser's Certificate of Registration;~~
- ~~d. The purchaser's name and address;~~
- ~~e. The signature of the person executing the statement; and~~
- ~~f. The date of execution of the statement.~~

~~(b) The following is a suggested service resale certificate to be completed by the purchaser and presented to the seller on each purchase of a service for resale:~~

~~This is to certify that the service(s) purchased on _____ (date) from _____ (name) pursuant to _____ (contract number or other form of agreement) is purchased for resale.~~

~~Purchaser _____
Address _____
By _____

(Signature)
Date _____
Certificate of Registration No. _____
Effective Date of Certificate _____~~

~~(c) Any dealer who makes a sale for resale of a service which is not in compliance with the provisions of this subsection shall himself be liable for and pay the tax.~~

~~(d) Any person who fraudulently issues to any dealer or agent of the State a certificate or statement in writing for the purpose of evading payment of sales tax is liable for payment of the sales tax, a mandatory penalty of 200% of the tax, and a fine and punishment as provided by law for conviction of a felony of the third degree, as provided in s. 775.082, s. 775.083, or s. 775.084, F.S.~~

~~(6) through (13) renumbered (5) through (12) No change.~~

~~Specific Authority 212.17(6), 212.18(2), 213.06(1) FS. Law Implemented 212.05(1)(b),(j)(4), 212.054, 212.055, 212.059(7), 212.06(1)(a),(2)(k), 212.07(1)(b),(8)(9), 212.08(7)(v) FS. History--New 5-13-93, Amended 1-4-94, 10-17-94, 3-20-96.~~

12A-1.038 Resale and Exemption Certificates; Suggested Formats.

(1) It is the specific legislative intent that each and every sale, admission, use, storage, consumption, or rental is taxable under Chapter 212, F.S., unless such sale, admission, use, storage, consumption, or rental is specifically exempt. The

exempt nature status of the transaction must be established by the dealer at the time of the sale, admission, use, storage, consumption, or rental. Unless the dealer shall have taken from the purchaser an exemption a certificate signed by the purchaser dealer or the purchaser's dealer's authorized representative to the effect that the property or service was purchased for resale and bearing the date, the name and address of the purchaser, the effective date of the certificate and the number of the dealer's certificate of registration, or a certificate signed by an authorized representative of the organization bearing the number of the organization's consumer's exemption certificate, the effective date of the certificate, and the expiration date of the certificate, the sale shall be deemed to be a taxable sale at retail, except sales of alcoholic beverages by distributors, licensed by the Division of Alcoholic Beverages and Tobacco, Department of Business and Professional Regulation, to others who are also licensed by the Division of Alcoholic Beverages and Tobacco, Department of Business and Professional Regulation. Subsection (3) of this rule governs sales made to exempt entities (other than governmental units) that hold a Consumer's Certificate of Exemption. Subsection (4) of this rule governs sales made to governmental units that hold a Consumer's Certificate of Exemption. Subsection (5) of this rule provides general rules regarding the use of exemption certificates by any entity or governmental unit that holds a Consumer's Certificate of Exemption. Subsection (6) of this rule governs exempt sales made to persons other than exempt entities or governmental units (exemptions on account of use).

(2) The effective date of such resale certificate shall be the postmark date of the Application for Registration, if mailed by the taxpayer, or the date the DR-1, Application for Registration, is received by the Department, if delivered by the taxpayer. Any purchases made prior to the effective date of the certificate are subject to tax.

(3)(a) ~~A resale certificate is required from every purchaser who purchases tangible personal property or service for resale, subject to the provisions of subsection (1) of this rule. Otherwise, the dealer will be required to collect and remit the tax to the Department of Revenue.~~

~~(b) The provisions for purchasing services listed in Rule 12A-1.0161, F.A.C., for resale or by an exempt entity are stated in Rule 12A-1.0161(4) and (5), F.A.C.~~

~~(c) Purchases for resale outside the State of Florida by unregistered, out-of-state dealers are governed by Rule 12A-1.064(2)(b), F.A.C. Caution: See Rule 12A-1.093, F.A.C.~~

~~(4) A dealer shall refuse to accept a resale certificate, except as provided in Rule 12A-1.064(2)(b), F.A.C., and shall collect the tax unless the purchaser has obtained a dealer's certificate of registration from the Department of Revenue and the number of his dealer's certificate of registration is stated on the resale certificate.~~

~~(5)(a) Any resale certificate containing the statement to the effect that a purchase is for resale which contains the date, purchaser's name, address, dealer's certificate of registration number, effective date of the certificate, and the dealer's or authorized representative's signature shall be sufficient compliance with the law only to the extent provided by this rule. Such certificate shall show that the property or service was purchased for resale or for incorporation as a material part of other tangible personal property to be produced for sale by manufacturing, assembling, processing, or refining, or for some other purpose which is exempt under the law. Resale certificates may be given only by a purchaser who has obtained a dealer's certificate of registration from the Department of Revenue.~~

~~(b) Any exemption certificate issued by an organization holding a consumer's certificate of exemption which contains the date, the exempt entity's name, address, consumer's certificate of exemption number, the effective date of the certificate, the expiration date of the certificate, a statement that the property or service is purchased for use by the organization, and signed by an authorized representative shall be sufficient compliance with the law only to the extent provided by this rule.~~

~~(6) In cases where all of the purchases made by a person from a particular dealer are for resale or are to be incorporated as a material or part of other tangible personal property to be produced for sale by manufacturing, assembling, processing or refining, the dealer is authorized to take a blanket certificate of resale from the purchaser stating that all of the purchases made by such person for a definite period will be purchased from the dealer for either of the above mentioned purposes, provided each subsequent order contains the certificate of registration number of the purchaser.~~

(2)(7) HOW TO OBTAIN A FLORIDA CONSUMER'S CERTIFICATE OF EXEMPTION.

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

3. The charitable organization receiving a temporary certificate must qualify for a permanent certificate before its temporary certificate expires. If the Department determines that the organization will not qualify as a charitable institution under the provisions of s. 212.08(7)(o)2.b., F.S., and Rule 12A-1.001(3)(g), F.A.C., for a regular certificate, the temporary certificate must be canceled and the taxes and interest on all purchases for which the temporary exemption certificate was used are due within 30 days after the cancellation. Interest shall accrue on the tax due at the rate of 1 percent per month (prorated daily) of the amount due from the date of purchase until the date on which the tax is paid. The decimal equivalent of the daily interest rate (.00328767) shall be applied to any delinquent period which is less than a month.

4. No change.

(c) through (f) No change.

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

(a) An entity that holds a current Consumer's Certificate of Exemption (Form DR-14) issued by the Florida Department of Revenue may make purchases and rentals for use in its customary activities exempt from sales and use tax. This subsection does not apply to purchases or rentals that are for resale. If an entity that holds a Consumer's Certificate of Exemption desires to make purchases or rentals for resale, the entity must comply with the provisions of Rule 12A-1.039, F.A.C.

