

## Section I

### Notices of Development of Proposed Rules and Negotiated Rulemaking

**DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES**

**Division of Plant Industry**

RULE CHAPTER TITLE: Florida Nursery Stock and Certification Fees

RULE CHAPTER NO.: 5B-2

RULE TITLES:	RULE NOS.:
Registering with the Division	5B-2.002
Certificates of Inspection (Tags)	5B-2.004
Special Inspection and Certification Fees	5B-2.010

**PURPOSE AND EFFECT:** The purpose of this rule revision is to meet the requirements of Sections 120.52(15) and 120.55(1)(a)4., F.S., which provides in part that a rule includes any form which imposes any requirement or solicits any information not specifically required by statute or by an existing rule, the form incorporated by reference in the rule, and an explanation of how the form may be obtained.

**SUBJECT AREA TO BE ADDRESSED:** These rules are amended to incorporate by reference Division forms which impose a requirement or solicit information not specifically required by statute.

**SPECIFIC AUTHORITY:** 570.07(23), 581.031(1),(3),(8) FS.  
**LAW IMPLEMENTED:** 581.031(8),(14),(21),(23), 581.131, 581.141 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., February 22, 2000  
**PLACE:** Division of Plant Industry, Doyle Conner Building, 1911 S. W. 34th Street, Gainesville, FL 32608

**THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT IS:** Constance C. Riherd, Assistant Director, Division of Plant Industry, Department of Agriculture and Consumer Services, Doyle Conner Building, 1911 S. W. 34th Street, Gainesville, Florida 32608, Phone (352)372-3505

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

5B-2.002 Registering with the Division.

Every nurseryman, stock dealer, plant broker, and agent shall register with the division before moving, distributing or offering nursery stock for sale. All aquatic plants offered for sale or distribution at the retail level, seeds, lawn and pasture grasses, cut flowers, cut fern, and cut foliage (greens) not for

propagation are specifically exempted from nursery stock classification for registration purposes, when apparently free from injurious plant pests.

(1) NURSERY REGISTRATION REQUIREMENTS.

(a) Application for registration of nurseries shall be made upon a form, DACS-08004 PI-4, revised 5/99 ~~8/94~~, incorporated herein by reference, to be furnished by the division, which shall contain provisions with which the applicant must comply, and must be signed by the applicant or applicant's representative. Application form DACS-08004, revised 5/99, is supplied by the division for this purpose and is incorporated herein by reference. Copies of DACS-08004, Application for Certificate of Registration, may be obtained from the Division of Plant Industry, Bureau of Plant & Apiary Inspection, P. O. Box 147100, Gainesville, Florida 32614-7100.

(b) through (h) No change.

(2) STOCK DEALERS, PLANT BROKERS, AND AGENTS. Stock dealers, plant brokers, and agents shall comply with the following stipulations to meet certification requirements:

(a) Those persons who desire to apply for certification and registration as a stock dealer, plant broker, or agent may make application by completing division form DACS-08004, revised 5/99 PI-4. This application form should be filed with the division thirty (30) days prior to the date the stock dealer, plant broker, or agent desires to begin operation. The completed application shall be accompanied by payment of the fee as designated in 5B-2.002(2)(e); Application form DACS-08004, revised 5/99, is supplied by the division for this purpose and is incorporated herein by reference. Copies of DACS-08004, Application for Certificate of Registration, may be obtained from the Division of Plant Industry, Bureau of Plant & Apiary Inspection, P. O. Box 147100, Gainesville, Florida 32614-7100.

(b) All annual renewal documents for certificate of registration shall be returned not later than the anniversary date of the certificate being renewed, and accompanied by the appropriate fee;

(c) Stock dealers with more than one outlet supplied with nursery stock from a central location may register outlets by listing or attaching a list of outlets, with complete mailing address and geographical location, to the application or document for renewal form (DACS-08004, revised 5/99 PI-4 or DACS-08022, revised 5/99 PI-22 and remitting of the total fee payment for all outlets to be registered. Application form DACS-08004, revised 5/99, and Application for Renewal of Nursery Stock Dealer's Certificate of Registration form, DACS-08022, revised 5/99, are supplied by the division for this purpose and are incorporated herein by reference. Copies of DACS-08004 and DACS-08022, may be obtained from the Division of Plant Industry, Bureau of Plant & Apiary Inspection, P. O. Box 147100, Gainesville, Florida 32614-7100

(d) through (g) No change.

Specific Authority 570.07(23), 581.031(1) FS. Law Implemented 581.131, 581.141 FS. History--Amended 12-31-74, 6-24-75, 3-25-79, 6-15-81, 10-28-85, Formerly 5B-2.02, Amended 5-17-92, 6-7-95, 11-29-95, \_\_\_\_\_.

5B-2.004 Certificates of Inspection (Tags).

Any person properly registered with the division as a nursery, stock dealer, plant broker, agent, or any person obtaining inspection services from the division may apply for authorization to print, or have printed, certificates of inspection (tags). Application form DACS-08086 PI-86, revised 12/99 7/94, is supplied by the division for this purpose and is incorporated herein by reference. Copies of DACS-08086 PI-86, Request For Authorization To Print Certificates (Tags) of Inspection, may be obtained from the Division of Plant Industry, Bureau of Plant Inspection, P. O. Box 147100, Gainesville, Florida 32614-7100. Upon review of the application, the division may authorize reproduction of designated quantities of certificates by the applicant. These certificates may be imprinted on waybills, bills of lading, separately, or as rubber stamps. The cost of reproduction is solely that of the registrant and shall in no way be considered the responsibility of the division. The division may revoke or suspend certificates for cause, whereupon at the request of the division all certificates, tags and rubber stamps previously approved by the division shall be relinquished to the division. Special Inspection Certificate Receipt, DACS-08222, revised 12/99, shall be completed on all certificates, tags and rubber stamps that are relinquished to the division. Copies of DACS-08222 may be obtained from the Division of Plant Industry, Bureau of Plant & Apiary Inspection, P. O. Box 147100, Gainesville, Florida 32614-7100.

(1) GENERAL NURSERY STOCK INSPECTION TAG CERTIFICATES OF INSPECTION (TAGS) FOR NURSERY STOCK SHALL BE REQUIRED:

- (a) On each movement or shipment of nursery stock intended for resale within the state.
- (b) On all nursery stock moving out of state.
- (c) On every separate package, bundle, box, container, or individual shipment of nursery stock shipped by mail, express, common carrier, etc., whether in-state or out-of-state.
- (d) For citrus nursery stock sold or distributed directly to Florida consumers for use as ornamental or dooryard plantings. General Nursery Stock Inspection Tag, DACS-08011, revised 11/99, is supplied by the division for this purpose and is incorporated herein by reference. Copies of DACS-08011, General Nursery Stock Inspection Tags, may be obtained from the Division of Plant Industry, Bureau of Plant and Apiary Inspection, P. O. Box 147100, Gainesville, Florida 32614-7100.

(2) USE OF CERTIFICATES OF INSPECTION (TAGS) FOR NURSERY STOCK:

- (a) Applicants shall not use or permit to be used any certificate of inspection (tag or rubber stamp) for movement of nursery stock other than that certified by the division.
- (b) Applicant may use his certificate of inspection (tag or rubber stamp) on nursery stock obtained from other sources which are registered or certified by the department except for nematode certificates.
- (c) All certificates issued or authorized by the division shall remain the property of the division until used or expired.
- (d) Alteration or reuse of any certificate issued by or authorized by the division is prohibited.
- (e) Printing or duplication of any certificate issued by the division is prohibited without prior written permission by the division for each printing or duplication.
- (f) Certificates of inspection (tags) must be dated for validation.

(3) USE OF NEMATODE CERTIFICATES FOR SHIPMENTS TO OTHER STATES:

- (a) Use of nematode certificates (DACS-08048 PI-48, revised 8/99 4/94, DACS-08049 PI-49, Revised 7/99 4/94, and DACS-08130 PI-130, Revised 6/99 4/94), incorporated herein by reference, for movement of plants, plant parts, or other regulated articles, not approved for use by the certified source is prohibited. Copies of DACS-08048 PI-48, DACS-08049 PI-49, and DACS-08130 PI-130 may be obtained from the Division of Plant Industry, Bureau of Plant and Apiary Inspection, P. O. Box 147100, Gainesville, Florida 32614-7100.
- (b) Nematode certificates (DACS-08048 PI-48, DACS-08049 PI-49, and DACS-08130 PI-130) shall not be issued to stock dealers, plant brokers or agents, except individual shipments may be certified when the shipments meet the requirements of the nematode certificate.
- ~~(c) All citrus nursery stock meeting the requirements of Rule Chapter 5B-44, Florida Administrative Code, that is being moved into or within 100 feet of a commercial citrus grove, commercial citrus nursery, or commercial citrus nursery site, shall be accompanied by a citrus nursery stock inspection certificate (tag) (PI-38, Revised 3/93), incorporated herein by reference. A copy of this citrus nursery stock inspection certificate (tag) shall be retained by the seller for a period of three (3) years and made available to the department on demand. Copies of PI-38 may be obtained from the Division of Plant Industry, Bureau of Plant and Apiary Inspection, P. O. Box 147100, Gainesville, FL 32614-7100.~~
- ~~(c)(4) Plants from a nematode certified nursery shall not be moved under the nematode certification of another nursery. Shipments of nematode certified nursery stock shall be accompanied by the producing nursery's nematode certificate.~~
- (d) A California Nematode Certification Checkoff List, DACS-08220, revised 7/99, shall be completed by an authorized representative of the department to document the nursery's compliance with California's nematode regulations.

California Nematode Certification Checkoff List, DACS-08220, revised 7/99, is supplied by the division for this purpose and is incorporated herein by reference. Copies of DACS-08220, California Nematode Certification Checkoff List, may be obtained from the Division of Plant Industry, Bureau of Plant and Apiary Inspection, P. O. Box 147100, Gainesville, Florida 32614-7100.

Specific Authority 570.07(23), 581.031(1),(3),(8) FS. Law Implemented 581.031(21), 581.131 FS. History—Amended 6-26-55, Repromulgated 12-31-74, Amended 6-15-81, 10-28-85, Formerly 5B-2.04, Amended 7-28-86, 5-17-92, 6-7-95, 10-8-96,\_\_\_\_\_.

5B-2.010 Special Inspection and Certification Fees.

Special inspection and certification services that may be provided by the division, when requested by farmers, growers or other interested parties may include special treatments, special pest identifications, special plant identifications, special investigations, and special regulatory activities not otherwise specifically provided for by Chapter 581, Florida Statutes. Governmental agencies requesting special inspections or permits for research purposes shall be exempt from fees. The prescribed fees for these special inspections and certifications shall be as follows:

Type of Certification	Charge	Form
Inspection and State of Origin Certificate, Phytosanitary Export certificate, Phytosanitary Reexport, and	Mileage <sup>1</sup> and \$35 minimum per inspection or, Mileage and \$25 minimum per certificate issued based on other support documents (fruit and vegetable manifest, etc)	<u>DACS-08014<sup>3</sup>, Phytosanitary Export Certificate, revised 10/99.</u> <u>DACS-08050<sup>3</sup> Inspection and State of Origin Certificate, revised 7/99.</u>
<u>Other special inspections.<sup>2</sup></u>	<u>Mileage<sup>1</sup> and \$35 minimum per inspection or, Mileage and \$25 minimum per certificate issued based on other support documents (fruit and vegetable manifest, etc)</u>	<u>DACS-08211<sup>3</sup>, Blueberry Certificate, revised 8/99.</u> <u>DACS-08212<sup>3</sup>, Apple Maggot Certificate, revised 8/99.</u> <u>DACS-08046<sup>3</sup>, Mamey Stamp, revised 5/99.</u> <u>DACS-08213<sup>3</sup>, Caribfly Fumigation Certificate, revised 10/99.</u> <u>DACS-08240<sup>3</sup>, Cold Treatment-California Caribbean Fruit Fly Quarantine, revised 12/99.</u> <u>DACS-08221<sup>3</sup>, California Hydrilla Quarantine, revised 12/99.</u>
Phytosanitary Export Certificate noncommercial (homeowner plants or homeowner plant products), and Temporary Certificate of Inspection.	Mileage <sup>1</sup> and \$15 minimum per inspection.	<u>DACS-08014<sup>3</sup>, Phytosanitary Export Certificate, revised 10/99.</u> <u>DACS-08010<sup>3</sup>, Temporary Certificate of Inspection, revised 7/99.</u>
Cut flower, cut fern.	\$5 per acre per crop inspection plus mileage, \$15 minimum, \$460 maximum.	<u>DACS-08289<sup>3</sup>, Certificate for Cut Foliage, Flowers &amp; Aquatic Plants, revised 1/99.</u>
Import inspection for commercial shipments of plants or plant products	Mileage <sup>1</sup> and \$35 per hour per inspector from time of arrival to departure, \$35 minimum.	<u>DACS-08001<sup>3</sup>, Nursery, Stockdealer &amp; Special Inspection Report, revised 9/99.</u>

Growing season field inspection of bulbs, seed, vegetable and tobacco transplants.	\$5 per acre per crop inspection plus mileage, \$15 minimum, \$460 maximum.	<a href="#">DACS-08159<sup>3</sup>, Growing Season Inspection Report, revised 11/99.</a> <a href="#">DACS-08237<sup>3</sup>, Vegetable Inspection Report, revised 10/99.</a>
Witnessing budwood or graftwood cutting.	Mileage <sup>1</sup> and \$5 per 1000 budeyes cut, \$10 minimum, \$25 maximum.	<a href="#">DACS-08172<sup>3</sup>, Source Tree Bud Cutting Report, revised 10/99.</a> <a href="#">DACS-08111, Certification to Witness Registered Budwood, revised 7/99.</a>
Vegetable transplants, aquatic and annual (bedding) plants (greenhouse, hotbeds, or other growing units).	Mileage <sup>1</sup> and \$15 minimum for first 10,000 square feet of growing unit space or less and \$2 per 1,000 square feet of additional growing space per inspection.	<a href="#">DACS-08237<sup>3</sup>, Vegetable Inspection Report, revised 10/99.</a> <a href="#">DACS 08289<sup>3</sup>, Certificate for Cut Foliage, Flowers &amp; Aquatic Plants, revised 1/99.</a> <a href="#">DACS-08290<sup>3</sup>, Tomato/Tobacco Plant Certificate, revised 3/99.</a>
Nematode Certification.	Mileage <sup>1</sup> and \$20 per sample	<a href="#">DACS-08038<sup>3</sup>, Citrus Nursery Stock Inspection Tag, revised 7/99.</a> <a href="#">DACS-08048<sup>3</sup>, Burrowing Nematode Certificate, revised 8/99.</a> <a href="#">DACS-08049<sup>3</sup>, Nematode Certificate of Inspection for Shipping Nursery Stock to California, revised 7/99.</a> <a href="#">DACS-08130<sup>3</sup>, Reniform Nematode Certificate, revised 6/99.</a> <a href="#">DACS-08270<sup>3</sup>, Consolidation Declaration For Florida, revised 12/99.</a>
Fumigation services.	\$150 per fumigation of loads 40 cu. ft. or less, \$240 per fumigation of loads exceeding 40 cu.ft.	<a href="#">DACS-08207<sup>3</sup>, Request for Fumigation, revised 10/99.</a> <a href="#">DACS-08099<sup>3</sup>, Certificate of Treatment, revised 1/00.</a>
Irradiation treatment.	\$200 minimum, \$500 per hour.	
Special diagnostic fees Entomolgy	\$40 per sample	<a href="#">DACS-08074<sup>3</sup>, Entomolgy Specimen Identification, revised 11/99.</a>
Plant Pathology Disease specimens	\$40 per sample.	<a href="#">DACS-08079<sup>3</sup>, Plant Pathology Specimen Report, revised 1/00.</a>
Lettuce mosaic samples	\$80 per sample (\$160 if found positive).	
Nematology Roots and soil	\$20 per sample	<a href="#">DACS-08077<sup>3</sup>, Nematology Specimen Report, revised 9/99.</a>

Caribbean fruit fly protocol participation	\$3.50 per acre per month	<u>DACS-08161<sup>3</sup>, Application for Participation, revised 12/99.</u> <u>DACS-08233<sup>3</sup>, Caribfly Certification Program-Establishment of McPhail Traps.</u>
Grades and Standards regrading inspections 1 – 50 plants 51 – 100 plants 101 – 200 plants 201 – 300 plants 301 – 400 plants 401 – 500 plants 501 – 1000 plants Over 1000 plants	Mileage <sup>1</sup> and \$25 Mileage <sup>1</sup> and \$50 Mileage <sup>1</sup> and \$75 Mileage <sup>1</sup> and \$100 Mileage <sup>1</sup> and \$125 Mileage <sup>1</sup> and \$150 Mileage <sup>1</sup> and \$200 Mileage <sup>1</sup> and \$250	<u>DACS-08228<sup>3</sup>, Grades &amp; Standards – Regrading Inspection Report, revised 10/99.</u>
Permits for importing regulated organisms.	\$10 per species not to exceed \$50 per permit.	<u>DACS-08208<sup>3</sup>, Application and Permit to Move Regulated Organisms, revised 01/00.</u>

**DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES**

**Division of Plant Industry**

RULE CHAPTER TITLE: Plant Quarantine and Certification      RULE CHAPTER NO.: 5B-3

Entry Requirements      RULE NOS.: 5B-3.003

RULE TITLES: Requirements for the Interstate Movement of      5B-3.0038

Nursery Stock and Other Plant Products      5B-3.003

Quarantine Action      5B-3.0038

**PURPOSE AND EFFECT:** The purpose of this rule revision is to meet the requirements of Sections 120.52(15) and 120.55(1)(a)4., F.S., which provides in part that a rule includes any form which imposes any requirement or solicits any information not specifically required by statute or by an existing rule, the form incorporated by reference in the rule, and an explanation of how the form may be obtained.

**SUBJECT AREA TO BE ADDRESSED:** Forms DACS-08003, Report of Plant and Plant Material In Transit; DACS-08083, Application and Special Permit To Import Sugarcane; DACS-08084, Application to Introduce Citrus Plants and Citrus Plant Parts; DACS-08029, Agreement For Destruction, Forfeiture, or Return of Plants and/or Plant Parts; and DACS-08081, Agreement For Chemical Treatment, are filed by reference in these rules.

**SPECIFIC AUTHORITY:** 570.07(23), 581.031(1),(4),(5) FS.

**LAW IMPLEMENTED:** 581.031(7), 581.083, 581.101, 581.182 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., February 22, 2000

PLACE: Division of Plant Industry, Doyle Conner Building, 1911 S. W. 34th Street, Gainesville, FL 32608

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT IS: Constance C. Riherd, Assistant Director, Division of Plant Industry, Department of Agriculture and Consumer Services, Doyle Conner Building, 1911 S. W. 34th Street, Gainesville, Florida 32608, Phone (352)372-3505

THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS:

5B-3.003 Requirements for the Interstate Movement of Nursery Stock and Other Plants and Plant Products.

Any person, nurseryman, stock dealer, agent, or plant broker doing business outside the State of Florida who desires to ship into this state nursery stock and other plants and plant products from any state, U. S. possession, territory, or district of the United States, shall comply with the following regulations:

(1) through (3) No change.

(4) A Report of Plant and Plant Material In Transit, DACS-08003, revised 10/99, will be completed on any shipment of nursery stock or other plants or plant products entering Florida that is subject to additional inspection upon reaching its destination. Report of Plant and Plant Material In Transit form, DACS-08003, revised 10/99, is supplied by the

division for this purpose and is incorporated herein by reference. Copies of DACS-08003, Report of Plant and Plant Material In Transit, may be obtained from the Division of Plant Industry, Bureau of Plant and Apiary Inspection, P. O. Box 147100, Gainesville, Florida 32614-7100.

(5) No change.

(6) The movement of propagative parts of sugarcane into the State of Florida is prohibited unless accompanied by a special permit issued by the department. A special permit may be requested by completing An Application for Special Permit to Import Sugarcane, DACS-08083, revised 10/99, and submitting it to the division director. Special Permit to Import Sugarcane, DACS-08083, revised 10/99, is supplied by the division for this purpose and is incorporated herein by reference. Copies of An Application for Special Permit to Import Sugarcane, may be obtained from the Division of Plant Industry, P. O. Box 147100, Gainesville, Florida 32614-7100. Sorghum seed is exempt from this requirement provided it is apparently free from plant pests.

(7) It is unlawful for any person to introduce into this state from another state, territory, or foreign country any citrus plant or citrus plant product or propagation therefrom without a permit issued by the department, unless specifically excluded by the rules of the department. A permit may be requested by completing An Application to Introduce Citrus Plants and Citrus Plant Parts, DACS-08084, revised 3/86, and submitting it to the division director. Application to Introduce Citrus Plants and Citrus Plant Parts, DACS-08084, revised 3/86, is supplied by the division for this purpose and is incorporated herein by reference. Copies of An Application to Introduce Citrus Plants and Citrus Plant Parts, may be obtained from the Division of Plant Industry, P. O. Box 147100, Gainesville, Florida 32614-7100. Any such citrus plant or citrus plant product or propagation therefrom introduced into the state from another state, territory, or foreign country without a permit issued by the department, or any plants propagated thereafter from such materials, are unlawful and declared to be contraband and shall be confiscated and destroyed. No compensation shall be allowed for any plant, product, or propagation confiscated and destroyed pursuant to this section.

Specific Authority 570.07(23), 581.031(1),(4),(5) FS. Law Implemented 581.031, 581.182 FS. History—New 3-16-92, Amended 7-2-95, 4-1-97,

5B-3.0038 Quarantine Action.

(1) Plant pests not known to occur in the state of Florida. Plants and plant products which do not meet Florida regulations or are found to be infested or infected with, or exposed to a plant pest not known to be established in the state shall be subject to being refused entry, returned to the owner, quarantined, treated, or destroyed as specified by the department, or destroyed or treated by an authorized representative of the department. The destruction, quarantine, treatment, or return of a shipment shall be under the direction

of an authorized representative of the department and at the expense of the owner. Payment to the department for such expense shall be required before shipping can resume. An Agreement For Destruction, Forfeiture, or Return of Plants and/or Plant Parts, DACS-08029, revised 7/99, will be completed on all shipments requiring regulatory action. Agreement For Destruction, Forfeiture, or Return of Plants and/or Plant Parts form, DACS-08029, revised 7/99, is supplied by the division for this purpose and is incorporated herein by reference. Copies of DACS-08003, Report of Plant and Plant Material In Transit, may be obtained from the Division of Plant Industry, Bureau of Plant and Apiary Inspection, P. O. Box 147100, Gainesville, Florida 32614-7100. The following are examples of plant pests that would require immediate quarantine action:

(a) through (d)4. No change.

(2) Plant pests of limited distribution in the state of Florida. Plants and plant products found infested or infected with or exposed to a plant pest of limited distribution in the state shall subject to immediate quarantine action and will not be eligible for certification until treated as prescribed by the department and released from quarantine. An Agreement for Chemical Treatment, DACS-08081, revised 10/99, may be required for plants and plant products requiring treatment. An Agreement for Chemical Treatment form, DACS-08081, revised 10/99, is supplied by the division for this purpose and is incorporated herein by reference. Copies of DACS-08081, An Agreement for Chemical Treatment, may be obtained from the Division of Plant Industry, Bureau of Plant and Apiary Inspection, P. O. Box 147100, Gainesville, Florida 32614-7100. The following are examples of plant pests that would require immediate quarantine action:

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

(3) Common Plant Pests. All nursery stock and other plants and plant products found infested or infected with a common plant pest shall be subject to immediate quarantine action when the population of the plant pest is adversely affecting the plant or plant product. The plant or plant product will not be eligible for certification until treated as prescribed by the department and released from quarantine. An Agreement for Chemical Treatment, DACS-08081, revised 10/99, may be required for plants and plant products requiring treatment.

Specific Authority 570.07(23), 581.031(4), 581.101 FS. Law Implemented 581.031(7), 581.083, 581.101 FS. History—New 4-1-97, Amended \_\_\_\_\_.

**DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES**

**Division of Plant Industry**

RULE CHAPTER TITLE:	RULE CHAPTER NO.:
Oak Wilt Disease	5B-26
RULE TITLE:	RULE NO.:
Interstate Movement	5B-26.007

PURPOSE AND EFFECT: The purpose is to bring this rule in compliance with Section 120.55(1)(a)4., F.S., by adopting by reference the Master Permit Form, DACS-08047, Revised 11/99, and supplying an address where the form can be obtained.