(b) The exempt entity must issue an exemption certificate to the selling dealer in order to make exempt purchases or rentals (other than for resale) in this State. The exemption certificate must contain the exempt entity's name, address, and Consumer's Certificate of Exemption Number, as well as the effective date and expiration date of the Consumer's Certificate of Exemption, and the signature of an authorized representative of the exempt entity. A suggested format for an exemption certificate is provided in paragraph (f) of this subsection. A dealer selling or leasing taxable property or services to an entity holding a Consumer's Certificate of Exemption must retain the properly executed exemption certificate in order to document the exempt nature of the transaction, as provided in subsection (7) of this rule.

(c) Exempt purchases made under this subsection must be made with the purchasing entity's funds and may not be made with personal funds of the purchasing entity's authorized representative. When the payment for taxable property or services is made with an authorized representative's personal funds, the purchase is subject to tax, even if the representative is subsequently reimbursed with the entity's funds.

(d) Selling dealers may contact the Department at 1-800-352-3671 to verify the purchasing entity's stated Consumer's Certificate of Exemption number. Persons with hearing or speech impairments may call the Department's TDD, at 1-800-367-8331.

(e) An exemption certificate granted by any other state, District of Columbia, or territory of the United States to the selling dealer is not sufficient to make tax exempt purchases or rentals in Florida. The fact that an entity holds a s. 501(c)(3), I.R.C., exemption from federal income tax is not sufficient to make tax exempt purchases or rentals in Florida.

(f) The following is a suggested format of an exemption certificate to be issued by an entity (other than a governmental unit) that holds a Consumer's Certificate of Exemption:

This is to certify that the real property leased, licensed, or rented, transient rental property rented, tangible personal property purchased, leased, licensed, or rented, services purchased, or admissions purchased after _____ (date) from _____ (Selling Dealer's Business Name) are being

purchased, leased, licensed, or rented for use by an exempt entity that holds a Consumer's Certificate of Exemption in the customary activities of such entity.

I understand that if I will be reimbursed by the entity I represent, I must pay tax to the selling dealer on my purchases or leases of taxable property or services.

I understand that it is a criminal offense to fraudulently issue this certificate to evade the payment of sales tax. I understand that I will be liable for payment of the sales tax plus a penalty of 200% of the tax and may be subject to conviction of a third degree felony.

Consumer's Certificates of Exemption may be verified by calling the 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.

Exempt Entity's Name _____

Name and Title of Authorized Representative _____

Exempt Entity's Address _____

Consumer's Certificate of Exemption No. _____

Effective Date of Consumer's Certificate of Exemption _____

Expiration Date of Consumer's Certificate of Exemption _____

By _____

(Signature of Purchaser's Authorized Representative)

Title _____

(Title of authorized representative of an exempt entity)

Date _____

(4) SALES MADE DIRECTLY TO GOVERNMENTAL UNITS.

(a) Any state, or any county, municipality, or political subdivision of a state that holds a current Consumer's Certificate of Exemption (Form DR-14) issued the by the Florida Department of Revenue may make purchases and rentals exempt from sales and use tax. The United States Government is not required to hold a Consumer's Certificate of Exemption to make purchases and rentals exempt from sales and use tax. This subsection does not apply to purchases or rentals that are for resale. If a governmental unit that holds a Consumer's Certificate of Exemption desires to make purchases or rentals for resale, the governmental unit must comply with the provisions of Rule 12A-1.039, F.A.C.

(b) All governmental units and their authorized representatives must issue proper documentation to the selling dealer in order to make exempt purchases or rentals in this State. The documentation must contain the governmental unit's name, address, and Consumer's Certificate of Exemption Number, as well as the effective date and expiration date of the Consumer's Certificate of Exemption, and the signature of an authorized representative of the governmental unit. A suggested format for the documentation is provided in Rule

12A-1.001(9)(d), F.A.C. A dealer making sales to a governmental unit or its authorized representative must retain the properly executed documentation in order to document the exempt nature of the transaction, as provided in subsection (7) of this rule. However, an employee of a state agency making a purchase with an authorized Purchasing Card ("P-Card") is not required to provide the documentation described in this paragraph to the selling dealer.

(c)1. Payment for tax exempt purchases or rentals of property or services must be made directly to the selling dealer by the governmental unit of a state, or any county, municipality, or political subdivision of a state. Payments made with an authorized P-Card are considered to be made directly by the governmental unit. When the payment for taxable property or services is made with the personal funds of an authorized representative of the governmental unit, the purchase is subject to tax, even if the representative is subsequently reimbursed with the governmental unit's funds.

2. Notwithstanding subparagraph 1., purchases made by Federal employees on behalf of their agency are exempt as long as the employee is subsequently reimbursed by the agency.

(d) Selling dealers may contact the Department at 1-800-352-3671 to verify the governmental unit's stated Consumer's Certificate of Exemption number. Persons with hearing-or speech-impairments may call the Department's TDD, at 1-800-367-8331.

(5) USE OF EXEMPTION CERTIFICATES BY ENTITIES THAT HOLD A CONSUMER'S CERTIFICATE OF EXEMPTION (EXEMPT ENTITIES OR GOVERNMENTAL UNITS).

(a) The effective date of an exemption certificate issued by any entity holding a current Consumer's Certificate of Exemption (Form DR-14) shall be the effective date of the Consumer's Certificate of Exemption. This date is found in the block labeled "Issue Date" on Form DR-14. Taxable property or services purchased by an exempt entity prior to the effective date of the entity's Consumer's Certificate of Exemption are subject to tax.

(b) The expiration date of an exemption certificate issued by any entity holding a current Consumer's Certificate of Exemption (Form DR-14) shall be the expiration date of the Consumer's Certificate of Exemption. This date is found in the block labeled "Expiration Date" on Form DR-14. Sales of taxable property or services made on or after the expiration date of a Consumer's Certificate of Exemption (Form DR-14) to the entity are subject to tax. A selling dealer must obtain a new exemption certificate when an exempt entity or governmental unit's Consumer's Certificate of Exemption expires.

(c) An entity whose Consumer's Certificate of Exemption (Form DR-14) has been revoked by the Department is prohibited from purchasing taxable property or services exempt from tax.

(6) SALES MADE TO PERSONS OTHER THAN EXEMPT ENTITIES OR GOVERNMENTAL UNITS; EXEMPTIONS ON ACCOUNT OF USE.

(a) The provisions of this subsection apply only to persons (other than the United States Government) who do not hold a Consumer's Certificate of Exemption.

(b) A person who qualifies for a specific exemption from sales and use tax under Chapter 212, F.S., on tangible personal property or services that are purchased or rented for a particular exempt purpose must issue an exemption certificate to the selling dealer in order for the sale to be exempt from tax. The dealer selling or renting property or services exempt from sales and use tax under a specific exemption provided in Chapter 212, F.S., must retain the properly executed exemption certificate in order to document the exempt nature of the transaction, as provided in subsection (7) of this rule. This subsection does not apply to purchases or rentals that are for resale. A person who desires to make purchases or rentals for resale must comply with the provisions of Rule 12A-1.039, F.A.C.

(c) The exemption certificate must contain the purchaser's name, address, and the signature of an authorized representative of the purchaser. A suggested format for an exemption certificate is provided in paragraph (f) of this subsection. Specific exemptions that do not apply to a particular purchaser should be eliminated from the suggested format of the exemption certificate. Suggested formats for exemption certificates are also found elsewhere in Rule Chapter 12A-1, F.A.C., as well as in Department-issued Taxpayer Information Publications.