SUBJECT AREA TO BE ADDRESSED: Amends Rule 5B-26.007 by adopting by reference the Master Permit, DACS-08047, Revised 11/99, which is required for host plants of oak wilt disease to enter the state.

SPECIFIC AUTHORITY: 570.07(23), 581.031(4) FS.

LAW IMPLEMENTED: 581.031(4),(15),(20), 581.083 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., February 22, 2000

PLACE: Doyle Conner Building, 1911 S. W. 34th Street, Gainesville, FL 32608

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT IS: Constance C. Riherd, Assistant Director, Division of Plant Industry, Department of Agriculture and Consumer Services, Doyle Conner Building, 1911 S. W. 34th Street, Gainesville, Florida 32608, Phone (352)372-3505

THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS:

5B-26.007 Interstate Movement.

(1) The movement of oak wilt disease or host plants into the state from an infested or regulated area is prohibited except by master permit (DACS-08047, Revised 11/99)~~(PI-204)~~ issued by the director. Master Permit (DACS-08047, Revised 11/99) ~~(PI-204)~~, effective 10-18-90, is attached hereto and is incorporated in this rule by reference. Copies of the form may be obtained from the Division of Plant Industry, P. O. Box 147100 ~~4269~~, Gainesville, Florida 32614-7100 ~~32602~~. Oak wilt disease or any host plant or part thereof may enter the state of Florida for research purposes provided prior written permission from the director is obtained.

(2) through (4) No change.

Specific Authority 570.07(23), 581.031(4) FS. Law Implemented 581.031(4),(15),(20), 581.083 FS. History--New 10-18-90, Amended

**DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES**

**Division of Plant Industry**

RULE CHAPTER TITLE:

Saint Augustine Decline

RULE TITLE:

Interstate Movement

RULE CHAPTER NO.:

5B-36

RULE NO.:

5B-36.005

PURPOSE AND EFFECT: The purpose is to bring this rule in compliance with Section 120.55(1)(a)4., F.S., by adopting by reference the Master Permit Form, DACS-08047, Revised 11/99, and supplying an address where the form can be obtained.

SUBJECT AREA TO BE ADDRESSED: Amends Rule 5B-36.005 by adopting by reference the Master Permit, DACS-08047, Revised 11/99, which is required for host plants of Saint Augustine Decline to enter the state.

SPECIFIC AUTHORITY: 570.07(13),(23) FS.

LAW IMPLEMENTED: 581.031(4),(5),(15),(20) 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., February 22, 2000

PLACE: Doyle Conner Building, 1911 S. W. 34th Street, Gainesville, FL 32608

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT IS: Constance C. Riherd, Assistant Director, Division of Plant Industry, Department of Agriculture and Consumer Services, Doyle Conner Building, 1911 S. W. 34th Street, Gainesville, Florida 32608, Phone (352)372-3505

THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS:

5B-36.005 Interstate Movement.

(1) The movement of Saint Augustine Decline disease, strains or isolates of Saint Augustine Decline virus or centipede grass mosaic virus, or any host plant or part thereof, including regulated articles, into the state from an infested or regulated area is prohibited unless such shipments are made in accordance with the provisions of this rule chapter.

(a) Saint Augustine Decline disease may not enter the state for research purposes unless prior written permission is obtained from the director of the Division of Plant Industry. In evaluating each such request, the department shall consider the possible risks and benefits of the proposed research project.

(b) Host plants from an infested or regulated area may enter Florida under one of the following conditions:

1. Issuance of a master permit, DACS-08047 ~~PI-230, Revised 11/99, effective 12/92~~, incorporated herein by reference, by the director. Copies of DACS-08047 ~~PI-230~~ may be obtained from the Division of Plant Industry, P. O. Box 147100, Gainesville, Florida 32614-7100. Master Permit applicants shall be required to agree to each condition set forth in the permit form. If granted, the master permit shall permit the department of agriculture in the state of origin to authorize shipment of regulated articles into Florida subject to the requirements and conditions of the master permit.

2. Issuance of a certificate accompanying each shipment and bearing the signature of an inspector of the state of origin certifying and stating that the host plants were produced in an area free of Saint Augustine Decline disease, and have been inspected during a period of active growth and found to be free of Saint Augustine Decline disease.

(2) through (3) No change.

Specific Authority 570.07(13),(23) FS. Law Implemented 581.031(4),(5),(15),(20) FS. History–New 12-24-71, Repromulgated 12-31-74, Formerly 5B-36.05, Amended 5-13-93, \_\_\_\_\_.

**DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES**

**Division of Plant Industry**

RULE CHAPTER TITLE: Lettuce Mosaic  
 RULE CHAPTER NO.: 5B-38

RULE TITLE: Certification Requirements  
 RULE NO.: 5B-38.006

PURPOSE AND EFFECT: The purpose of this rule revision is to meet the requirements of Sections 120.52(15), F.S., which provides in part that a rule includes any form which imposes any requirement or solicits any information not specifically required by statute or by an existing rule.

SUBJECT AREA TO BE ADDRESSED: Form DACS-08043, Application For Exemption From Certified Lettuce Seed, Revised 10/99 is filed by reference in this rule.

SPECIFIC AUTHORITY: 570.07(13),(23) FS.

LAW IMPLEMENTED: 581.031(4),(5),(23),(26) 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., February 22, 2000

PLACE: Division of Plant Industry, Doyle Conner Building, 1911 S. W. 34th Street, Gainesville, FL 32608

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT IS: Constance C. Riherd, Assistant Director, Division of Plant Industry, Department of Agriculture and Consumer Services, Doyle Conner Building, 1911 S. W. 34th Street, Gainesville, Florida 32608, Phone (352)372-3505

THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS:

5B-38.006 Certification Requirements.

(1) through (2) No change.

(3) EXCEPTIONS: Any person desiring to plant lettuce plants or seed that do not meet the requirements of (1) or (2) above may apply for a special permit DACS-08043, Revised 10/99, (PI-43) to plant such seeds or plants. A written request on Section A of Form DACS-08043, PI-43, revised 10/99 ~~11/92~~, and incorporated into this rule by reference, shall be made to the department. In evaluating each request, the

department shall consider the possible risks and benefits of the applicant's proposed growing project. Compliance agreements, DACS-08031, revised 5/99, and incorporated into this rule by reference, may also be entered into which shall state any special conditions under which the exception is made. Copies of DACS-08043, Application For Exemption From Certified Lettuce Seed, revised 10/99, and DACS-08031, revised 5/99, Form PI-43 may be obtained from the Division of Plant Industry, P. O. Box 147100, Gainesville, Florida 32614-7100.

Specific Authority 570.07(13),(23) FS. Law Implemented 581.031(4),(5),(23),(26) FS. History–New 5-1-73, Repromulgated 12-31-74, Formerly 5B-38.06, Amended 5-25-93, \_\_\_\_\_.

**DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES**

**Division of Plant Industry**

RULE CHAPTER TITLE: Nematodes of Citrus  
 RULE CHAPTER NO.: 5B-44

RULE TITLE: Movement of Regulated Articles  
 RULE NO.: 5B-44.008

PURPOSE AND EFFECT: The purpose of this rule revision is to meet the requirements of Section 120.52(15), F.S., which provides in part that a rule includes any form which imposes any requirement or solicits any information not specifically required by statute or by an existing rule.

SUBJECT AREA TO BE ADDRESSED: Forms DACS-08048, Burrowing Nematode Certificate, DACS-08086, Request For Authorization To Print Certificates (Tags) of Inspection, and DACS-08038, Citrus Nursery Stock Inspection Certificate Tag, are filed by reference in 5B-44.008. SPECIFIC AUTHORITY: 570.07(23), 581.031(1),(5) FS.

LAW IMPLEMENTED: 581.031(7),(9),(23) 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., February 22, 2000

PLACE: Doyle Conner Building, 1911 S. W. 34th Street, Gainesville, FL

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT IS Constance C. Riherd, Assistant Director, Division of Plant Industry, Department of Agriculture and Consumer Services, P. O. Box 147100, Gainesville, Florida 32614-7100, Phone (352)372-3505

THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS:

5B-44.008 Movement of Regulated Articles.

Movement of regulated articles into or within the state, including but not limited to, host plants and parts thereof; soil, including peat, muck and other soil types; limerock; sod; debris; used equipment; or any other regulated article



associated with nematodes of citrus listed under 5B-44.003(1) is prohibited unless accompanied by a Burrowing Nematode (BN) Certificate (BN), DACS-08048, revised 8/99. Movement of regulated articles associated with nematodes of citrus as listed under 5B-44.003(2), including but not limited to, host plants including dooryard citrus and any parts thereof; soil, including peat, muck, and other soil types; limerock; sod; debris; used equipment; or any other article designated by the department as a regulated article into or within a minimum distance of 100 feet of any approved citrus nursery site, approved citrus nursery, approved soil pit, commercial citrus grove, or a commercial citrus grove site is prohibited unless accompanied by a Burrowing Nematode (BN) Certificate (BN). Where necessary, a greater distance may be required by the department. Burrowing Nematode Certificate, DACS-08048, revised 8/99, is supplied by the division for this purpose and is incorporated herein by reference. Copies of DACS-08048, Burrowing Nematode Certificate and DACS-08086, Revised 12/99, Request For Authorization To Print Certificates (Tags) of Inspection, may be obtained from the Division of Plant Industry, Bureau of Plant and Apiary Inspection, P. O. Box 147100, Gainesville, Florida 32614-7100. All citrus nursery stock meeting the requirements of this rule chapter, that is being moved into a commercial citrus grove, shall be accompanied by a Citrus Nursery Stock Inspection Tag, DACS-08038, revised 7/99, incorporated herein by reference. A copy of this Citrus Nursery Stock Inspection Certificate Tag, DACS-08038, shall be retained by the seller for a period of three (3) years and made available to the department on demand. Copies of DACS-08038 may be obtained from the Division of Plant Industry, Bureau of Plant and Apiary Inspection, P. O. Box 147100, Gainesville, FL 32614-7100.

Specific Authority 570.07(23), 581.031(1),(5) FS. Law Implemented 581.031(7),(9),(23) FS. History—New 6-15-81, Formerly 5B-44.08, Amended 6-15-87, 6-4-95,\_\_\_\_\_.

**DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES**

**Division of Plant Industry**

RULE CHAPTER TITLE:	RULE CHAPTER NO.:
Boll Weevil Eradication	5B-52
RULE TITLES:	RULE NOS.:
Definitions	5B-52.001
Planting Cotton in the Eradication Zone and Required Participation	5B-52.007
Treatment of Cotton in the Eradication Zone	5B-52.008
Submission of Reporting Forms, Assessments and Penalties for Late Payment, and Cotton Destruction	5B-52.009

Cotton Stalk Destruction	5B-52.010
Movement of Regulated Articles	5B-52.011
Issuance of Boll Weevil Certificates and Compliance Agreements, Cancellations, and Attachments	5B-52.012

PURPOSE AND EFFECT: The purpose of this rule revision is to identify the Southeastern Boll Weevil Eradication Foundation, Inc. as the organization responsible for conducting the treatment of cotton in the eradication zone. The United States Department of Agriculture is no longer directly involved with boll weevil eradication in the Southeastern United States, and to bring this rule into compliance with Section 120.55(1)(a)4., F.S. Finally, to change the name of the federal Agricultural Stabilization and Conservation Service (ASCS) to the federal Farm Service Agency (FSA).

SUBJECT AREA TO BE ADDRESSED: Southeastern Boll Weevil Eradication Foundation, Inc. is defined under 5B-52.001; Forms DACS-08193, Cotton Acreage Reporting Form, DACS-08239, Letter of Transmittal, DACS-08164, Cotton Destruction Verification Form, DACS-08162, Boll Weevil Certificate, and DACS-08031, Compliance Agreement, are filed by reference in these rules.

SPECIFIC AUTHORITY: 570.07(23), 593.103(2), 593.109 FS.

LAW IMPLEMENTED: 593.103(2),(4),(6),(10),(13), 593.105, 593.109, 593.114, 593.116 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., February 22, 2000

PLACE: Doyle Conner Building, 1911 S. W. 34th Street, Gainesville, FL 32608

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT IS: Constance C. Riherd, Assistant Director, Division of Plant Industry, Department of Agriculture and Consumer Services, Doyle Conner Building, 1911 S. W. 34th Street, Gainesville, Florida 32608, Phone (352)372-3505

THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS:

5B-52.001 Definitions.

(1) through (21) No change.

(22) Southeastern Boll Weevil Eradication Foundation, Inc. A nonprofit organization comprised of cotton growers and state plant regulatory officials representing all cotton growing states in the Southeastern United States. The Southeastern Boll Weevil Eradication Foundation, Inc. was established to provide guidance to the state foundations and conduct the eradication of the boll weevil throughout the cotton growing areas of the Southeastern United States.

~~(23)(22)~~ Suppressive area. An area where an attempt is being made to contain and control the population of boll weevil.

Specific Authority 570.07(23) FS. Section 3(2), Chapter 87-55, Laws of Florida. Law Implemented Chapter 87-55, Laws of Florida. History--New 12-21-87, Amended.

5B-52.007 Planting Cotton in the Eradication Zone and Required Participation.

(1) No change.

(2) Noncommercial cotton. Noncommercial cotton shall not be produced in the eradication zone except by written authorization under special permit issued by the division director for research purposes.

(3) through (4) No change.

Specific Authority 570.07(23) FS. Section 3(2), Chapter 87-55, Laws of Florida. Law Implemented Chapter 87-55, Laws of Florida. History--New 12-21-87, Amended.

5B-52.008 Treatment of Cotton in the Eradication Zone.

The treatment of cotton in the eradication zone shall be the responsibility of the Southeastern Boll Weevil Eradication Foundation, Inc. USDA and shall be accomplished under their authority and direction.

Specific Authority 570.07(23) FS. Section 3(2), Chapter 87-55, Laws of Florida. Law Implemented Chapter 87-55, Laws of Florida. History--New 12-21-87, Amended.

5B-52.009 Submission of Reporting Forms, Assessments and Penalties for Late Payment, and Cotton Destruction.

(1) Each commercial cotton grower shall submit a completed Cotton Acreage Reporting Form (DACS-08193, Revised 10/99) and incorporated herein by reference, to the federal Farm Service Agency (FSA) Intended Cotton Acreage Reporting Form (PI-163) to the federal Agricultural Stabilization and Conservation Service (ASCS) office servicing the county where the cotton is grown. A copy of the Cotton Acreage Reporting Form may be obtained from the Division of Plant Industry, Bureau of Plant and Apiary Inspection, Post Office Box 147100, Gainesville, Florida 32614-7100. Form PI-163 The Cotton Acreage Reporting Form shall be submitted between March 1 and April 30 ~~29~~ of each year the program remains in effect.

(2) The per acre annual assessment for each acre is \$5.00 for 1987, \$17.50 for 1988, \$25 for 1989, and \$27 for 1990, \$14 for 1991, \$18 for 1992, \$10 for 1993, and \$6.50 for 1994. Thereafter, as long as a containment program is necessary, containment costs shall not exceed \$10 per acre. The cotton growers' share of the total assessment shall be due by June 15 each year the program is in effect. Assessments that were unpaid as of September 1 of 1987-1993 are subject to a penalty fee of \$4 per acre. Commencing with 1994 and thereafter, payments not received by July 15 shall be subject to a penalty fee of 20 percent of the unpaid assessment. Penalty fees shall

not exceed \$25 per acre. Assessment payments and penalty fees shall be paid at the local Farm Service Agency ASCS office.

(3) All assessments and penalty fees collected by the federal Farm Service Agency ASCS shall be remitted to the department and accompanied by a completed Letter of Transmittal Form (DACS-08239, revised 10/99) and incorporated herein by reference, as prescribed in a cooperative agreement between the department and the state federal Farm Service Agency ASCS office and shall be deposited in the State Treasury to the credit of the Plant Industry Fund. A copy of the Letter of Transmittal form may be obtained from the Division of Plant Industry, Bureau of Plant and Apiary Inspection, Post Office Box 147100, Gainesville, Florida 32614-7100.

(4) Penalty fees shall be waived by the division director only upon recommendation of the Foundation.

Specific Authority 570.07(23), 593.103(2) FS. Law Implemented 593.103(4)(10), 593.105, 593.109 FS. History--New 12-21-87, Amended 4-2-89, 12-24-90, 6-26-94, Amended.

5B-52.010 Cotton Stalk Destruction.

Each commercial cotton grower, when requested by the Department shall destroy all cotton stalks. All cotton stalks shall be destroyed by February 1 each year the program is in effect. Verification of cotton stalk destruction shall be reported on a Cotton Destruction Verification Form (DACS-08164, revised 10/99) and incorporated herein by reference. A copy of the Cotton Destruction Verification Form may be obtained from the Division of Plant Industry, Bureau of Plant and Apiary Inspection, Post Office Box 147100, Gainesville, Florida 32614-7100. Cotton stalks not destroyed by such date shall be deemed a public nuisance and subject to a penalty fee of \$10.00 per acre. The department may apply to any court of competent jurisdiction, and the court is authorized, in its discretion, to issue judgment and order condemnation and destruction of the nuisance. The grower is liable for all court costs, fees, and other expenses incurred in such action.

Specific Authority 570.07(23), 593.103(2) FS. Law Implemented 593.103(13), 593.109, 593.116 FS. History--New 12-21-87, Amended 4-2-89, Amended.

5B-52.011 Movement of Regulated Articles.

(1) through (2) No change.

(3) Intrastate movement.

(a) Regulated articles originating in a suppressive area shall be authorized to move to an area described as a regulated area by the department when accompanied by an authenticated boll weevil certificate, (DACS-08162, revised 11/99) and incorporated herein by reference. A copy of the Boll Weevil Certificate may be obtained from the Division of Plant Industry, Bureau of Plant and Apiary Inspection, Post Office Box 147100, Gainesville, Florida 32614-7100.

(b) through (d) No change.

Specific Authority 570.07(23) FS. Law Implemented 593.103(2),(5),(7) FS. History—New 12-21-87, Amended 7-5-95,\_\_\_\_\_.

5B-52.012 Issuance of Boll Weevil Certificates and Compliance Agreements, Cancellations, and Attachments.

(1) Issuance of boll weevil certificates and compliance agreements.

(a) Boll weevil certificates. Boll weevil certificates (DACS-08162, revised 11/99) shall be issued for the movement of regulated articles. ~~under any of the following conditions~~ Conditions requiring a certificate for the movement of regulated articles are as follows:

1. When, in the judgment of an authorized representative, regulated articles have not been exposed to infestation.

2. When regulated articles have been examined by an authorized representative and found to be free of infestation.

3. When regulated articles have been treated as prescribed by the USDA or the department under the supervision of an authorized representative.

(b) Compliance agreement. As a condition to receiving a boll weevil certificate (DACS-08162, revised 11/99) for the movement of regulated articles, any person engaged in producing, purchasing, exchanging, processing, utilizing, treating, or moving regulated articles from a regulated area shall be required by the department to sign a compliance agreement (DACS-08031, Revised 5/99) and incorporated herein by reference, stipulating that he will carry out all conditions, treatments, precautions, and sanitary measures deemed necessary by the department to prevent dissemination of boll weevil, including segregation and maintenance of identity of such articles, under supervision of an authorized representative. Any violation of such compliance agreement shall result in its cancellation. A copy of the compliance agreement form (DACS-08031) may be obtained from the Division of Plant Industry, Bureau of Plant and Apiary Inspection, Post Office Box 147100, Gainesville, Florida 32614-7100.

(2) Cancellation. Boll weevil certificates (DACS-08162) issued for the movement of regulated articles shall be withdrawn or canceled and further issuance of boll weevil certificates for the movement of such articles shall be refused by the department when it is determined that further use of such certificates could result in the spread of boll weevil.

(3) Attachment. When offered for movement, the container of regulated articles or, if there is no container, the article itself shall be required to have an authenticated boll weevil certificate (DACS-08162) securely attached.

Specific Authority 570.07(23) FS. Law Implemented 593.103(2) FS. History—New 12-21-87, Amended 7-5-95,\_\_\_\_\_.

**DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES**

**Division of Plant Industry**

RULE CHAPTER TITLE: Pests of Honeybees and Unwanted Races of Honeybees

RULE CHAPTER NO.: 5B-54

RULE TITLES: Definitions

RULE NOS.: 5B-54.001

Movement of Regulated Articles 5B-54.006

Registration with the Department 5B-54.010

Apiary Inspection Procedures 5B-54.011

Issuance of Compliance Agreements and Certificates 5B-54.014

Special Inspection to Meet Requirements of Other States and For Export to Foreign Countries 5B-54.015

Interim Detention of Honeybees and Equipment 5B-54.016

Destruction or Treatment of Infested or Infected Hives 5B-54.017

Compensation for Infested or Infected Colonies 5B-54.018

Procedures for Abandoned Apiaries 5B-54.019

Forms 5B-54.020

PURPOSE AND EFFECT: The purpose of this rule revision is to bring this rule into compliance with Sections 120.52(15) and 120.55(1)(a)(4), F.S., which provides in part that a rule includes any form which imposes any requirement or solicits any information not specifically required by statute or by an existing rule, the form incorporated by reference in the rule, and an explanation of how the form may be obtained.

SUBJECT AREA TO BE ADDRESSED: These rules are amended to incorporate by reference Division forms which impose a requirement or solicit information not specifically required by statute.

SPECIFIC AUTHORITY: 586.10(2) FS.

LAW IMPLEMENTED: 586.025, 586.03(3), 586.035(1), 586.045, 586.09, 586.10(1),(2),(4),(6),(7),(9),(11),(12), 586.11, 586.115, 586.13(1), 586.14, 586.15 FS.

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

TIME AND DATE: 10:00 a.m., February 22, 2000

PLACE: Doyle Conner Building, 1911 S. W. 34th Street, Gainesville, FL

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT IS Connie Riherd, Assistant Director, Division of Plant Industry, P. O. Box 147100, Gainesville, FL 32614-7100

THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS:

5B-54.001 Definitions.

For the purpose of this chapter, the definitions in Section 586.02, Florida Statutes, and the following definitions shall apply:

(1) through (4) No change.

~~(5) Permit. An official document issued by the department to out-of-state beekeepers for the entrance of honeybees and other regulated articles as stipulated by this chapter.~~

~~(5)(6) USDA. United States Department of Agriculture, Animal and Plant Health Inspection Services, Plant Protection and Quarantine.~~

Specific Authority 586.10(2) FS. Law Implemented 586.09, 586.10(2), 586.11 FS. History--New 11-22-88, Amended.

5B-54.006 Movement of Regulated Articles.

(1) International movement. Regulated articles as listed under 5B-54.005 are prohibited entry into the state unless accompanied by an official letter ~~or permit~~ issued by the Division Director authorizing entry under special conditions.

(2) through (3) No change.

Specific Authority 586.10(2) FS. Law Implemented 586.025, 586.035(1), 586.10(1)(6), 586.11, 586.13(1) FS. History--New 11-22-88, Amended 11-4-92, \_\_\_\_\_.

5B-54.010 Registration with the Department.

Each beekeeper having honeybee colonies within the state must register with the department utilizing the following procedures:

(1) Application for registration of beekeeping operations shall be made upon a form furnished by the department. The form shall contain provisions with which the applicant must comply and must be signed by the applicant or applicant's representative. Form DACS-08176, PI-176, Application for Beekeeping Registration, revised 7/99 May 1992, is hereby incorporated in this rule by reference. A copy of DACS-08176 may be obtained from the Division of Plant Industry, Bureau of Plant and Apiary Inspection, Post Office Box 147100, Gainesville, Florida 32614-7100.

(2) Applicant's honeybees shall have been inspected by an authorized representative of the department within a 12-month period preceding the date of application and found to be apparently free from honeybee pests listed under 5B-54.003 and unwanted races of honeybees listed under 5B-54.004 and to be reasonably free from common honeybee pests.

(3) By signing the application the beekeeper agrees to comply with appropriate rules of the department. Each application for registration (DACS-08176) or renewal of registration (~~PI-176~~) must be accompanied by the proper registration fee based on the total number of colonies operated by the registrant as follows:

<u>Number of Colonies</u>	<u>Fee</u>
1-5	\$ 5
6-40	10
41-200	20
201-500	35
501-2000	50
2001-5000	75
Over 5000	100

(4) Upon approval of the application, the department will issue to the beekeeper a Certificate of Beekeeping Registration. Form DACS-08177, PI-177, Certificate of Beekeeping Registration, revised 4/99 9-94, is hereby incorporated in this rule by reference. A copy of DACS-08177 may be obtained from the Division of Plant Industry, Bureau of Plant and Apiary Inspection, Post Office Box 147100, Gainesville, Florida 32614-7100.

(5) Application for annual renewal of the certificate must be made not later than the anniversary date of the certificate and must be accompanied by the appropriate registration fee.

(6) An application received after the anniversary date shall be accompanied by a \$10 late filing fee.

(7) Failure to register is a violation of Section 586.045, Florida Statutes, and is subject to the penalties set forth in Section 586.15, Florida Statutes.

Specific Authority 586.10(2) FS. Law Implemented 586.045, 586.10(9), 586.10(12), 586.15 FS. History--New 11-22-88, Amended 11-4-92, \_\_\_\_\_.

5B-54.011 Apiary Inspection Procedures.

(1) Each Florida apiary shall be inspected and a report issued by an authorized representative of the department at such intervals as the department deems best for the detection of honeybee pests listed under 5B-54.003 and unwanted races of honeybees under 5B-54.004. Form Apiary Inspection Report, DACS-08206, Revised 6/99, is hereby incorporated in this rule by reference. A copy of DACS-08206 may be obtained from the Division of Plant Industry, Bureau of Plant and Apiary Inspection, Post Office Box 147100, Gainesville, Florida 32614-7100.

(2) Routine inspection of an apiary shall include actual visual inspection of not less than five (5) percent of the hives included in the apiary. One hundred (100) percent of the hives may be inspected if determined appropriate by the department. A minimum of ten (10) hives shall be inspected in the apiary with all hives inspected in any apiary consisting of less than ten (10) hives.

Specific Authority 586.10(2) FS. Law Implemented 586.10(4),(9) FS. History--New 11-22-88, Amended 11-4-92, \_\_\_\_\_.

5B-54.014 Issuance of Compliance Agreements Permits and Certificates.

(1) ~~Compliance Agreements Permits~~. The department may issue a compliance agreement permit for the movement of regulated articles, as listed under 5B-54.005, from another state for entrance into Florida under any of the following conditions:

~~(a) When regulated articles have been inspected by an authorized representative of the state of origin or the department and found to be apparently free of infection or infestation by a honeybee pest or unwanted race of honeybees as listed under 5B-54.003 and 5B-54.004 or when in compliance with 5B-54.017;~~

~~(b) When regulated articles have been treated under the supervision of an authorized representative of the state of origin, the department, or the USDA with a treatment method approved by the department;~~

~~(a)(e)~~ When movement of non-certified regulated articles to specified destinations for limited handling, utilization, or processing is requested.

~~(b)(d)~~ Each permit compliance agreement will prescribe the conditions under which the regulated articles are allowed to move. Form Compliance Agreement, DACS-08031, Revised 5/99, is hereby incorporated in this rule by reference. A copy of DACS-08031 may be obtained from the Division of Plant Industry, Bureau of Plant and Apiary Inspection, Post Office Box 147100, Gainesville, Florida 32614-7100.

(2) Certificates of Inspection.

(a) A certificate is required on each sale or movement of honeybees and other regulated articles within the state unless such regulated articles are identified as specified in 5B-54.013. Forms DACS-08061, revised 8/99 PI-57, revised 6-92, Certificate of Inspection for Out of State Shipments and Re-entry Into Florida, and incorporated herein by reference, or a Queen Certificate, DACS-08057, revised 10/99, and incorporated herein by reference, or a Varroa Mite Certificate, DACS-08165, revised 10/99, and incorporated herein by reference, may be used for this purpose. A copy of forms DACS-08061, DACS-08057 and DACS-08165 may be obtained from the Division of Plant Industry, Bureau of Plant and Apiary Inspection, Post Office Box 147100, Gainesville, Florida 32614-7100.

~~(b) A certificate, DACS-08061 or DACS-08057, is required on shipments of honeybees or other regulated articles going from the state showing that certification requirements have been met. Forms PI-57 and PI-61, revised 5/92, to be used for this purpose, are hereby incorporated in this rule by reference.~~

Specific Authority 586.10(2) FS. Law Implemented 586.10(7), 586.09, 586.11 FS. History—New 11-22-88, Amended 11-4-92, 7-9-95, \_\_\_\_\_.

5B-54.015 Special Inspection to Meet Requirements of Other States and For Export to Foreign Countries.

Any person may request the department to provide inspection, sampling, and laboratory examination of honeybees and beekeeping equipment for the purpose of determining eligibility to meet special requirements for shipment to other states and for export, under the following procedures:

(1) File a request for inspection on a form provided by the department. Form DACS-08179 PI-179, Request for Special Inspection, revised 10/99, 5-21-92, is hereby incorporated in this rule by reference. A copy of forms DACS-08179, may be obtained from the Division of Plant Industry, Bureau of Plant and Apiary Inspection, Post Office Box 147100, Gainesville, Florida 32614-7100.

(2) Provide authorized representatives with directions to the apiary, and, if requested, assistance in handling the colonies and equipment for examination.

Specific Authority 586.10(2) FS. Law Implemented 586.02(12), 586.03(3) FS. History—New 11-22-88, Amended 11-4-92, \_\_\_\_\_.

5B-54.016 Interim Detention of Honeybees and Equipment.

Any honeybees and used beekeeping equipment, whether certified or not, may be detained for inspection by the department. If such bees or used beekeeping equipment are found to have been moved or transported into the state or within the state in violation of the rules of the department, or if found infested or infected with any regulated honeybee pests or unwanted races of honeybees, such honeybees or used beekeeping equipment shall be deported, destroyed or treated by the department within 48 hours upon the order of the department. Daily Apiary Movement Reporting Form, DACS-08201, Revised 10/99, to be used for this purpose is incorporated into this rule by reference. A copy of DACS-08201, may be obtained from the Division of Plant Industry, Bureau of Plant and Apiary Inspection, Post Office Box 147100, Gainesville, Florida 32614-7100.

Specific Authority 586.10(2) FS. Law Implemented 586.10(4), 586.115, 586.13 FS. History—New 11-22-88, Amended \_\_\_\_\_.

5B-54.017 Destruction or Treatment of Infested or Infected Hives.

(1) American foulbrood. All hives found infested or infested with American foulbrood shall be destroyed by burning or shall be decontaminated by other methods prescribed or approved by the department. This action must be accomplished within 30 40 days of diagnosis and honeybee colonies and related equipment must be stored or maintained in such a manner that exposure to other honeybees is prevented. All colonies found in the same apiary where American foulbrood is detected shall be quarantined for a minimum of 30 days by issuing a Notice of Quarantine For American Foulbrood to determine apparent freedom from American foulbrood disease. Notice of Quarantine For American

Foulbrood, DACS-08063, Revised 12/99, is hereby incorporated in this rule by reference. A copy of DACS-08063, may be obtained from the Division of Plant Industry, Bureau of Plant and Apiary Inspection, Post Office Box 147100, Gainesville, Florida 32614-7100.

(2) Other honeybee pests and unwanted races of honeybees. Discovery of other honeybee pests or unwanted races of honeybees in the state shall initiate the quarantine of all colonies located within a distance prescribed by the department of the infested apiary. All honeybees within the quarantine area shall be inspected. A recommended eradication or control method shall be determined and prescribed by the department.

(3) Varroa mite. All hives found infested with Varroa mite shall be treated prior to movement with an acaricide approved by the Department and will not have more than two (2) Varroa mites in an ether roll of 200 bees in the post treatment survey, in accordance with Compliance Agreement PI-167, revised 10-92, incorporated in this rule by reference A Varroa Mite Certificate, DACS-08165, Revised 10/99, is to be issued following an acceptable survey. A copy of DACS-08165, may be obtained from the Division of Plant Industry, Bureau of Plant and Apiary Inspection, Post Office Box 147100, Gainesville, Florida 32614-7100.

Specific Authority 586.10(2) FS. Law Implemented 586.10(4), 586.115, 586.13 FS. History—New 11-22-88, Amended 11-4-92, 7-9-95, \_\_\_\_\_.

5B-54.018 Compensation for Infested or Infected Colonies.

(1) Florida resident owners of colonies and regulated articles destroyed due to infection or infestation with American foulbrood shall be compensated at the rate of 1/2 the estimated value of the honeybees and equipment, provided funding is available for this purpose; however, compensation shall not exceed \$30.00. The condition of the equipment to be destroyed shall be rated by the inspector and the beekeeper as good, fair, or poor. Any disagreement over the condition or value of equipment to be destroyed shall be arbitrated by the Chief of Apiary Inspection, the Cooperative Extension Service Apiary Specialist, and the Chairman of the Honeybee Technical Council. A Compensation Agreement, including the owner's Social Security number, must be signed by the owner. The Compensation Agreement form, DACS-08062, Revised 7/99, is hereby incorporated in this rule by reference. A copy of DACS-08062, may be obtained from the Division of Plant Industry, Bureau of Plant and Apiary Inspection, Post Office Box 147100, Gainesville, Florida 32614-7100.

(2) No change.

Specific Authority 586.10(2) FS. Law Implemented 586.13, 586.14 FS. History—New 11-22-88, Amended 11-4-92, \_\_\_\_\_.

5B-54.019 Procedures for Abandoned Apiaries.

Any apiary found without proper identification or registration information is considered abandoned after which the following will apply:

(1) An inventory of the apiary will be conducted and each hive and piece of equipment tagged with an official department tag indicating the department's label of abandonment. Notice of Abandonment, Form DACS-08180, PI-180, revised 10/99, 5/92, to be used for this purpose, is hereby incorporated in this rule by reference. A local law enforcement agency and the landowner will be informed by written notice of the geographic location of such apiary. A copy of DACS-08180, Notice of Abandonment, may be obtained from the Division of Plant Industry, Bureau of Plant and Apiary Inspection, Post Office Box 147100, Gainesville, Florida 32614-7100.

(2) through (8) No change.

Specific Authority 586.10(2) FS. Law Implemented 586.10(11),(12) FS. History—New 11-22-88, Amended 11-4-92, \_\_\_\_\_.

5B-54.020 Forms.

~~All forms required under this rule chapter may be obtained from the Division of Plant Industry, P. O. Box 147100, Gainesville, Florida 32614-7100.~~

Specific Authority 586.10(2) FS. Law Implemented 586.10(2) FS. History—New 11-22-88, Amended 11-4-92, Repealed.

**DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES**

**Division of Plant Industry**

RULE CHAPTER TITLE: Dogwood Anthracnose

RULE CHAPTER NO.: 5B-55

RULE TITLE: Interstate Movement

RULE NO.: 5B-55.006

PURPOSE AND EFFECT: The purpose is to bring this rule in compliance with Section 120.55(1)(a)4., F.S., by adopting by reference the Master Permit Form, DACS-08047, Revised 11/99, and supplying an address where the form can be obtained.

SUBJECT AREA TO BE ADDRESSED: Amends Rule 5B-55.006 by adopting by reference the Master Permit, DACS-08047, Revised 11/99, which is required for host plants of dogwood anthracnose to enter the state.

SPECIFIC AUTHORITY: 570.07(23), 581.031(4) FS.

LAW IMPLEMENTED: 581.031(4),(15),(20), 581.083 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., February 22, 2000

PLACE: Doyle Conner Building, 1911 S. W. 34th Street, Gainesville, FL 32608



arthropod or noxious weed can be contained to prevent escape into the environment or that it will not pose a threat to agriculture, beneficial organisms, or the environment or become a public nuisance. In making such determinations the department may rely on the findings of other agencies and groups as listed in 5B-57.003. The application procedures for permits are as follows:

(2) Application for permit shall be made on form DACS-08208 ~~PI-208~~. Application and Permit to Move Organisms Regulated By The State of Florida, DACS-08208, Revised 01/00, (PI-208), effective May 1993, is incorporated into this rule chapter by reference. Copies may be obtained from the Division of Plant Industry, P. O. Box 147100, Gainesville, Florida 32614-7100.

(3) through (5) No change.

Specific Authority 570.07(13),(23) FS. Law Implemented 581.031(6),(7), 581.083, 581.091 FS. History--New 7-27-93, Amended.

**DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES**

**Division of Plant Industry**

RULE CHAPTER TITLE: Citrus Budwood Protection Program

RULE CHAPTER NO.: 5B-60

RULE TITLES: Citrus Budwood Protection Procedure

RULE NOS:

Manual, Citrus Budwood Testing Manual, and Graft-Transmissible Diseases of Citrus: Handbook for Detection and Diagnosis	5B-60.004
Citrus Nursery Stock Propagation and Planting Parent Trees	5B-60.006
Scion Trees	5B-60.007
Validated Tree	5B-60.009
Fees	5B-60.011
Exemptions	5B-60.015
	5B-60.016

PURPOSE AND EFFECT: The purpose of this rule revision is to meet the requirements of Sections 120.52(15) and 120.55(1)(a)4., F.S., which provides in part that a rule includes any form which imposes any requirement or solicits any information not specifically required by statute or by an existing rule, the form incorporated by reference in the rule, and an explanation of how the form may be obtained.

SUBJECT AREA TO BE ADDRESSED: Various forms are incorporated by reference in these rules.

SPECIFIC AUTHORITY: 570.07(23), 581.031(1),(3),(8) FS.

LAW IMPLEMENTED: 570.07(2),(13),(23), 570.0705, 581.031(1),(14),(17),(23) 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., February 22, 2000

PLACE: Division of Plant Industry, Doyle Conner Building, 1911 S. W. 34th Street, Gainesville, FL 32608

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT IS: Constance C. Riherd, Assistant Director, Division of Plant Industry, Department of Agriculture and Consumer Services, Doyle Conner Building, 1911 S. W. 34th Street, Gainesville, Florida 32608, Phone (352)372-3505

THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS:

5B-60.004 Citrus Budwood Protection Procedure Manual, Citrus Budwood Testing Manual, and Graft-Transmissible Diseases of Citrus: Handbook for Detection and Diagnosis.

The regulations, definitions, and standards in Citrus Budwood Protection Procedure Manual, Revised 1/21/00 ~~9/15/99~~, Citrus Budwood Testing Manual, Revised September 16, 1999, and C. N. Rostacher, Graft-transmissible Diseases of Citrus: Handbook for detection and diagnosis. (Food and Agricultural Organization of the United Nations, Rome, 1991) are hereby adopted as regulations and rules under the Division of Plant Industry, pursuant to Chapter 581, F.S. Copies may be obtained by contacting the Secretary of State's Office, Tallahassee, Florida. Copies are available for examination at the Florida Department of Agriculture and Consumer Services, Bureau of Citrus Budwood Registration, 3027 Lake Alfred Road, Winter Haven, Florida 33881, and the Florida Department of Agriculture and Consumer Services, Division of Plant Industry, Plant Pathology Section, 1911 S.W. 34th Street, Gainesville, Florida 32608.

Specific Authority 570.07(23), 581.031(1),(3),(8) FS. Law Implemented 570.07(23), 570.0705, 581.031(1),(14),(17),(23) FS. History--New 9-30-96, Amended 11-4-98, Amended.

5B-60.006 Citrus Nursery Stock Propagation and Planting.

(1) No change.

(2) Prior to propagating all dooryard, own-use and commercial citrus nursery stock, unless exempted in 5B-60.016, nurserymen and growers shall make application to produce citrus nursery stock on Form DACS-08066. Form DACS-08066, Revised 9/99 ~~6/99~~, is hereby adopted and incorporated by reference herein. The form may be obtained by writing or visiting the Florida Department of Agriculture and Consumer Services, Division of Plant Industry, Bureau of Citrus Budwood Registration, 3027 Lake Alfred Road, Winter Haven, FL 33881-1438. Applicants must agree to comply with all the conditions which apply to the Citrus Budwood Protection Program as specified in this rule chapter.

(3) Commercial citrus nursery stock shall be propagated according to the following provisions unless exempted in 5B-60.016.

(a) Propagative material including budwood, air-layers, and cuttings shall be from parent trees, foundation trees, scion trees, increase or validated trees for which a Certificate of



Source Tree Registration (DACS-08072) has been issued as specified in 5B-60.012. Form DACS-08072, Revised ~~1/00~~ 10/99, is hereby adopted and incorporated by reference herein. The form may be obtained by writing or visiting the Florida Department of Agriculture and Consumer Services, Division of Plant Industry, Bureau of Citrus Budwood Registration, 3027 Lake Alfred Road, Winter Haven, Florida 33881.

(b) Budwood shall be taken under the direct supervision of a witness authorized by the department. Budwood from each source tree shall be wrapped separately. Each bundle shall be labeled showing variety, the tree identification number, and the number of buds counted or estimated.

(c) All propagative material data shall be recorded on a Source Tree Bud Cutting Report ~~registered budcutting report~~ (DACS-08172) and submitted to the Bureau of Citrus Budwood Registration at the time of collection. Form DACS-08172, Revised 10/99, is hereby adopted and incorporated by reference herein. Persons authorized to fill out a Source Tree Bud Cutting Report(DACS-08172), shall sign an Certification To Witness Registered Budwood form, DACS-08111, Revised 12/99, and incorporated in this rule by reference. These forms ~~The form~~ may be obtained by writing or visiting the Florida Department of Agriculture and Consumer Services, Division of Plant Industry, Bureau of Citrus Budwood Registration, 3027 Lake Alfred Road, Winter Haven, Florida 33881-1438.

(d) through (i) No. change.

(j) Laboratories that submit citrus tristeza virus test results to the Citrus Budwood Protection Program shall sign a Citrus Tristeza Virus Testing Laboratory Certification Compliance Agreement DACS-08031, revised 5/99, incorporated in this rule by reference. Form DACS-08031 may be obtained from the Bureau of Citrus Budwood Registration, 3027 Lake Alfred Road, Winter Haven, FL 33881-1438.

(4) No change.

(5) Dooryard sources are initially recorded on a Record of Validated/Dooryard Source Trees Form DACS-08255, Revised 12/99, which is adopted and incorporated herein by reference. The form may be obtained by writing or visiting the Department of Agriculture and Consumer Services, Division of Plant Industry, Bureau of Citrus Budwood Registration, 3027 Lake Alfred Road, Winter Haven, FL 33881-1438.

Specific Authority 570.07(23), 581.031(1),(3),(8) FS. Law Implemented 570.07(2),(13), 570.0705, 581.031(1),(14),(17),(23) FS. History--New 9-30-96, Amended 11-4-98,\_\_\_\_\_.

5B-60.007 Parent Trees.

Parent trees are selected mature source trees belonging to a nurseryman or grower, or on property that the owner has given written permission to a nurseryman and the department for access for observation, testing, and budcutting. At the time of entry into the Citrus Budwood Protection Program the owner shall sign a Parent Tree Candidate Entry Form DACS-08298

effective 3/99. Form DACS-08298 may be obtained from the Bureau of Citrus Budwood Registration, 3027 Lake Alfred Road, Winter Haven, FL 33881-1438.

(1) through (4) No change.

Specific Authority 570.07(23), 581.031(1),(3),(8) FS. Law Implemented 570.07(2),(13), 570.0705, 581.031(1),(14),(17),(23) FS. History--New 9-30-96, Amended 11-4-98,\_\_\_\_\_.

5B-60.009 Scion Trees.

Scion trees shall be propagated from selected parent or foundation trees, be registered on a Certificate of Source Tree Registration (DACS-08072) as specified in 5B-60.012, and must meet the following requirements:

(1) The layout, design and planting of the scion grove shall meet the requirements specified in the Citrus Budwood Protection Procedure Manual and shall be done under the supervision of the department; Scion tree planting is witnessed by the department on Growers Record of Registered Scion Tree Movement Form DACS-08071, Revised 12/99, which is adopted and incorporated herein by reference. The form may be obtained by writing or visiting the Department of Agriculture and Consumer Services, Division of Plant Industry, Bureau of Citrus Budwood Registration, 3027 Lake Alfred Road, Winter Haven, FL 33881-1438.

(2) through (4) No change.

(5) The nurseryman shall furnish the Bureau of Citrus Budwood Registration within 30 days following date of budding, a nursery plat on Form DACS-08073, revised 10/99 ~~9/99~~, which is adopted and incorporated herein by reference. The form may be obtained by writing or visiting the Department of Agriculture and Consumer Services, Division of Plant Industry, Bureau of Citrus Budwood Registration, 3027 Lake Alfred Road, Winter Haven, FL 33881-1438. The nursery plat shall identify the location of each progeny tree, indicating the variety, rootstock, and the source tree registration number of the source;

(6) through (11) No change.

Specific Authority 570.07(23), 581.031(1),(3),(8) FS. Law Implemented 570.07(2),(13), 570.0705, 581.031(1),(14),(17),(23) FS. History--New 9-30-96, Amended 11-4-98,\_\_\_\_\_.

5B-60.011 Validated Tree.

Validated source trees shall be validated on a Certificate of Source Tree Registration (DACS-08072), and must meet the following requirements:

(1) through (5) No change.

(6) Validated sources are initially recorded on a Record of Validated/Dooryard Source Trees Form DACS-08255, Revised 12/99, which is adopted and incorporated herein by reference. The form may be obtained by writing or visiting the Department of Agriculture and Consumer Services, Division of Plant Industry, Bureau of Citrus Budwood Registration, 3027 Lake Alfred Road, Winter Haven, FL 33881-1438.

Specific Authority 570.07(23), 581.031(1),(3),(8) FS. Law Implemented 570.07(2),(13), 570.0705, 581.031(1),(14),(17),(23) FS. History—New 9-30-96, Amended 11-4-98,\_\_\_\_\_.

5B-60.015 Fees.

An annual source tree registration fee shall be paid as follows:

Budwood<sup>2</sup> 25 cents/eye, \$5.00 minimum

<sup>1</sup> Mileage shall be based on the prevailing State mileage rate.

<sup>2</sup> Requests for budwood are submitted on a Budwood Order Form DACS-08218, Revised 12/99, which is adopted and incorporated herein by reference. The form may be obtained by writing or visiting the Department of Agriculture and Consumer Services, Division of Plant Industry, Bureau of Citrus Budwood Registration, 3027 Lake Alfred Road, Winter Haven, FL 33881-1438.

(1) through (3) No change.

Specific Authority 570.07(23), 581.031(1),(3),(8) FS. Law Implemented 570.07(2),(13), 570.0705, 581.031(1),(14),(17),(23) FS. History—New 9-30-96, Amended 11-4-98,\_\_\_\_\_.

5B-60.016 Exemptions.

(1) No change.

(2) Citrus trees produced for research purposes in field plantings shall not be exempt from the program requirements contained in this rule chapter. Research facilities shall sign a Citrus Budwood Protection Program Research Facility Compliance Agreement, DACS-08031, Revised 5/99, incorporated in this rule by reference. Form DACS-08031 may be obtained from the Bureau of Citrus Budwood Registration, 3027 Lake Alfred Road, Winter Haven, FL 33881-1438. Requests to plant pathogen infected material for research projects shall be made on an Application and Permit To Plant Citrus Pathogen Infected Stock, DACS-08274, Revised 1/00 ~~10/99~~, and incorporated in this rule by reference. Form DACS-08274 may be obtained from the Bureau of Citrus Budwood Registration, 3027 Lake Alfred Road, Winter Haven, FL 33881-1438.

(3) through (4) No change.

Specific Authority 570.07(23), 581.031(1),(3),(8) FS. Law Implemented 570.07(2),(13), 570.0705, 581.031(1),(14),(17),(23) FS. History—New 9-30-96, Amended 11-4-98,\_\_\_\_\_.