(d) Selling dealers are required to obtain only one exemption certificate issued under this subsection to exempt sales of taxable property or services to purchasers other than exempt entities or governmental units. A dealer is not required to obtain an exemption certificate from purchasers for each and every subsequent exempt transaction that is covered by the initial exemption certificate.

(e) Selling dealers may contact the Department at 1-800-352-3671 to verify the specific exemption specified by the purchaser. Persons with hearing or speech impairments may call the Department's TDD, at 1-800-367-8331.

(f) The following is a suggested format of an exemption certificate to be issued by a purchaser who does not hold a Consumer's Certificate of Exemption, but who claims that the purchase or rental of the property or services is for an exempt purpose:

This is to certify that the real property leased, licensed, or rented, transient rental property rented, tangible personal property purchased, leased, licensed, or rented, services

purchased, or admissions purchased after (date) from (Selling Dealer's Business Name) are purchased, leased, licensed, or rented for the following purpose as checked in the space provided:

() Materials, containers, labels, sacks, or bags intended to be used one time only for packaging tangible personal property for sale at other than retail by persons not required to be registered under s. 212.18(3), F.S.

() Motor vehicles and parts thereof used by common carriers to transport persons or property in interstate or foreign commerce, as provided in s. 212.08(9)(b), F.S.

() Vessels and parts thereof used to transport persons or property in interstate or foreign commerce, as provided in s. 212.08(8), F.S.

() Incorporation into items of tangible personal property manufactured, produced, compounded, processed, or fabricated for one's own use as provided in Rule 12A-1.043, F.A.C.

() Printing of a "shopper" or "community newspaper" as defined in s. 212.08(7)(w), F.S.

() Items, such as paper and ink, purchased for the sole and exclusive purpose of incorporation into and becoming a part of a free "shopper" or "community newspaper" as defined in s. 212.08(7)(w), F.S., and for which no part of the purchased items will be diverted to any other use.

() Nets purchased by commercial fisheries, as provided in s. 212.08(5)(a), F.S.

() Self-propelled, power-drawn, or power-driven equipment, when purchased, rented, or leased for exclusive use on a farm or in a forest in plowing, planting, cultivating, or harvesting crops or products as produced by those agricultural industries included in Section 570.02(1), F.S., or for fire prevention and suppression work with respect to such crops or products, taxable at the rate of 3 percent under the provisions of Section 212.08(3), F.S.

() Generators purchased, rented, or leased for exclusive use on a poultry farm, as provided in s. 212.08(5)(a), F.S.

() Fertilizers (including peat, topsoil, and manure, but not fill dirt), insecticides, fungicides, pesticides, and weed killers used for application on or in the cultivation of crops, groves, home vegetable gardens, and commercial nurseries, as provided in s. 212.08(5)(a), F.S.

() Insecticides and fungicides, including disinfectants, used in dairy barns or on poultry farms for the purpose of protecting cows or poultry or used directly on animals, as provided in s. 212.08(5)(a), F.S.

() Field and garden seeds, nursery stock, seedlings, cuttings, or other propagative material for growing on or growing stock, as provided in s. 212.08(5)(a), F.S.

() Portable containers used for harvesting or processing farm products, such as boxes, cartons, crates, picking bags, field boxes, glass jars, or cans, as provided in s. 212.08(5)(a), F.S.

() Agricultural supplies used for packaging tangible personal property for sale, including items such as baling wire and twine used for baling hay; burlap, cans, nails, and other materials used in packaging plants for sale; shipping cases, window cartons, cellophane wrappers, and other packaging materials for one time use in the sale of farm products; honey containers, labels, and mailing cases; glue for tin and glass for use by apiarists; and wax moth control with paradichlorobenzene for use in preparing and packaging farm products, as provided in s. 212.08(5)(a), F.S.

() Cloth, plastic, or similar material used for shade, mulch, or protection from frost or insects on a farm, as provided in s. 212.08(5)(a), F.S.

() Liquefied petroleum gas or other fuel used to heat a structure in which started pullets or broilers are raised, as provided in s. 212.08(5)(a), F.S.

() Motor vehicle rented or leased by a dealer that will be provided at no charge by such dealer to a person whose motor vehicle is being repaired, adjusted, or serviced by such dealer, as provided in s. 212.0601(4), F.S.

() Other (include description and statutory citation):

I understand that if I use the property or service for any purpose other than the one I stated, I must pay tax on the purchase or lease price of the taxable property or service directly to the Department of Revenue.

I understand that it is a criminal offense to fraudulently issue this certificate to evade the payment of sales tax. I understand that I will be liable for payment of the sales tax plus a penalty of 200% of the tax and may be subject to conviction of a third degree felony.

The exemption specified by the purchaser may be verified by calling 1-800-352-3671.

Purchaser's Name _____

Purchaser's Address _____

Name and Title of Authorized Representative _____

Sales and Use Tax Certificate of _____

Registration No. (if applicable) _____

By _____

(Signature of Purchaser or Authorized Representative)

Title _____

(Title – only if purchased by an authorized representative of a business entity)

Date _____

(7) Selling dealers must maintain blanket resale and exemption certificates based on the Department's suggested format formerly provided in Rule 12A-1.039, F.A.C., as well as exemption certificates or other documentation issued under the provisions of this rule, until tax imposed by Chapter 212, F.S., may no longer be determined and assessed under s. 95.091(3), F.S.

~~(8) Purchases by the United States government are exempt whether or not a Consumer's Certificate of Exemption (Form DR-14) is presented to the dealer. See Rule 12A-1.0161(4), F.A.C.~~

~~(8)(9) An exemption A consumer's certificate of exemption may be used on the purchase of tangible personal property, and may not be provided applied to a contractor to be applied to contracts for the construction or improvement of real property.~~

~~(10) Civic, commercial, cooperative, fraternal and social organizations do not qualify for exemption.~~

~~(11) A suggested format for a purchaser's resale and exemption certificate is found in Rule 12A-1.039, F.A.C.~~

~~(9)(12) Any person who knowingly fraudulently issues an exemption to any vendor or agent of the State a certificate or statement in writing for the purpose of evading payment of sales tax will prior to January 1, 1993, in addition to being liable for payment of the sales tax, plus a mandatory penalty of 100% of the tax, shall also be liable for civil penalties provided in s. 212.085, F.S. fine and punishment as provided by law for conviction of a felony of the third degree, as provided in Section 775.082, Section 775.083, or Section 775.084, F.S. Effective January 1, 1993, the mandatory penalty is 200% of the tax.~~

Specific Authority ~~212.07(4)(b), 212.17(6), 212.18(2), 213.06(1) FS. Law Implemented 95.091(3), 120.57(1)(2), 120.60(3), 120.80(14), 212.02(14), 212.05(1)(b)(i)(4), 212.07(1), 212.08, 212.084, 212.085, 212.13(5)(c), 212.18(2), 212.21(2), 213.053(7)(b) 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.~~

(Substantial rewording of Rule 12A-1.039 follows. See Florida Administrative Code for present text.)