**DEPARTMENT OF REVENUE**

**Sales and Use Tax**

RULE TITLE:

RULE NO.:

Leases and Licenses of Real Property

12A-1.070

PURPOSE AND EFFECT: The purpose of the proposed substantial rewording of Rule 12A-1.070, F.A.C., is to incorporate changes to s. 212.031, F.S., made by the 1999 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;

and to eliminate obsolete provisions. The effect of these amendments will be to provide the following regarding the applicability of sales tax to the rental or lease of real property:

- 1) Commercial real property rentals and licenses are taxable, unless specifically exempt under the provisions of s. 212.031, F.S. Each place of business must be separately registered.
- 2) Definitions of the terms “tenant,” “landlord,” “lessee,” “lessor,” “licensee,” “licensor,” “lease,” “license,” “license fees,” and “rent,” for purposes of this rule.
- 3) Guidelines for when the payment of ad valorem taxes, common area maintenance charges, utility charges, and insurance may be a payment of “rent” and subject to tax.
- 4) Commercial rentals and licenses are subject to tax when the landlord and tenant are related parties, even when the rental consideration is used to pay debt secured by a lien or mortgage on the property.
- 5) Guidelines for determining the taxability of a lease or license of property that involves the use of the property for both taxable and nontaxable uses. When an allocation of lease or license payments between taxable and exempt uses is made in an agreement, but such allocation does not represent true value, the Department may determine the proper rent or license fee allocable to the taxable use.
- 6) Guidelines for determining the taxable portion of the rental of a “residential facility for the aged.”
- 7) Provisions for a reasonable allocation of payments made under a lease or license for both real property and nontaxable intrinsically valuable personal property.
- 8) Provisions for the tenant to receive a credit for tax paid, or issue a resale certificate, to a landlord for that portion of the rented or leased real property that is sublet, assigned, or licensed, including provisions for when the tenant provides services to the subtenant, assignee, or licensee.
- 9) Guidelines for the taxability of lease termination or cancellation payments.
- 10) Definition for the term “bailment,” which are not subject to tax.
- 11) Charges for the right to use a public or private roadway for non-transportation purposes are subject to tax.
- 12) Guidelines for when the lease or license of real property used by an airline for loading or unloading passengers or property onto or from an aircraft is exempt.
- 13) A suggested blanket lease exemption certificate for use in connection with the exemption provided in s. 212.031(1)(a)9., F.S., for property used as an integral part of the performance of qualified production services.
- 14) Guidelines for the exemption for the rental or licensing of streets or right-of-ways by a utility or franchised cable television company for utility, communications, or television purposes.

15) Guidelines for the exemption for the rental or licensing of real property upon which are placed antennas, cables, and adjacent accessory structures and equipment used in the provision of cellular, enhanced specialized mobile radio, or personal communication services.

**SUBJECT AREA TO BE ADDRESSED:** The subject of this workshop is to discuss the incorporation of the changes to s. 212.031, F.S., made by the 1999 Legislature and the provisions and guidelines provided in the proposed substantial rewording of Rule 12A-1.070, F.A.C.

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

**LAW IMPLEMENTED:** 212.02 (10)(h),(i),(13), 212.03(6), 212.031, 212.085 FS.

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

**TIME AND DATE:** 2:00 p.m., February 22, 2000

**PLACE:** Room B-12, Carlton Building, 501 S. Calhoun Street, Tallahassee, Florida

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

**NOTICE UNDER THE AMERICANS WITH DISABILITIES ACT:** Any persons 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 at (850)488-0717. If you are hearing- or speech-impaired, please contact the Department by calling 1(800)367-TDD1 (1(800)367-8331).

**THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT WORKSHOP IS:** Robert D. Heyde, Senior Attorney, Technical Assistance and Dispute Resolution, Department of Revenue, P. O. Box 7443, Tallahassee, Florida 32314-7443, telephone (850)922-4714

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

(Substantial rewording of Rule 12A-1.070 follows. See Florida Administrative Code for present text.)

12A-1.070 Leases and Licenses of Real Property; ~~Storage of Boats and Aircraft.~~

(1)(a) Every person who rents any real property, as defined in s. 212.02(10)(h), F.S., or who grants a license to use, occupy, or enter upon any real property is exercising a taxable privilege unless such real property is exempt under the provisions of s. 212.031, F.S. Such a person shall register separately each place of business.

(b) As used in this rule, "tenant" shall include any person actually occupying, using, or entitled to use any real property (other than transient accommodations subject to s. 212.03, F.S.) pursuant to a lease and is synonymous with "lessee." "Landlord" shall include any person standing in the position of the landlord, or who receives a rent or license payment on

behalf of the landlord, and is synonymous with "lessor." When the context suggests, the term "tenant" may also refer to a licensee, the term "landlord" to a licensor, and the terms "rent" or "lease" to a license. When used as verbs, the terms "rent," "let," and "lease" are synonymous.

(c) "Lease," when used with reference to real property, means an agreement to use and occupy real property for any purpose and that grants possession of a particularly described area of such property over which the tenant has exclusive control and the right to exclude from the property all persons, including the landlord (although a lease may grant a right to a landlord to enter upon the property for specific purposes or upon specific conditions).

(d) "License," when used with reference to real property, means the granting of a privilege to use or occupy a building or parcel of real property for any purpose.

1. Example: An agreement whereby the owner of real property grants another person permission to install and operate a full service coin-operated vending machine, coin-operated amusement machine, coin-operated laundry machine, or any like items, on real property is a license to use the real property.

2. Example: An agreement between the owner of real property and an advertising agency for the use of the real property to display advertising matter is a license to use the real property.

(e) "License fees" include all payments, whether direct or indirect, in cash, in kind, or in goods or services, paid to a licensor for the granting of a privilege to use or occupy real property for any purpose under a license. License fees may be specified amounts or may be a percentage or share of some measuring figure, such as sales or profits.

(f) A payment of "rent," or a "lease payment," includes any payment, whether direct or indirect, in cash, in kind, or in goods or services, paid to the landlord for the granting of a privilege to use or occupy real property for any purpose under a lease and further includes base rent, percentage rent, and any similar charge. Any payment made pursuant to a lease agreement shall be considered a payment of rent if the tenant's failure to make such payment would constitute a default, allowing termination of the lease, under the provisions of the agreement or under applicable state law. Notwithstanding the previous sentence, payments made to a landlord by a tenant for tenant-requested improvements to the real property shall not be considered payments of rent if the lease does not (1) require the tenant to make such improvements and (2) provide that such improvements may be made only by the landlord or an entity related to the landlord.

(g) Ad valorem taxes paid by the tenant to the landlord or to any other person for the privilege or right to use or occupy real property are considered payments of rent or license fees and are taxable.

(h) Common area maintenance charges paid by the tenant to the landlord or to any other person for the privilege or right to use or occupy real property are considered payments of rent or license fees and are taxable.

(i) Utility charges paid by a tenant to the landlord for the privilege or right to use or occupy real property are considered payments of rent or license fees and are taxable, unless the landlord has paid the sales tax to the utility company on the utilities consumed by the tenant, and the utilities billed by the landlord to the tenant are separately stated on the landlord's invoice to the tenant at the same or lower price as that billed by the utility company to the landlord.

1. Example: The landlord owns a building with 5 offices and common areas. All offices are the same size. The landlord uses one office and leases the other four. The lease agreement provides that the utility charges are "additional rent" and failure to pay such utility charges when required will cause the lease to terminate. All offices use approximately the same amount of utilities. Utility services are sold by the utility company to the landlord. The bill to the landlord is as follows:

Electrical energy	\$1,000.00
Gas energy	500.00
Gross receipts tax (\$1500 X 2.5%)	37.50
Subtotal – subject to sales tax	1,537.50
Sewage & garbage service	100.00
Water service	50.00
Florida sales tax	92.25
Municipal utilities tax (\$1500 X 10%)	150.00
Total amount due	\$1,929.75

The landlord charges each tenant \$2,000 rent, which includes the tenant's use of the common areas, in addition to the tenant's pro rata share of utilities, including sales tax on utilities, gross receipts tax on utilities, and municipal utility tax based on the landlord's cost. Of the above total charges of \$1,929.75, the \$150.00 of charges for services of sewage, garbage, and water service are not utility service charges on which tax was paid by the landlord. Consequently, only the portion of each tenant's \$385.95 share of the total charge billed by the utility company that represents the tenant's share of non-taxable charges is taxable as rent. Therefore, the invoice to the tenant for the month should read:

Rent	\$2,000.00
Tenant's one-fifth share of charges for sewage, garbage and water	30.00
Total subject to tax	\$2,030.00
Florida (6%) sales tax	121.80
Reimbursement for one-fifth share of utilities on which tax was paid by landlord	355.95
Total amount due	\$2,507.75

2. Example: Same facts as above, except the landlord marks up the total of the utility company's service bill by 10 percent, resulting in a total charged to the tenants for utilities of \$2,122.73, instead of the \$1,929.75 actually paid by the landlord for the utilities. Thus, each tenant's one-fifth share of utilities would be \$424.55, instead of \$385.95, as in the previous example. Again, if the landlord separately states the utility charges on the tenant's invoice, the landlord should compute the tax as follows:

Rent	\$2,000.00
Tenant's share of utilities not taxed (total utilities, \$424.55, less utilities on which the landlord paid tax, \$355.95)	68.60
Total subject to tax	\$2,068.60
Florida (6%) sales tax	124.12
Reimbursement for one-fifth share of utilities on which tax was paid by the landlord	355.95
Total amount due	\$2,548.67

Because the landlord marked up the utilities, gross receipts tax, pursuant to s. 203.01, F.S., at the rate of 2.5 percent would be due on the marked-up amount, in addition to sales tax being due on such amount.

(j) When a tenant acquires insurance for his own protection, payment of the premium is not regarded as a payment of rent or a license fee, even though the landlord is also protected by the coverage. However, any portion of the premium that secures the protection of the landlord and that is separately stated or itemized is regarded as a payment of rent or a license fee and is taxable.

(2)(a) The total consideration paid by a tenant to a landlord for the use or occupancy of real property is subject to tax, even if any or all of the following factors are present:

1. The tenant and landlord are related;
2. The amount of the consideration is equal to the amount legally necessary to amortize a debt secured by a lien or mortgage on the property;
3. The tenant is jointly and severally liable on such a debt (unless the tenant has a direct ownership interest in the property, in which event the consideration is taxable only to the extent that it is not proportionate with such ownership interest).
4. The consideration is paid to the landlord, who then uses the consideration to pay a debt.
5. The consideration is paid directly to the holder of the debt.

(b)1. Example: The tenant directly owns a 25 percent interest in the real property it is leasing from a related landlord. The property is encumbered with a mortgage. The only payments made by the tenant for use of the property are payments on the mortgage. The mortgage payments are approximately equal to one-quarter of the payments that would

return to the landlord a fair rental based on the fair market value of the property. The tenant's payments of the mortgage do not constitute rent.

2. Example: The facts are the same as in the previous example, except that the mortgage payments are approximately equal to the payments that would return to the landlord a fair rental based on the fair market value of the property. Seventy-five percent of the tenant's payments of the mortgage are considered to be payments of rent, because the payments exceed by that amount payments that would be proportionate to the tenant's ownership interest.

(3)(a) When a lease or license to use or occupy real property involves the multiple use of such real property, such that a lease or license of part of the real property would be subject to tax and a lease or license of another part would be excluded from tax, the Department shall determine from the lease or license and such other information as may be available the portion of the payment for the lease or license that is exempt from tax. When insufficient information is available on which the Department can determine the exempt and taxable portions of the lease or license payments, the Department shall make a reasonable allocation of the payments between such portions. The allocation will be made on a square footage basis when the charge or value per square foot of the various parts of the real property is substantially equal.

(b) When an allocation of lease or license payments between taxable uses and exempt uses is made in the lease or license agreement, but in the judgment of the Department, the amount of rent or license fee stated in the lease or license agreement for the taxable portion of the real property does not represent true value, the Department shall make a determination of the proper amount of rent or license fee applicable thereto for the purpose of determining the amount of tax due from such other information as is available.

(c) Real property leased or rented by for-profit entities qualifying as a "residential facility for the aged" under s. 212.031(1)(b), F.S., is taxable on a pro-rata basis. The portion that is taxable is determined by the square footage that is used for commercial purposes, such as a bank, beauty shop, or giftshop, and unimproved grounds that are part of the property, compared to the total square footage of the real property.

(d) When a lease or license provides both for payments taxable as rent or license fees and for payments for nontaxable intrinsically valuable personal property, such as franchises, trademarks, service marks, logos, or patents, the tax shall be based on a reasonable allocation of the payments to the taxable property.

(4)(a) When a tenant sublets, assigns, or licenses some portion of the leased or licensed property and collects rent or license fees subject to tax, the tenant must register as a dealer and collect and remit the tax on the sublease, assignment, or license. The tenant may take credit for the tax paid to the

landlord on the area being sublet, assigned, or licensed. The amount of the credit shall not exceed the consideration received by the tenant for the sublease, assignment, or license.

(b) Examples illustrating a sublease and credit situation are as follows:

1. Tenant leases 200 square feet of floor space, all of substantially equal value, for \$400 and pays Landlord \$24 tax on the rental. Tenant subleases 100 square feet of the space to Subtenant for \$300 and collects \$18 tax. Tenant may credit against that \$18 tax the tax paid by Tenant to Landlord on 100 square feet, or \$12. Tenant thus remits to the Department \$6 tax on the sublease.

2. Tenant leases 200 square feet of floor space, all of substantially equal value, for \$400 and pays Landlord \$24 tax on the rental. Tenant subleases 100 square feet of the space to Subtenant for \$150 and collects \$9 tax. Tenant may credit against that \$9 tax the tax paid by Tenant to Landlord on 100 square feet, but only to the extent of the tax collected from Subtenant. Tenant thus remits to the Department no tax on the sublease (\$9 minus \$9).

(c) If a tenant sublets, assigns, or licenses some portion of the leased or licensed property to any person and also provides services to such person, such as display, delivery, wrapping, packaging, credit, collection, or accounting, and the charges for such services are not separately stated in writing by the tenant, the total consideration paid to the tenant is taxable. If the charges for such services are separately stated in writing, the charges for such services are not taxable.

(d) If the tenant sublets, assigns, or licenses all, or all but an incidental portion, of the leased or licensed property, the tenant may elect (by registering as a dealer and extending to the landlord a resale certificate) not to pay tax on the rent paid to the landlord and instead collect and remit tax on the consideration received by the tenant for the sublease, assignment, or license and also remit tax on the portion of the rent pertaining to the portion of the property not sublet, assigned, or licensed by the tenant.

(5)(a) The amount charged by a landlord to a tenant to cancel or terminate a lease is subject to tax if the landlord records the amount as rental or license income in its books and records or the tenant records the amount as rental expense. If such amount is not recorded as rental or license income by the landlord, or as rental expense by the tenant, then the amount is not considered a payment for the use or occupancy of real property and is not taxable. If the tenant records the amount as rental expense but does not remit tax to the landlord on such amount, the tenant shall remit the tax on such amount directly to the Department.

(b) Notwithstanding the preceding paragraph, if sufficient documentation, such as a lease, contract, or other tangible evidence, exists that establishes the amount as either a payment

for the use or occupancy of real property, or not a payment for the use or occupancy of real property, such documentation will be controlling of the taxable character of such amount.

(6)(a) When tangible personal property is left upon another's real property under a contract of bailment, the bailee is not exercising a privilege taxable under the provisions of s. 212.031, F.S., relating to leases, licenses, or rentals of real property.

(b) A bailment is a contractual agreement, oral or written, pursuant to which one person, the bailor, delivers personal property to another, the bailee, and the bailor for the duration of the relationship relinquishes his exclusive possession, control, and dominion over the personal property, so that the bailee can exclude, within the limits of the agreement, the possession of the property to others. If there is no such delivery and relinquishment of exclusive possession, and the owner's control and dominion over the property is not dependent upon the cooperation of the person on whose real property the personal property is left, and the owner's access to his or her personal property is not subject to the real property owner's control, the owner of the personal property is generally a tenant or licensee of the part of the real property upon which the personal property is left.

(c) Examples illustrating the concept of a bailment are as follows:

1. The use of a safety-deposit box in a bank or vault is a bailment, not a lease or license, because the bank has one key and the customer another key, and both keys are necessary for the customer to gain access to the box.

2. The rental of an airport locker is not a bailment, but a lease or license, because the box renter has unfettered access to the locker even though the airport operator, for security or other reasons, also has a key to the locker.

3. The use of a frozen food locker in a cold storage plant is a bailment if the plant operator's presence and assent are required in order that the food owner may access his property.

(d) A person who merely grants storage space without assuming, expressly or impliedly, any duty or responsibility with respect to the care and control of the property stored is a landlord and not a bailee, and any charge made for the storage space is taxable.

(e) In the absence of an express contract, the creation of a bailment requires that possession and control pass from the bailor to the bailee; there must be a full transfer, actual or constructive, so as to exclude the property from the possession of the owner and all other persons and give the bailee sole custody and control for the duration of the bailment.

(7) A charge for the right to use a public or private roadway for non-transportation purposes is taxable. Example: A civic organization that is not exempt from sales tax contracts with a city to have certain streets and sidewalks blocked from traffic to conduct its annual festival. The privilege granted by the city to the civic organization for the use of the streets and

sidewalks constitutes a license to use real property for non-transportation purposes. Therefore, any charge by the city to the civic organization for the use of streets and sidewalks is taxable.

(8)(a)1. The lease or license of real property used by an airline for loading or unloading passengers or property onto or from an aircraft is exempt. This real property includes: common walkways inside a terminal building used by passengers for boarding or departing from an aircraft, ticket counters, baggage claim areas, ramp and apron areas, office areas used to process tickets, baggage processing areas, areas used for the purpose of operational control of an airline's aircraft, air cargo areas, and departure lounges (the rooms that are used by passengers as sitting or gathering areas immediately before surrendering their tickets to board the aircraft). The space occupied by VIP lounges and airport clubs that are affiliated with an airline, or by a club that requires a membership or charge or for which membership or usage is determined by ticket status, is property the lease or license of which would be subject to tax.

2. If any portion of the above property is used for any other purpose, the lease or license of the property shall be subject to tax on a pro-rata basis, the exempt portion of which shall be determined by multiplying the total lease or license payment by a fraction, the numerator of which is the square footage of the areas in the airport used exclusively by an airline for the purpose of loading or unloading passengers or property onto or from aircraft and the denominator of which is the total square footage used by the airline.

3. Example: An airline leases a total of 3,000 square feet from an airport authority. The airline uses the space as follows: 1,000 square feet are used to process tickets and check in passengers' baggage; 1,000 square feet are used for the passengers' departure lounge; and 1,000 square feet are used for the management office and employees' lounge. The 1,000 square feet used to process tickets and check in baggage are exempt, as are the 1,000 square feet used as the departure lounge. The 1,000 square feet used for the management office and employees' lounge are taxable, because that space is not used exclusively for the purposes of loading or unloading passengers or property onto or from aircraft. The fraction to determine the portion of the total rental or license fee that is exempt has, therefore, 2,000 square feet as its numerator and 3,000 square feet as its denominator.

(b) The lease or license of passenger loading bridges (jetways) and baggage conveyor systems is exempt if such items are considered real property or "fixtures," as that term is defined in s. 212.06(14)(b), F.S.

(c) The lease or license of real property used for fueling aircraft is taxable when the fueling activities are conducted by a tenant or licensee that is not an airline. The charge made to an airline for the use of aprons, ramps, or other areas used for fueling aircraft is exempt.

(9)(a) A person leasing or licensing real property to be used as an integral part of the performance of qualified production services and who desires that the rental payments or license fees be exempt from tax in accordance with s. 212.031(1)(a)9., F.S., should present to the landlord a statement similar to the following at the time of execution of the lease or license:

**BLANKET LEASE EXEMPTION CERTIFICATE**

This is to certify that all real property rented, let, leased, or licensed by (NAME OF LANDLORD OR LICENSOR) on or after (DATE) to (NAME OF TENANT OR LICENSEE) is exempt from sales or use tax under the provisions of s. 212.031(1)(a)9., F.S., as property rented, leased, let, or licensed to be used as an integral part of the performance of "qualified production services."

This certificate is to continue in force unless revoked by the tenant or licensee in writing, addressed to the landlord or licensor named in this agreement.

TENANT/LICENSEE \_\_\_\_\_  
ADDRESS \_\_\_\_\_  
SALES TAX NUMBER \_\_\_\_\_  
SIGNATURE OF TENANT/LICENSEE \_\_\_\_\_  
DATE \_\_\_\_\_

(b) When the real property is used for any purpose other than as an integral part of the performance of qualified production services, and the lease exemption certificate has been provided to the landlord, tax should be accrued and remitted to the Department by the tenant or licensee.

(10)(a) The rental or licensing of a public or private street or right-of-way occupied or used by a utility or franchised cable television company for utility, communications, or television purposes is exempt. For this purpose, the term "right-of-way" means an easement or way that grants the holder the right to pass over the land of another in some particular line. The term includes passageways, such as roadways, alleys, or other means to travel across or traverse property in a linear fashion. For example, a strip of land upon which a series of telephone or other utility poles have been erected is a "right-of-way."

(b)1. The rental or licensing of real property upon which are placed antennas, cables, adjacent accessory structures, or adjacent accessory equipment used in the provision of cellular, enhanced specialized mobile radio, or personal communication services is exempt. The exemption does not apply to the rental or licensing of space on a building for the uses described in the previous sentence.

a. The term "cellular" means cellular radiotelephone service, the provision of which is subject to the provisions of 47 CFR, part 22, subpart H. The term generally refers to an automated, high capacity system of one or more multichannel

base stations designed to provide radio telecommunications services to mobile stations over a wide area in a spectrally efficient manner.

b. The term "enhanced specialized mobile radio" means a service, the provision of which is subject to the provisions of 47 CFR, part 90, subpart S. The term generally refers to a specialized mobile radio service that uses digital technology and that is connected to the Public Switched Telephone Network. The service allows for two-way telephone communications and may include other features, such as two-way paging, inventory tracking, credit card authorization, automatic vehicle locations, fleet management, inventory tracking, remote database access, and voicemail.

c. The term "personal communication services" means services the provision of which is subject to the provisions of 47 CFR, part 24, subpart D or E. Such services may be either broadband (a cellular telephone service using digital technology that includes enhanced features such as messaging and data services), or narrowband (an advanced digital paging and messaging service that may include two-way paging, response paging, data transfer, and digital voice messaging).

2. The lease or licensing of real property upon which is placed antennas, cables, adjacent accessory structures, or adjacent accessory equipment used in the provision of services other than those described in subparagraph (b)1. is fully taxable. For example, the license of space on a tower for the attachment of FM radio equipment, air-ground radiotelephone equipment, or paging equipment (other than that used to provide narrowband personal communications services or enhanced specialized mobile radio services) is taxable.

3. A person leasing or licensing real property for the uses described in subparagraph (b)1. should present to the landlord a statement similar to the following at the time of execution of the lease or license:

**EXEMPTION CERTIFICATE FOR LEASE OR LICENSE OF REAL PROPERTY, OTHER THAN BUILDINGS, UPON WHICH CERTAIN ANTENNAS, EQUIPMENT, AND STRUCTURES ARE PLACED**

\_\_\_\_\_ (Name of Tenant/Licensee) certifies that it is engaged in providing either cellular radiotelephone service, personal communications services, or enhanced specialized mobile radio services, and is duly licensed by the FCC to provide such services. The undersigned also certifies that the lease or license of space is to be used for the placement of antennas, cables, adjacent accessory equipment, or adjacent accessory structures that will be used in providing cellular radiotelephone services, personal communication services, or enhanced specialized mobile radio services. The undersigned understands that when any person fraudulently, for the purpose of evading tax, issues to a vendor or to any agent of the state a certificate or statement in writing in which he or she claims exemption from the sales tax, such person, in addition to being liable for payment of the tax plus a mandatory penalty of 200%

of the tax, shall be liable for fine and punishment 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.

_____ Name of Tenant/Licensee	_____ Florida Sales Tax Number
_____ Florida Gross Receipts Tax Number	_____ FCC License Number
Service provided (check one): Cellular      ESMR      PCS	

\_\_\_\_\_  
Signature and Title of Authorized Representative

\_\_\_\_\_  
Date

\_\_\_\_\_  
Federal Employer Identification Number    Telephone Number

(Form to be retained in landlord/licensor's records)

Specific Authority 212.17(6), 212.18(2), 213.06(1) FS. Law Implemented 212.02 (10)(h), (i), (13), 212.03(6), 212.031, 212.085 FS. History—Revised 10-7-68, Amended 2-8-69, 10-7-69, Revised 6-16-72, Amended 9-26-77, 10-18-78, 12-31-81, 7-20-82, Formerly 12A-1.70, Amended 1-2-89, 3-22-95, 7-17-95,\_\_\_\_\_.

**DEPARTMENT OF REVENUE**

**Miscellaneous Tax**

RULE TITLES:	RULE NOS.:
Computation of Tax; Definitions	12B-4.052
Taxable Documents	12B-4.053
Exempt Transactions	12B-4.054

PURPOSE AND EFFECT: The proposed amendments incorporate the 1998 legislative changes to Chapter 201, F.S. The legislation amended s. 201.09(1), F.S., resulting in the elimination of the requirement to prepare a side note when renewing a term note for an amount exceeding the unpaid balance, or when renewing a note evidencing a revolving obligation for an amount exceeding the original face amount. Subsection (24) of Rule 12B-4.053, F.A.C., and subsection (1) of Rule 12B-4.054, F.A.C., are being deleted and their provisions consolidated into subsection (12) of Rule 12B-4.052, F.A.C. Language clarifying a refinancing situation where an original note and mortgage has been satisfied and a new note given is being added to Rule 12B-4.052(12), F.A.C.

SUBJECT AREA TO BE ADDRESSED: These proposed rules address the new requirements for renewing term notes and notes evidencing revolving obligations, and refinancing situations.

SPECIFIC AUTHORITY: 201.11, 213.06(1) FS.  
LAW IMPLEMENTED: 201.01, 201.08, 201.09, 201.10, 201.11, 201.21, 201.22, 201.23, 201.24, 517.32 FS.

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

TIME AND DATE: 10:00 a.m., February 22, 2000  
PLACE: Room B-12, Conference Room, Carlton Building, 501 S. Calhoun St., Tallahassee, Florida

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

NOTICE UNDER THE AMERICANS WITH DISABILITIES ACT: Any person requiring special accommodations to participate in any proceeding before the Technical Assistance and Dispute Resolution Office is asked to advise the Department at least five (5) calendar days before such proceeding by contacting Jamie Phillips at (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: Joy Eldred, Tax Law Specialist, Technical Assistance and Dispute Resolution, Department of Revenue, P. O. Box 7443, Tallahassee, Florida 32314-7443, telephone (850)922-4844

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

12B-4.052 Computation of Tax; Definitions.

(1) through (11) No change.

(12) Renewals: Each renewal as defined in s. 201.08(5), F.S., of a written obligation to pay money, or of a mortgage or other security agreement, is taxable, unless it satisfies the requirements of s. 201.09(1), F.S.

(a) Except as provided in paragraph (e), a written agreement, such as a loan agreement, that alters or modifies the contract or obligation of an original promissory note, mortgage, trust deed, security agreement, or other evidence of indebtedness, by adding one or more obligors, increasing the principal balance, changing the interest rate, changing the maturity date, changing the payment terms, or assuming the terms of the original contract or obligation, is a renewal of the original note, mortgage, trust deed, security agreement, or other evidence of indebtedness. A renewal that does not add obligor(s) and merely changes the interest rate, the maturity date, or the payment terms is not subject to tax, provided tax was paid on the original document and the original document is attached to the renewal.

(b) A renewal of a term obligation is subject to tax on the amount of the increase of the unpaid principal balance. A term loan with periodic disbursements, such as a construction loan, may be renewed for the undisbursed amount, together with the unpaid balance of the amount that was previously disbursed, without payment of additional tax.

(c) A renewal of a revolving obligation is subject to tax on the amount of the increase over the original face amount of the original obligation.

(d) Under paragraphs (b) and (c), a separate side note is not required. The principal balance or original face amount can be indicated by a notation on the renewal document, by reference to the document being renewed, or by other proof retained by the borrower(s) or lender.

(e) Notwithstanding paragraphs (a) and (b) and (c) above:



1. A renewal note that adds one or more obligors is subject to tax on the full amount of the obligation.

2. An assumption of an existing obligation is subject to tax on the full amount of the note assumed.

3. A renewal note is subject to tax on the full amount of the obligation if the proper tax was not paid on the instrument being renewed.

a. A renewal of a promissory note is subject to tax on the full amount of the obligation if the note being renewed is not attached with cancelled stamps or an appropriate notation showing full payment of tax imposed by law.

b. A renewal mortgage or other security document shall state the official book and page number of the original mortgage or other security document being renewed which evidences prior payment in full of stamp tax due, or shall have attached to it for recording the original note or a copy thereof with evidence of proper stamp tax paid. Unless this evidence is present, the renewal is subject to tax on the full amount of the obligation.

4. If the original note and mortgage is satisfied, an instrument that might otherwise appear to be a renewal of the original note and mortgage is taxable on the full amount of the obligation. (In this case, the instrument represents a new obligation.)

(f) A written agreement that does not modify the terms of the indebtedness evidenced by a promissory note, mortgage, trust deed, security agreement, or other evidence of indebtedness in a way described in paragraph (a) is not a renewal. Examples of modifications to documents that are not renewals include those given or recorded to:

1. Correct errors;

2. Modify covenants, conditions, or terms unrelated to the debt;

3. Sever a lien into separate liens;

4. Provide additional or substitute security for the indebtedness;

5. Consolidate indebtedness or collateral;

6. Add, change, or delete guarantors; or

7. Substitute a new mortgagee or payee.

(g) When a promissory note references terms (interest rate, payments terms, or maturity date) contained in a loan agreement, and neither document expressly incorporates the other, a modification or amendment of such terms contained in the loan agreement is not treated as a renewal of the promissory note. However, if the modifying document amends the promissory note itself in a way described in the definition of a renewal in paragraph (a), then the modifying document is a renewal.

~~(12) Renewal Note, Mortgage, Trust Deed, Security Agreement or Other Evidence of Indebtedness:~~

~~(a) A written agreement which alters or modifies the contract or obligation of an original promissory note, mortgage, trust deed, security agreement or other evidence of indebtedness, by adding one or more obligors, increasing the principal balance, changing the interest rate, changing the maturity date, changing the payment terms, or assuming the terms of the original contract or obligation is a renewal of the original note, mortgage, trust deed, security agreement, or other evidence of indebtedness. A renewal which changes the interest rate, maturity date or the payment terms is not subject to tax where the tax was paid on the original document. A renewal which adds one or more obligors, increases the unpaid principal balance of a term loan, or increases the face amount of a revolving line of credit, or where the tax was not paid on the original document is subject to tax. See also s. 201.09, F.S. Cross Reference — Rules 12B-4.051(1), 12B-4.053(19), F.A.C., and s. 201.08(5), F.S.~~

~~(b) A written agreement that does not modify the terms of the indebtedness evidenced by a promissory note, mortgage, trust deed, security agreement, or other evidence of indebtedness in a way described in (a) is not a renewal. Examples of modifications to documents that are not renewals include those given or recorded to correct errors, modify covenants, conditions, or terms unrelated to the debt; sever a lien into separate liens; provide for additional collateral, substitute, or further security for the indebtedness; consolidate indebtedness or collateral; add, change, or delete guarantors; or substitute a new mortgagee or payee.~~

~~(c) When a promissory note references terms (interest rate, payment terms, or maturity date) contained in a loan agreement and neither document expressly incorporates the other, a modification or amendment of such terms contained in the loan agreement is not considered to be a renewal of the promissory note. However, if the promissory note itself is amended as described in (a), the modifying document is a renewal.~~

~~(13) No change.~~

~~Specific Authority 201.11, 213.06(1) FS. Law Implemented 201.08, 201.09 FS. History—Revised 8-18-73, Formerly 12A-4.52, Amended 8-8-78, 3-12-79, 2-3-80, 3-30-81, 8-29-84, Formerly 12B-4.52, Amended 12-5-89, 2-13-91, 10-18-94, 12-30-97, 7-28-98,\_\_\_\_\_.~~

~~12B-4.053 Taxable Documents.~~

~~(1) through (23) No change.~~

~~(24) Renewal notes: Renewed notes are taxable for the full amount of the obligation or indebtedness evidenced thereby, unless they meet the requirements of s. 201.09(1), F.S. Examples of renewal notes requiring tax include but are not limited to the following notes, where:~~

~~(a) The unpaid balance of a term note is increased.~~

~~(b) The face amount of a revolving line of credit is increased.~~

~~(c) An additional obligor is added.~~

~~(d) The original note is assumed by another person.~~

(e) There is no attachment of the original note with cancelled stamps or appropriate notation thereon showing full payment of tax as required by law. Cross Reference — Rule 12B-4.052(12) and Rule 12B-4.054(1), F.A.C.

(25) through (34) renumbered (24) through (33) No change.

Specific Authority 201.11, 213.06(1) FS. Law Implemented 201.01, 201.08 FS. History—Revised 8-18-73, Formerly 12A-4.53, Amended 2-21-77, 11-29-79, 4-11-80, 7-27-80, 12-23-80, 3-30-81, 12-30-82, 8-29-84, Formerly 12B-4.53, Amended 12-29-86, 12-5-89, 2-13-91, 10-18-94, 12-30-97, 7-28-98, \_\_\_\_\_.

12B-4.054 Exempt Transactions.

~~(1) Renewal Notes, Mortgages, Trust Deeds, Security Agreements, or Other Evidences of Indebtedness: When any note, mortgage, trust deed, security agreement, or other evidence of indebtedness is given in renewal of the note, mortgage, trust deed, security agreement, or other evidence of indebtedness, the document shall not be subject to stamp tax provided all of the requirements under s. 201.09, F.S., have been met. A renewal note shall have attached to it the original note, showing full payment of tax due. A renewal mortgage, trust deed, security agreement, or other evidence of indebtedness shall state the official book and page number of the original mortgage or other security document being renewed which evidences prior payment in full of stamp tax due, or shall have attached to it for recording the original note or a copy thereof with evidence of proper stamp tax paid. Examples of exempt note transactions are as follows (same rationale is applicable to mortgages, trust deeds, security agreements, or other evidences of indebtedness): Also see s. 201.08(5), F.S., and Rule 12B-4.052(12), F.A.C.~~

~~(a) A renewal note executed merely to increase the rate of interest or to extend the length of payments of an existing note, without enlargement of the existing principal balance, is not taxable. (1959 Op. Att’y. Gen. Fla. 059-11 (Jan. 21, 1959))~~

~~(b) The insertion of the name of a new payee, who has become holder of the original note and is entitled to receive payment of the obligation, does not make the note taxable if all other provisions of s. 201.09, F.S., are met. (1962 Op. Att’y. Gen. Fla. 062-139 (Oct. 23, 1962))~~

~~(c) Renewal of a master note, note drawn in connection with a letter of credit, bail bond or otherwise is exempt if, at date of renewal, the face amount of the renewal note does not exceed the unpaid balance of the original note and all other requirements of s. 201.09, F.S., are met. Cross Reference — Rule 12B-4.053(29), F.A.C.~~

~~(d) A note renewing a revolving obligation may be renewed tax free for the full original face amount of the original obligation provided all other requirements of s. 201.09, F.S., are met. Term notes such as construction loans or other loans with periodic disbursements may be renewed for the undisbursed amount together with only the unpaid balance of the amount which was previously disbursed. Cross Reference — Rule 12B-4.052(12)(a), F.A.C.~~

~~(e) After June 30, 1990, a renewal note will be exempt if it is executed only by the original obligor of the original promissory note and all other requirements of s. 201.09, F.S., are met.~~

(2) through (31) renumbered (1) through (30) No change.

Specific Authority 201.11, 213.06(1) FS. Law Implemented 201.01, 201.08, 201.09, 201.10, 201.11, 201.21, 201.22, 201.23, 201.24, 517.32 FS. History—Revised 8-18-73, Formerly 12A-4.54, Amended 2-21-77, 11-29-79, 3-5-80, 4-11-80, 7-27-80, 12-23-80, 2-12-81, Formerly 12B-4.54, Amended 3-30-81, 12-3-81, 12-29-86, 12-5-89, 2-13-91, 10-18-94, 12-30-97, 7-28-98, \_\_\_\_\_.

**DEPARTMENT OF REVENUE**

**Miscellaneous Tax**

RULE TITLE: RULE NO.:

Computation of Phosphate Rock Tax Rate 12B-7.0225

PURPOSE AND EFFECT: Section 211.3103(6), F.S., requires the Department to annually determine the phosphate rock base rate adjustment and the resulting annual phosphate rock tax rate, and to provide written notice to affected producers on or before April 15 of each year. Section 211.3103(6)(e), F.S., authorizes the adoption of another index if the Phosphate Rock Primary Products Index is discontinued. The U.S. Department of Labor, Bureau of Labor Statistics, has discontinued Commodity Code 1475. The Department will now use the Producer Price Index Commodity Code 147. Therefore, the creation of Rule 12B-7.0225, FAC., is necessary to adopt this index.

SUBJECT AREA TO BE ADDRESSED: The subject of this workshop is the proposed adoption of the U.S. Bureau of Labor Statistics Producer Price Index Commodity Code 147, as required by s. 211.3103(6)(e), F.S.

SPECIFIC AUTHORITY: 211.3103(6)(e), 213.06(1) FS.

LAW IMPLEMENTED: 211.3103 FS.

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

TIME AND DATE: 10:00 a.m., February 22, 2000

PLACE: Room 435, Carlton Building, 501 S. Calhoun 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: Joseph Parramore, Tax Law Specialist, Technical Assistance and Dispute Resolution, Department of Revenue, P. O. Box 7443, Tallahassee, Florida 32314-7443, telephone (850)922-4709

THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS:

12B-7.0225 Computation of Phosphate Rock Tax Rate.

The U.S. Bureau of Labor Statistics Producer Price Index Commodity Code 147, Chemical and Fertilizer Mineral Mining, is hereby adopted by reference for the purpose of calculating the annual base rate adjustment to the phosphate rock tax rate.

Specific Authority 211.3103(6)(e), 213.06(1) FS. Law Implemented 211.3103 FS. History—New

**DEPARTMENT OF REVENUE**

**Corporate, Estate and Intangible Tax**

RULE TITLES:	RULE NOS.:
Documents, Extensions, and Due Dates for Filing	12C-3.0015
Calculation of Tax upon Resident Decedent Estates	12C-3.0035
Calculation of Tax upon Nonresident Decedent Estates	12C-3.0045
Calculation of Tax upon Nonresident Alien Decedent Estates	12C-3.0055
Forms	12C-3.008
Releases	12C-3.012
Protest Procedures	12C-3.013

PURPOSE AND EFFECT: A) The proposed amendments to Rule 12C-3.0015, FAC., revise the terms under which a new form, Affidavit of No Florida Estate Tax Due, will be used for decedents dying on or after January 1, 2000, whose estates are not subject to federal or Florida estate tax. The affidavit, when recorded in the county where the decedent's property is located, will remove the Department's lien. It explains the conditions under which a Nontaxable Certificate and Receipt for Estate Tax will be issued for estates filing a federal estate tax return. The changes specify a new Florida estate tax form which must be filed for estates that file a federal estate tax return. B) The proposed amendments to Rule 12C-3.0035, FAC., explain how to calculate the portion of the new Florida Estate Tax Return for Residents, Nonresidents and Nonresident Aliens, that applies to resident decedent estates. It gives requirements concerning when refunds of estate taxes are secured from other states. C) The proposed changes to Rule 12C-3.0045, FAC., explain how to calculate the portion of the new Florida Estate Tax return that applies to nonresident decedent estates. D) The proposed amendments to Rule 12C-3.0055, FAC., explain how to calculate the portion of the new Florida Estate Tax return that applies to nonresident alien decedent estates. E) The proposed changes to Rule 12C-3.008, FAC., give instructions for obtaining forms by fax, by calling the Department, or by downloading selected forms from the Department's Internet site. The current estate tax forms are listed. F) The proposed amendments to Rule 12C-3.012, FAC., give information regarding the use of a new combined form for

the waiver and release of a Florida estate tax lien. G) The proposed changes to Rule 12C-3.013, FAC., state how to protest items in a billing notice.

SUBJECT AREA TO BE ADDRESSED: These proposed rule amendments address the Department's statutory responsibilities regarding the administration, collection, and enforcement of Florida's estate tax. Also, these proposed rule changes implement statutory revisions enacted by the 1999 Legislature.

SPECIFIC AUTHORITY: 72.011, 198.08, 213.06(1), 213.21 FS.

LAW IMPLEMENTED: 72.011, 198.02, 198.03, 198.04, 198.05, 198.08, 198.12, 198.13, 198.14, 198.15, 198.22, 198.32, 213.21 FS.

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

TIME AND DATE: 10:00 a.m., February 22, 2000

PLACE: Room 435, Conference Room, Carlton Building, 501 S. Calhoun Street, Tallahassee, Florida

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

NOTICE UNDER THE AMERICANS WITH DISABILITIES ACT: Any person requiring special accommodations to participate in any proceeding before the Technical Assistance and Dispute Resolution Office is asked to advise the Department at least five (5) calendar days before such proceeding by contacting: 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: Maryellen Clemens, Senior Tax Specialist, Technical Assistance and Dispute Resolution, Department of Revenue, P. O. Box 7443, Tallahassee, Florida 32314-7443, telephone (850)922-4712

THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS:

12C-3.0015 Documents, Extensions, and Due Dates for Filing.

(1) Preliminary Notice and Report. For estates of decedents dying before January 1, 2000, within ~~Within~~ 2 months after the decedent's death or within a like period after qualifying as such, the personal representative shall submit to the Department of Revenue Form DR-301, Preliminary Notice and Report, to determine whether or not the estate is subject to tax.

(2) Estate Not Subject to Tax. For decedents dying prior to January 1, 2000, if ~~If~~ the estate is not subject to federal estate tax, upon receipt of the Form DR-301 and \$5 fee, a nontaxable certificate will be issued to the estate's representative. This nontaxable ~~certificate;~~ (Form DR-302) may be when recorded

in the county where the decedent owned property is located, will help show clear title to assets to be transferred from the decedent's estate. For decedents dying after December 31, 1999, the Department will no longer issue a Nontaxable Certificate and Receipt for Estate Tax (Form DR-302) in this instance. For decedents dying on or after January 1, 2000, if the estate is not subject to federal or Florida estate tax, the personal representative may file an Affidavit of No Florida Estate Tax Due (Form DR-312) with the Clerk of Court in each county where the decedent owned property. The affidavit will attest that no federal estate tax return (federal Form 706) is required to be filed for the estate, and no Florida estate tax is due pursuant to Chapter 198, F.S. The certificate (Form DR-302) or affidavit (Form DR-312), when recorded in the county where the decedent's property is located, will remove the Department's lien. The certificate or affidavit is admissible in evidence to show nonliability for tax.

(3) Estate Possibly Subject to Tax. The gross estate of a resident decedent includes interests in property owned outside the United States. For decedents dying prior to January 1, 2000, in addition to the DR-301 report, within nine months after the decedent's death, the personal representative (as defined in Section 198.01(2), F.S.); of every estate of a Florida resident, nonresident, or alien decedent whose estate includes Florida property and is subject to filing under the federal Federal Internal Revenue Code; shall file a an executed copy of the executed federal estate tax return Federal Estate Tax Return (federal Federal Form 706 or federal Federal Form 706-NA 706NA), together with any payment of the Florida estate tax due with the Department of Revenue within nine months from the date of death. The copy of the executed Federal Estate Tax Return serves as the Florida estate tax return. If the Department of Revenue determines that the estate owes no tax to Florida, upon payment of a \$5 fee, the Department will issue to the personal representative a Nontaxable Certificate and Receipt for Estate Tax (DR-302). This certificate has the same effect as a receipt. It may be recorded in the county or counties in which the decedent owned property. The certificate is admissible as evidence that the estate owes no Florida estate tax. For decedents dying on or after January 1, 2000, the personal representative of an estate owning Florida property must file the Florida Estate Tax Return for Residents, Nonresidents and Nonresident Aliens (Florida Form F-706), and a copy of the executed federal estate tax return (federal Form 706 or federal Form 706-NA), together with any payment of Florida estate tax estimated to be due. Upon receipt of a copy of the federal closing letter and payment of any Florida estate tax due, the Department will issue a Final Certificate, Form DR-304. This certificate may be recorded as evidence that no additional Florida Estate Tax is due.

(4) Domicile Affidavit – If the estate is filing as a Florida nonresident, the personal representative must file the Estate Tax Domicile Affidavit, Form DR-310, with the copies copy of the executed Florida Form F-706 and executed federal Federal Form 706.

(5) Extensions.

(a) If an extension of time is required for filing the copy of the federal Federal Form 706 return or paying the Florida estate tax, the personal representative must file a copy of the federal extension request with the Department within 30 days after filing such request with the federal taxing authorities. If the federal Federal Internal Revenue Service grants the extension, the personal representative must file a copy of the approved federal extension with the Florida Department of Revenue within 30 days of receiving the approved federal extension. The Department will grant the same extension to pay or file with Florida as granted by the federal Federal Internal Revenue Service.

(b) An extension of time to file the copy of the federal Federal Form 706 return does not extend the time to pay the Florida estate tax. Interest on any tax due and not paid by the original due date (as specified in Rule 12C-3.001(3), F.A.C.) will accrue from the original due date to the date the tax is paid.

(6) No change.

Specific Authority 198.08, 213.06(1) FS. Law Implemented 198.02, 198.03, 198.04, 198.05, 198.12, 198.13, 198.14, 198.15, 198.32 FS. History—New 12-13-94, Amended \_\_\_\_\_.

12C-3.0035 Calculation of Tax upon Resident Decedent Estates.

(1) The gross estate includes interests in property owned outside the United States. The credit for state death taxes as shown on the federal return is the beginning point for determination of the tax due Florida: on Form F-706, Florida Estate Tax Return for Residents, Nonresidents and Nonresident Aliens. The amount shown on line 1, Part II, of this return is This entire credit is the amount of tax due Florida if the decedent was a Florida resident and the situs of all property in the estate was located in Florida. In the case of a resident decedent owning property with a situs in other states, a reduction against the Florida tax is allowed on line 2, Part II, of the Florida return for the estate taxes properly paid to the other states after all refunds of state taxes are adjusted against the other state taxes paid. If refunds are secured from other states after the Florida F-706 return is filed, the Florida Estate Tax Return must be amended and these amounts must be remitted to Florida, because the refunded amounts would render line 2, Part II, of the original Florida return in error. The gross estate includes interests in property owned outside the United States.

(2) No change.

(3) Subsequent State Tax Refunds. If, after filing Form F-706, Florida Estate Tax Return for Residents, Nonresidents and Nonresident Aliens and a ~~an executed~~ copy of the executed federal estate tax return (~~federal~~ ~~Federal~~ Form 706) with the Department of Revenue, any amount of estate or inheritance tax is subsequently refunded by another state either prior to or after the closing letter is received from the IRS (or the Final Certificate, Form DR-304 is issued to the estate), the personal representative is required to notify the Florida Department of Revenue by filing an amended F-706 Florida Estate Tax Return indicating ~~of~~ the corrected amount of estate or inheritance tax properly paid to the other state and must remit the amount of the refund to Florida, plus interest on the refunded amount from the ~~original~~ due date ~~of the return~~ until the tax is remitted ~~paid~~ to Florida.

(4) No change.

Specific Authority 198.08, 213.06(1) FS. Law Implemented 198.02 FS. History—New 12-13-94, Amended.

12C-3.0045 Calculation of Tax upon Nonresident Decedent Estates.

(1) If the decedent was not a resident of Florida (but was a citizen or resident of the United States) and the estate owns property with a situs in Florida and a credit for state death taxes is taken on the federal return, estate tax will be due the State of Florida if the Florida property, in Part III, Florida Form F-706, as reduced by any related nonrecourse mortgage, has any value remaining after such reduction (but not below zero).

(2) To determine the amount of Florida estate tax due on Florida Form F-706, divide the gross value (net of nonrecourse mortgages) of the Florida assets property (line 6, Part III) by the gross value (net of nonrecourse mortgages) of the entire estate taxable by the United States (including property located outside the United States), line 7, Part III, and multiply this number by the credit for state death taxes, line 5, Part III. The result of these calculations is the amount of estate tax due Florida on line 9 of Part III, Form F-706:

Florida Estate Tax =

$$\frac{\text{Gross value of Florida property}}{\text{Gross value of entire estate wherever situate}*} \times \text{Federal Credit for State Death Taxes}$$

\*The gross value of the entire estate wherever situate includes all property in which the decedent had any interest, including property outside the United States.

(3) No change.

(4) Marital Deduction Property. The gross value of marital deduction property is included in the gross value of Florida property on line 6, Part III, if such property has a Florida situs and is included in the gross value of the estate, line 7, Part III, wherever situate. As part of the gross estate, such property is included in Florida's estate tax formula in Part III of the Florida F-706 Estate Tax Return.

Specific Authority 198.08, 213.06(1) FS. Law Implemented 198.03, 198.22 FS. History—New 12-13-94, Amended.

12C-3.0055 Calculation of Tax upon NonResident Alien Decedent Estates.