12A-1.039 Sales for Resale Suggested Forms.

(1)(a) It is the specific legislative intent that each and every sale, use, storage, consumption, or rental is taxable, unless such sale, use, storage, consumption, or rental is specifically exempt. The exempt nature of the transaction must be established by the dealer at the time of the sale, use, storage, consumption, or rental.

(b) A sale for resale is exempt from the tax imposed by Chapter 212, F.S., only when the sale for resale is in strict compliance with the provisions of this rule. For purposes of this rule, a "sale for resale" includes the following sales, leases, or rentals, when made to a person who is an active registered dealer.

1. The sale of tangible personal property to a dealer when such property will be resold to the dealer's customers.

2. The sale, lease, or rental of tangible personal property to a dealer when such property will be held exclusively for leasing or rental purposes, pursuant to Rule 12A-1.071(2)(a), F.A.C.

3. The sale of taxable services to a dealer when such services are being resold to the dealer's customers, provided that the sale complies with the conditions stated in Rule 12A-1.0161(4), F.A.C.

4. The lease or rental of real property to a dealer when such property will be leased, rented, or licensed to the dealer's tenants.

5. The lease or rental of real property to a dealer when such property will be rented as transient accommodations to the dealer's guests or tenants.

6. The sale of tangible personal property to a dealer when such property will be incorporated as a material, ingredient, or component part of tangible personal property that is being produced for sale by manufacturing, processing, or compounding.

7. The sale of tangible personal property to a repair dealer, when such property will be incorporated into and sold as part of a repair of tangible personal property by such dealer.

8. The alteration, remodeling, maintenance, adjustment, or repair of tangible personal property (when labor and materials are provided) that is held in inventory for resale or exclusively for leasing purposes by a dealer.

(c) For purposes of this rule, "active registered dealer" means a person who is registered with the Department as a dealer for sales tax purposes and who is required to file a sales and use tax return during each applicable reporting period, as provided in s. 212.11(1), F.S.

(2) ANNUAL RESALE CERTIFICATE.

(a) For each calendar year, the Department of Revenue will issue to each active registered dealer an Annual Resale Certificate (Form DR-13, incorporated by reference in Rule 12A-1.097, F.A.C.). A newly registered dealer will receive the Annual Resale Certificate along with his or her Certificate of Registration. The expiration date of the Annual Resale Certificate will be printed on the face of the certificate.

(b) Dealers who lose their Annual Resale Certificate may request a replacement by contacting the Department at 1-800-352-3671. Persons with hearing or speech impairments may call the Department's TDD, at 1-800-367-8331. Written requests should be addressed to Application Acceptance, Florida Department of Revenue, 5050 West Tennessee Street, Building F-4, Tallahassee, Florida 32399-0100.

(3) Effective February 1, 2000, except as provided in paragraph (4)(b) of this rule, a dealer making a sale for resale must document the exempt nature of the transaction by using one of the following three methods:

(a) ANNUAL RESALE CERTIFICATE. Prior to making a sale for resale, the selling dealer must obtain from the purchaser a copy of the purchaser's current Annual Resale Certificate (Form DR-13, incorporated by reference in Rule 12A-1.097, F.A.C.).

1. The copy of the Annual Resale Certificate must be signed by the purchaser or the purchaser's authorized representative.

2. A selling dealer may make sales for resale to a purchaser whose current Annual Resale Certificate is on file without seeking a new Annual Resale Certificate for each subsequent transaction during that calendar year. A selling dealer may only make exempt sales for resale to purchasers during the calendar year for which the purchaser's Annual Resale Certificate is valid. A new Annual Resale Certificate must be obtained each calendar year. However, there is an exception to this requirement for sales to purchasers who purchase on account from a dealer on a continual basis.

3. For sales to purchasers who purchase on account from a dealer on a continual basis, the selling dealer may rely upon a Department-issued Annual Resale Certificate beyond the expiration date of the certificate, and shall not be required to obtain a new Annual Resale Certificate each calendar year. For purposes of this subparagraph, the phrase "purchase on account from a dealer on a continual basis" means that the selling dealer has a continuing business relationship with a purchaser, and makes recurring sales on account to that purchaser in the normal course of business. For purposes of this subparagraph, a sale "on account" refers to a sale where the dealer extends credit to the purchaser and records the debt as an account receivable.

(b) TRANSACTION RESALE AUTHORIZATION NUMBER ISSUED AT POINT-OF-SALE – VALID FOR SINGLE TRANSACTION ONLY. Prior to making a sale for resale, the selling dealer must obtain from the Department a transaction resale authorization number.

1. A "transaction resale authorization number" must be obtained by the selling dealer at the point-of-sale through use of an automated toll-free telephone verification system. The toll-free number to access the system is 1-877-357-3725.

2. The selling dealer must key 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 transaction resale authorization number or alert the selling dealer that the purchaser is not an active dealer. Callers who do not have a touch-tone phone will be connected to a live operator. 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 (9) of this rule.

(c) VENDOR RESALE AUTHORIZATION NUMBER FOR REGULAR CUSTOMERS – VALID FOR CALENDAR YEAR ISSUED. Prior to making a sale for resale, the selling dealer must obtain from the Department a vendor resale authorization number.

1. The "vendor resale authorization number" is a customer-specific authorization number that will be valid for all sales made to a particular customer during the calendar year.

2. To obtain vendor resale authorization numbers, the selling dealer must send a list of his or her regular customers to the Department, through use of a floppy disk or other electronic medium. In response to this request, the Department will issue to the selling dealer, through use of the same electronic medium as the request, a list containing a unique vendor resale authorization number for each customer who is an active registered dealer. The electronic format for sending the customer data may be obtained from the Department's web site at <http://sun6.dms.state.fl.us/dor/> or at 850-488-3516.

3. The selling dealer may make exempt sales for resale to a customer during the period in which the vendor 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, as well as for the next calendar year beginning January 1.

(4) RESPONSIBILITIES OF A DEALER MAKING A SALE FOR RESALE.

(a) In order to make an exempt sale for resale, the selling dealer must prepare a receipt or invoice that contains the name and address of the purchaser. The selling dealer must retain, as part of his or her books and records, a copy of that receipt or invoice, as well as the Annual Resale Certificate described in paragraph (3)(a), or a resale authorization number described in paragraph (3)(b) or (c), until tax imposed by Chapter 212, F.S., may no longer be determined and assessed under s. 95.091(3), F.S. Electronic storage by the selling dealer of the copy of the Annual Resale Certificate or other required documentation through use of imaging, microfiche, or other electronic storage media shall be considered sufficient compliance with this paragraph.

(b) The sale of alcoholic beverages by distributors licensed by the Division of Alcoholic Beverage and Tobacco, Department of Business and Professional Regulation, to others who are also licensed by the Division of Alcoholic Beverage and Tobacco, Department of Business and Professional Regulation, are deemed to be sales for resale, and such sales need not be in compliance with the documentation requirements provided in subsection (3).