(1) The following formula shall be used in calculating the tax upon the estate of an alien decedent who was not a citizen or resident of the United States at the time of death but who owned property in Florida: The gross value of property taxable under Florida estate tax law, line 13, Part IV, of the Florida Estate Tax Return Form F-706, as finally determined by the United States Internal Revenue Service in federal Form 706-NA, multiplied by the credit allowable for state death tax, line 12, Part IV, under the Federal Revenue Act, divided by the gross value of the estate taxable by the United States, line 14, Part IV, or:

Florida Estate Tax =

$$\frac{\text{Gross value of Florida property}}{\text{Gross value of all property located in the United States}*} \times \text{Federal Credit for State Death Taxes}$$

(2) The entire amount of the federal credit for state death taxes as shown on the executed copy of the ~~federal~~ ~~Federal~~ Form ~~706-NA~~ ~~706NA~~ and line 12, Part IV, of Florida Form F-706 is the amount of tax due Florida if all the United States property owned by the nonresident alien decedent was located in Florida. A portion of this credit is due Florida, line 16, Part IV, if other property is owned by the nonresident alien decedent in other states. There is no Florida limitation (other than the amount of the credit for state death taxes) on the total amount of estate tax due Florida where some property is owned by the nonresident alien decedent in other states of the United States.

Specific Authority 198.08, 213.06(1) FS. Law Implemented 198.04 FS. History—New 12-13-94, Amended.

12C-3.008 Forms.

The following public-use forms and instructions are employed by the Department in its dealings with the public and are hereby adopted by reference. These forms are available by: 1) writing the Florida Department of Revenue, Forms Distribution Center, 168 Blountstown Highway, Tallahassee, Florida 32304; or, 2) faxing the Forms Distribution Center at 850-922-2208; or, 3) using a fax machine telephone handset to call the Department's automated Fax On Demand system at 850-922-3676; or, 4) visiting any local Department of Revenue Service Center to personally obtain a copy; or, 5) calling the Forms Request Line during regular office hours at 800-352-3671 (in Florida only) or 850-488-6800; or, 6) downloading selected forms from the Department's Internet site stated in the parentheses (<http://sun6.dms.state.fl.us/dor/>). Copies may be obtained by application to the Department of Revenue, Bureau of Tax Information and Media Services, P. O. Box 7443, Tallahassee, Florida 32399-7443.

Form Number	Title	Effective Date
(1) DR-301 DR-302	Preliminary Notice and Report (r. 07/99 05/93) Nontaxable Certificate and Receipt for Estate Tax (r. 07/90)	08/94
DR-304	Final Certificate for Estate Tax (r. 05/90)	01/93
DR-305	Certified Copy of Final Certificate (r. 07/90)	01/93
DR-306	Certified Copy of Nontaxable Certificate (r. 08/92)	01/93
DR-307	Preliminary Monthly Report (r. 08/92)	01/93
(2) DR-308	Request Application and Certificate for Waiver and Release of Florida Estate Tax Lien (r. 10/99 09/82)	01/93
DR-309	Certificate of Waiver and Release of Florida Estate Tax Lien (r. 08/92)	01/93
(3) DR-310	Estate Tax Domicile Affidavit (r. 11/96 n. 04/94)	08/94
DR-311	Notice of Proposed Estate Tax Assessment (n. 06/94)	08/94
(4) DR-312	Affidavit of No Florida Estate Tax Due (for decedents dying on or after January 1, 2000) (n. 01/00)	_____
(5) F-706	Florida Estate Tax Return for Residents, Nonresidents and Nonresident Aliens (n. 01/00)	_____

Specific Authority 198.08, 213.06(1) FS. Law Implemented 198.08 ~~120.53(1)(b)~~ FS. History-New 9-26-77, Formerly 12C-3.08, Amended 1-11-93, 8-25-94, \_\_\_\_\_.

12C-3.012 Releases.

A decedent's estate being probated in this state may request a release of certain property from the estate tax lien. A release will be issued under the following conditions:

- (1) through (2) No change.
- (3) Waiver and Release of the Florida Estate Tax Lien.

When a release is requested, if it appears that a tentative tax or additional tax will be due this state on the basis of the information contained in the Request Application and Certificate for Waiver and Release of the Florida Estate Tax Lien (Form ~~DR-308~~), the tentative tax as determined in subsections (1) or (2) of in this rule section may be required before the Waiver and Release is issued.

Specific Authority 198.08, 213.06(1) FS. Law Implemented 198.22 FS. History-New 8-25-94, Amended 12-13-94, \_\_\_\_\_.

12C-3.013 Protest Procedures.

(1) After receiving a billing notice ~~issued by the Bureau of Returns Processing~~, the personal representative of the estate shall have 60 calendar days from the issuance of the billing notice to resolve the issue with the Revenue Specialist Examiner or Revenue Specialist Examiner's Supervisor. The personal representative may either call or write the Revenue Specialist Examiner at the telephone number or address indicated on the billing notice ~~or write the Chief, Bureau of Returns Processing, Department of Revenue, Building F, 5050 West Tennessee Street, Tallahassee, Florida 32399-0100~~. If the matter is not resolved at the end of the specified 60 calendar day period, the personal representative of the estate will be given an opportunity to request that a Notice of Proposed Estate Tax Assessment (Form DR-311), incorporated by reference in Rule 12C-3.008, F.A.C., be issued. Alternatively, the personal representative of the estate may request a Notice of Proposed Estate Tax Assessment at any time if he or she wishes they wish to pursue other administrative or judicial remedies.

- (2) through (4) No change.

Specific Authority 72.011, ~~120.53(1)~~, 198.08, 213.06(1), 213.21 ~~(1)(a)~~ FS. Law Implemented 72.011, 198.08, 213.21 FS. History-New 8-25-94, Amended \_\_\_\_\_.

**DEPARTMENT OF CITRUS**

RULE CHAPTER TITLE: Monthly Reports by Citrus  
RULE CHAPTER NO.: 20-3

RULE TITLES: Fruit Dealers  
RULE NOS.: 20-3.001

Quantity of Fruit Handled  
Processed Product Report  
PURPOSE AND EFFECT: Would add a new rule section codifying reporting procedures followed by registered processing plants.

SUBJECT AREA TO BE ADDRESSED: Registered processing plant reporting procedures.

SPECIFIC AUTHORITY: 601.10(1),(7),(8), 601.15(1),(2), (4),(10), 601.155(7), 601.28(4), 601.69, 601.701 FS.

LAW IMPLEMENTED: 601.10(8), 601.15(1), 601.155(7), 601.69 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: Joan B. Martin, Administrative Assistant, Legal Department, Florida Department of Citrus, P. O. Box 148, Lakeland, Florida 33802-0148

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

**DEPARTMENT OF CITRUS**

RULE CHAPTER TITLE: Agency Organization and Operation  
RULE CHAPTER NO.: 20-100

RULE TITLE: Official Forms Used by Agency  
RULE NO.: 20-100.004

PURPOSE AND EFFECT: Updates list of official forms used by the Department of Citrus in conducting its business with the public.

SUBJECT AREA TO BE ADDRESSED: List of official forms used by the Department in conducting its business with the public.

SPECIFIC AUTHORITY: 601.10(1),(15) FS.  
LAW IMPLEMENTED: 601.10(15) FS.

IF REQUESTED 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: Joan B. Martin, Administrative Assistant, Legal Department, Florida Department of Citrus, P. O. Box 148, Lakeland, Florida 33802-0148

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

**DEPARTMENT OF LABOR AND EMPLOYMENT SECURITY**

**Division of Workers' Compensation**

RULE CHAPTER TITLE:	RULE CHAPTER NO.:
Obligation to Rehire Rules	38F-57
RULE TITLES:	RULE NOS.:
Obligation to Rehire	38F-57.001
Definitions	38F-57.002
Penalty for Employer's Failure to Rehire	38F-57.003
MMI Notification	38F-57.004

PURPOSE AND EFFECT: This rule will establish the procedure to be followed by the Division of Workers' Compensation in assessing fines under s. 440.15(6), F.S., for certain employers' failure to make good faith offers of re-employment to their injured employees.

SUBJECT AREA TO BE ADDRESSED: Section 440.15(6), F.S., requires certain employers to make good faith offers of employment to their injured employees. Employers who do not do so are subject to the assessment of a fine of up to \$2,000 per violation. Any fine would be assessed by the Division of Workers' Compensation.

SPECIFIC AUTHORITY: 440.15(6) FS.

LAW IMPLEMENTED: 440.15(6) FS.

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

PLACE: Room 301-F, Forrest Building, 2728 Centerview Drive, Tallahassee, Florida

TIME AND DATE: 9:00 a.m. to 12:00 noon, Tuesday, February 29, 2000

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT AND A COPY OF THE PRELIMINARY DRAFT, IF AVAILABLE, IS: Reginald Watkins, Chief, Bureau of Rehabilitation and Medical Services, telephone number (850)488-3431, ext. 320, e-mail: watkinr@wcpst.fdles.state.fl.us; 2728 Centerview Drive, Suite 100, Forrest Building, Tallahassee, FL 32399

THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS:

38F-57.001 Obligation to Rehire.

Any employer who consistently employs 51 or more employees shall be subject to a fine for failure to comply with the provisions of Section 440.15(6), F.S.

Specific Authority 440.15(6) FS. Law Implemented 440.15(6) FS. History--New

38F-57.002 Definitions.

(1) "Consistently employs" means that the employer is employing 51 or more full time equivalent employees for 90 percent of the regular work days for 1 calendar year immediately preceding the date of accident, or if the employer has been in business less than one year the employer must have employed 51 or more full time equivalent employees for 90 percent of the regular work days from the start of the business to the time of accident.

(2) "Good Faith" means that within thirty days after the accident employer has received notice from the carrier that the employee has reached maximum medical improvement and has received notice of the employee's physical limitations, the accident employer:

(a) offers the employee a bona fide job in writing which is within the employee's physical limitations; or

(b) refers the employee to no less than five other employers who have advised in writing that they have employment available within the employee's physical limitations; or

(c) provides to the employee full employment services provided by a licensed Employment Service. The service must begin within 30 days of notification of MMI and physical limitations and must continue for at least 30 days thereafter; or

(d) ascertains that the employee has obtained suitable gainful employment elsewhere; or

(e) requests that the carrier provide full reemployment services pursuant to Section 440.491, Florida Statutes and the carrier agrees to provide such services.

Specific Authority 440.15(6) FS. Law Implemented 440.15(6) FS. History--New

38F-57.003 Penalty for Employer's Failure to Rehire.

(1) The Division shall assess a fine of \$250 for every \$5,000 of the greater of the employer's workers' compensation premium or payroll, not to exceed a total of \$2,000 per violation when the employer has not in good faith, as defined above, offered the employee employment appropriate to the employee's physical limitations within 30 days after receipt from the carrier of the employee's date of maximum medical improvement and the employee's physical limitations.

(2) The Division shall not assess the above fine when the employer refuses to offer the employee employment if such refusal is because of the employee's misconduct at the time of injury or the employee's violation of the employer's established rules which would otherwise result in the employee's termination from employment. Employee misconduct includes, but is not limited to:

(a) Conduct evincing such willful or wanton disregard of an employer's interests as is found in deliberate violation or disregard of standards of behavior which the employer has the right to expect of his employee; or

(b) Carelessness or negligence of such a degree or recurrence as to manifest culpability, wrongful intent, or evil design, or to show an intentional and substantial disregard of an employer's interests or of the employee's duties and obligations to his employer.

Specific Authority 440.15(6) FS. Law Implemented 440.15(6) FS. History--New

38F-57.004 MMI Notification.

When the carrier is notified that the employee has reached maximum medical (MMI) improvement and the employee's physical limitations, the carrier shall notify the employer within 15 days after such notification.

Specific Authority 440.15(6) FS. Law Implemented 440.15(6) FS. History--New

**AGENCY FOR HEALTH CARE ADMINISTRATION**

**Cost Management and Control**

RULE TITLES:	RULE NOS.:
Reporting Instructions	59B-13.001
Definitions	59B-13.002
Uniform Data Specifications	59B-13.003
Certification	59B-13.004
Penalties for Report Deficiencies	59B-13.005
Uniform Publication Format	59B-13.006

PURPOSE AND EFFECT: The proposed rules require that health maintenance organizations report data to the agency that are indicators of access and quality of care for Florida members. The proposed rules require an annual report of indicator data in a uniform electronic format. The proposed rules require that the health maintenance organizations deliver a certification to the agency from an independent auditor that certifies that the indicator data is an accurate representation of the specified health care services afforded to Florida members of the health maintenance organization. The proposed rules establish penalties for late reports or late certification, incomplete reports or certification, false reports or certification, and refusal to report or to certify. The proposed rules establish a uniform format for publication of health maintenance indicator data.

SUBJECT AREA TO BE ADDRESSED: Health maintenance organizations are required to release to the agency data that are indicators of access and quality of care. The agency is developing rules specifying data reporting procedures for these indicators as required by s. 641.51(8), Florida Statutes.

SPECIFIC AUTHORITY: 408.15(8) FS.

LAW IMPLEMENTED: 641.51(8), 408.061, 408.063(2), 408.08(5), 408.15(11) FS.

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

TIME AND DATE: 10:00 a.m., February 22, 2000

PLACE: Agency for Health Care Administration, Building 3, First Floor Conference Room, 2727 Mahan Drive, Tallahassee, Florida 32308

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT IS: Jerry Mayer, Director, State Center for Health Statistics, Building 3, 2727 Mahan Drive, Tallahassee, Florida 32308

THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS:

59B-13.001 Reporting Instructions.

(1) Any health maintenance organization authorized to transact business in the state under Chapter 641, Florida Statutes as of January 1 of the report year shall report access and quality indicator data for Florida members to the agency as described in Rules 59B-13.001, 59B-13.002, 59B-13.003 and 59B-13.004.

(2) Beginning with calendar year 1999 data, each health maintenance organization shall submit indicator data for each calendar year period no later than October 1 of the following year.

(3) Extensions to the indicator data due date will be granted by the Administrator of Research and Analysis for a maximum of 30 days from the due date in response to a written request signed by the chief executive officer of the health maintenance organization or his or her designee. The request must be received prior to the due date and the delay must be due to unforeseen and unforeseeable factors beyond the control of the reporting health maintenance organization. Extensions shall not be granted verbally.

(4) Each health maintenance organization shall submit indicator data in a text (ASCII) file. The file name shall be in the format: HMOyyyy.text where yyyy is the year of the indicator data.

(5) Each health maintenance organization shall send indicator data by electronic mail to HMOguide@fdhc.state.fl.us or to the agency's mailing address using a 3.5" diskette. The mailing address of the agency is: Agency for Health Care Administration, 2727 Mahan Drive,



Tallahassee, Florida 32308 with the statement, "Attention: State Center for Health Statistics." The diskette must have an external label affixed with the following information:

(a) "HMO Indicator Data";

(b) Health maintenance organization identification number assigned by the agency;

(c) Health maintenance organization name;

(d) File name in the format HMOyyyy.txt where yyyy is the year of the indicator data; and

(e) Number of records in the file. Health maintenance organizations submitting indicator data using electronic mail shall include in the electronic mailing the following information:

(a) "HMO Indicator Data";

(b) Health maintenance organization identification number assigned by the agency;

(c) Health maintenance organization name;

(d) File name in the format HMOyyyy.txt where yyyy is the year of the indicator data; and

(e) Number of records in the file.

Specific Authority 408.15(8) FS. Law Implemented 641.51(8), 408.061, 408.063(2), 408.08(5), 408.15(11) FS. History—New

#### 59B-13.002 Definitions.

(1) "HEDIS" means the Health Plan Employer Data Information Set developed and published by the National Committee for Quality Assurance, 2000 L Street NW, Suite 500 Washington, DC 20036. HEDIS includes technical specifications for the calculation of indicators of access and quality of care.

(2) "Hybrid" means a source and method of data collection using both administrative records and a sample of medical records as specified by HEDIS.

(3) "HEDIS Rotation Schedule" means the indicators of access and quality of care required for each calendar year of data. The rotation schedule is available on the Internet at [www.ncqa.org](http://www.ncqa.org).

Specific Authority 408.15(8) FS. Law Implemented 641.51(8), 408.061, 408.063(2), 408.08(5), 408.15(11) FS. History—New

#### 59B-13.003 Uniform Data Specifications.

(1) Each health maintenance organization shall submit Florida member data for each indicator of access or quality of care listed in (a) through (s) below as required by the HEDIS rotation schedule for the calendar year. Indicators not referenced in the HEDIS rotation schedule must be reported annually. For each indicator, use the HEDIS specifications for the calendar year of data to be reported.

(a) Indicator 001 – Breast cancer screening. Required for Medicaid, commercial, and Medicare patients.

(b) Indicator 002 – Cervical cancer screening. Required for Medicaid and commercial patients.

(c) Indicator 003 – Prenatal care in the first trimester. Required for Medicaid and commercial patients.

(d) Indicator 004 – Controlling high blood pressure. Required for Medicaid, commercial, and Medicare patients.

(e) Indicator 005 – Beta blocker treatment after a heart attack. Required for Medicaid, commercial, and Medicare patients.

(f) Indicator 006 – Diabetes care, lipid profile performed. Required for Medicaid, commercial, and Medicare patients.

(g) Indicator 007 – Diabetes care, lipids controlled. Required for Medicaid, commercial, and Medicare patients.

(h) Indicator 008 – Diabetes care, dilated eye exam performed. Required for Medicaid, commercial, and Medicare patients.

(i) Indicator 009 – Diabetes care, kidney disease monitored. Required for Medicaid, commercial, and Medicare patients.

(j) Indicator 010 – Use of appropriate medications for people with asthma, 5 to 9 year-olds. Required for Medicaid and commercial patients.

(k) Indicator 011 – Use of appropriate medications for people with asthma, 10 to 17 year-olds. Required for Medicaid and commercial patients.

(l) Indicator 012 – Use of appropriate medications for people with asthma, 18 to 56 year-olds. Required for Medicaid and commercial patients.

(m) Indicator 013 – Use of appropriate medications for people with asthma, combined. Required for Medicaid and commercial patients.

(n) Indicator 014 – Antidepressant medication management, optimal practitioner contacts for medication management. Required for Medicaid, commercial, and Medicare patients.

(o) Indicator 015 – Antidepressant medication management, effective acute phase treatment. Required for Medicaid, commercial, and Medicare patients.

(p) Indicator 016 – Antidepressant medication management, effective continuation phase treatment. Required for Medicaid, commercial, and Medicare patients.

(q) Indicator 017 – Well-child visits in the first 15 months of life, six or more visits. Required for Medicaid and commercial patients.

(r) Indicator 018 – Well-child visits in the third, fourth, fifth and sixth year of life. Required for Medicaid and commercial patients.

(s) Indicator 019 – Adolescent well-care visits. Required for Medicaid and commercial patients.

(2) Each health maintenance organization shall report the following data elements for each of the required indicators in (1) above and report the indicator data separately for each product line required in (1) above, as described below:

(a) Health maintenance organization identification number – An eight-digit number assigned by the agency for reporting purposes.

(b) Calendar year – The calendar year of the data.

(c) Indicator number – The number of the indicator as specified in (1) above.

(d) Product line – The product line represented by the data:

1. Medicare – Use code 01 to indicate that the product line is Medicare.

2. Medicaid – Use code 02 to indicate that the product line is Medicaid.

3. Commercial – Use code 03 to indicate that the product line is commercial.

(e) Data collection method – The source of data and approach used in gathering the data as specified by HEDIS:

1. Administrative records – Use code 01. The administrative method must be used for indicators 010 through 016.

2. Hybrid – Use code 02. The hybrid method must be used for indicator 004 and indicators 006 through 009.

(f) Eligible member population – The number meeting the criteria as specified by HEDIS.

(g) Sample size – Minimum required sample size as specified by HEDIS or other sample size. This data element is not required if the administrative method is used. Leave blank (zero-fill) if (e) above is 01.

(h) Denominator – If the administrative method is used, eligible member population minus members with contraindications or other criteria for exclusion, if any, or as specified by HEDIS. If the hybrid method is used, the sample size is the denominator or as specified by HEDIS.

(i) Number of numerator events – Number of numerator events from all data sources as specified by HEDIS.

(j) Number of substitute records – Number of substitute records added to the original sample as specified by HEDIS. This data element is not required if the administrative method is used. Leave blank (zero-fill) if (e) above is 01.

(k) Rate – Numerator divided by denominator times 100.00.

(l) Lower CI – Lower 95% confidence interval as specified by HEDIS.

(m) Upper CI – Upper 95% confidence interval as specified by HEDIS.

(n) Percentage with pharmacy benefits – Number of members in the denominator for which the health maintenance organization manages or provides pharmacy benefits. Leave blank (zero fill) if the indicator is not indicators 010 through 016.

(3) Each health maintenance organization shall report indicator data in the following formats:

(a) Health maintenance organization identification number – Eight characters.

(b) Calendar year – Four digits.

(c) Indicator number – Three digits.

(d) Product line – Two digits.

(e) Data collection method – Two digits.

(f) Eligible member population – Eight digits, right-justified. Zero fill leading digits.

(g) Sample size – Eight digits, right-justified. Zero fill leading digits.

(h) Denominator – Eight digits, right-justified. Zero fill leading digits.

(i) Number of numerator events – Eight digits, right-justified. Zero fill leading digits.

(j) Number of substitute records – Eight digits, right justified. Zero fill leading digits.

(k) Rate – Five digits with two decimal places required, right-justified. Zero fill leading digits. Include decimal. Use the format: xxx.xx where x represents any digit and xxx.xx is a value between 0 and 100.00.

(l) Lower CI – Five digits with two decimal places required, right-justified. Zero fill leading digits. Include decimal. Use the format: xxx.xx where x represents any digit and xxx.xx is a value between 0 and 100.00. If the lower CI is less than zero, report 000.00.

(m) Upper CI – Five digits with two decimal places required, right-justified. Zero fill leading digits. Include decimal. Use the format: xxx.xx where x represents any digit and xxx is a value between 0 and 100.00. If the upper CI exceeds 100 report 100.00.

(n) Percentage with pharmacy benefits – Five digits with two decimal places required, right-justified. Zero fill leading digits. Include decimal. Use the format: xxx.xx where x represents any digit and xxx.xx is a value between 0 and 100.00.

Specific Authority 408.15(8) FS, Law Implemented 641.51(8), 408.061, 408.063(2), 408.08(5), 408.15(11) FS, History–New \_\_\_\_\_.

#### 59B-13.004 Certification.

(1) Each health maintenance organization shall deliver to the agency a certification by an independent auditor approved by the agency that the indicator data reported to the agency for the calendar year is a fair and accurate representation of the specified health care services afforded to Florida members of the health maintenance organization by October 1 of the year following the year of the data.

(2) Extensions to the certification due date will be granted by the Administrator of Research and Analysis for a maximum of 30 days from the due date in response to a written request signed by the chief executive officer of the health maintenance organization or his or her designee. The request must be received prior to the due date and the delay must be due to unforeseen and unforeseeable factors beyond the control of the reporting health maintenance organization. Extensions shall not be granted verbally.

Specific Authority 408.15(8) FS. Law Implemented 641.51(8), 408.061, 408.063(2), 408.08(5), 408.15(11) FS. History—New

**59B-13.005 Penalties for Report Deficiencies.**

(1) For purposes of this rule, a report, certification, or other information is incomplete when it does not contain all data required by the agency in this rule or when it contains inaccurate data. A report or certification is “false” if done or made with the knowledge of the preparer or a superior of the preparer that it contains information or data which is not true or accurate.

(2) A health maintenance organization that refuses to file, fails to timely file, or files a false or incomplete report, certification or other information required to be filed under the provisions of s. 408.061, F.S., other Florida law, or rules adopted thereunder, shall be subject to administrative penalties pursuant to s. 408.08(5), F.S.

(3) The penalty period will begin on the first work day following the due date for purposes of penalty assessments.

Specific Authority 408.15(8) FS. Law Implemented 641.51(8), 408.061, 408.063(2), 408.08(5), 408.15(11) FS. History—New

**59B-13.006 Uniform Publication Format.**

(1) The agency shall publish the following indicator data for each indicator no less frequently than every two years:

- (a) Health maintenance organization name;
- (b) Calendar year of data;
- (c) Type of payer;
- (d) Rate;
- (e) Upper and lower confidence interval.

(2) In each publication of indicator data, the agency shall include a title and a summary description of the indicator.

Specific Authority 408.15(8) FS. Law Implemented 641.51(8), 408.061, 408.063(2), 408.08(5), 408.15(11) FS. History—New

**DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION**

RULE TITLES: RULE NOS.:

Collection and Payment of Fees Written Examination; Passing Grade; 61-24.004  
 Review Process; Reexamination 61-24.013

PURPOSE AND EFFECT: The Department is considering amending the above referenced rules relating to the regulation of athlete agents. The purpose is to revise provisions in order to implement computer based administration of the required examination.

SUBJECT AREA TO BE ADDRESSED: The proposed rule development will affect the regulation of athlete agents as it relates to the Departments powers and duties regarding the administration of the required examination.

SPECIFIC AUTHORITY: 215.405, 455.217(1)(b), 468.457 FS.

LAW IMPLEMENTED: 215.405, 455.203, 455.217, 455.2281, 455.271, 468.453, 468.4536 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: Tom Thomas, Assistant General Counsel, 1940 North Monroe Street, Tallahassee, Florida 32399-2202

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

**DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION**

**Construction Industry Licensing Board**

RULE TITLE: RULE NO.:  
 Medical Gas Certification 61G4-15.031

PURPOSE AND EFFECT: The purpose of rule 61G4-15.031 is to require all licensed plumbing contractors who wish to engage in the business of medical gas systems shall take and successfully complete six (6) hours of medical gas systems related continuing education courses.

SUBJECT AREA TO BE ADDRESSED: Medical Gas Certification.

SPECIFIC AUTHORITY: 489.108, 489.1136 FS.

LAW IMPLEMENTED: 489.1136 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:

61G4-15.031 Medical Gas Certification.

(1) Licensed plumbing contractors, as described in Section 489.1136(1)(a), F.S., engaged in, or who wish to engage in, the business of medical gas systems pursuant to Section 489.1136, F.S., shall take and successfully complete six (6) hours of medical gas system related continuing education courses one time from an instructional entity, which is incremental and incidental to the plumbing industry, and whose course has been approved by the Board. The one time six (6) hours of Board approved medical gas system continuing education courses shall be required in accordance with the National Fire Prevention Association (NFPA) Standard 99C (“Standard on

Gas and Vacuum Systems”), latest edition, as adopted by the Florida State Fire Marshall and the American Society of Sanitary Engineers (ASSE) Series 6000 (“Professional Qualifications Standards for Medical Gas Systems Installers, Inspectors and Verifiers”), latest edition approved by the Board, as incorporated herein by reference to augment those issues addressed by the NFPA Standard 99C relative to medical gas.

(2) The Board shall approve only those courses submitted by an instructional entity, which is incremental and incidental to the plumbing industry, and which teaches familiarity with the National Fire Prevention Association (NFPA) Standard 99C (“Standard on Gas and Vacuum Systems”), latest edition, as adopted by the Florida State Fire Marshall and the American Society of Sanitary Engineers (ASSE) Series 6000 (“Professional Qualifications Standards for Medical Gas Systems Installers, Inspectors and Verifiers”), latest edition approved by the Board, as incorporated herein by reference to augment those issues addressed by the NFPA Standard 99C relative to medical gas. Such instructional entity shall utilize the NFPA Standard 99C and ASSE Series 6000 to teach familiarity and practical ability in regards to medical gas systems as described in Section 489.1136, F.S., for all such installations, improvements, repairs and maintenance of medical gas systems.

(3) Any instructional entity providing a Board approved medical gas course shall issue a certificate of completion of such course(s) to the student who has successfully completed each Board approved course. Such certificate(s) shall be available for inspection by any entity or person seeking to have the contractor engage in the business of medical gas.

(4)(a) Any natural person employed by a licensed plumbing contractor to supervise work on medical gas systems as specified in Section 489.1136(1)(b), F.S., or who wishes to perform brazing duties incidental to the installation, improvement, repair, or maintenance of a medical gas system, shall take and complete a thirty-two (32) hour course on medical gas systems. Such course shall be Board approved and shall consist of both classroom and practical work designed to teach familiarity with the National Fire Prevention Association (NFPA) Standard 99C (“Standard on Gas and Vacuum Systems”), latest edition as adopted by the Florida State Fire Marshall, and the American Society of Sanitary Engineering (ASSE) Series 6000. (“Professional Qualifications Standards for Medical Gas Systems Installers, Inspectors and Verifiers”), latest edition approved by the Board, as incorporated herein by reference to augment those issues addressed by the NFPA Standard 99C relative to medical gas.

(b) Any other natural person who wishes only to perform brazing duties incidental to medical gas systems as specified in Section 489.1136(1)(c), F.S., shall pass an examination from a test approved by the Board. Such test shall include a practical

examination based on the American Society of Mechanical Engineers (ASME) Section IX or on the American Welding Society (AWS) – B2.2, as approved by NFPA Standard 99C.

(5) Instructional entities seeking provider status from the Board in order to provide courses in medical gas systems training shall be entities incremental and incidental to the plumbing industry and shall demonstrate to the Board their qualifications to provide such courses, including classroom and practical work on medical gas systems in compliance with Section 489.1136, F.S., and all sections of this rule. Such instructional entities seeking provider status shall make application to the Board using Form #, \_\_\_\_\_ as provided in Chapter 61G4-12.006, Florida Administrative Code.

(6) Individuals seeking instructor status from the Board in order to teach courses in medical gas systems as approved for a Board approved provider shall be licensed plumbing contractors, or employees of a licensed plumbing contractor for at least five (5) years employment and certified in medical gas systems by the Board. Such individuals seeking instructor status shall make application to the Board using Form # \_\_\_\_\_ as provided in Chapter 61G4-12.006, Florida Administrative Code.

(7) The training required under this section for current licensees must be completed by October 1, 2000.

(8) It is the responsibility of the licensed plumbing contractor to be sure that any members of his or her workforce required to be qualified under Section 489.1136, F.S., are in compliance with that law. Such a contractor is subject to discipline under Section 489.129, F.S., for any violation of this law pursuant to Section 489.1136(1)(a), F.S.

(9) It is the responsibility of the licensed plumbing contractor to be sure that on any job site where a medical gas system is being installed, improved, repaired or maintained that a person certified pursuant to Section 489.1136(1)(a) or (1)(b), F.S., is present. It is the responsibility of the licensed plumbing contractor to be sure that on any medical gas system job site where brazing work is being performed by a person certified under Section 489.1136(1)(c), F.S., that a person certified under Section 489.1136(1)(a) or (1)(b), F.S., is present.

Specific Authority 489.108, 489.1136 FS. Law Implemented 489.1136 FS. History—New \_\_\_\_\_.

**DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION**

**Board of Cosmetology**

<b>RULE TITLES:</b>	<b>RULE NOS.:</b>
Active Status	61G5-25.001
Inactive Status; Reactivation	61G5-25.002
Delinquent Status	61G5-25.003
<b>PURPOSE AND EFFECT:</b> The Board proposes to amend the existing rules by updating the language within.	

SUBJECT AREA TO BE ADDRESSED: Active Status; Inactive Status; Reactivation; Delinquent Status.

SPECIFIC AUTHORITY: 477.016, 477.012 FS.

LAW IMPLEMENTED: 455.271, 477.0212 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: Ed Broyles, Executive Director, Board of Cosmetology, Northwood Centre, 1940 N. Monroe Street, Tallahassee, Florida 32399-0750

THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS:

61G5-25.001 Active Status.

(1) The department shall renew an active cosmetology license or specialty registration upon timely receipt of the completed application for status, the biennial renewal fee, and certification that the licensee or registrant has demonstrated participation in the continuing education required by Rule 61G5-32.001 ~~61G5-18.011~~, F.A.C.

(2) No change.

Specific Authority 477.016 FS. Law Implemented 455.271, 477.0212 FS. History—New 2-1-95, Amended.

61G5-25.002 Inactive Status; Reactivation.

(1) No change.

(2) An inactive status licensee or registrant may change to active status at any time provided the licensee or registrant meets the continuing education requirements of Rule 61G5-32.001 ~~61G5-18.011~~, F.A.C., pays the reactivation fee, and if the request to change licensure status is made at any time other than at the beginning of a licensure cycle, pays the additional processing fee. However, a licensee or registrant whose license or registration has been in inactive status for more than two consecutive biennial licensure cycles shall be required to submit a statement affirming that the licensee or registrant has read within the last thirty (30) days and is familiar with the laws and rules for the practice of cosmetology in the State of Florida before the license or registration can be placed into active status.

(3) through (4) No change.

Specific Authority 477.016, 477.012 FS. Law Implemented 477.0212, 455.271 FS. History—New 2-1-95, Amended.

61G5-25.003 Delinquent Status.

(1) through (2) No change.

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

(c) if active status is elected, demonstrate compliance with the continuing education requirements found in Rule 61G5-32.001 ~~61G5-18.011~~, F.A.C.

Specific Authority 477.016 FS. Law Implemented 455.271, 477.0212 FS. History—New 2-1-95, Amended 4-5-95, \_\_\_\_\_.

**DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION**

**Board of Cosmetology**

RULE TITLES:	RULE NOS.:
Hair Braiding, Hair Wrapping, and Body Wrapping; Registration Requirements, Practice Outside of Licensed Salon	61G5-31.002
Hair Braiding, Hair Wrapping, and Body Wrapping Registration	61G5-31.003
Hair Braiding, Hair Wrapping, and Body Wrapping Term of Registration, Registration Renewal	61G5-31.005
Practice of Hair Braiding, Hair Wrapping, and Body Wrapping Pending Approval of Registration	61G5-31.006

PURPOSE AND EFFECT: The proposed changes to rule 61G5-31.002 will set forth the registration requirements as a body wrapper and requirements for practice outside of a licensed salon. The proposed changes to rule 61G5-31.003 will set forth the procedures to be followed to register as a body wrapper. The proposed changes to rule 61G5-31.005 will specify the length of the term of registration and the procedures to be followed for renewal of a body wrapping registration. The proposed changes to rule 61G5-31.006 will set forth the requirements for individuals to practice body wrapping prior to the issuance of their registration in the area of body wrapping.

SUBJECT AREA TO BE ADDRESSED: Body Wrapping Registration Requirements, Practice Outside of Licensed Salons; Body Wrapping Registration; Body Wrapping Term of Registration, Registration Renewal; and Practice of Body Wrapping Pending Approval of Registration

SPECIFIC AUTHORITY: 455.2228, 455.203(1), 477.016 FS., Chapter 99-251, Laws of Florida.

LAW IMPLEMENTED: 455.203(1), 455.228, 477.026(f), 477.0132 FS., Chapter 99-251, Laws of Florida.

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

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT IS: Ed Broyles, Executive Director, Board of Cosmetology, Northwood Centre, 1940 N. Monroe Street, Tallahassee, Florida 32399-0750

THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS:

61G5-31.002 Hair Braiding, ~~and~~ Hair Wrapping, and Body Wrapping; Registration Requirements, Practice Outside of Licensed Salon.

(1) Only those individuals who are licensed to engage in the practice of cosmetology in the State of Florida, or who are registered to engage in the practice of hair braiding in the State of Florida shall engage in the practice of hair braiding or performed hair braiding services in the State of Florida.

(2) Only those individuals who are licensed to engage in the practice of cosmetology in the State of Florida, or who are registered to engage in the practice of hair wrapping in the State of Florida shall engage in the practice of hair wrapping or performed hair wrapping services in the State of Florida.

(3) Registration as a hair braider shall not authorized a registrant to practice hair wrapping. Registration as a hair wrapper shall not authorize a registrant to practice hair braiding.

(4) Only those individuals who are licensed to engage in the practice of cosmetology in the State of Florida, or who are registered to engage in the practice of body wrapping in the State of Florida shall engage in the practice of body wrapping or performed body wrapping services in the State of Florida.

(5)(4) Whenever either hair braiding, ~~or~~ hair wrapping, or body wrapping services are performed in a location other than a licensed cosmetology or specialty salon, all implements used in connection with the performance of the services shall be of a disposable nature; or shall be sanitized in a disinfectant approved for hospital use or approved by the Environmental Protection Agency. Whenever either hair braiding, ~~or~~ hair wrapping, or body wrapping services are performed in a licensed cosmetology or specialty salon, all laws and rules of the Board concerning the operation of the cosmetology or specialty salon, including all sanitary and disinfectant requirements, shall be observed and complied with by individuals performing hair braiding, ~~or~~ hair wrapping, or body wrapping services.

Specific Authority 477.0132, 477.016 FS., Chapter 99-251, Laws of Florida. Law Implemented 477.0132 FS., Chapter 99-251, Laws of Florida. History—New 2-1-95, Amended 11-25-98,\_\_\_\_\_.

61G5-31.003 Hair Braiding, ~~and~~ Hair Wrapping, and Body Wrapping Registration.

(1) All persons desiring to become registered to practice hair braiding shall apply for registration to the Department in writing upon forms prepared and furnished by the Department, shall pay the registration fee as set forth in Chapter 61G5-24, F.A.C., and shall provide satisfactory proof of their successful completion of a two-day 16-hour Board approved hair braiding course.

(2) All persons desiring to become registered to practice hair wrapping shall apply for registration to the Department in writing upon forms prepared and furnished by the Department, shall pay the registration fee as set forth in Chapter 61G5-24,

F.A.C., and shall provide satisfactory proof of their successful completion of a one-day 6-hour Board approved hair wrapping course.

(3) All persons desiring to become registered to practice body wrapping shall apply for registration to the Department in writing upon forms prepared and furnished by the Department, shall pay the registration fee as set forth in Chapter 61G5-24, F.A.C., and shall provide satisfactory proof of their successful completion of a two-day 12-hour Board approved body wrapping course.

(4)(3) Satisfactory proof of successful completion of the required hair braiding course, ~~or~~ hair wrapping course, or body wrapping course shall consist of the original or a legible copy of the certificate of completion supplied to the applicant by the provider of the course indicating the provider's name, the student name, the dates of the course, and the total number of hours successfully completed.

(5)(4) All persons who have applied for registration as a hair braider, ~~or~~ hair wrapper, or body wrapper shall retain a copy of all materials submitted in connection with their application, including the completed application, proof of payment of all applicable fees, and satisfactory proof of their successful completion of a Board approved hair braider, ~~or~~ hair wrapper, or body wrapper course, until they are issued a certificate of registration or notified that their application has been denied.

Specific Authority 477.0132, 477.016, 477.026(f) FS., Chapter 99-251, Laws of Florida. Law Implemented 477.0132, 477.026(f) FS., Chapter 99-251, Laws of Florida. History—New 2-1-95, Amended 11-25-98,\_\_\_\_\_.

61G5-31.005 Hair Braiding, ~~and~~ Hair Wrapping, and Body Wrapping Term of Registration, Registration Renewal.

(1) All hair braiding, hair ~~and~~ wrapping, and body wrapping registrations shall be valid for a period of two years or until the end of the biennial licensure renewal cycle in which they are first issued, which ever occurs first. The biennial licensure renewal cycle for all hair braiding, ~~and~~ hair wrapping, and body wrapping registrations shall coincide with the biennial licensure renewal cycle used for the renewal of cosmetology licenses and specialty registrations.

(2) At the time of registration renewal, all hair braiding, ~~and~~ hair wrapping, and body wrapping registrants shall pay all applicable renewal fees and charges as provided in Chapter 61G5-24, F.A.C. Prior to the expiration of their hair braider, ~~or~~ hair wrapper, or body wrapper registration, all hair braiding, ~~and~~ hair wrapping, and body wrapping registrants shall complete a Board approved HIV/AIDS training course as provided in Section 455.2228, F.S. All HIV/AIDS training courses shall comply with the requirements as set forth in Rule 61G5-18.011, F.A.C.

Specific Authority 455.203(1), 455.2228, 477.016 FS., Chapter 99-251, Laws of Florida. Law Implemented 455.203(1), 455.2228 FS., Chapter 99-251, Laws of Florida. History—New 11-25-98, Amended\_\_\_\_\_.

61G5-31.006 Practice of Hair Braiding, ~~and~~ Hair Wrapping, and Body Wrapping Pending Approval of Registration.

(1) An applicant for registration as a hair braider shall be eligible to practice hair braiding, and an applicant for registration as a hair wrapper shall be eligible to practice hair wrapping, ~~and an applicant for registration as a body wrapper shall be eligible to practice body wrapping~~ pending the approval of his or her application for registration provided the individual has previously submitted the following to the Department:

- (a) a properly completed registration application;
- (b) payment of all applicable fees for initial registration as set forth in Chapter 61G5-24, F.A.C.; and,
- (c) proof of successful completion of a Board approved hair braiding, ~~or~~ hair wrapping, ~~or~~ body wrapping course as defined in Rule 61G5-31.004 F.A.C.

(2) Upon receipt of notification that the individual's application for registration as either a hair braider, ~~or~~ hair wrapper, ~~or~~ body wrapper is incomplete, the individual shall immediately cease all practice of hair braiding, ~~or~~ hair wrapping, ~~or~~ body wrapping.

(3) Applicants wishing to perform hair braiding, ~~or~~ hair wrapping, ~~or~~ body wrapping services under this exception in a licensed cosmetology or specialty salon shall, prior to beginning the performance of hair braiding, ~~or~~ hair wrapping, ~~or~~ body wrapping services in the salon, provide to the cosmetology or specialty salon license holder or his or her representative a copy of the completed application for registration as a hair braider, ~~or~~ hair wrapper, ~~or~~ body wrapper submitted to the Department by the applicant. The applicant shall also immediately inform the cosmetology or specialty salon license holder if the applicant is notified by the Department that his or her application for registration as a hair braider, ~~or~~ hair wrapper, ~~or~~ body wrapper is incomplete or it has been determined that the applicant is not qualified for registration.

Specific Authority 477.016 FS., Chapter 99-251, Laws of Florida. Law Implemented Chapter 99-251, Laws of Florida. History--New 11-25-98, Amended \_\_\_\_\_.

**DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION**

**Florida Real Estate Commission**

RULE CHAPTER TITLE: Brokerage Relationships  
 RULE CHAPTER NO.: 61J2-10

PURPOSE AND EFFECT: To discuss necessary rules for the implementation of the recent legislative changes to the Broker Relationship Disclosure Act.

SUBJECT AREA TO BE ADDRESSED: During consideration on a Petition for Declaratory Statement during the December 15, 1999 Commission meeting, it became apparent that rulemaking may be necessary in view of the general applicability of the Declaratory Statement.

SPECIFIC AUTHORITY: 475.05 FS.

LAW IMPLEMENTED: 475.272, 475.278 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: 8:30 a.m., March 15, 2000 (This is a continuation of the January 19, 2000 workshop)

PLACE: Office of Florida Real Estate Commission, 400 West Robinson Street, Suite 301, North Tower, Orlando, Florida

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT AND A COPY OF THE PRELIMINARY DRAFT, IF AVAILABLE, IS: Herbert S. Fecker, Jr., Director, Division of Real Estate, 400 W. Robinson Street, Suite 308, North Tower, Orlando, Florida 32801

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

**DEPARTMENT OF ENVIRONMENTAL PROTECTION  
 Office of Beaches and Coastal Systems**

RULE TITLE: Description of the Pinellas County Coastal Construction Control Line  
 RULE NO.: 62B-26.011

PURPOSE AND EFFECT: To amend Rule 62B-26.011, reestablishing the Pinellas County Coastal Construction Control Line to more accurately define that portion of the beach dune system which is subject to severe fluctuations based upon the 100-year storm surge and storm waves, and thus define the area within which special siting and design considerations are required to ensure protection of the beach dune system, proposed or existing structures, adjacent properties, and the preservation of public beach access.

SUBJECT AREA TO BE ADDRESSED: Reestablishment of the Pinellas County Coastal Construction Control Line.

SPECIFIC AUTHORITY: 161.053 FS.

LAW IMPLEMENTED: 161.053 FS.

TWO RULE DEVELOPMENT WORKSHOPS WILL BE HELD AT THE TIMES, DATES AND PLACES SHOWN BELOW:

TIME AND DATE: 6:00 p.m., March 7, 2000

PLACE: Pinellas County, City Hall, Commission Chambers, 112 South Osceola Avenue, Clearwater, FL

TIME AND DATE: 6:00 p.m., March 8, 2000

PLACE: Pinellas County, Treasure Island Community Center, 1 Park Place, Treasure Island, Florida

The purpose of the workshops is to receive public comments from affected property owners, and other interested parties pertaining to the proposed reestablishment of the Pinellas County Coastal Construction Control Line, prior to the amendment of Rule 62B-26.011, Florida Administrative Code. Aerials showing the proposed location of the coastal

construction control line of the area under consideration, the Pinellas County Coastal Construction Control Line Study Report, and the Pinellas County Storm Surge Model Study are available for inspection at the Office of Beaches and Coastal Systems, 5050 West Tennessee Street, Capital Center, Building B9, Room 218, Tallahassee, and commencing February 3, 2000, will be on display at the following locations:

Belleair Town Hall, Lobby 901 Ponce de Leon Blvd.	Belleair Beach Town Hall, Lobby 444 Causeway Blvd.	Clearwater 112 S. Osceola Ave. City Hall, Lobby
Indian Rocks Beach 1507 Bay Palm Blvd. Town Hall, Auditorium	Indian Shores 19305 Gulf Blvd. Town Hall, Auditorium	Madeira Beach 300 Municipal Dr. Town Hall, Lobby
North Redington Beach 190 173rd Ave. Town Hall, Lobby	Redington Beach 105 164th Ave. Town Hall, Lobby	Redington Shores 17798 Gulf Blvd. Town Hall, Lobby
St. Pete Beach 7701 Boca Ciega Dr. Town Hall, Lobby	Treasure Island 120 108th Ave. Town Hall, Auditorium	

Pursuant to the provisions of the Americans with Disabilities Act, any person requiring special accommodations to participate in this meeting is asked to advise Rosaline Beckham, (850)487-1262, at least 48 hours prior to the meeting.

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT IS: Rosaline Beckham, Environmental Specialist III, The Florida Department of Environmental Protection, Office of Beaches and Coastal Systems, Mail Station #300, Tallahassee, Florida 32399-3000, (850)487-1262

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

**DEPARTMENT OF HEALTH**

**Board of Dentistry**

RULE TITLES:	RULE NOS.:
Training, Education, Certification, and Requirements for Issuance of Permits	64B5-14.003
Requirements for General Anesthesia or Deep Sedation	64B5-14.008
Parenteral Conscious Sedation	64B5-14.009
Pediatric Conscious Sedation	64B5-14.010

PURPOSE AND EFFECT: The Board proposes to amend Rule 64B5-14.003 to update the rule text with regard to training. Rule 64B5-14.008 is being amended to further clarify the equipment which must be readily available to the operator and recovery room. Rules 64B5-14.009 and 64B5-14.010 are being amended to require that beginning January 1, 2001, each facility must have defibrillator equipment for the patient population being treated.

SUBJECT AREA TO BE ADDRESSED: Training; equipment requirements for general anesthesia or deep sedation for the general patient population; parenteral conscious sedation and pediatric conscious sedation.

SPECIFIC AUTHORITY: 466.004, 466.017 FS.

LAW IMPLEMENTED: 466.017 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: William Buckhalt, Executive Director, Board of Dentistry/MQA, 2020 Capital Circle, S. E., Bin # C06, Tallahassee, Florida 32399-3256

THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS:

64B5-14.003 Training, Education, Certification, and Requirements for Issuance of Permits.

(1) General Anesthesia Permit.

(a) through (b) No change.

(c) A dentist employing or using general anesthesia or deep sedation and all assistant/dental hygienist personnel shall be certified in an American Heart Association or American Red Cross or equivalent agency sponsored cardiopulmonary resuscitation course at the basic life support level to include one person CPR, two person CPR, infant resuscitation and obstructed airway, with a periodic update not to exceed two years. Starting with the licensure biennium commencing on March of 2000, a dentist and all assistant/dental hygienist personnel shall also be trained in the use of either an Automated External Defibrillator or a defibrillator and electrocardiograph as part of their cardiopulmonary resuscitation course at the basic life support level. In addition to CPR certification, a dentist utilizing general anesthesia or deep sedation must be currently trained in ACLS (Advanced Cardiac Life Support) or ATLS (Advanced Trauma Life Support).

(d) through (e) No change.

(2) Parenteral Conscious Sedation Permit.

(a) through (d) No change.

(e) A dentist utilizing parenteral conscious sedation and his assistant/dental hygienist personnel shall be certified in an American Heart Association or American Red Cross or equivalent agency sponsored cardiopulmonary resuscitation course at the basic life support level to include one man CPR, two man CPR, infant resuscitation, and obstructed airway with a periodic update not to exceed two years. Starting with the licensure biennium commencing on March of 2000, a dentist



and all assistant/dental hygienist personnel shall also be trained in the use of either an Automated External Defibrillator or a defibrillator and electrocardiograph as part of their cardiopulmonary resuscitation course at the basic life support level. In addition to CPR certification, a dentist utilizing parenteral conscious sedation must be currently trained in ACLS (Advanced Cardiac Life Support) or ATLS (Advanced Trauma Life Support).