(c) The selling dealer should make a reasonable attempt to ensure that a purchaser is authorized to make exempt purchases for resale on behalf of the active registered dealer. Evidence that the purchaser is purchasing on behalf of the active registered dealer would include presentation by the purchaser of a company check, an employee badge, an employee identification card, or a letter issued by the active registered dealer on company letterhead that authorizes the purchase.

(5) BURDEN OF ESTABLISHING EXEMPT NATURE OF SALES FOR RESALE.

(a) A selling dealer who makes a sale for resale in good faith, and who complies with the requirements of subsections (3) and (4) of this rule, has met his or her burden of proof of establishing the exempt nature of the sale, and is relieved from any liability for sales tax on that sale. The submission of Annual Resale Certificates to the Department that are obtained after the sale from purchasers who were active registered dealers at the time of the sale will be considered sufficient compliance with subsection (3) when submitted during audit or protest, but will not be acceptable in any proceeding under chapter 120, F.S. or in any circuit court action under chapter 72, F.S.

(b)1. A sale that is not in compliance with the requirements of subsections (3) and (4) of this rule is presumed to be a retail sale, and the selling dealer will be liable for any applicable sales tax not collected and remitted on that sale.

2. For a sale that is not in compliance with the requirements of subsections (3) and (4), but that is made to a person who was an active registered dealer at the time of the sale, the presumption that the sale is a retail sale can be overcome during an audit or protest if:

a. the selling dealer makes a reasonable attempt to obtain a signed Annual Resale Certificate from the purchaser, but is unable to do so; and

b. it would be reasonable to assume, based on the nature of the purchaser's business, that the sale was for resale.

3. A sale made to a person who was not an active registered dealer at the time of the transaction is a retail sale, and can never be considered a sale for resale.

(6) A sale to an unregistered nonresident dealer for resale outside this state is governed by Rule 12A-1.064(2)(b), F.A.C.

(7) Resale certificates created and issued by purchasers that were based on the Department's suggested format formerly provided in Rule 12A-1.039, F.A.C., are valid only for the purpose of documenting sales for resale made prior to

February 1, 2000. Selling dealers must retain such certificates until tax imposed by Chapter 212, F.S., may no longer be determined and assessed under s. 95.091(3), F.S.

(8) PROVISIONS APPLICABLE TO PERSONS CLAIMING THE RESALE EXEMPTION.

(a) Annual Resale Certificates may only be used by purchasers who hold a valid Sales and Use Tax Certificate of Registration (Form DR-11, incorporated by reference in Rule 12A-1.097, F.A.C.) issued by the Department, and whose registration status is currently active. For dealers who have been in business for less than the full calendar year, the effective date of the Annual Resale Certificate (Form DR-13) will be the effective date of the Sales and Use Tax Certificate of Registration. The effective date is found in the block labeled "Registration Date" on Form DR-11.

(b) A dealer whose Sales and Use Tax Certificate of Registration has been revoked or whose registration status has been inactivated by the Department is prohibited from purchasing, leasing, or renting taxable property or services exempt from tax under this rule.

(c) For dealers who report sales tax using a county-control number, the Annual Resale Certificate will only be issued to the active reporting number(s) within each county. Dealers who report using a county-control number must use the Annual Resale Certificate issued to the active reporting number(s) to make purchases for resale. Sales tax numbers issued to the individual locations within a county are inactive, and will not be issued an Annual Resale Certificate.

(d) Wholesalers and certain other sales tax dealers who are currently on an inactive reporting status will need to contact the Department at 800-352-3671 (Florida only) or 850-488-6800 (outside of Florida) to have their sales tax registration number activated in order to obtain the Annual Resale Certificate and make exempt purchases for resale. By activating the sales tax registration number, the dealer will then be required to file a sales tax return during each applicable reporting period, as provided in s. 212.11(1), F.S.

(e) A person who has made a valid purchase or rental of tangible personal property that is intended for resale by complying with the provisions of this rule, but who later uses the tangible personal property in a manner inconsistent with the purposes described in paragraph (1)(b) of this rule, owes use tax as provided in s. 212.05(1)(b), F.S., on such property that is no longer held for resale, but that is used, consumed, distributed, or stored for use or consumption in this state.

(f) Notwithstanding paragraph (e), the resale exemption may only be claimed for purchases or rentals that are intended for resale, and it may not be used by a dealer to make all of his or her purchases exempt from tax. Although the selling dealer may rely upon an Annual Resale Certificate as a blanket certificate for an entire calendar year, a purchaser may choose to limit the scope of a copy of an Annual Resale Certificate

submitted to a particular selling dealer by including language on the copy of the certificate that limits the applicability of the certificate to only certain dates or types of purchases.

(g) Any person who, for the purpose of evading tax, uses an Annual Resale Certificate or signs any statement in writing in which he or she claims the resale exemption from sales tax when he or she knows, at the time of purchase or rental, that the property or services being purchased or rented are for a purpose other than for resale is subject to the civil and criminal penalties provided in s. 212.085, F.S.

(h) The resale exemption shall also apply to the importation of tangible personal property into this state for resale by an active registered dealer. A dealer who imports tangible personal property into this state for resale must be an active registered dealer at the time the property is imported into this state in order for the resale exemption to be applicable. The determination whether a particular item of tangible personal property imported into this state is for resale is based on the same criteria described in paragraph (1)(b) of this rule.

(i) An active registered dealer who purchases tangible personal property without claiming the resale exemption (and pays sales tax upon acquisition), but who subsequently sells such tangible personal property without ever having used the property, is entitled to take a credit for the amount of tax paid upon acquisition, as long as the dealer collects the applicable sales tax on the sale of such property.

(9) USE OF MULTISTATE UNIFORM RESALE CERTIFICATE. The Department will allow purchasers to use the Multistate Tax Commission's Uniform Sales and Use Tax Certificate – Multijurisdiction. However, the use of this uniform certificate must be in conjunction with the telephonic or electronic authorization number method described in paragraph (3)(b) or (c) of this rule.

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)(j), 212.06(4)(b), 212.07(1)(b), 212.08(3)(5)(a),(6),(7)(g),(9), 212.085, 212.13(4)(5)(c), 212.17(1)(b),(6), 212.18(2)(3), 212.21(2), 213.053(10) FS., Sections 21, 22, 23, 24, Chapter 99-208, Laws of Florida. 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.

12A-1.097 Public Use Forms.

(1) No change.

Form Number	Title	Effective Date
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(2) through (7) No change.

(8) DR-13	<u>Sales and Use</u>	
	<u>Tax Annual Resale</u>	
	<u>Certificate (r. 02/00)</u>	_____

(8) through (31) renumbered (9) through (32) No change.

Specific Authority 212.17(6), 212.18(2), 213.06(1) FS. Law Implemented 212.17(6), 212.18(2)(3) FS. History—New 4-12-84, Formerly 12A-1.97, Amended 8-10-92, 11-30-97, 7-1-99.

DEPARTMENT OF TRANSPORTATION

RULE CHAPTER TITLE: Personnel
 RULE CHAPTER NO.: 14-17

RULE TITLE: Ethical Conduct
 RULE NO.: 14-17.011

PURPOSE AND EFFECT: This amendment adds a statement in Rule 14-17.011(9)(b), which exempts approved employment in certain post-secondary educational institutions from the provisions of this section.