(f) through (g) No change.

(3) Pediatric Conscious Sedation Permit.

(a) No change.

(b) A dentist utilizing pediatric conscious sedation and his assistant/dental hygienist personnel shall be certified in an American Heart Association or American Red Cross or equivalent agency sponsored cardiopulmonary resuscitation course at the basic life support level to include one man CPR, two man CPR, infant resuscitation, and obstructed airway with a periodic update not to exceed two years. Starting with the licensure biennium commencing on March of 2000, a dentist and all assistant/dental hygienist personnel shall also be trained in the use of either an Automated External Defibrillator or a defibrillator and electrocardiograph as part of their cardiopulmonary resuscitation course at the basic life support level. In addition to CPR certification, a dentist utilizing pediatric conscious sedation must be currently trained in ACLS (Advanced Cardiac Life Support) or ATLS (Advanced Trauma Life Support).

(c) through (d) No change.

(4) No change.

Specific Authority 466.004(4), 466.017(3) FS. Law Implemented 466.017(3) FS. History—New 1-31-80, Amended 4-20-81, 2-13-86, Formerly 21G-14.03, Amended 12-31-86, 11-8-90, 2-1-93, Formerly 21G-14.003, Amended 12-20-93, Formerly 61F5-14.003, Amended 8-8-96, 10-1-96, Formerly 59Q-14.003, Amended 2-17-98, 12-20-98, \_\_\_\_\_.

64B5-14.008 Requirements for General Anesthesia or Deep Sedation.

General Anesthesia Permit applicants and permit holders shall comply with the following requirements at each location where anesthesia procedures are performed. The requirements shall be met and equipment permanently maintained and available at each location.

(1) through (2) No change.

(3) The following equipment must be readily available to the operatory and recovery room and maintained in good working order:

(a) through (d) No change.

(e) Defibrillator equipment appropriate for the patient population being treated.

(4) through (7) No change.

Specific Authority 466.004, 466.017 FS. Law Implemented 466.017 FS. History—New 10-24-88, Amended 11-16-89, Formerly 21G-14.008, Amended 12-20-93, Formerly 61F5-14.008, Amended 8-8-96, Formerly 59Q-14.008, Amended \_\_\_\_\_.

64B5-14.009 Parenteral Conscious Sedation.

Parenteral Conscious Sedation Permit applicants or permit holders shall comply with the following requirements at each location where anesthesia procedures are performed. The requirements shall be met and equipment permanently maintained and available at each location.

(1) through (2) No change.

(3) The following equipment must be readily available to the operatory and recovery room and maintained in good working order:

(a) through (c) No change.

(d) A pulse oximeter which provides continuous monitoring of pulse and rate of oxygen saturation of the blood shall be used during each procedure, and:-

(e) As of January 1, 2001, the facility must have defibrillator equipment appropriate for the patient population being treated.

(4) through (7) No change.

Specific Authority 466.004, 466.017 FS. Law Implemented 466.017 FS. History—New 10-24-88, Amended 11-16-89, 4-24-91, Formerly 21G-14.009, 61F5-14.009, Amended 8-8-96, 10-1-96, Formerly 59Q-14.009, Amended \_\_\_\_\_.

64B5-14.010 Pediatric Conscious Sedation.

Pediatric Conscious Sedation Permit applicants or permit holders shall comply with the following requirements at each location where anesthesia procedures are performed. The requirements shall be met and equipment permanently maintained and available at each location.

(1) through (2) No change.

(3) The following equipment must be readily available to the operatory and recovery room and maintained in good working order:

(a) through (c) No change.

(d) A pulse oximeter which provides continuous monitoring of pulse and rate of oxygen saturation of the blood shall be used during each procedure; ~~and~~

(e) A scale for weighing pediatric patients; and:-

(f) As of January 1, 2001, the facility must have defibrillator equipment appropriate for the patient population being treated.

(4) through (8) No change.

Specific Authority 466.004, 466.017 FS. Law Implemented 466.017 FS. History—New 8-8-96, Formerly 59Q-14.010, Amended \_\_\_\_\_.

**DEPARTMENT OF CHILDREN AND FAMILY SERVICES**

**Family Safety and Preservation**

RULE TITLES:	RULE NOS.:
Definitions	65C-19.001
Claiming Allowable Expenditures	65C-19.002
Title IV-E Eligibility Criteria	65C-19.003
Allowability of Costs	65C-19.004
Time Studies	65C-19.005
Cost Pool	65C-19.006
Allowable Maintenance Costs	65C-19.007
Nonreimbursable Expenditures	65C-19.008
Accounting/Claiming Procedures	65C-19.009
Eligibility/Reimbursability Determination	65C-19.010

PURPOSE AND EFFECT: Section 6 of Chapter 97-260, Laws of Florida, effective July 1, 1997, authorized the Department of Children and Family Services to certify local funds as state match for eligible Title IV-E expenditures. This rule chapter establishes procedures for such certification.

SUBJECT AREA TO BE ADDRESSED: Certification and claiming of publicly-appropriated local funds as a state match for federal dollars.

SPECIFIC AUTHORITY: 39.0121(7) FS.

LAW IMPLEMENTED: 409.26731 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., March 6, 2000

PLACE: Hilton Garden Inn, Orlando Airport, Orlando, FL

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT AND A COPY OF THE PRELIMINARY DRAFT, IF AVAILABLE, IS: Keith Kitchens, Family Safety Program Office, 1317 Winewood Blvd., Building 8, Tallahassee, FL 32399-0700 or by telephoning (850)922-2607

THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS:

**CERTIFICATION OF PUBLIC AGENCY FUNDS AS TITLE IV-E MATCH (LOCAL MATCH PROCESS)**

**65C-19.001 Definitions.**

For purposes of this rule chapter, the following definitions shall apply.

(1) "Capital expenditure" means the cost of an asset plus the cost to put it in place. For example, a capital expenditure for equipment equals the net invoice price of the equipment, including the cost of any modifications, attachments, accessories, or auxiliary apparatus necessary to make it usable for the purpose for which it is acquired.

(2) "Certification of match" means documented and verified assurances from a local government entity, agency or instrumentality that the local funds used for match were publicly-appropriated funds spent on Title IV-E eligible children for Title IV-E eligible activities.

(3) "Child caring institution" means a public or private child-care institution, licensed by the state of the agency responsible for licensing or approval of institutions of this type, as meeting the standards established for such licensing. The term shall not include detention facilities, forestry camps, training schools, or any facility operated primarily for the detention of children who are determined to be delinquent.

(4) "Cost allocation plan (CAP)" means the document which identifies and allocates billing rates for the costs of an agency's services.

(5) "Cost pools" mean either the accumulated costs that benefit a specific program or cost objective (direct cost pool) or accumulated costs that benefit two or more programs or cost objectives (indirect cost pool).

(6) "Direct cost" means a cost that can be identified specially with a particular final cost objective.

(7) "Indirect cost expenditure" means a cost that is incurred for a common or joint purpose benefiting more than one cost objective.

(8) "Local agency" means a county, municipality, city, township, local public authority, school district, special district, intrastate district, council of governments (whether or not incorporated as a non-profit corporation under state law), any other regional or interstate government entity, or any agency or instrumentality of a local government.

(9) "Public appropriation" means locally appropriated dollars expended to provide out-of-home care to Title IV-E eligible children.

(10) "Time study" means a type of personnel activity report used for allocating portions of salaries and wages as Title IV-E eligible. Time studies track the amount spent by staff on multiple activities as part of their daily responsibilities.

Specific Authority 39.0121(7) FS. Law Implemented 409.26731 FS. History—New \_\_\_\_\_.

**65C-19.002 Claiming Allowable Expenditures.**

In order for a local agency to claim Title IV-E reimbursement for an allowable expenditure related to the maintenance and administrative costs for the care of Title IV-E eligible children, it must:

(1) Enter into a written agreement with the Department of Children and Families district office wherein the local government is located, utilizing FORM XXXX, Interagency Agreement with the Florida Department of Children and Families, \_\_\_\_\_, 2000, which is incorporated by reference as if restated herein. The written agreement must be executed prior to submission of any Title IV-E claims.

(2) Develop cost allocation plans (CAP) which must be submitted as partial documentation of the amount of Title IV-E administrative expenditures.

(3) Document Title IV-E eligibility:

(a) Maintenance costs. Document that the expenditure was made for a child who was eligible for Title IV-E at the time the expenditure was made. (See 65C-19.003.)

(b) Administrative costs. Document that the expenditure made was for a Title IV-E eligible activity.

(4) Provide certification of match by providing documentation, such as invoices and billing receipts, of the amount of the expenditure and certify that the expenditure was made from public funds, and identify the local government's taxing authority.

(5) Develop expenditure projections. Along with the claim, the local government must project expenditures two quarters in advance.

Specific Authority 39.0121(7) FS. Law Implemented 409.26731 FS. History--New \_\_\_\_\_.

#### 65C-19.003 Title IV-E Eligibility Criteria.

(1) Removal Situation. Title IV-E stipulates that several conditions must have existed at the time of a child's removal from the home in order for the child's costs to be eligible for reimbursement.

(a) If, at the time of the child's removal, the child's family was receiving or eligible to receive financial assistance based on Aid to Families with Dependent Children (AFDC) policy in effect in July, 1996, it shall be assumed that the necessary removal situation existed and this criterion is automatically met. See, 42 U.S.C. 606, 607, and 672.

(b) The child must have lived with a parent or other specified relative within the six months prior to the child's removal or voluntary placement. Relatives include parents, grandparents, siblings, aunts, uncles, cousins, and step-family. Title IV-E does not stipulate how long the child must have resided with the relative as long as it was within the last six months prior to removal. The residence is defined as the place where the children was actually living and being cared for, even if it was not with the child's parents.

(c) The child must have been in financial need, meaning that the family income and the child's income were below federally-established levels.

(d) The child must be deprived of one parent either because of death, separation, abandonment, incapacity or disability, unemployment, or under-employment.

(2) Removal Order. Title IV-E requires that a written removal order be entered by the court within six months of a child's removal from his or her home. The removal order must include the following findings:

(a) The child was removed because leaving the child in the home would have been contrary to the child's welfare.

(b) Reasonable efforts were made by the department to prevent removal and keep the child at home, or that no reasonable efforts could be made.

(3) Placement Requirements. To satisfy Title IV-E requirements, an out-of-home placement must be a licensed emergency shelter home, licensed foster home, a licensed private not-for-profit child caring agency; or a public facility with 25 beds or less. If the child is placed in a non-licensed placement or a public facility with over 25 beds, Title IV-E maintenance expenditures cannot be claimed for that child during the period the child is in that placement. However, administrative costs may still be claimed for the Title IV-E eligible expenditures. Youths in detention facilities, training schools, youth camps, or who are in Subsidized Independent Living status are not eligible for Title IV-E reimbursement.

(4) Ongoing Eligibility for Title IV-E Funds. After the initial eligibility criteria for Title IV-E are met, certain conditions in the child's life must continue in order for Title IV-E reimbursement to continue. As these conditions change, the child may move in and out of reimbursable status. Because the Department is responsible for determining a child's on-going eligibility and reimbursability status, the local agency must keep the department apprised of changes that occur in each IV-E case. If Title IV-E is claimed during any period in which a child is temporarily not reimbursable due to a change in the child's condition, that Title IV-E money must be returned. The conditions that must continue in order or a child's IV-E reimbursability to continue are as follows:

(a) Continued Financial Need. As long as the child is in foster care, the child must remain in financial need.

(b) Continued Parental Deprivation. At least one parent must be absent due to death, separation, abandonment, etc., or the parent must be unable to care for the child due to incapacity or disability, under-or unemployment.

(c) Continued Placement in Licensed Placements. All foster care placements must be licensed placements. Title IV-E cannot be claimed for any time during which a child is not in a licensed placement.

(5) Runaway Status. When a child is in runaway status, the child is not eligible for IV-E reimbursement because the child is not in a licensed placement. Once the child returns to a licensed placement, the agency can file a claim for reimbursement once again, but not for the time during which the child was in runaway status.

(6) Adjustments to IV-E Claims. Should a claim be filed for a child during a period in which the child is temporarily not eligible for reimbursement, an adjustment can be made to correct the error. The local agency must contact the department every quarter as to any adjustments that must be made for that quarter, and forward a copy of any incorrectly claimed invoice(s) with a written explanation for the error.

Specific Authority 39.0121(7) FS. Law Implemented 409.26731 FS. History--New \_\_\_\_\_.

65C-19.004 Allowability of costs.

In order to be reimbursable, costs must:

(1) Be necessary and reasonable for proper and efficient performance and administration of Federal awards. A cost is reasonable if, in its nature and amount, it does not exceed that which would be incurred by a prudent person under the circumstances prevailing at the time the decision was made to incur the cost. In determining reasonableness of a given cost, consideration shall be given to:

(a) Whether the cost is of a type generally recognized as ordinary and necessary for the operation of the governmental unit or the performance of the federal award.

(b) The restraints or requirements imposed by such factors: sound business practices; arms length bargaining; federal, state and other laws and regulations; and, terms and conditions of the federal award.

(c) Market prices for comparable goods or services.

(d) Whether the individuals concerned acted with prudence in the circumstances considering their responsibilities to the governmental unit, its employees, the public at large, and the federal government.

(e) Significant deviations from the established practices of the governmental unit which may unjustifiably increase the federal award's cost.

(2) Be allocable to Federal awards under the provisions of OMB Circular A-87, Cost Principles for State, Local and Indian Tribal Governments (Federal Register, Vol. 60, No. 95, at page 26484 (May 17, 1995)), incorporated by reference as if restated herein.

(3) Be authorized or not prohibited under state or local laws or regulations.

(4) Conform to any limitations or exclusions set forth in federal laws, terms, and conditions of the federal award, or other governing regulations as to types or amounts of cost item.

(5) Be consistent with policies, regulations, and procedures that apply uniformly to federal awards and other activities of the governmental unit.

(6) Be accorded consistent treatment. A cost shall not be assigned to a federal award as a direct cost if any other cost incurred for the same purpose in like circumstances has been allocated to the federal award as an indirect cost.

(7) Except as otherwise provided for in OMB Circular A-87, Cost Principles for State, Local and Indian Tribal Governments (Federal Register, Vol. 60, No. 95, at page 26484 (May 17, 1995)), incorporated by reference as if restated herein, be determined in accordance with generally accepted accounting principles.

(8) Not be included as a cost or used to meet cost sharing or matching requirements of any other federal award in either the current or a prior period, except as specifically provided by federal law or regulation.

(9) Be adequately documented.

Specific Authority 39.0121(7) FS. Law Implemented 409.26731 FS. History—New \_\_\_\_\_.

65C-19.005 Time Studies.

Title IV-E administrative costs are claimed through a time study methodology that calculates, from an entire cost pool, the administrative expenses that are IV-E reimbursable. A time study is a staff time log on which a staff member records his or her activities in 15-minute increments during a day, one week per month, using a menu of activities. The time study must include all possible activities performed by staff.

(1) If the service provider is contracted to perform only IV-E eligible staff activities, than no time study is required. Since only IV-E eligible administrative activities are being performed, 100 percent of staff time is claimable. However, a certification must be signed every six months to attest to 100 percent of the time spent on Title IV-E eligible activities.

(2) If the provider has contracts to perform any non-IV-E eligible activities, and any of the staff performing IV-E eligible activities also participates in any of those activities, than a time study must be conducted. Time studies must be conducted if there are any employees in the agency who work on:

(a) More than one federal award.

(b) A federal award and a non-federal award.

(c) An indirect cost activity and a direct cost activity.

(d) Two or more indirect cost activities which are allocated using different allocation bases.

(e) An unallowable activity and a direct or indirect cost activity.

(3) Once the staff time studies are completed, the percentage of recorded IV-E eligible staff activities is multiplied by the amount of the agency's total administrative cost pool. The amount is then multiplied by the agency's IV-E eligibility rate, which is the proportion of the agency's foster care cases that are IV-E eligible during that quarter. These calculations yield the amount of administrative expense that can be claimed for reimbursement (at a rate of 50%). Allocating charges for supervisors, clerical and support staff, based on the results of the sampled employees, shall be acceptable.

Specific Authority 39.0121(7) FS. Law Implemented 409.26731 FS. History—New \_\_\_\_\_.

65C-19.006 Cost Pool.

The cost pool shall contain the following administrative expenses of the local agency as identified below.

(1) Cost of salaries, including wages, salaries, and fringe benefits of all staff included in the time study sample. This also included support staff and supervision. Note: The value of donated services is not allowable for Title IV-E reimbursements, but may be used to meet cost sharing or matching requirements for Title IV-E.

(2) Overhead costs which include:

(a) Costs of office space including rent, maintenance, operations, utilities, and repairs.

(b) Expensed equipment, depreciation schedule equipment. Capital expenditures which are not charged directly to a Federal award can be recovered through use allowances or depreciation on buildings, capital improvements, and equipment. Capital expenditures for equipment, including replacement equipment, other capital assets, and improvements which materially increase the value or useful life of equipment or other capital assets are allowable as a direct cost when approved by the awarding agency. When replacing equipment purchased in whole or in part with Federal funds, the agency may use the equipment to be replaced or trade-in or sell the property and use the proceeds to offset the cost of the replacement property.

(c) Insurance(d) Costs of doing business. These include:

1. Travel costs. Travel costs are allowable for expenses for transportation, lodging, subsistence and related items incurred by employees traveling on official business.

2. Fund raising and investment management costs. Neither the costs of fundraising nor investment costs are allowable except for those costs associated with the management of investments covering pensions, self-insurance, or other funds which include Federal participation as allowed in OMB Circular A-87, Cost Principles for State, Local and Indian Tribal Governments (Federal Register, Vol. 60, No. 95, at page 26484 (May 17, 1995)), incorporated by reference as if restated herein. All costs of organized fundraising, including financial campaigns, solicitation of gifts and bequests, and similar expenses incurred to raise capital or obtain contributions are not allowable, regardless of the purpose for which the funds will be used.

3. Professional activities.

4. Costs of the agency's memberships in business, technical, and professional organizations.

5. Costs of the agency's subscriptions to business, professional, and technical periodicals.

6. Costs of meetings and conferences where the primary purpose is the dissemination of technical information, including meals, transportation, rental of meeting facilities, and other incidental costs.

7. Costs of membership in civic, community and social organizations are allowable as a direct cost with the approval of the Federal awarding agency.

8. Publication costs, including the costs of printing, distribution, promotion, mailing, and general handling.

9. Training. The local agency's reimbursement for staff activities that are related to either staff or foster parent training is calculated at a 50% rate.

Specific Authority 39.0121(7) FS. Law Implemented 409.26731 FS. History--New \_\_\_\_\_.

65C-19.007 Allowable Maintenance Costs.

Title IV-E maintenance costs are those costs associated with the support of a child while removed from his/her home. In order for a maintenance cost to be reimbursable, it must meet the following criteria:

(1) Costs must be paid though publicly-allocated funds that are not already being used to earn any other federal program dollars.

(2) Costs to be claimed must be made as an individual case payment transaction for a child who is Title IV-E eligible. To be eligible for reimbursement a cost must be linked directly to an identified child (using a case number or Social Security number) who is eligible for IV-E during the month the costs is incurred. The cost must be claimed in the month the cost is incurred, not the payment month.

(3) Costs must be for activities or services that are eligible for Title IV-E reimbursement. The following are examples of the types of maintenance costs that are reimbursable:

(a) Foster care room and board.

(b) Clothing, shoes, athletic uniforms, band uniforms.

(c) Extraneous school expenses other than tuition and transportation, including such expenses as tutoring, yearbooks, graduation, band instruments.

(d) Travel from the foster home to the parent's home.

(e) Holiday and birthday gifts.

(f) Summer camp.

(g) Baby diapers, formula.

(h) Child car seat restraint, bicycle helmet.

Specific Authority 39.0121(7) FS. Law Implemented 409.26731 FS. History--New \_\_\_\_\_.

65C-19.008 Nonreimbursable Expenditures.

The following expenditures are not Title IV-E reimbursable:

(1) Medical or psychological treatment or therapy.

(2) School tuition.

(3) Transportation to school.

(4) Social services.

(5) medical services.

Specific Authority 39.0121(7) FS. Law Implemented 409.26731 FS. History--New \_\_\_\_\_.

65C-19.009 Accounting/Claiming Procedures.

Upon completion of documentation as set forth in the written agreement between the local government and the department, the following reimbursement process shall be initiated:

(1) The local agency shall require the provider to submit quarterly documentation of Title IV-E expenditures and an estimate of eligible expenditures for the upcoming quarter.

(2) The local agency will submit documentation to a local match liaison of the department's Family Safety office to certify that the expenditures were made with public funds. The local match liaison shall review the documentation for payment approval.

(3) Upon completion of the review of the documentation submitted, the local match liaison shall forward the information to Financial Management for a reimbursement of 95% to the local agency. The department shall retain up to 5% once the award is received from the federal government. Any funds remaining in excess of actual administrative costs will be refunded to the local agency.

(4) The expenditures shall be claimed and the upcoming quarter estimates shall be included on the Title IV-E Foster Care and Adoption Assistance Financial Report (ACF-IV-E-1 Part 4, OMB control number #0970-0205), incorporated by reference as if restated herein, on a quarterly basis.

(5) Once the award is received from the federal government and posted to the Family Safety Federal Grants Trust Fund, the 5% retained by the Department will be transferred for administrative expenses of the local match program.

Specific Authority 39.0121(7) FS. Law Implemented 409.26731 FS. History–New \_\_\_\_\_.

65C-19.010 Eligibility/Reimbursability Determination.

The Department of Children and families in each district makes the Title IV-E eligibility determinations for each child and provides that information to the local provider. Eligibility determinations shall be made monthly throughout the time a child is in the Department’s care, to reflect changing circumstances in the child’s life affecting eligibility.

Specific Authority 39.0121(7) FS. Law Implemented 409.26731 FS. History–New \_\_\_\_\_.

**Section II  
Proposed Rules**

**DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION**

**Board of Professional Engineers**

<b>RULE TITLES:</b>	<b>RULE NOS.:</b>
Citations	61G15-19.005
Notice of Noncompliance	61G15-19.0051
Mediation	61G15-19.006
Notice of Noncompliance	61G19-19.007
Citations	61G19-19.0071

**PURPOSE AND EFFECT:** The Board finds it necessary to repeal Rules 61G15-19.005 and 19.007 and new rules will be promulgated to take their place. Rule 61G19-19.006 is being amended to update the rule text for mediation for a first time offense.

**SUMMARY:** Repeal of Rules 61G15-19.005 and 61G19-19.007 and new rules created to take their place which will be numbered 61G19-19.0051 and 61G15-19.0071. Rule 61G19-19.006 will be amended to update the areas of the rule text with regard to mediation and first time offenses.

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

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

**SPECIFIC AUTHORITY:** 455.224, 455.225, 455.2235 FS.

**LAW IMPLEMENTED:** 455.224, 455.2235, 471.023, 471.033 FS.

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

**THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULES IS:** Dennis Barton, Executive Director, Board of Professional Engineers, 1208 Hays Street, Tallahassee, Florida 32301

**THE FULL TEXT OF THE PROPOSED RULES IS:**

61G15-19.005 Citations.

Specific Authority 455.224, 455.225 FS. Law Implemented 455.224 FS. History–New 2-2-92, Amended 8-31-92, Formerly 21H-19.005, Amended 10-19-97, Repealed \_\_\_\_\_.

61G15-19.0051 Notice of Noncompliance.

(1) As an alternative to investigation and prosecution, when a complaint is received, FEMC shall provide a licensee with a notice of noncompliance for an initial offense for the following violations:

(a) Failure to date documents when affixing signature and seal.

(b) Practice with an inactive or delinquent license less than one month.

(c) Firm practicing without a current certificate of authorization less than one month.

(2) A second offense shall result in issuance of a citation pursuant to Rule 61G15-19.0071.

Specific Authority 455.225 FS. Law Implemented 455.224 FS. History–New \_\_\_\_\_.

61G15-19.006 Mediation.

Pursuant to §455.2235, the Board designates the following areas as appropriate for mediation for a first offense:

(1) Practice with an improper seal. (See Rule 61G15-23.001, F.A.C. or offer to practice engineering through a corporation, partnership, or fictitious name which has not been duly certified.

(2) No change.

(3) Practice with an inactive license less than six months.

Specific Authority 455.2235 FS. Law Implemented 455.2235 FS. History–New 2-20-95, Amended 10-20-96, \_\_\_\_\_.