SUBJECT AREA TO BE ADDRESSED: The proposed amendment to Rule 14-17.011(9)(b) will provide a special exclusion relating to employment restrictions.

SPECIFIC AUTHORITY: 20.23(3)(a), 110.233(6), 110.403(5), 110.605(5), 120.53(1), 334.044(2) FS.

LAW IMPLEMENTED: 20.23(1)(b)1., 110.233(6), 110.403(5), 110.605(5), 334.193, 334.195 FS.

IF REQUESTED IN WRITING, A RULE DEVELOPMENT WORKSHOP WILL BE NOTICED IN THE NEXT AVAILABLE FLORIDA ADMINISTRATIVE WEEKLY.

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT IS: James C. Myers, Administrative and Management Support Level IV, Florida Department of Transportation, Office of the General Counsel, 605 Suwannee Street, Mail Station 58, Tallahassee, Florida 32399-0458

THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS:

14-17.011 Ethical Conduct.

(1) through (8) No change.

(9) Conflicting Employment, Contractual Relationship, or Post Employment Prohibited.

(a) Employees of the Department are free to accept, have, or hold any employment or contractual relationship with any individual, partnership, corporation (profit or non-profit), utility or other organization, whether public or private, if the employment or contractual relationship does not constitute a conflict of interest; violate any applicable statutes; or violate the provisions of this rule.

(b) Employees of the Department shall not accept, have or hold any employment or contractual relationship with any individual, partnership, corporation (profit or non-profit), utility or other organization, whether public or private, doing business with or regulated by the Department. As a general rule such employment or contractual relationship shall be presumed to:

1. Cause or appear to cause the employees to be influenced in the conduct of their official duties;

2. Create or appear to create a continuing or frequently recurring conflict between their private interests and performing their duties;

- 3. Hinder or appear to hinder the full and faithful conduct of their duties; or
- 4. Interfere or appear to interfere with the normal conduct of their jobs; or
- 5. Be based or appear to be based upon any understanding that their official action or judgment will be influenced by the relationship.

This prohibition shall not apply to an employee who, with the approval of a District Director, District Secretary, or appropriate SMS supervisor in Central Office, seeks to teach at an institution in the state system of public education as that term is defined in Section 228.041, Florida Statutes, or at a private, accredited, post-secondary educational institution, so long as the employee's teaching at such institution is not in connection with any contract for contractual services in which the employee participated personally and substantially through decision, approval, disapproval, recommendation, rendering of advice, or investigation on behalf of the Department while an employee.

(c) through (16) No change.

Specific Authority 20.23(3)(a), 110.233(6), 110.403(5), 110.605(5), 120.53(1), 334.044(2) FS. Law Implemented 20.23(1)(b)1., 110.233(6), 110.403(5), 110.605(5), 334.193, 334.195 FS. History—New 7-9-89, Amended 1-22-92, 5-10-94, 4-21-98, _____.

AGENCY FOR HEALTH CARE ADMINISTRATION

Health Care Responsibility Program

RULE TITLES:	RULE NOS.:
Definitions	59H-1.00352
County Financial Responsibility	59H-1.0045
Hospital Participation	59H-1.0055
Covered Services	59H-1.0065
Individual Eligibility Requirements	59H-1.007
Determination of a Qualified Indigent Patient	59H-1.008
Certification of County of Residence	59H-1.009
Reimbursement Procedures	59H-1.010
Coordination of Third Party Payments	59H-1.011
State Comptroller Responsibilities	59H-1.012
Procedures for Handling Disputes	59H-1.013

PURPOSE AND EFFECT: The purpose of this rule amendment is to update the existing rules in order to bring the rule chapter into compliance with Chapter 154, Florida Statutes. The effect will be to incorporate by reference the current Health Care Responsibility Act (HCRA) Handbook, Monthly Caseload and Appeals Report Form and the Quarterly Financial Report Form.

SUBJECT AREA TO BE ADDRESSED: The Health Care Responsibility Act (HCRA).

SPECIFIC AUTHORITY: 154.308 FS.

LAW IMPLEMENTED: 154.308 FS.

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

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT IS: Hazel Greenberg, CPM, Bureau of Managed Care, Data Analysis Unit, 2727 Mahan Drive, Building 1, Room 337, Tallahassee, Florida 32308, (850)414-8983

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

AGENCY FOR HEALTH CARE ADMINISTRATION

Health Care Responsibility Program

RULE TITLES:	RULE NOS.:
Definitions	59H-2.003
County Financial Participation and Lead Agency Responsibilities	59H-2.004
Hospital Participation	59H-2.005
Covered Services	59H-2.006
Determination of Eligibility	59H-2.007
Reimbursement Procedures	59H-2.009
Administrative Hearing; Applicants Rights and Responsibilities	59H-2.010

PURPOSE AND EFFECT: The purpose of this rule amendment is to update the existing rules. The effect will be to update the terminology and sites associated with the administrative rule chapter number changes. At present, this program is not funded and therefore is not active.

SUBJECT AREA TO BE ADDRESSED: The Shared County and State Health Care Program (SCS).

SPECIFIC AUTHORITY: 409.2673 FS.

LAW IMPLEMENTED: 409.2673 FS.

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

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT IS: Hazel Greenberg, CPM, Bureau of Managed Care, Data Analysis Unit, 2727 Mahan Drive, Building 1, Room 337, Tallahassee, Florida 32308, (850)414-8983

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

DEPARTMENT OF MANGEMENT SERVICES

Florida Commission on Human Relations

RULE TITLE: DEFINITIONS RULE NO.: 60Y-3.001

PURPOSE AND EFFECT: The purpose and effect of the proposed rule amendments is to update the meaning of various terms that appear throughout Chapter 60Y, Florida Administrative Code.

SUBJECT AREA TO BE ADDRESSED: Definitions of various terms that appear throughout Chapter 60Y, Florida Administrative Code.

SPECIFIC AUTHORITY: 760.06(12) FS.

LAW IMPLEMENTED: 92.525, 760.02, 760.03, 760.04, 760.05, 760.06, 760.10, 760.11 FS.

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

TIME AND DATE: 10:00 a.m., January 11, 2000

PLACE: Florida Commission on Human Relations, 325 John Knox Road, Suite 240, Building F, Tallahassee, Florida 32303-4149

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT AND A COPY OF THE PRELIMINARY DRAFT IS: Stanley G. Gorsica, Assistant General Counsel, Florida Commission on Human Relations, 325 John Knox Road, Suite 240, Building F, Tallahassee, Florida 32303-4149, whose telephone number is (850)668-7283

THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS:

60Y-3.001 Definitions.

As used in the rules of the Commission:

- (1) through (6) No change.
- (7) "Commissioner" or "member" means a member of the Commission;
- (8) No change.
- (9) "Document" includes, but is not limited to, writings, e-mail, drawings, charts, photographs, phono-records and other date compilations from which information can be obtained, translated, if necessary, through detection devices;
- (10) through (14) No change.
- (15) "Hearing Officer" or "Administrative Law Judge" means the person assigned to conduct a hearing upon a petition filed with the Commission;
- (16) through (26) No change.
- (27) "Verified" means under oath or affirmation or by the signing of the written declaration prescribed by section 92.525(2), Florida Statutes ~~sworn to by the affiant and notarized.~~

Specific Authority ~~760.06(12), 760.03, 760.06(13)~~ FS. Law Implemented ~~92.525, 760.02, 760.03, 760.04, 760.05, 760.06, 760.10, 760.11~~ FS. History--New 11-2-78, Amended 8-12-85, Formerly 22T-7.01, 22T-7.001, Amended 9-1-93, _____.

DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION

Division of Florida Land Sales, Condominiums, and Mobile Homes.

RULE TITLE: ENFORCEMENT OF MINOR VIOLATIONS RULE NO.: 61B-35.003

PURPOSE AND EFFECT: The purpose of the proposed rule amendment is to clarify the procedure that will be followed after a Warning Letter is issued. The effect of the amendment is to insure that chapter 120, Florida Statutes; due process rights are afforded to all parties in an administrative action.

SUBJECT AREA TO BE ADDRESSED: The rule clarifies the procedure to be followed if the recipient of a Warning Letter does not take corrective action or disputes the violation in the Warning Letter.

SPECIFIC AUTHORITY: 723.006(9) FS.

LAW IMPLEMENTED: 723.006 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., January 6, 2000

PLACE: Fuller Warren Building, Conference Room, #B03, 202 Blount Street, Tallahassee, Florida

THOSE PERSONS WHO CANNOT ATTEND IN PERSON MAY SUBMIT THEIR COMMENTS IN WRITING TO: Mary Denise O'Brien, Department of Business and Professional Regulation, 1940 North Monroe Street, Clemons Building, Tallahassee, Florida 32399-2202

Pursuant to the provisions of the Americans with Disabilities Act, any person requiring special accommodations to participate in this workshop is asked to advise the agency at least 48 hours before the workshop by contacting: Sharon A. Elzie, Senior Management Analyst II, (850)488-1631. If you are hearing or speech impaired, please contact the agency by calling 1(800)955-8771.

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT AND A COPY OF THE PRELIMINARY DRAFT, IF AVAILABLE, IS: Jim Norred, Chief, Bureau of Mobile Homes, Department of Business and Professional Regulation, 1940 North Monroe Street, Tallahassee, Florida 32399-1030, or Mary Denise O'Brien, Assistant General Counsel, Department of Business and Professional Regulation, 1940 North Monroe Street, Tallahassee, Florida 32399-2202

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

DEPARTMENT OF ENVIRONMENTAL PROTECTION

DOCKET NO.: 99-49R

RULE CHAPTER TITLE: Generic Permits
 RULE CHAPTER NO.: 62-621

PURPOSE AND EFFECT: The Department of Environmental Protection (Department) intends to reissue the Generic Permit for Discharges From Petroleum Contaminated Sites and the Generic Permit for Discharge of Produced Ground Water From Any Non-Contaminated Site Activity which are incorporated by reference in this Rule Chapter. The Department's generic permit program is one element of the federally delegated National Pollutant Discharge Elimination System (NPDES) program. The aforementioned generic permits are scheduled to expire on August 22, 2000. The Department intends to reissue and revise the generic permits to provide for a coverage period of up to five years for each covered activity, consistent with NPDES program requirements and the Department's implementation of the generic permit program. The proposed rule change will allow the Department to continue to address discharges from petroleum cleanup sites and discharges of produced ground water from uncontaminated site activities through the generic permit program.

SUBJECT AREA TO BE ADDRESSED: To reissue and revise the Generic Permit for Discharges From Petroleum Contaminated Sites and the Generic Permit for Discharge of Produced Ground Water From Any Non-Contaminated Site Activity to provide for a coverage period of up to five years for each covered activity.

SPECIFIC AUTHORITY: 403.061, 403.087, 403.088, 403.0885 FS.

LAW IMPLEMENTED: 403.087, 403.088, 403.0885 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: Fred Noble, Division of Water Resource Management, Bureau of Water Facilities Regulation, Mail Station 3545, Florida Department of Environmental Protection, 2600 Blair Stone Road, Tallahassee, Florida 32399-2400, telephone (850)488-4522

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

DEPARTMENT OF HEALTH

Board of Medicine

RULE TITLE: Equipment and Devices; Protocols
 RULE NO.: 64B8-56.002

PURPOSE AND EFFECT: The Board proposes the development of a rule amendment to implement the provisions of Section 478.42(5), Florida Statutes.

SUBJECT AREA TO BE ADDRESSED: Equipment and devices with regard to Section 478.42(5), Florida Statutes.

SPECIFIC AUTHORITY: 478.42(5), 478.43 FS.

LAW IMPLEMENTED: 478.42(5) FS.

IF REQUESTED IN WRITING WITHIN FOURTEEN (14) DAYS OF THE DATE OF THIS NOTICE, 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: Tanya Williams, Executive Director, Board of Medicine/MQA, 2020 Capital Circle, S. E., Bin #C03, Tallahassee, Florida 32399-3253

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

DEPARTMENT OF HEALTH

Board of Speech-Language Pathology and Audiology

RULE TITLE: Disciplinary Guidelines
 RULE NO.: 64B20-7.001

PURPOSE AND EFFECT: The Board proposes to discuss this rule to determine if amendments are necessary to update the rule text for disciplinary guidelines.

SUBJECT AREA TO BE ADDRESSED: Disciplinary guidelines.

SPECIFIC AUTHORITY: 468.1135(4) FS.

LAW IMPLEMENTED: 468.1295 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, January 20, 2000

PLACE: The Jacksonville Hilton, 1201 Riverplace Boulevard, Jacksonville, Florida 32207

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT AND A COPY OF THE PRELIMINARY DRAFT, IF AVAILABLE, IS: Sue Foster, Executive Director, Board of Speech-Language Pathology and Audiology/MQA, 2020 Capital Circle, S. E., Bin # C08, Tallahassee, Florida 32399-3253

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

DEPARTMENT OF HEALTH

Division of Environmental Health and Statewide Programs

RULE CHAPTER TITLE: RULE CHAPTER NO.:

Emergency Medical Services 64E-2

PURPOSE AND EFFECT: To establish rules for staffing of ALS nontransport vehicles and to provide for reclassifying of such vehicles under certain conditions.

SUBJECT AREAS TO BE ADDRESSED: Advanced life support staffing of nontransport vehicles.

SPECIFIC AUTHORITY: 401.35 FS.

LAW IMPLEMENTED: 401.25, 401.27 FS.

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

TIME AND DATE: 10:00 a.m., January 5, 2000

PLACE: Florida College of Emergency Physicians, 3717 S. Conway Road, Orlando, Florida 32812

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT IS: Pam Lesley, Senior Management Analyst, Bureau of Emergency Medical Services, Department of Health, 2020 Capital Circle, S. W., Bin C18, Tallahassee, Florida 32399-1728, (850)245-4440, Extension 2733

THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS AVAILABLE AT NO CHARGE ONE WEEK PRIOR TO THE WORKSHOP.

P.O. X00699

FISH AND WILDLIFE CONSERVATION COMMISSION

Division of Freshwater Fish and Wildlife

RULE TITLE: RULE NO.:

Possession of Wildlife or Freshwater Fish or the Carcasses Thereof 68A-4.004

PURPOSE AND EFFECT: The purpose and effect of the proposed rule development is to establish general prohibitions related to freshwater fish or carcasses thereof.

SUBJECT AREA TO BE ADDRESSED: Subject area covered in the proposed rule includes possession of freshwater fish or carcasses thereof.

SPECIFIC AUTHORITY: Article IV, Section 9, Fla. Const.

LAW IMPLEMENTED: Article IV, Section 9, Fla. Const.

A HEARING ON THE PROPOSED RULES WILL BE HELD IN CONJUNCTION WITH THE COMMISSION'S PUBLIC MEETING AT THE TIME, DATES AND PLACE SHOWN BELOW:

TIME, DATE AND PLACE: To be announced at a later date

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT IS: Darrell L. Scovell, Division of Freshwater Fisheries, 620 South Meridian Street, Tallahassee, Florida 32399-1600

THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS AVAILABLE AT NO CHARGE AND CAN BE OBTAINED FROM: James V. Antista, General Counsel, Fish And Wildlife Conservation Commission, 620 South Meridian Street, Tallahassee, Florida 32399-1600, (850)487-1764

FISH AND WILDLIFE CONSERVATION COMMISSION

Division of Freshwater Fish and Wildlife

RULE TITLE: RULE NO.:

Specific Fish Management Area Regulations 68A-20.005

PURPOSE AND EFFECT: The purposes and effects of the proposed rule development is to establish regulations on specific fish management areas for taking and possessing freshwater fish or other activities such as swimming, use of firearms, or use of boats or other vehicles, that will ensure conservation of freshwater fish populations while providing for realization of their potential aesthetic, recreational, and economic values.

SUBJECT AREA TO BE ADDRESSED: Requirements for taking and possessing freshwater fish.

SPECIFIC AUTHORITY: Article IV, Section 9, Fla. Const.

LAW IMPLEMENTED: Article IV, Section 9, Fla. Const.

A WORKSHOP ON THE PROPOSED RULES WILL BE HELD IN CONJUNCTION WITH THE COMMISSION'S PUBLIC MEETING AT THE TIME, DATE AND PLACE SHOWN BELOW:

TIME, DATE AND PLACE: To be announced at a later date

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT IS: Mr. Darrell L. Scovell, Division of Freshwater Fisheries, 620 South Meridian Street, Tallahassee, Florida 32399-1600

THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS AVAILABLE AND AT NO CHARGE AND CAN BE OBTAINED FROM: James V. Antista, General Counsel, Fish And Wildlife Conservation Commission, 620 South Meridian Street, Tallahassee, Florida 32399-1600, (850)487-1764

FISH AND WILDLIFE CONSERVATION COMMISSION

Division of Freshwater Fish and Wildlife

RULE TITLES: RULE NOS.:

General Methods of Taking Freshwater Fish 68A-23.002

Bag Limits, Length Limits, Open Season:

 Freshwater Fish 68A-23.005

 Use of Fish for Bait 68A-23.007

PURPOSE AND EFFECT: The purpose and effect of the proposed rule development is to liberalize methods for taking certain nongame freshwater fish, change regulations for taking and possession of certain sizes of freshwater game fish in specific lakes and prohibit use of certain game fish as bait to ensure conservation of freshwater fish populations while providing for realization of their potential aesthetic, recreational, and economic values.

SUBJECT AREA TO BE ADDRESSED: Requirements for taking and possessing freshwater fish or their use as bait.

SPECIFIC AUTHORITY: Article IV, Section 9, Fla. Const.

LAW IMPLEMENTED: Article IV, Section 9, Fla. Const.

A WORKSHOP ON THE PROPOSED RULES WILL BE HELD IN CONJUNCTION WITH THE COMMISSION'S PUBLIC MEETING AT THE TIME, DATE AND PLACE SHOWN BELOW:

TIME, DATE AND PLACE: To be announced at a later date

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT IS: Mr. Darrell L. Scovell, Division of Freshwater Fisheries, 620 South Meridian Street, Tallahassee, Florida 32399-1600

THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS AVAILABLE AT NO CHARGE AND CAN BE OBTAINED FROM: James V. Antista, General Counsel, Fish And Wildlife Conservation Commission, 620 South Meridian Street, Tallahassee, Florida 32399-1600, (850)487-1764.

Section II Proposed Rules

WATER MANAGEMENT DISTRICTS

Northwest Florida Water Management District

RULE CHAPTER TITLE:	RULE CHAPTER NO.:
General and Procedural	40A-1
RULE TITLES:	RULE NOS.:
PART I – GENERAL	
Agreements	40A-1.004
PART II – PERMITTING	
Fees	40A-1.2025
Permit Application Procedure	40A-1.203
Administrative Enforcement Action	40A-1.208
PART V – DECISIONS DETERMINING SUBSTANTIAL INTERESTS	
District Investigations and Probable Cause Determination	40A-1.510
Point of Entry into Proceedings	40A-1.511
PART X – EXCEPTIONS TO THE ADMINISTRATION COMMISSION'S UNIFORM RULES OF PROCEDURES	
Variance and Emergency Variance or Authorization Procedures	40A-1.1003

Point of Entry into Proceedings 40A-1.1010

General Procedures for Permit Applications 40A-1.1020

PURPOSE AND EFFECT: The purpose of the District's proposed rule amendments is to incorporate interagency agreements into rule and to address comments raised by the Legislature's Joint Administrative Procedure Committee. The effect of the proposed changes will be to limit agency discretion in permit processing procedures.

SUMMARY: Ch. 40A-1.004, Agreements: This rule incorporates various interagency agreements that the District has entered into.

40A-1.2025, Fees: This rule clarifies that failure to submit the appropriate processing fee with a permit application shall result in the denial of the application.

40A-1.203(2)(b), Permit Application Procedure: This rule reiterates that a fee is required and that failure to submit the appropriate fee will result in the application being denied.

40A-1.208(2), Administrative Enforcement Action: This rule changes a 21-day point of entry for requesting an Administrative Hearing to 14 days after receiving an Order and Notice of Violation, pursuant to s. 373.119, F.S.

40A-1.510(1), District Investigations and Probable Cause Determination: This rule is being deleted because its provisions create ambiguity.

40A-1.511, Point of Entry into Proceedings: This rule is to be repealed because its provisions are contained in Rule 40A-1.1010, Point of Entry into Proceedings.

40A-1.1003, Variance and Emergency Variance Procedures: The rule is being amended to eliminate the potential for unbridled discretion in the District's issuance of variances or emergency waivers that require immediate action.

40A-1.1010, Point of Entry into Proceedings: This rule is amended to clarify that the District may use different methods for providing notice and either of which may be used to establish the date that the petitioner received notice. Section (2) is corrected to be gender neutral, and Section (5) is edited to delete a reference to a repealed section of the rule.

40A-1.1020, General Procedures for Permit Applications: This rule is amended to make more concrete ambiguous references to when comments may be considered, when staff reports will be prepared and when substantially affected persons may request an Administrative Hearing.

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

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